

RESOLUTION NO. 3462

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION PLEDGING TAX INCREMENT FROM THE RIVER WEST ECONOMIC DEVELOPMENT AREA ALLOCATION AREA TO THE PAYMENT OF THE CITY OF SOUTH BEND, INDIANA, ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE BONDS (COMMUNITY EDUCATION CENTER PROJECT) AND ALL MATTERS RELATED THERETO

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

WHEREAS, the South Bend Redevelopment Commission (the “Commission”) has previously consolidated existing redevelopment and economic development areas into and designated the River West Economic Development Area as an economic development area (the “Area”) within the City of South Bend, Indiana (the “City”), and declared an allocation area located within the Area known as the “River West Economic Development Area Allocation Area” (the “Allocation Area”), and adopted and approved an economic development plan (the “Plan”) for the Area, all in accordance with the Act; and

WHEREAS, the City is considering the issuance of its Economic Development Tax Increment Revenue Bonds (Community Education Center Project) in an aggregate principal amount of \$4,800,000 (the “Bonds”), pursuant to a Trust Indenture (the “Trust Indenture”) between the City and a corporate trustee to be selected by the City, the net proceeds of which will be provided to the St. Joseph County Public Library, St. Joseph County, Indiana (the “Public Library”), pursuant to a Financing Agreement between the Public Library and the City (the “Financing Agreement”), to be applied to a portion of the costs of the construction, equipping, and furnishing of a new approximately 38,000 square foot building for use as a community and education center to provide new and flexible spaces for community meeting and training, events and conferences and a larger auditorium to meet increasing demand for program space and allow for a more diverse range of programs and community events and any and all projects and improvements related thereto to be located near the Main Branch of the Public Library located at 304 South Main Street in the City and within the Allocation Area (collectively, the “Project”); and

WHEREAS, in order to provide a source of revenues to pay the principal of and interest on the Bonds to assist in financing a portion of the cost of the Project, the Commission has determined that it is in the best interests of the Area, the City, and the residents thereof to pledge the tax increment revenues received from the Allocation Area (the “TIF Revenues”) (determined in accordance with the Act and other provisions of Indiana law, and taking into account the prior pledge of TIF Revenues being used to pay the principal of and interest on the presently outstanding City of South Bend, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2003 (South Bend Central Development Area) and the City of South Bend, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2003 (Airport Economic

Development Area) (collectively, the “Prior Bonds”) issued pursuant to Resolution No. 2012 and Resolution No. 1965, respectively, previously adopted by the Commission, each as subsequently amended (collectively, the “Prior Resolutions”) to the extent the Prior Bonds remain outstanding when the Bonds are issued by the City) to the payment of the principal of and interest on the Bonds and the Annual Fees (as defined in the Trust Indenture); and

WHEREAS, the Commission believes that pledging the TIF Revenues will help further the accomplishment of the objectives set forth in the Plan; and

WHEREAS, the pledge of the TIF Revenues as set forth herein will be on parity with the Commission’s pledge of TIF Revenues to the payment of principal of and interest on the Prior Bonds.

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

1. The Commission hereby finds that the pledge of TIF Revenues in an amount sufficient for payment of the principal of and interest on the Bonds will help accomplish the Plan and will promote the redevelopment and economic development of the City and the Area.

2. Pursuant to Section 39(b)(3)(D) of the Act and I.C. 5-1-14-4, the Commission hereby irrevocably pledges the TIF Revenues to the payment of the principal of and interest on Bonds for a period of time not less than the term of the Bonds on a parity with the Prior Bonds to the extent the Prior Bonds remain outstanding when the City issues the Bonds.

3. The Commission agrees that TIF Revenues in an amount which, together with any amounts already on deposit in the Bond Fund (established under the Trust Indenture) for the Bonds, is sufficient to pay the maximum debt service coming due on the Bonds and Annual Fees during the following six-month period, shall be transferred to the trustee for the Bonds for deposit in the Bond Fund under the Trust Indenture on parity with any transfers made for the Prior Bonds. Any TIF Revenues remaining in the allocation fund for the Allocation Area after making the required transfers set forth above, and the required transfers to pay for the Prior Bonds, shall be transferred by the Commission in accordance with the Prior Resolutions and the Trust Indenture.

4. In the event the Prior Bonds remain outstanding when the Bonds are issued by the City, the Commission shall secure a report prior to the issuance of such Bonds, certifying the amount of the TIF Revenues estimated to be received in each succeeding year during the term of the Bonds is estimated to be equal to at least one hundred twenty-five percent (125%) of the principal and interest requirements of all obligations payable from the TIF Revenues, including the Bonds as required by the Prior Resolutions.

5. The Commission reserves the right to issue bonds or enter into other obligations or leases payable from TIF Revenues, in whole or in part, and to pledge the TIF Revenues therefor on a parity with the pledge of the TIF Revenues to the payment of the Bonds and Prior Bonds, in accordance with the following requirements for the purpose of raising money for future local public improvements in or serving the Allocation Area (collectively, the “Parity

Obligations”). The authorization and issuance of such Parity Obligations shall be subject to the following conditions precedent:

(a) All interest and principal payments with respect to all obligations payable from the TIF Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.

(b) The balance in the Reserve Account (as defined in the Prior Resolutions) shall equal the Debt Service Reserve Requirement (as defined in the Prior Resolutions).

(c) The Commission shall have received a certificate or report prepared by an independent certified public accountant or an independent financial consultant (the “Certifier”) certifying the amount of the TIF Revenues estimated to be received in each succeeding year, adjusted as provided below, is estimated to be equal to at least two hundred percent (200%) of the principal and interest requirements of all obligations of the Commission payable from TIF Revenues for each respective year during the term of the then outstanding obligations and Parity Obligations. If the Commission determines to enter into or issue Parity Obligations prior to the issuance of the Bonds by the City, for purposes of determining the principal and interest requirements for the Bonds, the debt service owed on the Bonds shall be deemed to be equal to \$310,000 annually for each of the first two (2) years of the Bonds and \$565,000 annually thereafter for a period not to exceed fourteen (14) years. In estimating the TIF Revenues to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or estimated to be assessed as of the assessment date immediately preceding the issuance of the Parity Obligations; provided, however, the Certifier shall adjust such assessed values for the current and future reductions of real and personal property tax abatements granted to property owners in the Allocation Area.

(d) Payments on any Parity Obligations or junior obligations payable from TIF Revenues (either principal maturities, mandatory sinking fund payments or otherwise) shall be payable semiannually on February 1 and August 1 of each year.

The Commission shall approve and confirm the findings and estimates set forth in the above-described certificate or report in any resolution authorizing the Parity Obligations. Except as provided in this Resolution, the terms and conditions of any Parity Obligations shall be set forth in the resolution authorizing such Parity Obligations.

6. The Commission reserves the right to enter into obligations payable from TIF Revenues or to otherwise make pledges of TIF Revenues that are junior and subordinate to the pledge of the TIF Revenues to the payment of principal of and interest on the Bonds, subject to the compliance with the condition set forth in Section 4 hereof.

7. The proper officers of the Commission are hereby authorized and directed to take such further action or execute such documents as they shall consider necessary or appropriate in order to effectuate the intent of this resolution.

8. This Resolution shall be effective upon passage with no further approvals of the Commission required prior to the issuance of the Bonds by the City.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on November 8, 2018, in Room 1308, County-City Building, 227 West Jefferson Boulevard, South Bend, Indiana 46601.

SOUTH BEND REDEVELOPMENT
COMMISSION

Marcia I. Jones, President

ATTEST:

Donald E. Inks, Secretary