

AGENDA	
Section	Public Hearing
Item No.	IV E

Meeting Date
July 25, 2017



AGENDA REPORT
 BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS

SUBJECT:	Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) hearing – Retirement Housing Foundation/Courtenay Springs Village
DEPT/OFFICE:	County Attorney’s Office, Scott L. Knox, County Attorney, 321-633-2090

Requested Action:

Hold TEFRA public hearing on proposed bond issuance by the Public Finance Authority to benefit Retirement Housing Foundation and affiliates (including Courtenay Springs Village, a retirement community located in Brevard County); adopt resolution acknowledging that the Commission has held the required public hearing.

Summary Explanation & Background:

The County Attorney’s Office has been approached by Alexis Harrington, Esq. with the firm of Hawkins Delafield & Wood, LLP, One Embarcadero Center, Suite 3820, San Francisco, CA 94111, Bond Counsel, on a deal to finance and/or refinance certain facilities owned and operated by Retirement Housing Foundation (“RHF”) or its affiliates. This transaction is part of is a larger offering to finance and/or refinance bonds, the proceeds of which will be used to benefit 8 different continuing care retirement community facilities in 4 states.

RHF is the sole corporate member of Merritt Island RHF Housing, Inc. dba Courtenay Springs Village, which owns and operates four buildings, known as Courtenay Springs Village, that include 154 residential apartments, 11 assisted living units and 80 skilled nursing beds (the “Facilities”), located within Brevard County (the “County”).

RHF desires to issue bonds (the “2017 Bonds”) through the Public Finance Authority (the “Issuer”), a governmental issuer authorized to issue bonds nationwide, to: (i) refinance all or a portion of certain bonds issued by the Issuer in 2014; (ii) finance or reimburse the costs of constructing, renovating, remodeling and/or equipping the Facilities (or other facilities owned by RHF or its affiliates), (iii) fund a debt service reserve fund to secure the 2017 Bonds and (iv) pay certain expenses incurred in connection with the issuance of the 2017 Bonds.

The only involvement of the County of Brevard in this process is to hold a TEFRA hearing per IRS Code Section 147(f) (the County does not issue the bonds). This requires publishing a notice of the hearing, holding the hearing and the Board of Commissioners passing a resolution relating to the hearing.

THE COUNTY IS NOT THE ISSUER OF THE 2017 BONDS. The 2017 Bonds do not fall under the definition of “Private activity bonds” under the Brevard County Board of County Commissioners Budget and Financial Policy (“BCC-21”) as there is no State allocation and the County is not the issuer of the Bonds. Section III(D) of BCC-21 is inapplicable to this transaction. As such, a waiver of fees outlined in Section III(D)(2) and (3) is requested upon the adoption of the resolution.

Fiscal Impact: NONE

Clerk to the Board Instructions:

Exhibits Attached:

Contract /Agreement (If attached): Reviewed by County Attorney		Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	PR	<input type="checkbox"/>
Interim County Manager	Assistant County Manager	Department Director / Extension					
Frank Abbate <i>F3a</i>	Venetta Valdengo	County Attorneys' Office					
		Scott L. Knox, County Attorney					
		Shannon L. Wilson, Deputy County Attorney					



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

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

July 26, 2017

M E M O R A N D U M

TO: Scott Knox, County Attorney

RE: Item IV.E., Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) Hearing for Retirement Housing Foundation/Courtenay Springs Village

The Board of County Commissioners, in regular session on July 25, 2017, adopted Resolution No. 17-130, to acknowledge TEFRA public hearing for bond issuance by the Public Finance Authority to benefit the Retirement Housing Foundation and affiliates (including Courtenay Springs Village, a retirement community located in Brevard County). Enclosed is a fully-executed copy of the Resolution.

Your continued cooperation is greatly appreciated.

Sincerely yours,

**BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK**

Tammy Rowe

Tammy Rowe, Deputy Clerk

/cmw

Encl. (1)

cc: County Manager

RESOLUTION NO. 17-130

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, APPROVING THE ISSUANCE OF ONE OR MORE SERIES OF REVENUE BONDS (RETIREMENT HOUSING FOUNDATION OBLIGATED GROUP) IN AN AMOUNT NOT TO EXCEED \$60,000,000 BY THE PUBLIC FINANCE AUTHORITY; APPROVING THE TEFRA HEARING RELATED TO THE ISSUANCE OF THE BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Brevard County, Florida (the "Board"), adopted Ordinance No. 77-16 on April 7, 1977, creating the Brevard County Health Facilities Authority of Brevard County, Florida (the "Authority"); and

WHEREAS, the Health Facilities Authority Law, Part III, Chapter 154, Florida Statutes (the "Act"), provides that the Authority may issue Bonds for the purpose of the Act; and

WHEREAS, the Public Finance Authority, a Wisconsin governmental entity authorized to issue bonds nationally (the "Issuer"), previously issued the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014B, the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014C, the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014D and the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014E (collectively, the "2014 Bonds"); and

WHEREAS, proceeds of the 2014 Bonds were used to, among other things, refinance the Authority's Variable Rate Demand Revenue Refunding Bonds, Series 2008 (Retirement Housing Foundation Obligated Group - Courtenay Springs Village) (the "2008 Bonds") in the original principal amount of \$19,400,000, the proceeds of which were loaned to Merritt Island RHF Housing, Inc., a Florida nonprofit corporation and an entity wholly controlled by Retirement Housing Foundation, a California nonprofit public benefit corporation (collectively referred to herein as the "Borrower") to refinance the Courtenay Springs Village project, a retirement community located in Merritt Island, Florida; and

WHEREAS, the Borrower and certain of its affiliates have requested that the Issuer issue new bonds, the Revenue Bonds (Retirement Housing Foundation Obligated Group) (the "2017 Bonds") to: (i) refinance all or a portion of the 2014 Bonds; (ii) finance or reimburse the costs of constructing, renovating, remodeling and/or equipping long-term care facilities located on one or more of the Borrower's campuses (the "Project"), (iii) fund a debt service reserve fund to secure the 2017 Bonds and (iv) pay certain expenses incurred in connection with the issuance of the 2017 Bonds; and

WHEREAS, in connection with the issuance of the 2017 Bonds, the Borrower and certain of their affiliates have requested that the Board conduct a hearing in accordance with the

Tax Equity and Fiscal Responsibility Act of 1982, 26 U.S.C. Section 147(f) (the “TEFRA Hearing”); and

WHEREAS, the Internal Revenue Code of 1986, as amended, (the “Code”) requires public approval of the bonds by the governmental unit having jurisdiction over the area in which any facility using bond proceeds is located; and

WHEREAS, the Board desires to approve the issuance of bonds in an aggregate principal amount not to exceed \$60,000,000 (of which, no more than \$25,000,000 will be used to finance and/or refinance bonds related to facilities located in Brevard County) on the terms set forth herein;

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

SECTION 1. This Resolution is adopted following reasonable public notice of a public hearing which was held by the Board on July 25, 2017, with reference to the refunding of bonds financing the Courtenay Springs Village project.

SECTION 2. For the purposes of Section 147(t) of the Code, the Board hereby approves the issuance of one or more series of revenue bonds in an amount not to exceed \$60,000,000 by the Issuer (the “Bonds”).

SECTION 3. The Board does hereby approve and confirm the holding of the TEFRA Hearing as described in the Report Regarding Public Approval.

SECTION 4. LIMITED APPROVAL. The approval given herein shall not be construed as an approval of any necessary rezoning applications nor for any other regulatory permits relating to the project and Brevard County (the “County”) shall not be construed by reason of its adoption of this Resolution to have waived any right of the Board or the Authority or estopping the County from asserting any rights or responsibilities it may have in that regard.

SECTION 5. NO FINDINGS AS TO VALIDITY OF BONDS OR VIABILITY OF PROJECTS. By the adoption of this Resolution, the Board (i) is not making any findings as to the financial or economic viability of the project or the qualification thereof for tax-exempt financing under federal or Florida law and (i) is not endorsing or making any recommendations with respect to the project, the Borrower or the Bonds for any purpose other than the public hearing and approval requirements under Section 147 of the Code.

SECTION 6. LIMITED OBLIGATIONS. The Bonds, when issued, will be special, limited obligations payable solely out of the revenues derived from loan agreements with the Borrower. Except with respect to the adoption of this Resolution, the County and the Authority have not been and will not be involved with the issuance of the Bonds, the preparation of documentation with respect thereto or the disclosure of information pertaining to the issuance thereof, and the Bonds and interest thereon shall never constitute the debt or indebtedness of the County, the State of Florida or political subdivision or municipality thereof within the meaning of any provision or limitation of the statutes or Constitution of the State of Florida.

SECTION 7. NO LIABILITY OR ENDORSEMENT. The County shall have no obligation with respect to the Bonds, and the approval given herein by the Board shall not be deemed or construed to create any obligation or liability, pecuniary or otherwise, of the County, in connection with either the Bonds or the Project in any respect whatsoever and the Issuer shall so provide in the documents related to the issuance of the Bonds. The general credit or taxing power of the County and the State or any political subdivision or public agency thereof shall not be pledged to the payment of the Bonds. No statement, representation or recital made herein shall be deemed to constitute a legal conclusion or a determination by the County that any particular action or proposed action is required, authorized or permitted under the laws of the State or the United States.

No recourse under or upon any obligation, covenant or agreement of this Resolution or the Bonds or any agreement executed in connection with the Bonds, or for any claim based thereon or otherwise in respect thereof, shall be had against any Board Member, the County Manager, the Clerk or the County Attorney or any other County staff or professionals retained by the County in connection with the issuance of the Bonds, as such, past, present or future, either directly or through the County, it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the Board Members, the County Manager, the Clerk or the County Attorney or any other staff of the County or professionals retained by the County in connection with the issuance of the Bonds, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such Board Member, the County Manager, the Clerk or the County Attorney or any other staff of the County or professionals retained by the County in connection with the issuance of the Bonds, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution on the part of the County.

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, (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 facility, 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 8. NO THIRD PARTY BENEFICIARIES. Nothing in this Resolution or in any document pursuant to which the Bonds are issued, express or implied, is intended to or shall be construed to confer upon any Person other than the Borrower any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof or of such documents; this Resolution and such documents being intended to be and being for the sole and exclusive benefit of such parties.

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

DONE, ORDERED AND ADOPTED, this 25 day of July, 2017.

BREVARD COUNTY, FLORIDA

By: Board of County Commissioners of Brevard
County, Florida

BY: _____



Curt Smith, Chairperson

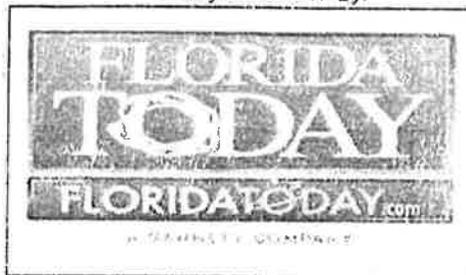
As approved by Board July 25, 2017

Attest:

By: _____



Scott Ellis, Clerk



HAWKINS DELAFIELD & WOOD LLP
1 EMBARCADERO CTR STE 3820

SAN FRANCISCO, 94111

STATE OF FLORIDA COUNTY OF BREVARD:
Before the undersigned authority personally appeared Becky Holland, who on oath says that he or she is a Legal Advertising Representative of the FLORIDA TODAY, a daily newspaper published in Brevard County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

Legal Notices

as published in FLORIDA TODAY in the issue(s) of:

07/10/17

Affiant further says that the said FLORIDA TODAY is a newspaper in said Brevard County, Florida and that the said newspaper has heretofore been continuously published in said Brevard County, Florida each day and has been entered as periodicals matter at the post office in MELBOURNE in said Brevard County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has never paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 10th of July 2017, by Becky Holland who is personally known to me

a. Bell

Adia Bell
Notary Public for the State of Florida
My Commission expires January 27, 2020

Publication Cost: \$712.82

Ad No: 6002261908

Customer No: BRE-6HD408



AD# 2261908

7/10/17

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that on July 25, 2017, a public hearing as required by Section 147(f) of the Internal Revenue Code of 1986 will be held with respect to the proposed issuance by the Public Finance Authority (the "Issuer") of its revenue bonds in one or more series in an amount not to exceed \$60,000,000 (the "Bonds"). The proceeds of the Bonds will be loaned to one or more affiliates of Retirement Housing Foundation, a California nonprofit public benefit corporation ("RHF"), as described in a Loan Agreement between the Issuer and one or more of the Borrowers (as defined below). RHF is the sole corporate member of: (i) Holly Hill RHF Housing Inc., (ii) Merritt Island RHF Housing, Inc. dba Courtenay Springs Village, (iii) Yellowwood Acres, Inc. dba Westminster Village Kentuckiana, (iv) Bluegrass RHF Housing, Inc. dba Colonial Heights, (v) Bluegrass RHF Housing, Inc. dba Colonial Gardens, (vi) DeSmet RHF Housing, Inc. and (vii) St. Catherine RHF Housing, Inc. (the entities listed in (i) through (vii) are collectively referred to as the "Borrowers"). Each of the Borrowers is a nonprofit public benefit corporation and an organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

The proceeds of the Bonds will be used to (i) current refund all or a portion of the outstanding principal amount of the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014B, the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014C, the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014D and/or the Public Finance Authority Revenue Bonds (Retirement Housing Foundation Obligated Group), Series 2014E (collectively, the "2014 Bonds"), (ii) finance or reimburse the costs of constructing, renovating, remodeling and/or equipping long-term care facilities located on one or more of the Borrowers' campuses, (iii) fund a debt service reserve fund to secure the Bonds and (iv) pay certain expenses incurred in connection with the issuance of the Bonds. The Bonds will be issued in one or more series as part of a plan of finance to provide the Borrowers with moneys to finance and/or refinance projects located in the States of Florida, Indiana, Kentucky and Missouri. The facilities being financed and/or refinanced are owned and operated by the Borrowers, respectively, and are located at the respective campuses of the Borrowers. Public approval from each of the local municipalities in which the other financed and/or refinanced facilities are located has been or will be obtained following a public notice and public hearing in each location.

The proceeds of the 2014 Bonds were used to (i) current refund the Prior Bonds (as described below) and (ii) pay certain expenses incurred in connection with the issuance of the 2014 Bonds.

The "Prior Bonds" include the (i) Volusia County Industrial Development Authority Variable Rate Demand Revenue Refunding Bonds Series 2008 (Retirement Housing Foundation Obligated Group - Bishop's Glen) (the "Volusia (Florida) Bonds"); (ii) Brevard County Health Facilities Authority Variable Rate Demand Revenue Refunding Bonds, Series 2008 (Retirement Housing Foundation Obligated Group - Courtenay Springs Village) (the "Brevard (Florida) Bonds"); (iii) Town of Clarksville, Indiana Variable Rate Demand Revenue Refunding Bonds, Series 2008 (Retirement Housing Foundation Obligated Group - Westminster Village Kentuckiana) (the "Indiana Bonds"); (iv) Kentucky Economic Development Finance Authority Variable Rate Demand Revenue Refunding Bonds, Series 2008A (Retirement Housing Foundation Obligated Group - Colonial Heights) (the "Colonial Heights Bonds"); (v) Kentucky Economic Development Finance Authority Variable Rate Demand Revenue Refunding Bonds, Series 2008B (Retirement Housing Foundation Obligated Group - Colonial Gardens) (the "Colonial Gardens Bonds," and together with the Colonial Heights Bonds, the "Kentucky Bonds"); and (vi) The Industrial Development Authority of the City of Florissant, Missouri Variable Rate Demand Revenue Refunding Bonds, Series 2008 (Retirement Housing Foundation Obligated Group - DeSmet and St. Catherine) (the "Missouri Bonds").

The facility financed and/or refinanced by the Brevard (Florida) Bonds is commonly known as "Courtenay Springs Village" located at 1100 South Courtenay Parkway, Merritt Island, Florida 32952.

The proceeds of the Brevard (Florida) Bonds were used to (i) refund the Brevard County Health Facilities Authority Revenue and Refunding Bonds, Series 1998, Select Auction Variable Rate SecuritiesSM (SAVRSB) (Retirement Housing Foundation Obligated Group - Courtenay Springs Village Project) (the "Series 1998 Bonds"); and (ii) pay certain expenses incurred in connection with the issuance of the Brevard (Florida) Bonds and the refunding of the Series 1998 Bonds, including fees for the initial credit enhancement for the Brevard (Florida) Bonds.

The proceeds of the Series 1998 Bonds were used to (i) refund the Brevard County Health Facilities Authority Revenue and Refunding Bonds (Courtenay Springs Village Project) Series 1994 (the "Series 1994 Bonds"); (ii) establish a debt service reserve fund; and (iii) pay a portion of the costs of issuance of the Series 1998 Bonds. The proceeds of the Series 1994 Bonds were used to (i) refund the Brevard County Health Facilities Authority Letter of Credit-Backed Revenue Bonds, Series 1986 (Courtenay Springs Village Project) (the "Series 1986 Bonds"); (ii) fund a portion of the debt service reserve fund for the Series 1994 Bonds; (iii) pay the cost of certain renovations at the facilities of Merritt Island RHF Housing, Inc.; (iv) repay certain taxable loans; and (v) pay certain expenses incurred in connection with the issuance of the Series 1994 Bonds.

The proceeds of the Series 1986 Bonds were used to provide a portion of the costs of a project for Merritt Island RHF Housing, Inc. consisting of the acquisition, construction and equipment of the Courtenay Springs Village facility.

The Bonds when issued will be a limited obligation of the issuer and will not constitute a general obligation or indebtedness of the Issuer, Brevard County, the States of Florida, Indiana, Kentucky or Missouri or any political subdivision thereof. The Bonds will not constitute an indebtedness for which the faith and credit and taxing powers of the States of Florida, Indiana, Kentucky or Missouri or any political subdivision thereof, are pledged to the payment of the principal, premium or interest with respect to the Bonds. The issuer has no taxing power.

The public hearing will commence at 9:00 a.m. or as soon thereafter as the matter can be heard, and will be held in County Commission Chambers in Building C, 2725 Judge Fran Jamison Way, Viera, Florida 32940. Interested persons wishing to express their views on the issuance of the Bonds or on the nature and location of the facilities proposed to be financed and/or refinanced may attend the public hearing or, prior to the time of the public hearing, submit written comments. Additional information concerning the above matter may be obtained from, and written comments addressed to Shannon L. Wilson, Deputy County Attorney, 2725 Judge Fran Jamison Way, Viera, Florida 32940.

SECTION 286.0105, FLORIDA STATUTES STATES THAT IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD, AGENCY, OR COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE OR SHE WILL NEED A RECORD OF THE PROCEEDINGS, AND THAT, FOR SUCH PURPOSE, HE OR SHE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND SECTION 286.26, FLORIDA STATUTES, PERSONS NEEDING SPECIAL ACCOMMODATIONS OR AN INTERPRETER TO PARTICIPATE IN THE PROCEEDINGS, PLEASE NOTIFY THE COUNTY MANAGER'S OFFICE NO LATER THAN 48 HOURS PRIOR TO THE MEETING AT (321) 633-2010.

Dated: July 10, 2017