

**RESOLUTION NO. 3547**

**A RESOLUTION OF THE SOUTH BEND  
REDEVELOPMENT COMMISSION AMENDING RESOLUTION NO. 3544  
DETERMINING TO PROVIDE FOR A SPECIAL TAX IF NECESSARY TO PAY  
LEASE RENTALS IN CONNECTION WITH THE LEASE DATED AS OF  
DECEMBER 1, 2021, BETWEEN THE  
SOUTH BEND REDEVELOPMENT COMMISSION AND  
THE CITY OF SOUTH BEND BUILDING CORPORATION  
RELATING TO THE POTAWATOMI ZOO PROJECT  
AND OTHER RELATED MATTERS**

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

**WHEREAS**, the City of South Bend Building Corporation (the “Building Corporation”) has been incorporated as an Indiana nonprofit corporation operating pursuant to Indiana Code 23-17 in order to finance buildings and other capital improvements in the City; and

**WHEREAS**, the City of South Bend, Indiana (the “City”), has previously entered into a Lease and Management Agreement, dated as of January 1, 2019 with the Potawatomi Zoological Society, Inc. (the “PZS”), an Indiana nonprofit corporation, to provide for the PZS to operate the Potawatomi Zoo located in the City (the “Zoo”); and

**WHEREAS**, the PZS desires to undertake certain capital improvements at the Zoo (the “Project”); and

**WHEREAS**, the Common Council of the City has adopted Ordinance No. 10835-21 (the “Ordinance”) at a meeting held on December 13, 2021, authorizing the issuance of economic development lease rental revenue bonds in an aggregate principal amount not to exceed Six Million Five Hundred Thousand Dollars (\$6,500,000) (the “Bonds”) pursuant to the terms of the Ordinance and a trust agreement (the “Trust Agreement”) between the City and U.S. Bank National Association, as trustee (the “Trustee”), to be known as the “City of South Bend, Indiana, Economic Development Lease Rental Revenue Bonds, Series 2022 (Potawatomi Zoo Project)” for the purpose of (i) financing the cost of funding a portion of the cost of the Project by providing a portion of the proceeds of the Bonds to the PZS to pay for the Project pursuant to a Financing Agreement by and among the City, the PZS and the Building Corporation; (ii) funding a debt service reserve fund, if necessary, in connection with the issuance of the Bonds; and (iii) paying costs incurred in connection with the issuance of the Bonds; and

**WHEREAS**, in order to provide a source of funding to pay the principal of and interest on the Bonds when due, the Building Corporation and the Commission have entered into a Lease dated as of December 1, 2021 (the “Lease”) providing for the lease of certain property in the City as more fully described in the Lease (the “Leased Premises”); and

**WHEREAS**, the Commission intends to pay rent to the Building Corporation pursuant to the terms of the Lease, at a rate not to exceed Four Hundred Twenty Thousand Dollars (\$420,000) per year, in semiannual installments, with a term no longer than twenty-two (22) years beginning on the date the Building Corporation acquires an interest in the Leased Premises, and ending on the day prior to a date not later than twenty-two (22) years after such date of acquisition by the Building Corporation (the “Lease Rental Payments”); and

**WHEREAS**, the Commission anticipates that sufficient funds will be available to the Commission to make the required Lease Rental Payments with such funds being derived from the St. Joseph County hotel-motel tax revenues (the “Zoo Hotel-Motel Tax Revenues”) deposited into the Potawatomi Zoo Fund (the “Zoo Hotel-Motel Tax Fund”) established pursuant to Indiana Code 6-9-1-6.3 and pledged for such purpose pursuant to a resolution adopted on November 4, 2021 (the “Pledge Resolution”) by the St. Joseph County Hotel-Motel Tax Board of Managers (the “Board of Managers”); and

**WHEREAS**, pursuant to the Pledge Resolution, the Board of Managers will pay sufficient Zoo Hotel-Motel Tax Revenues to the Trustee as payment of the Lease Rental Payments when due under the Lease; and

**WHEREAS**, because the Commission anticipates that sufficient Zoo Hotel-Motel Tax Revenues will be available to make the Lease Rental Payments, the Project does not constitute a “controlled project” as such term is defined by Indiana Code 6-1.1-20-1.1; and

**WHEREAS**, the Commission adopted Resolution No. 3544 on January 27, 2021 (“Resolution No. 3544”), determining to provide for the levy of a special tax pursuant to Section 27 of the Act (the “Special Tax”) in the event it becomes necessary to levy the Special Tax for the payment of the Lease Rental Payments owed by the Commission pursuant to the Lease and to authorize the establishment of certain funds and accounts in connection thereto; and

**WHEREAS**, the Commission desires to amend Resolution No. 3544 to provide that, in considering revenues available to the Commission in order to avoid the need to levy the Special Tax, the Commission will take into account only cash amounts on deposit in the debt service reserve fund established in the Trust Indenture;

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

**SECTION 1.** The Commission hereby amends and restates Section 2 of Resolution No. 3544 in its entirety as follows:

**SECTION 2.** The Commission agrees that it shall levy in each calendar year pursuant to Section 27 of the Act during the term of the Lease the Special Tax upon all of the taxable property in the District in a total amount necessary, together with all other funds (other than special taxes), including, without limitation, the Zoo Hotel-Motel Tax Revenues then on deposit in the Zoo Hotel-Motel Tax Fund as of August 1 of such calendar year, to pay all Lease Rental Payments payable in the 12-month period beginning on July

1 of the year following such calendar year pursuant to Section 4 of the Lease. The Controller of the City (the "Controller") is hereby authorized to create a fund (the "Lease Fund") for the purpose of depositing such taxes into and such taxes and any other funds deposited in the Lease Fund shall be irrevocably pledged for the purposes set forth in this Resolution, such pledge being effective as set forth in IC 5-1-14-4 without the necessity of filing or recording this resolution or any instrument except in the records of the Commission. In addition to any amounts then on deposit in the Lease Fund, if any, and in the Zoo Hotel-Motel Tax Fund, the Commission may also take into account when determining whether it is necessary to levy the Special Tax as described herein, cash amounts available in the debt service reserve fund which may be established under the Trust Agreement to provide additional security for the Bonds, all based upon the advice and recommendation of the Controller. Notwithstanding the foregoing, the Commission expects that the Zoo Hotel-Motel Tax Revenues will be sufficient to pay the Lease Rental Payments when due without the need for the Special Tax.

SECTION 2. Except as amended herein, Resolution No. 3544 is hereby ratified and confirmed and shall remain in full force and effect.

SECTION 3. This Resolution shall be in full force and effect after its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on February 10, 2022, as authorized by Executive Order 20-09 issued by the Governor of the State of Indiana, as subsequently renewed.

SOUTH BEND REDEVELOPMENT  
COMMISSION

By: \_\_\_\_\_  
Marcia I. Jones, President

ATTEST:

\_\_\_\_\_  
Troy Warner, Secretary