

AMENDED AND RESTATED  
RESOLUTION NO. 2020-8

RESOLUTION OF THE TOWN OF YORKTOWN REDEVELOPMENT  
COMMISSION PLEDGING TAX INCREMENT AND PILOT PAYMENTS

WHEREAS, the Yorktown ("Town") Redevelopment Commission ("Commission") on August 14, 2019, adopted a declaratory resolution ("Declaratory Resolution"), establishing the SR 32 Economic Development Area ("Area") as an economic development area under IC 36-7-14 and IC 36-7-25;

WHEREAS, the Commission submitted the Declaratory Resolution, Economic Development Plan ("Plan") and supporting data to the Yorktown Plan Commission ("Plan Commission") and the Plan Commission approved the Declaratory Resolution and the Plan as submitted;

WHEREAS, by resolution adopted on October 14, 2019, the Town Council of the Town ("Town Council") approved the order of the Plan Commission;

WHEREAS, the Commission published notice in *The Star Press* of the adoption and content of the Declaratory Resolution in accordance with IC 36-7-14-17 and IC 5-3-1 on or before June 1, 2020, which notice also gave notice of a hearing on the proposed Projects (as defined in the Declaratory Resolution) to be held by the Commission;

WHEREAS, on June 11, 2020 the Commission conducted a public hearing at which the Commission heard all persons interested in the proceedings and considered all written remonstrances and objections that were filed and adopted its resolution confirming the Declaratory Resolution and Plan approved by the Commission on August 14, 2019 ("Confirmatory Resolution");

WHEREAS, the Declaratory Resolution and the Confirmatory Resolution are hereinafter collectively referred to as the "Area Resolution;"

WHEREAS, the Area Resolution designated three allocation areas in accordance with IC 36-7-14-39, consisting of the Bison #1 Allocation Area, the Bison #2 Allocation Area and the Bison #3 Allocation Area (collectively, "Bison Allocation Areas") for the purpose of capturing property taxes generated from the incremental assessed value of real property located in the Bison Allocation Areas;

WHEREAS, by resolution adopted on June 15, 2020, the Town Council approved the creation of the Area and the Allocation Areas;

WHEREAS, subsequent to the public hearing on the Declaratory Resolution and the adoption of the Confirmatory Resolution, the Commission was informed that certain parcels located in the Allocation Areas were contained in the Downtown Allocation Area within the 2020 Consolidated Economic Development Area ("Consolidated EDA");

WHEREAS, on August 20, 2020 the Commission modified the Declaratory Resolution to: (i) recognize that the Bison Allocation Areas are contained within the Consolidated EDA; (ii) rescind the creation of the SR 32 Economic Development Area; (iii) reduce the Downtown Allocation Area by removing the parcels identified on Exhibit A attached thereto (collectively, "Parcels"), from the Downtown Allocation Area; and (iv) include the Parcels in the Bison Allocation Areas as set forth therein;

WHEREAS, the hereinafter defined Project will be constructed in the Bison #1 Allocation Area ("Allocation Area") created for the purpose of capturing all property tax proceeds attributable to the assessed valuation of real property in the Allocation Area in excess of the assessed valuation described in IC 36-7-14-39(b)(1), as such statutory provision exists on the date of the issuance of the hereinafter defined Bonds ("Tax Increment");

WHEREAS, the Town is issuing its [Taxable] Economic Development Revenue Bonds, Series 2020 (Bison Project) ("Bonds"), pursuant to a Trust Indenture dated as of December 1, 2020 between the Town and a financial institution to be selected to serve as trustee ("Trust Indenture"), the proceeds of which will be used to: (i) finance a portion of the costs of construction of road, water, sewer and storm water drainage improvements and any other capital improvements permissible under the IC 36-7-11.9, IC 36-7-12 and IC 36-7-14, together with all necessary appurtenances, related improvements and equipment (collectively, "Project"), in or physically connected to the Consolidated EDA; (ii) fund a debt service reserve; (iii) pay capitalized interest; and (iv) pay costs of issuance;

WHEREAS, the Commission has determined to pledge all Tax Increment received by the Commission, minus annual fees not to exceed \$5,000, to the Town for payment of the debt service on the Bonds ("TIF Revenues");

WHEREAS, the purchaser of the Bonds has requested that a tax equivalency payment in the form of a payment in lieu of taxes ("PILOT") be imposed to create an obligation whereby any owner of an interest in the applicable property within the Allocation Area that is exempt from paying property taxes will instead be required to pay the PILOT in an amount equal to the amount which would have otherwise been due in real property taxes under Indiana law had the property not been tax exempt;

WHEREAS, U.S. Treasury Regulation 1.141-4(4)(5) requires that the PILOT be used for the same governmental or public purpose for which the generally applicable tax on which it is based may be used;

WHEREAS, the Tax Increment is a "generally applicable tax" and, therefore, the PILOT may be used in the same manner as the Tax Increment, shall be deposited into the allocation fund for the Allocation Area and be used to pay debt service on the Bonds to the extent any PILOT payments are received;

WHEREAS, in order to finance the Project, the Commission has determined that it is in the best interest of the Town and its residents to pledge the TIF Revenues and the PILOT; and

WHEREAS, the Commission believes that pledging the TIF Revenues and the PILOT will help further the accomplishment of the Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE YORKTOWN REDEVELOPMENT COMMISSION, THAT:

1. The Commission hereby finds that the pledge of TIF Revenues and the PILOT to finance the Project will help accomplish the Plan for the Area and will promote the economic and redevelopment of the Town and the Area.

2. The Commission hereby irrevocably pledges TIF Revenues and the PILOT to the payment of debt service on the Bonds.

3. The Commission has no prior liens, encumbrances or other restrictions on its ability to pledge the TIF Revenues.

4. The Commission reserves the right to enter into other obligations or leases payable from Tax Increment, in whole or in part, and to pledge the Tax Increment and the PILOT on a parity with the pledge of TIF Revenues and the PILOT to the Bonds to be issued for the Project in accordance with the following requirements for the purpose of raising money for future local public improvements in, serving or benefiting the Area ("Parity Obligations"). The authorization and issuance of such Parity Obligations shall be subject to the following conditions precedent:

(a) All interest and principal payments due under the Bonds and any Parity Obligations payable from Tax Increment and the PILOT shall be current to date in accordance with the terms thereof, with no payment in arrears;

(b) For Parity Obligations payable from Tax Increment without a special benefits tax levy, ad valorem property tax levy or a pledge of local income taxes, the Commission shall have received a certificate prepared by an independent, qualified accountant ("Certifier") certifying the amount of the Tax Increment, including any PILOT payments, estimated to be received in each succeeding year, adjusted as provided below, which estimated amount shall be at least equal to one hundred twenty-five percent (125%) of the lease rental and debt service requirements with respect to the outstanding Bonds and the proposed Parity Obligations for each respective year during the term of the outstanding Bonds. In estimating the Tax Increment to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or estimated to be assessed as of the assessment date immediately preceding the issuance of the Parity Obligations; provided, however, the Certifier shall adjust such assessed values for the current and future reductions of real property tax abatements granted to property owners in the Area. For any proposed Parity Obligations with a special benefits tax levy, ad valorem property

tax levy or pledge of local income taxes, the requirements of this Section 4(b) shall need not be met; and

(c) Principal of and interest on any Parity Obligations or junior obligations and lease rentals on Parity Obligations which are leases shall be payable semiannually on January 15 and July 15.

5. The Commission hereby authorizes and directs the President and Secretary of the Commission to prepare or have prepared, execute and deliver any and all instruments, letters, certificates, agreements and document, including a PILOT Agreement and Completion Guarantee Agreement, as the executing official, Steve Murphy, as Town Attorney, or Ice Miller LLP, as special counsel, determines is necessary or appropriate to consummate the transactions contemplated by this Resolution, and such determination shall be conclusively evidenced by the execution thereof. The instruments, letters, certificates, agreements and documents necessary or appropriate to consummate the transactions contemplated by this Resolution shall, upon execution, as contemplated herein, constitute the valid and binding obligations or representations and warranties of the Commission, the full performance and satisfaction of which by the Commission are hereby authorized and directed.

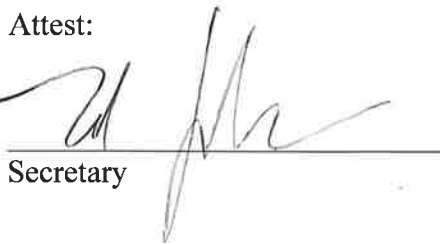
6. This resolution shall be effective upon passage.

Adopted November 12, 2020.

YORKTOWN REDEVELOPMENT  
COMMISSION

  
\_\_\_\_\_  
President

Attest:

  
\_\_\_\_\_  
Secretary