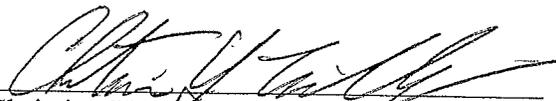


RESOLUTION NO. 38-18

BE IT RESOLVED AND IT IS HEREBY RESOLVED that the Berks County Board of Commissioners hereby authorizes Christian Y. Leinbach, Commissioner Chair, to execute an engagement letter between the County of Berks ("County") and Stevens & Lee / Griffin Financial Group, LLC / Financial S&Lutions, LLC, ("Platform") Reading, Pennsylvania, to assist the County in exploring and potentially executing a sale of the Berks Heim Nursing and Rehabilitation.

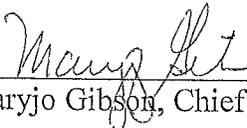
ADOPTED THIS 25th DAY OF JANUARY, 2018.

COUNTY OF BERKS

  
Christian Y. Leinbach, Chair

  
Kevin S. Barnhardt, Commissioner

Attest:

  
Maryjo Gibson, Chief Clerk

VOTED NO  
Mark C. Scott, Commissioner



STEVENS & LEE  
Lawyers & Consultants



Direct Dial: (610) 478-2153  
Email: mdv@fsandl.com  
Direct Fax: (610) 988-0843

January 25, 2018

County of Berks, Pennsylvania  
633 Court Street – 13<sup>th</sup> Floor  
Reading, PA 19601

Attn: Christian Y. Leinbach, Chairman  
Kevin S. Barnhart, Vice Chairman  
Mark C. Scott Esq., Commissioner

Subject: Financial Advisory, Legal and Investment Banking Engagement Letter: Possible Sale  
of the County's Berks Heim Nursing and Rehabilitation Facility

Commissioners:

This letter will serve as the engagement agreement (the "Agreement") between the County of Berks, Reading, Pennsylvania (the "County"), and the Stevens & Lee/Griffin platform, which platform, for purposes hereof, shall consist of Financial S&Lutions LLC (a MSRB and SEC registered municipal advisor, Griffin Financial Group LLC (a FINRA and SEC licensed investment bank and Stevens & Lee (an Am Law 200 law firm), (collectively, the "Platform") located in Reading, Pennsylvania.

The County agrees to employ the Platform to assist it in exploring and potentially executing a sale to a not-for-profit counterparty or other type of transaction (the "Transaction"), including, but not limited to evaluating the creation of a not-for-profit organization to manage the County's Berks Heim Nursing and Rehabilitation facility ("Berks Heim").



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County of Berks  
January 25, 2018  
Page 2

**Scope of Services**

As exclusive advisor and legal counsel to the County for the Transaction, the Platform will provide the following services:

1. Conduct a due diligence review of the financial condition and performance of Berks Heim.
2. Conduct a legal review of Berks Heim's licensing and significant contracts, and its compliance with law.
3. Prepare descriptive materials concerning Berks Heim, which shall not be made available to, or used in discussions with, prospective counterparties until both it and its use for such purpose have been approved by the County.
4. Develop, update and review with the County, on an ongoing basis, a list of not-for-profit selected counterparties which might likely be interested in purchasing Berks Heim.
5. Develop with the County a list of requirements that will need to be satisfied by any proposed counterparty in order to be considered.
6. Direct a process designed to identify and solicit indications of interest from such counterparties and running a competitive process to determine the economics, pro forma post transaction quality of service and pricing levels for Berks County residents and treatment of employees each such counterparty will offer, all in conformity with the law.



County of Berks  
January 25, 2018  
Page 3

7. Assisting the County in evaluating such indications of interests, selecting one or more counterparties and assisting in negotiations of a Transaction with such counterparties.

8. Assisting the County in evaluating the creation of a not-for-profit organization to manage Berks Heim including the legal aspects of the Transaction and modeling the potential purchase by the not-for-profit organization from the County and how that purchase price affects the financial metrics of the Transaction.

9. Documenting the Transaction and facilitating required approvals and the closing of the Transaction. It is currently estimated that the closing of the Transaction will occur prior to June 30, 2018 – please see Appendix A “Estimated Transaction Timeline” attached hereto. The Platform will make a best efforts basis to assist the County in closing the Transaction prior to June 30, 2018; however, no assurances can be made to guarantee the Transaction will close prior to June 30, 2018.

10. Assisting the County in its evaluation of its options with respect to the use of proceeds generated from the Transaction and related matters, including financial and legal aspects of paying down debt.

### **Fees and Expenses**

General: We propose a contingent fee payable only if and when a Transaction closes and no expense reimbursement. If the County elects not to pursue a Transaction, the County agrees to pay any legal costs incurred by Stevens & Lee at a rate x hours basis for actual time incurred



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County of Berks  
January 25, 2018  
Page 4

for such legal services at a rate of \$285.00 per hour with a total cap of \$30,000. If the County elects not to pursue a Transaction, the County will NOT owe any payment to Financial S&Lutions LLC or Griffin Financial Group LLC for financial advisory and investment banking services rendered in connection with the Transaction. In other words, our Platform will assume most of the County's professional fee payment risk if the County elects not to pursue a Transaction or if for other reasons the Transaction does not close.

Success Fee: In the event the County enters into a Transaction, the County agrees to pay the Platform, a contingent Transaction Fee (in the form of federal funds via wire transfer or certified check) at the closing of the Transaction in amount equal to the greater of (i) \$600,000 or (ii) 2.5% of Transaction Value.

For purposes hereof, "Transaction Value" shall mean cash paid to the County at the closing of a Transaction, plus the present value of any future cash to be paid (e.g. rent or royalty payments) by the counterparty to the County as a result of the Transaction. For purposes hereof, "present value" shall mean the sum of the present value of the scheduled cash due to the County, discounted to the closing date of the Transaction on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the corresponding Treasury Rate for the term any future cash payments are to be received by the County.

Expense: The Platform will not invoice the County for the Platform's out-of-pocket expenses incurred in providing the above services.



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County of Berks  
January 25, 2018  
Page 5

Summary: If a Transaction occurs the County will pay one all-in “bundled” fee to our platform lower in amount than the sum of the fees it would separately pay an investment bank, financial advisors, firm and health care and bond lawyers who cannot provide the County the seamless one stop, convenient delivery of professional services we can by reason of our size, healthcare and government experience, business model and Berks County location.

### **Term of Agreement**

This Agreement shall commence on the date set forth below and shall extend for a period of twenty four (24) months (“Initial Term”). The Initial Term will automatically renew for an additional six (6) month period (the “Renewal Period”), unless either the County or the Platform serves the other party written notice 30 days prior to the end of the Initial Term. The Initial Term and any renewal thereof shall constitute the “Term.” Notwithstanding the expiration of this Agreement, the County shall pay, and the Platform shall have the right to receive, the Transaction Fee as described above, if subsequent to, but within a period of 36 months from the termination of this Agreement, a letter of intent, term sheet, memorandum of understanding or agreement for a Transaction is executed.

### **Arbitration**

Other than for actions seeking equitable relief or actions involving third parties, any controversies or claims arising out of or relating to this Agreement or its breach, construction or performance, whether such claims or controversies arose prior or subsequent to the date hereof between the Platform, the County, and any present or former officer, director or employee of the



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County of Berks  
January 25, 2018  
Page 6

Platform shall be settled by arbitration before, and only before, a panel situated in Reading, Pennsylvania. Any award by the arbitrators shall be final and binding upon the parties and judgment may be entered in any court.

### **Electronic Communications**

The Platform and its clients rely upon electronic communication such as e-mail and cellular telephones and faxes, tools and media ("Electronic Communications") in day-to-day business communications. Because of their nature, Electronic Communications are not as secure as more traditional lines of communications, such as hard-wired telephones and faxes, U.S. Mail, or couriers. In the course of representation of the County, Electronic Communications for all general information, requests, and otherwise are hereby authorized. The County understands that some risk exists that any and all Electronic Communications could be intercepted by an unauthorized third party, and the County accepts that risk. For matters or particular sensitivity or for information that could be compromising or damaging to the County, the contact person who is working with us has the authority to consent specifically to the use of Electronic Communications for such matters. The Platform shall also consider all requests for, or communications of, information from the County by Electronic Communications as specific consent to respond by Electronic Communications.

### **Confidentiality**

The Platform agrees to maintain the confidentiality of all Information provided to it by the County regarding the County or a financial transaction, and shall not disclose any such



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County of Berks  
January 25, 2018  
Page 7

Information to any person other than the employees of the Platform, potential financing sources, or the agents of potential financing sources without the prior consent of the County. The obligations regarding confidential information received hereunder shall not apply to any such Information which: (a) is or becomes part of the public domain or is or becomes publically available without breach hereof by the Platform; or (b) is lawfully acquired by the Platform from a source not under any obligation to the County regarding disclosure of such Information and its release is expressly authorized by such source; or (c) is disclosed to any third party by or with the permission of the County without confidentiality restrictions; or (d) is developed by or on behalf of the Platform by individuals who have not received confidential information hereunder.

Notwithstanding the foregoing, the County agrees that the Platform has the right, following the closing of a financial transaction, to place advertisements in financial or other newspapers and journals at its own expense describing its services to the County hereunder.

The Platform is hereby authorized by the County to sign Confidentiality Agreements, as the agent for the County, with third parties that may be interested in pursuing a Transaction with the County, which Confidentiality Agreements shall be substantially in the form provided to the County by the Platform, which said form shall contain any exception required by the Right to Know Law to be released. The Platform is authorized to make changes in the form of Confidentiality Agreement to be used in the Transaction upon receipt of oral approval of the changes from an employee or agent of the County working with the Platform on the Transaction.



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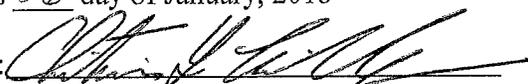


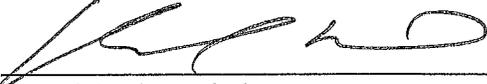
County of Berks  
January 25, 2018  
Page 8

Any amendment, modification or other change to this Agreement must be in writing and signed by both parties to be enforceable. If any provision of this Agreement is or becomes inconsistent with any applicable present or future law, rule or regulation, that provision will be deemed rescinded or modified in order to comply with the relevant law, rule or regulation. All other provisions of this Agreement shall remain in full force and effect.

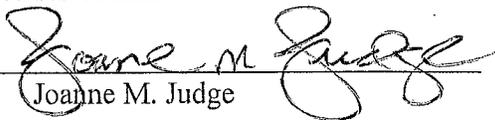
ACCEPTED AND AGREED TO  
this 26<sup>th</sup> day of January, 2018

FINANCIAL S&LUTIONS LLC

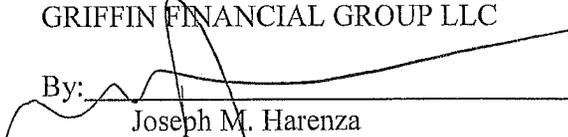
By:   
Name: Christian Y. Leinbach  
Title: Commissioner, Chair

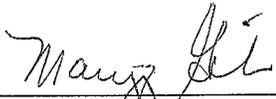
By:   
Michael D. Vind

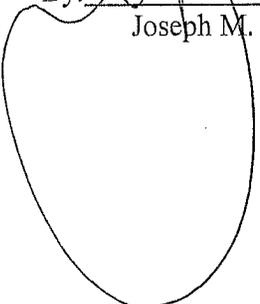
By: \_\_\_\_\_  
Name: Kevin S. Barnhardt  
Title: Commissioner

STEVENS & LEE  
By:   
Joanne M. Judge

By: \_\_\_\_\_  
Name: Mark C. Scott, Esq.  
Title: Commissioner

GRIFFIN FINANCIAL GROUP LLC  
By:   
Joseph M. Harenza

Attest:   
Name: Maryjo Gibson  
Title: Chief Clerk





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Lawyers & Consultants

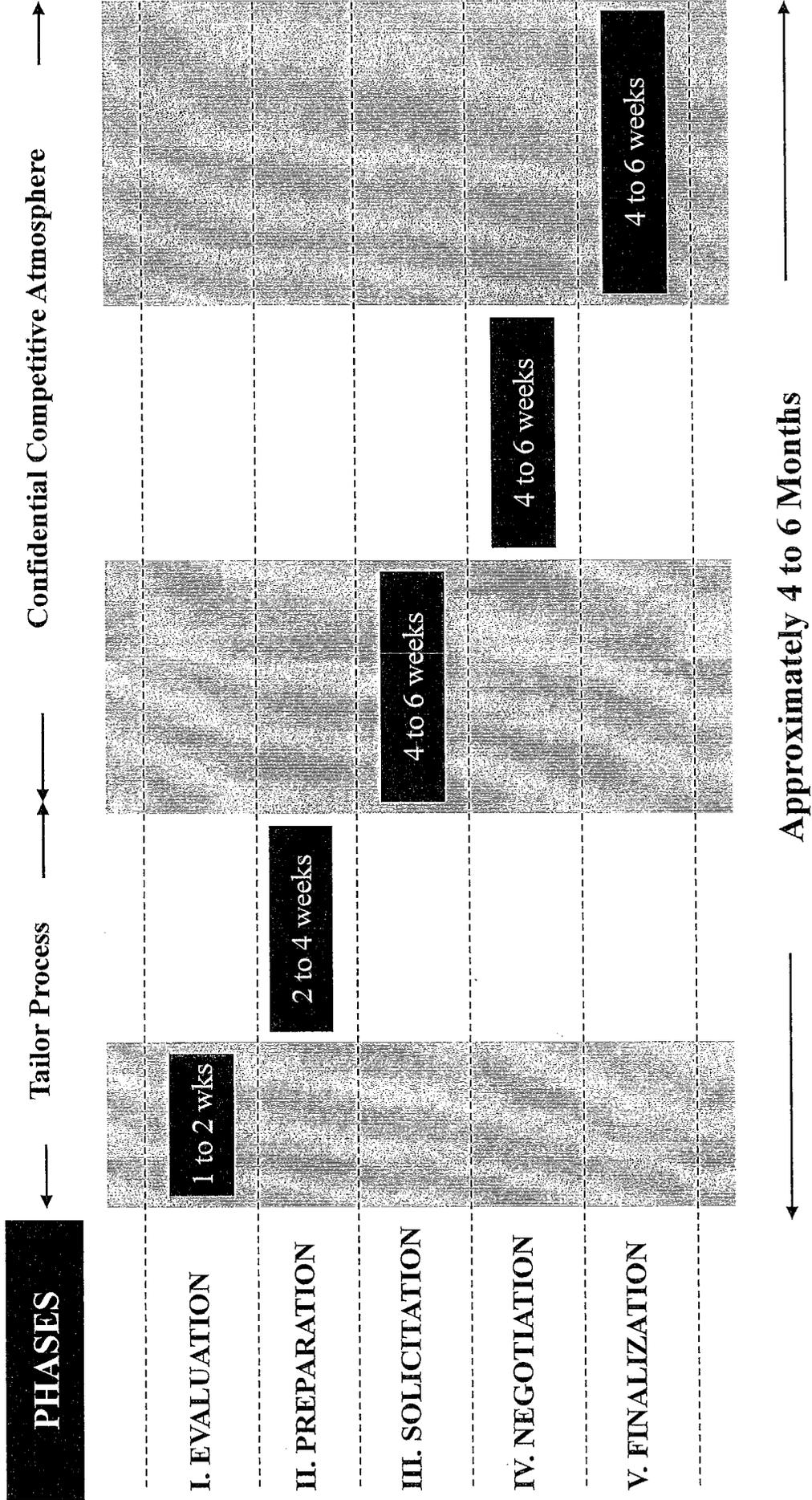


County of Berks  
January 25, 2018  
Page 9

## APPENDIX A

### Estimated Transaction Timeline

# Estimated Engagement Timeline



Our Platform estimates the Transaction could be completed in approximately 4 to 5 months on an expedited basis in order to assist the County in closing the Transaction on or before June 30, 2018.