

1 **BILL NO. S-22-09-09**

2
3 **ORDINANCE NO. _____**

4
5 **PRELIMINARY RESOLUTION OF THE COMMON COUNCIL OF THE CITY**
6 **OF FORT WAYNE, INDIANA, APPROVING REQUEST FOR**
7 **AN AMENDED ORDINANCE AUTHORIZING THE ISSUANCE OF TAXABLE**
8 **ECONOMIC DEVELOPMENT REVENUE BONDS**
9 **(ELECTRIC WORKS PROJECT PHASE II), AND AUTHORIZING**
10 **AND APPROVING OTHER ACTIONS IN RESPECT THERETO**

11 WHEREAS, the City of Fort Wayne, Indiana (the "City") is a political
12 subdivision of the State of Indiana and, by virtue of Indiana Code 36-7-11.9 and Indiana
13 Code 36-7-12, each as amended (collectively, the "Act"), is authorized and empowered to
14 adopt a bond ordinance and to carry out its provisions; and

15 WHEREAS, RTM Ventures, LLC (or an affiliate thereof) (the "Company")
16 desires to finance the acquisition, construction, installation and equipping of (a) an
17 approximately 311,000 square foot parking garage, (b) an approximately 308,000 square
18 foot apartment building, and (c) an approximately 31,000 square foot commercial/retail
19 space, all to be located at or adjacent to the "Electric Works" area within the City
20 (collectively, the "Project"), for use by the Company in its commercial operations, which
21 Project will be located in or physically connected to the area within the City heretofore
22 designated as the "Broadway–Taylor Economic Development Area" (the "Area") and
23 which Project is an "economic development facility" (as defined in the Act); and

24 WHEREAS, the Company has entered into an Economic Development
25 Agreement, Electric Works Phase II ("EDA"), with the City of Fort Wayne, Indiana,
26 Department of Redevelopment ("Redevelopment"), dated October 20, 2021, providing
27 for the development of the Project and the provisions of public incentives for the Project;
28 and
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1 WHEREAS, the Company requested that the City of Fort Wayne Economic
2 Development Commission (the "Commission") and the City cause to be issued by the
3 City its Taxable Economic Development Revenue Bonds (Electric Works Project), in one
4 or more series in a combined principal amount not to exceed THIRTY-TWO MILLION
5 DOLLARS (\$32,000,000) (the "Bonds"), pursuant to the Act; and
6

7 WHEREAS the Commission previously held a public hearing and approved the
8 Company's request by virtue of Commission Resolution No. R-01-20-2022 adopted by
9 the Commission on January 20, 2022 ("EDC Resolution") and the City previously
10 approved the Company's request by virtue of a bond ordinance approved by the
11 Common Council of the City ("Council") as Council Ordinance No. S-14-22 adopted by
12 the Council on February 8, 2022 ("Bond Ordinance"); and
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14 WHEREAS, pursuant to the EDA, the Company applied for and the Council
15 previously approved a tax abatement application for the Project; and

16 WHEREAS, the Company is now requesting (a) an amendment to the Economic
17 Development Agreement with Redevelopment; (b) a new public hearing before the
18 Commission; (c) an amendment to the EDC resolution and an amendment to the Bond
19 Ordinance to; (i) increase the authorized principal amount listed in the Bond Ordinance
20 to FORTY-SIX MILLION AND NO/100 DOLLARS (\$46,000,000.00) and (ii) increase
21 the maximum interest rate listed in the Bond Ordinance to FIVE HUNDRED (500) basis
22 points above the prime rate, as published in the Wall Street Journal ("Prime Rate"), as
23 determined as of the date of closing of the financing; and, (d) a rescission and withdrawal
24 of the previously approved tax abatement application; and
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26 WHEREAS, Council is willing to provide a preliminary approval of the
27 amendments to the EDC Resolution and Bond Ordinance requested by Company subject
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1 to the completion of all legal prerequisites required by Redevelopment and the
2 Commission; and

3 WHEREAS, Council is willing to grant the rescission and withdrawal of the
4 previously approved tax abatement application; and

5 WHEREAS, the Council does hereby confirm and ratify its prior findings as set
6 forth in the Bond Ordinance.

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

10 SECTION 1. Findings. The Common Council hereby confirms and ratifies the
11 findings set forth in the Bond Ordinance.

12 SECTION 2. Preliminary Approval. The Council preliminarily approves the
13 Company's request to (a) rescind and withdraw the Company's tax abatement application
14 applicable to the Project; and, (b) amend the EDC Resolution and the Bond Ordinance by
15 increasing the maximum principal amount of the Bonds to a combined aggregate
16 principal amount not to exceed FORTY-SIX MILLION AND NO/100 DOLLARS
17 (\$46,000,000.00) and increasing the maximum interest rate on the Bonds to FIVE
18 HUNDRED (500) basis points above the Prime Rate defined herein subject to all legal
19 prerequisites required by Redevelopment and the Commission. In all other respects the
20 EDC Resolution and the Bond Ordinance will remain in full force and effect.
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1 Effective Date. This preliminary resolution shall be effective upon its passage by the
2 Common Council, in accordance with procedures as required by law.
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4 _____
5 Council Member

6 APPROVED as to form and legality

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8 Malak Heiny, City Attorney
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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

September 8, 2022

MEMO

To: City of Fort Wayne Common Council

Copy: City of Fort Wayne Redevelopment Commission

From: Jonathan Leist, Redevelopment Director, 427-1323

Re: **Preliminary resolution of the Common Council of the City of Fort Wayne, Indiana, approving request for an amended ordinance authorizing the issuance of taxable economic development revenue bonds (Electric Works Phase II) and authorizing and approving other actions in respect thereto.**

RTM Ventures, LLC hereby requests that the Common Council consider and approve the attached resolution amending Council Ordinance No. S-14-22, adopted by the Council on February 8, 2022. The previously approved Ordinance included a maximum bond principal amount of \$32,000,000 and a maximum interest rate of 8%. The proposed amendment would increase the bond maximum principal amount to \$46,000,000 and increase the maximum interest rate to a floating rate of Prime Rate plus 500 basis points, with the actual rate to be determined at the date of closing of the financing.

To offset a portion of this increase in the bond maximum principal, this resolution would also repeal and withdrawal the previously approved property tax phase-in for the Phase II portion of the Electric Works project, with a net present value of approximately \$5,465,556.

Please find enclosed herewith a digest sheet and a proposed resolution authorizing the amendment to the economic development revenue bond ordinance. Please feel free to contact me at your convenience with any questions.

Vibrant. Prosperous. Growing.



DIGEST SHEET

TITLE OF RESOLUTION. Preliminary resolution of the Common Council of the City of Fort Wayne, Indiana, approving request for an amended ordinance authorizing the issuance of taxable economic development revenue bonds (Electric Works Phase II) and authorizing and approving other actions in respect thereto.

DEPARTMENT REQUESTING RESOLUTION. Redevelopment Commission.

SYNOPSIS OF RESOLUTION. In February 2022, the Common Council approved Council Ordinance No. S-14-22 which approved the issuance of economic development revenue bonds on behalf of developer RTM Ventures which included a maximum bond principal amount of \$32,000,000 and a maximum interest rate of 8%. The proposed amendment would increase the maximum principal amount to \$46,000,000 and increase the maximum interest rate to a floating rate of Prime Rate plus 500 basis points, with the actual rate to be determined at the date of closing of the financing. To offset a portion of this increase in the maximum bond principal, this resolution would also repeal and withdrawal the previously approved property tax phase-in for the Phase II portion of the Electric Works project, with a net present value of approximately \$5,465,556.

EFFECT OF PASSAGE. Approval would provide developer RTM Ventures with the funding they have indicated is necessary to complete the Phase II project, including a parking garage, market and affordable senior apartments, a childcare facility, and commercial space.

EFFECT OF NON-PASSAGE. Non-passage would necessitate reductions in scope, construction delays, and/or the need for the developer to raise additional equity to construct the Phase II portion of the Electric Works project.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS). Council would be committing an additional \$14,000,000 in maximum bond proceeds to the project, which would be partially offset by repealing the previously approved tax phase-in for Phase II, valued at approximately \$5,465,556. The additional bond principal and interest would be repaid with TIF from Phase I and Phase II of the Electric Works project. The additional principal and interest requirements would potentially reduce the amount of tax increment funding available for city-initiated neighborhood infrastructure improvements in the Broadway-Taylor Economic Development Area over the next 35 years.

ASSIGNED TO COMMITTEE (PRESIDENT). _____