

RESOLUTION NO. 2022-04

JUDY MURRAY

**A RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF LAFAYETTE, INDIANA AMENDING RESOLUTION 2021-33 APPROVING
AN AMENDED AND RESTATED LEASE BETWEEN THE LAFAYETTE
REDEVELOPMENT AUTHORITY AND THE LAFAYETTE REDEVELOPMENT
COMMISSION, AUTHORIZING THE ISSUANCE OF BONDS BY THE LAFAYETTE
REDEVELOPMENT AUTHORITY AND OTHER MATTERS RELATED THERETO**

**(CONSOLIDATED CREASY/CENTRAL
ECONOMIC DEVELOPMENT AREA PROJECT)**

WHEREAS, the Lafayette Redevelopment Authority (the "Authority") has been created pursuant to Indiana Code 36-7-14, Indiana Code 34-7-14.5, and Indiana Code 36-7-25 (the "Act"), as a separate body corporate and politic, and as an instrumentality of the City of Lafayette, Indiana (the "City") to finance local public improvements for lease to the Lafayette Redevelopment Commission (the "Commission"), the governing body of the Lafayette Department of Redevelopment (the "Department") and the Lafayette Redevelopment District (the "District"), existing and operating under the provisions of the Act;

WHEREAS, the Authority and the Common Council of the City of Lafayette, Indiana (the "Common Council") have been previously advised that market conditions may permit the advance refunding and defeasance of the Authority's outstanding Lease Rental Bonds of 2014 (Consolidated Creasy/Central Economic Development Area Project) (the "2014 Bonds") in order to reduce the annual lease rental payments made by the Commission on a prior lease which will, in turn, result in substantial savings and reduction of interest costs to the City and the Authority;

WHEREAS, the Common Council adopted Resolution No. 2021-33 on November 1, 2021 (the "Initial Resolution"), a copy of which is attached hereto as Exhibit A, which Resolution authorized the issuance of certain Refunding Bonds (as defined in the Initial Resolution) in an aggregate principal amount not to exceed Sixteen Million One Hundred Thousand Dollars (\$16,100,000) for the purpose of providing funds to (a) effect the advance refunding and defeasance of the 2014 Bonds, (b) fund a debt service reserve or pay the premium for a debt service reserve surety policy, if necessary, and (c) pay the cost of issuing the Refunding Bonds and the advance refunding and defeasance of the 2014 Bonds;

WHEREAS, following the adoption of the Initial Resolution, Baker Tilly Municipal Advisors, LLC, the municipal advisor to the Authority (the "Municipal Advisor"), solicited proposals from lenders, qualified bankers, brokers, investment banks, institutional investors and others to purchase the Refunding Bonds;

WHEREAS, based upon a review of the proposals received and upon the advice of the Municipal Advisor, the Authority determined pursuant to Resolution 2022-01, adopted on February 24, 2022, that it is necessary, desirable and in the best interest of the City to issue the Refunding Bonds to be acquired by Capital One Public Funding, LLC (the "Lender") pursuant to the terms and conditions of a term sheet or commitment to be executed by the Lender and the Authority;

WHEREAS, due to certain provisions contained in the Internal Revenue Code of 1986, as amended (the “Code”), it is necessary to issue the Refunding Bonds on a taxable basis, while also maintaining the ability to convert the Refunding Bonds into tax-exempt obligations when and if permitted by the Code;

WHEREAS, the Common Council now finds that the issuance, sale and delivery of the Refunding Bonds will result in substantial savings and reduction of interest costs to the City and the Authority; and

WHEREAS, the Common Council desires to amend the Initial Resolution to authorize the ability to convert the Refunding Bonds into tax-exempt obligations when and if permitted by the Code and as agreed upon by the Authority and the Lender.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA:

Section 1. Section 3 of the Initial Resolution is hereby deleted and replaced with the following:

Section 3. The Authority is hereby authorized to issue the Refunding Bonds in one or more series, any series of which may be taxable or tax-exempt for federal income tax purposes, in the maximum aggregate principal amount not to exceed Sixteen Million One Hundred Thousand Dollars (\$16,100,000), in the form and subject to the terms and conditions set forth in the Trust Indenture, for the purpose of providing funds to effect the advance refunding and defeasance of the 2014 Bonds and pay the cost of issuing the Refunding Bonds and the advance refunding and defeasance of the 2014 Bonds. The Refunding Bonds shall initially be designated the “Lafayette, Indiana Redevelopment Authority Lease Rental Revenue Refunding Bonds of 2022 (Federally Taxable Convertible – Consolidated Creasy/Central Economic Development Area Project)” (with such further or different designation determined to be necessary or appropriate, including such designation to indicate the year in which the bonds are issued and subject to change upon Conversion (as defined herein)), shall bear interest at a rate or rates not exceeding six percent (6.0%) per annum payable semi-annually on each February 1 and August 1, commencing August 1, 2022 or thereafter, through the final maturity of the Refunding Bonds, shall be numbered consecutively, shall be dated as of the first or fifteenth day of the month in which the Refunding Bonds are delivered, or the date of delivery, as determined by the City Clerk with the advice of the Municipal Advisor. The Refunding Bonds shall be issued in minimum denominations of Two Hundred Fifty Thousand Dollars (\$250,000) and in any integral multiple of One Thousand Dollars (\$1,000) in excess thereof, or in such higher minimum denominations at the option of the Lender and the President of the Authority, may be issued as one or more term bonds subject to mandatory sinking fund redemption prior to maturity at such dates and in such amounts as determined in the Trust Indenture, which Trust Indenture is hereby approved substantially in the form submitted to this meeting, with such changes and modifications as such officer of the Authority deems necessary or appropriate to consummate the sale of the Refunding Bonds.

Upon satisfaction of the conditions set forth in the Trust Indenture, the Refunding Bonds shall become tax-exempt obligations and the interest thereon shall be excluded from the gross income of the holders thereof for federal income tax purposes (the “Conversion”). If all of the conditions precedent set forth in the Trust Indenture are not satisfied, there will be no Conversion and the Refunding Bonds will continue to bear interest at the taxable rate and the interest thereon will continue to be included in the gross income of the holders thereof for federal income tax purposes. Notwithstanding the forgoing, no Conversion shall occur prior to May 3, 2023, unless a change in the Code would permit a Conversion of the Refunding Bonds on an earlier date, in which case a Conversion would be permitted with the prior written consent of the Lender.

Section 2. If any part of this Resolution shall be adjudged to be invalid by a court of proper jurisdiction, it shall be conclusively presumed that the Common Council of the City would have passed the remainder of the Resolution without such invalid part.

Section 3. All other provisions of the Initial Resolution shall remain in full force and effect.

Section 4. This Resolution shall be in full force and effect immediately upon its passage.

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PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA on this 7th day of March, 2022.

COMMON COUNCIL,
CITY OF LAFAYETTE, INDIANA

Perry E. Brown, President

ATTEST:

Cindy Murray, City Clerk

Presented by me the undersigned City Clerk of the City of Lafayette, Indiana, to the Mayor of said City this 7th day of March, 2022 for his consideration and action thereon.

Cindy Murray, City Clerk

Having examined the foregoing Resolution, I do now, as Mayor of the said City of Lafayette, Indiana, approve said Resolution and return the same to the City Clerk of the City of Lafayette this 7th day of March, 2022.

Tony Roswarski, Mayor
City of Lafayette, Indiana

EXHIBIT A

RESOLUTION NO. 2021-33

(Attached)

RESOLUTION NO. 2021-33

CINDY MURRAY

**A RESOLUTION OF THE COMMON COUNCIL OF THE
CITY OF LAFAYETTE, INDIANA APPROVING AN AMENDED AND RESTATED
LEASE BETWEEN THE LAFAYETTE REDEVELOPMENT AUTHORITY
AND THE LAFAYETTE REDEVELOPMENT COMMISSION, AUTHORIZING THE
ISSUANCE OF BONDS BY THE LAFAYETTE REDEVELOPMENT AUTHORITY
AND OTHER MATTERS RELATED THERETO**

**(CONSOLIDATED CREASY/CENTRAL
ECONOMIC DEVELOPMENT AREA PROJECT)**

WHEREAS, the Lafayette Redevelopment Authority (the "Authority") has been created pursuant to Indiana Code 36-7-14, Indiana Code 34-7-14.5, and Indiana Code 36-7-25 (the "Act"), as a separate body corporate and politic, and as an instrumentality of the City of Lafayette, Indiana (the "City") to finance local public improvements for lease to the Lafayette Redevelopment Commission (the "Commission"), the governing body of the Lafayette Department of Redevelopment (the "Department") and the Lafayette Redevelopment District (the "District"), existing and operating under the provisions of the Act;

WHEREAS, on December 23, 2014, the Authority issued its Lease Rental Bonds of 2014 (Consolidated Creasy/Central Economic Development Area Project) (the "2014 Bonds"), in the aggregate principal amount of Sixteen Million One Hundred Sixty Thousand Dollars (\$16,160,000), pursuant to a Trust Indenture between the Authority and Old National Bank, as trustee, for the purpose of procuring funds to acquire and construct certain local public improvements more specifically set forth and described in the Lease (as defined herein) (collectively, the "Projects");

WHEREAS, in connection with the issuance of the 2014 Bonds, the Authority, as lessor, and the Commission, as lessee, entered into a Lease Agreement, dated as of October 1, 2014, as supplemented and amended by Addendum One to Lease, dated as of December 14, 2014 (collectively, the "Lease") for the lease of the Projects to the Commission by the Authority;

WHEREAS, Indiana Code 5-1-5 authorizes the refunding of the 2014 Bonds in order to achieve a savings and generate additional cash from the existing annual lease rental requirement under the Lease;

WHEREAS, based upon information provided by Baker Tilly Municipal Advisors, LLC, municipal advisor to the Authority, the Authority has determined that gross savings may be realized with respect to debt service under the 2014 Bonds, which savings will be generated through the refunding of all of the 2014 Bonds;

WHEREAS, the Authority, pursuant to Indiana Code 36-7-14.5-19 has adopted a resolution authorizing the issuance and sale of bonds designated as the "Lafayette, Indiana Redevelopment Authority Taxable Lease Rental Revenue Refunding Bonds of 20__ (Consolidated Creasy/Central Economic Development Area Project)" (with such further or different designation determined to be necessary or appropriate, including such designation to indicate the year in which the bonds are issued) (the "Refunding Bonds"), in an aggregate principal amount not to exceed

Sixteen Million One Hundred Thousand Dollars (\$16,100,000), pursuant to a trust indenture (the "Trust Indenture"), between the Authority and a trustee to be selected by the Authority (the "Trustee"), for the purpose of providing funds to (a) effect the advance refunding the 2014 Bonds, currently outstanding in the principal amount of Fourteen Million Eight Hundred Twenty Thousand Dollars (\$14,820,000), (b) fund a debt service reserve or pay the premium for a debt service reserve surety policy, if necessary, and (c) pay the cost of issuing the Refunding Bonds and the advance refunding of the 2014 Bonds;

WHEREAS, the Refunding Bonds (a) shall be issued in denominations of \$1,000 or \$5,000 and any integral multiples in excess thereof, (b) shall mature semi-annually on February 1 and August 1 over a period ending not later than August 1, 2039, (c) will bear an interest at a rate or rates not to exceed six percent (6.0%), (d) shall be sold at a price not less than ninety-nine percent (99.0%) of the par amount thereof, (e) shall be subject to redemption prior to maturity as set forth in the Trust Indenture, and (f) shall be subject to the other terms and conditions as more specifically described in the Trust Indenture;

WHEREAS, on October 28, 2021, the Authority adopted a resolution approving an amendment to and restatement of the Lease (the "Amended Lease") relating to the Projects;

WHEREAS, the Amended Lease provides for the lease of the Projects from the Authority to the Commission and provides for payments from the Commission to the Authority thereunder (the "Lease Payments");

WHEREAS, the Lease Payments to be paid by the Commission under the Amended Lease will be derived from Tax Increment generated from the Consolidated Central Lafayette Allocation Area and Consolidated Creasy Lane Allocation Area pursuant to Indiana Code 36-7-14-39, and if those funds are insufficient, from a special benefits tax levied and collected in the District under Indiana Code 36-7-14-27 (the "Special Benefits Tax");

WHEREAS, pursuant to Indiana Code 36-7-14-25.2(c), a notice of public hearing on the Amended Lease was published and the Commission held a public hearing concerning said Amended Lease on October 28, 2021, in which all interested parties were provided the opportunity to be heard;

WHEREAS, following the public hearing, the Commission subsequently adopted a resolution (the "Commission Resolution"), in the form previously filed with the Common Council of the City of Lafayette, Indiana (the "Common Council"), approving the Amended Lease;

WHEREAS, the Commission Resolution finds, pursuant to the Act, that the Lease Payments made by the Commission to the Authority pursuant to the Amended Lease, and continuing through the expiration of the Amended Lease, are fair and reasonable, and pursuant to Indiana Code 36-7-14-25.2, that the use of the Projects throughout the term of the Amended Lease will serve the public purpose of the City and is in the best interests of its residents; and

WHEREAS, the Common Council now desires to approve the issuance of the Refunding Bonds and the Amended Lease as required under the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA:

Section 1. The Common Council hereby finds that refunding the 2014 Bonds and the execution of the Amended Lease will serve the public purpose of the City and is in the best interests of its residents.

Section 2. Pursuant to the Act, the Common Council hereby approves the Amended Lease in substantially the form presented at this meeting, with a maximum term of not more than twenty-five (25) years and a maximum annual Lease Payment not to exceed \$1,450,000, with such changes in form and substance as the respective President or Vice President of the Commission and the Authority shall mutually approve, such approval to be conclusively evidenced by the execution thereof by the Commission and the Authority.

Section 3. The Authority is hereby authorized to issue the Refunding Bonds, in one or more series in an aggregate principal amount not to exceed Sixteen Million One Hundred Thousand Dollars (\$16,100,000).

Section 4. The Special Benefits Tax shall be levied, if necessary, by the Commission pursuant to Indiana Code 36-7-14-27 in order to pay the Lease Payments due under the Amended Lease.

Section 5. After the issuance of the Refunding Bonds and for so long as such Refunding Bonds are outstanding, this Resolution shall not be repealed, amended or modified in any respect which will materially adversely affect the rights or interests of the owners of the Refunding Bonds.

Section 6. If any part of this Resolution shall be adjudged to be invalid by a court of proper jurisdiction, it shall be conclusively presumed that the Common Council of the City would have passed the remainder of the Resolution without such invalid part.

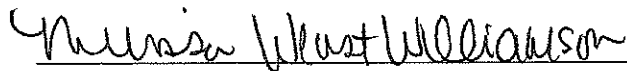
Section 7. All resolutions or ordinances or parts of resolutions or ordinances in conflict herewith are hereby repealed.

Section 8. This Resolution shall be in full force and effect immediately upon its passage.

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PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF LAFAYETTE, INDIANA on this 1st day of November, 2021.

COMMON COUNCIL,
CITY OF LAFAYETTE, INDIANA



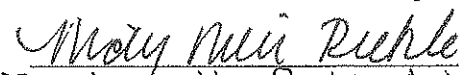
Melissa Weast-Williamson, President

ATTEST:



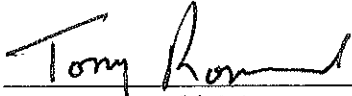
Mindy Miller Riehle, 1st Deputy Clerk

Presented by me the undersigned City Clerk of the City of Lafayette, Indiana, to the Mayor of said City this 1st day of November, 2021 at 6 o'clock p.m., for his consideration and action thereon.



Mindy Miller Riehle, 1st Deputy Clerk

Having examined the foregoing Resolution, I do now, as Mayor of the said City of Lafayette, Indiana, approve said Resolution and return the same to the City Clerk of the City of Lafayette this 1st day of November, 2021.



Tony Roswarski, Mayor
City of Lafayette, Indiana