BILL NO. S-15-12-06

SPECIAL ORDINANCE NO. S-______

AN ORDINANCE APPROVING THE CREATION OF A LEASE RENTAL 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 (the "Common Council") previously adopted Special Ordinance No. S-81-07 on July 24, 2007 to, among other matters, approve (i) the lease dated as of November 1, 2007 (the "Lease"), between the Fort Wayne Redevelopment Commission (the "Commission") and the Fort Wayne Redevelopment Authority (the "Authority") pursuant to which the Authority has leased to the Commission certain local public improvements consisting of a multi-use stadium and parking structure and related site and infrastructure improvements all known as the Harrison Square Project (the "Project") and (ii) the issuance of lease rental revenue bonds by the Authority (the "2007 Bonds") to finance a portion of the costs related to the completion of the Project; and

Whereas, the Common Council adopted Resolution No. R-100-14 on November 18, 2014, approving of the issuance by the Authority of its Lease Rental Revenue Refunding Bonds, Series 2014 (Harrison Square Project) (the "2014 Bonds"), for the purpose of refunding the 2007 Bonds which the Authority issued on December 23, 2014; and

Whereas, the rentals paid by the Commission under the Lease to the Authority (the "Lease Rentals") are used by the Authority to pay the principal of and interest on the 2014 Bonds; and

Whereas, the City has been advised that the Commission pays the Lease Rentals from tax increment revenues available to the Commission for such purpose (the "TIF Revenues"); and

Whereas, the City has been advised that in order to provide the lowest interest rate on the 2014 Bonds, the Commission agreed to fund a lease rental reserve fund (the "Lease Reserve Fund") in an amount equal to the sum of the maximum amount of Lease Rentals due on July 15 and January 15 in any twelve (12) month period during the term of the Lease which amount is equal to Three Million Three Hundred Ninety-nine Thousand and 00/100 Dollars ($3,399,000.00) (the "Lease Reserve Requirement");

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

SECTION 1. The Common Council hereby authorizes the Board of Trustees of the Legacy Fund to instruct the financial institution serving as the trustee of the Legacy Fund to establish a subaccount within the Legacy Fund as follows:

<u>Lease Reserve Fund for the Fort Wayne Redevelopment Authority Lease Rental Revenue Refunding Bonds, Series 2014 (Harrison Square Project)</u>

Funds in an amount of Three Million Three Hundred Ninety-nine Thousand and 00/100 Dollars ($3,399,000.00) (the amount necessary to satisfy the Lease Reserve Requirement) will be held in a subaccount of the Legacy Fund to serve as the Lease Reserve Fund to satisfy the Lease Reserve Requirement.

Such funds held as the Lease Reserve Fund in the subaccount shall be used to pay the Lease Rentals in accordance with the Lease only if the Commission does not otherwise have sufficient TIF Revenues or other revenues available to the Commission to pay such Lease Rentals and may not be used for any other purpose. If any portion of the subaccount is used to pay the Lease Rentals due under the Lease, such subaccount will be replenished to a level equal to the Lease Reserve Requirement from funds in the Legacy Fund to attain a balance equal to the Lease Reserve Requirement.

If the Commission requires funds from the Lease Reserve Fund for the payment of Lease Rentals due under the Lease, a request shall be filed by the Commission with the Controller of the City (the "Controller"). The City agrees to make funds available to the Commission within one business day of the filing of such request. The request filed with the Controller may be made in writing, via e-mail or by phone, followed up either in writing or via e-mail. The request shall state the amount needed from the Lease Reserve Fund to pay the Lease Rentals then due under the Lease.

Upon the final payment of the rentals due under the Lease by the Commission, the subaccount serving as the Lease Reserve Requirement for the Lease Reserve Fund shall cease to exist, and such funds shall remain a part of the Legacy Fund and shall no longer be subject to this ordinance.

If the City determines that the Lease Reserve Requirement can be satisfied with another source of funds available to the Commission and such funds are permitted by law to be used for such purpose and such alternative source is indeed funded to serve as all or a part of the Lease Reserve Requirement, 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 Lease 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.

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Councilmember

APPROVED AS TO FORM AND LEGALITY

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Carol Helton, City Attorney