

AGENDA

Wednesday, July 5, 2017

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

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

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

June 19, 2017

Approval of June 19th Working Memorandum Financial Analysis/Circuit Breaker

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

True-Up Update by Jim Schrader and John Julien

Petition No. 2017-17 Annex and Zone - 914 & 916 E. McKinley Ave. to I-1 Light Industrial

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

P.O. NO. 2017-27 Sewage Works Revenue Bond

- 8. Resolutions**

R20017-16 Confirming Resolution - Personal Property Tax Abatement - Lippert Components Manufacturing - 400 South Byrkit Avenue

R2017-17 Confirming Resolution - Real Property Tax Abatement Lippert Components Manufacturing - 400 South Byrkit Avenue

R2017-18 Declaratory Resolution - Personal Property Tax Abatement - JAMIL Packaging Corporation - 1420 Industrial Drive

- 9. Ordinances on Second Reading**

P.O. NO. 2017-24 Rezone from C-1 Commercial to R-2 Two Family Residential - 2030 N Merrifield Ave (Assigned to Land Use Planning Committee)

P.O. NO 2017-25 Rezone from C-1 Commercial to C-7 Auto Oriented Restaurant Vacant Land North of 4914 N. Main St. (Assigned to Land Use Planning Committee)

P.O. NO. 2017-26 Amend the PUD for Ridgemont Crossing East Dragoon Trail and Fir Rd 73 Residential Lots and 10.46 Acres Light Industrial (Assigned to Land Use Planning Committee)

- 10. Privilege of the Floor - Non-Agenda Items**
- 11. Unfinished Business**

Reconsideration of R2017-15 Use Variance for Auto Repair in I-1 1927 N Cedar St

12. New Business

13. Adjournment

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 Geoffrey Spiess, ADA Coordinator, at (574) 258-1615.

REGULAR MEETING OF THE MISHAWAKA COMMON COUNCIL

June 19, 2017

Be it remembered that the Common Council of the City of Mishawaka, Indiana met in the Council Chambers of the Mishawaka City Hall on Monday June 19, 2017, at 7:00 p.m. The meeting was called to order by President Ross Deal all were asked to stand for the Pledge of Allegiance with a moment of silence for Councilmen Bellovich family.



Roll Call.

Present: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.

Absent: Mr. Bellovich.

Others present; Council Attorney Mike Trippel, Chief Deputy Mary Ellen Hazen, Raven Boston Deputy.

The minutes from the June 5, 2017 meeting were approved as received from the City Clerk's Office.

Clerk Block read letters from the Board of Zoning Appeals and the Plan Commission regarding recommendations from their June 13, 2017 meeting.

A public hearing on Vacation 2017-01 as required by State Statute on behalf of Olivia Gonzales and Austin Armenta commonly known as the alley west of 131 E. Seventh Street.

Olivia Gonzales wished to vacate alley adjacent to her home. She said due to the high volume of traffic coming through the alley she was concerned for the safety for her children. Mrs. Gonzales stated they alley was a part of her property years ago until was changed into a public right-of-way. She expressed she would like for it to be a part of her property again. Mrs. Gonzales explained she wanted to close the alley and build a fence.

Mr. Emmons asked was Mrs. Gonzales the only resident who faced the alley that could be affected from the closing the alley. Ms. Gonzales replied there was a house directly across.

Mr. Deal asked who used the alley. Ms. Gonzales said none of the neighbors uses the alley, mostly by passers cutting through.

Mr. Compton asked Mr. Prince, City Planner why was the alley created and granted as a right-of-way, would it be ok to grant it back to the property, and would a fence impact any utility poles. Mr. Prince said at some point in time they felt the alley was needed. He continued to say if utilities were there it may impact the fence but it would not impact the vacation.

Mr. Mammolenti assumed the by passers were using the alley just east which connected to 8th Street and cutting through to get to 7th Street. Mrs. Gonzales replied yes. She added the fence they were planning to build would not affect the utility poles at the beginning or end of the alley.

Mr. Mammolenti asked would the fence have a gate. Mrs. Gonzales said yes.

Mr. Compton advised Mrs. Gonzales to go through the proper procedure by going through the Building Department to receive a permit before they build their fence. He continued to say the Building Department could determine why the alley was created.

Clerk Block informed the council the alley was created in the late 1800's, they were unable to retrieve a lot of paper. She said it was still unclear as to why the right-of-way was determined. Clerk Block continued to say more research could be done before the vacation returns for second reading.

Mr. Banicki asked would the alley be separated between Mrs. Gonzales and the resident adjacent to the alley. Clerk Block stated the alley would go back to Mrs. Gonzales property because it was a part of the lot to begin with. Mr. Prince believed as it was all platted as one lot; it would all go back to Mrs. Gonzales lot. He asked Council Attorney Mike Trippel to verify.

Mike Trippel, Council Attorney verified the alley would go back to its original lot because of the history on the lot.

Mr. Canarecci asked was the lot adjacent to alley vacant and how long had Mrs. Gonzales lived at her property. Mrs. Gonzales said there were residence in the home and she moved in her home in December.

Mr. Banicki asked did the residence directly behind Mrs. Gonzales property use the alley to access their garage. Mrs. Gonzales said they used the main alley.

Linda Scarberry, owner of the property at 127 E. 7th Street the adjacent property to the proposed alley spoke in opposition to the vacation. She said she currently had renters in the property but hoped to move into the property when she retired. Ms. Scarberry stated the alley in question was her only access to her garage.

Mrs. Voelker asked could Ms. Scarberry access her garage from the main alley. Ms. Scarberry replied yes, but there were wooden heavy doors, it would be difficult for her to open. She explained there were doors on the other side of the garage that she could access from the alley in question.

Mrs. Voelker realized on the picture Ms. Scarberry presented, there was no drive way to her garage to access from the 7th street alley.

Mr. Canarecci asked did Ms. Scarberry and Mrs. Gonzales discuss their concerns. Ms. Scarberry replied no. Mr. Canarecci suggested they meet and maybe come to an agreement.

Mr. Mammolenti asked did Ms. Scarberry price a lighter garage door so she could have access to her garage door through the main alley. Ms. Scarberry replied no.

Mr. Emmons stated Ms. Scarberry would not be in compliance if she were to park in the grass. He asked would she be willing to put in a driveway. Ms. Scarberry said yes.

Public Hearing was closed at 7:22 P.M. on **Vacation 2017-01**

The following Proposed Ordinances were given first reading, assigned to committees, and set for public hearing at the next meeting.

PROPOSES ORDINANCE NO. 2017-24

**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 C-1 Commercial TO R-1 Two Family Residential 2030 N. Merrifield Ave.)
(Assigned to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2017-25

**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 C-1 Commercial to C-7 Auto Oriented Restaurant Vacant land North of 4914 N. Main
St.)

(Assigned to the Land Use Planning Committee)

PROPOSED ORDINANCE NO. 2017-26

**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**

(Amend PUD Ridgemont Crossings E. Dragoon Trail and Fir Rd. 73 Residential lots)
(Assigned to the Land Use Planning Committee)

Clerk Block read the following Resolutions by title and were opened for public hearing.

RESOLUTION NO. 2017-12

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF
MISHAWAKA, INDIANA, DECLARING A CERTAIN AREA IN
THE CITY OF MISHAWAKA, INDIANA, TO BE AN
ECONOMIC REVITALIZATION AREA**

(Declaratory Resolution for Lippert Components Manufacturing Inc.)

Tom Bauders, Assistant Treasurer and Tax Director for Lippert Components was proud to say this was their 61st year and out of 8600 employees, 7200 of them lived in Northern Indiana. He said they had 30 manufacturing location in Northern Indiana and as part of the RV industry they experienced tremendous growth. Mr. Bauders went on to say they were looking to expand and they've found a great location in the City of Mishawaka. He explained the land was the old AM General Plant and with the right refurbishing, they wanted to make it a world class distribution center as well as service and call center. Mr. Bauders said they had a location in South Bend since 2014; they had also acquired Duncan Systems on Highway 33 in Elkhart. He explained with organic growth, it was resulting in the need of additional space. Mr. Bauders said the land was the perfect size for a warehouse, service and call center. He hoped to have the councils support. Mr. Bauders expressed Ken Prince, City Planner was a great guider throughout the process. He mentioned they would relocate 270 employees from the South Bend and Elkhart facilities to Mishawaka, and then add 200 more jobs in the next two years. Mr. Bauders stated their track record showed growth in 2016 and would continue to grow. He said they were excited to be a part of Mishawaka

Mr. Tanner asked how many of the 270 employees that would be relocated lived in the City of Mishawaka. Mr. Bauders said they focused on St. Joe County, they knew half lived in St. Joe County.

Mr. Canarecci questioned the jobs that would be created. Mr. Bauders explained there would be a combination of warehouse, some clerical and skilled position. He said pay would range from \$14 to \$32 an hour. Mr. Bauders added they were a tier 1 supplier; they manufacture a lot of content for RV's. He continued to say there were roughly 9 million RV's on the road today, 1/3 purchase new and 2/3 purchase used. Mr. Bauders explained for the people that buy used RV's may want to upgrade parts. He mentioned the aftermarket business exploded, it was a great opportunity for stores such as Auto Zones and similar stores that sale parts.

Mrs. Voelker asked for examples of items Lippert Components supplies. Mr. Bauders said Lippert supplies 30 thousand parts such as furniture, electronics, chassis, windows, and doors just to name a few. He also mentioned parts were also sold online through amazon and other online websites, parts could also be purchased locally and shipped.

Mr. Deal said the RV industry is one of the first to suffer when the economic down terms occur. He asked as a supplier did allow them to be above the economic down terms. Mr. Bauders said they were hit in 2008-09 but they bounced back. He continued to say they were billions now, back then they were in the millions. Mr. Bauders said they've also diversified and began making parts for the marine industry, such as pontoon boats.

Mr. Mammolenti asked did they manufacture all of the 30 thousand items and were all of Lippert facilities located in Northern Indiana. Mr. Bauders explained 5% of item that were purchased and resold, 90% of their products were they manufactured. He went on to say 80% of their profit and sales come from Indiana. Mr. Bauders said they had 50 plants between US, Canada, and Italy, over 30 facilities were located in Northern Indiana.

Mr. Compton appreciated Lippert Component recognizing the community and wanting to come to Mishawaka. He said he heard they were great employers and asked to continue that in Mishawaka.

Questioned was called for at 7:37 P.M. for **RESOLUTION NO. 2017-12**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.**

RESOLUTION NO. 2017-13

**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:
2331 MIRACLE LANE, MISHAWAKA, INDIANA
(Use Variance for Church sign for roof)**

Deacon Brad Miller said the current location of their church was 839 Woodcliff Drive South Bend. Deacon Miller expressed their community was growing, so they were looking for a new location for bigger space at 2331 Miracle Lane Mishawaka in the Town and Country Shopping Center. He said they were looking to use the variance to establish a church and have the signage to be identified as a church.

Mrs. Voelker asked how many were in the congregation and how many services did he have. She also questioned where parking would be located at their new location. Deacon Miller said they had one service on Sunday with average of 35 members. He added they had some programming and meetings during the week, and also an immigration clinic. He said there was a specific parking lot in front of the building.

Mr. Compton asked would the entrance for their church face north. Deacon Miller replied yes.

Mr. Emmons questioned the sign. Deacon Miller said it was a 12' foot cross. Mr. Prince added the sign would be flush mounted to the building then project from the top of the building. He explained they regulated the cross as a sign due the property being a shopping center; they tried to regulate the best they could.

Mr. Emmons asked was there any stipulation in the Town and Country Shopping Center that would supersede what the city says they could do. Mr. Prince said Mr. Becker did have regulations. He continued to say he was unsure what they were but Mr. Becker did have control.

Mr. Compton asked did Deacon Miller receive approval from Mr. Becker for the cross. Deacon Miller replied yes.

Mr. Deal expressed he did not understand the need for the cross stand out in a way that seemed to be advertisement. He asked why they felt it was necessary to have the cross raised 12' feet above the building. Deacon Miller explained the cross would be attached to the facade then project over. He said they wanted to be identified as a church, as the location of the building was not very visible from the street.

Mr. Banicki asked how the signage was laid out at the current facility on Woodcliff Drive. Deacon Miller said they currently had a sign in the yard 4' feet tall.

Questioned was called for at 7:47 P.M. for **RESOLUTION NO. 2017-13**  **Vote: Motion passed (summary: Yes = 7, No = 1, Abstain = 0). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci. No: Mr. Deal.**

RESOLUTION NO. 2017-14

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: 430 South Byrkit Street, MISHAWAKA, INDIANA

Ron Johnson 16305 Southern Meadows Boulevard said he would like to open an Auto Body Repair Shop for himself. He described the surrounding of the location, he said there was another auto body shop in front of the proposed building and Michiana Waste was next door.

Mr. Canarecci questioned business hours. Mr. Johnson explained he was not running a business; he was just fixing his own cars. He mentioned he recently retired; he would work on cars on his free time. Mr. Johnson believed there were no surroundings that could be disturbed.

Mrs. Voelker question the cars Mr. Johnson would be fixing, she asked would there be customers driving in and out of the drive way. Mr. Johnson said he would be purchasing, repairing, then reselling the cars.

Mr. Mammolenti congratulated Mr. Johnson on his retirement, he asked would the vehicles be displayed after Mr. Johnson repaired the cars and would he also be painting. Mr. Johnson replied no, the car would be spoken for before he began repairing the cars. He said when he was done fixing cars; he would send the cars to the paint shop located in front of his building.

Clerk Block read remonstrance letter regarding **Resolution No. 2017-14** from Anthony Kozlowski, owner of T. Productions, Inc. located 504 South Byrkit, Mishawaka, IN 46544. Mr. Kozlowski voiced his concerns regarding junk cars in the parking lot. He expressed he was not against the request for zone change.

Mr. Johnson responded to the letter. He said he spoke to Mr. Kozlowski and explained the cars did not belong to him. Mr. Johnson mentioned he had also suggested putting towing signs on the property.

Mr. Deal asked was there intention on parking cars, if so, how many. Mr. Johnson replied yes, maybe 20.

Mr. Compton asked Mr. Johnson for clarification. He said he envisioned Mr. Johnson was going to have a small shop to earn some money on the side. Mr. Compton expressed they have had problems before, he asked that Mr. Johnson follows the rules as they can take the variance away if there were to be any problems. He continued to say they have had situation when businesses

became bigger than anticipated, and it became a problem for the neighbors. Mr. Johnson explained his goal was to do 20 cars in a year. He agreed to the terms and conditions.

Mr. Emmons also mentioned bad experience in his district dealing with auto body shop. He expressed he was not in favor of used car lots. Mr. Emmons said he did not want to see junk cars out on display. He continued to say the variance would be taken if Mr. Johnson did not follow the conditions. Mr. Johnson said all cars have to run. He continued to say he would have to make sure there would be limited amount of cars outside.

Question was called for at 8:00 P.M. for **RESOLUTION NO. 2017-14**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.**

RESOLUTION NO. 2017-15

**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:
1927 North Cedar Street, MISHAWAKA, INDIANA
(Use Variance for auto body shop)**

James Allen, 1927 N. Cedar Street said he ran his business there since 1980 to 2010. Mr. Allen went on to say when he vacated the property his building had been up for sale on and off. He said he had a gentleman who was interested in running an auto repair business.

Mr. Deal asked what kind of business Mr. Allen ran. Mr. Allen said he ran a tool company, he was the owner of Budco Tool and Die.

Mr. Banicki stated this was a similar situation, same neighborhood, and similar complaint as they have had problems with auto repairs in the area before. Mr. Allen said just because there were bad tenants two doors down did not mean he would.

Mr. Canarecci asked if the proposed tenant was present. Mr. Allen replied yes.

Mr. Mammolenti asked would Mr. Allen remain the owner of the building, was the tenant aware the building would be for sale, would the lease still be honored with the new owner. Mr. Allen explained if there was a purchase agreement he had 90 days to notify tenant and new buyer's. He said the tenant would vacate the building; the investor would buy it then continue the tenants lease. Mr. Allen mentioned a list that was provided to him that the tenant would need to commit to; he said a lot of the terms were in his lease. He continued to say there would not be any outside storage. Mr. Allen also mentioned he has rented the building at 1920 Cedar Street since 1982 for storage. He said he never had any complaints from the city or neighbors about his previous tenants. Mr. Allen asked that he not be judge because the tenants down the street.

Mr. Compton asked did Mr. Allen lease automotive repair previously at his property. Mr. Allen replied yes, Eagle Trucking. He said the tenant had a FedEx Franchise; he would service and store his vans in the building.

Mrs. Voelker questioned the buildings Mr. Allen owned on Cedar Street. She asked was the tenant using the entire building. Mr. Allen said he sold the building to the south a year and a half ago. He went on to say the tenant would use the entire building. Mr. Allen said the tenant previously working at Mans Corvette and he was looking for a new facility.

Mr. Tanner questioned the hours of operation, when Mr. Allen's last leased his property, the kind of business that was ran. He also asked did the last tenant have outside storage and how many employees would the tenant have. Mr. Allen said the lease stated the tenant would operate 8AM to 5PM Monday through Friday. He said he had a big investment in this property; it was not in his advantage to have a bad tenant. Mr. Allen said he would not have anyone in his building that would not respect his property. He went on to say his last tenant left three months ago, which was the FedEx franchise. Mr. Allen continued to say there was nothing stated in his lease, back then it was not a problem and he never had any complaints. He said the tenant would have three employees.

Mrs. Voelker asked was the FedEx Company doing automotive repair and did they need a variance. Mr. Allen said they were servicing their vans but it was mostly for storage purposes, it never came up a variance was needed.

Mr. Emmons asked was Mr. Allen aware they received an unfavorable recommendation from the Board of Zoning; he said the concerns were regarding hours and outside storage. Mr. Allen said he was unsure as to why they received an unfavorable vote. He continued to say he presented the Board with the lease when he applied for the variance, the lease stated all the terms and conditions.

Mr. Emmons went on to explain if the rules were not followed the variance could be taken away. He said they had too many situations when business did not comply. He asked what kind of auto body work the tenant would be doing. Mr. Allen said it would be mechanical work, no painting. Mr. Emmons said he would take Mr. Allen's word there would be no outside storage.

Mr. Tanner asked would the building have heating/cooling system. Mr. Allen answered yes; there were 4 air conditioning units and 4 heating units.

Mrs. Voelker asked to hear from the tenant, she asked would he be able to do his work with the doors closed. Raphael Lopez, 515 E. Marion Street said he was a resident of the neighborhood. He went on to say he had children that attended Battell School, he understood the neighbor concerns. Mr. Lopez said yes, he could operate with the doors closed; the building was big enough to store more than one car. He explained once the car is in the building it would remain in the building until owner picks it up. Mr. Lopez explained he would be working on high end and classic cars.

Mr. Mammolenti asked did Mr. Lopez currently have a business elsewhere. Mr. Lopez replied no. He stated this was his livelihood. Mr. Lopez continued to say at his old job he shared space with a paint shop, he was unable to store vehicles. He said the owner this gave him the

opportunity to break off and expand on his own. Mr. Lopez explained Mr. Allen building was the perfect fit for him, it had air control and plenty of storage space for at least 13 vehicles.

Mr. Compton stated the council was reluctant on this variance due to the bad tenants down the street. He asked if Mr. Lopez was in a situation that a customer was in need of their car right away, what he would do. Mr. Compton said his concern was working past hours. Mr. Lopez said good scheduling would be in place, and customers needed to understand the process and time it takes to do a project. He explained sometimes they run into things that could make a setback. Mr. Lopez said he had the space to store cars and keep the customer satisfied. He expressed he would not take on more than he could handle. Mr. Lopez continued to say he agrees with the neighbors that had concerns. He expressed he had a family and he had to do his fatherly duties, he did not have time to do after hours. He agreed there should not be loud noise and hanging out outside. Mr. Lopez also mentioned the trains nearby, said the train was louder than any tool they use.

Mr. Compton said he knew it was not easy for Mr. Lopez to explain to them that he could be a responsible tenant. He explained the council works for every one and it was nothing personal. Mr. Compton went on to say the proposed property was in his district and his constituents were the people he had to represent. Mr. Lopez asked that he not be judged because of the people down the street. He suggested that he go on a probationary period to prove that he would be a good tenant.

Mr. Banicki asked did Mr. Lopez have three lifts installed in the facility, was he working on cars at this facility, and was he aware of the restriction needed. Mr. Lopez replied he had two installed, but at the time they did not know a variance was needed and did not know it would be so difficult to receive one. He said he spoken to neighbors who complained about the loud noise from the taxi cab company down the street. Mr. Lopez said he was not working on cars right now. Mr. Allen added once Mr. Lopez signed the lease he began moving in. He said when Mr. Lopez tried to get the electric in his name the utilities office told him the property was not zone for auto repair. Mr. Allen continued to say at that point they began the process to receive the variance. Mr. Lopez said he had an oil contaminator and he knew someone that had a waste burner and would supply him with container to store the oil. Mr. Prince, City Planner said in auto repair shops there should be a drain in the floor to separate the oil that would release into the sewer.

Mr. Canarecci asked would Mr. Lopez have enough business to sustain 3 employees. Mr. Lopez explained one of the employees would be part time. He continued to say with the build up from Mans Corvette, he believed he would do well.

Employees John Nixon and Todd Smith worked with Mr. Lopez at Mans Corvette. They both expressed what a great person and family man Mr. Lopez was. They said this was they're livelihood. Mr. Nixon and Mr. Smith asked for approval and prove that they could be good neighbors.

Jeff Wisler 1905 Margaret Avenue and Matthew Kopey 1825 Margaret Avenue spoke in against the variance. They explained they've had multiple bad experiences with auto repair in the neighborhood. Mr. Wisler and Mr. Kopey expressed their concerns about loud noise, outside storage and working after hours. They feared the tenant would not comply.

Mr. Mammolenti understood after hours were the main issues before; he asked if the hours were strictly 8AM to 5PM be an issue and did Mr. Wisler have issues when the proposed property was the FedEx Franchise. Mr. Wisler explained the way the buildings were situated the noise vibration traveled through the neighborhood when tools were used. He said there were no problems with FedEx, they were good neighbors.

Mr. Mammolenti asked how Mr. Wisler felt about having a probation period for Mr. Lopez perhaps a 60 or 90 day. Mr. Wisler said he felt 30 days would be pushing it. He said they've gone through this same situation multiple times, he felt zoning were set for a reason and owners lease their properties with improper zoning regulations. Mr. Wisler went on to say the owner should know their properties zoning, so the process of requesting for a variance would start from the beginning and not after the fact. He also questioned the city ordinance and the city's ability stop these problem from happening.

Mr. Tanner referenced Mr. Wisler's statement, he expressed the system worked exactly the way it should. He continued to say the electric department flagged the tenant when they saw it was not zoned correctly, which then initiated the process for Mr. Lopez to request for the variance. Mr. Tanner asked for the residence to have some confidence in the city, its administration, and departments. He said the gears were flowing in the right direction, which why they were there.

Mr. Emmons asked did Mr. Wisler work away from home during the hours of 8 to 5. Mr. Wisler said he worked away different hours of the day. Mr. Emmons stated the council was very concerned about automotive in the neighborhoods. He went on to say in this case there would not be any noise after 5PM. Mr. Emmons said they understood the concerns of the neighbors, but they also had to be concerned about people making a livelihood. He went on to say if Mr. Lopez did not keep his word the variance would be taken.

Mr. Canarecci said penalizing Mr. Lopez because of the tenants down the street was not fair. He continued to say the council voiced their concern and frustration as well.

Mr. Tanner asked Council Attorney Mike Trippel could they make a decision of this sort on a business to business base without a worry of any precedent conflicting. Mr. Trippel said yes every case rises and falls off any set of facts.

Mr. Compton expressed he was supporting his voters in his district. He said it was no reflection on Mr. Lopez. Mr. Compton went on to say he was disappointed of the situation that he could not support his business at this time. He asked Mr. Lopez to reach out to him and other members of the council if any problems if the variance were to pass.

Mr. Mammolenti said he was also struggling with his decision until Mr. Canarecci spoke and when Mr. Lopez spoke with so much passion. He continued to say the fact that Mr. Lopez was willing to do whatever it took and go on probation said a lot. Mr. Mammolenti said the council made it clear they would take away the variance if Mr. Lopez did not comply. He expressed he was in support.

Mr. Banicki expressed as an automotive business owner 8AM to 5PM was questionable. He said as a mechanic you run into things and you do what need to be done to pay bills at the end of the

day. Mr. Banicki went on to say he wanted to be diligent to the residence in that neighborhood, their homes were there first, felt they needed to try to protect them. He also mentioned the unfavorable vote from the Board of Zoning Appeals; he said it was rare to receive negative votes from the body. Mr. Baincki said he could not support the resolution. He wished Mr. Lopez good luck.

Questioned was called for at 8:53 P.M. for **RESOLUTION 2017-15**  **Vote: Motion failed (summary: Yes = 4, No = 4, Abstain = 0). Yes: Mr. Mammolenti, Mr. Emmons, Mr. Canarecci, Mr. Deal. No: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Banicki.**

Clerk Block read the following ordinances by title and were opened for public hearing.

PROPOSES ORDINANCE NO. 2017-21

AN ORDINANCE OF THE CITY OF MISHAWAKA, INDIANA AUTHORIZING AN INVESTMENT POLICY (Authorizing Investment Policy of Public Funds)

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

Rebecca Miller, City Controller stated all three items were related. She continued to say this ordinance was a renewal every 4 years for the city investment policy. Ms. Miller explained the policy was designed to safe guard funds on behalf of the city. She said they assure the availability of funds when needed and to provide a competitive investment in return.

Questioned was called for at 8:59 P.M. for **PROPOSED ORDINANCE NO. 2017-21**  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.**

PROPOSED ORDINANCE NO. 2017-22

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO IC 5-13-9-5 AND 5-13-9-5.3 (Investment of Funds Outside Political Subdivision)

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

Rebecca Miller, City Controller said this was for an investment of funds outside the political subdivisions. She explained it was a 2-year renewal that would allow the city to go out for bids statewide to get the best rates. Ms. Miller mentioned the city's financial advisor Umbaugh would advise it for the city.

Questioned was called for at 8:59 P.M. for **PROPOSED ORDINANCE NO. 2017-22** 

Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.

PROPOSED ORDINANCE NO. 2017-23

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA AUTHORIZING THE INVESTMENT OF PUBLIC FUNDS PURSUANT TO IC 5-13-9-5.7

(Investment of Funds for more than 2 years, less than 5 years)

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

Rebecca Miller, City Controller explained this was for an investment for funds for more than 2-years but less than 5 years. She continued to say it was a 4-year renewal that allowed the city to invest in longer terms, securing better rating refunds.

Questioned was called for at 8:59 P.M. for  **Vote: Motion carried by unanimous roll call vote (summary: Yes = 8). Yes: Mrs. Voelker, Mr. Compton, Mr. Tanner, Mr. Mammolenti, Mr. Banicki, Mr. Emmons, Mr. Canarecci, Mr. Deal.**

PRIVILEGE OF THE FLOOR

Jackie Russell, owner of Hearing Aid Service at 3718 Lincolnway East complained about the city sign ordinance. Mrs. Russell explained she bought a feather flag as an identity point for her business. She said she received a call from the planning department to remove the flag because it was not permitted. Mrs. Miller wanted to be allowed to keep her sign up.

Mr. Prince explained for fundamental reasons temporary signs, wind signs, etc. were not permitted, the council made a decision in 1996 due to the retail developing in the city. He said unless the ordinance changed Mrs. Russell's sign could not go back up. Mr. Prince suggested meeting with her to discuss other signage for her property.

Mr. Compton explained Mrs. Russell could go through the process of requesting a variance for her business so that she could put up her sign. Mr. Prince applying for a variance would cost money, it would be better to meet and discuss other options.

NEW BUSINESS

Mr. Banicki made a motion to change the July 3rd meeting to July 5th with a second Mr. Compton motion carried.

ADJOURNMENT 9:09 P.M.

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

Ross Deal _____s/
Ross Deal, President

UMBAUGH

H. J. Umbaugh & Associates
Certified Public Accountants, LLP
112 IronWorks Avenue
Suite C
Mishawaka, IN 46544
Phone: 574-935-5178
Fax: 574-935-5928
www.umbaugh.com

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 28 2017

CITY CLERK
MISHAWAKA, IN

June 28, 2017

Common Council
City of Mishawaka
P.O. Box 363
Mishawaka, Indiana 46546-0363

Re: Mishawaka (Indiana) Municipal Electric Utility - Summary of Changes

Dear Council Members:

Typically at this time of the year we are before you with a report that shows why the Electric Utility needs to increase their rates and charges to reflect the increase in the cost of purchased power from I&M. This year, however, we are reporting the estimated increase in purchased power costs but are recommending that the projected increase be absorbed by the Utility and not passed on to the Utility's customers.

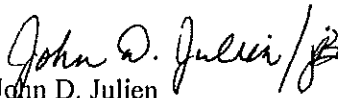
There are a number of changes anticipated in the new cost of purchased power from I&M, not the least of which is the cost for transmission services provided by PJM. As you will see in the attached schedule, the cost of this service has increased by over \$5 million dollars from what was included in the 2013 rate case. This change alone is more than the total increase in purchased power costs since 2013. We estimate the current cost of purchased power from I&M will be about \$4.8 million more than what costs were in 2013. While many of the components of purchased power expense have gone up over the last 4 years the cost of fuel is estimated to go down. Cost of fuel can change suddenly based on the operations at the Cook generating plant so this is a line item to be monitored throughout the year.

As mentioned above, based on current estimates the cost of purchased power will be \$4.8 million more than what is funded from the Utility's base rates. The Utility is generating approximately \$4.3 million in additional revenue for purchased power through the previously adopted I&M adjustment factors. To fully recover the expected cost of purchased power through the base rates and the I&M adjustment factor, the I&M adjustment factor would need to be increased to generate an additional \$458,711. This is the information we would typically be providing you with our suggestion that you increase the I&M pass-through factor. This year, however, the I&M true-up payments that are usually part of purchased power costs will not be billed by I&M. In fact, there will be a refund of approximately \$1.9 million. Because of the offset created by the drop in I&M true-up payments, it is our recommendation that the \$458,711 shortfall be absorbed by the Utility's cash position.

We hope this information is helpful. If you have any questions, as always, please do not hesitate to ask.

Very truly yours,

UMBAUGH


John D. Julien

JDJ:jb

cc: The Honorable David A. Wood, Mayor
Board of Works
Ms. Rebecca S. Miller, Controller
Mr. James M. Schrader, Utility Manager

MISHAWAKA (INDIANA) MUNICIPAL ELECTRIC UTILITY

SUMMARY OF CHARGES TO PURCHASED POWER COSTS

	<u>Current Rates</u>	<u>New Rates</u>	<u>Change</u>
Demand	\$20,422,521	\$22,567,204	\$ 2,144,683
Energy	5,952,146	5,762,824	(189,322)
Fuel	9,312,061	10,591,162	1,279,101
Fuel True Up	3,363,751	1,000,000	(2,363,751)
PJM	4,083,767	9,372,706	5,288,939
I&M Ture Up	<u>1,345,236</u>	<u></u>	<u>(1,345,236)</u>
	<u>\$44,479,482</u>	<u>\$49,293,896</u>	4,814,414
Increase covered from current I & M Adjustment factor			<u>4,355,703</u>
Shortfall absorbed from fund balances			<u>\$458,711</u>

(Subject to the comments found in the accompanying letter dated June 28, 2017)

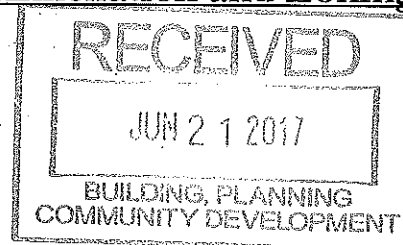
JUN 29 2017

CITY CLERK
MISHAWAKA, IN

Petition for Annexation and Zoning

June 21, 2017

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



RE: Petition for Annexation and Zoning Classification

The undersigned PD Realty, LLC respectfully show they are the owners of the following described real estate located in the County of St. Joseph, State of Indiana, to-wit:

Parcel 1: Acreage 5.53 +/-

A parcel of land located in the Southeast Quarter of the Southwest Quarter of Section Three (3), Township Thirty-seven (37) North, Range Three (3) East, described as beginning at the Southeast corner of the parcel of land containing 7 ½ acres taken off the entire length of the East side of 17 ½ acres off the West side of said Southwest Quarter; thence North 1320 feet to the North line of said Quarter Quarter Section; thence West along said North line 177 feet to the true point of beginning; thence South 1020 feet; thence West 235.5 feet; thence North 1020 feet to the North line of said Quarter Quarter Section; thence East along said North line 235.5 feet to the point of beginning.

COMMON ADDRESSES: 914 East McKinley Avenue

Parcel 2: Acreage 6.99 +/-

A parcel of land located in the Southeast Quarter of the Southwest Quarter of Section Three (3), Township Thirty-seven (37) North, Range Three (3) East described as beginning at the Southeast corner of a parcel of land containing 7 ½ acres taken off the entire length of the East side of 17 ½ acres off the West side of said Southeast Quarter of the Southwest Quarter; thence North 1320 feet to the North line of said Quarter Quarter Section; thence West 177 feet; thence South 1020 feet; thence West 235.5 feet; thence South 300 feet to the South line of Section 3; thence East along said South line 412.5 feet to the point of beginning.

COMMON ADDRESSES: 916 East McKinley Avenue

Petitioners own One Hundred (100%) percent of the above-described parcel of land which is located at 914 and 916 East McKinley Avenue, Mishawaka, IN and that Petitioners desires to have **Parcel I** be annexed to the City of Mishawaka, Indiana, with a I-1 Light Industrial Zoning classification. It is also the desire of the Petitioners to rezone the South West portion of **Parcel II** (Described as the SW 235.5' by 300' section of Parcel II) from a C-4 Automobile Oriented Commercial Zoning to the I-1 Light Industrial Zoning Classification in its entirety. The petitioner further state they intend to utilize said land for business operations related to the Direct Line Communications, LLC (New Building) and Pemberton Davis Electric, Inc. (Future Addition) Operations.

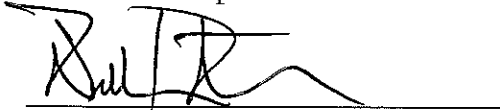
It comes down to people and their experiences | Together, We Will

550 Union St. | Mishawaka, IN 46544 | p 574.259.9976 | www.troyergroup.com

Accompanying this petition is a drawing, to scale, showing the above-described parcels of real estate.

Petitioners further show this proposed annexation to be in the best interest of the City of Mishawaka, Indiana, and of the territory sought to be annexed. The New Building and addition to the site will restore its contribution, economically, to the City of Mishawaka, and ensure that protection for the adjacent well field is established.

Wherefore, Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted annexing parcel 1 to the City of Mishawaka with a zoning classification of I-1 Light Industrial and the rezoning of the South west portion of Parcel 2 to a I-1 Light Industrial Classification.



Property Owner Signature



Print Property Owner Name

Contact Person:

Steven Ruby, PLA
550 Union Street
Mishawaka, IN 46544
Ph:(574) 259-9976
Fax:(574)254-4048
sdr@troyergroup.com





PET 17-17

PARCEL 1
ANNEX &
REZONE

PARCEL 2
REZONE

PREGEL DR

E MCKINLEY AVE

WENT AVE

Location Map

PETITION 17-17

PD REALTY, LLC
914 & 916 E. MCKINLEY AVE.

ANNEXATION & REZONING
R SINGLE FAMILY & C COMMERCIAL
(PARCEL 1 - COUNTY), AND C-4 AUTO-
ORIENTED COMMERCIAL & L-1
LIGHT INDUSTRIAL (PARCEL 2-
MISHAWAKA) TO L-1 LIGHT INDUSTRIAL

1st Reading 7-5-17
2nd Reading
Passed
Failed
Continued To

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 28 2017

PROPOSED ORDINANCE NO. 2017-27

CITY CLERK
MISHAWAKA, IN

ORDINANCE NO. _____

An Ordinance of the City of Mishawaka authorizing the advance refunding by the City of its Sewage Works Revenue Bonds of 2010, Series B; authorizing the issuance of sewage works revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal sewage works of the City and provide for the refunding; providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith

WHEREAS, the City of Mishawaka, Indiana ("City") has heretofore established, constructed and financed a municipal sewage works and now owns and operates the sewage works pursuant to IC 36-9-23, and other applicable laws; and

WHEREAS, the Common Council finds that certain hereinafter described outstanding bonds of the sewage works should be advance refunded to obtain a reduction in interest payments and effect a savings to the City by providing for the payment of such outstanding bonds; that the refunding of said outstanding bonds, together with accrued interest thereon and including all costs related to the refunding cannot be provided for out of funds of the sewage works now on hand and the refunding should be accomplished by the issuance of revenue bonds of the sewage works; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue Bonds of 2010, Series A," dated January 28, 2010 ("2010A Bonds"), originally issued in the amount of \$2,398,000, now outstanding in the amount of \$1,721,000, and maturing semiannually over a

period ending March 1, 2030, which 2010A Bonds constitute a first charge upon the Net Revenues (as hereinafter defined) of the sewage works; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the construction of additions and improvements to the sewage works and payable out of the revenues therefrom designated "Sewage Works Revenue Bonds of 2010, Series B," dated December 21, 2010 ("2010B Bonds"), originally issued in the amount of \$37,225,000, now outstanding in the amount of \$28,310,000, and maturing semiannually over a period ending September 1, 2030, which 2010B Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds; and

WHEREAS, the Common Council finds that there are now outstanding bonds originally issued to finance the refunding of certain outstanding sewage works bonds designated "Sewage Works Refunding Revenue Bonds of 2015," dated August 20, 2015 ("2015 Bonds"), originally issued in the amount of \$34,755,000, now outstanding in the amount of \$31,145,000, and maturing semiannually over a period ending March 1, 2027, which 2015 Bonds constitute a first charge upon the Net Revenues of the sewage works, on a parity with the 2010A Bonds and the 2010B Bonds; and

WHEREAS, the Common Council finds that the 2010B Bonds (hereinafter, "Refunded Bonds") may be refunded pursuant to the provisions of IC 5-1-5 to enable the City to obtain a reduction in interest payments and effect a savings to the City; and

WHEREAS, the Common Council finds that certain improvements and extensions to said works are necessary; that plans, specifications and estimates have been or will be prepared and filed by the engineers employed by the City for the construction of the improvements and extensions (as more fully set forth in Exhibit A hereto and made a part hereof) ("Project"), which

plans and specifications have been or will be submitted to all governmental authorities having jurisdiction, particularly the Indiana Department of Environmental Management, and have been or will be approved by the aforesaid governmental authorities and are incorporated herein by reference and open for inspection at the office of the Clerk as required by law; and

WHEREAS, the City has obtained engineers' estimates of the costs for the construction of the Project and will advertise for and receive bids for the construction of the Project, which bids will be subject to the City's determination to construct the Project and subject to the City obtaining funds to pay for the Project; that on the basis of said estimates, the maximum estimated cost of the Project, as defined in IC 36-9-1-8, including incidental expenses, is in an amount not to exceed \$13,060,000; and

WHEREAS, the City finds that it has no funds on hand available to apply on the costs of the Project, and the entire balance of the cost of the Project and the cost of the refunding, after applying funds on hand allocable to the refunding, is to be financed by the issuance, in one or more series, of sewage works revenue bonds, in an aggregate principal amount not to exceed \$43,060,000 and, if necessary, bond anticipation notes ("BANs"); and

WHEREAS, the ordinances authorizing the issuance of the 2010A Bonds and the 2015 Bonds (hereinafter, collectively, "Outstanding Bonds") permit the issuance of additional bonds ranking on a parity with the Outstanding Bonds provided certain conditions can be met, and the City finds that the finances of the sewage works will enable the City to meet the conditions for the issuance of additional parity bonds and that, accordingly, the revenue bonds authorized herein shall rank on a parity with the Outstanding Bonds; and

WHEREAS, the Mishawaka Redevelopment Commission ("Redevelopment Commission") has previously adopted a Declaratory Resolution designating and declaring an

area known as the Northwest Area Improvement Project ("Area") as an economic development area and an allocation area within the meaning of IC 36-7-14, and the Declaratory Resolution was ratified and confirmed by the Redevelopment Commission; and

WHEREAS, in connection with the issuance of the 2010A Bonds, the Redevelopment Commission adopted a resolution ("2010 Resolution") which pledges an increased annual amount of all real and personal property tax proceeds in the Area allocated and deposited in the Allocation Fund created pursuant to IC 36-7-14 ("Tax Increment"), bringing the total annual amount of Tax Increment to \$3,360,000 and the pledge of Tax Increment was expanded to include the payment of the 2010A Bonds and the funding of any reserves for such 2010A Bonds; all of such actions regarding the Tax Increment was done with the consent of the Indiana Finance Authority ("Authority"), the owner of the 2010A Bonds through the hereafter defined SRF Program; and

WHEREAS, in connection with the issuance of bonds under this ordinance, the Redevelopment Commission has adopted or will adopt a resolution ("2017 Resolution") to allow the pledge of Tax Increment as described in the ordinances authorizing the Outstanding Bonds and in the 2010 Resolution, to also apply to the payment of all bonds issued under this ordinance, and the funding of any reserves for all bonds issued under this ordinance; and

WHEREAS, the Common Council has been advised that Tax Increment has been pledged to the payment of the City of Mishawaka, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2015 ("2015 Tax Increment Bonds") and will be pledged to the City of Mishawaka, Indiana, Redevelopment District Tax Increment Revenue Bonds, Series 2017 ("2017 Tax Increment Bonds"); the resolutions authorizing such 2015 Tax Increment Bonds and 2017 Tax Increment Bonds (collectively, "Tax Increment Bonds") pledge Tax Increment to the Tax

Increment Bonds, but such pledges do not include the Pledged Tax Increment (as hereinafter defined), which Pledged Tax Increment is junior and subordinate to the payment of the Tax Increment Bonds; and

WHEREAS, the Redevelopment Commission's 2010 Resolution and 2017 Resolution direct that the Pledged Tax Increment shall be used as Net Revenues of the sewage works; and

WHEREAS, the bonds to be issued pursuant to this ordinance will constitute a first charge against the Net Revenues of the sewage works, on a parity with the Outstanding Bonds, and are to be issued subject to the provisions of the laws of the State of Indiana, including, without limitation, IC 5-1-5, IC 5-1-14 and IC 36-9-23, each as in effect on the issue date of the bonds (collectively, "Act"), and the terms and restrictions of this ordinance; and

WHEREAS, the City desires to authorize the issuance of BANs hereunder, in one or more series, if necessary, payable solely from the proceeds of the sewage works revenue bonds issued to finance the aforementioned costs of the Project and to authorize the refunding of the BANs, if issued; and

WHEREAS, the City reasonably expects to reimburse certain preliminary costs of the Project with proceeds of debt to be incurred by the City in an amount not to exceed \$13,060,000; and

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

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

Section 1. Project and Refunding Authorization; Reimbursement. (a) The City may proceed with the construction of the Project in accordance with the cost estimates, plans and specifications heretofore prepared and filed or to be filed by the consulting engineers employed by the City, which cost estimates, plans and specifications are now on file or shall subsequently be placed on file in the office of the Clerk of the City, and have been or will be adopted and approved, and by reference made a part of this ordinance as fully as if the same were attached hereto and incorporated herein. Two copies of any additional final plans and specifications and the cost estimates shall be open for public inspection pursuant to IC 36-1-5-4. The estimated cost of the construction of the Project shall not exceed the sum of \$13,060,000, plus investment earnings on the bond and BAN proceeds, without further authorization from this Common Council. The City shall also provide funds for refunding the Refunded Bonds in an amount not to exceed \$30,000,000, thereby reducing its interest payments and effecting a savings, as reported by the City's financial advisor, H.J. Umbaugh & Associates, Certified Public Accountants, LLP. The terms "sewage works," "works" and words of like import where used in this ordinance shall be construed to mean the Treatment Works, as defined in the Financial Assistance Agreement, dated January 28, 2010 ("Financial Assistance Agreement") between the City and the Authority as part of its wastewater loan program established and existing pursuant to IC 4-4-11 and IC 13-18-13 ("SRF Program"), and includes the existing structures and property of the sewage works and all enlargements, extensions, additions and improvements thereto and replacements thereof now or at any time hereafter constructed or acquired. The Project shall be constructed in accordance with the plans and specifications heretofore mentioned. The Project shall be constructed, the refunding accomplished and the BANs and bonds herein authorized shall be issued pursuant to and in accordance with the Act.

(b) The City hereby declares its official intent to complete the Project, to reimburse certain costs of completing the Project with proceeds of debt to be incurred by the City, and to issue debt not exceeding \$13,060,000 in aggregate principal amount for purposes of paying and reimbursing costs of the Project.

Section 2. Issuance of Bonds and BANs (a) The City shall issue, if necessary, one or more series of BANs for the purpose of procuring interim financing to apply to the cost of the Project. The City shall issue its BANs, in an aggregate principal amount not to exceed Thirteen Million Sixty Thousand Dollars (\$13,060,000) to be designated "Sewage Works Bond Anticipation Notes of _____," to be completed with the year in which issued and series designation, if any. The BANs shall be sold at a price not less than 99% of their par value, shall be numbered consecutively from 1 upward, shall be in multiples of \$1,000, as designated in the hereinafter defined Purchase Agreement, shall be dated as of the date of delivery thereof, and shall bear interest at a rate not to exceed 5% per annum (the exact rate or rates to be negotiated) payable upon maturity and upon redemption. The BANs will mature no later than five years after their date of delivery. The BANs are subject to renewal or extension at an interest rate or rates not to exceed 5% per annum (the exact rate or rates to be negotiated with the purchaser of the BANs). The term of the BANs and all renewal BANs may not exceed five (5) years from the date of delivery of the initial BANs. The BANs shall be registered in the name of the purchasers thereof.

(b) The BANs shall be issued pursuant to IC 5-1.5-8-6.1 if sold to the Indiana Bond Bank or pursuant to IC 5-1-14-5 if sold to a financial institution or any other purchaser. The principal of and interest on the BANs shall be payable solely from the issuance of revenue bonds pursuant to and in the manner prescribed by the Act. The Bonds (as defined below) will be

payable solely out of and constitute a first charge against the Net Revenues (herein defined as the gross revenues after deduction only for the payment of the reasonable expenses of operation, repair and maintenance, excluding transfers for payment in lieu of property taxes ("PILOTs")), of the sewage works of the City, on a parity with the Outstanding Bonds. The Net Revenues of the sewage works shall include the Pledged Tax Increment. For purposes of this ordinance, the "Pledged Tax Increment" shall mean an annual amount not to exceed \$3,360,000 of Tax Increment remaining after payment of the Tax Increment Bonds available for deposit under this ordinance. The Pledged Tax Increment is pledged to pay, on a parity basis, the debt service on and fund reserves for the 2010A Bonds and the Bonds issued under this ordinance. The Pledged Tax Increment shall remain in force for so long as the Bonds authorized under this ordinance are outstanding, provided, however, that (i) the Pledged Tax Increment may be reduced or shall be increased (but not in excess of \$3,360,000 annually) so that Net Revenues of the sewage works (including Pledged Tax Increment) in the fiscal year are not less than one hundred twenty-five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the sewage works; or (ii) Pledged Tax Increment shall no longer be pledged or treated as Net Revenues of the sewage works upon the one time showing that prior to the City's determination to release the Pledged Tax Increment from the payment of the bonds, the sewage rates and charges are increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues (not including Pledged Tax Increment) for said year equal to not less than one hundred twenty-five (125%) of the maximum annual interest and principal requirements of all bonds payable from the Net Revenues of the sewage works. For purposes of this subsection, the records of the sewage

works shall be analyzed and all showings prepared annually by a certified public accountant employed by the City for that purpose within 120 days of the close of each fiscal year.

(c) The City shall issue its bonds to be designated "Sewage Works Revenue and Refunding Revenue Bonds of _____," to be completed with the year in which issued and series designation, if any. If the City, with the advice of its financial advisor, determines that it is necessary to issue its bonds in more than one series, the Bonds shall be designated "Sewage Works [Refunding] Revenue Bonds of _____," to be completed within the year in which issued and series designation, if any (hereafter referred to collectively as the "Bonds"). The Bonds shall be issued in an aggregate principal amount not to exceed Forty-three Million Sixty Thousand Dollars (\$43,060,000), for the purpose of procuring funds to be applied on the cost of the Project, the refunding of the BANs, if issued, the refunding of the Refunded Bonds and the payment of costs of issuance and all other costs related to the refunding and the Project. The City shall apply moneys currently held for the payment of debt service on the Refunded Bonds to the refunding as provided in Section 8.

The Bonds shall be issued in the denomination of Five Thousand Dollars (\$5,000) each or integral multiples thereof. The Bonds shall be numbered consecutively from 1 upward, dated as of the first day of the month in which they are sold or issued, or as of the date of delivery of the Bonds, as determined by the Controller with the advice of the City's financial advisor. Interest on the Bonds shall be payable semiannually on March 1 and September 1 in each year, beginning on the first March 1 or the first September 1 following delivery of the Bonds as designated by the Controller, with the advice of the City's financial advisor. The Bonds shall be sold at a price of not less than 99.5% of the par value thereof. The Bonds shall be payable in lawful money of the United States of America, at the principal office of the Paying Agent (as

hereinafter defined). The Bonds shall bear interest at a rate or rates not exceeding 5% per annum (the exact rate or rates to be determined by bidding or negotiation for any refunding series). The Bonds shall mature semiannually, or shall be subject to mandatory sinking fund redemption if term bonds are issued, on March 1 and September 1 of each year, ending no later than March 1, 2038 and in amounts which will either: (i) produce as level debt service as practicable with \$5,000 denominations and taking into account the annual debt service on all series of Bonds issued under this ordinance and the Outstanding Bonds, or (ii) maximize the savings on the refunding.

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

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

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

Section 3. Registrar and Paying Agent; Book-Entry Provisions. The Controller is hereby authorized to contract with a qualified financial institution to serve as Registrar and Paying Agent for the Bonds ("Registrar" or "Paying Agent"). The Registrar is hereby charged

with the responsibility of authenticating the Bonds. The Controller is hereby authorized to enter into such agreements or understandings with the Registrar as will enable the institution to perform the services required of a registrar and paying agent. The Controller is further authorized to pay such fees as the Registrar may charge for the services it provides as Registrar and Paying Agent and such fees may be paid from the Sewage Works Sinking Fund established to pay the principal of and interest on the Bonds as fiscal agency charges. As to the BANs and as to the Bonds, if the purchaser does not object to such designation, the Controller may serve as Registrar and Paying Agent and in that case, is hereby charged with the duties of a Registrar and Paying Agent.

The principal of the Bonds shall be payable at the principal corporate trust office of the Paying Agent. All payments of interest on the Bonds shall be paid by check, mailed one business day prior to the interest payment date to the registered owners thereof as the names appear as of the fifteenth day of the month preceding the interest payment date ("Record Date") and at the addresses as they appear on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by such registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall be instructed to wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the Bonds and BANs shall be made in any coin or currency of the United States of America, which on the date of such payment, shall be legal tender for the payment of public and private debts.

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

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

given when mailed by first class mail to the addresses of such registered owners as they appear on the registration books kept by the Registrar.

Upon the appointment of any successor registrar and paying agent by the City, the Controller is authorized and directed to enter into such agreements and understandings with such successor registrar and paying agent as will enable the institution to perform the services required of a registrar and paying agent for the Bonds. The Controller is further authorized to pay such fees as the successor registrar and paying agent may charge for the services it provides as registrar and paying agent and such fees may be paid from the Sewage Works Sinking Fund continued in Section 16 hereof. Any predecessor registrar and paying agent shall deliver all of the Bonds and any cash or investments in its possession with respect thereto, together with the registration books, to the successor registrar and paying agent.

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

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

upon initial issuance, the ownership of such Bonds shall be registered in the register kept by the Registrar in the name of CEDE & CO., as nominee of the Depository Trust Company.

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

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

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

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

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

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

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

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

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

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

Section 4. Redemption of BANs and Bonds. (a) The BANs are prepayable by the City, in whole or in part, at any time upon 20 days' notice to the owner of the BANs with no premium.

(b) The Bonds of this issue are redeemable at the option of the City no sooner than September 1, 2027, and thereafter on any date, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, together with no premium, plus in each case accrued interest to the date fixed for redemption. The exact redemption features shall be established by the Controller, with the advice of the City's financial advisor, prior to the sale of the Bonds.

If any Bond is issued as a term bond, the Paying Agent shall credit against the mandatory sinking fund requirement for the Bonds maturing as term bonds, and corresponding mandatory redemption obligation, in the order determined by the City, any Bonds maturing as term bonds

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

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

(c) In either case, notice of such redemption shall be given at least thirty (30) days prior to the date fixed for redemption by mail unless the notice is waived by the registered owner of a Bond. Such notice shall be mailed to the address of the registered owners as shown on the registration records of the City as of the date which is forty-five (45) days prior to such redemption date. The notice shall specify the date and place of redemption and sufficient identification of the Bonds called for redemption. The place of redemption shall be determined

by the City. Interest on the Bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the principal office of the Paying Agent to pay the redemption price on the date so named. Coincidentally with the payment of the redemption price, the Bonds so called for redemption shall be surrendered for cancellation.

Section 5. Execution and Negotiability. Each of the BANs and Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor, countersigned by the manual or facsimile signature of its Controller and attested by the manual or facsimile signature of its Clerk, and the seal of the City shall be affixed, imprinted or impressed to or on each of the BANs and Bonds manually, by facsimile or any other means; and these officials, by the execution of a Signature and No Litigation Certificate, shall adopt as and for their own proper signatures the facsimile signatures appearing on the Bonds or BANs. In case any officer whose signature or facsimile signature appears on the Bonds or BANs shall cease to be such officer before the delivery of the Bonds or BANs, the signature of such officer shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

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

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

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

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

NO. _____

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ST. JOSEPH

CITY OF MISHAWAKA

SEWAGE WORKS [REFUNDING] REVENUE

[AND REFUNDING REVENUE] BOND OF _____[, SERIES ____]

[Interest Rate]	[Maturity Date]	Original Date	Authentication Date	[CUSIP]
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REGISTERED OWNER:

PRINCIPAL SUM:

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

The principal of this bond is payable at the principal office of _____ ("Registrar" or "Paying Agent"), in the _____ of _____

_____, Indiana. All payments of interest on this bond shall be paid by check, mailed one business day prior to the interest payment date to the registered owner hereof as of the fifteenth day of the month preceding such interest payment date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the registered owner. If payment of principal or interest is made to a depository, payment shall be made by wire transfer on the payment date in same-day funds. If the payment date occurs on a date when financial institutions are not open for business, the wire transfer shall be made on the next succeeding business day. The Paying Agent shall wire transfer payments by 1:00 p.m. (New York City time) so such payments are received at the depository by 2:30 p.m. (New York City time). All payments on the bond shall be made in any coin or currency of the United States of America, which on the dates of such payment, shall be legal tender for the payment of public and private debts.

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

This bond is [the only] one of an authorized issue of bonds of the City [to be] [issued in series][], of like date, tenor and effect, except as to numbering, rates of interest, series designation, and dates of maturity]; aggregating _____ Dollars (\$_____) [for this series]; numbered consecutively from 1 up; issued for the purpose of [refunding certain Refunded Bonds (as defined in the hereinafter defined Ordinance),] [providing funds to be applied on the cost of additions, extensions and improvements to the City's sewage works ("Project")] [, refunding interim notes issued in anticipation of the bonds] and to pay issuance expenses. This bond is issued pursuant to an Ordinance adopted by the Common Council of the City on the _____ day of _____, 2017, entitled "An Ordinance of the City of Mishawaka authorizing the advance refunding by the City of its Sewage Works Revenue Bonds of 2010, Series B; authorizing the issuance of sewage works revenue bonds for the purpose of providing funds to pay the cost of certain additions, extensions and improvements to the municipal sewage works of the City and provide for the refunding; providing for the safeguarding of the interests of the owners of said bonds, other matters connected therewith, including the issuance of notes in anticipation of bonds, and repealing ordinances inconsistent herewith" ("Ordinance"), and in accordance with the provisions of Indiana law, including without limitation [Indiana Code 5-1-5,] Indiana Code 5-1-14 and Indiana Code 36-9-23, each as in effect on the date of delivery of the bonds of this issue (collectively, "Act"), the proceeds of which bonds are to be applied to the costs of [the refunding and legal defeasance of the Refunded Bonds] [and the] [Project][], the payment of notes issued in anticipation of the bonds,] and expenses incurred in connection therewith.

Pursuant to the provisions of the Act and the Ordinance, the principal of and interest on this bond and all other bonds of said issue[, including the Sewage Works [Refunding] Revenue Bonds of _____, Series ____ ("Series ____ Bonds")] and any bonds hereafter issued on a parity therewith are payable solely from the Sewage Works Sinking Fund continued by the Ordinance ("Sinking Fund") to be provided from the Net Revenues (defined as the gross revenues after

deduction only for the payment of the reasonable expenses for operation, repair and maintenance, excluding transfers for payment in lieu of property taxes) of the sewage works of the City. The bonds rank on a parity with the Outstanding Bonds (as defined in the Ordinance) [and the Series ____ Bonds]. Under the Ordinance, Net Revenues include the Pledged Tax Increment (as defined in the Ordinance) subject to Section 2(b) of the Ordinance.

[Pursuant to the Ordinance and the Escrow Agreement defined therein, the City has set aside securities (purchased from proceeds of the bonds of this issue and funds on hand of the City) and certain cash in a Trust Account to provide payment of principal of and interest on the Refunded Bonds by the purchase of obligations of the United States of America.]

The City irrevocably pledges the entire Net Revenues of the sewage works to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any bonds ranking on a parity therewith, including [the Series ____ Bonds and] the Outstanding Bonds, to the extent necessary for that purpose, and covenants that it will cause to be fixed, maintained and collected such rates and charges for services rendered by the utility as are sufficient in each year for the payment of the proper and reasonable expenses of Operation and Maintenance (as defined in the Financial Assistance Agreement (as defined in the Ordinance)), of the sewage works and for the payment of the sums required to be paid into the Sinking Fund under the provisions of the Act and the Ordinance. If the City or the proper officers thereof shall fail or refuse to so fix, maintain and collect such rates or charges, or if there be a default in the payment of the interest on or principal of this bond, the owner of this bond shall have all of the rights and remedies provided for in the Act, including the right to have a receiver appointed to administer the works and to charge and collect rates sufficient to provide for the payment of this bond and the interest hereon.

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

The bonds of this issue maturing on and after _____ 1, 20____, are redeemable at the option of the City on _____ 1, 20____, or any date thereafter, on thirty (30) days' notice, in whole or in part, in the order of maturity as determined by the City and by lot within a maturity, at face value, with no premium, plus accrued interest to the date fixed for redemption.

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

Date

Amount

*

* Final Maturity]

Each Five Thousand Dollars (\$5,000) principal amount shall be considered a separate bond for purposes of optional [and mandatory] redemption. If less than an entire maturity is called for redemption, the bonds to be 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 such redemption shall be mailed to the address of the registered owner as shown on the registration records of the City, as of the date which is forty-five (45) days prior to such redemption date, not less than thirty (30) days prior to the date fixed for redemption unless the notice is waived by the registered owner of this bond. The notice shall specify the date and place of redemption and sufficient identification of the bonds called for redemption. The place of redemption may be determined by the City. Interest on the bonds so called for redemption shall cease on the redemption date fixed in such notice if sufficient funds are available at the place of redemption to pay the redemption price on the date so named.

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

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

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

This bond is subject to defeasance prior to redemption or payment as provided in the Ordinance referred to herein. THE OWNER OF THIS BOND, BY THE ACCEPTANCE

HEREOF, HEREBY AGREES TO ALL THE TERMS AND PROVISIONS CONTAINED IN THE ORDINANCE. The Ordinance may be amended without the consent of the owners of the bonds as provided in the Ordinance if the Common Council determines, in its sole discretion, that the amendment shall not adversely affect the rights of any of the owners of the bonds.

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

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

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

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

CITY OF MISHAWAKA, INDIANA

By _____
Mayor

COUNTERSIGNED

By _____
Controller

[SEAL]

Attest:

Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

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

_____, as Registrar

By: _____
Authorized Representative

ASSIGNMENT

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

Dated: _____

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

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

[EXHIBIT A]

[end of bond form]

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

(b) The Controller is hereby authorized and directed to deliver the BANs and the Bonds to the respective purchasers thereof. At the time of delivery of the BANs and the Bonds, the Controller shall collect the full amount which the respective purchasers have agreed to pay therefor, which amount shall not be less than 99% of the face value of the BANs and not less

than 99.5% of the face value of the Bonds, as the case may be. Each series of Bonds herein authorized, when fully paid for and delivered to the purchaser, shall be the binding special revenue obligations of the City payable out of the Net Revenues of the sewage works. The proceeds derived from the sale of the Bonds shall be and are hereby set aside for application on the refunding of the Refunded Bonds and on the cost of the Project, to the refunding of the BANs if issued, and the expenses necessarily incurred in connection with the BANs and the Bonds. The proper officers of the City are hereby directed to sell the Bonds, to draw all proper and necessary warrants, and to do whatever acts and things which may be necessary to carry out the provisions of this ordinance. Payment for the BANs may be made in installments.

(c) The Controller is hereby authorized to appoint a financial institution to serve as escrow trustee ("Escrow Trustee") in accordance with the terms of the Escrow Agreement between the City and the Escrow Trustee ("Escrow Agreement"). The Mayor and the Controller are hereby authorized and directed to complete, execute and attest an Escrow Agreement on behalf of the City so long as its provisions are consistent with this ordinance.

(d) The execution, by either the Mayor, the Controller, the City's financial advisor, or the purchaser of the Bonds, of a subscription for United States Treasury Obligations – State and Local Government Series for investments of proceeds of the Bonds to be held under the Escrow Agreement in a manner consistent with this ordinance is hereby approved.

(e) Distribution of an Official Statement (preliminary and final) for the Bonds, prepared by H.J. Umbaugh & Associates, Certified Public Accountants, LLP, on behalf of the City, is hereby authorized and approved and the Mayor and Controller are authorized and directed to execute the Official Statement on behalf of the City in a form consistent with the ordinance. The Mayor or Controller is hereby authorized to designate the preliminary Official

Statement as "nearly final" for purposes of Rule 15c2-12 as promulgated by the Securities and Exchange Commission ("Rule").

(f) If the Bonds are subject to the Rule, a continuing disclosure undertaking ("Undertaking") for the Bonds is hereby authorized and approved by the Common Council, and the Mayor and Controller are hereby authorized and directed to complete, execute and attest the same on behalf of the City. Notwithstanding any other provisions of this ordinance, failure of the City to comply with the Undertaking shall not be considered an event of default under the Bonds or this ordinance.

Section 8. Refunding of the Refunded Bonds. The Controller shall, with the assistance of the City's financial advisor and legal counsel, determine the date the Refunded Bonds will be paid, which date will be as soon as legally possible after delivery of the Bonds. The City shall use Bond proceeds and funds on hand allocable to the Refunded Bonds to pay the principal of and interest and redemption premium, if any, on the Refunded Bonds due on the date on which the Refunded Bonds may be called for redemption. Concurrently with the delivery of the Bonds, the Controller may acquire, with a portion of the proceeds of the Bonds and cash on hand, direct obligations of or obligations the principal and interest on which are unconditionally guaranteed by, the United States of America ("Government Obligations") to be used, together with certain cash from the proceeds of the Bonds and cash on hand as set forth in the Escrow Agreement, to refund and legally defease the Refunded Bonds all as set forth in the Escrow Agreement. In order to refund the Refunded Bonds, the Controller shall deposit Government Obligations and certain cash with the Escrow Trustee under the Escrow Agreement in an amount sufficient to provide money for payment of the principal of and interest and redemption

premium, if any, on the Refunded Bonds until the earliest date upon which the Refunded Bonds may be called for redemption.

The City shall obtain a verification of an accountant as to the sufficiency of the funds deposited and used to accomplish said refunding and legal defeasance of the Refunded Bonds.

Section 9. Sale of Bonds; Award of Bonds. Prior to the sale of the Bonds, the Controller shall cause to be published either (i) a notice of bond sale in one or more newspapers published in St. Joseph County with general circulation in the City, two times, at least one week apart, the first publication made at least fifteen (15) days before the date of the sale and the second publication being made at least three (3) days before the date of the sale, or (ii) a notice of intent to sell in one or more newspapers published in St. Joseph County with general circulation in the City and the *Court & Commercial Record* all in accordance with IC 5-1-11 and IC 5-3-1. A notice of sale may also be published one time in the *Court & Commercial Record*, and a summary notice may also be published in *The Bond Buyer* in New York, New York. The notice shall state the character and amount of the Bonds, the maximum rate of interest thereon, the terms and conditions upon which bids will be received and the sale made, and such other information as the Controller and the attorneys employed by the City shall deem advisable and any summary notice may contain any information deemed so advisable. The notice will also state that the winning bidder will agree to assist the City in establishing the issue price of the Bonds under Treas. Reg. Section 1.148-1(f) ("Issue Price Regulation"). The criteria for establishing the issue price under the Issue Price Regulation shall be set forth in the preliminary Official Statement and/or the bid form. The notice may provide, among other things, that electronic bidding will be permitted and that the successful bidder shall be required to submit a certified or cashier's check or a wire transfer of funds in an amount equal to 1% of the principal

amount of the Bonds described in the notice to guarantee performance on the part of the bidder. In the event the successful bidder shall fail or refuse to accept delivery of the Bonds and pay for the same as soon as the Bonds are ready for delivery, or at the time fixed in the notice of sale, then said check and the proceeds thereof shall be the property of the City and shall be considered as its liquidated damages on account of such default. Bidders for the Bonds will be required to name the rate or rates of interest which the Bonds are to bear, not exceeding the maximum rate hereinbefore fixed, and such interest rate or rates shall be in multiples of one-eighth ($1/8$) or one-hundredth ($1/100$) of one percent (1%). The notice may provide that the rate bid on a maturity shall be equal to or greater than the rate bid on the immediately preceding maturity. No conditional bid or bid for less than 99.5% of the par value of the Bonds will be considered. The opinion of Ice Miller LLP, bond counsel of Indianapolis, Indiana, approving the legality of the Bonds, will be furnished to the purchaser at the expense of the City.

The Bonds shall be awarded by the Controller to the best bidder who has submitted his bid in accordance with the terms of this ordinance, IC 5-1-11 and the notice of sale. The best bidder will be the one who offers the lowest net interest cost to the City, to be determined by computing the total interest on all of the Bonds to their maturities and adding thereto the discount bid, if any, and deducting the premium bid, if any. The right to reject any and all bids shall be reserved. If an acceptable bid is not received on the date of sale, the sale may be continued from day to day thereafter without further advertisement for a period of thirty (30) days, during which time no bid which provides a higher net interest cost to the City than the best bid received at the time of the advertised sale will be considered.

If a series of Bonds is sold solely to refund the Refunded Bonds, the Mayor and the Controller are hereby authorized to negotiate the sale of the Bonds in accordance with a Purchase

Contract ("Purchase Contract") between the City and the purchaser of the series of Bonds being issued to refund the Refunded Bonds. The Mayor and the Controller are authorized to execute the Purchase Contract and deliver the Bonds to the purchaser of the Bonds so long as their terms are consistent with this ordinance. Such Purchase Contract shall establish a final principal amount, interest rates, maturity schedule, optional redemption provisions and term bonds mandatory redemptions, if any.

Section 10. Use of Proceeds for Project and Costs of Issuance. Any accrued interest and any premium received at the time of the delivery of the Bonds shall be deposited in the Sewage Works Sinking Fund hereinafter defined. The remaining proceeds from the sale of the Bonds, after allocating the amount needed to accomplish the refunding of the Refunded Bonds in accordance with Section 8 and to the extent not used to refund BANs, and BAN proceeds shall be deposited in a bank or banks which are legally designated depositories for the funds of the City, in a special account or accounts to be designated as "City of Mishawaka, Sewage Works Construction Account" ("Construction Account"). All funds deposited to the credit of the Sewage Works Sinking Fund or the Construction Account shall be deposited, held, secured or invested in accordance with the laws of the State of Indiana relating to the depositing, holding, securing or investing of public funds, including particularly IC 5-13, as amended and supplemented. The funds in the Construction Account shall be expended only for the purpose of paying the cost of the Project, refunding the BANs, if issued, or as otherwise required by the Act and for the expenses of issuance of the Bonds. The cost of obtaining the services of Ice Miller LLP, H.J. Umbaugh & Associates, Certified Public Accountants, LLP and the City Attorney shall be considered as a part of the cost of the Project on account of which the BANs and Bonds are issued. Any balance or balances remaining unexpended in such special account or accounts

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

Section 11. Financial Records and Accounts. The City shall keep proper records and books of account, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues received on account of the operation of the sewage works, all disbursements made therefrom and all transactions relating to the utility. Copies of all such statements and reports shall be kept on file in the office of the Clerk. The City shall maintain on file the audited financial statements of said works prepared by the State Board of Accounts.

Section 12. Pledged Tax Increment. The Net Revenues of the sewage works shall continue to include the Pledged Tax Increment. The Pledged Tax Increment is pledged to the payment of the Bonds, on a parity with the 2010A Bonds, subject to Section 2(b) of this ordinance.

Section 13. Pledge of Net Revenues. The interest on and the principal of the Bonds issued pursuant to the provisions of this ordinance, and any bonds hereafter issued on a parity therewith, shall constitute a first charge on all the Net Revenues, on a parity with the Outstanding Bonds, and such Net Revenues are hereby irrevocably pledged to the payment of the interest on and principal of such Refunding Bonds, to the extent necessary for that purpose.

Section 14. Revenue Fund. The City shall segregate, deposit and keep in a special fund, separate and apart from all other funds of the City, all gross revenues received on account

of the sewage works, which special fund was established and designated as the "City of Mishawaka, Indiana, Sewage Works Revenue Fund" ("Revenue Fund") and is continued hereby. Out of said revenues the proper and reasonable expenses of operation, repair and maintenance of the sewage works shall be paid, the principal and interest of all bonds and fiscal agency charges of bank paying agents shall be paid, reserves shall be funded, and the costs of replacements, extensions, additions and improvements shall be paid as hereinafter provided. No moneys derived from the revenues of the sewage works shall be transferred to the general fund of the City or be used for any purpose not connected with the sewage works so long as any bonds payable from the revenues of the sewage works are outstanding.

Section 15. Operation and Maintenance Fund. The Operation and Maintenance Fund ("O&M Fund") is hereby continued. On the last day of each calendar month, a sufficient amount of revenues of the sewage works shall be transferred from the Revenue Fund to the O&M Fund. The balance maintained in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance of the works for the then next succeeding two (2) calendar months. The moneys credited to this Fund shall be used for the payment of the reasonable and proper operation, repair and maintenance expenses of the sewage works on a day-to-day basis, but none of the moneys in the O&M Fund shall be used for PILOTs, depreciation, replacements, improvements, extensions or additions. Any monies in said Fund may be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the sewage works, or if necessary to eliminate any deficiencies in credits to or minimum balance in the Reserve Accounts described below.

Section 16. Sewage Works Sinking Fund (a) The Sewage Works Sinking Fund ("Sinking Fund") is hereby continued for the payment of the principal of and interest on revenue

bonds which by their terms are payable from the Net Revenues of the sewage works and the payment of any fiscal agency charges in connection with the payment of bonds. The Sinking Fund shall consist of a Debt Service Account, and two Reserve Accounts hereby continued. The Sinking Fund shall be continued until all of the bonds payable from the Net Revenues of the sewage works have been paid.

(b) Debt Service Account. Any moneys heretofore accumulated to pay principal of and interest on the Refunded Bonds shall be credited to and become a part of the Trust Account under the Escrow Agreement and shall be applied on the first payments made from the Trust Account. All Pledged Tax Increment shall be deposited into the Sinking Fund and shall be deemed as Net Revenues of the sewage works. Upon receipt by the City, the Pledged Tax Increment shall be credited to the Debt Service Account. Any Pledged Tax Increment received by the City in excess of the requirements of the Debt Service Account shall be used to satisfy the requirements of the 1994 Reserve Account and the 1999 Reserve Account (each as hereinafter defined) on a parity basis. After making the required monthly payments into the O&M Fund, Net Revenues shall be deposited into the Debt Service Account monthly, as available, in an amount sufficient for the payment of: (a) the amount required for the interest on the all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the sewage works; (b) the principal of all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the sewage works; and (c) the necessary fiscal agency charges for paying the principal of and interest on all Outstanding Bonds, the Bonds and any bonds hereafter issued and payable by their terms from the Net Revenues of the sewage works. After accounting for the amount of Pledged Tax Increment on deposit in the Debt Service Account, the monthly payments into the Debt Service

Account shall be in an amount equal to at least one-sixth (1/6) of the amount required during the next succeeding six (6) calendar months for the payment of interest on and principal of the Outstanding Bonds, the Bonds, and all bonds hereafter issued payable by their terms from the Net Revenues of the sewage works, and an amount necessary to pay the bank fiscal agency charges as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Debt Service Account, remit promptly to the registered owner or to the bank fiscal agency sufficient moneys to pay the interest and principal on the due dates thereof together with the amount of bank fiscal agency charges.

(c) Reserve Accounts. (i) The 2015 Bonds are secured by the 1994 Reserve Account described below. The 2010A Bonds purchased by the Authority as part of its SRF Program are secured by the 1999 Reserve Account described below. The 1999 Reserve Account will serve as the reserve for the Bonds issued hereunder.

(ii) 1994 Reserve Account. The reserve account continued for the 2015 Bonds ("1994 Reserve Account") is hereby continued. The 1994 Reserve Account serves as the reserve for the 2015 Bonds and it may also serve as the reserve for any series of future bonds not purchased by the Authority as part of its SRF Program. The 1994 Reserve Account contains a surety which funds, in part, the required balance for the 1994 Reserve Account with the remaining balance being funded with cash. Any moneys accumulated as a reserve for the Refunded Bonds may be credited to and made a part of the Trust Account under the Escrow Agreement and used for the refunding of the Refunded Bonds, may be retained in the 1994 Reserve Account or may be used for deposit into the 1999 Reserve Account. After the refunding of the Refunded Bonds, the balance to be maintained in the 1994 Reserve Account, taking into

account the surety held therein and the cash, shall equal the maximum annual debt service on the 2015 Bonds ("Reserve Requirement").

The 1994 Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the 2015 Bonds and any future bonds not purchased by the Authority as part of its SRF Program but secured by the 1994 Reserve Account, and the moneys in the 1994 Reserve Account shall be used to pay current principal and interest on the 2015 Bonds to the extent that moneys in the Debt Service Account are insufficient for that purpose. No moneys in the 1994 Reserve Account shall secure or be used to pay the principal of or interest on the 2010A Bonds or the Bonds issued under this ordinance. Any moneys in the 1994 Reserve Account in excess of the Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

(iii) 1999 Reserve Account. The 1999 Reserve Account ("1999 Reserve Account") is hereby continued. The 1999 Reserve Account shall continue to serve as the reserve for the 2010A Bonds and shall also serve as the reserve for any future bonds purchased by the Authority as part of its SRF Program. The 1999 Reserve Account shall also serve as the reserve for the Bonds issued under this ordinance. The balance therein shall equal but not exceed the maximum annual debt service on the 2010A Bonds, any parity bonds issued in the future by the City which are payable from the Net Revenues of the sewage works and secured by the 1999 Reserve Account, and the Bonds ("1999 Reserve Requirement"). If the initial deposit into the 1999 Reserve Account does not equal the 1999 Reserve Requirement or if no deposit is made, an amount of Net Revenues shall be deposited to the 1999 Reserve Account on the last day of each calendar month until the balance therein equals the 1999 Reserve Requirement. The monthly deposits shall be equal in amount and sufficient to accumulate the 1999 Reserve Requirement

within five years of the date of delivery of the Bonds. The 1999 Reserve Account shall constitute the margin for safety and protection against default in the payment of principal of and interest on the 2010A Bonds and the Bonds, and the moneys therein shall be used to pay current principal and interest on the 2010A Bonds and the Bonds to the extent that moneys in the Debt Service Account are insufficient for that purpose. No moneys in the 1999 Reserve Account shall secure or be used to pay the principal of or interest on the 2015 Bonds. Any moneys in the 1999 Reserve Account in excess of the 1999 Reserve Requirement shall be transferred to the Sewage Works Improvement Fund.

(iv) Deficiency Restoration. Any deficiency in the balance maintained in the 1994 Reserve Account and the 1999 Reserve Account shall be made up on a parity (pro rata) basis, from the next available Net Revenues remaining after credits into the Debt Service Account.

Section 17. Sewage Works Improvement Fund. The Sewage Works Improvement Fund ("Improvement Fund") is hereby continued. Any excess revenues over and above the requirements of the O&M Fund and Sinking Fund may be transferred or credited from the Revenue Fund to the Improvement Fund, and said Fund shall be used for improvements, replacements, additions and extensions of the sewage works and to make payments representing PILOTs. The City reserves the right to transfer PILOTs from the Improvement Fund no more frequently than semiannually in accordance with the Act, and only if all required transfers have been made to the Sinking Fund and the accounts of the Sinking Fund contain the required balances as of the date the PILOTs are paid. In no event shall any PILOTs be treated as an expense of operation and maintenance, nor in any case shall it be payable from the O&M Fund or the Sinking Fund. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the then outstanding

bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in any of the Reserve Accounts of the Sinking Fund or may be transferred to the O&M Fund to meet unforeseen contingencies in the operation, repair and maintenance of the sewage works.

Section 18. Maintenance of Funds; Investments. The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the City. The O&M Fund and the Improvement Fund may be maintained in a single account, or accounts, but such account, or accounts, shall likewise be maintained separate and apart from all other accounts of the City and apart from the Sinking Fund account or accounts. All moneys deposited in the accounts shall be deposited, held and secured as public funds in accordance with the public depository laws of the State of Indiana; provided that moneys therein may be invested in obligations in accordance with the applicable laws, including particularly Indiana Code, Title 5, Article 13, as amended or supplemented, and in the event of such investment the income therefrom shall become a part of the funds invested and shall be used only as provided in this ordinance.

Section 19. Defeasance of the Bonds. If, when the Bonds or a portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal and the interest and the premium, if any, so due and payable upon all of the Bonds or a portion thereof then outstanding shall be paid; or (i) cash (insured at all times by the Federal Deposit Insurance Corporation or otherwise collateralized with obligations described in (ii) below), or (ii) direct obligations of (including obligations issued or held in book entry form on the books of) the Department of the Treasury of the United States of America, the principal of and the interest on which when due will provide

sufficient moneys for such purpose, shall be held in trust for such purpose, and provision shall also be made for paying all fees and expenses for the redemption, then and in that case the Bonds or any designated portion thereof issued hereunder shall no longer be deemed outstanding or entitled to the pledge of the Net Revenues of the City's sewage works.

Section 20. Rate Covenant. The City covenants and agrees that it will establish and maintain just and equitable rates or charges for the use of and the service rendered by the works, to be paid by the owner of each and every lot, parcel of real estate or building that is connected with and uses said sewage works by or through any part of the sewage system of the City, or that in any way uses or is served by such works, at a level adequate to produce and maintain sufficient revenue (including user and other charges, fees, income or revenues available to the City), together with the Pledged Tax Increment reasonably expected to be collected and available to provide for the timely payment of debt service on the Outstanding Bonds, to provide for the proper Operation and Maintenance (as defined in the Financial Assistance Agreement) of the sewage works, to comply with and satisfy all covenants contained in this ordinance and the Financial Assistance Agreement and to pay all obligations of the sewage works and of the City with respect to the sewage works. Such rates and charges shall, if necessary, be changed and readjusted from time to time so that the revenues therefrom shall always be sufficient, together with the Pledged Tax Increment reasonably expected to be collected and available to provide for the timely payment of debt service on the Bonds and the 2010A Bonds, to meet the expenses of Operation and Maintenance of the sewage works and the requirements of the Sinking Fund. The rates or charges so established shall apply to any and all use of such works by and service rendered to the City and all departments thereof, and shall be paid by the City or the various departments thereof as the charges accrue.

For purposes of determining whether the Pledged Tax Increment will be considered to be reasonably expected to be collected and available to provide for the timely payment of debt service, the following shall control:

(a) the estimated Pledged Tax Increment to be collected shall be based on the existing assessed valuation (unless such valuation has been challenged by the owner of the property, in which case the prior assessed value shall be used) and the then current tax rate;

(b) any delinquent payments of property taxes constituting Pledged Tax Increment shall not be considered available; and

(c) if there is any pending challenge against the establishment or propriety of the Pledged Tax Increment, or its proposed use under this ordinance, such challenged portion of the Pledged Tax Increment shall not be considered available.

If in any year while the 2010A Bonds are outstanding, the Net Revenues of the sewage works and the Pledged Tax Increment received from (a) the June settlement is less than the next September 1 payment on all outstanding bonds or (b) the June settlement (after payment of such September 1 payment), together with the December settlement, is less than the next March 1 payment on all outstanding bonds, then the City shall take all steps required to immediately increase sewage works rates and charges to the level required to provide for the timely payment of debt service on all outstanding bonds. Any such increase shall be enacted to be effective within 45 days after the receipt of the June or December settlement, as the case may be.

Section 21. Additional Bond Provisions. The City reserves the right to authorize and issue additional BANs at any time ranking on a parity with the BANs. The City shall not issue any additional obligations payable from or secured by the Pledged Tax Increment without the prior written consent of the Authority. The City reserves the right to authorize and issue

additional bonds or other obligations payable out of the Net Revenues of its sewage works ranking on a parity with the Bonds for the purpose of financing the cost of future additions, extensions and improvements to its sewage works, or to refund obligations, subject to the following conditions:

(a) All required payments into the Sinking Fund shall have been made in accordance with the provisions of this ordinance, and the interest on and principal of all bonds payable from the Net Revenues of the sewage works shall have been paid to date in accordance with their terms.

(b) The Net Revenues of the sewage works, including the Pledged Tax Increment, in the fiscal year immediately preceding the issuance of any such parity bonds shall be not less than one hundred twenty five percent (125%) of the maximum annual interest and principal requirements of the then outstanding bonds and the additional parity bonds proposed to be issued; or, prior to the issuance of the parity bonds, the sewage rates and charges shall be increased sufficiently so that the increased rates and charges, if realized and when applied to the previous fiscal year's operations would have produced Net Revenues for said year, including the Pledged Tax Increment, equal to not less than one hundred twenty five percent (125%) of the maximum annual interest and principal requirements of all bonds payable from the revenues of the sewage works, including additional parity bonds proposed to be issued. For purposes of this subsection, the records of the sewage works shall be analyzed and all showings shall be prepared by an independent certified public accountant employed by the City for that purpose who shall certify the satisfaction of the foregoing conditions for the issuance of parity bonds.

(c) The interest on the additional parity bonds shall be payable semiannually on the first days of March and September and the principal of, or mandatory sinking fund redemption

dates for, the additional parity bonds shall be payable semiannually on March 1 and September 1.

(d) The reserve shall be satisfied for the additional parity bonds either as of the date of delivery of said additional parity bonds or through equal monthly deposits of Net Revenues sufficient to accumulate the reserve in a manner commensurate with and proportional to the provisions established by Section 16 of this ordinance.

(e) So long as any 2010A Bonds are outstanding and owned by the Authority as part of the SRF Program, (i) the City obtains the consent of the Authority, (ii) the City has faithfully performed and is in compliance with each of its obligations, agreements and covenants contained in the Financial Assistance Agreement and the ordinance authorizing the Outstanding Bonds, and (iii) the City is in compliance with its National Pollutant Discharge Elimination System permits, except for non-compliance for which purpose the parity bonds are issued, including refunding bonds issued prior to, but part of the overall plan to eliminate such non-compliance.

Section 22. Further Covenants of the City; Maintenance, Insurance, Pledge Not To Encumber, Subordinate Indebtedness, and Contract with Bondholders. For the purpose of further safeguarding the interests of the owners of the BANS and the Bonds, it is hereby specifically provided as follows:

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

and shall be governed in all respects by the laws of the State of Indiana relating to public contracts.

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

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

(d) So long as any of the Bonds or BANs are outstanding, the City shall maintain insurance on the insurable parts of said works, of a kind and in an amount, including fidelity bonds, such as would normally be carried by private corporations engaged in a similar type of business and, so long as any 2010A Bonds are owned by the Authority as part of its SRF Program, acceptable to the Authority. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. All insurance proceeds shall be used in replacing or repairing the property destroyed or damaged, unless, so long as the 2010A Bonds are owned by the Authority as part of its SRF Program, the Authority consents to a different use.

(e) So long as any of the Bonds or BANs are outstanding, the City shall not mortgage, pledge or otherwise encumber the property and plant of its sewage works system, or any part thereof, nor shall it sell, lease or otherwise dispose of any part of the same, excepting only such machinery, equipment or other property as may be replaced, or shall no longer be necessary for use in connection with said utility; provided, however, the City shall obtain the

prior written consent of the Authority so long as any 2010A Bonds are owned by the Authority as part of its SRF Program.

(f) For so long as any 2010A Bonds are outstanding and owned by the Authority as part of the SRF Program, the City shall not borrow any money, enter into any contract or agreement or incur any other liabilities in connection with the sewage works, other than for normal operating expenditures, without the prior written consent of the Authority if such undertaking would involve, commit or use the revenues of the sewage works.

(g) Except as otherwise specifically provided in Section 21 of this ordinance, so long as any of the Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of said sewage works shall be authorized, issued or executed by the City except such as shall be made junior and subordinate in all respects to the Bonds, unless all of the Bonds are redeemed or defeased coincidentally with the delivery of such additional bonds or other obligations.

(h) The City shall take all action or proceedings necessary and proper, to the extent permitted by law, to require connection of all property where liquid and solid waste, sewage, night soil or industrial waste is produced with available sanitary sewers. The City shall, insofar as possible, and to the extent permitted by law, cause all such sanitary sewers to be connected with said sewage works.

(i) The provisions of this ordinance shall constitute a contract by and between the City and the owners of the Bonds and BANs herein authorized, and after the issuance of the Bonds or BANs, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights or interests of the owners of the Bonds or BANs, nor shall the Common Council adopt any law, ordinance or resolution which in any way adversely affects the

rights of the bondholders so long as any of the Bonds or BANs, or the interest thereon, remain unpaid. Except in the case of changes described in Section 23(a)-(f), this ordinance may be amended, however, without the consent of the owners of the Bonds or BANs, if the Common Council determines, in its sole discretion, that such amendment would not adversely affect the owners of the Bonds or BANs.

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

Section 23. Amendments with Consent of Bondholders. Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds issued pursuant to this ordinance and then outstanding shall have the right from time to time, to consent to and approve

the adoption by the Common Council of the City of such ordinance or ordinances supplemental hereto or amendatory hereof, as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding in any particular any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting:

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

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

(c) The creation of a lien upon or a pledge of the revenues or Net Revenues of the sewage works ranking prior to the pledge thereof created by this ordinance; or

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

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

(f) A reduction in the Reserve Requirement or the 1999 Reserve Requirement.

If the owners of not less than sixty-six and two-thirds percent (66 2/3%) in aggregate principal amount of the Bonds outstanding at the time of adoption of such supplemental ordinance shall have consented to and approved the adoption thereof by written instrument to be maintained on file in the office of the Clerk of the City, no owner of any Bond issued pursuant to this ordinance shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Common

Council of the City from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of Bonds then outstanding, shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments. Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights and obligations of the City and of the owners of the Bonds authorized by this ordinance, and the terms and provisions of the Bonds and this ordinance, or any supplemental or amendatory ordinance, may be modified or altered in any respect with the consent of the City and the consent of the owners of all the Bonds then outstanding.

Section 24. Investment of Funds. (a) The Controller is hereby authorized to invest moneys pursuant to the provisions of this ordinance and IC 5-1-14-3 (subject to applicable requirements of federal law to insure such yield is then current market rate) to the extent necessary or advisable to preserve the exclusion from gross income of interest on the Bonds and BANs under federal law.

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

Section 25. Tax Covenants. In order to preserve the exclusion of interest on the Bonds and BANs from gross income for federal tax purposes under Section 103 of the Internal Revenue Code of 1986 as existing on the date of issuance of the Bonds or BANs, as the case may be ("Code"), and as an inducement to purchasers of the Bonds and BANs, the City represents, covenants and agrees that:

(a) Since the date of issuance of the Refunded Bonds and until the earlier of the last date of the reasonably expected economic life of the projects constructed with funds from the Refunded Bonds or the latest maturity date of the Bonds ("Combined Measurement Period"), the sewage works will be available for use by members of the general public. Use by a member of the general public means use by natural persons not engaged in a trade or business. During the Combined Measurement Period, no person or entity other than the City or another state or local governmental unit will use more than 10% of the proceeds of the Bonds or BANs or property financed by the Refunded Bond, Bond or BAN proceeds other than as a member of the general public. During the Combined Measurement Period, no person or entity other than the City or another state or local governmental unit will own property financed by Refunded Bond, Bond or BAN proceeds or will have any actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, arrangements such as take-or-pay or output contracts or any other type of arrangement that conveys other special legal entitlements and differentiates that person's or entity's use of such property from use by the general public, unless such uses in the aggregate relate to no more than 10% of the proceeds of the Bonds or BANs, as the case may be. If the City enters into a management contract for the sewage works, the terms of the contract will comply with IRS Revenue Procedure 2017-33, as it may be amended, supplemented or superseded for time to time, so that the contract will not give rise to private business use under

the Code and the Regulations, unless such use in aggregate relates to no more than 10% of the proceeds of the Bonds or BANs, as the case may be.

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

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

(d) The City reasonably expects, as of the date hereof, that the Bonds and BANs will not meet either the private business use test described in paragraph (a) and (b) above or the private loan test described in paragraph (c) above for the Combined Measurement Period.

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

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

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

(h) The City covenants that it will rebate any arbitrage profits to the United States to the extent required by the Code and the regulations promulgated thereunder.

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

Section 26. Issuance of BANs. (a) The City, having satisfied all the statutory requirements for the issuance of its Bonds, may elect to issue its BAN or BANs to a financial institution, the Indiana Bond Bank or any other purchaser pursuant to a Bond Anticipation Note Purchase Agreement ("Purchase Agreement") to be entered into between the City and the purchaser of the BAN or BANs. The Common Council hereby authorizes the issuance and execution of the BAN or BANs in lieu of initially issuing the Bonds to provide interim financing for the Project until permanent financing becomes available. It shall not be necessary for the City to repeat the procedures for the issuance of its Bonds, as the procedures followed before the

issuance of the BAN or BANs are for all purposes sufficient to authorize the issuance of the Bonds and the use of the proceeds to repay the BAN or BANs.

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

Section 27. Non-Compliance with Tax Covenants. Notwithstanding any other provisions of this ordinance, the covenants and authorizations contained in this ordinance ("Tax Sections") which are designed to preserve the exclusion of interest on the Bonds and BANs from gross income under federal law ("Tax Exemption") need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Sections are unnecessary to preserve the Tax Exemption.

Section 28. Rates and Charges. The present rates and charges of the sewage works are set forth in Ordinance No. 5568 adopted on March 6, 2017, which ordinance is incorporated herein by reference.

Section 29. Conflicting Ordinances. (a) All ordinances and parts of ordinances in conflict herewith are hereby repealed; provided that the adoption of this ordinance shall not be construed as: (i) except as described in (b) below, amending or repealing the ordinances authorizing the Outstanding Bonds; or (ii) adversely affecting the rights of the holders of the Refunded Bonds or the Outstanding Bonds.

(b) In the ordinances authorizing the Outstanding Bonds, the 1999 Reserve Account was to secure bonds payable from the Net Revenues of the sewage works which are sold to the Authority as part of the SRF Program. Pursuant to Section 16 of this ordinance, the 1999 Reserve Account is now permitted to secure bonds not sold to the Authority as part of the SRF Program, including the Bonds. In connection with the delivery of the Bonds, the City will obtain the consent of the SRF Program to permit the 1999 Reserve Account to secure the Bonds. The provisions of Section 16(c)(iii) of this ordinance shall govern the 1999 Reserve Account and shall amend and restate Section 12(b)(iii) of the ordinance authorizing the 2010A Bonds and Section 14(c)(iii) of the ordinance authorizing the 2015 Bonds. The Common Council hereby finds that such amendment does not adversely affect the owners of the 2015 Bonds as the 1999 Reserve Account does not secure and may not be used to pay the 2015 Bonds and the 1999 Reserve Account has not created any preference in funding to impair the pledge to the owners of the 2015 Bonds. The Common Council also finds that the amendment created in this subsection does not adversely affect the owner of the 2010A Bonds and that under the provisions applicable to such 2010A Bonds, the City will obtain the consent of the SRF Program as required under the ordinance authorizing the 2010A Bonds.

Section 30. Headings. The headings or titles of the several sections shall be solely for convenience of reference and shall not affect the meaning, construction or effect of this ordinance.

Section 31. Effective Date. This ordinance shall be in full force and effect from and after its passage and execution by the Mayor.

Passed and adopted by the Common Council of the City of Mishawaka, Indiana, this
____ day of _____, 2017.

COMMON COUNCIL OF THE CITY OF
MISHAWAKA

Presiding Officer

ATTEST:

Clerk

Presented by me to the Mayor of the City of Mishawaka, Indiana, on the ____ day of
_____, 2017, at ____:____.m.

Clerk

Presented to and approved by me, the Mayor of the City of Mishawaka, Indiana, and
signed this ____ day of _____, 2017, at ____:____.m.

Mayor

EXHIBIT A

Description of Project

Treatment plant projects, including the following:

1. New influent screen
2. Final clarifier trough
3. Hypo improvements
4. Air monitoring panel
5. CSO 009 improvements
6. All engineering, supervision and design for the projects
7. All engineering, supervision and design for future planned projects

Long-Term Control Plan – Collection system, including the following:

1. Milburn Divisions K & M
2. Linden Divisions A, B & C
3. All engineering, supervision and design for the projects
4. All engineering, supervision and design for future planned projects

The Project will include the components list above together with all related improvements, additions, equipment and appurtenances.



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

BUILDING - COMMUNITY DEVELOPMENT - PLANNING

June 29, 2017

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Ross Deal, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Joe Canarecci, At-Large City Council
Mr. Matt Mamolenti, At-Large City Council
Mr. Bryan Tanner, At-Large City Council
Mrs. Deborah Block, City Clerk

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 29 2017

CITY CLERK
MISHAWAKA, IN

**Re: Confirming Resolutions 2017-16 and 2017-17
Real and Personal Property Tax Abatements- Lippert Components Manufacturing Inc.**

Dear Council Members and Clerk:

Attached are the Confirming Resolutions for the above referenced tax abatement requests that have been filed for consideration at your Wednesday, July 5th meeting. Please note that the resolutions are identical. In this case, one is required for the Real Property improvements, and a separate one is required for the Personal Property improvements.

As was previously referenced when the Council considered and approved the declaratory resolution at your last meeting, Lippert Components is proposing to renovate and improve the former AM General Warehousing facility (former Wheelabrator Factory) located at 400 South Byrkit Avenue which has been vacant since AM General moved what was left of their parts business to the north side of South Bend in 2016. The proposed improvements would allow the building to be used as a distribution facility, a service center for RV's, and a call center.

In addition to the former AM General Facility, Lippert Components also acquired the former Independent Concrete Pipe Facility immediately to the east and are combining the two larger properties together (roughly 50 acres), with most of the truck traffic now intended to use Beiger Street. In total, this is close to a 9 million dollar investment being proposed, with potential room to grow. Specifically, two abatements have been filed, one for the real property improvements and one for the personal property improvements (equipment). The real property improvements include an estimated 3 million dollar renovation of the existing building, a 3.2 million dollar expansion adding 79,200 square foot addition to the east side of the building, and 1.2 million dollar site improvements including additional employ parking and semi-truck spaces. The personal property request includes a half million dollars of racking for the new distribution facility, 800 thousand dollars in general equipment, and a half million dollars in furniture and fixtures.

As was previously referenced, Lippert is consolidating some operations in South Bend and Elkhart County to this facility which is why they listed 247 of the jobs, even though they are new to this location, as retained. We understand from discussions that part of the decision making process was that they would rather own than lease. Although they originally purchased the building because of their rapid growth and its availability, they have been internally evaluating how it might best be used.

Our understanding is that the requested phase in of taxes is a key consideration in the investment now being proposed. Although headquartered in our region, Lippert Components does business worldwide and owns 50 manufacturing and distribution facilities in the US, Canada, and Italy. Consequently, they have the ability to place these proposed operations in any number of their existing locations, or find a new location.

In addition to the saved jobs to the region, Lippert has also identified creating 200 new jobs in conjunction with the proposed abatements. In a few years, this would make the estimated employment at close to 450 jobs as employment ramps up. In comparison, AM General's developer in 2001 received a 10 year abatement for 285 retained jobs and 15 new ones (300 total) on a 2.7 million dollar investment. Although the actual numbers for AM General varied based on the economy, this proposal could amount to considerably more jobs and investment in the City over time. As such the Administration is recommending a 10 year standard abatement for both the real and personal property tax abatement requests. This is identical to what was provided for AM General in 2001. We are genuinely excited about the request and what the potential investment will mean to the City and the surrounding neighborhood to the north which is in walking distance to the facility.

Accurately predicting values and tax impacts for any abatement request is always a challenge given the numerous variables and estimates involved. As in other recent abatement analyses, we used the following DLGF website to project tax revenue:

<https://gateway.ifionline.org/CalculatorsDLGF/TaxCalculator.aspx>.

This website includes a calculator where you input the location, assessed valuation, and class of property and it outputs the maximum tax for the property. This calculator was used for the below tax projections. The current 2017 tax rate was used, and future years did not estimate any increase or decrease over the abatement period. Although we know the tax rate will increase and that there will be an impact based on the full implementation of the tax caps in 2019, we felt that omitting estimates for these changes still provided a reasonable value estimate without being more complicated.

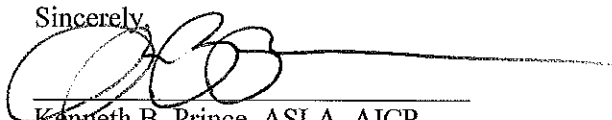
Using the calculator, based on the 2017 tax rate, the real property improvements proposed would have a corresponding estimated tax bill of \$240,370 using 85% of the project cost to determine assessed valuation. The personal property improvements proposed would have a corresponding estimated tax bill of \$52,784 using 85% of the project cost to determine assessed valuation.

In short, if approved, the additional real property taxes associated with this project over the next ten years amounts to \$2,403,700. Over that period of time, the owner would have \$1,322,035 abated and would pay \$1,081,665. The additional personal property taxes associated with this project over the next ten years amounts to \$527,840. Over that period of time, the owner would have \$290,312 abated and would pay \$237,528.

The attached tables show the anticipated annual and total amount of tax revenue abated and paid after the completion of the project on a year by year basis over the ten years.

As always, please do not hesitate to contact our department if you have any questions, or require any additional information. Thank you for your consideration.

Sincerely,



Kenneth B. Prince, ASLA, AICP
City Planner

cc: David A. Wood, Mayor
Derek Spier, Senior Planner

JUN 29 2017

RESOLUTION NO. 2017-16

Lippert Components Manufacturing Inc.
400 South Byrkit Avenue

CITY CLERK
MISHAWAKA, IN

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE
DESIGNATION OF AREAS WITHIN
THE CITY OF MISHAWAKA, INDIANA, KNOWN AS

420 SOUTH BYRKIT AVENUE, WITH OTHER ADDRESSES INCLUDING 408, 418, 424,
AND 440 SOUTH BRYKIT AVENUE AND 401 SOUTH BEIGER STREET.

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF PERSONAL PROPERTY TAX ABATEMENT

WHEREAS, the Common Council of the City of Mishawaka, Indiana, adopted a Declaratory Resolution which designated the area known as 420 South Byrkit Avenue, with other addresses including 408, 418, 424, and 440 South Brykit Avenue and 401 South Beiger Street, Mishawaka, IN 46544, to be an Economic Revitalization Area under the provisions of Indiana Code § 6-1.1-12.1-1 et seq. (the "Act"):

A lot or parcels of land described as follows:

Tax Parcel ID Numbers:

71-09-14-301-002.000-023	71-09-15-428-008.000-023
71-09-14-301-001.000-023	71-09-15-428-009.000-023
71-09-14-301-003.000-023	71-09-15-428-010.000-023
71-09-14-301-013.000-023	71-09-15-428-011.000-023
71-09-14-301-021.000-023	71-09-14-184-001.000-023
71-09-15-285-005.000-023	71-09-14-326-002.000-023
71-09-15-428-006.000-023	71-09-14-326-001.000-023
71-09-15-428-007.000-023	71-09-14-326-003.000-023

A parcel of land in the West Half ($\frac{1}{2}$) of the West Half ($\frac{1}{2}$) of Section Fourteen (14), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, more particularly described as follows: The "Point of Beginning" of said parcel of land herein described being the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds West, along the West line of Section 14 and the centerline of Byrkit Avenue, a distance of 332.38 feet to the Southerly right of way line of Conrail Corporation; thence along a curve, concave Southerly, whose elements are: central angle of 04 degrees 33 minutes 30 seconds, radius of 9536.76 feet, are length of 757.34 feet, and a chord that bears North 85 degrees 33 minutes 33 seconds East, 757.14 feet; thence North 87 degrees 43 minutes 30 seconds East, along the Southerly right of way line of Conrail Corporation, a distance of 549.65 feet to the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 12 minutes 30 seconds East, along the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14, a distance of 406.39 feet to the Northeast corner of the Northwest Quarter ($\frac{1}{4}$) of

the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 02 minutes 30 seconds East along the East line of the West Half ($\frac{1}{2}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; a distance of 229.93 feet; thence North 89 degrees 59 minutes 44 seconds West a distance of 393.74 feet; times South 00 degrees 10 minutes 42 seconds West a distance of 302.57 feet; thence South 89 degrees 51 minutes 00 seconds West a distance of 871.05 feet to the East right of way line of Byrkit Avenue and to a point which is South 00 degrees 00 minutes 00 seconds West 528.42 feet and North 89 degrees 51 minutes 00 seconds East 40.00 feet from the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds East, along the East right of way of Byrkit Avenue; a distance of 272.89 feet; thence South 89 degrees 43 minutes 00 seconds West a distance of 40.00 feet to the West line of said Section 14 and the centerline of Byrkit Avenue; thence North 00 degrees 00 minutes 00 seconds West, along the West line of said Section 14 and the centerline of Byrkit Avenue, a distance of 255.62 feet to the "Point of Beginning".

Together with:

Part of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Southeast corner of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section 15, Township 37 North, Range 3 East; thence North 89 degrees 28 minutes 00 seconds West, a distance of 20.00 feet to the point of beginning; thence continue North 89 degrees 28 minutes 00 seconds West on the North line of Fifth Street, a distance of 267.50 feet; thence North 00 degrees 00 minutes 00 seconds East parallel with the East line of Section 15, a distance of 310.27 feet to the Southerly right of way Line of the Conrail Corporation; thence North 84 degrees 01 minutes 48 seconds East on the Southerly right of way line of the Conrail Corporation, a distance of 268.945 feet; thence South 00 degrees 00 minutes 00 seconds West, a distance of 340.73 feet to the point of beginning.

Together with:

Part of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Northeast corner of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East; thence South 00 degrees 00 minute 00 seconds East on the East line of Section 15, a distance of 66.00 feet; thence North 89 degrees 28 minutes 00 seconds West, a distance of 40.00 feet to the West line of Byrkit Avenue and the point of beginning; thence South 00 degrees 00 minutes 00 seconds West parallel with the East line of Section 15 and on the West right of way line of Byrkit Avenue, a distance of 120.00 feet; thence North 89 degrees 28 minutes 00 seconds West parallel with the South right of way line of Fifth Street, a distance of 118.98 feet; thence North 00 degrees 05 minutes 44 seconds East, a distance of 120.00 feet to the South right of way line of Fifth Street, a distance of 118.78 feet to the point of beginning and being known as Lots 18 through 23 in the Broadmoor Proposed Subdivision.

Together with:

A lot or parcel of land in the Northwest Quarter of Section 14, Township 37 North, Range 3 East, bounded by a line running as follows: Beginning at a point 684 $\frac{1}{2}$ feet West of the center of said Section, which point is in the West line of Beiger Street, as platted in Beiger Farm Addition to the City of Mishawaka; thence North along the West line of said Beiger Street 438.6 feet to the South line of the New York Central Railroad Company's right of way; thence Westerly with said Railroad Company's right of way 624.74 feet; thence South 416.9 feet; thence East 624 $\frac{1}{2}$ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the West Half of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 195 feet South of the Northwest Corner of the West Half of the East Half of the Southwest Quarter of said Section 14; thence South along the West line of the West Half of the East Half of the Southwest Quarter of said Section 14, Township 37 North, Range 3 East, 332.8 feet; thence East parallel with the North line of the West Half of the East Half of the Southwest Quarter of said Section 14, 654.41 feet to the centerline of Beiger Street in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 332.8 feet to a point 195 feet South of the North line of said West Half of the East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.43 feet to the place of beginning.

Together with:

A lot or parcel of land in the Southwest Quarter of Section 14, Township 37 North Range 3 East bounded as follows: Beginning at a point on the centerline of said Section 654 ½ feet West of the center of said Section 14, which beginning point is in the middle of Beiger Street; thence South along the middle of said Beiger Street 161 ½ feet; thence West 269.72 feet; thence North 161 ½ feet; thence East 269.72 feet, to the place of beginning.

Together with:

A tract or parcel of land in Section 14, Township 37 North, Range 3 East, described as follows: Beginning at a point 924.22 feet West of the center of said Section 14, which is the Northwest corner of a tract heretofore conveyed to Charles Haney and wife on October 13, 1915 by deed recorded in Deed Record 153 at pages 245 and 246 in the Recorder's Office of St. Joseph county, Indiana; thence West along the East and West centerline 390.28 feet to the North and South centerline of the Southwest Quarter of said Section 14; thence South along said line 195 feet; thence East 630 feet to the West line of Beiger Street; thence North 33 ½ feet to the South line of the tract heretofore conveyed to Charles Haney and wife, as above described; thence West along said South line to the Southwest Corner of said tract conveyed to said Charles Haney and wife; thence North 161 ½ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 527.8 feet South of the Northwest Corner of the East Half of the Southwest Quarter of said Section 14; thence continuing South of the Northwest corner of the East Half of said Southwest Quarter of said Section 462.2 feet; thence East parallel to the North line of the East Half of the Southwest Quarter of said Section 14, 654.36 feet to the centerline of Beiger Street, in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 462.2 feet to a point 527.8 feet South of the North line of said East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said East Half of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.41 feet to the place of beginning.

More commonly having addresses at 420 South Byrkit Avenue, with other addresses including 408, 418, 424, and 440 South Brykit Avenue and 401 South Beiger Street.

All of the above described property being located within the municipal corporation limits of the City of Mishawaka, Indiana, and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code § 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrance and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met.

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

1. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for personal property tax abatement only and is limited to one (1) calendar year.
2. The Common Council hereby determines that the property owner is qualified for and is granted a personal property tax deduction; provided the same shall be limited to a period of ten (10) years for real property only in the following applicable deduction percentages:

Year 1:	100%
Year 2	90%
Year 3	80%
Year 4	70%
Year 5	60%
Year 6	50%
Year 7	40%
Year 8	30%
Year 9	20%
Year 10	10%

3. That the petition for tax abatement, and the Statement of Benefits submitted by Lippert Manufacturing Components, Inc. comply with Indiana Code § 6-1.1-12.1-1 et seq. and are hereby approved.
4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code § 6-1.1-12.1-2-5 and subsections (d) and (e) of the Act.

The Common Council of the City of Mishawaka, Indiana hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement.

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 5th day of July, 2017.

Ross Deal, President

ATTEST:

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of July, 2017.

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of July , 2017, at _____ o'clock _____.M.

David A. Wood, Mayor

Tax Abatement Schedule prepared for:

28-Jun-17

Lippert Components Manufacturing Inc.

Personal Property

Mishawaka Penn Township 10 Year Tax Abatement Schedule*

TOTAL PROJECT IMPACT

Total estimated Project Cost: 1,625,000.00

Base Assessed Value: 1,300,000.00

(base assessed value is estimated at 85% of project cost)

Assume constant tax rate of: 4.5291% 2017 pay 2018 tax rate

	Assessed	Gross	Max Tax	Percent	Tax	Tax
Year	Value	Tax	Bill*	Abated	Abated	Paid
1	1,300,000	58,878	52,784	100%	52,784	0
2	1,300,000	58,878	52,784	90%	47,506	5,278
3	1,300,000	58,878	52,784	80%	42,227	10,557
4	1,300,000	58,878	52,784	70%	36,949	15,835
5	1,300,000	58,878	52,784	60%	31,670	21,114
6	1,300,000	58,878	52,784	50%	26,392	26,392
7	1,300,000	58,878	52,784	40%	21,114	31,670
8	1,300,000	58,878	52,784	30%	15,835	36,949
9	1,300,000	58,878	52,784	20%	10,557	42,227
10	1,300,000	58,878	52,784	10%	5,278	47,506
			527,840		290,312	237,528

* Maximum tax bill is per the 3% property tax cap rate and a 1.0603% property tax exempt tax rate calculated per the Indiana DLGF on-line tax bill calculator .

Total Taxes Due During Abatement:	527,840
Total Taxes Abated During Abatement:	290,312
Total Taxes Paid During Abatement:	237,528

* - This schedule is for estimation purposes only and assumes constant tax rates.
The true tax values will ultimately be determined by the actual
assessed valuation and the then current tax rates.



City of Mishawaka Building - Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

PERSONAL PROPERTY TAX ABATEMENT

Indiana State law requires that the designation application and statement of benefits form (SB-1/PP) be submitted prior to the initiation of the project. Additionally, final approval of the Economic Revitalization Area designation must be obtained before starting the installation of the new manufacturing equipment for which tax abatement is being requested.

Prior to submitting the attached application to the City's Department of Planning & Community Development, all questions must be answered as completely as possible and must be signed on the Statement of Benefits Form (SB-1/PP) and last page of the application. Incomplete or unsigned applications will not be accepted. A non-refundable application fee of \$300.00 is required when making an application for Economic Revitalization Area designation and is payable to the City of Mishawaka at the time of submission.

All firms requesting Economic Revitalization Area designation are required to conduct an initial site visit with city staff members prior to a public hearing on the tax abatement request. During that visit, the company shall reveal the capital investment levels, job creation and/or retention levels and hourly wage rates the applicant has committed to the City of Mishawaka in order to receive consideration for Economic Revitalization Area designation and tax abatement deduction.

Additionally, the City of Mishawaka, by and through the Common Council, reserves the right to rescind or "claw back" an Economic Revitalization Area designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, as well as the applicant's failure to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City rescinds the Economic Revitalization Area designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be determined at the time of the "claw back."

Questions, applications, and fees should be directed to the:
City of Mishawaka
Building - Community Development - Planning
600 East Third Street
Mishawaka, Indiana 46544
Attention: Kenneth B. Prince, City Planner
574-258-1625
kprince@mishawaka.in.gov

1. Name of the firm for which tax abatement is being requested:

Lippert Components Manufacturing, Inc.

2. State the name, title, address and telephone number of a company representative(s) who may be contacted concerning this application:

Name and Title: Tom Bauters, Assistant Treasurer & Tax Director

Address: 3501 County Road 6 East, Elkhart, IN 46514

Telephone: 574-312-6159

3. State the name, title, address and telephone number of a company representative(s) who may be sent annual compliance forms. Please note that the annual forms will determine if your company is compliant with the terms of the abatement and whether the abatement will continue or be terminated, so the contact should be made aware of the form's importance.

Name and Title: Tom Bauters, Assistant Treasurer & Tax Director

Address: 3501 County Road 6 East, Elkhart, IN 46514

Telephone: 574-312-6159

4. Location of property for which personal property tax abatement is being sought (this information is available through the Township Assessor's Office):

a) Street Address: 400 South Byrkit Avenue, Mishawaka

b) Township: Penn

c) Taxing District Number: 023

d) Council District Number: _____

e) Tax Parcel Number(s): 71-09-14-301-002.000-023

5. What is the amount of the most recent assessment attributable to (this information is available on the most recent property tax form):

Land: \$309,000

Improvements: \$4,176,000

Inventory: \$-0-

Equipment: \$109,065

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? xxx ☒ Yes ☐ No

7. Does your firm currently conduct manufacturing operations at this location? If so, how long has your company been at this location? n/a

a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. 332321

b) Please list any special certifications/designations.

8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.

50 manufacturing and distribution facilities located throughout the United States, Canada and Italy.

9. What is the size of the existing facility in which the equipment will be installed?

347,000 square feet

a) What is your facility currently zoned? Industrial b) Do you need rezoning? no

10. Briefly describe the product(s) manufactured by your company.

RV related parts

11. Briefly describe the equipment to be installed by your company.

Racking for distribution facility, equipment for service center, f & f for call center.

12. Has new manufacturing equipment been installed (Please note that state statute requires petitioner to delay installation until after abatement has been granted)? ☐ Yes ☒ No

13. What is the anticipated date for installation to begin? August, 2017

14. What is the anticipated date for project completion? August 2019

***(If installation will occur over a multi-year/phased-in period or involve multiple pieces of equipment, please provide a separate detailed installation timetable and note when equipment will be ready to use in production and attach this information to the SB-1/PP.)**

15. Does the equipment being installed serve the same function as the equipment currently in place at the facility? ☐ Yes ☒ No

a) If no, please describe the new functions to be performed by the new manufacturing equipment:

Existing facility does not include any of the racking for the distribution facility, equipment for the service center or f & f for call center.

- b) What is the estimated value of the equipment to be purchased for which personal property tax abatement is being requested? (If possible, please provide a written quote or estimate attached to this application.) \$1,625,000

16. Profile of firm that will occupy the property for which tax abatement is being requested:

- a) Are your employees represented by a union? If so, by whom? N/A
- b) Number of current full time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	7	Average hourly wage rate for skilled positions	\$28.17
Semi-skilled	104	Average hourly wage rate for unskilled positions	\$16.68
Clerical	86	Average hourly wage rate for clerical positions	\$17.84
Salaried	50	Average salary (per hour) for salaried positions	\$30.25
TOTAL NUMBER OF TEMPORARY/ON-CALL EMPLOYEES (if any)			-0-
TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time)			247

- c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.)

Medical, dental, vision, flexibles spending account, life insurance, disability insurance, critical illness, 401(k) retirement, employee assistance program.

- d) Approximate value of benefits for existing and new employees on a per hour basis (i.e. benefits are valued at an additional \$3.00 per hour, etc.) 20% on top of the hourly rate

- e) What is the total dollar amount spent on retained salaries? \$10,354,808

- f) Number of newly created full-time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	30	Average hourly wage rate for skilled positions	\$25.00
Semi-skilled	110	Average hourly wage rate for unskilled positions	\$15.82
Clerical	60	Average hourly wage rate for clerical positions	\$21.00
Salaried	-0-	Average salary (per hour) for salaried positions	\$-0-

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 200

- g) What is the total dollar amount to be spent on new salaries? \$7,800,000

- h) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for:

Current hourly employees \$17.59

Retained hourly employees _____

New hourly employees \$18.75

- i) What is the usual market for goods produced by the company? List the percentage of the company's product that reaches it:

Inside St. Joseph County: _____ %

Outside St. Joseph County, but inside Indiana: _____ %

Outside Indiana, but within 500 miles _____ %

Outside of 500 miles _____ %

Outside of the United States: _____ %

- g) Where do your company's raw materials/supplies come from? List the percentage of the supplies that are acquired from each category:

Inside St. Joseph County: _____ %

Outside St. Joseph County, but inside Indiana: _____ %

Outside Indiana, but within 500 miles: _____ %

Outside 500 miles of Indiana: _____ %

Outside of the United States: _____ %

- h) List the name and location (City and State) of your five largest vendors or suppliers:

1. _____
2. _____
3. _____
4. _____
5. _____

17. Please give a detailed description of what the impact on your business will be if the new manufacturing equipment is not installed (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

Distribution, service and call center is not dependent upon the Byrkit Street location -- it can be located anywhere in the Midwest.

18. Please briefly describe how and why the manufacturing equipment to be replaced or the facility in which equipment will be added is currently technologically, economically, or energy obsolete and how and why that obsolescence may lead to a decline in employment and tax revenues.

The existing facility is not currently equipped to be a distribution, service and call center. Significant investment is required to get it into ready condition.

19. Will you require any additional assistance from the City of Mishawaka?

Discussions already have taken place regarding the infrastructure needs.

20. Have you applied for any assistance from the State of Indiana?

The company will apply for IEDC support.

21. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.
- Attach a map and/or a plan of the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Personal Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.

TJ Barker, CPA
Signature of Owner or Authorized Representative

Assistant Treasurer & Tax Director
Title

June 12, 2017
Date

St. Joseph Indiana, Assessor

generated on 5/24/2017 9:21:11 AM CDT

Parcel

Parcel ID	Parcel Address	AV - Total Land & Improv.	Data as of
71-09-14-301-002.000-023	400 S BYRKIT	\$4,174,000	9/10/2016 2:04:00 PM

Owner Information

Owner Name	Stag Mishawaka LLC
Owner Address	ONE FEDERAL STREET 23RD FLOOR Boston MA 02110
Transfer Date	05/01/2013

Location Information

District No.	023	Section & Plat	
Area No.	010	State Assigned District No.	023
Parcel Address	400 S BYRKIT	Routing No.	9-14A
		Parcel Address	400 S BYRKIT
		Legal Desc.	477.8 FT X 515.1 FT S. OF RR W PT 6 AC. S1/2 14 37 3E & PT. OF N1/2 14 37 3E 13.03 AC.

Parcel Information

Topography

Services

Zoning	Level	Y	Water	Y
Property Class Code 350	High	N	Sewer	Y
Neighborhood Code 7123006	Low	N	Gas	Y
Neighborhood Factor 100.00	Rolling	N	Electricity	Y
Neighborhood Type B	Swampy	N	Sidewalk	Y
Street or Road Code A	Flood Hazard		Alley	N
	Waterfront Property Type			

Assessment Information

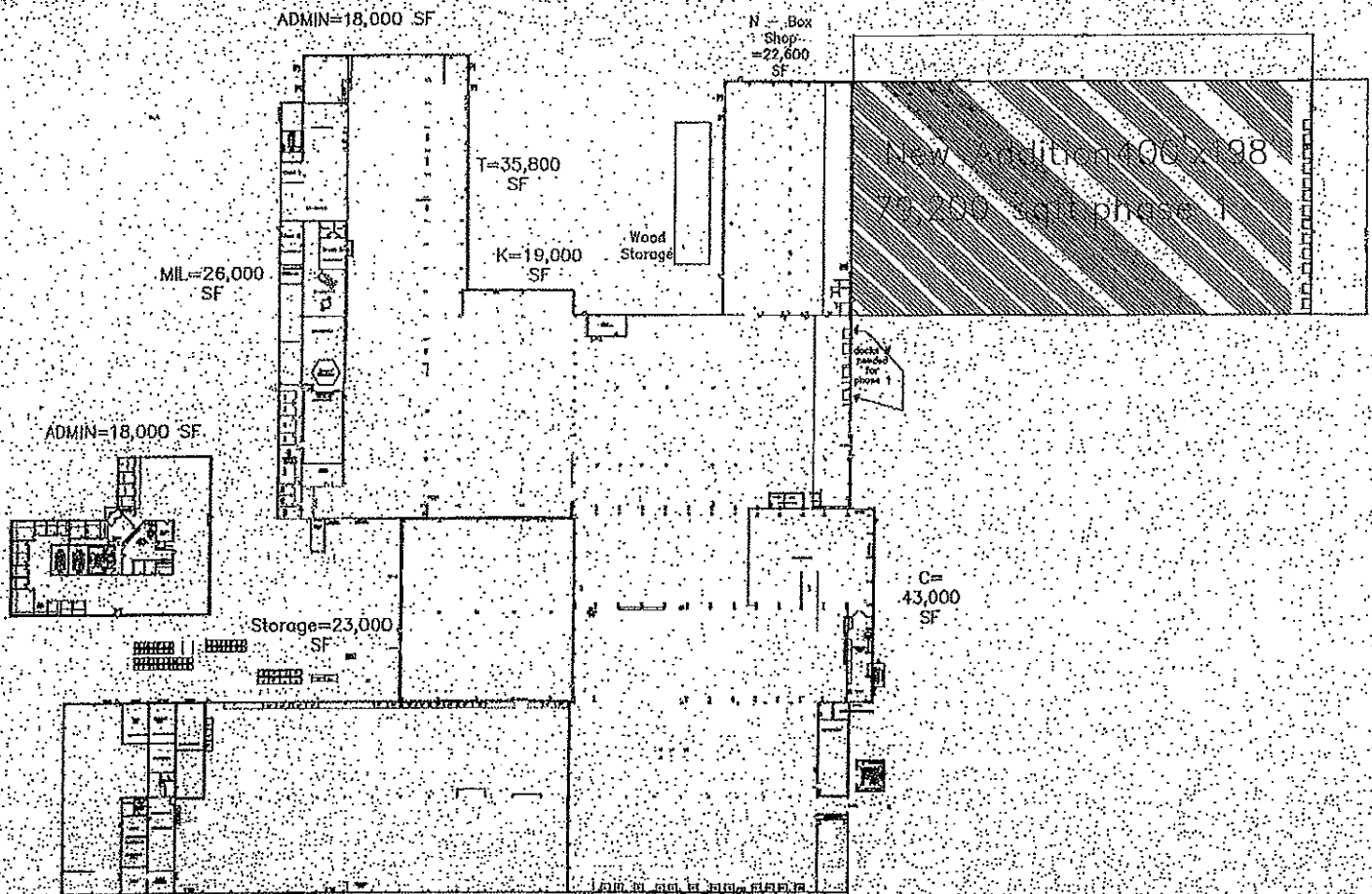
Current AV - Total Land	\$309,000	AV - Res. Land & Lots	\$0	Legal Acreage	.0000
Current AV - Total Improv.	\$3,865,000	AV - Res. Improv.	\$0	Average AV/Acre	\$0
AV - Total Land & Improv.	\$4,174,000	AV - Res. Land & Improv.	\$0	Appraisal Date	
AV - Commercial Land	\$309,030	AV - Non-Res. Land	\$309,000	Reason for Change Code	19
AV - Comm. Improv.	\$3,865,000	AV - Non-Res. Imp.	\$3,865,000	Prior AV - Total Land	\$309,000
AV - Comm. Land & Imp.	\$4,174,030	AV - Non-Res. Land & Improv.	\$4,174,000	Prior AV - Total Improv.	\$3,785,700
AV - Dwelling	\$0	AV - Classified Land	\$0	Adj. Factor Applied	0.00
AV - Farmland	\$0	AV - Homesite(s)	\$0		

EXHIBIT A

Tax Parcel ID Numbers:

71-09-14-301-002.000-023	\$	24,400	1
71-09-14-301-001.000-023	\$	4,174,000	2
71-09-14-301-003.000-023	\$	15,900	3
71-09-14-301-013.000-023	\$	46,200	4
71-09-14-301-021.000-023	\$	174,900	5
71-09-15-285-005.000-023	\$	45,900	6
71-09-15-428-006.000-023	\$	4,400	7
71-09-15-428-007.000-023	\$	4,400	8
71-09-15-428-008.000-023	\$	6,100	9
71-09-15-428-009.000-023	\$	4,400	10
71-09-15-428-010.000-023	\$	4,400	11
71-09-15-428-011.000-023	\$	4,400	12

EXHIBIT B





PO Box 2888
Elkhart, IN 46515

JP MORGAN CHASE BANK NA
1111 Polaris Parkway
Columbus, OH 43240
USA

1270765

DATE May 31, 2017

PAY AMOUNT ** 300.00**

USD

PAY *** Three Hundred and 00/100

TO THE ORDER OF

CITY OF MISHAWAKA
600 E 3RD ST
CLERKS OFFICE - CITY HALL
MISHAWAKA, IN 46544-2241

OFFICER OR OFFICE MANAGER
VOID AFTER 90 DAYS

⑈ 12707650 ⑈ ⑆021309379⑆ ⑈938244183⑈

Check 1270765

Vendor : 026661, CITY OF MISHAWAKA

Div # Invoice number

Invoice date Voucher

Gross amount

Discount

Paid amount

001 TAXABATEMENT-A

5/31/2017

PIP-0001523136

750.00

0.00

300.00

Total

300.00



STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51764 (R4 / 11-15)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

INSTRUCTIONS

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body BEFORE a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between January 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between January 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved, must submit Form CF-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. For a Form SB-1/PP that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/PP that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. (IC 6-1.1-12.1-17)

SECTION 1		TAXPAYER INFORMATION						
Name of taxpayer Lippert Components Manufacturing, Inc.		Name of contact person Tom Bauters						
Address of taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6 East, Elkhart, IN 46514		Telephone number (574) 312-6159						
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT						
Name of designating body City of Mishawaka		Resolution number (s)						
Location of property 400 South Byrkit, Mishawaka, IN 46544		County St. Joseph	DLGF taxing district number 023 - Mishawaka - Penn					
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary) Racking for distribution facility - \$500,000 Equipment - \$800,000 Furniture & Fixtures - \$325,000		ESTIMATED						
		START DATE	COMPLETION DATE					
		Manufacturing Equipment						
		R & D Equipment						
		Logist Dist Equipment	08/01/2017					
IT Equipment	08/01/2017							
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT						
Current number 247	Salaries 10,354,808	Number retained 247	Salaries 10,354,808	Number additional 200	Salaries 7,800,000			
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT						
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT	
	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Current values					109,605	43,840		
Plus estimated values of proposed project					1,625,000			
Less values of any property being replaced								
Net estimated values upon completion of project					1,734,605			
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER						
Estimated solid waste converted (pounds)		Estimated hazardous waste converted (pounds)						
Other benefits:								
SECTION 6		TAXPAYER CERTIFICATION						
I hereby certify that the representations in this statement are true.								
Signature of authorized representative Tom Bauters, CPA				Date signed (month, day, year) 6/12/2017				
Printed name of authorized representative Tom Bauters				Title Assistant Treasurer & Tax Director				

FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

A. The designated area has been limited to a period of time not to exceed _____ calendar years * (see below). The date this designation expires is _____. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*

B. The type of deduction that is allowed in the designated area is limited to:

- | | | | |
|--|------------------------------|-----------------------------|---|
| 1. Installation of new manufacturing equipment; | ☐ Yes | ☐ No | ☐ Enhanced Abatement per IC 6-1.1-12.1-18
Check box if an enhanced abatement was approved for one or more of these types. |
| 2. Installation of new research and development equipment; | ☐ Yes | ☐ No | |
| 3. Installation of new logistical distribution equipment. | ☐ Yes | ☐ No | |
| 4. Installation of new information technology equipment; | ☐ Yes | ☐ No | |

C. The amount of deduction applicable to new manufacturing equipment is limited to \$ _____ cost with an assessed value of \$ _____. (One or both lines may be filled out to establish a limit, if desired.)

D. The amount of deduction applicable to new research and development equipment is limited to \$ _____ cost with an assessed value of \$ _____. (One or both lines may be filled out to establish a limit, if desired.)

E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ _____ cost with an assessed value of \$ _____. (One or both lines may be filled out to establish a limit, if desired.)

F. The amount of deduction applicable to new information technology equipment is limited to \$ _____ cost with an assessed value of \$ _____. (One or both lines may be filled out to establish a limit, if desired.)

G. Other limitations or conditions (specify) _____

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction is allowed for:

- | | | | | | |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------|--|
| ☐ Year 1 | ☐ Year 2 | ☐ Year 3 | ☐ Year 4 | ☐ Year 5 | ☐ Enhanced Abatement per IC 6-1.1-12.1-18
Number of years approved: _____
(Enter one to twenty (1-20) years; may not exceed twenty (20) years.) |
| ☐ Year 6 | ☐ Year 7 | ☐ Year 8 | ☐ Year 9 | ☐ Year 10 | |

I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17? ☐ Yes ☐ No
If yes, attach a copy of the abatement schedule to this form.

If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved by: (signature and title of authorized member of designating body)	Telephone number ()	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by: (signature and title of attester)	Printed name of attester	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

JUN 29 2017

RESOLUTION NO. 2017-17

Lippert Components Manufacturing Inc.
400 South Byrkit Avenue

CITY CLERK
MISHAWAKA, IN

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA, MAKING A FINAL DETERMINATION AND CONFIRMING THE
DESIGNATION OF AREAS WITHIN
THE CITY OF MISHAWAKA, INDIANA, KNOWN AS

420 SOUTH BYRKIT AVENUE, WITH OTHER ADDRESSES INCLUDING 408, 418, 424,
AND 440 SOUTH BRYKIT AVENUE AND 401 SOUTH BEIGER STREET.

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF REAL PROPERTY TAX ABATEMENT

WHEREAS, the Common Council of the City of Mishawaka, Indiana, adopted a Declaratory Resolution which designated the area known as 420 South Byrkit Avenue, with other addresses including 408, 418, 424, and 440 South Brykit Avenue and 401 South Beiger Street, Mishawaka, IN 46544, to be an Economic Revitalization Area under the provisions of Indiana Code § 6-1.1-12.1-1 et seq. (the "Act"):

A lot or parcels of land described as follows:

Tax Parcel ID Numbers:

71-09-14-301-002.000-023	71-09-15-428-008.000-023
71-09-14-301-001.000-023	71-09-15-428-009.000-023
71-09-14-301-003.000-023	71-09-15-428-010.000-023
71-09-14-301-013.000-023	71-09-15-428-011.000-023
71-09-14-301-021.000-023	71-09-14-184-001.000-023
71-09-15-285-005.000-023	71-09-14-326-002.000-023
71-09-15-428-006.000-023	71-09-14-326-001.000-023
71-09-15-428-007.000-023	71-09-14-326-003.000-023

A parcel of land in the West Half ($\frac{1}{2}$) of the West Half ($\frac{1}{2}$) of Section Fourteen (14), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, more particularly described as follows: The "Point of Beginning" of said parcel of land herein described being the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds West, along the West line of Section 14 and the centerline of Byrkit Avenue, a distance of 332.38 feet to the Southerly right of way line of Conrail Corporation; thence along a curve, concave Southerly, whose elements are: central angle of 04 degrees 33 minutes 30 seconds, radius of 9536.76 feet, are length of 757.34 feet, and a chord that bears North 85 degrees 33 minutes 33 seconds East, 757.14 feet; thence North 87 degrees 43 minutes 30 seconds East, along the Southerly right of way line of Conrail Corporation, a distance of 549.65 feet to the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 12 minutes 30 seconds East, along the East line of the Southwest Quarter ($\frac{1}{4}$) of the Northwest Quarter ($\frac{1}{4}$) of said Section 14, a distance of 406.39 feet to the Northeast corner of the Northwest Quarter ($\frac{1}{4}$) of

the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence South 00 degrees 02 minutes 30 seconds East along the East line of the West Half ($\frac{1}{2}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; a distance of 229.93 feet; thence North 89 degrees 59 minutes 44 seconds West a distance of 393.74 feet; times South 00 degrees 10 minutes 42 seconds West a distance of 302.57 feet; thence South 89 degrees 51 minutes 00 seconds West a distance of 871.05 feet to the East right of way line of Byrkit Avenue and to a point which is South 00 degrees 00 minutes 00 seconds West 528.42 feet and North 89 degrees 51 minutes 00 seconds East 40.00 feet from the Northwest corner of the Northwest Quarter ($\frac{1}{4}$) of the Southwest Quarter ($\frac{1}{4}$) of said Section 14; thence North 00 degrees 00 minutes 00 seconds East, along the East right of way of Byrkit Avenue; a distance of 272.89 feet; thence South 89 degrees 43 minutes 00 seconds West a distance of 40.00 feet to the West line of said Section 14 and the centerline of Byrkit Avenue; thence North 00 degrees 00 minutes 00 seconds West, along the West line of said Section 14 and the centerline of Byrkit Avenue, a distance of 255.62 feet to the "Point of Beginning".

Together with:

Part of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Southeast corner of the Southeast Quarter ($\frac{1}{4}$) of the Northeast Quarter ($\frac{1}{4}$) of Section 15, Township 37 North, Range 3 East; thence North 89 degrees 28 minutes 00 seconds West, a distance of 20.00 feet to the point of beginning; thence continue North 89 degrees 28 minutes 00 seconds West on the North line of Fifth Street, a distance of 267.50 feet; thence North 00 degrees 00 minutes 00 seconds East parallel with the East line of Section 15, a distance of 310.27 feet to the Southerly right of way Line of the Conrail Corporation; thence North 84 degrees 01 minutes 48 seconds East on the Southerly right of way line of the Conrail Corporation, a distance of 268.945 feet; thence South 00 degrees 00 minutes 00 seconds West, a distance of 340.73 feet to the point of beginning.

Together with:

Part of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East, Penn Township, St. Joseph County, City of Mishawaka, Indiana, described as follows: Commencing at the Northeast corner of the Northeast Quarter ($\frac{1}{4}$) of the Southeast Quarter ($\frac{1}{4}$) of Section Fifteen (15), Township Thirty-seven (37) North, Range Three (3) East; thence South 00 degrees 00 minute 00 seconds East on the East line of Section 15, a distance of 66.00 feet; thence North 89 degrees 28 minutes 00 seconds West, a distance of 40.00 feet to the West line of Byrkit Avenue and the point of beginning; thence South 00 degrees 00 minutes 00 seconds West parallel with the East line of Section 15 and on the West right of way line of Byrkit Avenue, a distance of 120.00 feet; thence North 89 degrees 28 minutes 00 seconds West parallel with the South right of way line of Fifth Street, a distance of 118.98 feet; thence North 00 degrees 05 minutes 44 seconds East, a distance of 120.00 feet to the South right of way line of Fifth Street, a distance of 118.78 feet to the point of beginning and being known as Lots 18 through 23 in the Broadmoor Proposed Subdivision.

Together with:

A lot or parcel of land in the Northwest Quarter of Section 14, Township 37 North, Range 3 East, bounded by a line running as follows: Beginning at a point 684 $\frac{1}{2}$ feet West of the center of said Section, which point is in the West line of Beiger Street, as platted in Beiger Farm Addition to the City of Mishawaka; thence North along the West line of said Beiger Street 438.6 feet to the South line of the New York Central Railroad Company's right of way; thence Westerly with said Railroad Company's right of way 624.74 feet; thence South 416.9 feet; thence East 624 $\frac{1}{2}$ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the West Half of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 195 feet South of the Northwest Corner of the West Half of the East Half of the Southwest Quarter of said Section 14; thence South along the West line of the West Half of the East Half of the Southwest Quarter of said Section 14, Township 37 North, Range 3 East, 332.8 feet; thence East parallel with the North line of the West Half of the East Half of the Southwest Quarter of said Section 14, 654.41 feet to the centerline of Beiger Street in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 332.8 feet to a point 195 feet South of the North line of said West Half of the East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.43 feet to the place of beginning.

Together with:

A lot or parcel of land in the Southwest Quarter of Section 14, Township 37 North Range 3 East bounded as follows: Beginning at a point on the centerline of said Section 654 ½ feet West of the center of said Section 14, which beginning point is in the middle of Beiger Street; thence South along the middle of said Beiger Street 161 ½ feet; thence West 269.72 feet; thence North 161 ½ feet; thence East 269.72 feet, to the place of beginning.

Together with:

A tract or parcel of land in Section 14, Township 37 North, Range 3 East, described as follows: Beginning at a point 924.22 feet West of the center of said Section 14, which is the Northwest corner of a tract heretofore conveyed to Charles Haney and wife on October 13, 1915 by deed recorded in Deed Record 153 at pages 245 and 246 in the Recorder's Office of St. Joseph county, Indiana; thence West along the East and West centerline 390.28 feet to the North and South centerline of the Southwest Quarter of said Section 14; thence South along said line 195 feet; thence East 630 feet to the West line of Beiger Street; thence North 33 ½ feet to the South line of the tract heretofore conveyed to Charles Haney and wife, as above described; thence West along said South line to the Southwest Corner of said tract conveyed to said Charles Haney and wife; thence North 161 ½ feet to the place of beginning.

Together with:

Beginning at a point on the West line of the East Half of the Southwest Quarter of Section 14, Township 37 North, Range 3 East, 527.8 feet South of the Northwest Corner of the East Half of the Southwest Quarter of said Section 14; thence continuing South of the Northwest corner of the East Half of said Southwest Quarter of said Section 462.2 feet; thence East parallel to the North line of the East Half of the Southwest Quarter of said Section 14, 654.36 feet to the centerline of Beiger Street, in the City of Mishawaka, Indiana; thence North along the centerline of Beiger Street 462.2 feet to a point 527.8 feet South of the North line of said East Half of the Southwest Quarter of said Section 14; thence West parallel with the North line of said East Half of said Southwest Quarter of Section 14, Township 37 North, Range 3 East, 654.41 feet to the place of beginning.

More commonly having addresses at 420 South Byrkit Avenue, with other addresses including 408, 418, 424, and 440 South Brykit Avenue and 401 South Beiger Street.

All of the above described property being located within the municipal corporation limits of the City of Mishawaka, Indiana, and

WHEREAS, notice of the adoption of a Declaratory Resolution and the public hearing before the Council has been published pursuant to Indiana Code § 6-1.1-12.1-2.5; and

WHEREAS, the Council held a public hearing for the purposes of hearing all remonstrance and objections from interested persons; and

WHEREAS, the Council has determined that the qualifications for an economic revitalization area have been met.

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

1. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for personal property tax abatement only and is limited to one (1) calendar year.
2. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction; provided the same shall be limited to a period of ten (10) years for real property only in the following applicable deduction percentages:

Year 1:	100%
Year 2	90%
Year 3	80%
Year 4	70%
Year 5	60%
Year 6	50%
Year 7	40%
Year 8	30%
Year 9	20%
Year 10	10%

3. That the petition for tax abatement, and the Statement of Benefits submitted by Lippert Manufacturing Components, Inc. comply with Indiana Code § 6-1.1-12.1-1 et seq. and are hereby approved.
4. That this determination is final except that an appeal may be taken and heard as provided under Indiana Code § 6-1.1-12.1-2-5 and subsections (d) and (e) of the Act.

The Common Council of the City of Mishawaka, Indiana hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement.

ADOPTED by the Common Council of the City of Mishawaka, Indiana, St. Joseph County, Indiana, this 5th day of July, 2017.

Ross Deal, President

ATTEST:

Deborah S. Block, City Clerk

PRESENTED by me to the Mayor of the City of Mishawaka, Indiana, on this _____ day of July, 2017.

Deborah S. Block, City Clerk

APPROVED AND SIGNED by me this _____ day of July , 2017, at _____ o'clock _____.M.

David A. Wood, Mayor

Tax Abatement Schedule prepared for:

28-Jun-17

Lippert Components Manufacturing Inc.

Real Property

Mishawaka Penn Township 10 Year Tax Abatement Schedule*

TOTAL PROJECT IMPACT

Total estimated Project Cost: 7,400,000.00

Base Assessed Value: 5,920,000.00

(base assessed value is estimated at 85% of project cost)

Assume constant tax rate of: 4.5291% 2017 pay 2018 tax rate

	Assessed	Gross	Max Tax	Percent	Tax	Tax
Year	Value	Tax	Bill*	Abated	Abated	Paid
1	5,920,000	268,123	240,370	100%	240,370	0
2	5,920,000	268,123	240,370	90%	216,333	24,037
3	5,920,000	268,123	240,370	80%	192,296	48,074
4	5,920,000	268,123	240,370	70%	168,259	72,111
5	5,920,000	268,123	240,370	60%	144,222	96,148
6	5,920,000	268,123	240,370	50%	120,185	120,185
7	5,920,000	268,123	240,370	40%	96,148	144,222
8	5,920,000	268,123	240,370	30%	72,111	168,259
9	5,920,000	268,123	240,370	20%	48,074	192,296
10	5,920,000	268,123	240,370	10%	24,037	216,333
			2,403,700		1,322,035	1,081,665

* Maximum tax bill is per the 3% property tax cap rate and a 1.0603% property tax exempt tax rate calculated per the Indiana DLGF on-line tax bill calculator .

Total Taxes Due During Abatement: 2,403,700

Total Taxes Abated During Abatement: 1,322,035

Total Taxes Paid During Abatement: 1,081,665

* - This schedule is for estimation purposes only and assumes constant tax rates.
The true tax values will ultimately be determined by the actual
assessed valuation and the then current tax rates.



City of Mishawaka Building – Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

REAL PROPERTY TAX ABATEMENT

Indiana State law requires that the designation application and statement of benefits form (SB-1/RE) be submitted prior to the initiation of the project. Additionally, final approval of the Economic Revitalization Area designation must be obtained before starting the installation of the new manufacturing equipment for which tax abatement is being requested.

Prior to submitting the attached application to the City's Department of Planning & Community Development, all questions must be answered as completely as possible and must be signed on the Statement of Benefits Form (SB-1/RE) and last page of the application. Incomplete or unsigned applications will not be accepted. A non-refundable application fee of \$300.00 is required when making an application for Economic Revitalization Area designation and is payable to the City of Mishawaka at the time of submission.

All firms requesting Economic Revitalization Area designation are required to conduct an initial site visit with city staff members prior to a public hearing on the tax abatement request. During that visit, the company shall reveal the capital investment levels, job creation and/or retention levels and hourly wage rates the applicant has committed to the City of Mishawaka in order to receive consideration for Economic Revitalization Area designation and tax abatement deduction.

Additionally, the City of Mishawaka, by and through the Common Council, reserves the right to rescind or "claw back" an Economic Revitalization Area designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, as well as the applicant's failure to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City rescinds the Economic Revitalization Area designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be determined at the time of the "claw back."

Questions, applications, and fees should be directed to the:

City of Mishawaka
Building - Community Development - Planning
600 East Third Street
Mishawaka, Indiana 46544
Attention: Kenneth B. Prince, City Planner
574-258-1625
kprince@mishawaka.in.gov

1. Name of the company for which Economic Revitalization Area (ERA) designation is being requested:

Lippert Components Manufacturing, Inc.

2. State the name, title, address and telephone number of a company representative who may be contacted concerning this application:

Name and Title: **Tom Bauters, Assistant Treasurer & Tax Director**

Address: **3501 County Road 6 East, Elkhart, IN 46514**

Telephone: **574-312-6159**

3. State the name, title, address and telephone number of a company representative who may be sent annual compliance surveys. Please note that the annual survey will determine if your company is compliant with the terms of the abatement agreement and whether the abatement will continue or be terminated, so the contact should be made aware of the survey's importance:

Name and Title: **Tom Bauters, Assistant Treasurer & Tax Director**

Address: **3501 County Road 6 East, Elkhart, IN 46514**

Telephone: **574-312-6159**

4. Location of property for which ERA designation (real property tax abatement) is being sought (this information is available through the Township Assessor's Office):

a) Street Address: **400 South Byrkit Avenue, Mishawaka**

b) Township: **Penn**

c) Taxing District Number: **023**

d) Council District Number: _____

e) Tax Parcel Number(s): **12 parcel #s including: 71-09-14-301-001.000-023**

f) Current Zoning of the Property: **Industrial**

g) Case/approval number of any variance, rezoning, or approval petition(s) which is/are required or have been obtained for this project: _____

5. What is the amount of the most recent assessment attributable to (this information is available from the most recent property tax form):

Land: \$309,000

Improvements: \$4,176,000

Inventory: \$-0-

Equipment: \$109,605

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? xxx Yes No

7. Does your company currently conduct manufacturing operations at this location? If so, how long has your company been at this location? n/a

a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. 332321

b) Please list any special certifications/designations.

8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.

50 manufacturing and distribution facilities located throughout the United States, Canada and Italy.

What is the size of the real estate that will be developed? (in acres) 20

9. What is the estimated construction or rehabilitation cost? \$7,400,000

10. Have building permits been obtained? *(Please note that state statute requires petitioner to file abatement application before obtaining permits) Yes xxx No

11. What is the anticipated date for construction to begin? August 2017

12. What is the anticipated date for project completion? August 2019

13. Profile of Company that will occupy the property for which tax abatement is being requested:

a) Are your employees represented by a union? If so, by whom? N/A

b) Number of current full time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled 7 Average hourly wage rate for skilled positions \$28.17

Semi-skilled	104	Average hourly wage rate for unskilled positions	\$16.68
Clerical	86	Average hourly wage rate for clerical positions	\$17.84
Salaried	50	Average salary (per hour) for salaried positions	\$30.25

TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time) 247

- c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.)

Medical, dental, vision, flexibles spending account, life insurance, disability insurance, critical illness, 401(k) retirement, employee assistance program.

- d) Approximate value of benefits for existing and new employees on a per hour basis (e.g. benefits are valued at an additional \$3.00 per hour, etc.) 20% on top of the hourly rate
- e) What is the total dollar amount spent on retained salaries? \$10,354,808
- f) Number of created full-time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	30	Average hourly wage rate for skilled positions	\$25.00
Semi-skilled	110	Average hourly wage rate for unskilled positions	\$15.82
Clerical	60	Average hourly wage rate for clerical positions	\$21.00
Salaried	-0-	Average salary (per hour) for salaried positions	-0-

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 200

- g) What is the total dollar amount to be spent on new salaries? \$7,800,000
- h) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for:

Current hourly employees \$17.59

Retained hourly employees _____

New hourly employees \$18.75

- h) (if applicable) What is the usual market for goods or services produced by the company? List the percentage of the company's product or service that reaches:

Inside St. Joseph County: _____%

Outside St. Joseph County, but inside Indiana: _____%

Outside Indiana, but within 500 miles _____ %

Outside of 500 miles _____ %

Outside of the United States: _____ %

i) (if applicable) List the name and location (City and State) of your five largest vendors or suppliers:

1. _____

2. _____

3. _____

4. _____

5. _____

17. Describe the project for which tax abatement is being requested. Include the types of improvements that will be made, and indicate whether improvement is freestanding or an expansion to existing facility. In addition, indicate whether your company will utilize the entire project space or lease a portion of it to an outside company.

Remodel existing facility plus 79,200 square foot addition. New asphalt parking lot for 380 parking spaces and 40 semi truck spaces.

18. Briefly describe the product or service of the company/business which will occupy the property for which tax abatement is being requested.

Distribution, service and call center

19. What evidence can be provided to show the positive impact the abatement will have on the project property and surrounding area?

Significant capital expenditures with local contractors as well as hiring significant number of full time employees at competitive salary plus benefits.

20. Please give a detailed description of what the impact on your business will be if the proposed project is not undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

Distribution, service and call center is not dependent upon the Byrkit Street location -- it can be located anywhere in the Midwest.

21. Will you require any additional assistance from the City of Mishawaka?

Discussions already have taken place regarding the infrastructure needs.

22. Have you applied for any assistance from the State of Indiana?

The company will apply for IEDC support

23. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.
- Attach a map and/or a plan of the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Real Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.

TS Bantz, CPA

Signature of Owner or Authorized Representative

Assistant Treasurer & Tax Director

Title

June 12, 2017

Date

St. Joseph Indiana, Assessor

generated on 5/24/2017 9:21:11 AM CDT

Parcel

Parcel ID	Parcel Address	AV - Total Land & Improv.	Data as of
71-09-14-301-002.000-023	400 S BYRKIT	\$4,174,000	9/10/2016 2:04:00 PM

Owner Information

Owner Name	Stag Mishawaka LLC
Owner Address	ONE FEDERAL STREET 23RD FLOOR Boston MA 02110
Transfer Date	05/01/2013

Location Information

District No.	023	Section & Plat	
Area No.	010	State Assigned District No.	023
Parcel Address	400 S BYRKIT	Routing No.	9-14A
		Parcel Address	400 S BYRKIT
		Legal Desc.	477.8 FT X 515.1 FT S. OF RR W PT 6 AC. S1/2 14 37 3E & PT. OF N1/2 14 37 3E 13.03 AC.

Parcel Information

Topography

Services

Zoning	Level	Y	Water	Y
Property Class Code 350	High	N	Sewer	Y
Neighborhood Code 7123006	Low	N	Gas	Y
Neighborhood Factor 100.00	Rolling	N	Electricity	Y
Neighborhood Type B	Swampy	N	Sidewalk	Y
Street or Road Code A	Flood Hazard		Alley	N
	Waterfront Property Type			

Assessment Information

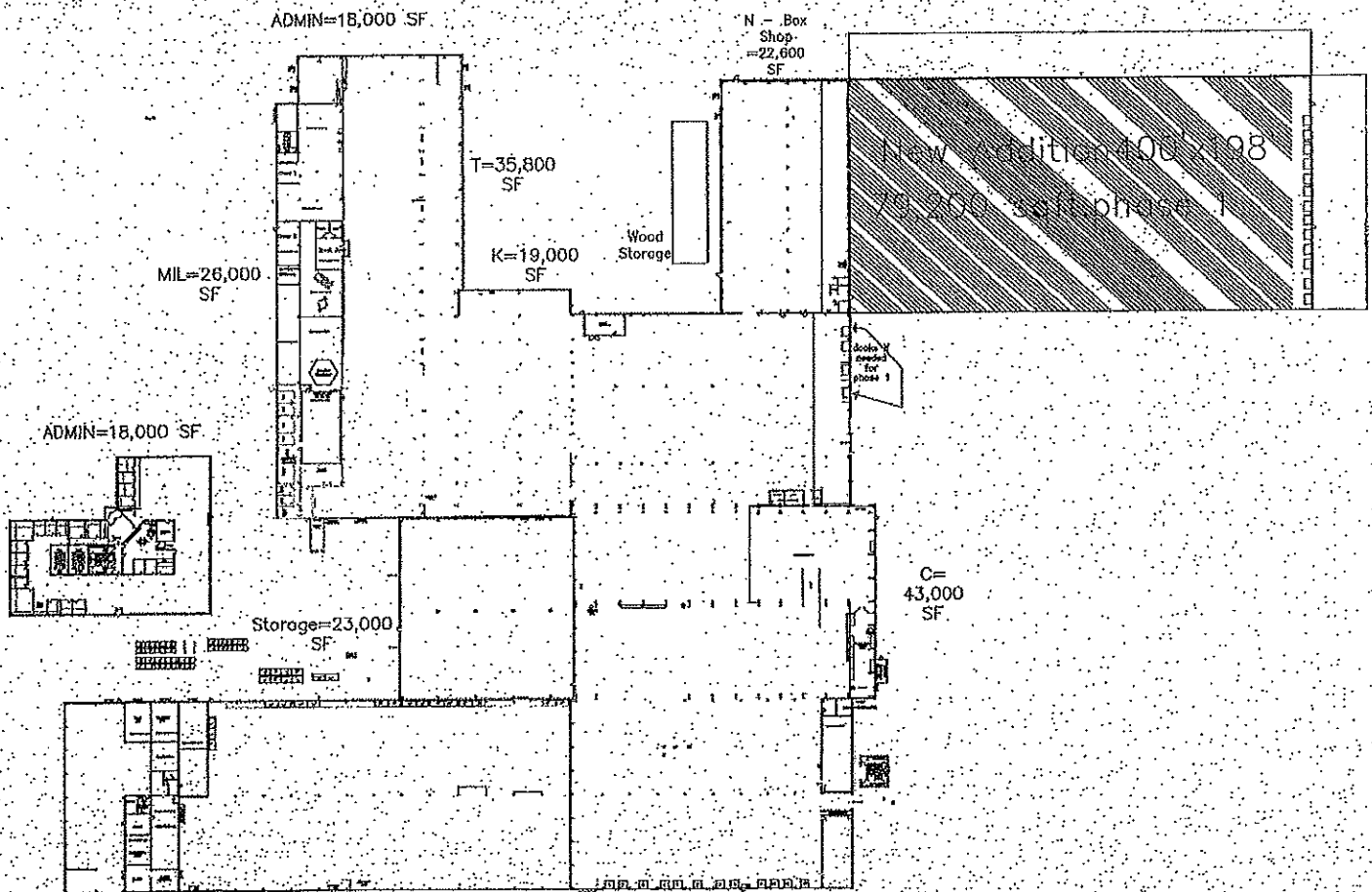
Current AV - Total Land	\$309,000	AV - Res. Land & Lots	\$0	Legal Acreage	.0000
Current AV - Total Improv.	\$3,865,000	AV - Res. Improv.	\$0	Average AV/Acre	\$0
AV - Total Land & Improv.	\$4,174,000	AV - Res. Land & Improv.	\$0	Appraisal Date	
AV - Commercial Land	\$309,030	AV - Non-Res. Land	\$309,000	Reason for Change Code	19
AV - Comm. Improv.	\$3,865,000	AV - Non-Res. Imp.	\$3,865,000	Prior AV - Total Land	\$309,000
AV - Comm. Land & Imp.	\$4,174,030	AV - Non-Res. Land & Improv.	\$4,174,000	Prior AV - Total Improv.	\$3,785,700
AV - Dwelling	\$0	AV - Classified Land	\$0	Adj. Factor Applied	0.00
AV - Farmland	\$0	AV - Homesite(s)	\$0		

EXHIBIT A

Tax Parcel ID Numbers:

71-09-14-301-002.000-023	\$ 24,400	1
71-09-14-301-001.000-023	\$ 4,174,000	2
71-09-14-301-003.000-023	\$ 15,900	3
71-09-14-301-021.000-023	\$ 46,200	4
71-09-14-301-013.000-023	\$ 174,900	5
71-09-14-301-021.000-023	\$ 45,900	6
71-09-14-301-021.000-023	\$ 4,400	7
71-09-15-285-005.000-023	\$ 4,400	8
71-09-15-428-006.000-023	\$ 6,100	9
71-09-15-428-007.000-023	\$ 4,400	10
71-09-15-428-008.000-023	\$ 4,400	11
71-09-15-428-009.000-023	\$ 4,485,000	12
71-09-15-428-010.000-023	\$ 1,700,000	
71-09-15-428-011.000-023		

EXHIBIT B





STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R6 / 10-14)

Prescribed by the Department of Local Government Finance

20 ____ PAY 20 ____

FORM SB-1 / Real Property

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- ☒ Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
☐ Residentially distressed area (IC 6-1.1-12.1-4.1)

INSTRUCTIONS:

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
- To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
- A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
- For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1 TAXPAYER INFORMATION					
Name of taxpayer Lippert Components Manufacturing, Inc.					
Address of taxpayer (number and street, city, state, and ZIP code) 3501 County Road 6 East, Elkhart, IN 46514					
Name of contact person Tom Bauters		Telephone number (574) 312-6159		E-mail address tbauters@lci1.com	
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT					
Name of designating body City of Mishawaka				Resolution number	
Location of property 400 South Byrkit Avenue, Mishawaka, IN 46544		County St. Joseph		DLGF taxing district number 023 - Mish	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Remodel existing facility 347,000 sq. ft: \$3,000,000 Construct new 79,200 sq. ft building addition: \$3,200,000 Asphalt parking lot for 380 parking spaces and 40 semi truck spaces: \$1,200,000				Estimated start date (month, day, year) August 1, 2017	
				Estimated completion date (month, day, year) August 1, 2019	
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT					
Current number 247.00	Salaries \$10,354,808.00	Number retained 247.00	Salaries \$10,354,808.00	Number additional 200.00	Salaries \$7,800,000.00
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT					
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values		1,760,341.00		4,485,000.00	
Plus estimated values of proposed project		7,400,000.00			
Less values of any property being replaced		0.00			
Net estimated values upon completion of project		9,160,341.00			
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER					
Estimated solid waste converted (pounds) _____		Estimated hazardous waste converted (pounds) _____			
Other benefits					
SECTION 6 TAXPAYER CERTIFICATION					
I hereby certify that the representations in this statement are true.					
Signature of authorized representative TS Bauters, CPA				Date signed (month, day, year) 06/12/2017	
Printed name of authorized representative Tom Bauters				Title Assistant Treasurer & Tax Director	

FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed _____ calendar years* (see below). The date this designation expires is _____.
- B. The type of deduction that is allowed in the designated area is limited to:
1. Redevelopment or rehabilitation of real estate improvements ☐ Yes ☐ No
 2. Residentially distressed areas ☐ Yes ☐ No
- C. The amount of the deduction applicable is limited to \$ _____.
- D. Other limitations or conditions (specify) _____
- E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☐ Year 5 (* see below)
☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?
☐ Yes ☐ No
 If yes, attach a copy of the abatement schedule to this form.
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number ()	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by (signature and title of attester)	Printed name of attester	

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. The deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

- (b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
- (c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



CITY OF MISHAWAKA

DAVID A. WOOD, MAYOR

BUILDING - COMMUNITY DEVELOPMENT - PLANNING

June 29, 2017

RECEIVED
DEBORAH S. BLOCK, MMC

JUN 23 2017

CITY CLERK
MISHAWAKA, IN

Mr. Woody Emmons, 1st District City Council
Mr. Mike Bellovich, 2nd District City Council
Mr. Ross Deal, 3rd District City Council
Mrs. Kate Voelker, 4th District City Council
Mr. Michael Compton, 5th District City Council
Mr. Ron Banicki, 6th District City Council
Mr. Joe Canarecci, At-Large City Council
Mr. Matt Mammolenti, At-Large City Council
Mr. Bryan Tanner, At-Large City Council
Mrs. Deborah Block, City Clerk

**Re: Declaratory Resolution 2017-18
Personal Property Tax Abatement for Jamil Packaging Corporation**

Dear Council Members and Clerk:

Attached is Declaratory Resolution 2017-18 for a tax abatement request filed for consideration at your July 5, 2017 meeting. The request is for Jamil Packaging Corporation, which is located at 1420 Industrial Drive, in the City of Mishawaka. Jamil Packaging Corporation manufactures corrugated paper boxes and distributes shipping supplies.

Because the properties are located within the City's TIF District boundary, the Redevelopment Commission had to consider and approve the tax abatement request prior to proceeding to the Common Council. The Redevelopment Commission approved this request at their June 26, 2017 meeting.

Jamil Packaging, a family owned company, was founded in 1974. The firm moved to the Mishawaka location in 2002, and purchased the vacant Elco-Thermoplastics building. The firm maintains its Midwest Operations at this facility, and has its Southeast Operations located in Gallatin, Tennessee. To learn more information about the company, please visit www.jamilpkg.com.

As you may recall, Jamil Packaging came before the Council in 2006, 2008, and 2011 requesting tax abatements for previous equipment purchases. Each of these abatement requests were granted and have allowed the company to purchase equipment it otherwise would not have had the capacity to do so, along with hiring more employees than projected, and at a higher wage rate. The hometown firm has since grown dramatically and continues to strive to serve its customers and offer new and innovative products.

Jamil Packaging has approached the City with plans to make a capital investment of \$1.5 million, including new manufacturing equipment and facility upgrades to support the equipment. With this investment, Jamil will purchase a new digital printer which will allow for printing on larger corrugated materials including current boxes and POP displays. The firm has stated that the addition of this piece of equipment to their production line will allow for growth outside of their existing territory which is already saturated with competition.

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City Hall • 600 East Third Street • Mishawaka IN • 46544-2241
Community Development • Redevelopment • Economic Development Phone: (574) 258-1609 Fax: (574) 968-6999
Planning • Historic Preservation Phone: (574) 258-1625 Fax: (574) 968-6999
E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

Jamil is committed to begin installation of the new manufacturing equipment the 3rd quarter of 2017 with an anticipated completion by August 1, 2017. In conjunction with this tax abatement request, the firm has not requested any additional assistance from either the City of Mishawaka or the State of Indiana, through the Indiana Economic Development Corporation (IEDC).

The Mishawaka location, which includes 179,000 square feet of manufacturing and warehousing space, currently employs 112 people (87 hourly, 25 salary). Employment has increased 53 percent, up from 73 employees when the last tax abatement was approved in 2011. Their total current payroll is approximately \$3.6 million, which is nearly \$1 million higher than total payroll in 2011. Wages for hourly workers, excluding benefits, range from \$11.00 to just under \$20.00 with an average wage of \$15.66.

As a direct result of this investment, Jamil estimates that an additional eight (8) new jobs will be created increasing total employment to 120. The hourly wage rate for the new hires, excluding benefits, is projected at \$11.00 to \$23.00 with an average wage of \$15.00. Total salaries for the new jobs are estimated at \$249,600. Benefits that are available to employees include health insurance, vacation and sick leave (which are based upon length of employment), 401(k), and profit sharing plans.

In addition to the Declaratory Resolution, attached is the applicant's SB-1 form for personal property (SB-1/PP), and the tax abatement application with supporting information for your review. Based upon the Council's approval of previous and similar projects, the size of capital investment and the number of jobs created, the direct relationship with the growth and stability of the Mishawaka facility, and additionally, with the new equipment, the company's ability to impact future new business, we believe the request for a three-year phase-in of the personal property taxes on the new piece of equipment is reasonable and has precedent.

Below is the estimated tax impact if the 3-year tax phase-in is approved. Projecting the tax impact with certainty is always difficult due to differences between the investment amount and assessed value, and fluctuations in tax rates and other unknown factors over the life of the abatement. This projection is based upon an anticipated assessed value equivalent to the \$800,000 purchase price for the new equipment. Usually, the assessment is lower than the purchase price, but in this case, could be higher as the new equipment is being purchased at a discounted rate. This is why the total capital investment is listed at \$1.5 million. Since the benefit is based upon assessed value, the phase-in would also be adjusted proportionately if assessed higher. This estimate also factors in the property tax cap rates for St. Joseph County:

Personal Property:

Year	Year / Year Payable	Percent Abated	Taxes Abated	Taxes Paid
1	2017 / 2018	100%	\$25,981 ^a	\$0
2	2018 / 2019	66%	\$17,147	\$8,834
3	2019 / 2020	33%	\$8,574	\$17,407
TOTALS			\$51,702	\$26,241
4 ^b	2020 / 2021	0%	\$0	\$25,981

^aProperty taxes are abated on new machinery only.

^bApplicant begins paying full property taxes upon the new machinery.

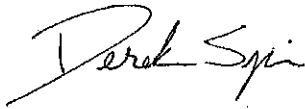
We feel that the investment in new equipment should allow Jamil Packaging to remain a competitive force in the global economy, continue to improve production efficiencies, while retaining good-paying jobs and benefits to local workers. Therefore, we have utilized the economic development tool of tax abatement as an incentive to bring this new capital investment into the community.

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As you are aware, tax abatement requests before the Common Council are considered in two steps. The first step is the Declaratory Resolution where the abatement is essentially accepted for consideration. Once the Declaratory Resolution is approved, the Clerk's Office has specific advertising requirements to notify other taxing entities within the jurisdiction that could be impacted by the abatement. This allows for input from those other taxing units prior to the Council's consideration and vote on the request. The second step is the hearing and consideration of a confirming resolution where the merits of the request are considered. The only item being considered at the July 5th meeting is the declaratory resolution, which staff is recommending approval of to allow the appropriate advertising to take place. If the declaratory resolution is approved, a confirming resolution will be prepared for consideration at your July 17th meeting.

Please do not hesitate to contact our department with any questions.

Sincerely,



Derek J. Spier, AICP
Senior Planner & Economic Development Specialist

cc: David A. Wood, Mayor
Kenneth B. Prince, ASLA, AICP

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E-mail: planning@mishawakacity.com and communitydevelopment@mishawakacity.com

RESOLUTION NO. 2017-18

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MISHAWAKA,
INDIANA DECLARING CERTAIN AREAS WITHIN THE CITY OF MISHAWAKA,
INDIANA, KNOWN AS:

1420 INDUSTRIAL DRIVE, MISHAWAKA, IN 46544

TO BE AN ECONOMIC REVITALIZATION AREA
AND ECONOMIC DEVELOPMENT TARGET AREA
FOR PURPOSES OF PERSONAL PROPERTY TAX ABATEMENT FOR

JAMIL PACKAGING CORPORATION

WHEREAS, a petition for personal property tax abatement has been filed with the City Clerk of the City of Mishawaka, Indiana for consideration by the Common Council of the City of Mishawaka, Indiana requesting 1420 Industrial Drive, Mishawaka, Indiana 46544 to be an Economic Revitalization Area and Economic Development Target Area under the provisions of Indiana Code § 6-1.1-12.1-1 et seq. (the "Act"):

A lot or parcels of land described as follows:

TAX KEY #027-1027-043620 AND 027-1001-026008, AS LEGALLY DESCRIBED IN ATTACHMENT "A" TO THIS RESOLUTION AND HEREBY INCORPORATED HEREIN.

All of the above described property being located within the municipal corporation limits of the City of Mishawaka, Indiana, and

WHEREAS, the City, through its Redevelopment Commission has conducted an investigation and prepared a report with information sufficient for the Common Council to determine that the area qualifies as an Economic Revitalization Area and Economic Development Target Area under Indiana Code § 6-1.1-12.1-1 et seq., and has further prepared maps and plats showing the boundaries and such other information regarding the area in question as required by law; and

WHEREAS, the Redevelopment Commission has reviewed said report and recommended to the Common Council that the area qualifies as an Economic Revitalization Area and Economic Development Target Area.

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

1. The Common Council hereby determines and finds that the Petition for Personal Property Tax Abatement and the Statement of Benefits form completed by the Petitioner meet the requirements under the Act for tax abatement;

2. That the description of the proposed redevelopment or rehabilitation meets the applicable standards for such development;
3. That the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of this nature;
4. That the estimate of the number of individuals who will be employed or whose employment will be retained by the Petitioner can reasonably be expected to result from the proposed described redevelopment or rehabilitation;
5. That the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained by the Petitioner can be reasonably expected to result from the proposed redevelopment or rehabilitation;
6. That the other benefits are sufficient to justify the requested deduction, all of which satisfy the requirements of the Act;
7. The Common Council hereby accepts the report and recommendation of the Redevelopment Commission that the area herein described be designated as an Economic Revitalization Area and Economic Development Target Area, and hereby adopts a Resolution designating this area as an Economic Revitalization Area and Economic Development Target Area for purposes of personal property tax abatement;
8. ~~The designation as an Economic Revitalization Area and Economic Development Target Area shall be limited to three (3) calendar years from the date of the adoption of this Resolution by the Common Council;~~
9. The Common Council directs the City Clerk to cause notice of the adoption of this Declaratory Resolution for the Personal Property Tax Abatement to be published pursuant to Indiana Code § 5-3-1 and Indiana Code § 6-1.1-12.1-2.5, said publication providing notice of the public hearing before the Common Council on the proposed confirming of said declaration; AND
10. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approval by the Mayor.

ADOPTED by the Common Council of the City of Mishawaka, St. Joseph County, Indiana, this ____ day of July, 2017.

Ross Deal, 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 July, 2017.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED AND SIGNED by me this _____ day of July, 2017, at _____ o'clock _____.M.

David A. Wood, Mayor

Attachment "A"
Legal Description

A part of the West Half (1/2) of the Northeast Quarter (1/4) of Section Twenty-two (22), Township Thirty seven (37) North, Range Three (3) East, Penn Township, City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Beginning at a set pk nail at the East Right-of-Way line of Penz Industrial Drive and the Northwest corner of Parcel III. As Parcel II is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109, which is South 00°01'18" West (South 00°01'35" East Record) a distance of 834.44 feet and North 90°00'00" East (North 89°57'07" East Record) a distance of 670.45 feet from a found 1" rod at the northwest corner of the Northeast Quarter of said Section Twenty Two (22); thence South 89°51'49" East (South 89°53'09" East Record) Along the north line of said Parcel III a distance of 786.46 feet to a set five eighths (5/8) inch rebar with cap at the Northeast corner of Parcel V as Parcel V is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109; thence South 00°01'01" West (South 00°00'09" East Record) Along the East line of said Parcel V a distance of 487.26 feet (487.37 feet Record) to a set five-eighths (5/8) rebar with cap at the Southeast corner of Parcel V and South Line of the North Half (1/2) of the Northeast Quarter (1/4) of said section Twenty-Two (22) thence North 89°52'39" West (North 89°55'32" West Record) along the South line of said Parcel V and the South line of the North Half (1/2) of the Northeast Quarter (1/4) of said Section Twenty-Two (22) a distance of 1126.30 Feet to a set five-eighths (5/8) inch rebar with cap at the Southwest Corner of Parcel II as Parcel II is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109; thence North 00°01'18" East (North 00°01'35" West Record) along the West line of said Parcel II a distance of 331.10 feet to a set five-eighths (5/8) inch rebar with cap at the Northwest corner of said Parcel II; thence North 90°00'00" East (North 89°57'07" East Record) along the North line of said Parcel II a distance of 300.00 feet to a set pk nail at the West right-of-way line of Penz Industrial Drive; thence South 00°01'18" West (South 00°01'35" East Record) along said Right-of-way line and the East line of said Parcel II a distance of 3.69 Feet to a set pk nail at a point on a curve having a radius of 71.00 Feet; thence bearing left along said curve and right-of-way line an arc distance of 77.91 feet (chord bearing and distance = South 31°27'28" West 74.06 Feet) to a set five-eighths (5/8) inch rebar with cap at a point on a curve having a radius of 54.00 feet; thence bearing right along said curve and right-of-way line an arc distance of 144.08 feet (chord bearing and distance = South 13°32'36" East, 104.99 Feet) to a set five-eighths inch rebar with cap at a point on a curve having a radius of 14.00 feet; Thence bearing left along said curve and right-of-way line an arc distance of 21.99 feet (chord bearing and distance = South 04°58'45" East 19.80 Feet) to a set pk nail; thence South 89°52'39" East a distance of 40.00 feet to a set five-eighths inch rebar with cap at the East Right-of-way line of Penz Industrial Drive; thence North 00°01'18" East (North 00°01'35" West Record) a distance of 338.65 feet to the point of beginning, containing 11.07 acres, more or less, subject to public highway and any easements of record, if any.



STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51764 (R4 / 11-15)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

INSTRUCTIONS

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body BEFORE a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
2. The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between January 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between January 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved, must submit Form CF-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. For a Form SB-1/PP that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/PP that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. (IC 6-1.1-12.1-17)

SECTION 1 TAXPAYER INFORMATION											
Name of taxpayer Jamil Packaging Corporation					Name of contact person David J. Herschberger						
Address of taxpayer (number and street, city, state, and ZIP code) 1420 Industrial Dr, Mishawaka, IN 46544							Telephone number (574) 256-2600				
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT											
Name of designating body City of Mishawaka Common Council					Resolution number (s)						
Location of property 1420 Industrial Dr, Mishawaka, IN 46544				County St. Joseph		DLGF taxing district number 71022					
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary.) Digital Printer for larger printing capability on corrugated materials including our current boxes and POP displays					ESTIMATED						
							START DATE	COMPLETION DATE			
					Manufacturing Equipment		07/20/2017	08/31/2017			
					R & D Equipment						
					Logist Dist Equipment						
IT Equipment											
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT											
Current number 112		Salaries 3,647,509		Number retained 112		Salaries 3,647,509		Number additional 8		Salaries 249,600	
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT											
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.		MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT			
		COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE	COST	ASSESSED VALUE		
Current values		8,192,090									
Plus estimated values of proposed project		1,500,000									
Less values of any property being replaced		0									
Net estimated values upon completion of project		9,692,090									
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER											
Estimated solid waste converted (pounds)					Estimated hazardous waste converted (pounds)						
Other benefits:											
SECTION 6 TAXPAYER CERTIFICATION											
I hereby certify that the representations in this statement are true.											
Signature of authorized representative David A. Dirrell							Date signed (month, day, year) 6/22/2017				
Printed name of authorized representative David A. Dirrell							Title President				

FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

A. The designated area has been limited to a period of time not to exceed _____ calendar years * (see below). The date this designation expires is _____. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*

B. The type of deduction that is allowed in the designated area is limited to:

1. Installation of new manufacturing equipment;

☐ Yes ☐ No

☐ Enhanced Abatement per IC 6-1.1-12.1-18

2. Installation of new research and development equipment;

☐ Yes ☐ No

Check box if an enhanced abatement was approved for one or more of these types.

3. Installation of new logistical distribution equipment.

☐ Yes ☐ No

4. Installation of new information technology equipment;

☐ Yes ☐ No

C. The amount of deduction applicable to new manufacturing equipment is limited to \$ _____ cost with an assessed value of \$ _____. *(One or both lines may be filled out to establish a limit, if desired.)*

D. The amount of deduction applicable to new research and development equipment is limited to \$ _____ cost with an assessed value of \$ _____. *(One or both lines may be filled out to establish a limit, if desired.)*

E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ _____ cost with an assessed value of \$ _____. *(One or both lines may be filled out to establish a limit, if desired.)*

F. The amount of deduction applicable to new information technology equipment is limited to \$ _____ cost with an assessed value of \$ _____. *(One or both lines may be filled out to establish a limit, if desired.)*

G. Other limitations or conditions (specify) _____

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction is allowed for:

☐ Year 1

☐ Year 2

☐ Year 3

☐ Year 4

☐ Year 5

☐ Enhanced Abatement per IC 6-1.1-12.1-18

☐ Year 6

☐ Year 7

☐ Year 8

☐ Year 9

☐ Year 10

Number of years approved: _____
(Enter one to twenty (1-20) years; may not exceed twenty (20) years.)

I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17? ☐ Yes ☐ No
If yes, attach a copy of the abatement schedule to this form.
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved by: (signature and title of authorized member of designating body)

Telephone number

Date signed (month, day, year)

Printed name of authorized member of designating body

Name of designating body

Attested by: (signature and title of attester)

Printed name of attester

* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

IC 6-1.1-12.1-17

Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

(1) The total amount of the taxpayer's investment in real and personal property.

(2) The number of new full-time equivalent jobs created.

(3) The average wage of the new employees compared to the state minimum wage.

(4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



City of Mishawaka

Building - Community Development - Planning

APPLICATION FOR DESIGNATION AS AN ECONOMIC REVITALIZATION AREA

PERSONAL PROPERTY TAX ABATEMENT

Indiana State law requires that the designation application and statement of benefits form (SB-1/PP) be submitted prior to the initiation of the project. Additionally, final approval of the Economic Revitalization Area designation must be obtained before starting the installation of the new manufacturing equipment for which tax abatement is being requested.

Prior to submitting the attached application to the City's Department of Planning & Community Development, all questions must be answered as completely as possible and must be signed on the Statement of Benefits Form (SB-1/PP) and last page of the application. Incomplete or unsigned applications will not be accepted. A non-refundable application fee of \$300.00 is required when making an application for Economic Revitalization Area designation and is payable to the City of Mishawaka at the time of submission.

All firms requesting Economic Revitalization Area designation are required to conduct an initial site visit with city staff members prior to a public hearing on the tax abatement request. During that visit, the company shall reveal the capital investment levels, job creation and/or retention levels and hourly wage rates the applicant has committed to the City of Mishawaka in order to receive consideration for Economic Revitalization Area designation and tax abatement deduction.

Additionally, the City of Mishawaka, by and through the Common Council, reserves the right to rescind or "claw back" an Economic Revitalization Area designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, as well as the applicant's failure to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City rescinds the Economic Revitalization Area designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be determined at the time of the "claw back."

Questions, applications, and fees should be directed to the:

City of Mishawaka
Building - Community Development - Planning
600 East Third Street
Mishawaka, Indiana 46544
Attention: Kenneth B. Prince, City Planner
574-258-1625
kprince@mishawaka.in.gov

1. Name of the firm for which tax abatement is being requested:
Jamil Packaging Corporation

2. State the name, title, address and telephone number of a company representative(s) who may be contacted concerning this application:

Name and Title: David A. Diroll, President

Address: 1420 Industrial Dr., Mishawaka, IN 46544

Telephone: 574-256-2600

3. State the name, title, address and telephone number of a company representative(s) who may be sent annual compliance forms. Please note that the annual forms will determine if your company is compliant with the terms of the abatement and whether the abatement will continue or be terminated, so the contact should be made aware of the form's importance.

Name and Title: David Herschberger, CFO

Address: 1420 Industrial Dr., Mishawaka, IN 46544

Telephone: 574-256-2600

4. Location of property for which personal property tax abatement is being sought (this information is available through the Township Assessor's Office):

a) Street Address: 1420 Industrial Dr., Mishawaka, IN 46544

b) Township: Penn

c) Taxing District Number: 71022

d) Council District Number: 2

e) Tax Parcel Number(s): 027-1027-043620 and 027-1001-026008

5. What is the amount of the most recent assessment attributable to (this information is available on the most recent property tax form):

Land: \$137,500

Improvements: \$530,400

Inventory: _____

Equipment: \$2,174,680

6. Has this project/tax abatement request been discussed with City of Mishawaka Staff and has a site visit been conducted? Yes ☒ No
7. Does your firm currently conduct manufacturing operations at this location? If so, how long has your company been at this location? Yes, 2002

a) Please provide your firm's North American Industry Classification System (NAICS) Code Classification. _____

322212

b) Please list any special certifications/designations. _____

N/A

8. Does your firm have other operations in the US? In Indiana? If so, please list the location of other operations. Also please indicate the location of your firm's headquarters if not located in Mishawaka.

540 National Dr

Gallatin, TN, 37066

9. What is the size of the existing facility in which the equipment will be installed?

179,000 square feet

a) What is your facility currently zoned? Industrial b) Do you need rezoning? No

10. Briefly describe the product(s) manufactured by your company. Corrugated materials

11. Briefly describe the equipment to be installed by your company. Digital Printer

12. Has new manufacturing equipment been installed (Please note that state statute requires petitioner to delay installation until after abatement has been granted)? Yes ☒ No

13. What is the anticipated date for installation to begin? 3rd quarter 2017

14. What is the anticipated date for project completion? 8/1/17

*(If installation will occur over a multi-year/phased-in period or involve multiple pieces of equipment, please provide a separate detailed installation timetable and note when equipment will be ready to use in production and attach this information to the SB-1/PP.)

15. Does the equipment being installed serve the same function as the equipment currently in place at the facility? Yes X No

- a) If no, please describe the new functions to be performed by the new manufacturing equipment:

We will be able to print on materials in addition to corrugated

- b) What is the estimated value of the equipment to be purchased for which personal property tax abatement is being requested? (If possible, please provide a written quote or estimate attached to this application.) \$1,500,000

16. Profile of firm that will occupy the property for which tax abatement is being requested:

- a) Are your employees represented by a union? If so, by whom? No

- b) Number of current full time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	<u> 76 </u>	Average hourly wage rate for skilled positions	<u> 12.50 </u>
---------	---------------	--	------------------

Semi-skilled	<u> 8 </u>	Average hourly wage rate for unskilled positions	<u> 11.00 </u>
--------------	--------------	--	------------------

Clerical	<u> 3 </u>	Average hourly wage rate for clerical positions	<u> 19.87 </u>
----------	--------------	---	------------------

Salaried	<u> 25 </u>	Average salary (per hour) for salaried positions	<u> 26.24 </u>
----------	---------------	--	------------------

TOTAL NUMBER OF TEMPORARY/ON-CALL EMPLOYEES (if any)	<u> 0 </u>
--	----------------------

TOTAL NUMBER OF EXISTING EMPLOYEES (permanent and full-time)	<u> 112 </u>
--	----------------------

- c) What benefits are offered to your company's employees? (i.e. sick time, vacation, health insurance, 401(k), other retirement benefits, profit sharing, etc.) Vacation, Health Insurance, 401(k), profit-sharing

- d) Approximate value of benefits for existing and new employees on a per hour basis (i.e. benefits are valued at an additional \$3.00 per hour, etc.) \$2.60 - \$6.65

- e) What is the total dollar amount spent on retained salaries? 3,647,509 per 16.b

- f) Number of newly created full-time permanent hourly employees by skill level (include average hourly wage rate excluding benefits and overtime)

Skilled	<u>3</u>	Average hourly wage rate for skilled positions	<u>12.00</u>
Semi-skilled	<u>2</u>	Average hourly wage rate for unskilled positions	<u>11.00</u>
Clerical	<u>1</u>	Average hourly wage rate for clerical positions	<u>16.00</u>
Salaried	<u>2</u>	Average salary (per hour) for salaried positions	<u>23.00</u>

TOTAL NUMBER OF NEW EMPLOYEES (permanent and full-time) 8

- g) What is the total dollar amount to be spent on new salaries? \$249,600
- h) What is the blended hourly wage rate (the blended rate of hourly and salaried employees), excluding benefits and overtime, for:

Current hourly employees	<u>15.66</u>
Retained hourly employees	<u>15.66</u>
New hourly employees	<u>15.00</u>

- f) What is the usual market for goods produced by the company? List the percentage of the company's product that reaches it:

Inside St. Joseph County:	<u>30</u> %
Outside St. Joseph County, but inside Indiana:	<u>40</u> %
Outside Indiana, but within 500 miles	<u>30</u> %
Outside of 500 miles	<u> </u> %
Outside of the United States:	<u> </u> %

- g) Where do your company's raw materials/supplies come from? List the percentage of the supplies that are acquired from each category:

Inside St. Joseph County:	<u>10</u> %
Outside St. Joseph County, but inside Indiana:	<u>85</u> %
Outside Indiana, but within 500 miles:	<u>5</u> %
Outside 500 miles of Indiana:	<u> </u> %
Outside of the United States:	<u> </u> %

- h) List the name and location (City and State) of your five largest vendors or suppliers:

1. Alliance Sheets, Bristol, IN
2. 5-Star Sheets, New Carlisle, IN
3. Flutes, Indianapolis, IN
4. Georgia Pacific, Akron, Ohio
5. _____

17. Please give a detailed description of what the impact on your business will be if the new manufacturing equipment is not installed (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

Company growth will be limited to the existing territory already saturated with
competition.

18. Please briefly describe how and why the manufacturing equipment to be replaced or the facility in which equipment will be added is currently technologically, economically, or energy obsolete and how and why that obsolescence may lead to a decline in employment and tax revenues.

Not applicable. This is new technology and will only add jobs and
add capabilities.

19. Will you require any additional assistance from the City of Mishawaka?

Not at this time

20. Have you applied for any assistance from the State of Indiana?

21. Miscellaneous Attachments Required:

- Attach the legal description of the property where the equipment is to be located, marked Exhibit A, and hereby incorporated herein.
- Attach a map and/or a plan of the property where the equipment is to be located, marked Exhibit B, and is hereby incorporated herein.

I hereby certify that the information and representations on this application for Personal Property Tax Abatement are true and complete.

I understand that if this request for property tax abatement is granted that I will be required to participate in a mandatory annual compliance process. The survey will measure compliance with the project description, job creation and retention figures (and associated salaries), investment, and other information contained in the final resolution authorizing the property tax abatement. I also acknowledge that failure to respond to the mandatory annual compliance or failure to achieve investment, job creation, retention, and salary levels contained in the final resolution may result in a loss of tax abatement deductions, and may result in the repayment of tax abatement savings received.

Ward A. Dill

Signature of Owner or Authorized Representative

President

Title

5-31-17

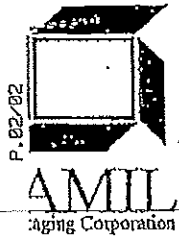
Date

Exhibit 'A'
Legal Description

A part of the West Half (1/2) of the Northeast Quarter (1/4) of Section Twenty-two (22), Township Thirty seven (37) North, Range Three (3) East, Penn Township, City of Mishawaka, St. Joseph County, Indiana more particularly described as follows:

Beginning at a set pk nail at the East Right-of-Way line of Penz Industrial Drive and the Northwest corner of Parcel III. As Parcel III is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109, which is South 00°01'18" West (South 00°01'35" East Record) a distance of 834.44 feet and North 90°00'00" East (North 89°57'07" East Record) a distance of 670.45 feet from a found 1" rod at the northwest corner of the Northeast Quarter of said Section Twenty Two (22); thence South 89°51'49" East (South 89°53'09" East Record) Along the north line of said Parcel III a distance of 786.46 feet to a set five eighths (5/8) inch rebar with cap at the Northeast corner of Parcel V as Parcel V is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109; thence South 00°01'01" West (South 00°00'09" East Record) Along the East line of said Parcel V a distance of 487.26 feet (487.37 feet Record) to a set five-eighths (5/8) rebar with cap at the Southeast corner of Parcel V and South Line of the North Half (1/2) of the Northeast Quarter (1/4) of said section Twenty-Two (22) thence North 89°52'39" West (North 89°55'32" West Record) along the South line of said Parcel V and the South line of the North Half (1/2) of the Northeast Quarter (1/4) of said Section Twenty-Two (22) a distance of 1126.50 Feet to a set five-eighths (5/8) inch rebar with cap at the Southwest Corner of Parcel II as Parcel II is recorded in the records of the St. Joseph County, Indiana Recorder's Office as Document Number 9341109; thence North 00°01'18" East (North 00°01'35" West Record) along the West line of said Parcel II a distance of 331.10 feet to a set five-eighths (5/8) inch rebar with cap at the Northwest corner of said Parcel II; thence North 90°00'00" East (North 89°57'07" East Record) along the North line of said Parcel II a distance of 300.00 feet to a set pk nail at the West right-of-way line of Penz Industrial Drive; thence South 00°01'18" West (South 00°01'35" East Record) along said Right-of-way line and the East line of said Parcel II a distance of 3.69 Feet to a set pk nail at a point on a curve having a radius of 71.00 Feet; thence bearing left along said curve and right-of-way line an arc distance of 77.91 feet (chord bearing and distance = South 31°27'28" West 74.06 Feet) to a set five-eighths (5/8) inch rebar with cap at a point on a curve having a radius of 54.00 feet; thence bearing right along said curve and right-of-way line an arc distance of 144.08 feet (chord bearing and distance = South 13°32'36" East, 104.99 Feet) to a set five-eighths inch rebar with cap at a point on a curve having a radius of 14.00 feet; Thence bearing left along said curve and right-of-way line an arc distance of 21.99 feet (chord bearing and distance = South 04°58'45" East 19.80 Feet) to a set pk nail; thence South 89°52'39" East a distance of 40.00 feet to a set five-eighths inch rebar with cap at the East Right-of-way line of Penz Industrial Drive; thence North 00°01'18" East (North 00°01'35" West Record) a distance of 338.65 feet to the point of beginning, containing 11.07 acres, more or less, subject to public highway and any easements of record, if any.

EXHIBIT B



P. 02/02

AMIL
Imaging Corporation

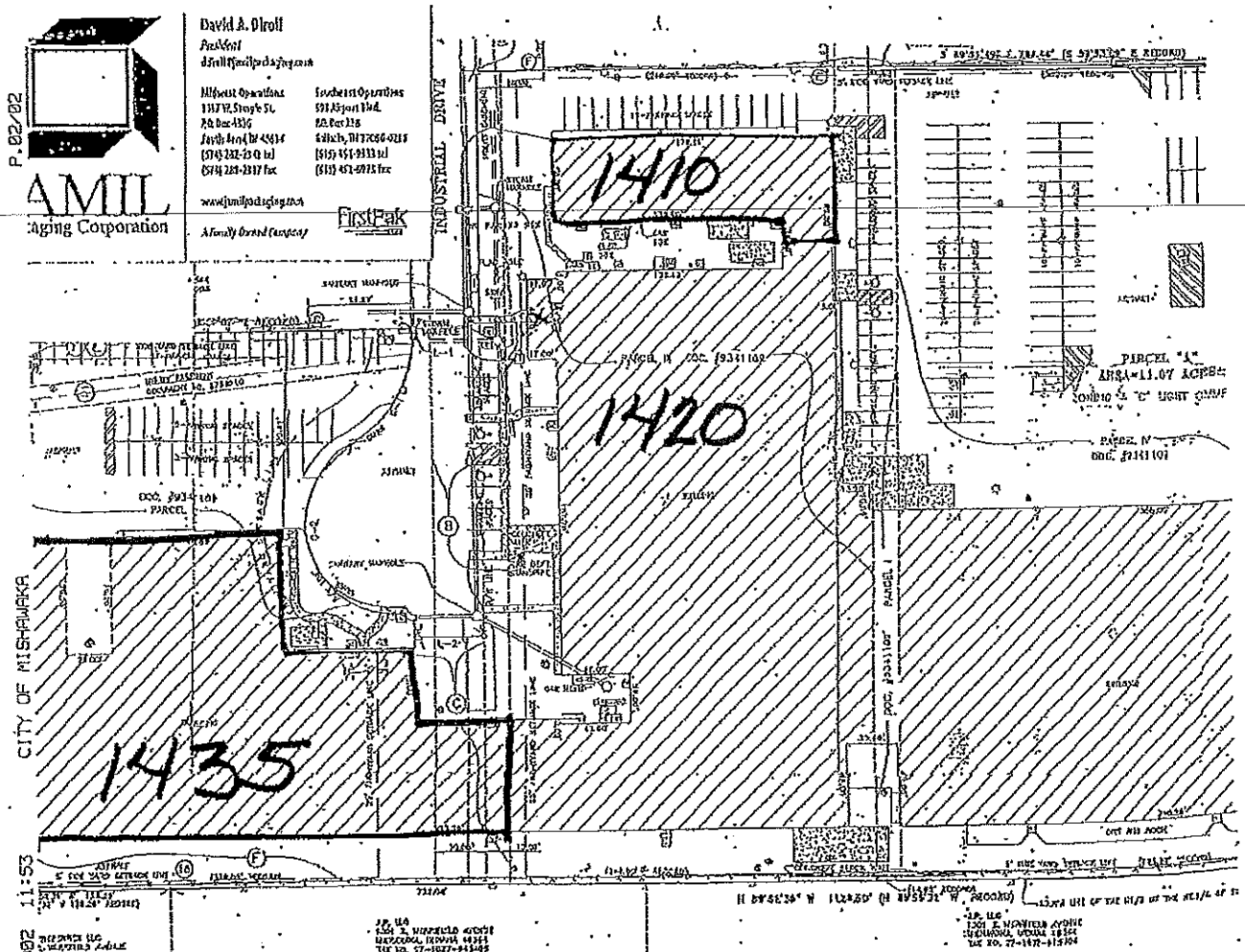
David A. Droll
President
ddroll@amilimaging.com

Midwest Operations
1117 W. State St.
P.O. Box 4316
Jenks, MO 64504
(573) 222-2300 tel
(573) 222-2317 fax

Southeast Operations
5915 Joni Blvd.
Bldg. 115
Gibbstown, NJ 08028
(610) 451-9133 tel
(610) 451-9975 fax

www.amilimaging.com
A family owned company

FirstPak



CITY OF MISAWAKA

NOV-13-2002 11:53

1117 W. State St.
Jenks, MO 64504
(573) 222-2300

J.P. HA
1501 S. UNIVERSITY AVENUE
ST. LOUIS, MO 63104
TEL 314-77-1157

J.P. HA
1501 S. UNIVERSITY AVENUE
ST. LOUIS, MO 63104
TEL 314-77-1157

Handwritten notes:
K...
AC Realty
Ray K...
R... LLC

JUN 15 2017

PETITION 17-12

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-24

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

1st Reading 6-19-17
2nd Reading
Passed
Failed
Continued To

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:

The parcel is legally described as: A lot of parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: Commencing at the Northwest Corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South 1°23'35" East, to the point of beginning; thence continuing South 1°23'35" East 150 feet; thence North 89°45'05" East 97.82 feet; thence North 1°19'03" West 150 feet; thence North 89°45'49.5" East 198.01 feet to the point of beginning.

COMMON ADDRESS: 2030 North Merrifield Avenue

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-2 Two-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. There are multiple zonings in the immediate vicinity and many of the structures south of Cedar are residential in use. The change in zoning would be compatible to the area;

Proposed Ordinance No: 17-24

Ordinance No: _____

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, and its relationship to surrounding properties, staff feels that the most desirable use for this property is residential use;
3. Because the parcel is located in an area of transition between residential properties south of Cedar to the Commercial properties along McKinley, the rezoning to R-2 Two-Family Residential is a desirable use for this property;
4. As opposed to the range of potential industrial development that could occur with its current zoning, rezoning this property to the R-2 Two Family Residential classification will have a favorable and stabilizing impact on the neighborhood, conserving property values in the immediate and surrounding residential neighborhood; and will hopefully allow the property owner to maintain and sell the property easier; and,
5. The City's Comprehensive Plan calls for general commercial which is consistent with the area to the north along McKinley.

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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____M.

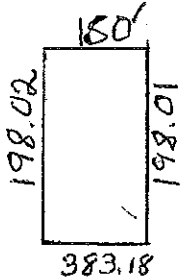
David A. Wood, Mayor

MAY 31 2017

DATE: May 23, 2017
FROM: Dow Family Real Estate LLC
RE: Petition to Rezone to R-2

CITY CLERK
MISHAWAKA, IN

The undersigned appellant respectfully shows the Board: We, the Dow Family Real Estate L.L.C. (John and Carole Dow), are the owners of the following described real estate located within the City of Mishawaka, Penn Township, St. Joseph County, State of Indiana, to-wit:



A lot of parcel of land in the Northeast Quarter of Section 10, Township 37 North, Range 3 East, more particularly described as follows: commencing at the Northwest Corner of the Northeast Quarter of said Section 10; thence proceeding South 388.33 feet along the West line of the Northeast Quarter of said Section 10, which has an assumed bearing of South $1^{\circ}23'35''$ East, to the point of beginning; thence continuing South $1^{\circ}23'35''$ East 150 feet; thence North $89^{\circ}45'05''$ East 97.82 feet; thence North $1^{\circ}19'03''$ West 150 feet; thence North $89^{\circ}45'49.5''$ East 198.01 feet to the point of beginning.

The common address is: 2030 North Merrifield, Mishawaka, IN 46545.

The above described real estate presently has a zoning classification of C-1 General Commercial District with a variance under the Zoning Ordinance of the City of Mishawaka. We presently occupy the above described property in the following manner: use the apartment on the second floor rent free to an individual who helps us maintain as well as watch for problems when we are not in town. We occupy the first floor when we are in town, which is typically in the spring for approximately two months and in the fall for three-four months.

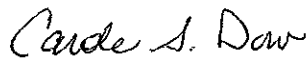
We wish to rezone our property to Residential-2 as we now have a two apartment building. We do not feel that approval for this change would be injurious to the public health, safety, morals or general welfare of the community. Nor do we believe that the use and value of the area adjacent to the property included in the variance would be affected in a substantially adverse manner. Currently there is a State Farm business on the South side of the property which was at one time a home that fronts Cedar. On the North side of our property there is now a garage door business. On the corner of N. Merrifield and McKinley is a pawn shop. Across the street and South there is an automobile parts store which faces Cedar. Then directly across the street on N. Merrifield there is currently a vacant building, a tool & die operation, an automobile repair shop as well as a plumber shop. There is a sign shop on the Northeast corner of N. Merrifield and McKinley. The residential area is across Cedar and so we believe the street serves as a buffer between our property and this area.

The enclosed diagram (which is not to scale) indicates that we would have grass on the North side of the building with approximately 5 feet of mulch from fence to grass area running along the fence line. Only the two drains that are located on the North side would be covered so that no dirt would fall into the drains. This would mean that the entire area with grass should be enough area for water (when it rains) to soak into the ground. There would be a pathway on the Northwest corner of the building so that there would be easy access to the

outside basement steps. The grass would continue along the back of the property and end approximately even with the entrance to the garage. There would be rock (approximately 5 feet wide) running along the back of the property. The asphalt would remain where the grass stops and continue on the South side to Merrifield. Cars would have enough room to turn around and there would be space for at least three-four cars to park on the South side. In the front (West side) of the property there would be approximately 26 feet of mulch. A little to the North but in front of the building would be a raised garden box (approximately 4 feet x 4 feet). A short distance from the street we would plant 8 (eight) Boxwoods probably spaced 2 (two) in a grouping four times.

We also do not believe that approval of our rezone request to Residential-2 would substantially interfere with the Mishawaka 2000 Comprehensive plan. We further believe that by our property being rezoned to Residential-2 we will have a better chance of selling the property when the time comes that we cannot spend time in Indiana due to our age and health.

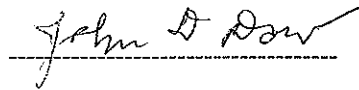
WHEREFORE, Appellant prays and respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested rezone to Residential-2.



Carole S. Dow

Signature of Property Owner

President, Dow Family Real Estate LLC



John D. Dow

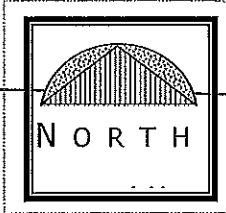
Signature of Property Owner

Dow Family Real Estate LLC

Contact Person:

Name: Cyndi Carper
Address: 14008 Day Road
Day Phone No.: 574-532-7515
Email: cyn68@comcast.net

E MC KINLEY AVE



N MERRIFIELD AVE

2030 N MERRIFIELD

Location Map

PET 17-12

DOW FAMILY REAL ESTATE LLC

2030 N MERRIFIELD

REZONE FROM
C-1 GENERAL COMMERCIAL
TO R-2 TWO-FAMILY RESIDENTIAL

N CEDAR ST

ALEX WAY

JUN 15 2017

PETITION 17-13

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. 2017-25

ORDINANCE NO. _____

CITY CLERK
MISHAWAKA, IN

1st Reading 6-19-17
2nd Reading
Passed
Failed
Continued To

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

A PARCEL LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING A PART OF LOT #2 OF THE PLAT OF "QDOBA MINOR SUBDIVISION" AS RECORDED BY DOCUMENT #1708358 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT #1 OF THE RECORDED PLAT OF "CHEDDAR'S MAIN STREET MINOR SUBDIVISION" AS RECORDED BY DOCUMENT #1204594 IN SAID RECORDER'S OFFICE; THENCE NORTH 19°59'39" EAST ALONG THE EASTERLY RIGHT-OF-WAY OF MAIN STREET A DISTANCE OF 328.08 FEET MORE OR LESS; THENCE SOUTH 71°34'19" EAST A DISTANCE OF 409.05 FEET MORE OR LESS TO THE EAST LINE OF SAID LOT#2; THENCE SOUTH 00°14'05" EAST ALONG SAID EAST LINE A DISTANCE OF 312.05 FEET MORE OR LESS; THENCE NORTH 75°08'33" WEST A DISTANCE OF 518.88 FEET MORE OR LESS TO THE POINT OF BEGINNING. CONTAINING 3.33 ACRES MORE OR LESS. SUBJECT TO ALL LEGAL RIGHT-OF-WAYS, EASEMENTS, AND RESTRICTIONS OF RECORD.

COMMON ADDRESS: Vacant land north of 4914 North Main Street

which real estate is now classified as C-1 General Commercial District shall hereafter be within and a part of that District known as C-7 Automobile Oriented Restaurant Commercial District designated in "The Zoning Ordinance of 1966" as amended.

Proposed Ordinance No: 17-25

Ordinance No: _____

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

1. Existing Conditions – The subject property, located along N. Main Street to the north of Edison Lakes Parkway and Cheddar's Scratch Kitchen, is undeveloped land currently zoned for general commercial purposes. N. Main Street is a highly travelled corridor with an average annual daily traffic count of nearly 33,000 vehicles per counts taken in 2015. Adjacent land uses include Cheddar's Scratch Kitchen and a vacant commercial lot to the south, various commercial and restaurant uses to the west, vacant commercial property to the north, and vacant agricultural land zoned for commercial uses to the east.
2. Character of Buildings – The adjacent properties include several multi- and single-tenant commercial buildings ranging from 5,500 sq. ft. to 9,500 sq. ft. The proposed approximate 9,000 sq. ft. building will be of similar character to these existing buildings.
3. The most desirable/highest and best use – Due to the property's location adjacent to various commercial and restaurant uses and being along one of most heavily travelled corridors in the City, the most desirable use of the property is a similar higher intensity commercial, retail, or restaurant use.
4. Conservation of property values – The rezoning should not be injurious to property values in the area. The proposed restaurant use with drive-thru facilities and other permitted C-7 Auto Oriented Restaurant Commercial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan – The 2000 Mishawaka Comprehensive Plan, created in 1990, guided medium density resident development within this property as an extension of an existing apartment complex to the north on Douglas Road. However, due to changing market conditions and land development patterns along the N. Main Street corridor, medium density residential is not an ideal use for the property. The proposed restaurant with drive-thru facilities, being a higher intensity use more compatible with the adjacent land uses, does not conflict with the goals and objectives of the Comprehensive Plan.

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 _____, 2017, at _____ o'clock ____ M.

Presiding Officer

Proposed Ordinance No: 17-25

Ordinance No: _____

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____,
2017, at _____ o'clock _____.M.

Deborah S. Block, IAMC, MMC, City Clerk

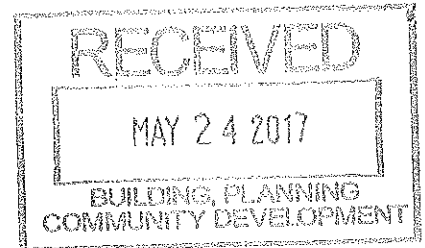
APPROVED by me this _____ day of _____, 2017, at
_____ o'clock _____.M.

David A. Wood, Mayor

Date: May 23, 2017

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

RE: Cressy Land Investments LLC Petition for Rezoning in the
4950 Block of North Main Street, Mishawaka, Indiana:



PT 17-13

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

A PARCEL LOCATED IN THE NORTHEAST QUARTER OF SECTION 33, TOWNSHIP 38 NORTH, RANGE 3 EAST, CITY OF MISHAWAKA, CLAY TOWNSHIP, ST. JOSEPH COUNTY, INDIANA, BEING A PART OF LOT # 2 OF THE PLAT OF "QDOBA MINOR SUBDIVISION" AS RECORDED BY DOCUMENT # 1708358 IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT #1 OF THE RECORDED PLAT OF "CHEDDAR'S MAIN STREET MINOR SUBDIVISION" AS RECORDED BY DOCUMENT # 1204594 IN SAID RECORDER'S OFFICE; THENCE NORTH 19°59'39" EAST ALONG THE EASTERLY RIGHT-OF-WAY OF MAIN STREET A DISTANCE OF 328.08 FEET MORE OR LESS; THENCE SOUTH 71°34'19" EAST A DISTANCE OF 409.05 FEET MORE OR LESS TO THE EAST LINE OF SAID LOT # 2; THENCE SOUTH 00°14'05" EAST ALONG SAID EAST LINE A DISTANCE OF 312.05 FEET MORE OR LESS; THENCE NORTH 75°08'33" WEST A DISTANCE OF 518.88 FEET MORE OR LESS TO THE POINT OF BEGINNING.

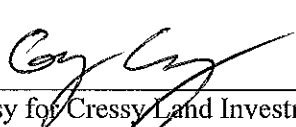
CONTAINING 3.33 ACRES MORE OR LESS.

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

Also commonly known as the 4950 Block of North Main Street, Mishawaka, Indiana 46545.
The above described parcel of land is presently zoned "C-1" Commercial District.

The Petitioners desire said real estate, to be Rezoned to the "C-7" Commercial District classification. The purpose for the Rezoning is to allow for the real estate to be purchased by an interested party who desires to build a new restaurant building with drive-thru facilities on the site.

Wherefore, the Petitioners pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted rezoning the above described parcel of real estate located in the City of Mishawaka.


Corey Cressy for Cressy Land Investments LLC
4100 Edison Lakes Parkway, Suite 350
Mishawaka, Indiana 46545
574-271-4060

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

RECEIVED
DEBORAH S. BLOCK MMC

MAY 30 2017

CITY CLERK
MISHAWAKA, IN

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

May 23, 2017

To The: Honorable Members of the
Plan Commission of the City of Mishawaka, Indiana,

RE: Cressy Land Investments LLC Petition for Rezoning in the
4950 Block of North Main Street, Mishawaka, Indiana:

Dear Council & Plan Commission Members,

This letter is to inform the Board Members that we have granted authority to Danch, Harner & Associates to represent us at the Mishawaka Plan Commission and Mishawaka Common Council meetings at which our Rezoning Request will be heard.

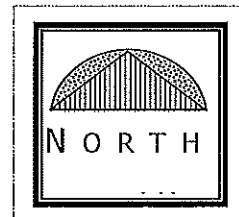
If you have any questions concerning this matter, please feel free to give me (us) a call at 574-271-4060.

Sincerely,



Corey Cressy for Cressy Land Investments LLC
4100 Edison Lakes Parkway, Suite 350
Mishawaka, Indiana 46545
574-271-4060

File No. 170161 "C" MD



N MAIN ST

LOCATION OF
REZONING PETITION

EDISON LAKES PKY

Location Map

PET 17-13

CRESSY LAND INVESTMENTS LLC
PROPERTY NORTH OF
4914 N MAIN

REZONE FROM
C-1 GENERAL COMMERCIAL
TO C-7 AUTOMOBILE ORIENTED
RESTAURANT COMMERCIAL

JUN 15 2017

CITY CLERK
MISHAWAKA, IN

PETITION 17-14

CITY OF MISHAWAKA, INDIANA

PROPOSED ORDINANCE NO. **2017-26**

ORDINANCE NO. _____

1st Reading *p-19-17*
2nd Reading
Passed
Failed
Continued To

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:

A PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 74 IN RIDGEMONT CROSSING SECTION THREE FINAL P.U.D., RECORDED UNDER INSTRUMENT NUMBER 0721398 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE THE NEXT EIGHTEEN (18) COURSES ALONG THE SAID BOUNDARY OF RIDGEMONT CROSSING SECTION THREE; (1) SOUTH 00°16'24" EAST, 280.21 FEET; (2) THENCE NORTH 89°42'29" EAST, 5.00 FEET; (3) THENCE SOUTH 00°17'31" EAST, 60.00; (4) THENCE SOUTH 89°42'29" WEST, 5.00 FEET; (5) THENCE SOUTH 00°18'37" EAST, 185.00 FEET; (6) THENCE SOUTH 89°42'29" WEST, 452.00 FEET; (7) THENCE SOUTH 00°16'23" EAST, 196.46 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 530.00 FEET AND A CHORD OF 37.53 FEET, BEARING NORTH 79°15'44" EAST; (8) THENCE NORTHEASTERLY ALONG SAID CURVE, 37.54 FEET; (9) THENCE SOUTH 08°42'32" EAST, 60.00 FEET TO A POINT OF CURVE TO THE LEFT, HAVING A RADIUS OF 470.00 FEET AND A CHORD OF 12.96 FEET BEARING SOUTH 80°30'04" WEST; (10) THENCE SOUTHWESTERLY ALONG SAID CURVE, 12.96 FEET; (11) THENCE SOUTH 13°47'01" EAST, 123.31 FEET; (12) THENCE SOUTH 61°17'10" WEST, 109.70 FEET; (13) THENCE SOUTH 13°49'54" WEST, 29.87 FEET; (14) THENCE NORTH 89°02'39" WEST, 290.39 FEET; (15) THENCE SOUTH 00°16'24" EAST, 7.33 FEET; (16) THENCE SOUTH 89°25'04" WEST, 50.00 FEET; (17) THENCE NORTH 00°16'24" WEST, 5.23 FEET; (18) THENCE SOUTH 89°49'29" WEST, 157.50 FEET TO THE SOUTHEAST CORNER OF LOT 29 IN RIDGEMONT CROSSING SECTION ONE, RECORDED UNDER INSTRUMENT NUMBER 0540313 IN SAID RECORDERS OFFICE; THENCE THE NEXT THREE (3) COURSES ALONG SAID BOUNDARY OF RIDGEMONT CROSSING SECTION ONE;

Proposed Ordinance No: 17-26

Ordinance No: _____

(1) SOUTH 89°43'36" WEST, 162.50 FEET; (2) THENCE SOUTH 84°27'36" WEST, 144.61 FEET; (3) THENCE SOUTH 89°43'36" WEST, 216.11 FEET TO THE EASTERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 00°05'01" WEST ALONG SAID EASTERLY RIGHT OF WAY, 644.45 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 4859.29 FEET AND A CHORD OF 75.73 FEET, BEARING NORTH 89°48'49" EAST, SAID POINT ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY OF DRAGOON TRAIL; THENCE NORTHEASTERLY ALONG SAID CURVE AND NORTHERLY RIGHT OF WAY, 75.73 FEET; THENCE NORTH 89°22'01" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 853.54 FEET; THENCE SOUTH 00°37'59" EAST, 40.00 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE NORTH 89°22'01" EAST ALONG SAID CENTERLINE, 795.45 FEET TO A POINT OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1134.22 FEET AND A CHORD OF 251.91 FEET, BEARING SOUTH 84°15'29" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE AND CENTERLINE, 252.43 FEET TO THE SOUTHWEST CORNER OF TRADES PARK SUBDIVISION, RECORDED UNDER PLAT BOOK 28 PAGE "T" IN SAID RECORDERS OFFICE; THENCE NORTH 00°01'20" WEST ALONG THE WESTERLY LINE OF SAID TRADES PARK AND THE WESTERLY LINE OF TRADES PARK 1ST REPLAT, RECORDED UNDER INSTRUMENT NUMBER 0046917 IN SAID RECORDERS OFFICE, 1569.93 FEET; THENCE SOUTH 89°43'36" WEST, 236.91 FEET; THENCE NORTH 00°13'55" EAST, 127.07 FEET; THENCE SOUTH 89°43'36" WEST, 228.14 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 44.83 ACRES, MORE OR LESS, AND SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAYS OF RECORD.

COMMON ADDRESS: Ridgmont Crossing Planned Unit Development

which real estate is now classified as S-2 Planned Unit Development District shall hereafter be amended to permit the undeveloped 44.82 acres to consist of seventy-three (73) residential lots and 10.46 acres of light industrial uses subject to the following conditions:

Proposed Uses:

1. The final planned unit development site plans and plats shall be consistent with the two use (Parcel) areas identified in Exhibit 'A' as prepared by staff. Although the width and depth of parcels may be modified, the area of the use, general layout, and concept shall follow Exhibit 'A'. Substantial changes to any proposed uses shall require both a rezoning and change of the preliminary planned unit development site plan, if proposed. Uses permitted within each parcel shall be as follows:

Parcel 1-	Area-	Approximately 44.82 Acres
	Uses-	Single-Family Residential use not to exceed 73 lots.
Parcel 2-	Area-	Approximately 11.43 Acres, including the outlot and right-of-way to be dedicated
	Uses-	I-1 Light Industrial permitted uses.

Property/Ownership Gap:

1. The developer is responsible for working with the applicable title companies to resolve the gap in property ownership resulting from the bankruptcy transfer and platting errors. Clear ownership and access to this gap property shall be

Proposed Ordinance No: 17-26

Ordinance No: _____

identified as part of or prior to any final plat or site plan approval for any of the two parcels identified herein.

Landscaping (Parcel 1):

1. A 35 foot wide green space buffer with a 4-foot high earthen berm and planting shall be provided between the proposed single family residential subdivision and the proposed industrial uses on Parcel #2. Planting on the berm shall include spruce and/or fir evergreen trees planted in a double-row triangular pattern 15' on-center for the entire length of the mound. At the time of planting, trees shall be a minimum of 6' in height. A 7' high opaque fence is not required.

Single Family Residential Development Standards:

1. The proposed platting of lots to complete the existing Ridgemont Crossing Subdivision shall provide for lot sizes, setbacks, and covenant restrictions to match the existing Ridgemont Crossing subdivision.

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

1. Existing Conditions - The subject parcel is located on Fir Road and Dragoon Trail adjacent to single-family residential uses to the north, west, and south; a mobile home park to the north; a city park to south; and industrial uses to the east. A 250' wide Indiana & Michigan Power Company easement traverses the site providing for a natural division between any proposed uses.
2. Character of Buildings in Area - The character of buildings and land uses located along the Fir Road and Dragoon Trail corridors vary. Along Fir Road, the site is primarily adjacent to two single Family residential subdivisions being Ridgemont Crossing and Rosewood. Beyond those subdivisions to the north, there is a very large mobile home park and scattered industrial and commercial properties. On Dragoon Trail, an industrial park is located to the east, and to the south of the site is George Wilson Park. The mix of residential, public, and industrial uses identifies a diversity of uses where single family and light industrial uses are both appropriate.
3. The most desirable/highest and best use - With the property's location adjacent to varying land uses including both single family and industrial uses, the proposed mix of single family residential and light industrial is a logical extension of the adjacent uses and is considered to be the highest and best use of the property.
4. Conservation of property values - The proposed zoning will not be injurious to property values in the surrounding area because the proposed single-family residential and industrial uses are compatible with the adjacent existing uses.
5. Comprehensive Plan - This property was identified with a preferred use as manufactured home residential in the Mishawaka 2000 Comprehensive Plan. Given that the manufactured housing demand has changed since the time of completion of the comprehensive plan, the proposed single family and light

Proposed Ordinance No: 17-26

Ordinance No: _____

industrial use is reasonably consistent with multiple uses along the Fir Road and Dragoon Trail corridors.

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 _____, 2017, at _____ o'clock ____M.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____, 2017, at _____ o'clock ____M.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at _____ o'clock ____M.

David A. Wood, Mayor

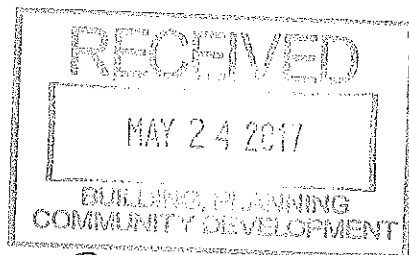
RECEIVED
DEBORAH S. BLOCK, MMC

MAY 31 2017

DATE: May 24, 2017

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 AMEND
RIDGEMONT CROSSING P.U.D.**

PET 17-14

The undersigned Dragoon Properties, 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:

A PART OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 37 NORTH, RANGE 3 EAST, PENN TOWNSHIP, CITY OF MISHAWAKA, INDIANA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 74 IN RIDGEMONT CROSSING SECTION THREE FINAL P.U.D., RECORDED UNDER INSTRUMENT NUMBER 0721398 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA; THENCE THE NEXT EIGHTEEN (18) COURSES ALONG THE SAID BOUNDARY OF RIDGEMONT CROSSING SECTION THREE; (1) SOUTH 00°16'24" EAST, 280.21 FEET; (2) THENCE NORTH 89°42'29" EAST, 5.00 FEET; (3) THENCE SOUTH 00°17'31" EAST, 60.00; (4) THENCE SOUTH 89°42'29" WEST, 5.00 FEET; (5) THENCE SOUTH 00°18'37" EAST, 185.00 FEET; (6) THENCE SOUTH 89°42'29" WEST, 452.00 FEET; (7) THENCE SOUTH 00°16'23" EAST, 196.46 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 530.00 FEET AND A CHORD OF 37.53 FEET, BEARING NORTH 79°15'44" EAST; (8) THENCE NORTHEASTERLY ALONG SAID CURVE, 37.54 FEET; (9) THENCE SOUTH 08°42'32" EAST, 60.00 FEET TO A POINT OF CURVE TO THE LEFT, HAVING A RADIUS OF 470.00 FEET AND A CHORD OF 12.96 FEET BEARING SOUTH 80°30'04" WEST; (10) THENCE SOUTHWESTERLY ALONG SAID CURVE, 12.96 FEET; (11) THENCE SOUTH 13°47'01" EAST, 123.31 FEET; (12) THENCE SOUTH 61°17'10" WEST, 109.70 FEET; (13) THENCE SOUTH 13°49'54" WEST, 29.87 FEET; (14) THENCE NORTH 89°02'39" WEST, 290.39 FEET; (15) THENCE SOUTH 00°16'24" EAST, 7.33 FEET; (16) THENCE SOUTH 89°25'04" WEST, 50.00 FEET; (17) THENCE NORTH 00°16'24" WEST, 5.23 FEET; (18) THENCE SOUTH 89°49'29" WEST, 157.50 FEET TO THE SOUTHEAST CORNER OF LOT 29 IN RIDGEMONT CROSSING SECTION ONE, RECORDED UNDER INSTRUMENT NUMBER 0540313 IN SAID RECORDERS OFFICE; THENCE THE NEXT THREE (3) COURSES ALONG SAID BOUNDARY OF RIDGEMONT CROSSING SECTION ONE; (1) SOUTH 89°43'36" WEST, 162.50 FEET; (2) THENCE SOUTH 84°27'36" WEST, 144.61 FEET; (3) THENCE SOUTH 89°43'36" WEST, 216.11 FEET TO THE EASTERLY RIGHT OF WAY OF FIR ROAD; THENCE SOUTH 00°05'01" WEST ALONG SAID EASTERLY

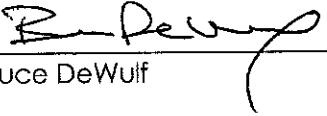
RIGHT OF WAY, 644.45 FEET TO A POINT OF CURVE TO THE RIGHT, HAVING A RADIUS OF 4859.29 FEET AND A CHORD OF 75.73 FEET, BEARING NORTH 89°48'49" EAST, SAID POINT ALSO BEING A POINT ON THE NORTHERLY RIGHT OF WAY OF DRAGOON TRAIL; THENCE NORTHEASTERLY ALONG SAID CURVE AND NORTHERLY RIGHT OF WAY, 75.73 FEET; THENCE NORTH 89°22'01" EAST ALONG SAID NORTHERLY RIGHT OF WAY, 853.54 FEET; THENCE SOUTH 00°37'59" EAST, 40.00 FEET TO THE CENTERLINE OF DRAGOON TRAIL; THENCE NORTH 89°22'01" EAST ALONG SAID CENTERLINE, 795.45 FEET TO A POINT OF A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 1134.22 FEET AND A CHORD OF 251.91 FEET, BEARING SOUTH 84°15'29" EAST; THENCE SOUTHEASTERLY ALONG SAID CURVE AND CENTERLINE, 252.43 FEET TO THE SOUTHWEST CORNER OF TRADES PARK SUBDIVISION, RECORDED UNDER PLAT BOOK 28 PAGE "T" IN SAID RECORDERS OFFICE; THENCE NORTH 00°01'20" WEST ALONG THE WESTERLY LINE OF SAID TRADES PARK AND THE WESTERLY LINE OF TRADES PARK 1ST REPLAT, RECORDED UNDER INSTRUMENT NUMBER 0046917 IN SAID RECORDERS OFFICE, 1569.93 FEET; THENCE SOUTH 89°43'36" WEST, 236.91 FEET; THENCE NORTH 00°13'55" EAST, 127.07 FEET; THENCE SOUTH 89°43'36" WEST, 228.14 FEET TO THE POINT OF BEGINNING; SAID DESCRIBED PARCEL CONTAINING 44.83 ACRES, MORE OR LESS, AND SUBJECT TO ALL EASEMENTS, COVENANTS, RESTRICTIONS, AND RIGHT OF WAYS OF RECORD.

Petitioner(s) own one hundred (100%) percent of the above described parcel of land which carries a zoning classification of S-2 Planned Unit Development specifically for detached single-family residential.

Petitioner(s) desire said real estate to be amended to revise layout for single family residential and allow light industrial use on the southeast portion of the parcel. The original Planned Unit Development contained 228 lots. The amended Planned Unit Development includes 73 additional single family lots and 10.46 acres of light industrial use.

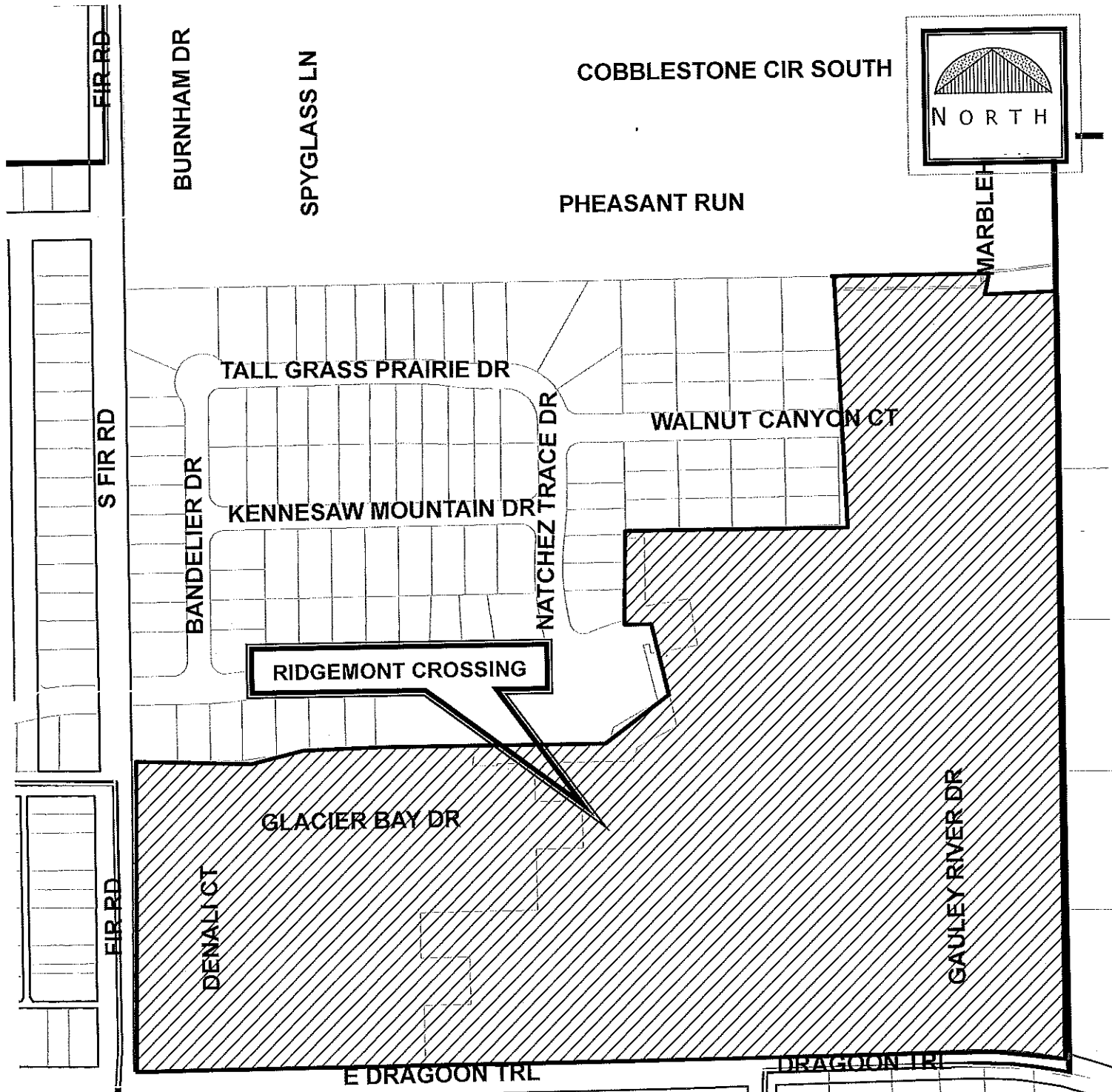
Wherefore, the petitioner(s) pray and respectfully request that the Common Council of the City of Mishawaka refer this matter to the Mishawaka City Plan Commission and that after hearing, an appropriate ordinance be enacted amending the PUD of the above described parcel of land located in the City of Mishawaka.

Dragoon Properties, LLC


Bruce DeWulf

CONTACT PERSON:

Daryl S. Knip, PE.
Abonmarche Consultants, Inc.
750 Lincoln Way East
South Bend, Indiana 46601
Phone: 574.232-8700



Location Map

PET 17-14

DRAGON PROPERTIES LLC
RIDGEMONT CROSSING
PUD AMENDMENT

THE UNDEVELOPED 44.82 ACRES
TO CONSIST OF
73 RESIDENTIAL LOTS
AND 10.46 ACRES OF
LIGHT INDUSTRIAL

JUN 15 2017

APPEAL #17-25

CITY CLERK
MISHAWAKA, IN

RESOLUTION NO. 2017- 15

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:

1927 North Cedar Street, Mishawaka, Indiana

WHEREAS, the Indiana Code requires the Common Council to give notice of its intention to consider Petitions from the Board of Zoning Appeals for approval or disapproval; and

WHEREAS, the Common Council must take action within sixty (60) days after the Board of Zoning Appeals makes its recommendation to the Council; and

WHEREAS, the Common Council is required to make a determination in writing on such requests; and

WHEREAS, the Mishawaka Board of Zoning Appeals has made an unfavorable recommendation, pursuant to applicable state law, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MISHAWAKA, INDIANA, as follows:

Section I. The Common Council has provided notice of the hearing on the Petition from the Board of Zoning Appeals pursuant to Indiana Code requesting that a Use Variance for property located at **1927 North Cedar Street, Mishawaka, Indiana**, more particularly known and described as follows:

A PARCEL OF LAND IN THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 37 NORTH, RANGE 3 EAST IN THE CITY OF MISHAWAKA, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 10; THENCE SOUTH 1°23'35" EAST (SAID BEARING ASSUMED AND ALL SUBSEQUENT BEARINGS RELATED THERETO) 670.38 FEET ALONG THE CENTER LINE OF MERRIFIELD STREET; THENCE SOUTH 88°36'25" WEST 20 FEET TO THE INTERSECTION OF THE WEST RIGHT-OF-WAY LINE OF MERRIFIELD STREET AND THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET; THENCE ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET 234.08 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 512.46 FEET AND SUBTENDED BY A LONG CHORD 232.05 FEET IN LENGTH AND HAVING A BEARING OF SOUTH 58°00'36" WEST TO THE POINT OF BEGINNING; THENCE ALONG THE NORTHWESTERLY RIGHT-OF-WAY LINE OF CEDAR STREET 73.95 FEET ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 512.46 FEET AND SUBTENDED BY A LONG CHORD 73.885 FEET IN LENGTH AND HAVING A BEARING OF SOUTH 40°47'24" WEST, THENCE NORTH 52°02'36" WEST 221.15 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF THE GRAND TRUNK AND WESTERN RAILROAD; THENCE NORTH 27°20'41" EAST 105.445 FEET ALONG SAID EASTERLY

RIGHT-OF-WAY LINE; THENCE SOUTH 45°04'33" EAST 246.04 FEET TO THE POINT OF BEGINNING.

The Use Variance, if approved, will permit automobile repair on I-1 Light Industrial zoned property subject to the following conditions:

1. Use Variance shall be limited to automotive repair without a paint booth, and shall be limited to indoors. No outside storage of inoperable vehicles, materials and/or vehicle parts will be permitted;
2. A site plan shall be submitted to the Department of City Planning showing proposed parking layout in regards to provided parking space per use;
3. Temporary signage is prohibited;
4. Installation of oil interceptor and possibly a grit separator depending on the type of automotive use per Engineering Department standards;
5. Proper permits received from the Building Department; and
6. Wellhead Protection Permit issued.

Section II. Following a presentation by the Petitioner, and after proper public hearing, the Common Council hereby approves the Petition as recommended by the Mishawaka Board of Zoning Appeals, including the imposition of reasonable conditions, to wit, the recommendations of the Department of City Planning, a copy of which is on file in the Office of the City Clerk.

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

1. The approval will not be injurious to the public health, safety, morals, and general welfare of the community because the proposed use will have no impact on the adjacent industrial uses that currently operate there. The proposed use is consistent with the existing industrial properties within the area.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because of the industrial nature of the area along Cedar Street.
3. The need for a variance arises from the nature of the area, where property owners are very protective of the intensive zonings of their properties. A use variance would allow the proposed automobile commercial use, while still protecting the industrial zoning for future use and also protecting the residential users to the north and south.
4. The strict application of the terms of this chapter will result in practical difficulties in the use of the property because the current I-1 light Industrial zoning would not allow for the proposed automobile oriented commercial uses.
5. The approval will not interfere substantially with the Mishawaka 2000 Plan because the plan identifies other surrounding areas as industrial. The

approval is consistent with the goals and objectives of the Comprehensive Plan given the existing auto commercial uses that are located to the south of this property along Cedar Street.

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

PASSED by the Common Council of the City of Mishawaka, Indiana, this _____ day of _____, 2017, at _____ o'clock ____ .m.

Presiding Officer

ATTEST:

Deborah S. Block, IAMC, MMC, City Clerk

PRESENTED by me to the Mayor this _____ day of _____ 2017,
at _____ o'clock ____ m.

Deborah S. Block, IAMC, MMC, City Clerk

APPROVED by me this _____ day of _____, 2017, at
_____ o'clock ____ .m.

David A. Wood, Mayor

5/19/17

To: Board of Zoning Appeals, City of Mishawaka, Indiana



AP 17-25

1. I, Jim Allen, am the owner of the real estate located at 1927 North Cedar Street, in the city of Mishawaka, Penn Township, St. Joseph County, State of Indiana.
2. The above real estate presently has a zoning classification of I-1 Light Industrial District under the Zoning Ordinance of the City of Mishawaka.
3. Tenant proposes to occupy the property for an automotive repair business.
4. Tenant desires to repair vehicles on the property.
5. Automotive repair is not currently an approved business use on the I-1 Light Industrial District list, Section 137-586.
6. This ordinance would cause hardship for the owner and tenant; the owner would lose rental income on a building that has been for sale for several years with no buyer, thus leaving the building empty. The tenant has looked elsewhere for suitable property for his business, and has found the above property to be the best available for his needs.
7. (1) Approval would not be injurious to the public health, safety, morals, or general welfare of the community. The tenant is an established and reputable business that operates professionally, and business would be conducted between 8:00 am and 5:00 pm Monday through Friday. Thus, there would be no problems with off-hour noise or traffic disrupting the surrounding neighborhood.

(2) Surrounding property would not be affected in an adverse manner, the above property has sufficient room for the tenant to conduct business without encroaching on neighboring property.

(3) No, the need for the variance is not due to a condition peculiar to the property. The proposed use is not approved for the district this property is zoned, but the use should fall into the category of light industrial.

RECEIVED
DEBORAH S. BLOCK, MMC

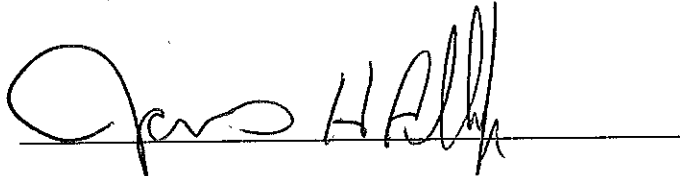
MAY 31 2017

CITY CLERK
MISHAWAKA, IN

(4) Yes, the terms of this chapter constitute and unnecessary hardship if applied to the property. Please see item 6 above.

(5) Approval would not interfere with the Mishawaka 2000 Comprehensive Plan. There are currently other automotive businesses operating in the vicinity of this property.

Wherefore, the owner respectfully requests a hearing on this appeal and that after such hearing, the Board grant the requested variance.

A handwritten signature in black ink, appearing to read "James H. Allen Jr.", is written over a horizontal line.

James H. Allen Jr., Property Owner

Contact: Jim Allen

Address: 56935 Elk Court, Elkhart, IN 46516

Phone: 574-850-2336

Fax: 574-522-6006

Email: jhallen95@gmail.com

E MC KINLEY AVE



1927 N CEDAR

N CEDAR ST

ALEX WAY

N MERRIFIELD AVE

MARGARET AVE

Location Map

APPEAL 17-25

JIM ALLEN

1927 N CEDAR

USE VARIANCE FOR
AUTOMOBILE REPAIR IN I-1