AGENDA

May 03, 2021

CONSISTENT WITH THE TERMS OF ST. JOSEPH COUNTY PUBLIC HEALTH ORDER 1-2021 FACEMASKS ARE REQUIRED

Mishawaka School Board Member Amanda Roberts update to council 6:00PM

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:408418-9388
Meeting Number (access code): 173 766 3634
Meeting Password: dWEHZEr3k28

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: **1737663634.mishawaka@lync.webex.com**

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of the Minutes of the Regular Meeting of April 19, 2021

5. Petitions, Communications, Remonstrance and Memorial

Petition No. 2021-04	Right of Way alley vacation 16' wide alley N. of Brown, S. of Catalpa, between Forest and Brown Ave. for length of 215 feet
Petition No. 2021-05	Rezone from C-7 Auto Oriented Restaurant to C-4 Automobile Oriented Commercial – 5603 Grape Road
Petition No. 2021-06	Rezone from C-1 General Commercial to C-Automobile Oriented Restaurant – 2777 Lincoln Way East

6. Report of Special Committee

7. Ordinances on First Reading

P.O. NO. 2021-14 Transfer of Funds and Additional Appropriation
Motor Vehicle Highway Restricted Fund - $386,620.00

TO:
Local Bridge and Road Matching Grant fund

Additional Appropriation of Funds to:
Local Bridge and Road Matching Grant Fund - $765,240.00

P.O. NO. 2021-15 Additional Funds:

Local Road and Street	$250,000.00
MVH Restricted	$750,000.00
	$1,000,000.00

P.O. NO. 2021-16 Establishing the ARP Coronavirus Local Fiscal Recovery Grant Fund

8. Resolutions

R2021-11 Approving Lease Agreement Between Mishawaka Redevelopment Authority and Mishawaka Redevelopment Commission and Approving Issuance of Lease Rental Revenue Bonds

9. Ordinances on Second Reading

P.O. NO. 2021-13 Rezone from C-1 to R-1 – 1803 Lincoln Way West
(Assigned to Land Use Planning Committee)

10. Privilege of the Floor – Non-Agenda Items

11. Unfinished Business

12. New Business

13. Adjournment –

This meeting will be aired via Live stream:

An archived version of the livestream video can be viewed on the city of Mishawaka's Facebook page, **https://www.facebook.com/cityofmishawaka/** and also on the Michiana Access TV Facebook page, **https://www.facebook.com/MichianaAccessTV**

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.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

April 19, 2021

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, April 19, 2021 at 7:00PM. The meeting was called to order by President 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 as well as the 8 Hoosiers who lost their lives as a result of the shooting at the FedEx facility in Indianapolis on April 15, 2021.

Roll Call.
Present: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh.
(Mr. Banicki and Mr. Mammolenti participated remotely)

Others Present: Clerk Block and Mike Trippel, Council Attorney.

Minutes for the Regular Meeting of April 12, 2021 were approved as received from the Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the City Plan Commission regarding their recommendations from their April 13, 2021 meeting.

APPEAL NO. 21-04 An appeal submitted by Trion LLC an Indiana Limited Liability Company requesting a Use Variance for **110-112 North Main Street** to permit a tattoo studio on a portion of the second floor.

The Board, with a vote of 4-0, recommended approval.

PETITION NO.21-03 A petition submitted by Morgan E. Mick requesting to rezone **1803 Lincolnway West** from C-1 General Commercial District to R-1 Single Family Residential District.

The Commission, with a vote of 8-0, recommended approval.

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

<u>PROPOSED ORDINANCE NO. 2021-13</u>

AN ORDINANCE AMENDING CHAPTER 137 OF THE MUNICIPAL CODE OF THE

CITY OF MISHAWAKA, INDIANA, AS FROM TIME TO TIME AMENDED, COMMONLY KNOWN AS "THE ZONING ORDINANCE OF 1966" OF THE CITY OF MISHAWAKA, INDIANA.
Rezone from C-1 to R-1 – 1803 Lincolnway West
(Assigned to Land Use Planning Committee)

Clerk Block read the following proposed resolution by title and opened the public hearing.

RESOLUTION R2021-10

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A PETITION OF THE MISHAWAKA BOARD OF ZONING APPEALS FOR THE PROPERTY LOCATED AT: 110-112 N MAIN STREET IN MISHAWAKA, INDIANA
Use Variance to allow Tattoo Studio – 110-112 N. Main St.

Charles Trippel, 2002 Linden Avenue, spoke in favor of **RESOLUTION R2021-10**. Mr. Trippel began stating he was there to ask for the council's approval to allow a tattoo studio on a portion of the second floor at 110-112 North Main Street in a building he owned. Mr. Trippel stated he would be glad to answer any questions they had and the tattoo artist was also present to answer any specific questions about the business he was proposing to run in that space.

Mr. Compton asked what the access was to their upstairs and if it was from Main Street. Mr. Trippel stated it was from Main Street. Mr. Compton also asked if there was a separate side door. Mr. Trippel there was a separate entrance along with three front entrances on the building. Mr. Compton thanked Mr. Trippel and wished him good luck.

Mrs. Voelker asked if the building at 110-112 North Main Street was the only building he owned on the block and if it was multiple buildings. Mr. Trippel stated it was and it was one building.

Mr. Hixenbaugh thanked Mr. Trippel for the work he and his family done over the years to invest in the upkeep and maintenance of that building. Mr. Hixenbaugh stated it was a historic building that was a valued part of their downtown and it had been improved significantly based upon the blood, sweat, tears and money he had invested in it. Mr. Hixenbaugh concluded thanking Mr. Trippel for being a good citizen in Mishawaka and making that commitment to the downtown. Mr. Trippel stated it had been a privilege.

Mr. Emmons questioned signage for the business. Mr. Trippel stated Mr. Prince said he would work with the tenant on signage, but it would be within whatever the signage ordinance allowed. Mr. Trippel stated the tenant would be able to answer the question better than he could.

Luis Selinas, 4126 North Hill Drive South Bend, IN, spoke in favor of **RESOLUTION R2021-10**. Mr. Selinas began by answering Mr. Emmons' question stating he did not want anything big and gaudy outside as far as signage went and he wanted the studio to be private. Mr. Selinas stated he did not want anything crazy out there and would be fine with a decal on the door rather than something hanging.

Mrs. Voelker asked if Mr. Selinas could tell them more about his business operation. Mr. Selinas stated he had been doing it for 10 years and had been doing it just freelance. Mr. Selinas stated he had never thought about opening up a shop until recently and he wanted to have something of his own with nobody else working in there with him and by appointment only. Mrs. Voelker stated she was interested in knowing how he found that space. Mr. Selinas stated he found it from word of mouth and his friend also ran the barbershop. Mr. Selinas stated he mentioned to him that the space was available and as soon as he saw it, he fell in love with it. Mrs. Voelker asked about his hours of operation and if he would accept walk-ins. Mrs. Voelker stated she would not love having walk-ins, because she was concerned about the amount of bars in that area alongside the proposed tattoo parlor and someone could drink a lot on a given night and then decide to get a tattoo. Mrs. Voelker stated this was her district and she was concerned about that kind of thing happening and wanted to be reassured. Mr. Selinas stated he did not plan on having walk-ins and have his operation done by appointment only. Mr. Selinas stated he did not want walk-ins, because he used to work at a tattoo shop on Lincolnway and alcohol along with tattoos did not mix. Mrs. Voelker asked if this would be his sole source of income and if he planned on working there Monday through Friday and during what time slot. Mr. Selinas he stated he was thinking he would be working Monday through Saturday from 10 in the morning to maybe 8 or 9 at night at the latest. Mrs. Voelker thanked Mr. Selinas.

Mr. Hixenbaugh reiterated a couple of points made in the staff report by clarifying that he would be receiving licensure from the city and the county health department in conjuncture with his operation and asked if that were correct. Mr. Selinas stated that was correct. Mr. Hixenbaugh made a comment to follow up on Mrs. Voelker's comments and stated he was sure he could understand that they were sensitive to downtown Mishawaka for some of the reasons he had highlighted in his dialogue with Mr. Trippel. Mr. Hixenbaugh stated it was important to the council and they made an investment in it and would make an even bigger investment in it. Mr. Hixenbaugh welcomed Mr. Selinas to downtown along with the city of Mishawaka and wished him nothing but the best. Mr. Hixenbaugh stated it sounded like he had every intent of running a responsible operation that would take into consideration all of those factors. Mr. Hixenbaugh asked Mr. Selinas to please keep in mind that while it was important to be a responsible business owner everywhere, it would be really important to keep in mind his connection to downtown. Mr. Hixenbaugh stated he had a responsible landlord he was working with and trusted in his ability to be able vent him as a responsible tenant. Mr. Hixenbaugh concluded welcoming Mr. Selinas to Mishawaka and wished him well.

Mr. Compton stated he had thought about this and they had a couple of individuals lately who had come to them wanting to set up shop in the downtown area. Mr. Compton stated in his opinion, he tried to think about it from a younger person's point of view and tattoo shops were not what they were when he was young. Mr. Compton stated that would be where bad people hung out and it was all trouble. Mr. Compton stated he thought it was a sign that he liked to think of it as something they would all find acceptable if it were well run, clean business and a good sign for downtown Mishawaka by attracting a younger generation who was interested in that area. Mr. Compton stated he wished Mr. Selinas luck and he would support the resolution and as

President Hixenbaugh said, he had a good landlord so he trusted he would keep an eye on him as he would not want anything in downtown Mishawaka that wasn't both respectable and good for the city. Mr. Compton wished Mr. Selinas good luck and welcomed him to Mishawaka.

Question was called for at 7:15PM for **RESOLUTION R2021-10** **Vote: Motion carried by unanimous roll call vote (summary: Yes = 9).**
Yes: Mrs. DeMaegd, Mr. Banicki, Mr. Hazen, Mr. Mammolenti, Mr. Emmons, Mr. Bellovich, Mr. Compton, Mrs. Voelker, Mr. Hixenbaugh. The proposed resolution passed.

NEW BUSINESS

Mr. Mammolenti announced that there would be a Twin Branch Neighborhood Watch meeting hosted via zoom on Wednesday April 21st at 7PM and he would post the zoom details on his Facebook page. Mr. Mammolenti stated the guest speaker would be Ray Schultz, Executive Director for the 911 Dispatch Center.

ADJOURNMENT 7:16PM

Deborah S. Block /s/	Gregg A. Hixenbaugh /s/
Deborah S. Block, IAMC, MMC, City Clerk	Gregg A. Hixenbaugh, President

Deborah S. Block, IAMC, MMC

APR 29 2021

City Clerk
Mishawaka, IN

PET 21-04

RECEIVED
APR 21 2021
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

April 20, 2021

To The Honorable Members
of the Common Council
City of Mishawaka, Indiana
And
Mishawaka City Plan commission
City of Mishawaka, Indiana

Re: Petition for Vacation of Public Right of Way

The undersigned, Hack Properties, LLC respectfully request the Mishawaka Common Council and the Mishawaka City Plan Commission vacate the following described public right of way located in the City of Mishawaka, St. Joseph County, Indiana:

The first 16' east-west alley lying north of Brown Avenue, running for approximately 215 feet and bounded on the east by the west right-of-way line of Forest Avenue and bounded on the west by the east right-of-way line of Benton Street.
Said alley being adjacent to Lots 11 – 24 of Liberty Gardens

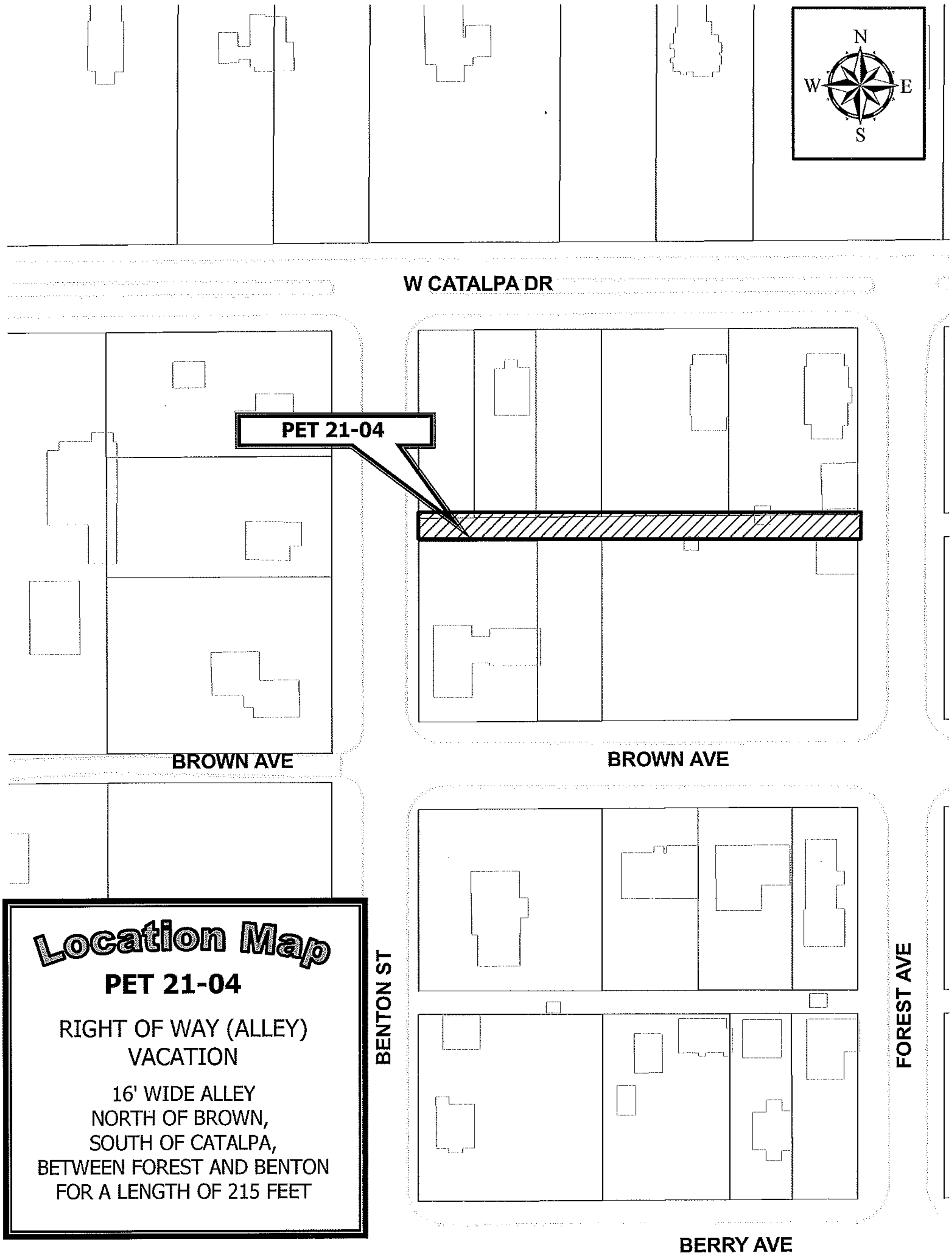
Petitioners further state they are the owners of the property immediately adjacent to the above described right of way.

Wherefore, the Petitioner(s) 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 vacated the above described right of way located in the City of Mishawaka.

Keith Hatkevich

Hack Properties, LLC
Keith Hatkevich, member
13793 Adams Road
Granger, Indiana 46530

Contact Person:
Lang, Feeney & Associates, Inc.
Terry Lang
715 South Michigan Street
South Bend, Indiana 46601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PET 21-04
BROWN AVE
BROWN AVE
BENTON ST
FOREST AVE
BERRY AVE
Location Map
PET 21-04
RIGHT OF WAY (ALLEY)
VACATION
16' WIDE ALLEY
NORTH OF BROWN,
SOUTH OF CATALPA,
BETWEEN FOREST AND BENTON
FOR A LENGTH OF 215 FEET

ABONMARCHE

Engineering • Architecture • Land Surveying

April 21, 2021

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

RE: PETITION TO REZONE PROPERTY
5603 Grape Road

The undersigned, Mitch Goltz, of GW Mishawka II, LLC, 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:

Please see attached legal description.

COMMON ADDRESS: 5603 Grape Road

Petitioner owns one-hundred percent (100%) of the above described parcel of land which carries a zoning classification of C-7 Commercial District. The current use of 5603 Grape Road is vacant land, after the demolition and removal of the former fitness business.

Petitioner desires to rezone the above described property to C-4 Commercial District for the establishment of an instant oil lube and service business. We believe the use to be consistent with the auto-oriented form of the Grape Road corridor. Immediately adjacent to the north is a tire and auto service business, and further south, between Douglas and Day, there is an additional four (4) C-4 Auto-Oriented Commercial uses, multiple C-7 Automobile-Oriented Restaurant use, and one (1) C-9 Automobile Sales use. No negative impacts should arise from locating these use on this very established commercial corridor.

The petitioner 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.

PET 21-05

RECEIVED
APR 21 2021
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

Mitch Goltz

Mitch Goltz
GW Mishawaka II, LLC

Deborah S. Block, IAMC, MMC
APR 29 2021
City Clerk
Mishawaka, IN

CONTACT PERSON
Mike Huber
Abonmarche Consultants
315 W. Jefferson Blvd.
South Bend, IN 46601
(574) 347-4610
mhuber@abonmarche.com

EXHIBIT A

REZONE LEGAL DESCRIPTION (5603 GRAPE ROAD, MISHAWAKA INDIANA)

A PART OF THE SOUTHWEST QUARTER OF SECTION 28, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 28; THENCE NORTH 00° 42' 31" WEST ALONG THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION 28, 622.50 FEET (REC. NORTH, 622.50 FEET) THENCE SOUTH 89° 07' 47" WEST, 40.00 FEET (REC. WEST, 40.00 FEET) TO THE WEST RIGHT-OF-WAY LINE OF GRAPE ROAD, AND THE POINT OF BEGINNING; THENCE CONTINUING SOUTH 89° 07' 47" WEST, 263.00 FEET (REC. WEST); THENCE NORTH 00° 42' 31" WEST, PARALLEL WITH THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION, 140.00 FEET; THENCE NORTH 89° 07' 47" EAST, 263.00 FEET (REC. EAST); THENCE SOUTH 00° 42' 31" EAST, ALONG SAID WEST RIGHT OF WAY LINE, 140.00 FEET (REC. SOUTH, 141.00 FEET) TO THE POINT OF BEGINNING.

CONTAINING 0.89 ACRES MORE OR LESS.

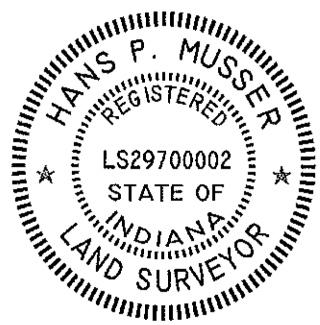
SUBJECT TO ALL COVENANTS, RIGHTS-OF-WAY, AND EASEMENTS OF RECORD.

THIS DOCUMENT WAS PREPARED BY HANS P. MUSSER, INDIANA REGISTERED LAND SURVEYOR, LICENSE NUMBER 29700002.

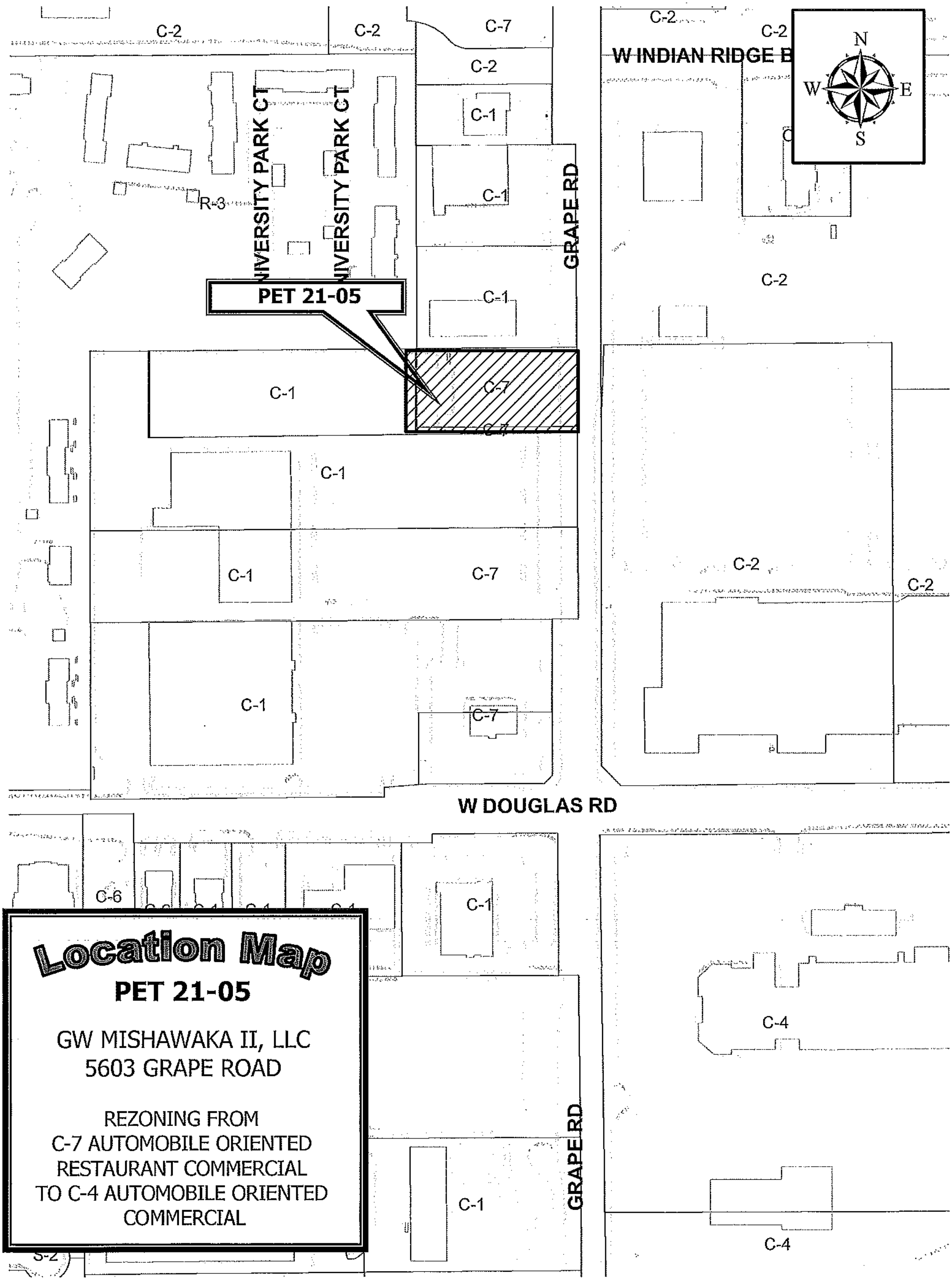
Hans P. Musser *12/22/2020*

HANS P. MUSSER, PS DATE

JOB NO.: 20-2084



O:\PROJECTS\2020\20-2084 5055 & 5603 GRAPE ROAD\WORKING-DESIGN\SURVEY\LEGALS AND REPORTS\20-2084 REZONE 5603 GRAPE ROAD DESCRIPTION.DOCX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PET 21-05
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GRAPE RD
C-4
S-2
Location Map
PET 21-05
GW MISHAWAKA II, LLC
5603 GRAPE ROAD
REZONING FROM
C-7 AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL
TO C-4 AUTOMOBILE ORIENTED
COMMERCIAL

PET 21-06

ABONMARCHE

Engineering • Architecture • Land Surveying

APR 21 2021
COMMUNITY DEVELOPMENT

April 21, 2021

Deborah S. Block, IAMC, MMC
APR 29 2021
City Clerk
Mishawaka, IN

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

RE: PETITION TO REZONE PROPERTY
2777 Lincoln Way East

The undersigned, Pizza Hut of America, Inc, 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:

Legal Description Attached

Petitioner owns one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 Commercial District. The subject property is currently in use as a restaurant with no drive thru use (the former Pizza Hut restaurant).

Petitioner is requesting that subject property be rezoned to C-7 Commercial District.

The proposed future use of the subject property is a new drive-thru restaurant, which is not permitted in the current C-1 zoning district. The subject property is located adjacent to 3 existing drive thru restaurants, indicating that the proposed use is consistent with the exsiting land use patterns for the area.

The petitioner 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.

DocuSigned by:
Chris Cassano
065EE1605F50406... Assistant Secretary

Signature(s) of Property Owner(s)
BY: Pizza Hut of America, LLC

Signature(s) of Property Owner(s)

Printed Name

Printed Name

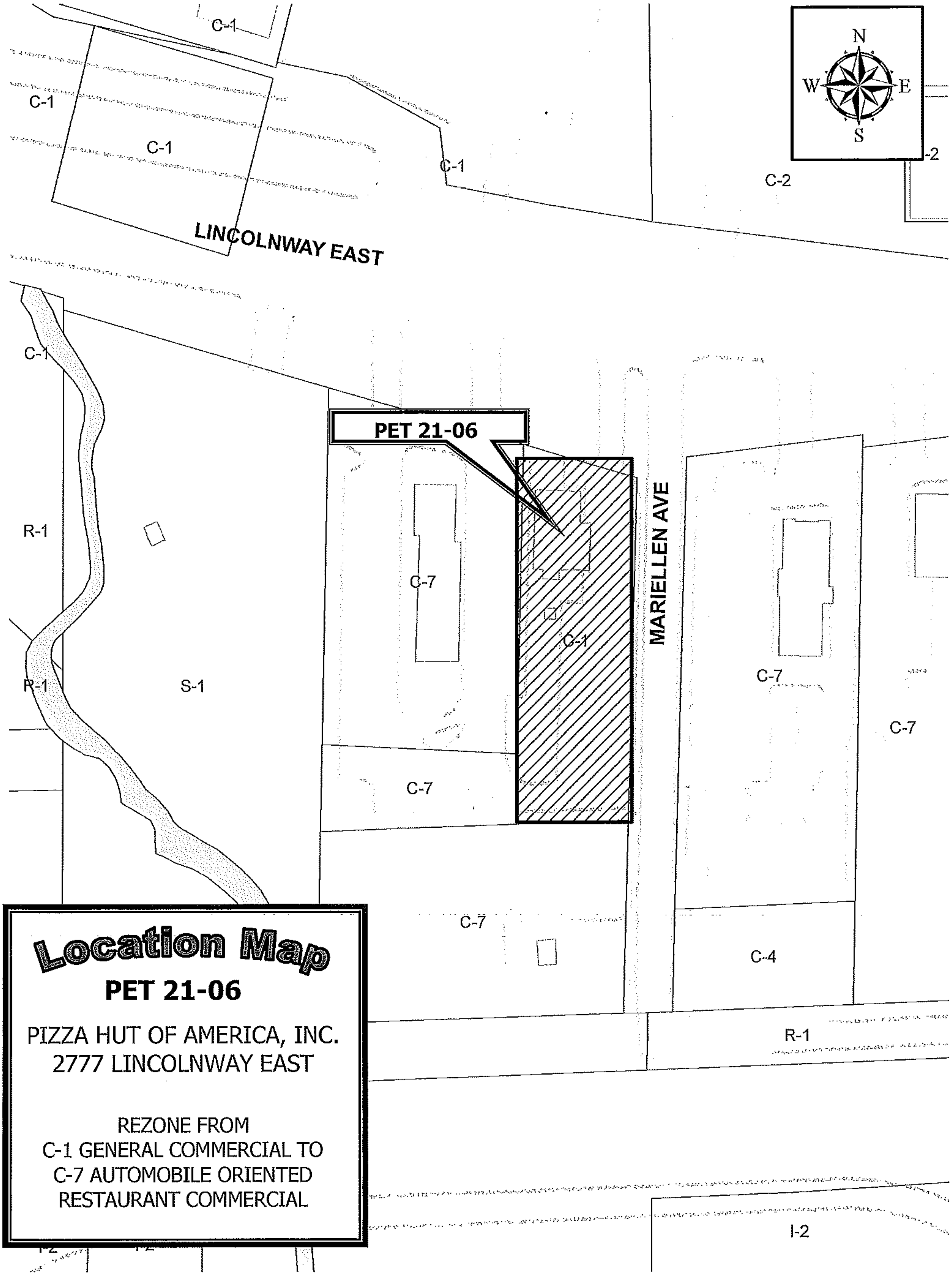
CONTACT PERSON:
Abonmarche Consultants, Michael Huber
315 W. Jefferson Blvd, South Bend, IN 46601
574.347.4610
mhuber@abonmarche.com

2777 Lincolnway East

LEGAL DESCRIPTION:

A part of the West Half of the Northwest Quarter of Section 13, Township 37 North, Range 3 East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows:

Commencing at the intersection of the West line of said Section 13 with the North line of the Indiana & Michigan Electric Company's Right-of-Way; thence North 86 degrees 12' 28" East along the said Right-of-Way, 908.33 feet; thence North 00 degrees 00' 00" East 184.05 feet to the point of Beginning; thence continuing North 00 degrees 00' 00" East, 295.2 feet to a point on the Southerly Right-of-Way (30' ½ Right-of-Way) line of Lincoln Way (US 33); thence Southeasterly along the said Southerly Right-of-Way, 92.42 along an arc to the left having a radius of 934.74 feet, subtended by a chord having a bearing of South 84 degree 36' 01" East and a length of 92.38 feet; thence South 00 degrees 00' 00" West along the Westerly Right-of-Way line of Mariellen Avenue, 280.41 feet; thence South 86 degrees 12' 28" West, 92,17 feet to the point of Beginning.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C-2
-2
LINCOLNWAY EAST
C-1
PET 21-06
R-1
C-7
C-1
MARIELLEN AVE
R-1
S-1
C-7
C-7
C-7
C-7
C-7
C-4
R-1
I-2
Location Map
PET 21-06
PIZZA HUT OF AMERICA, INC.
2777 LINCOLNWAY EAST
REZONE FROM
C-1 GENERAL COMMERCIAL TO
C-7 AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL

Deborah S. Block, IAMC, MMC

APR 29 2021

City Clerk
Mishawaka, IN

1st Reading
2nd Reading
Passed
Failed
Continued To

PROPOSED ORDINANCE NO.2021-14

ORDINANCE NO.____________

AN ORDINANCE TRANSFERRING FUNDS FROM THE MOTOR VEHICLE HIGHWAY RESTRICTED FUND OF THE CITY OF MISHAWAKA TO THE LOCAL ROAD & BRIDGE MATCHING GRANT FUND OF THE CITY OF MISHAWAKA FOR THE CALENDAR YEAR ENDING DECEMBER 31, 2021 AND AN ORDINANCE APPROPRIATING ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021

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

Section 1. There is hereby transferred from the Motor Vehicle Highway Restricted (MVHR) Fund of the City of Mishawaka to the Local Road & Bridge Matching Grant Fund of the City of Mishawaka the sum of $382,620.00 as required for the Community Crossing Grant.

Motor Vehicle Highway Restricted Fund (MVHR)

From:
Capital Outlays

203-50-442-01	Street Repair		$382,620.00
		Total	$382,620.00

Local Bridge and Road Matching Grant Fund

To:
Other Services and Charges

244-50-436-03	Street Repair		$382,620.00
		Total	$382,620.00

Section 2. Which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 3. There is hereby appropriated from the Local Bridge and Road Matching Grant Fund of the City of Mishawaka the sum of $765,240.00 for assignment as follows:

Local Road & Bridge Matching Grant Fund

Other Services and Charges			
244-50-436-03	Street Repair		$765,240.00
		Total	$765,240.00

Section 4. 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 ________________, 2021 at __________ o'clock, ____. M.

____
Gregg Hixenbaugh, Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this ___________day of __________________, 2021 at_______ o'clock, ____. M.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ___________day of __________________, 2021 at

_____________o'clock, _____. M.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurt Vardaman, Deputy Controller

Date: April 29, 2021

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: Transfer from MVH Restricted and Additional Appropriation Local Road & Bridge Matching Fund

I am requesting for first reading, approval for the transfer of $382,620 from the Motor Vehicle Highway Restricted Fund to the Local Road & Bridge Matching Grant Fund as this is our necessary match for the Community Crossings Grant. These funds are budgeted funds for the purpose of the match.

This transfer along with the $382,619.94 grant already received from the State must be appropriated. Therefore, I am also requesting approval of the additional appropriation for $765,240.00.

This ordinance allows for both the transfer and appropriation in this fund and is required every year to show proper accounting of the grant and match.

Thank you for your consideration. Please contact me with any questions.

c: David A. Wood, Mayor
Christine Jamrose, Director of Engineering/City Engineer

1st Reading
2nd Reading
Passed
Failed
Continued To

Deborah S. Block, IAMC, MMC
APR 29 2021
City Clerk
Mishawaka, IN

PROPOSED ORDINANCE NO. 2021-15

ORDINANCE NO.____________

AN ORDINANCE DECLARING AN EMERGENCY AND DETERMINING THE EXPENDITURE OF ADDITIONAL FUNDS FOR THE YEAR ENDING DECEMBER 31, 2021

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

Section 1. An emergency exists which requires the appropriation of additional funds for the fiscal year ending December 31, 2021 in addition to that set out in detail in the published budget.

Section 2. There is hereby appropriated from the Local Road and Street and Motor Vehicle Highway Restricted funds of the City of Mishawaka the sum of $1,000,000.00 for assignment as follows:

Street Paving

Local Road and Street
Capital Outlays

202-50-442-01	Summer Street Program	$250,000.00

Motor Vehicle Highway Restricted
Capital Outlays

203-50-442-01	Summer Street Program	$750,000.00
		$1,000,000.00

Section 5. 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 ________________, 2021 at __________ o'clock, ____. M.

____
Gregg Hixenbaugh, Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME to the Mayor of the City of Mishawaka, Indiana

on this ____________ day of ____________________, 2021 at ________ o'clock, _____. M.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ____________ day of ____________________, 2021 at

______________ o'clock, ______. M.

____
David A. Wood, Mayor

CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

DEPARTMENT OF FINANCE
Rebecca S. Miller, Controller
Kurtis D. Vardaman, Deputy Controller

Date: April 29, 2021

To: Honorable Members of the Common Council

From: Rebecca Miller

Re: **Additional Appropriations: MVHR and LR&S**

For first reading on May 3rd is an additional appropriation to fund much needed street paving beyond the scope of the Community Crossing Grant.

This funding will come from surplus in the Motor Vehicle Highway Restricted and the Local Road and Street funds.

Thank you for your consideration, and please contact me with any questions.

c: David A. Wood – Mayor
Chris Jamrose – Dir. of Engineering/City Engineer

City Hall • 600 East 3rd Street • Mishawaka, Indiana 46544
Telephone: (574) 258-1622 • FAX (574) 258-1724 • www.mishawaka.in.gov

Deborah S. Block, IAMC, MMC
APR 29 2021
City Clerk
Mishawaka, IN

Proposed Ordinance NO. 2021-16

ORDINANCE NO.__________

AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA, ESTABLISHING THE ARP CORONAVIRUS LOCAL FISCAL RECOVERY GRANT FUND

WHEREAS, on March 11, 2021 the American Rescue Plan Act of 2021 (ARP) was enacted; and

WHEREAS, the ARP provides $350 billion in emergency funding to state and local governments and the City of Mishawaka will be a recipient of a portion of that funding; and

WHEREAS, the Indiana State Board of Accounts has provided guidance to funding recipients by State Directive 2021-1;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Common Council of the City of Mishawaka, Indiana recognizes that a need now exists for the establishment of the ARP Coronavirus Local Fiscal Recovery Grant Fund (Fund #180) pursuant to Indiana Code 5-11.

Section 1. There is hereby established a fund to be known as the ARP Coronavirus Local Fiscal Recovery Grant Fund #180.

Section 2. The source of funding includes monies allocated to the City from the American Rescue Plan Act of 2021 and distributed to the City in 2021 and 2022.

Section 3. The City shall only appropriate and use the funds to cover costs incurred by the City by December 31, 2024 for the following:

1. To respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID-19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;

2. To respond to workers performing essential work during the COVID-19 public health emergency by providing premium pay to eligible workers of the City that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;

3. For the provision of government services to the extent of the reduction in revenue of the City due to the COVID-19 public health emergency relative to

revenues collected in the most recent full fiscal year of the City prior to the emergency that being 2019; or

4. To make necessary investments in water, sewer, or broadband infrastructure.

Section 4. The Common Council shall adopt a plan which provides details for the use of funds. In addition, before money in this Fund is disbursed, the Common Council, as the fiscal body, must appropriate the money in the Fund for a use that is consistent with the statutory purposes set out in Section 3 above.

Section 5. This ordinance may be amended from time to time if additional guidance is received from any federal or state agency.

Section 6. The ARP Coronavirus Local Fiscal Recovery Grant Fund shall exist until terminated by ordinance of the Common Council. Monies from this Fund may not be transferred to another fund of the City.

Section 7. This ordinance shall take effect upon passage by the Common Council and approval by the Mayor.

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

this _________ day of _________ 2021, at _______ o'clock ___. m.

____
Gregg Hixenbaugh, Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of ____________ 2021, at _______ o'clock ___. m.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ______ day of ____________, 2021, at _______ o'clock ___. m.

____
David A. Wood, Mayor

RESOLUTION NO. 2021-11

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA APPROVING A LEASE BETWEEN THE MISHAWAKA REDEVELOPMENT AUTHORITY AND THE MISHAWAKA REDEVELOPMENT COMMISSION AND APPROVING THE ISSUANCE OF LEASE RENTAL REVENUE BONDS BY THE MISHAWAKA REDEVELOPMENT AUTHORITY AND OTHER MATTERS RELATED THERETO

WHEREAS, the Mishawaka Redevelopment Commission (the "Commission"), the governing body of the Mishawaka Department of Redevelopment and the Redevelopment District (the "District") of the City of Mishawaka, Indiana (the "City'), exists and operates pursuant to Indiana Code 36-7-14, as amended from time to time (the "Act");

WHEREAS, the Mishawaka Redevelopment Authority (the "Authority") has been created pursuant to Indiana Code 36-7-14.5 as a separate body corporate and politic, and as an instrumentality of the City, to finance local public improvements for lease to the Commission;

WHEREAS, on February 24, 2014, the Commission adopted its Resolution No. 2014-03 expanding and consolidating existing economic development areas and allocation areas to form a consolidated economic development area (the "Consolidated Area") and consolidated allocation area (the "Consolidated Allocation Area") for the purpose of the collection and distribution of all real property tax proceeds from assessed valuation in the Consolidated Allocation Area in excess of the assessed values described in Indiana Code 36-7-14-39(b)(1) (the "Tax Increment Revenues");

WHEREAS, to foster economic development and redevelopment and improve employment opportunities in the City, the City has proposed to construct certain local public improvements throughout the District, described on Exhibit A attached hereto (the "Stimulus Projects");

WHEREAS, on March 16, 2021, the Authority adopted Resolution No. 2021-01 establishing its intent to issue lease rental revenue bonds (the "Bonds"), in the aggregate principal amount not to exceed Fifty-Five Million Dollars ($55,000,000), for the purpose of (i) financing the costs of the Stimulus Projects, (ii) funding a debt service reserve, if necessary, either from proceeds of the Bonds or a debt service reserve surety, and (iii) paying costs of issuance of the Bonds;

WHEREAS, to secure payment on the Bonds, the Authority may issue the Bonds pursuant to a trust indenture (the "Trust Indenture") between the Authority and a trustee (the "Trustee"), which may be any trust company or national or state bank within Indiana that has trust powers, and it is expected the Bonds will be issued by a Trust Indenture;

WHEREAS, on March 22, 2021, the Commission adopted Resolution No. 2021-01 approving a proposed form of lease (the "Lease") between the Authority, as lessor, and the Commission, as lessee, for all or a portion of the property set forth in the Lease, as a means to finance the design, engineering, acquisition, construction, renovation, restoration and equipping of the Stimulus Projects;

WHEREAS, on April 26, 2021, the Commission held a public hearing on the Lease pursuant to Section 25.2 of the Act and adopted Resolution No. 2021-02 finding that (i) the annual rentals payable under the Lease to be paid by the Commission to the Authority are fair and reasonable, (ii) the terms of the Lease are based upon the value of the leased premises which includes all or a portion of Main Street in the City from Mishawaka Avenue to Broadway Street; Broadway Street to Jefferson Boulevard; Jefferson Boulevard to McKinley Avenue; McKinley Avenue to Edison Road; and Sarah Street: River to McKinley Avenue (collectively, the "Leased Premises"), and (iii) the use of the Leased Premises under the Lease and the Stimulus Projects throughout the term of the Lease will serve the public purpose of the City and is in the best interests of its residents;

WHEREAS, the Commission intends to pay the rentals due under the Lease from Tax Increment Revenues, net of the Commission's pledge of Tax Increment Revenues to the City's sewer utility pursuant to Resolution No. 2009-15 and Resolution No. 2015-09 (the "TIF Revenues"), on a parity with Lessee's pledge of TIF Revenues to the payment of debt service on (i) the Mishawaka Redevelopment District Taxable Tax Increment Revenue Bonds, Series 2015, dated June 15, 2015 and (ii) the City of Mishawaka's Taxable Economic Development Revenue Bonds, Series 2017, dated September 26, 2017 (clauses (i) and (ii), collectively, the "Outstanding Parity Obligations"), and to the extent that the TIF Revenues are insufficient, the Commission will levy an ad valorem property tax on all taxable property within the District in accordance with Section 27 of the Act (the "Special Benefits Tax"); and

WHEREAS, Indiana Code 36-7-14.5-19(a) and 36-7-14-25.2(c) require that the Common Council of the City (the "Common Council") approve the issuance of the Bonds by the Authority and certain terms of the Lease and the Bonds;

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Mishawaka, Indiana, as follows:

Section 1. The Common Council hereby approves the Lease, as approved by the Commission, pursuant to Indiana Code 36-7-14-25.2, and approves entering into the Lease in full force and effect upon issuance of the Bonds, with a maximum annual lease rental of $5,500,000, for a maximum term not to exceed sixteen (16) years, beginning on the date the Authority acquires an interest in any of the Leased Premises and ending on the day prior to a date not later than sixteen (16) years after such date of acquisition by the Authority. The Common Council also approves the transfer, conveyance and assignment to the Authority, pursuant to Indiana Code 36-1-11-8, all interests or rights of the City to the real property subject to the Lease as may be necessary to finance the Stimulus Projects.

Section 2. The Common Council hereby approves the issuance of the Bonds by the Authority, in the aggregate principal amount not exceed $55,000,000, with a term ending no later than sixteen (16) years from the date of their issuance, at a maximum interest rate of five percent (5.0%) per annum (actual rates to be determined by competitive sale), in order to provide for the financing of the Stimulus Projects, funding a debt service reserve, if necessary, either from proceeds of the Bonds or a debt service reserve surety, and paying costs of issuance of the Bonds.

Section 3. The Bonds may be subject to optional redemption prior to maturity, and may be subject to mandatory sinking fund redemption, on such dates and with such redemption terms as determined at the time of the sale of the Bonds, as approved by the Authority with the advice of the municipal advisor to the Authority and the Commission.

Section 3. The Common Council hereby approves the Trust Indenture between the Authority and a qualified financial institution to be named as trustee, substantially in the form submitted to this meeting, with such changes and modifications as the President or any officer of the Authority determines necessary or appropriate to carry out the intent of this Resolution and to consummate the sale of the Bonds, said officer's execution and attestation thereof to be conclusive evidence of their approval of such changes.

Section 4. The Common Council hereby acknowledges that the Commission reasonably expects to use the TIF Revenues to make lease rental payments due under the Lease and, to the extent the TIF Revenues are not sufficient to make such lease rental payments, the Commission will cause to be levied the Special Benefits Tax.

Section 5. The Mayor, any member of the Common Council, and the Clerk of the City, is hereby authorized and directed to execute and deliver any contract, agreement, certificate, instrument or other document as such person determines to be necessary or appropriate to carry out the transactions contemplated by this Resolution and to take any action as such person determines to be necessary or appropriate to accomplish the purposes of this Resolution, such determination to be conclusively evidenced by the execution thereof of such contract, agreement, certificate, instrument or other document or such person's taking of such action.

Section 6. This Resolution shall be in full force and effect from and after its adoption by the Common Council.

PASSED by the Common Council of the City of Mishawaka, Indiana on this 3rd day of May, 2021, at ______ o'clock, ___.m.

____
Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED BY ME, to the Mayor on this ___ day of May, 2021, at ______ o'clock, __.m.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED BY ME this ___ day of May, 2021, at ______ o'clock, ___.m.

____
David A. Wood, Mayor

EXHIBIT A

Description of Stimulus Projects

Crawford Park Niles Avenue	$ 1,993,000
Cedar Street Mishawaka to Madison	2,141,700
Ironworks Plaza @ Beutter Phase 3 Café/Rink/Event	20,500,000
Battell Veteran's Walk	2,000,000
Normain Park Master Plan/Restroom Replacement	250,000
Ironworks Plaza Sculptures, 4 total	330,000
Crawford Park Phase 1	2,200,000
Riverwalk Restoration project, bank armoring	2,400,000
West Street Connector	770,000
Fire Station #2 Design and Construction	7,600,000
Cedar St. Motor Pool Reclamation	4,000,000
Total	$44,184,700*

*Represents total estimated cost. Stimulus Projects to be completed will be prioritized based on final construction bids received.

TRUST INDENTURE

by and between

MISHAWAKA REDEVELOPMENT AUTHORITY

and

[TRUSTEE], as Trustee

$[AMOUNT]
Lease Rental Revenue Bonds of 2021

Dated as of ______1, 2021

TABLE OF CONTENTS

TRUST INDENTURE

THIS TRUST INDENTURE, dated as of the first day of _____, 2021 (the "Indenture"), between the between City of Mishawaka Redevelopment Authority (the "Authority"), a separate body corporate and politic organized and existing under the laws of the State of Indiana, as an instrumentality of the City of Mishawaka, Indiana ("City"), to finance local public improvements for lease to the Mishawaka Redevelopment Commission ("Commission"), organized and existing under the laws of the State of Indiana, and ___________, [a national banking association organized under the laws of the United States of America] with a corporate trust office in the City of __________, Indiana, as Trustee (the "Trustee"),

WITNESSETH:

WHEREAS, the Authority has been created under and pursuant to the provisions of Indiana Code, Title 36, Article 7, Chapter 14.5 as a separate body, corporate and politic, and as an instrumentality of the City of Mishawaka, Indiana (the "City"), to finance local public improvements for lease to Mishawaka Redevelopment Commission (the "Commission");

WHEREAS, on February 24, 2014, the Commission adopted its Resolution No. 2014-03 expanding and consolidating existing economic development areas and allocation areas to form a consolidated economic development area (the "Consolidated Area") and consolidated allocation area (the "Consolidated Allocation Area") for the purpose of the collection and distribution of all real property tax proceeds from assessed valuation in the Consolidated Allocation Area in excess of the assessed values described in Indiana Code 36-7-14-39(b)(1) (the "Tax Increment Revenues");

WHEREAS, the Authority and the Commission have entered into a Lease Agreement, dated [DATE], 2021, for the lease of all or a portion of the Leased Premises (as defined in the Lease) by the Authority to the Commission for a term not to exceed sixteen (16) years, beginning on the date the Authority acquires an interest in the Leased Premises and ending on the day prior to a date not later than sixteen (16) years after such date of acquisition by the Authority;

WHEREAS, the rentals due under the Lease will be payable from Tax Increment Revenues, net of the Commission's pledge of Tax Increment Revenues to the City's sewer utility pursuant to Resolution No. 2009-15 and Resolution No. 2015-09 (the "TIF Revenues"), on a parity with the Commission's pledge of TIF Revenues to the payment of debt service on (i) the Mishawaka Redevelopment District Taxable Tax Increment Revenue Bonds, Series 2015, dated June 15, 2015 and (ii) the City of Mishawaka's Taxable Economic Development Revenue Bonds, Series 2017, dated September 26, 2017 (clauses (i) and (ii), collectively, the "Outstanding Parity Obligations"), and to the extent that the TIF Revenues are insufficient, the Commission will levy an ad valorem property tax on all taxable property within the Mishawaka Redevelopment District (the "District') in accordance with Section 27 of the Act (the "Special Benefits Tax");

WHEREAS, the Authority has duly authorized the issuance of bonds designated "Mishawaka Redevelopment Authority Lease Rental Revenue Bonds of 2021" (the "Bonds"), in the aggregate principal amount not to exceed Fifty-Five Million Dollars ($55,000,000), in the form and subject to the terms hereinafter provided, to provide a means to finance certain local public improvements throughout the District (the "Stimulus Projects");

WHEREAS, in order to the secure the principal and interest of all of the Bonds and the performance of the covenants herein contained, the Authority has determined to execute and deliver this Indenture;

WHEREAS, all acts, proceedings and things necessary and required by law and by the bylaws of the Authority to make the Bonds, when executed by the Authority and authenticated by the Registrar, the valid, binding and legal obligations of the Authority and to constitute and make the Indenture a valid and effective deed of trust, have been done, taken and performed, and the issuance, execution and delivery of the Bonds, and the execution, acknowledgment and delivery of this Indenture have, in all respects, been duly authorized by the Authority in the manner provided and required by law;

WHEREAS, the Trustee has accepted the trust created by this Indenture and, in evidence thereof, has joined in the execution hereof;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

MISHAWAKA REDEVELOPMENT AUTHORITY, in consideration of the premises and the acceptance of the Bonds by the registered owners thereof, and the sum of One Dollar ($1.00) in hand paid by the Trustee, receipt of which is hereby acknowledged, and especially in order to secure the punctual payment of the principal of and interest on the bonds to be issued and at any time outstanding hereunder as the same shall become due, according to the tenor hereof, and the faithful performance of all the covenants and agreements contained in the bonds and in this Indenture, and in performance of the authority of every kind and nature which the Authority has or may have, by these presents does grant, bargain, sell, transfer, assign, demise, release, convey, pledge, set over and confirm unto ___________, as Trustee, and its successors and assigns, the following (collectively, the "Trust Estate"):

1 All proceeds of all bonds issued hereunder and other cash and securities now or hereafter held in the funds and accounts (except the Rebate Fund) created and established hereunder and the investment earnings thereon and all proceeds thereof;

2 all rights, titles and interests of the Authority under the Lease; and

3 all other properties and moneys hereafter pledged to the Trustee by the Authority to the extent of that pledge.

TO HAVE AND TO HOLD all of the Trust Estate unto the Trustee and its successors in said trust; and to their assigns forever; in trust, nevertheless, upon the terms and conditions set forth herein for the equal and proportionate benefit, security and protection of all registered owners of the bonds issued or to be issued under and secured by this Indenture, without preference, priority or distinction as to lien or otherwise by reason of the date of maturity thereof, or for any other reason whatsoever, subject to the provisions of this Indenture.

PROVIDED, HOWEVER, that if the Authority, its successors or assigns, shall well and truly pay, or cause to be paid, the principal of the bonds and the interest and premium, if any, due or to become due thereon, at the times and in the manner as set forth in said bonds in accordance with the terms hereof, and shall well and truly keep, perform and observe all covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by the Authority, and shall pay to the Trustee all sums of money due, or to become due to it, in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, determine and be void, and the Trustee, in such case, on demand of the Authority, upon the payment by the Authority to the Trustee of its reasonable fees, costs and expenses, shall execute and deliver to the Authority such discharges or satisfactions as shall be requisite to discharge the lien hereof and to reconvey to or to revest in the Authority the property hereby conveyed; otherwise, this Indenture to be and remain in full force and effect.

All bonds issued and secured hereunder are to be issued, authenticated and delivered, and all property hereby pledged is to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed; and the Authority has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective registered owners, from time to time, of the bonds or any part thereof, as follows:

(End of preamble and granting clauses)

ARTICLE I

Definitions

Section 1.1. The terms defined in this shall, for all purposes of this Indenture, and any indenture supplemental hereto, have the meanings herein specified, unless the context otherwise required:

(a) "additional bonds" shall mean bonds issued pursuant to Section 2.7.

(b) "Allocation Area" shall mean the Mishawaka Consolidated Allocation Area, as amended and expanded.

(c) "Area" shall mean the Consolidated Area Improvement Project.

(d) "Authority" shall mean the Mishawaka Redevelopment Authority.

(e) "bond" or "bonds" shall (unless the context shall otherwise require) mean any bond or bonds, or all the bonds, as the case may be, including both original bonds and additional bonds.

(f) "City" shall mean the City of Mishawaka, Indiana.

(g) "Code" shall mean the Internal Revenue Code of 1986, as amended and in effect as of the date of delivery of the original bonds.

(h) "Commission" shall mean the Mishawaka Redevelopment Commission.\

(i) "Construction Account" shall mean the Construction Account of the Construction Fund created and established in Section 3.1.

(j) "Construction Fund" shall mean the Mishawaka Redevelopment Authority Construction Fund created and established in Section 3.1.

(k) "Debt Service Reserve Fund" shall mean the Mishawaka Redevelopment Authority Debt Service Reserve Fund created and established in Section 3.3.

(l) "Depository Company" means The Depository Trust Company, and its successors and assigns, including any surviving, resulting or transferee corporation, or any successor corporation that may be appointed in a manner consistent with this Indenture and shall include any direct or indirect participants of The Depository Trust Company.

(m) "Electronic Means" shall mean the following communications methods: S.W.I.F.T, e-mail via a pdf attachment, facsimile transmission, secure electronic transmission containing applicable authorization codes, passwords and/or authentication keys issued by the Trustee, or another method or system specified by the Trustee as available for use in connection with its services hereunder.

(n) "Government Securities" shall mean direct obligations of, and obligations fully and unconditionally guaranteed as to timely payment by, the United States government and any agency, instrumentality, or establishment of the United States government.

(o) "Indenture" or "this Indenture" shall mean this instrument, either as originally executed or as it may from time to time be supplemented, modified or amended by any supplemental indenture entered into pursuant to the provisions of this Indenture.

(p) "Lease" shall mean the lease between the Authority and the Commission dated as of ______, 20____.

(q) "Leased Premises" shall have the meaning set forth in the Lease.

(r) The term "Operation and Reserve Fund" shall mean the Mishawaka Redevelopment Authority Operation and Reserve Fund created and established in Section 3.4.

(s) The term "original bonds" shall mean the Mishawaka Redevelopment Authority Lease Rental Revenue Bonds of 2021 authorized in Section 2.1.

(t) "Outstanding Parity Obligations" means, collectively, the Mishawaka Redevelopment District Taxable Tax Increment Revenue Bonds, Series 2015, dated June 15, 2015 and) the City of Mishawaka's Taxable Economic Development Revenue Bonds, Series 2017, dated September 26, 2017.

(u) "Paying Agent" shall mean the Trustee or any bank, banks, trust company or trust companies (singular or plural) other than the Trustee named as successor paying agent at which the principal of the bonds is payable.

(v) "Qualified Investments" shall mean shall mean any of the following to the extent permitted by law: (i) Government Securities; (ii) commercial paper having, at the time of investment or contractual commitment to invest therein, a rating from S&P and Moody's, of A1 and P1, respectively; (iii) repurchase and reverse repurchase agreements collateralized with Government Securities, including those of the Trustee or any of its affiliates; (iv) investment in money market mutual funds having a rating in the highest investment category granted thereby from S&P or Moody's, including, without limitation any mutual fund for which the Trustee or an affiliate of the Trustee serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (a) the Trustee or an affiliate of the Trustee receives fees from funds for services rendered, (b) the Trustee collects fees for services rendered pursuant to this Indenture, which fees are separate from the fees received from such funds, and (c) services performed for such funds and pursuant to this Indenture may at times duplicate those provided to such funds by the Trustee or an affiliate of the Trustee; (v) demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits, and certificates of deposit or bankers acceptances of depository institutions, including the Trustee or any of its affiliates, rated in the AA long-term ratings category or higher by S&P or Moody's or which are fully FDIC-insured.

(w) "Rebate Fund" shall mean the Mishawaka Redevelopment Authority Rebate Fund created and established in Section 3.5.

(x) "Redemption Price," with respect to the bonds outstanding under this Indenture, shall mean the price at which the bonds are redeemable as set forth in Article IV of this Indenture or any indenture supplemental hereto.

(y) "Registrar" shall mean the Trustee or any bank, banks, trust company or trust companies (singular or plural) other than the Trustee named as successor paying agent at which the principal of the bonds is payable.

(z) "Reserve Requirement" shall mean an amount which shall not exceed the least of: (i) maximum annual principal and interest payable on all original bonds; (ii) one hundred twenty-five percent (125%) of the average annual principal and interest due on the original bonds; or (iii) ten percent (10%) of the proceeds of the original bonds.

(aa) ["Reserve Fund Credit Facility" shall mean _________].

(bb) "Responsible Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, including any vice president, assistant vice president, assistant secretary, assistant treasurer, trust officer or any other officer of the Trustee who customarily performs functions similar to those performed by the persons who at the time shall be such officers, respectively, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

(cc) "Sinking Fund" shall mean the Sinking Fund created and established in Section 3.2.

(dd) "Stimulus Projects" shall mean, collectively, all or a portion of the design, acquisition and construction, renovation, restoration and equipping of all or a portion of the following: (i) CSO/Sewer/Storm projects consisting of Crawford Park Niles Avenue and Cedar Street Mishawaka to Madison; (ii) Parks/Public Art/Lighting projects consisting of Ironworks Plaza @ Beutter Phase 3 Café/Rink/Event; Battell Veteran's Walk; Normain Park Master Plan/Restroom Replacement; Ironworks Plaza Sculptures, 4 total; and Crawford Park Phase 1; (iii) Riverwalk/Trail Projects consisting of Riverwalk Restoration project, bank armoring and West Street Connector; (iv) Building Projects consisting of Fire Station #2 Design and Construction; and (v) Other projects consisting of the Cedar St. Motor Pool Reclamation.

(ee) [The term "Term Bond[s]" shall mean the original bond[s] maturing on ________, 20___].

(ff) "Trust Estate" shall have the meaning set forth in the preamble and granting clauses hereof.

(gg) "Trustee" shall mean and include not only the Trustee but also its successor or successors in trust.

Section 1.2. Words importing the singular number shall include the plural number in each case, and vice versa, and words importing persons shall include firms and corporations, and the terms employed in the disjunctive form shall be deemed to be employed also in the conjunctive form and vice versa. The words "herein", "hereof", "hereunder" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or subdivision of this Indenture. The Table of Contents appended to this Indenture and the captions included within this Indenture shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this Indenture.

(End of Article I)

ARTICLE II

Maturities, Form, Issuance
Delivery and Registration of Bonds

Section 2.1. The principal amount of the original bonds which may be issued and outstanding under this Indenture shall be [Fifty-Five Million Dollars] [($55,000,000)]. The original bonds shall be originally dated _____, 2021, shall be issued in the denomination of Five Thousand Dollars ($5,000) or any integral multiple thereof, and shall be numbered consecutively from R-1 upward.

The original bonds shall mature semiannually on February 15 and August 15 on the dates and in the amounts with interest at the rate per annum as follows:

Date	Amount	Interest Rate

[The Bond[s] maturing on _______, 20___, shall be the "Term Bonds" and the Term Bonds shall be subject to mandatory sinking fund redemption as set forth in Section 4.2.]

The interest on all of the original bonds is payable semiannually on February 15 and August 15 of each year, beginning [_______15, 2021]. Interest shall be calculated from the interest payment date next preceding the date of authentication to which interest has been paid unless the bond is authenticated on or before the first day of the month of an interest payment date, in which case interest shall be paid from the original date, or unless the bond is authenticated after the first day of the month of an interest payment date, in which case interest shall be paid from such interest payment date. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Section 2.2. The interest on the bonds shall be payable by check or draft mailed one business day prior to the interest payment date, or by wire transfer of immediately available funds on the interest payment date to a registered owner of One Million Dollars ($1,000,000) or more in aggregate principal amount who requests the same in writing to the Paying Agent at least five (5) business days prior to the applicable interest payment date, to the person in whose name each bond is registered on the first day of the month of an interest payment date. The principal of the bonds shall be payable in lawful money of the United States of America, at the corporate trust office of the Paying Agent in _______________, or by wire transfer of immediately available funds to a registered owner of One Million Dollars ($1,000,000) or more in aggregate principal amount who requests the same in writing to the Trustee at least five (5) business days prior to the applicable principal payment date. Notwithstanding anything contained herein, the bonds shall only need to be presented upon final maturity or redemption in full.

All bonds shall be canceled upon their payment by a Paying Agent or Trustee, and each Paying Agent shall deliver such canceled bonds to the Trustee. The Trustee shall destroy such bonds and, upon request of the Authority, furnish to the Authority a certificate of their destruction, signed by an authorized officer of the Trustee.

If any bond is not presented for payment or redemption on the date fixed therefor, the Authority may deposit in trust with the Trustee, an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the registered owner of that bond can look only to the funds so deposited in trust with the Trustee for payment, and the Authority shall have no further obligation or liability with respect to that bond.

Section 2.3. The bonds shall be executed by the President or Vice President of the Authority, or a facsimile of the signature of such President or Vice President may be imprinted, engraved or otherwise reproduced thereon, and the corporate seal shall be imprinted or impressed thereon and attested by a facsimile signature of the Vice President or Secretary-Treasurer of the Board of Directors of the Authority. In case the officers who have signed, sealed or caused to be sealed any of said bonds, or whose facsimile signature appears thereon, shall cease to be such officers of the Authority before the bonds shall be duly issued and delivered, such bonds shall, nevertheless, be the bonds of the Authority and in all respects binding and obligatory upon it to the same extent as if signed and sealed by the officers of the Authority at the date of the actual issuance and delivery thereof.

Section 2.4. Each of the bonds shall be authenticated by a certificate of the Registrar endorsed thereon in the form hereinafter set forth. Only such bonds as shall bear thereon the certificate of the Registrar shall be secured by this Indenture or entitled to any lien or benefit hereunder, and the certificate of the Registrar upon any such bond executed by the Authority shall be conclusive evidence that the bond so authenticated has been duly issued hereunder and is entitled to the benefits of the trust hereby created.

Section 2.5. The form of the original bonds, the Trustee's certificate to be endorsed thereon, and the registration endorsement (with appropriate insertions of amounts and distinguishing numbers and letters), shall be substantially as follows with such modifications as are permitted through the use of the Book Entry System:

(Form of Original Bond)

[Unless this bond is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the Mishawaka Redevelopment Authority 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 Boone

Registered
No. R-__

Registered
$_______

MISHAWAKA REDEVELOPMENT AUTHORITY
LEASE RENTAL REVENUE BONDS OF 2021

Interest Rate	Maturity Date	Original Date	Authentication Date	CUSIP
_____%	_______ 1, 20__	_______, 20__	________, 20__	

Registered Owner:

Principal Sum: DOLLARS ($XXXXX)

The MISHAWAKA REDEVELOPMENT AUTHORITY (the "Authority"), a separate body corporation and politic duly organized and existing under the laws of the State of Indiana as an instrumentality of the City of Mishawaka, Indiana ("City") to finance certain local public improvements for lease to the Mishawaka Redevelopment Commission ("Commission"), for value received, hereby promises to pay to the Registered Owner (named above) or registered assigns, the Principal Sum set forth above on the Maturity Dates set forth [above][on Exhibit A attached hereto] (unless this bond is subject to and shall have been duly called for prior redemption and payment as provided for herein), and to pay interest thereon at the rate per annum set forth above from the interest payment date to which interest has been paid next preceding the date of authentication of this bond unless this bond is authenticated after the first day of the month of 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___, in which case it shall bear interest from the Original Date until the principal shall be fully paid, which interest is payable on February 15 and August 15 of each year, beginning on ______ 1, 20___. Interest shall be calculated on the basis of a 360-day year consisting of twelve 30-day months.

Interest on this bond is payable by check or draft mailed one business day prior to the interest payment date, or by wire transfer of immediately available funds on the interest payment date to a registered owner of One Million Dollars ($1,000,000) or more in aggregate principal amount who requests the same in writing to the Trustee at least five (5) business days prior to the applicable interest payment date, to the person in whose name this bond is registered on the first day of the month of an interest payment date. Principal of and premium, if any, on this bond is payable in lawful money of the United States of America at the corporate trust office of[Trustee] in ______________________ (the "Registrar" and the "Paying Agent"). Notwithstanding anything contained herein, this bond shall only need to be presented upon final maturity or redemption in full.

This bond is one of an authorized series of bonds of the Authority, designated as "Mishawaka Redevelopment Authority Lease Rental Revenue Bonds of 2021" ("Bonds") all of like date, tenor and effect (except as to numbering, denomination, interest rate and date of maturity), in the aggregate principal amount of ________ Million Dollars ($_____,000), for the purpose of providing funds to finance certain local public improvements throughout the Redevelopment District of the City (the "Stimulus Projects"), which will serve and benefit the Consolidated Area Improvement Project (the "Consolidated Area"); (b) fund a debt service reserve, either from proceeds of the Bonds or a debt service reserve surety and (c) pay the costs of issuance of the Bonds. All of the original bonds are issued under and in accordance with, and all are equally and ratably entitled to the benefits of, and ratably secured by a Trust Indenture ("Indenture"), dated as of _______ 1, 20____, between the Authority and __________, as trustee (the Trustee"), to which reference is hereby made for a description of the property securing the Bonds and any additional parity bonds issued thereunder (the "Additional Bonds") (the Bonds and any Additional Bonds, the "Bonds"). The Indenture pledges the funds established by the Indenture, the rentals provided by Section 2(a) ("Rent") of the Lease, and proceeds of insurance or condemnation (unless such proceeds are used to reconstruct the condemned property) to the payment of the Bonds. Rent due under the Lease shall commence [February 1, 2022].

This Bond does not constitute a corporate obligation of the City or the Commission but constitutes a special and limited obligation of the Authority payable solely from the lease rental payments and other funds pledged under the Indenture. Neither the faith and credit nor the taxing power of the City is pledged to pay the principal of or interest on this Bond.

The Lease provides that the Commission will pay Rent directly to the Trustee. Rent is payable from TIF Revenues (as defined in the Lease), on a parity with (i) the Outstanding Parity Obligations (as defined in the Lease) and (ii) any additional Parity Obligations (as defined in the Lease) subject to certain financial as described in the Lease.

The Indenture permits the issuance of Additional Bonds under the conditions set out in Section 2.7 thereof and allows the Authority to terminate the security of the Indenture for this Bond by establishing a trust fund with the Trustee under the conditions set out in Section 8.4 thereof.

The Authority has covenanted that one business day prior to February 15 and August 15 in each year, beginning with _______ 15, 20____, it will pay to the Trustee an amount sufficient to pay the principal and all interest as it becomes due until all of the Bonds of this issue shall have been retired.

The Bonds of this issue maturing on or after ______ 15, 20_____ may be redeemed prior to maturity at the option of the Authority, in whole or in part, in such order of maturity as the Authority shall direct and by lot within maturities (each $5,000 of principal shall be considered as a bond for this purpose), on ___________ 15, 20____, or any date thereafter from any moneys made available for that purpose, at face value, plus in each case accrued interest to the date fixed for redemption, without any premium.

[The Bond[s] maturing on ________15, 20_____ are subject to mandatory sinking fund redemption prior to maturity, at a redemption price equal to the principal amount thereof plus accrued interest to the date of redemption in accordance with the following schedules:

Term Bond[s] Due _____ 15, 20____

Date	Amount

*Final Maturity]

[The Trustee shall credit against the mandatory sinking fund requirement for any of the Bonds maturing on each of ______________, 20___ (collectively, the "Term Bonds"), and corresponding mandatory sinking fund redemption obligation, in the order determined by the Authority, any such Term Bonds which have previously been redeemed (otherwise than as a result of a previous mandatory sinking fund redemption requirement) or delivered to the Trustee, the Registrar or the Paying Agent for cancellation or purchased for cancellation by the Trustee and not theretofore applied as a credit against any redemption obligation. Each Term Bond so delivered or canceled shall be credited by the Trustee at 100% of the principal amount thereof against the mandatory sinking fund obligation on such mandatory sinking fund redemption date, and any excess of such amount shall be credited on future redemption obligations, and the principal amount of Term Bonds to be redeemed by operation of the mandatory sinking fund requirement shall be accordingly reduced; provided, however, the Trustee, the Registrar or the Paying Agent shall only credit such Term Bonds to the extent received on or before forty-five (45) days preceding the applicable mandatory sinking fund redemption date stated above.]

Each Five Thousand Dollars ($5,000) principal amount shall be considered a separate Bond for purposes of optional and mandatory redemption. If not less than an entire maturity is called for redemption, the Bonds to be redeemed 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 Trustee not less than 30 nor more than 60 days prior to the date fixed for redemption unless the notice is waived by the Registered Owner of this bond. Any notice shall specify the date and place of redemption, which shall be determined by the Authority. 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, including interest accrued to the redemption date, on the date so named. Failure to give such notice by mailing, or any defect in such notice, with respect to any bond shall not affect the validity of any proceedings for redemption of other Bonds.

If this Bond is so called for redemption, and payment is made to the Trustee in accordance with the terms of the Indenture, this bond shall cease to bear interest or to be entitled to the lien of the Indenture from and after the date fixed for the redemption in the call.

In an event of default, as defined in the Indenture, occurs, the principal of this bond may become or may be declared due and payable prior to the stated maturity hereof, in the manner, and with the effect, and subject to the conditions provided in the Indenture.

This Bond is transferable in accordance with the Book Entry System or, if no such system is in effect, by the Registered Owner hereof at the principal corporate trust office of the Trustee upon surrender and cancellation of this bond and on presentation of a duly executed written instrument of transfer and thereupon a new Bond or Bonds of the same aggregate principal amount and maturity and in authorized denominations will be issued to the transferee or transferees in exchange therefor.

The Authority and the Trustee may deem and treat the person in whose name this bond is registered as the absolute owner hereof.

This Bond shall not be a valid obligation until duly authenticated by the Trustee, or its successors in trust, by the execution of the certificate endorsed hereon. The owner of this bond shall have no recourse for its payment against present or future members, officers or directors of the Authority, City, or Commission, and such recourse is, by the acceptance of this bond, expressly waived.

The Authority may, without the consent of, or notice to, any of the bondholders, amend the Indenture as provided in the Indenture.

IN WITNESS WHEREOF, the MISHAWAKA REDEVELOPMENT AUTHORITY has caused this Bond to be executed in its name and on its behalf by the manual or facsimile signature of its President or Vice President, and attested by the manual or facsimile signature of its Vice President or Secretary-Treasurer.

MISHAWAKA REDEVELOPMENT
AUTHORITY

By: ______________________________
President

Attest:

____
Secretary

(Form of Trustee's Certificate)

REGISTRAR'S CERTIFICATE

This Bond is the Bonds described in the within mentioned Indenture.

[TRUSTEE], Trustee

By: ________________________________
Authorized Representative

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations.

TEN COM – as tenants in common

TEN ENT – as tenants by the entireties

JT TEN – as joint tenants with right of survivorship and not as tenants in common

UNIF TRANS MIN ACT - Custodian

____
(Cust) (Minor)
under Uniform Transfers to Minors Act _______________
(State)

Additional abbreviations may also be used though not in list above.

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.

(end of bond form)

Section 2.6. The original bonds so executed by the Authority and authenticated by the Registrar shall be delivered by the Trustee to the purchasers thereof in the amount, at the times and upon the payment of the purchase price thereof, as requested in writing by the

Secretary-Treasurer of the Authority. The proceeds received from the sale of the bonds shall be deposited in the Construction Fund described in Section 3.1 and used to pay the cost of acquiring the Leased Premises, if any, costs of the Stimulus Projects and the costs of issuance of the bonds described in Section 3.1.

Section 2.7. Additional bonds may be issued on a parity with the original bonds, subject to the terms and limitations of this section, to finance or refinance the acquisition or construction of improvements to the Leased Premises, or to refund any of the bonds. Additional bonds shall be limited to amounts which can be repaid, along with the original bonds, from lease rentals paid by the Commission pursuant to the Lease. The lease rental pursuant to the Lease is limited as stated therein.

Upon the execution and delivery of an appropriate supplement to this Indenture, the Authority shall execute and deliver to the Trustee and the Trustee shall authenticate such additional bonds and deliver them as may be directed by the Authority. The supplemental indenture shall specify, as to the additional bonds, the designation, date, interest rate or rates, maturities, redemption provisions, if any, the form of bond and any other appropriate terms. Prior to the delivery by the Trustee of such additional bonds there shall be filed with the Trustee.

(a) a copy, certified by the Secretary-Treasurer of the Authority, of an amendment to the Lease, or a new lease agreement, between the Authority and the Commission, which requires the Commission to pay to the Authority fixed annual rentals in an amount sufficient to pay the principal of and interest on such additional bonds;

(b) an executed counterpart of the supplemental indenture;

(c) a copy certified by the Secretary-Treasurer of the Authority of the resolution adopted by the Authority authorizing the execution and delivery of such supplemental indenture and such additional bonds;

(d) a request and authorization to the Trustee by the Secretary-Treasurer of the Authority to authenticate and deliver such additional bonds to the purchasers therein identified upon payment to the Trustee of the purchase price thereof plus accrued interest thereon to the date of delivery, as specified in such request and authorization;

(e) an opinion of an independent public accountant selected by the Authority supported by appropriate calculations stating that the additional bonds can be amortized, along with the original bonds, from lease rental payments pursuant to the Lease; and

(f) an opinion of nationally recognized bond counsel selected by the Authority to the effect that the issuance and sale of the additional bonds will not result in interest on the original bonds and any outstanding additional bonds becoming includable in the gross income of the owners thereof for federal income tax purposes.

Section 2.8. If any bond issued under this Indenture shall become mutilated or be destroyed, stolen or lost, the Trustee shall certify and deliver in exchange for and in place and upon cancellation of the mutilated bond, or in lieu of and substitution for the same if destroyed, stolen or lost, a new bond of like denomination and tenor, but which, in the discretion of the Registrar, may bear the same or a different serial number, be marked "Duplicate," or be otherwise distinguished. In case of destruction, theft or loss, the applicant for a substituted bond shall furnish to the Trustee evidence of the destruction of such bond so destroyed, which evidence must be satisfactory to the Trustee in its discretion, and said applicant shall also furnish indemnity satisfactory to the Trustee in its discretion. The Trustee shall have the right to require the payment of the expense of issuing such replacement prior to the delivery of a new bond.

Section 2.9. The Registrar shall keep at its principal corporate trust operations office a record for the registration of bonds issued hereunder which shall, at all reasonable times, be open for inspection by the Authority.

Each registered bond shall be transferable only on such record at the principal corporate trust operations office of the Registrar at the written request of the registered owner thereof or its attorney duly authorized in writing, upon surrender thereof, together with a written instrument of transfer satisfactory to the Registrar duly executed by the registered owner or its duly authorized attorney.

Section 2.10. The Authority, the Trustee and any Paying Agent may deem and treat the person in whose name any bond issued hereunder shall be registered as the absolute owner of such bond for the purpose of receiving payment of or on account of the principal of said bond, and for all other purposes whatsoever.

Section 2.11. In the event the Authority determines that if is beneficial to have the bonds held by a central depository system pursuant to an agreement between the Authority and The Depository Trust Company and have transfers of the bonds affected by book entry on the books of the central depository system, then the bonds shall 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. 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 Paying Agent in the name of CEDE & CO., as nominee of The Depository Trust Company, the Authority and the Paying Agent shall have no responsibility or obligation to any other holders or owners (including any beneficial owner ("Beneficial Owner") of the bond 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 bond 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 bond except as otherwise provided herein.

No person other than The Depository Trust Company shall receive an authenticated bond evidencing an obligation of the Authority to make payments of the principal of and premium, if any, and interest on the bond pursuant to the Indenture. The Authority 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 bond; (ii) giving notices of redemption and other notices permitted to be given to bondholders with respect to such bond; (iii) registering transfers with respect to such bond; (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 bond 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 Authority's and the Paying Agent's obligations with respect to principal of and premium, if any, and interest on the bond to the extent of the sum or sums so paid. Upon delivery by The Depository Trust Company to the Authority 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 Indenture 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 bond and all notices with respect to such bond shall be made and given, respectively, to The Depository Trust Company as provided in a representation letter from the Authority to The Depository Trust Company.

Upon receipt by the Authority 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 bond shall no longer be restricted to being registered in the register of the Authority 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 bond shall designate, in accordance with the provisions of the Indenture.

If the Authority determines that it is in the best interest of the bondholders that they be able to obtain certificates for the fully registered bond, the Authority 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 bond. In such event, the Registrar shall prepare, authenticate, transfer and exchange certificates for the bond as requested by The Depository Trust Company and any Beneficial Owners in appropriate amounts, and whenever The Depository Trust Company requests the Authority and the Registrar to do so, the Registrar and the Authority 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 bond 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 bond.

If the bond shall no longer be restricted to being registered in the name of a depository trust company, the Registrar shall cause the bond 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 bond printed until it shall have received from the Authority 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 Authority or the Registrar with respect to any consent or other action to be taken by bondholders, the Authority 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 Authority 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 bond or from The Depository Trust Company on behalf of such Beneficial Owners stating the amount of their respective beneficial ownership interests in the bond 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 Indenture and the Authority 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 bond, together with the dollar amount of each Beneficial Owner's interest in the bond and the current addresses of such Beneficial Owners.

If the Book Entry System is no longer in effect, registered owners of bonds may, upon surrender thereof at the principal corporate trust office of the Trustee with a written instrument of transfer satisfactory to the Trustee, exchange a bond or bonds for a bond or Bonds of equal aggregate principal amount of the same maturity and interest rate of any authorized denominations. For every exchange or transfer of bonds, the Trustee may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The cost of preparing each new bond upon each exchange or transfer, and any other expenses of the Trustee incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the Authority. The Trustee shall not be obliged to make any transfer or exchange of any bond called for redemption within thirty (30) days of the redemption date.

Section 2.12. Registered owners of bonds may, upon surrender thereof at the principal office of the Registrar with a written instrument of transfer satisfactory to the Trustee, exchange a bond or bonds for a bond or bonds of equal aggregate principal amount of the same maturity and interest rate of any authorized denominations. For every exchange or transfer of bonds, the Registrar may make a charge sufficient to reimburse it for any tax, fee or other governmental charge required to be paid with respect to such exchange or transfer, which shall be paid by the person requesting such exchange or transfer as a condition precedent to the exercise of the privilege of making such exchange or transfer. The cost of preparing each new bond upon each exchange or transfer, and any other expenses of the Registrar incurred in connection therewith (except any applicable tax, fee or other governmental charge) shall be paid by the Authority. The Registrar shall not be obliged to make any transfer or exchange of any Bond called for redemption within thirty (30) days of the redemption date.

ARTICLE III

Funds and Investments

Section 3.1. (a) There is hereby established and created a fund designated as the "Mishawaka Redevelopment Authority Construction Fund." The Construction Fund shall consist of the Construction Account. The Trustee shall apply the Construction Account to the costs of the Stimulus Projects financed by the [original] bonds issued by the Authority, including, but not limited to, the following items:

(i) The cost of acquiring the Leased Premises, if any;

(ii) Obligations incurred for labor and to contractors, builders and materialmen in connection with the construction of the Stimulus Projects;

(iii) The cost of acquiring the plans and specifications, site for the Stimulus Projects, and the cost of construction of the Stimulus Projects before described;

(iv) The cost of equipment, if any, for the Stimulus Projects;

(v) The cost of all indemnity and surety bonds required by this Indenture, the fees and expenses of the Trustee and any Paying Agent during construction, and premiums on insurance during construction;

(vi) Architects, engineers, construction managers and attorneys' expenses and fees and all costs incurred in connection with the issuance and sale of the original bonds, including, without limitation, attorneys' fees, Trustee fees and expenses, printing costs, municipal advisor fees and recording and filing fees;

(vii) All other incidental costs incurred in connection with the cost of Stimulus Projects;

(viii) Any amount required to be deposited in the Rebate Fund.

(b) The Trustee shall pay the items listed above upon the written request of any officer of the Authority, Mayor of the City, or the Controller of the City, upon presentation of invoices or other documents showing the amounts due as evidenced by the written request in substantially the form set forth in Exhibit B.

(c) The Authority shall furnish to the Trustee at the time all Stimulus Projects are complete and ready for use an Affidavit of Completion in substantially the form set forth in Exhibit C, executed by any officer of the Authority (or such other individuals as are designated in writing to the Trustee by the Authority) and an officer of the Commission (or such other individuals as are designated in writing to the Trustee by the Commission), to the effect that all of the Stimulus Projects have been completed.

(d) For a period of one year after the filing of the final Affidavit of Completion the Trustee shall hold in the Construction Account of the Construction Fund an amount equal to 150% of the amount of any disputed claims of contractors and work to be repaired and shall transfer the unobligated balance of the Construction Fund, if any, to the Sinking Fund. Any balance remaining in the Construction Fund after payment of all disputed claims, claims for repair work and obligations for additional improvements or equipment authorized by Subsection (Second) shall be transferred to the Sinking Fund within ten (10) days after the last payment of such obligations. The Trustee shall have no responsibility to see that the Construction Fund is properly applied, except as herein specifically provided.

Section 3.2. There is hereby established and created a fund designated as the "Mishawaka Redevelopment Authority Sinking Fund." The Trustee shall deposit in such Sinking Fund from each rental payment received by the Trustee pursuant to the Lease an amount equal to the following, whichever is less:

(a) All of such rental payment; or

(b) An amount which, when added to the amount in the Sinking Fund on the deposit date equals the sum of the following amounts:

(i) Unpaid interest on the bonds due on, before or within twenty (20) days after the date such rental payment becomes due;

(ii) Unpaid principal of the bonds or mandatory sinking fund redemption due on, before or within twenty (20) days from the date such rental payment becomes due.

Any portion of a rental payment remaining after such deposit and any receipts from sales of personal property and identified to the Trustee as such shall be deposited by the Trustee in the Operation and Reserve Fund. The Trustee shall from time to time withdraw from such Sinking Fund, or if the amount in the Sinking Fund is not sufficient, then from the Operation and Reserve Fund created below, sufficient moneys for paying the principal of the bonds at maturity or upon mandatory sinking fund redemption and to pay the interest on the bonds as the same falls due. Moneys deposited in the Sinking Fund from the Construction Fund shall be the first moneys applied to all interest payments until the amount deposited from the Construction Fund and earnings attributable thereto have been exhausted. Investment earnings may be used for deposits to the Rebate Fund.

Section 3.3. [There is hereby established and created a fund designated as the "Mishawaka Redevelopment Authority Debt Service Reserve Fund." On the date of delivery of the original bonds, the Authority will deposit and amount equal to the Reserve Requirement of the Debt Service Reserve Fund. The Trustee shall maintain the Debt Service Reserve Fund and shall disburse the funds held in the Debt Service Reserve Fund solely for the payment of interest on and principal of the original bonds, and only if moneys in the Sinking Fund are insufficient to pay principal of and interest on the original bonds after making all the transfers thereto required to be made from the Operation and Reserve Fund. If any cash held in the Debt Service Reserve Fund is used to pay principal of and interest on the original bonds after making all the transfers thereto required to be made from the Operation and Reserve Fund, the depletion of the balance in the Debt

Service Reserve Fund shall be restored first from amounts on deposit in the Operation Fund and next from rental payments made under the Lease; provided, however, that to the extent TIF Revenues are insufficient or unavailable, the Commission has covenanted under the aforementioned resolutions to cause the levy of the Special Benefits Tax.

In the event any cash held in the Debt Service Reserve Fund shall exceed the Reserve Requirement ($________), such excess shall be transferred at least semiannually to the Sinking Fund and applied toward debt service on the original bonds or, if funds in the Sinking Fund are sufficient, transferred to the Operation and Reserve Fund.

Notwithstanding the foregoing, the Debt Service Reserve Requirement may be satisfied by the deposit of a Reserve Fund Credit Facility for the benefit of the holders of the bonds, purchased by the Authority.] [Insert Reserve Credit Facility terms and conditions.]

Section 3.4. There is hereby established and created a fund designated as the "Mishawaka Redevelopment Authority Operation and Reserve Fund." The Operation and Reserve Fund shall be used only to pay necessary incidental expenses of the Authority (e.g. Trustee's fees, accounting fees, appraisals, meetings, costs of rebate calculations, reports and deposits to the Rebate Fund), the payment of any rebate or penalty as authorized by Section 3.6 hereof, the payment of principal, interest and redemption premiums of the bonds upon redemption as authorized in Article IV hereof or the purchase price of bonds purchased as authorized by Section 3.8 hereof, and if the amount in the Sinking Fund at any time is less than the required amount, the Trustee shall, without any further authorization, transfer funds from the Operation and Reserve Fund to the Sinking Fund in an amount sufficient to raise the amount in the Sinking Fund to the required amount. Incidental expenses shall be paid by the Trustee upon the presentation of an affidavit executed by any officer of the Authority stating the character of the expenditure, the amount thereof, and to whom due, together with the statement of the creditor as to the amount owing. The Trustee may rely upon such affidavit and certificates without further verification. If the balance in the Operation and Reserve Fund exceeds $25,000, the Trustee shall transfer any excess to the Sinking Fund to pay debt service due on the bonds within the next twelve (12) months. Any amount transferred to the Sinking Fund shall be treated as a credit against the lease rentals payable by the Commission during that period. Unless otherwise directed by the Authority, the Trustee may take its fees without presentation of an affidavit. The Trustee may rely upon such affidavit and certificates without further verification.

Section 3.5. There is hereby established and created a fund designated as the "Mishawaka Redevelopment Authority Rebate Fund." If, in order to maintain the exclusion of interest on the bonds from gross income for federal income tax purposes, the Authority is required to rebate portions of investment earnings to the United States of America, the Authority shall annually compute or cause to be computed the amount required to be so rebated and shall provide the Trustee with a copy of such calculation. In the alternative, the Authority may elect to pay the penalty required by Section 148(f)(4)(C)(vii) of the Code. In that event, the Authority shall compute or cause to be computed each six months, the amount of such penalty and provide the Trustee with a copy of such calculation. In either event, the Trustee shall deposit the amount so calculated in the Rebate Fund from the Operation and Reserve Fund. The Trustee shall pay rebates or penalties in lieu of rebate from the Rebate Fund in the amount and on the dates as advised by the Authority or nationally recognized bond counsel as required by Section 148 of the Code. Such payments shall be made by the Trustee without any further authorization or direction than stated herein.

Section 3.6. All funds shall be invested by the Trustee in Qualified Investments as directed in writing by the Authority or the Controller of the City as an authorized representative of the Authority. In the absence of such direction, all funds shall be held by the Trustee uninvested in cash, without liability for interest. The Trustee may conclusively rely upon the Authority's written instructions as to both the suitability and legality of the directed investments and such written direction shall be deemed to be a certification that such directed investments constitute Qualified Investments. [Funds invested for the Sinking Fund and the Rebate Fund shall mature prior to the time the funds invested will be needed for payment of principal and interest on the Bonds or rebate to the United States government.] The Trustee is authorized to sell any securities so acquired from time to time in order to make required payments from a particular fund or account. Any such written investment direction given by the Authority shall comply with any requirements of the arbitrage certificate of the Authority delivered in connection with the issuance of the bonds. Notwithstanding the foregoing, the Trustee has no duty or obligation to confirm that the written investment directions provided to it so comply. Although the Authority recognizes that it may obtain a broker confirmation or written statement containing comparable information at no additional cost, the Authority hereby agrees that confirmations of permitted investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered. No statement need be rendered for any fund or account if no activity occurred in such fund or account during such month.

The Trustee may elect, but shall not be obligated, to credit the funds and accounts held by it with moneys representing income or principal payments due on, or sales proceeds due in respect of, investments in such funds and accounts, or to credit to investments intended to be purchased with such moneys, in each case before actually receiving the requisite moneys from the payment source, or to otherwise advance funds for account transactions. The Authority acknowledges that the legal obligation to pay the purchase price of any investments arises immediately at the time of the purchase. Notwithstanding anything else in this Indenture, (i) any such crediting of funds or assets shall be provisional in nature, and the Trustee shall be authorized to reverse any such transactions or advances of funds in the event that it does not receive good funds with respect thereto, and (ii) nothing in this Indenture shall constitute a waiver of any of the Trustee's rights as a securities intermediary under Uniform Commercial Code §9-206.

Section 3.7. At the request of the Authority, expressed by a resolution of the Board of Directors, and a copy thereof certified by the Secretary and delivered to the Trustee, the Trustee may remove funds from the Operation and Reserve Fund to be used for the redemption of bonds or for the purchase of bonds if the Authority determines that the purchase of bonds would be advantageous to the Authority.

(End of Article III)

ARTICLE IV

Redemption of Bonds

Section 4.1. The Authority shall have the right, at its option, to redeem on _______ 15, 20______, or any date thereafter, according to the procedure hereinafter provided, all or any part of the original bonds secured by this Indenture, maturing on or after _____ 15, 20____, at a price equal to the aggregate principal amount thereof, plus interest accrued to the date fixed for redemption, with no premium.

Section 4.2. [The Term Bonds are subject to mandatory sinking fund redemption at a price equal to the principal amount thereof plus accrued interest to the date of redemption in accordance with the following schedule:

20__ Term Bond	
Date	Amount

*Final Maturity]

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

Section 4.3. If fewer than all of the bonds are called for redemption at one time, the bonds shall be redeemed in such order of maturity as the Authority shall direct, and by lot within maturity. Each Five Thousand Dollars ($5,000) in aggregate principal amount shall be considered a separate bond for purposes of optional redemption and mandatory sinking fund redemption. The Trustee shall select by lot the bonds for the mandatory sinking fund redemption.

Section 4.4. To evidence its intention to exercise the right of optional redemption of any bonds provided in Section 4.1, the Authority shall, not less than forty-five (45) days prior to the date selected for redemption, and if less than all of the outstanding bonds are to be redeemed stating the aggregate principal amount of bonds which the Authority desires to redeem. No failure or defect in such notice by the Authority to the Trustee shall affect the validity of the redemption of any bonds.

Section 4.5. Official notice of such redemption shall be mailed by first class mail by the Trustee to the registered owners as of the date of mailing the notice of all bonds to be redeemed, not more than sixty (60) days nor less than thirty (30) days prior to the date fixed for redemption. Said notice shall, with substantial accuracy:

(a) designate the date and places of redemption, which shall be the offices of the Trustee and any Paying Agent;

(b) if the bonds to be redeemed are less than the whole amount outstanding, designate the bonds to be redeemed

(c) state that on the designated date fixed for redemption of the bonds shall be redeemed by the payment of the applicable redemption price hereinbefore set forth, and that from and after the date so fixed for such redemption interest on the bonds so called for redemption shall cease; and

(d) any condition precedent to such redemption and that if such condition precedent is not satisfied, such notice of redemption is rescinded and of no force and effect, and the principal and premium, if any, shall continue to bear interest on and after the date fixed for redemption at the interest rate borne by the Bond,

In all cases, the cost and expenses of the preparation and mailing of the notices of redemption shall be paid by the Authority. No failure or defect in the notice of redemption by the Trustee with respect to a particular bond shall affect the validity of the redemption of any other bond for which notice has been properly given.

Section 4.6. Such notice having been mailed as above provided, the bonds designated for redemption shall, on the date specified in such notice, become due and payable at the then applicable redemption price, and on presentation and surrender of such bonds in accordance with such notice, at the place at which the same are expressed in such notice to be redeemable, such bonds shall be redeemed by the Trustee or any Paying Agent on behalf of the Authority by the payment of such redemption price to the registered owners out of funds held by the Trustee or any Paying Agent for that purpose. From and after the date of redemption so designated, unless default shall be made in the redemption of the bonds upon presentation, interest on bonds designated for redemption shall cease. If not paid on presentation, the bonds shall continue to bear interest at the rate therein specified.

Section 4.7. All bonds redeemed (or purchased as authorized by Section 3.8 hereof) shall be canceled and destroyed as provided in Section 2.2 hereof. Bonds so redeemed or purchased shall not be reissued.

Section 4.8. If the amount necessary to redeem any bonds called for redemption shall have been deposited with the Trustee or any Paying Agent for the account of the owner or owners of such bonds on or before the date specified for such redemption, and if the notice shall have been duly mailed or provision satisfactory to the Trustee shall have been made for the mailing of such notice, and if all proper charges and expenses of the Trustee in connection with such redemption shall have been paid or provided for, the Authority shall be released from all liability on such bonds and such bonds shall no longer be deemed to be outstanding hereunder, and interest thereon shall cease at the date specified for such redemption; and thereafter such bonds shall not be secured by the lien of this Indenture. The Trustee shall be privileged to give notice of any call for redemption, but shall not be required to do so unless the amount necessary to redeem the bonds called and to pay all proper charges of the Trustee shall have been deposited with, paid to, or otherwise made available to the Trustee or if such redemption is specifically conditioned upon the receipt of sufficient funds by the Trustee on such redemption date. In case any question shall arise as to whether any such notice shall have been sufficiently given or any such redemption shall be effective, such question shall be decided by the Trustee, and the decision of the Trustee shall be final and binding upon all parties in interest.

Section 4.9. In addition to the foregoing official notice, further notice of redemption shall be given by the Trustee within sixty (60) days after the redemption date to the owner of each bond called for redemption who has not submitted such bonds for payment as of the thirtieth day following the redemption date.

(End of Article IV)

ARTICLE V

Covenants of the Authority

Section 5.1. The Authority covenants and agrees that it will faithfully do and perform, and at all times faithfully observe, any and all covenants, undertakings, stipulations and provisions contained in each and every bond issued hereunder, and will duly and punctually pay or cause to be paid the principal of said bonds and the interest thereon, at the times and places, and in the manner mentioned in said bonds, according to the true intent and meaning thereof; provided, however, that, notwithstanding any other provision of this Indenture or the bonds, the obligations of the Authority under this Indenture and the bonds are special and limited obligations of the Authority, payable solely from and secured exclusively by the Trust Estate; and provided, further, that nothing in the bonds or this Indenture shall be construed as pledging or assigning any assets of the Authority except the Trust Estate, or as creating a general obligation of the Authority.

Section 5.2. The Authority covenants that it will promptly make, execute and deliver all indentures supplemental hereto, or otherwise, and take all such action as may reasonably be deemed by the Trustee or by its counsel necessary or advisable for the better securing of any bonds issued hereunder, or for better assuring and confirming to the Trustee the Trust Estate or any part thereof.

Section 5.3. The Authority covenants that it has good right, full power and lawful authority to issue the bonds, execute this Indenture and subject all of the Trust Estate to the lien hereof, in the manner and form herein contained or intended.

Section 5.4. The Authority covenants that it will promptly and before they shall become delinquent pay or cause to be paid all lawful taxes, charges and assessments at any time levied or assessed upon or against the Leased Premises or the receipt of rental payments under the Lease.

Section 5.5. If the Authority should at any time fail to pay in apt season any tax, assessment or other charge for which it is responsible, or any part thereof, or fail to pay promptly when payable any license fee, franchise or corporation tax, or like statutory charge, the Trustee may but is not required to, without obligation to inquire into the validity thereof, pay such tax, assessment, fee or other charge, but without prejudice to the rights of the Trustee arising hereunder in consequence of such default, and the amount of every payment so made at any time by the Trustee, with interest thereon at the highest rate of interest on any of the bonds when sold, whether or not then outstanding, from the date of payment, shall constitute an additional indebtedness of the Authority secured by the lien of this Indenture, prior or paramount to the lien hereunder of any of said bonds and the interest thereon. Notwithstanding the foregoing, nothing in this Indenture shall be construed to impose on the Trustee an obligation to advance its own funds for any purpose.

Section 5.6. The Authority covenants that proper books of record and account will be kept in which full, true and correct entries will be made of all dealings or transactions of or in relation to the properties, business and affairs of the Authority, and that it will:

(a) At such times as the Trustee shall reasonably request, furnish statements in reasonable detail showing the earnings, expenses and financial condition of the Authority.

(b) From time to time furnish to the Trustee such information as to the property of the Authority as the Trustee shall reasonably request;

(c) On or before April 1, file with the Trustee a certificate signed by its President or a Vice President, and its Secretary-Treasurer, stating that all taxes then due on the Leased Premises have been duly paid (unless the Authority shall, in good faith, contest any of said taxes, in which event the facts concerning such contest shall be set forth); also stating that all insurance premiums required by the terms of the Indenture to be paid by the Authority upon the Leased Premises have been duly paid.

The Authority further covenants that all books, documents and vouchers relating to the properties, business and affairs of the Authority shall at all times be open to the inspection of such accountants or other agents as the Trustee may from time to time designate.

Upon the request of any bondholder, the Authority will request from the City the current financial statements of the City for review by the bondholder.

Section 5.7. In order to preserve the exclusion of interest on the bonds from gross income for federal income tax purposes and as an inducement to purchasers of the bonds, the Authority represents, covenants and agrees that:

(a) No bond proceeds will be loaned to any nongovernmental entity or person. No bond 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 proceeds.

(b) The Authority will, to the extent necessary to preserve the exclusion of interest on the bonds from gross income for federal income tax purposes, rebate all required arbitrage profits on bond proceeds or other moneys treated as bond proceeds or pay the penalty in lieu of rebate to the United States of America and will set aside such moneys in the Rebate Fund to be held by the Trustee in trust for such purpose.

(c) The Authority will not take any action nor fail to take any action with respect to the bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the bonds pursuant to Section 103 of the Code, nor will the Authority act in any other manner which would adversely affect such exclusion.

Section 5.8. The Authority covenants that it will not acquire any property, real or personal, subject to an existing mortgage or other encumbrance, except as permitted by Section 5.9 hereof.

Section 5.9. Except as permitted by Section 2.7, the Authority covenants that it will not incur any indebtedness other than the original bonds except (i) additional bonds as permitted by this Indenture, (ii) indebtedness payable from the Trust Estate and subordinate to the rights of the Trustee under this Indenture, or (iii) indebtedness payable from income of the Authority from some source other than the Trust Estate.

Section 5.10. The Authority covenants that the proceeds of the bonds shall be used for the following purposes in the following order of priority:

(First) To the payment of the cost of acquiring the Leased Premises, if any, the costs of the Stimulus Projects, in accordance with the Indenture, and costs of issuance of the bonds. The costs of construction shall include but not be limited to the items set forth in Section 3.1 hereof.

(Second) Any balance in excess of one hundred fifty percent (150%) of the amount of any disputed claims of contractors and work to be repaired remaining after the completion of the Stimulus Projects may be obligated within a period of one (1) year thereafter for any one or more of the following purposes upon written request of the Commission:

(a) For the purchase of equipment for the Stimulus Projects, if any;

(b) For the improvement of the Stimulus Projects or the Leased Premises;

(c) For additional local improvements in, serving or benefiting the Area (which shall be included in the Lease and subject to its conditions by an amendment executed by the Authority and the Commission).

(Third) Any balance in excess of one hundred fifty (150%) of the amount of any disputed claims of construction and work to be repaired remaining unobligated after one (1) year provided from the filing of the final Affidavit of Completion shall be transferred to the Sinking Fund as provided in Section 3.1 hereof.

(Fourth) Any balance remaining after payment of all obligations authorized by Subsection (Third) above, shall be transferred to the Sinking Fund within ten (10) days after the last payment of such obligations as provided in Section 3.1 hereof.

Section 5.11. The Authority covenants that it has entered into a valid and binding Lease of the Leased Premises to the Commission, and that a full, true and correct copy of the Lease is on file with the Trustee. The Authority further covenants that, upon receipt by the Trustee of the proceeds of the bonds secured hereby, it will forthwith proceed to acquire the Leased Premises and will make the payments out of the Construction Fund in accordance with the terms of the Indenture.

Section 5.12. The Authority covenants and agrees that upon any default in the payment of lease rental as provided in the Lease, it will pursue any remedy permitted by law and necessary to collect and enforce the payment of such rentals, including the filing of a suit to mandate the collection and use of TIF Revenues (as defined in the Lease) to pay rent due under the Lease and, to the extent the TIF Revenues are not sufficient, the levy of a redevelopment district special benefits tax to raise sufficient funds. The Authority further appoints the Trustee and each bondholder its attorney-in-fact, each authorized, acting alone, jointly or severally, to file such claims in its name, or provided the Trustee consents thereto, in the name of the Trustee, or in both such manners, and appoints the Trustee to file such suits and to pursue such remedies.

Section 5.13. The Authority covenants that the proceeds from the sale of the bonds, proceeds received from lease rentals payable according to the Lease, any other amounts received by the Authority in respect to property directly or indirectly financed with any proceeds of such bonds, and proceeds from interest earned on the investment and reinvestment of such proceeds and amounts, shall not be invested or otherwise used in a manner which would cause such bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code or any of the applicable regulations pertaining thereto. Any such investment by the Trustee, as directed by the Authority, shall comply with Section 148 of the Code and such regulations or rules pertaining to Section 148, as may be applicable and any restrictions stated in the arbitrage certificate of the Authority. The Trustee shall be entitled to rely upon the arbitrage certificate as to the accuracy of the facts stated therein.

Section 5.14. The Authority covenants that whenever there are sufficient funds held by the Trustee in the Sinking Fund, Debt Service Reserve Fund or the Operation and Reserve Fund to pay the principal, redemption premiums and interest to the next principal payment date on which bonds can be redeemed under Article IV on all outstanding bonds, plus the costs of redeeming the bonds, it will call all outstanding bonds for redemption on the next redemption date and hereby consents and directs the Trustee to call all outstanding bonds for redemption.

Section 5.15. The Authority covenants that it will maintain the Leased Premises, or cause the Leased Premises to be maintained, in good working condition for the uses for which the Leased Premises are intended.

Section 5.16. The Authority covenants that it will not sell or dispose of the Leased Premises or any portion thereof, except as permitted by this Indenture and the Lease.

Section 5.17. The Authority covenants that it will maintain its existence; that it will not do or suffer to be done anything whereby its existence or its right to undertake or hold the Leased Premises might in any way be questioned; and that it will observe and comply with the terms of all applicable laws and ordinances of the State of Indiana and any political or municipal subdivision thereof relative to the Leased Premises.

(End of Article V)

ARTICLE VI

Insurance

Section 6.1. The Authority covenants that by the Lease it has required the Commission to carry combined bodily injury insurance, including accidental death, and property damage with reference to the Leased Premises in an amount not less than Three Million Dollars ($3,000,000) on account of each occurrence with one or more good and responsible insurance companies. The public liability insurance required herein may be by blanket insurance policy or policies.

Section 6.2. While the bonds are outstanding, the Authority shall keep or cause to be kept the insurance as required in Section 6.1 hereof. Such insurance policies shall be maintained in good and responsible insurance companies and shall be countersigned by an agent of the insurer who is a resident of the State of Indiana. A copy of the policies or a certificate of insurance shall be deposited with the Trustee.

Section 6.3. If the Commission and the Authority shall at any time refuse, neglect or fail to obtain and furnish such insurance as aforesaid, the Trustee may, in its discretion, procure such insurance, and all moneys paid by the Trustee for such insurance, together with interest thereon at the highest rate of interest on any of the bonds when sold, whether or not then outstanding, shall be repaid by the Authority upon demand, and shall constitute an additional indebtedness of the Authority secured by the lien of this Indenture, prior and paramount to the lien hereunder of said bonds and interest thereon. The Trustee, however, shall not be obligated to effect such insurance unless fully indemnified against the expense thereof and furnished with means therefor.

Section 6.4. The insurance policies required by Section 6.1 shall be for the benefit, as their interests shall appear, of the Trustee, the Authority, the Commission and other persons having an insurable interest in the insured property. Such policies shall clearly indicate that any proceeds under the policies relative to the Leased Premises shall be payable to the Trustee, and the Trustee is hereby authorized to demand, collect and receipt for and recover any and all insurance moneys which may become due and payable under any of said policies of insurance and to prosecute all necessary actions in the courts to recover any such insurance moneys. The Trustee may, however, accept any settlement or adjustment which the officers of the Authority may deem it advisable to make with the insurance companies.

Section 6.5 Subject to the terms of the Lease, in the event all or part of the Leased Premises is taken by exercise of eminent domain, the proceeds of such condemnation award received by the Authority or the Trustee shall be applied to the replacement or reconstruction of the condemned property by the Authority. Such proceeds shall be held and disbursed by the Trustee in the manner and upon the showings provided for in Section 3.1 hereof, except that the Trustee may release such proceeds, or a part thereof, upon a showing satisfactory to the Trustee that replacements or reconstructions have been made and paid for.

Section 6.6. If the Authority shall not commence to repair or replace the Leased Premises or portion thereof so damaged or destroyed within ninety (90) days after any such loss or damage, or if the Authority, having commenced such work or repair or replacement, shall abandon or fail diligently to prosecute the same, the Trustee may, in its discretion, make or complete such repairs or replacements, and if it shall elect so to do, may enter upon said premises to any extent necessary for the accomplishment of such purposes, but nothing herein contained shall obligate the Trustee to make or complete any such repairs or replacements; however, the Trustee may not make or complete such replacements or reconstruction if the Authority has instructed the Trustee not to undertake such replacement or reconstruction because the cost thereof exceeds the amount of condemnation proceeds available therefor.

Section 6.7. If the Authority shall neglect, fail or refuse to proceed forthwith in good faith with the repair or replacement of the Leased Premises which shall have been so destroyed or damaged, and such negligence, failure or refusal shall continue for one hundred twenty (120) days, the Trustee, upon receipt of the insurance moneys, shall (unless the Trustee proceeds to make the repairs or replacements of the destroyed or damaged property as above provided) apply such proceeds in the following manner:

(a) If the proceeds are sufficient to redeem all of the then outstanding bonds and such bonds are then subject to redemption, the Trustee shall apply the proceeds to the redemption of such bonds in the manner provided in Article IV of this Indenture, and with the same force and effect as if such redemption had been made at the option of the Authority. To the extent the bonds are not then callable at par under Article IV of this Indenture, such proceeds shall be set aside in the Sinking Fund and invested in accordance with the written investment instructions of the Authority and to the extent the Trustee has not received and such written investment instructions such amounts shall be held uninvested in cash, without liability for interest.

(b) If the proceeds are not sufficient to redeem all of the then outstanding bonds, or if such Bonds are not then subject to redemption, the Trustee shall apply the proceeds to the payment of the outstanding bonds in the manner provided by Section 7.4 hereof [in the case of proceeds from the sale of the Leased Premises.

Section 6.8. If, at any time, the Leased Premises are totally or substantially destroyed and the amount of insurance money received on account thereof by the Trustee is sufficient to redeem all of the then outstanding bonds hereunder and such bonds are then subject to redemption, the Authority, with the written approval of the Commission, may direct the Trustee to use said moneys for the purpose of calling for redemption all of the bonds issued and then outstanding under this Indenture at the then current redemption price.

Section 6.9. In the event of any reconstruction of any part of the Leased Premises after substantially total destruction thereof, a new project or projects may be constructed by the Authority in accordance with plans and specifications which must be satisfactory to the Commission thereof, and such new project or projects may be wholly different in design or construction or designed for a different purpose, but in no event shall any actions taken pursuant to this Section 6.9 impair any of the obligations of the Authority or the Commission under the Lease.

Section 6.10. The Trustee may accept the statements, affidavits and certificates hereinabove in this Article VI provided to be filed with the Trustee, as evidence of the facts therein stated, but the Trustee (although under no obligation so to do) may, at the expense of the Authority, require further or other evidence of such matters and may rely on the report or opinion of such architect, engineer, or other person, or counsel, as it may select for the purpose of making an investigation thereof.

(End or Article XI)

ARTICLE VII

Defaults and Remedies

Section 7.1. If any of the following events occurs, it is hereby defined as and is declared to be and to constitute an "event of default":

(a) Default in the due and punctual payment of the interest on any bonds hereby secured and outstanding;

(b) Default in the due and punctual payment of the principal of any bond hereby secured, whether at the stated maturity thereof, or upon proceedings for the redemption thereof;

(c) Default in the performance or observance of any other of the covenants or agreements of the Authority in this Indenture or in any supplemental indenture, or in the bonds, contained, and the continuance thereof for a period of sixty (60) days after written notice thereof to the Authority by the Trustee;

(d) If the Authority: (1) admits in writing its inability to pay its debts generally as they become due; (2) files a petition in bankruptcy; (3) makes an assignment for the benefit of its creditors; or (4) consents to or fails to contest the appointment of a receiver or trustee for itself or of the whole or any substantial part of the Leased Premises or the lease rentals due under the Lease;

(e) If the Authority: (1) is adjudged insolvent by a court of competent jurisdiction; (2) on a petition in bankruptcy filed against the Authority is adjudged a bankrupt; or (3) if an order, judgment or decree be entered by any court of competent jurisdiction appointing, without the consent of the Authority, a receiver or trustee of the Authority or of the whole or any substantial part of the Leased Premises or the lease rentals due under the Lease, and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof;

(f) If any judgment shall be recovered against the Authority or any attachment or other court process issue that shall become or create a lien upon any of its property, and such judgment, attachment, or court process shall not be discharged or effectually secured within sixty (60) days;

(g) If the Authority shall file a petition under the provisions of the U.S. Bankruptcy Code, as amended ("Bankruptcy Code"), or file answer seeking the relief provided in the Bankruptcy Code;

(h) If a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against the Authority under the provisions of the Bankruptcy Code, and such judgment, order or decree shall not be vacated or set aside or stayed within one hundred twenty (120) days from the date of the entry thereof;

(i) If, under the provisions of any other law now or hereafter existing for the relief or aid o debtors, any court of competent jurisdiction shall assume custody or control of the Authority or of the whole or any substantial part of the Lease Premises or the lease rentals due under the Lease, and such custody or control shall not be terminated within one hundred twenty (120) days from the date of assumption of such custody or control;

(j) Failure of the Authority to bring suit to mandate the Commission or officials of the Commission pay rentals due under the Lease from the sourced provided therein, or other action to enforce the Lease as is reasonably requested by the Trustee, if such rental is more than sixty (60) days in default;

(k) If the lease rental provided for in the Lease is not paid within ten (10) days after each date it is due.

Section 7.2. In the case of the happening and continuance of any of the events of default specified in Section 7.1 hereof, then the Trustee, by notice in writing mailed to the Authority, may and upon written request of the owners of twenty five percent (25%) in principal amount of the bonds then outstanding hereunder by notice in writing, mailed to the Authority and upon being indemnified to its reasonable satisfaction, shall proceed to protect and enforce its rights and the rights of the owners of the bonds by suit or suits in equity or at law, or in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein or in aid of any power herein granted, or for the enforcement of any other appropriate legal or equitable remedy.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee or to the bondholders is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or acquiescence therein; and every such right or power may be exercised from time to time and as often as may be deemed expedient.

Section 7.3. If default occurs with respect to the payment of principal or interest due hereunder, interest shall be payable on overdue principal and overdue interest both at rate of interest set forth in each bond.

Section 7.4. Upon the occurrence of one or more events of default, the Authority, upon demand of the Trustee, shall forthwith surrender to the Trustee the actual possession of, and it shall be lawful for the Trustee by such officer or agent as it may appoint with or without process of law to take possession of, all the Leased Premises and to hold, operate and manage the same, and from time to time make all needful repairs and such extensions, additions or improvements as to the Trustee shall seem wise; and to receive the rents, revenues, issues, earnings, income, profits and proceeds thereof and out of the same to pay all proper costs and expenses of so taking, holding and managing the same, including reasonable compensation to the Trustee, its agents and counsel, any charges of the Trustee hereunder, any taxes and assessments and other charges prior to the lien of this Indenture which the Trustee may deem it wise to pay, and all expenses in connection therewith; and after the creation of a reasonable reserve for anticipated fees, costs and expenses, to apply the remainder of the moneys so received by the Trustee, first, to the payment of the installments of interest which are due and unpaid in the order of their maturity, and next, if the principal of said bonds is due, to the payment of the principal thereof and the accrued interest thereon pro rata, without any preference or priority whatsoever except as aforesaid. Whenever all that is due upon such bonds and installment of interest and under any of the terms of this Indenture shall have been paid, and all defaults made good, the Trustee shall surrender possession to the Authority, its successors or assigns, but the same right of entry shall exist upon any subsequent default. The Trustee shall be under no obligation, however, to act under this Section 7.4 hereof unless, in the exercise of its discretion, it is willing to do so.

Notwithstanding anything contained herein to the contrary, upon the occurrence and continuance of an event of default hereunder, before taking any action with respect to the Leased Premises which may subject the Trustee to liability under any environmental law, statute, regulation or similar requirement, the Trustee may require that a satisfactory indemnity bond, indemnity or environmental impairment insurance be furnished for the payment or reimbursement of all expenses to which it may be put and to protect it against all liability resulting from any claims, judgments, damages, losses, penalties, fines, liabilities (including strict liability) and expenses which may result from such foreclosure or other action.

Section 7.5. In case of an event of default hereunder and upon the filing of judicial proceedings to enforce the rights of the Trustee and of the bondholders hereunder, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver of the Leased Premises and of the rents, revenues, issues, earnings, income and proceeds thereof pending such proceedings, with such powers as the court making such appointment shall confer.

Section 7.6. All rights of action under this Indenture or under any of the bonds, including the right to file and prove a claim in any receivership, insolvency, bankruptcy, or other similar proceedings for the entire amount due and payable by the Authority under this Indenture, may be enforced by the Trustee without the possession of any of the bonds or the production thereof in any trial or other proceeding relating thereto, and any suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, and any recovery shall be for the equal benefit of the owners of the outstanding bonds.

Section 7.7. It is hereby declared and agreed, as a condition upon which each successive owner of all or any such bonds receives and holds the same, that no owner or owners of any such bond shall have the right to institute any proceeding in law or equity for the foreclosure of this Indenture, or for the appointment of a receiver, or for any other remedy under this Indenture, without first giving notice in writing to the Trustee of the occurrence and continuance of an event of default as aforesaid, and unless the owners of at least twenty five percent (25%) in principal amount of the then outstanding bonds shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and without also having offered to the Trustee adequate security and indemnity against the costs, expenses and liabilities to be by the Trustee incurred therein or thereby; and such notice, request and offer of indemnity may be required by the Trustee as conditions precedent to the execution of the powers and trusts of this Indenture or to the institution of any suit, action or proceeding at law or in equity for the foreclosure hereof, for the appointment of a receiver, or for any other remedy hereunder, or otherwise, in case of any such default as aforesaid; it being understood and intended that no one or more owners of the bonds shall have any right in any manner whatsoever, to affect, disturb or prejudice the lien of this Indenture by his or their action, or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided, and for the equal benefit of all owners of outstanding bonds. Notwithstanding any other provisions of this Indenture, the right of any owner of any bond to receive payment of the principal of and interest on such bond on or after the respective due dates therein expressed, or to institute suit for the recovery of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such owner.

Section 7.8. No recourse under or upon any obligation, covenant or agreement contained in this Indenture or in any bond hereby secured, or because of the creation of any indebtedness hereby secured, shall be had against any incorporator, member, officer, director or employee, present or future, of the Authority or of any successor thereto either directly or through the Authority, by the enforcement of any assessment or by any legal or equitable proceeding or by virtue of any statute or otherwise; it being expressly agreed and understood that this Indenture and the obligations hereby secured are solely corporate obligations, and that no personal liability whatever shall attach to or be incurred by such officers, directors or employees of the Authority, or of any successor thereto, or any of them, because of the incurring of the indebtedness hereby authorized, or under or by reason of any of the obligations, covenants or agreements contained in this Indenture, or in any of the bonds hereby secured, or implied therefrom; and that any and all personal liability of every name and nature, and any and all rights and claims against every such officer, director or employee, whether arising at common law, or in equity, or created by statute or constitution, are hereby expressly released and waived as a condition of, and as a part of the consideration for, the execution of this Indenture and the issuance of bonds and interest obligations secured hereby.

(End of Article VII)

ARTICLE VIII

Possession until Default, Defeasance, Payment, Release

Section 8.1. Unless an event of default as in Article VII hereof defined shall have occurred, and unless such default shall have continued beyond the period of grace, if any, therein provided, the Authority shall be suffered and permitted to remain in full possession, enjoyment and control of the Trust Estate, except money which is expressly required to be deposited or pledged with the Trustee or Paying Agent, and shall be permitted to manage, operate and lease the same, and subject always to the provisions hereof, to receive, receipt for, take, use and dispose of all income, revenues, rents, issues and profits thereof.

Section 8.2. While in possession of the Trust Estate and not in default hereunder, the Authority shall have the right at all times, as proper management of the business of the Authority may require, to alter, change, add to, repair or replace any of the property constituting a part of the Trust Estate, provided that the Authority shall, and hereby covenants at all times to, maintain and preserve the value of the Trust Estate from substantial impairment or reduction so that the security of the bonds issued hereunder shall not thereby be substantially impaired or reduced.

Section 8.3. The Trustee shall at all times have full power and authority to be exercised in its own discretion, to release from the lien and operation of this Indenture such portion of the Trust Estate now owned, or which shall at any time be acquired or held for the use of the Authority as shall have become unfit or unnecessary for use, but any and all new or other property of the classes covered by this Indenture, which may be acquired in substitution for any portion of the Trust Estate so released, shall by virtue and force hereof become and be immediately upon the acquisition thereof, subject to the operation of these presents without any new conveyance or transfer or act or proceeding whatsoever; and the proceeds from all such sales of Trust Estate which shall not be invested in other property subject to the Lease within ninety (90) days after the receipt thereof, shall be deposited in the Operation and Reserve Fund. All releases granted and consents given by the Trustee under this section shall be in writing and copies of the same shall be retained by the Trustee and be open to inspection by owners of the bonds secured hereby. A certified copy of the resolution adopted by the board of directors of the Authority relative to the disposal of Trust Estate found to be unfit or unnecessary for use, shall be conclusive in favor of the Trustee as to the truth of the matters therein recited.

Section 8.4. If payment or provision for payment is made to the Trustee of the principal of and interest due and to become due on the bonds at the times and in the manner stipulated therein, and there is paid or caused to be paid to the Trustee all sums of money due and to become due according to the provisions hereof, then these presents and the trust estate and rights hereby granted shall cease, terminate and be void, whereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Authority such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto the Authority any and all the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee hereby or otherwise subject to the lien of this Indenture, except moneys or securities held by the Trustee for the payment of the principal of and interest on the bonds and the payment of any rebate obligation owed under Section 148(f) of the Code.

Any bond or portion thereof shall be deemed to be paid within the meaning of this Indenture when payment of the principal of such bond and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture or otherwise), either (a) shall have been made or caused to have been made in accordance with the terms thereof, or (b) shall have been provided for by irrevocably depositing with the Trustee in trust and exclusively for such payment, (1) moneys sufficient to make such payment or (2) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America ("Governmental Obligations") maturing as to principal and interest in such amounts and at such times, without consideration of any reinvestment thereof, as will insure the availability of sufficient moneys to make such payment, or (3) a combination of such moneys and Governmental Obligations, and all necessary and proper fees and expenses of the Trustee pertaining to the bonds with respect to which such deposit is made shall have been paid or deposited with the Trustee.

Notwithstanding the foregoing, in the case of bonds which by their terms may be redeemed prior to their stated maturity, no deposit under the immediately preceding paragraph shall be deemed a payment of such bonds as aforesaid until the Authority shall have given the Trustee, in form satisfactory to the Trustee, irrevocable instructions:

(i) stating the date when the principal of each such bond is to be paid, whether at maturity or on a redemption date (which shall be any redemption date permitted by the Indenture);

(ii) to call for redemption pursuant to the Indenture any bonds to be redeemed prior to maturity pursuant to (i) hereof; and

(iii) to mail, as soon as practicable, in the manner prescribed by Article IV, a notice to the owners of such bonds that the deposit required by (b) of the preceding paragraph has been made with the Trustee and that such bonds are deemed to have been paid in accordance with this Section 8.4 and stating the maturity or redemption date upon which moneys are to be available for the payment of the principal of or redemption price, if applicable, on such bonds as specified in subparagraph (i) of this paragraph.

Any moneys so deposited with the Trustee as provided in this Section may at the direction of the Authority also be invested and reinvested in Governmental Obligations, maturing in the amounts and times as hereinbefore set forth, and all income from all Governmental Obligations in the hands of the Trustee pursuant to this Section which is not required for the payment of the bonds and interest thereon with respect to which such moneys shall have been so deposited, shall be deposited in the Sinking Fund as and when realized and collected for use and application as are other moneys deposited in the Sinking Fund.

No such deposit shall be deemed a payment of such bonds unless the Trustee shall have received a verification from an accountant or firm of accountants appointed by the Authority verifying the sufficiency of the deposit to pay the principal of, premium, if any, and interest on the bonds to the due date, whether such due date be by reason of maturity or upon redemption.

Notwithstanding any provision of any other Section of this Indenture which may be contrary to the provisions of this Section, all moneys or Governmental Obligations set aside and held in trust pursuant to the provisions of this Section for the payment of bonds (including interest thereon) shall be applied to and used solely for the payment of the particular bonds (including interest thereon) with respect to which such moneys or obligations have been so set aside in trust.

Upon the deposit with the Trustee, in trust, at or before maturity, of money or Governmental Obligations in the necessary amount to pay or redeem all outstanding bonds as aforesaid (whether upon or prior to their maturity or the redemption date of such bonds), provided that if such bonds are to be redeemed prior to the maturity thereof, notice of such redemption shall have been given as hereinabove provided, or provisions satisfactory to the Trustee shall have been made for the giving of such notice, and compliance with the other payment requirements hereof, the Indenture may be discharged in accordance with the provisions hereof, but the limited liability of the Authority in respect of such bonds shall continue, provided that the owners thereof shall thereafter be entitled to payment only out of the moneys or Governmental Obligations deposited with the Trustee as aforesaid.

Section 8.5. Any bond not presented at the proper time and place for payment shall, within the meaning of this Indenture, be deemed to be fully paid when due if the money necessary to discharge the principal amount thereof and all interest then accrued and unpaid thereon (and the premium required in case of redemption before maturity) is held by the Trustee or any Paying Agent when or before the same become due. The registered owner of any such bond shall not be entitled to any interest thereon after the maturity or redemption date thereof nor to any interest upon money so held by the Trustee or any Paying Agent.

Section 8.6. The obligations of the Authority to pay Trustee's fees and expenses and indemnification authorized hereunder shall survive defeasance of this Indenture.

(End of Article VIII)

ARTICLE IX

Concerning the Trustee

Section 9.1. The Trustee accepts and agrees to execute the trusts imposed upon it by this Indenture, but only upon the terms and conditions set forth herein. The Trustee, prior to the occurrence of an event of default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations should be read into this Indenture against the Trustee. If any event of default under this Indenture shall have occurred and be continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and shall use the same degree of care as a prudent person would exercise or use in the circumstances in the conduct of such prudent person's own affairs. The Trustee agrees to perform such trusts only upon and subject to the following expressed terms and conditions:

(a) The Trustee shall be under no obligation to see to the filing of this Indenture or any indenture supplemental hereto, and may authenticate and deliver the bonds in accordance with the provisions hereof prior to the filing of this Indenture.

(b) The Trustee shall be entitled to reasonable compensation for all services rendered in the execution of the trusts hereby created, and may employ agents, attorneys and counsel in the execution of such trusts; and the compensation of the Trustee, as well as the reasonable compensation of its attorneys and counsel and of such persons as it may employ in the administration or management of the trusts hereunder, and all other reasonable expenses necessarily incurred or actually disbursed hereunder, the Authority agrees to pay to the Trustee on demand. In the event of a default in the payment of principal or interest on the bonds, the Trustee shall have a lien on all funds in the hands of the Trustee not held in trust for any specific purpose in priority to the rights and claims of the registered owners of said bonds.

If the Trustee renders any service hereunder not provided for in this Indenture, or the Trustee is made a party to or intervenes in any litigation pertaining to this Indenture or institutes interpleader proceedings relative hereto, the Trustee shall be compensated reasonable by the Authority for such extraordinary services and reimbursed for any and all claims, liabilities, losses, damages, fines, penalties, and expenses, including out-of-pocket and incidental expenses and legal fees occasioned thereby.

(c) The Trustee shall not be responsible in any manner for:

(i) The validity, execution, acknowledgment, filing or recording of this Indenture or any indenture supplemental hereto, or the refiling or rerecording thereof;

(ii) For any recitals, covenants or agreements of the Authority in said bonds or herein contained, except to pay from the Operation and Reserve Fund expenses incurred by the Authority to enable it to comply with its covenants contained herein;

(iii) For the amount, value or description of the Trust Estate, or the fixing or continuance thereof of the lien hereof;

(iv) For the default or misconduct of any agent or employee appointed by it, if such agent or employee shall have been selected with reasonable care, or for anything done by it in connection with this trust, except for its willful misconduct or gross negligence;

(v) For the consequence of any act done in good faith;

(vi) For any actions taken by the Trustee in accordance with the opinion of counsel employed by the Trustee; or

(vii) For the loss of any money caused by the insolvency, act, default or omission of any Paying Agent.

(d) The Trustee shall be under no obligation to keep advised or informed as to whether the Authority is in default under any of the terms or covenants of this Indenture; and unless and until a Responsible Officer of the Trustee shall have received written notice to the contrary from the owners of at least five percent (5%) in principal amount of the bonds then outstanding hereunder, the Trustee may, for all purposes of this Indenture, assume that the Authority is not in default hereunder and that none of the events hereinbefore defined as "events of default" has happened.

(e) The Trustee shall not be required to appear in or defend any suit which may be brought against it respecting the Trust Estate, or by reason of being Trustee hereunder, or to institute any suit or proceeding to enforce any covenant or remedy herein provided, or to take any action toward the execution or enforcement of the trusts hereby created, which, in the opinion of the Trustee will be likely to involve the Trustee in expense or liability or to foreclose this Indenture, unless the owners of said bonds or some part thereof shall furnish the Trustee with reasonable security and indemnity against such expense or liability.

(f) The Trustee shall be fully protected in acting upon or in accordance with any notice or request, consent, certificate, demand, resolution or other instrument or document believed by the Trustee to be genuine and to have been signed, authorized, executed, certified or sealed by the proper person or persons; and the Trustee is authorized to accept the certificate of the Secretary Treasurer of the Authority, under its corporate seal, to any resolution of the board of directors or members of the Authority as conclusive evidence that such resolution was duly and lawfully adopted and is binding upon the Authority.

(g) The Trustee, or any officer or director of the Trustee, may acquire and hold bonds issued hereunder or may engage in or be interested in any financial or other transaction in which the Authority may be interested, and the Trustee may be depository, trustee, transfer agent, registrar or agent of the Authority, or for any committee or other body in respect to the bonds, notes, debentures, obligations or securities of the Authority, whether or not issued pursuant hereto

(h) The Trustee may, in relation to any powers or duties imposed upon it by this Indenture, act upon the opinion or advice of the attorney, surveyor, engineer or accountant, whether retained by the Trustee or by the Authority, and shall not be responsible for any loss resulting from any action or non-action in accordance with any such opinion or advice.

(i) The Trustee is relieved from filing any inventory, or qualifying under the jurisdiction of any court, or otherwise complying with the provisions of the Uniform Trustees' Accounting Act of 1945, or with any laws amendatory thereof or supplemental thereto, and the provisions of said law are hereby waived.

(j) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful default.

(k) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged or for salaries or nonfulfillment of contracts during any period in which it may be in possession of or managing the Leased Premises.

(l) At any and all reasonable times, the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right fully to inspect any and all books, papers and records of the Authority pertaining to the bonds and to take such memoranda from and in regard thereto as may be desired.

(m) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed reasonably necessary for the purpose of establishing the right of the Authority to the authentication of any bonds, the withdrawal of any cash, the release of any property or the taking of any other action by the Trustee.

(n) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the bonds, except for any information provided by the Trustee.

(o) The Trustee shall not be accountable for the use or application by the Authority of any of the bonds or the proceeds thereof or for the use or application of any money paid over by the Trustee in accordance with this Indenture or for the use and application of money received by any paying agent.

(p) The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and delivered using Electronic Means; provided, however, that the Authority shall provide to the Trustee an incumbency certificate listing officer with the authority to provide such Instructions ("Authorized Officers") and containing specimen signature of such Authorized Officer, which incumbency certificate shall be amended by the Authority whenever a person is to be added or deleted from the listing. If the Authority elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Authority understands and agrees that the Trustee cannot determine the identity of the actual sender of such instructions and that the Trustee shall conclusively presume that direction that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Authority shall be responsible for ensuring that only Authorized Officer transmit such instructions to the Trustee and that the Authority and all Authorized Officer are solely responsible to safeguard that use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Authority. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written Instruction. The Authority agrees: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions that the method(s) selected by the Corporation; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures

Section 9.2. The Trustee agrees to invest funds (subject to Section 3.6 hereof) from time to time held by it as Trustee under this Indenture, and apply the interest earned thereon as provided in Articles II and III, but shall not be under any duty or obligation to pay interest on any funds held by it which cannot practicably be so invested either to the Authority or to the registered owner of any bond, or to any other person, any and all such liability for the payment of such interest being hereby expressly waived. The Trustee shall not risk or expend its own funds.

Section 9.3. In the event that the Trustee, or any successor trustee, shall become legally consolidated or merge with another banking association or corporation, or all or substantially all of the municipal corporate trust business of the Trustee shall be transferred to any banking association or corporation, the banking association or corporation resulting from such consolidation or merger or accepting such transfer shall thereupon become and be the Trustee hereunder with the same titles, rights, powers, benefits, duties and limitations, without the execution or filing or recording of any instrument, and without any action on the part of the Authority or the owners of bonds hereunder. A purchase of the assets and assumption of the liabilities of the Trustee by any another banking association or corporation shall be deemed to be consolidation or merger for the purposes of this section. If the office location at which principal is payable shall change, whether by merger, consolidation or purchase or for any other reason, the Trustee shall give notice of such change by first class mail to registered bondholders and Original Purchaser at least fifteen days prior to the first principal payment date following the date of such change in location.

Section 9. 4. The Trustee, or any successor trustee, or Paying Agent may be removed at any time upon 30 days prior written notice by an instrument or concurrent instruments in writing filed with the Trustee and signed by the owners of a majority in principal amount of the bonds then outstanding hereunder, or by their attorneys-in-fact thereunto duly authorized for any breach of the trusts set forth herein.

Section 9.5. The Trustee, or any successor trustee, or Paying Agent may resign the trust created by this Indenture upon first giving notice of such proposed resignation and specifying the date when such resignation shall take effect, which notice shall be given to the Authority in writing at least twenty (20) days prior to the date when such resignation shall take effect, and shall be given to the registered owners by mail at least twenty (20) days prior to the date when such resignation shall take effect. Such resignation shall take effect on the day so designated in such notice, unless previously a successor trustee shall be appointed as hereinafter provided, in which event such resignation shall take effect immediately upon the appointment of such successor trustee.

Section 9.6. If at any time the Trustee shall become incapable of acting, shall resign or shall be removed, a successor trustee may be appointed by the owners of at least a majority in principal amount of the bonds hereby secured and then outstanding, by an instrument or instruments in writing signed by such bondholders or by their duly constituted attorneys-in-fact; but until a new trustee shall be so appointed by the registered owners, the Authority, by an instrument executed by order of its board of directors, may appoint a trustee to fill such vacancy until a new trustee shall be appointed by the bondholders as aforesaid, and when any such new trustee shall be appointed by the bondholders, any trustee theretofore appointed by the Authority shall thereupon and thereby superseded and retired. Each such successor trustee appointed by any of such methods shall be a bank or trust company in good standing authorized by law so to act, and having a capital and surplus of not less than Fifty Million Dollars ($50,000,000).

Section 9.7. Any successor trustee appointed hereunder shall execute, acknowledge and deliver to the Authority, and to its predecessor, an instrument accepting such appointment; and thereupon, upon the execution and filing for record of the same in the public recording office where this Indenture shall have been recorded, such successor trustee, without any further act or instruments or deeds of conveyance, shall become vested with all of the assets, powers, rights, duties, trusts and obligations of its predecessor in trust hereunder with like effect as if originally named as trustee herein; but nevertheless, on the written request of the successor trustee, the trustee ceasing to act shall execute and deliver to such successor trustee all conveyances and instruments proper to evidence the vesting in the new trustee of the interest and title of the retiring trustee in the Leased Premises and in the trust hereby created, subject, however, to any lien which the retiring trustee may have pursuant to any provisions hereof; and upon request in writing of any successor trustee, the Authority covenants to make, execute, acknowledge and deliver any and all deeds, conveyances, assignments or instruments in writing for the more fully and certainly vesting in and confirming to such successor trustee all such assets, property, rights, powers and trusts.

Section 9.8. The Authority, to the extent permitted by law, hereby agrees to indemnify the Trustee for, and holds it harmless against, any loss, liability, costs or expenses (including attorney's fees and expenses) incurred or made without negligence, willful misconduct or lack of good faith on the part of the Trustee, arising out of or in connection with the performance of its obligations in accordance with the provisions of this Indenture. The Authority hereby acknowledges that the foregoing indemnities shall survive the resignation or discharge of the Trustee or the termination of this Indenture.

(End of Article IX)

ARTICLE X

Supplemental Indentures

Section 10.1. The Authority and the Trustee may enter into such indentures supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental indentures shall thereafter form a part hereof) without the consent of the owners of the bonds:

(a) To cure any ambiguity or formal defect or omission in this Indenture, or in any supplemental indenture, which does not adversely affect the rights of the bondholders;

(b) To grant to or confer upon the Trustee for the benefit of the bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the bondholders or the Trustee;

(c) To subject to the pledge of this Indenture additional security, revenues, properties or collateral;

(d) To modify, amend or supplement this Indenture or any Supplemental Indenture in such manner as to permit qualification under the Trust Indenture Act of 1939, as amended, or any similar federal statute hereafter in effect or to permit the qualification of the bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by the Trust Indenture Act of 1939, as amended, or similar federal statute which will not have a material adverse effect on the interests of the owners of the Bonds;

(e) To evidence the appointment of a separate or co-trustee or the succession of a new Trustee hereunder or the succession of a new Registrar or Paying Agent;

(f) To authorize the issuance of additional bonds; or

(g) For any other purpose which in the sole discretion of the Trustee, will not have a material adverse effect on the interests of the owners of the bonds.

Section 10.2. Subject to the terms and provisions contained in this section and not otherwise, the owners of not less than 66 2/3% in aggregate principal amount of the bonds then outstanding shall have the right from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Authority and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary or desirable by the Authority, for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing herein contained shall permit or be construed as permitting without the consent of the owners of all bonds affected thereby:

(a) an extension of the maturity of the principal or interest on any bond issued hereunder; or

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

(c) the creation of a lien upon the lease rentals due and payable under the Lease and other income ranking prior to or on a parity with the lien created by this Indenture; or

(d) a preference or priority of any bond or bonds over any other bond or bonds;

(e) a reduction in the aggregate principal amount of the bonds required for consent to such supplemental indenture; or

(f) a reduction in the Reserve Requirement.

Nothing herein contained, however, shall be construed as making necessary the approval by the bondholders of the execution of any supplemental indenture or indentures as authorized in Section 10.1 hereof.

If at any time the Authority shall request the Trustee to enter into any supplemental indenture for any of the purposes of this section, the Trustee shall, at the expense of the Authority, give notice by mail, postage prepaid, to all registered owners of bonds. Such notice shall be prepared by the Authority, shall briefly set forth the nature of the proposed supplemental indenture and shall state that a copy thereof is on file at the office of the Trustee for inspection by all bondholders. The Trustee shall not, however, be subject to any liability to any bond owner by reason of its failure to mail the notice required by this section, and any such failure shall not affect the validity of such supplemental indenture when consented to and approved as provided in this section.

Whenever, at any time within one (1) year after mailing of such notice, the Authority shall deliver to the Trustee an instrument or instruments purporting to be executed by the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental indenture described in such notice and shall specifically consent to and approve the execution thereof in substantially the form of the copy thereof referred to in such notice as on file with the Trustee; thereupon, but not otherwise, the Trustee may execute such supplemental indenture in substantially such form, without liability or responsibility to any owner of any bond, whether or not such owner shall have consented thereto.

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 the execution of such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no owner of any bond shall have any right to object to the execution of such supplemental indenture 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 execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same, or from taking any action pursuant to the provisions thereof.

Upon the execution of any supplemental indenture pursuant to the provisions of this section, the Indenture shall be and shall be deemed modified and amended in accordance therewith, and the respective rights, duties and obligations under this Indenture of the Authority, the Trustee, and all registered owners of bonds then outstanding shall thereafter be determined, exercised and enforced hereunder, subject in all respects to such modifications and amendments.

Section 10.3. The Trustee is authorized to join with the Authority in the execution of any such supplemental indenture and to make the further agreements and stipulations which may be contained therein. Any supplemental indenture executed in accordance with the provisions of this Article shall thereafter form a part of this Indenture, and all the terms and conditions contained in any such supplemental indenture as to any provision authorized to be contained therein shall be, and shall be deemed to be, part of the terms and conditions of this Indenture for any and all purposes.

Section 10.4. The Trustee shall receive, and shall be fully protected in relying upon the opinion of any counsel approved by it who may be counsel for the Authority, as conclusive evidence that any such proposed supplemental indenture complies with the provisions of this Indenture, and that it is proper for the Trustee, under the provisions of this Article, to join in the execution of such supplemental indenture.

Section 10.5. Notwithstanding anything contained in the foregoing provisions of this Indenture, the rights and obligations of the Authority and of the owners of the bonds, and the terms and provisions of the bonds and this Indenture, or any supplemental indenture, may be modified or altered in any respect with the consent of the Authority and the consent of the owners of all the bonds then outstanding.

(End of Article X)

ARTICLE XI

Miscellaneous Provisions

Section 11.1. Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets or business of such Paying Agent may be sold, shall be deemed a successor of such Paying Agent for the purposes of this Indenture. If the position of any Paying Agent shall become vacant for any reason, the Authority may, within thirty (30) days thereafter, appoint another bank or trust company as Paying Agent to fill such vacancy; provided, however, if the Authority fails to make such appointment the Trustee may do so. If the office location at which principal is payable changes, the Trustee shall give notice to the bondholders, as provided in Section 9.3.

Section 11.2. Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Trustee on the Authority shall be deemed to have been sufficiently given or served for all purposes, by being deposited, first class postage prepaid, in a United States Post Office letter box., addressed (until another address is filed in writing by the Authority with the Trustee for that purpose) as follows:

Mishawaka Redevelopment Authority
600 E. Third Street
Mishawaka, Indiana 46544
Attention: President

Any notice or demand which by any provision of this Indenture is required or permitted to be given or served by the Authority on the Trustee shall be deemed to have been sufficiently given or served for all purposes, by being deposited, first class postage prepaid, in a United States Post Office letter box, addressed (until another address is filed in writing by the Trustee with the Authority for that purpose) as follows:

[TRUSTEE]

Section 11.3. In any case where the date of maturity of interest on or principal of the bonds or the date fixed for redemption of any bonds shall be in the city of payment a Saturday, Sunday or a legal holiday or a day on which banking institutions are authorized by law to close, then payment of interest or principal may be made on the succeeding business day with the same force and effect as if made on the date of maturity or the date fixed for redemption.

Section 11.4. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Authority, the Trustee, the Paying Agent, if any, and the registered owners of the bonds, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Authority shall be for the sole and exclusive benefit of the Authority, the Trustee, the Paying Agent, if any, and the registered owners of the bonds.

Section 11.5. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original, and all of which shall constitute but one and the same instrument.

Section 11.6. The validity and interpretation of this Indenture and the bonds shall be governed by the laws of the State of Indiana.

(End of Article XI)

IN WITNESS WHEREOF, THE MISHAWAKA REDEVELOPMENT AUTHORITY has caused its corporate name to be hereunto subscribed by the President or Vice President of its Board of Directors, and its corporate seal to be hereunto affixed and attested by its Secretary-Treasurer of its Board of Directors, and _______________, as Trustee, has likewise caused these presents to be executed in Trustee's name and behalf by its Authorized Officer, and its corporate seal to be hereunto affixed and attested by its Authorized Officer, in token of its acceptance of said trust, as of the day and year first hereinabove written.

MISHAWAKA REDEVELOPMENT AUTHORITY

By: ______________________________
__________, President

Attest:

____
___________, Secretary-Treasurer

[TRUSTEE]

By: ______________________________
Authorized Officer

Attest:

____
Authorized Officer

<u>EXHIBIT A</u>

<u>Cost of Issuance to be Wired Transferred</u>

EXHIBIT B

DISBURSEMENT REQUEST

Pursuant to Section 3.01(c) of the Trust Indenture (the "Indenture") between Mishawaka Redevelopment Authority (the "Issuer") and _________ (the "Trustee"), dated as of _______ 1, 2021, the undersigned hereby requests and authorizes the Trustee to pay the total amount of $_______________, as described on the attached Schedule 1 from the moneys deposited in the Construction Fund.

Capitalized terms herein have the meanings ascribed to them in the Indenture.

Dated this _____ day of _______________, 20___.

By:_____________________________

Printed:_________________________

Title:___________________________

Schedule 1

DISBURSEMENT SCHEDULE

Date	Payee and Purpose	Amount

EXHIBIT C

AFFIDAVIT OF COMPLETION

Pursuant to Section 3.01(c) of the Trust Indenture (the "Indenture") between Mishawaka Redevelopment Authority (the "Issuer") and _________ (the "Trustee"), dated as of _______ 1, 2021, the undersigned hereby certifies that the Stimulus Projects are complete. Capitalized terms herein have the meanings ascribed to them in the Indenture.

Dated this _____ day of __________, 20___.

MISHAWAKA REDEVELOPMENT AUTHORITY

By:______________________________

Printed:__________________________

Title:____________________________

MISHAWAKA REDEVELOPMENT COMMISSION

By:______________________________

Printed:__________________________

Title:____________________________

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and dated as of this ____ day of __________, 2021 (the "Lease"), by and between the MISHAWAKA REDEVELOPMENT AUTHORITY, as lessor (the "Lessor"), a separate body corporate and politic organized and existing under Indiana Code 36-7-14.5 as an instrumentality of the City of Mishawaka, Indiana (the "City"), and the MISHAWAKA REDEVELOPMENT COMMISSION, as lessee (the "Lessee"), the governing body of the City of Mishawaka Department of Redevelopment, acting for and on behalf of the City.

WITNESSETH:

WHEREAS, the City created the Lessor to exercise the powers granted to the Lessor and the Lessee under Indiana Code 36-7-14, Indiana Code 36-7-14.5 and Indiana Code 36-7-25 (collectively, the "Act") including the financing, constructing and leasing of local public improvements, economic development and redevelopment projects to the Lessee;

WHEREAS, the Lessee is the governing body of the Mishawaka Department of Redevelopment and the Redevelopment District of the City (the "District"), and the boundaries of the District are coterminous with the boundaries of the City;

WHEREAS, on February 24, 2014, the Lessee adopted its Resolution No. 2014-03 expanding and consolidating existing economic development areas and allocation areas to form a consolidated economic development area (the "Consolidated Area") and consolidated allocation area (the "Consolidated Allocation Area") for the purpose of the collection and distribution of all real property tax proceeds from assessed valuation in the Consolidated Allocation Area in excess of the assessed values described in Indiana Code 36-7-14-39(b)(1) (the "Tax Increment Revenues");

WHEREAS, to foster economic development and redevelopment of the City and improve employment opportunities in the City, the City has proposed to construct certain local public improvements throughout the District (the "Stimulus Projects");

WHEREAS, City, the Lessor and Lessee desire to provide a means to finance the Stimulus Projects;

WHERAS, the Act authorizes the Lessor to issue lease rental revenue bonds (the "Bonds") for the purpose of procuring funds to pay the cost of acquiring, constructing reconstructing, renovating and financing local public improvements;

WHEREAS, the Authority will use the proceeds of the Bonds to acquire an interest in the property described on Exhibit A attached hereto (the "Leased Premises") for a term no less than the term of the Lease to permit the Lessee to pay the rentals due under the Lease thereby effecting the financing of the Stimulus Projects;

WHEREAS, the Act authorizes the Lessee to pledge the Tax Increment Revenues to make rental payments under this Lease;

WHEREAS, the Commission has previously pledged Tax Increment Revenues to the City's sewer utility pursuant to Resolution No. 2009-15 and Resolution No. 2015-09 (the "Utility Tax Increment Pledge");

WHEREAS, the pledge of Tax Increment Revenues by the Lessee to pay rentals due under the Lease will be net of the Utility Tax Increment Pledge (the "TIF Revenues") and on a parity with the Lessee's pledge of TIF Revenues to the payment of debt service on (i) the Mishawaka Redevelopment District Taxable Tax Increment Revenue Bonds, Series 2015, dated June 15, 2015 and (ii) the City of Mishawaka's Taxable Economic Development Revenue Bonds, Series 2017, dated September 26, 2017 (clauses (i) and (ii), collectively, the "Outstanding Parity Obligations");

WHEREAS, the annual rentals to be paid under this Lease by the Lessee will be pledged by the Lessor to pay debt service on the Bonds and other incidental expenses of the Authority related to the Bonds;

WHEREAS, the Lessee has determined, after a public hearing held pursuant to the Act, that the annual rentals provided for in this Lease are fair and reasonable, that the execution of the Lease is necessary and wise and that completion of the Stimulus Projects will serve the public interest of the City and are in the best interests of its residents, and the Common Council has approved the Lease in accordance with Indiana Code 36-7-14-25.2, and the resolution will be entered in the official records of the Common Council;

WHEREAS, the Lessee and Lessor have obtained all necessary approvals required by law for the execution of the Lease and issuance of the Bonds to finance the costs of acquiring the Leased Premises;

Section 1. PREMISES, TERM AND WARRANTY. The Lessor does hereby lease, demise and let to Lessee all of the Lessor's right, title and interests in and to the Leased Premises.

TO HAVE AND TO HOLD the Leased Premises with all rights privileges, easements and appurtenances thereunto belonging, unto the Lessee, beginning on the date the Lessor acquires an interest in any of the Leased Premises and ending on the day prior to a date not later than sixteen (16) years after such date of acquisition by the Lessor (the "Lease Term"). Notwithstanding the foregoing, the Lease Term will terminate at the earlier of (a) the exercise by the Lessee of the option to purchase all of the Leased Premises, as provided herein, and the payment of the option price, or (b) the payment or defeasance of all obligations issued by the Lessor and secured by this Lease or any portion thereof; provided that no bonds or other obligations of the Lessor issued to finance the Leased Premises remain outstanding at the time of such payment or defeasance. The Lessor hereby represents that it is possessed of, or will acquire, the Leased Premises and the Lessor warrants and will defend the Leased Premises against all claims whatsoever not suffered or caused by the acts or omissions of Lessee or its assigns.

Notwithstanding the foregoing, the Leased Premises may be amended to add additional property to the Leased Premises or remove any portion of the Leased Premises; provided, however, following such amendment, the rentals payable under this Lease shall be based on the value of the portion of the Leased Premises which is available for use, and the rentals due under this Lease shall be in amounts sufficient to pay when due all principal of and interest on all outstanding Bonds. In the event that all or a portion of the Leased Premises shall be unavailable for use by the Lessee, subject to the completion of any process required by law, the Lessor and the Lessee shall amend this Lease to add to and/or replace a portion of the Leased Premises to the extent necessary to provide for available Leased Premises with a value supporting rental payments under this Lease sufficient to pay when due all principal of and interest on outstanding Bonds.

Section 2. LEASE RENTAL. (a) Fixed Rental Payments. The Lessee agrees to pay fixed annual rentals for the Leased Premises during the term of the Lease in the maximum annual amount of Five Million Five Hundred Thousand Dollars ($5,500,000) ("Fixed Annual Rentals"), payable in semi-annual installments. Each such semi-annual installment, payable as hereinafter described, shall be based on the value of the Leased Premises which is available for use and occupancy by the Lessee at the time such semi-annual installment is made. The first rental installment shall be due on February 1 and August 1, determined on the date of issuance of the Bonds, but not earlier than August 1, 2021. Thereafter, such rental shall be payable in advance in semi-annual installments on February 1 and August 1 of each year. The last semi-annual rental payment due before the expiration of this Lease shall be adjusted to provide for rental at the yearly rate so specified from the date such installment is due to the date of the expiration of this Lease.

After the sale of the Bonds secured by this Lease, the annual rental shall be reduced to an amount sufficient to pay principal and interest due in each twelve (12) month period ending on February 15 rounded up to the next One Thousand Dollars ($1,000), plus Five Thousand Dollars ($5,000), payable in advance in semi-annual installments, for the purpose of paying annual trustee fees and related administrative costs described in Section 3 hereof. In addition, each such reduced semi-annual installment shall be based on the value of the Leased Premises available for use by the Lessee at the time such semi-annual installment is made. Such amount of adjusted rental shall be endorsed on this Lease at the end hereof in the form of Exhibit B attached hereto by the parties hereto as soon as the same can be done after the sale of the Bonds secured by this Lease, and such endorsement shall be recorded as an addendum to this Lease.

(b) Additional Rental Payments. (i) The Lessee shall pay as further rental in addition to the Fixed Annual Rentals the amount of all taxes and assessments levied against or on account of the Leased Premises or the receipt of lease rental payments hereunder and the amount required to reimburse the Lessor for any insurance payments made by it under Section 7 hereof ("Additional Rentals"). Any and all such payments shall be made and satisfactory evidence of such payments in the form of receipts shall be furnished to the Lessor by the Lessee, at least three (3) days before the last day upon which such payments must be paid to avoid delinquency. If the Lessee shall in good faith desire to contest the validity of any such tax or assessment, the Lessee shall so notify the Lessor and shall furnish bond with surety to the approval of the Lessor conditioned for the payment of the charges so desired to be contested and all damages or loss resulting to the Lessor from the nonpayment thereof when due. The Lessee shall not be obligated to pay the contested amounts until such contests shall have been determined. The Lessee shall also pay as Additional

Rentals the amount calculated by or for Lessor as the amount required to be rebated or paid as a penalty to the United States of America under Section 148(f) of the Internal Revenue Code of 1986, as amended and in effect on the date of issue of the Bonds ("Code"), after taking into account other available moneys, to prevent the Bonds from becoming arbitrage obligations under Section 148 of the Code.

(ii) The Lessee may by resolution pay Additional Rentals to enable the Lessor to redeem or purchase Bonds prior to maturity. Rental payments due under this Section 2 shall be reduced to the extent such payments are allocable to the Bonds redeemed or purchased by the Lessor with such Additional Rentals. The Lessee shall be considered as having an ownership interest in the Leased Premises valued at an amount equal to the amount of the Additional Rentals paid pursuant to this subsection (b)(ii).

Section 3. PAYMENT OF RENTALS. All rentals payable under the terms of this Lease shall be paid to the bank selected as trustee ("Trustee") under the Trust Indenture between it and the Lessor ("Indenture"), or to such other bank or trust company as may from time to time succeed such bank as Trustee under the Indenture. The bank selected as Trustee shall be endorsed on this Lease at the end hereof by the parties hereto as soon as possible after selection, and such endorsement shall be recorded as an addendum to this Lease. All payments so made by the Lessee shall be considered as payment to the Lessor of the rentals payable hereunder.

The Lessee is required by law to fully fund the payment of the rentals due under this Lease regardless of the application of tax credits applied under Indiana Code 6-1.1-20.6. The Lessee must apply other funds of the Lessee to the payment of the rentals due under this Lease until such rental is fully funded.

Section 4. DAMAGE TO PREMISES; ABATEMENT OF RENT. If any part of the Leased Premises is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use by the Lessee, it shall then be the obligation of the Lessor to restore and rebuild that portion of the Leased Premises as promptly as may be done, unavoidable strikes and other causes beyond the control of the Lessor excepted; provided, however, that the Lessor shall not be obligated to expend on such restoration or rebuilding more than the amount of the proceeds received by the Lessor from the insurance provided for in Section 7 hereof, the condemnation proceeds received by the Lessor or any funds provided specifically for this purpose in the Indenture, whichever is applicable.

If any part of the Leased Premises shall be partially or totally destroyed, or is taken under the exercise of the power of eminent domain, so as to render it unfit, in whole or part, for use or occupancy by the Lessee, the rent shall be abated for the period during which the Leased Premises or any part thereof is unfit or unavailable for use, and the abatement shall be in proportion to the percentage of the Leased Premises which is unfit or unavailable for use.

Section 5. SOURCE OF PAYMENT OF RENTALS; PLEDGE OF TIF REVENUES. (a) The rentals shall be payable as follows:

(1) Out of TIF Revenues. The Fixed Annual Rentals and the Additional Rentals due under this Lease shall be payable from the TIF Revenues on a parity with the Outstanding Parity Obligations, and to the extent that the TIF Revenues are insufficient, from an ad valorem property tax levied on all taxable property in the District in accordance with Indiana Code 36-7-14-27 (the "Special Benefits Tax"). Upon receipt of each semiannual distribution of the TIF Revenues, all TIF Revenues shall immediately be set aside in the Lessee's allocation fund created under the Act for the Consolidated Allocation Area (the "Allocation Fund") and held by the Controller of the City for the benefit of the Lessor to secure the Lessee's obligation to pay rentals due under this Lease on a parity with the Outstanding Parity Obligations, and used in the following order of priority and to the extent indicated below:

(i) To pay rentals due within the next six calendar months to the extent required and permitted by this Lease and amounts due within the next six calendar months under the Outstanding Parity Obligations and any Additional Parity Obligations (as defined below in Section 15); and

(ii) To pay amounts due within the six calendar months under any obligations or leases junior and subordinate to the Outstanding Parity Obligations and the Lease.

Any TIF Revenues not needed for the purposes described in (i) and (ii) above shall be deposited in the General Account created under (c)(i) below.

(2) Out of a Special Benefits Tax. Out of the Special Benefits, to the extent TIF Revenues and amounts in the General Account created in (c)(i) below are insufficient to pay the rentals due under the Lease. On or before July 1 of each year, beginning in 2021, or when the City prepares its budget, the Lessee shall estimate the amount of TIF Revenues expected to be collected in the subsequent calendar year. To the extent that the TIF Revenues on deposit in the Allocation Fund and funds on deposit in the General Account are not available or are not expected to be available in amounts sufficient to pay such rentals in full on the dates on which rentals are due under this Lease in the next succeeding year, the Lessee shall annually levy the Special Benefits Tax in an amount sufficient, with TIF Revenues and funds on deposit in the General Account which will be available on the dates on which rentals are due under this Lease in the subsequent calendar year, to produce the necessary funds with which to pay the rentals due under this Lease on their due dates. The Special Benefits Tax will upon receipt be deposited in the Allocation Fund and applied solely to Fixed Annual Rentals due under the Lease as set forth in (1) above.

If in any calendar year actual collections of TIF Revenues, amounts in the General Account and collections of the Special Benefits Tax, together with any investment earnings thereon, are insufficient to pay any rentals when due under this Lease, the Lessee shall immediately initiate proceedings to levy the Special Benefits Tax sufficient to pay any shortfall.

(b) The Lessee, in consideration of the execution of this Lease by the Lessor, in order to secure the payment of the rentals due hereunder and to secure the performance and observance by the Lessee of all covenants expressed or implied in this Lease does hereby pledge the TIF Revenues, on a parity with the Outstanding Parity Obligations, and investment earnings on the TIF Revenues and all amounts in the Allocation Fund and the General Account to secure the payment of the rentals due hereunder, such pledge to be effective as set forth in Indiana Code 5-1-14-4 without filing or recording of this Lease or any other instrument. This pledge shall be effective only to the extent and for the term that the Lessee is obligated to pay rentals under this Lease. The obligation to pay rentals is limited to moneys in the Allocation Fund, including TIF Revenues and the Special Benefits Tax, and moneys in the General Account described below and investment earnings. The obligation to pay any lease rentals under this Lease shall not be considered debt of the City or the Mishawaka Redevelopment District for purposes of the Constitution of Indiana or the Act. Except for the Outstanding Parity Obligations, the Lessee has not pledged or otherwise encumbered the TIF Revenues and, except for the Outstanding Parity Obligations, there are no prior liens, encumbrances or other restrictions on the TIF Revenues or on the Lessee's ability to pledge the TIF Revenues.

(c) (i) There is hereby created a General Account (the "General Account") held by the Controller of the City into which all TIF Revenues not needed to meet the requirements of this Lease, amounts due on Outstanding Parity Obligations or any Additional Parity Obligations and amounts due under any obligations or leases payable from TIF Revenues junior and subordinate to this Lease, Outstanding Parity Obligations or any Additional Parity Obligations thereto shall be deposited. The General Account, and investment earnings thereon, shall be held by the Controller of the City to secure the Lessee's obligations under this Lease on a parity with the Outstanding Parity Obligations and any Additional Parity Obligations.

(ii) As long as this Lease is in effect, moneys in the General Account may be used in the following order of priority: (i) to pay Fixed Annual Rentals due under Section 2(a) of this Lease, on a parity with the Outstanding Parity Obligations and any Additional Parity Obligations; (ii) to pay Additional Rental due under Section 2(b); (iii) to pay, or to reimburse the City for, the costs of acquiring or constructing additional local public improvements in, serving or benefiting the Consolidated Allocation Area; (iv) to pay Additional Rental to enable the Lessor to redeem or purchase the Bonds prior to maturity as provided in Section 2(b); or (v) for any other purposes permitted by the Act.

(iii) No further TIF Revenues shall be deposited in the General Account if the amounts on deposit in the General Account, together with moneys in the Allocation Fund, together with investment earnings on such amounts, are sufficient to pay all rentals due on this Lease on a parity with the amounts due under the Outstanding Parity Obligations and any Additional Parity Obligations.

Section 6. MAINTENANCE, ALTERATIONS AND REPAIRS. The Lessee assumes all responsibility for operation, maintenance, repairs and alterations to the Leased Premises, but may enter into a sublease, subleases, contract or contracts with one or more parties for the operation, maintenance, repair and alterations of the Leased Premises or any portion of the Leased Premises. At the end of the Lease Term, the Lessee shall deliver the Leased Premises to Lessor in as good condition as at the beginning of the term, reasonable wear and tear only excepted.

Section 7. INSURANCE. (a) Lessee, at its own expense, will, during the full term of the Lease at its own expense, carry combined bodily injury insurance, including accidental death, and property damage with reference to the Leased Premises in an amount not less than Three

Million Dollars ($3,000,000) on account of each occurrence with one or more good and responsible insurance companies. The public liability insurance required herein may be by blanket insurance policy or policies.

(b) The proceeds of the casualty and public liability insurance required herein (after payment of expenses incurred in the collection of such proceeds) shall be applied toward extinguishment or satisfaction of the liability with respect to which such insurance proceeds are paid.

(c) Such policies shall be for the benefit of persons having an insurable interest in the Leased Premises, and shall be made payable to the Lessor, the Redevelopment Commission, and the Trustee, or to such other person or persons as the Lessor may designate. Such policies shall be countersigned by an agent of the insurer who is a resident of the State of Indiana, and such policies (or certificates of insurance for each policy) and the certificate of the architect or engineer hereinbefore referred to shall be deposited with the Lessor and the Trustee. If, at any time, the Lessee fails to maintain insurance in accordance with this Section 7, such insurance may be obtained by the Lessor and the amount paid therefor shall be added to the amount of rental payable by the Lessee under this Lease; provided, however, that the Lessor shall be under no obligation to obtain such insurance and any action or non-action of the Lessor in this regard shall not relieve the Lessee of any consequence of its default in failing to obtain such insurance, including its obligation to continue the rental payments in case of total or partial destruction of the building as provided in Section 4 hereof.

The policies described in this Section 7 may be acquired by another party and shall satisfy the insurance requirements stated herein as long as the Lessor, the Lessee, and the Trustee are named additional insured under such policies, which may be provided by scheduling such coverage under a blanket insurance policy or policies.

Section 8. EMINENT DOMAIN. If title to or the temporary use of the Leased Premises, or any part thereof, shall be taken under the exercise or the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, any net proceeds received from any award made in such eminent domain proceedings (after payment of expenses incurred in such collection) shall be paid to and held by the Trustee under the Indenture.

Such proceeds shall be applied in one or more of the following ways:

(a) The restoration of the Leased Premises to substantially the same condition as it existed prior to the exercise of the power of eminent domain, or

(b) The acquisition, by construction or otherwise, of other improvements suitable for the Lessee's operations on the Leased Premises and which are in furtherance of the purposes of the Act (the improvements shall be deemed a part of the Leased Premises and available for use and occupancy by the Lessee without the payment of any rent other than as herein provided, to the same extent as if such other improvements were specifically described herein and demised hereby).

Within ninety (90) days from the date of entry of a final order in any eminent domain proceedings granting condemnation, the Lessee shall direct the Lessor in writing as to which of the ways specified in this Section 8 the Lessee elects to have the net proceeds of the condemnation award applied. Any balance of the net proceeds of the award in such eminent domain proceedings not required to be applied for the purposes specified in subsections (a) or (b) above shall be deposited in the sinking fund held by the Trustee under the Indenture and applied to the repayment of the Bonds.

The Lessor shall cooperate fully with the Lessee in the handling and conduct of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof and will to the extent it may lawfully do so permit the Lessee to litigate in any such proceedings in its own name or in the name and on behalf of the Lessor. In no event will the Lessor voluntarily settle or consent to the settlement of any prospective or pending condemnation proceedings with respect to the Leased Premises or any part thereof without the written consent of the Lessee, which consent shall not be unreasonably withheld.

Section 9. GENERAL COVENANTS. (a) The Lessee shall not assign this Lease or mortgage, pledge, or sublet the Leased Premises herein described, except as provided in Section 6 hereof, without the written consent of Lessor. The Lessee shall use and maintain the Leased Premises in accordance with the laws, regulations, ordinances and statutes of the United States of America, the State of Indiana, the City and all other proper governmental authorities.

(b) After the execution of this Lease, this Lease, the definition of, or the manner of collecting and distributing the TIF Revenues and the Special Benefits Tax and the lien created by this Lease, shall not be repealed or amended, or impaired in any respect which will adversely affect the rights of the Lessor or owners of the Bonds, nor shall the Lessee, the Lessor or the City adopt any law, ordinance or resolution which in any way adversely affects the rights of the Lessor or such owners so long as this Lease remains in effect or any of the Bonds or the interest thereon remains unpaid.

(c) The obligation to pay any lease rentals under this Lease shall not be considered debt of the Lessee or the City for purposes of the Indiana Constitution or Indiana Code 36-7-14.

Section 10. TAX COVENANTS. In order to preserve the exclusion of interest on the Bonds from gross income or federal income tax purposes and as an inducement to purchasers of the Bonds, the Lessee and Lessor represent, covenant and agree that neither the Lessor nor the Lessee will take any action or fail to take any action with respect to the Bonds, this Lease or the Leased Premises that will result in the loss of the exclusion from gross income for federal tax purposes of interest on the Bonds under Section 103 of the Code, nor will they act in any other manner which will adversely affect such exclusion; and it will not make any investment or do any other act or thing during the period that the Bonds are outstanding which will cause any of the Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

The covenants in this Section 10 are based solely on current law in effect and in existence on the date of issuance of the Bonds. It shall not be an event of default under this Lease if interest on any Bonds is not excludable from gross income pursuant to any provision of the Code which is not in existence and in effect on the issue date of the Bonds.

Notwithstanding any other provisions of this Lease, the covenants and authorizations contained in this Lease ("Tax Section") which are designed to preserve the exclusion of interest on the Bonds from gross income for federal tax purposes ("Tax Exemption") need not be complied with if the Lessee receives an opinion of nationally recognized bond counsel satisfactory to the Trustee and the Lessor that any Tax Section is unnecessary to preserve the Tax Exemption.

Section 11. OPTION TO RENEW. Lessor hereby grants to Lessee the right and option to renew this Lease for a further like or lesser term upon the same or like conditions as herein contained, and applicable to the portion of the premises for which the renewal applies, and Lessee shall exercise this option by written notice to Lessor given upon any rental payment date prior to the expiration of this Lease.

Section 12. OPTION TO PURCHASE. Lessor hereby grants to Lessee the right and option, on any rental payment date, upon sixty (60) days' written notice to Lessor, to purchase the Leased Premises at a price equal to the amount required to enable Lessor to liquidate its interests in the Lessors financial obligations concerning the Leased Premises by paying all indebtedness relating to the Leased Premises, including all premiums payable on the redemption thereof and accrued and unpaid interest, and including the proportionate share of the expenses and charges of liquidation, if the Lessor is to be then liquidated. In no event, however, shall such purchase price exceed the capital actually invested in such property by Lessor represented by outstanding securities or existing indebtedness plus the cost of transferring the property and liquidating the Lessor (if the Lessor is to be liquidated). The phrase "capital actually invested" as used herein shall be construed to include, but not by way of limitation, the following amounts expended by the Lessor in connection with the acquisition, construction and financing of the Leased Premises: organization expenses, financing costs, carry charges, legal fees, architects' and engineers' fees and reasonable costs and expenses incidental thereto.

Upon request of the Lessee made not less than sixty (60) days prior thereto, the Lessor agrees to furnish an itemized statement setting forth the amount required to be paid by the Lessee on the next rental payment date in order to purchase the Leased Premises in accordance with the preceding paragraph. Upon the exercise of the option to purchase granted herein, Lessor will upon payment of the option price deliver, or cause to be delivered, to the Lessee documents conveying to the Lessee, or any entity (including the City) designated by the Lessee, all of the Lessor's title to the property being purchased, as such property then exists, subject to the following: (i) those liens and encumbrances (if any) to which title to the property was subject when conveyed to Lessor; (ii) those liens and encumbrances created by the Lessee and to the creation or suffering of which the Lessee consented, and liens for taxes or special assessments not then delinquent; and (iii) those liens and encumbrances on its part contained in this Lease.

In the event of purchase of the Leased Premises by the Lessee or conveyance of the Leased Premises to the Lessee or the Lessee's designee, the Lessee shall procure and pay for all surveys, title searches, abstracts, title policies and legal services that may be required, and shall furnish at the Lessee's expense all documentary stamps or tax payments required for the transfer of title.

Nothing contained herein shall be construed to provide that Lessee shall be under any obligation to purchase the Leased Premises, or under any obligation in respect to the creditors or security holders of the Lessor.

Section 13. TRANSFER TO THE LESSEE. If the Lessee has not exercised its option to purchase the Leased Premises, or any portion thereof, in accordance with the provisions of Section 12 hereof, and upon the full discharge and performance by the Lessee of its obligations under this Lease, the Leased Premises, or such portion thereof remaining, shall thereupon become the absolute property of the Lessee, subject to the limitations, if any, on the conveyance of the site for the Leased Premises to the Lessor and, upon the Lessee's request the Lessor shall execute proper instruments conveying to the Lessee, or to any entity (including the City) designated by the Lessee, all of Lessor's title to the Leased Premises, or such portion thereof.

Section 14. DEFAULTS AND REMEDIES. If the Lessee shall default (a) in the payment of any rentals or other sums payable to the Lessor hereunder, or in the payment of any other sum herein required to be paid for the Lessor; or (b) in the observance of any other covenant, agreement or condition hereof, and such default shall continue for sixty (60) days after written notice to correct such default; then, in any or either of such events, the Lessor may proceed to protect and enforce its rights by suit or suits in equity or at law in any court of competent jurisdiction, whether for specific performance of any covenant or agreement contained herein, or for the enforcement of any other appropriate legal or equitable remedy; or the Lessor, at its option, without further notice, may terminate the estate and interest of the Lessee hereunder, and it shall be lawful for the Lessor forthwith to resume possession of the Leased Premises and the Lessee covenants to surrender the same forthwith upon demand.

The exercise by the Lessor of the above right to terminate this Lease shall not release the Lessee from the performance of any obligation hereof maturing prior to the Lessor's actual entry into possession. No waiver by the Lessor of any right to terminate this Lease upon any default shall operate to waive such right upon the same or other default subsequently occurring.

Section 15. PARITY OBLIGATIONS. The Lessee reserves the right to enter into leases or other obligations of the Mishawaka Redevelopment Commission, acting in the name of the City, payable from TIF Revenues, in whole or in part, and entitled to the pledge of TIF Revenues on a parity with this Lease and the Outstanding Parity Obligations in accordance with the requirements set forth below ("Additional Parity Obligations") for the purpose of raising money for future local public improvements or economic development projects in, serving or benefiting the Consolidated Allocation Area or refunding such other obligations or the Bonds. The authorization and issuance of such Additional Parity Obligations shall be subject to the following conditions precedent:

(a) All rental payments due under this Lease and all principal and interest payments on the Outstanding Parity Obligations and all payment on any Additional Parity Obligations payable from the TIF Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.

(b) For Additional Parity Obligations payable from TIF Revenues, the Lessor, the Lessee and the Trustee shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant ("Certifier") certifying the amount of TIF Revenues estimated to be received in each succeeding year, adjusted as provided below, which estimated amount shall be at least equal to two hundred percent (200%) of the lease rental and debt service requirements, taking into account the Outstanding Parity Obligations, any other outstanding Additional Parity Obligations, and the proposed Additional Parity Obligations, for each respective year during the term of the Lease, the Outstanding Parity Obligations and any outstanding Additional Parity Obligations and the proposed Additional Parity Obligations. In estimating the TIF Revenues to be received in any future year, the Certifier shall base the calculation on assessed valuation actually assessed or estimated to be assessed as of the assessment date immediately preceding the issuance of the proposed Additional Parity Obligations; provided, however, the Certifier shall adjust such assessed values for the current and future reductions of real property tax abatements granted to property owners in the Consolidated Allocation Area and the Certifier may take into account the effect of reassessment on TIF Revenues to the extent it can be reasonably estimated.

(c) Payments on any Additional Parity Obligations or junior obligations shall be payable semiannually in approximately equal installments on February 1 and August 1. The Lessee shall approve and confirm the findings and estimates set forth in the above- described certificate in any resolution authorizing the Additional Parity Obligations. Except as provided in this Lease, the terms and conditions of any Additional Parity Obligations shall be set forth in the resolution authorizing such Additional Parity Obligations.

Section 16. NOTICES. Whenever either party shall be required to give notice to the other under this Lease, it shall be sufficient service of such notice to deposit the same in the United States mail, in an envelope duly stamped, registered and addressed to the other party or parties at the following addresses: (a) to Lessor: Mishawaka Redevelopment Authority, Attention: President, 600 E. Third Street, Mishawaka, Indiana 46544; (b) to Lessee: Mishawaka Redevelopment Commission, Attention: President, 600 E. Third Street, Mishawaka, Indiana 46544.

The Lessor, the Lessee and the Trustee may by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent.

Section 17. SUCCESSORS OR ASSIGNS. All covenants in this Lease, whether by the Lessor or the Lessee, shall be binding upon the successors and assigns of the respective parties hereto.

Section 18. MISCELLANEOUS. This Lease may be signed in one or more counterparts, each of which shall constitute one and the same instrument. This Lease shall be governed by, and construed in accordance with, the laws of the State of Indiana. All proceedings arising in connection with this Lease shall be tried and litigated only in the state courts in St. Joseph County, Indiana, or the federal courts with venue that includes St. Joseph County, Indiana. The captions included throughout this Lease are for convenience and reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Lease.

Section 19. CONSTRUCTION OF COVENANTS. All provisions herein contained shall be construed in accordance with the provisions of the Act, and to the extent of inconsistencies, if any, between the covenants and agreements in this Lease and the provisions of the Act, the Act shall be deemed to be controlling and binding upon the Lessor and the Lessee; provided, however, any amendment to the Act after the date hereof shall not have the effect of amending this Lease.

Section 20. SEVERABILITY. In the case of any section or provision of this Lease, or any covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Lease, or any application thereof, is for any reason held to be illegal or invalid, or is at any time inoperable, that illegality or invalidity or inoperability shall not affect the remainder hereof or any other section or provision of this Lease or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into or taken under this Lease, which shall be construed and enforced as if that illegal or invalid or inoperable portion were not contained herein.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed for and on their behalf as of the date first written above.

LESSOR:

MISHAWAKA REDEVELOPMENT AUTHORITY

By: ______________________________
President

ATTEST:

____
Secretary-Treasurer

LESSEE:

MISHAWAKA REDEVELOPMENT COMMISSION

By: ______________________________
President

ATTEST:

____
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared ___________ and ____________, personally known to me to be the President and the Secretary-Treasurer, respectively, of the Mishawaka Redevelopment Authority, and acknowledged the execution of the foregoing Lease for and on behalf of the Mishawaka Redevelopment Authority.

WITNESS my hand and notarial seal this ________ day of ________, 2021.

____
(Written Signature)

____
(Printed Signature)
Notary Public

My Commission Expires: My County of Residence is:

_________________________ _________________________

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared ___________ and ____________, personally known to me to be the President and the Secretary, respectively, of the Mishawaka Redevelopment Commission, and acknowledged the execution of the foregoing Lease for and on behalf of the Mishawaka Redevelopment Commission.

WITNESS my hand and notarial seal this ________ day of ________, 2021.

____
(Written Signature)

____
(Printed Signature)
Notary Public

My Commission Expires: My County of Residence is:

________________________________ ________________________________

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

/s/ M. Catherine Fanello

This instrument prepared by M. Catherine Fanello, Krieg DeVault LLP, 4101 Edison Lakes Parkway, Suite 100, Mishawaka, Indiana 46545

<u>EXHIBIT A</u>

DESCRIPTION OF LEASED PREMISES

All of the City's interest in all or a portion of the Leased Premises described in the attachment hereto

[A legal description will be inserted here prior to recording.]

EXHIBIT B

ADDENDUM TO LEASE BETWEEN
MISHAWAKA REDEVELOPMENT AUTHORITY, LESSOR,
AND MISHAWKA REDEVELOPMENT COMMISSION, LESSEE

THIS ADDENDUM (this "Addendum"), entered into as of this ______day _______, 20____, by and between Mishawaka Redevelopment Authority (the "Lessor") and the Mishawaka Redevelopment Commission (the "Lessee");

WITNESSETH:

WHEREAS, the Lessor entered into a Lease with the Lessee dated as of _______, 2021 (the "Lease"); and

WHEREAS, it is provided in the Lease that there shall be endorsed thereon the adjusted rental.

NOW, THEREFORE, IT IS HEREBY AGREED, CERTIFIED AND STIPULATED by the Lessor and the Lessee that the adjusted rental is set forth on Appendix I attached hereto.

LESSOR:

MISHAWAKA REDEVELOPMENT AUTHORITY

By: ________________________________
President

ATTEST:

____
Secretary-Treasurer

LESSEE:

MISHAWAKA REDEVELOPMENT COMMISSION

By: ________________________________
President

ATTEST:

____
Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared ___________ and ____________, personally known to me to be the President and the Secretary-Treasurer, respectively, of the Mishawaka Redevelopment Authority, and acknowledged the execution of the foregoing Lease for and on behalf of the Mishawaka Redevelopment Authority.

WITNESS my hand and notarial seal this ________ day of ________, 2021.

____
(Written Signature)

____
(Printed Signature)
Notary Public

My Commission Expires:

____

My County of Residence is:

____

STATE OF INDIANA)
) SS:
COUNTY OF ST. JOSEPH)

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared ___________ and ____________, personally known to me to be the President and the Secretary, respectively, of the Mishawaka Redevelopment Commission, and acknowledged the execution of the foregoing Lease for and on behalf of the Mishawaka Redevelopment Commission.

WITNESS my hand and notarial seal this ________ day of ________, 2021.

____
(Written Signature)

____
(Printed Signature)
Notary Public

My Commission Expires: ______________________________

My County of Residence is: ______________________________

I affirm under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

/s/ M. Catherine Fanello

This instrument prepared by M. Catherine Fanello, Krieg DeVault LLP, 4101 Edison Lakes Parkway, Suite 100, Mishawaka, Indiana 46545.

PETITION 21-03

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2021-13

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 recommended the reclassification of the zoning as herein set forth of the real estate hereinafter described.

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

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

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

Lots J & 9, Milburn Place

COMMON ADDRESS: 1803 Lincolnway West

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as R-1 Single Family Residential District designated in "The Zoning Ordinance of 1966" as amended.

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

1. The neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;
2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;
3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,

5. The City's Comprehensive Plan calls for low density residential and its rezoning to residential would be compatible and consistent with the historic residential uses in the area.

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 ____________________, 2021, at ________ o'clock ___.M.

____
Presiding Officer

ATTEST:

____
Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this ________ day of ____________________, 2021, at _________ o'clock ____.M.

____
Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this ________ day of __________________, 2021, at ________o'clock ____.M.

____
David A. Wood, Mayor

Deborah S. Block, IAMC, MMC

APR 01 2021

City Clerk
Mishawaka, IN

PET 21-03

RECEIVED
MAR 24 2021
ECONOMIC
COMMUNITY DEVELOPMENT
PLANNING

Common Council
City of Mishawaka, Indiana
and
Mishawaka City Plan Commission
City of Mishawaka, Indiana

RE: PETITION TO REZONE

The undersigned, MORGAN E MICK, 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:

Lots J & 9 Milburn Place
Commonly known as 1803 Lincoln Way West

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of C-1 General Commercial District. Said property is vacant land.

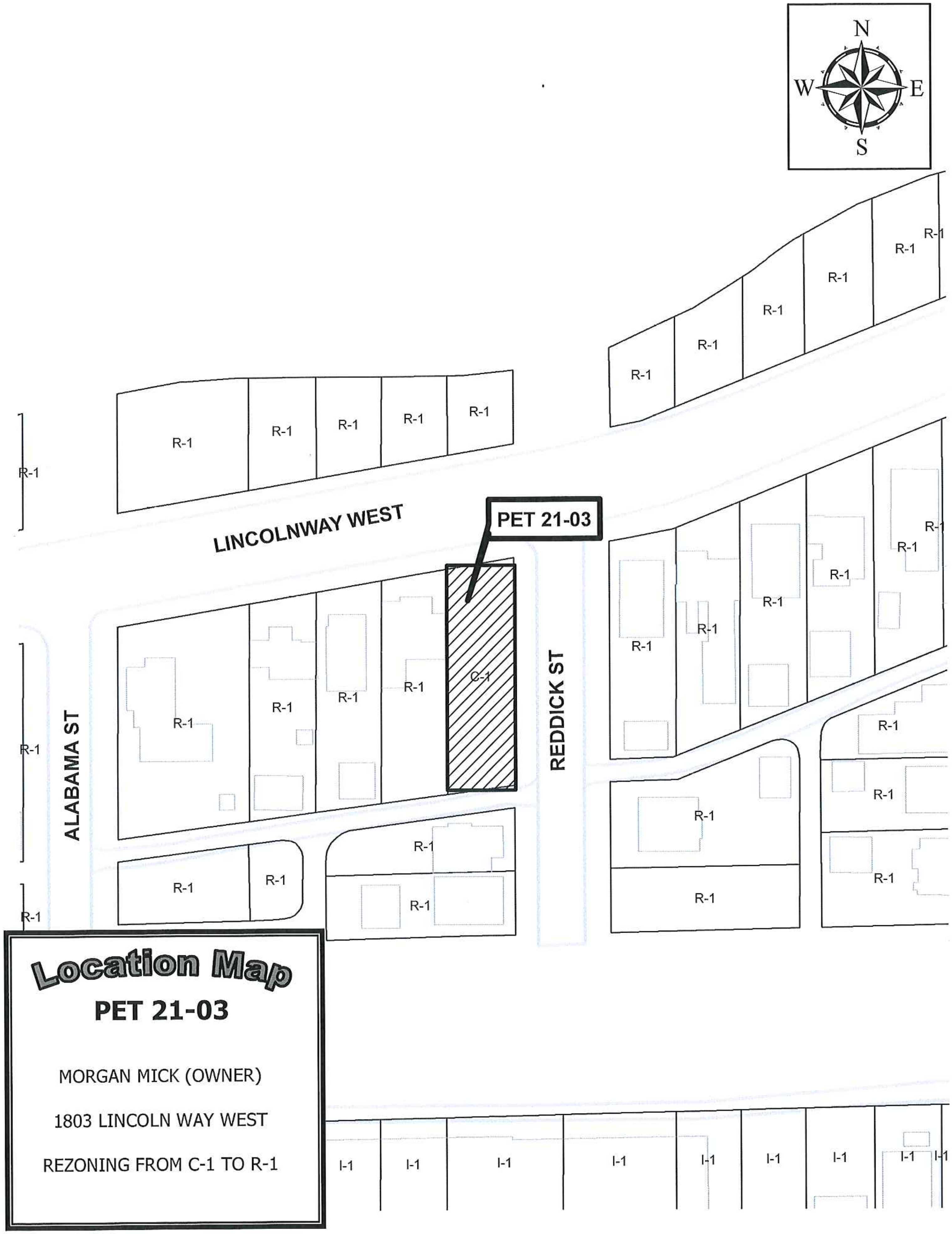
Petitioner(s) desire said real estate to be rezoned to R-1 Single Family Residential District. Petitioner(s) further state that they intend to utilize said land for construction of a new single family home.

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.

Signature(s) of Property Owner(s): Morgan Mick

Printed Name:
Morgan Mick

CONTACT PERSON:
NAME Morgan Mick
ADDRESS
PHONE NUMBER 574-274-5280
FAX
EMAIL m.mick80@ymail.com


N
W
E
S
LINCOLNWAY WEST
PET 21-03
ALABAMA ST
REDDICK ST
C-1
R-1
I-1
Location Map
PET 21-03
MORGAN MICK (OWNER)
1803 LINCOLN WAY WEST
REZONING FROM C-1 TO R-1

Staff Report

Location: 1803 Lincolnway West

Date: April 13, 2021

Petition: 21 03

Prepared By: KM

General Information

Applicant:	Morgan E. Mick
Status:	Property Owner
Request:	Rezone from C-1 General Commercial District to R-1 Single Family Residential
Zoning Classification:	C-1 General Commercial District
Lot Size:	43' X 145.9'
Applicable Regulations:	Sec. 137-164 Residential R-1 District; Sec. 137-40 Plan Commission; & Sec. 137-41 Amendment to Zoning Ordinance and Zoning Map

Special Information

Area Development Pattern:	North:	R-1 Single Family Residential District
	South:	R-1 Single Family Residential District
	East:	R-1 Single Family Residential District
	West:	R-1 Single Family Residential District
Thoroughfare:	Northeast corner of Lincolnway West and River Avenue	
School District:	School City of Mishawaka	
Public Utilities:	Available	
Comprehensive Plan:	Low Density Residential	

Analysis

The Petitioner is requesting to rezone 1803 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. The property is located on the southwest corner of Lincolnway West and Reddick Street. The neighborhood is mainly residential with light industrial properties located across the railroad tracks to the south.

The Petitioner recently purchased the property and is planning on building a new single-family home. The property was once the home of a detective agency and burned several years ago. The property has been vacant since.

Prior to the 1980's residential uses were permitted in commerical districts. Around 1986 the Zoning Ordinance was amended to prohibit residential uses in certain districts.

Pertinent City Departments have reviewed and approved the request.

Recommendation

The Planning Department recommends **approval** of Petition #21-03 to rezone 1803 Lincolnway West from C-1 General Commercial District to R-1 Single Family Residential District. This recommendation is based upon the following findings of fact:

1. The neighborhood surrounding the property is primarily residential in nature, and rezoning the property to R-1 would be compatible to the area;

2. Use and value of the area adjacent to the property included in the rezoning will not be affected in a substantially adverse manner because given the context of its location, its relationship to surrounding properties, and the potential of development as a commercial project, staff feels that the most desirable use for this property is a single-family use;

3. Because the parcel is located in an area of residential uses, the rezoning to R-1 Single-Family Residential is a desirable use for this property;

4. As opposed to the range of potential commercial development that could occur with its current zoning, rezoning this property to the R-1 Single-family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and,

5. The City's Comprehensive Plan calls for low density residential and its rezoning to residential would be compatible and consistent with the historic residential uses in the area.

ATTACHMENTS

PETITION, PHOTOGRAPHS, AERIAL, LOCATION MAP

1803 Lincolnway West

View looking west at the vacant lot