

RESOLUTION NO. 10-157

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, CONSENTING TO THE PAYMENT OF ATTORNEYS FEES AND COSTS BY POLK COMMERCE CENTRE COMMUNITY REDEVELOPMENT AGENCY BEFORE PAYMENT OF DEBT SERVICE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Polk County (the "County") and the Polk Commerce Centre Community Redevelopment Agency (the "PCCCRA") entered into an Interlocal Funding Agreement and Non-Revolver Line of Credit Note in 1996 in an amount not to exceed \$600,000, which loan was secured by a pledge of and first priority lien upon amounts on deposit in the PCCCRA Community Redevelopment Trust Fund created pursuant to County Ordinance no. 92-45; and

WHEREAS, by the terms of the 1996 agreement, the note was due and payable on April 1, 2006; and

WHEREAS, the terms of the agreement provided that if not paid by that date the COUNTY had the right to elect to extend the terms of the Note; and

WHEREAS, the COUNTY elected to extend the terms of the note and did so by entering into an Amendment to Interlocal Funding Agreement with the PCCCRA on July 9, 2008 and by executing an Amended and Restated Non-Revolver Line of Credit Note on July 9, 2008 with an extended maturity date of April 1, 2016; and

WHEREAS, PCCCRA has been sued by its former attorneys for alleged non-payment of fees (the "Litigation"); and

WHEREAS, the PCCCRA's tax increment is insufficient to pay the outstanding indebtedness and the attorney's fees incurred in defense of the Litigation; and

WHEREAS, the County wishes to consent to the payment of the legal defense costs before the payment of debt service due the County in order that PCCCRA may properly defend itself in the Litigation.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Polk County, Florida:

Section 1: Purpose and Intent

It is the purpose and intent of this Resolution to memorialize the County's consent to the payment by PCCCRA of costs to defend itself in the Litigation before the payment of debt service due the County.

Section 2: Consent

The County hereby consents to the payment by PCCCRA of costs to defend itself in the Litigation before the payment of debt service due the County, which payments shall not be deemed a default under the note or agreements described in the recitals above.

Section 3: Severability

If any provision of this Resolution is held to be illegal, invalid, or unconstitutional by a court of competent jurisdiction the other provisions shall remain in full force and effect.

Section 4: Effective Date

This Resolution shall become effective upon adoption by the Board of County Commissioners.

ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA this 20th day of October, 2010.