

RESOLUTION #05202019-1

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF NEW CASTLE, INDIANA AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO THE FINANCING OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES KNOWN AS AUTUMN OAKS APARTMENTS

WHEREAS, the City of New Castle, Indiana (the “City”), is authorized by IC 36-7-11.9 and 12 (collectively, the “Act”) to issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of the acquisition, construction, renovation and equipping of said economic development facilities in order to foster creation or retention of opportunities for gainful employment, the creation of business opportunities and the creation or retention of affordable rental housing; and

WHEREAS, a representative of BBR New Castle I, LP, an Indiana limited partnership , or another limited partnership or a limited liability company partnership to be formed by it (collectively, the “Borrower”) has advised the City that the Borrower proposes that the City lend proceeds of an economic development financing to the Borrower to provide a portion of the funds to pay the costs of acquisition, design, construction, renovation, improvement and/or equipping of the existing apartment buildings located in the City at 100 Autumn Oaks Blvd., (NE corner of S. 14th Street and G Avenue). consisting of 72 residential units and certain functionally-related improvements (the “Project”), (ii) paying capitalized interest on the bonds (if necessary), (iii) funding a debt service reserve fund (if necessary), and (iv) paying incidental expenses incurred on account of the issuance of the bonds and acquiring any credit enhancement with respect thereto (if necessary); and

WHEREAS, the Project will be owned and operated by the Borrower for use as a multifamily rental housing facility which will provide affordable multifamily rental housing; and

WHEREAS, the diversification of industry, retention of job opportunities, the creation of temporary construction jobs during the renovation and providing affordable rental housing to be achieved by the acquisition, renovation and equipping of the Project will be of public benefit to the health, safety and general welfare of the City and its citizens; and

WHEREAS, it would appear that the financing of the Project would be of public benefit to the health, safety and general welfare of the City and its citizens;

NOW THEREFORE BE IT RESOLVED by the Common Council of the City of New Castle, Indiana:

SECTION 1. It is hereby found and determined that the promotion of diversification of economic development and job opportunities in and near the City, and the providing of affordable rental housing is desirable to preserve the health, safety and general welfare of the citizens of the City, and that it is in the public interest that the Commission and the City take such action as they lawfully may to encourage economic development, diversification of industry, promotion of job opportunities and affordable rental housing in and near the City.

SECTION 2. It is hereby found and determined that the issuance and sale of economic development revenue bonds of the City which may also include a seller note under the Act in an aggregate amount not to exceed \$6,000,000 for the lending of the proceeds of the revenue bonds to the Borrower for the purpose of financing a portion of the cost of the acquisition, renovation and equipping of the Project will serve the public purposes referred to above, in accordance with the Act.

SECTION 3. All costs of the Project which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Project, and the City will sell or lease the same to the Borrower or loan the proceeds from the sale of the bonds to the Borrower for the same purposes.

SECTION 4. All action taken and approvals given by this Common Council with regard to the Borrower, are based upon the evidence submitted and representations made by the Borrower, its agents or counsel. No independent examination, appraisal or inspection of the Project was made, requested, or is contemplated by this Common Council, the New Castle Economic Development Commission (the “Commission”) or the City.

SECTION 5. This Common Council does not, by this or any other approval or finding, guarantee, warrant or even suggest that the bonds, coupons or series thereof will be a reasonable investment for any person, firm or corporation.

SECTION 6. This Common Council shall not be obligated, directly or indirectly, to see to the application or use of the proceeds from the sale of the bonds or to see that the contemplated improvements, if any, are constructed. This Common Council is in no way responsible to the holders of any bonds for any payment obligation created by the bonds.

SECTION 7. This Common Council does not warrant, guarantee or even suggest that interest to be paid to or income to be received by the holders of any bond, coupon, or series thereof is exempt from taxation by any local, state or federal government.

SECTION 8. The bonds shall be special, limited obligations of the City payable solely from the funds provided therefor as described in a Financing Agreement (as defined in the Act) to be approved at a later date by the Commission and this Common Council prior to the issuance of the bonds, and shall not constitute an indebtedness of the Commission or the City or a loan of the credit thereof within the meaning of any constitutional or statutory provisions.

SECTION 9. In order to induce the Borrower to proceed with the acquisition, renovation and equipping of the Project, this Common Council hereby finds and determines that (i) it will take or cause to be taken such actions pursuant to the Act as may be required to implement the aforesaid financing, or as it may deem appropriate in pursuance thereof; provided that all of the foregoing shall be mutually acceptable to the City and the Borrower; and (ii) it will adopt such resolutions or ordinances and authorize the execution and delivery of such instruments and the taking of such action as may be necessary and advisable for the authorization, issuance and sale of said economic development revenue bonds; and (iii) it will use its best efforts to assist the Borrower in procuring the issuance of additional economic development revenue bonds, if such additional bonds become necessary for refunding or refinancing the outstanding principal amount of the economic development revenue bonds, for completion of the Project and for additions to the Project, including the costs of issuing additional bonds (provided that the financing of such addition or additions to the Project is found to have a public purpose (as defined in the Act) at the time of the authorization of such additional bonds), and that the aforementioned purposes comply with the provisions of the Act.

SECTION 10. All costs of the Project incurred after the date permitted by applicable federal tax and state laws, including reimbursement or repayment to the Borrower of moneys

expended by the Borrower for application fees, planning, engineering, a portion of the interest paid during acquisition, renovation and equipping, underwriting expenses, attorney and bond counsel fees, and acquisition, renovation and equipping of the Project will be permitted to be included as part of the bond issue to finance the Project, and the City will lend the proceeds from the sale of the bonds to the Borrower for the same purposes. Also, certain indirect expenses, including but not limited to, planning, architectural work and engineering incurred prior to this inducement resolution will be permitted to be included as part of the bond issue to finance the Project. This resolution shall constitute “official action” for purposes of compliance with federal and state laws requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

SECTION 11. This resolution shall be in full force and effect immediately upon passage by this Common Council

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF NEW CASTLE,
INDIANA THIS 20TH DAY OF MAY, 2019.

Greg York, Presiding Officer
Common Council, New Castle, Indiana

ATTEST:

Christy York, Clerk-Treasurer

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NAY

APPROVED BY ME THIS _____ DAY OF _____, 2019.

Greg York, Mayor
City of New Castle, Indiana