

ORDINANCE NO. 2021-39

ORDINANCE AUTHORIZING THE ISSUANCE OF THE TOWN OF WHITESTOWN, INDIANA ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 202 (BECKNELL INDUSTRIAL PROJECT), AND PROVIDING OR OTHERWISE MAKING THE PROCEEDS THEREOF AVAILABLE TO BECKNELL INDUSTRIAL, LLC, OR AN AFFILIATE OR PERMITTED ASSIGNEE THEREOF, AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Town of Whitestown, Indiana (the “Town”), is a municipal corporation and political subdivision of the State of Indiana and by virtue of Indiana Code 36-7-11.9 and Indiana Code 36-7-12 (collectively, the “Act”), is authorized and empowered to adopt this ordinance (this “Bond Ordinance”) and to carry out its provisions;

WHEREAS, Becknell Industrial, LLC, or an affiliate or permitted assignee thereof (the “Company”), desires to finance the construction of two modern, class A, bulk distribution buildings as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “Project”) which will be located in or directly serve and benefit the Whitestown Parkway Wests Economic Development Area;

WHEREAS, the Company has advised the Town’s Economic Development Commission (the “Commission”) and the Town that it proposes that the Town issue its Economic Development Revenue Bonds, Series 202__ (Becknell Industrial Project), to be completed with the year in which issued, in one or more series, in an aggregate principal amount not to exceed Seven Million Dollars (\$7,000,000) (the “Bonds”) under the Act and provide or otherwise make available the proceeds of such Bonds to the Company for the purpose of financing the costs of the infrastructure associated with the Project as more particularly described in Exhibit A, including costs of issuance of the Bonds and, if necessary, funding capitalized interest and a reserve for the Bonds;

WHEREAS, the completion of the Project results in the diversification of industry, the creation of jobs and business opportunities in the Town;

WHEREAS, pursuant to Indiana Code 36-7-12-24, the Commission published notice of a public hearing (the “Public Hearing”) on the proposed issuance of the Bonds to finance the public infrastructure associated with the Project;

WHEREAS, on December 8, 2021, the Commission held the Public Hearing on the Project; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Town Council the forms of: (1) a Financing Agreement between the Town and the Company; (2) a Trust Indenture between the Town and a corporate trustee to be selected by the Town Council President and acceptable to the Company (the “Trustee”) (the “Indenture”); (3) the Bonds; (4)

the Bond Purchase Agreement between the Town and the purchaser of the Bonds (the “Purchase Agreement”); and (5) this Bond Ordinance (the Financing Agreement, the Indenture, the Bonds, the Purchase Agreement and this Bond Ordinance, collectively, the “Financing Agreements”);

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, THAT:

Section 1. Findings; Public Benefits. The Town Council hereby finds and determines that the Project involve the acquisition, construction and equipping of an “economic development facility” as that phrase is used in the Act; that the Project will increase employment opportunities and increase diversification of economic development in the Town, will improve and promote the economic stability, development and welfare in the Town, will encourage and promote the expansion of industry, trade and commerce in the Town and the location of other new industries in the Town; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issue of the Bonds under the Act (i) will be of benefit to the health and general welfare of the Town and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the public infrastructure for the Project by the issuance of the Bonds under the Act, in the form that such financing was approved by the Town’s Economic Development Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. (a) The Bonds in the aggregate principal amount not to exceed Seven Million Dollars (\$7,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Town Council President and the Clerk-Treasurer of the Town; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty-five (25) years after the date of issuance; (iv) bear interest at such rates as determined with the purchaser of the Bonds in the Purchase Agreement; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements. The Bonds may be issued as taxable or tax-exempt for purposes of federal income taxation, as determined by the Town Council President and Clerk-Treasurer of the Town, prior to the issuance of the Bonds, with the advice of the Town’s bond counsel.

(b) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the Town, but shall be special and limited obligations of the Town, payable solely from revenues and other amounts

derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk-Treasurer of the Town is hereby directed, in the name and on behalf of the Town, to insert them into the minutes of the Town Council and to keep them on file.

Section 5. Sale of the Bonds. The Town Council President and the Clerk-Treasurer of the Town are hereby authorized and directed, in the name and on behalf of the Town, to sell the Bonds to the purchaser at the price, in the manner and at the time set forth in the Purchase Agreement, at such prices as are determined on the date of sale and approved by the Town Council President and the Clerk-Treasurer of the Town.

Section 6. Execution and Delivery of Financing Agreements. The Town Council President and the Clerk-Treasurer of the Town are hereby authorized and directed, in the name and on behalf of the Town, to execute or endorse and deliver the Financing Agreement, the Indenture, the Purchase Agreement and the Bonds, submitted to the Town Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements. The Town Council President and the Clerk-Treasurer of the Town are hereby authorized, in the name and on behalf of the Town, without further approval of the Town Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. General. The Town Council President and the Clerk-Treasurer of the Town, and each of them, are hereby authorized and directed, in the name and on behalf of the Town, to execute or endorse any and all agreements (including any taxpayer agreements), documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected by, and hereby is, ratified and approved.

Section 9. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the Town and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

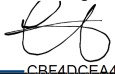
Section 10. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption.

Section 12. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Clerk-Treasurer of the Town, and are available for public inspection in accordance with Indiana Code 36-1-5-4.

PASSED AND ADOPTED on the 8th day of December, 2021, by the Town Council of the Town of Whitestown, Indiana, by a vote of in favor and against.

TOWN COUNCIL OF THE
TOWN OF WHITESTOWN, INDIANA

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Clinton Bohm, President

ATTEST:

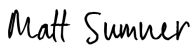
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Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana

EXHIBIT A

Description of Project

The Project consists of the construction of two modern, Class A, bulk distribution facilities that are being designed to meet current and future market demands. Both facilities will include modern structural, electrical, mechanical and fire protection improvements. Each building will be equipped with an ESFR automatic fire sprinkler system with electric fire pumps. Both facilities will be in compliance with all federal, state, and local codes including the American with Disabilities Act (ADA). Building sites will be improved with Storm Water Detention systems and necessary underground pipes for the collection, conveyance and treatment of the storm water on the site. The site will also include lighting and landscaping and screening as necessary and in compliance with the Whitestown's standards. Each building will have dedicated modern truck dock locations and equipment and Building one will be included dedicated trailer staging. Dedicated car parking areas will also be provided in compliance with all of Whitestown's codes and requirements. Building 1 is currently planned as a 735,237 SF facility, measuring 620 feet deep by 1,188 feet long. Building 1 is planned as a cross-docked facility (dock doors on both sides). Building 2 is currently planned as a 182,880 SF facility, measuring 620 feet deep by 702 feet long. Building 2 is planned as a single load facility (dock doors on one side).

Public Infrastructure Improvements in Connection with the Project

The Bond proceeds will be made available to the Company to pay the costs of the public infrastructure improvements in connection with the Project. The public infrastructure improvements will be constructed for the benefit of the site and the surrounding areas. The public infrastructure improvements are limited to roads, water and sanitary sewer improvements as more particularly described below.

Roads: CR 475 was identified early on in the initial zoning as being structurally insufficient to support the development growth in this area. CR 475 was also recognized as being a major minor north/south collector road that will serve the site and the surrounding area for conveyance of traffic from Whitestown Parkway, which is currently has access to I-65 and CR 550, which has a future access to I-65 planned. Coupled with connectivity CR 475 between Whitestown Parkway and CR 550 is also the eventual construction of the Ronald Reagan Parkway Extension in this area. This project will cause the full depth removal and replacement of CR 475 from Whitestown Parkway, northward to the northern boundary of the Project lands. The public improvements include:

- R/W acquisition of eight (9) properties (8 Owners).
- Earthwork preparation for the road improvements.
- Full depth removal and replacement of the road and constructed to Town of Whitestown Standards.
- Associated storm water collection and conveyance systems with attention to tributary flows from the west.

- Associated traffic markings and signage in compliance with Town of Whitestown Standards.

Water: Public water supply for the property is currently located along Whitestown Parkway at the entrance to the Golf Course of Indiana. The project will call the connection to the existing main at this location and extend it westward along Whitestown Parkway to the intersection of CR 475. Water main will be design and constructed to Whitestown Standards. Improvements include:

- Easement acquisition for water main.
- Extension of water main (approximately 2,613 LFT)
- Associated hydrants as required.

Sanitary Sewer: Sanitary sewers are slowly encroaching towards this area as development progress westward from I-65. The sewer service for this site has been studied and coordinated with the Town of Whitestown Public Works Department. The public improvements are currently planned to include a regional lift station on the site, to be coordinated with the Town, a dry line sanitary sewer main for future connection and use, and a pump and haul system for the temporary conditions that will exist until sewer main connection from the north reaches the property. The development to the north provides the connection point for the system noted above and timing and construction sequencing will dictate the connection to this system. Alternative routes are possible for immediate connection and being reviewed with the Town at this point, but these conditions are also dependent upon timing and sequencing of construction.