

**Lee County Board Of County Commissioners
Agenda Item Summary**

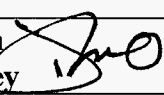
Blue Sheet No. 20070299

1. ACTION REQUESTED/PURPOSE: Adopt a Resolution approving the issuance of Lee County Industrial Development Authority Private Activity Revenue Bonds in an aggregate principal amount not to exceed \$85,000,000.00 for the principal purpose of financing or refinancing the costs of the acquisition of certain, identified educational facilities to be owned and operated by the Lee Charter Foundation, Inc., a Florida not-for-profit corporation, and costs related thereto, and which facilities are described as the Gateway Charter School, the Six Mile Charter Academy, the Gateway Charter High School and the Cape Coral Charter School, all located in Lee County, Florida.

2. FUNDING SOURCE: None. No County financial liability.

3. WHAT ACTION ACCOMPLISHES: Provides for Board consideration of proposed Industrial Development Authority Bonds as required by Internal Revenue Code and Florida Statutes. Board approval will authorize and adopt the approving Bond Issuance Resolution.

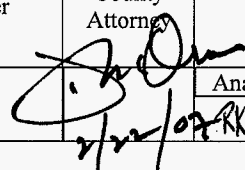
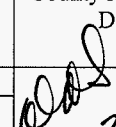
4. MANAGEMENT RECOMMENDATION: Approve the adoption of the Resolution with all stated terms and conditions.

5. Departmental Category: C12B		6. Meeting Date: MAR. 13, 2007
7. Agenda:	8. Requirement/Purpose: (specify)	9. Request Initiated:
<input checked="" type="checkbox"/> Consent	<input checked="" type="checkbox"/> Statute F.S. CH 159	Commissioner
<input type="checkbox"/> Administrative	<input type="checkbox"/> Ordinance	Department <u>County Attorney</u>
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	Division
<input type="checkbox"/> Public	<input checked="" type="checkbox"/> Other Sec. 147(f), IRC	By: David M. Owen 
<input type="checkbox"/> Walk-On		County Attorney

10. Background: On November 28, 2006, the Industrial Development Authority held a noticed public hearing and adopted an Inducement Resolution in the amount of \$75,000,000.00 for the purposed issuance of financing or refinancing the costs of the acquisition of educational facilities to be owned and operated by the Lee Charter Foundation, Inc., a Florida not-for-profit corporation, and costs related thereto and which are described as the Gateway Charter School, the Six Mile Charter Academy, the Gateway Charter High School and the Cape Coral Charter School, all located in Lee County, Florida. Subsequent to the adoption of that Resolution, the Lee Charter Foundation, Inc. was required to increase the borrowing from \$75,000,000.00 to \$85,000,000.00 due to higher than expected appraisals and costs for certain properties and facilities that they are acquiring as part of the Project.

(Continued on Page 2)

11. Review for Scheduling:

Dept. Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
					Analyst	Risk	Grants	Mgr.	
				2/22/07 RK 2/23	MP 2/26/07	RK FOR 2/26/07	MP 2/26/07		2-27-07

12. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

RECEIVED BY COUNTY ADMIN: **2/23 11:05 AM**
 COUNTY ADMIN FORWARDED TO: **2/27 4:30 PM to PR**

CO. ATTORNEY FORWARDED TO CO. ADMIN. **2/23/07 9:45 AM**

BACKGROUND: (Continued)

On February 16, 2007, the Lee Charter Foundation, Inc. adopted a new, revised Inducement Resolution adjusting the borrowing from \$75,000,000.00 to \$85,000,000.00 to account for the additional costs.

The Internal Revenue Code (IRC) and Florida Statutes require the applicable elected body of general government where the subject Project is located to approve the prospective bond financing for the Project. The County Resolution approves the issuance of the Bonds and the Project. Section 3 of the County-approving Resolution provides that the Board's action is a limited approval, to include no financial obligation(s) for the Authority Bonds.

TAMPA
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2502 Rocky Point Drive
Tampa, Florida 33607
(813) 281-2222 Tel
(813) 281-0129 Fax

**Nabors
Giblin &
Nickerson** P.A.
ATTORNEYS AT LAW

TALLAHASSEE
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308
(850) 224-4070 Tel
(850) 224-4073 Fax

February 14, 2007

VIA E-MAIL

David Owen, Esq.
Lee County Attorney
2115 Second Street
Fort Myers, Florida 33901

RE: \$85,000,000 Industrial Development Revenue Bonds (Lee County Community Charter Schools, LLC Project), Series 2007

Dear David:

Attached please find a proposed resolution for consideration by the Board of County Commissioners (the "Board"). Adoption of the resolution would provide the Board's limited approval to the issuance of not exceeding \$85,000,000 of its Industrial Development Revenue Bonds (Lee County Community Charter Schools, LLC Project), Series 2007, to be issued, pursuant to a plan of financing, for the benefit of the Lee County Community Charter Schools, LLC (the "Borrower"). As always, the approval of the County is extremely limited and is required by Section 147(f) of the Internal Revenue Code and Part II, Section 159, Florida Statutes. In essence, these provisions provide that an elected public body must give its approval to the issuance of private activity bonds prior to their issuance. The Board's approval is given in accordance with Section 125.01(1)(z), Florida Statutes. Please note that the Board's approval is for an amount not to exceed \$85,000,000. The Lee County Industrial Development Authority held a duly advertised public hearing and adopted an inducement resolution for the amount of \$75,000,000 on November 28, 2006. Subsequent to that date, the Borrower requested the Authority to increase the amount to \$85,000,000. This increase requires the Authority to advertise and hold another hearing on February 16, 2007, but an additional inducement resolution is not necessary. The affidavit of publication for the increased amount is attached to the Board's resolution as Exhibit B.

Section 3 of the Board's resolution makes it clear that the approval being given by the Board is limited and, importantly, that the Board is not incurring any liability as a result thereof.

Please let us know whether or not it will be necessary to have any representatives from the Authority, the Company or their counsel present at the meeting. Also, please provide me with a certified copy of the adopted resolution.

Once again, thank you for your assistance in this matter.

Very truly yours,

Christopher M. Traber

CMT:mbw
Attachment

RESOLUTION NO. 07-_____

A RESOLUTION APPROVING THE ISSUANCE BY THE LEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY OF ITS PRIVATE ACTIVITY REVENUE BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$85,000,000, THE PROCEEDS FROM THE SALE OF WHICH WILL BE USED FOR THE PRIMARY PURPOSE OF FINANCING ALL OR PART OF THE COST OF ACQUISITION OF CERTAIN CHARTER SCHOOL FACILITIES FOR THE BENEFIT OF LEE COUNTY COMMUNITY CHARTER SCHOOLS LLC.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LEE COUNTY, FLORIDA:

SECTION 1. FINDINGS. It is hereby ascertained, determined and declared as follows:

A. The Lee County Industrial Development Authority (the "Authority") has submitted to the Board of County Commissioners of Lee County, Florida (the "County"), a copy of an inducement resolution of the Authority which was adopted by the Authority at a special meeting held on November 28, 2006 (the "Authority Resolution"), granting its preliminary approval for the issuance by the Authority of its private activity revenue bonds (the "Bonds"), in an aggregate principal amount not to exceed \$75,000,000 for the primary purpose of financing and refinancing the costs of acquisition of certain charter school facilities located in Lee County for the benefit of Lee County Community Charter Schools, LLC. (the "Corporation"), as more particularly described in the Authority Resolution (the "Project"). A copy of the Authority Resolution is attached hereto as Exhibit A.

B. On February 16, 2007 the Authority held a public hearing, which public hearing was duly conducted by the Authority on such date upon reasonable public notice, and at which hearing members of the public were afforded reasonable opportunity to be heard on all matters pertaining to the location and nature of the Project, and the issuance of the Bonds in an amount not exceeding \$85,000,000 for such purposes (the increased amount being approved at the request of the Corporation). The Affidavit of Publication of such notice in the Fort Myers News-Press is attached hereto as Exhibit B.

C. The Authority has requested the County to approve the issuance of the Bonds in order to satisfy the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended and Section 125.01(1)(z), Florida Statutes.

D. The purposes of Part II and III of Chapter 159, Florida Statutes, will be effectively served and it is desirable and in the best interests of the County that the issuance of the Bonds and the use of the proceeds thereof to finance and refinance the costs of the Project be approved by the Board of County Commissioners of the County (the "Board").

SECTION 2. APPROVAL OF ISSUANCE OF BONDS, THE PROJECT. The issuance of the Bonds in an amount not exceeding \$85,000,000 and the use of the proceeds thereof to finance the costs of the Project as contemplated by the Authority Resolution and the public hearing notice is hereby approved.

SECTION 3. LIMITED APPROVAL. The approval given herein shall not be construed as an (i) an endorsement of the creditworthiness of the Corporation or the financial viability of the Project, (ii) a recommendation to any prospective purchaser to purchase the Bonds, (iii) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (iv) approval of any necessary rezoning applications or approval or acquiescence to the alteration of existing zoning or land use nor approval for any other regulatory permits relating to the Project, and the Board shall not be construed by reason of its adoption of this Resolution to make any such endorsement, finding or recommendation or to have waived any right of the Board or estopping the Board from asserting any rights or responsibilities it may have in such regard. Further, the approval by the Board of the issuance of the Bonds by the Authority shall not be construed to obligate the County to incur any liability, pecuniary or otherwise, in connection with either the issuance of the Bonds, the acquisition, construction and equipping of the Project, and the Authority shall so provide in the financing documents setting forth the details of the Bonds.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

ADOPTED, this ___ day of _____, 2007.

**BOARD OF COUNTY
COMMISSIONERS, LEE COUNTY,
FLORIDA**

ATTEST:

Chairman

Clerk of the Circuit Court of Lee
County and ex-officio Clerk of the
Board of County Commissioners of Lee
County, Florida

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

County Attorney

EXHIBIT A

AUTHORITY INDUCEMENT RESOLUTION

AN INDUCEMENT RESOLUTION OF THE LEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY REGARDING THE OFFICIAL ACTION OF THE AUTHORITY WITH RESPECT TO THE PROPOSED ISSUANCE BY THE AUTHORITY OF ITS REVENUE BONDS SERIES 2007 IN A PRINCIPAL AMOUNT NOT TO EXCEED \$85,000,000 FOR THE PRINCIPAL PURPOSE OF FINANCING OR REFINANCING CERTAIN COSTS INCURRED OR TO BE INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES TO BE LEASED TO LEE CHARTER FOUNDATION, INC.; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Lee Charter Foundation, Inc., a Florida not-for-profit corporation (the "Corporation") has applied to the Lee County Industrial Development Authority (the "Authority") to issue a series of its revenue bonds in the principal amount of not to exceed \$75,000,000 (the "Bonds") for the principal purpose of financing or refinancing certain costs of acquisition of certain educational facilities (the "Project") to be leased to the Corporation and costs related thereto including paying costs associated with the issuance of the Bonds; and

WHEREAS, the Corporation has requested that the Authority loan proceeds of the bonds to an entity of which the Corporation will be the sole member pursuant to Chapter 159, Parts II, III and Part VII, Florida Statutes, or such other provision or provisions of Florida law as the Authority may determine advisable (the "Act") in order to accomplish the foregoing purposes; and

WHEREAS, the issuance of the bonds and the loaning of the proceeds thereof to the Corporation to finance the costs of the Project under loan agreements or other financing agreements, and pursuant to the terms thereof which will provide that payments thereunder be at least sufficient to pay the principal of an interest on such Bonds and such other costs in connection therewith as may be incurred by the Authority, will assist the Corporation and promote the public purposes provided in the Act, and

WHEREAS, the Authority held a duly advertised public hearing on November 28, 2006, gave its preliminary approval for issuance of the Bonds, and entered into that certain Preliminary Agreement for the Issuance of Private Activity Revenue Bonds dated November 28, 2006, with the Corporation (the "Preliminary Agreement"); and

WHEREAS, the Corporation has requested that the Authority increase the Bonds to an amount not to exceed \$85,000,000; and

WHEREAS, it is intended that this Resolution shall constitute official action toward the issuance of the bonds within the meaning of the applicable United States Treasury Regulations in addition to any other action that may have heretofore been taken by the Corporation;

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, THAT:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

SECTION 2. PRELIMINARY STATEMENT. This Resolution is entered into to permit the Corporation to proceed with the financing of the costs of the Project and to provide an expression of intention by the Authority, prior to the issuance of the Bonds, to issue and sell the Bonds and make the proceeds thereof available for such purposes, all in accordance with and subject to the provisions of the Act, the Constitution and other laws of the State of Florida and the laws of the United States of America, including the Code, and this Resolution, but subject in all respects to the terms of the Preliminary Agreement.

SECTION 3. APPROVAL OF THE FINANCING. The financing of the costs of the Project by the Authority through the issuance of the Bonds, pursuant to the Act, will promote the economic development, prosperity, health and welfare of the citizens of Lee County, will promote the general economic structure of Lee County, and will thereby serve the public purposes of the Act and is hereby preliminarily approved, subject, however, in all respects to the Corporation meeting the conditions set forth in the Preliminary Agreement to the sole satisfaction of the Authority.

SECTION 4. AUTHORIZATION OF THE BONDS. There is hereby authorized to be issued and the Authority hereby determines to issue the Bonds, if so requested by the Corporation and subject in all respects to the conditions set forth in the Preliminary Agreement, in an aggregate principal amount not to exceed \$85,000,000 for the principal purpose of financing the costs of the Project as described in the Preliminary Agreement. The rates of interest payable on the Bonds shall not exceed the maximum rate permitted by law.

SECTION 5. GENERAL AUTHORIZATION. The Chairman and the Vice-Chairman are hereby further authorized to proceed with the undertakings provided for therein on the part of the Authority and are further authorized to take such steps and actions as may be required or necessary in order to cause the Authority to issue the Bonds subject in all respects to the terms and conditions set forth in the Preliminary Agreement authorized hereby.

SECTION 6. OFFICIAL ACTION. This resolution is an official action of the Authority toward the issuance of the Bonds, as contemplated in the Preliminary

Agreement, in accordance with the purpose of the laws of the State of Florida and the applicable United States Treasury Regulations.

SECTION 7. LIMITED OBLIGATIONS. The Bonds and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of Lee County, the State of Florida or any political subdivision or agency thereof but shall be payable solely from the revenues pledged therefore pursuant to a loan agreement or other financing agreement entered into between the Authority and the Corporation prior to or contemporaneously with the issuance of the Bonds. The Authority has no taxing power.

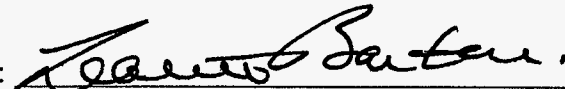
SECTION 8. LIMITED APPROVAL. The approval given herein shall not be construed as an approval or endorsement of approval of any necessary rezoning applications nor for any other regulatory permits relating to the Project and the Authority shall not be construed by reason of its adoption of this resolution to have waived any right of Lee County or estopping Lee County from asserting any rights or responsibilities it may have in that regard.

SECTION 9. EFFECTIVE DATE. This Resolution shall take effect immediately.

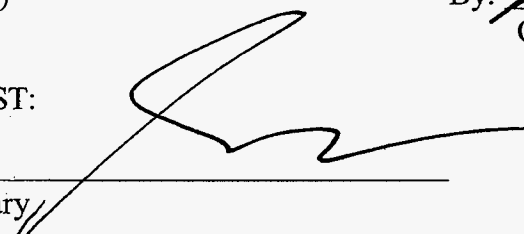
ADOPTED this 16th day of February, 2007.

**LEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**

(SEAL)

By: 
Chairman

ATTEST:


Secretary

RESOLUTION NO. 2006-_____

AN INDUCEMENT RESOLUTION OF THE LEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY REGARDING THE OFFICIAL ACTION OF THE AUTHORITY WITH RESPECT TO THE PROPOSED ISSUANCE BY THE AUTHORITY OF ITS REVENUE BONDS SERIES 2007 IN A PRINCIPAL AMOUNT NOT TO EXCEED \$75,000,000 FOR THE PRINCIPAL PURPOSE OF FINANCING OR REFINANCING CERTAIN COSTS INCURRED OR TO BE INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN EDUCATIONAL FACILITIES TO BE LEASED TO LEE CHARTER FOUNDATION, INC.; AUTHORIZING THE EXECUTION AND DELIVERY OF A PRELIMINARY AGREEMENT BETWEEN THE AUTHORITY AND SAID CORPORATION; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, Lee Charter Foundation, Inc., a Florida not-for-profit corporation (the "Corporation") has applied to the Lee County Industrial Development Authority (the "Authority") to issue a series of its revenue bonds in the principal amount of not to exceed \$75,000,000 (the "Bonds") for the principal purpose of financing or refinancing certain costs of acquisition of certain educational facilities (the "Project") to be leased to the Corporation and costs related thereto including paying costs associated with the issuance of the bonds; and

WHEREAS, the Corporation has requested that the Authority loan proceeds of the bonds to an entity of which the Corporation will be the sole member pursuant to Chapter 159, Parts II, III and Part VII, Florida Statutes, or such other provision or provisions of Florida law as the Authority may determine advisable (the "Act") in order to accomplish the foregoing purposes; and

WHEREAS, the issuance of the bonds and the loaning of the proceeds thereof to the Corporation to finance the costs of the Project under loan agreements or other financing agreements, and pursuant to the terms thereof which will provide that payments thereunder be at least sufficient to pay the principal of and interest on such Bonds and such other costs in connection therewith as may be incurred by the Authority, will assist the Corporation and promote the public purposes provided in the Act; and

WHEREAS, the Corporation has submitted that certain Preliminary Agreement for the Issuance of Private Activity Revenue Bonds of even date herewith (the "Preliminary Agreement") relating to the issuance of the Bonds; and

WHEREAS, it is intended that this Resolution shall constitute official action toward the issuance of the bonds within the meaning of the applicable United States Treasury Regulations in addition to any other action that may have heretofore been taken by the Corporation;

NOW, THEREFORE, BE IT RESOLVED BY THE LEE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY, THAT:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of the Act and other applicable provisions of law.

SECTION 2. PRELIMINARY STATEMENT. This Resolution is entered into to permit the Corporation to proceed with the financing of the costs of the Project and to provide an expression of intention by the Authority, prior to the issuance of the Bonds, to issue and sell the Bonds and make the proceeds thereof available for such purposes, all in accordance with and subject to the provisions of the Act, the Constitution and other laws of the State of Florida and the laws of the United States of America, including the Code, and this Resolution, but subject in all respects to the terms of the Preliminary Agreement.

SECTION 3. APPROVAL OF THE FINANCING. The financing of the costs of the Project by the Authority through the issuance of the bonds, pursuant to the Act, will promote the economic development, prosperity, health and welfare of the citizens of Lee County, will promote the general economic structure of Lee County, and will thereby serve the public purposes of the Act and is hereby preliminarily approved, subject, however, in all respects to the Corporation meeting the conditions set forth in the Preliminary Agreement to the sole satisfaction of the Authority.

SECTION 4. EXECUTION AND DELIVERY OF PRELIMINARY AGREEMENT. The Chairman or the Vice-Chairman is hereby authorized and directed to execute, for and on behalf of the Authority, the Preliminary Agreement, in the form attached hereby as Exhibit "A", between the Authority and the Corporation providing understandings relative to the proposed issuance of the Bonds by the Authority to finance the costs of the Project in an aggregate principal amount not to exceed the lesser of (a) \$75,000,000 or (b) the amount determined by the Authority and the Corporation to be necessary to accomplish the foregoing purposes.

SECTION 5. AUTHORIZATION OF THE BONDS. There is hereby authorized to be issued and the Authority hereby determines to issue the Bonds, if so requested by the Corporation and subject in all respects to the conditions set forth in the Preliminary Agreement, in an aggregate principal amount not to exceed \$75,000,000 for the principal purpose of financing the costs of the Project as described in the Preliminary Agreement. The rates of interest payable on the Bonds shall not exceed the maximum rate permitted by law.

SECTION 6. GENERAL AUTHORIZATION. The Chairman and the vice-Chairman are hereby further authorized to proceed, upon execution of the Preliminary Agreement, with the undertakings provided for therein on the part of the Authority and are further authorized to take such steps and actions as may be required or necessary in order to cause the Authority to issue the Bonds subject in all respects to the terms and conditions set forth in the Preliminary Agreement authorized hereby.

SECTION 7. OFFICIAL ACTION. This resolution is an official action of the Authority toward the issuance of the Bonds, as contemplated in the Preliminary Agreement, in

accordance with the purposes of the laws of the State of Florida and the applicable United States Treasury Regulations.

SECTION 8. LIMITED OBLIGATIONS. The Bonds and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of Lee County, the State of Florida or any political subdivision or agency thereof but shall be payable solely from the revenues pledged therefor pursuant to a loan agreement or other financing agreement entered into between the Authority and the Corporation prior to or contemporaneously with the issuance of the Bonds. The Authority has no taxing power.

SECTION 9. LIMITED APPROVAL. The approval given herein shall not be construed as an approval or endorsement of approval of any necessary rezoning applications nor for any other regulatory permits relating to the Project and the Authority shall not be construed by reason of its adoption of this resolution to have waived any right of Lee County or estopping Lee County from asserting any rights or responsibilities it may have in that regard.

SECTION 10. EFFECTIVE DATE. This Resolution shall take effect immediately.

ADOPTED this 28th day of November, 2006.

LEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY

(SEAL)

By: Lawrence Barton
Chairman

ATTEST:

[Signature]
Secretary

**PRELIMINARY AGREEMENT FOR ISSUANCE OF
PRIVATE ACTIVITY REVENUE BONDS**

This Agreement is made as of the date set forth herein between the Lee County Industrial Development Authority, a public body corporate and politic (the "Authority") and Lee Charter Foundation, Inc., a Florida not-for-profit corporation (the "Corporation").

WITNESSETH:

1. Preliminary Statement. Among the matters of mutual understanding and inducement which have resulted in the execution of this Agreement are the following:

(a) The Act provides that the Authority may issue revenue bonds and loan the proceeds thereof to one or more persons, firms or private corporations, or use such proceeds, to defray the cost of acquiring, by purchase or construction, certain qualifying educational facilities.

(b) The Corporation is considering financing or refinancing the costs of the acquisition of educational facilities to be owned and operated by the Corporation which costs are described as:

The Gateway Charter School, the Six Mile Charter Academy, the Gateway Charter High School and the Cape Coral Charter School all located in Lee County, Florida and incur costs related thereto (hereinafter referred to as the "Project").

(c) The Corporation has applied to the Authority to issue a series of its revenue bonds in the initial aggregate principal amount not to exceed \$75,000,000 (the "Bonds") for the principal purpose of financing the costs of acquisition of the Project to be owned and operated by the Corporation and paying costs associated with the issuance of the Bonds.

(d) The Authority considers the issuance and sale of the Bonds, for the purposes hereinabove set forth, consistent with the objectives of the Act. This Agreement constitutes official action of the Authority toward the issuance of the Bonds in accordance with the purposes of the Act and the applicable United States Treasury Regulations.

2. Undertakings on the Part of the Authority. Subject to the terms hereof, the Authority agrees as follows:

(a) Subject to the Corporation providing the Authority with sufficient evidence to enable the Authority to make the findings set forth in Section 159.29 of the Act, the Authority will, subject to Section 4(g) hereof, authorize the issuance of the Bonds, in one series, in the aggregate principal amount necessary and sufficient to finance the cost of acquiring and other costs of the Project, but in all events, the principal amount of such Bonds shall not exceed the lesser of (i) the amount determined by the Authority and the Corporation necessary to accomplish the foregoing, or (ii) \$75,000,000.

(b) The Authority will cooperate with the Corporation and the purchaser of the Bonds and the Bond Counsel of the Authority with respect to the issuance and sale of the Bonds and will take such further action and authorize the execution of such documents as shall be mutually satisfactory to the Authority and the Corporation for the authorization, issuance and sale of such Bonds and the use of the proceeds thereof to finance the cost of constructing, acquiring and equipping the Project and to pay costs related to the issuance of the Bonds.

(c) The loan agreement and other financing documents (collectively, the "Financing Agreements") between the Authority and the Corporation shall, under terms agreed upon by the parties, provide for payments to be made by the Corporation in such sums as shall be necessary to pay the amounts required under the Act, including the principal of and interest and redemption premium, if any, on the Bonds, as and when the same shall become due and payable.

(d) In authorizing any issuance of the Bonds pursuant to this Agreement, the Authority will make no warranty, either expressed or implied, that the proceeds of the Bonds will be sufficient to pay all costs of acquiring, constructing and expanding the Project or that those facilities encompassed by the Project will be suitable for the purposes or needs of the Corporation.

(e) The Bonds shall specifically provide that they are payable solely from the revenues derived from the Financing Agreements or other agreements approved by the Authority. The Bonds and the interest thereon shall not constitute an indebtedness or pledge of the general credit of Lee County, the State of Florida or any political subdivision or agency thereof, and such fact shall be plainly stated on the face of each of the Bonds.

(f) Issuance of the Bonds by the Authority shall be contingent upon (i) satisfaction of all of the provisions hereof and all provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder, including the ability of and desirability by the Authority to issue obligations to finance the costs of the Project and (ii) the approval by the Board of County Commissioners of Lee County in accordance with the provisions of Section 147(f) of the Code.

3. Undertakings on the Part of the Corporation. Subject to the terms hereof, the Corporation agrees as follows:

(a) The Corporation will use reasonable efforts to insure that the Bonds in the aggregate principal amount as stated above are sold; provided, however, that the terms of such Bonds and of the sale and delivery thereof shall be mutually satisfactory to the Authority and to the Corporation.

(b) Prior to the issuance of the Bonds in the principal amount stated above, the Corporation will enter into the Financing Agreements with the Authority, the terms of which shall be mutually agreeable to the Authority and the Corporation, providing for the loan or use of the proceeds of the Bonds to finance a portion of the costs of the Project. Such Financing Agreements will provide that the Corporation will be obligated to pay the Authority (or the trustee for holders of the Bonds on behalf of the Authority, as the case may be) sums sufficient in the aggregate to enable the Authority to pay the principal of and interest and redemption

premium, if any, on the Bonds, as and when the same shall become due and payable, and all other expenses related to the issuance and delivery of the Bonds.

(c) The Corporation shall, in addition to paying the amounts set forth in the Financing Agreements, pay all applicable costs of operation, maintenance, taxes, governmental and other charges which may be assessed or levied against or with respect to the Project.

(d) To the extent not otherwise paid from Bond proceeds, the Corporation hereby agrees to pay (i) the Authority Bond Issuance Fee, (ii) all of the out-of-pocket expenses of officials and representatives of the Authority incurred in connection with the issuance of the Bonds and (iii) all fees and expenses of Counsel to the Authority.

(e) The Corporation will hold the Authority and Lee County free and harmless from any loss or damage and from any taxes or other charges levied or assessed by reason of any mortgaging or other disposition of the Project.

(f) The Corporation agrees to indemnify and defend the Authority and Lee County and hold the Authority and Lee County and any officer or employee thereof harmless against any and all claims, losses, liabilities or damages to property or any injury or death of any person or persons occurring in connection with the Project or the issuance of the Bonds and the Corporation's undertaking thereof, or in any way growing out of or resulting from this Agreement including, without limitation, all costs and expenses of the Authority and reasonable attorneys' fees incurred in the enforcement of any agreement of the Corporation contained herein, but excluding any claims, losses, liabilities or damages resulting from the Authority's willful misconduct. In the event that the Bonds are not issued and delivered, this indemnity shall survive the termination of this Agreement.

(g) The Corporation will take such further action as may be required to implement its aforesaid undertakings and as it may deem appropriate in pursuance thereof.

4. General Provisions. All commitments of the Authority under Section 2 hereof and of the Corporation under Section 3 hereof are subject to the conditions that all of the following events shall have occurred not later than December 31, 2007, or such other date as shall be mutually satisfactory to the Authority and the Corporation:

(a) The Authority shall be lawfully entitled to issue the Bonds as herein contemplated.

(b) The Authority and the Corporation shall have agreed on mutually acceptable terms for the Bonds and the sale and delivery thereof and mutually acceptable terms and conditions of any trust instruments in respect thereto and any Financing Agreements or other agreements incidental to the financing or referred to in Sections 2 and 3 hereof.

(c) Rulings satisfactory to the Corporation and the Authority as to such matters with respect to the Bonds, the Project, the Financing Agreements and any other trust instrument or instruments, if specified by the Authority and the Corporation, shall have been obtained from the Internal Revenue Service and/or the United States Treasury Department and shall be in full force and effect at the time of issuance of the Bonds.

(d) Such other rulings, approvals, consents, certificates of compliance, opinions of counsel and other instruments and proceedings satisfactory to the Corporation and the Authority as to such matters with respect to the Bonds, the Project, the Financing Agreements and any other trust instrument or instruments, as shall be specified by the Corporation or the Authority, shall have been obtained from such governmental, as well as non-governmental, agencies and entities as may have or assert competent jurisdiction over or interest in matters pertinent thereto and shall be in full force and effect at the time of issuance of the Bonds.

(e) Compliance with all applicable provisions of Chapters 159, 189, 215 and 218, Florida Statutes, and the Authority's guidelines and procedures relating to the issuance of the Bonds, the interest rates thereon, the type of purchasers of the Bonds and the terms on which the Bonds may otherwise be issued.

(f) Notwithstanding any other terms hereof, nothing contained herein shall be construed to create a binding commitment by the Authority to issue the Bonds until such time, if ever, as the Authority shall grant its final approval for the issuance of the Bonds and the final terms and provisions of the Financing Agreements. By execution hereof, the Corporation agrees that the Authority may withhold its final approval of the issuance of the Bonds in its sole discretion and shall not incur any liability whatsoever as a result of it not granting any such approval notwithstanding any other provision hereof.

(g) Receipt by the Corporation of all licenses and necessary approvals from applicable governmental authorities.

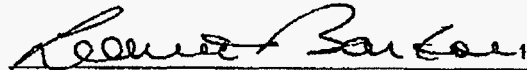
If the events set forth in this Section 4 do not take place within the time set forth or any extension thereof, the Corporation agrees that it will reimburse the Authority for all the reasonable and necessary direct or indirect expenses which the Authority has incurred or may incur at the Corporation's request arising from the execution of this Agreement and the performance by the Authority of its obligations hereunder, including reasonable legal fees and expenses for Counsel to the Authority and Bond Counsel.

5. Binding Effect. All covenants and agreements herein contained by or on behalf of the Authority and the Corporation shall bind and inure to the benefit of the respective successors and assigns of the Authority and the Corporation whether so expressed or not.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunder duly authorized as of the _____ day of _____, 2006.

**LEE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY**



Chairman

LEE CHARTER FOUNDATION, INC.



President

EXHIBIT B

**AFFIDAVIT OF PUBLICATION
OF NOTICE OF PUBLIC HEARING**

