

A RESOLUTION OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION MAKING FINDINGS RELATING TO THE FINANCING OF CERTAIN IMPROVEMENTS TO SERVE ECONOMIC DEVELOPMENT FACILITIES, APPROVING SUCH FINANCING AND FORMS OF THE DOCUMENTS RELATED THERETO

RESOLUTION NO. 2022-2

WHEREAS, relieving conditions of unemployment, underemployment, and encouraging economic development of the community to reduce the evils associated with unemployment and underemployment are essential to the health, safety and welfare of the City of South Bend, Indiana ("City" or "Issuer") and its citizens;

WHEREAS, the City is authorized by IC 36-7-11.9 and -12 (collectively, "Act") to make direct loans to users or developers for the financing of economic development facilities or improvements to serve economic development facilities, consisting of the development, construction, renovation, and equipping of three (3) buildings totaling approximately 90,434 square feet of attraction, retail, restaurant, visitor center and tour-able chocolate factory space on real estate commonly known as 24762 and 24820 U.S. Highway 20, South Bend, Indiana 46628, along with its surrounding acreage to create a year-around attraction and destination for City residents and visitors and to support the development of Continental Divide Trail, all on the City's westside (collectively, "Project") in or physically connected to the River West Development Area and the River West Development Area Allocation Area No. 1 (collectively, "Area") to be used for the financing of the Project;

WHEREAS, pursuant to the Act, the financing and inducement of economic development facilities constitutes a public purpose;

WHEREAS, The South Bend Chocolate Company, Inc. ("SBCC"), the Indiana Dinosaur Museum Inc. ("IDM"), or an affiliate of either (SBCC, IDM and any applicable affiliate of either are herein collectively, the "Borrower"), has requested the City issue and fund its Taxable Economic Development Revenue Note, Series 2022 ("Series 2022 Note") in an amount not to exceed Two Million Seven Hundred Thousand Dollars (\$2,700,000) ("Loan");

WHEREAS, the South Bend Economic Development Commission ("Commission") has studied the Project for the proposed financing of the Project and the effects on the health and general welfare of the City and its citizens;

WHEREAS, the completion of the Project will result in the diversification of industry, the creation of jobs, the creation of business opportunities in the City, and will be of public benefit to the health, safety and general welfare of the City and its citizens;

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide funds necessary to finance a portion of the Project by issuing the Series 2022 Note pursuant to the Loan Agreement;

WHEREAS, on October 13, 2022 the South Bend Redevelopment Commission adopted a resolution ("Pledge Resolution") pledging Tax Increment, junior and subordinate to the Outstanding Bonds (each as defined in the Pledge Resolution), to fund the Loan;

WHEREAS, the diversification of industry, the investment of approximately \$13,500,000 in real property and \$1,900,000 in personal property, the creation of approximately 144 full-time jobs and the promotion of additional economic development opportunities to be achieved by the construction and reconstruction of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens;

WHEREAS, there has been submitted to the Commission for its approval a form of the Loan Agreement and the form of the proposed Ordinance of the Council with respect to the Project and the Series 2022 Note ("Ordinance");

WHEREAS, pursuant to Indiana Code 36-7-12-24, as amended, the Commission published notice of a public hearing ("Public Hearing") on the proposed issuance and funding of the Series 2022 Note to finance a portion of the Project;

WHEREAS, on the date hereof the Commission held the public hearing on the Project; and

WHEREAS, no member of the Commission has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Series 2022 Note authorized herein, which pecuniary interest has not been fully disclosed to the Commission and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16;

NOW, THEREFORE, BE IT RESOLVED BY THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION, THAT:

Section 1. The Commission has conducted a public hearing and considered any and all evidence and comments provided, and the Commission hereby finds, determines, ratifies and confirms that the financing of the Project referred to in the hereinafter defined Loan Agreement; and the issuance and funding of the Series 2022 Note to pay a portion of the cost of the Project: (i) will result in the diversification of industry, the creation of business opportunities and the creation of opportunities for gainful employment within the jurisdiction of the City; (ii) will serve a public purpose, and will be of benefit to the health and general welfare of the City; (iii) complies with the purposes and provisions of the Act and it is in the public interest that the City take such lawful action as determined to be necessary and desirable to encourage the diversification of industry, the creation or retention of business opportunities, and the creation of opportunities for gainful employment within the jurisdiction of the City; and (iv) will not have a material adverse competitive effect on any similar facilities already constructed or operating in or near the City.

Section 2. The City shall fund the Loan to the Borrower in an amount not to exceed Two Million Seven Hundred Thousand Dollars (\$2,700,000), payable as set forth in Section 2.2(j) of the Loan Agreement. To the extent the representations in Section 2.2(j) of the Loan Agreement are met, payment on the Loan shall be forgiven as described therein. The Series 2022 Note shall accrue interest at a rate not to exceed four (4%) percent. The Series 2022 Note shall never

constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series 2022 Note shall not be subject to optional redemption prior to maturity.

Section 3. The Commission hereby approves the terms of the following documents in the form presented at this meeting: a form of Loan Agreement between the City and Borrower with respect to the Project (including the form of the Series 2022 Note) dated as of November 1, 2022 ("Loan Agreement"); and (ii) the form of Ordinance to be presented to the Council ("Ordinance") authorizing the issuance and funding of the Series 2022 Note and providing for the terms thereof. The forms of Loan Agreement and the Ordinance presented herewith are hereby approved, with any and all such changes as may be deemed necessary, desirable or appropriate by the Mayor, the Controller or any other officer of the City.

Section 4. The Commission hereby approves the report with respect to the Project presented at this meeting. The Secretary of the Commission shall submit such report to the executive director or chairperson of the South Bend Plan Commission.

Section 5. The Commission hereby finds and determines that the issuance of the Series 2022 Note in an amount not to exceed Two Million Seven Hundred Thousand Dollars (\$2,700,000) to the Borrower for the construction of a portion of the Project will serve the public purposes referred to above, in accordance with the Act.

Section 6. The economic development facilities will consist of the Project to be located on real estate commonly known as 24762 and 24820 U.S. Highway 20, South Bend, Indiana, and served by the Project.

Section 7. It has considered whether the Project will have an adverse competitive effect on any similar facilities already under construction or in operation in the City, and now makes the following special findings of fact based upon the evidence presented:

(a) No member of the public or competitor presented any evidence of substantial probative value establishing that the Project would have any adverse competitive effect in any respect; and

(b) In the absence of any evidence of substantial probative value of any adverse competitive effect, the benefits to the public from the new jobs and payroll to be generated by the Project, demonstrate that the Project should be supported by the making of the Loan.

Section 8. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him or her necessary or desirable in order to carry out and comply with the intent, conditions and purpose of this resolution (including the preambles hereto and the documents mentioned herein), the Project, the issuance and funding of the Series 2022 Note, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 9. The Secretary of the Commission shall transmit a copy of this resolution, together with two (2) copies of the forms of the Loan Agreement and the Ordinance approved by

this resolution, to the Clerk for presentation to the Common Council with the recommendation that the Common Council adopt the proposed form of Ordinance approving the issuance and funding of the Series 2022 Note and the Loan Agreement in their substantially final forms as hereby recommended.

Section 10. The Secretary shall initial and then insert a copy of the forms of documents approved by this Resolution in the minute book of this Commission.

Adopted this 9th day of November, 2022.

SOUTH BEND ECONOMIC DEVELOPMENT  
COMMISSION

By: \_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Secretary

PROJECT REPORT OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE ISSUANCE AND FUNDING OF TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE, SERIES 2022 FOR THE PROPOSED PROJECT TO SERVE ECONOMIC DEVELOPMENT FACILITIES FOR THE SOUTH BEND CHOCOLATE COMPANY, INC., THE INDIANA DINASOUR MUSEUM INC. OR AN AFFILIATE OF EITHER

The South Bend Economic Development Commission proposes to recommend to the Common Council of the City of South Bend, Indiana, that it issue and fund its Taxable Economic Development Revenue Note, Series 2022 ("Series 2022 Note") and loan the proceeds of the Series 2022 Note to The South Bend Chocolate Company, Inc. ("SBCC"), the Indiana Dinosaur Museum Inc. ("IDM"), or an affiliate of either (collectively, "Borrower") to fund a portion of the development, construction, renovation, and equipping of three (3) buildings totaling approximately 90,434 square feet of attraction, retail, restaurant, visitor center and tour-able chocolate factory space on real estate commonly known as 24762 and 24820 U.S. Highway 20, South Bend, Indiana 46628, along with its surrounding acreage to create a year-around attraction and destination for City residents and visitors and to support the development of Continental Divide Trail, all on the City's westside (collectively, "Project"), in or physically connected to the River West Development Area and the River West Development Area Allocation Area No. 1. The Project is located on real estate commonly known as 24762 and 24820 U.S. Highway 20, South Bend, Indiana. Funds to be provided for the construction of a portion of the Project shall be from the issuance and funding of the Series 2022 Note, the proceeds of which will be loaned to the Borrower in an amount estimated of Two Million Seven Hundred Thousand (\$2,700,000) without further approvals, including costs of issuance of the Series 2022 Note.

No other public facilities to be paid for by the government will be made necessary on account of the proposed Project.

The estimated investment in real property is \$13,500,000 and the estimated investment in personal property is approximately \$1,900,000. It is also estimated that upon completion of the Project, the operation will create approximately 144 full-time jobs with an annualized payroll, excluding benefits, of approximately \$4,400,000.

Adopted this 9th day of November, 2022.

SOUTH BEND ECONOMIC DEVELOPMENT  
COMMISSION

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President

Attest:

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Secretary

November 10, 2022

South Bend Economic Development Commission  
South Bend, Indiana

Ladies and Gentlemen:

This is to certify that the South Bend Economic Development Commission duly submitted to the South Bend Plan Commission the report of the South Bend Economic Development Commission entitled "PROJECT REPORT OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE ISSUANCE AND FUNDING OF TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE, SERIES 2022 FOR THE PROPOSED PROJECT TO SERVE ECONOMIC DEVELOPMENT FACILITIES FOR THE SOUTH BEND CHOCOLATE COMPANY, INC., THE INDIANA DINASOUR MUSEUM INC. OR AN AFFILIATE OF EITHER."

SOUTH BEND PLAN COMMISSION

By: \_\_\_\_\_

November 10, 2022

South Bend Economic Development Commission  
South Bend, Indiana

Ladies and Gentlemen:

This is to certify that the South Bend Economic Development Commission duly submitted to the Superintendent of the South Bend Community School Corporation the report of the South Bend Economic Development Commission entitled "PROJECT REPORT OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE ISSUANCE AND FUNDING OF TAXABLE ECONOMIC DEVELOPMENT REVENUE NOTE, SERIES 2022 FOR THE PROPOSED PROJECT TO SERVE ECONOMIC DEVELOPMENT FACILITIES FOR THE SOUTH BEND CHOCOLATE COMPANY, INC., THE INDIANA DINASOUR MUSEUM INC. OR AN AFFILIATE OF EITHER."

SOUTH BEND COMMUNITY SCHOOL  
CORPORATION

By: \_\_\_\_\_