

**CITY OF SOUTH LEBANON, OHIO
RESOLUTION NO. 2023-30**

**A RESOLUTION APPROVING AND FURTHER AUTHORIZING MAYOR TO
EXECUTE A PRELIMINARY TERM SHEET WITH RIVER CREEK LOFTS, LLC,
RELATIVE TO THE FINANCING OF THE RIVER CREEK LOFTS MULTI-FAMILY
DEVELOPMENT, AND DECLARING AN EMERGENCY**

WHEREAS, River Creek Lofts, LLC (“the Developer”) has proposed to construct a 460-unit residential development on an approximately 30.5 acre site located at 1771 Mason-Morrow-Millgrove Road (“the Project”); and,

WHEREAS, the Developer is requesting a tax increment financing (TIF) exemption to be established on the entire project site pursuant to Ohio Revised Code Sec. 5709.40(B) to assist in the construction of public improvements for the Project; and,

WHEREAS, City staff and the Developer have prepared a term sheet outlining the specifics and structure of the proposed TIF financing; and,

WHEREAS, the term sheet will be the basis for all of the additional documents required for proposed TIF financing; and,

WHEREAS, immediate action is required to expedite the preparation of the required documents and other actions required by ORC 5709.40(B), and such action is necessary in order to preserve the public peace, health, safety or welfare of the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of South Lebanon, Ohio, at least two-thirds of all members elected thereto concurring:

Section 1. That the Council approves and authorizes the Mayor to execute a Preliminary Term Sheet with River Creek Lofts, LLC, a copy of which is attached hereto.

Section 2. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

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Section 3. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

Section 4. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 17th of August, 2023.


Attest: 
Petrina D. Williams, Director of Finance/Clerk


James D. Smith, Mayor

Rules Suspended: <u>8/17/2023</u> (if applicable)	Effective Date <u>8/17/2023</u>
Vote - <u>6</u> Yeas <u> </u> Nays	
First Reading - / / 2023 Second Reading - / / 2023	Effective Date - / / 2023
Vote - <u> </u> Yeas <u> </u> Nays	

Prepared by and approved as to form:

ANDREW P. MEIER
LAW DIRECTOR
CITY OF SOUTH LEBANON, OHIO

By: 
Date: 8 / 17/2023

City of South Lebanon

**River Creek Lofts Development
Preliminary Term Sheet – 2023**

Set forth below is a summary of certain terms relating to the development of a phased 460-unit residential development (the “Project”) on an approximately 30.5-acre site located at 1771 Mason-Morrow-Millgrove Road (the “Project Site”) in South Lebanon, Ohio (the “City”) by River Creek Lofts, LLC, an Ohio limited liability company (“Developer”), and Sreenivasa R. Echuri, an individual (the “Principal”), which proposed development is anticipated to include a clubhouse, banquet center, underground parking, pool, dog park, lighted tennis, basketball and tennis courts.

All terms, costs, and other items included herein are preliminary and will be finalized in a Development Agreement (the “Development Agreement”) among the City, Developer and Principal. The Development Agreement and other ancillary agreements, as well as the real property tax exemption contemplated hereby, will require approval by the South Lebanon City Council (with respect to the Development Agreement, the TIF Exemption (as defined below), and the priority of the TIF Exemption).

This Preliminary Term Sheet is not intended to be contractual in nature and has been prepared solely to facilitate discussions between the parties and will guide the drafting of the Development Agreement. No party shall be obligated to any other party in any way by virtue of having signed this Preliminary Term Sheet.

<i>Description of the Private Improvements:</i>	Developer currently anticipates developing the Project on the Project Site in two phases as shown on Exhibit “Exhibits A1-A4 The first phase (the “Phase I Private Improvements”) will consist of: Exhibits C & D The second phase (the “Phase II Private Improvements”) will consist of: Exhibits C & D The total estimated cost (including, without limitation, hard construction costs, soft costs, and acquisition costs) of (a) the Phase I Private Improvements is projected to be approximately \$44,361,198.80, and (b) the Phase II Private Improvements is projected to be approximately \$39,158,275.20, for an aggregate total estimated cost for the Private Improvements of approximately \$83,519,474.
<i>Construction of Public Improvements:</i>	Developer will construct of (a) water lines and sewer lines to the Private Improvements across the Project Site, (b) a sewer lift station, and (c) a road over the Project Site, all as depicted on Exhibit A1, A2, A3 and A4 (the “Developer Public Improvements”). The Developer Public Improvements will be

	<p>located on a public easement satisfactory to the City. The Developer Public Improvements must be open and available to the public at all times. Notwithstanding the foregoing, it is contemplated that the Developer Public Improvements will be publicly dedicated and will be maintained by the City. The estimated costs of the Developer Public Improvements are set forth on Exhibit B. The Total Public Improvement Costs are estimated to be \$5,960,120.</p> <p>The Development Agreement shall provide that Developer will construct the Developer Public Improvements at its own cost, but subject to reimbursement from Project TIF Revenues as set forth herein, by a date certain and in accordance with plans and specifications and a budget approved by the City. Developer shall manage and coordinate construction of the Developer Public Improvements and construction of the Developer Public Improvements will be performed by its subcontractors. Developer will award all subcontracts pursuant to a request for proposals in a manner satisfactory to the City.</p> <p>Developer acknowledges and agrees that the Developer Public Improvements are subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115.</p>
<p><i>Project Site:</i></p>	<p>The Project Site will be comprised of the following property owned, under contract, or to be acquired by Developer: (See parcel list attached as Exhibit C & D hereto). The Project Site will be subdivided into two separate parcels substantially in accordance with the subdivision plat attached as Exhibit E hereto (the "Subdivision Plat") and subject to the City's subdivision regulations. The Phase I Private Improvements will be constructed on Lot 2 as shown on the Subdivision Plat (the "Phase I Lot") and the Phase II Private Improvements will be constructed on Lot 3 as shown on the Subdivision Plat (the "Phase II Lot").</p>
<p><i>Construction and Funding of Private Improvements:</i></p>	<p>The Private Improvements must be designed and built in a manner that is consistent with the requirements of all applicable zoning, building and subdivision regulations. Developer anticipates that the Private Improvements will be financed through equity and traditional debt.</p>

<p><i>Capital Lease Transactions:</i></p>	<p>Developer anticipates entering into a sale and leaseback (or lease and leaseback) arrangement with respect one or more parcels within the Project Site (each, a “Parcel”) in which fee title or ground leasehold title to the Parcel to be developed is held by an Ohio port authority formed and operating pursuant to Ohio Revised Code Chapter 4582 (the “Port Authority”) for the purpose of taking advantage of the sales tax exemption on the purchase of building materials. If requested by the Port Authority, the City will indicate to the Port Authority that it supports these capital lease transactions.</p>
<p><i>Creation of 5709.40(B) Project TIF:</i></p>	<p>The City presently anticipates that it will cause a project-based “non-school” tax increment financing exemption to be established on the entire Project Site pursuant to ORC 5709.40(B) (the “TIF Exemption”). Thereafter, the City, Developer and the Port (as applicable) will enter into a service agreement and other ancillary agreements (the “Service Payment Agreement”) which require the payment of full statutory service payments in lieu of real estate taxes (“Statutory Service Payments”). Subject to City Council approval, the TIF Exemption will be accomplished by means of an ordinance exempting 75% of the Improvements (as defined in ORC 5709.40(B)) to the Phase I Lot and the Phase II Lot from real property taxes for a period of 10 years. The TIF Exemption for the Phase I Lot and the Phase II Lot will start on separate dates and on a basis reasonably agreed to by Developer and the City.</p> <p>The City will receive the Statutory Service Payments generated from the Phase I Private Improvements (the “Project TIF Revenue”) and use the same as follows (in the following order of priority): (i) to the extent not deducted by the Warren County Auditor, the City will use the Project TIF Revenue to pay applicable governmental fees (City and County), including City Costs (as defined below) and the City’s annual administrative fee provided for herein, (ii) to the extent not deducted by the Warren County Auditor, the City will use the Project TIF Revenue to satisfy the City’s obligation to the Kings Local School District and the Warren County Career Center and Career Development as compensation pursuant to ORC 5709.40(B); (iii) the City will use net Project TIF Revenue (the amount of the Project TIF Revenue after (i) and (ii) are deducted) to reimburse Developer for costs of the Developer Public Improvements up to the Maximum Amount herein specified; and (iv) the City will retain the balance of the Project TIF Revenue, if any, to be expended by the City in its sole discretion for any lawful purpose.</p>

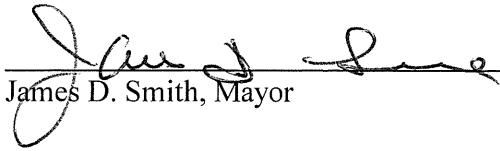
	<p>The City will receive all of the Statutory Service Payments generated from the Phase II Private Improvements (the “City TIF Revenue”) and, subject to the requirements in subsections (i) and (ii) above, the City will retain the City TIF Revenue and expend the City TIF Revenue in its sole discretion for any lawful purpose. Developer will have no right to receive any of the City TIF Revenue.</p>
<i>Project Timeline:</i>	<p>A preliminary project timeline for all phases of the Project is attached hereto as Exhibit C & D.</p>
<i>Reimbursement Amount:</i>	<p>The City will reimburse Developer for approved costs of the Developer Public Improvements, including interest (Interest Carry) thereof from the date of completion of the Developer Public Improvements through the date of reimbursement of the costs of the Developer Public Improvements at a rate (not to exceed 6.25% per annum) established as a market rate by the financial advisor to the City (“Interest Carry”), but only from the available Project TIF Revenue and up to a maximum amount not to exceed \$5,960,120 plus Interest Carry (the “Maximum Amount”), subject to the following: (a) if, subject to Force Majeure, the Phase I Private Improvements are not completed by December 31, 2027, the Maximum Amount will be \$4,823,554 plus Interest Carry, (b) if, subject to Force Majeure, the Phase II Private Improvements are not completed by December 31, 2030, the Maximum Amount will be \$5,960,120 without Interest Carry.</p> <p>To the extent the Project TIF Revenue provided by the City is insufficient to reimburse Developer for the Maximum Amount of the costs of the Developer Public Improvements, Developer will be solely responsible for the shortfall.</p> <p>Reimbursement Payments under the Development Agreement will be made to Developer semi-annually within forty-five (45) days after the City’s receipt of Project TIF Revenues.</p>
<i>Completion Guaranty:</i>	<p>Principal will execute a Completion Guaranty, pursuant to which Principal guarantees completion of the Phase I Private Improvements and the Phase II Private Improvements by no later than December 31, 2027 and December 31, 2030, respectively.</p>
<i>Tap-In Fees:</i>	<p>The tap-in fee payable by to the City with respect to the Project will be \$2,400 per Sewer Permit and \$2,400 per Water Tap Permit as provided for in the City ordinances and regulations,</p>

	<p>except that the foregoing “Tap-In Fees” will be payable within thirty (30) days following the issuance of a building permit for the Project.</p>
<p><i>Assignment; Change of Control:</i></p>	<p>Developer may assign its rights or interests under the Development Agreement with the written consent of the City, which the City will not unreasonably withhold prior to the completion of construction of all phases of the Project to a related party. After the completion of both phases of the Project, the Developer may assign its rights or interests without the prior written consent of the City, provided that Developer may not sell the Phase I Private Improvements separately from the Phase II Private Improvements.</p>
<p><i>Indemnification:</i></p>	<p>Developer and Principal will jointly and severally indemnify the City and its officers, council members, employees and agents (collectively, the “Indemnified Parties”) from and against any and all actions, suits, claims, losses, costs (including without limitation reasonable attorneys’ fees), demands, judgments, liability and damages suffered or incurred by or asserted against the Indemnified Parties as a result of or arising from (a) the construction, ownership and operation of the Project, including, without limitation, damages or injury to persons or property, (b) until public dedication of the Developer Public Improvements, the construction, ownership and operation of the Developer Public Improvements, including, without limitation, damages or injury to persons or property, (c) the performance by the City of its obligations under the Development Agreement without gross negligence or willful misconduct, (d) any default by Developer or Principal in its or his obligations under the Development Agreement, the Service Payment Agreement or the Completion Guaranty, or (e) the environmental condition of the Project Site. In addition, Developer shall at all times add the City as an additional insured in Developer’s liability policy and, upon demand of the City, provide the City with a certificate of insurance or other proof of such insurance acceptable to the City.</p>
<p><i>City Costs:</i></p>	<p>It is anticipated that the City will incur, directly or indirectly, certain costs and expenses associated with its obligations under the Development Agreement and the Service Payment Agreement, including, but not necessarily limit to, legal and financial advisory fees (collectively, the “City Costs”). Upon execution of the Development Agreement, Developer and Principal shall reimburse the City for its City Costs through the date thereof. Thereafter, upon demand by the City, Developer and Principal shall reimburse the City from time to time for any</p>

	additional City Costs incurred by the City, provided that, in any year that there are available Project TIF Revenues, the City may deduct such additional City Costs from the Project TIF Revenues prior to payments made to Developer.
Reporting Requirements:	During each year that the TIF Exemption remains in effect, Developer, including any future Owner(s) of all or any future portion of the Property, agree that, within forty-five (45) days following notice from the City, Developer and any such future Owner(s) shall provide the information which is required to be provided in any reports that the City files with the Director of Development for the State of Ohio in accordance with ORC 5709.40. Furthermore, Developer, including any future owner(s) of all or any future portion of the Property, shall cooperate in all reasonable ways with and provide necessary and reasonable information to the designated Tax Incentive Review Council (the "TIRC") to enable the TIRC to review and determine annually during the term of the Development Agreement and the compliance of Developer with the terms of the Development Agreement.
Fees:	Developer and Principal agree to pay to the City an annual administrative fee in the amount of \$2,500 related to the implementation and monitoring of the TIF Exemption. Such fee shall be paid by Developer annually in advance on the date of the execution of the Development Agreement and thereafter on August 1 of each calendar year, provided that, in any year that there are available Project TIF Revenues, the City may deduct the annual administrative fee from the Project TIF Revenues prior to payments made to Developer.
Development Agreement Provisions:	Development Agreement will contain such other terms as may be mutually acceptable to the City and Developer. Omission of a term from this Preliminary Term Sheet is not an indication that such term will not be included in the Development Agreement.
Modification:	This Preliminary Term Sheet may be modified with the approval of all affected parties.

<i>Exhibits:</i>	Exhibit A1-A4 – Site Depiction, including Phases, Parcel List Exhibit B – Public Improvements Costs Exhibit C & D – Narrative, Timing & Costs Exhibit E – Draft Record Subdivision Plat
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James D. Smith, Mayor

8/17/2023
Date

Sreenivasa R. Echuri, Authorized
Representative of Developer

Date

Sreenivasa R. Echuri, an individual
Principal

Date

Exhibits A1-A4

Site Depiction, including Phases, Parcel List