

AGENDA

December 3, 2012

**Meetings of Standing Committees
Council Conference Room
6:45 P.M.**

**REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of the Minutes of the Previous Regular Meeting**

November 19, 2012

- 5. Petitions, Communications, Remonstrance and Memorials**

Petition No. 2012-26 Rezone from C-1 Commercial to R-1 Single Family - 608 E. Mishawaka Ave.

- 6. Report of Special Committee**
- 7. Ordinances on First Reading**

P.O. NO. 2012-35 Transfer Funds - Clerk's Office - \$1,770.00 (Petitioner Requesting Second Reading)

P.O. NO. 2012-36 Transfer Funds - Fire Dept. - \$4,000.00

PO NO 2012-37 CBA between the City and Fire Dept. Local 360 1-1-2013 thru 12-31-2014

P.O. NO. 2012-38 Collective Bargaining Agreement between the City and Central Services Local 364 1-1-2013 thru 12-31-2014

P.O. NO. 2012-39 Collective Bargaining Agreement between the City and Sewer Dept. Local 364 1-1-2013 thru 12-31-2014

- 8. Resolutions**

R2012-31 Marian High School Girls Soccer Team State Champions

- 9. Ordinances on Second Reading**

P.O. NO. 2012-31 Additional Funds - Engineering Dept. - \$8,800.00 (Assigned to Budget and Finance Committee)

P.O. NO. 2012-32 Redefining the Councilmanic District Boundaries (Assigned to Public Health and Safety Committee)

P.O. NO. 2012-33 Additional Funds - Rainy Day Fund - \$78,800.00 - School City of Mishawaka (Assigned to Budget and Finance Committee)

P.O. NO. 2012-34 Rezone from C-2 Planned Shopping Center to R-3 Residential for a Senior Housing Facility SW
Corner of Day Rd and Park Place (Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

12. New Business

The matter of the January 7th Council Meeting

13. Adjournment

At this time I know of no other business to come before the Council.
Deborah S. Block, IAMC, MMC, City Clerk

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
November 19, 2012

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday November 19, 2012 at 7:00 p.m. The meeting was called to order by President John Roggeman; and all were asked to stand for the Pledge of Allegiance.

Chief Deputy Mary Ellen Hazen roll call showed the following:

Dale “Woody” Emmons 1st District Councilman – Present

Mike Bellovich 2nd District Councilman – Present

John Reisdorf 3rd District Councilman – Present

Marsha McClure 4th District Councilman – Present

Michael Compton 5th District Councilman –Absent

Ronald Banicki 6th District Councilman – Present

John Roggeman Councilman At Large – Present

Matt Mammolenti, Councilman At Large – Present

Dan Bilancio, Councilman At Large - Present



Roll Call.

Present: Mr. Reisdorf, Mr. Banicki, Mrs. McClure, Mr. Emmons, Mr. Mammolenti, Mr. Bellovich, Mr. Bilancio, Mr. Roggeman.

Absent/Excused: Mr. Compton.

Others present; Mary Ellen Hazen Chief Deputy I, Linda Dotson, Chief Deputy II, and Council Attorney Mike Trippel was absent.

The minutes from the October 29, 2012 meeting were approved as received from the Clerk’s Office.

Chief Deputy Mary Ellen Hazen read a letter from the Board of Zoning Appeals Recommendations from their November 13, 2012 public.

Appeal No. 2012-42 An appeal submitted by Whistle Stop Square Associates LLC and Dan Shoup requesting a Use Variance for southwest corner of Day Road and Glaser Court to permit a 10,000 gallon above ground fuel storage tank for bus maintenance facility.

RECOMMENDED APPROVAL

With the following conditions:

1. This approval shall be limited to one (1) 10,000 gallon fuel storage tank. Any expansion shall require the submission, review, and approval of an additional Use Variance.

Chief Deputy Mary Ellen Hazen read a letter from the Plan Commission Recommendations from their November 13, 2012 meeting.

Petitions No.2012-25 A request submitted by Cressy Land Investments, LLC, requesting to rezone property located at the southwest corner of Day Road and park Place from C-2 shopping Center Commercial District to R-3 Multi-Family Residential District.
RECOMMENDED APPROVAL

The following proposed ordinance was given first reading, assigned to committee, and set for public hearing at the next regular meeting.

PROPOSED ORDINANCE NO. 2012-31

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

(Additional Funds – Engineering Dept. - \$8,8000.00)
Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2012-32

AN ORDINANCE AMENDING SECTIONS 30.30 OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, COMMONLY KNOWN AS “THE COUNCILMANIC DISTRICT ORDINANCE.”AND HEREBY REDEFINING THE CITY OF MISHAWAKA, INDIANA

(Redefining the Councilmanic District Boundaries)
Assigned to Long Range Planning Committee

PROPOSED ORDINANCE NO. 2012-33

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

(Additional Funds – Rainy Day Fund - \$78,800.00 – School City of Mishawaka)
Assigned to Budget and Finance Committee

PROPOSED ORDINANCE NO. 2012-34

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS “THE ZONING ORDINANCE OF 1966” OF THE CITY OF MISHAWAKA, INDIANA

(Rezone from C-2 Planned Shopping Center to R-3 Residential for a Senior Housing Facility SW corner of Day Road and Park Place)
Assigned to Land Use Planning Committee

Chief Deputy Mary Ellen Hazen read **RESOLUTION NO. 2012-29** opening it for public hearing

RESOLUTION NO. 2012-29

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY
MISHAWAKA, INDIANA, AUTHORIZING THE PARTICIPATION
OF SAID CITY IN THE MOTOR FUEL BUDGETING PROGRAM OF THE
INDIANA BOND BANK FOR THE 2013 BUDGET YEAR, THE
EXECUTION OF THE QUALIFIED ENTITY REIMBURSEMENT
AGREEMENT IN CONNECTION THEREWITH AND OTHER
RELATED MATTERS**

(Motor Fuel Budgeting Program for 2013)

Yvonne Milligan, City Controller said this was the 3rd full year of the Hedge Fund, the first year the city paid fees, the second year they received a reimbursement of \$24,000.00 and this year the reimbursement was \$5,400. She said it has been a pretty good program.

Question was called for at 7:12 p.m. on **RESOLUTION NO. 2012-29** the  **Vote:**
Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Chief Deputy Mary Ellen Hazen read **RESOLUTION NO. R2012-30**

RESOLUTION NO. 2012-30

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, APPROVING A PETITION OF THE MISHAWAKA
BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT:**

**Vacant Land at Southwest Corner Day Road and Glaser Court,
Mishawaka, Indiana**

(Use Variance to allow a 10,000 Gallon Fuel Tank – Glaser Court – Cardinal Buses)

Robert Garber of DJ Construction said he was the general contractor for the facility Cardinal Bus was building on the corner of Day Road and Glaser Court they were asking for approval of placing of a 10,000 gallon fuel tank at this location. He said they would have the tank in a concrete containment, built appropriately to all codes required. Mr. Garber stated this was the same tank that was approved 6 weeks ago for a different location.

Mr. Banicki said since this has already been approved for another location would this location be speculative. Mr. Garber said he sees no reason for anymore changes this site would be the firm site.

Mr. Banicki said this new site was closer to a neighborhood then the previous site and wanted to know if they have made contact with any of the neighbors. Mr. Garber said there was only one person, and they have met with him and explained that it was a charter bus operation and would have low impact on the neighborhood with early morning departure and evening return.

Mr. Banicki asked about lighting on Glaser Court. Mr. Garver said he could not answer that the building would have lighting on all sides of building. Mr. Banicki said his concern was safety that road was dark and if they find in the future they need more lighting please let the city know about it.

Question was called for at 7:18 p.m. on **RESOLUTION NO. R2012-30** the  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).
Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

Chief Deputy Mary Ellen Hazen read **PROPOSED ORDINANCE NO. 2012-30** opening it for public hearing.

PROPOSED ORDINANCE NO. 2012-30

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012

(Additional Funds – Rainy Day Funds \$970,000.00)

Mr. Bellovich reported the Budget and Finance Committee recommended this proposed ordinance should be adopted and moved for acceptance of same, upon a second by Mr. Roggeman the motion carried

Mayor Wood said Central Services Relocation has been needed for years and the new Scott Brass building would allow them to store salt and provide more then ample cold storage for vehicles. He said the current facility was built in 1963 and is landlocked at its current location, it is surrounded by residential property and there was very little room. Mayor Wood stated it was open 24 hours a day 365 days a year requiring use of heavy equipment at all hours of the night sometimes. He said they have ½ million dollar vehicles currently stored outside, cramped working spaces, and congestion in and out of the building.

Mayor would said moving to the Scott Brass site would impact all departments, sewer, park, fire training, police vehicles, meter readers vehicles, plus provide storage for the electric department, and store code enforcement vehicles. He said there was convenient

access to this building on an 11 acre site with 3.1 acres under a roof adjacent to the Main Street Fire Department.

Mr. Roggeman asked about ingress and egress. Mayor Wood said heavy equipment would be off of 8th street because of the stop light, Only staff and office parking would be at the 10th Street entrance, they would be doing road improvements to Union Street as it would be handling the traffic for the heavy equipment 24 hours a day 7 days a week.

Mike Watson Street Commissioner thanked the Council members that could make it to the tour of the Scott Brass building. He said this building would allow the Street Department to leave their summer trailers loaded with weed whips, mowers etc. saving them Street Department lots of Qsaid looking for more efficiency then in the current lots of time, by not having to unload these trailers and bringing all the equipment inside for the evening. . In summer they could leave the equipment on trailers at night not having to unload and bring everything in.

Mr. Watson said providing this was past by the Council the city was hoping to take possession of this building by the end of 2012. He went on to say this property has so much potential for making them more efficient and the guys are so looking forward to setting this up and being work out of this building by the end of 2013.

Mr. Banicki asked if there would be major renovations. Mr. Watson said the roof needs to be done. Mr. Banicki asked what the cost would be for renovations. Mr. Watson said after the purchase of the building 1.8 million with the building 2.5 million give or take 100 thousand that includes roof, remembering these are estimates as a consultant has not been hired.

Mr. Banicki wanted to know where the money for this would come from. Mr. Watson said CEDIT has money allocated for building renovations in their budget, and the Street Department has money they allocated for a salt storage building. Mr. Banicki asked if any temporary help would be hired to get the building ready to occupy. Mr. Watson said his department still sees down time when the winter weather cooperates, and they are not plowing they would be working on the new building, they do maintenance, painting, and odds and ends when time allows.

Mr. Reisdorf said what excellent repurposing for this building and he liked the center area that was not the offices that could be secured tool storage. Mr. Watson said yes it was very doable. Mr. Reisdorf said he did not see any negativity in purchasing this site.

Mr. Emmons said the Mayor showed in his presentation a lot of outside storage such as picnic tables, barrels, skids etc., was it their plan to store all of these things inside the new building. Mr. Watson said yes that was the plan.

Emmons asked how the electric bill would increase in this new building from what they pay now. Mr. Watson said it certainly would go up, it is much larger but they would be working on making it as cost efficient as possible, it was a worthwhile cost of doing business. He

said they would keep the heat as low as possible and would be putting in radiant heat reflecting down, it was necessary to keep the building a certain temperature for the fire sprinkling system.

Mr. Mammolenti said regarding salt storage, would it be increased in size so the city could capitalize on buying salt in bulk at a better price. Mr. Watson said the salt barn would allow them to mix the salt with beet juice where they couldn't do that before and would eliminate the worry of not having salt for lack of storage.

Ms. Milligan said regarding the phone system it was over 10 years old and a lot of the parts are obsolete and really hard to get the system worked on so this request was for money to replace the system. She said they want to get a blaze over internet protocol, what that would do was reduce the lines which hopefully reduces the AT&T phone bill.

Ms. Milligan said the Police Department received in the last four or five months received their new voice system and it is in place. She said everyone would be able to connect with voice mail which they can not do now.

Mr. Bilancio said he started his career with the city in the late 70's and they had issues with the phone system back then and it was nice to see the city progress, it was good for everyone, the employees and the citizens, it was a win, win situation and he was in full support.

Question was called for at 8:04 p.m. the.  **Vote:** Motion carried by unanimous roll call vote (**summary:** Yes = 8).

Yes: Mr. Banicki, Mr. Bellovich, Mr. Bilancio, Mr. Emmons, Mr. Mammolenti, Mr. Reisdorf, Mr. Roggeman, Mrs. McClure.

PRIVILEGE OF THE FLOOR

Mayor Wood said he wanted to commend the Mayor's Youth Council who were in the process of delivering 30 boxes to needy families, which was double what they did last year. He said this was their project start to finish; they raise the money, solicit food donations, and purchase what they need to complete the basket. He said he was very proud of what they have accomplished.

Mayor Wood said he wanted to compliment all of the local Mishawaka Teams this year they have all experienced great success.

NEW BUSINESS

Mr. Roggeman congratulated Mrs. McClure on her victory of being elected St. Joseph County Commissioner for District. He also wished everyone a Happy Thanksgiving.

Mr. Roggeman said Mishawaka and Marion Football teams ended up in the finals and he wanted to congratulate everyone involved in those two teams. He said the Youth Football League has added to the success of these young people going forward

Mr. Mammolenti reminded everyone there would not be Neighborhood Watch meetings for November and December. He said he would like to take this opportunity to congratulate Mishawaka High School on their trip down state.

Mr. Emmons said his next meeting would be the 3rd week in January at the new Fire Station on 12th Street..

There being no further business to come before the Council, President Roggeman adjourned the meeting at 8:10 p.m.

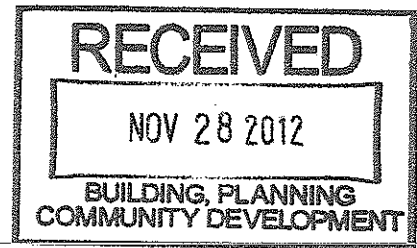
Deborah S. Block /s/
/s/ Deborah S. Block, IAMC, MMC
City Clerk,

□ □ John J. Roggeman
John J. Roggeman, Presiding Officer

DATE: 09/27/12

Honorable Members of the Common Council

City of Mishawaka, Indiana



And

Pet 12-26

Mishawaka City Plan Commission

City of Mishawaka, Indiana

RE: Petition to Rezone

The undersigned, Wilson Handres respectfully shows he is the owner of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

W ½ Lot of G.W. Fowlers 1st, common address (Wilson Handres) 608 E Mishawaka, Indiana.

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 Gen Commercial District. Said property is currently being used as a residential building.

Petitioner desires said real estate to be rezoned to R-1 Single Family District. Petitioner further states that he intends to utilize said land for a residence. Bank requires Residential Zoning for mortgage refinance.

Wherefore, the petitioner prays and respectfully requests that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of land located in the City of Mishawaka.

Signature of Property Owner

Wilson Handres

A handwritten signature in black ink, appearing to be "W. Handres" with a stylized flourish at the end.

Contact Person:

Wilson Handres

608 E Mishawaka Ave

(574)255-1092

Whandres59@sbcglobal.net

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 29 2012

CITY CLERK
MISHAWAKA, IN



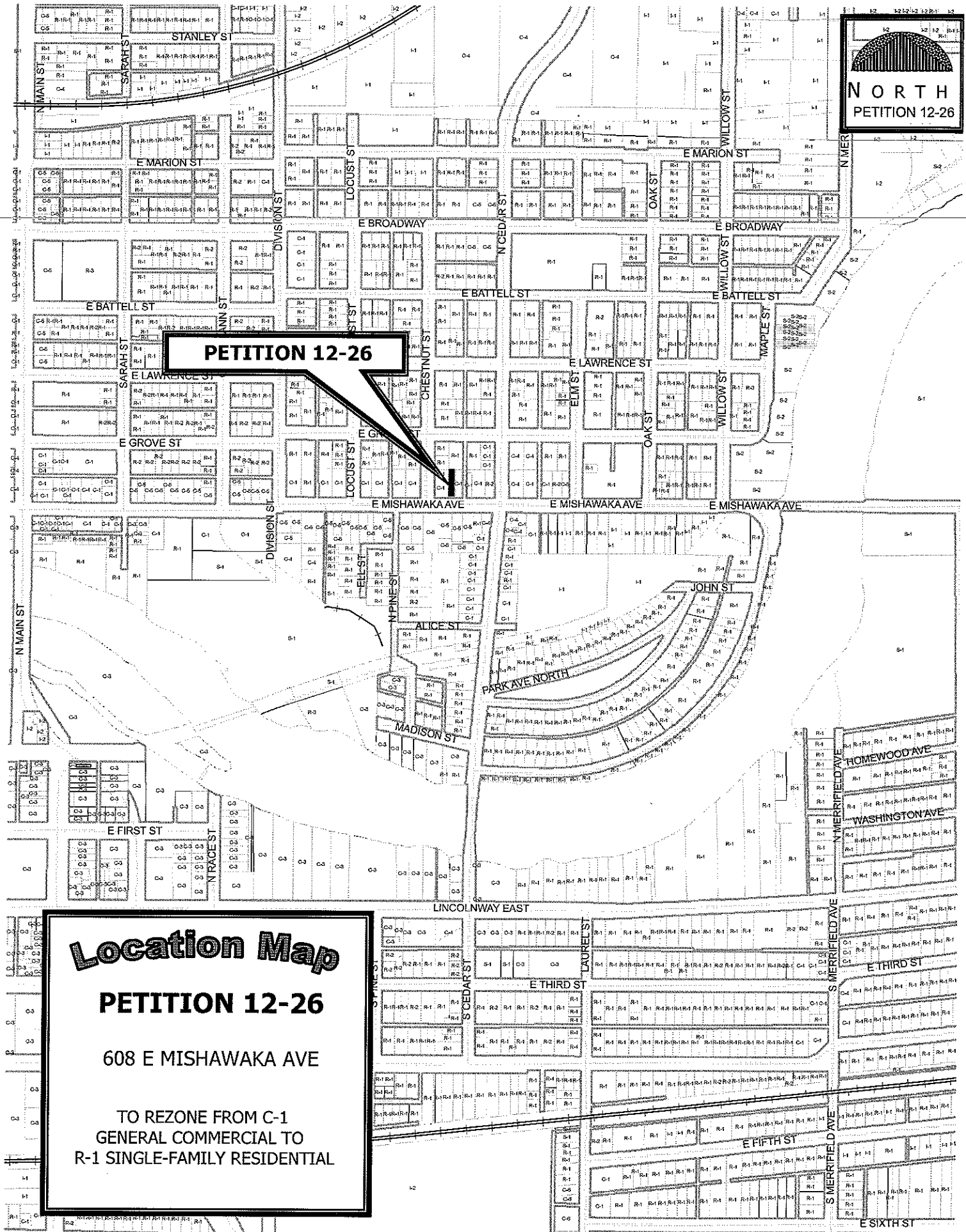
PETITION 12-26

Location Map

PETITION 12-26

608 E MISHAWAKA AVE

TO REZONE FROM C-1
GENERAL COMMERCIAL TO
R-1 SINGLE-FAMILY RESIDENTIAL



NOV 27 2012

1st Reading 12-03-12

PROPOSED ORDINANCE NO. 2012-35

2nd Reading

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

Passed

Failed

Continued To

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2012

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, THAT:

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the Clerk's Department of the General Fund budget adopted for the fiscal year ending December 31, 2012.

Section 2. There is hereby transferred and reappropriated the sum of \$1,770.00 as follows:

General Fund

From: City Clerk

Other Services and Charges

101-03-431-04 Professional Services \$1,770.00

To: City Clerk

Personal Services

101-03-411-03 Temporary Help \$1,770.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana, on this
_____ day of _____, 2012 at _____ o'clock, ____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of _____, 2012 at
_____ o'clock, ____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2012 at
_____ o'clock, ____ M.

David A. Wood, Mayor



City of Mishawaka

OFFICE OF THE CITY CLERK

Deborah S. Block, IAMC, MMC, City Clerk

November 29, 2012

Mishawaka Common Council
Mishawaka City Hall
Mishawaka, Indiana

Dear Council Members:

I am respectfully requesting a transfer of funds within the City Clerk's Budget of \$1,770.00. This transfer will go into Personal Services/Temporary Help to pay our Summer Intern to continue working on a project scanning and categorizing Council documents. These documents date back to before we computerized the Clerk's Office. After the first of the year I will be asking the Council to appropriate money for the Clerk's 2013 Budget to keep this project moving forward.

To expedite this process I am requesting that the Council suspend their rules at the December 3, 2012 meeting to allow Second Reading and Public Hearing on this proposed ordinance. Please call me with any questions. Thank you for your consideration of this matter.

Sincerely,


Deborah S. Block, IAMC, MMC
Mishawaka City Clerk

Mary Ellen Hazen, Chief Deputy Linda Dotson, Deputy
City Hall, 600 East Third Street Mishawaka, IN 46544-2241 (574) 258-1616 FAX (574) 258-1728
E-mail: dblock@Mishawaka.in.gov Website: Mishawaka.in.gov

NOV 29 2012

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2012-36

ORDINANCE NO. _____

1st Reading 12-03-12

2nd Reading

Passed

Failed

Continued To

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDED DECEMBER 31, 2012

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, THAT:

Section 1. An emergency exists which requires the transfer and reappropriation of funds within the budget of the Fire Department in the General Fund adopted for the fiscal year ending December 31, 2012.

Section 2. There is hereby transferred and reappropriated the sum of \$4,000.00 as follows:

General Fund

From: Fire Department
Services Personal

101-19-411-02 Regular Employees \$ 4,000.00

Total \$ 4,000.00

To: Fire Department
Other Services and Charges

101-19-432-03 Travel and Training 4,000.00

Total \$ 4,000.00

Section 3. This ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka,

Indiana, on this _____ day of _____, 2012 at _____ o'clock,

_____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of
_____, 2012 at _____ o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2012
at _____ o'clock, _____.M.

David A. Wood, Mayor



CITY OF MISHAWAKA



DAVID A. WOOD, MAYOR

MISHAWAKA FIRE DEPARTMENT
Dale E. Freeman
Chief of Department

To: Common Council Members

From: Dale E. Freeman, Chief
Mishawaka Fire Department

Date: November 27, 2012

Re: Transfer of Funds

Proposed Ordinance No. 2012-36

Dear Council Members:

I am requesting a transfer of funds in the amount of \$4,000.00 as follows:

From: 101-19-411-02 Salaries and Wages – Specialty Pay \$4,000.00

To: 101-19-432-03 Travel and Training \$4,000.00

The above request for funds transfer is to cover training necessary for certifications until the end of this year.

If I may be of any help answering any questions you may have, please call me at 247-0928.

Dale E. Freeman, Chief
Mishawaka Fire Department

NOV 29 2012

CITY CLERK
MISHAWAKA, IN

1st Reading 12-03-12
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2012-37

ORDINANCE NO. _____

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS
ASSOCIATION LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION
OF FIREFIGHTERS, AFL - CIO**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2012; and

WHEREAS, the members of the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the new Agreement on their behalf; and

WHEREAS, on the 27th day of November, 2012, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the new Collective Bargaining Agreement with Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 1666 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The Collective Bargaining Agreement executed the 27th day of November, 2012, effective January 1, 2013, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the Mishawaka Firefighters Association Local No. 360 of the International Association of Firefighters is hereby approved.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____ .M.

John Roggeman
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at
_____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at _____
o'clock _____.M.

David A. Wood, Mayor

RESOLUTION NO. 2012- 10

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

~~A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND THE MISHAWAKA FIREFIGHTERS ASSOCIATION, LOCAL NO. 360 OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO~~

WHEREAS, the City of Mishawaka and the Mishawaka Firefighters Association, Local No. 360 have agreed to a Collective Bargaining Agreement for the period of January 1, 2013 to December 31, 2014; and

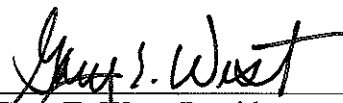
WHEREAS, such Agreement requires the approval of the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka that:

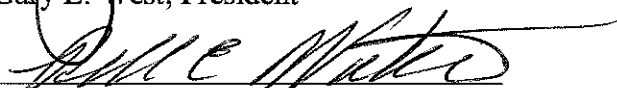
Section 1. The attached Collective Bargaining Agreement between the City of Mishawaka and the Mishawaka Firefighters, Local No. 360 is hereby approved, and

Section 2. This Resolution shall be forwarded to the Mishawaka Common Council for its review and final action.

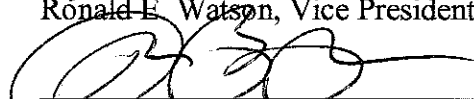
ADOPTED by the Board of Public Works of the City of Mishawaka, on this 27th day of November, 2012.



Gary E. West, President

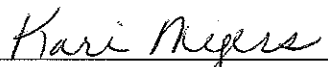


Ronald E. Watson, Vice President



Kenneth Prince, Member

ATTEST:



Kari Myers, Clerk of the Board

COLLECTIVE BARGAINING AGREEMENT

between

CITY OF MISHAWAKA, INDIANA

and

MISHAWAKA FIREFIGHTERS ASSOCIATION

LOCAL NO. 360

OF THE

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL - CIO

DATED: 1-01-2013 thru 12-31-2014

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I	
Purpose and Definitions -----	1
ARTICLE II	
Coverage -----	2
ARTICLE III	
Recognition -----	3
ARTICLE IV	
Rights of Management -----	4
ARTICLE V	
Dues and Deductions -----	5
ARTICLE VI	
Union Activities -----	6
ARTICLE VII	
Wages -----	8
ARTICLE VIII	
Hours of Employment -----	11
ARTICLE IX	
Holiday Schedule -----	12
ARTICLE X	
Vacations -----	13
ARTICLE XI	
Seniority, Lay-off and Recall -----	18
ARTICLE XII	
Sick Leave -----	19
ARTICLE XIII	
Funeral Leave -----	20
ARTICLE XIV	
Insurance -----	21

ARTICLE XV	
Uniform Allowance -----	22
ARTICLE XVI	
Duties of Firefighters -----	23
ARTICLE XVII	
Strike Prohibition -----	24
ARTICLE XVIII	
Joint Safety Committee -----	25
ARTICLE XIX	
Department Strength -----	26
ARTICLE XX	
Grievance Procedure and Arbitration -----	29
ARTICLE XXI	
Savings Clause -----	31
ARTICLE XXII	
Indemnification -----	32
ARTICLE XXIII	
Specialty Positions -----	34
ARTICLE XXIV	
Job Posting -----	38
ARTICLE XXV	
Pay days -----	39
ARTICLE XXVI	
Training New Firefighters -----	40
ARTICLE XXVII	
Emergency Leave -----	41
ARTICLE XXVIII	
Overtime Call-in Procedure -----	42
ARTICLE XXIX	
Bill of Rights -----	44
ARTICLE XXX	
Call in Emergency Duty -----	49

ARTICLE XXXI

Specialty Teams ----- 50

ARTICLE XXXII

Termination of Employment ----- 51

ARTICLE XXXIII

Retiree Health Insurance ----- 52

ARTICLE XXXIV

Duration ----- 53

EXHIBIT "A" SALARY ORDINANCE

SIGNATURE PAGE

COLLECTIVE BARGAINING AGREEMENT

THIS AGREEMENT entered into on the ____ day of _____, 2012 effective on the 1st day of January, 2013 between the CITY OF MISHAWAKA, INDIANA, hereinafter called "City," and MISHAWAKA FIREFIGHTERS ASSOCIATION, LOCAL NO. 360, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO, hereinafter called "Union," WITNESSETH THAT:

The parties hereto, in consideration of the mutual covenants and agreements herein contained, do hereby agree as follows:

ARTICLE I

Purpose and Definitions

Section 1 - Purpose

The parties enter into this Agreement pursuant to the authority of ordinance Number 1666 passed by the Common Council of the City of Mishawaka on the 6th day of December, 1971. The purpose of this Agreement is to incorporate understandings previously reached and other matters into a formal contract; to promote harmonious relations between the City and the Union in the best interests of the community; to improve the public fire fighting services; and to provide an orderly and equitable means of resolving future differences between parties.

Section 2 - Definitions

(a) City shall include the elected or appointed representatives of the City of Mishawaka, Indiana, including the Fire Chief, Assistant Fire Chiefs and the Chief of the Fire Marshal Division.

(b) Union shall include all other firefighters and the officers or representatives of the Union.

(c) When the singular number is used, it shall include the plural.

(d) The term firefighter shall include all sworn firefighters and all civilian firefighter/paramedics unless specified elsewhere in this Agreement.

ARTICLE II

Coverage

This agreement shall be applicable as to all firefighters of the City of Mishawaka, Indiana Fire Department except the Fire Chief, Assistant Fire Chiefs, and the Chief of the Fire Marshal Division.

ARTICLE III

Recognition

The City recognizes the Union as the sole and exclusive bargaining representative of the employees of the Fire Department.

The City shall not enter into any agreements with its employees individually or collectively or with any other organization which in any way conflicts with the provisions hereof.

The City recognizes the Mishawaka Fire Department as the sole provider of paramedic and ambulance services other than mutual aid agreements.

ARTICLE IV

Rights of Management

Section 1 - General

Except as otherwise provided in this Agreement, or applicable federal or state law, the City in the exercise of its functions of management shall have the right to decide the policies, methods, safety rules, direction of employees, assignment of work, contracting of work, equipment to be used in the operation of the Fire Department, and to determine the hours of work, the right to hire, discharge, suspend, discipline, promote, demote, and transfer firefighters; it is agreed that the enumeration of the above management prerogatives shall not be deemed to exclude other prerogatives not enumerated. Nothing in this Article shall limit or prevent firefighters' rights to the grievance procedure provided for in this Agreement.

Section 2 - Late to Work Clause

In any twelve (12) month period, a firefighter who has been late five (5) times will be given a warning letter advising the firefighter that the sixth (6th) time late will result in a fine equal in amount to loss of one-half (1/2) day's pay, the seventh (7th) time late will result in a fine equal in amount to loss of one (1) day's pay and the eighth (8th) time late will result in the firefighters referral to the Board of Public Works and Safety for disciplinary action.

ARTICLE V

Dues and Deductions

The City shall deduct, as dues, from the pay of each firefighter from whom it receives a written authorization to do so, the required amount for the payment of Union dues, fees, and assessments. Such sums, accompanied by a list of employees who have authorized such deductions and from whom no deductions were made and the reason therefore, shall be forwarded to the Union Secretary-Treasurer within thirty (30) days after such collections have been made.

All firefighters, covered by this contract, who are not members of the Union, shall pay a monthly representation fee to the Union in an amount equal to the actual cost to the Union of its representation of all unit employees, but in no event to exceed the monthly dues and assessments of Union members. The City shall have no obligation to collect the non-union member representation fee. The Union shall indemnify the City for any costs or expenses arising out of a suit or claim against the City brought by a non-union member relating to this Article.

ARTICLE VI

Union Activities

Section 1 - General

Employees and their Union representatives shall have the right to join the Union, to engage in lawful concerted activities for the purpose of collective negotiation or bargaining or other mutual aid and protection, to express or communicate any views, grievance, complaint, or opinion related to the conditions or compensation of public employment or their betterment, all free from any and all restraint, interference, coercion, discrimination, or reprisal, except as limited by the laws of the City of Mishawaka, State of Indiana, or the United States of America.

Section 2 - Released Time

Officers and other representatives of the Union shall be afforded reasonable time during working hours without loss of pay to fulfill their Union responsibilities, including negotiations with the City, processing grievances, and administrating and enforcing this Agreement; provided, however, if such activities cause the Department strength to fall below the minimum required under this Agreement notwithstanding any provisions herein to the contrary, any firefighter called in to maintain the minimum department strength shall be compensated by receiving two (2) hours off duty without loss of regular pay for each hour actually worked and the call-in guarantee of four (4) hours work for four (4) hours pay shall not apply; provided further, that regardless of the number of such hours actually worked.

Notwithstanding any provisions herein to the contrary, any firefighter with less than or equal to two hundred (200) hours in his compensatory time bank called in to maintain the minimum Department strength shall be compensated by receiving two (2) hours off duty without loss of regular pay for each hour actually worked and any firefighter with more than two hundred (200) hours in his compensatory time bank called in to maintain the minimum Department strength shall be compensated by receiving overtime pay. The Union shall be responsible for maintaining the call-in list and furnishing substitute manpower for firefighters released from duty

under this Article.

Section 3 - Bulletin Boards

The Union shall retain the Bulletin Board rights it now has, including the right to post Union notices or other materials. Such boards shall be identified with the name of the Union and the Union may designate persons responsible therefore.

Section 4 - Meetings

The Union may schedule meetings on Fire Department property, insofar as such meetings are not disruptive of the duties of the employees or the efficient operation of the Fire Department.

Section 5 - Union Activities

The President and respective representatives of the Union, not to exceed four (4) persons, shall be allowed time off with pay to attend Union conventions and seminars subject to the approval of the Fire Chief or the Board of Public Works and Safety of the City; provided, however, if such activities cause the Department strength to fall below the minimum required under this Agreement notwithstanding any provisions herein to the contrary, any firefighter with less than or equal to two hundred (200) hours in his compensatory time bank called in to maintain the minimum Department strength shall be compensated by receiving two (2) hours off duty without loss of regular pay for each hour actually worked and any firefighter with more than two hundred (200) hours in his compensatory time bank called in to maintain the minimum Department strength shall be compensated by receiving overtime pay. The call-in guarantee of four (4) hours worked for four (4) hours pay shall not apply. The Union shall be responsible for maintaining the call-in list and furnishing substitute manpower for firefighters released from duty under this Article.

ARTICLE VII

Wages

Section 1 - General

The salary schedule attached hereto as Exhibit "A" shall be effective January 1, 2013 and shall be amended from time to time by action of the Common Council of the City of Mishawaka, Indiana.

Section 2 - Overtime Pay

(a) Overtime pay shall be paid to all 56-hour employees (firefighters other than Fire Marshals) for all work in excess of their regularly scheduled work day (24 consecutive hours). Such overtime shall be paid at the rate of time and one-half of the employee's prevailing hourly rate, provided, however, that all overtime worked on Sundays and holidays shall be paid at the rate of twice the employee's prevailing hourly rate. Double-time is calculated for any overtime worked between 0700 hrs. on Sundays or a holiday until 0700 hrs. the following day.

(b) Overtime pay shall be paid to all 40-hour employees (Fire Marshals) for all work in excess of 40 hours per week. Such overtime shall be paid at the rate of time and one-half of the employee's prevailing hourly rate, provided, however, that all overtime worked on Sundays and holidays shall be paid at the rate of twice the employee's prevailing hourly rate.

(c) An employee's prevailing hourly rate shall be determined by dividing their annual salary by 2,912. This calculation shall include the Pension Equalization Plan Payments to the civilian firefighter/paramedics.

(d) Call-In Pay. When a firefighter is called in to work partial or emergency duty, the firefighter will be guaranteed a minimum of four (4) hours work or four (4) hours pay at overtime rate and any additional fraction of an hour over fifteen (15) minutes shall constitute one (1) hour. When a firefighter is called for a twenty-four (24) hour overtime, the firefighter will be guaranteed twenty-four (24) hours pay at the overtime rate for that day. When a firefighter is mistakenly offered a prescheduled twenty-four (24) hour overtime, management reserves the right to retract

said offer and that member will be guaranteed four (4) hours overtime pay and regain their original place on the twenty-four hour overtime list.

(f) In the event a firefighter is held over their regular work shift, the firefighter shall receive regular overtime pay in increments of one-half (1/2) hour but shall not be guaranteed a minimum of four (4) hours work or four (4) hours pay. By way of example, if a firefighter is held over thirty-one (31) minutes, the firefighter shall be paid for one (1) hour of overtime at the regular overtime rate.

Section 3 - Overtime Pay for Specialty Positions

(a) The City will keep an updated list of those firefighters taking part in the Water Surface Rescue and Recovery Program, Dive Team Program, Tactical Rescue Team and Mechanics.

(b) All firefighters shall have an equal opportunity to attend special schooling for the specialty programs listed above. Firefighters attending such schooling shall be reimbursed for expenses reasonably incurred in the attendance at such schooling and shall be compensated, as if on duty for attendance at such schooling on the firefighter's regularly scheduled day off.

(c) In the event a firefighter is ordered or subpoenaed and appears during off-duty hours before a court, administrative body, or at the County Prosecutor's Office, pertaining to incidents involving the Fire Department, the firefighter shall receive overtime pay. The firefighter shall receive pay for the actual amount of time spent but not less than two (2) hours at the overtime rate of pay. A firefighter who is the subject of a disciplinary hearing shall not be entitled to the benefits provided in this subsection. The firefighter's overtime will be figured less any compensation received from the Courts, attorneys, insurance companies, or any other third party.

Section 4 – Out of Rank Pay

1. Out of rank pay will be paid to all Firefighters scheduled to ride out of rank according to the following schedule:

Firefighter → Driver	\$10
Driver → Officer	\$25
Officer → Higher Ranking Officer	\$25
Firefighter → Officer	\$25
Fire Apparatus Assigned → Ambulance	\$30

1. Firefighters must be scheduled to ride out of rank for 6 hours or more per shift to qualify for out of rank pay. Any firefighter being scheduled to ride out of rank for less than 6 hours will not qualify for out of rank pay.
2. Trade days will not qualify for out of rank pay.

Section 5 - Two Thousand Dollars (\$2,000.00) Wage Difference

No more than a two thousand dollar (\$2,000.00) wage difference between the rank of 1st class firefighter and the rank of master firefighter shall occur. Said wage difference between these two ranks shall be maintained in future wage agreements.

Section 6 - Pension Equalization Pay for Non 77 Pension plan Members

For those civilian firefighter/paramedics who do not qualify or do not elect to become members of the 1977 pension fund, the pension equalization pay (PEP) will be offered to the employees as additional wages. The PEP shall be payable in twenty-six (26) equal biweekly pay periods with the regular payroll. The annual PEP will be a combination of a base of three thousand three hundred dollars (\$3,300) and an additional one hundred dollars (\$100) for every full year of continuous service completed by January 1st of each year.

Section 7 – Renegotiation of Wages

It is understood and agreed by the parties hereto that any wage provision contained in this Agreement may be modified at any time by renegotiation with the members of the Common Council of the City of Mishawaka, Indiana. The Common Council and the Union must agree to such renegotiation, and the refusal of either to reopen negotiations for wages shall not be considered a breach of this Agreement or a breach of any other duty or obligation of either.

ARTICLE VIII

Hours of Employment

Section 1 - Work Schedule

(a) The Platoon system shall be a three-platoon system consisting of three shifts. A work day consists of 24 consecutive hours starting at 0700 hours. The regular work schedule of firefighters under this system will be as follows: 24 hours on, 24 hours off, 24 hours on, 24 hours off, 24 hours on, and 96 hours off.

(b) For Fire Marshals, the regular work week shall be thirty-six (36) hours consisting of four (4) days at nine hours per day. Each Fire Marshal shall be entitled to either Monday or Friday off. There shall be no more than three (3) Fire Marshals.

Section 2 - Trading Days

Subject to the approval of the Assistant Chief or the Assistant Chief's designee, and the department being able to meet and maintain minimum manpower requirements, firefighters shall be permitted to voluntarily trade scheduled work and unpicked random days. Random days traded will be used like any other random day would be, with one exception, it does not carry any seniority when a three (3) week posting is necessary. Firefighters will not be allowed to "borrow" time from the City.

ARTICLE IX

Holiday Schedule

For purposes of this agreement, the holidays shall be as follows:

New Year's Day

New Year's Eve Day

Good Friday

Easter Sunday

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Friday after Thanksgiving Day

Christmas Eve Day

Christmas Day

3rd Saturday in August Fallen Firefighter

Any firefighter wishing to observe a moment of silence on Patriot Day may do so, so long as the exercise of such does not interfere with the performance of duties or risk public safety.

ARTICLE X

Vacations and Leave

Section 1 – Vacation Eligibility

- (a) All firefighters, except Fire Marshals, will accrue vacation and random time according to the following chart:

VACATION

YEARS OF SERVICE

	3 Day (s) (1st Week)	6 (2 nd Week)	9 (3 rd Week)	12 (4 th Week)	15 (5 th Week)	18 (6 th Week)	Random Days		TOTAL
< 1							Prorated		≤ 4
1	x						4		7
2	x	x					4		10
3	x	x					4		10
4	x	x					4		10
5	x	x	x				4		13
6	x	x	x				4		13
7	x	x	x				4		13
8	x	x	x				4		13
9	x	x	x				4		13
10	x	x	x	x			4		16
11	x	x	x	x			4		16
12	x	x	x	x			4		16
13	x	x	x	x	x		4		19
14	x	x	x	x	x		4		19
15	x	x	x	x	x		5		20
16	x	x	x	x	x		5		20
17	x	x	x	x	x		5		20
18	x	x	x	x	x		5		20
19	x	x	x	x	x		5		20
20+	x	x	x	x	x	x	3		21

(b) Each member may roll over into the following year one (1) unused random leave day, provided the member uses the random leave day before the 1st of April the following year.

(c) After the vacation selection process is completed all remaining random days may be taken in 12 or 24 hour increments.

Section 2 – Vacation Selection

(a) (1) Firefighters may not at any time select a day for vacation or random leave if doing so would reduce the shift strength for that day below the minimum firefighting work force due to other firefighters' vacation and random-leave selections. During the vacation-selection process only, a firefighter assigned to a fire-suppression vehicle may not select a day for vacation or random leave if he/she would be the sixth firefighter assigned to a fire-suppression vehicle to select that day and a firefighter assigned to an ambulance may not select a day for vacation or random leave if he/she would be the third firefighter assigned to an ambulance to select that day. After the vacation selection process is complete, any remaining random-leave time may be picked so long as doing so would not reduce the shift strength for that day below the minimum firefighting work force. Firefighters on sick leave shall not be counted in determining shift strength. Firefighters signed up for education leave shall not be counted in determining shift strength until seven (7) calendar days prior to the start of the class, except that firefighters attending a class that lasts longer than fourteen (14) calendar days shall not be counted in determining shift strength.

(2) Each shift will select vacation independent of the other two shifts. Vacations shall be selected on the basis of seniority.

(3) During the first round of selections, firefighters with more than five years of service must select six consecutive work days of vacation (a "two-week vacation"). Firefighters who have completed less than five (5) years of service must select at least four (4) vacation days consecutively, but not more than six (6).

(b) Up to three firefighters assigned to fire-suppression vehicles per shift shall be eligible on the basis of seniority to select simultaneous two-week vacations without regard to any conflict caused by conditions in scheduling.

(c) Vacation schedules shall be posted by the Fire Chief or representative by October 1 of each year. Vacation selection shall commence one full cycle after posted, with twelve (12) firefighters selecting per working day. Each firefighter must select their vacation on their assigned day, between 0700 and 2000 hours, unless other written arrangements that do not conflict with the seniority process are made ahead of time with copies going to the Chief or representative and the Union Executive Board. A firefighter who fails to select their vacation during this time will be passed and shall go to the bottom of the vacation selection list. Available days for vacation or random leave are any days between January 1 and December 31 that the firefighting workforce does not drop below the minimum manpower requirements in Article XIX.

(d) After all firefighters have selected vacations during the first round, the Fire Chief or representative shall post all days available for firefighters entitled to three or more weeks of vacation or more. During each round of selections after the first round, firefighters may only select up to three workdays per round. Each subsequent selection round will start on the fifth calendar day after the previous round ended (so there will be four calendar days between rounds). After the final vacation-selection round, there will be another round during which firefighters will select one random-leave day based on seniority. All other random-leave days are available on a first-come-first-serve basis.

(e) Any firefighter who splits their two-week vacation in the first round will pick their remaining days from their split two-week vacation as if they were random-leave days (i.e. on a first-come-first-served basis). So if a firefighter chooses to let their vacation become random, they give up seniority selection rights.

(f) Management shall post a master list in all stations, of all days selected by each firefighter after the normal selection process is completed.

(g) When a firefighter is transferred from one shift to another, after vacations are picked, their vacation pick will transfer with them, within one (1) or two (2) work days of the original pick, with the firefighters having the choice of moving forward or backwards of their original vacation pick, it is also understood that if a contractual day(s) or earned time, that was chosen separately becomes the firefighter's regular day off, due to a transfer, they will have the choice to move that day forward or backwards. As an alternative, a firefighter may select another day, as long as the day is available and within the same calendar year.

(h) In the event days become available that were not available at the posting of the random day list, those days and only those days will be posted separately at each station and made available to be picked by seniority after a three (3) week posting period. Any firefighter interested in such days must notify management within the three (3) week posting period by signing the posting list at their station. Any days not selected shall be granted on a first come, first serve basis. If a day becomes available within the three (3) week posting period, it shall be posted as set forth above and the firefighter will be notified one (1) shift day prior to the day in question.

Section 3 - Vacation Eligibility – Fire Marshal Division

Vacation time shall inure to the benefit of the Fire Marshal Division based upon their appointment to the Fire Department as follows:

(a) Fire Marshals having completed one (1) year of service, but less than two (2) years, shall receive four (4) work days of vacation.

(b) Fire Marshals having completed two (2) years of service, but less than five (5) years, shall receive eight (8) days of vacation.

(c) Fire Marshals having completed five (5) years of service, but less than twelve (12) years shall receive fifteen (15) work days of vacation.

(d) Fire Marshals having completed twelve (12) years of service, but less than seventeen (17) years of service shall receive twenty (20) work days of vacation.

(e) Fire Marshals having completed seventeen (17) years of service, but less then twenty-five (25) shall receive twenty-six (26) work days of vacation.

ARTICLE XI

Seniority, Layoff, Recall and Lateral Transfer

Section 1 – Seniority, Layoff and Recall

(a) Seniority shall be determined by the date of the firefighter's appointment to the Department. If more than one (1) firefighter has the same date of appointment, then seniority shall be determined alphabetically.

(b) A "lay-off" is hereby defined to be a necessary reduction of the work force of the Fire Department. Lay-offs shall be made in the reverse order of seniority; that is, the firefighter with the least seniority shall be laid off first and the firefighter with the most seniority shall be laid off last.

(c) A "recall" shall be an increase of the work force with the Fire Department following a lay-off. Recall shall be by seniority with the firefighter with the most seniority being the first individual to be recalled and the firefighter with the least seniority being the last individual to be recalled.

(d) In the event of a personnel reduction, no new employees shall be hired until all laid off employees are recalled or have refused to return to work.

(e) If any position on the Fire Department presently being performed by a firefighter is performed by a civilian or volunteer help, no firefighter shall be laid off as a result.

ARTICLE XII

Sick Leave

Section 1 – Firefighter

During illness, a firefighter's pay shall continue subject to the right of the Board of Public Works and Safety to require a physician's statement confirming the firefighter's illness and their inability to perform their duties. Medical disabilities shall be determined by the firefighter's pension board. Medical disability for a Civilian Firefighter/Paramedic shall be determined by the City's designated physician.

Section 2 – Work-Related Injury – Civilian Firefighter/Paramedic

The City will provide a disability and income program for civilian firefighter/paramedics. This insurance benefit shall continue in effect until such time as a similar disability insurance program for municipal civilian firefighter/paramedics shall be established and funded by the Federal government, the State of Indiana, or some other governmental agency.

ARTICLE XIII

Funeral Leave

In case of death in the firefighter's immediate family (meaning parent, spouse, grandparent, grandchild, parent-in-law, brother, sister, sister-in-law, brother-in-law, child or stepchild), a firefighter shall receive upon request, two (2) consecutive work days off without loss of regular pay, to make preparations for and attend, the funeral and burial of such relative and to attend to any necessary business or legal matters of the decedent or their estate. In addition, the Fire Chief shall have the right to grant, in appropriate cases and at their sole discretion, additional days off work for funerals.

The same right to funeral leave as set forth above shall be applicable in cases of death to an aunt or uncle of the firefighter, to a firefighter's nieces and nephews, to the aunts, uncles, nieces and nephews of the firefighter's spouse, and the grandparents of the firefighter's spouse. In such instances, the leave shall be only one (1) work day off without loss of regular pay. A firefighter who serves as a pallbearer in any funeral shall be entitled to whatever time off is needed on the day of the funeral to serve as a pallbearer without loss of pay. This does not apply to a firefighter that is on a pallbearers list. For Fire Marshals, the days off provided for in the above section shall be three consecutive eight (8) or nine (9) hour work days only.

Funeral leave under this Article XIII shall be taken at the time the death occurs. If a firefighter is on vacation when the death giving rise to the funeral occurs, the firefighter shall not be entitled to take the funeral leave as an extension to their vacation.

ARTICLE XIV

Insurance

Section 1 - Life and Accident

The City shall maintain in effect for each firefighter a life insurance policy of Fifteen Thousand (\$15,000.00) Dollars double indemnity.

The City shall also provide a \$50,000.00 life insurance policy for each civilian firefighter/paramedic in the event they are killed in the line of duty; provided, however, if federal or state legislation is passed providing such coverage, as in the instance of the police and firemen, then the City need not provide such coverage. Such a policy must include coverage for death by disease contracted in-the-line-of-duty.

Section 2 - Medical and Hospital

The City shall offer medical and hospital care coverage to all firefighters, including those off work due to injury and/or illness, throughout the life of the Agreement complying with the terms included in the Insurance Memorandum attached to this agreement.

ARTICLE XV

Uniform Allowance

(a) The City shall, in addition to all other compensation herein granted, pay each firefighter an annual uniform allowance of:

\$1,250.00

to purchase and maintain uniforms as prescribed by the Chief. In consideration of this allowance, the firefighters agree to keep their uniforms in neat, clean and in good repair and to replace all worn out clothing as necessary.

(b) No new items of clothing shall be required unless the Union is in agreement, provided, however, that this paragraph shall not apply to any safety items which may in the future be mandated by IOSHA or OSHA.

(c) The City shall provide and replace damaged protection gear at no expense to the firefighter. Protection gear shall consist of the firefighter's helmet, turnout coat and pants, a protective hood, boots and gloves, and helmet visors. A firefighter must relinquish all damaged protective gear before the City is obligated to replace such gear

ARTICLE XVI

Duties of Firefighters

- (a) Firefighters duties shall consist of the following:
 - (1) All work directly connected with firefighting services, emergency medical services, fire prevention, and public education.
 - (2) Specialty work including water and aerial rescue services, hazardous material emergency response services, water rescue and recovery, fire protection services in the area of code enforcement and fire and arson investigation.
 - (3) Keeping all staffed stations and fire department vehicles clean, including performing general-maintenance tasks for the presentable upkeep of station grounds and quarters.
- (b) Firefighters shall not be required to perform heavy maintenance work or work which requires special skills, including plumbing, electrical work, and painting; however, a firefighter may voluntarily perform these tasks if qualified.
- (c) After all of the duties required under paragraph (a) are performed to the satisfaction of the Fire Chief or representative, firefighters may engage in personal activities which do not interfere with the duties of other members of the fire department.
- (d) Firefighters shall not be required to engage in training, schooling or station maintenance on Sundays or on the Holidays listed in this Agreement. Management may provide training on two (2) Saturdays per year, per shift. Any further Saturday training sessions require advance approval by the Union's Executive Board. Management shall provide a minimum of seven (7) days notice prior to each occurrence of Saturday training.

ARTICLE XVII

Strike Prohibition

The Union will not engage in, nor sanction, strike action, slow down, "blue flu," or similar action during the life of this Agreement or any extension thereof. If this Article is violated, the participants shall be immediately subject to discharge as provided in Ordinance Number 1666 of the City of Mishawaka.

ARTICLE XVIII

Joint Safety Committee

Section 1 - Adoption of Safety Program

A joint safety program shall be adopted and enforced by a joint safety committee comprised of an equal number of representatives from the Union and the City.

Section 2 - Special Items of Safety Equipment

The Cascade system or any replacement system shall be tested not less than annually and maintained in good working order and not less than twenty-five (25) self-contained breathing apparatus in good working order shall be provided by the City so that all members of the Fire Department will have at their disposal protection from dangerous gas and smoke.

Section 3 - Fresh Air Tanks

Fresh air tanks shall be tested hydrostatically at least every five (5) years, per code No. DOT 49 CFR.

Section 4 - Testing of Other Items

All aerial ladders shall be tested, at least once every three (3) years for defects and all defects shall be promptly repaired by the City.

ARTICLE XIX

Department Strength

Section 1 - Minimum Work Force

- (a) The minimum work force will be twenty-nine (29) firefighters per day.
- (b) Seven (7) firefighters will be allowed off per day. In the event of sickness, vacation, or any other reason whatsoever the work force is reduced below the minimum manning requirement, the Officer in Charge will then refer to the proper overtime list for the next man in line to work.
- (c) A minimum of three (3) lead paramedics will remain on duty per shift.

Section 2 - Department Strength

- (a) The minimum firefighting work force shift shall be assigned to manning emergency firefighting equipment.
- (b) Each pumper truck and aerial/pumper combination truck in service shall run and be manned by at least three (3) firefighters.
- (c) Each rescue truck unit in service shall run and be manned by at least two (2) firefighters.
- (d) Each paramedic ambulance shall run and be manned by at least one (1) lead paramedic and one (1) advanced EMT.
- (e) The City will man and run a minimum of three (3) paramedic ambulances. The City may run a fourth (4th) ambulance only after at least four (4) pumper trucks or aerial/pumper combination trucks are manned by at least four (4) firefighters each. This requirement may be suspended for requested occasions only with the approval of the Union's Executive Board for each occasion.
- (f) In the event a rescue truck or aerial truck unit is out of service because of a mechanical breakdown, a reserve engine may be placed in service as a replacement, manned by not less than

two (2) firefighters and used only as a rescue truck or aerial truck unit. Under no circumstances shall the reserve engine be used as a pumper truck unless manned by not less than three (3) firefighters. In the event the reserve engine is used as a pumper truck while manned by less than three (3) firefighters, then the firefighters next in line on the recall list shall be entitled to overtime pay of not less than four (4) hours.

(g) Whenever a reserve pump truck is put in service to take the place of a piece of equipment that is manned normally by two (2) firefighters and enough manpower is available, it shall be manned with three (3) firefighters.

(h) All disabled firefighting motor vehicle equipment, excepting automobiles, shall be repaired and placed back in service as soon as reasonably possible.

Section 3 - Vacancies

(a) The City will make a diligent effort to fill all vacancies in the Fire Department within sixty (60) calendar days after such vacancies occur. In the event a vacancy is not filled within sixty (60) calendar days, the City shall furnish immediately thereafter a written explanation to the Union outlining the reason the vacancy has not been filled.

(b) All vacancies in rank as a result of a promotion shall be filled within thirty (30) days.

(c) All vacancies in ranks as a result of a resignation, retirement, or termination will be filled within thirty (30) days, or when the vacating firefighter ceases to receive compensation by the City for hours worked or other time owed, whichever is later. Vacancies will be posted within seven (7) days of action by the Board of Public Works and Safety creating the vacancy.

Section 4 -- Driver Operator and Master Firefighter Positions

(a) There shall be not less than thirty (30) firefighters holding the rank of Driver Operator (DO).

- (b) All firefighters shall be automatically promoted to the rank of Master Firefighter on or before the third anniversary of their hire date.

Section 5 – Rank Structure

- (a) Effective January 1, 2013, the rank structure will be as follows:

- (1) Probationary Firefighter
- (2) 1st Class Firefighter
- (3) Master Firefighter
- (4) Driver Operator
- (5) Paramedic
- (6) Lieutenant
- (7) Fire Marshal
- (8) Shift Supervisor
- (9) Captain
- (10) Battalion Chief
- (11) Assistant Chief
- (12) Chief

Section 6 – Master Firefighter

Once a firefighter achieves the rank of Master Firefighter or higher, the base pay for such firefighter thereafter shall never be less than that paid to other Master Firefighters, regardless of the subsequent rank of such firefighter. The Board of Safety reserves the right to refuse a request made by a firefighter for voluntary demotion from the rank of Master Firefighter.

ARTICLE XX

Grievance Procedure and Arbitration

(a) A "grievance" is defined to mean any difference that may arise between the parties or between the City and a firefighter covered by this Agreement as to any matter involving interpretation, meaning, application or violation of any of the provisions of this Agreement. A "grievant" is defined as any firefighter employee covered by this Agreement, group of firefighter employees or the Union.

1. It shall first be the responsibility of the grievant to reduce the grievance into writing within sixty (60) days after it arises and present it to the Chief.

2. If the grievance is not resolved after a period of seven (7) days after being presented to the Chief or acting Chief, the written grievance shall be presented to the City's Board of Public Works and Safety within ninety (90) days for determination and settlement.

3. If the grievance is not settled by the Board of Public Works and Safety within fourteen (14) days to the satisfaction of the grievant, then the matter may be submitted to arbitration in accordance with the terms and conditions set forth below.

(b) The establishment of this method of arbitration shall not in any way whatsoever be deemed to be a recognition by the City of compulsory arbitration as a superior method of settling labor disputes, but rather shall be deemed to be a recognition solely of the necessity to provide an alternative method or mode of settling labor disputes where employees must, as a matter of public policy, be denied the usual right to strike. Therefore, in the event that the grievant and the City are unable to satisfactorily resolve a grievance before the Board of Public Works and Safety, either party may send written notice of a demand for arbitration to the other party and the dispute shall be submitted to arbitration before an impartial arbitrator selected as provided below.

If within ten (10) days after the notice of the demand for arbitration, the parties are unable to agree upon an arbitrator, then the grievant may request the American Arbitration Association or Federal Mediation and Conciliation Service to submit a panel of names and the selection of the

arbitrator made by alternately striking names from the panel. The impartial arbitrator shall hold hearings upon the issues, make such investigations as shall be deemed necessary to a proper decision and render such decision in writing. The decision of the arbitrator shall be final and binding upon the parties. The arbitrator is authorized to conduct such hearing in an informal manner and without recourse of the technical, common-law rules of evidence required in judicial proceedings. Every person who is a party to such proceeding shall have a right to submit evidence in open hearing and shall have the right of cross-examination. Hearings may be held at any place in the county agreed to by the parties or in the absence of agreement, as determined by the arbitrator.

(c) The arbitrator's fees and necessary expenses of arbitration shall be borne equally by the Union and City. However, it is understood and agreed that such fees and expenses shall not include attorney's fees of either party.

ARTICLE XXI

Savings Clause

If any provision of this agreement, or application thereto to any person or circumstances, is held unconstitutional or otherwise invalid, the remaining provisions of this Agreement and the application of such provisions to other persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

ARTICLE XXII

Indemnification

Section 1 - Claims and Judgments

The City shall indemnify and hold harmless any firefighter from all legal claims, suits, costs and judgments arising out of the acts or omissions of the firefighter arising out of and in the course of the performance of the duties of such firefighter subject to the terms and conditions contained herein. Indemnity shall not be provided in the event any firefighter willfully violates any legal order of a superior officer, the rules and regulations of the Fire Department, or is guilty of gross negligence or of willful or wanton misconduct.

Section 2 - Executions on Judgments

The City shall take such actions as it deems appropriate to forestall the execution of judgment against a firefighter personally and notwithstanding such efforts by the City, the City will indemnify and hold harmless the firefighter on any judgment covered under Section 1 of this Article subject to terms and conditions contained herein.

Section 3 - Trials

(a) The City shall provide legal counsel of the City's choosing to any firefighter against whom legal action has commenced, within the coverage set forth in Section 1 of this Article.

(b) The firefighter shall have the option to retain their own attorney at their own expense to represent their interests in litigation without any effect on the responsibilities of the City under this Article.

Section 4 - Firefighter's Responsibilities

(a) As a condition precedent to the right of indemnification under this Article, any firefighter desiring indemnification shall:

(1) Tender in writing to the City's attorney a notice of its right to appear and defend any litigation as may result in a judgment covered by this Article and grant to the City the right to make such investigation, negotiation and settlement of any claim as the City deems appropriate.

(2) Give written notice containing the particulars sufficient to identify the firefighter involved and information as to the time, place and circumstances thereof to the City's attorney as soon as reasonably practical following a covered occurrence.

(3) Forward immediately any or all suit papers, demands, notices, summons, complaint or other process received by such firefighter or their representative to the City's attorney.

(4) Cooperate with the City in the conduct, defense or settlement of any legal proceeding and additionally grant the City the right to free access and use of all hospital, medical and doctor's records and reports as to any firefighter's physical or mental condition in the conduct, defense or settlement of any legal proceedings.

ARTICLE XXIII

Specialty Position

A. In recognition of the special and unique services performed by certain firefighters for the City, the City agrees to pay specialty pay to those firefighters who perform the following duties:

1. Advanced Emergency Medical Technician (AEMT).
2. Water Rescue and Recovery.
3. Self-Contained Breathing Apparatus.
4. Mechanics.
5. Firefighter/Paramedic
6. Reserve Firefighter/Paramedic
7. Civilian Firefighter/Paramedic
8. Information Technology (IT)

All specialties will receive a specialty check. Participation in any specialty listed in this article is not mandatory.

B. Definitions.

1. **“Advanced Emergency Medical Technician (AEMT)”** means a firefighter who is certified by the Indiana Emergency Medical Services Commission as an AEMT, and is qualified by the local Medical Control Board to provide advanced life support care. An AEMT is a firefighter who can perform advanced life support skills, which include, but are not limited to: manual defibrillation, electrocardiogram interpretation, and intravenous injection.
2. **“Water Rescue/Recovery Team”** means those firefighters regularly assigned to the Water Rescue and Recovery Team in accordance with the standard operating procedures currently in effect. Such standard operating procedures shall not be changed except by mutual consent of the City and the Union. ”

3. **“Self-Contained Breathing Apparatus Technician”** means those firefighters assigned to maintaining, repairing, testing and all records keeping activities as required by federal and state regulations with respect to self-contained breathing apparatus.
4. **“Mechanics”** means those firefighters assigned to the maintenance and repair of fire suppression vehicles and all other Fire Department mechanical equipment.
5. **“Lead Paramedic”** means a paramedic who has obtained lead paramedic status from the St. Joseph County EMS Committee.
6. **“Firefighter/Paramedic”** means a firefighter who is dually certified as both a firefighter and a paramedic and is assigned to an ambulance.
7. **“Reserve Firefighter/Paramedic”** means a firefighter who is dually certified as both a firefighter and a paramedic and is assigned to a suppression apparatus.
8. **“Civilian Firefighter/Paramedic”** means a firefighter paramedic assigned to an ambulance and receives the PEP compensation.
9. **“Paramedic”** includes Firefighter/Paramedics, Reserve Firefighter/Paramedics, and Civilian Firefighter Paramedics.
10. **“Information Technology” (IT)** means a firefighter who maintains the computer systems within the Fire Department including but not limited to Firehouse software, Mobile Data Terminals, and GPS data.

C. The City agrees to train at least the following number of firefighters for the EMT specialty:

<u>Specialty</u>	<u>Number of Firefighters</u>
EMT-A	10 (annually)
EMT-P	3 (annually)

Training slots for the EMT-A and EMT-P specialty shall be filled by seniority.

D. The City agrees to offer to train at least the following number of firefighters for each of the following specialties:

<u>Specialty</u>	<u>Number of Firefighters</u>
Water Rescue/Recovery Team	12
Water Rescue/Recovery Team Leaders	3
Self-Contained Breathing Apparatus Technician	3
Mechanics	3
IT	2

The City shall train such additional firefighters as may be necessary, from time to time, to maintain the specialty programs listed in this paragraph, provided, however, there are firefighters available who desire to be so trained.

E. If less than the specified number of firefighters enroll to be trained for a particular specialty, then the City shall be obligated to train only those firefighters who have enrolled in a specialty program.

F. If a firefighter withdraws from certain specialty training after the training commences or fails to successfully complete such training for any other reason, the firefighter shall still be counted toward the City's obligation to train a specific number of firefighters for that specialty.

G. The City shall provide all specialty training at no cost to the firefighters who wish to secure the specialty.

H. The City shall establish specialty programs for the specialties set forth in this Article and maintain them for the life of this Agreement and any extensions of this Agreement.

I. Specialty pay shall be prorated to the date of acquiring the specialty. The following specialty pays are established:

<u>Specialty</u>	
Water Rescue/Recovery Team	\$ 950.00
Water Rescue/Recovery Team Leaders (3)	\$ 1050.00

Self-Contained Breathing Apparatus Technician	\$ 1,000.00
Mechanics	\$ 2,500.00
IT	\$ 1,500.00

The following specialties shall be paid on a two (2)-tier schedule.

Tier 1 is awarded for certification (and maintenance of certification). Tier 2 is awarded upon completion of 50 scheduled days on an ambulance in a given calendar year (November 1 through October 31 of the following year).

<u>Specialty</u>	<u>Tier 1</u>	<u>Tier 2</u>
AEMT	\$1000.00	\$3000.00
Paramedic	\$2000.00	\$4000.00
Lead Paramedic	\$4000.00	\$6000.00

J. If a firefighter is required to attend off-duty training or certification classes in order to achieve specialty status and gives prior notice to the Fire Chief, or representative, the firefighter shall be reimbursed for each hour of necessary off-duty training at the applicable overtime rate. All specialty programs shall be operated strictly in accordance with the standard operating procedures presently in effect. Once in effect, such standard operating procedures shall not be changed except by mutual agreement between the Union and the City.

K. If a firefighter is required to attend off-duty training or certification classes in order to maintain specialty status and gives prior notice to the Fire Chief, or representative, the firefighter shall be reimbursed for each hour of necessary off-duty training at the applicable overtime rate.

L. If at any time within ten (10) years of receiving such training a firefighter loses his or her paramedic certification or leaves employment of the City of Mishawaka's Fire and EMS Department, the firefighter agrees to reimburse the City for costs associated with paramedic training on a pro rata basis. After completing seven (7) years assigned to an ambulance, an individual may request in writing to the Chief to be assigned to a fire-suppression vehicle. The firefighter making the request will have first priority for the next available fire-suppression-vehicle opening. Management will accommodate requests for transfer from full-time ambulance duty prior to seven (7) years, subject to manpower restrictions.

ARTICLE XXIV

Job Posting

In the event of an opening or vacancy within the Mishawaka Fire Department, the Chief will post the opening or vacancy for bids at all fire stations. The posted openings or vacancy shall remain open for bids for a period of ten (10) days. Any firefighter wishing to bid for such opening or vacancy shall sign the job posting sheet and complete required forms.

ARTICLE XXV

Pay Days

Section 1 - Pay Period

Firefighters shall be paid bi-weekly, (every other Friday).

Section 2 - Additional Pay Periods

All other pay shall be dispersed by the City as follows:

(a) Uniform allowance pay will consist of four (4) equal and separate checks payable quarterly on or before the first (1st).

(b) If a regular pay day falls during a firefighter's vacation, the firefighter shall receive their pay check in advance prior to going on vacation, providing they make a written request for their check two (2) weeks in advance to the person responsible for Department payroll.

(c) Payment of Specialty Pay. All specialty pay shall be paid in a lump sum as part of the last pay in November of each year.

ARTICLE XXVI

Training New Firefighters

Upon commencement of employment, a firefighter shall not be considered part of the firefighting work force until having received at least one hundred eighty-nine (189) hours of on-the-job training. Training will be performed Monday through Friday, except for firefighters to attend Recruit Fire Academy events scheduled on Saturdays.

ARTICLE XXVII

Emergency Leave

Firefighters shall have the privilege of leaving the fire station for immediate family emergencies. In such cases, the following guidelines must be followed as closely as possible;

- (a) Firefighter must notify the Officer in Charge of the emergency.
- (b) Firefighter must call Officer in Charge within the first two (2) hours and give their status as to if he/she will be returning to work in the next two (2) hours.
- (c) Once the emergency is taken care of and the firefighter's presence is no longer needed, they shall return to work.
- (d) The Officer in Charge will call in overtime if below the minimum manpower and it is determined that the firefighter on emergency leave will not be returning to work within the four (4) hour time frame set forth above.
- (e) Any added days needed, the firefighter is required to make their own arrangements, such as, to trade days, take vacation days, or arrangements made through the Chief.

ARTICLE XXVIII

Overtime Call-In Procedure

Section 1 - Purpose of Article

- (a) For regular overtime to maintain Article XIX, Section 1, for both twenty-four (24) hour, partial overtime, and order in overtime.
- (b) Overtime is to be offered to firefighters in a uniform manner of rotation. A master overtime list will be maintained by the Officer in Charge for twenty-four (24) hours, partial overtime and ordered to work.

Section 2 - Call-In Procedure

- (a) The Officer in Charge will refer to the proper list. Starting at the top of said list and moving down that list until the number of firefighters needed is secured. If that number of firefighters has not been secured, then the Officer in Charge will call from the list of firefighters currently on vacation. If the number of firefighters needed is still not secured, then the Officer in Charge may "order" someone to work the vacancy and the Officer in Charge shall maintain an "ordered to work" record and shall rotate this duty equally among all Fire Department personnel. Ordered to work shall be offered by reverse seniority. Any firefighter that is ordered to work shall maintain their place on the respective overtime list.
- (b) Members may accept overtime in 12 or 24 hours increments.
- (c) Overtime that originates as 24-hour overtime will continue to be filled from the 24-hour overtime list. (i.e., if a member accepts 12 hours of a 24-hours overtime slot, the remaining 12 hours will continue to be filled from the 24-hour overtime list.)
- (d) Overtime that originates as less than 24 hour overtime will be filled from the partial overtime list.

(e) Members will maintain their place on the respective overtime list if they turn down an offer to work overtime. When a member accepts an overtime assignment they will be placed at the bottom of the respective overtime list.

(f) (1) When the Officer in Charge calls, if needed, the firefighter will have two (2) minutes to call that person back, before moving on to the next firefighter on the list.

(2) When the Officer in Charge calls and reaches an answering machine or voicemail, the person calling will: Identify him/her self, the purpose of the call, and the time. The firefighter will have two (2) minutes to call back, before the Officer in Charge moves to the next firefighter.

(3) The Officer in Charge making the calls will write down on the overtime list: the date, time, and if the firefighter accepted, turned down, or was ordered in, then enter the information into the daily log.

(g) The Officer in Charge shall maintain up to date overtime lists online or in print for all members to view.

ARTICLE XXIX

Bill of Rights

All firefighters who are members of the bargaining unit on full-time active duty shall be entitled to the protection of what shall hereafter be termed as the "Mishawaka Firefighters Bill of Rights."

1. All firefighters shall have the right to Union representation selected from a list prepared by the Union during any interview or questioning involving a disciplinary matter.

2. When for any reason any firefighter is under investigation by the city for conduct which results in dismissal, criminal charges or suspension for more than five (5) days (40 hours) the following rules are hereby established and shall be followed to insure such investigations are conducted in a manner conducive to public confidence, good order and discipline while, at the same time, observing and protecting the individual rights of each firefighter:

(a) Advance Notice - Prior to being interviewed, a firefighter shall be:

(i) Informed in writing of the nature of the investigation; informed of other information necessary to reasonably apprise them of the nature of the allegations of the complaint, including the date, time and location of the occurrence;

(ii) If prior to or at any time during the interrogation of a firefighter, it is determined that he/she may be charged with a criminal offense or be suspected of being implicated in a criminal offense, they shall be immediately informed of their constitutional rights and the investigation shall be terminated unless the firefighter chooses to waive their constitutional rights of self-incrimination;

(iii) Afforded an opportunity and facilities to contact and consult privately with an attorney of their choosing and/or representative of the Union;

(iv) Whenever a delay in conducting the interview will not jeopardize the successful accomplishment of the investigation or when criminal culpability is not an issue, advance

notice shall be given the firefighter not less than twenty-four (24) hours before the initial interview commences or written reports are required from the firefighters.

(b) Interview Safeguards - Any interview of a firefighter shall be when the firefighter is on duty unless the seriousness of the complaint dictates otherwise.

(i) Interviews shall take place at the firehouse facility, or elsewhere if mutually agreed, unless the emergency of the situation necessitates otherwise.

(ii) The firefighter may have a Union representative and/or attorney present to witness the interview. However, the interview may not be unduly delayed awaiting an unavailable Union representative when other Union representatives are available.

(iii) An attorney or representative chosen by the firefighter must be, depending upon the seriousness of the investigation and the need for immediate action, available within a reasonable period of time and under no circumstances will any interrogation session be delayed more than twenty-four (24) hours because of the unavailability of the attorney or representative chosen by the firefighter. However, no matter how extreme an emergency exists, no interrogation shall take place until the firefighter shall be given a minimum of three (3) hours to obtain the services of a representative and/or attorney.

(iv) During the interrogation of the firefighter, the attorney or representative shall not make any statements or objections of any kind to the investigator nor will they in any way impede the interrogation but will restrict their remarks to conferring with the firefighter. The representative's failure to object to a question shall not constitute a waiver of their ability to later object to any questions asked.

(v) Interviews shall be done under circumstances free of intimidation or coercion and shall not otherwise violate the firefighter's constitutional rights. The firefighter shall not be subjected to offensive or abusive language. No promise or reward shall be made as an inducement to answer questions.

(vi) Interviews shall not be overly long. The firefighter shall be entitled to

reasonable intermissions as they shall request for personal necessities, telephone calls, rest periods, with one (1) ten (10) minute intermission every hour, if they request.

(vii) All interviews shall be limited in scope to activities, circumstances, events, conduct or acts which pertain to the subject of the investigation.

(viii) Investigations shall be concluded without delay.

(c) Charges Filed

(i) The firefighter will be furnished with a copy of the summary report of the internal investigation which will contain all material facts of the matter.

(ii) The firefighter will be furnished with the names of all witnesses and complainants who will appear against the firefighter and/or whose statements will be used against them.

(d) Resulting Disciplinary action

(i) When the investigation results in a determination of a sustained complaint, only the findings will be placed in the firefighter's personnel file, unless the firefighter requests inclusion of the complete record.

(ii) No dismissal, demotion, or other punitive measures shall be taken against the firefighter unless they are notified of the action and a reason for such action prior to the effective date of such action.

3. Personal Privileges

(a) No firefighter shall be required for purposes of assignment or other personnel action to disclose any item of their property, income, assets, source of income or personal or domestic expenditures including those of any member of their family, unless such information is obtained pursuant to proper legal process or tends to indicate a conflict of interest with respect to the performances of their official duties.

(b) No firefighter shall have their residence, private place of business, if any, private

vehicle or locker space assigned to them by the Fire Department searched unless a valid search warrant is obtained or they voluntarily agree to such search.

(c) No member of the immediate family of the firefighter shall be required to give a statement to the investigator and prior to requesting any member of the immediate family of the firefighter to give a statement, the firefighter shall be given notice of such intended request and the firefighter shall be given an opportunity to confer with that family member before that family member shall be asked to give a statement.

4. Political Activities - No firefighter shall be prohibited from engaging in political activities except when on duty.

5. Polygraph Examinations - A firefighter under investigation shall not be required to take a polygraph examination unless their accuser or accusers agree to take such a polygraph examination, and have taken such examination prior to the firefighter being asked to take such examination: provided, however, anything in this Article to the contrary notwithstanding, none of the charts, conversations, discussions, questions or results derived from such polygraph examination shall be used against such firefighter in any civil or criminal proceeding. In the event the polygraph examiner desires to question the firefighter after the polygraph test has been administered, the examiner shall first advise the firefighter of their rights in writing and if the firefighter waives in writing their rights, then any statements made by such firefighter may be used against such firefighter.

6. Drug-Free Workplace - Firefighters shall be subject to the provisions of the City's Drug-Free Workplace Policy as such policy exists as of the date of this Agreement. However, a firefighter shall not be required to submit to any such tests in regard to any occurrence at a time when the firefighter, while off duty, was compelled to take immediate firefighting action in

response to an emergency situation. The City shall agree to train firefighters on Drug-Free Workplace Policy prior to implementation, and will also train new hires as needed. The Union President will be notified at any time a firefighter is selected for a random test of any kind.

7. Maintenance of Records

(a) Complaints investigated by the Department shall be handled in the following manner by classification:

(i) Unfounded, exonerated, and non-sustained complaints shall be destroyed upon the resolution of the matter, with the firefighter who is the subject of the complaint having a right to be present during the destruction, if they so desire. Said firefighter shall be informed of the proposed destruction before it takes place.

(ii) Sustained complaints may be kept in the personnel file for a period of three (3) years at the end of which time they shall be destroyed, in the presence of the firefighter who is the subject thereof, if they so desire, provided, however, the personnel file shall nevertheless contain a summary record of discipline setting forth the appropriate dates, charges, findings and penalty imposed.

(b) A firefighter shall have the opportunity, at a reasonable time during office hours, to review their active file and any closed investigative file in which they were the accused. In the event there is any comment adverse to their interests in their personnel file, the officer shall have the right to file a written response thereto, which written response shall be attached to said adverse comments; and, additionally, they shall have the right to file a grievance in regard to any such matter which is of such gravity that it could affect their promotional opportunities, which grievance shall then be processed in accordance with grievance procedures.

(c) Any firefighter who is reprimanded in any way, either orally, in writing, by suspension, deprivation of overtime or any other benefits, or disciplinary action in any way, shall have the right of appeal as provided by law.

ARTICLE XXX

Call in Emergency Duty

Section 1 - Emergency Call In As Defined by Officer In Charge

(a) The Officer in Charge will determine the need to call in the appropriate number of personnel for the specific emergency. The Officer in Charge or his/her designee will be in charge of securing the necessary emergency personnel. All call records will be maintained and recorded into the appropriate overtime list.

(b) The City will work towards a system that, when it is made available, the Officer in Charge will use a computer generated system to send out a mass contact of all firefighters using any or all methods of phone, mobile phone, text, or e-mail. The firefighters making contact with dispatch or the Officer in Charge on a first come first serve basis will be awarded the emergency overtime and must report as soon as possible. Once all necessary positions have been filled another mass contact will be sent out to cancel the emergency contact process. All firefighters must provide at least one working phone contact number at all times for the purpose of emergency call in but may also provide as many contact methods as possible voluntarily.

(c) Each firefighter making contact back will be told where the Emergency is and where to report.

ARTICLE XXXI

Specialty Teams

All specialty teams shall be operated strictly in accordance with each program's the Standard Operating Procedure (S.O.P.), in effect as of the date of this Agreement. An S.O.P. relating to a specialty team shall not be changed except by mutual agreement between the Union and the City.

ARTICLE XXXII

Termination of Employment

Upon the termination of a firefighter's employment with the City, the firefighter shall receive all benefits under this contract, prorated to the last day of their employment. Clothing allowance will be prorated by the months worked each quarter. When a firefighter leaves employment with the City for whatever reason, accrued vacation days or leave day shall be taken as time off provided, or paid for these days. However, if the firefighter is dismissed for cause, then the firefighter shall be paid for any accrued vacation time.

ARTICLE XXXIII

Retiree Health Insurance

Each retired firefighter of the City of Mishawaka Fire Department shall be eligible for health coverage or credit according to the parameters set forth by ordinance of the City.

ARTICLE XXXIV

Duration

Section 1 - Duration

This Agreement shall be in effect January 1, 2013, following approval by the Union, resolution of the Board of Public Works and Safety and ordinance of the Common Council of the City of Mishawaka, and shall remain in force and effect to and including the 31st day of December, 2014.

Section 2 - Future Negotiations

The parties agree that commencing not later than June 1st, 2014, they will undertake negotiations for a new collective bargaining agreement.

Section 3 - Renegotiation and Amendment

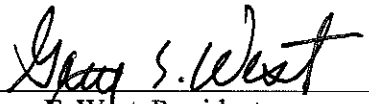
Notwithstanding any provision herein to the contrary, it is understood and agreed by the parties hereto that any provision contained in this Agreement may be amended at any time by the mutual agreement of the parties hereto.

Section 4 - Relations to Rules and Regulations

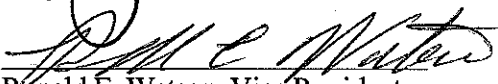
This Agreement shall supersede any rules and regulations inconsistent herewith, provided, however, rules and regulations not inconsistent with this Agreement may be adopted and promulgated by the Board of Public Works and Safety of the City of Mishawaka pursuant to Indiana statute.

IN WITNESS WHEREOF, the parties have executed this Agreement by their authorized representatives in Mishawaka, Indiana, this 27 day of November 2012.

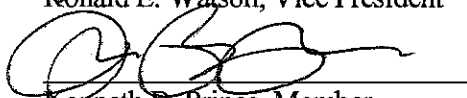
**CITY OF MISHAWAKA, INDIANA
BOARD OF PUBLIC WORKS AND SAFETY**



Gary E. West, President

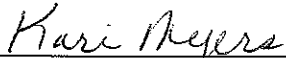


Ronald E. Watson, Vice President



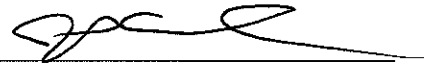
Kenneth B. Prince, Member

ATTEST:

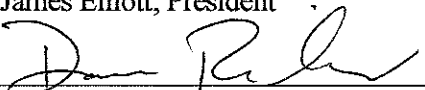


Kari Myers, Clerk of the Board

**MISHAWAKA FIREFIGHTERS ASSOCIATION LOCAL NO. 360 OF THE
INTERNATIONAL ASSOCIATION OF FIREFIGHTERS AFL-CIO**



James Elliott, President



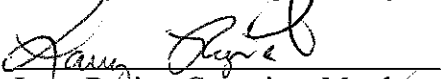
Dave Richards, Vice President



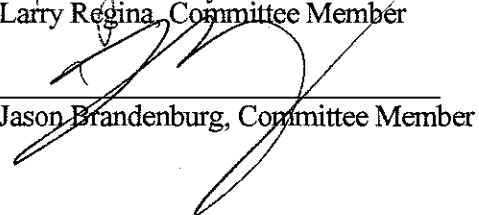
Kevin Gnivecki, Secretary Treasurer



Mark Ryan, Recording Secretary



Larry Regina, Committee Member



Jason Brandenburg, Committee Member

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 29 2012

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2012-38

ORDINANCE NO. _____

1st Reading 12-03-12
2nd Reading
Passed
Failed
Continued To

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE EMPLOYEES OF THE CENTRAL
SERVICES DEPARTMENT, REPRESENTED BY THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS LOCAL NO. 364**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana and the International Brotherhood of Teamsters Local No. 364 have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2012; and

WHEREAS, the members of the International Brotherhood of Teamsters Local No. 364 have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the new Agreement on their behalf; and

WHEREAS, on the 27th day of November, 2012, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the new Collective Bargaining Agreement with the International Brotherhood of Teamsters Local No. 364, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 1666 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The Collective Bargaining Agreement executed the 27th day of November, 2012, effective January 1, 2013, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the International Brotherhood of Teamsters Local No. 364 is hereby approved.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____ .M.

John Roggeman
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at
_____ o'clock _____ M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at _____
o'clock _____ M.

David A. Wood, Mayor

RESOLUTION NO. 2012-08

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND EMPLOYEES OF THE MISHAWAKA CENTRAL SERVICES DEPARTMENT – REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL NO. 364

WHEREAS, the City of Mishawaka and the International Brotherhood of Teamsters, Local No. 364, representing member-employees of the Mishawaka Central Services Department, have agreed to a Collective Bargaining Agreement for the period of January 1, 2013 to December 31, 2014; and

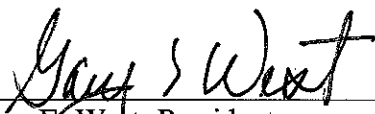
WHEREAS, such Agreement requires the approval of the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka that:

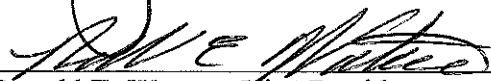
Section 1. The attached Collective Bargaining Agreement between the City of Mishawaka and the International Brotherhood of Teamsters, Local No. 364 is hereby approved, and

Section 2. This Resolution shall be forwarded to the Mishawaka Common Council for its review and final action.

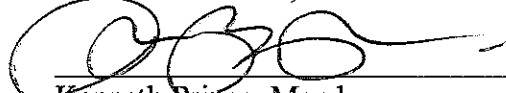
ADOPTED by the Board of Public Works of the City of Mishawaka, on this 27 day of November, 2012.



Gary E. West, President

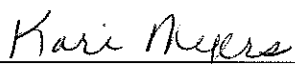


Ronald E. Watson, Vice President



Kenneth Prince, Member

ATTEST:



Kari Myers, Clerk of the Board

**ARTICLES OF AGREEMENT
THE CITY OF MISHAWAKA CENTRAL SERVICES DEPARTMENT
AND TEAMSTERS LOCAL UNION NO. 364
1-1-13 through 12-31-16**

THIS AGREEMENT is between the CITY OF MISHAWAKA (the Employer) Teamsters Local No. 364 (the Union).

The Employer and the Union desire to establish and maintain sound labor relations, to facilitate the peaceful adjustment of grievances which may arise between the Employer and its employees, to promote safe and efficient operation of the department, and to strive for a high standard of workmanship in the Department.

**ARTICLE 1
RECOGNITION, UNION SHOP AND CHECK-OFF**

Section 1.

- A.** No unit employee shall be required to become a member of the Union as a condition of employment or continued employment, and the parties agree that there shall be no discrimination by either the Employer or the Union against any unit employee because of membership or non-membership in the Union.
- B.** It is recognized and agreed that unit employees may or may not join the Union in accordance with the desires of individual employee.
- C.** It is further recognized that the Union, as the exclusive representative of all unit employees, regardless of whether the individual employees are Union members or not, owes the same duty of representation to all unit employees and agrees to provide such services to all unit employees; therefore, all unit employees shall, within ninety (90) days of the date of hire, pay a collective bargaining contract administration fee to the Union in an amount equal to the actual cost incurred by the Union for its representation of all unit employees, but such amount shall not exceed the monthly dues assessed Union members. The Union further agrees that no portion of the employee union dues or service fee assessments shall be used or expended for the support of political campaigns of individual, local, state, or national political candidates for public office, nor shall any union dues be used for this purpose.
- D.** The Employer shall deduct from the pay due all employees in the bargaining unit covered by this Agreement one month's union dues or service fee each alternate pay period not exceeding an amount certified by the Union and shall forward such dues and service fees to the Financial Secretary of the Union not later than the tenth (10th) day of the following month; provided, however, the employee has signed a written wage assignment. Such wage assignment shall continue in effect for the duration of this contract or until receipt by the Employer of a written notice of revocation of such order by the employee.
- E.** The Employer shall not be held liable for not collecting union dues or service fees for any month in which the employee receives (after deduction) pay less than the amount of such dues or service fees.
- F.** In the event an employee is receiving advance pay, such employee's union dues or service fees shall be deducted from that pay.

- G. Union dues and service fees shall be authorized only during the existence of this Agreement.

ARTICLE 2
DEFINITIONS

The following definitions are a part of this Agreement:

- A) **Advance Pay** -- Any compensation earned by an employee that is paid one (1) to three (3) days before that employee's vacation leave period begins.
- B) **Bargaining Unit** -- All employees of the Mishawaka Central Services and Sewer Departments who are represented by the Union for collective bargaining purposes.
- C) **City** -- Shall mean the Civil City of Mishawaka.
- D) **Classification** -- Means any grouping of employees with similar job duties and with the same rate of pay.
- E) **Compensatory Time** -- Means paid time off, which is accrued for overtime hours actually worked at the rate consistent with overtime pay.
- F) **Employee** -- All persons employed full-time by the City of Mishawaka Central Services Department, except department heads, supervisors, professional people, general foremen, part-time employees, temporary employees, office manager, and clerical personnel.
- G) **Full-time Employee** -- An employee who works at least forty (40) hours per week and for more than five (5) consecutive months in a calendar year.
- H) **Immediate Family** -- Means father, mother, sister, brother, spouse, child, grandparents, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-children, or other person residing in the same household of the affected employee.
- I) **Project Coordinator** -- a bargaining unit employee who will help plan and arrange the work flow of a specific project assigned to them. Acceptance of the Project Coordinator assignment is voluntary.
- J) **Holiday Rate** -- Employee's regular pay plus double time.
- K) **Overtime** -- Any hours worked beyond the eight (8) hour workday or beyond the forty (40) hour workweek.
- L) **Part-time Employee** -- An employee that works less than forty (40) hours per week and for more than five (5) consecutive months in a calendar year.
- M) **Probationary Employee** -- A newly hired full-time employee who has worked for less than 91 calendar days. Such employee will be on probation for a period of 90 calendar days from the date of hiring unless the parties mutually agree to extend the probationary period and may be laid off or discharged during this period without recourse to this Agreement. After an employee's probationary period ends, the employee shall become a regular full-time employee and shall be subject to all the terms and conditions of this Agreement. Probationary employees shall not pay union dues or service fees until they become regular full-time employees.
- N) **Pyramid** -- Means compensating an employee twice for the same hours worked or compensating them at an amount equal to twice the permissible holiday or premium rates.

Pyramiding does not include compensation for work performed on a holiday.

- O) **Reckless Misconduct** -- An employee engages in reckless misconduct when he intentionally does an act, or intentionally fails to do an act in violation of his duty that creates an unreasonable risk of danger to others.
- P) **Shift Differential** -- A certain hourly pay rate increase for employees who work the second or third shift.
- Q) **Supervisor** -- Any employee who is part of management and not a member of the bargaining unit.
- R) **Temporary Employee** -- An employee who works full-time or part-time but for less than five (5) consecutive months in a calendar year.
- S) **Minor Violations** -- those violations which are disciplinable with verbal or written warnings.
- T) **Major Violations** -- those violations which are disciplinable with time off.
- U) **Occurrence (attendance)** -- means a failure to punch in or out, a late arrival, an early leave, or an absence that is not paid or excused in accordance with the terms of the Collective Bargaining Agreement.
- V) **Occurrence (disciplinary)** -- means a verbal warning, written warning, suspension or discharge for a violation of the Department's policies, procedures, rules and regulations.

ARTICLE 3

RIGHTS OF MANAGEMENT

1. Nothing in this Agreement shall permit or authorize the Union or any of its members to officiate in management or in a supervisory capacity. It is agreed that the Employer will not use this prerogative for the purpose of discrimination against the Union.
2. Except where specifically restricted in this Agreement, the parties agree that the Employer shall possess all the customary prerogatives of management including, but not limited to, those enumerated below:
 - A) To hire, promote, suspend, discharge or otherwise discipline employees for violation of rules it deems necessary to impose for the overall benefit of the residents of the City of Mishawaka, its employees and/or its plant operations, or for other proper and just causes.
 - B) Nothing in this Article shall abrogate the employee's rights to the grievance procedure.
3. It is not the intent of Management to perform work that is normally performed by the bargaining unit employees except:
 - in emergency situations
 - at the golf course
 - at the pools
 - at the ice rink
 - when Management cannot find adequate coverage for work

ARTICLE 4

HOURS OF WORK

Section 1. Eight (8) consecutive working hours within a twenty-four (24) hour period will constitute a normal workday. Five (5) consecutive workdays, or forty (40) work hours shall constitute a normal workweek. An employee shall be paid time and one-half (1½) for all work done in excess of eight (8) consecutive hours per day and in excess of forty (40) work hours per workweek. Overtime, premium and holiday rates shall not be pyramided. The employer shall pay double time to an employee for working on his seventh day if that day normally would have been the employee's second consecutive day off within a particular shift schedule and for all hours worked in excess of twelve (12) hours per shift.

Employees working a four-day, ten-hour schedule will have the following conditions:

- A) All paid time off will be tracked in hours, not days. (Example: An employee who works a five-day, eight-hour schedule will be charged eight hours for a day off. An employee who works a four-day, ten-hour schedule will be charged ten (10) hours for a day off.)
- B) Overtime will be paid after ten (10) hours of work.
- C) Overtime after twelve (12) hours in a working day will be paid at double time.
- D) The Employer shall pay double time to an employee after working on his seventh day if that day would have been the employee's third consecutive day off within a workweek.
- E) The conditions outlined in Section 4 will apply.
- F) Holidays will be paid according to the schedule the employee is working at the time of the holiday.
- G) An FTO half-day increment will be five (5) hours.
- H) Shift differential pay will be provided to employees working the qualifying hours under the four-day, ten-hour schedule.

Section 2. Unless stated otherwise by the employer, the work hours for the employees shall be 7:00 a.m. to 3:00 p.m. If the employer chooses to deviate from this schedule, the employer shall provide the employees with at least ten (10) calendar days' notice of any new schedule changes prior to their implementation. If the employer gives less than ten (10) calendar days' notice, the parties must mutually agree to the schedule change. The employees shall be entitled to one work break per day of one-half (1/2) hour which shall be taken at the city garage (if worksite is within one mile of the garage) or place designated by the employer with a given notice.

Section 3. A) For the computation of overtime, an excused absence or an official holiday will be computed as a day worked.

B) Employees can accrue up to eighteen (18) hours of compensation time. Employees will be given the option of pay or comp time for hours earned up to eighteen (18). Any hours earned over eighteen (18) will be paid out in overtime pay. Employees must make a good faith effort to use comp time in a timely fashion. Comp time may be requested at any time, and may be granted at the complete discretion of management. Employees must realize, however, that a comp time request is more likely to be granted the earlier it is requested.

Section 4. A) If a job cannot be completed during the regular shift and management decides that the job must be completed on that particular day, the employee who has been working on that job during his regular shift shall be entitled to the overtime prior to senior employees being asked for overtime.

B) If an employee works on a scheduled day off, that employee will be guaranteed four (4) hours of work the employee completes the work for which he was scheduled in less than the guaranteed work period, then, at the employee's option, he may elect to be paid for the time actually worked, or he may perform other work assigned by management until the guaranteed work has expired.

C) If an employee is recalled to work after their regular shift, that employee will be guaranteed four (4) hours of work; however, if that employee completes the work for which he was recalled in less time than the guaranteed four (4) hours of work and chooses to punch out instead of performing other work assigned by management, he shall only be paid for the time he actually works.

D) If an employee is held over to complete certain work, that employee shall be paid the standard overtime rate for the actual hours worked.

E) Employees will receive a sixty cent (\$.60) per hour shift differential for all work performed on regularly assigned shift which commences between the hours of 3:00 p.m. and 11:00 p.m. and fifty-five cents (\$.55) per hour shift differential for all work performed on regularly assigned shift which commences between the hours of 11:00 p.m. and 7:00 a.m.

F) Fleet Maintenance Technicians Shift Differential - If regularly scheduled hours in a pay period include a minimum of two different shifts, the shift differential pay will be applied to all hours.

Section 5. If, under normal operating conditions, management determines that additional employees are needed for work, management shall select employees for overtime work from the voluntary overtime list taking first those employees with the least amount of total accumulated overtime hours. Employees shall be responsible for signing the voluntary overtime list. Management shall update the total accumulated overtime hours of each listed employee by Thursday of each week. Separate overtime lists will be maintained for Central Services and Fleet Maintenance Technicians.

A) If the number of employees needed for overtime work exceeds the number of employees on the overtime list, management shall have the right to call any employees it needs for work; provided, however, it has posted 24 hours' notice before the need arises. Management shall also have the right to cancel operations due to inclement weather conditions; provided, however, it has posted 12 hours' notice prior to the cancellation.

B) If emergency conditions exist, as declared by the Mayor or the Central Services Director, or his designee in his absence, management shall not be required to post any notice.

Section 6. During the winter shift schedule, the employer will attempt to accommodate, as much as possible, the employees' shift preferences; however, departmental seniority shall prevail when needed to provide efficient department operation. Also, during the winter shift schedule, seniority shall prevail in determining shift preferences for Fleet Maintenance Technicians.

Section 7. Missed Overtime - Only in the event of a blatant overtime missed assignment, where management has not corrected a reported error, will pay be rewarded. All other overtime missed assignments will be corrected by the subsequent assignment of overtime work.

ARTICLE 5
TARDINESS/LEAVING EARLY

Section 1. The following disciplinary schedule shall be followed:

<u>Number of Tardiness/Leaving Early</u>	<u>Disciplinary Step</u>
One (1)	Verbal Warning
Two (2)	1 st Written Warning
Three (3)	2 nd Written Warning
Four (4)	1 Day off Without Pay
Five (5)	2 Days off Without Pay
Six (6)	3 Days off Without Pay
Seven (7)	Discharge

Section 2. The number of occurrences accrued during the previous calendar year will be dropped to zero (0) on January 1st of the following year.

ARTICLE 6
HOLIDAYS

Section 1. Employees shall be granted ten (10) paid holidays each year in accordance with the City's holiday schedule. The City's holiday schedule will be posted by December 1st of the previous calendar year.

In addition, the employees shall have two (2) random holidays each year.

Section 2. Employee Pay On Regularly Scheduled Workday - If employees are scheduled to work on a holiday, they shall be paid their regular hourly rate plus time and one-half for the hours actually worked; provided, however, they have worked the regularly scheduled day before and after the holiday unless officially excused by the Department Head or his assistants. The hours worked on a holiday, which is an employee's regularly scheduled workday, shall not be charged toward the total accumulated overtime hours worked.

Section 3. Call-in - Any employees called to work on a scheduled holiday shall be paid the holiday rate plus a minimum of four (4) hours work at the double time rate. However, if that employee completes the work for which he was recalled in less time than the guaranteed four (4) hours of work and chooses to punch out instead of performing other work assigned by management, he shall only be paid for the time he actually works.

ARTICLE 7
VACATIONS

Section 1. A) Employees hired before January 1, 2011 with less than 25 years of service will retain their current vacation time off and thereafter earn vacation under the new schedule. Employees hired before January 1, 2011 with more than 25 year of service will retain 30 working days of vacation. Employees hired after January 1, 2011 will earn vacation in accordance with Section 2-598 of the Mishawaka Code of Ordinances. Vacation eligibility for City employees hiring into the Central Services Department/Fleet Maintenance Technicians work group from outside of the bargaining unit will be in accordance with the "me-too" agreement between the parties.

B) Employees with the most department seniority shall have priority in the selection of their vacation periods. Seniority will prevail for any vacation time selected for the year, as long as the vacation selection was made prior to March 1st. After March 1st, any vacation requests shall be granted on a first come, first granted basis. All vacation periods selected by employees are subject to prior approval by the employer.

It shall be the employee's responsibility to make a good faith effort to request all vacation leave available to them in the year it is accrued. Management shall make an effort to allow employees to take their vacation within the year it is accrued, but retains the right to deny vacation requests in the interest of efficiency.

If, at the end of a calendar year, an employee has not been able to use all of his vacation days as a result of a repeated denial by management, the employee shall have the right, by way of grievance, to request that the unused vacation days be paid out as regular paid time.

C) An employee shall not take more than two (2) weeks of vacation (10 working days) at one time unless otherwise permitted by the Department Head.

D) Vacations may be taken in one-half day or full-day increments. Granting an employee's vacation time is subject to Management's approval.

E) Employees must give twenty-four (24) hours' notice during the winter shift schedule and twenty-four hours' notice during any other time.

Section 2. When a paid holiday occurs during an employee's vacation, he shall receive an additional day of paid vacation.

Section 3. Bonus Days - A maximum of four (4) bonus days will be awarded on January 1. One (1) bonus day will be earned every three (3) months if an employee has received no more than one occurrence (attendance or disciplinary) in a three-month period. A newly hired employee may earn Bonus Days prorated from the date of hire to the next December 31st calculated on the basis of one Bonus Day for each full three (3) month period of employment. Such days shall be awarded the next year. An occurrence is defined as anytime an employee is in violation of departmental rules, fails to punch in or out, leaves before completion of shift without supervisor's approval or is late.

Bonus Days may be taken in one-half (½) day increments. Bonus days may be requested at any time and are granted at the complete discretion of management. Employees must realize, however, that a bonus day request is more likely to be granted the earlier it is requested.

ARTICLE 8 **GROUP INSURANCE**

(A) The City will continue to provide health insurance to employees and their families at the same cost to the employee as other City departments.

(B) Employees under the age of sixty-five (65) shall receive Fifteen Thousand Dollars (\$ 15,000) life insurance.

ARTICLE 9
RETIREMENT PROGRAM

Section 1. PERF - The employer agrees to continue the regular Public Employee's Retirement Fund.

Section 2. Retiree Health Insurance - The retiree health insurance plan shall be consistent with the policy established in Section 2-610 of the Mishawaka Code of Ordinances.

ARTICLE 10
STEWARDS

Section 1. The Employer recognizes the right of the Union to designate a steward and alternate to handle such Union business as may from time to time be delegated to them by the Union. Stewards and alternates have no authority to take strike action or any other action interrupting the Employer's business in violation of this Agreement or any action in violation of law, except as authorized by official action of the Union.

Section 2. The Union shall be allowed space for a Union bulletin board on which to post notices. Only notices concerning Union business shall be posted.

Section 3. Employees who are representatives of the Union shall not leave jobs or work areas for the purpose of assisting in the settlement of grievances or attending meetings with management representatives until prior permission has been obtained from their immediate supervisors, which permission shall not be unreasonably withheld. Meetings shall be held after regular working hours unless determined otherwise by mutual agreement. Grievances, however, shall be processed during working hours.

ARTICLE 11
SENIORITY

Section 1. Types of Seniority - City employees within the bargaining unit shall obtain seniority on their 91st day of continuous, full-time employment, and such seniority shall be calculated to include the prior 90-day probationary period when successfully completed. There shall be two types of seniority for the Mishawaka Central Services Department and Fleet Maintenance Technicians work group.

A) Bargaining Unit Seniority

Bargaining unit seniority shall be computed from the employee's most recent date of hire in the bargaining unit.

B) Departmental Seniority

Departmental seniority shall be computed from the employee's previous date of hire in the Parks and Recreation, Street, or Central Motor Pool Departments.

For newly-hired employees, seniority shall begin with their date of hire into the Central Services Department or Fleet Maintenance Technicians work group.

In the event two or more employees are hired into the Central Services Department or Fleet Maintenance Technicians work group on the same day, seniority status shall be determined alphabetically by the first letter of the employee's last name at the time of hire.

Section 2. Computation of Seniority - Any time spent by an employee on sick leave, vacation and military leave shall be included within the computation for seniority.

Section 3. Seniority Loss - The seniority of an employee shall terminate under any of the following conditions.

- A) When a laid-off employee fails to give notice of his intention to return to work within three (3) working days after the city has sent a certified letter to his last known address requesting his return to work.
- B) When a laid-off employee gives timely notice of his intention to return to work after the City has requested his return but fails to return to work on the specified date and time of recall.
- C) When an employee resigns his employment with the City.
- D) When an employee is discharged for just cause.
- E) When an employee is laid off for more than twelve (12) months.
- F) When an employee receives total permanent disability compensation.
- G) When an employee retires.

ARTICLE 12 **LAYOFF PROCEDURES**

Section 1. If it becomes necessary for the employer to lay-off employees, the employer shall follow departmental seniority in determining which employees to lay-off. Employees with the least amount of departmental seniority shall be the first employees laid off.

Section 2. Any laid off employee shall be placed on a Central Services Department/Fleet Maintenance Technicians work group call-back roster and a bargaining unit call-back roster.

ARTICLE 13 **CALL-BACK**

Section 1. Call-back Roster - In the event that an employee is laid off, the name of that employee will be placed on a Central Services Department/Fleet Maintenance Technicians work group call-back roster and a bargaining unit call-back roster.

Section 2. Call-back Procedure - When a job becomes available in the Central Services Department/Fleet Maintenance Technicians work group covered by this agreement and there are employees whose names are on the appropriate departmental call-back roster, the employee with the most departmental seniority who is qualified for the job shall be offered the job. Once the departmental seniority list is exhausted the bargaining unit seniority list will be used. If there are employees whose names are on the bargaining unit call-back roster, the employee with the most bargaining unit seniority who is qualified for the job shall be offered the job.

Section 3. Employee Call-back Rights and Obligations - If an employee accepts a recall to another bargaining unit department other than the one from which they were laid off they will be allowed recall to

their original department for a period of 12 months before their recalled position becomes permanent.

Section 4. Notice of Recall - In the event of a recall, an employee shall be given one (1) week's notice of recall by certified mail to his last known address, in the event that the recalled employee fails to make it known within three (3) working days of the receipt of the letter to the City Personnel Department of his intent to accept or reject the recall offer (as provided in paragraphs entitled, Call-back Procedure and Employee Call-back Rights and Obligations) that employee shall lose his bargaining unit seniority and shall be terminated from employment.

Section 5. City Records It is the responsibility of all laid-off employees to furnish the Personnel office with a current mailing address and telephone number. Any laid off employee not doing so shall be terminated.

ARTICLE 14 **JOB VACANCIES**

Section 1. All vacant and newly created jobs in the Central Services Department/Fleet Maintenance Technicians work group will be posted for bid for a period of three (3) working days. If no employee from the Central Services Department/Fleet Maintenance Technicians work group bids and qualifies for the vacant or newly created job, then the bid shall be posted for a period of three (3) working days at other bargaining unit work sites and the Personnel office.

Section 2. Bidding Priorities - Provided the employee who bids for the vacant or newly created job is qualified for the job, current employees will be given priority to fill the job opening as follows:

- A) First priority will be given to bidders from the Central Services Department/Fleet Maintenance Technicians work group with the greatest departmental seniority.
- B) Second priority will be given to senior employees in other bargaining unit departments.

Note: Departmental seniority is not transferable from bargaining unit department to bargaining unit department.

Section 3. Successful Bidders – Successful bidders shall be allowed no more than thirty (30) calendar days to accept or be accepted into the vacant or newly created job. If an employee is disqualified or disqualifies himself, he shall be returned to his original job classification. Management will give specific reasons for disqualifying an employee.

Section 4. Promotion within Central Services Classifications – An employee of the Central Services Department may appeal to the Central Services Director to advance to a higher classification in the department based on his skills acquired through cross-training. The Central Services Director will respond to the request for promotion within three (3) working days of the request. Additional time for evaluation may be granted with mutual agreement of the Director and the representing steward. One appeal for promotion may be made in a three-month period commencing with the Director's response to a request.

Section 5. Promotion to a Non-Bargaining Unit Position - Any unit employee who accepts a non-bargaining unit position within the bargaining unit will have a thirty (30) day tryout period before being removed from the Union seniority list. After thirty (30) days of employment such employee's bargaining unit seniority will be frozen for the duration of his service in a non-bargaining unit job. If said employee is permitted by the Employer to return to the bargaining unit in an open job, he will carry his frozen bargaining unit

seniority into the new position, the individual will have no departmental seniority.

ARTICLE 15

PAYDAY

Pay will be distributed as prescribed by the City Controller.

ARTICLE 16

FLEXIBLE TIME OFF/LONG TERM DISABILITY

Section 1. Flexible Time Off (FTO)

(A) In recognition of the need for its employees to be away from work, employer agrees to establish and accrue a bank of time off for any personal needs such as personal or family illness, extension of bereavement leave or vacations, or for any other purpose. Such bank may also be used to satisfy the five (5) day waiting period for Long Term Disability Leave (LTD) described in Section 2. Such bank will not include personal holidays, bereavement leave (unless as an extension), jury or subpoenaed witness duty, LTD leave, leave of absence, or military leave.

(B) FTO accrual shall begin on the first day of employment for full-time employees and may be taken as accrued. Accruals shall be credited to each employee's account on the first day of each month for the prior month's service at the rate of one-half (1/2) day per month and continue at the same rate for each month of credited service.

(C) FTO days will continue to accrue as long as the employee remains in paid status, subject to the limitation listed in (G) of this section.

(D) FTO days may be taken in full or half day increments. If becoming ill at work and leaving early, employees will be charged with one-half (1/2) FTO day if leaving after mid-shift and a full FTO day if leaving before mid-shift.

(E) Employees are expected to plan time off, setting aside some time in their personal bank for sickness. Employees are encouraged to keep a minimum of five (5) days in their bank at all times to provide for unexpected short-term sickness or for the required five (5) day LTD waiting period described in Section 2. If all FTO days or any other paid leave time is not available, any short-term illness will be an excused unauthorized absence, but without pay. Likewise, any long-term illness will result in a loss of pay for the five (5) day waiting period. The city retains the right to limit the number of excused absence occurrences as described in this subsection.

(F) Employees should schedule FTO time at least twenty-four (24) hours in advance with the approval of a supervisor. The city recognizes, however, that there will be times, such as days an employee or a dependent is ill or a personal emergency arises that cannot be anticipated. In such cases, it is the responsibility of the employee to inform his/her supervisor as soon as possible prior to the beginning of a workday or shift of such absence and when the employee expects to be able to return to work.

(G) Employees may carry over accrued but unused FTO days from year to year but in no event can they accumulate more than twenty-five (25) FTO days.

(H) All FTO days shall be on the basis of the employee's regular base day's salary.

(I) Employer will buy back FTO days from any employee, up to a maximum of six (6) FTO days per year. It is the responsibility of the employee to make timely application prior to this buy-back arrangement if so desired. In any event, employer will not buy back an amount of FTO days which would reduce the employee's personal bank to less than five (5) days, except as provided in paragraph (J) of this section.

(J) In the event a regular, full-time employee's service to the employer is terminated, including termination due to death or retirement, he/she shall be entitled to pay in lieu of FTO days for days due and not yet taken as of the date of such termination, including any FTO days carried over from prior years.

Section 2: Long Term Disability (LTD) – The long-term disability plan shall be consistent with the policy established in Section 2-596 of the Mishawaka Code of Ordinances.

ARTICLE 17

FUNERAL LEAVE AND LEAVE OF ABSENCE

Section 1. An Employee will be eligible for paid funeral leave for three (3) working days to make preparations for and attend the funeral and burial of a member of the employee's immediate family and to attend to any necessary legal matters of the decedent or his estate. An Employee will be eligible for paid funeral leave for one (1) working day to make preparations for and attend the funeral and burial of an Employee's aunt or uncle.

Section 2. Employees may be granted leave of absence without pay and without discrimination or loss of seniority rights for justifiable reasons agreed upon by both the Department Head and representatives of the Union. The maximum leave of absence, except in cases of compulsory military service, shall be for no more than twelve weeks; in the event such a leave is requested, the procedures outlined in the Family Medical Leave Act will be followed. Failure to comply with this provision shall result in the complete loss of rights for the employee involved. Seniority will be frozen during leaves of absence, except in cases involving military service and on-the-job injury.

ARTICLE 18

JURY DUTY

The Employer agrees to pay an employee who is called and serves as a juror in a legally constituted court the difference between his earnings as a juror and the straight time earnings he would have realized had he worked his scheduled shift. In order to be eligible for payment, employees must notify their supervisor within twenty-four (24) hours after receipt of notice of selection for jury duty, and must furnish a written statement from the appropriate public official showing the date and time served and the amount of pay received. An employee required to report at a specific time for examination as a prospective juror shall be compensated as provided above to the extent he is required to lose time from work for such examination. The examination notice is to be shown to the employee's supervisor as soon as practicable.

ARTICLE 19

GRIEVANCE PROCEDURE AND ARBITRATION

Section 1. Procedure to be followed:

The employer and the Union recognize that, from time to time, grievances, disputes and complaints may arise

over matters within the purview of this Agreement. Therefore, whenever the Union or any employee feels that the Employer has acted erroneously or improperly in interpreting and applying any of the provisions of this Agreement, then the Union or the employee may invoke the provisions of Article 19. Except in the first step, all grievances and answers shall be in writing.

First Step: The aggrieved employee shall present his grievance individually, or with the union representative, to his immediate supervisor within five (5) working days of the occurrence of the grievance. The immediate supervisor shall respond to the grievance within five (5) working days after it is presented to him.

Second Step: If the grievance is not settled in the First Step, the employee alone, or the employee and the union representative, may submit the grievance to the head of the department within five (5) working days after the answer is given in the first step. The head of the department shall give his answer within five (5) working days after receiving the grievance.

Third Step: If the grievance is not settled in the Second Step, the employee alone, or the employee and the union representative may submit the grievance to the Director of the Human Resources within five (5) working days after the answer is given to the Second Step. The Director of the Human Resources shall give his answer within five (5) working days after receiving the grievance.

Fourth Step: There shall be a Joint Grievance Committee (JGC) comprised of two (2) union representatives to be appointed on a case-by-case basis by the Union, and two (2) City representatives to be appointed on a case-by-case basis by the City. No person shall participate as a JGC member in any case in which such person was a witness, served as a representative of any party in the grievance process, or has any personal interest in the matter. The JGC shall meet to hear grievances which have not been resolved in the above steps of the Grievance Procedure. The JGC shall have the power and authority to make a final and binding decision with respect to any matter properly brought before it, but has no power to alter the agreement, except when requested by both parties, to add the provisions of the agreement.

The City shall make its presentation first to the JGC in discharge and suspension cases, and the Union shall present first in all other cases, but the JGC may alter such procedures and make rules of procedure to ensure a fair hearing to all parties. The JGC shall render its decision in writing in cases involving suspensions of five (5) days or longer and involving discharges, and either party may request a written decision or a bench decision in any other case.

A majority decision by the JGC is final and binding upon the Union, City, grievant, and all affected employees. Unwritten decisions and noticed from the JGC that they are deadlocked normally shall be rendered within twenty-four (24) hours of the close of the hearing, and written decisions normally shall be rendered within seventy-two (72) hours of the close of the hearing, but the JGC has the right to take such time as is necessary (such as for research) in order to render a full and fair decision.

Fifth Step: If the grievance cannot be settled in the Fourth Step, the employee may submit a written request to the Department of Human Resources within 5 (five) days requesting the services of an arbitrator from the State of Indiana to decide the issue. Either party may send a letter to the Federal Mediation and Conciliation Service requesting the services of an arbitrator from the State of Indiana to decide the issue. As soon as possible, a meeting shall be held with a mutually agreed upon arbitrator. Both parties may submit evidence and call witnesses to testify as to the facts concerning the grievance and the arbitrator shall make the decision on the evidence presented. The arbitrator shall have no authority to add to, detract from, or in any way modify the terms of this Agreement. Both parties agree to abide by the arbitrator's decision. The City and the Union shall share equally any fees charged by the State for arbitration service.

Section 2. The following provisions shall apply to the grievance procedure:

- A) Saturdays, Sundays and holidays shall not be used in determining days in reference to the grievance procedure.
- B) Failure of the Employer to give an answer to the grievance as of the last day to answer shall be considered a denial of the grievance and the employee shall have the right to then proceed to the next step of the grievance procedure.
- C) The Employer shall give the Union representative sufficient copies of the written answer in each step of the grievance procedure to distribute to each employee present at the grievance meeting.
- D) Unless consolidated by agreement of the Employer and the Union, each grievance shall be considered a separate case.
- E) If the Union does not appeal within five (5) working days of each step, the grievance is considered to be void.
- F) The time for filing a grievance involving the rate of pay shall begin on the day the employee receives his paycheck containing the grieved pay rate, unless it is previously filed.

Section 3. Inasmuch as a grievance procedure has been agreed upon, there shall be no strikes, stoppages of work, slowdowns, sit downs, sympathy strikes or other forms of interference with normal work routines during the life of this agreement or extension thereof. Both parties recognizing the fact that service to the public is a mutual desire, they will cooperate in all matters relating to labor management.

Section 4. The Employer agrees that it will not cause or direct any lockout of the employees.

ARTICLE 20

VALIDITY

This Agreement shall be subject to all Federal, State and local laws, and in the event any provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the provisions of this Agreement shall not be affected thereby, but shall continue in full force and effect.

It is further agreed that in the event any such provisions are finally held to be invalid, the parties hereto agree to meet within thirty (30) days thereof to negotiate the modifications of substitution of such clause or clauses so held to be invalid.

ARTICLE 21

SUBCONTRACTING

It is the intention of the Employer not to deprive the employees of work covered by this Agreement either by subcontracting or by hiring an outside agency. However, the parties hereto understand and agree that occasions will arise whether of an emergency nature or otherwise when it will be necessary for the Employer to authorize outside manpower and/or equipment to properly perform its function.

ARTICLE 22

DISCHARGE OR SUSPENSION

Section 1. The Employer shall not discharge, suspend or discipline any employee without just cause, but

in respect to discharge or suspension the employer shall give at least one warning notice of the complaint against such employee to the employee, in writing, and a copy of the same to the Union and Steward affected; provided, however, the employee has not committed one of the following acts or omissions while on duty.

- a) dishonesty
- b) reckless misconduct
- c) carrying of unauthorized passengers
- d) fighting

If the employee has committed any of the above mentioned acts or omissions, the employer does not need to provide the employee with said notice.

An employee who is discharged, suspended or disciplined may have recourse through the grievance procedure. If through the grievance procedure, it is determined that an injustice has been done to the employee, he shall be reinstated and compensated at his usual rate of pay while he has been out of work because of such discharge or suspension.

Section 2. Discipline as provided for in the work rules shall not remain in effect for a period of more than 6 months from the date of said discipline.

Section 3. Notice of discipline for a minor violation shall be given within three (3) working days from the date Management became aware of the violation. Notice of discipline for a major violation shall be given within thirty (30) working days from the date Management became aware of the violation.

Section 4. The parties shall discuss additional rules regarding just cause for discharge and disciplinary action. Such new rules and regulations shall be posted for ten (10) working days before they go into effect. All such rules and regulations shall prevail in the application and interpretation of this article.

Section 5. No employee will be required to speed up work in violation of Minimum Safety Standards.

ARTICLE 23

GENERAL PROVISIONS

Section 1. Uniforms – The City shall have a sufficient amount of rainwear, boots and gloves as needed for use during inclement weather. The City shall provide one pair of insulated pants and a jacket, and the City will allow for the exchange and replacement or repair of apparel damaged in the line of duty with the approval of the Central Services Director. Each employee shall receive a boot allowance of one hundred dollars (\$100.00) per calendar year.

The City shall also furnish uniforms and gloves to be worn by the employees during all working hours. If the uniforms and gloves are damaged by normal wear and tear due to daily working conditions, the employer shall provide replacement uniforms and gloves. A total of eleven (11) uniforms will be furnished per year.

Section 2. Revoked or Suspended License - In the event an employee has his Commercial Driver's License revoked or suspended due to negligence, driving under the influence of alcohol or narcotics, or driving while intoxicated, he shall be placed in the lowest job classification and pay rate within that department for sixty (60) calendar days or until the Commercial Driver's License has been reinstated, whichever occurs first. Upon reinstatement of his Commercial Driver's License, the employee will be returned to his former job classification and pay rate. If the license is not reinstated within the sixty (60) calendar day time period, the employee shall be terminated. If an

employee is disqualified from driving under DOT requirements for more than sixty (60) calendar days he shall be terminated immediately without suspension.

Section 3. Training - The City shall provide the opportunity for employees to attend and/or participate in training, seminars, or other forms of instruction necessary to perform the duties of the job classifications. However, the City reserves the right to approve classes and instructors.

The Employer shall pay in advance the cost for all approved training and seminar courses. The Employees shall pay in advance the cost of all other approved forms of instruction with the Employer reimbursing the Employee for the cost of such instruction upon successful completion of the course.

Section 4. Physicals - Employees holding a CDL will have the option of having their required physical examination arranged and paid for by the Employer at a facility of the Employer's choice and billed directly to the Employer, or arranging the physical examination at a facility or physician of the Employee's choice and at the Employee's expense.

Section 5. Commercial Driver's License - For new employees and for current employees bidding into a job requiring a CDL, the City will pay for the required drug screen and shall not pay for any other costs associated with the CDL. If an employee moves into a new job that does not require a CDL, but wishes to maintain his CDL, the employer shall not be responsible for paying any associated costs.

Section 6. Cross-Training - To accommodate mobility between classifications, the employer will provide cross-training for employees either during regular working hours or outside of regular working hours as the workload permits. Management and/or bargaining unit employees will conduct training.

Section 7. Tool Allowance - Fleet Maintenance Technicians with more than one year of service may combine their annual boot allowance (\$100.00) and their annual tool allowance (\$50.00) to purchase boots or tools totaling \$150.00 annually. Proper receipt of purchase will be required. Loaned tools that are damaged or broken during repair work to City owned fleet will be repaired or replaced by the Employer.

ARTICLE 24 **WORKER'S COMPENSATION**

Section 1. In the event an employee is absent due to an injury sustained on the premises that is determined to be compensable under Worker's Compensation laws, the employee will receive:

A) Full salary for the first five (5) workdays or the first seven (7) Worker's Compensation days of absence.

B) The difference between the daily rate paid through Worker's Compensation and the employee's daily salary less the seven-(7) days of absence. In the event the employee is absent twenty-two (22) or more days, the city's subsidy to the employee's Worker's Compensation pay will terminate until an amount equal to the Worker's Compensation check for the first seven (7) Worker's Compensation days of absence has been paid to the City. Upon receipt of such reimbursement the City's subsidy will resume until the employee returns to work or is absent for a total of sixty (60) days, whichever first occurs.

C) The employer's physician must validate the employee's absence during any of the first seven (7) days. In the event that Worker's Compensation is to be used it shall be the responsibility of the employee to follow all of the established procedures for applying for Worker's Compensation.

Section 2. If an employee is absent due to a work-related injury or illness for more than twenty-one (21) days and uses sick leave or other paid time off for the first five (5) working days, the City shall reinstate the employee's sick leave or other paid time off used for the first five (5) workdays.

Section 3. In the event of an occupational injury, the employee will follow the treatment procedures as provided through the City's Occupational Health system. If an employee's occupational injury is determined as temporary partial disability (TPD), the employee, in consultation with the attending physician, may be released for modified duty performing tasks that would not likely aggravate or lead to further injury. Light duty opportunities may include but are not limited to, desk and clerical work, janitorial, grounds keeping and other non-bargaining unit jobs assigned by the Supervisor.

Section 4. If an employee sustains an on-the-job injury, the employee shall obtain a written medical release from the employer's treating health care provider before such employee can return to work.

ARTICLE 25 **DRUG-FREE WORKPLACE**

The Union and the employees agree that they shall comply with all reasonable drug and alcohol policies, which may be established by the City for all City employees covered by and set forth in its Personnel Policies and Procedures.

ARTICLE 26 **LONGEVITY BONUS PLAN**

The following Longevity Bonus Plan will be provided to the Central Services/Fleet Maintenance Technicians work group employees according to the following terms. Said schedule is based upon years of service and does not have an upper limit. Longevity pay shall be distributed annually on the first pay day following each individual employee's anniversary date as part of his regular paycheck.

Payments shall be made according to the following schedule:

<u>Years of Service</u>	<u>Annual Increment</u>	<u>Bonus</u>
1	\$10.00	\$10.00
2	\$20.00	\$30.00
3	\$30.00	\$60.00
4	\$40.00	\$100.00
5	\$50.00	\$150.00
6	\$75.00	\$225.00
7	\$75.00	\$300.00
8	\$75.00	\$375.00
9	\$75.00	\$450.00
10	\$75.00	\$525.00

An additional \$75.00 will be added for each year of service after the tenth year.

ARTICLE 27
TEMPORARY JOB TRANSFERS

Section 1. Temporary job transfers to another bargaining unit department shall be assigned from a group of employees which the employer determines is available and qualified. The group of employees will then have input into who is transferred. If the group of employees cannot resolve who will be transferred, the transfer will be at the employer's sole discretion.

A) When an employee is temporarily transferred to a job in a higher-paying classification, he shall be upgraded to the pay rate of that classification for time spent on that job.

B) An employee temporarily assigned a job with a lower rate shall not be downgraded in pay.

C) Should overtime be needed, the employer shall at all times offer the overtime to employees who work within the department requiring the overtime according to their specific overtime procedure. In the event that nobody accepts the overtime from within the department, the employer shall have the right to utilize employees outside of that department subject to all of the conditions contained in this Article.

D) Should overtime be necessary for a temporarily transferred employee, the employee who has performed the work during regular hours will continue to work the overtime assignment if additional manpower is needed after exhausting the overtime list/procedure in the affected department.

Section 2. Employees temporarily transferred to a higher paying classification or job within the Central Services Department/Fleet Maintenance work group will be upgraded to the pay rate of that classification or job for time spent on the temporary transfer.

Section 3. Pay will not be upgraded in cross-training situations.

ARTICLE 28 **JOB CLASSIFICATIONS**

The following list of job classifications in the Central Services Department/Fleet Maintenance Technicians work group:

- Group 3 Operator
- Group 2 Operator
- Group 1 Operator
- Fleet Maintenance Technician

Additional classifications established during the term of the Agreement will be reviewed with the Union Steward and Business Agent prior to being implemented.

Changes in job descriptions will be reviewed with the Union Steward and Business Agent prior to being implemented.

ARTICLE 29 **TENURE OF AGREEMENT**

Section 1. This Agreement shall be in full force and effect from January 1, 2013, to and including December 31, 2016.

Section 2. The parties agree to open negotiations with sixty (60) days' prior notice provided on or about July 1, 2014 for the purpose of negotiating wages.

The parties agree to open negotiations with sixty (60) days' prior notice provided on or about July 1, 2016 for the purpose of negotiating a new labor agreement, including wages and benefits.

**LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF TEAMSTERS**

By _____
Robert R. Warnock, III, President

Date: _____

CITY OF MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

By _____
Gary E. West, President

Date: _____

By _____
Ronald E. Watson, Vice-President

Date: _____

By _____
Ken Prince, Member

Date: _____

ATTEST: _____
Kari Myers, Clerk, BPWS

INDEX

	ARTICLE NO.	PAGE NO.
Call-back	13	9 - 10
Definitions	2	2 - 3
Discharge or Suspension	22	14 - 15
Drug-Free Workplace	25	17
Flexible Time Off/Long-Term Disability	16	11 - 12
Funeral Leave and Leave of Absence	17	12
General Provisions	23	15 - 16
Grievance Procedure and Arbitration	19	12 - 14
Group Insurance	8	7
Holidays	6	5
Hours of Work	4	4 - 5
Job Classifications	28	18
Job Vacancies	14	10 - 11
Jury Duty	18	12
Layoff Procedures	12	9
Longevity Bonus Plan	26	17
Paydays	15	11
Recognition, Union Shop and Check-off	1	1 - 2
Retirement Program	9	8
Rights Of Management	3	3
Seniority	11	8 - 9
Stewards	10	8
Subcontracting	21	14
Tardiness/Leaving Early	5	6
Temporary Job Transfers	27	17 - 18
Tenure Of Agreement	29	18 - 19
Vacations	7	6 - 7
Validity	20	14
Worker's Compensation	24	16

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 29 2012

CITY CLERK
MISHAWAKA, IN

PROPOSED ORDINANCE NO. 2012-39

ORDINANCE NO. _____

1st Reading 12-03-12
2nd Reading
Passed
Failed
Continued To

**AN ORDINANCE APPROVING AN AGREEMENT BETWEEN
THE CITY OF MISHAWAKA AND THE EMPLOYEES OF THE SEWER
DEPARTMENT, REPRESENTED BY THE INTERNATIONAL
BROTHERHOOD OF TEAMSTERS LOCAL NO. 364**

WHEREAS, the contract negotiating committees for the City of Mishawaka, Indiana and the International Brotherhood of Teamsters Local No. 364 have mutually reached an agreement on amendments to the Collective Bargaining Agreement expiring the 31st day of December 2012; and

WHEREAS, the members of the International Brotherhood of Teamsters Local No. 364 have ratified the new Collective Bargaining Agreement and the governing body of said Association has executed the new Agreement on their behalf; and

WHEREAS, on the 27th day of November, 2012, the City of Mishawaka, Indiana, acting by and through its Board of Public Works & Safety, approved the new Collective Bargaining Agreement with the International Brotherhood of Teamsters Local No. 364, a copy of which is attached hereto; and

WHEREAS, Ordinance No. 1666 requires all Collective Bargaining Agreements to be approved by the Common Council of the City of Mishawaka.

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

Section 1. The Collective Bargaining Agreement executed the 27th day of November, 2012, effective January 1, 2013, between the Board of Public Works & Safety of the City of Mishawaka, Indiana and the International Brotherhood of Teamsters Local No. 364 is hereby approved.

Section 2. This Ordinance shall be in full force and effect from and after its passage, signing, and attestation.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____ .M.

John Roggeman
Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at
_____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at _____
o'clock _____.M.

David A. Wood, Mayor

RESOLUTION NO. 2012- 09

MISHAWAKA BOARD OF PUBLIC WORKS AND SAFETY

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MISHAWAKA AND EMPLOYEES OF THE MISHAWAKA SEWER DEPARTMENT – REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL NO. 364

WHEREAS, the City of Mishawaka and the International Brotherhood of Teamsters, Local No. 364, representing member-employees of the Mishawaka Sewer Department, have agreed to a Collective Bargaining Agreement for the period of January 1, 2013 to December 31, 2014; and

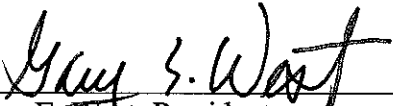
WHEREAS, such Agreement requires the approval of the Mishawaka Board of Public Works and Safety and the Mishawaka Common Council;

NOW, THEREFORE, BE IT RESOLVED by the Board of Public Works and Safety of the City of Mishawaka that:

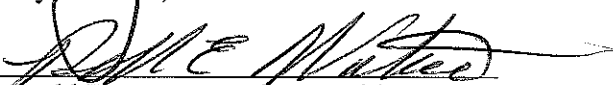
Section 1. The attached Collective Bargaining Agreement between the City of Mishawaka and the International Brotherhood of Teamsters, Local No. 364 is hereby approved, and

Section 2. This Resolution shall be forwarded to the Mishawaka Common Council for its review and final action.

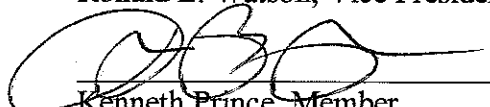
ADOPTED by the Board of Public Works of the City of Mishawaka, on this 27th day of November, 2012.



Gary E. West, President



Ronald E. Watson, Vice President



Kenneth Prince, Member

ATTEST:



Kari Myers, Clerk of the Board

**ARTICLES OF AGREEMENT
CITY OF MISHAWAKA SEWER DEPARTMENT
AND TEAMSTERS LOCAL UNION NO. 364
1-1-2013 through 12-31-2014**

THIS AGREEMENT is between the City of Mishawaka (the Employer) and Teamsters Local No. 364 (the Union).

The Employer and the Union desire to establish and maintain sound labor relations, to facilitate the peaceful adjustment of grievances which may arise between the Employer and its employees, to promote safe and efficient operation of the department, and to strive for a high standard of workmanship in the Department.

**ARTICLE 1
RECOGNITION, UNION SHOP AND CHECK-OFF**

Section 1.

- A. No unit employee shall be required to become a member of the Union as a condition of employment or continued employment, and the parties agree that there shall be no discrimination by either the Employer or the Union against any unit employee because of membership or non-membership in the Union.
- B. It is recognized and agreed that unit employees may or may not join the Union in accordance with the desires of individual employee.
- C. It is further recognized that the Union, as the exclusive representative of all unit employees, regardless of whether the individual employees are Union members or not, owes the same duty of representation to all unit employees and agrees to provide such services to all unit employees; therefore, all unit employees shall, within ninety (90) days of the date of hire, pay a collective bargaining contract administration fee to the Union in an amount equal to the actual cost incurred by the Union for its representation of all unit employees, but such amount shall not exceed the monthly dues assessed Union members. The Union further agrees that no portion of the union dues or service fee assessments shall be used or expended for the support of political campaigns of individual, local, state, or national political candidates for public office, nor shall any union dues be used for this purpose.
- D. The Employer shall deduct from the pay due all employees in the bargaining unit covered by this Agreement one month's union dues or service fee each alternate pay period not exceeding an amount certified by the Union and shall forward such dues and service fees to the Financial Secretary of the Union not later than the tenth (10th) day of the following month; provided, however, the employee has signed a written wage assignment. Such wage assignment shall continue in effect for the duration of this contract or until receipt by the Employer of a written notice of revocation of such order by the employee.
- E. The Employer shall not be held liable for not collecting union dues or service fees for any month in which the employee receives (after deduction) pay less than the amount of such dues or service fees during the last pay period.
- F. In the event an employee is receiving advance pay, such employee's union dues or service fees shall be deducted from that pay.
- G. Union dues and service fees shall be authorized only during the existence of this Agreement.

ARTICLE 2
DEFINITIONS

The following definitions are a part of this Agreement:

- A) **Advance Pay** -- Any compensation earned by an employee that is paid one (1) to three (3) days before that employee's vacation leave period begins.
- B) **Bargaining Unit** -- All employees of the Mishawaka Sewer, Street, Central Motor Pool and Park Departments who are represented by the Union for collective bargaining purposes.
- C) **City** -- Shall mean the Civil City of Mishawaka.
- D) **Classification** -- Means any grouping of employees with similar job duties and with the same rate of pay.
- E) **Compensatory Time** -- Means paid time off, which is accrued for overtime hours actually worked at the rate consistent with overtime pay.
- F) **Employee** -- All persons employed full-time by the City of Mishawaka Sewer Department, except department heads, supervisors, professional people, general foremen, part-time employees, temporary employees, office manager, and clerical personnel.
- G) **Full-Time Employee** -- An employee who works at least forty (40) hours per week and for more than five (5) consecutive months in a calendar year.
- H) **Holiday Rate** — Employee's regular pay rate plus time and one-half.
- I) **Immediate Family** -- Means father, mother, sister, brother, spouse, child, grandparents, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, daughter-in-law, son-in-law, step-father, step-mother, step-children, or other person residing in the same household of the affected employee.
- J) **Extended Family** -- Means uncle and aunt.
- K) **Occurrence (attendance)** -- means a failure to punch in or out, a late arrival, an early leave, or an absence that is not paid or excused in accordance with the terms of the Collective Bargaining Agreement.
- L) **Occurrence (disciplinary)** -- means a verbal warning, written warning, suspension or discharge for a violation of the Department's policies, procedures, rules and regulations.
- M) **Overtime** -- Any hours worked beyond the eight (8) hour workday or beyond the forty (40) hour workweek.
- N) **Part-Time Employee** -- An employee that works less than forty (40) hours per week and for more than five (5) consecutive months in a calendar year.
- O) **Probationary Employee** -- A newly hired full-time employee who has worked for less than 91 calendar days. Such employee will be on probation for a period of 90 calendar days from the date of hiring unless the parties mutually agree to extend the probationary period and may be laid off or discharged during this period without recourse to this Agreement. After an employee's probationary period ends, the employee shall become a regular full-time employee and shall be subject to all the

terms and conditions of this Agreement. Probationary employees shall not pay union dues or service fees until they become regular full-time employees.

- P) Pyramid --** Means compensating an employee twice for the same hours worked or compensating them at an amount equal to twice the permissible holiday or premium rates. Pyramiding does not include compensation for work performed on a holiday.
- Q) Reckless Misconduct --** An employee engages in reckless misconduct when he intentionally does an act, or intentionally fails to do an act in violation of his duty that creates an unreasonable risk of danger to others.
- R) Supervisor --** Any employee who is part of management and not a member of the bargaining unit.
- S) Temporary Employee --** An employee who works full-time or part-time but for less than five (5) consecutive months in a calendar year.

ARTICLE 3

RIGHTS OF MANAGEMENT

Nothing in this Agreement shall permit or authorize the Union or any of its members to officiate in management or in a supervisory capacity. It is agreed that the Employer will not use this prerogative for the purpose of discrimination against the Union.

Except where specifically restricted in this Agreement, the parties agree that the Employer shall possess all the customary prerogatives of management including, but not limited to, those enumerated below:

- A)** To hire, promote, suspend, discharge or otherwise discipline employees for violation of rules it deems necessary to impose for the overall benefit of the residents of the City of Mishawaka, its employees and/or its plant operations, or for other proper and just causes.
- B)** Nothing in this Article shall abrogate the employee's rights to the grievance procedure.
- C)** To share resources (personnel) at all sites and locations within the bargaining unit. This provision only applies to personnel with the qualifications requisite to perform the work to be done. This provision shall not be construed, however, in such a manner as to preclude training or work required in emergencies where qualified bargaining unit employees are unavailable for required work.

ARTICLE 4

HOURS OF WORK

Section 1. Eight (8) consecutive working hours within a twenty-four (24) hour period will constitute a normal workday. Five (5) consecutive workdays, or forty (40) consecutive work hours shall constitute a normal workweek. All employee shall be paid time and one-half for all work done in excess of eight (8) consecutive hours per day or in excess of forty (40) work hours per work week. Overtime, premium and holiday rates shall not be pyramided. Double time will be paid for any Sunday worked and for all hours worked in excess of twelve (12) hours per shift.

Section 2. Unless otherwise stated by the employer, the work hours for employees shall be 7:00 a.m. to 3:00 p.m. If the employer chooses to deviate from this schedule, the employer shall provide the employees with at least five (5) working days notice of any new schedule changes prior to their implementation. If the employer

gives less than five (5) working days notice, the parties must mutually agree to the schedule change. There shall be one work break per day of one-half (1/2) hour length to be taken at the city garage or place designated by the employer.

Section 3.

- A) For the computation of overtime, an excused absence or an official holiday will be computed as a day worked.
- B) Employees can accrue up to eighteen (18) hours of compensation time. Employees will be given the option of pay or comp time for hours earned up to eighteen (18). Any hours earned over eighteen (18) will be paid out in overtime pay. Employees must make a good faith effort to use comp time in a timely fashion. Comp time may be requested at any time, and may be granted at the complete discretion of management. Employees must realize, however, that a comp time request is more likely to be granted the earlier it is requested.

Section 4.

- A) If a job cannot be completed during the regular shift and management decides that the job must be completed on that particular day, the employee who has been working on that job during his regular shift shall be entitled to the overtime prior to senior employees being asked for overtime.
- B) If an employee works on a scheduled day off, that employee will be guaranteed four (4) hours of work. If the employee completes the work for which he was scheduled in less than the guaranteed work period, then, at the employee's option, he may elect to be paid for the time actually worked, or he may perform other work assigned by management until the guaranteed work has expired.
- C) If an employee is recalled to work after their regular shift, that employee will be guaranteed two (2) hours of work. However, if that employee completes the work for which he was recalled in less time than the guaranteed two (2) hours of work and chooses to punch out instead of performing other work assigned by management, he shall only be paid for the time he actually works.

Section 5. If, under normal operating conditions, management determines that additional employees are needed for work, management shall select employees for overtime work according to Article 4, Section 4, (A) in the Sewer Contract, and then from the overtime rotation list, taking first those employees within their classifications by seniority. Management shall update the rotation list for employees each day.

After-hours overtime in the event of an emergency will be offered first to the appropriate classification and then to the next qualified employee at the top of the rotation list. If an after-hours emergency occurs that requires any other classifications then those classification will first be considered before going to the rotation list. Any employee working overtime in a classification that is at a higher rate will be paid at the higher rate for overtime worked.

Section 6. Only in the event of a blatant overtime missed assignment, where management has not corrected a reported error, will pay be awarded. All other overtime missed assignments will be corrected by the subsequent assignment of overtime work.

ARTICLE 5
TARDINESS/LEAVING EARLY

Section 1. The following disciplinary schedule shall be followed:

<u>Number of Tardiness/Leaving Early</u>	<u>Disciplinary step</u>
One (1)	Verbal Warning
Two (2)	1' Written Warning
Three (3)	2 nd Written Warning
Four (4)	1 Day off Without Pay
Five (5)	2 Days off Without Pay
Six (6)	3 Day off Without Pay
Seven (7)	Discharge

The number of occurrences accrued during the previous calendar year will be dropped to zero (0) on January 1 of the following year.

ARTICLE 6
HOLIDAYS

Section 1. Employees shall be granted ten (10) paid holidays each year in accordance with the City's holiday schedule. The City's holiday schedule will be posted by December 1st of the prior calendar year. In addition, the employees shall have two (2) random holidays each year.

Section 2. Any employee who works on any holiday shall receive their regular hourly rate plus time and one-half (1½) for the amount of hours worked; provided, however, the employees have worked the regularly scheduled day before and after the holiday unless officially excused by the Department Head or his assistants.

Section 3. Any employee called to work on a scheduled holiday shall be paid the holiday rate plus a minimum of four (4) hours' work at the double time rate.

ARTICLE 7
VACATIONS

Section 1.

A) Employees hired before January 1, 2011 with less than 25 years of service will retain their current vacation time off and thereafter earn vacation under the new schedule. Employees hired before

January 1, 2011 with more than 25 year of service will retain 30 working days of vacation.
Employees hired after January 1, 2011 will earn vacation in accordance with Section 2-598 of the Mishawaka Code of Ordinances.

B) Employees with the most department seniority shall have priority in selecting their vacation periods. Seniority will prevail for any vacation time selected for the year, as long as the vacation time was selected between January 1 and March 31. After March 31, all vacations will be granted on a first come, first awarded basis. However, all vacation periods selected by employees are subject to prior approval by the employer. The employer may deny a vacation request if the employer believes that

granting a vacation to an employee will adversely affect the efficient operations of the department.

- C) An employee shall not take more than two (2) weeks of vacation (10 working days) at one time unless otherwise permitted by the Department Head.
- D) Vacations can be taken in one-half day or one full day increments upon providing the department head twenty-four (24) hours' notice.

In computing vacation time to be allowed, years of service shall be deemed to be the calendar year in which the employee will have completed the years of service listed in the above schedule. With the exception of the employee with only one (1) year of service, that employee will receive his/her five (5) days after their anniversary date.

Section 2. When a paid holiday occurs during an employee's vacation, he shall receive an additional day of paid vacation.

Section 3. Bonus Days - A maximum of four (4) bonus days will be awarded on January 1. One (1) Bonus Day will be earned every three months if an employee has received no more than one occurrence (attendance or disciplinary) in a three month period. A newly hired employee may earn Bonus Days prorated from the date of hire to the next December 31 calculated on the basis of one Bonus Day for each full three (3) month period of employment. Such days shall be awarded the next year. An Occurrence is defined as anytime an employee is in violation of departmental rules, fails to punch in or out, leaves before completion of shift without supervisor's approval or is late.

Bonus days may be taken in one-half (1/2) day increments. Bonus days may be requested at any time, and are granted at the complete discretion of management. Employees must realize, however, that a bonus day request is more likely to be granted the earlier it is requested.

Section 4. No vacation time or bonus days may be carried over to the next year. The employee must make every effort to use his paid time off during the year it is available.

ARTICLE 8 **GROUP INSURANCE**

- A) The City will continue to provide health insurance to employees and their families at the same cost to the employee as other City departments.
- B) Employees under the age of sixty-five (65) shall receive Fifteen Thousand Dollars (\$15,000) life insurance.

ARTICLE 9 **RETIREMENT PROGRAM**

Section 1. PERF - The Employer agrees to continue the regular Public Employee's Retirement Fund.

Section 2. Retiree Health Insurance - The retiree health insurance plan shall be consistent with the policy established in Section 2-160 of the Mishawaka Code of Ordinances.

ARTICLE 10
STEWARDS

Section 1. The Employer recognizes the right of the Union to designate a steward and alternate to handle such Union business as may from time to time be delegated to them by the Union. Stewards and alternates have no authority to take strike action or any other action interrupting the Employer's business in violation of this Agreement or any action in violation of law, except as authorized by official action of the Union.

Section 2. The Union shall be allowed space for a Union bulletin board on which to post notices. Only notices concerning Union business shall be posted.

Section 3. Employees who are representatives of the Union shall not leave jobs or work areas for the purpose of assisting in the settlement of grievances or attending meetings with management representatives until prior permission has been obtained from their immediate supervisors, which permission shall not be unreasonably withheld. Meetings are to be held during regular working hours unless determined otherwise by mutual agreement.

ARTICLE 11
SENIORITY

Section 1. Types of Seniority - City employees within a bargaining unit shall obtain seniority on their 91st day of continuous, full-time employment, and such seniority shall be calculated to include the prior 90 day probationary period when successfully completed.

In the event a probationary employee has been given a thirty (30) or sixty (60) day extension after their 90-day probationary period to obtain his CDL, the employee will have no bidding rights until the employee has received his CDL. If the employee is unable to obtain his CDL within the agreed extension period, the employee will have no seniority and will be terminated.

There shall be two types of seniority for Mishawaka Sewer Department employees:

A) Bargaining Unit Seniority

Bargaining unit seniority shall be computed from the employee's most recent date of hire in this bargaining unit.

B) Departmental Seniority

Departmental seniority shall be computed from the employee's most recent date of hire within the specific department in which he is presently employed.

Section 2. Computation of Seniority - Any time spent by an employee on sick leave, vacation and military leave shall be included within the computation for seniority.

Section 3. Seniority Loss - The seniority of an employee shall terminate under any of the following conditions.

- A) When a laid-off employee fails to give notice of his intention to return to work within three (3) working days after the city has sent a certified letter to his last known address requesting his return to work.

- B) When a laid-off employee gives timely notice of his intention to return to work after the City has requested his return but fails to return to work on the specified date and time of recall.
- C) When an employee resigns his employment with the City.
- D) When an employee is discharged for just cause.
- E) When an employee is laid off for more than twelve (12) months.
- F) When an employee receives total permanent disability compensation.
- G) When an employee retires.

ARTICLE 12

LAYOFF PROCEDURES

Section 1. If it becomes necessary for the employer to lay off employees working in skilled or semiskilled job classifications, the employer shall follow departmental seniority in determining which employees within each prescribed job classification to lay off. Employees with the least amount of seniority within each job classification shall be the first employees laid off. However, senior employees so laid off shall have the right to work within their department if qualified in a classification where their seniority warrants.

If a laid-off employee is not qualified in any other skilled or semi-skilled classification, he shall then be able to bid into the general labor job classification within his department and replace the junior employee in that classification. All employees doing so will retain their total departmental seniority.

Section 2. If the employer must lay off an employee working in a general labor classification, the employer shall lay off those employees with the least departmental seniority. Any laid-off employee shall be placed on a departmental call-back roster and a bargaining unit call-back roster.

Section 3. Voluntary Layoffs - In the event of a work slowdown, the employer may offer a voluntary layoff (VLO) to employees by seniority. The employees choosing to accept a VLO will be released for the day without pay. In the event no employee volunteers for layoff, the employee with the least departmental seniority will be released for the day without pay. Any employee who has punched in will punch out, and will be paid for the time worked on the clock for that day.

ARTICLE 13

CALL-BACK

Section 1. Call-back Roster - In the event that an employee is laid off, the name of that employee will be placed on a departmental call-back roster and a bargaining unit call-back roster. The roster will contain the employee's name, address and telephone number, amount of departmental seniority and bargaining unit seniority, the department from which the employee was laid off, the employee's last job classification and the employee's qualifications.

Section 2. Call-back Procedure - When a job becomes available in the Sewer Department covered by this agreement and there are employees whose names are on the departmental call-back roster, the employee with the most departmental seniority who is qualified for the job shall be offered the job. Once the departmental

seniority list is gone thru the bargaining unit seniority list will be used. If there are employees whose names are on the bargaining unit call-back roster, the employee with the most bargaining unit seniority who is qualified for the job shall be offered the job

Section 3. Employee Call-back Rights and Obligations - Employees whose names are on the callback roster may refuse to take a job in a department other than the one from which they were laid off without loss of seniority. However, any employee refusing to work in the department from which he was laid off for which he is qualified shall be terminated.

Section 4. Notice of Recall - In the event of a recall, an employee shall be given one (1) week's notice of recall by certified mail to his last known address. In the event that the recalled employee fails to make it known, within three (3) working days of the receipt of the letter, to the City Personnel Department of his intent to accept or reject the recall offer (as provided in paragraphs entitled, Callback Procedure and Employee Call-back Rights and Obligations), that employee shall lose his bargaining unit seniority and shall be terminated from employment.

Section 5. City Records - It is the responsibility of all laid off employees to furnish the Personnel office with a current mailing address and telephone number. Any laid off employee not doing so shall be terminated.

ARTICLE 14 **JOB VACANCIES**

Section 1. If there is an apparent vacancy in a job classification covered by this agreement, the employer shall post such vacancy within five working days of the occurrence of said vacancy; or post that the vacancy will not be filled at this time. All vacant and newly-created positions covered by this Agreement shall be posted for bid at the department at which the opening exists for a period of three (3) working days. If no employee from that department bids and qualifies for that job opening, then the job opening shall be posted for a period of three (3) working days at all other City bargaining unit work sites and the Personnel office. There shall be a maximum of two (2) successive bids to fill vacancies caused by the initial bid. Only one (1) later move or transfer within the bargaining unit per employee within a six (6) month period may be exercised. This provision may be waived by mutual agreement between the City and the Union.

Section 2. Bidding Priorities - Provided the employee who bids for the job opening is qualified for the job, current employees will be given priority to fill the job opening as follows:

- A) First priority will be given to employees with the greatest departmental seniority in the department in which the job exists.
- B) Second priority will be given to employees with the greatest bargaining unit seniority.
- C) Employees will be given consideration in filling posted vacant positions in the Mishawaka Utilities that are open to the public.
- D) Departmental Seniority is not transferable from department to department.

Section 3. Qualifications for Jobs - Employees shall be allowed a reasonable qualifying time with a thirty (30) day maximum to qualify for the vacancy. The Department Head will determine the qualifications of the employee and will also give specific reasons resulting in disqualification. Any dispute arising from the Department Head's decision is subject to the review of a Qualifications Committee composed of an equal number of representatives of the Employer and the Union. If an employee is disqualified, he shall be

returned to his original job classification without loss of seniority.

Section 4. Promotion - Any unit employee who accepts a non-bargaining unit position within his department will have a thirty (30) day tryout period before being removed from the Union seniority list. After thirty (30) days of employment such employee's seniority will be frozen for the duration of his service in a non-bargaining unit job. If said employee is permitted by the Employer to return to the bargaining unit in an open job, he will carry his total bargaining unit service as of his seniority date.

ARTICLE 15
PAYDAYS

Pay will be distributed as prescribed by the City Controller.

ARTICLE 16
FLEXIBLE TIME OFF/LONG-TERM DISABILITY

Section 1. Flexible Time Off (FTO)

- A) In recognition of the need for its employees to be away from work, employer agrees to establish and accrue a bank of time off for any personal needs such as personal or family illness, extension of bereavement leave or vacations, or for any other purpose. Such bank may also be used to satisfy the five (5) day waiting period for Long Term Disability Leave (LTD) described in Section 2. Such bank will not include personal holidays, bereavement leave (unless as an extension), jury or subpoenaed witness duty, LTD leave, leave of absence, or military leave.
- B) FTO accrual shall begin on the first day of employment for full-time employees and maybe taken as accrued. Accruals shall be credited to each employee's account on the first day of each month for the prior month's service at the rate of one-half (1/2) day per month and continue at the same rate for each month of credited service.
- C) FTO days will continue to accrue as long as the employee remains in paid status, subject to the limitation listed in (G) of this section.
- D) FTO days may be taken in full or half-day increments. If becoming ill at work and leaving early, employees will be charged with one-half (1/2) FTO day if leaving after amid-shift and a full FTO day if leaving before mid-shift.
- E) Employees are expected to plan time off, setting aside some time in their personal bank for sickness. Employees are encouraged to keep a minimum of five (5) days in their bank at all times to provide for unexpected short-term sickness or for the required five (5) day LTD waiting period described in Section 2. If all FTO days or any other paid leave time is not available, any short-term illness will be an excused absence, but without pay. Likewise, any long-term illness will result in a loss of pay for the five (5) day waiting period. The city retains the right to limit the number of excused absence occurrences as described in this subsection.
- F) Employees should schedule FTO time at least twenty-four (24) hours in advance with the approval of a supervisor. The city recognizes, however, that there will be times, such as days an employee or a dependent is ill or a personal emergency arises that cannot be anticipated. In such cases, it is the responsibility of the employee to inform his/her supervisor as soon as possible prior to the beginning of a workday or shift of such absence and when the employee expects to be able to return to work.

- G) Employees may carry over accrued but unused FTO days from year to year but in no event can they accumulate more than twenty-five (25) FTO days.
- H) All FTO days shall be on the basis of the employee's regular base day's salary.
- I) Employer will buy back FTO days from any employee, up to a maximum of six (6) FTO days per year. It is the responsibility of the employee to make timely application prior to this buy-back arrangement if so desired. In any event, employer will not buy back an amount of FTO days which would reduce the employee's personal bank to less than five (5) days, except as provided in paragraph (J) of this section.
- J) In the event a regular, full-time employee's service to the employer is terminated, including termination due to death or retirement, he/she shall be entitled to pay in lieu of FTO days for days due and not yet taken as of the date of such termination, including any FTO days carried over from prior years.

Section 2. Long-Term Disability (LTD) – The long-term disability plan shall be consistent with the policy established in Section 2-596 of the Mishawaka Code of Ordinances.

ARTICLE 17 **FUNERAL LEAVE AND LEAVE OF ABSENCE**

Section 1. An employee will be eligible for paid funeral leave for three (3) working days to make preparations for and attend the funeral and burial of a member of the employee's immediate family and to attend to any necessary legal matters of the decedent or his estate. An employee will be eligible for paid funeral leave for one (1) working day to make preparations for and attend the funeral and burial of a member of the employee's extended family and to attend to any necessary legal matters of the decedent or his estate.

Section 2. Employees may be granted leave of absence without pay and without discrimination or loss of seniority rights for justifiable reasons agreed upon by both the Department I lead and representatives of the Union. The maximum leave of absence, except in cases of compulsory military service, shall be for no more than twelve weeks. In the event such a leave is requested, the procedures outlined in the Family Medical Leave Act will be followed. Failure to comply with this provision shall result in the complete loss of rights for the employee involved. Seniority will be frozen during leaves of absence, except in cases involving military service and on-the-job injury.

ARTICLE 18 **JURY DUTY**

The Employer agrees to pay an employee who is called and serves as a juror in a legally constituted court the difference between his earnings as a juror and the straight time earnings he would have realized had he worked his scheduled shift. In order to be eligible for payment, employees must notify their supervisor within twenty-four (24) hours after receipt of notice of selection for jury duty, and must furnish a written statement from the appropriate public official showing the date and time served and the amount of pay received. An employee required to report at a specific time for examination as a prospective juror shall be compensated as provided above to the extent he is required to lose time from work for such examination. The examination notice is to be shown to the employee's supervisor as soon as practicable.

ARTICLE 19
GRIEVANCE PROCEDURE AND ARBITRATION

Section 1. Procedure to be followed:

The employer and the Union recognize that, from time to time, grievances, disputes and complaints may arise over matters within the purview of this Agreement. Therefore, whenever the Union or any employee feels that the Employer has acted erroneously or improperly in interpreting and applying any of the provisions of this Agreement, then the Union or the employee may invoke the provisions of Article 19. Except in the first step, all grievances and answers shall be in writing. The grievance shall be processed only after working hours or by mutual agreement in a manner hereinafter set forth.

First Step: The aggrieved employee shall present his grievance individually, or with the union representative, to his immediate supervisor within five (5) working days of the occurrence of the grievance. The immediate supervisor shall respond to the grievance within five (5) working days after it is presented to him.

Second Step: If the grievance is not settled in the First Step, the employee alone, or the employee and the union representative, may submit the grievance to the head of the department within five (5) working days after the answer is given in the first step. The head of the department shall give his answer within five (5) working days after receiving the grievance.

Third Step: If the grievance is not settled in the Second Step, the employee alone, or the employee and the union representative may submit the grievance to the Director of the Human Resources within five (5) working days after the answer is given to the Second Step. The Director of the Human Resources shall give his answer within five (5) working days after receiving the grievance.

Fourth Step: There shall be a Joint Grievance Committee (JGC) comprised of two (2) union representatives to be appointed on a case-by-case basis by the Union, and two (2) City representatives to be appointed on a case-by-case basis by the City. No person shall participate as a JGC member in any case in which such person was a witness, served as a representative of any party in the grievance process, or has any personal interest in the matter. The JGC shall meet to hear grievances which have not been resolved in the above steps of the Grievance Procedure. The JGC shall have the power and authority to make a final and binding decision with respect to any matter properly brought before it, but has no power to alter the agreement, except when requested by both parties, to add the provisions of the agreement.

The City shall make its presentation first to the JGC in discharge and suspension cases, and the Union shall present first in all other cases, but the JGC may alter such procedures and make rules of procedure to ensure a fair hearing to all parties. The JGC shall render its decision in writing in cases involving suspensions of five (5) days or longer and involving discharges, and either party may request a written decision or a bench decision in any other case.

A majority decision by the JGC is final and binding upon the Union, City, grievant, and all affected employees. Unwritten decisions and noticed from the JGC that they are deadlocked normally shall be rendered within twenty-four (24) hours of the close of the hearing, and written decisions normally shall be rendered within seventy-two (72) hours of the close of the hearing, but the JGC has the right to take such time as is necessary (such as for research) in order to render a full and fair decision.

Fifth Step: If the grievance cannot be settled in the Fourth Step, the employee may submit a written request to the Department of Human Resources within 5 (five) days requesting the services of an arbitrator from the State of Indiana to decide the issue. Either party may send a letter to the Federal Mediation and Conciliation Service requesting the services of an arbitrator from the State of Indiana to decide the issue. As soon as

possible, a meeting shall be held with a mutually agreed upon arbitrator. Both parties may submit evidence and call witnesses to testify as to the facts concerning the grievance and the arbitrator shall make the decision on the evidence presented. The arbitrator shall have no authority to add to, detract from, or in any way modify the terms of this Agreement. Both parties agree to abide by the arbitrator's decision. The City and the Union shall share equally any fees charged by the State for arbitration service.

Section 2. The following provisions shall apply to the grievance procedure:

- A) Saturdays, Sundays and holidays shall not be used in determining days in reference to the grievance procedure.
- B) Failure of the Employer to give an answer to the grievance as of the last day to answer shall be considered a denial of the grievance and the employee shall have the right to then proceed to the next step of the grievance procedure.
- C) The Employer shall give the Union representative sufficient copies of the written answer in each step of the grievance procedure to distribute to each employee present at the grievance meeting.
- D) Unless consolidated by agreement of the Employer and the Union, each grievance shall be considered a separate case.
- E) If the Union does not appeal within five (5) days of each step, the grievance is considered to be void.
- F) The time for filing a grievance involving the rate of pay shall begin on the day the employee receives his paycheck containing the grieved pay rate, unless it is previously filed.

Section 3. Inasmuch as a grievance procedure has been agreed upon, there shall be no strikes, stoppages of work, slowdowns, sit downs, sympathy strikes or other forms of interference with normal work routines during the life of this agreement or extension thereof. Both parties recognizing the fact that service to the public is a mutual desire, they will cooperate in all matters relating to labor management.

Section 4. The Employer agrees that it will not cause or direct any lockout of the employees.

ARTICLE 20 **VALIDITY**

This Agreement shall be subject to all Federal, State and local laws, and in the event any provision of this Agreement shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the provisions of this Agreement shall not be affected thereby, but shall continue in full force and effect.

It is further agreed that in the event any such provisions are finally held to be invalid, the parties hereto agree to meet within thirty (30) days thereof to negotiate the modifications of substitution of such clause or clauses so held to be invalid.

ARTICLE 21 **SUBCONTRACTING**

It is the intention of the Employer not to deprive the employees of work covered by this Agreement either by subcontracting or by hiring an outside agency. However, the parties hereto understand and agree that occasions will arise whether of an emergency nature or otherwise when it will be necessary for the Employer

to authorize outside manpower and/or equipment to properly perform its function.

ARTICLE 22
DISCHARGE OR SUSPENSION

A) (1) The Employer shall not discharge nor suspend any employee without just cause, but in respect to discharge or suspension the employer shall give at least one (1) warning notice of the complaint against such employee to the employee, in writing, and a copy of the same to the Union and Steward affected; provided, however, the employee has not committed one of the following acts or omissions performed while on duty:

- (a) Dishonesty
- (b) Recklessness Misconduct
- (c) Carrying of unauthorized passengers
- (d) Fighting
- (e) Failure to perform first echelon maintenance

If the employee has committed any of the above mentioned acts or omissions, the employer does not need to provide the employee with said notice.

(2) The warning notice herein provided shall not remain in effect for a period of more than 6 months from date of said warning notice.

B) (1) Discharge must be by proper written notice to the employee and the Union. Any employee may have recourse to the grievance procedure upon his discharge or suspension. Should such procedure prove that an employee was discharged without cause, he shall be reinstated and compensated at his usual rate of pay while he has been out of work because of such discharge or suspension.

(2) The parties shall mutually agree to additional rules regarding just cause for discharge and disciplinary action.

C) No employee will be required to speed up work in violation of Minimum Safety Standards.

D) Uniform rules and regulations with respect to disciplinary action may be drafted and posted for seven (7) working days. Such approved uniform rules and regulations shall prevail in the application and interpretation of this Article.

ARTICLE 23
GENERAL PROVISIONS

Section 1. Uniforms –

A) The City shall provide a sufficient amount of rainwear and boots to employees for use during inclement weather. The City shall also furnish uniforms and gloves to be worn by the employees during all working hours. A total of eleven (11) uniforms will be furnished per year.

B) The City will provide an annual boot allowance of \$100.00 to be reimbursed to the employee upon redemption of the sales receipt and presentation of approved footwear to management.

C) The City will provide seasonal apparel (winter jacket, light weight jacket, hooded sweatshirt).

- D) The City will allow for the exchange and replacement or repair of apparel damaged in the line of duty with the approval of the Department Manager.
- E) Employees shall be held responsible for any damage they cause to their uniform as well as any uniforms they lose. However, no employee shall be required to pay for uniform damage caused by normal wear and tear, nor shall they be held responsible for damaged or missing uniforms the condition of which was created by forces outside of their control.

Section 2. Revoked or Suspended License - In the event an employee has his Commercial Driver's License revoked or suspended due to negligence, driving under the influence of alcohol or narcotics, or driving while intoxicated, he shall be placed in the lowest job classification and pay rate within that department for no more than one hundred twenty (120) days or until the Commercial Driver's License has been reinstated, whichever occurs first. Upon reinstatement of his Commercial Driver's License, the employee will be returned to his former job classification and pay rate. If the license is not reinstated within this time period, the employee shall be terminated.

Section 3. Training -

- A) A wastewater collection system operator certification program shall be established for the purpose of developing better-informed and qualified employees. Job related training must be available during non-working hours and approved by the Department Manager. Tuition, books and required materials shall be paid for by the department if the employee completes and passes the course of study; however, there shall be no wages nor compensation paid for the attendance at such course, whether passed or not. Upon satisfactory completion of each class level of the course, a certification bonus shall be added to the qualifying employee's base wage.
- B) Employees in a job classification which has more than one (1) grade level shall not be advanced to the next grade level until they have been evaluated. Such employees shall be evaluated at least as often as every 1,040 hours of work completed.

Section 4. Physicals - Employees holding a CDL will have the option of having their required physical examination arranged and paid for by the Employer at a facility of the Employer's choice and billed directly to the Employer, or arranging the physical examination at a facility or physician of the Employee's choice and at his own expense.

Section 5. CDL - For new employees and for current employees bidding into a job requiring a CDL, the city will pay for the required drug screen and may allow the employee to use a City vehicle to take the driver's test. In the event that the City decides not to allow the employee to use a City vehicle, the City shall reimburse a maximum of \$50 to the employee for the rental of a BMV vehicle for the test. This reimbursement may only be requested once during the tenure of the employee. If an employee moves into a new job that does not require a CDL, but wishes to maintain his CDL, the employer shall not be responsible for paying any associated costs.

Section 6. Cross-Training - The employer will provide cross-training for employees either during regular working hours or outside of regular working hours as the workload permits. Pay will not be upgraded in cross-training situations.

ARTICLE 24
WORKER'S COMPENSATION

Section 1. In the event an employee is absent due to an injury sustained on the premises which is determined to be compensable under Worker's Compensation laws, the employee will receive:

- A) Employees must bridge the first five (5) workdays with any leave time available to them at the time.
- B) The difference between the daily rate paid through Worker's Compensation and the employee's daily salary less the seven (7) days of absence. In the event the employee is absent twenty-two (22) or more days, the city's subsidy to the employee's Worker's Compensation pay will terminate until an amount equal to the Worker's Compensation check for the first seven (7) Worker's Compensation days of absence has been paid to the City. Upon receipt of such reimbursement the City's subsidy will be in accordance with Article 16 Flexible Time Off/Long Term Disability.
- C) The employer's physician must validate their employee's absence during any of the first seven (7) days. In the event that Worker's Compensation is to be used it shall be the responsibility of their employee to follow all of the established procedures for applying for Worker's Compensation.

Section 2. If an employee is absent due to a work-related injury or illness for more than twenty-one (21) days and uses paid time off for first five (5) working days, the City shall reinstate the employee's paid time off used for the first five (5) workdays.

Section 3. In the event of an occupational injury, the employee will follow the treatment procedures as provided through the City's Occupational Health system. If an employee's occupational injury is determined as temporary partial disability (TPD), the employee, in consultation with the attending physician, may be released for modified duty performing tasks that would not likely aggravate or lead to further injury. Light duty opportunities may include but are not limited to, desk and clerical work, janitorial, grounds keeping and other non-bargaining unit jobs assigned by the Supervisor.

Section 4. If an employee sustains an on-the-job injury, the employee shall obtain a written medical release from the employee's treating health care provider before such employee can return to work.

ARTICLE 25
DRUG-FREE WORKPLACE

The Union and the employees agree that they shall comply with all reasonable drug and alcohol policies which may be established by the City for all City employees covered by and set forth in its Personnel Policies and Procedures.

ARTICLE 26
LONGEVITY BONUS PLAN

The following Longevity Bonus Plan will be provided to the Sewer Department employees according to the following terms. Said schedule is based upon years of service and does not have an upper limit. Longevity pay shall be distributed annually on the first pay day following each individual employee's anniversary date as part of his regular paycheck.

Payments shall be made according to the following schedule:

<u>Years of Service</u>	<u>Annual Increment</u>	<u>Bonus</u>
1	\$10.00	\$10.00
2	\$20.00	\$30.00
3	\$30.00	\$60.00
4	\$40.00	\$100.00
5	\$50.00	\$150.00
6	\$75.00	\$225.00
7	\$75.00	\$300.00
8	\$75.00	\$375.00
9	\$75.00	\$450.00
10	\$75.00	\$525.00

An additional \$75.00 will be added for each year of service after the tenth year.

ARTICLE 27
TEMPORARY JOB TRANSFERS

Temporary job transfers to another bargaining unit department shall be assigned from a group of employees which the employer determines is available and qualified. The group of employees will then have input into who is transferred. If the group of employees cannot resolve who will be transferred, the transfer will be at the Employer's sole discretion.

- A) When an employee is temporarily transferred to a job in a higher-paying classification, he shall be upgraded to the pay rate of that classification for time spent on that job.
- B) An employee temporarily assigned a job with a lower rate shall not be downgraded in pay.
- C) Should overtime be needed, the employer shall at all times offer the overtime to employees who work within the department requiring the overtime according to their specific overtime procedure. In the event that nobody accepts the overtime from within the department, the employer shall have the right to utilize employees outside of that department subject to all of the conditions contained in this Article.
- D) Should overtime be necessary for a temporarily transferred employee, the employee who has performed the work during regular hours will continue to work the overtime assignment if additional man power is needed after exhausting the overtime list/procedure in the affected department.

ARTICLE 28
JOB CLASSIFICATIONS

(1) Advanced Operator – this classification includes:

- (a) Vactor Combination Truck Operator
- (b) Aquatech Combination Truck Operator
- (c) Camera Truck Operator

(2) GIS Coordinator

(3) Repairman

(4) Utility Operator

(5) General Laborer

(6) Probationary Employee

ARTICLE 29
TENURE OF AGREEMENT

Section 1. This Agreement shall be in full force and effect from January 1, 2013 to and including December 31, 2014.

Section 2. The parties agree to open negotiations with sixty (60) days' prior notice provided on or about July 1, 2012 for the purpose of negotiating a new labor agreement, including wages and benefits.

Approved this _____ Day of November, 2012.

BOARD OF PUBLIC WORKS AND SAFETY
for and on behalf of the
CITY OF MISHAWAKA, INDIANA

By _____
Gary West, President

By _____
Ronald Watson, Vice-President

By _____
Ken Prince, Member

ATTEST: _____
Clerk, BPWS

CHAUFFEURS, TEAMSTERS AND HELPERS
LOCAL UNION NO. 364 affiliated with the
INTERNATIONAL BROTHERHOOD OF
TEAMSTERS

By _____
Robert R. Warnock, III, President

By _____
Jim Szucs, Business Agent

By _____
Justin Leslie, Committee Member

By _____
Gary Isle, Committee Member

INDEX

	ARTICLE NO.	PAGE NO.
Call-back	13	9
Definitions	2	2 - 3
Discharge or Suspension	22	14
Drug-Free Workplace	25	16
Flexible Time Off/Long-Term Disability	16	10 - 11
Funeral Leave and Leave of Absence	17	11
General Provisions	23	15 - 16
Grievance Procedure and Arbitration	19	12 - 13
Group Insurance	8	6
Holidays	6	5
Hours of Work	4	3 - 5
Job Vacancies	14	9 - 10
Jury Duty	18	12
Layoff Procedures	12	8
Longevity Bonus Plan	26	17
Paydays	15	10
Recognition, Union Shop and Check-off	1	1
Retirement Program	9	7
Rights Of Management	3	3
Seniority	11	7 - 8
Stewards	10	7
Subcontracting	21	14
Tardiness/Leaving Early	5	5
Temporary Job Transfers	27	17
Tenure Of Agreement	28	18
Vacations	7	5 - 6
Validity	20	13 - 14
Worker's Compensation	24	16

City of Mishawaka

RESOLUTION NO. R2012-31

- Whereas:** the Marian Knights Girl’s Soccer Team, won the 2012 Class 1-A State Championship by beating Providence High School, a school they lost to last year, holding Providence to a no score game and beating them 2 to 0, sweetening the victory even more.
- Whereas:** no team is a success without those who manage and support them during practice and games were lead by Coach Djamel Charmat, Assistant Coach Kelsey Bettcher and Goal Keepers Coach Chuck Martin are being honored today after a very successful season; and,
- Whereas:** the Marian Knights Girl’s Soccer Team secured the titles of Sectional Champs, Regional Champs, Semi State Champs, and brought home the Class 1-A state championship.
- Where as:** the Marian Knights team roster of super athletes reads as follows:

#3 – Brittany Payne, #4 – Denise (DJ) Veldman , #5 – Gabby Lucchese,
#6 – Teresa Lehmann , #7 – Taylor Pooley, #8 – Sarah Bueter ,
#9 – Lauren Wade, #11 – Shannon Hendricks, #12 – Josie Cressy,
#13 Stephanie Ontiveros , #14 – Gabby Veldman, #15 – Emma Capannari,
#16 – Mary Mattimore, #17 – Cassie Sloma, #18 – Christine Mai
#19 - Maggie Wanecke, #20 – Carson Ludwig, #23 – Claire Griffith,
#24 – Elizabeth Cook, # 25 - Maggie Hartnagel
Goal Keepers – Makaela Douglas and Devon Smith

NOW THEREFORE, Let it be Known and Resolved by the City of Mishawaka Common Council, Mayor and City Clerk, that October 30, 2012 is hereby proclaimed

Marian Knights Girl’s Soccer Team Day

in our community and we call upon all of our citizens to join us in saluting and congratulating this talented and truly remarkable group of young women and thanking them for their efforts on behalf of their school, the community and the citizens of Mishawaka.

Dale “Woody” Emmons	Ron Banicki
Mike Bellovich	Dan Bilancio
John Reisdorf	Matt Mammolenti
Marsha McClure	John Roggeman, President
S Michael Compton	
Deborah S. Block, IAMC, MMC, City Clerk	David A. Wood, Mayor

OCT 28 2012

CITY CLERK
MISHAWAKA, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2012-31

ORDINANCE NO. _____

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA
INDIANA, THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2012 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the General Fund of the City of Mishawaka the sum of \$8,800.00 for assignment as follows:
General Fund

Engineering

Personal Services

101.13.413.02 Regular Employee \$ 8,800.00

Total \$ 8,800.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana

on this _____ day of _____, 2012 at _____

o'clock, ____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana
on this _____ day of _____, 2012 at _____
o'clock, _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2012 at
_____ o'clock, _____.M.

David A. Wood, Mayor



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF ENGINEERING

GARY E. WEST
Director of Engineering
CHRISTINE M. JAMROSE, P.E.
Assistant Director of Engineering
TERRY R. HOGMAN
Construction Manager
DEBORAH L. WHEELER
Project Manager
R. TODD SCHEETS
Traffic Manager
MELISSA A. MCGUIRE
MS4 Coordinator

November 14, 2012

Mishawaka Common Council
600 East Third Street
Mishawaka, IN 46544

Re: Appropriation of Additional Funds
Proposed Ordinance No. 2012- 31

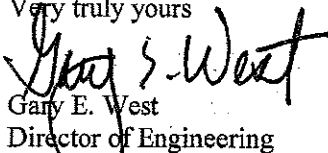
Honorable Council Members:

In the spring of this year the Project Coordinator in our department announced her retirement after ten years of service. As we began the search for a replacement we were advised that beginning in late June our Project Coordinator would be on Long Term Disability to recover from surgery.

In an effort to have a replacement on staff to learn the many diverse and complex job responsibilities of the Project Coordinator position to have a replacement on staff working in our office for four months to maintain the office operations, it was necessary to have the position filled by mid May. This Proposed Ordinance is to reimburse the Personal Services line in the amount of \$8,800.00 for the four months that two employees were paid from that line item.

If you have questions regarding this matter please contact my office.

Very truly yours


Gary E. West
Director of Engineering

Cc: Mayor Wood
Yvonne Milligan

1st Reading
2nd Reading
Passed
Failed
Continued To

Proposed Ordinance No. 2012- 32

Ordinance No. _____

RECEIVED
CITY CLERK'S BLOCK, MMC

NOV - 1 2012

CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE AMENDING SECTION 30.30
OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA,
INDIANA, COMMONLY KNOWN AS "THE COUNCILMANIC
DISTRICT ORDINANCE", AND HEREBY REDEFINING THE
BOUNDARIES OF THE COUNCILMANIC DISTRICTS OF THE
CITY OF MISHAWAKA, INDIANA.**

**BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, THAT:**

Section 1. Section 30.30 of the Municipal Code of the City of Mishawaka, Indiana, is hereby amended to redefine certain councilmanic districts of the City of Mishawaka, Indiana, in accordance with the various election districts as established and defined by the St. Joseph Board of County Commissioners indicated below (districts and precincts used are the current ones):

Mishawaka 1st Council District shall consist of the following voting districts
(precincts)

090101
090102
090103
090104
090107
090205

Mishawaka 2nd Council District shall consist of the following voting districts
(precincts)

090202
090203
090204
090206
090210
090302
090403
090404

Mishawaka 3rd Council District shall consist of the following voting districts
(precincts)

090303
090304
090305
090306
090308
090309
090406

Mishawaka 4th Council District shall consist of the following voting districts
(precincts)

090106
090207
090209
090401
090501
090502
090601

Mishawaka 5th Council District shall consist of the following voting districts
(precincts)

090407
090408
090409
090410
090505
090506
090507

Mishawaka 6th Council District shall consist of the following voting districts
(precincts)

090504
090602
090603
090604
090606
090609

Section 2. Any parcels or geographic areas located in St. Joseph County, Indiana but which are not part of the City of Mishawaka, Indiana and which may be wholly or partially contained within the above district descriptions are exempted from inclusion in their respective district descriptions. Any annexation subsequent to this ordinance shall be deemed to be part of that district with which they are more contiguous.

Section 3. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 4. This ordinance shall be in full force and effect from and after its passage, attestation, and legal publication.

Passed by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock _____.m.

John J. Roggeman
Presiding Officer

Attest:

Deborah S. Block, IAMC, MMC
City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2012, at _____ o'clock _____.m.

Deborah S. Block, IAMC, MMC
City Clerk

APPROVED by me this _____ day of _____, 2012, at _____ o'clock _____.m.

David A. Wood
Mayor

NOV 13 2012

1st Reading 11-19-12
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO. 2012-33

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

**AN ORDINANCE DECLARING AN EMERGENCY AND
DETERMINING THE EXPENDITURE OF ADDITIONAL
FUNDS FOR THE YEAR ENDING DECEMBER 31, 2012**

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA,
THAT:

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year entering December 31, 2012, in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the Rainy Day Fund of the School City of Mishawaka the sum of \$78,800.00 for assignment as follows:

Rainy Day Fund	
Administration – chiller compressor repair	\$13,300.00
Twin Branch Elementary – structural repairs	\$30,609.00
Liberty Elementary – chiller compressor repair	\$16,981.00
Emmons Elementary – chiller compressor repair	\$ 4,525.00
Emmons Elementary – boiler repair	\$ 5,950.00
Mishawaka High School – pool pump repair	<u>\$ 7,435.00</u>
Total Appropriation	\$78,800.00

Section 3. This Ordinance shall be in full force and effect from and after its passage, signing and attestation.

PASSED BY THE COMMON COUNCIL of the City of Mishawaka, Indiana,

On this _____ day of _____, 2012, at _____
o'clock, _____ M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2012, at _____ o'clock _____.M.

Deborah S. Block, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at
_____ o'clock _____.M.

David A. Wood, Mayor

NOTICE TO TAXPAYERS OF ADDITIONAL APPROPRIATIONS

Notice is hereby given to the Taxpayers of the School City of Mishawaka of St. Joseph County, Indiana, that the Board of School Trustees will meet on December 3, 2012, at 6:45 p.m. at the City Hall Council Chambers, to consider the following additional appropriation in excess of the Budget for the current year 2012.

	2012 Approved Appropriation	With Additional Appropriation
Rainy Day Fund		
0610 RAINY DAY FUND		
25000 Repairs and Maintenance	-0-	\$78,800
Total Fund	-0-	\$78,800

Taxpayers appearing at the meeting shall have a right to be heard. The additional appropriations as finally made will be referred to the Department of Local Government Finance. The Board will make a written determination as to the sufficiency of funds to support the appropriations made within fifteen (15) days of the receipt of a certified copy of the action taken.

Mishawaka City Council

John Roggeman, President

Dale "Woody" Emmons, Vice President

Mike Bellovich, Secretary

John Reisdorf, Member

Marsha McClure, Member

Michael Compton, Member

Ronald Banicki, Member

Matt Mammolenti, Member

Dan Balancio, Member

Dated: November 19, 2012

1st Reading
2nd Reading
Passed
Failed
Continued To

PETITION 12-25
CITY OF MISHAWAKA, INDIANA
PROPOSED ORDINANCE NO. 2012-34
ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

NOV 14 2012

CITY CLERK
MISHAWAKA, IN

AN ORDINANCE AMENDING CHAPTER 137, OF THE MUNICIPAL CODE OF THE CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.

WHEREAS, the Plan Commission of the City of Mishawaka, Indiana, has recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, that:

Section 1. Chapter 137, of the Municipal Code of the City of Mishawaka, commonly known as "The Zoning Ordinance of 1966", be, and the same is hereby amended as follows:

The following described real estate in the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:

THAT PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT #2 AS SHOWN ON THE PLAT OF "THE FOREST AT EDISON LAKES SECTION ONE" AS RECORDED BY DOCUMENT NUMBER 9209773 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE ALONG THE WEST RIGHT-OF-WAY LINE OF PARK PLACE FOR THE FOLLOWING THREE (3) COURSES, SOUTH 45°-08'-23" EAST A DISTANCE OF 35.36 FEET AND SOUTH 00°-08'-23" EAST A DISTANCE OF 317.86 FEET AND ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 330.00 FEET, A BEARING OF SOUTH 07°-47'-42" EAST, A CHORD DISTANCE OF 87.62 FEET, AND AN ARC DISTANCE OF 88.18 FEET TO THE SOUTHEAST CORNER OF SAID LOT #2; THENCE ALONG THE SOUTH LINE OF SAID LOT, SOUTH 89°-51'-37" WEST A DISTANCE OF 467.00 FEET; THENCE NORTH 00°-19'-06" WEST A DISTANCE OF 430.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DAY ROAD; THENCE ALONG SAID SOUTH LINE, NORTH 89°-51'-37" EAST A DISTANCE OF 429.23 FEET TO THE POINT OF BEGINNING. CONTAINING 4.50 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Southwest Corner of Day Road and Park Place

which real estate is now classified as C-2 Shopping Center Commercial District shall hereafter be within and a part of that District known as R-3 Multi-Family Residential District and designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: 12-34

Ordinance No: _____

Section 2. The Common Council of the City of Mishawaka, Indiana, hereby finds that:

1. Given the property's close proximity to the adjacent residential uses and the existing R-3 zoning classification to the south, the R-3 zoning would be compatible with the surrounding residential properties by providing opportunity for residential development.
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential for commercial development under the property's current zoning, staff feels that the most desirable use for this property is R-3 Multi-Family Residential use.
3. Because the parcel is located adjacent to residential properties, the rezoning to R-3 Multi-Family Residential is a desirable use for this property.
4. R-3 Multi-Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood by maintaining residential development in the area.
5. The proposed R-3 Multi-Family Residential zoning is consistent with the City's Comprehensive Plan which indicated Low Density Residential. Although, the proposed is for multi-family residential zoning, the proposed care facility is consistent with lower density residential uses. Furthermore, the R-3 zoning is consistent with the existing R-3 zoning to the south.

Section 3. This Ordinance shall be in full force and effect from and after its passage, due attestation and legal publication.

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2012, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Proposed Ordinance No: 12-34

Ordinance No: _____

PRESENTED by me to the Mayor this _____ day of _____,
2012, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2012, at
_____ o'clock _____.M.

David A. Wood, Mayor

Date: October 23, 2012

To the: Honorable Members of the
Common Council City of Mishawaka, Indiana

Re: Cressy Land Investments Petition for
approval of Rezoning at the Southwest Corner of
Day Road and Park Place, Mishawaka:

The undersigned, Cressy Land Investments respectfully shows that they are the owners of the following described real estate located in the City of Mishawaka, St. Joseph County, Indiana:

THAT PART OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT #2 AS SHOWN ON THE PLAT OF "THE FOREST AT EDISON LAKES SECTION ONE" AS RECORDED BY DOCUMENT NUMBER 9209773 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE; THENCE ALONG THE WEST RIGHT-OF-WAY LINE OF PARK PLACE FOR THE FOLLOWING THREE (3) COURSES, SOUTH 45°-08'-23" EAST A DISTANCE OF 35.36 FEET AND SOUTH 00°-08'-23" EAST A DISTANCE OF 317.86 FEET AND ALONG A CURVE TO THE RIGHT WITH A RADIUS OF 330.00 FEET, A BEARING OF SOUTH 07°-47'-42" EAST, A CHORD DISTANCE OF 87.62 FEET, AND AN ARC DISTANCE OF 88.18 FEET TO THE SOUTHEAST CORNER OF SAID LOT # 2; THENCE ALONG THE SOUTH LINE OF SAID LOT, SOUTH 89°-51'-37" WEST A DISTANCE OF 467.00 FEET; THENCE NORTH 00°-19'-06" WEST A DISTANCE OF 430.00 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF DAY ROAD; THENCE ALONG SAID SOUTH LINE, NORTH 89°-51'-37" EAST A DISTANCE OF 429.23 FEET TO THE POINT OF BEGINNING.

CONTAINING 4.50 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.

Also commonly known as the Southwest corner of Day Road and Park Place, Mishawaka, Indiana 46545.

The above-described parcel of land is presently zoned "C-2" Planned Shopping Center District classification.

Petitioners of said real estate desire to rezone the property from the present "C-2" Planned Shopping Center District to the "R-3" Residential District classification. The purpose for this rezoning would allow for the addition of a senior housing facility focused on the care of Alzheimer and Dementia patients. The proposed facility would be located on the above-described 4.50-acre parcel at the Southwest corner of Day Road and Park Place. The Petitioners have also submitted a Variance Petition to the Mishawaka Board of Zoning Appeals to be allowed to develop the proposed facility with a minimum of 30 parking spaces as shown. This is a reduction of the required 81 spaces per the City's Zoning Codes. This standard applies more to a residential apartment type development than to the proposed Health care facility. The proposed facility would be developed

under the City's "R-3" Residential development standards other than the request for reduction in provided parking spaces.

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate Ordinance be enacted allowing for the requested rezoning to the "R-3" Residential District classification, for the above described real estate located in the City of Mishawaka.



For Cressy Land Investments

Contact Person:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
(574) 234-4003.



PETITION 12-25

Location Map

PETITION 12-25

SW DAY ROAD & PARK PLACE

REZONE FROM C-2 SHOPPING CENTER
COMMERCIAL TO R-3 MULTI-FAMILY
RESIDENTIAL

