

APPROVING THE ISSUANCE OF CERTAIN TAX-EXEMPT
AIRPORT FACILITY REVENUE BONDS BY THE
BURLINGTON COMMUNITY DEVELOPMENT CORPORATION
TO CURRENTLY REFUND AND FINANCE A PORTION OF THE
COSTS OF CERTAIN AIRPORT FACILITIES

In the year Two Thousand Ten.....

Resolved by the City Council of the City of Burlington, as follows:

That WHEREAS, the Burlington Community Development Corporation (the “BCDC”) is a non-profit corporation duly authorized and existing under the Vermont Non-Profit Corporation Act, (11B V.S.A. §1.01 – §17.05); and

WHEREAS, the BCDC is authorized and empowered by its Articles of Incorporation to issue community development revenue bonds for the purpose, inter alia, of defraying a portion of the cost of the acquisition and rehabilitation of certain buildings in furtherance of community purposes; and

WHEREAS, the BCDC is a private, non-profit Vermont corporation that is “acting on behalf” of the City of Burlington within the meaning of Internal Revenue Ruling No. 63-20; and

WHEREAS, the City of Burlington shall have a beneficial interest in the project which is to be financed by the proposed Bond issue; and

WHEREAS, the BCDC has financed certain improvements to the Burlington International Airport, consisting of an aviation support hangar, subleased by BCDC to Elan Air, Inc. d/b/a Heritage Flight (the “Project”); and

WHEREAS, the BCDC financed a portion of the costs of the Project through tax-exempt airport facility bonds (the “Refunded Bonds”) through the Vermont Economic Development Authority (“VEDA”); and

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WHEREAS, the BCDC intends to refund currently all or a portion of its loan and obligations with respect to the Refunded Bonds payable to VEDA; and

WHEREAS, the Burlington City Council has been advised by the BCDC that the BCDC proposes to issue, subsequent to the adoption of this resolution, its exempt facility revenue refunding bonds in a principal amount not to exceed \$3,500,000, to refund all or a portion of the Refunded Bonds for the Project and to pay certain costs of the financing (the “2010 Refunding Bonds”); and

WHEREAS, similar to the Refunded Bonds issued by VEDA, to reduce costs of the Project, BCDC has requested that the Refunding Bonds be issued as obligations the interest on which will be excluded from gross income for federal income tax purposes pursuant to Sections 103 and 142 of the Internal Revenue Code of 1986, as amended and the regulations promulgated thereunder (the “Code”); and

WHEREAS, pursuant the Code, interest on the 2010 Refunding Bonds will not be excluded from gross income for federal income tax purposes unless the issuance of the 2010 Refunding Bonds shall be approved by the Burlington City Council; and

WHEREAS, the Burlington City Council desires to allow the interest on the 2010 Refunding Bonds to be excluded from gross income for federal income tax purposes; and

WHEREAS, a commitment letter for financing to BCDC has been presented, a copy of which is attached hereto, with respect to the financing of the Project for the refunding of all or a portion of the Refunded Bonds;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, Vermont, as follows:

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Section 1. For the purpose of qualifying the interest payable on the 2010 Refunding Bonds for exclusion from gross income pursuant to the provisions of Section 103 and Section 142 of the Code, the Burlington City Council, as the elected legislative body of the City of Burlington, Vermont, hereby approves the issuance by the BCDC of the 2010 Refunding Bonds, the execution and delivery by BCDC of the Loan and Trust Agreement to evidence the loan and to secure the repayment of the 2010 Refunding Bonds, the execution and delivery of the leasehold mortgage and collateral assignment of leases by BCDC of the Project property, including a collateral assignment of the sublease to Elan Air, Inc., and a leasehold mortgage and pledge of the building and lease for the approximately 15,400 square foot building currently leased to Aviatron, all to secure the repayment of the 2010 Refunding Bonds, and the execution and delivery of such other documents and instruments as BCDC deems necessary and desirable in connection with the issuance of the 2010 Refunding Bonds; provided that the 2010 Refunding Bonds, and interest thereon, shall be special obligations of the BCDC and shall not constitute a debt of the State of Vermont, the City of Burlington or any political subdivision thereof.

Section 2. In order to provide collateral support, the City may provide a limited guarantee for the payment of the 2010 Refunding Bonds, in substance and form similar to the limited guarantee provided to VEDA for the Refunded Bonds (the "Limited Guarantee"), in which any payments under such limited guarantee shall be subject to appropriation on an annual basis by the City Council as a current expense. The Mayor and Chief Administrative Officer are, and each one of them is, hereby authorized and directed to execute and deliver (i) the limited guarantee, and (ii) a collateral assignment with respect to the lease and building currently leased to Aviatron, each on behalf of the City as they deem necessary and in the City's best interest. The Mayor and the Chief Administrative Officer are, and each one of them is, hereby authorized to execute and deliver a final Official Statement and to execute and deliver all other documents and instruments necessary or convenient in connection with the issuance of the 2010 Refunding Bonds.

Section 3. The City will accept unencumbered fee title to the Project property upon retirement of the 2010 Refunding Bonds, in accordance with and subject to an Irrevocable Offer of Dedication to be entered into in connection with the issuance of the 2010 Refunding Bonds.

Section 4. The City hereby approves the issuance by BCDC of the 2010 Refunding Bonds and the execution and delivery by BCDC of the Loan and Trust Agreement, the mortgage and the collateral assignments of leases, to secure the repayment of the 2010 Refunding Bonds.

Section 5. This resolution shall take effect immediately.