

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

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

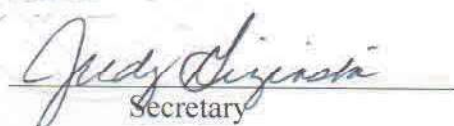
NOW, THEREFORE, BE IT RESOLVED as follows:

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]

Attest:


Secretary

{38451144;1}

**BREVARD COUNTY HEALTH
FACILITIES AUTHORITY**

By:


Chairman

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:

I. 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

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

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]

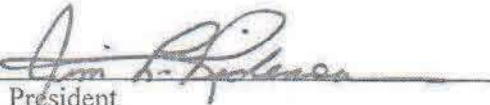
Attest:

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