

**HOBART SANITARY DISTRICT BOARD OF COMMISSIONERS
HOBART STORM WATER MANAGEMENT DISTRICT BOARD OF DIRECTORS**

Joint Resolution No. 2016-03

**A Resolution to Amend the Memorandum and Record of Decision
of the Hobart Sanitary District and the Agency Agreement Previously Concluded
with the Hobart Redevelopment Authority and the Hobart Redevelopment
Commission to Authorize the Use and Expenditure of Proceeds Remaining from
the 2015 Lease Rental Revenue Bond for Downtown Infrastructure Projects**

WHEREAS, the Board of Commissioners (“Board”) of the City of Hobart Sanitary District and the Board of Directors of the City of Hobart Storm Water Management Department which are comprised of the same persons pursuant to law, has jurisdiction over and acts as governing body for both of said District and Department; and

WHEREAS, the Board has jurisdiction over waste water collection and treatment within the area comprised by the Hobart Sanitary District and over storm water management within the corporate boundaries of the City; and

WHEREAS, hereinafter the said District and Department shall be referred to collectively as the “District” or “HSD,” and

WHEREAS, the Hobart Redevelopment Authority (the “Authority”) issued in the aggregate principal amount of Three Million Seven Hundred Seventy-five Thousand and 00/100 Dollars (\$3,775,000.00) pursuant to I.C. §36-7-14.5-19 the “City of Hobart Redevelopment Authority Lease Rental Revenue Bonds of 2015” to finance certain improvements to City of Hobart Downtown infrastructure elements, such improvements including, among others, the construction of extensive sanitary and storm sewer improvements with accompanying street, water main and other utility work under the primary administration of the HSD, the construction of a parking lot and ornamental gateway structure under the primary administration of the Hobart Redevelopment Commission (the “Commission” or “RDC”); and certain other improvements, described below, to be undertaken from the remaining Lease-Rental Bond proceeds; and

WHEREAS, the Authority leased the infrastructure elements and other items improved as described above to the Commission by lease dated January 1, 2015 which was approved by the Commission and which pledged tax increment from the Greater Downtown and State Road 130 allocation area to defray the lease payments to the Authority to be used by the Authority to pay the debt service upon said Bonds, and

WHEREAS, the Commission has agreed with the District, in principle, to then enter into one or more agreements with the District for the operation and maintenance of the sewer and storm water improvements, to reimburse the Commission for the full cost of the sewer and storm water improvements financed by the Lease-Rental Bond, including the Bond issuance costs and annual Bond Trustee Fees, through one or more future payments to the Commission, to be determined by forthcoming agreement between the Commission and the Sanitary District; and

WHEREAS, the Authority, by its Resolution Number 2015-03, adopted and approved an Agency Agreement (“Agreement”) between the Commission and District on March 3, 2015 for the purpose, among others, of allocating sums from bond proceeds to the various elements of the project and to establish agency responsibilities for administration, coordination and financial management; and

WHEREAS, resolutions in substantially similar form also approving said Agency Agreement were then adopted and approved by the Commission on April 27, 2015 (Resolution No. 2015-04) and by the District, also on April 27, 2015 (Resolution No. 2015-04), and

WHEREAS, the District also adopted an Amended Record of Decision in said Resolution Number 2015-04 which was approved and concurred in by the Commission on April 27, 2015 in its said Resolution No. 2015-04; and

WHEREAS, the Agency Agreement as previously adopted by the Authority, Commission and District, provided that the proceeds of the Bonds are to be used to finance certain public improvements consisting of all or any portion of the following:

the (i) replacement and reconstruction of certain underground sanitary and storm sewers within the area bounded by 5th Street on the southeast, Lake George on the west, Duck Creek on the east and Deep River on the northwest,

(ii) construction of a public parking lot on real estate owned by the City;

(iii) construction of a “gateway” sign, monument and related road, sidewalk, trail and landscape enhancements at Main Street between 6th and 7th Streets;

(iv) replacement of the roof on the building located at 705 E. 4th Street, Hobart, Indiana being part of what is commonly known as the Police Court Complex;

(v) resurfacing and upgrading of the parking lot owned by the City located at 327 East Street, Hobart, Indiana; and

(vi) construction of not more than five (5) masonry structures each to surround a dumpster to be located upon the real estate located at 101 N. Lake Park, Hobart, Indiana and commonly known as the Lakefront Park;

(vii) relining of segments of the sanitary interceptor sewer that begins at County Line Road and State Road 130 and continues to the Main Lift Station; and

(viii) any related work, including without limitation, road reconstruction and widening, intersection improvement, traffic signal interconnection, utility relocation, utility and sidewalk installation, bridge improvements, wetland mitigation, and civil engineering, and other related improvements; and

WHEREAS, the improvements included in items (i), (ii) and (iii) of the project as described above have been substantially completed, and the Authority, Commission and District have been advised that there is remaining in Bond proceeds, the sum of \$858,949.55; and

WHEREAS, several projects in downtown Hobart, to be undertaken by the RDC or the District, and which may properly be funded from said remaining bond proceeds include the completion of Center Street Streetscape, downtown sewer relining, the reconstruction of Fourth Street between Main Street and Center Street, engineering work for NIPSCO electric relocation along Third Street and other downtown areas, other engineering work for conduit burial along Third Street and other downtown areas, the burial of that conduit itself, burial of overhead electric lines along Third Street adjacent to its crossing of Duck Creek, and electric utility line burial near the Clock Tower on Third Street (included within the description of Item (viii) above; and

WHEREAS, the District, under the Agency Agreement and Record of Decision, was limited to the expenditure of \$1,807,253.00 which has been substantially expended by item (i) above, thereby requiring the District or other City instrumentalities to defray the cost of the Main Street, Fourth Street, sewer relining, and some of the other projects remaining from other funds; and

WHEREAS, the Commission and District have negotiated an agreement whereby any one or more than one the above-mentioned remaining projects may be completed from the remaining bond funds, and the District agrees to make certain timely payments during the work by way of repayment for the use of Bond funds thereby making them available to the Commission for the performance of other listed projects, to be completed by December 31, 2016, and other terms and conditions set forth below; and

WHEREAS, the Commission passed and approved its Resolution No. 2016-09 on June 28, 2016 which is substantially similar to the instant Resolution, and which concurred in all of the terms and agreements of this Resolution; and

WHEREAS, the District now wishes, by this Resolution, to adopt and approve the above-described arrangement, subject only to the approval of a substantially similar resolution by the Authority.

THEREFORE, BE IT RESOLVED by the joint City of Hobart Sanitary District Board of Commissioners and Board of Directors of the City of Hobart Storm Water Management Department that:

SECTION ONE: The District agrees that the projects named below, with estimated costs, may be carried out by the City instrumentality listed, and the costs of same paid from the remaining proceeds of the 2015 Redevelopment Authority Lease Rental Revenue Bonds:

No.	Project	Agency	Cost
1	Center Street Streetscape	RDC	\$ 100,000.00 ¹
2	Downtown Sewer Relining	HSD	300,000.00
3	Fourth Street Improvements	HSD	445,000.00 ²
4	NIPSCO Engineering—RDC share (For electric line burial project on Third Street)	RDC	49,874.00 ³
5	RDC share of Butler, Fairman & Seufert, Inc. (BF & S) cost of preparation of conduit burial package for Third Street and other downtown areas	RDC	13,525.00 ⁴
6	Conduit burial on Third Street near Duck Creek (and elsewhere down- town if funding permits)	RDC	250,000.00 ⁵
7	Overhead electric lines burial on Third Street near Duck Creek (and elsewhere downtown if funding permits)	RDC	450,000.00 ⁶
8	Overhead electric line burial work At the Clock Tower on Main Street and Third	RDC	TBD
9	RDC contribution of \$25,000.00 From Bond proceeds to cover Fourth Street sidewalks	RDC	25,000.00

¹ To be paid by RDC to contractor directly from Bond proceeds.

² RDC will make \$25,000.00 contribution toward sidewalks from Bond proceeds.

³ This is the RDC's share of the total of \$99,748.00 for NIPSCO engineering work for the Third Street and other downtown areas' electric line relocation (burial). The balance will be paid by the Board of Public Works & Safety (BOW), and the RDC amount will be reimbursed from Bond proceeds after completion.

⁴ This is the RDC's approximate share of the cost of BF & S services to develop the conduit burial package for Third Street and other downtown areas. The total fee is \$23,925.00. The balance will be paid by the BOW.

⁵ This will be an RDC contracted project.

⁶ The contract for this work with NIPSCO calls for payment of four-fifths of the contract amount in advance in the Fall of 2016 and the balance paid as part of a contractual true-up post project implementation.

SECTION TWO: The District agrees to the amendment of the Agency Agreement previously adopted by the Authority, the Commission and the Sanitary District as authorized by Section 1 (c) of Authority Resolution No. 2015-03 as follows:

“The District is authorized to undertake, with respect to the above-described work remaining, as follows:

a. The reconstruction of approximately 300 feet of Fourth Street including 12 inch storm sewer, 8 inch sanitary sewer, decorative lighting, traffic signal, sidewalks, ADA ramps, and other required appurtenances. The District will obtain reimbursement from the BOW for elements of the Fourth Street work which are properly not included in sanitary or storm water sewer improvements;

b. The relining of certain Downtown sanitary sewers in an amount not to exceed \$300,000.00.

c. The completion of Center Street Streetscape subject to payment by the Commission for those elements of the Center Street work that are not eligible District expenses. This work may be done via the contract award by the District to Walsh & Kelly, Inc., or by change order to the existing contract with Hasse Construction Co., Inc.

The District shall prepare or cause to be prepared design and bid documents, solicitations to bidders, to make award of the contract or contracts for the work, to inspect, administer and oversee construction on behalf of the Authority as owner, to authorize change orders as necessary, to report to the Authority and Commission on the progress of construction, and to perform all related matters necessary and desirable for the efficient, timely and cost effective completion of the work.

The Commission is authorized to undertake, with respect to the above-described work remaining, as follows:

a. Engineering work for NIPSCO electric relocation along Third Street and other downtown areas;

b. Other engineering work for conduit burial along Third Street and other downtown areas;

c. The burial of the conduit along Third Street and other downtown areas;

d. The Burial of overhead electric lines along Third Street adjacent to its crossing of Duck Creek, near the Clock Tower on Third Street and in other downtown areas.

The Commission or Board of Public Works and Safety shall prepare or cause to be prepared design and bid documents and solicitations to bidders, to make award of the contract or contracts for the work, to inspect, administer and oversee construction on behalf of the Authority as owner, to authorize change orders as necessary, to report to the Authority and Commission on the progress of construction, and to perform all related matters necessary and desirable for the efficient, timely and cost-effective completion of the work.”

SECTION THREE: The District agrees to amend the Memorandum and Record of Decision adopted by the District Board on February 11, 2015 and amended by said Board in Resolution Number 2015-04, and previously concurred in by the Commission, as follows:

The second and third paragraphs of Section 2 of said Memorandum and Record entitled “Financing and Cost Sharing” is amended by striking out said paragraphs and inserting the following paragraphs in lieu thereof:

“The bond issue will yield proceeds for construction, after operating costs, of approximately \$3.125 million. These funds will be allocated among the three parts of the project as follows:

Sewer Improvements:	\$ 1,807,010.02
Gateway and Parking Lot Construction: Including engineering, design and Construction Administration	577,789.71
Additional work required to complete Main Street, Fourth Street, and other projects allocated to either the Sanitary District or RDC as described in RDC Resolution No. 2016-09	891,342.07
Total	\$ 3,276,141.80

HSD will be solely responsible for financing, from its own resources, all project costs in excess of \$2,532,010.02, which is the sum of the completed downtown sewer improvements and items 2 and 3 in Section Two of RDC Resolution 2016-09 (Fourth Street costs and downtown sewer relining). Additionally, HSD will cover its engineering and other soft costs for the sewer portion. HSD will have no administrative role or responsibility with respect to the Parking Lot and Gateway, but may be requested to participate in the financing of storm water BMPs for the parking lot.

For the purpose of assuring that the proceeds of the 2015 Lease Rental Bond are fully expended on qualified projects, and, at the same time, assuring that the Commission will have adequate funds to cover the cost of items numbered 4, 5, 6, 7, 8 and 9 in Section Two of its Resolution No. 2016-09, the District and Commission have agreed to the following procedure:

With respect to any claim submitted by the District to the Bond Trustee of the 2015 Lease Rental Revenue Bonds, for payment from Bond proceeds for items numbered 2 and 3 in Section Two of RDC Resolution 2016-09 and Section One of District Joint Resolution 2016-03 (Fourth Street costs and downtown sewer relining) to its contractor, the District agrees:

- a. To submit a copy of such claim to the City Director of Development for review and approval prior to submission to the Bond Trustee, and
- b. To approve, at the same meeting as the claim is approved for submission to the Trustee, a payment in an equal amount from District funds to Redevelopment Commission Fund 406.

HSD affirms that it will reimburse to the Commission the cost of all sanitary sewer and storm-water improvements as well as the cost of items numbered 2 and 3 in Section Two of RDC Resolution 2016-09 and Section One of District Joint Resolution 2016-03 (Fourth Street costs and downtown sewer relining). HSD also agrees to pay, in addition to the amounts required in subparagraph (b) above, the sum of \$500,000.00 toward such reimbursement to RDC Fund 406 on or before December 31, 2016. The District also agrees to re-pay to the RDC Fund 406 the balance of said reimbursement and reimbursement for the issuance costs of the 2015 Bond, less the amounts paid by the District to Fund 406 in said subparagraph (b), and as otherwise provided above, through one or more future payments to the Commission Fund 406, in precise amounts to be due according to a payment schedule to be determined by forthcoming agreement between the Commission and the Sanitary District to be dated on or before December 31, 2016. The District also agrees to pay directly the annual Bond Trustee Fees for the 2015 Bond and any other fees related to the maintenance of the Bonds including continuing disclosure fees. The RDC agrees to pay the issuance costs, Trustee fees, continuing

disclosure fees and other related fees of the 2014 Lease Rental Revenue Bonds.”

SECTION FOUR: The President and Secretary of the Board, and each of them, is hereby authorized to take all such actions and to execute all such instruments as are desirable to carry out the transactions contemplated by this Resolution, in such forms as the President and Secretary executing the same shall deem proper, to be evidenced by the execution thereof.

SECTION FIVE: This resolution shall be in full force and effect from and after the date of its adoption by all of the Authority, the Commission and the District.

ALL OF WHICH is adopted as the Resolution of the joint City of Hobart Sanitary District Board of Commissioners and Board of Directors of the City of Hobart Storm Water Management Department on this 13th day of July, 2016.



ROBERT B. FULTON, President

ATTEST:



PHILLIP E. GRALIK, P.E., Secretary