

Backup is more than 50 pages and
may be reviewed in the Minutes Dept.
or the County Attorney's Office.

Agenda Item # 581

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

=====

Meeting Date:	1/11/2011	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
		<input type="checkbox"/>	Public Hearing		

Department:

Submitted By: County Attorney's Office

Submitted For:

=====

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to adopt: an authorizing resolution which, among other things, authorizes the issuance of not exceeding \$9,000,000 in aggregate principal amount of Palm Beach County, Florida Bond Anticipation Notes, Series 2011 (CCRC Pre-Development Project) (the "Notes"), approves the form of certain documents relating to the issuance of the Notes and provides an effective date.

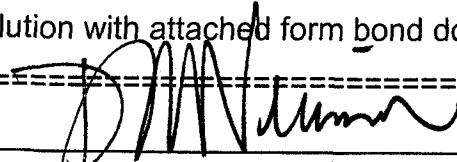
Summary: On December 21, 2010, the Board approved the application of Federation CCRC Development, LLC (the "Company") for the County to issue the Notes as non-recourse obligations to the County to finance certain pre-development costs associated with a continuing care retirement community located in Palm Beach County, Florida (the "CCRC Project"). Such pre-development costs include but are not limited to marketing, design, engineering and consulting costs relating to the CCRC Project. On December 21, 2010, the Board also held a TEFRA hearing. The CCRC Project will be located on an approximately 22 acre site located on the S.E. and N.W. corners of 95th Avenue South and Baron Coleman Boulevard in unincorporated Palm Beach County, Florida. The CCRC Project, when built, will consist of independent living units, assisted living units, memory support units and skilled nursing beds and will be owned by a Florida not-for-profit corporation owned by the Company. The Notes will be issued pursuant to the terms and provisions of a Trust Indenture the form of which is attached to the subject authorizing resolution. The Notes will be payable solely from the net proceeds of future industrial development bonds issued by the County to permanently finance the construction and equipping of the CCRC Project. **Neither the taxing power nor the faith and credit of the County, nor any County funds, shall be pledged to pay principal or redemption premium, if any, or interest of the Notes.** District 5 (PFK)

Background and Justification: The Notes will be sold only to accredited investors and secured by the net proceeds of a future bond issue and a first lien mortgage.

Attachment:

1. Authorizing Resolution with attached form bond documents.

=====

Recommended by:		12/20/10
	County Attorney	Date

Approved By: N/A

Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2010	2011	2012	2013	2014
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	<u>(\$10,000)</u>	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
NET FISCAL IMPACT	<u>(\$10,000)</u>	_____	_____	_____	_____
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included In Current Budget?

Yes ☐ No ☒

Budget Account No.:
Unit _____

Fund _____
Object _____

Department _____
Reporting Category _____

B. Recommended Sources of Funds/Summary of Fiscal Impact: All costs to be borne by Applicant. No fiscal impact cost to Palm Beach County. Palm Beach County will receive \$10,000 in industrial development revenue bond fees as well as legal fees for services rendered in reviewing this project.

C. Departmental Fiscal Review:

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Signature] 12/20/2010
OFMB
12/16/10

[Signature] 12/21/10
Contract Dev. and Control

B. Legal Sufficiency:

[Signature] 12/13/10
Assistant County Attorney

At the time of our review,
Exhibits were not
available.

C. Other Department Review:

Department Director

THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT.

RESOLUTION NO. R-2011-_____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE NEGOTIATED SALE OF ITS PALM BEACH COUNTY, FLORIDA, BOND ANTICIPATION NOTES, SERIES 2011 (CCRC PRE-DEVELOPMENT PROJECT) (THE "NOTES"), IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$9,000,000; APPROVING THE ISSUANCE OF THE NOTES WITHIN THE MEANING OF SECTION 147(f) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED; DETERMINING CERTAIN DETAILS OF SAID NOTES; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT, A TRUST INDENTURE, A NOTE PLACEMENT AGREEMENT AND A MORTGAGE AND SECURITY AGREEMENT; APPROVING THE FORM OF THE PRIVATE PLACEMENT MEMORANDUM FOR THE NOTES; APPROVING THE PLACEMENT AGENT AND THE TRUSTEE; AUTHORIZING THE REGISTRATION OF THE NOTES UNDER A BOOK-ENTRY SYSTEM; AUTHORIZING THE PROPER OFFICERS OF THE COUNTY TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE AS TO THE SALE AND DELIVERY OF THE NOTES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Federation CCRC Development, LLC, a Florida limited liability company (the "Company") has submitted an application requesting that Palm Beach County, Florida (the "County") issue its Bond Anticipation Notes, Series 2011 (Pre-Development CCRC Project) (the "Notes") to pay certain pre-development costs of the CCRC Project (as defined below) including, but not limited to, marketing, design, engineering, consulting and other costs relating to a continuing care retirement community sponsored by the Jewish Federation of South Palm Beach County (the "CCRC Project") and to pay the costs of issuing the Notes, which application was approved by the Board (as defined below) on December 21, 2010; and

WHEREAS, there was published, at least fourteen (14) days prior to the Public Hearing (as defined below), a notice of such hearing, proof of publication of such notice being attached hereto as Exhibit A; and

WHEREAS, on December 21, 2010, the Board of County Commissioners of Palm Beach County, Florida, as the governing body of the County (the "Board") held a public hearing (the "Public Hearing") regarding the proposed financing of all or a portion of the pre-development costs described above relating to the proposed CCRC Project through the issuance by the

County of the Notes, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, it is intended that this Resolution shall constitute the approval of the issuance of the Notes required by Section 147(f) of the Code; and

WHEREAS, the County shall loan the net proceeds of the Notes to the Company pursuant to the terms and provisions of that certain Loan Agreement, expected to be dated January 15, 2011 (the "Agreement"), in substantially the form attached hereto as Exhibit B by and between the County and the Company; and

WHEREAS, pursuant to the terms and provisions of that certain Trust Indenture, expected to be dated as of January 15, 2011 (herein, the "Trust Indenture"), in substantially the form attached hereto as Exhibit C, by and between the County and BB&T, as trustee (the "Trustee"); and

WHEREAS, pursuant to the terms and provisions of that certain Mortgage and Security Agreement expected to be dated as of the date of issuance of the Notes (herein, the "Mortgage Agreement"), in substantially the form attached hereto as Exhibit D, from the Company in favor of the Trustee; and

WHEREAS, in addition to the proof of publication of the Public Hearing, the Agreement, the Trust Indenture, and the Mortgage Agreement, there has been prepared and submitted to the Board the following:

1. Note Placement Agreement in substantially the form attached hereto as Exhibit E, by and among the County, the Company, and Herbert J. Sims & Co., Inc., as Placement Agent (herein, the "Note Placement Agreement"); and
2. Draft Private Placement Memorandum to be used in connection with the offering and sale of the Notes (herein, the "Offering Memorandum") in substantially the form attached hereto as Exhibit F.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

SECTION 1. RECITALS. That the recitals set forth above are adopted by the Board as the findings of the County and are incorporated herein.

SECTION 2. DEFINITIONS. That all capitalized terms used in this Resolution not otherwise defined shall have the meanings ascribed to such terms in the Trust Indenture, unless the context clearly indicates otherwise.

SECTION 3. TEFRA APPROVAL. The Notes are hereby approved within the meaning of Section 147(f) of the Code.

SECTION 4. PURPOSES AND NOTE DESIGNATION. That the County hereby authorizes and determines at this time (i) to issue not exceeding \$9,000,000 in the aggregate principal amount of its Notes for the purpose of financing all or a portion of the pre-development costs of the CCRC Project, (ii) to pay a portion of the costs of issuing the Notes and (iii) to designate such Notes as its Bond Anticipation Notes, Series 2011 (CCRC Pre-Development Project)." Since the Notes are issued pursuant to 215.431, Florida Statutes, the County, subject to its policies and procedures and subsequent proceedings of the Board, hereby authorizes the issuance of Industrial Development Revenue Bonds (CCRC Project) in a principal amount necessary to refinance the principal of and accrued interest on the Notes on or before the maturity date of the Notes. Such bonds shall be limited obligations of the County and payable and secured in such manner acceptable to County, the underwriters of such bonds and the Company or its assigns.

SECTION 5. LOAN AGREEMENT. That the form, terms and provisions of the Loan Agreement, substantially in the form attached hereto as Exhibit B, as submitted to this meeting, be and the same are hereby approved and accepted. Either the Chair, any other member of the Board, the County Administrator or the Debt Manager, is hereby authorized and directed to execute and deliver the Loan Agreement on behalf of the County in substantially the form submitted to this meeting, with such changes, insertions and deletions thereto as are necessary or desirable for carrying out the purposes thereof as may be approved by the County Attorney's

Office and Bond Counsel to the County, the execution of said Loan Agreement being conclusive evidence of such approval.

SECTION 6. DESCRIPTION OF THE NOTES. The Notes shall be dated the date of issuance, initially shall bear interest at an interest rate necessary to privately place the Notes but not greater than the maximum rate permitted under Florida law and such Notes are expected to mature not later than five (5) years from the date of issuance of the Notes, subject to earlier redemption. The Bonds shall be subject to optional, extraordinary optional and mandatory redemption, all as provided in the Trust Indenture.

SECTION 7. NEGOTIATED SALE. That the Board hereby finds that, based on present market conditions and the nature of the financing, it would be in the best interest of the County that the Notes be sold on a negotiated basis.

SECTION 8. TRUST INDENTURE. That the form, terms and provisions of the Trust Indenture, substantially in the form attached hereto as Exhibit C, as submitted to this meeting, be and the same are hereby approved and accepted. Either the Chair, any other member of the Board, the County Administrator or the Debt Manager, is hereby authorized and directed to execute and deliver the Trust Indenture on behalf of the County in substantially the form submitted to this meeting, with such changes, insertions and deletions thereto as are necessary or desirable for carrying out the purposes thereof as may be approved by the County Attorney's Office and Bond Counsel to the County, the execution of said Trust Indenture being conclusive evidence of such approval.

SECTION 9. MORTGAGE AGREEMENT. That the form, terms and provisions of the Mortgage Agreement, substantially in the form attached hereto as Exhibit D, as submitted to this meeting, be and the same are hereby approved and accepted.

SECTION 10. SECURITY FOR THE NOTES. That the Notes shall be secured and payable solely from the trust estate created under, and as provided in, the Trust Indenture. The Notes shall be limited obligations of the County, payable solely from such trust estate and such

Notes shall never constitute a general obligation of the County, or of the State of Florida (the "State") or any other political subdivision of the State. No property of the County is pledged for the payment of the Notes.

SECTION 11. NOTE PLACEMENT AGREEMENT. That the form, terms and provisions of the Note Placement Agreement, substantially in the form attached hereto as Exhibit E, as submitted to this meeting, be the same are hereby approved and accepted. Either the Chair, any other member of the Board, the County Administrator or the Debt Manager, is hereby authorized and directed to execute and deliver the Note Placement Agreement on behalf of the County in substantially the form submitted to this meeting, with such changes, insertions and deletions thereto as are necessary or desirable for carrying out the purposes thereof as may be approved by the Debt Manager and Bond Counsel to the County, the execution of said Note Placement Agreement being conclusive evidence of such approval. The disclosure statements of the Underwriter, as required by Section 218.385 of the Florida Statutes, to be delivered to the County prior to the execution of the Note Placement Agreement, a copy of which is attached as an exhibit to the Note Placement Agreement, will be entered into the official records of the County.

SECTION 12. PRIVATE PLACEMENT MEMORANDUM. That the form, terms and provisions of the Private Placement Memorandum (herein, the "Offering Memorandum"), in the form of the draft Offering Memorandum attached hereto as Exhibit F, with such changes as are necessary to conform to the details of the Notes and the requirements of the Note Placement Agreement, is hereby approved. The County hereby authorizes the Offering Memorandum when in final form to be used in connection with the offering and sale of the Notes. The Offering Memorandum may be modified in a manner not inconsistent with the substance thereof and the terms of the Notes as shall be deemed advisable by Bond Counsel to the County or the County Attorney's Office.

SECTION 13. TRUSTEE. That BB&T is hereby appointed as the Trustee for the Notes.

SECTION 14. PLACEMENT AGENT; DISCLOSURE STATEMENT. That the County hereby approves of the Company's selection of Herbert J. Sims & Co. as Placement Agent. The County requires that the Placement Agent submit, on or before the sale of the Notes, the disclosure statement and truth-in-bonding statement required by Section 218.385, Florida Statutes, copies of which will be attached to or incorporated in the Note Placement Agreement.

SECTION 15. BOOK ENTRY NOTES. That the Board hereby determines that the registration of the Notes be by the Book Entry System of registration. The Blanket Issuer Letter of Representations dated May 11, 1995, to evidence a Book Entry System of registration with respect to certain of the County's debt obligations and previously filed with The Depository Trust Company shall be applicable to the Notes.

SECTION 16. FURTHER AUTHORIZATIONS. That the Chair of the Board, any other member of the Board, the Clerk or any Deputy Clerk, the County Administrator and the Debt Manager, and any other authorized official of the County, be and each of them is hereby authorized and directed to execute and deliver any and all documents and instruments, to do and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution.

SECTION 17. REPEALER. That all resolutions or proceedings, or parts thereof, in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed.

SECTION 18. EFFECTIVE DATE. That this Resolution shall take effect immediately upon its adoption.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon

being put to a vote, the motion passed as follows:

Commissioner Karen T. Marcus	Chair
Commissioner Shelley Vana	Vice Chair
Commissioner Paulette Burdick	
Commissioner Steven L. Abrams	
Commissioner Burt Aaronson	
Commissioner Jess R. Santamaria	
Commissioner Priscilla A. Taylor	

The Chair thereupon declared the Resolution duly passed and adopted this _____ day
of January, 2011.

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

SHARON R. BOCK, CLERK & COMPTROLLER

By: _____
Deputy Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: Paul F. [Signature]
County Attorney

**Exhibits are voluminous
and may be reviewed
in the Minutes Department or
the County Attorney's Office**

LIST OF EXHIBITS

EXHIBIT A - Proof of Publication

EXHIBIT B – Loan Agreement

EXHIBIT C - Trust Indenture

EXHIBIT D - Mortgage Agreement

EXHIBIT E - Note Placement Agreement

EXHIBIT F - Draft Private Placement Memorandum

382,278,379v12/WPB/024144.011100