

**ORDINANCE NO. 2025-17**

**ORDINANCE AUTHORIZING THE CITY OF AUBURN, INDIANA TO  
FUND THE "TAXABLE ECONOMIC DEVELOPMENT REVENUE  
NOTES, SERIES 2025" AND APPROVING AND AUTHORIZING OTHER  
ACTIONS IN RESPECT THERETO**

**SUMMARY**

This ordinance authorized the City of Auburn, Indiana to fund the "Taxable Economic Development Revenue Notes, Series 2025" and approving and authorizing other actions in respect thereto.

\_\_\_\_\_ Recorder's Office

\_\_\_\_\_ Auditor's Office

\_\_\_\_\_ x \_\_\_\_\_ Clerk's Office

\_\_\_\_\_ Other

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\_\_\_\_\_ Publish Public Hearing

\_\_\_\_\_

\_\_\_\_\_ Publish O/R after adoption

\_\_\_\_\_

**ORDINANCE NO. 2025-17**

**ORDINANCE AUTHORIZING THE CITY OF AUBURN, INDIANA TO  
FUND THE "TAXABLE ECONOMIC DEVELOPMENT REVENUE  
NOTES, SERIES 2025" AND APPROVING AND AUTHORIZING OTHER  
ACTIONS IN RESPECT THERETO**

An ordinance of the City Council ("Council") of the City of Auburn, Indiana ("City") authorizing the funding of the Taxable Economic Development Revenue Note, Series 2025 ("Series 2025 Note") in an amount not to exceed Two Million Dollars (\$2,000,000), without further approvals, and approving and authorizing other actions in respect thereto.

WHEREAS, Indiana Code 36-7-11.9 and 12 (collectively, "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City is authorized to make loans for the purpose of financing, reimbursing or refinancing all or a portion of 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, Auburn Development Group, LLC, an Indiana limited liability company duly organized and authorized to do business in the State of Indiana ("Borrower") has informed the City that it will be constructing certain economic development facilities consisting of the construction of 14 "Class-A market rate" apartments on the second and third floors, two private residences on the fourth floor, 10,000+/- sq/ft of flex commercial space, parking, retail facilities, and public infrastructure, together with all necessary appurtenances, equipment and related improvements (collectively, "Project").

WHEREAS, the Project will be located in or physically connected to the Northwest Economic Development Area ("Area") and 2020 Expansion Area Allocation Area (collectively, "Area") as established by the Auburn Redevelopment Commission ("Redevelopment Commission"); and

WHEREAS, the Auburn Economic Development Commission ("Commission") has rendered its Project Report regarding the funding of the Series 2025 Note from the City to the Borrower to finance a portion of the Project and the Project Report has been or will be submitted to the Auburn Plan Commission; and

WHEREAS, the Commission conducted a public hearing on September 11, 2025 and adopted a resolution and Project Report, which resolution and Project Report have been transmitted hereto, finding that the financing of a portion of the Project complies with the purposes and provisions of IC 36-7-11.9 and -12 and that such financing will be of benefit to the health and welfare of the City and its citizens; and

WHEREAS, the Commission has heretofore approved and recommended the adoption of this form of ordinance by this Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Council the Loan Agreement dated as of October 1, 2025 ("Loan Agreement"), between the City and the Borrower (including the form of the Series 2025 Note); and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide funds necessary to finance a portion of the Project by funding the Series 2025 Note; and

WHEREAS, the City intends to fund the Series 2025 Note and make the Loan consistent with the terms of this ordinance and pursuant to the Loan Agreement; and

WHEREAS, the Series 2025 Note will be funded from the original Northwest Economic Development Allocation Area and the 2008 Expansion Allocation Area TIF Revenues, junior and subordinate to any existing or future obligations of the Redevelopment Commission and the loan of the funds for the Series 2025 Note to the Borrower;

WHEREAS, no member of the Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Series 2025 Note authorized herein, which pecuniary interest has not been fully disclosed to the Council and no such member has voted on any such matter, all in accordance with the provisions of Indiana Code 36-7-12-16; and

WHEREAS, there has been submitted to the Commission for its approval forms of the Series 2025 Note and the Loan Agreement (collectively, "Financing Documents") and a form of this proposed ordinance, which were incorporated by reference in the Commission's resolution adopted on January 31, 2025, which resolution has been transmitted to the Council;

WHEREAS, prior to the delivery of the Series 2025 Note, the Redevelopment Commission will use Area TIF Revenues, junior and subordinate any existing or future obligations of the Redevelopment Commission, in four (4) equal installments of \$500,000 over four (4) years, anticipated to occur in the fourth quarter of 2025, August 1, 2026, August 1, 2027, and August 1, 2028, to the funding of the Series 2025 Note pursuant to the Loan Agreement; and

WHEREAS, based upon the resolution adopted by the Commission pertaining to the Project, the Council hereby finds and determines that the funding approved by the Commission for the Project will be of benefit to the health and general welfare of the citizens of the City, complies with the provisions of the Act and the amount necessary to finance a portion of the costs of the Project will require the delivery of the Series 2025 Note.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUBURN, INDIANA, THAT:

Section 1. It is hereby found, determined, ratified and confirmed that the financing of a portion of the Project, the funding of the Series 2025 Note from the original Northwest Economic Development Allocation Area and the 2008 Expansion Allocation Area TIF Revenues and the loan of the proceeds of the Series 2025 Note to the Borrower complies with the purposes and provisions of IC 36-7-11.9 and -12 (collectively, "Act") and: (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 actions as determined to be necessary or desirable to encourage the diversification of industry, the creation or retention of business opportunities, and the creation or retention 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 substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Council and kept on file by the Clerk-Treasurer. In accordance with the provisions of IC 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk-Treasurer for public inspection.

Section 3. The City shall fund the Series 2025 Note from the original Northwest Economic Development Allocation Area and the 2008 Expansion Allocation Area TIF Revenues, junior and subordinate to any existing or future obligations of the Redevelopment Commission, and make the loan to the Borrower in the maximum amount not to exceed Two Million Dollars

(\$2,000,000), payable in four (4) equal installments, subject to completion of 25% of the project for the first payment, 50% of the project for the second payment, 75% of the project for the third payment, and 100% of the project for the fourth payment tentatively scheduled to be paid in the fourth quarter of 2025, August 1, 2026, August 1, 2027, and August 1, 2028, with a maximum term not to exceed seventeen (17) years from the date of delivery unless forgiven as provided in the Loan Agreement. Borrower shall provide notice of completion percentage at least thirty (30) days prior to proposed disbursement. The Series 2025 Note shall not accrue interest. The Series 2025 Note is to be repaid from and secured by payments received from the Borrower. The Series 2025 Note shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City. The Series 2025 Note shall not be subject to optional redemption prior to maturity

Section 4. The Mayor and the Clerk-Treasurer 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 transactions contemplated by the Financing Documents and this ordinance, and their execution is hereby confirmed on behalf of the City. The use of electronic signatures by the Mayor and Clerk-Treasurer are authorized and affirmed with full valid legal effect and enforceability. The signatures of the Mayor and the Clerk-Treasurer on the Series 2025 Note which may be necessary or desirable to consummate the transactions are hereby authorized, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor and the Clerk-Treasurer on the Series 2025 Note may be facsimile signatures. The Mayor and the Clerk-Treasurer are authorized to arrange for the delivery of such Series 2025 Note to the Borrower, payment for which will be made in the manner set forth in the Financing Documents. The Mayor and the Clerk-Treasurer 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 and the Clerk-Treasurer without further approval of this Council or the Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

Section 5. The provisions of this ordinance and the Financing Documents shall constitute a contract binding between the City and the Borrower, and after the issuance of the Series 2025 Note, this ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as the Series 2025 Note remains unpaid.

Section 6. The Mayor and the Clerk-Treasurer, or any other officer having responsibility with respect to the issuance and the funding of the Series 2025 Note, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the City, to deliver a certificate for inclusion in the transcript of proceedings for the Series 2025 Note, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the proceeds of the Series 2025 Note as of the funding date thereof.

Section 7. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this ordinance, the Financing Documents or under any judgment obtained against the City, including without limitation the Commission or Redevelopment Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Financing Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, including without limitation the Commission or

Redevelopment Commission, either directly or through the City, or otherwise, for the payment for or to the City of any sum that may remain due and unpaid by the City upon any of such Series 2025 Note. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of any sum that may remain due and unpaid upon the Series 2025 Note hereby secured shall be expressly waived and released as a condition of and consideration for the execution and delivery of the Financing Documents and the issuance and funding of the Series 2025 Note.

Section 8. 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 9. All ordinances, resolutions and orders, or parts thereof, in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

Section 10. It is hereby determined that all formal actions of the Council relating to the adoption of this ordinance were taken in one or more open meetings of the Council, that all deliberations of the 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 11. The Mayor and 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 and deliver such further documents and to take such further actions as such person deems necessary or desirable to



First Reading \_\_\_\_\_  
Second Reading \_\_\_\_\_

effect 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 12. This ordinance shall be in full force and effect from and after its passage.

First Reading \_\_\_\_\_  
Second Reading \_\_\_\_\_


**PASSED AND ADOPTED** by the Common Council of the City of Auburn, Indiana, this  
16<sup>th</sup> day of September, 2025.

  
James Finchum, Councilmember

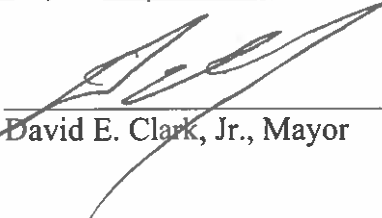
ATTEST:

  
Lorrie K. Pontius  
Clerk-Treasurer

Presented by me to the Mayor of the City of Auburn, Indiana, this me this 16<sup>th</sup> day of  
September, 2025.

  
Lorrie K. Pontius, Clerk-Treasurer

APPROVED AND SIGNED by me this 16<sup>th</sup> day of September, 2025.

  
David E. Clark, Jr., Mayor

VOTING:

AYE

NAY

Natalie DeWitt



Rod Williams



James Finchum



Dan Braun

David Bundy



Kevin Webb



Emily Prosser

