

1 **BILL NO. - S-14-06-55**

2 **SPECIAL ORDINANCE NO. S-84-14**

3 **AN ORDINANCE APPROVING THE CREATION OF A LEASE RENTAL**
4 **RESERVE FUND FROM THE CITY OF FORT WAYNE COMMUNITY**
5 **LEGACY FUND.**

6 **Whereas**, the City of Fort Wayne ("City") has created the City of Fort
7 Wayne Community Legacy Fund ("Legacy Fund") to invest in projects that will have
8 a collective impact that leads to transformational change within the community; and

9 **Whereas**, the City through the Legacy process has received unprecedented
10 public input from across the community and has worked with citizens, business
11 leaders and elected officials to develop implementation priorities; and

12 **Whereas**, the City seeks to advance transformational projects for our
13 community with a focus on economic development, downtown and riverfront
14 development, and youth development/prep sports; and

15 **Whereas**, each Legacy project provides our community with an opportunity
16 to make our City stronger and better positioned for growth; and

17 **Whereas**, the Common Council of the City has adopted Special Ordinance
18 No. S-_____ on June 24, 2014 ("Ordinance") to, among other matters, approve (i)
19 the lease dated as of June 1, 2014 (the "Lease") between the Fort Wayne
20 Redevelopment Commission (the "Commission") and the Fort Wayne
21 Redevelopment Authority (the "Authority") which provides for the lease by the
22 Authority to the Commission of certain local public improvements consisting of a
23 parking structure (the "Project") which will support an urban mixed-use building
24 also consisting of the Project, certain office space, certain retail space to be
25 constructed at street level, certain high rise residential space and certain residential
26 townhomes to be constructed at street level and other related improvements and (ii)
27 the issuance of lease rental revenue bonds by the Authority (the "Bonds") to finance
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1 a portion of the costs related to the completion of the Project which upon completion
2 the Authority will lease to the Commission pursuant to the Lease; and

3 **Whereas**, the City has been advised that the Commission expects to pay the
4 rentals due under the Lease (the "Lease Rentals") from tax increment revenues (the
5 "TIF Revenues") expected to be collected from the Civic Center Urban Renewal
6 Area previously designated by the Commission as a redevelopment area and an
7 allocation area for purposes of collecting the TIF Revenues, and that the Commission
8 expects the TIF Revenues, along with other revenues to be made available to the
9 Commission, including, without limitation, revenues from the Capital Improvement
10 Board (collectively, the "Revenues"), will be sufficient to provide for the payment of
11 the Lease Rentals when due; and;

12 **Whereas**, the City has been advised that in order to provide the lowest
13 interest rate on the Bonds to be issued by the Authority, the Commission must
14 provide for a lease rental reserve fund (the "Lease Reserve Fund") in an amount
15 equal to the maximum amount of Lease Rentals due on July 15 and January 15 of
16 any year during the term of the Lease (the "Lease Reserve Requirement"); and

17 **Whereas**, the City has been advised that the Lease Reserve Requirement may
18 be satisfied by using funds already on hand in the Legacy Fund which will maximize
19 the amount of Bond proceeds available to complete the Project; and

20 **Whereas**, the City would like to utilize funds from the Legacy Fund to fulfill
21 the Lease Reserve Requirement;

22 **NOW THEREFORE, BE IT ORDAINED BY THE COMMON**
23 **COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:**

24 **SECTION 1.** The Common Council hereby authorizes the Board of Trustees
25 of the Legacy Fund to instruct the financial institution serving as the trustee of the
26 Legacy Fund to establish a subaccount within the Legacy Fund as follows:

1 **Lease Reserve Fund for the Fort Wayne Redevelopment Authority Lease**
2 **Rental Revenue Bonds of 2014**

3 Funds in an amount equal to the Lease Reserve Requirement will be held in a
4 subaccount of the Legacy Fund to serve as the Lease Reserve Fund containing the
5 Lease Reserve Requirement. Such funds held as the Lease Reserve Fund in the
6 subaccount shall be used to pay the Lease Rentals in accordance with the Lease only
7 if the Commission does not otherwise have sufficient Revenues to pay such Lease
8 Rentals and may not be used for any other purpose. If any portion of the subaccount
9 is used to pay the Lease Rentals due under the Lease, such subaccount may be
10 replenished by the Commission to a level equal to the Lease Reserve Requirement to
11 the extent TIF Revenues are available for such purpose. If the Lease Reserve Fund
12 is still in need of funds to attain a balance equal to the Lease Reserve Requirement,
13 the Common Council shall consider an appropriation of funds from the Legacy Fund
14 to attain a balance equal to the Lease Reserve Requirement. Such deficiency and an
15 appropriation from the Legacy Fund shall be considered by the Common Council
16 within six months after the deficiency is created.

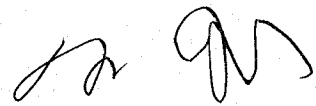
17 If the Commission requires funds from the Lease Reserve Fund for the
18 payment of Lease Rentals due under the Lease, a request shall be filed by the
19 Commission with the City's Controller. The City agrees to make funds available to
20 the Commission within one business day of the filing of such request. The request
21 filed with the City's Controller may be made in writing, via e-mail or by phone,
22 followed up either in writing or via e-mail. The request shall state the amount
23 needed from the Lease Reserve Fund to pay the Lease Rentals then due under the
24 Lease.

25 Upon the final payment of the Lease Rentals by the Commission under the
26 Lease, the subaccount serving as the Lease Reserve Requirement for the Lease
27 Reserve Fund shall cease to exist, and such funds shall remain a part of the Legacy
28 Fund and shall no longer be subject to this ordinance.
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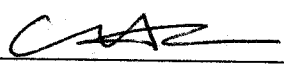
If the City determines that the Lease Reserve Requirement can be satisfied with another source of funds available to the Commission and permitted by law to be used for such purpose and such alternative source is indeed funded to serve as all or a part of the Lease Reserve Requirement, the Common Council shall authorize the Board of Trustees of the Legacy Fund to provide instructions to the trustee of the Legacy Fund to modify as necessary, including elimination, the subaccount serving as the Lease Reserve Fund.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.



Councilmember

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

Public Hearing Date, if applicable _____

Read the first time in full and on motion by Councilman John Crawford

Read the second time by title and referred to the Finance

Committee. Read the third time in full and on motion by Councilman John Crawford, placed on passage by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>9</u>	_____	_____	_____
BENDER	<u>✓</u>	_____	_____	_____
CRAWFORD	<u>✓</u>	_____	_____	_____
DIDIER	<u>✓</u>	_____	_____	_____
HARPER	<u>✓</u>	_____	_____	_____
HINES	<u>✓</u>	_____	_____	_____
JEHL	<u>✓</u>	_____	_____	_____
PADDOCK	<u>✓</u>	_____	_____	_____
SHOAFF	<u>✓</u>	_____	_____	_____
SMITH	<u>✓</u>	_____	_____	_____

DATED: 7-22-14 Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE (RESOLUTION) NO. 5-84-14 on the 22nd day of July, 2014

ATTEST: Sandra E. Kennedy
SANDRA E. KENNEDY,
CITY CLERK

Marvin A. Bender
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 25th day of July, 2014, at the hour of 3:30 o'clock PM. E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 23rd day of JULY 2014, at the hour of 4:00 o'clock PM. E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR

REPORT OF THE FINANCE COMMITTEE

JULY 8, 2014

*John Crawford Chair
Russ Jehl, Co-Chair
All Council Members*

AN ORDINANCE approving the creation of a Lease Rental Reserve Fund from the City of Fort Wayne Community Legacy Fund. **HAVE HAD SAID ORDINANCE UNDER CONSIDERATION AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID ORDINANCE**

DO PASS

DO NOT PASS

ABSTAIN

NO REC

John Crawford
Russ Jehl
Tommy H. Hunter
Thomas F. Hudec
Gregg D. Baker
Mark S. Smith
John J. ...
Martin B. ...

SANDRA E. KENNEDY
CITY CLERK