

AGENDA

November 04, 2020

**CONSISTENT WITH TERMS OF GOVERNOR HOLCOMB'S
EXECUTIVE ORDER 20-43 FACEMASK ARE REQUIRED!**

Meetings of Standing Committees
Council Conference Room
6:45PM

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL
COUNCIL CHAMBERS/CITY HALL
7:00PM

WebEx Telephone Number: 1-408-418-9388

WebEx Access Code: 173 587 3541

Meeting password: Hs6cdm6nrQ6

Livestream #1: <https://www.facebook.com/cityofmishawaka/>

Livestream #2: @MichianaAccessTV on Facebook

Livestream #3: Michiana Access TV
(Comcast and AT&T U-Verse Channel 99)

To connect on-line join using Microsoft Lync or Microsoft Skype for Business

[Dial: 1735873541.mishawaka@lync.webex.com](Dial:1735873541.mishawaka@lync.webex.com)

Members of the public will be asked to place their microphone on mute during the Meeting, with the exception of any public hearing. At the appropriate point in the public hearing, the Council President will invite the public to unmute their microphone for purposes of submitting such comments, one person at a time. All persons wishing to make public comments will be asked to first state their name and address for the record. After completing his/her public comments, members of the public will once again be asked to place their microphone on mute. Thank you for your cooperation.

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of October 19, 2020

5. Petitions, Communications, Remonstrance and Memorials

- APPEAL NO.2020-50 Use Variance to maintain a Duplex in R-1 Single Family Residential - 509 E. Lawrence
- APPEAL NO. 2020-51 Conditional Use for Sand Mining - 1032 E. Twelfth St.
- PETITION NO. 2020-21 Rezone from C-1 District to C-10 District to allow Convenience Store with gas pumps - Part of 2754 Lincoln Way East - Existing Parking Area for Mishawaka INN
- PETITION NO. 2020-22 Rezone from C-1 District to R-1 District for Residential Use - 2316 Lincoln Way West
- PETITION NO. 2020-23 Rezone from C-7 & R-1 District to C-10 District to allow a Convenience Store with gas pumps

6. Report of Special Committee

7. Ordinances on First Reading

- P.O. NO. 2020-39 Mishawaka Waterworks Bond Ordinance
- P.O. NO. 2020-40 Adopting Revised Rates and Charges for Water
- P.O. NO. 2020-41 Mishawaka Electric Bond Ordinance
- P.O. NO. 2020-42 Adopting Revised Rates and Charges for Electric

8. Resolutions

9. Ordinances on Second Reading

- P.O. NO. 2020-37 Transfer Funds
Motor Vehicle Highway Fund \$10,000.00
(Assigned to Budget and Finance Committee)
- P.O. NO. 2020-38 PUD Amendment to allow an Elevated Water Storage System Tank not to exceed 150' in Height
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor - Non-Agenda Items

11. Unfinished Business

P.O. NO. 2020-24 PUD Amendment to allow for mixed Use Development to allow Residential, Commercial, and Industrial Uses - Vacant land S. of Vistula Rd. & W. of Cedar Rd.
(Assigned to Land Use Planning Committee)

12. New Business

13. Adjournment - This meeting will be aired Wednesday at 9:00AM on the Public Access Channel

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

The City of Mishawaka acknowledges its responsibility to comply with the Americans with Disabilities Act of 1990. In order to assist individuals with disabilities who require special services (i.e. sign interpretative services, alternative audio/visual devices, and amanuenses) for participation in or access to City sponsored public programs, services and/or meetings, the City requests that individuals make requests for these services forty-eight (48) hours ahead of the scheduled program, service and/or meeting. To make arrangements contact Susan Kile, ADA Coordinator, at (574) 258-1615.

Note: The Mishawaka Common Council has instituted changes in the way in which its meetings will be conducted during the current public health emergency. These changes are consistent with the terms of multiple Executive Orders issued by Governor Holcomb, as well as related legal guidance. It is anticipated that the Council's normal meeting procedures will be reinstituted at the conclusion of the public health emergency. In the meantime, physical attendance at Council meetings will continue to be restricted in accordance with relevant guidance related to limitations on public gatherings and social distancing. During the public health emergency, Council members, as well as members of the public and media, will continue to be afforded the opportunity to remotely access Council meetings. Recordings of Council meetings (if applicable) and the minutes of the meetings will also be made available to the public and the media as soon as is possible.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

October 19, 2020

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall and via telephone on Monday, October 19, 2020 at 7:00PM. The meeting was called to order by President Matt Gregg Hixenbaugh. All were asked to stand for the Pledge of Allegiance, followed by a moment of silence to remember the lives lost due to COVID-19.

Roll Call.

Present: Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Absent: Mr. Hazen.

Others Present: Mike Trippel, Council Attorney and Clerk Block

Minutes for the Regular meeting of October 5, 2020 were approved as received from the Clerk's Office.

Clerk Block read the following letter from the City Plan Commission regarding their recommendations from their October 13, 2020 meeting.

PETITION #20-07 PUD Amendment to allow an Elevated Water Storage System Tank not to exceed 150' in Height

Clerk Block read the following proposed ordinances by title and assigned committee.

PROPOSED ORDINANCE NO. 2020-37

AN ORDINANCE DECLARING AN EMERGENCY IN TRANSFERRING AND REAPPROPRIATING FUNDS WITHIN THE BUDGET ADOPTED FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2020

Transfer Funds – Motor Vehicle Highway Fund - \$10,000.00

(Assigned to Budget and Finance Committee)

PROPOSED ORDINANCE NO. 2020-38

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.

PUD Amendment to allow an Elevated Water Storage System Tank not to exceed 150' in height

(Assigned to Land Use Planning Committee)

ago, they brought the proposed acquisition for the Burns Rental property to the council and the homes located immediately behind it to the north. Mr. Prince stated following that acquisition, they were approached by the property owner located east to the main Burns building on Mishawaka Avenue at 324 W Mishawaka Avenue. The property owner asked if they were interested in purchasing the property and upon review, there were two homes on the lot that were in a nonconforming situation. Mr. Prince stated they contacted the Planning Department with other interested parties involved and after taking a look at the property, they determined it would be beneficial to add it to the purchase of the Burns property. Mr. Prince stated they do not picture bringing the council any more acquisitions associated with this redevelopment area. Mr. Prince concluded stating they had appraisals performed and the land is slightly more than what the offer has been made for.

Mrs. Voelker asked if there is a second house behind the home on the lot. Mr. Prince stated there is. Mrs. Voelker asked if lot would be included as a parcel with the Burns property. Mr. Prince stated if the main commercial building at Burns stays, this at a minimum would be a buffer for potentially parking or an access to the rear property. Mr. Prince stated their recommendation to the Redevelopment Commission, if they proceed with the purchase, would be the two homes be demolished at the same time period as the single-family homes located behind the main commercial Burns building.

Mr. Hixenbaugh thanked Mr. Prince and his department for the continuing work they have done on this project. Mr. Hixenbaugh believed the acquisition of Burns and the surrounding areas would be a net positive for the community and that neighborhood in particular, in terms of being able to potentially reduce traffic hazards and to further add to the various amenities that are made available to the community by the park itself.

Question was called for at 7:16PM for **RESOLUTION NO. 2020-22**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8).**

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.

Clerk Block read the following proposed ordinances and opened the public hearing.

PROPOSED ORDINANCE NO. 2020-32

**AN ORDINANCE ANNEXING CONTIGUOUS TERRITORY TO THE CITY OF
MISHAWAKA, INDIANA PROVIDING ZONING CLASSIFICATION THEREFORE
Annexation and Rezoning for a Proposed Multi-Family Townhome Development – 15165,
15195 & 15201 Cleveland Rd.
VOTE ONLY**

Mr. Bellovich reported the Committee of Land Use Planning recommended this proposed ordinance should be adopted. This was signed by the majority of the committee upon a second by Mr. Compton motion carried.

Mr. Hixenbaugh requested roll call vote to accept the committee report.

should be very flat, with some enrollment numbers that had been off that are being revised right now and she has not received the final numbers. Mr. Hixenbaugh asked if their contribution to PSAP will be reduced by 5% this year. Ms. Miller stated it could be that much or it will stay flat. Ms. Miller stated there will be no increase. Mr. Hixenbaugh stated earlier this year, they had an opportunity to meet with financial consultants who gave the council an overall where they stood financially in conjunction with COVID-19. Mr. Hixenbaugh asked if they could have an update closer to the end of the year with regard to the information in writing or in the form of a presentation to have as much financial information as possible.

Mr. Hixenbaugh thanked everyone for the work they did to put this together and the time spent to explain various elements of the budget. Mr. Hixenbaugh stated he was pleasantly surprised to hear that they will be able to maintain their services without any drastic cutbacks and will be able to continue to provide compensation increases to staff. Mr. Hixenbaugh stated he believed the relationship between themselves and PSAP needs to continue to be looked at in 2021 in regard to their funding obligation. Mr. Hixenbaugh stated he hoped, between the council and the administration, they can work with the other governmental entities in St. Joseph County to review the efficiency of the operation and address the inequities they believe are in place. Mr. Hixenbaugh stated the individuals working at the dispatch center do a great job and are valuable part of public safety service orientation toward the community, but they are looking at a 54% cash balance at the end of this year projected with regard to their operations. Mr. Hixenbaugh stated that is wonderful for them to be in that cash position, but they have a number of needs to be addressed as well in the area of public safety and if they can partner with the administration on that, he believed that would be time well spent. Mr. Hixenbaugh concluded stating it is difficult for him conceive of being able to vote in favor of future budgets if it incorporates the current funding system for the PSAP center.

Question was called for at 7:29PM for **PROPOSED ORDINANCE NO. 2020-33**  **Vote:**
Motion carried by unanimous roll call vote (summary: Yes = 8).

Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. Thus, it becomes **ORDINANCE NO. 5714.**

PROPOSED ORDINANCE NO. 2020-35

AN ORDINANCE FIXING THE SALARIES OF CERTAIN ELECTED OFFICIALS FOR THE CITY OF MISHAWAKA FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2021

Elected Officials Salary Ordinance for 2021

Mr. Emmons reported the Committee of Budget and Finance recommended this proposed ordinance should be adopted. This was signed by the majority of the committee upon a second by Mr. Mammolenti motion carried.

Mr. Hixenbaugh requested roll call vote to accept the committee report.

Compton stated he greatly appreciated Mayor Wood's comments regardless of who did it from which party and it was disturbing. Mr. Compton concluded thanking Mayor Wood.

Mrs. DeMaegd stated looking at the pay scale for the common council, going from \$443.34 biweekly to \$469.22 is a 5.84% wage increase. Mrs. DeMaegd stated it has been a tough year for the citizens of Mishawaka who have lost their jobs and are struggling to make ends meet on a daily basis and for this reason, she would not vote in favor of the ordinance.

Mr. Hixenbaugh stated he can appreciate the sentiment Mrs. DeMaegd expressed, but on balance he tends to support Mayor Wood's comments. Mr. Hixenbaugh stated when you look at the dollar impact and percentage wise he does not have a reason to dispute Mrs. DeMaegd's math, however this is the exact increase that has been purposed for their employees. Mr. Hixenbaugh stated because the council makes so little, the numbers can sometimes not be reflective of what the actual impact is on them. Mr. Hixenbaugh stated having served 14 years on the council; he did not recall one person of either party who has signed up to serve on the city council because they thought they would get rich. Mr. Hixenbaugh stated most people who serve on the city council probably lose money as compared to the hourly rate they would earn in other occupations, even as a part time councilperson. Mr. Hixenbaugh stated while he is also sensitive to the impact of the current economic climate on the community, fair is fair. Mr. Hixenbaugh stated if they look at 1.5% plus \$500, there is a different percentage increase that multiple employees in multiple classifications have achieved as a result of what has been done in the salary ordinance passed at the last meeting and the budget that they pass this evening. Mr. Hixenbaugh stated he appreciated the comments, but he is not embarrassed for them as a council to take a look at making sure they and their successors are treated appropriately. Mr. Hixenbaugh stated people receive the quality of representatives who are willing to stand up and he believed it is unfair and misleading to imply that the council does anything but takes a very hard look and is very judicious with regard to what they and what others in the city are paid for the service they provide. Mr. Hixenbaugh concluded stating he will be voting in favor of the ordinance.

Mr. Mammolenti thanked Mayor Wood for coming to the podium and speaking the truth whether it goes with one party or another. Mr. Mammolenti stated this is why he loves local government and this is the difference between local, state, and federal. Mr. Mammolenti stated he had no interest in going beyond the local level, because you see exactly what happens. Mr. Mammolenti stated they have their differences, but the great thing about it is as soon as the gavel is pounded on the counter, they forget about it and do not hold grudges. Mr. Mammolenti stated as a democrat or a republican at the end of it, they are all in it for Mishawaka and that is why he loves working with the council and the administration.

Mr. Emmons thanked Mayor Wood for standing up for the citizens of Mishawaka and for the elected officials. Mr. Emmons stated he hopes people find out and the South Bend Tribune publishes this, so citizens can discover the situation and how it was handled.

Superintendent Phil Blasko as the guest speaker who will be announcing the ribbon cutting for Twin Branch Park and sharing updates. Mr. Mammolenti stated the ribbon cutting will be Thursday October 22nd at 1PM at Twin Branch Park. Mr. Mammolenti concluded stating the meeting ID for zoom is 8685464701 and the passcode is 223607.

Mr. Compton asked Mayor Wood about employees of Mishawaka who have tested positive for COVID-19 and how the affects as far as contact tracing and those who are quarantined and officially where they are at. Mayor Wood stated there have been positive tests in the Mishawaka Fire Department associated with multiple factors not on the job and are very well protected. Mayor Wood stated it tends to happen when they are off duty and did have to call in some overtime employees with a truck having to be out of service for a couple of hours. Mayor Wood stated they called the Clay and South Bend departments and they were more than happy to fill in if needed, which did not have to occur. Mayor Wood stated there has been contact tracing going on and as far as symptoms go, the employees are working through it and returning to work once they have gotten through it and no longer show symptoms. Mayor Wood stated they are in various stages of quarantine, infection and transition back to work and as the cases pick up in their community, it is picking up a little bit with staff. Mayor Wood stated they are taking on extra protocols as needed and the fire department did a massive testing Saturday morning with 85 firefighters getting tested. Mr. Compton asked if the damage was done to a group on one crew or on shift. Mayor Wood stated it was an isolated group with one truck and assured Mr. Compton that no call was impacted by the spread of the virus. Mayor Wood stated they offer overtime first and they go through procedures and will mandate it if they have to.

Mr. Mammolenti expressed his thanks to Dr. Megliori and her staff to Mayor Wood for the outstanding job they do to take care of COVID-19 testing along with the normal common cold issues at this time of year. Mayor Wood stated he will absolutely pass on that message and they are very lucky to have her and her staff. Mayor Wood stated she thinks of them as family and treats them as family and they are very lucky to have her.

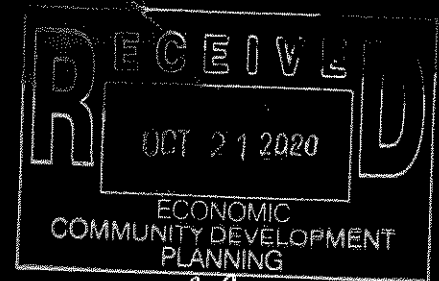
Mr. Hixenbaugh thanked Mayor Wood for the update and for the work he and the department heads are doing to address the ongoing pandemic. Mr. Hixenbaugh stated he continues to participate in the town hall virtual meetings that are hosted by St. Joe Health System and one of the points reflected in the town hall is they are not out of the woods with regard to the impact of COVID-19. Mr. Hixenbaugh stated it is one thing to hear it from the media but it is another to hear it from the health professionals themselves that the view them as being on the cusp of a critical time with regard to the availability of hospital beds and the staff, who are required in order to serve those patients, who are in those beds. Mr. Hixenbaugh stated he believes the takeaway is they all need to continue to do the things asked of by the health professionals in order to get through this not only in their own best interests, but the in the best interests of everyone they encounter on a daily basis. Mr. Hixenbaugh stated his hope is that they continue to fight the fight and hopefully they as a community will continue to do the right things and do their part to address the public health emergency.

ADJOURNMENT 7:59PM

DATE: October 21, 2020

TO: Board of Zoning Appeals City of Mishawaka, Indiana

The undersigned appellant respectfully shows the Board:



AP 20-50

1. I, Darlene K. Ballard, am the owner of the following described real estate located within the City of Mishawaka, Township, St. Joseph County, State of Indiana, to wit:

509 E Lawrence St, Mishawaka, IN 46545

Lot 107 GWR Fowlers 1st

2. The above-described real estate presently has a zoning classification of R1 District under the Zoning Ordinance of the City of Mishawaka.
3. Appellant presently occupies (or proposes to occupy) the above-described property in the following manner: The property is, and has been for years, operated as a duplex.
4. Appellant states that it has been used as a duplex since at least 1966 and that use has been documented on the grandfathered list. In order for the buyer to secure financing, the use variance is required.
5. The Zoning Ordinance of the City of Mishawaka does not allow two family homes.
6. Explain why strict adherence to the Ordinance requirements would create an unusual hardship. I am trying to sell the property and the use variance is necessary in order for financing.
7. Answer the following necessary questions for a USE VARIANCE:
 - (1) Will approval be injurious to the public health, safety, morals or general welfare of the community? No, the property has been used a duplex for many years.
 - (2) Will the use and value of the area adjacent to the property included in the variance be affected in a substantially adverse manner? No, the property has been used a duplex for many years.
 - (3) Does the need for the variance arise from some condition peculiar to the property involved? The property is listed for sale as a duplex and the use variance is required for financing the sale.
 - (4) Does strict application of the terms of this chapter constitute an unnecessary hardship if applied to the property for which the variance is sought? No, the property has been used a duplex for many years.
 - (5) Will approval interfere substantially with the Mishawaka 2000 Comprehensive Plan? No, the property has been used a duplex for many years.

WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 29 2020

CITY CLERK
MISHAWAKA, IN

Darlene K. Ballard

Signature of Property Owner/Title Holder, Darlene K. Ballard

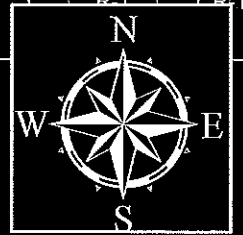
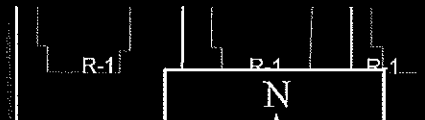
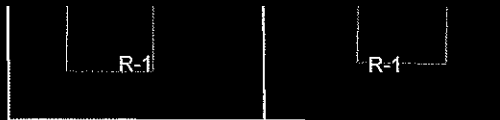
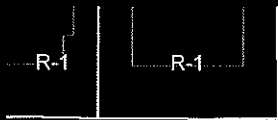
~ CONTACT PERSON:

Darlene K. Ballard

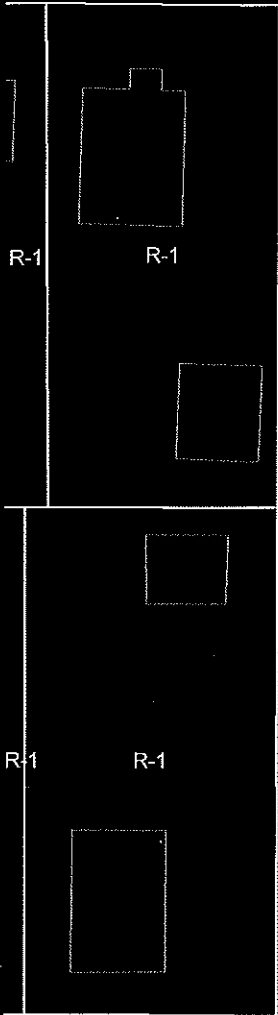
509 E. Lawrence St., Mishawaka, IN 46545

(574) 250-0330

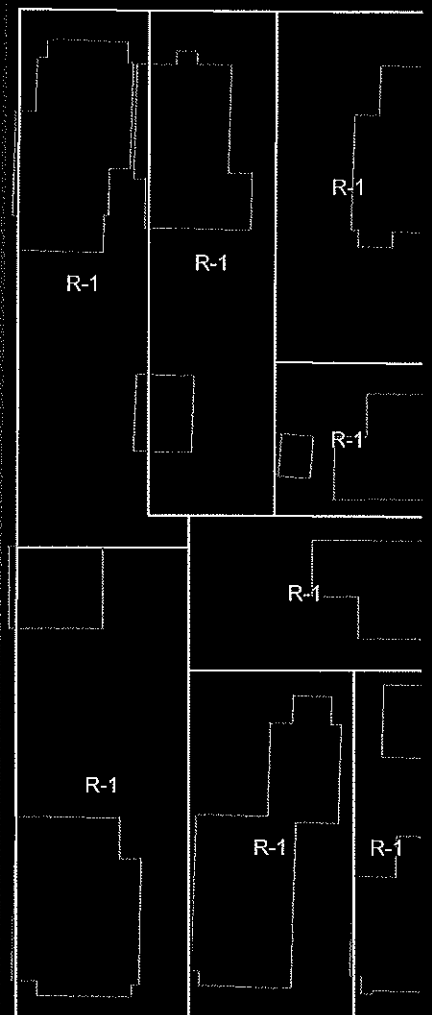
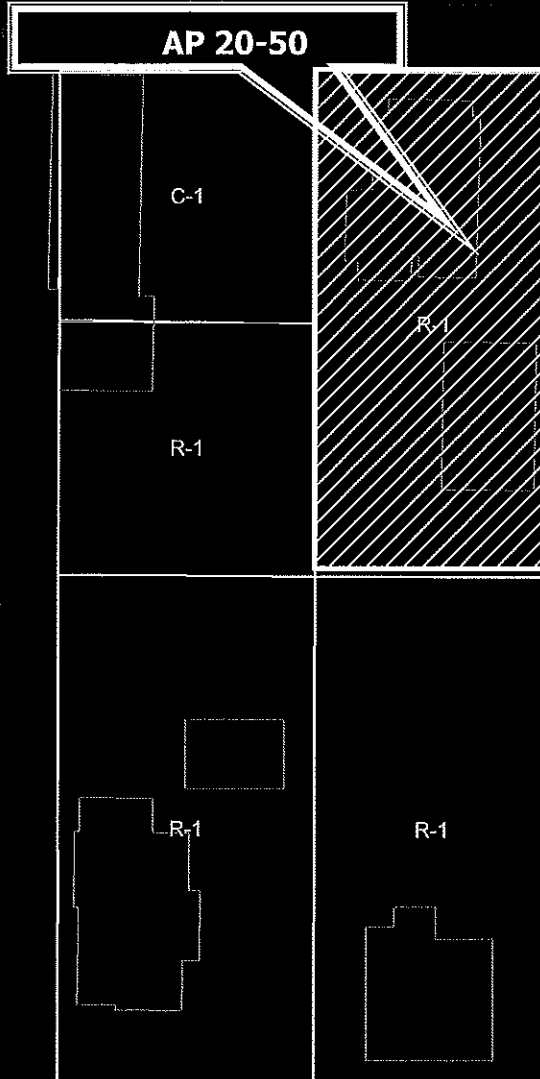
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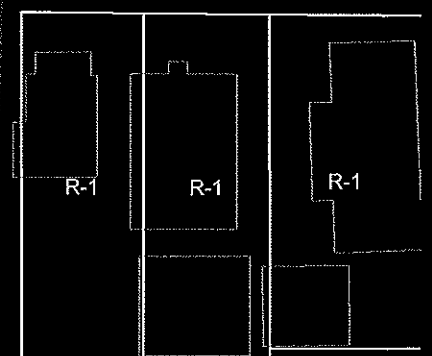
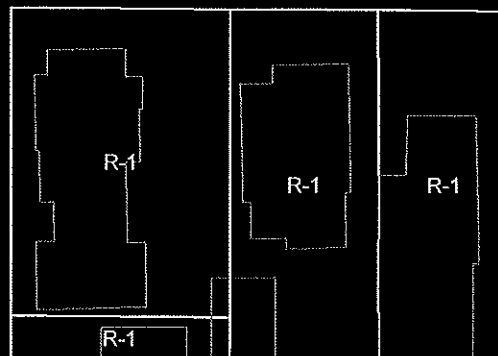
E GROVE ST

Location Map AP 20-50

DARLENE K BALLARD

509 E LAWRENCE

USE VARIANCE TO
MAINTAIN A DUPLEX IN
R-1 SINGLE FAMILY
RESIDENTIAL DISTRICT



AP 20-51

Blueprint BCS, LLC

RECEIVED
DEBORAH S. BLOCK, MMC

October 16, 2020

OCT 29 2020

City of Mishawaka Board of Zoning Appeals
600 E. Third Street
Mishawaka, IN 46544

CITY CLERK
MISHAWAKA, IN

Re: Application for a Conditional Use Permit

The undersigned Appellant respectfully shows the Board:

1. Petitioner proposes to lease the following described real estate located in the City of Mishawaka, St. Joseph County, State of Indiana, to-wit:

E 1/2 SW Se 20ac. 15-37-3e Ex Pts Sold (commonly known as 1032 East 12th Street, Mishawaka, IN). *(SEE ATTACHED FOR FULL DESCRIPTION)*

2. The above described real estate has a zoning classification of I-2 Heavy Industrial District under the Zoning Ordinance of the City of Mishawaka.
3. Petitioner presently occupies *(or proposes to occupy)* the above described property in the following manner:

Blueprint BCS, LLC proposes to utilize the property as a general construction yard for storage of equipment, soils, sand, and aggregates such as gravel (all of which are permitted uses under Section 137-609.(a)(9); and to mine sand and gravel from the existing gravel (sand) pit (pond), which requires a Conditional Use Permit under Section 137-609.(b)(26).

4. Petitioner desires to:

Blueprint BCS, LLC desires to obtain a conditional use permit in order to mine soil (sand) from the previously mined gravel (sand) pit (pond), generally on the northeast portion of the property, for use in local construction projects. The first project for which the sand will be used is the East Race Improvement, Phase I, project for the City of Mishawaka. It is noted that the site has previously been used for this purpose.

5. The Zoning Ordinance of the City of Mishawaka, in Section 137-609.(b)(26), states "Mining and extraction operations" may be conditionally approved by the Board of Zoning Appeals for property already zoned Industrial I-2 district.

6. Explain:

1) *Will approval be injurious to the public health, safety, morals, or general welfare of the community?*

No. The proposed use will not be injurious to the public health, safety, morals, or general welfare because the site is, and will remain, securely fenced and no dangerous materials will be used at the site. The use supports the health of the community by supporting growth and economic development through construction.

2) *Will the use and value of the area adjacent to the property included in the conditional use permit be affected in a substantially adverse manner?*

No. The use of the property will be consistent with its historical use, and similar to the use of several adjacent properties, most specifically to the north (City of Mishawaka Street Department environmental yard) and to the east (existing contractor yard). Additionally, Blueprint BCS, LLC has consulted with the Mishawaka City Planning and Economic Development Office and will continue to work with the Planner's Office to ensure that the site use and maintenance are carried out in an appropriate manner.

3) *Will adequate conditions be stipulated to mitigate any potentially adverse impact of the conditional use permit upon adjacent property?*

Yes. The site has previously been utilized for the proposed purposes, has in place a secure fence, and has in place a barrier of mature trees around the entire perimeter of the property. Blueprint BCS, LLC will continue to work with the Board of Zoning Appeals, Common Council, and Mishawaka City Planner's Office to operate, and to maintain and/or improve, the site for the proposed use.

4) *Will adequate measures be taken to provide proper utilities, drainage, paved access roads, landscape buffering, fencing, leakproof dikes, safety precautions, and to minimize traffic congestion?*

Yes. As stated, the site has in place a secure fence, and has in place a barrier of at least 50 feet of mature trees around the entire area to be mined for sand. The entire perimeter of the property also has a screen of

mature trees and/or vegetation. The mining of sand will not take place within 50 feet of any property line. The site has in place, and which shall be maintained, a stone access road in excess of 100 feet long incorporating #2 crushed aggregates to serve as a tracking mat for truck traffic. No additional utilities will be necessary at this time. All work will be carried out in accordance with the safety regulations of IOSHA.

5) *Why is the granting of the conditional use permit in the best interest of the community?*

The granting of the Conditional Use Permit is in the best interest of the community as the proposed use supports growth and economic development through construction, and because Blueprint BCS, LLC's occupancy and use of the site will improve the appearance and maintenance of the property through increased activity.

Wherefore, Petitioner prays and respectfully requests a hearing on this application and that after such hearing, the Board grant the requested Conditional Use Permit.

Blueprint BCS, LLC

By:


Matthew D. Cain, President

Mishawaka Board of Zoning Appeals
October 16, 2020

City of Mishawaka Board of Zoning Appeals
600 East Third Street
Mishawaka, IN 46544

RE: Application for a Conditional Use Permit for Mining Soil (Sand)

To the Honorable Board:

Please be advised that Matthew D. Cain, President of Blueprint BCS, LLC, has been directed to represent my interest at the public hearing of the Board of Zoning Appeals of Mishawaka, Indiana, at which this petition is to be considered.

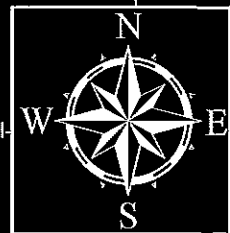

John Cocquyt

A lot or parcel of land in the Southwest quarter ($\frac{1}{4}$) of the Southeast quarter ($\frac{1}{4}$) of Section fifteen (15) Township thirty-seven (37) North, Range three (3) East, bounded by a line running as follows: Beginning on the South line of said Section 15, six hundred sixty-one and three hundred seventeen thousandths (661.317) feet East of the Southwest corner of the Southeast quarter ($\frac{1}{4}$) of said Section, Township and Range, thence running North parallel with the West line of said Southeast quarter ($\frac{1}{4}$) a distance of one thousand three hundred twenty-five and ninety-three hundredths (1325.93) feet to the North line of the Southwest quarter ($\frac{1}{4}$) of the Southeast quarter ($\frac{1}{4}$) of said Section; thence East along the North line of the Southwest quarter ($\frac{1}{4}$) of the Southeast quarter ($\frac{1}{4}$) of said Section a distance of six hundred sixty-one and three tenths (661.3) feet to the Northeast corner of the Southwest quarter ($\frac{1}{4}$) of the Southeast quarter ($\frac{1}{4}$) of said Section; thence South along the East line of the Southwest quarter ($\frac{1}{4}$) of the Southeast quarter ($\frac{1}{4}$) of said Section a distance of one thousand three hundred twenty-seven and eight tenths (1327.8) feet, more or less to the South line of said Section; thence West six hundred sixty-one and three tenths (661.3) feet to the place of beginning, containing twenty (20) acres, more or less, and all now within and a part of the City of Mishawaka.

EXCLUDING PARTS SOLD.

Legal description for 1032 East 12th Street, Mishawaka, IN
Subject property of Blueprint BCS, LLC Petition for
Conditional Use.

October 21, 2020.



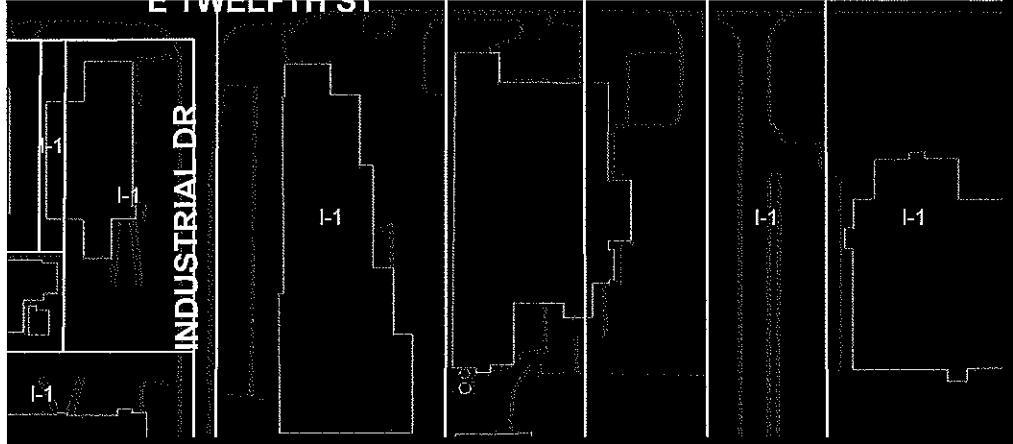
Location Map

AP 20-51

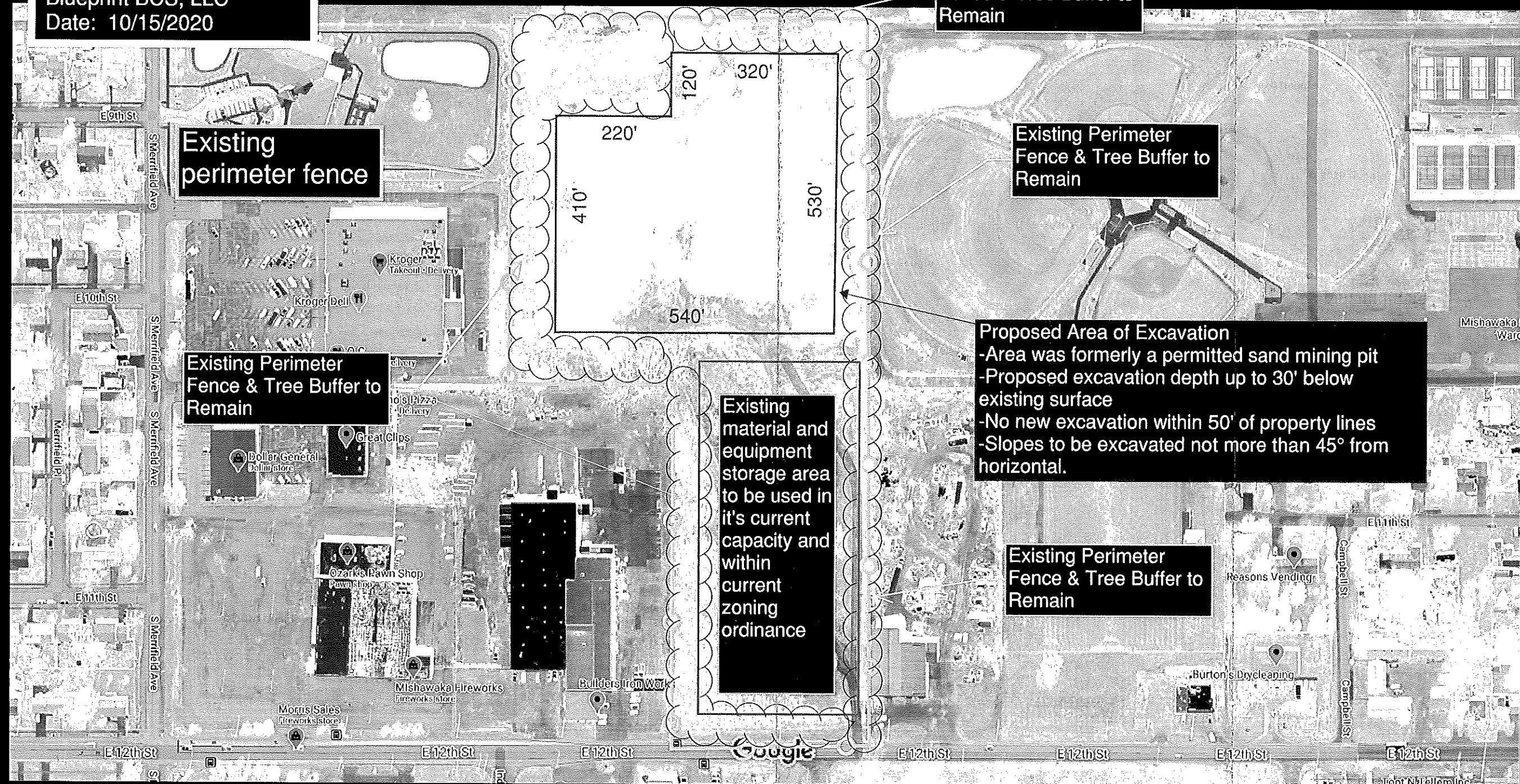
OWNER: JOHN COCQUYT
LESSEE: BLUEPRINT BCS, LLC

LOCATION: 1032 E TWELFTH ST

CONDITIONAL USE FOR
SAND MINING



12TH STREET SITE
PLAN
Blueprint BCS, LLC
Date: 10/15/2020



Imagery ©2020 IndianaMap Framework Data, Maxar Technologies, USDA Farm Service Agency, Map data ©2020 100 ft

Special Notes:

1. Existing tree line to be maintained for 30' minimum along site perimeter.
2. No dewatering will be used.
3. This site has been discussed with the local MS4 department and if approved for conditional use, a Rule 5 permit will be applied for and all applicable erosion control measures will be implemented.

RECEIVED
DEBORAH S. BLOCK, MMC

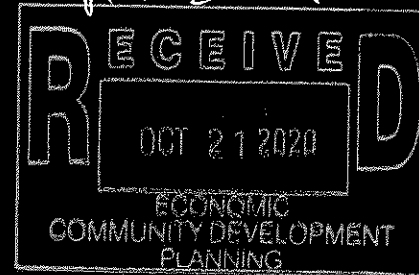
OCT 29 2020



CITY CLERK
MISHAWAKA, IN

Engineering • Architecture • Land Surveying

PET 20-21



DATE: October 21, 2020

Honorable Members of the Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION TO REZONE

The undersigned Smita V Patel respectfully show they are the owners of the following described real estate located in the City of Mishawaka, County of St. Joseph, State of Indiana, to-wit:

2754 Lincoln Way East, Mishawaka

(Legal Description Attached)

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of **C-1 Commercial District**. Said property is currently vacant and is used for overflow parking for the existing Hotel on the parcel adjacent to the West.

Petitioner desires said real estate to be rezoned to **C-10 Commercial District**.

Petitioner further states that they intend to utilize said land for the construction and operation of a new convenience store and gas station. The convenience store will be approximately 4,500sf, and will contain 4-5 gas islands.

Wherefore, the petitioner 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.

A handwritten signature in cursive script, appearing to read 'Smita Patel'.

Signature of Property Owner
Smita V. Patel

CONTACT PERSON:

Mike Huber, Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
574.347.4610
mhuber@abonmarche.com

LEGAL DESCRIPTION

PARCEL I:

A tract of land in the Northwest Quarter of Section 13, Township 37 North, Range 3 East, bounded by a line running as follows: Beginning at a point on the center line of Lincoln Highway 725.7 feet South 73 degrees 56 minutes East of the point of intersection of the center line of Lincoln Highway and West line of said Section 13, which beginning point is the Southeast corner of a tract of land; thence North 16 degrees 4 minutes, East, following the Easterly line of said Siple tract continuing at the same angle to the St. Joseph River; thence meandering down stream with the South bank of said river to a point marked by an iron stake 567.2 feet, North 16 degrees 4 minutes East of a point in the center of the Lincoln Highway, which point is 412.5 feet South 73 degrees 56 minutes East at the point of the intersection of said Lincoln Highway and the West line of said Section 13, and being the Northwest corner of land acquired by George F. Laing and Carrie M. Laing by deed from Kelley Newton, Administrator of the estate of Freeman Campbell, dated June 1, 1896, recorded in Deed Record 101, page 374 of the records of St. Joseph County, Indiana; thence South 16 degrees 4 minutes West, along West line 567.2 feet, to a point on the center line of said Lincoln Highway 412.5 feet South 73 degrees 56 minutes East of point of intersection of the center line of said Lincoln Highway and the West line of Section 13; thence South 73 degrees 56 minutes East, 313.2 feet to the place of beginning. EXCEPTING THEREFROM THE FOLLOWING: A parcel of land in the Northwest Quarter of Section 13, Township 37 North, Range 3 East, described as follows: Beginning at a point on the center line of Lincoln Highway 581.7 feet South, 73 degrees 56 minutes East of the point of intersection of the center line of Lincoln Highway and the West line of Section 13, Township 37 North, Range 3 East; thence running North 16 degrees 4 minutes East 172 feet; thence South 73 degrees 56 minutes East 144 feet; thence South 16 degrees 4 minutes West 172 feet to the center line of Lincoln Highway, thence North 73 degrees 56 minutes West along the center line of Lincoln Highway 144 feet to the place of beginning. FURTHER EXCEPTING THEREFROM THE FOLLOWING: A tract of land in the Northwest Quarter of Section 13, Township 37 North, Range 3 East, more particularly described as follows: Commencing at a point where the center line of Lincoln Highway intersects the West line of Section 13, Township 37 North, Range 3 East; thence Southeast, along the center line of said Lincoln Highway East 540.7 feet; thence deflecting left (Northeast) 90 degrees from the center line of Lincoln Highway a distance of 193.0 feet for a place of beginning; thence deflecting right (Southeast) an angle of 90 degrees of a distance of 161.25 feet; thence deflecting right (Southeasterly) an angle of 90 degrees of a distance of 70 feet; thence deflecting left (Northeasterly) at an angle of 90 degrees for a distance of 240.15 feet to the Southerly bank of said St. Joseph River to the Easterly bank of Twin Branch Creek to a point 55.38 feet Northwesterly from the place of beginning; thence Southeasterly 55.38 feet to the place of beginning.

PARCEL II:

A tract of land in the Northwest Quarter of Section 13, Township 37 North, Range 3 East bounded by a line running as follows: Beginning at a point on the center line of Lincoln Highway East in the City of Mishawaka as formerly located, prior to the widening of said Highway by Resolution of the Board of Public Works of the City of Mishawaka, passed April 1, 1935, which is recorded in Miscellaneous Record 55 at page 327 in the Office of the Recorder of St. Joseph County, Indiana, which point is 725.7 feet Easterly from the intersection of said centerline of Lincoln Highway with the West line of said Section 13, and is the Southeast corner of a parcel of land which was conveyed by George F. Laing to Harry A Siple and Ollo D. Siple, husband and wife, by a Warranty Deed dated February 20, 1937, which is recorded in Deed Record 290 at pages 446-447 in the Office of the Recorder of St. Joseph County; thence Easterly,

following said center line of Lincoln Highway, as formerly located, a distance of approximately 350 feet to a point which is 306.14 feet due West of the Southwest Corner of a parcel of land, which was conveyed by George F. Laing and Carrie M. Laing, his wife, to St. Joseph & Elkhart Power Company by Warranty Deed dated July 26, 1902, which is recorded in Deed Record 122 at page 482 in the Office of the Recorder of St. Joseph County, and which is now owned by Indiana & Michigan Electric Company; thence running in a Northerly direction on a line parallel with and 306.14 feet West of the West line of said land now owned by said Indiana & Michigan Electric Company to the low water line of the St. Joseph River; thence running Westerly following the meanderings of said South line of said River to the Northeast corner of a parcel of land, which was conveyed by George F. Laing to Edward C. Ellsasser, Junior, by a Warranty Deed dated April 22, 1950 which is recovered in Deed Record 467 at pages 240-241 in the Office of the Recorder of St. Joseph County; thence running in a Southerly direction along the Eastern boundary of the land now owned by said Edward C. Ellsasser, Junior, and Edward C. Ellsasser, Jr and Ruth Ellsasser, husband and wife, to the place of beginning.

EXCPETING FOM ALL PARCELS I, AND II THE FOLLOWNG:

A tract of land in the Northwest Quarter of Section 13, Township 37 North, Range 3 East, more particularly described as follows: Commencing at a point where the center line of Lincoln Highway intersects the West line of Section 13, Township 37 North, Range 3 East; thence Southeast, along the center line of said Lincoln Highway East 540.7 feet; thence deflecting left (Northeast) 90 degrees from the center line of Lincoln Highway a distance of 193.0 feet for a place of beginning; thence deflecting right (Southeast) an angle of 90 degrees of a distance of 156.74 feet; thence deflecting left (Northeasterly) an angle of 90 degrees for a distance of 161.25 feet; thence deflecting right (Southeasterly) an angle of 90 degrees of a distance of 70 feet; thence deflecting left (Northeasterly) at an angle of 90 degrees for a distance of 240.15 feet to the Southerly bank of said St. Joseph River to the Easterly bank of Twin Branch Creek to a point 55.38 feet Northwesterly from the place of beginning; thence Southeasterly 55.38 feet to the place of beginning.

St. Joseph River

Lincoln Way East

30' Rear Setback

5' Side Setback

25' Front Setback

100'

50'

RECEIVED
OCT 21 2020
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

PARKING SUMMARY
AUTOMOBILE PARKING SPACES REQUIRED
• Commercial C-10: 5.5 Spaces/1,000 GSF
= (5.5 Spaces) x (5,750 SF)/1,000 = 32 Spaces

Total 32 Automobile Spaces Required
Bicycle Parking: 3 Space/10,000 GSF
= (3 Space) x (5,750 SF)/10,000 = 2 Spaces

TOTAL PARKING SPACES PROVIDED
• Automobile: 32 Spaces (Incl. 3 ADA Accessible)
• Bicycle: 2 Spaces

SCALE: 1" = 40'

AUTOMOBILE PARKING SPACES REQUIRED

- Commercial C-10: 5.5 Space/1,000 GSF
 $= (5.5 \text{ Space}) \times (5,750 \text{ SF}) / 1,000 = 32 \text{ Spaces}$

Total 32 Automobile Spaces Required

Bicycle Parking: 3 Space/10,000 GSF
 $= (3 \text{ Space}) \times (5,750 \text{ SF}) / 10,000 = 2 \text{ Spaces}$

TOTAL PARKING SPACES PROVIDED

- Automobile: 32 Spaces (incl. 3 ADA Accessible)
- Bicycle: 2 Spaces

ABONMACHE

Benton Harbor
Ft. Wayne
Gresham
Habitat
Lafayette
Paragge
South Bend
South Haven
Valparaiso

313 W. Jefferson Blvd.
South Bend, IN 46601
574.232.8700
F 574.231.4440
abonmache.com

LINCOLN WAY EAST - C-STORE
2754 LINCOLN WAY EAST
MISHAWAKA, INDIANA

CONCEPT 2

SHEET TITLE

DRAWN BY:
DEF

DESIGNED BY:

PIA REVIEW:
MJH

QA/QC REVIEW:

DATE
10-6-2020

SEAL:

SIGNATURE _____

DATE _____

SCALE
HORZ: 1" = 40'
VERT:

ACI JOB #

20-1452

20-1052

1 of 1



ST. JOSEPH RIVER

PET 20-21



Location Map

PET 20-21

SMITA V. PATEL (OWNER)

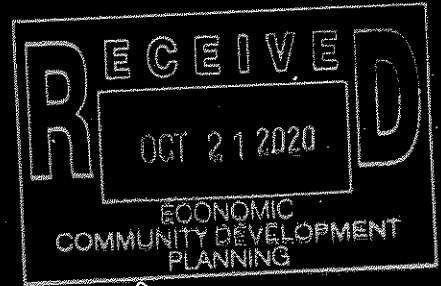
PT. OF 2754 LINCOLN WAY EAST
EXISTING PARKING AREA FOR
MISHAWAKA INN

REZONING FROM C-1 DISTRICT TO
THE C-10 DISTRICT TO ALLOW A
CONVENIENCE STORE WITH GAS PUMPS

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 29 2020

CITY CLERK
MISHAWAKA, IN



Pet 20-22

Oct 20, 2020

Honorable Members of the
Common Council
City of Mishawaka, Indiana
and Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION TO REZONE

The undersigned John M Palmer respectfully show they are the owner of the following described real estate located in the City of Mishawaka, County

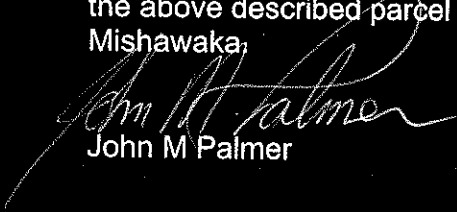
of St. Joseph, State of Indiana, to wit:

2316 Lincolnway W. Mishawaka, In 46544, Legal Description: Lot 4 Bowmans 1st
Add. Tax Key Number: 71-09-17-327-003.000-023.

Petitioner(s) own one hundred (100%) percent of the described parcel of land which carries a zoning classification of C-1 District. Said property is (was) being used as an office.

Petitioner(s) desire said real estate to be zoned to R-1 District. Petitioner(s) further state they intend to utilize said land for a residential use.

Wherefore, the petitioner(s) 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 rezoning the above described parcel of land located in the City of Mishawaka.


John M Palmer

CONTACT PERSON:

John M Palmer

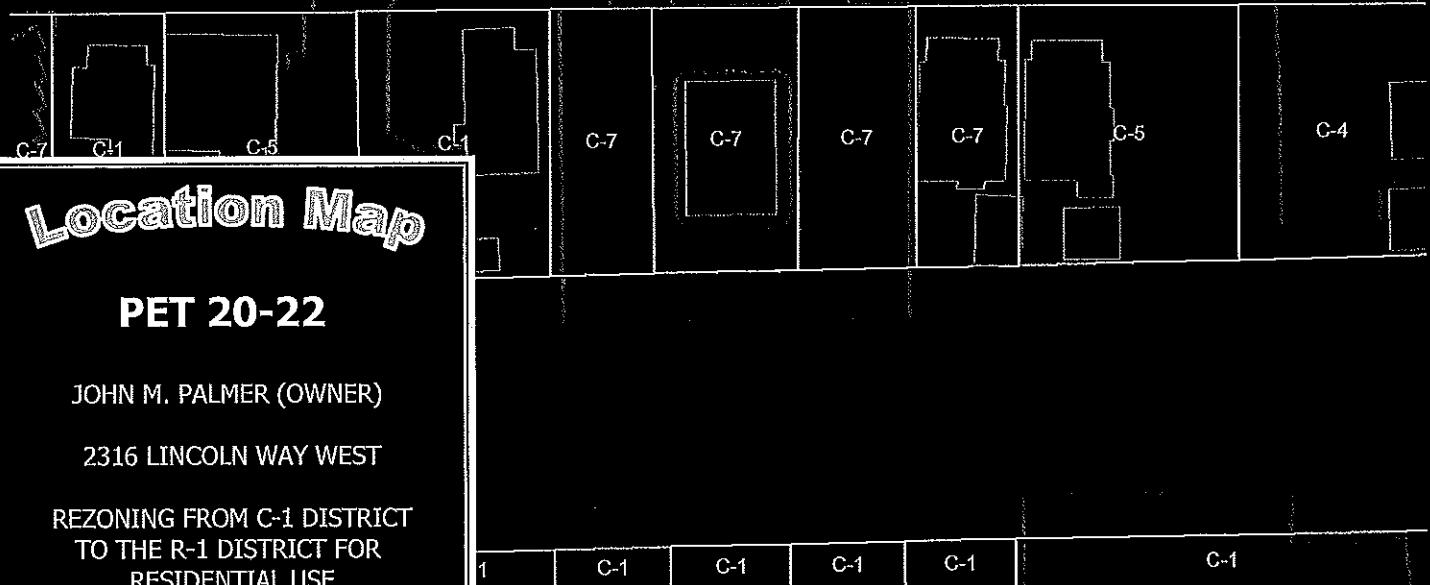
3040 Springbrook Dr , South Bend, In

574-876-1234

john_p46614@yahoo.com



LINCOLNWAY WEST



RECEIVED
DEBORAH S. BLOCK, MMC

OCT 29 2020

CITY CLERK
MISHAWAKA, IN

Date: October 16, 2020



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

RE: Graber Group LP, Larry & Freda Scheibelhut, Dennis & Karen Culp,
Mary Lou Seltzer and Thomas Scheibelhut,
Petition for Rezoning:

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

A PART OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: LOT # 4 OF THE PLAT OF "MAIN-MCKINLEY SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 1533244 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, LOTS # 10, 11 AND 12 OF THE PLAT OF "SHIVEY'S FIRST SUBDIVISION" AS RECORDED IN PLAT BOOK # 15 ON PAGE # 3 IN THE RECORDS OF SAID RECORDER'S OFFICE, EXCEPTING FROM SAID LOTS # 10, 11 AND 12, THAT PORTION OF SAID LOTS TAKEN FOR RIGHT-OF-WAY FOR MAIN STREET AND A PARCEL OF GROUND DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT # 10; THENCE NORTH 89°38'38" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF RUSS STREET FOR A DISTANCE OF 218.24 FEET MORE OR LESS; THENCE NORTH 00°07'31" EAST A DISTANCE OF 225.24 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF MC KINLEY HIGHWAY; THENCE ALONG SAID SOUTH LINE FOR THE NEXT FOUR (4) COURSES, SOUTH 87°22'28" EAST, A DISTANCE OF 44.73 FEET MORE OR LESS AND NORTH 89°41'28" EAST, A DISTANCE OF 20.00 FEET MORE OR LESS AND SOUTH 85°28'21" EAST, A DISTANCE OF 130.47 FEET MORE OR LESS AND SOUTH 89°41'28" EAST, A DISTANCE OF 22.15 FEET MORE OR LESS TO THE NORTHWEST CORNER OF SAID LOT # 4.

CONTAINING 1.09 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

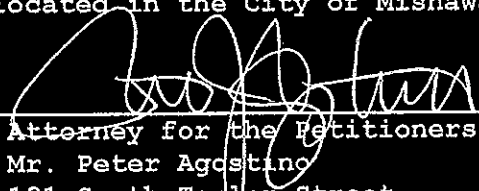
Also, commonly known as 119 West Mc Kinley Highway, 2219 North Main Street, 2205 North Main Street, Vacant land adjacent to and North of 2205 North Main Street and 2201 North Main Street, Mishawaka, Indiana 46545.

The above described parcels of land are presently zoned "C-7" Commercial District and "R-1" Residential District.

The Petitioners desire said real estate, to be rezoned to the "C-10" Commercial District classification. The purpose for the rezoning is to allow for the real estate to be purchased by an interested party who desires to build a Convenience Store with Gas Pumps on the site.

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 rezoning the above described parcel of real estate located in the City of Mishawaka.



Attorney for the Petitioners:

Mr. Peter Agostino
131 South Taylor Street
South Bend, IN 46601
574-288-1510

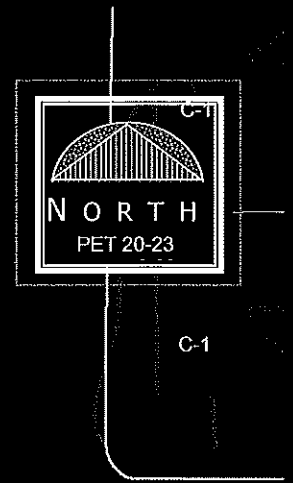
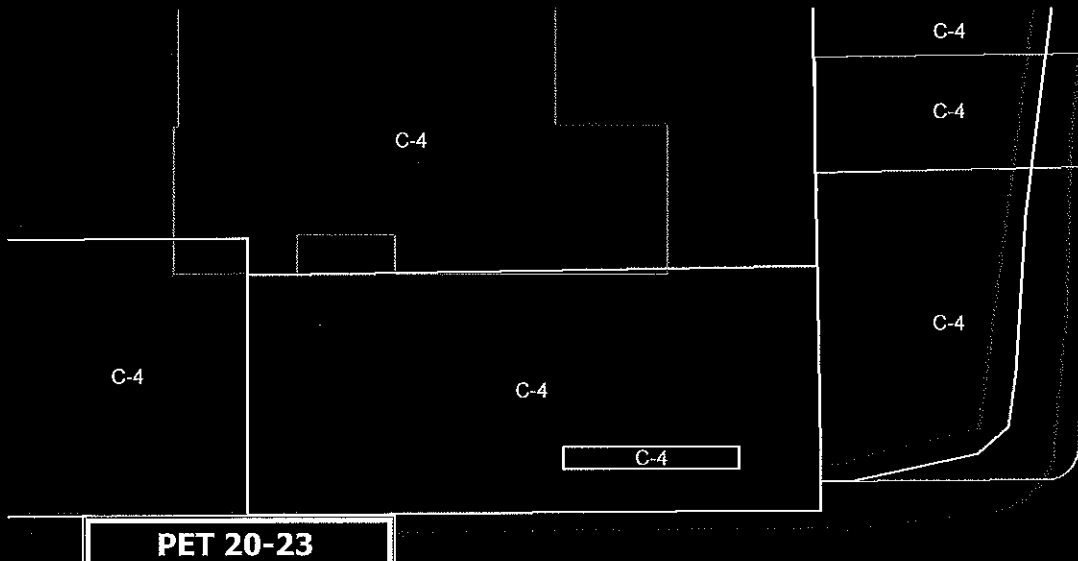
Contact person for site plan:
Danch, Harner & Associates, Inc.
1643 Commerce Drive
South Bend, Indiana 46628
574) 234-4003

LEGAL DESCRIPTION

A PART OF THE NORTHEAST QUARTER OF SECTION 9, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: LOT # 4 OF THE PLAT OF "MAIN-MCKINLEY SUBDIVISION" AS RECORDED BY DOCUMENT NUMBER 1533244 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, LOTS # 10, 11 AND 12 OF THE PLAT OF "SHIVEY'S FIRST SUBDIVISION" AS RECORDED IN PLAT BOOK # 15 ON PAGE # 3 IN THE RECORDS OF SAID RECORDER'S OFFICE, EXCEPTING FROM SAID LOTS #10, 11 AND 12, THAT PORTION OF SAID LOTS TAKEN FOR RIGHT-OF-WAY FOR MAIN STREET AND A PARCEL OF GROUND DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT # 10; THENCE NORTH 89°38'38" WEST ALONG THE NORTH RIGHT-OF-WAY LINE OF RUSS STREET FOR A DISTANCE OF 218.24 FEET MORE OR LESS; THENCE NORTH 00°07'31" EAST A DISTANCE OF 225.24 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF MC KINLEY HIGHWAY; THENCE ALONG SAID SOUTH LINE FOR THE NEXT FOUR (4) COURSES, SOUTH 87°22'28" EAST, A DISTANCE OF 44.73 FEET MORE OR LESS AND NORTH 89°41'28" EAST, A DISTANCE OF 20.00 FEET MORE OR LESS AND SOUTH 85°28'21" EAST, A DISTANCE OF 130.47 FEET MORE OR LESS AND SOUTH 89°41'28" EAST, A DISTANCE OF 22.15 FEET MORE OR LESS TO THE NORTHWEST CORNER OF SAID LOT # 4.

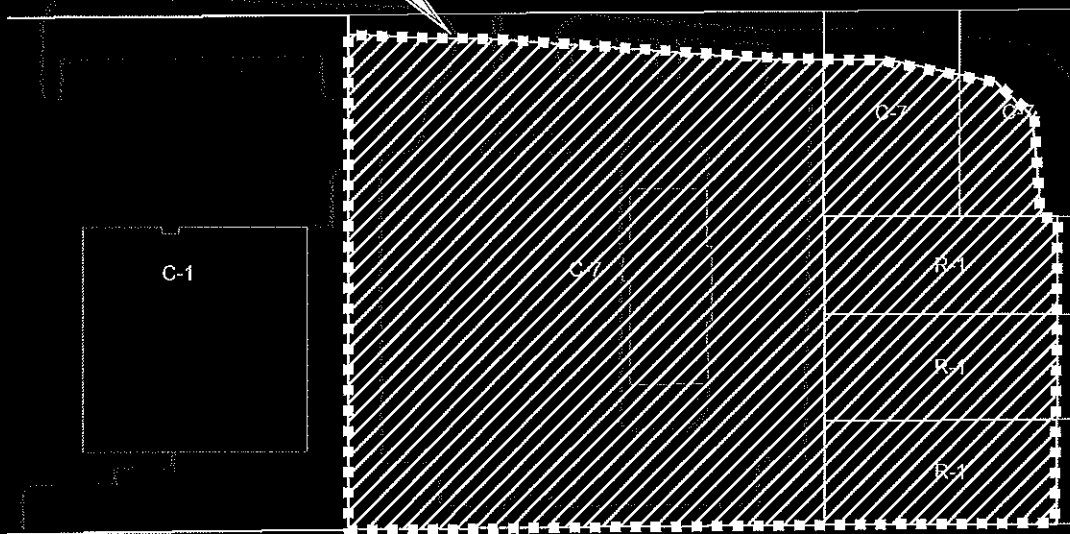
CONTAINING 1.09 ACRES MORE OR LESS.

SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, AND EASEMENTS, AND RESTRICTIONS OF RECORD.

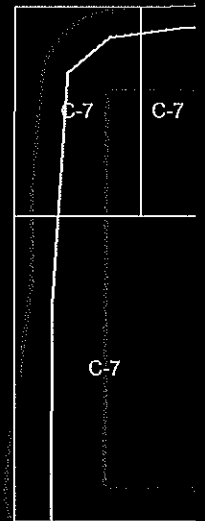


W MCKINLEY AVE

E MCKINLEY AVE

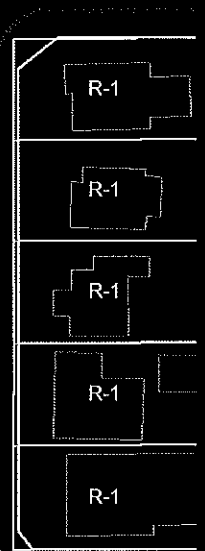


N MAIN ST



W RUSS AVE

E RUSS AVE



Location Map

PET 20-23

GRABER GROUP LP, SCHEIBELHUT,
CULP & SELTZER (OWNERS)

119 W. MCKINLEY AVE. & 2219, 2215,
2205 AND 2201 N. MAIN ST.

REZONING FROM C-7 & R-1 DISTRICT
TO THE C-10 DISTRICT TO ALLOW A
CONVENIENCE STORE WITH GAS PUMPS

PROPOSED ORDINANCE NO. 2020-39
ORDINANCE NO. _____

An Ordinance of the City of Mishawaka authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the Common Council ("Common Council") of the City of Mishawaka, Indiana ("City") has heretofore established, constructed and financed a municipal waterworks and now owns and operates the municipal waterworks in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized ("Act"); and

WHEREAS, the Common Council finds that certain additions, improvements and extensions to said works are necessary; and that plans, specifications and estimates have been prepared and filed by the engineers employed by the City for the construction of said additions, improvements and extensions, as more fully described on Exhibit A attached hereto and made a part hereof ("Project"), which plans and specifications have been or will be approved by the Common Council and by all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management ("Department"); and

WHEREAS, the City will advertise for and receive bids for the Project, which bids will be subject to the City's determination to construct the Project and subject to the City's obtaining funds to pay for the Project; that on the basis of said engineer's estimates and construction bids, the maximum cost of the Project, including incidental expenses, is in an amount not to exceed \$51,600,000; and

WHEREAS, the City finds that there are no funds on hand available to apply to the costs of the Project and that the costs of the Project are hereby authorized to be financed by the

issuance of waterworks revenue bonds, in one or more series, and, if necessary, bond anticipation notes ("BANs") in an aggregate principal amount not to exceed \$51,600,000; and

WHEREAS, the Common Council finds that there are certain outstanding bonds of the waterworks designated "Waterworks Refunding Revenue Bonds of 2007," dated May 23, 2007 ("2007 Bonds"), originally issued in the amount of \$4,475,000 and now outstanding in the amount of \$220,000, and maturing semiannually over a period ending July 1, 2020, which 2007 Bonds constitute a first charge upon the Net Revenues (as hereinafter defined) of the waterworks; and

WHEREAS, the Common Council finds that there are certain outstanding bonds of the waterworks designated "Waterworks Refunding Revenue Bonds of 2013," dated August 20, 2013 ("2013 Bonds"), originally issued in the amount of \$12,710,000 and now outstanding in the amount of \$3,785,000, and maturing semiannually over a period ending July 1, 2022, which 2013 Bonds constitute a first charge upon the Net Revenues of the waterworks, on a parity with the 2007 Bonds; and

WHEREAS, the Common Council finds that there are certain outstanding bonds of the waterworks designated "Waterworks Revenue Bonds of 2018," dated October 29, 2018 ("2018 Bonds"), originally issued in the amount of \$13,000,000 and now outstanding in the amount of \$13,000,000, and maturing semiannually over a period ending July 1, 2039, which 2018 Bonds constitute a first charge upon the Net Revenues of the waterworks, on a parity with the 2007 Bonds and the 2013 Bonds; and

WHEREAS, the 2007 Bonds, the 2013 Bonds and the 2018 Bonds are hereinafter collectively referred to as the "Outstanding Bonds;" and

WHEREAS, the terms and conditions of the ordinances authorizing the Outstanding Bonds provides that additional revenue bonds may be issued on a parity with the Outstanding Bonds provided certain tests are met, and the City finds that the finances of said waterworks are such as will enable meeting the conditions for the issuance of additional parity bonds and that, accordingly, the additional revenue bonds to be issued hereunder shall rank on a parity with the Outstanding Bonds; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the waterworks, on a parity with the Outstanding Bonds, and are to be issued subject to the provisions of the laws of the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the City desires to authorize the issuance of bond anticipation notes ("BANs") hereunder, in one or more series, if necessary, payable from the proceeds of waterworks revenue bonds issued hereunder and to authorize the refunding of the BANs, if issued; and

WHEREAS, the City may enter into a Financial Assistance Agreement with the Indiana Finance Authority ("Authority") as part of its drinking water loan program ("DWSRF Program") established and existing pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10 ("Financial Assistance Agreement") if the bonds or BANs are sold to the Authority through its DWSRF Program; and

WHEREAS, the Common Council finds that the 2018 Bonds were sold to the Authority through its DWSRF Program and that a form of Financial Assistance Agreement was executed and delivered by the City for the 2018 Bonds; and

WHEREAS, the City may accept other forms of financial assistance, as and if available from the DWSRF Program; and

WHEREAS, the City reasonably expects to reimburse certain preliminary costs of the Project with proceeds of debt to be incurred by the City in an amount not to exceed \$51,600,000; and

WHEREAS, the City's waterworks is not subject to the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and/or a debt service reserve surety for the bonds authorized herein; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of revenue bonds and BANs have been complied with in accordance with the provisions of the Act;

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

Section 1. Authorization of Project; Reimbursement. The City shall proceed with the construction of the Project in accordance with the cost estimates and the plans and specifications heretofore prepared and filed by the consulting engineers employed by the City, which plans and specifications are hereby adopted and approved, and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. Two copies of the plans and specifications and the cost estimates are on file in the office of the Clerk of the City and open for public inspection pursuant to IC 36-1-5-4. The estimated cost of construction of the Project will not exceed the sum of \$51,600,000, plus investment earnings on the bond and BAN proceeds.

The terms "waterworks," "waterworks system," "works," "system," and other like terms where used in this ordinance shall be construed to mean and include the Drinking Water System, as defined in the Financial Assistance Agreement, and includes the existing waterworks system and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions, additions, and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired as well as the drainage of storm and surface water to relieve the waterworks system of such water. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications are hereby approved. The Project shall be constructed and the bonds herein authorized shall be issued pursuant to and in accordance with the Act.

The City hereby declares its official intent to complete the Project; to reimburse certain costs of completing the Project with proceeds of debt to be incurred by the City, and to issue debt not exceeding \$51,600,000 in aggregate principal amount for purposes of paying and reimbursing costs of the Project.

Section 2. Issuance of BANs and Bonds. (a) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply to the cost of the Project. The City shall issue its BANs, in one or more series, in an amount not to exceed Fifty-one Million Six Hundred Thousand Dollars (\$51,600,000) to be designated "Waterworks Bond Anticipation Notes of ____" (to be completed with the year in which issued and appropriate series designation, if any). The BANs shall be numbered consecutively from 1 upward, shall be sold at a price not less than 99.5% of their par value or at a price not less than 100% of their par value if sold to the Authority as part of the DWSRF Program, shall be in multiples of One Dollar (\$1) if sold to the Authority as part of its DWSRF Program or in denominations of One Thousand Dollars (\$1,000)

or integral multiples thereof if sold to another purchaser, as set forth in the hereinafter defined Purchase Agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed four percent (4%) per annum (the exact rate or rates to be determined through negotiation) payable either (i) at maturity or upon redemption, or (ii) semiannually on January 1 and July 1 in each year, beginning with the first January 1 or the first July 1 which is at least six full months following delivery of the BANs, and semiannually thereafter. Interest on the BANs is payable from (i) Net Revenues, subject to the prior payment of the Outstanding Bonds any bonds issued under this ordinance, or (ii) in the case of interest at maturity or upon prepayment, from proceeds of the bonds. The BANs will mature no later than five (5) years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed four percent (4%) per annum (the exact rate or rates to be negotiated). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. Payment on the BANs may be made in the installments.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank, pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10 if sold to the Authority, or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. Interest on the BANs is also payable from Net Revenues, subject to the prior payment of the Outstanding Bonds any bonds issued under this ordinance, provided, however that if any interest to be paid from Net Revenues on the BANs is to occur on a date other than January 1 or July 1, by reason of maturity or redemption, such payment may only occur if all of the principal and interest on any bonds issued under this ordinance and all

Outstanding Bonds of the waterworks of the City due on the next succeeding principal and interest payment dates is fully accumulated in the Bond and Interest Account of the Waterworks Sinking Fund continued by this ordinance. The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues (herein defined as gross revenues, inclusive of System Development Charges (as hereinafter defined), after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes ("PILOTs")) of the waterworks of the City, on a parity with the Outstanding Bonds. For purposes of this ordinance, "System Development Charges" shall mean the proceeds and balances from any non-recurring charges such as tap fees, subsequent connector fees, capacity or contribution fees, and other similar one-time charges that are available for deposit under this ordinance.

The City shall issue its waterworks revenue bonds, in one or more series, in an aggregate principal amount not to exceed \$51,600,000 to be designated "Waterworks Revenue Bonds of _____" (to be completed with the year in which issued and series designation, if any) ("Bonds") for the purpose of procuring funds to be applied on the cost of the Project, the payment of costs of issuance, refunding the BANs, if issued, and all other costs related to the Project, including a premiums for municipal bond insurance and/or a debt service reserve surety. Each series of Bonds shall be sold at a price of not less than par value if sold to the Authority as part of its DWSRF Program, or not less than 99% of their par value if sold to any other purchaser, and shall be issued in the denomination of One Dollar (\$1) or any multiple thereof if sold to the Authority through its DWSRF Program, or in denominations of Five Thousand Dollars (\$5,000) each or integral multiples thereof if sold to any other purchaser, numbered consecutively from 1 upward, dated as of their date of delivery, and shall bear interest at a rate or rates not exceeding five

percent (5%) per annum (the exact rate or rates to be determined by bidding or through negotiation), payable semiannually on January 1 and July 1 in each year, beginning on the first January 1 or the first July 1 following the date of delivery of the Bonds, as determined by the Controller with the advice of the City's financial advisor. Principal shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as hereinafter defined) and the Bonds shall mature semiannually on January 1 and July 1 of each year, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on January 1 and July 1 of each year over a period ending no later than July 1, 2046 and in such amounts that will either: (i) produce as level annual debt service as practicable taking into account the annual debt service on the Outstanding Bonds and all Bonds issued hereunder; or (ii) if the Bonds are sold to the Authority as part of its DWSRF Program, allow the City to meet the coverage and/or amortization requirements of the DWSRF Program. If the Bonds are sold to the Authority as part of its DWSRF Program, such debt service schedule shall be finalized and set forth in the Financial Assistance Agreement.

All or a portion of each series of the Bonds may be issued as one or more term bonds, upon election of the purchaser thereof. Such term bonds shall have a stated maturity or maturities consistent with the maturity schedule determined in accordance with the preceding paragraph, on the dates as determined by the purchaser thereof, but in no event later than the last serial maturity date of the Bonds as determined in the preceding paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the preceding paragraph.

Each series of Bonds issued hereunder shall rank on a parity for all purposes under this ordinance, including the pledge of Net Revenues.

Interest on the Bonds and BANs shall be calculated according to a 360-day calendar year containing twelve 30-day months.

Section 3. Registrar and Paying Agent; Book-entry Provisions. (a) The Controller is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the Bonds. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Controller is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Waterworks Sinking Fund established to pay the principal of and interest on the Bonds as fiscal agency charges.

As to the BANs and as to the Bonds, if the purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and would be hereby charged with the performance of and all duties of and responsibilities of Registrar and Paying Agent.

(b) If the Bonds or BANs are sold to the Authority through its DWSRF Program, the principal of and interest thereon shall be paid by wire transfer to such financial institution if and as directed by the Authority on the due date of such payment or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date. So long as the Authority, as part of its DWSRF Program, is the owner of the Bonds or BANs, such Bonds and BANs shall be presented for payment as directed by the Authority.

If such Bonds are not sold to the Authority as part of its DWSRF Program or if wire transfer payment is not required, the principal of the Bonds and the principal and interest on the BANs shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Bonds shall be paid by check mailed to the registered owners thereof, as of the fifteenth day of the month preceding each interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner on or before such Record Date. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).

All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

(c) Each Bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal corporate trust office of the Registrar by the registered owner in person, or by its attorney duly authorized in writing, upon surrender of such Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered Bond or Bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the

registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, Registrar and Paying Agent for the Bonds may treat and consider the person in whose name such Bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(d) The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent upon giving 30 days' notice in writing to the City and by first class mail to each registered owner of the Bonds then outstanding, and such resignation will take effect at the end of such 30 day period or upon the earlier appointment of a successor registrar and paying agent by the City. Any such notice to the City may be served personally or sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the City, in which event the City may appoint a successor registrar and paying agent. The City shall notify each registered owner of the Bonds then outstanding by first class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the Bonds shall be deemed to be given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the City, the Controller is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Controller is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides

as registrar and paying agent and such fees may be paid from the Waterworks Sinking Fund continued in Section 15 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

(e) Interest on the Bonds sold to the Authority as part of its DWSRF Program shall be payable from the date or dates of payment made by the Authority as part of its purchase of the Bonds pursuant to the Financial Assistance Agreement. Interest on all other Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the Bonds unless the Bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the Bonds are authenticated on or before the Record Date preceding the first interest payment date, in which case they shall bear interest from the original date until the principal shall be fully paid. Notwithstanding anything to the contrary herein, the Bonds shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of the Bonds or earlier payment in full of the Bonds.

(f) The City has determined that it may be beneficial to the City to have the Bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the Bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The Bonds may be initially issued in the form of a separate single authenticated fully registered Bond for the aggregate principal amount of each separate maturity of the Bonds. In such case, upon initial issuance, the ownership of such Bonds shall be

registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the Bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the Bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the Bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the Bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated Bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the Bonds pursuant to this ordinance. The City and the Registrar and Paying Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the Bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such Bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such Bonds; (iii) registering transfers with respect to such Bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the Bonds only to or upon the order of the

Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the Bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any Bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such Bonds and all notices with respect to such Bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the Bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the Bonds shall designate, in accordance with the provisions of this ordinance.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered Bonds, the City may notify the Depository Trust

Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the Bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the Bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered Bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the Bonds.

If the Bonds shall no longer be restricted to being registered in the name of the Depository Trust Company, the Registrar shall cause the Bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar shall not be required to have such Bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as the Bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the

Beneficial Owners of the Bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the Bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the Bonds, together with the dollar amount of each Beneficial Owner's interest in the Bonds and the current addresses of such Beneficial Owners.

The BANs may also be issued in book-entry form and in that case all of the provisions set forth in this Section 3 shall apply.

Section 4. Redemption of Bonds and BANs. (a) The BANs are prepayable by the City, in whole or in part, on any date after 180 days of issuance, upon 30 days' notice to the owner of the BANs, without premium.

(b) For any Bonds sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no sooner than ten (10) years after their date of delivery, or any date thereafter, on sixty (60) days' notice, in whole or in part, in inverse order of maturity, and by lot within a maturity, at face value together with a premium no greater than 2%, plus accrued interest to the date fixed for redemption; provided, however, if the Bonds are sold to the DWSRF Program and registered in the name of the Authority, the Bonds shall not be redeemable at the option of the City unless and until consented to by the Authority. The exact

redemption dates and premiums shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(c) For any Bonds not sold to the Authority as part of its DWSRF Program, such Bonds are redeemable at the option of the City, but no earlier than eight (8) years after their date of delivery and on any date thereafter, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, on thirty (30) days' notice, at face value, with no premium, plus accrued interest to the date fixed for redemption. The exact redemption dates shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

(d) If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each Bond maturing as a term bond so delivered or cancelled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Paying Agent shall credit only such Bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

Each authorized denomination shall be considered a separate bond for purposes of optional and mandatory redemption. If less than an entire maturity is called for redemption at one time, the Bonds to be redeemed shall be selected by lot within a maturity by the Registrar. If some Bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the Bonds for optional redemption before selecting the Bonds by lot for the mandatory sinking fund redemption.

(e) Notice of redemption shall be given not less than sixty (60) days for Bonds sold to the Authority as part of its DWSRF Program and not less than thirty (30) days for Bonds sold to any other purchaser prior to the date fixed for redemption unless such redemption notice is waived by the owner of the Bond or Bonds redeemed. Such notice shall be mailed to the address of the registered owner as shown on the registration record of the City as of the date which is sixty-five (65) days for Bonds sold to the Authority as part of its DWSRF Program and forty-five (45) days for Bonds sold to any other purchaser prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption may be determined by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Section 5. Execution and Negotiability. Each series of Bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of the Controller, and attested by the manual or facsimile signature of its Clerk, and the seal of the City shall be affixed, imprinted or impressed to or on each of the Bonds and BANs manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and

for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

The Bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

The Bonds shall also be authenticated by the manual signature of the Registrar, and no Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Section 6. Form of Bonds. The form and tenor of the Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Mishawaka, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ST. JOSEPH

CITY OF MISHAWAKA
WATERWORKS REVENUE BOND OF _____[, SERIES ____]

[INTEREST [MATURITY ORIGINAL AUTHENTICATION

RATE]

DATE]

DATE

DATE

[CUSIP]

REGISTERED OWNER:

PRINCIPAL SUM:

The City of Mishawaka, in St. Joseph County, State of Indiana ("City"), for value received, hereby promises to pay to the Registered Owner named above or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above, [or so much thereof as may be advanced from time to time and be outstanding as evidenced by the records of the registered owner making payment for this bond, or its assigns,] on [the Maturity Date set forth above] **OR** [January 1 and July 1 on the dates and in the amounts as set forth on Exhibit A attached hereto] (unless this bond be subject to and be called for redemption prior to maturity as hereinafter provided), and to pay interest hereon until the Principal Sum shall be fully paid at the interest rate[s] per annum stated [above] **OR** [on Exhibit A attached hereto] from [the dates of payment made on this bond] **OR** [the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before _____ 15, 20__, which case it shall bear interest from the Original Date,] which interest is payable semiannually on January 1 and July 1 of each year, beginning on _____ 1, 20__. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

[The principal of this bond is payable at the [principal corporate trust] office of _____ ("Registrar") or "Paying Agent"), in the _____ of _____, _____]. All payments of [principal of and] interest on this bond shall be paid by [check mailed one business day prior to the interest payment date] **OR** [paid by wire transfer for deposit to a financial institution as directed by the Indiana Finance Authority ("Authority") on the due date or, if such due date is a day when financial institutions are not open for business, on the business day immediately after such due date] to the registered owner hereof as of the fifteenth day of the month preceding such interest payment date at the address as it appears on the registration books kept by [_____] ("Registrar" or "Paying Agent") in the _____ of _____, Indiana] **OR** [the Registrar] or at such other address as is provided to the Paying Agent in writing by the registered owner. [Notwithstanding anything to the contrary herein, this bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this bond or earlier payment in full of this bond.] [If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time).] All payments on the bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This bond is [the only] one of an authorized issue of bonds of the City [[to be] [issued in series]], of like date, tenor and effect, except as to numbering, interest rate[, series designation,] and date of maturity]; in the total amount of _____ Dollars (\$ _____); numbered consecutively from 1 up; issued for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipally owned waterworks system of the City[, to refund interim notes issued in anticipation of the bonds] and to pay issuance expenses[, including a premiums for municipal bond insurance and/or a debt service reserve surety]. This bond is issued pursuant to an ordinance adopted by the Common Council of the City on the ___ day of _____, 2020, entitled "An Ordinance of the City of Mishawaka authorizing the issuance of waterworks revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal waterworks of said City, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue ("Act").

[Reference is hereby made to the Financial Assistance Agreement ("Financial Assistance Agreement") between the City and the Authority concerning certain terms and covenants pertaining to the waterworks project and the purchase of this bond as part of the drinking water loan program established and existing pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10.]

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue, [including the Waterworks Revenue Bonds of _____, Series _____ ("Series _____ Bonds")] and any bonds hereafter issued on a parity therewith are payable solely from the Waterworks Sinking Fund continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues, inclusive of System Development Charges (as defined in the Ordinance), after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the waterworks of the City. This bond and the issue of which it is a part ranks on a parity with the Outstanding Bonds (as defined in the Ordinance) [and the Series _____ Bonds], in accordance with the terms thereof.

The City irrevocably pledges the entire Net Revenues of the waterworks to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including the Outstanding Bonds [and the Series _____ Bonds], to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of Operation

and Maintenance (as defined in the Financial Assistance Agreement, as defined in the Ordinance) of the waterworks and, for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for under Indiana law.

[The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and DTC, or any substitute agreement, effecting such Book Entry System.]

The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of the works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of the waterworks, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of the waterworks, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the debt service reserve required by the Ordinance. Such required payments shall constitute a first charge against the Net Revenues of said works, on a parity with the Outstanding Bonds [and the Series ____ Bonds].

The bonds of this issue maturing on _____ 1, 20__, and thereafter, are redeemable at the option of the City on _____ 1, 20__, or any date thereafter, on [sixty (60)] [thirty (30)] days' notice, in whole or in part, in [inverse] [the] order of maturity [as determined by the City] and by lot within a maturity, at face value together with the following premiums:

_____% if redeemed on _____, or thereafter
on or before _____;
_____% if redeemed on _____, or thereafter
on or before _____;
_____% if redeemed on _____, or thereafter
prior to maturity;

plus in each case accrued interest to the date fixed for redemption[; provided, however, if the Bonds are sold to the DWSRF Program and registered in the name of the Authority, the Bond shall not be redeemable at the option of the City unless and until consented to by the Authority].

[The bonds maturing on _____ 1, 20_ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on January 1 and July 1 on the dates and in the amounts set forth below:

<u>Term Bond</u>	
<u>Date</u>	<u>Amount</u>
*	

<u>Term Bond</u>	
<u>Date</u>	<u>Amount</u>
*	

*Final Maturity]

Each [One Dollar (\$1)] **OR** [Five Thousand Dollar (\$5,000)] principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be called shall be selected by lot by the Registrar. [If some bonds are to be redeemed by optional redemption and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

Notice of redemption shall be mailed to the address of the registered owner as shown on the registration record of the City, as of the date which is [sixty-five (65)] **OR** [forty-five (45)] days prior to such redemption date, not less than [sixty (60)] **OR** [thirty (30)] days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice, if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the City kept for that purpose at the [principal corporate trust] office of the Registrar by the registered owner hereof in person, or by his attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or his attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the registered owner, as the case may be, in exchange therefor. This bond may be transferred without cost to the registered owner except for any tax or governmental charge required to be paid with respect to the transfer. The City, the Registrar, the Paying Agent and any other registrar or paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of [\$5,000] **OR** [\$1] or any integral multiple thereof.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Mishawaka, in St. Joseph County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of the Controller, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF MISHAWAKA, INDIANA

By: _____
Mayor

COUNTERSIGNED:

By: _____
Controller

[SEAL]

Attest:

Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

_____,
as Registrar

By: _____,
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ this bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond in the books kept for the registration thereof with full power of substitution in the premises.

Dated: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

[EXHIBIT A]

(End of Bond Form)

Section 7. Authorization for Preparation and Sale of the Bonds and BANs; Official Statement; Continuing Disclosure; Insurance. (a) The Controller is hereby authorized and directed to have the Bonds and BANs prepared, and the Mayor, Controller and Clerk are hereby authorized and directed to execute and attest the Bonds and BANs in the form and manner provided herein.

(b) The Controller is hereby authorized and directed to deliver the Bonds and BANs to the respective purchasers thereof. At the time of delivery of the Bonds and BANs, the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than the par value of the BANs if sold to the Authority as part of its DWSRF Program, not less than 99.5% of the par value of the BANs if sold to any other purchaser, not less than the par value of the Bonds if sold to the Authority as part of its DWSRF Program, and not less than 99% of the par value of the Bonds if sold to any other purchaser, as the case may be, plus accrued interest to the date of delivery, if any. The City may receive payment on the BANs and the Bonds in installments. The Bonds, as and to the extent

paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Net Revenues of the waterworks, on a parity with the Outstanding Bonds, to be set aside into the Sinking Fund as herein provided. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the cost of the Project hereinbefore referred to, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the BANs and Bonds. The proper officers of the City are hereby directed to sell the Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

(c) Distribution of an Official Statement (preliminary and final) prepared by Baker Tilly Municipal Advisors, LLC on behalf of the City, is hereby authorized and approved and the Mayor or the Controller are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor or the Controller is authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

If an Official Statement is not required upon delivery of the Bonds, the City shall obtain an investment letter from the purchaser of the Bonds which satisfies federal and state securities laws applicable to the Bonds.

(d) If required under the Rule, the Mayor and Controller are hereby authorized and directed to complete, execute and attest a Continuing Disclosure Undertaking ("Disclosure Undertaking") for the Bonds on behalf of the City, in a form consistent with this ordinance. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Disclosure Undertaking shall not be considered an event of default under the Bonds or this ordinance.

(e) In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy the City hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the total debt service on the Bonds if issued without municipal bond insurance and (b) the total debt service on the Bonds if issued with municipal bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

Section 8. Sale of the Bonds; Award of Bonds. If the Bonds will be sold at a competitive sale, the Controller shall cause to be published either (i) a notice of such sale in the newspaper or newspapers which meet the requirements of IC 5-3-1, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the newspaper or newspapers which meet the requirements of IC 5-3-1 and the *Indianapolis Business Journal*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published one time in the *Indianapolis Business Journal*, and a notice or summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made,

and such other information as the Controller and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary Official Statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the winning bidder shall be required to submit a certified or cashier's check in an amount equal to 1% of the principal amount of the Bonds described in the notice within twenty-four hours of the sale and that in the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default; that bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth ($1/8$), one-twentieth ($1/20$) or one-hundredth ($1/100$) of one percent (1%). The notice may state that the rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 99% of the face amount of the Bonds will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Controller to the best bidder who has submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing

the total interest on all of the Bonds to their maturities, adding thereto the discount bid, if any, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

As an alternative to public sale, the Controller may negotiate the sale of the Bonds to the Authority as part of its DWSRF Program. The Mayor and the Controller are hereby authorized to: (i) submit an application to the Authority as part of its DWSRF Program; (ii) execute a Financial Assistance Agreement with the Authority with terms conforming to this ordinance; and (iii) sell such Bonds upon such terms as are acceptable to the Mayor and the Controller consistent with the terms of this ordinance. The substantially final form of Financial Assistance Agreement attached hereto and incorporated herein by reference as Exhibit B is hereby approved by the Common Council and the Mayor and Controller are hereby authorized to execute and deliver the same, and to approve any changes in form or substance to the Financial Assistance Agreement, which are consistent with the terms of this ordinance, such changes to be conclusively evidenced by its execution.

Notwithstanding anything contained herein, the City may accept any other forms of financial assistance, as and if available, from the DWSRF Program (including without limitation any forgivable loans, grants or other assistance whether available as an alternative to any Bond or BAN related provision otherwise provided for herein or as a supplement or addition thereto). If required by the DWSRF Program to be eligible for such financial assistance, one or more of the series of the Bonds issued hereunder may be issued on a basis such that the payment of the

principal of or interest on (or both) of such series of Bonds is junior and subordinate to the payment of the principal of and interest on other series of Bonds issued hereunder (and/or any other revenue bonds secured by a pledge of Net Revenues, whether now outstanding or hereafter issued), all as provided by the terms of such series of Bonds as modified pursuant to this authorization. Such financial assistance, if any, shall be provided in the Financial Assistance Agreement and the Bonds of each series of Bonds issued hereunder (including any modification made pursuant to the authorization in this paragraph to the form of Bonds otherwise contained herein).

Section 9. Financial Records and Accounts. (a) The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the waterworks and all disbursements made therefrom and all transactions relating to the waterworks. Copies of all such statements and reports shall be kept on file in the office of the Clerk.

(b) If the Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall establish and maintain the books and other financial records of the Project (including the establishment of a separate account or subaccount for the Project) and the waterworks in accordance with (i) generally accepted governmental accounting standards for utilities, on an accrual/cash basis, as promulgated by the Government Accounting Standards Board and (ii) the rules, regulations and guidance of the State Board of Accounts.

Section 10. Accrued Interest. The accrued interest received at the time of delivery of the Bonds, if any, and premium, if any, shall be deposited in the Waterworks Sinking Fund continued in Section 15.

Section 11. Use of Proceeds and Costs of Issuance. The proceeds from the sale of the Bonds, to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Mishawaka, Waterworks Construction Account" ("Construction Account"). All funds deposited to the credit of the Waterworks Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented, and as applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4-11 and IC 5-1.2-10. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act or for the expenses of issuance of the Bonds and BANs. The cost of obtaining the services of Ice Miller LLP, the City Attorney and Baker Tilly Municipal Advisors, LLC shall be considered as a part of the cost of the Project on account of which the Bonds and BANs are issued.

Any balance or balances remaining unexpended in such special account or accounts after completion of the Project, which are not required to meet unpaid obligations incurred in connection with such Project, shall either (1) be paid into the Waterworks Sinking Fund and used solely for the purposes of the Waterworks Sinking Fund or (2) be used for the same purpose or type of project for which the Bonds were originally issued, all in accordance with IC 5-1-13, as amended and supplemented.

If the Bonds are sold to the Authority as part of its DWSRF Program, to the extent (a) that the total principal amount of the Bonds is not paid by the purchaser or drawn down by the City or (b) proceeds remain in the Construction Account and are not applied to the Project (or

any modifications or additions thereto approved by the Department and the Authority), the City shall reduce the principal amount of the Bond maturities to effect such reduction in a manner that will still achieve the annual debt service as described in Section 2 subject to and upon the terms forth in the Financial Assistance Agreement.

Section 12. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Bonds, to the extent necessary for that purpose.

Section 13. Revenue Fund. There is hereby continued the Waterworks Revenue Fund ("Revenue Fund") into which shall be deposited all income and revenues derived from the operation of the waterworks and from the collection of water rates and charges (including any System Development Charges) of the waterworks. The Revenue Fund shall be maintained separate and apart from all other accounts of the City. Out of these revenues the proper and reasonable expenses of operation, repair and maintenance of the works shall be paid, the principal of and interest on all bonds and fiscal agency charges of registrars or paying agents shall be paid, the reserve shall be funded, and the costs of improvements, replacements, additions and extensions of the waterworks and shall be paid.

Section 14. Operation and Maintenance Fund. There is hereby continued a fund known as the Operation and Maintenance Fund ("O&M Fund"). On the last day of each calendar month, revenues of the waterworks shall be transferred from the Revenue Fund to the O&M Fund. The balance maintained in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance of the waterworks for the then next succeeding two (2) calendar months.

The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the waterworks on a day-to-day basis, but none of the monies in the O&M Fund shall be used for PILOTs, depreciation, replacements, improvements, extensions or additions. Any monies in the O&M Fund may be transferred to the Waterworks Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the waterworks.

Section 15. Waterworks Sinking Fund. (a) There is hereby continued a special fund designated the "Waterworks Sinking Fund" ("Sinking Fund") for the payment of the principal of and interest on revenue bonds which by their terms are payable from the Net Revenues of the waterworks and the payment of any fiscal agency charges in connection with the payment of bonds and interest. There shall be set aside and deposited in the Sinking Fund, as available, and as provided below, a sufficient amount of the Net Revenues of the waterworks to meet the requirements of the Bond and Interest Account, the Reserve Account and the 2007 Reserve Account hereby continued in the Sinking Fund. Such payments shall continue until the balances in the Bond and Interest Account, the 2007 Reserve Account and the Reserve Account equal the amount needed to redeem all the then outstanding bonds of the waterworks.

(b) Bond and Interest Account. There is hereby continued, within the Sinking Fund, the Bond and Interest Account ("Bond and Interest Account"). There shall be credited on the last day of each month from the Revenue Fund to the Bond and Interest Account an amount of the Net Revenues equal to: (i) at least one-sixth ($1/6$) of the interest on all then outstanding bonds payable on the then next succeeding interest payment date; and (ii) at least one-sixth ($1/6$) of the principal payable on all then outstanding bonds payable on the then next succeeding principal payment date, until the amount of interest and principal payable on the then next succeeding

interest and principal payment date shall have been so credited. There shall similarly be credited to the Account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on outstanding bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(c) 2007 Reserve Account; Reserve Account. (i) There is hereby continued, within the Sinking Fund, the 2007 Reserve Account ("2007 Reserve Account"). The 2007 Reserve Account provides security for the 2007 Bonds and contains a debt service reserve surety ("2007 Surety") and cash in accordance with the requirements established by the ordinance authorizing the 2007 Bonds ("2007 Ordinance"). The City shall continue to maintain the 2007 Reserve Account in accordance with the 2007 Ordinance and the 2007 Surety. The 2007 Reserve Account does not secure and may not be used to pay the principal of or interest on the 2013 Bonds, the 2018 Bonds or the Bonds authorized herein.

(ii) The ordinance authorizing the 2013 Bonds, created an account designated "Reserve Account" as a reserve for the 2013 Bonds ("Reserve Account"). The Reserve Account was continued in the ordinance authorizing the 2018 Bonds and is hereby continued for the 2013 Bonds, the 2018 Bonds and shall also serve as the reserve to the Bonds authorized herein. On the date of delivery of the Bonds, funds on hand of the waterworks, Bond proceeds or any combination thereof may be deposited into the Reserve Account. The initial deposit or the balance maintained in the Reserve Account shall equal but not exceed the least of: (i) maximum annual debt service on the 2013 Bonds, the 2018 Bonds, the Bonds and any bonds issued in the future by the City which are payable from Net Revenues of the waterworks and which rank on a

parity with the 2013 Bonds, 2018 Bonds and the Bonds ("Parity Bonds"); (ii) 125% of average annual debt service on the 2013 Bonds, 2018 Bonds, the Bonds and any Parity Bonds; or (iii) 10% of the stated principal amount or issue price, as applicable, of the 2013 Bonds, the 2018 Bonds, the Bonds and any Parity Bonds ("Reserve Requirement"); provided, however, that if any Bonds are sold to, or for so long as the 2018 Bonds are owned by, the Authority as part of its DWSRF Program, the Reserve Requirement shall equal the maximum annual debt service on the 2013 Bonds, the 2018 Bonds, the Bonds and any Parity Bonds. If the initial deposit into the Reserve Account does not equal the Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be credited to the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five years of the date of delivery of the Bonds.

The Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the 2013 Bonds, the 2018 Bonds, the Bonds and any Parity Bonds, and the moneys in the Reserve Account shall be used to pay current principal and interest on the 2013 Bonds, the 2018 Bonds, the Bonds and any Parity Bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account on a parity basis with any payments made to replenish the 2007 Reserve Account. If moneys in the Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on any 2013 Bonds, the 2018 Bonds, the Bonds or Parity Bonds, then this depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond

and Interest Account and on a parity basis with any payments made to replenish the 2007 Reserve Account. Any moneys in excess of the Reserve Requirement shall be transferred to the Waterworks Improvement Fund.

(iii) Alternatively, the City may purchase a debt service reserve surety bond ("Surety") and create a separate subaccount of the Reserve Account for securing the Bonds (hereafter referred to as the "Surety Reserve Account"). The Surety Reserve Account may be satisfied with cash, a Surety or a combination thereof; provided that if any Bonds are sold to, and for so long as any of the 2018 Bonds are owned by the Authority as part of its DWSRF Program, the City shall obtain the consent of the Authority. The initial balance or the balance to be accumulated in the Surety Reserve Account shall equal but not exceed the least of: (i) the maximum annual debt service on the Bonds and any Parity Bonds which by their terms may be secured by the Surety Reserve Account; (ii) 125% of average annual debt service on the Bonds and the Parity Bonds; or (iii) 10% of the stated principal amount or issue price, as applicable, of the Bonds and the Parity Bonds ("Surety Reserve Requirement"); provided, however, that if any Bonds are sold to the Authority as part of its DWSRF Program, the Surety Reserve Requirement shall equal the maximum annual debt service on the Bonds and any Parity Bonds. Such Surety Reserve Account shall be a separate account which secures only the Bonds (and any Parity Bonds which by their terms may be secured by the Surety Reserve Account) and, in that case, the Reserve Account shall not secure the Bonds. If created, the Surety Reserve Account shall not secure the 2007 Bonds, the 2013 Bonds or the 2018 Bonds. If such Surety is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the Surety to the extent necessary to comply with the terms of such Surety and the commitment to issue such Surety. Such agreement shall set out the terms for the Surety, including the

operational provisions of replenishing the Surety, and shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference. If a Surety is not purchased for the Bonds, the Surety Reserve Account shall not be created as a subaccount of the Reserve Account; provided, however, the City reserves the right to purchase a Surety in the future for any Parity Bonds and the Bonds and in that case, the Surety Reserve Account shall be created and operational.

(d) If the Bonds are sold to the Authority as part of its DWSRF Program, the Sinking Fund, containing the Bond and Interest Account and the Reserve Account, and the Construction Account, may be held by a financial institution acceptable to the Authority as part of its DWSRF Program, pursuant to terms acceptable to the Authority. If the Sinking Fund and the accounts therein are held in trust, the City shall transfer the monthly required amounts of Net Revenues to the Bond and Interest Account and the Reserve Account in accordance with this Section 15, and the financial institution holding such funds in trust shall be instructed to pay the required payments in accordance with the payment schedules for the City's outstanding bonds. The financial institution selected to serve in this role may also serve as the Registrar and the Paying Agent for any series of the Bonds and for all or any of the Outstanding Bonds. If the Construction Account is so held in trust, the City shall deposit the proceeds of the Bonds therein until such proceeds are applied consistent with this ordinance and the Financial Assistance Agreement with respect to the Bonds. The Mayor and the Controller are hereby authorized to execute and deliver an agreement with a financial institution to reflect this trust arrangement for all or a part of the Sinking Fund and the Construction Account in the form of trust agreement as approved by the Mayor and the Controller, consistent with the terms and provisions of this ordinance.

Section 16. Waterworks Improvement Fund. The Waterworks Improvement Fund ("Improvement Fund") is hereby continued. After meeting the requirements of the O&M Fund and the Sinking Fund, any excess revenues shall be transferred or credited from the Revenue Fund to the Improvement Fund, and said Fund shall be used for improvements, replacements, additions or extensions to the waterworks, and to make payments representing PILOTs. The City reserves the right to transfer PILOTs from the Improvement Fund no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the O&M Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. The Improvement Fund may also be used to pay principal of and interest on the BANs. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the 2007 Reserve Account and the Reserve Account of the Sinking Fund or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the waterworks.

Section 17. Maintenance of Accounts; Investments. The Sinking Fund shall be deposited in and maintained as a separate banking account or accounts from all other accounts of the City. The O&M Fund and the Improvement Fund may be maintained in a single banking account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other banking accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including

particularly IC 5-13, as amended or supplemented and as applicable, pursuant to IC 5-1.2-1 through IC 5-1.2-4 and IC 5-1.2-10, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance. Nothing in this section or elsewhere in this ordinance shall be construed to require that separate bank accounts be established and maintained for the Funds and Accounts created by this ordinance except that (a) the Sinking Fund and the Construction Account shall be maintained as a separate bank account from the other Funds and Accounts of the waterworks, and (b) the other Funds and Accounts of the waterworks shall be maintained as a separate bank account from the other funds and accounts of the City.

Section 18. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's waterworks.

Section 19. Rate Covenant. The City shall establish, maintain and collect reasonable and just rates and charges for facilities and services afforded and rendered by said water utility, which shall to the extent permitted by law produce sufficient revenues at all times, provided that System Development Charges shall be excluded, to the extent permitted by law, when determining if such rates and charges are sufficient if any Bonds are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, to provide for the proper operation, repair and maintenance or Operation and Maintenance (as defined in the Financial Assistance Agreement) if the Bonds are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority through its DWSRF Program, to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement, to pay all the legal and other necessary expense incident to the operation of such utility, to include maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide a sinking fund and debt service reserve for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, and replacements, and also, for the payment of any taxes that may be assessed against such utility, it being the intent and purpose hereof that such charges shall produce an income sufficient to maintain such utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the Bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said utility to the City, and all such payments shall be deemed to be revenues of the utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom

shall always be sufficient to meet the expenses of operation, repair and maintenance of the waterworks or Operation and Maintenance, as the case may be, and said requirements of the Sinking Fund.

Section 20. Additional Bond Provisions. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City reserves the right to authorize and issue additional Parity Bonds payable out of the Net Revenues of its waterworks ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to its waterworks, or to refund obligations, subject to the following conditions:

(a) The interest on and principal of all bonds or other obligations payable from the Net Revenues of the waterworks shall have been paid to date in accordance with the terms thereof, and all credits required to be made into the Waterworks Sinking Fund and the accounts thereof shall have been made to date.

(b) The Reserve Requirement for the Outstanding Bonds, the Bonds and any outstanding Parity Bonds has been funded in accordance with this ordinance and the Reserve Requirement shall be increased proportionately for any additional Parity Bonds.

(c) The amount of Net Revenues of the waterworks in the fiscal year immediately preceding the issuance of any such Parity Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the Parity Bonds the water rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the

maximum annual interest and principal requirements of all bonds payable from the revenues of the waterworks, including the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the waterworks shall be analyzed and all showings prepared by a certified public accountant employed by the City for that purpose. In addition, for purposes of this subsection, with respect to any Parity Bonds hereafter issued while the 2018 Bonds, or any Bonds sold to the Authority as part of its DWSRF Program, remain outstanding and owned by the Authority as part of its DWSRF Program, Net Revenues may not include any revenues from the System Development Charges unless the Authority provides its consent to include all or some portion of the System Development Charges as part of the Net Revenues or otherwise consents to the issuance of such Parity Bonds without satisfying this subsection (c).

(d) The principal, or mandatory sinking fund redemption dates, of the additional Parity Bonds shall be payable semiannually on January 1 and July 1 and the interest on said additional Parity Bonds shall be payable semiannually on January 1 and July 1 in the years in which such principal and interest are payable.

(e) If any Bonds are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, (i) the City obtains the consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and this ordinance, and (iii) the City is in compliance with its waterworks permits, except for non-compliance for which purpose the Parity Bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Section 21. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of

further safeguarding the interests of the owners of the Bonds and BANs, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to 100% of the amount of such contracts, to insure the completion of said contracts in accordance with their terms, and such contractors shall also be required to carry such employers' liability and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under plans and specifications approved by a competent engineer designated by the City. All estimates for work done or material furnished shall first be checked by the engineer and approved by the City.

(c) So long as any of the Bonds or BANs are outstanding, the City shall at all times maintain the waterworks system in good condition, and operate the same in an efficient manner and at a reasonable cost.

(d) So long as any of the Bonds or BANs are outstanding, the City shall maintain insurance coverage, including fidelity bonds, acceptable to the Authority if any Bonds or BANs are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, on the insurable parts of said works of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds collected shall be used in replacing or

repairing the property destroyed or damaged; or if not used for that purpose shall be treated and applied as Net Revenues of the works; provided, if the Bonds or BANs are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, the Authority shall consent to any such treatment and application of such proceeds or awards as Net Revenues of the waterworks or any other different use of such proceeds or awards.

(e) So long as any of the Bonds are outstanding, the City shall not, either directly or indirectly, mortgage, pledge or otherwise encumber such works, or any part thereof, or any interest therein and it shall not sell, lease or otherwise dispose of any portion thereof except to replace equipment which may become worn out or obsolete; provided that the City shall obtain the prior written consent of the Authority if any Bonds or BANs are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program.

(f) If any BANs or Bonds are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, the City shall not without the prior written consent of the Authority (i) enter into any lease, contract or agreement or incur any other liabilities in connection with the waterworks other than for normal operating expenditures, or (ii) borrow any money (including without limitation any loan from other utilities operated by the City) in connection with the waterworks.

(g) Except as hereinbefore provided in Section 20 of this ordinance, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said waterworks shall be authorized, executed or issued by the City, except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds are redeemed, retired or defeased pursuant to Section 18 hereof coincidentally with the delivery of such additional bonds or other obligations.

(h) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of the Bonds or BANs, this ordinance shall not be repealed or amended in any respect which will materially and adversely affect the rights of the owners of the Bonds or BANs, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affecting the rights of such owners so long as any of the Bonds, the BANs, or the interest thereon, remain unpaid. Except in the case of changes described in Section 22 (a)-(f), this ordinance may be amended, however, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds or BANs; provided, however, that if any Bonds or BANs are sold to and for so long as the 2018 Bonds are outstanding and owned by the Authority as part of its DWSRF Program, the City shall obtain the prior written consent of the Authority.

(i) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the Bonds herein authorized for the uses and purposes herein set forth, and the owners of the Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of the governing Act. The provisions of this ordinance shall also be construed to create a trust in the portion of the Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said fund as in this ordinance set forth. The owners of the Bonds shall have all of the rights, remedies and privileges set forth under Indiana law if there be a default in the payment of the principal of or interest on any of the Bonds herein authorized or in the event the City shall fail or refuse to fix and collect sufficient rates and charges for said purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof.

(j) For purpose this Section 21, the term "lease" shall include any lease, contract, or other instrument conferring a right upon the City to use property in exchange for a periodic payments made from the revenues of the waterworks, whether the City desires to cause such to be, or by its terms (or its intended effects) is to be, (i) payable as rent, (ii) booked as an expense or an expenditure, or (iii) classified for accounting or other purposes as a capital lease, financing lease, operating lease, non-appropriation leases, installment purchase agreement or lease, or otherwise (including any combination thereof).

Section 22. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this Section and Section 21(h), and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that if the Bonds or BANs are sold to the Authority as part of its DWSRF Program, the City shall obtain the prior written consent of the Authority; and provided further, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity, or mandatory sinking fund redemption date, of the principal of or interest on any Bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any Bond or the redemption premium or the rate of interest thereon; or

(c) Except as otherwise noted in Section 2 with respect to the BANs, the creation of a lien upon or a pledge of the revenues or Net Revenues of the waterworks ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any Bond or Bonds issued pursuant to this ordinance over any other Bond or Bonds issued pursuant to the provisions of this ordinance; or

(e) A reduction in the aggregate principal amount of the Bonds required for consent to such supplemental ordinance; or

(f) A reduction in the Reserve Requirement.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the

terms and provisions of the Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

Section 23. Investment of Funds. (a) The Controller is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

(b) The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any fees as operation expenses of the waterworks.

Section 24. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) The waterworks will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Bond or

BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the BANs or the Bonds, as the case may be. If the City enters into a management contract for the waterworks, the terms of the contract will comply with IRS Revenue Procedure 2017-13, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

(b) No more than 10% of the principal of or interest on the Bonds or BANs is (under the terms of the Bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for any private business use or payments in respect of any private business use or payments in respect of such property or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the Bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the Bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the Bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the Bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the Bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the Bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes on the Bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion. The City covenants and agrees not to enter into any contracts or arrangements which would cause the Bonds or BANs to be treated as private activity bonds under Section 141 of the Code.

(g) It shall not be an event of default under this ordinance if the interest on any Bond or BAN is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the Bonds or BANs, as the case may be.

(h) The City represents that it will rebate any arbitrage profits to the United States in accordance with the Code.

(i) These covenants are based solely on current law in effect and in existence on the date of delivery of such Bonds or BANs, as the case may be.

Section 25. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. If the BANs are sold to the Authority as part of its DWSRF Program, the Financial Assistance Agreement shall serve as the Purchase Agreement. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

(a) The Mayor and the Controller are hereby authorized and directed to execute a Purchase Agreement or Financial Assistance Agreement (and any amendments made from time to time) in such form or substance as they shall approve acting upon the advice of counsel. The Mayor, the Clerk and the Controller may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the Bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 26. Noncompliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from

gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 27. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided that the adoption of this ordinance shall not be construed as amending or repealing the ordinances authorizing the Outstanding Bonds or as adversely affecting the rights of the holders of the Outstanding Bonds.

Section 28. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 29. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Passed and adopted by the Common Council of the City of Mishawaka, Indiana this _____ day of _____, 2020.

COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA

Presiding Officer

Attest:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana on the ____ day of _____, 2020, at the hour of _____.m.

Deborah S. Block, IAMC, MMC, City Clerk

This ordinance approved and signed by me, the Mayor of the City of Mishawaka, Indiana, on the ____ day of _____, 2020, at the hour of _____.m.

David A. Wood Mayor

EXHIBIT A

Description of Project

EXHIBIT B

Form of Financial Assistance Agreement

EXHIBIT A

Description of Project

EXHIBIT B

Form of Financial Assistance Agreement

PROPOSED ORDINANCE NO. 2020- 40

ORDINANCE NO. _____

**AN ORDINANCE ADOPTING REVISED RATES AND CHARGES FOR
WATER SERVICES FURNISHED BY THE CITY OF MISHAWAKA'S
MUNICIPAL WATER UTILITY**

WHEREAS, the City of Mishawaka, Indiana, operates a municipal water utility through its agency Mishawaka Utilities (the "Utility") for the purpose of acquiring and distributing water to aid City and surrounding areas; and,

WHEREAS, the existing rates and charges for water services provided by the Utility were placed into effect following approval by the Common Council in Ordinance 5569 on March 6, 2017; and,

WHEREAS, the Utility engaged Baker Tilly Municipal Advisors, LLC to study the Utility's revenue requirements for water service under IC 8-1.5-3.8 and IC 8-1.5-2-28, and develop, in addition to other information, annual pro forma revenues and expenses for the period ending December 31, 2023; and,

WHEREAS, Baker Tilly Municipal Advisors, LLC has studied the Utility's annual revenue requirements and determined that the Utility's annual pro forma operating revenues from water service do not produce an adequate net operating income, and such revenues need to be increased to provide income for the revenue requirements set forth in IC 8-1.5-3-8 and IC 8-1.5-2-28; and,

WHEREAS, the Utility Board of the City of Mishawaka has recommended to the Common Council that it approve by Ordinance the revised rates and charges for water service developed by Baker Tilly Municipal Advisors, LLC, which rates and charges are set forth as part of Exhibits "A" and "B" attached hereto; and,

WHEREAS, the Common Council of the City of Mishawaka, Indiana now finds that (i) the Utility's annual revenues from rates and charges for water service should be increased with the Utility's annual revenues from water service increasing by \$1,910,600 in Phase One and \$1,939,200 in Phase Two; and (ii) the rates and charges for water service attached hereto as part of Exhibits "A" and "B" have been set to recover the necessary increases in the Utility's annual revenues from water service and so that they are non-discriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8;

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

Section 1. The rates and charges for water service attached hereto as part of Exhibits "A" and "B" are hereby adopted as and for the rates and charges to be utilized by the Utility when charging customers for water service, effective as set forth below.

Section 2. All Ordinances and parts of Ordinances in conflict herewith are hereby repealed; provided, however, that the existing rates and charges for water service shall remain in full force and effect until the rates and charges fixed by this Ordinance shall be approved by the Commission, and until such time as the Order of said Commission approving said new rates and charges shall direct.

Section 3. This Ordinance shall be in full force and effect from and after its passage. Phase One rates shall be effective on January 1, 2022 and phase two rates shall be effective on January 1, 2023.

APPENDIX A

EXHIBIT A

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - INSIDE CITY

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential and Multi-Unit:

- (a) Metered rates - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Metered Rates per Month</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
Rate per 100 Cubic Feet	\$2.52	\$2.92	\$3.33

- (b) Customer base charge - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Size of Meter *</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
5/8" to 3/4"	\$8.26	\$9.58	\$10.92
1"	8.26	9.58	10.92

*Meters over 1 inch are reclassified to commercial and industrial rates

- (c) Fire Protection charge - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Customer Charge</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month	\$6.09	\$7.06	\$8.05

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Small Non-Residential

(a) <u>Metered Rates Per Month</u>	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
All consumption per 100 cubic feet	\$2.57	\$2.98	\$3.40

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
5/8" - 3/4"	\$8.26	\$9.58	\$10.92
1"	16.67	19.34	22.05
1 1/2"	30.66	35.57	40.55
2"	47.41	55.00	62.70
3"	86.54	100.39	114.44

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
5/8" - 3/4"	\$6.09	\$7.06	\$8.05
1"	15.22	17.66	20.13
1 1/2"	30.43	35.30	40.24
2"	48.70	56.49	64.40
3"	91.31	105.92	120.75

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Large Non-Residential

(a)	<u>Metered Rates Per Month</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
	First 7,750 cubic feet	\$2.67	\$3.10	\$3.53
	Over 7,750 cubic feet	1.69	1.96	2.23

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
4"	\$142.43	\$165.22	\$188.35
6"	282.26	327.42	373.26
8"	449.99	521.99	595.07
10"	645.70	749.01	853.87

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
4"	\$152.15	\$176.49	\$201.20
6"	304.36	353.06	402.49
8"	486.98	564.90	643.99
10"	700.02	812.02	925.70

Hydrant Rental

	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
Private hydrants - per annum	\$784.21	\$909.68	\$1,037.04

Private Fire Protection Service

<u>Sprinkler connection - per annum</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
1"	\$21.79	\$25.28	\$28.82
1 1/2"	49.11	56.97	64.95
2"	87.16	101.11	115.27
3"	196.09	227.46	259.30
4"	348.63	404.41	461.03
6"	784.21	909.68	1,037.04
8"	1,394.13	1,617.19	1,843.60
10"	2,178.34	2,526.87	2,880.63
12"	3,136.86	3,638.76	4,148.19

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - INSIDE CITY

(Cont'd)

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective March 5, 2013.

EXHIBIT B

SCHEDULE OF RATES AND CHARGES

MISHAWAKA UTILITY - OUTSIDE RATES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

For the use of and the service rendered by the Water Utility of the City of Mishawaka, Indiana, the following rates and charges based upon the amount of water supplied by said Water Utility.

Residential & Multi-Unit:

- (a) Metered rates - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Metered Rates per Month</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>	<u>Surcharge Percentage</u>
Rate per 100 Cubic Feet	\$2.92	\$3.39	\$3.86	16%

- (b) Customer base charge - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Size of Meter *</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>	<u>Surcharge Percentage</u>
5/8" to 3/4"	\$9.75	\$11.31	\$12.89	18%
1"	9.75	11.31	12.89	18%

*Meters over 1 inch are reclassified to commercial and industrial rates

- (c) Fire Protection charge - Phase One and Phase Two effective January 1, 2022 and January 1, 2023, respectively, in the amounts as follows:

<u>Customer Charge</u>	<u>Current (2021)</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month	\$6.09	\$7.06	\$8.05

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Small Non-Residential

	Current	Phase	Phase	Surcharge
(a) <u>Metered Rates Per Month</u>	<u>(2021)</u>	<u>One</u>	<u>Two</u>	<u>Percentage</u>
All Consumption	\$2.93	\$3.40	\$3.88	14%

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	Current	Phase	Phase	Surcharge
	<u>(2021)</u>	<u>One</u>	<u>Two</u>	<u>Percentage</u>
5/8" - 3/4"	\$9.75	\$11.31	\$12.89	18%
1"	20.39	23.65	26.96	22%
1-1/2"	38.10	44.20	50.39	24%
2"	59.39	68.89	78.53	25%
3"	109.02	126.46	144.16	26%

(c) Fire Protection Charge

<u>Size of Meter</u>	Current	Phase	Phase
	<u>(2021)</u>	<u>One</u>	<u>Two</u>
5/8" - 3/4"	\$6.09	\$7.06	\$8.05
1"	15.22	17.66	20.13
1 1/2"	30.43	35.30	40.24
2"	48.70	56.49	64.40
3"	91.31	105.92	120.75

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Large Non-Residential

	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>	<u>Surcharge</u> <u>Percentage</u>
(a) <u>Metered Rates Per Month</u>				
First 7,750 cubic feet	\$2.50	\$2.90	\$3.31	(6%)
Over 7,750 cubic feet	1.94	2.25	2.57	15%

(b) Customer Base Charge

Each user shall pay a monthly base charge in accordance with the following applicable size meter installed:

<u>Size of Meter</u>	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>	<u>Surcharge</u> <u>Percentage</u>
4"	\$179.94	\$208.73	\$237.95	26%
6"	357.19	414.34	472.35	27%
8"	569.87	661.05	753.60	27%
10"	818.04	948.93	1,081.78	27%

(c) Fire Protection Charge

<u>Size of Meter</u>	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
4"	\$152.15	\$176.49	\$201.20
6"	304.36	353.06	402.49
8"	486.98	564.90	643.99
10"	700.02	812.02	925.70

Hydrant Rental

	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
Private hydrants - per annum	\$784.21	\$909.68	\$1,037.04

Private Fire Protection Service

	<u>Current</u> <u>(2021)</u>	<u>Phase</u> <u>One</u>	<u>Phase</u> <u>Two</u>
Sprinkler connection - per annum			
1"	\$21.79	\$25.28	\$28.82
1 1/2"	49.11	56.97	64.95
2"	87.16	101.11	115.27
3"	196.09	227.46	259.30
4"	348.63	404.41	461.03
6"	784.21	909.68	1,037.04
8"	1,394.13	1,617.19	1,843.60
10"	2,178.34	2,526.87	2,880.63
12"	3,136.86	3,638.76	4,148.19

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

SCHEDULE OF RATES AND CHARGES - OUTSIDE CITY

(Cont'd)

Non-Recurring Charges

Refer to Appendix "B".

Current rate effective March 5, 2013.

APPENDIX B

NON-RECURRING CHARGES

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

- A. Water Account Service Charge - \$20.00
- B. Sprinkling Meters Turn-on Charge \$20.00
- C. Service Deposits- Service deposits are set by the Utility and can be up to one-sixth of normal annual bill per service location
- D. Failure to Meet Appointment Scheduled Charge - \$15.00
- E. Dishonored Negotiable Instrument Charge - \$20.00
- F. Processing/Disconnect Charge
 - Disconnect During Office Hours—\$25.00
 - Additional Reconnect charges after hours—\$70.00
 - Additional Reconnect charges on Sundays & Holidays— \$90.00
- G. After Hours Service Charge
 - After hours & Saturdays - \$70.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$35.00 per hour per man
 - Sundays and Holidays - \$90.00 minimum 1st 2 hours
 - After 2 hours call out time an additional \$45.00 per hour per man
- H. Turn Water Services Off/On (For Repair or To Test Plumbing). No charge during office hours 8-5
 - For after hour charges, refer to item G
- I. Late Penalty – 10% of the first \$3.00 plus 3% of the balance
- J. Meter Tampering Charge
 - First Offense – Actual cost of parts, labor, equipment and overhead plus cost of service estimated to have been used, based on prior history - \$75.00 + damages and a police report filed with police.
 - Second Offense – Same as above, plus \$250.00 + damages.
 - Subsequent Offenses – Same as second offense, plus disconnection of service

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

K. Violation of Fire Service Agreement – Illegal use of fire hydrant

First Offense - \$500.00

Subsequent Offense - \$1,000.00 and subject to criminal charges

L. Construction Permit Fees

150 day Residential – \$65.00

240 day Commercial – \$135.00 Per Building or \$5.00 per unit (whichever is larger)

320 day Industrial – \$600.00 Per Building

M. New Service Address Meter Charges –

Contact Water Department for current cost – 574-258-1652

Meter Size	Charge
5/8" — 3/4" (touch pad)	Actual Current Cost
1"	Actual Current Cost
1 1/2"	Actual Current Cost
2"	Actual Current Cost
3" & Larger	Actual Current Cost

Damage to Existing System Actual cost of repair

N. Meter Test at Customer Request

(No charge for first & second meter testing if second test has been requested after twelve months of the first testing)

Meter Size	Test Fee
5/8" — 1"	\$25.00
1 1/2" - 2"	\$48.00
3" & larger	Actual Cost

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

O. Hydrant Use Agreement

Hydrant Permit Charge – \$35.00

Deposit \$750.00

Damages to hydrant - repair cost to be deducted from deposit before refund, plus cost of water used, or per month (whichever is larger) \$50.00 minimum.

Township Hydrant Use (Fire Department Use Only) \$25.00 plus cost of water.

P. Tapping Permit

Existing taps never used and no fee paid at time of installation

Residential	
3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00
Commercial	
3/4"	Actual Current Cost
1"	Actual Current Cost
1 1/2"	Actual Current Cost
2"	Actual Current Cost
Commercial/Industrial	
4"	Actual Current Cost
6"	Actual Current Cost
8"	Actual Current Cost
10"	Actual Current Cost
12"	Actual Current Cost

All New Taps – Actual Current Cost

Contact Water Department for current pricing – 574-258-1652

MISHAWAKA (INDIANA) MUNICIPAL WATER UTILITY

NON-RECURRING CHARGES

Q. Lead Service Line Replacement Tap Costs

(Does Not Include Meter)

Size	Cost
5/8" — 3/4"	\$1,198.00
1"	\$1,203.00
1 1/2"	\$1,564.00
2"	\$1,738.00

R. Land Improvement Charges

Non-Residential	
Water Main	Charge / Linear Foot
6"	\$12.00
8"	\$16.00
10"	\$20.00
12"	\$24.00
14"	\$28.00
16"	\$32.00
20"	\$40.00
24"	\$48.00
Residential	
1/2 of the current cost of a 6" water main (100 feet maximum)	

Revised on 03/05/2012

PROPOSED ORDINANCE NO. 2020-41
ORDINANCE NO. _____

An Ordinance of the City of Mishawaka authorizing the issuance of electric utility revenue bonds for the purpose of providing funds to apply on the cost of the construction of certain additions, extensions and improvements to the municipal electric utility of said City and improvements to building space for the utility, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Mishawaka (the "City") now owns and operates a municipal electric utility in said City in accordance with the provisions of Title 8, Article 1.5 of the Indiana Code, as in effect on the date of delivery of the bonds herein authorized (the "Act"); and

WHEREAS, the Common Council of the City now finds that certain additions, extensions and improvements to the electric utility are necessary and that new building space for the City's municipal utilities will require improvements; and that plans and estimates will be prepared and filed by the engineers employed by the City for the construction of said additions, extensions and improvements, as more fully described on Exhibit A attached hereto (the "Project"), which plans and estimates will be approved by all governmental authorities having jurisdiction; and

WHEREAS, the City has obtained engineers' estimates of the costs for the construction of the Project and will advertise for and receive bids for the Project, which bids will be subject to the City's obtaining funds to pay for said Project; that on the basis of said estimates, the cost of the Project, including incidental expenses, is in an amount not to exceed \$34,100,000; and

WHEREAS, the Common Council now finds that the City does not have sufficient funds on hand to apply on the costs of the Project and that it is necessary to finance the costs of the

Project by the issuance of electric utility revenue bonds and, if necessary, bond anticipation notes ("BANS"), in an aggregate principal amount not to exceed \$34,100,000; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues (as hereinafter defined) of the electric utility, and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, the Act, and the terms and restrictions of this ordinance; and

WHEREAS, the Common Council has been advised the City's municipal sewage works and waterworks will also utilize the new building space being financed under this ordinance and the sewage works and waterworks will each contribute to the payment of the bonds issued hereunder with payments to the City's electric utility ("Sewage Works and Waterworks Payments"); and

WHEREAS, the Common Council has been advised that the Sewage Works and Waterworks Payments should be used to pay the principal of and interest on the bonds issued hereunder and shall be deemed as Net Revenues of the City's electric utility; and

WHEREAS, the City desires to authorize the issuance of BANS hereunder, if necessary, to provide interim financing for the Project and to authorize the refunding of the BANS, if issued; and

WHEREAS, the Common Council has been advised that it may be cost efficient to purchase municipal bond insurance and/or a debt service reserve surety for the bonds authorized herein; and

WHEREAS, the City's municipal electric utility is not subject to the jurisdiction of the Indiana Utility Regulatory Commission; and

WHEREAS, the Common Council now finds that all conditions precedent to the adoption of an ordinance authorizing the issuance of said bonds and BANs have been complied with in accordance with the provisions of the Act; now, therefore,

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

Section 1. Issuance of Bonds and BANs. (a) The City, being the owner of and engaged in operating a municipal electric utility furnishing the City, its inhabitants and the residents adjacent thereto, with electric current for public, domestic and industrial uses, now proceed with the Project, the cost of which shall not exceed \$34,100,000, plus investment earnings on the BAN and bond proceeds, without further authorization from the Common Council, and the financing thereof by the issuance of revenue bonds pursuant to and in the manner prescribed by the Act, which revenue bonds shall be payable solely out of the Net Revenues (herein defined as gross revenues after deduction only for the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes ("PILOTs")) of said electric utility, including all additions and improvements thereto and replacements thereof subsequently constructed or acquired of said electric utility. So long as the bonds issued under this ordinance are outstanding, the Net Revenues shall include the Sewage Works and Waterworks Payments. The terms "municipal electric utility," "electric utility," "utility," "electric utility system," "system," and words of like import where used in this ordinance shall be construed to mean and include the existing electric utility and all real estate and equipment used in connection therewith and appurtenances thereto, and all extensions,

additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired.

(b) That said Project shall be constructed and installed in accordance with the plans and estimates to be prepared by the engineers employed for the Project.

(c) The City shall issue, if necessary, its BANs for the purpose of procuring interim financing to apply on the costs of said Project. The City shall issue its BANs in an amount not to exceed Thirty-four Million One Hundred Thousand Dollars (\$34,100,000) to be designated "Electric Utility Bond Anticipation Notes." The BANs shall be sold at not less than 99% of their par value, shall be numbered consecutively from 1 upward, shall be in multiples of \$1 as designated in the purchase agreement for the BANs, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 4% per annum (the exact rate or rates to be determined through bidding or negotiation) payable either (i) at maturity or upon redemption, or (ii) semiannually on January 1 and July 1 in each year, beginning with the first January 1 or the first July 1 which is at least six full months following delivery of the BANs, and semiannually thereafter. Principal on the BANs will be payable no later than five (5) years from their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 4% per annum (the exact rate or rates to be determined through bidding or negotiation). The term of the BANs and all renewal BANs may not exceed five years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof. The BANs may be paid for in installments.

The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of

and interest on the BANs shall be payable from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. Interest on the BANs is also payable from Net Revenues, subject to the prior payment of any bonds issued under this ordinance. The City may use any legally available revenues to pay the principal of and interest on the BANs. The revenue bonds will be payable solely out of and constitute a first charge against the Net Revenues of the electric utility of the City, including all additions and improvements thereto and replacements thereof subsequently constructed or acquired.

(d) The City shall issue its revenue bonds designated "Electric Utility Revenue Bonds of 20__" (to be completed with the year of issuance), in an aggregate principal amount not to exceed Thirty-four Million One Hundred Thousand Dollars (\$34,100,000) for the purpose of procuring funds to apply on the funding of the costs of said Project, refunding the BANs, if issued, and the payment of costs of issuance, including premiums for municipal bond insurance and/or a debt service reserve surety.

(e) The bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof, numbered consecutively from 1 upward, dated as of the date of delivery thereof, and shall bear interest at a rate or rates not exceeding 5% per annum (the exact rate or rates to be determined by bidding), payable semiannually on January 1 and July 1, beginning on the first January 1 or the first July 1 after delivery of the bonds as determined by the Controller, with the advice of the City's municipal advisor. The bonds shall be sold at a price not less than 99% of the par value thereof, and shall mature semiannually or be subject to mandatory sinking fund redemption on January 1 and July 1, over a period ending not later than

January 1, 2044 and in such principal amounts as will match the economic lives of the portions of the Project being financed under this ordinance.

Interest on the bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months. Interest on the BANs may be calculated according to a 360-day calendar year containing twelve 30-day months or an actual 365-day calendar year.

All or a portion of the bonds may be issued as one or more term bonds, upon election of the successful bidder. Such term bonds shall have a stated maturity or maturities on January 1 or July 1 in the years as determined by the successful bidder, but in no event later than the final serial maturity of the bonds as established in accordance with the above paragraph. The term bonds shall be subject to mandatory sinking fund redemption and final payment(s) at maturity at 100% of the principal amount thereof, plus accrued interest to the redemption date, on principal payment dates which are hereinafter determined in accordance with the above paragraph.

Section 2. Registrar and Paying Agent; Book Entry Provisions. The Controller is hereby authorized to contract with a qualified institution to serve as Registrar and Paying Agent for the bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the bonds. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar on the date of issuance of the bonds, or at any later date until all the bonds mature or are redeemed, as will enable the institution to perform the services required of registrar and paying agent for the bonds as set forth herein. The Controller is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Electric Utility Sinking Fund

created in Section 13 hereof to pay the principal of and interest on the bonds and fiscal agency charges.

As to the BANs and as to the bonds, if sold to a purchaser that does not object to such designation, the Controller may be designated the Registrar and Paying Agent and, in that case, will be charged with the performance of all of the duties and responsibilities of Registrar and Paying Agent.

The principal of the bonds shall be payable at the principal office of the Paying Agent. All payments of interest on the bonds and all payments of interest and principal on the BANs shall be paid by check mailed one business day prior to the payment date to the registered owners thereof as of the fifteenth day of the month immediately preceding such interest payment date ("Record Date"), at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. Notwithstanding anything to the contrary herein, the bonds shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of the bonds or earlier payment in full of the bonds. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). Payments on the BANs may also be made by wire transfer. All payments on the bonds and BANs shall be made in any lawful money of the United States of

America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

Each bond shall be transferable or exchangeable only upon the books of the City kept for that purpose at the principal office of the Registrar by the registered owner thereof in person, or by its attorney duly authorized in writing, upon surrender of such bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner, or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City except for any tax or governmental charge required to be paid with respect to the transfer or exchange, which taxes or governmental charges are payable by the person requesting such transfer or exchange. The City, Registrar and Paying Agent for the bonds may treat and consider the person in whose name such bonds are registered as the absolute owner thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

Interest on such bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date of the bonds unless the bonds are authenticated after the Record Date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless the bonds are authenticated on or before the Record Date preceding the first interest payment date in which case they shall bear interest from the original date of the bonds until the principal shall be fully paid.

The City has determined that it may be beneficial to the City to have the bonds held by a central depository system pursuant to an agreement between the City and The Depository Trust Company, New York, New York ("Depository Trust Company") and have transfers of the bonds effected by book-entry on the books of the central depository system ("Book Entry System"). The bonds may be initially issued in the form of a separate single authenticated fully registered bond for the aggregate principal amount of each separate maturity of the bonds. In such case, upon initial issuance, the ownership of such bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

With respect to the bonds registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, the City and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner")) of the bonds with respect to (i) the accuracy of the records of the Depository Trust Company, CEDE & CO., or any Beneficial Owner with respect to ownership questions, (ii) the delivery to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any notice with respect to the bonds including any notice of redemption, or (iii) the payment to any bondholder (including any Beneficial Owner) or any other person, other than the Depository Trust Company, of any amount with respect to the principal of, or premium, if any, or interest on the bonds except as otherwise provided herein.

No person other than the Depository Trust Company shall receive an authenticated bond evidencing an obligation of the City to make payments of the principal of and premium, if any, and interest on the bonds pursuant to this ordinance. The City and the Registrar and Paying

Agent may treat as and deem the Depository Trust Company or CEDE & CO. to be the absolute bondholder of each of the bonds for the purpose of (i) payment of the principal of and premium, if any, and interest on such bonds; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such bonds; (iii) registering transfers with respect to such bonds; (iv) obtaining any consent or other action required or permitted to be taken of or by bondholders; (v) voting; and (vi) for all other purposes whatsoever. The Paying Agent shall pay all principal of and premium, if any, and interest on the bonds only to or upon the order of the Depository Trust Company, and all such payments shall be valid and effective fully to satisfy and discharge the City's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the bonds to the extent of the sum or sums so paid. Upon delivery by the Depository Trust Company to the City of written notice to the effect that the Depository Trust Company has determined to substitute a new nominee in place of CEDE & CO., and subject to the provisions herein with respect to consents, the words "CEDE & CO." in this ordinance shall refer to such new nominee of the Depository Trust Company. Notwithstanding any other provision hereof to the contrary, so long as any bond is registered in the name of CEDE & CO., as nominee of the Depository Trust Company, all payments with respect to the principal of and premium, if any, and interest on such bonds and all notices with respect to such bonds shall be made and given, respectively, to the Depository Trust Company as provided in a representation letter from the City to the Depository Trust Company.

Upon receipt by the City of written notice from the Depository Trust Company to the effect that the Depository Trust Company is unable or unwilling to discharge its responsibilities and no substitute depository willing to undertake the functions of the Depository Trust Company

hereunder can be found which is willing and able to undertake such functions upon reasonable and customary terms, then the bonds shall no longer be restricted to being registered in the register of the City kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company, but may be registered in whatever name or names the bondholders transferring or exchanging the bonds shall designate, in accordance with the provisions of this ordinance.

If the City determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered bonds, the City may notify the Depository Trust Company and the Registrar, whereupon the Depository Trust Company will notify the Beneficial Owners of the availability through the Depository Trust Company of certificates for the bonds. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the bonds as requested by the Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever the Depository Trust Company requests the City and the Registrar to do so, the Registrar and the City will cooperate with the Depository Trust Company by taking appropriate action after reasonable notice (i) to make available one or more separate certificates evidencing the fully registered bonds of any Beneficial Owner's Depository Trust Company account or (ii) to arrange for another securities depository to maintain custody of certificates for and evidencing the bonds.

If the bonds shall no longer be restricted to being registered in the name of a Depository Trust Company, the Registrar shall cause said bonds to be printed in blank in such number as the Registrar shall determine to be necessary or customary; provided, however, that the Registrar

shall not be required to have such bonds printed until it shall have received from the City indemnification for all costs and expenses associated with such printing.

In connection with any notice or other communication to be provided to bondholders by the City or the Registrar with respect to any consent or other action to be taken by bondholders, the City or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository Trust Company notice of such record date not less than fifteen (15) calendar days in advance of such record date to the extent possible.

So long as said bonds are registered in the name of the Depository Trust Company or CEDE & CO. or any substitute nominee, the City and the Registrar and Paying Agent shall be entitled to request and to rely upon a certificate or other written representation from the Beneficial Owners of the bonds or from the Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the bonds and setting forth the consent, advice, direction, demand or vote of the Beneficial Owners as of a record date selected by the Registrar and the Depository Trust Company, to the same extent as if such consent, advice, direction, demand or vote were made by the bondholders for purposes of this ordinance and the City and the Registrar and Paying Agent shall for such purposes treat the Beneficial Owners as the bondholders. Along with any such certificate or representation, the Registrar may request the Depository Trust Company to deliver, or cause to be delivered, to the Registrar a list of all Beneficial Owners of the bonds, together with the dollar amount of each Beneficial Owner's interest in the bonds and the current addresses of such Beneficial Owners.

The BANs may also be issued in book-entry form and in that case all of the provisions set forth in this Section 2 shall apply.

Section 3. Redemption of BANs and Bonds. (a) The BANs are prepayable by the City, in whole or in part, upon thirty days' notice to the owner of the BANs at any time after the BANs have been outstanding for 180 days without any premium.

(b) The bonds are redeemable at the option of the City, but no earlier than eight (8) years after their date of delivery and on any date thereafter, in whole or in part, in the order of maturity as determined by the City, and by lot within a maturity, on thirty (30) days' notice, at face value, with a premium not to exceed 1%, plus accrued interest to the date fixed for redemption. The exact redemption features shall be established by the Controller, with the advice of the City's municipal advisor, prior to the sale of the bonds.

If any bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any bonds maturing as term bonds which have previously been redeemed (otherwise than as a result of a previous mandatory redemption requirement) or delivered to the Registrar for cancellation or purchased for cancellation by the Paying Agent and not theretofore applied as a credit against any redemption obligation. Each bond maturing as a term bond so delivered or canceled shall be credited by the Paying Agent at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of the bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided,

however, the Paying Agent shall credit only such bonds maturing as term bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory redemption date.

If less than an entire maturity is called for redemption at one time, the bonds to be redeemed shall be selected by lot within a maturity by the Registrar. Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional and mandatory redemption. If some bonds are to be redeemed by optional and mandatory sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.

In either case, notice of such redemption shall be mailed to the registered owner not less than thirty (30) days prior to the date fixed for redemption at the address of the registered owner as shown on the registration record of the City as of the date which is forty-five (45) days prior to said redemption date, unless such redemption notice is waived by the owner of the bond or bonds redeemed. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

Section 4. Execution. Each of said bonds and BANs shall be executed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the Controller, attested by the manual or facsimile signature of its Clerk and the seal of the City shall be affixed, imprinted or impressed to or on each of said bonds and BANs manually, by facsimile or any other means; and said officials, by the execution of a Signature and No Litigation Certificate,

shall adopt as and for their own proper signatures the facsimile signatures appearing on said bonds and BANs. In case any officer whose signature or facsimile signature appears on the bonds or BANs shall cease to be such officer before the delivery of the bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery. The bonds shall also be authenticated by the manual signature of an authorized representative of the Registrar and no bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

Said bonds and BANs shall have all of the qualities and incidents of negotiable instruments under the laws of the State of Indiana, subject to the provisions for registration herein.

Section 5. Form of Bonds. The form and tenor of said bonds shall be substantially as follows, with such changes as are necessary, all blanks to be filled in properly prior to delivery thereof:

[Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City of Mishawaka, Indiana, or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.]

UNITED STATES OF AMERICA
STATE OF INDIANA COUNTY OF ST. JOSEPH

CITY OF MISHAWAKA
ELECTRIC UTILITY REVENUE BOND OF 20__

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Authentication</u> <u>Date</u>	<u>CUSIP</u>
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REGISTERED OWNER:

PRINCIPAL SUM:

The City of Mishawaka ("City"), in St. Joseph County, State of Indiana, for value received, hereby promises to pay to the Registered Owner named above ("Registered Owner") or registered assigns, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above ("Principal Sum") [on the Maturity Date set forth above] OR [on the dates and in the amounts as shown on Exhibit A attached hereto] (unless this bond is subject to and shall have been duly called for redemption and payment as provided for herein), and to pay interest hereon until the Principal Sum is paid at the [Interest Rate per annum specified above] OR interest rates per annum as set for on Exhibit A attached hereto], from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the fifteenth day of the month preceding an interest payment date and on or before such interest payment date in which case it shall bear interest from such interest payment date, or unless this bond is authenticated on or before _____, in which case it shall bear interest from the Original Date, which interest is payable semiannually on **January 1 and July 1** beginning _____, 20___. Interest shall be calculated according to a 360-day calendar year containing twelve 30-day months.

The principal of this bond is payable at the principal office of _____ ("Registrar" or "Paying Agent"), in the City of _____, _____. All payments of interest on this bond shall be paid by check mailed one business day prior to the interest payment date to the Registered Owner hereof, as of the fifteenth day of the month immediately preceding such interest payment date, at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. [Notwithstanding anything to the contrary herein, this bond shall not be required to be presented or surrendered to receive payment in connection with any mandatory sinking fund redemption until the final maturity date of this bond or earlier payment in full of this bond.] If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the bond shall be made in any lawful money of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

THE CITY SHALL NOT BE OBLIGATED TO PAY THIS BOND OR THE INTEREST HEREON EXCEPT FROM THE HEREINAFTER DESCRIBED SPECIAL REVENUE FUND, AND NEITHER THIS BOND NOR THE ISSUE OF WHICH IT IS A PART SHALL IN ANY

RESPECT CONSTITUTE A CORPORATE INDEBTEDNESS OF THE CITY WITHIN THE PROVISIONS AND LIMITATIONS OF THE CONSTITUTION OF THE STATE OF INDIANA.

This bond is one of an authorized issue of bonds of the City, of like date, tenor and effect, except as to numbering, interest rates and dates of maturity in the total amount of \$ _____; numbered consecutively from 1 up; issued for the purpose of providing funds to pay the costs of certain additions, extensions and improvements to the municipally owned electric utility system of the City, [refunding notes issued in anticipation of bonds] and to pay issuance expenses [, including premiums for municipal bond insurance and/or a debt service reserve surety]. This bond is issued pursuant to an Ordinance adopted by the Common Council of the City on the ____ day of _____, 20____, entitled "An Ordinance of the City of Mishawaka authorizing the issuance of electric utility revenue bonds for the purpose of providing funds to apply on the cost of the construction of certain additions, extensions and improvements to the municipal electric utility of said City and improvements to building space for the utility, providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5 as in effect on the date of delivery of the bonds of this issue ("Act"), the proceeds of which are to be applied solely to the construction of said additions, extensions and improvements, [refunding said interim notes issued in anticipation of bonds,] and the incidental expenses incurred in connection therewith.

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue and any bonds hereafter issued on a parity herewith, are payable solely from the Electric Utility Sinking Fund created by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues after deduction only for the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the electric utility, including the works authorized by the Ordinance to be acquired and constructed and all additions and improvements thereto and replacements thereof subsequently constructed or acquired. So long as the bonds issued under the Ordinance are outstanding, the Net Revenues shall include the Sewage Works and Waterworks Payments (as defined in the Ordinance). This bond and the issue of which it is a part constitute a first charge upon the Net Revenues.

The City irrevocably pledges the entire Net Revenues of said electric utility to the prompt payment of the principal and interest on this bond, and any bonds ranking on a parity therewith, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for service rendered by said utility as are sufficient in each year for the payment of the proper and reasonable expenses of operation, repair and maintenance of said utility, and for the payment of the sums required to be paid into its Sinking Fund under the provisions of the Ordinance and the Act. In the event the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in

the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for under Indiana law.

The City further covenants that it will set aside and pay into its Sinking Fund monthly, as available, or more often if necessary, a sufficient amount of the Net Revenues of said works for payment of (a) the interest on all bonds which by their terms are payable from the revenues of said electric utility, as such interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and interest, (c) the principal of all bonds which by their terms are payable from the revenues of said electric utility, as such principal shall fall due, and (d) an additional amount as a margin of safety to [create and] maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues of said electric utility.

The bonds of this issue maturing on or after _____ 1, 20__, are redeemable at the option of the City on _____ 1, 20__, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity determined by the City and by lot within a maturity, at face value together with the following premiums:

_____% if redeemed on _____ 1, 20__,
or thereafter on or before _____, 20__;
_____% if redeemed on _____ 1, 20__,
or thereafter on or before _____, 20__;
0% if redeemed on _____ 1, 20__,
or thereafter prior to maturity;

plus, in each case accrued interest to the date fixed for redemption.

[The bonds maturing on _____ 1, _____ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest, on the dates and in the amounts set forth below:

_____ Term Bond

Date

Amount

*

*Final Maturity]

If less than an entire maturity is called for redemption at one time, the bonds to be redeemed shall be selected by lot within a maturity by the Registrar. Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. [If some bonds are to be redeemed by optional and mandatory

sinking fund redemption on the same date, the Registrar shall select by lot the bonds for optional redemption before selecting the bonds by lot for the mandatory sinking fund redemption.]

In either case, notice of such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with its depository bank, an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner shall look only to the funds so deposited in trust with said bank for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the books of the City kept for that purpose at the office of the Registrar, by the Registered Owner hereof in person, or by its attorney duly authorized in writing, upon surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner, or its attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in an authorized aggregate principal amount and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or to the Registered Owner, as the case may be, in exchange therefor. This bond may be transferred or exchanged without cost to the Registered Owner except for any tax or governmental charges required with respect to the transfer. The City, the Registrar and any paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

[The bonds shall be initially issued in a Book Entry System (as defined in the Ordinance). The provisions of this bond and of the Ordinance are subject in all respects to the provisions of the Letter of Representations between the City and The Depository Trust Company, or any substitute agreement, effecting such Book Entry System.]

THE OWNER OF THIS BOND, BY THE ACCEPTANCE HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. This bond is subject to defeasance prior to payment or redemption as provided in the Ordinance. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds.

The bonds maturing in any one year are issuable only in fully registered form in the denomination of \$5,000 or any integral multiple thereof not exceeding the aggregate principal amount of the bonds maturing in such year.

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Mishawaka, in St. Joseph County, Indiana, has caused this bond to be executed in its corporate name by the manual or facsimile signature of its Mayor, countersigned by the manual or facsimile signature of the Controller, its corporate seal to be hereunto affixed, imprinted or impressed by any means and attested manually or by facsimile by its Clerk.

CITY OF MISHAWAKA, INDIANA

(SEAL)

By _____
Mayor

COUNTERSIGNED:

By: _____
Controller

Attest:

Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This bond is one of the bonds described in the within-mentioned Ordinance.

as Registrar

By _____
Authorized Representative

ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto _____ the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____, attorney, to transfer the within bond in the books kept for the registration thereof with full power of substitution in the premises.

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guarantee program.

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.

Section 6. Authorization for Preparation and Sale of the BANs and the Bonds; Official Statement; Bond Insurance. The Controller is hereby authorized and directed to have said bonds and BANs prepared, and the Mayor, Controller and Clerk are hereby authorized and directed to execute and attest said bonds and BANs in the form and manner herein provided. The Controller is hereby authorized and directed to deliver said bonds and BANs to the purchasers thereof after sale made in accordance with the provisions of this ordinance, provided that at the time of said delivery the Controller shall collect the full amount which the purchaser has agreed to pay therefor, which amount shall not be less than 99% of the par value of the BANs or not less than 99% of the par value of said bonds, as the case may be, plus accrued interest to the date of delivery. The City may receive payment on the BANs in installments. The bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding

special revenue obligations of the City, payable out of the Net Revenues of the electric utility to be set aside into the Electric Utility Sinking Fund, as herein provided. The proceeds derived from the sale of said bonds shall be and are hereby set aside for payment of the costs of the Project, the refunding of the BANs, if issued, and the expenses necessarily incurred in connection with the bonds and BANs. The proper officers of the City are hereby directed to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance.

Distribution of an Official Statement (preliminary and final) prepared by Baker Tilly Municipal Advisors, LLC on behalf of the City, is hereby authorized and approved and the Mayor or the Controller are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this ordinance. The Mayor or the Controller is authorized to designate the preliminary Official Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

If an Official Statement is not required upon delivery of the bonds, the City shall obtain an investment letter from the purchaser of the bonds which satisfies federal and state securities laws applicable to the bonds.

In the event the financial advisor to the City certifies to the City that it would be economically advantageous for the City to obtain a municipal bond insurance policy the City hereby authorizes the purchase of such an insurance policy. The acquisition of a municipal bond insurance policy is hereby deemed economically advantageous in the event the difference between the present value cost of (a) the total debt service on the bonds if issued without municipal bond insurance and (b) the total debt service on the bonds if issued with municipal

bond insurance, is greater than the cost of the premium on the municipal bond insurance policy. If such an insurance policy is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the policy to the extent necessary to comply with the terms of such insurance policy and the commitment to issue such policy. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

Section 7. Sale of Bonds; Award of Bonds. Prior to the sale of said bonds, the Controller shall cause to be published either (i) a notice of such sale in the newspaper or newspapers which meet the requirements of IC 5-3-1, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in the newspaper or newspapers which meet the requirements of IC 5-3-1 and the *Indianapolis Business Journal*, all in accordance with IC 5-1-11 and IC 5-3-1. A notice or summary notice of sale may also be published in the *Court & Commercial Record* or in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the bonds, the maximum rates of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem advisable, and any summary notice may contain any information deemed so advisable. Said notice shall provide, among other things, that bidders for said bonds will be required to name the rate or rates of interest which the bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and that such interest rate or rates shall be in multiples of one-eighth (1/8) or one-hundredth (1/100) of one percent (1%). The notice may provide that the rate bid on a

maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price of the bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary Official Statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the winning bidder shall be required to submit a certified or cashier's check or wire transfer in an amount equal to 1% of the principal amount of the bonds described in the notice within twenty-four hours of the sale and that in the event the successful bidder shall fail or refuse to accept delivery of the bonds and pay for the same as soon as the bonds are ready for delivery, or at the time fixed in the notice of sale, then said deposit and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. No conditional bids or bids for less than 99% of the par value of the bonds will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of said bonds will be furnished to the purchaser at the expense of the City.

The bonds shall be awarded by the Controller to the best bidder who has submitted its bid in accordance with the terms of this ordinance and the notice. The best bidder will be the one who offers the lowest net interest cost to the City to be determined by computing the total interest on all of the bonds to their maturities, adding thereto the discount bid, if any, and deducting therefrom the premium bid, if any. The right to reject any and all bids is hereby reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which

time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

Section 8. Financial Records and Accounts; Continuing Disclosure. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of said electric utility and all disbursements made therefrom and all transactions relating to said electric utility. Copies of all such statements and reports shall be kept on file in the office of the Clerk. If the bonds or BANs are subject to Rule 15c2-12 of the Securities and Exchange Commission ("Rule"), the Mayor and the Controller are authorized to execute and deliver a continuing disclosure undertaking agreement in satisfaction of the Rule. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the continuing disclosure undertaking shall not be considered an event of default under the bonds or this ordinance.

Section 9. Pledge of Net Revenues. (a) The BANs, if issued, shall be payable from the proceeds of the bonds, and interest on the BANs shall also be payable from Net Revenues, subject to the prior payment of any bonds issued under this ordinance.

(b) The interest on and principal of the bonds issued pursuant to the provisions of this ordinance, and any bonds hereinafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such bonds, to the extent necessary for that purpose.

Section 10. Construction Account. Any accrued interest and any premium received at the time of delivery of the bonds shall be deposited in the Electric Utility Sinking Fund and

credited to the Bond and Interest Account thereof. The remaining proceeds from the sale of said bonds, to the extent not used to refund BANs, and BAN proceeds shall upon receipt be deposited in a bank or banks which are legally designated and qualified depositories of the City, in a special account or accounts to be designated as "City of Mishawaka, Electric Utility Construction Account." The funds in each of such special accounts shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds. The funds in such special account or accounts and any income derived from the investment hereof shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, and the incidental expenses incurred in connection therewith and with the issuance of the bonds and BANs. Any balance or balances remaining unexpended in such special account or accounts after the completion of the Project, which are not required to meet unpaid obligations incurred in connection with the construction of the Project, shall either (i) be deposited in the Electric Utility Sinking Fund and used solely for the purposes of said Fund, or (ii) be used for the same purpose or type of project for which the bonds were issued, all in accordance with IC 5-1-13, as amended.

Section 11. Use of Revenues. All revenues derived from the operation of the electric utility and from the collection of electric rates and charges shall be segregated and kept separate and apart from all other funds and accounts of the City. Said revenues shall be deposited into the Operation and Maintenance Fund, the Electric Utility Sinking Fund and the Improvement Fund of the utility in accordance with this ordinance.

Section 12. Operation and Maintenance Fund. The Operation and Maintenance Fund ("O&M Fund"), is hereby created and there shall be credited to the O&M Fund as of the last day

of each calendar month a sufficient amount of the revenues of the electric utility so that the balance in the O&M Fund shall be sufficient to pay the reasonable expenses of operation, repair and maintenance for the next succeeding calendar month. The moneys credited to this O&M Fund shall be used for the payment of the reasonable operation, repair and maintenance expenses of the electric utility on a day-to-day basis, but none of the moneys in such O&M Fund shall be used for PILOTs, depreciation, replacements, improvements, extensions or additions. Any balance in the O&M Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Electric Utility Sinking Fund if necessary to prevent a default in the payment of principal or interest on the then outstanding bonds.

Section 13. Electric Utility Sinking Fund. (a) The Electric Utility Sinking Fund ("Sinking Fund") is hereby created and constitutes the sinking fund for the payment of the principal of and interest on the bonds. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided a sufficient amount of the Net Revenues of said electric utility to meet the requirements of the Bond and Interest Account and of the Debt Service Reserve Account hereby created in the Sinking Fund. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account, equals the principal of and interest on all of the then outstanding bonds to the final maturity thereof.

(b) Bond and Interest Account. So long as the bonds are outstanding, the City shall deposit all Sewage Works and Waterworks Payments, upon receipt, into the Bond and Interest Account and treat such payments as Net Revenues. There shall be credited on the last day of

each calendar month to the Bond and Interest Account an amount equal to the sum of at least one-sixth ($1/6$) of the interest on and at least one-sixth ($1/6$) of the principal of such outstanding bonds which will be payable on the then next succeeding interest and principal payment date, until the amount of interest and principal payable on the then next succeeding principal and interest payment dates shall have been so credited. There shall similarly be credited to the account any amounts necessary to pay the bank fiscal agency charges for paying principal and interest on said bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(c) Debt Service Reserve Account. The Debt Service Reserve Account ("Reserve Account") is hereby created. On the date of delivery of the bonds, bond proceeds, funds on hand of the electric utility or a combination thereof may be deposited into the Reserve Account. The initial deposit or the balance accumulated in the Reserve Account shall equal but not exceed the least of (i) the maximum annual debt service on the bonds, (ii) 125% of the average annual debt service on the bonds or (iii) 10% of the of the stated principal amount or issue price, as applicable, of the bonds ("Reserve Requirement"). If the initial deposit into the Reserve Account does not cause the balance therein to equal the Reserve Requirement or if no deposit is made, the City shall deposit a sum of Net Revenues into the Reserve Account on the last day of each calendar month until the balance therein equals the Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the Reserve Requirement within five years of the date of delivery of the bonds.

The Reserve Account may be satisfied with cash, a debt service reserve surety bond or a combination thereof. If such surety bond is purchased, the Mayor and the Controller are hereby authorized to execute and deliver all agreements with the provider of the surety bond to the extent necessary to comply with the terms of such surety bond and the commitment to issue such surety. Such agreement shall be deemed a part of this ordinance for all purposes and is hereby incorporated herein by reference.

The Reserve Account shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the bonds and any parity bonds, and moneys in the Reserve Account shall be used to pay current principal and interest on the bonds and any parity bonds to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Reserve Account shall be made up from the next available Net Revenues remaining after credits into the Bond and Interest Account. In the event moneys in the Reserve Account are transferred to the Bond and Interest Account to pay interest and principal on the bonds, then such depletion of the balance in the Reserve Account shall be made up from the next available Net Revenues after the credits into the Bond and Interest Account hereinbefore provided for. Any moneys in the Reserve Account in excess of the Reserve Requirement shall be transferred to the Improvement Fund.

Section 14. Improvement Fund. There is hereby created a special fund designated the Improvement Fund ("Improvement Fund"). There shall be deposited into the Improvement Fund on or before the last day of each calendar month any excess revenues remaining after making the required deposits into the O&M Fund and the Sinking Fund. The Improvement Fund shall be expended in making good depreciation in the property of said electric utility, or applied on the

cost of the improvements herein referred to or future replacements, extensions, additions and improvements to such property, and to make payments representing PILOTs. The City reserves the right to transfer PILOTs from the Improvement Fund no more frequently than semiannually, in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the O&M Fund and the Accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. The Improvement Fund may also be used to pay principal of and interest on the BANs. Funds may also be transferred to the Bond and Interest Account to prevent a default on all outstanding bonds, or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Reserve Account of the Sinking Fund or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the electric utility.

Section 15. Maintenance of Accounts. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The O&M Fund and the Improvement Fund may be maintained in a single account or accounts but such account or accounts shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. This section shall not be construed as requiring the City to maintain separate bank accounts. All moneys deposited in said accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana, provided that moneys therein may be invested in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Section 16. Defeasance of the Bonds. If, when the bonds issued hereunder or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the bonds or any portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the bonds or any portion thereof then outstanding shall be paid; or (i) sufficient moneys, or (ii) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America, the principal of and the interest on which when due will provide sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the bonds issued hereunder or any designated portion thereof shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's electric utility.

Section 17. Rate Covenant. The City shall by ordinance establish, maintain and collect reasonable and just rates and charges for facilities and services afforded and rendered by said electric utility, which shall to the extent permitted by law produce sufficient revenues at all times to pay all the legal and other necessary expense incident to the operation of such electric utility, to include maintenance costs, operating charges, upkeep, repairs, interest charges on bonds or other obligations, to provide the sinking fund and reserve account as herein required for the liquidation of bonds or other evidences of indebtedness, to provide adequate funds to be used as working capital, as well as funds for making extensions, additions, improvements and replacements, and also, for the payment of any taxes that may be assessed against such electric utility, it being the intent and purpose hereof that such charges shall produce an income sufficient

to maintain such electric utility property in a sound physical and financial condition to render adequate and efficient service. So long as any of the bonds herein authorized are outstanding, none of the facilities or services afforded or rendered by said system shall be furnished without a reasonable and just charge being made therefor. The City shall pay like charges for any and all services rendered by said electric utility to the City, and all such payments shall be deemed to be revenues of the electric utility. Such rates or charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient to meet the expenses of operation and maintenance, and the requirements of the Sinking Fund.

Section 18. Additional Bond Provisions. (a) The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City also reserves the right to authorize and issue additional bonds payable out of the revenues of its electric utility ranking on a parity with the bonds authorized by this ordinance for the purpose of financing the cost of future additions, extensions, and improvements to the electric utility, or to refund obligations, subject to the following conditions:

(b) The interest on and principal of all bonds or other obligations payable from the revenues of the electric utility shall have been paid to date in accordance with the terms thereof and all credits required to be made to the Sinking Fund and the accounts thereof shall have been made to date.

(c) The Net Revenues of the electric utility in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the bonds authorized by this ordinance shall not be less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds payable from Net Revenues and the

additional parity bonds proposed to be issued; or, prior to the issuance of said parity bonds, the electric rates and charges shall be increased sufficiently so that said increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for said year equal to not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued. For the purposes of this subsection, the records of the electric utility shall be analyzed and all showings shall be prepared by a certified public accountant retained by the City for that purpose. The term "Net Revenues" as used in this subsection shall be construed to mean the revenues remaining after the reasonable expenses of operation, repair and maintenance, including any payments required under any power sales or supply agreement or agreements, has been paid or provided for, excluding depreciation expense and interest costs on bonds.

(d) The interest on the additional parity bonds shall be payable semiannually on January 1 and July 1, and the principal shall be payable semiannually on January 1 and July 1.

Section 19. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the BANs and the bonds, it is hereby specifically provided as follows:

(a) All contracts let by the City in connection with the construction of the Project shall be let after due advertisement as required by the laws of the State of Indiana, and all contractors shall be required to furnish surety bonds in an amount equal to one hundred percent (100%) of the amount of such contracts, to insure the completion of said contracts, in accordance with their terms, and such contractors shall also be required to carry such employers' liability

and public liability insurance as are required under the laws of the State of Indiana in the case of public contracts, and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

(b) The Project shall be constructed under the supervision and subject to the approval of such competent engineer as shall be designated by the City. All estimates for work done or material furnished shall be examined by the engineer and approved by the City prior to payment therefor.

(c) The City shall at all times maintain its electric utility in good condition and operate the same in an efficient manner and at a reasonable cost.

(d) So long as the BANs and the bonds herein authorized are outstanding, the City shall maintain insurance on the insurable parts of said electric utility of a kind and in an amount such as would normally be carried by private companies engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. Insurance proceeds shall be used in replacing the property destroyed or damaged; or if not used for that purpose shall be deposited in the Sinking Fund. As an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities.

(e) So long as the BANs and the bonds herein authorized are outstanding, the City shall not mortgage, pledge or otherwise encumber such utility or any part thereof, nor shall it

sell, lease or otherwise dispose of any portion thereof except equipment or property which may become worn out, obsolete or no longer suitable for use in the electric utility.

(f) Except as hereinbefore provided in Section 18, so long as the bonds herein authorized are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said electric utility shall be authorized, executed or issued by the City except such as shall be made subordinate and junior in all respects to the bonds herein authorized, unless the bonds herein authorized have been defeased and sufficient funds to effect the retirement have been deposited in accordance with the terms and conditions of said bonds and Section 16 of this ordinance.

(g) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the BANs and the bonds herein authorized, and after the issuance of said BANs or bonds, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the owners of said bonds or BANs, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the rights of such owners so long as said BANs or bonds, or the interest thereon, remain unpaid. Excluding the changes set forth in Section 22(a)-(f), the ordinance may be amended, however, without the consent of bond or BAN owners, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the BANs or bonds.

(h) The provisions of this ordinance shall be construed to create a trust in the proceeds of the sale of the BANs and bonds herein authorized for the uses and purposes herein set forth, and the owners of the BANs and bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this ordinance and of said governing Act.

The provisions of this ordinance shall also be construed to create a trust in the portion of Net Revenues herein directed to be set apart and paid into the Sinking Fund for the uses and purposes of said Fund as in this ordinance set forth. The owners of said BANs and bonds shall have all the rights, remedies and privileges set forth under Indiana law in the event the City shall default in the payment of the interest on or principal of the BANs or bonds, or fail or refuse to fix and collect sufficient rates and charges for said purposes, or shall fail or refuse to operate and maintain said system and to apply properly the revenues derived from the operation thereof.

Section 20. Investment of Moneys. (a) The Controller is hereby authorized to invest moneys pursuant to IC 5-1-14-3 and the provisions of this ordinance (subject to applicable requirements of federal law to insure such yield is the then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the BANs and bonds under federal law.

(b) The Controller shall keep full and accurate records of investment earnings and income from moneys held in the funds and accounts referenced herein. In order to comply with the provisions of the ordinance, the Controller is hereby authorized and directed to employ consultants or attorneys from time to time to advise the City as to requirements of federal law to preserve the tax exclusion. The Controller may pay any fees as operation expenses of the electric utility.

Section 21. Tax Covenants. In order to preserve the exclusion of interest on the bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the bonds or BANs, as the case may be

("Code"), and as an inducement to purchasers of the bonds and BANs, the City represents, covenants and agrees that:

(a) The Project and the electric utility will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. No person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the bonds or BANs or property financed by the bond or BAN proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, management, service or incentive payment contract, an arrangement including take-or-pay or other type of output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the bonds or BANs, as the case may be. If the City enters into a management contract for all or a portion of the electric utility or the Project, the terms of the contract will comply with the Regulations and IRS Revenue Procedure 2017-13, as amended, supplemented or superseded from time to time, so that the contract will not give rise to private business use under the Code and the Regulations unless such use in the aggregate will not relate to more than 10% of the proceeds of the BANs or bonds, as the case may be.

(b) No more than 10% of the principal of or interest on the bonds or BANs is (under the terms of the bonds, BANs, this ordinance or any underlying arrangement), directly or indirectly, secured by an interest in property used or to be used for private business use or

payments in respect of such property, or to be derived from payments (whether or not to the City) in respect of such property or borrowed money used or to be used for a private business use.

(c) No more than 5% of the bond or BAN proceeds will be loaned to any person or entity other than another state or local governmental unit. No more than 5% of the bond or BAN proceeds will be transferred, directly or indirectly, or deemed transferred to a nongovernmental person in any manner that would in substance constitute a loan of the bond or BAN proceeds.

(d) The City reasonably expects, as of the date hereof, that the bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above during the entire term of the bonds or BANs, as the case may be.

(e) No more than 5% of the proceeds of the bonds or BANs will be attributable to private business use as described in (a) and private security or payments described in (b) attributable to unrelated or disproportionate private business use. For this purpose, the private business use test is applied by taking into account only use that is not related to any government use of proceeds of the issue (Unrelated Use) and use that is related but disproportionate to any governmental use of those proceeds (Disproportionate Use).

(f) The City will not take any action nor fail to take any action with respect to the bonds or BANs that would result in the loss of the exclusion from gross income for federal tax purposes of interest on the bonds or BANs pursuant to Section 103 of the Code, nor will the City act in any other manner which would adversely affect such exclusion, and it will not make any investment or do any other act or thing during the period that the bonds or BANs are outstanding

which would cause the bonds or BANs to be private activity bonds under the meaning of Section 141 of the Code.

(g) It shall be not an event of default under this ordinance if the interest on any bonds or BANs is not excludable from gross income for federal tax purposes or otherwise pursuant to any provision of the Code which is not currently in effect and in existence on the date of issuance of the bonds or BANs, as the case may be.

(h) The City represents that it will rebate any arbitrage profits to the United States in accordance with the Code.

(i) These covenants are based solely on current law in effect and in existence on the date of delivery of the bonds or BANS, as the case may be.

Section 22. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of, mandatory sinking fund redemption dates, if any, or interest on any bond issued pursuant to this ordinance; or

(b) A reduction in the principal amount of any bond or the redemption premium or the rate of interest thereon; or

(c) Except as otherwise noted in Section 1 with respect to the BANs, the creation of a lien upon or a pledge of the Net Revenues of the electric utility to the bonds ranking prior to the pledge thereof created by this ordinance; or

(d) A preference or priority of any bond or bonds issued pursuant to this ordinance over any other bond or bonds issued pursuant to the provisions of this ordinance;

(e) A reduction in the Reserve Requirement; or

(f) A reduction in the aggregate principal amount of the bonds required for consent to such supplemental ordinance.

In the event that the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk of the City, no owner of any bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of bonds then outstanding, shall thereafter be determined,

exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the bonds authorized by this ordinance, and the terms and provisions of the bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the bonds then outstanding.

Section 23. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank, or any other purchaser, pursuant to a Bond Anticipation Note Purchase Agreement ("BAN Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its bonds, as the procedures followed before the issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the bonds and the use of the proceeds to repay the BAN or BANs.

(b) The Mayor and the Controller are hereby authorized to execute a BAN Purchase Agreement in such form or substance as they shall approve acting upon the advice of counsel. The Mayor, the Controller and the Clerk may also take such other actions or deliver such other certificates as are necessary or desirable in connection with the issuance of the BANs or the bonds and the other documents needed for the financing as they deem necessary or desirable in connection therewith.

Section 24. Permitted Non-Compliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the BANs and bonds from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of bond counsel that compliance with any Tax Section is unnecessary to preserve the Tax Exemption.

Section 25. Conflicting Ordinances. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

Section 26. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 27. Effective Date. This ordinance shall be in full force and effect from and after its passage by the Common Council and execution by the Mayor.

Passed and adopted by the Common Council by the Common Council of the City of
Mishawaka, Indiana, this ____ day of _____, 2020.

COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ____ day of
_____, 2020.

Deborah S. Block, IAMC, MMC, City Clerk

This ordinance approved and signed by me, the Mayor of the City of Mishawaka,
Indiana, on the ____ day of _____, 2020.

David A. Wood, Mayor

Exhibit A

Description of Project

PROPOSED ORDINANCE NO. 2020-42

ORDINANCE NO. _____

**AN ORDINANCE ESTABLISHING A
SCHEDULE OF RATES AND CHARGES FOR
ELECTRIC ENERGY AND SERVICES
RENDERED BY THE MISHAWAKA
UTILITIES ELECTRIC DEPARTMENT.**

WHEREAS, the City of Mishawaka, Indiana, owns and operates the Mishawaka Utilities Electric Department for the purpose of distributing electric energy in said City and surrounding areas; and

WHEREAS, the existing rates and charges for services provided by the Mishawaka Utilities Electric Department were placed into effect following the Common Council's approval of Ordinance No. 5426; and

WHEREAS, the Common Council of the City of Mishawaka has found that (i) the existing electric rates and charges of the Mishawaka Utilities Electric Department produce an income in abundance of what is sufficient to maintain the Utility property in a sound physical and financial condition to render adequate and efficient service, (ii) Mishawaka Utilities Electric Department's existing rates and charges produce revenues in abundance of what is sufficient to provide for all the legal and other necessary expenses incident to operation of the Utility (including, but not limited to, operation and maintenance costs, upkeep, repairs, depreciation and taxes), to provide adequate money for working capital, to provide funds for making extensions and replacements, to provide funds for payments to the City in lieu of taxes and to provide a reasonable return upon the City's investment in plant and, therefore, such current rates and charges are not "reasonable and just charges" within the meaning of IC 8-1.5-3-8 and need to be adjusted, (iii) the proposed rates and charges attached hereto as Exhibit "A" are designed so as to be nondiscriminatory, "reasonable and just charges" for services within the meaning of IC 8-1.5-3-8, and (iv) the proposed rates and charges attached reflect therein the election of the Common Council to include in such rates and charges each of the elements of "reasonable and just charges" under IC-8-1.5-3-8, and

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

Section 1. The rates and charges for the Mishawaka Utilities Electric Department are those set forth in Exhibit "A" attached hereto, made a part hereof and incorporated herein by reference.

Section 2. From time to time the cost of purchased power will be adjusted by Indiana Michigan Power in accordance with the rules and regulations promulgated by the Federal Energy Regulatory Commission. The Mishawaka Electric Utility's rates may be adjusted solely by the change in the cost of purchased power (the "I&M Adjustment Factor"). The I&M Adjustment Factor will be calculated in a manner reflected or closely reflected in Appendix A and, unless otherwise directed by the Common Council, shall be effective upon presentation to the Common Council for its review.

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. Phase One rates shall be effective no sooner than January 1, 2021 and phase two rates shall be effective on January 1, 2022.

PASSED AND ADOPTED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, ON THIS _____ DAY OF _____, 2020.

Common Council
City of Mishawaka, Indiana

Gregg Hixenbaugh, President

ATTEST:

Deborah S. Block, IAMC, MMC,
City Clerk

Presented by me, the undersigned City Clerk of the City of Mishawaka, Indiana, to the Mayor of the City of Mishawaka, Indiana, for approval on the _____ day of _____, 2020 at _____ o'clock _____m.

Deborah S. Block, IAMC, MMC,
City Clerk

Having examined the foregoing Ordinance, I do as the Mayor of the City of Mishawaka, Indiana, approve said Ordinance and return the same to the City Clerk of the City of Mishawaka, Indiana, this _____ day of _____, 2020.

Dave Wood, Mayor
City of Mishawaka, Indiana

ATTEST:

Deborah S. Block, IAMC, MMC,
City Clerk

EXHIBIT "A"

CONTENTS

RATE "R" RESIDENTIAL SERVICE

RATE "C" COMMERCIAL SERVICE

RATE "P" COMMERCIAL POWER SERVICE

RATE "I" INDUSTRIAL POWER SERVICE

RATE "MS" MUNICIPAL SERVICE

RATE "EH" ELECTRIC HEATING SERVICE

RATE "S" SCHOOL SERVICE

RATE "OL" OUTDOOR LIGHTING

**RATE "SL" STREET LIGHTING
SERVICE**

APPENDIX A

APPENDIX B

RATE "R"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

RESIDENTIAL SERVICE

To Whom Available

Available for residential service through one meter to individual residential customers including rural residential customers.

Character of Service

Alternating current, sixty-cycle, single-phase, at a standard voltage.

Rates

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each dwelling unit	\$5.91	\$5.50
<u>Energy Charge:</u>		
For the first 500 KWH used per month	0.1009	0.0938
Energy over 500 KWH used per month	0.0917	0.0853

Minimum Payment

The customer's minimum monthly payment under this rate shall be the Customer Charge plus the Energy Charge for the month.

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

Terms

Contracts under this rate shall be made for no less than one year and shall be self-renewing for successive periods of one year each until either party shall give at least 48 hours' notice to the other of their intention to discontinue service at the end of any earlier period. The Utility reserves the right to require contracts for periods in excess of one year.

Special Terms and Conditions

This rate is available for single-phase service only. Where three-phase service is required and/or where motors or heating equipment are used for commercial or industrial purposes, the applicable power rate will apply to such service.

RATE "C"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

COMMERCIAL SERVICE

To Whom Available

Available to non-residential and commercial customers.

Character of Service

Alternating current, sixty-cycle, single-phase service supplied through a single set of service wires on a single meter location at a standard service voltage.

Rates

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$5.91	\$5.50
<u>Energy Charge (per KWH):</u>	0.1234	0.1148

Minimum Payment

The minimum monthly payment for service shall be the Customer Charge plus the Energy Charge, if applicable.

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

Terms

Contracts under this rate shall be made for no less than one year and shall be self-renewing for successive periods of one year each until either party shall give at least 48 hours' notice to the other of their intention to discontinue service at the end of any earlier period. The Utility reserves the right to require contracts for periods in excess of one year.

Special Terms and Conditions

This rate is available for single-phase service only. Where three-phase service is required and/or where motors or heating equipment are used for commercial or industrial purposes, the applicable power rate will apply to such service.

Unmetered Usage

For customers whose service cannot reasonably be metered, the Utility shall estimate the average monthly KWHs usage and the bill shall be based on estimated average KWHs usage price at the current rates for Commercial Service, including Rate Adjustment.

RATE "P"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

COMMERCIAL POWER SERVICE

To Whom Available

Available for all commercial and industrial customers taking service through one three-phase meter with a monthly billing demand less than 150 KW.

Character of Service

Alternative current, sixty-cycle, three-phase service supplied through a single set of service wires to a single meter location. The service voltage shall be standard secondary voltage as the Utility may, at its option, make available.

Any applicant requiring service differing from that to be supplied as herein provided shall provide proper converting, transforming, regulating, or other equipment upon his own premises at his own expense.

Rates

The rate for electrical energy supplied hereunder shall be as follows:

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$20.75	\$19.30
<u>Demand Charge:</u>		
Per KW of billing demand for month	7.83	7.28
<u>Energy Charge (per Kwh):</u>	0.0702	0.0653

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

Terms

Contracts under this rate shall be made for no less than one year and shall be self-renewing for successive periods of one year each until either party shall give at least 48 hours' notice to the other of their intention to discontinue service at the end of any earlier period. The Utility reserves the right to require contracts for periods in excess of one year.

Monthly Minimum Payment

The monthly minimum charge shall be the Customer Charge plus Demand Charge plus the Energy Charge for the month.

Measurement of Maximum Demand

Maximum demand shall be measured by suitable recording instruments provided by the Utility and in any month the maximum demand expressed in kilowatts shall be the highest registration of a 15 minute integrating demand meter or the highest registration of a thermal type demand meter.

RATE "P" (Continued)

Billing Demand

The billing demand for any month shall be the greater of (i) 5 KW or (ii) the maximum demand for the month.

Delivery Voltage

Where the Utility elects to meter the customer's service at the Utility's primary voltage, the measured maximum demand and energy will be multiplied by 0.98.

Primary Voltage Service

Where customer furnished and maintains all transformers and/or other apparatus necessary for the customer to take its entire service at the primary voltage of the Utility distribution system, a credit of \$0.44 per KW of monthly billing maximum load will be applied to each month's net bill.

RATE "I"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

INDUSTRIAL POWER SERVICE

To Whom Available

Available for all industrial customers taking service through one three-phase meter with a monthly billing demand greater than 149 KW.

Character of Service

Alternative current, sixty-cycle, three-phase service supplied through a single set of service wires to a single meter location. The service voltage shall be standard secondary voltage as the Utility may, at its option, make available.

Any applicant requiring service differing from that to be supplied as herein provided shall provide proper converting, transforming, regulating, or other equipment upon his own premises at his own expense.

Rates

The rate for electrical energy supplied hereunder shall be as follows:

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$18.27	\$16.99
<u>Demand Charge:</u>		
Per KW of billing demand for month	6.90	6.42
Per KW of billing demand for month*	6.21	5.78
<u>Energy Charge (per KwH):</u>	0.0627	0.0583

*At the Utility's option if it is determined by metering that the customer's monthly power factor is less than 85% leading or lagging.

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

Terms

Contracts under this rate shall be made for no less than one year and shall be self-renewing for successive periods of one year each until either party shall give at least 48 hours' notice to the other of their intention to discontinue service at the end of any earlier period. The Utility reserves the right to require contracts for periods in excess of one year.

Monthly Minimum Payment

The monthly minimum charge shall be the Customer Charge plus Demand Charge plus the Energy Charge for the month.

RATE "I" (Continued)

Measurement of Maximum Demand

Maximum demand shall be measured by suitable recording instruments provided by the Utility and in any month the maximum demand expressed in kilowatts shall be the highest registration of a 15 minute integrating demand meter or the highest registration of a thermal type demand meter.

Billing Demand

The billing demand for any month shall be the greater of (i) 5 KW or (ii) the maximum demand for the month.

Delivery Voltage

Where the Utility elects to meter the customer's service at the Utility's primary voltage, the measured maximum demand and energy will be multiplied by 0.98.

Primary Voltage Service

Where customer furnished and maintains all transformers and/or other apparatus necessary for the customer to take its entire service at the primary voltage of the Utility distribution system, a credit of \$0.39 per KW of monthly billing maximum load will be applied to each month's net bill.

RATE "MS"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

MUNICIPAL SERVICE

To Whom Available

Available to the City of Mishawaka for the supply of electrical energy to public buildings or locations which are supported by public tax levies or municipally-owned Utility rates.

Character of Service

Electric energy supplied hereunder shall be alternating current, sixty-cycle, at standard single-phase or poly-phase voltage.

Rates

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$20.75	\$19.30
<u>Energy Charge (per KWH):</u>	0.1202	0.1118

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

RATE "EH"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

ELECTRIC HEATING SERVICE

To Whom Available

This tariff is available to existing customers only who were taking service under tariff EHND prior to December 12, 1984.

Character of Service

Alternating current, sixty-cycle, supplied through a single set of service wires to a single meter location at a standard service voltage.

Rates

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$20.75	\$19.30
<u>Energy Charge (per Kwh):</u>	0.2202	0.2048

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

RATE "S"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

SCHOOL SERVICE

To Whom Available

Available to public and private not-for-profit entities providing educational instruction serving students pre-kindergarten through twelfth grade for facilities that house classrooms.

Character of Service

Electric energy supplied shall be alternating currents sixty-cycle and a single-phase or polyphase voltage.

Rates

The rate for electrical energy supplied hereunder shall be as follows:

<u>Customer Charge:</u>	<u>Phase One</u>	<u>Phase Two</u>
Per month for each service location	\$5.91	\$5.50
<u>Energy Charge (per Kwh):</u>	0.1099	0.1022

Rate Adjustment

See Appendix A.

Non-Recurring Charges

See Appendix B.

Terms

Contracts under this rate shall be made for no less than one year and shall be self-renewing for successive periods of one year each until either party shall give at least 48 hours' notice to the other of their intention to discontinue service at the end of any earlier period. The Utility reserves the right to require contracts for periods in excess of one year.

Minimum Payment

The minimum payment for service shall be the Customer Charge plus the Energy Charge.

RATE "OL"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

RATE FOR OUTDOOR PROTECTION LIGHTING

To Whom Available

Available for outdoor lighting customers within the service area of the Utility.

The utility has begun the process of converting the HPS bulbs to light emitting diode (LED) fixtures. The utility will continue this process replacing the HPS bulbs to make all lighting in the city LED. All existing 100, 250 and 400 watt high pressure sodium and 175 watt mercury lighting will be replaced at the end of life or at the request of the customer at no additional charge.

Rates Per Month

- (a) Where the lighting fixture can be installed on an existing distribution-type wood pole or other supporting device and served from existing secondary facilities, with no more than one span of secondary, the rate shall be:

<u>Customer Charge:</u>	<u>Phase</u>	<u>Phase</u>
	<u>One</u>	<u>Two</u>
Single 48 watt LED lamp	\$6.80	\$6.32
Single 110 watt LED lamp	9.21	8.56

- (b) Where additional poles and spans of overhead secondary are required to provide outdoor lighting service, the following additional charges shall apply:

<u>Customer Charge:</u>	<u>Phase</u>	<u>Phase</u>
	<u>One</u>	<u>Two</u>
Each additional pole	\$0.78	\$0.73
Each additional span of secondary	0.52	0.48

- (c) Where a customer requests outdoor lighting service requiring special poles or fixtures, or the use of an underground distribution system instead of an overhead distribution system, the customer's rates will be increased according to the Company's cost to install, operate, and maintain such special facilities, or the customer may be required to make a payment to cover the investment made as a result of these special installations.

<u>Customer Charge:</u>	<u>Phase</u>	<u>Phase</u>
	<u>One</u>	<u>Two</u>
Single 80 watt LED decorative light	\$9.21	\$8.56
Single D4A LED decorative retrofit	9.21	8.56

Terms

Contracts under this tariff will be for not less than one year for residential customers and three years for commercial or industrial customers.

Hours of Lighting

All rates assume that lamps will burn approximately 4,000 hours per year.

RATE "SL"

MISHAWAKA (INDIANA) ELECTRIC UTILITY

MUNICIPAL STREET LIGHTING SERVICE

To Whom Available

Available to the City of Mishawaka and other governmental agencies for street lighting service.

The utility has begun the process of converting the HPS bulbs to light emitting diode (LED) fixtures. The utility will continue this process replacing the HPS bulbs to make all lighting in the city LED. All existing 100, 250, and 400 watt high pressure sodium and 175 watt mercury lighting will be replaced at the end of life or at the request of the customer at no additional charge.

Character of Service

The Utility shall install, operate, and maintain, at its expense, all street lighting equipment and appurtenances.

Rates

The rates for street lighting per lamp per month shall be as follows:

<u>Lamp Size</u>	<u>Lamp Type</u>	<u>Phase One</u>	<u>Phase Two</u>
D4A	LED Retro	\$9.21	\$8.56
73 watt	LED	6.98	6.49
80 watt	LED	9.21	8.56
110 watt	LED	9.21	8.56
150 watt	Sodium	6.98	6.49
175 watt	Mercury Vapor	6.98	6.49
250 watt	Sodium	9.21	8.56

Hours of Lighting

All rates assume that lamps will burn approximately 4,000 hours per year.

APPENDIX A

RATE ADJUSTMENT

The Rate Adjustment shall be on the basis of an I&M Adjustment Factor, occasioned solely by changes in the cost of purchased power applicable to Rates R, C, P. I, MS, EH, and S.

Rate Adjustment applicable to the above-listed Rate Schedules:

\$0.000000 per KWH used per month as computed following the method, or a method closely approximating the method, illustrated below.

Annual Cost of Purchased Power at the new wholesale rates and charges	\$0	
Annual Cost of Purchased Power priced at rates and charges effective _____	0	
Annual Change in Purchased Power Cost	0	
Annual KWH Sales	0	KWH
	0	
	0.93	
	<u>\$0.000000</u>	/KWH

Annual Increase per KWH Sold
Adjusted for Utility Receipts Tax
I&M Adjustment Factor

APPENDIX B
NON-RECURRING CHARGES

A. Electric Account Service Charge: \$20.00 one-time charge (not refundable)

B. New Account OPL Service Charge: \$10.00 one-time charge (not refundable)

C. Service Deposit: Service deposits are set by the Utility and can be up to One-sixth (1/6) of normal annual bills per service location

D. Failure to Meet Appointment Scheduled Charge: \$15.00

E. Dishonored Negotiable Instrument Charge: \$20.00

F. Processing/Disconnect Charge:

Single Phase

—Disconnect During Office Hours—\$25.00

—Additional Reconnect charges after hours—\$70.00

—Additional Reconnect charges on Sundays & Holidays— \$90.00

Three-Phase

— Disconnect During Office Hours—\$ 100.00

— Additional Reconnect after hours—\$ 225.00

— Additional Reconnect on Sundays & Holidays—\$ 275.00

G. Processing/Disconnect Charge, when Disconnect is required at pole, in vault, manhole or service box:

— Disconnect During Office Hours—\$ 100.00

— Additional Reconnect after hours—\$ 225.00

— Additional Reconnect on Sundays & Holidays—\$ 275.00

H. Meter Test Charge: Free every two years if required

1. Single Phase—\$ 20.00* if more frequent than every 2 years

2. Three-Phase—\$ 40.00* if more frequent than every 2 years

*Fee is refunded if meter is off more than two percent (2%)

I. Service Call ("no power" call when the Customer is at fault): Same as Processing/Disconnect Charge (F, above)

J. Late Payment Penalty: 10% on the first \$3.00; 3% on the balance for Electric & OPL

APPENDIX B
NON-RECURRING CHARGES

K. Meter Tampering Charge:

1. First Offense—Actual cost of parts, labor, equipment and overhead plus cost of service estimated to have been used, based on prior history \$75.00 + damage and a police report should be filed with the police.
2. Second Offense—Same as above, plus 100.00 + damage
3. Subsequent Offenses— Same as above, plus disconnection

L. Credit Agreement Fee: 10% of arrears amount or \$10, whichever is greater (added to payment agreement)

M. Temporary Service Charge:

- ☐ Residential Service (if meter immediately adjacent to Delivery Point): \$ 50.00
In Addition:
 - ☐ single span up to 125 feet \$100.00
 - ☐ each additional Span up to 125 feet \$150.00
- ☐ Commercial Service: \$100.00
In Addition:
 - ☐ Cost of labor for hookup and removal
 - ☐ Cost of vehicles for hookup and removal
 - ☐ Cost of engineering (two hour minimum)
 - ☐ Cost of additional transformers (per 30 days, or any part thereof) \$10.00 each

N. Energy Recording Device: \$20.00 installation charge (not refundable) at customers request. No charge if found to be utility problem.

PROPOSED ORDINANCE NO. 2020-37

ORDINANCE NO. _____

AN ORDINANCE DECLARING AN EMERGENCY AND
TRANSFERRING AND REAPPROPRIATING FUNDS
WITHIN THE BUDGET ADOPTED FOR THE
CALENDAR YEAR ENDING DECEMBER 31, 2020

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 Motor Vehicle Highway Fund budget adopted for the fiscal year ending December 31, 2020.

Section 2. There is hereby transferred and reappropriated the sum of \$10,000.00 as follows:

Motor Vehicle Highway Fund

From: Street Department		
<u>Other Personal Services</u>		
201-50-411-60	Overtime	<u>\$ 10,000.00</u>
Total		\$ 10,000.00
To: Street Department		
<u>Other Supplies</u>		
201-50-437-05	Uniforms	<u>\$ 10,000.00</u>
Total		\$ 10,000.00

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 _____, 2020 at _____ o'clock, ____ M.

Presiding Officer

ATTEST;

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor this _____ day of _____, 2020 at
_____ o'clock, _____. M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this _____ day of _____, 2020 at _____ o'clock,
_____. M.

David A. Wood, Mayor



CITY OF MISHAWAKA

Tim Ryan
Street Commissioner

DAVID A. WOOD, MAYOR

October 8, 2020

Mishawaka Common Council
City Hall
600 East Third Street
Mishawaka, IN 46544

RE: Proposed Ordinance 2020-

Honorable Council Members:

At this time, I am requesting the following transfer within the Street Department budget:

FROM:	Street Department		
	<u>Other Services Personal</u>		
	201-50-411-60	Overtime	\$10,000
TO:	Street Department		
	<u>Rentals</u>		
	201-50-437-05	Uniforms	\$10,000

If you have any questions concerning this transfer, please call or visit my office.

Sincerely,

Tim Ryan

Tim Ryan

Street Commissioner

1st Reading 10-19-20
2nd Reading
Passed
Failed
Continued To

PETITION 20-07

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-38

ORDINANCE NO. _____

RECEIVED
DEBORAH S. BLOCK, MMC

OCT 14 2020

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, Harris Township, St. Joseph County, State of Indiana, to-wit:

Part of the East half of the Southeast Quarter of Section 21, Township 38 North, Range 2 East of the Second Principal Meridian, in St. Joseph County, Indiana, also being parts of Lots 3 and 4 of the unrecorded Bauer and Geissler's Plat, more particularly described as follows:

Commencing at the Southeast corner of said Section 21, thence South 89°27'41" West (this and all subsequent bearings based on the Indiana Coordinate System of 1983, East zone), 1324.19 feet along the south line of said Southeast Quarter to the West line of the East half of said Southeast Quarter; thence North 00°30'31" West, 982.88 feet along said West line; thence North 89°27'41" East, 397.56 feet to the Point of Beginning,

thence North 00°28'12" West, 250.00 feet; thence North 89°27'41" East, 250.00 feet; thence South 00°28'12" East, 250.00 feet; thence South 89°27'41" West, 250.00 feet to the Point of Beginning, containing 1.435 acres, more or less.

COMMON ADDRESS: Northwest Corner of Gumwood Road and West Cleveland Road

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow for an elevated water storage tank not to exceed 150' in height, affecting a 250' X 250' area within the boundary of the PUD, subject to the following conditions:

Permitted Uses:

1. Permitted uses shall be limited to municipal well fields and an elevated water storage tank not to exceed 150' in height. Antennas and accessory attachments to the water tower may project above the maximum height.
2. Accessory uses and improvements, including but not limited to, access drives, communication structures and equipment, an overflow basin, and tower maintenance area shall be permitted.

Proposed Ordinance No: 20-38

Ordinance No: _____

3. Outside storage shall be prohibited excluding materials pertinent to the municipal well field and construction or normal usage of the elevated water storage tank.

Signage:

1. All graphics and lettering on the elevated water tank shall be subject to the review and approval of the Board of Public Works and Safety.

Lighting:

1. All site lighting, excluding lighting fixed to the tower or up-lighting shining on the tower, shall be limited to 25 feet in height. 90-degree cut-off fixtures or city ornamental lighting shall be required for site lighting and wall mounted fixtures. Lighting of the tower shall be mounted as to not shine on the adjacent property.

Landscaping & Screening:

1. Landscaping along the west, north, and east property lines shall be provided as conceptually shown on the preliminary site plan.
2. Ornamental security fencing shall be required around the site perimeter not to exceed 8' in height.

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

1. Existing Conditions – The subject property, being vacant land within the existing City north municipal wellfield, is located along the heavily traveled Cleveland Road (S.R. 23) and Gumwood Road corridors. Vacant land immediately adjacent to the property has been approved for its current and continued use as a municipal wellfield and for future commercial, multi-family residential, assisted living, and nursing home use. The existing Grandview Planned Unit Development to the east and north includes multi-family residential and commercial uses.
2. Character of Buildings in Area – The character of a majority of the buildings along Cleveland Road (S.R. 23) and Gumwood Road are commercial. The buildings north and east of the subject property are predominantly multi-family residential with limited commercial use. Single-family residential uses are located approximately 400' to the west within unincorporated St. Joseph County.
3. The most desirable/highest and best use – Due to the existing and permitted multi-family residential and commercial uses that can be developed on vacant property within the adjacent PUDs, the highest and best use of the property is multi-family residential or commercial. The proposed amendment for an elevated water storage tank to support current and future development within the northern part of the City is consistent with the surrounding existing and permitted land uses.
4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding area. A majority of the property within the adjacent PUDs to the north, west, and south of the area being amended remains undeveloped, but has been approved for various commercial and multi-family residential use. Existing commercial and multi-family residential uses are located to the north and east within the Grandview PUD. If approved, the adjacent properties will be protected by the conditions of approval placed on the PUD amendment.

Proposed Ordinance No: _____

Ordinance No: _____

5. Comprehensive Plan – Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

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 _____, 2020, at _____ o'clock _____.M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2020, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at _____ o'clock _____.M.

David A. Wood, Mayor

STAFF REPORT

Location: Northwest corner of W. Cleveland Rd. (S.R. 23) & Gumwood Rd.
Part of Lots 3 & 4 of Bauer & Geissler's Plat (Unrecorded)

Date: October 13, 2020

Petition: 20- 07

Prepared By: DJS

GENERAL INFORMATION

Applicant: Mishawaka Utilities, acting by and through the City of Mishawaka
Utility Board

Status: Property Owner

Request: Amend part of City North Wellfield Planned Unit Development (PUD) to allow
for an elevated water storage tank not to exceed 150' in height

Zoning Classification: S-2 Planned Unit Development

Lot Size: 1.435 acres (250'x250' area)

Applicable Regulations: Section 137-671 to 137-679 / S-2 Planned Unit Development District &
Section 137-41 / Amendment to Zoning Ordinance & Zoning Map

SPECIAL INFORMATION

Area Development Pattern: North: S-2 Planned Unit Development (Grandview PUD/Existing Multi-Family Residential and Commercial Uses & City North Wellfield PUD/Vacant Land approved for Mixed Use)

South: S-2 Planned Unit Development (Grandview PUD/Vacant land approved for Multi-Family Residential and Commercial Uses)

East: S-2 Planned Unit Development (Grandview PUD/Multi-Family Residential and Commercial Uses currently under development)

West: S-2 Planned Unit Development (City North Wellfield PUD/Vacant land approved for Mixed Use) & R Single Family Residential (Unincorporated St. Joseph County/Residential)

Thoroughfare: W. Cleveland Road (S.R. 23) & Gumwood Road

School District: South Bend Community School Corporation

Township: Clay

Public Utilities: All utilities will be extended to the site by the City

Comprehensive Plan: Not specifically identified in the Mishawaka 2000 Comprehensive Plan

ANALYSIS

The Applicant, the City of Mishawaka, is requesting to amend a part of the City North Wellfield Planned Unit Development (PUD) to allow for an elevated water storage tank not to exceed 150' in height. The amendment only affects a 1.435 acre area (250'x250') within the boundary of the PUD as shown on the attached location map and conceptual site plan. The property being amended is undeveloped and located

immediately west of the second phase of the Grandview PUD mixed use development currently under construction.

The City North Wellfield PUD, approved in December 2015 (Petition 15-26), limits permitted uses within the amendment area to municipal wellfields, C-1 General Commercial and C-2 Shopping Center Commercial uses, multi-family residential, assisted living, and nursing homes. The PUD only established a range of permitted uses as no specific development plans or uses were considered at the time of approval. This amendment will further limit permitted uses within the 1.435 acre area (250'x250') to include only municipal wellfields and an elevated water storage tank not to exceed 150' in height. Improvements accessory to the permitted uses, including but not limited to, access drives, communication structures and equipment, an overflow basin and tower maintenance area, fencing, lighting, and landscaping shall be allowed. Antenna and equipment attached to the top of the water tower may project above the maximum height.

Since the subject property lacks frontage on an adjacent public right-of-way, access will be provided from Gumwood Road through the Grandview PUD to the east. An ingress/egress and utility easement to include Grandview Drive within the adjacent property was recorded as part of the Grandview PUD Phase II Site Plan (SP 18-B).

The Applicant, Planning Staff, and Great Lakes Capital, the developer of the adjacent Grandview PUD, considered several locations for the water tower within the approximate 18 acre area owned by the City. The selected location was based upon maximizing the distance between the tower site and the single family residential areas approximately 400' to the west and 1080' to the north. Adequate area will remain between the site and the Grandview development to allow for additional mixed-use development. The selected location also provides relatively ease of access from Gumwood Road through Grandview.

The tower site, as shown on the conceptual site plan, was designed to be an amenity for the area by incorporating concrete walking paths, ornamental fencing, and landscaping.

The requested amendment will establish new conditions of approval applicable only to the 1.435 acres being amended with this petition. These conditions are attached as Exhibit A.

The previously approved conditions of approval per Ordinance 5509 shall remain applicable for the balance of the PUD.

Similar to when the original PUD was approved, the Applicant is only proposing to establish, or in this case, amend the permitted uses and basic development requirements for a portion of the planned unit development. If approved, a detailed final planned unit development site plan will be submitted at a later date subject to the administrative review process.

All pertinent City Departments have reviewed and approved the request providing no comments.

RECOMMENDATION

Staff recommends in **favor** of amending a part of the City North Wellfield Planned Unit Development located northwest of W. Cleveland Road (S.R. 23) and Gumwood Road to allow for an elevated water storage tank not to exceed 150' in height in addition to the existing and approved municipal wellfield.

This recommendation is subject to the conditions of approval in the attached Exhibit A and based on the following findings of fact:

1. Existing Conditions – The subject property, being vacant land within the existing City north municipal wellfield, is located along the heavily traveled Cleveland Road (S.R. 23) and Gumwood Road corridors. Vacant land immediately adjacent to the property has been approved for its current and continued use as a municipal wellfield and for future commercial, multi-family residential, assisted living, and nursing home use. The existing Grandview Planned Unit Development to the east and north includes multi-family residential and commercial uses.

2. Character of Buildings in Area – The character of a majority of the buildings along Cleveland Road (S.R. 23) and Gumwood Road are commercial. The buildings north and east of the subject property are predominantly multi-family residential with limited commercial use. Single-family residential uses are located approximately 400' to the west within unincorporated St. Joseph County.
3. The most desirable/highest and best use – Due to the existing and permitted multi-family residential and commercial uses that can be developed on vacant property within the adjacent PUDs, the highest and best use of the property is multi-family residential or commercial. The proposed amendment for an elevated water storage tank to support current and future development within the northern part of the City is consistent with the surrounding existing and permitted land uses.
4. Conservation of property values – The proposed zoning will not be injurious to property values in the surrounding area. A majority of the property within the adjacent PUDs to the north, west, and south of the area being amended remains undeveloped, but has been approved for various commercial and multi-family residential use. Existing commercial and multi-family residential uses are located to the north and east within the Grandview PUD. If approved, the adjacent properties will be protected by the conditions of approval placed on the PUD amendment.
5. Comprehensive Plan – Although this specific property was not guided in the Mishawaka 2000 plan, the petition is reasonably consistent with the goals, objectives and policies of the Comprehensive Plan. The Plan, created in 1990, guided general commercial uses along the Main Street (Gumwood Road extended) corridor. The continued change and expansion of the commercial areas of the City are proportionate to the substantial residential growth that occurred in an almost uncontrolled manner in the unincorporated County from the time of adoption of the Mishawaka 2000 Comprehensive Plan in the early 1990's.

ATTACHMENTS

Aerial Map, Photographs, Exhibit A – Conditions of Approval, Petition, PUD Amendment Exhibit with Context Map & Site Perspectives, Conceptual Site Plan,

**PETITION #20-07
EXHIBIT "A"**

**City of Mishawaka North Well Field
Amendment for Elevated Water Storage Tank
Northwest Gumwood & S.R. 23 Conditions of Approval**

Permitted Uses:

1. Permitted uses shall be limited to municipal well fields and an elevated water storage tank not to exceed 150' in height. Antennas and accessory attachments to the water tower may project above the maximum height.
2. Accessory uses and improvements, including but not limited to, access drives, communication structures and equipment, an overflow basin, and tower maintenance area shall be permitted.
3. Outside storage shall be prohibited excluding materials pertinent to the municipal well field and construction or normal usage of the elevated water storage tank.

Signage:

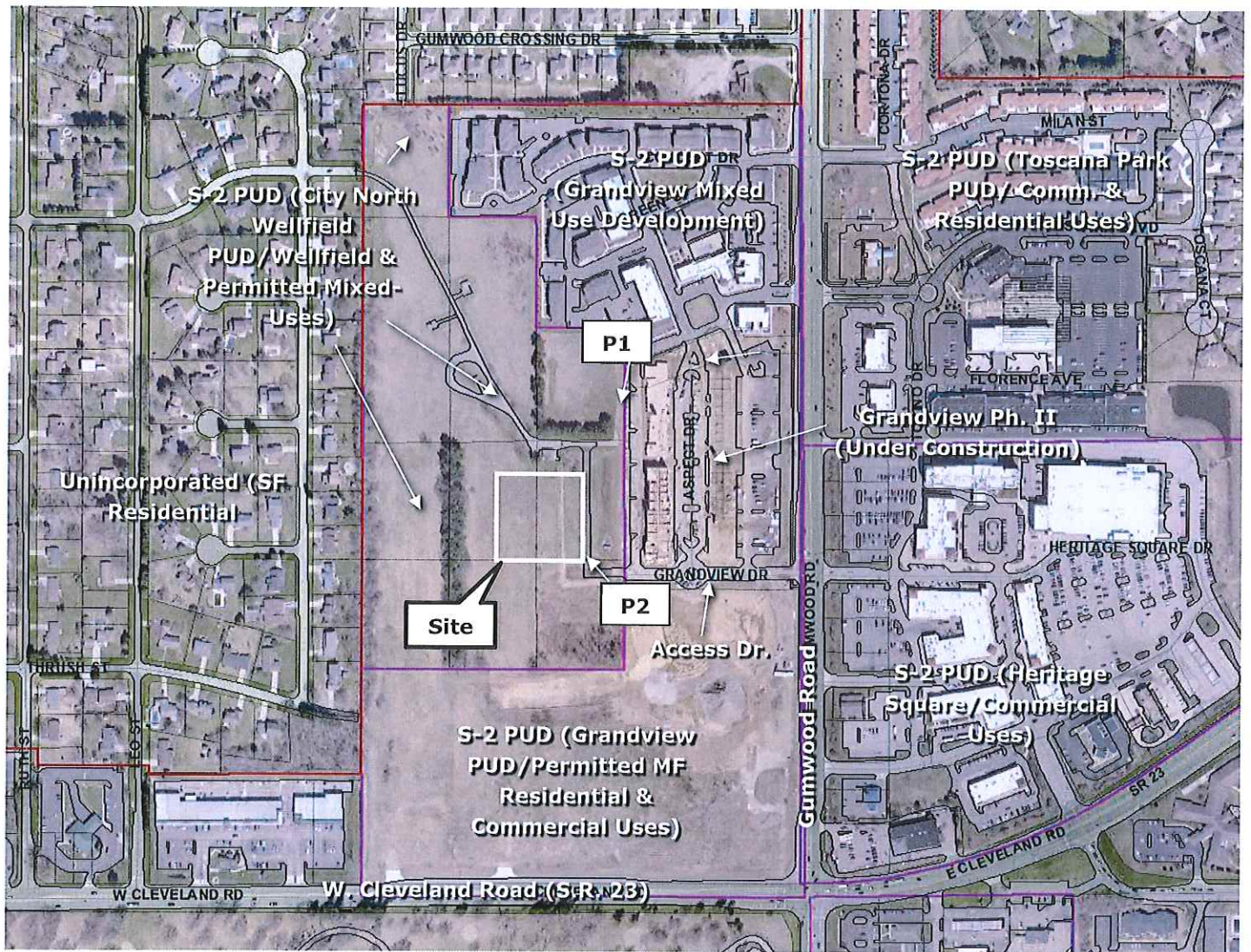
1. All graphics and lettering on the elevated water tank shall be subject to the review and approval of the Board of Public Works and Safety.

Lighting:

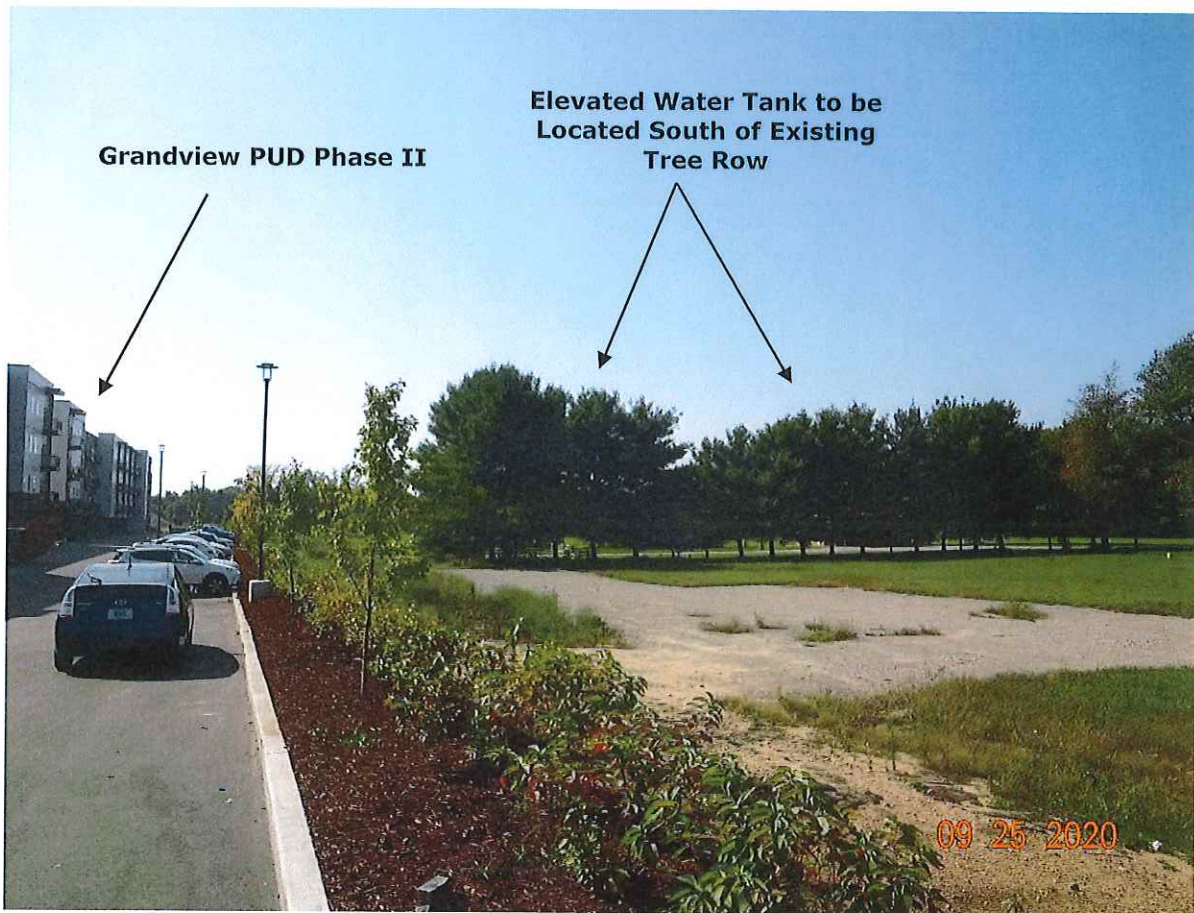
1. All site lighting, excluding lighting fixed to the tower or up-lighting shining on the tower, shall be limited to 25 feet in height. 90-degree cut-off fixtures or city ornamental lighting shall be required for site lighting and wall mounted fixtures. Lighting of the tower shall be mounted as to not shine on the adjacent property.

Landscaping & Screening:

1. Landscaping along the west, north, and east property lines shall be provided as conceptually shown on the preliminary site plan.
2. Ornamental security fencing shall be required around the site perimeter not to exceed 8' in height.



Aerial Map – 1.435 acres within the City North Wellfield PUD
Northwest corner of W. Cleveland Rd. (S.R. 23) & Gumwood Rd.



P1. Looking southerly toward the site from the northwest corner of the Grandview Phase II PUD.



P2. Looking northwest toward the site from southwest corner of the Grandview Phase II PUD.

1st Reading 8-17-20
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

AUG 13 2020

CITY CLERK
MISHAWAKA, IN

PETITION 20-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2020-24

ORDINANCE NO. _____

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 made no recommendation 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:

A PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION" DOCUMENT NO. 0425385 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE WEST ALONG NORTH LINE OF SAID LOT #1, 17.00 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-090502; THENCE NORTH ALONG SAID EAST LOT LINE, 722.10 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF VISTULA ROAD; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1701.16 FEET MORE OR LESS TO THE WEST LOT LINE OF A PARCEL IDENTIFIED AS PARCEL COUNTY ID NUMBER 027-1001-0906; THENCE SOUTH ALONG SAID WEST LOT LINE, 949.46 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE EAST ALONG THE SOUTH LINE OF SAID PARCEL, 303.58 FEET MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF CEDAR ROAD; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY LINE, 1007.89 FEET MORE OR LESS TO THE NORTH LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091604; THENCE WEST ALONG SAID NORTH LOT LINE, 308.00 FEET MORE OR LESS TO THE WEST LINE OF SAID PARCEL; THENCE SOUTH ALONG SAID WEST LOT LINE OF SAID PARCEL, 420.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF LINCOLNWAY EAST; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 306.93 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091602; THENCE NORTH ALONG SAID EAST LINE, 900.00 FEET MORE OR LESS TO THE NORTH LOT LINE OF SAID PARCEL; THENCE WEST ALONG SAID NORTH LOT LINE, 1280.00 FEET MORE OR LESS TO THE EAST LOT LINE OF SAID LOT

Proposed Ordinance No: 20-24

Ordinance No: _____

#1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION"; THENCE NORTH ALONG SAID EAST LOT LINE, 174.00 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 57.16 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant Land South of Vistula Road, West of Cedar Road, and North of Lincolnway East

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to allow a mixed-use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage as follows:

Uses:

Parcel A

1. Multi-Family Residential (Apartment Complex) with a maximum of 162 units

Parcel B

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches

Parcel C

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches
4. I-1 Light Industrial Uses
5. C-1 General Commercial Uses

Separation Requirements:

1. Any self-storage facility (mini-storage) located within Parcel "C" shall have a minimum separation of 30' between any storage buildings and adjacent school, park, church, hospital, and/or residentially-zoned property.

Utilities:

1. The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

Proposed Ordinance No: 20-24

Ordinance No: _____

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. Landscaping/screening for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall be provided as required by the standards of the C-1 General Commercial Zoning District.
2. Any self-service storage facility located within Parcel "C" shall be screened from the adjacent residential property with a combination of a 7' high screen fence and evergreen screening as approved by the Planning Staff.

Signage:

1. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for Parcel "A".
2. Signage for Parcels "B" and "C" shall conform to the sign standards of the most restrictive zoning district in which the land use would otherwise be permitted.

Road Improvements/Right-of-Way Dedication:

1. Road improvements along Vistula Road and Cedar Road shall be installed as determined by the Department of Engineering.
2. Additional right-of-way shall be required along Vistula Road, Cedar Road, and the connector road to Lincolnway East as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of each subdivision plat or separate deed of dedication document, if deemed appropriate.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.

Architectural Requirements:

1. Building materials and colors for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall comply with the C-1 General Commercial Zoning District.

Pedestrian Access/Circulation

1. A sidewalk shall be installed along the south side of Vistula Road within the dedicated right-of-way and along the entire property frontage with each phase of the development.

Proposed Ordinance No: 20-24

Ordinance No: _____

Other:

1. All other developmental standards not identified shall comply with height, area, and developmental regulations of the most restrictive zoning district in which the land use would be otherwise permitted.

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

1. Existing Conditions – The subject parcel is vacant agricultural land located within an area of varying land uses including multi-family and single-family residential, commercial, industrial, and agricultural.
2. Character of Buildings – The character of the buildings within the surrounding area is mixed with multi-family and single-family residential buildings to the north, west, and east; a multi-tenant commercial strip center to the southwest; and industrial and medical offices to the south.
3. The most desirable/highest and best use – Because of the parcel's proximity to existing multi-family and single-family residential uses to the north, west, and east; commercial uses to the southwest; and industrial and medical uses to the south; the most desirable use for the property is for mixed uses as proposed. Furthermore, the Bercado Farms PUD shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor and outdoor facilities), and area shopping center (clothing, shoes, furniture, restaurants, etc).
4. Conservation of property values - The proposed PUD amendment should not be injurious to property values in the surrounding area. The proposed mix of land uses are compatible with and a logical extension of the adjacent existing uses. A majority of the property and proposed land uses are subject to landscaping/screening requirements.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identified medium density residential (apartment complexes & nursing Facilities) and industrial (manufacturing, warehousing, and distribution) as the preferred land use.

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 _____, 2020, at _____ o'clock ____M.

Presiding Officer

Proposed Ordinance No: 20-24

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2020, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2020, at
_____ o'clock _____.M.

David A. Wood, Mayor

DHA

Danch, Harner & Associates, Inc.

Land Surveyors ■ Professional Engineers

Landscape Architects ■ Land Planners

Office: (574)234-4003 / (800)594-4003 ■ Fax: (574)234-4009

1643 Commerce Drive ■ South Bend, IN 46628

City of Mishawaka Common Council
Attn: Mr. Greg Hixenbaugh- Council President
600 East Third Street
Mishawaka, Indiana 46544

October 19, 2020

RE: Mishawaka Plan Commission Petition No. 20-12
Mervin D. Lung Revocable Trust request to Amend
Bercado Planned Unit Development, Vistula Road,
Mishawaka, Indiana:

Dear Mr. Hixenbaugh:

On behalf of our clients, we are requesting a public hearing before the Mishawaka Common Council at its first public hearing in November (i.e. Monday November 2nd, 2020 or Wednesday November 4th, 2020) for Mishawaka Plan Commission Petition 20-12, for our clients, Mervin D. Lung Revocable Trust. This Petition is a request to amend the existing Bercado Planned Unit Development located on property south of Vistula Road and west of Cedar Road, Mishawaka, Indiana.

If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

Michael J. Danch

Michael J. Danch
President
Danch, Harner & Associates, Inc.

Cc: Jeff Johnson, Noah Davey

STAFF REPORT

Location: Vacant Land South of Vistula Road, West of Cedar Road &
North of Lincolnway East

Date: ~~June 9, 2020~~ ^{AUG 11, 2020}

Petition: 20- 12

Prepared By: DJS

GENERAL INFORMATION

Applicant:	Mervin D. Lung Revocable Trust / In Good Company / Danch Harner & Associates
Status:	Property Owner / Contingent Developer of Parcel "A" / Site Design Consultant
Request:	Amend a part of the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage
Zoning Classification:	S-2 Planned Unit Development
Lot Size:	57.16 acres
Applicable Regulations:	Section 137-671 thru 137-679 / S-2 Planned Unit Development District; Section 137-41 / Amendments to the Zoning Map

SPECIAL INFORMATION

Area Development Pattern:	North:	S-2 Planned Unit Development (Medical Offices/Beacon Medical Group, Multi-Family Residential/River Pointe Apartments, and Single-Family Residential)
	South:	S-2 Planned Unit Development (Light Industrial/Patrick Metals & Elixir Industries, and Medical/Osceola Clinic)
	East:	S-2 Planned Unit Development (Church/Cedar Road Missionary & Single Family Residential) & Unincorporated St. Joseph County (Residential)
	West:	S-2 Planned Unit Development (Multi-Family Residential/Reflections Apartments & Multi-Tenant Commercial/Bittersweet Plaza)
Thoroughfare:	Vistula Road, Cedar Road & Lincolnway East	
School District:	Penn-Harris-Madison School Corporation	
Township:	Penn	
Public Utilities:	All public utilities are available and/or will be extended to/throughout the site at the developer's expense	
Comprehensive Plan:	Medium Density Residential (Apartment Complexes & Nursing Facilities) & Industrial (Manufacturing, Warehousing and Distribution)	

ANALYSIS

The Petitioner is requesting to amend part of the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage. The property is generally bound by Vistula Road to the north, Cedar Street to the east, Lincolnway East to the south, and multi-family residential and commercial development to the west. The property is currently vacant agricultural land.

Parcel "A" – First Phase of the Development - In Good Company, Contingent Developer

As indicated on the Preliminary Planned Unit Development site plan, the property will include three separate parcels with specific land uses identified for each parcel.

Parcel "A", which is an approximate 20.75 acre area within the west part of the site, is proposed for multi-family residential development (apartment complex) with a maximum of 162 units. *This parcel will be the first phase of the development and is the primary reason the PUD amendment is being requested.* A prior PUD amendment (Petition 18-09) was considered for this parcel in 2018 when proposed for development by the same contingent purchaser as a 205 unit multi-family residential complex. The amendment request was withdrawn by the petitioner prior to consideration by the Common Council.

Parcels "B" & "C" – Future Phases of the Development – No Immediate Development Plans

Although there are no immediate plans for developing Parcels "B" and "C", Planning Staff requested that all property currently owned by the applicant be included in the amendment request. The reason for including these parcels is to establish a range of permitted uses on the remaining land that are compatible with the adjacent land uses.

Parcel "B" is an approximate 13.95 acre area located south of Vistula Road within the northeast part of the property. Specific land uses proposed for this parcel include single-family residential, condominiums, rental or owner occupied senior cottages (not to exceed a density of 5 units per acre), nursing homes, assisted living, independent senior living apartments (no density requirements limited to 2 stories or 35' in height), and churches.

Parcel "C", which is an approximate 22.46 acre area, is located within the southeast part of the property with frontage on both Cedar Road and Lincolnway East. Specific land uses proposed for this parcel include single-family residential, condominiums, rental or owner occupied senior cottages, nursing homes, assisted living, independent senior living apartments, churches, I-1 Light Industrial District permitted uses, and C-1 General Commercial District permitted uses. The petitioner also seeks relief from the separation requirement for any self-service storage facility (mini-storage) located within this parcel. The I-1 District requires that such facilities shall be a minimum of 250' from any school, park, church, hospital, and/or residentially-zoned property. The minimum setback being requested is 30' between any storage facility building and such adjacent use.

A detailed landscape plan conforming to the C-1 General Commercial District requirements shall be submitted with all Final Planned Unit Development site plans for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses, and will subject to review and approval by the Planning Staff. Any self-service storage facility (mini-storage) located within Parcel "C" shall be adequately screened from all adjacent residential properties to the east of Cedar Road. The landscaping/screening shall include a combination of a 7' high solid screening fence and evergreen screening as approved by the Planning Staff.

The applicants are proposing one access off of Vistula Road to serve Parcel "A". As indicated in the Staff report for the prior PUD amendment, emergency access shall be provided along both Vistula Road and from the apartment complex to the west. All drives and parking lots interior to Parcel "A" will be privately owned and maintained. One access is proposed for Parcel "B" off of Vistula Road. Two points of access are proposed for Parcel "C" with one along Cedar Road and one connecting to an existing ingress/egress easement within the commercial property at the northwest corner of Cedar Road and Lincolnway East.

The streets and access drives within Parcels "B" and "C" will likely be a combination of public right-of-way and private drives dependent upon the specific land use.

Excluding the reduction in the separation requirement for a self-service storage facility, as referenced above, any land use specifically permitted shall adhere to the applicable height, area, and development regulations of the most restrictive zoning district in which the use would be otherwise permitted. If deviations from these standards are proposed as a part of the Final Planned Unit Development site plan, the proper variances will need to be submitted to and approved by the Board of Zoning Appeals.

Prior to filing the petition, Planning Staff met with the applicant's representatives and requested that a neighborhood meeting be held to discuss development plans with the nearby property owners. Due to COVID 19, this meeting did not occur. However, the attached letter was mailed or hand delivered to all property owners within 300' of the subject property and within the River Point Estates subdivision and River Isle Condominium development.

At this time, the applicants are only proposing to amend a previously approved PUD to allow for a range of permitted uses. *The Bercado Farms PUD, as attached, shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor & outdoor tennis courts, paddle tennis courts, and handball), and an area shopping center (clothing, shoes, furniture, restaurants, etc).*

If approved, a detailed Final Planned Unit Development site plan must be submitted for each phase of the development to address all the applicable zoning (height, area, and development regulations), utility (sanitary sewer, water, storm drainage, electric, gas, etc.), landscaping/screening, grading, erosion control, and any other required improvements. Multiple subdivision plats will also be required to establish legal lots of record and separate ownership for each phase of the development.

All pertinent City Departments have reviewed and approved the Preliminary Planned Unit Development site plan.

The Engineering Department provided several comments that shall be addressed with all Final Planned Unit Development site plans and subdivision plats.

RECOMMENDATION

Staff recommends **approval** of Petition 20-12 to amend a part the Bercado PUD to allow a mixed use development consisting of multi-family residential, single-family residential, condominiums, senior cottages, nursing homes, assisted living, independent senior living apartments, churches, light industrial, commercial, and mini self-storage subject to the following conditions:

Uses:

Parcel A

1. Multi-Family Residential (Apartment Complex) with a maximum of 162 units

Parcel B

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)
2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches

Parcel C

1. Single-Family, condominiums, rental or owner occupied senior cottages (Not to exceed a density of 5 units per acre)

2. Nursing homes, assisted living, independent senior living apartments (No density requirements and limited to 2 stories or 35' in height.)
3. Churches
4. I-1 Light Industrial Uses
5. C-1 General Commercial Uses

Separation Requirements:

1. Any self-storage facility (mini-storage) located within Parcel "C" shall have a minimum separation of 30' between any storage buildings and adjacent school, park, church, hospital, and/or residentially-zoned property.

Utilities:

1. The developer shall connect to the City of Mishawaka sanitary sewer, water, and electric as directed by applicable codes, the City Director of Engineering, the Manager of the Water Division, and the Manager of the Electric Division. The costs associated with the extension/connection shall be the responsibility of the applicant/developer.
2. The extension of all other utilities to and throughout all parcels shall be applicant/developer's cost and expense.

Stormwater Management Infrastructure:

1. The type of stormwater facilities proposed for each parcel and/or phase of the development shall be designed in accordance with applicable codes and as directed by the City Director of Engineering.

Landscaping/Screening:

1. Landscaping/screening for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall be provided as required by the standards of the C-1 General Commercial Zoning District.
2. Any self-service storage facility located within Parcel "C" shall be screened from the adjacent residential property with a combination of a 7' high screen fence and evergreen screening as approved by the Planning Staff.

Signage:

1. One monument sign not exceeding 8' in height and 60 square feet in area shall be permitted for Parcel "A".
2. Signage for Parcels "B" and "C" shall conform to the sign standards of the most restrictive zoning district in which the land use would otherwise be permitted.

Road Improvements/Right-of-Way Dedication:

1. Road improvements along Vistula Road and Cedar Road shall be installed as determined by the Department of Engineering.
2. Additional right-of-way shall be required along Vistula Road, Cedar Road, and the connector road to Lincolnway East as determined by review of the City Director of Engineering and City Planner. The right-of-way shall be dedicated as a part of each subdivision plat or separate deed of dedication document, if deemed appropriate.

Lighting:

1. All site lighting shall be limited to 25 feet in height. 90-degree cut-off fixtures shall be required for both pole and wall mounted fixtures. The current City Ornamental street light standard may also be substituted by the developer in lieu of the cut-off fixture requirement noted above.

Architectural Requirements:

1. Building materials and colors for any multi-family residential, nursing homes, assisted living, independent senior living apartments, and C-1 District permitted uses shall comply with the C-1 General Commercial Zoning District.

Pedestrian Access/Circulation

1. A sidewalk shall be installed along the south side of Vistula Road within the dedicated right-of-way and along the entire property frontage with each phase of the development.

Other:

1. All other developmental standards not identified shall comply with height, area, and developmental regulations of the most restrictive zoning district in which the land use would be otherwise permitted.

This recommendation is based on the following findings of fact:

1. Existing Conditions – The subject parcel is vacant agricultural land located within an area of varying land uses including multi-family and single-family residential, commercial, industrial, and agricultural.
2. Character of Buildings – The character of the buildings within the surrounding area is mixed with multi-family and single-family residential buildings to the north, west, and east; a multi-tenant commercial strip center to the southwest; and industrial and medical offices to the south.
3. The most desirable/highest and best use – Because of the parcel's proximity to existing multi-family and single-family residential uses to the north, west, and east; commercial uses to the southwest; and industrial and medical uses to the south; the most desirable use for the property is for mixed uses as proposed. Furthermore, the Bercado Farms PUD shows that the part of the PUD to be amended was originally approved for medium density residential development (apartments, condominiums, and related services and recreational areas), a recreational center (indoor and outdoor facilities), and area shopping center (clothing, shoes, furniture, restaurants, etc).
4. Conservation of property values - The proposed PUD amendment should not be injurious to property values in the surrounding area. The proposed mix of land uses are compatible with and a logical extension of the adjacent existing uses. A majority of the property and proposed land uses are subject to landscaping/screening requirements.
5. Comprehensive Plan – The Mishawaka 2000 Comprehensive Plan identified medium density residential (apartment complexes & nursing Facilities) and industrial (manufacturing, warehousing, and distribution) as the preferred land use.

ATTACHMENTS

Aerial, Photograph(s), Petition, Preliminary Planned Unit Development Site Plan, Original Approved Bercado Farms PUD (9/12/72), Letter to Adjacent Property Owners from Applicant (Dated 6/3/2020), Location Map



Aerial Photograph
 Proposed Mixed Use Development
 South of Vistula Road, East of Cedar Road, and North of Lincolnway East



P1. Looking northeasterly along Vistula Road from the northwest corner of Parcel "A".



P3. Looking easterly toward Parcel "A" from the Reflections Apartment complex to the east.



P3. Looking southwesterly along Vistula Road toward the northern part of Parcel "A".



P4. Looking northeasterly along Vistula Road toward the northern part of Parcel "B".



P5. Looking southwesterly from Cedar Street and the northeast corner of Parcel "C".



P6. Looking westerly along Lincolnway East toward the southern part of Parcel "C".



P7. Looking northerly from Lincolnway East along an east property line of Parcel "C" and an access drive for the adjacent medical offices.

RECEIVED
DEBORAH S. BLOCK, MMC

MAY 26 2020

CITY CLERK
MISHAWAKA, IN

DATE: MARCH 20, 2020

TO THE:

HONORABLE MEMBERS OF THE COMMON COUNCIL
CITY OF MISHAWAKA, INDIANA

RE: PETITION FOR AN AMENDED PUD (BERCADO FARMS PUD):

THE UNDERSIGNED MERVIN D. LUNG REVOCABLE TRUST, RESPECTFULLY SHOW THAT HE IS THE OWNER OF THE FOLLOWING DESCRIBED REAL ESTATE LOCATED IN THE CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA:

A PART OF THE SOUTHEAST QUARTER OF SECTION 7 AND THE NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST, CITY OF MISHAWAKA, PENN TOWNSHIP, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: BEGINNING AT THE NORTHEAST CORNER OF LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION" DOCUMENT NO. 0425385 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE WEST ALONG NORTH LINE OF SAID LOT #1, 17.00 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-090502; THENCE NORTH ALONG SAID EAST LOT LINE, 722.10 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF VISTULA ROAD; THENCE NORTHEASTERLY ALONG SAID SOUTH RIGHT-OF-WAY LINE, 1701.16 FEET MORE OR LESS TO THE WEST LOT LINE OF A PARCEL IDENTIFIED AS PARCEL COUNTY ID NUMBER 027-1001-0906; THENCE SOUTH ALONG SAID WEST LOT LINE, 949.46 FEET MORE OR LESS TO THE SOUTHWEST CORNER OF SAID PARCEL; THENCE EAST ALONG THE SOUTH LINE OF SAID PARCEL, 303.58 FEET MORE OR LESS TO THE WEST RIGHT-OF-WAY LINE OF CEDAR ROAD; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY LINE, 1007.89 FEET MORE OR LESS TO THE NORTH LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091604; THENCE WEST ALONG SAID NORTH LOT LINE, 308.00 FEET MORE OR LESS TO THE WEST LINE OF SAID PARCEL; THENCE SOUTH ALONG SAID WEST LOT LINE OF SAID PARCEL, 420.00 FEET MORE OR LESS TO THE NORTH RIGHT-OF-WAY LINE OF LINCOLNWAY EAST; THENCE WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, 306.93 FEET MORE OR LESS TO THE EAST LOT LINE OF A PARCEL IDENTIFIED AS COUNTY PARCEL ID NUMBER 027-1001-091602; THENCE NORTH ALONG SAID EAST LINE, 900.00 FEET MORE OR LESS TO THE NORTH LOT LINE OF SAID PARCEL; THENCE WEST ALONG SAID NORTH LOT LINE, 1280.00 FEET MORE OR LESS TO THE EAST LOT LINE OF SAID LOT #1 OF THE PLAT OF "NATIONAL CITY BANK SUBDIVISION"; THENCE



NORTH ALONG SAID EAST LOT LINE, 174.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.
CONTAINING 57.16 ACRES MORE OR LESS.
SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

THE ABOVE DESCRIBED PARCEL OF LAND IS PRESENTLY ZONED "S-2" PLANNED UNIT DEVELOPMENT DISTRICT AND CONSISTS OF VACANT LAND WITH AGRICULTURAL USE.

THE PETITIONER DESIRES TO AMEND THE EXISTING PLANNED UNIT DEVELOPMENT FOR SAID REAL ESTATE TO BE ALLOWED THE FOLLOWING USES:

A. PARCEL 'A'

- 1) MULTI-FAMILY RESIDENTIAL (162 UNITS)

B. PARCEL 'B'

- 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 5 UNITS PER ACRE)
- 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS. LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
- 3) CHURCHES

C. PARCEL 'C'

- 1) SINGLE-FAMILY, CONDOMINIUMS, RENTAL OR OWNER OCCUPIED SENIOR COTTAGES
- 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
- 3) CHURCHES
- 4) I-1 LIGHT INDUSTRIAL USES
- 5) C-1 GENERAL COMMERCIAL USES
- 6) SPECIFIC ALLOWED SETBACK REQUIREMENT FLEXIBILITY: SELF-SERVICE STORAGE FACILITY, MINI STORAGE SHALL BE ALLOWED TO HAVE A MINIMUM SEPARATION OF STORAGE BUILDINGS FROM A SCHOOL, PARK, CHURCH, HOSPITAL, AND/OR RESIDENTIALLY-ZONED PROPERTY OF AT LEAST 30 FEET, WITH SCREENING IN THE 30 FEET CONTAINING A MIX OF A MINIMUM 7 FT. HIGH SOLID SCREENING FENCE AND EVERGREEN SCREENING AS APPROVED BY THE CITY PLANNING STAFF.

WHEREFORE, THE PETITIONER PRAYS 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 THE REZONING THE ABOVE DESCRIBED

CONTACT PERSON:

DANCH, HARNER & ASSOCIATES, INC.
1643 COMMERCE DRIVE
SOUTH BEND, INDIANA 46628
(574) 234-4003

LAKE CITY BANK
BY: *Quinn King* VICE PRESIDENT TRUST OFFICER

MERVIN D. LUNG REVOCABLE TRUST
707 RIVER POINTE PLACE
MISHAWAKA, INDIANA 46544

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مجلس شورای ملی
شماره ۱۰۰
تاریخ ۱۳۰۲

PROFESSIONAL OFFICE SUPPLIES

אמנת ארצות ישראל ופיקוד המבחן (1948)
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1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific information required.

1. The first part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them. The list includes names such as "Mr. J. H. Smith", "Mr. W. H. Jones", and "Mr. R. H. Brown".

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1. అవగాహన - అర్థం చేసుకోవడం

۱. در صورتی که در این مورد، هیچ گونه اقدامی صورت نگیرد، این سند به عنوان سند معتبر و قابل استناد خواهد بود.

• שנת ה'תשס"ב •

19.05.2024

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TOTAL LOSS: \$6.5

1952 1953 1954

1. The first part of the document is a list of names and dates, which appears to be a record of some kind. The names are written in a cursive script, and the dates are in a more formal, printed style. The list is organized into two columns, with names on the left and dates on the right. The names are: "John Smith", "Jane Doe", "Robert Johnson", "Mary White", "Thomas Brown", "Elizabeth Black", "William Green", "Margaret Grey", "Charles Hall", "Anna Lee", "James King", "Sarah Miller", "George Taylor", "Rebecca Young", "Benjamin Clark", "Helen Adams", "Richard Scott", "Lucy Baker", "Samuel Wilson", "Alice Cooper", "David Evans", "Frances Hill", "Nathan Moore", "Sophia Lewis", "Ethan Walker", "Olivia Reed", "Jacob Turner", "Isabella King", "Noah Wright", "Charlotte Hall", "Liam King", "Amelia King", "Caleb King", "Evelyn King", "Hudson King", "Lillian King", "Nathan King", "Olivia King", "Percy King", "Rebecca King", "Samuel King", "Sophia King", "Theodore King", "Victoria King", "William King", "Xavier King", "Yvonne King", "Zachary King". 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DEVELOPED - WILLIAM EISELER, RAY L. WATKINS - JAMES LOCKER

ORIGINAL APPROVED PUD (9/15/72) SHOWS MEDIUM DENSITY RESIDENTIAL (APARTMENTS AND CONDOMINIUMS), A RECREATIONAL CENTER, AND A SHOPPING CENTER IN THE AREA TO BE AMENDED

LETTER TO ADJACENT PROPERTY OWNERS FROM APPLICANT

June 3, 2020

RE: Planned Unit Development Amendment of the Bercado Farms Planned Unit Development

Good day,

In light of the unique times we are currently navigating (COVID19) and in deference to our collective well-being we wanted to send an informational letter instead of inviting each of you, or neighborhood representatives for that matter, to a meeting. The purpose of this letter is to update you on the proposed amendment to the Bercado Farms Planned Unit Development (a.k.a. PUD). This PUD was initially created in the 1970's (See "Exhibit A – Bercado Farms Original 1970's PUD Plan") which is one of the oldest PUDs in the City of Mishawaka and due to that nuance and at the request of the City we are working to update and therefore amend the PUD. We know we had the chance to meet many of you at the Penn Harris Library months ago to discuss modification to this PUD and have since taken all feedback from that meeting into account in proposing a modified PUD as follows.

Enclosed you will find a preliminary PUD Amendment (See "Exhibit B – Bercado Farms Preliminary PUD Amendment"). This preliminary PUD Amendment is a result of solicited feedback from you and a subsequent meeting of the owner's representatives, the proposed and respected apartment community developer (In Good Company – IGC – www.igcre.com) and Ken Price at Mishawaka City Planning. Prior to the meeting with City Planning and following the meeting with neighbors, held at Penn Harris Library, the proposed purchasers of the northwest portion of the Bercado Farms PUD, IGC, and the owners of the remaining ground within the Bercado Farms PUD (the Dorothy Lung Estate) have proposed to voluntarily make the following modifications...

Density:

The original density allowed per the 1970's PUD is 15 units per acre (See area **C – Medium Density Residential** as defined and depicted in "Exhibit A"). To accommodate concerns voiced by neighbors relating to density of living in the area, the buyer IGC, has reduced the number of apartment units proposed to be built on the 20 acres in the northwest portion of the PUD. IGC has reduced the number of apartments from the original amount proposed of approximately 205 units (or roughly 10 units per acre) to 162 units or roughly 8 units per acre on 20 acres (See "Exhibit C – 162 Unit Residential Community Plan"). Thus this revised plan as depicted in Exhibit B reduced the density to 8.1 units per acre on 20 acres which is nearly half of the allowable units per acre as defined in the existing PUD from the 1970's of 15 units per acre which would allow 300 units on 20 acres instead of 162 as proposed in the PUD Amendment.

As per the City's request the remainder of the owner's property east and south of IGC's proposed apartment community is being brought in to up-date the PUD simultaneously and to clearly show the intended uses for the remainder of the property (See "Exhibit B"). Additionally to accommodate concerns voiced by neighbors relating to density of living in the area, and in the spirit of fostering goodwill, the owners of the land have offered voluntarily to modify the existing PUD by eliminating the ability to sell any remaining ground to future apartment communities, outside of the proposed 20 acres as shown in Exhibit C. Therefore, the northeast corner of the PUD site as shown in Exhibit B, across from River Pointe Estates, will be limited to lower density uses as listed in Exhibit B. In summary, the owners

have voluntarily offered to limit the amount of apartment units as currently allowed from 38 acres as shown in Exhibit A, the original PUD, to just the 20 acres as depicted in Exhibit B.

Safety/Traffic:

The access to the apartment community is from one driveway opening onto Vistula thus limiting all access/traffic to one drive. Per the City's request, to accommodate safety concerns, there is also a proposed de-acceleration lane to move vehicles entering the site from the eastbound travel lane on Vistula Road. After meeting with the neighbors IGC has decided to move the entry point to the new apartment community further to the west away from the single-family residential homes. As far as the remaining ground east of the new apartment community as shown in Exhibit B, the entry driveway for the lower density residential portion of the PUD was aligned with the driveway to the higher density residential (River Pointe Apartments) at Ventura Drive and west of and away from the existing single-family residential (River Pointe Estates) entry further to the east. The southern portion of the PUD will have a driveway to connect to Lincolnway East. The interior road in the PUD was designed to slow and therefore reduce traffic through the site.

Aesthetics:

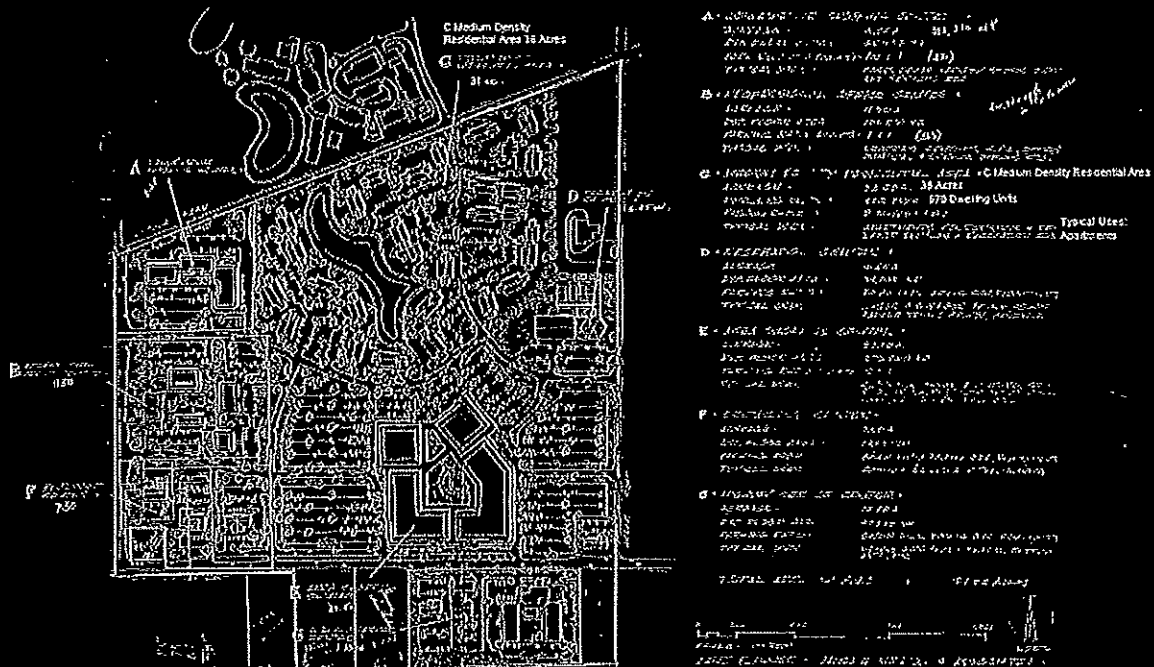
Following the meeting with the neighbors IGC decided to shift their buildings south to create more open space and a green buffer area along with retention ponds as shown in Exhibit C. Additionally, as the desire for walkability was voiced a sidewalk is still proposed along the south side of Vistula Road as shown in Exhibit C. Last enclosed (See "Exhibit D") you will find photographs that are representative of other upscale developments built by IGC showing the exterior design, craftsmanship and aesthetic harmony they employ when constructing new apartment home communities.

We appreciate the opportunity to bring all of you up to speed. Feel free to reach out to us by email with any questions to ndavey@cressy.com and mdanch@danchharner.com and we will do our best to answer any questions.

Sincerely,

Noah Davey (Cressy Commercial Real Estate) and Mike Danch (Danch Harner & Associates)
Representatives for Dorothy Lung Estate & Representatives for In Good Company Real Estate

EXHIBIT A



BERCADO FARMS PLANNED UNIT DEVELOPMENT

DESIGNED BY: [Name] ENGINEER: [Name] ARCHITECT: [Name]

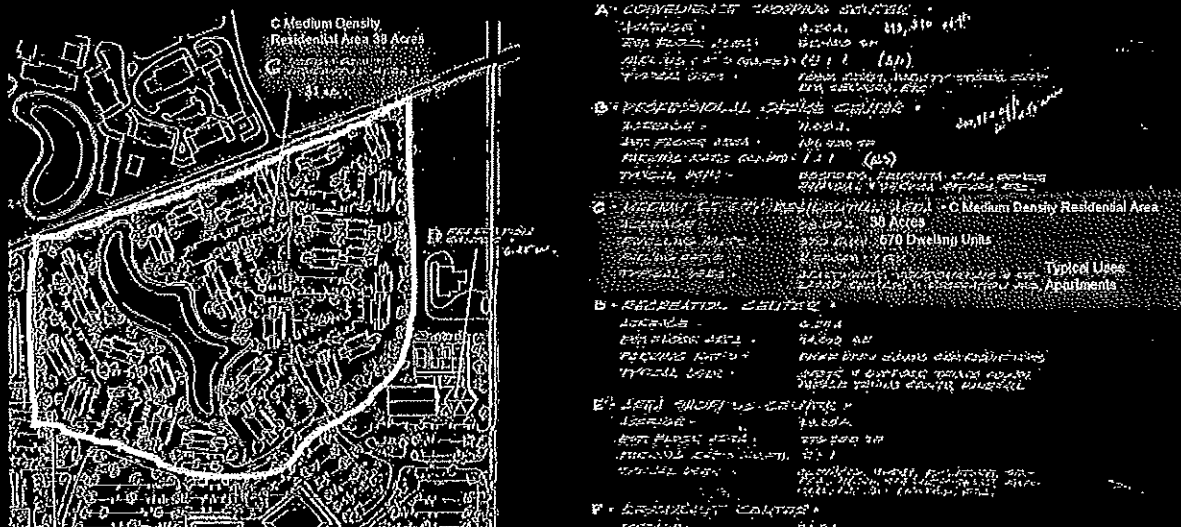


EXHIBIT B

PRELIMINARY PUD SITE PLAN
PART OF THE SOUTHEAST QUARTER OF SECTION 7 & NORTHEAST QUARTER OF SECTION 18, TOWNSHIP 37 NORTH, RANGE 4 EAST,
CITY OF MISHAWAKA, PEARL TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

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(b)(7)(D) FOIA EXEMPT TO DISCLOSE TO THE PUBLIC INFORMATION OF THE SOURCE OF THE INFORMATION

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EXHIBIT B (continued)

DETAILED SITE DATA

- 1). TOTAL ACREAGE OF SITE 57.164 ACRES
 PARCEL 'A' ACREAGE 20.791 ACRES
 PARCEL 'B' ACREAGE 13.934 ACRES
 PARCEL 'C' ACREAGE 22.439 ACRES
- 2). EXISTING LANDUSE VACANT/AGRICULTURE
 PROPOSED LANDUSE PARCEL 'A'
 A) MULTI-FAMILY RESIDENTIAL
 PROPOSED LANDUSE PARCEL 'B'
 A) SINGLE-FAMILY, CONDOMINIUMS, HOTEL OR OTHER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 3 UNITS PER ACRE)
 B) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
 C) CHURCHES
 PROPOSED LANDUSE PARCEL 'C'
 A) SINGLE-FAMILY, CONDOMINIUMS, HOTEL OR OTHER OCCUPIED SENIOR COTTAGES
 B) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
 C) CHURCHES
 D) 1-1 LIGHT INDUSTRIAL USES
 E) 2-1 GENERAL COMMERCIAL USES
- 3). PARKING RATIO REQUIRED BY PUD DEVELOPMENT STANDARDS AND/OR AS DEFINED IN ORDINANCE BY USE.
- 4). MUNICIPAL SANITARY SEWER AND MUNICIPAL WATER AVAILABLE
- 5). SURVEYOR/ENGINEER
 GANGLI, KATHLEEN & ASSOCIATES, INC.
 1643 COUNTRY DRIVE
 SOUTH BEND, INDIANA 46618
- 6). SURFACE RUN-OFF AND DRAINAGE TO BE HANDLED TO MEET THE STANDARDS REQUIRED BY THE CITY OF MISHAWAKA ENGINEERING DEPARTMENT.
- 7). DRAINAGE EXPENSES SHALL CONFORM TO THE CITY OF MISHAWAKA STANDARDS.
- 8). LANDSCAPING PER PUD DEVELOPMENT STANDARDS AND/OR COMMERCIAL CITY OF MISHAWAKA LANDSCAPE ORDINANCE
- 9). SIGNS PER PUD DEVELOPMENT STANDARDS AND/OR AS DEFINED IN ORDINANCE.

DEVELOPED AND UNDEVELOPED REQUEST

TO AVOID THE EXISTING PLANNED UNIT DEVELOPMENT FOR SAID REAL ESTATE TO BE ALLOWED THE FOLLOWING USES:

- A. PARCEL 'A'
 1) MULTI-FAMILY RESIDENTIAL (162 UNITS)
- B. PARCEL 'B'
 1) SINGLE-FAMILY, CONDOMINIUMS, HOTEL OR OTHER OCCUPIED SENIOR COTTAGES (NOT TO EXCEED A DENSITY OF 3 UNITS PER ACRE)
 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS (NO DENSITY REQUIREMENTS, LIMITED TO 2-STORIES AND 35-FT IN HEIGHT)
 3) CHURCHES
- C. PARCEL 'C'
 1) SINGLE-FAMILY, CONDOMINIUMS, HOTEL OR OTHER OCCUPIED SENIOR COTTAGES
 2) NURSING HOMES, ASSISTED LIVING, INDEPENDENT SENIOR LIVING APARTMENTS
 3) CHURCHES
 4) 1-1 LIGHT INDUSTRIAL USES
 5) 2-1 GENERAL COMMERCIAL USES
 6) SPECIFIC ALLOWED STORAGE REQUIREMENTS
 FLEETILITY, SELF-STORAGE STORAGE FACILITY.
 THE STORAGE SHALL BE ALLOWED TO HAVE A MINIMUM SEPARATION OF STORAGE DISTANCE FROM A SCHOOL, PARK, CHURCH, HOSPITAL, AND/OR RESIDENTIALLY ZONED PROPERTY OF AT LEAST 50 FEET, WITH SCREENING IN THE 50 FEET CONTAINING A MIN. OF A MINIMUM 7 FT. HIGH SOLID SCREENING FENCE AND EXTENSION SCREENING AS APPROVED BY THE CITY PLANNING STAFF.

To: Applicant
 City of Mishawaka
 Planning Department
 1000 West Main Street
 South Bend, IN 46618
 Date: 10/1/2018
 By: [Signature]

[illegible]

ITEM _____
CITY _____
STATE _____
ZIP _____
PHONE _____

ICC
320 East 202nd Street
Hickory, NC 28624

LOCATION
Bercado Farms PUD
2020 Multifamily Dev. Plan
Center of the Plan


 Ministry of Education
 Government of India
 New Delhi - 110 016
 India

EXHIBIT D

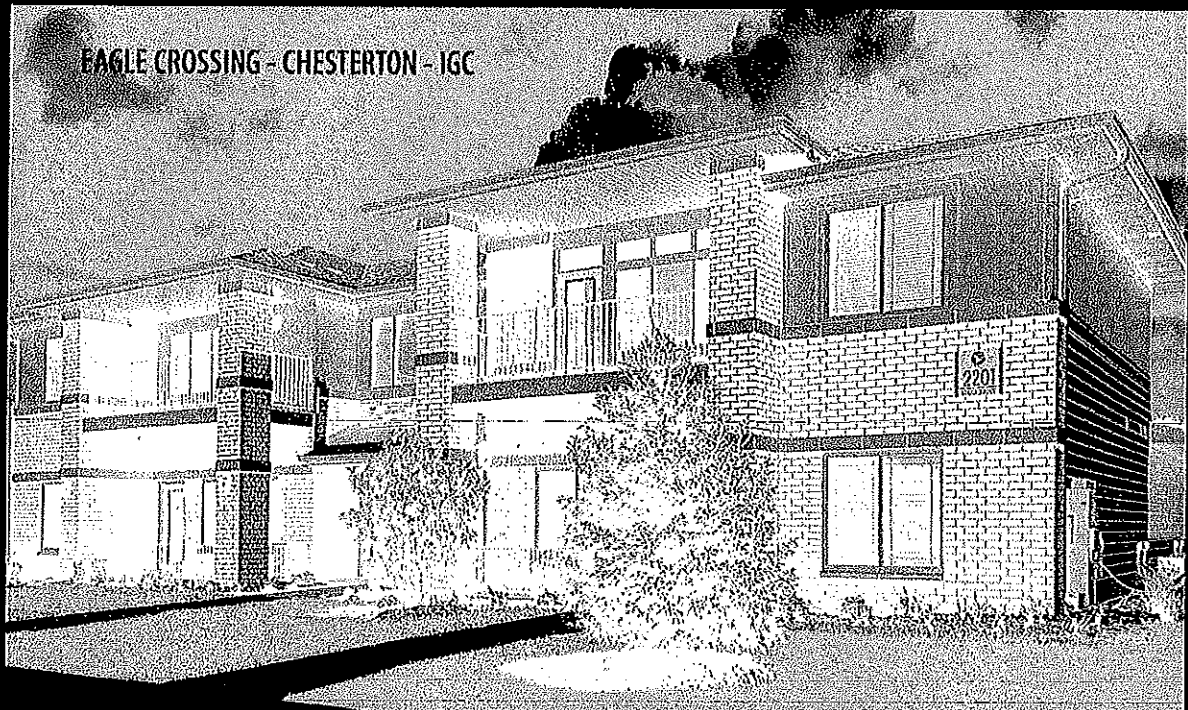
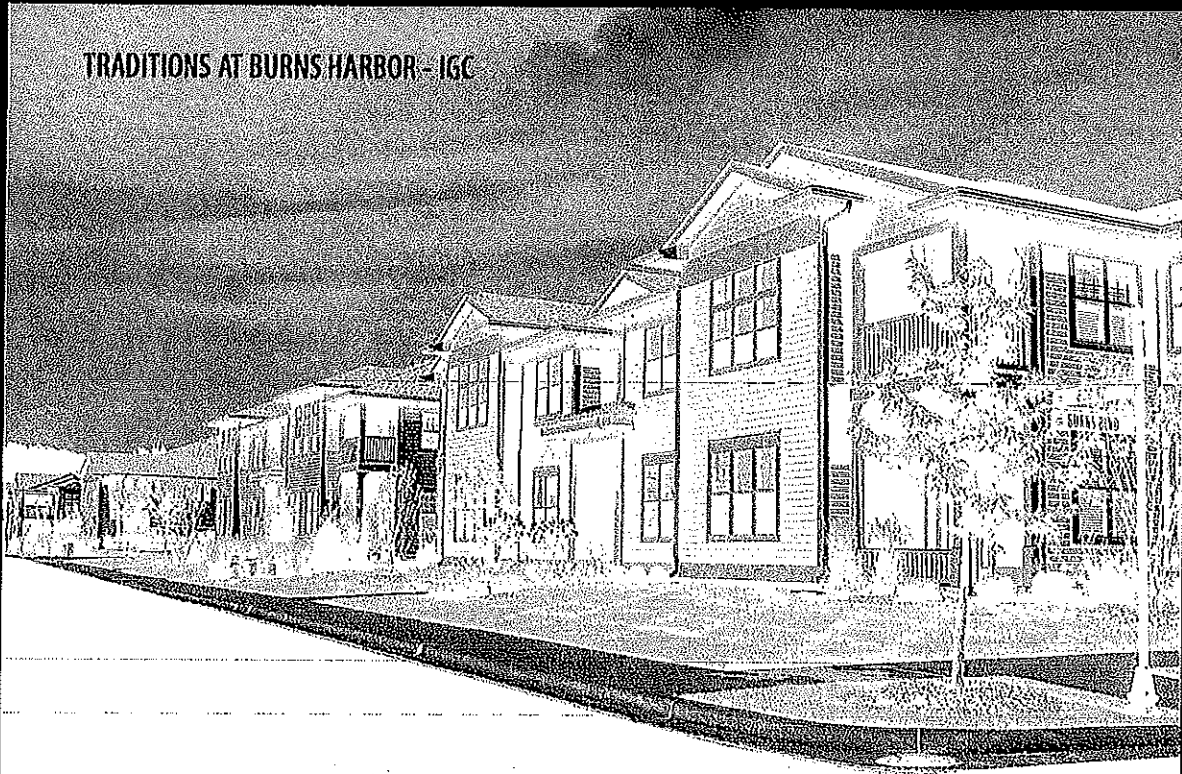


EXHIBIT D (continued)

TRADITIONS AT BURNS HARBOR - IGC



TRADITIONS AT BURNS HARBOR - IGC





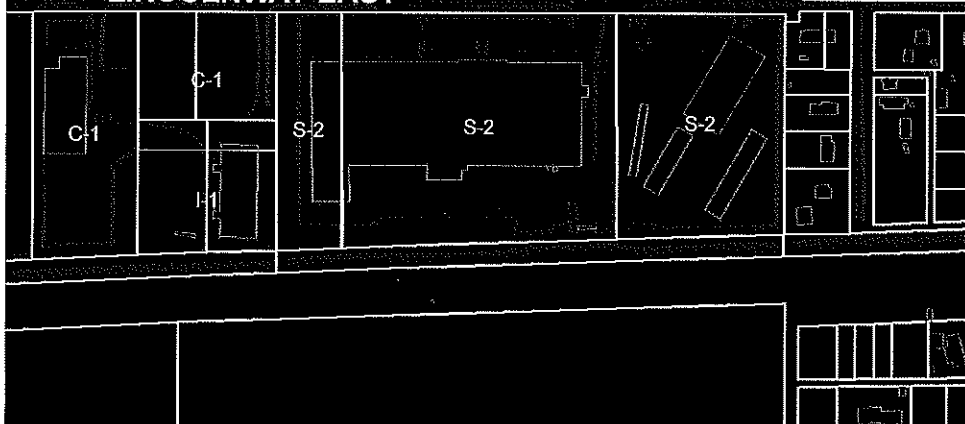
Location Map

PET 20-12

MERVIN D. LUNG REVOCABLE TRUST

VACANT LAND S. OF VISTULA
ROAD & W. OF CEDAR ROAD

PUD AMENDMENT TO ALLOW
FOR A MIXED USE DEVELOPMENT TO
ALLOW RESIDENTIAL, COMMERCIAL,
AND INDUSTRIAL USES



**MAY • OBERFELL • LORBER***A t t o r n e y s*

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E. Spencer Walton, Jr.
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Georgianne M. Walker*
Sean M. Towner*
Wendy K. Walker*

Amanda M. Jordan
K. Foust Hunneshagen
Jon R. Rogers*
Nathan A. Barnes*
Janelle H. Cooper
Matthew J. Anderson

*Also licensed in the
State of Michigan

Mishawaka • Dowagiac

September 4, 2020

Via Facsimile
(574) 258-1728

Mishawaka City Counsel

Re: September 8, 2020 Meeting

Dear Sir or Madam:

The next counsel meeting, currently set for September 8, 2020, contains an agenda item to discuss my client the Mervin Lung Revocable Trust's Petition to Amend a PUD. We are respectfully requesting that this agenda item be postponed and rescheduled to a later meeting in order for us to obtain additional information from residents surrounding the PUD area. Once we have all the information we need, we will request a rescheduling of this matter for the subsequent meeting.

Please contact me to confirm this postponement request.

Sincerely,


Jeffery A. Johnson
jjohnson@maylorber.com

**LEGUS**
INTERNATIONAL, EXPERTS IN LAW FIRES

MAY OBERFELL LORBER
4100 Edison Lakes Parkway, Suite 100
Mishawaka, Indiana 46545
Telephone: (574) 243-4100
Fax: (574) 232-9789

FAX COVER SHEET

DATE: September 4, 2020
FROM: Jeffery A. Johnson
TO: Mishawaka City Counsel

FAX NO.: (574) 258-1728

NUMBER OF PAGES: 2
(including this cover sheet)

MESSAGE:

CASE NAME:

CLIENT NUMBER:
MATTER NUMBER:

☐ Original will follow by mail

☐ Original will not follow by mail.

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Cedar Rd Apartment Proposal

Zach And Kristen Madren <zkmadren@gmail.com>

Wed 9/9/2020 1:11 PM

To: Raven S. Boston <rboston@mishawaka.in.gov>

>>> FROM EXTERNAL SENDER <<<

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

To whom it concerns,

My family and I have recently, as of August 21st, purchased a home in the subdivision on Bay Char St off of Cedar Rd. (The subdivision behind the Casey's)

The news regarding a potential apartment complex is very disheartening. The factors that make this concerning are well documented. This study found that a highly dense renting population lowers home values up to 14%. Which could impact our new home by \$33,600.

See link for reference (<https://www.realtor.com/news/trends/things-that-affect-your-property-value/>)

This area already has significant rental opportunities. This would do nothing to improve the quality of living or appeal to Osceola. What do we want Osceola to be a decade from now?

If this proposal is approved, our family will begin planning on our move from this area.

Thanks for reading and making a thoughtful decision,

Zach and Kristen Madren