

DRAFT



**NOTICE OF PUBLIC MEETING
THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF PHOENIX, ARIZONA
BOARD OF DIRECTORS**

Pursuant to A.R.S. Section 38-431.02, notice is hereby given to the members of **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF PHOENIX, ARIZONA, BOARD OF DIRECTORS**, and to the general public, that **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF PHOENIX, ARIZONA, BOARD OF DIRECTORS** will hold a meeting open to the public on **Wednesday, September 16, 2015 at 1:30 PM** located at the **Calvin C. Goode Municipal Building, 251 West Washington Street, 9th Floor, Conference Room 904, Phoenix, Arizona.**

One or more board members may participate via teleconference.

The agenda for the meeting is as follows:

Call to Order

1. **Multifamily Housing Revenue Bonds (Solterra 3rd Indian School, LLC Assisted Living Project) Series 2015.** Presentation, review, and possible action for preliminary approval of the issuance of Multifamily Housing Revenue Bonds (Solterra 3rd Indian School, LLC Assisted Living Project), Series 2015, to be issued in one or more tax-exempt and/or taxable series in an aggregate principal amount not to exceed \$28,000,000.

2. **Call to Public**

Adjournment

For reasonable accommodations, please call Wendy Gutierrez at Voice/602-534-8679 or TTY/602-534-5500, as early as possible to coordinate needed arrangements.

Date Posted:

MEMORANDUM

DATE: September 16, 2015

TO: Members, Board of Directors

FROM: Juan Salgado, Executive Director

SUBJECT: Multifamily Housing Revenue Bonds (Solterra 3rd Indian School, LLC Assisted Living Project), Series 2015

THE APPLICANT

Solterra 3rd Indian School, LLC, a Delaware limited liability company (the “Applicant”), is seeking the Board’s preliminary approval for the issuance of the Phoenix IDA’s subject Multifamily Housing Revenue Bonds (the “Bonds”), in an aggregate principal amount not to exceed \$28,000,000.

The Applicant is a single-asset LLC formed by one of the principals of Solterra Senior Living (“Solterra”) to develop, own, and manage the project site (the “Project”). In November 2014, Solterra signed a management agreement with Medical Management Group to operate the Yuma Veterans and Friends assisted living project financed with Phoenix IDA bonds. Over the past 8 years, Solterra has successfully developed, acquired, and operated senior living communities while building a strong and scalable operating platform to support its team of over 400 employees in Arizona and Colorado.

To date, Solterra has designed and developed two Arizona projects: Solterra at Chandler, a 100-room assisted living community that opened in 2008, and Solterra at White Mountains, a 117-unit assisted living and independent living community in Lakeside. Additionally, Solterra at Colorado LLC was formed in 2008 to acquire three senior care communities in Castle Rock and Colorado Springs, Colorado.

It is anticipated that the Applicant will seek final approval from the Board in October or November 2015. Pending Board approval, it is anticipated that the Applicant will seek City Council approval shortly thereafter.

THE PROJECT

The Project is comprised of a multifamily housing and assisted living facility geared toward senior citizens and veterans with physical disabilities. The Project will consist of approximately 164 beds, and is expected to be located south of the southwest corner of 3rd Avenue and Indian School Road, within Phoenix City Council District 4, represented by Councilwoman Laura Pastor.

The Applicant plans to use the Bond proceeds to (a) finance the acquisition, construction, equipping, and operation of the Project, and (b) pay certain costs related to the issuance of the Bonds.

PLAN OF FINANCING

According to the Applicant, the Bonds are projected to be privately placed with a single institutional investor at prevailing market rates. The Applicant expects to close on the transaction by December 2015.

RECOMMENDATION

Greenberg Traurig, as Legal Advisor to the Phoenix IDA, and I recommend that approval be granted subject to the terms and conditions contained in the Board preliminary approval resolution, as reviewed by same.

RESOLUTION NO. 2015-17

A RESOLUTION GRANTING PRELIMINARY APPROVAL TO THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE BONDS (SOLTERRA 3RD INDIAN SCHOOL, LLC ASSISTED LIVING PROJECT), SERIES 2015 OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF PHOENIX, ARIZONA, TO BE ISSUED IN ONE OR MORE TAX-EXEMPT AND/OR TAXABLE SERIES IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$28,000,000 TO FINANCE A PROJECT FOR SOLTERRA 3RD INDIAN SCHOOL, LLC.

WHEREAS, The Industrial Development Authority of the City of Phoenix, Arizona (the “Authority”), is an Arizona non-profit corporation designated as a political subdivision of the State of Arizona empowered under the Industrial Development Financing Act, A.R.S. § § 35-701 through 761 inclusive, as amended (the “Act”), to issue industrial development revenue bonds for the purposes set forth in the Act, including the making of secured and unsecured loans for the purpose of financing the acquisition, construction, improvement or equipping of a “project” (as defined in the Act) whenever the Board of Directors of the Authority finds such loans to be in furtherance of the purposes of the Authority or in the public interest; and

WHEREAS, the term “project” includes within its meaning any land, any building or other improvements, and all real and personal properties which are suitable for any “residential real property for dwelling units located within the municipality approving the formation of the corporation;” and

WHEREAS, Solterra 3rd Indian School, LLC, a Delaware limited liability company (together with its assignees and designees, the “Borrower”) has requested the Authority to issue its Multifamily Housing Revenue Bonds (Solterra 3rd Indian School, LLC Assisted Living Project), Series 2015 (the “Bonds”), in one or more tax-exempt and/or taxable series in an aggregate principal amount not to exceed \$28,000,000, and loan the proceeds thereof to the Borrower to finance the acquisition, construction, equipping and operation of a multifamily housing and assisted living facility geared towards senior citizens and veterans with physical disabilities, consisting of approximately 164 units located on certain real property located south of the southwest corner of 3rd Avenue and Indian School Road in Phoenix, Maricopa County, Arizona (the “Project”), including costs associated therewith (including without limitation, funding reserves) and costs incurred in connection with the authorization, issuance and sale of the Bonds, all in accordance with the Act; and

WHEREAS, in furtherance of the purposes of the Act, the Authority is preliminarily considering the issuance of the Bonds, the proceeds of which will be loaned to the Borrower to assist the Borrower in the acquisition, rehabilitation, improvement, equipping and operation of the Project as further described above,

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of The Industrial Development Authority of the City of Phoenix, Arizona as follows:

Section 1. The Board of Directors of the Authority finds and determines that the issuance of the Bonds under the Act and the making of a loan to the Borrower for the purpose of financing all or a portion of the cost of the acquisition, rehabilitation, improvement, equipping and operation of the Project, and the costs and expenses incidental thereto, are in furtherance of the purposes of the Authority under the Act and the Project will constitute a "project" within the meaning of the Act.

Section 2. The Authority hereby grants preliminary approval to the issuance and sale of the Bonds pursuant to the Act in one or more series in an aggregate principal amount not to exceed \$28,000,000. This preliminary approval is subject to the following terms and conditions:

2.1 The Borrower must fully comply with all applicable provisions of the Authority's Procedural Pamphlet, as amended through March 18, 2014 (the "Pamphlet") and the Authority's financial guidelines relating to the issuance and sale of the Bonds, including the submission of Legal Proceedings, as required by Section 5 of the Pamphlet, in form and substance satisfactory to the Authority.

2.2 On or prior to the closing date, the Borrower shall make arrangements satisfactory to the Authority as to the payment of the Authority's closing fee and annual administrative fees and expenses or in lieu of such annual fees, a one-time payment.

2.3 An opinion of nationally recognized Bond Counsel, in a form acceptable to the Authority, that interest on the tax-exempt Bonds will be exempt from all federal income taxes and Arizona income taxes under existing statutes, regulations and court decisions, must be addressed to and provided to the Authority.

2.4 If an offering document will be prepared, the Borrower must deliver an opinion or opinions, addressed and in form acceptable to the Authority, prior to closing, to the effect that all of the statements and information contained in the offering materials distributed in connection with the offer and sale of the Bonds (if any) is correct and complete in all material respects, and does not contain any untrue statements of material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.

2.5 Prior to consideration of final approval by the Authority and in the event the Bonds will be sold pursuant to a public offering, the Borrower and the underwriter of the Bonds to be publicly offered (the "Underwriter") must submit a bond purchase agreement for the Bonds in final form, including, without limitation, any exhibits, appendices or attachments, except for information pertaining to the maturities, interest rates, yields and redemption provisions on the Bonds, in form and substance acceptable to Greenberg Traurig, LLP, as the Authority's legal advisor (the "Legal Advisor").

2.6 If the Bonds have not received a rating of "BBB-" or better (or an equivalent rating) from a nationally recognized bond rating agency, each purchaser of the Bonds shall execute and deliver an investor acknowledgement letter in form and substance satisfactory

to the Authority and its Legal Advisor; provided, however, the provisions of this paragraph may be waived by the Authority in its sole discretion prior to the issuance of the Bonds.

2.7 If the Bonds are to be privately-placed, the Bond placement agent or the ultimate purchaser of the Bonds must submit an investment letter to the Authority, including representations that it has performed its own due diligence of the Project, and will purchase and hold the Bonds as a private placement. Any subsequent resale of the Bonds must be restricted to accredited investors or qualified institutional buyers.

2.8 Legal Advisor to the Authority must receive such legal opinions (including an enforceability opinion of Counsel to the Borrower), certificates and other proceedings as are necessary and advisable to evidence compliance by the Borrower and the Underwriter or any other purchaser of the Bonds with the Authority's policies and procedures and applicable federal and state laws.

2.9 The Authority, its officers, directors, staff, employees, agents and executive director, and the City of Phoenix, Arizona (the "City") must be provided with full indemnification in connection with the issuance and sale of the Bonds, in form and substance satisfactory to the Authority's Legal Advisor, from a credit-worthy source.

2.10 The Borrower must receive final approval by the Council of the City of Phoenix, Arizona and, if necessary, the Arizona Department of Housing prior to closing the Bonds.

2.11 Except to the extent the Project and the proposed financing thereof are deemed to be a Carry-forward Project, preliminary approval of the Project by the Authority expires on the 180th day following the grant of preliminary approval by the Authority unless the Bonds have been issued or an extension of preliminary approval has been approved by the Authority on or before that date.

Section 3. This Resolution is an affirmative official action and declaration of official intent of the Authority relating to the issuance of the Bonds as contemplated herein including, without limitation, under Treasury Regulations Section 1.150-2.

Section 4. Nothing contained in this Resolution, nor in any other instrument, may be considered as obligating the Authority or the City to any pecuniary liability or charge upon the general credit of the Authority or the City. Furthermore, it is understood that no costs are to be borne by the Authority with respect to the Project and the issuance and sale of the Bonds except those to be paid out of the proceeds of the Bonds, and that the Borrower will promptly reimburse the Authority for any other expenses reasonably incurred by the Authority, including the fees of its Legal Advisor and financial advisor, whether or not the Bonds are issued or sold.

Section 5. The Authority is hereby authorized to determine, in consultation with the Borrower, a date for a public hearing on the plan of financing of the Project and the proposed issuance of the Bonds, as required by Section 147(f) of the Code, and to publish a public notice of such hearing in such form as approved by the Borrower and Bond Counsel.

Section 6. The Borrower is authorized to file a request for allocation for private activity bonding authority for the Bonds through the Arizona Department of Commerce (whether in the form of a carry-forward allocation or otherwise) in an aggregate principal amount which shall not exceed \$28,000,000.

Section 7. All actions of the officers, directors, staff, employees, agents and executive director of the Authority which are in conformity with the purposes and intent of this Resolution and in furtherance thereof, whether heretofore or hereafter taken, shall be and are hereby ratified, confirmed and approved. The proper officers, directors, staff, employees, agents and executive director of the Authority are hereby authorized and directed to do all such acts on behalf of the Authority as may be deemed necessary or desirable to carry out the terms and intent of this Resolution.

Signature pages for any documents requiring the Authority's signature shall be delivered to the Legal Advisor no fewer than seven days prior to Bond closing or any other date on which an executed signature page is required, and once executed will be held in escrow by the Legal Advisor and delivered on the closing date or on such other date on which an executed signature page is required.

Section 8. Any provisions of any bylaws, orders, procedural pamphlets and resolutions of the Authority inconsistent herewith are hereby waived to the extent only of such inconsistency. This waiver shall not be construed as repealing any bylaw, order, procedural pamphlet or resolution or any part thereof.

Section 9. If any section, paragraph, clause or provision of this Resolution is for any reason held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision does not affect any of the remaining provisions of this Resolution.

Section 10. It is found and determined that all formal actions of the Authority and its Board concerning and relating to the adoption of this Resolution were adopted in an open meeting and that all deliberations that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements of the State and the Authority.

Section 11. Arizona Revised Statutes Section 38-511 requires that every contract to which the State, its political subdivisions or any of the departments or agencies of the State or its political subdivisions is a party include notice that such contract is subject to cancellation, within three years after its execution, by the State, political subdivision, department or agency which is a party to such contract if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the State, political subdivision, department or agency is, at any time while the contract is in effect, an employee of any other party to the contract or an agent or consultant of any other party to the contract with respect to the subject matter of the contract.

Section 12. This Resolution is not to be construed as providing advice concerning municipal securities. This Resolution represents the Board of Director's determination that the execution and delivery of the documents and the delivery of the documents and the offer, sale, issuance and delivery of the Bonds by the Authority as contemplated by the documents and the effect thereof will each be in furtherance of the purposes and interests of the Authority under the Act. This Resolution is not intended to provide, and shall not be construed as providing, advice by any member of the Board of Directors to the Authority or to the Borrower with respect to the issuance of the Bonds for purposes of 15 U.S.C. Section 780-4(e)(4)(A)(i).

Section 13. This Resolution is effective immediately.

Adopted and approved this 16th day of September, 2015.

THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF PHOENIX, ARIZONA

By: _____
Juan Salgado, Executive Director