

*In the opinion of Squire, Sanders & Dempsey (US) LLP, Bond Counsel, under existing law (i) assuming continuing compliance with certain covenants and the accuracy of certain representations, interest on the Series 2011A Bonds is excluded from gross income for federal income tax purposes, except interest on any Series 2011A Bond for any period during which it is held by a "substantial user" or "related person" as those terms are used in Section 147(a) of the Internal Revenue Code of 1986, as amended (the "Code"), (ii) interest on the Series 2011A Bonds is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, and (iii) the Series 2011A Bonds and the income thereon are exempt from taxation under the laws of the State of Florida, except estate taxes imposed by Chapter 198, Florida Statutes, as amended, and net income and franchise taxes imposed by Chapter 220, Florida Statutes, as amended. Interest on the Series 2011A Bonds may be subject to certain federal taxes imposed only on certain corporations. For a more complete discussion of the tax aspects, see "TAX MATTERS" herein.*

**\$174,450,000**

**LEE COUNTY, FLORIDA  
AIRPORT REVENUE REFUNDING BONDS,  
SERIES 2011A (AMT)**

**Dated: Date of Delivery**

**Due: October 1 in the years as shown on inside cover**

Lee County, Florida (the "County") will be issuing its Lee County, Florida Airport Revenue Refunding Bonds, Series 2011A (AMT) (the "Series 2011A Bonds") as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as registered owner and nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the Series 2011A Bonds. Purchasers of the Series 2011A Bonds will not receive certificates representing their interests in the Series 2011A Bonds purchased. Ownership by the beneficial owners of the Series 2011A Bonds will be evidenced by book-entry only. Principal of, premium, if any, and interest on the Series 2011A Bonds will be paid by U.S. Bank National Association, Fort Lauderdale, Florida, as Bond Registrar and Paying Agent, to DTC, which in turn will remit such principal, premium, if any, and interest payments to its participants for subsequent disbursement to the beneficial owners of the Series 2011A Bonds. As long as Cede & Co. is the registered owner as nominee of DTC, payments on the Series 2011A Bonds will be made to such registered owner, and disbursement of such payments to beneficial owners will be the responsibility of DTC and its participants. See "DESCRIPTION OF THE SERIES 2011A BONDS - Book-Entry Only System" herein. Interest on the Series 2011A Bonds is payable April 1 and October 1 of each year, with the first interest payment date being April 1, 2012. The Series 2011A Bonds are subject to optional and mandatory sinking fund redemption prior to maturity, as more particularly described herein. See "DESCRIPTION OF THE SERIES 2011A BONDS - Redemption" herein.

The Series 2011A Bonds will be issued pursuant to Resolution No. 00-03-04, adopted by the Board of County Commissioners of Lee County, Florida (the "Board"), on March 13, 2000, as amended and supplemented, particularly as supplemented by Resolution No. 11-01-27, adopted by the Board on January 11, 2011 (collectively, the "Bond Resolution"). The Series 2011A Bonds are being issued on parity with the County's outstanding Airport Revenue Refunding Bonds, Series 2005 and Airport Revenue Refunding Bonds, Series 2010A (AMT).

The Series 2011A Bonds are being issued by the County to provide funds which, together with other legally available funds, will be sufficient (1) to refund, on a current basis, all of the County's outstanding Airport Revenue Bonds, Series 2000A (AMT), as more fully described herein, and (2) to pay the costs of issuance of the Series 2011A Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

**The Series 2011A Bonds will be limited obligations of the County and will be payable from and secured solely by a pledge of and lien upon the net revenues derived from the operation of Southwest Florida International Airport, together with moneys on deposit in certain funds and accounts established pursuant to the Bond Resolution (collectively, the "Pledged Funds"). The Series 2011A Bonds and the interest thereon will not be or constitute a general obligation or indebtedness of the County or the Lee County Port Authority (the "Authority") within the meaning of the Constitution of the State of Florida, but will be special and limited obligations of the County exclusively payable from and secured solely by a lien on the Pledged Funds in the manner and to the extent provided in the Bond Resolution. No holder of any Series 2011A Bond will ever have the right to compel the exercise of any taxing power of the County or taxation in any form on any real or personal property to pay the principal of and interest on the Series 2011A Bonds or any other obligations set forth in the Bond Resolution, nor will any holder be entitled to payment of the principal of and interest on the Series 2011A Bonds or any other obligations set forth in the Bond Resolution from any funds of the County or the Authority other than the sources specified in the Bond Resolution. The Authority has no taxing power. See "SECURITY FOR THE SERIES 2011A BONDS" herein.**

The scheduled payment of principal of and interest on the Series 2011A Bonds maturing on October 1 in the years 2027, 2028 and 2032 (such 2032 maturity in the aggregate principal amount of \$15,000,000 and bearing the Initial CUSIP No. 523470FX5), when due, will be guaranteed under an insurance policy to be issued concurrently with the delivery of the Series 2011A Bonds by Assured Guaranty Municipal Corp. See the maturity schedule on the inside cover page hereof and "BOND INSURANCE" herein.



This cover page contains certain information for quick reference only. It is not a summary of the transaction or the underlying transaction documents. Investors must read the entire Official Statement, including the appendices, to obtain information essential to making an informed investment decision. See "INVESTMENT CONSIDERATIONS" herein for a discussion of certain factors that should be considered by prospective purchasers of the Series 2011A Bonds.

*The Series 2011A Bonds are offered in book-entry form when, as and if issued and received, subject to the approving legal opinion of Squire, Sanders & Dempsey (US) LLP, Bond Counsel, and certain other conditions. Certain legal matters will be passed on for the County and the Authority by Michael D. Hunt, Esquire, County Attorney. Certain legal matters will be passed on for the County by Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Disclosure Counsel. Certain legal matters will be passed on for the Underwriters by Greenberg Traurig, P.A., West Palm Beach, Florida, Counsel to the Underwriters. It is expected that the Series 2011A Bonds will be available for delivery through the facilities of DTC on or about August 30, 2011.*

**LEE COUNTY, FLORIDA  
AIRPORT REVENUE REFUNDING BONDS,  
SERIES 2011A (AMT)**

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

**Uninsured Series 2011A Bonds<sup>(1)</sup>**

\$64,405,000 Serial Series 2011A Bonds

<b><u>Maturity (October 1)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Price</u></b>	<b><u>Yield</u></b>	<b><u>Initial CUSIP Numbers<sup>(3)</sup></u></b>
2013	\$ 190,000	4.000%	103.690	2.18%	523470FF4
2014	200,000	4.000	104.608	2.44	523470FG2
2015	205,000	4.000	105.035	2.69	523470FH0
2016	215,000	3.000	99.951	3.01	523470FJ6
2017	220,000	3.250	99.451	3.35	523470FK3
2018	225,000	3.500	98.699	3.71	523470FL1
2019	235,000	4.000	99.860	4.02	523470FM9
2020	245,000	4.000	97.907	4.28	523470FN7
2021	255,000	4.250	98.545	4.43	523470FP2
2022	265,000	4.500	98.793	4.64	523470FQ0
2023	14,305,000	5.500	105.649 <sup>(4)</sup>	4.78 <sup>(4)</sup>	523470FR8
2024	15,095,000	5.500	104.520 <sup>(4)</sup>	4.92 <sup>(4)</sup>	523470FS6
2025	15,925,000	5.625	104.533 <sup>(4)</sup>	5.04 <sup>(4)</sup>	523470FT4
2026	16,825,000	5.625	103.819 <sup>(4)</sup>	5.13 <sup>(4)</sup>	523470FU1

\$58,625,000 - 5.375% Term Series 2011A Bonds due October 1, 2032, Price - 98.079%;  
Yield - 5.530%; Initial CUSIP Number 523470FY3<sup>(3)</sup>

**Insured Series 2011A Bonds<sup>(2)</sup>**

\$36,420,000 Serial Series 2011A Bonds

<b><u>Maturity (October 1)</u></b>	<b><u>Principal Amount</u></b>	<b><u>Interest Rate</u></b>	<b><u>Price</u></b>	<b><u>Yield</u></b>	<b><u>Initial CUSIP Numbers<sup>(3)</sup></u></b>
2027	\$17,765,000	5.000%	98.475	5.14%	523470FV9
2028	18,655,000	5.000	97.749	5.20	523470FW7

\$15,000,000 - 5.375% Term Series 2011A Bonds due October 1, 2032, Price - 99.309%;  
Yield - 5.430%; Initial CUSIP Number 523470FX5<sup>(3)</sup>

<sup>(1)</sup> Not guaranteed by the municipal bond insurance policy to be issued by Assured Guaranty Municipal Corp. ("AGM").

<sup>(2)</sup> Guaranteed by the municipal bond insurance policy to be issued by AGM. See "BOND INSURANCE" herein.

<sup>(3)</sup> CUSIP numbers have been assigned by an independent company not affiliated with the County and are included solely for the convenience of the owners of the Series 2011A Bonds. The County is not responsible for the selection or uses of these CUSIP numbers, and no representation is made as their correctness on the Series 2011A Bonds or as indicated above.

<sup>(4)</sup> Callable premium Series 2011A Bonds. Price and yield calculated to first optional redemption date of August 15, 2021.

**LEE COUNTY, FLORIDA AND LEE COUNTY PORT AUTHORITY**

**BOARD OF COUNTY COMMISSIONERS AND BOARD OF  
PORT COMMISSIONERS**

Frank Mann, Chairman  
John Manning, Vice Chairman  
Brian Bigelow  
Tammara Hall  
Ray Judah

Karen B. Hawes  
County Manager

Michael D. Hunt, Esq.  
County Attorney  
Attorney to the Authority

**CLERK OF CIRCUIT COURT**

Charlie Green

**AIRPORT OFFICIALS**

Robert M. Ball, A.A.E.  
Executive Director

Benjamin R. Siegel, C.P.A.  
Deputy Executive Director - Administration

Peter B. Modys, A.A.E.  
Deputy Executive Director - Aviation

Mark R. Fisher, A.A.E.  
Deputy Executive Director - Development

Brian W. McGonagle  
Finance Director

**BOND COUNSEL**

Squire, Sanders & Dempsey (US) LLP

**DISCLOSURE COUNSEL**

Nabors, Giblin & Nickerson, P.A.

**FINANCIAL ADVISOR**

Public Financial Management, Inc.

This Official Statement is being used in connection with the sale of the Series 2011A Bonds and may not be reproduced or be used, in whole or in part, for any other purpose. Certain information contained in, or incorporated by reference in, this Official Statement has been obtained by the County from DTC, Assured Guaranty Municipal Corp. and other sources that are deemed to be reliable. No guaranty is made, however, as to the accuracy or completeness of information obtained from such other sources by the County, the Authority, the Financial Advisor, or the Underwriters. The delivery of this Official Statement at any time does not imply that information in it is correct as of any time subsequent to its date.

The Underwriters have provided the following sentence for inclusion in this Official Statement. The Underwriters have reviewed the information in this Official Statement in accordance with, and as part of, their responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriters do not guarantee the accuracy or completeness of such information.

No dealer, salesperson or any other person has been authorized by the County, the Authority or the Underwriters to give any information or to make any representation other than as contained in this Official Statement in connection with the offering it describes and, if given or made, such other information or representation must not be relied upon as having been authorized by the County, the Authority or the Underwriters. Neither this Official Statement nor any statement that may have been made verbally or in writing is to be construed as a contract with the registered or beneficial owners of the Series 2011A Bonds.

This Official Statement contains certain projections and estimates, as well as assumptions made by and information currently available to the County and the Authority. When used in this Official Statement, the words "anticipate," "estimate," "expect" and similar expressions are intended to identify projections and estimates. Such statements are subject to certain risks, uncertainties and assumptions. Should one or more of these risks or uncertainties materialize, or should underlying assumptions prove incorrect, actual results may vary materially from those anticipated, estimated or expected.

This Official Statement does not constitute an offer of any securities other than those described on the cover page and inside cover page or an offer to sell or a solicitation of an offer to buy in any jurisdiction in which it is unlawful to make such offer, solicitation or sale.

THE PRICES AND OTHER TERMS WITH RESPECT TO THE OFFERING AND SALE OF THE SERIES 2011A BONDS MAY BE CHANGED FROM TIME TO TIME BY THE UNDERWRITERS AFTER THE SERIES 2011A BONDS ARE RELEASED FOR SALE, AND THE SERIES 2011A BONDS MAY BE OFFERED AND SOLD AT PRICES OTHER THAN THE INITIAL OFFERING PRICES,

INCLUDING SALES TO DEALERS WHO MAY SELL THE SERIES 2011A BONDS INTO INVESTMENT ACCOUNTS. IN CONNECTION WITH THE OFFERING OF THE SERIES 2011A BONDS, THE UNDERWRITERS MAY OVER-ALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE SERIES 2011A BONDS AT A LEVEL ABOVE THE LEVEL THAT MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN REVIEW OF THE TERMS OF THE SERIES 2011A BONDS AND THE OFFERING THEREOF, INCLUDING, BUT NOT LIMITED TO, THE COLLECTION OF NET REVENUES AS THE PRINCIPAL SOURCE OF PAYMENT OF THE SERIES 2011A BONDS AND THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY MAY BE A CRIMINAL OFFENSE.

Assured Guaranty Municipal Corp. ("AGM") makes no representation regarding the Series 2011A Bonds or the advisability of investing in the Series 2011A Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under the heading "BOND INSURANCE" and "APPENDIX G - SPECIMEN MUNICIPAL BOND INSURANCE POLICY."

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- APPENDIX A - GENERAL INFORMATION REGARDING LEE COUNTY, FLORIDA
- APPENDIX B - AUDITED FINANCIAL STATEMENTS FOR THE YEARS ENDED SEPTEMBER 30, 2010 AND 2009
- APPENDIX C - COPY OF THE BOND RESOLUTION
- APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS
- APPENDIX E - PROPOSED FORM OF BOND COUNSEL OPINION
- APPENDIX F - FORM OF CONTINUING DISCLOSURE CERTIFICATE
- APPENDIX G - SPECIMEN MUNICIPAL BOND INSURANCE POLICY



## **OFFICIAL STATEMENT**

### **\$174,450,000 LEE COUNTY, FLORIDA AIRPORT REVENUE REFUNDING BONDS, SERIES 2011A (AMT)**

## **INTRODUCTION**

This Official Statement is furnished by Lee County, Florida (the "County") to provide information regarding Southwest Florida International Airport (the "Airport") and the County's \$174,450,000 aggregate principal amount of Lee County, Florida Airport Revenue Refunding Bonds, Series 2011A (AMT) (the "Series 2011A Bonds"). Certain capitalized terms used in this Official Statement, unless otherwise defined herein, are defined in "COPY OF THE BOND RESOLUTION," included as Appendix C herein.

### **Purpose**

The proceeds received by the County from the sale of the Series 2011A Bonds, together with other legally available funds, will be used to: (1) refund, on a current basis, all of the County's outstanding Airport Revenue Bonds, Series 2000A (AMT) (the "Refunded Bonds"), as more fully described under the caption "REFUNDING PROGRAM" herein, and (2) pay the costs of issuance of the Series 2011A Bonds. See "ESTIMATED SOURCES AND USES OF FUNDS" herein.

### **Authorization**

The Series 2011A Bonds are being issued under the authority granted to the County pursuant to Chapters 125, Part I, and 332, Florida Statutes, and other applicable laws. The Series 2011A Bonds will be issued pursuant to Resolution No. 00-03-04 adopted by the Board of County Commissioners of Lee County, Florida (the "Board") on March 13, 2000, as amended and supplemented and particularly as supplemented by Resolution No. 11-01-27 adopted by the Board on January 11, 2011 (collectively, the "Bond Resolution"). A copy of the Bond Resolution is provided in Appendix C herein. The Lee County Port Authority (the "Authority") has adopted a resolution concurring in the adoption of the Bond Resolution by the County and agreeing to be bound by and comply with all the terms, covenants and provisions of the Bond Resolution.

### **County and Authority**

The County is located on the southwest coast of Florida between Collier County on the south and Charlotte County on the north. The County contains approximately 811 square miles and in 2010 had an estimated population of 618,754. The County owns and, through the Authority, operates the Airport. The Authority was created in 1990 and is

responsible for the operation, management and development of all properties, facilities, systems and personnel associated with air and sea transportation and commerce within the County, which properties and facilities currently consist of the Airport and Page Field (described below). The Board serves as the ex-officio governing body of the Authority. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT" herein.

### **Security for the Bonds**

The Bonds (as defined below) will be special and limited obligations of the County and will be payable from and secured solely by a lien upon and pledge of (1) Net Revenues, (2) the amounts on deposit in the Sinking Fund, and all Accounts therein, except as provided in the Bond Resolution; the Subordinated Indebtedness Fund (other than the proceeds of Subordinated Indebtedness); the Renewal, Replacement and Improvement Fund; and the Airport Fund, each established by the Bond Resolution, and (3) until expended, the amounts on deposit in the applicable Subaccounts of the Project Fund with respect to any particular Series of Bonds (collectively, the "Pledged Funds"). See "SECURITY FOR THE SERIES 2011A BONDS" herein. The Series 2011A Bonds will be issued on parity with the County's outstanding Airport Revenue Refunding Bonds, Series 2005 (the "Series 2005 Bonds") and Airport Revenue Refunding Bonds, Series 2010A (AMT) (the "Series 2010A Bonds" and together with the Series 2005 Bonds, the "Parity Bonds"). The Series 2005 Bonds and the Series 2010A Bonds will be outstanding in the aggregate principal amounts of \$37,625,000 and \$119,350,000, respectively, upon issuance of the Series 2011A Bonds. The Series 2011A Bonds, the Parity Bonds and any Additional Parity Bonds hereafter issued under the Bond Resolution are referred to hereunder as the "Bonds."

*The Series 2011A Bonds and the interest due thereon will not be or constitute a general obligation or indebtedness of the County or the Authority within the meaning of the Constitution of the State of Florida, but will be special and limited obligations of the County payable solely from and secured by a lien upon and a pledge of the Pledged Funds as provided in the Bond Resolution. No holder of any Series 2011A Bond will ever have the right to require or compel the exercise of any taxing power of the County, or taxation in any form on any real or personal property of or in the County to pay the principal of and interest on the Series 2011A Bonds. The Authority has no taxing power.*

### **Bond Insurance**

The scheduled payment of the principal of and interest on the Series 2011A Bonds maturing on October 1 in the years 2027, 2028 and 2032 (such 2032 maturity in the aggregate principal amount of \$15,000,000 and bearing the Initial CUSIP No. 523470FX5) (collectively, the "Insured Series 2011A Bonds"), when due, will be guaranteed under an insurance policy (the "Policy") to be issued concurrently with the delivery of the Insured Series 2011A Bonds by Assured Guaranty Municipal Corp. ("AGM" or the "Insurer"). See "BOND INSURANCE" herein.

## **Additional Parity Bonds**

In the future the County may issue Additional Parity Bonds under the Bond Resolution on a parity with the Series 2011A Bonds and the Parity Bonds. See "SECURITY FOR THE SERIES 2011A BONDS - Additional Parity Bonds" herein.

## **Remedies**

There is no provision under the Bond Resolution for acceleration of the maturities of the Series 2011A Bonds upon an Event of Default. See "COPY OF THE BOND RESOLUTION," included as Appendix C herein.

## **Page Field**

In addition to the Airport, the County owns and, through the Authority, operates Page Field, a general aviation airport. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT" herein. Revenues received by the County or the Authority from the operation of Page Field are not part of the Pledged Funds. Similarly, the operating expenses of Page Field are not payable from the Pledged Funds.

## **Other Airport Indebtedness**

In addition to the Parity Bonds, the County has also previously issued its Passenger Facility Charge Revenue Refunding Note, Series 2010A (the "PFC Note"), which is outstanding in the aggregate principal amount of \$18,790,000. The PFC Note is secured by revenues derived from the Passenger Facility Charges imposed at the Airport, and not by any of the Pledged Funds. No Passenger Facility Charges are currently pledged to the payment of the Bonds. However, the Bond Resolution does permit certain Passenger Facility Charges to be pledged in the future. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT – Passenger Facility Charges" herein and Section 3.02 in "COPY OF THE BOND RESOLUTION" included as Appendix C herein.

## **General**

This Official Statement contains summaries of the Bond Resolution, the herein defined Use Agreements and the terms of and security for the Series 2011A Bonds, together with descriptions of the Airport and its operations. All references herein to agreements and documents are qualified in their entirety by references to the definitive forms of each such agreement or document. All references to the Series 2011A Bonds are further qualified by references to the information with respect to them contained in the Bond Resolution. See "APPENDIX C – COPY OF THE BOND RESOLUTION" and "APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS."

## **REFUNDING PROGRAM**

The Refunded Bonds will be called for redemption on October 4, 2011 (the "Redemption Date") at a redemption price equal to 100% of the par amount of the Refunded Bonds, plus accrued interest to the redemption date. Simultaneously with the delivery of the Series 2011A Bonds, the County will deposit a portion of the proceeds of the Series 2011A Bonds, together with other legally available funds, in an escrow fund with U.S. Bank National Association, Fort Lauderdale, Florida, as escrow agent (the "Escrow Agent") pursuant to an escrow deposit agreement (the "Escrow Deposit Agreement").

On the date of issuance of the Series 2011A Bonds, moneys in the Escrow Fund (other than a cash deposit) shall be invested in Defeasance Obligations which, together with interest earnings thereon, shall be sufficient to pay the principal of, redemption premium and interest on the Refunded Bonds on the Redemption Date in accordance with the terms of the Escrow Deposit Agreement (the "Refunding Requirements"). As required by the Bond Resolution, Robert Thomas, CPA, LLC, Shawnee Mission, Kansas, independent public accountants, will confirm that the amount deposited to the credit of the Escrow Fund will be sufficient to pay the Refunding Requirements. Upon the deposit of such amount to the Escrow Fund, the Refunded Bonds will no longer be deemed to be Outstanding under the Bond Resolution. See "VERIFICATION OF MATHEMATICAL COMPUTATIONS" herein.

## **THE COUNTY, THE AUTHORITY AND THE AIRPORT**

### **General**

The County owns, and through the Authority, operates the Airport, a commercial air carrier airport, and Page Field, an executive and general aviation airport. The Airport, which began operations on May 14, 1983, is a commercial air carrier airport serving Southwest Florida. The Airport is located adjacent to Interstate 75 approximately 15 miles southeast of the downtown business center of the City of Fort Myers. Page Field is the area's former commercial airport, and it is now operated by the Authority as a reliever airport. The Series 2011A Bonds are not payable from, or secured by a pledge of or lien on, any revenues or funds derived from the operation of Page Field. See "- Enplaned Passengers at the Airport" herein for a description of historical enplanements at the Airport.

### **Air Trade Area**

The geographical area served by the Airport primarily consists of the five Florida counties of Lee (the county in which the Airport is located), Charlotte, Collier, Glades, and Hendry (the "Air Trade Area"). Although the Airport's total service area is larger

than these five counties, it is the economic strength of the Air Trade Area that primarily supports the Airport. The Naples Municipal Airport (36 road miles) is the only other airport providing commercial air service in the Air Trade Area and is served by one commuter air carrier, Gulf Coast Airways.

There is minimal diversion of air traffic out of the Air Trade Area because the Airport is relatively distant from alternative airports. The air carrier airports in nearby cities are Sarasota (74 road miles), Tampa (130 road miles), Fort Lauderdale (145 road miles) and Miami (165 road miles), each of which serves a separate, distinct market and, with few exceptions, derives passengers primarily from its respective market area.

### **Management and Administration**

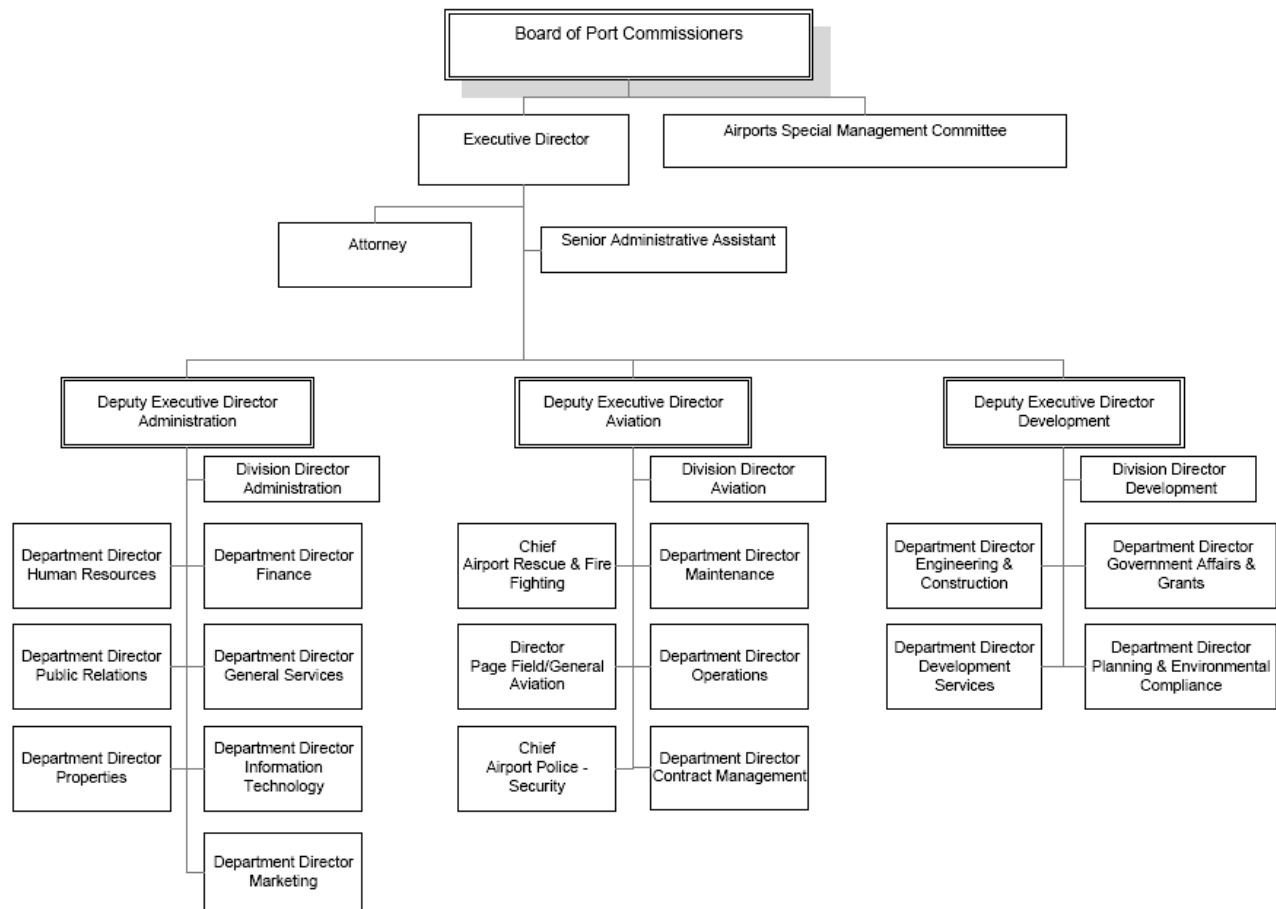
The Authority is a body politic and corporate created by the Board of the County in 1990 pursuant to Chapters 63-1541, Laws of Florida, and Chapters 125 and 332, Florida Statutes, and codified into Ordinance No. 90-02. Prior to the creation of the Authority, the Airport and Page Field were operated as a department of the County. The Authority is responsible for operations, management and development of properties, facilities, systems and personnel associated with air or sea transportation or commerce located in the County.

Each of the five members of the County's Board is, by virtue of such status, a member of the Authority's Board of Port Commissioners (the "Port Authority Board"). Each member of the Port Authority Board appoints a County resident as a member of the Airport's Special Management Committee, an advisory panel which provides recommendations with respect to the operation, management and development of the County Airports to the Port Authority Board. In addition, the Chairman of the Port Authority Board is entitled to name two additional representatives to the Committee, one each from Collier and Charlotte Counties. The Executive Director of the Authority reports to the Port Authority Board on a regular basis and works with the Special Management Committee in its advisory capacity to the Port Authority Board.

The Authority has three divisions that are headed by Deputy Executive Directors who report to the Executive Director. Each division has several departments headed by managers who report to their respective Deputy Executive Director. The divisions are Administration, Development and Aviation.

Figure 1 illustrates the organizational structure of the Port Authority Board, the Airport Special Management Committee and the senior management of the Authority.

**Figure 1**



The Airport is managed by an Executive Director who is appointed by the Port Authority Board and, as of June 30, 2011, oversees a staff of 317 full-time employees. Brief biographies of the Executive Director, Deputy Executive Director - Administration, Deputy Executive Director - Aviation, Deputy Executive Director - Development, and Finance Director are set forth below.

*Robert M. Ball, Executive Director.* As Executive Director of the Authority, Mr. Ball directs the operation of the Airport and Page Field. He joined the Authority in August 1993 as Deputy Executive Director, was appointed acting Executive Director in March 1996 and, in May 1996, was promoted to the top executive position for the Authority.

Mr. Ball came to the Authority from Jacksonville, Florida where he had served as director of aviation for the Jacksonville Port Authority. Prior to that position, he was assistant airport manager at Charlotte/Douglas International Airport (North Carolina) from 1982 until 1985. He also served as assistant airport director for the St. Joseph County Airport Authority in South Bend, Indiana, from 1978 to 1982. He holds a bachelor's degree in Air Commerce from the Florida Institute of Technology, is

accredited by the American Association of Airport Executives, and holds a private pilot certificate.

*Benjamin R. Siegel, Deputy Executive Director - Administration.* Mr. Siegel, as the Deputy Executive Director - Administration for the Authority, is responsible for administering all areas of finance, aviation marketing, general services, human resources, information technology, risk management, public relations and properties. Prior to assuming his current position in 2002, Mr. Siegel was the Airport's Director of Finance and held various accounting and budgetary management positions with the Authority. Mr. Siegel has been employed by the Authority since 1992.

Mr. Siegel was employed previously by Coopers & Lybrand (now PricewaterhouseCoopers). Mr. Siegel earned a bachelors of science in business administration from the University of South Florida. Mr. Siegel is a certified public accountant and is a member of the AICPA and FICPA.

*Peter B. Modys, Deputy Executive Director - Aviation.* Mr. Modys, as Deputy Executive Director - Aviation, is responsible for overseeing aircraft and terminal operations at the Airport, as well as the Airport's police and security, aircraft rescue and firefighting, contract management, and maintenance departments. In addition, he is responsible for Page Field in Fort Myers. Prior to his current position which he obtained in 2002, Mr. Modys held various director positions in operations, maintenance and general aviation. Mr. Modys has been employed by the Authority since 1980.

Mr. Modys holds a bachelor's degree in aeronautical science with a concentration in aviation management from Embry-Riddle Aeronautical University, where he served as an aircraft flight instructor for three years. He was accredited by the American Association of Airport Executives in 1996. He has served on the Board of Directors of the Florida Airport Council since 1999 and is currently immediate past president of the organization. Mr. Modys also sits as a board member of the Southeast SATS Lab Consortium. He is a commercial pilot who has logged more than 4,000 hours of flight time in a variety of aircraft.

*Mark R. Fisher, Deputy Executive Director - Development.* Mr. Fisher, as Deputy Executive Director - Development, is responsible for all planning, permitting, grant funding, legislative compliance and engineering and construction of all projects at the Airport and Page Field. Prior to assuming his current position in 2002, Mr. Fisher held numerous managerial positions within the areas of government affairs, construction and engineering. Mr. Fisher has been employed by the Authority since 1988.

Mr. Fisher was previously employed by Piedmont Airlines and an aviation consulting firm in the Lexington, Kentucky area. Mr. Fisher earned a bachelor of science degree in management from the University of Kentucky and is accredited by the American Association of Airport Executives.

*Brian W. McGonagle, Finance Director.* Mr. McGonagle, as Finance Director of the Authority, is responsible for administering all operating budgets, fiscal controls, and developing financial and reporting systems utilized by the Authority. Other responsibilities include both long and short term financial planning. Prior to assuming his current position in 2004, Mr. McGonagle held various accounting and budgetary management positions with the Authority. Mr. McGonagle has been employed by the Authority since 1997.

Mr. McGonagle was employed previously with Bank of Boston and United Airlines. Mr. McGonagle holds a bachelor of science in accounting from the University of Massachusetts/Boston and is a member of the Florida Government Finance Officers Association.

### **Description of the Airport's Existing Facilities**

The Airport occupies approximately 6,400 acres of land in Lee County and is located approximately 15 miles southeast of downtown Fort Myers. Existing facilities at the Airport are described below.

Land. In addition to the existing 6,400 acres, the Authority has purchased over 7,000 acres of noncontiguous land to be used for environmental mitigation, including mitigation for planned future development.

Airfield Facilities. Runway 6/24, the sole operating air carrier runway, is 12,000 feet in length and 150 feet in width and is constructed of asphaltic concrete. There are also 200 foot paved overruns off each end of Runway 6/24. A full length, 12,000-foot parallel taxiway just south of the existing runway provides direct access from the runway to the Airport terminal for all aircraft. There are also four connecting taxiways.

Runway 6 is equipped with a Category I precision instrument landing system (ILS). Additional non-precision approaches are available to both ends of Runway 6/24.

Terminal Building. The midfield terminal building, which opened on September 9, 2005, is a three-story structure which, together with three concourses, totals 798,000 square feet and houses 28 gates. With the exception of a commuter gate, all gates are equipped with ramp drive passenger boarding bridges, 400 Hz ground power and pre-conditioned air for parked aircraft. Ticketing, airline offices, concession areas, security pavilions, public space and restrooms are located on the second (departure) level with baggage facilities, public space and restrooms on the lower (arrival) level. The mezzanine level accommodates airport administrative offices and mechanical/electrical equipment space.

Airline gate hold rooms, concessions, public space and restrooms are located on the second (departure) level. The lower (ramp) level is exclusively used for



airline/airport operations and one of the concourses features international gates supported by a full complement of international arrivals processing facilities.

Air Cargo Facilities. Air cargo operations are located in two buildings on separate sites southwest of the terminal building with approximately 13,500 and 24,000 square feet, respectively. The 13,500 square foot building accommodates the belly-cargo carried by passenger airlines. The all-cargo carriers operate from the second facility that is adjacent to a 207,000 square foot air cargo apron. The building can be expanded to approximately 50,000 square feet on its existing site and additional land is available to build another similarly sized facility to meet future demand.

Access and Roadways. Access to the Airport is provided by a divided parkway leading directly from an interchange with Interstate 75. A four-lane, divided, perimeter roadway system encircles the long and short-term parking areas providing direct access to the terminal area from Ben Hill Griffin Parkway. The roadway segment along the face of the terminal is two levels, supporting the vertical separation of arrival and departure passenger movements. Five traffic lanes serve ticketing/check-in on the upper level and seven traffic lanes on the ground level serve baggage claim/ground transportation. Recirculation roads and service roads provide access to employee parking and terminal service areas. Direct access is provided to the terminal area for emergency vehicles.

Parking. Parking at the Airport is provided by a three-story parking garage and a long-term surface parking lot. The parking garage accommodates rental cars on the lower level and 2,523 vehicles on two structured floors for short term parking only. The Airport has a long-term surface parking lot with 8,700 spaces and access to and from the terminal via a shuttle bus system. Total parking in the parking garage and long-term lot is 11,223 spaces.

Aircraft Parking Apron and Fueling System. An airside apron serves parked aircraft on both sides of the three linear concourses and an aircraft fueling system allows parking for 28 air carrier positions with the flexibility for both narrow body and wide body aircraft. All aircraft parking positions are served by an in-pavement fuel hydrant system consisting of piping loops around the concourses and branch service lines serving fueling pits at each gate.

Airport Support Facilities. Airport support facilities include the air traffic control tower, a Federal Aviation Administration ("FAA") certified airport rescue and fire fighting building, an airport maintenance facility and service buildings including a staff training facility.

### **Airlines Serving the Airport**

As of June 30, 2011, scheduled passenger service at the Airport was provided by 13 domestic air carrier airlines, seven regional/commuter airlines and four international

charter air carriers. In addition to these airlines, a number of other domestic charter airlines also operate at the Airport during the peak winter months. The following table lists the airlines serving the Airport, including all airlines operating passenger service into the Airport that have entered into an Airline - Airport Use and Lease Agreement (each, a "Use Agreement") with the Authority (the "Signatory Airlines").

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## Airlines Serving the Airport<sup>(1)</sup>

### Domestic Air Carriers

AirTran Airways<sup>(2)\*</sup>  
American Airlines\*  
Continental Airlines<sup>(3)\*</sup>  
Delta Air Lines<sup>(4)\*</sup>  
JetBlue\*  
Frontier Airlines  
Shuttle America  
Southwest<sup>(2)\*</sup>  
Spirit Airlines\*  
Sun Country  
United<sup>(3)</sup>  
US Airways\*  
USA 3000\*

### Regionals/Commuters American Eagle

Cape Air  
Comair  
Continental Express  
Mesaba  
Pinnacle  
Republic

### International Air Carriers

AirBerlin  
Air Canada  
Monarch  
Westjet

### All Cargo Carriers

FedEx  
United Parcel Service

\*Denotes Signatory Airline as defined in the Use Agreements.

- (1) As of June 30, 2011. During the peak winter months, a number of other domestic and international charter airlines also operate at the Airport.
- (2) On September 27, 2010, Southwest announced that it had entered into an agreement to acquire AirTran Holdings, Inc., the parent company of AirTran Airways, subject to approval of AirTran's shareholders and federal regulators. On May 2, 2011, Southwest announced that it had closed on its purchase of AirTran Holdings, Inc. Southwest and AirTran are currently operating separately, but the combined airline expects to receive a single operating certificate in the first quarter of 2012. The current Use Agreement with AirTran remains in effect and the Airport continues to bill and receive payments from AirTran separately from Southwest. Upon issuance of a single operating certificate, it is expected that the Use Agreement with AirTran Airways will be assigned to Southwest.
- (3) In October 2010 UAL Corporation, the parent company of United Air Lines, Inc., completed its acquisition of Continental and changed its name to United Continental Holdings ("UCH"). Continental and United are currently operating separately, but the combined airline expects to receive a single operating certificate toward the end of 2011. The current Use Agreement with Continental remains in effect and the Airport continues to bill and receive payments from Continental separately from United. Upon issuance of a single operating certificate, it is expected that the Use Agreement with Continental Airlines will be assigned to UCH.
- (4) Delta completed a merger with Northwest Airlines in January 2010. The combined entity operates as Delta Air Lines. Accordingly, the Use Agreement with Northwest Airlines has been assumed by Delta Air Lines.

Source: Lee County Port Authority.

## Enplaned Passengers at the Airport

The Airport is primarily an origin and destination airport, with 99.9% of the traffic being origin and destination traffic. Between Fiscal Years 2001 and 2010, enplaned passengers at the Airport increased at an average annual rate of 3.37%, compared to an average annual rate of 0.9%\* (on a calendar year basis) for the United States as a whole from 2001 to 2010. With the exception of Fiscal Year 2002, passenger enplanements increased steadily from Fiscal Years 2000 to 2007. Passenger enplanements decreased in Fiscal Years 2008 and 2009 primarily as a result of general economic conditions and reduced airline capacity, but generally remained stable from 2009 to 2010. See "AIRPORT FINANCIAL FACTORS - Management Discussion and Analysis" herein. The following tables set forth the historical enplanements for the Airport by air carrier type for Fiscal Years 2001-2010, as well as the compounded growth in enplaned passengers during such period and a monthly comparison of enplanements by carrier type for the eight-month periods ended May 31, 2010 and 2011.

### Historical Enplanements by Carrier Type

Fiscal Year	Commercial Air Carriers	Regionals/ Commuters	International Air Carriers	Domestic Charters	Airport Total
2001	2,527,503	118,256	79,558	35,225	2,760,542
2002	2,347,675	105,176	45,322	36,081	2,534,254
2003	2,637,152	129,875	58,395	57,351	2,882,773
2004	3,055,423	134,044	70,807	11,914	3,272,188
2005	3,495,001	160,366	75,913	9,791	3,741,071
2006	3,484,671	224,102	91,865	2,925	3,803,563
2007	3,799,938	154,413	103,988	3,597	4,061,936
2008	3,644,495	130,160	90,815	3,118	3,868,588
2009	3,552,775	87,677	94,173	2,714	3,737,339
2010	3,541,118	73,477	103,544	3,236	3,721,375

### Annual Compound Growth Rate

	Commercial Air Carriers	Regionals/ Commuters	International Air Carriers	Domestic Charters	Airport Total
2001-2010	3.82%	-5.15%	2.97%	-23.30%	3.37%

\*Figure provided by ICF SH&E, the Airport's aviation consultants.

**Monthly Comparison of Enplanements During the  
Eight-Month Periods Ended May 31, 2010 and May 31, 2011**

<u>Month/ Year</u>	<u>Commercial Air Carriers</u>	<u>Regionals/ Commuters</u>	<u>International Air Carriers</u>	<u>Domestic Charters</u>	<u>Airport Total</u>	<u>Increase (Decrease)</u>
Oct-09	209,859	6,281	4,510	296	220,946	
Oct-10	237,664	7,323	5,545	133	250,665	13.45%
Nov-09	287,545	4,140	8,961	250	300,896	
Nov-10	313,977	5,844	10,584	262	330,667	9.89%
Dec-09	307,570	5,887	10,584	109	324,150	
Dec-10	313,850	8,665	11,747	0	334,262	3.12%
Jan-10	349,810	6,903	10,793	302	367,808	
Jan-11	346,423	7,511	13,134	118	367,186	(0.17%)
Feb-10	352,650	6,532	10,225	510	369,917	
Feb-11	358,678	8,174	12,702	248	379,802	2.67%
Mar-10	472,918	8,102	13,843	331	495,194	
Mar-11	506,946	12,933	17,078	122	537,079	8.46%
Apr-10	419,876	7,169	13,485	228	440,758	
Apr-11	454,069	14,563	16,091	244	484,967	10.03%
May-10	282,943	6,279	7,663	251	297,136	
May-11	294,376	14,378	7,044	413	316,211	6.42%
1st Eight Months of FY 2010 (Oct-May)	2,683,171	51,293	80,064	2,277	2,816,805	
1st Eight Months of FY 2011 (Oct-May)	2,825,983	79,391	93,925	1,540	3,000,839	6.53%

Source: Lee County Port Authority.

Nine of the Airport's passenger airlines account for approximately 90.5% of the total enplaned passengers in Fiscal Year 2010. In Fiscal Year 2010, low-cost carriers accounted for approximately 48% of enplaned passengers and commuter airlines accounted for 3% of enplanements. Air Tran's market share increased each of the last five Fiscal Years. Southwest Airlines began serving the Airport on October 2, 2005 and has increased its market share each year since commencing operations at the Airport. The impact of the

acquisition of AirTran by Southwest on the Airport cannot be ascertained at this time. Delta Air Lines' market share modestly decreased each Fiscal Year from 2006 to 2009, but increased by 50% from Fiscal Year 2009 to 2010 as a result of Delta's merger with Northwest Airlines.

On May 2, 2011, Southwest completed its acquisition of AirTran Holdings, Inc., the parent company of AirTran Airways. If such merger was in effect in Fiscal Year 2010, such combined entity would have represented 28% of the enplaned passengers at the Airport. However, no assurance can be given that the merger will not have an adverse effect on the number of enplaned passengers at the Airport in the future.

### Historical Enplanements by Airline

Airline	FY 2006		FY 2007		FY 2008		FY 2009		FY 2010	
	Enplanements	Share	Enplanements	Share	Enplanements	Share	Enplanements	Share	Enplanements	Share
Delta	485,776	12.8%	482,821	11.9%	476,417	12.3%	469,521	12.6%	708,410	19.0%
AirTran	263,419	6.9%	412,966	10.2%	479,573	12.4%	598,940	16.0%	616,184	16.6%
JetBlue	411,969	10.8%	427,486	10.5%	448,815	11.6%	460,345	12.3%	451,508	12.1%
Southwest	337,384	8.9%	385,316	9.5%	393,970	10.2%	430,973	11.5%	425,851	11.4%
US Airways	445,818	11.7%	451,692	11.1%	371,331	9.6%	373,647	10.0%	368,922	9.9%
Continental	320,350	8.4%	347,195	8.5%	342,122	8.8%	295,395	7.9%	305,939	8.2%
American	228,692	6.0%	246,542	6.1%	239,614	6.2%	201,408	5.4%	194,566	5.2%
Spirit Airlines	202,217	5.3%	290,357	7.1%	216,970	5.6%	182,102	4.9%	192,259	5.2%
Northwest	309,384	8.1%	307,133	7.6%	270,874	7.0%	274,646	7.3%	109,397	2.9%
International Airlines	91,865	2.4%	103,988	2.6%	90,815	2.3%	94,173	2.5%	103,544	2.8%
USA 3000	217,581	5.7%	236,003	5.8%	244,191	6.3%	171,929	4.6%	58,176	1.6%
Sun Country	57,820	1.5%	58,900	1.5%	51,513	1.3%	39,810	1.1%	42,358	1.1%
Executive Airlines	54,136	1.4%	60,803	1.5%	49,124	1.3%	36,376	1.0%	39,662	1.1%
Shuttle America	13,092	0.3%	36,456	0.9%	26,024	0.7%	16,249	0.4%	30,008	0.8%
Midwest Airlines	39,349	1.0%	63,565	1.6%	45,540	1.2%	7,387	0.2%	19,535	0.5%
Frontier	30,766	0.8%	43,910	1.1%	37,541	1.0%	109	0.0%	18,005	0.5%
Continental Express	20,319	0.5%	11,008	0.3%	19,888	0.5%	19,893	0.5%	17,145	0.5%
Cape Air	13,936	0.4%	12,473	0.3%	14,502	0.4%	11,623	0.3%	9,566	0.3%
Mesaba	-	0.0%	-	0.0%	-	0.0%	3,568	0.1%	3,471	0.1%
Domestic Charters	2,925	0.1%	3,597	0.1%	3,118	0.1%	2,714	0.1%	3,236	0.1%
American Eagle	-	0.0%	-	0.0%	-	0.0%	-	0.0%	2,676	0.1%
Republic Airline	-	0.0%	3,262	0.1%	8,090	0.2%	162	0.0%	619	0.0%
Comair	105,857	2.8%	37,945	0.9%	24,693	0.6%	8,224	0.2%	338	0.0%
United	36,116	0.9%	9,271	0.2%	-	0.0%	30,314	0.8%	-	0.0%
Pinnacle	3,332	0.1%	19,368	0.5%	11,993	0.3%	5,200	0.1%	-	0.0%
Atlantic Southeast	-	0.0%	-	0.0%	-	0.0%	2,631	0.1%	-	0.0%
Chautauqua	25,042	0.7%	9,487	0.2%	1,870	0.0%	-	0.0%	-	0.0%
Am Trans Air	75,346	2.0%	325	0.0%	-	0.0%	-	0.0%	-	0.0%
Gulfstream	1,480	0.0%	67	0.0%	-	0.0%	-	0.0%	-	0.0%
Independence	9,592	0.3%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Airport Total	3,803,563	100%	4,061,936	100%	3,868,588	100%	3,737,339	100%	3,721,375	100%

## Historical Landed Weight

The following table presents historical data on the Airport's total landed weight by carrier.

### Historical Landed Weight By Airline (1,000 lbs.)

Airline	FY 2006		FY 2007		FY 2008		FY 2009		FY 2010	
	Landed Weight	Share	Landed Weight	Share	Landed Weight	Share	Landed Weight	Share	Landed Weight	Share
Delta	604,041	13.1%	558,561	11.2%	537,691	11.8%	523,552	11.9%	810,947	18.7%
AirTran	271,075	5.9%	497,314	10.0%	521,789	11.4%	633,304	14.4%	664,240	15.3%
JetBlue	450,857	9.7%	481,682	9.6%	524,454	11.5%	537,922	12.3%	526,697	12.1%
Southwest	405,142	8.8%	461,116	9.2%	478,364	10.5%	478,166	10.9%	453,506	10.5%
US Airways	509,429	11.0%	560,376	11.2%	384,345	8.4%	389,282	8.9%	404,449	9.3%
Continental	351,672	7.6%	397,034	7.9%	372,755	8.2%	319,551	7.3%	323,908	7.5%
Spirit Airlines	235,044	5.1%	325,842	6.5%	263,035	5.8%	221,148	5.0%	225,557	5.2%
American	245,893	5.3%	265,811	5.3%	246,833	5.4%	223,278	5.1%	209,289	4.8%
Cargo	246,879	5.3%	230,118	4.6%	199,760	4.4%	184,328	4.2%	141,674	3.3%
International Airlines	152,512	3.3%	153,034	3.1%	134,884	3.0%	135,849	3.1%	140,407	3.2%
Northwest	373,617	8.1%	364,085	7.3%	304,078	6.7%	303,845	6.9%	136,570	3.1%
USA 3000	248,389	5.4%	268,043	5.4%	253,936	5.6%	231,375	5.3%	81,053	1.9%
Sun Country	73,601	1.6%	75,600	1.5%	59,009	1.3%	44,992	1.0%	51,142	1.2%
Executive Airlines	54,558	1.2%	63,716	1.3%	52,414	1.1%	38,194	0.9%	43,832	1.0%
Shuttle America	17,210	0.4%	46,495	0.9%	33,913	0.7%	20,102	0.5%	37,096	0.9%
Midwest Airlines	45,220	1.0%	83,190	1.7%	63,380	1.4%	8,447	0.2%	22,769	0.5%
Frontier	34,020	0.7%	50,625	1.0%	44,820	1.0%	270	0.0%	20,678	0.5%
Continental Express	18,148	0.4%	10,071	0.2%	17,595	0.4%	17,765	0.4%	15,942	0.4%
Cape Air	15,822	0.3%	13,256	0.3%	15,438	0.3%	14,893	0.3%	12,953	0.3%
Domestic Charters	6,228	0.1%	7,186	0.1%	6,336	0.1%	6,915	0.2%	8,014	0.2%
Mesaba	-	0.0%	-	0.0%	-	0.0%	4,043	0.1%	4,116	0.1%
American Eagle	-	0.0%	-	0.0%	-	0.0%	-	0.0%	3,536	0.1%
Republic Airline	-	0.0%	3,365	0.1%	9,057	0.2%	150	0.0%	600	0.0%
Comair	90,851	2.0%	36,678	0.7%	25,625	0.6%	10,044	0.2%	457	0.0%
Atlantic Southeast	-	0.0%	-	0.0%	-	0.0%	5,849	0.1%	67	0.0%
United	42,068	0.9%	11,366	0.2%	611	0.0%	30,085	0.7%	-	0.0%
Pinnacle	3,901	0.1%	21,009	0.4%	12,596	0.3%	6,016	0.1%	-	0.0%
Chautauqua	26,081	0.6%	9,980	0.2%	1,788	0.0%	-	0.0%	-	0.0%
Gulfstream	1,948	0.0%	114	0.0%	17	0.0%	-	0.0%	-	0.0%
Am Trans Air	87,499	1.9%	672	0.0%	-	0.0%	-	0.0%	-	0.0%
Independence	13,641	0.3%	-	0.0%	-	0.0%	-	0.0%	-	0.0%
Airport Total	4,625,347	100%	4,996,339	100%	4,564,523	100%	4,389,365	100%	4,339,497	100%

## Historical Air Service

An airport's air service is often measured through the distribution of its origin and destination ("O&D") markets, which is a function of air travel demands and the airport's available nonstop service. The following table presents historical data on the Airport's top 30 O&D markets for calendar year 2010.

### Primary Domestic Origin & Destination Passenger Markets

2010 Rank	Airport	Code	Nonstop Service	Total O&D Passengers	Percent of Total
1	Boston	BOS	X	456,290	6.40%
2	Detroit	DTW	X	395,090	5.54
3	Chicago (O'Hare)	ORD	X	344,620	4.83
4	New York (Newark)	EWB	X	331,470	4.65
5	Minneapolis	MSP	X	309,740	4.34
6	Chicago (Midway)	MDW	X	304,460	4.27
7	New York (JFK)	JFK	X	292,850	4.11
8	Philadelphia	PHL	X	231,420	3.25
9	Indianapolis	IND	X	219,330	3.08
10	Baltimore	BWI	X	184,160	2.58
11	Milwaukee	MKE	X	182,240	2.56
12	Cleveland	CLE	X	173,120	2.43
13	Pittsburgh	PIT	X	163,450	2.29
14	Columbus	CMH	X	158,110	2.22
15	Atlanta	ATL	X	148,350	2.08
16	Washington (National)	DCA	X	138,430	1.94
17	St. Louis	STL	X	137,800	1.93
18	Atlantic City (Pomona Field)	ACY	X	131,750	1.85
19	Westchester County	HPN	X	128,430	1.80
20	Buffalo	BUF	X	110,900	1.56
21	Cincinnati	CVG	X	101,080	1.42
22	New York (La Guardia)	LGA	X	97,930	1.37
23	Denver	DEN	X	96,120	1.35
24	Providence	PVD		91,280	1.28
25	Hartford	BDL	X	84,500	1.19
26	Dallas/Ft. Worth	DFW	X	81,220	1.14
27	Kansas City	MCI	X	63,120	0.89
28	Flint	FNT	X	59,980	0.84
29	Los Angeles	LAX		56,410	0.79
30	Akron/Canton	CAK	X	54,950	0.77
Total Top 30 Markets				5,328,600	
Total All Other Markets				1,801,610	
Total All Markets				7,130,210	

Note: These numbers do not include international carriers, only U.S. flag carriers.

Source: USDOT Origin & Destination Survey of Airline Passenger Traffic.



## Historical Aircraft Operations

Historical aircraft operations are defined as the arrival or departure of an aircraft. The following table presents historical data on the Airport's aircraft operations by carrier class.

### Historical Aircraft Operations

Fiscal Year	Commercial Air Carriers	Regionals/ Commuters	International Air Carriers	Domestic Charters	General Aviation <sup>(1)</sup>	All-Cargo	Military	Airport Total
2001	41,096	11,684	1,196	570	20,408	1,588	2,187	78,729
2002	36,440	10,666	602	728	15,101	1,616	3,205	68,358
2003	40,866	11,554	708	616	17,514	1,660	2,468	75,386
2004	47,128	11,298	944	272	19,081	2,140	1,525	82,388
2005	58,266	12,950	1,104	198	15,025	2,174	1,794	91,511
2006	57,570	13,782	1,198	112	10,973	2,546	1,148	87,329
2007	64,622	10,326	1,476	162	11,866	2,336	401	91,189
2008	61,708	9,834	1,362	116	13,865	2,242	711	89,838
2009	59,780	8,114	1,370	102	12,744	1,608	808	84,526
2010	59,444	7,008	1,448	126	13,287	1,192	748	83,253

#### Annual Compound Growth Rate

2001-2010	4.19%	-5.52%	2.15%	-15.44%	-4.66%	-3.14%	-11.24%	0.62%
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(1) Also includes activity by miscellaneous air taxis.

Source: Lee County Port Authority.

## **Outstanding Airport Indebtedness**

The Series 2011A Bonds will be issued on parity with the Parity Bonds which, taking into account the refunding of the Refunded Bonds, will be outstanding in the aggregate principal amount of \$156,975,000 pursuant to the terms of the Bond Resolution. In addition, the County has previously issued its Passenger Facility Charge Revenue Refunding Note, Series 2010A (the "PFC Note"), which is outstanding in the aggregate principal amount of \$18,790,000. The PFC Note is secured by revenues derived from the Passenger Facility Charges imposed at the Airport, and not by any of the Pledged Funds. No Passenger Facility Charges are currently pledged to the payment of the Bonds. However, the Bond Resolution does permit certain Passenger Facility Charges to be pledged in the future. See Section 3.02 in "COPY OF THE BOND RESOLUTION" included as Appendix C herein. Moreover, the Airport has historically used a portion of the Passenger Facility Charges to pay a portion of the debt service on the Bonds. However, no assurance is given that the Airport will continue such use of the Passenger Facility Charges in the future. See "AIRPORT FINANCIAL FACTORS - Historical Statement of Net Revenues" herein.

## **Insurance**

The Authority currently maintains \$250,000,000 of liability insurance coverage for claims arising out of bodily injury and \$150,000,000 of coverage for property damage at the Airport. The Authority, as a dependent political subdivision of the County, is also entitled to assert the statutory defense of sovereign immunity to any claim of injury or property damage. The Authority or its tenants, within limits and with deductibles approved by the Authority, maintain fire insurance coverage on all buildings at the Airport. The Authority also currently maintains \$100,000,000 of terrorism insurance, subject to a \$25,000 deductible. However, the Authority is not required to maintain terrorism insurance and annually determines the cost effectiveness of maintaining such insurance. See Note IX in "APPENDIX B - AUDITED FINANCIAL STATEMENTS FOR THE FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009" for more information regarding the Authority's insurance coverage.

## **Capital Improvement Program**

The Authority has developed a twenty-year Capital Improvement Program (the "Program") that involves expanding and modifying the Airport within its Airport Master Plan. As part of the Program, the Authority formulates a five-year capital plan which is updated annually with new projects added and existing projects reevaluated, prioritized, rescheduled or omitted depending upon the current situation and predicted future needs of the Airport.

The Authority's current five-year capital improvement plan (Fiscal Years 2012-2016) (the "CIP") includes approximately \$204.8 million in projects. Key components of

the Authority's CIP expected to be undertaken between Fiscal Years 2012-2016 and the estimated costs of such key components are as follows:

### *Airfield Projects*

Parallel RW 6R-24L (Design and Permitting) and Air Traffic Control Tower (ATCT) (Design and Construction) (approximate cost: \$100.4 million) -This project includes project management, planning, concept refinement, design development, permitting, mitigation, financing, and grant funding assistance needed to develop a new runway and associated improvements at the Airport. This project includes the initial design development services for a parallel runway needed to accommodate continuing demand in air service for the southwest Florida region. The plan, as shown on the most recent Airport Layout Plan (approved by the FAA on April 14, 2004), includes the development of a 9,100 foot runway southeast of the current runway and terminal building. In addition to the runway, the project will include design and construction of a new Air Traffic Control Tower. The Authority has completed the conceptual design phase for the parallel runway.

Midfield Taxiways & Apron System Design & Construction (approximate cost: \$35.5 million) - This project involves the development of additional taxiways and apron within the movement and non-movement areas adjacent to the midfield passenger terminal complex. This project includes concept refinement, site selection, planning, design development, permitting, environmental mitigation, program management, grant funding assistance, construction administration, construction management, bidding, and construction of the Midfield Taxiways and Apron System.

### *Terminal Projects*

Passenger Terminal Improvements (approximate cost: \$5.8 million) - The midfield terminal opened on September 9, 2005. This project includes the design for enhancements to the baggage handling system, design and installation of a fiber network and design and installation of common use terminal use equipment, each of which is more particularly described below.

Baggage Handling System Project. The baggage handling system projects include the conceptual design, modeling, and other design phase services to evaluate the next phase of expansion to the Airport baggage handling system. The intent of this effort is to perform all necessary services to determine the required expansion needed to the BHS/Explosive Detection System inbound and outbound systems to accommodate 12 million annual passengers.

Fiber Network Project. The fiber network project will include the design and installation of a new fiber optic backbone (approximately 34,000 linear feet) with a

higher capacity strand count and change the current star configuration to a self-healing loop configuration.

**Common Use Terminal Project.** The common use terminal equipment project will convert all proprietary processing systems, including check-in, ticketing and boarding to common use thereby allowing airlines to access their native software applications from any curb check-in, ticket counter or boarding gate.

### Other Projects

**Mitigation Park Enhancements/Expansion & Environmental Compliance Programs** (approximate cost: \$8.8 million) - This project includes project management, planning, design, permitting, mitigation, construction management, construction administration, financing, and construction services of environmental mitigation programs that are required by the regulatory agencies through permit sign-off as part of an FAA eligible project, including the following:

- Airport I-75 Access Road Environmental Mitigation
- Airport Conservation Area Relocation
- Hazardous Wildlife Assessment and Plan
- Remediation of Hazardous Wildlife Areas
- Permitting and mitigation associated with AIP-eligible projects

The following are other key projects included in the CIP:

- Completion of Aircraft and Rescue Firefighting Station (ARRF) (approximate cost: \$4.0 million)
- Enhancement to security camera system (approximate cost: \$5.0 million)
- Expansion of employee parking lot (approximate cost: \$5.4 million)

### Funding for CIP

The CIP is anticipated to be funded through a combination of (1) grants from the Airport Improvement Program (AIP) and the State of Florida Department of Transportation, (2) Passenger Facility Charges, or (3) Airport funds designated for such purpose. At this time, the Authority does not expect to issue Additional Parity Bonds or other debt to fund the CIP.

### **Passenger Facility Charges**

As part of the Aviation Safety and Capacity Expansion Act of 1990, as amended (the "PFC Act"), as implemented by the Federal Aviation Authority (the "FAA") pursuant to published regulations (the "PFC Regulations"), the United States Congress has authorized commercial service airports such as the Airport to collect passenger facility

charges ("Passenger Facility Charge" or "PFC") from each paying passenger enplaned at such airport in the amount of \$1.00, \$2.00, \$3.00, \$4.00 or \$4.50, subject to certain limitations. Airport-related projects eligible for funding with PFCs are those that preserve or enhance capacity, safety or security of the national air transportation system, reduce noise from an airport that is part of the system or provide an opportunity for enhanced competition between or among air carriers or foreign air carriers. "Eligible airport related projects" include airport development or planning, terminal development, airport noise compatibility measures and planning and construction of gates and related areas (other than restaurants, rental car facilities, automobile parking or other concessions) for the movement of passengers and baggage. PFCs are collected on behalf of airports by air carriers, certain foreign air carriers and their agents ("Collecting Carriers").

The Collecting Carriers are authorized to withhold, as a collection fee (a) eleven cents per enplaning passenger from whom a PFC is collected and (b) any investment income earned on the amount collected prior to the due date of the remittance. The Collecting Carriers remit PFCs to the Airport on a monthly basis. The PFC Act was amended in 1996 to provide that PFC revenues that are held by a Collecting Carrier constitute a trust fund that is held for the beneficial interest of the eligible agency imposing the fee and that the Collecting Carrier holds neither legal nor equitable interest in the PFC revenues, except for any handling fee or retention of interest collected on unremitted proceeds. In addition, PFC Regulations require Collecting Carriers to account for PFC collections separately and to disclose the existence and amount of funds regarded as trust funds in financial statements. The Collecting Carriers, however, are permitted to commingle PFC collections with the carriers' other sources of revenue. In 2005 the PFC program was amended to incorporate certain changes as set forth in the Vision 100-Century of Aviation Reauthorization Act (Vision 100). One of these changes was a streamlined process for submitting and reviewing amendments to existing PFC Application as well as approvals of new PFC applications.

PFC applications for specific projects are approved by the FAA in specific total amounts and the Authority may impose the designated PFC only until it collects the authorized total amount. Interest earnings on the collections are treated as collections for purposes of the authorized total. The Airport has imposed the Passenger Facility Charge since November 1992. The Authority has received approval from the FAA to collect and use PFCs under seven applications for a total of \$298.5 million in collection authority. Through March 31, 2011, PFC revenues received by the Authority, including investment earnings, totaled \$189,245,643 (unaudited), of which \$178,387,152 (unaudited) had been expended on approved project costs. The Authority is currently authorized to collect PFCs at a rate of \$4.50 per enplaned passenger at the Airport.

PFCs may be used, subject to applicable regulations, either to pay debt service on all or a portion of bonds secured by, or payable from, PFCs or to pay for eligible capital

improvements on a year-to-year basis, as specified in the applicable approval. Currently, the Airport's PFC approvals authorize (but do not require) the use of PFCs to pay debt service on any bonds issued to finance PFC approved projects. The Airport has historically used a portion of the PFCs to pay a portion of the debt service on the Bonds. See "AIRPORT FINANCIAL FACTORS - Historical Statement of Net Revenues" herein. However, no assurance is given that the Airport will continue such use of the PFCs in the future. **Notwithstanding the foregoing, PFCs are not included in the definition of Pledged Funds for purposes of the Bond Resolution, but the Bond Resolution does permit certain PFC revenues to be pledged in the future to the extent permitted by the PFC Act and PFC Regulations.**

The following table sets forth the PFC revenues collected at the Airport in Fiscal Years 2006-2010:

<b>Passenger Facility Charges</b>	
<b>Fiscal Year Ended September 30</b>	<b>PFC Revenues Collected<sup>(1)</sup></b>
2006	\$16,827,387
2007	17,625,382
2008	15,873,405
2009	15,062,613
2010	15,288,056

(1) Includes interest income.

## **Federal and State Grants**

The Authority also receives funds pursuant to Federal and State grants. Such grant funds are generally restricted to certain uses.

## **DESCRIPTION OF THE SERIES 2011A BONDS**

### **General**

The Series 2011A Bonds will mature on October 1 of the years and in the amounts shown on the inside cover page hereof. The Series 2011A Bonds will be initially dated as of their date of delivery and will bear fixed rates of interest until their final maturity or earlier prepayment, payable on April 1, 2012 and semiannually after that date on April 1 and October 1 in each year, at the rates per annum set forth on the inside cover page hereof. U.S. Bank National Association, Fort Lauderdale, Florida, will serve as Bond Registrar and Paying Agent pursuant to the terms of the Bond Resolution.

The Series 2011A Bonds will be issued only as fully registered bonds in denominations of \$5,000 and integral multiples thereof. The Series 2011A Bonds will be

initially registered through a book-entry only system operated by The Depository Trust Company, New York, New York ("DTC"). Details of payment of the Series 2011A Bonds and the book-entry system are described below under the subcaption "Book-Entry Only System." Except as described under the subcaption "Book-Entry Only System" below, beneficial owners of the Series 2011A Bonds will not receive or have the right to receive physical delivery of Series 2011A Bonds, and will not be or be considered under the Bond Resolution to be the registered owners thereof. Accordingly, beneficial owners must rely upon (1) the procedures of DTC and, if such beneficial owner is not a Participant (as defined herein), the Participant who will act on behalf of such beneficial owner to receive notices and payments of principal of, premium, if any, and interest on the Series 2011A Bonds, and to exercise voting rights, and (2) the records of DTC and, if such beneficial owner is not a Participant, such beneficial owner's Participant, to evidence its beneficial ownership of the Series 2011A Bonds. So long as DTC or its nominee is the registered owner of the Series 2011A Bonds, references herein to Series 2011A Bondholders or registered owners of such Series 2011A Bonds shall mean DTC or its nominee and shall not mean the beneficial owners of such Series 2011A Bonds.

## Redemption

Optional Redemption. The Series 2011A Bonds maturing before October 1, 2021 are not subject to optional redemption prior to maturity. The Series 2011A Bonds maturing on and after October 1, 2021 may be redeemed prior to their respective maturities, at the option of the County, upon at least 30 days notice, either in whole or in part, from any monies that may be available for such purpose, on any date on or after August 15, 2021, at a redemption price equal to 100% of the principal amount of the Series 2011A Bonds to be redeemed, plus accrued interest to the redemption date, without premium.

Mandatory Redemption. The uninsured Series 2011A Bonds maturing on October 1, 2032 are subject to mandatory redemption at the redemption price of par plus accrued interest on the dates and in the Redemption Requirements described below:

<u>October 1</u>	<u>Redemption Requirements</u>
2029	\$15,645,000
2030	16,460,000
2031	17,320,000
2032*	9,200,000

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\*Final Maturity

The Insured Series 2011A Bonds maturing on October 1, 2032 are subject to mandatory redemption at the redemption price of par plus accrued interest on the dates and in the Redemption Requirements described below:

<u>October 1</u>	<u>Redemption Requirements</u>
2029	\$3,940,000
2030	4,180,000
2031	4,430,000
2032*	2,450,000

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\*Final Maturity

General Redemption Procedures. Not more than 60 calendar days or less than 30 calendar days prior to the redemption date, notice of such redemption will be mailed by registered or certified mail to all Registered Owners of Series 2011A Bonds to be redeemed at their addresses as they appear on the Register provided for in the Bond Resolution. Interest will cease to accrue on any Series 2011A Bonds duly called for prior redemption on the redemption date, if payment of the redemption price has been duly provided. Failure to mail any such notice to a registered owner of a Series 2011A Bond, or any defect therein, will not affect the validity of any such proceedings for redemption on the Series 2011A Bonds or any portion thereof with respect to which no failure or defect occurred.

Each notice will be dated and state: (1) the date fixed for redemption; (2) the redemption price (principal, interest and any premium, as appropriate) to be paid; (3) if less than all of the Series 2011A Bonds then outstanding will be called for redemption, the distinctive numbers and letters, if any, of such Series 2011A Bonds to be redeemed; (4) in the case of Series 2011A Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed; (5) that on the redemption date, the redemption price will become due and payable upon each Series 2011A Bond or portion thereof called for redemption, and that interest thereon will cease to accrue from and after said date; (6) that the Series 2011A Bonds to be redeemed, whether as a whole or a part, are to be surrendered for payment of the redemption price at the principal office of the Bond Registrar; and (7) if any Series 2011A Bond is to be redeemed in part only, the notice of redemption which relates to such Series 2011A Bond will also state that on or after the redemption date, upon surrender of such Series 2011A Bond, a new Series 2011A Bonds or Series 2011A Bonds, as the case may be, having the same terms, and in an aggregate principal amount equal to the unredeemed portion of such Series 2011A Bond will be issued to the holder of the surrendered Series 2011A Bond.

Any notice given as provided or permitted by the Bond Resolution will be conclusively presumed to have been given, whether or not the owner of such Series



2011A Bond receives such notice or otherwise has actual notice of such call for redemption.

If moneys (or Government Obligations which, together with the interest payable thereon on or prior to the redemption date), are sufficient for the redemption of all of the Series 2011A Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held in trust for the Holders thereof on the redemption date, so as to be available therefore on that date, and if official notice of redemption has been given as provided above, then from and after the redemption date those Series 2011A Bonds and portions thereof called for redemption will cease to bear interest and no longer will be considered to be Outstanding under the Bond Resolution and will cease to be entitled to any lien, benefit or security hereunder except to receive the payment of the redemption price plus interest accrued to the redemption date on or after the designated date of redemption from moneys deposited with or held in the Redemption Account for such redemption and, to the extent provided in the Bond Resolution, to receive Bonds for any unredeemed portions of the Bonds. If those moneys are not available on the redemption date, or notice is not given as aforesaid, those Series 2011A Bonds and portions thereof so called for redemption will continue to bear interest, remain Outstanding and be entitled to the lien under the Bond Resolution until they are paid or deemed to be paid, as provided in the Bond Resolution.

Conditional Redemption. Any optional redemption of the Series 2011A Bonds will be a Conditional Redemption (defined below) and the notice of redemption will state that the redemption is conditioned upon the conditions set forth therein, and such notice and optional redemption will be of no effect (1) if by no later than the scheduled redemption date, the conditions set forth therein have not been satisfied, or (2) the County rescinds such notice on or prior to the scheduled redemption date. If a redemption is a Conditional Redemption, such redemption will be conditioned upon receipt by the Paying Agent for the Series 2011A Bonds or the escrow agent named by the County of sufficient moneys to redeem the Series 2011A Bonds and any redemption premium and the satisfaction of such other conditions set forth in the notice of redemption. A Conditional Redemption will be deemed cancelled once the County has given notice of rescission. The County will give notice of rescission of a Conditional Redemption by the same means as is provided for the giving of notice of redemption. Any Series 2011A Bond subject to a Conditional Redemption which has been cancelled will remain Outstanding, and neither the rescission nor the failure of funds being made available in part or in whole on or before the proposed redemption date shall constitute an Event of Default under the Bond Resolution.

For purposes of the foregoing, "Conditional Redemption" means a redemption with respect to which a notice of redemption has been given to Bondholders and in which notice it is stated, among other things, that the redemption is conditioned upon a deposit of funds and/or certain other conditions as may be provided therein.

## **Book-Entry Only System**

The information in this section concerning The Depository Trust Company, New York, New York ("DTC") and DTC's book-entry system has been obtained from sources that the County believes to be reliable, but the County takes no responsibility for the accuracy thereof.

DTC will act as securities depository for the Series 2011A Bonds. The Series 2011A Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Series 2011A Bond certificate will be issued for each maturity of the Series 2011A Bonds, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC's participants (the "Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (the "Indirect Participants"). DTC is rated "AA+" by Standard & Poor's. The DTC rules applicable to its Direct and Indirect Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at <http://www.dtcc.com> and [www.dtc.org](http://www.dtc.org).

Purchases of the Series 2011A Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Series 2011A Bonds on DTC's records. The ownership interest of each actual purchaser of each Series 2011A Bond (each a "Beneficial Owner") is in turn to be recorded on the Direct and Indirect

Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant (collectively, "Participants") through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Series 2011A Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Series 2011A Bonds, except in the event that use of the book-entry system for the Series 2011A Bonds is discontinued.

To facilitate subsequent transfers, all Series 2011A Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of the Series 2011A Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Series 2011A Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Series 2011A Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Series 2011A Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Series 2011A Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Series 2011A documents. For example, Beneficial Owners of Series 2011A Bonds may wish to ascertain that the nominee holding the Series 2011A Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the Bond Registrar and request that copies of notices be provided directly to them.

Redemption notices shall be sent to DTC. If less than all of the Series 2011A Bonds within a maturity are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be redeemed.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Series 2011A Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the County as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to

whose accounts Series 2011A Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Principal and interest payments on the Series 2011A Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the County or the Paying Agent on a payment date in accordance with their respective holdings shown on DTC's records. Payments by DTC Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such DTC Participant and not of DTC nor its nominee, the Trustee, the Bond Registrar, the Paying Agent, or the County, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of principal and interest on the Series 2011A Bonds, as applicable, to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the County or the Paying Agent, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as depository with respect to the Series 2011A Bonds at any time by giving reasonable notice to the County or the Paying Agent. Under such circumstances, in the event that a successor depository is not obtained, Series 2011A Bond certificates are required to be printed and delivered.

The County may decide to discontinue use of the system of book-entry transfers through DTC upon compliance with any applicable DTC rules and procedures. In that event, Series 2011A Bond certificates will be printed and delivered to DTC.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that the County believes to be reliable, but the County takes no responsibility for the accuracy thereof.

**While the County, the Paying Agent and Bond Registrar assume compliance with the foregoing, the County, the Paying Agent and Bond Registrar do not have any responsibility or obligation to the Direct Participants, Indirect Participants or the Beneficial Owners with respect to (a) the accuracy of any records maintained by DTC or any Direct Participant or Indirect Participant, (b) the payment by DTC or any Direct Participant or Indirect Participant of any amount due to any Beneficial Owner in respect of the principal of and interest on the Series 2011A Bonds, (c) the delivery or timeliness of delivery by DTC or any Direct Participant or Indirect Participant of any notice to any Beneficial Owner which is required or permitted under the terms of the Bond Resolution to be given to Bondholders, or (d) any**

**consent given or other action taken by DTC, or its nominee, Cede & Co., as Bondholders.**

## **SECURITY FOR THE SERIES 2011A BONDS**

Brief descriptions of the source of payment of the Series 2011A Bonds, a description of the Authority's rate covenant set forth in the Bond Resolution, the flow of funds, and certain other provisions of the Bond Resolution are provided herein. The descriptions provided herein are qualified in their entirety by reference to the provisions of the Bond Resolution, which is attached hereto as Appendix C.

### **General**

The Series 2011A Bonds are being issued as Refunding Bonds pursuant to the Bond Resolution. As such, the Series 2011A Bonds are on a parity with the Parity Bonds as to the pledge of, lien on and source of payment from the Pledged Funds. "Pledged Funds" is defined in the Board Resolution to mean (i) Net Revenues; (ii) the amounts on deposit in the Sinking Fund and all Accounts therein except as expressly provided in the Bond Resolution; the Subordinated Indebtedness Fund (other than the proceeds of Subordinated Indebtedness); the Renewal, Replacement and Improvement Fund; and the Airport Fund; and (iii) until expended, the amounts on deposit in the applicable subaccount of the Project Account with respect to any particular Series of Bonds. Additional Parity Bonds may be issued under the Bond Resolution on a parity with the Parity Bonds and the Series 2011A Bonds upon compliance with the tests for such issuance in the Bond Resolution. See the subheading "Additional Parity Bonds" below.

The Series 2011A Bonds and the interest thereon will not be or constitute a general obligation or indebtedness of the County or the Authority within the meaning of the Constitution of the State of Florida, but will be special and limited obligations of the County exclusively payable from and secured solely by a lien on the Pledged Funds as provided in the Bond Resolution. No holder of any Series 2011A Bond will ever have the right to compel the exercise of any taxing power of the County or taxation in any form on any real or personal property to pay the principal of and interest on the Series 2011A Bonds or any other obligations set forth in the Bond Resolution, nor will any holder be entitled to payment of the principal of and interest on the Series 2011A Bonds or any other obligations set forth in the Bond Resolution from any funds of the County or the Authority other than the sources specified in the Bond Resolution. The Authority has no taxing power.

### **Definitions**

"Current Expenses" is defined in the Bond Resolution to mean for any period all reasonable and necessary expenses paid or accrued by the County or the Authority on a

consistent basis in accordance with generally accepted accounting principles applicable to governmental entities consistently applied for the maintenance, repair and operation of the Airport and shall include, without limiting the generality of the foregoing, (1) all ordinary and usual expenses of maintenance, repair and operation; (2) all administrative expenses and any reasonable payments to pension or retirement funds properly chargeable to the Airport; (3) insurance premiums; (4) professional service expenses relating to maintenance, repair and operation of the Airport; (5) fees and expenses of the Paying Agent; (6) legal and other professional fees and expenses; (7) fees of consultants; (8) fees, expenses and other amounts payable to any bank or other financial institution for the issuance of a letter of credit, stand-by-purchase agreement or any other Credit Facility, and to any indexing agent, Depository, remarketing agent or any other person or institution whose services are required with respect to the issuance of Bonds; (9) any taxes which may be lawfully imposed on the Airport or the income therefrom and reserves for such taxes; (10) deposits required under the Bond Resolution to be made to any Account in the Tax Rebate Fund to fund the County's accrued, but unpaid, liability to make payments to the United States of America imposed by Section 148(f) of the Code; and (11) and other reasonable Current Expenses authorized by law; provided, however, Current Expenses shall not include (a) any allowance for amortization or depreciation or any reserves for extraordinary maintenance and repair of the Airport except to the extent the County or the Authority receives payment or reimbursement therefor and includes such payment or reimbursement in Revenues; (b) any other expenses for which (or to the extent to which) the County or the Authority is or will be paid or reimbursed from or through any source and such payment or reimbursement is not included as Revenues; (c) any extraordinary items arising from the early extinguishment of debt; and (d) any prior period or retroactive adjustments which are required by a change in accounting principles or standards.

"Net Revenues" of the Airport is defined in the Bond Resolution to mean Revenues minus Current Expenses.

"Revenues" is defined in the Bond Resolution to mean for any period all moneys paid or accrued for the use of and for services and facilities furnished by, or in connection with the ownership or operation of, the Airport, or any part thereof or the leasing or use thereof, including, but not limited to (1) rentals, (2) concession fees, (3) use charges, (4) landing fees, (5) license and permit fees, (6) service fees and charges, (7) moneys from the sale of fuel, and or other merchandise and (8) any investment income which is required to be deposited in the Revenue Fund (but shall exclude all other investment income); provided, however, that Revenues shall not include (a) proceeds received from the sale of Bonds, Subordinated Indebtedness or Special Purpose Facilities Bonds, (b) proceeds from the sale or taking by eminent domain of any part of the Airport, (c) gifts or Grant in Aid, or payments received in lieu of or replacement for Grant in Aid, (d) ad valorem tax revenues, (e) any insurance proceeds received by the County or the Authority (other than insurance proceeds paid as compensation for business interruption), (f)

moneys paid or accrued to or in connection with any facilities not financed or refinanced by Bonds issued or from facilities not qualified as a Project under the Bond Resolution, (g) moneys paid or accrued as a repayment of an advance not constituting a Current Expense, (h) amounts received which are required to be paid to any other governmental body, including, but not limited to taxes and impact fees, (i) PFC Revenues (except to the extent provided in the Bond Resolution), and (j) any noise abatement charges received for disbursement to others.

"Transfers" is defined in the Bond Resolution to mean amounts from unencumbered moneys in the Airport Fund or any other source which are deposited in the Revenue Fund (other than amounts which are Revenues accrued or received in the Fiscal Year such deposit is made). The Airport has historically transferred a portion of its PFC revenues to the Revenue Fund to pay a portion of the debt service on the Bonds; however, no representation is made that the Authority will continue such transfers. See "AIRPORT FINANCIAL FACTORS - Historical Statement of Net Revenues" herein.

### **Reserve Account**

The Bond Resolution requires the County to maintain the Reserve Account within the Sinking Fund in an amount equal to the Reserve Requirement for the Bonds. The Reserve Requirement is defined in the Bond Resolution as the lesser of (1) the Maximum Bond Service Requirement, and (2) the maximum amount permitted under the Code as a reasonably required reserve or replacement fund. Amounts in the Reserve Account are required to be used to pay the principal of, premium, if any, and interest on the Bonds when the money in the other Accounts within the Sinking Fund is insufficient therefor. Increases in the Reserve Requirement caused by the issuance of Additional Parity Bonds can be funded, at the discretion of the County, from the proceeds thereof, or by a Credit Facility or a combination thereof. The County may, at any time, substitute a Credit Facility for all or a portion of the moneys in the Reserve Account in accordance with the terms of the Bond Resolution. Immediately subsequent to the issuance of the Series 2011A Bonds, the Reserve Account will be funded in an amount equal to the Reserve Requirement, \$26,181,750.00, which is the Maximum Bond Service Requirement for the Parity Bonds and the Series 2011A Bonds.

### **Rate Covenant**

The County and the Authority have covenanted in the Bond Resolution to fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the services and facilities of the Airport which will be at least equal to the greater of (1) Revenues, together with Transfers, in each Fiscal Year sufficient to pay all Current Expenses of the Airport in such Fiscal Year, and 125% of the Bond Service Requirements in such Fiscal Year (excluding for purposes of this calculation, redemption premium and debt service reserve payments) and (2) Revenues, without taking into account Transfers, in each Fiscal Year

sufficient to pay all Current Expenses of the Airport in such Fiscal Year and 100% of the Bond Service Requirements in such Fiscal Year (excluding for purposes of this calculation, redemption premium) and all other required payments under the Bond Resolution. Such rates, fees, rentals or other charges will not be reduced so as to be insufficient to provide Revenues for such purposes.

If the Revenues for any Fiscal Year are less than the amounts required by the Bond Resolution, the County, before the end of the second month following the completion of the audit for such Fiscal Year, will cause the Consultant to make recommendations as to a revision of such rates or charges. If the County shall comply with all the recommendations of the Consultant in respect of such rates, rents, fees or other charges, it will not constitute an Event of Default under the Bond Resolution if the Revenues shall be less than the amounts required by the Bond Resolution in the following Fiscal Year. The County covenants that, to the extent permitted by applicable law and the provisions by any use agreements then in effect at the Airport, it will comply with the recommendations of the Consultant.

#### **Establishment of Funds and Accounts**

The Bond Resolution establishes various Funds and Accounts, including the following:

- (1) The Revenue Fund, which includes a Working Capital Account.
- (2) The Sinking Fund, which includes an Interest Account, a Principal Account, a Reserve Account and a Redemption Account.
- (3) The Subordinated Indebtedness Fund.
- (4) The Renewal, Replacement and Improvement Fund.
- (5) The Airport Fund.

The amounts held in the Funds, Accounts and Subaccounts created by the Bond Resolution will be administered by the County or its designated agent; provided that the County, by supplemental resolution, may appoint a Funds Trustee to hold any Fund, Account or Subaccount. Amounts in such Funds and Accounts may be deposited in a single bank account, and may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted application of the cash and investments on deposit therein for the various purposes of such Funds and Accounts as provided by the Bond Resolution. Except as above provided, the designation and establishment of the various Funds, Accounts and Subaccounts by and pursuant to the Bond Resolution does not require the establishment of any completely independent, self-balancing accounts as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute



an earmarking of certain moneys and investments of the County for certain purposes and to establish certain priorities for the application of such moneys and investments as provided by the Bond Resolution.

### **Flow of Funds**

In accordance with the terms of the Bond Resolution, all Revenues of the Airport will, upon receipt thereof, be deposited into the Revenue Fund and applied monthly, not later than the twenty-fifth day of each month after issuance of the Bonds, in the following manner and in the following order of priority:

(1) Revenues will first be used to pay the Current Expenses for the current month. The Authority is permitted to establish a Working Capital Account within the Revenue Fund and to deposit thereto in each Fiscal Year an amount not in excess of the average monthly Current Expenses as shown on the Annual Budget for such Fiscal Year times three. Money on deposit in the Working Capital Account will be used to pay Current Expenses whenever the other funds in the Revenue Fund are insufficient for such purpose. Any moneys withdrawn from the Working Capital Account may not be replaced in the then current Fiscal Year.

(2) Revenues will then be used for deposit into the Interest Account in the Sinking Fund the sum necessary to pay interest becoming due on the Bonds on the next Interest Payment Date (and certain payments under any Derivative Agreements, exclusive of termination payments), less amounts (including Capitalized Interest) already on deposit therein and available for such purpose, divided by the number of months remaining to such Interest Payment Date.

(3) Revenues will then be used for deposit of the required amount into the Principal Account in the Sinking Fund, during the twelve month period before a Serial Bond maturity date, necessary to pay the principal maturing on Serial Bonds on the next maturity date, less amounts already on deposit therein and available for such purpose divided by the number of months remaining to such maturity date.

(4) (a) Revenues will then be used for deposit of the required amount into the Redemption Account in the Sinking Fund, on a parity with the payments into the Principal Account provided for in Subsection (3) above (during the 12-month period immediately preceding a Redemption Requirement due date), a sum equal to the Redemption Requirements for Term Bonds which will next become due and payable, plus the amount of the premium, if any, on a principal amount of such Term Bonds equal to the amount of such Redemption Requirement which would be payable on the next Redemption Requirement due date if such principal amount of Term Bonds were to be redeemed prior to their maturity from funds held in the Redemption Account, less amounts which have been deposited therein during such 12-month period and used for the purchase of outstanding Term Bonds or are

available for redemption of Term Bonds, divided by the number of months remaining to such due date. If, at the stated dates of maturity of any Term Bonds, the proceeds on deposit in the Redemption Account are insufficient to retire the principal amount of maturing Term Bonds remaining outstanding, the County is required to transfer from the Reserve Account to the Redemption Account sufficient money to make up such deficiency.

(b) Upon any purchase (and delivery to the Bond Registrar for cancellation) or optional redemption of Bonds of any Series and maturity for which Redemption Requirements have been established, which is made on or prior to the 40th day preceding the due date of the Redemption Requirements next due for the Bonds of such Series and maturity from any funds of the County other than amounts deposited in the Redemption Account, there will be credited toward such Redemption Requirements in such manner as may be determined by the Authority Representative the principal amount of such Bonds so purchased or redeemed upon delivery of such Bonds by the County to the Bond Registrar, such determination to be evidenced by a certificate filed with the Clerk. The portion of any such Redemption Requirements remaining after the deduction of any such amounts credited toward the same pursuant to this paragraph (or the original amount of any such Redemption Requirements if no such amounts shall have been credited toward the same) will constitute the unsatisfied balance of such Redemption Requirements for the purpose of calculation of Redemption Requirements due on a future date.

(5) Revenues will then be used to maintain the Reserve Account (including any subaccounts herein) in the Sinking Fund in an amount equal to the aggregate of the Reserve Requirement (including payment of amounts necessary to reinstate any Credit Facility credited to the Reserve Account).

(6) Revenues will then be deposited into the Subordinated Indebtedness Fund to meet any requirements of the County's resolution authorizing and awarding the issuance of any Subordinated Indebtedness.

(7) Revenues will then be deposited into the Renewal, Replacement and Improvement Fund in an amount recommended by the Authority Representative.

(8) The balance of Revenues not obligated will next be deposited into the Airport Fund and any subaccounts created by the County therein from which distributions will be applied as follows:

(a) The funds in the Airport Fund will first be used to make up deficiencies in the Sinking Fund, the Subordinated Indebtedness Fund and the Renewal, Replacement and Improvement Fund in the priority for depositing moneys from the Revenue Fund described above.

(b) If an Event of Default has occurred, the funds on deposit in the Airport Fund will next be used to cure such Event of Default and to pay expenses of curing such Event of Default.

(c) If determined by the Authority Representative to be required pursuant to any use or lease agreement with any user of the Airport, to make transfers to such user or users but not in excess of the amounts required by such use or lease agreement.

(d) Periodically, to make any Transfers the County authorizes to be made to the Revenue Fund.

(e) Remaining moneys held for the credit of the Airport Fund may be used for any purposes as authorized by the Act.

Notwithstanding the foregoing, unobligated moneys held for the credit of the Airport Fund will always be used to pay maturing principal of, interest becoming due, or Redemption Requirements with respect to the Bonds whenever moneys in the Sinking Fund are insufficient therefor.

The County is currently not a party to any Derivative Agreement. However, under the Bond Resolution, the County is permitted (but not required) to pay regularly-scheduled payments it owes under any Derivative Agreement relating to interest on Bonds from the Interest Account on a parity with payment of interest on Bonds. The County shall also be permitted (but is not required) to direct payments it receives under any Derivative Agreement to be deposited in the Interest Account and receive a credit for such deposits against the amount that would otherwise be required to be deposited under the Bond Resolution. However, any termination, penalty or similar payment required under any Derivative Agreement may be paid only from the Subordinated Indebtedness Fund or the Airport Fund, at the option of the County.

### **Additional Parity Bonds**

With the exception of Additional Parity Bonds, the County has covenanted not to issue any other obligations payable from the Pledged Funds or create any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Bonds, and the interest thereon.

Additional Parity Bonds payable on a parity from the Pledged Funds with the Bonds then outstanding will be issued only for the purposes of (1) refunding or redeeming any Bonds issued and outstanding under the Bond Resolution ("Refunding Bonds"), (2) financing all or part of the Costs of Improvements ("Improvement Bonds"), and (3) completing the payment of Costs of any Project financed with the proceeds of Bonds issued under the Bond Resolution ("Completion Bonds"). Additional Parity

Bonds will be issued only upon compliance with all of the following conditions, among others:

(a) With respect to Improvement Bonds, the Bond Resolution requires to be filed with the County (1) a certificate of the Authority Representative demonstrating that the requirements described above under the heading "Rate Covenant" were met in the last complete Fiscal Year for which audited financial statements of the Authority are available; and (2) a report of the Consultant setting forth for each of the three Fiscal Years following the Fiscal Year in which the Authority Representative estimates any Improvement to be completed (i) estimates of Revenues to be received by the County and the Authority from the Airport including the Project to be financed with the Additional Parity Bonds, (ii) estimates of Current Expenses for such Fiscal Years, (iii) estimates of Transfers, if any, to be made in such Fiscal Years, (iv) the Maximum Bond Service Requirement including the Additional Parity Bonds then proposed to be issued, and (v) that Revenues, together with Transfers, will be sufficient to pay all Current Expenses and 125% of the Maximum Bond Service Requirement, including the Additional Parity Bonds then proposed to be issued (excluding for purposes of this calculation redemption premium and debt service reserve payments), in each such Fiscal Year. For purposes of evidencing compliance with this paragraph, all Derivative Agreements shall be disregarded.

(b) With respect to Additional Parity Bonds that are Completion Bonds, the Authority Representative is required to file with the Clerk a certificate demonstrating that the proceeds of the Completion Bonds to be issued and all previously issued Completion Bonds relating to any other Project (in each case net of issuance costs and any discounts) will be not more than 10% of the original Cost of the Project for the completion of which such Completion Bonds are then being issued.

(c) With respect to Additional Parity Bonds that are Refunding Bonds, (1) if the Refunding Bonds are not Cross-over Refunding Bonds, the Authority Representative is required to file with the Clerk a certificate demonstrating either (i) the Maximum Bond Service Requirement will not increase after the issuance of the Refunding Bonds and the application of the proceeds thereof or (ii) the total Bond Service Charges will not increase after the issuance of such Refunding Bonds and the application of the proceeds thereof; and (2) if the Refunding Bonds are Cross-over Refunding Bonds, the Authority Representative is required to file with the Clerk a certificate demonstrating that the Maximum Bond Service Requirement immediately following the Cross-over Date does not exceed the Maximum Bond Service Requirement immediately prior to the Cross-over Date.

Additionally, notwithstanding anything in the Bond Resolution to the contrary, the County may enter into Derivative Agreements relating to the Bonds and provide that its

obligations payable under such Derivative Agreements (other than any obligation with respect to termination payments) are secured on a parity with the outstanding Bonds, without having to satisfy any of the foregoing requirements for the issuance of Additional Parity Bonds. If the County so determines to secure its payment obligations under a Derivative Agreement, the payment obligations under such Derivative Agreement (other than termination payments) shall be treated as additional interest payable under the Bond Resolution for all purposes, except as otherwise expressly provided in the Bond Resolution.

### **Differences Between Bond Resolution and Use Agreements**

Various definitions in the Bond Resolution differ from those contained in the Use Agreements. For example, the definitions of "Current Expenses" and "Revenues" provided in the Bond Resolution are not identical to those of "Operating Expenditures" and "Revenues" contained in the Use Agreements. However, the Use Agreements expressly provide that the Use Agreements and all rights granted to the Signatory Airlines thereunder are subordinated and subject to the lien, covenants (including the rate covenant) and provisions of the pledges, transfer, hypothecation or assignment made under the Bond Resolution. See "SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS," included as Appendix D herein. Some of the differences between the Bond Resolution and the Use Agreements have existed since October 1992. However, none of the differences between the Bond Resolution and the Use Agreements have resulted in any difficulties on the part of the County or the Authority in satisfying its obligations under the Bond Resolution. The County and the Authority do not believe any of these differences will have a materially adverse affect on the Bondholders.

## **BOND INSURANCE**

THE INFORMATION IN THIS SECTION CONCERNING THE POLICY AND AGM HAS BEEN OBTAINED FROM AGM. NONE OF THE COUNTY, THE AUTHORITY OR THE UNDERWRITERS TAKES ANY RESPONSIBILITY FOR THE ACCURACY THEREOF.

### **The Policy**

Concurrently with the issuance of the Series 2011A Bonds, Assured Guaranty Municipal Corp. ("AGM") will issue its Municipal Bond Insurance Policy (the "Policy") for the Series 2011A Bonds maturing on October 1 in the years 2027, 2028 and 2032 (such 2032 maturity in the aggregate principal amount of \$15,000,000 and bearing the Initial CUSIP No. 523470FX5) (collectively, the "Insured Series 2011A Bonds"). The Policy guarantees the scheduled payment of principal and interest on the Insured Series

2011A Bonds when due as set forth in the form of the Policy included as Appendix G to this Official Statement.

The Policy is not covered by any insurance security or guaranty fund established under New York, California, Connecticut or Florida insurance law.

### **Assured Guaranty Municipal Corp.**

AGM is a New York domiciled financial guaranty insurance company and a wholly owned subsidiary of Assured Guaranty Municipal Holdings Inc. ("Holdings"). Holdings is an indirect subsidiary of Assured Guaranty Ltd. ("AGL"), a Bermuda-based holding company whose shares are publicly traded and are listed on the New York Stock Exchange under the symbol "AGO". AGL, through its operating subsidiaries, provides credit enhancement products to the U.S. and global public finance, infrastructure and structured finance markets. No shareholder of AGL, Holdings or AGM is liable for the obligations of AGM.

AGM's financial strength is rated "AA+" (negative outlook) by Standard and Poor's Ratings Services, a Standard & Poor's Financial Services LLC business ("S&P") and "Aa3" (negative outlook) by Moody's Investors Service, Inc. ("Moody's"). An explanation of the significance of the above ratings may be obtained from the applicable rating agency. The above ratings are not recommendations to buy, sell or hold any security, and such ratings are subject to revision or withdrawal at any time by the rating agencies, including withdrawal initiated at the request of AGM in its sole discretion. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of any security guaranteed by AGM. AGM does not guarantee the market price of the securities it insures, nor does it guarantee that the ratings on such securities will not be revised or withdrawn.

### *Current Financial Strength Ratings*

On August 8, 2011, S&P published a Research Update in which it affirmed the "AA+" financial strength rating of AGM. At the same time, S&P revised the ratings outlook on AGM to negative from stable. Reference is made to the Research Update, a copy of which is available at [www.standardandpoors.com](http://www.standardandpoors.com), for the complete text of S&P's comments.

On January 24, 2011, S&P published a Request for Comment: Bond Insurance Criteria (the "Bond Insurance RFC") in which it requested comments on its proposed changes to its bond insurance ratings criteria. In the Bond Insurance RFC, S&P notes that it could lower its financial strength ratings on existing investment-grade bond insurers (including AGM) by one or more rating categories if the proposed bond insurance ratings criteria are adopted, unless those bond insurers (including AGM) raise additional capital or reduce risk. Reference is made to the Bond Insurance RFC, a copy

of which is available at [www.standardandpoors.com](http://www.standardandpoors.com), for the complete text of S&P's comments.

On December 18, 2009, Moody's issued a press release stating that it had affirmed the "Aa3" insurance financial strength rating of AGM, with a negative outlook. Reference is made to the press release, a copy of which is available at [www.moodys.com](http://www.moodys.com), for the complete text of Moody's comments.

There can be no assurance as to any further ratings action that Moody's or S&P may take with respect to AGM.

For more information regarding AGM's financial strength ratings and the risks relating thereto, see AGL's Annual Report on Form 10-K for the fiscal year ended December 31, 2010, which was filed by AGL with the Securities and Exchange Commission (the "SEC") on March 1, 2011 and AGL's Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2011, which was filed by AGL with the SEC on May 10, 2011.

#### *Capitalization of AGM*

At March 31, 2011, AGM's consolidated policyholders' surplus and contingency reserves were approximately \$3,058,791,206 and its total net unearned premium reserve was approximately \$2,285,987,748, in each case, in accordance with statutory accounting principles.

#### *Incorporation of Certain Documents by Reference*

Portions of the following document filed by AGL with the SEC that relate to AGM are incorporated by reference into this Official Statement and shall be deemed to be a part hereof:

- (i) The Annual Report on Form 10-K for the fiscal year ended December 31, 2010 (which was filed by AGL with the SEC on March 1, 2011).
- (ii) The Quarterly Report on Form 10-Q for the quarterly period ended March 31, 2011 (which was filed by AGL with the SEC on May 10, 2011).

All information relating to AGM included in, or as exhibits to, documents filed by AGL pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended, after the filing of the last document referred to above and before the termination of the offering of the Insured Series 2011A Bonds shall be deemed incorporated by reference into this Official Statement and to be a part hereof from the respective dates of filing such documents. Copies of materials incorporated by reference are available over the internet at the SEC's website at <http://www.sec.gov>, at AGL's

website at <http://www.assuredguaranty.com>, or will be provided upon request to Assured Guaranty Municipal Corp.: 31 West 52<sup>nd</sup> Street, New York, New York 10019, Attention: Communications Department (telephone (212) 826-0100).

Any information regarding AGM included herein under the caption "BOND INSURANCE – Assured Guaranty Municipal Corp." or included in a document incorporated by reference herein (collectively, the "AGM Information") shall be modified or superseded to the extent that any subsequently included AGM Information (either directly or through incorporation by reference) modifies or supersedes such previously included AGM Information. Any AGM Information so modified or superseded shall not constitute a part of this Official Statement, except as so modified or superseded.

AGM makes no representation regarding the Series 2011A Bonds or the advisability of investing in the Series 2011A Bonds. In addition, AGM has not independently verified, makes no representation regarding, and does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding AGM supplied by AGM and presented under this heading entitled "BOND INSURANCE".

## **USE AGREEMENTS**

The Signatory Airlines have each entered into an Airline - Airport Lease and Use Agreement (the "Use Agreements") with the Authority. The Signatory Airlines represented 92.2% of enplanements at the Airport in Fiscal Year 2010 and accounted for 34.4% of total Airport operating revenues (excluding PFC revenues) for Fiscal Year 2010. For a description of the terms and conditions of the Use Agreements, see "SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS," included as Appendix D herein.

The current Use Agreements commenced on October 1, 2008 with a five-year term, expiring on September 30, 2013. Failure to enter into new Use Agreements will not relieve the Authority or the County from any of its obligations under the Bond Resolution, including the rate covenant. The Use Agreements, commonly referred to as a hybrid compensatory agreement, have a revenue sharing component. In any year in which there are net remaining revenues generated at the Airport, and all requirements of the Bond Resolution have been satisfied, the net remaining revenues shall be divided between the Authority (60%) and the Signatory Airlines (40%). The Use Agreements provide for flexibility as there is no majority in interest approval required for capital projects.

Terminal premises are leased on an exclusive use, preferential use and joint use basis. The Authority leases certain Terminal premises on a common use basis, as



necessary. The Authority manages its Terminal facilities in an efficient manner, while also respecting the schedules of its airline parties. Ticket counters, offices, operations areas, and baggage make-up facilities are leased on an exclusive use basis. Gates/holdrooms and aircraft parking positions are leased on a preferential use basis. Baggage claim is leased on a joint use basis, with costs allocated to the Signatory Airlines based on twenty percent (20%) allocated to all Signatory Airlines equally, and eighty percent (80%) allocated to all Signatory Airlines based on the ratio of each Signatory Airline's enplaned passengers annually at the Airport.

Landing Fees are calculated using a "residual" Airfield Cost Center approach and are based upon the total landed weight for all airline groups (Signatory, non-Signatory, Cargo, Charter, and International). Terminal Rents are calculated using a commercial compensatory method (i.e., rentable square foot divisor). Charges for the leasing of all Terminal space is assessed on a square-footage basis. See "SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS," included as Appendix D herein for a description of such fees and charges and the rate making formula for establishing landing fees and herein described Cost Center use charges.

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## ESTIMATED SOURCES AND USES OF FUNDS

The proceeds from the sale of the Series 2011A Bonds, together with other legally available funds, are expected to be applied as follows:

### SOURCES OF FUNDS

Par Amount of Series 2011A Bonds .....	\$174,450,000.00
Other Legally Available Moneys <sup>(1)</sup> .....	4,279,208.33
Plus: Net Original Issue Premium .....	<u>944,076.60</u>
TOTAL .....	<u><u>\$179,673,284.93</u></u>

### USE OF FUNDS

Deposit to Escrow Fund .....	\$177,781,909.17
Costs of Issuance <sup>(2)</sup> .....	<u>1,891,375.76</u>
TOTAL .....	<u><u>\$179,673,284.93</u></u>

- 
- (1) Represents moneys on deposit in certain accounts for the benefit of the owners of the Refunded Bonds.
- (2) Includes underwriters' discount, fees of Bond Counsel, Disclosure Counsel and financial advisor, the rating services, Policy premium, as well as other related fees and expenses.

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## DEBT SERVICE SCHEDULE

The following table sets forth the debt service requirements for the Series 2005 Bonds, the Series 2010A Bonds and the Series 2011A Bonds, taking into account the refunding of the Refunded Bonds.

### Total Debt Service Requirements<sup>(1)</sup>

Period Ending October 1	Series 2005 Bonds Debt Service	Series 2010A Bonds	Series 2011A Bonds			Aggregate Debt Service
			Principal	Interest	Total	
2012	\$1,917,950	\$13,503,788		\$10,127,735	\$10,127,735	\$25,549,472
2013	1,911,263	13,503,288	\$190,000	9,324,769	9,514,769	24,929,319
2014	1,919,663	13,502,288	200,000	9,317,169	9,517,169	24,939,119
2015	1,912,663	13,500,538	205,000	9,309,169	9,514,169	24,927,369
2016	1,915,863	13,501,538	215,000	9,300,969	9,515,969	24,933,369
2017	1,913,863	13,499,788	220,000	9,294,519	9,514,519	24,928,169
2018	1,916,800	13,500,875	225,000	9,287,369	9,512,369	24,930,044
2019	1,914,531	13,498,375	235,000	9,279,494	9,514,494	24,927,400
2020	1,917,194	13,499,250	245,000	9,270,094	9,515,094	24,931,538
2021	1,914,644	13,500,250	255,000	9,260,294	9,515,294	24,930,188
2022	1,912,094	13,503,000	265,000	9,249,456	9,514,456	24,929,550
2023	1,914,469		14,305,000	9,237,531	23,542,531	25,457,000
2024	1,916,625		15,095,000	8,450,756	23,545,756	25,462,381
2025	1,913,563		15,925,000	7,620,531	23,545,531	25,459,094
2026	1,915,500		16,825,000	6,724,750	23,549,750	25,465,250
2027	1,916,750		17,765,000	5,778,344	23,543,344	25,460,094
2028	1,912,750		18,655,000	4,890,094	23,545,094	25,457,844
2029	1,918,750		19,585,000	3,957,344	23,542,344	25,461,094
2030	1,914,250		20,640,000	2,904,650	23,544,650	25,458,900
2031	1,914,750		21,750,000	1,795,250	23,545,250	25,460,000
2032	13,180,000		11,650,000	626,188	12,276,188	25,456,188
2033	26,181,750					26,181,750
Total	<u>\$77,665,681</u>	<u>\$148,512,975</u>	<u>\$174,450,000</u>	<u>\$155,006,473</u>	<u>\$329,456,473</u>	<u>\$555,635,129</u>

(1) Totals may not add due to rounding.

## **AIRPORT FINANCIAL FACTORS**

### **Rates, Fees and Charges**

The Authority has entered into the Use Agreements with the Signatory Airlines relating to, among other things, (1) the use of facilities located in various cost and revenue centers (a "Cost Center") at the Airport, (2) the method for establishing landing fees and other Cost Center use charges as required at any time for compliance with the rate covenant established under the Bond Resolution and, (3) the payment of any other agreed upon costs or improvements and the adjustment of such charges. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT" herein for a description of the Signatory Airlines. The Use Agreements also provide for increase in the rates for rentals, fees and charges at the Airport in any Fiscal Year in which the amount of Revenues less O&M Expenses and the O&M Reserve Requirement is projected to be less than 125% of the Debt Service (as such terms are defined in the Use Agreements) requirements for the Bonds and any Subordinated Indebtedness. Additionally, the Use Agreements provide that rates for rentals, fees and charges may also be changed whenever required by the terms and provisions of the Bond Resolution. See "APPENDIX D - SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS" herein.

Expenses and revenues of the Authority are categorized into Cost Centers. Pursuant to the Authority's airport rate-setting methodology provided in the Use Agreements, the Cost Centers include those areas or functional activities used for the purposes of accounting for the financial performance of the Airport. There are six Cost Centers included in the Airport's financial structure (Airfield, Terminal, Air Cargo, Aviation, Apron and Nonaviation Cost Centers). When preparing the preliminary annual budget of Current Expenses and the capital improvement budget for the next Fiscal Year, it is the practice of the Authority to calculate the required aggregate landing fee revenue and the projected landing fee rate and other charges for the use of Cost Center facilities for the next Fiscal Year and to advise the Signatory Airlines of such estimates for their comments. Such information also includes the landed weight and enplaned passenger estimates used by the Authority in estimating Current Expenses and any proposed capital improvements to be included in the capital improvement budget for funding from the Renewal, Replacement and Improvement Fund or the Airport Fund or through the issuance of Additional Parity Bonds. All budgets relating to the Airport are subject to final approval by the Port Authority Board and the County.

The Authority participates in the Florida Retirement System, a cost sharing, multiple-employer public employee retirement system which covers all full-time and part-time employees. Pension costs of the Authority are set by State law and ranged between 10% and 23% of gross salaries for Fiscal Year 2009-10. The Authority's contributions aggregated \$2.5 million for Fiscal Year 2009-10, which represented 13% of covered payroll. The Authority also provides post retirement health care benefits through participation in a self-funded insurance plan. For employees hired on or before

January 1, 2008, the Authority currently pays 50% of the portion of the premium for the retiree to participate in the plan. The retiree pays the remaining 50% of the premium. For Fiscal Year 2009-10, benefits under the plan totaled \$1,695,000 and the Authority's liability under the plan was \$8,619,000. See Note VIII to the Authority's Audited Financial Statements for the years ended September 30, 2010 and 2009 for more information regarding the retirement plan and other post-employment benefits. Additional information is also provided in "APPENDIX A - GENERAL INFORMATION REGARDING LEE COUNTY, FLORIDA - Employee Relations."

## **Financial Information**

Non-Signatory Airlines. Non-signatory passenger airlines operate at the Airport utilizing short term operating permits that provide for the payment of landing fees and terminal use charges to the Authority. Terminal use charges paid to the Authority by non-signatory airlines are 110% of those paid by the Signatory Airlines. Non-signatory airlines do not receive any amounts from revenue sharing, nor do they participate in the annual reconciliation or recalculation of rates and fees. All cargo carriers operating at the Airport are required to pay landing fees and cargo ramp aircraft parking fees to the Authority. Landing fees are based upon the budgeted amounts calculated for the Signatory Airlines.

PFC Revenues. The Airport also receives PFC revenues from certain Collecting Carriers at a rate of \$4.50 per enplaned passenger at the Airport. PFC revenues are restricted to certain authorized amounts and uses. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT – Passenger Facility Charges" herein.

Non-Airline Revenues. In addition to generating revenues from airlines, the Authority receives substantial moneys from non-airline sources. The principal concessions and consumer services at the Airport are automobile parking, rental cars and Terminal concessions from food and beverage sales. The Authority also derives revenues from advertising and ground transportation services. Each of the foregoing constitute "Revenues" for purposes of the Bond Resolution. The Authority has a written policy for awarding concession and consumer service privileges at the Airport. In accordance with this policy, the Authority specifies performance and operating standards in its agreements with concessionaires in furtherance of its public service and revenue goals. Automobile parking is operated under a management agreement.

Revenues received by the Authority in connection with rental car services for Airport passengers are the largest source of nonairline revenue at the Airport. The Authority receives privilege fees and rents (associated with ready/return spaces, terminal counter space, and quick turnaround facilities) from rental car companies serving Airport customers. Onsite Airport rental car brands currently include Alamo, Avis, Budget, Dollar, Enterprise, Hertz, National and Thrifty.

The Authority entered into rental car agreements which were effective as of September 2005 and had a five-year term, subject to extension for an additional five-year term. In May 2011, the Authority entered into first amendments to the rental car agreements with all eight companies that operate on-airport. Each amendment provides for a relocation and resizing of each company's leased space, extension of the applicable agreement until five years after the relocation is complete and a requirement that the rental car companies reimburse the Authority for the costs of the relocation project. Under the rental car agreements, the rental car operators will generally pay (1) privilege fees equal to the greater of the minimum annual guarantee (\$11.3 million on a cumulative basis) or 10% of gross receipts for onsite operators, (2) ready/return space rent on a per space basis, (3) quick turn-around ("QTA") rent, and (4) rent for Terminal counters, office, and queuing space. Off-site operators pay the Authority 8% of gross receipts as a privilege fee. QTA facility rent includes ground rent at \$0.53 per square foot. In addition, rental car operators pay for all operating, utility, maintenance, and service management expenses.

Revenues received by the Authority from its parking facilities are the second largest source of nonairline revenue at the Airport. The parking facilities at the Airport consist of a two-level parking garage with 2,523 spaces (excluding rental car spaces) and a long-term surface parking lot with 8,700 spaces. The Authority has entered into a management contract with Standard Parking (the "Parking Manager") with respect to its parking facilities. The management contract has a 6-year term, effective October 1, 2009. The Authority receives all revenues from the operation of the parking facilities and is responsible for all costs and expenses of operation and maintenance of such facilities in addition to payment of the management fees of the Parking Manager.

Food and beverage facilities in the Terminal are operated under a 13-year concession agreement effective September 2005, with a minimum annual concession fee of \$0.466 per departing passenger. News and gifts facilities in the terminal are operated under a 13-year concession agreement effective September 2005, with a minimum annual concession fee of \$0.70 per departing passenger. Additionally, all such facilities pay the Authority storage area rent and building service fees.

Amounts derived from concessions and restaurants were \$4.8 million, automobile parking totaled \$12.2 million and total revenues from rental cars were \$16.5 million in Fiscal Year 2010, which represented approximately 40% of total operating revenues received by the Authority during such period.

Historical Operating Results. Audited financial statements of the Authority for the Fiscal Years ended September 30, 2010 and September 30, 2009 are set forth herein as Appendix B.

The following table sets forth statements of Net Revenues determined in accordance with the Bond Resolution, as excerpted from the audited financial statements, for the Fiscal Years ended September 30, 2006 through September 30, 2010.

### Historical Statement of Net Revenues Fiscal Years 2006-2010

	For the Fiscal Years ended September 30 (in thousands)				
<u>OPERATING REVENUES:</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
User Fees	\$38,250	\$37,220	\$42,112	\$41,618	\$43,102
Rentals and Franchise Fees	1,682	1,688	2,088	2,495	2,697
Concessions	35,932	38,145	37,131	35,171	35,014
Interest Revenue	4,921	5,786	2,927	707	550
Miscellaneous	4,400	911	738	631	244
Total Operating Revenues	\$85,185	\$83,750	\$84,996	\$80,622	\$81,607
<u>OPERATING EXPENSES:</u>					
Salaries and Wages	\$15,098	\$16,181	\$17,774	\$18,100	\$18,291
Employee Benefits	5,827	6,598	7,447	7,786	7,918
Contractual Services, Materials and Supplies	14,798	15,196	17,021	15,119	14,226
Utilities	4,560	5,438	4,823	4,987	3,881
Repairs and Maintenance	2,090	2,298	2,341	2,108	2,450
Insurance	2,061	3,975	3,920	2,436	1,749
Other	2,473	1,863	1,614	1,639	1,437
Arbitrage Rebate	666	130	1	-	-
Total Operating Expenses	\$47,573	\$51,679	\$54,941	\$52,175	\$49,952
<u>NET REVENUES:</u>	\$37,612	\$32,071	\$30,055	\$28,447	\$31,655
Transfers <sup>(1)</sup>	\$2,726	\$2,911	\$3,591	\$3,382	3,446
Transfers (Other)	0	0	0	759	207
Debt Service Interest	\$20,291	\$20,104	\$19,840	\$19,611	18,963
Principal	5,670	5,855	6,125	6,350	6,620
Total Debt Service	\$25,961	\$25,959	\$25,965	\$25,961	\$25,583
<u>BOND SERVICE REQUIREMENT</u>					
COVERAGE BEFORE TRANSFER	1.45x	1.24x	1.16x	1.10x	1.24x
<u>BOND SERVICE REQUIREMENT</u>					
COVERAGE AFTER TRANSFER	1.55x	1.35x	1.30x	1.26x	1.38x

(1) Includes only transfers from surplus Passenger Facility Charges used to pay debt service on the Series 2000 Bonds in accordance with Federal Aviation Administration approvals. Other transfers include a Federal Inspection Station user fee of \$2.00 per deplaned international passenger (FY2009 total \$186,000 and Fiscal Year 2010 totaled \$207,000) and an Authority discretionary fund transfer of \$573,000 in 2009.

Source: Lee County Finance Department.

## **Management Discussion and Analysis**

The table of Net Revenues above was prepared in accordance with the Bond Resolution and includes only the operating revenues and expenses for the Airport. The total shown in the table for "OPERATING REVENUES" and "OPERATING EXPENSES" are less than the amounts shown in the Audited Financial Statements of the Authority included as Appendix B hereto, because the revenues and expenses from Page Field are not included in the table but are included in such Audited Financial Statements.

Passenger traffic declined 1.03% during Fiscal Year 2010 when compared to Fiscal Year 2009. Despite such decline, total operating revenues (user fees, rental and franchise fees, concession, interest revenue and miscellaneous revenue) increased by 1.2% or approximately \$1 million. There were increases in landing fees of \$977,270, parking fees of \$170,962 and land rentals of \$165,711. Significant decreases included \$157,000 in interest revenue due to declining short-term interest rates. Operating expenses also declined during this period, as the Authority continued several cost saving efforts including, but not limited to, a hiring freeze, a reduction in travel related activities and postponing certain maintenance activities. In addition, the Authority realized savings in utilities, insurance premiums and overall fuel consumption. Total operating expenses decreased by \$2.2 million during Fiscal Year 2010 when compared to Fiscal Year 2009.

The Airport's budget for Fiscal Year 2011 which began on October 1, 2010, reflected total budgeted revenues of approximately \$85.4 million compared to budgeted revenues of approximately \$86.4 million in Fiscal Year 2010, and budgeted expenses of approximately \$52.9 million in Fiscal Year 2011 compared to approximately \$53.9 million in Fiscal Year 2010. The budgeted net cost per enplaned passenger for Fiscal Year 2011 was \$8.31 compared to a budgeted amount of \$8.55 in Fiscal Year 2010. The actual net cost per enplaned passenger for Fiscal Year 2010 was \$7.04.

### **INFORMATION CONCERNING THE SIGNATORY AIRLINES**

Other than USA 3000, each Signatory Airline (or its respective parent corporation) serving the Airport is subject to the information reporting requirements of the Securities Exchange Act of 1934 and, in accordance therewith, must file reports and other information with the Securities and Exchange Commission (the "Commission"). Certain information, including financial information as of particular dates concerning each such Signatory Airline or its respective parent corporation, is disclosed in reports and statements filed with the Commission. In addition, certain non-signatory airlines may also file reports and information with the Commission. Such reports and statements can be inspected in the Public Reference Room of the Commission at 450 Fifth St., N.W., Washington, D.C. 20549. Copies of such reports and statements may be obtained from the Public Reference Section of the Commission, Washington, D.C. 20549 at prescribed rates. The Commission also maintains a website that contains reports, proxy and



information statements and other written information regarding companies that file electronically with the Commission. The address of the website is <http://www.sec.gov>. In addition, each Signatory Airline and non-signatory airline is required to file periodic reports of financial and operating statistics with the United States Department of Transportation. Such reports may be inspected at the Office of Aviation Information Management, Data Requirements and Public Reports Division, Research and Special Programs Administration, Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, and copies of such reports may be obtained from the Department of Transportation at prescribed rates.

## **INVESTMENT CONSIDERATIONS**

### **General**

The following section describes certain risk factors affecting the payment of and security for all Bonds outstanding under the Bond Resolution, including the Series 2011A Bonds. The following discussion is not meant to be an exhaustive list of the risks associated with the purchase of the Series 2011A Bonds and does not necessarily reflect the relative importance of the various risks. Potential investors are advised to consider the risks described under the following specific factors along with all other information described elsewhere or incorporated by reference in this Official Statement in evaluating the Series 2011A Bonds.

### **Uncertainties of the Airline Industry**

The County's ability to derive Net Revenues depends upon numerous factors, many of which are not subject to the control of the County or the Authority. Revenues may be affected by the ability of the Signatory Airlines, individually and collectively, to meet their respective obligations under the Use Agreements.

Since the economic deregulation of the airline industry in 1978, the industry has undergone significant changes. The financial results of the airline industry periodically have been subject to volatility and accumulation of substantial losses. Recent events have had a significant, negative impact on airline industry profitability. The slowing national and global economy, the fluctuation in the price of jet fuel and certain other global events, including military action abroad, have seriously disrupted the air transportation industry, resulting in severe financial instability in the airline industry. Numerous airlines have filed for bankruptcy protection and overall, the airline industry has continued to struggle with higher costs for fuel and depressed passenger revenue. The airlines have responded to the changing nature of the industry by instituting initiatives including but not limited to, furloughing employees, reducing flights, negotiating significant wage reductions, deferring aircraft deliveries, baggage and other service charges, streamlining operations, and improving productivity.

In 2006 and 2007, the U.S. passenger airline industry as a whole was profitable, but in 2008, as oil and aviation fuel prices increased to unprecedented levels, the industry confronted a profitability crisis. The industry responded by grounding older, less fuel-efficient aircraft, adopting fuel-saving operating practices, hedging fuel requirements, reducing scheduled seat capacity, eliminating unprofitable routes, laying off employees, reducing employee compensation, reducing other non-fuel expenses, increasing airfares, and imposing ancillary fees and charges. The U.S. passenger airlines collectively reduced domestic capacity (as measured by available seat-miles) by approximately 10% in 2008 and by a further 7% in 2009. In 2010, the U.S. airline industry regained profitability by further reducing capacity, increasing airfares, achieving record high load factors, controlling non-fuel operating expenses, and increasing ancillary revenues. In 2010, the U.S. passenger airlines collectively increased domestic seat-mile capacity approximately 3% and increased revenues approximately 15%.

The revenues of both the Airport and the airlines serving the Airport may be materially affected by many factors including, without limitation, the following: the availability and costs of aviation fuel and other necessary supplies; declining demand; national and international disasters and hostilities; service and fare competition; mergers; high fixed costs; high capital requirements; the cost and availability of financing; technological changes; the cost and availability of employees; strikes and employee disruptions; the maintenance and replacement requirements of aircraft; the availability of routes and slots at various airports; litigation liability; regulation by the federal government; environmental risks and regulations; noise abatement concerns and regulation; deregulation; federal and state bankruptcy and insolvency laws; acts of terrorism; world health concerns; availability of satisfactory travel substitution such as video conference; and other risks. Many airlines, as a result of these factors, have operated at a loss in the past and several have filed for bankruptcy, ceased operations and/or have merged with other airlines. See "INVESTMENT CONSIDERATIONS - Effect of Bankruptcy on Use Agreements" herein.

The financial strength and stability of airlines serving the Airport are key determinants of future airline traffic. In addition, individual airline decisions regarding level of service at the Airport, together with the unwillingness of certain potential passengers to fly in light of actual and potential terrorist attacks, and enhanced security measures will affect total enplanements. Accordingly, no assurance can be given as to the levels of aviation activity that will be achieved at the Airport. It is possible that any significant financial or operational difficulties incurred by any of the Signatory Airlines may, whether directly or indirectly, have an adverse impact on Revenues or Airport operations, the effect of which may be material.

There is no assurance that the Airport will continue to maintain historical operating levels in the future. The continued presence of the airlines serving the Airport, and the levels at which that service will be provided, are a function of a variety of factors.

Future airline traffic of the Airport will be affected by, among other things, the growth in the population and the economy of the primary air trade area served by the Airport and by national and international economic conditions, acts of war and terrorism, federal and state regulatory actions, airline service and routes, air fare levels, aviation fuel prices, the capacity of facilities at the Airport and the operation and capacity of the air traffic control system.

### **General Financial Condition of Certain Airlines Serving the Airport**

The Authority derives a substantial portion of its operating revenues from landing and facility rental fees. The financial strength and stability of the airlines using the Airport, together with numerous other factors, influence the level of aviation activity at the Airport and Revenues of the Authority. Since September 11, 2001, substantially all airlines have been downgraded by the rating agencies, several have restructured through Chapter 11 bankruptcy and some have ceased service altogether, and many airlines have implemented service reductions and employee layoffs in response to a reduction in passenger demand. None of the Signatory Airlines are currently involved in bankruptcy proceedings. See "- Uncertainties of the Airline Industry" above.

Neither the County nor the Authority can predict the duration or extent of reductions and disruptions in air travel or the extent of any adverse impact on Revenues, passenger enplanements, operations or the financial condition of the Airport. Any Signatory Airlines which have been through bankruptcy proceedings have remitted all material post-bankruptcy payments due to the Authority under the Use Agreements. As of the date of this Official Statement, all airlines are current on their payment obligations to the Authority. The Authority is not able to accurately predict how long any airline under bankruptcy protection will continue operating at the Airport or whether any of these airlines will liquidate or substantially restructure their operations. Additional bankruptcies, liquidations or major restructurings of other airlines could occur. Further, neither the County nor the Authority can predict or can give any assurances that the airlines serving the Airport will continue to pay or to make timely payment of their obligations under the Use Agreements.

This Official Statement does not contain financial information about any airline or about any entity other than the Airport, the Authority and the County. As a result, in making an investment decision with respect to the Series 2011A Bonds, a potential purchaser can have no assurance, based upon the information contained herein, that any entity will be capable of meeting its responsibilities or will perform as expected.

### **General Factors Affecting Airline Activity**

Numerous factors affect air traffic generally and air traffic at the Airport specifically. Demand for air travel is influenced by factors such as population, levels of disposable income, the nature, level and concentrations of industrial and commercial

activity in the service area and the price of air travel. The price of air travel is, in turn, affected by the number of airlines serving a particular airport and a particular destination, the financial condition, cost structure and hubbing strategies of the airlines serving the airport, the willingness of competing airlines to enter into an airport market, the cost of operating at an airport, the price of fuel and any operating constraints (due to capacity, environmental concerns or other related factors) limiting the frequency or timing of airport traffic within the national system or at a particular airport. In addition, the onset of war and the threat of renewed terrorist attacks may dampen air traffic. Moreover, environmental factors, including weather related factors, may adversely affect tourism in the Airport's Air Trade Area, which, in turn, may decrease air traffic at the Airport. Although the Authority has developed contingency plans that make assumptions as to the factors described above and suggest a prudent response to such events, the Authority and the County may anticipate but can never predict the occurrence of any particular event or trend that could adversely impact airline activity and/or Net Revenues.

### **Effect of Airline Industry Consolidation**

The airline industry is in the process of fundamental change. In addition to restructuring or liquidations, some airlines are considering mergers to address the current economic uncertainties. Delta and Northwest have merged and this combination created the world's largest airline represented by enplaned passenger traffic.

In October 2010 UAL Corporation, the parent company of United Airlines, Inc., completed its acquisition of Continental and changed its name to United Continental Holdings ("UCH"). Continental and United are currently operating separately, but the combined airline expects to receive a single operating certificate toward the end of 2011. While the extent of the impact of this merger on the Airport is unknown, the Authority has not received any request from either Airline to reduce the amount of utilized facilities. Continental continues to operate at the Airport pursuant to its Use Agreement. Upon issuance of a single operating certificate, it is expected that the Use Agreement with Continental will be assigned to UCH.

On September 27, 2010 Southwest announced that it had entered into an agreement to acquire AirTran Holdings, Inc., the parent corporation of AirTran subject to obtaining the approval of AirTran's shareholders and certain regulatory approvals. On May 2, 2011, Southwest announced the closing of its acquisition of AirTran Holdings, Inc. Southwest and AirTran are currently operating separately, but the combined airline expects to receive a single operating certificate in the first quarter of 2012. Both airlines continue to operate at the Airport pursuant to separate Use Agreements. Upon issuance of a single operating certificate, it is expected that the Use Agreement with AirTran will be assigned to Southwest. See "THE COUNTY, THE AUTHORITY AND THE AIRPORT - Enplaned Passengers at the Airport - Historical Enplanements by Airline" herein. Prospective purchasers of the Series 2011A Bonds are encouraged to review the information concerning the proposed acquisition that is available from the Securities and

Exchange Commission. Neither the Authority nor the Underwriters undertake any responsibility for the correctness or completeness of such information.

Southwest, AirTran and most other airlines file annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K and certain other reports and information with the Commission. Copies of the reports and other information filed with the Commission can be obtained in electronic form on the Commission website at <http://www.sec.gov/edgar.shtml>. In addition, copies of Commission records can be obtained using the following methods to contact the Office of Investor Education and Advocacy: (a) submit the online form on the Commission website, (b) send an email to [publicinfo@sec.gov](mailto:publicinfo@sec.gov), (c) send a fax to (202) 772-9295, or (d) submit a written request to U.S. Securities and Exchange Commission, Office of Investor Education and Advocacy, 100 F Street N.E., Washington, D.C. 20549-0213.

The mergers and acquisitions described above and any other mergers and acquisitions may result in a decrease in gate utilization by an airline, which decrease could be significant. It is not possible to predict the effect on gate usage as a result of potential airline consolidation at this time.

### **Economic Conditions**

Historically, the financial performance of the air transportation industry has correlated with the state of the national economy. Future increases in passenger traffic will depend largely on the ability of the U.S. to sustain growth in economic output and income. The recession that began in late 2007, combined with reduced discretionary income, has contributed to reduced airline travel demand in 2008 and 2009. Starting in September 2008 and continuing thereafter, there have been significant and dramatic changes in the financial markets. Several U.S. commercial and investment banks declared bankruptcy, were acquired by other financial institutions, combined with other financial institutions or sought huge infusions of capital. The volatility in the capital markets led the U.S. government to intervene by making funds available to certain institutions, taking over the ownership of others and assuming large amounts of troubled financial instruments in exchange for imposing greater regulation over certain institutions in order to restore consumer confidence in the nation's financial markets. The short and long term effects of these developments on the broader economy are not known at this time. There can be no assurances that such developments will not have an adverse effect on the air transportation industry.

### **Cost of Aviation Fuel**

Airline earnings are significantly affected by the price of aviation fuel. According to the ATA, fuel is the largest cost component of airline operations, and therefore an important and uncertain determinant of an air carrier's operating economics. There has

been no shortage of aviation fuel since the “fuel crisis” of 1974, but there have been significant price increases for fuel.

Any unhedged increase in the fuel prices causes an increase in airline operating costs. According to the ATA, a one-dollar per barrel increase in the price of crude oil equates to approximately \$445 million in annual additional expense for U.S. airlines. Fuel prices continue to be susceptible to, among other factors, political unrest, Organization of Petroleum Exporting Countries policy, increased demand for fuel caused by rapid growth of economies such as China and India, fuel inventory maintained by certain industries, reserves maintained by governments, currency fluctuations, disruptions to production and refining facilities and weather. In recent years, the cost of aviation fuel has been volatile in response both to political instability abroad as well as changing demand for petroleum products around the world. Oil prices reached an all-time record high of approximately \$145 barrel in July 2008, but have since declined. As of July 15, 2011, the price of a barrel of crude oil was approximately \$97. Significant fluctuations and prolonged increases in the cost of aviation fuel have adversely affected air transportation industry profitability, causing airlines to reduce capacity, fleet and personnel and to increase airfares and institute fuel, checked baggage, and other extra surcharges, all of which may decrease demand for air travel.

### **Federal Security Measures**

As a result of the September 11, 2001 terrorist attacks, the Federal Aviation and Transportation Security Act ("ATSA") was enacted on November 19, 2001. This legislation makes airport security the responsibility of the newly created Transportation Security Administration (the "TSA"). The TSA was originally made an administrative agency of the United States Department of Transportation, but was subsequently made an administrative agency within the new United States Department of Homeland Security in the Homeland Security Act of 2002 ("HSA"). Provisions of the HSA and subsequent directives issued by the TSA called for, among other things, stronger cockpit doors on commercial aircraft, an increased presence of armed federal marshals on commercial flights, establishment of 100% checked bag screening, and replacement of all passenger and baggage screeners with federal employees, who must undergo criminal history background checks and be U.S. citizens. Failed plots to attack flights with explosives in the summer of 2006, and more recently, in December 2009, have led to further changes in security screening procedures.

Airports have the option of "opting out" of using federal screeners and contracting with TSA-approved private screening companies, but most large airports including the Airport, utilize TSA screeners. Airports may now use state or local law enforcement personnel and airport employees to provide security services not related to passenger or baggage screening. Under ATSA, the federal government will pay for the new federal security screening services by charging passengers a security service fee of \$2.50 per departure or connection, not to exceed \$5.00 per one-way trip, which is collected by air

carriers and remitted to the federal government. To the extent that such fees are deemed to be insufficient by the TSA, ATSA also authorizes the imposition of an Aviation Security Infrastructure Fee on air carriers.

ATSA also mandates that certain security measures be undertaken at airports, including the Airport. Among other things, the following security measures are required: (1) screening or inspection of all individuals, goods, property, vehicles and equipment before entry into a secured area of the airport, (2) security awareness programs for airport employees, and (3) screening all checked baggage for explosives with explosives detection systems or other means or technology approved by the Undersecretary of the United States Department of Transportation, deployment of sufficient explosive detection systems for all checked baggage, and operation of a system to screen, inspect or otherwise ensure the security of all cargo to be transported in all-cargo aircraft.

In addition to the aforementioned security requirements resulting from the ATSA and subsequent legislation, the TSA has issued additional unfunded mandates by way of TSA security directives. These include: (1) transmittal to the TSA of personal information on all employees holding an airport-issued identification badge for the performance of Security Threat Assessment ("STA") and retrieval of STA results prior to issuing badges and other forms of identification, (2) performance of inspections of all vendors and vendor products entering the sterile areas of the airport, and (3) reduction of the number of airport employees authorized to escort visitors in the secured areas. Thus far, the Airport has been able to meet these requirements without significant financial or operational impact. However, the Authority expects additional unfunded security directives that may have a greater financial effect.

It is not possible to predict whether future restrictions or limitations on Airport operations will be imposed, whether future legislation or regulations will affect anticipated federal funding for capital projects for the Airport, whether additional requirements will be funded by the federal government or require funding by the County or whether such restrictions or legislation or regulations would adversely affect Revenues.

### **Effect of Bankruptcy on Use Agreements**

When a Signatory Airline seeks protection under the bankruptcy laws, such airline or its bankruptcy trustee must determine whether to assume or reject its agreements with the Authority (1) within 60 days or later, if ordered by the court, with respect to its Use Agreement or other leases of real property, or (2) prior to the confirmation of a plan of reorganization with respect to any other agreement. In the event of assumption, the Signatory Airline would be required to cure any prior defaults and to provide adequate assurance of future performance under the applicable Use Agreement or other agreements. Rejection of a Use Agreement or other agreement or executory contract would give rise to an unsecured claim of the Authority for damages, the amount of which

in the case of a Use Agreement or other agreement is limited by the Bankruptcy Code generally to the amounts unpaid prior to bankruptcy plus the greater of (a) one year of rent or (b) 15 percent of the total remaining lease payments, not to exceed three years. However, the amount ultimately received in the event of a rejection of the applicable Use Agreement or other agreement could be considerably less than the maximum amounts allowed under the Bankruptcy Code.

Additionally, during the pendency of a bankruptcy proceeding, a debtor airline may not, absent a court order, make any payments to the Authority on account of goods and services provided prior to the bankruptcy. Thus, the Authority's stream of payments from a debtor airline would be interrupted to the extent of pre-petition goods and services, including accrued rent and landing fees. See "INFORMATION CONCERNING THE SIGNATORY AIRLINES" herein.

### **Passenger Facility Charges**

No Pledge of PFCs. The Authority is not currently pledging PFCs to the payment of the Bonds. However, the Authority has historically used, on a discretionary basis, a portion of its PFCs to pay debt service on the Bonds.

Termination of PFCs. The Authority's legal authority to impose and use PFCs is subject to certain terms and conditions provided in the PFC Act, the PFC Regulations and each PFC application. If the Authority fails to comply with these requirements, the FAA may take action to terminate or to reduce the Authority's legal authority to impose or to use PFCs. Some of the events that could cause the Authority to violate these provisions are not within the Authority's control. In addition, failure to comply with the provisions of certain federal noise pollution acts may lead to termination of the Authority's authority to impose PFCs.

Amendments to PFC Act or PFC Regulations. There is no assurance that the PFC Act will not be repealed or amended or that the PFC Regulations or any PFC application will not be amended in a manner that would adversely affect the Authority's ability to collect and use PFC revenues.

Collection of the PFCs. The ability of the Authority to collect PFCs depends upon a number of factors including the operation of the Airport by the Authority, the use of the Airport by Collecting Carriers, the efficiency and ability of the Collecting Carriers to collect and remit PFCs to the Authority and the number of enplanements at the Airport. The Authority relies upon the Collecting Carriers' collection and remittance of PFCs, and both the Authority and the FAA rely upon the airlines' reports of enplanements and collection statistics. Notwithstanding provisions of the PFC Act and the FAA Regulations requiring Collecting Carriers to account for PFC collections separately and indicating that those PFC collections are to be regarded as funds held in trust by the Collecting Carriers for the beneficial interest of the public agency imposing the PFC,



recent bankruptcy decisions suggest that in a bankruptcy proceeding involving a Collecting Carrier, the PFC collections in the Collecting Carrier's custody may not be treated as trust funds and that the Authority may not be entitled to any priority over other creditors of the collecting airline to such funds.

### **Insurance Risk Factors**

The following are risk factors relating to the Policy to be issued by AGM with respect to the Insured Series 2011A Bonds:

In the event AGM is unable to make payment of principal and interest as such payments become due under the Policy, the Insured Series 2011A Bonds are payable solely from the moneys received pursuant to the Bond Resolution. In the event AGM becomes obligated to make payments with respect to the Insured Series 2011A Bonds, no assurance is given that such event will not adversely affect the market price of the Insured Series 2011A Bonds or their marketability (liquidity).

The insured long-term ratings on the Insured Series 2011A Bonds are dependent in part on the financial strength of AGM and its claims-paying ability. AGM's financial strength and claims-paying ability are predicated upon a number of factors which could change over time. No assurance is given that the long-term ratings of AGM and any Insured Series 2011A Bonds insured by AGM will not be subject to downgrade, and such event could adversely affect the market price of the Insured Series 2011A Bonds or their marketability (liquidity). See "RATINGS" herein.

The obligations of AGM are contractual obligations and in an event of default by AGM, the remedies available may be limited by applicable bankruptcy law or state law related to insolvency of insurance companies.

Neither the County, the Authority nor the Underwriters have made independent investigations into the claims-paying ability of AGM, and no assurance or representation regarding the financial strength or projected financial strength of AGM is given. Thus, when making an investment decision, potential investors should carefully consider the ability of the County to pay principal and interest on the Insured Series 2011A Bonds and the claims-paying ability of AGM, particularly over the life of the investment.

### **LITIGATION**

There is no litigation pending or threatened against the County or the Authority relating to the Airport or the Pledged Funds other than various legal proceedings (pending or threatened) that may have arisen or may arise in the ordinary course of the business of the Airport and/or that do not have or will not have any material impact on the Pledged Funds or the financial condition of the Airport. Upon the delivery of the Series 2011A Bonds, the County will furnish a certificate to the effect that, among other

things, there is no litigation pending in any court seeking to restrain or enjoin the issuance or delivery of the Series 2011A Bonds, or in any way contesting the validity or enforceability of the Series 2011A Bonds or the Bond Resolution, or contesting the ability of the Authority to collect the Revenues.

## **TAX MATTERS**

In the opinion of Squire, Sanders & Dempsey (US) LLP, Bond Counsel, under existing law: (i) interest on the Series 2011A Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), except interest on any Series 2011A Bond for any period during which it is held by a "substantial user" or "related person" as those terms are used in Section 147(a) of the Code, (ii) interest on the Series 2011A Bonds is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, and (iii) the Series 2011A Bonds and the income thereon are exempt from taxation under the laws of the State of Florida, except estate taxes imposed by Chapter 198, Florida Statutes, as amended, and net income and franchise taxes imposed by Chapter 220, Florida Statutes, as amended. Bond Counsel expresses no opinion as to any other tax consequences regarding the Series 2011A Bonds.

The opinion on tax matters will be based on and will assume the accuracy of certain representations and certifications, and continuing compliance with certain covenants, of the County and the Authority contained in the transcript of proceedings and that are intended to evidence and assure the foregoing, including that the Series 2011A Bonds are and will remain obligations the interest on which is excluded from gross income for federal income tax purposes. Bond Counsel will not independently verify the accuracy of those certifications and representations or the continuing compliance with those covenants.

The opinion of Bond Counsel is based on current legal authority and covers certain matters not directly addressed by such authority. It represents Bond Counsel's legal judgment as to exclusion of interest on the Series 2011A Bonds from gross income for federal income tax purposes but is not a guaranty of that conclusion. The opinion is not binding on the Internal Revenue Service ("IRS") or any court. Bond Counsel expresses no opinion about (i) the effect of future changes in the Code and the applicable regulations under the Code or (ii) the interpretation and the enforcement of the Code or those regulations by the IRS.

The Code prescribes a number of qualifications and conditions for the interest on state and local government obligations to be and to remain excluded from gross income for federal income tax purposes, some of which require future or continued compliance after issuance of the obligations. Noncompliance with these requirements by the County or the Authority may cause loss of such status and result in the interest on the Series

2011A Bonds being included in gross income for federal income tax purposes retroactively to the date of issuance of the Series 2011A Bonds. The County and the Authority have each covenanted to take the actions required of it for the interest on the Series 2011A Bonds to be and to remain excluded from gross income for federal income tax purposes, and not to take any actions that would adversely affect that exclusion. After the date of issuance of the Series 2011A Bonds, Bond Counsel will not undertake to determine (or to so inform any person) whether any actions taken or not taken, or any events occurring or not occurring, or any other matters coming to Bond Counsel's attention, may adversely affect the exclusion from gross income for federal income tax purposes of interest on the Series 2011A Bonds or the market value of the Series 2011A Bonds.

Interest on the Series 2011A Bonds may be subject to a federal branch profits tax imposed on certain foreign corporations doing business in the United States and to a federal tax imposed on excess net passive income of certain S corporations. Under the Code, the exclusion of interest from gross income for federal income tax purposes may have certain adverse federal income tax consequences on items of income, deduction or credit for certain taxpayers, including financial institutions, certain insurance companies, recipients of Social Security and Railroad Retirement benefits, those that are deemed to incur or continue indebtedness to acquire or carry tax-exempt obligations, and individuals otherwise eligible for the earned income tax credit. The applicability and extent of these and other tax consequences will depend upon the particular tax status or other tax items of the owner of the Series 2011A Bonds. Bond Counsel will express no opinion regarding those consequences.

Payments of interest on tax-exempt obligations, including the Series 2011A Bonds, are generally subject to IRS Form 1099-INT information reporting requirements. If a Bond owner is subject to backup withholding under those requirements, then payments of interest will also be subject to backup withholding. Those requirements do not affect the exclusion of such interest from gross income for federal income tax purposes.

Legislation affecting tax-exempt obligations is regularly considered by the United States Congress and may also be considered by the State legislature. Court proceedings may also be filed the outcome of which could modify the tax treatment of obligations such as the Series 2011A Bonds. There can be no assurance that legislation enacted or proposed, or actions by a court, after the date of issuance of the Series 2011A Bonds will not have an adverse effect on the tax status of interest on the Series 2011A Bonds or the market value of the Series 2011A Bonds.

Prospective purchasers of the Series 2011A Bonds should consult their own tax advisers regarding pending or proposed federal and state tax legislation and court proceedings, and prospective purchasers of the Series 2011A Bonds at other than their original issuance at the respective prices indicated on the inside cover of this Official

Statement should also consult their own tax advisers regarding other tax considerations such as the consequences of market discount, as to all of which Bond Counsel expresses no opinion.

Bond Counsel's engagement with respect to the Series 2011A Bonds ends with the issuance of the Series 2011A Bonds, and, unless separately engaged, Bond Counsel is not obligated to defend the County, the Authority or the owners of the Series 2011A Bonds regarding the tax status of interest thereon in the event of an audit examination by the IRS. The IRS has a program to audit tax-exempt obligations to determine whether the interest thereon is includible in gross income for federal income tax purposes. If the IRS does audit the Series 2011A Bonds, under current IRS procedures, the IRS will treat the County as the taxpayer and the beneficial owners of the Series 2011A Bonds will have only limited rights, if any, to obtain and participate in judicial review of such audit. Any action of the IRS, including but not limited to selection of the Series 2011A Bonds for audit, or the course or result of such audit, or an audit of other obligations presenting similar tax issues, may affect the market value of the Series 2011A Bonds.

### **Original Issue Discount and Original Issue Premium**

Certain of the Series 2011A Bonds ("Discount Bonds") as indicated on the inside cover of this Official Statement were offered and sold to the public at an original issue discount ("OID"). OID is the excess of the stated redemption price at maturity (the principal amount) over the "issue price" of a Discount Bond. The issue price of a Discount Bond is the initial offering price to the public (other than to bond houses, brokers or similar persons acting in the capacity of underwriters or wholesalers) at which a substantial amount of the Discount Bonds of the same maturity is sold pursuant to that offering. For federal income tax purposes, OID accrues to the owner of a Discount Bond over the period to maturity based on the constant yield method, compounded semiannually (or over a shorter permitted compounding interval selected by the owner). The portion of OID that accrues during the period of ownership of a Discount Bond (i) is interest excluded from the owner's gross income for federal income tax purposes to the same extent, and subject to the same considerations discussed above, as other interest on the Series 2011A Bonds, and (ii) is added to the owner's tax basis for purposes of determining gain or loss on the maturity, redemption, prior sale or other disposition of that Discount Bond. A purchaser of a Discount Bond in the initial public offering at the price for that Discount Bond stated on the cover of this Official Statement who holds that Discount Bond to maturity will realize no gain or loss upon the retirement of that Discount Bond.

Certain of the Series 2011A Bonds ("Premium Bonds") as indicated on the inside cover of this Official Statement were offered and sold to the public at a price in excess of their stated redemption price (the principal amount) at maturity. That excess constitutes bond premium. For federal income tax purposes, bond premium is amortized over the period to maturity of a Premium Bond, based on the yield to maturity of that Premium

Bond (or, in the case of a Premium Bond callable prior to its stated maturity, the amortization period and yield may be required to be determined on the basis of an earlier call date that results in the lowest yield on that Premium Bond), compounded semiannually. No portion of that bond premium is deductible by the owner of a Premium Bond. For purposes of determining the owner's gain or loss on the sale, redemption (including redemption at maturity) or other disposition of a Premium Bond, the owner's tax basis in the Premium Bond is reduced by the amount of bond premium that is amortized during the period of ownership. As a result, an owner may realize taxable gain for federal income tax purposes from the sale or other disposition of a Premium Bond for an amount equal to or less than the amount paid by the owner for that Premium Bond. A purchaser of a Premium Bond in the initial public offering at the price for that Premium Bond stated on the cover of this Official Statement who holds that Premium Bond to maturity (or, in the case of a callable Premium Bond, to its earlier call date that results in the lowest yield on that Premium Bond) will realize no gain or loss upon the retirement of that Premium Bond.

***Owners of Discount and Premium Bonds should consult their own tax advisers as to the determination for federal income tax purposes of the amount of OID or bond premium properly accruable or amortizable in any period with respect to the Discount or Premium Bonds and as to other federal tax consequences and the treatment of OID and bond premium for purposes of state and local taxes on, or based on, income.***

## **CERTAIN LEGAL MATTERS**

Legal matters incident to the issuance of the Series 2011A Bonds and with regard to the tax-exempt status of the interest of the Series 2011A Bonds are subject to receipt of the opinion of Squire, Sanders & Dempsey (US) LLP, Bond Counsel, whose services have been retained by the County. Such legal opinion expresses no opinion as to the accuracy, completeness or fairness of any statement in this Official Statement or the appendices hereto or in any other report, financial information, offering or disclosure document or other information pertaining to the County or the Series 2011A Bonds that may be prepared or made available by the County or others to the purchasers or holders of the Series 2011A Bonds or other parties. The signed legal opinion, substantially in the form attached hereto as Appendix E, dated and premised on law in effect as of the date of issuance, will be delivered on the date of issuance of the Series 2011A Bonds.

Certain legal matters will be passed on for the County and the Authority by Michael D. Hunt, Esquire, County Attorney. Certain legal matters will be passed on for the County on by Nabors, Giblin & Nickerson, P.A., Tampa, Florida, Disclosure Counsel. Certain legal matters will be passed on for the Underwriters by Greenberg Traurig, P.A., West Palm Beach, Florida, Counsel to the Underwriters.

## **VERIFICATION OF MATHEMATICAL COMPUTATIONS**

The arithmetical accuracy of the mathematical computations supporting the adequacy of the amounts deposited in the Escrow Fund, with the Escrow Agent, to pay when due, the Refunding Requirements as described herein has been verified by Robert Thomas, CPA, LLC, Shawnee Mission, Kansas, independent public accountants, as a condition of the delivery of the Series 2011A Bonds.

## **UNDERWRITING**

Citigroup Global Markets Inc. and Raymond James & Associates, Inc. (collectively, the "Underwriters") have agreed to purchase all, but not less than all, of the Series 2011A Bonds subject to certain conditions set forth in the Bond Purchase Agreement with the County. The Bond Purchase Agreement provides that the obligation of the Underwriters to accept delivery of and pay for the Series 2011A Bonds is subject to various conditions of the Bond Purchase Agreement, including the approval of certain legal matters by Bond Counsel. The Underwriters have agreed to purchase the Series 2011A Bonds for a price of \$174,384,079.87 (which includes par amount of the Series 2011A Bonds of \$174,450,000.00, plus net original issue premium of \$944,076.60 and less an underwriters' discount of \$1,009,996.73).

The prices and other terms respecting the offering and sale of the Series 2011A Bonds may be changed from time to time by the Underwriters after such Series 2011A Bonds are released for sale, and the Series 2011A Bonds may be offered and sold at prices other than the initial offering prices, including sales to dealers who may sell such Series 2011A Bonds into investment accounts.

Citigroup Inc., parent company of Citigroup Global Markets Inc., one of the Underwriters of the Series 2011A Bonds, has entered into a retail brokerage joint venture with Morgan Stanley. As part of the joint venture, Citigroup Global Markets Inc. will distribute municipal securities to retail investors through the financial advisor network of a new broker-dealer, Morgan Stanley Smith Barney LLC. This distribution arrangement became effective on June 1, 2009. As part of this arrangement, Citigroup Global Markets Inc. will compensate Morgan Stanley Smith Barney LLC for its selling efforts with respect to the Series 2011A Bonds.

## **CONTINUING DISCLOSURE**

The County has covenanted for the benefit of the holders of Series 2011A Bonds to provide certain financial information and operating data relating to the Airport and the Series 2011A Bonds in each year (the "Annual Report"), and to provide notices of the occurrence of certain enumerated material events. Such covenant shall only apply so long as the Series 2011A Bonds remain outstanding under the Bond Resolution. The

covenant shall also cease upon the termination of the continuing disclosure requirements of S.E.C. Rule 15c2-12(b)(5) (the "Rule") by legislative, judicial or administration action. The Annual Report will be filed by the County with the Municipal Securities Rulemaking Board (the "MSRB") via its Electronic Municipal Market Access ("EMMA") system described in the form of the Continuing Disclosure Certificate attached hereto as Appendix F. The notices of material events will be filed by the County with the MSRB. The specific nature of the information to be contained in the Annual Report and the notices of material events are described in "FORM OF CONTINUING DISCLOSURE CERTIFICATE," included as Appendix F herein, which shall be executed by the County at the time of issuance of the Series 2011A Bonds. Failure of the County to comply with the provisions of the Continuing Disclosure Certificate shall not constitute an Event of Default under the Bond Resolution. It is the position of the County that the sole and exclusive remedy of any holder of Series 2011A Bonds for enforcement of the provisions of the Continuing Disclosure Certificate shall be an action of mandamus or specific performance to cause the County to comply with its obligations thereunder. These covenants have been made in order to assist the Underwriters in complying with the Rule.

With respect to the Series 2011A Bonds, no party other than the County is obligated to provide, nor is expected to provide, any continuing disclosure information with respect to the aforementioned Rule. To date, the County has complied with all prior continuing disclosure undertakings with respect to the Rule.

### **FINANCIAL ADVISOR**

The Authority has engaged Public Financial Management, Inc. as Financial Advisor (the "Financial Advisor") in connection with the authorization, issuance and sale of the Series 2011A Bonds. Under the terms of its engagement, the Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or to assume responsibility of the accuracy, completeness or fairness of the information contained in this Official Statement.

### **FINANCIAL STATEMENTS**

Florida law requires that an annual audit of all County accounts and records be completed within one year following the end of each Fiscal Year, by an independent certified public accountant retained by the County and paid from its public funds. The component unit financial statements of the Authority for the Fiscal Years ended September 30, 2010 and 2009, appearing in Appendix B herein have been audited by independent certified public accountants, as stated in a report which appears in Appendix B herein. Such financial statements, including the auditor's report, have been included in this Official Statement as public documents and consent from the County's

auditor was not requested. The auditor has not performed any services relating to, and is therefor not associated with, the issuance of the Series 2011A Bonds.

## **RATINGS**

Fitch Ratings, Inc. ("Fitch"), Moody's Investors Service ("Moody's") and Standard & Poor's Ratings Service, a Division of the McGraw-Hill Companies, Inc. ("S&P"), have assigned the Series 2011A Bonds underlying ratings of "A" (stable outlook), "A2" (negative outlook) and "A-" (stable outlook), respectively. Additionally, Moody's and S&P are expected to assign the Insured Series 2011A Bonds ratings of "Aa3" (negative outlook) and "AA+" (negative outlook), respectively, with the understanding that upon issuance of the Insured Series 2011A Bonds, AGM will issue the Policy guaranteeing the scheduled principal and interest on the Insured Series 2011A Bonds when due. See "BOND INSURANCE" herein.

No application was made to any other rating agency for the purpose of obtaining an additional rating on the Series 2011A Bonds. A rating reflects only the views of the rating agency assigning such rating and an explanation of the significance of such rating may be obtained from such rating agency. An explanation of the rating given by Fitch may be obtained from Fitch at One State Street Plaza, New York, New York 10004, (212) 908-0500. An explanation of the ratings given by Moody's may be obtained from Moody's at Moody's at 7 World Trade Center, 250 Greenwich Street, 23rd Floor, New York, New York 10007, (212) 553-0300. An explanation of the ratings given by S&P may be obtained from S&P at 55 Water Street, New York, New York 10041, (212) 438-2124. The County and the Authority have furnished to the rating agencies certain information and materials relating to the Series 2011A Bonds and the Airport. There is no assurance that any rating will continue for any given period of time, or that any rating will not be revised downward or withdrawn entirely by a rating agency if, in its judgment, circumstances so warrant. Any such downward revision or withdrawal of any such rating may have an adverse effect on the market price of the Series 2011A Bonds.

## **CONTINGENT FEES**

The County has retained Bond Counsel, Disclosure Counsel, the Financial Advisor, the Underwriters (who in turn retained Underwriters' Counsel) and the Paying Agent with respect to the authorization, sale, execution and delivery of the Series 2011A Bonds. Payment of each fee of such professionals is each contingent upon the issuance of the Series 2011A Bonds.



## **DISCLOSURE PURSUANT TO SECTION 517.051, FLORIDA STATUTES**

Pursuant to Section 517.051, Florida Statutes, no person may directly or indirectly offer or sell securities of the County except by an offering circular containing full and fair disclosure of all defaults as to principal or interest on its obligations since December 31, 1975, as provided by rule of the Florida Department of Banking and Finance (the "Banking and Finance Department"). Pursuant to Rule 3E-400.003, Florida Administrative Code, the Banking and Finance Department has required the disclosure of the amounts and types of defaults, any legal proceedings resulting from such defaults, whether a trustee or receiver has been appointed over the assets of the County, and certain additional information, unless the County believes in good faith that such information would not be considered material by a reasonable investor. The County is not aware of any default which would be considered material by a reasonable investor.

## **MISCELLANEOUS**

The summaries or descriptions in this Official Statement of provisions of various documents and all references to other materials not purporting to be quoted in full are only brief outlines of such provisions and do not constitute complete statements of such documents. Reference is made to the complete documents relating to such matters for further information. Copies of documents may be obtained from the Lee County Port Authority, Southwest Florida International Airport, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida 33913-8899.

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## **AUTHORIZATION**

The delivery of this Official Statement has been duly authorized by the Board. At the time of delivery of the Series 2011A Bonds, the Chair of the Board and the Executive Director of Southwest Florida International Airport will furnish a certificate to the effect that neither has any knowledge or reason to believe that this Official Statement (excluding the information related to the DTC and its book-entry only system, as to all of which no view will be expressed), as of its date and as of the date of delivery of the Series 2011A Bonds, contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made herein, in light of the circumstances under which they are made, not misleading.

### **LEE COUNTY, FLORIDA**

By: /s/ Frank Mann  
Chair of the Board of County  
Commissioners, Lee County, Florida

By: /s/ Robert M. Ball, A.A.E.  
Executive Director, Lee County Port  
Authority

## **APPENDIX A**

### **GENERAL INFORMATION REGARDING LEE COUNTY, FLORIDA**

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## **APPENDIX A**

### **ECONOMIC AND DEMOGRAPHIC INFORMATION RELATING TO LEE COUNTY, FLORIDA**

#### **INTRODUCTION**

Lee County, Florida (the "County") was founded in 1887 and named in honor of General Robert E. Lee. The County, located on the Gulf coast of Florida, encompasses approximately 811 square miles including several small islands in the Gulf of Mexico. The County is bordered by Charlotte County to the north, Hendry County to the east and Collier County to the south. Three incorporated municipalities are located on the mainland: Fort Myers (the County seat), Bonita Springs and Cape Coral; Fort Myers Beach, a fourth municipality, is located on Estero Island and a fifth municipality, Sanibel, is situated on the island of the same name. The unincorporated communities include Lehigh Acres, Estero, North Fort Myers, Tice, Alva, Pine Island, Matlacha and Captiva Island.

The following table shows the number of square miles within each incorporated municipality and the County:

<u>Land Area</u>	<u>Square Miles</u>
Fort Myers	21.4
Cape Coral	113.6
Sanibel	14.2
Fort Myers Beach	2.7
Bonita Springs	33.0
Unincorporated Area	<u>626.4</u>
Lee County Total	<u>811.3</u>

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Source: Lee County Budget Services.

Lee County's climate can be classified as subtropical with temperatures averaging from 64 degrees Fahrenheit in January to 82 degrees Fahrenheit in August.

#### **POPULATION**

The County is coterminous with the Fort Myers - Cape Coral Metropolitan Statistical Area ("MSA"). The U.S. Department of Commerce, Bureau of the Census has determined it to be the third fastest growing MSA from 2001 to 2010. The County's population has increased from 335,113 in 1990 to 440,888 in 2000, an increase of 31.56%. This compares to a 23.53% increase for Florida and a 14.47% increase for the

nation. The 2010 Census population for Lee County was 618,754 representing a 40.34% increase over 2000. This growth compares to a 17.63% population increase for Florida between 2000 and 2010 and a 9.71% population gain for the United States between 2000 and 2010.

**Population  
Lee County, Florida and the United States  
1980, 1990, 2000 and 2001-2010**

<u>Year</u>	<u>Lee County</u>	<u>Florida</u>	<u>United States</u>
1980	205,266	9,746,324	226,545,805
1990	335,113	12,938,071	245,845,816
2000	440,888	15,982,824	281,421,906
2001	454,918	16,330,224	285,039,803
2002	475,073	16,674,608	287,726,647
2003	495,088	17,071,508	290,210,914
2004	521,253	17,516,732	292,892,127
2005	549,442	17,918,227	295,560,549
2006	585,608	18,349,132	298,362,973
2007	615,741	18,680,367	301,290,332
2008	623,725	18,807,219	304,059,724
2009	615,124	18,537,969	307,006,550
2010	618,754	18,801,310	308,745,538

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Source: 1980, 1990, 2000 and 2010: U.S. Department of Commerce, Bureau of the Census; 2001-2009: Florida Research and Economic Database.

**Percentage Change in Population Growth  
Lee County, Florida and the United States**

<u>Year/Period</u>	<u>Lee County</u>	<u>Florida</u>	<u>United States</u>
1960-1970	92.9%	37.2%	13.4%
1970-1980	95.1	43.4	11.4
1980-1990	63.3	32.8	9.8
1990-2000	31.6	23.5	13.2
2000-2010	40.3	17.6	9.7

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Sources: U.S. Department of Commerce, Bureau of the Census; University of Florida, Bureau of Economic and Business Research, *Population Projects for Florida and its Counties*.

The table below shows the population for the County for 2001 through 2010 estimated by the University of Florida, Bureau of Economic & Business Research, Florida Demographic and Forecasting Conference.

**Population Growth  
Lee County, Florida  
2001-2010**

<u>Year</u>	<u>Estimated Population</u>	<u>% Annual Growth</u>
2001	454,918	3.2%
2002	475,073	4.4
2003	495,088	4.2
2004	521,253	5.3
2005	549,442	5.4
2006	585,608	6.6
2007	615,741	5.1
2008	623,725	1.3
2009	615,124	(1.4)
2010	618,754	0.6

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Source: Florida Research and Economic Database.

The change in distribution of Lee County's population over the past three decades is concentrated in two age groups, 17 and under and 65 and over. The percentage of people age 65 and over comprised 22.3% of the County's total population in 1980 and 23.6% in 2010. The percentage of persons in the 17 years and under age group increased from 17.5% in 1980 to 20.4% in 2008.

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Source: University of Florida, Bureau of Economic and Business Research, *2010 Florida Estimates of Population*.

## **EMPLOYEE RELATIONS<sup>1</sup>**

### **Labor Relations**

The Constitution of the State of Florida gives employees the right to bargain collectively. Currently, the County has three collective bargaining units, one for the Lee County Port Authority and two for Lee County Emergency Medical Services.

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<sup>1</sup>The information contained under this heading has been taken from the notes to the Lee County, Florida Comprehensive Annual Financial Report for Year Ended September 30, 2010.

## **Florida Retirement System**

As is the case with many local governments in Florida, the County participates in the Florida Retirement System (the "FRS"), a cost sharing, multiple-employer public employee retirement system, which covers substantially all of the full-time and part-time employees. The employees of the Lee County Port Authority constitute County employees with regard to the FRS, health care and other post-employment benefit plans. Until July 1, 2011, the FRS was noncontributory by employees; however, as more particularly described in the following paragraphs, employees are now required to contribute 3% of their gross compensation toward their retirement. FRS is administered by the State of Florida. Benefits under the plan vest after six years of service. Employees who retire at or after age 62 (age 55 for special risk employment categories) or 30 years of service (25 years for special risk employment categories), with six years credited of service, are entitled to an annual retirement benefit, payable monthly for life. The FRS also provides for early retirement at reduced benefits and death and disability benefits. These benefit provisions and all other requirements are established by Chapters 112 and 121, Florida Statutes.

During its 2011 regular session, the State Legislature adopted legislation that makes significant changes to the FRS with respect to employee contributions and employer contributions, among other items. Effective July 1, 2011, all members of the FRS are required to contribute 3% of their gross compensation toward their retirement. In addition, the legislation reduces the required employer contribution rates for each membership class and subclass of the FRS. For Fiscal Year 2009-10, contribution rates ranged from 10.77% to 23.25% of annual covered payroll. Under the adopted legislation, employer contribution rates range from 4.91% to 14.10% of annual covered payroll. Additionally, the bill eliminates the cost of living adjustment for all FRS employees for service earned on or after July 1, 2011, although the bill does contemplate reinstatement of the adjustment in 2016 under certain conditions. On June 20, 2011, the Florida Education Association, a teachers union, announced it has filed a class action lawsuit challenging the constitutionality of such legislative changes with respect to existing employees. The suit alleges the legislation unlawfully impairs state employee contracts, constitutes a taking of private property without full compensation and violates government workers constitutional right to collective bargaining. At present, the outcome of such lawsuit cannot be determined.

The other changes to the FRS contained in the legislation only apply to employees who are initially enrolled in the FRS on or after July 1, 2011. For personnel entering the FRS on and after July 1, 2011, the following changes apply: the average final compensation upon which retirement benefits are calculated will be based on the eight highest (formerly five highest) fiscal years of compensation prior to retirement, the Deferred Retirement Option Plan (DROP) is maintained but the interest accrual rate will be reduced from 6.5% to 1.3%, the normal retirement age is increased from 62 to 65 and



the years of creditable service is increased from 30 to 33 and the vesting period is increased to eight years (formerly six).

For fiscal years ended September 30, 2008, 2009 and 2010, the County contributed 100 percent of the required contributions. These contributions aggregated \$35 million, \$34 million and \$34 million, respectively, which represents thirteen percent of covered payroll for each such fiscal year.

A copy of the FRS's June 30, 2010 annual report can be obtained by writing to the Division of Retirement, P.O. Box 9000, Tallahassee, Florida 32315-9000, or by phoning (850) 488-5706.

### **Other Postemployment Benefit Plans**

The County maintains two single-employer, defined benefit other postemployment benefit plans ("OPEB"), the Group Health Program for the County, and the County Sheriff Health Care Plan.

### **Plan Description**

#### *Group Health Program for the Lee County*

The Group Health Program for Lee County ("GHPLC") provides medical, dental, vision and life insurance benefits to eligible County retirees and their spouses. All the Constitutional Officers, except the County Sheriff, participate in GHPLC, which is a self-funded insurance plan that is administered by Aetna. The Governing Body has the authority to establish and amend the benefit provisions of the plan in accordance with Chapter 110.123, Florida Statutes.

#### *Lee County Sheriff Health Care Plan*

The Lee County Sheriff's Office ("LCSO") operates a separate health care plan. Lee County Sheriff Health Care Plan ("LCSHCP") offers health, dental, and vision coverage to eligible LCSO retirees and their spouses. The plan also allows retirees the option to continue to participate in the LCSHCP life insurance policy. The life insurance is only available to the retiree, and has a face value of \$5,000. The LCSHCP is a single-employer plan and is administered by Self Insured Benefit Administrator. Authority to establish and amend the benefit provisions of the plan is in accordance with Chapter 110.123, Florida Statutes.

## **Funding Policy**

### **Group Health Program for Lee County**

The contribution requirements of the plan members are established and may be amended by the Board of County Commissioners and the Constitutional Officers. The County subsidizes 50 percent of the monthly medical premiums and 100 percent of Medicare Part B premiums for the retiree and their spouse. The monthly Medicare Part B premiums were \$96. However, this policy was modified on January 1, 2008; therefore, the Governing Body does not currently subsidize any portion of the medical or Medicare premiums for the employees hired after that date, that is expected to reduce the County's future liability. The Clerk does not subsidize any contribution rates. Vision and dental insurance are offered to retirees; however, they are not subsidized by the County. The plan also allows retirees the option to continue to participate in the GHPLC life insurance policy. The life insurance is only available to the retiree, and has a face value of \$5,000.

An irrevocable trust has been established with the International City/County Management Association Retirement Corporation and a payment of \$42,594,000 was made in December, 2008. Currently, there is no formal plan established for future contributions to the trust; however, the County intends to request that allowable payments be made from the trust commencing October 1, 2011. The County has not made an additional payment to the irrevocable trust and continues to fund the plan on a pay-as-you-go basis.

### **Lee County Sheriff Health Care Plan**

Chapter 74.522, Laws of Florida, as amended by Chapter 99.434, and 2003.329, Laws of Florida, establishes the contribution requirements of the plan members. The current published monthly rates for Health Care coverage are \$696 for single and \$1,311 for retiree and spouse. An \$80 discount is applied for plan members enrolled in Medicare Part B. The LCSO subsidizes a percentage of the monthly major medical and hospitalization insurance based on the number of years of service credited to the Florida Retirement System (FRS) before retirement. Vision and dental insurance are offered to retirees; however, they are not subsidized by LCSO.

The retiree contribution rate for the life insurance policy is \$0.95 per month. The plan is funded on a pay-as-you-go basis.

## **Annual OPEB Cost and Net OPEB Obligation**

The OPEB cost (expense) is calculated based on the Annual Required Contribution ("ARC") of the employer, an amount actuarially determined in accordance with the parameters of GASB 45. The ARC represents a level funding that, if paid on an ongoing basis, is projected to cover normal cost each year and amortize any unfunded

actuarial liabilities (or funding excess) over 30 years. The current ARC rate as a percentage of annual covered payroll is 13 percent and 24 percent for GHPLC and LCSHCP.

The annual OPEB cost, the percentage of annual OPEB cost contributed to the plan, and the net OPEB obligation for fiscal year 2010 and the two preceding years were as follows:

	<u>Year Ended</u>	<u>Annual OPEB Cost</u>	<u>Percent of OPEB Cost Contributed</u>	<u>Net OPEB Obligation</u>
GHPLC	09/30/2010	\$20,446,000	18.5%	\$29,543,000
	09/30/2009	23,389,000	193.5%	12,883,000
	09/30/2008	26,269,000	9.3%	34,757,000
LCSHCP	09/30/2010	\$16,354,000	18.7%	\$48,220,000
	09/30/2009	15,377,000	18.4%	34,922,000
	09/30/2008	13,048,000	9.0%	22,374,000

*Funding Status and Funding Progress*

The funded status of the plans was as follows:

	<u>GHPLC As of 09/30/10</u>	<u>LCSHCP As of 09/30/10</u>
Actuarial accrued liability (a)	\$258,814,000	\$170,587,000
Actuarial value of plan assets (b)	<u>42,664,000</u>	<u>0</u>
Unfunded actuarial accrued liability (funding excess) (a)-(b)	\$216,150,000	\$170,587,000
Funded ratio (b)/(a)	16.5%	0.0%
Covered payroll (c)	\$159,353,000	\$67,792,000
Unfunded actuarial accrued liability (funding excess) as a percentage of covered payroll ((a)-(b))/(c)	135.6%	251.6%

The ARC that has been allocated to the Port Authority by the County for each of the following Fiscal Years, are as follows:

<u>2009/10</u>	<u>2008/09</u>	<u>2007/08</u>	<u>2006/07</u>
\$1,695,495	\$3,522,346	\$2,331,004	\$1,070,337

Actuarial valuations of an ongoing plan involve estimates of the value of reported amounts and assumptions about the probability of occurrence of events far into the future.

Examples include assumptions about future employment, mortality, and the healthcare cost trend. Amounts determined regarding the funded status of the plan and the annual required contributions of the employer are subject to continual revision as actual results are compared with past expectations and new estimates are made about the future. The schedule of funding progress, presented as required supplementary information following the notes to the financial statements, presents multiyear trend information that shows whether the actuarial value of plan assets is increasing or decreasing over time relative to the actuarial accrued liabilities for benefits.

## **THE ECONOMY**

### **Labor Force, Employment and Unemployment**

The annual average labor force of the County has increased steadily from 155,135 in 1990 to 277,583 in 2010, a gain of 78.9%. The tables below show unemployment rates for Lee County, the State of Florida and the United States from 2001 to May, 2011 and annual average employment by major industry group.

#### **Unemployment Rates Lee County, Florida and the United States 2001-2011**

<u>Fiscal Year</u>	<u>County</u>	<u>State</u>	<u>United States</u>
2001	3.7	4.7	4.7
2002	4.8	5.7	5.8
2003	4.6	5.3	6.0
2004	4.0	4.7	5.5
2005	3.2	3.8	5.1
2006	2.9	3.3	4.6
2007	4.5	4.0	4.6
2008	8.0	6.2	5.8
2009	11.9	10.2	9.3
2010	12.8	11.5	9.6
2011*	10.8	10.5	8.7

\*As of May, 2011.

Source: Florida Research and Economic Database.

**Average Monthly Employment Covered by Unemployment Compensation  
2008-2009**

	<u>Average Annual Employment</u>	
	<u>2008</u>	<u>2009*</u>
All Industries	173,204	159,281
Agriculture, Forestry, Fishing and Hunting	1,143	1,449
Mining	153	101
Utilities	866	829
Construction	23,826	17,752
Manufacturing	5,202	4,265
Wholesale Trade	6,070	5,608
Retail Trade	34,919	31,720
Transportation and Warehousing	2,802	2,487
Information	3,582	3,066
Finance and Insurance	6,218	5,848
Real Estate and Rental Leasing	5,573	5,245
Professional, Scientific and Technical Services	9,666	8,591
Management Companies and Enterprises	2,521	2,408
Administration and Support	12,268	11,889
Educational Services	2,367	2,274
Health Care and Social Assistance	19,073	19,815
Arts, Entertainment and Recreation	6,068	6,171
Accommodation and Food Services	23,791	23,495
Other Services	7,005	6,264
Unclassified	92	N/A

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\*Preliminary.

Source: 2010 Florida Statistical Abstract.

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## Employers

Major employers located within Lee County together with the total number of employees employed by each are presented below. Information shown is as of September 30, 2010.

### Lee County, Florida Principal Employers

<u>Employer</u>	<u>Employees</u>	<u>Percentage of County Employment</u>
Lee Memorial Health System	9,500	3.99%
Lee County School District	9,270	3.89
Publix Super Markets	3,071	1.29
Lee County Administration	2,364	0.99
Wal-Mart Corporation	1,967	0.83
Lee County Sheriff's Office	1,585	0.67
City of Cape Coral	1,409	0.59
Chico's FAS, Inc.	1,388	0.58
Target	1,100	0.46
Florida Gulf Coast University	993	0.42
U.S. Postal Service	749	0.31
WCI Communities	276	0.12
Bonita Bay Group	<u>273</u>	<u>0.11</u>
Total	<u>33,945</u>	<u>14.25%</u>

Source: Lee County, Florida Comprehensive Annual Financial Report for Year Ended September 30, 2010.

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**Lee County, Florida**  
**Earned Income by Industry Classification**  
**(in thousands)**  
**2007-2008**

<u>Industry*</u>	<u>2007</u>	<u>2008</u>
Forestry & Fishing	\$17,168	\$21,357
Mining	22,438	12,563
Utilities	72,144	78,709
Construction	1,915,856	1,530,058
Manufacturing	383,773	292,959
Wholesale Trade	560,482	487,452
Retail Trade	1,330,395	1,289,331
Transportation	170,660	174,674
Information	561,861	485,375
Finance & Insurance	528,065	504,572
Real Estate	443,973	347,905
Professional Services	826,795	788,768
Management	285,294	309,324
Administrative Services	581,466	553,818
Educational Services	109,792	127,208
Health Care	1,121,690	1,243,492
Arts	239,358	246,638
Accommodation	594,070	633,843
Other Services	<u>540,365</u>	<u>625,830</u>
Total**	<u>\$10,305,645</u>	<u>\$9,753,876</u>

\*Based on North American Industry Classification System.

\*\*Total may not add due to rounding and/or disclosure editing.

Source: 2009 and 2009 Florida Statistical Abstracts.

### **Construction**

Due to the population growth, construction activity in the County grew through 2005, but has decreased significantly since. The County's incorporated areas have paralleled the building activity trend toward multifamily housing in the incorporated region. The following table presents building permit activity in the County for 2001 through May, 2011.

**Total Building Permits  
Lee County  
2001-2011**

<u>Year</u>	Total Value Residential (000's)	<u>Number of Housekeeping Units</u>	
		<u>Single Family</u>	<u>Multi- Family</u>
2001	\$1,463,757	6,535	4,423
2002	1,459,695	7,149	3,997
2003	1,994,696	9,668	6,007
2004	3,035,891	14,958	5,437
2005	4,762,930	22,211	7,119
2006	3,732,955	14,700	4,046
2007	1,351,716	4,356	1,549
2008	404,544	1,216	386
2009	230,097	906	38
2010	239,578	1,175	101
2011*	23,358	125	0

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\*May, 2011.

Source: University of Florida, Bureau of Economic and Business Research,  
*Building Permit Activity in Florida*.

## EDUCATION

During the 2009-10 fiscal year, the County School System operated 94 schools, comprised of 48 elementary schools, 16 middle schools, 13 high schools, 17 special schools/programs and 3 vocational schools. For fiscal year 2009-10, the District included 80,483 full-time equivalent students and there are 8,639 full- and part-time employees, including 4,908 classroom instructors. In addition, the District sponsored 16 charter schools that are component units of the District and sponsored one additional charter school during the 2010-11 fiscal year. The charter schools are separate not-for-profit corporations organized and operated under Section 1002.33, Florida Statutes. Management of the District is independent of the County and local governments within the County. The County Tax Collector collects ad valorem taxes for the District, but exercises no control over expenditures by the district.

Two colleges service Southwest Florida's population. Edison Community College, a two-year undergraduate school, offers a variety of credit, non-credit and continuing education programs. Florida Gulf Coast University offers both bachelor and graduate degrees for upper division students. There are several satellite facilities that offer Associates and Certifications as well as Bachelors, Masters and Ph.Ds. These



facilities include Barry University, Hodges University, Nova University, Walden University, Florida Southern College and Southwest Florida College.

## **TRANSPORTATION**

### **Highways**

Interstate 75 is presently the principal north-south highway. It is a four-lane road stretching from the Canadian border at Sault Ste. Marie, Michigan to Miami, Florida, on the east coast of Florida. U.S. Highway 41, also a north-south highway, is a limited-access four-lane road for most of the distance between Bradenton to the north and Naples to the south, connecting the Fort Myers SMSA with Tampa to the north and Miami via the route of the Tamiami Trail. State Road 80 connects with U.S. Highway 27 in the central part of the State, providing additional access to the Orlando/central Florida area and the east coast from Palm Beach, north.

### **Bus Service**

Greyhound Bus Lines with a terminal in Fort Myers offers daily scheduled service for nationwide thru-line and charter service. Local bus service is provided by Lee Tran, a transit system operated by the County.

### **Truck Line**

Approximately thirty (30) interstate and intrastate truck lines serve Lee County.

### **Rail Transportation**

Rail transportation, for both freight and passenger excursions, is provided by Seminole Gulf Railway. The rail line is approximately ninety miles long and connects Lee County with the national rail system in Arcadia. Seminole Gulf provides connecting truck distribution services to off-rail system accounts.

### **Water Transportation**

Florida's fifth largest deep water port is located at Boca Grande on Charlotte Harbor in the northeast section of the County. The port is 32 feet deep and approximately 300 feet in width. The Okeechobee Waterway provides a navigable link between the Gulf of Mexico and the Atlantic Ocean via the Caloosahatchee River, Lake Okeechobee and the St. Lucie Canal.

## **HEALTH CARE FACILITIES**

### **Lee Memorial Health System**

	<u>2009</u>
Physicians	1,000
Employees	9,434
Beds:	
Lee Memorial Hospital	367
Health Park Medical Center	3,660
Cape Coral Hospital	291
The Rehabilitation Hospital	60
The Children's Hospital	100
Health Park Care Center	112
Gulf Coast Medical Center	349

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Source: Lee County Economic Development Office, *2010 Demographic Profile*.

## **ELECTRIC UTILITIES**

The County has two electrical utilities serving its residents and businesses – Florida Power & Light ("FPL") and the Lee County Electric Cooperative ("LCEC"). The LCEC provides electricity to Cape Coral, Pine Island, parts of Lehigh Acres, North Fort Myers, Sanibel and Captiva. FPL serves the rest of the County, including Fort Myers, the remaining parts of Lehigh Acres, south Lee County and Bonita Springs.

## **COMMERCIAL FISHING**

Commercial fishing in Lee County is a year round operation, with shrimp fleets making their home ports in Fort Myers Beach. The varieties of seafood marketed in the County include pompano, grouper, snapper, Spanish mackerel, mullet, stone crabs and shrimp.

Because of the large number of individual operators and small fleets involved in commercial fishing, complete current statistics are not available.

According to the National Marine Fisheries Service, 43 different species of fish and shell fish are landed in substantial quantities in Lee County, which is considered one of the best fishing areas in the Southeast United States.

## **RECREATIONAL FACILITIES**

There are 52 parks, over 45 marinas, 32 golf courses that are open to the public, and several beaches located in Lee County. The County is also the spring training home for Major League Baseball's Minnesota Twins and Boston Red Sox.

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## **APPENDIX B**

### **FINANCIAL STATEMENT FOR FISCAL YEARS ENDED SEPTEMBER 30, 2010 AND 2009**

Set forth in this Appendix B are the audited component unit financial statements of the Authority. These financial statements are included in this Official Statement as a public document.

THE CONSENT OF THE AUDITOR WAS NOT REQUESTED. THE AUDITOR WAS NOT REQUESTED TO PERFORM AND HAS NOT PERFORMED ANY SERVICE IN CONNECTION WITH THE OFFERING OF THE SERIES 2011A BONDS, AND IS THEREFORE NOT ASSOCIATED WITH THE OFFERING OF THE SERIES 2011A BONDS.

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# **Lee County Port Authority**

## **Component Unit Financial Report**



**Years Ended September 30, 2010 and 2009**







# Lee County Port Authority

Lee County, Florida

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Direct Dial: (239) 590-4400

Fax: (239) 590-4533

February 10, 2011

ROBERT M. BALL, A.A.E.  
EXECUTIVE DIRECTOR

Dear Friends:

**BOARD OF  
PORT COMMISSIONERS**

BRIAN BIGELOW

TAMMY HALL

RAY JUDAH

FRANK MANN

JOHN E. MANNING

I am pleased to present the Lee County Port Authority's financial results for the fiscal year ending September 30, 2010. Despite very challenging global and local economies, we are pleased with our year-end results and continue to look for more efficient and effective ways to manage our business.

For the fiscal year, total passengers at Southwest Florida International Airport were 7,380,596, a slight decrease of 1.03 percent or 76,537 passengers when compared to the previous year. Operating expenses before depreciation were \$58.4 million, a decrease of \$4 million when compared to last year's results. The majority decreases in this category were from utilities, fuel purchases and insurance. Total revenues were \$88.3 million, an increase of \$2.3 million over last year's results. The majority of increases were in rental cars and terminal concessions.

These factors have resulted in a combined refund to the signatory airlines of \$6.9 million and a cost-per-enplaned passenger of \$7.04, which is \$0.15 less than the previous year.

Major ongoing projects in the past year included the continued conceptual design of the parallel Runway, design of the RSW Apron Expansion and the construction of the RSW Limited Site Preparation. Additionally, the airport began construction of a new Aircraft Rescue and Fire Fighting facility at RSW. The timing of starting this project was made possible through the use of airport passenger facility charges, and state and federal grants. This project is expected to be completed in fall 2011.

Notable awards in 2010 included an Environmental Achievement Award for the airport's exceptional Wildlife Management Program and Second Place in the Excellence in Marketing and Communications Awards in the promotional category for our Airline Appreciation Gift. Both of these awards were given by the Airports Council International-North America (ACI-NA). Also, the airport received four awards from the Florida Public Relations Association for various outstanding public relations programs from the prior year. Additionally, over the past year, the airport had new and expanded service to Grand Rapids, Islip, Denver, Montreal and Dusseldorf.

Turning our focus to Page Field General Aviation Airport, the construction of the terminal apron was completed and the construction of the new General Aviation Terminal commenced. The project includes a 22,000 square-foot terminal, a 24,000 square-foot hangar and fuel farm. The project is expected to be completed in the summer of 2011.

**SOUTHWEST FLORIDA INTERNATIONAL AIRPORT**

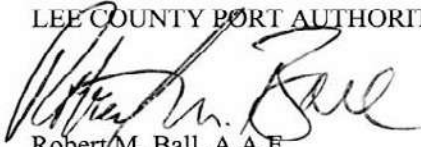
11000 Terminal Access Road, Suite 8671 • Fort Myers, Florida 33913-8213  
[www.flylcpa.com](http://www.flylcpa.com)

February 10, 2011  
Page 2

We are extremely pleased with the results of the past fiscal year and look forward to serving our customers at Southwest Florida International Airport and Page Field General Aviation Airport in the upcoming year.

Sincerely,

LEE COUNTY PORT AUTHORITY

A handwritten signature in black ink, appearing to read "Robert M. Ball", is written over the printed name.

Robert M. Ball, A.A.E  
Executive Director

RMB/cjs



**KPMG LLP**  
Suite 1700  
100 North Tampa Street  
Tampa, FL 33602-5145

## **Independent Auditor's Report**

The Board of County Commissioners  
Lee County, Florida

and

The Board of Port Commissioners of the  
Lee County Port Authority:

We have audited the accompanying basic financial statements of the Lee County Port Authority (a blended component unit of Lee County, Florida), as of and for the years ended September 30, 2010 and 2009, as listed in the table of contents. These financial statements are the responsibility of the Lee County Port Authority's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Lee County Port Authority's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Lee County Port Authority as of September 30, 2010, and the changes in its financial position and its cash flows for the years then ended in conformity with U.S. generally accepted accounting principles.

In accordance with *Government Auditing Standards*, we have also issued our report dated February 9, 2011 on our consideration of the Lee County Port Authority's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.



The management's discussion and analysis on pages 1 through 8 is not a required part of the basic financial statements but is supplementary information required by U.S. generally accepted accounting principles. We have applied certain limited procedures, which consisted principally of inquiries of management regarding the methods of measurement and presentation of the required supplementary information. However, we did not audit the information and express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the Lee County Port Authority's basic financial statements. The letter of transmittal and the supplemental schedules are presented for purposes of additional analysis and are not a required part of the basic financial statements. The letter of transmittal and the supplemental schedules have not been subjected to the auditing procedures applied in the audit of the basic financial statements and, accordingly, we express no opinion on them.

KPMG LLP

February 9, 2011  
Certified Public Accountants



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## Management's Discussion and Analysis (unaudited)

This discussion and analysis is intended to serve as an introduction to the Lee County Port Authority's (Port) financial statements for fiscal years ending September 30, 2010 and 2009. The information here should be taken in conjunction with the financial statements, footnotes and supplementary information found in this report.

### *Financial Highlights and Summary*

Table 1 reflects a summary of net assets for 2010, 2009, and 2008.

	<u>Table 1</u> Summary of Net Assets September 30, 2010, 2009 and 2008 (000's)		
	<u>2010</u>	<u>2009</u>	<u>2008</u>
Current and other assets	\$196,726	\$193,440	\$177,673
Capital Assets	<u>686,046</u>	<u>696,031</u>	<u>698,942</u>
Total assets	<u>882,772</u>	<u>889,471</u>	<u>876,615</u>
Current liabilities	33,198	33,386	35,239
Non-current liabilities	<u>356,599</u>	<u>370,965</u>	<u>372,619</u>
Total liabilities	<u>389,797</u>	<u>404,351</u>	<u>407,858</u>
Net assets:			
Invested in capital assets, net of related debt	355,435	350,005	348,639
Restricted	42,008	43,782	37,452
Unrestricted	<u>95,532</u>	<u>91,333</u>	<u>82,666</u>
Total net assets	<u>\$492,975</u>	<u>\$485,120</u>	<u>\$468,757</u>

### *Summary of Net Assets Analysis*

In 2010, total assets decreased \$6,699,000. This decrease was primarily due to a combination of an increase in cash and cash equivalents of \$5,427,000, a decrease in current investments of \$108,000, a net increase in accounts receivable of \$480,000, an increase in accumulated depreciation of \$19,385,000, an increase of \$5,002,000 in capitalized projects and a \$3,859,000 increase in construction work in progress. In 2010, total liabilities decreased \$14,554,000. This decrease was primarily due to a decrease in contracts and accounts payable of \$1,747,000, an increase in other post employment benefits (OPEB) of \$1,695,000, an increase in airlines refunds and rebates of \$3,872,000, a decrease of \$2,483,000 in other accrued liabilities, and a decrease in bonds payable (net of amortization) of \$15,380,000.

In 2009, total assets increased \$12,856,000. This increase was primarily due to an increase in cash and cash equivalents of \$1,398,000, an increase in current investments of \$20,401,000, a net decrease in accounts receivable of \$4,975,000, a decrease of \$701,000 in prepaids and a decrease in capital assets of \$2,911,000. In 2009, total liabilities decreased \$3,507,000. This decrease was primarily due to an increase in contracts and accounts payable of \$1,928,000, an increase in accrued liabilities of \$3,429,000, offset by a decrease in airlines refunds and rebates of \$1,339,000 and a decrease in bonds payable of \$8,091,000.

Lee County Port Authority  
September 30, 2010

Table 2 reflects a summary of revenues, expenses, and changes in net assets for 2010, 2009 and 2008.

Table 2 Summary of Revenues, Expenses, and Changes in Net Assets For the Years Ended September 30, 2010, 2009 and 2008 (000's)			
	<u>2010</u>	<u>2009</u>	<u>2008</u>
<i>Revenues, net:</i>			
User fees	\$47,531	\$45,515	\$48,445
Rental cars	16,581	16,831	16,567
Parking	12,289	12,057	13,673
Other, net	<u>6,533</u>	<u>9,225</u>	<u>7,811</u>
Total revenues, net	<u>82,934</u>	<u>83,628</u>	<u>86,496</u>
<i>Expenses:</i>			
Salaries, wages and benefits	30,317	31,734	29,940
Contractual services, materials and supplies, Utilities, Repairs and Maintenance	24,650	26,213	30,349
Depreciation and amortization	19,632	19,339	20,077
Other	<u>3,408</u>	<u>4,271</u>	<u>5,749</u>
Total expenses	<u>78,007</u>	<u>81,557</u>	<u>86,115</u>
Operating income	<u>4,927</u>	<u>2,071</u>	<u>381</u>
<i>Non-operating revenues (expenses):</i>			
Investment earnings	701	829	3,384
Interest expense	(21,162)	(21,782)	(22,341)
Passenger facility charges	15,156	14,942	15,478
Other revenues (expenses)	<u>439</u>	<u>408</u>	<u>493</u>
Total non-operating revenues (expenses)	<u>(4,866)</u>	<u>(5,603)</u>	<u>(2,986)</u>
Income (loss) before capital contributions	61	(3,532)	(2,605)
Capital contributions	<u>7,794</u>	<u>19,895</u>	<u>22,455</u>
Increase in net assets	7,855	16,363	19,850
Beginning net assets	<u>485,120</u>	<u>468,757</u>	<u>448,907</u>
Ending net assets	<u>\$492,975</u>	<u>\$485,120</u>	<u>\$468,757</u>

### *Summary of Revenues and Expenses Analysis*

In 2010, operating income totaled \$4,927,000, an increase of \$2,856,000, which was a combination of a decrease of \$694,000 in total net revenues and a decrease of \$3,550,000 in operating expenses. The decrease to total net revenues was primarily due to an increase of \$1,000,000 in landing fees, (due to a higher landing fee rate) an increase of \$515,000 in aviation fuel sales, (due to a higher average sales price) a decrease of \$250,000 in rental car fees (due to less activity) an increase of \$232,000 in parking lot revenue, (due to a change in the parking rates) an increase of \$201,000 in rentals (mainly due to a reclassification of cell tower rental revenue) and an increase of \$3,035,000 in airline refunds and rebates (due to the recalculation of the annual rates and charges per the airline use agreement). Operating expenses decreased \$3,550,000 in 2010, mainly due to a decrease of \$1,827,000 in



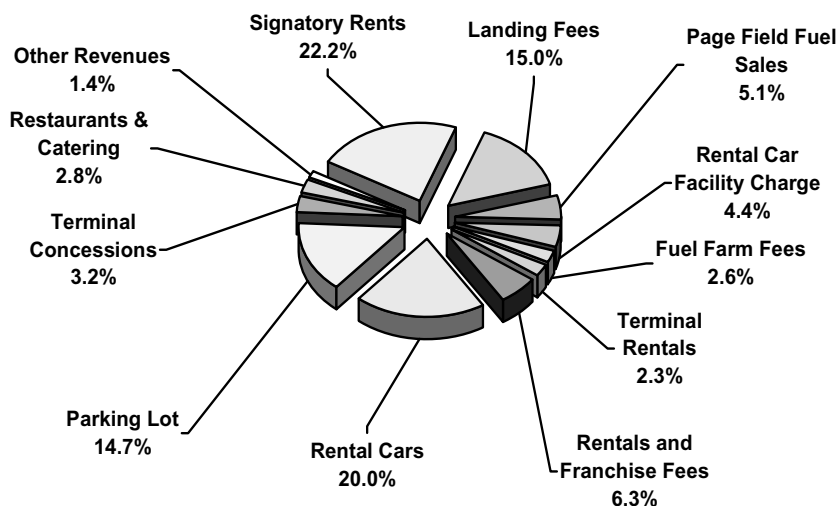
Lee County Port Authority  
September 30, 2010

OPEB, a decrease in contractual services of \$714,000 (due to decreased costs in the parking and janitorial contracts) and a decrease in utilities of \$1,159,000, (due to lower electric rates and fuel credits).

In 2009, operating income totaled \$2,071,000, an increase of \$1,690,000, which was a combination of a decrease of \$2,868,000 in total net revenues and a decrease of \$4,558,000 in operating expenses. The decrease to total net revenues was primarily due to a decrease of \$5,811,000 in signatory airline rents, an increase of \$5,237,000 in landing fees, (due to the nature of the new airline use agreement), a decrease of \$2,446,000 in aviation fuel sales, (due to less aviation fuel sold at Page Field and at a decreased cost), a decrease of \$1,616,000 in parking lot revenues, (due to less activity) and a decrease in Airline Rebates of \$1,565,000, (due to the new airline use agreement). Operating expenses decreased in 2009, mainly due to a decrease of \$4,078,000 in contractual services, (primarily due to a mid year 10% reduction in department operating budgets), a decrease of \$1,500,000 in insurance (due to the lower negotiated rates) and a \$1,794,000 increase in personnel costs (due to the Airport OPEB liability).

The following charts summarize the Net Revenues and Expense for fiscal year 2010.

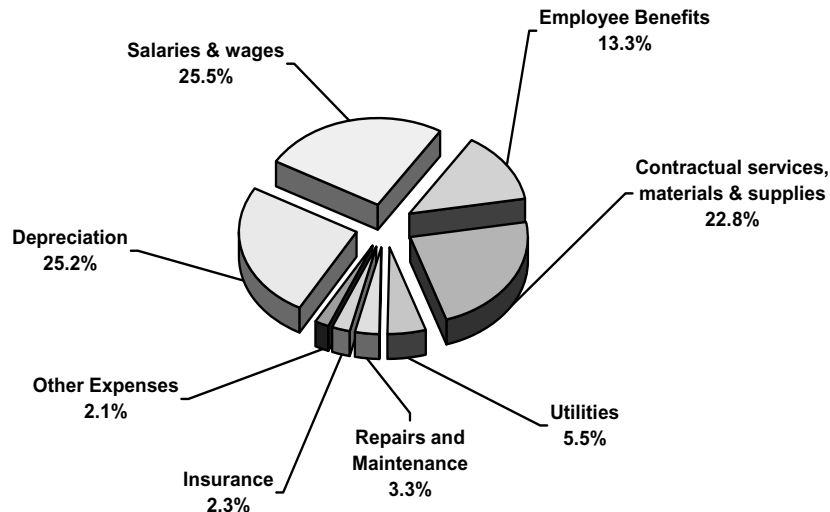
**Operating Revenues for Fiscal Year 2010**



<u>Operating Revenues</u>	<u>2010</u>	<u>2009</u>	<u>2010 Percent of Total</u>	<u>Increase/ (Decrease) from 2009</u>	<u>% Increase/ (Decrease) from 2009</u>
Signatory Rents	\$18,432,000	\$17,817,000	22.2%	\$615,000	3.5%
Landing Fees	12,430,000	11,430,000	15.0%	1,000,000	8.7%
Page Field Fuel Sales	4,254,000	3,739,000	5.1%	515,000	13.8%
Rental Car Facility Charge	3,629,000	3,670,000	4.4%	(41,000)	-1.1%
Fuel Farm Fees	2,130,000	2,129,000	2.6%	1,000	0.0%
Terminal Rentals	1,902,000	2,085,000	2.3%	(183,000)	-8.8%
Rentals & Franchise Fees	5,230,000	5,029,000	6.3%	201,000	4.0%
Rental Cars	16,581,000	16,831,000	20.0%	(250,000)	-1.5%
Parking Lot	12,228,000	12,057,000	14.7%	171,000	1.4%
Terminal Concessions	2,637,000	2,642,000	3.2%	(5,000)	-0.2%
Restaurants & Catering	2,286,000	2,282,000	2.8%	4,000	0.2%
Other Revenues	1,195,000	3,917,000	1.4%	(2,722,000)	-69.5%
<b>Total Net Operating Revenues</b>	<b>\$82,934,000</b>	<b>\$83,628,000</b>	<b>100.0%</b>	<b>(\$694,000)</b>	<b>-0.8%</b>

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**Operating Expenses for Fiscal Year 2010**



<u>Operating Expenses</u>	<u>2010</u>	<u>2009</u>	<u>2010 Percent of Total</u>	<u>Increase/ (Decrease) from 2009</u>	<u>% Increase/ (Decrease) from 2009</u>
Salaries & wages	\$19,920,000	\$19,642,000	25.5%	\$278,000	1.4%
Employee benefits	10,397,000	12,092,000	13.3%	(1,695,000)	-14.0%
Contractual services, materials & supplies	17,819,000	18,533,000	22.8%	(714,000)	-3.9%
Utilities	4,253,000	5,412,000	5.5%	(1,159,000)	-21.4%
Repairs and maintenance	2,578,000	2,268,000	3.3%	310,000	13.7%
Insurance	1,817,000	2,504,000	2.3%	(687,000)	-27.4%
Other expenses	1,591,000	1,767,000	2.1%	(176,000)	-10.0%
Depreciation	19,632,000	19,339,000	25.2%	293,000	1.5%
<b>Total Operating Expenses</b>	<b>\$78,007,000</b>	<b>\$81,557,000</b>	<b>100%</b>	<b>\$ (3,550,000)</b>	<b>-4.4%</b>

## *Capital Assets*

Capital assets decreased by \$9,985,000 in 2010. Major capital spending in 2010 included \$1,688,000 in site preparation, \$883,000 for design of a new fire station, \$2,720,000 in design of an apron and \$2,632,000 for construction of a general aviation terminal at Page Field.

Capital assets decreased by \$2,911,000 in 2009. Major capital spending in 2009 included \$1,225,000 in site preparation, \$1,669,000 in enhancements to the baggage handling system, \$2,719,000 for conceptual design of the parallel runway, \$1,724,000 for design of a new fire station and \$6,106,000 for construction of a general aviation apron.

Lee County Port Authority  
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Table 3 reflects a summary of capital assets for 2010, 2009, and 2008.

Table 3  
Capital Assets  
September 30, 2010, 2009 and 2008  
(000's)

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Land	\$142,801	\$139,808	\$139,368
Easements & Right of Ways	47	n/a	n/a
Construction in progress	23,031	19,172	11,858
Software in progress	-	-	136
Building	328,769	328,787	328,797
Improvements	17,948	17,948	17,948
Equipment	47,683	45,412	44,472
Software	2,999	2,878	2,670
Artwork	50	-	-
Infrastructure	<u>288,437</u>	<u>288,360</u>	<u>280,821</u>
Subtotal	851,765	842,365	826,070
Less accumulated depreciation and amortization	<u>(165,719)</u>	<u>(146,334)</u>	<u>(127,128)</u>
Total	<u>\$686,046</u>	<u>\$696,031</u>	<u>\$698,942</u>

Additional information regarding the Port's capital assets is found in note V to the financial statements.

### *Debt Administration*

As of September 30, 2010, the Port had \$362,012,000 in outstanding debt, a decrease of \$15,965,000. In July 2010, the Airport issued the 2010A Airport Revenue Refunding Bonds. This transaction refunded a portion of the Series 2000A Revenue Bonds.

Table 4  
Outstanding Debt  
September 30, 2010, 2009 and 2008  
(000's)

	<u>2010</u>	<u>2009</u>	<u>2008</u>
Series 1998 Passenger Facility Bonds	\$21,335	\$31,395	\$33,785
Series 2000A Airport Revenue Bonds	172,575	291,155	291,155
Series 2002 Airport Revenue Refunding Bonds	6,580	12,895	18,980
2004 Line of Credit Note	4,507	4,832	5,137
Series 2005 Airport Revenue Refunding Bonds	37,665	37,700	37,740
Series 2010A Airport Revenue Refunding Bonds	<u>119,350</u>	<u>n/a</u>	<u>n/a</u>
Total	<u>\$362,012</u>	<u>\$377,977</u>	<u>\$386,797</u>

See additional information on the Port's debt in note VI to the financial statements.

Lee County Port Authority  
September 30, 2010

## Passenger Facility Charges

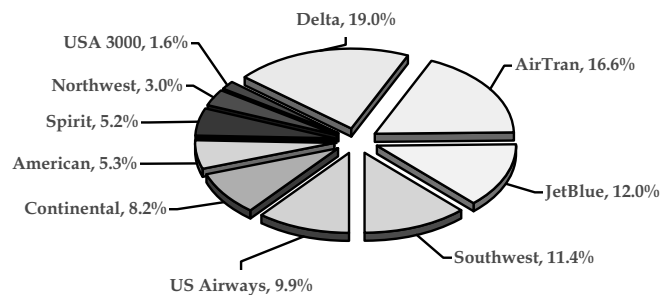
In November 1992, the Port received approval from the Federal Aviation Administration to impose a Passenger Facility Charge (PFC) of \$3.00 per eligible enplaned passenger. In 1998, the Port issued PFC Revenue Bonds for \$52,225,000 to fund eligible capital improvements and land acquisition. In November 2003, the Port was granted authority to raise the PFC level from \$3.00 to \$4.50. In September 2010, the FAA approved a PFC Application for \$51,877,000. Projects in the application were all for the Southwest Florida International Airport and include design and construction of a new Fire and Rescue Station, various fire rescue equipment, design and construction of taxiways and apron, design and permitting of the parallel runway, passenger terminal improvements, enhancements to the mitigation park and master planning and noise studies. As a result, the total collection authority increased from \$246,663,000 to \$298,540,000 with an estimated collection date of February 2015.

## Airport Activities

The total passenger count for fiscal year 2010 was 7,380,596, a decrease of approximately one percent over the prior year. Below is a summary of increased airline service to Southwest Florida International Airport over the past year.

- Air Berlin added a fourth weekly nonstop flight to Düsseldorf, Germany
- AirTran added nonstop service to Grand Rapids, Michigan
- Southwest started seasonal service to Islip, New York
- Frontier added nonstop service to Denver, Colorado

The following chart exhibits the Total Passenger Market Share for the Top Ten Airlines operating at Southwest Florida International Airport during Fiscal Year 2010.



<u>Airline</u>	<u>FY 2010</u> <u>Market Share</u>	<u>FY 2009</u> <u>Market Share</u>	<u>%</u> <u>Change</u>
Delta	19.0%	12.4%	53.1%
AirTran	16.6%	16.0%	3.5%
JetBlue	12.0%	12.4%	-3.0%
Southwest	11.4%	11.4%	-0.2%
US Airways	9.9%	10.0%	-0.9%
Continental	8.2%	8.0%	2.7%
American	5.3%	5.4%	-2.0%
Spirit	5.2%	5.0%	3.0%
Northwest	3.0%	7.4%	-59.2%
USA 3000	1.6%	4.6%	-64.6%

## *Airline Rates and Charges*

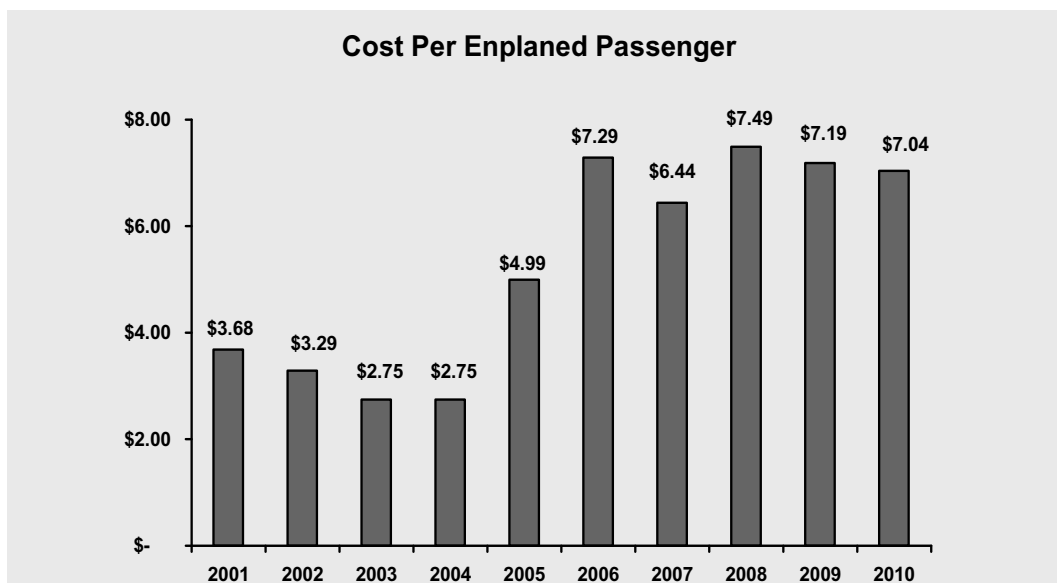
The Port Authority negotiated a new airline use agreement (Airline Airport Lease & Use Agreement) with the Participating Airlines (now referred as Signatory Airlines) with the key terms of the agreement approved by the Board in May 2008. The new Agreement commenced on October 1, 2008 with a five-year term, expiring on September 30, 2013.

The new agreement, commonly referred to as a hybrid compensatory agreement, has a revenue sharing component. In any year in which there are net remaining revenues generated at the Airport, and all requirements of the Bond Resolution have been satisfied, the net remaining revenues shall be divided between the Authority (60%) and the Signatory Airlines (40%). The agreement provides for better flexibility as there is no Majority In Interest approval required for capital projects.

Terminal premises are leased on an exclusive use, preferential use and joint use basis. The Authority will lease certain Terminal premises on a common use basis, as may be necessary. It is the intent of the Authority to manage its Terminal facilities in an efficient manner, while also respecting the schedules of its airline parties. Ticket counters, offices, operations areas, and baggage make-up facilities will be leased on an exclusive use basis. Gates/holdrooms and aircraft parking positions will be leased on a preferential use basis. Baggage claim will be leased on a joint use basis, with costs allocated to the Signatory Airlines based on twenty percent (20%) allocated to all Signatory Airlines equally, and eighty percent (80%) allocated to all Signatory Airlines based on the ratio of each Signatory Airline's enplaned passengers annually at the Airport.

Landing Fees are calculated using a "residual" Airfield Cost Center approach and will be based upon the total landed weight for all airline groups (Signatory, non-Signatory, Cargo, Charter, and International). Terminal Rents are calculated using a commercial compensatory method (i.e., rentable square foot divisor). Charges for the leasing of all Terminal space will be assessed on a square-footage basis. In fiscal year 2010, the signatory airlines paid the Port Authority \$24,155,000. This amount is net of refunds of \$1,584,000 and revenue sharing of \$3,033,000.

It is typical for the airline industry to measure its costs by its cost per enplaned passenger. Airports use this as a management tool to assess how well they are doing compared to the industry and how effective they are in managing the airport. The following chart shows the cost per enplanement at Southwest Florida International Airport over the past 10 fiscal years. Please note, the increase in 2006 was due to the first full year of operations in the new terminal.



Lee County Port Authority  
September 30, 2010

*Financial Contact*

The Lee County Port Authority's Financial Statements and this analysis are designed to give a general overview to all interested parties. If you should have any questions regarding this report or require additional information, please contact the Lee County Port Authority Finance Department, 11000 Terminal Access Road, Suite 8671, Fort Myers, Florida, 33913.

# Financial Statements



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LEE COUNTY PORT AUTHORITY

Lee County, Florida

STATEMENTS OF NET ASSETS

As of September 30, 2010 and 2009

(amounts expressed in thousands)

	2010	2009
ASSETS		
Current assets:		
Cash and equity in pooled cash and investments	\$84,802	\$77,229
Investments	20,595	20,713
Restricted assets	17,331	19,441
Receivables (net):		
Accounts	4,677	4,246
Grants	1,137	3,069
Due from other governments	3	2
Inventories	124	610
Other	931	975
Total current assets	<u>129,600</u>	<u>126,285</u>
Noncurrent assets:		
Restricted assets	63,028	63,174
Capital assets (net)	686,046	696,031
Intangible assets	16	19
Unamortized bond costs	4,082	3,962
Total noncurrent assets	<u>753,172</u>	<u>763,186</u>
Total assets	<u>882,772</u>	<u>889,471</u>
LIABILITIES		
Current liabilities:		
Contracts and accounts payable	5,690	7,445
Accrued liabilities	616	596
Refunds and rebates	6,987	3,115
Due to Board of County Commissioners	70	8
Due to other governments	358	315
Customer deposits	584	903
Deferred revenues	642	856
Compensated absences	952	731
Notes payable	340	325
Current liabilities payable from restricted assets		
Contracts and accounts payable	8	
Accrued liabilities	8,083	10,586
Revenue bonds payable	8,868	8,506
Total current liabilities	<u>33,198</u>	<u>33,386</u>
Noncurrent liabilities:		
Compensated absences	437	390
Notes payable	4,167	4,507
Revenue bonds payable	343,209	358,951
Due to Board of County Commissioners	167	193
Accrued liabilities	8,619	6,924
Total noncurrent liabilities	<u>356,599</u>	<u>370,965</u>
Total liabilities	<u>389,797</u>	<u>404,351</u>
NET ASSETS		
Invested in capital assets, net of related debt	355,435	350,005
Restricted for:		
Capital Projects	32,206	34,423
Debt service	9,303	8,860
Renewal and Replacement	499	499
Unrestricted	95,532	91,333
Total Net Assets	<u>\$492,975</u>	<u>\$485,120</u>

The notes to the financial statements are an integral part of this statement.



LEE COUNTY PORT AUTHORITY  
Lee County, Florida  
STATEMENTS OF REVENUES, EXPENSES, AND CHANGES IN NET ASSETS  
For the Years Ended September 30, 2010 and 2009  
(amounts expressed in thousands)

	2010	2009
OPERATING REVENUES		
User fees	\$47,531	\$45,515
Rentals	5,230	5,029
Concessions	6,190	6,334
Parking Revenues	12,289	12,057
Rental Car Revenues	16,581	16,831
Miscellaneous	515	229
Total operating revenues	88,336	85,995
Less: Rebates	(5,402)	(2,367)
Net operating revenues	82,934	83,628
OPERATING EXPENSES		
Salaries and wages	19,920	19,642
Employee benefits	10,397	12,092
Contractual services, materials and supplies	17,819	18,533
Utilities	4,253	5,412
Repairs and maintenance	2,578	2,268
Insurance	1,817	2,504
Other	1,591	1,767
Depreciation and amortization	19,632	19,339
Total operating expenses	78,007	81,557
Operating income	4,927	2,071
NON-OPERATING REVENUES (EXPENSES):		
Investment earnings	701	829
Interest expense	(21,162)	(21,782)
Grants	390	386
Gain on disposal of capital assets	(14)	21
Passenger facility charges	15,156	14,942
Other revenues	67	7
Other expenses	(4)	(6)
Total non-operating revenues (expenses)	(4,866)	(5,603)
Income (loss) before capital contributions	61	(3,532)
Capital contributions	7,794	19,895
Change in net assets	7,855	16,363
Total net assets- beginning	485,120	468,757
Total net assets - ending	\$492,975	\$485,120

The notes to the financial statements are an integral part of this statement.

LEE COUNTY PORT AUTHORITY  
Lee County, Florida  
STATEMENTS OF CASH FLOWS  
For the Years Ended September 30, 2010 and 2009  
(amounts expressed in thousands)

	2010	2009
CASH FLOWS FROM OPERATING ACTIVITIES		
Receipts from customers	\$86,140	\$83,561
Cash received (returned) from customer deposits	(319)	395
Other cash receipts	10	7
Payments to suppliers	(28,429)	(29,016)
Payments to employees	(28,304)	(28,067)
Net cash provided by operating activities	29,098	26,880
CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES		
Operating grants received	389	390
Net cash provided by noncapital financing activities	389	390
CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES		
Proceeds from capital debt	531	
Capital contributions	9,727	24,014
Proceeds from passenger facilities charges	15,128	14,849
Additions to capital assets	(10,847)	(14,854)
Principal paid on bonds, loans, and leases	(16,761)	(8,837)
Interest paid on bonds, loans, and leases	(22,866)	(21,421)
Transfer to refunding escrow agent	(1)	
Proceeds from sale of capital assets	54	23
Net cash used in capital and related financing activities	(25,035)	(6,226)
CASH FLOWS FROM INVESTING ACTIVITIES		
Proceeds from sale and maturities of investments	75,682	26,895
Purchase of investments	(75,603)	(46,982)
Interest on investments	896	441
Net cash provided (used in) by investing activities	975	(19,646)
Net increase in cash and cash equivalents	5,427	1,398
Cash and equivalents at beginning of year	131,428	130,030
Cash and equivalents at end of year	\$136,855	\$131,428
Classified as:		
Current assets		
Cash and equity in pooled cash and investments	\$84,802	\$77,229
Restricted assets	17,331	19,441
Non-current assets		
Restricted assets	34,722	34,758
Totals	\$136,855	\$131,428
NON-CASH INVESTING, CAPITAL, AND FINANCING ACTIVITIES		
Non-cash capital asset transfer		\$193
Increase (decrease) in fair value of investments	\$85	(30)
Airport Revenue Refunding, Series 2010A bond proceeds deposited directly into an irrevocable trust	121,590	
Airport Revenue Refunding, Series 2010A issuance cost paid from bond proceeds	1,246	

The notes to the financial statements are an integral part of this statement.

LEE COUNTY PORT AUTHORITY  
Lee County, Florida  
STATEMENTS OF CASH FLOWS  
For the Years Ended September 30, 2010 and 2009  
(amounts expressed in thousands)

	2010	2009
Reconciliation of operating income to net cash provided by operating activities:		
Operating income	\$4,927	\$2,071
Adjustments to reconcile operating income to net cash provided by operating activities:		
Depreciation and amortization	19,632	19,339
Other revenues	10	7
(Increase) decrease in accounts receivable	(450)	945
Decrease in due from other governments		4
Decrease in inventories	486	179
Decrease in other assets	44	701
Increase (decrease) in contracts and accounts payable	(978)	694
Increase in accrued liabilities	1,715	3,600
Increase (decrease) in refunds and rebates	3,872	(1,338)
Increase (decrease) in due to Board of County Commissioners	62	(110)
Increase in due to other governments	43	18
Increase (decrease) in customer deposits	(319)	395
Increase (decrease) in deferred revenues	(214)	326
Increase in compensated absences	268	50
Increase (decrease) in other liabilities		(1)
Total adjustments	24,171	24,809
Net cash provided by operating activities	\$29,098	\$26,880

The notes to the financial statements are an integral part of this statement.

Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
September 30, 2010 and 2009

NOTE I. SUMMARY OF SIGNIFICANT  
ACCOUNTING POLICIES

*Reporting Entity*

Lee County (the County) is a political subdivision of the State of Florida. It is governed by an elected Board of County Commissioners (the Board), which is governed by state statutes and regulations. The Lee County Port Authority is a blended component unit of the County and is reported as an enterprise fund in the countywide primary government financial statements. In 1987, the Board authorized the creation of the Lee County Port Authority (the Port Authority) transferring the management and administration of the County's Department of Airports (including Page Field General Aviation Airport and the Southwest Florida International Airport) to the Port Authority. Although the Board retained ownership of the Port Authority's assets and liabilities, all of the assets and liabilities used in the operations of the Port Authority are reflected in these financial statements since the Port Authority has the rights and responsibilities of ownership. The Port Authority was established under authority of Sections 125.01 and 332.08, *Florida Statutes*, Lee County Resolution Number 87-8-9, and subsequently, Lee County Ordinance Number 90-02, subsequently amended and restated as Lee County Ordinance Number 01-14.

The Board of Port Commissioners was established as the governing body for the Port Authority and consists of the members of the Board of County Commissioners. Also created was an Airports Special Management Committee, a citizen's advisory board, whose members were appointed by the Port Commissioners for the administration and management of the Lee County Airports (Airports).

*Fund Accounting*

The Port Authority uses an enterprise fund to report its activities.

Enterprise funds are used to account for operations (1) that are financed and operated in a manner

similar to private business enterprises where the intent of the governing body is that the costs (expenses, including depreciation) of providing goods or services to the general public on a continuing basis be financed or recovered primarily through user charges; or (2) where it is decided that periodic determination of revenues earned, expenses incurred, and/or net income is appropriate for capital maintenance, public policy, management control, accountability, or other purposes.

As an enterprise fund, the Port Authority records both operating and non-operating revenues and expenses. Operating revenues are those that are obtained from the operations of the enterprise fund that include user fees, rental fees, and concessions. Non-operating revenues are not related to the operations of the enterprise fund and include interest earnings, grants, and passenger facility charges. Operating expenses represent the cost of operations, which includes depreciation. Non-operating expenses are not related to operations such as interest expense.

*Measurement Focus*

The Port Authority is accounted for on an "economic resources" measurement focus. Accordingly, all assets and liabilities are included on the Statements of Net Assets, and the reported fund net assets (total reported assets less total reported liabilities) provides an indication of the economic net worth of the Port Authority. The Statements of Revenues, Expenses, and Changes in Net Assets reports increases (revenues) and decreases (expenses) in total economic net worth.

*Basis of Accounting*

Basis of accounting refers to when revenues and expenses are recognized in the accounts and reported in the financial statements. Basis of accounting relates to the timing of the measurements made, regardless of the measurement focus applied.

The Port Authority is accounted for by using the accrual basis of accounting. Under this method, revenues are recognized when they are earned;

Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
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expenses are recognized when they are incurred. Pursuant to Governmental Accounting Standards Board Statement Number 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, the Port Authority has elected not to apply accounting standards issued after November 30, 1989, by the Financial Accounting Standards Board.

#### *Reclassifications*

Certain amounts in the fiscal year 2009 financial statements have been reclassified to conform to current year presentation.

#### *Assets, Liabilities, and Net Assets*

##### *Cash and Equity in Pooled Cash and Investments*

The Port Authority considers cash and equity in pooled cash and investments to be cash on hand, demand deposits, highly liquid investments, including those held as restricted assets, with original maturities of three months or less when purchased, and those included in the internal investment pool.

For accounting and investment purposes, the County maintains a cash and investment pool that the Port Authority participates in and is available for use by all funds except those whose cash and investments must be segregated due to legal or other restrictions. Investments within this pool are treated as a demand deposit account. Interest earned on investments in the pool is allocated to the various funds based upon each fund's equity balance in the pool during the allocation period.

For purposes of the Statements of Cash Flows, the Port Authority considers cash and equity in pooled cash and investments (restricted and unrestricted), and restricted cash and cash equivalents with fiscal agent to be cash and cash equivalents.

##### *Investments*

The Port Authority reports all investments at fair value, with the exception of debt investments held in an internal investment pool with a maturity within ninety days of purchase, repurchase agreements, and Local Government Surplus Funds Investment Pool Trust Fund (State Board of Administration (SBA)). All fair valuations are based on quoted market prices. The investment pool and repurchase agreements are stated at amortized cost, which approximates fair value. The fair value of the position in the Local Government Surplus Funds Investment Pool Trust Fund, an external 2a7-like investment pool, is the same as the value of the pool shares. The Port also participates in Fund B Surplus Funds Trust Fund, a fluctuating net asset value (NAV) external investment pool (Fund B).

When both restricted and unrestricted resources are available, restricted resources will be used first for incurred expenses, and then unrestricted as needed.

##### *Accounts Receivable*

The accounts receivable of the Port Authority are recorded net of an allowance for doubtful accounts.

##### *Inventory*

Inventory, consisting of items for resale, is stated at cost that approximates fair market value. The "first - in, first - out" method of accounting is used to determine cost.

##### *Capital Assets*

Capital assets include property, buildings, furniture, equipment, vehicles, software, and infrastructure assets. Infrastructure assets are defined as public domain capital assets such as roads, bridges, curbs and gutters, streets and sidewalks, drainage systems, lighting systems, runways, and similar assets that are immovable and of value only to the government unit. The threshold for capitalizing capital assets is \$1,000. The threshold for capitalizing software and infrastructure is \$100,000. Capital assets are recorded at cost, or estimated historical cost. Contributed assets are recorded at

Lee County Port Authority  
Lee County, Florida  
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estimated fair market value at the time received. Depreciation is calculated using the straight-line method over the estimated useful lives of the related assets.

The ranges of the useful lives are as follows:

<u>Assets</u>	<u>Years</u>
Buildings	30-50
Improvements other than buildings	6-50
Machinery & equipment	3-35
Computer equipment	3-10
Furniture	4-20
Vehicles & rolling stock	3-10
Software	3-5
Infrastructure	20-50

#### *Intangible Assets*

On December 21, 1995, the Port Authority purchased the assets of Fort Myers Jet Center, Inc. for \$1.6 million and has classified as goodwill the excess of cost over the fair market value of assets acquired. The Port Authority is amortizing the goodwill over twenty years.

#### *Unamortized Premiums, Bond Discounts, and Issuance Costs*

Premiums, bond discounts, and issuance costs related to long - term debt are amortized over the life of the debt principally by the effective - interest method. Revenue bonds payable are shown net of unamortized premiums and discounts.

#### *Unamortized Bond Gains or Losses*

Gains or losses from debt refundings are reported in the accompanying financial statements as a deduction to bonds payable and are charged to operations using the effective - interest method by amortizing the gain or loss over the shorter of the life of the old bond or the life of the new bond.

#### *Compensated Absences*

The Port Authority provides employees a bank of time for paid absences on an annual basis. The bank of time is referred to as Paid Time Off (PTO). Under this policy, employees receive a bank of PTO based on years of continuous service with the Port Authority. All unused time is bought back annually by the Port Authority.

The Port Authority also maintains a separate vacation policy for 33 members of the Southwest Florida Professional Fire Fighters, Local Chapter 1826, IAFF, Inc. Under this policy, the employees are able to accumulate earned but unused vacation and sick pay benefits, which will be paid to employees upon separation from service if certain criteria are met.

Benefits under both policies, plus their related tax and retirement costs, are classified as compensated absences and are accrued when incurred. This is pursuant to GASB Statement Number 16, *Accounting for Compensated Absences*.

#### *Net Assets*

Net assets are categorized as invested in capital assets (net of related debt), restricted and unrestricted. Restriction of net assets indicates amounts that are limited for a specific purpose. Restricted for debt service is used to segregate resources accumulated for current or future debt service payments.

#### *Use of Estimates*

The preparation of the financial statements requires management to make a number of estimates and assumptions relating to the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the period. Actual results could differ from those estimates.

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NOTE II. RECEIVABLES

At September 30, 2010 and 2009, accounts receivable consisted of the following (dollars in thousands):

		<u>Gross Accounts Receivable</u>	<u>Allowance for Doubtful Accounts</u>	<u>Net Accounts Receivable</u>
2010	Unrestricted	\$4,927	(\$250)	\$4,677
	Restricted	<u>2,032</u>		<u>2,032</u>
	Total	<u>\$6,959</u>	<u>(\$250)</u>	<u>\$6,709</u>
2009	Unrestricted	\$4,496	(\$250)	\$4,246
	Restricted	<u>1,984</u>		<u>1,984</u>
	Total	<u>\$6,480</u>	<u>(\$250)</u>	<u>\$6,230</u>

NOTE III. RESTRICTED ASSETS

At September 30, 2010 and 2009, restricted assets consisted of the following (dollars in thousands):

	<u>2010</u>	<u>2009</u>
Cash and equity in pooled cash and investments	\$34,730	\$34,758
Cash and cash equivalents with fiscal agent	17,323	19,441
Investments	26,274	26,264
Receivables (net):		
Accounts	2,032	1,984
Accrued interest		<u>168</u>
Total	<u>\$80,359</u>	<u>\$82,615</u>

NOTE IV. CASH, EQUITY IN POOLED CASH AND INVESTMENTS, AND INVESTMENTS

As of September 30, 2010 and 2009, the Port Authority had the following deposits, investments, and maturities (amounts in thousands):

<u>Investment</u>	<u>Maturities</u>	<u>2010 Fair Value</u>	<u>Call Date</u>	<u>Call Frequency</u>	<u>Rating</u>
Cash on hand	N/A	\$62			N/A
Cash with fiscal agent	N/A	17,323			N/A
Demand deposits	N/A	55,807			N/A
SBA-Local Government Surplus Funds					
Trust Fund Investment Pool-					
Florida PRIME	52 days	30,693			AAAm
Fund B Surplus Funds Trust Fund	7.49 years	433			Unrated
Repurchase Agreement	N/A	33,143			Unrated
Federal Home Loan Mortgage					
Corporation Discount Note	02/11/2011	26,274	N/A	N/A	AAA
U.S. Treasury Bill	02/17/2011	19,989	N/A	N/A	N/A
Total		<u>\$183,724</u>			

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<u>Investment</u>	<u>Maturities</u>	<u>2009</u> <u>Fair Value</u>	<u>Call Date</u>	<u>Call Frequency</u>	<u>Rating</u>
Cash on hand	N/A	\$38			N/A
Cash with fiscal agent	N/A	19,441			N/A
Demand deposits	N/A	34,387			N/A
SBA-Local Government Surplus Funds					
Trust Fund Investment Pool-					
Florida PRIME	33 days	77,869			AAAm
Fund B Surplus Funds Trust Fund	6.69 years	435			Unrated
Federal National Mortgage					
Association Discount Note	07/16/2010	9,982	N/A	N/A	AAA
Federal National Mortgage					
Association Discount Note	05/03/2010	9,989	N/A	N/A	AAA
Federal Home Loan Bank	02/17/2010	26,264	N/A	N/A	AAA
Total		<u>\$178,405</u>			

Fund B Surplus Funds Trust Fund (Fund B) contains the securities that have problems with payment defaults, paid slower than expected or have significant credit risk. Interest income is not paid and distributed to Fund B participants; however, periodic liquidity has been made available. Fund B is accounted for as a fluctuating NAV pool, the fair value factor as of September 30, 2010 was .707058094.

### *Credit Risk*

The Port Authority adheres to the Board's Investment Policy (the Policy), which limits credit risk by restricting authorized investments to the following: Direct obligations of, or obligations the principal and interest of which are unconditionally guaranteed by the United States Government; United States Government sponsored Corporation/ Instrumentalities; United States Government Agencies; The Florida Local Government Surplus Funds Trust Fund (SBA); Interest-bearing time deposits or savings accounts in banks organized under the laws of Florida, in national banks organized under the laws of the United States and doing business and situated in Florida; Securities of, or other interests in, any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided their portfolio is limited to United States Government obligations and to repurchase agreements fully collateralized by such United States Government

obligations; Repurchase agreements with any primary brokers/dealers collateralized by direct obligations of United States, or United States government sponsored corporation/ instrumentalities or United States government agencies; Bonds, notes or obligations of any state of the United States, any municipality, political subdivision, agency or authority of Florida which are exempt from federal income taxation which are rated by any nationally recognized rating agency for municipal bonds in any of the two highest classifications; SEC registered, no-load money market mutual funds whose portfolios consist of tax exempt securities and repurchase agreements, whose shares of the mutual fund must be rated in the highest category by a nationally recognized rating service; Florida Local Government Investment Trust (FLGIT); and SEC registered money market mutual funds with average portfolio maturities under 120 days, whose portfolios consist of United States Government securities and repurchase agreements secured by such securities.

The Policy requires that collateral for overnight and term repurchase agreements must maintain a minimum price of 101 percent on United States Treasuries and 102 percent on Agencies and Instrumentalities not to exceed five (5) years, and must be "marked to market" on a weekly basis. The Policy also requires that the obligations of any state or municipality be rated by at least one of the nationally recognized rating agencies in any one of the two (2) highest classifications, and that



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investments in money market mutual funds must be rated in the highest category by a nationally recognized rating service. All credit ratings indicated in the previous table are Standard & Poor's (S&P) ratings.

*Custodial Credit Risk*

The Policy requires that bank deposits be secured as provided by Chapter 280, *Florida Statutes*, and that the banks must be fully insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) and approved by the State Treasurer as a public depository. At September 30, 2010, all of the Port Authority's bank deposits were in qualified public depositories.

*Interest Rate Risk*

The Policy requires an average minimum dollar amount equivalent to eight weeks of expenditures shall be held in a liquid investment, and securities will not be directly invested in or accepted as collateral that have a maturity date greater than five (5) years from the settlement date.

*Concentration of Credit Risk*

The Policy establishes limitations on portfolio composition for the County in whole in order to control concentration of credit risk. The Policy allows 100 percent of the portfolio to be invested in United States Treasuries/Agencies, 40 percent to be invested in Local Government Surplus Funds, 20 percent to be invested in repurchase agreements, 65 percent to be invested in money market mutual funds (no individual fund family can exceed 30 percent of the overall portfolio), 30 percent to be invested in Certificates of Deposits, and 5 percent to be invested in FLGIT. No more than 25 percent of the total portfolio can be invested with one investment company.

The County's total investment portfolio at September 30, 2010 and 2009, was \$1,075,693,000 and \$1,235,105,000, respectively. The portion of the Port Authority's portfolio invested in Federal instrumentalities is detailed as follows, at September 30, 2010 and 2009:

<u>2010</u>	
<u>Issuer</u>	<u>Percent of Total Portfolio</u>
Federal Home Loan Mortgage Corporation	<u>2.44%</u>

<u>2009</u>	
<u>Issuer</u>	<u>Percent of Total Portfolio</u>
Federal Home Loan Bank	2.13%
Federal National Mortgage Association	<u>1.62%</u>
Total Federal Instrumentalities	<u>3.75%</u>

Reconciliation of cash and cash equivalents, and investments from the schedule of deposits and investments to the financial statements:

<u>2010</u>	
Current:	
Cash and cash equivalents	\$84,802
Investments	20,595
Restricted:	
Cash with fiscal agent	17,323
Cash and cash equivalents	8
Non-current:	
Restricted:	
Cash and cash equivalents	34,722
Investments	<u>26,274</u>
Total	<u>\$183,724</u>

<u>2009</u>	
Current:	
Cash and cash equivalents	\$77,229
Investments	20,713
Restricted:	
Cash with fiscal agent	19,441
Non-current:	
Restricted:	
Cash and cash equivalents	34,758
Investments	<u>26,264</u>
Total	<u>\$178,405</u>

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NOTE V. CAPITAL ASSETS

Increases and decreases in capital asset activity include transfers. Capital asset activity for the fiscal years ended September 30, 2010 and 2009, was as follows (dollars in thousands):

	Beginning Balance	Increases	Decreases	Ending Balance
<i><u>Fiscal Year 2010</u></i>				
Capital assets not being depreciated:				
Land	\$139,808	\$3,085	(\$92)	\$142,801
Easement & Right of Ways	-	47		47
Construction in progress	19,172	8,874	(\$5,015)	23,031
Artwork	-	50		50
Total capital assets not being depreciated	158,980	\$12,056	(\$5,107)	165,929
Capital assets being depreciated:				
Buildings	328,787		(18)	328,769
Improvements other than buildings	17,948			17,948
Machinery and equipment	45,412	2,537	(266)	47,683
Software	2,878	121		2,999
Infrastructure	288,360	77		288,437
Total capital assets being depreciated	683,385	2,735	(284)	685,836
Less accumulated depreciation for:				
Buildings	36,541	6,746		43,287
Improvements other than buildings	6,453	1,087		7,540
Machinery and equipment	18,937	3,166	(243)	21,860
Software	2,114	547		2,661
Infrastructure	82,289	8,082		90,371
Total accumulated depreciation	146,334	19,628	(243)	165,719
Total capital assets being depreciated, net	537,051	(16,893)	(41)	520,117
Capital assets, net	\$696,031	(\$4,837)	(\$5,148)	\$686,046
<i><u>Fiscal Year 2009</u></i>				
Capital assets not being depreciated:				
Land	\$139,368	\$440		\$139,808
Construction in progress	11,858	15,779	(\$8,465)	19,172
Software in progress	136	52	(188)	-
Total capital assets not being depreciated	151,362	16,271	(\$8,653)	158,980
Capital assets being depreciated:				
Buildings	328,797		(10)	328,787
Improvements other than buildings	17,948			17,948
Machinery and equipment	44,472	1,085	(145)	45,412
Software	2,670	208		2,878
Infrastructure	280,821	7,539		288,360
Total capital assets being depreciated	674,708	8,832	(155)	683,385
Less accumulated depreciation for:				
Buildings	29,735	6,806		36,541
Improvements other than buildings	5,360	1,093		6,453
Machinery and equipment	16,112	2,955	(130)	18,937
Software	1,569	545		2,114
Infrastructure	74,352	7,937		82,289
Total accumulated depreciation	127,128	19,336	(130)	146,334
Total capital assets being depreciated, net	547,580	(10,504)	(25)	537,051
Capital assets, net	\$698,942	\$5,767	(\$8,678)	\$696,031

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NOTE V. CAPITAL ASSETS (continued)

Interest costs related to construction are capitalized. In addition, earnings from the investment of tax-exempt bond proceeds earmarked for construction are offset against interest subject to capitalization. Net interest expense capitalized for the years ended September 30, 2010 and September 30, 2009, was \$50,000 and \$130,000, respectively.

*Minimum Future Rentals*

The Port Authority leases certain facilities to vendors at the Southwest Florida International Airport. Such agreements are short-term in nature and are accounted for as operating leases. Certain leases contain both fixed minimum rentals and contingent rentals based on the vendor's agreement. Contingent rental revenues arise from a percentage of the lessees' gross revenue.

At September 30, 2010, minimum future rentals of operating leases were as follows (dollars in thousands):

<u>Fiscal Year(s)</u>	<u>Amount</u>
2011	\$37,815
2012	37,538
2013	37,468
2014	37,504
2015	<u>37,366</u>
Total minimum future revenue	<u>\$187,691</u>

For the years ended September 30, 2010 and 2009, \$5,399,000 and \$6,099,000, respectively, of contingent rentals were included in rentals, concessions, and rental car revenues on the accompanying Statements of Revenues, Expenses, and Changes in Net Assets.

Substantially all of the Port Authority's property is used in leasing activities with either airlines or other vendors.

NOTE VI. LONG-TERM DEBT

*Revenue Bonds*

Revenue bonds payable at September 30, 2010 and 2009, consisted of the following:

- Series 1998 Passenger Facility Charge Revenue and Refunding Bonds, for \$52,225,000 at interest rates ranging from 3.6 percent to 5 percent (effective interest rate of 5.21 percent), collateralized by a lien on and a pledge of the passenger facility charge revenues. The outstanding balance at September 30, 2010 and 2009, was \$21,335,000 and \$31,395,000, respectively.
- Series 2000A (AMT) Airport Revenue Bonds, for \$291,155,000 at interest rates ranging from 5.4 percent to 6.125 percent (effective interest rate of 6.16 percent), collateralized by a lien on and a pledge of the net revenues of the Southwest Florida International Airport (SWFIA). The outstanding balance at September 30, 2010 and 2009, was \$172,575,000 and \$291,155,000, respectively.
- Series 2002 Airport Revenue Refunding Bonds, for \$37,065,000 at interest rates ranging from 2.0 percent to 5.0 percent (effective interest rate of 5.59 percent), collateralized by a lien on and a pledge of the net revenues of the SWIA. The outstanding balance at September 30, 2010 and 2009, was \$6,580,000 and \$12,895,000, respectively.
- Series 2005 Airport Revenue Refunding Bonds, for \$37,805,000 at interest rates ranging from 3.5 percent to 5 percent (effective interest rate of 5.642 percent), collateralized by a lien on and a pledge of net revenues of the SWFIA. The outstanding balance at September 30, 2010 and 2009, was \$37,665,000 and \$37,700,000, respectively.
- Series 2010A Airport Revenue Refunding Bonds, for \$119,350,000 at interest rates ranging from 3 percent to 5.5 percent (effective interest rate of 4.57 percent), collateralized by a lien on and a pledge of net revenues of the SWFIA. The outstanding balance at September 30, 2010 and 2009, was \$119,350,000 and \$0, respectively.

The total revenue bonds payable at September 30, 2010 and 2009, were \$357,505,000 and \$373,145,000, respectively.

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The annual debt service requirements for revenue bonds at September 30, 2010, were as follows (dollars in thousands):

<u>Fiscal Year(s)</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2011	\$9,240	\$17,551	\$26,791
2012	10,410	18,752	29,162
2013	10,785	18,300	29,085
2014	11,315	17,749	29,064
2015	11,885	17,171	29,056
2016-2020	57,310	76,874	134,184
2021-2025	65,975	61,637	127,612
2026-2030	88,675	39,634	128,309
2031-2035	<u>91,910</u>	<u>10,261</u>	<u>102,171</u>
Total	<u>\$357,505</u>	<u>\$277,929</u>	<u>\$635,434</u>

The following is a summary of bond activity of the Port Authority for the years ended September 30, 2010 and 2009 (dollars in thousands):

	<u>2010</u>	<u>2009</u>
Beginning balance	\$373,145	\$381,660
Additions	119,350	
Reductions	<u>(134,990)</u>	<u>(8,515)</u>
Bonds payable at end of fiscal year	357,505	373,145
Less unamortized premium (discount)	2,738	(2,238)
Less unamortized refunding loss	<u>(8,166)</u>	<u>(3,450)</u>
Bonds payable at end of fiscal year, net	<u>\$352,077</u>	<u>\$367,457</u>

### *Bond Resolutions*

The Airport Revenue Bonds, Series 2000A (AMT), Airport Revenue Refunding Bonds, Series 2002, Airport Revenue Refunding Bonds, Series 2005, and the Airport Revenue Refunding Bonds, Series 2010A are collateralized by a lien on and a pledge of the net revenues from the operation of SWFIA.

The Port Authority has agreed to maintain such fees and rates to provide revenues sufficient to pay all current expenses of SWFIA and the greater of 125 percent of the principal and interest payments due in the next succeeding fiscal year or 100 percent of the principal and interest payments due in the next succeeding fiscal year plus any other required payments under the bond resolutions.

The Passenger Facility Charge Revenue and Refunding Bonds, Series 1998, are payable from and collateralized by a lien on and a pledge of the passenger facility charge (PFC) revenues. PFC revenues consist of all monies received by the Port Authority from PFC's and all interest earned on such monies. PFC's are discussed in Note XI.

The resolutions for the following bonds established certain accounts and determined the order in which certain revenues are to be deposited into those accounts. In addition, there are various other covenants established by the official statements and resolutions, including such items as debt service coverage, reporting requirements, and maintenance of facilities. Management believes that it has complied, in all material respects, with these covenants. All required balances at year - end were maintained on the following issues:

Revenue bonds:  
Passenger Facility Charge Revenue and Refunding Bonds, Series 1998  
Airport Revenue Bonds, Series 2000A  
Airport Revenue Refunding Bonds, Series 2002  
Airport Revenue Refunding Bonds, Series 2005  
Airport Revenue Refunding Bonds, Series 2010A

### *Debt Refundings*

On July 8, 2010, the Port Authority issued Airport Revenue Refunding Bonds, Series 2010A (AMT), in the amount of \$119,350,000 at interest rates ranging from 3 percent to 5.5 percent maturing on October 1 in the years 2011 through 2022. Proceeds on the bond were used to currently refund \$118,580,000 of outstanding Airport Revenue Bonds, Series 2000A, at interest rates ranging from 5.4 percent to 6.125 percent on current interest paying bonds maturing on October 1 in years 2011 through 2022.

On the date of issuance of the Series 2010A bonds, the Port Authority purchased U.S. Government Securities that were placed in an irrevocable trust with an escrow agent to provide for the payment in full of the redemption price of the refunded Series

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2000A Bonds. As a result, the refunded portion of the Airport Revenue Bonds, Series 2000A, is considered defeased as of July 8, 2010, and the liability for the refunded bonds has been removed from the financial statements.

The current refunding resulted in a reduction of additional future debt service requirements by \$8,481,877, which resulted in an economic gain (the difference between the present values of the old debt and new debt service requirements) of \$5,178,249.

### *Defeased Bonds*

In prior years, the Port Authority defeased certain revenue bonds by placing the proceeds of new bonds in an irrevocable trust to provide for all future debt service payments on old bonds. Accordingly, the trust account assets and the liability for the defeased bonds are not included in the Port Authority's financial statements.

The amount of defeased bonds outstanding at September 30, 2010 and 2009, consisted of the following (dollars in thousands):

	<u>2010</u>	<u>2009</u>
Airport Revenue Bonds, Series 1980	\$3,380	\$3,380
Airport Revenue Bonds, Series 1983	2,505	2,505
Airport Revenue Bonds, Series 2000B	36,180	36,180
Airport Revenue Bonds, Series 2000A	<u>118,580</u>	<u>0</u>
Total outstanding	<u>\$ 160,645</u>	<u>\$42,065</u>

### *Variable Debt*

The Port Authority has entered into a \$10,000,000 line of credit with a commercial bank to finance certain airport-related capital projects at an interest rate of 117 percent of London Interbank Offered Rates (LIBOR). Effective January 1, 2006, a more favorable interest rate was negotiated of 67 percent of LIBOR plus 73 basis points, which was .90 percent as of September 30, 2010. To date the Port Authority has drawn \$10,000,000 from the line of credit. Principal is payable semi-annually beginning June 1, 2006 and interest is payable monthly on the unpaid balance until final maturity on December 1, 2020. The line of credit is collateralized by a lien on and a pledge of the net revenues of Page Field General Aviation Airport. The outstanding balance at September 30, 2010 and 2009, was \$4,507,000 and

\$4,832,000, respectively. The available balance at September 30, 2010 and 2009, was \$5,493,000 and \$5,168,000, respectively.

The annual debt service requirements for the Port's variable debt at September 30, 2010, were as follows (dollars in thousands):

<u>Fiscal Year(s)</u>	<u>Principal</u>	<u>Interest</u>	<u>Total</u>
2011	\$340	\$39	\$379
2012	355	36	391
2013	375	32	407
2014	395	29	424
2015	415	25	440
2016-2020	2,405	65	2,470
2021	<u>222</u>	<u>222</u>	<u>222</u>
Total	<u>\$4,507</u>	<u>\$226</u>	<u>\$4,733</u>

The following is a summary of variable debt activity of the Port Authority for the years ended September 30, 2010 and 2009 (dollars in thousands):

	<u>2010</u>	<u>2009</u>
Beginning balance	\$4,832	\$5,137
Additions (Deletions)	<u>(325)</u>	<u>(305)</u>
Variable debt payable at end of fiscal year	<u>\$4,507</u>	<u>\$4,832</u>

### *Operating Leases*

The Port Authority is not currently committed to any operating leases with terms in excess of one year. All terms are month to month thereby there are no future minimum rental payments as of September 30, 2010. The total rental expense for all operating leases, including those with terms of less than one year, for the years ended September 30, 2010 and 2009, were \$412,000 and \$411,000, respectively.

### *Compensated Absences*

The following is a summary of compensated absences activity for the Port Authority for the years ended September 30, 2010 and 2009 (dollars in thousands):

	<u>2010</u>	<u>2009</u>
Beginning balance	\$1,121	\$1,071
Additions	2,532	2,207
Reductions	<u>(2,264)</u>	<u>(2,157)</u>
Compensated absences payable at end of fiscal year	<u>\$1,389</u>	<u>\$1,121</u>

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NOTE VII: SEGMENT INFORMATION

The County has outstanding revenue bonds that are financed by Southwest Florida International Airport revenues, and an outstanding line of credit that is financed by Page Field General Aviation Airport revenues. Both activities are accounted for in a single fund (Lee County Port Authority). Summary financial information for the Southwest Florida International Airport and Page Field General Aviation Airport are presented as follows (dollars in thousands).

	Southwest Florida International Airport		Page Field General Aviation Airport	
	2010	2009	2010	2009
<u>Condensed Statements of Net Assets</u>				
Assets				
Current assets	\$89,444	\$87,597	\$10,062	\$5,097
Restricted assets	48,287	50,553		
Capital assets	621,835	633,329	46,274	45,437
Other assets	4,026	3,849	16	19
Total assets	<u>763,592</u>	<u>775,328</u>	<u>56,352</u>	<u>50,553</u>
Liabilities				
Current liabilities	22,251	17,454	2,690	1,855
Current liabilities payable from restricted assets	14,379	16,687		
Noncurrent liabilities	324,988	330,578	4,334	4,700
Total liabilities	<u>361,618</u>	<u>364,719</u>	<u>7,024</u>	<u>6,555</u>
Net assets				
Invested in capital assets, net of related debt	317,205	323,374	41,553	40,605
Restricted	13,868	13,540		
Unrestricted	70,901	73,695	7,775	3,393
Total net assets	<u>\$401,974</u>	<u>\$410,609</u>	<u>\$49,328</u>	<u>\$43,998</u>
<u>Condensed Statements of Revenues, Expenses, and Changes in Net Assets</u>				
Operating revenues				
User fees	\$43,102	\$41,618	\$4,428	\$3,897
Rentals	2,697	2,496	2,533	2,533
Concessions	35,014	35,171	46	51
Miscellaneous	202	227	63	2
Less: Rebates	(5,402)	(2,367)		
Total operating revenues	<u>75,613</u>	<u>77,145</u>	<u>7,070</u>	<u>6,483</u>
Operating expenses				
Depreciation	17,705	17,607	1,927	1,732
Other operating expenses	51,491	55,383	6,732	6,325
Total operating expenses	<u>69,196</u>	<u>72,990</u>	<u>8,659</u>	<u>8,057</u>
Operating income (loss)	<u>6,417</u>	<u>4,155</u>	<u>(1,589)</u>	<u>(1,574)</u>

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NOTE VII: SEGMENT INFORMATION (continued)

	Southwest Florida International Airport		Page Field General Aviation Airport	
	2010	2009	2010	2009
<u>Condensed Statements of Revenues, Expenses, and Changes in Net Assets (continued)</u>				
Non-operating revenues (expenses)				
Investment earnings	494	703	19	2
Interest expense	(19,670)	(20,100)	(37)	(64)
Other non-operating	409	399	22	
Total non-operating revenues (expenses)	<u>(18,767)</u>	<u>(18,998)</u>	<u>4</u>	<u>(62)</u>
Loss before capital contributions	(12,350)	(14,843)	(1,585)	(1,636)
Capital Contributions	385	6,936	1,439	7,146
Transfers	3,330	(859)	5,476	
Change in net assets	<u>(8,635)</u>	<u>(8,766)</u>	<u>5,330</u>	<u>5,510</u>
Beginning net assets	410,609	419,375	43,998	38,488
Ending net assets	<u>\$401,974</u>	<u>\$410,609</u>	<u>\$49,328</u>	<u>\$43,998</u>
<u>Condensed Statements of Cash Flows</u>				
Net cash provided (used) by:				
Operating activities	\$28,755	\$26,083	\$241	\$736
Noncapital financing activities	(811)	(2,029)	5,476	
Capital and related financing activities	(28,121)	(15,444)	(1,344)	373
Investing activities	651	908	19	4
Net increase	<u>474</u>	<u>9,518</u>	<u>4,392</u>	<u>1,113</u>
Beginning cash and cash equivalents	102,952	93,434	4,805	3,692
Ending cash and cash equivalents	<u>\$103,426</u>	<u>\$102,952</u>	<u>\$9,197</u>	<u>\$4,805</u>

Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
September 30, 2010 and 2009

NOTE VIII. RETIREMENT PLAN

*Plan Description and Provisions*

The Port Authority participates in the Florida Retirement System (FRS), a cost - sharing, multiple - employer, public employee retirement system, which covers substantially all of the full time and part time employees. The primary plan is a defined benefit plan for all state, participating county, district school board, community college, and university employees (Pension Plan). The FRS also offers eligible employees participation in an alternative defined contribution plan (Investment Plan). The FRS is noncontributory and is totally administered by the State of Florida.

Benefits under the Pension Plan vest after six years of service. Employees who retire at or after age 62, with six years of credited service, or with 30 years of service regardless of age, are entitled to an annual retirement benefit, payable monthly for life. The FRS also provides for early retirement at reduced benefits and death and disability benefits. These benefit provisions and all other requirements are established by Chapters 112 and 121, *Florida Statutes*.

The Deferred Retirement Option Program (DROP) is a program that provides an alternative method of payment of retirement benefits for a specified and limited period. Under the DROP the employee may retire and have their benefits accumulate in the Florida Retirement System Trust Fund, earning interest, while continuing to work for an employer. The participation in the plan does not change conditions of employment. When the DROP period ends, a maximum of 60 months, employment must be terminated. At the time of termination of employment, the employee will receive payment of the accumulated DROP benefits, and begin receiving their monthly retirement benefit.

Pension costs for the Port Authority as required and defined by State statute ranged between 10 percent and 23 percent of gross salaries for fiscal years 2010, 2009, and 200. For the fiscal years ended September 30, 2010, 2009, and 2008, the Port Authority

contributed 100 percent of the required contributions. These contributions aggregated \$2.6 million, \$2.5 million, and \$2.5 million respectively, which represents 13 percent of covered payroll in 2008, 2009, and 2010.

A copy of the FRS's annual report can be obtained by writing to the Division of Retirement, PO Box 9000, Tallahassee, Florida 32315 - 9000, or by calling (850) 488 - 5706.

*Other Post Employment Benefits*

The Port provides post retirement health care benefits, through participation in a self-funded insurance plan, to all employees who retire from the Port. In accordance with Chapter 110.123, *Florida Statutes*, the Port is required to provide group health care at cost to all retirees. For employees hired on or before January 01, 2008, the Port currently pays 50 percent of the portion of the premium for the retiree to participate in the Plan. This policy was discontinued on January 01, 2008; therefore, the Port does not currently subsidize any portion of the premium for employees hired after that date. The County has the authority to establish and amend the benefit provisions of the plan. The County follows the provisions of Governmental Accounting Standards Board Statement No. 45, *Accounting and Financial Reporting by Employers for Postemployment Benefits Other Than Pensions*. Expenses related to these benefits totaling \$1,695,000 and \$3,522,000 for 2010 and 2009, respectively, are reported in this report. For fiscal years ended September 30, 2010 and 2009, the Other Post Employment Benefits liability totaled \$8,619,000, and \$6,924,000 respectively, and is included in accrued liabilities on the accompanying Statements of Net Assets.



Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
September 30, 2010 and 2009

NOTE IX. RISK MANAGEMENT

The Port Authority has been a member of Public Risk Management of Florida (PRM), a local government liability risk pool, since it was established in 1989. During that time, all property and casualty insurance lines were purchased through PRM. Following the move to the new terminal, the Port Authority, with the assistance of its insurance consultant and broker, concluded that there was a potential for an improved overall insurance program that would provide substantial savings. The Port Authority subsequently terminated its membership with PRM effective March 31, 2009.

The Port Authority then directed its broker, Arthur J. Gallagher, to solicit quotations on property and casualty coverage for the next renewal period. All lines of insurance costs for 2010 and 2009 were \$1,817,000 and \$2,504,000 respectively.

The Port Authority participates in the County's self-insurance program for group medical and group dental coverage. Funding for this program is generated by charges to the operating departments based on management's annual estimates of claim loss funding and administration/operating costs. For the fiscal years ended September 30, 2010 and 2009, the Port Authority was charged \$4,385,000 and \$4,349,000, respectively, for the insurance program.

The Port Authority is exposed to other various risks of loss related to torts; theft of, damage to, and destruction of assets; errors and omissions; and natural disasters. Insurance coverage for such losses is purchased from third - party carriers. For the fiscal years ended September 30, 2010 and 2009, the Port Authority paid \$1,619,000 and \$1,097,000, respectively, to third-party carriers. Settled claims have not exceeded insurance coverage in any of the past three years. As a result there was no reduction in insurance coverage.

NOTE X. COMMITMENTS AND CONTINGENCIES

At September 30, 2010 and 2009, the Port Authority had in process various construction contracts totaling \$43,613,000 and \$32,219,000, respectively. Costs incurred on these contracts as of September 30, 2010 and 2009, totaled \$19,483,000 and \$24,737,000 respectively, including retainage payable of \$241,000 and \$240,000, respectively.

The Port Authority is currently receiving, and has received in the past, grants that are subject to special compliance audits by the grantor agency, which may result in disallowed expense amounts. These amounts constitute a contingent liability of the Port Authority. The Port Authority does not believe any contingent liabilities to be material.

The Port Authority currently prepares rebate calculations on all debt subject to arbitrage per the United States Department of the Treasury Regulations, Section 1.148, and the Internal Revenue Service Code of 1986. Rebates, if any, are paid to the Internal Revenue Service every fifth year after the year of issuance. Within the five-year period, any positive arbitrage (liability) can be offset by any negative arbitrage (non-liability). These rebates constitute a liability of the Port Authority, which are reported as other noncurrent liabilities.

NOTE XI. PASSENGER FACILITY CHARGE

On August 31, 1992, the Federal Aviation Administration (FAA) approved the imposition of a \$3.00 passenger facility charge (PFC) per enplaned passenger to begin on November 1, 1992, and to end at the earlier of October 31, 2022, or the collection of \$244,799,000 in passenger facility charges and interest. The funds are restricted for use on projects approved by the FAA. The funds are collected by the airlines when the tickets are sold and remitted to the Port Authority net of a collection fee, which was increased from eight cents (\$.08) to eleven cents (\$.11) per passenger facility charge on

Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
September 30, 2010 and 2009

May 1, 2004. Amounts shown as revenue are net of the collection allowance.

On August 14, 2003, the FAA approved an amendment to the original application and increased the PFC collection from \$3.00 to \$4.50 per passenger, effective November 1, 2003. In September 2010, the FAA approved a PFC Application for \$51,877,000. Projects in the application were all for the Southwest Florida International Airport and include design and construction of a new Fire and Rescue Station, various fire rescue equipment, design and construction of taxiways and apron, design and permitting of the parallel runway, passenger terminal improvements, enhancements to the mitigation park and master planning and noise studies. As a result, the total collection authority increased from \$246,663,000 to \$298,540,000 with an estimated collection date of February 2015.

## NOTE XII. AIRLINE USE AGREEMENTS

### *Signatory Airlines*

The Port Authority negotiated a new airline use agreement (Airline Airport Lease & Use Agreement) with the Participating Airlines (now referred as Signatory Airlines) with the key terms of the agreement approved by the Board in May 2008. The new Agreement commenced on October 1, 2008 with a five-year term, expiring on September 30, 2013.

The new agreement, commonly referred to as a hybrid compensatory agreement, has a revenue sharing component. In any year in which there are net remaining revenues generated at the Airport, and all requirements of the Bond Resolution have been satisfied, the net remaining revenues shall be divided between the Authority (60%) and the Signatory Airlines (40%). The agreement provides for better flexibility as there is no majority-in-interest approval required for capital projects.

Terminal premises are leased on an exclusive use, preferential use and joint use basis. The Authority will lease certain Terminal premises on a common

use basis, as may be necessary. It is the intent of the Authority to manage its Terminal facilities in an efficient manner, while also respecting the schedules of its airline parties. Ticket counters, offices, operations areas, and baggage make-up facilities are leased on an exclusive use basis. Gates/holdrooms and aircraft parking positions are leased on a preferential use basis. Baggage claim is leased on a joint use basis, with costs allocated to the Signatory Airlines based on twenty percent (20%) allocated to all Signatory Airlines equally, and eighty percent (80%) allocated to all Signatory Airlines based on the ratio of each Signatory Airline's enplaned passengers annually at the Airport.

Landing Fees are calculated using a "residual" Airfield Cost Center approach and are based upon the total landed weight for all airline groups (Signatory, non-Signatory, Cargo, Charter, and International). Terminal Rents are calculated using a commercial compensatory method (i.e., rentable square foot divisor). Charges for the leasing of all Terminal space are assessed on a square-footage basis.

In Fiscal year 2010, the signatory airlines paid the Port Authority \$24,155,000. These amounts are net of refunds of \$1,584,000 and revenue sharing of \$3,033,000.

### *Nonparticipating Airlines*

The Port Authority has also entered into short-term use agreements or permits with the airlines serving the airport other than the participating airlines. Nonparticipating airlines are assessed fees no less than those paid by the participating airlines and do not share in any rebates.

### *Airline Bankruptcies*

Currently, Sun Country Airlines is under bankruptcy protection. Sun Country is a non-participating seasonal carrier with eight weekly flights.

Lee County Port Authority  
Lee County, Florida  
NOTES TO THE FINANCIAL STATEMENTS  
September 30, 2010 and 2009

NOTE XIII. OTHER

*Litigation*

The Port Authority is involved in ongoing litigation arising in the ordinary course of operations. It is the opinion of management and legal counsel that the outcome of this litigation will not materially affect the financial position of the Port Authority.

*Subsequent Events*

In August 2010, the Airport issued a request for bid (RFB) for a bank loan to refinance the remaining \$18,715,000 of principal remaining on the Series 1998 Passenger Facility Charge (PFC) Revenue and Refunding Bonds, in particular, the bonds maturing in fiscal years 2011 to 2016. Bank of America was chosen as the winning bid with a six year fixed interest rate of 1.905 percent. The loan closed on October 19, 2010 and the remaining PFC bonds were redeemed.

**LEE COUNTY PORT AUTHORITY**  
Southwest Florida International Airport  
**PASSENGER FACILITY CHARGE REVENUE REPORT**  
For Fiscal Year Ending September 30, 2010  
(unaudited)

Total Enplaned Passengers	Eligible Enplaned Passengers	Net PFC Cash Collections	Interest Income	Total PFC Revenue
3,721,375	3,654,887	\$15,156,618	\$131,438	\$15,288,056

Southwest Florida International Airport  
**ESTIMATED DEBT SERVICE COVERAGE**  
Series 1998 Bonds  
For Fiscal Year Ending September 30, 2010  
(unaudited)

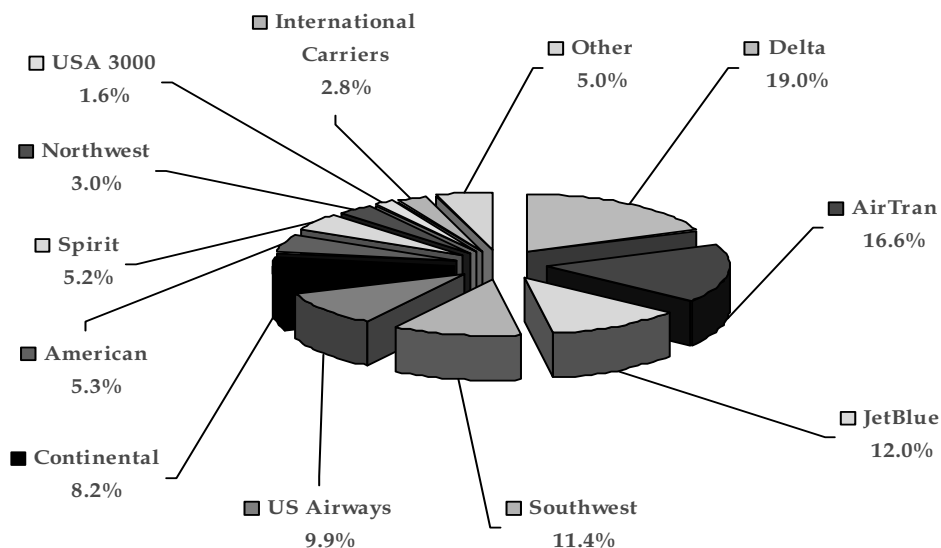
Actual PFC Revenues	Actual 2010 PFC debt service requirements	Actual debt service factor
\$15,288,056	\$11,413,738 *	1.34

\* In July 2010 there was a partial redemption of \$7,351,858 for the bonds maturing in 2017 and 2018.

Source: Lee County Port Authority

**LEE COUNTY PORT AUTHORITY**  
**Airline Market Share and Passenger Information**  
**For the Fiscal Year Ended September 30, 2010**  
(unaudited)

Total passenger traffic is shown below for fiscal year 2010 showing market share for each major airline at Southwest Florida International Airport.



Airline	2010	2009	Change from 2009	% Change from 2009
Delta	1,401,000	922,000	479,000	51.95%
Air Tran	1,222,000	1,192,000	30,000	2.52%
JetBlue	888,000	923,000	(35,000)	-3.79%
Southwest	840,000	848,000	(8,000)	-0.94%
US Airways	731,000	743,000	(12,000)	-1.62%
Continental	607,000	593,000	14,000	2.36%
American	390,000	406,000	(16,000)	-3.94%
Spirit	380,000	374,000	6,000	1.60%
Northwest	223,000	549,000	(326,000)	-59.38%
USA 3000	120,000	343,000	(223,000)	-65.01%
International Carriers	207,000	187,000	20,000	10.70%
Other*	372,000	376,000	(4,000)	-1.06%
<b>Total</b>	<b>7,381,000</b>	<b>7,456,000</b>	<b>(75,000)</b>	<b>-1.01%</b>

\* Represents all domestic carriers with less than a 3% market share.



## **APPENDIX C**

### **COPY OF THE BOND RESOLUTION**

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BOND RESOLUTION OF THE  
BOARD OF COUNTY COMMISSIONERS OF  
LEE COUNTY, FLORIDA

Adopted March 13, 2000

Amending and Restating Resolution No. 00-02-45  
Adopted February 16, 2000

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RESOLUTION NO. 00-03-\_\_

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA, AUTHORIZING THE ISSUANCE OF AIRPORT REVENUE BONDS IN MULTIPLE SERIES FROM TIME TO TIME TO FINANCE OR REFINANCE THE COST OF CERTAIN IMPROVEMENTS AT THE SOUTHWEST FLORIDA INTERNATIONAL AIRPORT; PROVIDING FOR THE RIGHTS OF THE HOLDERS OF SUCH BONDS; PROVIDING FOR THE PAYMENT THEREOF FROM THE NET REVENUES (AS HEREINAFTER DEFINED) OF THE SOUTHWEST FLORIDA INTERNATIONAL AIRPORT AND THE PROCEEDS OF BONDS (TO THE EXTENT PROVIDED HEREIN); AND MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA (hereinafter called "Board"), as follows:

ARTICLE I

AUTHORITY; DEFINITIONS; FINDINGS

SECTION 1.01. AUTHORITY FOR THIS RESOLUTION. This resolution is adopted pursuant to the provisions of Chapter 125, Part I, and Chapter 332, Florida Statutes, and other applicable provisions of law.

SECTION 1.02. DEFINITIONS. The following terms shall have the following meanings herein, unless the text otherwise expressly requires. Words importing singular number shall include the plural number in each case and vice versa; words importing persons shall include firms and corporations; and words importing gender shall include both genders.

"Accounting Principles" shall mean generally accepted accounting principles applicable to governmental entities consistently applied.

"Accounts" and "Subaccounts" shall mean the Accounts and Subaccounts created or permitted to be created by this Resolution with respect to Funds created or permitted to be created under this Resolution.

"Accreted Value" shall mean, with respect to any Capital Appreciation Bonds, the original principal amount thereof plus interest accrued thereon on the basis of a 360-day year consisting of twelve 30-day months compounded semi-annually on each Interest Payment Date commencing on the Interest Payment Date next succeeding the dated date of such Capital Appreciation Bonds to the date of maturity or redemption prior to maturity of such Capital Appreciation Bonds to the date of determination. The Accreted Value with respect to any date other than an Interest Payment Date is the Accreted Value on the next preceding Interest Payment Date (or the dated date of such Capital Appreciation Bonds for the period between such dated date and the initial Interest Payment Date for such Bonds) plus the percentage of the Accreted Value on the next succeeding Interest Payment Date derived by dividing (i) the number of days from the next preceding Interest Payment Date (or the dated date of such Capital Appreciation Bonds for the period between such dated date and the initial Interest Payment Date for such Bonds) to the date of determination, by (ii) the total number of days from the next preceding Interest Payment Date (or the dated date for the period between such dated date and the initial Interest Payment Date for such Bonds) to the next succeeding Interest Payment Date.

"Act" shall mean Chapter 125, Part I, and Chapter 332, Florida Statutes, and any amendment thereof or supplement thereto hereinafter enacted, and other applicable provisions of law.

"Additional Parity Bonds" shall mean additional obligations issued or indebtedness incurred in compliance with the terms, conditions and limitations contained herein and which shall have an equal lien on the Pledged Funds and rank equally in all respects with all Bonds issued or incurred and Outstanding hereunder.

"Airport" or "Airport Properties" shall mean (i) the Southwest Florida International Airport, (ii) the Series 2000 Project; (iii) any Project or Improvements as shall be financed or refinanced with the proceeds of Bonds issued hereunder, and (iv) any Project or Improvement that the Board or the Authority Board determines by resolution supplemental hereto to be a part of the Airport Properties, regardless of the method of financing such Project or Improvement and less any portion of such property transferred as permitted herein.

"Airport Consultant" or "Consultant" shall mean a Person having a favorable national reputé for skill in estimating and establishing rates, fees and charges for the use of airports and aviation facilities similar to the Airport retained from time to time to perform and carry out the duties imposed on the Airport Consultant by this Resolution.

“Airport Fund” shall mean the Fund so designated created pursuant to Section 5.02 hereof.

“Annual Budget” shall mean the budget adopted or in effect for each Fiscal Year and all amendments thereto as provided in Section 5.06(b) hereof.

“Assumed Amortization Period” shall mean with respect to any Series of Bonds the principal requirements of which are to be recast as provided in clause (i) of the definition of “Bond Service Requirement” herein contained, the period of time determined at the election of the Authority Representative, pursuant to either paragraph (i) or paragraph (ii), below:

(i) thirty (30) years; or

(ii) the period of time, exceeding thirty (30) years, set forth in a report delivered to the County of an investment or commercial banker, selected by the Authority Representative and experienced in underwriting bonds and indebtedness of airports, as being not longer than the maximum period of time over which indebtedness having terms and security comparable to such Series of Bonds issued or incurred by issuers similar to the County of comparable credit standing would, if then being offered, be marketable on reasonable and customary terms.

“Audited Financial Statements” shall mean the financial statements of the Airport for any 12-month period or other period covered by such statements prepared in accordance with the Accounting Principles and reported upon by an independent certified public accountant.

“Authenticating Agent” shall mean when used with respect to any Series of Bonds, the Bond Registrar for such Series and any bank, trust company or other Person designated as an Authenticating Agent for such Series by or in accordance with Section 2.03 hereof, each of which (other than the County or an official or employee of the County) shall be a transfer agent registered in accordance with Section 17A(c) of the Securities Exchange Act of 1934, as amended.

“Authority” shall mean the Lee County Port Authority, a body politic and corporate created by County Ordinance No. 90-02, enacted by the governing body of the County on January 3, 1990, and effective on January 11, 1990, pursuant to Chapter 63-1541, Laws of Florida, and Chapters 125 and 332, Florida Statutes. The Authority is responsible for the operations, management and development of all properties, facilities, systems and personnel associated with air and sea transportation and commerce within the County, including the Airport.

“Authority Board” shall mean the governing body of the Authority duly constituted in accordance with Florida law.

“Authority Representative” shall mean the Executive Director and such other officials or employees of the Authority as shall be designated by the Authority from time to time.

“Authorized Investments” shall mean any investment permitted by Florida law for the investment of public or Authority funds, as the same may be amended, supplemented or replaced from time to time.

“Balloon Indebtedness” shall mean a series of Bonds or other indebtedness 20% or more of the principal of which is due in a single year, which portion of the principal is not required by the documents authorizing such Bonds or indebtedness to be amortized by redemption prior to such date of maturity.

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

“Bonds” shall mean, collectively, the Series 1992A Bonds, the Series 1992B Bonds, the Series 2000 Bonds and any Additional Parity Bonds issued hereunder.

“Bond Counsel” shall mean counsel selected by the County and nationally recognized on the subject of and qualified to render approving legal opinions on the issuance of local government debt obligations.

“Bond Registrar” shall mean such bank or trust company, located within or without the State of Florida, or such duly designated officer of the County, who shall maintain the registration books of the County and who shall be responsible for the registration and transfer of the Bonds from time to time. The Bond Registrar may also be the Paying Agent.

“Bond Resolution” or “Resolution” shall mean this resolution and all resolutions amendatory of or supplemental thereto, including each Series Resolution subsequently adopted by the Board with respect to each Series of Bonds issued hereunder.

"Bond Service Charges" shall mean at any time or for any period of time, the principal of (and Accreted Value, if such amounts are payable) and interest and any premium due on the Outstanding Bonds or Series of Bonds specified, as the case may be, for the period specified or payable at that time specified, as the case may be, net of Capitalized Interest.

"Bond Service Requirement" for any Bond Year, as applied to the Bonds of any Series, shall mean the sum of the following amounts required to be deposited in the Sinking Fund in such Bond Year:

- (a) The amount required to pay the interest coming due and payable on Outstanding Bonds of such Series during that Bond Year, except to the extent that such interest is to be paid from the Capitalized Interest Subaccount or with accrued interest received upon the sale of such Series of Bonds;
- (b) The amount required to pay the principal (and Accreted Value) coming due and payable on Outstanding Serial Bonds of such Series during that Bond Year;
- (c) The Redemption Requirement (and Accreted Value) coming due and payable on Outstanding Term Bonds of such Series during that Bond Year;
- (d) The premium, if any, payable on Outstanding Bonds of such Series required to be redeemed in that Bond Year; and
- (e) The amount necessary to maintain the Reserve Account at an amount equal to the Reserve Requirement;

provided, however, for purposes of determining the amount of the Bond Service Requirement, the following provisions shall apply:

- (i) with respect to Balloon Indebtedness, the amount of principal which would be payable in such period if such principal were amortized from the date of incurrence thereof over a period of not to exceed the Assumed Amortization Period, on a level debt service basis at an interest rate equal to the rate borne by such indebtedness on the date calculated, except that if the date of calculation is within twelve (12) months of the actual maturity of such indebtedness, the full amount of principal payable at maturity shall be included in such calculation unless one of the following provisions shall apply:
  - (a) the principal amount of Balloon Indebtedness secured or supported by a Credit Facility the provider (or its long term debt) of which is rated in either of the three highest long-term rating categories or the two highest short-term rating categories, in each case without regard to gradations within such categories, by any of Moody's, S&P or Fitch, nominally due in the last Fiscal Year in which such Indebtedness matures may, at the option of the Authority Representative, be treated as if such principal payments or deposits were due as specified in any loan agreement issued in connection with such Credit Facility or pursuant to the repayment provisions of such Credit Facility, and interest on such Balloon Indebtedness after such Fiscal Year shall be assumed to be payable pursuant to the terms of the agreement with respect to repayments of funds under such Credit Facility; or
  - (b) if the Authority files with the County (1) an amortization schedule for Balloon Indebtedness with annual payments of principal sufficient, if made, to retire such Balloon Indebtedness at its maturity (an "Amortization Schedule"), (2) a resolution of the Authority Board agreeing to deposit the amount shown on the Amortization Schedule in each year covered thereby and (3) an opinion of counsel to the Authority that the amount set forth on the Amortization Schedule is permitted to be included in the rate base under any lease and use agreement between the Authority and an airline authorizing that airline to use the Airport (a "lease and use agreement") then in effect, then the amount shown on the Amortization Schedule for each year covered thereby will be the amount included in the Bond Service Requirement in each such year; or
  - (c) if, within twelve months of the maturity date of any Balloon Indebtedness, the Authority shall have executed an agreement with an investment banking firm it determines to have a favorable reputation for underwriting bonds for airports (the "banking firm") under which the banking firm agrees to underwrite or use its best efforts to underwrite a principal amount of Bonds the proceeds of which will be sufficient to retire the Balloon Indebtedness maturing within twelve months (the "Refinancing Bonds"), then the amount of the principal due in such year on the Refinancing Bonds may be included in the Bond Service Requirement;
- (ii) the interest on Variable Rate Bonds shall be calculated at the rate which is equal to the average of the actual interest rates which were in effect (weighted according to the length of the period during which each such interest rate was in

effect) for the most recent twelve-month period immediately preceding the date of calculation for which such information is available (or shorter period if such information is not available for such twelve-month period), except that with respect to new Variable Rate Bonds (and the issuance thereof) the interest rate for such Variable Rate Bonds for the initial interest rate period shall be the initial rate at which such Variable Rate Bonds were issued and thereafter shall be calculated as set forth above;

(iii) with respect to any Credit Facility, to the extent that such Credit Facility has not been used or drawn upon, the principal and interest relating to such Credit Facility shall not be included in the Bond Service Requirement;

(iv) with respect to any Derivative Indebtedness, the provider of which is rated at least "A" by Moody's and S&P, the interest on such Indebtedness during any Derivative Period, for so long as the Derivative Agreement remains in full force and effect, shall be calculated by adding (x) the amount of interest payable by the County on such Derivative Indebtedness pursuant to its terms and (y) the amount of interest payable by the County under the Derivative Agreement and subtracting (z) the amount of interest payable by the provider of the Derivative Agreement at the rate specified in the Derivative Agreement; provided, however, that from and after the termination of any Derivative Agreement, the amount of interest payable by the County shall be the interest calculated as if such Derivative Agreement had not been executed; and

(v) Escrowed Interest and Escrowed Principal shall not be included in the determination of the Bond Service Requirement.

"Bond Year" shall mean the period commencing October 2 of a calendar year and ending on October 1 of the following calendar year.

"Book Entry Form" or "Book Entry System" shall mean a form or system under which physical bond certificates in fully registered form are issued only to a Depository or its nominee as registered owner, with the certificated bonds held by and "immobilized" in the custody of the Depository, and the Book Entry System, maintained by and the responsibility of Persons other than the County or the Registrar, is the record that identifies, and records the transfer of the interests of, the owners of book entry interests in those bonds.

"Capital Appreciation Bonds" shall mean the Bonds of a Series, the interest on which (1) is compounded periodically; (2) is payable at maturity or upon earlier redemption thereof; and (3) is determined by reference to the Accreted Value; provided, however, that it shall not be required that the redemption price of Capital Appreciation Bonds be determined based upon Accreted Value.

"Capitalized Interest" shall mean as to any Series of Bonds that portion of the proceeds of such Series of Bonds, exclusive of accrued interest received upon the sale of such Series of Bonds, which are required by a Series Resolution authorizing the issue or sale of such Series to be deposited into the Capitalized Interest Subaccount of the Account created for such Series in the Project Fund.

"Capitalized Interest Subaccount" shall mean the subaccount designated as such in the Project Fund.

"Clerk" shall mean the Clerk of the Circuit Court in and for Lee County, Florida, who, as a matter of law, serves as ex officio Clerk of the Board of County Commissioners of Lee County, Florida.

"Code" shall mean the Internal Revenue Code of 1986, as amended or any successor Internal Revenue Code, as amended, as applicable, and the regulations promulgated thereunder.

"Costs" shall mean in addition to the cost of the items set forth in the plans and specifications with respect to any particular Project, including but not limited to: the cost of any lands or interest therein or any other properties deemed necessary or convenient therefor; architectural, engineering, legal and financing expenses; expenses for estimates of costs, Revenues and rates for use of the Airport Properties; expenses for plans, specifications and surveys; the fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the construction and acquisition of the Project; Capitalized Interest in an amount designated by the County on the respective Series of Bonds financing such Project; and such other costs and expenses as may be necessary or incidental to the financing herein authorized and the construction and acquisition of the Project and the placing of same in operation.

"County" shall mean Lee County, Florida.

"Credit Facility" shall mean a liquidity facility or credit enhancement such as a policy of municipal bond insurance, a letter of credit, line of credit or other insurance or financial product issued by a Credit Facility Issuer which, subject to the termination provisions thereof, assures prompt payment of the principal of, interest on or purchase price of all or a portion of a Series of Bonds or provides an amount equal to all or a portion of the Reserve Requirement for the Bonds.

“Credit Facility Issuer” shall mean the company issuing or with which the County or the Authority contracts for a Credit Facility.

“Cross-over Date” means, with respect to Cross-over Refunding Bonds, the last date on which the principal portion of the related Cross-over Refunded Bonds is to be paid or redeemed from the proceeds of such Cross-over Refunding Bonds.

“Cross-over Refunded Bonds” means the portion of Bonds refunded by Cross-over Refunding Bonds.

“Cross-over Refunding Bonds” means Bonds issued for the purpose of refunding Cross-over Refunded Bonds if the proceeds of such Cross-over Refunding Bonds are irrevocably deposited in escrow to secure the payment on the applicable redemption date or dates or maturity date of the Cross-over Refunded Bonds, and if the earnings on such escrow deposit are required to be applied to pay interest on such Cross-over Refunding Bonds until the Cross-over Date.

“Current Expenses” shall mean for any period all reasonable and necessary expenses paid or accrued by the County or Authority on a consistent basis in accordance with Accounting Principles for the maintenance, repair and operation of the Airport and shall include, without limiting the generality of the foregoing, all ordinary and usual expenses of maintenance, repair and operation; all administrative expenses and any reasonable payments to pension or retirement funds properly chargeable to the Airport; insurance premiums; professional service expenses relating to maintenance, repair and operation of the Airport; fees and expenses of the Paying Agents; legal and other professional fees and expenses; fees of consultants; fees, expenses and other amounts payable to any bank or other financial institution for the issuance of a letter of credit, stand-by purchase agreement or any other Credit Facility, and to any indexing agent, Depository, remarketing agent or any other person or institution whose services are required with respect to the issuance of Bonds; any taxes which may be lawfully imposed on the Airport or the income therefrom and reserves for such taxes; deposits required hereunder to be made to any Account in the Tax Rebate Fund to fund the County’s accrued, but unpaid, liability to make payments to the United States of America imposed by Section 148(f) of the Code; and other reasonable Current Expenses authorized by law; provided, however, Current Expenses shall not include any allowance for amortization or depreciation or any reserves for extraordinary maintenance and repair of the Airport except to the extent the County or the Authority receives payment or reimbursement therefor and includes such payment or reimbursement in Revenues; any other expenses for which (or to the extent to which) the County or the Authority is or will be paid or reimbursed from or through any source and such payment or reimbursement is not included as Revenues; any extraordinary items arising from the early extinguishment of debt; and any prior period or retroactive adjustments which are required by a change in accounting principles or standards.

“Current Interest Paying Bonds” shall mean the Bonds of a Series, the interest on which shall be payable on a semiannual basis.

“Defeasance Obligations” shall mean, unless modified by the terms of a particular resolution supplementing the Bond Resolution with respect to a Series of Bonds, (i) noncallable, nonprepayable Government Obligations; (ii) evidences of ownership of a proportionate interest in specified noncallable, nonprepayable Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity of custodian, and, to the extent such obligations constitute "defeasance obligations" under the criteria of S&P at the time such obligations are acquired; (iii) Defeased Municipal Obligations; (iv) evidences of ownership of a proportionate interest in specified Defeased Municipal Obligations, which Defeased Municipal Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity as custodian; and (v) the obligations of (A) Federal Home Loan Mortgage Corp., (B) Farm Credit System, (C) Federal Home Loan Banks, (D) Federal National Mortgage Association, (E) Student Loan Marketing Association, (F) Financing Corp., (G) Resolution Funding Corp., and (H) U.S. Agency for International Development.

“Defeased Bonds” shall mean Bonds issued under the Bond Resolution that have been defeased in accordance with Article VII of the Bond Resolution.

“Defeased Municipal Obligations” shall mean obligations of state or local government municipal bond issuers, provision for the payment of the principal of and interest on which shall have been made or provided for by irrevocable deposit with a trustee or escrow agent of (i) noncallable, nonprepayable Government Obligations, (ii) evidences of ownership of a proportionate interest in specified noncallable, nonprepayable Government Obligations, which Government Obligations are held by a bank or trust company organized and existing under the laws of the United States of America or any state thereof in the capacity as custodian, or (iii) the obligations of (A) Federal Home Loan Mortgage Corp., (B) Farm Credit System, (C) Federal Home Loan Banks, (D) Federal National Mortgage Association, (E) Student Loan Marketing Association, (F) Financing Corp., (G) Resolution Funding Corp., and (H) U.S. Agency for International Development, the maturing principal of and interest on such obligations listed in (i) to (iii) above, when due and payable without any reinvestment thereof, shall provide sufficient money to pay the principal of, redemption premium, if any, and interest on such obligations of state or local government municipal bond issuers, and for which Defeased Municipal Obligations a specific call date has been established or for which the issuer has waived the ability to call such Defeased Municipal Obligations prior to a date certain.



“Depository” shall mean any securities depository that is a clearing agency under federal law operating and maintaining, with its participants or otherwise, a Book Entry System to record ownership of book entry interests in Bonds, and to effect transfers of book entry interests in Bonds.

“Derivative Agreement” shall mean, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap agreement, currency swap agreement, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate or other financial risk; and (v) any other type of contract or arrangement that the County determines is to be used, or is intended to be used, to manage or reduce the cost of Bonds, to convert any element of Bonds from one form to another, to maximize or increase investment return, to minimize investment return risk or to protect against any type of financial risk or uncertainty.

“Derivative Indebtedness” shall mean Bonds for which the County shall have entered into a Derivative Agreement in respect of all, a portion or any component of such Bonds.

“Derivative Period” shall mean the period during which a Derivative Agreement is in effect.

“Escrowed Interest” shall mean amounts of interest on long-term indebtedness for which moneys or Defeasance Obligations have been deposited in escrow (the “Escrowed Interest Deposit”) which Escrowed Interest Deposit has been determined by an independent accounting firm to be sufficient to pay such Escrowed Interest.

“Escrowed Principal” shall mean amounts of principal on long-term indebtedness for which moneys or Defeasance Obligations have been deposited in escrow (the “Escrowed Principal Deposit”) which Escrowed Principal Deposit has been determined by an independent accounting firm to be sufficient to pay such Escrowed Principal.

“Events of Default” shall mean those events set forth in Section 6.01 of this Resolution.

“Existing Resolution” means the Bond Resolution of the County adopted August 26, 1992 providing for the issuance of the Series 1992B Bonds, which Existing Resolution is amended and restated in its entirety by this Bond Resolution.

“Executive Director” shall mean the official charged by the Authority to administer the affairs of the Airport.

“Fitch” means shall mean Fitch IBCA, Inc., 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 Authority Representative by notice to the County.

“Fiscal Year” shall mean the period commencing on October 1 of each year and ending on the succeeding September 30 or such other period of twelve (12) consecutive months permitted by the laws of the State of Florida and designated by the County as its fiscal year.

“Fixed Rate” shall mean, when used with respect to any Bond, that the rate of interest thereon is not subject to change at any time during the term of such Bond.

“Fund” shall mean a Fund created hereunder or created pursuant to the terms of this Resolution.

“Funds Trustee” shall mean any bank or trust company designated by resolution of the County to hold, in a fiduciary capacity (and not merely as a depository), any Fund or Account created hereunder.

“Future Passenger Facility Charge” shall mean any Passenger Facility Charge imposed at the Airport pursuant to the PFC Act, the PFC Regulations and the Future PFC Approvals.

“Future PFC Approvals” shall mean the Records of Decision of the Federal Aviation Administration (including any amendments and supplements thereto) approving the imposition of a Future Passenger Facility Charge, i.e., any Passenger Facility Charge other than the Passenger Facility Charge currently being imposed at the Airport.

“Government Obligations” shall mean direct obligations of, or obligations the timely payment of the principal of and interest on which are fully and unconditionally guaranteed by, the United States of America, including interest strips of obligations issued by the Resolution Funding Corporation, but excluding unit investment trusts and mutual funds.

“Grant in Aid” shall mean any grant moneys received by the County or the Authority for the Airport from the federal government or the State of Florida or any other Person, but not including an Interest Subsidy.

“Holder of Bonds” or “Bond Holder” or “Holders” or any similar term shall mean any Person who shall be the Registered Owner of any Bond or Bonds.

“Improvement” or “Capital Improvement” shall mean such buildings, structures, equipment, and land or interests in land and such renewals, replacements, additions, extensions and betterments, other than ordinary maintenance and repairs, as may be deemed necessary by the Authority to develop or maintain the safe, secure, competitive, efficient operation of the Airport.

“Initial Purchaser” shall mean, as to any Series of Bonds, the Person or Persons identified in the Purchase Contract (or accepted bid at public sale) relating thereto as the purchaser or purchasers of such Bonds.

“Insurance Consultant” shall mean (i) such person, firm or organization recognized and qualified in surveying risks and recommending insurance coverage for such facilities as the Airport and for organizations engaged in such operations as those to be conducted by the Authority at the Airport, at the time retained by the Authority or the County to perform the acts and carry out the duties as herein provided for such Insurance Consultant or (ii) the risk management department or officer of the County if the County determines by resolution that such department or officer meets the criteria set forth in (i) above, which resolution shall remain in effect until repealed.

“Interest” or “interest” shall mean the interest on the specified Bonds; in the case of Capital Appreciation Bonds the interest component included in the Accreted Value thereof shall be deemed to constitute principal (except that for purposes of any limitation on the principal amount of Bonds which may be issued and Outstanding hereunder, the principal amount thereof shall be the principal amount thereof on the date of delivery thereof to the Initial Purchaser).

“Interest Payment Date” shall mean April 1 and October 1 of each year unless different interest payment dates for a particular Series of Bonds are specified in a Series Resolution.

“Interest Subsidy” shall mean any amount received by the County or the Authority from any governmental entity designated for the purpose of paying interest on Bonds.

“Maximum Bond Service Requirement” shall mean, as of any particular date of determination, the Bond Service Requirement for the then current or any future Bond Year which is greatest in dollar amount with respect to the Bonds.

“Moody’s” means 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 Authority Representative by notice to the County.

“Net Revenues” shall mean the Revenues minus the Current Expenses.

“Outstanding” shall mean all Bonds issued pursuant to this Bond Resolution, except:

(i) Bonds acquired by the County and cancelled by the Authenticating Agent upon request by the County;

(ii) Bonds which have become due at maturity or by call for redemption or otherwise for the payment of which there has been deposited with the Paying Agent or an escrow agent or otherwise irrevocably committed thereto, the amount in cash or Government Obligations (including the interest thereon due prior to such date of payment or redemption) needed to provide for the payment of all principal thereof, any premium, and unpaid interest thereon when due and payable;

(iii) Bonds which are deemed paid, discharged and no longer Outstanding pursuant to Section 7.01 hereof;

(iv) Bonds issued under any Series Resolution which, under the provisions of such Series Resolution, are deemed to be paid, defeased or otherwise not Outstanding;

(v) Bonds for which other Bonds have been issued under Section 2.04, Section 2.06 or Section 2.07 hereof; and

(vi) Bonds held by the County, or by an agent of the County (i) for purposes of voting, giving of directions and granting consents and (ii) held by the County, or an agent of the County for more than 30 days unless there shall be delivered to the County an opinion of Bond Counsel to the effect that such Bonds may be resold to the public and that the interest thereon continues to be excluded from the gross income of the recipients thereof.

“Passenger Facility Charge” shall mean the charge imposed at the Airport pursuant to the PFC Act, the PFC Regulations and the PFC Approvals.

“Passenger Facility Charge Bonds” shall mean the Passenger Facility Charge Revenue and Refunding Bonds, Series 1998, and any additional parity bonds issued pursuant to the Passenger Facility Charge Bond Resolution.

“Passenger Facility Charge Bond Resolution” shall mean Resolution No. 98-04-02, adopted by the Board on April 7, 1998, as amended and restated by Resolution 98-04-25, adopted by the Board on April 29, 1998, and any amendments and supplements thereto.

“Paying Agent” shall mean such bank or trust company, located within or without the State of Florida, or such duly designated officer of the County who shall be responsible for the payment of the principal of and interest on the Bonds to the Registered Owners of the Bonds.

“Person” or words importing persons shall mean firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities and natural persons.

“PFC Act” shall mean the Aviation Safety and Capacity Expansion Act of 1990, Pub.L. 101-508, Title IX, Subtitle B §§ 9110 and 9111, recodified as 49 U.S.C. § 40117, as amended from time to time.

“PFC Approvals” shall mean the Records of Decision dated August 31, 1992, May 10, 1993, November 4, 1994 and February 27, 1997, of the Federal Aviation Administration (including amendments dated December 16, 1993 and October 12, 1995) and any future Record of Decision (and amendments and supplements to any or all of the foregoing) relating to the Passenger Facility Charge.

“PFC Regulations” shall mean Part 158 of the Federal Aviation Regulations (14 CFR Part 158), as amended from time to time, and any other regulation issued with respect to the PFC Act.

“PFC Revenues” shall mean (i) all moneys received by the Authority and/or the County from the Passenger Facility Charge, (ii) all moneys and investment held in the Revenue Fund, the Sinking Fund, the PFC Capital Fund and the Project Fund under the Passenger Facility Charge Bond Resolution, and (iii) the investment income earned on amounts in such Funds (including the accounts therein).

“Pledged Funds” shall mean (i) Net Revenues; (ii) the amounts on deposit in the Sinking Fund and all Accounts therein except as expressly provided herein; the Subordinated Indebtedness Fund (other than the proceeds of Subordinated Indebtedness); the Renewal, Replacement and Improvement Fund, and the Airport Fund, and (iii) until expended, the amounts on deposit in the applicable Subaccounts of the Project Fund with respect to any particular Series of Bonds.

“Principal” or “principal” shall mean the stated principal of the Bonds specified and in the case of Capital Appreciation Bonds means the principal component included in the Accreted Value (except that for purposes of any limitations on the principal amount of Bonds which may be issued and Outstanding hereunder, the principal amount thereof shall be the principal amount thereof on the date of delivery thereof to the Initial Purchaser).

“Prior Bonds” shall mean the Airport Refunding Revenue Bonds, Series 1984, issued under the Prior Resolution, a portion of which were refunded by the issuance of the Series 1992A Bonds and the remaining portion of which were refunded by the issuance of the Series 1992B Bonds.

“Prior Resolution” shall mean Resolution No. 83-11-16 of the Board, as amended and restated by Resolution No. 84-10-11 of the Board, as further amended and restated by Resolution No. 90-01-48 of the Board, authorizing the issuance of the Prior Bonds, as amended and supplemented, and particularly as amended and supplemented to authorize the issuance of the Series 1992A Bonds.

“Project” shall mean any Capital Improvement authorized by the Act or as provided for herein, which relates to the Airport or its operations or services and which is identified or described by the County as a “Project” within the meaning of this Resolution as such Project description may be amended or modified from time to time; provided, however, that such description may not be materially amended or modified unless the County receives the opinion of Bond Counsel to the effect that such modification will not adversely effect

the exclusion from gross income for federal income tax purpose of interest on the Bonds or any particular Series of Bonds (excluding Taxable Bonds). "Project" shall include specifically the Series 2000 Project.

"Project Certificate" shall mean that certificate of the Authority Representative filed with the County at or prior to the date of delivery of any Series of Bonds and setting forth the estimated total cost of the Project to be financed (in whole or in part) with the proceeds of such Series of Bonds.

"Project Fund" means the Project Fund created under Section 4.02 of this Resolution.

"Purchase Agreement" or "Purchase Contract" shall mean, as to any Series of Bonds, the agreement or contract for the sale thereof between the County and the Initial Purchaser of such Series.

"Record Date" shall mean, when used with respect to any Bond, if the Interest Payment Date is the first day of a month, the fifteenth day, whether or not a business day, of the calendar month next preceding the Interest Payment Date applicable to that Bond, and, if the Interest Payment Date is the fifteenth day of a month, the first day of such month, or such other day as is specified for a particular Series of Bonds in the Series Resolution.

"Redemption Requirement", with respect to any Term Bonds of a Series, shall mean the amount or amounts of principal established by the County in the resolution awarding such Term Bonds to the Initial Purchaser thereof required to be redeemed, the total of such amounts to equal the principal amount of such Term Bonds.

"Registered Owner" shall mean the owner of any Bond or Bonds as shown on the registration books maintained by the Bond Registrar.

"Renewal, Replacement and Improvement Fund" shall mean the Fund for the deposit of certain Net Revenues during the Fiscal Year in the amount and for the purposes determined by the Authority, as provided for in Section 5.21 of this Resolution.

"Reserve Requirement" shall mean, as of any date of calculation, an amount which is the lesser of (i) the Maximum Bond Service Requirement, or (ii) the maximum amount permitted under the Code as a reasonably required reserve or replacement fund.

"Revenues" shall mean for any period all moneys paid or accrued for the use of and for services and facilities furnished by, or in connection with the ownership or operation of, the Airport, or any part thereof or the leasing or use thereof, including, but not limited to (i) rentals, (ii) concession fees, (iii) use charges, (iv) landing fees, (v) license and permit fees, (vi) service fees and charges, (vii) moneys from the sale of fuel, and or other merchandise and (viii) any investment income which is required hereby to be deposited in the Revenue Fund (but shall exclude all other investment income), provided, however, that Revenues shall not include (i) proceeds received from the sale of Bonds, Subordinated Indebtedness or Special Purpose Facilities Bonds, (ii) proceeds from the sale or taking by eminent domain of any part of the Airport, (iii) gifts or Grant in Aid, or payments received in lieu of or replacement for Grant in Aid, (iv) ad valorem tax revenues, (v) any insurance proceeds received by the County or the Authority (other than insurance proceeds paid as compensation for business interruption), (vi) moneys paid or accrued to or in connection with any facilities not financed or refinanced by Bonds issued or from facilities not qualified as a Project under this Resolution, (vii) moneys paid or accrued as a repayment of an advance not constituting a Current Expense, (viii) amounts received which are required to be paid to any other governmental body, including, but not limited to taxes and impact fees, (ix) PFC Revenues (except to the extent provided in Section 3.02 hereof), and (x) any noise abatement charges received for disbursement to others.

"S&P" shall mean Standard and Poor's Rating Service, 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, "S & P" shall be deemed to refer to any other nationally recognized securities rating agency designated by the Authority Representative by notice to the County.

"Serial Bonds" shall mean any Bonds for the payment of the principal of which, at the maturity thereof, no fixed mandatory sinking fund or bond redemption deposits are required to be made prior to the twelve month period immediately preceding the stated date of maturity of such Serial Bonds.

"Series" shall mean any Bonds issued, authenticated and delivered in a single transaction and identified as a single series pursuant to the resolution providing for the sale and issuance of such Bonds regardless of variations in maturity, interest rate, Redemption Requirements or other provisions.

"Series 1992A Bonds" shall mean the Lee County, Florida Airport Revenue Bonds, Series 1992A, issued under the Prior Resolution to finance the cost of refunding a portion of the Prior Bonds.

“Series 1992B Bonds” shall mean the Lee County, Florida Taxable Airport Revenue Bonds, Series 1992B issued under the Existing Resolution.

“Series 2000 Bonds” shall mean collectively the Lee County, Florida Airport Revenue Bonds, Series 2000A (AMT) and Series 2000B (Non-AMT), authorized to be issued as Additional Parity Bonds under the Existing Resolution, as more particularly described in the Series Resolution related thereto.

“Series 2000 Project” shall mean the Improvements at the Airport, previously approved by resolutions of the County and the Authority, including, but not limited to, a new terminal building, parking garage and other surface parking, access roads, taxiway, airline cargo building, rental car facilities, expanded hydrant fueling system and other functionally related and subordinate facilities.

“Series Resolution” shall mean, when used with reference to any Series of Bonds issued hereunder, the resolution of the Board awarding such Series of Bonds to the Initial Purchasers of such Series and establishing therein the terms of such Series of Bonds as provided in Section 2.02 hereof.

“Special Purpose Facilities” shall mean any projects, improvements or facilities determined by the County and the Authority to be useful in the conduct of the operations of the Airport that are financed with the proceeds of Special Purpose Facilities Bonds as permitted by the terms of this Bond Resolution.

“Special Purpose Facilities Bonds” shall mean bonds issued for the purpose of paying the cost of Special Purpose Facilities or refunding bonds previously issued for such purpose which bonds shall not be payable from the Pledged Funds, as permitted by Section 5.23 of this Bond Resolution.

“Subordinated Indebtedness” shall mean bonds, indebtedness or other obligations of the County payable exclusively from moneys from time to time on deposit to the credit of the Subordinated Indebtedness Fund and issued pursuant to Section 5.11 of this Bond Resolution.

“Subordinated Indebtedness Fund” shall mean the Fund with that name created by Section 5.02 hereof.

“Tax Compliance Certificate” shall mean, with respect to each Series of Bonds other than Taxable Bonds, the certificate executed by the County and the Authority in connection with the issuance and delivery of such Series establishing the expectations of the County and the Authority as to the expenditure of the proceeds of such Series and other facts and circumstances, covenants and restrictions which may be applicable to such Series under the Code (and the Regulations).

“Tax Rebate” or “Tax Rebate payment” shall mean a payment to the United States of America required to be made by any Tax Rebate Requirement.

“Tax Rebate Bonds” shall mean any Series of Bonds issued hereunder which are subject to a Tax Rebate Requirement.

“Tax Rebate Fund” shall mean the Fund with that name created by Section 5.20 hereof.

“Tax Rebate Requirement” shall mean any requirement imposed upon the County by Section 148(f) of the Code to make any payment to the United States of America as a condition to the interest on Bonds of a Series being excluded from the gross income of the Holder for federal income tax purposes (excluding, however, a Holder who is a “substantial user” (as defined in the Code) of the particular Project financed with the proceeds of the Series of Bonds in question).

“Taxable Bond” shall mean any Bond which states, in the body thereof, that the interest income thereon is includable in the gross income of the Holder thereof for federal income tax purposes (provided that a Bond which states that interest thereon is not so excluded while the Bond is held by a “substantial user,” as such term is used in the Code, shall not solely thereby be deemed to be a Taxable Bond).

“Term Bonds” shall mean the Current Interest Paying Bonds and the Capital Appreciation Bonds of a Series which shall be subject to mandatory redemption by operation of the Redemption Account.

“Transfers” shall mean amounts from unencumbered moneys in the Airport Fund or any other source which are deposited in the Revenue Fund (other than amounts which are Revenues accrued or received in the Fiscal Year such deposit is made).

“Variable Rate Bonds” shall mean a Series of Bonds or other form of indebtedness, the interest rate on which is not established at a fixed or constant rate to maturity.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined and declared that:

A. The County now owns, operates and derives Revenues from the Airport.

B. The County has previously issued the Prior Bonds pursuant to the Prior Resolution, and pursuant to the Existing Resolution, has previously issued the Series 1992A Bonds as additional parity obligations under the Prior Resolution to advance refund a portion of the Prior Bonds. The provisions and covenants of the Prior Resolution have been defeased and are no longer of any force and effect and the Series 1992A Bonds are deemed to have been issued pursuant to the Existing Resolution.

C. The County has previously issued the Series 1992B Bonds pursuant to the Existing Resolution to refund the remaining portion of the Prior Bonds.

D. The County has authorized the Series 2000 Bonds to be issued as Additional Parity Bonds under the Existing Resolution to provide funds, which, together with others funds now or hereafter to be available to the County or the Authority, will be sufficient to pay the Costs of the Series 2000 Project.

E. In order to include in the Existing Resolution certain additional provisions and to modify certain existing provisions thereof and to take into account the Passenger Facility Charge Bonds, it is in the best interests of the County and the Authority to adopt this Bond Resolution amending and restating the Existing Resolution.

F. Section 9.12 of the Existing Resolution permits such resolution to be amended with the consent of the holders of not less than 51% in principal amount of the Outstanding Bonds, except as provided therein. Simultaneously with the issuance of the Series 2000 Bonds, the Initial Purchaser of the Series 2000 Bonds, as the holder thereof, will consent to the amendments contained in this Bond Resolution. The Series 2000 Bonds will constitute more than 51% of the principal amount of the Outstanding Bonds. None of the amendments contained in this Bond Resolution will require the consent of the holders of 100% of the principal amount of the Outstanding Bonds, as set forth in Section 9.12 of the Existing Resolution.

G. It is in the best interests of the County, the Authority, the citizens of the area served by the Airport, including Lee County, Florida, and all patrons of the Airport for the Series 2000 Project to be acquired, constructed and equipped and to issue the Series 2000 Bonds to provide funds which, together with others funds now or hereafter to be available to the County or the Authority, will be sufficient to pay the costs of the Series 2000 Project.

H. Section 5.12 of the Existing Resolution permits the County to issue Additional Parity Bonds upon compliance with the provisions of Section 5.12. The County has received from the Authority a report of an Airport Consultant demonstrating compliance with Section 5.12 of the Existing Resolution with respect to the Series 2000 Bonds.

I. The County has the power and authority under the Act and the Existing Resolution to authorize the issuance of and to issue and sell the Series 2000 Bonds and to use the proceeds thereof to pay the Costs of the Series 2000 Project.

J. The authorization, issuance and sale of the Series 2000 Bonds and the use of the proceeds thereof as provided in this Bond Resolution and in the Series Resolution will serve a proper and valid public purpose.

K. The County may, from time to time, find it necessary and desirable to issue Additional Parity Bonds payable from and secured by a lien upon the Pledged Funds on a parity with the Bonds in order to finance the Costs of Projects, to refund obligations theretofore issued, or for other purposes authorized herein, and it is in the best interests of the County and the Authority to provide for the issuance of such Additional Parity Bonds pursuant to this Resolution.

L. The Net Revenues to be received by the County and the Authority are expected to be sufficient to pay all of the Bond Service Charges with respect to the Bonds and all other amounts payable under this Bond Resolution as the same become due and payable in accordance with the terms hereof.

M. All Bonds issued from time to time shall be equally and ratably secured by an irrevocable lien on, pledge of, and security interest in the Pledged Funds without priority for number, date of sale, date of execution, or date of delivery, except as expressly provided herein or permitted hereby. Each Series of Bonds shall be further payable from and secured by amounts derived from the proceeds of the Bonds of such Series and Pledged Funds which may be on deposit in an Account or Subaccount, as the case may be, for such Series in the Sinking Fund and Reserve Account therein (hereinafter described). Any Series of Bonds may be further secured or supported by a Credit Facility. The Bonds shall be payable solely from the sources permitted hereby. The County shall never be required to levy ad valorem taxes on any property to pay the Bonds and the Bonds shall not constitute a lien on any property owned by the County or the Authority except proceeds of Bonds, Pledged Funds and the PFC Revenues (to the extent provided in Section 3.02).

N. The PFC Revenues may secure the Bonds only to the extent approved by the County and then only to the extent permitted by the Passenger Facility Charge Bond Resolution, the PFC Act, the PFC Approvals and the PFC Regulations.

SECTION 1.04 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 Bond Resolution shall be deemed to be and shall constitute a contract between the County and such Holders. The covenants and agreements herein set forth to be performed by the County or the Authority shall be for the equal benefit, protection and security of the legal Holders of any and all 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 AND DESCRIPTION OF BONDS; TERMS AND PROVISIONS

SECTION 2.01. AUTHORIZATION OF BONDS. Subject and pursuant to the provisions hereof, Bonds of the County to be known as "Airport Revenue Bonds" or "Airport Refunding Revenue Bonds," as the case may be, are authorized to be issued in one or more installments and may be designated as to Series as provided by the County in a Series Resolution. The Series 1992A Bonds, pursuant to the resolution authorizing the issuance thereof, are hereby deemed to be the first Series of Bonds issued hereunder.

SECTION 2.02. DESCRIPTION OF BONDS. The Bonds shall be numbered; shall be in the denominations or maturity amount of as provided in a subsequent Series Resolution supplemental hereto; shall be dated as of the date of their delivery or such other date prior to the date of their delivery as provided in such Series Resolution or other resolution supplemental hereto adopted in connection with the issuance of a Series of Bonds; shall bear interest at a rate not exceeding the maximum rate allowed by law; payable on such dates; shall mature on the day, in such years, not to exceed forty (40) years from the date of issuance thereof, and in such amounts; and shall be issued as Current Interest Paying Bonds, Capital Appreciation Bonds, Variable Rate Bonds, Balloon Indebtedness, short-term bonds or notes, Serial Bonds, Term Bonds, or other forms authorized by the County, or any combination thereof; all the foregoing as shall be determined by a Series Resolution or other subsequent resolution of the County adopted at or prior to the time of sale of the respective Series of Bonds.

The Bonds may be issued all at one time or in installments from time to time. Different installments and Series of the Bonds may have such characteristics as shall be provided herein and by subsequent resolution of the County and shall bear a designation to distinguish such Series or installment from other Series or installments of the Bonds.

The Bonds shall be issued in fully registered form, except as provided in Section 2.05 hereof; shall be payable with respect to principal at the office of the Bond Registrar, as paying agent, or such other paying agent as shall be subsequently determined by the County; shall be payable in lawful money of the United States of America; and shall bear interest from their date, or from the most recent date to which interest has been paid, payable, in the case of Current Interest Paying Bonds, by check or draft mailed to the Registered Owner at its address as it appears upon the books of the Bond Registrar as of 5:00 P.M. Eastern Time on the Record Date, and in the case of Capital Appreciation Bonds, at maturity upon presentation at the office of the Bond Registrar; provided that, for any Registered Owner of one million dollars or more in principal amount of Bonds, such payment shall, at the written request of such Registered Owner, be by wire transfer to any designated financial institution located within the continental United States or other medium acceptable to the County and to such Registered Owner.

The County shall, by Series Resolution, provide for the sale and issuance of each Series of Bonds and shall specify therein (or provide for) the following with respect to such Series:

- (a) The aggregate principal amount of such Series;
- (b) The Project or phase thereof (if any) to be financed with the proceeds thereof and the use of the proceeds thereof;
- (c) The complete name and Series designation of such Series;
- (d) The date or dates Bonds of such Series are to bear;
- (e) The maturity or maturities of the Bonds of such Series;

- (f) The interest rate or rates the Bonds of such Series shall bear, which may include variable, adjustable, convertible or other similar rates, stepped coupons or other method of determination of the interest rate or rates thereon;
- (g) The dates on which interest is payable;
- (h) The numbering and lettering of Bonds of such Series;
- (i) The Bond Registrar, Authenticating Agent, and Paying Agent for such Bonds;
- (j) The terms of redemption for such Series of Bonds (which may include scheduled mandatory sinking fund redemption (payable as Redemption Requirements), redemption at the option of the County or mandatory redemption at the election of the Holder thereof, and such other provisions for redemption as the County deems desirable);
- (k) In the case of Bonds issued to refund or advance refund any Bonds, Subordinated Indebtedness or other obligations, the identification of the obligations to be refunded, the amount to be deposited in any escrow fund relating thereto (or shall delegate to the Authority Representative, the authority to calculate such amount);
- (l) The denominations of Bonds of such Series (if the denominations thereof are to be other than \$5,000 or integral multiples thereof or, in the case of Capital Appreciation Bonds of such Series if the Accreted Value at maturity shall be other than \$5,000 or integral multiples thereof);
- (m) The amount of the Reserve Requirement, if any, with respect to such Series and the amount of proceeds (or other available funding including a Credit Facility if so provided and subject to subsequent substitution as provided herein) to be deposited into the Reserve Account upon the issuance of such Series of Bonds;
- (n) Any special provisions relating to the purchase of Bonds of such Series, the remarketing of such Bonds, the provision of Credit Facilities to be provided with respect thereto, provisions for the modification of interest calculation periods, interest payment periods, interest rates or the conversion of the Bonds of such Series from one Variable Rate mode to another or from a Variable Rate mode to a fixed rate mode or from a fixed rate mode to a Variable Rate mode;
- (o) The minimum price or prices to be paid for such Bonds and any original issue discount or premium; and
- (p) Any other terms or provisions applicable to the Series of Bonds, not inconsistent with the provisions of this Resolution, the Act or any applicable laws of the United States of America.

SECTION 2.03. EXECUTION AND AUTHENTICATION OF BONDS. The Bonds shall be executed in the name of the County by the Chairman, Vice Chairman or other authorized official of the Board and the seal of the County shall be imprinted, reproduced or lithographed thereon and attested to by the Clerk or Deputy Clerk or other authorized official of the County. The signatures of said officers thereon may be by facsimile, but one such officer shall sign his manual signature thereon unless the County appoints an Authenticating Agent who shall be authorized and directed to authenticate such Bonds. If any Bond shall not bear the manual signature of at least one such officer, such Bond shall not be valid or become obligatory for any purpose or entitled to any security or benefit hereunder unless and until a certificate of authentication, substantially in form prescribed by the form of such Bond, shall have been signed by the Authenticating Agent for the Bonds of that Series. The authentication by the Authenticating Agent upon any Bond shall be conclusive evidence that the Bond so authenticated is entitled to the security and benefit hereof. The certificate of the Authenticating Agent on the Bonds of any Series may be executed by any individual who is an Authenticating Agent for such Series or by any Person authorized by any corporate Authenticating Agent, but it shall not be necessary that the same authorized Person sign the certificates of authentication on all of the Bonds of a Series. If any officer of the County whose signature appears on the Bonds ceases to hold office before the delivery of the Bonds, such signature shall nevertheless be valid and sufficient for all purposes. In addition, any Bond may bear the signature of, or may be signed by, such Persons who at the actual time of execution of such Bond shall be the proper officers to sign such Bond although at the date of such Bond or the date of delivery thereof such Persons may not have been such officers.

SECTION 2.04. NEGOTIABILITY AND REGISTRATION OF BONDS. The Bonds shall be and have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code - Investment Securities Laws of the State of Florida, and each successive Registered Owner, in accepting any of said Bonds shall be conclusively deemed to have agreed that the Bonds shall be and have all of the qualities and incidents of such negotiable instruments.



Except as in hereinafter provided, there shall be a Bond Registrar, who may also be the paying agent for the Bonds, which shall be a bank or trust company located within or without the State of Florida. The Bond Registrar shall be responsible for maintaining the books for the registration of the transfer and exchange of the Bonds. The County, the Authority and the Bond Registrar may treat the Registered Owner of any Bond as the absolute owner thereof for all purposes, whether or not such Bond shall be overdue, and shall not be bound by any notice to the contrary. Anything hereinabove to the contrary notwithstanding, in the event that all of any Series of Bonds are deposited with and registered in the name of a securities depository or its nominee, the County shall be permitted to act as Bond Registrar.

All Bonds presented for transfer, exchange, redemption or payment (if so required by the County or the Bond Registrar) shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and with guaranty of signature satisfactory to the County or the Bond Registrar, duly executed by the Registered Owner or by his duly authorized attorney.

The Bond Registrar may charge the Registered Owner a sum sufficient to reimburse it for any expenses incurred in making any exchange or transfer following the initial delivery of the Bonds. The Bond Registrar or the County may also require payment from the Registered Owner or his transferee, as the case may be, of a sum sufficient to cover any tax, fee or other governmental charge that may be imposed in relation thereto. Such charges and expenses shall be paid before any such new Bonds shall be delivered.

The County and the Bond Registrar shall not be required (a) to issue, transfer or exchange any Bonds during a period beginning at the opening of business on the Record Date for such Bonds or any date of selection of Bonds or parts thereof to be redeemed and ending at the close of business on the subsequent Interest Payment Date or day on which the applicable notice of redemption is given, or (b) to transfer or exchange any Bonds selected, called or being called for redemption in whole or in part.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the County, evidencing the same debt as the Bonds surrendered, shall be secured by this Resolution, and shall be entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

The County may elect to use a Book Entry System for issuance and registration of the Bonds, and the details of any such system shall be as fixed by the Series Resolution adopted prior to the time of issuance of the Bonds.

Whenever any Bond shall be delivered to the Bond Registrar for cancellation, upon payment of the principal amount thereof, or for replacement, transfer or exchange, such Bond shall be cancelled and destroyed by the Bond Registrar, and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the County.

#### SECTION 2.05. BONDS TO BE IN REGISTERED FORM; EXCEPTIONS.

(a) Unless coupon Bonds, the interest on which is excluded from the gross income of the Holder for federal income tax purposes, may again be issued under Section 103 of the Code, or any successor to such Code section, all Bonds issued hereunder shall be in registered form, except as provided in subsection (c) of this Section.

(b) To the extent the County under then applicable law may issue any Series of Bonds in coupon form, the interest on which, in the opinion of Bond Counsel, is excludable from the gross income of the Holder for federal income tax purposes or should the County determine to issue Taxable Bonds in coupon form, the County may amend this Resolution or any supplemental resolution (including the form of any Bonds), to authorize and provide for the issuance of Bonds in coupon form and for the exchange of registered Bonds for coupon Bonds and vice versa.

(c) The provisions of subsection (a) above, shall not be applicable to any Taxable Bond.

SECTION 2.06. BONDS MUTILATED, DESTROYED, STOLEN OR LOST. In case any Bond shall become mutilated or be destroyed, stolen or lost, the Bond Registrar may in its discretion issue and deliver a new Bond, of like tenor as the Bond, so mutilated, destroyed, stolen or lost, either in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, upon the Registered Owner's furnishing the Bond Registrar proof of ownership thereof, furnishing satisfactory indemnity in favor of both the County and the Bond Registrar, complying with such other reasonable regulations and conditions as the Bond Registrar and County may prescribe, and paying such expenses as the County may incur. All Bonds so surrendered shall be cancelled. If any such shall have been matured or be about to mature, instead of issuing a substitute Bond, the Bond Registrar may pay the same, upon compliance with the foregoing conditions and requirements.

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

SECTION 2.07. TEMPORARY BONDS. Until Bonds in definitive form of any Series are ready for delivery, the County may execute, and upon its request in writing, the Bond Registrar shall authenticate and deliver in lieu of any thereof, and subject to the same provisions, limitations and conditions, one or more printed, lithographed or typewritten Bonds in temporary form, substantially of the tenor of the Bonds hereinbefore described and with appropriate omissions, variations and insertions. The Bonds in temporary form will be in such principal amounts as the County shall determine.

Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit of this Resolution. The County shall, without unreasonable delay, prepare, execute and deliver to the Bond Registrar and thereupon, upon the presentation and surrender of the Bonds in temporary form to the Bond Registrar, the Bond Registrar shall authenticate and deliver, in exchange therefor, a Bond of the same maturity, in definitive form in the authorized denominations, and for the same aggregate principal amount, as the Bonds in temporary form surrendered. The expense of such exchange shall be paid by the County and there shall be made no charge therefor to any Registered Owner.

SECTION 2.08. BOND ANTICIPATION NOTES. The County may issue bond anticipation notes to the extent permitted by the laws of the State of Florida. Provisions regarding the security, form, maturity dates, interest rates (which may be fixed, variable or a combination thereof) and other details of such bond anticipation notes and the security for any bond anticipation notes shall be set forth in a separate resolution of the County adopted at or prior to the time of sale of such bond anticipation notes.

SECTION 2.09. PROVISIONS FOR REDEMPTION OF BONDS. Each Series of Bonds shall be subject to redemption prior to the maturity thereof upon the terms and conditions and at such times, in such manner and at such redemption price or premium as shall be established by the Series Resolution of the County adopted with respect to such Series of Bonds on or before the time of delivery of those Bonds. Unless otherwise provided in the Series Resolution providing for the issuance of Bonds of a particular Series, the County may select the particular maturities of such Series or portions thereof it elects to redeem. Prior to any redemption date, the County shall deposit with the Paying Agent an amount of money sufficient to pay the redemption price of all the Bonds or portions of Bonds which are to be redeemed on that date, taking into account any credit against such redemption as provided in Section 5.02(g)(3) hereof.

SECTION 2.10. REDEMPTION OF PORTION OF ANY BOND. In case part, but not all, of any Outstanding Bond shall be selected for redemption, the Holder thereof shall present and surrender such Bond to the designated Paying Agent for payment of the redemption price of the portion so called for redemption, and the County shall execute and deliver to or upon the order of such Holder, without charge therefor, for the unredeemed balance of the principal amount (or unredeemed portion of the Accreted Value, as appropriate) of the Bond so surrendered, a Bond or Bonds of the same Series, maturity and interest rate.

SECTION 2.11. NOTICE OF REDEMPTION; EFFECT OF NOTICE OF REDEMPTION.

(a) Notice of redemption shall be mailed by registered or certified mail, postage prepaid, at least thirty (30) and not more than sixty (60) days before the redemption date to all Registered Owners of the Bonds or portions of Bonds to be redeemed at their addresses as they appear on the Register to be maintained in accordance with provisions hereof. Failure to mail any such notice to a registered owner of a Bond, or any defect therein, shall not affect the validity of the proceedings for redemption of any Bond or portion thereof, with respect to which no failure or defect occurred.

Each notice shall be dated and shall state: (i) the date fixed for redemption; (ii) the redemption price (principal, interest and any premium or Accreted Value and any premium, as appropriate) to be paid; (iii) if less than all of the Bonds of any Series then Outstanding shall be called for redemption, the distinctive numbers and letters, if any, of such Bonds to be redeemed; (iv) in the case of Bonds to be redeemed in part only, the portion of the principal amount thereof to be redeemed; (v) that on the redemption date, the redemption price will become due and payable upon each Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date; (vi) that the Bonds to be redeemed, whether as a whole or a part, are to be surrendered for payment of the redemption price at the principal office of the Bond Registrar, and (vii) if any Bond is to be redeemed in part only, the notice of redemption which relates to such Bond shall also state that on or after the redemption date, upon surrender of such Bond, a new Bond or Bonds, as the case may be, having the same terms and in an aggregate principal amount equal to the unredeemed portion of such Bond will be issued to the Holder of the surrendered Bond.

In any Series Resolution providing for the issuance of any Series of Bonds the County may provide alternative means and times for giving notice of the redemption of Bonds of such Series.

Notwithstanding the foregoing, for any Registered Owner of one million dollars or more in principal amount of Bonds, such notice of redemption shall, at the written request of such Registered Owner be by overnight delivery, or other method of delivery acceptable to the County and such Registered Owner.

Any notice given as provided or permitted in this subsection (a) shall be conclusively presumed to have been duly given, whether or not the owner of such Bond receives such notice or otherwise has actual notice of such call for redemption.

(b) In addition to the foregoing official notice, further notice shall be given by the County as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if official notice thereof is given as above prescribed.

(1) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption plus (i) the CUSIP numbers, if any, of all Bonds being redeemed; (ii) the date of issue of the Bonds as originally issued; (iii) the rate of interest borne by each Bond being redeemed as of the date of notice; (iv) the maturity date of each Bond being redeemed; (v) the complete official name of the Bond issue, including Series designation; (vi) the name, address, and telephone number of the contact person at the Bond Registrar or other designated Paying Agent; and (vii) any other descriptive information needed to identify accurately the Bonds being redeemed.

(2) Each further notice of redemption shall be sent at least 35 days before the redemption date by registered or certified mail with return receipt requested or overnight delivery service to all registered securities depositories then in the business of holding substantial amounts of obligations of types comprising the Bonds (such depositories now being Depository Trust Company of New York, New York, Midwest Securities Trust Company of Chicago, Illinois, and Philadelphia Depository Trust Company of Philadelphia, Pennsylvania) and to at least two national information services that disseminate notices of redemption of obligations such as the Bonds.

(c) If moneys (or Government Obligations which, together with the interest payable thereon on or prior to the redemption date), are sufficient for the redemption of all of the Bonds and portions thereof to be redeemed, together with interest accrued thereon to the redemption date, are held in trust for the Holders thereof on the redemption date, so as to be available therefore on that date, and if official notice of redemption shall have been given as provided in (a) above, then from and after the redemption date those Bonds and portions thereof called for redemption shall cease to bear interest (and in the case of Capital Appreciation Bonds the interest component shall cease to accrue) and no longer shall be considered to be Outstanding hereunder and shall cease to be entitled to any lien, benefit or security hereunder except to receive the payment of the redemption price plus interest accrued (or in the case of Capital Appreciation Bonds, the Accreted Value and any premium) to the redemption date on or after the designated date of redemption from moneys deposited with or held in the Redemption Account for such redemption and, to the extent provided in Section 2.10, to receive Bonds for any unredeemed portions of the Bonds. If those moneys shall not be so available on the redemption date, or that notice shall not have been given as aforesaid, those Bonds and portions thereof so called for redemption shall continue to bear interest, remain Outstanding and be entitled to the lien hereof until they are paid or deemed to be paid, as herein provided.

SECTION 2.12. FORM OF BONDS. The text of the Bonds shall be in substantially the form attached to the particular Series Resolution with respect to any Series, with such omissions, insertions, and variations as may be necessary and desirable, and as may be authorized or permitted by this Resolution or by subsequent resolution amendatory of or supplemental to this Resolution or the pertinent Series Resolution adopted prior to the issuance thereof.

SECTION 2.13. TAXABLE BONDS. The County may, if it so elects, issue one or more Series of Taxable Bonds provided that the County has obtained an opinion of Bond Counsel that the issuance thereof will not cause the interest on any Bonds (other than other Taxable Bonds) theretofore issued hereunder to be or become includable in the gross income of the Holders thereof for federal income tax purposes. The covenants set forth in Section 5.15 hereof shall not apply to any Taxable Bonds described in this paragraph.

SECTION 2.14. PROVISIONS APPLICABLE TO SUBSEQUENT SERIES. The provisions of this Article II shall apply to each Series of Bonds issued hereunder, except as may be provided in the Series Resolution relating to such Series of Bonds; provided, however, that no Series Resolution for any subsequent Series may provide for a preference in payment or security for such Series over the remaining Bonds, except as provided herein.

SECTION 2.15 SECURITIES DEPOSITORIES. Anything hereinabove in this Article II to the contrary notwithstanding, if all of any Series of Bonds is deposited with a securities depository under a Book Entry System, to the extent that the procedures of such depository are inconsistent with the provisions of this Article II, the provisions required by the securities depository shall control.

### ARTICLE III

#### SECURITY FOR BONDS

SECTION 3.01. SECURITY FOR BONDS. The Bonds and the interest thereon shall not be or constitute a general obligation or indebtedness of the County or the Authority within the meaning of the Constitution of the State of Florida, but shall be special and limited obligations of the County payable and secured as provided herein. No Holder of any Bond shall ever have the right to compel the exercise of any taxing power of the County or the Authority or taxation in any form on any real or personal property to pay Bond Service Charges or any other obligations herein set forth, nor shall any Holder be entitled to payment of any Bond Service Charges or any other obligations herein set forth from any funds of the County or the Authority other than the sources herein specified.

The payment of the principal of and interest on the Bonds issued hereunder shall be secured equally and ratably by a first lien upon, security interest in and pledge of the Pledged Funds. The Pledged Funds in an amount sufficient both to pay the principal of and interest on the Bonds herein authorized and to make the payments into the Reserve Account and Sinking Fund and all other payments provided for in this Resolution are hereby irrevocably pledged in the manner stated herein and therein to the payment of the principal of and interest on the Bonds herein authorized as the same become due; provided that said pledge and lien may be released and extinguished by defeasance as provided in Section 7.01 hereof. If so provided by the Series Resolution, a Series of Bonds may also be secured or supported by a Credit Facility, and the County may determine, at any time, to provide all or any portion of the Reserve Requirement for any portion of the Bonds by obtaining a Credit Facility. Each Series of Bonds shall also be payable from and secured from other revenues, property or collateral provided for in the Series Resolution providing for the issuance of such Series of Additional Parity Bonds.

The County and the Authority covenant that they will prepare and file any and all financing statements or amendments to, continuations of or terminations of existing financing statements as shall, in the opinion of legal counsel to the County, be necessary for the security interest granted hereunder to comply with applicable law to preserve the perfection or the priority of such security interest or as required due to changes in the Airport Properties. In particular, the County and the Authority covenant that they will, at least thirty (30) days prior to the expiration of any financing statement, prepare and file such continuation statements of existing financing statements as shall, in the opinion of legal counsel to the County, be necessary for the security interest granted hereunder to comply with applicable law.

SECTION 3.02. ADDITIONAL SECURITY FOR CERTAIN SERIES; RELEASE OF ADDITIONAL SECURITY. The County may provide in the Series Resolutions for one or more Series of Bonds that such Bonds will be additionally secured by a pledge of all or a portion of the receipts of any Passenger Facilities Charge, except as the use of the Passenger Facility Charge is limited by the PFC Act, the PFC Regulations, the PFC Approvals and the Passenger Facility Charge Bond Resolution; provided, however, that the restrictions relating to the Passenger Facility Charge shall not apply to any Future Passenger Facility Charge, which shall be governed by the Future PFC Approvals. Thereafter the receipts from the Passenger Facility Charge so pledged shall be treated as Revenues hereunder and shall be deposited into a special Passenger Facilities Charge Subaccount in the Revenue Fund (such Subaccount, together with corresponding Subaccounts in the Sinking Fund, the Reserve Maintenance Fund and the Airport Fund to be created by the applicable Series Resolution). Moneys in such Passenger Facilities Charge Subaccount shall be applied, on a parity with Revenues not derived from Passenger Facility Charge, in the manner and with the order of priority set forth in Section 5.02(c) hereof, to the extent permitted by law, provided that such moneys shall only be applied for deposit to the applicable Subaccounts created for Bonds additionally secured by a pledge of such Passenger Facilities Charge.

The pledge of the Passenger Facilities Charge may subsequently be released and extinguished with respect to any Series of Bonds additionally secured by the Passenger Facility Charge by resolution of the County only upon the following conditions:

- (a) The County shall have received written evidence from each rating agency that then maintains a rating on the Series of Bonds with respect to which the County wishes to release the lien on the Passenger Facility Charge, that the release of the pledge of the Passenger Facility Charge receipts as additional security for such applicable Series of Outstanding Bonds and the termination of the treatment of such receipts as Revenues will not adversely affect the rating maintained by such rating agency with respect to such applicable Series of Outstanding Bonds; provided,

however, that if the long term ratings on the Series of Bonds with respect to which the County wishes to release the lien on the Passenger Facility Charge are based upon the existence of a Credit Facility, release of the lien on the Passenger Facility Charge will require only the consent of the issuer of the Credit Facility.

(b) Notice of said release of extinguishment shall have been mailed, postage prepaid, to the all nationally recognized municipal information repositories then designated under Rule 15c2-12 of the Securities and Exchange Commission (the "Information Repositories").

SECTION 3.03. BONDS SECURED OR SUPPORTED BY CREDIT FACILITIES. In the Series Resolution with respect to any Series of Bonds that are to be secured or supported by a Credit Facility the County may make such provisions as may be required by the issuer of such Credit Facility provided that the County may not grant to the issuer of such Credit Facility a priority position with respect to payment or security with respect to any Outstanding Bonds.

## ARTICLE IV

### APPLICATION OF BOND PROCEEDS; PROJECT FUND

SECTION 4.01. APPLICATION OF BOND PROCEEDS. All moneys received from the sale of any Series of Bonds issued pursuant to this Bond Resolution, shall be disbursed as follows unless otherwise provided in the applicable Series Resolution:

(a) Accrued interest received upon the delivery of the particular Series of Bonds shall be deposited in the Sinking Fund established for such Series and applied to the interest coming due on the particular Series of Bonds on the first interest payment date with respect to such Series.

(b) Any net original issue premium received upon the delivery of the particular Series of Bonds shall be deposited in either the Sinking Fund or the Project Fund for such Series as directed by the County at or prior to the time of issuance of such Series.

(c) The amount determined by the County to be sufficient to pay the costs of issuing such Series of Bonds shall be deposited to the credit of the Cost of Issuance Subaccount in the Account in the Project Fund created for the Series of Bonds which were issued to pay the Costs of such Project or phase.

(d) The amount necessary to make the amount therein equal to the Reserve Requirement shall be deposited into the Reserve Account in the Sinking Fund; provided that this requirement may be satisfied by the establishment of a Credit Facility for the purpose of such Reserve Account subject to substitution as provided herein.

(e) The balance of such proceeds of the sale of the Bonds shall be deposited in the Project Fund to be used to pay Project Costs including Capitalized Interest on and the costs of issuance of the particular Series of Bonds to the extent provided or limited by the Series Resolution; or, in the event all or a portion of the proceeds of Bonds are to be used to refund, redeem, or provide for the redemption of Bonds or other obligations of the County, shall be deposited with an escrow holder or otherwise applied to such purpose and the payment of the costs of issuance of the Bonds as provided in a Series Resolution adopted prior to the issuance of such Bonds.

SECTION 4.02. CREATION OF PROJECT FUND. There is hereby created and established by the County, a special fund to be called the "Lee County, Florida County Airport Project Fund" (the "Project Fund"). A separate Project Account and Cost of Issuance Account shall be established in the Project Fund for each Series of Bonds. If any Series of Bonds includes Capitalized Interest, a Capitalized Interest Account may be established therein.

### SECTION 4.03. APPLICATION OF AMOUNTS HELD IN THE PROJECT FUND.

(a) The Project Fund and Accounts therein shall be accounted for separately from all other Funds, Accounts and Subaccounts of the County, and the moneys on deposit therein shall be withdrawn, used and applied by the County solely for the purposes specified herein. Withdrawals shall be made from the Accounts and Subaccounts in the Project Fund only upon written approval of the Authority Representative which approval shall constitute a certification by the Authority Representative that the cost to be paid with such withdrawal is a Cost permitted under this Bond Resolution. All such funds shall be and constitute trust funds for such purposes, and shall be administered by the Authority Representative, as agent of the County, who shall act as trustee of such funds for the purposes of this Resolution. Until paid out as provided herein, the moneys in the Project Fund shall be subject to a lien and charge in favor of the holders of the Bonds the proceeds of which provided such funds.

(b) Any moneys on deposit in the Project Fund and Accounts therein that, in the opinion of the Authority, are not immediately necessary for expenditure, as hereinabove provided, shall be invested pursuant to Section 5.02(d) hereof.

(c) Any surety bond payments and any liquidated damages or settlement payments received by the County or the Authority as a result of the breach by any contractor, subcontractor or supplier, manufacturer or consultant working on, supplying or providing goods for any Project or phase thereof, of any representation, warranty or performance guaranty shall be used first to pay any costs and legal fees and expenses incurred by the County and the Authority in collecting the same and the balance thereof shall be deposited into the Account in the Project Fund created for the Series of Bonds which were issued to pay Costs of such Project or phase.

(d) Upon substantial completion of each Project or phase thereof (as determined by the Authority Representative evidenced by a certificate filed with the Clerk), or upon the abandonment thereof, any proceeds of any Series of Bonds or other amounts held to pay the Costs of such Project or phase thereof or to expand the scope of such Project or phase thereof then remaining in the separate Account in the Project Fund and not reserved by the County in the Capitalized Interest Subaccount for the payment of Capitalized Interest on Bonds of such Series or for the payment of any remaining part of the Cost of such Project or such phase, shall be utilized as follows:

(1) If no Trustee has been appointed on account of the occurrence of an Event of Default hereunder, the County shall use such amount to make up any deficiencies in the Reserve Account and any remaining moneys may, at its option (so long as such use, in the opinion of Bond Counsel, will not adversely affect the federal income tax status of interest on the Bonds of such Series) use such amounts:

(A) To pay the Costs of any other Capital Improvements to the Airport not inconsistent with the Tax Compliance Certificate entered into with respect to the particular Series of Bonds; or

(B) Such amounts may be deposited in the Principal Account for such Series in the Sinking Fund.

(2) If a Trustee has been appointed because an Event of Default has occurred and is then continuing hereunder, such amounts shall be applied in the manner specified by any Trustee appointed as herein provided.

The foregoing shall be subject, however, to the right of the County, if it be found at the time of the substantial completion of any of the Projects herein authorized or authorized by Series Resolution that less than the amounts deposited to the respective Subaccounts within the Project Fund is needed for the completion of such Projects, to transfer such excess to the Subaccounts for other Projects.

(e) The proceeds of each Series of Bonds (other than Taxable Bonds) and investment proceeds thereon on deposit in any Account of the Project Fund shall be used, invested and expended (including the provision for any Tax Rebate) at such time and in such manner as shall be necessary to comply with all applicable provisions of the Code in order to prevent the interest on the Bonds of such Series from becoming includable in the gross income of the Holder for federal income tax purposes and in order not to affect adversely the federal income tax status of interest on Bonds of such Series. The Authority Representative shall obtain such advice from Bond Counsel as the Authority Representative deems necessary to comply with Code and applicable regulations thereunder.

(f) If the proceeds of any Series of Bonds shall include any Capitalized Interest, the same shall be deposited in a Capitalized Interest Account in the Account in the Project Fund created for such Series. On the dates deposits are to be made to the Account in the Sinking Fund for such Series to provide for the payment of interest thereon pursuant to Section 5.02(c) hereof, such deposits shall be made from amounts in such Capitalized Interest Account to the extent such deposit for interest has been capitalized, provided that if the Bonds of such Series are "private activity bonds" (as defined in the Code) and interest has been capitalized for any period following the completion of construction of the Project or phase for which such Series was issued, then such interest shall be paid with Capitalized Interest only if, in the opinion of Bond Counsel, such use will not adversely affect the federal income tax status of interest on the Bonds of such Series. Amounts in any Capitalized Interest Account may be used, alternatively, to pay Costs of the respective Project to the extent such funds are not necessary or permitted to pay Capitalized Interest on the Series for which such funds were deposited.

(g) The Authority and the County shall be permitted to change any Project if: (i) the Authority Representative shall file with the County a certificate demonstrating that the moneys on deposit in the Account of the Project Fund created for such Project are sufficient to pay all remaining Costs of the Project as modified; and (ii) an opinion of Bond Counsel is provided to the County to the effect that the modifications to the Project proposed by the Authority and the County will not have an adverse effect on the exclusion, if any, from gross income of the interest on any Bonds.

## ARTICLE V

### FUNDS AND ACCOUNTS; FLOW OF FUNDS; RATE COVENANT; ADDITIONAL BONDS TEST; PASSENGER FACILITY CHARGES; OTHER COVENANTS

SECTION 5.01. COVENANTS OF THE COUNTY AND THE AUTHORITY. For as long as any of the Bonds shall be Outstanding and unpaid, the County and the Authority covenants with the holders of any and all Bonds to comply with the requirements of this Resolution and all other documents relating to the Bonds, including, but not limited to, the Tax Compliance Certificates.

#### SECTION 5.02. FUNDS AND ACCOUNTS.

(a) CREATION OF FUNDS AND ACCOUNTS. The following Funds and Accounts are hereby created for the Bonds: the Revenue Fund, including a Working Capital Account therein (to the extent set forth below); the Sinking Fund, including an Interest Account, a Principal Account, a Reserve Account, and a Redemption Account therein; the Subordinated Indebtedness Fund; the Renewal, Replacement and Improvement Fund; and the Airport Fund.

(b) DEPOSIT OF REVENUES TO REVENUE FUND. All Revenues shall, upon receipt thereof, be deposited by the Authority into the Revenue Fund and applied by the County as provided in Subsection (c) below.

(c) DISPOSITION OF REVENUES. All Revenues on deposit in the Revenue Fund shall be applied monthly, not later than the twenty-fifth day of each month after issuance of the Bonds, in the following manner and in the following order of priority:

(1) Revenues shall first be used to pay the Current Expenses for the current month. The Authority shall be permitted to establish a Working Capital Account within the Revenue Fund and to deposit thereto in each Fiscal Year an amount not in excess of the average monthly Current Expenses as shown on the Annual Budget for such Fiscal Year times three. Money on deposit in the Working Capital Account shall be used to pay Current Expenses whenever moneys in the Revenue Fund are insufficient for such purpose. Any moneys withdrawn from the Working Capital Account may not be replaced in the then current Fiscal Year.

(2) Revenues shall next be used for deposit into the Interest Account the sum necessary to pay the interest becoming due on the Bonds on the next Interest Payment Date (and, in accordance with the last paragraph of this subsection (c), payments (other than termination payments) under Derivative Agreements), less amounts (including Capitalized Interest) already on deposit therein and available for such purpose, divided by the number of months remaining to such interest payment date.

(3) Revenues shall next be used for deposit of the required amount into the Principal Account, during the twelve month period immediately before a Serial Bond maturity date, necessary to pay the principal maturing on Serial Bonds on the next maturity date, less amounts already on deposit therein and available for such purpose, divided by the number of months remaining to such maturity date.

(4) (i) Revenues shall next be used for deposit of the required amount into the Redemption Account, on a parity with the payments into the Principal Account provided in Subsection (c)(3) above (during the twelve month period immediately preceding a Redemption Requirement due date), a sum equal to the Redemption Requirements for Term Bonds which shall next become due and payable, plus the amount of the premium, if any, on a Principal amount of such Term Bonds equal to the amount of such Redemption Requirement which would be payable on the next Redemption Requirement due date if such Principal amount of Term Bonds were to be redeemed prior to their maturity from money held in the Redemption Account, less amounts which have been deposited therein during such twelve month period and used for the purchase of Outstanding Term Bonds or are available for redemption of Term Bonds, divided by the number of months remaining to such due date. If, at the stated dates of maturity of any Term Bonds, the proceeds on deposit in the Redemption Account are insufficient to retire the principal amount of maturing Term Bonds remaining Outstanding, the County shall transfer from the Reserve Account to the Redemption Account sufficient money to make up such deficiency.

(ii) Upon any purchase (and delivery to the Bond Registrar for cancellation) or optional redemption of Bonds of any Series and maturity for which Redemption Requirements shall have been established, which is made on or prior to the 40th day preceding the due date of the Redemption Requirements next due for the Bonds of such Series and maturity from any funds of the County or the Authority other than amounts deposited in the Redemption Account, there shall be credited toward such Redemption Requirements in such manner as may be determined by the Authority Representative the principal amount of such Bonds so purchased or redeemed upon delivery of such Bonds by the County to the Bond

Registrar, such determination to be evidenced by a certificate filed with the Clerk. The portion of any such Redemption Requirements remaining after the deduction of any such amounts credited toward the same pursuant to this paragraph (or the original amount of any such Redemption Requirements if no such amounts shall have been credited toward the same) shall constitute the unsatisfied balance of such Redemption Requirements for the purpose of calculation of Redemption Requirements due on a future date.

(5) Revenues shall next be applied by the County to maintain the Reserve Account (including any subaccounts therein) in the Sinking Fund, in an amount equal to the Reserve Requirement. The Series Resolution for each Series of Bonds shall specify the incremental Reserve Requirement for such Series of Bonds. All or a portion of such sum may be initially provided from the proceeds of the sale of any Series of Bonds and/or other moneys of the County or the Authority, or, if provided by the Series Resolution with respect to any particular Series of Bonds, deposited in the form of a Credit Facility. Thereafter, if the full amount of the incremental Reserve Requirement is not funded at the time of issuance of such Additional Bonds, the County shall deposit into the Reserve Account any amount fixed by the Series Resolution prior to the sale of each Series of Bonds, but not less than one-twelfth (1/12) of twenty percent (20%) of the difference, if any, between the amount, if any, so deposited upon delivery of such Series of Bonds and the amount of the Reserve Requirement. No further payments shall be required to be made into the Reserve Account when there has been deposited therein and as long as there shall remain on deposit therein an amount equal to the Reserve Requirement.

A Credit Facility may be substituted for any cash, investments or Credit Facility then on deposit in the Reserve Account subject to the conditions established therefor by the Credit Facility for any Bonds secured by the Reserve Account and subject to the provisions in the Series Resolution for the Series of Bonds secured by the Reserve Account. Amounts on deposit in the Reserve Account at any time in excess of the aggregate of the Reserve Requirement (including upon substitution with a Credit Facility) may be withdrawn and deposited in the Project Fund or deposited in the Airport Fund, at the option of the Authority Representative, subject to Section 5.15 hereof.

Money in the Reserve Account shall be used only for the purpose of the payment of maturing principal of, interest on, or Redemption Requirements with respect to the Bonds when the money in the other accounts in the Sinking Fund is insufficient therefor and for no other purpose, except that such money may be invested and reinvested as provided herein.

In the event the County obtains a Credit Facility to satisfy all or a portion of the Reserve Requirement, the County reimbursements and other payments due the issuer of such Credit Facility shall be paid from the Reserve Fund. In the event the Reserve Fund is funded with both cash and a Credit Facility, the cash therein shall be applied first before any draws are made under the Credit Facility, and, if the County determines to reinstate such Credit Facility (as opposed to funding the entire Reserve Requirement in cash), all payments necessary to reinstate the Credit Facility shall be made prior to any cash deposits to the Reserve Account. If more than one Credit Facility is credited to the Reserve Fund, such facilities shall be drawn on proportionately in relation to their respective stated amounts.

(6) Revenues shall next be deposited into the Subordinated Indebtedness Fund to meet any requirements of the County's resolution authorizing and awarding the issuance of any Subordinated Indebtedness described in Section 5.11 hereof.

(7) Revenues shall next be deposited into the Renewal, Replacement and Improvement Fund until the amount therein is equal to the amount required by Section 5.21 hereof.

(8) Revenues shall next be used for deposit into the Airport Fund and any subaccounts created by the County therein and applied as follows:

(i) the funds in the Airport Fund shall first be used to make up deficiencies in the Sinking Fund, the Subordinated Indebtedness Fund and the Renewal, Replacement and Improvement Fund in the priority for depositing moneys from the Revenue Fund as provided in this Subsection;

(ii) if an Event of Default has occurred, the funds on deposit in the Airport Fund shall next be used to cure such Event of Default and to pay expenses of curing such Event of Default;

(iii) if determined by the Authority Representative to be required pursuant to any use or lease agreement with any user of the Airport, to make transfers to such user or users but not in excess of the amounts required by such use or lease agreement;

(iv) periodically, to make any Transfers the County authorizes to be made to the Revenue Fund; and



(v) remaining moneys held for the credit of the Airport Fund may be used for any purpose authorized by the Act.

Notwithstanding the foregoing, unobligated moneys held for the credit of the Airport Fund shall always be used to pay maturing principal of, interest on, or Redemption Requirements with respect to Bonds whenever moneys in the Sinking Fund are insufficient therefor.

When there is any deficiency in the Sinking Fund, the deficiency shall be made up at the time any deposit is made to such Fund as required in this Section. Upon the issuance by the County of any Additional Parity Bonds under the terms, conditions and limitations provided in this Resolution, the payments into the Interest Account, Principal Account and Redemption Account in the Sinking Fund shall be increased in amounts sufficient to pay principal of, interest on and Redemption Requirements with respect to such Additional Parity Bonds. The Reserve Account shall be funded, at the option of the County, either from proceeds of the Additional Parity Bonds or from monthly deposits of Revenues over a period not exceeding sixty months, or a combination of both methods, or by a Credit Facility as provided in Subsection (5) above.

The County shall not be required to make any further deposits into the Sinking Fund when the money in the Sinking Fund is at least equal to the aggregate principal amount of Bonds then Outstanding, plus the amount of interest then due or thereafter to become due on the Bonds then Outstanding.

In determining the timing and amount of deposits to the credit of the Interest Account, the Principal Account and the Redemption Account of the Sinking Fund, the provisions with respect to Balloon Indebtedness, Credit Facilities and Derivative Indebtedness contained in the definition of Bond Service Requirement shall apply; provided, however, the provisions in such definition relating to Variable Rate Bonds shall not apply for the purposes of this Section.

The County shall be permitted (but is not required) to pay regularly-scheduled payments it owes under any Derivative Agreement relating to interest on Bonds from the Interest Account on a parity with payment of interest on Bonds. The County shall also be permitted (but is not required) to direct payments it receives under any Derivative Agreement to be deposited in the Interest Account and receive a credit for such deposits against the amount that would otherwise be required to be deposited under Section 5.02(c)(2) hereof. However, any termination, penalty or similar payment required under any Derivative Agreement may be paid only from the Subordinated Indebtedness Fund or the Airport Fund, at the option of the County.

(d) TRUST FUNDS; INVESTMENT. The Revenue Fund (including the Working Capital Account therein), the Project Fund, the Sinking Fund (including all Accounts and Subaccounts therein), the Renewal, Replacement and Improvement Fund, the Subordinated Indebtedness Fund (except for proceeds of Subordinated Indebtedness on deposit therein), the Tax Rebate Fund (subject to Section 5.20 hereof), and the Airport Fund shall be held in trust and expended exclusively for the purposes set forth herein, and, until paid out as required by this Bond Resolution, shall be subject to a lien and charge in favor of the holders of the Series of Bonds (or all Bonds, as appropriate) that provided such funds or with respect to which such Funds and Accounts were created. All such funds shall be continuously secured in the same manner as county deposits are required to be secured by the laws of the State of Florida. Except as hereinafter provided, the moneys on deposit in each of the Funds and Accounts and Subaccounts established herein may be invested and reinvested in Authorized Investments. Investments in the various Funds and Accounts and Subaccounts, except the Reserve Account, must mature not later than the dates on which the moneys on deposit in each of the various Funds and Accounts will be needed for the purposes of such Funds and Accounts. Investments of moneys in the Reserve Account must mature not later than the latest maturity date of any Bonds secured by the Reserve Account.

Except as otherwise specifically set forth herein, all income and earnings received from the investment of moneys on deposit in the various Funds and Accounts shall remain in the various Funds and Accounts until the amount required to be on deposit in each such Fund and Account for the Fiscal Year is on deposit therein; thereafter, such income and earnings shall be deposited into the Revenue Fund.

Prior to the completion date of any Project which is financed by any Series of the Bonds, the investment income earned on the Account created for such Series in the Project Fund, the investment income earned on the Account for such Series in the Sinking Fund and the investment income allocable to such Series in the Reserve Account shall be deposited upon receipt in the Account for such Series in the Project Fund. Following the completion date and prior to total completion and payment of all Costs of the Project or such phase thereof, the Authority Representative or the Authority Representative's designee shall determine the extent to which investment income from the foregoing sources is to be deposited in the Account for such Series in the Project Fund or is to be deposited in the Revenue Fund in accordance with the applicable Tax Compliance Certificate for such Series or is to be deposited into the Airport Fund. The foregoing shall be applicable to each Series of Bonds issued hereunder provided that as to any Series of Bonds, the Series Resolution authorizing such Series may provide for a different use of investment earnings on the Accounts for such Series in the Sinking Fund, the Reserve Account and the Project Fund.

Notwithstanding the foregoing, the County may, by agreement with any Person or by Series or supplemental resolution, limit the types and maturities of Authorized Investments in which it is permitted to invest funds hereunder. No investment shall be made which is prohibited by applicable law, by the applicable Series Resolution, or by any agreement with the provider of any Credit Facility or with any rating agency.

Not earlier than October 1 and not later than October 19 of each year, the County shall determine the fair market value of all Authorized Investments, having a maturity greater than five years (5) years from the date of purchase, in each Subaccount in the Reserve Account as of the close of business on the last Business Day prior to such October 1. The fair market value of Authorized Investments having a maturity less than five (5) years from the date of purchase shall be deemed to be the actual cost thereof. If the fair market value of Authorized Investments plus cash on deposit in any Fund (other than the Project Fund) or Account shall be less than the amount required to be on deposit therein, the deficiency, shall be required to be restored immediately except for any deficiency in the Reserve Account due to a withdrawal to pay Bond Service Charges which deficiency is required to be restored in accordance with Section 5.02(c)(5) hereof. If the net fair market value of Authorized Investments in any such Fund (other than the Project Fund) or Account exceeds their cost, such excess shall be transferred to the Fund or Account designated by the Authority Representative, subject to any restrictions contained in any applicable Tax Compliance Certificate.

The amounts held in the Funds, Accounts and Subaccounts created hereby or pursuant hereto shall be administered by the County or its designated agent; provided that the County, by supplemental resolution, may appoint a Funds Trustee to hold any Fund or Account or Subaccount. Amounts in such Funds and Accounts may be deposited in a single bank account, and may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted application of the cash and investments on deposit therein for the various purposes of such Funds and Accounts as herein provided, and provided, further, that no cash and investments in the Funds and Accounts established in this Resolution shall be commingled with any other moneys of the County or the Authority. Except as above provided, the designation and establishment of the various Funds, Accounts and Subaccounts by and pursuant to this Resolution shall not be construed to require the establishment of any completely independent, self-balancing accounts as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain moneys and investments of the County for certain purposes and to establish certain priorities for the application of such moneys and investments as herein provided.

(e) APPLICATION OF MONEYS IN THE INTEREST ACCOUNT. On the second business day immediately preceding each Interest Payment Date, the County shall withdraw from the Interest Account and deposit in trust with the Paying Agent (or the applicable securities depository) the amount necessary to pay the interest due on the Bonds on the next Interest Payment Date. As set forth in clause (c) of this Section 5.02, the County is also permitted to make regularly-scheduled payments (but not termination, penalty or other similar payments) owed by the County under Derivative Agreements relating to interest on Bonds.

(f) APPLICATION OF MONEYS IN THE PRINCIPAL ACCOUNT. On the second business day immediately preceding each date on which the principal of Serial Bonds is to be paid, the County shall withdraw from the Principal Account and deposit in trust with the Paying Agent (or the applicable securities depository), the amounts required for paying the principal of all Serial Bonds as such principal becomes due and payable.

(g) APPLICATION OF MONEYS IN THE REDEMPTION ACCOUNT.

(1) The County may at any time at its option purchase Term Bonds of each issue then Outstanding from funds resulting from payments made pursuant to Redemption Requirements of such issue at the most advantageous price obtainable with reasonable diligence, such price not to exceed the principal of such Term Bonds plus the amount of the premium, if any, which would be payable on the next Redemption Requirement due date established in the Series Resolution for such Series if such Term Bonds should be called for redemption on such date from money in the Redemption Account. No such purchase shall be made by the County within the period of 45 days immediately preceding any date on which Term Bonds are required to be redeemed in satisfaction of the Redemption Requirements.

(2) Money in the Redemption Account shall be applied by the County in each Fiscal Year to redeem at the redemption price established in the Series Resolution and on the date on which Term Bonds are required to be redeemed in satisfaction of the Redemption Requirements a principal amount of Term Bonds equal to the Redemption Requirement less the principal amount of any Term Bonds purchased pursuant to Paragraph (1) above and not theretofore credited towards a Redemption Requirement. If the amount available in any Fiscal Year shall not be sufficient to satisfy the Redemption Requirements of all Series and issues, the amount available shall be allocated among Series and issues in proportion to the Redemption Requirement for such Fiscal Year for the Term Bonds of each Series and issues then Outstanding, plus the applicable premium, if any. On the second business day immediately preceding each date on which the Term Bonds are required to be redeemed in satisfaction of the Redemption Requirements, the County shall withdraw from the Redemption Account and deposit in trust with the Paying Agent (or the applicable securities depository), the amounts required for redeeming such Term Bonds in the amount of the Redemption Requirements.

(3) Any balance remaining (i) attributable to investment earnings on payments made pursuant to Redemption Requirements, (ii) attributable to purchases of Term Bonds at less than par or (iii) otherwise attributable directly or indirectly to payments made pursuant to Redemption Requirements, shall remain in the Redemption Account, shall be credited towards the Redemption Requirement for the following year, and shall be used for purchases pursuant to Paragraph (1) or redemptions pursuant to Paragraph (2).

(4) Any balance in the Redemption Account resulting from a payment pursuant to Subsection 5.07 otherwise than directly or indirectly from a payment made pursuant to a Redemption Requirement shall be held and accounted for separately and may be applied to the purchase of either Term or Serial Bonds at a price not in excess of the then applicable redemption price as set forth in the Series Resolution for such Bonds or to the redemption of Term Bonds at the then applicable redemption price as established by the Resolution authorizing the issuance of such Bonds. Redemptions and purchases pursuant to this Paragraph (4) shall be applied among issues and Series in any order of maturity designated by the Authority Representative. If the County shall at any time be unable to exhaust the money in the Redemption Account pursuant to this Paragraph (4), such money shall be retained in the Redemption Account and as soon as it is feasible applied to purchases or redemptions hereunder. To the extent that redemptions and purchases pursuant to this Paragraph (4) reduce the Outstanding amounts of Term Bonds of any Series or issues below the amount redeemable by the then applicable Redemption Requirement, such Redemption Requirement and subsequent Redemption Requirements for such Series or issue shall be reduced.

(5) Interest on all Bonds redeemed or purchased pursuant to the Redemption Account shall be withdrawn from the Interest Account in the Sinking Fund and all expenses in connection with any such purchase or redemption shall be paid from the Revenue Fund.

(6) All purchases or redemptions of Bonds made pursuant to this Subsection 5.02(g) shall be made only in such amounts and on such terms as may be provided in the Series Resolutions of the various Series and issues of Bonds.

(h) APPLICATION OF MONEYS IN THE SUBORDINATED INDEBTEDNESS FUND. Moneys on deposit to the credit of the Subordinated Indebtedness Fund shall be applied by the County on the dates and in the manner provided in the resolution or resolutions providing for the issuance of Subordinated Indebtedness; provided, however, if any deficiency in any Fund or Account (other than the Project Fund and the Renewal, Replacement and Improvement Fund) exists, moneys in the Subordinated Indebtedness Fund shall be first used to remedy such deficiency.

(i) APPLICATION OF MONEYS IN THE RENEWAL, REPLACEMENT AND IMPROVEMENT FUND. Moneys in the Renewal, Replacement and Improvement Fund shall be applied to the payment of the cost of renewals and replacements of and unusual or extraordinary repairs to the Airport and capital improvements to the Airport and of engineering and other expenses incurred in connection therewith; provided that this shall not authorize such funds to be used in a manner that would violate any then applicable lease and use agreement. All disbursements of money in the Renewal, Replacement and Improvement Fund shall be made in accordance with procedures established by the County and the Authority from time to time. At its option, the County may create accounts and subaccounts within the Renewal, Replacement and Improvement Fund.

The County shall, prior to any application of moneys in the Renewal, Replacement and Improvement Fund in accordance with the provisions of the first paragraph hereof, use amounts in the Renewal, Replacement and Improvement Fund to make transfers, in the following order of priority: (i) to pay Current Expenses, whenever and to the extent that the amount on deposit in the Revenue Fund and the Working Capital Account, if any, together with transfers thereto from the other Funds and Accounts herein, is insufficient for such purpose; (ii) the appropriate Interest Account, Principal Account and Redemption Account in that order, to remedy any deficiency therein, whenever and to the extent that the transfers from the other Funds and Accounts is insufficient for such purpose; and (iii) the Reserve Account to cure any deficiency therein, whenever and to the extent that the transfers from the other Funds and Accounts are insufficient for such purpose.

If at any time the amount held for the credit of the Renewal, Replacement and Improvement Fund exceeds the amount recommended therefor by the Authority Representative, the County shall withdraw the amount of such excess and deposit the same to the Airport Fund.

SECTION 5.03. OPERATION AND MAINTENANCE. The County and the Authority will maintain the Airport and all parts thereof in good condition and will operate the same in an efficient and economical manner making such expenditures for equipment and for repair and replacements as may be proper for the economical operation and maintenance thereof.

SECTION 5.04. RATES AND CHARGES. The County and the Authority hereby covenant to fix, establish, revise from time to time whenever necessary, maintain and collect always such fees, rates, rentals and other charges for the use of the services and

facilities of the Airport which will be at least equal to the greater of (i) Revenues, together with Transfers, in each Fiscal Year sufficient to pay all Current Expenses of the Airport in such Fiscal Year, and one hundred twenty-five per centum (125%) of the Bond Service Requirements in such Fiscal Year (excluding for purposes of this calculation, amounts identified under paragraphs (d) and (e) of the definition of "Bond Service Requirements"), and (ii) Revenues, without taking into account Transfers, in each Fiscal Year sufficient to pay all Current Expenses of the Airport in such Fiscal Year, and one hundred per centum (100%) of the Bond Service Requirements (excluding for purposes of this calculation, amounts identified under paragraph (d) of the definition of "Bond Service Requirements") in such Fiscal Year and all other required payments under this Resolution. Such rates, fees, rentals or other charges shall not be reduced so as to be insufficient to provide Revenues for such purposes.

If the Revenues for any Fiscal Year are less than the amounts herein required, the County, before the end of the second month following the completion of the audit for such Fiscal Year, will cause the Consultant to make its recommendations as to a revision of such rates or charges, and copies of such request and of the recommendations of the Consultant, as the case may be, shall be filed with the Clerk and mailed to each Bond Holder who shall have filed with the Clerk for such purpose. Anything in this Resolution to the contrary notwithstanding, if the County shall comply with all the recommendations of the Consultant, as the case may be, in respect of such rates, rents, fees or other charges, it will not constitute an Event of Default under this Resolution if the Revenues shall be less than the amounts required herein in the following Fiscal Year. The County covenants that, to the extent permitted by applicable law and the provisions of any use agreement then in effect at the Airport, it will comply with the recommendations of the Consultant.

**SECTION 5.05. BOOKS AND RECORDS.** The County shall also keep books and records of the Current Expenses, Revenues, assets, liabilities and changes in financial position of the Airport, which shall be kept separate and apart from all other books, records and accounts of the County, and the Holders of the Bonds and the respective agents thereof shall have the right at all reasonable times to inspect all records, accounts and data of the County or the Authority relating thereto.

**SECTION 5.06. ANNUAL AUDIT AND BUDGET.** (a) The County shall also, at least once a year after the close of its Fiscal Year, cause the books, records and accounts relating to the Airport to be audited by a recognized independent firm of certified public accountants and shall make generally available the report of such audit to any Holder or Holders of Bonds who shall have filed their names with the Bond Registrar for such purpose. Such audits shall contain a complete balance sheet and report of operations of the Airport prepared in accordance with the Accounting Principles. The auditors selected may be changed by the County at any time.

(b) The County and the Authority covenant that on or before the 31st day of July in each year, they will prepare a preliminary budget of Current Expenses and Revenues and a preliminary budget for proposed Capital Improvements indicating those Projects planned to be funded, if any, during the next five years and the source of such funding. The County and the Authority further covenant that any such preliminary budget for Capital Improvements will show the amount to be obligated and expended in the Renewal, Replacement and Improvement Fund in such Fiscal Year.

The County and the Authority further covenant to comply with law in the preparation of the budget and promptly on or before the first day of the next ensuing Fiscal Year the County and the Authority will adopt the final Annual Budget for such Fiscal Year (herein called the "Annual Budget").

If for any reason the County and the Authority shall not have adopted the Annual Budget before the first day of any fiscal year, the preliminary budget for such Fiscal Year, or, if there is none, the budget for the preceding Fiscal Year, shall, until the adoption of the Annual Budget, be deemed to be in force and shall be treated as the Annual Budget under the provisions of this Section.

The County and the Authority may at any time adopt an amended or supplemental Annual Budget for the remainder of the then current Fiscal Year, and such Annual Budget as so amended or supplemented shall be treated as the Annual Budget under the provisions of this Resolution.

**SECTION 5.07. NO MORTGAGE OR SALE OF LAND.** The County will not sell, mortgage, pledge or otherwise encumber the land or other real property which is a part of the Airport (hereinafter referred to as "Land"), or any substantial part thereof, except as herein provided.

The County shall have and hereby reserves the right to sell or otherwise dispose of any of the Land which the County shall hereafter determine, in the manner provided herein, to be no longer necessary, useful or profitable in the operation of the Airport, such determination to be based upon a recommendation of the Authority Representative. Prior to any such sale or other disposition of such Land, if the amount to be received therefor is not in excess of \$250,000, the Authority Representative or other duly authorized officer in charge thereof shall make a finding in writing determining that such Land is no longer necessary, useful or profitable in the operation thereof.

If the amount to be received from such sale or other disposition of such Land shall be in excess of \$250,000, the Authority Representative shall first make a finding in writing determining that such Land is no longer necessary, useful or profitable in the

operation of the Airport, and the Board shall, by resolution duly adopted, approve and concur in the finding of Authority Representative, and authorize such sale or other disposition of the Land.

The proceeds derived from any such sale or other disposition of such Land shall be applied, at the option of the Authority evidenced by a certificate of the Authority Representative filed with the Clerk, (i) to pay all or any portion of the Cost of any Project or Improvements; (ii) to deposit to the credit of the Redemption Account (but any such deposit shall not reduce the amount otherwise required to be on deposit therein); (iii) to deposit to the credit of the Renewal, Replacement and Improvement Fund; and (iv) to pay the principal of the Series Bonds or Redemption Requirements for Term Bonds then due and payable.

The County will have the right to sell or dispose of any machinery, fixtures, apparatus, tools, instruments or other personal property, or any materials used in connection therewith if the Authority Representative determines that such articles are no longer necessary, useful or profitable in the operation of the Airport or reduce the ability of the County to satisfy the provisions of Section 5.04 hereof.

Notwithstanding anything herein to the contrary, the County, without the consent of or notice to the Holders of any Bonds, may transfer all of the Airport and the operations thereof to the Authority or other special district created for the purpose of owning and operating the Airport, provided that such authority or special district assumes all of the obligations and agrees to perform and comply with all of the covenants of the County hereunder, and the County obtains an opinion of Bond Counsel to the effect that such transfer will not adversely affect the exclusion from gross income of interest on the Bonds (other than Taxable Bonds).

In addition to the requirements of this Section, all transfers of Land or other assets shall be required to comply with the laws of the State of Florida.

**SECTION 5.08. INSURANCE CONSULTANT.** Annually, the County or the Authority will cause the Insurance Consultant to prepare a report on the insurance types, coverages, liability limits and deductible and co-pay amounts with respect to the Airport and the operation thereof. In determining its recommendations, the Insurance Consultant shall consider the coverages maintained by publicly-owned aviation facilities of similar size to the Airport. In addition to any coverages recommended by the Insurance Consultant, the County or the Authority shall carry insurance for fire and windstorm damage to all buildings and structures and the contents thereof owned by the County or the Authority in the amount of the insurable value thereof, and public liability insurance in amounts and deductible and co-pay provisions recommended by the Insurance Consultant.

If at any time the Insurance Consultant shall determine that the County or the Authority is unable reasonably to obtain such insurance to the extent required above, either as to the amount of such insurance or as to the risks covered thereby or the deductible or co-pay provisions thereof, it will not constitute an Event of Default hereunder if the County or the Authority shall carry or cause to be carried only such insurance as in the opinion of the Insurance Consultant is reasonably obtainable.

Additionally, if the County (or other entities with operations similar in scope to the County) shall insure similar properties by self-insurance, the County may provide the insurance required hereunder, partially or wholly by means of an adequate self-insurance fund or pool set aside and maintained out of its earnings, or in conjunction with other companies or public bodies through an insurance trust or other arrangement; provided, that the Insurance Consultant certifies in its annual report that such self-insurance and the reserves associated therewith are adequate for the purposes established in order to comply with the provisions hereof; provided further, however, that the institution of such self-insurance does not prevent the County from meeting the requirements of Section 5.04 hereof.

**SECTION 5.09. ENFORCEMENT OF COLLECTIONS.** The County and the Authority will reasonably enforce and collect the rates, fees and other charges for the services and facilities of the Airport herein pledged; will take all reasonable steps, actions and proceedings for the enforcement and collection of such rates, charges and fees as shall become delinquent, to the full extent permitted or authorized by law; and will maintain accurate records with respect thereof. All such fees, rates, charges and revenues herein pledged shall, as collected, be held in trust to be applied as herein provided and not otherwise.

**SECTION 5.10. [RESERVED].**

**SECTION 5.11. ISSUANCE OF SUBORDINATED INDEBTEDNESS.** The County will not issue any other obligations payable from the Pledged Funds, nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien of the Bonds, and the interest thereon, upon such Pledged Funds except Additional Parity Bonds described in Section 5.12 below. Any obligations issued by the County other than Bonds and Additional Parity Bonds provided for in Section 5.12 below, payable from such Pledged Funds, shall be issued in compliance with the requirements of Section 5.24 and shall contain an express statement that such obligations are junior and subordinate in all respects to the Bonds herein authorized, as to lien on and source and security for payment from such Pledged Funds.

SECTION 5.12. ISSUANCE OF ADDITIONAL PARITY BONDS. Additional Parity Bonds, payable on a parity from the Pledged Funds with the Bonds then outstanding shall be issued only for the purposes of (1) refunding or redeeming any Bonds issued and outstanding under this Bond Resolution ("Refunding Bonds"), (2) financing all or a part of the Costs of Improvements ("Improvement Bonds"), and (3) completing the payment of Costs of the Series 2000 Project or any other Project financed with the proceeds of Bonds issued under this Bond Resolution ("Completion Bonds"). Additional Parity Bonds shall be issued only upon compliance with all of the following conditions:

(a) With respect to Improvement Bonds, there shall have been filed with the County (i) a certificate of the Authority Representative demonstrating that the requirements of Section 5.04 were met in the last complete Fiscal Year for which the audited financial statements of the Authority are available; and (ii) a report of the Consultant setting forth for each of the three Fiscal Years following the Fiscal Year in which the Authority Representative estimates the completion of the Series 2000 Project or any Improvement to be completed (1) estimates of Revenues to be received by the County and the Authority from the Airport including the Project to be financed with the Additional Parity Bonds; (2) estimates of Current Expenses for such Fiscal Years; (3) estimates of Transfers, if any, to be made in such Fiscal Years; (4) the Maximum Bond Service Requirement including the Additional Parity Bonds then proposed to be issued; and (5) that Revenues, together with Transfers, will be sufficient to pay all Current Expenses and one hundred twenty-five per centum (125%) of the Maximum Bond Service Requirement including the Additional Parity Bonds then proposed to be issued (excluding for purposes of this calculation, amounts identified under paragraphs (d) and (e) of the definition of "Bond Service Requirement"), in each such Fiscal Year.

(b) With respect to Additional Parity Bonds that are Completion Bonds, the Authority Representative shall have filed with the Clerk a certificate demonstrating that the proceeds of the Completion Bonds to be issued and all previously issued Completion Bonds relating to the Series 2000 Project or any other Project (in each case net of issuance costs and any discounts) will be not more than 10% of the original Cost of the Series 2000 Project or any other Project for the completion of which such Completion Bonds are then being issued.

(c) With respect to Additional Parity Bonds that are Refunding Bonds, (i) if the Refunding Bonds are not Cross-over Refunding Bonds, the Authority Representative shall have filed with the Clerk a certificate demonstrating either (a) the Maximum Bond Service Requirement will not increase after the issuance of the Refunding Bonds and the application of the proceeds thereof or (b) the total Bond Service Charges will not increase after the issuance of such Refunding Bonds and the application of the proceeds thereof; and (ii) if the Refunding Bonds are Cross-over Refunding Bonds, the Authority Representative shall have filed with the Clerk a certificate demonstrating that the Maximum Bond Service Requirement immediately following the Cross-over Date does not exceed the Maximum Bond Service Requirement immediately prior to the Cross-over Date.

(d) Each Series Resolution authorizing the issuance of Additional Parity Bonds will recite that all of the covenants herein contained will be applicable to such Additional Parity Bonds.

(e) The Authority Representative shall have filed a certificate with the Clerk to the effect that neither the County nor the Authority is in default in performing any of the covenants and obligations assumed hereunder, and all payments herein required to have been made into the Funds and Accounts, as provided hereunder have been made to the full extent required.

Additional Parity Bonds may be issued in any form authorized by the Series Resolution, including Serial or Term Bonds, Current Interest Paying or Capital Appreciation Bonds or Variable Rate Bonds, and may have such Derivative Agreements and Credit Facilities relating thereto as the County shall determine. For the purpose of demonstrating compliance with the tests set forth in this Section 5.12 and for no other purpose of this Resolution, the existence of any Derivative Agreement shall be ignored. To the fullest extent permitted by law, the County is authorized to enter into any Derivative Agreement or Credit Facility as it shall deem to be in its best interests.

Interest on and principal of the Additional Parity Bonds shall mature on such dates as may be provided by the Series Resolution applicable to such Additional Parity Bonds.

Additionally, notwithstanding anything in this Section to the contrary, the County may enter into Derivative Agreements relating to the Bonds and provide that its obligations payable under such Derivative Agreements (other than any obligation with respect to termination payments) are secured on a parity with the Outstanding Bonds, without having to satisfy any of the foregoing requirements for the issuance of Additional Parity Bonds. If the County so determines to secure its payment obligations under a Derivative Agreement, the payment obligations under such Derivative Agreement (other than termination payments) shall be treated as additional interest payable under this Resolution for all purposes, except as otherwise expressly provided herein.

SECTION 5.13. NO COMPETING FACILITIES. To the full extent of the law, neither the County nor the Authority will grant, or cause, consent to, or allow the granting of any franchise or permit to conduct aeronautical services, or provide access to the Airport to conduct aeronautical services to any Person, firm, corporation or body, agency or instrumentality whatsoever, or undertake any aviation project not made a part of the Airport which will materially compete with the Airport, as determined by the Authority Representative.

SECTION 5.14. CONSULTANTS. The County will, for the purpose of performing and carrying out the duties imposed on the Airport Consultants and Insurance Consultant by this Resolution, employ one or more Persons (or other persons permitted to act as Insurance Consultant), having a favorable reputation for skill and experience in such work. The cost of employing such Consultants as provided by this Resolution shall be treated as a part of the Current Expenses of the Airport or as a Project Cost as appropriate.

SECTION 5.15. FEDERAL INCOME TAX COVENANTS. The covenants contained in this subsection shall not apply to any Taxable Bonds. The County and Authority covenant that they will restrict the use of the proceeds of Bonds of each Series in such manner and to such extent, if any, as may be necessary so that the Bonds of such Series will not constitute arbitrage bonds under Section 148 of the Code. The appropriate official of the County shall execute and deliver a Tax Compliance Certificate of the County, setting forth the reasonable expectations of the County regarding the amount and use of all the proceeds of such Series of Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of interest on the Bonds of such Series.

SECTION 5.16. POWER AND AUTHORITY. The County represents and covenants that it is duly authorized under the laws of the State of Florida, including particularly the Act, to adopt this Resolution and to pledge and grant a lien on the Pledged Funds and in the manner and to the extent herein set forth, and the County has the power and authority to issue Bonds hereunder; and that all action on the County's part for the adoption of this Resolution has been duly and effectively taken.

SECTION 5.17. COPIES. All documents required to be prepared and filed in any office with any official shall be mailed, postage prepaid, to any owner of Bonds who shall have filed with the Bond Registrar for such purpose.

SECTION 5.18. DAMAGE, DESTRUCTION AND EMINENT DOMAIN.

(1) So long as any Bonds remain Outstanding under this Bond Resolution, if any part of the Airport shall be (a) destroyed or damaged by any casualty, or (b) taken under the exercise of the power of eminent domain by any governmental body or by any Person acting under governmental authority (or sold under threat of condemnation), the net proceeds of any casualty insurance and the net proceeds of any eminent domain award (including net proceeds of any sale under threat of condemnation) (being, in each case the gross proceeds less costs of recovering such proceeds) received by the County or the Authority for any such losses, taking or threatened taking (the "Net Proceeds") shall, upon receipt, be held by the County or the Authority within a separate account in the Project Fund pending the making, by the County, of a determination as to how such moneys shall be used pursuant to the provisions of this Section.

(2) Net Proceeds, at the option of the Authority Representative, shall be applied in one of the following ways:

(a) to repair, rebuild or restore such destroyed, damaged or condemned property with such changes, alterations and modifications (including the substitution and addition of any other property) as may be designated by the Authority Representative for the administration and operation of the Airport and as shall, in the judgment of the Authority Representative and confirmed by the Consultant, restore the Airport to the same or better condition existing prior to such damage, destruction or condemnation;

(b) to construct or acquire other property determined by the Authority Representative and confirmed by the Consultant to be of equal value, usefulness or revenue-generating capacity as the property damaged, destroyed or condemned;

(c) to redeem Bonds, if the Bonds are then otherwise subject to optional redemption, to pay the principal of Serial Bonds or the Redemption Requirements for Term Bonds then due and payable or to provide for such payment or redemption; or

(d) if the amount of Net Proceeds is less than \$500,000, for any lawful purpose determined by the Authority Representative.

The Authority Representative may determine to use the Net Proceeds in any of the ways set forth above or any combination of such uses. The Authority Representative shall make its determination of the use or uses of the Net Proceeds within 180 days of the final determination of the amount of such Net Proceeds.

SECTION 5.19. DEPOSIT OF FEDERAL AND STATE REIMBURSEMENT FUNDS. Except as otherwise required by the last sentence of this Section, the County and the Authority covenant that any funds or disbursements received from federal or state governmental sources that constitute or represent reimbursements of capital expenditures on the Airport made by the County or the Authority from amounts withdrawn from the Pledged Funds shall (unless such use is prohibited by the state or federal government) be deposited, at the option of the Authority Representative, in the Project Fund or the Airport Fund, as appropriate. All moneys, such as Grants in Aid and Interest Subsidies, shall be deposited to the appropriate Fund, Account or Subaccount hereunder based upon the uses permitted for such moneys by the grantor of such funds.

SECTION 5.20. CREATION OF TAX REBATE FUND; INVESTMENT; AND APPLICATION. There is hereby created and established by the County a special fund to be called the "Lee County, Florida, Airport Revenue Bonds--Tax Rebate Fund" (the "Tax Rebate Fund"). Upon the issuance of any Series of Bonds, other than Taxable Bonds, which are (or may become) subject to a Tax Rebate Requirement, a separate Account for such Series to be called the "Tax Rebate Account" shall be established in the Rebate Fund. Subaccounts may be established in such Account to facilitate compliance with Section 148(f) of the Code. Except as hereinafter provided, cash and Authorized Investments and investment income therefrom on deposit in any Account in the Tax Rebate Fund created with respect to any Series of Bonds shall, upon deposit therein, be pledged to the United States of America until withdrawn and paid to the United States or, if not required to be paid to the United States, until transferred to the Airport Fund or the Revenue Fund as provided herein. Moneys in the Tax Rebate Fund, or any account therein, shall not be pledged to the Holders of the Bonds.

At the times and in the manner required by Section 148(f) of the Code, applicable regulations and the Tax Compliance Certificate, and at such other times as the Authority Representative shall elect, the Executive Director shall (i) make or cause to be made such calculations as are necessary to determine the amount of the County's accrued but unpaid liability to make rebate payments to the United States with respect to such Series of Tax Rebate Bonds and (ii) create an Account in the Tax Rebate Fund for such Series of Bonds; if the amount described in clause (i) exceeds the amount, if any, then on deposit in such Account, the County shall transfer from the Revenue Fund, or if it elects, from the Airport Fund, or other Pledged Funds, the amount of such deficiency so that the amount on deposit in the Tax Rebate Fund equals the amount of such accrued but unpaid liability to make Tax Rebate payments with respect to such Series of Tax Rebate Bonds; if the amount, if any, then on deposit in such Account, exceeds the amount described in clause (i), the excess in such Account shall be transferred to the Airport Fund.

The County shall seek and obtain such advice from Bond Counsel or other professionals as shall be necessary to comply with the requirements of Section 148(f) of the Code. The expense of such compliance shall be an item of Current Expense. The County shall keep such records of the computations and determinations made pursuant to this Section as are required under Section 148(f). The County and any Funds Trustee or other trustee, if any, shall keep such records concerning the investment of the "gross proceeds" (as used in Section 148(f) of the Code) under their respective control of each Series of Tax Rebate Bonds and the investment of earnings from those investments as may be required in order to enable the aforesaid computations to be made.

Amounts on deposit in each Account of the Tax Rebate Fund shall be held in trust by the County and used (except to the extent that excess amounts may be transferred to the Airport Fund, as above provided) solely to make Tax Rebate payments to the United States of America with respect to the Series of Tax Rebate Bonds for which such Account was created and the Bondholders shall have no right to have the same applied to the payment of Bond Service Charges.

If, after establishing any Account in the Tax Rebate Fund for any Series of Bonds, an opinion of Bond Counsel is obtained to the effect that the Tax Rebate Requirement is not or is no longer applicable to such Series of Bonds, then any amounts on deposit in the applicable Account which will not be needed to make any required Tax Rebate payments to the United States shall be deposited in the Airport Fund. Amounts on deposit in each Account in the Tax Rebate Fund may be invested in Government Obligations (or otherwise as required or permitted by Section 148(f) of the Code and applicable regulations) pending their use, as aforesaid, and all such investment income shall be deposited, upon receipt, in such Account. The County shall at all times comply with the requirements of Section 148(f) and applicable regulations thereunder with respect to each Series of Tax Rebate Bonds, and shall, by resolution supplemental hereto, amend the provisions of this Section (without Bondholder's consent) to the extent necessary to achieve or facilitate such compliance.

SECTION 5.21. ANNUAL INSPECTION. The County covenants that it will cause the Authority Representative, among such other duties as may be imposed upon them by the County or by this Resolution, to make or cause to be made an inspection at least once a year of the Airport and, on or before the 1st day of July in each year, to submit to the County a report setting forth the following:

- (a) recommendations as to the amount that should be deposited during the ensuing Fiscal Year to the credit of the Renewal, Replacement and Improvement Fund, and



(b) findings whether the Airport has been maintained in good repair and sound operating condition, and estimates of the amount, if any, required to be expended to place the Airport in such condition and the details of such expenditures and the approximate time required therefor.

The County covenants that if such report indicates that the Airport has not been maintained in good repair and sound operating condition, it will promptly restore, replace or renew such facilities so that the Airport shall be in good repair and sound operating condition with all expedition practicable and will make adequate provision therefor in the Annual Budget for necessary Improvements required by State or federal law applicable to the Airport, in both cases from (and to the extent of) funds legally available therefor which are derived from the operation of the Airport. Nothing herein shall be construed to require the County to expend any funds other than funds derived from the operation of the Airport.

SECTION 5.22. LIMITATION ON CURRENT EXPENSES. The County covenants that Current Expenses incurred in any Fiscal Year will not exceed the reasonable and necessary amount thereof, and that it will not expend any amount or incur any obligations, except amounts payable from casualty insurance, the Renewal, Replacement and Improvement Fund or the Airport Fund, for maintenance, repair and operation in excess of the amounts provided for in the Annual Budget.

SECTION 5.23. ISSUANCE OF OBLIGATIONS NOT SECURED HEREUNDER -SPECIAL PURPOSE FACILITIES BONDS. The County shall be permitted to issue Special Purpose Facilities Bonds for the purpose of financing the cost of such Special Purpose Facilities as it and the Authority shall deem necessary or desirable in the operation of the Airport Properties. Special Purpose Facilities may consist of (i) Special Purpose Facilities that are owned and/or operated by private companies and the Special Purpose Facilities Bonds are payable from and secured exclusively by payments to be made by such private companies ("Private Special Purpose Facilities") and (ii) Special Purpose Facilities that are owned by the County or the Authority and payable from any source other than the Pledged Funds ("Public Special Purpose Facilities"). The County and the Authority shall determine the terms and conditions under which Special Purpose Facilities Bonds may be issued without regard to any test, financial or otherwise, contained in this Resolution.

The County may cause any Special Purpose Facilities to become a part of the Airport Properties by resolution of the Board, if there shall be filed with the Clerk a report of the Airport Consultant containing its forecast of (i) the Net Revenues of the Airport for the five (5) full Fiscal Years following the Fiscal Year in which such Special Purpose Facilities are to be included in the Airport Properties (the "forecast period"); (ii) the Maximum Bond Service Charges for each Fiscal Year in the forecast period, including Special Purpose Facilities Bonds assumed by the County in connection with inclusion; and (iii) demonstrating that the amounts in (i) divided by the amount or amounts in (ii) is not less than 1.25 in each Fiscal Year during the forecast period.

SECTION 5.24. USE OF REVENUES. The County and the Authority covenant and agree that none of the Revenues of the Airport will be used for any purpose other than as provided in this Bond Resolution, that neither the County or the Authority will construct, or consent to the construction of, any aviation project other than such Projects as shall be financed by Bonds issued under the provisions of this Resolution unless there shall be filed with the Clerk a statement, signed by the Authority Representative, certifying that the operation of such project will not adversely affect the Net Revenues or impair the operating efficiency of the Airport, and that no contract or contracts will be entered into or any action taken by which the rights of the Holders of the Bonds hereunder would be adversely impaired. The Authority further covenants that it will adopt such resolutions and such rules and regulations as may be necessary or appropriate to carry out the obligations of the County and the Authority under the provisions of this Bond Resolution and the Act. If the requirements of this Section are not met, nothing in this Resolution shall prevent the County and the Authority from expending moneys generated at the Airport that are otherwise unencumbered at any aviation-related facility owned by the County or the Authority.

SECTION 5.25. DEPOSIT OF MONEYS NOT CONSTITUTING REVENUES. Subject to Section 5.26 below, there may also be deposited to the credit of the Airport Fund or any Project Fund, Sinking Fund or the Subordinated Indebtedness Fund, at the sole option of the County, any moneys received by the County or the Authority which do not constitute Revenues under this Resolution or any moneys received by the County or the Authority from any property or facilities owned or operated by the County but which do not constitute a part of the Airport.

SECTION 5.26. PASSENGER FACILITY CHARGE. The County may by supplemental resolution provide for the transfer and deposit into the Revenue Fund of Passenger Facility Charge in the amount, manner, duration and for the use as set forth in such supplemental resolution. To the extent provided in Section 3.02, such Passenger Facility Charge deposited in the Revenue Fund shall then be deemed to be Revenues hereunder, subject to the PFC Act, the PFC Regulations, the PFC Approvals and the Passenger Facility Charge Bond Resolution with respect to the Passenger Facility Charge and the Future PFC Approvals with respect to the Future Passenger Facility Charge.

SECTION 5.27. ESTABLISHMENT OF ADDITIONAL ACCOUNTS AND SUBACCOUNTS. The County may, at its option, establish such additional Accounts or Subaccounts, as the case may be, within any Fund or Account, and the Accounts therein, to provide for special Improvement accounts, special bond redemption accounts, or interest rate swap agreements or other financial

arrangements, and such other Accounts and/or Subaccounts as may be necessary or desirable to carry out the terms and provisions of this or any Series Resolution.

## ARTICLE VI

### EVENTS OF DEFAULT, WAIVERS; RESTRICTIONS ON ACTIONS

SECTION 6.01. EVENTS OF DEFAULT. Each of the following events is hereby declared an "Event of Default":

(a) Payment of the principal of or premium on any Bond shall not be made when the same shall become due and payable, either at maturity or on required payment dates by proceedings for redemption or otherwise; or

(b) Payment of any installment of interest on any Bond shall not be made when the same shall become due and payable; or

(c) The County or the Authority shall for any reason be rendered incapable of fulfilling its obligations hereunder or any supplemental resolution to the extent that the payment of or security for the Bonds would be materially adversely affected, and such condition shall continue unremedied for a period of thirty (30) days after the County or the Authority becomes aware of such condition; or

(d) An order or decree shall be entered, with the consent or acquiescence of the County or the Authority, appointing a receiver or receivers of the County or the Authority, the Airport or any of the Pledged Funds, or any part thereof or the filing of a petition by the County or the Authority for relief under federal bankruptcy laws or any other applicable law or statute of the United States of America or the State, which shall not be dismissed, vacated or discharged within thirty (30) days after the filing thereof; or

(e) Any proceedings shall be instituted, with the consent or acquiescence of the County or the Authority, for the purpose of effecting a composition between the County or the Authority and its creditors or for the purpose of adjusting the claims of such creditors, pursuant to any federal or state statutes now or hereafter enacted, if the claims of such creditors are under any circumstances payable from any of the Pledged Funds; or

(f) The entry of a final judgment or judgments for the payment of money against the County or the Authority which subjects any of the Pledged Funds to a lien for the payment thereof in contravention of the provisions hereof for which there does not exist adequate insurance, reserves or appropriate surety or indemnity bonds for the timely payment thereof, and any such judgment shall not be discharged within ninety (90) days from the entry thereof or an appeal shall not be taken therefrom or from the order, decree or process upon which or pursuant to which such judgment shall have been granted or entered, in such manner as to stay the execution of or levy under such judgment, order, decree or process or the enforcement thereof; or

(g) The County or the Authority shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained herein or in any supplemental resolution or in any of the Bonds on the part of the County or the Authority to be performed, and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the County and the Authority by the registered owners of not less than ten percent (10%) in aggregate principal amount of any Series of Bonds then Outstanding.

(h) The County or the Authority shall default in the due and punctual performance of any covenant, condition, agreement or provision contained in any agreement pursuant to which a Credit Facility shall have been issued and such default shall continue for thirty (30) days after written notice specifying such default and requiring the same to be remedied shall have been given to the County or the Authority by the other party to such agreement.

Notwithstanding the foregoing, the occurrence of any event described in clauses (c), (g) and (h) shall not be deemed to be an Event of Default hereunder if such default can be cured within a reasonable period of time and if the County or the Authority, as appropriate, in good faith institutes appropriate curative action and diligently pursues such action until the default has been corrected; provided, however, that so long as the Series 2000 Bonds are Outstanding and the Credit Facility Issuer for the Series 2000 Bonds is not then in default, such cure period shall not exceed 60 days without the Series 2000 Bonds Credit Facility Issuer's consent.

SECTION 6.02. NOTICE OF DEFAULT. If an Event of Default shall occur, the County or the Authority shall give written notice of the Event of Default, by registered or certified mail, to the Bond Registrar, each Paying Agent, Authenticating Agent,

Funds Trustee, the Initial Purchasers of the Outstanding Bonds, to any Person who is then providing a Credit Facility for any of the Bonds and to each nationally recognized municipal securities information repository within five days after the County or the Authority has knowledge of the Event of Default unless such Event of Default shall have been cured. If an Event of Default occurs (and has not been cured) of which the County or the Authority has failed to give notice, then any of the foregoing or any Holder of any of the Bonds may give written notice thereof to the others. Within thirty (30) days after the giving of notice of its occurrence as aforesaid, notice shall also be given by the County or the Authority to the Holders of all Bonds then Outstanding as shown by the Bond Register at the close of business fifteen (15) days prior to the mailing of that notice and to each rating agency which has issued a rating with respect to any Outstanding Bonds, provided that except in the case of an Event of Default described in clauses (a) or (b) of Section 6.01, the County or the Authority may withhold such notice if and so long as the County or the Authority has cured such Event of Default within such thirty (30) day period.

**SECTION 6.03. ENFORCEMENT OF REMEDIES; APPOINTMENT OF TRUSTEE.** Upon the happening and continuance of any Event of Default specified in this Resolution, then and in every such case the owners of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding or any Credit Facility Issuer so long as such issuer is not in default under such Credit Facility may appoint any state bank, national bank, trust company or national banking association qualified to transact business in Florida to serve as trustee for the benefit of the Holders of all Outstanding Bonds (the "Trustee"). Notice of such appointment, together with evidence of the requisite signatures of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of the Bonds then Outstanding and the trust instrument under which the Trustee shall have agreed to serve shall be filed with the County, the Authority and the Trustee and notice of such appointment shall be given to all Holders of Bonds in the same manner as notices of redemption are given hereunder. After the appointment of the first Trustee with regard to any default hereunder, no further Trustees may be appointed with regard to such default; however, the Holders of a majority in aggregate principal amount of all the Bonds then Outstanding or the Credit Facility Issuer (if not in default) may remove the Trustee initially appointed and appoint a successor and subsequent successors at any time. If the default for which the Trustee was appointed is cured or waived pursuant to this Article, the appointment of the Trustee shall terminate.

Nothing herein, however, shall be construed to grant to any Holder of the Bonds any lien on any real property of or within the boundaries of the County.

After a Trustee has been appointed pursuant to the foregoing, the Trustee may proceed, and upon the written request of Holders of twenty-five percent (25%) of the principal amount of all Bonds Outstanding or Credit Facility Issuer (if not then in default) shall proceed, subject to the provisions hereof, to protect and enforce the rights of the Holders of the Bonds under the laws of the State of Florida, including the Act, and under this Resolution, by such suits, actions or special proceedings in equity or at law, or by proceedings in the office of any board, body or officer having jurisdiction, either for the specific performance of any covenant or agreement contained herein or in aid of execution of any power herein granted or for the enforcement of any proper legal or equitable remedy, all as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce such rights.

In the enforcement of any remedy against the County or the Authority under this Resolution, the Trustee shall be entitled to sue for, enforce payment of and receive any and all amounts then due, or becoming due during the continuance of such Event of Default, and at any time remaining, from the County for the principal of, premium, if any, or interest on the Bonds or otherwise becoming due under any provisions hereof with interest on overdue payments of principal and premium, if any, and, to the extent permitted by law, on overdue payments of interest at the rate or rates of interest specified in such Bonds together with any and all costs and expenses of collection and of all proceedings hereunder and under such Bonds including reasonable fees and expenses of the Trustee and its counsel (which shall be Current Expenses) without prejudice to any other right or remedy of the Trustee or of the Holders of Bonds and to recover and enforce any judgment or decree against the County and the Authority, but solely as provided herein and in such Bonds for any portion of such amounts remaining unpaid and interest, costs and expenses as above provided, and to collect solely from the Pledged Funds, in any manner provided by law, the moneys adjudged or decreed to be payable provided that (i) the County's and Authority's liability for such fees and expenses shall be limited to and payable from amounts on deposit in the Revenue Fund and the Airport Fund and (ii) if such judgment is for principal or interest due on Bonds of a particular Series, such amounts may be paid from any amounts on deposit in the Accounts in the Sinking Fund and Reserve Account created for Bonds of that Series.

**SECTION 6.04. EFFECT OF DISCONTINUING PROCEEDINGS.** In case any proceeding taken by the Trustee or any Holder of Bonds on account of any default shall have been discontinued or abandoned for any reason or shall have been determined adversely to the Trustee or such Holder, then and in every such case the County, the Authority, the Trustee and Holders of Bonds shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies and powers of the Trustee shall continue as though no such proceeding had been taken.

**SECTION 6.05. DIRECTIONS TO TRUSTEE AS TO REMEDIAL PROCEEDINGS.** The Holders of a majority in principal amount of the Bonds then Outstanding or a Credit Facility Issuer have the right, by an instrument or concurrent instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all remedial proceedings to be taken by the Trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions hereof, and that the

Trustee shall have the right to decline to follow any such direction which in the opinion of the Trustee would be unjustly prejudicial to Holders of Bonds not parties to such direction.

**SECTION 6.06. APPLICATION OF MONEYS.** After payment of any costs, expenses, liabilities and advances paid, incurred or made by the Trustee in the collection of moneys pursuant to any right given or action taken under the provisions of Sections 6.02 through 6.05 (including without limitation, reasonable attorneys' fees and expenses, except as limited by law or judicial order or decision entered in any action taken under said sections), all Net Revenues received by the Trustee shall be allocated among the Accounts in the Sinking Fund as provided herein. Any amounts on deposit in the Subaccounts in the Reserve Account for any Series of Bonds, any additional collateral pledged therefor or credit enhancement therefor shall not be taken into account in the allocation of Net Revenues among the Accounts in the Sinking Fund except as provided below. Amounts in each Account in the Sinking Fund shall be applied as follows:

First -- To the payment to the Holders entitled thereto of interest due on the Bonds of the applicable Series and, if the amount available is not sufficient when added to amounts, if any, in the Subaccount in the Reserve Account for such Series to pay all interest in full, then to the payment thereof ratably, according to the amounts due, to the Holders entitled thereto, without any discrimination or privilege, except as to any difference in the respective rates of interest on the Bonds; and

Second -- To the payment to the Holders of Bonds of such Series entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds previously called for redemption for the payment of which moneys are held pursuant to the provisions hereof), whether at stated maturity, by redemption or pursuant to any mandatory Redemption Requirements, and if the amount available when added to amounts, if any, in the Subaccount in the Reserve Account for such Series is not sufficient to pay in full the principal, then to the payment thereof ratably, according to the amounts of principal due on that date, to the Holders entitled thereto, without any discrimination or privilege.

Whenever moneys are to be applied pursuant to the provisions of this Section, those moneys shall be applied at such times, and from time to time, as the Trustee shall determine, having due regard to the amount of moneys available for application and the likelihood of additional moneys becoming available for application in the future. Whenever the Trustee shall direct the application of those moneys, it shall fix the date upon which the application is to be made, and upon that date, interest shall cease to accrue on the amount of principal, if any, to be paid on that date, provided the moneys are available therefor (and Accreted Value for Capital Appreciation Bonds shall not thereafter increase). The Trustee shall give notice of the deposit with the Paying Agent of any moneys and of the fixing of that date, and for giving notice with respect to, a Record Date for the payment of overdue interest. The Paying Agent shall not be required to make payment of principal of or any premium on a Bond to the Holder thereof, until the Bond shall be presented to the County for appropriate endorsement or for cancellation if it is paid fully.

**SECTION 6.07. WAIVERS OF EVENTS OF DEFAULT.** Except as hereinafter provided, at any time, in its discretion, the Trustee may waive any Event of Default hereunder and its consequences. The Trustee shall do so upon the written request of the Holders of,

- (a) at least a majority in aggregate principal amount of all Bonds then Outstanding in respect of which an Event of Default in the payment of Bond Service Charges exists, or
- (b) at least 25 percent (25%) in aggregate principal amount of all Bonds then Outstanding, in the case of any other Event of Default, or
- (c) in all events, by a Credit Facility Issuer not then in default under its Credit Facility.

There shall not be so waived, however, any Event of Default described in clauses (a) or (b) of Section 6.01 hereof unless at the time of that waiver said amounts have been paid. In the case of the waiver, or in case any suit, action or proceedings taken by the Trustee on account of any Event of Default shall have been discontinued, abandoned or determined adversely to it, the County, the Trustee and the Holders shall be restored to their former positions and rights hereunder, respectively. No waiver shall extend to any subsequent or other Event of Default or impair any right consequent thereon.

**SECTION 6.08. NO ACCELERATION.** Neither the Trustee nor any Holder of any Bonds shall have any right to accelerate or declare immediately due and payable the principal, premium, if any, or interest on the Bonds whether or not an Event of Default shall have occurred.

**SECTION 6.09. RESTRICTIONS ON ACTIONS BY HOLDERS OF BONDS.** No Holder of Bonds shall have any right to institute any suit, action or proceeding in equity or at law for the execution of any trust hereunder or for any other remedy hereunder unless:

- (a) A Trustee shall have been appointed as provided in Section 6.03 hereof;
- (b) Such Holder previously shall have given to the Trustee written notice of the Event of Default on account of which such suit, action or proceeding is to be taken;
- (c) The Holders of not less than twenty-five percent (25%) in principal amount of the Bonds then Outstanding shall have made written request of the Trustee to exercise such powers or right of action, as the case may be, after such right shall have accrued, and shall have afforded the Trustee a reasonable opportunity either to proceed to exercise the powers hereinabove granted or to institute such action, suit or proceeding in its or their name, provided, however, where the request is a request by a Holder of a Series of Bonds for which a Subaccount in the Reserve Account has been created and the request relates to the use of moneys in such Account to prevent or cure a payment default on Bonds of such Series, said twenty-five percent (25%) requirement shall relate to the Holders of twenty-five percent (25%) in principal amount of the Outstanding Bonds of such Series rather than the Holders of twenty-five percent (25%) in principal amount of all Outstanding Bonds;
- (d) There shall have been offered to the Trustee reasonable security and indemnity against the costs, expenses and liabilities to be incurred therein or thereby, including the reasonable fees of its attorneys (including fees on appeal); and
- (e) The Trustee shall have refused or neglected to comply with such request within a reasonable time.

Such notification, request and offer of indemnity are hereby declared in every such case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Resolution or for any remedy hereunder. No one or more Holders of the Bonds hereby secured shall have any right in any manner whatever by his, her, its or their action to affect, disturb or prejudice the security of this Resolution, or to enforce any right hereunder, except in the manner herein provided. All proceedings at law or in equity shall be instituted, had and maintained, in the manner herein provided, for the benefit of all Holders of Bonds as their interest may appear. Any individual rights of action or any other right given to one or more of such Holders by law are restricted by this Resolution to the rights and remedies herein provided.

Nothing contained herein, however, shall affect or impair the right of any Holder of any Bond, individually, to enforce the payment of the principal of and interest on such Bond at and after the maturity thereof, at the time, place, from the source and in the manner provided in this Resolution. Nothing herein shall affect or impair the rights of any Funds Trustee.

## ARTICLE VII

### DEFEASANCE

SECTION 7.01. DEFEASANCE. If, at any time, the County shall have paid or shall have made provision for payment of, the principal, interest and redemption premiums, if any, with respect to one or more of the Bonds, then, and in that event, the covenants contained herein and the pledge of and lien on the Pledged Funds in favor of the Holders of such Bonds shall be no longer in effect. For purposes of the preceding sentence, deposit of Defeasance Obligations in irrevocable trust with a banking institution or trust company, for the sole benefit of the Holders of such Bonds, the principal of and interest on which Defeasance Obligations have been determined by an independent public accounting firm to be sufficient to make timely payment of the principal, interest, Redemption Requirements, and redemption premiums, if any, on such Bonds, shall be considered "provision for payment". Nothing herein shall be deemed to require the County to call any of such Bonds for redemption prior to maturity pursuant to any applicable optional redemption provisions, or to impair the discretion of the County in determining whether to exercise any such option for early redemption.

In the event, by subsequent resolution, the County shall provide for the issuance of Additional Parity Bonds having a variable or floating rate, the County may establish one or more other methods by which such particular Series of Additional Parity Bonds, or any part thereof, shall be deemed to have been paid and discharged.

Notwithstanding the foregoing, amounts due by the County under a Credit Facility shall be discharged only (i) by actual payment or (ii) as otherwise may be provided under the instruments and documents under which such payment obligations arise.

SECTION 7.02. SURVIVAL OF CERTAIN PROVISIONS. Notwithstanding the foregoing, any provisions hereof which relate to the maturity of Bonds, the interest payments thereon and dates thereof, the optional and mandatory redemption provisions, the credit against Redemption Requirements, the exchange, transfer and registration of Bonds, the replacement of mutilated, destroyed, lost or stolen Bonds, the safekeeping and cancellation of Bonds, the non-presentment of Bonds, the holding of moneys in trust, repayments to the County from the Sinking Fund, or Reserve Account and the duties of the Bond Registrar, Authenticating Agents and Paying Agents in connection with all of the foregoing and the covenants set forth in Sections 5.15 shall remain in effect and be binding upon the County and

the Authority, the Bond Registrar, the Authenticating Agents, Paying Agents and the Holders of Bonds notwithstanding the release and discharge of the lien on and pledge of the Pledged Funds pledged hereunder. The provisions of this Section and the immediately preceding Section shall survive such release, discharge and satisfaction.

## ARTICLE VIII

### BOND REGISTRARS; AGENTS

SECTION 8.01. APPOINTMENT OF BOND REGISTRARS, AUTHENTICATING AGENTS, PAYING AGENTS AND OTHER AGENTS. In each Series Resolution, supplemental hereto, providing for the issuance of any Series of Bonds hereunder, the County may appoint a Bond Registrar and one or more Paying Agents for such Series and if such Bonds are to bear the facsimile signatures of both the Chairman (or Vice Chairman) and Clerk (or Acting Clerk) of the County, the County shall appoint an Authenticating Agent for such Series. The County or any officer or employee of the County may serve as Bond Registrar, or Paying Agent if all of the Bonds of any Series are deposited with a Securities Depository under a full Book Entry System. If any Bonds are to be advance refunded, the County shall enter into an escrow deposit agreement with an escrow agent for the Bonds to be refunded under which the escrow agent shall hold moneys in trust for the payment of the Bonds to be refunded. The County may appoint a Funds Trustee or such other agents, including indexing agents and remarketing agents, as it deems necessary or desirable.

SECTION 8.02. FEES AND EXPENSES. The County or the Authority may pay the Bond Registrar and any Paying Agents, Authenticating Agents, any Funds Trustee and other agents fees for their services and for all expenses reasonably and necessarily paid or incurred by them in connection therewith and other expenses of the County and the Authority pertaining to the Bonds including, but not limited to any bond insurance premium, letter of credit fees, guarantee fee, surety bond fee, indexing agent's fee, remarketing agents' fees and professional fees and expenses. Such payment may be made out of any legally available funds of the County or the Authority, but neither the County nor the Authority may be compelled to pay such fees and expenses except from the Revenue Fund or the Airport Fund or from the proceeds of any Series of Bonds on deposit in an Account created for such Series in the Project Fund, but only if such fees and expenses constitute Costs payable from the proceeds of such Series under Section 4.01 hereof.

SECTION 8.03. OTHER MATTERS RELATING TO AGENTS. The County may provide, by separate agreement with its agent or by supplemental resolution providing for the appointment of such agent, for the succession, resignation, removal, replacement of and appointment of successor to any such agent; provided, however, that nothing herein shall be deemed to prohibit the County from entering into agreements with any such agent which prohibits or precludes resignation or removal or prohibits the County from providing covenants in any resolution providing for the issuance of any Series of Bonds for the benefit of the Holder thereof that vary from the provisions of this Resolution so long as such covenants have no material adverse effect on the Holders of Bonds of any other Series.

SECTION 8.04. DEALING IN BONDS. Any Bond Registrar, Authenticating Agent, Paying Agent, Funds Trustee or other agent, their affiliates, and any directors, officers, employees or agents thereof, in good faith, may become the owners of Bonds secured hereby with the same rights which it would have hereunder if such Bond Registrar, Authenticating Agent, Paying Agent, Funds Trustee, or other agent did not serve in those capacities.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

SECTION 9.01. SALE OF BONDS. Each Series of Bonds shall be issued and sold at public sale, private placement, or negotiated sale at one time or in installments from time to time and at such price or prices consistent with the provisions of the Act and the requirements of this Resolution.

SECTION 9.02. CREDIT FACILITY ISSUER. Notwithstanding anything herein to the contrary, so long as the issuer of any Credit Facility is not then in default in the performance of its obligations under its Credit Facility and any documents relating thereto, the issuer of such Credit Facility shall be entitled (i) to vote, give consents and take all other actions otherwise permitted or required to be taken by the holders of the Bonds to which such Credit Facility relates; and (ii) to direct all proceedings from and after an Event of Default shall have occurred. The issuer of a Credit Facility shall be entitled to receive all notices and reports which are required by this Resolution and shall be considered and is hereby acknowledged to be a third party beneficiary under this Resolution.

SECTION 9.03. LIMITATION OF RIGHTS. With the exception of rights conferred expressly herein, nothing expressed or mentioned in or to be implied from this Resolution or the Bonds is intended or shall be construed to give to any Person other than the County, the Authority, the Holders of the Bonds, and any Bond Registrar, Authenticating Agent, Paying Agent, Funds Trustee, or

other agent or Persons providing any Credit Facility, any legal or equitable right, remedy, power or claim under or with respect to this Resolution or any covenants, agreements, conditions and provisions contained herein.

SECTION 9.04. SUSPENSION OF MAIL. If because of the suspension of delivery of first class mail or, for any other reason, any person shall be unable to mail by the required class of mail any notice required to be mailed by the provisions of this Resolution, such notice shall be given in such other manner as in the judgment of the Person giving such notice shall most effectively approximate mailing or publication, as the case may be, thereof, and the giving of that notice in that manner for all purposes of this Resolution shall be deemed to be in compliance with the requirement for the giving thereof. Except as otherwise provided herein, the mailing of any notice shall be deemed complete upon deposit of that notice in the mail and the giving of any notice by any other means of delivery shall be deemed complete upon receipt of the notice.

SECTION 9.05. PAYMENTS DUE ON SATURDAYS, SUNDAYS AND HOLIDAYS. If any interest payment date, date of maturity of the principal of any Bonds or date fixed for redemption of any Bonds is a Saturday, Sunday or a day on which the Paying Agent is required, or authorized or not prohibited, by law (including without limitation, executive orders) to close and is closed, then payment of interest, principal and any redemption premium may be made on the next succeeding business day on which the Paying Agent is open for business with the same force and effect as if that payment were made on the interest payment date, date of maturity or date fixed for redemption, and no interest shall accrue for the period after that date.

SECTION 9.06. INSTRUMENTS OF HOLDERS. Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, required under this Resolution to be executed by any Holder may be in any number of concurrent writings of similar tenor and may be executed by that Holder in person or by an agent or attorney appointed in writing. Proof of (i) the execution of any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, (ii) the execution of any writing appointing any agent or attorney, and (iii) the ownership of Bonds shall be sufficient for any of the purposes of this Resolution if made in the following manner and, if so made, shall be conclusive in favor of the County, the Authority, the Bond Registrar and any Paying Agent and any Trustee appointed pursuant hereto with regard to any action taken thereunder, namely:

(a) The fact and date of the execution by any person of any writing may be proved by the certificate of any officer in any jurisdiction, who has power by law to take acknowledgments within that jurisdiction, that the person signing the writing acknowledged that execution before that officer, or by affidavit of any witness to that execution; and

(b) The fact of ownership of Bonds shall be proved by the register maintained by the Bond Registrar.

Any writing, including without limitation, any consent, request, direction, approval, objection or other instrument or document, of the Holder of any Obligation shall bind every future Holder of the same Obligation with respect to anything done or suffered to be done by the County, the Authority, the Funds Trustee, if any, the Bond Registrar or any Paying Agent or Authenticating Agent pursuant to that writing.

SECTION 9.07. NOTICES. Any notices required to be given hereunder shall be given in writing, mailed by registered or certified mail, postage prepaid and addressed to the Person to whom notice is to be given at the "notice address" of such Person or in such other manner as is generally approved by the Securities and Exchange Commission for the giving of like notice. Any Funds Trustee, Bond Registrar, Authenticating Agent, Escrow Agent, Paying Agent, or Trustee appointed pursuant to Section 8.01 or 6.03 hereof, shall file a certificate with the County setting forth its initial notice address or of any change in its notice address. The initial notice address of the County shall be:

Lee County, Florida  
2115 Second Street  
Fort Myers, Florida 33901

Attention: Chairman, Board of County Commissioners

with a copy to:  
Lee County Port Authority  
16000 Chamberlin Parkway  
Fort Myers, Florida 33913

Attention: Executive Director

The County shall give written notice to any Bond Registrar, Authenticating Agent, Escrow Agent, Paying Agent, Funds Trustee or other agent and to any Trustee appointed pursuant to Section 6.03 hereof or 8.01 and to any Credit Facility Issuer for any Bonds of any change in its notice address or of any change in its notice address of any of the foregoing.

SECTION 9.08. EXTENT OF COVENANTS; NO PERSONAL LIABILITY. All covenants, stipulations, obligations and agreements of the County or the Authority contained in this Resolution are and shall be deemed to be covenants, stipulations, obligations and agreements of the County or the Authority to the full extent authorized by the Act and permitted by the Constitution of the State. No covenant, stipulation, obligation or agreement of the County or the Authority contained in this Resolution shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future member, officer, agent or employee of the County or the Authority in other than their official capacity. Neither the members of the County or the Authority nor any official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance or execution thereof.

SECTION 9.09. NO RECOURSE. No recourse shall be had for the payment of the principal of, premium, if any, and interest on the Bonds, or for any claim based thereon or on this Resolution, against any present or former member or officer of the County or the Authority or any person executing the Bonds.

SECTION 9.10. NON-PRESENTMENT OF BONDS. In the event that any Bonds shall not be presented for payment when the principal thereof, and premium, if any, becomes due in whole or in part, either at stated maturity, by redemption or otherwise in the event a check or draft for interest is uncashed, and if moneys sufficient to pay the principal, and premium, if any, then due on that Bond or to pay such check or draft shall have been made available to any Paying Agent for the benefit of the Holder thereof, then all liability of the County to that Holder for such payment of the principal, and premium, if any, then due on the Bond or on such check or draft thereupon shall, except as hereafter provided, cease and be discharged completely. Thereupon, it shall be the duty of the Paying Agent to hold those moneys, without liability for interest thereon, for the exclusive benefit of the Person entitled thereto, who shall be restricted thereafter exclusively to those moneys for any claim of whatever nature on its part hereunder or under the Bond or with respect to, the principal, and premium, if any, then due on that Bond or on such check or draft.

Any of those moneys which shall be so held by any Paying Agent, and which remain unclaimed by the Holder of a Bond not presented for payment or check or draft not cashed for a period of five (5) years after the due date of such Bond or the date of such check or draft, as the case may be, shall be applied as provided in Chapter 717, Florida Statutes, as amended. Thereafter, the Holder of that Bond or check or draft shall have only such rights as are provided under Chapter 717, Florida Statutes as amended, and neither the Paying Agent nor the County shall have any responsibility with respect to those moneys.

SECTION 9.11. PREEMPTION OF RIGHTS AND REMEDIES. If any Series of Bonds are secured by a Credit Facility, the Series Resolution may preempt unto the Credit Facility Issuer (and to the exclusion of the Holders of Bonds of such Series, whether or not any amounts are owed to such Credit Facility Issuer with respect to such Series) one or more rights and remedies of the Holders of Bonds of such Series, including but not limited to rights to vote at meetings of Holders, rights to participate in the selection of a Trustee, rights to consent to supplemental resolutions and amendments, rights to exercise or participate in directing the exercise of remedies, and to waive or participate in the waiver of Events of Default. Such preemption and its duration may be subject to express conditions. For all purposes hereof the exercise or non-exercise by a Credit Facility Issuer for any Bonds of rights and remedies of the Holders of such Bonds which have been so preempted to it, shall be deemed to constitute the exercise or non-exercise of such rights and remedies by the Holders of such Bonds.

SECTION 9.12. MODIFICATION OR AMENDMENT. No material adverse modification or amendment of this Resolution or of any resolution amendatory hereof or supplemental hereto may be made without the consent in writing of the holders of fifty-one per centum (51%) or more in principal amount of the Bonds then Outstanding or the Credit Facility Issuer not then in default; 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 (except by their terms) or in the amount of the principal obligation thereof, or affect the promise of the County to pay the principal of and interest on the Bonds as the same shall come due from the Pledged Funds, or reduce the percentage of the Holders of the Bonds required to consent to any material adverse modification or amendment hereof, without the consent of the Holder or Holders of all such Bonds, and provided further, however, that the County may at any time amend this Resolution without the consent of any Holders of Bonds then Outstanding to provide for the issuance or exchange of Bonds in bearer form with coupons attached thereto if and to the extent that doing so will not affect the tax exempt status of the interest on the Bonds.

Additionally, the County, from time to time and at any time and without the consent or concurrence of any Registered Owners of any Bonds, may adopt a resolution amendatory hereof or supplemental hereto, if the provisions of such supplemental resolution shall not materially adversely affect the rights of the Registered Owners of the Bonds then Outstanding, for any one or more of the following purposes:

- (a) to make any changes or corrections in this Resolution which the County shall have been advised by Bond Counsel are required for the purpose of curing or correcting any ambiguity or defect or inconsistent provision or



omission or mistake or manifest error contained herein, or to insert in this Resolution such provisions clarifying matters or questions arising hereunder as are necessary or desirable;

(b) to add additional covenants and agreements of the County or the Authority for the purpose of further securing the payment of one or more Series of Bonds;

(c) to surrender any right, power or privilege reserved to or conferred upon the County or the Authority by the terms hereof;

(d) to confirm by further assurance any lien, pledge or charge created or to be created by the provisions hereof;

(e) to grant to or confer upon the Registered Owners any additional right, remedies, powers, authority or security that lawfully may be granted to or conferred upon them;

(f) to assure compliance with the Code;

(g) to provide such changes which, in the opinion of the County, based upon such certificates and opinions of the Consultant, Bond Counsel, Financial Advisor or other appropriate advisors as the County may deem necessary or appropriate, will not materially adversely affect the security of the Registered Owners, including, but not limited to, such changes as may be necessary in order to adjust the terms hereof so as to facilitate the issuance of other types of obligations, including, but not limited to, bonds, notes, certificates, warrants or other evidences of indebtedness, which are Subordinated Indebtedness;

(h) To obtain or maintain an investment grade rating on the Bonds from a nationally recognized rating agency;  
or

(i) to modify any of the provisions of this Resolution in any other respects, provided that such modification shall not be effective (a) with respect to the Bonds Outstanding at the time such amendatory or supplemental resolution is adopted or (b) shall not be effective (i) until the Bonds Outstanding at the time such amendatory or supplemental resolution is adopted shall cease to be Outstanding, or (ii) until the Registered Owners thereof consent thereto.

The foregoing provisions notwithstanding, (1) no consent of any Registered Owners shall be required with respect to modification or amendment, other than a modification or amendment to permit a change in the maturity or a reduction in the rate of interest on or in the amount of the principal obligation of any of the Bonds, with respect to Bonds as to which a Credit Facility (other than a Credit Facility deposited in the Reserve Account) is in place and to which modification or amendment the Credit Facility Issuer has provided its prior written consent and (2) no modification or amendment shall be effective with respect to any Bonds as to which a Credit Facility (other than a Credit Facility deposited in the Reserve Account) is effective without the prior written consent to such modification or amendment of the Credit Facility Issuer.

SECTION 9.13. SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Bonds issued hereunder.

SECTION 9.14. REPEALING CLAUSE. All ordinances and resolutions or parts thereof of the County in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed; provided that the resolutions supplemental to the Prior Resolution and the Existing Resolution shall not be affected to the extent necessary to preserve any authorization of and fiscal details for the Series 1992A Bonds and the Series 1992B Bonds.

SECTION 9.15. EFFECTIVE DATE. This resolution shall take effect simultaneously with the delivery of the Series 2000 Bonds.

[Signatures Intentionally Omitted]

RESOLUTION NO. 11-01-27  
(AIRPORT REVENUE REFUNDING BONDS, SERIES 2011A)

A RESOLUTION SUPPLEMENTING RESOLUTION NO. 00-03-04 OF LEE COUNTY, FLORIDA, ADOPTED ON MARCH 13, 2000, AUTHORIZING THE REFUNDING OF CERTAIN MATURITIES OF THE COUNTY'S OUTSTANDING AIRPORT REVENUE BONDS, SERIES 2000A; PROVIDING FOR THE ISSUANCE OF NOT EXCEEDING \$195,650,000 AIRPORT REVENUE REFUNDING BONDS, SERIES 2011A (AMT), TO FINANCE THE COST OF SUCH REFUNDING; PROVIDING FOR THE PAYMENT OF THE BONDS FROM THE NET REVENUES OF THE AIRPORT; PROVIDING FOR THE NEGOTIATED SALE OF SUCH BONDS; AUTHORIZING THE CHAIRMAN OF THE BOARD TO DETERMINE DATE OF SALE, DETAILS OF THE BONDS AND EXECUTE SALE DOCUMENTS; PROVIDING FOR THE CONDITIONS OF SALE; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE AND DELIVERY OF THE BONDS; APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW DEPOSIT AGREEMENT, A PRELIMINARY OFFICIAL STATEMENT, A BOND PURCHASE CONTRACT AND A CONTINUING DISCLOSURE CERTIFICATE, ALL IN CONNECTION WITH THE MARKETING AND SALE OF THE BONDS; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND THE TAKING OF ALL OTHER NECESSARY ACTIONS IN CONNECTION WITH THE ISSUANCE OF THE BONDS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA (hereinafter called "Board"), as follows:

ARTICLE I

AUTHORITY, DEFINITIONS AND FINDINGS

SECTION 1.01 AUTHORITY FOR THIS RESOLUTION. This resolution is adopted pursuant to the provisions of Chapter 125, Part I, and Chapter 332, Florida Statutes, and other applicable provisions of law, and Resolution No. 92-08-48, adopted by the Board on August 26, 1992, as amended and supplemented from time to time and amended and restated pursuant to Resolution No. 00-02-45 adopted on February 16, 2000, as amended and restated pursuant to Resolution No. 00-03-04 adopted March 13, 2000 (collectively, the "Master Resolution"), and is supplemental to the Master Resolution.

SECTION 1.02 DEFINITIONS. Unless the context otherwise requires, the capitalized terms used in this resolution shall have the meanings specified in this Section. Capitalized terms not otherwise defined in this Section shall have the meanings specified in the Master Resolution. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

"Bond Purchase Contract" means the Bond Purchase Agreement between the County and the Underwriter presented simultaneously with the consideration of this resolution and setting forth the conditions upon which the Series 2011 Bonds will be sold by the County and purchased by the Underwriter and the details of the Series 2011 Bonds, in form and substance to be acceptable to the Chairman, with the advice of the County Attorney and Bond Counsel, and acknowledged by the Authority.

"Bond Resolution" means, collectively, the Master Resolution, this resolution and all resolutions amendatory hereof or supplemental hereto.

"Conditional Redemption" means a redemption with respect to which a notice of redemption has been given to Bondholders and in which notice it is stated, among other things, that the redemption is conditional upon a deposit of funds and/or certain other conditions as may be provided therein.

"Chairman" means, the Chairman or Chairwoman of the Board of County Commissioners of the County, or in the absence of the Chairman or Chairwoman, the Vice Chair or other designee.

“Master Resolution” means Resolution No. 92-08-48, adopted by the Board on August 26, 1992, as amended and supplemented from time to time, and as amended and restated by Resolution No. 00-02-45, adopted on February 16, 2000 and Resolution No. 00-03-04, adopted on March 13, 2000.

“Outstanding Parity Bonds” means the County’s outstanding (i) Airport Revenue Refunding Bonds, Series 2005, (ii) Airport Revenue Refunding Bonds, Series 2010A, and (iii) any Unrefunded Bonds.

“Escrow Deposit Agreement” means the agreement by and between the County and the Escrow Holder providing for the holding in trust of moneys sufficient to pay the principal of a redemption premium, if any, and interest on the Refunded Bonds to the date set for redemption thereof, as the same shall become due and payable and in substantially the form attached hereto as Exhibit E.

“Escrow Holder” means U.S. Bank National Association, or any other bank or trust company, which may be located within or without the State, to hold a portion of the proceeds of the sale of the Series 2011 Bonds and other available moneys in trust pursuant to the provisions of the Escrow Deposit Agreement.

“Refunding” means the program for refinancing the Refunded Bonds through the issuance of the Series 2011 Bonds authorized by the Bond Resolution and the deposit of a portion of the proceeds thereof together with other available moneys with the Escrow Holder to be applied pursuant to the provisions of the Escrow Deposit Agreement to pay the principal of, premium, if any, and interest on the Refunded Bonds.

“Refunded Bonds” means all or a portion of the County’s outstanding Airport Revenue Bonds, Series 2000A, dated March 1, 2000; the portion to be refunded shall be identified and set forth in the Escrow Deposit Agreement.

“Refunding Costs” means but shall not necessarily be limited to: the cost of payment of the principal of, premium, if specified, and interest on the Refunded Bonds; expenses for estimates of costs; the fees of fiscal agents, financial advisors and consultants; administrative expenses; the establishment of reasonable reserves for the payment of debt service on the Series 2011 Bonds; discount upon the sale of the Series 2011 Bonds; the expenses and costs of issuance of the Series 2011 Bonds; the cost of purchasing a municipal bond insurance policy, if any, with respect to the Series 2011 Bonds; such other expenses as may be necessary or incidental to the financing authorized by the Bond Resolution, to the Refunding, and to the accomplishing thereof, and reimbursement to the County for any sums expended for the foregoing purposes to the extent permitted under the applicable provisions of the Code.

“Series 2011 Bonds” means the Airport Revenue Refunding Bonds, Series 2011A (AMT), authorized to be issued herein.

“Series 2011 Subaccounts” means the separate accounts established and maintained pursuant to the provisions of this resolution for the benefit of the Registered Owners of the Series 2011 Bonds.

“Underwriter” means, collectively, Citigroup Global Markets Inc. and Raymond James and Associates, Inc., as the underwriters for the Series 2011 Bonds.

“Unrefunded Bonds” means the portion of the County’s Airport Revenue Bonds Series 2000A (AMT), if any, remaining outstanding after the issuance of the Series 2011 Bonds.

#### SECTION 1.03 FINDINGS. It is hereby ascertained, determined and declared that:

A. It is necessary and in the best interests of the health, safety, and welfare of the County and its inhabitants that the County undertake the Refunding. The County is authorized pursuant to the provisions of the Act and the Master Resolution to undertake the Refunding.

B. The County is advised that it can achieve debt service savings if it proceeds with the Refunding, however, the County is without adequate, currently available funds to pay the Refunding Costs. It is necessary and desirable and in the best interests of the County that it borrow the moneys necessary to accomplish the Refunding. The County is authorized pursuant to the provisions of the Act and the Master Resolution to borrow moneys necessary to pay the cost of the Refunding.

C. The County anticipates receiving the Pledged Funds, and the Pledged Funds are not pledged or encumbered to pay any other debts or obligations of the County except the County’s Outstanding Parity Bonds, which pledge of and lien on will be on a parity with the Series 2011 Bonds.

D. The Pledged Funds are estimated to be sufficient to pay the Bond Service Requirement on the Series 2011 Bonds and to make all other payments required to be made by the provisions of the Bond Resolution.

E. The principal of and interest on the Series 2011 Bonds, and all required payments into the Series 2011 Subaccounts, shall be payable from and secured solely by a pledge of and lien on the Pledged Funds. Neither the County, the Authority nor the State of Florida or any political subdivision thereof or governmental authority or body therein, shall ever be required to levy ad valorem taxes to pay the principal of and interest on the Series 2011 Bonds or to make any of the required payments into the Series 2011 Subaccounts, and the Series 2011 Bonds shall not be secured by a lien upon any property owned by or situated within the corporate limits of the County other than the Pledged Funds in the manner provided herein.

F. Section 5.12 of the Master Resolution provides for the issuance of Additional Parity Bonds under the terms, limitations and conditions provided therein. Prior to the issuance of the Series 2011 Bonds, the County shall demonstrate compliance with the provisions of Section 5.12 of the Master Resolution. Upon the issuance of the Series 2011 Bonds, the Series 2011 Bonds and the Outstanding Parity Bonds shall be on a parity and rank equally as to lien on and source and security for payment from the Pledged Funds.

G. In order to enable the Underwriter for the Series 2011 Bonds to comply with Rule 15c2-12 under the Securities Exchange Act of 1934, as amended (the "Rule"), in connection with the offering and sale of the Series 2011 Bonds, it is necessary that the County's Preliminary Official Statement with respect to the Series 2011 Bonds be "deemed final" (except for permitted omissions). The Board hereby delegates to the Chairman the authority to certify the Preliminary Official Statement as "deemed final" under the Rule.

H. The County will solicit one or more proposals for a credit facility in connection with the issuance of the Series 2011 Bonds and, depending upon market conditions at the time of sale of the Series 2011 Bonds, it may be in the best interests of the County to purchase a policy of municipal bond insurance in order to reduce the aggregate debt service requirements with respect to the Series 2011 Bonds.

I. The County expects to receive from Standard & Poor's Ratings Services, New York, New York, Moody's Investors Service, New York, New York, and Fitch Ratings, Inc., New York, New York, prior to issuance of the Series 2011 Bonds, bond ratings in one of the three highest ratings classifications.

J. A negotiated sale of the Series 2011 Bonds is in the best interest of the County and is found to be necessary because the volatility and sensitivity of interest rates has increased the risk of sale upon advertisement, and it is more likely that the County will achieve better market timing and therefore, a lower interest rate by sale through negotiation.

K. In order to enable the timely sale and award of the Series 2011 Bonds the County hereby determines that it is in the best interests of the County to authorize the Chairman to execute the Bond Purchase Contract for the sale of the Series 2011 Bonds on behalf of the County, to the Underwriter, subject to certain conditions set forth herein.

L. It is necessary and desirable to establish the book entry registration system provisions for the Series 2011 Bonds; to designate the Bond Registrar and Paying Agent for the Series 2011 Bonds, and to authorize the taking of all other actions in connection with the issuance and delivery of the Series 2011 Bonds.

SECTION 1.04 RESOLUTION AND MASTER RESOLUTION TO CONSTITUTE CONTRACT. In consideration of the acceptance of the Series 2011 Bonds authorized to be issued hereunder by those who shall be the Registered Owners of the same from time to time, this resolution and the Master Resolution shall be deemed to be and shall constitute a contract between the County and such Registered Owners. The covenants and agreements in the Master Resolution and herein set forth to be performed by the County shall be for the equal benefit, protection and security of the Registered Owners of any and all of such Series 2011 Bonds, all of which shall be of equal rank and without preference, priority or distinction of any of the Series 2011 Bonds over any other thereof, except as expressly provided therein and herein.

## ARTICLE II

### AUTHORIZATION OF REFUNDING; AUTHORIZATION OF ISSUANCE OF SERIES 2011 BONDS; DESCRIPTION, DETAILS AND FORM OF SERIES 2011 BONDS

SECTION 2.01 AUTHORIZATION OF REFUNDING. The Board hereby specifically authorizes the Refunding. The Board hereby specifically ratifies and affirms all actions previously taken in furtherance of the Refunding.

SECTION 2.02 AUTHORIZATION AND SALE OF SERIES 2011 BONDS. Subject and pursuant to the provisions of this resolution and the Master Resolution, obligations of the County, to be known as "Airport Revenue Refunding Bonds, Series 2011A (AMT)" are hereby authorized to be issued in one or more series in the aggregate principal amount of not exceeding \$195,650,000 for the purpose of financing the Refunding Costs, and are hereby authorized to be awarded and sold to the Underwriter, pursuant to the conditions stated herein.

SECTION 2.03 DESCRIPTION OF SERIES 2011 BONDS; AUTHORITY TO DETERMINE DETAILS OF BONDS AND TO EXECUTE BOND PURCHASE CONTRACT; CONDITIONS TO EXERCISE OF AUTHORITY; AWARD CERTIFICATE. The Series 2011 Bonds shall be numbered; shall be in such denominations or maturity amounts; shall be in fully-registered form, payable to "Cede & Co.", as nominee for the Depository Trust Company, New York, New York; shall be issued in book-entry only form; shall be dated; shall bear interest at not exceeding the maximum rate allowed by law payable on such dates; shall mature on such date, in such years, and such amounts; shall be issued as Current Interest Paying Bonds, Serial Bonds, Term Bonds, or any combination thereof; shall be issued in such number of series or installments, all as shall be determined by the Chairman, conditioned upon the parameters set forth below.

Subject to the conditions hereinafter set forth, the Chairman is hereby authorized and empowered to determine for the Series 2011 Bonds, the Credit Facility Issuer (if any), the date of sale, principal amount, maturity dates, interest rates, dated date, redemption provisions, series designation, and other details of the Series 2011 Bonds, and to execute the Bond Purchase Contract on behalf of the County and to deliver an executed copy thereof to the Underwriter and the Authority. This delegation of authority is expressly made subject to the following conditions. The Bond Purchase Contract, in substantially the form attached hereto as Exhibit B, shall be executed on behalf of the County by the Chairman, with such amendments and omissions as the Chairman, upon the advice of the Authority's Financial Advisor and Bond Counsel, deems reasonable and customary for purchase contracts. The conditions to exercise the authority to execute the Bond Purchase Contract are:

- A. The aggregate principal amount of the Series 2011 Bonds to be sold shall not exceed \$195,650,000.
- B. The Underwriter's discount (including management fee and expenses) does not exceed 1.00% of the par amount of the Series 2011 Bonds.
- C. The Series 2011 Bonds have a final maturity date that is not later than the last maturity date of the Refunded Bonds.
- D. The County and the Authority shall have received a disclosure statement from the Underwriter, setting forth the information required by Section 218.385, Florida Statutes, as amended.
- E. The anticipated present value debt service savings to be realized will be at least 3% of the par amount of the Refunded Bonds.
- F. The Series 2011 Bonds shall be callable for redemption prior to maturity by the County not later than ten years from the issuance date and at a redemption price not higher than 101% of the principal amount to be redeemed plus accrued interest to the redemption date.

If it shall be demonstrated to the satisfaction of the Chairman, with the advice of the Authority's Financial Advisor, that the estimated present value of the interest savings to be achieved due to the purchase of bond insurance is greater than the premium for purchase of such insurance, the Chairman is authorized to determine to purchase such bond insurance. If so determined, the Chairman is further authorized to select the municipal bond insurance provider from the bids received by the County, based upon the premium bid, estimated trading levels, and the additional conditions set forth in such provider's bid. Any additional covenants or modifications to the covenants in the Master Resolution may be set forth in an Insurance Agreement among the bond insurer, the County and the Authority, such agreement to be in substantially the form attached hereto as Exhibit G, with such changes as are acceptable to the

Chairman, upon advice of the County Attorney and the Authority's Bond Counsel. The execution and delivery of an Insurance Agreement by the Chairman and Clerk is hereby authorized if the purchase of municipal bond insurance is determined beneficial by the Chairman.

Upon satisfaction of all of the requirements set forth above in this Section 2.03, the Chairman is authorized to execute and deliver the Bond Purchase Contract containing terms that comply with the provisions of this Section 2.03, and the Series 2011 Bonds shall be sold to the Underwriter pursuant to the provisions of such Bond Purchase Contract. The Chairman shall also execute and file with the Clerk an Award Certificate containing the actual fiscal terms of the Series 2011 Bonds, including but not limited to, any incremental Reserve Requirement for the Series 2011 Bonds, if any. The Chairman may rely upon the advice of the Authority's Financial Advisor as to the satisfaction of the aforementioned conditions. Upon execution of the Bond Purchase Contract, no further action shall be required on the part of the County or the Authority under this resolution to effect the sale of the Series 2011 Bonds to the Underwriter.

If the Chairman determines, based upon the advice of the Authority's Financial Advisor, that the sale of the Series 2011 Bonds in multiple series or installments would be beneficial to the County, then the foregoing provisions with regard to the award and sale of the Series 2011 Bonds shall apply to each series or installment separately, provided that the aggregate principal amount of all series shall not exceed \$195,650,000. Separate Bond Purchase Contracts may be entered into for each series of Series 2011 Bonds. If more than one series of Series 2011 Bonds shall be issued, then references to "Series 2011 Bonds" herein shall be deemed to be references to each series of Series 2011 Bonds, individually and/or collectively, as the context requires.

**SECTION 2.04 BOOK-ENTRY SYSTEM OF REGISTRATION.** The Series 2011 Bonds shall be issued in book-entry only form pursuant to the County's Blanket Letter of Representations dated May 3, 1999, with The Depository Trust Company ("DTC") (the "Letter of Representation"). The Series 2011 Bonds shall be registered to Cede & Co. ("Cede"), as nominee for DTC, and immobilized in the custody of DTC.

All payments for the principal of, and interest and redemption premiums, if any, on, the Series 2011 Bonds shall be paid by check, draft or wire transfer by the Paying Agent to Cede, without prior presentation or surrender of any Series 2011 Bonds (except for final payment thereof); and such payment to Cede shall constitute payment thereof pursuant to, and for all purposes, of the Master Resolution.

To the extent permitted by the provisions of the Letter of Representations and compliance with any applicable DTC rules and procedures, the County shall issue Series 2011 Bonds directly to beneficial owners of the Series 2011 Bonds other than DTC, or its nominee, in the event that:

- (a) DTC determines not to continue to act as securities depository for the Series 2011 Bonds; or
- (b) the County has advised DTC of its determination that DTC is incapable of discharging its duties; or
- (c) the County determines that it is in the best interest of the County not to continue the book entry system or that the interests of the beneficial owners of the Series 2011 Bonds might be adversely affected if the book entry system is continued.

Upon occurrence of the events described in (a) or (b) above, the County shall attempt to locate another qualified securities depository, and shall notify beneficial owners of the Series 2011 Bonds through DTC if successful. If the County fails to locate another qualified securities depository to replace DTC, the County shall cause the Bond Registrar to authenticate and deliver replacement Bonds in certificated form to the beneficial owners of the Series 2011 Bonds.

In the event the County makes the determination noted in (c) above (the County undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the County to make any such determination), or if the County fails to locate another qualified securities depository to replace DTC upon occurrence of the events described in (a) or (b) above, the County shall mail a notice to DTC for distribution to the beneficial owners of the Series 2011 Bonds stating that DTC will no longer serve as securities depository, the procedures for obtaining such Series 2011 Bonds in certificated form and the provisions which govern the Series 2011 Bonds including, but not limited to, provisions regarding authorized denominations, provisions for transfer and exchange, provisions for principal and interest payments, and provisions as to other related matters.

**SECTION 2.05 FORM OF SERIES 2011 BONDS.** The text of the Series 2011 Bonds shall be in substantially the form of Exhibit A attached hereto, with such omissions, insertions, and variations as may be necessary and desirable, and as may be authorized or permitted by this resolution or by subsequent resolution or resolutions adopted prior to the issuance thereof, and as may be necessary to reflect the characteristics of any particular Series of Series 2011 Bonds.

SECTION 2.06 CONDITIONAL REDEMPTION. Any optional redemption of the Series 2011 Bonds may be a Conditional Redemption and in such case, the notice of redemption shall state that the redemption is conditioned upon the conditions set forth therein, and such notice and optional redemption shall be of no effect (i) if by no later than the scheduled redemption date, the conditions set forth therein have not been satisfied, or (ii) the County rescinds such notice on or prior to the scheduled redemption date. If a redemption is a Conditional Redemption, such redemption shall be conditioned upon receipt by the Paying Agent for the Series 2011 Bonds or the escrow agent named by the County of sufficient moneys to redeem the Series 2011 Bonds and any redemption premium and the satisfaction of such other conditions set forth in the notice of redemption. A Conditional Redemption shall be deemed canceled once the County, has given notice of rescission. The County shall give notice of rescission of a Conditional Redemption by the same means as is provided for the giving of notice of redemption. Any Series 2011 Bond subject to a Conditional Redemption which has been canceled shall remain Outstanding, and neither the rescission nor the failure of funds being made available in part or in whole on or before the proposed redemption date shall constitute an Event of Default.

### ARTICLE III

#### APPLICATION OF PROVISIONS OF MASTER RESOLUTION

SECTION 3.01 APPLICATION OF PROVISIONS OF THE MASTER RESOLUTION. The Series 2011 Bonds shall for all purposes be considered to be Bonds issued under the authority of the Master Resolution and shall be entitled to all the protection and security provided therein for Bonds. The covenants and pledges contained in the Master Resolution shall be applicable to the Series 2011 Bonds herein authorized.

SECTION 3.02 SECURITY FOR SERIES 2011 BONDS. (A) PLEDGE AND LIEN. The Series 2011 Bonds shall be secured forthwith equally and ratably by a pledge of and lien upon the Pledged Funds on a parity with the Outstanding Parity Bonds. The Series 2011 Bonds shall not be or constitute general obligations or an indebtedness of the County as "bonds" within the meaning of the Constitution of Florida, but shall be payable from and secured solely by a lien upon and pledge of the Pledged Funds as provided herein and in the Master Resolution. No Registered Owner of any Series 2011 Bonds shall ever have the right to compel the exercise of the ad valorem taxing power of the County or taxation in any form of property therein to pay the Bond Service Requirement on the Series 2011 Bonds. The Series 2011 Bonds shall not constitute a lien upon any property of or in the County or the Authority except the Pledged Funds in the manner provided herein and in the Master Resolution.

(B) SERIES SUBACCOUNTS. There are hereby created and established in the Funds and Accounts created and established pursuant to Section 5.02(a) of the Master Resolution the following Series Subaccounts, hereinbefore defined as the "Series 2011 Subaccounts": in the Sinking Fund, the "Series 2011 Bonds Subaccount," which includes (a) the "Series 2011 Bonds Principal Subaccount," (b) the "Series 2011 Bonds Interest Subaccount," and (c) the "Series 2011 Bonds Redemption Account."

(C) USE OF PLEDGED FUNDS. All Pledged Funds and Investment Earnings thereon shall be applied and deposited in the manner provided in Section 5.02 of the Master Resolution. Moneys and Authorized Investments on deposit at any time in the Series 2011 Subaccounts may be used and applied only in the manner provided in Section 5.02 of the Master Resolution. Moneys on deposit in the Series 2011 Subaccounts may be invested and reinvested only in Authorized Investments in the manner provided in Section 5.02(d) of the Master Resolution.

(D) INCREMENTAL RESERVE REQUIREMENT. Because of the debt service savings resulting from the Refunding, the incremental Reserve Requirement for the Series 2011 Bonds is expected to be zero. The Series 2011 Bonds will be secured by the Reserve Account created under the Master Resolution to the same extent as the Outstanding Parity Bonds.

SECTION 3.03 REMEDIES. Any Registered Owner of, or any Credit Facility Issuer for, Series 2011 Bonds shall have available the remedies specified in the Master Resolution.

### ARTICLE IV

#### APPLICATION OF PROCEEDS

SECTION 4.01 APPLICATION OF PROCEEDS OF THE SERIES 2011 BONDS. The proceeds, including accrued interest and premium, if any, received from the sale of any or all of the Series 2011 Bonds shall be applied by the County in the following manner and order of priority, simultaneously with their delivery to the Underwriter as follows:

A. To the extent not otherwise paid and subject to federal income tax rules and regulations, the County shall pay all costs and expenses in connection with the preparation, issuance and sale of the Series 2011 Bonds, including the premium for an insurance policy, if obtained.

B. The amount necessary to pay the principal, premium, and interest on the Refunded Bonds on the date of redemption in accordance with the terms thereof shall be deposited with the Escrow Holder to be applied pursuant to the Escrow Deposit Agreement.

C. Any remaining amounts shall be deposited into the Series 2011 Bonds Interest Subaccount in the Sinking Fund.

SECTION 4.02 PURCHASE OF ESCROW SECURITIES. The proceeds of the Series 2011 Bonds together with the available moneys deposited to the escrow account established by the Escrow Deposit Agreement shall be invested pursuant to the Escrow Deposit Agreement in Defeasance Obligations. The Clerk of the Circuit Court, or his designee, is authorized to execute such certificates and instruments as shall be necessary to provide for the purchase of such investments.

## ARTICLE V

### MISCELLANEOUS PROVISIONS

SECTION 5.01 SALE OF SERIES 2011 BONDS. The Series 2011 Bonds shall be issued and sold at negotiated sale at such price or prices consistent with the provisions of the Act, the laws of the State, and the requirements of this resolution and the Master Resolution.

SECTION 5.02 CONTINUING DISCLOSURE. The County will execute and deliver a Continuing Disclosure Certificate satisfying the requirements of SEC Rule 15c2-12 at or prior to the time of sale of the Series 2011 Bonds in substantially the form attached hereto as Exhibit C.

SECTION 5.03 BOND REGISTRAR AND PAYING AGENT AND AGREEMENT THEREFOR; ESCROW DEPOSIT AGREEMENT. U.S. Bank National Association (the "Bank"), is hereby designated Bond Registrar and Paying Agent for the Series 2011 Bonds and Escrow Holder for the benefit of the Refunded Bonds, and shall perform such duties as are more fully described in the Master Resolution, the Series 2011 Bonds, a Paying Agent and Registrar Agreement and an Escrow Deposit Agreement between the County and such Bank in substantially the forms set forth in Exhibits E and F with such changes as are approved by the County Attorney and Bond Counsel. The Chairman or Vice Chairman and Clerk to the Board are hereby authorized to execute the Paying Agent and Registrar Agreement and the Escrow Deposit Agreement each between the County and the Bank.

SECTION 5.04 DELEGATION OF AUTHORITY TO DEEM PRELIMINARY OFFICIAL STATEMENT FINAL; APPROVAL OF FINAL OFFICIAL STATEMENT. The Chairman, in consultation with and upon the advice of the County's Bond Counsel and County Attorney is authorized to proceed to draft and develop, or cause to be drafted and developed, all documents necessary to facilitate and proceed with the offering for sale of the Series 2011 Bonds, including a Preliminary Official Statement, the form of which is attached hereto as Exhibit D.

No Preliminary Official Statement shall be distributed on behalf of the County to prospective purchasers of the Series 2011 Bonds unless it is "deemed final" (except for permitted omissions) in accordance with SEC Rule 15c2-12. The Chairman, upon the advice of the County Attorney, is hereby authorized to certify or otherwise represent when such Preliminary Official Statement shall be "deemed final" by the County as of its date (except for permitted omissions), in accordance with the Rule.

The Chairman is authorized to sign and deliver on behalf of the County, in his official capacity, the final Official Statement in substantially the form of the Preliminary Official Statement, with such changes as are necessary to reflect the final pricing terms of the Series 2011 Bonds and such certificates in connection with the accuracy of the final Official Statement and any amendment thereto as may, in their judgment, be necessary or appropriate, to the Underwriter. The distribution and use of the final Official Statement by the Underwriter in connection with the original issuance of the Series 2011 Bonds is further approved.

SECTION 5.05 AUTHORIZATION FOR EXECUTION OF SERIES 2011 BONDS AND OF ADDITIONAL DOCUMENTS AND CERTIFICATES IN CONNECTION WITH THE DELIVERY THEREOF; APPROVAL OF THE NECESSARY ACTION. The Chairman, Clerk to the Board, and Executive Director, on the advice of the County Attorney and Bond Counsel to the County, are hereby authorized and empowered, collectively and individually, to take all action and steps and to execute and deliver, on behalf of the County, and in their official capacities, the Series 2011 Bonds, and any and all instruments, documents, or certificates, including temporary Series 2011 Bonds, if necessary, a Tax Compliance Certificate and, if applicable, an insurance



agreement as described in 2.03 hereof, which are necessary or desirable in connection with the issuance and delivery of the Series 2011 Bonds.

The approval of various documents and certificates hereby is declared to be of such documents in substantially the form attached hereto as exhibits or as subsequently prepared, upon the advice of the County Attorney and Bond Counsel, with such insertions, deletions, and variations thereto as shall be approved by the officers executing such documents and certificates on behalf of the County, and in their official capacities, upon the advice of the County Attorney and Bond Counsel, such officers' approval thereof to be presumed by their execution.

SECTION 5.06 SEVERABILITY OF INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions of this resolution should be held to be contrary to any express provision of law or to be contrary to the policy of express law, though not expressly prohibited, or to be against public policy, or should 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 of, and in no way affect the validity of, all the other provisions of the Master Resolution or this resolution or of the Series 2011 Bonds.

SECTION 5.07 REPEALING CLAUSE. All resolutions of the County, or parts thereof, in conflict with the provisions of this resolution are to the extent of such conflict hereby superseded and repealed.

SECTION 5.08 EFFECTIVE DATE. This resolution shall take effect immediately upon the final approval hereof.

Signatures and Exhibits Intentionally Omitted.

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## **APPENDIX D**

### **SUMMARY OF CERTAIN PROVISIONS OF THE LEASE AND USE AGREEMENTS**

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## **APPENDIX D**

### **SUMMARY OF CERTAIN PROVISIONS OF THE USE AND LEASE AGREEMENTS**

The Lease and Use Agreements with the Signatory Airlines are substantially similar, differing primarily with respect to the amount of rented space and the dollar amount of certain fees and charges payable thereunder.

The following is a summary of certain provisions of each Lease and Use Agreement. The summary is subject in all respects to the detailed provisions of the Lease and Use Agreements.

#### **Definitions**

The capitalization of any word or phrase which is not defined herein or elsewhere in this Appendix D indicates that such word or phrase is defined in or used in capitalized form in the Lease and Use Agreements.

**"Affiliate"** shall mean an Air Transportation Company that is (i) a parent or subsidiary of Airline; or (ii) shares an International Air Transport Association (IATA) code with Airline at the Airport (code-sharing partner); or (iii) otherwise operates under essentially the same trade name as Airline at the Airport and uses essentially the same livery as Airline; provided that no "major" airline (as defined by the FAA) shall be classified as an Affiliate of another "major" airline, unless either clause (i) or (iii) above defines the relationship between such airlines at the Airport. A Signatory Airline must designate in writing to the Authority any Air Transportation Company that will be an Affiliate of that Signatory Airline at the Airport. Affiliates shall have the rights afforded Airline without payment of any additional charges or premiums, provided Airline (a) remains a Signatory Airline to the Agreement; (b) agrees and shall be obligated to serve as a financial guarantor for all rentals, fees, and charges incurred by any Affiliate of Airline at the Airport. Airline shall be responsible for any and all unpaid rentals, fees, and charges of any such Affiliate while such Affiliate operates at the Airport.

**"Agreement"** means the Airline-Airport Use and Lease Agreement between the Authority and Airline, as the same may be amended, modified or altered from time to time pursuant to the terms of the Agreement.

**"Airfield"** means those portions of the Airport, excluding the Terminal Aircraft Aprons and the Cargo Aircraft Aprons, provided for the landing, taking off, and taxiing of aircraft, including without limitation, approach and turning zones, clear zones, avigation or other easements, runways, a fully integrated taxiway system, runway and taxiway lights, and other appurtenances related to the aeronautical use of the Airport, including any property purchased for noise mitigation purposes, as may be revised from time to time.

**"Airfield Cost Center"** means all Investment Service (allocated by its proportional share of Recognized Net Investment), all direct and indirect O&M Expenses, Amortization, required reserves, and operating Revenues for the Airfield.

**"Airline"** means the Air Transportation Company executing the Agreement.

**"Airline Premises"** means those areas in the Terminal assigned to Airline as Exclusive Use Premises, Preferential Use Premises, or Joint Use Premises.

**"Airport"** means Southwest Florida International Airport, owned by Lee County, Florida and operated by the Authority, under grant of authority by legislative act of Lee County, Florida, including all real property easements or any other interest therein as well as all improvements and appurtenances thereto, structures, buildings, fixtures, and all tangible personal property or interest in any of the foregoing, now or hereafter owned leased or operated by the Authority.

**"Airport Affairs Committee"** or **"AAC"** means collectively the authorized representatives of each Signatory Airline which shall meet from time to time with representatives of Authority to receive information and provide input with regard to selected operation and development matters of the Airport.

**"Airport System"** shall mean all real property or any interest therein, including improvements thereto, structures, buildings, fixtures, and other personal property, which are located on the Airport, Page Field, Mitigation Park, or any airport hereafter owned, leased or operated by Authority.

**"Air Transportation Business"** means that business operated by Airline at the Airport for the commercial transportation by air of persons, property, mail, parcels and/or cargo.

**"Air Transportation Company"** means a legal entity engaged in the business of scheduled or non-scheduled commercial transportation by air of persons, property, mail, parcels and/or cargo.

**"Amortization"** shall mean the return on Recognized Net Investment made by Authority after September 30, 2008 with its own Authority funds (excluding Bond proceeds; proceeds from insurance resulting from casualty damage to or destruction of improvements on the Airport System; federal or state grant funds; and PFC's) for new capital improvements or acquisitions on the Airport System equal to the total of the annual amortization of the amount of each item of Recognized Net Investment over its useful life in principal and interest amounts which together represent equal annual payments, with interest computed at Authority's interest cost.

**"Authority"** means the Lee County Port Authority, a body politic and corporate, created by Special Act of the Legislature, Chapters 63-1541, Laws of Florida, and Chapters 125 and 332, Florida Statutes, and further implemented and authorized to exercise the powers outlined in those acts in 1990 by Lee County Ordinance No. 90-02, as amended and later codified and restated as Lee County Ordinance No. 01-014, adopted on September 10, 2001. The Authority is responsible for operations, management, and development of properties, facilities, and systems and personnel associated with air or sea transportation or commerce located in Lee County.

**"Board"** means the Board of Port Commissioners of Lee County, Florida.

**"Bond Resolution"** means Resolution No. 92-08-48 adopted by the Board on August 26, 1992, as amended, restated, and supplemented.

**"Bonds"** means the Lee County, Florida Airport Revenue Bonds issued pursuant to the Bond Resolution.

**"Cargo Aircraft Aprons"** shall mean those areas of the Airport that are designated for the parking of cargo aircraft and support vehicles, and the loading and unloading of cargo aircraft.

**"Common Use Premises"** means those non-exclusive areas of the Airport (excluding Public Space), used in common by the Airline, along with other authorized users of the Airport, along with all facilities, improvements, equipment and services which are, or hereafter may be, provided for such common-use.

**"Coverage"** means twenty-five percent (25%) of the Debt Service payable on Bonds in each Fiscal Year.

**"Debt Service"** means any principal, interest, premium, and other fees and amounts either paid or accrued for Bonds, and such other accounts which may be established for payment of principal, interest, premium and other fees and amounts associated with Subordinated Indebtedness.

**"Debt Service Reserve Fund"** means the fund created by the Bond Resolution for maintaining a balance equal to the maximum annual Debt Service on all outstanding Bonds.

**"Deplaned Passenger"** means any passenger disembarking an aircraft at the Terminal, including any such passenger that shall subsequently board another aircraft of the same or a different Air Transportation Company or the same aircraft, previously operating under a different flight number.

**"Enplaned Passenger"** means any passenger boarding an aircraft at the Terminal, including any such passenger that previously disembarked from another aircraft of the same or a different Air Transportation Company or from the same aircraft, previously operating under a different flight number.

**"Exclusive Use Premises"** means those portions of the Terminal assigned exclusively to the Airline.

**"Extraordinary Coverage Protection"** means those payments in the rentals, fees, and charges for Signatory Airlines at the Airport in any Fiscal Year in which the amount of Revenues, less O&M Expenses is projected to be less than the one hundred twenty-five percent (125%) of the annual Debt Service, as required by the Bond Resolution. Any amounts which must be collected for such Extraordinary Coverage Protection payments will be allocated to the Airfield Cost Center and the Terminal Cost Center on the basis of the Net Requirement of the Airfield Cost Center and the Terminal Cost Center.

**"Fiscal Year"** means the annual accounting period of the Authority for its general accounting purposes which, at the time of entering into the Agreement, is the period of twelve consecutive months, ending with the last day of September of any year.

**"Investment Service"** shall mean, with respect to any Fiscal Year, the sum of (1) Debt Service (exclusive of capitalized interest) and Other Debt Service payable by Authority in that Fiscal Year; plus (2) Coverage.

**"Joint Use Formula"** means that formula which prorates twenty percent (20%) of the cost of a service or space equally to all Signatory Airlines, and eighty percent (80%) allocated to all Signatory Airlines, based on the ratio of each Signatory Airline's Enplaned Passengers annually at the Airport. When determining the number of Scheduled Air Carriers sharing in the twenty percent (20%) portion of the Joint Use Formula, all individual Scheduled Air Carriers that are affiliates of a Signatory Airline shall be combined and considered a single Signatory Airline.

**"Joint Use Premises"** means those Terminal areas which may be assigned to two or more Scheduled Air Carriers.

**"Landing Fee"** means a fee expressed in tenths of a cent per thousand pounds of the Maximum Gross Landed Weight of each type of Airline's aircraft and shall be multiplied by the total of all Maximum Gross Landed Weight for all Chargeable Landings of each type of aircraft landed at the Airport by Airline.

**"Maximum Gross Landed Weight"** means the maximum gross certificated landing weight in one thousand pound units for which each aircraft operated at the Airport by Airline as certificated by the FAA or its successor.

**"Net Requirement"** means, with respect to the Terminal, the direct and indirect O&M Expenses for the Terminal and reserves therefore, plus its proportional share of Investment Service, plus Amortization, less reimbursements; with respect to the Airfield, the direct and indirect O&M Expenses for the Airfield and reserves therefore, plus its proportional share of Investment Service, plus Amortization, less Non-Airline Revenues of the Airfield Cost Center.

**"Non-Airline Revenues"** means those rentals, fees and charges received by Authority from Airport System lessees, permittees, concessionaires, users, and patrons other than Scheduled Air Carriers.

**"Non-Revenue Landing"** means any aircraft landing by Airline at the Airport for a flight for which Airline receives no revenue, and shall include irregular and occasional ferry or emergency flights, which shall include any flight, that after having taken off from the Airport and without making a landing at any other airport, returns to land at the Airport because of meteorological conditions, mechanical or operating causes, or any other reason of emergency or precaution.

**"Operating Expenses" or "O&M Expenses"** means the current expenses, paid or accrued, for operation, maintenance, and ordinary current repairs of said Airport System and shall include, without limiting the generality of the foregoing, insurance premiums,



administrative expenses of the Authority relating solely to the Airport System, including engineering, architectural, legal, airport consultants, and accounting fees and expenses, and fees and expenses of the Trustee, and such other reasonable current expenses as shall be in accordance with sound accounting practice. O&M Expenses shall not include any allowance for depreciation or renewals or replacements or obsolescence of capital assets of the Airport System, or any operating expenses of Special Purpose Facilities buildings where the lessees thereof are obligated to pay such operating expenses.

**"Operating Expenditure Reserve Requirement" or "O&M Reserve Requirement"** means the Bond Resolution requirement that a reserve be created and maintained at an amount not more than one-fourth (1/4) of the annual budget then in effect for O&M Expenses.

**"Other Debt Service"** means any principal, interest, premium, and other fees and amounts, either paid or accrued, on Other Indebtedness of Authority.

**"Other Indebtedness"** means any debt incurred by Authority for Airport System purposes which is outstanding and not authenticated and delivered under and pursuant to the Bond Resolution, or any Subordinated Bond Resolution.

**"Passenger Facility Charge" or "PFC"** means the fees authorized by 49 USC 40117 and regulated by 14 CFR Part 158 as such statute and regulations currently exist or as they may be amended during the term of the Agreement.

**"Preferential Use Premises"** means those portions of the Terminal and Terminal Aircraft Aprons assigned to Airline, to which Airline shall have priority over other users.

**"Public Space"** means all utility rooms, ductways, janitorial rooms and closets, stairways, hallways, elevators, escalators, entrance-ways, public or common use lobbies and areas, public toilet areas and other areas used for the operation, maintenance or security of the Terminal, even if used solely by Authority.

**"Recognized Net Investment"** shall mean Authority's cost of an improvement, equal to or greater than \$100,000, or an acquisition made on or for the Airport System (including without limitation the cost of construction, testing, architects' and engineers' fees, consultants' fees, construction management fees, inspection and surveillance by Authority engineer, condemnation, relocation expenses, brokers' fees), reduced by the amount of any federal or state grant or PFC received by Authority therefore, shall be considered Recognized Net Investment beginning in the Fiscal Year in which the improvement or acquisition is completed.

**"Rentable Square Feet"** with respect to the Terminal means the number of square feet of space in the Terminal that is rentable to tenants, including office and administrative space used by Authority.

**"Revenue Fund"** means that fund for the deposit of Revenues, as defined under the Bond Resolution, derived from the operation of the Airport System.

**"Revenue Landing"** means any aircraft landing by Airline at the Airport for which Airline receives revenue, including flights diverted from another airport to the Airport due to meteorological reasons.

**"Revenues"** means income accrued by Authority in accordance with generally accepted accounting practices, including investment earnings, from or in connection with the ownership or operation of the Airport System or any part thereof, or the leasing or use thereof.

**"Scheduled Air Carrier"** shall mean any Air Transportation Company performing or desiring to perform, pursuant to published schedules, seasonal or non-seasonal commercial air transportation services over specified routes to and from the Airport and holding the necessary authority from the appropriate federal or state agencies to provide such transportation.

**"Signatory Airline"** means an Air Transportation Company that leases a minimum of one (1) gate, one (1) ticket counter position, and other space in the Terminal deemed sufficient by the Executive Director to support its operation, provided that the total of Terminal space is at least 4,000 square feet, and has an agreement with Authority substantially similar to the Agreement. An Affiliate of a Signatory Airline will be treated as a Signatory Airline for the purposes of the Agreement, subject to certain restrictions and requirements.

**"Subordinated Indebtedness"** means any bonds or other financing instrument or obligation subordinate to the Bonds, issued pursuant to any Subordinated Bond Resolution.

**"Subordinated Bond Resolution"** means a bond resolution subordinated to the Bond Resolution authorizing the issuance by Authority of Subordinated Indebtedness, as such may be supplemented or amended from time to time.

**"Substantial Completion"** means the date on which Authority's architects and/or engineers certify any premises at the Airport to be substantially complete as to permit use and occupancy by Airline, or the date Airline actually takes occupancy of the premises, whichever comes first.

**"Surplus Fund"** means that fund created by the Bond Resolution.

**"Terminal"** means the passenger terminal building.

**"Terminal Aircraft Aprons"** shall mean those areas of the Airport that are designated for the parking of passenger aircraft and support vehicles, and the loading and unloading of passenger aircraft.

**"Terminal Cost Center"** shall mean all Investment Service (allocated by its proportional share of Recognized Net Investment), all direct and indirect O&M Expenses, Amortization, required reserves, and operating Revenues for all passenger Terminal facilities, and other related and appurtenant facilities, whether owned, operated, or maintained by the Authority, an airline, or another tenant; and a portion of the enplanement and deplanement roadways in front of the Terminal.

## **Term**

Each Agreement and the various fees and charges thereunder became effective on October 1, 2008. The Lease and Use Agreements terminate on September 30, 2013, unless terminated earlier as provided in the Agreement.

## **Use of Airport Facilities**

Pursuant to the Agreement, the Authority leases and demises to the Airline, and the Airline leases and accepts from the Authority, the Exclusive Use Premises, Preferential Use Premises, and Joint Use Premises, as more particularly described in each Agreement. Terminal equipment owned or acquired by Authority for use by Airline shall remain the property and under the control of Authority.

In addition to all rights granted elsewhere in the Agreement, Airline shall have the right to use, in common with others so authorized by Authority, areas, other than areas leased exclusively or preferentially to others, facilities, equipment, and improvements at the Airport for the operation of Airline's Air Transportation Business and all activities reasonably necessary to such operations.

## **Transfer of Operations**

In the event new or expanded facilities are developed at the Airport, Authority shall give notice to affected Air Transportation Company of the estimated Substantial Completion date at least one hundred and eighty (180) days prior thereto. The affected Air Transportation Company shall have the right to install in its Exclusive Use Premises and Preferential Use Premises its own equipment and furnishings sixty (60) days prior to the estimated date of Substantial Completion or such other date as may be agreed to by the parties subject to the provisions of the Agreement; provided, however, no such equipment and furnishings shall be installed in Preferential Use Premises without the written consent of Authority, which consent will not be unreasonably withheld. The affected Air Transportation Company shall begin its operations from its new or expanded Airline Premises on the date of Substantial Completion thereof.

## **Operation and Maintenance of the Airport**

Authority Obligations. Authority shall, with reasonable diligence, prudently develop, improve, and at all times maintain and operate the Airport in a first class manner consistent with airports of similar size with qualified personnel and keep the Airport in an orderly, clean, neat and sanitary condition, and good repair, unless such maintenance, operation, or repair shall be Airline's obligation pursuant to the Agreement.

Authority shall not be liable to Airline for temporary failure to furnish all or any of such services to be provided in accordance with this section when such failure is due to mechanical breakdown or loss of electrical power not caused by Authority's negligence or any other cause beyond the reasonable control of Authority.

Authority shall maintain (i) loading bridges owned by Authority; (ii) preconditioned air systems owned by Authority; (iii) associated aircraft ground power units owned by Authority;

(iv) potable water cabinets owned by Authority, provided however that Airline shall be responsible for maintaining water hoses associated with the potable water cabinets; (v) baggage conveyors owned and installed by Authority; (vi) lightning detection systems; and (vii) other systems that may be acquired by Authority in the future. Authority shall, in the operation of the Airport, comply with all local, state and federal laws, rules and regulations.

*Airline Obligations.* Airline shall, at all times, preserve and keep Airline Premises in an orderly, clean, neat, and sanitary condition, free from trash and debris resulting from Airline's operations, provided, however, this requirement shall not be construed to mean Airline shall have janitorial responsibilities designated to be those of Authority pursuant to the Agreement. Airline shall keep, at its own expense, its preferentially assigned Terminal Aircraft Aprons free of fuel, oil, debris, and other foreign objects. Airline shall operate and maintain at its own expense any improvements and/or equipment installed by Airline for the exclusive use of Airline.

Should Airline fail to perform its material obligations under the Agreement, Authority shall have the right to enter the Airline Premises and perform such activities; provided, however, other than in a case of emergency, Authority shall give Airline reasonable advance written notice of noncompliance, not to exceed ten (10) days, prior to the exercise of this right. If such right is exercised, Airline shall pay Authority, upon receipt of invoice, the cost of such services plus ten percent (10%). Nonpayment of such invoice shall be deemed a default of the Agreement.

### **Rentals, Fees, and Charges**

Airline shall pay the Authority rentals for use of Airline Premises, and fees and charges for the other rights, licenses, and privileges granted under the Agreement during the term of the Agreement. The rentals, fees, and charges payable by all Signatory Airlines for the Airfield and, with respect to the Terminal, the rentals, fees, and charges payable by Signatory Airlines leasing space in the Terminal, shall be equal to the Signatory Airlines' share of the Net Requirement in each respective area of the Airport.

*Landing Fees.* Airline shall pay monthly to Authority fees for Revenue Landings for the preceding month. Airline's Landing Fees shall be determined as the product of the Landing Fee rate for the period and Airline's total landed weight for the month. Airline's landed weight for the month shall be determined as the sum of the products obtained by multiplying the Maximum Gross Landed Weight of each type of Airline's aircraft by the number of Revenue Landings of each said aircraft during such month.

*Terminal Rentals.* For the term of the Agreement, Airline's Terminal rentals shall be determined as the sum of Airline's rentals for Exclusive Use Premises, Preferential Use Premises, and Joint Use Premises. Airline's rental payment for Exclusive Use Premises and Preferential Use Premises shall be determined as the sum of the products obtained by multiplying the rental rate for the period, by the amount of the corresponding type of space leased by Airline as Exclusive Use Premises and Preferential Use Premises.

Total Terminal rentals for Joint Use Premises shall be calculated as the product of the appropriate differential Terminal rental rates for the period and the amount of each category of

Joint Use Premises. Airline's share of the total Terminal rentals due each month for Joint Use Premises shall be determined in accordance with the Joint Use Formula.

For inclusion in the Joint Use Formula, Airline shall include in its monthly report of Enplaned Passengers and Deplaned Passengers the total number of Enplaned Passengers and Deplaned Passengers handled or otherwise accommodated by Airline for other Air Transportation Companies not having an agreement with Authority that provides for the direct payment to Authority of appropriate charges for the use of Joint Use Premises.

Extraordinary Service Charges. Throughout the term of the Agreement, Airline shall pay extraordinary service charges, if applicable as evidenced by extraordinary service charge authorizations executed by Airline for such extraordinary additional equipment and services provided by Authority for Airline's use. Airline's charges for Authority purchased Terminal equipment shall be as set forth in a separate agreement with Authority.

Aircraft Parking Charges. Airline shall pay reasonable and non-discriminatory aircraft parking charges for aircraft remotely parked for extended periods of time on areas other than the Terminal Aircraft Aprons.

Other Fees and Charges. Authority expressly reserves the right to assess and collect the following:

(1) Reasonable and non-discriminatory fees for services provided by Airline for any other Air Transportation Companies, or for Airline by any other Air Transportation Companies, if such services or concessions would otherwise be available from a concessionaire, licensee, or permittee of Authority; provided, however, if such other Air Transportation Company is an Affiliate of Airline, such fees for services shall not apply. Fees for the provision of such services are identified in the Authority's Ground Handling Agreements for service providers.

(2) Reasonable and non-discriminatory fees and charges for services or facilities not enumerated in the Agreement, but provided by Authority or its contractors and utilized by Airline, including, but not limited to, special maintenance of Airline Premises, equipment, vehicle storage and service areas, Federal Inspection Services facility fees, and remote ramp aircraft parking fee.

(3) Pro rata shares of any charges for the provision of any services or facilities which Authority is required or mandated to provide by any governmental entity (other than Authority acting within its proprietary capacity) having jurisdiction over the Airport.

Authority reserves the right to charge Airline or its employees a reasonable and nondiscriminatory fee based on Authority's cost of providing services and facilities for the employee parking area(s) provided at the Airport. Should Authority elect to charge such a fee for employee parking, it may do so by first notifying Airline in writing and without formal amendment to the Agreement.

Extraordinary Coverage Protection. Airline shall pay Extraordinary Coverage Protection payments in the rates for rentals, fees, and charges at the Airport in any Fiscal Year in which the amount of Revenues less O&M Expenses and the O&M Reserve Requirement is projected to be

less than one hundred twenty-five percent (125%) of the Debt Service requirement. Any amounts which must be collected for such Extraordinary Coverage Protection payments will be allocated to the Airfield Cost Center and the Terminal Cost Center on the basis of the Net Requirement of the Airfield Cost Center and the Terminal Cost Center.

*Payments.* Payments of one-twelfth (1/12) of the total annual rentals for Airline's Exclusive Use Premises, and Preferential Use Premises shall be due in advance, without demand or invoice, on the first day of each month. Said rentals and charges shall be deemed delinquent if payment is not received by the tenth (10) day of the month.

Payment of Airline's Landing Fees shall be due fifteen (15) days from Authority's issuance of invoice, and shall be deemed delinquent if not received within ten (10) days of the due date. Payment for all other fees and charges due under the Agreement shall be due as of the due date stated on Authority's invoice. Said fees and charges shall be deemed delinquent if payment is not received within thirty (30) days of the stated date of such invoice.

Authority shall provide notice of any and all payment delinquencies, including payments of any deficiencies which may be due as a result of Authority's estimates of activity pursuant to the paragraph below, or due to an audit performed pursuant to the Agreement; provided, however, interest at the rate of eighteen percent (18%) per annum shall accrue against any and all delinquent payment(s) from the due date until the date payments are received by Authority. This provision shall not preclude Authority from canceling the Agreement for default in the payment of rentals, fees, or charges, as provided for in the Agreement, or from exercising any other rights contained in the Agreement or provided by law.

In the event Airline fails to submit its monthly activity reports, Authority shall estimate the rentals, fees, and charges based upon the highest month of the previous twelve (12) month's activity reported by Airline and issue an invoice to Airline for same. If no activity data is available, Authority shall reasonably estimate such activity and invoice Airline for same. Airline shall be liable for any deficiencies in payments based on estimates made under this provision; payment for said deficiencies shall be deemed due as of the date such rental fee or charge was due and payable.

In the event Airline's obligations with respect to Airline Premises or rights, licenses, or privileges granted under the Agreement shall commence or terminate on any date other than the first or last day of the month, Airline's rentals, fees, and charges shall be prorated on the basis of the number of days such premises, facilities, rights, licenses, services, or privileges were enjoyed during that month.

*No Further Charges.* Except as provided in the Agreement, or as may be permitted by any governmental entity (other than Authority, acting within its proprietary capacity) having jurisdiction over the Airport, no further rentals, fees, or charges shall be charged against or collected from Airline, its passengers, its shippers and receivers of freight, its suppliers of material, its contractors or furnisher of services, by Authority, acting in its capacity as Airport proprietor, for the premises, facilities, rights, licenses, and privileges granted to Airline in the Agreement.

## **Changes in Rates for Rentals, Fees, and Charges**

Annual Rate Changes. No later than sixty (60) days prior to the end of each Fiscal Year, Authority shall notify Airline of the proposed schedule of rates for rentals, fees, and charges for the ensuing Fiscal Year. Said rates shall be determined and presented to Airline substantially in conformance with the methods and format set forth in the Agreement.

The Signatory Airlines through its AAC shall have the right to review and comment upon the proposed operating and capital budget. No later than thirty (30) days after the forwarding of the proposed schedule of rates for rentals, fees, and charges, Authority agrees to meet with the AAC at a mutually convenient time for the purpose of discussing such rentals, fees, and charges. In advance of said meeting, Authority shall make available to the AAC any reasonably requested additional information relating to the determination of the proposed rates. Authority agrees to fully consider the comments and recommendations of the Signatory Airlines prior to finalizing its schedule of rates for rentals, fees, and charges for the ensuing Fiscal Year.

Following said meeting, and prior to the end of the then current Fiscal Year, Authority shall notify Airline of the rates for rentals, fees, and charges to be established for the ensuing Fiscal Year.

If calculation of the new rates for rentals, fees, and charges is not completed by Authority and the notice provided in the Agreement is not given on or prior to the end of the then current Fiscal Year, the rates for rentals, fees, and charges then in effect shall continue to be paid by Airline until such calculations are concluded and such notice is given. Upon the completion of such calculations and the giving of such notice, Authority shall determine the difference(s), if any, between the actual rentals, fees, and charges paid by Airline to date for the then current Fiscal Year and the rates for rentals, fees, and charges that would have been paid by Airline if said rates had been in effect beginning on the first day of the Fiscal Year. Said differences shall be applied to the particular rentals, fees, or charges for which a difference(s) in rates resulted in an overpayment or underpayment, and shall be remitted by Airline or credited or refunded by Authority in the month immediately following the calculation of the new Fiscal Year rates and the giving of written notice to Airline by Authority.

Other Rate Changes. Rates for rentals, fees, and charges may be changed at any other time that unaudited monthly Authority financial data indicates that total rentals, fees, and charges payable pursuant to the then current rate schedules are reasonably estimated and anticipated by Authority to increase or decrease by more than ten percent (10%) from the total rentals, fees, and charges that would be payable based upon the use of the monthly financial data then available for said Fiscal Year. Rates for rentals, fees, and charges may also be changed whenever required by the terms and provisions of the Bond Resolution; provided, however, that Signatory Airlines' total rentals, fees, and charges payable to Authority shall be allocated to Airline in accordance with the Agreement.

Settlement. Authority shall use its best efforts such that within one hundred twenty (120) days following the close of each Fiscal Year, or as soon as unaudited financial data for said Fiscal Year is available, rates for rentals, fees, and charges for the preceding Fiscal Year shall be recalculated using unaudited financial data and the methods set forth in the Agreement. Airline

shall have reasonable access to the records of Authority, and shall have the right to audit the financial data used in connection with such recalculation. Upon the determination of any difference(s) between the actual rentals, fees, and charges paid by Signatory Airlines during the preceding Fiscal Year and the rentals, fees, and charges that would have been paid by Signatory Airlines using said recalculated rates, Authority shall, in the event of overpayment, promptly refund to Airline the amount of such overpayment within 30 days, and in the event of underpayment, invoice Airline for the amount of such underpayment. Said invoiced amount shall be due within thirty (30) days of the invoice mailing date.

Use of Airport Fund. Authority may use the amounts remaining in the Airport Fund at the end of each Fiscal Year after determination of Revenue Sharing, if available, for the following purposes and in the order of priority as determined by Authority: (i) for Authority to satisfy its obligations under the determination of any Settlement pursuant to the prior paragraph hereof; (ii) for improvements on, additions to, and acquisitions for the Airport System; (iii) for Debt Service on Bonds; (iv) for the purchase and retirement of Bonds; and (v) for any lawful Airport System Purpose.

Revenue Sharing. At the end of each Fiscal Year, after determination of Settlement in accordance with the Agreement, Authority will share with the passenger Signatory Airlines a portion of net remaining Revenues, if available. Availability of revenue sharing will be based on Authority's ability to satisfy its obligations and meet all Bond Resolution requirements in each Fiscal Year.

Authority Covenants. Among other things, the Authority shall use Revenues of the Airport System in accordance with the provisions of the Bond Resolution and applicable law.

## **Insurance**

During the term of the Agreement, Airline shall provide, pay for and maintain with companies, reasonably satisfactory to Authority, the types of insurance described in the Agreement. All insurance shall be issued by responsible insurance companies eligible to do business in the State of Florida. All liability policies shall provide that Authority is an Additional Insured to the extent of Airline's contractual obligations under the Agreement. The required policies of insurance shall be construed in accordance with the laws of the State of Florida. No operations shall either commence or continue at the Airport unless and until the required certificates of insurance are in effect and approved by Authority.

Airline and Authority understand and agree that the limits of the insurance required in the Agreement may from time to time become inadequate, and Airline agrees that it will increase such limits upon receipt of written notice. Airline shall furnish Authority, within sixty (60) days of the effective date thereof, a certificate of insurance evidencing such insurance is in force.

Should at any time Airline not, in the opinion of Authority, provide or maintain the insurance coverages required in the Agreement, Airline must discontinue operations at the Airport, and Authority may terminate or suspend the Agreement.

The amounts and types of insurance shall conform to the following minimum requirements with policies, forms and endorsements that are comparable to Insurance Service



Office (ISO) requirements. Notwithstanding the foregoing, at a minimum, the wording of all policies, forms and endorsements must be reasonably acceptable to Authority.

(1) Workers Compensation and Employer's Liability Insurance shall be maintained in force by Airline during the term of the Agreement for all employees engaged in the operations under the Agreement. The limits of coverage shall not be less than:

Workers' Compensation	Florida Statutory
Employer's Liability	\$1,000,000 Limit Each Accident \$1,000,000 Limit Disease Aggregate \$1,000,000 Limit Disease Each Employee

(2) Airport Liability Insurance shall be maintained by Airline for the life of the Agreement. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for the Agreement, Independent Contractors, Broad Form Property Damage, Products and completed Operations Coverage and shall not exclude the (XCU) Explosion, Collapse and Underground Property Damage Liability Coverage. Coverage shall be applicable to the operation of all mobile and ground equipment at the Airport. The limits of coverage shall not be less than:

Airlines Operating Aircraft with fifty (50) or more seats:

Bodily & Personal Injury & Property Damage Liability	\$100,000,000 Combined Single Limit Each Occurrence & Aggregate
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Airlines Operating Aircraft with less than fifty (50) seats:

Bodily & Personal Injury & Property Damage Liability	\$50,000,000 Combined Single Limit Each Occurrence & Aggregate
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(3) Aircraft Liability Insurance shall be maintained by Airline during the term of the Agreement for all owned, non-owned, leased or hired aircraft, including passenger coverage. The limits of coverage shall not be less than:

Bodily & Personal Injury & Property Damage Liability	\$100,000,000 Combined Single Limit Each Occurrence & Aggregate
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(4) Business Automobile Liability Insurance shall be maintained by Airline during the term of the Agreement as to the ownership, maintenance, and use of all owned, non-owned, leased or hired vehicles. The limits of coverage shall not be less than:

Bodily & Personal Injury & Property Damage Liability	\$5,000,000 Combined Single Limit Each Occurrence & Aggregate
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(5) Umbrella Liability Insurance or Excess Liability Insurance may be used to reach the limits of liability required for the Airport Liability Policy, Aircraft Liability and the Business Automobile Policy. The limits of coverage shall not be less than:

Umbrella or Excess Liability Policy	\$100,000,000 Combined Single Limit Each Occurrence & Aggregate - Specific for the Agreement
	\$200,000,000 Combined Single Limit Each Occurrence & Aggregate - Not Specific for the Agreement

Primary Liability Limits for the underlying Airport General Liability Coverage:

Bodily & Personal Injury & Property Damage Liability	\$10,000,000 Combined Single Limit Each Occurrence & Aggregate
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### **Cancellation by Authority**

Events of Default. The events described below shall be deemed events of default by Airline under the Agreement.

Upon the occurrence of the following event of default, Authority shall immediately give written notice of default:

A. The conduct of any business or performance of any acts at the Airport not specifically authorized in the Agreement or by other agreements between Authority and Airline, and said business or acts do not cease within thirty (30) days of receipt of Authority's written notice to cease said business or acts.

B. Upon the occurrence of any one of the following events of default, Authority shall immediately give written notice of default. Upon receiving notice of any default listed in this section, Airline shall cure the default within thirty (30) days of receiving the notice.

(1) The failure by Airline to pay any part of the rentals, fees, and charges due under the Agreement and the continued failure to pay said amounts in full within thirty (30) days of Authority's written notice of payments past due. Provided, however, if a dispute arises between Authority and Airline with respect to any obligation or alleged obligation of Airline to make payments to Authority, payments under protest by Airline of the amount due shall not waive any of Airline's rights to contest the validity or amount of such payment. In the event any court or other body having jurisdiction determines all or any part of the protested payment shall not be due, then Authority shall promptly reimburse Airline any amount determined as not due plus interest on such amount at one and one-half percent (1-1/2%) per month.

(2) The failure by Airline to provide and keep in force Contract Security in accordance with the Agreement.

(3) The failure by Airline to maintain and keep in force insurance coverage in accordance with the Agreement. Notwithstanding any other provisions of this paragraph,

Airline must immediately discontinue operations at the Airport in accordance with the Agreement until such time as insurance coverage is in force.

C. Upon the occurrence of any one of the following events of default, Authority may give written notice of default. Upon receiving notice of any default listed in this section, Airline shall: (1) cure the default within thirty (30) days of receiving the notice; or (2) if by reason of the nature of such default, the same cannot be remedied within thirty (30) days, Airline shall commence the remedying of such default within said thirty (30) days following such written notice, and having so commenced, continue with diligence the curing thereof until the default is remedied. Airline shall have the burden of proof to demonstrate (i) that the default cannot be cured within thirty (30) days, and (ii) that it is proceeding with diligence to cure said default, and that such default will be cured within a reasonable period of time.

(1) The failure by Airline to remit PFCs in accordance with the Agreement.

(2) The appointment of a trustee, custodian, or receiver of all or a substantial portion of Airline's assets.

(3) The divestiture of Airline's estate in the Agreement by operation of law, by dissolution, or by liquidation, (not including a merger or sale of assets).

(4) The insolvency of Airline; or if Airline shall take the benefit of any present or future insolvency statute, shall make a general assignment for the benefit of creditors, or shall seek a reorganization or the readjustment of its indebtedness under any law or statute of the United States or of any state thereof including the filing by Airline of a voluntary petition of bankruptcy or the institution of proceedings against Airline the adjudication of Airline as a bankrupt pursuant thereto.

(5) The abandonment by Airline of the Airline Premises, or its conduct of business at the Airport; and, in this connection, suspension of operations for a period of sixty (60) days will be considered abandonment in the absence of a labor dispute or other governmental action in which Airline is directly involved.

(6) Failure by Airline to make under-utilized PFC-funded Airline Premises available for use by other Air Transportation Companies in accordance with the Agreement.

Continuing Responsibilities of Airline. Notwithstanding the occurrence of any event of default, Airline shall remain liable to Authority for all rentals, fees, and charges payable under the Agreement and for all preceding breaches of any covenant of the Agreement. Furthermore, unless Authority elects to cancel the Agreement, Airline shall remain liable for and promptly pay all rentals, fees, and charges accruing under the Agreement until termination of the Agreement or until the Agreement is canceled by Airline.

Authority's Remedies. Upon the occurrence of any event enumerated in paragraphs A or B above, including applicable notice and cure periods, the following remedies shall be available to Authority:

1. Authority may exercise any remedy provided by law or in equity, including but not limited to the remedies hereinafter specified.

2. Authority may cancel the Agreement, effective upon the date specified in the notice of cancellation upon such date, Airline shall be deemed to have no further rights under the Agreement and Authority shall have the right to take immediate possession of Airline's Airline Premises.

3. Authority may reenter the Airline Premises and may remove all Airline personal property from same upon the date of reentry specified in Authority's written notice of reentry to Airline. For the event enumerated in paragraph A, reentry shall be not less than fifteen (15) days from the date of notice of reentry. Upon any removal of Airline property by Authority under the Agreement, Airline property may be stored at a public warehouse or elsewhere at Airline's sole cost and expense.

4. Authority may relet Airline Premises and any improvements thereon or any part thereof at such rentals, fees, and charges and upon such other terms and conditions as Authority, in its sole discretion, may deem advisable, with the right to make alterations, repairs of improvements on said Airline Premises. In reletting the Airline Premises, Authority shall be obligated to make a good faith effort to obtain terms comparable than those contained in the Agreement and otherwise seek to mitigate any damages it may suffer as a result of Airline's event of default.

5. In the event that Authority relets Airline Premises, rentals, fees, and charges received by Authority from such reelecting shall be applied: (i) to the payment of any indebtedness other than rentals, fees, and charges due under the Agreement from Airline to Authority; (ii) to the payment of any cost of such reletting; and (iii) to the payment of rentals, fees, and charges due and unpaid under the Agreement. The residue, if any, shall be held by Authority and applied in payment of future rentals, fees, and charges as the same may become due and payable under the Agreement. If that portion of such rentals, fees, and charges received from such reletting and applied to the payment of rentals, fees, and charges under the Agreement is less than the rentals, fees, and charges as would have been payable during applicable periods by Airline under the Agreement, then Airline shall pay such deficiency to Authority. Airline shall also pay to Authority, as soon as ascertained, any reasonable costs and expenses incurred by Authority in such reletting not covered by the rentals, fees, and charges received from such reletting.

6. No reentry or reletting of Airline Premises by Authority shall be construed as an election on Authority's part to cancel the Agreement unless a written notice of cancellation is given to Airline.

7. Airline shall pay to Authority all other costs, incurred by Authority in the exercise of any remedy in the Agreement, including, but not limited to, reasonable attorney fees, disbursements, court costs, and expert fees.

Remedies Under Federal Bankruptcy Laws. Notwithstanding the foregoing, upon the filing by or against Airline of any proceeding under Federal bankruptcy laws, if Airline has

defaulted in the performance of any provision of the Agreement within the six (6) months preceding such filing, Authority shall have the right to cancel the Agreement, in addition to other remedies provided under provisions of the Federal Bankruptcy Rules and Regulations and Federal Judgeship Act of 1984, as such may be subsequently amended, supplemented, or replaced. Such cancellation shall be by written notice to Airline within sixty (60) days from the date of Airline's initial filing in bankruptcy court.

### **Cancellation by Airline**

Events of Default. The events described below shall be deemed events of default by Authority under the Agreement:

Authority fails to keep, perform, or observe any material term, covenant, or condition contained in the Agreement, to be kept, performed, or observed by Authority and such failure continues for sixty (60) days after receipt of written notice from Airline; or, if by its nature such default cannot be cured within such sixty (60) day period, Authority shall not commence to cure or remove such default within said sixty (60) days and to cure or remove the same as promptly as reasonably practicable; provided, however, Authority's performance under this paragraph shall be subject to the provisions of the Agreement with respect to Force Majeure.

Airport is closed to flights in general or to the flights of Airline, for reasons other than those circumstances within Airline's control, and Airport fails to be reopened to such flights within sixty (60) consecutive days from such closure.

The Airport is permanently closed as an air carrier airport by act of any federal, state, or local government agency having competent jurisdiction; or Airline is unable to use Airport for a period of at least sixty (60) consecutive days due to any law or any order, rule or regulation of any governmental authority having jurisdiction over the operations of the Airport; or any court of competent jurisdiction issues an injunction preventing Authority or Airline from using Airport for airport purposes, for reasons other than those circumstances within Airline's control, and such injunction remains in force for a period of at least sixty (60) consecutive days.

The United States Government or any authorized agency of the same (by executive order or otherwise) assumes the operation, control, or use of the Airport in such a manner as to substantially restrict Airline from conducting its operations, if such restriction be continued for a period of sixty (60) consecutive days or more.

Airline's Remedy. So long as Airline is not in default as set forth in the Agreement, including but not limited to payments due to Authority under the Agreement, Airline may cancel the Agreement upon the occurrence of an event of default, and Authority's failure to cure or remove the same within the time periods set forth in that section. In such event, Airline shall serve fifteen (15) day advance written notice of cancellation to Authority. All rentals, fees, and charges payable by Airline shall cease as of the date of such cancellation and Airline shall surrender the Airline Premises in accordance with the Agreement.

## General Provisions

Subordination to Bond Resolution. The Agreement and all rights granted to Airline under the Agreement are expressly subordinated and subject to the lien, covenants (including the rate covenants), and provisions of the pledges, transfer, hypothecation, or assignment made by Authority in the Bond Resolution. Authority and Airline agree that to the extent required by the Bond Resolution or law, the holders of the Bonds or their designated representatives shall have the right to exercise any and all rights of Authority under the Agreement.

Authority shall notify Airline in advance of any amendments or supplements to the Bond Resolution that would materially alter the terms and provisions of the Agreement or materially impact the levels of rentals, fees, and charges paid by Airline (herein referred to as Material Amendments).

For any Material Amendments or supplements desired solely by Authority for its own purposes, Authority and Airline shall use their best efforts to agree on the implementation. However, in the event Authority and Airline cannot agree on the implementation of any Material Amendments or supplements desired solely by Authority for its own purposes, Airline, in addition to cancellation rights provided elsewhere in the Agreement, shall have the right to cancel the Agreement upon thirty (30) days advance written notice.

Airline agrees to execute all instruments, certificates, or other documents reasonably requested by Authority to assist Authority and bond counsel in determining and assuring that Bonds are issued in compliance with applicable rules and regulations of the Internal Revenue Service and the Securities and Exchange Commission and Airline shall provide whatever additional relevant information is reasonably requested by Authority initially or on an ongoing basis in connection with complying with any of those rules and regulations.

Nonwaiver. No waiver of default by either party of any of the terms, covenants, or conditions of the Agreement to be performed, kept, and observed by the other party shall be construed to be or act as a waiver of any subsequent default of any of the terms, covenants, and conditions to be performed, kept, and observed by the other party and shall not be deemed a waiver of any right on the part of the other party to cancel the Agreement.

Passenger Facility Charge. Authority reserves the right to assess and collect PFC's subject to the terms and conditions set forth in the Aviation Safety and Capacity Expansion Act of 1990, Section 9110 (the "PFC Act") and implementing regulations as may be supplemented or amended from time to time. Airline shall collect and pay all PFC's for which it is responsible under the provisions of 14 CFR Part 158. Failure by Airline to remit PFCs within the time frame required by 14 CFR Part 158 shall be grounds for termination of the Agreement.

Rights Non-Exclusive. Notwithstanding anything contained in the Agreement that may be or appear to the contrary, the rights, privileges, and licenses granted under the Agreement, are "non-exclusive" and Authority reserves the right to grant similar privileges to others.

Force Majeure. Except as provided in the Agreement, neither Authority nor Airline shall be deemed to be in default under the Agreement if either party is prevented from performing any of the obligations, other than the payment of rentals, fees, and charges under the Agreement, by

reason of strikes, boycotts, labor disputes, embargoes, shortages of energy or materials, acts of God, acts of the public enemy, weather conditions, riots, rebellion, or sabotage, or any other circumstances for which it is not responsible or which are not within its control.

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## **APPENDIX E**

### **PROPOSED FORM OF BOND COUNSEL OPINION**

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**APPENDIX E**  
**PROPOSED FORM OF BOND COUNSEL OPINION**

August \_\_, 2011

To: Chairman and Members of the  
Board of County Commissioners  
Lee County, Florida

We have served as bond counsel to our client Lee County, Florida (the “County”) and not as counsel to any other person in connection with the issuance by the County of its \$174,450,000 aggregate principal amount of Airport Revenue Refunding Bonds, Series 2011A (AMT) (the “Series 2011 Bonds”), dated the date of this letter.

The Series 2011 Bonds are issued pursuant to Chapter 125, Part I and Chapter 332, Florida Statutes, as amended, and Resolution No. 92-08-48 of the County duly adopted on August 26, 1992, as supplemented (the “Original Bond Resolution”) and as amended and restated by Resolution No. 00-02-45 of the County duly adopted on February 16, 2000, as amended and restated by Resolution No. 00-03-04, of the County adopted on March 13, 2000, as supplemented by Resolution No. 11-01-27 adopted by the County on January 11, 2011 (collectively with the Original Bond Resolution, the “Resolution”). Capitalized terms not otherwise defined in this letter are used as defined in the Resolution.

In our capacity as bond counsel, we have examined the transcript of proceedings relating to the issuance of the Series 2011 Bonds, a copy of the signed and authenticated Series 2011 Bond of the first maturity, the Resolution and such other documents, matters and law as we deem necessary to render the opinions set forth in this letter.

Based on that examination and subject to the limitations stated below, we are of the opinion that under existing law:

1. The Series 2011 Bonds and the Resolution are valid and binding obligations of the County, enforceable in accordance with their respective terms.
2. The Series 2011 Bonds constitute limited obligations of the County, and the principal of and interest and any premium on (collectively, “debt service”) the Series 2011 Bonds, together with debt service on any other obligations issued and outstanding on a parity with the Series 2011 Bonds as provided in the Resolution, are payable from and secured solely by the Pledged Funds, as provided in the Resolution. The payment of debt service on the Series 2011 Bonds is not secured by an obligation or pledge of any money raised by taxation, and the Series 2011 Bonds do not represent or constitute a general obligation or a pledge of the faith and credit of the County, the State of Florida or any of its political subdivisions.

3. Interest on the Series 2011 Bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), except interest on any Series 2011 Bond for any period during which it is held by a "substantial user" or "related person," as those terms are used in Section 147(a) of the Code. Interest on the Series 2011 Bonds is an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations. The Series 2011 Bonds and the income thereon are exempt from taxation under the laws of the State of Florida, except estate taxes imposed by Chapter 198, Florida Statutes, as amended, and net income and franchise taxes imposed by Chapter 220, Florida Statutes, as amended. We express no opinion as to any other tax consequences regarding the Series 2011 Bonds.

The opinions stated above are based on an analysis of existing laws, regulations, rulings and court decisions and cover certain matters not directly addressed by such authorities. In rendering all such opinions, we assume, without independent verification, and rely upon (i) the accuracy of the factual matters represented, warranted or certified in the proceedings and documents we have examined and (ii) the due and legal authorization, execution and delivery of those documents by, and the valid, binding and enforceable nature of those documents upon, any parties other than the County.

In rendering those opinions with respect to treatment of the interest on the Series 2011 Bonds under the federal tax laws, we further assume and rely upon compliance with the covenants in the proceedings and documents we have examined, including those of the County. Failure to comply with certain of those covenants subsequent to issuance of the Series 2011 Bonds may cause interest on the Series 2011 Bonds to be included in gross income for federal income tax purposes retroactively to their date of issuance.

The rights of the owners of the Series 2011 Bonds and the enforceability of the Series 2011 Bonds and the Resolution are subject to bankruptcy, insolvency, arrangement, fraudulent conveyance or transfer, reorganization, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion, and to limitations on legal remedies against public entities.

The opinions rendered in this letter are stated only as of this date, and no other opinion shall be implied or inferred as a result of anything contained in or omitted from this letter. Our engagement as bond counsel with respect to the Series 2011 Bonds has concluded on this date.

Respectfully submitted,

**APPENDIX F**

**FORM OF CONTINUING DISCLOSURE CERTIFICATE**

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## **CONTINUING DISCLOSURE CERTIFICATE**

This Continuing Disclosure Certificate (the "Disclosure Certificate") is executed and delivered by Lee County, Florida (the "County") in connection with the issuance of its \$174,450,000 Lee County, Florida Airport Revenue Refunding Bonds, Series 2011A (AMT) (the "Series 2011A Bonds"). The Series 2011A Bonds are being issued pursuant to the County's Resolution No. 00-03-04 adopted by the Board of County Commissioners of Lee County, Florida (the "Board") on March 13, 2000, as amended and supplemented, particularly as supplemented by Resolution No. 11-01-27, adopted by the Board on January 11, 2011 (collectively, the "Bond Resolution"). In connection with the issuance of the Series 2011A Bonds, the County covenants and agrees as follows:

**SECTION 1. PURPOSE OF DISCLOSURE CERTIFICATE.** This Disclosure Certificate is being executed and delivered by the County for the benefit of the Series 2011A Bondholders (as defined herein) and in order to assist the original underwriters of the Series 2011A Bonds in complying with Rule 15c2-12(b)(5) promulgated by the Securities and Exchange Commission ("SEC") pursuant to the Securities Exchange Act of 1934, as the same may be amended from time to time (the "Rule").

**SECTION 2. PROVISION OF ANNUAL INFORMATION.** Except as otherwise provided herein, the County shall provide to the Municipal Securities Rulemaking Board (the "MSRB"), and to any state information depository that is established within the State of Florida and with which the County is legally required to file the information set forth herein (the "SID"), on or before April 30 of each year, commencing April 30, 2012, the information set forth below in this Section 2:

(A) the financial statements of the Lee County Port Authority (the "Authority") for the immediately preceding Fiscal Year (the "Financial Statements"), which shall be prepared in accordance with generally accepted accounting principles applicable to governmental entities, consistently applied; provided, however, if the Financial Statements of the Authority are not completed prior to April 30 of any year, the County shall provide unaudited Financial Statements on such date and shall provide the audited Financial Statements as soon as practicable following their completion; and

(B) to the extent not set forth in the Financial Statements, additional financial information and operating data of the type included with respect to the County and the Authority in the final official statement prepared in connection with the sale and issuance of the Series 2011A Bonds (as amended, the "Official Statement"), as set forth below:

1. Updates of information set forth in the Official Statement relating to:

Historic information and operating data for the Airport of the type and in the format included in tables set forth in the Official

Statement captioned "THE COUNTY, THE AUTHORITY AND THE AIRPORT - Airlines Serving the Airport," "- Historical Enplanements by Carrier Type," "- Historical Enplanements by Airline," "- Historical Landed Weight by Airline," "- Primary Domestic Origin & Destination Passenger Markets," "- Historical Aircraft Operations" and "- Passenger Facility Charges," and "AIRPORT FINANCIAL FACTORS - Historical Statement of Net Revenues" Such information shall be limited only to the data for the previously completed Fiscal Year or calendar year, as applicable.

2. Description of any additional indebtedness payable in whole or in part from the Pledged Funds (as defined in the Bond Resolution).

For purposes of this Disclosure Certificate, "Fiscal Year" means the period commencing on October 1 of each year and ending on the succeeding September 30, or such other period of 12 consecutive months permitted by the laws of the State of Florida and designated by the Authority as its fiscal year.

**SECTION 3. REPORTING SIGNIFICANT EVENTS.** The County shall provide to the MSRB and to the SID, if any, on a timely basis not in excess of 10 business days after the occurrence of the event, notice of any of the following events, if such event is material with respect to the Series 2011A Bonds or the County's ability to satisfy its payment obligations with respect to the Series 2011A Bonds:

- (A) Principal and interest payment delinquencies;
- (B) Non-payment related defaults;
- (C) Unscheduled draws on the debt service reserve fund reflecting financial difficulties;
- (D) Unscheduled draws on credit enhancement reflecting financial difficulties;
- (E) Substitution of credit or liquidity providers, or their failure to perform;
- (F) Adverse tax opinions, the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue or other material notices or determinations with respect to the tax status of the Series 2011A Bonds, or other material events affecting the tax status of the Series 2011A Bonds;
- (G) Modifications to rights of Series 2011A Bondholders;
- (H) Calls on the Series 2011A Bonds;
- (I) Tender offers with respect to the Series 2011A Bonds;



(J) Defeasance of the Series 2011A Bonds;

(K) Release, substitution, or sale of property securing repayment of the Series 2011A Bonds;

(L) Rating changes related to the Series 2011A Bonds;

(M) Bankruptcy, insolvency, receivership or similar event of the County (this event is considered to occur when any of the following occur: the appointment of a receiver, fiscal agent or similar officer for the County in a proceeding under the U.S. Bankruptcy Code or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the County, or if such jurisdiction has been assumed by leaving the existing governing body and officials or officers in possession but subject to the supervision and orders of a court or governmental authority, or the entry of an order confirming a plan of reorganization, arrangement or liquidation by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the County);

(N) The consummation of a merger, consolidation, or acquisition involving the County or the sale of all or substantially all of the assets of the County, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms;

(O) Appointment of a successor or additional trustee or the change of name of a trustee; and

(P) Notice of any failure on the part of the County or any other Obligated Person (as defined in the Rule) to meet the requirements of Section 2 hereof.

The County may from time to time, in its discretion, choose to provide notice of the occurrence of certain other events, in addition to those listed in this Section 3, if, in the judgment of the County, such other events are material with respect to the Series 2011A Bonds, but the County does not specifically undertake to commit to provide any such additional notice of the occurrence of any material event except those events listed above.

Whenever the County obtains knowledge of the occurrence of a significant event described in this Section 3, the County shall as soon as possible determine if such event would be material under applicable federal securities law to Series 2011A Bondholders, provided, that any event under clauses (A), (C), (D), (E), (F), (I), (J), (L) or (M) above will always be deemed to be material.

**SECTION 4. SUBMISSION OF INFORMATION TO THE MSRB.**

The information required to be disclosed pursuant to Sections 2 and 3 of this Disclosure Certificate shall be submitted to the MSRB through its Electronic Municipal Market Access system ("EMMA"). Subject to future changes in submission rules and regulations, such submissions shall be provided to the MSRB, through EMMA, in portable document format ("PDF") files configured to permit documents to be saved, viewed, printed and retransmitted by electronic means. Such PDF files shall also be word-searchable (allowing the user to search for specific terms used within the document through a search or find function available in a software package).

Subject to future changes in submission rules and regulations, at the time that such information is submitted through EMMA, the County, or any dissemination agent engaged by the County pursuant to Section 7 hereof, shall also provide to the MSRB information necessary to accurately identify:

- (A) the category of information being provided;
- (B) the period covered by the CAFR and any additional financial information and operating data being provided;
- (C) the issues or specific securities to which such submission is related or otherwise material (including CUSIP number, issuer name, state, issue description/securities name, dated date, maturity date, and/or coupon rate);
- (D) the name of any Obligated Person other than the County;
- (E) the name and date of the document being submitted; and
- (F) contact information for the submitter.

**SECTION 5. NO EVENT OF DEFAULT.** Notwithstanding any other provision in the Bond Resolution to the contrary, failure of the County to comply with the provisions of this Disclosure Certificate shall not be considered an event of default under the Bond Resolution. The sole and exclusive remedy of any Series 2011A Bondholder for the enforcement of the provisions hereof shall be an action for mandamus or specific performance, as applicable, by court order, to cause the County to comply with its obligations hereunder. For purposes of this Disclosure Certificate, "Series 2011A Bondholder" shall mean any person who (A) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Series 2011A Bonds (including persons holding Series 2011A Bonds through nominees, depositories or other intermediaries), or (B) is treated as the owner of any Series 2011A Bond for federal income tax purposes.

**SECTION 6. INCORPORATION BY REFERENCE.** Any or all of the information required herein to be disclosed may be incorporated by reference from other

documents, including official statements or debt issues of the County or related public entities, which have been submitted to the MSRB or the SEC. If the document incorporated by reference is a final official statement, it must be available from the MSRB. The County shall clearly identify each document incorporated by reference.

**SECTION 7. DISSEMINATION AGENTS.** The County may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under this Disclosure Certificate, and may discharge any such agent, with or without appointing a successor disseminating agent.

**SECTION 8. TERMINATION.** The County's obligations under this Disclosure Certificate shall terminate upon (A) the legal defeasance, prior redemption or payment in full of all of the Series 2011A Bonds, or (B) the termination of the continuing disclosure requirements of the Rule by legislative, judicial or administrative action.

**SECTION 9. AMENDMENTS.** Notwithstanding any other provision of this Disclosure Certificate, the County may amend this Disclosure Certificate, and any provision may be waived, if such amendment or waiver is supported by an opinion of counsel that is nationally recognized in the area of federal securities laws, to the effect that such amendment or waiver would not, in and of itself, cause the undertakings herein to violate the Rule if such amendment or waiver had been effective on the date hereof but taking into account any subsequent change in or official interpretation of the Rule.

**SECTION 10. ADDITIONAL INFORMATION.** Nothing in this Disclosure Certificate shall be deemed to prevent the County from disseminating any other information, using the means of dissemination set forth in this Disclosure Certificate or any other means of communication, or including any other information in its annual information described in Section 2 hereof or notice of occurrence of a significant event described in Section 3 hereof, in addition to that which is required by this Disclosure Certificate. If the County chooses to include any information in its annual information or notice of occurrence of a significant event in addition to that which is specifically required by this Disclosure Certificate, the County shall have no obligation under this Disclosure Certificate to update such information or include it in its future annual information or notice of occurrence of a significant event.

**SECTION 11. OBLIGATED PERSONS.** If any person, other than the County, becomes an Obligated Person relating to the Series 2011A Bonds, the County shall use its best efforts to require such Obligated Person to comply with all provisions of the Rule applicable to such Obligated Person.

Dated: August 30, 2011

**LEE COUNTY, FLORIDA**

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

## **APPENDIX G**

### **SPECIMEN MUNICIPAL BOND INSURANCE POLICY**

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## MUNICIPAL BOND INSURANCE POLICY

ISSUER:

Policy No: -N

BONDS: \$ in aggregate principal amount of

Effective Date:

Premium: \$

ASSURED GUARANTY MUNICIPAL CORP. ("AGM"), for consideration received, hereby UNCONDITIONALLY AND IRREVOCABLY agrees to pay to the trustee (the "Trustee") or paying agent (the "Paying Agent") (as set forth in the documentation providing for the issuance of and securing the Bonds) for the Bonds, for the benefit of the Owners or, at the election of AGM, directly to each Owner, subject only to the terms of this Policy (which includes each endorsement hereto), that portion of the principal of and interest on the Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer.

On the later of the day on which such principal and interest becomes Due for Payment or the Business Day next following the Business Day on which AGM shall have received Notice of Nonpayment, AGM will disburse to or for the benefit of each Owner of a Bond the face amount of principal of and interest on the Bond that is then Due for Payment but is then unpaid by reason of Nonpayment by the Issuer, but only upon receipt by AGM, in a form reasonably satisfactory to it, of (a) evidence of the Owner's right to receive payment of the principal or interest then Due for Payment and (b) evidence, including any appropriate instruments of assignment, that all of the Owner's rights with respect to payment of such principal or interest that is Due for Payment shall thereupon vest in AGM. A Notice of Nonpayment will be deemed received on a given Business Day if it is received prior to 1:00 p.m. (New York time) on such Business Day; otherwise, it will be deemed received on the next Business Day. If any Notice of Nonpayment received by AGM is incomplete, it shall be deemed not to have been received by AGM for purposes of the preceding sentence and AGM shall promptly so advise the Trustee, Paying Agent or Owner, as appropriate, who may submit an amended Notice of Nonpayment. Upon disbursement in respect of a Bond, AGM shall become the owner of the Bond, any appurtenant coupon to the Bond or right to receipt of payment of principal of or interest on the Bond and shall be fully subrogated to the rights of the Owner, including the Owner's right to receive payments under the Bond, to the extent of any payment by AGM hereunder. Payment by AGM to the Trustee or Paying Agent for the benefit of the Owners shall, to the extent thereof, discharge the obligation of AGM under this Policy.

Except to the extent expressly modified by an endorsement hereto, the following terms shall have the meanings specified for all purposes of this Policy. "Business Day" means any day other than (a) a Saturday or Sunday or (b) a day on which banking institutions in the State of New York or the Insurer's Fiscal Agent are authorized or required by law or executive order to remain closed. "Due for Payment" means (a) when referring to the principal of a Bond, payable on the stated maturity date thereof or the date on which the same shall have been duly called for mandatory sinking fund redemption and does not refer to any earlier date on which payment is due by reason of call for redemption (other than by mandatory sinking fund redemption), acceleration or other advancement of maturity unless AGM shall elect, in its sole discretion, to pay such principal due upon such acceleration together with any accrued interest to the date of acceleration and (b) when referring to interest on a Bond, payable on the stated date for payment of interest. "Nonpayment" means, in respect of a Bond, the failure of the Issuer to have provided sufficient funds to the Trustee or, if there is no Trustee, to the Paying Agent for payment in full of all principal and interest that is Due for Payment on such Bond. "Nonpayment" shall also include, in respect of a Bond, any payment of principal or interest that is Due for Payment made to an Owner by or on behalf of the Issuer which has been recovered from such Owner pursuant to the

United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final, nonappealable order of a court having competent jurisdiction. "Notice" means telephonic or telecopied notice, subsequently confirmed in a signed writing, or written notice by registered or certified mail, from an Owner, the Trustee or the Paying Agent to AGM which notice shall specify (a) the person or entity making the claim, (b) the Policy Number, (c) the claimed amount and (d) the date such claimed amount became Due for Payment. "Owner" means, in respect of a Bond, the person or entity who, at the time of Nonpayment, is entitled under the terms of such Bond to payment thereof, except that "Owner" shall not include the Issuer or any person or entity whose direct or indirect obligation constitutes the underlying security for the Bonds.

AGM may appoint a fiscal agent (the "Insurer's Fiscal Agent") for purposes of this Policy by giving written notice to the Trustee and the Paying Agent specifying the name and notice address of the Insurer's Fiscal Agent. From and after the date of receipt of such notice by the Trustee and the Paying Agent, (a) copies of all notices required to be delivered to AGM pursuant to this Policy shall be simultaneously delivered to the Insurer's Fiscal Agent and to AGM and shall not be deemed received until received by both and (b) all payments required to be made by AGM under this Policy may be made directly by AGM or by the Insurer's Fiscal Agent on behalf of AGM. The Insurer's Fiscal Agent is the agent of AGM only and the Insurer's Fiscal Agent shall in no event be liable to any Owner for any act of the Insurer's Fiscal Agent or any failure of AGM to deposit or cause to be deposited sufficient funds to make payments due under this Policy.

To the fullest extent permitted by applicable law, AGM agrees not to assert, and hereby waives, only for the benefit of each Owner, all rights (whether by counterclaim, setoff or otherwise) and defenses (including, without limitation, the defense of fraud) whether acquired by subrogation, assignment or otherwise, to the extent that such rights and defenses may be available to AGM to avoid payment of its obligations under this Policy in accordance with the express provisions of this Policy.

This Policy sets forth in full the undertaking of AGM, and shall not be modified, altered or affected by any other agreement or instrument, including any modification or amendment thereto. Except to the extent expressly modified by an endorsement hereto, (a) any premium paid in respect of this Policy is nonrefundable for any reason whatsoever, including payment, or provision being made for payment, of the Bonds prior to maturity and (b) this Policy may not be canceled or revoked. THIS POLICY IS NOT COVERED BY THE PROPERTY/CASUALTY INSURANCE SECURITY FUND SPECIFIED IN ARTICLE 76 OF THE NEW YORK INSURANCE LAW.

In witness whereof, ASSURED GUARANTY MUNICIPAL CORP. has caused this Policy to be executed on its behalf by its Authorized Officer.

ASSURED GUARANTY MUNICIPAL CORP.

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



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