

A RESOLUTION OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION MAKING FINDINGS RELATING TO THE FINANCING OF CERTAIN LOCAL PUBLIC IMPROVEMENTS TO SERVE ECONOMIC DEVELOPMENT FACILITIES, APPROVING SUCH FINANCING AND FORM OF LOAN AGREEMENT RELATED THERETO

RESOLUTION NO. 2024-1

WHEREAS, relieving conditions of unemployment, underemployment and encouraging economic development of the community through the construction of housing and affordable housing in or near the City 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 construction of site work and infrastructure improvements ("Local Public Improvements") needed to serve the redevelopment and development of: (i) a new residential apartment building containing at least seventy thousand (70,000) square feet, which shall include a minimum of sixty (60) total apartment units, of which all sixty (60) apartment units will be exclusively available for tenants at eighty percent (80%) or lower of the area median income; (ii) a second new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units; and (iii) a third new residential apartment building containing at least fifty thousand (50,000) square feet, which shall include a minimum of forty-five (45) total market-rate apartment units (collectively, "Development") on certain real estate acquired by Legacy25, Inc. ("Borrower") and RealAmerica Development, LLC, at an overall investment of approximately \$21,500,000 for construction of the Development and Local Public Improvements needed to serve the Development and creation of at least two (2) full-time job opportunities with a total estimated annual payroll of One Hundred Thousand Dollars (\$100,000), thus strengthening the economic well-being of the Area and encouraging additional growth by contributing to the revitalization of housing and affordable housing to the neighborhood by the Borrower, in or physically connected to the River West Development Area and the River West Development Area Allocation Area No. 1 to be used for the financing of the Local Public Improvements to serve the Development;

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

WHEREAS, the Borrower has requested the City issue and fund its Taxable Economic Development Revenue Note, Series 2024 (RealAmerica Project) ("Series 2024 Note") in an amount not to exceed Three Million Eight Hundred Thousand Dollars (\$3,800,000) ("Loan");

WHEREAS, the South Bend Economic Development Commission ("Commission") has studied the Local Public Improvements for the proposed financing of the Local Public

Improvements need to serve the Development and the effects on the health and general welfare of the City and its citizens;

WHEREAS, the completion of the Local Public Improvements to serve the Development will result in the diversification of industry, the creation of jobs and the provision of housing and affordable housing which also creates additional 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 Local Public Improvements to serve the Development by issuing the Series 2024 Note pursuant to the Loan Agreement;

WHEREAS, on January 11, 2024 the South Bend Redevelopment Commission adopted a resolution ("Pledge Resolution") pledging TIF Revenues on hand or to be on hand, junior and subordinate to any currently outstanding bonds payable from TIF Revenues and any bonds issued in the future on a parity with any currently outstanding bonds (as defined in the Pledge Resolution), to fund the Loan;

WHEREAS, the diversification of industry, the investment of approximately \$21,500,000, the creation of at least two (2) full-time job opportunities with a total estimated annual payroll of One Hundred Thousand Dollars (\$100,000) and the promotion of additional economic development opportunities to be achieved by the construction of the Local Public Improvements to serve the Development 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 Common Council of the City ("Common Council") with respect to the Local Public Improvements and the Series 2024 Note;

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 2024 Note to finance a portion of costs of financing the Local Public Improvements to serve the Development;

WHEREAS, on the date hereof the Commission held the Public Hearing on the Local Public Improvements; 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 2024 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 Local Public Improvements to serve the Development referred to in the hereinafter defined Loan Agreement; and the issuance and funding of the Series 2024 Note to pay a portion of the costs of the Local Public Improvements to serve the Development: (i) will result in the diversification of industry, the provision of housing and affordable housing which also creates additional business opportunities 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 provision of housing and affordable housing which also creates additional business opportunities, 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 Three Million Eight Hundred Thousand Dollars (\$3,800,000), payable as set forth in Section 2.2 of the Loan Agreement. To the extent the representation in Section 2.2 of the Loan Agreement is met, payment on the Loan shall be forgiven as described therein. The Series 2024 Notes shall accrue interest at a rate not to exceed five percent (5.0%) per annum. The Series 2024 Note shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series 2024 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: (i) a form of Loan Agreement between the City and the Borrower with respect to the Local Public Improvements (including the form of the Series 2024 Note), dated as of February 1, 2024 ("Loan Agreement"); (ii) the form of Ordinance to be presented to the Common Council ("Ordinance") authorizing the issuance and funding of the Series 2024 Note and providing for the terms thereof. The forms of Loan Agreement and 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 Local Public Improvements 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 2024 Note in an amount not to exceed Three Million Eight Hundred Thousand Dollars (\$3,800,000) to the Borrower for the construction of a portion of the Local Public Improvements will each serve the public purposes referred to above, in accordance with the Act.

Section 6. The economic development facilities will consist of the Local Public Improvements to be located generally at 504 and 520 S. Lafayette Blvd., 511, 515 and 517 S. Main Street and the northwest corner of S. Main St. and W. South St., South Bend, Indiana, and served by the Local Public Improvements to serve the Development.

Section 7. It has considered whether the Local Public Improvements 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 Local Public Improvements to serve the Development 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 Local Public Improvements, demonstrate that the Local Public Improvements 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 Local Public Improvements, the Development, the issuance and funding of the Series 2024 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 Loan Agreement and 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 2024 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 12th day of February, 2024.

SOUTH BEND ECONOMIC DEVELOPMENT
COMMISSION

By: 
Vice - President

Attest:


Secretary