

**A RESOLUTION OF THE
COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA,
AMENDING THE PRIOR APPROVAL 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 CALLED THE LOFTS AT HEADWATERS PARK**

WHEREAS, the Fort Wayne Redevelopment Commission (the “Commission”) has entered into an Economic Development Agreement (the “EDA”), which EDA has been amended from time to time, with The Lofts at Headwaters Park, LLC, Fort Wayne Garage Associates, One, LLC and Headwaters Capital Partners, LLC (the “Developer”), wherein the Developer agreed to develop and construct a mixed-use building consisting of a multi-family component, a ground floor commercial component and a parking structure, constituting an aggregate investment of approximately Sixty-Seven Million Seven Hundred Fifty Thousand and No/100 Dollars (\$67,750,000), to be located at the northeast corner of Clinton Street and Superior Street in downtown Fort Wayne (the “Project”); and

WHEREAS, the Commission has determined that the completion of the Project is in the best interests of the citizens and taxpayers of the City and, to stimulate and induce the completion of the development of the Project, the Commission agreed in the EDA, subject to further proceedings as required by law, to provide certain economic development incentives in exchange for the development of the Project, including, but not limited to, the remediation and removal of contaminated soils, as more particularly described on Exhibit A (“Soil Remediation and Removal”); and

1 WHEREAS, on March 10, 2020, the Common Council approved
2 Resolution No. R-20-02-22 appropriating Two Million Two Hundred Thousand and
3 No/100 Dollars (\$2,200,000) of local income tax revenues legally available to the City
4 and allocated to economic development pursuant to Indiana Code 6-3.6 ("LIT
5 Revenues") to the Commission for the purpose of paying the costs of the Soil
6 Remediation and Removal; and
7

8 WHEREAS, Resolution 20-02-22 contemplated that LIT would be
9 partially reimbursed through lot sale proceeds from the Project in the amount of Five
10 Hundred Thousand and No/100 Dollars (\$500,000) and One Million and No/100 Dollars
11 (\$1,000,000) for the real estate upon which the Riverfront at Promenade Park will be
12 located; and [
13

14 WHEREAS, the Riverfront at Promenade Park real estate has been
15 conveyed to the Developer and the lot sale proceeds of One Million and No/100 Dollars
16 (\$1,000,000) have been disbursed to LIT; and

17 WHEREAS, the Commission publicly bid the Soil Remediation and
18 Removal and on November 19, 2021, received a low bid of Two Million One Hundred
19 Sixty One Thousand Three Hundred Fifteen and No/100 Dollars (\$2,161,315) which,
20 combined with landfill disposal, construction management, and environmental testing
21 fees is estimated to cost One Million One Hundred Twenty-Eight Thousand Five
22 Hundred and No/100 Dollars (\$1,128,500) and utility relocation costs of approximately
23 Three Hundred Thousand and No/100 Dollars (\$300,000), increased the total cost of the
24 Soil Remediation and Removal to Three Million Five Hundred Sixty-Nine Thousand
25 Eight Hundred Fifteen and No/100 Dollars (\$3,589,815); and
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27 WHEREAS, the Commission has requested that the funding shortfall be
28 partially addressed through the approval of an additional Five Hundred Thousand and
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1 No/100 Dollars (\$500,000) of LIT Revenues by the Common Council to the Commission
2 and through the use of the lot sale proceeds from the Project, with the expectation that
3 the Commission is responsible for any additional funds; and
4

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

9 NOW, THEREFORE, BE IT RESOLVED BY THE COMMON
10 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

11 1. The Common Council finds, determines, ratifies and confirms that
12 the Project is in the best interests of the citizens and taxpayers of the City of Fort Wayne
13 and will support the redevelopment goals of the City of Fort Wayne.
14

15 2. Pursuant to and in accordance with Indiana Code 5-1-14-4 and 6-
16 3.6-10-6, the Common Council does hereby approve an increase of Five Hundred
17 Thousand and No/100 Dollars (\$500,000) of LIT Revenues for a total use of LIT
18 Revenues for Soil Remediation and Removal not to exceed Two Million Seven Hundred
19 Thousand and No/100 Dollars (\$2,700,000).
20

21 3. The Commission is hereby authorized to enter into such contracts
22 as are necessary to effectuate the Soil Remediation and Removal.

23 4. Common Council Resolution R-20-02-22 is hereby rescinded and
24 replaced in its entirety by this Resolution.
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5. 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

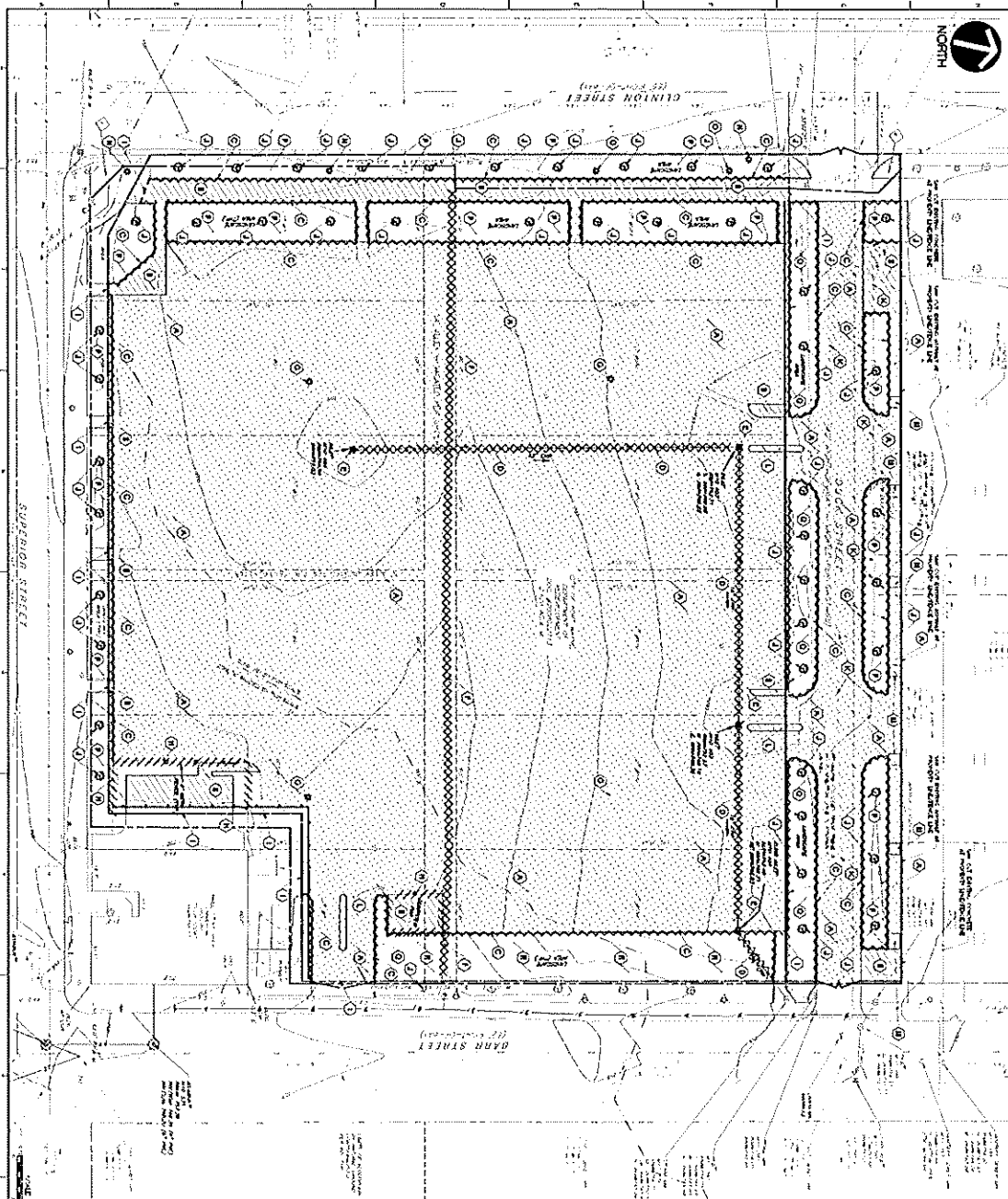
APPROVED AS TO FORM AND LEGALITY

Carol Helton, City Attorney

EXHIBIT A

Description of Soil Remediation and Removal

See Following Pages



EXISTING CONDITIONS & DEMOLITION PLAN

HEADWATERS LOT EXCAVATION AND REMEDIATION
 218 E. SUPERIOR STREET
 FORT WAYNE, IN 46802

C100

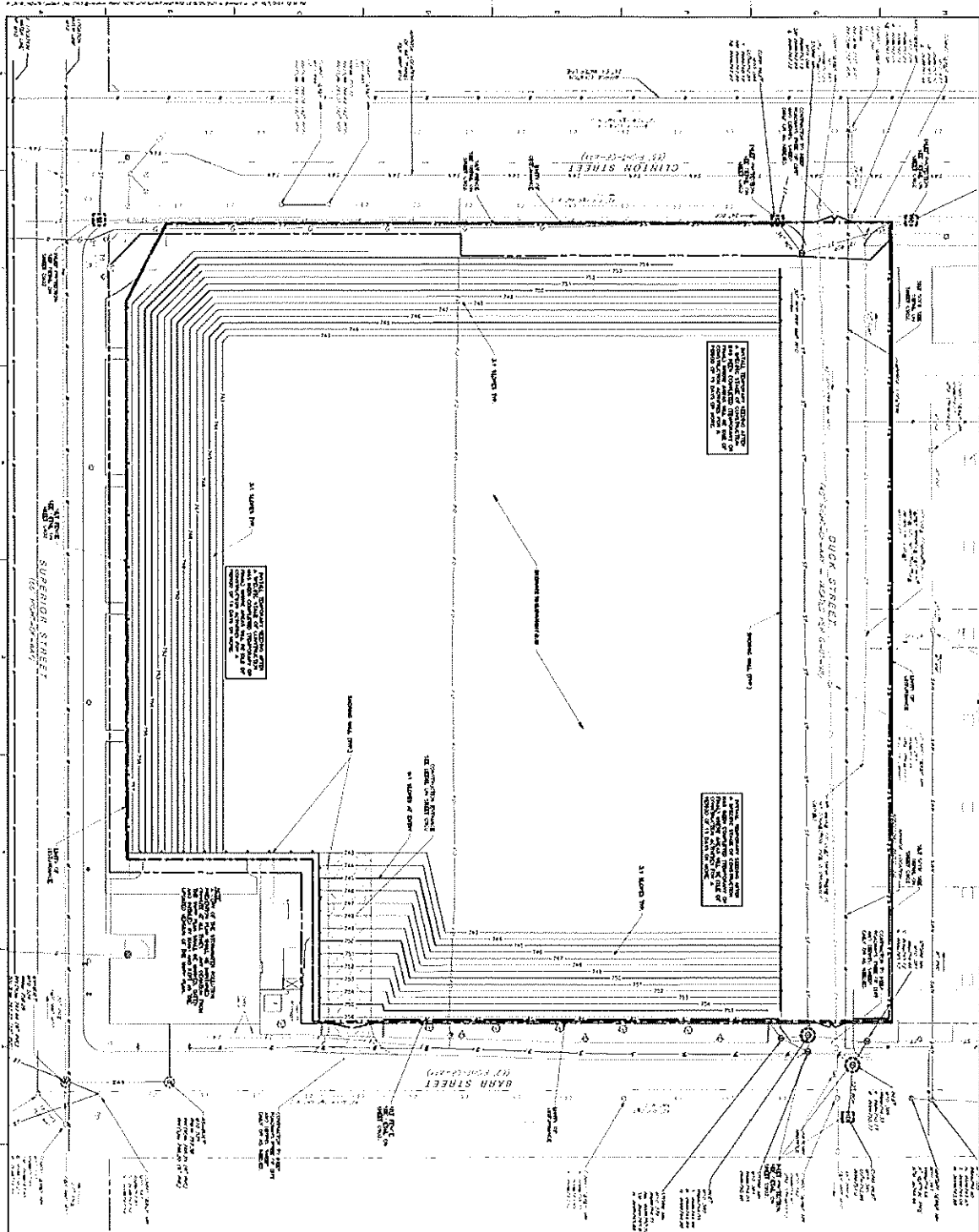
DEMOLITION LEGEND

- Existing Structure
- Structure to be Demolished
- Structure to be Retained
- Structure to be Demolished and Reconstructed
- Structure to be Demolished and Reconstructed with Foundation
- Structure to be Demolished and Reconstructed with Foundation and Walls
- Structure to be Demolished and Reconstructed with Foundation, Walls, and Roof
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, and Interior
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, Interior, and Exterior
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, Interior, Exterior, and Utilities
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, Interior, Exterior, Utilities, and Landscaping
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, Interior, Exterior, Utilities, Landscaping, and Site Work
- Structure to be Demolished and Reconstructed with Foundation, Walls, Roof, Interior, Exterior, Utilities, Landscaping, Site Work, and Final Site Preparation

DEMOLITION NOTES

1. All existing structures within the project area shall be demolished in accordance with the Indiana Uniform Construction Code (UCC) and the Indiana Department of Environmental Management (IDEM) requirements.
2. All existing structures shall be demolished in a manner that minimizes dust, noise, and vibration to the surrounding community.
3. All existing structures shall be demolished in a manner that minimizes the risk of injury to workers and the public.
4. All existing structures shall be demolished in a manner that minimizes the risk of environmental contamination.
5. All existing structures shall be demolished in a manner that minimizes the risk of fire and explosion.
6. All existing structures shall be demolished in a manner that minimizes the risk of structural failure.
7. All existing structures shall be demolished in a manner that minimizes the risk of soil erosion.
8. All existing structures shall be demolished in a manner that minimizes the risk of water pollution.
9. All existing structures shall be demolished in a manner that minimizes the risk of air pollution.
10. All existing structures shall be demolished in a manner that minimizes the risk of other environmental impacts.

EXISTING CONDITIONS & DEMOLITION PLAN C100 DATE: 01/02/2002 BY: J. J. J. REVISION: 1.0 PROJECT: 218 E. SUPERIOR STREET CLIENT: C100	HEADWATERS LOT EXCAVATION AND REMEDIATION 218 E. SUPERIOR STREET FORT WAYNE, IN 46802	CEC Civil & Environmental Consultants, Inc. 601 E. CHURCH ST. - 2ND FL. - FORT WAYNE, IN 46802 317.466.7777 - 317.466.9748 www.cecinc.com	ENVIRONMENTAL ACTION RECORD DATE: 01/02/2002 BY: J. J. J. REVISION: 1.0 PROJECT: 218 E. SUPERIOR STREET CLIENT: C100
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STORMWATER POLLUTION PREVENTION PLAN

DATE: OCT 06/2011 BY: JCC

DESIGN: JCC

PROJECT: 216 E. SUPERIOR STREET

PROJECT: 216 E. SUPERIOR STREET

PROJECT: 216 E. SUPERIOR STREET

HEADWATERS LOT EXCAVATION AND REMEDIATION

216 E. SUPERIOR STREET

FORT WAYNE, IN 46802

Civil & Environmental Consultants, Inc.

600 E. CHRYSLER BLVD. - FORT WAYNE, IN 46804

317.495.1777 - 317.734.0740

REVISIONS

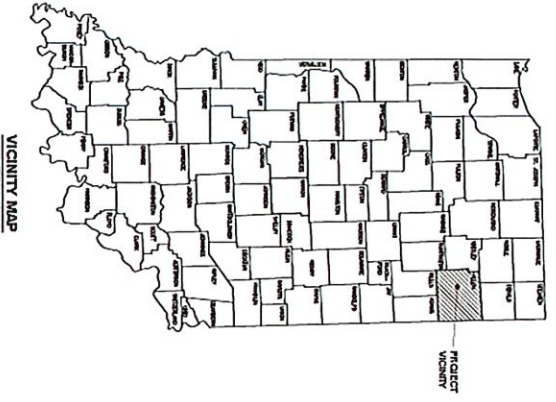
NO.	DATE	DESCRIPTION
1	10/06/2011	ISSUED FOR PERMIT

EXHIBITS & REFERENCE RECORD

NO.	DATE	DESCRIPTION
1	10/06/2011	ISSUED FOR PERMIT

NOTES

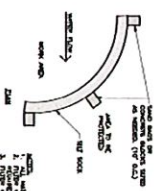
1. ALL EXCAVATION SHALL BE DONE IN ACCORDANCE WITH THE ILLINOIS EROSION CONTROL ACT.
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1. AREA TO BE EXCAVATED IS TO BE LINED AS SHOWN FOR PERIODS OF 12 MONTHS.
2. EXCAVATION SHALL BE DONE IN STAGES TO MAINTAIN ACCESS TO ADJACENT AREAS AND TO MAINTAIN ADEQUATE DRAINAGE.
3. EXCAVATION SHALL BE DONE IN STAGES TO MAINTAIN ADEQUATE DRAINAGE.
4. EXCAVATION SHALL BE DONE IN STAGES TO MAINTAIN ADEQUATE DRAINAGE.

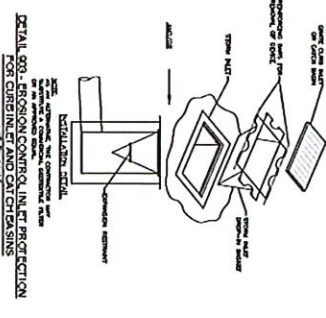
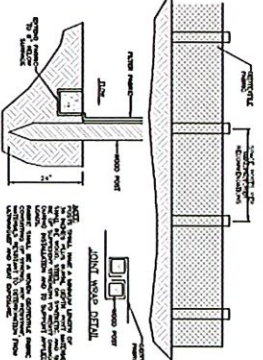
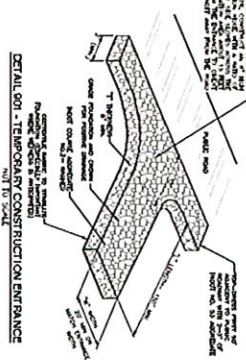
STAGE	DATE	DESCRIPTION	STATUS
1	1/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
2	2/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
3	3/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
4	4/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE

STAGE	DATE	DESCRIPTION	STATUS
1	1/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
2	2/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
3	3/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
4	4/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE



DETAIL 001 - EXCAVATION ENTRANCE

STAGE	DATE	DESCRIPTION	STATUS
1	1/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
2	2/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
3	3/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE
4	4/1/00	EXCAVATION OF 10' X 10' AREA	COMPLETE



C902
STORMWATER POLLUTION PREVENTION DETAILS

HEADWATERS LOT EXCAVATION AND REMEDIATION
216 E. SUPERIOR STREET
FORT WAYNE, IN 46802

CEC
Civil & Environmental Consultants, Inc.
630 E. OAK ST. SUITE 200
FORT WAYNE, IN 46802
317.495.7777 - 317.495.0248

NO.	DATE	REVISION
1		
2		
3		
4		
5		



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

December 9, 2021

MEMO

To: City of Fort Wayne Common Council

Copy: City of Fort Wayne Redevelopment Commission

From: Jonathan Leist, Executive Director, 427-1323

Re: **A Resolution of the Common Council of the City of Fort Wayne, Indiana, amending the prior approval 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 Called the Lofts at Headwaters Park.**

This memo requests Common Council approval for additional funding for soil removal and remediation of the site of a proposed mixed-use development project called the Lofts at Headwaters Park to be located at the northeast corner of Superior Street and Clinton Street in downtown Fort Wayne. The project 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.

Common Council previously approved several resolutions in support of this project, including Resolution No. R-20-02-22 which appropriated \$2.2 million towards soil remediation and removal. Bids received in November 2021, combined with estimated landfill disposal costs (which cannot be determined until excavation is underway), construction management fees, environmental testing and utility location costs put the total cost at approximately \$3.59 million. In order to partially address the increased cost, the Redevelopment Commission requests an additional \$500,000 in LIT funds as well as certain other approvals and authorizations.

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

Please do not hesitate to contact me if you have any questions.

Vibrant. Prosperous. Growing.



DIGEST SHEET

TITLE OF RESOLUTION. A Resolution of the Common Council of the City of Fort Wayne, Indiana, amending the prior approval 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 Called the Lofts at Headwaters Park.

DEPARTMENT REQUESTING RESOLUTION. Redevelopment Commission.

SYNOPSIS OF RESOLUTION. In March 2020, Council approved several resolutions in support of the Lofts at Headwaters Park, which is a proposed mixed-use building to be constructed at the northeast corner of Clinton Street and Superior Street in downtown Fort Wayne (the "Project"). This included Resolution No. R-20-02-22, which appropriated \$2.2 million of local income tax ("LIT") revenue for soil remediation and disposal. The low bid for this work was approximately \$2.16 million, which combined with landfill disposal fees, testing, construction management and utility relocation increases the total cost to approximately \$3.59 million. The original scope of work has not changed; the updated cost is largely attributable to inflation and labor availability. This resolution approves an increase of \$500,000 in the total amount of LIT revenues available for remediation, and authorizes the Redevelopment Commission to enter into such contracts as are necessary to effectuate the remediation and removal. Lot sale proceeds from this project and from the Riverfront at Promenade Park project totaling \$1.5 million were initially pledged to partially reimburse LIT for remediation expenses. One million dollars from the sale of the Riverfront at Promenade Park real estate has already been collected and disbursed to LIT. In addition to the \$500,000 of LIT requested herein, Five Hundred Thousand Dollars (\$500,000) from the sale of the Project real estate would now be used for Soil Remediation and Removal.

EFFECT OF PASSAGE. The project site and the surrounding real estate have a long history of industrial uses that have contaminated the site. 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, which is a condition of the economic development agreement between the developer and the Commission and an activity that would be required for virtually any redevelopment project occurring at 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 with 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). Because it is virtually impossible to know the full extent of contamination before excavating, the cost estimate of \$3.59 million represents a scenario where the majority of the soils would be treated as "contaminated", which entails higher disposal costs. The total LIT revenue available for the project would be \$2.7 million, or \$1.7 million after reimbursement from the sale of the Riverfront at Promenade Park real estate. The Commission would be responsible for the difference between the actual cost of remediation and the approved LIT revenue.

ASSIGNED TO COMMITTEE (PRESIDENT). _____