

RESOLUTION AUTHORIZING THE ISSUANCE OF ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2022A (ONE BEALE PROJECT) (TAX-EXEMPT), AND ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2022B (ONE BEALE PROJECT) (FEDERALLY TAXABLE), BY THE MEMPHIS CENTER CITY REVENUE FINANCE CORPORATION

WHEREAS, the Memphis Center City Revenue Finance Corporation (the “Issuer”) is an industrial development corporation created by the City of Memphis, Tennessee (the “City”), and Shelby County, Tennessee (the “County”), and is duly incorporated pursuant to Tennessee Code Annotated Section 7-53-101 *et seq.*, as amended (the “Act”), and is authorized pursuant to the Act to issue its bonds and take other actions to finance projects (as defined in the Act); and

WHEREAS, One Beale, LLC, a Delaware limited liability company (the “Developer”), owns or operates, through one or more affiliates, approximately 5.265 acres of property in the Beale Street area, on which it is developing a mixed-use development including hotels, apartments, retail and parking with a total development cost of approximately Four Hundred Thirty-Five Million Dollars (\$435,000,000) (the “One Beale Development”); and

WHEREAS, the One Beale Development will include, *inter alia*, a hotel with approximately 360 rooms, including commercial space, ancillary dining, and related amenities, together with all necessary infrastructure and public improvements (the “Hotel”), and approximately 36,320 gross square feet of meeting and function space, along with all necessary infrastructure and public improvements (the “Convention Space”); the Hotel and the Convention Space will be adjacent; and

WHEREAS, the Developer, the City, and the Issuer are entering into a Hotel Development Agreement (the “Development Agreement”), pursuant to which the City and the Issuer will agree to provide certain economic incentives for the development of the Hotel and Convention Space by the Developer on the terms and conditions set forth in the Development Agreement; and

WHEREAS, contemporaneously with the issuance of the Series 2022 Bonds (as defined below), the Developer will convey the portion of the One Beale Development on which the Convention Space will be located (the “Convention Space Site”) and the improvements thereon (the “Convention Space Property”) to the Issuer; and

WHEREAS, pursuant to a resolution adopted by the Memphis City Council on December 15, 2020, the City has agreed to (a) lease the Convention Space Property from the Issuer (the “City Lease”) and (b) sublease the Convention Space Property to the Issuer (the “City Sublease”) for the purpose of facilitating the financing of the development and construction of the Convention Space Site; the lease payments to be made by the City to the Issuer pursuant to the City Lease shall equal \$2.25 per \$100.00 of the local option sales tax collected from the One Beale Development during the term of the City Lease (the “City Lease Payments”); and

WHEREAS, pursuant to a resolution adopted by the Memphis City Council on September 7, 2022, the City has agreed to make an initial lease payment to the Issuer under the

City Lease in an amount up to \$10 million for the purpose of providing a tenant improvement allowance to the Developer in order to finance a portion of the cost of the construction of the Convention Space Property, such funds to be repaid to the Issuer by the Developer as additional rent under the hereinafter-defined Convention Space PILOT Lease Agreement; and

WHEREAS, the Issuer proposes further to sublease the Convention Space Property back to the Developer (such lease, the “Convention Space PILOT Lease Agreement”); and

WHEREAS, contemporaneously with the issuance of the Series 2022 Bonds, the Developer will convey the portion of the One Beale Development on which the Hotel will be located (the “Hotel Site”) and the improvements thereon (the “Hotel Property”) to the Issuer, and the Issuer proposes to lease the Hotel Property to the Developer (such lease, the “Hotel PILOT Lease Agreement”); and

WHEREAS, Tennessee Code Annotated Section 67-4-3002 authorizes the City to designate certain projects as “Qualified Public Use Facilities,” including without limitation full-service hotels with not less than two hundred fifty (250) rooms and related retail, commercial, and parking space that are located in a tourism development zone; and

WHEREAS, Tennessee Code Annotated Section 67-4-3003 authorizes the City to charge a 5% Tourism Surcharge on goods and services used by visitors at a qualified public use facility and other related facilities; and

WHEREAS, the One Beale Development is located in the portion of Downtown Memphis designated as a tourism development zone pursuant to the Convention Center and Tourism Development Financing Act of 1998, which is codified at Tennessee Code Annotated Section 7-88-101 *et seq.*, (the “TDZ Act”); and

WHEREAS, pursuant to City Ordinance No. 5770 (the “Surcharge Ordinance”), the Memphis City Council has approved the assessment of surcharge payments (the “Surcharge Payments”) within the One Beale Development more fully described in said ordinance, all in accordance with Tennessee Code Annotated Section 67-4-3001 *et seq.* (the “Surcharge Act”); and

WHEREAS, the Act and the Surcharge Act empower the Issuer to issue its economic development bonds to finance and/or refinance certain development and construction costs in the One Beale Development and pay debt service on such bonds from the revenues it receives from the City Lease Payments and Surcharge Payments, as more fully described in the Act, the Surcharge Act and herein; and

WHEREAS, the Issuer has determined that it is in the best interest of the Issuer, the City and the County to issue its economic development revenue bonds for the purposes of (a) financing or refinancing certain eligible capital costs of the Hotel and Convention Space, (b) to the extent permitted, paying certain costs of issuance incurred in connection with the issuance of the Series 2022 Bonds, (c) funding capitalized interest on the Series 2022 Bonds and (d) funding reserve funds for the Series 2022 Bonds; and

WHEREAS, the economic development revenue bonds issued for such purposes shall consist of the Issuer’s (a) Economic Development Revenue Bonds, Series 2022A (One Beale Project) (Tax-Exempt) (the “Series 2022A Bonds”); and (b) Economic Development Revenue Bonds, Series 2022B (One Beale Project) (Federally Taxable) (the “Series 2022B Bonds,” and together with the Series 2022A Bonds, the “Series 2022 Bonds”), or such other designations as determined by the Issuer; provided that in no event shall the aggregate par amount of Series 2022 Bonds issued hereunder exceed \$95,000,000; and

WHEREAS, the Series 2022 Bonds shall be limited obligations of the Issuer payable solely from the City Lease Payments and the Surcharge Payments and other revenues payable by the City. No holder of any such Series 2022 Bonds shall have the right to compel any exercise of the taxing power of the State of Tennessee (the “State”), the City, the County or any political subdivision thereof, and such Series 2022 Bonds shall not constitute a debt, liability or obligation of the State, the City, the County, the Issuer or any political subdivision thereof. The Issuer has no taxing power; and

WHEREAS, in no event shall the Developer, or any affiliate thereof, have any obligation to provide for the payment of any debt service on the Series 2022 Bonds, and the issuance of the Series 2022 Bonds and the application of their proceeds to the purposes described above shall in no event constitute a loan to the Developer, or any affiliate thereof; and

WHEREAS, the Issuer proposes to authorize the issuance, sale and delivery pursuant to provisions of the Act of the Series 2022 Bonds under and pursuant to the Master Trust Indenture, as amended and supplemented by a certain Supplemental Master Trust Indenture No. 1 (the “Supplemental Indenture No. 1”), from the Issuer to Regions Bank, as trustee (the “Trustee”), for the purposes set forth above; and

WHEREAS, each of the Series 2022 Bonds are to be secured by and contain such terms and provisions as are set forth in the Master Indenture as amended and supplemented by the Supplemental Indenture No. 1, and the proceeds from the sale of the Series 2022 Bonds are to be deposited with the Trustee and disbursed as provided in Supplemental Indenture No. 1; and

WHEREAS, pursuant to the Master Indenture, the Issuer has assigned to the Trustee the City Lease Payments and the Surcharge Payments (collectively, the “Incentive Payments”), to be used in connection with the Hotel and Convention Space Property as provided in the Master Indenture as amended and supplemented from time to time; and

WHEREAS, in order to further secure and provide an additional source of payment for the Series 2022A Bonds, the Issuer has established a Series A Debt Service Reserve Fund and a Series A Excess Revenue Reserve Fund, and in order to further secure, and provide an additional source of payment for the Series 2022B Bonds, the Issuer has established a Series B Debt Service Reserve Fund and a Series B Excess Revenue Reserve Fund; and

WHEREAS, in connection with the sale of the Series 2022 Bonds, the Issuer desires to enter into one or more Bond Purchase Agreements (a “Purchase Agreement”) with Wells Fargo Bank, National Association ~~Securities, LLC~~, as underwriter (in such capacity, the “Underwriter”); and

WHEREAS, in connection with the offering of the Series 2022 Bonds for sale, the Issuer desires to circulate a Preliminary ~~Official Statement and an Official Statement~~Limited Offering Memorandum and a Limited Offering Memorandum (together, the “~~Official Statement~~Limited Offering Memorandum”) related to the Series 2022 Bonds; and

WHEREAS, if and as required by Rule 15c2-12 of the Securities and Exchange Commission or otherwise determined by the President & CEO of the Issuer to be necessary to consummate the issuance of the Series 2022 Bonds, the Issuer desires to enter into a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) in connection with the Series 2022 Bonds, providing for the disclosure of certain annual financial information and event notices relating to the Series 2022 Bonds; and

WHEREAS, the officers of the Issuer have caused to be presented to this meeting the following documents, in draft form (collectively the “Financing Instruments”);

1. City Lease;
2. City Sublease;
3. Convention Space PILOT Lease Agreement;
4. Hotel PILOT Lease Agreement;
5. Master Trust Indenture;
6. Supplemental Indenture No. 1;
7. Purchase Agreement;
8. ~~Official Statement~~Limited Offering Memorandum; and
9. Continuing Disclosure Agreement; and

WHEREAS, it appears that each of the foregoing instruments is in appropriate form and is an appropriate instrument to be accepted or executed and delivered by the Issuer for the purpose intended; and

WHEREAS, CBRE, a professional services firm specializing in the projection of revenues from developments such as the One Beale Development, and RBG, a professional services firm specializing in the projection of sales tax revenues from developments such as the One Beale Development, have prepared reports, draft copies of which are presented herewith, (the “Revenue Reports”), which such Revenue Reports collectively project the Incentive Payments to be sufficient to pay debt service on the Series 2022 Bonds; and

NOW, THEREFORE, BE IT RESOLVED, by the Board of Directors of the Memphis Center City Revenue Finance Corporation as follows:

1. The Issuer hereby authorizes the issuance of the Series 2022 Bonds in a maximum aggregate principal amount of \$95,000,000, pursuant to the terms of the Master Indenture, as amended and supplemented by the Supplemental Indenture No. 1, and agrees to pledge the Incentive Payments and certain other of its revenues to the payment of the Series 2022 Bonds, all on the terms and conditions set forth in the Master Indenture, as amended and supplemented by the Supplemental Indenture No. 1.

2. The President & CEO, Chairman, Vice-Chairman, CFO, Secretary, Assistant Secretary or such other person designated to act on behalf of the Issuer, any one of whom may act (the "Authorized Officers"), are each hereby authorized and directed to approve the final terms of the Series 2022A Bonds, including the maturities, interest rates and redemption provisions, prices and dates; provided, however, that (a) no Series 2022A Bond shall mature beyond May 1, 2061, and (b) no Series 2022A Bond shall bear interest at a rate exceeding 9.5% per annum.

3. The Authorized Officers are each hereby authorized and directed to approve the final terms of the Series 2022B Bonds, including the maturities, interest rates and redemption provisions, prices and dates; provided, however, that (a) no Series 2022B Bond shall mature beyond May 1, 2061, and (b) no Series 2022B Bond shall bear interest at a rate exceeding 9.5% per annum.

4. The Authorized Officers are each hereby authorized and directed to ensure that in no event shall the aggregate par amount of the Series 2022 Bonds issued hereunder exceed \$95,000,000.

5. The Authorized Officers are each hereby authorized and directed to execute and deliver the Financing Instruments, which shall be in substantially the forms presented to this meeting, with such changes thereto as shall be approved by the Authorized Officer executing the Financing Instrument, his or her execution thereof to constitute conclusive evidence of such officer's approval of the form, terms and provisions of the Financing Instruments as executed.

6. The Authorized Officers are each hereby authorized and directed to execute the Series 2022 Bonds, and the Secretary or any other Authorized Officer, any of whom may act, are authorized and directed to have the seal of the Issuer affixed or printed thereon and to attest such seal by manual or facsimile signature. The Authorized Officers shall cause such Series 2022 Bonds to be prepared in substantially the form specified in the Supplemental Indenture No. 1 as finally executed and delivered, bearing interest and maturing in principal amounts as provided in the Supplemental Indenture No. 1. The Authorized Officers are authorized and directed to deliver the Series 2022 Bonds to the purchasers of the same.

7. The Authorized Officers are each hereby authorized and directed upon delivery of the Series 2022 Bonds and to file with the Division of Division of Local Government Finance of the State Comptroller's Office the information required by Section 9-21-134 of the Tennessee Code Annotated.

8. It is understood and agreed by and between the Issuer and the Developer that the provisions of this Resolution, the execution and delivery of the Master Indenture, the Supplemental Indenture No. 1 and the issuance and sale of the Series 2022 Bonds are not intended

to, and shall not be construed or interpreted to, (a) obligate, or authorize the expenditure of, any funds or monies of the Issuer derived from any source whatsoever other than the Incentive Payments pledged therefor and the proceeds from the issuance and sale of the Series 2022 Bonds as provided for in this Resolution, the investment of any reserves therefrom, or otherwise from revenues and funds pledged for payment of the Series 2022 Bonds, (b) obligate the Issuer to pay any costs incurred in connection with the issuance of the Series 2022 Bonds, including, without limitation the Issuer's attorneys' fees, from any source other than from proceeds from the issuance and sale of the Series 2022 Bonds, (c) constitute a debt or a pledge of the faith and credit or taxing power of the City, the County, the State, or any other county, municipality or other political subdivision of the State other than the pledge of the Incentive Payments, or (d) create any personal liability of any officer, director or member of the Issuer or any official employee of the Issuer.

9. The Authorized Officers are each hereby authorized and directed in the name and on behalf of the Issuer, and if appropriate, under its corporate seal, attested by its Secretary, Assistant Secretary or any other officer of the Issuer, to execute all such other agreements, certificates and instruments and to take all such other action that any officer may consider necessary or appropriate to carry out the foregoing resolutions and transactions contemplated thereby, including without limitation, approving the final terms of the Series 2022 Bonds, including maturities, interest rates and redemption provisions.

10. The Series 2022A Bonds will be issued as federally tax-exempt debt instruments. The issuer hereby covenants that it will not use, or permit the use of, any proceeds of the Series 2022A Bonds in a manner that would cause the Series 2022A Bonds to be subjected to treatment under Section 148 of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder (collectively, the "Code"), as an "arbitrage bond." To that end, the Issuer shall comply with applicable regulations adopted under said Section 148. The Issuer further covenants with the registered owners from time to time of the Series 2022A Bonds that it will, throughout the term of the Series 2022A Bonds and through the date that the final rebate, if any, must be made to the United States in accordance with Section 148 of the Code, comply with the provisions of Sections 103 and 141 through 150 of the Code that must be satisfied in order that interest on the Series 2022A Bonds shall be and continue to be excluded from gross income for federal income tax purposes under Section 103 of the Code. The Authorized Officers are authorized and directed, on behalf of the Issuer, to execute and deliver all such certificates and documents that may be required of the Issuer in order to comply with the provisions of this section related to the issuance of the Series 2022A Bonds.

11. The Issuer hereby approves Butler Snow LLP, Memphis, Tennessee, as Bond Counsel for the issuance and sale of the Series 2022 Bonds, and the Issuer hereby approves Wells Fargo ~~Bank, National Association~~ Securities, LLC, as underwriter in connection with the issuance and sale of the Series 2022 Bonds.

12. All acts and doings of the officers of the Issuer that are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance and sale of the Series 2022 Bonds shall be and the same hereby are in all respects, approved and confined.

Adopted this _____ day of September, 2022.

**MEMPHIS CENTER CITY REVENUE
FINANCE CORPORATION**

By: _____
Its: _____

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