

**SEMINOLE COUNTY GOVERNMENT
AGENDA MEMORANDUM**

SUBJECT: Resolution approving the issuance of industrial revenue bonds by the Seminole County Industrial Development Authority.

DEPARTMENT: Economic Development **DIVISION:** Economic Development

AUTHORIZED BY: Don Fisher **CONTACT:** William J. McDermott **EXT.** 7132

Agenda Date 1/11/05 Regular Consent Work Session Briefing
Public Hearing – 1:30 Public Hearing – 7:00

MOTION/RECOMMENDATION:

Approve and authorize the Chairman to execute the attached resolution approving the issuance of industrial revenue bonds.

BACKGROUND:

At a special meeting of the Seminole County Industrial Development Authority, held on December 15, 2004, the Authority adopted Resolution 2004-04A (Exhibit 2) approving the issuance of revenue bonds to finance the pre-construction development costs of the acquisition, construction and equipping of a senior living community to be located at 1800 South International Parkway in Seminole County.

Attachments: Resolution No. 05-R-
Exhibits 1 and 2
Exhibit A

Reviewed by: _____
Co Atty: MR
DFS: _____
Other: JS
DCM: JS
CM: KS

File No. CEP 01

RESOLUTION NO. 05-R-_____

SEMINOLE COUNTY, FLORIDA

**THE FOLLOWING RESOLUTION WAS ADOPTED AT
THE REGULAR MEETING OF THE BOARD OF COUNTY
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA
ON THE 11TH DAY OF JANUARY, 2005.**

WHEREAS, the Board of County Commissioners of Seminole County declared a need for the Seminole County Industrial Development Authority (the "Authority"), appointed its members and empowered it to act under the provisions of Chapter 159, Part III of the Florida Statutes; and

WHEREAS, the Authority on December 15, 2004, following the public hearing held on December 15, 2004, pursuant to the Notice of Public Hearing published in the *Orlando Sentinel* and attached hereto as Exhibit "1" (the "Notice"), adopted the resolution attached hereto as Exhibit "2" (the "Resolution") providing for the issuance of an aggregate principal amount not to exceed \$4,500,000 Seminole County Industrial Development Authority Bond Anticipation Notes, Series 2005 (Jewish Senior Housing Council of Greater Orlando, Inc. Project) (the "BANs") to finance the pre-construction development costs of a senior living retirement community to be located at 1800 South International Parkway, Lake Mary, Florida (the "Project"), fund capitalized interest, and pay certain costs relating to the issuance of the BANs; and

WHEREAS, the Board of County Commissioners of Seminole County has jurisdiction over Seminole County; and

WHEREAS, the Board of County Commissioners of Seminole County has been furnished with a copy of the Notice and of the minutes of the public hearing of Authority held on December 15, 2004, with respect to Authority's approval of the Resolution indicating that the Notice apprised residents of Seminole County of the proposed issuance of the BANs not less than fourteen (14) days before the public hearing and that such public hearing was conducted in a manner which provided a reasonable opportunity for persons with differing views on both the issuance of the BANs and the location and nature of the Project to be heard; and

WHEREAS, the Board of County Commissioners has been requested by the Authority to consider and approve the Authority's issuance of the BANs under the provisions of Section 125.01(1)(z) of the Florida Statutes, as amended, and Sections 103 and 147(f) of the Internal Revenue Code of 1986.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Seminole County as follows:

1. Issuance by the Authority of not to exceed \$4,500,000 of Seminole County Industrial Development Authority Bond Anticipation Notes, Series 2005 (Jewish Senior Housing Council of Greater Orlando, Inc. Project) as contemplated by the Resolution, is hereby approved, subject to the BANs being issued and delivered on or before December 14, 2005. If the BANs are not issued and delivered by that date, the approval granted hereby shall be deemed void and revoked.

2. This approval is intended to comply with the provisions of Section 125.01(1)(z) of the Florida Statutes, as amended, and Sections 103 and 147(f) of the Internal Revenue Code of 1986.

3. Nothing contained in this approval shall be deemed to create any obligation of Seminole County, Florida or the Board of County Commissioners of Seminole County.

ADOPTED this 11th day of January, 2005, and effective immediately upon its adoption.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

By: _____

Name: _____
Clerk to the Board of County
Commissioners of Seminole
County, Florida

By: _____
_____, Chairman

Exhibit 1

Exhibit "1"

NOT TO EXCEED

\$4,500,000

SEMINOLE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY
BOND ANTICIPATION NOTES,
SERIES 2005

(JEWISH SENIOR HOUSING COUNCIL OF GREATER ORLANDO, INC. PROJECT)

TO WHOM IT MAY CONCERN:

You are hereby notified that on Wednesday, December 15, 2004, at 9:00 a.m., or as soon thereafter as the matter may be heard, in the conference room at the Metro Orlando Economic Development Commission's Office, 1230 North Douglas Avenue, Suite 116, Longwood, Florida 32779, a Public Hearing will be held by the Seminole County Industrial Development Authority (the "Authority") on behalf of Seminole County, Florida on the proposed issuance of the Seminole County Industrial Development Authority Bond Anticipation Notes, Series 2005 (Jewish Senior Housing Council of Greater Orlando, Inc. Project) (the "BANs") and on the location and nature of the facility to be financed. The BANs are to be issued in an aggregate principal amount of not to exceed \$4,500,000 for the purpose of providing funds to finance the pre-construction development costs of the acquisition, construction and equipping of a continuing care retirement community to be located at 1800 South International Parkway, Lake Mary, Florida 32746 (the "Project"), fund capitalized interest, and pay certain costs relating to the issuance of the BANs. The Project will be owned and operated by the Jewish Senior Housing Council of Greater Orlando, Inc. (the "Borrower"), a Florida nonprofit corporation that has been determined by the Internal Revenue Service to be an exempt organization as described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended. The Public Hearing is for the purpose of providing a reasonable opportunity for interested individuals to express their views, both orally and in writing on the proposed Project and issuance of the BANs.

THE BONDS SHALL NEVER CONSTITUTE AN INDEBTEDNESS OR GENERAL OBLIGATION OF THE STATE OF FLORIDA, THE AUTHORITY, SEMINOLE COUNTY, OR ANY OTHER POLITICAL SUBDIVISION OR AGENCY OF THE STATE OF FLORIDA, BUT SHALL BE PAYABLE SOLELY FROM FUNDS PAID BY THE BORROWER AND PLEDGED FOR SUCH PURPOSE, AND SHALL BE SECURED BY COLLATERAL FURNISHED BY THE BORROWER.

Persons wishing to express their views regarding the Project and the issuance of the BANs may appear at the hearing or may submit their views in writing. Written comments should be submitted to the Authority at 1230 North Douglas Avenue, Suite 116, Longwood, Florida 32779, Attention: Tracy Turk, Secretary, and should be mailed in sufficient time to be received before December 15, 2004, the date of the public hearing.

Should any person decide to appeal any decision made by the Authority at the hearing, he or she will need a record of the proceedings and he or she may need to assure

that a verbatim record of the proceedings be made, which record includes the testimony and evidence upon which the appeal will be heard.

Any person requiring reasonable accommodation at this meeting because of a disability or physical impairment should contact the Secretary of the Authority at (407) 665-2903 at least 48 hours prior to the meeting.

SEMINOLE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY

November 30, 2004

Exhibit 2

ori-srv01\384498v01\BNFY01_DOC\12/6/04\68086.010300

Exhibit "2"

RESOLUTION NO. 2004-04A

RESOLUTION OF THE SEMINOLE COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY PRELIMINARILY APPROVING THE ISSUANCE OF BOND ANTICIPATION NOTES TO FINANCE CERTAIN PRE-CONSTRUCTION DEVELOPMENT COSTS ASSOCIATED WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF A SENIOR LIVING COMMUNITY BY THE JEWISH SENIOR HOUSING COUNCIL OF GREATER ORLANDO, INC. AND RELATED MATTERS

WHEREAS, the Seminole County Industrial Development Authority (the "Issuer") has been informed by officers and agents of the Jewish Senior Housing Council of Greater Orlando, Inc. (the "Borrower"), a Florida nonprofit corporation that is an exempt organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), that the Borrower proposes to finance the pre-construction development costs associated with the acquisition, construction and equipping of a senior living community to be located in Seminole County, Florida (the "Project"); and

WHEREAS, the proposed Project will provide services needed by residents of Seminole County, approximately 72 persons will be employed at the Project and approximately 250 new jobs will be created as a result of the construction of the Project; and

WHEREAS, it is estimated by the Borrower that the costs of financing the pre-construction development costs of the Project, paying capitalized interest and paying costs of issuance of the hereinafter described BANs may require expenditures of up to \$4,500,000; and

WHEREAS, the most feasible method of financing the proposed Project is for the Issuer to issue its short term bond anticipation notes or other appropriate obligations (the "BANs") and lend the proceeds from the sale of said BANs to the Borrower, with loan repayments to be sufficient and timely to pay the principal of, premium (if any) and interest on said BANs; and

WHEREAS, upon the completion of its pre-construction development program, the Borrower intends to approach the Issuer to request the issuance of bonds to finance the repayment of the BANs as well as the acquisition, construction and equipping of the Project; and

WHEREAS, after careful study and investigation 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 Project, it will be acting in furtherance of the public purposes of the Chapter 159, Parts II and III, Florida Statutes, as amended; and

WHEREAS, the Borrower has requested that the Issuer indicate its willingness to issue its BANs to finance the pre-construction development costs of the proposed Project so that said financing of the Project may proceed; and

WHEREAS, the Issuer has determined that it is in the best interest of the inhabitants of Seminole County and the State of Florida, that the financing of the pre-construction development costs of the proposed Project proceed without delay;

NOW, THEREFORE, BE IT RESOLVED as follows;

1. The Issuer hereby finds that financing the pre-construction development costs of the Project will develop and promote the public good and the general welfare of Seminole County and of the State of Florida by helping ensure the provision of services needed by residents of Seminole County and the State of Florida and by allowing development of the Project to continue which will result in the creation of new jobs at the Project.

2. In order to indicate the Issuer's willingness to issue its BANs in an amount up to \$4,500,000 to finance the pre-construction development costs of 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 of the Issuer and the execution of said inducement agreement by the Chairman and Secretary of the Issuer as herewith authorized shall be conclusive evidence of any such approval. At the time of issuance of the BANs, the Borrower shall pay an issuance fee to the Issuer in the amount of one-half of 1% of the first \$4.0 million and 1/4th of 1% of the remainder of the face amount of the BANs. Such issuance fee shall be contingent on the issuance of the BANs.

3. The Chairman and 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 aforementioned BANs and to effect the undertaking for which said BANs are proposed to be issued. The BANs will not be issued unless the Issuer adopts a resolution approving such documents.

4. It is the intention of the Issuer that this resolution constitutes a declaration of "official intent" of the Issuer to reimburse expenditures with the proceeds of the BANs, within the meaning of Treasury Regulations Section 1.150-2.

5. The Issuer is hereby authorized to publish notice, conduct a public hearing, and approve the BANs in accordance with the provisions of Section 147(f) of the Code and Treasury Regulations Section 5f.103-2.

Adopted this December 15, 2004.

SEMINOLE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY

By: 
Chairman

[SEAL]

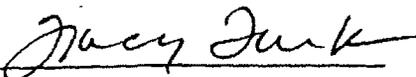
Attest: 
Secretary

EXHIBIT "A"

December 15, 2004

Jewish Senior Housing Council of Greater
Orlando, Inc.
515 South Delaney Avenue
Orlando, Florida 32801

Re: Proposed Bond Anticipation Note Financing of the Shiralago Senior
Living Community

Ladies and Gentlemen:

We (the "Issuer") are informed that the Jewish Senior Housing Council of Greater Orlando, Inc. (the "Borrower"), a Florida nonprofit corporation, and an exempt organization within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, proposes to finance the pre-construction development costs of its proposed senior living community known as Shiralago to be located in Seminole County, Florida (the "Project"). We understand that the cost of financing the pre-construction development costs of the Project, paying capitalized interest and paying costs of issuance of the hereinafter described bonds may require expenditures of up to \$4,500,000. As a result of our discussions with your officers and agents, we have determined that the Issuer's willingness to issue its bond anticipation notes or other appropriate obligations (the "BANs") to assist the Borrower by providing financing for the pre-construction development costs of the Project will enable the Borrower to save interest costs, and will create additional jobs at the Project and during construction of the Project, which will develop and promote the public good and general welfare of Seminole County and the State of Florida, and it is, therefore, the conclusion of the Issuer that in assisting with the financing of the pre-construction development costs of the Project the Issuer will be acting in furtherance of the public purposes of Chapter 159, Parts II and III, Florida Statutes, as amended (the "Act").

In order to carry out the public purposes of the Act, we hereby make the following proposals:

1. The Issuer will issue its BANs in one or more series in a total principal amount not to exceed \$4,500,000 for the purpose of financing the pre-construction development costs of the Project and paying costs of issuance of the BANs.

2. The terms of the BANs (maturity schedule, interest rates, denominations, redemption provisions, security etc.) must be satisfactory to the Borrower and the Issuer and will be determined by a purchase contract or similar instrument in form acceptable to the Issuer to be entered into between the Issuer and the underwriter of the BANs satisfactory to the Borrower. The BANs will be offered and sold only to "qualified institutional buyers" within the meaning of Rule 144A promulgated under the Securities Act of 1933, as amended.

3. (a) Simultaneously with the delivery of the BANs, the Issuer will loan the proceeds from the sale of the BANs to enable the financing of the pre-construction development costs of the Project and the terms and provisions of the loan agreement to be entered by the Issuer and the Borrower in connection therewith (the "Loan Agreement") shall be substantially in the form generally utilized in connection with such financial undertakings, as agreed upon by the Issuer and the Borrower.

(b) The Loan Agreement will be dated contemporaneously with the BANs and the term of the Loan Agreement will equal or exceed the term of the BANs.

(c) The amounts payable by the Borrower under the Loan Agreement will be paid to a corporate trustee at such times and in such amounts as shall be timely and sufficient to pay the principal of, redemption premium (if any) and the interest on, the BANs, as the same become due and payable. The duty of the Borrower to make all payments required under the Loan Agreement shall be absolute and unconditional after the delivery of the BANs.

(d) The proceeds from the sale of the BANs may be deposited in a project fund and disbursed pursuant to requisitions in accordance with the requirements of the Loan Agreement. Moneys in the project fund may be invested in any obligations which represent legal investments for proceeds of BANs 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 payments under the Loan Agreement if such would result in a lien or charge upon the Project or the revenues of the Issuer therefrom.

(f) The Loan Agreement shall provide that in the performance of the covenants contained therein on the part of the Issuer, any obligations it may incur or the payment of money shall not be a general debt on its part or on the part of the State of Florida, Seminole County, or any other political subdivision or municipality, but shall be payable solely from the specific payments received from the Borrower under such Loan Agreement or from BAN proceeds.

(g) The Loan Agreement shall contain covenants providing for the indemnification of the Issuer and the individual members and officers thereof 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 Project.

4. The Issuer will enter into a trust indenture with a corporate trustee to be named by the Issuer subject to the approval of the Borrower. The trust indenture will pledge such loan agreement, and/or any promissory note issued by the Borrower in connection therewith, and the amounts due thereunder, to said trustee for the benefit of the holders of the BANs, and the terms of such trust indenture shall be agreed upon by the Issuer, the Borrower and said trustee.

5. The Issuer will assist in the prompt preparation of the Loan Agreement, the trust indenture, if any, the bond purchase contract or similar instrument and where requested, any security deed, promissory note or guaranty agreement, and any other related documents, all of which must be in form and content satisfactory, to the Issuer.

6. Upon delivery of the BANs, the provisions of this proposal and the agreement resulting from its acceptance by the Borrower shall have no further effect and, in the event of any inconsistency between the terms of this proposal and (as the case may be) the Loan Agreement, trust indenture, mortgage, promissory note, guaranty agreement or any other security documents, such Loan Agreement, trust indenture, mortgage, promissory note, guaranty agreement or other security documents shall control.

7. If for any reason the BANs are not delivered within one year of the date hereof, the provisions of this proposal and the agreement resulting from its acceptance by the Borrower 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 as provided in (a) and (b) of this paragraph 7, and in paragraphs 8 and 9 below:

(a) the Borrower will pay the Issuer for all expenses which have been authorized by the Borrower and incurred by the Issuer in connection with the issuance of the BANs; 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 issuance of the BANs.

8. Whether or not the BANs 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 BANs and will pay the legal fees and expenses of counsel for the Issuer and bond counsel, related to the Project and the proposed issuance of the BANs. If the BANs are issued, the Borrower will pay any customary issuance fee of the Issuer. Greenberg Traurig, P.A. is designated as bond counsel for the BANs.

9. The Borrower, in accepting this proposal, thereby agrees to indemnify, defend and hold the Issuer and the individual members and officers thereof 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 BANs. The Borrower also agrees to reimburse or otherwise pay on behalf of the Issuer, any and all reasonable and necessary expenses not hereinbefore mentioned, incurred by the Issuer and approved by the Borrower in connection with the Project or the issuance of the BANs. This indemnity shall be superseded by a similar indemnity in the Loan Agreement, and, if the BANs are not issued and delivered, this indemnity shall survive the termination of the agreement resulting from the Borrower's acceptance of this proposal.

10. 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,

SEMINOLE COUNTY INDUSTRIAL
DEVELOPMENT AUTHORITY

By: 
Chairman

[SEAL]

Attest:


Secretary

ACCEPTANCE OF PROPOSAL

The terms and conditions contained in the foregoing proposal by the Seminole County Industrial Development Authority are hereby accepted, this December 15, 2004.

JEWISH SENIOR HOUSING COUNCIL
OF GREATER ORLANDO, INC.

By: Rhonda K Pearl
President

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