

ORIGINAL

RESOLUTION NO. 2021-17

**A RESOLUTION OF THE TOWN OF WHITESTOWN REDEVELOPMENT COMMISSION
PLEDGING CERTAIN TAX INCREMENT REVENUES TO THE PAYMENT OF
ECONOMIC DEVELOPMENT REVENUE BONDS OF THE TOWN OF WHITESTOWN**

WHEREAS, the Town of Whitestown Redevelopment Commission (the “Commission”), governing body of the Town of Whitestown Department of Redevelopment (the “Department”), has created the Town of Whitestown, Indiana Anson South/Maple Grove Consolidated Economic Development Area #1 (the “Area”), has designated a portion of such Area, which is in the Town of Whitestown, Indiana (the “Town”), as the Anson South Allocation Area (the “Anson South Allocation Area”) for purposes of the allocation and distribution of property taxes of the Town under Indiana Code 36-7-14-39 (the “Tax Increment”), and has created an allocation fund for the Anson South Allocation Area (the “Anson South Allocation Fund”); and

WHEREAS, the Commission has previously pledged the Tax Increment to certain lease rentals under a Lease Agreement between the Town of Whitestown Redevelopment Authority, as lessor, and the Commission, as lessee, dated May 14, 2014 (as amended to date, the “2014 Lease”); and

WHEREAS, prior to the issuance of the hereinafter defined Bonds, the Commission anticipates the 2014 Lease will be terminated as a result of a refinancing and the pledge of the Tax Increment to the lease rentals due thereunder will no longer be in effect; and

WHEREAS, the Commission has previously pledged the Tax Increment to the payment of interest on the Town of Whitestown, Indiana Redevelopment District Bond Anticipation Note, Series 2021, dated February 18, 2021 (the “2021 BAN”), junior and subordinate to the payment of the 2014 Lease; and

WHEREAS, Whitestown Multifamily Partners, LLC, or an affiliate or permitted assignee thereof (the “Company”) intends to finance all or a portion of the costs of the design and construction of the economic development project described on Exhibit A hereto (the “Project”); and

WHEREAS, the Project will be located at 5875 Perry Worth Road on parcel #06-07-36-000-043.000-020 in the Town (the “Project Site”), which Project Site is located in and physically connected to the Anson South Allocation Area; and

WHEREAS, the Town of Whitestown Economic Development Commission and the Town Council of the Town of Whitestown, Indiana (the “Town”) are anticipated to approve the issuance of the Town of Whitestown, Indiana, Economic Development Revenue Bonds (Whitestown Multifamily Partners Project), in one or more series (the “Bonds”), the proceeds of which will be provided to the Company and applied to costs of the public infrastructure in connection with the Project as more particularly described in Exhibit A hereto; and

WHEREAS, as an inducement to the Company to locate the Project in the Town, the Commission has agreed to pledge the Tax Increment generated from the Anson South Allocation Area to the payment of the Bonds as herein provided, such pledge to be subordinate to the pledge of Tax Increment to the payment of the 2014 Lease and the 2021 BAN; and

NOW, THEREFORE, BE IT RESOLVED by the Town of Whitestown Redevelopment Commission, as follows:

1. The Commission hereby finds that the pledge to the payment of the principal of and interest on the Bonds of Tax Increment generated from the Anson South Allocation Area and deposited in the Anson South Allocation Fund pursuant to Indiana Code 36-7-14-39 in an amount in each year equal to eighty percent (80%) of the Tax Increment generated from the Project Site (i.e., parcel #06-07-36-000-043.000-020), from the date of issuance of the Bonds until the Bonds shall no longer be outstanding (such pledge of Tax Increment, the "TIF Revenues"), will promote the economic development of the Town and the Area and comply with the plan for the Area, all in accordance with Indiana Code 36-7-14 and 36-7-25, each as amended (the "Act"). The pledge of TIF Revenues to the payment of the Bonds shall be junior and subordinate to the pledge of the Tax Increment to the payment of the 2014 Lease and the 2021 BAN. For the avoidance of doubt, the pledge of TIF Revenues to the payment of the Bonds is restricted in an amount each year to an amount equal to eighty percent (80%) of the Tax Increment generated from the Project Site, as calculated by the Clerk-Treasurer of the Town, with the advice of the Commission's municipal advisor.

2. The TIF Revenues shall be distributed in the manner set forth in this section. On or before each January 5 and July 5, the TIF Revenues shall be transferred to the trustee for the Bonds (the "Trustee") in an amount sufficient to pay the principal of and interest due on the Bonds and any fiscal agency charges (collectively, the "Debt Service") cumulatively due on the following January 15 and July 15. There shall be further transferred to the Trustee on or before each January 5 and July 5, after making any transfers for Debt Service, any remaining TIF Revenues which shall be used first to pay any unpaid prior Debt Service, second to fund any reserve requirement for the Bonds and third, to redeem the Bonds. Any transfers of TIF Revenues as herein provided in this Section 2 shall be junior and subordinate to the payments from Tax Increment due on the 2014 Lease and the 2021 BAN.

3. Pursuant to Indiana Code 36-7-14-39(b)(3)(D) and Indiana Code 5-1-14-4, the Commission hereby irrevocably pledges the TIF Revenues to the payment of the Bonds so long as the Bonds remain outstanding under the terms of the trust indenture securing the Bonds. Except for the 2014 Lease and the 2021 BAN, there are no other prior liens, encumbrances or other restrictions on the ability of the Commission to pledge the TIF Revenues to the payment of the Bonds. Once the Bonds are issued and so long as they remain outstanding, the Commission shall not issue any obligations ranking senior to the Bonds as to the pledge of Tax Increment unless consented to by 100% of the holders of the Bonds.

4. The Commission reserves the right to authorize and issue additional bonds or obligations (the "Parity Obligations"), payable out of the Tax Increment, ranking on a parity with the Bonds and payable ratably from the Tax Increment for the purpose of raising money for

future property acquisition, redevelopment or economic development in or serving the Area, or to refund such obligations, subject to the following conditions:

(a) All interest and principal payments and rental payments with respect to all obligations payable from the Tax Increment and junior obligations payable from the Tax Increment shall have been paid to date in accordance with the terms thereof, with no payment in arrears.

(b) As of the time of issuance of the Parity Obligations, the balances in the reserve accounts for any obligations payable from the Tax Increment, if any, shall be at least equal to the respective reserve requirements for such obligations.

(c) The Commission shall have received a certificate prepared by an independent certified public accountant or an independent financial consultant (the "Certifier") certifying that the Tax Increment estimated to be received in each succeeding year during the term of the proposed Parity Obligations, adjusted as provided below, is estimated to be equal to at least 125% (or such higher percentage as is determined by certification of the President of the Commission at the time of the sale of such Parity Obligations upon advice of the Commission's municipal advisor) of the combined principal and interest requirements on the outstanding Bonds (but only to the extent such is payable from TIF Revenues as calculated in Section 1 of this resolution (i.e., equivalent in each year to no more than 80% of the estimated Tax Increment from the Project Site)), all then outstanding Parity Obligations and any proposed Parity Obligations. In estimating the Tax Increment to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or to be assessed as of the assessment date immediately preceding the issuance of the Parity Obligations, adjusted for current and future reductions of property tax abatements granted to taxpayers in the Anson South Allocation Area without regard to any assumed increases in property values or property tax rates; provided, however, the Certifier may include in the calculation (i) of Tax Increment to be received in the Anson South Allocation Area, Tax Increment based on the addition of new assessed value estimated to be derived from the real property under construction in the Anson South Allocation Area as of the date of issuance of the Parity Obligations, even though not yet assessed, to the extent that the Certifier believes the amount to be reasonable and (ii) other funds irrevocably pledged to all then outstanding Parity Obligations.

(d) Payments of any Parity Obligations or junior obligations payable from TIF Revenues (including principal maturities, mandatory sinking fund payments, lease rental payments or otherwise) shall be payable semiannually on January 15 and July 15.

5. Once the Bonds have been issued, the provisions of this resolution shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds with respect to the pledge of the TIF Revenues hereby for so long as the Bonds remain outstanding.

6. This resolution shall take effect immediately upon adoption by the Commission.

Adopted the 7th day of June, 2021, by a vote of 5 in favor and 0 against.

TOWN OF WHITESTOWN
REDEVELOPMENT COMMISSION



Bryan Brackemyre, President

ATTEST:



Adam Hess, Secretary

EXHIBIT A

DESCRIPTION OF THE PROJECT

The Project shall consist of the development and construction by the Company of a mixed-use multifamily housing development containing approximately 216 Class A market rate family units (93 one-bedroom, 105 two-bedroom and 18 three-bedroom) including three (3) three (3) story buildings (collectively 221,077 sf), plus a freestanding amenity center. The proceeds of the Bonds will be allocated to public infrastructure costs (e.g., drainage, utilities, roads) of the Project, including the construction of a new road extension of Hemlock Drive to be named "Junior Way" that will connect New Hope Boulevard to Perry Worth Road.