

RESOLUTION NO. 92-47

Execution Copy
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RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA DECLARING ITS INTENTION TO ISSUE ONE OR MORE SERIES OF ITS ICF/MR REVENUE BONDS IN AN AMOUNT NOT TO EXCEED \$7,000,000 TO FINANCE THE ACQUISITION, CONSTRUCTION, EQUIPPING AND FURNISHING OF AN EXISTING INTERMEDIATE CARE FACILITY FOR THE MENTALLY RETARDED LOCATED WITHIN THE JURISDICTION OF NASSAU COUNTY, FLORIDA AND A RELATED DAY PROGRAM SERVICES FACILITY FOR THE MENTALLY RETARDED TO BE LOCATED WITHIN THE JURISDICTION OF NASSAU COUNTY, FLORIDA, AND FOR RELATED PURPOSES.

WHEREAS, the officials of Board of County Commissioners of Nassau County, Florida (the "County") have been informed by the representatives of GF/Amelia Island Properties, Inc. (the "Corporation"), a Florida not-for-profit corporation and a subordinate entity of The Guardian Foundation, Inc., a Pennsylvania not-for-profit corporation qualified to do business in the State of Florida, that the Corporation is planning the acquisition, construction, equipping and furnishing of an existing intermediate care facility for the mentally retarded located at 2700 Atlantic Boulevard, Fernandina Beach, Florida 32034 and a related day program services facility for the mentally retarded to be located in Nassau County, Florida (collectively, the "Project"); and

WHEREAS, the Corporation has estimated that the acquisition, construction, equipping and furnishing of the Project will require expenditures currently estimated to be approximately \$7,000,000; and

WHEREAS, after careful study and investigation of the nature of the proposed Project, the County has determined that the Project will carry out the purposes of the provisions of the Florida Industrial Development Financing Act, being Part II of Chapter 159, Florida Statutes, as amended (the "Act"), and that the County, in assisting with the financing of the Project, will be acting in furtherance of the public purposes for which it was created; and

WHEREAS, the County has further determined that the most feasible method of financing the Project is for the County to issue one or more series of its ICF/MR Revenue Bonds (the "Bonds") for that purpose; and

WHEREAS, the County has further determined that it is in the best interests of the residents of the jurisdiction of the County that the Project move forward without delay;

NOW, THEREFORE, BE IT RESOLVED by the County as follows:

1. In order to induce the Corporation to proceed with the Project and to indicate its willingness to issue the Bonds to finance, in whole or in part, the cost of the Project, the execution and delivery by the County of a Memorandum of Agreement is hereby authorized, said Memorandum of 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 County, and the execution of said Memorandum of Agreement by the Chairman and Clerk of the County as herewith authorized shall be conclusive evidence of any such approval.

2. The County does hereby declare that, it will authorize the issuance of and will issue one or more series of the Bonds under and in accordance with the applicable laws of the State of Florida (the "State") in an aggregate principal amount necessary to finance the cost of the Project and the expenses incidental to the issuance of the Bonds, now estimated at approximately \$7,000,000, upon such terms and conditions as may be agreed upon by the County, the Corporation and the purchasers of the Bonds.

3. The Chairman and Clerk of the County are further hereby authorized to take any and all further action to execute and deliver any and all other documents as may be necessary or appropriate to authorize, issue and deliver the Bonds and to effect the undertaking for which the Bonds are to be issued.

4. The County finds, intends, and declares that this Resolution shall constitute its official binding commitment, subject to the terms hereof, to issue the Bonds pursuant to the laws of the State. The County finds, considers and declares that the issuance and sale of the Bonds for the purpose set forth in this Resolution will be appropriate and consistent with the objectives of the laws of the State, and that the adoption of this Resolution is and constitutes the taking of affirmative official action by the County towards the issuance of the Bonds within the meaning of the United States Income Tax Regulations.

5. At the Corporation's request, PHN Capital Funding Inc., Atlanta, Georgia and Newman and Associates, Inc., Denver, Colorado and Jacksonville, Florida are hereby confirmed and authorized to act as the investment bankers in connection with the sale of the Bonds.

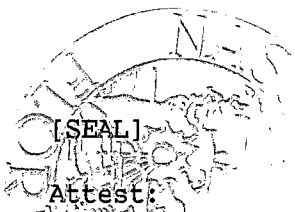
6. At the Corporation's request, Kutak Rock & Campbell, Atlanta, Georgia and Nabors, Giblin & Nickerson, P.A., Tallahassee, Florida are hereby confirmed and authorized to act as Co-Bond Counsel in connection with the sale of the Bonds.

7. This Resolution shall take effect immediately upon its adoption.

Duly adopted this 25th day of November, 1991.

NASSAU COUNTY, FLORIDA

By Jim B. Higginbotham
Jim B. Higginbotham
Chairman, Board of County
Commissioners



[SEAL]

Attest:

By

Name:

Title:

EXHIBIT A

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT is between Board of County Commissioners of Nassau County, Florida (the "County") and GF/Amelia Island Properties, Inc. (the "Corporation"), a Florida not-for-profit corporation and a subordinate entity of The Guardian Foundation, Inc., a Pennsylvania not-for-profit corporation qualified to do business in the State of Florida.

1. Preliminary Statement. Among the matters of mutual inducement which have resulted in the execution of this Agreement are the following:

(a) The County is a political subdivision organized and existing under and by virtue of the constitution and laws of the State of Florida (the "State") and is authorized by the constitution of the State and by the Florida Industrial Development Financing Act, being Part II of Chapter 159, Florida Statutes, as amended (the "Act"), to raise funds by the issuance and sale of its revenue bonds and to use the proceeds thereof to acquire health care facilities or any interest therein.

(b) To effectuate the purposes of the provisions of the Act, the County proposes to issue one or more series of its ICF/MR Revenue Bonds in an amount not to exceed \$7,000,000 (the "Bonds") and to use the proceeds to finance the cost of acquiring, constructing, equipping and furnishing an existing intermediate care facility for the mentally retarded located at 2700 Atlantic Boulevard, Fernandina Beach, Florida 32034 and a related day program services facility for the mentally retarded to be located in Nassau County, Florida (collectively, the "Project").

(c) In view of uncertainties in financing the Project, the Corporation is unwilling to enter into purchase contracts and take other steps toward the realization of the Project without satisfactory assurances from the County that the proceeds from the sale of the Bonds in the amount required to finance the cost of the Project and the expenses in connection with the issuance of the Bonds will be made available to finance the Project.

(d) Representatives of the County have indicated the willingness of the County to proceed with and effect such financing as an inducement to the Corporation to proceed with the Project, and the County has advised the Corporation that, subject to due compliance with all requirements of law and the obtaining of all necessary consents and approvals and to the happening of all acts, conditions and things required to exist, happen and be performed precedent to and in connection with such financing in due time, form and manner as required by law, the County, by virtue of such authority as may now exist or hereafter be conferred, will issue and

sell one or more series of the Bonds in the amount necessary to finance the cost of the Project and the expenses in connection with the issuance of the Bonds, now estimated to be approximately \$7,000,000. Based on such indications, the Corporation is willing to enter into such agreements as may be necessary for the acquisition, construction, equipping and furnishing of the Project.

(e) The Bonds issued pursuant to the Act will not be deemed to constitute a debt, liability or obligation of the County or of the State or of any political subdivision thereof, or a pledge of the faith and credit of the County or of the State or of any political subdivision thereof, but will be payable solely from the revenues to be derived by the County from the financing agreement with the Corporation. Neither the faith and credit nor the taxing power of the County or of the State or of any political subdivision thereof will be pledged to the payment of the principal of, premium, if any, and interest on the Bonds.

(f) The County considers that the acquisition, construction, equipping, and furnishing of the Project will carry out the purposes of the Act.

2. Undertakings on the Part of the County. Subject to the conditions stated above, the County agrees as follows:

(a) That it will authorize and issue, or cause to be authorized and issued, one or more series of the Bonds, pursuant to the terms of the Act as then in force, in an aggregate principal amount necessary to finance the cost of the Project and the expenses in connection with the issuance of the Bonds, now estimated at approximately \$7,000,000.

(b) That it will cooperate with the Corporation to enable PHN Capital Funding Inc., Atlanta, Georgia and Newman and Associates, Inc., Denver, Colorado and Jacksonville, Florida to purchase or place the Bonds, and if purchase or placement arrangements satisfactory to the County and the Corporation can be made, it will adopt, or cause to be adopted such resolutions and hold such proceedings and authorize the execution of such documents as may be necessary or advisable for the authorization, validation, issuance and sale of the Bonds and the acquisition, construction, equipping and furnishing of the Project as aforesaid, all as shall be authorized by law and mutually satisfactory to the County and the Corporation.

(c) That the financing agreement whereby the proceeds from the sale of the Bonds are loaned to the Corporation will provide for payments by the Corporation in amounts sufficient to pay the principal of, premium, if any, and interest on the Bonds when the same become due and payable.

(d) That it will take such action as may be necessary pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, to enable the interest on the Bonds to be excludible from the gross income of a recipient therefor for federal income tax purposes.

(e) That it will take or cause to be taken such other acts, adopt such further proceedings, enter into such other agreements and execute such other documents as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

3. Undertakings on the Part of the Corporation. Subject to the conditions above stated, the Corporation agrees as follows:

(a) That it will use all reasonable efforts to enable PHN Capital Funding Inc., Atlanta, Georgia and Newman and Associates, Inc., Denver, Colorado and Jacksonville, Florida to purchase or place the Bonds in the aggregate principal amount stated above; provided, however, that the terms of the Bonds and of the sale or placement and delivery thereof shall be mutually satisfactory to the County and the Corporation.

(b) That it will enter into a contract or contracts for the acquisition, construction, equipping and furnishing of the Project.

(c) That it will complete the Project and, if moneys in addition to the proceeds of the Bonds are required therefor, it will provide such moneys.

(d) That contemporaneously with the sale of the Bonds, it will enter into a financing agreement with the County whereby the Corporation will be obligated to make payments in an amount equal to the principal of, premium, if any, and interest on the Bonds as the same become due and payable, which financing agreement shall contain the provisions required by law and such other provisions as shall be mutually acceptable to the County and the Corporation.

(e) That it will take or cause to be taken such other acts, enter into such other agreements and execute such other documents as may be necessary or appropriate to authorize, issue and deliver the Bonds and to effect the undertaking for which the Bonds are to be issued.

(f) That it will indemnify, defend and hold the County and the individual directors, officers, agents and employees thereof harmless against any claim of loss or damage to property or any injury or death of any person or persons occurring in connection with the acquisition, construction, equipping and furnishing of the Project. The Corporation also agrees to reimburse or otherwise pay on behalf of the County any and all expenses incurred by the County in connection with the Project and the proposed issuance of the Bonds. This indemnity shall be superseded by a similar indemnity in the financing agreement executed in connection with the issuance of the Bonds, and, if the Bonds are not issued and delivered, this indemnity shall survive the termination of this Agreement.

4. General Provisions. If for any reason the Bonds are not issued and delivered within one year from the date hereof, the provisions of this Agreement shall, at the option of the Corporation or the County, to be evidenced in writing, be cancelled and neither party shall have any rights against the other and no third parties shall have any rights against either party except:

(a) the Corporation will assume and be responsible for all contracts for purchase of machinery, equipment and related personal property entered into by the County at the written request or direction of the Corporation;

(b) the Corporation will pay the out-of-pocket expenses of directors, officers, agents and employees of the County, counsel for the County, and Bond Counsel incurred in connection with the Project and the proposed issuance of the Bonds and will pay counsel fees for legal services related to the Project and the proposed issuance of the Bonds.

IN WITNESS WHEREOF, the parties hereto have entered into this Agreement by their officers thereunto duly authorized as of this 25th day of November, 1991.

NASSAU COUNTY, FLORIDA

(SEAL)

By Jim B. Higginbotham
Jim B. Higginbotham
Chairman, Board of County
Commissioners

Attest:

By

[Signature]
Name:
Title:

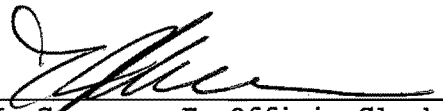
CERTIFICATE

I, T. J. Greeson, do hereby certify that I am the Ex-Officio Clerk of Nassau County, Florida and that the foregoing Resolution was duly adopted by said County at a duly authorized meeting held on November 25, 1991.

Given under my hand and the official seal of Nassau County, Florida this 25th day of November, 1991.

(SEAL)





T. J. Greeson, Ex-Officio Clerk,
Nassau County, Florida