

RESOLUTION NO. 2025-28

**WHITESTOWN TOWN COUNCIL RESOLUTION
AWARDING BUILD-OPERATE-TRANSFER TRANSACTION
AND TAKING CERTAIN OTHER RELATED ACTIONS**

WHEREAS, pursuant to a resolution approved thereby, the Town Council (the “Council”) as the legislative body of the Town of Whitestown, Indiana previously adopted the provisions of Ind. Code §5-23, et seq. (the “BOT Statute”);

WHEREAS, in accordance with the BOT Statute, the Town of Whitestown (the “Town”) issued a request for proposals and qualifications (RFPQ) for the development and construction of a new parks facility to be located in the Town (the “Project”);

WHEREAS, the Council received responses to the RFPQ and the Whitestown BOT Committee designated by prior Council resolution (the “Committee”) has reviewed and evaluated the proposals for the Project pursuant to the criteria in the RFPQ and now desires to make a recommendation to the Council to award a contract (the “BOT Agreement”) for the Project under the BOT Statute;

WHEREAS, following its review of the submitted proposals, the Committee, by Memorandum dated not fewer than seven days before the date hereof, has recommended that the Council award a BOT Agreement for the Project to 523 Development/The Hagerman Group;

WHEREAS, not fewer than seven days before the date hereof, and as required by the BOT Statute: (a) notice of the public hearing occurring on the date hereof was published in accordance with Ind. Code §5-14-3; and (b) all proposals, together with the recommendation letter, were made available for inspection and copying in accordance with Ind. Code §5-14-3;

WHEREAS, the Council now desires to: (a) award the BOT Agreement to 523 Development/The Hagerman Group; and (b) authorize the execution of the BOT Agreement and all other documents necessary or reasonably appropriate to accomplish delivery of the Project, as each is negotiated, finalized, and approved by the President of the Council (the “Authorized Individual”), acting in consultation with the Council’s legal counsel and on behalf of the Town.

ACCORDINGLY, be it resolved by the Whitestown Town Council as follows:

- 1. Award.** Pursuant to and in accordance with the BOT Statute, the Council hereby: (a) awards the BOT Agreement for the Project to 523 Development/The Hagerman Group; and (b) confirms that the BOT Agreement shall constitute a “BOT Agreement” under the BOT Statute.
- 2. Document Authorization.** The Council authorizes the Authorized Individual, acting in consultation with the Council’s legal counsel and on behalf of the Town, to negotiate, finalize, and execute the Transaction Documents on behalf of the Council.
- 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 affect 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.

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 passage.

PASSED AND ADOPTED by the Whitestown Town Council following a public hearing held on _____, 2025.

By: _____

By: _____

By: _____

By: _____

By: _____

Attest:

By: _____