



# CITY OF SOUTH BEND

## ADMINISTRATION & FINANCE

September 5, 2018

Mr. Tim Scott  
President, South Bend Common Council  
227 W. Jefferson Blvd., Suite 400 S  
South Bend, Indiana 46601

RE: Ordinance to Authorize Issuance of Economic Development Bonds Series 2018  
For Potawatomi Zoo Project Not to Exceed \$4,205,000.00

Dear Council President Scott:

Attached for filing with the Common Council is an ordinance to be considered for first reading at the Council's September 10, 2018 meeting and for public hearing on September 24, 2018.

This ordinance authorizes the issuance of economic development revenue bonds up to a total of \$4,205,000 for enhanced development of the Potawatomi Zoo located at 500 Greenwood Avenue in South Bend. The bond proceeds will be used specifically to construct, expand, renovate, equip, furnish, and generally improve the Zoo's facilities, to include a new, modern visitor-centric front entrance building that will include a gift shop, a fully accessible gathering plaza, public restrooms, and a separate, more secure entrance for field trips that will double the Zoo's education space. Many deferred maintenance projects will be completed to enhance safety of visitors, staff, and animals, all of which is necessary to maintain the Zoo's accreditation.

Randy Rompola of Barnes & Thornburg LLP and Herschel Frierson of Crowe Horwath LLP will be presenting this ordinance to the Common Council, and I will be in attendance along with Aaron Perri of Venues, Parks and Arts, and a member of the Potawatomi Zoological Society, Inc. Your favorable consideration is requested. Please do not hesitate to contact me if you need additional information.

Sincerely,

Jennifer Hockenhull, Controller  
Department of Administration and Finance

**BILL NO. 44-18**

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF AN AGGREGATE PRINCIPAL AMOUNT OF NOT TO EXCEED \$4,205,000 OF CITY OF SOUTH BEND, INDIANA, ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2018 (POTAWATOMI ZOO PROJECT) AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO**

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**STATEMENT OF PURPOSE AND INTENT**

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The City of South Bend, Indiana (the "City") is a political subdivision of the State of Indiana, and by virtue of Indiana Code 36-7-11.9 and 36-7-12, as amended (the "Act"), is authorized and empowered to adopt this Ordinance and to carry out its provisions.

The South Bend Economic Development Commission (the "Commission") has rendered its Report concerning the proposed financing of economic development projects and economic development facilities consisting of the Potawatomi Zoo, located at 500 Greenlawn Avenue in the City (the "Zoo") for the Potawatomi Zoological Society, Inc., an Indiana nonprofit corporation (the "Corporation"), for the construction, expansion, renovation, equipping, furnishing, and improving, as the case may be, of the Project (described below).

The Commission, after a public hearing held on September 13, 2018, has adopted a Resolution which has been transmitted to the Common Council of the City (the "Common Council") (i) finding that the financing of all or a portion of the costs (or reimbursement of the Corporation of all or a portion of the costs) of the construction, expansion, renovation, equipping, furnishing and improving, as the case may be, of the Zoo, including, without limitation, the construction, equipping and furnishing of a new, modern visitor-centric front entrance building that will include a gift shop, universally accessible gathering plaza, public restrooms and a separate, more secure entrance for field trips and group visits and that will double the Zoo's education space, allowing for more classes, camps and educational experiences, and completion of various deferred maintenance improvements throughout the Zoo which will enhance the safety of visitors to the Zoo, staff and animals and necessary to maintain the Zoo's accreditation, including, without limitation, repair, replacement, renovation or enhancement of guest pathways and parking lots, animal holding and exhibit areas, HVAC improvements, roofs, patron fencing, animal containment fencing and exhibitory, and electrical work throughout the Zoo (collectively, the "Project") will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the City; (ii) further finding that the proposed financing of the cost of the Project will be of benefit to the health and general welfare of the City and its citizens;

(iii) further finding that the proposed financing of the cost of the Project complies with the purposes and provisions of the Act; (iv) approving the financing of the cost of the Project and certain of the costs of issuing the Bonds and funding a debt service reserve for the bonds, including the form and terms of the Financing Documents (defined herein) and the Bonds from the City to the bondholders, more fully described below, and this Ordinance, presented to the Commission; and (v) recommending that this Common Council find that the proposed financing of the cost of the Project will be of benefit to the health and general welfare of the City and its citizens, and complies with the purposes and provisions of the Act, and that this Common Council adopt an ordinance approving such financings.

This Common Council believes it is in the best interests of the City and its citizens to provide a program for financing economic development projects and economic development facilities for developers or users thereof through the issuance of tax-exempt bonds. The City, as requested by the Corporation, has determined to issue, sell and deliver economic development revenue bonds in one or more series to be designated the "City of South Bend, Indiana, Economic Development Revenue Bonds, Series 2018 (Potawatomi Zoo Project)" in an aggregate principal amount not to exceed \$4,205,000 (the "Bonds") for the purpose of making make funds available for the Project, funding a debt service reserve fund, and the cost of selling and issuing the Bonds as permitted by law.

The original principal amount of the Bonds, together with the outstanding principal amount of previously issued bonds which constitute a debt of the City, on the date of issuance of the Bonds will be no more two percent (2%) of one-third (1/3) of the total net assessed valuation of the City.

The St. Joseph County, Indiana, Income Tax Council previously imposed a county economic development income tax (the "CEDIT Tax") on the adjusted gross income of St. Joseph County, Indiana (the "County"), taxpayers pursuant to Indiana Code 6-3.5-7, which law has been repealed and re-codified at Indiana Code 6-3.6 for the purpose of consolidating all local income taxes into a single article and reclassified the former CEDIT Tax as additional revenues for economic development purposes derived from the expenditure tax rate under Indiana Code 6-3.6-6-9 (referred to herein as "Economic Development Income Tax" and the revenues derived therefrom as "Economic Development Income Tax Revenues").

The County previously issued \$9,155,000 of its Economic Development Income Tax Revenue Bonds of 2014 on December 30, 2014 (the "County Bonds") for the purpose of financing the construction of a new Public Safety Answering Point facility in the County. The Mayor of the City (the "Mayor") irrevocably designated and transferred to the County pursuant to Indiana Code 6-3.5-7-15 a portion of the City's distributive share of Economic Development Income Tax Revenues (in an amount equal to approximately 29.03% of the annual debt service on the County Bonds) (the "Designated Amount") for the purpose of permitting the County to use such funds to pay debt service on the County Bonds in addition to the County's distributive share as well as funds received by the County as a result of a similar pledge made by the Mayor of the City of Mishawaka, Indiana. As used hereinafter, the term "Economic Development Income Tax Revenues" does not include the Designated Amount while the County Bonds remain outstanding.

This Common Council has determined that it will be of public utility and benefit to pledge the City's distributions of Economic Development Income Tax Revenues to secure the payment of the Bonds, and the Common Council now desires to pledge the County's distributions of

Economic Development Income Tax Revenues to pay the debt service due on the Bonds as set forth herein on a parity with the City's County Economic Development Income Tax Bonds of 2015 issued by the City on August 4, 2015, and currently outstanding in an aggregate principal amount of \$4,980,000 (the "Prior Bonds") which Prior Bonds were issued by the City to fund the cost of various capital improvements and expansions to the City's park facilities, fund a debt service reserve with respect to the Prior Bonds, and to pay costs of issuance relating to the Prior Bonds.

There have been submitted to this Common Council proposed forms of the Financing Agreement, by and between the Corporation and the City (the "Financing Agreement"), and the Trust Indenture, by and between the City and a trustee to be selected (the "Trust Indenture").

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:**

**SECTION I.**        Recitals. The recitals contained in this Ordinance are true and correct and are incorporated in this Ordinance by this reference.

**SECTION II.**        Findings. This Common Council finds that the facilities that constitute the Project to be financed as described in said Financing Documents are "economic development projects" and "economic development facilities" within the meaning of the Act and that such projects and facilities will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the City. This Common Council further finds that the proposed financing of the Project will be of benefit to the health and general welfare of the City and its citizens. This Common Council further finds that the proposed financing of the Project complies with the purposes and provisions of the Act.

**SECTION III.**        Authorization of Bonds. The Common Council hereby authorizes, as part of a program for financing the aforementioned economic development facilities, the issuance of an aggregate principal amount not to exceed \$4,205,000 of the Bonds by the City, in one or more series, for the purpose of procuring funds to finance (a) the cost of the Project, and expenses related thereto, (b) the funding of a debt service reserve for the Bonds in an amount equal to the least of (i) the maximum annual debt service on the Bonds, (ii) one hundred twenty-five percent (125%) of average annual debt service on the Bonds, or (iii) ten percent (10%) of the proceeds of the Bonds (the "Reserve Requirement") (if the Reserve Requirement is not otherwise satisfied pursuant to Section XI hereof), and (c) the cost of certain incidental expenses on account of the issuance of the Bonds as may be permitted by law and acquiring any credit enhancement with respect thereto (if necessary), which Bonds will be payable as to principal, premium, if any, and interest from Economic Development Income Tax Revenues on parity with the Prior Bonds, or as otherwise provided in the Indenture.

The Bonds shall be issued in one (1) or more series as fully registered bonds in denominations of \$5,000, or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in any one (1) year (or in denominations of \$100,000 and \$1,000 in excess thereof (each an "Authorized Denomination") as may be determined by the Mayor and the Clerk of the City (the "Clerk"), shall be dated the date of their delivery as set forth in the Indenture, and shall be fully registered without coupons and numbered consecutively from R-1 upward. The Bonds shall be payable in the medium and at the place or places as set forth in the Indenture and shall bear interest at a rate not exceeding six percent (6.0%) per annum (determined

through negotiation as set forth herein). Principal of and interest on the Bonds shall be payable semiannually on February 1 and August 1, commencing not earlier than February 1, 2019, and shall have a final principal payment due on not later than February 1, 2039.

Interest on the Bonds shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The Mayor and the Clerk, upon consultation with the City's municipal advisor, may designate maturities of the Bonds (or a portion thereof in Authorized Denominations) that shall be subject to optional redemption and/or mandatory sinking fund redemption, and the corresponding redemption dates, amounts and prices (including premium, if any).

The Bonds shall be executed on behalf of the City by, and bear the manual or facsimile signature of, the Mayor and the Clerk, and the seal of the City shall be thereunto affixed (or imprinted or engraved if in facsimile).

The Bonds shall be in the form set forth in the final form of the Indenture.

**SECTION IV. Pledge of Economic Development Income Tax Revenues.**

Pursuant to Indiana Code 5-1-14-4 and Indiana Code 6-3.6-10-6, the Common Council, on behalf of the City, hereby pledges and assigns the City's distributions of Economic Development Income Tax Revenues to the payment of the debt service due on the Bonds (the "2018 Pledge") on a parity with the Prior Bonds for a term of years not less than the term of the Bonds. The 2018 Pledge shall be effective as set forth in Indiana Code 5-1-14-4 without the necessity of filing or recording this Ordinance or any other instrument except in the records of the City. The 2018 Pledge set forth herein shall automatically terminate upon the earlier of the final maturity or redemption in full of the Bonds. The 2018 Pledge shall be a first charge against the City's distributions of Economic Development Income Tax Revenues on parity with the Prior Bonds. The City has not pledged or otherwise encumbered its Economic Development Income Tax Revenues other than with respect to the Prior Bonds, and there are no prior liens, encumbrances or other restrictions on the Economic Development Income Tax Revenues or on the City's ability to pledge the Economic Development Income Tax Revenues to the payment of the Bonds other than with respect to the Prior Bonds.

**SECTION V. Issuance of Parity Obligations.**

The City reserves the right to authorize and issue bonds and to incur lease obligations (which for all purposes of this Ordinance shall be deemed to be required bond payments which mature on the date such lease-rental payment obligations are due) or incur other obligations entitled to the pledge of the Economic Development Income Tax Revenues, in whole or in part, or any combination thereof, and otherwise pledge the City's Revenues to secure bonds, lease rental payments or other obligations ranking on a parity with the Prior Bonds and the 2018 Pledge (such additional bonds, lease rental payments or other obligations, the "Parity Obligations") or bonds or other obligations which are junior and subordinate in right of payment to the Parity Obligations and the 2018 Pledge (such bonds or other obligations are herein referred to as the "Junior Bonds") (the Prior Bonds, the Bonds, the Parity Obligations, and the Junior Bonds collectively, the "EDIT Bonds"), for the purpose raising money for future economic development or to provide for a complete or partial refunding of such obligations. The authorization and issuance of Parity Obligations and Junior Bonds shall be subject to the following conditions precedent:

- (a) All interest and principal with respect to all EDIT Bonds shall be current to date in accordance with the terms thereof with no payment in arrears, provided, this condition shall be satisfied if any required amount is to be provided from the proceeds of the Parity Obligations or Junior Bonds or other funds available to the City.
- (b) As of the time of issuance of the proposed Parity Obligations, to the extent that any other Parity Obligations secured by one or more debt service reserve funds shall be outstanding, the balance in such debt service reserve funds shall be at least equal to the respective reserve requirements for such other outstanding Parity Obligations; provided, however, this condition shall be deemed satisfied if any required amount is to be provided from the proceeds of the proposed Parity Obligations or other funds of the City;
- (c) In the case of a proposed issue of Parity Obligations, the City shall have received a certificate prepared by an independent, qualified accountant or an independent financial consultant with professional experience in the business of estimating the levels of and increases in assessed valuation in the State of Indiana and the expected changes in property tax rates caused by such changes (the "Certifier"), certifying the amount of the Economic Development Income Tax Revenues estimated to be received in each succeeding year, together with estimated other available revenues, is at least equal to one hundred twenty-five percent (125%) of the debt service or lease rental requirements of any outstanding Prior Bonds, the 2018 Pledge and the proposed Parity Obligations for each respective year during the remaining term of the Prior Bonds, the 2018 Pledge, any outstanding Parity Obligations and the proposed Parity Obligations. Notwithstanding the foregoing, any proposed Parity Obligations secured by a property tax levy under Indiana Code 36-1-10-17, a special benefits tax levy under Indiana Code 36-7-14-27, or by a pledge of any other property taxes of general applicability, or some combination of the foregoing, may be issued or entered into without meeting the foregoing coverage requirements of this subsection (c).
- (d) Payments of any Parity Obligations or Junior Bonds payable from the Economic Development Income Tax Revenues shall be payable semiannually on February 1 and August 1 of each year.

The terms and conditions of any Parity Obligations shall be set forth in the ordinance or resolution authorizing such Parity Obligations. The City shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the proposed Parity Obligations.

The City may issue obligations payable from Economic Development Income Tax Revenues on a junior and subordinate basis to the 2018 Pledge and any other outstanding Parity Obligations. However, any such junior and subordinate obligations payable from Economic Development Income Revenues shall be payable semiannually on February 1 and August 1.

**SECTION VI.** Rate Covenant. So long as the Bonds remain outstanding, the Common Council covenants that it will take no action to rescind or repeal, to reduce the rate or to take any action that would result in the County receiving a smaller distribution of Economic Development Income Tax Revenues than the distribution of Economic Development Income Tax Revenues to which it was entitled to receive on the effective date of this Ordinance.

**SECTION VII.** Appointment of Registrar and Paying Agent. The Indenture may provide that the trustee to be named therein, or another corporate entity, shall act as the bond registrar and authenticating agent, and may provide for a co-trustee.

**SECTION VIII.** Delivery of Bonds. After execution on behalf of the Mayor and the Clerk, the Bonds shall be delivered to the Trustee, which is hereby authorized and requested to authenticate and deliver the Bonds to or upon the order of the Purchaser, or to any depository, in accordance with and upon compliance with the provisions of the Indenture. The Council hereby authorizes the sale of the Bonds pursuant to the Purchase Agreement (defined below).

**SECTION IX.** Registration Authorization. The Mayor and the Clerk are hereby authorized in the name and on behalf of the City to take any and all action which the Mayor and the Clerk may deem necessary or advisable with the advice of counsel for the City in order to effect the registration or qualification (or exemption therefrom) of the Bonds for issue, offer, sale or trade under the Blue Sky or securities laws of any of the states of the United States of America and in connection therewith, to execute, acknowledge, verify, deliver, file or cause to be published any applications, reports, consents to service of process and other papers and instruments which may be required under such laws, and to take any and all further action which such official of the City may deem necessary or advisable in order to maintain any such registration or qualification for as long as the Mayor and the Clerk deem necessary or as required by law, provided, however, the Mayor and the Clerk need not consent to service of process in any jurisdiction other than the State of Indiana.

**SECTION X.** Approval of Documents. Each of the Financing Documents is hereby approved in the forms submitted to this meeting, and a copy of each such document shall be kept on file by the Clerk. The Mayor and the Clerk are hereby authorized and directed to execute and deliver such documents without further approval of the Common Council in substantially the forms herein approved with such additions, deletions and modifications thereto as may be approved under the Act, the execution thereof being conclusive evidence of such approval and of the approval of the Common Council; and the Clerk, or any authorized representative of the City, is hereby authorized and directed to affix the seal of the City to such documents and to attest the same. Two copies of each of the Financing Documents, hereby incorporated into this Ordinance, were duly filed in the Office of the Clerk and are available for public inspection in accordance with Section 36-1-5-4 of the Indiana Code.

**SECTION XI.** Sale of Bonds. The Mayor and the Clerk are authorized and directed to sell such Bonds to the Purchaser (defined herein) at a price not less than ninety-nine percent (99%) of the aggregate principal amount thereof plus accrued interest, if any, at a rate of interest not to exceed six percent (6.0%) per annum, and with a final maturity no later than twenty-one (21) years from the date of the issuance of the Bonds. The execution and delivery of a bond purchase agreement (the "Purchase Agreement"), between the City and Fifth Third Securities,

Inc. (the "Purchaser"), with respect to the sale of the Bonds, by the Mayor and the Clerk is hereby approved in a form and substance acceptable to the Mayor and the Clerk with the advice of counsel and consistent with the terms and conditions set forth in this Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

In connection with the sale of the Bonds, the Mayor and the Clerk each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating on the Bonds, bond insurance for the Bonds, and/or a surety policy to satisfy the Reserve Requirement and the taking of such actions and the execution and delivery of agreements and instruments are hereby approved.

**SECTION XII.** Authorization of Execution of Documents. Each of the Mayor, the Clerk and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Clerk and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Clerk and any other officer of the City on the Bonds may be facsimile signatures. The Mayor, the Clerk and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

**SECTION XIII.** Ordinance a Binding Contract. The provisions of this Ordinance and the Financing Documents shall constitute a contract binding between the City and the holder or holders of the Bonds and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the right of such holder or holders so long as said Bonds or the interest thereon remains unpaid.

**SECTION XIV.** Approval of Offering Document and Continuing Disclosure. Subject to the provisions of this Ordinance one or more preliminary official statements of the City relating to the Bonds (each, a "Preliminary Official Statement"), in a form acceptable to the Mayor and the Clerk, is hereby (a) authorized and approved, together with such changes in form and substance as may be deemed necessary or appropriate by the Mayor and the Clerk pursuant to this Ordinance, (b) authorized and approved, as the same may be appropriately confirmed, modified and amended pursuant hereto, for distribution as the Preliminary Official Statement of the City, (c) authorized to be deemed and determined by the Clerk on behalf of the City, as of its date, to constitute the "final" official statement of the City with respect to the Bonds to be offered thereby, subject to completion as permitted by and otherwise pursuant to the provisions of the SEC Rule, and (d) authorized and approved, consistent with the provisions of any Purchase Agreement and the SEC Rule, to be placed into final form and distributed and delivered to purchasers and potential



purchasers of the Bonds offered thereby as the final official statement of the City, as of the date thereof, with respect to the Bonds (the "Official Statement"). The Mayor and the Clerk are each authorized to execute the Official Statement and by such execution approve its distribution on behalf of the City.

In order to assist the Purchaser of the Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available appropriate disclosure about the City and the Bonds to participants in the municipal securities market, the City hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from the provisions of paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the City and dated the date of issuance of the Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. The execution and delivery by the City of the continuing disclosure contract, and the performance by the City of its obligations thereunder by or through any employee or agent of the City, are hereby approved, and the City shall comply with and carry out the terms thereof.

**SECTION XV.** Tax-Exemption. Subject to the obligations of the Corporation set forth in the Financing Agreement and/or the certificates or agreements of the Corporation to be executed upon the issuance of the Bonds, the City will use its best efforts to restrict the use of the proceeds of the Bonds in such a manner and to the reasonable expectations at the time the Bonds are delivered to the purchasers thereof, so that they will not constitute "arbitrage bonds" under Section 148 of the Internal Revenue Code of 1986 and the regulations promulgated thereunder, as amended and in effect on the date of issuance of any series of the Bonds (collectively, the "Code"), or to preserve any other desired tax status under the Code, if necessary. The Mayor, the Clerk or any other officer having responsibility with respect to the issuance of the Bonds, are authorized and directed, alone or in conjunction with any of the foregoing, or with any other officer, employee, consultant or agent of the City, to deliver a certificate for inclusion in the transcript of proceedings for the Bonds, setting forth the facts, estimates and circumstances and reasonable expectations pertaining to the use of the Bond proceeds as of the date of issuance thereof.

**SECTION XVI.** No Recourse. No recourse under or upon any obligation, covenant, acceptance or agreement contained in this Ordinance, the Financing Documents or under any judgment obtained against the City, including without limitation its Economic Development Commission, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise, or under any circumstances, under or independent of the Financing Agreement, shall be had against any member, director, or officer or attorney, as such, past, present, or future, of the City, including without limitation its Economic Development Commission, either directly or through the City, or otherwise, for the payment for or to the City or any receiver thereof or for or to any holder of the Bonds secured thereby, or otherwise, of any sum that may remain due and unpaid by the City upon any of such Bonds. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such member, director, or officer or attorney, as such, to respond by reason of any act or omission on his or her part or otherwise for, directly or indirectly, the payment for or to the City or any receiver thereof, or for or to any owner or holder of the Bonds, or otherwise, of any sum that may remain due and unpaid upon the Bonds hereby secured or any of them, shall be

expressly waived and released as a condition of and consideration for the execution and delivery of the Financing Agreement and the issuance, sale and delivery of the Bonds

**SECTION XVII.** No Liability. No stipulation, obligation or agreement herein contained or contained in the Financing Documents, the Bonds or in any other agreement or document executed on behalf of the City shall be deemed to be a stipulation, obligation or agreement of any member of the Common Council, or any officer, agent or employee of the City in his or her individual capacity, and no such member of the Common Council, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

**SECTION XVIII.** Severability. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION XIX.** Open Meetings. It is hereby determined that all formal actions of the Common Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

**SECTION XX.** Further Authorizations. The Mayor, the Clerk and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver such further instruments and documents, and to take such further actions, in the name of the City as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this Ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

**SECTION XXI.** Declaration of Official Intent. The Common Council hereby declares its official intent, to the extent permitted by law, to issue the Bonds in an amount not to exceed the maximum aggregate principal amount authorized herein, and to reimburse costs of the Project consisting of the expenditures from proceeds of the sale of such Bonds.

**SECTION XXII.** Ratification of Actions. All acts of the officers of the City which are in conformity with the purpose and intent of this Ordinance and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects ratified, approved and confirmed.

**SECTION XXIII.** No Conflict. Any ordinances, resolutions or orders or parts thereof in conflict with this Ordinance are to the extent of such conflict hereby repealed.

**SECTION XXIV. Effectiveness.** This Ordinance shall be in full force and effect from and after its adoption and the procedures required by applicable law. Upon payment in full of the principal of and interest on the Bonds authorized hereby or upon deposit of an amount sufficient to pay when due such amounts in accord with the defeasance provisions herein, all pledges, covenants and other rights granted by this Ordinance, including without limitation the 2018 Pledge, shall cease.

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Tim Scott, Council President  
South Bend Common Council

Attest:

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Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Presented by me, the undersigned Clerk of the City of South Bend, to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_\_ o'clock \_\_\_\_ . m.

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Kareemah N. Fowler, City Clerk  
Office of the City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2018, at \_\_\_\_ o'clock \_\_\_\_ .m.

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Pete Buttigieg, Mayor  
City of South Bend, Indiana