

RESOLUTION NO. 2022- 27

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
AND CONCERNING MATTERS RELATED THERETO

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 – Bridle Oaks Economic Development Area (the “Economic Development Area”), has designated all of such Economic Development Area as the Whitestown – Bridle Oaks 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, Kite Harris Property Group, 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 certain public infrastructure in support of The Village at Bridle Oaks Project, to be developed and constructed by Leo Brown Group, LLC, an economic development project all as more particularly described on Exhibit A hereto (collectively, the “Project”); and

WHEREAS, the Project will be located northeast of the intersection of Albert S. White and Main Street in the Town of Whitestown, Indiana (the “Town”), which is located in and physically connected to the Allocation Area; and

WHEREAS, the Town has previously issued its Town of Whitestown, Indiana Taxable Economic Development Revenue Bonds, Series 2021A (Bridle Oaks Project) and Town of Whitestown, Indiana Taxable Economic Development Revenue Bonds, Series 2021B (Bridle Oaks Project), each dated June 25, 2021, and issued in the original principal amounts of \$1,180,000 and \$180,000, respectively (collectively, the “2021 Bonds”); and

WHEREAS, the 2021 Bonds are secured by the Tax Increment pursuant to the Commission’s Resolution No. 2021-07, adopted on March 1, 2021 (the “2021 Pledge Resolution”), and the Commission has been advised that in connection with the issuance of the hereinafter defined Bonds it would be appropriate and efficient for the Town to refinance the 2021 Bonds with the proceeds of the Bonds; and

WHEREAS, the Town of Whitestown Economic Development Commission and the Town Council of the Town have or will approve the issuance of the Town of Whitestown, Indiana, Economic Development Revenue Bonds (Bridle Oaks Project), in one or more series (the “Bonds”), the proceeds of which will be provided to the Company and applied to (i) the costs of the public infrastructure associated with the Project as more particularly described in Exhibit A, including costs of issuance of the Bonds, (ii) the refunding of the 2021 Bonds, (iii) capitalized interest on the Bonds, if necessary, and (iv) a reserve for the Bonds, if necessary; and

WHEREAS, as an inducement to the Company and Leo Brown Group, LLC to locate the 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;

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 generated from the Allocation Area 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 Economic Development Area and comply with the plan for the Economic Development 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 5 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 15 and July 15, 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 the following March 1 and September 1, 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; (c) to reimburse the Company or, if applicable, any taxpayer under

any taxpayer agreement in connection with the Bonds, for interest and principal due on the Bonds that has been paid by the Company or, if applicable, any taxpayer under any taxpayer agreement in connection with the Bonds, due to insufficient TIF Revenues; and (d) to redeem 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. Except with respect to the pledge thereto under the 2021 Pledge Resolution to the 2021 Bonds to be refunded in full with the proceeds of 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. The Commission reserves the right to issue bonds, enter into leases, or enter into additional pledges payable from the Tax Increment, exclusive of the TIF Revenues, for the purpose of raising money for future property acquisition, redevelopment or economic development in or serving the Economic Development Area, or to refund such obligations. The terms of any such pledge of Tax Increment shall be as set forth in a pledge resolution to be adopted by the Commission. For the avoidance of doubt, any such pledge resolution of the Commission pledging Tax Increment to the payment of any additional bonds or obligations shall not include a pledge of the TIF Revenues which are hereby solely pledged to the payment of the Bonds.

8. 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.

9. 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.

10. The Commission hereby authorizes and approves the execution by the Commission of one or more taxpayer agreements in connection with the issuance of the Bonds by the Town, if necessary in order to provide for the successful sale of the Bonds. On behalf of the Commission, the President is authorized to execute and deliver, and the Secretary is authorized to attest, one or more taxpayer agreements in such form as they may find acceptable, with the advice of counsel and consistent with the terms and provisions of this resolution.

11. Until the Bonds shall have been issued and the 2021 Bonds have been legally defeased, the pledge of TIF Revenues to the 2021 Bonds as set forth in the 2021 Pledge Resolution shall remain in full force and effect. Once the Bonds have been issued and the 2021 Bonds legally defeased, the pledge of TIF Revenues to the Bonds shall immediately take effect and the 2021 Pledge Resolution shall no longer be in effect.

12. Resolution No. 2022-05 adopted by the Commission on March 7, 2022 is hereby repealed.

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

Adopted the _____ day of _____, 2022, by a vote of _____ in favor and _____ against.

TOWN OF WHITESTOWN
REDEVELOPMENT COMMISSION

Adam Hess, President

ATTEST:

Mark Pascarella, Secretary

EXHIBIT A

DESCRIPTION OF THE PROJECT

The Project shall consist of the development and construction by the Company of public infrastructure including but not limited to the construction of a road extension, stormwater improvements and water/sewer improvements, and other related public infrastructure improvements, all in support of The Village at Bridle Oaks Project to be developed and constructed by Leo Brown Group, LLC. The Project includes the construction of approximately 202 single-story multi-family rental community cottage style units in a development which will include walking paths, playground, pool and related amenities. The proceeds of the Bonds will be allocated solely to the costs of the public infrastructure described above.