

ORDINANCE NO. 2024-60

AN ORDINANCE OF THE SHELBY COUNTY COUNCIL  
AUTHORIZING THE ISSUANCE OF THE SHELBY COUNTY,  
INDIANA, ECONOMIC DEVELOPMENT TAX INCREMENT  
REVENUE BONDS (SUNBEAM PROJECT), AND  
AUTHORIZING AND APPROVING OTHER ACTIONS IN  
RESPECT THERETO

WHEREAS, Shelby County, Indiana (the "County"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions;

WHEREAS, Sunbeam Development Corporation, or an affiliate thereof (the "Company"), desires to finance a portion of the design and construction of certain public improvements described in Exhibit A hereto which are located in or directly serve and benefit the Northwest Shelby County Economic Development Area (collectively, the "Projects");

WHEREAS, the Company will complete the Projects for use in connection with its warehouse/distribution/light manufacturing facilities development (collectively, the "Facilities") in or directly serving and benefiting the Northwest Shelby County Economic Development Area 2024 Allocation Area (the "Allocation Area");

WHEREAS, the Company has advised the Shelby County Economic Development Commission (the "Commission") and the County that it proposes that the County issue its Economic Development Tax Increment Revenue Bonds, Series 202\_ (Sunbeam Project), to be completed with the year in which issued and appropriate series designation if issued in one or more series, in an amount not to exceed Nine Million Dollars (\$9,000,000) (the "Bonds"), under the Act and provide the proceeds of such Bonds to the Company for the purpose of financing the Projects;

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of new jobs and the creation of business opportunities in the County;

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects;

WHEREAS, on the date specified in the notice of the Public Hearing, the Commission held the Public Hearing on the Projects;

WHEREAS, the Projects are located within or are physically connected to the Allocation Area and the Shelby County Redevelopment Commission (the "Redevelopment Commission") has agreed to pledge a portion of the property taxes on incremental increases in assessed value of real property located in the Allocation Area (the "Pledged TIF Revenues") to the repayment of the Bonds; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Shelby

County Council (the "Council") the forms of: (1) a Financing Agreement between the County and the Company (the "Financing Agreement"); (2) a Trust Indenture between the County and a trustee to be selected by the Auditor of the County (the "Trustee") (the "Indenture"); (3) the Bonds; and (4) this Bond Ordinance (the Financing Agreement, the Indenture, the Bonds, and this Bond Ordinance, collectively, the "Financing Agreements");

NOW, THEREFORE, BE IT ORDAINED BY THE SHELBY COUNTY COUNCIL, THAT:

Section 1. Findings; Public Benefits. The Council hereby finds and determines that the Projects involve the acquisition, construction and equipping of an "economic development facility" as that phrase is used in the Act; that the Projects will increase employment opportunities and increase diversification of economic development in the County, will improve and promote the economic stability, development and welfare in the County, will encourage and promote the expansion of industry, trade and commerce in the County and the location of other new industries in the County; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Projects; and, therefore, that the financing of the Projects by the issue of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the County; and (ii) complies with the Act. The Council further finds that the Company would not develop the Facilities in the Area without the financing assistance contemplated by this Bond Ordinance.

Section 2. Approval of Financing. The proposed financing of the Projects by the issuance of the Bonds under the Act, in the form that such financing was approved by the Shelby County Economic Development Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from the Pledged TIF Revenues and other sources pursuant to the Financing Agreement or as otherwise provided in the Indenture, is hereby approved.

Section 4. Terms of the Bonds. (a) The Bonds, in the aggregate principal amount not to exceed Nine Million Dollars (\$9,000,000), shall (i) be executed at or prior to the closing date by the manual, facsimile or electronic signatures of the Board of Commissioners of the County and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than twenty (20) years from the date on which the first series of the Bonds is issued; (iv) bear interest at a rate not to exceed five percent (5.0%) per annum; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee or as otherwise provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements. The Bonds are to be issued for the purpose of procuring funds to pay (a) the costs of a portion of the design and construction of the Projects, as

more particularly set out in the Financing Documents, (b) capitalized interest on the Bonds (if necessary), and (c) costs of issuance of the Bonds.

(b) If the Bonds of a series are sold to a purchaser that so agrees, the County may receive payment for such series of Bonds in installments, and principal shall not be payable and interest shall not accrue on such series of Bonds until such principal amount has been advanced pursuant to requests made by, or on behalf of, the County to such purchaser. In the event that the total principal amount of the Bonds sold to such purchaser is not advanced to the County, the principal amount of such series of Bonds shall be reduced accordingly.

(c) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the County, but shall be special and limited obligations of the County, payable solely from the Pledged TIF Revenues and other sources pursuant to the Financing Agreement or as otherwise provided in the Indenture. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Auditor of the County is hereby directed, in the name and on behalf of the County, to insert them into the minutes of the Council and to keep them on file.

Section 5. Sale of the Bonds. The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to sell the Bonds at such prices as are determined on the date of sale and approved by the Board of Commissioners and the Auditor of the County.

A bond purchase agreement, between the County and the purchaser of the Bonds of a series (collectively, the "Purchase Agreements"), are each hereby authorized and approved in a form and substance acceptable to the Auditor of the County with the advice of counsel. The Board of Commissioners and the Auditor of the County are hereby authorized and directed to execute and deliver the Purchase Agreements each in a form and substance acceptable to them and consistent with the terms and conditions set forth in this Bond Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

Section 6. Execution and Delivery of Financing Agreements. The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse and deliver the Financing Agreement, the Indenture, and the Bonds, submitted to the Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements. The Board of Commissioners and the Auditor of the County are hereby authorized, in the name and on behalf of the County, without further approval of the Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof. In particular, at the request of the Company, the Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, 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 8. Pledged TIF Revenues. This Council does hereby acknowledge and approve the pledge of the Pledged TIF Revenues to the payment of the Bonds pursuant to the Indenture. Pursuant to I.C. § 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 County 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 County, regardless of whether the parties have notice of any such lien.

Section 9. General. The Board of Commissioners and the Auditor of the County, and each of them, are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Bonds, the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 10. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the County and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid or is deemed paid.

Section 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption.

Section 12. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Auditor of the County, and are available for public inspection in accordance with I.C. § 36-1-5-4.

PASSED and adopted by the Shelby County Council, this 21 day of May, 2024.

SHELBY COUNTY COUNCIL

Tory Titus  
Brad Hancock  
Ryan Claxton  
Terry Smith  
Mike  
W.D. Egan  
Seah S. Taylor

ATTEST:

Amy R. Blackman  
Shelby County Auditor

## EXHIBIT A

The Projects include all or a portion of the design, construction, installation, and equipping of the Initial Public Infrastructure and Development Public Infrastructure described below, along with all other related and incidental costs associated therewith and the costs of issuance of the Bonds.

### INITIAL PUBLIC INFRASTRUCTURE

#### Landscape/Streetscape Improvements:

The proposed landscape and streetscape improvements consist of landscaping the center island and directional islands of the county Roundabout and upgrading the light poles at the Roundabout to decorative poles and fixtures. Plans, timing and completion of the improvements will be coordinated with the County. The Company will provide initial plans and specs for the County to review and revise as necessary to achieve County approval. All improvements, including any landscaping, lighting or other improvements installed by the Company will be maintained by the County with no further obligation from the Company.

#### Interim Drainage Management:

Road and other offsite drainage previously approved by the Company to be discharged on the Property by the County will be managed in an interim condition, prior to full development to direct the drainage to an approved outfall location.

#### Public Safety Equipment:

When the Fire Truck is delivered (expected to be in the 4th quarter of 2023), the purchase of a Fire Truck will be reimbursed by the Company to the Moral Township Fire Department.

### DEVELOPMENT PUBLIC INFRASTRUCTURE

#### 850 West Road Improvements:

The proposed roadway improvements consist of the complete reconstruction of County Road 850 West from the terminus of the County Roundabout Project through the proposed development. The proposed road pavement section will be designed for increased traffic and will consist of 12' travel lanes and 4' paved shoulders. A 12' turn lane/passing blister shall be provided at the entrance to the proposed development. The proposed roadway improvements also include utility relocations, new county right-of-way, and easements to support the public improvements. Duke's overhead powerlines along 850W will be buried.

#### Water & Sanitary Improvements:

The proposed water improvements shall consist of approximately 4,000-LF of 16" water main along 850 West with associated valves and hydrants.

The proposed sanitary sewer shall consist of approximately 1,500-LF of 8" gravity sewer and associated manholes along 850 West.

**Drainage Improvements:**

Road drainage shall be designed and constructed to convey offsite drainage to the proposed development and drainage improvements will be provided to convey road and offsite drainage to Devault Run. Proposed drainage improvements include a combination dry/wet detention ponds along 850 West, a section of 36" RCP pipe, and an open ditch to a new proposed outfall on Devault Run. Drainage will be handled with an "interim design" prior to full development of buildings on the Project.

**Gas Main Extension:**

The proposed gas main improvements shall consist of approximately 2,500-LF of 8" Gas Main along 850 West.