

**ORDINANCE NO. 13-2024**

**AN ORDINANCE OF THE CITY OF WEST LAFAYETTE, INDIANA, AUTHORIZING THE ISSUANCE OF THE CITY OF WEST LAFAYETTE TAXABLE CONDITIONAL PROJECT EXPENDITURE AGREEMENT (LANDMARK PROPERTIES, INC. PROJECT), AND THE DISPOSITION OF THE PROCEEDS THEREOF TO LANDMARK PROPERTIES, INC., AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO**

WHEREAS, the City of West Lafayette, Indiana (the “City”), is a political subdivision of the State of Indiana, and by virtue of Indiana Code 36-7-11.9 and 36-7-12 (collectively, the “Act”), is authorized and empowered to adopt this ordinance (this “Ordinance”) and to issue its Taxable Conditional Project Expenditure Agreement (Landmark Properties, Inc. Project) in a not to exceed amount of \$5,500,000, with a zero percent interest rate (the “Expenditure Agreement”) and dispose of the proceeds of such Expenditure Agreement to any person for the purpose of financing or refinancing any economic development facilities (as defined in the Act); and

WHEREAS, Landmark Properties, Inc., or its successors or assigns (the “Company”), has requested that the City enter into the Expenditure Agreement under the Act, whereby the payments thereunder to the Company will be equal to fifty percent (50%) of the available real property tax increment (the “Increment”) relating to the Project (as hereinafter defined) in the Landmark Allocation Area each year for a period of twenty-five (25) years, *provided that* the total aggregate amount of the Increment does not exceed \$5,500,000 (the “Pledge of Applicable TIF Revenues”), for the purpose of financing all or any portion of the cost of infrastructure or direct costs by the Company related to infrastructure (the “Project”); and

WHEREAS, the West Lafayette Economic Development Commission (the “Economic Development Commission”) prepared a report (the “Report”) that (a) briefly described the proposed Project, (b) estimated the number and expense of public works or services that would be made necessary or desirable by the proposed Project, (c) estimated the total costs of the proposed Project and (d) estimated the number of jobs to be created by the Project, and submitted the Report to the executive director or chairman of the plan commission; and

WHEREAS, the Economic Development Commission considered whether the proposed Project may have an adverse competitive effect on similar facilities already constructed or operating in the City; and

WHEREAS, the Economic Development Commission held a public hearing, for itself and on behalf of this Common Council (this “Common Council”), on the proposed financing of the Project, after giving notice by publication in accordance with Indiana Code 5-3-1 in the City; and

WHEREAS, the Economic Development Commission found and determined that the proposed financing of the Project will create opportunities for gainful employment in the City and will be of benefit to the health and general welfare of the City and its citizens and that the proposed financing of the Project complies with the Act and, by resolution adopted March 18, 2024 (the “Resolution”), approved the financing of the Project, including the form and terms of (a) the Expenditure Agreement (the “Expenditure Agreement”), (b) a Financing Agreement (the

“Financing Agreement”) between the City and the Company, and (c) this Ordinance (the Expenditure Agreement and the Financing Agreement, collectively, the “Incentive Agreements”), and the Secretary of the Commission transmitted the Resolution to this Common Council; and

WHEREAS, the West Lafayette Redevelopment Commission, pursuant to Indiana Code Sections 36-7-14 and 5-1-14-4, will consider adopting its resolution regarding the Pledge of Applicable TIF Revenues for disposition in accordance with the Expenditure Agreement.

**NOW, THEREFORE, BE IT ORDAINED** BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, as follows:

Section 1. Findings and Determinations. This Common Council hereby finds and determines that the financing of the Project approved by the Economic Development Commission (a) will create opportunities for gainful employment in the City and will be of benefit to the health and general welfare of the City and its citizens and (b) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Project, in the form that such financing was approved by the Economic Development Commission, is hereby approved.

Section 3. Authorization of Expenditure Agreement. The Expenditure Agreement, payable solely from revenues and receipts derived from the Pledge of Applicable TIF Revenues, in an amount not to exceed \$5,500,000 is hereby authorized.

Section 4. Terms of Expenditure Agreement. (a) The Expenditure Agreement, with a maximum expenditure amount not to exceed \$5,500,000 and the Pledge of Applicable TIF Revenues for the Project each year for a period of twenty-five (25) years: (i) be executed by the manual or facsimile signatures of the Mayor and the Controller of the City; (ii) be dated the date of its delivery; (iii) mature on any date not later than twenty-five years; (iv) bear a zero percent interest rate in accordance with the Expenditure Agreement; (v) be issuable in the denominations as set forth in the Expenditure Agreement; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Expenditure Agreement; (viii) be payable in lawful money of the United States of America; (ix) be payable at the place or places set forth in the Expenditure Agreement; (x) be subject to optional or mandatory redemption prior to maturity as set forth in the Expenditure Agreement; and (xi) contain any other provisions set forth in the Expenditure Agreement.

(b) The Expenditure Agreement and the interest thereon, if any, 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 revenues and other amounts derived from the Incentive Agreements. Forms of the Incentive Agreements are before this meeting and are by this reference incorporated in this Ordinance, and the Clerk of the City is hereby directed, in the name and on behalf of the City, to insert them into the minutes of this Common Council and to keep them on file.

Section 5. Execution and Delivery of Incentive Agreements. The Mayor and the Clerk of the City are hereby authorized and directed, in the name and on behalf of the City, to execute and deliver the Incentive Agreements submitted to this Common Council, which are hereby approved in all respects.



Section 6. Changes in Incentive Agreements. The Mayor and the Clerk of the City are hereby authorized, in the name and on behalf of the City, without further approval of this Common Council or the Economic Development Commission, to approve any changes in the Incentive Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 7. General. The Mayor, the Clerk and the Controller of the City, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute and deliver any and all agreements, documents and instruments, endorse any and all promissory notes, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or any of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance of the Expenditure Agreement, and the securing of the Expenditure Agreement under the Incentive Agreements, and any such execution and delivery, endorsement, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 8. Binding Effect. The provisions of this Ordinance and the Incentive Agreements shall constitute a binding contract between the City and the Company, and after issuance of the Expenditure Agreement this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Expenditure Agreement as long as the Expenditure Agreement or interest thereon remains unpaid.

Section 9. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 10. Effective Date. This Ordinance shall be in full force and effect immediately upon adoption and compliance with Indiana Code 36-2-4.


Passed and adopted by the Common Council of the City of West Lafayette, Indiana, on the 6<sup>th</sup> day of May, 2024.

INTRODUCED ON FIRST READING ON THE 1 DAY OF April, 2024.


MOTION TO ADOPT MADE BY COUNCILOR Blanco AND SECONDED BY COUNCILOR Bellisario.

DULY ORDAINED, PASSED, AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF WEST LAFAYETTE, INDIANA, ON THE 6 DAY OF May 2024, HAVING BEEN PASSED BY A VOTE OF 9 IN FAVOR AND 0 OPPOSED, THE ROLL CALL VOTE BEING:

	AYE	NAY	ABSENT	ABSTAIN
Bellisario	✓			
Blanco	✓			
Burr	✓			
Dennis	✓			
Lee	✓			
Leverenz	✓			
Parker	✓			
Sanders	✓			
Veidemanis	✓			

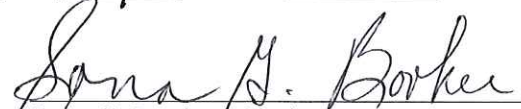
  
Larry J. Leverenz, Presiding Officer

Attest:

  
Sana G. Booker, Clerk



Presented by me to the Mayor of the City of West Lafayette for her approval or veto pursuant to Indiana Code § 36-4-6-15 and 16, this 7 day of May, 2024 at 10:00 o'clock a.m./p.m.

  
Sana G. Booker, Clerk

This Ordinance having been passed by the legislative body and presented to me is approved by me and duly adopted, pursuant to Indiana Code § 36-4-6-16 (a)(1), this 7 day of May, 2024 at 12:30 o'clock a.m./p.m.

  
Erin R. Easter, Mayor

Attest:  
  
Sara G. Booker, Clerk

