

RESOLUTION NO. 3272

**A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION
APPROPRIATING TAX INCREMENT FINANCING REVENUES FROM
ALLOCATION AREA NO. 3 FUND FOR THE PAYMENT OF CERTAIN
OBLIGATIONS AND EXPENSES RELATED TO THE SOUTH SIDE DEVELOPMENT
AREA ALLOCATION AREA NO. 3**

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

WHEREAS, on November 1, 2002, the Commission adopted Resolution No. 1914 (the "Declaratory Resolution") declaring the South Side Development Area (the "Area") to be an area needing redevelopment within the meaning of the Act and designated the Area as the South Side Development Area Allocation Area No. 1 ("Allocation Area No. 1") for purposes of tax increment financing pursuant to the Act; and

WHEREAS, on November 19, 2002, the Area Plan Commission of St. Joseph County ("Plan Commission") issued its written order approving the Declaratory Resolution by the adoption of Plan Commission Resolution 142-02, in accordance with Indiana Code § 36-7-14-16; and

WHEREAS, on November 25, 2002, the Common Council of the City approved the order of the Plan Commission through the adoption of Common Council Resolution No. 3136-02; and

WHEREAS, on December 20, 2002, the Commission held a duly noticed public hearing, in accordance with Indiana Code § 36-7-14-17 and Indiana Code § 5-3-1; and

WHEREAS, following said hearing, the Commission adopted Resolution No. 1928 confirming the Declaratory Resolution; and

WHEREAS, on July 27, 2004, the Commission adopted Resolution 2073 amending the Declaratory Resolution to create a separate allocation area ("Allocation Area No. 2") within the Area to allow for certain improvements to occur at the intersection of Ireland and Michigan Streets; and

WHEREAS, on September 13, 2004, the Commission adopted Resolution 2096 (i) amending the Declaratory Resolution to create a separate allocation area ("Allocation Area No. 3") within the Area to allow for a certain redevelopment project located at or about the southeast corner of the intersection of Ireland Road and Miami Street in the Area and (ii) creating a separate allocation area fund ("Allocation Area No. 3 Fund") for the purpose accounting for the tax increment revenues directly resulting from such improvements ("Project Tax Increment Revenues"); and

WHEREAS, on September 13, 2004, the Commission adopted Resolution No. 2097 (the "Pledge Resolution") establishing the KSK-Scottsdale Mall, L.P. Project Principal and Interest Account of the Allocation Area No. 3 Fund (the "Principal and Interest Account") and pledging Project Tax Increment Revenues for the payment of taxable economic development bonds originally issued in an aggregate principal amount of Five Million Four Hundred Eight-five Thousand and 00/100 Dollars (\$5,485,000.00) (the "EDC Bonds") to provide financing for the redevelopment of Allocation Area No. 3; and

WHEREAS, the EDC Bonds were issued on April 19, 2005, at fixed interest rates ranging from six and one-tenth percent (6.10%) to six and three-quarters percent (6.75%) with interest payable on August 1, 2005, and on each February 1 and August 1 thereafter and maturing on February 1 in the years 2021 and 2027 with mandatory sinking fund payments due on February 1 in the years 2008 through and including 2027, a schedule of which debt service payments is as set forth at Exhibit A; and

WHEREAS, the EDC Bonds are secured by a Trust Indenture dated April 1, 2005 (the "Indenture") between the City and Wells Fargo Bank, N.A., as Trustee (the "Trustee"); and

WHEREAS, the Pledge Resolution requires that all funds allocated to the Allocation Area No. 3 Fund be immediately transferred into the Principal and Interest Account and on January 15 and July 15 of each year all funds necessary to pay (i) the principal of and interest on the EDC Bonds currently or scheduled to be due and expected to be paid from the Project Tax Increment Revenues and (ii) to pay any amount of principal on the EDC Bonds which was not previously paid when due or interest accruing thereon as a result of an insufficiency in Project Tax Increment Revenues in prior year or years, be transferred from the Principal and Interest Account and/or the Allocation Area No. 3 Fund to the Trustee to be placed on deposit under the Indenture and only thereafter may excess Project Tax Increment Revenues in the Principal and Interest Account and/or the Allocation Area No. 3 Fund be transferred or used for any other purpose set forth in Section 39 of the Act; and

WHEREAS, the Commission desires to authorize all funds received by the Commission for Allocation Area No. 3 Fund be transferred to the Principal and Interest Account; and

WHEREAS, the Commission further desires that all funds on deposit in the Principal and Interest Account be appropriated for the debt service payments on the EDC Bonds, in accordance with the Pledge Resolution and Indiana Code § 36-7-14-39(b)(3)(A); and

WHEREAS, the proposed appropriations from Allocation Area No. 3 Fund or the Principal and Interest Account are not for the operating expenses of the Commission; and

WHEREAS, such appropriations are subject to the provisions of Indiana Code § 6-1.1-18-5; and

WHEREAS, on October 16, 2014, the Commission appropriated Four Hundred Eighty

Nine Thousand Three Hundred Eighty and 00/100 Dollars (\$489,380.00) for calendar year 2015; and

WHEREAS, on January 15, 2015, the Commission adopted Resolution 3268 setting a public hearing on said additional appropriations for 9:30 a.m. on February 12, 2015, and authorizing the Secretary of the Commission to duly publish notice of said hearing; and

WHEREAS, the Secretary of the Commission has caused notice of said hearing on said appropriations to be published in accordance with law; and

WHEREAS, such public hearing was held at the Commission's meeting at 9:30 a.m. on February 12, 2015, at 1308 County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601, at which all taxpayers and interested persons had an opportunity to appear and express their views as to such additional appropriations; and

WHEREAS, the Commission now desires to approve said additional appropriations in a total amount estimated not to exceed Two Hundred Two and 00/100 Dollars (\$202,000.00);

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

1. The Commission hereby finds that there are insufficient funds available or provided for in the existing budget and tax levy which may be applied to debt service payments on the EDC Bonds, in accordance with the Pledge Resolution and Indiana Code § 36-7-14-39(b)(3)(A).
2. The Commission hereby appropriates that all funds in Allocation Area No. 3 Fund and/or the Principal and Interest Account for the debt service payments on the EDC Bonds, in accordance with the Pledge Resolution and Indiana Code § 36-7-14-39(b)(3)(A), which amount is not expected to exceed the amount owed on the EDC Bonds and required to be deposited with the Trustee under the Pledge Resolution and the Indenture and which amount is not anticipated to exceed Four Hundred Eighty Nine Thousand Three Hundred Eighty and 00/100 Dollars (\$489,380.00).
3. For calendar year 2015 an additional Two Hundred Two Thousand and 00/100 Dollars (\$202,000.00) is appropriated for return to St. Joseph County Auditor to compensate for taxes refunded to taxpayers.
4. Such appropriations shall be in addition to all the appropriations provided for in the existing budget and levy and shall continue in effect until the completion of the activities described herein. Any surplus of such proceeds shall be credited to the proper fund as provided by law.
5. The President and/or the Secretary of the Commission are hereby authorized and directed to certify a copy of this Resolution together with such other proceedings and actions as may be necessary to the St. Joseph County Auditor for certification to the Indiana Department of

Local Government Finance for the purpose of obtaining its approval of the appropriations herein made.

ADOPTED at a regular meeting of the South Bend Redevelopment Commission held on February 12, 2015, at 1308 County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION

Signature

Printed Name and Title

ATTEST:

Signature

Printed Name and Title

EXHIBIT A

SOUTH SIDE DEVELOPMENT AREA #3 (VILLAGE) - FUND 432

2015 BUDGET SUMMARY

(Additional Appropriation - February 2015)

	2015 <u>Appropriation</u>
Debt Service:	
Debt Service Payments	
Total Debt Service	<u>0</u>
Infrastructure Projects Underway, Not Completed	
Total Infrastructure Underway, Not Completed	<u>0</u>
Other Activities:	
Refund County for Overpayment	
Total Other Activities	<u>202,000</u>
Development Opportunity Reserve:	<u>0</u>
Infrastructure Planned:	
(Could include the following projects)	
Total Infrastructure Planned	<u>0</u>
Total Appropriation	<u><u>202,000</u></u>

Will not request any additional increment after 2013. Expect to payoff outstanding debt in 2017 (earliest option under bond documents).