

RESOLUTION 88-174
OF THE COUNCIL OF THE CITY OF FORT COLLINS
SETTING FORTH THE INTENTION OF THE
CITY OF FORT COLLINS, COLORADO TO ISSUE
MULTIFAMILY HOUSING REVENUE BONDS FOR THE
OAKBROOK II APARTMENTS PROJECT

WHEREAS, representatives of Group B-W Holdings, Inc. (the "Company") have met with officials of the City of Fort Collins, Colorado (the "City"), and have advised the City of the interest of the Company in acquiring, in cooperation with CMD Association for Senior Housing, a nonprofit 501(c)(3) entity (the "Exempt Entity"), a multifamily residential rental housing project known as the Oakbrook II Apartments and located at 3300 Stanford Road, Fort Collins, Colorado (the "Project"), subject to the willingness of the City to finance that portion of the acquisition cost of the Exempt Entity's interest in the Project as a development revenue bond project, pursuant to the Colorado County and Municipality Development Revenue Bond Act constituting Article 3, Title 29, Colorado Revised Statutes, (the "Act"); and

WHEREAS, the Company has represented to the City that the Project will qualify as a "project" within the meaning of the Act and that the bonds to be issued therefor will be "qualified 501(c)(3) bonds" within the meaning of the Internal Revenue Code of 1986, as amended; and

WHEREAS, at all times while the bonds proposed to be issued by the City in connection with the Project are outstanding, the Project will be continuously occupied by persons of low and moderate income; and

WHEREAS, the City Council has considered the proposal and has concluded that the economic benefits to be derived therefrom by the City will be substantial and that the financing of the Exempt Entity's cost of acquiring its interest in the Project with bonds as aforesaid will meet the public purpose of providing decent, safe and sanitary housing for persons of low and moderate income residing within the City; and

WHEREAS, the City also views this as an opportunity to alleviate its concerns about fire protection and life safety issues in the Project, especially considering the large number of elderly and handicapped residents; and

WHEREAS, the City Council has determined the Project to be consistent with the goals and objectives of the City; and

WHEREAS, the City Council desires to indicate its intent to proceed with financing the Project through the issuance of such revenue bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS, COLORADO as follows:

Section 1. That, in order to induce the Company and the Exempt Entity to acquire the Project within the City and operate the Project for the purpose of providing housing for persons of low and moderate income and to

make important and desirable fire protection improvements in the Project, the City shall, subject to the provisions hereof, take all necessary and advisable steps to effect the issuance of multifamily housing revenue bonds (the "Bonds") pursuant to the Act in the maximum aggregate principal amount of Four Million Dollars (\$4,000,000) or such lesser amount as shall be determined and agreed upon by the Company and the City to finance the cost of acquiring the Exempt Entity's interest in the Project.

The City will issue the Bonds only on the express condition that the Company and the Exempt Entity agree to promptly install in the Project sprinkler systems certified by the Fire Marshal as sufficient to bring the Project into compliance with the appropriate provisions of the City Code relating to fire protection.

The Bonds will not be general obligations of the City. Neither shall the Bonds, including interest thereon, constitute the debt or indebtedness of the City within the meaning of any limitation of the Constitution or statutes of the State of Colorado or the Home Rule Charter of the City, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers. The Bonds shall be payable solely from and secured by a pledge of revenues derived from and payable by the Exempt Entity pursuant to financing agreements with the City.

Section 2. That no costs or expenses, whether incurred by the City or any other party in connection with the issuance of the Bonds or the preparation of any documents by any legal or financial consultants retained in connection therewith, shall be borne by the City. All such costs or expenses shall be paid from the proceeds of the Bonds or otherwise borne by the Company or the Exempt Entity.

Section 3. That, prior to any execution of a financing agreement, mortgage, indenture of trust, bond purchase agreement or any other necessary documents and agreements in connection with such Bonds, such documents and/or agreements shall be submitted for approval to the City as to their form and substance, and, if satisfactory to the City, their execution shall be authorized by ordinance of the City Council pursuant to law.

Section 4. That, prior to any further action by the City Council, the Company shall provide the City with the opinion of a recognized Bond Counsel supporting the legality of the financing of the Project and the utilization of loan proceeds for said Project.

Section 5. That nothing contained in this Resolution shall constitute the debt or indebtedness of the City within the meaning of any limitation of the Constitution or statutes of the State of Colorado or the Home Rule Charter of the City, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 6. That all commitments of the City contained herein are subject to the condition that, unless otherwise extended by agreement between the City and the Company, within twelve (12) months of the date hereof the Bonds to be issued pursuant hereto shall be issued and sold. In the event that said Bonds to be issued pursuant hereto are not issued

within twelve (12) months, the City of Fort Collins shall be under no obligation to perform any of the terms and conditions contained herein.

Section 7. That all orders, bylaws and resolutions, or parts thereof, in conflict with this Resolution are hereby repealed to the extent of such conflict. This repealer shall not be construed to revive any order, bylaw or resolution, or part thereof, heretofore repealed.

Section 8. That, if any section, paragraph, clause, or provision of this Resolution with the exception of any section, paragraph, clause, or provision limiting the City's financial obligation 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 resolution.

Section 9. That this Resolution shall take effect immediately upon its introduction and passage.

Passed and adopted at a regular meeting of the City Council held this 15th day of November, A.D. 1988.

Mayor

ATTEST:

City Clerk