

COMMON COUNCIL OF THE CITY OF HOBART, INDIANA

ORDINANCE NO. 2022-01

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

WHEREAS, Indiana Code 36-7-11.9 and 12 (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 Hobart, 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 City of Hobart Redevelopment Commission (the “Redevelopment Commission”) has previously created the US 30 and 69th Avenue Economic Development Area (the “Area”) and designated the Area as an allocation area in accordance with Indiana Code 36-7-14-39 for the purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable real property in such Area; and

WHEREAS, the Redevelopment Commission on November 15, 2021, approved and adopted its Resolution No. 2021-10 for the purpose of making certain amendments to the Area and its plan including to designate an area, presently part of the Area as a separate allocation area pursuant to Indiana Code 36-7-14-39 to be known as “Allocation Area No. 2” (“Allocation Area No. 2”) and designate Albanese Confectionary Group, Inc. (including any affiliate thereof, including without limitation, Paine, LLC, Hancock Enterprises, LLC, Jefferson LLC, and SIR RLJ, LLC, any entity resulting from consolidation or merger thereof, any successor thereto or acquirer thereof, and any acquirer of such designee’s real and personal property located in Allocation Area No. 2) as a “designated taxpayer” pursuant to Indiana Code 36-7-14-39.3 (collectively, the “Designated Taxpayer”) for purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable real property and, with respect to the Designated Taxpayer, personal property in Allocation Area No. 2 (the “Allocation Area No. 2 TIF”); and

WHEREAS, the City, the Redevelopment Commission, and SIR RLJ, LLC (or a related party, the “Company”), have entered into an Economic Development Agreement (the “Development Agreement”), whereby the Company has agreed that the Company, or an affiliate thereof will make further investments in connection with the Albanese Confectionary Group, Inc. operations in the City, specifically to be located in Allocation Area No. 2, as more particularly described in the Development Agreement (the “Company Project”) and in connection with the Company Project, certain road improvements will be completed in the Area (the “Improvements”); and

WHEREAS, the Company has advised the City, the City of Hobart Economic Development Commission (the “Economic Development Commission”) and the Redevelopment Commission concerning the Company Project, and has requested that the City authorize and issue its economic development tax increment revenue bonds under the Act, to be designated as the City of Hobart, Indiana, Taxable Economic Development Tax Increment Revenue Bonds, Series 2022 (with such further series or different series designation as determined to be necessary or appropriate) (the “Bonds”), a portion of the net proceeds of such Bonds being used for the purpose of financing a portion of the costs of the Company Project and to pay for the Improvements; and

WHEREAS, the Economic Development Commission has rendered a report concerning the proposed financing or refinancing of economic development facilities for the Company; and

WHEREAS, following a public hearing, pursuant to Section 24 of the Act, the Economic Development Commission found that the financing of a portion of the costs of the Company Project and the Improvements complies with the purposes and provisions of the Act and that each such financing will be of benefit to the health and public welfare of the City; and

WHEREAS, the Economic Development Commission has considered whether the financing of the Company Project will have an adverse competitive effect or impact on any similar facility or facility of the same kind already constructed or operating in the corporate boundaries of the City; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide (or be deemed to provide) funds necessary to finance a portion of the costs of the Company Project and the Improvements by issuing the Bonds; and

WHEREAS, the Act provides that such Bonds may be secured by a trust indenture between an issuer and a corporate trustee; and

WHEREAS, the City intends to issue the Bonds consistent with the terms of this Ordinance, and pursuant to a Trust Indenture for the Bonds, dated as of the date of issuance of Bonds (the “Indenture”), by and between the City and a corporate trustee to be selected by the City, in order to secure funds necessary to provide (or be deemed to provide) for the financing of a portion of the costs of the Company Project and the Improvements in accordance with the terms of a Financing Agreement with the Company, to be dated as of the date of issuance of the Bonds (the “Financing Agreement”), by and between the City and the Company with respect to the use (or deemed use) of the proceeds of the Bonds and the completion of the Company Project and the Improvements; and

WHEREAS, no member of the Common Council of the City (the “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; and

WHEREAS, the forms of the Bonds, the Indenture and the Financing Agreement (collectively, the “Financing Documents”), and a form of this proposed Ordinance were submitted to, and approved by, the Economic Development Commission, which documents were incorporated by reference in the resolution heretofore adopted by the Economic Development Commission, which resolution has been transmitted to the Common Council in accordance with the Act;

NOW, THEREFORE, BE IT ORDAINED By The Common Council of The City of Hobart, Indiana, That:

Section 1. It is hereby found that the financing of a portion of the economic development facilities for the Company Project and the Improvements 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 (or deemed use) of the proceeds of the Bonds by the Company for the financing of a portion of the costs of the Company Project and the use of a portion of the proceeds of the Bonds to finance all or a portion of the costs of the Improvements, the payment of the Bonds from the Pledged TIF Revenues (as hereinafter defined) and other sources pursuant to 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 Company Project and the Improvements 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 resolutions, and concludes that the Company Project and the Improvements 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 Eleven Million Seven Hundred Fifty Thousand Dollars (\$11,750,000), which Bonds shall mature no later than seventeen (17) years after the date of issuance of the Bonds, and shall bear interest at a per annum rate not exceeding six percent (6.0%) per annum (anticipated interest rate: 0.0%). The Bonds may be issued on a draw basis. The Bonds are to be issued for the purpose of procuring funds to (a) pay all or a portion of the cost of acquisition, design, construction, renovation, improvement and equipping of the Company Project and the Improvements, (b) pay capitalized interest on the Bonds (if necessary), (iii) fund a debt service reserve fund (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 lettered and numbered R-1 upward. The Bonds shall be special and limited obligations of the City, payable solely from the trust estate created and established under the respective Indenture (the

“Trust Estate”), which Trust Estate shall consist of the funds and accounts created under the Indenture together with a pledge by the Redevelopment Commission of the Allocation Area No. 2 TIF, subject to the terms and conditions of a Pledge Agreement between the Redevelopment Commission and the City (the “Pledged TIF Revenues”), and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City.

The Mayor and the Clerk-Treasurer of the City (respectively, the “Mayor” and the “Clerk-Treasurer”) are hereby authorized to approve with the advice of counsel, a Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Company or the Company’s designee in a form and substance acceptable to the Mayor and the Clerk-Treasurer to provide for the sale of the Bonds. The Mayor of the City and the Clerk-Treasurer are hereby authorized and directed to execute and deliver the Bond Purchase Agreement in a form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

Section 5. Each of the Mayor and the Clerk-Treasurer 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, the Clerk-Treasurer 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-Treasurer and any other officer of the City on the Bonds may be facsimile signatures or electronic signatures. The Mayor, the Clerk-Treasurer and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk-Treasurer 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-Treasurer 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. In particular, at the request of the Company, the Mayor, the Clerk-Treasurer 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, in lieu of a Financing Agreement, a Loan Agreement with the Company in such form as such officers shall approve, such approval to be conclusively evidenced by their execution thereof.

Section 6. 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 7. The Common Council does hereby acknowledge and approve the pledge of the Pledged TIF Revenues to the payment of the Bonds of a series pursuant to the Indenture. Pursuant to IC 5-1-14-4, the pledge of the Pledged TIF Revenues pursuant to the Indenture is intended to be binding from the time the pledge is made, with such Pledged TIF 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 8. The Common Council hereby finds that (a) the Company Project and the related financing assistance for the Company Project and the Improvements provided in the Financing Documents are consistent with the economic redevelopment plan for the Area and Allocation Area No. 2; (b) the Company would not develop the Company Project without the financing assistance provided in Financing Documents and the Improvements would not be completed without the financing assistance provided in the Financing Documents; (c) the Company Project and the Improvements further the economic development and redevelopment of Allocation Area No. 2 and the Area generally; and (d) the Company Project will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

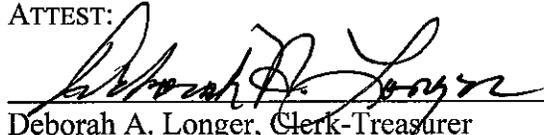
Section 9. This Ordinance shall be effective upon its passage by the Common Council in accordance with procedures as required by law.

PASSED AND ADOPTED on this 2nd day of ~~January~~ ^{February}, 2022, by the Common Council of the City of Hobart, Indiana.



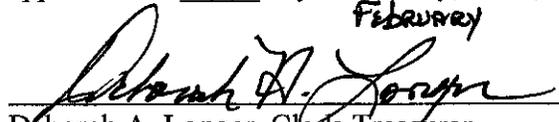
Brian K. Snedecor, Presiding Officer

ATTEST:



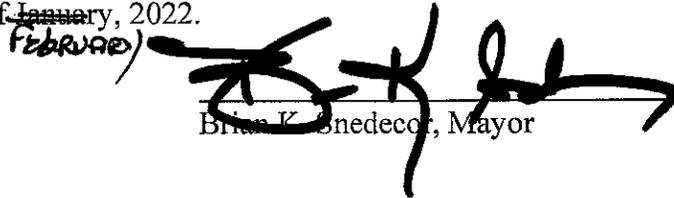
Deborah A. Longer, Clerk-Treasurer

PRESENTED by me, the Clerk-Treasurer of the City of Hobart, Indiana, to the Mayor for his approval this 2nd day of ~~January~~ ^{February}, 2022, at 7:00 ~~a.m.~~ ^{a.m.}/p.m.



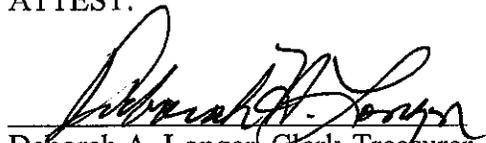
Deborah A. Longer, Clerk-Treasurer

APPROVED, SIGNED AND RETURNED by me to the Common Council of the City of Hobart, Indiana, this 2nd day of ~~January~~ ^{February}, 2022.



Brian K. Snedecor, Mayor

ATTEST:



Deborah A. Longer, Clerk-Treasurer