

RESOLUTION NO. #19-2005

Resolution authorizing the issuance and sale of Facility Revenue Bonds (Center for Active Seniors, Inc. Project), Series 2005 (the "Bonds") in an aggregate principal amount not to exceed \$2,600,000; the execution and delivery of a Loan Agreement with the Center for Active Seniors, Inc. (the "Borrower"); the execution and delivery of an Assignment and Pledge Agreement with Wells Fargo Bank, National Association, Davenport, Iowa; and the execution and delivery of a Tax Exemption Agreement with the Borrower regarding matters related to the tax-exemption of the Bonds, and other matters.

WHEREAS, the City of Buffalo, Iowa (the "Issuer"), is an incorporated municipality authorized and empowered by the provisions of Chapter 419 of the Code of Iowa, as amended (the "Act"), to issue revenue bonds for the purpose of financing facilities for an organization described in Section 501(c)(3) of the Internal Revenue Code (the "Code") which is exempt from federal income tax under Section 501(a) of the Code; and

WHEREAS, the Issuer will enter into an agreement with the Center for Active Seniors, Inc. (the "Borrower"), with respect to financing the acquisition of land and the construction, renovation, improving, equipping and furnishing at the Borrower's senior support living facility located at 1035 West Kimberly Road, Davenport, Iowa (the "Project") and paying for costs of issuance pursuant to the Act; and

WHEREAS, it is necessary and advisable that provisions be made for the issuance of the Facility Revenue Bonds (Center for Active Seniors, Inc. Project), Series 2005 (the "Bonds"), in an aggregate principal amount not to exceed \$2,600,000 as authorized and permitted by the Act, to finance the cost of the Project to that amount; and

WHEREAS, pursuant to Section 419.9 of the Act and Section 147(f) of the Code, the Issuer has previously provided notice of the Issuer's intention to issue the Bonds and has held a hearing thereon; and

WHEREAS, the Issuer will loan the proceeds of the Bonds to the Borrower pursuant to the provisions of a Loan Agreement between the Issuer and the Borrower the obligation of which will be sufficient to pay the principal of, redemption premium, if any, and interest on the Bonds as and when the same shall be due and payable; and

WHEREAS, the Borrower has arranged for the sale of the Bonds to Wells Fargo Bank, National Association, Davenport, Iowa (the "Lender") pursuant to the terms of an Assignment and Pledge Agreement; and

WHEREAS, the Issuer and the Borrower will enter into a Tax Exemption Agreement sufficient to satisfy the criteria under Sections 103 and 148 of the Code and the regulations promulgated thereunder:

NOW, THEREFORE, IT IS RESOLVED by the City Council of the Issuer, as follows:

Section 1. In order to finance the cost of the Project, the Bonds, in an aggregate principal amount not to exceed \$2,600,000, are hereby authorized and ordered to be issued by the Issuer in substantially the form as has been presented to and considered by this City Council and containing substantially the terms and provisions set forth therein, the Bonds actually issued to be in an aggregate principal amount not to exceed \$2,600,000 and to bear interest at the interest rate not to exceed 7% per annum as may be determined by the Borrower and the Lender on or prior to their date of issuance and delivery, and the execution and delivery of the Bonds by the Mayor and City Clerk shall constitute approval thereof by the Issuer and the Mayor and City Clerk are hereby authorized and directed to approve such amount and rates, within the foregoing limits by and on behalf of the Issuer.

Section 2. The Issuer shall loan to the Borrower the proceeds of the Bonds pursuant to a Loan Agreement in substantially the form as has been presented to and considered by this City Council (the "Loan Agreement") and containing substantially the terms and provisions set forth therein, and the Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Loan Agreement.

Section 3. Pursuant to an Assignment and Pledge Agreement (the "Pledge Agreement") to be entered into between the Issuer and the Lender, the Issuer, among other things, will grant to the Lender a security interest in all of the Issuer's rights, title and interest in and to the Loan Agreement, including, but not limited to, the right to receive Loan Repayments (as defined in the Loan Agreement).

Section 4. Pursuant to a Tax Exemption Agreement (the "Tax Exemption Agreement") to be entered into between the Issuer and the Borrower, the Borrower will, among other things, provide sufficient information to satisfy the criteria under Sections 103 and 148 of the Code and the regulations required thereunder to qualify and maintain the federal tax-exempt status of the Bonds, and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Tax Exemption Agreement with such changes, modifications, deletions or additions as deemed appropriate by bond counsel.

Section 5. The Bonds will be special limited obligations of the Issuer. The Bonds shall not be payable from or charged upon any funds other than the revenues pledged to the payment thereof, nor shall the Issuer be subject to any liability thereon. No holder of the Bonds shall ever have the right to compel any exercise of the taxing power of the Issuer to pay the Bonds or the interest thereon, nor to enforce payment thereof against any property of the Issuer. The Bonds shall not constitute a debt of the Issuer within the meaning of any constitutional or statutory limitation.

Section 6. In order to provide for the financing of the Project, the Issuer hereby authorizes the issuance of the Bonds in the principal amount not to exceed \$2,600,000. The Bonds shall be in the form submitted to the City Council and shall mature in the years and amounts, be subject to redemption, and provide interest at the rate as therein specified.

Section 7. The Loan Agreement, the Pledge Agreement, the Tax Exemption Agreement and the Bonds are hereby made a part of this Resolution as though fully set forth herein and are hereby approved in substantially the forms presented to the City Council. The Mayor and City Clerk are authorized and directed to execute, acknowledge, and deliver said documents on behalf of the Issuer with such changes, insertions and omissions therein as the Borrower and the Lender may deem appropriate, such execution to be conclusive evidence of approval of such documents in accordance with the terms hereof.

Section 8. The Mayor and City Clerk are authorized and directed to execute and deliver all other documents which may be required under the terms of the Loan Agreement, Pledge Agreement, or Tax Exemption Agreement or by bond counsel, and to take any other action as may be required or deemed appropriate for the performance of the duties imposed thereby to carry out the purposes thereof.

Section 9. In order to qualify the Bonds as “qualified tax exempt obligations” within the meaning of Section 265(b)(3) of the Internal Revenue Code (the “Code”), the Issuer hereby makes the following factual statements and representations:

(A) The Issuer hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code;

(B) The reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii) of Section 265(b)(3)(c) of the Code) which will be issued by the Issuer (and all entities whose obligations will be aggregated with those of the Issuer) during this calendar year 2005 will not exceed \$10,000,000; and

(C) Not more than \$10,000,000 of obligations issued by the Issuer during this calendar year 2005 have been designated for purposes of Section 265(b)(3) of the Code.

The Issuer shall use its best efforts to comply with any federal procedural requirements which may apply in order to effectuate the designation made by this paragraph.

Section 10. The provisions of this Resolution are hereby declared to be severable and if any section, phrase or provisions shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions.

Section 11. All resolutions or parts thereof in conflict herewith are hereby repealed, to the extent of such conflict.

Section 12. This Resolution shall become effective immediately upon its passage and approval.

Passed and approved November 14, 2005.

Mayor

Attest:

By: _____
City Clerk

* * *

On motion and vote, the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
COUNTY OF SCOTT SS:
CITY OF BUFFALO

I, the undersigned, being first duly sworn, do hereby depose and certify that I am the duly appointed, qualified and acting City Clerk of the aforementioned City and that as such I have in my possession, or have access to, the complete corporate records of said City and of its City Council and its officers; that I have carefully compared the transcript hereto attached with the aforesaid corporate records; and that said transcript hereto attached is a true, correct and complete copy of all the corporate records in relation to the adoption of a Resolution authorizing the issuance and sale of Facility Revenue Bonds (Center for Active Seniors, Inc. Project), Series 2005, in an aggregate principal amount not to exceed \$2,600,000.

WITNESS my hand and the seal of said City hereto affixed this 14 day of November, 2005.

City Clerk

(Seal)