

RESOLUTION NO. 2021-1

RESOLUTION OF THE SOUTH BEND ECONOMIC DEVELOPMENT COMMISSION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS FOR THE 2022 POTAWATOMI ZOO PROJECT

WHEREAS, the South Bend Economic Development Commission (the “Commission”) is a commission operating and existing under and pursuant to the authority of Indiana Code §§ 36-7-11.9 and Indiana Code 36-7-12 (collectively, the “Act”); and

WHEREAS, the Commission is authorized to investigate the need for the creation of opportunities for gainful employment and the creation of business opportunities, among other things, in the City of South Bend, Indiana (the “City”), and to recommend action to improve or promote such opportunities for gainful employment and business opportunities through the financing of economic development facilities; and

WHEREAS, the Potawatomi Zoological Society, Inc., an Indiana non-profit corporation (the “Corporation”), has requested that the Commission and the City consider a proposal to finance under the Act an economic development facility project consisting of the construction, expansion, renovation, equipping, furnishing, and improving of the Potawatomi Zoo, located at 500 Greenlawn Avenue in the City (the “Zoo”), including, without limitation, all or any portion of the following: (i) the renovation, construction and equipping of a new lion habitat to include a new rock façade, new fencing and a new visitor viewing area; (ii) the construction, equipping and furnishing a new concession and dining facility in the North American portion of the Zoo, permitting visitors to view a newly constructed black bear habitat which will permit the introduction of a new species for the Zoo; (iii) replacement of the existing corporate and family picnic area with a new covered pavilion along with a new kitchen area and new fencing, pathways and storage areas; (iv) renovation of the North American animal habitats to meet modern Zoo standards including without limitation the construction and equipping of a new holding barn in the center and the installation of new fencing and habitat esthetics; and (v) the construction and equipping of a new Tiger habitat to meet current accreditation standards for zoos which will include the construction of a new, modern habitat within a portion of Potawatomi Park land not currently being utilized by the Zoo (collectively, the “Project”); and

WHEREAS, the Commission has studied the Project and the proposed financing of the Project and the effect thereof on the health, prosperity, economic stability and general welfare of the City and its citizens; and

WHEREAS, the creation or retention of employment opportunities and payroll in the City, which will be achieved by the Project, will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens; and

WHEREAS, the Commission has held a public hearing for itself and on behalf of the Common Council of the City (the “Common Council”), duly noticed, in connection with the financing of the Project;

NOW, THEREFORE, BE IT RESOLVED, by the South Bend Economic Development Commission as follows:

SECTION 1. The Commission finds that the proposed financing of the Project referred to in the forms of (i) the Financing Agreement, by and among the Corporation, the City of South Bend Building Corporation, and the City (the “Financing Agreement”); and (ii) the Trust Indenture, by and between the City and a trustee to be selected (the “Trust Indenture” and together with the Financing Agreement, the “Financing Documents”) presented to this meeting complies with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

SECTION 2. The proposed financing of the Project, paying the costs of issuance of the Bonds described herein, and funding a debt service reserve fund, if necessary, for and on behalf of the Corporation and the substantially final forms of the Financing Documents relating to the issuance and sale of an aggregate principal amount of not to exceed Six Million Five Hundred Thousand Dollars (\$6,500,000) of economic development revenue bonds of the City, in one or more series, for such financing, along with the form of Ordinance to be adopted by the Common Council, as presented to this meeting, are hereby approved.

SECTION 3. The Mayor and the City Clerk of the City are authorized to make such changes in the Financing Documents, and to execute and deliver such additional documents necessary to effectuate the transactions contemplated by the Financing Documents (the “Additional Documents”), without the subsequent approval of this Commission or of the Common Council as are necessary or appropriate to effect the intent of this Resolution and as are permissible under the Act, all to be evidenced by the execution of the Financing Documents and Additional Documents by the Mayor and the attestation thereof by the City Clerk of the City.

SECTION 4. The Commission has held a hearing open to the public and has subsequently considered whether the Project will have an adverse competitive effect on any similar facilities already constructed and operating in or about the City and makes the following special findings of fact based upon the evidence presented:

a. No evidence has been presented establishing that the Project would have any adverse competitive effect on any similar facilities as there are no similar facilities to the Project currently located in the City.

b. In the absence of evidence of an adverse competitive effect, the benefits to the public clearly indicate that the Project should be supported by the issuance of the City’s economic development revenue bonds.

SECTION 5. The Report of the Commission relating to the financing of the Project is hereby approved.

SECTION 6. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by such officer to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Project and the issuance and sale of the Bonds, including, but not limited to, such agreements, documents and instruments as are contemplated under the Financing Documents, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 7. A copy of this Resolution and the other documents approved by this Resolution and the form of Ordinance shall be presented in their substantially final forms by the Secretary of this Commission to the City Clerk of the City for presentation to the Common Council.

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Adopted this 22nd day of November, 2021.

SOUTH BEND ECONOMIC DEVELOPMENT
COMMISSION

By: _____
President

By: _____
Vice President

By: _____
Secretary

By: _____
Member

By: _____
Member