

## RESOLUTION NO. 2021-15

### 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 Whitestown – Milhaus Little League Economic Development Area (the “Area”), has designated all of such Area as the Whitestown – Milhaus Little League Area Allocation Area (the “Allocation Area”) for purposes of the allocation and distribution of property taxes under Indiana Code 36-7-14-39 (the “Tax Increment”), and has created an allocation fund for the Allocation Area (the “Allocation Fund”); and

WHEREAS, 7279 S Indianapolis RD, 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 “Company Project”); and

WHEREAS, the Company Project will be located at 7279 South Indianapolis Road in the Town, on Parcel # 0211842004 (the “Company Project Site”), which Company Project Site is located in and physically connected to the 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 (Milhaus Project), in one or more series (the “Bonds”), the proceeds of which will be (i) provided to the Company and applied to costs of the Company Project and (ii) provided to the Commission as described below to fund local public improvements in the Redevelopment District of the Town in connection with the release of certain rights of the Commission and the Town under the terms of the Project Site Development Agreement (as defined below); and

WHEREAS, as an inducement to the Company to locate the Company Project in the Town, the Commission has agreed to pledge a portion of the Tax Increment generated from the Allocation Area to the payment of the Bonds; and

WHEREAS, in connection with the issuance of the Bonds, the Commission has been advised that the Commission will receive, on behalf of and from the Town, a sum of money from proceeds of the Bonds equivalent to the market value price of the Project Site in exchange for the agreement of the Town and the Commission to release certain of their respective rights in connection with the Project Site and the development thereof as set forth in the Amended and Restated Economic Development Agreement (Little League Central Region Headquarters & Mixed Use Development), dated July 26, 2019, among the Town, the Commission, Little League Baseball, Incorporated, and Kite Harris Property Group, LLC, as amended by the First Amendment to Amended and Restated Economic Development Agreement, dated July 9, 2020 (as amended, the “Project Site Development Agreement”); and

WHEREAS, the Commission will apply the proceeds received from the sale of the Bonds to the construction of local public improvements which are in the Redevelopment District of the Town;

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 eighty percent (80%) of the Tax Increment and deposited in the Allocation Fund pursuant to Indiana Code 36-7-14-39 (the "TIF Revenues") 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 Redevelopment Area and comply with the plan for the Redevelopment Area, all in accordance with Indiana Code 36-7-14 and 36-7-25, each as amended (the "Act"). The Commission further finds and determines that the twenty percent (20%) of the Tax Increment generated from the Allocation Area not pledged to the payment of the Bonds during the period that the Bonds remain outstanding (the "Surplus Increment"), shall be used by the Commission for any purpose permitted by law, including the release of the Surplus Increment to the taxing units in the Allocation Area as provided under the Act.

2. There is hereby created within the Allocation Fund established by the Commission for purposes of capturing the Tax Increment the following accounts: (a) Debt Service Account, (b) General Account and (c) Surplus Account. The TIF Revenues shall be deposited to the Debt Service Account and General Account as described in Sections 3 and 4 below. The Surplus Increment shall be deposited to the Surplus Account as described in Section 6 below.

3. The TIF Revenues shall be distributed in the manner set forth in this section and in Section 4 of this resolution. On or before each January 10 and July 10, the TIF Revenues shall be deposited in the Debt Service Account in an amount which, together with any moneys contained in such account, are sufficient to pay the principal of and interest due on the Bonds and any fiscal agency charges associated with the Bonds (collectively, the "Debt Service") cumulatively due on or before the following February 15 and August 15, until the amount on deposit in the Debt Service Account is sufficient to pay Debt Service payable during the next thirteen (13) months. No deposit need be made to the Debt Service Account to the extent that the available amount in the Debt Service Account is at least equal to the amount of Debt Service becoming due and payable on all outstanding Bonds during the next thirteen (13) months. All moneys in the Debt Service Account shall be used and withdrawn solely for the purpose of paying the Debt Service as it shall become due and payable to the extent it is required therefor, including accrued interest on any such obligations purchased or redeemed prior to maturity. Monies in the Debt Service Account shall be transferred to the trustee and paying agent for the Bonds immediately upon their receipt.

4. After making the deposits described in Section 3 above, any remaining TIF Revenues shall be deposited in the General Account of the Allocation Fund and shall be used in the following order of priority: (a) to pay unpaid prior Debt Service; (b) to fund any reserve

requirement for the Bonds; and (c) to redeem outstanding Bonds (as provided in the trust indenture securing the Bonds).

5. The Surplus Increment shall be distributed in the manner set forth in this section of this resolution. All Surplus Increment shall be deposited in the Surplus Account of the Allocation Fund and shall be used for any purposes permitted by the Act, including the release of Surplus Increment to the taxing units in the Allocation Area. When all Surplus Increment has been spent from the Surplus Account and no money remains therein, the Surplus Account shall be dissolved.

6. 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. 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.

7. Upon the defeasance of the Bonds, the Debt Service Account and the General Account of the Allocation Fund shall be dissolved, and any moneys remaining in such accounts shall remain in the Allocation Fund and may be used by the Commission for any purpose permitted by law.

8. 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.

9. The Commission hereby authorizes and approves the execution by the Commission of any such documents, releases, amendments or other instruments (collectively, the "Release Documents") as may be necessary to effectuate the release of the Commission's rights in respect of the Project Site under the terms of the Project Site Development Agreement in exchange for the receipt from the Town of proceeds of the Bonds equivalent to the market value of the Project Site at the time of issuance of the Bonds. On behalf of the Commission, the President is authorized to execute and deliver, and the Secretary is authorized to attest, any such Release Documents, in such form as they may find acceptable, with the advice of counsel and consistent with the terms and provisions of this resolution. The Commission shall use any proceeds received from the Bonds for local public improvements located in the Redevelopment District of the Town.

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

Adopted the 26<sup>th</sup> day of April, 2021, by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ against.

TOWN OF WHITESTOWN  
REDEVELOPMENT COMMISSION

---

Bryan Brackemyre, President

ATTEST:

---

Adam Hess, Secretary

## **EXHIBIT A**

### **DESCRIPTION OF THE COMPANY PROJECT**

The Company Project shall consist of the development and construction by the Company of a mixed-use multifamily housing development containing approximately 240 Class A Apartments (studio-3-BR) with amenities (e.g., resort style pool and deck, lounges, dog park fitness center, etc.); and 5,000 – 10,000 square feet of retail. The total estimated investment in the Company Project is estimated at \$41,500,000. The proceeds of the Bonds will be allocated to costs of the Company Project relating to site development, land preparation, building foundations, drainage, parking, utilities, roads, infrastructure, green spaces, and other costs permissible under Indiana Code 36-7-14 and 36-7-12, each as amended.