

ORDINANCE NO. 4772

FILED

JUL 10 2025

GALE A. NEULIEB
CITY CLERK
CITY OF MICHIGAN CITY

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AUTHORIZING THE CITY OF MICHIGAN CITY, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN CONNECTION WITH THE SOLA PROJECT

WHEREAS, Indiana Code 36-7-11.9 and 12, as amended from time to time (collectively, the “Act”), declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Michigan City, Indiana (the “City”) is authorized to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

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

WHEREAS, the Redevelopment Commission has previously declared an area within the City as an economic development area and known as the “Consolidated Economic Development Area” (the “Area”) and designated portions of the Area as allocation areas in accordance with Section 39 of the Redevelopment Act for the purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value in such Area; and

WHEREAS, the City, the Redevelopment Commission, and YAB Development Partners, LLC (the “Developer”), have negotiated a Second Amended and Restated Development Agreement, dated as of December 10, 2024, as amended by a First Amendment to Second Amended and Restated Development Agreement, dated as of June 9, 2025 (collectively, the “Development Agreement”) to provide for the acquisition, construction and equipping of a mixed-use development including (i) an approximately 242-room hotel; (ii) approximately 21,000 square feet of retail and/or commercial space; (iii) approximately 188 condos/townhomes and related improvements with a portion of such condos to be owned by the Developer or an affiliate thereof, with the remaining condos to be sold to third parties; and (iv) an approximately 385 parking structure and any supporting areas (collectively, the “Project”) as more fully described in the Development Agreement; and

WHEREAS, the Redevelopment Commission on July 14, 2025, approved and adopted a resolution for the purpose of making certain amendments to the Area and its plan to designate an area, presently part of the Area, as a separate allocation area pursuant to Section 39 of the Redevelopment Act to be known as the “SoLa Project Allocation Area” (the “SoLa Project

Allocation Area”) for purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value located in the SoLa Project Allocation Area (the “SoLa Project Allocation Area TIF Revenues”); and

WHEREAS, the Common Council of the City (the “Common Council”) has approved and adopted an ordinance for the purpose of establishing an economic improvement district within the City in accordance with Indiana Code 36-7-22, as amended from time to time (the “EID Act”), to be known as the “SoLa Project Economic Improvement District” (the “EID District”) and appointing the EID District’s initial governing board (“EID Board”), for the purpose of levying special assessments on parcels of real property located within the EID District (“EID Assessments”) to be deposited in an economic improvement fund to finance economic development projects in the EID District (the “EID Assessment Revenues”); and

WHEREAS, prior to the issuance of the Bonds, the EID Board will provide notice of, including mailing notice to the owners of property within the EID District, and hold a public hearing on the proposed EID Assessments and thereafter adopt a resolution establishing the EID Assessments and pledging those EID Assessment Revenues to the Bonds; and

WHEREAS, the Developer has advised the City, the City of Michigan City Economic Development Commission (the “Economic Development Commission”) and the Redevelopment Commission concerning the Project, and has requested that the City authorize and issue its economic development revenue bonds in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Taxable Economic Development EID Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate), one or more series of which may be subordinate to one or more series of such Bonds, in an aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds (as defined herein) issued by the City (the “Bonds”), the net proceeds of such Bonds to be used for the purpose of financing a portion of the costs of the Project, 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, in addition to the Bonds authorized herein, the Common Council has approved and adopted an ordinance authorizing the issuance of economic development tax increment revenue bonds of the City in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Economic Development Tax Increment Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate) in an aggregate principal amount not to exceed Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) (the “Senior TIF Bonds”), for the purpose of financing a portion of the costs of the Project, and which Senior TIF Bonds will be payable from a senior pledge of the SoLa Project Allocation Area TIF Revenues (the “Senior TIF Pledge”); and

WHEREAS, the Economic Development Commission, following a public hearing, pursuant to Section 24 of the Act, adopted a resolution which has been transmitted to the Common Council (i) finding that the financing of all or a portion of the costs of the Project will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the City; (ii) further finding that the proposed financing of all or a portion of the costs of the Project

complies with the purposes and provisions of the Act; (iii) further finding that such financing will be of benefit to the health and public welfare of the City; (iv) approving the financing of all or a portion of the costs of the Project, 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, including the forms and terms of a Financing and Loan Agreement (the "Financing Agreement") by and between the City and the Developer (or an affiliate thereof), a Trust Indenture (the "Trust Indenture") between the City and a bank to be selected to serve as trustee for the Bonds, the Bonds from the City to the bondholders more fully described below, and this Ordinance (the Financing Agreement, the Trust Indenture, the Bonds, and this Ordinance, collectively, the "Financing Documents"), presented to the Economic Development Commission; and (v) recommending that this Common Council find that the proposed financing of the cost of the Project will be of benefit to the health and general welfare of the City and its citizens, and complies with the purposes and provisions of the Act, and that this Common Council adopt an ordinance approving such financings; and

WHEREAS, no member of this Common Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Common Council, and no such member has voted on any such matter, all in accordance with the provisions of Section 16 of the Act;

NOW, THEREFORE, BE IT ORDAINED By the Common Council of the City of Michigan City, Indiana, that:

Section 1. It is hereby found that the Project constitutes an "economic improvement project" within the meaning of the EID Act and constitutes an "economic development project" and "economic development facilities" within the meaning of the Act and the financing of a portion of the costs of the economic development facilities constituting the Project referred to in the Financing Documents previously approved by the Economic Development Commission and presented to this Common Council; the issuance and sale of the Bonds; the use of the proceeds of the Bonds to finance a portion of the costs of the Project, pay capitalized interest on the Bonds, fund a reserve fund from proceeds of the Bonds or by the purchase of a surety policy and pay the costs of issuance of the Bonds, the payment of the Bonds from the Note Payments (as hereinafter defined), a junior pledge of the SoLa Project Allocation Area TIF Revenues on a basis junior to the pledge of the SoLa Project Allocation Area TIF Revenues to the Senior TIF Bonds for a period not to exceed twenty-five (25) from the earlier of the date of issuance of the Senior TIF Bonds or the Bonds (the "Junior TIF Pledge"), a pledge of the EID Assessment Revenues by the EID District, and other sources described in the Financing Documents, and the securing of the Bonds under the Indenture comply with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

Section 2. At the public hearing held before the Economic Development Commission, the Economic Development Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City. This Common Council hereby confirms the findings set forth in the Economic Development Commission's resolution, and concludes that the Project will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the City.

Section 3. The substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk of the City (the "Clerk"). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

Section 4. The City shall issue the Bonds in one (1) or more series in the maximum aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds issued by the City, which Bonds shall mature no later than September 1, 2060, and shall bear interest at a per annum rate not exceeding ten percent (10%) per annum (determined through a negotiated sale, a private placement, or sale to the Developer or an affiliate thereof, as set forth herein). The Bonds are to be issued for the purpose of procuring funds to (a) pay all or a portion of the costs of acquiring, constructing and equipping the Project, (b) pay capitalized interest on the Bonds, (c) fund a debt service reserve fund or pay the cost of a reserve surety (if necessary), and (d) pay all incidental expenses on account of the issuance of the Bonds and acquiring any credit enhancement with respect thereto. The Bonds shall be issued in one (1) or more series as fully registered bonds in denominations of \$5,000, or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in any one (1) year (or in denominations of \$100,000 and \$1,000 in excess thereof) (each an "Authorized Denomination") as may be determined by the Mayor of the City (the "Mayor") and the Controller of the City (the "Controller"), shall be dated the date of their delivery as set forth in the Trust Indenture, shall be fully registered without coupons and numbered consecutively from R-1 upward, and shall be payable in the medium and at the place or places as set forth in the Trust Indenture. The Bonds may be issued as serial bonds and/or term bonds subject to mandatory sinking fund redemption. Principal of and interest on the Bonds shall be payable semiannually on March 1 and September 1, commencing not earlier than March 1, 2026, and shall have a final principal payment due not later than September 1, 2060. Interest on the Bonds shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The Mayor and the Controller, upon consultation with the City's municipal advisor (the "Municipal Advisor"), may designate maturities of the Bonds (or a portion thereof in Authorized Denominations) that shall be subject to optional redemption and/or mandatory sinking fund redemption and the corresponding redemption dates, amounts and prices (including premium, if any) and such terms shall be as set forth in the Financing Documents, provided that the Bonds shall not be subject to optional redemption and/or mandatory sinking fund redemption prior to September 1, 2028.

The Bonds shall be executed on behalf of the City by, and bear the manual or facsimile signature of, the Mayor and the Clerk, and the seal of the City shall be thereunto affixed (or imprinted or engraved if in facsimile).

The Bonds shall be in the form set forth in the final form of the Trust Indenture.

The Bonds shall be special and limited obligations of the City, payable solely from the trust estate created and established under the Trust Indenture (the "Trust Estate"), which Trust Estate shall consist of the funds and accounts created under the Trust Indenture together with (i)

promissory note payments (the "Note Payments") made by the Developer (or an affiliate thereof) under the Financing Agreement, (ii) the Junior TIF Pledge subject to the terms and conditions of a pledge agreement between the Redevelopment Commission and the City, and (iii) a pledge by the EID District of the EID Assessment Revenues subject to the terms and conditions of a pledge agreement between the EID Board and the City, and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit, or taxing power, of the City, but shall be special and limited obligations of the City, payable solely from the sources as described in the Financing Documents.

Section 5. The Mayor and the Controller are authorized to provide for the sale of any series of the Bonds either through a negotiated sale or a private placement, or to the Developer or an affiliate thereof, based upon the advice provided by the Municipal Advisor as set forth herein. The Common Council hereby approves Stifel, Nicolaus & Company, Incorporated to serve as either the underwriter or the placement agent (the "Underwriter" or the "Placement Agent") with respect to the sale of any series of the Bonds through a negotiated sale or a private placement.

The Mayor and the Controller, upon consultation with the Municipal Advisor, may determine to provide for any series of the Bonds to be (i) sold through a negotiated sale in the manner and upon the terms and conditions set forth in a purchase agreement between the City and the Underwriter, (ii) placed through a private placement with a qualified purchaser in the manner and upon the terms and conditions set forth in a placement agent agreement between the City and the Placement Agent, at such prices and on such terms as may be determined at the time of such sale or placement and approved by the Mayor and the Controller, or (iii) sold to the Developer or an affiliate thereof. The Mayor and the Controller are hereby authorized to approve and execute a bond purchase agreement in the event any series of the Bonds are sold by negotiated sale to the Underwriter or sold to the Developer or an affiliate thereof, or a placement agent agreement in the event any series of the Bonds are privately placed by the Placement Agent (each, the "Agreement") for any series of the Bonds, in a form and substance approved by such officers, such approval to be conclusively evidenced by the execution thereof. Such Agreement may set forth the definitive terms and conditions for such sale or placement, but all such terms and conditions must be consistent with the terms and conditions of this Ordinance, including without limitation, the interest rate or rates on the Bonds which shall not exceed the maximum rate of interest for the Bonds authorized pursuant to this Ordinance.

In connection with the sale of the Bonds, the Mayor and the Controller each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating on the Bonds, if necessary, bond insurance for the Bonds, and/or a surety policy to satisfy any reserve requirement, if necessary, and the taking of such actions and the execution and delivery of agreements and instruments are hereby approved.

Section 6. In the event the Bonds are sold by negotiated sale to the Underwriter, the Mayor and Controller are hereby authorized to approve the preparation and distribution of a Preliminary Official Statement for the Bonds. The Mayor and Controller are hereby authorized to deem and determine the Preliminary Official Statement as the near final Official Statement with respect to the Bonds for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule"), subject to completion in accordance with such SEC Rule and in a manner

acceptable to the Mayor and Controller of the City, and to place the Preliminary Official Statement into final form as the Final Official Statement. The Mayor and Controller of the City are hereby authorized to sign the Final Official Statement and by such signature approve of its distribution. In the event that the Bonds are privately placed by the Placement Agent, and a private placement memorandum or term sheet is determined to be necessary or desirable, the Mayor and the Controller are each authorized to approve a form of such document and each are authorized to execute said document as necessary with said execution evidencing their respective approval of such document.

If necessary in order to assist the Underwriter in a negotiated sale of the Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available appropriate disclosure about the City and the Bonds to participants in the municipal securities market, the City hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from the provisions of paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the City and dated the date of issuance of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. The execution and delivery by the City of the continuing disclosure contract, and the performance by the City of its obligations thereunder by or through any employee or agent of the City, are hereby approved, and the City shall comply with and carry out the terms thereof.

Section 7. Each of the Mayor, the Clerk, the Controller and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, Clerk, the Controller and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Clerk and any other officer of the City on the Bonds may be facsimile signatures or electronic signatures. The Mayor, the Controller and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser thereof, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk, the Controller and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk, the Controller or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

Section 8. The provisions of this Ordinance and the Financing Documents securing the Bonds of a series shall constitute a contract binding between the City and the holders of the Bonds of such series, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

Section 9. The Common Council hereby finds that (a) the Project and the related financing assistance for the Project provided in the Financing Documents are consistent with the economic development plan for the Area and the SoLa Project Allocation Area; (b) the Developer would not undertake the Project without the financing assistance provided in Financing Documents; and (c) the Project furthers the economic development of the SoLa Project Allocation Area and the Area generally.

Section 10. This Common Council does hereby acknowledge and approve the Junior TIF Pledge to the payment of the Bonds pursuant to the Trust Indenture, junior to the Senior TIF Pledge thereof to the Senior TIF Bonds and any other obligations which by their terms may be payable on a basis senior to the Bonds. Pursuant to Indiana Code 5-1-14-4, the the Junior TIF Pledge, junior to the Senior TIF Pledge, pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with the Junior TIF Pledge so pledged and thereafter received by the City to be immediately subject to the lien of the pledge, junior to the Senior TIF Pledge, without any further act, and the lien of such pledge, junior to the lien of the Senior TIF Pledge, to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

Section 11. This Common Council does hereby acknowledge and approve the pledge of the EID Assessment Revenues to the payment of the Bonds pursuant to the Trust Indenture. Pursuant to Indiana Code 5-1-14-4, the pledge of the EID Assessment Revenues pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with such EID Assessment Revenues so pledged and thereafter received by the City to be immediately subject to the lien of the pledge without any further act, and the lien of such pledge to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

Section 12. No stipulation, obligation or agreement herein contained or contained in the Financing Documents, the Bonds or in any other agreement or document executed on behalf of the City shall be deemed to be a stipulation, obligation or agreement of any member of the Common Council, or any officer, agent or employee of the City in his or her individual capacity, and no such member of the Common Council, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

Section 13. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 14. It is hereby determined that all formal actions of the Common Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

Section 15. The Mayor, the Clerk, the Controller and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver

such further instruments and documents, and to take such further actions, in the name of the City as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this Ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

Section 16. All acts of the officers of the City which are in conformity with the purpose and intent of this Ordinance and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects ratified, approved and confirmed.

Section 17. Any ordinances, resolutions or orders or parts thereof in conflict with this Ordinance are to the extent of such conflict hereby repealed.

Section 18. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-4-6.

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

INTRODUCED BY: Tracie Tillman
Tracie Tillman, President
Michigan City Common Council

Passed by the Common Council of the City of Michigan City, Indiana, this 4th day of August, 2025 by a vote of _____ to _____.

Tracie Tillman
Tracie Tillman, President
Michigan City Common Council

(Approved) (Vetoed) by me, this 11 day of August, 2025.

Angie Nelson Deutch
Angie Nelson Deutch, Mayor
City of Michigan City, Indiana

ATTEST:

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