

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

3
4 **Joint Resolution No. 2017-01**

5
6 **A Resolution Approving an Interagency Agreement between the joint Hobart**
7 **Sanitary District and Storm Water Management Department (collectively,**
8 **“District”) and the Hobart Redevelopment Commission (“RDC”) for the**
9 **Repayment of RDC Funds Expended on Behalf of the District to RDC Fund 406**
10 **for the Downtown Sewer Improvement Project**

11
12 WHEREAS, the Board of Commissioners of the City of Hobart Sanitary District and the
13 Board of Directors of the City of Hobart Storm Water Management Department which are
14 comprised of the same persons pursuant to law (“Board”), has jurisdiction over and acts as
15 governing body for both of said District and Department; and

16
17 WHEREAS, the Board has jurisdiction over waste water collection and treatment within
18 the area comprised by the Hobart Sanitary District and over storm water management within the
19 corporate boundaries of the City of Hobart; and

20
21 WHEREAS, hereinafter the said District and Department shall be referred to collectively
22 herein as the “District” or “HSD,” and

23
24 WHEREAS, the Hobart Redevelopment Authority (the “Authority”) issued the “City of
25 Hobart Redevelopment Authority Lease Rental Revenue Bonds of 2015” in the aggregate
26 principal amount of Three Million Seven Hundred Seventy-five Thousand and 00/100 Dollars
27 (\$3,775,000.00) pursuant to I.C. §36-7-14.5-19 (the “Lease-Rental Bond”) to finance certain
28 improvements to City of Hobart Downtown infrastructure elements, such improvements
29 including, among others, the construction of extensive sanitary and storm sewer improvements
30 with accompanying street, sidewalk, drive, water main and other utility work under the primary
31 administration of the District; and

32
33 WHEREAS, the Authority leased said infrastructure elements and other items
34 constructed and improved from the proceeds of said bonds to the Hobart Redevelopment
35 Commission (“RDC” or “Commission”) by lease dated January 1, 2015 which was approved by
36 the Commission and which pledged tax increment from the State Road 130 Industrial Area and
37 Greater Downtown Hobart Redevelopment Area to defray the lease payments to the Authority to
38 be used by the Authority to pay the debt service upon said Bonds, and

39
40 WHEREAS, the RDC and District entered into, adopted and approved an Agency
41 Agreement (“Agreement”) on April 23, 2015 for the purpose, among others, of allocating sums
42 from bond proceeds to the various elements of the project and to establish agency responsibilities
43 for administration, coordination and financial management, and the Authority, by its Resolution
44 Number 2015-03, approved said Agreement; and

45

46 WHEREAS, in said Agreement, the RDC has agreed with the District to enter into one or
47 more further agreements for the operation and maintenance of the sewer and storm water
48 improvements and to reimburse the Commission for the full cost of the sewer and storm water
49 improvements financed by the Lease-Rental Bond, including the Bond issuance costs and annual
50 Bond Trustee Fees which are being reimbursed and assumed by the District, through one or more
51 future payments to the RDC as set forth below; and
52

53 WHEREAS, resolutions in substantially similar form also approving said Agency
54 Agreement were then adopted and approved by the District, on April 27, 2015 (Resolution No.
55 2015-04) and by the Commission on April 28, 2015 (Resolution No. 2015-04), and
56

57 WHEREAS, the Board also adopted an Amended Record of Decision in said Resolution
58 Number 2015-04 reflecting the foregoing decisions; and
59

60 WHEREAS, through RDC Resolution Number 2016-09 Adopted on June 27, 2016 and
61 HSD Joint Resolution Number 2016-03 adopted on July 13, 2016, the Agreement and the above-
62 referenced Record of Decision was further amended to provide for the use of remaining proceeds
63 of the Lease Rental Bond of 2015 among projects to be completed by the RDC and HSD, and
64 included the following substantially similar language in Section Three of said District Resolution
65 and in Section Four of the RDC Resolution:
66

67 HSD affirms that it will reimburse to the Commission the
68 cost of all sanitary sewer and storm-water improvements as well as
69 the cost of items numbered 2 and 3 in Section Two of RDC
70 Resolution 2016-09 and Section One of District Joint Resolution
71 2016-03 (Fourth Street costs and downtown sewer relining). HSD
72 also agrees to pay, in addition to the amounts required in
73 subparagraph (b) above, the sum of \$500,000.00 toward such
74 reimbursement to RDC Fund 406 on or before December 31, 2016.
75 The District also agrees to re-pay to the RDC Fund 406 the balance
76 of said reimbursement and reimbursement for the issuance costs of
77 the 2015 Bond, less the amounts paid by the District to Fund 406
78 in said subparagraph (b), and as otherwise provided above, through
79 one or more future payments to the Commission Fund 406, in
80 precise amounts to be due according to a payment schedule to be
81 determined by forthcoming agreement between the Commission
82 and the Sanitary District to be dated on or before December 31,
83 2016. The District also agrees to pay directly the annual Bond
84 Trustee Fees for the 2015 Bond and any other fees related to the
85 maintenance of the Bonds including continuing disclosure fees.
86 The RDC agrees to pay the issuance costs, Trustee fees, continuing
87 disclosure fees and other related fees of the 2014 Lease Rental
88 Revenue Bonds.
89

90 and
91

92 WHEREAS, the projects to be done by the use of the proceeds of the Lease-Rental Bond
93 of 2015 have now been substantially completed, and the District and RDC desire, through this
94 Resolution (a substantially similar version of which is being adopted by the Commission and
95 approved by the Authority), to memorialize their agreements as to the details of the repayment of
96 the Bond proceeds used by the District for the above-described purposes and its acceptance of
97 operation and maintenance responsibilities with respect to the infrastructure elements to be paid
98 for by the District.
99

100 THEREFORE, BE IT RESOLVED by the joint City of Hobart Sanitary District Board of
101 Commissioners and Board of Directors of the City of Hobart Storm Water Management
102 Department that:
103

104 *SECTION ONE:* The District hereby agrees with the RDC and RDA that
105 the total sum expended from the City of Hobart Redevelopment Authority Lease
106 Rental Revenue Bonds of 2015 for Downtown Hobart Sanitary and Storm Sewer
107 improvements and related street, sidewalk, drive, water main and utility work
108 undertaken under the administration of the District closely approximates One
109 Million Nine Hundred Thousand and no/100 Dollars (\$1.9 million). This amount
110 is referred to herein as the "Estimated Amount Due." The precise amount due
111 will not be known until all invoices, change orders, quantity charges and other
112 costs are finally fixed in the coming months. This total of all actual amounts
113 incurred for the Downtown Hobart Sanitary and Storm Sewer improvements and
114 related street, sidewalk, drive, water main and utility work undertaken under the
115 administration of the HSD is hereinafter referred to as the "Actual Amount Due."
116 The Actual Amount Due shall take into account those items:
117

118 a. specified for payment or reimbursement by the District pursuant to
119 RDC Resolution 2016-09 and substantially similar HSD Joint Resolution 2016-
120 03; and
121

122 b. of work performed for street, sidewalk and related improvements
123 which may be paid for or reimbursed through a Federal Highway Administration
124 grant administered by the Indiana Department of Transportation ("INDOT") for
125 the Downtown Hobart Streetscape Project. The District and RDC concur that
126 payments provided for in Sections Two and Three are subject to adjustment to
127 reflect any grant payments when that information becomes available from INDOT
128 and will be the subject of actions amendatory to this resolution of the District and
129 the substantially similar resolution of the RDC.
130

131 *SECTION TWO:* The District hereby agrees to pay out of its funds to
132 RDC Fund 406 (such Fund being the source of RDC lease- rental payments to the
133 Authority), payments in the following amounts on or before the dates specified
134 below:
135
136
137

	<u>Amount</u>	<u>Due Date</u>	<u>Source</u>
138			
139			
140	Payment 1: \$ 500,000.00	December 31, 2016	Sanitary District
141	Payment 2: 250,000.00	March 31, 2017	Sanitary District
142	Payment 3: 250,000.00	July 31, 2017	Storm Water Dept.
143	Payment 4: 300,000.00	July 31, 2018	\$150,000 each Sanitary & Storm
144	Payment 5: 300,000.00	July 31, 2019	\$150,000 each Sanitary & Storm
145	Payment 6: 300,000.00	July 31, 2020	\$150,000 each Sanitary & Storm
146			

147 Payments 1 through 5 shall be made in the precise amounts specified above. Payment 6
 148 shall be subject to adjustment, either by increase or decrease, to equal the Actual Amount
 149 Due, as determined by the Clerk-Treasurer of the City and the Director of Development
 150 in consultation with the RDC and District.

151
 152 The District is aware of certain project-related funding commitments which the
 153 RDC has made in connection with its projects for 2017 and several years thereafter.
 154 There may arise instances in which the need for funds to pay current expenses for these
 155 projects in RDC Fund 406, due to unforeseen factors such as higher than anticipated bids
 156 or expenses, is in excess of the funds available and not already committed at that moment
 157 in Fund 406. To the extent that additional funds are not available to Fund 406 by a
 158 temporary loan from another RDC fund, the District shall consider, based on its own
 159 project commitments at the time, accelerating the payment schedule stated above in this
 160 section, by early payment of a portion of the total amount remaining due by the District
 161 to the RDC on the 2015 Lease-Rental Bond, up to the amount of the next payment due.
 162 If funds are available for temporary loan from another RDC fund (such loans being
 163 limited by law to the maximum of a twelve (12) month period), the RDC will effect the
 164 temporary loan, and the District shall, during the ensuing loan period, arrange to make
 165 said early payment in an amount not exceeding the next payment due under the schedule
 166 set out in this Section Two, above, taking into account the regular payments due under
 167 said schedule (and under the schedule in subsection 4 of Section Two, below) which shall
 168 be made on-time in addition to the early payment. In the event of such early payment,
 169 the schedule of remaining payments will be adjusted by the agreement of the District and
 170 RDC, in writing.

171
 172 *SECTION THREE:* The scheduled payments of the District required by Section
 173 Two above shall be in addition to, and not inclusive of:

174
 175 1. The reimbursement of 2015 Lease-Rental Bonds issuance
 176 costs, capitalized interest, debt service reserve and underwriter's discount
 177 in the total sum of \$498,858.20, and

178
 179 2. The payment of the annual "I/O amount" which is the
 180 difference between the total lease payments made annually by the RDC
 181 less the total debt service payments due to the Bond Trustee. This I/O
 182 Amount defrays the fees of the Bond Trustee and is available for other
 183 expenses related to the maintenance of the lease rental bond of 2015. The

184 I/O Amount for each year of the Lease is given on the exhibit attached
185 hereto and made a part hereof. The total I/O amount, including capitalized
186 interest as specified in the Bond Schedules, is \$124,518.48.
187

188 3. Any other Trustee Fees for the 2015 Bond not otherwise
189 covered by the I/O Amount, and any other fees related to the maintenance
190 of the Bonds including continuing disclosure fees which shall be paid by
191 the District directly to the Trustee or the City's financial advisor, as the
192 case may be, when due, and which are not otherwise paid by the I/O
193 Amount.
194

195 4. The reimbursement amounts due and payable under
196 subsection 1 of this section shall be paid by the District, in addition to the
197 amounts due to be paid under Section Two and subsections 2 and 3 of this
198 Section Three, above, as follows:
199

200	Payment 1:	\$ 50,000.00	due by July 31, 2017
201	Payment 2:	150,000.00	due by July 31, 2018
202	Payment 3:	150,000.00	due by July 31, 2019
203	Payment 4:	148,858.20	due by July 31, 2020

204

205 Said payments shall be made by the Clerk-Treasurer to RDC Fund 406.
206 The amount of payment number 4 shall be adjusted, if necessary, to reflect
207 any changes in actual issuance amounts incurred in connection with the
208 2015 Lease Rental Revenue Bond.
209

210 5. The District shall be responsible for paying all of the amounts
211 due or to become due, specified in subsections 2 and 3 above, in
212 connection with the 2015 Lease-Rental Bond to Commission Fund 406, in
213 the precise amount to be determined by the Clerk-Treasurer and paid on or
214 before July 31, 2017 and by July 31 of each year thereafter, as such
215 obligations shall become fixed and payable. The Clerk-Treasurer and
216 District will establish a system of submission of timely regular claims for
217 all payments due under Sections Two and Three so that no claims or
218 invoices need be submitted by the RDC.
219

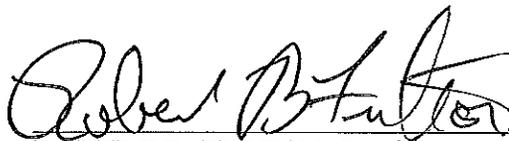
220 *SECTION FOUR:* The District agrees that, from and after the adoption of this
221 Resolution and substantially similar Resolutions by the RDC and RDA, the District shall
222 be solely responsible, at its own expense, to defray in their entirety the costs of operation,
223 maintenance and repair of the Downtown Sanitary and Storm Sewer improvements
224 constructed with the proceeds of said Lease-Rental Bond of 2015. The RDA and RDC
225 shall assign and transfer to the District all rights to any warranties and other remedies
226 available against any engineer, contractor, supplier, manufacturer or materialman under
227 the construction documents for said improvements without reservation, and the District
228 accepts same unconditionally.
229

230 *SECTION FIVE:* Upon the full payment by the District of the amounts due under
231 Sections Two and Three above, the retirement of said Bonds and the expiration of the
232 Lease referred to above, all right, title, and interest in and to the Downtown Hobart
233 Sanitary and Storm Sewer improvements referenced above shall be transferred by the
234 RDA to the District upon payment of the sum of One Dollar (\$1.00) by the District to the
235 RDA.
236

237 *SECTION SIX:* The President and Secretary of the District, Commission, and the
238 RDA, and each of them, is hereby authorized to take all such actions and to execute all
239 such instruments as are necessary or desirable to carry out the transactions contemplated
240 by this Resolution, in such forms as the President and Secretary of each such body
241 executing the same shall deem proper, to be evidenced by the execution thereof.
242

243 *SECTION SEVEN:* This Resolution shall be in full force and effect from
244 and after the date of its adoption and the adoption of substantially similar
245 resolutions by all of the Authority, the Commission and the District. The
246 provisions of prior agreements contained in the Agency Agreement, as amended
247 and Record of Decision, as amended, referred to above, not in conflict with the
248 agreements stated in this Resolution, shall remain in full force and effect. As to
249 any matter in conflict between said Agency Agreement and Record of Decision,
250 and this Resolution, this Resolution shall control.
251

252 ALL OF WHICH is adopted as the Resolution of the joint City of Hobart Sanitary
253 District Board of Commissioners and Board of Directors of the City of Hobart Storm Water
254 Management Department on this 8th day of March, 2017.
255

256
257
258 
259 _____
260 ROBERT B. FULTON, President

261
262 
263 _____
264 ATTEST: PHILLIP E. GRALIK, P.E., Secretary

EXHIBIT TO JOINT RESOLUTION 2017-01 OF THE HSD HSW

2015 HOBART RDA LEASE RENTAL REVENUE BOND

YEAR	LEASE PAYMENTS (\$)	DEBT SERVICE (\$)	DIFFERENCE (O/R amt.)(%)
2016*	265,000.00	259,646.25	5,353.75
2017	268,000.00	262,771.25	5,228.75
2018	271,000.00	265,802.50	5,197.50
2019	274,000.00	268,502.50	5,497.50
2020	226,000.00	220,602.50	5,397.50
2021	229,000.00	223,202.50	5,797.50
2022	231,000.00	225,506.25	5,493.75
2023	233,000.00	227,711.25	5,288.75
2024	229,000.00	223,937.50	5,062.50
2025	230,000.00	224,812.50	5,187.50
2026	231,000.00	225,612.50	5,387.50
2027	232,000.00	226,187.50	5,812.50
2028	232,000.00	226,406.25	5,593.75
2029	232,000.00	226,287.50	5,712.50
2030	231,000.00	225,787.50	5,212.50
2031	235,000.00	229,925.00	5,075.00
2032	234,000.00	228,712.50	5,287.50
2033	233,000.00	227,412.50	5,587.50
2034	236,000.00	230,850.00	5,150.00
2035	234,000.00	228,937.50	5,062.50
2036	237,000.00	231,659.38	5,340.62
2037	235,000.00	229,046.88	5,953.12
2038	237,000.00	231,162.51	5,837.49
TOTALS	\$ 5,495,000.00	5,370,482.52	124,517.48*

*These figures do not include capitalized interest payments of \$29,975.75 and \$55,057.50 made on 4/23/2015 and 8/01/2015, respectively. The Total O/R amount less these payments amounts to \$39,485.23.