City of Carroll

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MEMO TO: Mike Pogge-Weaver, City Manager MJP-W

FROM: Laura A. Schaefer, Finance Director/City Clerk LAS

DATE: November 19, 2020

SUBJECT: Biokinemetrics Holdings LLC and DMBA Properties & Consulting, Inc.
Annual Tax Increment Finance Appropriations for FY 2022

On December 27, 2016, the City entered into a development agreement (the "agreement") with Biokinemetrics Holdings LLC and DMBA Properties & Consulting, Inc. (the "Developer"). The agreement required the developer to construct a 17,000-square foot building along with create 10 new jobs in the building. In exchange, the City will provide a tax increment grant equal to the incremental property tax revenues generated and paid by the developer on the new building over 15 years, not to exceed a total grant amount of $300,000.

The agreement also provides a provision that each tax increment grant shall be subject to annual appropriation by the City Council. Prior to December 1 of each year, during the term of the agreement, the City Council shall consider the question of obligating to fund the tax increment grant to be collected in the next fiscal year.

Annual appropriations is common language in development agreements of this type in Iowa and without this language the City would be required to count the total amount of the grant against the City's debt obligations and constitutional debt limit. While this language allows the current and future City Councils to choose to not appropriate funds for this grant in the future without any recourse from the Developer, such an action does carry consequences for the City. If the Council would choose to not appropriate funds the City's bond rating would likely change to "junk status". In the end, the City's ability to borrow funds could be affected and if the City were able to borrow funds then the City would likely be hammered with a higher rate that could cost the City more in the end than the grant payments themselves.

The developer has completed construction of the building as required by the agreement. The developer has also certified the creation of 8 new jobs, instead of the required 10. If the developer fails to create/maintain the minimum number of jobs, the agreement allows for Council to reduce the grant by the percentage of the 10 jobs the developer was obligated to create so in this case a 20% reduction. The attached resolution has been prepared to reflect the reduction of the grant amount by 20% for the next fiscal year (FY22).

The attached resolution also appropriates the tax increment finance (TIF) revenue to be collected in FY 2022 related to this project to be paid to the developer and to account for this in the FY 2022

budget. This is the fourth year of annual appropriations. The remaining grant amount available is $250,855.14.

RECOMMENDATION: Council consideration and approval of the resolution obligating funds from the Central Business District Urban Renewal Tax Revenue Fund for appropriation of the payment of the tax increment grant to Biokinemetrics Holdings, LLC and DMBA Properties & Consulting, Inc. for FY 2022.

RESOLUTION_____

Obligating funds from the Central Business District Urban Renewal Tax Revenue Fund for appropriation to the payment of annual appropriation tax increment financed obligations which shall come due in the next succeeding fiscal year

WHEREAS, the City of Carroll, Iowa (the "City"), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted a Fifth Amended and Restated Urban Renewal Plan for the Amended and Restated Central Business District Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, this Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the "Urban Renewal Tax Revenue Fund"), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, the City has agreed to make semi-annual payments which shall come due in the fiscal year beginning July 1, 2018, under the Development Agreement dated December 27, 2016, (the "Agreement") between the City and Biokinemetrics Holdings LLC and DMBA Properties & Consulting, Inc., equal in amount to 100% of the Incremental Property Tax Revenues (as such term is defined in the Agreement) received by the City during such fiscal year in respect of the Project (as such term is defined in the Agreement) (the "Annual Semi-Payment"), up to the amount of the Maximum Grant Total described in the Agreement; and

WHEREAS, the Development Agreement requires the Developer to maintain a minimum of 10 full-time permanent jobs. On October 5, 2020, the Developer certified 8 full-time jobs; and

WHEREAS, the City will reduce the semi-annual payments by the percentage of the 10 jobs the Developer was obligated to create (for FY 2022, a reduction of 20%); and

WHEREAS, the City Clerk certified the Maximum Grant Total on the City's December 1, 2017 certification of debt payable from the Urban Renewal Tax Revenue Fund.

WHEREAS, it is now necessary for the City Council to obligate for appropriation to the Annual Payment, funds anticipated to be received in the Urban Renewal Tax Revenue Fund in the fiscal year beginning July 1, 2021; and

NOW, THEREFORE, It Is Resolved by the City Council of the City of Carroll, Iowa, as follows:

Section 1. The City Council hereby reduces the semi-annual payment by 20% for fiscal year beginning July 1, 2021 for failure to meet the minimum required number of jobs.

Section 2. The City Council hereby obligates a portion of the said Incremental Property Tax Revenues so received as described in the preambles hereof for appropriation from the Urban Renewal Tax Revenue Fund to the Semi-Annual Payment in the fiscal year beginning July 1, 2021.

Section 3. The City Clerk is hereby directed to reflect the amount obligated for appropriation in Section 2 above, in the City's budget for the next succeeding fiscal year.

Section 4. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

PASSED AND APPROVED this 23rd day of November, 2020.

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Eric P. Jensen, Mayor

Attest:

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Laura A. Schaefer, City Clerk