

RESOLUTION NO. 5, 2021

A SPECIAL RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO THE FINANCING OF CERTAIN ECONOMIC DEVELOPMENT FACILITIES TO BE KNOWN AS UPTOWN EAST APARTMENTS

WHEREAS, the City of Valparaiso, Indiana (the "**City**"), is authorized by IC 36-7-11.9 and 12 (collectively, the "**Act**") to issue revenue bonds and/or notes 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 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 Eastgate Investments III LP, an Indiana limited partnership, or another limited partnership or a limited liability company to be formed by it (collectively, the "**LIHTC Project Borrower**") has advised the City that the LIHTC Project Borrower proposes that the City lend proceeds of an economic development financing to the LIHTC Project Borrower to provide a portion of the funds to pay the costs of acquisition, design, construction, renovation, improvement and/or equipping of the existing housing buildings located in the City consisting of buildings 1 and 2 located at 1305 Laporte Avenue and 1401 Laporte Avenue and 1405 Laporte Avenue, which, after renovation, will contain 119 residential rental units, together with functionally related and subordinate facilities (the "**LIHTC Project**"). The total cost for the LIHTC Project is presently estimated to be in an amount of approximately \$27,247,958, including incidental costs of issuance of the economic development revenue bonds and/or notes. The LIHTC Project will be owned and operated by the LIHTC Project Borrower; and

WHEREAS, a representative of Eastgate Investments II, LLC, an Indiana limited liability company, or another limited partnership or a limited liability company to be formed by it (collectively, the "**Taxable Project Borrower**") has advised the City that the Taxable Project Borrower proposes that the City lend proceeds of an economic development financing to the Taxable Project Borrower to provide a portion of the funds to pay the costs of the acquisition, design, construction, renovation, improvement and/or equipping of the existing housing buildings located in the City consisting of buildings 3 and 4 located at 1201 Laporte Avenue and 1301 Laporte Avenue, which, after renovation, will contain 120 student marketed housing rental units, together with functionally related and subordinate facilities and approximately 10,987 rentable square feet of commercial space located at 1300, 1310, 1320 and 1330 Lincolnway and 1400 and 1402 Lincolnway (the "**Taxable Project**" and together with the LIHTC Project, the "**Project**"). The total cost for the Taxable Project is presently estimated to be in an amount of approximately \$21,973,757, including incidental costs of issuance of the economic development revenue bonds. The Taxable Project will be owned and operated by the Taxable Project Borrower; and

WHEREAS, the diversification of industry, retention of job opportunities (10 retained full-time employees), the creation of temporary construction jobs during the renovation, and providing affordable rental housing, student marketed rental housing and commercial space 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, based in part upon the housing study submitted to the City by the LIHTC Project Borrower and the Taxable Project Borrower 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; and

WHEREAS, it is found that the acquisition, renovation and equipping of the Project will not have an adverse competitive effect on any similar facility already constructed or operating in the City; and

WHEREAS, the Valparaiso Economic Development Commission (the "**Commission**") has rendered its Project Report for the Project regarding the financing of proposed economic development facilities for the LIHTC Project Borrower and the Taxable Project Borrower, and said Project Report will be sent to the City of Valparaiso Plan Commission for comment; and

WHEREAS, the Commission adopted a resolution on February 22, 2021 prior in time to the adoption of this resolution by the Common Council, which Resolution has been transmitted to this Common Council, finding that the financing of the Project of the Borrower complies with the purposes and provisions of the Act and that such financing will be of benefit to the health and welfare of the City and its citizens; now therefore

BE IT RESOLVED BY THE CITY OF VALPARAISO COMMON COUNCIL THAT:

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 the City.

SECTION 2. It is hereby found and determined that (i) the issuance and sale of economic development revenue bonds and/or notes of the City under the Act in a total principal amount not to exceed \$26,000,000 for the lending of the proceeds of the revenue bonds and/or notes to the LIHTC Project Borrower for the purpose of financing a portion of the cost of the LIHTC Project will serve the public purposes referred to above, in accordance with the Act and (ii) the issuance and sale of economic development revenue bonds of the City under the Act in a total principal amount not to exceed \$20,500,000 for the lending of the proceeds of the revenue bonds to the Taxable Project Borrower for the purpose of financing a portion of the cost of the Taxable Project will serve the public purposes referred to above, in accordance with the Act.

SECTION 3. In accordance with the Act, the findings and determination set forth above have been compiled and prepared into the Commission's Project Report, which Project Report this Common Council hereby approves.

SECTION 4. This Common Council hereby confirms the findings set forth in the Commission's resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in the City and the facilities will be of benefit to the health and welfare of the citizens of the City.

SECTION 5. All costs of the Project, which may be financed under the Act, will be permitted to be included as part of the bond issues and/or notes to finance the Project, and the City will lend the proceeds from the sale of the bonds and/or notes to the LIHTC Project Borrower and the Taxable Project Borrower, as applicable, for the same purposes.

SECTION 6. All action taken and approvals given by this Common Council with regard to the LIHTC Project Borrower, the Taxable Project Borrower and the Project are based solely upon the evidence submitted and representations made by the LIHTC Project Borrower and the Taxable Project Borrower, their agents or counsel. No independent examination, appraisal or inspection of the Project was made, requested, or is contemplated by this Common Council, the Commission or the City.

SECTION 7. This Common Council does not, by this or any other approval or finding, guarantee, warrant or even suggest that the bonds and/or notes, coupons or series thereof will be a reasonable investment for any person, firm or corporation.

SECTION 8. 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 and/or notes 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 and/or notes for any payment obligation created by the bonds and/or notes.

SECTION 9. 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, note, coupon, or series thereof is exempt from taxation by any local, state or federal government.

SECTION 10. The bonds and notes shall be special, limited obligations of the City payable solely from the funds provided therefor as described in one or more Financing Agreements (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/or notes, 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. The City shall not be obligated, directly or indirectly, for repayment under the bonds and notes.

SECTION 11. In order to induce the LIHTC Project Borrower and Taxable Project Borrower to proceed with the acquisition, renovation and equipping of the LIHTC Project and the

Taxable Project, respectively, 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 LIHTC Project Borrower and the Taxable Project Borrower, respectively; 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/or notes; and (iii) it will use its best efforts to assist the LIHTC Project Borrower and the Taxable Project 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 and/or notes, for completion of the Project and for additions to the Project, including the costs of issuing additional bonds and/or notes (provided that the financing of such addition or additions to the LIHTC Project and the Taxable Project, as applicable, is found to have a public purpose (as defined in the Act) at the time of the authorization of such additional bonds and/or notes), and that the aforementioned purposes comply with the provisions of the Act; provided that all of the foregoing shall be mutually acceptable to the City and the LIHTC Project Borrower and the Taxable Borrower, respectively, and provided further that the City shall not be obligated, directly or indirectly, for repayment under such bonds and notes.

SECTION 12. All costs of the LIHTC Project and the Taxable Project incurred after the date permitted by applicable federal tax and state laws, including reimbursement or repayment to the LIHTC Project Borrower and Taxable Project Borrower of moneys expended by the LIHTC Project Borrower and Taxable Project 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 LIHTC Project and the Taxable Project will be permitted to be included as part of one or more series of the bond issue to finance the Project, and the City will lend the proceeds from the sale of the bonds to the LIHTC Project Borrower and the Taxable Project 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 LIHTC Project and the Taxable 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 and/or notes.


SECTION 13. This resolution shall be in full force and effect immediately upon passage by this Common Council and signing by the Mayor.

[SIGNATURE PAGE FOLLOWS]

Passed and adopted by the Common Council of the City of Valparaiso, Indiana on the 22nd day of February, 2021


Matthew R. Murphy, Mayor

ATTEST:


Holly Taylor, Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana this 22nd day of February, 2021, at the hour of 6:00 o'clock P.M.


Holly Taylor, Clerk-Treasurer

This resolution approved and signed by me on the 22nd day of February, 2021 at the hour of 6:00 o'clock P.M.


Matthew R. Murphy, Mayor

ATTEST:


Holly Taylor, Clerk-Treasurer