

**RESOLUTION NO. 01-20**

**A RESOLUTION OF THE WEST LAFAYETTE COMMON COUNCIL  
CONCERNING CERTAIN ACTIONS AND PROCEEDINGS  
WITH RESPECT TO THE FINANCING OF CERTAIN  
WEST LAFAYETTE SENIOR LIVING FACILITIES**

**WHEREAS**, the City of West Lafayette, Indiana (the “City”), is authorized by IC 36-7-11.9 and 12 (collectively, the “Act”) to issue revenue bonds for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction and equipping of said facilities or the reimbursement of costs incurred in connection therewith, and said facilities to be either sold or leased to another company or directly owned by another company; and

**WHEREAS**, a representative of Vita Investment Holdings, LLC, an Indiana limited liability company or another to be formed limited liability company (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 (i) pay the costs of acquisition, design, construction, improvement and/or equipping of the senior living facilities to be located in the City at or near Cumberland Road and State Road 231 consisting of a combination of approximately 177 independent senior apartment units, assisted living apartment units, and memory care studios, and certain functionally-related improvements (the “Development”), (ii) pay capitalized interest on the bonds (if necessary), (iii) fund a debt service reserve fund (if necessary), and (iv) pay incidental expenses incurred on account of the issuance of the bonds and acquiring any credit enhancement with respect thereto (if necessary); and

**WHEREAS**, the Development will be owned and operated by the Borrower for use as a senior living facility which will provide affordable housing; and

**WHEREAS**, the diversification of industry, creation of job opportunities and providing affordable rental housing to be achieved by the acquisition, construction and equipping of the Development 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 Development 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, construction and equipping of the Development will not have an adverse competitive effect on any similar facility already constructed or operating near or in the City; and

**WHEREAS**, the West Lafayette Economic Development Commission (the “Commission”) has rendered its Report for the Development regarding the financing of proposed economic development facilities for the Borrower; and

**WHEREAS**, the Commission adopted a resolution on January 23, 2020 (the “Commission Resolution”), which has been transmitted to this Common Council, finding that the financing of certain economic development facilities 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 therefor

**BE IT RESOLVED BY THE CITY OF WEST LAFAYETTE 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 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 under the Act in an amount not to exceed \$35,000,000 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, construction and equipping of the Development 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 Report which Report is hereby approved by this Common Council.

**SECTION 4.** The Commission on January 23, 2020, considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in or near the City, and subsequently found, based on special findings of fact set forth in the Commission Resolution transmitted hereto that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission Resolution, and concludes that the economic development facilities will not have an adverse competitive effect on any other similar facilities in or near 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 Development which may be financed under the Act will be permitted to be included as part of the bond issue to finance the Development, 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 6.** 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 Development 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, 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 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 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, coupon, or series thereof is exempt from taxation by any local, state or federal government.

**SECTION 10.** 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 11.** In order to induce the Borrower to proceed with the acquisition, construction and equipping of the Development, 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 Development and for additions to the Development, including the costs of issuing additional bonds (provided that the financing of such addition or additions to the Development 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 12.** All costs of the Development 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, construction and equipping, underwriting expenses, attorney and bond counsel fees, and acquisition, construction and equipping of the Development will be permitted to be included as part of the bond issue to finance the Development, 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 Development. 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 13.** This resolution shall be in full force and effect immediately upon passage by this Common Council and signing by the President of this Common Council and by the Mayor.

INTRODUCED ON FIRST READING ON THE 3 DAY OF February, 2020.

MOTION TO ADOPT MADE BY COUNCILOR DeBoer, AND SECONDED BY COUNCILOR Thomas.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 3 DAY OF February, 2020, HAVING BEEN PASSED BY A VOTE OF 7 IN FAVOR AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Blanco	✓			
Bunder	✓			
DeBoer	✓			
Kang	✓			
Leverenz			✓	
Parker	✓			
Sanders			✓	
Thomas	✓			
Wang	✓			

  
Peter Bunder, Presiding Officer

Attest:

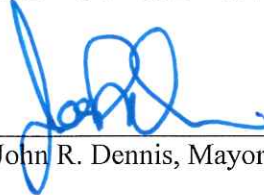
  
Sana G. Booker, Clerk



PRESENTED BY ME TO THE MAYOR OF THE CITY OF WEST LAFAYETTE, INDIANA ON THE  
4 DAY OF February, 2020.

  
Sana G. Booker, Clerk

THIS ORDINANCE APPROVED AND SIGNED BY ME ON THE 4 DAY OF  
February, 2020.

  
John R. Dennis, Mayor

Attest:

  
Sana G. Booker, Clerk

