

**MICHIGAN CITY COMMON COUNCIL**

**RESOLUTION NO. \_\_\_\_\_**

**4893**

**FILED**

**JUL 26 2023**

**GALE A. NEULIEB  
CITY CLERK  
CITY OF MICHIGAN CITY**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, APPROVING A LEASE BETWEEN THE CITY OF MICHIGAN CITY BUILDING CORPORATION AND THE MICHIGAN CITY REDEVELOPMENT COMMISSION RELATING TO THE MIXED USE TRANSIT CENTER PROJECT AND TAKING OTHER ACTIONS RELATED THERETO**

**WHEREAS**, the Michigan City Redevelopment Commission (the "Redevelopment Commission"), the governing body of the Michigan City Department of Redevelopment and the Redevelopment District of the City of Michigan City, Indiana (the "District"), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the "Act"); and

**WHEREAS**, the City of Michigan City Building Corporation (the "Building Corporation") has been incorporated as an Indiana nonprofit corporation operating pursuant to Indiana Code 23-17 in order to finance buildings and other capital improvements in the City; and

**WHEREAS**, F & C Development, Inc. (the "Developer"), has been negotiating with the City of Michigan City, Indiana (the "City") and the Commission to provide for (1) the construction and equipping of a mixed-use, multifamily building of not less than twelve (12) stories including approximately (i) 200 residential apartment units; (ii) 5,900 square feet of retail and/or commercial space; (iii) tenant amenity spaces consistent with similar projects recently constructed by the Company (defined herein); and (iv) access points and passageways necessary to connect such building to the Parking Garage Component (defined herein) (collectively, the "Mixed Use Project") and (2) the construction and equipping of a parking garage that is expected to have in excess of 500 available spaces, a transit station as required by the Northern Indiana Commuter Transportation District, a rooftop amenity that permits the further development of a public gathering space, and any other components required by the Mixed Use Project (the "Parking Garage Component" and collectively with the Mixed Use Project, the "Project"); and

**WHEREAS**, to induce the Developer to complete the Project, the City will consider issuing its taxable economic development lease rental revenue bonds in one or more series under Indiana Code 36-7-11.9 and 12, to be designated as the "City of Michigan City, Indiana, Taxable Economic Development Lease Rental Revenue Bonds, Series 2023 (Mixed Use Transit Project)" (with such further series or different series designation as determined to be necessary or appropriate) in an aggregate principal amount not to exceed Twenty-two Million Dollars (22,000,000) (the "Bonds"), the net proceeds of such Bonds to be used for the purpose of paying all or a portion of the costs of the Project and related expenses including, but not limited to, capitalized interest on the Bonds, a debt service reserve fund from proceeds of the Bonds or the cost of a reserve surety, if necessary, and costs of issuance of the Bonds; and

**WHEREAS**, the Bonds will be payable from payments made by the Building Corporation to the City under a Loan Agreement (the "Loan Agreement") by and between the City and the

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Building Corporation as evidenced by a Note which payments will be made by the Building Corporation from lease payments made by the Redevelopment Commission to the Building Corporation under a Lease (the "Lease") between the Building Corporation, as lessor, and the Redevelopment Commission, as lessee, providing for lease of certain roads in the City pursuant to Section 25.2 of the Act as more fully described in the Lease; and

**WHEREAS**, the Redevelopment Commission on July 17, 2023, adopted a resolution approving a proposed form of the Lease which provides for the lease by the Redevelopment Commission from the Building Corporation of a portion of Michigan Boulevard located in the City as more fully described in the Lease; and

**WHEREAS**, the Redevelopment Commission, pursuant to the Act and a declaratory resolution previously adopted and confirmed and amended from time to time, has previously declared certain areas within the City as redevelopment project areas known collectively as the "Community Center No. 1 Expanded Urban Renewal Area" (the "North Side Area") and designated such areas from time to time as allocation areas in accordance with Section 39 of the Act (collectively the "North Side Allocation Area") for the purposes of capturing incremental ad valorem property taxes levied and collected on all taxable real property in such North Side Allocation Area (the "North Side TIF Revenues"); and

**WHEREAS**, the Redevelopment Commission, pursuant to the Act and a declaratory resolution previously adopted and confirmed has declared a certain area of the City, known as the "South Side Economic Development Area" (the "South Side Area"), to be an economic development area pursuant to the Act, designated such area as an allocation area pursuant to Section 39 of the Act (the "South Side Allocation Area") for the purposes of capturing incremental ad valorem property taxes levied and collected on all taxable real property in such South Side Allocation Area (the "South Side TIF Revenues" and collectively with the North Side TIF Revenues, the "Existing TIF Revenues"),

**WHEREAS**, the Redevelopment Commission on July 17, 2023, approved and adopted a resolution for the purpose of (i) designating an area in the North Side Area where the Project will be located as a separate allocation area pursuant to Section 39 of the Act to be known as the "Mixed Use Transit Project Allocation Area" (the "Mixed Use Transit Project Allocation Area") for purposes of capturing incremental ad valorem property taxes levied and collected on all taxable real property that is part of the Project (the "Project TIF Revenues" and collectively with the Existing TIF Revenues, the "TIF Revenues") and (ii) making certain amendments to provide for the consolidation and expansion of the North Side Area and the South Side Area into an economic development area to be known as the Consolidated Economic Development Area; and

**WHEREAS**, the Commission reasonably expects to pay the lease rentals payable under the Lease from the TIF Revenues and the payment of the lease rentals payable under the Lease also will be secured by the levy of a special benefits tax by the Redevelopment Commission pursuant to Section 27 of the Act upon all of the taxable real property within the District (the "Special Benefits Tax") in the event the TIF Revenues are ever insufficient in order to provide the lowest interest rate on the Bonds; and

**WHEREAS**, the annual rentals payable by the Commission under the Lease will be pledged by the Building Corporation to make the payments due under the Loan Agreement which will be used to pay the principal of and interest on the Bonds; and

**WHEREAS**, the Common Council of the City (the "Common Council") desires to approve the Lease as required by Section 25.2 of the Act, which provides that any lease approved by a resolution of the Commission must be approved by the fiscal body of the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AS FOLLOWS:**

1. All of the above stated "WHEREAS" clauses are incorporated herein by reference.
2. The Common Council hereby approves of the execution and delivery of the Lease, as approved by the Commission, pursuant to Section 25.2 of the Act, including, if necessary, the levy by the Redevelopment Commission of the Special Benefits Tax; provided, however, it is expected that the Special Benefits Tax will not be necessary because the Commission reasonably expects to pay the Lease Rentals due during the term of the Lease from other revenues legally available to the Commission including, without limitation, the TIF Revenues. The foregoing approval is subject to the following: (a) the maximum annual lease rental payment during the term of the Lease shall not exceed \$2,750,000, (b) the maximum interest rate on the Bonds shall not exceed seven percent (7.00%) per annum, (c) the Bonds may be subject to optional redemption prior to maturity on any date not earlier than five (5) years following the date of issuance of the Bonds, with specific dates and redemption terms to be determined at the time of the sale of the Bonds and approved by the City, all upon the advice of Baker Tilly Municipal Advisors, LLC, the municipal advisor to the City (the "Municipal Advisor"), (d) the maximum term of the Lease shall not exceed twenty-five (25) years, and (e) interest on the Bonds may be capitalized or paid from the proceeds of the Bonds for a period up to three (3) years from the date of issuance of the Bonds based upon the recommendation of the Municipal Advisor, although it is currently anticipated that no interest will need to be capitalized or paid from the proceeds of the Bonds.
3. This Resolution shall be in full force and effect from and after its passage by the Common Council and upon compliance with the procedures required by law.

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This Resolution to be effective upon passage by the Council and approval by the Mayor.

INTRODUCED BY:

(See attached)

Angie Nelson Deutch, Member  
Michigan City Common Council

Bryant Dabney

Bryant Dabney, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 15<sup>th</sup> day of August, 2023 by a vote of 8 to 0.

Sean Fitzpatrick  
Sean Fitzpatrick, President  
Michigan City Common Council

(Approved)(Vetoed) by me on the 3<sup>rd</sup> day of August, 2023.

Duane Parry

Duane Parry, Mayor of  
the City of Michigan City, Indiana

ATTEST:

Gale A. Neulieb  
Gale A. Neulieb, City Clerk of the City  
of Michigan City, Indiana

This Resolution to be effective upon passage by the Council and approval by the Mayor.

INTRODUCED BY:

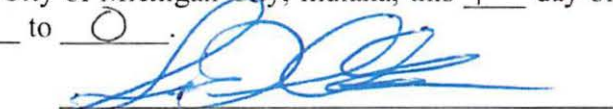


Angie Nelson Deutch, Member  
Michigan City Common Council



Bryant Dabney, Member  
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 15<sup>th</sup> day of August, 2023 by a vote of 8 to 0.



Sean Fitzpatrick, President  
Michigan City Common Council

(Approved)(Vetoed) by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Duane Parry, Mayor of  
the City of Michigan City, Indiana

ATTEST:

\_\_\_\_\_  
Gale A. Neulieb, City Clerk of the City  
of Michigan City, Indiana