

RESOLUTION NO. 3510

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION ESTABLISHING CERTAIN FUNDS AND ACCOUNTS IN CONNECTION WITH THE LEASE DATED AS OF OCTOBER 1, 2019, BETWEEN THE SOUTH BEND REDEVELOPMENT COMMISSION AND THE SOUTH BEND REDEVELOPMENT AUTHORITY RELATING TO THE DOUBLE TRACKING PROJECT AND OTHER RELATED MATTERS

WHEREAS, the South Bend Redevelopment Commission (the “Commission”), the governing body of the South Bend Department of Redevelopment and the Redevelopment District of the City of South Bend, Indiana (the “District”), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the “Act”); and

WHEREAS, the Commission, pursuant to declaratory resolutions previously adopted by the Commission and amended from time to time, the Commission has declared (i) a certain area of the City of South Bend, Indiana (the “City”), known as the “River West Development Area” (the “Area”) as an economic development area and an allocation area under the Act and approved an economic development plan for the Area; and

WHEREAS, the City has determined to pay a portion (such portion being referred to herein as the “City Payment”) of the amount that St. Joseph County is obligated to pay as a cash participant under Indiana Code 36-7.5-4.5-16 in the Northern Indiana Commuter Transportation District (“NICTD”) Main Line Double-Tracking Project which consists of the design, engineering, acquisition, renovation, construction, demolition, installation and/or improvement of certain rail lines owned and/or operated by NICTD and other projects relating to the foregoing projects (collectively, the “Double Tracking Project”); and

WHEREAS, the South Bend Redevelopment Authority (the “Authority”) has been created pursuant to IC 36-7-14.5 as a separate body, corporate and politic, and as an instrumentality of the City, to finance local public improvements for lease to the Commission; and

WHEREAS, the Authority intends to lease all or a portion of Cleveland Road in the City from its intersection with Portage Avenue to its intersection with Ameritech Drive (the “Leased Premises”) to the Commission pursuant to a lease dated as of October 1, 2019 (the “Lease”), which form of Lease was heretofore approved by this Commission, the Authority and the Common Council of the City in order to provide for the financing of the City Payment for the Double Tracking Project; and

WHEREAS, the Authority and the Commission have given consideration to (i) financing the cost of funding the City Payment which will be used by or on behalf of NICTD to pay for a portion of the cost of the Double Tracking Project; (ii) funding a debt service reserve fund, if necessary in connection with the issuance of the Bonds (defined herein); and (iii) paying costs incurred in connection with the issuance of the Bonds; and

WHEREAS, the Authority intends to issue bonds pursuant to 1C 36-7-14.5-19 and a trust agreement (the “Trust Agreement”) to be known as the “South Bend Redevelopment Authority Lease Rental Revenue Bonds of 2019 (Double Tracking Project)” in an aggregate principal amount not to exceed Eleven Million Dollars (\$11,000,000) (the “Bonds”), the proceeds of which are to be used to finance all or any portion of the costs of (i) a portion of the City Payment; (ii) funding a debt service reserve fund, if necessary, in connection with the issuance of the Bonds; and (iii) issuing the Bonds; and

WHEREAS, the Commission intends to pay rent to the Authority pursuant to the terms of the Lease, at a rate not to exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00) per year, in semiannual installments, with a term no longer than eleven (11) years beginning on the date the Authority acquires an interest in the Leased Premises, and ending on the day prior to a date not later than eleven (11) years after such date of acquisition by the Authority (such rent payments being referred to herein as the “Lease Rental Payments”); and

WHEREAS, it is necessary for the Commission to establish certain funds and accounts for the payment of the Lease Rental Payments owed by the Commission pursuant to the Lease; and

WHEREAS, the Commission anticipates that sufficient funds will be available to the Commission to make the required Lease Rental Payments with such funds being derived from available tax increment revenues (the “TIF Revenues”) allocated to the Commission from the Area; and

WHEREAS, because the Commission anticipates that sufficient TIF Revenues will be available to make the Lease Rental Payments, the City Payment, which will be used for a portion of the costs of the Double Tracking Project, does not constitute a “controlled project” as such term is defined by Indiana Code 6-1.1-20-1.1;

NOW, THEREFORE, BE IT RESOLVED, BY THIS SOUTH BEND REDEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby confirms the creation of the South Shore Double Tracking Debt Service Fund #352 (“Fund #352”) into which funds will be deposited to pay the rentals owed by the Commission pursuant to the Lease.

SECTION 2. The Commission agrees that it shall levy in each calendar year pursuant to Section 27 of the Act, beginning in the year prior to the first calendar year in which the Commission is required to make Lease Rental Payments, a special tax upon all of the taxable property in the District in a total amount necessary, together with all other funds (other than special taxes), including, without limitation, the TIF Revenues and any other revenues deposited in Fund #352 during the previous 12 calendar months prior to August 1 of such calendar year, to pay all Lease Rental Payments payable in the 12-month period beginning on July 1 of the year following such calendar year pursuant to Section 4 of the Lease. Such taxes shall be deposited in Fund #352 and such taxes and any other funds deposited in Fund #352 shall be irrevocably pledged for the purposes set forth in this Resolution, such pledge being effective as set forth in IC 5-1-14-4 without the necessity of filing or recording this resolution or any instrument except in the records of the Commission. In addition to the amount on deposit in Fund 352, the Commission may take into

account when determining whether it is necessary to levy a special tax as described herein, the amount available in the debt service reserve fund which may be established under the Trust Agreement to provide additional security for the Bonds.

SECTION 3. The Commission hereby authorizes and directs the President and the Secretary of the Commission to take any and all necessary actions and execute any and all necessary documents to carry out the purpose of this Resolution. This Resolution shall be in full force and effect after its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on November 14, 2019, in Room 1308, County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Quentin Phillips, Secretary