Intro 6-14-21 Ref LAW

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Petitioner: Hammond Redevelopment Commission

Sponsor(s): Co-Sponsors Pete Torres 2nd District and Barry Tyler Jr. 3rd District

ORDINANCE NO. 9511

ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF HAMMOND AUTHORIZING THE CITY OF HAMMOND, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO (415 SIBLEY – 3 CORNERS PROJECT) (BANK CALUMET – NWI PROJECT)

WHEREAS, Indiana Code 36-7-11.9 and 12 (collectively, the "Act") declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Hammond, Indiana (the "City") is authorized to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

WHEREAS, the Hammond Redevelopment Commission (the "Redevelopment Commission") has previously created the Downtown No. 1 Urban Renewal Area Allocation Area (the "Downtown Allocation Area") in accordance with IC 36-7-14-39 for the purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable real property in such allocation area (the "Downtown TIF"); and

WHEREAS, the Redevelopment Commission has previously created the Hammond Central Redevelopment Area Allocation Area (the "Central Allocation Area") in accordance with IC 36-7-14-39 for the purposes of capturing incremental *ad valorem* property taxes levied and collected on all taxable property in such allocation area (the "Central TIF"); and

WHEREAS, the City, the Redevelopment Commission, and 415 Sibley, LLC (or a related party, the "Series A Developer"), have entered into a Development Agreement (the "Series A Development Agreement"), relating to the development of a state-of-the-art ground-up, mixed-use development that is expected to include a five-story building with approximately 8,700 sq.ft. of retail and amenities on the first floor and modern apartment units on the second thru fifth floor, consisting of 4 studio apartments, 36 single apartments, and 14 double apartments, as more particularly described in the Series A Development Agreement (the "Series A Development"), which Series A Development will be located in the Downtown Allocation Area and benefit and serve the Central Allocation Area; and

WHEREAS, NWI Development Group, and/or one or more subsidiaries, affiliates or joint ventures thereof (collectively, the "Series B Developer") (each of the Series A Developer and the Series B Developer being referred to herein as a "Developer" and collectively as the "Developers"), desires to finance the acquisition, construction, renovation, and equipping of a mixed-use development, that is expected to include approximately 100 market rate apartments and approximately 7,000 sq.ft. of ground floor commercial space (the "Series B Development") (each of the Series A Development and the Series B Development being referred to herein as a "Development" and collectively as the "Developments"), which Series B Development will be located in the Downtown Allocation Area and benefit and serve the Central Allocation Area; and

WHEREAS, the Series A Developer has advised the City, the City of Hammond Economic Development Commission (the "Economic Development Commission") and the Redevelopment Commission concerning the Series A Development, and has requested that the City authorize and issue its economic development tax increment revenue bonds under the Act, to be designated as the City of Hammond, Indiana, Economic Development Tax Increment Revenue Bonds, Series A (with such further series or different series designation as determined to be necessary or appropriate) (the "Series A Bonds"), and make the net proceeds of the Series A Bonds available to the Series A Developer for the purpose of financing a portion of the costs of the Series A Development; and

WHEREAS, the Series B Developer has advised the City, the Economic Development Commission and the Redevelopment Commission concerning the Series B Development, and has requested that the City authorize and issue its economic development tax increment revenue bonds under the Act, to be designated as the City of Hammond, Indiana, Economic Development Tax Increment Revenue Bonds, Series B (with such further series or different series designation as determined to be necessary or appropriate) (the "Series B Bonds" and, together with the Series A Bonds, the "Bonds"), and make the net proceeds of the Series B Bonds available to the Series B Developer for the purpose of financing a portion of the costs of the Series B Development; and

WHEREAS, the Economic Development Commission has rendered a report concerning the proposed financing or refinancing of economic development facilities for each of the Developers; and

WHEREAS, following a public hearing, pursuant to Section 24 of the Act, the Economic Development Commission found that the financing of a portion of the costs of each of the Developments complies with the purposes and provisions of the Act and that each such financing will be of benefit to the health and public welfare of the City; and

WHEREAS, the Economic Development Commission has considered whether the financing of each of the Developments will have an adverse competitive effect or impact on any similar facility or facility of the same kind already constructed or operating in the corporate boundaries of the City; and

WHEREAS, pursuant to and in accordance with the Act, the City desires to provide (or be deemed to provide) funds necessary to finance a portion of the costs of each of the Developments by issuing the Bonds; and

WHEREAS, the Act provides that such Bonds may be secured by one or more trust indentures between an issuer and a corporate trustee; and

WHEREAS, the City intends to issue the Bonds consistent with the terms of this Ordinance, and pursuant to a Trust Indenture for each series of the Bonds, dated as of the date of issuance of such series of Bonds (the "Indentures"), by and between the City and a corporate trustee to be selected by the City, in order to secure funds necessary to provide (or be deemed to provide) for the financing of a portion of the costs of each Development in accordance with the terms of a separate Financing Agreement with each of the Developers, each to be dated as of the date of issuance of the applicable series of Bonds (the "Financing Agreements"), by and between the City and the respective Developer with respect to the use (or deemed use) of the proceeds of the applicable series of Bonds and the completion of the applicable Development; and

WHEREAS, no member of the Common Council of the City (the "Common Council") has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Common Council, and no such member has voted on any such matter, all in accordance with the provisions of Section 16 of the Act; and

WHEREAS, the forms of the Bonds, the Indentures and the Financing Agreements (collectively, the "Financing Documents"), and a form of this proposed Ordinance were submitted to, and approved by, the Economic Development Commission, which documents were incorporated by reference in the resolution heretofore adopted by the Economic Development Commission, which resolution has been transmitted to the Common Council in accordance with the Act;

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF HAMMOND, INDIANA, THAT:

Section 1. It is hereby found that the financing of a portion of the economic development facilities for the Developments referred to in the Financing Documents previously approved by the Economic Development Commission and presented to this Common Council, the issuance and sale of the Bonds (one (1) or more series of which may or may not bear interest that is excludable from gross income for federal tax purposes), the use (or deemed use) of the proceeds of the Bonds by the Developers for the financing of a portion of the costs of the Developments, the payment of the Bonds from the Pledged TIF Revenues (as hereinafter defined) and other sources pursuant to the Financing Documents, and the securing of the Bonds under the respective Indenture comply with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

Section 2. At the public hearing held before the Economic Development Commission, the Economic Development Commission considered whether the Developments would have an adverse competitive effect on any similar facilities located in or near the City. This Common Council hereby confirms the findings set forth in the Economic Development Commission's

resolutions, and concludes that the Developments will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the City.

Section 3. The substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk of the City (the "Clerk"). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

Section 4. The City shall issue the Bonds in one (1) or more series in the maximum aggregate principal amount not to exceed Nine Million Six Hundred Fifty Thousand Dollars ($9,650,000), which Bonds shall mature no later than twenty-five (25) years after the date of issuance of the Bonds, and shall bear interest at a per annum rate not exceeding six percent (6.0%) per annum (anticipated interest rate: 4.2%). The Bonds are to be issued for the purpose of procuring funds to (a) pay all or a portion of the cost of acquisition, design, construction, renovation, improvement and equipping of the Developments, (b) pay capitalized interest on the Bonds (if necessary), (iii) fund a debt service reserve fund (if necessary), and (d) pay all incidental expenses on account of the issuance of the Bonds and acquiring any credit enhancement with respect thereto. Each series of the Bonds shall be lettered and numbered AR-1 and BR-1, as appropriate, and upward. The Bonds of a series shall be special and limited obligations of the City, payable solely from the respective trust estate created and established under the respective Indenture (the "Trust Estate"), which Trust Estate shall consist of the funds and accounts created under the Indenture together with a pledge by the Redevelopment Commission of the Downtown TIF and the Central TIF subject to the terms and conditions of a Pledge Agreement between the Redevelopment Commission and the City (the "Pledged TIF Revenues"), and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds shall never constitute a general obligation of, an indebtedness of, or charge against the general credit of the City.

The forms of (a) a Bond Purchase Agreement, between the City and a purchaser to be selected by the Controller of the City (the "Controller") for the Bonds of a series (the "Purchaser"), with respect to the sale of the applicable series of Bonds (collectively, the "Purchase Agreements"), and (b) if necessary, a Continuing Disclosure Agreement, with respect to the Bonds of a series (collectively, the "Continuing Disclosure Agreements"), executed by the City in favor of the holders of the Bonds in compliance with Rule 15c2-12 of the Securities and Exchange Commission promulgated under the Securities Exchange Act of 1934 (the "SEC Rule"), are each hereby authorized and approved in a form and substance acceptable to the Controller with the advice of counsel. The Mayor of the City (the "Mayor") and the Controller are hereby authorized and directed to execute and deliver the Purchase Agreements and, if necessary, the Continuing Disclosure Agreements each in a form and substance acceptable to them and consistent with the terms and conditions set forth in this Ordinance, with such acceptance of the form and substance thereof to be conclusively evidenced by their execution thereof.

Section 5. Each of the Mayor, the Controller, the Clerk and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein and any other document which may be necessary, appropriate or

desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Controller, the Clerk and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Controller or the Clerk and any other officer of the City on the Bonds may be facsimile signatures or electronic signatures. The Mayor, the Controller, the Clerk and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Controller, the Clerk and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Controller or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act. In particular, at the request of a Developer, the Mayor, the Controller, the Clerk and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver, in lieu of a Financing Agreement, a Loan Agreement with a Developer in such form as such officers shall approve, such approval to be conclusively evidenced by their execution thereof.

Section 6. The provisions of this Ordinance and the Financing Documents securing the Bonds of a series shall constitute a contract binding between the City and the holders of the Bonds of such series, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

Section 7. The Common Council does hereby acknowledge and approve the pledge of the Pledged TIF Revenues to the payment of the Bonds of a series pursuant to the applicable Indenture. Pursuant to IC 5-1-14-4, the pledge of the Pledged TIF Revenues pursuant to the applicable Indenture is intended to be binding from the time the pledge is made, with such Pledged TIF Revenues so pledged and thereafter received by the City to be immediately subject to the lien of the pledge without any further act, and the lien of such pledge to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

Section 8. The Common Council hereby finds that (a) the Developments and the related financing assistance for the Developments provided in the Financing Documents are consistent with the redevelopment plan for the Downtown Allocation Area and Central Allocation Area; (b) the Developers would not develop the Developments without the financing assistance provided in Financing Documents; (c) each of the Developments furthers the economic development and redevelopment of the Downtown Allocation Area and Central Allocation Area; and (d) each of the Developments will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

Section 9. This Ordinance shall be effective upon its passage by the Common Council in accordance with procedures as required by law.

BE IT FURTHER ORDAINED that herein Ordinance shall have full force and effect from and after its passage by the Common Council, upon signing by the President thereof and approval by the Mayor.

COMMON COUNCIL OF THE
CITY OF HAMMOND, INDIANA

Dave Woerpel, Council President
Common Council

ATTEST:

Robert J. Golec, City Clerk

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City for his approval on the 29th day of June, 2021.

Robert J. Golec, City Clerk

The foregoing Ordinance No. 9511 consisting of six (6) typewritten pages, including this page was Approved by the Mayor on the 30th day of June, 2021.

Thomas M. McDermott, Jr., Mayor
City of Hammond, Indiana

PASSED by the Common Council on the 28th day of June, 2021 and Approved by the Mayor on the 30th day of June, 2021.

Robert J. Golec, City Clerk