

THE METROPOLITAN DEVELOPMENT COMMISSION
OF MARION COUNTY, INDIANA

RESOLUTION NO. 2023-E-046

RESOLUTION AMENDING RESOLUTION NO. 2018-E-045

WHEREAS, on September 19, 2018, the Metropolitan Development Commission of Marion County, Indiana, acting as the Redevelopment Commission of the City of Indianapolis, Indiana (the “Commission”), being the governing body of the Redevelopment District of the City of Indianapolis, Indiana (the “Redevelopment District”), adopted its Resolution No. 2018-E-045 attached hereto as Exhibit A (the “TIF Pledge Resolution”); and

WHEREAS, pursuant to the TIF Pledge Resolution the Commission pledged eighty percent (80%) of the ILMAR/KG220 Tax Increment (as defined in the TIF Pledge Resolution) to the payment of the ILMAR/KG220 Junior-Junior Subordinate City Bonds (as defined in the TIF Pledge Resolution) if sold to a purchaser who is willing to purchase such bonds secured solely by such pledge with no backing from a Taxpayer Agreement, Third Party Guaranty or other Tax Increment (each as defined in the TIF Pledge Resolution); and

WHEREAS, the Commission has been advised that the City is preparing to issue the ILMAR/KG220 Junior-Junior Subordinate City Bonds to retire certain BANs (as defined in the TIF Pledge Resolution) which have been issued and that a purchaser of such bonds has been identified who is willing to purchase such bonds secured solely by a pledge of eighty percent (80%) of the ILMAR/KG220 Tax Increment with backing from one or more Taxpayer Agreements; and

WHEREAS, the Commission has been further advised that permitting the purchase of the ILMAR/KG220 Junior-Junior Subordinate City Bonds by a purchaser willing to purchase such bonds secured solely by a pledge of eighty percent (80%) of the ILMAR/KG220 Tax Increment with backing from one or more Taxpayer Agreements will be of benefit to the City by limiting the lien on the Tax Increment to solely the Tax Increment derived from the Projects (as defined in the TIF Pledge Resolution) without any further backing by the City and also enable the retirement of the BANs; and

WHEREAS, due to changes in market conditions since the adoption of the TIF Pledge Resolution, the Commission finds that certain provisions of the TIF Pledge Resolution relating to reserves for the ILMAR/KG220 Junior-Junior Subordinate City Bonds and the use of Excess ILMAR/KG220 Tax Increment (as defined in the TIF Pledge Resolution) should be amended as herein provided; and

WHEREAS, the Commission, having considered the matter, finds that the TIF Pledge Resolution should be amended as described above and set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE METROPOLITAN DEVELOPMENT COMMISSION OF MARION COUNTY, INDIANA, ACTING AS THE REDEVELOPMENT COMMISSION OF THE CITY OF INDIANAPOLIS, INDIANA, AS FOLLOWS:

1. The second sentence of Section 2(c) of the TIF Pledge Resolution is hereby amended and restated as follows:

“A ‘Limited Pledged Purchaser’ means a purchaser (which may include either or both of the Developers or any other willing purchaser) of the ILMAR/KG220 Junior-Junior Subordinate City Bonds who is willing to purchase such Junior-Junior Subordinate Bonds secured solely by a pledge of Tax Increment that is limited in amount to eighty-percent (80%) of the ILMAR/KG220 Tax Increment, with or without backing from a Taxpayer Agreement, Third Party Guaranty or other Tax Increment.”

2. The third sentence of Section 2(d) of the TIF Pledge Resolution is hereby amended and restated as follows:

“If such calculation results in Excess ILMAR/KG220 Tax Increment, the Master Trustee shall immediately transfer Tax Increment in the amount of such reported Excess ILMAR/KG220 Tax Increment to the Bond Trustee and, pursuant to the Bond Indenture, the Bond Trustee shall apply such funds (i) first to the repayment of any outstanding payments made for debt service on the ILMAR/KG220 Junior-Junior Subordinate City Bonds pursuant to either or both the Taxpayer Agreement and/or Third Party Guaranty, if any, and (ii) second for deposit to a surplus fund held under the Bond Indenture to be used for the payment of debt service on the ILMAR/KG220 Junior-Junior Subordinate City Bonds or, if permitted by the Bond Indenture, the redemption of the ILMAR/KG220 Junior-Junior Subordinate City Bonds.”

3. A new subsection (e) is added to Section 2 of the TIF Pledge Resolution as follows:

“(e) In the event the ILMAR/KG220 Junior-Junior Subordinate City Bonds are secured by any Taxpayer Agreement and/or Third Party Guaranty to which the Commission is a party to, any payments received by the Commission under any such Taxpayer Agreement and/or Third Party Guaranty are hereby pledged to the Bond Trustee for payments on the ILMAR/KG220 Junior-Junior Subordinate City Bonds pursuant to Indiana Code 5-1-14-4.”

4. The following sentence is added to the end of Section 3(b) of the TIF Pledge Resolution as follows:

“Notwithstanding the foregoing, if the ILMAR/KG220 Junior-Junior Subordinate City Bonds will not be secured by a reserve under the Bond Indenture, any funds held in the Junior-Junior Subordinate ILMAR/KG220 Bond Reserve Subaccount shall be applied to the redemption or payment of any outstanding BANs and the ILMAR/KG220 Bond Reserve Subaccount shall be closed.”

5. The last sentence of Section 3(c) of the TIF Pledge Resolution is hereby amended and restated as follows:

“Further, if on or before any February 2 the City Controller reports to the Master Trustee that there is Excess ILMAR/KG220 Tax Increment, the Master Trustee shall transfer to the Bond Trustee, in addition to the amounts described above, an amount of Tax Increment equal to the Excess ILMAR/KG220 Tax Increment to be applied by the Bond Trustee under the Bond Indenture (i) first to the repayment of any outstanding payments made for debt service on the ILMAR/KG220 Junior-Junior Subordinate City Bonds pursuant to either or both the Taxpayer Agreement and/or Third Party Guaranty, if any, and (ii) second for deposit to a surplus fund held under the Bond Indenture to be used for the payment of debt service on the ILMAR/KG220 Junior-Junior Subordinate City Bonds or, if permitted by the Bond Indenture, the redemption of the ILMAR/KG220 Junior-Junior Subordinate City Bonds.”

6. Section 3(e) of the TIF Pledge Resolution is hereby amended and restated as follows:

“On each January 15 and July 15, after satisfying the requirements of Sections 3(a) through (d) above, Tax Increment shall next be used, if necessary, on a pro rata basis to restore the balances in any debt service reserve funds to the respective reserve requirements for any Junior-Junior Subordinate Bonds which are secured by a debt service reserve fund.”

7. This Resolution shall not be effective unless and until (a) the Bond Bank, as the owner of certain outstanding Subordinate Bonds and Junior Subordinate Bonds, in accordance with the applicable provisions of the Master Bond Resolution and Junior Subordinate Resolution, consents to and approves the adoption of this Thirteenth Supplemental Resolution, (b) either the Commission complies with all applicable notice requirements the Master Bond Resolution and Junior Subordinate Resolution, or all such notice requirements are waived in writing by the Bond Bank as the owner of all of certain of the outstanding Subordinate Bonds and Junior Subordinate Bonds, and (c) the Bond Bank delivers a written certification consenting to and approving the adoption of this Resolution. Except as amended hereby, the TIF Pledge Resolution shall remain in full force and effect.

ADOPTED AND APPROVED at a meeting of the Metropolitan Development Commission of Marion County, Indiana, held on November __, 2023, at the City-County Building, 2nd floor, Public Assembly Room (Room 230), Indianapolis, Indiana.

METROPOLITAN DEVELOPMENT
COMMISSION OF MARION COUNTY, INDIANA,
acting as the Redevelopment Commission of the City of
Indianapolis, Indiana

John J. Dillon, III, Chairperson

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This Resolution prepared by Dennis H. Otten, Bose McKinney & Evans, LLP, 111 Monument Circle, Suite 2700, Indianapolis, Indiana 46204.