City of Carroll

627 N. Adams Street Carroll, Iowa 51401 (712) 792-1000 FAX: (712) 792-0139

MEMO TO: Mike Pogge-Weaver, City Manager MSPW

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

DATE: November 3, 2021

SUBJECT: Biokinemetrics Holdings LLC and DMBA Properties & Consulting, Inc.
Annual Tax Increment Finance Appropriations for FY 2023

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 interest 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 9 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 10% reduction. The attached resolution has been prepared to reflect the reduction of the grant amount by 10% for the next fiscal year (FY23).

The attached resolution also appropriates the tax increment finance (TIF) revenue to be collected in FY 2023 related to this project to be paid to the developer and to account for this in the FY 2023 budget. This is the fifth year of annual appropriations. The remaining grant amount available is $234,590.68.

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 2023.

RESOLUTION NO._____

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 Sixth 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 4, 2021, the Developer certified 9 full-time jobs; and

WHEREAS, the City may reduce the semi-annual payments by the percentage of the 10 jobs the Developer was obligated to create (for FY 2023, a reduction of 10%); and

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, 2022; and

WHEREAS, the City Clerk is directed to certify the amount obligated for appropriation to the Annual Payment, funds anticipated to be received in the Urban Renewal Tax Revenue Fund, to the County Auditor by December 1, 2021, of debt payable from the Urban Renewal Tax Revenue Fund.

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 10% for fiscal year beginning July 1, 2022 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, 2022.

Section 3. The City Clerk is hereby directed to certify the amount obligated for appropriation in Section 2 above, on the City's December 1, 2021 certification of debt payable from the Urban Renewal Tax Revenue Fund and to reflect such amount 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 8th day of November, 2021.

_____
Eric P. Jensen, Mayor

Attest:

_____
Laura A. Schaefer, City Clerk

EXHIBIT C

FORM OF ANNUAL CERTIFICATION
(DUE ON OR BEFORE OCTOBER 15 EACH YEAR)

WHEREAS, the City of Carroll, Iowa (the "City") and Biokinemetrics Holdings, LLC, an Iowa Limited Liability Company DMBA Properties & Consulting, Inc., an Iowa Sub-S Corporation (collectively the "Developer") did on or about the 27 day of December, 2016, make, execute and deliver, each to the other, a Development Agreement (the "Agreement"); and

WHEREAS, the Agreement obligated the Developer to undertake the Project (as defined therein), and incorporated and contained certain covenants with respect to the operation and employment thereof, and as such the Developer hereby certifies the following:

NOW, THEREFORE, pursuant to the Agreement, this is to certify the following:

(A) As of the date hereof, there are 9 full-time employees working at the Project located on the Property.

(B) The undersigned has reviewed the Agreement and with the exception of those items attached hereto, certifies all warranties, covenants and provisions of the Agreement have been and continue to be complied with, and that no events of default have occurred which could cause the Agreement to be terminated.

[If an event of default has occurred or is occurring, attach hereto a description of the action Developer has taken to remedy such event of default.]

Signed this 4th day of October, 2021.

BIOKINEMETRICS HOLDINGS, LLC

By: [signature]

Title: Manager

DMBA PROPERTIES & CONSULTING, INC.

By: [signature]

Title: President