

RESOLUTION NO. 2024-01

**A RESOLUTION OF THE FLOYD COUNTY COUNCIL PLEDGING
LOCAL INCOME TAX REVENUES ALLOCATED TO ECONOMIC
DEVELOPMENT TO THE PAYMENT OF BONDS OF THE FLOYD
COUNTY REDEVELOPMENT COMMISSION AND RELATED MATTERS**

WHEREAS, the Floyd County Redevelopment Commission (the "Commission") is proposing to issue tax increment revenue bonds (the "Bonds") of the Floyd County Redevelopment District (the "District"), for the purposes of (i) financing the design, engineering and construction of sanitary sewer, storm water, road, parking, sidewalk, utility infrastructure and/or relocation, and other infrastructure and local public improvements, together with related demolition, excavation and site work, all of which will be located work in, physically connected to, or directly serving or benefiting, the Edwardsville Gateway Village Allocation Area, to be established within the Edwardsville-Highlander Point Gateway Economic Development Area, and paying all incidental expenses incurred in connection therewith (all of which are deemed to be a part of the projects) (collectively, the "Projects"), (ii) if necessary, funding a debt service reserve account for the Bonds, and (iii) paying the costs of selling and issuing the Bonds, including capitalized interest on the Bonds, if necessary; and

WHEREAS, the Bonds will be issued in the maximum aggregate original principal amount not exceed \$1,500,000, have a maximum interest rate not exceed eight percent (8.0%) per annum, and have a maximum term not exceed twenty-five (25) years; and

WHEREAS, the Commission has proposed that the Bonds be payable from (i) tax increment revenues generated from the Edwardsville Gateway Village Allocation Area (the "TIF Revenues"), and (ii) to the extent that the TIF Revenues are insufficient for such purpose, from the EDIT Revenues (as defined herein) up to an amount necessary to pay the annual debt service on the Bonds, on parity with the pledge thereof to the Prior Obligations (as defined herein) and any additional obligations which may hereafter be issued; and

WHEREAS, Floyd County, Indiana (the "County") has imposed an economic development income tax pursuant to Indiana Code 6-3.5-7 (repealed) on the adjusted gross income of taxpayers in the County, which has now been codified as the local income tax at Indiana Code 6-3.6, reclassified as additional revenue derived from the expenditure rate tax under Indiana Code 6-3.6, and allocated to economic development purposes (the County's distributive share of such revenues, the "EDIT Revenues"); and

WHEREAS, the County has previously pledged EDIT Revenues to the repayment of the (i) the County's Economic Development Income Tax Revenue Bonds, Series 2010 (Recovery Zone-Direct Payment-Federally Taxable), (ii) the District's Tax Increment Revenue Bonds, Series 2018 (Limited County EDIT Pledge), (iii) the Lease Agreement, dated as of September 21, 2018, as amended, between the Floyd County Redevelopment Authority (the "Authority"), as lessor, and the Commission, as lessee, which secures the repayment of the Authority's Lease Rental Revenue Bonds, Series 2021 (NovaParke Project), and (iv) the County's Economic Development Income Tax Revenue Bonds, Series 2022 (Taxable) (clauses (i) through and including (iv), collectively, the "Prior Obligations"); and

WHEREAS, each of the ordinances or resolution pledging the EDIT Revenues to the Prior Obligations allow for the issuance of additional obligations payable from the EDIT Revenues, ranking on parity with the pledge thereof to the Prior Obligations, provided that certain financial conditions can be met (such conditions, the “Parity Tests”); and

WHEREAS, the Floyd County Council, as the fiscal body of the County (the “County Council”), hereby finds that the Parity Tests can be met with respect to the District’s Bonds, and, accordingly, such bonds will constitute a first charge against the EDIT Revenues on a parity with the pledge thereof to the Prior Obligations; and

WHEREAS, pursuant to Indiana Code 36-7-14-25.5(a)(1), in order to provide adequate security to ensure the repayment of the Bonds, the County Council now desires to pledge and assign the EDIT Revenues to the Commission to pay debt service on the Bonds, to the extent the TIF Revenues are insufficient for such purpose.

NOW THEREFORE, BE IT RESOLVED BY THE FLOYD COUNTY COUNCIL, AS FOLLOWS:

Section 1. Pledge of EDIT Revenues. The County Council hereby pledges and assigns the EDIT Revenues to the Commission for the repayment of the Bonds, to the extent that the TIF Revenues are insufficient for such purpose, for a term equal to the term of the Bonds. Other than the pledge of the EDIT Revenues to the Prior Obligations, the County Council hereby confirms that there are no other outstanding pledges or claims on the EDIT Revenues.

Section 2. Issuance of Parity Obligations. The County reserves the right to authorize and issue additional bonds payable from the EDIT Revenues or otherwise pledge the EDIT Revenues to secure lease rental payments or other obligations, ranking on a parity with the pledge thereof to the Bonds and the Prior Obligations (such additional bonds, lease rental payments or other obligations, the “Additional Parity Obligations”). In the event any Additional Parity Obligations are issued pursuant to this Section 2, the term “Bonds” in this Resolution shall, unless the context otherwise requires, be deemed to refer to the Bonds, the Prior Obligations and such Additional Parity Obligations and other changes may be made herein as required to reflect the issuance of such Additional Parity Obligations. Subject to the prior satisfaction of all of the terms of this Section 2 applicable to Additional Parity Obligations generally, the future issuance of Additional Parity Obligations is hereby authorized upon the adoption by the County Council of an ordinance or resolution, which Additional Parity Obligations shall have the same terms and be subject to the same provisions as set forth herein, except as otherwise provided by such ordinance or resolution. The authorization and issuance of Additional Parity Obligations shall be subject to the following conditions precedent:

(a) Any such Additional Parity Obligations shall not cause the County to exceed its debt limitation under Article 13, Section 1, of the Indiana Constitution as of the date of issuance.

(b) All payments due on the Bonds and all payments on any outstanding Parity Obligations payable from EDIT Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.

(c) As of the time of issuance of the proposed Additional 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 Additional Parity Obligations or other funds of the County.

(d) Either: (1) the EDIT Revenues of the County in the fiscal year immediately preceding the issuance of the proposed Additional Parity Obligations shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then-outstanding Bonds, the Prior Obligations, any other Parity Obligations and the Additional Parity Obligations proposed to be issued; or (2) the EDIT Revenues for the first full fiscal year immediately succeeding the issuance of any such proposed Additional Parity Obligations shall be projected by a certified public accountant to be at least equal to one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then-outstanding Bonds, the Prior Obligations, any other Parity Obligations and the Additional Parity Obligations proposed to be issued. For purposes of this subsection, the records of the County shall be analyzed and all showings prepared by a certified public accountant or independent financial advisor employed by the County for that purpose.

(e) The interest on the Additional Parity Obligations shall be payable semiannually on February 1 and August 1 in the years in which interest is payable and the principal of the Additional Parity Obligations shall be payable semiannually on August 1 and February 1 in the years in which principal is payable.

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

The County may issue obligations payable from EDIT Revenues on a junior and subordinate basis to the Bonds and any other outstanding Parity Obligations. However, any such junior and subordinate obligations shall be payable semiannually on February 1 and August 1.


Except as otherwise provided in this Section, so long as any of the Bonds or the Prior Obligations are outstanding, no additional bonds or other obligations secured by a pledge of any portion of the EDIT Revenues shall be authorized, executed or issued by the County, except such as shall be made subordinate and junior in all respects to the Bonds and the Prior Obligations, unless all of the Bonds and the Prior Obligations are redeemed and retired coincidentally with the delivery of such additional bonds or other obligations, or funds sufficient to effect such redemption are available and set aside for that purpose at the time of issuance of such additional bonds or other obligations.

Section 3. Authorization. The proper officers of the County are 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.

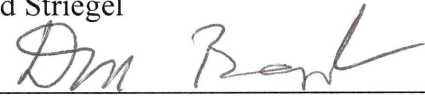
Section 4. Effective Date. This Resolution shall be in full force and effect from and after its passage.

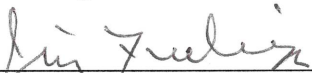
DULY ADOPTED by the Floyd County Council on this 9th day of January, 2024, by a vote of ____ in favor, ____ opposed, and ____ abstaining.

FLOYD COUNTY COUNCIL

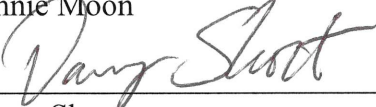

Denise Konkle


Brad Striegel


Dale Bagshaw

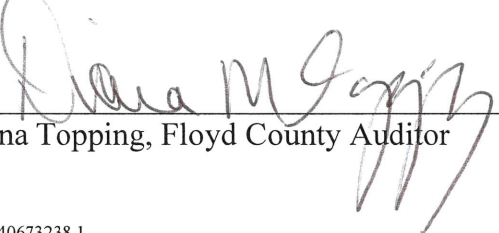

Jim Freiberger


Connie Moon


Danny Short


Tony Toran

ATTEST:


Diana Topping, Floyd County Auditor