

**AN ORDINANCE APPROVING THE CREATION OF A
DEBT SERVICE RESERVE FUND FROM THE CITY OF
FORT WAYNE COMMUNITY LEGACY FUND.**

Whereas, the City of Fort Wayne ("City") has created the City of Fort Wayne Community Legacy Fund ("Legacy Fund") to invest in projects that will have a collective impact that leads to transformational change within the community; and

Whereas, the City through the Legacy process has received unprecedented public input from across the community and has worked with citizens, business leaders and elected officials to develop implementation priorities; and

Whereas, the City seeks to advance transformational projects for our community with a focus on economic development, downtown and riverfront development, and youth development/prep sports; and

Whereas, each Legacy project provides our community with an opportunity to make our City stronger and better positioned for growth; and

Whereas, the Common Council of the City adopted Special Ordinance No. S-10-14 on February 25, 2014 ("Ordinance") to, among other matters, approve the issuance of the Economic Development Income Tax Lease Rental Bonds of 2014 ("Bonds"), to be issued by the Fort Wayne Infrastructure Corporation ("Corporation") to finance the acquisition, construction and reconstruction of public road improvements, including costs related to the acquisition of the necessary equipment and appurtenances (collectively, "Project") and the leasing of the same to the City; and

1 **Whereas**, the City has been advised that the Bonds will be issued
2 pursuant to a Trust Indenture ("Indenture") between the Corporation and
3 Wells Fargo Bank, N.A. ("Trustee"), and that under the Indenture, a Fort
4 Wayne Infrastructure Corporation Debt Service Reserve Fund ("Reserve
5 Fund") is created for the Bonds; and

6 **Whereas**, the City has been advised that in order to successfully
7 market the Bonds and comply with covenants made for outstanding bonds,
8 the Reserve Fund must be funded on the date of delivery of the Bonds to
9 an amount which equals but does not exceed the least of: (i) maximum
10 annual principal and interest payable on the Bonds; (ii) one hundred twenty
11 five percent (125%) of average annual principal and interest due on the
12 Bonds; or (iii) ten percent (10%) of the proceeds of the Bonds ("Reserve
13 Requirement"); and

14 **Whereas**, the City has been advised that the Reserve Requirement
15 may be satisfied by using funds already on hand in the Legacy Fund which
16 will maximize the amount of Bond proceeds available to complete the
17 Project; and

18 **Whereas**, the City would like to utilize funds from the Legacy
19 Fund to fulfill the Reserve Requirement;

20 **NOW THEREFORE, BE IT ORDAINED BY THE COMMON**
21 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

22 **SECTION 1.** The Common Council hereby authorizes the Board
23 of Trustees of the Legacy Fund to instruct the financial institution serving
24 as the trustee of the Legacy Fund to establish a subaccount within the
25 Legacy Fund as follows:
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1 **Debt Service Reserve Fund for the Economic Development Income**
2 **Lease Rental Bonds of 2014**

3 Funds in an amount equal to the Reserve Requirement under the
4 Indenture will be held in a subaccount of the Legacy Fund to serve as the
5 Reserve Fund containing the Reserve Requirement for the Bonds. Such
6 funds held as the Reserve Fund in the subaccount shall be used in
7 accordance with the Indenture and may not be used for any other purpose.
8 If any portion of the subaccount is used to pay the Bonds under the
9 Indenture, such subaccount will be replenished to a level equal to the
10 Reserve Requirement from available funds held under the Indenture. If the
11 Reserve Fund is still in need of funds to attain a balance equal to the
12 Reserve Requirement, the Common Council shall consider an
13 appropriation of funds from the Legacy Fund to attain a balance equal to
14 the Reserve Requirement. Such deficiency and an appropriation from the
15 Legacy Fund shall be considered by the Common Council within six
16 months after the deficiency is created.

17 If the Trustee for the Bonds requires funds from the Reserve Fund
18 for the payment of principal of or interest on the Bonds, a request shall be
19 filed by the Trustee with the City's Controller. The City agrees to make
20 funds available to the Trustee within one business day of the filing of such
21 request. The request filed with the City's Controller may be made in
22 writing, via e-mail or by phone, followed up either in writing or via e-mail.
23 The request shall state the amount needed from the Reserve Fund and the
24 instructions for wiring the funds to the Trustee.

25 Any final payments made on the Bonds, whether at maturity or
26 earlier redemption, shall not be made from the subaccount if funds pledged
27 under the Indenture are available and sufficient to make such final
28 payments. When the Bonds are no longer outstanding or defeased under
29 the Indenture, the subaccount serving as the Reserve Requirement for the
30 Reserve Fund shall cease to exist, and such funds shall remain a part of the

Legacy Fund and shall no longer be subject to the Indenture or this ordinance.

If the City determines that the Reserve Requirement for the Bonds can be satisfied with another source permitted under the Indenture and such alternative source is indeed funded to serve as all or a part of the Reserve Requirement for the Bonds, the Common Council shall authorize the Board of Trustees of the Legacy Fund to provide instructions to the trustee of the Legacy Fund to modify as necessary, including elimination, the subaccount serving as the Reserve Fund.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Councilmember

APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney