

RESOLUTION NO. 2020-01

**RESOLUTION OF LAFAYETTE
ECONOMIC DEVELOPMENT COMMISSION**

WHEREAS, Indiana Code Title 36, Article 7, Chapters 11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, the Act provides that an issuer may, pursuant to the Act, issue revenue bonds and lend the proceeds thereof to a developer for the purpose of financing, reimbursing or refinancing the costs of economic development facilities for diversification of economic development and creation or retention of opportunities for gainful employment in or near such issuer; and

WHEREAS, the Act provides that such bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, a representative of Glick Briarwood Lafayette, LP, an Indiana limited partnership (the "Borrower") has requested that the City of Lafayette, Indiana (the "Issuer") issue bonds and lend the proceeds thereof to the Borrower in order to finance the acquisition, construction, renovation, improvement and equipping of a multifamily housing facility known as Briarwood of Lafayette Apartments, containing approximately 100 apartment units, together with functionally related and subordinate facilities such as parking areas, located at 1750 Windemere Drive, in Lafayette, Indiana and funding costs of issuance and any necessary reserves in connection therewith (the "Project") ; and

WHEREAS, the creation or retention of opportunities for gainful employment and the provision of quality, affordable, multifamily housing to be achieved by the acquisition, construction, renovation, improvement and equipping of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens; and

WHEREAS, it would appear that the acquisition, construction, renovation, improvement and equipping of the Project would be of benefit to the health or general welfare of the Issuer and its citizens; and

WHEREAS, pursuant to and in accordance with the Act, the Issuer desires to provide funds to acquire, construct, renovate, improve and equip the Project and to pay the costs of issuing the Bonds (as defined herein) and fund reserves, if any, by issuing not to exceed \$8,000,000 aggregate principal amount of its City of Lafayette, Indiana Economic Development Revenue Bonds, Series 2020 (Briarwood of Lafayette Project) (the "Bonds") in one or more series; and

WHEREAS, the Issuer intends to issue the Bonds pursuant to a Trust Indenture (the "Indenture"), by and between the Issuer and The Huntington National Bank (or a trustee selected by the Borrower, the "Trustee") in order to obtain funds to lend to the Borrower for the purpose of acquiring, constructing, renovating, improving and equipping the Project pursuant to a Loan

Agreement (the "Loan Agreement") with respect to the Bonds between the Issuer and the Borrower, provided, however, that the aggregate principal amount of the Bonds shall not exceed \$8,000,000; and

WHEREAS, the Loan Agreement provides for the repayment by the Borrower of the loan of the proceeds of the Bonds pursuant to which the Borrower will agree to make payments sufficient to pay the principal and interest on the Bonds as the same become due and payable and to pay administrative expenses in connection with the Bonds; and

WHEREAS, the Borrower has agreed after discussions with the Issuer to (a) increase rear lighting at the Project through installation of photocell dawn to dusk lighting on individual unit patios as previously recommended by the Issuer's police department, (b) replace existing parking lot and ornamental pole lighting with LED lighting and (c) add 4 cameras with recording and cloud storage access capability in locations reasonably acceptable to the Issuer's police department; and

WHEREAS, in connection with the adoption of this Resolution, the Commission has considered whether the acquisition, construction, renovation, improvement and equipping of the Project may have an adverse competitive effect on similar facilities operating in the City of Lafayette, Indiana; and

WHEREAS, there has been submitted to the Commission for its approval of substantially final forms of the Indenture, Loan Agreement, Regulatory Agreement and Declaration of Restrictive Covenants, Bond Purchase Agreement, Preliminary Official Statement and Bonds (hereinafter referred to collectively as the "Financing Documents") and the proposed form of ordinance which are by this reference incorporated herein; now, therefore:

**BE IT RESOLVED BY THE LAFAYETTE
ECONOMIC DEVELOPMENT COMMISSION:**

SECTION 1. It is hereby found that the acquisition, construction, renovation, improvement and equipping of the economic development facilities referred to in the Financing Documents consisting of the Project, the issuance and sale of the Bonds, in an aggregate principal amount not to exceed \$8,000,000, and the loan of the net proceeds thereof to the Borrower for the purposes of acquiring, constructing, renovating, improving and equipping the Project, and the repayment of said loan by the Borrower will be of benefit to the health or general welfare of the Issuer and its citizens and does comply with the purposes and provisions of the Act, including in particular the requirement of promoting a substantial likelihood of creating or retaining opportunities for gainful employment. Furthermore, it is hereby found that the acquisition, construction, renovation, improvement and equipping of the Project will further a public purpose of the Issuer through, among other things, the provision of quality, affordable, multifamily housing.

SECTION 2. The forms of the Financing Documents presented herewith are hereby approved and all such documents shall be kept on file by the Clerk of the Common Council or City Controller. In compliance with Indiana Code Title 36, Article 1, Chapter 5, Section 4, two

(2) copies of the Financing Documents are on file in the office of the Clerk of the Common Council for public inspection.

SECTION 3. The Commission hereby recommends the Issuer issue its Bonds as described above, in the aggregate principal amount not to exceed \$8,000,000 for the purpose of procuring funds to loan to the Borrower in order to acquire, construct, renovate, improve and equip the Project, which Bonds will be payable as to principal and interest solely from the payments made by the Borrower pursuant to the Financing Documents to evidence and secure said loan and as otherwise provided in the above-described Financing Documents. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the Issuer.

SECTION 4. The Commission further recommends that the Issuer authorize the Clerk and City Controller to sell such Bonds to the purchasers thereof at a price not less than 97% of the aggregate principal amount thereof (excluding any original issue premium or discount), plus accrued interest, if any, and at a fixed or initial variable rate of interest not to exceed 12% percent per annum. The Commission further recommends that the Issuer authorize the optional redemption of the Bonds within 11 years of the date of issuance thereof at a price of 100% of the principal amount thereof.

SECTION 5. The Commission recommends that the Mayor and Clerk be authorized and directed to execute those Financing Documents approved herein which require the signature of the Mayor and Clerk and any other document which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the Issuer. The signatures of the Mayor and the Clerk on the Bonds may be necessary or desirable to consummate the transaction. The signatures of the Mayor and the Clerk on the Bonds may be facsimile signatures. The Commission also recommends that the Clerk and City Controller be authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and Clerk may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve changes therein and also in those Financing Documents which do not require the signature of the Mayor and/or Clerk without further approval of the Common Council or the Commission if such changes do not affect terms set forth in Indiana Code Title 36, Article 7, Chapter 12, Section 27(a)(1) through (a)(10).

SECTION 6. The Commission approves the form of and recommends the adoption of the ordinance by the Common Council of the Issuer. The provisions of such ordinance, if and when adopted, and the Financing Documents shall constitute a contract binding between the Issuer and the holder or holders of the Bonds and after the issuance of said Bonds, the special resolution shall not be repealed or amended, in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

SECTION 7. The Commission finds and determines that the amount of tax credits to be allocated to the Project under Section 42 of the Internal Revenue Code of 1986, as amended, does not exceed the amount necessary for the financial feasibility of the Project and its viability as a qualified housing project throughout the credit period for the Project. In making the foregoing determination, the Commission has relied solely upon representations of the Borrower.

The foregoing determination shall not be construed to be a representation or warranty by the Commission as to the feasibility or viability of the Project. In reliance upon the representations of the Borrower, it is hereby found and determined that the Project satisfies the requirements for the allocation of a housing credit dollar amount under the Indiana Housing and Community Development Authority's qualified allocation plan.

SECTION 8. The Secretary of this Commission is directed to cause this resolution and two copies of the financing documents in their final forms to be transmitted to the office of the Clerk of the Common Council for presentation to the Common Council with the recommendation that the Common Council approve such documents in their final forms pursuant to the proposed form of Ordinance hereby recommended to the Common Council.

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Adopted this ____ day of _____, 2020

LAFAYETTE ECONOMIC
DEVELOPMENT COMMISSION

David Bathe

Scott Walker

Steve Snyder

Dave Zimmerman