

RESOLUTION NO. FCR 2018-19

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF FLOYD COUNTY, INDIANA APPROVING THE ISSUANCE OF BONDS BY THE FLOYD COUNTY REDEVELOPMENT AUTHORITY AND THE PLEDGE OF THE COUNTY'S SHARE OF LOCAL INCOME TAX REVENUES (FORMERLY KNOWN AS THE COUNTY ECONOMIC DEVELOPMENT INCOME TAX) TO THE PAYMENT OF CERTAIN LEASE RENTAL PAYMENTS AND APPROVING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, pursuant to Indiana Code 36-7-14.5, as amended, the Floyd County Redevelopment Authority (the "Authority") has been created as a separate body corporate and politic, and as an instrumentality of Floyd County, Indiana (the "County") to finance local public improvements for lease to the Floyd County Redevelopment Commission (the "Commission"), as the governing body of the Floyd County Redevelopment District (the "District"); and

WHEREAS, the Authority has adopted, or is expected to adopt, a resolution indicating its intent to issue one or more series of its lease rental revenue bonds, all or any portion of which may be taxable or tax-exempt for federal income tax purposes, in the maximum original principal amount of Ten Million Eight Hundred Seventy Thousand Dollars (\$10,870,000) (collectively, the "Bonds"), to provide funds for the purposes of: (1) financing the costs of acquiring certain real estate and the construction, renovation, improvement and/or equipping of the projects thereon as identified on Exhibit A hereto and made a part hereof (clause (1), collectively, the "Projects"); (2) funding a debt service reserve fund or paying the premiums for one or more municipal bond insurance policies and/or one or more debt service reserve fund credit facilities, if necessary; (3) paying capitalized interest on the Bonds, if necessary; and (4) paying all costs incurred on account of or in connection with the issuance and sale of the Bonds, including the premiums for any credit enhancement or credit facility purchased in connection with the issuance of the Bonds; and

WHEREAS, pending the issuance of the Bonds and completion of all statutory procedures required for the issuance of the Bonds, the Authority may elect to issue one or more bond anticipation notes, payable solely from the proceeds of the Bonds, in an original aggregate principal amount not to exceed the authorized aggregate principal amount of the Bonds (the "BANs"), to provide interim financing for (a) all or a portion of the costs of the Projects, (b) reimbursement of preliminary expenses related thereto and all incidental expenses incurred in connection therewith, if any, (c) capitalized interest on the BANs, if necessary, and (d) the costs of selling and issuing the BANs; and

WHEREAS, the Authority and the Commission have adopted, or are expected to adopt, resolutions approving a proposed lease agreement in the form presented at this meeting (the "Lease"), which annual rentals (the "Lease Rentals") payable by the Commission under the Lease will be pledged and assigned by the Authority to pay debt service on the Bonds issued pursuant to Indiana Code 36-7-14.5 to finance the Projects, together with the costs incurred in connection with the issuance of the Bonds; and

WHEREAS, the County has imposed a county economic development income tax on the adjusted gross income of County taxpayers pursuant to Indiana Code 6-3.5-7, which law has been repealed and codified at Indiana Code 6-3.6 for the purpose of consolidating all local income taxes into a single article and reclassified as the economic development component of additional revenues derived from the expenditure rate tax under Indiana Code 6-3.6 (referred to herein as “LIT” and the revenues derived therefrom as “LIT Revenues”); and

WHEREAS, the Lease Rentals during the term of the Lease will be payable solely from the County’s LIT Revenues, pledged and assigned by the County to the Commission for the payment of such Lease Rentals in accordance with Indiana Code 6-3.6-10 and Indiana Code 36-7-14-25.5, each as amended; and

WHEREAS, the Floyd County Council (the “Council”) has determined that it will be of public utility and benefit to use a portion of the County’s monthly distributions of LIT Revenues to pay the Lease Rentals during the term of the Lease, and has pledged and assigned the County’s monthly distributions of LIT Revenues to the Commission to pay the Lease Rentals for a term of years not less than the term of the Lease (the “2018 LIT Pledge”); and

WHEREAS, this Board of Commissioners of the County (the “Board”), as the executive and the legislative body of the County, now desires to approve the 2018 LIT Pledge and authorize the issuance of the Bonds and the BANs.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF FLOYD COUNTY, INDIANA, as follows:

Section 1. Approval of Lease, Bonds, BANs and Trust Indenture. The Board hereby approves the issuance of the Bonds by the Authority (pursuant to Indiana Code 36-7-14.5-19), the execution and delivery of the Lease, as approved by the Commission (pursuant to Indiana Code 36-7-14-25.2), and the execution and delivery of a Trust Indenture for the Bonds, to be entered into between the Authority and a trustee bank to be chosen by the President of the Authority, as trustee, and the pledge of the lease rentals thereunder to the payment of the Bonds (pursuant to IC 36-7-14.5-21), all subject to the following conditions: (a) the maximum aggregate original principal amount of the Bonds shall not exceed \$10,870,000; (b) any series of the Bonds shall have a term not longer than twenty (20) years, commencing from the date of issuance of such series of Bonds; (c) the maximum annual lease rental payment during the term of the Lease shall not exceed \$1,005,000; (d) the maximum interest rate on the Bonds shall not exceed six percent (6.0%) per annum; (e) the Bonds may be subject to redemption prior to maturity on any date not earlier than five (5) years following the date of issuance of the applicable series of Bonds, with such specific dates and redemption terms determined at the time of the sale of such series of Bonds and approved by the Authority in the purchase agreement for the applicable series of Bonds, all upon the advice of the financial advisor to the Authority; (f) the maximum term of the Lease shall not exceed twenty (20) years following the commencement of such term; and (g) interest on any series of the Bonds may be capitalized for a period not longer than two (2) years after the date of issuance of such series of Bonds.

Pending the issuance of the Bonds, the Board hereby approves the issuance of the BANs in a maximum aggregate original principal amount not to exceed \$10,870,000. The BANs shall

mature not more than two (2) years from the date of issuance; may be renewed or extended from time to time, over a period not exceeding five (5) years from the date of the original issuance of the BANs; may be prepayable on terms and conditions determined by the President of the Authority at the time of the sale of the BANs; shall bear interest at a rate not exceeding seven percent (7.00%) per annum, payable upon maturity or redemption of the BANs; and shall be sold at a discount not exceeding two percent (2%) of the principal amount thereof. Pursuant to Indiana Code 5-1-14-5, it shall not be necessary for the Authority to repeat the procedures for the issuance of the Bonds, as the procedures followed before the issuance of the BANs are for all purposes sufficient to authorize the issuance of the Bonds and to use proceeds thereof to repay the principal of and interest on the BANs.

Section 2. Approval of Pledge of LIT Revenues. Pursuant to Indiana Code 5-1-14-4 and Indiana Code 36-7-14-25.5, the Board hereby approves the 2018 LIT Pledge for a term of years not less than the term of the Lease. The 2018 LIT Pledge shall be a first charge lien against the County's monthly distributions of LIT Revenues, on parity with the pledge thereof to (i) the County's Economic Development Income Tax Revenue Bonds, Series 2010 (Recovery Zone Economic Development Bonds – Direct Payment – Federally Taxable) and (ii) the District's Taxable Tax Increment Revenue Bonds, Series 2018 (With Limited County Local Income Tax Pledge) (items (i) and (ii), collectively, the "Outstanding LIT Obligations"). Except for the Outstanding LIT Obligations, the County has not pledged or otherwise encumbered the LIT Revenues, and there are no other prior liens, encumbrances or other restrictions on the LIT Revenues or on the County's ability to pledge and assign the LIT Revenues to the Commission for the payment of the Lease Rentals. Except for the LIT Revenues, no other funds of the County are pledged and assigned by the County to the Commission for the purpose of paying the lease rental payments or other amounts due under the Lease.

Section 3. Authorization of Other Actions. Each of the Board of Commissioners of the County, the Council, the County Auditor, the County Treasurer and any other officer, employee or agent of the County is hereby authorized and directed, for and on behalf of the County, to execute and deliver any contract, agreement, certificate, instrument or other document and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Resolution, such determination to be conclusively evidenced by such person's execution of such contract, agreement, certificate, instrument or other document or such person's taking of such action.

Section 4. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Board and upon compliance with the procedures required by law.

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DULY PASSED and ADOPTED on this 18th day of September, 2018, by the Board of Commissioners of Floyd County, Indiana, by a vote of 3 in favor, 0 opposed, and 0 abstaining.

BOARD OF COMMISSIONERS OF
FLOYD COUNTY, INDIANA



Mark Seabrook, Commissioner



John Schellenberger, Commissioner



Billy Stewart, Commissioner

ATTEST:



Scott L. Clark, County Auditor

EXHIBIT A

DESCRIPTION OF THE PROJECTS

The acquisition of right-of-way and construction of one or more roadways and related infrastructure from Old Georgetown Road to State Road 64 and State Road 64 to Oakes Road extension, including, without limitation, the costs of land and right-of-way acquisition, design, engineering, construction, re-construction, construction inspection, paving, signage, drainage, sidewalks, streetscaping, utility relocation, site improvements for existing facilities, traffic signalization and other construction, site improvements, improvements or equipping projects related thereto (collectively, the "Projects"). The estimated costs of the Projects are as follows:

- Road and Utility Construction (\$7,250,000)
- Land Acquisition (\$100,000)
- Site Improvements (\$150,000)
- Construction Inspection (\$500,000)