

BILL NO. R-17-01-08

RESOLUTION NO. _____

**A RESOLUTION OF THE
COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,
PROVIDING PRELIMINARY APPROVAL OF THE ISSUANCE
OF BONDS FOR THE PURPOSE OF PROVIDING CERTAIN
ECONOMIC DEVELOPMENT FACILITIES**

WHEREAS, the City of Fort Wayne, Indiana (the "City") is authorized by Indiana Code 36-7-11.9 and 12, as supplemented and amended (the "Act"), to issue revenue bonds for the financing of economic development facilities, the funds for said financing to be used for the acquisition, construction, installation and equipping of said facilities; and

WHEREAS, Superior Lofts, LLC (the "Applicant") has advised the City of Fort Wayne Economic Development Commission (the "Commission") and the City that it proposes that the City issue economic development revenue bonds for the purpose of providing financing for a portion of certain economic development facilities, including the acquisition, construction, installation and equipping of 72 high quality apartments, 21,000 square feet of commercial space for retail, restaurants and offices and 140 climate controlled self-storage units in a variety of sizes located within the City at 102 West Superior Street (the "Project"); and

WHEREAS, the real estate, the building and the equipment comprising the Project will be owned by the Applicant for use in its business; and

WHEREAS, the Applicant has proposed that the City issue its economic development tax increment revenue bonds under the Act with the aggregate principal amount of said revenue bonds to be issued not to exceed \$1,000,000 to finance a portion of the costs of the acquisition and installation of the Project under a financing agreement whereby the proceeds of such bonds would be utilized to acquire and install the Project and the bonds would be special, limited obligations of the City payable solely from the tax increment revenues expected to be generated by the Project and pledged for such purpose by the Fort Wayne

1 Redevelopment Commission, and the bonds would not constitute an indebtedness of
2 the Commission or the City or a loan of the credit thereof within the meaning of any
3 constitutional or statutory provisions; and the Applicant has further advised the City
4 that the determination by the City to accept such a proposal for financing the Project
5 will constitute a substantial inducement to the Applicant to proceed with the Project;
6 and

7 WHEREAS, the Applicant has submitted evidence regarding the lack
8 of an adverse competitive effect of the Project on similar facilities already
9 constructed or operating in the City; and

10 WHEREAS, it is estimated that the Project will result in the creation
11 of two (2) part-time jobs with an estimated annual payroll of approximately \$20,000
12 per employee; and

13 WHEREAS, the Commission has rendered a report concerning the
14 proposed financing of economic development facilities for the Applicant which
15 report incorporates findings of fact by the Commission; and

16 WHEREAS, the Commission has given its approval to such financing
17 of the Project; and

18 WHEREAS, said revenue bonds are payable solely from tax
19 increment revenues expected to be generated by the Project and in no manner shall
20 said revenue bonds reduce the bonding capacity of the City; and

21 WHEREAS, the issuance of said revenue bonds shall not obligate the
22 full faith and credit for the taxing power of the City; and

23 WHEREAS, subject to required approvals, it appears that the
24 financing of the Project would be a public benefit to the health, prosperity, economic
25 stability and general welfare of the City and its inhabitants;

26 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
27 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

28 SECTION 1. The Common Council finds, determines, ratifies and
29 confirms that the creation and retention of opportunities for gainful employment and
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1 the creation of business opportunities to be achieved by the Project in the City will
2 be of benefit to the health and general welfare of the citizens of the City; and that it
3 is in the public interest that this Common Council take such action as it lawfully may
4 to encourage diversification of industry and promotion of job opportunities in the
5 City.

6 SECTION 2. The Common Council further finds, determines, ratifies
7 and confirms that the issuance and sale of economic development tax increment
8 revenue bonds of the City under the Act in an aggregate principal amount not to
9 exceed \$1,000,000 for the Project and the proceeds of the revenue bonds to the
10 Applicant will serve the public purposes referred to above, in accordance with the
11 Act.

12 SECTION 3. In order to induce the Applicant to proceed with the
13 Project, the Common Council hereby finds, determines, ratifies and confirms that:

- 14 i) It will take or cause to be taken such actions pursuant to the
15 Act as may be reasonably required to implement the aforesaid
16 financing, or as it may deem reasonably appropriate in
17 pursuance thereof; provided that all of the foregoing shall be
18 mutually acceptable to the City and the Applicant; and
19 ii) It will adopt such ordinances and resolutions and authorize the
20 execution and delivery of such instruments and the taking of
21 such action as may be reasonably necessary and advisable for
22 the authorization, issuance and sale of said economic
23 development tax increment revenue bonds.

24 SECTION 4. All costs of the Project incurred for planning,
25 engineering, interest paid during construction, underwriting expenses, attorney and
26 bond counsel fees, acquisition, construction and equipping of the Project, including
27 reimbursement or repayment to the Applicant of moneys expended prior to the
28 adoption by the City of this resolution would be permitted to be included as part of
29 the Project costs to be financed out of the loan of the proceeds from the sale of the
bonds to the extent permitted by the Act and applicable regulations promulgated

1 under the Internal Revenue Code of 1986, as amended, to the extent said revenue
2 bonds are issued on a tax-exempt basis.

3 SECTION 5. All action taken and approvals given by the City with
4 regard to the Applicant are based upon the evidence submitted and representations
5 made by the Applicant or its agents or counsel to the Commission and the City. No
6 independent examination, appraisal or inspection of the Project was made, requested,
7 or is contemplated by the City.

8 SECTION 6. The City does not, by this or any other approval or
9 funding, guarantee, warrant or even suggest that the bonds, coupons or series thereof
10 will be a reasonable investment for any person, firm or corporation.

11 SECTION 7. The City shall not be obligated, directly or indirectly, to
12 see to the application or use of the proceeds from the sale of the bonds or to see that
13 the contemplated improvements, if any, are constructed. The City is in no way
14 responsible to the holders of any bonds for any payment obligation created by the
15 bonds.

16 SECTION 8. The City does not warrant, guarantee or even suggest
17 that interest to be paid to or income to be received by the holders of any bond,
18 coupon, or series thereof is exempt from taxation by any local, state or federal
19 government.

20 SECTION 9. The bonds shall be limited, special obligations of the
21 City payable solely from tax increment revenues expected to result from completion
22 of the Project, and shall not constitute an indebtedness of the Commission or the City
23 or a loan of the credit thereof.

24 SECTION 10. This resolution does not constitute a binding obligation
25 of the Commission or the City to issue the bonds, but instead, is a commitment by
26 the City to proceed with negotiations for the financing described herein with the
27 Applicant and is subject to the adoption of a bond ordinance by the City in
28 accordance with the provision of the Act.
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2 SECTION 11. This Resolution shall be in full force and effect from
3 and after the time it has been adopted by the Common Council, approved by the
4 Mayor, and otherwise executed and delivered in accordance with any and all laws
5 pertaining thereto.
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7 _____
Council Member

8 APPROVED AS TO FORM AND LEGALITY:
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11 Carol Helton, City Attorney
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Admn. Appr. _____

DIGEST SHEET

TITLE OF ORDINANCE: A Resolution of the Common Council of the City of Fort Wayne, Indiana, Providing Preliminary Approval of the Issuance of Bonds for the Purpose of Providing Certain Economic Development Facilities.

DEPARTMENT REQUESTING ORDINANCE: Community Development Division

SYNOPSIS OF ORDINANCE: Superior Lofts, LLC is seeking approval of the City's participation with economic development revenue bond financing toward the acquisition, construction, installation and equipping of 72 high quality apartments, 21,000 square feet of commercial space for retail, restaurants and offices and 140 climate controlled self-storage units in a variety of sizes located within the City at 102 West Superior Street.

EFFECT OF PASSAGE: Acquisition, construction, installation and equipping of 72 high quality apartments, 21,000 square feet of commercial space for retail, restaurants and offices and 140 climate controlled self-storage units in a variety of sizes and two part-time jobs will be created as a result of the project.

EFFECT OF NON-PASSAGE: Potential loss of development

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): The Fort Wayne Redevelopment Commission will pledge tax increment revenues generated by this project to the payment of the bonds for a period of 10 years or until the amount of One Million and No/100 Dollars (\$1,000,000.00), whichever occurs first. The City of Fort Wayne shall have no obligation with regard to the bonds beyond the pledge of tax increment revenues generated by the project.

ASSIGNED TO COMMITTEE (CO-CHAIRS): Glynn Hines and John Crawford