

Amended
ORDINANCE NO. 16-2008

ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF VALPARAISO, INDIANA ADJUSTABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2008 (PINES VILLAGE RETIREMENT COMMUNITIES, INC. PROJECT), AND THE LENDING OF THE PROCEEDS THEREOF TO PINES VILLAGE RETIREMENT COMMUNITIES, INC. AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of Valparaiso, Indiana (the "City") is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions;

WHEREAS, Pines Village Retirement Communities, Inc. (the "Borrower") desires to (i) finance the acquisition, construction and installation of improvements to its independent and assisted living facilities on the Pines Village campus, including the renovation of independent living apartments and the construction of new resident units, a dining area, a kitchen, an entryway, a loading dock, a connecting link from the core building to the assisted living units, and related improvements (the "Pines Village Projects"), (ii) finance the acquisition, construction and installation of road, sidewalk, sign, landscape and related improvements to the Meridian Woods campus, and refinance certain outstanding debt of the Borrower, the proceeds of which were used by the Borrower to finance the acquisition, construction, and equipping of improvements to its independent living facilities on the Meridian Woods campus (the "Meridian Woods Projects"), (iii) pay capitalized interest, and (iv) pay the costs and expenses of issuing the Bonds;

WHEREAS, the Borrower will own and complete the Pines Village Projects for use in the operation of its independent and assisted living facilities located at its Pines Village campus at 3303 Pines Village Circle in the City, and will own and will complete or has completed the Meridian Woods Projects for use in the operation of its independent living community located at its Meridian Woods campus, on the west side of North Campbell Street, between Bullseye Lake Road and West Burlington Beach Road in the City;

WHEREAS, the Borrower has advised the City of Valparaiso, Indiana Economic Development Commission (the "Commission") and the City that it proposes that the City issue revenue bonds, in one or more series, in an amount not to exceed Eleven Million Dollars (\$11,000,000) (the "Bonds") under the Act and loan the proceeds of such Bonds to the Borrower for the purpose of financing the Pines Village Projects and the Meridian Woods Projects (collectively, the "Projects");

WHEREAS, the financing of the Projects results in the diversification of industry, the retention of approximately 97 jobs, and the creation of business opportunities in the City;

WHEREAS, pursuant to I.C. § 36-7-12-24 and Section 147(f) of the Internal Revenue Code of 1986, as amended, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects;

WHEREAS, on April 21, 2008, the Commission held the Public Hearing on the Projects and received uncontroverted evidence that there are no facilities which are similar to the Projects or Borrower's existing independent and assisted living facilities, and have already been constructed or operating in or near the City; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Common Council the forms of: (1) a Loan Agreement, among the City and the Borrower (including the related promissory note) (the "Loan Agreement"); (2) a Trust Indenture, with respect to the Bonds, between the City and Centier Bank, as trustee (the "Trustee") (the "Indenture"); (3) the Bonds; (4) a Bond Purchase Agreement among the City, the Borrower, and Lancaster Pollard & Co., as underwriter (the "Underwriter") (the "Bond Purchase Agreement"); (5) a Remarketing Agreement between the Borrower and Lancaster Pollard & Co., as remarketing agent (the "Remarketing Agreement"); (6) a Preliminary Official Statement with respect to the Bonds (the "Preliminary Official Statement"); and (7) this Bond Ordinance (the Loan Agreement, the Indenture, the Bonds, the Bond Purchase Agreement, the Remarketing Agreement, the Preliminary Official Statement, and this Bond Ordinance, collectively, the "Financing Agreements").

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, THAT:

Section 1. Findings; Public Benefits. The Common Council hereby finds and determines that the Projects involve the construction and equipping of an "economic development facility" as that phrase is used in the Act; that the Projects will retain employment opportunities and diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Projects; and, therefore, that the financing of the Projects by the issue of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the City; and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Projects by the issuance of the Bonds, in one or more series, under the Act, in the form that such financing was approved by the City of Valparaiso, Indiana Economic Development Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. The Bonds, in one or more series in the aggregate principal amount not to exceed Eleven Million Dollars (\$11,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor and the Clerk-Treasurer of the City; (ii) be dated as of the date of issuance or the first day of the month in which the Bonds are issued; (iii) mature on a date not later than ~~twenty-six~~ ^{ELI~~VE~~TY SIX} years after the date of issuance; (iv) bear interest at such tax-exempt rates, as determined through the marketing of the Bonds by the Underwriter on the date of sale and the remarketing of the Bonds as provided in the Indenture, with such interest payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; and (xi) contain such other terms and provisions as may be provided in the Financing Agreements.

(a) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, but shall be special and limited obligations of the City, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.

Section 5. Sale of the Bonds. The Mayor and the Clerk-Treasurer of the City are hereby authorized and directed, in the name and on behalf of the City, to sell the Bonds to the Underwriter at the price, in the manner and at the time set forth in the Bond Purchase Agreement, at such prices as are determined on the date of sale and approved by the Mayor and the Clerk-Treasurer of the City.

Section 6. Preliminary Official Statement and Official Statement. (a) The Common Council hereby approves, and authorizes and directs the Mayor and the Clerk-Treasurer of the City, for and on behalf of the City, to distribute or cause to be distributed, the Preliminary Official Statement, in the form presented at this meeting, with such changes thereto as the Mayor and the Clerk-Treasurer of the City determine to be necessary or appropriate, such determination to be conclusively evidenced by such distribution. The Common Council hereby authorizes the Mayor and the Clerk-Treasurer of the City, for and on behalf of the City, to deem the Preliminary Official Statement final as of its date, except for the omission of no more than the following: offering price(s), interest rate(s), selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings and other terms of the Bonds depending on such matters.

(b) The Common Council hereby authorizes the distribution of an Official Statement for the Bonds (the "Official Statement"). The Common Council hereby approves, and authorizes and directs the Mayor and the Clerk-Treasurer of the City, for and on behalf of the City, to execute and deliver, and to distribute or cause to be distributed, the Official Statement, in substantially the form of the Preliminary Official Statement, with the addition of any items omitted therefrom described in subsection (a) above and with such other changes thereto as the

Mayor and the Clerk-Treasurer of the City determine to be necessary or appropriate, such determination to be conclusively evidenced by such Mayor's and such Clerk-Treasurer's execution thereof.

Section 7. Execution and Delivery of Financing Agreements. The Mayor and the Clerk-Treasurer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Loan Agreement, the promissory note from the Borrower to the City, the Indenture, the Bonds and the Bond Purchase Agreement, submitted to the Common Council, which are hereby approved in all respects.

Section 8. Changes in Financing Agreements. The Mayor and the Clerk-Treasurer of the City are hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 9. Public Hearing. The Commission is hereby appointed to conduct a public hearing on behalf of the City pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Commission's having conducted such a hearing on April 21, 2008 (the "Public Hearing"), as such appointee, is hereby ratified and approved.

Section 10. Public Approval. The Common Council hereby approves the issue of the Bonds and the Projects to be financed by the Bonds, which facilities are described in the published notice of the Public Hearing.

Section 11. General. The Mayor and the Clerk-Treasurer of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 12. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the City and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 13. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 14. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption.

Section 15. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Clerk-Treasurer of the City, and are available for public inspection in accordance with I.C. § 36-1-5-4.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA, THIS 12th DAY OF May, 2008.

COMMON COUNCIL OF THE
CITY OF VALPARAISO, INDIANA

President

ATTEST:

Sharon Emerson Surbant
Clerk-Treasurer

Presented to me, the undersigned Clerk-Treasurer of the City of Valparaiso, to the Mayor of said City for his approval on the 12th day of May 2008, at _____ o'clock, ____ .M.

Sharon Emerson Surbant
Clerk-Treasurer

Having examined the foregoing Ordinance, I do now, as the Mayor of the City of Valparaiso, approve said Ordinance and return the same to the Clerk-Treasurer of the City of Valparaiso, this 12th day of May, 2008.

[Signature]
Mayor