

RESOLUTION NO. 3541

A RESOLUTION OF THE SOUTH BEND REDEVELOPMENT COMMISSION AUTHORIZING THE EXECUTION OF A LEASE BETWEEN THE SOUTH BEND REDEVELOPMENT AUTHORITY AND THE SOUTH BEND REDEVELOPMENT COMMISSION RELATING TO THE POTAWATOMI ZOO 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 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 has previously entered into a Lease and Management Agreement, dated as of January 1, 2019 with the Potawatomi Zoological Society, Inc. (“PZS”), an Indiana nonprofit corporation, to provide for PZS to operate the Potawatomi Zoo located in the City (the “Zoo”); and

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

WHEREAS, in order to foster continued economic development in the City, the Commission has given consideration to assisting the City with the financing the costs of all or a portion of the Project and expenses related thereto including without limitation funding a debt service reserve fund, if necessary in connection with the issuance of the Bonds (defined herein) and paying costs incurred in connection with the issuance of the Bonds; and

WHEREAS, on November 8, 2021, the Commission at a duly advertised and noticed public meeting, adopted its Resolution No. 3539 approving a proposed form of lease (the “Lease”) with the Building Corporation, as Lessor, for (i) a portion of Greenlawn Avenue in the City from its intersection with McKinley Avenue to its intersection with Wall Street, (ii) a portion of Wall Street in the City from its intersection with Twyckenham Drive to its intersection with Greenlawn Avenue, and (iii) a portion of Wall Street in the City from its intersection with Greenlawn Avenue to its intersection with Ironwood Drive (the “Leased Premises”) for the purpose of financing all or any portion of the Project in order to better serve the residents of the City and provide for further economic development in the City, and the Commission scheduled a public hearing regarding the Lease to be held on November 22, 2021, at 9:30 a.m. (local time), in Room 1308 of the County-City Building located at 227 West Jefferson Boulevard, South Bend, Indiana, and virtually as permitted by Indiana law and published notice of such public hearing on the Lease in accordance with applicable Indiana law; and

WHEREAS, on this date said public hearing has been held, and all interested parties have been provided the opportunity to be heard at the hearing; and

WHEREAS, the Commission intends to pay rent to the Authority (the “Rental Payments”) pursuant to the terms of the Lease, at a rate not to exceed Four Hundred Twenty Thousand Dollars (\$420,000.00) per year, in semiannual installments, with a term no longer than twenty (20) years beginning on the date the Authority acquires an interest in the Leased Premises, and ending on the day prior to a date not later than twenty (20) years after such date of acquisition by the Authority; and

WHEREAS, the Commission seeks to authorize execution of the Lease and authorize the publication, in accordance with Indiana Code. 36-7-14-25.2 and Indiana 6-1.1-20-5, of a Notice of Execution and Approval of Lease and a Notice of Decision to Enter into a Lease;

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

SECTION 1. The Commission hereby finds and determines that (i) the terms of the Lease are based upon the value of the Leased Premises, that the Rental Payments to be paid by the Commission, pursuant to the terms of the Lease, at a rate not to exceed Four Hundred Twenty Thousand Dollars (\$420,000.00) per year, in semiannual installments, with a term no longer than twenty-two (22) years beginning on the date the Authority 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 Authority, are fair and reasonable, (ii) the use of the Leased Premises throughout the term of the Lease will serve the public purpose of the City and is in the best interests of its residents, and (iii) the execution and delivery of the Lease is needed.

SECTION 2. The President or Vice-President and the Secretary of this Commission are hereby authorized and directed, on behalf of the City, and subject to obtaining approval from the Common Council of the City (the “Common Council”), to execute and deliver the Lease in substantially the form presented at this public meeting with such changes in form or substance as the President or Vice-President of this Commission shall approve, such approval to be conclusively evidenced by the execution thereof; provided that the Rental Payments shall not exceed the amounts set forth in Section 1 hereof.

SECTION 3. The Secretary of the Commission is hereby directed to transmit to the Common Council a copy of this Resolution and the Lease and to request the Common Council to adopt a Resolution approving the Lease and its execution by the Commission and the Authority, prior to the execution of the Lease.

SECTION 4. The Commission hereby authorizes the publication and posting in three (3) public places of a notice of the decision of the Commission to enter into a lease in excess of Five Thousand Dollars (\$5,000) all in accordance with Indiana Code 5-3-1 and 6-1.1-20-5.

SECTION 5. The Commission hereby authorizes the publication, in accordance with Indiana Code 5-3-1 and 36-7-14-25.2, of the Notice of Execution and Approval of Lease, following execution of the lease by the Commission.

SECTION 6. The President, Vice-President and Secretary of this Commission, and each of them, is hereby authorized and directed to take all such further actions and to execute all such documents or instruments as are desirable to carry out the transactions contemplated by this

Resolution, in such forms as the President, Vice-President or Secretary executing the same shall deem proper, such desirability to be conclusively evidenced by the execution thereof.

SECTION 7. This Resolution shall be in full force and effect from and after its adoption by the Commission.

ADOPTED at a meeting of the South Bend Redevelopment Commission held on November 22, 2021.

SOUTH BEND REDEVELOPMENT COMMISSION

By: _____
Marcia I. Jones, President

ATTEST:

Troy Warner, Secretary