

INDIANA FINANCE AUTHORITY

RESOLUTION NO. G22-2018

A RESOLUTION AUTHORIZING: (1) THE ENACTMENT AND IMPLEMENTATION OF THE REVISED TOLLING REGULATION; AND (2) THE EXECUTION AND DELIVERY OF THE FIRST AMENDMENT TO THE AMENDED AND RESTATED INDIANA TOLL ROAD CONCESSION AND LEASE AGREEMENT

WHEREAS, the Indiana Finance Authority (the “IFA”) and the ITR Concession Company LLC (the “Concessionaire”) have entered into the Amended and Restated Indiana Toll Road Concession and Lease Agreement, dated as of July 1, 2017 (the “Concession Agreement”), pursuant to Indiana Code 8-15.5-5, as amended; and

WHEREAS, pursuant to the Concession Agreement, the IFA has leased the Indiana Toll Road (the “Toll Road”) to the Concessionaire for a period of 75 years ending in 2081 and granted the Concessionaire the right to collect all the tolls charged for the use of the Toll Road in consideration of the obligation of the Concessionaire to maintain and operate the Toll Road; and

WHEREAS, the Concession Agreement provides certain limitations on increases in the tolls charged for vehicles using the Toll Road; and

WHEREAS, it has been proposed that the Concession Agreement be amended to permit the Concessionaire to make a one-time increase in the tolls charged for any vehicle, other than a Class 2 vehicle (i.e., a passenger vehicle), using the Toll Road by 35% effective on or after October 4, 2018, which increase will be reflected in the revised 135 Indiana Administrative Code 2.5 (the “Revised Tolling Regulation”); and

WHEREAS, in consideration of the implementation of the Revised Tolling Regulation, the Concessionaire has agreed that: (1) a parent entity of the Concessionaire (the “Parent Entity”) will pay the IFA \$400 million on or before the implementation date of the Revised Tolling Regulation, and \$300 million on October 1, 2019, and again on October 1, 2020 (the “Payment Obligations”); and (2) the Concessionaire will deliver additional capital improvements to the Toll Road of no less than \$50 million within three years; and

WHEREAS, the foregoing proposed rights and obligations of the IFA and the Concessionaire would be effectuated pursuant to the First Amendment to the Amended and Restated Indiana Toll Road Concession and Lease Agreement (the “First Amendment”), to be entered into between the IFA and the Concessionaire and, solely with respect to the Payment Obligations, the Parent Entity; and

WHEREAS, the First Amendment would amend and supplement the Concession Agreement; and

WHEREAS, in accordance with Indiana Code 8-15.5-11-4(d), as amended, all \$1 billion of the payments to be made to the IFA by the Parent Entity shall be deposited into the Major Moves Construction Fund; and

WHEREAS, in accordance with Indiana Code 8-14-14-7(a)(3), as amended, and based on a statement made to the IFA by the Indiana Department of Transportation ("INDOT"), all moneys so deposited in the Major Moves Construction Fund shall be transferred for deposit in the State Highway Fund, for the funding of any project in INDOT's transportation plan; and

WHEREAS, as contemplated in Indiana Code 8-14-14-8, as amended, and based on a statement made to the IFA by INDOT, at least 95% of such moneys shall be used for projects or purposes that benefit a county traversed by the Toll Road; and

WHEREAS, the IFA has determined, in accordance with Indiana Code 5-1.2-3-8(b)(3), it is in the best interest of the IFA to provide directions concerning the identity of individuals who are authorized to bind the IFA to contractual commitments with the use of signature stamps;

NOW, THEREFORE, BE IT RESOLVED BY THE INDIANA FINANCE AUTHORITY, AS FOLLOWS:

Section 1. First Amendment. Any of the Chair of the IFA (the "Chair"), the Vice Chair of the IFA (the "Vice Chair") or the Public Finance Director of the State of Indiana (the "Public Finance Director" and together with the Chair and the Vice Chair, the "Authorized Signatories"), is hereby authorized to negotiate with the Concessionaire and the Parent Entity with respect to the terms of the First Amendment.

Section 2. Revised Tolling Regulation. The IFA hereby authorizes the enactment and implementation of the Revised Tolling Regulation, so long as the Concessionaire and the Parent Entity meet the conditions for the implementation thereof pursuant to the First Amendment.

Section 3. Approval of First Amendment. The form of the First Amendment presented to the IFA is hereby approved in its substantially final form. Any Authorized Signatory is hereby authorized to approve the form of the First Amendment as he or she deems it to be appropriate, beneficial, desirable, or necessary.

Section 4. Execution of First Amendment. The IFA hereby authorizes any Authorized Signatory to execute the First Amendment in substantially the form presented at this meeting, with such changes in form and substance as such Authorized Signatory shall approve, with such approval to be conclusively evidenced by his or her execution thereof.

Section 5. Additional Actions. Any Authorized Signatory is hereby authorized and directed to do and perform all acts and to execute in the name of the IFA and to attest, as appropriate, all such instruments, documents, papers, or certificates in such forms as any Authorized Signatory executing or attesting the same shall deem proper, to be evidenced by the execution or attestation thereof by either manual or facsimile signature, which are appropriate, beneficial, desirable, or necessary to carry out the transactions contemplated by this Resolution.

Section 6. Signature Stamp. The IFA hereby authorizes the use of a signature stamp of any Authorized Signatory on all documents appropriate, beneficial, desirable, or necessary in connection with the execution and delivery of the First Amendment. Any Authorized Signatory may authorize, in a writing executed with a manual signature, the General Counsel of the IFA or a similar person to affix a stamp of his or her signature to the various documents, and that such delegation and authorization shows the approval of such officer, and the IFA agrees to be bound by a document executed in such manner.

Section 7. Invalidity. If any section, paragraph, clause, or provision of this Resolution shall be ruled by any court of competent jurisdiction to be invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions.

Section 8. Conflicts. All ordinances, resolutions, and orders, or parts thereof, in conflict with the provisions of this Resolution, are, to the extent of such conflict, hereby repealed.

Section 9. Effective Date. This Resolution shall be in full force and effect immediately upon its adoption.

Approved and adopted this 20th day of September, 2018

INDIANA FINANCE AUTHORITY



Micah G. Vincent, Chair

Attest:



Dan Huge, Public Finance Director
of the State of Indiana