

## RESOLUTION NO. 3353

### **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)(2)(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 September 15, 2016, the Commission adopted Resolution 3347 setting a public hearing on said appropriations for 9:30 a.m. on October 13, 2016 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 October 13, 2016, 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 appropriations in a total amount estimated not to exceed Four Million Eight Hundred Forty Eight Thousand Seven Hundred Ninety Five and 00/100 Dollars (\$4,848,795.00);

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

1. 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)(2)(A), which amount is not expected to exceed the amount owed on the 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 Million Eight Hundred Forty Eight Thousand Seven Hundred Ninety Five and 00/100 Dollars (\$4,848,795.00) this year.

2. 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 October 13, 2016 at 1308 County-City Building, 227 W. Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT COMMISSION

\_\_\_\_\_  
*Signature*

Marcia I. Jones, President

\_\_\_\_\_  
*Printed Name and Title*

ATTEST:

\_\_\_\_\_  
Donald E. Inks, Secretary

\_\_\_\_\_  
*Printed Name and Title*

EXHIBIT A

SOUTH SIDE DEVELOPMENT AREA #3 (VILLAGE) - FUND 432  
2016 BUDGET SUMMARY

	2017 <u>Appropriation</u>
Debt Service:	
Debt Service Payments	3,960,668
Total Debt Service	<u>3,960,668</u>
Projects Underway, Not Completed	
Total Projects Underway, Not Completed	<u>0</u>
Other Activities:	
Transfer to South Side #1 to close this fund (#3 - fund 432)	888,127
Total Other Activities	<u>888,127</u>
Development Opportunity Reserve:	<u>0</u>
Projects Planned:	
Total Projects Planned	<u>0</u>
Total Appropriation	<u><u>4,848,795</u></u>

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