

ORDINANCE 2021-43

AN ORDINANCE OF THE HENDRICKS COUNTY COUNCIL AUTHORIZING THE ISSUANCE OF THE HENDRICKS COUNTY, INDIANA TAXABLE ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2021 (I-70 WEST, LLC PROJECT), AND THE PROVISION OF THE PROCEEDS THEREOF TO I-70 WEST, LLC, OR AN AFFILIATE THEREOF, AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, Hendricks County, Indiana (the "County"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions;

WHEREAS, I-70 West, LLC, or an affiliate thereof (the "Company"), desires to finance the design and construction of certain public improvements described in Exhibit A hereto which are located in or directly serve and benefit the 70 West Commerce Park Economic Development Area (collectively, the "Projects");

WHEREAS, the Company will complete the Projects for use in connection with its mixed use development in or directly serving and benefiting the 70 West Commerce Park Allocation Area (the "Facilities");

WHEREAS, the Company has advised the Hendricks County Economic Development Commission (the "Commission") and the County that it proposes that the County issue its Taxable Economic Development Revenue Bonds, Series 2021 (I-70 West, LLC Project) in an amount not to exceed Twenty-One Million Dollars (\$21,000,000) (the "Bonds"), under the Act and provide the proceeds of such Bonds to the Company for the purpose of financing the Projects and paying the costs of issuing the Bonds;

WHEREAS, the completion of the Projects results in the diversification of industry, the creation of new jobs and the creation of business opportunities in the County;

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects;

WHEREAS, on the date specified in the notice of the Public Hearing, the Commission held the Public Hearing on the Projects;

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Hendricks County Council (the "Council") the forms of: (1) a Financing Agreement between the County and the Company (the "Financing Agreement"); (2) a Trust Indenture between the County and a trustee to be selected by the Auditor of the County (the "Trustee") (the "Indenture"); (3) the Bonds; and (4) this Bond Ordinance (the Financing Agreement, the Indenture, the Bonds, and this Bond Ordinance, collectively, the "Financing Agreements");

NOW, THEREFORE, BE IT ORDAINED BY THE HENDRICKS COUNTY COUNCIL, THAT:

Section 1. Findings; Public Benefits. The Council hereby finds and determines that the Projects involve the acquisition, construction and equipping of an “economic development facility” as that phrase is used in the Act; that the Projects will increase employment opportunities and increase diversification of economic development in the County, will improve and promote the economic stability, development and welfare in the County, will encourage and promote the expansion of industry, trade and commerce in the County and the location of other new industries in the County; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Projects by the issue of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the County; and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Projects by the issuance of the Bonds under the Act, in the form that such financing was approved by the Hendricks County Economic Development Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. (a) The Bonds, in the aggregate principal amount not to exceed Twenty-One Million Dollars (\$21,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Board of Commissioners of the County and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than February 1, 2039; (iv) bear interest at such rates as determined with the purchaser thereof (the “Purchaser”); (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

(b) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the County, but shall be special and limited obligations of the County, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Auditor of the County is hereby directed, in the name and on behalf of the County, to insert them into the minutes of the Council and to keep them on file.

Section 5. Sale of the Bonds. The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to sell the

Bonds to the Purchaser at such prices as are determined on the date of sale and approved by the Board of Commissioners and the Auditor of the County.

Section 6. Execution and Delivery of Financing Agreements. The Board of Commissioners and the Auditor of the County are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse and deliver the Financing Agreement, the Indenture, and the Bonds, submitted to the Common Council, which are hereby approved in all respects.

Section 7. Changes in Financing Agreements. The Board of Commissioners and the Auditor of the County are hereby authorized, in the name and on behalf of the County, without further approval of the Council or the Commission, to approve such changes in the Financing Agreements as may be permitted by Act, such approval to be conclusively evidenced by their execution thereof.

Section 8. General. The Board of Commissioners and the Auditor of the County, and each of them, are hereby authorized and directed, in the name and on behalf of the County, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Projects, the issuance and sale of the Bonds, the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 9. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the County and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 10. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 11. Effective Date. This Bond Ordinance shall be in full force and effect immediately upon adoption.

Section 12. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Auditor of the County, and are available for public inspection in accordance with I.C. § 36-1-5-4.

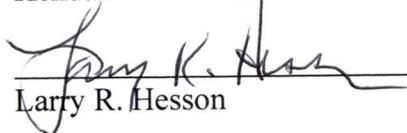
ALL

PASSED and adopted by the Hendricks County Council, this 6th day of July 2021.

HENDRICKS COUNTY COUNCIL

David Cox

Kendall Hendricks

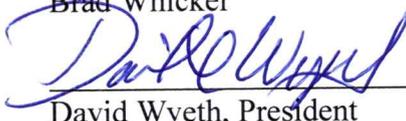


Larry R. Hesson

Larry R. Scott

Eric Wathen

Brad Whicker



David Wyeth, President

ATTEST:

Nancy L. Marsh, Hendricks County Auditor

EXHIBIT A

Eligible Projects to be Funded

The Projects consist of all or any portion of (i) the design and construction of, and acquisition of land and right-of-way for: public infrastructure including but not limited to roads, sanitary sewer lines, water mains, fire service, electrical service, and other infrastructure to be located in or directly serving and benefitting the 70 West Commerce Park Economic Development Area (the “Area”) created by the Hendricks County Redevelopment Commission, together with related legal and professional fees and other related miscellaneous costs, (ii) the redemption of the outstanding Hendricks County, Indiana Taxable Economic Development Revenue Bonds, Series 2013A and Series 2013B which were originally issued to finance and refinance a portion of the design and construction of, and acquisition of land and right-of-way for certain public infrastructure and related costs in the Area (the “2013 Project”), and (iii) paying off an outstanding 2010 reimbursement obligation of the Hendricks County Redevelopment Commission to the County.

EW/BW

43

ORDINANCE NO. 2021-XX

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WHEREAS, the completion of the Projects results in the diversification of industry, the creation of new jobs and the creation of business opportunities in the County;

WHEREAS, pursuant to I.C. § 36-7-12-24, the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Projects;

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HENDRICKS COUNTY COUNCIL

David Cox

Kendall Hendricks

Larry R. Hesson

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Eric Wathen

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ATTEST:

Nancy K. Marsh, Hendricks County Auditor

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