



## Agenda Item Summary

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**File ID:** 19-0296

**DEPT-2**

**Meeting Date:** 2/12/2019

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**PLACEMENT:** Departmental

**TITLE:**

**THE BOARD OF COUNTY COMMISSIONERS IS ASKED TO CONSIDER A RESOLUTION APPROVING ISSUANCE BY THE CAPITAL TRUST AGENCY OF EDUCATIONAL FACILITIES REVENUE BONDS FOR THE TREASURE COAST CLASSICAL ACADEMY, INC. PROJECT**

**EXECUTIVE SUMMARY:**

The Board of County Commissioners has been requested by the Capital Trust Agency on behalf of Treasure Coast Classical Academy, Inc. to approve the issuance of bonds by the Capital Trust Agency in an amount not to exceed \$18,000,000, the proceeds of which will be loaned to the Treasure Coast Classical Academy, Inc. for the primary purpose of financing the proposed approximately 65,350 square-foot charter school facility for students in grades K-12, to be located at 1400 S.E. Cove Road, Stuart, Florida.

**DEPARTMENT:** County Attorney

**PREPARED BY:** **Name:** Krista A. Storey

**Title:** Acting County Attorney

**REQUESTED BY:** Capital Trust Agency on behalf of Treasure Coast Classical Academy, Inc.

**PRESET:**

**PROCEDURES:** None

**BACKGROUND/RELATED STRATEGIC GOAL:**

The Board of County Commissioners (the "Board") has been requested by the Capital Trust Agency ("CTA"), on behalf of Treasure Coast Classical Academy, Inc. (the "Borrower") to approve a financing through the CTA. Specifically, the CTA intends to issue Educational Facilities Revenue Bonds in an amount not to exceed \$18,000,000 (the "Bonds"), the proceeds of which will be loaned to the Borrower for the primary purpose of financing the Borrower's proposed approximately 65,350 square-foot charter school facility for students in grades K-12, to be located on approximately 14.3 acres of land at 1400 S.E. Cove Road, Stuart, Florida (the "Project").

Because the Project is to be located within the jurisdiction of the County, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code") requires the Board to approve the issuance of such Bonds by the CTA in order for the interest thereon to be excluded from gross income for federal income tax purposes. CTA has represented to the Board that the issuance of the Bonds also requires approval for purposes of Section 163.01, Florida Statutes, as amended (the "Interlocal Act"). Since the Code requires a public hearing be held prior to approval of the proposed issuance of the

Bonds by CTA, Ed Gray, III, Executive Director of the CTA, as hearing officer, is scheduled to conduct the public hearing related to the Bonds on February 5, 2019. A report of the hearing officer will be submitted via Supplemental Memorandum.

The Borrower has represented in its Certificate of the Borrower (Exhibit C to the Resolution) that the issuance of the Bonds by the CTA to finance the Project: (i) is appropriate to the needs and circumstances of, and will make contributions to the economic growth of the County, (ii) will provide or preserve gainful employment, (iii) will provide education and promote commerce within the State of Florida, and (iv) will serve a public purpose by advancing the economic prosperity, and the general welfare of the State of Florida and its people by providing for educational facilities within the meaning of Chapter 159, Part II, Florida Statutes.

The proceeds of the Bonds will be loaned to the Borrower pursuant to a Loan Agreement between the CTA and the Borrower. The Bonds will be issued pursuant to an Indenture of Trust between the CTA and Wilmington Trust, National Association, as trustee. The County shall in no way be obligated to pay the principal, premium, if any, or interest on the Bonds as the same shall become due. The County will not be the issuer of the Bonds nor will the County be obligated to pay the Bonds or have any obligation or liability pecuniary or otherwise in any respect whatsoever with respect to the Bonds or the Project. The Bonds shall not be deemed to constitute a debt, liability or general obligation, nor shall there be any pledge of the faith and credit or taxing power of, the CTA, the County, the State of Florida or any other political subdivision thereof. The issuance of the Bonds will not impact in any way the County's ability to issue "qualified tax-exempt obligations" under Section 265 of the Code. The Borrower has provided an Expense and Indemnity Agreement (Exhibit D to the Resolution) by which it has agreed to indemnify the County, each of the Commissioners, officers, agents, attorneys, advisors, counsel and employees against any and all claims and liability of whatsoever nature arising out of or relating directly or indirectly to the Bond issue, whether caused by the County or the Borrower or otherwise, misrepresentation, fraud or other tortious conduct, breach of contractual relationships, or violation of law or administrative rule, whether predicated upon federal or state statutes, common law, principles of equity or otherwise, excepting only claims based upon willful misfeasance or nonfeasance. The Borrower has also agreed to pay any and all attorneys' fees and court costs incurred in the defense of any such claims upon written demand therefor by the County. Notice of the public hearing scheduled to be held on behalf of the Board by the CTA on February 5, 2019, was published in *The Stuart News* on January 22, 2019 (the "Notice of Public Hearing"), which is at least 14 days prior to the public hearing. Before approval of this transaction by the Board, the Clerk of the Circuit Court and Comptroller must receive proof of publication of the Notice of Public Hearing in the form of a Publisher's Affidavit from *The Stuart News* and such proof of publication has been provided by CTA and is attached as Exhibit B to the Resolution.

Attached is a proposed Resolution providing limited approval of the issuance of the Bonds by the CTA solely for purposes of compliance with Section 147(f) of the Code and for the purposes of the Interlocal Act.

The following are exhibits to the Resolution:

Exhibit A: Report of Hearing Officer (To be provided by Supplemental Memorandum)

Exhibit B: Publisher's Affidavit Regarding Notice of Public Hearing

Exhibit C: Certificate of the Borrower

Exhibit D: Expense and Indemnity Agreement

## **ISSUES:**

A final site plan application for the Borrower is currently under review. The January 17, 2019 public hearing by the Local Planning Agency was continued to February 7, 2019. Consideration of the application by the Board was continued to February 12, 2019.

Pursuant to Martin County's Financing Guidelines for Conduit Bonds Issued or Approved by Martin

County, Florida (the "Financing Guidelines"), the Borrower submitted an application to the County on January 8, 2019, requesting the Board's approval of issuance of the Bonds by CTA. Pursuant to Section V.B. of the Financing Guidelines, "the application will not be considered by the County until meeting minimum requirements with respect to permitting, zoning, building plans, platting, streets and utility service." The Board's approval of the final site plan is a prerequisite to the Board's consideration of the request by the CTA, on behalf of the Borrower to approve the issuance of the Bonds by CTA. If consideration of the final site plan application by the Board is continued from February 12<sup>th</sup> to a later date, consideration of the Resolution will have to be continued as well.

**LEGAL SUFFICIENCY REVIEW:**

Chris Traber of Nabors, Giblin & Nickerson, P.A., serving as conflict Bond Counsel for the County with respect to this matter, has reviewed the resolution and this agenda item summary and confirmed that the form of each is proper.

**RECOMMENDED ACTION:**

**RECOMMENDATION**

Move that the Board approve the attached resolution approving the issuance of the Bonds by the CTA.

**ALTERNATIVE RECOMMENDATIONS**

Move that the Board provide direction to staff for revisions to the proposed resolution and continue this item to a date certain.

**FISCAL IMPACT:**

**RECOMMENDATION**

The Borrower has paid the \$10,000 application fee and pursuant to Section V.E.2 of the Financing Guidelines, shall pay to the County an amount equal to the reasonable costs incurred by the County in approving the Bonds. The costs include fees and expenses incurred by the County with its Financial Advisor and Bond Counsel.

Funding Source	County Funds	Non-County Funds
Subtotal		
Project Total		

**ALTERNATIVE RECOMMENDATIONS**

None

**DOCUMENT(S) REQUIRING ACTION:**

☐ Budget Transfer / Amendment ☐ Chair Letter

☐ Contract / Agreement

☐ Grant / Application

☐ Notice

☐ Ordinance

☒ Resolution

☐ Other:

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