



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.25.

5/4/2021

Subject:

Resolution approving the issuance by Brevard County Health Facilities Authority of Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project)

Fiscal Impact:

None.

Dept/Office:

County Attorney's Office

Requested Action:

The Brevard County Health Facilities Authority (the "Authority") is requesting that the Board approve a Resolution to allow the issuance by the Authority of tax exempt refunding revenue bonds, Series 2021, (Buena Vida Estates Project), to refund outstanding bonds and to finance the construction of 24 new independent living units and other capital improvements.

Summary Explanation and Background:

Buena Vida Estates, Inc. and B.V. Assisted Living, Inc., Florida not-for-profit corporations (herein "Buena Vida") operate a continuing care retirement community for seniors over age 65, located at 2129 W. New Have Avenue, West Melbourne, consisting of 162 independent living units, 32 assisted living units and 16 memory support units ("Main Campus"). The Authority has received a request from Buena Vida to issue tax exempt refunding revenue bonds in an amount up to \$42,000,000 (the "Bonds") to (i) refund the Authority's outstanding Series 2016 Bonds issued in connection with the Main Campus financing, (ii) finance the cost of constructing and equipping 24 new independent living units in 12 buildings, a clubhouse with pool, gas fire pit, pickle ball and bocce ball courts all located on approximately 6.63 acres at 270 Woodland Drive, West Melbourne, plus certain capital improvements at the Main Campus, and (iii) pay the cost of issuance of the Bonds (the "Project"). The proceeds of the Bonds will fully refund the Series 2016 Bonds and will reduce the interest expense for the Project. The Bonds will be unrated, long term fixed rate bonds and the offering will be limited to accredited investors in minimum denominations of \$100,000. The Bonds will be payable solely from revenues of the Project and will be secured by a first mortgage lien and by a pledge of revenues. The Bonds will not pledge the revenues or ad valorem taxes of the County or the Authority. The County's financial advisor will verify that the Bonds meet or exceed the Guidelines of the Authority. The County's Financial Advisor has reviewed the project and anticipates the funding will be within the County's debt issuance guidelines if it remains at proposed levels. (See attachment.) The County's financial advisor has also disclosed that the Housing Authority has engaged PFM Financial Advisors to review the project, and advises that there is no conflict of interest. (See attachment.)

The Authority held a public hearing on March 17, 2021, following proper publication of notice, for the

purpose of receiving public input on the proposed issue, a report on which is attached to the proposed Resolution. The proposed Resolution acknowledges the public hearing and authorizes the issuance by the Authority of Bonds. In order to issue tax exempt bonds for the Project, the Authority must receive the limited approval of the Board of County Commissioners. The Board's approval of the issuance of the Bonds by the Authority to finance costs of the Project is required by applicable federal tax law.

The County's outside bond counsel has reviewed the project and stated the following: "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." (See attachment.)

Cost Benefit Analysis provided by Brevard County Health Facilities Authority:

This issue will reduce interest expenses and provide funds to finance the acquisition and construction of 24 new independent living units and other capital improvements which will be available to Brevard County senior citizens. There is no fiscal impact to the Board of County Commissioners or the Authority. The County is only authorizing the Authority to issue the bonds under the IRS requirements for tax exempt bonds and the County shall be indemnified from the issuance of bonds and the Project.

Contact Person: Angela A. Abbott, (321) 264-0334, angelaabbott@cfl.rr.com; Steven E. Miller, (813) 281-2222, smiller@ngn-tampa.com; Jay Glover, PFM Financial Advisors LLC, (407) 406-5760, gloverj@pfm.com

Clerk to the Board Instructions:

Return a signed Resolution to the County Attorney'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

May 5, 2021

M E M O R A N D U M

TO: Eden Bentley, County Attorney

RE: Item F.25., Resolution Approving the Issuance by Brevard County Health Facilities Authority of Refunding Revenue Bonds Series 2021 (Buena Vida Estates Project)

The Board of County Commissioners, in regular session on May 4, 2021, adopted Resolution No. 21-052, approving Brevard County Health Facilities Authority (the "Authority") to allow the issuance by the Authority of Tax Exempt Refunding Revenue Bonds, Series 2021, (Buena Vida Estates Project), to refund outstanding bonds and to finance the construction of 24 new independent living units, and other capital improvements. Enclosed is a fully-executed Resolution.

Your continued cooperation is greatly appreciated.

Sincerely yours,

BOARD OF COUNTY COMMISSIONERS
RACHEL M. SADOFF, CLERK

Kimberly Powell, Clerk to the Board

/ns

Encl. (1)

cc: Finance
Budget

RESOLUTION NO. 21-052

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA APPROVING THE ISSUANCE OF NOT
EXCEEDING \$42,000,000 REFUNDING REVENUE BONDS, SERIES
2021 (BUENA VIDA ESTATES PROJECT) OF THE BREVARD COUNTY
HEALTH FACILITIES AUTHORITY; AND PROVIDING AN EFFECTIVE
DATE.**

WHEREAS, the Brevard County Health Facilities Authority (the "Authority") was created pursuant to the Health Facilities Authorities Law, Part III Chapter 154, Florida Statutes, as amended (the "Act") and an ordinance enacted by the Board of County Commissioners of Brevard County, Florida and codified in the Code of Ordinances of Brevard County, Florida at Section 54-36 *et. seq.* (the "Ordinance"), and is authorized under the Act and the Ordinance to issue revenue bonds for the purpose of financing and refinancing health care facilities for not-for-profit corporations; and

WHEREAS, the Authority, on March 17, 2021, adopted its Resolution No. 2021-01 (the "Resolution") to implement a financing plan in concept to issue its Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project) (the "Bonds") in one or more series and held a public hearing with respect to the issuance of the Bonds; and

WHEREAS, the proceeds of the Bonds will be used (i) to refund the Authority's outstanding Revenue Note, Series 2016 (the "Refunded Bonds") issued to finance life care facilities located at 2129 W. New Haven Avenue, West Melbourne, consisting of 162 independent living units, 32 assisted living units and 16 memory support units ("Main Campus"), (ii) to finance the cost of constructing and equipping 24 new independent living units in 12 buildings, a clubhouse with pool, gas fire pit, pickle ball and bocce ball courts all located on approximately 6.63 acres at 270 Woodland Drive, West Melbourne, plus certain capital improvements at the Main Campus (collectively the "Project"), and (iii) to pay the cost of issuance of the Bonds, such Project to be owned and operated by Buena Vida Estates, Inc. and B.V. Assisted Living, Inc., each a Florida not for profit corporation (jointly and severally, the "Borrower").

WHEREAS, Borrower has submitted the Indemnification Certificate attached hereto as Exhibit A; and

WHEREAS, Section 147 of the Internal Revenue Code of 1986, as amended (the "Code"), requires public approval of the Bonds and the Project by an applicable elected official (in this case, the Board), following a public hearing; and

WHEREAS, such a public hearing following the public notice required by the Code was held by the Authority, and the minutes of such public hearing are in the public record of the Authority; and

WHEREAS, at such hearing reasonable opportunity was provided for all interested individuals to express their views, both orally and in writing, concerning the issuance of the Bonds and the Project and a Report Regarding Public Hearing is attached hereto as Exhibit B (the "Report"); and

WHEREAS, the Authority considered all comments and concerns, if any, expressed by such individuals and the Board has reviewed the Report; and

WHEREAS, the Board desires to approve the Project and the issuance of the Bonds for federal tax purposes pursuant to the Resolution.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, that:

Section 1. This resolution is adopted pursuant to the provisions of the Ordinance and Section 147(f) of the Code.

Section 2. This resolution is adopted following reasonable public notice of a public hearing which was held by the Authority on March 17, 2021 with respect to the Bonds and the Project. After consideration of the Report and representations made to the County by representatives of the Authority and the Borrower and comments made to this Board, the Board hereby approves the issuance by the Authority of the Bonds in an aggregate principal amount not exceeding \$42,000,000 for the purposes expressed in the Authority's Resolution. Prior to the issuance of the Bonds, the Authority's financial advisor shall verify that the Bonds meet or exceed the Authority's guidelines.

Section 3. The approval given herein shall not be construed as: (i) an endorsement of the creditworthiness of the Borrower or the financial viability of the Project or the refunding of the Refunded Bonds, (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 endorsement, finding or recommendation or to have waived any right of the Board or to have estopped the Board from asserting any rights or responsibilities it may have in such regard.

Section 4. This resolution shall take effect immediately upon adoption.

This Resolution passed and adopted this 4th day of May, 2021.

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

(SEAL)

By: 

Rita Pritchett, Chair

Attest: 

As approved by the Board on May 4, 2021

By: 

Rachel M. Sadoff, Clerk of the Circuit Court
and Ex-Officio Clerk to the Board of
County Commissioners of Brevard
County, Florida

Reviewed for Legal Form & Content:

By: _____

Assistant County Attorney

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 Buena Vida Estates, Inc. and B.V. Assisted Living, Inc., each a Florida not for profit corporation "collectively, the "Indemnitors"), the following:

(1) At the request of the Borrower, the Brevard County Health Facilities Authority (the "Issuer") proposes to issue its tax-exempt housing revenue bonds in an aggregate principal amount not to exceed \$42,000,000, in one or more series issued at one or more times (collectively, the "Bonds"), the proceeds of which are to be used to (i) refund the Authority's outstanding Series 2016 Bonds (the "Refunded Bonds") issued in connection with the Main Campus financing, (ii) finance the cost of constructing and equipping 24 new independent living units in 12 buildings, a clubhouse with pool, gas fire pit, pickle ball and bocce ball courts all located on approximately 6.63 acres at 270 Woodland Drive, West Melbourne, plus certain capital improvements at the Main Campus (collectively, the "Project"), and (iii) pay the cost of issuance of the Bonds;

(2) The issuance of the Bonds to finance the Project and refund the Refunded Bonds: (i) 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, (ii) will provide or preserve gainful employment, (iii) will promote commerce and economic development within the State of Florida and (iv) will serve a public purpose by advancing the general welfare of the State and its people by providing for senior life care services within the meaning of Chapter 651, Florida Statutes, as amended;

(3) Brevard County, Florida (the "County") will 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) In order to finance the costs of the Project from the proceeds of the Bonds on a tax-exempt basis, it is necessary to hold a public hearing and approve the issuance of the Bonds for the purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code");

(5) The Issuer held a public hearing with respect to the issuance of the Bonds on March 17, 2021;

(6) The Borrower has requested the Board of County Commissioners (the "Board") of the County to approve the issuance of the Bonds for purposes of Section 147(f) of the Code; and

(7) The County desires indemnification from the Indemnitors as a material inducement to the Board granting the foregoing approval.

NOW THEREFORE, THE UNDERSIGNED, ON BEHALF OF THE INDEMNITORS, 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 or the Main Campus by or on behalf of the Borrower, 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 the operation of the Main Campus 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 20th day of April, 2021.

BUENA VIDA ESTATES, INCORPORATED

By: 

Name: Jim L. Ridenour

Title: President

B. V. ASSISTED LIVING, INC.

By: 

Name: Jim L. Ridenour

Title: President

EXHIBIT "B"

REPORT REGARDING PUBLIC HEARING

The Brevard County Health Facilities Authority (the "Authority"), conducted a public hearing on the proposed issuance by the Authority of not to exceed \$42,000,000 in Health Facilities Authority Refunding Revenue Bonds (Buena Vida Estate Project) Series 2021 (the "Bonds") and on the nature and location of the facilities to be financed and refinanced with the Bonds.

The Authority held the public hearing on March 17, 2021, commencing at 3:02 p.m. and closing at 3:03 p.m., at the Brevard County Agricultural Center, 3695 Lake Drive, Cocoa, Florida, pursuant to the notice of such hearing which was published on March 10, 2021, on the Authority's website and on March 10, 2021, of the County's website. A copy of the Affidavit as to publication of notice is attached hereto as Exhibit 1. Interested individuals were given the opportunity to express their views, both orally and in writing.

The following numbers of people attended the hearing or submitted written comments and were in favor of or opposed to the proposed issuance of the Bonds or the nature or location of the facilities to be refinanced with the Bonds:

Number of people in attendance:	<u>10</u>
Number of written comments:	<u>0</u>
Number of people in favor:	<u>0</u>
Number of people opposed:	<u>0</u>

Respectfully submitted this 17th day of March, 2021.


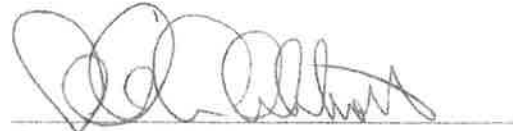

GEORGE MIKITARIAN, Chairman of
the Brevard County Health Facilities
Authority

EXHIBIT 1

AFFIDAVIT AS TO PUBLICATION OF NOTICE

I, Angela A. Abbott, Esquire, attorney for the Brevard County Housing Finance Authority (the "Authority") do hereby affirm that the documents attached hereto as Schedule 1 and Schedule 2 represent (a) a screen shot showing notice of the Authority's TEFRA public hearing scheduled for March 17, 2021, which notice was placed on the Authority's website on March 10, 2021, and (b) a screen shot showing said notice of public hearing as displayed on the Brevard County calendar of events as of March 10, 2021.

IN WITNESS WHEREOF, I have hereunto set my hand this 17th day of March, 2021.


Angela A. Abbott, Esq.

Schedule 2

Space Coast Health
Home | Department | Contact | Government | Privacy | Search & Accessibility



Public Hearings and Public Notices

Notice of Public Hearing / Brevard County Health Facilities Authority

Mar 10, 2021 11:23 AM by Angela A. Adams, PA

Notice is hereby given that the Brevard County Health Facilities Authority (the "Authority") will conduct a public hearing concerning the proposed issuance by the Authority of its Brevard County Health Facilities Authority Refunding Revenue Bonds (Bonds) under the Capital Projects Series 2021 (the "Bonds"). It is an aggregate principal amount not to exceed \$45,000,000.

Notice of Public Hearing and Public Comment - Community Development Block Grant - Coronavirus (CDBG-CV)

Mar 9, 2021 1:50 PM by Housing and Home Services

NOTICE IS HEREBY GIVEN that the Brevard County Board of County Commissioners, through the Housing and Home Services Department, will hold a public meeting to discuss the award of a Community Development Block Grant - Coronavirus (CDBG-CV) Infillment Program Application to the Florida Department of Economic Opportunity (FDOE). The meeting will be held on Monday, March 15, 2021 at 1:00 pm at the West Government Center, Florida Room, 2725 Judge Fred Jamerson Way, Bay C, The Woodlands, Florida 32940.

Documents for Download

Notice of Public Hearing - CDBG-CV
CDBG-CV
p.1 of 2

Posted to Brevard County website 3-10-21 at 2:20 p.m.

RESOLUTION 2021-01

A RESOLUTION PRELIMINARILY APPROVING THE ISSUANCE OF A NOT TO EXCEED \$42,000,000 BREVARD COUNTY HEALTH FACILITIES AUTHORITY REFUNDING REVENUE BONDS, SERIES 2021 TO (i) REFUND CERTAIN INDEBTEDNESS AND (ii) FINANCE CONSTRUCTION AND EQUIPPING OF HEALTHCARE FACILITIES IN BREVARD COUNTY; AND MAKING DETERMINATIONS AS TO OTHER MATTERS RELATED THERETO.

WHEREAS, the Brevard County Health Facilities Authority (the "Issuer") has been requested by Buena Vida Estates, Inc. (the "Corporation"), and B.V. Assisted Living, Inc. ("BVAL", and together with the Corporation, the "Borrower"), each a Florida not-for-profit corporation, which operate a "health facility" within the meaning of Chapter 154, Part II, Florida Statutes (the "Act"), to issue its Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project) (the "Series 2021 Bonds") and lend the proceeds thereof to the Borrower in order (i) to refund the outstanding Brevard County Health Facilities Authority Revenue Note, Series 2016 (Buena Vida Estates, Inc.), (ii) to finance the costs of constructing and equipping certain residential care facilities located in Brevard County, Florida (the "County"), including 24 independent living units and related facilities to be located on Woodland Avenue in West Melbourne, Florida and capital improvements to existing facilities located on West New Haven Road in West Melbourne, Florida, and (iii) to pay the costs of issuing the Series 2021 Bonds (collectively, the "Project"); and

WHEREAS, after consideration of the nature of the proposed Project at a meeting open to the public, held in accordance with all open meetings laws, the Issuer has determined that in assisting with the financing of the proposed Project, it will be acting in furtherance of the public purposes of the Act; and

WHEREAS, the most feasible method of financing the proposed Project is for the Issuer to issue its revenue bonds or other appropriate obligations for that purpose and for it to lend the proceeds from the sale of said Series 2021 Bonds to the Borrower to enable the Borrower to pay the costs of the Project, with loan repayments to be sufficient and timely to pay the principal of, premium (if any) and interest on said Series 2021 Bonds; and

WHEREAS, the Borrower has requested that the Issuer indicate its willingness to issue its Series 2021 Bonds to finance the proposed Project so that the proposed Project may proceed; and

WHEREAS, the Issuer has determined that it is in the best interest of the inhabitants of Brevard County, Florida, on behalf of which the Issuer acts, that the proposed Project proceed without delay;

WHEREAS, the issuance of the Series 2021 Bonds by the Issuer will, after a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), be considered by the Board of County Commissioners of the County, and all

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authorization herein is subject to approval by such Board of County Commissioners following such public hearing.

NOW, THEREFORE, BE IT RESOLVED as follows:

1. The Issuer hereby finds that the proposed Project will develop and promote the public good and the general welfare of the County and of the State of Florida.

2. In order to indicate the Issuer's willingness to issue its Series 2021 Bonds in an amount up to \$42,000,000 to finance, in whole or in part, the Project, the execution and delivery to the Borrower of an inducement agreement is hereby authorized, said inducement agreement to be in substantially the form attached hereto as Exhibit A, subject to such minor changes, insertions and omissions as may be approved by the Chairman or Vice Chairman of the Issuer, and the execution of said inducement agreement by the Chairman or Vice Chairman and Secretary or Assistant Secretary of the Issuer, as hereby authorized, shall be conclusive evidence of such approval.

3. The Chairman or Vice Chairman and Secretary or Assistant Secretary of the Issuer are further hereby authorized to take any and all further action and execute and deliver any and all other documents as may be necessary to issue and deliver the Series 2021 Bonds and to effect the undertaking for which the Series 2021 Bonds are proposed to be issued; provided, however, the Issuer shall adopt a Bond Resolution approving all such documents prior to the issuance of the Series 2021 Bonds.

4. It is the intention of the Issuer that this resolution constitute a declaration of "official intent" of the Issuer to reimburse the costs of the capital improvements portion of the Project with the proceeds of the Series 2021 Bonds, within the meaning of Treasury Regulations Section 1.150-2.

5. Pursuant to Section 147(f) of the Code, the Issuer has conducted a public hearing on the proposed issuance of the Series 2021 Bonds and on the nature and location of the facilities to be financed with the Series 2021 Bonds. The notice of such hearing was published on March 10, 2021, by posting the notice on the Issuer's website and the Brevard County website. Interested individuals were given the opportunity to express their views, both orally and in writing.

Adopted this March 17, 2021.

[SEAL]

**BREVARD COUNTY HEALTH
FACILITIES AUTHORITY**

By: _____

Chairman

Attest:


Judy Dizon
Secretary

198451144.11

SECRETARY'S CERTIFICATE

I, Judy Grzinski, Secretary of the Brevard County Health Facilities Authority (the "Issuer"), DO HEREBY CERTIFY that the foregoing two (2) pages of typewritten matter constitute a true and correct copy of the resolution adopted on March 17, 2021, by the Issuer in a meeting, in accordance with all open meetings laws and the procedures of the Issuer, duly called and assembled, which was open to the public and at which a quorum was present and acting throughout, and that the original of said resolution appears of public record in the Minute Book of the Issuer, which is in my custody and control.

Given under my hand and the seal of the Brevard County Health Facilities Authority, this March 17, 2021.


Secretary, Brevard County Health Facilities
Authority

(SEAL)



EXHIBIT A

Inducement Agreement

March ____, 2021

Buena Vida Estates, Inc.
2129 West New Haven Avenue
West Melbourne, Florida 32904

Re: Proposed Revenue Bond Financing

Ladies and Gentlemen:

The Brevard County Health Facilities Authority (the "Issuer") has been requested by Buena Vida Estates, Inc. (the "Corporation"), and B.V. Assisted Living, Inc. ("BVAL, and jointly and severally with the Corporation, the "Borrower") to approve, for purposes set forth herein, the issuance of revenue bonds in an aggregate principal amount not to exceed \$42,000,000 to be issued by the Issuer and to be known as the Refunding Revenue Bonds, Series 2021 (Buena Vista Estates Project) (the "Series 2021 Bonds"), the proceeds of which will be lent to the Borrower to pay the costs of (i) refunding the outstanding Brevard County Health Facilities Authority Revenue Note, Series 2016 (Buena Vida Estates, Inc.) (the "Refunding"), (ii) constructing and equipping certain capital improvements to be located in Brevard County, and (iii) to pay the costs of issuing the Series 2021 Bonds (collectively, the "Project").

As a result of our discussions with your officers and agents, we have determined that the Issuer's willingness to issue its revenue bonds or other appropriate obligations (the "Series 2021 Bonds") to assist the Borrower in financing the Refunding and the Project will develop and promote the public good and general welfare of the citizens and inhabitants of Brevard County, Florida (the "County") and the State of Florida, and it is therefore the conclusion of the Issuer that in assisting with the financing of the Refunding and the Project the Issuer will be acting in furtherance of the public purposes of Chapter 154, Part II, of the Florida Statutes, as amended (the "Act").

In order to induce the Borrower to proceed with the Refunding and the Project in the County and in order to carry out the public purposes of the Act, we hereby make the following proposals:

1. The Issuer will issue its Series 2021 Bonds in one or more series in a total principal amount not to exceed \$42,000,000 for the purpose of paying the costs of the Refunding and the Project.

2. The terms of the Series 2021 Bonds (maturity schedule, interest rates, denominations, redemption provisions, security etc.) must be satisfactory to the Borrower and the Issuer and will be set forth in a financing agreement or similar agreement to be entered into between the Issuer, the Borrower and the financial institution purchasing the Series 2021 Bonds (the "Lender") satisfactory to the Borrower.

3. (a) Simultaneously with the delivery of the Series 2021 Bonds, the Issuer will loan the proceeds from the sale of the Series 2021 Bonds to the Borrower to pay the costs of the Project, and the terms and provisions of the loan or financing agreement to be entered by the Issuer, the Borrower and the Lender in connection therewith (the "Agreement") shall be substantially in the form generally utilized in connection with such financial undertakings, as agreed upon by the Issuer, the Borrower and the Lender.

(b) The Agreement will be dated contemporaneously with the Series 2021 Bonds, and the term of the Agreement will equal or exceed the term of the issue of Series 2021 Bonds.

(c) The amounts payable by the Borrower under the Agreement will be paid directly to the Lender or a corporate bond trustee (other than fees and indemnities payable to the Issuer), at such times and in such amounts as shall be timely and sufficient to pay the principal of, redemption premium (if any) and interest on the Series 2021 Bonds as the same become due and payable. The duty of the Borrower to make all payments required under the Agreement shall be absolute and unconditional after the delivery of the Series 2021 Bonds.

(d) The proceeds from the sale of the Series 2021 Bonds to be applied to the payment of the costs of the Refunding will be applied directly to repay the refunded note. The proceeds from the sale of the Series 2021 Bonds to be applied to the payment of the costs of the Project will be deposited in a project fund and disbursed pursuant to requisitions in accordance with the requirements of the Agreement. Moneys in the project fund may be invested in any obligations which represent legal investments for proceeds of Series 2021 Bonds issued by the Issuer.

(e) The Borrower will pay any taxes, assessments or utility charges which may be lawfully levied, assessed or charged upon the Borrower, the Issuer, the Project or the facilities financed by the refunded bonds (the "Facilities") or the payments under the Agreement if such would result in a lien or charge upon the Project, the Facilities or the revenues of the Issuer therefrom.

(f) The Agreement will require the Borrower to keep the Facilities and the Project insured against loss or damage or perils generally insured against by industries similar to the Borrower and to carry public liability insurance covering personal injury, death or property damage with respect to the Facilities and Project and may permit the Borrower to be self-insured.

(g) The Agreement shall provide that in the performance of the covenants contained therein on the part of the Issuer, any obligations it may incur for the payment of money shall not be a general debt on its part or on the part of the State of Florida, Brevard County or any other political subdivision or municipality, but shall be payable solely from the specific payments

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received under such Agreement or from Bond proceeds, insurance proceeds and/or condemnation awards.

(h) The Agreement shall contain covenants providing for the indemnification of the Issuer and the individual members and officers thereof, and Brevard County, Florida, for all expenses incurred by them and for any loss suffered or damage to property or any injury or death of any person occurring in connection with the Facilities and the Project.

4. As required by Section 189.051, *Florida Statutes*, the Series 2021 Bonds will be sold in a public offering or private placement or loan transaction to an "accredited investor" under Rule 144A promulgated under the Securities Act of 1933, as amended, and Section 189.051, *Florida Statutes*, and the Series 2021 Bonds will be subject to transfer restrictions limiting the holders thereof to such accredited investors, in each case unless the Borrower arranges for the delivery of a feasibility report or independent financial advisory opinion meeting the requirements of Section 189.051(4).

5. The Issuer hereby authorizes the Borrower to proceed with the Project prior to the issuance and delivery of the Series 2021 Bonds.

6. The Issuer will assist in the prompt preparation of the Agreement, and where requested, any security deed, promissory note or guaranty agreement, which must be in form and content satisfactory to the Issuer.

7. Upon delivery of the Series 2021 Bonds, the provisions of this agreement shall have no further effect and, in the event of any inconsistency between the terms of this agreement, the Agreement, mortgage, promissory note, guaranty agreement or any other security documents, such Agreement, security deed, promissory note, guaranty agreement or other security documents shall control.

8. If for any reason the Series 2021 Bonds are not delivered within two years of the date hereof, the provisions of this agreement shall, at the option of the Issuer, to be evidenced in writing, be canceled, and neither party shall have any rights against the other, and no third parties shall have any rights against either party except:

(a) the Borrower will pay the Issuer and the County for all reasonable expenses, including legal fees, which have been incurred by the Issuer and the County in connection with the Project; and

(b) the Borrower will assume and be responsible for all contracts entered into by the Issuer at the request or direction of the Borrower in connection with the Project.

9. Whether or not the Series 2021 Bonds are issued, the Borrower will pay any out-of-pocket expenses of directors or members of the Issuer incurred in connection with the Project and the proposed issuance of the Series 2021 Bonds and will pay the legal fees and expenses of counsel and financial advisor fees and expenses for the Issuer and the County and bond counsel

{38451144.1}

related to the Project and the proposed issuance of the Series 2021 Bonds. If the Series 2021 Bonds are issued, the Borrower will pay any customary issuance fee of the Issuer.

10. The Borrower, in accepting this proposal, agrees (a) to indemnify, defend and hold the Issuer and the County and their respective individual members, officers, agents and attorneys harmless against any loss or damage to property or any injury or death of any person or persons occurring in connection with the Project or the issuance of the Series 2021 Bonds and (b) to reimburse or otherwise pay, on behalf of the Issuer, any and all reasonable and necessary expenses not hereinbefore mentioned that are incurred by the Issuer in connection with the Project or the issuance of the Series 2021 Bonds. This indemnity shall be superseded by a similar indemnity in the Agreement, and if the Series 2021 Bonds are not issued and delivered, this indemnity shall survive the termination of this agreement.

11. This agreement shall inure to the benefit of and be binding upon the Borrower and the Issuer and their respective legal representatives, successors and assigns.

If the foregoing proposal is satisfactory to you, the Borrower may so indicate by having the following acceptance executed by a duly authorized officer of the Borrower and returning a copy to the Issuer. This proposal and acceptance will then constitute an agreement in principle with respect to the matters herein contained.

Yours very truly,

**BREVARD COUNTY HEALTH
FACILITIES AUTHORITY**

By: _____

Chairman

[SEAL]

Attest:

Judy Benjaski
Secretary

ACCEPTANCE OF PROPOSAL

The terms and conditions contained in the within Inducement Agreement are hereby accepted this March 31 2021.

BUENA VIDA ESTATES, INC.

By: 
President

B. V. ASSISTED LIVING, INC.

By: 
President

From: Jay Glover <GLOVERJ@pfm.com>

Sent: Sunday, April 11, 2021 1:50 PM

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

Cc: Abbate, Frank B <Frank.Abbate@brevardfl.gov>; 'Peter Dame' <peter.dame@akerman.com>; 'Bradley White' <bwhite@whitebirdlaw.com>; Angela Abbott <angelaabbott@cfl.rr.com>

Subject: RE: Brevard County Health Facilities Authority / Buena Vida Estates

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Christine, just a reminder that this the project that the BCHFA has engaged PFM to also review on their behalf. We have disclosed to both the County and HFA the relationships. Since we do not represent Buena Vida Estates and our only role to ensure the financing meets the guidelines of the County and HFA, we do not see any conflicts of interest.

We will review all of the information and provide the County and HFA letter to meet the required deadlines.

Jay Glover
Managing Director

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MEMORANDUM

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

FROM: Steven E. Miller, Esq.

DATE: April 26, 2021

RE: Review of Legal Documentation for the Brevard County Health Facilities
Authority Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project)

The Brevard County Health Facilities Authority (the "Authority") is proposing to issue tax-exempt private activity bonds (the "Bonds") for the benefit of Buena Vida Estates, Inc. and B.V. Assisted Living, Inc. (collectively, the "Borrower") in order to (i) refund the Authority's outstanding Revenue Note, Series 2016 (Buena Vida Estates, Inc.), (ii) finance the costs of constructing and equipping certain residential care facilities of the Borrower to be located in Brevard County, Florida, including 24 independent living units and related facilities to be located on Woodland Avenue in West Melbourne, Florida and capital improvements to existing facilities of the Borrower located on West New Haven Road in West Melbourne, Florida, and (iii) pay the costs of issuing the Bonds (collectively, the "Project"), as more particularly described in the materials provided by the Authority and included in the agenda package for the May 4, 2021 meeting of the Board of County Commissioners (the "BOCC"). Proceeds of the Bonds will be loaned to the Borrower to finance the Project. The Borrower will own and operate the Project and will be responsible for payment of debt service on the Bonds.

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. The Authority held the required public hearing on March 17, 2021. You have asked Nabors, Giblin & Nickerson, PA, as Bond Counsel to the County, to review the documentation provided to the County by the Authority 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 the Authority. 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



April 20, 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 Not to Exceed \$42,000,000 Health Facilities Authority Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project)

It is our understanding that Buena Vida Estates, Inc. (the "Corporation") and B.V. Assisted Living, Inc. ("BVAL", and together with the Corporation, the "Borrower") has requested the Brevard County Health Facilities Authority (the "Authority") issue not to exceed \$42,000,000 Refunding Revenue Bonds, Series 2021 (Buena Vida Estates Project) (the "2021 Bonds") to (i) refund the outstanding Authority's Revenue Note, Series 2016 (Buena Vida Estates, Inc.), (ii) finance the costs of constructing and equipping certain residential care facilities located in Brevard County, Florida (the "County"), including 24 independent living units and related facilities to be located on Woodland Avenue in West Melbourne and capital improvements to existing facilities located on West New Haven Road in West Melbourne, (iii) capitalize a portion of the interest, (iv) fund a debt service reserve fund and (v) pay the costs of issuing the 2021 Bonds (collectively, the "Project").

As financial advisor to the County, PFM Financial Advisors LLC ("PFM") has been asked to certify that the issuance of the 2021 Bonds meets or exceeds the County's debt issuance guidelines, which require an investment grade underlying credit rating for publicly offered bonds, provided however that unrated bonds may be approved by the County provided that they are sold only to accredited investors in minimum denominations of \$100,000. We have also been asked to ensure that the proposed transaction 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 2021 Bonds will be sold as unrated bonds via a limited offering in minimum denominations of \$100,000. Therefore, it is PFM's opinion that the 2021 Bonds meets the criteria of being sold to an accredited investor as required by the County. Based on the proposed structure of the 2021 Bonds, their issuance will not have a negative financial impact on the County. Prior to the closing of the 2021 Bonds, we requested that the Borrower and its' counsel provide final documents to PFM for our review to confirm they are consistent with the terms of the transaction as outlined in this memorandum.

PFM did not prepare or review any type of feasibility report related to the Borrower's ability to pay debt service on the 2021 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: Angela Abbott, Brevard County Health Facilities Authority