

## **INSURANCE PROVISIONS FOR BAM**

Any Bond Insurance Agreement between the Issuer and BAM relating to the Insured Bonds shall incorporate the following requirements with such changes as the Issuer's representatives and BAM may agree to, the provisions of which shall be stated to govern, notwithstanding anything to the contrary set forth in the Bond Resolution.

1) Notice and Other Information to be given to BAM. The Issuer will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Certificate and (ii) to the holders of Insured Bonds or the Paying Agent under the Bond Resolution.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27<sup>th</sup> Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No. \_\_\_\_\_, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: [notices@buildamerica.com](mailto:notices@buildamerica.com). In each case in which notice or other communication refers to an event of default or a claim on the Bond Insurance Policy, then a copy of such notice or other communication shall also be sent to the attention of the General Counsel at the same address and at [claims@buildamerica.com](mailto:claims@buildamerica.com) or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

2) Defeasance. The investments in the defeasance escrow relating to Insured Bond shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Bonds, the Issuer, unless waived by BAM, shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Bonds, a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion shall be addressed to BAM and shall be in form and substance satisfactory to BAM. Such Verification Report shall be in the form and substance satisfactory to BAM and, unless waived by BAM, shall either be addressed to BAM or shall include a statement to the effect that such Verification Report may be relied upon by BAM. In addition, the escrow agreement shall provide that:

a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Bonds is excludable) from gross income of the holders of the Insured Bonds of the interest on the Insured Bonds for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.

b) The Issuer will not exercise any prior optional redemption of Insured Bonds secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

c) The Issuer shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

3) Paying Agent.

a) BAM shall receive prior written notice of any name change of the the paying agent (the "Paying Agent") for the Insured Bonds or the resignation or removal of the Paying Agent.

b) No removal, resignation or termination of the Paying Agent shall take effect until a successor, acceptable to BAM, shall be qualified and appointed.

4) Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Bond Resolution, with the exceptions noted below. The Issuer shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Bonds.

a) *Consent of BAM.* Any amendments or supplements to the Bond Resolution shall require the prior written consent of BAM with the exception of amendments or supplements:

i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or

ii. To grant or confer upon the holders of the Insured Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Bonds, or

iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Bond Resolution other conditions, limitations and restrictions thereafter to be observed, or

iv. To add to the covenants and agreements of the Issuer in the Bond Resolution other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power therein reserved to or conferred upon the Issuer, or

v. To issue additional parity debt in accordance with the requirements set forth in the Bond Resolution.

b) *Consent of BAM in Addition to Bondholder Consent.* Any amendment, supplement, modification to, or waiver of, the Bond Resolution that requires the consent of holders of the Insured Bonds or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.

c) *Insolvency.* Any reorganization or liquidation plan with respect to the Issuer must be acceptable to BAM. The Paying Agent and each owner of the Insured Bonds hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Bonds and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Paying Agent and each owner of the Insured Bonds shall delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Paying Agent and each owner of the Insured Bonds with respect to the Insured Bonds in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

d) *Control by BAM Upon Default.* Anything in the Bond Resolution to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Bonds or the Paying Agent for the benefit of the holders of the Insured Bonds under the Bond Resolution. No default or event of default may be waived without BAM's written consent.

e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Bonds for

all purposes under the Bond Resolution, including, without limitations, for purposes of exercising remedies and approving amendments.

f) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Bonds. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.

g) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Bond Insurance Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Bonds for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Bond Insurance Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Bond Insurance Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Bond Insurance Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Bond Insurance Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

5) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Bond Resolution and may enforce the provisions of the Bond Resolution as if it were a party thereto.

6) Payment Procedure Under the Bond Insurance Policy.

In the event that principal and/or interest due on the Insured Bonds shall be paid by BAM pursuant to the Bond Insurance Policy, the Insured Bonds shall remain Outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2<sup>nd</sup>) business day prior to any payment date on the Insured Bonds, there are not sufficient moneys to pay all principal of and interest on the Insured Bonds due on such payment date, the Paying Agent or the Issuer shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or the Issuer shall so notify BAM or its designee.

In addition, if the Paying Agent has notice that any holder of the Insured Bonds has been required to disgorge payments of principal of or interest on the Insured Bonds pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Bonds as follows:

a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Bonds, the Paying Agent shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Bonds in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Bonds, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Bond Insurance Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Bond, and (iv) disburse the same to such respective holders; and

b) If there is a deficiency in amounts required to pay principal of the Insured Bonds, the Paying Agent shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Bonds in any legal proceeding related to the payment of such principal and an assignment to BAM of the Insured Bonds surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Bond Insurance Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Bond, and (iv) disburse the same to such holders.

The Paying Agent shall designate any portion of payment of principal on Insured Bonds paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Bonds registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Bond to BAM, registered in the name

directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Paying Agent's failure to so designate any payment or issue any replacement Insured Bond shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Bond or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Bonds disbursed by the Paying Agent from proceeds of the Bond Insurance Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Bonds, and BAM shall become the owner of such unpaid Insured Bonds and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Bond Resolution shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer and the Paying Agent agree for the benefit of BAM that:

a) They recognize that to the extent BAM makes payments directly or indirectly (*e.g.*, by paying through the Paying Agent), on account of principal of or interest on the Insured Bonds, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer, with interest on bond principal (but not bond interest), as provided and solely from the sources stated in the Bond Resolution and the Insured Bonds; and

b) They will accordingly pay to BAM the amount of such principal and interest, with interest on bond principal (but not bond interest) as provided in the transaction documents and the Insured Bonds, but only from the sources and in the manner provided therein for the payment of principal of and interest on the Insured Bonds to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

7) Additional Payments. The Issuer agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Bond Resolution ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence.

Notwithstanding anything herein to the contrary, the Issuer agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Bond Insurance Policy ("BAM Policy Payment"); and (ii) interest on the Bond principal paid under the Bond Insurance Policy from the date paid by BAM until payment thereof in full by the Issuer, payable to BAM at the stated interest rate for each such Bond (collectively, "BAM Reimbursement Amounts") compounded semi-annually. The Issuer hereby covenants and agrees that the BAM Reimbursement Amounts are payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Bonds on a parity with debt service due on the Insured Bonds.

8) Reserve Account. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Reserve Account, if any (other than a municipal bond debt service reserve insurance policy issued by BAM). Amounts on deposit in the Reserve Account shall be applied solely to the payment of debt service due on the Insured Bonds.

9) Exercise of Rights by BAM. The rights granted to BAM under the Bond Resolution to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Bond Insurance Policy. Any exercise by BAM of such rights is merely an exercise of the BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Bonds and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Bonds or any other person is required in addition to the consent of BAM.

10) BAM shall be entitled to pay principal or interest on the Insured Bonds that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Bond Insurance Policy) in accordance with the Bond Resolution, whether or not BAM has received a claim upon the Bond Insurance Policy.

11) Definitions.

"BAM" shall mean Build America Mutual Assurance Company, or any successor thereto.

"Insured Bonds" shall mean the Hernando County, Florida Non-Ad Valorem Revenue Bonds, Series 2022.

"Issuer" shall mean Hernando County, Florida.

"Late Payment Rate" means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate ("Prime Rate") (any change in such Prime Rate to be effective on the date such change is

announced by JPMorgan Chase Bank, N.A.) plus 5%, and (ii) the then applicable highest rate of interest on the Insured Bonds and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

"Bond Insurance Policy" shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Bonds when due.

"Bond Resolution" shall mean Resolution No. \_\_\_\_\_ adopted by the Board of County Commissioners of the Issuer on September 27, 2022.