

RESOLUTION NO. [2023-31](#)

AWARDING SCOPING AGREEMENT FOR AQUATICS CENTER

WHEREAS, in accordance with the Ind. Code § 5-23 (the “Public-Private Statute”), the Town Council (“Council”) of the Town of Whitestown, Indiana (“Town”) issued a request for proposals and qualifications for the design, construction, operation, and transfer of a new aquatics center and related improvements (the “Project”); and

WHEREAS, as provided in the Public-Private Statute, the Town and a selected developer anticipate entering into a “public-private agreement” addressing: (a) the design, construction, operation, and transfer of the Project; and (b) the acquisition of the completed Project by the Town (the “Public-Private Agreement”); and

WHEREAS, following its review of the submitted proposals, the committee formed by the Town to review proposals submitted with respect to the Project (“Committee”) determined that the Skillman Corporation (“Developer”) is reasonably susceptible of being selected for a Public-Private Agreement in accordance with the Public-Private Statute; and

WHEREAS, therefore, the Committee recommended that the Town partner with Developer and award a scoping services agreement (“Scoping Agreement”) to Developer for the continued negotiation, scoping, and planning of the Project, as well as for future consideration for constructing, operating, and transferring the Project; and

WHEREAS, accordingly, the Council desires to adopt the Committee’s recommendation and award the Scoping Agreement to Developer; and

WHEREAS, not fewer than seven days before the date of the public hearing held on the date of the adoption of this Resolution: (a) notice of such public hearing was published in accordance with Ind. Code § 5-3-1; and

WHEREAS, the Council now desires to: (a) award the Scoping Agreement to its selected partner, the Skillman Corporation, and (b) authorize the execution of the Scoping Agreement and all other documents and certificates necessary or reasonably appropriate to effectuate the Scoping Agreement, as it is negotiated, finalized, and approved by the President of the Council (the “Authorized Individual”).

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF WHITESTOWN, INDIANA, as follows:

- 1. Award.** The Council hereby awards the Scoping Agreement to the Developer.
- 2. Document Authorization.** The Council hereby authorizes the execution of the Scoping Agreement in the form to be negotiated, finalized, approved, and executed by the Authorized Individual, acting on behalf of the Town.
- 3. Other Actions.** The Authorized Individual and the officers of the Council hereby

are authorized to take any and all actions, including executing and delivering any documents or certificates, that the Authorized Individual or any such officer deems to be necessary or reasonably appropriate to effect the resolutions set forth herein. Any such actions taken, including any documents or certificates executed and delivered, hereby are ratified, confirmed, and approved.

4. No Conflict. All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Resolution hereby are repealed to the extent of such conflict. After the issuance of the Scoping Agreement, and until all amounts contemplated under the Scoping Agreement to be paid by the Town have been paid in full or the Scoping Agreement has been otherwise terminated: (a) this Resolution shall not be repealed or amended; and (b) the Council shall not adopt any ordinance or resolution that adversely affects this Resolution.

5. Severability. If any section, paragraph, or provision of this Resolution is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

6. Effectiveness. This Resolution shall be in full force and effect from and after its adoption.

PASSED AND ADOPTED by the Whitestown, Indiana Town Council this ____ day of October, 2023, by a vote of ____ in favor and ____ against.

TOWN COUNCIL OF THE
TOWN OF WHITESTOWN, INDIANA

Eric Nichols, President

ATTEST:

Matt Sumner, Clerk-Treasurer
Town of Whitestown, Indiana