

GILMORE & BELL, P.C.
MAY 18, 2022

ORDINANCE NO. 689

**OF THE
CITY OF BEL AIRE, KANSAS**

**AUTHORIZING THE ISSUANCE OF
\$8,000,000
MULTIFAMILY HOUSING REVENUE BONDS
SERIES 2022
(HOMESTEAD SENIOR RESIDENCES BEL AIRE, LLC)**

ORDINANCE NO. 689

AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS TO ISSUE ITS MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2022 (HOMESTEAD SENIOR RESIDENCES BEL AIRE, LLC) FOR THE PURPOSE OF PAYING COSTS TO ACQUIRE, CONSTRUCT AND EQUIP A SENIOR RESIDENCE FACILITY; AND AUTHORIZING CERTAIN OTHER RELATED DOCUMENTS AND ACTIONS.

THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS HAS FOUND AND DETERMINED:

A. The City of Bel Aire, Kansas (the "Issuer") is authorized by K.S.A. 12-1740 *et seq.*, as amended (the "Act"), to acquire, construct, improve and equip certain facilities (as defined in the Act) for commercial, industrial and manufacturing purposes, to enter into leases and lease-purchase agreements with any person, firm or corporation for the facilities.

B. The Issuer's governing body has determined that it is desirable in order to promote, stimulate and develop the general economic welfare and prosperity of the Issuer and the State of Kansas that the Issuer issue its Multifamily Housing Revenue Bonds, Series 2022 (Homestead Senior Residences Bel Aire, LLC) in the aggregate principal amount not to exceed \$8,000,000 (the "Series 2022 Bonds"), for the purpose of paying the costs to acquire, construct and equip a senior residence facility (the "Project"), as more fully described in the Indenture and in the Lease authorized in this Ordinance, for lease to Homestead Senior Residences Bel Aire, LLC, a Kansas limited liability company (the "Tenant").

C. The Issuer's governing body finds that it is necessary and desirable in connection with the issuance of the Series 2022 Bonds to execute and deliver the following documents (collectively, the "Bond Documents"):

(i) a Trust Indenture (the "Indenture"), with Security Bank of Kansas City, Kansas City, Kansas, as Trustee (the "Trustee"), prescribing the terms and conditions of issuing and securing the Series 2022 Bonds;

(ii) a Site Lease (the "Site Lease") with the Tenant under which the Tenant will lease an interest in the Real Property to the Issuer;

(iii) a Project Lease (the "Project Lease") with the Tenant, under which the Issuer will acquire, construct and equip the Project and lease it to the Tenant in consideration of Basic Rent and other payments;

(iv) a Bond Purchase Agreement (the "Bond Purchase Agreement") providing for the sale of the Series 2022 Bonds by the Issuer to Homestead Senior Residences Bel Aire, LLC, Holton, Kansas (the "Purchaser"); and

(v) an Origination Fee Agreement (the "Origination Fee Agreement") to be entered into between the Issuer and the Tenant in conjunction with the issuance of the Series 2022 Bonds.

D. The Issuer's governing body has found that under the provisions of K.S.A. 79-201a *Twenty-Fourth*, the Project purchased or constructed with the proceeds of the Series 2022 Bonds is eligible for

exemption from ad valorem property taxes for up to 10 years, commencing in the calendar year following the calendar year in which the Bonds are issued, if proper application is made, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Issuer's governing body has further found that the Project should be exempt from ad valorem property taxes for a period of 10 years. Prior to making this determination, the governing body of the Issuer has conducted the public hearing and reviewed the analysis of costs and benefits of the exemption required by K.S.A. 12-1749d.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF BEL AIRE, KANSAS:

Section 1. **Definition of Terms.** All terms and phrases not otherwise defined in this Ordinance will have the meanings set forth in the Indenture and the Project Lease.

Section 2. **Authority to Cause the Project to Be Purchased and Constructed.** The Issuer is authorized to lease the Real Property and cause the Project to be acquired, constructed and equipped in the manner described in the Indenture, the Site Lease and the Project Lease.

Section 3. **Authorization of and Security for the Bonds.** The Issuer is authorized and directed to issue the Series 2022 Bonds, to be designated "City of Bel Aire, Kansas Multifamily Housing Revenue Bonds, Series 2022 (Homestead Senior Residences Bel Aire, LLC)" in the aggregate principal amount of not to exceed \$8,000,000, for the purpose of providing funds to pay the costs to acquire, construct and equip the Project. The Series 2022 Bonds will be dated and bear interest, will mature and be payable at the times, will be in the forms, will be subject to redemption and payment prior to maturity, and will be issued according to the provisions, covenants and agreements in the Indenture. The Series 2022 Bonds will be special limited obligations of the Issuer payable solely from the Trust Estate under the Indenture, including revenues derived from the Project Lease. The Series 2022 Bonds will not be general obligations of the Issuer, nor constitute a pledge of the faith and credit of the Issuer, and will not be payable in any manner by taxation.

Section 4. **Authorization of Indenture.** The Issuer is authorized to enter into the Indenture with the Trustee in the form approved in this Ordinance. The Issuer will pledge the Trust Estate described in the Indenture to the Trustee for the benefit of the owners of the Series 2022 Bonds on the terms and conditions in the Indenture.

Section 5. **Lease of the Project.** The Issuer will lease an interest in the Real Property and acquire, construct and equip the Project and lease it to the Tenant according to the provisions of the Site Lease and Project Lease in the form approved in this Ordinance.

Section 6. **Authorization of Bond Purchase Agreement.** The Issuer is authorized to sell the Series 2022 Bonds to the Purchaser, according to the terms and provisions of the Bond Purchase Agreement, in the form approved in this Ordinance.

Section 7. **Authorization of Origination Fee Agreement.** At or prior to the issuance of the Series 2022 Bonds, the Issuer will enter into the Origination Fee Agreement with the Tenant providing for the payment to the Issuer of an origination fee upon the terms and subject to the conditions set forth in the agreement, in the form approved in this Ordinance.

Section 8. **Execution of Bonds and Bond Documents.** The Mayor of the Issuer is authorized and directed to execute the Series 2022 Bonds and deliver them to the Trustee for authentication on behalf of the Issuer in the manner provided by the Act and in the Indenture. The Mayor, or member of the Issuer's

governing body authorized by law to exercise the powers and duties of the Mayor in the Mayor's absence, is further authorized and directed to execute and deliver the Bond Documents on behalf of the Issuer in substantially the forms presented for review prior to passage of this Ordinance, with the corrections or amendments as the Mayor or other person lawfully acting in the absence of the Mayor may approve, which approval shall be evidenced by his or her signature. The authorized signatory may sign and deliver all other documents, certificates or instruments as may be necessary or desirable to carry out the purposes and intent of this Ordinance and the Bond Documents. The City Clerk or the Deputy City Clerk of the Issuer is hereby authorized and directed to attest the execution of the Series 2022 Bonds, the Bond Documents and the other documents, certificates and instruments as may be necessary or desirable to carry out the intent of this Ordinance under the Issuer's corporate seal.

Section 9. **Property Tax Exemption.** The Project will be exempt from ad valorem property taxes for an initial period of five (5) years, commencing in the calendar year after the calendar year in which the Series 2022 Bonds are issued, , and for an additional five (5) year period for a total of ten (10) years, if the additional five (5) year period is approved by the then current governing body of the Issuer, provided no exemption may be granted from the ad valorem property tax levied by a school district pursuant to the provisions of K.S.A. 72-53,113, and amendments thereto. The Tenant will prepare the application for exemption and submit it to the Issuer for its review. After its review, the Issuer will submit the application for exemption to the State Board of Tax Appeals.

Section 10. **Pledge of the Project and Net Lease Rentals.** The Issuer hereby pledges the Project and the net rentals generated under the Project Lease to the payment of the Series 2022 Bonds in accordance with K.S.A. 12-1744. The lien created by the pledge will be discharged when all of the Series 2022 Bonds are paid or deemed to have been paid under the Indenture.

Section 11. **Authority To Correct Errors and Omissions.** The Mayor or member of the Issuer's governing body authorized to exercise the powers and duties of the Mayor in the Mayor's absence, the City Clerk and any Deputy City Clerk are hereby authorized and directed to make any alterations, changes or additions in the instruments herein approved, authorized and confirmed which may be necessary to correct errors or omissions therein or to conform the same to the other provisions of the instruments or to the provisions of this Ordinance.

Section 12. **Further Authority.** The officials, officers, agents and employees of the Issuer are authorized and directed to take whatever action and execute whatever other documents or certificates as may be necessary or desirable to carry out the provisions of this Ordinance and to carry out and perform the duties of the Issuer with respect to the Series 2022 Bonds and the Bond Documents.

Section 13. **Effective Date.** This Ordinance shall take effect after its passage by the governing body of the Issuer, signature by the Mayor and publication once in the Issuer's official newspaper.

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PASSED by the governing body of the Issuer on June 7, 2022 and **SIGNED** by the Mayor.

(SEAL)

Mayor

ATTEST:

City Clerk

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CERTIFICATE

I hereby certify that the attached copy is a true and correct copy of Ordinance No. 689 of the City of Bel Aire, Kansas duly passed by the governing body, signed by the Mayor and published in the official City newspaper on the respective dates stated in this Ordinance, and that the signed original of the Ordinance is on file in my office.

[SEAL]

City Clerk

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF BEL AIRE, KANSAS
HELD ON JUNE 7, 2022**

The governing body of the City of Bel Aire, Kansas met in regular session at the usual meeting place in the City, at 7:00 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

* * * * *

(Other Proceedings)

Thereupon, there was presented for final passage an Ordinance entitled:

**AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS TO
ISSUE ITS MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2022
(HOMESTEAD SENIOR RESIDENCES BEL AIRE, LLC) FOR THE PURPOSE
OF PAYING COSTS TO ACQUIRE, CONSTRUCT AND EQUIP A SENIOR
RESIDENCE FACILITY; AND AUTHORIZING CERTAIN OTHER RELATED
DOCUMENTS AND ACTIONS.**

Thereupon, Councilmember _____ moved that the Ordinance be passed. The motion was seconded by Councilmember _____. The Ordinance was duly read and considered, and upon being put, the motion for the final passage of the Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye:

Nay:

Thereupon, the Mayor declared the Ordinance duly passed and the Ordinance was then duly numbered Ordinance No _____ and was signed by the Mayor and the signature attested by the City Clerk.

* * * * *

(Other Proceedings)

* * * * *

CERTIFICATE

I certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of the City of Bel Aire, Kansas held on the date stated therein, and that the official minutes of the proceedings are on file in my office.

[SEAL]

City Clerk

(Published in *The Ark Valley News* on June 16, 2022)

SUMMARY OF ORDINANCE NO. 689

On June 7, 2022, the governing body of the City of Bel Aire, Kansas passed an ordinance entitled:

AN ORDINANCE AUTHORIZING THE CITY OF BEL AIRE, KANSAS TO ISSUE ITS MULTIFAMILY HOUSING REVENUE BONDS, SERIES 2022 (HOMESTEAD SENIOR RESIDENCES BEL AIRE, LLC) FOR THE PURPOSE OF PAYING COSTS TO ACQUIRE, CONSTRUCT AND EQUIP A SENIOR RESIDENCE FACILITY; AND AUTHORIZING CERTAIN OTHER RELATED DOCUMENTS AND ACTIONS.

The Ordinance authorizes the Issuer to issue its Multifamily Housing Revenue Bonds, Series 2022 (Homestead Senior Residences Bel Aire, LLC) in the aggregate principal amount not to exceed \$8,000,000 (the "Series 2022 Bonds"), for the purpose of paying the costs to acquire, construct and equip a senior residence facility (the "Project"), as more fully described in the Indenture, the Site Lease and the Project Lease authorized by the Ordinance. The Project will be leased by the Issuer to Homestead Senior Residences Bel Aire, LLC, a Kansas limited liability company. In connection with the issuance of the Series 2022 Bonds, the Issuer approves a five (5) year exemption from ad valorem property taxes for the Project and an additional five (5) year period for a total of ten (10) years, if the additional five (5) year period is approved by the then current governing body of the Issuer.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 7651 E. Central Park Ave., Bel Aire, Kansas A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at www.belaireks.gov.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: June 7, 2022.

City Attorney