

RESOLUTION NO. R-2011- <sup>1132</sup>1099

PALM BEACH COUNTY, FLORIDA

REVENUE IMPROVEMENT BONDS, SERIES 2011  
(Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects)

Revenue Improvement Bond Resolution

Adopted July 19, 2011

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RESOLUTION NO. R-2011- 1099

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$36,000,000 IN INITIAL AGGREGATE PRINCIPAL AMOUNT OF PALM BEACH COUNTY, FLORIDA, REVENUE IMPROVEMENT BONDS, SERIES 2011 (OCEAN AVENUE LANTANA BRIDGE AND MAX PLANCK FLORIDA CORPORATION PROJECTS) (THE "BONDS"), FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF DEMOLITION AND RECONSTRUCTION OF THE OCEAN AVENUE LANTANA BRIDGE AND TO FUND A \$15,615,000 GRANT TO THE MAX PLANCK FLORIDA CORPORATION; PROVIDING THE TERMS AND OTHER DETAILS OF SUCH BONDS; APPROVING THE SALE OF THE BONDS TO SUNTRUST BANK (THE "BANK") PURSUANT TO A DIRECT PRIVATE PLACEMENT; APPROVING THE FORM OF AND DELEGATING TO THE CHAIR OR ANY OTHER MEMBER OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA THE AUTHORITY TO EXECUTE AND DELIVER A BOND PURCHASE AGREEMENT TO BE USED FOR THE NEGOTIATED SALE OF THE BONDS TO THE BANK; PROVIDING FOR THE TERMS AND PAYMENT OF SUCH BONDS; PROVIDING FOR THE RIGHTS, SECURITY AND REMEDIES OF THE OWNERS THEREOF; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING FOR CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, any capitalized term not otherwise defined in these recitals shall have the meaning ascribed in Article I hereof; and

WHEREAS, Palm Beach County, Florida, a political subdivision of the State of Florida (the "County"), is authorized by Chapters 125 and 166 of the Florida Statutes and other applicable provisions of law to incur indebtedness of the County for the purpose of financing the costs of demolition and reconstruction of the Ocean Avenue Lantana Bridge in Lantana, Florida and providing a \$15,615,000 economic development grant installment to the Max Planck Florida

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Corporation ("Max Planck") in Jupiter, Florida pursuant to the County's existing obligations under that certain Grant Agreement by and between the County and Max Planck effective July 22, 2008 (the "Grant Agreement") and all other costs necessary or incidental thereto (collectively, the "2011 Projects"); and

**WHEREAS**, the Board hereby finds it necessary and in the best economic interest of the County to authorize the issuance of not exceeding in initial aggregate principal amount of \$36,000,000 Palm Beach County, Florida, Revenue Improvement Bonds, Series 2011 (Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects), (the "Bonds") for the purpose of financing the costs of the 2011 Projects and to pay the costs of issuance of such Bonds; and

**WHEREAS**, the County may issue its indebtedness in the form of revenue bonds payable from lawfully available Non Ad Valorem Revenues (as defined herein) budgeted and appropriated therefor in each year in accordance with the Act (as defined herein); and

**WHEREAS**, the Bonds authorized under this Resolution will be payable from Non-Ad Valorem Revenues, subject and subordinate to any obligations hereafter issued which have a prior pledge on any source of Non-Ad Valorem Revenues and are permitted to be issued under the terms of this Resolution; and

**WHEREAS**, County Resolution R-90-938, adopted June 26, 1990, provides that before the County shall issue any indebtedness payable from Non-Ad Valorem Revenues, the County must demonstrate that after the proposed issuance of such indebtedness, it shall meet the requirements set forth in Article III, Section 11(d) of said Resolution R-90-938 (the "1990 Resolution"); and

WHEREAS, the Bonds authorized under this Resolution will meet the tests provided under the 1990 Resolution; and

WHEREAS, pursuant to a request for bids (herein, the "RFP") previously submitted by County staff from financial institutions to purchase the Bonds (selection to be based on the most favorable terms for the County) JPMorgan Chase and SunTrust Bank have submitted bids in conformity with the requirements of the RFP; and

WHEREAS, based on the review of the bids, the County's financial advisor has determined that SunTrust Bank, a banking corporation organized under the laws of the State of Georgia (the "Bank"), has submitted the most favorable bid for the County; and

WHEREAS, the Board hereby determines to accept option 1 of the bid from the Bank (herein, the "Accepted Bid"); and

WHEREAS, pursuant to Section 218.385, Florida Statutes, as amended and supplemented, an authorized officer of the Bank shall submit to the County a proposal consistent with the Accepted Bid in the form of a Bond Purchase Agreement (the "Purchase Contract"), between the Bank and the County, substantially in the form attached hereto as Exhibit A, to purchase the Bonds, a copy of which is hereby furnished to each of the County Commissioners; and

WHEREAS, based on the advice of the County's financial adviser, the Board finds it in the best financial interest of the County to accept the Purchase Contract and to award Bonds to the Bank pursuant to the terms hereof and thereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH 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, Chapter 125 and Chapter 166, Florida Statutes, as amended and supplemented, the County Charter and other applicable provisions of law.

“AMORTIZATION SCHEDULE” shall mean the schedule which sets forth the amount of principal the County shall be required to pay on the Bonds on August 1 of each year commencing August 1, 2012. The Amortization Schedule shall be set forth on the Bond delivered to the Bank.

“BANK” shall mean SunTrust Bank, a banking corporation organized under the laws of the State of Georgia, as the initial Owner of the Bonds.

“BOARD” shall mean the Board of County Commissioners of Palm Beach 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 bonds under the exemption provided under Section 103(a) of the Code.

“BONDHOLDER,” “HOLDER OF BONDS,” “OWNER” OR “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 not to exceed \$36,000,000 in initial aggregate principal amount of Palm Beach County, Florida Revenue Improvement Bonds, Series 2011 (Ocean Avenue

Lantana Bridge and Max Planck Florida Corporation Projects), authorized to be issued pursuant to this Resolution. The actual amount of Bonds issued by the County shall be determined by the final terms of the Purchase Contract.

“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.

“CHANGE IN LAW” shall mean the occurrence, after the date of this Resolution, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directive thereunder or issued in connection therewith and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or, pursuant to the accord commonly referred to as "Basel III" or the United States or foreign regulatory authorities, shall in each case be deemed to be a "Change in Law," regardless of the date enacted, adopted or issued.

“CHIEF FINANCIAL OFFICER” or “CLERK” shall mean the Clerk of the Circuit Court of the County or her deputy acting in her name, or such other officer of the County subsequently designated by law or the County Charter to perform the duties of the chief financial officer of the County.

“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 Palm Beach County, Florida, a political subdivision of the State of Florida.

“COUNTY CHARTER” shall mean the Charter of Palm Beach County, Florida, as amended and supplemented.

“COUNTY MONEYS” shall mean the moneys budgeted and appropriated by the County, and deposited into the Sinking Fund or any other fund established hereunder, from Non Ad Valorem Revenues pursuant to the County’s covenant to budget and appropriate Non Ad Valorem Revenues contained in Section 5.A. of Article III hereof.

“DEBT SERVICE” for any period shall mean, as of any date of calculation and with respect to the Bonds, an amount equal to the sum of (i) interest accruing during such period on the Bonds, and (ii) that portion of each principal payment for the Bonds which would accrue during such period if such principal payment were deemed to accrue daily in equal amounts from the next preceding principal payment due date (or, if there shall be no such preceding principal payment, from a date one year preceding the due date of such principal payment or from the date of issue of the Bonds, whichever date is later). Such interest and principal payments for the Bonds shall be calculated on the assumption that no Outstanding Bonds at the date of calculation will cease to be Outstanding except by reason of the payment of each principal payment on the due date thereof. The term “principal payment,” as used above in this definition, shall include



any payment of principal on a Bond whether at maturity or upon earlier redemption or upon Optional Tender.

“DEFEASANCE OBLIGATIONS” shall mean to the extent permitted by law:

(a) U.S. Obligations, which are not redeemable prior to maturity;

(b) any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state (i) which are not callable prior to maturity or as to which irrevocable instructions have been given to the trustee or paying agent of such bonds or other obligations by the obligor to give due notice of redemption and to call such bonds for redemption on the date or dates specified in such instructions, (ii) which are secured as to principal and interest and redemption premium, if any, by a fund consisting only of cash or bonds or other obligations of the character described in clause (a) hereof which fund may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the redemption date or dates specified in the irrevocable instructions referred to in subclause (i) of this clause (b), as appropriate, and (iii) as to which the principal of and interest on the bonds and obligations of the character described in clause (a) hereof which have been deposited in such fund along with any cash on deposit in such fund are sufficient to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this clause (b) on the maturity date or dates thereof or on the redemption date or dates specified in the irrevocable instructions referred to in subclause (i) of this clause (b), as appropriate; and

(c) Evidences of ownership of proportionate interests in future interest and/or principal payments on obligations described in clause (a) held by a bank or trust company as custodian.

“DETERMINATION OF TAXABILITY” shall mean a final decree or judgment of any Federal court or a final action of the Internal Revenue Service determining that interest paid or payable on any Bond is or was includable in the gross income of an Owner of the Bonds for Federal income tax purposes; provided, that no such decree, judgment, or action will be considered final for this purpose, however, unless the County has been given written notice and, if it is so desired and is legally allowed, has been afforded the opportunity to contest the same, either directly or in the name of any Owner of a Bond, and until the conclusion of any appellate review, if sought.

“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.

“FITCH” shall mean Fitch Ratings, Inc., a corporation organized and existing under the laws of the State of New York, its successors and assigns, and if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “FITCH” shall be deemed to refer to any other nationally recognized securities rating agency designated by the County.

“GOVERNMENTAL AUTHORITY” shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

“INTEREST RATE” shall mean, unless adjusted pursuant to the provisions of Section 8 of Article II hereof, a rate equal to 3.1724% per annum, calculated on the basis of a 360-day year, consisting of twelve 30-day months.

“INTEREST PAYMENT DATE” shall mean each February 1 and August 1 of each Fiscal Year on which interest and/or principal are payable on the Bonds. The first Interest Payment Date shall be February 1, 2012.

“MARGIN RATE FACTOR” shall mean the fraction the number of which is equal to one (1) minus the Maximum Federal Corporate Tax Rate on the date of calculation and the denominator of which is 0.65. The Margin Rate Factor shall be 0.65/0.65 or 1.0 so long as the Maximum Federal Corporate Tax Rate shall be 35%, and thereafter shall increase from time to time effective as of the effective date of any decrease in the Maximum Federal Corporate Tax Rate.

“MATURITY DATE” shall mean August 1, 2031, the date the Bonds shall mature, subject to earlier redemption.

“MAXIMUM DEBT SERVICE” shall mean, at any time, the maximum amount required in the then current or any future Fiscal Year to pay (a) all Non-Self-Supporting Debt, and (b) the proposed indebtedness of the County (i) which will be payable from Non-Ad Valorem Revenues, or (ii) for which the Non-Ad Valorem Revenues will be pledged.

“MAXIMUM FEDERAL CORPORATE TAX RATE” shall mean the maximum rate of income taxation imposed on corporations pursuant to Section 11(b) of the Code, determined without regard to tax rate or tax benefit make-up provisions such as the last two sentences of Section 11(b)(1) of the Code, as in effect from time to time (or, if as a result of a change in the Code the rate of income taxation imposed on corporations shall not be applicable to the

Bondholder, the maximum statutory rate of federal income taxation which could apply to the Bondholder). The Maximum Federal Corporate Tax Rate on the date of adoption of this Resolution is 35%.

“MOODY’S” shall mean Moody’s Investors Service, Inc., a corporation organized and existing under the laws of the State of Delaware, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “Moody’s” shall be deemed to refer to any other nationally recognized securities rating agency designated by the County.

“NON-AD VALOREM REVENUES” shall mean legally available 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 by the County of Debt Service on the Bonds, after the payment from the sources of Non-Ad Valorem Revenues pledged thereto on any obligations of the County outstanding or hereafter issued which have a prior pledge on any source of the Non-Ad Valorem Revenues; provided, however, that for the purposes of the anti-dilution test set forth in Section 9 of Article III hereof, “Non-Ad Valorem Revenues” shall mean all legally available 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 by the County of Non-Self-Supporting Debt.

“NON-SELF-SUPPORTING DEBT” shall mean debt obligations of the County other than debt obligations relating to an enterprise fund or general obligation bonds of the County.

“NON-SELF-SUPPORTING DEBT SERVICE” shall mean the Debt Service on Non-Self-Supporting Debt.

“OPTIONAL TENDER” shall mean the permissive right of the Bondholder to require the County to purchase all of the Outstanding Bonds, at a purchase price equal to the principal amount of Bonds Outstanding on the purchase date plus all accrued and unpaid interest to such purchase date. The right of Optional Tender shall be exercised in the manner described in Section 2 of Article II hereof.

“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 Section 12 of Article III hereof; (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 after purchase in the open market or 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 Chief Financial Officer initially appointed to act as Paying Agent hereunder.

“PERMITTED INVESTMENTS” shall mean any of the following obligations or securities, to the extent permitted by law and the investment policies of the County:

- (a) U.S. Obligations;
- (b) Direct obligations and fully guaranteed certificates of beneficial interest of the Export-Import Bank of the United States; consolidated debt obligations and letter of credit backed issues of the Federal Home Loan Banks; participation certificates and senior debt

obligations of the Federal Home Loan Mortgage Corporation ("FHLMCs"); debentures of the Federal Housing Administration; mortgage backed securities (except stripped mortgage securities which are valued greater than par on the portion of unpaid principal) and senior debt obligations of the Fannie Mae ("FNMAs"); participation certificates of the General Services Administration; guaranteed mortgage backed securities and guaranteed participation certificates of the Government National Mortgage Association ("GNMAs"); guaranteed participation certificates and guaranteed pool certificates of the Small Business Administration; debt obligations and letter of credit backed issues of the Student Loan Marketing Association; local authority bonds of the U.S. Department of Housing & Urban Development; guaranteed Title XI financings of the U.S. Maritime Administration; guaranteed transit bonds of the Washington Metropolitan Area Transit Authority; Resolution Funding Corporation securities;

(c) Direct obligations of any state of the United States of America or any subdivision or agency thereof whose unsecured, uninsured and unguaranteed general obligation debt is rated, at the time of purchase, "A" or better by Moody's and "A" or better by S&P, or any obligation fully and unconditionally guaranteed by any state, subdivision or agency whose unsecured, uninsured and unguaranteed general obligation debt is rated, at the time of purchase, "A" or better by Moody's and "A" or better by S&P;

(d) Commercial paper (having original maturities of not more than 270 days) rated, at the time of purchase, "P-1" or better by Moody's and "A 1" or better by S&P;

(e) Federal funds, unsecured certificates of deposits, time deposits or bankers acceptances (in each case having maturities of not more than 365 days) of any domestic bank including a branch office of a foreign bank which branch office is located in the United States, provided legal opinions are received to the effect that full and timely payment of such deposit or

similar obligation is enforceable against the principal office or any branch of such bank, which, at the time of purchase, has a short-term "bank deposit" rating of "P-1" or better by Moody's and a "short-term CD" rating of "A-1" or better by S&P.

(f) Deposits of any bank or savings and loan association which has combined capital, surplus and undivided profits of not less than \$3 million, provided such deposits are continuously and fully insured by the Bank Insurance Fund or the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation;

(g) Investments in money market funds rated "AAAm" or "AAAm-G" by S&P and "Aaa" by Moody's;

(h) Repurchase agreements collateralized by U.S. Obligations, GNMA's, FNMA's or FHLMC's with any registered broker/dealer subject to the Securities Investors' Protection Corporation jurisdiction or any commercial bank insured by the FDIC, if such broker/dealer or bank has an uninsured, unsecured and unguaranteed obligation rated "P-1" or "A3" or better by Moody's, and "A-1" or "A-" or better by S&P, provided:

(i) a master repurchase agreement or specific written repurchase agreement governs the transaction; and

(ii) the securities are held free and clear of any lien by the County or an independent third party acting solely as agent for the County, and such third party is (1) a Federal Reserve Bank, and (2) a bank which is a member of the Federal Deposit Insurance Corporation and which has combined capital, surplus and undivided profits of not less than \$50 million, and the County shall have received written confirmation from such third party that it holds such securities, free and clear of any lien, as agent for the County; and

(iii) a perfected first security interest under the Uniform Commercial Code, or book entry procedures prescribed at 31 C.F.R. 306.1, et seq., or 31 C.F.R. 350.0, et seq., in such securities is created for the benefit of the County; and

(iv) the repurchase agreement has a term of 180 days or less, and the County or the agent will value the collateral securities no less frequently than weekly and will liquidate the collateral securities if any deficiency in the required collateral percentage is not restored within two business days of such valuation; and

(v) the fair market value of the securities in relation to the amount of the repurchase obligation, including principal and interest, is equal to at least 103%.

(i) Units of participation in the Local Government Surplus Funds Trust Fund established pursuant to Part IV, Chapter 218, Florida Statutes, or any similar common trust fund which is established pursuant to State law as a legal depository of public moneys.

(j) Any other investment authorized under the laws of the State of Florida or by ordinance of the County not unacceptable to the Bank.

“PLEDGED REVENUES” shall mean (i) County Moneys, (ii) any proceeds of Bonds originally deposited with the County and all moneys deposited and held from time to time by the County in the funds (other than amounts deposited in the Rebate Fund and the Cost of Issuance Fund created and established hereunder) and accounts established under this Resolution in each case until applied in accordance with this Resolution, (iii) investment income received by the County in the funds (other than the Rebate Fund) and accounts established under this Resolution, and (iv) any other moneys received by the Paying Agent in connection with repayment of the Bonds.



“REGISTRAR” shall mean the office of the Chief Financial Officer initially appointed to act as Registrar hereunder.

“S&P” shall mean Standard & Poor’s Public Finance Ratings, a division of McGraw Hill, Inc., a corporation organized and existing under the laws of the State of New York, its successors and their assigns, and, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, “S&P” shall be deemed to refer to any other nationally recognized securities rating agency designated by the County.

“STATE” shall mean the State of Florida.

“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.

“TAXABLE RATE” shall mean 4.56% per annum, calculated on the basis of a 360-day year, consisting of twelve 30-day months.

“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.

“WRITTEN CONSENT,” “WRITTEN DEMAND,” “WRITTEN DIRECTION,” “WRITTEN ELECTION,” “WRITTEN NOTICE,” “WRITTEN ORDERS” and “WRITTEN REQUEST OF THE COUNTY” shall mean, respectively, a written consent, demand, direction, election, notice, order or request signed on behalf of the Board by its Chief Financial Officer, the County Administrator, the Debt Manager of the County, the Chair or Vice Chair.

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 finance the costs of the 2011 Projects and to pay the costs of issuing the Bonds.
- C. That the principal of and interest on the Bonds to be issued pursuant to this Resolution, and all sinking fund payments provided for herein 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, or to make any sinking fund payments provided for in this Resolution, and the Bonds issued pursuant to this Resolution shall not constitute a lien upon the 2011 Projects or upon any other 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 all sinking fund and other payments provided for in this Resolution.

**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  
AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS**

**Section 1. AUTHORIZATION AND DESCRIPTION OF THE BONDS.** Subject and pursuant to the provisions of this Resolution, obligations of Palm Beach County, Florida, to be known as "Revenue Improvement Bonds, Series 2011 (Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects) "are hereby authorized to be issued in the initial aggregate principal amount of not exceeding THIRTY SIX MILLION DOLLARS (\$36,000,000) (the "Bonds"), for the purpose of paying the costs of the 2011 Projects, pursuant to the provisions of this Resolution and pay the cost of issuing the Bonds.

The Bonds shall be issued in registered form, shall be initially issued in one bond certificate equal to the principal amount of Bonds initially issued. Principal due on the Maturity Date shall be payable at the designated office of the Paying Agent. Principal payable pursuant to the Amortization Schedule shall be payable to the Owner and shall be payable in the manner set forth in standing written directions of the Bank delivered to the County. The Bonds shall

initially be numbered R-1. Unless adjusted pursuant to the provisions of Section 8 of this Article II, the Bonds shall bear interest at the Interest Rate, payable by check or draft of the Paying Agent made payable to the Holder of Bonds or at the option of the County, be payable by the Paying Agent wire transfer subject to the condition described below. If payment is to be made by check or draft, payment shall be mailed by the Paying Agent on the applicable Interest Payment Date at the address of such Holder of Bonds, as such name and address as appear on the registration books of the County maintained by the Registrar on the tenth day of the calendar month preceding each Interest Payment Date or the 10<sup>th</sup> day prior to the date notice of redemption is given, whether or not such 10th day is a Saturday, Sunday or holiday (herein the "Record Date"). The payment of interest on the Bonds may, at the option of the County, be transmitted by a wire transfer from the Paying Agent on the applicable Interest Payment Date to the Holders of Bonds to a domestic bank account number on file with the Paying Agent as of the Record Date. The Bonds shall be dated their date of delivery and bear interest from such date calculated on the basis of a 360 day year of twelve 30 day months. The Bonds authenticated prior to the first Interest Payment Date shall be dated and bear interest from the dated date of the Bonds. Bonds authenticated subsequent to the first Interest Payment Date shall bear interest from the next preceding Interest Payment Date on which such interest has been paid, unless such Bond is registered on an Interest Payment Date or during the period between a Record Date and the next succeeding Interest Payment Date, then from such Interest Payment Date if interest is then paid, as the case may be; 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, such interest shall be payable semiannually on each Interest Payment Date.

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;

**Section 2. REDEMPTION AND OPTIONAL TENDER PROVISIONS.** The Bonds are subject to mandatory sinking fund redemptions pursuant to the Amortization Schedule as set forth in the Bond delivered to the Bank. Subject to the provisions of Section 8 of this Article II regarding the “make whole payment” provisions described therein, the Bonds are also redeemable at the option of the County from any legally available source (including refunding proceeds), in whole or in part, on any date upon the giving of at least two (2) Business Days prior notice of optional redemption, at a redemption price equal to the principal amount of Bonds to be redeemed, plus accrued interest to the date fixed for redemption.

No notice of redemption shall be required for mandatory sinking fund redemptions made pursuant to the Amortization Schedule.

Notice of redemption of the Bonds shall be mailed, postage prepaid, by the Registrar not less than two (2) Business Days before the date fixed for redemption to the registered owners of the Bonds or portions of Bonds which are to be redeemed, at their addresses as they appear on the registration books kept by the Registrar the Business Day prior to the date such notice is mailed. Notwithstanding the foregoing, if the Bank is the Owner of the Bonds, the County may, with the consent of the Bank, provide such notice of redemption by e-mail or facsimile.

Such notice of redemption shall set forth (i) the date fixed for redemption, (ii) the redemption price to be paid, (iii) that such Bonds will be redeemed at the designated office of the Paying Agent, and the name, address and telephone number of a contact person, and (iv) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds of the same maturity, bearing interest at the same rate and in aggregate principal amount, equal to the unredeemed portion of such Bond, will be issued, if requested by the Owner. Failure of the registered owner of any Bonds which are to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Bonds for which proper notice has been given. Interest shall cease to accrue on any of the Bonds duly called for prior redemption if payment of the redemption price has been duly made or provided for. If the Bonds are optionally redeemed in part, a new Amortization Schedule shall be prepared by the Bank reflecting a partial payment of the Bonds and such Amortization Schedule shall be conclusive and binding on the County and the Bank, absent manifest error. In preparing the new Amortization Schedule, the Bank shall reduce each remaining sinking fund payment amount on a pro-rata basis. For purposes of illustration only, if the partial payment was \$100,000 and there were ten (10) remaining installments, each remaining installment would be reduced by \$10,000.

The Bonds shall be subject to Optional Tender in whole for purchase by the County on August 1, 2026 (the "Optional Tender Date") unless the Bank, in its sole discretion, provides written notice to the County, not earlier than 120 days and not later than 90 days prior to the Optional Tender Date, to the effect that the Bank irrevocably waives its right of Optional Tender.

Failure on the part of the Bank to give notice shall not constitute a waiver of the Bank's Optional Tender right. If the Bank has not waived its Optional Tender right as evidenced by written notice to the County to that effect or by the County not receiving written notice providing such waiver by the 90<sup>th</sup> day prior to the Optional Tender Date, the County shall purchase or currently refund the Bonds, at its option, during the period after such 90<sup>th</sup> day and not later than the Optional Tender Date. The purchase price to be paid by the County shall be equal to the Outstanding principal of the Bonds plus accrued interest to the date of purchase. If the purchase of the Bonds does not occur on the Optional Tender Date, the "make whole payment" provisions described in Section 8 of this Article II shall be applicable.

**Section 3. EXECUTION OF BONDS.** The Bonds shall be executed in the name of the County by the signature of the Chair of the Board (any other member of the Board in the absence of the Chair) and its official seal shall be affixed thereto or imprinted or reproduced thereon and attested by the Clerk. The signatures of said Chair (or any other member of the Board in the absence of the Chair) 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 of this Article II, 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 office of the Registrar with a written instrument of transfer in form satisfactory to the Registrar duly executed by the registered owner or his 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 series and 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 last paragraph of this Section 4, 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. Upon the transfer of any such Bond, the County shall issue in the name of the transferee a new Bond or Bonds.

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 (if not the County) 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 (i) to transfer or exchange Bonds for a period commencing on a Record Date and ending on the next ensuing Interest Payment Date or 10 days next preceding any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption; or (ii) to transfer or exchange any Bonds called for redemption.

All Bonds paid on the Maturity Date shall be delivered to the Registrar when such payment or redemption 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.

The Bonds shall be transferable at the option of the Bank to one or more institutional holders, which are "qualified institutional buyers" within the meaning of Rule 144A of the Securities and Exchange Commission (herein, a "QIB"), provided that the intended transferee provides a suitability letter addressed to the County certifying its QIB status and acknowledging that no disclosure document has been, or will be, prepared with respect to the Bonds. Upon the transfer of such Bond, the County shall issue in the name of the transferee a new Bond.

**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 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 (if not also the County) evidence of such loss, theft, or destruction satisfactory to the County and the Registrar (if not the County), together with indemnity satisfactory to them. In the event any such Bond shall be about to mature or have matured or have been called for redemption, instead of issuing a duplicate Bond, the County may pay the same without surrender thereof. The County and the Registrar (if not the County) 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. CONDITIONS FOR ISSUANCE OF THE BONDS.** Prior to the issuance of the Bonds, the County shall comply with the following conditions:

- (a) Deliver to the Bank a fully executed Tax Certificate; and
- (b) Deliver to the Bank a copy of a completed and executed Form 8038-G to be filed by the County with the Internal Revenue Service; and
- (c) Deliver to the Bank an opinion of Bond Counsel, satisfactory to the Bank, regarding the due authorization, execution, delivery, validity and enforceability of the Bonds and the due adoption of this Resolution (enforceability of such instrument may be subject to standard bankruptcy exceptions and the like) and the exclusion of interest on the Bonds from gross income for federal income tax purposes, that the Bonds are not specified "private activity bonds" within the meaning of Section 57(a)(5) of the Code and, therefore, the interest on the Bonds will not be treated as a preference item for purposes of computing the alternative minimum tax imposed by Section 55 of the Code (however, a portion of the interest on the Bonds owned by corporations may be subject to the federal alternative minimum tax which is based in part on adjusted current earnings); and
- (d) Deliver to the Bank an opinion of the County Attorney, satisfactory to the Bank, regarding the due authorization, execution, delivery, validity and enforceability of the Bonds, the Purchase Contract and the due adoption of this Resolution (enforceability may be subject to standard bankruptcy exceptions and the like); and

(e) Deliver to the Bank one or more certificates of the County in form satisfactory to the Bank certifying, among other things, that the County is in compliance with Article III, Section 11(d) of the 1990 Resolution.

**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)

(Face of Bond)

[Remainder of page intentionally left blank.]

No. R

\$

UNITED STATES OF AMERICA  
STATE OF FLORIDA  
PALM BEACH COUNTY  
REVENUE IMPROVEMENT BOND, SERIES 2011  
(OCEAN AVENUE LANTANA BRIDGE AND  
MAX PLANCK FLORIDA CORPORATION PROJECTS)

Interest Rate

Maturity Date

Dated Date

REGISTERED OWNER:

PRINCIPAL AMOUNT:

KNOW ALL MEN BY THESE PRESENTS, that Palm Beach 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 designated office of the County, as paying agent (said office 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, unless adjusted pursuant to the provisions of the herein defined Resolution, payable on the first day of February and August of each year 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 County, as registrar (said County and any other bank or trust company becoming successor registrar being herein called the "Registrar"), on the tenth day of the calendar month preceding each interest payment date, or the tenth day prior to the date notice of redemption is given, whether or not such tenth day is a

Saturday, Sunday or holiday (the "Record Date"); provided, however, that payment of interest on the Bonds may, at the option of the County, be transmitted by wire transfer from the Paying Agent to the Holders of Bonds to a 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 February or August 1 to which interest has been paid, in which case from the date of authentication, or unless the date hereof is prior to February 1, 2012, in which case from the Dated Date, 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.

This Bond is one of an authorized issue of Bonds of the County designated as its Revenue Improvement Bonds, Series 2011 (Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects) (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 the costs of the 2011 Projects and to pay the costs of issuing the Bonds, as more fully described in the Resolution hereinafter referred to,

under the authority of and in full compliance with the Constitution and Statutes of the State of Florida, including particularly, Chapters 125 and 166, 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 July 19, 2011, 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:

Amortization Schedule

The Bonds are subject to amortization prior to the Maturity Date on each August 1, commencing August 1, 2012, in the amounts set forth below plus accrued interest to the date of redemption:

<u>(Year)</u>	<u>Amount</u>
---------------	---------------

No notice of redemption shall be given in connection with amortization of the Bonds pursuant to the above schedule. If the Bonds are optionally redeemed in part pursuant to the

provisions of the Resolution, a new Amortization Schedule shall be prepared by the Bank and transmitted to the County which will be conclusive and binding on the County, absent manifest error.

Notice of redemption of the Bonds shall be mailed, postage prepaid, by the Registrar not less than two (2) Business Days before the date fixed for redemption to the registered owners of the Bonds or portions of Bonds which are to be redeemed, at their addresses as they appear on the registration books kept by the Registrar the Business Day prior to the date such notice is mailed. Notwithstanding the foregoing, if the Bank is the Owner of the Bonds, the County may, with the consent of the Bank, provide such notice of redemption by e-mail or facsimile.

Such notice of redemption shall set forth (i) the date fixed for redemption, (ii) the redemption price to be paid, (iii) that such Bonds will be redeemed at the designated office of the Paying Agent, and the name, address and telephone number of a contact person, and (iv) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed. In case any Bond is to be redeemed in part only, the notice of redemption that relates to such Bond shall state also that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds of the same maturity, bearing interest at the same rate and in aggregate principal amount, equal to the unredeemed portion of such Bond, will be issued, if requested by the Owner. Failure of the registered owner of any Bonds which are to be redeemed to receive any such notice shall not affect the validity of the proceedings for the redemption of Bonds for which proper notice has been given. Interest shall cease to accrue on any of the Bonds duly called for prior redemption if payment of the redemption price has been duly made or provided for.



The Bonds shall be subject to Optional Tender in whole for purchase by the County on August 1, 2026 (the "Optional Tender Date") unless the Bank, in its sole discretion, provides written notice to the County, not earlier than 120 days and not later than 90 days prior to the Optional Tender Date, to the effect that the Bank irrevocably waives its right of Optional Tender. Failure on the part of the Bank to give notice shall not constitute a waiver of the Bank's Optional Tender right. If the Bank has not waived its Optional Tender right as evidenced by written notice to the County to that effect or by the County not receiving written notice providing such waiver by the 90<sup>th</sup> day prior to the Optional Tender Date, the County shall purchase or currently refund the Bonds, at its option, during the period after such 90<sup>th</sup> day and not later than the Optional Tender Date. The purchase price to be paid by the County shall be equal to the Outstanding principal of the Bonds plus accrued interest to the date of purchase. A "make whole payment" as described in the Resolution may be applicable if the purchase does not occur on the Optional Tender Date.

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 (i) County Moneys, (ii) any proceeds of Bonds originally deposited with the County and all moneys deposited and held from time to time by the County in the funds (other than amounts deposited into the Rebate Fund and the Cost of Issuance Fund created and established under the Resolution) and accounts established under the Resolution in each case until applied in accordance with the Resolution, (iii) investment income received by the County in the funds (other than the Rebate Fund) and accounts established under this Resolution, and (iv) any other moneys received by the Paying Agent in connection with repayment of the Bonds.

"Non-Ad Valorem Revenues" shall mean legally available 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 by the County of Debt Service on the Bonds, after the payment from the sources of Non-Ad Valorem Revenues pledged thereto on any obligations of the County outstanding or hereafter issued which have a prior pledge on any source of Non-Ad Valorem Revenues; provided, however, that for the purposes of the anti-dilution test set forth in the Resolution, "Non-Ad Valorem Revenues" shall mean all legally available 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 by the County of Non-Self-Supporting Debt.

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 any 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 of the 2011 Projects financed with the proceeds of the Bonds, or on any other 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. 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. The Resolution provides that registration of transfers is limited to "qualified institutional buyers" within the meaning of Rule 144A of the Securities and Exchange Commission. The Resolution further provides that a suitability letter is required to be delivered to the Registrar to effect such transfer.

(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 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 (if not the County) 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 (a) to transfer or exchange Bonds for a period of 10 days from a Record Date to the next ensuing interest

payment date or 10 days next preceding any selection of Bonds to be redeemed or thereafter until after the mailing of any notice of redemption; or (b) to transfer or exchange any Bonds called for redemption. If less than all of a Bond is redeemed or defeased, the County shall, if requested by the Owner, execute and the Registrar shall authenticate and deliver, upon the surrender of such Bond, without charge to the Bondholder, for the unpaid balance of the principal amount of such Bond so surrendered, a registered Bond in the appropriate denomination.

IN WITNESS WHEREOF, Palm Beach County, Florida, has caused this Bond to be signed by the Chair or \_\_\_\_\_ of the Board of County Commissioners of Palm Beach County, Florida, either manually or with a 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 Palm Beach County, Florida, either manually or with a facsimile signature, all as of the Dated Date.

PALM BEACH COUNTY, FLORIDA

\_\_\_\_\_  
Chair of the Board of County Commissioners of  
Palm Beach County, Florida

Attest:

\_\_\_\_\_  
Clerk of the Board of County Commissioners  
of Palm Beach County, Florida

FORM OF CERTIFICATE OF AUTHENTICATION

Date of Authentication:

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

CLERK OF PALM BEACH COUNTY, as  
Registrar

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

## ASSIGNMENT AND TRANSFER

FOR VALUE RECEIVED the undersigned sells, assigns and transfers unto (please print  
or typewrite name and address of transferee)

\_\_\_\_\_  
the within 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: \_\_\_\_\_

**Section 8. ADJUSTMENTS TO INTEREST RATE; MAKE WHOLE PAYMENT.**

A. Upon a Determination of Taxability and for as long as the Bonds remain Outstanding, the interest rate on the Bonds shall be converted to the Taxable Rate from the date that interest on the Bonds has been determined to be includable in the gross income of the Bondholder as a result of the Determination of Taxability. In addition, upon a Determination of Taxability, the County shall pay an amount equal to any interest, penalties on overdue interest and additions to tax (as referred to in Subchapter A of Chapter 68 of the Code) owed by the Bondholder.

B. The Interest Rate on the Bonds shall be adjusted automatically as of the effective date of any change in the Maximum Federal Corporate Tax Rate; the amount of such adjustment to be calculated by multiplying the Interest Rate by the Margin Rate Factor.

C. If, after the date of the delivery of the Bonds, the Bondholder shall have reasonably determined that a Change in Law regarding capital adequacy, has or would have the effect of reducing the rate of return on the Bondholder's capital, on the Bonds or otherwise, as a consequence of its ownership of the Bonds to a level below that which the Bondholder could have achieved but for such adoption, Change in Law (taking into consideration the Bondholder's policies with respect to capital adequacy) by an amount deemed by the Bondholder to be material, then from time to time, promptly upon demand by the Bondholder, the County hereby agrees to pay the Bondholder such additional amount or amounts as will compensate the Bondholder for such reduction. A certificate of the Bondholder claiming compensation under this paragraph and setting forth the additional amount or amounts to be paid to it hereunder shall



be conclusive absent manifest error. In determining any such amount, the Bondholder may use any reasonable averaging and attribution methods.

D. Notwithstanding any of the foregoing, it is the intention of the Bank (and any subsequent Owner of any of the Bonds) and the County that the interest rate on the Bonds never exceed the maximum rate permitted by law (the "Maximum Rate"). In the event any of the adjustments provided for in this Section 8 with respect to the Bonds would produce an interest rate on the Bonds in excess of the Maximum Rate, the Owner shall not be entitled to receive interest in excess of the Maximum Rate (herein, such amount is referred to as "Excess Interest"). At any time thereafter, if the Bonds shall bear interest at an Interest Rate, which is less than the Maximum Rate, the County shall also pay to the Owner the unpaid Excess Interest until the earlier of (i) the Maturity Date, (ii) the date all of the Excess Interest has been paid, or (iii) any date the combination of the Interest Rate on the Bonds, plus the Excess Interest, would exceed the Maximum Rate.

#### Make Whole Payment

In the event the County in any calendar year prepays more than 15% of the principal amount of the Bonds Outstanding on January 1 of such calendar year, the County shall, at the time of such partial payment, pay an additional fee to the Bondholder, referred to as the "make whole payment." The make whole payment shall be equal to the present value of the difference between (1) the amount that would have been realized by the Bondholder on the prepaid amount for the remaining term of the Bonds at the Federal Reserve H.15 Statistical Release rate for fixed-rate payers in interest rate swaps for a term corresponding to the term of the Bonds, interpolated to the nearest month, if necessary, that was in effect three Business Days prior to the issue date of the Bonds and (2) the amount that would be realized by the Bondholder by

reinvesting such prepaid funds for the remaining term of the Bonds at the Federal Reserve H.15 Statistical Release rate for fixed-rate payers in interest rate swaps, interpolated to the nearest month, that was in effect three Business Days prior to the date of partial pre-payment, both amounts discounted at the same interest rate utilized in determining the applicable amount in (2). Should the present value have no value or a negative value, the County may repay the Bonds in part as intended with no additional make whole payment. Should the Federal Reserve no longer release rates for fixed-rate payers in interest rate swaps, the Bondholder may substitute another similar index for the Federal Reserve H.15 Statistical Release with another similar index. The Bondholder shall provide the County with a written statement explaining the calculation of the make whole payment, which statement shall, in absence of manifest error, be conclusive and binding upon the County. The application of the make whole payment shall not be deemed an increase in the Interest Rate.

**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 any of the 2011 Projects financed with the proceeds of the Bonds 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. ESTABLISHMENT OF FUNDS AND ACCOUNTS.** There are hereby created and established with the County the following Funds: (1) the Bond Proceeds Fund (the "Proceeds Fund"), (2) Sinking Fund (the "Sinking Fund"), (3) Rebate Fund (the "Rebate Fund"), and (4) Cost of Issuance Fund (the "Cost of Issuance Fund"). Within the Proceeds Fund there

shall be created the following separate accounts: (1) an Ocean Avenue Lantana Bridge Account (the "Bridge Account") and (2) a "Max Planck Account" (the "Grant Installment Account"). Within the Sinking Fund there shall be created the following separate accounts: (1) a Principal and Interest Account (the "Principal and Interest Account"), and (2) a Bond Redemption Account (the "Bond Redemption Account").

**Section 4. 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 and order of priority:

A. On the date of delivery of the Bonds, the County shall deposit \$15,615,000 from the proceeds of the Bonds to the Grant Installment Account within the Proceeds Account. Such deposit shall be disbursed to Max Planck pursuant to the terms and provisions of the Grant Agreement.

B. From the proceeds of the sale of the Bonds in an amount equal to \$15,000,000, which together with other moneys lawfully available therefor, if any, shall be deposited in the Bridge Account of the Proceeds Fund. Amounts in the Bridge Account of the Proceeds Fund shall be applied by the County to pay the cost of demolition and reconstruction of the Ocean Avenue Lantana Bridge.

Before any such application of any amounts in the Bridge Account shall be made, the County shall prepare a requisition, signed by an authorized officer of the County showing with respect to each payment to be made, the name of the person to whom payment is due and the amount to be paid, and stating that the obligation to be paid was incurred and is a proper charge against the Proceeds Fund and evidencing: (i) that obligations in the stated amounts, including any amounts retained by the County in the Bridge Account to be paid at such later

date, have been incurred by the County and that each item thereof is a proper charge against the Bridge Account and has not been the basis of any previous requisition and (ii) that there has not been filed with or served upon the County notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the moneys payable to any of the persons named in such requisition which has not been released or will not be released simultaneously with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of law.

Any earnings from moneys held in the Grant Installment Account or the Bridge Account of the Proceeds Fund invested pursuant to the requirements of this Resolution shall be credited to the Bridge Account of the Proceeds Fund. Amounts on deposit in the Bridge Account and the Grant Installment Account of the Proceeds Fund shall be invested by the County in Permitted Investments maturing not later than the dates such moneys will be needed for its intended purpose.

C. The balance of the proceeds derived from the sale of the Bonds in the amount of \$76,407 shall be deposited in the Cost of Issuance Fund to pay the cost of issuing the Bonds including the fees of counsel to the Bank in the amount of \$6,500. The County shall pay the cost of issuing the Bonds to each payee by wire transfer on the date of issuance of the Bonds or as soon thereafter as reasonably practicable.

Any of the proceeds from the sale of the Bonds deposited in the Proceeds Fund 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. The Owners of the Bonds shall not have a lien on the moneys in the Rebate Fund or proceeds deposited in the Cost of Issuance Fund.

**Section 5. 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 Sinking Fund, 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 12 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 the Bonds are no longer Outstanding pursuant to the provisions of this Resolution, the County hereby covenants to appropriate in its annual budget in each Fiscal Year, by amendment if necessary, Non-Ad Valorem Revenues in amounts sufficient to pay the principal of and interest on the Bonds, as the same become due (whether by redemption, at maturity or otherwise), and, if applicable, to restore any deficiency or any other fund or account created and established hereunder for the Bonds. Notwithstanding the foregoing covenant of the County, the County has not covenanted to maintain any services or programs, now provided or maintained by the County, which generate Non-Ad Valorem Revenues.

Such covenant to budget and appropriate Non Ad Valorem Revenues is not a pledge by the County of such Non Ad Valorem Revenues and is subject in all respects to the payment of obligations secured by a pledge of such Non Ad Valorem Revenues heretofore or hereinafter entered into, including the payment of debt service on bonds or other obligations. Such covenant to budget and appropriate is subject to the provisions of Section 129.07, Florida Statutes, which makes it unlawful for the County to expend moneys not appropriated and in excess of the County's current budgeted revenues. Such covenant does not require the County to levy and collect any particular source of Non Ad Valorem Revenues nor to maintain or increase

any regulatory fees or user charges with respect to any particular source of Non Ad Valorem Revenues. Such covenant does not give the Bondholders a prior claim on such Non Ad Valorem Revenues as opposed to claims of general creditors of the County until such time as a deposit of such Non Ad Valorem Revenues is made into the Sinking Fund or other fund hereunder for the purposes of this Article.

To the extent that the County is in compliance with the covenant contained above and the covenants set forth in Section 9 of this Article III, 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 Sinking 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 under this heading shall survive the payment of the Bonds and the interest thereon, including any payment or discharge thereof pursuant to Section 12 of this Article III.

4. The County shall deposit moneys into the Rebate Fund at the times and in the amounts prescribed in the Tax Certificate. All moneys on deposit in the Rebate Fund, including any investment earnings therefrom, shall be applied in accordance with the terms and provisions of the Tax Certificate and shall not be considered Pledged Revenues.

**Section 6. APPLICATION OF PLEDGED REVENUES.**

A. On or before 12:00 Noon on the last Business Day prior to each Interest Payment Date, the County shall deposit into the Sinking Fund an amount of Non Ad Valorem Revenues (which at the time of such deposit become "Pledged Revenues") at least equal to the Debt Service calculated for such Interest Payment Date.

B. As soon as practicable after the deposit of Pledged Revenues in the Sinking Fund, as provided in paragraph (A) above, and in any case no later than the close of business on the Business Day preceding such Interest Payment Date, the County shall credit



moneys therein to the following purposes in the following order of priority (such application to be made in such a manner so as to assure sufficient moneys on deposit in such Fund):

1. To the Principal and Interest Account, the amount, if any, required so that the balance in said account shall equal the amount of principal of and interest on the Bonds coming due on the next Interest Payment Date;

2. To the Redemption Account, the amount, if any, required so that the balance in said account shall equal the principal of and interest on the Bonds then coming due by reason of redemption on the next Interest Payment Date or date of redemption;

**Section 7. SINKING FUND--PRINCIPAL AND INTEREST ACCOUNT; REDEMPTION ACCOUNT.** The County shall pay out of the Principal and Interest Account to the Paying Agent (i) on or before each Interest Payment Date for any of the Bonds, the amount required for the interest payable on such date; and (ii) on or before the Maturity Date, the amount of principal of such Bonds payable on such date. The County shall pay out of the Redemption Account to the Paying Agent on or before any redemption date for the Bonds (including but not limited to any mandatory sinking fund redemption of the Bonds pursuant to the Amortization Schedule), the amount required for the payment of principal on the Bonds then to be redeemed. Such amounts shall be applied by the Paying Agent on and after the due dates thereof.

**Section 8. COST OF ISSUANCE FUND.** Moneys on deposit in the Cost of Issuance Fund shall be used to pay costs of issuing the Bonds to the extent not paid from other sources, which costs shall include the fees of the Bank's counsel, Bond Counsel fees and the fees of the County's financial advisors, all incurred in connection with the issuance of the Bonds, which shall be paid by wire transfer upon the submission of an invoice which states the amount to be paid, to whom it is to be paid and the reason for such payment. Any moneys remaining in

the Cost of Issuance Fund not needed for the purposes thereof shall be transferred to the Bridge Account of the Proceeds Fund. Notwithstanding the foregoing, the amounts payable to Bank's counsel may be deducted from the proceeds of the Bonds delivered to the County.

**Section 9. ADDITIONAL DEBT OF THE COUNTY PAYABLE FROM NON-AD VALOREM REVENUES.** The County covenants that in each Fiscal Year of the County, while the Bonds are Outstanding the total Non-Self-Supporting Debt Service due for each such Fiscal Year of the County shall not exceed 50% of Non-Ad Valorem Revenues of the County. In furtherance of such covenant, the County covenants and agrees that it will not issue any indebtedness or incur any indebtedness payable from or supported by a pledge of the Non-Ad Valorem Revenues unless the County can certify in writing that following the issuance of or incurrence of such additional indebtedness, (i) the total amount of Non-Ad Valorem Revenues (based on the most recent Fiscal Year) will be greater than 2.00 times the Maximum Debt Service, (ii) the total amount of Non-Ad Valorem Revenues in each Fiscal Year in which Bonds are Outstanding (based on reasonable projections of the County) will be greater than 2.00 times the Non-Self-Supporting Debt in each such Fiscal Year; and (iii) the aggregate principal amount of Non-Self-Supporting Debt bearing a variable interest rate will not exceed twenty-five per cent (25%) of the aggregate principal amount of Non-Self-Supporting Debt.

**Section 10. BOOKS, RECORDS, BUDGET AND FINANCIAL REPORTS.** That the County will keep books and records of each Fiscal Year of the receipt of its Non-Ad Valorem Revenues in accordance with generally accepted accounting principles for government units, and any Owner or Owners of 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 Chief Financial Officer and mailed to all Owners who shall have filed their names and addresses with the Chief Financial Officer for such purpose a statement setting forth in respect of the preceding Fiscal Year:

1. the total amounts deposited to the credit of the Sinking Fund and the accounts 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 Sinking Fund and the accounts created under the provisions of this Resolution.

The County shall in each Fiscal Year prepare and adopt an annual budget in accordance with the provisions of Section 129, Florida Statutes, as amended and supplemented. A copy of such annual budget shall be furnished to the Bondholder within 30 days from its date of adoption.

The County shall furnish to the Bondholder, within 210 days from the end of the County's prior Fiscal Year, all comprehensive annual financial reports (which shall include but are not limited to all combined statements of revenues, expenditures and changes in fund balances, all changes in retained earnings/fund balance and all combined statements of changes in financial position of the County for such prior Fiscal Year and a combined balance sheet of the County as of the close of such Fiscal Year, and notes to each, setting forth in comparative form the figures for the previous Fiscal Year (to the extent applicable)), in reasonable detail and accompanied by an opinion thereon of a recognized firm of independent public accountants

selected by the County, which opinion shall state that such financial statements have been prepared in accordance with generally accepted accounting principles consistently applied.

The County further covenants that an annual audit (prepared in accordance with generally accepted accounting principles consistently applied) of the County shall be conducted by a recognized firm of independent public accountants within 180 days from the end of each Fiscal Year, and the report of such annual audit shall be provided to the Holder, without charge, not later than 210 days from the end of the prior Fiscal Year.

The County covenants to timely provide such other reports or information to the Bondholder as reasonably requested by the Bondholder.

**Section 11. 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.

Any exercise of a remedy set forth in this Section 11 shall be subject to the consent of the Bank and the Bank shall have the right, acting alone, to exercise said remedies.

Acceleration of the payment of principal of and interest on the Bonds shall not be a remedy available to the Owners of the Bonds.

**Section 12. 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:

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

B. by depositing in the Sinking 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 Bonds, and interest, as the same becomes due on said Bonds, on or prior to the redemption date or on the maturity date thereof; or

C. by depositing in the Sinking 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 Bonds, and interest as the same shall become due on said Bonds on or prior to their redemption date or on the Maturity Date thereof.

D. 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 12 of Article III of this Resolution, 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.

**Section 13. DISCLOSURE STATEMENTS.** That delivery of the completed required disclosures and truth in bonding statements in substantially the form attached to the Purchase Contract, by the Bank pursuant to Section 218.385, Florida Statutes, as amended and supplemented, shall be a condition precedent to the execution of the Purchase Contract by the County.

**Section 14. NEGOTIATED SALE.** That the Board hereby adopts the recommendations of the County's financial advisor. The County hereby finds that, due to timing issues and volatile market conditions, it would be in the best interest of the County that the Bonds be sold on a negotiated private placement basis.

**Section 15. BANK PURCHASE CONTRACT.** That the Bank's proposal to purchase the Bonds is hereby accepted by the County. The form of Purchase Contract for the Bonds, between the County and the Bank, as submitted to this meeting by the Bank and attached hereto as Exhibit A, be and the same hereby is approved. The Board hereby delegates to the Chair of the Board or any other member of the Board, in the absence of the Chair, the authority, in consultation with the County's Debt Manager and the County's financial advisor, to approve the final terms and details of the Bonds and to execute the Purchase Contract on behalf of the County if such Purchase Contract accurately reflects such terms and details of the Accepted Bid of the Bank and is otherwise in a form acceptable to the County Attorney, Bond Counsel and the County's financial advisor. Provided, however, that neither the Chair nor any other member of the Board shall take any action pursuant to this Section 15 unless the Chair or such other member

of the Board in the absence of the Chair, the County's Debt Manager and the County's financial advisor shall have received from the Bank such information as the County Debt Manager and the County's financial advisor shall deem necessary in order to demonstrate that (i) the initial principal amount of the Bonds is not in excess of \$36,000,000, (ii) the final Maturity Date of the Bonds is not later than August 1, 2031, (iii) the completed disclosures required pursuant to Section 218.385, Florida Statutes have been delivered by the Bank. Any final terms and conditions of the Bonds not set forth in this Resolution and contained in the Purchase Contract including, but not limited to, the principal amount of Bonds to be issued, are incorporated herein as though fully set forth in this Resolution or the Bonds.

**Section 16. PAYING AGENT AND REGISTRAR.** Initially, the office of the Chief Financial Officer shall serve as Registrar and Paying Agent. The County reserves the right, without obtaining the consent of the Bank, to appoint The Bank of New York Trust Mellon Company, National Association, as successor paying agent (the "Paying Agent") and successor registrar (the "Registrar") for the Bonds.

#### **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, may be made without the consent in writing of the Owners of two-thirds or more in principal amount of the Bonds then outstanding; provided, however, that no modification or amendment shall permit a change in the maturity of such Bonds or a reduction in the rate of interest thereon, or affecting the unconditional promise of the County to pay the interest of and principal on the Bonds, as the same mature or become due, from the Pledged Revenues, or reduce such

percentage of Owners or such Bonds required above for such modification or amendments, without the consent of the Owners of all the Bonds.

This Resolution may be amended, changed, modified and altered without the consent of the Owners of Bonds, (i) to cure any ambiguity, correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein, (ii) to provide other changes which will not adversely affect the interest of such Owners, (iii) to maintain the exclusion of interest on the Bonds from gross income for federal income tax purposes, (iv) to secure a rating on the Bonds, or (v) to implement a book-entry system of registration.

**Section 2. PURCHASE OF BONDS.** The County may at any time attempt to purchase any of the Bonds at prices not greater than the par amount and accrued interest to the date of purchase. If the County shall purchase Bonds in excess of the sinking fund requirement for such year such excess of Bonds so purchased shall at the option of the County either be credited on a pro-rata basis over the remaining sinking fund installment dates for such Bonds or credited against the following year's installment requirement and the Amortization Schedule shall be amended accordingly.

**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; RATIFICATION OF PRIOR ACTS.** That the Chair, the Vice Chair, the County Administrator, the Debt Manager, the County Attorney, and any other proper official of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments, including, but not limited to, any paying agent and registrar agreement, 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. All actions heretofore taken and documents prepared or executed by or on behalf of the County by any of its authorized officers in connection with the transactions contemplated hereby including, without limitation, solicitation of the RFP, are hereby ratified, confirmed, approved and adopted.

**Section 5. REPEALING CLAUSE.** All ordinances or resolutions of the County in conflict with the provisions herein contained are to the extent of such conflict, hereby superseded and repealed.

**Section 6. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was offered by Commissioner Aaronson who moved its adoption. The motion was seconded by Commissioner Vana, and upon being put to a vote, the motion passed as follows:

Commissioner Karen T. Marcus, Chair	<u>Aye</u>
Commissioner Shelley Vana, Vice Chair	<u>Aye</u>
Commissioner Paulette Burdick	<u>Aye</u>
Commissioner Steve L. Abrams	<u>Aye</u>
Commissioner Jess R. Santamaria	<u>Aye</u>
Commissioner Burt Aaronson	<u>Aye</u>
Commissioner Priscilla A. Taylor	<u>Absent</u>

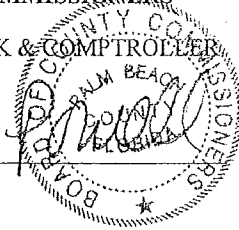
The Chair thereupon declared the resolution duly passed and adopted this 19th day of July, 2011.

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

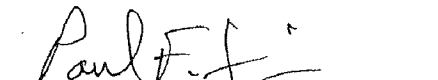
SHARON R. BOCK, CLERK & COMPTROLLER

By:

  
Deputy Clerk



Approved as to Form and Legal Sufficiency

  
County Attorney

LIST OF EXHIBIT

Exhibit A - Bond Purchase Agreement

WPB382,568,056v15 013000.012400

## BOND PURCHASE AGREEMENT

THIS BOND PURCHASE AGREEMENT (the "Agreement") dated July 27, 2011, by and between SunTrust Bank, a banking corporation organized under the laws of the State of Georgia (herein the "Bank") and Palm Beach 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 R-2011-\_\_\_\_\_, (the "Resolution"), adopted by the Board of County Commissioners of Palm Beach County, Florida (the "Board") on July 19, 1988, the Board authorized the issuance of not to exceed \$36,000,000 in aggregate principal amount of Palm Beach County, Florida Revenue Improvement Bonds, Series 2011 (Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects) (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 Bank has reviewed the Resolution and hereby finds the terms acceptable except as supplemented by this Agreement; and

WHEREAS, pursuant to the RFP, the Bank has submitted the successful bid to purchase the Bonds; and

WHEREAS, on this date, the County has, pursuant to provisions of the Act, the Resolution and this Agreement, agreed to issue and sell to the Bank and the Bank has, pursuant to the terms of this Agreement and the terms and provisions of the Resolution, agreed to purchase, all but not less than all, of the Bonds; and

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

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

1. **Purchase and Sale.** Upon the terms and conditions set forth herein, in the Bonds and the Resolution and upon the representations and warranties of the County set forth in the Resolution, the Tax Certificate and other closing certificates, the County agrees to sell on this date the Bonds on a negotiated basis to the Bank and the Bank agrees on this date to purchase, with immediately available funds, all but not less than all, of the Bonds in the aggregate amount of \$30,691,407. The purchase price for the Bonds shall be \$30,691,407 which purchase price is equal to the principal amount of the Bonds so issued. Since the dated date of the Bonds is the date hereof, there will be no accrued interest as part of the purchase price.

2. **Private Placement Negotiated Sale.** The Bank hereby acknowledges that the purchase of the Bonds from the County was on a negotiated private placement basis and that there has been no offering document prepared by the County in connection with such sale.

3. **Conditions for Purchase.** The Bank's agreement to purchase the Bonds on this date is subject to the satisfaction of the conditions set forth in Article III, Section 9 of the Resolution. The Bank's purchase of the Bonds will constitute full evidence that such conditions have been satisfied.

4. **Section 218.385 Florida Statutes.** On or before the purchase of the Bonds, the Bank 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 A.

5. **Expenses.** As between the County and the Bank, the Bank shall not be liable for any expenses incurred by the County in connection with the issuance of the Bonds. The Bank represents to the County that it has not employed or used the services of any attorney or other professional in connection with the Bank's negotiations with the County and its purchase of the Bonds other than Holland & Knight LLP, which fee, in the amount of \$6,500 shall be paid by the County.

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

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

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

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

10. **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.

[Space Left Blank Intentionally]

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

SUNTRUST BANK

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

Date: July 27, 2011

PALM BEACH COUNTY, FLORIDA

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

Date: July 27, 2011

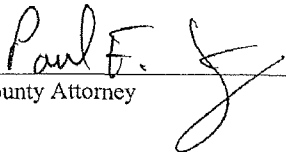
(SEAL)

ATTEST:

Sharon R. Bock, Clerk & Comptroller

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

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

SCHEDULE A

July 27, 2011

Board of County Commissioners  
of Palm Beach County, Florida  
West Palm Beach, Florida 33401

Re:

**\$30,691,407**  
**Palm Beach County, Florida**  
**Revenue Improvement Bonds, Series 2011**  
**(Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects)**

To The Honorable Chair and Board Members:

This letter shall serve as the disclosure statements and truth-in-bonding statement pursuant to Section 218.385, Florida Statutes, in connection with the award of the above-referenced bonds (the "Bonds") to SunTrust Bank (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 Bonds to any person not regularly employed or retained by the Purchaser.
4. Palm Beach County, Florida (the "County"), is proposing to issue up to \$30,691,407 of debt or obligation for the purposes of financing certain projects described in Resolution R-2011-\_\_\_\_\_ and other costs associated therewith. This debt or obligation is expected to be repaid over a period of approximately 240 months (payments commencing February 1, 2012). At an interest rate of 3.172%, the total interest paid over the life of the debt or obligation could be as much as \$11,242,238.96

The source of repayment or security for this proposal is the Non-Ad Valorem Revenues (as defined in the resolution authorizing the issuance of the debt or obligation). Authorizing this debt or obligation will result in up to \$41,933,645.96 of Non-Ad Valorem Revenues not being available to finance or refinance other capital projects in calendar years 2012 through August 1, 2031.

Very truly yours,

SUNTRUST BANK

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

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

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

WPB382,574,241v8 013000.012400

## BOND PURCHASE AGREEMENT

**THIS BOND PURCHASE AGREEMENT** (the "Agreement") dated July 27, 2011, by and between SunTrust Bank, a banking corporation organized under the laws of the State of Georgia (herein the "Bank") and Palm Beach 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 R-2011-\_\_\_\_\_, (the "Resolution"), adopted by the Board of County Commissioners of Palm Beach County, Florida (the "Board") on July 19, 1988, the Board authorized the issuance of not to exceed \$36,000,000 in aggregate principal amount of Palm Beach County, Florida Revenue Improvement Bonds, Series 2011 (Ocean Avenue Lantana Bridge and Max Planck Florida Corporation Projects) (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 Bank has reviewed the Resolution and hereby finds the terms acceptable except as supplemented by this Agreement; and

**WHEREAS**, pursuant to the RFP, the Bank has submitted the successful bid to purchase the Bonds; and

**WHEREAS**, on this date, the County has, pursuant to provisions of the Act, the Resolution and this Agreement, agreed to issue and sell to the Bank and the Bank has, pursuant to the terms of this Agreement and the terms and provisions of the Resolution, agreed to purchase, all but not less than all, of the Bonds; and

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

**NOW THEREFORE**, the County and the Bank hereby agree as follows:

1. **Purchase and Sale.** Upon the terms and conditions set forth herein, in the Bonds and the Resolution and upon the representations and warranties of the County set forth in the Resolution, the Tax Certificate and other closing certificates, the County agrees to sell on this date the Bonds on a negotiated basis to the Bank and the Bank agrees on this date to purchase, with immediately available funds, all but not less than all, of the Bonds in the aggregate amount of \$30,691,407. The purchase price for the Bonds shall be \$30,691,407 which purchase price is equal to the principal amount of the Bonds so issued. Since the dated date of the Bonds is the date hereof, there will be no accrued interest as part of the purchase price.

2. **Private Placement Negotiated Sale.** The Bank hereby acknowledges that the purchase of the Bonds from the County was on a negotiated private placement basis and that there has been no offering document prepared by the County in connection with such sale.

\_\_\_\_\_



3. **Conditions for Purchase.** The Bank's agreement to purchase the Bonds on this date is subject to the satisfaction of the conditions set forth in Article III, Section 9 of the Resolution. The Bank's purchase of the Bonds will constitute full evidence that such conditions have been satisfied.

4. **Section 218.385 Florida Statutes.** On or before the purchase of the Bonds, the Bank 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 A.

5. **Expenses.** As between the County and the Bank, the Bank shall not be liable for any expenses incurred by the County in connection with the issuance of the Bonds. The Bank represents to the County that it has not employed or used the services of any attorney or other professional in connection with the Bank's negotiations with the County and its purchase of the Bonds other than Holland & Knight LLP, which fee, in the amount of \$6,500 shall be paid by the County.

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

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

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

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

10. **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.

[Space Left Blank Intentionally]

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

SUNTRUST BANK

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

Date: July 27, 2011

PALM BEACH COUNTY, FLORIDA

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

Date: July 27, 2011

(SEAL)

ATTEST:

Sharon R. Bock, Clerk & Comptroller

\_\_\_\_\_  
Clerk

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

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

SCHEDULE A

July 27, 2011

Board of County Commissioners  
of Palm Beach County, Florida  
West Palm Beach, Florida 33401

Re:

**\$30,691,407**  
**Palm Beach County, Florida**  
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4. Palm Beach County, Florida (the "County"), is proposing to issue up to \$30,691,407 of debt or obligation for the purposes of financing certain projects described in Resolution R-2011-\_\_\_\_\_ and other costs associated therewith. This debt or obligation is expected to be repaid over a period of approximately 366 months (commencing February 1, 2012). At an interest rate of 3.172%, the total interest paid over the life of the debt or obligation could be as much as \$11,242,238.96

The source of repayment or security for this proposal is the Non-Ad Valorem Revenues(as defined in the resolution authorizing the issuance of the debt or obligation). Authorizing this debt or obligation will result in up to \$41,933,645.96 of Non-Ad Valorem Revenues not being available to finance or refinance other capital projects in calendar years 2012 through August 1, 2031.

Very truly yours,

SUNTRUST BANK

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

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

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

WPB382,674,241v6 013000.012400

A-1

STATE OF FLORIDA, COUNTY OF PALM BEACH  
I, SHARON R. BOCK, Clerk and Comptroller,  
certify this to be a true and correct copy of the original  
filed in my office on JUL 19 2011  
dated at West Palm Beach, FL on 7/27/11  
By: [Signature]  
Deputy Clerk

