

RESOLUTION NUMBER 2023-18

**APPROPRIATION RESOLUTION OF THE CITY OF FRANKLIN
REDEVELOPMENT COMMISSION**

**\$100,000.00 for expenses and costs related to the
Drainage Improvements Along Paris, Gateway, and Granville Drives**

WHEREAS, the Franklin Redevelopment Commission (the “Commission”) serves as governing body of the Franklin Redevelopment District (the “District”), pursuant to Indiana Code 36-7-14 *et seq.*, as amended (the “Act”); has previously established the Franklin Downtown / I-65 Amended Integrated Economic Development Area (the “Area”), as amended; has designated within the Area certain allocation areas for purposes of capturing tax increment; has created an allocation fund or funds for the allocation areas into which the tax increment is deposited; and has approved the Economic Development Plan – 2015 (the “Plan”), as amended; and

WHEREAS, the Commission created and managed the tax increment finance allocation areas designated as Franklin Eastside Business Park Expanded (collectively referred to as “Allocation Areas”) per resolutions and designations approved by the same;

WHEREAS, the Commission created an allocation fund or funds for the Allocation Areas into which the tax increment is deposited (“Allocation Funds”);

WHEREAS, stormwater from undeveloped property near Granville Drive flows to the east, crosses under Interstate 65, crosses properties located within the Allocation Areas; and adversely affects properties within the Allocation Areas with sediment, other pollutants, and water runoff;

WHEREAS, property commonly known as Franklin Gateway Development Sec. 1 Part of Block A, parcel number, 41-07-18-042-004.000-018, is an undeveloped parcel of land of approximately two and eighty-one hundredths acres (2.81 ac) located on the east side of Granville Drive and just west of Interstate 65;

WHEREAS, due to conditions of the property commonly known as Franklin Gateway Development Sec. 1 Part of Block A, parcel number, 41-07-18-042-004.000-018, the economically feasible options to address stormwater drainage issues that will accompany commercial development of the property are limited;

WHEREAS, the City of Franklin desires to improve drainage of properties located along Granville Drive and in the Allocation Areas through the construction of an underground detention facility under the conditions provided in this Resolution that will serve the Allocation Areas (the “Project”);

WHEREAS, IC 36-7-14-39(b)(4)(J) authorizes the Commission to use tax increment revenues to pay expenses incurred by the Commission for local public improvements that are in the allocation area or serving the allocation area and further provides that public improvements include buildings, parking facilities, and other items described in IC 36-7-14-25.1(a);

WHEREAS, IC 36-7-14-25.1(a), describes expenses reasonably incurred in connection with the acquisition and redevelopment of property;

WHEREAS, IC 36-7-1-18 defines “redevelopment” as including the following activities:

(4) Relocating, constructing, and improving sewers, utility services, offstreet parking facilities and levees.

(5) Laying out and constructing necessary public improvements, including parks, playgrounds, and other recreational facilities.

WHEREAS, the Indiana Supreme Court in deciding whether an act creating conservancy districts was constitutional, recognized that drainage and sewage disposal have been considered to be one of “essential local public improvement.” Martin v. Ben Davis Conservancy District, 153 N.E.2d 125 at 135 (Ind. 1958);

WHEREAS, the City Engineer provided the Commission with information and his opinion that construction of an underground detention facility on the property commonly known as Franklin Gateway Development Sec. 1 Part of Block A, parcel number, 41-07-18-042-004.000-018, will improve water quality by removing sediment and other pollutants in the area, and it will reduce the runoff from the area thereby lowering the impacts to the properties within the Allocation Areas;

WHEREAS, the City of Franklin Engineer has provided the Commission with an estimate of costs associated with the Project which will exceed One Hundred Thousand Dollars (\$100,000.00);

WHEREAS, the Commission finds that there are insufficient funds available or provided for in the existing budget and tax levy to fund the expenses and costs related to the Project; and

WHEREAS, notice of a hearing on said appropriation has been duly given by publication and posting as required by law, and the hearing on said appropriation has been held, at which all taxpayers had an opportunity to appear and express their views as to such appropriation.

NOW, THEREFORE, BE IT RESOLVED by the City of Franklin Redevelopment Commission, that:

1. Additional Appropriation. Pursuant to IC 36-7-14-39(b)(4)(J), the Commission hereby appropriates for the purpose of paying expenses related to the Project due to such local public improvement serving the Allocation Areas, a sum not to exceed One Hundred Thousand Dollars (\$100,000.00), of tax increment revenues collected from the Allocation Areas, to be paid pro rata from the Allocation Fund of each individual Allocation Area to the extent of available funds in the respective Allocation Fund under the following conditions:
 - a. An entity doing business as Texas Roadhouse or on behalf of an entity doing business as Texas Roadhouse (“Texas Roadhouse”) buys or leases real estate along Granville Drive within the next two (2) years;

- b. Texas Roadhouse constructs a restaurant along Granville Drive within the next two (2) years;
- c. The City of Franklin inspects and approves all improvements constructed in association with the Texas Roadhouse restaurant;
- d. Texas Roadhouse constructs an underground detention facility and such improvement is inspected and approved by the City of Franklin;
- e. Prior to receipt of any funds from the Commission, Texas Roadhouse covenants and agrees that until the 25th anniversary of the date of this Resolution, Texas Roadhouse nor any successor interest holder in or to the real estate along Granville Drive (including, without limitation, any tenants) shall seek to have said real property, or any portion thereof, be exempt from real estate taxes or seek to have the real estate taxes assessed against said real property abated. For the avoidance of doubt, the foregoing restriction shall apply regardless of whether such party is entitled to any tax abatement or reduction as a matter of their tax status (e.g. 501(c)(3) entities) or otherwise.
- f. The Commission enters into an agreement with Texas Roadhouse and contractors who are constructing the underground detention facility and they agree to terms as to the allocation of expenses between Texas Roadhouse and the Commission for such construction of the underground detention facility among the parties with the Commission being responsible for up to One Hundred Thousand Dollars (\$100,000.00) of said expenses.

Such appropriation shall be in addition to all appropriations provided for in the existing budget and shall continue in effect until the completion of the described purposes.

2. Miscellaneous. The Clerk-Treasurer is directed to pay for said expenses in amounts that do not exceed the total appropriation to the general contractor(s), sub-contractor(s) and others as identified to the Clerk-Treasurer by the President of the Commission as appropriate payees. The President of the Commission, the Secretary of the Commission, the Clerk-Treasurer of the City and any other appropriate officers of the Commission and the City are hereby authorized to take all such actions and execute all such instruments as are necessary or desirable to effectuate this Resolution, including the filing of a report of this appropriation with the Indiana Department of Local Government Finance.

3. Effective Date. This resolution shall be in full force and effect from and after its adoption.

DULY ADOPTED on this 14th day of November 2023, by the Redevelopment Commission of the City of Franklin, Johnson County, Indiana.

Richard Wertz

Anne McGuinness

Brian J. Deppe

Paul Buening

Josh Prine

Attest:

Jayne W. Rhoades,
Clerk-Treasurer of the City of Franklin, Indiana