

# OFFICIAL

## BOROUGH OF WEST HOMESTEAD

### ORDINANCE NO. 735

AN ORDINANCE SIGNIFYING THE INTENT AND DESIRE OF THE BOROUGH COUNCIL OF THE BOROUGH OF WEST HOMESTEAD, ALLEGHENY COUNTY, PENNSYLVANIA, TO ESTABLISH AN AREA WITHIN SAID BOROUGH AS A NEIGHBORHOOD IMPROVEMENT DISTRICT UNDER THE PROVISIONS OF THE "NEIGHBORHOOD IMPROVEMENT DISTRICT ACT", 73 PA. C.S. §831 *ET SEQ.*, AS AMENDED AND SUPPLEMENTED, TO BE KNOWN AS THE "WATERFRONT APARTMENTS NEIGHBORHOOD IMPROVEMENT DISTRICT"; APPROVING THE NEIGHBORHOOD IMPROVEMENT DISTRICT PLAN INCLUDING THE RATE AND METHOD OF APPORTIONMENT OF SPECIAL ASSESSMENTS; DESIGNATING THE WATERFRONT APARTMENTS – WEST HOMESTEAD NEIGHBORHOOD IMPROVEMENT DISTRICT MANAGEMENT ASSOCIATION AS THE NEIGHBORHOOD IMPROVEMENT DISTRICT MANAGEMENT ASSOCIATION TO ADMINISTER THE NEIGHBORHOOD IMPROVEMENT DISTRICT; AND AUTHORIZING THE TAKING OF ALL SUCH ACTION AS MAY BE NECESSARY OR APPROPRIATE TO CARRY OUT THE INTENT OF THIS ORDINANCE

**WHEREAS**, the Borough of West Homestead, Allegheny County, Pennsylvania (the "**Borough**"), constitutes a municipality under the "Neighborhood Improvement District Act," 73 Pa. C.S. §831 *et seq.*, as amended and supplemented (the "**Act**"), and the Borough Council of the Borough constitutes a municipal corporation under the Act; and

**WHEREAS**, the Act provides that every municipal corporation will have the power to, among other things, establish within the municipality an area or areas designated as a Neighborhood Improvement District (the "**NID**") and establish an authority or designate an existing nonprofit corporation to serve as the Neighborhood Improvement District Management Association (the "**NIDMA**") to administer the NID; and

**WHEREAS**, a final Neighborhood Improvement District Plan for the Waterfront Apartments Project in the Boroughs of Homestead and West Homestead, Allegheny County, Pennsylvania (the "**NID Plan**") was developed, in such form and containing such information as required by Section 835(c) of the Act, to plan for financing and constructing a parking facility and public infrastructure improvements, including trail relocation, utility connections, roadway connections and stormwater management (the "**Public Improvements**") associated with the development by Continental Development Ventures, LLC (the "**Developer**") of a 266-unit multi-family apartment facility constructed above a 350-space parking facility on approximately 4 acres

of property (collectively, the “**Development**”) located on the boundary of the Borough and the Borough of Homestead, Allegheny County, Pennsylvania (“**Homestead**”); and

**WHEREAS**, the NID Plan proposes the creation of two NIDs to be known generally as the “Waterfront Apartments Neighborhood Improvement District,” with one NID to be created by the Borough for that portion of the Development located within the borders of the Borough and a second substantially identical NID to be created by the Homestead for that portion of the Development located within the borders of Homestead; and

**WHEREAS**, a public hearing was conducted on behalf of Borough Council of the Borough for the purpose of receiving comments from all Affected Owners within the NID following (i) distribution to all affected property owners (the “**Affected Owners**”) within the proposed NID and lessees of Affected Owners within the proposed NID of both the NID Plan and a notice of the date, location and time of the public hearing, and (ii) duly advertising, as required by the Act, a notice of such public hearing; and,

**WHEREAS**, the Affected Owners and any lessees of Affected Owners expressed no objection to the provisions of the NID Plan; and

**WHEREAS**, as described within the NID Plan, Borough Council intends to authorize the NIDMA to impose special assessments on real property located within the NID in accordance with the provisions of the Rate and Method of Apportionment of Special Assessments included within the NID Plan, which methodology is in compliance with the provisions of Section 837 of the Act, in order to provide funds for the payment of bonds (the “**Bonds**”), and related administrative expenses, to be issued by Wilkins Area Industrial Development Authority (the “**Industrial Development Authority**”) to finance the Public Improvements within the Development; and

**WHEREAS**, the Borough Council has determined to designate Waterfront Apartments Neighborhood Improvement District Management Association, a Pennsylvania nonprofit corporation, to serve as the NIDMA for the NID, as proposed under the NID Plan; and

**WHEREAS**, in connection with the creation of the NID and the issuance of the Bonds by the Industrial Development Authority, the Borough will be entering into (i) a NID Management Agreement with the NIDMA and Homestead (the “**NID Management Agreement**”), as required by the Act and as provided for within the NID Plan, which provides that the NIDMA will impose Special Assessments, collect the Special Assessments and have the right to collect interest and penalties with respect to the delinquent Special Assessments; (ii) a Funding Agreement with the Industrial Development Authority, The Huntington National Bank, as bond trustee, the Developer, Homestead and the NIDMA (the “**Funding Agreement**”); (iii) a Pledge and Security Agreement with the Industrial Development Authority and the NIDMA for the pledge and assignment of the interests of the Borough and the NIDMA in and to the special assessments to serve as a source of payment and security for the Bonds and related administrative expenses (the “**Pledge and Security Agreement**”); and

**WHEREAS**, the Borough Council intends to authorize all further actions that may be necessary or appropriate to carry out the intent and purposes of this ordinance, all in keeping with the provisions of the Act and in accordance with the NID Plan.

**NOW THEREFORE, BE IT ORDAINED AND ENACTED** by the Borough of West Homestead, Allegheny County, Pennsylvania, in accordance with the Act, as follows:

**Section 1.** Borough Council hereby approves the NID Plan, attached hereto as Exhibit “A”, and hereby designates the area or areas identified in the NID Plan as a NID. The name of the NID is the “Waterfront Apartments Neighborhood Improvement District”.

**Section 2.** Borough Council hereby designates the Waterfront Apartments Neighborhood Improvement District Management Association as the NIDMA to administer programs, improvements, and services within the NID in accordance with the Act with duties and responsibilities to be set forth in a management agreement containing terms and provisions satisfactory to the Borough and the NIDMA. Borough Council additionally hereby designates the [President of Borough Council/ Borough Manager] to serve as a designated member of the board of directors of the NIDMA.

**Section 3.** Borough Council, pursuant to Section 837 of the Act, hereby authorizes the imposition by the NIDMA of special assessments on real property located within the NID in accordance with the Rate and Method of Apportionment of Special Assessments set forth in the NID Plan, such Rate and Method of Apportionment of Special Assessments being in compliance with Section 837 of the Act, and such Rate and Method of Apportionment of Special Assessments hereby is approved. The special assessments will provide, together with other available funds, for the payment of the Bonds, and related administrative expenses, to be issued by the Industrial Development Authority to finance the Public Improvements within the Development, all as provided for within the NID Plan. In addition, as set forth in the NID Plan, interest and penalties are hereby authorized to be imposed on the failure to timely pay Special Assessments, which interest and penalties are to be imposed at the same rates and the same amounts as would be applicable for failure to pay local, Borough, real estate taxes on the parcels (without offering any discount for early payment), and collected in the same manner as interest and penalties under the Act and the Municipal Claim and Tax Lien Law (53 P.S. § 7101 *et seq.*).

**Section 4.** Borough Council hereby is authorized to take such further actions as are necessary or desirable to carry out the intent and purposes of this Ordinance, including but not limited to, the execution by the Chairman or Vice Chairman and Secretary of the Borough Council of the NID Management Agreement, the Funding Agreement, the Pledge and Security Agreement, and other documents and agreements consistent with the Act and the NID Plan that the Borough will need to enter into in furtherance of this Ordinance, in form and substance satisfactory to such officers and the Borough’s Solicitor and bond counsel, the execution and delivery of all such documents, instruments, agreements and certificates to constitute conclusive evidence of such satisfaction.

**Section 5.** This ordinance will take effect in accordance with applicable law.

**Section 6.** This ordinance will not be deemed in any way to be a pledge of the general credit of the Borough for the payment of the Bonds and this ordinance will not be deemed in any way to obligate the Borough for the payment of principal of, or interest on, the Bonds, or for any other claim based on the Bonds or any other document, instrument or agreement delivered in connection with the issuance of the Bonds.

**ORDAINED AND ENACTED** into law this 13<sup>th</sup> day of August 2024, by the Borough Council of the Borough of West Homestead, Allegheny County, Pennsylvania, in lawful session duly assembled.

ATTEST:

Donna M. McMichael

Donna M. McMichael  
Borough Secretary

BOROUGH OF WEST HOMESTEAD

By:

Ch A Harhai

Ashley N. Cain, President of Council

David A. Harhai, Vice President  
of Council

Examined and approved this 13<sup>th</sup> day of August 2024.

By:

Joseph M. Baran

Joseph M. Baran, Mayor

ATTEST:

Donna M. McMichael