

CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER STARKER
Council Bill No. 09
Ordinance No. 1571
Series 2015

TITLE: AN ORDINANCE AUTHORIZING THE ISSUANCE OF THE CITY OF WHEAT RIDGE, COLORADO DEVELOPMENT REVENUE NOTE (SENIORS' RESOURCE CENTER, INC. PROJECT), SERIES 2015, IN A PRINCIPAL AMOUNT NOT TO EXCEED \$1,000,000 TO FINANCE CERTAIN FACILITIES THAT PROVIDE DAY CARE, RESPITE, TRANSPORTATION AND OTHER SERVICES TO SENIORS; AUTHORIZING THE EXECUTION AND DELIVERY BY THE CITY OF A FINANCING AGREEMENT, A NOTE AND CLOSING DOCUMENTS IN CONNECTION THEREWITH; MAKING DETERMINATIONS AS TO THE SUFFICIENCY OF REVENUES AND AS TO OTHER MATTERS RELATED TO THE PROJECT; RATIFYING ACTION HERETOFORE TAKEN AND PROVIDING OTHER MATTERS RELATING THERETO

WHEREAS, the City of Wheat Ridge, Colorado (the "City") is a municipal corporation and a home rule city duly organized and existing under the laws of the State of Colorado and in particular under the provisions of Article XX of the Constitution of the State of Colorado and the Charter of the City (the "Charter"); and

WHEREAS, the City is authorized by the Charter, the County and Municipality Development Revenue Bond Act, constituting Sections 29-3-101 through 29-3-123, inclusive, Colorado Revised Statutes (the "Act"), and Part 2 of Article 57 of Title 11 of the Colorado Revised Statutes, as amended (the "Supplemental Public Securities Act"), to issue its Development Revenue Note (Seniors' Resource Center, Inc. Project), Series 2015 (the "Note") for the purpose of financing certain improvements to facilities that provide day care, respite, transportation and other services to seniors; and

WHEREAS, the Charter, the Act and the Supplemental Public Securities Act authorize the City (a) to issue the Note for the purpose of defraying the cost of financing or refinancing any project authorized by the Act and all incidental expenses incurred in connection with the issuance of such Note; (b) to enter into a Financing Agreement (the "Financing Agreement") with the Borrower and the Lender (as hereinafter defined) for the purpose of lending the proceeds of the Note to the Borrower and providing for the payment of the Note from certain revenues of the Borrower, which Note is authorized to be issued by the City under the Charter, the Act and the Supplemental Public Securities Act and upon such terms and conditions as the City Council of the City may deem advisable; and (c) to secure the payment of the principal of, premium, if any, and interest on such Note as provided in the Charter, the Act and the Supplemental Public Securities Act; and

WHEREAS, the City Council is authorized by the Supplemental Public Securities Act to delegate to any of its members, chief executive officer or chief financial officer the authority to sign a contract for the purchase of securities or to accept a binding bid for securities and, in addition, may delegate the following determinations, among others, to such member or officer without any requirement that the issuing authority approve such determinations: (a) the rate of interest on securities; (b) the conditions on which and the prices at which the applicable securities may be redeemed before maturity; (c) the existence and amount of any capitalized interest or reserve funds; (d) the price at which the securities will be sold; (e) the principal amount and denominations of the securities; (f) the amount of principal maturing in any particular year; and (g) the dates on which principal and interest shall be paid; and

WHEREAS, the Seniors' Resource Center, Inc., a Colorado not-for-profit corporation (the "Borrower"), presently owns a facility that provides day care, administration and other services located at 3227 Chase Street (the "Facility") which is located within the boundaries of the City; and

WHEREAS, the Borrower proposes that the City issue the Note and enter into the Financing Agreement with the Borrower and the Lender in order to (a) finance improvements to the Facility; and (b) pay the costs of issuance of the Note (collectively, the "Project"); and

WHEREAS, the Borrower has determined that FirstBank (the "Lender") will provide advantageous terms for financing to complete the Project; and

WHEREAS, the Lender has agreed to make a loan the repayment of which will be evidenced by the Note, enter into the Financing Agreement, and execute an investment letter addressed to the City; and

WHEREAS, the City has determined that it is advisable and in the best interests of the City to issue and deliver the Note, in a principal amount not to exceed \$1,000,000, to the Lender and to enter into the Financing Agreement to finance the Project; and

WHEREAS, the cost of the Project will be paid out of the proceeds of the Note, and no cost or expense shall be borne by the City in connection with the issuance of the Note, the preparation of any documents relating thereto, or any legal or financial consultants retained in connection therewith, and the Note shall be a special, limited obligation of the City payable solely from the receipts and moneys provided by the Borrower; and

WHEREAS, the payment of the principal of and interest on the Note will be secured by (a) the Financing Agreement and the revenues and receipts derived from the Borrower pursuant to the Financing Agreement, and (b) a deed of trust encumbering the Borrower's real property, granted by the Borrower for the benefit of the Lender; and

WHEREAS, the City caused to be published at least 14 days before the date of final adoption of this Ordinance a notice of public hearing with respect to the issuance of the Note, inviting all interested persons to attend such hearing on the date of final adoption of this Ordinance; and

WHEREAS, such public hearing was held immediately prior to the final adoption of this Ordinance; and

WHEREAS, the proposed form of the Financing Agreement (with the form of the Note attached thereto) is on file with the City Clerk;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1: All action (not inconsistent with the provisions of this Ordinance) heretofore taken by the City Council and the officers of the City directed toward the financing of the Project and the issuance and sale of the Note therefor is hereby ratified, approved and confirmed.

Section 2: The City shall finance the Project subject to the terms of the Financing Agreement by the issuance, sale and delivery of the Note.

Section 3: There is hereby authorized and created an issue of revenue bonds designated as the “City of Wheat Ridge, Colorado Development Revenue Note (Seniors’ Resource Center, Inc. Project), Series 2015” in a principal amount not to exceed \$1,000,000, issuable as one fully registered Note as provided in the Financing Agreement.

The City Council hereby elects to apply the Supplemental Public Securities Act to the Note. Pursuant to such election, the City Council hereby delegates for a period of up to one year from the date of adoption of this ordinance to the City Manager the independent authority to establish: (i) the principal amount and the interest rate on the Note and the payment dates for principal and interest, provided that the principal amount of the Note shall not exceed \$1,000,000 (the “Maximum Principal Amount”); the tax-exempt fixed interest rate for the Note shall not exceed 5.50% (the “Maximum Interest Rate”); and the net effective interest rate for the Note (assuming an event of default or an event of taxability) shall not exceed 10.00% (the “Maximum Net Effective Interest Rate”); (ii) the prior redemption provisions for the Note; (iii) the date on which the Note shall mature; and (iv) any other matters specified in 11-57-205(1), C.R.S.

Section 4: The following determinations and findings are hereby made in accordance with Sections 29-3-113, 29-3-114 and 29-3-120 of the Act:

- (a) The maximum amount necessary in any year to pay the principal of and the interest on the Note is \$98,049.96, assuming that the Note is issued in the Maximum Principal Amount, bears interest at the Maximum Interest Rate, and is amortized over a 15 year period.
- (b) The maximum amount necessary in any year to pay the principal of and the interest on the Note is \$128,952.60, assuming that the Note is issued in the Maximum Principal Amount, bears interest at the Maximum Net Effective Interest Rate, and is amortized over a 15 year period.

- (c) No reserve fund has been established or is proposed to be established for the retirement of the Note or the maintenance of the Facility, and accordingly, it shall not be necessary to pay any amounts into any such reserve fund.
- (d) The terms under which the Facility is to be financed provide that the Borrower shall maintain the Facility and carry all proper insurance with respect thereto.
- (e) The revenues payable under the Financing Agreement are sufficient to pay, in addition to all other requirements of the Financing Agreement and this Ordinance, all sums referred to in paragraphs (a), (b) and (d) of this Section.
- (f) The revenues payable under the Financing Agreement are sufficient to pay, in addition to all other requirements of the Financing Agreement and this Ordinance, all taxes payable pursuant to Section 29-3-120 of the Act.

Section 5: The forms, terms and provisions of the Financing Agreement are hereby approved and the City shall enter into the Financing Agreement in substantially the form of such document presently on file with the City Clerk, with only such changes therein as are not inconsistent herewith and as approved by the City Manager as provided in Section 3 hereof, and the execution of the Financing Agreement by the Mayor, or in the Mayor's absence, the Mayor Pro Tem, shall be conclusive evidence of the approval thereof. The Mayor, or in the Mayor's absence, the Mayor Pro Tem, is hereby authorized and directed to execute and deliver the Financing Agreement and the City Clerk is hereby authorized and directed to affix the City seal to and to attest the Financing Agreement.

Section 6: The form, terms and provisions of the Note in substantially the form contained in the Financing Agreement are hereby approved, with only such changes therein as are not inconsistent herewith; and the Mayor, or in the Mayor's absence, the Mayor Pro Tem, is hereby authorized and directed to execute the Note and the City Clerk is hereby authorized and directed to affix the seal of the City to the Note and to attest the Note. The signatures of the Mayor, or in the Mayor's absence, the Mayor Pro Tem, and the City Clerk on the Note and the seal of the City on the Note shall be affixed manually or by facsimile.

Section 7: The Note is issued pursuant to the Act and the Supplemental Public Securities Act and the officers and employees of the City shall take all action in conformity with the Act and the Supplemental Public Securities Act necessary or reasonably required to effectuate the issuance of the Note and shall take all action in conformity with the Act and the Supplemental Public Securities Act necessary or desirable to finance the cost of the Project and for carrying out, giving effect to and consummating the transactions contemplated by this Ordinance and the Financing Agreement, including, without limitation, the execution and delivery of any closing documents or tax agreement to be delivered in connection with the sale and delivery of the Note.

Section 8: The cost of the Project, including incidental issuing expenses, will only be paid out of the proceeds of the Note or moneys provided by the Borrower, and the Note will not be the general obligation of the City, nor shall the Note, including interest thereon, constitute the debt or indebtedness of the City within the meaning of the City Charter or the Constitution or

statutes of the State of Colorado, nor shall anything contained in this Ordinance or in the Note, the Financing Agreement or any other instrument give rise to a pecuniary liability of the City, any multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City, or a charge upon the general credit or taxing powers of the City, nor shall the breach of any agreement contained in this Ordinance, the Note or the Financing Agreement impose any pecuniary liability on the City or a charge upon the general credit or taxing powers of the City, the City having no power or obligation to pay out of its general fund, or otherwise contribute any part of the costs of financing the Project, nor power to operate the Facility as a business or in any manner, nor shall the City condemn any land or other property for the Project nor contribute any land or other property to the Project. Nothing contained in this Ordinance or the Financing Agreement shall give rise to any personal or pecuniary liability of any elected official, officer, director, employee, agent or attorney of the City.

Section 9: For purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), the City Council hereby approves the Note and the financing of the Project. The City hereby designates the Note as a "qualified tax-exempt obligation" for purpose of Section 265(b) of the Code. The City does not anticipate issuing more than \$10,000,000 in tax-exempt obligations in calendar year 2015.

Section 10: If any section, paragraph, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 11: All bylaws, orders, resolutions and ordinances, or parts hereof, inconsistent herewith and with the documents hereby approved, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance, or part thereof.


Section 12: After the Note is issued, this Ordinance shall be and shall remain irrevocable until the Note shall be fully paid, canceled and discharged.

Section 13: Pursuant to Section 5.11 of the Charter, this Ordinance shall take effect upon adoption and the signature of the Mayor.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 11th day of May, 2015, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for June 8, 2015, at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado.

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of 8 to 0, this 8th day of June 2015.

SIGNED by the Mayor on this 8 day of June, 2015.



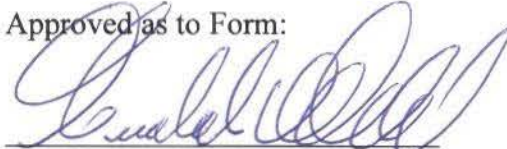
Joyce Jay, Mayor

ATTEST:



Janelle Shaver, City Clerk



Approved as to Form:


Gerald E. Dahl, City Attorney

First Publication: May 14, 2015
Second Publication: June 11, 2015
Wheat Ridge Transcript
Effective Date: June 8, 2015