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2 **BILL NO. R-20-02-22**
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4 **RESOLUTION NO. _____**
5

6 **A RESOLUTION OF THE**
7 **COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,**
8 **REGARDING THE APPROPRIATION OF AVAILABLE LOCAL INCOME TAX**
9 **REVENUES TO PAY THE COSTS ASSOCIATED WITH THE REMEDIATION**
10 **AND REMOVAL OF CONTAMINATED SOILS WITH REGARD TO AN**
11 **ECONOMIC DEVELOPMENT PROJECT FOR A NEW MIXED-USE PROJECT**
12 **TO BE UNDERTAKEN BY THE LOFTS AT HEADWATERS PARK, LLC**
13 **AND FORT WAYNE GARAGE ASSOCIATES, ONE, LLC**
14 **(THE LOFTS AT HEADWATERS PARK PROJECT)**

15 WHEREAS, the Fort Wayne Redevelopment Commission (the
16 “Commission”), governing body of the City of Fort Wayne, Indiana, Department of
17 Redevelopment (the “Department”) and the Redevelopment District of the City of Fort
18 Wayne, Indiana, exists and operates under the provisions of the Redevelopment of Cities
19 and Towns Act of 1953, which has been codified in Indiana Code 36-7-14 et seq., as
20 amended from time to time (the “Act”); and

21 WHEREAS, the Commission has previously designated and declared in
22 accordance with the Act an area in the City of Fort Wayne, Indiana (the “City”), known
23 as the Civic Center Urban Renewal Area, to be a redevelopment area and an allocation
24 area (the “Area”), adopted a Redevelopment Plan, and established an allocation fund for
25 said Area; and

26 WHEREAS, the Commission has entered into an Economic Development
27 Agreement (“EDA”) with The Lofts at Headwaters Park, LLC and Fort Wayne Garage
28 Associates One, LLC (the “Developers”), wherein the Developers will agree to develop
29 and construct a mixed-use building consisting of a multi-family component, a ground
30

1 floor commercial component and a parking structure, constituting an aggregate
2 investment of approximately Sixty-Seven Million Seven Hundred Fifty Thousand and
3 No/100 Dollars (\$67,750,000.00), to be located within the Area at the northeast corner of
4 Clinton Street and Superior Street in downtown Fort Wayne (the "Project"), and the
5 Commission agreed to provide certain economic development incentives; and
6

7 WHEREAS, the Commission has determined that the completion of the
8 Project is in the best interests of the citizens and taxpayers of the City and, to stimulate
9 and induce the completion of the development of the Project, the Commission agreed in
10 the EDA, subject to further proceedings as required by law, to provide certain economic
11 development incentives in exchange for the development of the Project; and
12

13 WHEREAS, the Commission has investigated the Project site and
14 determined that environmental contamination and unsuitable soils exist to the extent that
15 soil remediation and/or removal must occur to support redevelopment of the Project site;
16 and
17

18 WHEREAS, the Commission agreed to provide support to the Project
19 pursuant to the EDA, including, but not limited to, the remediation and removal of
20 contaminated soils to facilitate the construction of the Project, as more particularly
21 described on Exhibit A ("Soil Remediation and Removal"); and
22

23 WHEREAS, the Developers agreed in the EDA to pay the Commission
24 for the real estate upon which the Project will be located and the developer of the planned
25 Riverfront at Promenade Park project agreed in an economic development agreement
26 approved by the Commission to pay the Commission for the real estate upon which the
27 Riverfront at Promenade Park will be located (collectively the "Land Sales Proceeds");
28 and
29
30

1 WHEREAS, the Commission has requested the appropriation of local
2 income tax revenues legally available to the City and allocated to economic development
3 pursuant to Indiana Code 6-3.6 ("LIT Revenues") in an amount not to exceed Two
4 Million Two Hundred Thousand and No/100 Dollars (\$2,200,000.00) to be allocated and
5 paid to the Commission for the purpose of paying the costs of the Soil Remediation and
6 Removal; and
7

8 WHEREAS, the Common Council has determined that the completion of
9 the Project is in the best interests of the citizens and taxpayers of the City and desires to
10 provide for the stimulation and inducement of the Project and appropriate the LIT
11 Revenues as provided in this Resolution;
12

13 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
14 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:
15

16 1. The Common Council finds, determines, ratifies and confirms that
17 the Project is in the best interests of the citizens and taxpayers of the City of Fort Wayne
18 and will support the redevelopment goals of the City of Fort Wayne in the Area.

19 2. Pursuant to and in accordance with Indiana Code 5-1-14-4 and 6-
20 3.6-10-6, the Common Council does hereby appropriate an amount not to exceed Two
21 Million Two Hundred Thousand and No/100 Dollars (\$2,200,000.00) of the LIT
22 Revenues to the payment of the costs of the Soil Remediation and Removal with the
23 understanding that, subject to the closing on the real estate between the Commission and
24 the Developers for the Project and subject to the closing on real estate to be developed as
25 The Riverfront at Promenade Park, the Commission will reimburse the LIT Revenues
26 from the Land Sales Proceeds in the amount of One Million Five Hundred Thousand and
27 No/100 Dollars (\$1,500,000.00).
28

3. This Resolution, and the appropriation of LIT Revenues set forth herein, shall be binding and in full force and effect from and after the time it has been adopted by Common Council, approved by the Mayor and otherwise executed and delivered in accordance with any and all laws appertaining thereto.

Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol Helton, City Attorney

Exhibit A

Scope of Work for Soil Remediation and Removal

The City of Fort Wayne Department of Redevelopment contracted with Heartland Environmental Associates, Inc. in July 2019 to determine the scope and cost of soil remediation and removal at the Project site. Heartland reviewed existing environmental reports and, where necessary, conducted supplemental field investigations. The scope of work is described below:

Soil Remediation	
Soil Remediation – MGP Residual Impacted Soils Costs for removal and disposal of approximately 1,500-tons of petroleum impacted soils potentially attributable to off-site migration of MGP residuals from the property to the east.	\$90,000 - \$110,000
Soil Remediation – Shallow Impacted Soils - Costs for “hotspot” removal of approximately 7,200 tons of heavy metals (lead, mercury, hexavalent chromium) impacted soils in remedial “hotspot” areas. These areas are generally in the northwest portion of the site, south of Duck Street, in the north portion of the site, north of Duck Street, and in the northeast portion of the site, extending from north of Duck Street along the north and east property lines. - Includes the removal of impacted soils to a maximum depth of 5 feet below ground surface (bgs) in spot locations and 12 feet in spot locations in the northeastern and northwestern portions of the site. - Impacted soils present beyond 12 feet bgs are not anticipated to present an impediment and/or an exposure risk for proposed redevelopment activities. - Extent of removal necessary may be limited based on field conditions and will require real-time analysis of field conditions, including the location of active utility corridors - Both tonnage and budget estimates represent a worst-case scenario cost for impacted soil removal for the chemicals of concern listed, and further represents a combination of “hotspot” areas situated in both the northern, northwestern, central-eastern and eastern portions of the site - Costs include soil removal and disposal costs - This excavation parameter does not include approximately 1,500-tons of petroleum impacted soils potentially attributable to offsite migration of MGP residuals from the property to the east.	\$483,000 - \$544,000*
Soil Remediation – Remaining Soil Removal Costs - Based on the existing site footprint dimensions and anticipating a scenario where 12 feet of soils will be required to be removed and replaced to import more suitable soils for construction, an approximate 340' x 375' area will require removal down to 12' bgs. - Should this estimated area require complete removal and disposal, this results in an estimated 85,000 tons of soils to require removal and replacement. Anticipating that approximately 7,200 tons of these soils will be removed and disposed of as impacted waste, this leave 77,800 tons to be disposed of - Remedial alternative budgets for the minimum amount of soil removal anticipated necessary to facilitate redevelopment. Soils present beyond 12 feet bgs are not anticipated to present an impediment and/or an exposure risk for proposed redevelopment activities, and therefore are not included in this removal estimate. - Extent of removal necessary may be limited based on field conditions and will require real-time analysis of field conditions, including the location of active utility corridors - Costs include soil removal and disposal costs - Costs do not include backfill import and placement. - Costs assumes material can be disposed of at landfill as clean material (non “special” waste determination).	\$1,244,800 - \$1,556,000

DIGEST SHEET

TITLE OF RESOLUTION. A Resolution of the Common Council of the City of Fort Wayne, Indiana, regarding the appropriation of available local income tax revenues to pay the costs associated with the remediation and removal of contaminated soils with regard to an economic development project for a new mixed-use project to be undertaken by the Lofts at Headwaters Park, LLC and Fort Wayne Garage Associates, One, LLC (the Lofts at Headwaters Park project)

DEPARTMENT REQUESTING RESOLUTION. Redevelopment Commission.

SYNOPSIS OF RESOLUTION. This resolution approves an appropriation of local income tax ("LIT") revenues to pay for the costs of removing contaminated and unbuildable soil in order to deliver the project real estate to the developer in a construction ready condition. This requires excavation of the top twelve (12) feet of soil across virtually the entire project site. The Commission will solicit bids for this project through the public bidding process.

EFFECT OF PASSAGE. The project site and the surrounding real estate have a long history of industrial uses that have contaminated the soil at several locations across the site at depths ranging from the surface to more than thirty (30) feet. The top twelve (12) feet of soil across virtually the entire site must be excavated in order to remove shallow contaminants and unbuildable soil. The use of LIT revenues to fund this up-front cost will permit the Commission to deliver a buildable site to the developer, thereby eliminating a significant barrier to redevelopment of the site.

Passage of the resolution and construction of the project will put a challenging site to productive use. The project will provide many benefits to the community, including (i) public parking in an area with an urgent need for additional parking spaces, (ii) substantial additions to the downtown housing and commercial market, which is an essential element of resident and business attraction, and (iii) annual property tax revenue generated by a type of development that typically has low per capita public service costs.

EFFECT OF NON-PASSAGE. This \$67.75 million investment will not occur without soil remediation. The City has owned the site for 30 years and has a thorough understanding of its limitations. It is unlikely that the site will be developed in a manner befitting its exceptional location without governmental involvement in remediation activities.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS). Although the site has been studied extensively under the Commission's ownership, it is difficult to know the extent of contamination before excavating. Therefore, the cost estimate of approximately \$2 million represents a worst-case scenario. The Commission requests a LIT appropriation of \$2.2 million to include a contingency for unanticipated costs due to labor, material, and other variables.

ASSIGNED TO COMMITTEE (PRESIDENT). _____



COMMUNITY DEVELOPMENT REDEVELOPMENT

Thomas C. Henry, Mayor

City of Fort Wayne
Community Development
200 East Berry Street, Suite 320
Fort Wayne, IN 46802
260-427-2150 fwcommunitydevelopment.org

February 20, 2020

MEMO

To: City of Fort Wayne Common Council

Copy: City of Fort Wayne Redevelopment Commission

From: Nancy Townsend, Executive Director, 427-2323

Re: **Resolution to appropriate local income tax ("LIT") revenues to pay the costs associated with the remediation and removal of contaminated soil for an economic development project called the Lofts at Headwaters Park**

This memo requests Common Council approval of one of five resolutions that must be considered to support an economic development project called the Lofts at Headwaters Park to be undertaken in downtown Fort Wayne. The project, located at the northeast corner of Superior Street and Clinton Street, will consist of approximately 232 dwelling units, 12,000 square feet of ground floor commercial space, and 651 parking spaces at an investment of approximately \$67,750,000.

Enclosed herewith, please find a digest sheet, a resolution appropriating LIT revenues for remediation and removal of contaminated soil, and supporting documentation.

As additional background, on February 10, 2020, the Commission approved an economic development agreement, a pledge of project-generated tax increment revenue and net parking revenue, a parking lease, and a remediation and indemnification agreement in furtherance of the project. The Common Council's approvals and appropriations are necessary due to the scope and complex nature of the project and site. The following resolutions encompass all anticipated Common Council actions that will be needed to support the project:

- Approval of a parking structure lease and appropriation of LIT revenues (the appropriation of LIT revenues is needed to cover shortfalls in annual rent)
- Appropriation of LIT revenues for construction of compensatory floodwater storage
- Appropriation of LIT revenues for soil remediation and removal
- Approval of a soil remediation and indemnification agreement
- Approval of an intergovernmental property transfer for Duck Street

With the exception of the resolution attached to this memo, the resolutions above will be delivered to the Council under separate cover.

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