



## **SOUTH BEND COMMON COUNCIL**

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### **MEETING AGENDA**

Monday, November 14, 2016

7:00 P.M.

1. **INVOCATION- RABBI KUPPEL LINDOW, MIDWEST TORAH CENTER**
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**
6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE** **TIME: \_\_\_\_\_**

BILL NO.

[41-16](#) PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 401 EAST COLFAX AVENUE, 228 & 230 SYCAMORE STREET, & 312 LASALLE AVENUE, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

[54-16](#) PUBLIC HEARING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 1037 ELMER STREET, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

[60-16](#) PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST NORTH-SOUTH ALLEY LYING WEST OF PORTAGE AVENUE, BOUNDED ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF BULLA STREET AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF THE FIRST EAST-WEST ALLEY NORTH OF KING STREET IN PORTAGE TOWNSHIP

[67-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CONCERNING THE CURRENT REFUNDING OF OUTSTANDING WATERWORKS REVENUE BONDS OF 2000 AND 2006, EACH ISSUED TO FINANCE

CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL WATERWORKS OF THE CITY OF SOUTH BEND, INDIANA; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR SUCH PURPOSE IN THE PRINCIPAL AMOUNT NOT TO EXCEED THREE MILLION SEVEN HUNDRED TWENTY THOUSAND (\$3,720,000); ADDRESSING OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HEREWITH

8. **BILLS ON THIRD READING**

**TIME:**\_\_\_\_\_

BILL NO.

[41-16](#) THIRD READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 401 EAST COLFAX AVENUE, 228 & 230 SYCAMORE STREET, & 312 LASALLE AVENUE, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

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9. **RESOLUTIONS**

BILL NO.

[16-86](#)

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A WAIVER OF NONCOMPLIANCE FOR LATE-FILED SCHEDULE OF DEDUCTION FROM ASSESSED VALUATION PERSONAL PROPERTY IN ECONOMIC REVITALIZATION AREA (FORM 103-ERA) AND COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM CF-1 / PP) BY NOBLE AMERICAS SOUTH BEND ETHANOL LLC FOR CERTAIN PERSONAL PROPERTY LOCATED AT 3201 WEST CALVERT STREET DESIGNATED AS AN ECONOMIC REVITALIZATION AREA UNDER RESOLUTION 4332-14

[16-87](#)

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA EXPRESSING ITS SUPPORT OF THE PROPOSED MAJOR IMPROVEMENT AND UPGRADES OF THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT WHICH OPERATES THE SOUTH SHORE LINE

6. **BILLS ON FIRST READING**

BILL NO.

[68-16](#)

FIRST READING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE FIRST EAST-WEST ALLEY BETWEEN ST. VINCENT STREET AND HOWARD STREET FROM ST. LOUIS BOULEVARD TO THE FIRST NORTH-SOUTH ALLEY.

[69-16](#)

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, ESTABLISHING INTERNAL CONTROL STANDARDS AND ESTABLISHING A MATERIALITY THRESHOLD.

[70-16](#)

FIRST READING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING VARIOUS SECTIONS OF ARTICLE 12 OF CHAPTER 13 OF THE *SOUTH BEND MUNICIPAL CODE* ADDRESSING CHRONIC PROBLEM PROPERTY REGULATIONS

[71-16](#)

FIRST READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT A 20 ACRE TRACT OF LAND WEST OF AND ADJACENT TO AMERITECH DRIVE, APPROXIMATELY 1200 FEET SOUTH OF BRICK ROAD, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

7. **UNFINISHED BUSINESS**

BILL NO.

65-16 AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 913 LAWRENCE STREET AND 427 & 437 CORBY BOULEVARD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

SETTING PUBLIC HEARING SCHEDULE AND ACKNOWLEDGING THE RECEIPT OF APPEAL OF A CERTIFICATE OF APPROPRIATENESS FOR 1240 WEST THOMAS STREET-HISTORIC PRESERVATION COMMISSION

8. **NEW BUSINESS**

9. **PRIVILEGE OF THE FLOOR**

10. **ADJOURNMENT**

**TIME:** \_\_\_\_\_

**Notice for Hearing and Sight Impaired Persons**

**Auxiliary Aid Or Other Services Are Available Upon Request At No Charge.  
Please Give Reasonable Advance Request When Possible.**

*In the interest of providing greater public access and to promote greater transparency, the South Bend Common Council agenda has been translated into Spanish. All agendas are available online from the Council's website, and also in paper format in the Office of the City Clerk, 4<sup>th</sup> Floor County-City Building. Reasonable efforts have been taken to provide an accurate translation of the text of the agenda, however, the official text is the English version. Any discrepancies which may be created in the translation, are not binding. Such translations do not create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the Common Council or the City of South Bend, Indiana.*



## OFFICE OF THE CITY CLERK

KAREEMAH FOWLER, CITY CLERK

### MEMORANDUM

**TO:** MEMBERS OF THE COMMON COUNCIL  
**FROM:** KAREEMAH FOWLER, CITY CLERK  
**DATE:** NOVEMBER 10, 2016  
**SUBJECT:** COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **MONDAY, NOVEMBER 14, 2016** at:

Council Informal Meeting Room  
4<sup>th</sup> Floor County-City Building  
227 W. Jefferson Blvd.  
South Bend, IN 46601

- 3:30 P.M.**      **COMMUNITY INVESTMENT**      **GAVIN FERLIC, CHAIRPERSON**  
1. [Bill No. 16-86](#)- Waiver of non-compliance by Noble Americas South Bend Ethanol, LLC
- 3:40 P.M.**      **PUBLIC WORKS & PROPERTY VACATION**      **JO M. BRODEN, CHAIRPERSON**  
1. [Bill No. 60-16](#)- Alley Vacation at Portage & Bulla  
2. [Bill No. 16-87](#)- Support for the South Shore Line Proposed Upgrades and Improvements
- 4:00 P.M.**      **UTILITIES**      **DR. DAVID VARNER, CHAIRPERSON**  
1. [Bill No. 67-16](#)- Waterworks Bond Refunding
- 4:20 P.M.**      **PARC**      **RANDY KELLY, CHAIRPERSON**  
1. Aaron Perri and Mic Perry- Venues, Parks and Arts Dept. Update
- 4:40 P.M.**      **ZONING & ANNEXATION**      **OLIVER DAVIS, CHAIRPERSON**  
1. [Bill No. 54-16](#)- 1037 Elmer St. Rezoning  
2. Substitute [Bill No. 41-16](#)- Commerce Center PUD Rezoning at 401 E. Colfax

Council President Tim Scott has called an **Informal Meeting** of the Council which will commence immediately after the adjournment of the Zoning & Annexation Committee.

- INFORMAL MEETING OF THE COMMON COUNCIL**      **TIM SCOTT, COUNCIL PRESIDENT**  
1. Discussion of Council Agenda  
2. Update and Announcements  
3. Adjournment

cc: Mayor Pete Buttigieg  
Committee Meeting List  
News Media

**NOTICE FOR HEARING AND SIGHT IMPAIRED PERSONS**  
**Auxiliary Aid or Other Services may be Available upon Request at No Charge.**  
**Please give Reasonable Advance Request when Possible**

455 County-City Building • 227 W. Jefferson Boulevard • South Bend, Indiana 46601  
Phone 574-235-9221 • Fax 574-235-9173 • TDD 574-235-5567 • [www.SouthBendIN.gov](http://www.SouthBendIN.gov)

JENNIFER M. COFFMAN  
CHIEF DEPUTY  
CHIEF OF STAFF

ALKEYNA M. ALDRIDGE  
DEPUTY CLERK  
DIRECTOR OF POLICY

JOSEPH R. MOLNAR  
ORDINANCE VIOLATION CLERK



## 2016 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-6-16)

### COMMUNITY INVESTMENT COMMITTEE

Oversees the various activities of the Department of Community Investment. This Committee reviews all real & personal tax abatement requests.

Gavin Ferlic, Chairperson	Oliver Davis, Member
Regina Williams-Preston, Vice-Chairperson	Randy Kelly, Member

### COMMUNITY RELATIONS COMMITTEE

Oversees the various activities of the Office of Community Affairs and is charged with facilitating partnerships & ongoing communications with other public and private entities operating within the City.

Regina Williams-Preston, Chairperson	Gavin Ferlic, Member
Randy Kelly, Vice-Chairperson	Karen White, Member

### COUNCIL RULES COMMITTEE

Oversees the regulations governing the overall operation of the Common Council, as well as all matters of public trust. Its duties are set forth in detail in Section 2-10.1 of the *South Bend Municipal Code*.

Tim Scott, Member	Dr. David Varner, Member
Jo Broden, Member	Karen White

### HEALTH AND PUBLIC SAFETY COMMITTEE

Oversees the various activities performed by the Fire and Police Departments, EMS, Department of Code Enforcement, ordinance violations, and related health and public safety matters.

John Voorde, Chairperson	Oliver Davis, Member
Karen L. White, Vice-Chairperson	Jo Broden, Member

### INFORMATION AND TECHNOLOGY COMMITTEE

Oversees the various activities of the City's Division of Information Technologies in the Department of Administration & Finance so that the City of South Bend remains competitive and on the cutting edge of developments in this area. Reviewing and proposing upgrades to computer systems and web sites, developing availability & access to GIS data and related technologies are just some of its many activities.

Tim Scott, Chairperson	Dave Varner, Member
Gavin Ferlic, Vice-Chairperson	Karen White, Member

### PARC COMMITTEE (Parks, Recreation, Cultural Arts & Entertainment)

Oversees the various activities of the Century Center, College Football Hall of Fame, Coveleski Regional Stadium, Morris Performing Arts Center, Stuebaker National Museum, South Bend Regional Museum of Art, Potawatomi Zoo, and the many recreational and leisure activities offered by the Department of Parks and Recreation.

Randy Kelly, Chairperson	Oliver Davis, Member
Dr. Dave Varner, Vice-Chairperson	John Voorde, Member



## **2016 COMMON COUNCIL STANDING COMMITTEES (Rev. 01-6-16)**

### **PERSONNEL AND FINANCE COMMITTEE**

Oversees the activities performed by the Department of Administration and Finance, and reviews all proposed salaries, budgets, appropriations & other fiscal matters, as well as personnel policies, health benefits & related matters.

Karen L. White, Chairperson  
Gavin Ferlic, Vice-Chairperson

Regina Williams-Preston, Member  
John Voorde, Member

### **PUBLIC WORKS AND PROPERTY VACATION COMMITTEE**

Oversees the various activities performed by the Building Department, the Department of Public Works & related public works & property vacation issues.

Jo Broden, Chairperson  
John Voorde, Vice-Chairperson

Randy Kelly, Member  
Gavin Ferlic, Member

### **RESIDENTIAL NEIGHBORHOODS COMMITTEE**

Oversees the various activities & issues related to neighborhood development & enhancement.

Karen White, Chairperson  
Jo Broden, Vice-Chairperson

Regina Williams-Preston, Member  
John Voorde, Member

### **UTILITIES COMMITTEE**

Oversees the activities of all enterprise entities including but not limited to the Bureau of Waterworks, Bureau of Sewers and all related matters.

Dr. David Varner, Chairperson  
Oliver Davis, Vice-Chairperson

Randy Kelly, Member  
Regina Williams-Preston, Member

### **ZONING AND ANNEXATION COMMITTEE**

Oversees the activities related to the Board of Zoning Appeals, recommendations from the Area Plan Commission and the Historic Preservation Commission, as well as all related matters addressing annexation and zoning.

Oliver Davis, Chairperson  
John Voorde, Vice-Chairperson

Gavin Ferlic, Member  
Jo Broden, Member

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### **SUB-COMMITTEE ON MINUTES**

Reviews the minutes prepared by the Office of the City Clerk of the regular, special and informal meetings of the Common Council and makes a recommendation on their approval/modification to the Council

Tim Scott  
Dr. David Varner



## 2016 COMMON COUNCIL STANDING COMMITTEES (Rev.01-6-16)

### **TIM SCOTT, 1<sup>ST</sup> District Council Member**

#### **PRESIDENT**

Information and Technology, Chairperson

Council Rules Committee, Member  
Sub-Committee on Minutes, Member

### **REGINA WILLIAMS-PRESTON 2<sup>ND</sup> District Council Member**

Community Relations Committee, Chairperson  
Community Investment Committee, Vice-Chairperson

Residential Neighborhood Committee, Member  
Personnel & Finance Committee, Member  
Utilities Committee, Member

### **RANDY KELLY, 3<sup>RD</sup> District Council Member**

#### **PARC Committee, Chairperson**

Community Relations Committee, Vice Chairperson

Community Investment Committee, Member  
Public Works & Property Vacation, Member  
Utilities Committee, Member

### **JO BRODEN, 4<sup>TH</sup> District Council Member**

#### **Public Works & Property Vacation, Chairperson**

Residential Neighborhood Committee, Vice-Chairperson

Council Rules Committee, Member  
Health & Public Safety Committee, Member  
Zoning & Annexation Committee, Member

### **DR. DAVID VARNER, 5<sup>TH</sup> District Council Member**

#### **Utilities Committee, Chairperson**

PARC Committee, Vice-Chairperson

Information & Technology Committee, Member  
Council Rules Committee, Member  
Sub-Committee on Minutes, Member

### **OLIVER DAVIS, 6<sup>TH</sup> District Council Member**

#### **Zoning & Annexation Committee, Chairperson**

Utilities Committee, Vice-Chairperson

Community Investment Committee, Member  
Health & Public Safety Committee, Member  
PARC Committee, Member

### **GAVIN FERLIC, AT LARGE Council Member**

#### **Chairperson, Committee of the Whole**

#### **Community Investment Committee, Chairperson**

Information & Technology Committee, Vice-Chairperson  
Personnel & Finance Committee, Vice-Chairperson

Community Relations Committee, Member  
Public Works & Property Vacation, Member  
Zoning & Annexation Committee, Member

### **KAREN L. WHITE, AT LARGE Council Member**

#### **Residential Neighborhood Committee, Chairperson**

#### **Personnel & Finance Committee, Chairperson**

Health & Public Safety Committee, Vice-Chairperson

Community Relations Committee, Member  
Information & Technology Committee, Member  
Council Rules Committee, Member

### **JOHN VOORDE, AT LARGE Council Member**

#### **Health & Public Safety Committee, Chairperson**

Public Works & Property Vacation, Vice-Chairperson  
Zoning & Annexation Committee, Vice-Chairperson

Residential Neighborhood Committee, Member  
PARC Committee, Member  
Personnel & Finance Committee, Member



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

September 21, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: Bill #41-16  
Rezoning: 2794-16 – 401 East Colfax Ave, 228 and 230 Sycamore Street

Dear Council Members:

The Area Plan Commission held a public hearing on September 20, 2016 for the above reference petition. This petition is set for public hearing before the Common Council on Monday, September 26, 2016.

**Ordinance & Petition Amendments:**

The following changes have been made to the above referenced petition:

Ordinance & Petition:

- 1.) Legal descriptions and addresses were added to the petition.
- 2.) The owners name was updated on the petition.
- 3.) Legal descriptions and addresses were added to the ordinance.

A Copy of the revised Ordinance & Petition are attached.

**Public Hearing Summary:**

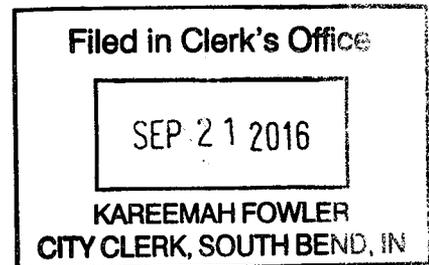
There was 9 persons that spoke in favor to the proposed rezoning. The general sentiment was that they were in support of bringing a grocery store to the area, Mr. Matthews has done great things for the East Bank, and that there is a need for more apartments downtown.

If you have any further questions, please feel free to contact me at (574) 235-9571.

Sincerely,

Keith Chapman, Planner

CC: Kathleen Cekanski-Farrand





AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI

EXECUTIVE DIRECTOR

Angela M. Smith

Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

Wednesday, September 21, 2016

The Honorable Council of the City of South Bend
4th Floor, County-City Building
South Bend, IN 46601

RE: A proposed ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC to zone from CBD Central Business District to PUD Planned Unit Development District, property located at 401 East Colfax Avenue, 228, and 230 Sycamore Street, City of South Bend - APC# 2794-16.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC was legally advertised on September 8, 2016 and that the Area Plan Commission at its public hearing on September 20, 2016 took the following action:

Upon a motion by Oliver Davis, being seconded by John McNamara and carried, a proposed ordinance of Commerce Center Development, LLC and East Bank South Bend Development LLC to zone from CBD Central Business District to PUD Planned Unit Development District, property located at 401 East Colfax Avenue, 228, and 230 Sycamore Street, City of South Bend, is sent to the Common Council with NO RECOMMENDATION.

PLEASE NOTE that the Ordinance has been amended by the petitioner and is different than that used for the Common Council's first reading. The amended Ordinance was legally advertised and heard by the Area Plan Commission.

The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

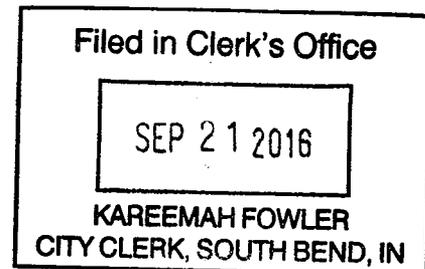
Sincerely,

[Handwritten signature of Lawrence P. Magliozzi]

Lawrence P. Magliozzi

Attachment

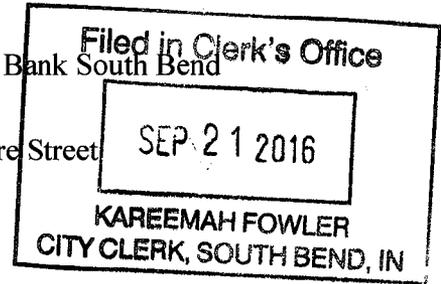
CC: Commerce Center Development, LLC and East Bank South Bend Development LLC



**Staff Report**

9/9/2016

APC # 2794-16  
Owner: Commerce Center Development, LLC and East Bank South Bend Development LLC  
Location: 401 East Colfax Avenue, 228, and 230 Sycamore Street  
Jurisdiction: City of South Bend  
Public Hearing Date: 9/20/2016



**Requested Action:**

The petitioner is requesting a zone change from CBD Central Business District to PUD Planned Unit Development District.

**Land Uses and Zoning:**

- On site: On site is the Commerce Center and multiple parking lots.
- North: To the north across LaSalle is The Pointe at St. Joseph Apartments zoned CBD Central Business District.
- East: To the east is the East Race waterway. Across the East Race are two office buildings zoned CBD Central Business District.
- South: To the south across Colfax is Stephenson Mills Apartments and a parking lot zoned CBD Central Business District.
- West: To the west is the AEP Substation, an art studio, an office and a cellular tower zoned CBD Central Business District. Across Sycamore is a private club zoned CBD Central Business District.

**District Uses and Development Standards:**

The Planned Unit Development (PUD) District is intended to: establish a compatible and efficient mix of land uses and open space; ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs; establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style; achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; and provide for any individual land or combination of land uses not otherwise specified elsewhere in this Ordinance. The PUD District is not intended for the development of residential subdivisions, Permitted Uses, or Special Exception Uses which are provided for within any district of this Ordinance.

**Site Plan Description:**

On site is the existing Commerce Center building. The 5 story, 60' tall building will continue to be used as a mixed use building. The site plan shows a proposed 175' tall mixed use building spanning 411' along LaSalle Avenue and wrapping around a proposed 100' tall parking structure. A small portion of the site is proposed to be used for surface parking and access. The proposed PUD Ordinance allows for uses currently permitted in the CBD Central Business District plus adds Group Residences, Manufacturing Retailer, Electricity Relay Station or Public Utility Substation, and Maker Space. The accessory uses and architectural standards are consistent with the CBD District. The temporary uses generally follow the guidelines of the CBD District, but add the allowance for an 8' tall

**Plan Implementation/Other Plans:**

The petition is not consistent with City Plan, South Bend Comprehensive Plan (November 2006) Objective UD 1.1 Require developments to utilize design techniques that create an attractive, urban character for the Central Business District, corridors, and commercial areas; UD 1.6 Respect the scale, design, and aesthetic quality of established neighborhoods when undertaking infill development projects; UD 1.7 Promote urban design elements in new developments that are appropriately scaled and conducive to pedestrians, including pedestrian safety considerations.

**2. Current Conditions and Character:**

The Central Business District east of the river has a mixture of commercial, office, and residential uses. The low and mid-rise buildings emphasize pedestrian scale, public amenities, and lower density mixed-use buildings. The Commerce Center building is the tallest structure in the area with the majority of the surrounding properties in the 30' - 45' range.

**3. Most Desirable Use:**

The most desirable use is one that fits into the character of the East Bank Village neighborhood.

**4. Conservation of Property Values:**

Due to the height and size of the proposed building surrounding property values may be negatively affected. Developing a site that exceeds the general standards for the area by two to three times what is allowed for other properties in the district could have a significant impact on adjacent property values. If constructed at the proposed 175' height, the building will cast significant shadows that will have an adverse impact on the surrounding properties.

**5. Responsible Development And Growth:**

It is not responsible development and growth to develop a site that does not fit with the character and approved plan of the surrounding neighborhood.

**Staff Comments:**

The petitioner failed to provide a statement of how the proposed PUD meets the 5 items of Intent for Planned Unit Developments as required by the South Bend Zoning Ordinance Section 21-05 (a) (1). It is the staff's opinion that the petitioner failed to meet the Intent as follows:

(A) Establish a compatible and efficient mix of land uses and open spaces;

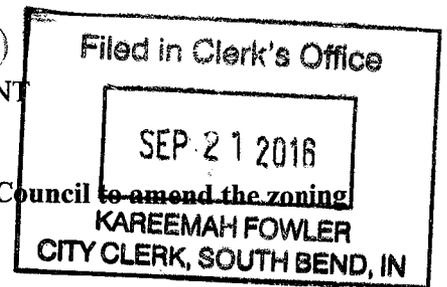
While the proposed PUD provides for a compatible mix of land uses, the site layout as shown does not convincingly address or identify the open space and its interaction with the public spaces of the East Race, as should be appropriate for a development in this location.

(B) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs;

The extreme variation from the allowed development standards established for the Central Business District east of the River and the high rise approach vs. village approach to the building design make the proposed PUD incompatible with the Comprehensive Plan, the East Bank Plan and the existing and proposed surrounding developments.

(C) Establish a creative approach in building design through architectural compatibility

PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana



**I (we) the undersigned make application to the City of South Bend Common Council to amend the zoning ordinance as herein requested.**

1) The property sought to be rezoned is located at:

*Address(es) - 401 East Colfax Avenue, 230 Sycamore Street, 228 Sycamore Street, 312 LaSalle Avenue  
South Bend, IN 46617*

2) The property Tax Key Number(s) is/are: *018-5003-0059, 018-5003-006001, 018-5003-0060, 018-5003-006101, 018-5003-0060, 018-5003-0066, 018-5003-005901*

3) Legal Descriptions: *PARCEL I: THE EAST 26.25 FEET OF THE NORTH 65 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.*

*PARCEL II: THE EAST HALF OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW WITHIN AND A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THEREFROM THE NORTH 65 FEET.*

*PARCEL III: LOT NUMBERED THIRTEEN (13) IN THE ORIGINAL TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, TOGETHER WITH THE VACATED ALLEY SOUTH AND ADJACENT AND ALSO THE WEST 44 FEET OF THE VACATED BRIDGE STREET LYING EAST AND ADJACENT TO LOT 13 AND THE VACATED ALLEY SOUTH.*

*PARCEL IV: THE NORTH 65.00 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THE EAST 26.5 FEET THEREOF.*

*PARCEL V: A LOT OR PARCEL OF LAND 65.00 FEET IN LENGTH NORTH AND SOUTH TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, EXCEPTING THEREFROM A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE ENTIRE EAST END THEREOF.*

*PARCEL VI: A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE EAST SIDE OF THE NORTH 65 FEET OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND.*

*PARCEL VII: LOTS NUMBERED NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTY-THREE (23) AND TWENTY-FOUR (24) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND. ALSO, THE FOLLOWING VACATED ALLEY: (BEGINNING AT THE NORTHWEST CORNER OF SAID LOT NUMBERED TWENTY-TWO (22); THENCE EAST ON THE NORTH LINE OF SAID LOT NUMBERED TWENTY-TWO (22), TO THE NORTHEAST CORNER OF SAID LOT; THENCE NORTH TO THE SOUTHEAST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21) TO THE SOUTHWEST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21); THENCE SOUTH 14 FEET TO THE PLACE OF BEGINNING. TOGETHER WITH THE EAST 22 FEET OF VACATED BRIDGE STREET LYING SOUTH OF THE SOUTH LINE OF LASALLE STREET AND NORTH OF THE NORTH LINE OF COLFAX AVENUE.*

*PARCEL VIII: A NON-EXCLUSIVE EASEMENT AS SET OUT IN A SPECIAL WARRANTY DEED BY AND BETWEEN INDIANA & MICHIGAN ELECTRIC COMPANY, AN INDIANA CORPORATION AND EAST BANK CENTER, AN INDIANA PARTNERSHIP RECORDED SEPTEMBER 29, 1980 AS DOCUMENT NUMBER 8015929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.*

PART OF LOTS NUMBERED FOURTEEN (14) AND FIFTEEN (15) AS SHOWN ON THE RECORDED ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, DESCRIBED AS BEGINNING AT A POINT 65 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT NUMBERED 15 ON THE WEST LINE OF SAID LOT, RUNNING THENCE SOUTH WITH SAID WEST LINE 53 FEET; THENCE EAST 99 FEET; THENCE NORTH 53 FEET; THENCE WEST 99 FEET TO THE PLACE OF BEGINNING.

4) Total Site Area: 2.93 acres

5) Name and address of property owner(s) of the petition site:

Commerce Center Development LLC, and East Bank South Bend Development LLC  
121 S. Niles Ave  
South Bend, IN 46617  
765-409-3841  
David@MatthewsLLC.com

Name and address of additional property owners, if applicable:

6) Name and address of contingent purchaser(s), if applicable:

Name  
Address  
City, State Zip Code  
Phone number with Area Code  
E-Mail Address

Name and address of additional property owners, if applicable:

7) It is desired and requested that this property be rezoned:

From: CBD Central Business District N/A

To: PUD Planned Unit Development

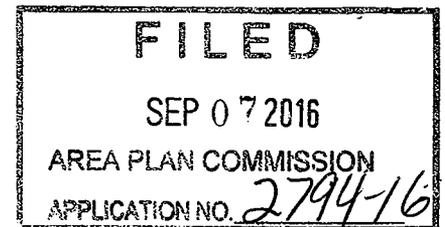
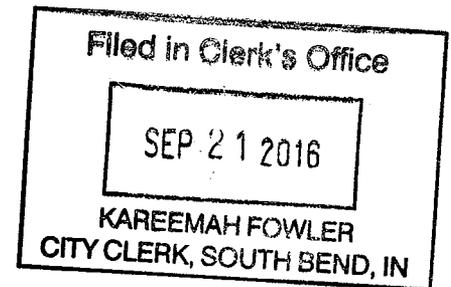
8) The purpose of the rezoning is as follows:

1. The Planned Unit Development (PUD) District is intended to:
  - 1.(A) Establish a compatible and efficient mix of land uses and open space;
  - 2.(B) Ensure compatibility with the Comprehensive Plan, surrounding developments and future development needs;
  - 3.(C) Establish a creative approach in building design through architectural compatibility with adjacent buildings, general neighborhood design or by creating a unique style;
  - 4.(D) Achieve flexibility and provide incentives for development that will sustain a wider range of choice in satisfying the changing needs of the community; and
  - 5.(E) Provide for any individual land or a combination of land uses not otherwise specified elsewhere in this Ordinance.

This Planned Unit Development uses good urban design principles to build mixed use structures along the public streets, and east race. The development builds density where surface parking currently exists, moving the parking in to a structure, mostly hidden from public view. This promotes greater urban density, tax collection, and reduces the demand on developing park land.

This PUD creates one of the first mixed use facilities on the East Race, since the first east race plan was developed in the 1980s. It maintains and reinforces the built fabric and feel of the neighborhood called out in the Comprehensive Plan, through its architecture, style, and incorporation of mixed use buildings.

The PUD enables the developer to create use of a definition of family that was previously unavailable in the CBD district, and addresses issues with the current zoning that would prevent the grocery store, pharmacy, and existing



Commerce Center building form using the site. Specifically, this PUD increases the height and story limit, allowing the office users of the Commerce Center to stay, while creating space for the grocery store & pharmacy customers, and additional residents.

**CONTACT PERSON:**

*David Matthews  
121 S. Niles Ave  
South Bend, IN 46617  
765-409-3841  
David@MatthewsLLC.com*

**BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COMMON COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.**

Signature(s) of all property owner(s), or signature of Attorney for all property owner(s):

*David Matthews*  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Filed in Clerk's Office  
SEP 21 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

**FILED**  
SEP 07 2016  
AREA PLAN COMMISSION  
APPLICATION NO. 2794-16



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 401 EAST COLFAX AVENUE, 228 & 230 SYCAMORE STREET, & 312 LASALLE AVENUE, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Petitioners desire to rezone to create a mixed use PUD Planned Unit Development

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION 1. Ordinance No. 9495-04, is amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

PARCEL I: THE NORTH 65.00 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL AS RECORDED IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THE EAST 26.5 FEET THEREOF.

PARCEL II: A LOT OR PARCEL OF LAND 65.00 FEET IN LENGTH NORTH AND SOUTH TAKEN OFF OF AND FROM THE ENTIRE WIDTH OF THE NORTH END OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, EXCEPTING THEREFROM A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE ENTIRE EAST END THEREOF.

PARCEL III: A STRIP OF LAND 2 FEET IN WIDTH, EAST AND WEST, TAKEN OFF OF AND FROM THE EAST SIDE OF THE NORTH 65 FEET OF LOT NUMBERED FIFTEEN (15) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND.

PARCEL IV: LOTS NUMBERED NINETEEN (19), TWENTY (20), TWENTY-ONE (21), TWENTY-TWO (22), TWENTYTHREE (23) AND TWENTY-FOUR (24) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND. ALSO, THE FOLLOWING VACATED ALLEY: BEGINNING AT THE NORTHWEST CORNER OF SAID LOT NUMBERED TWENTY-TWO (22); THENCE EAST ON THE NORTH LINE OF SAID LOT NUMBERED TWENTY-TWO (22), TO THE NORTHEAST CORNER OF SAID LOT;

THENCE NORTH TO THE SOUTHEAST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21) TO THE SOUTHWEST CORNER OF SAID LOT NUMBERED TWENTY-ONE (21); THENCE SOUTH 14 FEET TO THE PLACE OF BEGINNING. TOGETHER WITH THE EAST 22 FEET OF VACATED BRIDGE STREET LYING SOUTH OF THE SOUTH LINE OF LASALLE STREET AND NORTH OF THE NORTH LINE OF COLFAX AVENUE.

PARCEL V: A NON-EXCLUSIVE EASEMENT AS SET OUT IN A SPECIAL WARRANTY DEED BY AND BETWEEN INDIANA & MICHIGAN ELECTRIC COMPANY, AN INDIANA CORPORATION AND EAST BANK CENTER, AN INDIANA PARTNERSHIP RECORDED SEPTEMBER 29, 1980 AS DOCUMENT NUMBER 8015929 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PARCEL VI: THE EAST 26.25 FEET OF THE NORTH 65 FEET OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.

PARCEL VII: THE EAST HALF OF LOT NUMBERED FOURTEEN (14) AS SHOWN ON THE RECORDED PLAT OF THE ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW WITHIN AND A PART OF THE CITY OF SOUTH BEND, RECORDED MAY 4, 1860 IN PLAT BOOK J, PAGE 455 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA, EXCEPTING THEREFROM THE NORTH 65 FEET.

PARCEL VIII: PART OF LOTS NUMBERED FOURTEEN (14) AND FIFTEEN (15) AS SHOWN ON THE RECORDED ORIGINAL PLAT OF THE TOWN OF LOWELL, NOW A PART OF THE CITY OF SOUTH BEND, ST JOSEPH COUNTY, INDIANA, DESCRIBED AS BEGINNING AT A POINT 65 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT NUMBERED 15 ON THE WEST LINE OF SAID LOT, RUNNING THENCE SOUTH WITH SAID WEST LINE 53 FEET; THENCE EAST 99 FEET, THENCE NORTH 53 FEET; THENCE WEST 99 FEET TO THE PLACE OF BEGINNING.

be and the same is hereby established as PUD Planned Unit Development.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and legal publication.

---

Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

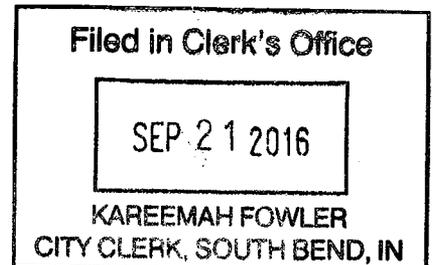
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

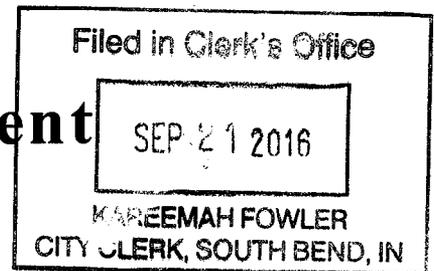
1<sup>st</sup> READING  
PUBLIC HEARING  
3<sup>rd</sup> READING  
NOT APPROVED  
REFERRED  
PASSED





Department of

# Community Investment

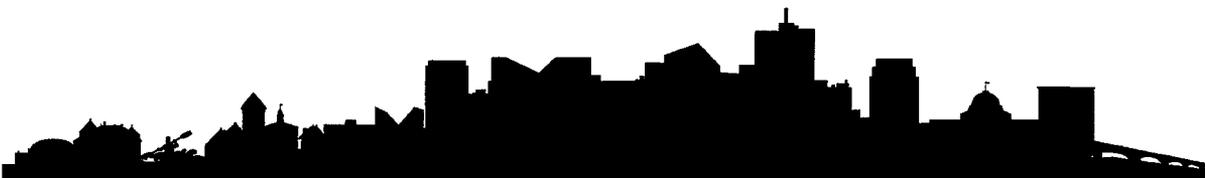


## Commerce Center PUD Rezoning Request

Friday, September 9, 2016

Due to the negative impacts on the neighborhood as described below, DCI cannot support the Commerce Center PUD as presented. However, DCI would be supportive of the rezoning subject to the recommendations provided in the discussion here:

- Lack of consistency with the East Bank Village Master Plan (EBVMP).** The East Bank Village Master Plan was developed in conjunction with the community and illustrates their expectations for future decisions in the neighborhood. This rezoning would completely disregard the EBVMP in the following ways:
  - Height** – The proposal would exceed the agreed height limit for the neighborhood by approx. 115' from 60' to 175'.
  - Character** – The proposal is out of character with the existing fine grain, low-scale nature of the neighborhood as well as the desired future character of the neighborhood as presented in the EBVMP.
- Height.** The proposed height of 175' is completely out of context with the neighborhood and the East Bank Village Master Plan. The City's policy for previous height variances in the East Bank is to allow the lesser of 96 feet or 8 stories. This taller height could be supported if a public benefit is provided; otherwise, a maximum height of 60' as permitted by the zoning ordinance should be applied. The following public domain upgrades should be considered for additional height to be granted:
  - 5' front setback** to LaSalle Street and Sycamore Streets. This would accommodate additional foot traffic generated by the development as well as provide room for outdoor seating for a café or other street activating uses.
  - Public open space** in the form of a plaza, square or similar publically accessible space adjacent to the East Race between the Commerce Center and LaSalle Ave. This space should be generously scaled, address the East Race waterway and be activated by ground floor uses like a café, bar, restaurant. It is recommended a setback of 30', consistent with the northern portion of the Commerce Center's East Race setback, would be reasonable and appropriate for such a high profile location.





LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

September 8, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: 1037 Elmer Street

Dear Council Members:

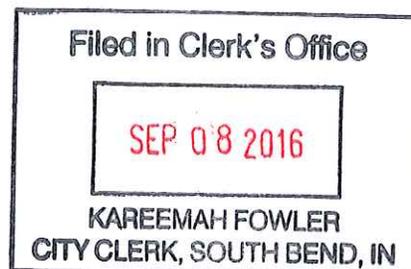
Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your September 12, 2016 Council meeting, and set it for public hearing at your October 24, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the October 18, 2016 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

If you have any questions, please feel free to contact our office.

Sincerely,

*Angela M. Smith*  
Angela M. Smith  
Deputy Director

CC: Kathy Cekanski-Farrand



ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY  
LOCATED AT 1037 ELMER STREET, COUNCILMANIC DISTRICT NO. 2 IN THE  
CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

To rezone to allow for the construction of a steel frame building for the miscellaneous use of storage for items acquired and used for the operations of the adjacent Day Care.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION 1. Ordinance No. 9495-04, is amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

Lot 23 as shown on the recorded plat of Mayr's Michigan Avenue Addition in the Office of the Recorder of St. Joseph County, Indiana in Plat Book 8, Page 190 and 191 along with the north half of the 14' vacated alley lying south and adjacent to said Lot 23.

be and the same is hereby established as MU Mixed Use District.

SECTION II. This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED

Filed in Clerk's Office  
SEP 08 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

Wednesday, October 19, 2016

The Honorable Council of the City of South Bend  
4th Floor, County-City Building  
South Bend, IN 46601

RE: A proposed ordinance of Bettie Jo Williams to zone from SF2 Single Family & Two Family District to MU Mixed Use District, property located at 1037 Elmer Street, City of South Bend - APC# 2797-16.

Dear Council Members:

I hereby Certify that the above referenced ordinance of Bettie Jo Williams was legally advertised on October 6, 2016 and that the Area Plan Commission at its public hearing on October 18, 2016 took the following action:

Upon a motion by John DeLee, being seconded by Steve Vojtko and unanimously carried, a proposed ordinance of Bettie Jo Williams to zone from SF2 Single Family & Two Family District to MU Mixed Use District, property located at 1037 Elmer Street, City of South Bend, is sent to the Common Council with a FAVORABLE recommendation. Rezoning the property will allow for the expansion of an existing business. With appropriate buffering and adherence to the architectural, the proposed expansion will be a responsible asset to the neighborhood.

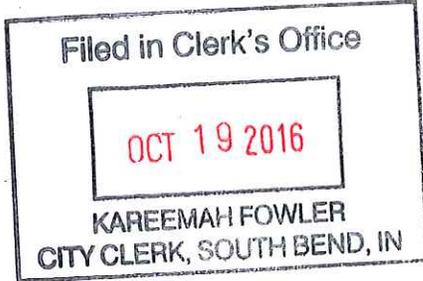
The deliberations of the Area Plan Commission and points considered in arriving at the above decision are shown in the minutes of the public hearing, and will be forwarded to you at a later date to be made a part of this report.

Sincerely,

Lawrence P. Magliozzi

Attachment

CC: Bettie Jo Williams



**Staff Report**

10/7/2016

APC # 2797-16  
Owner: Bettie Jo Williams  
Location: 1037 Elmer Street  
Jurisdiction: City of South Bend  
Public Hearing Date: 10/18/2016

**Requested Action:**

The petitioner is requesting a zone change from SF2 Single Family & Two Family District to MU Mixed Use District and three variances from the development standards.

**Land Uses and Zoning:**

- On site: On site is vacant land.
- North: To the north is a single family residence zoned SF2 Single Family and Two Family District.
- East: To the east across Elmer Street are single family residences zoned SF2 Single Family and Two Family District.
- South: To the south are businesses zoned MU Mixed Use District.
- West: To the west are businesses zoned MU Mixed Use District.

**District Uses and Development Standards:**

The MU Mixed Use District is established to promote the development of the a dense urban village environment. The regulations are intended to encourage all the elements of a traditional urban village, including: storefront retail; professional offices; and, dwelling units located either in townhouse developments or in the upper stories of mixed-use buildings. The development standards in this district are designed to: encourage a pedestrian oriented design throughout the district; and, maintain an appropriate pedestrian scale, massing and relationship between buildings and structures within the district.

**Site Plan Description:**

On site there is a proposed 2,400 sq. ft. accessory building with a height of 21.5'. The proposed building will serve the adjacent daycare facility located to the south of the site.

**Zoning and Land Use History And Trends:**

This property was zoned residential prior to 2006.

**Traffic and Transportation Considerations:**

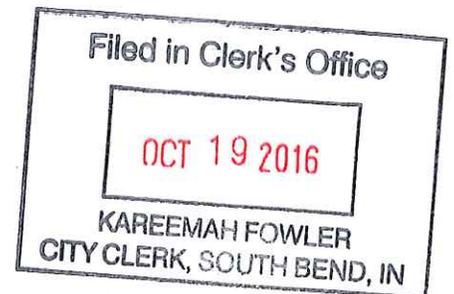
Elmer Street has two lanes with on street parking.

**Utilities:**

This site will be served by municipal water and sewer.

**Agency Comments:**

Department of Community Investment supports the concept of the Bettie Jo Williams request to rezone 1037 Elmer Street from SF2 to MU. The proposed rezoning would allow the daycare business to improve its operations and would be in keeping with the spirit of the West Side Main Streets Plan. Without having the benefit of project specifics, DCI would recommend that: 1) The garage be located toward the rear (west end) of the lot and



not forward of the front building line of the houses to the north along Elmer (approximately 20-25'). DCI would be supportive of a variance from the MU maximum setback to accomplish this siting; 2) The garage doors be oriented to the south or west; 3) If the garage is placed at or near the Elmer Street building line, architectural finishes and foundation landscaping should be added to the Elmer Street façade; and 4) The rezoning parcel should be integrated with the business parcels to the south to ensure proper access and functionality, to minimize curb cuts (consolidate the driveway to the existing parking lot and the former alley approach into one curb cut), and to provide adequate landscaping. The City Engineer commented the following are required prior to final site plan approval: 1) Completion of the City of South Bend Utility Verification Form; 2) Approval of sidewalk, curb cut, lighting, and overall site improvement to reflect the Master Plan for the surrounding area. Of specific concern for this site are the plans for sidewalk improvements; 3) Development of the site requires City approval of a Drainage Plan that meets the City's requirement to store all runoff from developed areas on site; 4) Development of the site also require compliance with the City's Downspout Disconnection Program; 5) Verification of required (if any) waivers; and 6) Payment of Final Site Plan Review fee.

**Commitments:**

The petitioner is not proposing any written commitments.

**Criteria to be considered in reviewing rezoning requests, per IC 36-7-4-603:**

**1. Comprehensive Plan:**

**Policy Plan:**

The petition is consistent with the West Side Main Streets Plan (2014) which identifies this area as a retail node.

**Land Use Plan:**

The future land use map identifies this area as part of the Olive Street node.

**Plan Implementation/Other Plans:**

The petition is consistent with the City Plan, South Bend Comprehensive Plan (November 2006): LU 2.2 Pursue a mix of land uses along major corridors and other locations identified on the Future Land Use Map.

**2. Current Conditions and Character:**

Lincoln Way West is a mixture of commercial, business, and residential. Single family residences border to the north and east.

**3. Most Desirable Use:**

The most desirable use for this site is one that allows for the reuse of vacant land.

**4. Conservation of Property Values:**

With adequate landscape buffering, the adjacent property values should not be affected.

**5. Responsible Development And Growth:**

It is responsible growth and development to allow for the expansion of an existing business, in conformance with the Comprehensive Plan.

**Combined Public Hearing**

This is a combined public hearing procedure, which includes a rezoning and 3 variance from the development standards. The Commission will forward the rezoning to the Council with or without a recommendation and either approve or deny the variances.

**The petitioner is seeking the following variance(s):**

- 1) from the required minimum side residential bufferyard setback of 15' to 7' along the north property line
- 2) from the required Type A landscaping to none along the east and west property line
- 3) from the required Section 21-03.02(13) Architecture standards to allow the construction of a metal building

**State statutes and the Zoning Ordinance require that certain standards must be met before a variance can be approved. The standards and their justifications are as follows:**

**(1) The approval will not be injurious to the public health, safety, morals and general welfare of the community;**

The proposed variances should not have an impact on the general welfare of the community. The development is an expansion of an existing business.

**(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;**

Without appropriate landscaping and attention to the quality of the building being installed, the expansion of this business into the residential neighborhood could have a negative affect on the use and value of adjacent properties.

**(3) The strict application of the terms of this Chapter would result in practical difficulties in the use of the property**

The relatively small lot size creates a practical difficulty in the strict application of the residential bufferyard setback on this property. There are no practical difficulties that support the granting of variances from the landscape or architectural standards for this site.

**Staff Comments:**

The staff has no additional comments.

**Recommendation:**

Based on information available prior to the public hearing, the staff recommends that the rezoning petition be sent to the Common Council with a favorable recommendation. The staff recommends approval of variance #1 to allow a reduced residential bufferyard, subject to the entry doors for the proposed structure being limited to the south or west facades. The staff recommends denial of variances #2 and #3 for the perimeter landscaping and architectural standards.

**Analysis:**

Rezoning the property will allow for the expansion of an existing business. With appropriate buffering and adherence to the architectural, the proposed expansion will be a responsible asset to the neighborhood.

REZONING  
#2797-16



Elmer

Lincolnway West

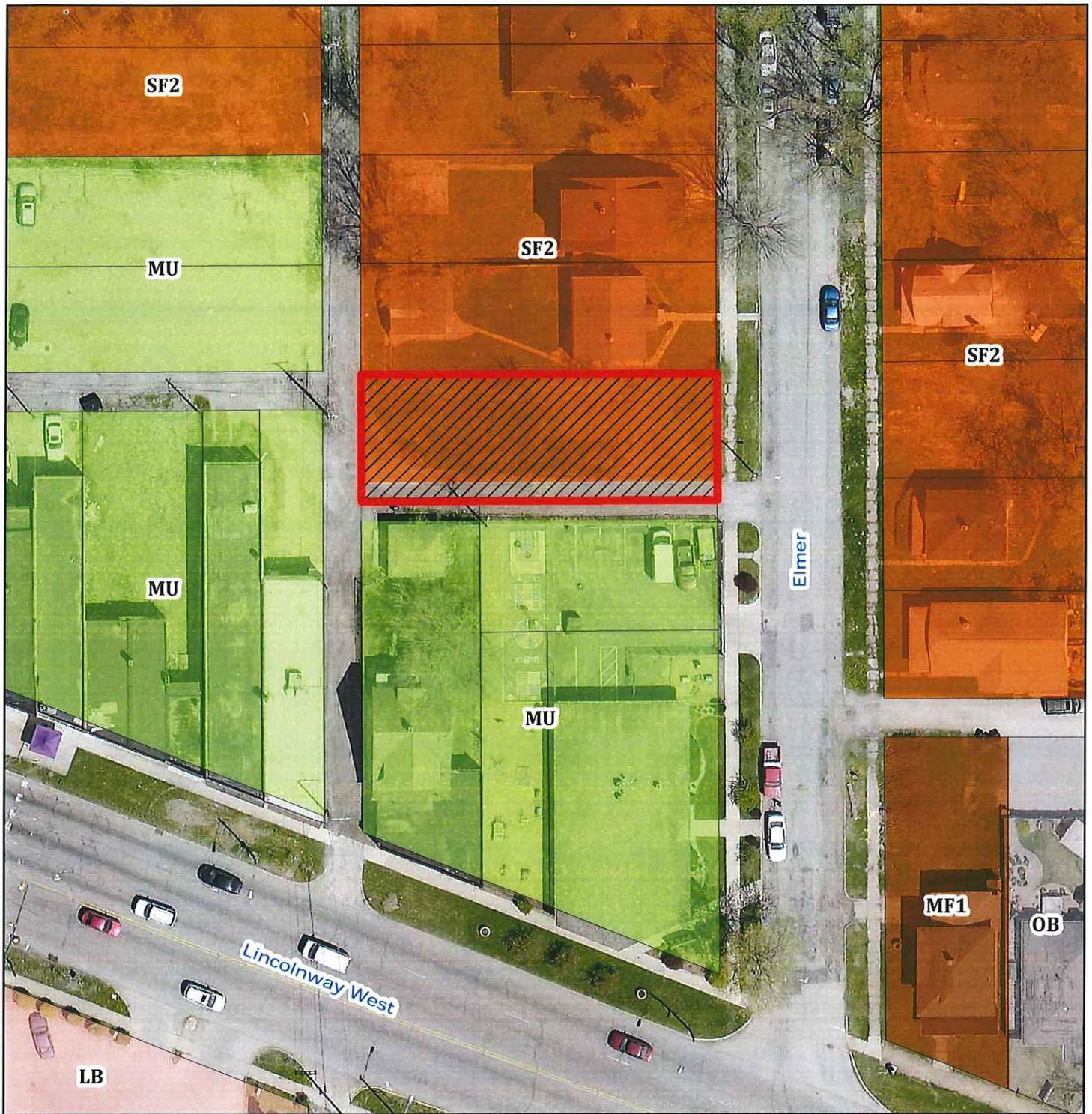
Filed in Clerk's Office

OCT 19 2016

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



1 inch = 50 feet  
PORTAGE TOWNSHIP



Rezoning from: CITY OF SOUTH BEND  
 "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT  
 to "MU" MIXED USE DISTRICT

MASTER ZONING KEY

-  SOUTH BEND "SF2" SINGLE FAMILY AND TWO FAMILY DISTRICT
-  SOUTH BEND "MF1" URBAN CORRIDOR MULTIFAMILY DISTRICT
-  SOUTH BEND "OB" OFFICE BUFFER DISTRICT
-  SOUTH BEND "MU" MIXED USE DISTRICT
-  SOUTH BEND "LB" LOCAL BUSINESS DISTRICT

Filed in Clerk's Office

OCT 19 2016

KARL E. FOWLER  
 CITY CLERK SOUTH BEND, IN



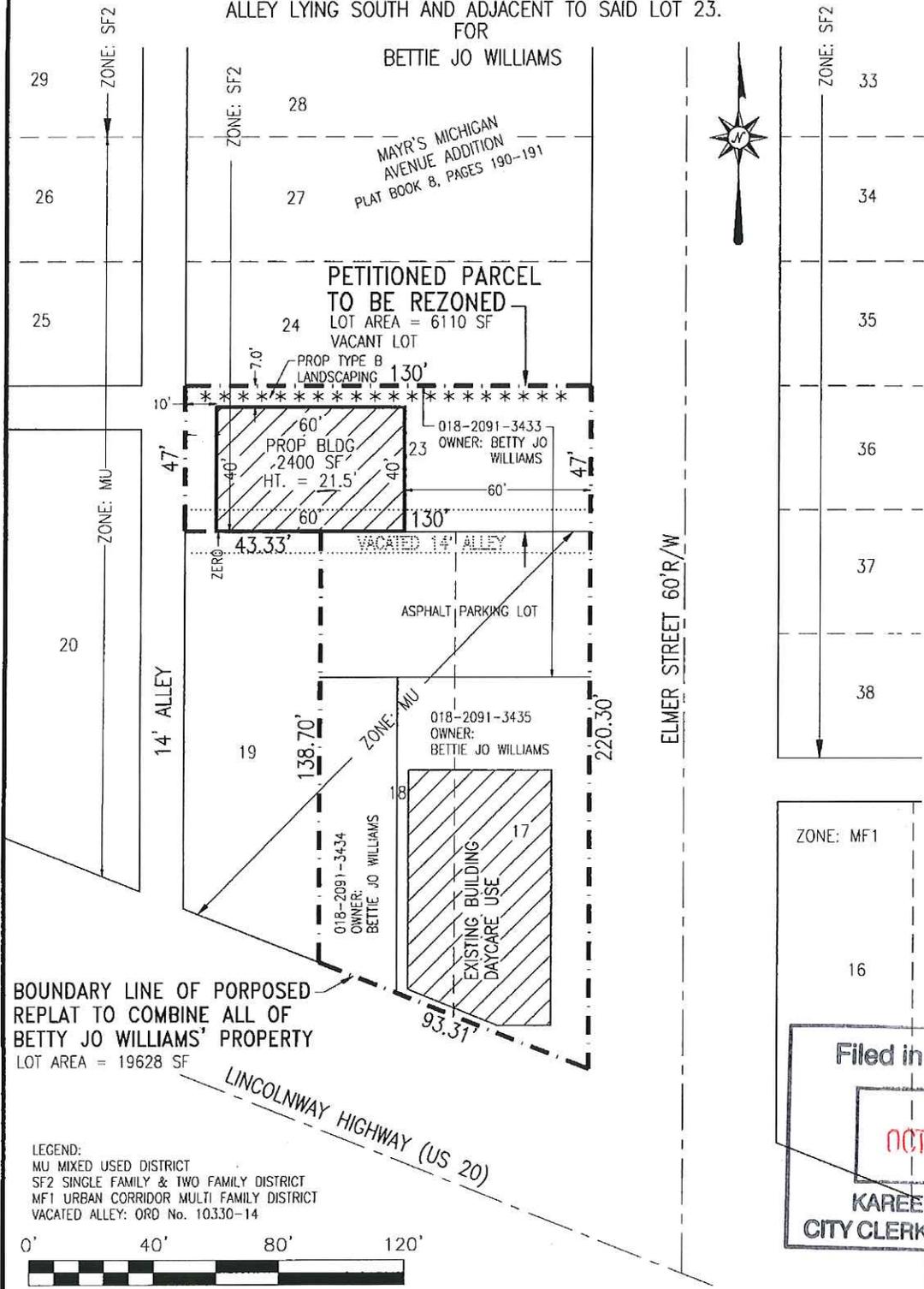
1 inch = 50 feet

APC # 2797-16

# REZONING SITE PLAN

MAYR'S MICHIGAN AVENUE ADDITION  
 LOT 23 AND THE NORTH HALF OF THE 14' VACATED  
 ALLEY LYING SOUTH AND ADJACENT TO SAID LOT 23.

FOR  
 BETTIE JO WILLIAMS



BOUNDARY LINE OF PORPOSED  
 REPLAT TO COMBINE ALL OF  
 BETTY JO WILLIAMS' PROPERTY  
 LOT AREA = 19628 SF

LEGEND:  
 MU MIXED USED DISTRICT  
 SF2 SINGLE FAMILY & TWO FAMILY DISTRICT  
 MF1 URBAN CORRIDOR MULTI FAMILY DISTRICT  
 VACATED ALLEY: ORD No. 10330-14

Filed in Clerk's Office  
 OCT 19 2016  
 KAREEMAH FOWLER  
 CITY CLERK SOUTH BEND, IN

FILED  
 SEP 21 2016  
 ARCHIVED FOR COMMISSION

Lang, Feeney & Associates, Inc.  
 Land Surveyors, Construction Engineers & Soil Scientists  
 715 South Michigan Street  
 South Bend, Indiana 46601  
 Phone 574-233-1841 Fax 574-674-0374

File Name Williams,BettieJoRezoning	Drawn By JMS	Scale 1" = 40'
Date 9-6-16	Rev. Date 9-20-16	Drawing No.



AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

October 19, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: Bill # 54-16  
Rezoning: APC #2797-16 - 1037 Elmer Street

Dear Council Members:

The Area Plan Commission held a public hearing on October 18, 2016 for the above reference petition. This petition is set for public hearing before the Common Council on Monday, October 24, 2016.

**Ordinance & Petition Amendments:**

The following changes have been made to the above referenced petition:

Petition:

- 1.) Variances were added to the petition.

A Copy of the revised Petition is attached.

**Public Hearing Summary:**

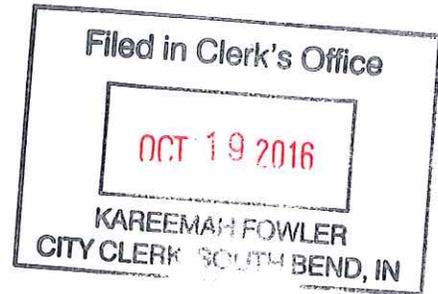
There was no one that spoke in favor/opposition to the proposed rezoning.

If you have any further questions, please feel free to contact me at (574) 235-9571.

Sincerely,

Keith Chapman, Planner

CC: Kathleen Cekanski-Farrand



PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana

I (we) the undersigned make application to the City of South Bend Common Council to amend the zoning ordinance as herein requested.

1) The property sought to be rezoned is located at:  
1037 Elmer Street  
South Bend, Indiana 46628  
Along with with the north half of the 14' vacated alley lying south and adjacent to Lot 23 Mayr's Michigan Avenue Addition.

2) The property Tax Key Number(s) is/are: Part of 018-2091-3433

3) Legal Descriptions: Lot 23 as shown on the recorded plat of Mayr's Michigan Avenue Addition in the the Office of the Recorder of St. Joseph County, Indiana in PLat Book 8, Page 190 and 191 along with the north half of the 14' vacated alley lying south and adjacent to said Lot 23.

4) Total Site Area: 6109 sf

5) Name and address of property owner(s) of the petition site:

Bettie Jo Williams  
PO Box 3195  
South Bend, Indiana 46601  
574-288-5891

Name and address of additional property owners, if applicable:

6) Name and address of contingent purchaser(s), if applicable:  
n/a

Name and address of additional property owners, if applicable:

7) It is desired and requested that this property be rezoned:

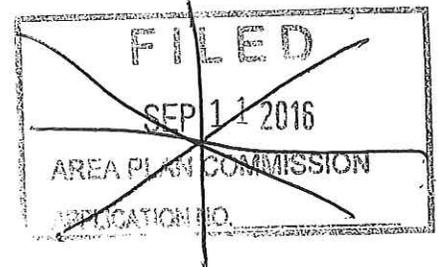
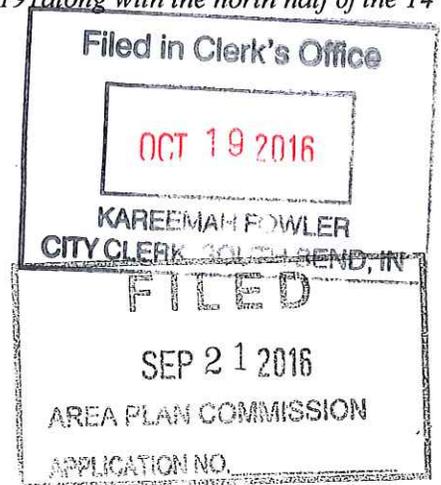
From: SF2 Single Family Two Family District N/A

To: MU Mixed Use District

8) This rezoning is requested to allow the following use(s): Bettie Jo Williams owns the petitioned parcel along with adjacent parcels lying to the south. Those parcels are currently zoned Mu Mixed Use and contains one building and parking used for a day care facility. This rezoning request is to allow for the construction of a steel frame building for the miscellaneous use of storage for item acquired and vehicles used for the operations of the adjacent day care. With the granting of this rezoning, all mentioned parcels shall be combine into one lot through the replatting process.

IF VARIANCE(S) ARE BEING REQUESTED (if not, please skip to next section):

1) a variance from the required minimum side residential bufferyard of 15' setback to 7' along the north property; a variance from the required Type A landscaping along the east and west lines to no landscaping and a variance from Section 21-03.02(13) of the South Bend Zoning Ordinance to allow construction of a metal building to house vehicles used in conjunction with the business currently operating at this location.



2) A statement on how each of the following standards for the granting of variances is met:

- (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: *All new construction shall follow the City of South Bend requirements.*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *The proposed follows the continuity of the surrounding properties.*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *By not allowing the property owner the most applicable use of the their property.*

IF A SPECIAL EXCEPTION USE IS BEING REQUESTED, (if not, please skip to next section):

1) A detailed description and purpose of the Special Exception Use(s) being requested: *N/a*

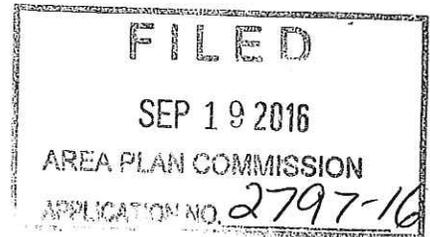
2) A statement on how each of the following standards for the granting of a Special Exception Use is met:

- (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: *N/a*
- (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *N/a*
- (c) The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein; and: *N/a*
- (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *N/a*

\* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

*Lang, Feeney & Associates, Inc.  
715 South Michiagn Street  
South Bend, Indiana 46601  
574-233-1841  
JBF715@aol.com*

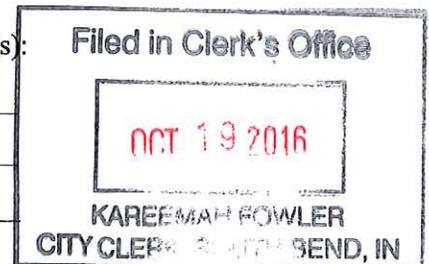


**BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COMMON COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.**

Signature(s) of all property owner(s), or signature of Attorney for all property owner(s):

*Bettie Jo Williams*

BETTIE JO WILLIAMS







**LANG, FEENEY & ASSOCIATES, INC.**  
**LAND SURVEYING – CONSTRUCTION ENGINEERING – SOIL SCIENTISTS**  
715 SOUTH MICHIGAN STREET • SOUTH BEND, INDIANA 46601  
TELEPHONE 574.233.1841 • FACSIMILE 574.674.0374

www.LangFeeney.com

WILLIAM D. LANG, PRES.  
JOHN B. FEENEY, P.S.  
TERANCE D. LANG, P.S.

INDOT PREQUALIFIED:  
5.4 ECOLOGICAL SURVEYS  
5.5 WETLAND MITIGATION  
6.1 TOPOGRAPHIC SURVEY DATA COLLECTION

SUB-DIVISIONS  
BOUNDARY SURVEYS  
CONSTRUCTION SURVEYS  
PUBLIC WORKS PREQUALIFIED

September 20, 2016

City of South Bend  
Common Council  
Room 455 County-City Building  
South Bend, Indiana 46601

Filed in Clerk's Office  
SEP 21 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

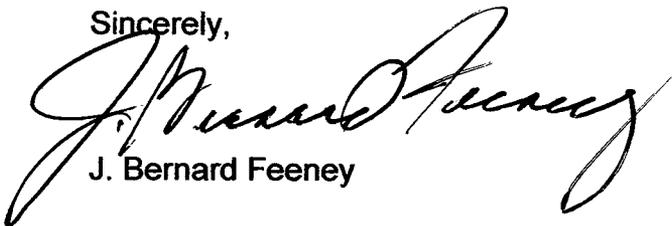
Re: Vacation Petition – Alley Vacation

To The Common Council,

The first north-south alley lying west of Portage Avenue, bounded on the north by the south right-of-way line of Bulla Street and bounded on the south by the north right-of-way line of the first east-west alley north of King Street in portage township. Being 251.6' in length. The applicant wish to vacated this alley to allow full use of their existing parking lot lying west of the alley in conjunction with their building on the east side of the alley.

The approval of this vacation shall not be injurious to the use of other property in the immediate vicinity. It shall not be detrimental to or endanger the public health, safety, morals or general welfare. This vacation shall not constrict the use or deter the value of adjacent area as it is currently being used as parking for adjacent businesses.

Sincerely,

  
J. Bernard Feeney

**PETITION TO VACATE PUBLIC RIGHTS-OF-WAY  
(STREETS/ALLEYS)**

Filed in Clerk's Office  
SEP 21 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

TO THE COMMON COUNCIL  
OF THE CITY OF SOUTH BEND, INDIANA

DATE: \_\_\_\_\_

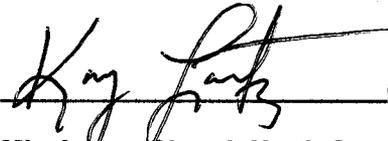
I (WE), THE UNDERSIGNED PROPERTY OWNER(S), PETITION YOU TO VACATE:

A. THE ALLEY DESCRIBED AS:

The first north-south alley lying west of Portage Avenue, bounded on the north by the south right-of-way line of Bulla Street and bounded on the south by the north right-of-way line of the first east-west alley north of King Street in Portage Township.

B. THE STREET DESCRIBED AS:

\_\_\_\_\_ n/a \_\_\_\_\_  
\_\_\_\_\_

NAME (signed & printed)	ADDRESS	LOT #
 (signature)		
Missionary Church North Central	PO Box 110	Key No. 018-2182-6791
District Inc. DBA Transformation	Nappanee, IN 46550	Key No. 018-2182-6793
Ministries		Key No. 018-2182-6794
By <u>KORY LANTZ</u> (print name)		

**CONTACT PERSON (S)**

**NAME:** Lang, Feeney & Associates, Inc.  
J. Bernard Feeney

**ADDRESS:** 715 South Michigan Street  
South Bend, Indiana 46601

**PHONE:** 574-233-1841

**RETURN TO:**

OFFICE OF THE CITY CLERK  
JOHN VOORDE, CITY CLERK  
ROOM 455-COUNTY-CITY BUILDING  
SOUTH BEND, IN 46601  
574-235-9221

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:**

**THE FIRST NORTH-SOUTH ALLEY LYING WEST OF PORTAGE AVENUE, BOUNDED ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF BULLA STREET AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF THE FIRST EAST-WEST ALLEY NORTH OF KING STREET IN PORTAGE TOWNSHIP. BEING 251.6' IN LENGTH.**

**STATEMENT OF PURPOSE AND INTENT**

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City.

The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a Public Hearing on the petition to vacate the following property:

**THE FIRST NORTH-SOUTH ALLEY LYING WEST OF PORTAGE AVENUE, BOUNDED ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF BULLA STREET AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF THE FIRST EAST-WEST ALLEY NORTH OF KING STREET IN PORTAGE TOWNSHIP. BEING 256.6' IN LENGTH.**

hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana, to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

County Tax ID No. (no lot numbers)

- |               |                  |
|---------------|------------------|
| 018-2182-6791 | 018-2182-6795    |
| 018-2182-6792 | 018-2182-6795.01 |
| 018-2182-6793 | 018-2182-6796    |
| 018-2182-6744 | 018-2182-6797    |

Section IV. The purpose of the vacation of the real property is

To allow full use of their existing parking lot lying west of the alley in conjunction with their building on the east side of the alley.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

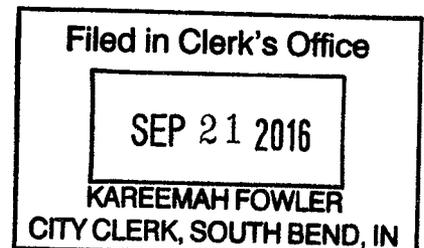
\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1<sup>st</sup> READING  
PUBLIC HEARING  
3<sup>rd</sup> READING  
NOT APPROVED  
REFERRED  
PASSED

Updated 6/22/12





**Legend**

- SJC Parcel Dimensions
- SJC Parcels
- ELK Parcels
- == SJC Street
- == ELK Street

**Michiana Regional GIS Website**

txtSubTitle

Map Generated By: Public  
Date Printed: 9/20/2016



Michiana Area Council of Governments | Geographic Information System  
©2016 and 2015, South Bend, IN



Coordinate grid is based on Indiana East State Plane Coordinate System 1983 North American Datum.

Information shown on this map is not warranted for accuracy or merchantability. Reproduction or distribution of this material is not authorized without the express written permission of MACOG.

Filed in Clerk's Office

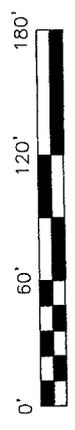
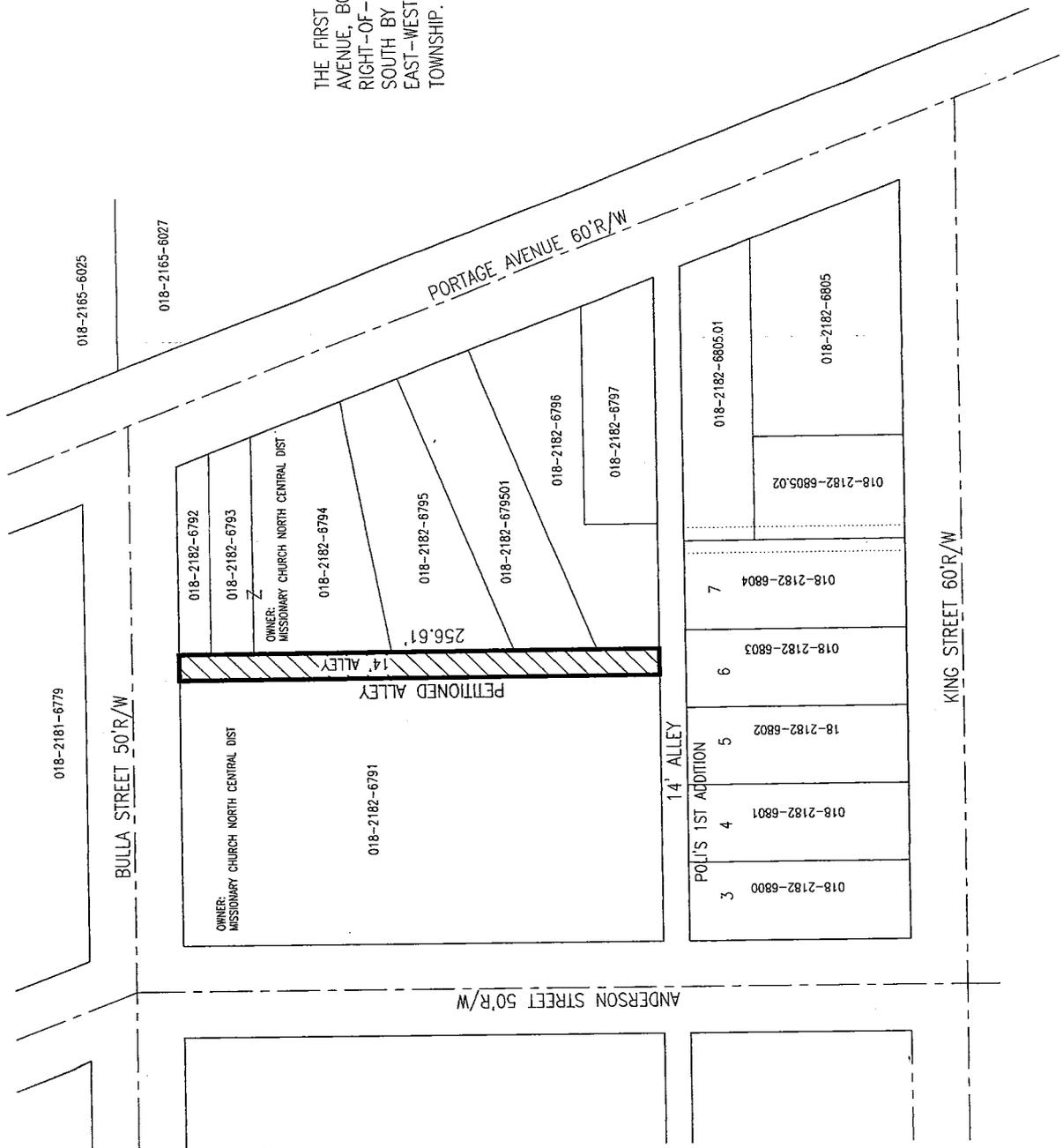
SEP 21 2016

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

Filed in Clerk's Office  
 SEP 21 2016  
 KAREEMAH FOWLER  
 CITY CLERK, SOUTH BEND, IN

# SITE PLAN ALLEY VACATION

THE FIRST NORTH-SOUTH ALLEY LYING WEST OF PORTAGE AVENUE, BOUNDED ON THE NORTH BY THE SOUTH RIGHT-OF-WAY LINE OF BULLA STREET AND BOUNDED ON THE SOUTH BY THE NORTH RIGHT-OF-WAY LINE OF THE FIRST EAST-WEST ALLEY NORTH OF KING STREET IN PORTAGE TOWNSHIP, BEING 251.6' IN LENGTH.

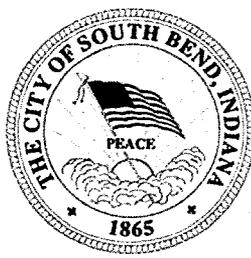


Lang, Feaney & Associates, Inc.  
 715 S. Michigan Street  
 South Bend, Indiana 46601  
 Phone (574) 233-1841

Land Surveyors • Soil Scientists

Scale 1" = 60'  
 Date 9-20-16  
 Drawn JMS  
 Job Name DL Constr Alley Vac

1200N COUNTY-CITY BUILDING  
227 W. JEFFERSON BLVD.  
SOUTH BEND, INDIANA 46601-1830

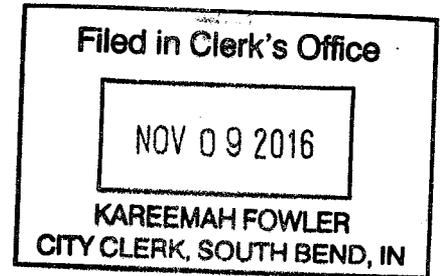


**Bill No. 67-16**  
PHONE 574/ 235-7678  
FAX 574/ 235-9928

CITY OF SOUTH BEND    PETE BUTTIGIEG, MAYOR  
**DEPARTMENT OF ADMINISTRATION AND FINANCE**

November 9, 2016

Mr. Tim Scott  
President, South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601



Re: 2016 Waterworks Bond Refunding Ordinance – Substitute Bill No. 67-16

Dear President Scott:

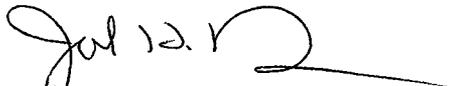
Attached please find a substitute ordinance authorizing the refunding of outstanding Waterworks Revenue Bonds of 2000 and Waterworks Revenue Bonds of 2006. The principle amount outstanding on the bonds is currently \$3,788,431. It is anticipated that the refunding will reduce the interest rates paid on the bonds and will result in annual debt service savings to the Water Utility of approximately \$35,000 per year or a net present value savings of approximately \$250,000 over the remaining life of the bonds.

Bond Counsel Phil Faccenda and I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1<sup>st</sup> reading on October 24, 2016 and 2<sup>nd</sup> reading, public hearing and 3<sup>rd</sup> reading scheduled for November 14, 2016.

If you have any further questions or need additional information, please let me know.

Thank you for your consideration.

Sincerely,

  
John H. Murphy  
City Controller





**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA CONCERNING THE CURRENT REFUNDING OF OUTSTANDING WATERWORKS REVENUE BONDS OF 2000 AND 2006, EACH ISSUED TO FINANCE CONSTRUCTION OF IMPROVEMENTS TO THE MUNICIPAL WATERWORKS OF THE CITY OF SOUTH BEND, INDIANA; AUTHORIZING THE ISSUANCE OF REVENUE BONDS FOR SUCH PURPOSE IN THE PRINCIPAL AMOUNT NOT TO EXCEED THREE MILLION SEVEN HUNDRED TWENTY THOUSAND (\$3,720,000); ADDRESSING OTHER MATTERS CONNECTED THEREWITH, INCLUDING THE ISSUANCE OF NOTES IN ANTICIPATION OF BONDS; AND REPEALING ORDINANCES INCONSISTENT HEREWITH**

---

**STATEMENT OF PURPOSE AND INTENT**

---

The City of South Bend, Indiana (the "City") has heretofore established, constructed and financed a municipal waterworks and now owns and operates said works pursuant to I.C. 8-1.5, as amended, and other applicable laws (together, the "Act").

The City's Municipal Waterworks Utility is subject to the authority and regulation of the Indiana Utility Regulatory Commission ("IURC") and has not withdrawn from the IURC's authority and regulation.

The Common Council of the City (the "Council") previously found in its Ordinance No. 9095-00 adopted by the Council on February 28, 2000 (the "2000 Ordinance") and in its Ordinance No. 9603-05 adopted by the Council on July 25, 2005 (the "2005 Ordinance"), that certain improvements to said works were necessary; and that plans, specifications and estimates had been prepared and filed by the engineers employed by the City for the acquisition and construction of said improvements (as described more fully on the respective Exhibit A to both the 2000 Ordinance and 2005 Ordinance) (collectively, the "Project"), which plans and specifications or other pertinent information were in a timely fashion submitted to all government authorities having jurisdiction thereover, particularly the Indiana Department of Environmental Management ("IDEM"), and were approved by the aforesaid government authorities.

Pursuant to the 2002 Ordinance, the City issued its "Waterworks Revenue Bonds of 2000" dated June 12, 2000 (the "2000 Bonds") originally issued in the amount of \$2,600,000, now outstanding in the amount of \$698,431, with a final maturity of January 1, 2020.

Pursuant to the 2005 Ordinance, the City issued its "Waterworks Revenue Bonds of 2006" dated June 1, 2006 (the "2006 Bonds") originally issued in the amount of \$4,710,000, now outstanding in the amount of \$3,090,000, with a final maturity of January 1, 2027.

The Council has determined, after being duly advised, (i) that the 2000 Bonds and the 2006 Bonds should be currently refunded to obtain a reduction in interest payments and effect a savings to the City (the "Refunding"); (ii) that the Refunding of the 2000 Bonds and 2006 Bonds, together with accrued interest thereon and including all costs related to the Refunding, cannot be provided for out of funds of the waterworks now on hand, and (iii) that the Refunding should be accomplished by the issuance of waterworks revenue bonds of the City.

The Council has determined, after being duly advised, that it is beneficial to currently refund the 2002 Bonds and 2006 Bonds to enable the City to obtain a reduction in interest payments and effect a savings to the City and hereby authorizes the same by issuance of the 2016 Bonds (described herein) under the provisions of the Act.

The Council finds that there are also now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Refunding Revenue Bonds of 2012B" dated November 29, 2012 (the "2012B Bonds"), originally issued in the amount of \$3,785,000 authorized by Ordinance No. 10190-12 adopted by the Council on October 8, 2012 (the "2012B Ordinance"), now outstanding in the amount of \$2,745,000.

The Council finds that there are also now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2012" dated June 21, 2012 (the "2012A Bonds"), originally issued in the amount of \$8,300,000 authorized by Ordinance No. 10134-11 adopted by the Council on November 28, 2011 (the "2012A Ordinance"), now outstanding in the amount of \$7,275,000.

The Council finds that there are now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2009, Series B" dated November 19, 2009 (the "2009B Bonds") originally issued in the amount of \$5,380,000 authorized by Ordinance No. 9937-09 adopted by the Council on June 8, 2009 (the "2009 Ordinance") (the 2012B Ordinance, 2012A Ordinance and 2009 Ordinance, collectively, the "Prior Ordinances"), now outstanding in the amount of \$4,555,000.

The Council finds that there are now outstanding bonds issued on account of the works and payable out of the revenues therefrom designated as the "Waterworks Revenue Bonds of 2009, Series A" dated September 1, 2009 (the "2009A Bonds") (the 2012B, 2012A Bonds, the 2009B Bonds, and the 2009A Bonds, together, the "Prior Bonds") originally issued in the amount of \$429,000 authorized by the 2009 Ordinance, now outstanding in the amount of \$352,795.

The Prior Bonds constitute a first charge upon the Net Revenues (as hereinafter defined).

The Prior Ordinances provide that the City may authorize and issue additional bonds payable out of the Net Revenues ranking on parity with the Parity Bonds (as hereinafter defined) for the purpose of financing the cost of future additions, extensions and improvements to the works, or to provide for a complete or partial refunding of bonds subject to the provisions of the Prior Ordinances. The conditions precedent to the issuance of additional parity bonds set forth in the Prior Ordinances, as described above, have been satisfied, subject to approval by the State of Indiana (the "State").

The City desires to authorize the issuance of a bond anticipation note or notes hereunder, if necessary, payable from the proceeds of the revenue bonds authorized herein (the "BANs"), and to authorize the refunding of said BANs, if issued.

The 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 applicable provisions of the Act.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

**SECTION 1. Refunding the 2002 Bonds and 2006 Bonds.** The Council hereby determines, after being duly advised, that it is beneficial to currently refund the 2002 Bonds and 2006 Bonds (together, the "Refunded Bonds") to enable the City to obtain a reduction in interest payments and effect a savings to the City. The City may proceed with the current refunding of the Refunded Bonds the costs of which are not expected to exceed \$3,720,000, without further authorization from the Council. The terms "works" and "utility" and other like terms where used in this Ordinance shall be construed to mean and include all structures and property of the City's waterworks utility. The Project has been constructed in accordance with the plans and specifications heretofore mentioned, which plans and specifications have previously been approved. All or a portion of the cost of the Refunding will be paid with the proceeds of the 2016 Bonds to be issued pursuant to the provisions of this Ordinance and the Act. The City may also use other legally available funds on hand to pay for the remainder of the cost of the Refunding the Refunded Bonds.

**SECTION 2. Authorization of Obligations.**The City shall issue its "Waterworks Refunding Revenue Bonds of 2016" or such other designation as the Executive (as defined below) or the Fiscal Officer (as defined below) shall determine at the time of issuance of any series of bonds (the "2016 Bonds"), in one or more series (as designated by the City, a "Series"), in an original principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000) (the "Authorized Amount"), as negotiable, fully registered bonds, for the purpose of procuring funds to be applied to the costs of the Refunding, and all incidental expenses incurred in connection therewith (all of which are deemed to be a part of the Refunding), and the costs of selling and issuing the 2016 Bonds and funding a debt service reserve as described herein. The City reasonably expects to reimburse expenditures for the Refunding with the proceeds of the 2016 Bonds and this constitutes a declaration of official intent to reimburse expenditures under Treas. Reg. 1.150-2(e) and Indiana Code 5-1-14-6(c). The 2016 Bonds shall rank on parity for all purposes with the Prior Bonds.

The 2016 Bonds shall be issued in denominations of Five Thousand Dollars (\$5,000) or any integral multiple thereof, or if issued as a private placement in denominations of \$100,000 with integral multiples of \$1,000 thereafter, numbered consecutively from 1 upward, and dated the date of delivery. The 2016 Bonds shall bear interest at a rate or rates not exceeding four percent (4%) per annum, and interest shall be payable semiannually on January 1 and July 1 in each year, beginning not earlier than July 1, 2017, with the beginning date of interest payments being finally determined by the Mayor as the executive of the City (the "Executive") and the Controller as the fiscal officer of the City (the "Fiscal Officer"), with the advice of the City's

financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication. Interest on the BANs and the 2016 Bonds shall be calculated according to a 360-day calendar year containing twelve 30-day months. The 2016 Bonds shall mature on January 1 of each year, beginning not earlier than January 1, 2018, in the year and in such amounts as is deemed appropriate by the Executive and the Fiscal Officer, with the advice of the City's financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication, and over a period ending not later than January 1, 2027.

All or a portion of the 2016 Bonds may be aggregated into and issued as one or more term bonds. The term bonds will be subject to mandatory sinking fund redemption with sinking fund payments and final maturities corresponding to the serial maturities described above. Sinking fund payments shall be applied to retire a portion of the term bonds as though it were a redemption of serial bonds and, if more than one term bond of any maturity is outstanding, redemption of such maturity shall be made by lot. Sinking fund redemption payments shall be made in a principal amount equal to such serial maturities, plus accrued interest to the redemption date, but without premium or penalty. For all purposes of this Ordinance, such mandatory sinking fund redemption payments shall be deemed to be required payments of principal which mature on the date of such sinking fund payments. Appropriate changes shall be made in the definitive form of 2016 Bonds, relative to the form of 2016 Bonds contained in this Ordinance, to reflect any mandatory sinking fund redemption terms.

(b) The City shall issue, if necessary, BANs for the purpose of procuring interim financing for the Refunding. Any such issuance shall be in accord with the provisions of Section 25 of this Ordinance.

**SECTION 3. Pledge of Net Revenues; Payment of Principal and Interest.** The 2016 Bonds, and any bonds ranking on a parity therewith, including the Prior Bonds, as to principal, premium, if any, and interest, shall be payable solely from and are secured by an irrevocable pledge of and shall constitute a charge upon all the Net Revenues (as defined in the following sentence) of the works. The term "Net Revenues," as used herein, shall be defined as the gross revenues of the works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance of the works, and which reasonable expenses of operation, repair and maintenance specifically do not include any rates or charges in lieu of taxes made and collected by the works and transferred to the City in accordance with the Act (the "PILOT Payment"). The City specifically subordinates its right to receive any PILOT Payment to the rights of the holders of the 2016 Bonds, and any Parity Bonds, including the Prior Bonds, to receive payment of the principal, premium, if any, and interest, payable on such bonds. PILOT Payments shall be made not more frequently than semiannually on January 2 and July 2 and may be made only if all monthly deposits required by this Ordinance are current and held as of such dates in the Operation and Maintenance Fund and the Sinking Fund (each as defined herein). Other than PILOT Payments and normal and regular pro rata payments to the City for shared expenses charged by the City to its various departments, no moneys derived from the revenues of the works shall be transferred to the General Fund of the City or be used for any purpose not connected with the works.

All payments of interest on the 2016 Bonds shall be paid by check mailed one business day prior to the interest payment date to the registered owners thereof as of the fifteenth (15th) day of the month preceding the interest payment date (the "Record Date") at the addresses as they appear on the registration and transfer books of the City kept for that purpose by the Registrar (the "Registration Record") or at such other address as is provided to the Paying Agent in writing by such registered owner. Each registered owner of \$1,000,000 or more in principal amount of 2016 Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the Record Date for any payment. All principal payments and premium payments, if any, on the 2016 Bonds shall be made upon surrender thereof at the principal office of the Paying Agent, in any U.S. coin or currency which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a registered owner of \$1,000,000 or more in principal amount of 2016 Bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date or redemption date.

Interest on 2016 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date thereof unless such 2016 Bonds are authenticated after the Record Date for an interest payment date and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless authenticated on or before the Record Date for the first interest payment date, in which case they shall bear interest from the original date, until the principal shall be fully paid.

SECTION 4. Transfer and Exchange of Bonds. Each 2016 Bond shall be transferable or exchangeable only upon the Registration Record, by the registered owner thereof in writing, or by the registered owner's attorney duly authorized in writing, upon surrender of such 2016 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or such attorney, and thereupon a new fully registered 2016 Bond or Bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the names 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, the Registrar and the Paying Agent may treat and consider the persons in whose names such 2016 Bonds are registered as the absolute owners thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest and premium, if any, due thereon.

In the event any 2016 Bond is mutilated, lost, stolen or destroyed, the City may execute and the Registrar may authenticate a new bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new bond shall be marked in a manner to distinguish it from the bond for which it was issued, provided that, in the case of any mutilated bond, such mutilated bond shall first be surrendered to the Registrar, and in the case of any lost, stolen or destroyed bond there shall be first furnished to the Registrar evidence of such loss, theft or destruction satisfactory to the Fiscal Officer and the Registrar, together with indemnity satisfactory to them. In the event any such bond shall have matured, instead of issuing a duplicate bond, the City and the Registrar may, upon receiving indemnity satisfactory to them, pay the same without surrender thereof. The City and the Registrar may charge the owner of

such 2016 Bond with their reasonable fees and expenses in this connection. Any 2016 Bond issued pursuant to this paragraph shall be deemed an original, substitute contractual obligation of the City, whether or not the lost, stolen or destroyed 2016 Bond shall be found at any time, and shall be entitled to all the benefits of this Ordinance, equally and proportionately with any and all other 2016 Bonds issued hereunder.

**SECTION 5. Registrar and Paying Agent.** The Fiscal Officer is hereby authorized to appoint a qualified financial institution to serve as Registrar and Paying Agent for the 2016 Bonds (together with any successor, the "Registrar" or "Paying Agent"). The Registrar is hereby charged with the responsibility of authenticating the 2016 Bonds, and shall keep and maintain the Registration Record at its office. The Fiscal Officer is hereby authorized to enter into such agreements or understandings with such institution as will enable the institution to perform the services required of a Registrar and Paying Agent. The Fiscal Officer is further authorized to pay such fees and the institution may charge for the services its provides as Registrar and Paying Agent and such fees may be paid from the Sinking Fund established to pay the principal of and interest on the 2016 Bonds as fiscal agency charges.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent by giving thirty (30) days written notice to the City and by first-class mail to each registered owner of the 2016 Bonds then outstanding, and such resignation will take effect at the end of such thirty (30) days or upon the earlier appointment of a successor Registrar and Paying Agent by the City. Such notice to the City may be served personally or sent by first-class or 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 2016 Bonds then outstanding by first-class mail of the removal of the Registrar and Paying Agent. Notices to the registered owners of the 2016 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 Record. Any predecessor Registrar and Paying Agent shall deliver all the 2016 Bonds, cash or investments related thereto in its possession and the Registration Record to the successor Registrar and Paying Agent.

As to the BANs, the Fiscal Officer shall serve as Registrar and Paying Agent and is hereby charged with the duties of Registrar and Paying Agent.

**SECTION 6. Terms of Redemption.** The 2016 Bonds may be made redeemable at the option of the City on thirty (30) days' notice, in whole or in part, in any order of maturities selected by the City and by lot within a maturity, on dates, not earlier than July 1, 2024, and without premium, and containing such other terms as finally determined by the Executive with the advice of the City's financial advisor, as evidenced by delivery of the executed initial issue of the 2016 Bonds to the Registrar for authentication.

Notice of redemption shall be mailed by first-class mail to the address of each registered owner of a 2016 Bond to be redeemed as shown on the Registration Record not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption except to the extent such redemption notice is waived by owners of 2016 Bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any 2016 Bond shall not affect the validity of any proceedings for the redemption of any other 2016 Bonds. The

notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers of the 2016 Bonds called for redemption. The place of redemption may be determined by the City. Interest on the 2016 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, and thereafter, such 2016 Bonds shall no longer be protected by this Ordinance and shall not be deemed to be outstanding hereunder, and the holders thereof shall have the right only to receive the redemption price.

All 2016 Bonds which have been redeemed shall be canceled and shall not be reissued; provided, however, that one or more new registered bonds shall be issued for the unredeemed portion of any 2016 Bond without charge to the holder thereof.

No later than the date fixed for redemption, funds shall be deposited with the Paying Agent or another paying agent to pay, and such agent is hereby authorized and directed to apply such funds to the payment of, the 2016 Bonds or portions thereof called for redemption, including accrued interest thereon to the redemption date. No payment shall be made upon any 2016 Bond or portion thereof called for redemption until such 2016 Bond shall have been delivered for payment or cancellation or the Registrar shall have received the items required by this Ordinance with respect to any mutilated, lost, stolen or destroyed bond.

The BANs are prepayable by the City, in whole or in part, at any time upon seven (7) days' notice to the owner of the BANs, without any premium.

**SECTION 7. Execution and Negotiability.** The 2016 Bonds shall be signed in the name of the City by the manual or facsimile signature of the Executive and attested by the manual or facsimile signature of the City Clerk, who also shall affix the seal of the City manually or shall have the seal imprinted or impressed thereon by facsimile or other means. In case any officer whose signature or facsimile signature appears thereon shall cease to be such officer before the delivery of the 2016 Bonds, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until such delivery.

The 2016 Bonds shall also be authenticated by the manual signature of the Registrar, and no 2016 Bond shall be valid or become obligatory for any purpose until the certificate of authentication thereon has been so executed.

The 2016 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.

**SECTION 8. Authorization for Book-Entry System.** The 2016 Bonds may, in compliance with all applicable laws, initially be issued and held in book-entry form on the books of the central depository system, The Depository Trust Company, its successors, or any successor central depository system appointed by the City from time to time (the "Clearing Agency"), without physical distribution of bonds to the purchasers. The following provisions of this Section apply in such event.

One definitive 2016 Bond of each maturity shall be delivered to the Clearing Agency (or its agent) and held in its custody. The City and Registrar may, in connection herewith, do or

perform or cause to be done or performed any acts or things not adverse to the rights of the holders of the 2016 Bonds as are necessary or appropriate to accomplish or recognize such book-entry form 2016 Bonds.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, (1) any such 2016 Bond may be registered upon Registration Record in the name of such Clearing Agency, or any nominee thereof, including Cede & Co.; (2) the Clearing Agency in whose name such 2016 Bond is so registered shall be, and the City and the Registrar and Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such 2016 Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest and premium, if any, on such 2016 Bond, the receiving of notice and the giving of consent; (3) neither the City nor the Registrar or Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency, or any person on behalf of which, or otherwise in respect of which, any such participant holds any interest in any 2016 Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any 2016 Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any 2016 Bond, the receiving of notice or the giving of consent; and (4) the Clearing Agency is not required to present any 2016 Bond called for partial redemption, if any, prior to receiving payment so long as the Registrar and Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.

If either the City receives notice from the Clearing Agency which is currently the registered owner of the 2016 Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the 2016 Bonds, or the City elects to discontinue its use of such Clearing Agency as a Clearing Agency for the 2016 Bonds, then the City and the Registrar and Paying Agent each shall do or perform or cause to be done or performed all acts or things, not adverse to the rights of the holders of the 2016 Bonds, as are necessary or appropriate to discontinue use of such Clearing Agency as a Clearing Agency for the 2016 Bonds and to transfer the ownership of each of the 2016 Bonds to such person or persons, including any other Clearing Agency, as the holder of the 2016 Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the 2016 Bonds, shall be paid by the City.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respect to the identity of any beneficial owner of the 2016 Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a 2016 Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the 2016 Bonds as the bondholders and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.

During any time that the 2016 Bonds are held in book-entry form on the books of a Clearing Agency, the Executive, the Fiscal Officer and/or the Registrar are authorized to execute

and deliver a Letter of Representations agreement with the Clearing Agency, or a Blanket Issuer Letter of Representations, and the provisions of any such Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of Registrar under this Ordinance, agrees that it will (i) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (ii) comply with all requirements of the Clearing Agency, including without limitation same day funds settlement payment procedures. Further, during any time that the 2016 Bonds are held in book-entry form, the provisions of Section 8 of this Ordinance shall control over conflicting provisions in any other section of this Ordinance.

SECTION 9. **Form of 2016 Bonds.** The form and tenor of the 2016 Bonds shall be substantially as follows, all blanks to be filled in properly and all necessary additions and deletions to be made prior to delivery:

R-\_\_

UNITED STATES OF AMERICA

STATE OF INDIANA

COUNTY OF ST. JOSEPH

CITY OF SOUTH BEND, INDIANA

WATERWORKS REVENUE REFUNDING BOND OF 20[\_\_\_\_\_]

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Original Date</u>	<u>Authentication Date</u>	<u>CUSIP No.</u>
	_____, 20__	_____, 2016	_____, 2016	_____

REGISTERED OWNER: \_\_\_\_\_

PRINCIPAL SUM: \_\_\_\_\_ Dollars (\$ \_\_\_\_\_)

The City of South Bend, in St. Joseph, County, State of Indiana (the "City"), for value received, hereby promises to pay to the Registered Owner set forth above, solely out of the special revenue fund hereinafter referred to, the Principal Sum set forth above on the Maturity Date set forth above (unless this bond be subject to and be called for redemption prior to maturity as hereafter provided), and to pay interest thereon until the Principal Sum shall be fully paid at the Interest Rate per annum specified above 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 the interest payment date (the "Record 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 \_\_\_\_\_, 20\_\_, in which case it

shall bear interest from the Original Date, which interest is payable semiannually on January 1 and July 1 of each year, beginning on \_\_\_\_\_ 1, 20\_\_\_. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

[The principal of and premium, if any, on this bond are payable at the principal office of \_\_\_\_\_ (the "Registrar" or "Paying Agent"), in \_\_\_\_\_, 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 as of the Record 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. Each Registered Owner of \$1,000,000 or more in principal amount of bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the Record Date for any payment. All payments of principal of, and premium, if any, on this bond shall be made upon surrender thereof at the principal office of the Paying Agent, in any U.S. coin or currency which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a Registered Owner of \$1,000,000 or more in principal amount of the Bonds (as hereinafter defined), by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date or redemption date.

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.

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.

This bond is one of an authorized issue of bonds of the City of South Bend, Indiana, of like date, tenor and effect, except as to denomination, numbering, rates of interest, redemption terms and dates of maturity, aggregating \_\_\_\_\_ Dollars (\$\_\_\_\_\_), numbered consecutively from 1 upward (the "Bonds"), issued for the purpose of providing funds to be applied to the cost of currently refunding outstanding City of South Bend, Indiana Waterworks Revenue Bonds of 2000 and City of South Bend, Indiana Waterworks Revenue Bonds of 2006 (collectively, the "Refunding"), to refund interim notes issued in anticipation of the Bonds, if any, to fund a debt service reserve, and to pay incidental expenses and costs of issuance of the Bonds. This bond is issued pursuant to an ordinance adopted by the Common Council of said City on the \_\_\_ day of \_\_\_\_\_, 2016, entitled "An Ordinance of the Common Council of the City of South Bend, Indiana,

Concerning the Current Refunding of Outstanding Waterworks Revenue Bonds of 2000 and 2006, each Issued to Finance Construction of Improvements to the Municipal Waterworks of the City of South Bend, Indiana; Authorizing the Issuance of Revenue Bonds for such Purpose in the Principal Amount not to exceed Three Million Seven Hundred Twenty Thousand (\$3,720,000); Addressing Other Matters Connected Therewith, Including the Issuance of Notes in Anticipation of Bonds; and Repealing Ordinances Inconsistent Herewith” (the “Ordinance”), and in accordance with the provisions of Indiana law, including without limitation Indiana Code 8-1.5, and other applicable laws, as amended (the “Act”), all as more particularly described in the Ordinance. The owner of this bond, by the acceptance hereof, agrees to all the terms and provisions contained in the Ordinance and the Act.

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, the Prior Bonds (as hereinafter defined), and any bonds hereafter issued on a parity therewith are payable solely from the Sinking Fund (the “Sinking Fund”) maintained under the Ordinance to be provided from the Net Revenues (defined as the gross revenues of the works after deduction only for the payment of the reasonable expenses of operation, repair and maintenance of the works, and which reasonable expenses of operation, repair and maintenance specifically do not include any rates or charges in lieu of taxes made and collected by the works and transferred to the City in accordance with the Act.

The City irrevocably pledges the entire Net Revenues of the works to the prompt payment of the principal of and interest on the Bonds and any bonds ranking on a parity therewith, including the “Waterworks Refunding Revenue Bonds of 2012B” dated November 29, 2012 (the “2012B Bonds”), “Waterworks Revenue Bonds of 2012” dated June 21, 2012 (the “2012A Bonds”), “Waterworks Revenue Bonds of 2009, Series B dated November 19, 2009 (the “2009B Bonds”) and the “Waterworks Revenue Bonds of 2009, Series A” dated September 1, 2009 (the “2009A Bonds”) (the 2012B Bonds, 2012A Bonds, the 2009B Bonds and the 2009A Bonds, together, the “Prior Bonds”), each authorized by ordinance of the City, to the extent necessary for such purposes, and covenants that it will establish proper 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, repair and maintenance of the 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 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.

The City covenants that for so long as the Bonds and any bonds issued on a parity therewith, including the Prior Bonds, remain outstanding it will set aside and pay into the Sinking Fund a sufficient amount of the Net Revenues for the payment of (a) the principal of and interest on all bonds which by their terms are payable from the Net Revenues, as such principal and interest shall fall due, (b) the necessary fiscal agency charges for paying bonds and (c) an additional amount to maintain the reserve required by the Ordinance. Such required payments shall constitute a first charge upon all the Net Revenues. Reference is made to the Ordinance for a more complete statement of the

revenues from which and conditions under which this bond is payable, a statement of the conditions on which obligations may hereafter be issued on parity with this bond, the manner in which the Ordinance may be amended and the general covenants and provisions pursuant to which this bond has been issued.

The bonds of this issue maturing on and after January 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 any order of maturities selected by the City and by lot within a maturity, at 100% of face value, and without premium, plus accrued interest to the date fixed for redemption. Each minimum authorized denomination in principal amount shall be considered a separate bond for purposes of partial redemption.

[Insert term bond provisions, if applicable.]

Notice of such redemption shall be mailed by first-class mail not more than sixty (60) days and not less than thirty (30) days prior to the date fixed for redemption to the address of the registered owner of each bond to be redeemed as shown on the registration record of the City except to the extent such redemption notice is waived by owners of the bond or bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect therein, with respect to any bond shall not affect the validity of any proceedings for the redemption of any other bonds. The notice shall specify the date and place of redemption, the redemption price and the CUSIP numbers 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, and thereafter, such bonds shall no longer be protected by the Ordinance and shall not be deemed to be outstanding thereunder.

This bond is subject to defeasance prior to payment or redemption as provided in the Ordinance.

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Paying Agent or another paying agent, 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 for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the registration record kept for that purpose at the office of the Registrar by the Registered Owner 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 such attorney, and thereupon a new fully registered bond or bonds in the same 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. This bond may be transferred or exchanged without cost to the Registered Owner except for any tax or governmental charge required to be paid with respect to the transfer or exchange. 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 and premium, if any, due hereon.

The bonds maturing on any maturity date are issuable only in the denomination of \$5,000 [or \$100,000] or any integral multiple [integral multiple of \$1,000] thereof.

A Continuing Disclosure Contract from the City to each registered owner or holder of any bond, dated as of the date of initial issuance of the Bonds (the "Contract"), has been executed by the City, a copy of which is available from the City and the terms of which are incorporated herein by this reference. The Contract contains certain promises of the City to each registered owner or holder of any Bond, including a promise to provide certain continuing disclosure. By its payment for and acceptance of this bond, the registered owner or holder of this bond assents to the Contract and to the exchange of such payment and acceptance for such promises.

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

CITY OF SOUTH BEND, INDIANA

By: \_\_\_\_\_  
Mayor

(SEAL)

ATTEST

\_\_\_\_\_  
Clerk

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

It is hereby certified that this bond is one of the bonds described in the within-mentioned Ordinance duly authenticated by the Registrar.

\_\_\_\_\_  
as Registrar

By \_\_\_\_\_  
Authorized Representative

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

TEN. COM.	as tenants in common
TEN. ENT.	as tenants by the entireties
JT. TEN.	as joint tenants with right of survivorship and not as tenants in common
UNIF. TRAN. MIN. ACT	_____ Custodian _____ (Cust.) (Minor) under Uniform Transfer to Minors Act of _____ (State)

Additional abbreviations may also be used although not in the above list.

#### ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_ (Please Print or Typewrite Name and Address and Social Security or Other Identifying Number) \$\_\_\_\_\_ principal amount (must be a multiple of \$1,000) of the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_, attorney to transfer the within bond on the books kept for the registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

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.

Signature Guaranteed:

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

**SECTION 10. Sale of Bonds.**

(a) The City may sell the 2016 Bonds in a public sale. In such case, the Fiscal Officer shall cause to be published either (i) a notice of sale once each week for two consecutive weeks per IC § 5-3-1-2, in which case the date fixed for the sale shall not be earlier than fifteen (15) days after the first such publications and not earlier than three (3) days after the second of such publications, or (ii) a notice of intent to sell bonds once each week for two (2) weeks in accordance with IC § 5-1-11-2 and IC § 5-3-1-4 and in a newspaper of general circulation published in the State capital, in which case bids may not be received more than ninety (90) days after the first of such publications. Said sale notice shall state the time and place of sale, the purpose for which the 2016 Bonds are being issued, the total amount thereof, the amount and date of each maturity, the maximum rate or rates of interest thereon, their denominations, the time and place of payment, that specifications and information concerning the 2016 Bonds are on file in the office of the Fiscal Officer and are available on request, the terms and conditions upon which bids will be received and the sale made and such other information as is required by law or as the Fiscal Officer shall deem necessary.

(b) All bids for the 2016 Bonds shall be presented to the Fiscal Officer in accord with the terms set forth in the sale notice. Bidders for the 2016 Bonds shall be required to name the rate or rates of interest which the 2016 Bonds are to bear, which shall be the same for all 2016 Bonds maturing on the same date and the interest rate bid on any maturity of 2016 Bonds must be no less than the interest rate bid on any and all prior maturities, not exceeding four percent (4%) per annum, and such interest rate or rates shall be in multiples of one-eighth or one-hundredth of one per cent. The Fiscal Officer shall award the 2016 Bonds to the bidder who offers the lowest interest cost, to be determined by computing the total interest on all the 2016 Bonds to their maturities and deducting therefrom the premium bid, if any, or adding thereto the amount of the discount, if any. No bid for less than ninety-nine percent (99%) of the par value of the 2016 Bonds for any such bonds to be sold by competitive sale shall be considered. The Fiscal Officer may require that all bids shall be accompanied by certified or cashier's checks (or wire transfer) payable to the order of the Mayor, or a surety bond, in an amount not to exceed one percent (1%) of the aggregate principal amount of the 2016 Bonds as a guaranty of the performance of said bid, should it be accepted. If a financial surety bond is used, it must be from an insurance company licensed to issue such bond in the State of Indiana, and such bond must be submitted to the City prior to the opening of the bids. The financial surety bond must identify each bidder whose good faith deposit is guaranteed by such financial surety bond. If the 2016 Bonds are awarded to a bidder utilizing a financial surety bond, then the purchaser is required to submit to the City a certified or cashier's check (or wire transfer such amount as instructed by the City) not later than 3:30 p.m. (South Bend, Indiana Time) on the next business day following the award. In the event no satisfactory bids are received on the day named in the sale notice, the sale may be continued from day to day thereafter for a period of thirty (30) days without readvertisement; provided, however, that if said sale be continued, no bid shall be accepted which offers an interest cost which is equal to or higher than the best bid received at the time fixed for sale in the bond sale notice. The Fiscal Officer shall have full right to reject any and all bids.

(c) As an alternative to public sale, the Fiscal Officer may negotiate the sale of the 2016 Bonds to an underwriter or financial institution. The Mayor and the Fiscal Officer are

each authorized to execute a bond purchase agreement with such underwriter or financial institution, in customary form, upon such terms as are acceptable to the Mayor and the Fiscal Officer consistent with the terms of this Ordinance.

(d) Distribution of an Official Statement (Preliminary and Final) when and if prepared by the City's financial advisor, on behalf of the City, is hereby authorized and approved, and the Executive is authorized and directed to execute the Official Statement on behalf of the City in a form consistent with this Ordinance. The Executive or the Fiscal Officer is authorized to deem the Preliminary Official Statement as "final" for purposes of Rule 15c2-12 promulgated by the Securities and Exchange Commission.

(e) After the 2016 Bonds have been properly sold and executed, the Fiscal Officer shall receive from the purchasers payment for the 2016 Bonds and shall provide for delivery of the 2016 Bonds to the purchasers.

(f) The 2016 Bonds, as and to the extent paid for and delivered to the purchaser shall be the binding special revenue obligations of the City, payable out of the Net Revenues. The proper officers of the City are hereby directed to sell the 2016 Bonds to the purchasers and to do whatever acts and things which may be necessary to carry out the provisions of this Ordinance.

(g) The Executive and the Fiscal Officer each are hereby authorized to deem final an official statement with respect to the 2016 Bonds, as of its date, in accordance with the provisions of Rule 15c2-12 of the U.S. Securities and Exchange Commission, as amended (the "SEC Rule"), subject to completion as permitted by the SEC Rule, and the City further authorizes the distribution of the deemed final official statement, and the execution, delivery and distribution of such document as further modified and amended with the approval of the Executive or the Fiscal Officer in the form of a final official statement.

(h) In order to assist any underwriter of the 2016 Bonds in complying with paragraph (b)(5) of the SEC Rule by undertaking to make available appropriate disclosure about the City and the 2016 Bonds to participants in the municipal securities market, the City hereby covenants, agrees and undertakes, in accordance with the SEC Rule, unless excluded from the applicability of the SEC Rule or otherwise exempted from the provisions of paragraph (b)(5) of the SEC Rule, that it will comply with and carry out all of the provisions of the continuing disclosure contract. "Continuing disclosure contract" shall mean that certain continuing disclosure contract executed by the City and dated the date of issuance of the 2016 Bonds, as originally executed and as it may be amended from time to time in accordance with the terms thereof. The execution and delivery by the City of the continuing disclosure contract, and the performance by the City of its obligations thereunder by or through any employee or agent of the City, are hereby approved, and the City shall comply with and carry out the terms thereof.

(i) The Fiscal Officer is hereby authorized and directed to obtain a legal opinion as to the validity of the 2016 Bonds from Barnes & Thornburg LLP, and to furnish such opinion to the purchasers of the 2016 Bonds or to cause a copy of said legal opinion to be printed on each 2016 Bond. The cost of such opinion shall be paid out of the proceeds of the 2016 Bonds.

(j) In connection with the sale of the 2016 Bonds, the Executive and the Fiscal Officer each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating and/or to obtain bond insurance for the 2016 Bonds, and the taking of such actions and the execution and delivery of such agreements and instruments are hereby approved.

SECTION 11. **Use of Proceeds.** The accrued interest received at the time of delivery of the 2016 Bonds, if any, and premium, if any, shall be deposited in the Bond and Interest Account of the Sinking Fund (as hereafter defined) and applied to payments on the 2016 Bonds on the first interest payment date. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the amount described in Section 14(b) ~~will~~may be deposited ~~to~~in either the Debt Service Reserve Account or in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of such Series and applied as described below. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the estimated costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds, shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Costs of Issuance Fund" (the "Costs of Issuance Fund"). The proceeds deposited in the Costs of Issuance Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds. The remaining proceeds from the sale of the 2016 Bonds shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Refunding Fund" (the "Refunding Fund"). The proceeds deposited in the Refunding Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of the Refunding.

SECTION 12. **Revenue Fund.** There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Revenue Fund (the "Revenue Fund"). All income and revenues of the works shall be paid into the Revenue Fund for application as described below.

SECTION 13. **Operation and Maintenance Fund.** There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Operation and Maintenance Fund (the "Operation and Maintenance Fund") (also shown on the books of the utility as the Operating Fund). There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund, on the last day of each calendar month, a sufficient amount so that the balance in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two 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 works on a day-to-day basis, but none of the moneys in the Operation and Maintenance Fund shall be used for depreciation, replacements, improvements, extensions or additions or transfer of the Pilot Payment. Any balance in Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding two calendar months may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the works.

SECTION 14. **Sinking Fund.** There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Sinking Fund (the "Sinking Fund"), to be used for the payment of the principal of and interest on bonds which by their terms are payable from the Net Revenues, and for the payment of any fiscal agency charges in connection with such payment. The Sinking Fund is divided into two accounts designated as the Bond and Interest Account and the Debt Service Reserve Account, which are pledged for the purposes set forth below. There shall be set aside and deposited in the Sinking Fund, as available, and as hereinafter provided, a sufficient amount of the Net Revenues to meet the requirements of the Bond and Interest Account (also shown on the books of the utility as the Bond Sinking Fund) and of the Debt Service Reserve Account. Such payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account, equals the amount needed to redeem all of the then outstanding bonds.

(a) **Principal and Interest Account.** There shall be transferred, on the last day of each calendar month, from the Revenue Fund and credited to the Bond and Interest Account an amount equal to the sum of one-twelfth (1/12) of the principal and one-sixth (1/6) of the interest on all then outstanding bonds payable from Net Revenues on the next succeeding principal and interest payment dates, until the amount so credited shall equal the principal payable during the next succeeding twelve (12) calendar months and the interest payable during the next succeeding six (6) calendar months. There shall similarly be credited to the account any amount necessary to pay when due the bank fiscal agency charges for paying principal of and interest on the bonds as the same become payable. The City shall, from the sums deposited in the Sinking Fund and credited to the Bond and Interest Account, remit promptly to the bank fiscal agency sufficient moneys to pay the principal and interest on the due dates thereof together with the amount of bank fiscal agency charges.

(b) **Debt Service Reserve Account.** The City may, upon the issuance of the 2016 Bonds of any Series, establish within the Debt Service Reserve Account a subaccount for the 2016 Bonds of such Series (each, a "2016 Subaccount"). The Debt Service Reserve Account (excluding any subaccounts established for any of the Bonds (each, a "Subaccount", and collectively, the "Subaccounts")) shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the Bonds (as hereinafter defined) (excluding any Bonds for which a Subaccount was established), and the moneys in the Debt Service Reserve Account (excluding any Subaccounts) shall be used to pay current principal and interest on the Bonds (excluding any Bonds for which a Subaccount was established) to the extent that moneys in the Bond and Interest Account are insufficient for that purpose. The 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall constitute the margin for safety and as protection against default in the payment of principal of and interest on the 2016 Bonds of such Series, and the moneys in such 2016 Subaccount shall be used to pay current principal and interest on the 2016 Bonds of such Series to the extent that moneys in the Bond and Interest Account are insufficient for that purpose.

(c) No amounts in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall be available to pay any principal of or interest or redemption premium, if any, on any Bonds, except the 2016 Bonds of such Series.

(d) No amounts in the Debt Service Reserve Account shall be available to pay any principal of or interest or redemption premium, if any, on any 2016 Bonds of any Series for which a 2016 Subaccount was established, except that any amounts in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series shall be available to pay the principal of or interest or redemption premium, if any, on the 2016 Bonds of such Series.

(e) In this Ordinance the term "Parity Bonds" means any and all bonds ranking on a parity with the 2016 Bonds issued hereunder (including the Prior Bonds) which are (i) now outstanding or issued in the future by the City and (ii) which are payable from the Net Revenues of the City's waterworks.

(f) In this Section 14, the term "Bonds" means the 2016 Bonds issued hereunder and all Parity Bonds.

(g) In this Ordinance, the term "Reserve Requirement" for the Bonds (excluding any Bonds for which a Subaccount was established) means the least of: (i) the maximum annual debt service on the Bonds (excluding any Bonds for which a Subaccount was established), (ii) 125% of the average annual debt service on the Bonds (excluding any Bonds for which a Subaccount was established), or (iii) 10% of the proceeds of the Bonds (excluding any Bonds for which a Subaccount was established). In this Ordinance, the term "Reserve Requirement" for the 2016 Bonds of each Series for which a 2016 Subaccount was established means the least of: (i) the maximum annual debt service on the 2016 Bonds of such series, (ii) 125% of the average annual debt service on the 2016 Bonds of such Series, or (iii) 10% of the proceeds of the 2016 Bonds of such Series.

(h) Subject to Section 14(i) and Section 14(j) below, the City shall maintain in the Debt Service Reserve Account (excluding any Subaccounts) an amount equal to the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established). Subject to Section 14(i) and Section 14(j) below, the City shall maintain in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of each Series for which a 2016 Subaccount was established an amount equal to the Reserve Requirement for the 2016 Bonds of such Series.

(i) To the extent that the amount in the Debt Service Reserve Account (excluding any Subaccounts) on the date of the issuance of the 2016 Bonds of any Series is less than the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established), that portion of the shortfall which exists as of the date of issuance of the 2016 Bonds of such Series shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into the Debt Service Reserve Account (excluding any Subaccounts) either (i) in a single payment, to be paid on the date of the issuance of the 2016 Bonds of such Series, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of the 2016 Bonds of such Series, with the first installment due and payable on the date of the issuance of the 2016 Bonds of such Series, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which the 2016 Bonds of such Series are issued. To the extent that the amount in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of any Series on the date of the issuance of the 2016 Bonds of such Series is less than the Reserve Requirement for

the 2016 Bonds of such Series, that portion of the shortfall which exists as of the date of issuance of the 2016 Bonds of such Series shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into such 2016 Subaccount either (i) in a single payment, to be paid on the date of the issuance of the 2016 Bonds of such Series, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of the 2016 Bonds of such Series, with the first installment due and payable on the date of the issuance of the 2016 Bonds of such Series, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which the 2016 Bonds of such Series are issued.

(j) To the extent that additional Parity Bonds are issued subsequent to the issuance of the 2016 Bonds of any Series, the additional amounts, if any, which are required to be paid into the Debt Service Reserve Account to satisfy the Reserve Requirement as a result of the issuance of such additional Parity Bonds shall, at the election of the Executive and Fiscal Officer with the advice of the City's financial advisor, be deposited into the Debt Service Reserve Account either (i) in a single payment, to be paid on the date of the issuance of such additional Parity Bonds, or (ii) in equal monthly installments, over a period not to exceed sixty (60) months after the date of issuance of such additional Parity Bonds, with the first installment due and payable on the date of the issuance of such additional Parity Bonds, and the remaining installments payable on the last day of each calendar month, commencing on the last day of the month in which such additional Parity Bonds are issued.

(k) Subject to Section 14(i) and Section 14(j) above, any deficiency in the balance maintained in the Debt Service Reserve Account (excluding any Subaccounts) or any Subaccounts shall be promptly made up from the next available Net Revenues after credits into the Bond and Interest Account, on a pro rata basis, calculated by reference to the amount of the deficiency in the Debt Service Revenue Account (excluding any Subaccounts) and each Subaccount. Any moneys in the Debt Service Reserve Account (excluding any Subaccount) in excess of the Reserve Requirement for the Bonds (excluding any Bonds for which a Subaccount was established), and any moneys in the 2016 Subaccount for the 2016 Bonds of any Series for which a 2016 Subaccount was established in excess of the Reserve Requirement for the 2016 Bonds of such Series, may be used for the prepayment of installments of principal, together with interest due thereon, on the then outstanding Bonds which are then callable or prepayable, or for the purchase of outstanding Bonds or installments of principal of and interest on the Bonds at a price not exceeding par and accrued interest, or may be transferred to the Improvement Fund.

(l) As an alternative to holding cash funds in the Debt Service Reserve Account or any Subaccount, the City, with the advice of the City's financial advisor and nationally recognized bond counsel, may satisfy all or any part of its obligation to maintain any amount in the Debt Service Reserve Account or such Subaccount by depositing a Credit Facility (as defined in the next sentence) therein (which, for any 2009 Bonds for which a Subaccount was established and which were sold to the Indiana Finance Authority through the SRF Program (as hereafter defined), will require the written consent of the Indiana Finance Authority to the deposit of any such Credit Facility), provided that such deposit does not adversely affect any then existing rating on the Bonds. A "Credit Facility" is hereby defined as a letter of credit, liquidity facility, insurance policy or comparable instrument furnished by a bank, insurance company, financial institution or other entity pursuant to a reimbursement agreement or similar instrument

between such entity and the City. To the extent that any Bonds are insured, and the Credit Facility is not being provided by the insurer of such Bonds, such insurance policy shall be subject to the insurer's prior written consent.

(m) In the event a draw is made against the Credit Facility in the Debt Service Reserve Account or any Subaccount, the City shall repay the amount of the draw and related expenses incurred by the issuer(s) of the Credit Facility (the "Credit Facility Issuer") together with interest thereon at the rate specified in the Credit Facility and/or the related Credit Facility Agreement (as defined below). The repayment of the draw amount, related expenses and accrued interest (the "Credit Facility Costs") shall be paid from the funds that would have been set aside above to replenish the Debt Service Reserve Account or such Subaccount, respectively. Repayment of the Credit Facility Costs shall commence in the first month following each draw, in an amount equal to no less than one twelfth (1/12) of the aggregate Credit Facility Costs related to such draw ("Monthly Installments"). Each Monthly Installment shall be deposited by the City into the Debt Service Reserve Account or such Subaccount, respectively, and then payments shall be made from the Debt Service Reserve Account or such Subaccount, respectively, to pay Credit Facility Costs.

(n) If and to the extent cash has been deposited to the Debt Service Reserve Account or any Subaccount (other than Monthly Installments to pay Credit Facility Costs), all such cash (or permitted investments) shall be used prior to any drawing under the Credit Facility therein, and repayment of any Credit Facility Costs shall be made prior to replenishment of any such cash amounts.

(o) If, in addition to the Credit Facility in the Debt Service Reserve Account or any Subaccount, any other reserve account substitute instrument ("Additional Credit Facility") is provided, drawings under the Credit Facility and any such Additional Credit Facility, and repayment of Credit Facility Costs and reimbursement of amounts due under the Additional Credit Facility, shall be made on a pro-rata basis (calculated by reference to the maximum amounts available thereunder) after applying all available cash therein and prior to replenishment of any such cash draws, respectively.

(p) The City acknowledges that: (i) at the time that the 2009A Bonds were issued, the City, pursuant to the 2009 Ordinance, established within the Debt Service Reserve Account a subaccount for the 2009A Bonds (the "2009A Subaccount"); (ii) such 2009A Subaccount constitutes the margin for safety and as protection against default in the payment of principal of and interest on the 2009A Bonds; (iii) the moneys in such 2009A Subaccount shall be used to pay current principal and interest on the 2009A Bonds, to the extent that moneys in the Bond and Interest Account are insufficient for that purpose; (iv) the 2009A Bonds were sold to the Indiana Finance Authority pursuant to its Drinking Water Revolving Loan Program (the "SRF Program") and pursuant to the 2009 Ordinance the "Reserve Requirement" for the 2009A Bonds for which the 2009A Subaccount was establish means the maximum annual debt service on the 2009A Bonds; and (v) each of the provisions in the 2009 Ordinance pertaining to the 2009A Subaccount remain in full force and effect.

SECTION 15. **Improvement Fund.** After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess revenues may be transferred from the

Revenue Fund and credited to the special utility fund hereby continued which was created and designated in the Prior Ordinances as the "Waterworks Improvement Fund" (the "Improvement Fund") (also shown on the books of the utility as the Depreciation Fund), and said Fund shall be used for improvements, replacements, additions and extensions of the works and transfer of the Pilot Payment. Moneys in the Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of and interest on the then outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund, or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the works.

**SECTION 16. Investment of Funds.** The Revenue Fund and the Sinking Fund each shall be deposited in and maintained as a separate bank account or accounts from all other bank accounts of the City. The Operation and Maintenance Fund and the Improvement Fund may be maintained in a single bank account or accounts, but such bank account or accounts shall likewise be maintained separate and apart from the Revenue Fund and all other bank accounts of the City and apart from the Revenue Fund and the Sinking Fund bank accounts. All moneys deposited in the bank 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, Chapter 9 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 17. 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 utility and all disbursements made therefrom and all transactions relating to the utility. The City shall maintain on file the audited financial statements of the utility prepared by the State Board of Accounts. There shall be furnished, upon written request, to any owner of the 2016 Bonds, the most recent copy of the audited financial statements of the utility prepared by the State Board of Accounts. Copies of all such statements and reports shall be kept on file in the office of the Fiscal Officer.

**SECTION 18. Rate Covenant.** The City, by and through the Board and to the fullest extent permitted by law, shall establish, fix, maintain and collect reasonable and just rates and charges for the use of and the services rendered by the works so that such rates and charges shall produce revenues at least sufficient in each year to (a) pay all the legal and other necessary expenses incident to the operation of the works, including maintenance costs, operating charges, upkeep, repairs, and interest charges on bonds or other obligations, including leases; (b) provide a sinking fund for the liquidation of bonds or other obligations, including leases; (c) provide a debt service reserve on bonds or other obligations, including leases, as required by the terms of such obligations; (d) provide adequate money for working capital; (e) provide adequate money for making extensions and replacements; and (f) provide money for the payment of any taxes that may be assessed against the works. So long as any of the 2016 Bonds are outstanding, none of the facilities and services afforded by the works shall be furnished without a reasonable and just charge being made therefor.

SECTION 19. **Defeasance.** If, when the 2016 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 2016 Bonds or a portion thereof for redemption shall have been given, and the whole amount of the principal, premium, if any, and the interest so due and payable upon such 2016 Bonds or any portion thereof then outstanding shall be paid, or (i) cash, (ii) direct non-callable obligations of (including obligations issued or held in book-entry form on the books of) the U.S. Department of the Treasury, the principal of and the interest on which when due without reinvestment will provide sufficient money, or (iii) any combination of the foregoing, shall be held irrevocably in trust for such purpose, and provision shall also be made for paying all fees and expenses for the payment, then and in that case the 2016 Bonds or such designated portion thereof shall no longer be deemed outstanding or secured by this Ordinance or entitled to the pledge of the Net Revenues.

SECTION 20. **Additional Bonds.** The City reserves the right to issue additional bonds payable out of the Net Revenues ranking on a parity with the 2016 Bonds for the purpose of financing the cost of future additions, extensions and improvements to the works, or to provide for a complete or partial refunding of obligations, subject to the following conditions precedent:

(a) The interest on and principal of all bonds payable from the Net Revenues shall have been paid to date in accordance with the terms thereof, and all required payments into the Sinking Fund required by this Ordinance shall have been made. The Reserve Requirement shall be satisfied for the additional Parity Bonds either at the time of delivery of the additional Parity Bonds or over a five-year or shorter period, in a manner which is commensurate with the requirements established in Section 14 of this Ordinance.

(b) The Net Revenues in the fiscal year immediately preceding the issuance of any such bonds ranking on a parity with the 2016 Bonds shall be not less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds (including the 2016 Bonds and the Prior Bonds) and the additional Parity Bonds proposed to be issued; or, prior to the issuance of the additional Parity Bonds, the water rates and charges shall be increased sufficiently so that the increased rates and charges applied to the previous fiscal year's operations would have produced Net Revenues for the year equal to not less than one hundred twenty-five percent (125%) of the maximum annual principal and interest requirements of the then outstanding bonds and the additional Parity Bonds proposed to be issued. For purposes of this subsection, the records of the works shall be analyzed and all showings shall be prepared by an independent certified public accountant employed by the City for that purpose.

(c) To the extent required by law, the issuance of the proposed additional Parity Bonds and any necessary increase in water rates and charges shall have been approved by the Indiana Utility Regulatory Commission, or any successor body vested by law with authority to approve bonds and water rates and charges of municipal waterworks.

(d) The principal of said additional Parity Bonds shall be payable on January 1 and the interest shall be payable on January 1 and July 1 during the periods such principal and interest are payable while the 2016 Bonds and Prior Bonds are outstanding.

(e) So long as the 2009A Bonds or any other Parity Bonds sold to the Indiana Finance Authority through the SRF Program remain outstanding, the City shall obtain the consent of the Indiana Finance Authority to the issuance of the proposed additional Parity Bonds.

SECTION 21. **Further Covenants of the City.** For the purpose of further safeguarding the interests of the owners of the 2016 Bonds, it is hereby specifically provided as follows:

(a) The City, through the Board, shall at all times maintain the works in good condition, and operate the same in an efficient manner and at a reasonable cost.

(b) So long as any of the 2016 Bonds are outstanding, the City, through the Board, shall maintain insurance on the insurable parts of the works, of a kind and in an amount such as would normally be carried by private entities engaged in a similar type of business. All insurance shall be placed with responsible insurance companies qualified to do business under the laws of the State of Indiana. As an alternative to maintaining such insurance, the City may maintain a self-insurance program with catastrophic or similar coverage so long as such program meets the requirements of any applicable laws or regulations and is maintained in a manner consistent with programs maintained by similarly situated municipalities. Insurance proceeds or self-insurance proceeds shall be used in replacing or repairing the property destroyed or damaged, or if not used for that purpose, shall be treated and applied as Net Revenues.

(c) So long as any of the 2016 Bonds are outstanding, the City shall not mortgage, pledge or otherwise encumber the works, or any part thereof, and shall not 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, the foregoing restrictions shall not apply to the extent approved otherwise in writing by the owners of all 2016 Bonds then outstanding, and the City receives an opinion of nationally recognized bond counsel to the effect that the transaction will not cause the interest on the 2016 Bonds to be included in gross income for federal income tax purposes.

(d) Reserved.

(e) Except as otherwise specifically provided in Section 20 of this Ordinance and in the Prior Ordinances, so long as any of the 2016 Bonds are outstanding, no additional bonds or other obligations pledging any portion of the revenues of the works shall be issued by the City, except such as shall be made junior and subordinate in all respects to the 2016 Bonds, unless all of the 2016 Bonds are defeased, redeemed or retired coincidentally with the delivery of such additional bonds or other obligations. Such subordinate obligations shall be subject to the provisions of Section 20(d).

(f) The provisions of this Ordinance shall constitute a contract by and between the City and the owners of the 2016 Bonds, all the terms of which shall be enforceable by any such owner by any and all appropriate proceedings in law or in equity. After the issuance of the 2016 Bonds and so long as any of the principal thereof or interest or premium, if any, thereon remains unpaid, except as expressly provided herein, this Ordinance shall not be repealed or amended in any respect which, in the determination of the Council in its sole discretion, will materially and adversely affect the rights of such owners, nor shall the Council or any other body

of the City adopt any law, ordinance or resolution which, in the determination of the Council in its sole discretion, in any way materially and adversely affects the rights of such owners.

The provisions of this Ordinance shall be construed to create a trust in the proceeds of the sale of the 2016 Bonds for the uses and purposes herein set forth, and the owners of the 2016 Bonds shall retain a lien on such proceeds until the same are applied in accordance with the provisions of this Ordinance and the 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 set forth in this Ordinance. The owners of the 2016 Bonds shall have all the rights, remedies and privileges set forth in the Act.

**SECTION 22. Amendments With Consent of Bondholders.** Subject to the terms and provisions contained in this section and Sections 21 and 23, the owners of not less than a majority in aggregate principal amount of the 2016 Bonds and then outstanding shall have the right, from time to time, to consent to and approve the adoption by the Council of such ordinance or ordinances supplemental hereto, as shall be deemed necessary or desirable by the City for the purpose of amending in any particular any of the terms or provisions contained in this Ordinance, or in any supplemental Ordinance; provided, however, nothing herein contained shall permit or be construed as permitting:

(a) An extension of the maturity of the principal of or interest or premium, if any, on any 2016 Bond or an advancement of the earliest redemption date on any 2016 Bond, without the consent of the holder of each 2016 Bond so affected; or

(b) A reduction in the principal amount of any 2016 Bond, the redemption premium, the Reserve Requirement therefor or the rate of interest thereon, or a change in the monetary medium in which such amounts are payable, without the consent of the holder of each 2016 Bond so affected; or

(c) The creation of a lien upon or a pledge of the Net Revenues ranking prior to the pledge thereof created by this Ordinance, without the consent of the holders of all 2016 Bonds then outstanding; or

(d) A preference or priority of any 2016 Bond over any other 2016 Bond, without the consent of the holders of all 2016 Bonds then outstanding; or

(e) A reduction in the aggregate principal amount of the 2016 Bonds required for consent to such supplemental ordinance, without the consent of the holders of all 2016 Bonds then outstanding.

If the City shall desire to obtain any such consent, it shall cause the Registrar to mail a notice, postage prepaid, to the addresses appearing on the Registration Record. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Registrar for inspection by all owners of the 2016 Bonds. The Registrar shall not, however, be subject to any liability to any owners of the 2016 Bonds by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental ordinance when consented to and approved as herein provided.

Whenever at any time within one year after the date of the mailing of such notice, the City shall receive any instrument or instruments purporting to be executed by the owners of the 2016 Bonds of not less than a majority in aggregate principal amount of the 2016 Bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental ordinance described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Registrar, thereupon, but not otherwise, the City may adopt such supplemental ordinance in substantially such form, without liability or responsibility to any owners of the 2016 Bonds, whether or not such owners shall have consented thereto.

No owner of any 2016 Bond 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 Council 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 his 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 2016 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 2016 Bonds, and the terms and provisions of the 2016 Bonds and this Ordinance, or any supplemental ordinance, may be modified or amended in any respect with the consent of the City and the consent of the owners of all the 2016 Bonds then outstanding.

**SECTION 23. Amendments Without Consent of Bondholders.** The Council may, from time to time and at any time, and without notice to or consent of the owners of the 2016 Bonds, adopt such ordinances supplemental hereto (which supplemental ordinances shall thereafter form a part hereof):

(a) To cure any ambiguity or formal defect or omission in this Ordinance or in any supplemental ordinance;

(b) To grant to or confer upon the owners of the 2016 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2016 Bonds;

(c) To procure a rating on the 2016 Bonds from a nationally recognized securities rating agency designated in such supplemental ordinance, if such supplemental ordinance, in the determination of the Council in its sole discretion, will not materially and adversely affect the owners of the 2016 Bonds;

(d) To obtain or maintain bond insurance with respect to the 2016 Bonds;

(e) To provide for the refunding or advance refunding of the 2016 Bonds;

(f) To provide for the issuance of additional bonds as provided in Section 20 hereof; or

(g) To make any other change which, in the determination of the Council in its sole discretion, is not to the material prejudice of the owners of the 2016 Bonds.

SECTION 24. **Tax Matters.** In order to preserve the exclusion of interest on the 2016 Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the 2016 Bonds, the City represents, covenants and agrees that:

(a) No person or entity, other than the City or another state or local governmental unit, will use proceeds of the 2016 Bonds or property financed by the 2016 Bond proceeds other than as a member of the general public. No person or entity other than the City or another state or local governmental unit will own property financed by 2016 Bond proceeds or will have actual or beneficial use of such property pursuant to a lease, a management or incentive payment contract, an arrangement such as take-or-pay or output contract, or any other type of arrangement that differentiates that person's or entity's use of such property from the use by the public at large.

(b) No 2016 Bond proceeds will be loaned to any entity or person other than a state or local governmental unit. No 2016 Bond proceeds will be transferred, directly or indirectly, or deemed transferred to a non-governmental person in any manner that would in substance constitute a loan of the 2016 Bond proceeds.

(c) The City will not take any action or fail to take any action with respect to the 2016 Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2016 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations thereunder as applicable to the 2016 Bonds, including, without limitation, the taking of such action as is necessary to rebate or cause to be rebated arbitrage profits on 2016 Bond proceeds or other monies treated as 2016 Bond proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes.

(d) The City will file an information report on Form 8038-G with the Internal Revenue Service as required by Section 149 of the Code.

(e) The City will not make any investment or do any other act or thing during the period that any 2016 Bond is outstanding hereunder which would cause any 2016 Bond to be an "arbitrage bond" within the meaning of Section 148 of the Code and the regulations thereunder as applicable to the 2016 Bonds.

Notwithstanding any other provisions of this Ordinance, the foregoing covenants and authorizations (the "Tax Sections") which are designed to preserve the exclusion of interest on the 2016 Bonds from gross income under federal law (the "Tax Exemption") need not be complied with to the extent the City receives an opinion of nationally recognized bond counsel that compliance with such Tax Section is unnecessary to preserve the Tax Exemption.

**SECTION 25. Issuance of BANs; Other Actions.**

(a) The City, having satisfied all the statutory requirements for the issuance of the 2016 Bonds, has the authority to elect to issue a bond anticipation note or notes, repayable from the proceeds received from the sale of the 2016 Bonds (defined herein as the "BANs"). This Council hereby authorizes the issuance and sale of the BANs pursuant to I.C. §5-1-14-5 in one or more series, ranking on a parity with each other, in original aggregate principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000) to provide interim financing until permanent financing becomes available and to pay for costs of issuing the BANs, and the BANs also may fund capitalized interest thereon. The designation of the BANs shall be "City of South Bend, Indiana Waterworks Bond Anticipation Note of 20\_\_". The BANs shall be issued in fully registered form in denominations of Five Thousand Dollars (\$5,000), or integral multiples thereof, shall be originally dated the date of delivery, shall be numbered consecutively from 1 upward, shall mature not more than five (5) years from the date of issuance, may be renewed or extended from time to time, over a period not exceeding five (5) years from the date of the original issuance of the BANs, in accord with I.C. §5-1.1-5, shall be prepayable on seven (7) days' notice in whole or in part in any authorized denomination without premium or penalty, shall bear interest at a rate not exceeding four percent (4%) per annum, and shall be sold at a discount not exceeding ninety-nine percent (99%) of the principal amount thereof. Interest on the BANs shall be payable at maturity. It shall not be necessary for the City to repeat the procedures for the issuance of the 2016 Bonds as the procedures followed before the issuance of the BANs are for all purposes sufficient to authorize the issuance of the 2016 Bonds and to use proceeds thereof to repay the BANs.

The principal of the BANs herein authorized is payable solely from proceeds received from the sale of the 2016 Bonds, and the interest thereon may be paid from such proceeds or from the Net Revenues or a combination thereof, and the proceeds received by the City from the sale of the 2016 Bonds and such Net Revenues are hereby irrevocably pledged to the payment of the principal of and interest on the BANs. The Executive is hereby authorized to determine the form of the BANs and to execute the BANs, the Fiscal Officer is hereby authorized to have the BANs prepared, and to attest to the BANs and affix the seal the City or cause a facsimile of the seal of the City to be imprinted or impressed on the BANs. The Fiscal Officer is hereby authorized and directed to obtain the legal opinion as to the validity of the BANs from Barnes & Thornburg LLP. After the BANs shall have been properly executed, the Fiscal Officer shall be authorized to receive from the purchaser thereof payment for the BANs and to provide for delivery of the BANs to the purchaser. The City may receive payment for the BANs in installments. Proceeds received from the sale of the BANs shall be deposited in the funds set forth in Section 11 of this Ordinance. The Fiscal Officer is authorized to sell the BANs to any investor, and to work with the investor to facilitate the sale of the BANs. In any case any officer whose signature or a facsimile signature appears on the BANs shall cease to be such officer before delivery of the BANs, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery of the BANs.

Upon execution of the BANs by the Executive and attestation thereof by the City Clerk, the BANs shall constitute the legal, valid and binding obligations of the City.

No action shall be taken that would impair the exclusion from gross income of interest on the BANs provided by the Code (as defined in Section 24). In furtherance of the foregoing, the provisions of Section 24 of this Ordinance shall apply to the BANs in the same manner as they apply to the 2016 Bonds.

The BANs shall be subject to transfer or exchange in the same manner as the 2016 Bonds, as described in Section 4, and to amendment in the same manner as the 2016 Bonds, as described in Sections 22 and 23.

The Executive and the Fiscal Officer each are authorized and directed to execute a purchase agreement with respect to the BANs in such form or substance as they shall approve. As an alternative to any terms of the BANs set forth above and to the method of sale referred to above, the Fiscal Officer may negotiate the sale to the Indiana Finance Authority or the Indiana Bond Bank upon such terms as are acceptable to the Executive and the Fiscal Officer and as are authorized by law for such sale, and the Executive and the Fiscal Officer each are authorized to execute a purchase agreement with the Indiana Finance Authority or the Indiana Bond Bank reflecting such terms.

(b) The Executive and the Fiscal Officer may take such other actions or deliver such other certificates and documents needed for the Refunding or the financing as they deem necessary or desirable in connection therewith.

**SECTION 26. Rate Ordinance.** The rates and charges of the works are set forth or described in Ordinance No. 9656-06 adopted by the Council on February 27, 2006. Such ordinance is hereby incorporated by reference as if set forth in full at this place, two copies of which are on file and available for public inspection in the office of the City Clerk pursuant to I.C. §36-1-5-4.

**SECTION 27. Non-Business Days.** If the date of making any payment or the last date for performance of any act or the exercising of any right, as provided in this Ordinance, shall be a legal holiday or a day on which banking institutions in the City or the jurisdiction in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this Ordinance, and no interest shall accrue for the period after such nominal date.

**SECTION 28. No Conflict.** The Council hereby finds and determines that the adoption of this Ordinance and the issuance of the 2016 Bonds are in compliance with the Prior Ordinances. The Prior Ordinances shall remain in full force and effect. All ordinances and resolutions and parts thereof in conflict herewith, except the Prior Ordinances, are to the extent of such conflict hereby repealed. None of the provisions of this Ordinance shall be construed to adversely affect the rights of the owners of the Parity Bonds.

**SECTION 29. Severability.** If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of

such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 30. **Interpretation.** Unless the context or laws clearly require otherwise, references herein to statutes or other laws include the same as modified, supplemented or superseded from time to time.

SECTION 31. **Effectiveness.** This Ordinance shall be in full force and effect from and after its passage and compliance with the procedures required by law.

SECTION 32. **Credit Facility.** The Executive and the Fiscal Officer, on behalf of the City, are hereby authorized to obtain a Credit Facility or Additional Credit Facility as set forth in Section 14 herein. The Executive and the Fiscal Officer, on behalf of the City, are also authorized to enter into an agreement with the Credit Facility Issuer for either the Credit Facility or Additional Credit Facility (the "Credit Facility Agreement") and negotiate the terms of the Credit Facility Agreement, with the advice of the City's financial advisor and nationally recognized bond counsel. The Executive and the Fiscal Officer, on behalf of the City, are also authorized to execute any and all other documents required to obtain the Credit Facility. The City hereby agrees that: If the waterworks fails to pay any Credit Facility Costs in accordance with the requirements set forth above, the Credit Facility Issuer shall be entitled to exercise any and all remedies available at law or under the authorized documents other than (i) acceleration of the maturity of the 2016 Bonds or (ii) remedies which would adversely affect the owners of the 2016 Bonds.

(b) This Ordinance shall not be discharged and the 2016 Bonds defeased until all Credit Facility Costs owing to the Credit Facility Issuer shall have been paid in full.

(c) The Credit Facility Issuer is granted a security interest (subordinate to that of the owners of the 2016 Bonds) in all revenues and collateral pledged as security for the 2016 Bonds, for the repayment of the Credit Facility Costs.

(d) No additional bonds payable from the Net Revenues will be issued without the Credit Facility Issuer's prior written consent as long as Credit Facility Costs are past due and still owing to the Credit Facility Issuer.

(e) This Ordinance shall not be modified or amended, except as provided in Section 23 herein, without the prior written consent of the Credit Facility Issuer.

The Credit Facility Issuer shall be provided with written notice of the resignation or removal of the Registrar and Paying Agent and the appointment of a successor thereto and of the issuance of additional indebtedness of the City's waterworks at such address as may be specified, from time to time, by the Credit Facility Issuer.

SECTION 33. **Payment on Bonds in the Event of Default.** In the event available moneys are insufficient to pay debt service on the 2016 Bonds and any Parity Bonds when due, available moneys shall be applied, after payment of all costs and expenses associated therewith, to the 2016 Bonds and any Parity Bonds as follows: to the payment to the persons entitled thereto of all unpaid installments of interest then due on, and the unpaid principal of, the 2016 Bonds and any

Parity Bonds, including interest on any past due principal of any 2016 Bond or Parity Bond at the rate borne by such 2016 Bond or Parity Bond, in the order of the maturity of the installments of such interest and the due dates of such principal and, if the amount available shall not be sufficient to pay in full any particular installment of interest or maturity of principal, then to such payment ratably, according to the amounts so due, to the persons entitled thereto, without any discrimination or privilege or any preference of or priority of interest over principal or principal over interest.

During the continuance of any default in the payment of either principal of or interest or premium on any 2016 Bonds or Parity Bonds, no payment shall be made with respect to any subordinate obligations issued pursuant to Section 21(e). Moneys available for payment to holders of such subordinate obligations shall, in the event of an insufficient amount being available to pay all debt service with respect to the subordinate obligations when due, be applied to the subordinate obligations in accordance with the sequence and other terms set forth above with respect to payments regarding 2016 Bonds and Parity Bonds unless otherwise provided in the ordinance authorizing the subordinate obligations.

**SECTION 34. Actions and Agreements.** Each of the Executive, the Fiscal Officer and any other officer or employee of the City is hereby authorized and directed to execute any instruments or agreements or take any other actions necessary or desirable to effect the transactions contemplated by this Ordinance, such necessity or desirability to be conclusively evidenced by the execution of such instruments or agreements or the taking of such action.

SECTION 35. This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_ o'clock \_\_\_\_m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

DMS 4397180v4

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED

Filed in Clerk's Office  
NOV 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

Filed in Clerk's Office  
NOV 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

(j) In connection with the sale of the 2016 Bonds, the Executive and the Fiscal Officer each are authorized to take such actions and to execute such agreements and instruments as they deem advisable to obtain a rating and/or to obtain bond insurance for the 2016 Bonds, and the taking of such actions and the execution and delivery of such agreements and instruments are hereby approved.

SECTION 11. **Use of Proceeds.** The accrued interest received at the time of delivery of the 2016 Bonds, if any, and premium, if any, shall be deposited in the Bond and Interest Account of the Sinking Fund (as hereafter defined) and applied to payments on the 2016 Bonds on the first interest payment date. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the amount described in Section 14(b) ~~will~~ may be deposited ~~to~~ in either the Debt Service Reserve Account or in the 2016 Subaccount of the Debt Service Reserve Account for the 2016 Bonds of such Series and applied as described below. An amount of proceeds from the sale of the 2016 Bonds of any Series equal to the estimated costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds, shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Costs of Issuance Fund" (the "Costs of Issuance Fund"). The proceeds deposited in the Costs of Issuance Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of issuance of the 2016 Bonds and other fees and charges associated with the issuance of the 2016 Bonds, including the premium for any bond insurance obtained for the 2016 Bonds. The remaining proceeds from the sale of the 2016 Bonds shall be deposited into a fund of the utility hereby created and designated as "City of South Bend, Indiana Waterworks 2016 Refunding Fund" (the "Refunding Fund"). The proceeds deposited in the Refunding Fund, together with all investment earnings thereon, shall be expended only for the purpose of paying the costs of the Refunding.

SECTION 12. **Revenue Fund.** There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Revenue Fund (the "Revenue Fund"). All income and revenues of the works shall be paid into the Revenue Fund for application as described below.

SECTION 13. **Operation and Maintenance Fund.** There is hereby continued a fund of the utility created and designated in the Prior Ordinances as the Operation and Maintenance Fund (the "Operation and Maintenance Fund") (also shown on the books of the utility as the Operating Fund). There shall be transferred from the Revenue Fund and credited to the Operation and Maintenance Fund, on the last day of each calendar month, a sufficient amount so that the balance in this Fund shall be sufficient to pay the expenses of operation, repair and maintenance for the then next succeeding two 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 works on a day-to-day basis, but none of the moneys in the Operation and Maintenance Fund shall be used for depreciation, replacements, improvements, extensions or additions or transfer of the Pilot Payment. Any balance in Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding two calendar months may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the works.

Filed in Clerk's Office  
NOV 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

**RESOLUTION NO. 53-2016**

**A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, RECOMMENDING THE REFUNDING OF THE CITY'S OUTSTANDING WATERWORKS REVENUE BONDS OF 2000 AND WATERWORKS REVENUE BONDS OF 2006, THE ISSUANCE AND SALE OF REVENUE BONDS TO PROVIDE FUNDS FOR THE PAYMENT THEREOF, AND OTHER MATTERS IN RESPECT THERETO**

WHEREAS, the City of South Bend, Indiana (the "City") has heretofore established, constructed and financed a municipal waterworks (the "Waterworks") and now owns and operates said works, by and through its Board of Public Works (the "Board."), pursuant to I.C. 8-1.5, as amended, and other applicable laws (together, the "Act").

WHEREAS, the Board has determined and desires to recommend to the Common Council of the City (the "Common Council") that it is beneficial to refund the City's outstanding Waterworks Revenue Bonds of 2000 (the "2000 Bonds") and the City's outstanding Waterworks Revenue Bonds of 2006 (the "2006 Bonds"), as more particularly described herein, to obtain a reduction in interest payments and effect a savings to the City (collectively, the "Refunding").

WHEREAS, the Board has determined, based on estimates of the costs of the Refunding provided to the Board by the Waterworks and the City's financial advisor, H.J. Umbaugh & Associates (the "Financial Advisor"), that the costs of the Refunding, including the costs of the issuance of bonds on account of the financing of all or a portion thereof, will be in the estimated amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000).

WHEREAS, the Board has determined that to provide funds necessary to pay for the costs of the Refunding, it will be necessary for the City to issue Waterworks revenue bonds in a principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000).

WHEREAS, the City has previously issued bonds (the "Prior Bonds") payable from the net revenues of the Waterworks, all as described in the form of the 2016 Bond Ordinance (as defined below), pursuant to the Prior Ordinances (as defined in the 2016 Bond Ordinance).

WHEREAS, the Board deems it advisable and recommends to the Common Council that the City issue revenue bonds payable from the revenues of the Waterworks in an original principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000) (the "2016 Bonds"), for the purpose of providing for the payment of (i) the Refunding, and (ii) the costs of issuing such 2016 Bonds.

WHEREAS, the Prior Ordinances permit the issuance of additional bonds payable from the revenues of the Waterworks and ranking on a parity with the Prior Bonds for the purpose of financing the complete or partial refunding of any of the Prior Bonds, including the 2000 Bonds and 2006 Bonds, provided certain conditions can be met, and the Board has determined, based upon information provided to the Board by the Financial Advisor, that the finances of the

Waterworks will enable the City to meet the conditions for the issuance of additional parity bonds and that, accordingly, the 2016 Bonds shall rank on a parity with the Prior Bonds.

WHEREAS, the Board has reviewed the form of a bond ordinance to be adopted by the Common Council authorizing the City to issue and sell the 2016 Bonds for the purpose of financing the Refunding (the "2016 Bond Ordinance"), a copy of which is attached hereto as Exhibit A, and the Board has found the 2016 Bond Ordinance to be satisfactory.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, AS FOLLOWS:

Section 1. The Board hereby recommends to the Common Council that the Refunding be undertaken by the City and the Waterworks.

Section 2. To provide funds necessary to pay for or reimburse the City for the costs of the Refunding, together with expenses incidental thereto, including expenses in connection with the issuance of the 2016 Bonds, the Board hereby approves and recommends to the Common Council the issuance by the City of Waterworks Revenue Bonds in a principal amount not to exceed Three Million Seven Hundred Twenty Thousand Dollars (\$3,720,000).

Section 3. The Board hereby approves the substantially final form of the 2016 Bond Ordinance presented to this meeting and recommends to the Common Council the adoption of such 2016 Bond Ordinance which sets forth the terms and conditions of the 2016 Bonds to be issued thereunder.

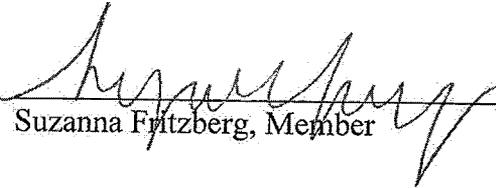
Section 4. The Board hereby ratifies the actions taken to file the 2016 Bond Ordinance with the Clerk of the City ("City Clerk") for presentation to the Common Council, and the Clerk of the Board is hereby directed to present a copy of this Resolution to the City Clerk for presentation to the Common Council for its consideration, as soon as may be done, thereby requesting the issuance of the 2016 Bonds.

Section 5. This Resolution shall be in full force and effect from and after its adoption by the Board.

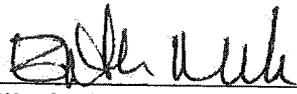
Adopted at a meeting of the Board of Public Works of the City of South Bend, Indiana, on this 8th day of November 2016.

BOARD OF PUBLIC WORKS OF THE  
CITY OF SOUTH BEND, INDIANA

  
\_\_\_\_\_  
Gary A. Gilot, President

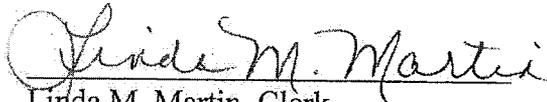
  
\_\_\_\_\_  
Suzanna Fritberg, Member

\_\_\_\_\_  
James A. Mueller, Member

  
\_\_\_\_\_  
Elizabeth A. Maradik, Member

  
\_\_\_\_\_  
Therese J. Dorai, Member

ATTEST:

  
\_\_\_\_\_  
Linda M. Martin, Clerk

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING A WAIVER OF NONCOMPLIANCE FOR LATE-FILED SCHEDULE OF DEDUCTION FROM ASSESSED VALUATION PERSONAL PROPERTY IN ECONOMIC REVITALIZATION AREA (FORM 103-ERA) AND COMPLIANCE WITH STATEMENT OF BENEFITS PERSONAL PROPERTY (FORM CF-1 / PP) BY NOBLE AMERICAS SOUTH BEND ETHANOL LLC FOR CERTAIN PERSONAL PROPERTY LOCATED AT 3201 WEST CALVERT STREET DESIGNATED AS AN ECONOMIC REVITALIZATION AREA UNDER RESOLUTION 4332-14**

WHEREAS, the Common Council of the City of South Bend, Indiana (the "Common Council") at its meeting held on April 14, 2014 adopted its Confirming Resolution 4340-14 (the "Confirming Resolution") confirming the designation of a certain area within the City of South Bend, Indiana (the "City") commonly known as 3201 West Calvert Street, South Bend, Indiana (the "Subject Property") pursuant to Indiana Code 6-1.1-12.1 (the "Act"), as an Economic Revitalization Area for the purposes of granting an five (5) year tax abatement for personal property to Noble Americas South Bend Ethanol LLC (the "Company"); and

WHEREAS, the Subject Property is more particularly described as follows:

Vac Sunset Pk SE ¼ Ex  
 Pt Sold to City S & Adj  
 & Mid Pt S1/2E of Rr  
 Cont 61.834 Ac +-  
 Sec 16-37-2e

WHEREAS, the Common Council determined that the Company qualified for and the Common Council granted a personal property tax abatement for a period of five (5) years for qualifying personal property placed in service at the Subject Property as provided in the alternate abatement schedule pursuant to the Section 17 of the Act set forth below:

<u>Year</u>	<u>Personal Property Abatement</u>
1	100%
2	80%
3	60%
4	40%
5	20%

WHEREAS, the Company purchased and placed in service personal property at the Subject Property that qualified for personal property tax abatement for the March 1, 2015 assessment year pursuant to the Confirming Resolution; and

WHEREAS, the Company filed in April 2015 the *Compliance with Statement of Benefits Personal Property* ("Form CF-1/PP") with [reporting@southbendin.gov](mailto:reporting@southbendin.gov), [bzeeb@southbendin.gov](mailto:bzeeb@southbendin.gov) and [sheintze@southbendin.gov](mailto:sheintze@southbendin.gov); and

WHEREAS, the Company filed on May 15, 2015 with the Assessor the Business Tangible Personal Property Assessment Return (Form 103-LONG).

WHEREAS, the Company has since filed with the County Assessor the Form 103-ERA and Form CF-1/PP for the March 1, 2015 assessment year to incorporate and detail the ERA deduction from installing new manufacturing equipment, new logistical distribution equipment, new research and development equipment and/or new technology equipment;

WHEREAS, the Company's Form CF-1/PP and Form 103-ERA for the March 1, 2015 assessment (attached as Exhibit A) was submitted after May 15, 2015;

WHEREAS, the Company is requesting pursuant to Sections 9.5 and 11.3 of the Act, that the Common Council waive the requirement that the Company's Form CF-1/PP and Form 103-ERA be submitted to the County Assessor and County Auditor by May 15, 2015 (the "Waiver");

WHEREAS, any noncompliance related to this Waiver request has been corrected prior to the adoption of this Waiver;

WHEREAS, the Company has requested that the Common Council exercise its authority as the Designating Body to waive noncompliance by adopting a resolution pursuant to Sections 9.5 and 11.3 of the Act;

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

SECTION I. The Company has presented testimonial evidence of the following facts in support of this resolution:

- A. The Company was unaware that the Form 103-ERA and Form CF-1 needed to be filed with the Assessor's Office.
- B. All noncompliance has been rectified prior to presenting this Waiver to the Common Council.
- C. As detailed in the Form CF-1/PP, the Company has exceeded all projections initially contemplated from this project that is the subject of the personal property abatement.

SECTION II. The foregoing facts, taken together, lead the Common Council to conclude that compelling reasons exist to waive the applicable filing deadlines.

SECTION III. The Common Council, pursuant to Sections 9.5 and 11.3 of the Act, as described above, hereby waives the filing deadline of Form 103-ERA and Form CF-1 with the Form 103-LONG for the March 1, 2015 assessment date, and furthermore any and all noncompliance with such requirements by the Company is hereby waived.

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.

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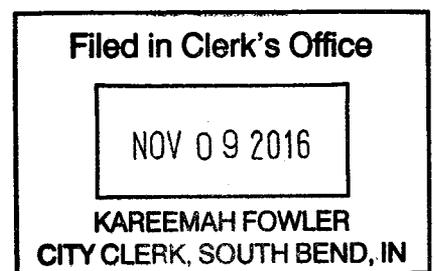
Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED

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M10600916.2

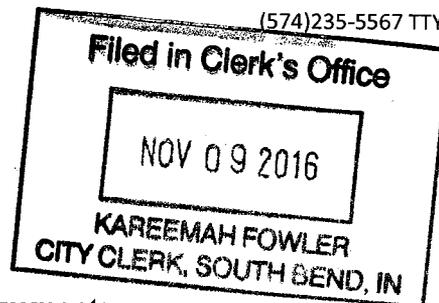




**Common Council**  
City of South Bend Indiana  
4<sup>th</sup> Floor County-City Building  
227 West Jefferson Boulevard  
South Bend, Indiana 46601  
(574) 235-9173 Facsimile

(574) 235-9321

(574)235-5567 TTY/TDD



November 9, 2016

Members of the South Bend Common Council  
4<sup>th</sup> Floor County-City Building  
South Bend, Indiana 46601

**Re: Support for the South Shore Line Proposed Upgrades and Improvements**

Dear Council Members:

On November 2, 2016, U.S. Representative Peter J. Visclosky spoke before the Michigan City Common Council urging them to approve a proposed resolution approving an Operating Agreement for the Double Track Project between their city and the Northwest Indiana Commuter Transportation District (NICTD). The proposed upgrades of the South Shore Line in the Michigan City area is commonly referred to as the "Double Track NWI". It calls for a second set of tracks from Gary to Michigan City; as well as new high-level boarding platforms to improve boarding and disembarking from the South Shore Line trains.

The South Shore is applying for a federal grant which would pay for approximately one-half of the project's estimated \$210 million cost; and the competition for federal funding is very competitive.

The attached proposed Resolution sets forth detailed information on the NICTD's 20-Year Strategic Business Plan which sets forth proposals on updates and major improvements on the South Shore Line operations in the four (4) Indiana counties of St. Joseph, LaPorte, Porter and Lake. The capital plan upgrades include a proposed \$15 million upgrades identified as the "South Bend Realignment".

As Chairperson of the Council's Public Works and Property Vacation Committee, I believe that the Council's support of the attached Resolution addressing the proposed plan to upgrade and improve the South Shore Line may assist in the competitive federal grant application process. The many anticipated benefits of such upgrades to all communities served by the South Shore Line would contribute to all of their best interests. I have attached a copy of the Executive Summary of the 20-Year Strategic Business Plan for your review. I seek your support of this innovative plan which will boost transit and contribute to lasting and needed improvements. Thank you.

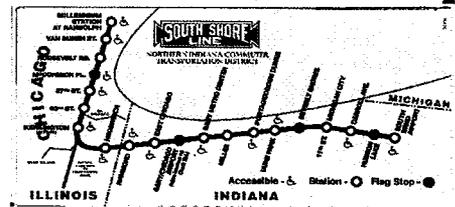
Most sincerely,

Council Member Jo (Maternowski) Broden  
4<sup>th</sup> District Common Council Member

Attachment



RESOLUTION NO. \_\_\_\_\_



**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA  
EXPRESSING ITS SUPPORT OF THE PROPOSED MAJOR IMPROVEMENTS AND UPGRADES  
OF THE NORTHERN INDIANA COMMUTER TRANSPORTATION DISTRICT  
WHICH OPERATES THE SOUTH SHORE LINE**

*Whereas*, the South Shore Line is a commuter rail line operated by the Northern Indiana Commuter Transportation District (NICTD), with a 10-member NICTD Board including St. Joseph County Commissioner Andrew Kostielney and St. Joseph County Council Member Mark Catanzarite, as part of the membership. For many decades, the South Shore Line has provided, and continues to provide vital transportation services from the South Bend International Airport to the Millennium Station in downtown Chicago. The South Shore services countless numbers of residents and businesses located in the following Indiana counties: Lake, Porter, LaPorte and St. Joseph; and

*Whereas*, NICTD's 20-Year Strategic Business Plan notes as part of the "Program Overview" that:

"Trip times from South Bend to Chicago would be reduced by 39 minutes, with smaller time savings from other stations. Two of the factors that have the greatest positive impact on ridership are better travel times and more frequent service. Therefore, these improvements will increase average daily ridership on the NICTD system by 38%, and would also greatly facilitate and enhance transit-oriented development and strengthen neighborhood redevelopment along the route"

and have identified \$15 million for the South Bend Realignment as part of the "Market Expansion Capital Costs" projections, and has further noted that:

"South Bend Realignment: South Shore trains currently navigate a circuitous reverse 'C' in order to access the South Bend Airport terminal from the east. The route is long and trains are slowed by 23 grade crossings. This realignment project would provide a more direct route to the west side of the airport terminal by eliminating three track miles, reducing travel time by up to 10 minutes, and cutting the number of grade crossings from 23 to 7" with a map of the expansion depicted on page 11 of the Executive Summary; and

*Whereas*, the NICTD has further proposed that the South Shore Line take the necessary steps to meet the National Environmental Policy Act (NEPA) requirements so that the proposed improvements and upgrades can meet the Federal Transit Administration's (FTA) "Core Capacity" funding guidelines, and collaborate on seeking the additional state and local funding necessary to positively move the transportation advancements forward; and

*Whereas*, the details on the "Double Track N.W. I – Connectivity for Accelerated Growth" for Michigan City where a double-track is proposed from Sheridan Avenue to Carroll Avenue were discussed at three (3) Public Workshops held at the Center for the Arts in Gary, Indiana on October 4<sup>th</sup>; at the Indiana Dunes Visitor Center in Porter, Indiana on October 5<sup>th</sup> and at the Michigan City Hall on October 6<sup>th</sup>, with more information being available at: <http://www.doubletrack-nwi.com/images/files/MichiganCityExhibitsforAgreement.pdf>; and

*Whereas*, on November 2, 2016, the Michigan City Common Council adopted a Resolution approving an operating agreement for the Northwest Indiana Double Track Project which also supports the "Core Capacity

Project” aimed at modernizing and improving the South Shore Line’s facilities through the four (4) Indiana counties of Lake, Porter, LaPorte and St. Joseph.

*Now, Therefore, be it resolved, by the Common Council of the City of South Bend, Indiana, as follows:*

Section I. The Common Council of the City of South Bend, Indiana, acknowledges that the 20-Year Strategic Business Plan of the Northern Indiana Commuter Transportation District (NICTD) was published in May of 2014. It proposes to include a four-point investment strategy addressing “baseline capital costs” to “keep the South Shore Line operating safely and efficiently” which would include:

- \$30 million for capital improvements on Metra Facilities
- \$43 million for positive train control
- \$98 million for double tracking
- \$250 million for new car orders

It would benefit tremendously the residents, businesses and visitors of St. Joseph, LaPorte, Porter and Lake counties in Indiana, resulting in increased ridership on the South Shore Line, increasing train frequency, significantly reducing travel time, improving and modernizing overall operations by reducing track and road maintenance costs by upgrading and realigning tracks, reducing the number of grade crossings, and improving South Shore Line facilities. An aggressive implementation schedule, with a majority of such proposed projects being completed by 2022 has been proposed. An Executive Summary of the Strategic Business Plan is available at: [https://www.in.gov/rda/files/Strategic\\_Business\\_Plan\\_20140528\\_Final.pdf](https://www.in.gov/rda/files/Strategic_Business_Plan_20140528_Final.pdf).

Section II. The Common Council believes that the proposed South Bend Realignment projected to cost approximately \$15 million would promote quality transit development and would contribute to increasing economic development not only in the South Bend and St. Joseph County area, but would be a significant catalyst for fostering positive growth in all of the four (4) counties between South Bend and downtown Chicago which are connected by the South Shore Line.

Section III. The Common Council pledges its support to collaborate with all elected and appointed public officials, the NICTD Board, and interested citizens so that the necessary steps to meet the National Environmental Policy Act (NEPA) requirements regarding the proposed improvements and upgrades can meet the Federal Transit Administration’s (FTA) “Core Capacity” funding guidelines.

Section IV. The Common Council believes that it is in the best interests of the City of South Bend, Indiana to positively move the transportation advancements forward.

Section V. Upon the adoption of this Resolution, the Office of the City Clerk is directed to send a certified copy of this Resolution to:

Northern Indiana Commuter Transportation District (NICTD)  
33 East U.S. Highway 12  
Chesterton, Indiana 46304

South Shore Line  
Attn: Double Track NWI  
33 East U.S. Highway 12  
Chesterton, Indiana 46304

so that it may be distributed to all NICTD Board Members, Nicole Barker of the South Shore Line, and to other interested community stakeholders and public officials served in the 4-county area of Indiana by the South Shore Line.

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

\_\_\_\_\_  
Tim Scott, 1<sup>st</sup> District

\_\_\_\_\_  
Oliver J. Davis, 6<sup>th</sup> District

\_\_\_\_\_  
Regina Williams-Preston, 2<sup>nd</sup> District

\_\_\_\_\_  
Gavin Ferlic, At Large

\_\_\_\_\_  
Randy Kelly, 3<sup>rd</sup> District

\_\_\_\_\_  
Karen L. White, At Large

\_\_\_\_\_  
Jo Broden, 4<sup>th</sup> District

\_\_\_\_\_  
John Voorde, At Large

\_\_\_\_\_  
Dr. David Varner, 5<sup>th</sup> District

\_\_\_\_\_  
Kathleen Cekanski Farrand, SBCC Attorney

*Attest:*

*Approved this \_\_\_ day of November, 2016.*

\_\_\_\_\_  
Kareemah Fowler, City Clerk

\_\_\_\_\_  
Pete Buttigieg, Mayor

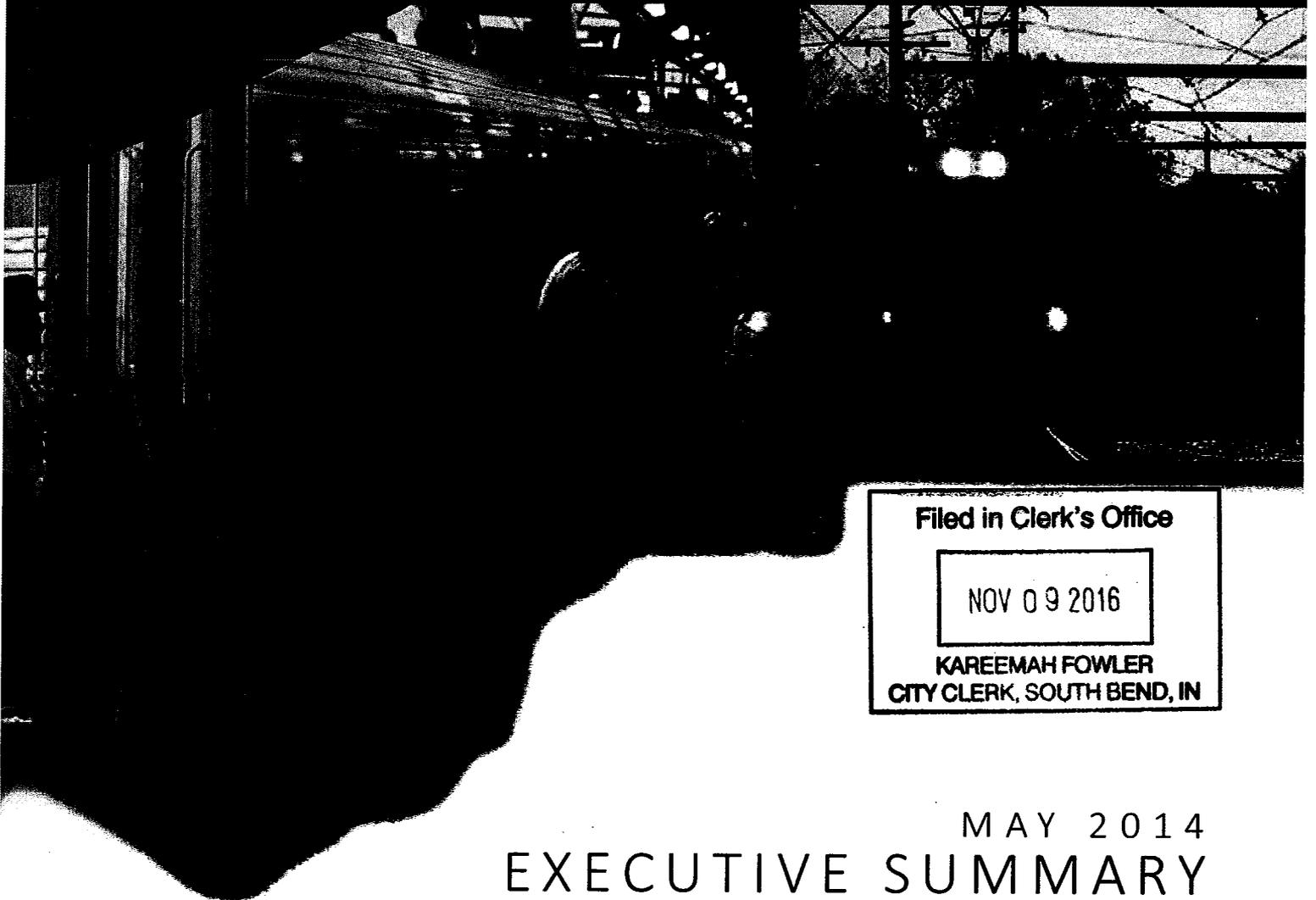
PRESENTED  
NOT APPROVED  
ADONIS

**Filed in Clerk's Office**  
NOV 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

# NICD

Northwest Indiana  
**RDA**  
Regional Development Authority

# 20-YEAR STRATEGIC BUSINESS PLAN



Filed in Clerk's Office

NOV 09 2016

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

MAY 2014  
EXECUTIVE SUMMARY

# URS

BauerLatoza  
STUDIO

BRONNER  
The Business of Government

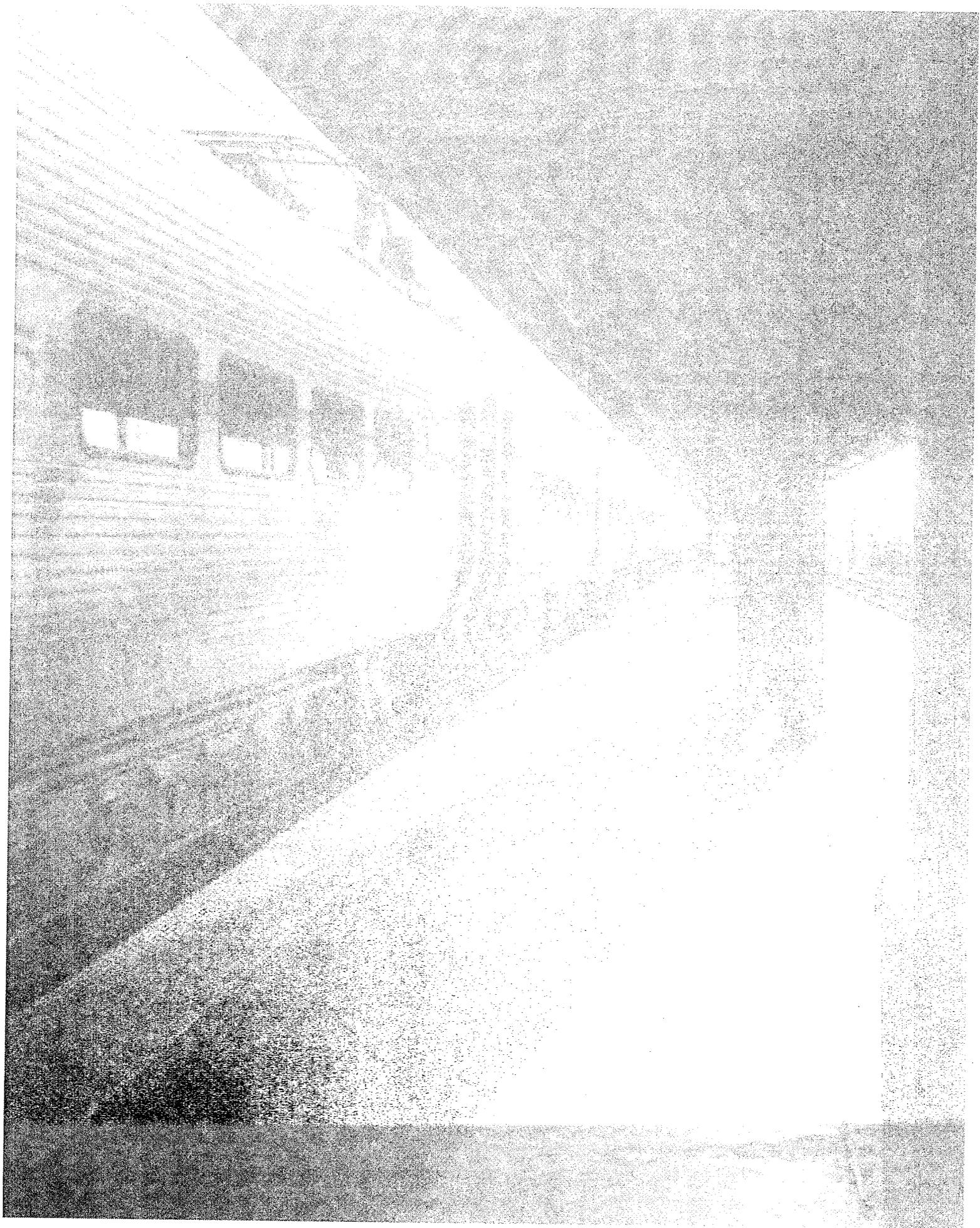
CAMBRIDGE  
SYSTEMATICS

GOODMAN WILLIAMS  
GROUP  
REAL ESTATE RESEARCH

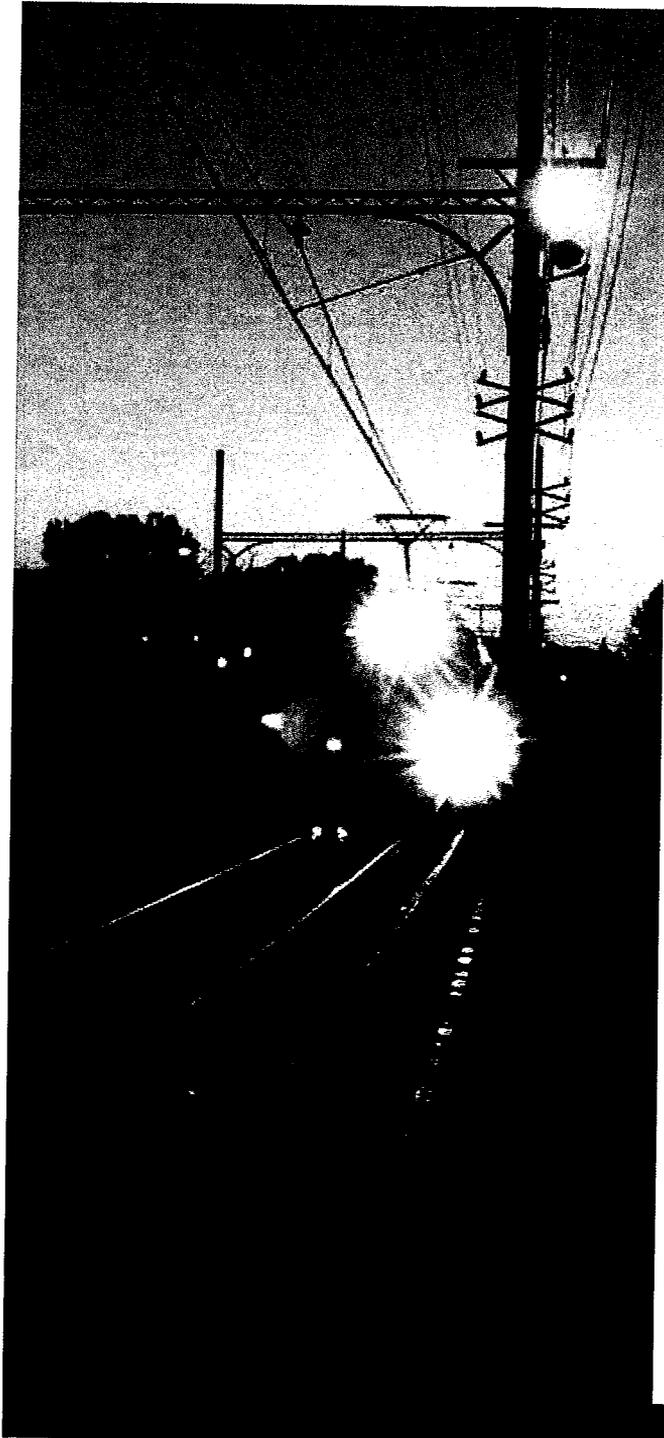
PolicyAnalytics, LLC

RISG  
ASSOCIATES & SYSTEMS GROUP, LLC

UIC  
UNIVERSITY OF ILLINOIS  
AT CHICAGO



# Introduction and Context



The Northern Indiana Commuter Transportation District's (NICTD's) 20-year Strategic Business Plan, prepared in cooperation with the Regional Development Authority (RDA), focuses on a four-part investment strategy:

- Baseline investments to maintain service standards and reliability on the existing South Shore Line
- A West Lake Extension linking downtown Chicago and the rapidly growing areas of central Lake County
- Major improvements to the existing South Shore Line to provide faster, more reliable trips
- Ongoing, regular system maintenance to maintain the South Shore Line in a state of good repair

The breakout of specific projects indicates the building-block nature of the overall plan which includes a county-by-county allocation of benefits - the foundation of this plan's financial strategy. The study provides a detailed assessment of financial requirements for the investment strategy and a plan to meet those financial needs over the 20-year period, as well as an analysis of transit-supportive land use policies which could aid in maximizing the return on those investments. Collectively, the investment strategies are designed to provide faster and more reliable trips for riders on the existing South Shore route, and to provide more convenient service to Chicago for both existing and potential customers in the most rapidly growing areas in central and southern Lake County, Indiana. By improving service in both of these important regional markets, the investments will help improve the entire regional economy by raising incomes, and by helping the region attract and retain population and jobs.

This summary of the final strategic plan includes:

- Recent regional social and economic trends
- Details of each of the investment programs

- Cost of each of the capital packages
- Benefits of the overall plan
- A financial strategy to implement the plan
- A schedule for implementation
- A distribution of benefits by county

**STUDY AREA**

NICTD provides commuter rail transportation services for the four Northern Indiana counties of Lake, Porter, La Porte, and St. Joseph. The South Shore Line runs between the South Bend Airport and Millennium Station in Chicago, serving Hudson Lake, Michigan City (two stations), Beverly Shores, Dune Park, Portage / Ogden Dunes, Gary (three stations), East Chicago, Hammond, Hegewisch, Hyde Park, and downtown Chicago (three stations). South Shore Line riders come primarily from these four counties and southeast Chicago / south Cook County, Illinois, but are also drawn from adjacent Indiana counties and southwest Michigan.

The RDA serves the communities in Lake and Porter counties in Northwest Indiana.

**POPULATION AND EMPLOYMENT**

The Chicago, South Shore and South Bend (South Shore Line), whose passenger service was taken over by NICTD in the 1970s and 80s, was established in the early 20th century when Northwest Indiana was becoming one of the most important industrial concentrations in the country. Heavy industry was concentrated in the Whiting-Hammond-East Chicago-Gary corridor, which was a major ridership market targeted by the new railroad. There was also a major focus on longer-distance markets: the South Shore’s first service linked South Bend and Michigan City, opening in 1908.

Demographic shifts in the region began in the middle 20th century, reflecting a broader decline in manufacturing employment and shift toward service industry employment seen both nationally and locally. Areas of greatest population density along Lake Michigan have been gradually shifting to the south for decades, as cities such as Hammond, East Chicago, and Gary have seen population declines, while the development focus has shifted to areas in south and central Lake County and in Porter County.

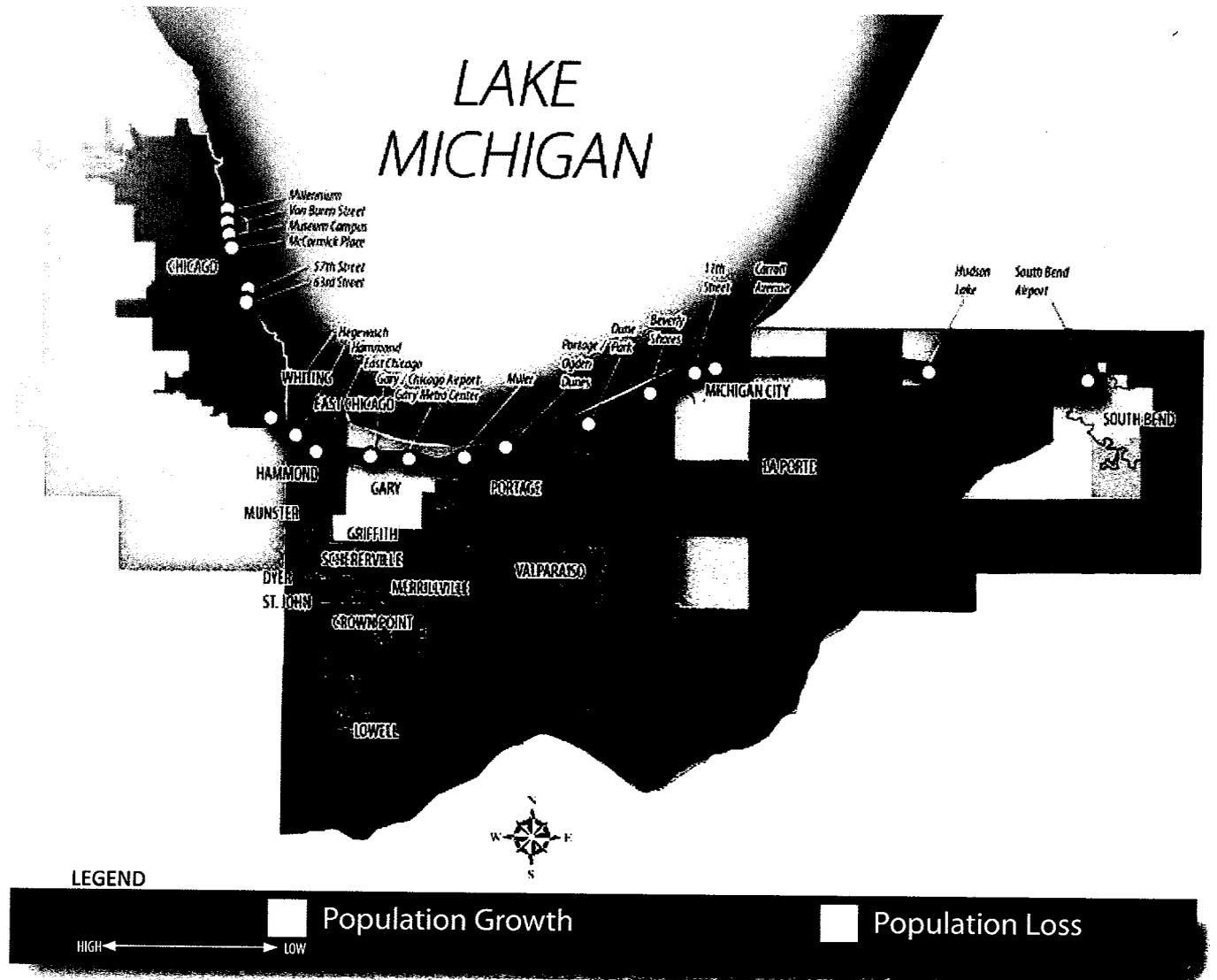
A sharp decline of intra-state trips began in the 1950s, driven by highway construction after World War II and the beginning of the interstate system in 1956, as well as by the decades-long shift in population away from the lakefront. This helped shape

the current ridership situation, which is now largely dominated by the downtown Chicago-based daily commuter market, with strongest morning boardings at East Chicago, Hammond and Hegewisch.

While local economic development – attracting and retaining jobs within Northwest Indiana - remains an important priority, attracting and retaining population is equally important for current and future generations. Improving connections between Northwest Indiana and Chicago is an important step for rebuilding the middle class in Northwest Indiana by enabling residents to participate more fully in the third-largest regional economy in the United States.



**FIGURE 1**  
**Study Area with South Shore Line Stations and Projected Population Change (2000-2030)**



County	2030			
	Population	Employment	Population	Employment
Lake	484,564	199,421	565,348	210,471
Porter	146,798	55,048	115,096	62,463
LaPorte	110,106	47,425	181,512	47,226
St. Joseph	265,559	129,558	295,060	179,941

**OVERVIEW OF INVESTMENT PROGRAMS**

This Strategic Business Plan proposes a four-part capital investment strategy: baseline investments to the South Shore Line to maintain service standards and reliability, a West Lake Extension into rapidly growing areas of Lake County, major improvements to South Shore Line to provide faster service and expand the passenger market, and planned annual South Shore Line maintenance.

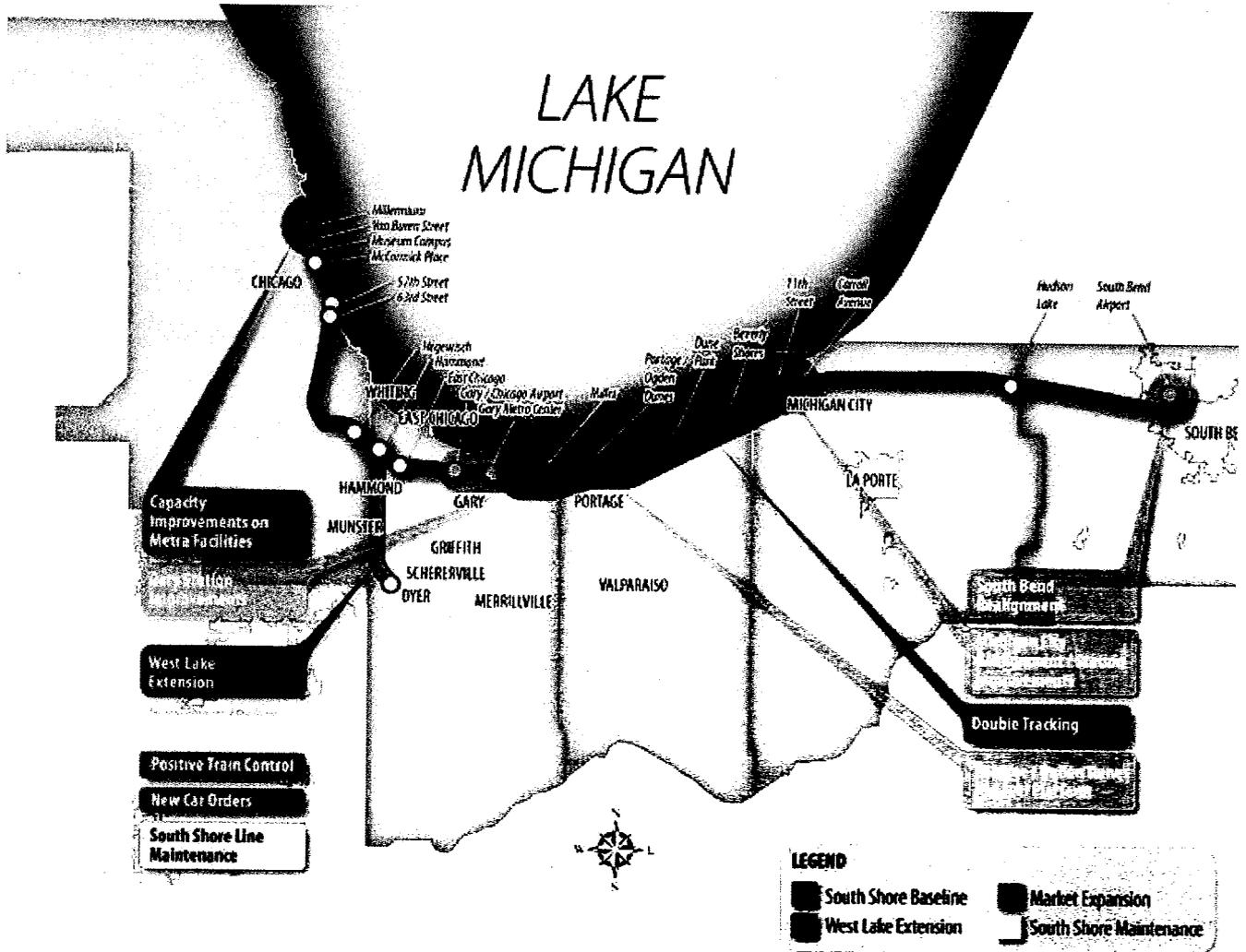
**FIGURE 2**  
**Summary of Investment Programs and Projects**

		Lake	Porter	La Porte	St. Joseph	State of Indiana
<b>South Shore Line Baseline</b>		<i>Projects required to run the current service safely with required capital asset replacement and improvements</i>				
Positive Train Control	Federally mandated safety infrastructure	●	●	●	●	●
New Car Orders	Replace rolling stock in excess of 40 years in service	●	●	●	●	●
Double Tracking	Greater reliability and schedule flexibility	●	●	●	●	●
Metra Facility Capacity Improvements	Improved train operations by upgraded track and storage facilities	●	●	●	●	●
<b>West Lake Extension</b>		<i>Projects to create new markets by introducing service to growing areas</i>				
West Lake Extension	Service from Chicago to Lake County	●	●			●
<b>Market Expansion</b>		<i>Projects to grow existing markets by improving travel times, convenience and reliability</i>				
Portage/Ogden Dunes Hi-Level Platform	Reduce dwell times and improve travel time		●	●	●	●
Michigan City Realignment / Station	Realignment of route through Michigan City; consolidate stations			●	●	●
South Bend Realignment	Realignment of approach into terminal station at the airport				●	●
Gary Station Improvements	New station facilities serving Gary	●	●	●	●	●
<b>South Shore Line Maintenance</b>		<i>Required maintenance &amp; state of good repair</i>				
Planned Annual Capital Investments	Maintenance & state of good repair	●	●	●	●	●

- Primary system benefits
- Secondary system benefits



**FIGURE 3**  
Investment Programs and Projects



# Program Detail: South Shore Line Baseline

**PROGRAM OVERVIEW**

The following four projects constitute the required capital improvements needed to keep the South Shore Line operating safely and efficiently. These projects will need to be completed whether or not any other improvements move forward.

**POSITIVE TRAIN CONTROL**

Federally mandated train control systems are intended to prevent train-to-train collisions, eliminate work zone incursions, and automatically enforce all speed restrictions. This is accomplished via the use of high-tech, integrated electronic signal systems and controls interfaced with GPS.

**Project Capital Cost:**

- \$43 million

**Proposed Cost Distribution:**

- 100% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.

**NEW CAR ORDERS**

This program is intended to purchase cars that will replace those that have been in service for 40+ years. This includes 41 cars purchased in 1982 and 17 cars purchased in 1992.

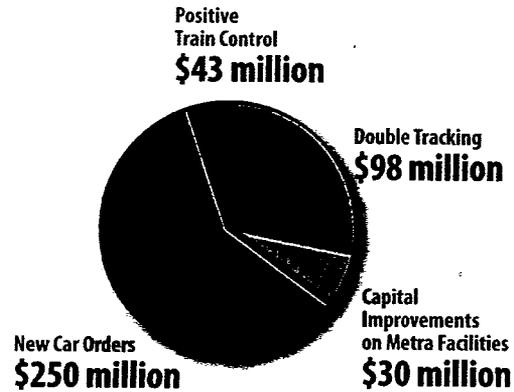
**Project Capital Cost:**

- \$250 million

**Proposed Cost Distribution:**

- 100% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.

**SSL BASELINE CAPITAL COSTS**



*\*Year of expenditure dollars in millions, exclusive of debt financing costs*

**DOUBLE TRACKING**

The South Shore Line is a double track railroad that shares the right-of-way with the Metra Electric District in Chicago. After the Metra and South Shore services diverge, the section of double track extends east to Tennessee Street in Gary, a distance of 17.2 miles. Between Gary and Michigan City (a distance of 25.9 miles) the South Shore is a single track railroad with 6 miles of double track in eastern Lake County and western Porter County, and several mile-long passing sidings. Constructing continuous double track would increase scheduling flexibility, improve reliability, expand maintenance windows, and eliminate the single point of failure that exists with single track operation.

The South Shore will remain single-track (with passing sidings) between Michigan City and South Bend, as there is sufficient capacity for existing and anticipated service levels.

**Project Capital Cost:**

- \$98 million

**Proposed Cost Distribution:**

- 50% of capital costs paid with federal funds
- 50% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.

**METRA CAPACITY**

The South Shore Line operates on Metra Electric District right-of-way from 115th St. to Millennium Station in downtown Chicago. Metra is a four-track railroad from 115th St. to 11th Place and then narrows down to a three-track railroad on approach to Millennium Station. At Millennium Station, NICTD has a single track leading into four platforms, while Metra enjoys the benefits of double track access to its platforms. This single track creates a single point of failure; in the event of a derailment or an unexpected track, switch, or catenary failure, all South Shore Line trains would be indefinitely ensnared. Furthermore, a single track prevents NICTD from operating simultaneous inbound and outbound train movements. This project would provide another track into Millennium Station, improving operating flexibility and capacity.

**Project Capital Cost:**

- \$30 million

**Proposed Cost Distribution:**

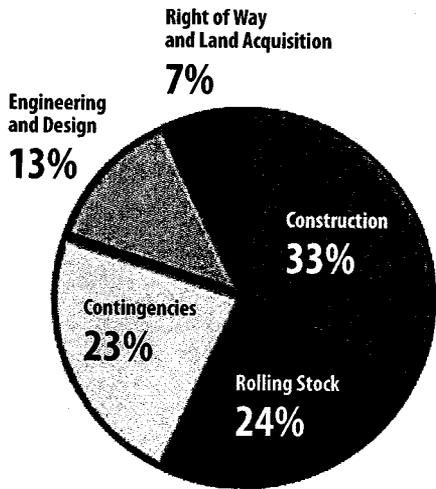
- 50% of capital costs paid with federal funds
- 50% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.



# Program Detail: West Lake Extension

**FIGURE 4**  
Conceptual Alignment for the West Lake Corridor

**CAPITAL COSTS CATEGORIES**



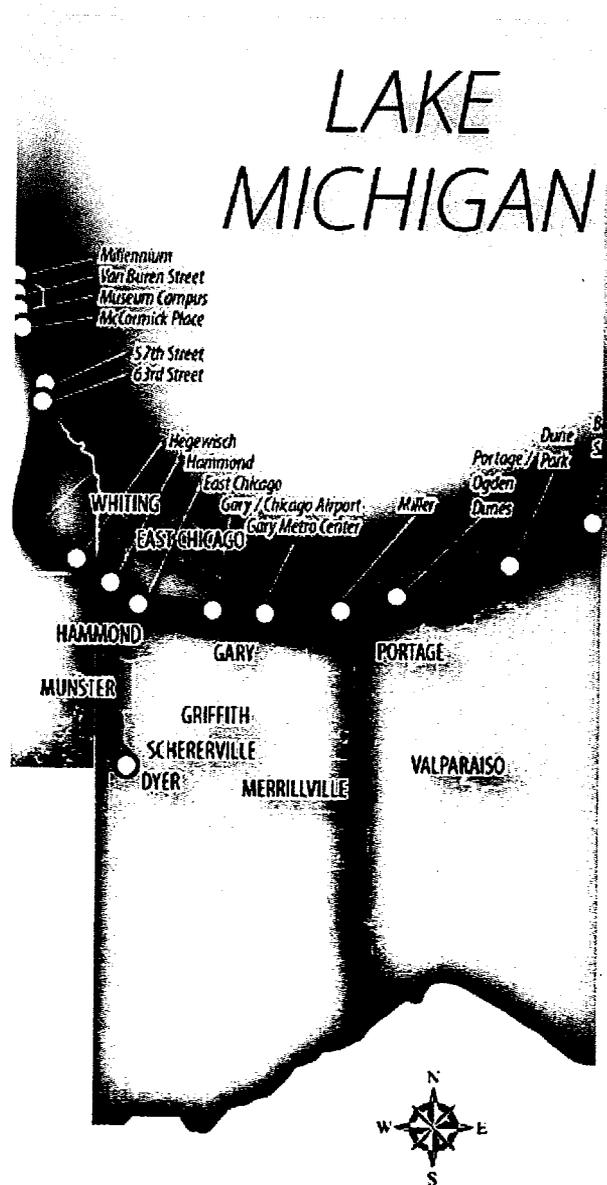
\* Contingencies are part of the FTA Cost Categories Template and reflect the level of detail known at the time of the 2009 feasibility study.

**Project Capital Cost:**

- \$571 million (to Dyer)

**Proposed Cost Distribution:**

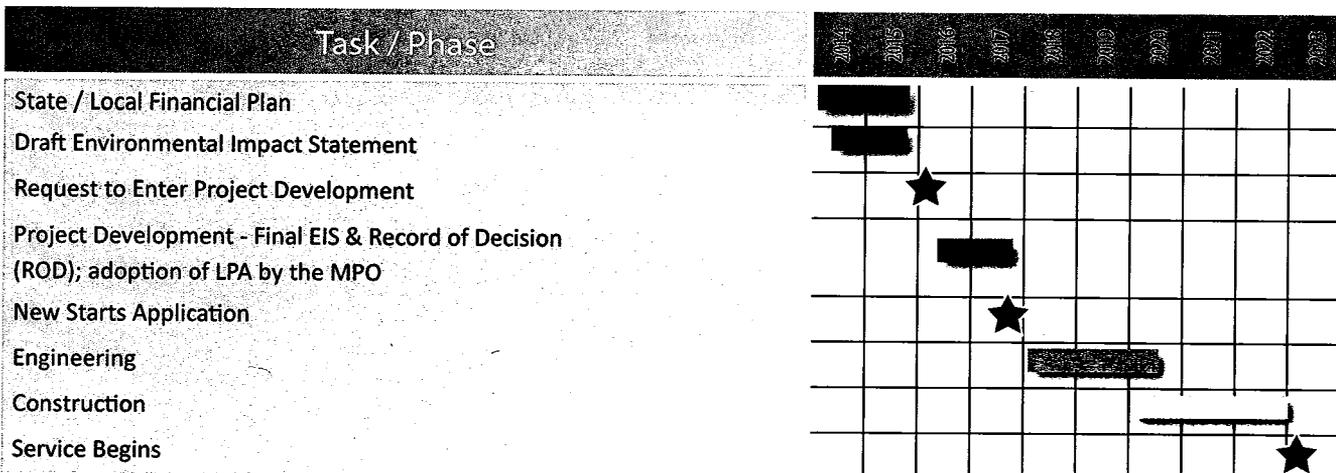
- 50% of capital costs paid with federal funds
- 50% of capital cost is allocated to local sources (Lake County)



### WEST LAKE EXTENSION

The West Lake Extension would expand NICTD commuter rail service south into Lake County. The service would reduce the distance that central and south Lake County commuters would have to travel to access NICTD train service, and is projected to have a daily ridership of 5,600 people. The West Lake Extension project is currently in the initial planning stages, having completed concept feasibility investigations. The preferred alignment and stations served will be identified during subsequent alternatives analysis and environmental assessments, along with confirmation of the capital and operating financial plan.

**FIGURE 5**  
West Lake Extension Potential Implementation Schedule



### BENEFITS

Developing a line extension of the South Shore service into Lake County would bring the following benefits:

- Connecting the region to downtown Chicago jobs and employment centers
- Enticing economic development
- Providing an alternative mode of transportation to driving
- Lowering commuting costs
- Increasing NICTD system ridership
- Increasing property values near stations
- Attracting and retaining families and younger residents to the region

**PROGRAM OVERVIEW**

The improvements on the existing South Shore Line are intended to increase efficiency on the existing rail line. Trip times from South Bend to Chicago would be reduced by 39 minutes, with smaller time savings from other stations. Two of the factors that have the greatest positive impact on ridership are better travel times and more frequent service. Therefore, these improvements will increase average daily ridership on the NICTD system by 38%, and would also greatly facilitate and enhance transit-oriented development and strengthen neighborhood redevelopment along the route.

It should be noted that while the Market Expansion improvements are east of East Chicago and Hammond, they will result in more reliable service, thus providing benefits along the entire line.

**PORTAGE / OGDEN DUNES HIGH-LEVEL PLATFORMS**

The Portage/Ogden Dunes station is currently equipped with three warming shelters along the low level boarding platform and two ADA mini-high level boarding platforms. This project would construct dual, 8-car long, high level boarding platforms with gauntlet tracks to safely separate freight trains. Benefits include a reduction in travel times.

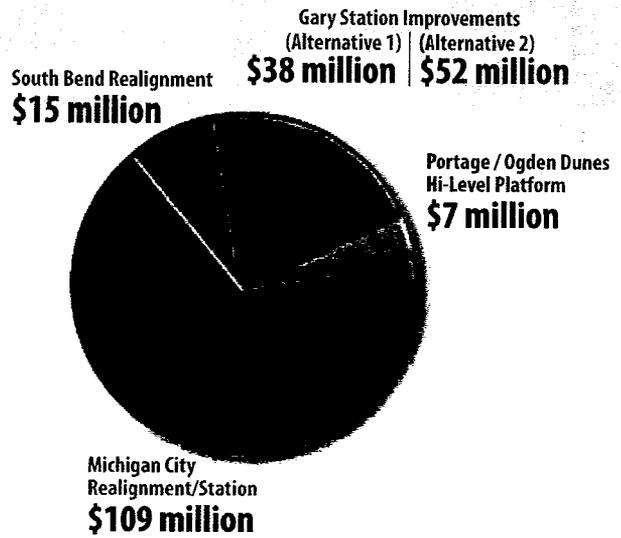
**Project Capital Cost:**

- \$7 million

**Proposed Cost Distribution:**

- 50% of capital costs paid with federal funds
- 50% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.

**MARKET EXPANSION CAPITAL COSTS**



*\*Year of expenditure dollars in millions, exclusive of debt financing costs*

## MICHIGAN CITY REALIGNMENT AND STATION CONSOLIDATION

This project will eliminate two miles of embedded street running track. The project includes the construction of a new exposed ballasted double track railroad within the 10th/11th St. Corridor coupled with a modern, fully equipped consolidated station and 8-car high level boarding platforms. The City envisions this new station as the focal point for renewed retail and residential development in Michigan City. As part of the station consolidation effort, the existing Carroll Avenue station would be closed. The realignment would also close 16 grade crossings including six of NICTD's top 20 Federal Railroad Administration (FRA) rated high hazard crossings. Benefits include a reduction in travel time, improved reliability and operating flexibility and a fully ADA accessible station with expanded parking.

### Project Capital Cost:

- \$109 million

### Proposed Cost Distribution:

- 30% of capital costs (\$33 million) allocated to local sources (Michigan City and/or La Porte County) for transit-oriented development and station-area amenities
- 35% of capital costs paid with federal funds
- 35% will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.

## SOUTH BEND REALIGNMENT

South Shore trains currently navigate a circuitous reverse "C" in order to access the South Bend Airport terminal from the east. The route is long and trains are slowed by 23 grade crossings. This realignment project would provide a more direct route to the west side of the airport terminal by eliminating three track miles, reducing travel time by up to 10 minutes, and cutting the number of grade crossings from 23 to 7.

### Project Capital Cost:

- \$15 million

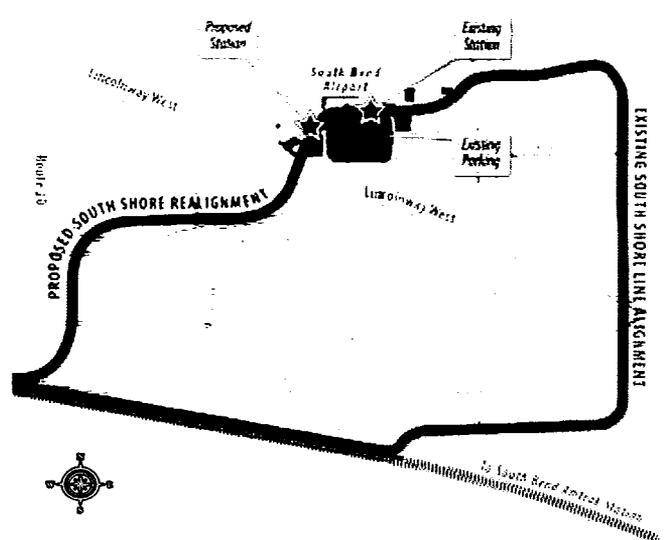
### Proposed Cost Distribution:

- 50% of capital costs paid with federal funds
- 50% of capital cost is allocated to local sources (South Bend and/or St. Joseph County)

**FIGURE 6**  
Proposed Realignment through Michigan City



**FIGURE 7**  
Proposed Realignment Near South Bend



**GARY STATION IMPROVEMENTS**

There are three stations in Gary with low level boarding platforms and which are past the end of their useful life. Alternatives will be evaluated and selected through a future NEPA evaluation.

**ALTERNATIVE 1: STATION CONSOLIDATION**

NICTD undertook a study in 2012 that determined there are significant travel time and construction costs savings to be derived from consolidating Gary Metro Center and Miller at a new location near I-65 and the Indiana Toll Road. The new station would include 8-car long, ADA-compliant high level boarding platforms with a full service station and expanded parking, providing easy access for passengers living along the I-65 corridor. Benefits would include travel time improvements, ridership efficiency, and reduced maintenance costs.

**ALTERNATIVE 2: STATION MODERNIZATION**

This alternative would close the Clark Road station, and upgrade the Miller and Gary Metro stations. The Miller station would be rebuilt with high level boarding platforms at Clay Street. The elevated Gary Metro station would be rebuilt with high level boarding platforms in the same model as the East Chicago station. Benefits would include travel time improvements, maintaining mobility for local commuters, and maintaining stations as an aspect of neighborhood redevelopment plans.

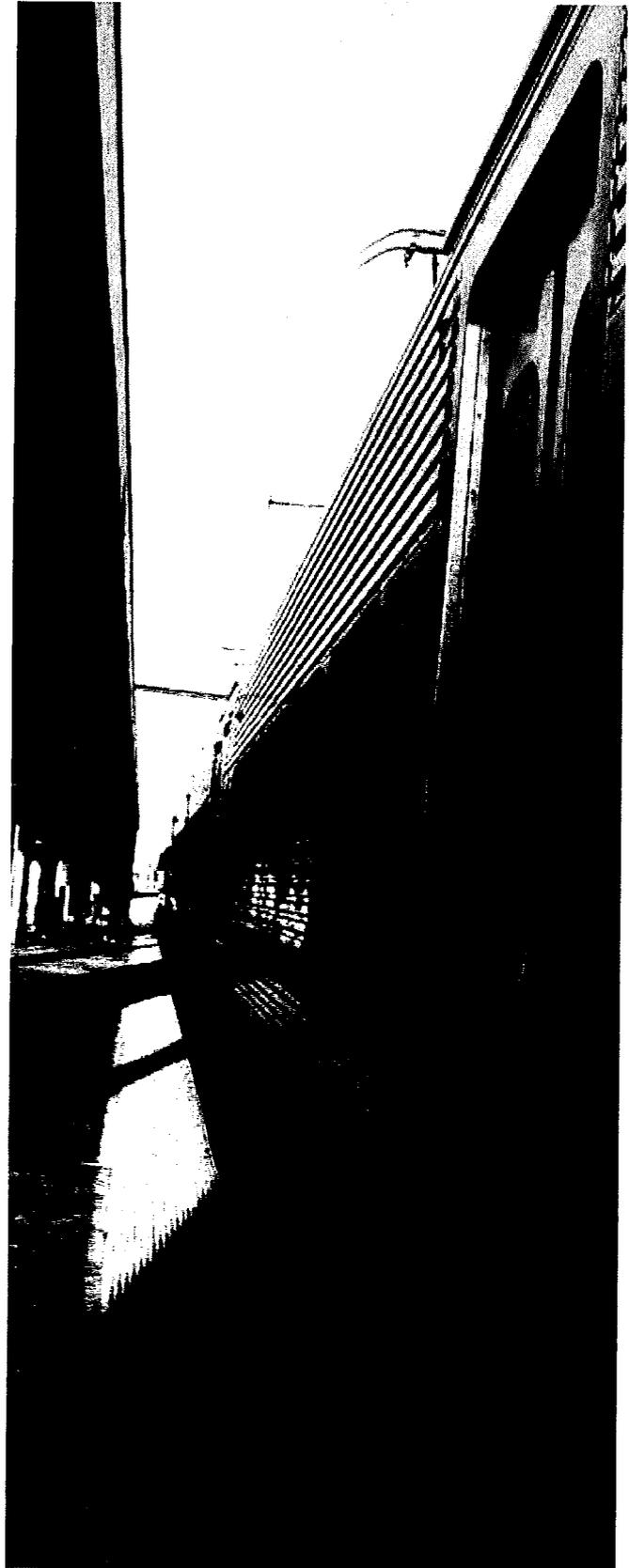
Although the Clark Road station would be closed, connections to the Gary/Chicago International Airport would be made at East Chicago or Gary Metro Center.

**Project Capital Cost:**

- Alternative 1: \$38 million
- Alternative 2: \$52 million

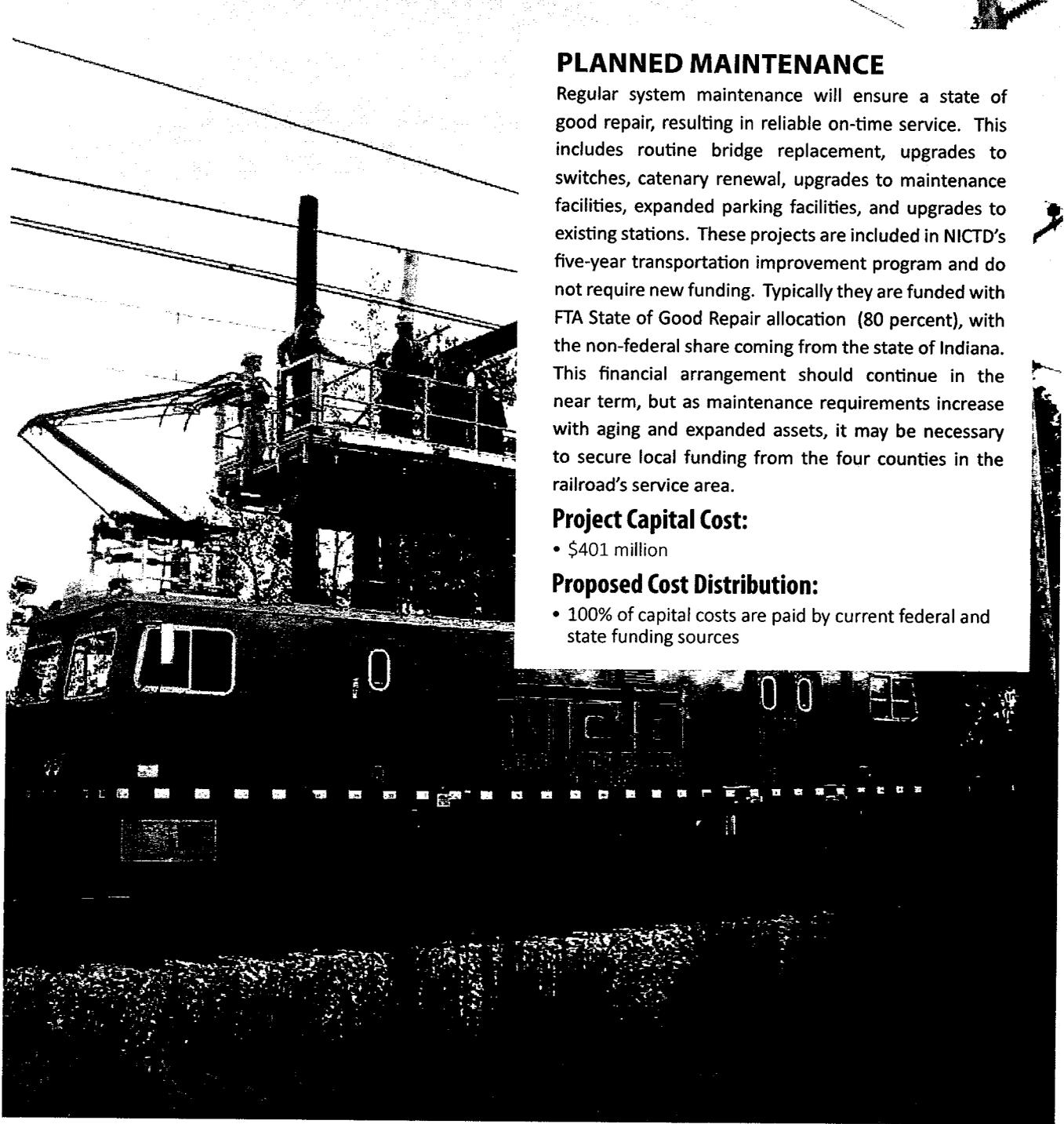
**Proposed Cost Distribution:**

- 50% of \$38 million in capital costs paid with federal funds
- 50% of \$38 million in capital costs will be from state or local sources. Whether the source is state or local is a decision to be made by the counties before the investment is made. A county allocation could be based on derived benefits as well as service factors.
- \$14 million Alternative 2 premium paid by local sources / grant / subsidy



# Program Detail:

## South Shore Line Maintenance



### PLANNED MAINTENANCE

Regular system maintenance will ensure a state of good repair, resulting in reliable on-time service. This includes routine bridge replacement, upgrades to switches, catenary renewal, upgrades to maintenance facilities, expanded parking facilities, and upgrades to existing stations. These projects are included in NICTD's five-year transportation improvement program and do not require new funding. Typically they are funded with FTA State of Good Repair allocation (80 percent), with the non-federal share coming from the state of Indiana. This financial arrangement should continue in the near term, but as maintenance requirements increase with aging and expanded assets, it may be necessary to secure local funding from the four counties in the railroad's service area.

### Project Capital Cost:

- \$401 million

### Proposed Cost Distribution:

- 100% of capital costs are paid by current federal and state funding sources

Transit-supportive land use policies are an important implementation component of any major transit investment program. The development patterns around a transit system and its stations influence ridership of the system and the ability of the surrounding communities to realize the potential economic and fiscal impacts that improved transportation service can provide.

### **IMPACT ON TRANSIT SERVICE**

Having transit-supportive land use policies in place at a local and regional level is also supportive for the rider market served by the transit system. High-density transit-oriented development (TOD) creates a ready pool of residents, workers and visitors from which transit systems can draw riders and which, complemented by the design and diversity of uses, makes transit usage more attractive than driving a car. Encouraging more intense development around existing transit service can enhance ridership, strengthening utilization and support for the transit system and improving financial performance for the operator. Having transit-supportive land use policies at a local and regional level in place is also necessary to make the transportation infrastructure projects much more competitive when it comes to obtaining the critical funding from the federal government for maintenance, operations and new construction.

It needs to be emphasized that positive development impacts are dependent on faster service and higher train frequencies, both important objectives of NICTD's 20-year investment strategy.

### **WHAT IS TOD?**

Transit Oriented Development (TOD) is a planning and development approach that concentrates mixed-use development within transit station areas. This includes



a range of integrated residential, retail, service and office uses. TODs are walkable areas of compact development (NIRPC, 2040 Regional Comprehensive Plan).

A variety of factors influence the potential and success for TOD. These include:

- Economic climate for real estate development
- Capacity of available land in station area
- Transit-supportive plans and policies
- Urban design and connectivity
- Transit service frequency, schedule and travel times

### TOD POLICY RECOMMENDATIONS

Land use and economic development planning decisions fall under local jurisdiction: the municipalities, townships and counties. While transit agencies and state/regional governing bodies can provide guidance on ideas and coordination with transportation infrastructure decisions, it is these local bodies that can influence development patterns and should prepare conceptual design and implementation plans for transit-oriented development and transit-supportive infrastructure projects.

Actions that local jurisdictions can take to encourage TOD and contribute to a unified transit-supportive land use environment include:

- Introduce or reinforce transit as a viable transportation choice in local plans, such as comprehensive plans, strategic plans, etc.
- Develop station-area concept plans around existing or proposed rail stations, incorporating TOD best practices of mixed uses, increased densities, and balanced parking requirements to create economical and vibrant neighborhoods.
- Consider location of visitor-driven civic facilities, such as town halls, community centers, libraries, etc. as development anchors in station areas.
- Ensure regulatory codes and guidelines, needed to implement TOD are in place such as zoning ordinances, design guidelines, subdivision rules, parking requirements.
- Develop multi-modal connectivity plans, to ensure convenient and safe access to the station for all modes of transportation, including pedestrians and bicyclists

### TOD FUNDING SOURCES

A variety of funding and implementation sources exist for communities to use to advance these planning activities described in this section. These local projects would run in parallel with the investments made by NICTD and RDA to advance the transportation projects through their required study and design stages. These include:

#### LOCAL

- General / capital improvement plan (CIP) funds
- Tax Increment Financing (TIF)
- Special Service Area (SSA) / Business Improvement Districts (BID)
- NIRPC Livable Centers grants
- RDA development project grants
- Joint development partnerships

#### STATE / FEDERAL

- TIGER/TIFIA type grants/loans
- CMAQ
- HUD/EPA/DOT Sustainable Communities Grants
- INDOT road improvements
- Parks and trails grants
- Green infrastructure grants



Building and enhancing NICTD's commuter rail service will link Northwest Indiana residents with high-paying jobs and boost the regional economy.

**POPULATION AND EMPLOYMENT**

Perhaps the most profound reason for improving and expanding the NICTD's commuter rail system is to increase and enhance commuting options for Northwest Indiana residents that connect them with the extraordinary concentration of jobs located in downtown Chicago and environs. In fact, the Cook County employment base is valued at roughly 8.5 times the size of the employment base of Lake, Porter, and La Porte Counties combined.

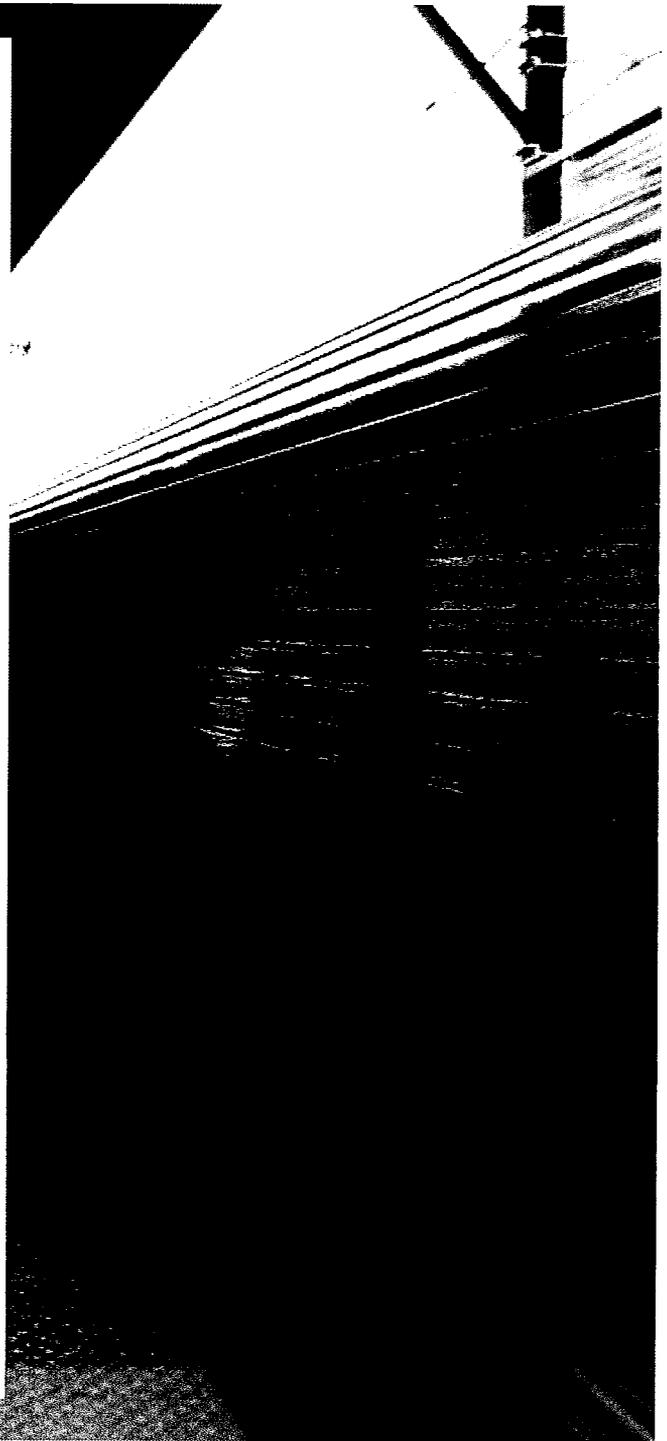
Linking together population and employment centers via public transportation has demonstrated time and again to be one of the most effective ways of building and rebuilding the middle class in Northwest Indiana.

**RIDERSHIP**

NICTD ridership is driven by weekday work trips to downtown Chicago, with Van Buren Street and Millennium Station serving as destinations for the vast majority of these riders. The capital investment programs described in this plan will attract additional riders to the system, increasing farebox revenues and generating spin-off economic and fiscal benefits to the region. NICTD has a goal of attracting 20,000 riders per weekday, resulting largely from the investment program in the railroad's strategic plan.

**ECONOMIC**

The high-paying wages and overall desirability of a significant proportion of these jobs (mainly in finance, information services, and healthcare) means that those workers have a larger amount of income to spend on housing, commercial, and entertainment purposes.



This additional household spending has significant implications for the economic development potential of any community where such workers choose to live. However, Indiana workers currently have only a single public transportation connection to Chicago (the South Shore) compared to their Illinois counterparts who can choose among 11 Metra rail lines and seven Chicago Transit Authority lines all feeding the downtown area. Beyond being limited to a single commuter route, only a fraction of Northwest Indiana communities are served by a station compared to the overwhelming majority of communities being served by Metra in Illinois. If Northwest Indiana could connect more of its communities - which have an advantage over Illinois of attracting young families and workers with comparatively lower costs of living - then, this part of the state could see substantial increases of local economic development.

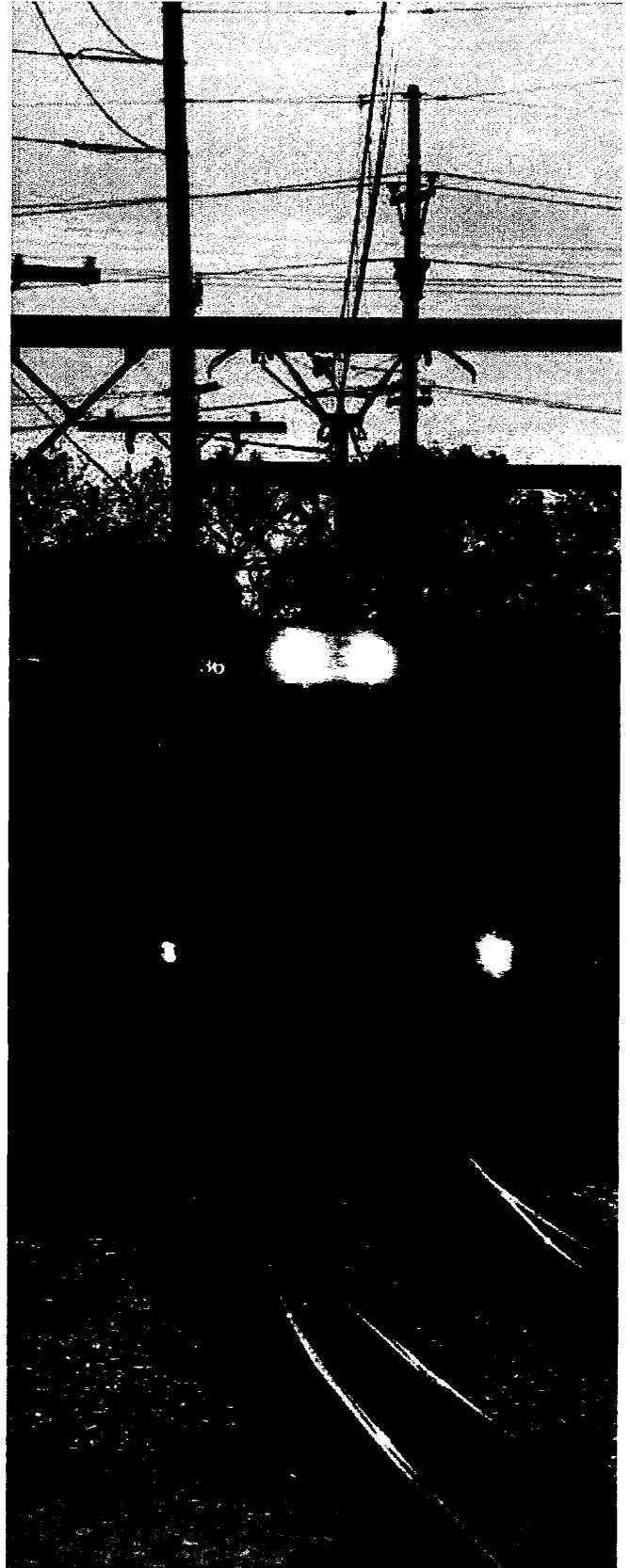
**FISCAL**

The West Lake Extension project and programs of South Shore Line capital improvements combined are projected to add 1,984 jobs to the Northwest Indiana economy. Efficiencies are projected to generate \$2.5 billion in economic output and \$1.3 billion in gross regional product. These numbers do not reflect potential secondary economic benefits that may result from spending generated from new local jobs as well as other positive economic multipliers that have a continuous effect on the local economy.

**PERSONAL COSTS AND BENEFITS**

As gas prices increase, transportation costs to commuters are compounded by the number of miles they drive. Since an average household's total vehicle miles traveled (VMT) is largely controlled by work trips, the demand for alternative modes of transportation such as public transit increases with the cost of fuel. This increase in demand is also partly due to the fact that transit fares typically stay relatively flat when adjusted for inflation compared with fuel prices, resulting in personal cost savings.

Another enticing draw to taking transit is that rail commuters have the freedom to pursue other tasks that increase personal productivity and enhance quality of life. Transit riders can read, work, use electronic devices, and conduct other tasks that are off-limits for motorists.



**USES**

The 20-year Strategic Business Plan recommends four capital investment programs that will improve rail infrastructure, provide efficient service, and achieve the greatest possible economic development potential for the study area.

**SOURCES: CAPITAL**

It is assumed that the overall investment plan will be financed by a combination of federal, state and local sources. Close to fifty percent of the funding for capital costs of new projects is expected to come from the Federal Transit Administration's (FTA) Capital Investment Program. Other federal funding streams may be available to partially fund other investments.

**FIGURE 8  
Existing Capital & Operating Funding Sources**

	CAPITAL	OPERATING
Federal	FTA Section 5307 Urbanized Area Formula; Federal Maintenance Grants; Federal Grant Credit to Expense	FTA Section 5307 Urbanized Area Formula; Federal Maintenance Grants; Federal Grant Credit to Expense
State	Commuter Rail Service Fund; Public Mass Trans. Fund (PMTF); Rail Car Leasing Company Property Tax Revenues; General Fund; BIF; Special State Appropriations	Commuter Rail Service Fund; Public Mass Trans. Fund (PMTF)
Local	N/A	Passenger Farebox Revenues; Metra Purchase of Service Agreement (PSA); Chicago South Shore (CSS) ROI

For the remaining share of the capital costs, local and state sources would need to be found. As of April 2014, some commitments have been made at the local or regional level, but additional financial support could come from or through the RDA, and at the local level, from a range of options including:

- County Economic Development Income Tax
- County Option Income Tax
- Wheel tax
- Local option gas tax
- Local option sales tax

In order to successfully implement the investment projects in this Plan, new sources of local capital funding must be found.

In the case of capitalized South Shore Maintenance costs for commuter service as it is currently structured, existing sources of federal and state revenue are forecasted to cover this program.

With respect to capital costs for the South Shore Baseline, Market Expansion and West Lake Extension programs, new funds must be found for a longer-term bonding scenario. Capital funds for the West Lake Extension are being appropriated at the time this Plan is being finalized. A funding package between Lake County and the majority of municipal entities is being assembled to secure bond payment obligations arising from the project construction.

The South Shore Baseline and Market Expansion programs are designed to meet future requirements of “State of Good Repair” and allow for significant growth of new ridership. These investments will attract new riders by implementing structural changes in assets that currently restrict improvements in travel times and frequency of trains. These factors are major market drivers for attracting new riders.

Some agreement for allocating the South Shore Baseline and Market Expansion program costs between state and local sources must be reached in order to have a precise plan allocating funding responsibilities for these investment programs.

**SOURCES: OPERATING**

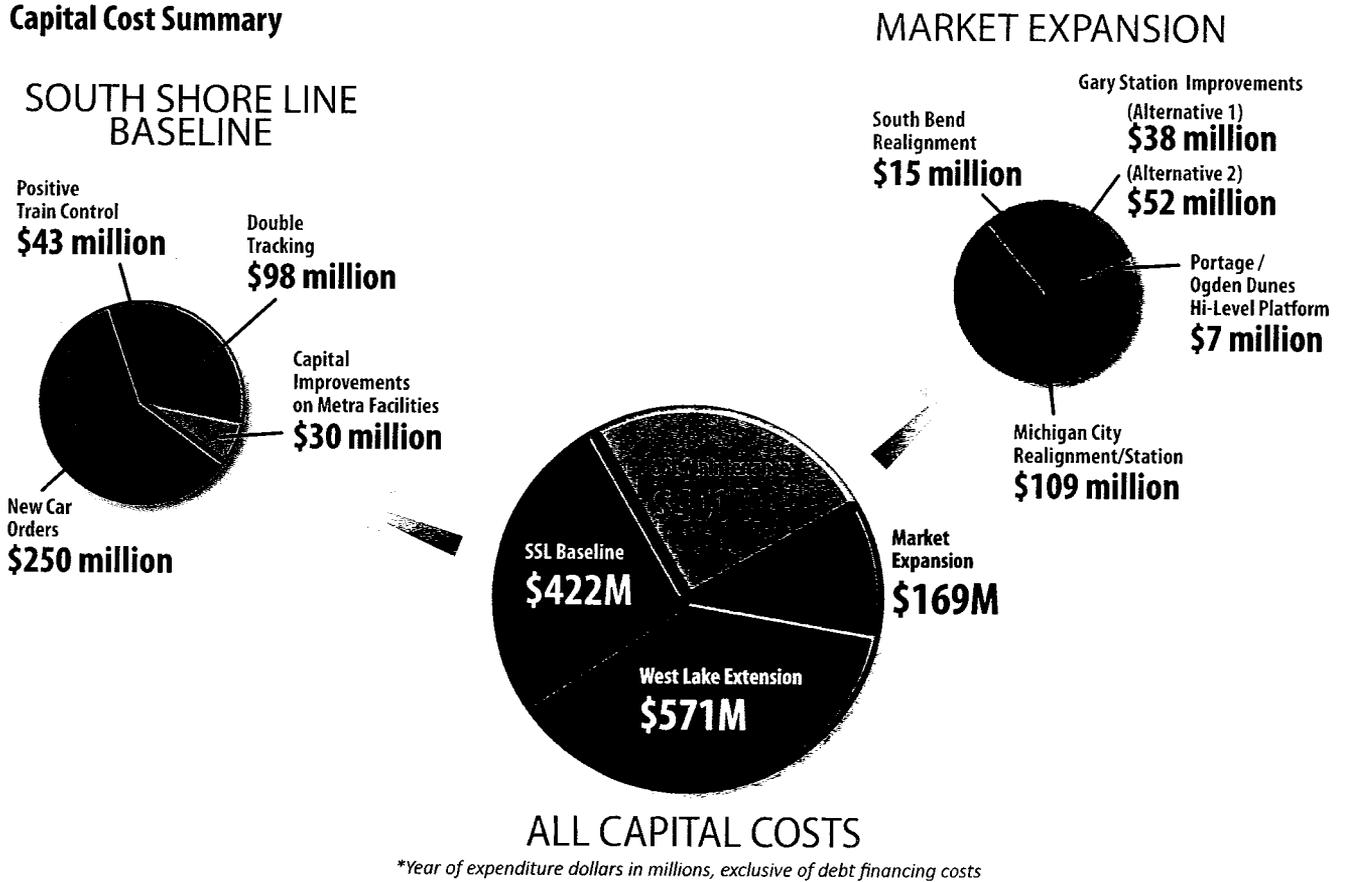
A common problem for transit systems nationwide is the decreasing amount of funds available for annual operating assistance as revenues fail to grow as rapidly as expenses. For NICTD, this fact is reflected in 20-year cash flow projections that show the railroad slipping into an unfunded operating

deficit in 2019 even without considering the service and ridership improvement projects described in this Plan. The precise timing of this deficit could change in either direction depending on the interaction of NICTD operating expenses and tax collections at the state level. Although subject to change, NICTD expects to continue receiving operating support from the State of Indiana. In recent years annual support has ranged from \$12 to \$14 million. One option could be to consider supplementing state funds with revenue from the four counties in NICTD’s service area.

**SCHEDULE**

The schedule for implementing the proposed improvements is aggressive but spreads the costs over time, as shown in Figure 10. The majority of projects are scheduled for completion by 2022, with a second round of new car orders in 2030-2031.

**FIGURE 9  
Capital Cost Summary**



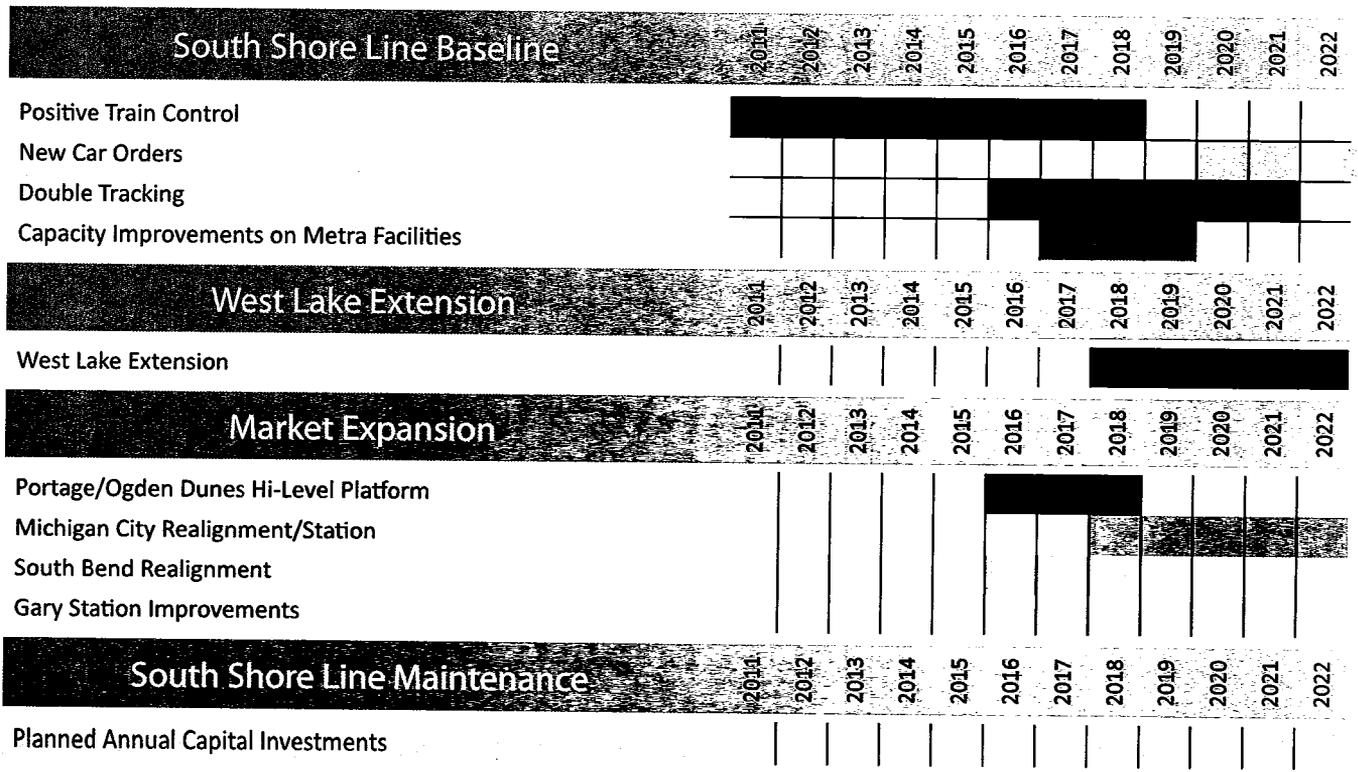
**FIGURE 10  
Project Cost Allocation**

COUNTY	SOUTH SHORE LINE INVESTMENTS BY PROGRAM AND PROJECT 2015-2033										
	South Shore Line Baseline				Baseline Total	Market Expansion				Market Expansion Total	West Lake Extension
	Positive Train Control	New Car Orders	Double Tracking	Capacity Improvements on Metra		Portage / Ogden Dunes Hi-Level Platform	Gary Station Improvements	Michigan City Realignment /Station	South Bend Realignment		
Capital Cost Estimate	\$43.0	\$250.3	\$98.4	\$30.0	\$421.7	\$7.0	\$38.0	\$109.3	\$15.0	\$169.3	\$571.0
Federal Capital Share	\$0.0	\$0.0	\$49.2	\$15.0	\$64.2	\$3.5	\$19.0	\$38.2	\$7.5	\$68.2	\$285.5
State / Local	\$43.0	\$250.3	\$49.2	\$15.0	\$357.5	\$3.5	\$19.0	\$71.0	\$7.5	\$101.0	\$285.5
State/Local Average Annual Debt Service*	\$2.0	\$12.0	\$2.9	\$0.9	\$17.8	\$0.3	\$1.2	\$4.4	\$0.6	\$6.5	\$16.5
<b>Benefits</b>											
Lake	●	●	●	●			●				●
Porter	●	●	●	●		●	●				●
LaPorte	●	●	●	●		●	●	●			
St. Joseph	●	●	●	●		●	●		●		
State of Indiana	●	●	●	●		●	●	●	●		●

Cost shown in year-of-expenditure dollars, in millions

\* Financing scenarios are based on 30-year bonds, some portion of which may extend past the 2033 time horizon of this plan.

**FIGURE 11  
Capital Improvement Implementation**



● = Additional new car orders would also take place in 2030-2031.

NICTD and RDA wish to thank the following individuals and organizations, without whose support and participation this Plan would not be possible.

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**Mr. Mark Yagelski**  
LaPorte County Council, Chairman of the Board

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**Mr. Jack Eskin**  
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**Mr. Kevin Garcia**  
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**Mr. Jim VanderKloot**  
Sustainable Communities Program / Gary Project Manager, US EPA

**Ms. Stephanie Cwik**  
Sustainable Communities Program / Gary Project, US EPA

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Sustainable Communities Program / Gary Project, US EPA

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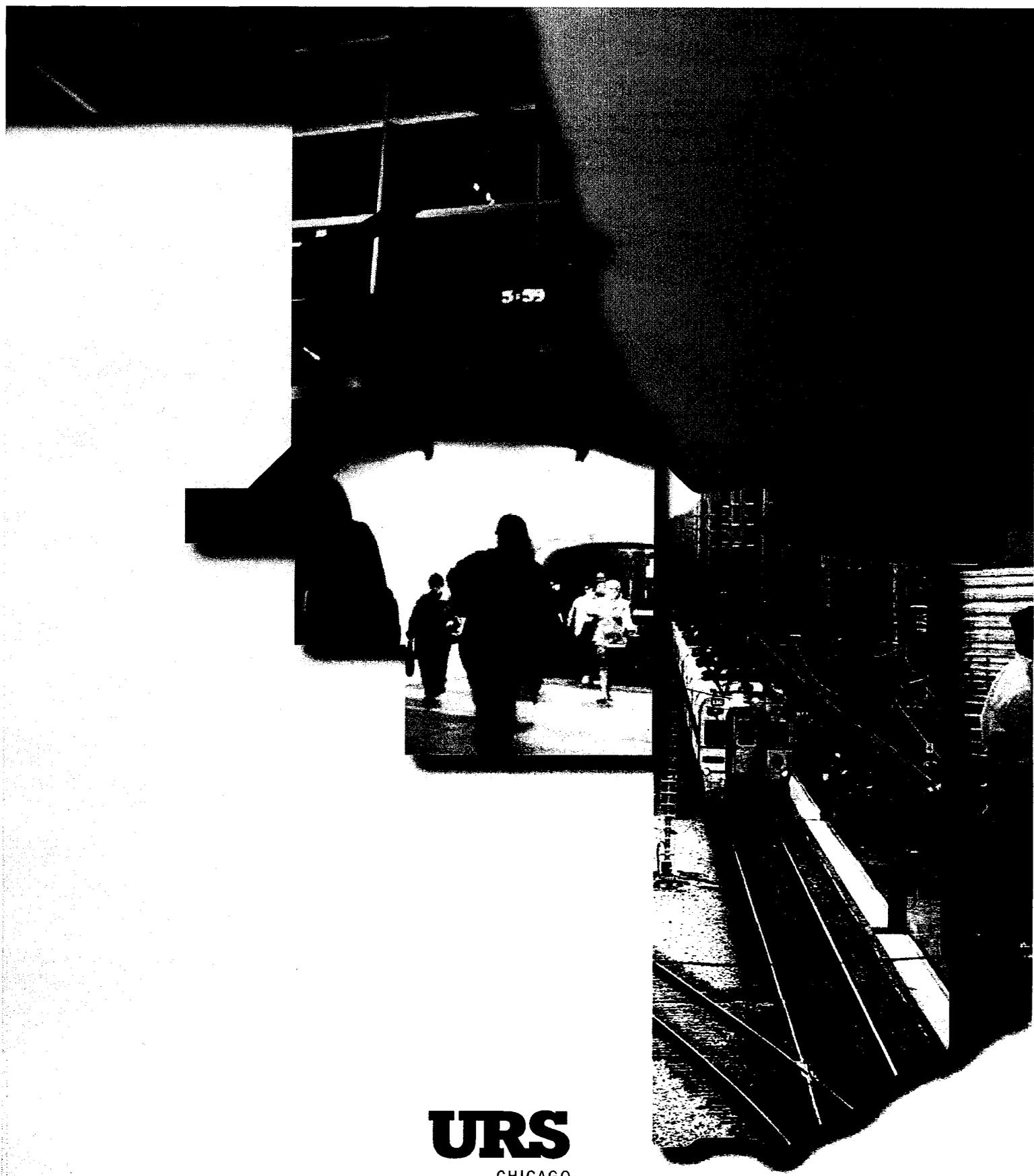
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**Policy Analytics, LLC**

**RSG, Inc.**

**University of Illinois at Chicago - Urban Transportation Center**



**URS**  
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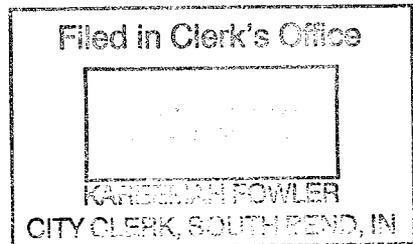
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TELEPHONE: (574) 654-3722

PETER F. NEMETH (1915-1995)  
F. GERARD FEENEY (1918-2004)  
DEVERE D. GOHEEN (1912-2000)

October 24, 2016

South Bend Common Council  
4th Floor, County City Building  
227 W. Jefferson Boulevard  
South Bend, IN 46601



RE: Petition to Vacate East-West Alley  
Between Lots 79 and 80 Sorin's 2<sup>nd</sup> Addition

Dear Members of the Common Council:

Enclosed is the Petition of the Petitioner and property owner, Blaire Adams RET, LLC, to Vacate the first East-West alley between St. Vincent Street and Howard Street from St. Louis Boulevard to the first North-South Alley east of St. Louis Boulevard.

The alley sought to be vacated runs between the vacant lot at 1020 N. St. Louis Boulevard on the north side of the alley and the house at 1018 N. St. Louis Boulevard on the south side of the alley. The Petitioner owns both properties. Petitioner is the only abutting property owner. The alley runs the length of both properties.

Petitioner wants to vacate the alley either to expand the yard of the house at 1018 N. St. Louis Boulevard across what is now the alley to connect with the vacant lot at 1020 N. St. Louis Boulevard, or to construct another house on the vacant lot at 1020 N. St. Louis Boulevard.

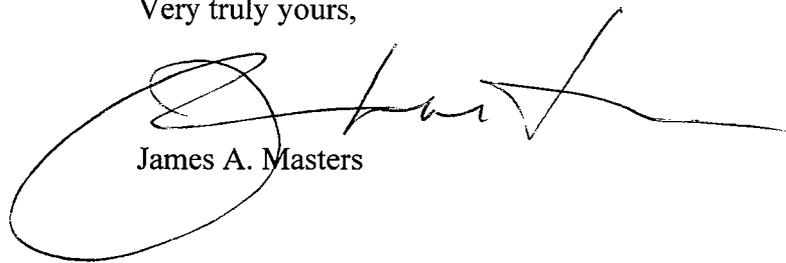
The alley is not used for vehicular traffic. The alley is not well-maintained. The alley is not used for trash pick-up or for access to any property. Vacating the alley will enhance the appearance of the neighborhood. The Board of Public Works has given this vacation a favorable recommendation.

NEMETH, FEENEY, MASTERS & CAMPITI, P.C.  
ATTORNEYS AT LAW

South Bend Common Council  
October 24, 2016  
Page Two

Your approval is requested. Any questions or comments should be directed to me as attorney for the Petitioner.

Very truly yours,

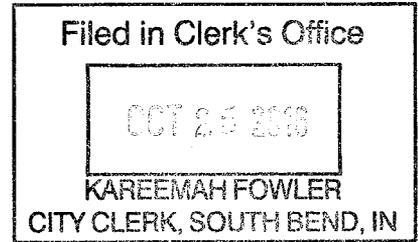
A handwritten signature in black ink, appearing to read "James A. Masters", is written over a large, loopy circular scribble. The signature is fluid and cursive.

James A. Masters

JAM/slk  
Enc.  
cc: Blaire Adams RET, LLC

PETITION TO VACATE PUBLIC RIGHT-OF-WAY  
(STREETS AND ALLEYS)

October 24, 2016



TO THE COMMON COUNCIL  
OF THE CITY OF SOUTH BEND, INDIANA

WE, THE UNDERSIGNED PROPERTY OWNER(S), PETITION YOU TO VACATE:

A. THE ALLEY(S) DESCRIBED AS:

The first East-West alley between St. Vincent Street and Howard Street from St. Louis Boulevard to the first North-South Alley.

PETITIONER

Blaire Adams RET, LLC  
Thomas J. Gryp, Manager  
c/o James A. Masters  
Nemeth, Feeney, Masters & Campiti, P.C.  
350 Columbia Street  
South Bend, IN 46601

PURPOSE OF VACATION

The alley sought to be vacated lies between Lot 79 and Lot 80, Sorin's Second Addition to the City of South Bend. The alley runs the entire length of both Lot 79 and Lot 80.

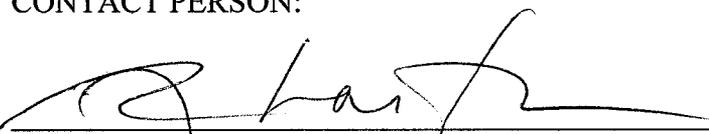
The Petitioner owns the properties on both sides of the alley to be vacated. Petitioner owns the vacant lot on the north side of the alley which has the common address 1020 N. St. Louis Boulevard (South One-half (1/2) of Lot 79; Tax Key 018-5104-3611) and the house on the south side of the alley with the common address 1018 N. St. Louis Boulevard (North 32.5 feet of Lot 80; Tax Key 018-5104-361201). Petitioner is the only abutting property owner. The alley runs the length of both properties.

Petitioner wants to vacate the alley either to expand the yard of the house at 1018 N. St. Louis Boulevard across what is now the alley to connect with the vacant lot at 1020 N. St. Louis Boulevard, or to construct another house on the vacant lot at 1020 N. St. Louis Boulevard owned by Petitioner.

The alley is not used for vehicular traffic. The alley is not well-maintained. The alley is not used for trash pick-up or for access to any property. Vacating the alley will enhance the appearance of the neighborhood. The Board of Public Works has given this vacation a favorable recommendation.

A site plan showing the alley to be vacated and the abutting lots owned by the Petitioner is attached. A list of property owners within One Hundred Fifty (150) feet is attached.

CONTACT PERSON:



---

James A. Masters (9074-71).  
NEMETH, FEENEY, MASTERS & CAMPITI, P.C.  
350 Columbia Street  
South Bend, Indiana 46601  
Telephone: 574/234-0121  
Attorney for Petitioner Blaire Adams RET, LLC

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

THE FIRST EAST-WEST ALLEY BETWEEN ST. VINCENT STREET AND HOWARD STREET FROM ST. LOUIS BOULEVARD TO THE FIRST NORTH-SOUTH ALLEY.

---

STATEMENT OF PURPOSE AND INTENT

---

Pursuant to Indiana Code Section 36-7-3-12, the Common Council is charged with the authority to hear all petitions to vacate public ways or public places within the City.

The following Ordinance vacates the above described public property.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, as follows:

SECTION I. The Common Council of the City of South Bend having held a public hearing on the petition to vacate the following property:

THE FIRST EAST-WEST ALLEY BETWEEN ST. VINCENT STREET AND HOWARD STREET FROM ST. LOUIS BOULEVARD TO THE FIRST NORTH-SOUTH ALLEY.

hereby determines that it is desirable to vacate said property.

SECTION II. The City of South Bend hereby reserves the rights and easements of all utilities and the Municipal City of South Bend, Indiana to construct and maintain any facilities, including, but not limited to, the following: electric, telephone, gas, water, sewer, surface water control structures and ditches, within the vacated right-of-way, unless such rights are released by the individual utilities.

SECTION III. The following property may be injuriously or beneficially affected by such vacating:

1. South One-half (½) of Lot 79 Sorin's 2<sup>nd</sup> Addition to the City of South Bend (Tax Key 018-5104-3611), common address 1020 N. St. Louis Boulevard
2. North 32.5 feet of Lot 80 Sorin's 2<sup>nd</sup> Addition to the City of South Bend (Tax Key 018-5104-361201), common address 1018 N. St. Louis Boulevard.

SECTION IV. The purpose of the vacation of the real property is:

The alley sought to be vacated lies between Lot 79 and Lot 80, Sorin's Second Addition to the City of South Bend. The alley runs the entire length of both Lot 79 and Lot 80.

The Petitioner owns the properties on both sides of the alley to be vacated. Petitioner owns the vacant lot on the north side of the alley which has the common address 1020 N. St. Louis Boulevard (South One-half (1/2) of Lot 79; Tax Key 018-5104-3611) and the house on the south side of the alley with the common address 1018 N. St. Louis Boulevard (North 32.5 feet of Lot 80; Tax Key 018-5104-361201). Petitioner is the only abutting property owner. The alley runs the length of both properties.

Petitioner wants to vacate the alley either to expand the yard of the house at 1018 N. St. Louis Boulevard across what is now the alley to connect with the vacant lot at 1020 N. St. Louis Boulevard, or to construct another house on the vacant lot at 1020 N. St. Louis Boulevard owned by Petitioner.

The alley is not needed used for vehicular traffic. The alley is not used for trash pick-up or for access to any property. Vacating the alley will enhance the neighborhood.

SECTION V. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_\_\_\_.m.

\_\_\_\_\_  
Mayor

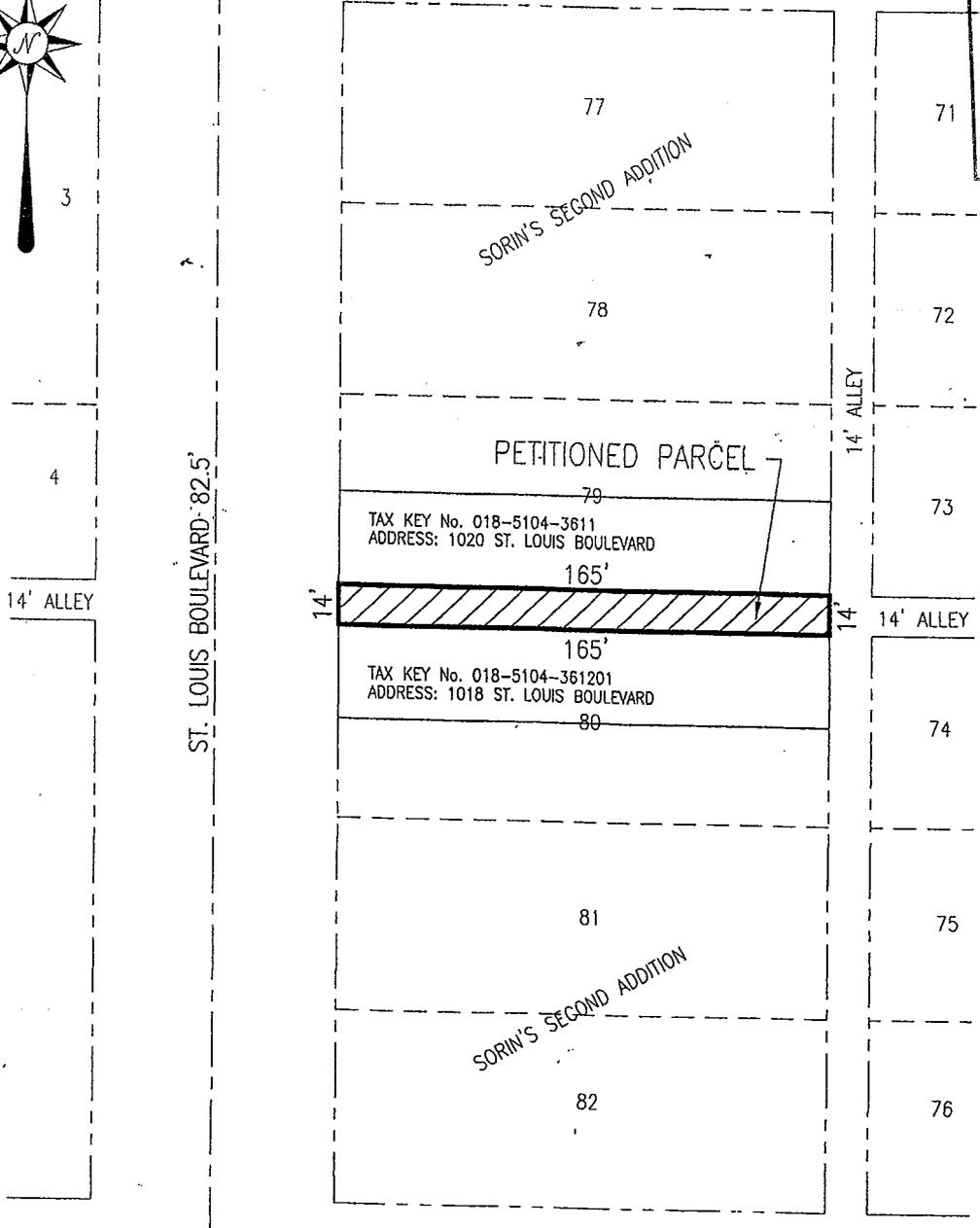
1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
DEFERRED  
PENDING

Filed in Clerk's Office  
OCT 25 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



ST. VINCENT STREET 82.5'R/W

Filed in Clerk's Office  
 OCT 25 2016  
 KAREEMAH FOWLER  
 CITY CLERK, SOUTH BEND, IN



This information contained herein has been assimilated from various public sources and has been compiled to assist in the placement of a building or other structure on the tract or parcel shown. This information is not intended to represent a boundary survey. Builder is responsible for verifying compliance with local building setback requirements.

**ALLEY VACATION  
 SITE PLAN**

**Lang, Feeney & Associates, Inc.**  
 Land Surveyors, Construction Engineers & Soil Scientists  
 715 South Michigan Street  
 South Bend, Indiana 46601  
 Phone 574-233-1841 Fax 574-674-0374

File Name	Drawn By	Scale
Masters, JimAlleyVac	JMS	1" = 50'
Date	Rev. Date	Drawing No.
6-24-16		26218

018-5109-3855  
1114 HILL  
Lot 14

018-5109-3856  
1110 HILL  
Lot 13

018-5109-3857  
1104 HILL  
Lot 12

018-5109-3858  
1102 HILL  
Lot 11

018-5109-3865  
1117 ST LOUIS  
Lot 7

018-5109-3866  
1105 ST LOUIS  
Lot 8

018-5109-3867  
1105 ST LOUIS  
Lot 9

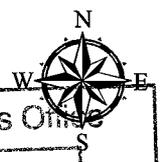
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623 ST VINCENT  
Lot 10

018-5104-3605  
701 ST VINCENT  
Lot 68

018-5104-3606  
701 ST VINCENT  
Lot 69

018-5104-3607  
701 ST VINCENT  
Lot 70

Filed in Clerk's Office  
KAREEMAH F. WELLS  
CITY CLERK, SOUTH BEND, IN



*E St. Vincent St*

018-5109-3869  
1038 HILL  
Lot 148

018-5109-3870  
602 ST VINCENT  
Lot 148

018-5109-3871  
1030 HILL  
Lot 148

018-5109-3874  
1024 HILL  
Lot 4

018-5109-3875  
1020 HILL  
Lot 4

018-5109-3876  
1014 HILL  
Lot 4

018-5109-3877  
601 HOWARD  
Lot 14

018-5109-3878  
605 HOWARD  
Lot 7

018-5109-3879  
601 HOWARD  
Lot 7

018-5109-3883  
611 HOWARD  
Lot 7

018-5109-3884  
619 HOWARD  
Lot 7

018-5109-3885  
1007 ST LOUIS  
Lot 82 Text

018-5109-3886  
1005 ST LOUIS  
Lot 82

018-5109-3888  
1001 ST LOUIS  
Lot 82

018-5109-3880  
Lot 4

018-5109-3881  
1017 ST LOUIS  
Lot 4

018-5109-3882  
1013 ST LOUIS  
Lot 4

018-5109-388003  
Lot 4

*N St. Louis Blvd*

018-5104-3608  
706 ST VINCENT  
Lot 77

018-5104-3609  
1028 ST LOUIS  
Lot 78

018-5104-3610  
1026 ST LOUIS  
Lot 79

018-5104-361101  
1024 ST LOUIS  
Lot 79

018-5104-3611  
1020 ST LOUIS  
Lot 79

018-5104-361101  
1018 ST LOUIS  
Lot 80

018-5104-3612  
1014 ST LOUIS  
Lot 80

018-5104-3613  
1012 ST LOUIS  
Lot 81

018-5104-3614  
701 HOWARD  
Lot 82

018-5104-3615  
705 HOWARD  
Lot 82

018-5104-3616  
713 HOWARD  
Lot 80

*E Howard St*

018-5108-3824  
602 HOWARD  
Lot 1

018-5108-3826  
606 HOWARD  
Lot 1

018-5108-3825  
608 HOWARD  
Lot 2

018-5108-3827  
612 HOWARD  
Lot 2

018-5108-3834  
614 HOWARD  
Lot 7

018-5108-3835  
616 HOWARD  
Lot 7

018-5108-3837  
620 HOWARD  
Lot 7

018-5108-3838  
622 HOWARD  
Lot 8

018-5108-3828  
926 HILL  
Lot 2

018-5108-3829  
920 HILL  
Lot 3

018-5108-3840  
921 ST LOUIS  
Lot 9

018-5108-3839  
925 ST LOUIS  
Lot 8

018-5107-3789  
702 HOWARD  
Lot 1

018-5107-3800  
Lot 11

018-5107-3797  
924 ST LOUIS  
Lot 9

**Alley Vacation - St. Vincent & St. Louis**

LEGAL DESCRIPTION

First E/W Alley between St. Vincent St. and Howard St.  
from St. Louis Blvd. to First N/S Alley

City of South Bend  
Dept. of Public Works  
227 W Jefferson Blvd. #1316  
South Bend, IN 46601  
Phone: (574) 235-9251  
Fax: (574) 235-9171



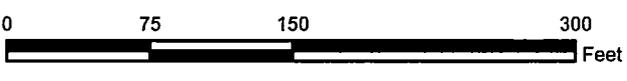
Project No.

Page No.

Date Prepared:  
10/11/2016

**Legend**

-  Vacation Area
-  Buffer (150')
-  Street Centerline
-  Parcel

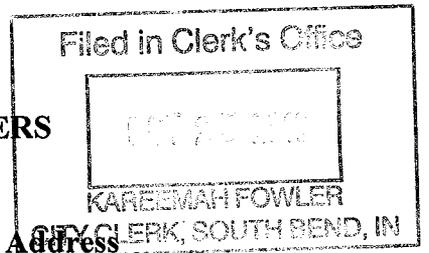


**LIST OF ADJACENT PROPERTY OWNERS**

Filed in Clerk's Office  
OCT 25 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

<u>Name/Address</u>	<u>Parcel ID</u>	<u>Property Address</u>
Louis Lane 21030 Harvard Road Southfield, MI 48076	018-5109-3874	1024 Hill South Bend, IN 46617
Housing Authority of South Bend 501 S. Scott Street South Bend, IN 46613	018-5109-3871	1030 Hill South Bend, IN 46617
Michael Brian Wong 1G LLC 1 G Holdings McLean, VA 22102	018-5109-3870	602 St. Vincent South Bend, IN 46617
Mark and Frances Hubbard 1025 N. Niles Avenue South Bend, IN 46617	018-5109-3880	
Mark and Frances Hubbard 1025 N. Niles Avenue South Bend, IN 46617	018-5109-388001	
Mark and Frances Hubbard 1025 N. Niles Avenue South Bend, IN 46617	018-5109-388003	
Ryan & Erin Kerrigan 1794 Port Stanhope Circle Newport Beach, CA 92660	018-5104-3609	1028 St. Louis South Bend, IN 46617
Robert Lewis Harris 1026 N. St. Louis Blvd. South Bend, IN 46617	018-5104-3610	1026 St. Louis South Bend, IN 46617
O Sullivan LLC 52823 Lilac Road South Bend, IN 46628	018-5104-361101	1022 St. Louis South Bend, IN 46617
Blair Adams Ret LLC 5776 Grape #51-102 Mishawaka, IN 46545	018-5104-3611	1020 St. Louis South Bend, IN 46617

**LIST OF ADJACENT PROPERTY OWNERS  
(Cont'd)**



<u>Name/Address</u>	<u>Parcel ID</u>	<u>Property Address</u>
Blair Adams Ret LLC 15852 Ashville Lane Granger, IN 46530	018-5104-361201	1018 St. Louis South Bend, IN 46617
Patrick Sullivan 52823 Lilac Road South Bend, IN 46628	018-5104-3612	1014 St. Louis South Bend, IN 46617
Luella Webster 701 Howard Street South Bend, IN 46617	018-5104-3613	1012 St. Louis South Bend, IN 46617
Irish Rentals LLC 4404 Technology Drive South Bend, IN 46628	018-5109-3886	1005 St. Louis South Bend, IN 46617
Coorsmith Properties LLC 4404 Technology Drive South Bend, IN 46628	018-5109-3885	1007 St. Louis South Bend, IN 46617
Coorsmith Properties LLC 4404 Technology Drive South Bend, IN 46628	018-5109-3882	1013 St. Louis South Bend, IN 46617
James and Christine Sieradzki 314 W. Catalpa, Ste. F Mishawaka, IN 46545	018-5109-3881	1017 St. Louis South Bend, IN 46617
Steve Cooreman 4404 Technology Drive South Bend, IN 46628	018-5109-3884	615 Howard South Bend, IN 46617
Stone Stewards LLC 4404 Technology Drive South Bend, IN 46628	018-5109-3883	611 Howard South Bend, IN 46617
Howard 607 LLC 812 East LaSalle South Bend, IN 46617	018-5109-3879	607 Howard South Bend, IN 46617

**LIST OF ADJACENT PROPERTY OWNERS  
(Cont'd)**

<u>Name/Address</u>	<u>Parcel ID</u>	<u>Property Address</u>
Housing Authority of South Bend 501 S. Scott Street South Bend, IN 46613	018-5109-3878	605 Howard South Bend, IN 46617
Kevin Bradford 52052 Woodridge Drive South Bend, IN 46635	018-5109-3876	1014 Hill South Bend, IN 46617
Lot 148 Hill Street Properties 812 E. LaSalle South Bend, IN 46617	018-5109-3875	1020 Hill South Bend, IN 46617
Mary C. Williams 601 E. Howard Street South Bend, IN 46617	018-5109-3877	601 Howard South Bend, IN 46617
Housing Authority of South Bend 501 S. Scott Street South Bend, IN 46613	018-5109-3869	1038 Hill South Bend, IN 46617



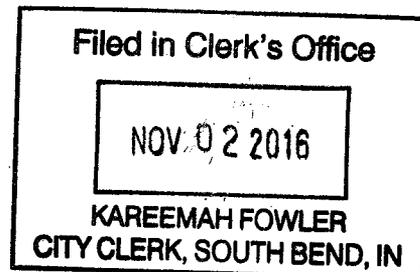
CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

November 1, 2016

Mr. Tim Scott, President  
City of South Bend Common Council  
227 W. Jefferson Boulevard, 4<sup>th</sup> Floor  
South Bend, Indiana 46601

RE: Internal Controls Ordinance



Dear President Scott,

Indiana Code 5-11-1-27(g) provides that the legislative body must adopt minimum internal control standards as defined by the State Board of Accounts (SBOA). Additionally, the legislative body must ensure that personnel receive training concerning the internal control standards and procedures adopted by the political subdivision. Toward this end, the City Administration has prepared the attached ordinance and policy with respect to internal controls.

The City Administration has undertaken a number of activities regarding internal controls during this past year. On May 12, 2016, a total of 17 fiscal officers and staff participated in internal controls webinar training provided by the SBOA. In addition, on March 30, 2016, eight fiscal officers participated in internal controls webinar training presented by the Indiana Association of Cities and Towns (IACT) and Umbaugh & Associates. The City has a number of good financial policies in place that are available on the City website. Utilizing some of these financial policies, the City is in the process of developing a comprehensive procedure for internal controls that will be implemented during the first quarter of 2017.

I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1<sup>st</sup> reading on November 14, 2016 with 2<sup>nd</sup> reading, public hearing and 3<sup>rd</sup> reading scheduled for November 28, 2016.

Thank you for your attention to this request. If you should have any questions, please feel to contact me at 574-235-7678.

Regards,

John H. Murphy  
City Controller

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, ESTABLISHING INTERNAL CONTROL STANDARDS AND  
ESTABLISHING A MATERIALITY THRESHOLD.

STATEMENT OF PURPOSE AND INTENT

Indiana Code § 5-11-1-27 requires all Indiana political subdivisions to adopt minimum levels of internal control standards developed by the State Board of Accounts as published in the Uniform Internal Control Standards for Indiana Political Subdivisions; and

The City Controller has reviewed and recommends adoption of the proposed internal control standards and materiality threshold.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of South Bend, Indiana, that:

Section I. The City of South Bend, Indiana hereby adopts the Internal Control Policy attached hereto and incorporated herein as Exhibit A.

Section II. The City Controller is directed to ensure that all personnel receive training concerning the internal control procedures adopted and approved herein.

Section III. For reporting to the State Board of Accounts, the City of South Bend, Indiana hereby adopts a materiality threshold of \$10,000 for cash and \$10,000 for assets other than cash, for the internal control procedures adopted and approved herein. All instances of suspected employee theft must be immediately reported to the State Board of Accounts regardless of the dollar amount. There is no materiality threshold for theft. Significant variances less than \$10,000 will be investigated internally by the staff of the City of South Bend.

Section IV. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval of the Mayor.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana, on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 at \_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Deputy City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2016 at  
\_\_\_\_\_ o'clock \_\_\_\_ . m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED

Filed in Clerk's Office  
NOV 02 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

# CITY OF SOUTH BEND, INDIANA

## Internal Controls Policy Pursuant to I.C. 5-11-1-27

October 26, 2016

### I. Policy

The purpose of this policy is to communicate the Common Council's internal control objectives to all employees and elected officials of the City of South Bend and to firmly commit the City to the seventeen (17) key principles of internal controls as established by the Indiana State Board of Accounts.

#### **COMPONENT ONE: CONTROL ENVIRONMENT**

**Principle 1: The oversight body and management demonstrate a commitment to integrity and ethical values.**

The City has the responsibility to establish and maintain an adequate system of internal control and to furnish to the South Bend Common Council, various boards and commissions, governmental agencies, creditors and others reliable financial information on a timely basis. An adequate system of internal control is necessary for the City to discharge these responsibilities. For purposes of this policy, the South Bend Common Council is the oversight body and the City Administration and Finance Department is management.

Controls help ensure that assets are not exposed to unauthorized access and use, transactions are properly recorded in the financial records, and the resultant financial information is reliable. External organizations and stakeholders of the City rely on financial information to make decisions toward appropriations, loans and other debt, grants, and other contractual relationships. City resources are dependent upon the system of internal control. Auditors are required annually to report upon the adequacy of the City's systems for control over financial reporting and compliance per I.C. 5-11-1-27(e). The safeguarding of City assets and the reliability which the City and others can place upon its financial records is dependent upon the effectiveness of the internal control process.

As the fiscal body, the Common Council expects the City Administration to effect an internal control environment with policies and procedures necessary to provide reasonable assurance that practices cause effective and efficient operations, reliable financial reporting, and compliance with applicable laws and regulations.

The system of internal control is meant to keep the City on course toward its mission and to minimize surprises. The system promotes efficiency, minimizes risks of asset loss, helps ensure the reliability of financial information, and compliance with applicable laws, rules, and regulations.

Internal control is a process; a means to an end, and not an end unto itself. The control environment is the foundation upon which all components of internal control are based. It sets the tone for City operations. Internal control is about people, operations, communications, and the work environment. It is not about policies and forms though it takes shape through the implementation

of relevant policies, procedures, and practices. Internal control can provide reasonable assurance, but no system of control can provide absolute assurance to the Common Council and other users of financial information.

The Finance Department shall be charged with:

- Conveying periodic messages of the City's internal control philosophy and expectations to all employees;
- Evaluating the City's internal control system for weaknesses on a periodic (but no less frequently than annual) basis, providing solutions to any discovered weaknesses, and inform employees of necessary changes in procedures;
- Working with the Human Resources Department to establish a confidential reporting system for individuals to report suspected fraud and abuse of internal control policies; and
- Working with the Human Resources Department to institute procedures to address violations of policies and consequences for violations.

**Principle 2: The oversight body oversees the entity's internal control system.**

As the fiscal body for the City, the Common Council is responsible for setting the institutional expectations for internal control, ensuring management is aware of the those expectations, requiring the upward communications channels are open through all levels of management, and evaluating management's effectiveness toward monitoring the control environment and implementing sound control policies and procedures. As the City's Chief Fiscal Officer, the City Controller will be the Common Council's chief agent in implementing and managing the internal control policies and procedures.

**Principle 3: Management establishes an organizational structure, assigns responsibility, and delegates authority to achieve the entity's objectives:**

Individuals with delegated approval authority, e.g. Elected Officials and Department Heads are responsible for establishing, maintaining, and supporting a system of internal controls within their areas of responsibility and for creating the control environment that encourages compliance with City policies and procedures.

Adequate supervision is necessary to monitor that internal controls are operating as intended, and to help ensure the reliability of accounting and operational controls by pointing out errors, omissions, exceptions, and inconsistencies in procedures. Staff in leadership roles are responsible for the application of this policy and the design, development, implementation, and maintenance of systems of internal controls focusing on the effectiveness of operations and the safeguarding of assets within their respective areas of responsibility. All levels of management and supervision are responsible for strengthening internal controls when weaknesses are detected. Department managers should periodically review departmental procedures to ensure that the general principles of internal control are being followed.

The Finance Department has the primary responsibility for internal control over financial reporting and compliance with applicable laws, rules, and regulations. The City Controller is the City's chief

source for information and assistance to staff and Department Heads on this topic and will make resources available to assist in administering this policy.

The Human Resources Department is responsible for internal controls over employee recruitment, hiring, separation, promotion, job classification, employee rights, and salary administration. The Director of Human Resources (or his or her designee) and Corporation Counsel are the City sources for information and assistance on this topic and will make resources available to assist in administering this policy.

All levels of internal control are subject to examination by external auditors who are required to report on the adequacy of internal controls over finance and compliance.

Department Heads are responsible for prompt corrective action on all internal control findings and recommendations made by internal and external auditors. The audit process is completed only after Department Heads receive the audit results and take action to correct internal control weaknesses, improve systems, or demonstrate that management action is not warranted. Department Heads have the responsibility to ensure that those who report to them have adequate knowledge, skills, and abilities to function within, and contribute to, an effective internal control environment. This includes providing access to appropriate training on topics relevant to their job responsibilities.

**Principle 4: Management demonstrates a commitment to recruit, develop, and retain competent individuals.**

The City Employee Handbook provides a roadmap for recruiting and maintaining quality employees. Prior to employment, individuals may be subject to pre-employment background screening and/or a credit history check. While employed, City Employees are entitled to a benefits package including Health Insurance and certain other Post-Employment Benefits. The City will continue to assess the best recruitment tools for the different skill sets necessary to adequately implement and maintain quality internal controls.

Job descriptions will be updated where necessary to reflect internal control responsibilities and duties. Employees will be regularly trained in internal control methods and all training will be documented in employees' personnel files. Employees will be regularly evaluated by their supervisors on internal control duties and receive feedback on possible improvements.

**Principle 5: Management evaluates performance and holds individuals accountable for their internal control responsibilities.**

Individuals are held accountable for their internal control responsibilities through a recognized structure which includes relevant job descriptions, operating procedures, periodic reviews, regular feedback, and a progressive disciplinary policy. Additionally, City Administration seeks to address issues in specific departments and positions through regular meetings with Department Heads.

**COMPONENT TWO: RISK ASSESSMENT**

**Principle 6: Management defines objectives clearly to enable the identification of risks and risk tolerances.**

Through the creation of standard operating procedures and accurate organizational reporting charts, management conveys and identifies objectives, missions, policies, and risk tolerances to employees. The Finance Department will lead a risk analysis of three major areas:

1. The effectiveness and efficiency of operations.
2. The reliability of reporting for internal and external use.
3. Compliance with applicable laws and regulations.

For each category, the Finance Department will define objectives in specific measurable terms in order to enable the design of internal control for related risk, increase understanding at all levels, assess performance, identify what is to be achieved, who is to achieve it, how it will be achieved, when it will be achieved and incorporate external requirements.

**Principle 7: Management identifies, analyzes, and responds to risks related to achieving the defined objectives.**

The Finance Department will identify, analyze and respond to the risks identified in Principle 6 by determining:

1. How likely is the risk to occur?
2. How will it impact the objective?
3. Is the risk based on complex or unusual transactions?
4. Is the risk based on fraud?

Once each risk has been identified and analyzed, the Finance Department will work with Department Heads to determine how to respond to each risk with a specific solution and action.

**Principle 8: Management considers the potential for fraud when identifying, analyzing, and responding to risks.**

Management is committed to fraud prevention by utilizing a “trust but verify” approach. The potential for fraud, misappropriation, and outright theft are contemplated as controls are designed for various City divisions. Fraud responses will include statutorily required responses to fraud, including, but not limited to Ind. Code § 5-11-1-27(l) relating to the Report of Misappropriation of Funds to State Board of Accounts (SBOA) and Prosecuting Attorney and Ind. Code § 5-11-1-27(j) relating to the Report of Material Variances, Losses, Shortages or Thefts to the SBOA. For reporting to the SBOA, the City shall utilize a materiality threshold of \$10,000 for cash and \$10,000 for assets other than cash. All instances of suspected employee theft must be immediately reported to the SBOA regardless of the dollar amount. There is no materiality threshold for employee theft. Significant variances less than \$10,000 will be investigated internally by the staff of the City of South Bend.

**Principle 9: Management identifies, analyzes, and responds to significant changes that could impact the internal control system.**

The Finance Department, in coordination with Department Heads, will regularly evaluate and adjust internal control policies in order to accommodate for the impact of future changes, including but not limited to, personnel changes, newly elected officials, new programs, new technology, new laws and regulations, and financial fluctuations.

**COMPONENT THREE: CONTROL ACTIVITIES**

**Principle 10: Management designs control activities to achieve objectives and respond to risks.**

The Finance Department will establish and maintain a system of internal controls that satisfies the City's objectives in the following categories:

1. Risks are identified and effectively managed
2. Safeguarding of City assets
3. Reliability and integrity of financial information
4. Compliance with City policy, plans, procedures, laws and regulations
5. Economical and efficient use of City resources
6. Meeting established objectives and goals for City operations and programs.

A. General internal control principles for Departments are:

1. Segregation of duties
  - a. Duties are separated so that one person's work routinely serves as a check on another's work.
  - b. No one person has complete control over more than one key function or activity (e.g., authorizing, approving, certifying, disbursing, receiving, or reconciling).
2. Authorization and approval
  - a. Proposed transactions are authorized when proper and consistent with City policy and the department's plans.
  - b. Transactions are approved by the person who has delegated approval authority, which is usually delegated on the basis of special competency or knowledge.
3. Custodial and security arrangements
  - a. Responsibility for physical security/custody of City assets is separated from record keeping/accounting for those assets.
  - b. Unauthorized access to City assets and institutional data is prevented.

4. Timely and accurate review and reconciliation
    - a. Departmental accounting records and documents are examined by employees who have sufficient understanding of the City accounting and financial systems to verify that recorded transactions actually took place and were made in accordance with City policies and procedures.
    - b. Departmental accounting records and documentation are compared with City accounting system reports and financial statements to verify their reasonableness, accuracy, and completeness.
  5. The general internal control principles should be applied to all departmental operations, especially accounting records and reports, payroll, purchasing/receiving/disbursement approval, equipment and supply inventories, cash receipts, petty cash and change funds, billing and accounts receivable.
- B. All City systems, processes, operations, functions, and activities are subject to evaluations of internal control systems. The results of these evaluations provide information regarding the City's overall system of control.
- C. Information and communication – Information must be timely and communicated in a manner that enables people to carry out their responsibilities.
1. All covered employees must be trained on Internal Controls according to Ind. Code § 5-11-1-27(g). Covered employees are those employees who handle cash or have access to assets other than cash that are covered by this policy.

All personnel must receive a clear message from the City's administration that control responsibilities are to be taken seriously. Failure to comply with established practices will subject individuals to the terms of disciplinary action or dismissal.
  2. Employees must understand their own roles in the internal control system, as well as how individual activities relate to the work of others. To this end, whenever a new budgetary unit, financial activity, etc. is set up, the City Controller will provide notification to the appropriate parties of the responsibilities incumbent on them for good business practices and sound financial management, including reference to the principles within this policy.
  3. Employees must have a means of communicating significant information to the City's administration.
  4. The City must communicate effectively with external parties, such as auditors, creditors, contractors, suppliers, regulators and other stakeholders.
- D. Internal controls are meant to keep the City focused on achieving its mission while avoiding surprises. There is a balance between effective controls and mission accomplishment. Costs associated with internal controls should not exceed their benefit, nor should controls be allowed to stifle mission effectiveness and timely action. All levels

of management must assess the costs, benefits, and risks when designing controls to develop a positive control environment and compensate for the risks of non-compliance, loss of assets, or unreliable reporting while accomplishing the City mission.

The following specific internal control policies are adopted for use by City Departments:

**Payroll Activities**

- Salaries and wage rates are verified by the Human Resources Department.
- The responsibilities for hiring, terminating, and approving promotions are segregated from those preparing payroll transactions or inputting data.
- The responsibilities for approving time sheets are segregated from those for preparing payroll transactions or inputting data.
- Employees' time and attendance records are approved by their supervisors.
- Corrections to recorded time and attendance records are approved by the employee and employee's supervisor.
- Procedures are in place to ensure that changes in employment status are promptly reported to the payroll processing unit.
- Payroll disbursements are reviewed and approved by an authorized individual prior to payment.
- Access to payroll applications is appropriately controlled by user logins and passwords.
- Changes to a payroll disbursement are approved by an individual other than the ones authorized to process the changes.
- Access to the electronic signature used to sign payroll checks is adequately controlled.
- Check stock for printed checks is stored in a secure location.
- Unclaimed payroll checks are returned to Finance Department.
- Employees are cross-trained on the payroll process; those assigned to payroll take regular vacations.
- The City uses a "positive pay" program with 1<sup>st</sup> Source Bank to preauthorize payroll checks to be honored by the bank and identify fraudulent checks issued by other parties attempting to use City information.

**Disbursement Activities**

- The responsibility for approving claims is segregated from those preparing the claims wherever possible.
- Checks are written by an individual other than the one approving the claim.
- Claims for payment (including trustee escrow payments) are reviewed and approved by the Board of Public Works, Redevelopment Commission, or other appropriate public body prior to payment.
- A reconciliation is completed between the claims for payment approved by the board and the actual disbursements posted to the ledger.
- The responsibility for acknowledging the receipt of goods or services is segregated from those preparing claims and writing checks.
- Vendor checks are accounted for in numerical order and reconciled to the disbursement ledger.
- Invoices or other receipts are attached to each claim to support the disbursement.

- A review is completed by an individual outside the disbursement process in which the claim amount is compared to the supporting documentation attached to the claim and the amount of the check. This review and approval is made at the departmental level.
- Access to disbursement applications is appropriately controlled by user logins and passwords.
- The City Controller, or his/her designee, will review claims prior to payment.
- The Purchasing Manager, or his/her designee, will review requisitions submitted and issue all purchase orders.
- With limited exceptions, all disbursements will require a properly approved invoice and a purchase order prior to payment.
- The City uses a "positive pay" program with 1<sup>st</sup> Source Bank to preauthorize accounts payable checks to be honored by the bank and identify fraudulent checks issued by other parties attempting to use City information.

#### **Receipting Activities**

- The responsibility for collecting money and issuing receipts is segregated from those preparing the bank deposit.
- The responsibility for making bank deposits is segregated from those preparing the monthly bank reconciliation.
- Pre-numbered receipts are issued for all money collected and the receipt is retained with supporting documentation.
- Receipts are reconciled to the cash receipts ledger by an individual other than the one collecting money and issuing receipts.
- Posting of receipts to the ledger is completed by an individual other than the one who collects money and makes the deposit.
- Receipts indicate the type of payment received (cash, check, etc.) and this is reconciled to the make-up of the bank deposit.
- Accounts receivable records are maintained by an individual other than the one(s) involved in the billing process.
- The billing process is completed by an individual other than the one who collects cash payments from customers.
- Customer account adjustments above the \$500 materiality threshold, stated in this policy, are approved by the Board of Public Works only after review.

#### **Cash Activities**

- A reconciliation between the recorded cash balance and the bank balance is completed monthly by an individual separate from the receipting and disbursing processes.
- A reconciliation between the receipts ledger and the credits to the bank account is completed periodically by an individual separate of the receipting process.
- A reconciliation between the disbursement ledger and the debits to the bank account is completed periodically by an individual separate of the disbursement process.
- The monthly reconciliation between the cash balance and the bank balance is thoroughly reviewed and approved by the City Controller or his/her designee.
- Disbursements from and reimbursements to petty cash funds are periodically reviewed by an individual other than the one responsible for maintaining the petty cash fund.

**Credit Cards Transactions**

- A designated official or employee oversees the issuance and use of the credit cards.
- During the disbursement process, a designated person reviews transactions listed on the credit card statements for sufficient documentation prior to payment.

**Budgeting Activities**

- The City Administration will budget all funds and accounts.
- Budget forecasts will be updated annually covering a multi-year time period.
- Budget vs actual reports for revenue and expenditures will be prepared monthly. The City Finance Department will follow up on significant variations between budget and actual results.

**Information Technology**

- The City Innovation & Technology (IT) Department will ensure that all users (employees) have a unique username.
- The City Human Resources Department will immediately notify the IT Department when an employee is terminated so that IT can deactivate the user's access to all computer related applications.
- The IT Department will ensure that an authentication system (i.e. password) is in place so access to the network and computer related applications is protected and limited to the appropriate users.
- Users will be required to lock or log off their computer before stepping away from their computer for an extended period of time.
- Users will be required to log off their accounts when they leave work.
- The IT Department will give a user access only to the specific applications and network files the user needs to perform his or her job duties.
- The IT Department will monitor access to the network and audit the logins for applications, including the financial software.

**Principle 11: Management designs the political subdivision's information system and related control activities to achieve objectives and respond to risks.**

The Finance Department and Department Heads will work with the Innovation and Technology Department to ensure that information technology is used as an integral part of the internal control system. This may include, but not be limited to:

- Setting permission such that only certain users may perform certain tasks
- Using technology to accomplish segregation of duties by forcing duties to be completed by different users
- Automating certain processes and calculations
- Limiting the authority to access different components of various software to employees with duties specifically related to that component
- Prohibiting user ID and password sharing among employees
- Restricting the authority to correct or make adjustments to records to key employees
- Requiring the use of prescribed forms or the approval of alternative forms

**Principle 12: Management implements control activities through policies.**

The City has an employee handbook that is regularly updated to communicate policies to employees. Additionally, the Finance Department regularly works with departments and employees who handle financial transactions to recommend and ensure best practices. All procedures are in writing and communicated frequently to all relevant employees. Policies are available both electronically (via the City website) and in hard copy form. In addition, the City Controller holds regular "Fiscal Officer" meetings where accounting and internal control issues are discussed.

**COMPONENT FOUR: INFORMATION AND COMMUNICATION**

**Principle 13: Management uses quality information to achieve the political subdivision's objectives.**

The City strives to lead in the areas of financial transparency and accountability. By adopting standards and investing in systems that exceed State mandated minimums, City management provides employees and stakeholders with high quality information and informatics systems. The City Finance Department and Legal Department attend training and industry seminars to stay abreast of changes and developments in requirements and communicate that information effectively to impacted employees. The City Finance Department issues a variety of financial reports to the Mayor, Common Council and others, to ensure transparency and accountability. Financial reports are posted on the City's website.

**Principle 14: Management internally communicates the necessary quality information to achieve the political subdivision's objectives.**

Internal communications on internal controls are communicated through adoption of formal policies by relevant boards and commissions and/or the legislative body or documented through memos from the Finance, Legal or relevant Department Head. Internal memos and reports are maintained to document communication.

**Principle 15: Management externally communicates the necessary quality information to achieve the entity's objectives.**

Communications with the State Board of Accounts, other State agencies, grantor agencies, and regulatory agencies are documented by email, memos, letters, and other forms of written correspondence.

All documents are maintained in accordance with the City and state's record retention policies. Reports and policies are cross checked for accuracy, relevancy, and timeliness of information.

**COMPONENT FIVE: MONITORING ACTIVITIES**

**Principle 16: Management establishes and operates monitoring activities to monitor the internal control system and evaluate the results.**

City Administration monitors and evaluates compliance with internal control policies via multiple methods. Separation of duties, redundancy polices, layered approval systems, monthly reports, and physical controls allow management to both review and evaluate control systems.

The Finance Department shall implement a system of monitoring that includes:

- Periodic checks to determine if controls are in place and working effectively
- Reviewing control activities to determine if the actual activities are in compliance with established procedures
- Documenting deficiencies in the internal control processes and remediating them quickly

Monitoring activities will be documented by signatures, initials, or other appropriate methods.

**Principle 17: Management remediates identified internal control deficiencies on a timely basis.**

Breaches of internal controls are subject to significant levels of internal scrutiny. If informed of a material breach of internal controls, the Finance Department and effected Department Head will actively investigate and address said breach and adjust policies and procedures to prevent such breaches in the future. Once breaches are identified and investigated, a formal or informal corrective action plan will be developed.

# Making Internal Control a Priority in Local Government



By: Vicki Urbanik, CGFM, CPA, EA

Internal control can greatly enhance the success of government units of any size, whether a large metropolitan city or a small rural library district. Local government managers who establish a control environment emphasizing ethics, regulatory compliance and high-quality staff performance send a message to the public that they are committed to accountability and transparency. Local government managers who implement risk assessment procedures define their risk tolerances, potential for fraud, and external and internal influences that could negatively impact accomplishment of their objectives. Those who require staff segregation of duties, proper record keeping, administrative oversight in payroll functions and other control activities improve the effectiveness and efficiency of their offices. By enacting controls, local government units can enhance their financial management and overall performance.

Recognizing the importance of internal control in government, Indiana state legislators passed new control requirements affecting government units statewide. Under House Enrolled Act 1264, adopted in 2015, municipalities, county governments, schools and other political subdivisions must adopt, at minimum, the internal control standards established by the Indiana State Board of Accounts (SBOA). Local government units must also provide training on the standards to practically all employees who handle public money, specifically those whose duties include "receiving, processing, depositing, disbursing, or otherwise having access to [public] funds."<sup>1</sup> Furthermore, government fiscal officers must certify compliance with the internal control requirements when they submit their unit's annual financial report, beginning in early 2017. If they do not provide such

verification, or if the state auditing body finds that the internal control standards have not been adopted, local government units could ultimately face rejection of their annual budgets. In short, local government managers in Indiana must now get serious about internal control, not just because state law requires it, but also because they have a very real budgetary incentive to do so.

### Implementation Challenges

Internal control can greatly enhance accountability and transparency, but implementing controls can pose unique challenges for local government.

For one, local government managers may lack formal training in accounting, auditing or other academic areas that introduce internal control. Local officials unfamiliar with controls may feel the topic is too broad or abstract in scope to have relevance for their departments. After all, a city park superintendent's mission is to run a park system, a county treasurer's priority is the collection of local taxes and a township manager's top objectives include administering aid for the indigent. These and other officials at the most local levels of government may feel they lack the time or resources to implement control risk assessment or monitoring. Even if top managers enthusiastically adopt internal controls, training their employees could be quite a different story. Office employees might recall accounting scandals like Enron and Tyco, but it's much more unrealistic to expect the rank-and-file in local government to be versed in the five control components or key documents such as COSO's *Internal Control – An Integrated Framework* or the U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government*. Training

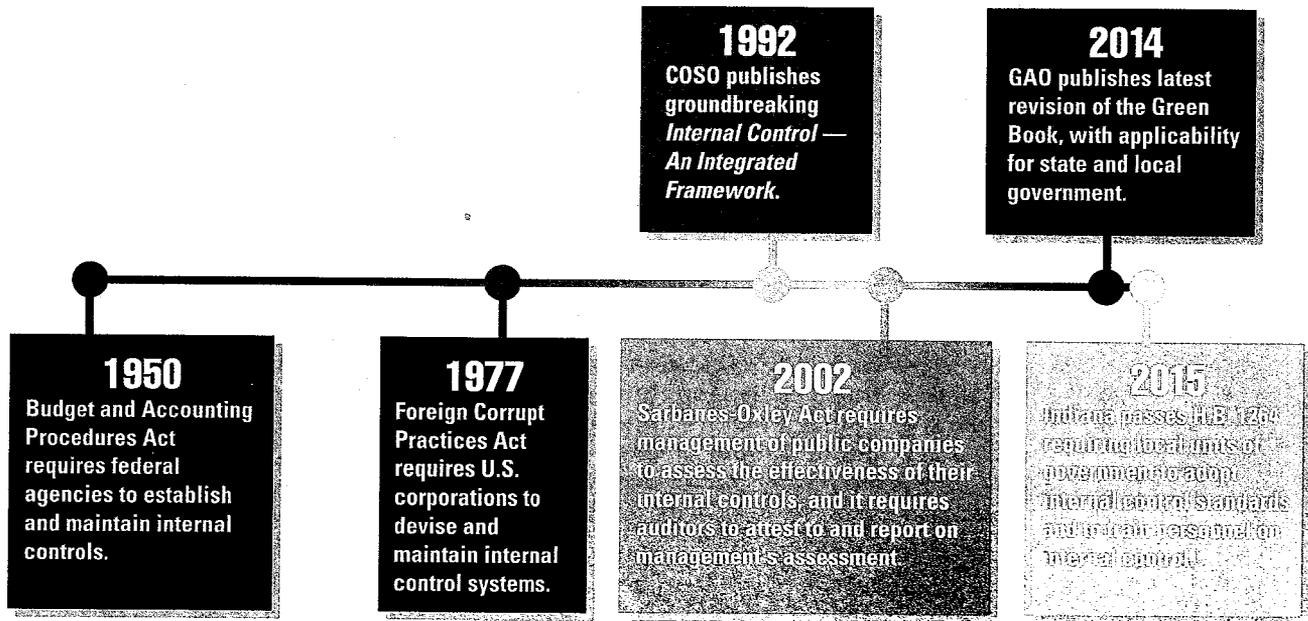
**Local government managers in Indiana must now get serious about internal control, not just because state law requires it, but also because they have a very real budgetary incentive to do so.**

staff on internal control standards can prove frustrating for managers struggling with subpar employees or long-time employees resistant to change.

### Demystifying Internal Control

Local government managers can overcome the challenges of training a staff unfamiliar with internal control by introducing the topic in small, but meaningful phases. That is the approach being taken this year in the county auditor's office in Porter County, Indiana's ninth largest county (population, 167,000), located in the northwestern corner of the state. In Indiana, county auditor offices are often thought of as one of the busiest in county government with responsibilities that include county financial reporting and property tax administration. If any county office is in need of a sound internal control system, it is arguably a county auditor's office. The Porter County Auditor's Office early on embraced Indiana's new internal control requirements, in part because prior state audits found material control weaknesses in financial reporting, payroll and grants administration. The need for effective

Figure 1. Internal Control: A Brief Timeline



controls was clear; the challenge, however, was the introduction and implementation of new controls in a small but very busy office, in which most employees were unfamiliar with control concepts.

Training began at monthly staff meetings, with internal control topics introduced in small segments. Initially, training focused on the definition of internal control as stated in the *Uniform Internal Control Standards for Indiana Political Subdivisions*, a document prepared by the SBOA following adoption of the 2015 state law. The SBOA's standards emphasize the role that employees play in controls: "Ultimately, it is the people at every level of the organization that are instrumental in ensuring the success of the internal control process. Accordingly, internal controls integrate the attitudes and actions of people within the organization into the processes."<sup>2</sup> The

county auditor's office emphasized that even though management has profound responsibilities in internal control, staff involvement is crucial. By emphasizing that internal control

is not a set of rigid rules but a process that needs a buy-in from staff to make it work, employees were given ownership of this important endeavor. It makes little sense for management to adopt policies that staff find unworkable. Employees need to know that their input is valuable and that for controls to be effective, "we are all in this together."

Early training efforts in the county auditor's office also introduced staff to

key developments in the regulatory history of controls, as illustrated in **Figure 1**. Staff discussions explored the accounting scandals that led to the Sarbanes-Oxley Act and the internal control audit requirements that resulted. By tying events that had national significance to their

daily workplace, the local auditor staff gained a deeper understanding of the need for, and benefits of, internal control. Employees were also introduced to the GAO's "Green Book," including the GAO's efforts to make the federal standards applicable to state and local governments.<sup>3</sup> While internal control concepts were presented to the auditor staff in a concise, summary manner, the topic wasn't dumbed down, either. Employees were treated as professionals who were expected to help make a significant contribution toward the effective and efficient operation of their office.

### Implementation Challenges

Getting employees to understand what internal control is, and what it isn't, is one matter. Actually implementing controls is another. To introduce the five control components, employees in the county auditor office learned about the control cube, as pictured in **Figure 2**, which gives a visual representation of how the components interrelate with each other, with the entity's organizational structure, and with the reporting, compliance and operations objectives. Discussion topics included an analysis of how most of us implement controls in our daily

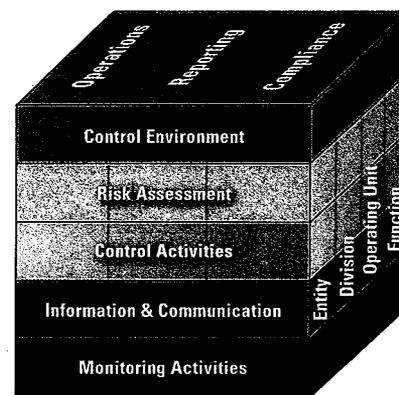
**“It makes little sense for management to adopt policies that staff find unworkable. Employees need to know that their input is valuable and that for controls to be effective, ‘we are all in this together.’”**

lives. The simple act of locking our doors at night or taking our vehicles for routine oil changes are control activities intended to achieve objectives of keeping our home safe and our cars in good order. Given that most employees in the county auditor's office are also parents, one training exercise applied an internal control thought process to an objective that parents have: Keeping their children healthy. The environment most parents have established in their household incorporates personal responsibility for one's well-being. Parents assess the risk that their children might get cavities, due to their proclivity to like sweets and their unwillingness to brush and floss as often as their parents want them to. To minimize this risk, parents take their children to the dentist every six months, even if nothing is wrong with their teeth. Parents seek reliable information when choosing their dentist or the treatment plans recommended. And parents monitor their children's dental health; if repeated cavities occur, parents might imple-

ment new activities, such as giving their children incentives to brush and floss more regularly.

By understanding how internal control systems have relevance to our daily lives, employees should be more apt to recognize the need for enhanced controls at the workplace. Once employees are comfortable with the definition and components of internal control, they can then be introduced to the 17 principles that represent the requirements for an effective control system.<sup>4</sup> Staff can then integrate these principles in their daily responsibilities. For example, one function in a county auditor's office is to process payroll. The objective is clear: No employee should be paid more or less than their approved salary, and tax withholdings and benefit deductions must be correct. But what is the risk that this objective will not be met? For some counties, the risk of payroll errors might be attributed to archaic or faulty payroll software programs or to a lack of available payroll staff. To minimize this risk, staff can be cross-trained in

Figure 2. COSO Internal Controls Cube



Source: [blog.aicpa.org/2012/01/internal-control-integrated-framework-20-years-later.html#sthash.tXBB8Kt4.dpbs](http://blog.aicpa.org/2012/01/internal-control-integrated-framework-20-years-later.html#sthash.tXBB8Kt4.dpbs)

payroll processing, and a non-payroll employee could be assigned to cross check payroll reports with the pay levels set in the annual salary ordinance. Department heads could be required to sign off on their employee pay prior to the issuance of paychecks,

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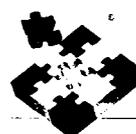
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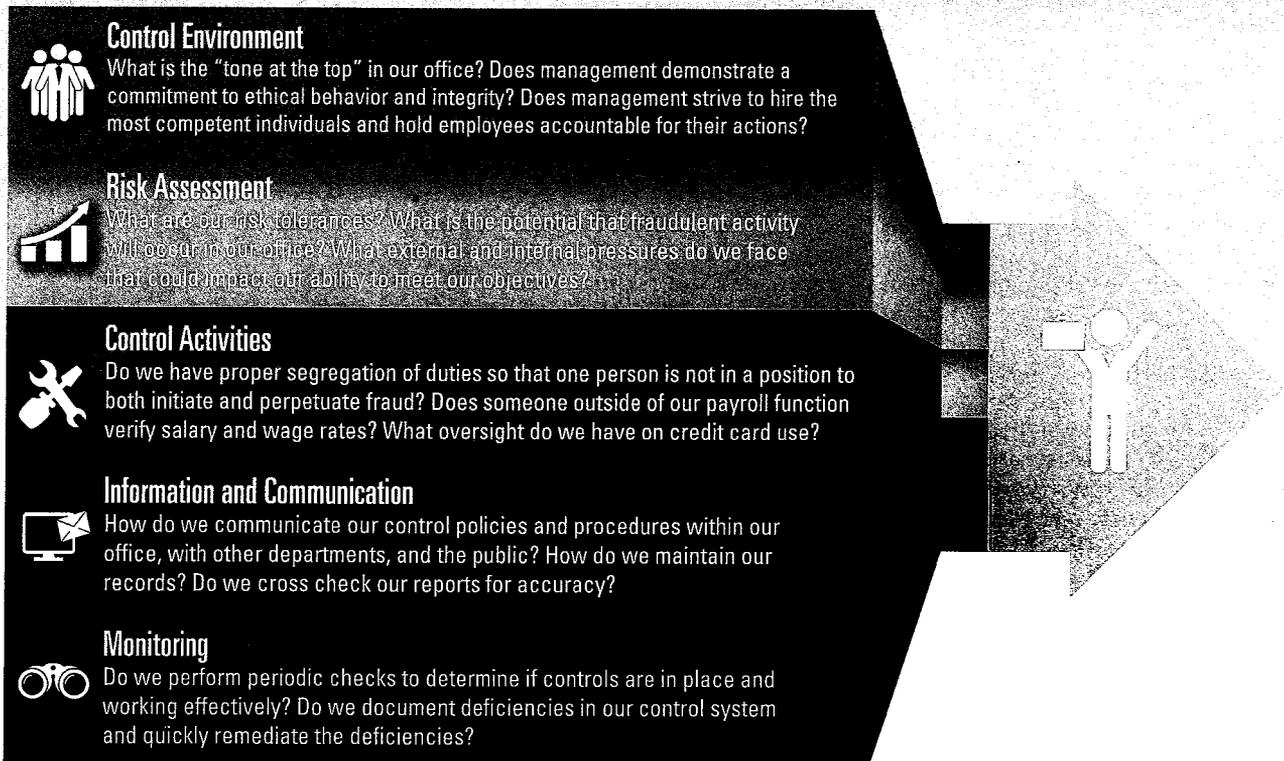
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Figure 3. The Control Cube: Considerations for Government Managers



and a tracking system could be implemented to keep tabs on which department managers consistently meet this responsibility. Communication with department heads should stress the importance of administrative review of timecards. The payroll process should be monitored closely, with adjustments enacted immediately and a strategy developed to help prevent the mistakes from recurring.

Preparation of an easy-to-read and readily accessible document on internal control is also important, since the document can give employees and management a clear outline of their responsibilities. In Indiana, local government units can comply with the new internal control requirements by adopting the SBOA's

**“By understanding how internal control systems have relevance to our daily lives, employees should be more apt to recognize the need for enhanced controls at the workplace”**

minimum standards, which encompass both COSO's framework and the GAO's Green Book. Local government may also adopt other standards or procedures tailor-made for their own needs. The approach taken in the Porter County Auditor's Office has been to develop its own internal control procedures to augment the standards adopted at the countywide level. The functions unique to the auditor's office in need of enhanced controls were identified, and controls were developed for each. At staff meetings, employees discuss the objectives of each office function and identify the threats they feel could impede the accomplishment of those objectives. The

open discussion is important not just to achieve staff acceptance of new or enhanced controls, but also to help employees understand the challenges faced by their colleagues who may have different job duties than their own.

One component of internal control that may be particularly helpful in gaining staff acceptance is the control environment, as explained in Figure 3. By documenting in writing a commitment to ethics, accountability and transparency, management makes it clear what is expected of staff. However, this expectation works both ways. It is up to management to set a responsible "tone at the top." Employees who do not perceive their managers as being engaged or responsible may not feel they must provide outstanding work. On the other hand, managers who lead by example provide the foundation necessary for an effective internal control system.

Local government managers who emphasize to their employees that internal control is an objective-driven

process that is ongoing and adaptable may also gain greater staff involvement. Control activities that aren't working can be replaced or modified, and those that are functioning well can be improved. If employees are invited to play a role in continually improving office functions, they may be more inclined to share their suggestions and take ownership in their work product. Obtaining such a buy-in from employees is a key ingredient for an effective internal control system.

### Summary

Indiana's law requiring adoption of internal control standards in local government is being implemented for the first time this year. City councils, school boards, county commissioners and other governing bodies throughout Indiana must adopt internal control standards identifying their responsibilities over the control

environment; risk assessment; control activities; information and communication; and monitoring. Local officials must adopt the minimum state standards but may also implement additional procedures they deem necessary for a control system to suit their needs. Employees who handle public funds must undergo training on the new standards by the end of the year, and fiscal officers in each unit must certify that training has occurred. Government managers and employees who previously were unfamiliar with the concept of internal control are now gaining the knowledge necessary to implement controls to help achieve their objectives. Indiana's new requirement is based in the principle that by demonstrating a commitment to internal control, managers and employees at all levels of local government can achieve greater accountability, transparency and effectiveness on behalf of the taxpayers they serve. ■

### Endnotes

1. Indiana State Board of Accounts (2015). *Uniform Internal Control Standards for Indiana Political Subdivisions*, page 4.
2. Ibid. p. 1.
3. U.S. Government Accountability Office (2014). *Standards for Internal Control in the Federal Government*, p. 20.
4. Ibid. p. 8.



*Vicki Urbanik, CGFM, CPA, EA, began her term as Auditor of Porter County, Ind. in January 2015. Prior to working for county government, she was a journalist*

*who reported extensively on local government finance.*

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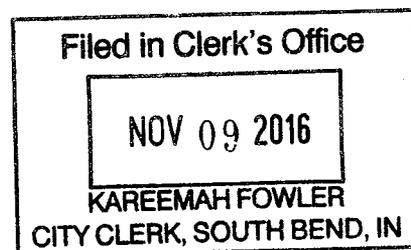
**Tim Scott, Council President**  
**The South Bend Common Council**  
227 West Jefferson Boulevard, Room 441  
Downtown South Bend, Indiana 46601

574.235.5980

574.235.5567 TDD

November 9, 2016

Members of the Common Council  
4<sup>th</sup> Floor County-City Building  
South Bend, Indiana 46601



Re: Chronic Nuisance Ordinance Amendments

Dear Council Members:

Since the fall of 2013, the City of South Bend's chronic problem property regulations have helped reduce some of the undue burden placed on our police officers who are dispatched to respond to such calls.

We have been working closely with Officer Keenan Lane of the South Bend Police Department who is the point-person for the implementation of these regulations, as well as with the Department of Code Enforcement, the Fire Department and the Law Department.

Proposed amendments will clarify what constitutes a "valid complaint"; would incorporate continuous abatement penalties and fees for repeat nuisance properties; includes a scalable function for property consisting of more than fifty dwelling units; and would change from 50% to 100% that any fines and/or fees collected would be dedicated to the Law Enforcement Continuing Education Fund.

I recommend that the proposed ordinance be referred to the Health and Public Safety Committee for review, discussion, and your positive recommendation to the full Council. Thank you.

Most sincerely,

Tim Scott, 1<sup>st</sup> District  
Council President

Attachment

Bill No. \_\_\_\_\_

Ordinance No. \_\_\_\_\_

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,  
INDIANA, AMENDING VARIOUS SECTIONS OF ARTICLE 12 OF CHAPTER 13  
OF THE *SOUTH BEND MUNICIPAL CODE* ADDRESSING  
CHRONIC PROBLEM PROPERTY REGULATIONS

STATEMENT OF PURPOSE AND INTENT

On June 10, 2013, the South Bend Common Council passed Ordinance No. 10232-13, which created the original chronic problem property regulations.

On November 10, 2014, the Council passed Ordinance No. 10338-14. Those new chronic problem property regulations placed the responsibility on businesses for their actions or inactions if they are located within commercial, industrial or PUD zoned areas.

To date, all of these regulations have assisted the City of South Bend in addressing in a reasonable and proactive manner many problem properties throughout the city.

This ordinance is designed to improve and streamline implementation and enforcement procedures with reasonable notice to affected property owners. It sets forth continuous abatement penalties and fees for repeat nuisance properties within a certain time frame; includes the addition of letters issued by the Fire Department; and language to provide addition protection to victims of a crime. After consideration and discussion with local apartment communities, a scalable function has been included for property consisting of more than fifty (50) dwelling units. All of these proposed changes are believed to be in the best interests of the City of South Bend, Indiana.

*Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows:*

Section I. Section 13-156 of Article 12 of Chapter 13 of the *South Bend Municipal Code* is hereby amended as follows:

**Sec. 13-156 Definitions.**

As used in this Article:

- (a) *Abate* shall mean to remedy a condition which constitutes a violation of this Article which is necessary and in the interest of the general health, safety and welfare of the City.
- (b) *Chronic Problem Property* is a property which meets the following criteria:
  - 1. Has had not less than five (5) valid complaints in sixty (60) calendar days for any criminal offense governed in Title 35 of the *Indiana Code*, and/or ordinance citations being

issued for a violation of the *South Bend Municipal Code* which occurred on the property and resulted in a police response and police documented call for service; or

2. Has had not less than five (5) letters issued by ~~the Code Enforcement Department, the Department of Code Enforcement, the Fire Department, and/or the Law Department~~ in sixty (60) calendar days which sought compliance by the property owner with section(s) of the *South Bend Municipal Code*<sup>1</sup>; or

3. A combination of valid complaints and/or ordinance citations issued by a sworn member of the Police Department as further addressed in ¶ 1 herein, and/or has been issued letters by ~~the Code Enforcement Department~~ the Department of Code Enforcement as further addressed in ¶ 2 herein, which together total not less than five (5) in number issued in a sixty (60) calendar day period.

However, in the event that a property consists of more than fifty (50) dwelling units which are rented or intended to be rented and are located on a single parcel or lot for which a postal address exists or may exist for each individual unit including residential rental properties, hotels, motels, or other similar properties offering overnight lodging, such address for a property shall not be considered as a chronic problem property until it has been issued more than twelve (12) ~~verified~~ valid complaints, ordinance citations, letters seeking compliance involving public nuisance activity, as further addressed in ¶ 1 through ¶ 3 herein, in any ninety (90) day period per parcel identification key number of real property.<sup>2</sup>

If a property is zoned commercial as defined in Article 3 of Chapter 21 of the *South Bend Municipal Code*; or is zoned industrial as defined in Article 4 of the *South Bend Municipal Code*, or is zoned as a Planned Unit Development (PUD) as defined in Article 5 of Chapter 21 of the *South Bend Municipal Code*, the provisions of (b) 1, 2, and 3 of this Section are the criteria for a chronic problem property.

(c) *Citation* shall mean an act which is prohibited or an offense which is punishable under the *South Bend Municipal Code* for which a written ordinance violation citation was issued by the Police Department requiring payment of a fine to the Ordinance Violations Bureau.

(d) *City* means the City of South Bend, Indiana.

(e) *Key Number* has the meaning set forth in *Indiana Code* § 6-1.1-1-8.5.

(f) *Public Nuisance* has the meaning set forth in Section 13-75.5 of the *South Bend Municipal Code*

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<sup>1</sup> Pursuant to Section 9-2 of Article 1 of Chapter 9 of the *South Bend Municipal Code*, the official fire prevention code of the South Bend Fire Department has been adopted by reference.

<sup>2</sup> Pursuant to Section 153.010 of Chapter 153 of the *St. Joseph County Code of Ordinances*, definition of Lot to include “a parcel or portion of land separated from other parcels or portions by description”.

(g) *Police documented call for service* shall mean when a sworn member of the Police Department is dispatched or deployed to respond to an incident at a specific location as a police response.

(h) *Police response* shall mean any and all police action needed to protect the health, safety and welfare of inhabitants of a property or location where valid complaint(s) have been documented, with such police response being subject to the governing rules and regulations of the Police Department.

(i) *Valid complaint* shall refer to a police documented call for service that an incident involving a public nuisance took place at a specific property requiring sworn police personnel to be dispatched or caused to respond. If more than one (1) valid complaint occurs within a twenty-four (24) hour time period, then each valid complaint is considered a separate and distinct event. The term does not include incidents involving an occupant of the premises as the victim of the crime<sup>3</sup> or any incident governed by the Health Insurance Portability and Accountability Act (HIPAA) regulations.<sup>4</sup>

(j) *Warning notice* shall be a written document sent by the South Bend Police Department to any property owner who has received a minimum of three (3) citations and/or valid complaints from the City warning said owner, and the manager/operator who is doing business at that location that upon receiving five (5) such citations and/or valid complaints in a sixty (60) day period that their property would be deemed a chronic problem property.

Section II. Section 13-157 of Article 12 of Chapter 13 of the *South Bend Municipal Code* is hereby amended as follows:

**Sec. 13-157 Violations; notification and limited appeals of being designated by the city as a chronic problem property.**

(a) The owner of any property within the city of South Bend which is designated by the City as a chronic problem property, as defined in Section 13-56, is in violation of this Article. The property owner of any designated chronic problem property shall be responsible for bringing such property into compliance with all governing regulations. However, in the event that such chronic problem property is zoned as commercial, industrial or planned unit development as defined in Section 13-56 the manager/owner/operator who is doing business at that location are jointly and severally responsible for bringing such property into compliance with all governing regulations.

(b) The South Bend Police Department shall send a warning notice letter to any property owner, and in the case of the property being zoned commercial, planned unit development

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<sup>3</sup> Pursuant to IC 35-40-4-8, definition of a victim "a person that has suffered harm as a result of a crime that was perpetrated directly against the person".

<sup>4</sup> Public Law 104-191, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") issued by the U.S. Department of Health and Human Services ("HHS") establishes a set of national standards for the protection of certain health information.

to the manager/owner/operator who is doing business at the location, when the property address has been subject to a minimum of three (3) ~~verified valid~~ complaints and/or ordinance citations and/or letters issued by the Police Department, the Fire Department, ~~the Code Enforcement Department~~ the Department of Code Enforcement and/or the Law Department, advising said person that when the City verifies that said number increases to the thresholds in the definition of a chronic problem property, it shall be so designated. The Police Department, the Fire Department, ~~the Code Enforcement Department~~ the Department of Code Enforcement and the Law Department shall update their data on a regular and consistent basis and electronically transmit it to the assigned police officer(s) of the South Bend Police Department whose responsibilities include overseeing the warning notice letter process.

(c) When designating a specific property as a chronic property, the assigned police officer(s) in the South Bend Police Department, shall review and verify:

1. The number of police documented calls for service, the number of verified valid complaints and ordinance citations issued by the Police Department to a property address in the applicable sixty (60) or ninety (90) day period; and
2. The number of ordinance citations and/or compliance letters sent by ~~the Code Enforcement Department~~ the Department of Code Enforcement and the Fire Department. As well as, the number of compliance letters sent by the Police Department and the Law Department to a property address in the applicable sixty (60) or ninety (90) day period;

Once designated as a chronic problem property by the assigned police officer(s) in the South Bend Police Department, said property shall remain so designated and tracked on a ~~computerized matrix~~ publicly available data set for compliance/enforcement purposes for one (1) year from the date of designation. ~~Said assigned police officer(s)~~ The Office of Innovation and Technology shall see that the matrix publicly available data set shall be regularly updated and prominently posted on the City's Open Data Portal website. Said designation shall only be removed upon action by the Law Department after reviewing documentation from the Police Department, the Fire Department and ~~the Code Enforcement Department~~ the Department of Code Enforcement confirming that the subject property has not been the subject of a verified valid complaint or code violation for a period of not less than three hundred sixty five (365) continuous days, unless credited per the regulations set forth in Section 13-158.

(d) The South Bend Police Department shall notify in writing to the property owner, and in the case of the property being zoned commercial, industrial or planned unit development to the manager/owner/operator who is doing business at that location, that his/her property location has been designated as a chronic problem property. Said notification shall be delivered in person by an individual designated by the City by leaving a copy of the notification personally to the person to be notified, by leaving a copy of the notification as set forth below, with such notification being documented by the City in their records; or by sending the notice to the property owner, and in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location, by priority mail which is tracked

on line with the City tracking the date said notification was delivered. The notification shall be sent to the property owner's residence or usual place of business, or in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location which is on record in the Assessor's office or other public office including but not limited to the Area Plan Commission, Office of the City Clerk, and/or the Department of Administration and Finance Business Licensing Division. This notification shall identify:

1. The property owner, and in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location, and list the specific address that has been designated as a chronic problem property;
  2. The number of Police documented calls for service involving verified valid complaints, the number of ordinance citations issued, the number of letters issued by the Police Department, the Fire Department, the Department of Code Enforcement ~~the Code Enforcement Department~~, and/or the Law Department, or any combination thereof which have occurred on said property in the applicable sixty (60) or ninety (90) calendar day period;
  3. The cost(s) which may be incurred if there are any future verified valid Police documented calls for service to the property;
  4. The cost(s) which may be incurred for any future background investigations and/or issuance of letter(s) by the Police Department, the Fire Department, the Department of Code Enforcement ~~the Code Enforcement Department~~, and/or the Law Department;
  5. The individual and his/her city contact information including the name, position, mailing address, telephone, & fax numbers and email address to whom the property owner and in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location designated as a chronic problem property may contact if he/she has questions regarding the notification; and
  6. The time period which the designation as a chronic problem property will last and the terms and conditions which must be met for the removal of such designation. If deemed necessary, a satisfactory inspection of the property by the Department of Code Enforcement and/or the Fire Department, may be included in the terms and conditions. Any and all fines and repeat public nuisance service call fees associated with the designated chronic problem property must have been paid in full for removal from the publicly available data set.
- (e) Copies of the written notice sent by the South Bend Police Department on each proper address designated as a chronic problem property shall be simultaneously sent electronically to the Law Department, the Fire Department, the Department of Code Enforcement

~~the Code Enforcement Department~~, Office of the City Clerk, the District Council Member who represents the District where the subject property is located, and all At Large Council Members.

(f) The City deems the owner of the property and the residential occupants of the property, and in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location responsible for any and all prohibited conduct occurring upon the premises after receipt of the written notice designating the property as a chronic problem property.<sup>5</sup>

(g) A Hearing Officer is authorized to hear limited appeals from owners of a property, and in the case of the property being zoned commercial, planned unit development to the manager/owner/operator who is doing business at that location who have been designated by the City as a chronic problem property. Said appeal shall be limited to the verification of whether said person has reached the requisite and applicable number set forth in Section 13-56 (b) to be designated as a chronic problem property. A hearing before the Hearing Officer for such limited appeals must be held within thirty (30) calendar days of the appeals being filed. Written notice of the date, time and location shall be mailed or personally delivered by the City to said person of record. The decision of the Hearing Officer shall be the final administrative action for purpose of judicial review. The Hearing Officer may recuperate costs or fees associated with a hearing from the Law Enforcement Continuing Education Fund (Fund #220) through a submitted claim form.

Section III. Section 13-158 of Article 12 of Chapter 13 of the *South Bend Municipal Code* is hereby amended as follows:

**Sec. 13-158 Remediation agreements – Proactive measures to reduce time designated as a chronic problem property.**

a) In the event that a property consists of more than fifty (50) dwelling units which are rented or intended to be rented and are located on a single parcel or lot for which a postal address exists or may exist for each individual unit including residential rental properties, hotels, motels, or other similar properties offering overnight lodging; or if a property is a business establishment required to have a license or permit to sell alcoholic beverages under IC tit. 7.1, and has been designated as a chronic problem property, the owner of such property shall be required to enter into a Remediation Agreement. Such Remediation Agreement shall:

1. Be in writing and signed by the owner or the owner's duly authorized agent of the property designated as a chronic problem property and the South Bend Police Department's sworn police officer(s) assigned to oversee said property's compliance measures;

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<sup>5</sup> ~~IC 36-1-1 through IC 36-1-10~~ IC 36-1-6 sets forth the governing state law provisions for the enforcement of municipal ordinances. Section 2-13 of the South Bend Municipal Code identifies the City's nine (9) executive departments and specifically lists the Law Department, the Police Department, the Fire Department, and the Department of Code Enforcement. ~~the Code Enforcement Department.~~

2. Set forth immediate remedial measures which must be implemented within fourteen (14) days of signing the Remediation Agreement, which establishes thereafter monthly thresholds and needed corrective actions which will be monitored by the Police Department's sworn police officer(s) who were assigned to negotiate the Remediation Agreement with the owner of the subject property or the property's duly authorized agent;
3. Remediation Agreements shall also include but not be limited to including policy reforms, additional staff, additional training, and other proactive measures determined necessary to abate the public health, safety and welfare violations identified; and
4. Identify specific action plan(s) whereby the owner or his/her duly authorized agent is required to complete by the last Friday of each month and transmit to the Police Department's assigned sworn police officer(s) who shall evaluate compliance. All remediate agreements shall be for a term of not less than six (6) months.

b) Copies of all Remediation Agreements entered into shall be electronically sent by the assigned sworn police officer to the Chief of Police, the Corporation Counsel of the Law Department, the Director of the Department of Code Enforcement ~~Code Enforcement Department~~, the Fire Chief, and the District Council Member who represents the District in which the chronic problem property is located, all Council Members at Large, and the Office of the City Clerk, with such electronic correspondence taking place the same day that the Remediation Agreement is signed by both parties.

c) In the event that the owner, or the owner's duly authorized agent fails or refuses to enter into a Remediation, or if the owner or owner's duly authorized agent fails to meet the obligations set forth in the Remediation Agreement, the Corporation Counsel of the Law Department, or his or her official designee, shall commence legal action pursuant to Section 1-23 of the South Bend Municipal Code as soon as practicable. Notice of non-compliance shall be electronically sent by the Corporation Counsel to the Chief of Police, the Fire Chief, the Director of the Department of Code Enforcement ~~Code Enforcement Department~~, the District Council Member who represents the District in which the chronic problem is located, all Council Members at Large, and the Office of the City Clerk of his/her action to commence such legal action as soon as practicable, upon being notified by the sworn police officer assigned to the case.

d) So long as the owner or the owner's duly authorized agent is in compliance with the Remediation Agreement, no additional action by the Law Department is to be commenced on the items addressed in said Agreement. However, any new violation(s) which are in addition to the items addressed in the Remediation Agreement, may be pursued by the Law Department.

e) In the event that the owner or the owner's duly authorized agent complies with the Remediation Agreement in its entirety and if the property has no new ordinance citations issued against it and no new valid complaints for a period of thirty (30) consecutive calendar days, fifteen (15) days shall be subtracted from the time said property has been designated as a chronic problem

property; with this process continuing through the duration of the Remediation Agreement. The South Bend Police Department shall be charged with maintaining accurate records and sending monthly updates to the individuals listed in paragraph (b) herein.

f) In the event that a property is zoned commercial, industrial, or planned unit development and has been designated as a chronic problem property, the manager /owner/operator who is doing business at that location shall be required to enter into a Remediation Agreement consistent with the provisions of the Section.

Section IV. Section 13-160 of Article 12 of Chapter 13 of the *South Bend Municipal Code* is hereby amended as follows:

**Sec. 13-160 Consequences of Failure to Comply; Civil Penalties; Continuous Abatement; Civil Action by Law Department/Dedication of Portion of Fees/Fines to the Law Enforcement Continuing Education Fund (Fund # 220).**<sup>6</sup>

(a) Any property owner violating the provisions of this Article shall be subject to the following civil penalties, fees and procedures:

1. Collection of Repeat Public Nuisance Service Call Fees: In addition to the collection of fines resulting from the issuance of citation(s), the Law Department is authorized to bring civil action against any alleged violator of this Article for all unpaid repeat public nuisance service call fees.
2. Citations Civil Penalties: After a property has been designated as a chronic problem property and placed on the publicly available data set, if the property receives any subsequent citation or valid complaint, then the owner will be subject to the next citation issued shall impose a fine a civil penalty of two hundred fifty dollars (\$250.00) per citation or valid complaint, and for every citation issued thereafter which shall be payable through the Office of the City Clerk

(b) Continuous Abatement Notice:

1. Any property that has previously been designated a chronic problem property, and subsequently removed from the listed publicly available data set due to compliance, shall be subject to continuous abatement procedures governed by this section. This will serve as notice to the owner that the property will be listed as a continuous abatement property upon a subsequent violation occurring within a six (6) month period, since the date of removal from the publicly available data set. Such notice is in compliance with Indiana Code § 36-1-6, Enforcement of Ordinances.

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<sup>6</sup> *Indiana Code* § 36-1-4-17 authorized the City to collect any money that is owed the City, including reasonable attorney fees.

2. Continuous Abatement Civil Penalties/Fees: Any owner of real estate whose property becomes listed as a continuous abatement property shall be fined the sum of five hundred dollars (\$500.00) for the first violation. Thereafter, each violation shall be fined and assessed administrative fees related to costs incurred by the City for inspections, abatement and administration, and a civil penalty which shall be as follows:

<u>Subsequent Violations</u>	<u>Fine Per Violation</u>	<u>Continuous Abatement Fee for Administrative Expenses</u>
<u>2<sup>nd</sup> Violation</u>	<u>\$750.00</u>	<u>\$400.00</u>
<u>3<sup>rd</sup> Violation</u>	<u>\$1,000.00</u>	<u>\$450.00</u>
<u>4<sup>th</sup> Violation and thereafter</u>	<u>\$1,500.00</u>	<u>\$500.00</u>

This sub-section supplements and does not limit any other remedy or action available in law or in equity being pursued by the Department of Law.

(c) Effective Date: Continuous Abatement procedures shall take effect on January 1, 2017.

(d) Separate Offense: Each violation of this Article shall be deemed a separate offense.

(e) Dedication of Fines/Fees Collection: ~~Fifty percent (50%)~~ One hundred percent (100%) of all fines and fees collected for any violation of this Article shall be deposited into the Law Enforcement Continuing Education Fund (Fund # 220).

(f) Data Available on City's Open Data Portal Website: Data addressed in this Section shall be summarized on the publicly available data set matrix required in Section 13-157 of the *South Bend Municipal Code* which is to be placed, maintained, and regularly updated on the City's Open Data Portal ~~website~~ by the Office of Innovation and Technology.

Section V. If any part, subsection, section, paragraph, sub-paragraph, sentence, clause, phrase or word of this ordinance is for any reason declared to be unconstitutional or otherwise invalid by a Court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section VI. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, and legal publication.

---

Tim Scott, 1<sup>st</sup> District Council Member  
South Bend Common Council

*Attest:*

\_\_\_\_\_  
Office of the City Clerk

Voting in Favor \_\_\_\_\_  
Voting in Opposition \_\_\_\_\_

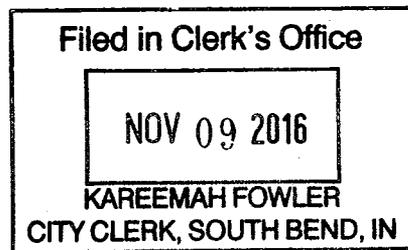
*Presented by me to* Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the  
\_\_\_\_ day of \_\_\_\_\_, 2016, at \_\_\_\_\_ o'clock \_\_.m.

\_\_\_\_\_  
Office of the City Clerk

*Approved and signed by me on the* \_\_\_\_\_ day of \_\_\_\_\_, 2016 at  
\_\_\_\_ o'clock \_\_. m.

\_\_\_\_\_  
Pete Buttigieg  
Mayor of the City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED







LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

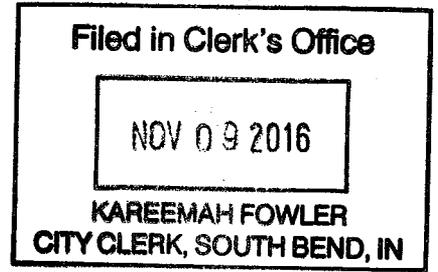
Angela M. Smith  
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

November 9, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601



RE: A 20-acre tract of land west of and adjacent to Ameritech Drive, approximately 1200' south of Brick Road

Dear Council Members:

Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your November 14, 2016 Council meeting, and set it for public hearing at your January 9, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the December 20, 2016 Area Plan Commission meeting. The recommendation of the Area Plan Commission will be forwarded to your office by noon on the day following the public hearing.

If you have any questions, please feel free to contact our office.

Sincerely,

Keith Chapman, Planner

CC: Kathy Cekanski-Farrand

SERVING ST. JOSEPH COUNTY, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND

WWW.STJOSEPHCOUNTYINDIANA.COM/AREAPLAN

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT A 20 ACRE TRACT OF LAND WEST OF AND ADJACENT TO AMERITECH DRIVE, APPROXIMATELY 1200 FEET SOUTH OF BRICK ROAD, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

Truck sales and service

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION 1. Ordinance No. 9495-04, is amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

PARCEL I: Lot Numbered Four (4) in "Park One Northwest", as per plat thereof, filed in the Office of the Recorder of St. Joseph County, Indiana, on August 1, 1985, as Instrument No. 8515748.

PARCEL II: Lot Numbered One (1) as shown on the recorded Plat of U.S. 31 Business Centre Phase 1, recorded January 9, 2004 as Document No. 0401210 in the Office of the Recorder of Saint Joseph County, Indiana.

PARCEL III: Lot Numbered Three A (3A) as shown on the recorded Plat of Park One Northwest First Replat, recorded April 4, 2003 as Document No. 0320042 in the Office of the Recorder of Saint Joseph County, Indiana.

PARCEL IV: A tract of land in the West Half of the Northeast Quarter of Section 19, Township 38 North, Range 2 East, German Township, St. Joseph County, Indiana, more particularly described as follows: Commencing at the Northeast corner of said West Half of the Northeast Quarter of Section 19, Township 38 North, Range 2 East; thence South 00°48'00" East along the East line thereof 953.78 feet, said point being the true place of beginning; thence continuing South 00°48'00" East along said East line 1307.86 feet to the North line of the Indiana East-West Toll Road; thence South 89°42'57" West along said North line 324.04 feet to the East line of the South Bend Bypass; thence North 02°49'50" West along said East line 329.96 feet to an angle point in said East line; thence North 00°17'00" West along said East line 978.17 feet; thence North 89°42'57"

East 326.91 feet to the place of beginning.

be and the same is hereby established as GB General Business.

**SECTION II.**

This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

**SECTION III.** This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED

Filed in Clerk's Office  
NOV 09 2016  
KARÉEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

PETITION FOR ZONE MAP AMENDMENT  
City of South Bend, Indiana

**I (we) the undersigned make application to the City of South Bend Common Council to amend the zoning ordinance as herein requested.**

1) The property sought to be rezoned is located at:

*Four (4) contiguous parcels of property located on Ameritech Drive, approximately 1,250' south of Cleveland Road, South Bend, Indiana 46628*

2) The property Tax Key Number(s) is/are:

*The four parcels include Parcel Nos.: 025-1017-060807, 025-1017-060816, 025-1017-060806, and 025-1017-060809.*

3) Legal Descriptions: *Please see attached.*

4) Total Site Area: *Approximately 19.86 Acres +/-*

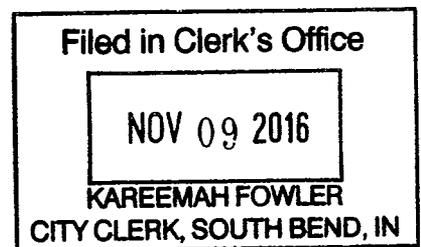
5) Name and address of property owner(s) of the petition site:

*Alro Steel Corporation  
3100 East High Street, PO Box 927  
Jackson, MI 49204-0927  
Attn: Steve Laten  
T: (517) 787-5500*

Name and address of additional property owners, if applicable: N/A

6) Name and address of contingent purchaser(s), if applicable:

*Hopkins Properties of South Bend, LLC  
2280 Formosa Road  
Troy, Illinois 62294  
Attn: John Hopkins  
T: (618) 667-3454*



Name and address of additional property owners, if applicable: N/A

7) It is desired and requested that this property be rezoned:

From: LI Light Industrial District      N/A

To:      GB General Business District

8) This rezoning is requested to allow the following use(s): *Permit the development and operations of a full service truck dealership, including truck sales and service.*

IF VARIANCE(S) ARE BEING REQUESTED (if not, please skip to next section):

1) *No variance relief is being sought at this time.*

2) A statement on how each of the following standards for the granting of variances is met:

- (a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: *N/A*
- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *N/A*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *N/A*

IF A SPECIAL EXCEPTION USE IS BEING REQUESTED, (if not, please skip to next section):

- 1) A detailed description and purpose of the Special Exception Use(s) being requested: *N/A*
- 2) A statement on how each of the following standards for the granting of a Special Exception Use is met:
  - (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare: *N/A*
  - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *N/A*
  - (c) The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein; and: *N/A*
  - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *N/A*

\* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

**CONTACT PERSON:**

*Abonmarche Consultants, Inc. (Attn: Brian McMorrow)*  
*750 Lincoln Way East*  
*South Bend, IN 46601*  
*T: (574) 314-1022*  
*E: bmcmmorrow@abonmarche.com*

**BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COMMON COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.**

Signature(s) of all property owner(s), or signature of Attorney for all property owner(s):

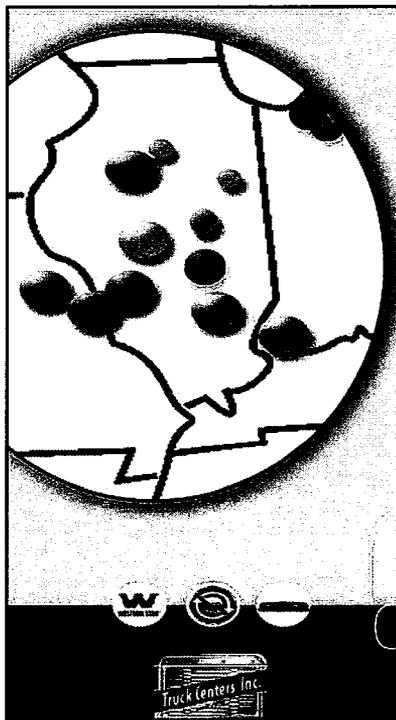
*Steven J. Fata - E.V.P. + C.F.D.*  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_





Intro

Filed in Clerk's Office  
NOV 09 2016  
KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN



Over the course of 46 years, the Hopkins family has cultivated Truck Centers, Inc. from a small dealership into a large network that currently consists of 12 locations spanning both the eastern and western banks of the Mississippi River.

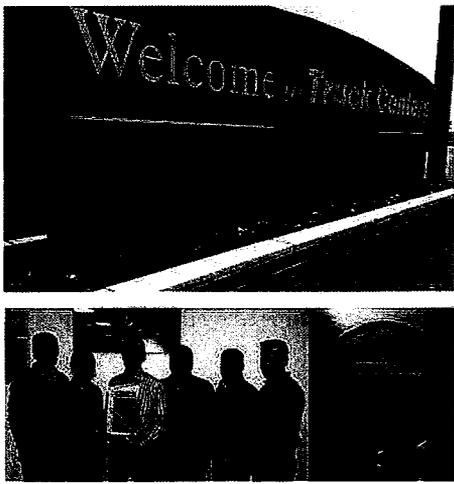
- 9 full-service dealerships (10<sup>th</sup> under construction in Effingham), 2 auxiliary locations and on-site customer parts facility in 3 states
- 645 dedicated team members
- Award-winning sales force
- 206 service bays
- 4 Collision Centers with 61 bays
- \$13M in stocked parts inventory
- Nationally-renowned Training Center with 4 full-time instructors

45 YEARS OF EXCELLENCE

**About Truck Centers, Inc. - 45 Years of Excellence**

*10 Locations Proudly Serving America's Heartland*

- 9 full-service dealerships and 1 customer parts facility
- 467 dedicated team members with 18% with 10+ years of service
- Award-winning sales force including 6 Freightliner Leland James Award winners including the only recipient to win the award every year since it's inception
- 150 certified technicians working in 131 service bays
- "Express Assessment" offered at all full-service dealerships
- 28 skilled body shop technicians working in 58 bays of our 3 on-site collision centers
- 70 parts specialists managing \$12M in stocked parts inventory
- Nationally-renowned Training Center with 2 in-house, fully certified trainers



**Truck Centers proudly offers customers:**

- A proven legacy of excellence and commitment to superior customer service recognized TCI as the 2014 *Successful Dealer* National Award winner
- Elite Support certified and Express Assessment offered at all full-service dealerships for superior customer service
- Multilingual, award-winning sales staff of certified brand experts
- Convenient access at major trucking corridors
- Extensive hours of operation including 24/7 Parts & Service (Troy)
- Primary warehouse for our network's \$13M stocked parts inventory with network interbranch service and customer parts delivery

**WHO WE ARE**



### Truck Centers, Inc. – Who We Are

Truck Centers proudly offers customers:

- A proven legacy of excellence and commitment to superior customer service recognized as 2014 Successful Dealer National Award winner
- Elite Support certified and Express Assessment offered at all full-service dealerships for superior customer service
- Multilingual, award-winning sales staff of certified brand experts
- Convenient access at major trucking corridors
- Extensive hours of operation including 24/7 Parts & Service (Troy)
- Primary warehouse for our network's \$12M stocked parts inventory with network interbranch service and customer parts delivery



**AREAS OF SPECIALIZATION**

- New and pre-owned truck sales for highway and vocational segments
- Significant parts investment with 25,000+ stocked part numbers and emerging part issue monitoring to minimize customer downtime
- Elite Support certified dealerships with Express Assessment service and experienced technicians to promptly and properly make necessary repairs
- Strong, ongoing investment in technical training with one of the nation's premier dealer-owned Training Centers that attracts technicians from customer fleets and other dealerships in the U.S. and Canada
- A variety of on-site specialized services
- State-of-the-Art Collision Centers
- Mobile repair trucks in multiple markets

**WHAT WE DO**



## Truck Centers, Inc. – What We Do

### Areas of Specialization

**New & Preowned Truck Sales** – Our award-winning sales team consists of multilingual staff that is well experienced to assist an array of customers including regional and national fleets, owner operators and various vocational segments.

**Parts Investment** – In order to expedite repairs and avoid costly delays, we stock over 25,000 unique parts in our warehouse and have daily interbranch delivery service to all TCI locations. If an instance arises where we do not have the part, we have instantaneous access to over \$250M in dealer inventory through OE Connect. Additionally, Freightliner has a Mission Critical and Emerging Parts Issue tracking system that keeps dealers pre-stocked with critical components for repairs and identifies potential part failures and flags them with replacements so customers and dealers are not caught off-guard in a shortage situation.

**Elite Support** - Elite Support is a collaborative effort between Freightliner and its truck dealers that is focused on improving the customer experience. All full-service TCI locations are part of an elite group of 160+ dealers currently certified in the U.S. and Canada that have met the stringent Elite Support criteria. The cornerstone of Elite Support is our **Express Assessment** guarantee. Within 2 hours of your service write-up, we will: Communicate single service issue diagnosis, check parts availability and provide an estimate of cost and repair time. This targeted process minimizes delays and has active communication between the service staff and customer to expedite their repair and get them back on the road.

**Technical Training Investment** – Our Training Center is essential to our customer support because the two, full-time, fully-certified trainers conduct year-round courses on various topics for all TCI technicians, service staff at other dealerships plus our customers’

maintenance teams. Our commitment to training yields technicians with improved diagnostic speed and accuracy that results in more uptime. Currently, up to 80% of Warranty time is spent on diagnostics rather than the actual repair.

**On-Site Specialized Services - Radiator & Driveline Repair Plus DPF Cleaning Service** – We offer additional services including On-Site Radiator Repair, Driveline Repair and DPF Cleaning Service seven days a week to avoid unnecessary downtime for these specialized services that are often outsourced.

**State-of-the-Art Collision Centers** – TCI has three, on-site Collisions Centers with trained body specialists that can handle frame repairs, body and paint work for minor or major repairs. Our team offers temporary repairs to get units back to their terminal or professional accident repair work. Estimators and Body Shop Managers also travel to storage facilities, tow lots or customer terminals to write on-site repair estimates and can arrange nationwide towing to help expedite the repair process and reduce costs and the burden on fleets.

**Mobile Repair Trucks at Every Store** – To continue exceeding our customers' expectations, we now have Mobile Repair trucks at every store that are ready to be dispatched for roadside repairs or to customers' terminals for warranty repairs, preventative maintenance, alignments or general repairs. Our veteran technicians have extensive training and are able to deliver the same great service that customers expect from TCI but mobile. We understand that customer's occasionally have minor repairs that can be performed on-site and bringing the truck into the shop only drains valuable time for drivers and amounts to lost revenue – our mobile repair units can easily be dispatched to the downed unit to try and help get that truck fixed and back on the road as quickly as possible.



**Daimler Trucks of North America**

- **Freightliner:** The Industry Innovator
- **Western Star:** The Luxury Workhorse
- **Sprinter:** The Backbone of Businesses
- **Detroit:** The Powerhouse
- **Alliance:** The Accessories & Parts



as well as...

- **Fuso:** The Delivery Dynamo



- **Ottawa:** The Yard Boss



**WHO WE PARTNER WITH**



**Truck Centers, Inc. – Who We Partner With**

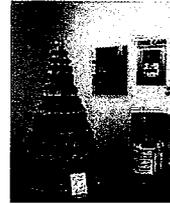
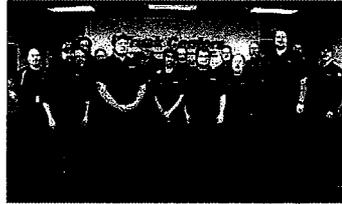
**Daimler Trucks of North America**

- **Freightliner** – The Industry Innovator
- **Western Star** – The Luxury Workhorse
- **Sprinter**– The Backbone of Businesses
- **Detroit** – The Powerhouse
- **Alliance** – The Accessories & Parts

**As well as...**

- **Fuso** – The Delivery Dynamo
- **Ottawa** – The Yard Boss

- **Additional Traffic and Visitors**
  - Customers patronize other local businesses
- **Truck Centers' History of Civic & Charity Involvement**
  - Active and Responsible Community Partner
  - Youth Development – Skills Training Program (TCI F.I.R.S.T.)
  - On-Going Professional Training – TCI Training Center
  - Extensive Charitable Programs & Reinvestment in Local Communities



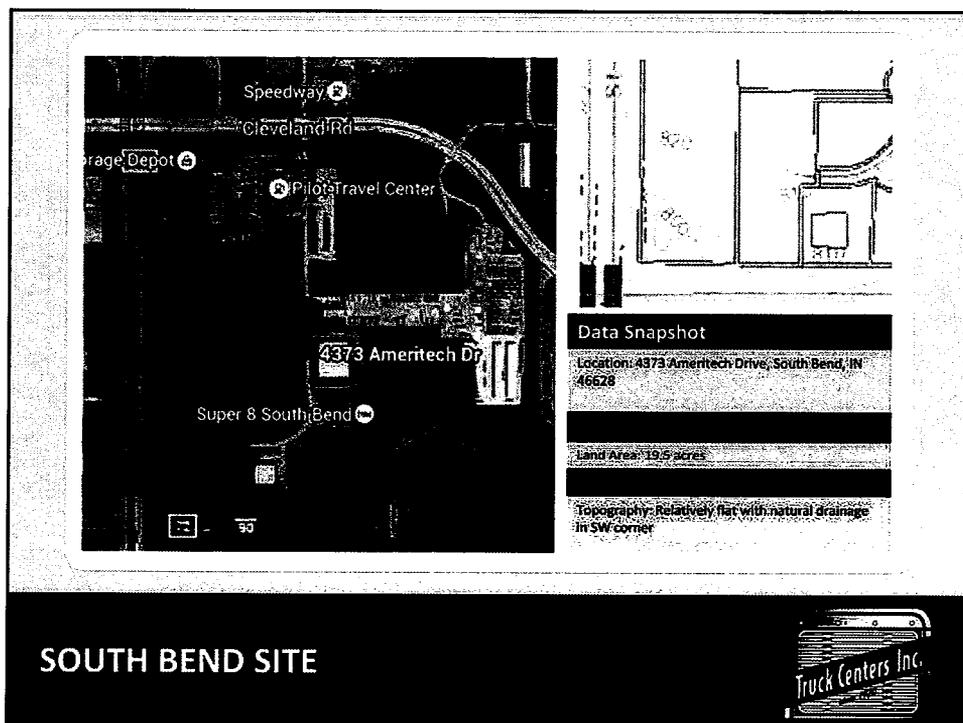
## WHAT WE BRING TO THE COMMUNITY



### Truck Centers, Inc. – What We Bring to the Community (continued)

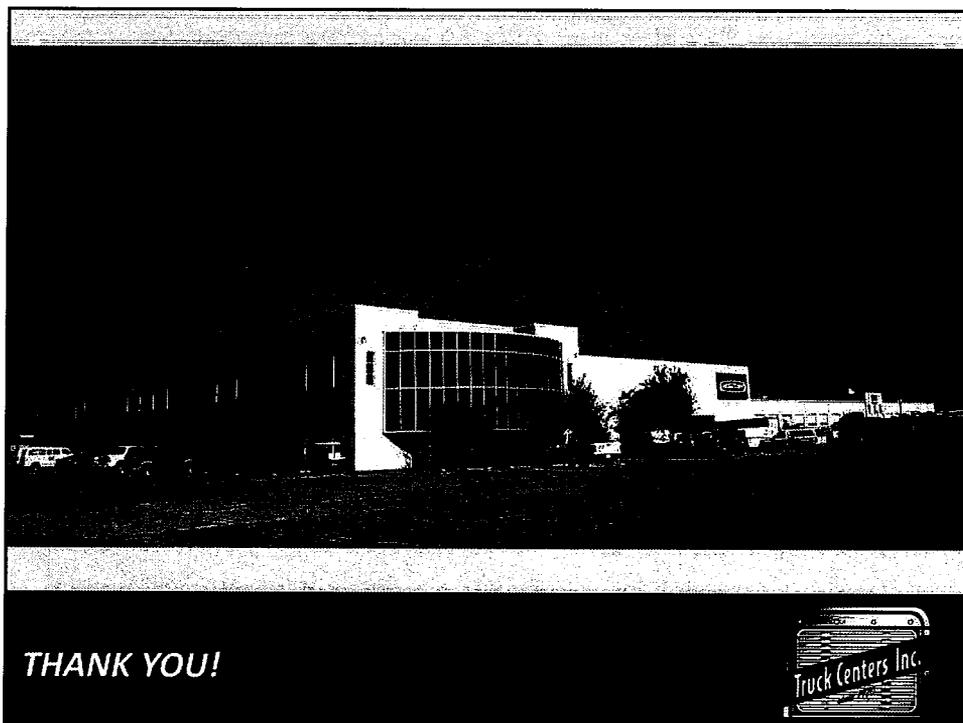
- **Additional Traffic and Visitors**
  - Our customers patronize other local businesses including neighboring Truckomat, fuel stops, restaurants and hotels
- **Truck Centers' History of Civic & Charity Involvement**
  - Active and Responsible Community Partner (IDOT "Drive for Tomorrow", support for civic organizations)
  - Youth Development – Skills Training Program (TCI Future in Repair Service Technology – FIRST – was the national event of the year award at Freightliner's Customer Improvement Conference). Free program that selects high school seniors, recent graduates, trade school graduates or recent military veterans who have a demonstrated interest in heavy-duty truck repair for a 15-week training program and apprenticeship with the potential for employment upon successful completion.
  - On-Going Professional Training – TCI employees receive continual, on-going training at the cost of the employer for skills development, new technologies, policy updates and our technicians are continually able to take courses at our nationally-recognized Training Center for additional certifications
  - Extensive Charitable Programs & Reinvestment in Local Communities (from local school extracurricular activity support to food banks, coat drives or

the USO, Wounded Warrior Project, Boy Scouts, etc.) – we believe in giving back and being a good community partner



**Truck Centers, Inc. – South Bend Site**

Site Overview



**THANK YOU!**



LAWRENCE P. MAGLIOZZI  
EXECUTIVE DIRECTOR

Angela M. Smith  
Deputy Director

AREA PLAN COMMISSION OF ST. JOSEPH COUNTY, IN

227 W. JEFFERSON BLVD., ROOM 1140 COUNTY-CITY BUILDING, SOUTH BEND, INDIANA 46601 (574) 235-9571

November 2, 2016

South Bend Common Council  
4<sup>th</sup> Floor, County-City Building  
South Bend, IN 46601

RE: Bill # 65-16  
Rezoning: APC #2800-16 – 913 Lawrence Street and 427 & 437 Corby Blvd.

Dear Council Members:

The Area Plan Commission will hold a public hearing on November 15, 2016 for the above reference petition. This petition is set for public hearing before the Common Council on Monday, November 28, 2016.

**Ordinance & Petition Amendments:**

The following changes have been made to the above referenced petition:

Ordinance & Petition:

- 1.) 437 Corby Boulevard was added to the Ordinance title.
- 2.) Variances were updated on the petition.

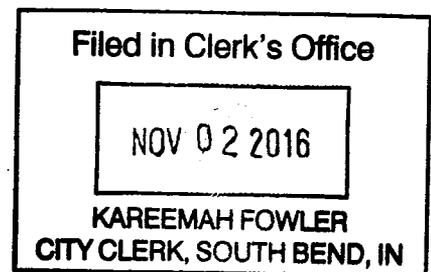
A Copy of the revised Ordinance is attached.

A summary of public comment will be provided after the Area Plan Commission Meeting.

If you have any further questions, please feel free to contact me at (574) 235-9571.

Sincerely,

Keith Chapman, Planner



CC: Kathleen Cekanski-Farrand

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 913 LAWRENCE STREET AND 427 & 437 CORBY BOULEVARD, COUNCILMANIC DISTRICT NO. 4 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

To construct townhomes.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of South Bend, Indiana as follows:

SECTION 1. Ordinance No. 9495-04, is amended, which ordinance is commonly known as the Zoning Ordinance of the City of South Bend, Indiana, be and the same hereby is amended in order that the zoning classification of the following described real estate in the City of South Bend, St. Joseph County, State of Indiana:

*THAT PART OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 2 EAST, PORTAGE TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: A PART OF LOT # 151 OF THE PLAT OF "SORIN'S SECOND ADDITION TO THE TOWN OF LOWELL, NOW CITY OF SOUTH BEND" AS SHOWN IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT # 151; THENCE N.90°00'00" W. ALONG THE SOUTH LINE OF SAID LOT AND THE NORTH RIGHT-OF-WAY LINE OF CORBY BOULEVARD A DISTANCE OF 158.94 FEET MORE OR LESS TO THE EAST LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE N. 00°00'00"W. ALONG SAID EAST LINE A DISTANCE OF 198.00 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE S. 90°00'00" E. ALONG SAID SOUTH LINE A DISTANCE OF 159.29 FEET TO THE WEST LINE OF LAWRENCE STREET; THENCE ALONG SAID WEST LINE, S. 00°00'00" E., A DISTANCE OF 198.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.  
CONTAINING 0.72 ACRES MORE OR LESS.  
SUBJECT TO ALL LEGAL HIGHWAYS, EASEMENTS AND RESTRICTIONS OF RECORD.*

be and the same is hereby established as MF1 Urban Corridor Multifamily District.

SECTION II.

This ordinance is and shall be subject to commitments as provided by Chapter 21-09.02(d) Commitments, if applicable.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council, approval by the Mayor, legal publication, and full execution of any conditions or Commitments placed upon the approval.

\_\_\_\_\_  
Member of the Common Council

Attest:

\_\_\_\_\_  
City Clerk

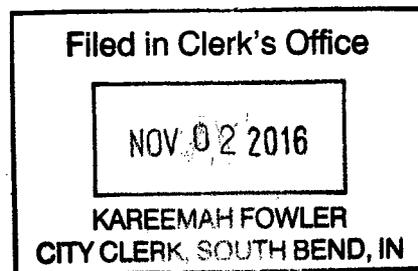
Presented by me to the Mayor of the City of South Bend, Indiana on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
City Clerk

Approved and signed by me on the \_\_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_. m.

\_\_\_\_\_  
Mayor, City of South Bend, Indiana

1st READING  
PUBLIC HEARING  
3rd READING  
NOT APPROVED  
REFERRED  
PASSED



# DHA

***Danch, Harner & Associates, Inc.***

Land Surveyors ■ Professional Engineers

Landscape Architects ■ Land Planners

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

1643 Commerce Drive ■ South Bend, IN 46628

Honorable Members of the City of  
South Bend Common Council  
4<sup>th</sup> Floor County-City Building  
South Bend, Indiana 46601

October 3, 2016

RE: Rezoning Petition for 427 and 437 Corby Boulevard and 913 Lawrence Street,  
South Bend, Indiana 46617.

Dear Council Members:

Our clients are requesting the approval of a Rezoning Petition for the properties located at 427 and 437 Corby Boulevard and 913 Lawrence Street, South Bend, Indiana 46617.

This requested Rezoning would allow for the approval of a single family attached townhome development to be built as shown on the attached site plan. The proposed site improvements would include the construction of single family townhomes which would have frontage along both Corby Boulevard and Lawrence Street.

Our clients believe the improvements proposed for the properties would be a compatible use in the surrounding mixed use neighborhood.

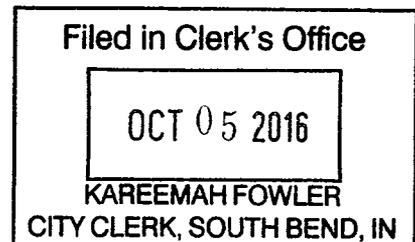
If you have any questions concerning this matter, please feel free to give me a call at 234-4003.

Sincerely,

*Michael J. Danch*

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

File No. 160204 "C" Md



PETITION FOR ZONE MAP AMENDMENT  
*City of South Bend, Indiana*

**I (we) the undersigned make application to the City of South Bend Common Council to amend the zoning ordinance as herein requested.**

1) The property sought to be rezoned is located at:

*Address(es) -, 427 and 437 Corby Boulevard and 913 Lawrence Street, South Bend, Indiana 46617.*

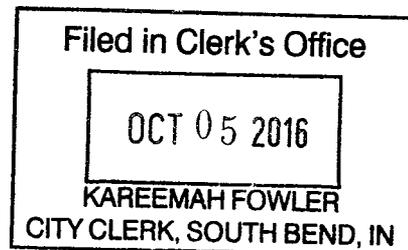
2) The property Tax Key Number(s) is/are: *Enter property tax key number(s):018-5111-3975, 018-5111-3976, 018-5111-3972.*

3) Legal Descriptions: *Enter full legal description: See attached.*

4) Total Site Area: *Enter total acres to be rezoned: 0.72 Acres.*

5) Name and address of property owner(s) of the petition site:

*DAMSHA BUA LLC  
4404 Technology Drive  
South Bend, Indiana 46628  
Ph. No. 574-277-0116  
E-Mail Address N/A*



Name and address of additional property owners, if applicable:

6) Name and address of contingent purchaser(s), if applicable:

*N/A*

Name and address of additional property owners, if applicable:

7) It is desired and requested that this property be rezoned:

From: SF2 Single Family Two Family District N/A

To: MF1 Urban Corridor Multifamily District

8) This rezoning is requested to allow the following use(s): *Insert intended use(s): Residential Uses.*

IF VARIANCE(S) ARE BEING REQUESTED (if not, please skip to next section):

1) *List each variance being requested. See attached.*

2) A statement on how each of the following standards for the granting of variances is met:

(a) The approval will not be injurious to the public health, safety, morals and general welfare of the community: *See Attached*

- (b) The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and: *See Attached*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *See Attached*

IF A SPECIAL EXCEPTION USE IS BEING REQUESTED, (if not, please skip to next section):

- 1) A detailed description and purpose of the Special Exception Use(s) being requested: *N/A*
- 2) A statement on how each of the following standards for the granting of a Special Exception Use is met:
  - (a) The proposed *use* will not be injurious to the public health, safety, comfort, community moral standards, convenience or general welfare:
  - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein:
  - (c) The proposed *use* will be consistent with the character of the *district* in which it is located and the land uses authorized therein; and:
  - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan.

\* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

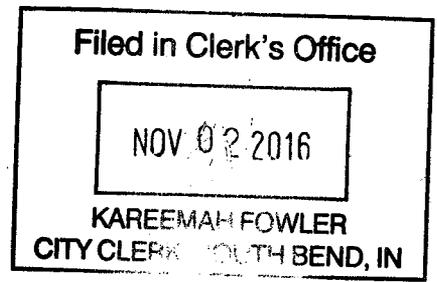
CONTACT PERSON:

*Name: Danch, Harner & Associates, Inc.  
 Address: 1643 Commerce Drive  
 South Bend, Indiana 46628  
 574-234-4003 mdanch@danchharner.com*

**BY SIGNING THIS PETITION, THE PETITIONERS/PROPERTY OWNERS OF THE ABOVE-DESCRIBED REAL ESTATE AUTHORIZE THAT THE CONTACT PERSON LISTED ABOVE MAY REPRESENT THIS PETITION BEFORE THE AREA PLAN COMMISSION AND COMMON COUNCIL AND TO ANSWER ANY AND ALL QUESTIONS THEREON.**

Signature(s) of all property owner(s), or signature of Attorney for all property owner(s):

*Amy M Zappa*  
 \_\_\_\_\_  
*Anthony M. Zappia - Attorney*  
 \_\_\_\_\_  
*52582 S.R. 933 North*  
 \_\_\_\_\_  
*South Bend, IN 46635*  
 \_\_\_\_\_  
*574-277-8720*



10-26-16 Revised Requested Variances:

- 1). From the required minimum 6 ft. side yard setback to 5 ft.;
- 2). For projects containing two or buildings; From the minimum required 6 ft. interior side yard to 2 ft.;
- 3). From the required 6 ft. minimum interior side yard between dwelling units to a minimum of 0 ft.;

Requested NNZO Variances:

- 1). From the requirement that the height and massing of new multi-family buildings shall be no more than twice the massing of the immediately abutting *building*, including buildings on the same *lot to a maximum of seven times*.
- 2). From the requirement that Mechanical equipment shall not be located along primary and secondary street frontages to being allowed but shall be screened from the street by fencing or landscaping.
- 3). From the requirement that Driveways shall be no more than twelve feet (12') wide at front property line to a maximum of 20 ft.

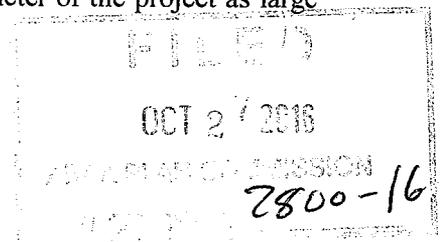
Requested Variance information:

The owners are in the process of developing the petition site to have a total of Nine (9) single-family attached townhomes. Six townhomes would face Corby Boulevard and three would face Lawrence Street. Access to the site would be off of existing public alleys which are located on the North and West sides of the site. Also shown is a single driveway with access onto Lawrence Street. This site also is located in the NNZO Overlay district neighborhood.

The owner's representative meet with the Area Plan Commission staff to review the project and the process required for allowing the development to be approved as proposed. Based on that meeting it was determined that the best way to proceed with the project would be to request a rezoning of the property to the "MF1" Urban Corridor Multifamily zoning classification. This would allow for the proposed Townhomes. As part of the rezoning process a few variances would also be required for the project as shown.

More specifically the owners are requesting: A Variance from the required minimum 6 ft. side yard setback to 5 ft. The MF1 zoning requires a 6 foot setback along the project boundaries. The owners would like to add some architectural character to the townhomes, which is shown as having a bay type window on the side of the building façade. Only a small portion of the building would encroach 1 foot into the setback. The owners do not believe this small encroachment for a window would have a negative impact on any surrounding property. The window location is oriented towards the existing public alleys.

The second Variance request for projects containing two or buildings and the request is from the minimum required 6 ft. interior side yard to 2 ft. The two buildings along Corby Street are separated at the closest point by 4 foot. The requirement is for yards to be 6 ft. wide and they cannot overlap. The intent was to keep the yard areas along the perimeter of the project as large



as possible. The owners do not believe approval of this request on an interior portion of the project site would have a detrimental effect on any adjacent property.

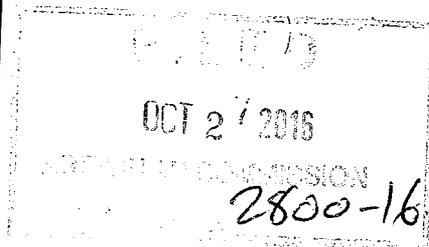
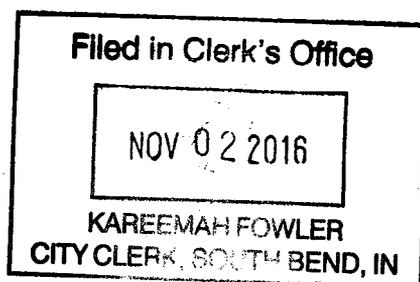
The third Variance request is from the required 6 ft. minimum interior side yard between dwelling units to a minimum of 0 feet. This request is to allow for the proposed dwelling units to be placed on individual lots through the City's Subdivision process. The owners do not believe approval of this request would have a negative impact on any surrounding property.

The owners are also requesting Variances from certain sections of the NNZO. More specifically the following are being requested: From the requirement that the height and massing of new multi-family buildings shall be no more than twice the massing of the immediately abutting *building*, including buildings on the same *lot to a maximum of seven times*. This request is needed due to the existing homes which are located to the West and North of the project site. Those homes are some of the original dwellings which were built several decades ago on smaller lots. The intent is to add new single family attached homes in the neighborhood. There are a variety of sizes of homes in the area from one story modest dwelling to large two story homes. The homes closest to the project site are on the small to modest size. In order to provide affordable homes that meet a demand for the area the proposed single family townhomes are built with common walls. This type of housing based on the ordinance creates a larger overall massing than existing detached homes on smaller lots. The proposed project will blend with the mixture of dwelling styles, sizes and architecture in existence. The owners do not believe the approval of the proposed new dwellings will have a negative impact in the neighborhood.

The next request is from the requirement that Mechanical equipment shall not be located long primary and secondary street frontages to being allowed but shall be screened from the street by fencing or landscaping. Due to the project being located on a corner with homes facing both streets there will be a situation where the placement of mechanical equipment may be seen from one of the street frontages. The owners would mitigate this by placing a screening fence and or landscaping to create a visual barrier to eliminate a direct view of any mechanical equipment from a street. The owners do not believe approval of this request would have a detrimental effect on any surrounding property.

The last request from the NNZO design guidelines is from the requirement that Driveways shall be no more than twelve feet (12') wide at front property line to a maximum of 20 ft. The project as shown would have one driveway of a 20 ft. width which would access Lawrence Street. This driveway is the interior driveway system for accessing the rear located garages of each dwelling. This interior driveway will also access the public alleys which will be paved and brought up to City standards. This one driveway access point to the public street is similar to other access drives for townhome developments. The width will allow for enough room for vehicles to both enter and exit the site without creating a traffic conflict. The owners do not believe approval of this request will adversely affect any surrounding property.

The owners would ask the Commission members to agree that the approval of the above requested Variances, will not be injurious to the public health, safety, morals and general welfare of the community and the use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner; and, that the strict application of the terms of this Ordinance would result in practical difficulties in the use of the property.

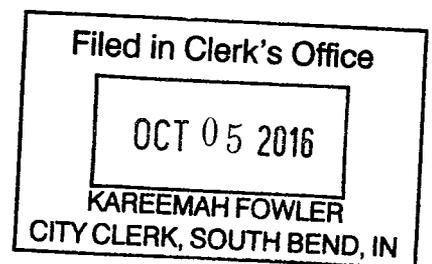


LEGAL DESCRIPTION:

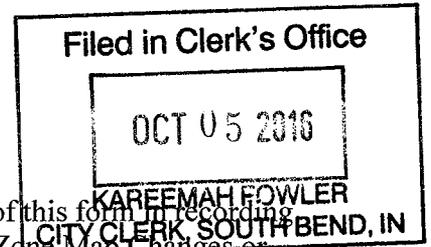
THAT PART OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 2 EAST, PORTAGE TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: A PART OF LOT # 151 OF THE PLAT OF "SORIN'S SECOND ADDITION TO THE TOWN OF LOWELL, NOW CITY OF SOUTH BEND" AS SHOWN IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT # 151; THENCE N.90°00'00" W. ALONG THE SOUTH LINE OF SAID LOT AND THE NORTH RIGHT-OF-WAY LINE OF CORBY BOULEVARD A DISTANCE OF 158.94 FEET MORE OR LESS TO THE EAST LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE N. 00°00'00"W. ALONG SAID EAST LINE A DISTANCE OF 198.00 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE S. 90°00'00" E. ALONG SAID SOUTH LINE A DISTANCE OF 159.29 FEET TO THE WEST LINE OF LAWRENCE STREET; THENCE ALONG SAID WEST LINE, S. 00°00'00" E., A DISTANCE OF 198.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.

CONTAINING 0.72 ACRES MORE OR LESS.

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



**EXHIBIT "A"**



NOTE: The City of South Bend Zoning Ordinance, requires the use of this form to record commitments made with respect to Development Plan Approvals, Zone Map Changes or Planned Unit Developments in accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615.

COMMITMENTS CONCERNING THE USE OR DEVELOPMENT OF REAL ESTATE MADE IN CONNECTION WITH A DEVELOPMENT PLAN APPROVAL, ZONE MAP CHANGE OR PLANNED UNIT DEVELOPMENT REQUIRED BY THE CITY OF SOUTH BEND ZONING ORDINANCE.

In accordance with I.C. 36-7-4-613 or I.C. 36-7-4-615, the Owner of the real estate located in St. Joseph County, Indiana which is described below, makes the following COMMITMENT concerning the use and development of the following described parcel of real estate:

**LEGAL DESCRIPTION:**

*THAT PART OF THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 2 EAST, PORTAGE TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA WHICH IS DESCRIBED AS: A PART OF LOT # 151 OF THE PLAT OF "SORIN'S SECOND ADDITION TO THE TOWN OF LOWELL, NOW CITY OF SOUTH BEND" AS SHOWN IN THE RECORDS OF THE ST. JOSEPH COUNTY, INDIANA RECORDER'S OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT # 151; THENCE N.90°00'00" W. ALONG THE SOUTH LINE OF SAID LOT AND THE NORTH RIGHT-OF-WAY LINE OF CORBY BOULEVARD A DISTANCE OF 158.94 FEET MORE OR LESS TO THE EAST LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE N. 00°00'00" W. ALONG SAID EAST LINE A DISTANCE OF 198.00 FEET MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF A 14 FT. WIDE PUBLIC ALLEY; THENCE S. 90°00'00" E. ALONG SAID SOUTH LINE A DISTANCE OF 159.29 FEET TO THE WEST LINE OF LAWRENCE STREET; THENCE ALONG SAID WEST LINE, S. 00°00'00" E., A DISTANCE OF 198.00 FEET MORE OR LESS TO THE POINT OF BEGINNING.*

*CONTAINING 0.72 ACRES MORE OR LESS.*

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

**STATEMENT OF COMMITMENTS:**

1. The project site as described above shall be limited to a total of nine (9) single family attached dwelling units.
2. The nine (9) single family attached dwelling units shall be owner-occupied only. Owner-occupied shall be defined as "Primary Residence" as defined under Internal Revenue Service codes for tax purposes (Internal Revenue Service Publication 523 (2009)).
3. No single family attached dwelling unit in the described project site shall be rented, leased or sub-leased for any duration, to any other party, group or person(s).
4. No single-family attached dwelling unit in the described project area shall exceed a maximum height of 40 feet to roof peak.

5. No more than four (4) single-family attached dwelling units shall make up any single building mass.
6. A minimum 5 ft. front-yard setback shall be required along any public street frontage.
7. A minimum 2 ft. offset shall be required between any single-family attached dwelling unit.
8. There shall be a Home Owners Association (HOA) created for the nine (9) single-family attached dwelling units.
9. The Home Owners Association shall allow their property ownership records, meeting minutes and agendas available for review by any Governmental Agency, the NNRO Northeast Neighborhood Redevelopment Organization the NENC Northeast Neighborhood Council. The HOA shall notify the NNRO Northeast Neighborhood Redevelopment Organization and the NENC Northeast Neighborhood Council of any meeting they hold.
10. No unrelated Graduate or Undergraduate student(s) shall be allowed to maintain occupancy in any single-family attached dwelling unit in the above described project site as said students are defined by the University of Notre Dame.

These COMMITMENTS shall run with the land, be binding on the Owners of the above-described real estate, subsequent owners of the above-described real estate and other persons acquiring an interest therein. These COMMITMENTS may be modified or terminated by a decision of the Area Plan Commission of St. Joseph County made at a public hearing after proper notice has been given.

The COMMITMENTS contained in this instrument shall be effective upon the approval of Petition # \_\_\_\_\_ pursuant to the City of South Bend Zoning Ordinance, and shall continue in effect until: (i) the real estate is rezoned; or, (ii) modified or terminated by the Area Plan Commission of St. Joseph County.

These COMMITMENTS may be enforced jointly or severally by:

1. The Area Plan Commission of St. Joseph County;
2. The City of South Bend, Indiana;
3. NNRO Northeast Neighborhood Redevelopment Organization
4. NENC Northeast Neighborhood Council
5. Owners of all parcels of ground adjoining the real estate within three-hundred (300) feet of the subject parcel and all owners of real estate within the area included in the petition who were not petitioners for approval; and
6. \_\_\_\_\_

The undersigned hereby authorizes the Executive Director of the Area Plan Commission of St. Joseph County to record this Commitment in the Office of the Recorder of St. Joseph County, Indiana, upon final approval of Petition # \_\_\_\_\_.

IN WITNESS WHEREOF, Owner has executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**(Organization Owner)**

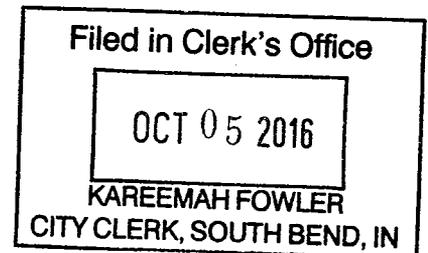
\_\_\_\_\_

:

By \_\_\_\_\_

Printed \_\_\_\_\_

Title \_\_\_\_\_



**(Organization Acknowledgment)**

STATE OF )

) SS:

COUNTY OF )

Before me, a Notary Public in and for said County and State, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of South Bend Self Storage LLC, Owner(s) of the real estate described above who acknowledged the execution of the foregoing instrument in such capacity and who, having been duly sworn, stated that any representations therein contained are true.

Witness my hand and Notarial Seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature \_\_\_\_\_

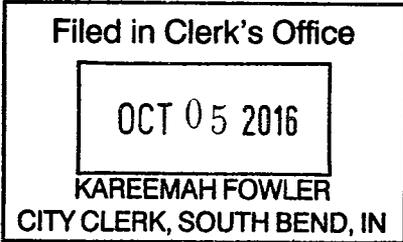
Printed \_\_\_\_\_

County of Residence \_\_\_\_\_

My Commission expires: \_\_\_\_\_

This instrument was prepared by Danch, Harner & Associates, Inc., 1643 Commerce Drive, South Bend, Indiana 46628.

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





NOV 09 2016

KAREEMAH FOWLER  
CITY CLERK, SOUTH BEND, IN

BRIEF SUMMARY OF EVENTS:

Petitioner Eric A. Boyd (Owner) was issued a COA for a Pitched Metal Roof to secure and protect 1240 Thomas St. by HPC (Historical Preservation Commission) in November 2011 & renewed through 11-10-13.

St. Joseph County Building Dept. accepted Owner's application and blue prints and issued a Roof Permit October 2015 for West Side of 1240 Thomas St. "According to HPC Guidelines Ordinance 9495-04 P.5 (A Applications to Building Dept for a Permit shall be deemed an application for HPC and will be forward to HPC by the Building Dept. within 5 working days.)"

During a 2016 Summer Code Enforcement progress Hearing for 1240 W. Thomas, Code Enforcement recognized the progress and granted an additional six months to complete roofing the East half of the building. HPC complained at the hearing and to the local building dept about lack of a permit for the rear section, which has stopped current and future permits. Building Commissioner has requested Owner/Petitioner resolve difference with HPC so project can move forward. HPC denied Roof Portion of the recent application which denied all items on the application:Roof, Windows, Siding & 2<sup>nd</sup> Story addition. Denied COA Application#2016-0809 HPC collective reasoning for Denial:

**1.)Losing Architectural Integrity**

*Response:* Changing from flat roof to pitched roof will cause Historical Rating to drop. (However of HPC Approved the change from flat roof to pitched metal roof on Nov. 10, 2011 and Owner issued a COA) HPC Guidelines Ord.No.9495-04 P.7 States that HPC must evaluate the damage/detriment to public welfare if they approve construction that is permitted even though it is not deemed appropriate and evaluate the potential hardship that a denial of COA would cause. The residents of Thomas St. are realistic in nature and are more concerned about losing the structure than losing Architectural Integrity. HPC has failed to evaluate the owner's sweat equity, capital investment (\$10,000 to \$15,000) and the financial hardship removing the current pitch roof and replace it with a flat roof would incur.

**2.) Structurally Soundness**

*Response:* St. Joseph Co. Building Commissioner and a city engineer met with the Owner on-site of 09/29/16 to perform progress check. Building Commissioner states a structural Owner engineer is needed to evaluate and to file for INDIANA HOMELAND SECURITY permits who's jurisdiction supersedes local Building Dept regarding 1240 W. Thomas St.

**3.) Lack of other options/flat roof quotes**

*Response:* Flat Roof was never proposed or suggested to owner by HPC. HPC previously approved a of metal pitched roof on November 10, 2011 and issued the owner a COA for the Owner replacement roof. HPC Guidelines Ord.No. 9495-04 P.8 Requires HPC to develop A HISTORICAL PRESERVATION PLAN FOR LANDMARKS and assist in the implementation of such plans. Owner has no knowledge nor was giving a specific PRESERVATION PLAN for 1240 W. Thomas St. Such failures and reversal of previously approved COA's by HPC has contributed to the hardships placed on the owner of 1240 W. Thomas.

**SUGGESTIONS FROM HPC COMMISSIONERS AT HEARING**

Owner/Petitioner should find more quotes for a flat roof and present those findings to the HPC. HPC Suggested that Owner remove the current roof that has decking , rafters, and shingles off of the 124-year-old structure 2-story building and replace it with a Flat Roof. HPC wants the owner to incur the cost of the roof demolition and the the cost of the new flat roof installation. HPC Suggests Owner Check with Community Investment to see if they have any programs that could assist in this project.

*Response:* HPC Suggestions are unfeasible and present a financial hardship that violate HPC's Own Ordinance Guidelines. Suggesting flat roof quotes contradicts the pitch metal roof COA previously issued. The pitched roof permitted by St. Joseph County Building Dept. presents no apparent detriment to public welfare and should be allowed. HPC's Suggestion for the owner to remove the permitted roof should be negated by HPC's lack of due diligence. HPC has had the right to petition Common Council to delay the issuance of permits for the purpose of preparing a PRESERVATION PLAN for said Landmark (Per Ord.9495-04) and has failed to do so for six years. Owner doesn't qualify for Vacant to Value Grant or Indiana Landmarks and questions Community Investment's potential involvement with regard to the anticipated loss of \$3.05 million in 2020 from property tax caps. Petitioner Eric Boyd (owner) has filed this appeal and prays that the Common Council will relieve the Petitioner from the potential hardship HPC's denial will caused.



South Bend and St. Joseph County  
**HISTORIC PRESERVATION COMMISSION**

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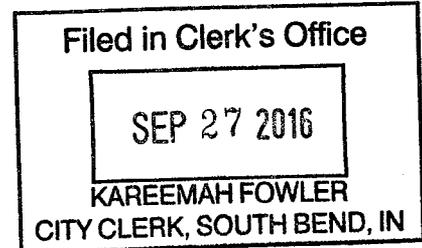
Timothy S. Kluszczinski, President

A Certified Local Government

Elicia Feasel, Executive Director

September 23, 2016

Eric Boyd  
1240 West Thomas Street  
South Bend, IN 46601



Dear Mr. Boyd,

The Commissioners, at the regularly scheduled monthly Historic Preservation Commission meeting on September 19, 2016, unanimously denied approval of the items originally listed on COA Application# 2016-0809: "Roof, window replacement, apply for addition – siding vinyl and window replacement is long term. Current plan is to keep windows boarded for security reasons (2 replacement windows have been broken). Color of vinyl siding is brown". Following is the record from the meeting concerning your project which states the reasons why your application was denied:

**Commissioner Gordon moved to deny application as submitted.** Seconded by Commissioner Anderson. President Kluszczinski clarified that votes in the affirmative will support the motion to deny the application and reminded the members to state their reasons when voting. Roll call was ordered.

**Commissioner Hertel (AYE):** *the best course of action in maintaining the historic integrity of the building*

**Commissioner Parker (AYE):** *due to the architectural character of building, and the lack of other options/quotations*

**Commissioner Anderson (AYE):** *lack of conforming to architectural integrity of historic building*

**Commissioner Gordon (AYE):** *not in keeping with the integrity of the landmark status*

**Commissioner Kluszczinski (AYE):** *work is not in keeping with Landmark standards and guidelines, work was performed without prior approval by the HPC and the Building Department, evidence suggests that the new changes are not structurally sound and in compliance with current building code, there is only one quotation obtained by the applicant for in-kind work, and there is insufficient documentation to consider alternative proposals at this time.*

**Commissioner Voll (AYE):** *a tough decision because of all the work the owner has put into it. The building, if it were restored, in that neighborhood, would be a classic piece. That is a difficult option here, but there is hope that there may be ways to achieve that.*

**Commissioner Buccellato (AYE):** *project does not meet standards and guidelines, in particular that additions to Landmarks should not detract from the original form. This roof, as proposed, will detract from the original form. Would like to see the building saved, and recommended that if a sloped roof is necessary financially, the owner would come back with a proposal that does not detract from the form of the structure.*

**Commissioner Gelfman (AYE):** *architectural integrity, lack of other quotes on a flat roof, changing from flat roof to gabled roof, losing the structural integrity of the building as-is historically, and materials being used.*

**COMMISSIONERS**

Thomas Gordon (Vice President)  
Mike Voll (Treasurer)  
Jennifer Parker (Architectural Historian)  
Elizabeth Hertel (Secretary)  
Kevin Buccellato  
Brandon Anderson  
Michele Gelfman  
Joseph Molnar

**STAFF**

Deb Parcell, Deputy Director  
Brett Hummer, Legal Counsel  
Steve Szaday, Preservation Specialist

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Timothy S. Kluszczinski, President

A Certified Local Government

Elicia Feasel, Executive Director

**Commissioner Molnar (AYE):** *echoes Commissioner Voll's statements that this is a tough choice. Suggests checking with Community Investment to see if they have any programs that could assist in this project.*

**Nine in favor, none opposed.**

**Vote: 9 - 0 COA#2016-0809 Denied.**

Please contact this office with any questions or concerns or for any assistance.

Sincerely,

Debra Parcell, Deputy Director

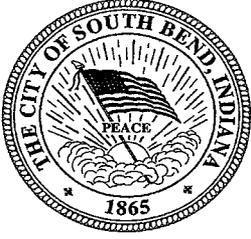
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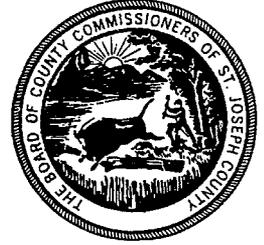
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