

**A Resolution Amending an Allocation of Local Income
Tax Revenues for Construction of Public Infrastructure
Supporting Phase I of Posterity Heights**

WHEREAS, in 2017 the Fort Wayne Redevelopment Commission (“Commission”) created the Posterity Heights Urban Renewal Area (“URA”), depicted in attached Exhibit A, and adopted a redevelopment plan for the URA (the “Plan”) to facilitate redevelopment of the real estate; and

WHEREAS, a private developer proposed redevelopment of the URA as a multi-phase, mixed-use development called Posterity Heights, Phase I of which included construction of Posterity Scholar House and associated public infrastructure (“Phase I Project”); and

WHEREAS, to support the Phase I Project, the Commission adopted Resolution 2018-02, which, among other things: (i) approved a Public Infrastructure Reimbursement Agreement for \$750,000, comprised of \$250,000 from the Redevelopment Capital Fund (“Redevelopment Capital Funds”) and \$500,000 from LIT (formerly CEDIT) funds (“LIT Funds”), and (ii) pledged tax increment revenue generated within the URA to first reimburse the Redevelopment Capital Funds and then to reimburse the LIT Funds; and

WHEREAS, on February 27, 2018, the Fort Wayne Common Council (“Council”) adopted Resolution No. R-18-02-03 (“LIT Resolution”), attached hereto as Exhibit B, which committed the LIT Funds to support the Phase I Project; and

WHEREAS, the Phase I Project was constructed on certain real estate conveyed to the development entity (“Posterity Scholar House Real Estate”), which real estate is depicted in Exhibit C; however, future phases of Posterity Heights did not materialize, and no additional real estate was conveyed to the developer; and

WHEREAS, the LIT Resolution provides for reimbursement of Redevelopment Capital Funds and LIT Funds from tax increment generated by the entire URA, rather than from the real estate upon which the Phase I Project was actually constructed, thereby rendering unavailable any tax increment revenue generated by new development within the URA and creating a substantial barrier to redevelopment of the remainder of the URA pursuant to the Plan; and

WHEREAS, on July 11, 2022, the Commission adopted Resolution 2022-29 (the “RDC Resolution”), attached hereto as Exhibit D, which amended Commission Resolution 2018-02 to provide that: (i) tax increment generated by the Posterity Scholar

1 House Real Estate will continue to reimburse the Redevelopment Capital Funds and LIT
2 Funds, (ii) tax increment realized from the URA, with the exception of the Posterity
3 Scholar House Real Estate, may be used for any lawful purpose, and (ii) the order of
4 reimbursement is to be reversed, such that LIT Funds will be fully reimbursed first and
5 Redevelopment Capital Funds will be reimbursed second; and

6 **WHEREAS**, Council authorization of the modifications described in the RDC
7 Resolution is required to give effect to the RDC Resolution.

8 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY**
9 **OF FORT WAYNE, INDIANA:**

10 **Section 1.** The Council hereby rescinds Section 2 of Resolution R-18-02-03
11 ("LIT Resolution") in its entirety and replaces it with the following:

12 ***Section 2.** Incremental tax revenue from the Posterity*
13 *Scholar House Real Estate shall first be used to fully*
14 *reimburse the \$500,000 drawn from LIT Funds and shall*
15 *then be used to fully reimburse the \$250,000 drawn from*
16 *Redevelopment Capital Funds.*

17 **Section 2.** Tax increment revenue realized from the URA, with the exception of the
18 Posterity Scholar House Real Estate, may be used for any lawful purpose.

19 **Section 3.** This Resolution shall be in full force and effect from and after its
20 passage and any and all necessary approval by the Mayor.

21 _____
22 Council Member

23 APPROVED AS TO FORM AND LEGALITY

24 _____
25 Malak Heiny, City Attorney
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EXHIBIT A

Posterity Heights Urban Renewal Area ("URA")

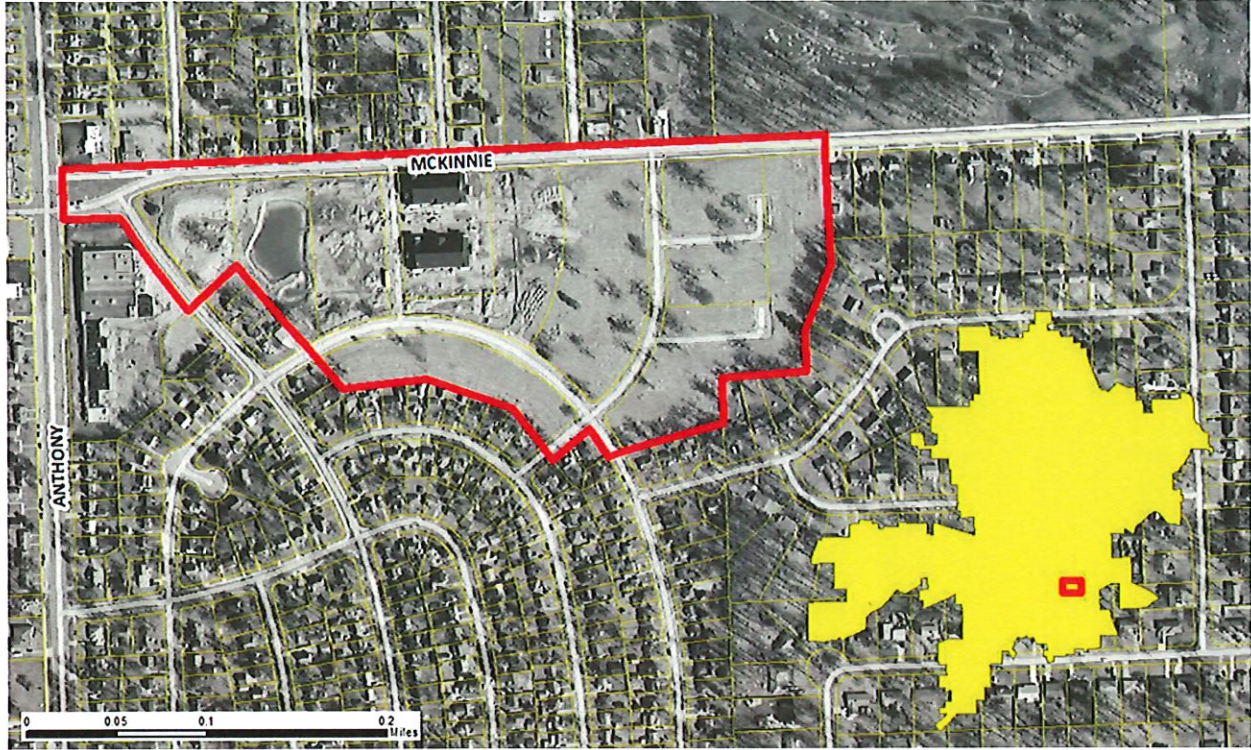


EXHIBIT B

Fort Wayne City Council Resolution No. R-18-02-03, adopted February 27, 2018 ("LIT Resolution")

1 **BILL NO. R-18-02-03**

2 **RESOLUTION NO. R-1318**

3 **A Resolution Approving \$500,000 of LIT Funds for**
4 **Reimbursement of Public Infrastructure**
5 **Constructed as Part of Posterity Heights Phase 1**

6 **WHEREAS**, on June 26, 2017, the City of Fort Wayne Community
7 Development Division (CDD) and BWI Development and Management, Inc.
8 (BWI), developer of the Posterity Heights Phase 1 project, entered into a
9 Letter of Support (attached), whereby CDD committed \$250,000 in Federal
10 HOME funds and a not-to-exceed amount of \$750,000 for the public
11 improvements in and serving the project; and
12

13
14 **WHEREAS**, on January 8, 2018, the Fort Wayne Redevelopment
15 Commission passed Resolution 2018-02, approving the expenditure of
16 \$250,000 from the Redevelopment Commission Capital Fund for public
17 improvements in and serving Posterity Heights Phase 1; and
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19
20 **WHEREAS**, CDD and the Fort Wayne Redevelopment Commission
21 prepared a Public Infrastructure Reimbursement Agreement, attached hereto
22 as Exhibit A, outlining the requirements for reimbursement for expenses
23 incurred by BWI for construction of public improvements.
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26 **NOW, THEREFORE, BE IT RESOLVED BY THE COMMON**
27 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**
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SECTION 1. That the Common Council of the City of Fort Wayne, Indiana, approves the commitment of \$500,000 of LIT funds to be paid to reimburse BWI for construction of public improvements according to procedures outlined in the Public Infrastructure Reimbursement Agreement.

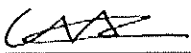
SECTION 2. Incremental tax revenue from the Posterity Heights Urban Renewal Project Area shall be used to fully reimburse the \$250,000 from the Redevelopment Capital Fund, and shall then be used to reimburse the \$500,000 from LIT funds.

SECTION 3. That this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.



Council Member

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

Public Hearing Date: N/A

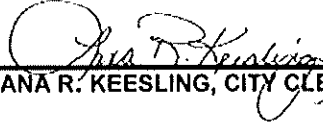
Read the first time in full and on motion by Councilman Arp.

Read the second time by title and referred to the Finance Committee.

Read the third time in full and on motion by Councilman Arp, placed on passage by the following vote:

<u>TOTAL VOTES</u>	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
ARP	☒	☐	☐	☐
BARRANDA	☐	☐	☒	☐
CRAWFORD	☒	☐	☐	☐
DIDIER	☒	☐	☐	☐
ENSLEY	☒	☐	☐	☐
FREISTROFFER	☒	☐	☐	☐
HINES	☒	☐	☐	☐
JEHL	☒	☐	☐	☐
PADDOCK	☒	☐	☐	☐

DATED: February 27, 2018

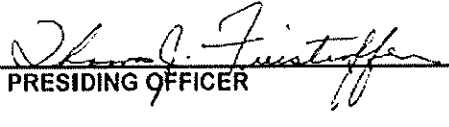

LANA R. KEESLING, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

Resolution No. R-18-02-03 on the 27th day of February, 2018

ATTEST:


LANA R. KEESLING
CITY CLERK


PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th
of February 2018, at the hour of 10:10 o'clock A.M. E.S.T.

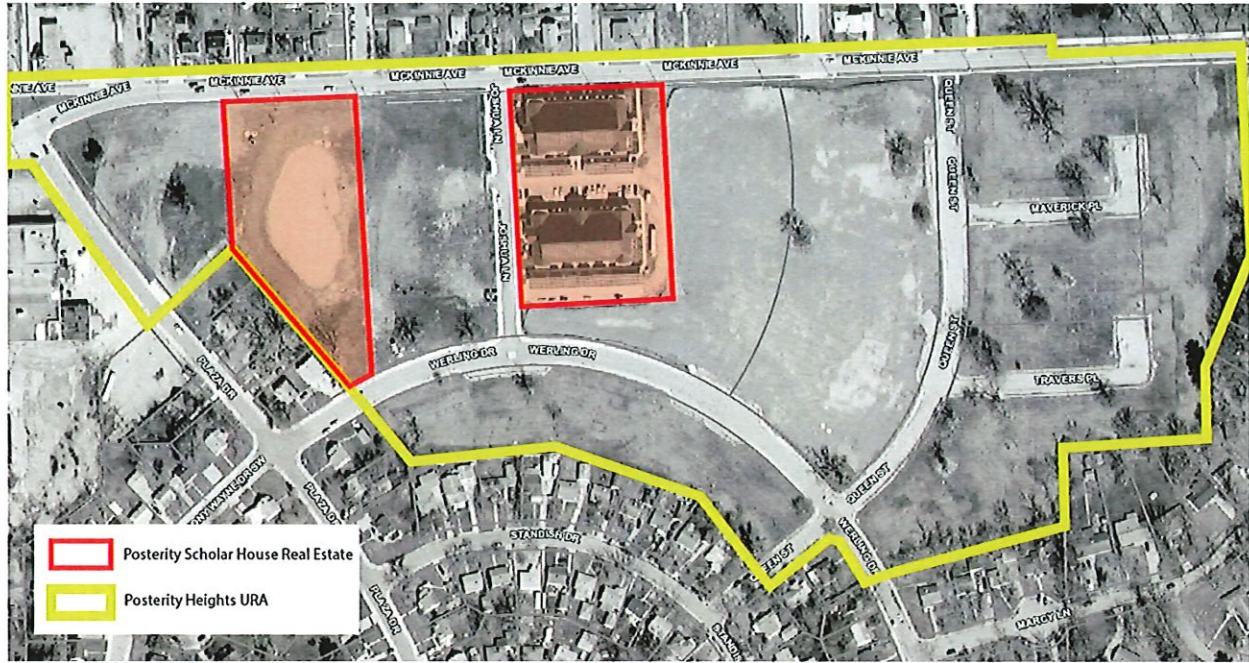

LANA R. KEESLING, CITY CLERK

Approved and signed by me this 28TH day of February
2018, at the hour of 7:00 O'clock Pm, E.S.T.


THOMAS C. HENRY, MAYOR

EXHIBIT C

"Posterity Scholar House Real Estate"



The Posterity Scholar House Real Estate consists of two PINs:

- *02-13-19-126-001.002-070 is the parcel containing the retention pond*
- *02-13-19-126-001.003-070 is the parcel containing the multifamily structures*

EXHIBIT D

Redevelopment Commission Resolution 2022-29, adopted on July 11, 2022 (the "RDC Resolution")

RESOLUTION 2022-29 FORT WAYNE REDEVELOPMENT COMMISSION

AMENDING A PUBLIC INFRASTRUCTURE REIMBURSEMENT AGREEMENT FOR THE POSTERITY HEIGHTS PROJECT

WHEREAS, the Fort Wayne Redevelopment Commission ("Commission") created the Posterity Heights Urban Renewal Area ("URA"), depicted in attached Exhibit A, and adopted a redevelopment plan for the URA (the "Plan") to facilitate redevelopment of the real estate; and

WHEREAS, a private developer proposed redevelopment of the URA as a multi-phase, mixed-use development called Posterity Heights; and

WHEREAS, to support of Phase I of Posterity Heights, the Commission adopted Resolution 2018-02, attached hereto as Exhibit B, approving a Public Infrastructure Reimbursement Agreement ("Reimbursement Agreement") whereby the Commission pledged tax increment revenue generated within the URA to first reimburse \$250,000 to the Redevelopment Capital Fund ("Capital Fund"), and then to reimburse \$500,000 to local economic development income tax funds ("CEDIT" or "LIT"); and

WHEREAS, Phase I of Posterity Heights was constructed on certain real estate conveyed to the development entity ("Posterity Scholar House Real Estate"), which real estate is depicted in Exhibit C; however, future phases of Posterity Heights did not materialize, and no additional real estate was conveyed to the developer; and

WHEREAS, the Reimbursement Agreement pledges tax increment from the entire URA, rather than from the real estate upon which the Posterity Heights project was actually constructed, to the reimbursement of the Capital Fund and LIT, thereby rendering unavailable any new project-generated tax increment within the URA and creating a substantial barrier to redevelopment of the remainder of the URA pursuant to the Plan; and

WHEREAS, the Commission desires to modify the Reimbursement Agreement so that tax increment generated by the Posterity Scholar House Real Estate will continue to be used to reimburse the Capital Fund and LIT, while allowing tax increment generated by the remainder of the URA to be used for new development in or supporting the URA; and

WHEREAS, the Commission also desires to reverse the order of reimbursement stated in the Reimbursement Agreement such that LIT will be in first position and the Capital Fund will be in second position.

NOW, THEREFORE, BE IT RESOLVED by the Fort Wayne Redevelopment Commission that:

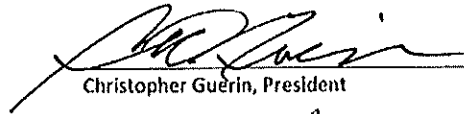
1. The Commission hereby rescinds Resolved Statement No. 5 in Resolution 2018-02 and replaces it with the following:

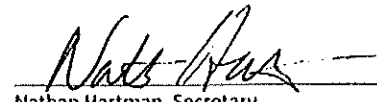
Tax increment revenue realized from the Posterity Scholar House Real Estate shall first be used to fully reimburse the \$500,000 drawn from LIT funds and shall then be used to fully reimburse the \$250,000 drawn from the Capital Fund.

2. Tax increment revenue realized from the URA, with the exception of the Posterity Scholar House Real Estate, may be used for any lawful purpose.

3. This Resolution shall be effective after adoption of a resolution by the Fort Wayne Common Council authorizing the modifications to the Reimbursement Agreement as substantially described herein.

FORT WAYNE REDEVELOPMENT COMMISSION


Christopher Guérin, President


Nathan Hartman, Secretary

ADOPTED: 11 July 2022

DIGEST SHEET

TITLE OF RESOLUTION. A Resolution Amending an Allocation of Local Income Tax Revenues for Construction of Public Infrastructure Supporting Phase I of Posterity Heights.

DEPARTMENT REQUESTING RESOLUTION. Redevelopment Commission.

SYNOPSIS OF RESOLUTION. Modifies a resolution adopted in February 2018 that allocated \$500,000 of LIT (combined with a previously-approved \$250,000 allocation by the Redevelopment Commission) towards public infrastructure serving Phase I of the Posterity Heights project. LIT and the Redevelopment Capital Fund were initially to be reimbursed from tax increment generated by the entire Posterity Heights TIF District. This resolution specifies that only the tax increment generated by the real estate upon which Phase I was constructed (as opposed to the entire TIF District) will be used to reimburse LIT and the Redevelopment Capital Fund. This resolution also reverses the order of reimbursement, such that LIT will be fully reimbursed first, and the Redevelopment Capital Fund will be reimbursed second.

EFFECT OF PASSAGE. Passage of this resolution would allow the incremental increase in property tax revenue (i.e. "TIF revenue") generated by the Village Premier project to be used to support the project, specifically as a source of payment for Economic Development Commission bonds. Project-generated TIF revenue not only addresses the project's financial gap in a manner that preserves/minimizes the use of non-project generated sources, but in this instance also provides a required local match for State/federal funding sources which are critical for the project's success. The \$42 million project is important for the community, as it will provide more than 200 income-based housing units in an area where the occupancy rate for affordable units is nearly 100% and demand exists for approximately 3,600 units. The project also includes site preparation for construction of single-family homes, which will help to re-establish the for-sale market in the Southeast Quadrant. Redevelopment of this site is a key implementation measure of the recently-adopted Southeast Development Strategy.

EFFECT OF NON-PASSAGE. Project-generated tax increment is a critical source of financing that is used in most substantial projects in our community. It is particularly important in areas experiencing disinvestment because high-quality infill projects with substantial community benefits typically have a financial gap. Non-passage would render this funding source unavailable for new development in the Posterity Heights TIF District, which would severely jeopardize any new development, most pertinently the Village Premier project, which anticipates using project-generated TIF revenue as a source of payment for a bond issue.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS). Passage of this resolution modifies the terms of a previously-approved reimbursement agreement. It involves no outlay of funds. Passage would change the order of reimbursement, such that LIT funds would now be fully reimbursed before Redevelopment Capital Funds.

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

July 21, 2022

MEMO

To: City of Fort Wayne Common Council

Copy: City of Fort Wayne Redevelopment Commission

From: Jonathan Leist, Redevelopment Director, 427-1323

Re: **A Resolution Amending an Allocation of Local Income Tax Revenues for Construction of Public Infrastructure Supporting Phase I of Posterity Heights.**

Please find enclosed herewith a Digest Sheet, Resolution, and supporting materials that would amend an allocation of LIT revenue approved by the Common Council in February 2018.

This Resolution constitutes one of three resolutions that will be presented to Council associated with Phase I of the Village Premier project. This resolution would enable tax increment revenue generated by Village Premier to be used to finance a portion of the project. The second resolution, to be introduced concurrently with this resolution, authorizes the City to initiate the process of issuing economic development revenue bonds to support the project. A third resolution, to be introduced at a later date following the approval of a residential plat, would approve a 5-year Residential Tax Abatement for the 9 new single-family homes to be constructed as part of Phase I of the project.

Details regarding Village Premier are contained in the materials submitted to Council for the EDC bond, but please feel free to contact me at your convenience with any questions. I will be reaching out to Megan Flohr in advance of the Council discussion date to offer briefing times for this request as needed.

Thank you,

Jonathan Leist

Vibrant. Prosperous. Growing.

