



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

New Business - County Manager

J.3.

3/9/2021

Subject:

Approval for Florida Development Finance Corporation to Issue Solid Waste Disposal Revenue Bonds, Series 2021 (Waste Pro USA, Inc.) for a project in Brevard County, Florida

Fiscal Impact:

There is no fiscal impact on the County

Dept/Office:

County Manager

Requested Action:

Request approval for Florida Development Finance Corporation to issue Solid Waste Disposal Revenue Bonds, Series 2021 for Waste Pro USA, Inc., not-to-exceed \$1,800,000, to finance a project located in Brevard County.

Summary Explanation and Background:

The Board entered into a Joinder to Interlocal Agreement on October 26, 1999 that allows Florida Development Finance Corporation (FDFC), a public agency as defined by Chapter 288, Part X, Florida Statutes, to function within Brevard County to issue revenue bonds to finance projects in the County for the benefit of approved Florida businesses to enhance the economic development of the State of Florida.

The County has no responsibility with respect to the repayment of the Bonds. The principal and the interest on the bonds shall not constitute an indebtedness or pledge of the general credit or taxing power of the County and shall be only payable from the revenues pledged pursuant to financing agreements entered into by and among the FDFC and Waste Pro USA, Inc.

The County's Bond Counsel, Nabors, Giblin & Nickerson, has reviewed the project documentation. The Resolution proposed to be adopted by the Board meets legal requirements and provides neither the County nor any of the elected officials or staff of the County will have any obligation or liability, financial or otherwise with respect to the Waste Pro USA, Inc. project or the Bonds. The County Financial Advisor, PFM, has reviewed the project and the Bonds will be solely secured by revenues of Waste Pro USA, Inc. and will not have a negative financial impact on the County, impair the County's credit rating or impact the County's ability to issue debt in the future.

Clerk to the Board Instructions:

Return a signed copy of the Resolution to the County Manager's Office

Kimberly Powell, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001

Fax: (321) 264-6972

Kimberly.Powell@brevardclerk.us



March 10, 2021

M E M O R A N D U M

TO: Frank Abbate, County Manager

RE: Item J.3., Approval for Florida Development Finance Corporation to Issue Solid Waste Disposal Revenue Bonds, Series 2021 (Waste Pro USA, Inc.) for a Project

The Board of County Commissioners, in regular session on March 9, 2021, adopted Resolution No. 21-026, approving the issuance of Florida Development Finance Corporation Solid Waste Disposal Revenue Bonds, Series 2021 for Waste Pro USA, Inc. Project not to exceed \$1,800,000. Enclosed is a fully-executed Resolution.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

for Donna Scott
Kimberly Powell, Clerk to the Board

Encl. (1)

cc: Finance
Budget

RESOLUTION NO. 21- 026

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA APPROVING THE ISSUANCE OF FLORIDA DEVELOPMENT FINANCE CORPORATION SOLID WASTE DISPOSAL REVENUE BONDS (WASTE PRO USA, INC. PROJECT), SERIES 2021, IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$1,800,000; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Development Finance Corporation (the "Issuer") was created by the Florida Development Finance Corporation Act, Chapter 288, Part X, Florida Statutes (the "Act"), which provides, in part, that the Issuer may issue revenue bonds to finance projects for the benefit of approved Florida businesses to enhance the economic development of the State of Florida (the "State"), provided that the Issuer has entered into an interlocal agreement with the local governmental agency in which the project will be located; and

WHEREAS, the Issuer and the Board of County Commissioners of Brevard County, Florida (the "Board") have previously entered into a joinder to interlocal agreement, as amended (the "Interlocal Agreement") pursuant to the Act and the Florida Interlocal Cooperation Act of 1969, as amended, which agreement remains in full force and effect, to permit the Issuer to issue revenue bonds to finance, and refinance, projects located within the jurisdictional limits of Brevard County, Florida (the "County"), subject to the Board's consent; and

WHEREAS, Waste Pro USA, Inc. (the "Borrower") has requested the issuance of the Issuer's Solid Waste Disposal Revenue Bonds (Waste Pro USA, Inc. Project), Series 2021 (the "Bonds"), to provide financing for the acquisition, construction and equipping of solid waste disposal facilities located throughout the State of Florida and used in connection with the

disposal, conversion, or reclamation of solid waste (collectively, the "Project"); and

WHEREAS, the Project will be financed as part of an ongoing plan of financing for eligible capital projects to be used as solid waste facilities including, but not limited to, the Borrower's facilities located in the County at 699 S. Range Road, Cocoa, Florida 32926 (the "Brevard County Facilities"); and

WHEREAS, the Borrower anticipates that Bond proceeds in an amount not to exceed \$1,800,000 will be utilized to finance or refinance capital improvements to the Brevard County Facilities (the "Brevard County Project") which Brevard County Project includes, but is not limited to, the purchase of new collection vehicles and/or repairs to existing collection vehicles, solid waste collection containers and compactors, and related machinery and equipment; and

WHEREAS, the Issuer has requested that the Board authorize the Issuer to issue the Bonds to finance costs of the Brevard County Project in compliance with the provisions of the Interlocal Agreement; and

WHEREAS, as a result of the Borrower's request, and in light of the economic and public health benefits that the Brevard County Project will provide to the County, it is deemed to be in the best interest of the County that the proposed Bonds be issued in order to finance costs of the Brevard County Project.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida:

Section 1. Recitals. The foregoing recitals are true and correct and incorporated to this Resolution by this reference.

Section 2. Approval of Bonds. Solely for the purposes of the Interlocal Agreement, the Board approves the Issuer to issue the proposed Bonds in an amount not to exceed \$1,800,000 to finance the proposed Brevard County Project to be located in the County.

Section 3. Limitation. The County shall have no responsibility with respect to the repayment of the Bonds. The Bonds and the interest thereon shall not constitute an indebtedness or pledge of the general credit or taxing power of the County but shall be payable solely from the revenues pledged therefor pursuant to financing agreements entered into by and among the Issuer and the Borrower and/or parties other than the County prior to or contemporaneously with the issuance of the Bonds.

The approval given herein shall not be construed as (a) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project or the Brevard County Project, (b) a recommendation to any prospective purchaser of the Bonds, (c) an evaluation of the likelihood of the repayment of the debt service on the Bonds, or (d) an approval of any necessary rezoning applications nor for any other regulatory permits relating to the Brevard County Facilities or the Brevard County Project and the County shall not be construed by reason of its adoption of this resolution to have made any such endorsement, finding or recommendation or to have waived any of the County's rights or estopping the County from asserting any rights or responsibilities it may have in that regard.

Section 4. Indemnification. The receipt of the Indemnification Certificate attached hereto as Exhibit A and incorporated hereby by reference is a material inducement to the Board in granting the approvals set forth herein.

Section 5. Repealing Clause. All restrictions or resolutions or portions thereof in conflict herewith are, to the extent of such conflict, superseded and repealed.

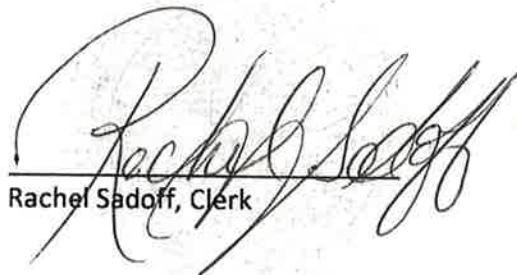
Section 6. Effective Date. This Resolution shall take effect immediately upon its adoption.

[Remainder of Page Intentionally Left Blank]

DONE, ORDERED, AND ADOPTED in Regular Session this 9th day of March, 2021.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA**



Rachel Sadoff, Clerk

By: 
Rita Pritchett, Chair

As approved by the Board March 9, 2021

EXHIBIT A

EXHIBIT A

INDEMNIFICATION CERTIFICATE

The undersigned hereby certifies that he or she is authorized to execute and deliver this Indemnification Certificate and further represents, in the name of and on behalf of Waste Pro USA, Inc. (the "Indemnitor"), the following:

(1) At the request of the Indemnitor, the Florida Development Finance Corporation (the "Issuer") proposes to issue its tax-exempt revenue bonds in an aggregate principal amount not to exceed \$110,000,000, in one or more series issued at one or more times (collectively, the "Bonds"), a maximum of \$1,800,000 of the proceeds of which are to be used to finance all or a portion of the cost of various capital improvements to the Indemnitor's solid waste facilities located at 699 S. Range Road, Cocoa, Florida 32936, including but not limited to, the purchase of new collection vehicles and/or repairs to existing collection vehicles, solid waste collection containers and compactors, and related machinery and equipment (collectively, the "Project");

(2) The issuance of the Bonds to finance the Project: (a) is appropriate to the needs and circumstances of, and will make a significant contribution to the economic growth of the community in which it is located, (b) will provide or preserve gainful employment, and (c) will promote commerce and economic development within the State of Florida;

(3) Brevard County, Florida (the "County") will continue to be able to cope satisfactorily with the impact of the Project and will be able to provide, or cause to be provided when needed, the public facilities, including utilities and public services, that will be necessary for the operation, repair, and maintenance of the Project and on account of any increases in population or other circumstances resulting therefrom;

(4) The Indemnitor has requested the Board of County Commissioners (the "Board") of the County approve the issuance of the Bonds for purposes of complying with federal tax law and Section 163.01, Florida Statutes; and

(6) The County desires indemnification from the Indemnitor as a material inducement to the Board holding granting the foregoing approval.

NOW THEREFORE, THE UNDERSIGNED, ON BEHALF OF THE INDEMNITOR, DOES HEREBY: Agree to defend the County and its officials, employees, attorneys and agents and the members of the Board, and hold the County and its officials, employees, attorneys and agents and the members of the Board, 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 issuance of the Bonds or the acquisition, development, construction rehabilitation, ownership or operation of the Project by or on behalf of the Indemnitor, including in the case of any and all negligence of such indemnitee, or in any way growing out of or resulting from the Project or from

the issuance, sale or delivery of the Bonds, including, but not limited to, liabilities or costs arising under the Internal Revenue Code of 1986, as amended, the Securities Act of 1933, the Securities Exchange Act of 1934 or any applicable securities law of the State of Florida, including, without limitation, all costs and expenses of the County, including reasonable attorneys' fees, incurred in connection therewith.

IN WITNESS WHEREOF, the Indemnitors have executed this Indemnification Certificate this 24th day of February, 2021.

WASTE PRO USA, INC.

By: Cort Sabina

Name: Cort Sabina

Title: CEO

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MEMORANDUM

TO: Eden Bentley, Brevard County Attorney
Frank Abbate, Brevard County Manager

FROM: Steven E. Miller, Esq.

DATE: February 26, 2021

RE: Review of Legal Documentation for the Florida Development Finance Corporation Solid Waste Disposal Revenue Bonds (Waste Pro USA, Inc. Project), Series 2021

The Florida Development Finance Corporation ("FDFC") is proposing to issue tax-exempt private activity bonds (the "Bonds") in order to finance and/or refinance various capital improvements to certain solid waste facilities of Waste Pro USA, Inc., located at 699 S. Range Road, Cocoa, Florida 32926 (the "Project"), as more particularly described in the materials provided by FDFC and included in the agenda package for the March 9, 2021 meeting of the Board of County Commissioners (the "BOCC"). Proceeds of the Bonds will be loaned to Waste Pro USA, Inc. (the "Borrower"). The Borrower will own the Project and will be responsible for payment of debt service on the Bonds. The Project will be operated by the Borrower or an affiliate of the Borrower.

In order to comply with certain federal and state law requirements with respect to the issuance of private activity bonds such as the Bonds, a public hearing is required to be held with respect to the Project and the issuance of the Bonds and the BOCC is required to adopt a resolution providing limited approval of the issuance of the Bonds. FDFC will hold the required public hearing on March 4, 2021. You have asked Nabors, Giblin & Nickerson, PA, as Bond Counsel to the County, to review the documentation provided to the County by FDFC to ensure that it satisfies the applicable legal requirements and to confirm that the County has no obligation, financial or otherwise, with respect to the Project or the Bonds.

We have reviewed all of the relevant documentation and provided various comments to counsel for FDFC. Our comments have been addressed and, from the County's standpoint, all of the documentation provided is now legally sufficient. The resolution proposed to be adopted by the BOCC satisfies the pertinent federal and state law requirements and provides that neither the County nor any of the elected officials or staff of the County will have any obligation or liability, financial or otherwise, with respect to the Project or the Bonds.

cc: Christine Schverak
Kathy Wall

From: Jay Glover <GLOVERJ@pfm.com>

Sent: Friday, February 12, 2021 2:35 PM

To: Schverak, Christine <Christine.Schverak@brevardfl.gov>; Wall, Katherine <Katherine.Wall@brevardfl.gov>; Miller, Steve <smiller@ngn-tampa.com>

Subject: RE: FDFC -- Waste Pro and Roswell

We are the financial advisor to FDFC. As they are a conduit issuer, PFM reviews the financing to ensure it meets their issuance guidelines. And yes PFM gets a fee to do so. I think they are generally in the \$15,000 range. PFM does not represent the actual borrow (Roswell and Waste Pro). In both cases each of these entities have their own advisors that structure the deal and present them to FDFC.

So I don't think there is any conflict by PFM reviewing the transaction for both the County and FDFC. The review for both is to ensure it meets each of the issuance guidelines and won't have any financial impact on FDFC or the County.

I discussed this with my chief compliance officer and he agreed there was no conflict we just need to disclose the relationships to each party. So we have provided disclosures to the County and FDFC that PFM represents both entities

Just to re-iterate, PFM does not have any relationship with Roswell or Waste Pro.

I hope this clarifies but happy to get on the phone to discuss.



February 17, 2021

Memorandum

To: Frank Abbate, County Manager
Christine M. Schverak, Assistant County Attorney

From: Jay Glover, Managing Director – PFM Financial Advisors LLC

Re: Review of Financing Structure for the Solid Waste Disposal Revenue Bonds (Waste Pro USA, Inc. Project), Series 2021

It is our understanding that Waste Pro USA, Inc. (the "Borrower") has requested the Florida Development Finance Corporation (the "Issuer") issue not to exceed \$1,800,000 Solid Waste Disposal Revenue Bonds (Waste Pro USA, Inc. Project) (the "Bonds") to provide financing for the acquisition, construction and equipping of solid waste disposal facilities located throughout the State of Florida and used in connection with the disposal, conversion, or reclamation of solid waste (collectively, the "Project"). The Project will be financed as part of an ongoing plan of financing for eligible capital projects to be used as solid waste facilities including, but not limited to, the Borrower's facilities located in Brevard County, Florida at 699 S. Range Road, Cocoa, Florida 32926. Prior to the issuance of the Bonds, Brevard County, Florida (the "County") is also required to approve their issuance. As financial advisor to the County, PFM Financial Advisors LLC (PFM) has been asked to certify that approving the issuance of the Bonds will not have a negative financial impact on the County, impair the County's credit ratings or impact the County's ability to issue debt in the future.

The Borrower and its' representatives have indicated that the plan of finance will include a limited public offering of the Bonds in minimum denominations of \$100,000 to qualified institutional buyers. The Bonds will be solely secured by revenues of the Borrower pledged pursuant to a loan agreement entered into by the Issuer prior to the issuance of the Bonds and thus the County has no financial exposure. We have reviewed all the relevant documentation and based on that review can confirm that the proposed issuance of the Bonds will not have a negative financial impact on the County.

PFM did not prepare or review any type of feasibility report related to the Borrower's ability to pay debt service on the Bonds and has no responsibility to do so. PFM also bears no liability for potential errors in the information provided by the Borrower or its' representatives.

cc: Kathy Wall, Assistant to the County Manager