

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

Meeting Date: April 20, 2021	<input type="checkbox"/> Consent	<input type="checkbox"/> Regular
	<input type="checkbox"/> Ordinance	<input checked="checked" type="checkbox"/> Public Hearing

Department: **Department of Housing and Economic Sustainability**

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) Approve** the application of Palm Beach Day Academy, Inc. (the "Borrower") for the issuance of the County's revenue bond, entitled "Revenue Note (Palm Beach Day Academy, Inc. Project), Series 2021," in a principal amount not to exceed \$11,000,000;
- B) Conduct** a public hearing pursuant to Section 147(f) of the Internal Revenue Code concerning the proposed issuance of the Bond;
- C) Adopt** a resolution of the Board of County Commissioners of Palm Beach County, Florida (i) authorizing the issuance of the County's revenue bond, entitled "Revenue Note, (Palm Beach Day Academy, Inc. Project), Series 2021" (the "Note"), for the purpose of providing funds to make a loan to Palm Beach Day Academy, Inc. (the "Borrower") to provide funds to refinance the County's Revenue Bonds (Palm Beach Day Academy, Inc. Project), Series 2013, issued for the benefit of the Borrower and to provide funds to pay the costs of issuing the Note; (ii) authorizing the execution of a Financing Agreement; (iii) awarding the sale of the Note by a negotiated sale; (iv) authorizing officials of the County to take certain action in connection with the issuance of the Note; (v) making certain other covenants and agreements in connection with the issuance of the Note; and (vi) providing an effective date.

Summary: The Borrower has applied for the issuance of an industrial development revenue bond by the County in an amount not to exceed \$11,000,000. Note proceeds will be used to refinance the County's Revenue Bonds (Palm Beach Day Academy, Inc. Project) Series 2013. The 2013 Bonds were issued to refinance earlier bonds issued by the County in 2006 and 1999 to finance capital assets for the Borrower's facilities at 241 Seaview Avenue, Palm Beach and 1901 South Flagler Drive, West Palm Beach. The Bond will be payable solely from revenues derived from the Borrower. **Neither the taxing power nor the faith and credit of the County, nor any County funds, shall be pledged to pay the principal, premium, if any, or interest on the Note.** Districts 1 and 7. (DB)

Background and Policy Issues: The Internal Revenue Code requires that certain tax-exempt debt be approved by an elected governmental agency after a public hearing. This approval does not in any way obligate the County on the Bond. The Bond is being purchased by Boston Private Bank & Trust Company.

Attachments:

- 1. Application
- 2. Memo to Assistant County Administrator
- 3. Notice of Public Hearing
- 4. Resolution

Recommended By: <u>Jonathan Brown</u>	<u>3/19/2021</u>
Department Director	Date

Approved By: <u>[Signature]</u>	<u>4/5/2021</u>
Assistant County Administrator	Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures					
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT					

# ADDITIONAL FTE POSITIONS (Cumulative)					
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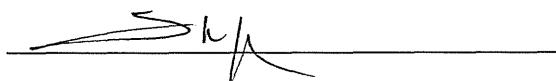
Is Item Included In Current Budget? Yes _____ No _____
 Does this Item include the use of Federal Funds? Yes _____ No _____

Budget Account No.:

Fund _____ Dept _____ Unit _____ Object _____ Program Code/Period _____

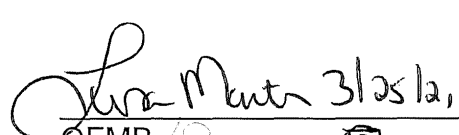

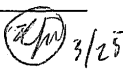
B. Recommended Sources of Funds/Summary of Fiscal Impact:

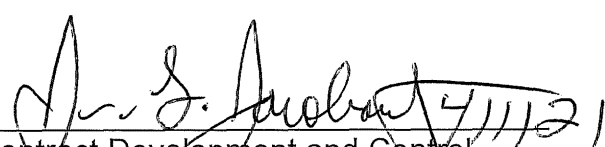
No fiscal impact

C. Departmental Fiscal Review: 


III. REVIEW COMMENTS

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


 OFMB ^{FD} 3/25/21
 3/24




 Contract Development and Control
 4-21-21 TW

B. Legal Sufficiency:


 for DG
 4/2/2021
 Assistant County Attorney

C. Other Department Review:

 Department Director



INDUSTRIAL DEVELOPMENT REVENUE BOND
PALM BEACH COUNTY, FLORIDA

APPLICATION FORM

1. Entity that will borrow the bond proceeds from the bond issuer.

Entity Name: Palm Beach Day Academy, Inc. (hereinafter "PBDA")
Address: 241 Seaview Avenue, Palm Beach, FL 33480
Telephone: (561) 655-1188
Email: wcoyle@pbday.org

This entity is referred to as the project's "principal user" for the remainder of this questionnaire.

2. Form of organization: corporation

- Is the principal user related to any other organization by more than 50% common ownership? no
- If "yes", indicate name of related organization and relationship:

3. Ownership: List all stockholders or partners having 10% or more ownership interest in the principal user:

None. PBDA is a Florida corporation not-for-profit organized on a non-stock membership basis.

4. If any of the above persons own more than 50% of the principal user, list all other organizations which are related to the principal user by virtue of such persons having more than a 50% interest in such organizations: N/A

5. Principal User Description:

PBDA commenced operations in 1921. PBDA operates a private school serving approximately 470 students in grades pre-kindergarten through 9PBDA operates two facilities, one at 241 Seaview Avenue, Palm Beach, Florida, and the other at 1901 South Flagler Drive, West Palm Beach, Florida. The administrative offices are at the Palm Beach location.

PBDA generated an unrestricted GAAP-based surplus for three of the last five years, growing total net assets by 14.8% during this period. One positive development as a result of the COVID pandemic, the Academy reached its budgeted population of 405 students prior to the start of the pandemic and has welcomed another 68 students primarily as a result of families relocating to the area. The new revenue from these families is only partly

offset by increases in operating expense resulting in increasing net assets for the Academy.

6. Issuance Amount: Indicate the specific amount of U.S. dollars being requested by the issuance of Industrial Development Revenue Bonds:

Not to exceed \$11 million.

7. Proposed Security and Guarantors: Indicate the proposed security and guarantors of the bonds:

Unsecured senior obligation of PBDA.

8. Method of Sale: Describe the proposed method of sale of the bonds:

Bank placement with Boston Private Bank & Trust Company.

9. Investment-Grade Quality Bonds: Are the prospective bond issues considered to be of investment-grade quality as defined in Palm Beach County Policies and Procedures Manual (PPM) CW-F-065, Section H?

NO

- If "no", please take note of the restrictions contained in PPM CW-F-065, Section H, including but not limited to, the requirement of an investor letter or representation of the underwriter that the initial purchasers of the bonds are qualified investors as therein defined.

The bonds will be a bank placement with Boston Private Bank & Trust Company

10. Other Parties: As available/appropriate, please provide contact information (name, title, company, email address, telephone, and address) of the following other parties to this application:

SEE ATTACHED DISTRIBUTION LIST.

11. Bond Counsel:

- Provide name and contact information for Bond Counsel:

Mark E. Raymond
8416 Man O War Road
Palm Beach Gardens, FL 33418
Tel: 561-775-8440
Email: Mark.Raymond@mraymondlaw.com

- Is Bond Counsel (or Bond Counsel Firm) listed in the latest edition of *"The Bond Buyer's Municipal Market Place Director"* (the "Red Book")?

yes

- If "no", describe how the proposed Bond Counsel (or Bond Counsel Firm) is qualified to provide such services:

12. Use of Funds: Indicate the proposed use of the issuance:

Up to \$11 million to refund the County's Revenue Bonds (Palm Beach Day Academy,

Inc. Project) Series 2013 and pay costs of issuance.

13. Location of the Project:

PBDA operates two campuses, located at 241 Seaview Ave. in the Town of Palm Beach and at 1901 South Flagler Drive in West Palm Beach. The proposed transaction will not include a "project" per se, and is primarily a refunding of the Series 2013 Bonds. However, when PBDA refinances the 2013 Bonds, it will be required to terminate an associated interest rate swap, triggering a termination fee of approximately \$6 million. In order to pay this fee, PBDA may incur a taxable conventional loan with Boston. Alternatively, if PBDA has capital expenditures that qualify for tax-exempt finance and that it would have used equity to pay, it may elect to finance these as part of the County bond issue and then use the equity to pay the termination fee, in whole or in part.

14. Project Site:

- Indicate approximate size (in acres or square feet) of project site: The two campuses aggregate about 6.2 acres.
- Are there buildings now on the project site? yes
- Indicate the present use of the project site: private school serving k-9.
- Indicate present owner of project site: PBDA

15. If the principal user now owns the project site, indicate:

- Date of Purchase: Various. School has been in operation since 1921
- Purchase Price: Various. School has been in operation since 1921.
- Holder of Mortgage: Wells Fargo Bank.
- Balance of Existing Mortgage: Approximately

16. If the principal user is not now the owner of the project site, does the principal user have an option to purchase the site and any buildings on the site? N/A

17. Has the principal user entered into a contract to purchase the site? N/A

18. If the principal user is not the owner of project site, does the principal user now lease the site or any buildings on the site? N/A

19. Is there a relationship legally or by virtue of common control or ownership between the principal user and the seller / lessor of the project site? N/A

20. Does the project involve acquisition of an existing building or buildings?

no

21. Does the project consist of the construction of a new building or buildings?

no

22. Does the project consist of additions and/or renovations to existing buildings?

no

23. What will be the use of the buildings or buildings to be acquired, constructed or expanded by the principal user for this project? N/A
24. If any space in the project is to be leased to third parties, indicate total square footage of the project, amount to be leased to each tenant, and proposed use by each tenant: N/A
25. Has construction work on this project begun? N/A
26. List principal items or categories of equipment to be acquired as part of the project: N/A
27. Has any of the above equipment been ordered or purchased? N/A
28. List the face amount of all tax-exempt financing previously arranged by or for the benefit of the principal user in Palm Beach County:

Date of Issue	Original Face	Current Outstanding
11/30/2013	\$12,000,000	\$10,125,000

29. Allocation of bond proceeds: Complete the following to detail the allocation of bond proceeds:

Description of Cost	Amount
Refinancing 2013 Bonds	\$10,125,000
Costs of Issuance	202,500
Total	\$10,325,500*

The not-to-exceed amount of \$11 million is being used to provide "cushion" in the unlikely event circumstances change and the cost to refinance the 2013 Bonds increases.

30. Have any of the above expenditures already been made by the applicant?
- no
31. Have any of the above expenditures been incurred but not paid by the principal user?
- no
32. Are costs of working capital, moving expenses, work in process, or stock in trade included in the proposed uses of bond proceeds?
- no
33. Will any of the funds to be borrowed through the County be used to repay or refinance an existing mortgage or outstanding loan?

Yes. Proceeds will be used to refinance the Series 2013 Bonds

34. List capital expenditures with respect to this project: N/A
35. List capital expenditures with respect to other facilities of the principal user or any related person, if the facilities are located in Palm Beach County: None
36. Contribution to the Local Economy: In accordance with Florida State 159.29(1), describe the nature and extent on the impact of the proposed project in Palm Beach County:

PBDA employs approximately 100 full-time equivalent employees. As a 501(c)(3) educational organization, the primary purpose of the organization is to provide a quality education to students. Thus, beyond paying operating expenses, the economic performance of the school is of secondary importance. The School is exempt from local property taxes, as with all 501(c)(3) organizations. Chapter 159 specifically recognizes that not-for-profit private schools serve a public purpose by advancing the general welfare of the State and its people through the improvement of education, and are thus qualified for financing.

37. Do any new or existing project jobs require specialized training or skills?

yes

38. Impact of the Project: In accordance with Florida Statute 159.29(3) describe how the County will 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 construction, operation, repair and maintenance of the project or that will be needed due to any increases in population or other circumstances resulting from the project.

The transaction is a refinancing of the Series 2013 Bonds and will result in none of the foregoing.

39. Does the project produce emissions through stacks or chimneys which would subject it to the jurisdiction of the Florida Department of Environmental Regulation?

no

40. Does the project produce sewage, industrial effluent, or discharge of an unusual character requiring specialized treatment?

no

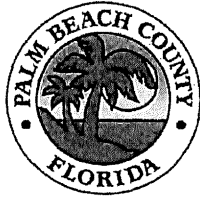


INDUSTRIAL DEVELOPMENT REVENUE BOND
PALM BEACH COUNTY, FLORIDA

APPLICATION ATTACHMENTS

Please provide the following Application Attachments:

1. Pro Forma Financial Statements
 - Preferably for 10 years
 - For a minimum of 5 years
 - Statements must
 - i. disclose the principal user's estimate of company operations resulting from the new investment
 - ii. include management discussion and analysis
 - iii. summarize significant accounting policies
 - iv. summarize significant forecast assumptions
2. Conventional Financing Statements:
 - Provided for principal user (including a parent or subsidiary)
 - Prepared in accordance with generally accepted accounting principals
 - Audited by an independent Certified Public Accountant
 - For the immediate 3 preceding years
3. Annual Report for the Principal User
4. Form 10-K filed with the Securities and Exchange Commission
 - If applicable
5. Any additional information from Application Form questions.
 - Please indicate the number of the question(s) pertaining to the additional information.



**INDUSTRIAL DEVELOPMENT REVENUE BOND
PALM BEACH COUNTY, FLORIDA**

APPLICATION ACKNOWLEDGEMENTS

By initialing and signing, the following is acknowledged

WC : Agreement with the provisions set forth in all of the following:

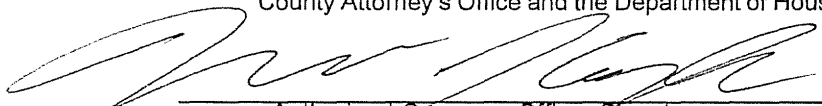
- o U.S. Internal Revenue Code Sections 103, 146, and 148; and applicable U.S. Treasury Regulations
- o Chapter 159, Florida Statutes
- o Chapter 19A-4, Florida Administrative Code
- o Palm Beach County Board of County Commissioners Resolution R2007-0927
- o Palm Beach County Board of County Commissioners Resolution R2018-0606
- o Palm Beach County Policies and Procedures Manual (PPM) CW-F-065

WC : Agreement to pay all fees costs payable to the Palm Beach County Department of Housing and Economic Sustainability and the County Attorney's Office prior to and post- closing

WC : At, or as soon as possible after, the Bond Closing the principal user will provide the County Attorney's Office with 1 complete bond transcript bound hard copy and 3 complete bond transcript electronic copy

- o Bond transcripts will be provided at the principal users' own expense

WC : The principal user will submit Form BF2006-G (Notice of Intent to Issue Bonds and Request for Written Confirmation) to the State of Florida Division of Bond Finance and provide a copy to the County Attorney's Office and the Department of Housing and Economic Sustainability



Authorized Company Officer Signature

William Coyle

Print Name

Director of Finance and Operations

Title

February 1, 2021

Date



Interoffice Memorandum

Date: March 1, 2021

To: Dorritt M. Miller, Assistant County Administrator

From: Sherry Howard *Sherry Howard*
Deputy Director, Department of Housing and Economic Sustainability

Re: Industrial Development Revenue Bond Application
Palm Beach Day Academy, Inc. Refund of County Revenue Bonds

Department of
Housing & Economic
Sustainability

Administration

100 Australian Avenue – Suite #500

West Palm Beach, FL 33406

(561) 233-3600

FAX: (561) 233-3651

www.discover.pbcgov.org

Palm Beach County
Board of County
Commissioners

Dave Kerner, Mayor

Robert S. Weinroth, Vice Mayor

Maria G. Marino

Gregg K. Weiss

Maria Sachs

Melissa McKinlay

Mack Bernard

County Administrator

Verdenia C. Baker

*"An Equal Opportunity
Affirmative Action Employer"*

In accordance with the Florida Industrial Development Act, 159.25 et. seq., Florida Statutes, the Palm Beach County Department of Housing and Economic Sustainability (DHES) reviewed a 2021 Industrial Development Revenue Bond application ("2021 application") submitted by Palm Beach Day Academy, Inc. ("Borrower"). The 2021 application satisfactorily requests the issuance of bonds to cover costs associated with a project as defined in 159.27, Florida Statutes.

Requested Amount

The 2021 application requests the issuance of no more than \$11,000,000 in Industrial Development Revenue Bonds.

Use of Funds

Proceeds from the sale of bond approved via the 2021 application will be used to: refinance the Borrower's existing Revenue Bonds payable and to fund the cost of issuance. The bonds will be payable from revenues and other funds available to the Borrower, and shall not be deemed to constitute a debt, liability, or obligation of the County or the State of Florida, or of any political subdivision thereof.

Appropriateness, Economic Contribution, & Public Purpose – 159.29(1), Florida Statute

The DHES-conducted Regional Economic Models Inc. (REMI) analysis of the \$11 million project indicates a positive economic impact of at least \$50.97 Million over 5 years and 142 permanent direct, indirect and induced full time equivalent jobs.

Palm Beach Day Academy, Inc. operates a private school serving approximately 470 pre-kindergarten through ninth grade students on two campuses located in Palm Beach and West Palm Beach, Florida. The school was established in 1921 as Palm Beach Day School. On July 1, 2006 through the combination of two previously separate non-profit private schools, The Academy of the Palm Beaches, Inc. and Palm Beach Day School, Inc. merged and formed Palm Beach Day Academy, Inc.

The Borrower employs 100 full time equivalent faculty to serve students on both campuses. Salaries and benefits to employees total approximately \$7 million per year.

This project will advance the economic prosperity, health, education and general welfare of the County. With more than 100 employees and 470 students, the economic impact in Palm Beach County is extensive.

Financially Responsible – 159.29(2), Florida Statute

Financial documents provided by the Borrower and reviewed by DHES demonstrate fiscal ability to meet the financial obligations of the bond issuance.

Coping with the Impact of the Project – 159.29(3), Florida Statute

As the Palm Beach Day Academy, Inc. facilities are currently built and operating, all necessary infrastructure is currently in place. The nature of the project (refinancing existing debt and renovating existing buildings) will not generate an increased impact on Palm Beach County's infrastructure.

Recommendation

Based on review and analysis of the application and applicable statutes, as well as public purpose of the project, the number of existing jobs retained, and the County's limited obligation, DHES supports the Borrower's application.

cc: Jonathan B. Brown, Director, Department of Housing and Economic Sustainability
David C. Behar, Assistant County Attorney

PUBLIC NOTICE
BOARD OF COUNTY COMMISSIONERS
PALM BEACH COUNTY, FLORIDA

Public notice is hereby given that the Board of County Commissioners of Palm Beach County, Florida (the "County"), will hold a public hearing in the Jane Thompson Memorial Chambers, 6th Floor of the Palm Beach County Governmental Center, 301 North Olive Avenue, West Palm Beach, Florida 33401, during a meeting commencing at 9:30 a.m. on April 20, 2021, or as soon thereafter as possible, on the proposed issuance by the County of its revenue note (the "Note"), in a principal amount not to exceed \$11,000,000, for the purpose of providing a loan to Palm Beach Day Academy, Inc. (the "Company"). The Note will constitute a "qualified Section 501(c)(3) Bond" as defined in Section 145 of the Internal Revenue Code of 1986. Note proceeds will be used by the Company to pay costs of issuing the Note and to refinance the County's Revenue Bonds (Palm Beach Day Academy, Inc. Project) Series 2013, which were issued to refinance the County's Tax-Exempt Adjustable Mode Revenue Bonds (Palm Beach Day Academy, Inc. Project) Series 2006 (the "Prior Bonds"). Proceeds of the Prior Bonds were used to finance the acquisition, construction and equipping of land and improvements thereon and personal property related thereto located at 241 Seaview Avenue, Palm Beach, Florida, and at 1901 South Flagler Drive, West Palm Beach, Florida, and to refund the County's Revenue Bonds (Palm Beach Day School Project) Series 1999 which were used to finance the acquisition, construction and equipping of improvements to land and personal property related thereto located at 241 Seaview Avenue, Palm Beach, Florida. All facilities refinanced with the Note will be owned and operated by the Company and used in connection with the Company's educational facilities serving grades pre-K through 9. The Note will be payable solely from revenues derived from the Company. Neither the taxing power nor the faith and credit of the County, nor any County funds, shall be pledged or used to pay the Note. All interested persons are invited to attend the public hearing, which will be the only public hearing held concerning the issuance of the Note. Any such interested parties may at their option submit written comments to the County Administrator, 11th Floor, 301 North Olive Avenue, West Palm Beach, Florida 33401, prior to the hearing. Written comments should be received by the County on or before 5:00 p.m. April 19, 2021. Any person desiring to present oral comments should appear at the hearing. If a person decides to appeal any decision made by the Commission with respect to any matter considered at this meeting or hearing, he or she will need to have a record of the proceedings and 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.

The County prohibits discrimination in all services, programs or activities on the basis of race, color, national origin, age, disability, sex, marital status, familial status, religion, or genetic information. Persons with disabilities who require assistance or alternative means for communication of program information (Braille, large print, audiotape, etc.), or who wish to file a complaint, should contact: pbaccessibility@pbcgov.org or contact the Public Affairs at (561) 355-2754.

ALL PERSONS FOR OR AGAINST THE APPROVAL CAN BE HEARD AT SAID TIME AND PLACE.

This notice is given pursuant to Section 147(f) of the Internal Revenue Code of 1986.

ATTACHMENT 3

RESOLUTION NO. R- 2021- _____

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA: (I) AUTHORIZING THE ISSUANCE OF THE COUNTY'S REVENUE BOND, ENTITLED "REVENUE NOTE, (PALM BEACH DAY ACADEMY, INC. PROJECT), SERIES 2021" (THE "NOTE"), FOR THE PURPOSE OF PROVIDING FUNDS TO MAKE A LOAN TO PALM BEACH DAY ACADEMY, INC. (THE "BORROWER") TO PROVIDE FUNDS TO REFINANCE THE COUNTY'S REVENUE BONDS (PALM BEACH DAY ACADEMY, INC. PROJECT), SERIES 2013, ISSUED FOR THE BENEFIT OF THE BORROWER AND TO PROVIDE FUNDS TO PAY THE COSTS OF ISSUING THE NOTE; (II) AUTHORIZING THE EXECUTION OF A FINANCING AGREEMENT; (III) AWARDED THE SALE OF THE NOTE BY A NEGOTIATED SALE; (IV) AUTHORIZING OFFICIALS OF THE COUNTY TO TAKE CERTAIN ACTION IN CONNECTION WITH THE ISSUANCE OF THE NOTE; (V) MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF THE NOTE; AND (VI) PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Borrower has requested Palm Beach County, Florida (the "County") to assist the Borrower by issuing the Note for the purpose of providing funds to make a loan to the Borrower (the "Loan") of the proceeds of the Note to (A) refinance the County's Revenue Bonds (Palm Beach Day Academy, Inc. Project), Series 2013 issued on April 11, 2013 (the "Refunded Bonds") and (B) pay costs associated with the issuance of the Note;

WHEREAS, Boston Private Bank & Trust Company (together with its successors and assigns as registered owners of the Note, (the "Lender") is expected to purchase the Note; and

WHEREAS, it is necessary and desirable to authorize the execution of a Financing Agreement (the "Agreement"), among the County, the Borrower and the Lender, and to specify the terms of the Note;

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

SECTION 1: AUTHORITY FOR THIS RESOLUTION

This resolution, hereinafter called the "Resolution," is adopted pursuant to Part II, Chapter 159, Florida Statutes (the "Act") and other applicable provisions of law.

SECTION 2: FINDINGS

Upon consideration of the documents described herein and the information presented to the County at or prior to the date hereof, it is hereby ascertained, determined and declared as follows:

- A.** Note proceeds will be used by the Borrower to pay costs of issuing the Note and to refinance the Refunded Bonds, which were issued to refinance the County's Tax-Exempt Adjustable Mode Revenue Bonds (Palm Beach Day Academy, Inc. Project) Series 2006 (the "Prior Bonds"). Proceeds of the Prior Bonds were used to finance the acquisition, construction and equipping of land and improvements thereon and personal property related thereto located at 241 Seaview Avenue, Palm Beach, Florida, and at 1901 South Flagler Drive, West Palm Beach, Florida, and to refund the County's Revenue Bonds (Palm Beach Day School Project) Series 1999 which were used to finance the acquisition, construction and equipping of improvements to land and personal property related thereto located at 241 Seaview Avenue, Palm Beach, Florida (collectively, the "Project"). The Project constitutes a "project" within the meaning and contemplation of the Act. The Project serves a public purpose by advancing the economic prosperity and the general welfare of the County, the State of Florida, and the people thereof. As of the date hereof, the Borrower has represented and shown that it is financially responsible and fully capable of and willing to fulfill any obligations which it may incur in connection with the Note as contemplated by this Resolution. Local government will be able to cope satisfactorily with the impact of the facilities included in 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 such facilities and on account of any increases in population or other circumstances resulting therefrom.
- B.** The Agreement will make provision for the operation, repair, and maintenance of the Project at the expense of the Borrower and for the payment of the principal and interest on the Note and all other costs incurred by the County in connection with the Note and the Project.
- C.** The County has been advised that due to the desire to coordinate the sale of the Note and due to the limited market for obligations such as the Note, it is in the best interest of the Borrower to sell the Note by negotiated sale, and the County, wishing to obtain the best interest rate on the Note for the benefit of the Borrower, has determined to sell the Note by negotiated sale to the Lender, permitting the County to enter such market at the most advantageous time, rather than at a specified advertised date, and accordingly it is in the best interest of the County that a negotiated sale of the Note be authorized.
- D.** The County conducted a public hearing concerning the issuance of the Note at the Board of County Commissioners meeting held on April 20, 2021. The notice of which hearing, inviting comments and discussion concerning the issuance of the Note by the County to refinance the Refunded Bonds, was published in *The Palm*

Beach Post, a newspaper of general circulation in Palm Beach County, Florida, on March 25, 2021 for the purpose of providing the public with an opportunity to comment on the issuance of the Note, in accordance with the requirements of Section 147(f) of the Internal Revenue Code, as amended (the "Code").

SECTION 3: AUTHORIZATION OF NOTE:

For the purpose of providing funds for the making of the Loan to the Borrower, the County hereby approves and authorizes the issuance of the Note. The Note shall be issued as fully registered Note in the principal amount not to exceed \$11,000,000, shall be dated as of the date of issuance, shall bear interest at a rate not in excess of the maximum lawful rate, shall mature not later than twenty-six years after issuance and shall have such other terms and conditions, and shall be in such form as may be approved by the Mayor, Vice-Mayor or any other member of the Board of County Commissioners of the County (the "Authorized Signatory"), such approval to be conclusively presumed by the execution thereof by the Authorized Signatory. The Note shall be issued on such date as shall be mutually agreed upon by the Lender, the Borrower and the Authorized Signatory. The County hereby authorizes and directs the Authorized Signatory to execute the Note and to deliver the same to the Lender, upon payment of the purchase price thereof, all as further provided in the Agreement.

SECTION 4: LIMITED OBLIGATION

The Note shall not be deemed to constitute a debt, liability, or obligation of the County or the State of Florida, or of any political subdivision thereof, or a pledge of the faith and credit of the County or of the State of Florida or of any political subdivision thereof, but shall be payable solely from the loan payments received from or on behalf of the Borrower. Any and all payments of any nature relating to the Note shall be payable only from amounts provided for such purpose under the Note Documents and not from any funds of the County.

SECTION 5: LIMITED LIABILITY OF ISSUER

Anything in this Resolution, the Agreement, the Note, or any other document to the contrary notwithstanding, the performance by the County of all duties and obligations imposed upon it hereby, the exercise by it of all powers granted to it hereunder, the carrying out of all covenants, agreements, and promises made by it hereunder, and the liability of the County for all warranties and other covenants hereunder, shall be limited solely to the loan payments made by the Borrower and other revenues and receipts derived from the Borrower under the Agreement, and the County shall not be required to effectuate any of its duties, obligations, powers or covenants hereunder except to the extent of such loan payments and other revenues and receipts.

SECTION 6: NO PERSONAL LIABILITY

No recourse under or upon any obligation, covenant or agreement contained in this Resolution, the Agreement, the Note, any other document or under any judgment, or by the enforcement of any assessment or by legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, under or independent of this Resolution, shall be had against any member, agent, employee or officer, as such, past, present or future, of the County, either directly or through the County, or otherwise, for the payment for or to the County or any receiver thereof, or for or to the holder of the Note or otherwise of any sum that may be due and unpaid upon the Note. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any member or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the County or any receiver thereof, or for or to the holder of the Note or otherwise, of any sum that may remain due and unpaid upon the Note is hereby expressly waived and released as a condition of and in consideration for the execution of this Resolution and the issuance of the Note.

SECTION 7: NOTE NOT A DEBT OF STATE OR ISSUER

None of the State of Florida, the County or any political subdivision thereof shall in any event be liable for the payment of the principal of or interest on the Note. The Note issued hereunder shall never constitute an indebtedness of the State of Florida or of any political subdivision of the State of Florida or of the County within the meaning of any state constitutional provisions, statutory limitation, or any other applicable law and shall never constitute or give rise to the pecuniary liability of the State of Florida or any political subdivision thereof, or of the County or a charge against their general credit. The holder of the Note shall not have the right to compel any exercise of any taxing power of the State of Florida or of any political subdivision thereof, including the County, to pay any sums in any way related to the Note or its issuance.

SECTION 8: LAWS GOVERNING

This Resolution shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Florida.

SECTION 9: THE NOTE DOCUMENTS

As used herein, the term "Note Documents" means any and all documents necessary or desirable to complete the transaction described herein, including but not limited to (i) the Agreement and (ii) the Note, all in such form and content as may be approved by the Authorized Signatory, such approval to be conclusively presumed by the execution of such documents by the Authorized Signatory. The County hereby authorizes and directs the Authorized Signatory to execute the Note Documents. It is not necessary for the seal of the County to be impressed upon any Note Document. Notwithstanding any other provision hereof, no Note Document shall be issued unless and until the same shall have been approved as to legal sufficiency on behalf of the County by the Office of the County Attorney.

SECTION 10: NEGOTIATED SALE OF NOTE

A negotiated sale of the Note to the Lender is hereby authorized. Prior to the execution of the Agreement the Lender shall file with the County the disclosure and truth-in-bonding statements required by Section 218.385, Florida Statutes, and competitive bidding for the Note is hereby waived.

SECTION 11: NO THIRD PARTY BENEFICIARIES

Nothing in this Resolution or in any other documents, express or implied, is intended to, or shall be construed to create any third party beneficiary or to provide any rights to any person or entity not a party thereto.

SECTION 12: GENERAL AUTHORIZATION

The Authorized Signatory and the other officers and employees of the County are hereby authorized to do all acts and things required of them by this Resolution and the other Note Documents or desirable or consistent with the requirements hereof or thereof, for the full punctual and complete performance of all terms, covenants and agreements contained in the Note, this Resolution, the Agreement, or any other Note Document.

SECTION 13: EFFECTIVE DATE

This Resolution shall take effect immediately upon its passage and adoption.

SECTION 14: LIMITED APPROVAL

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 of the Note, (iii) an evaluation of the likelihood of the repayment of the debt service on the Note, or (iv) any necessary governmental approval relating to the Project, and the County shall not be construed by reason of its adoption of this Resolution to have made any such endorsement, finding or recommendation or to have waived any of the County's rights or estopping the County from asserting any rights or responsibilities it may have in that regard.

The foregoing Resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and being put to a vote, the vote was as follows:

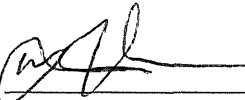
Commissioner Dave Kerner, Mayor	- _____
Commissioner Robert S. Weinroth, Vice Mayor	- _____
Commissioner Maria G. Marino	- _____
Commissioner Gregg K. Weiss	- _____
Commissioner Maria Sachs	- _____
Commissioner Melissa McKinlay	- _____
Commissioner Mack Bernard	- _____

The Mayor thereupon declared the Resolution duly passed and adopted this _____ day of _____, 20____.

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

APPROVED AS TO LEGAL SUFFICIENCY

**ATTEST: JOSEPH ABRUZZO
CLERK & COMPTROLLER**

By: 
For David Behar
Assistant County Attorney

By: _____
Deputy Clerk