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BILL NO. R-15-08-17

SPECIAL RESOLUTION NO. S-73-15

A SPECIAL RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE ON APPLICATION OF LILLIE GARDENS LP AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO THE FINANCING CERTAIN ECONOMIC DEVELOPMENT FACILITIES TO BE OWNED AND OPERATED BY LILLIE GARDENS LP

WHEREAS, the City of Fort Wayne, 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, renovation 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 Lillie Gardens LP, an Indiana limited partnership, or another limited partnership or a limited liability company 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 3323 Diplomat Drive consisting of 140 apartment 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

1 **WHEREAS**, the diversification of industry, retention of job opportunities
2 and providing affordable rental housing (3 retained full-time employees and 1 part-
3 time employee) to be achieved by the acquisition, renovation and equipping of the
4 Project will be of public benefit to the health, safety and general welfare of the City
5 and its citizens; and

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

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

12 **WHEREAS**, the Fort Wayne Economic Development Commission (the
13 “Commission”) has rendered its Project Report for the Project regarding the
14 financing of proposed economic development facilities for the Borrower, and said
15 Project Report has been sent to the City of Fort Wayne Plan Commission for
16 comment; and

17 **WHEREAS**, the Commission conducted a public hearing on August 20,
18 2015, and adopted a resolution on such date, which Resolution has been transmitted
19 to this Common Council, finding that the financing of certain economic development
20 facilities of the Borrower complies with the purposes and provisions of the Act and
21 that such financing will be of benefit to the health and welfare of the City and its
22 citizens; now therefor

23 **BE IT RESOLVED BY THE CITY OF FORT WAYNE COMMON**
24 **COUNCIL THAT:**

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

4 **SECTION 2.** It is hereby found and determined that the issuance and sale
5 of economic development revenue bonds of the City under the Act in an amount not
6 to exceed \$5,000,000 for the lending of the proceeds of the revenue bonds to the
7 Borrower for the purpose of financing a portion of the cost of the acquisition,
8 renovation and equipping of the Project will serve the public purposes referred to
9 above, in accordance with the Act.

10 **SECTION 3.** In accordance with the Act, the findings and determination
11 set forth above have been compiled and prepared into the Commission's Project
12 Report which Project Report is hereby approved by this Common Council.

13 **SECTION 4.** At the public hearing held by the Commission, the
14 Commission considered whether the economic development facilities would have an
15 adverse competitive effect on any similar facilities located in or near the City, and
16 subsequently found, based on special findings of fact set forth in the Resolution of
17 the Commission transmitted hereto that the facilities would not have an adverse
18 competitive effect. This Common Council hereby confirms the findings set forth in
19 the Commission's Resolution, and concludes that the economic development
20 facilities will not have an adverse competitive effect on any other similar facilities in
21 or near the City and the facilities will be of benefit to the health and welfare of the
22 citizens of the City.

23 **SECTION 5.** All costs of the Project which may be financed under the Act
24 will be permitted to be included as part of the bond issue to finance the Project, and
25 the City will sell or lease the same to the Borrower or loan the proceeds from the sale
26 of the bonds to the Borrower for the same purposes.

27 **SECTION 6.** All action taken and approvals given by this Common
28 Council with regard to the Borrower, are based upon the evidence submitted and
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1 representations made by the Borrower, its agents or counsel. No independent
2 examination, appraisal or inspection of the Project was made, requested, or is
3 contemplated by this Common Council, the Commission or the City.

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

7 **SECTION 8.** This Common Council shall not be obligated, directly or
8 indirectly, to see to the application or use of the proceeds from the sale of the bonds
9 or to see that the contemplated improvements, if any, are constructed. This Common
10 Council is in no way responsible to the holders of any bonds for any payment
11 obligation created by the bonds.

12 **SECTION 9.** This Common Council does not warrant, guarantee or even
13 suggest that interest to be paid to or income to be received by the holders of any
14 bond, coupon, or series thereof is exempt from taxation by any local, state or federal
15 government.

16 **SECTION 10.** The bonds shall be special, limited obligations of the City
17 payable solely from the funds provided therefor as described in a Financing
18 Agreement (as defined in the Act) to be approved at a later date by the Commission
19 and this Common Council prior to the issuance of the bonds, and shall not constitute
20 an indebtedness of the Commission or the City or a loan of the credit thereof within
21 the meaning of any constitutional or statutory provisions.

22 **SECTION 11.** In order to induce the Borrower to proceed with the
23 acquisition, renovation and equipping of the Project, this Common Council hereby
24 finds and determines that (i) it will take or cause to be taken such actions pursuant to
25 the Act as may be required to implement the aforesaid financing, or as it may deem
26 appropriate in pursuance thereof; provided that all of the foregoing shall be mutually
27 acceptable to the City and the Borrower; and (ii) it will adopt such resolutions or
28 ordinances and authorize the execution and delivery of such instruments and the
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1 taking of such action as may be necessary and advisable for the authorization,
2 issuance and sale of said economic development revenue bonds; and (iii) it will use
3 its best efforts to assist the Borrower in procuring the issuance of additional
4 economic development revenue bonds, if such additional bonds become necessary
5 for refunding or refinancing the outstanding principal amount of the economic
6 development revenue bonds, for completion of the Project and for additions to the
7 Project, including the costs of issuing additional bonds (provided that the financing
8 of such addition or additions to the Project is found to have a public purpose (as
9 defined in the Act) at the time of the authorization of such additional bonds), and that
10 the aforementioned purposes comply with the provisions of the Act.

11 **SECTION 12.** All costs of the Project incurred after the date permitted by
12 applicable federal tax and state laws, including reimbursement or repayment to the
13 Borrower of moneys expended by the Borrower for application fees, planning,
14 engineering, a portion of the interest paid during acquisition, renovation and
15 equipping, underwriting expenses, attorney and bond counsel fees, and acquisition,
16 renovation and equipping of the Project will be permitted to be included as part of
17 the bond issue to finance the Project, and the City will lend the proceeds from the
18 sale of the bonds to the Borrower for the same purposes. Also, certain indirect
19 expenses, including but not limited to, planning, architectural work and engineering
20 incurred prior to this inducement resolution will be permitted to be included as part
21 of the bond issue to finance the Project. This resolution shall constitute "official
22 action" for purposes of compliance with federal and state laws requiring
23 governmental action as authorization for future reimbursement from the proceeds of
24 bonds.
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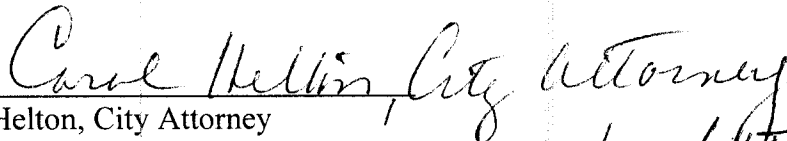
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SECTION 13. This resolution shall be in full force and effect immediately upon passage by this Common Council and signing by the President of this Common Council and by the Mayor.



John Crawford, President

APPROVED AS TO FORM AND LEGALITY:



Carol Helton, City Attorney
by 

Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: A Special Resolution of the Common Council of the City of Fort Wayne on Application of Lillie Gardens, LP Authorizing Certain Actions and Proceedings with Respect to the Financing Certain Economic Development Facilities to be Owned and Operated by Lillie Gardens, LP

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: Lillie Gardens, LP is seeking approval of the City's participation with economic development revenue bond financing to provide a portion of the funds to pay the costs of acquisition, design, construction, renovation, improvement and/or equipping of the existing apartments buildings located at 3323 Diplomat Drive.

EFFECT OF PASSAGE: An existing 140 unit apartment complex will receive extensive renovations. Three full-time and one part-time jobs will be retained as a result of the project.

EFFECT OF NON-PASSAGE: Potential loss of development

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): No expenditures of public funds required.

ASSIGNED TO COMMITTEE (PRESIDENT): Russ Jehl and Tom Didier

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman Russ Jehl

Read the second time by title and referred to the Finance

Committee. Read the third time in full and on motion by Councilman

Tom Didier, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>	_____	_____	<u>1</u>
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	_____	_____	_____	<u>✓</u>
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 9-8-15

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as
(ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE
(RESOLUTION) NO. R-73-15 on the 8th day of
September, 2015

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

John N. Crawford
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 9th day
of September, 2015, at the hour of 4:30 O'clock P.M. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 10th day of September
2015, at the hour of 8:30 O'clock A.M. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

BILL NO. R-15-08-17

REPORT OF THE COMMITTEE ON FINANCE

SEPTEMBER 1, 2015

**RUSSELL JEHL – CHAIR
THOMAS DIDIER – CO-CHAIR
ALL COUNCIL MEMBERS**

WE, YOUR COMMITTEE ON FINANCE TO WHOM WAS REFERRED

HAVE HAD SAID SPEICAL RESOLUTION UNDER CONSIDERATION AND BEG
LEAVE TO REPORT BACK TO THE COMON COUNCIL THAT SAID SPECIAL
RESOLUTION OF THE COMMON COUNCIL OF THE CITY OFFORT WAYNE ON
APPLICATION OF LILLIE GARDENS LP AUTHORIZING CERTAIN ACTIONS AND
PROCEEDINGS WITH RESPECT TO THE FINANCING OF CERTAIN ECONOMIC
DEVELOPMENT FACILITIES TO BE OWNED AND OPERATED BY LIILIE GARDENS
LP. THE ISSUANCE AND SALE OF ECONOMIC DEVELOPMENT REVENUE BONDS OF
THE CITY UNDER THE ACT IN AN AMOUNT NOT TO EXCEED \$5,000,000.00.

DO PASS

DO NOT PASS

ABSTAIN

NO REC

[Handwritten signatures in the 'DO PASS' column]

SANDRA E. KENNEDY
CITY CLERK