

RESOLUTION NO. 34 - 2014

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF VALPARAISO, INDIANA GRANTING ROBERT E. THORMAHLEN AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR TANGIBLE REAL PROPERTY UNDER INDIANA CODE 6-1.1- 12.1

WHEREAS, The Common Council of the City of Valparaiso, Indiana (the “**City**”) on September 22, 2014 adopted and approved Resolution No. 21-2014 (as confirmed by Resolution No. 33 - 2015 on December 8, 2014) designated a certain area located within the City as the Central Business Economic Revitalization Area (an “**CBD ERA**”) for the purpose of considering deductions of assessed valuation (or “tax abatement”) of qualified applicant s based upon the submission of an appropriate FORM SB-1 (Statement of Benefits), consistent with Indiana Code (“**I.C.**”) 6.1.1-12.1 titled Deduction for Rehabilitation or Redevelopment of Real Property in Economic Revitalization Areas (the “**Act**”), pursuant to Article III Section 3.1 of a Joint Redevelopment Agreement as executed between the City, the Valparaiso Redevelopment Commission and Applicant (the “**Redevelopment Agreement** ”), as attached hereto as **EXHIBIT A**;

WHEREAS, Resolution No. 21-2014 remains in full force and effect;

WHEREAS, Pursuant to Article III Section 3.1 of a Redevelopment Agreement, Robert E. Thormahlen (the “**Applicant**”) filed with the Common Council a Statements of Benefits Real Property Improvements (FORM SB-1/Real Property) dated September 8, 2014 proposing real property improvements at 202 Lincolnway, more specifically related to the construction of a new building to include underground parking, ground level retail/commercial service uses and eight (8) to ten (10) residential dwelling units on the upper levels of the structure, anticipated to cost \$2,400,000 (the “**Project**”), estimated to be completed on or before July 30, 2015 for full assessment by the Office of the Porter County Assessor applicable to the March 1, 2016 assessment date;

WHEREAS, A Statements of Benefits Real Property (FORM SB-1/Real Property) was submitted to the Common Council as the designating body before and prior to the construction, renovation, redevelopment or installation of real property improvements related to the Project for which the Applicant desires to request an assessed valuation deduction; and;

WHEREAS, The Applicant’s Project site located at 202 Lincolnway in the City (real property key number 64-09-24-344-001.000-004) is within the boundaries of an CBD ERA, and therefore the Common Council may make a determination pursuant to Section 3(b) of the Act based upon the evidence as to whether Applicant shall be allowed an assessed valuation deduction of real property improvements.

NOW, THEREFORE, BE IT RESOLVED that the actions of the Common Council of the City of Valparaiso, Indiana are based upon the evidence as presented by Robert E. Thormahlen as the Applicant upon review of the (FORM SB-1/real property as well as other pertinent information provided by the Valparaiso Economic Development Corporation and upon the following findings and determinations pursuant to Section 3(b) of the Act, such that:

- (1) The Project is reasonable for a project of its nature;
- (2) The estimated number of individuals who will be employed or whose employment will be retained can reasonably be expected to result from the construction, renovation, redevelopment or installation of real property improvements related of the Project;
- (3) The estimated annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to result from the from the construction, renovation, redevelopment or installation of real property improvements related of the Project; and
- (4) The totality of the benefits is sufficient to justify an assessed valuation deduction on the Project.

BE IT FURTHER RESOLVED that the Common Council acknowledges that the Project is not currently located within a designated allocation area of the Valparaiso Redevelopment District; however, the Common Council acknowledges that the Valparaiso Redevelopment Commission intends to designate an allocation area prior to March 1, 2015 specific to the Project site for the purposes utilizing tax increment financing.

BE IT FURTHER RESOLVED that the Common Council acknowledges and confirms that pursuant to Article I Section 1.2 of a Redevelopment Agreement, the Applicant as the developer of the Project, once completed, will have a minimum base assessment (or base gross assessment before application of deductions, exemptions and credits) for the purposes of calculating an ERA deduction, an imposed tax abatement fee and real property improvements of no less than:

- One million six hundred thousand dollars (**\$1,600,000**) for years one (1) through five (5), which includes the assessment dates of March 1, 2016 through March 1, 2020;
- One million eight hundred thousand dollars (**\$1,800,000**) for years one (6) through five (10), which includes the assessment dates of March 1, 2021 through March 1, 2025;

BE IT FURTHER RESOLVED that the Common Council hereby grants an assessed valuation deduction (Tax Abatement) from tangible real property for a period of five (5) years to the Applicant, being Robert E. Thormahlen, in accordance with IC 6-1.1-12.1-3(c) and IC 6-1.1-12.1-17(b) as it relates to the Project.

BE IT FURTHER RESOLVED that the Common Council hereby grants an assessed valuation deduction (Tax Abatement) of real property with an abatement schedule provided below pursuant IC 6-1.1-12.1-17(b) consistent with the above abatement period as it relates to the Project.

Approved Abatement Schedule:	
Year One (1)	100%
Year Two (2)	100%
Year Three (3)	100%
Year Four (4)	100%

Year Five (5)	100%
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BE IT FURTHER RESOLVED that the Common Council acknowledges and confirms that pursuant to Article III Section 3.1 of a Redevelopment Agreement, the Applicant as the developer agrees that:

If the real property are assessed at a gross assessed valuation of less than the minimum amount (as noted in Section 1.2), the Developer shall be responsible for:

(i) A Payment-in-Lieu-of-Taxes (“PILOT”) payable to the City and/or Commission to be calculated as the difference between the actual taxes due on the net assessed valuation of real property improvements as of the taxable year assessment date and the amount of taxes due had the gross assessment of real property improvements been at the above stated mandatory minimum; and

(ii) A Payment-in-Lieu an [sic] Imposed Fee (“PILIF”) calculated as the difference between the actual imposed fee due as a result of the application of an ERA deduction as of the taxable year assessment date and the imposed fee that would have been due as of the taxable year assessment date had the gross assessment of real property improvements been at the above stated mandatory minimum.

BE IT FURTHER RESOLVED that having received the consent of the Applicant and in accordance with Section 14(b) of the Act, a copy of which is attached hereto as **EXHIBIT B** and is made a part hereof as incorporated herein, and pursuant to Section 14 of the Act for each year the applicant’s real property tax liability is reduced by an assessed valuation deduction related specifically to the Project, the Applicant shall pay to the Porter County Treasurer a fee (the “**Imposed Fee**”) in an amount computed and determined by the Porter County Auditor pursuant to the provisions of Section 14(c) of the Act such that:

- (1) The Common Council hereby determines that **fifteen percent (15%)** shall be the percentage to be applied by the Porter County Auditor for purposes of STEP TWO of Section 14(c) of the Act;
- (2) Accordingly, for each year the Imposed Fee is payable by the Applicant, the Imposed Fee shall be equal to the lesser of One Hundred Thousand Dollars (\$100,000) or fifteen percent (15%) of the additional amount of real property taxes that would have been paid by the Applicant during that year if the deduction approved in this Resolution had not been in effect (i.e., 15% of the Applicant’s real property tax savings attributable to a deduction from the assessed valuation from the Project); and
- (3) The Imposed Fee as collected shall be distributed to the **City of Valparaiso Redevelopment Commission** as a public entity established to promote economic development within the corporate limits of the City as determined by the Common Council as the designating body.

BE IT FURTHER RESOLVED that the final determination of the amount of assessed valuation deduction as applied to the Project for real property improvements shall be made by the appropriate Porter County or State of Indiana agency.

BE IT FURTHER RESOLVED that the Clerk-Treasurer of the City is hereby directed to file with the Office of the Porter County Auditor the following information as it applies to this Resolution and the approval of the Applicant’s assessed valuation deduction in

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order to insure the application of an assessed valuation deduction as calculated by the Office of the Porter County Assessor, assuming an annual FORM CF-1 is filed by the Applicant and thereafter upon review and consideration approved by the City Council such that all required documents are filed in a timely manner:

1. The FORM SB-1/Real Property, as approved, properly completed and executed consistent with this Resolution and as signed and attested by the appropriate City officials;
2. A certified copy of this Resolution; and
3. A copy of the meeting minutes which approved this Resolution and the FORM SB-1/Real Property.

BE IT FURTHER RESOLVED that if any part, clause, or portion of this Resolution shall be adjudged invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of this Resolution as a whole or any other part, clause, or portion of this Resolution.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect from and after its passage and adoption by the City Common Council and upon the signature of the Mayor of the City as the executive of the City.

DULY PASSED AND ADOPTED by the Common Council of the City of Valparaiso, Porter County, Indiana on this 8th day of **December 2014** .

**COMMON COUNCIL OF THE CITY OF
VALPARAISO, INDIANA**

Jon Costas, Mayor

ATTEST:

Sharon Emerson Swihart
Clerk-Treasurer

PRESENTED BY ME to the Mayor of the City of Valparaiso on the _____ day of _____, 2014, at _____ o'clock ____m.

Sharon Emerson Swihart,
Clerk-Treasurer

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THIS RESOLUTION approved and signed by me on the _____ day of _____, 2014, at _____ o'clock __.m.

Jon Costas
Mayor

EXHIBIT A

A Joint Redevelopment Agreement made and entered into between
The City of Valparaiso, Porter County, Indiana, the Valparaiso Redevelopment Commission and
Thormahlen Investments, L.L.C as owner of real property located at 202 Lincolnway, Valparaiso

Fully Executed and Dated December 8, 2014

EXHIBIT B

Imposed Fee Consent of the Applicant