



SOUTH BEND COMMON COUNCIL

MEETING AGENDA

Monday, April 11, 2016
7:00 P.M.

1. **INVOCATION-** PASTOR BILL WILDEY, ZION UNITED CHURCH OF CHRIST
2. **PLEDGE TO THE FLAG**
3. **ROLL CALL**
4. **REPORT FROM THE SUB-COMMITTEE ON MINUTES**
5. **SPECIAL BUSINESS**

BILL NO.

- [16-34](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, CONGRATULATING THE JOHN ADAMS HIGH SCHOOL TEAM "WALL STREET POSSE": THE 2016 INDIANA HIGH SCHOOL MOCK TRIAL COMPETITION

6. **REPORTS FROM CITY OFFICES**
7. **COMMITTEE OF THE WHOLE**

TIME: _____

BILL NO.

- [14-16](#) PUBLIC HEARING ON AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY: THE ALLEY TO BE VACATED IS THE FIRST NORTH/SOUTH ALLEY WEST OF CUSHING STREET FROM LINCOLN WAY WEST TO THE FIRST EAST/WEST ALLEY FOR A DISTANCE OF 193 FEET AND A WIDTH OF 14 FEET. SAID ALLEY BEING A PART HEINTZMAN'S ADDITION AND KUNSTMAN'S ADDITION, CITY OF SOUTH BEND, PORTAGE TOWNSHIP, ST. JOSEPH COUNTY, INDIANA

- [07-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE INCLUSION OF NEW SECTION 1-5.1 ENTITLED CITY FLAG

- [12-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING

CHAPTER 6 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE INCLUSION OF NEW ARTICLE 10 ENTITLED LANDLORD REGISTRATION PROGRAM

- [18-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 2, ARTICLE 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY DELETING SECTIONS 2-9.1 ADDRESSING POLICIES AND PROCEDURES GOVERNING CITY-OWNED TECHNOLOGIES, FACEBOOK STANDARDS, SOCIAL MEDIA AND SOCIAL NETWORKING POLICIES AND PROCEDURES
- [19-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, TO ADDRESS BUSKERS AND SIDEWALK PERFORMERS BY REPEALING CHAPTER 4, ARTICLE 4, SECTION 4-21 OF THE SOUTH BEND MUNICIPAL CODE, RE-CODIFYING AND AMENDING IT WITHIN A NEW ARTICLE 13 OF CHAPTER 14, NEW SECTIONS 14-123 THROUGH 14-126 OF THE MUNICIPAL CODE, AND FURTHER AMENDING CHAPTER 13, ARTICLE 12, SECTION 13-26 CONCERNING SOLICITATIONS
- [05-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW
- [06-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR SECURING AND DEMOLISHING STRUCTURES PURSUANT TO THE INDIANA UNSAFE BUILDING LAW
- [15-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND ENTERPRISE OPERATIONS IN 2016 OF (\$926,497) FROM CONSOLIDATED BUILDING FUND (#600), \$480,000 FROM EMS CAPITAL FUND (#287), \$25,000 FROM EMS OPERATING FUND (#288), \$2,500 FROM 2015 SEWER BOND ISSUANCE FUND (#666), \$188,621 FROM CENTURY CENTER CAPITAL FUND (#671), \$63,000 FROM WATERWORKS O&M FUND (#620), AND \$361,294 FROM SEWAGE O&M FUND (#641)

[17-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2016 OF \$25,000 FROM GENERAL FUND (#101), \$587,022 FROM DCI STATE GRANTS FUND (#210), \$926,497 FROM UNSAFE BUILDING FUND (#219), \$17,500 FROM CENTRAL SERVICES FUND (#222), \$22,000 FROM COVELESKI NON REVERTING CAPITAL FUND (#401) AND \$29,300 FROM COUNTY OPTION INCOME TAX FUND (#404).

[16-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, FOR BUDGET TRANSFERS FOR VARIOUS DEPARTMENTS WITHIN THE CITY OF SOUTH BEND, INDIANA FOR THE YEAR 2016

8. BILLS ON THIRD READING

TIME:_____

BILL NO.

[05-16](#) PUBLIC HEARING ON AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW

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CODE, AND FURTHER AMENDING CHAPTER 13, ARTICLE 12,
SECTION 13-26 CONCERNING SOLICITATIONS

9. **RESOLUTIONS**

BILL NO.

- [16-23](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, PUBLICLY SUPPORTING THE INSTALLATION OF A FENCE ON THE EAST SIDE OF PERLEY PRIMARY FINE ARTS ACADEMY AND ON THE WEST SIDE OF COQUILLARD PARK
- [16-25](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 215 SYCAMORE STREET, SOUTH BEND, IN 46617 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF AN EIGHT (8) YEAR REAL PROPERTY TAX ABATEMENT FOR EAST BANK SOUTH BEND DEVELOPMENT, LLC
- [16-26](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 1265 FRANKLIN, CATALYST TWO BUILDING, IGNITION PARK, SOUTH BEND, IN 46601 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A FIVE (5) YEAR PERSONAL PROPERTY TAX ABATEMENT FOR SPECTRON MRC, LLC
- [16-27](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS BLACKTHORN CORPORATE OFFICE PARK LOT 6, SOUTH BEND, IN 46628 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A FIVE (5) YEAR REAL PROPERTY TAX ABATEMENT FOR COHN & COHN INVESTMENTS, LLC
- [16-28](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 1619/1623 FRANKLIN STREET, SOUTH BEND, IN 46613 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A FIVE (5) YEAR REAL PROPERTY TAX ABATEMENT FOR SOUTH BEND FORM TOOL CO., INC.

[16-29](#) A RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS 1619/1623 FRANKLIN STREET, SOUTH BEND, IN 46613 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A FIVE (5) YEAR PERSONAL PROPERTY TAX ABATEMENT FOR SOUTH BEND FORM TOOL CO., INC.

[16-32](#) A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING AN AGREEMENT WITH THE POKAGON BAND OF POTAWATOMI INDIANS

[16-33](#) RESOLUTION CONFIRMING THE ADOPTION OF A DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY KNOWN AS INTERSECTION OF MAYFLOWER RD AND WESTERN AVENUE SOUTH BEND, IN 46619 AS AN ECONOMIC REVITALIZATION AREA FOR PURPOSES OF A SIX (6) YEAR REAL PROPERTY TAX ABATEMENT FOR COUNTY DEVELOPMENT, LLC

10. BILLS ON FIRST READING

BILL NO.

[20-16](#) FIRST READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2724 LINCOLNWAY WEST, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

[21-16](#) FIRST READING ON AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 803 WEST WASHINGTON STREET, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

[22-16](#) FIRST READING AN ORDINANCE AMENDING THE ZONING ORDINANCE AND REQUESTING A SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 6100 NIMTZ PARKWAY, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND.

11. UNFINISHED BUSINESS

12. NEW BUSINESS

13. PRIVILEGE OF THE FLOOR

14. 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, 4th 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: APRIL 7, 2016
SUBJECT: COMMITTEE MEETING NOTICE

The following Common Council Committee Meetings have been scheduled for **MONDAY APRIL 11, 2016:**

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

- 3:30 P.M.** **PUBLIC WORKS & PROPERTY VACATION** JO M. BRODEN, CHAIRPERSON
1. [Bill No. 14-16](#)- Alley vacation at first north/south alley west of Cushing from Lincoln Way West to the first east/west alley
 2. Eric Horvath, Department of Public Works Briefing
- 4:00 P.M.** **INFORMATION & TECHNOLOGY** TIM SCOTT, CHAIRPERSON
1. [Bill No. 18-16](#)- Addressing Social Media and Networking Policy
- 4:05 P.M.** **COMMUNITY RELATIONS** REGINA WILLIAMS PRESTON, CHAIRPERSON
1. [Bill No. 07-16](#)- City Flag Ordinance
 2. [Bill No. 16-13](#)- Supporting Fence Installation at Coquillard Park
- 4:10 P.M.** **PERSONNEL & FINANCE** KAREN L. WHITE, CHAIRPERSON
1. [Bill No. 15-16](#)- Enterprise Funds appropriation
 2. [Bill No. 16-16](#)- Transfer Ordinance
 3. [Bill No. 17-16](#)- Civil City Funds appropriation
 4. [Bill No. 16-32](#)- Approving an Agreement with the Pokagon Band
- 5:40 P.M.** **HEALTH & PUBLIC SAFETY** JOHN VOORDE, CHAIRPERSON
1. [Bill No. 19-16](#)- Addressing Buskers and Sidewalk Performers
 2. [Bill No. 05-16](#)- Approving fees for nuisance abatement
 3. [Bill No. 06-16](#)- Approving fees for securing and demolishing structures
 4. [Bill No. 12-16](#)- Landlord registration program

Council President Tim Scott has called an **Informal Meeting of the Council which will commence immediately after the adjournment of the Health & Public Safety Committee meeting.

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

JENNIFER M. COFFMAN
CHIEF DEPUTY
CHIEF OF STAFF

ALKEYNA M. ALDRIDGE
DEPUTY CLERK
DIRECTOR OF POLICY

EMILY SEXTON
ORDINANCE VIOLATION CLERK

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



Bill No. 16-34



Wall Street Posse, Adams High School

RESOLUTION NO. _____

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, CONGRATULATING THE JOHN ADAMS HIGH SCHOOL TEAM "WALL STREET POSSE": THE 2016 INDIANA HIGH SCHOOL MOCK TRIAL COMPETITION

Whereas, one of the many programs sponsored by the Indiana Bar Foundation is the Annual Indiana High School Mock Trial Competition, held March 5-6, in Indianapolis, Indiana, included teams from high schools in northeast, northwest and central Indiana; and

Whereas, the purpose of the Indiana Mock Trial program is "to stimulate and encourage a deeper understanding and appreciation of the American legal system, by providing students the opportunity to learn the judicial system through a hands-on experience. Through mock trials, students gain an understanding of society's approach to dispute resolution and justice through an experiential learning opportunity"; and

Whereas, the South Bend Common Council is especially proud to congratulate each and every John Adams High School student who participated this year in the Indiana High School Mock Trial Competition. The John Adams' Mock Trial Program has won 17 State Mock Trial Championships and 2 National Titles. The school's program was founded by Mike Szucs and is the largest mock trial program in the country. This year's roster included 87 students, 16 coaches, 2 sponsors, and 1 mentor.

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

Section I. On behalf of the residents of the City of South Bend, the South Bend Common Council is proud to publicly commend, honor, and sincerely congratulate all of the John Adams High School students who participated in the 2016 Indiana High School Mock Trial Competition; Principal James Seitz, Coaches; Teacher Sponsors: Donna Sharp and Nicholas Leatherman; all of the volunteer attorneys, and the family and friends who helped to prepare and support all of these competing high school students who have brought honor to themselves, John Adams High School, and the South Bend Community.

Section II. The 2016 Indiana High School Mock Trial Competition Champions: (Wall Street Posse) composed of seven (7) John Adams High School students, **Ilan Friedland, Sam Brockman, Madeline Kimmell, Alicia Porile, Alice Goulding, Miranda Manier and Connor Hoban, and their Coaches: Attorneys Jeff Kimmell and John Scanlon** will now represent the City of South Bend, Indiana, in the national competition to be held this May in Boise, Idaho. *Congratulations for a job extremely well done and good luck at Nationals!!*

Section III. 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, 1st District

Oliver J. Davis, 6th District

Regina Williams Preston, 2nd District

John Voorde, At Large

Randy Kelly, 3rd District

Gavin Ferlic, At Large

Jo M. Broden, 4th District

Karen L. White, At Large

Dr. David Varner, 5th District

Kathleen Cekanski Farrand, Council Attorney

Attest:

Approved this ___ day of April, 2016.

Office of the City Clerk

Pete Buttigieg, Mayor of South Bend

DUBIN  SINGER
ATTORNEYS AT LAW

David Yontz
123 North Wacker Drive
Suite 1600
Chicago, IL 60606
Direct: 312.801.8752
Fax: 312.801.8767
E-mail: dyontz@dubinsinger.com

March 7, 2016

Office of City Clerk
Kareemah Fowler, City Clerk
Room 455 – County-City Building
South Bend, IN 46601

RE : Alley Vacation Petition for certain property located at the southeast corner of Lincoln Way West and Cushing Street in South Bend, Indiana (“the Property”)

Dear Ms. Fowler:

Please allow this to serve as a letter briefly explaining why the enclosed Petition to Vacate is being submitted.

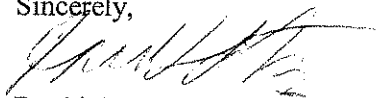
The Petition to Vacate is being sent on behalf of FD South Bend Indiana Lincoln Way and Cushing Street, LLC, an Indiana limited liability company (“FD South Bend”). FD South Bend is a preferred developer for Family Dollar, Inc. (“Family Dollar”), a subsidiary of Dollar Tree, Inc., a publically traded company (NASDAQ: DLTR). Family Dollar sells merchandise for the family and home in a small-box, neighborhood format.

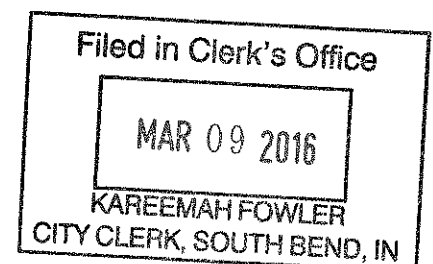
FD South Bend and Family Dollar have selected certain property located at the southeast corner of Lincoln Way West and Cushing Street in South Bend (the “Property”) as a location for construction of an approximately 8,225 square foot building from which Family Dollar will operate (the “Project”). For your reference, a site plan depicting the proposed development is attached hereto (the “Site Plan”). As shown on the radius map accompanying this application, an alley measuring approximately 193 feet in length and 14 feet in width currently runs through the eastern portion of the Property. If the enclosed Petition to Vacate is approved, such alley will be incorporated into the Project as shown on the Site Plan.

Granting the Petition to Vacate enclosed herewith will allow the Project to be developed along a major right-of-way in an area zoned for commercial use. FD South Bend respectfully submits that such development will provide citizens with convenient access to a wide variety of goods so as to meet the day-to-day convenience shopping needs of persons living in nearby residential areas, and will promote the health, safety, quality of life, comfort and general welfare of the City. The Project will bring new jobs to the community, encourage additional growth, and provide a new source of sales tax revenue. Further, the new improvements on the Property will increase its assessed valuation, thereby increasing real estate tax revenue.

Based on the foregoing, FD South Bend respectfully requests that the Petition to Vacate enclosed herewith be approved. Please do not hesitate to contact me should you have any questions or comments. Thank you in advance for your time and consideration as respects this matter.

Sincerely,


David A. Yontz
Dubin Singer, PC
Attorneys for FD South Bend



ORDINANCE NO. _____

AN ORDINANCE TO VACATE THE FOLLOWING DESCRIBED PROPERTY:

The alley to be vacated is the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

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 alley to be vacated is the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

hereby determines that is it 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 affecting by such vacating:

Lot Number	County Parcel ID Number	Current Owner
1 & 2	018-1028-1259	Wadad El-Ammori
3	018-1028-1260	Wadad El-Ammori
3	018-1028-1261	Lincoln Park Development LLC
4	018-1028-1262	George Kalafat
6	018-1029-1282	Wadad El-Ammori

SECTION IV. The purpose of the vacation of the real property is to allow for the development of such property as part as part of an overall site plan, consisting of approximately 0.87 acres, for use as a Family Dollar retail variety store and related improvements.

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

Member of the Common Council

Attest:

City Clerk

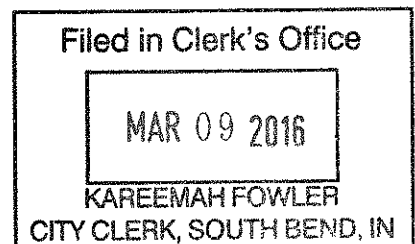
Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 20__, at _____ o'clock ___ m.

City Clerk

Approved and signed by me on the _____ day of _____, 20__, at _____ o'clock _____ m.

Mayor, City of South Bend, Indiana

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



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

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

DATE: 3/7/16

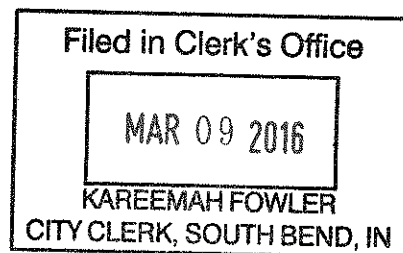
I (WE), THE UNDERSIGNED PROPERTY OWNER(S), PETITION YOU TO VACATE THE ALLEY DESCRIBED AS:

The alley to be vacated is the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.

NAME	ADDRESS	LOT #
Wadad El-Ammori (see attached Limited Power of Attorney)	51343 Lilac Road South Bend, IN 46628	1, 2, 3, 6
George Kalafat (see attached Limited Power of Attorney)	20633 Roycroft Drive, South Bend, IN 46614	4
Lincoln Park Development LLC By: <u>Anne Mannix</u> Name: Anne Mannix Title: Sole Member	724 W. Washington Street South Bend, IN 46601 Attn: Anne Mannix	3

CONTACT PERSON:

Dubin Singer PC
Attn: David A. Yontz
123 N. Wacker Drive, Suite 1600
Chicago, IL 60606
Phone: (312) 801-8752
Email: dyontz@dubinsinger.com



LIMITED POWER OF ATTORNEY

Area Plan Commission of St. Joseph County, IN
1140 County-City Bldg., 227 W. Jefferson Blvd.
South Bend, IN 46601

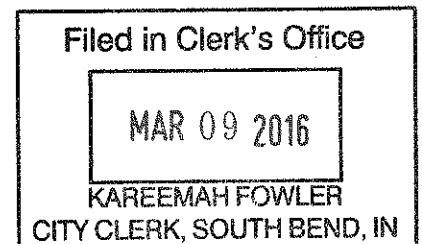
RE: 424 Cushing Street, South Bend, IN 46616; PIN# 71-08-02-458-004.000-026 (the
"Property")

To Whom It May Concern:

I am the current owner of the Property. The Property is the subject of that certain Purchase and Sale Agreement dated as of October 15, 2015 (the "Contract"). I hereby acknowledge that FD South Bend Indiana Lincoln Way and Cushing Street, LLC, its affiliates, agents, and attorneys (collectively, the "Purchaser"), will be pursuing certain petitions, applications and the like with respect to the Property, including, without limitation, a re-zoning petition, one or more zoning variances, and an application to vacate an alley adjacent to the Property (collectively, the "Necessary Approvals"). I hereby consent to the Purchaser making all necessary and appropriate submissions to the applicable governmental authorities in connection with the Necessary Approvals, and agree that my signature below may be used in substitution for any signatures required of the owner of the Property for such submissions. I hereby agree that Purchaser may represent petitions, applications and the like before the Area Plan Commission, City Council and other applicable governmental authorities, and may answer any and all questions thereon.



GEORGE KALAFAT



LIMITED POWER OF ATTORNEY

Area Plan Commission of St. Joseph County, IN
1140 County-City Bldg., 227 W. Jefferson Blvd.
South Bend, IN 46601

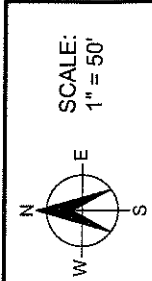
RE: 736 Lincolnway West, South Bend, IN 46616; 726 Lincolnway West, South Bend, IN 46616; 430 Cushing Street, South Bend, IN 46616; and 18 VAC L6 50X189 LWW, South Bend, IN 46601; PIN#: 71-08-02-458-001.000-026, 71-08-08-458-010.000-026, 71-08-02-458-002.000-026, and 71-08-02-458-011.000-026 (collectively, the "Property")

To Whom It May Concern:

I am the current owner of the Property. The Property is the subject of that certain Purchase and Sale Agreement dated as of October 15, 2015 (as amended, the "Contract"). I hereby acknowledge that FD South Bend Indiana Lincoln Way and Cushing Street, LLC, its successors, assigns, affiliates, agents, and attorneys (collectively, the "Purchaser"), will be pursuing certain petitions, applications and the like with respect to the Property, including, without limitation, a re-zoning petition, one or more zoning variances, and an application to vacate an alley adjacent to the Property (collectively, the "Necessary Approvals"). I hereby consent to the Purchaser making all necessary and appropriate submissions to the applicable governmental authorities in connection with the Necessary Approvals, and agree that my signature below may be used in substitution for any signatures required of the owner of the Property for such submissions. I hereby agree that Purchaser may represent petitions, applications and the like before the Area Plan Commission, City Council and other applicable governmental authorities, and may answer any and all questions thereon.



WADAD EL-AMMORI



South Bend, IN
 424, 426, & 430 Cushing Street
 and 726 & 736 Lincoln Way West
 Store #0000 Project #000000

Zoning: MU, Mixed Use

Property Size:
 0.90 Acres ± 39,385 SF ±

Parking:
 Shown - 30
 Required - 29 (Ratio 3.5/1000 SF)

Prototype:
 2015-02

Setbacks:
 Building: Front: 5' min, 20' max
 Side: 0' or 5' min. If one provided
 Rear: 10'

Landscaping:
 Perimeter Yard:
 (1 shade tree for every 40' or 1 ornamental tree for every 25')

Residential Bufferland:
 (2 evergreen trees for every 25')

Interior Parking:
 (1 landscape island required for every 15 parking spaces. 1 Shade Tree or 1 Ornamental Tree or 1 Evergreen Tree per island)

Park Area Screen:
 (Compact row of shrubs at 3' on center. 36" maximum height)

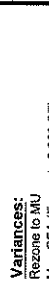
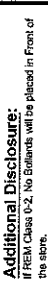
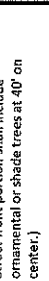
Plaza - Minimum front yard not used for building or parking:
 (Surfaced with concrete, brick or other hard surface paver, except for area used for trees, lawn area, or planters. Street front portion shall include ornamental or shade trees at 40' on center.)

Additional Disclosure:
 If Rear Clause 02, No Buildings will be placed in Front of the store.

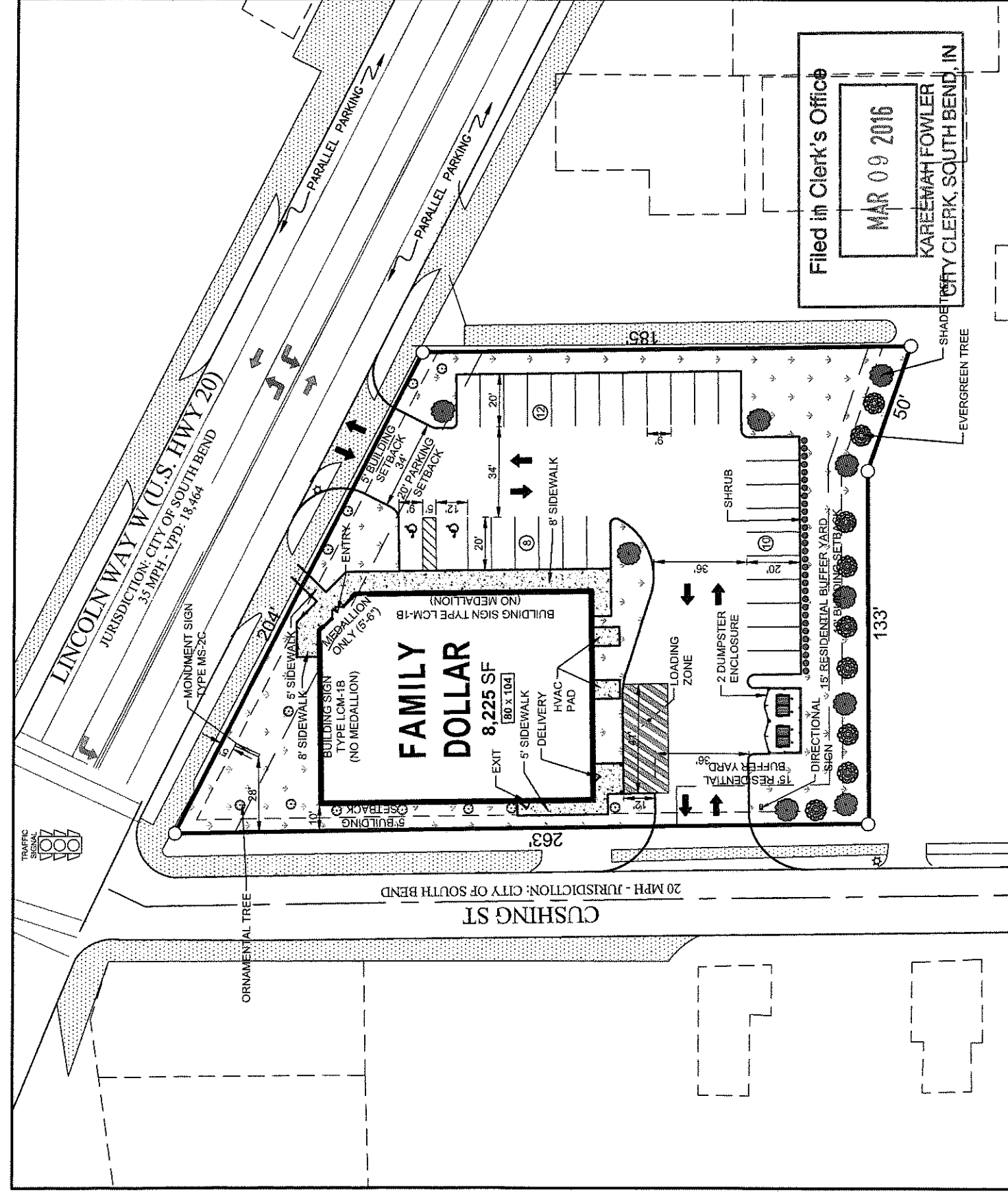
Variations:
 Rezone to MU
 Max GFA (Exceeds 6,000 SF)
 Front Parking Setback

March 7, 2016

Prepared For:

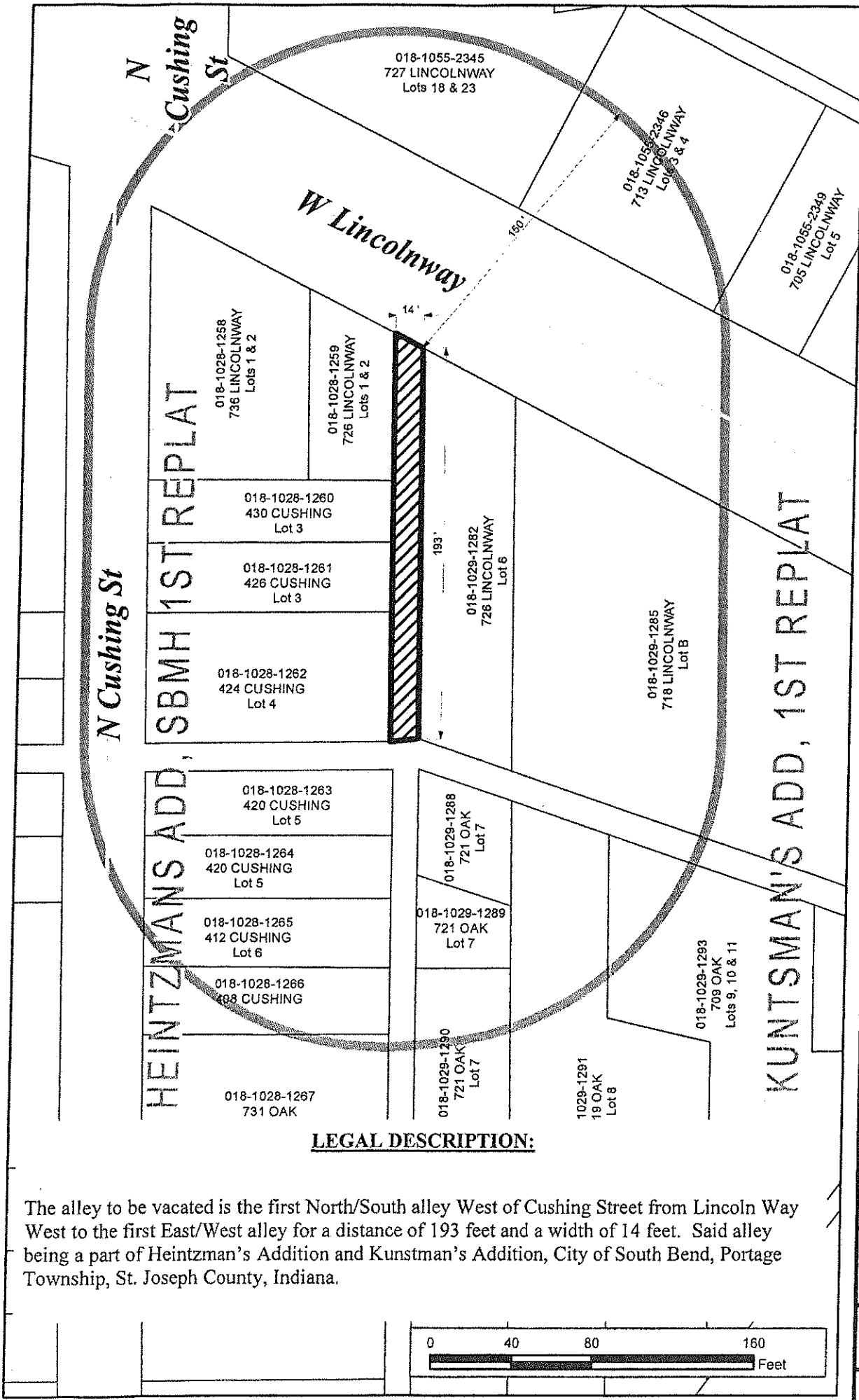


Atwater Group
 Phone 312.332.0690



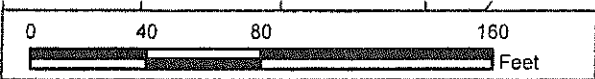
Filed in Clerk's Office
 MAR 09 2016
 KAREEMAH FOWLER
 CITY CLERK, SOUTH BEND, IN

SITE PLAN FOR THIS PROPERTY IS BASED ON INFORMATION PROVIDED BY THE PURCHASER OF SAID PROPERTY OR THE DEVELOPER. PLAN ACCURACY DEPENDS ENTIRELY UPON THE INFORMATION PROVIDED AND IS MADE WITHOUT THE BENEFIT OF A BOUNDARY SURVEY WHICH MAY DEPICT EASEMENTS, SETBACKS, ETC., NOT SHOWN. FINAL BOUNDARY LINE INFORMATION AND AREA SHOWN IS SUBJECT TO CHANGE BASED ON THE FINAL BOUNDARY SURVEY.



LEGAL DESCRIPTION:

The alley to be vacated is the first North/South alley West of Cushing Street from Lincoln Way West to the first East/West alley for a distance of 193 feet and a width of 14 feet. Said alley being a part of Heintzman's Addition and Kunstman's Addition, City of South Bend, Portage Township, St. Joseph County, Indiana.



Filed in Clerk's Office

MAR 09 2016

KAREEMAH FOWLER
CLERK, SOUTH BEND, IN

Alley Vacation

Cushing & Lincolnway

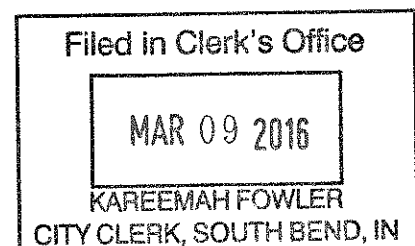
City of South Bend
Dept. of Public Works
227 W Jefferson Blvd. #1316
South Bend, IN 46601
Phone: (574) 235-9251
Fax: (574) 235-9171

Project No.

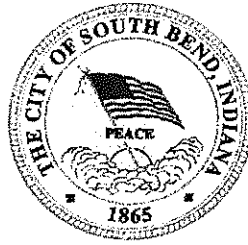
Page No.

Date

PIN	Owner Name	Owner Address
018-1055-2345	South Bend Heritage Foundation INC	803 Lincolnway West South Bend, IN 46616
018-1055-2346	South Bend Heritage Foundation INC	803 Lincolnway West South Bend, IN 46616
018-1055-2349	Lincolnway Mini Mart INC	705 Lincolnway West South Bend, IN 46616
018-1029-1285	Louie's Tux Shop	716 Lincolnway West South Bend, IN 46616
018-1029-1293	Louie's Tux Shop	716 Lincolnway West South Bend, IN 46616
018-1029-1291	Blake Bemis and Hardy Jr. and David & Fred S and Robert E and Walter A Fros Blake Louise Life Estate	719 West Oak Street South Bend, IN 46616
018-1029-1288	Anthony Sanders & Dwight Sanders	1030 West Jefferson Street Franklin, IN 46131
018-1029-1289	Patricia Smith & Konsyln Smith JT W/FROS	817 O'Brien Street South Bend, IN 46628
018-1029-1290	Blake Bemis and Hardy Jr. and David & Fred S and Robert E and Walter A Fros Blake Louise Life Estate	721 West Oak Street South Bend, IN 46616
018-1028-1266	N/A	N/A
018-1028-1265	Lincoln Park Development LLC	724 West Washington Street South Bend, IN 46601
018-1028-1264	Pierre Smith	310 South Kentucky Street South Bend, IN 46619
018-1028-1263	Pierre Smith	310 South Kentucky Street South Bend, IN 46619
018-1028-1267	Jesus Juarez & Francesca Juarez	731 West Oak Street South Bend, IN 46616



1316 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/235-9251
FAX 574/235-9171

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
BOARD OF PUBLIC WORKS

November 10, 2015

David Yontz, Attorney
Dubin Singer, PC
123 N. Wacker Drive
Chicago, IL 60606

RE: Alley Vacation – First North/South Alley South of Lincolnway West to the First East/West Alley between Cushing St. and Scott St. (Preliminary Review)

Dear Mr. Yontz:

The Board of Public Works, at its November 10, 2015 meeting, reviewed comments by the Engineering Division, Area Plan Commission, Community Investment, Fire Department, Police Department, and the Solid Waste Division. The following comments and recommendations were:

Area Plan stated that the vacation would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous. The vacation would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. The vacation would not hinder the public's access to a church, school or other public building or place. The vacation would not hinder the use of a public right of way by the neighborhood in which it is located or to which it is contiguous.

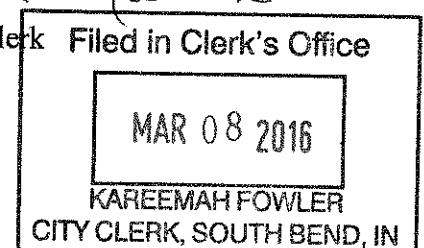
Therefore, the Board of Public Works submitted a favorable recommendation for the vacation of this alley subject to all aggrieved property owners being notified prior to the vacation.

Please contact Tony Molnar at (574) 235-9254 prior to picking up your radius map. You will need a radius map showing properties within 150' of the proposed vacation for your petition to the Common Council. Once you pick up the radius map, proceed to the City Clerk's office for your alley vacation packet.

Sincerely,

Linda M. Martin, Clerk

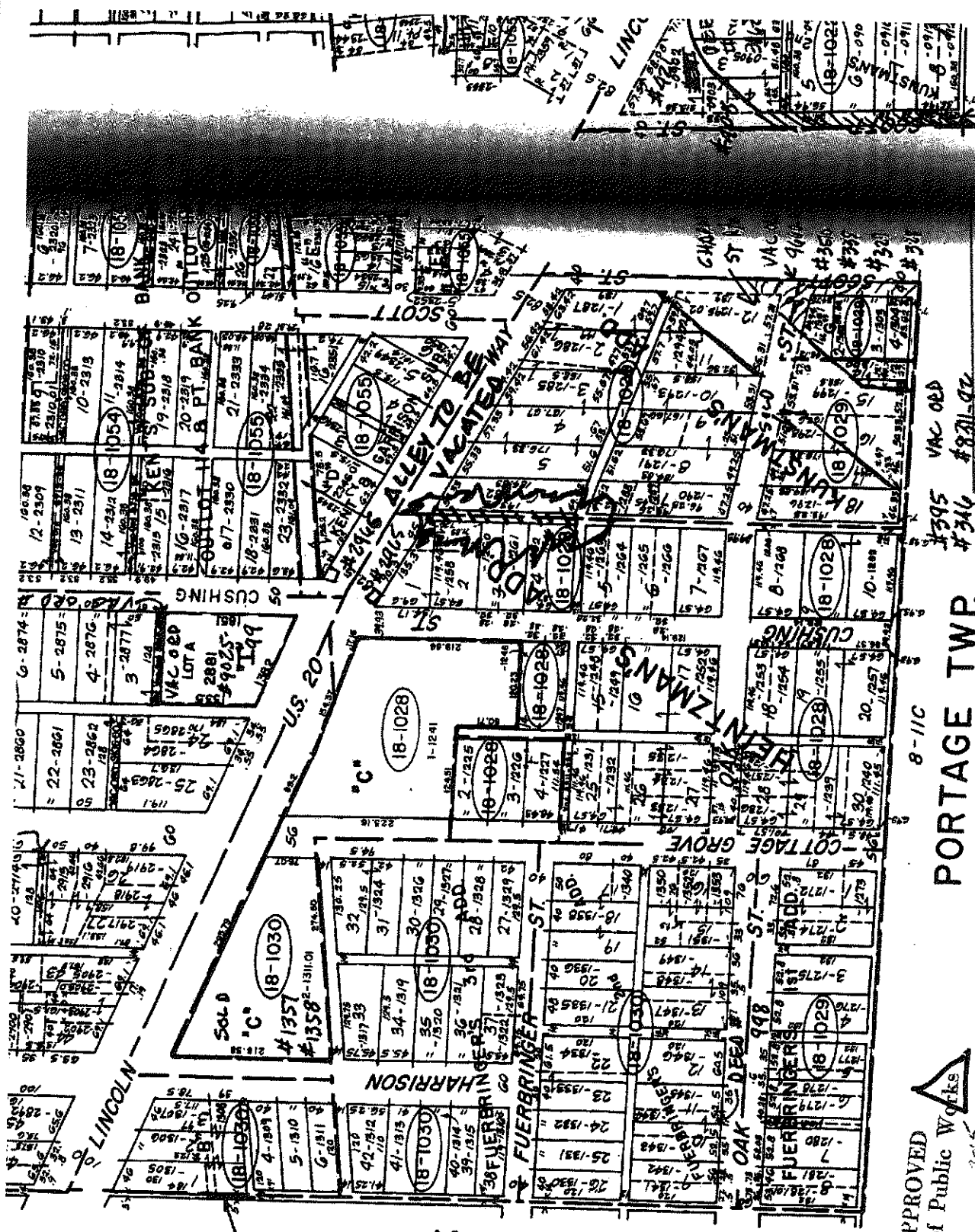
c: Federico Rodriguez, Fire Dept.
Tony Molnar, Engineering
Janice Talboom, City Clerk's Office



PETTONER &
CONTACTS

DAVID WYONTS
ATTORNEY DEED #46
312-801-8752
DUBIN SINGER
123 WACKER DR
CHICAGO, IL 60606

PURPOSE:
RE-DEVELOPE
SITE ON BOTH
SIDES OF ALLEY



REVISED 2004
Revised Copyright
Copyright 1986
THE SIDWELL COMPANY

APPROVED
Board of Public Works
SCALE: 1" = 100'
8-2G

NOV 10 2011
2011
[Signature]
[Signature]

PORTAGE TWP.
W.1/2 S.E.1/4 SEC. 2 T.37N. R.2E.

#395 VAC ORD
#346 #821-92
#357

Filed in Clerk's Office

MAR 08 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND

VAC # 968-06
ORD # 968-06
EASE #



INTER-OFFICE MEMORANDUM
BOARD OF PUBLIC WORKS

DATE SENT: 10/19/2015

TO: Pete Kaminski, Street Department
Mike Bronstetter, Solid Waste
Corbitt Kerr, Engineering Department
Jitin Kain, Community Investment
Federico Rodriguez, Fire Department
Larry Magliozzi, Area Plan Commission (lmaglioz@co.st-joseph.in.us or 235-9813 fax)
Gene Eyster, Police Department
Phil Griffin, NIPSCO (pmgriffin@nisource.com) (FYI Only)
Linda M. Martin, Clerk *LM*

FROM: **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

SUBJECT: **REQUEST FOR RECOMMENDATION – ALLEY VACATION**

APPLICANT: **David Younts Attorney/Dubin Singer**

LOCATION: **First N/S Alley South of Lincolnway West to first E/W Alley between Cushing and Scott St.**

DATE DUE: **October 20, 2015**

FAX OR E-MAIL TO: **235-9171 / lmartin@southbendin.gov**

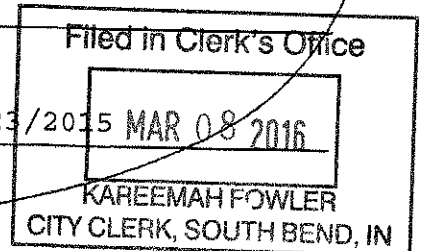
PLEASE MAKE YOUR RECOMMENDATIONS BASED ON THE FOLLOWING
IC 36-7-3-13 CRITERIA:

1. The vacation ~~would~~/would not hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
2. The vacation ~~would~~/would not make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
3. The vacation ~~would~~/would not hinder the public's access to a church, school or other public building or place.
4. The vacation ~~would~~/would not hinder the use of a public right-of-way by the neighborhood in which it is located or to which it is contiguous.

COMMENTS:

By Matthew P. Chappuies, Planner
Area Plan Commission

Date 10/23/2015



Elizabeth Horvath

From: Eugene Eyster
Sent: Tuesday, October 20, 2015 8:38 AM
To: Elizabeth Horvath
Cc: Pete Kaminski; Michael Bronstetter; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozi
Subject: Re: Alley Vacation - David Younts Attorney/Dubin Singer

Ms. Horvath,
The Police Department would give this request a favorable recommendation.

Lt. Eyster

Sent from my iPad

On Oct 20, 2015, at 08:33, Elizabeth Horvath <lhovath@southbendin.gov> wrote:

Please provide your recommendations.

Lizzy Horvath

Secretary

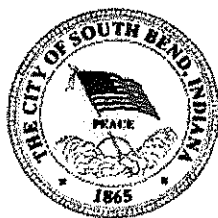
Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov



<Alley Vacation - David Younts Attorney-Dubin Singer.pdf>

Elizabeth Horvath

From: Federico Rodriguez
Sent: Tuesday, October 20, 2015 8:48 AM
To: Elizabeth Horvath
Subject: RE: Alley Vacation - David Younts Attorney/Dubin Singer

Favorable S.B.F.D.



Federico (Chico) Rodriguez
Fire Marshal
Office: (574) 235-7564
Mobile: (574) 876-6734
1222 S. Michigan Street
City of South Bend, In 46601
frodrigu@southbendin.gov

From: Elizabeth Horvath
Sent: Tuesday, October 20, 2015 8:34 AM
To: Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - David Younts Attorney/Dubin Singer

Please provide your recommendations.

Lizzy Horvath

Secretary

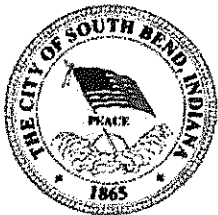
Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov



Linda Martin

From: Michael Divita
Sent: Wednesday, October 21, 2015 12:28 PM
To: Linda Martin
Cc: Jitin Kain
Subject: FW: Alley Vacation - David Younts Attorney/Dubin Singer
Attachments: Alley Vacation - David Younts Attorney-Dubin Singer.pdf

DCI recommends vacation of the alley near Lincolnway West and Cushing Street. Vacation of the alley would not appear to limit appropriate access (the alley is little used and does not have direct access to LWW), and its vacation would assist in creating a larger development site. The Lincolnway West frontage on both sides of this alley is owned by the same individual.

The relationship between the petitioner and any of the adjoining property owners is unclear. I assume the petitioner is the attorney for one of the adjacent property owners or a contingent purchaser.



Michael Divita
Planner
Department of Community Investment
City of South Bend
227 W. Jefferson Blvd., Suite 1400S
South Bend, IN 46601
(574) 235-5843
mdivita@southbendin.gov

From: Jitin Kain
Sent: Tuesday, October 20, 2015 3:48 PM
To: Michael Divita <mdivita@southbendin.gov>
Subject: FW: Alley Vacation - David Younts Attorney/Dubin Singer

Mike- please review and forward your recommendation.

Thanks,
Jitin



Jitin Kain
Director, Planning
Department of Community Investment
(574) 235-5835
jkain@southbendin.gov
City of South Bend
227 W. Jefferson Blvd., Suite 1400 S.
South Bend, IN 46601

SMART STREETS

Elizabeth Horvath

From: Michael Bronstetter
Sent: Wednesday, October 21, 2015 9:28 AM
To: Elizabeth Horvath; Pete Kaminski; Patrick C. Kerr; Jitin Kain; Federico Rodriguez; Larry Magliozzi; Eugene Eyster
Subject: RE: Alley Vacation - David Younts Attorney/Dubin Singer

Solid Waste sends a favorable request. This alley vacation will not affect trash collection.

Thanks,

Mike Bronstetter
Manager Of Solid Waste

Sent via the Samsung Galaxy Tab® S, an AT&T 4G LTE tablet

----- Original message -----

From: Elizabeth Horvath <lhorvath@southbendin.gov>
Date: 10/20/2015 8:33 AM (GMT-05:00)
To: Pete Kaminski <pkaminsk@southbendin.gov>, Michael Bronstetter <mbronste@southbendin.gov>, "Patrick C. Kerr" <pckerr@southbendin.gov>, Jitin Kain <jkain@southbendin.gov>, Federico Rodriguez <frodrigu@southbendin.gov>, Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>, Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - David Younts Attorney/Dubin Singer

Please provide your recommendations.

Lizzy Horvath

Secretary

Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhorvath@southbendin.gov

Elizabeth Horvath

From: Patrick C. Kerr
Sent: Thursday, November 05, 2015 10:19 AM
To: Elizabeth Horvath
Subject: RE: Alley Vacation - David Younts Attorney/Dubin Singer

No Objections

From: Elizabeth Horvath
Sent: Tuesday, October 20, 2015 8:34 AM
To: Pete Kaminski <pkaminsk@southbendin.gov>; Michael Bronstetter <mbronste@southbendin.gov>; Patrick C. Kerr <pckerr@southbendin.gov>; Jitin Kain <jkain@southbendin.gov>; Federico Rodriguez <frodrigu@southbendin.gov>; Larry Magliozzi <LMAGLIOZ@co.st-joseph.in.us>; Eugene Eyster <eeyster@southbendin.gov>
Subject: Alley Vacation - David Younts Attorney/Dubin Singer

Please provide your recommendations.

Lizzy Horvath

Secretary

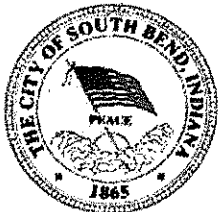
Department of Public Works

227 W. Jefferson Blvd., Suite 1316

South Bend, IN 46601

574-235-3168

lhovath@southbendin.gov





The South Bend Common Council

227 West Jefferson Boulevard, Room 441

Downtown South Bend, Indiana 46601

574.235.9321 574.235.5567 TDD

March 29, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Substitute Bill No. 07-16 City Flag Ordinance

Dear Council Members:

We are submitting Substitute Bill No. 07-16 which would amend the *City Code* by official approving the new official City Flag for the City of South Bend and including it in our *Code*.


The only changes to this proposed ordinance are set forth in the "Statement of Purpose and Intent". We believe that the three (3) finalists who submitted flag designs should be credited, namely Garrett Gingerich, Jeffrey Koenig, and Jesse Villagrana. The final flag design was the work product of Garrent Gingerich who incorporated suggestions from public input received, and creatively integrated elements of each of the three designs which were submitted. The actual language set forth in proposed *South Bend Municipal Code* Section 1-5.1 City Flag, is identical to the language submitted to the Office of the City Clerk on March 9th.

We request that this Bill be sent to Council's Community Relations Committee. We are honored to sponsor this proposed new City Flag ordinance and seek your unanimous support.

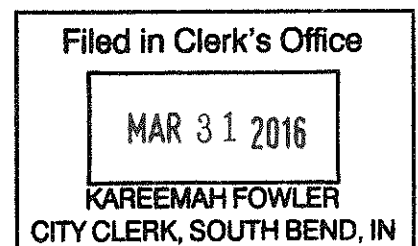
Thank you.

Most sincerely,


Tim Scott, Council President
1st District Council Member


Gavin Ferlic, Council Member at Large
South Bend Common Council

Attachment



Substitute Bill No. 07-16

Ordinance No. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING, CHAPTER 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE
INCLUSION OF NEW SECTION 1-5.1 ENTITLED CITY FLAG**

STATEMENT OF PURPOSE AND INTENT

The current South Bend City Flag dates back to the City of South Bend's Centennial Celebrations in 1965. The flag depicts a reproduction of the City Seal on a yellow background.

On November 9, 2015, the South Bend Common Council adopted Resolution No. 4509-15. That Resolution encouraged public participation in the City of South Bend Flag Design Contest and set forth governing rules and regulations regarding the process for formal approval of a new City Flag. The general flag submission instructions were developed which included color suggestions, themes to reflect upon, and a requirement that all proposed designs adhere to the North American Vexillological Association's five basic principles of flag design.

The City Flag Contest was the culminating event of South Bend 150 celebrations marking the City's sesquicentennial. The new design is a unifying and recognizable symbol of the city that captures the spirit of South Bend's past, present and future.

Over 200 flag designs were submitted for consideration. A flag design committee consisting of professional designers, marketing professionals, a vexillologist, city officials, and SB150 representatives narrowed down all entries to three (3) designs. The finalist designs were submitted by South Bend residents Garrett Gingerich and Jeffrey Koenig, and Jesse Villagrana, an IU South Bend student. The designs were displayed as part of the First Friday festivities in December 2015 and on the South Bend 150 website, sb150.com, which resulted in over 1,000 comments being received. The feedback was compiled and evaluated. The committee commissioned Garrett Gingerich to produce a final design which incorporated the public input and integrated elements of the three (3) final designs. The final design was donated, free of charge, to the City of South Bend and will be available without charge for the community's open-source use.

Section IV of Council Resolution 4509-15 provided in part that the final flag design would require the passage of a city ordinance which would incorporate appropriate regulations addressing "...its display and use at public functions, as well as retiring and disposal of a City Flag when it is no longer a fitting emblem for display, and other appropriate regulations". That Resolution also called for the adoption of a separate "formal Resolution setting forth the date and proper procedures to retire the current City Flag to a place of honor".

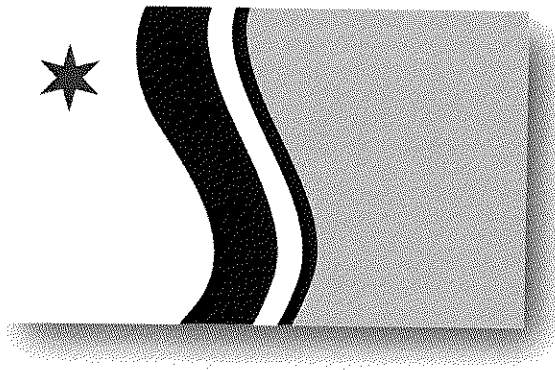
This ordinance upon passage would formally adopt a new City Flag for the City of South Bend, Indiana, and would codify the City Flag provisions into the *South Bend Municipal Code*.

Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows.

Section I. Chapter 1 of the *South Bend Municipal Code* is amended by the inclusion of new Section 1-5.1 which shall read in its entirety as follows:

Sec. 1-5.1 City Flag.

(a) The official City Flag for the City of South Bend, Indiana, is depicted as follows:



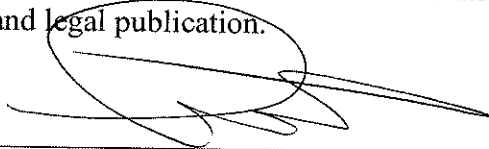
The new flag has a red six-pointed star on a white field, a yellow field opposite it, and two blue S-shaped lines with a white stripe in between. The six points of the star represent the City's (6) Council Districts, while the first blue and white lines evoke the river at the heart of South Bend, our physical and virtual connectivity, and our industrial roots.

(b) The following protocol standards are established:

1. The City Flag shall be displayed on city property with honor and shall be flown with dignity and respect.
2. The City Flag may be displayed in municipal offices and on city property, carried in parades and displayed at other occasions and locations.
3. The Mayor or his designee is authorized to order the raising or lowering to a half-mast position of City Flags at properties and facilities owned or operated by the City of South Bend, or on the grounds of the County-City Building.
4. When a City Flag is no longer a fitting emblem for display and becomes unserviceable or when it becomes faded or torn, it should be retired from further service with respect.
5. In the interest of fostering deep civic pride, the colors, design and theme of the City Flag of South Bend may be creatively and enthusiastically promoted as an open-source design to be embraced throughout our City.

Section II. 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 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.



Tim Scott, 1st District Council Member
South Bend Common Council President



Gavin Ferlic, Council Member at Large
South Bend Common Council

Attest:

Office of the City Clerk

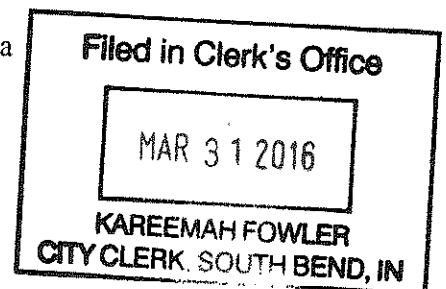
Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the _____ day of _____, 2016, at _____ o'clock ____ . m.

Office of the City Clerk

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

Pete Buttigieg, Mayor
City of South Bend, Indiana

1st READING
PUBLIC HEARING
2nd READING
NOT APPROVED
REFERRED
PASSED





The South Bend Common Council
227 West Jefferson Boulevard, Room 441
Downtown South Bend, Indiana 46601
574.235.9321 574.235.5567 TDD

April 7, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Substitute Bill No. 07-16 City Flag

Dear Council Members:


We respectfully request that the proposed City Flag ordinance not be heard at the April 11th Common Council meeting.

As you will recall, South Bend Common Council Resolution 4509-15 which was adopted on November 9, 2015 set forth guidelines which require an additional Resolution to be considered by the Council which would address the procedures to retire our current City Flag to a "place of honor". Additional time is therefore needed. We will have a new date by the time of the Community Relations Committee next Monday.

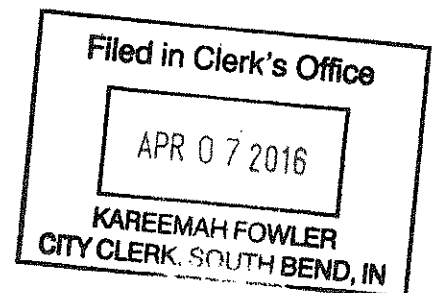
Thank you for your consideration.

Sincerely,


Tim Scott
Council President


Gavin Ferlic
Council Member at Large

cc: Mayor Pete Buttigieg
James Mueller, Chief of Staff to the Mayor
Aaron Perri, Park Superintendent
Kareemah Fowler, City Clerk





The South Bend Common Council

227 West Jefferson Boulevard, Room 441
Downtown South Bend, Indiana 46601
574.235.9321 574.235.5567 TDD

March 29, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Substitute Bill No. 07-16 City Flag Ordinance

Dear Council Members:

We are submitting Substitute Bill No. 07-16 which would amend the *City Code* by official approving the new official City Flag for the City of South Bend and including it in our *Code*.

The only changes to this proposed ordinance are set forth in the "Statement of Purpose and Intent". We believe that the three (3) finalists who submitted flag designs should be credited, namely Garrett Gingerich, Jeffrey Koenig, and Jesse Villagrana. The final flag design was the work product of Garrent Gingerich who incorporated suggestions from public input received, and creatively integrated elements of each of the three designs which were submitted. The actual language set forth in proposed *South Bend Municipal Code* Section 1-5.1 City Flag, is identical to the language submitted to the Office of the City Clerk on March 9th.

We request that this Bill be sent to Council's Community Relations Committee. We are honored to sponsor this proposed new City Flag ordinance and seek your unanimous support.

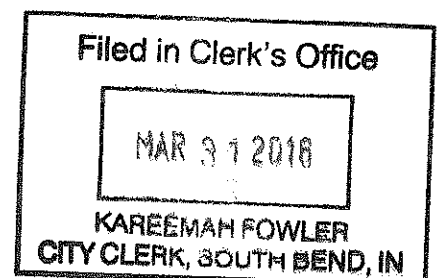
Thank you.

Most sincerely,

Tim Scott, Council President
1st District Council Member

Gavin Ferlic, Council Member at Large
South Bend Common Council

Attachment



Substitute Bill No. 07-16

Ordinance No. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING, CHAPTER 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE
INCLUSION OF NEW SECTION 1-5.1 ENTITLED CITY FLAG**

STATEMENT OF PURPOSE AND INTENT

The current South Bend City Flag dates back to the City of South Bend's Centennial Celebrations in 1965. The flag depicts a reproduction of the City Seal on a yellow background.

On November 9, 2015, the South Bend Common Council adopted Resolution No. 4509-15. That Resolution encouraged public participation in the City of South Bend Flag Design Contest and set forth governing rules and regulations regarding the process for formal approval of a new City Flag. The general flag submission instructions were developed which included color suggestions, themes to reflect upon, and a requirement that all proposed designs adhere to the North American Vexillological Association's five basic principles of flag design.

The City Flag Contest was the culminating event of South Bend 150 celebrations marking the City's sesquicentennial. The new design is a unifying and recognizable symbol of the city that captures the spirit of South Bend's past, present and future.

Over 200 flag designs were submitted for consideration. A flag design committee consisting of professional designers, marketing professionals, a vexillologist, city officials, and SB150 representatives narrowed down all entries to three (3) designs. The finalist designs were submitted by South Bend residents Garrett Gingerich and Jeffrey Koenig, and Jesse Villagrana, an IU South Bend student. The designs were displayed as part of the First Friday festivities in December 2015 and on the South Bend 150 website, sb150.com, which resulted in over 1,000 comments being received. The feedback was compiled and evaluated. The committee commissioned Garrett Gingerich to produce a final design which incorporated the public input and integrated elements of the three (3) final designs. The final design was donated, free of charge, to the City of South Bend and will be available without charge for the community's open-source use.

Section IV of Council Resolution 4509-15 provided in part that the final flag design would require the passage of a city ordinance which would incorporate appropriate regulations addressing "...its display and use at public functions, as well as retiring and disposal of a City Flag when it is no longer a fitting emblem for display, and other appropriate regulations". That Resolution also called for the adoption of a separate "formal Resolution setting forth the date and proper procedures to retire the current City Flag to a place of honor".

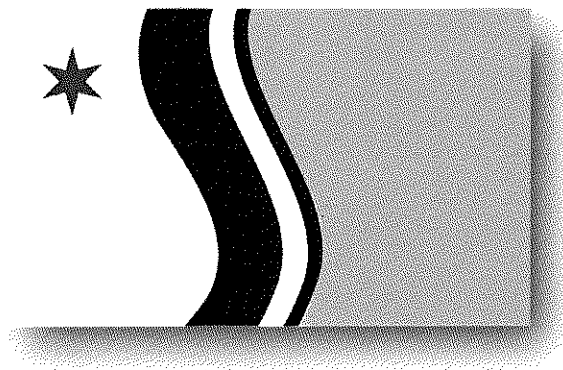
This ordinance upon passage would formally adopt a new City Flag for the City of South Bend, Indiana, and would codify the City Flag provisions into the *South Bend Municipal Code*.

Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows:

Section I. Chapter 1 of the *South Bend Municipal Code* is amended by the inclusion of new Section 1-5.1 which shall read in its entirety as follows:

Sec. 1-5.1 City Flag.

(a) The official City Flag for the City of South Bend, Indiana, is depicted as follows:



The new flag has a red six-pointed star on a white field, a yellow field opposite it, and two blue S-shaped lines with a white stripe in between. The six points of the star represent the City's (6) Council Districts, while the first blue and white lines evoke the river at the heart of South Bend, our physical and virtual connectivity, and our industrial roots.

(b) The following protocol standards are established:

1. The City Flag shall be displayed on city property with honor and shall be flown with dignity and respect.
2. The City Flag may be displayed in municipal offices and on city property, carried in parades and displayed at other occasions and locations.
3. The Mayor or his designee is authorized to order the raising or lowering to a half-mast position of City Flags at properties and facilities owned or operated by the City of South Bend, or on the grounds of the County-City Building.
4. When a City Flag is no longer a fitting emblem for display and becomes unserviceable or when it becomes faded or torn, it should be retired from further service with respect.
5. In the interest of fostering deep civic pride, the colors, design and theme of the City Flag of South Bend may be creatively and enthusiastically promoted as an open-source design to be embraced throughout our City.

Section II. 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 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.

Tim Scott, 1st District Council Member
South Bend Common Council President

Gavin Ferlic, Council Member at Large
South Bend Common Council

Attest:

Office of the City Clerk

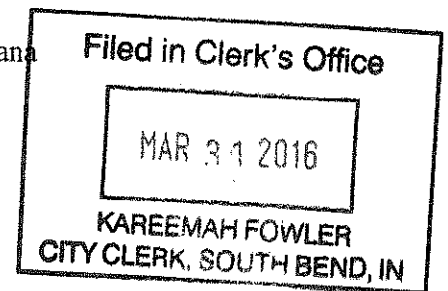
Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the ____ day of _____, 2016, at _____ o'clock __. m.

Office of the City Clerk

Approved and signed by me on the ____ day of _____, 2016, at ____ o'clock __.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

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





The South Bend Common Council

227 West Jefferson Boulevard, Room 441
Downtown South Bend, Indiana 46601
574.235.9321 574.235.5567 TDD

March 9, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: City Flag Ordinance

Dear Council Members:

We are pleased to introduce a proposed ordinance which would amend the *City Code*. It proposes to add a new provision addressing the new official City Flag for the City of South Bend.

The excitement which the City Flag Design Contest has had as part of the SB150 Celebration far exceeded everyone's imagination.

We request that this Bill be sent to Council's Community Relations Committee. We are honored to sponsor this proposed ordinance and seek your unanimous support.

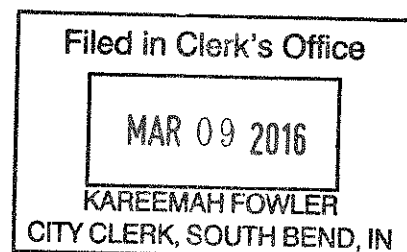
Thank you.

Most sincerely,

Tim Scott, Council President
1st District Council Member

Gavin Ferlic, Council Member at Large
South Bend Common Council

Attachment



Bill No. _____

Ordinance No. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, AMENDING, CHAPTER 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE
INCLUSION OF NEW SECTION 1-5.1 ENTITLED CITY FLAG

STATEMENT OF PURPOSE AND INTENT

The current South Bend City Flag dates back to the City of South Bend's Centennial Celebrations in 1965. The flag depicts a reproduction of the City Seal on a yellow background.

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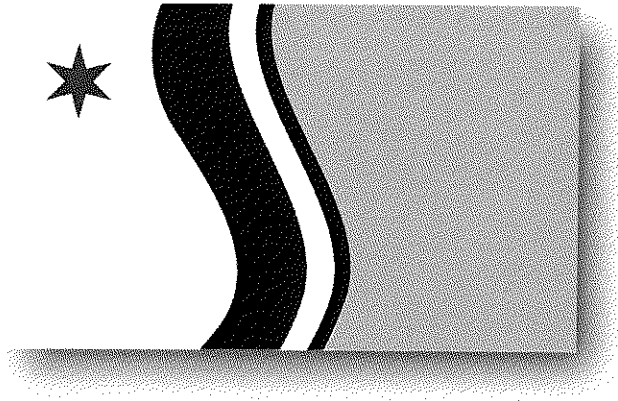
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Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows:

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Sec. 1-5.1 City Flag.

(a) The official City Flag for the City of South Bend, Indiana, is depicted as follows:



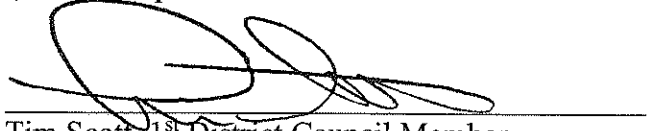
The new flag has a red six-pointed star on a white field, a yellow field opposite it, and two blue S-shaped lines with a white stripe in between. The six points of the star represent the City's (6) Council Districts, while the first blue and white lines evoke the river at the heart of South Bend, our physical and virtual connectivity, and our industrial roots.

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5. In the interest of fostering deep civic pride, the colors, design and theme of the City Flag of South Bend may be creatively and enthusiastically promoted as an open-source design to be embraced throughout our City.

Section II. 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 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.



Tim Scott, 1st District Council Member
South Bend Common Council President



Gavin Ferlic, Council Member at Large
South Bend Common Council

Attest:

Office of the City Clerk

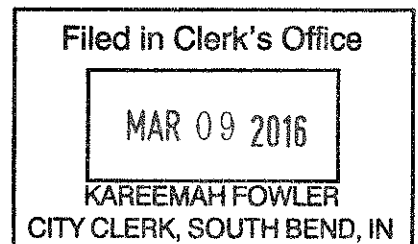
Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the ____ day of _____, 2016, at _____ o'clock __. m.

Office of the City Clerk

Approved and signed by me on the ____ day of _____, 2016, at ____ o'clock __.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

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





The South Bend Common Council
227 West Jefferson Boulevard, Room 441
Downtown South Bend, Indiana 46601
574.235.9321 TDD 574.235.5567

March 9, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Proposed Landlord Registration Program

Dear Council Members:

Following a series of discussions with representatives of the City Administration representing the Code Enforcement Department, the Law Department, the Police Department, and the Human Rights Office, as well as with input from individuals involved in the real estate used for renting, and neighborhood groups and organizations, we are pleased to introduce for your consideration and approval a proposed ordinance which would create a Landlord Registration Program in the City of South Bend.

We have reviewed landlord registration best practices implemented throughout the country. We have also studied landlord registration programs which have been in effect in several Indiana communities. Two ordinances in particular were carefully studied - Indianapolis and Evansville – in light of the fact that they were passed after the new Indiana state laws were enacted in 2014. We also reviewed Elkhart’s ordinance which was updated in 2007; Goshen’s ordinance which was last updated in 2006; along with rental registration regulations in effect Bloomington, Gary, Hammond, Elkhart, and Valparaiso.


A common theme in all of these regulations focused on landlords as “responsible stewards of their property, working with the municipality to ensure safe, clean neighborhoods”.

It is acknowledged that the Indiana General Assembly has restricted the ability of a municipality to regulate in this area. The proposed regulations are believed to be consistent with the governing state law regulations which are believed to be in the best interests of the City of South Bend. We look forward to receiving your input and seek your support. Thank you.

Most sincerely,

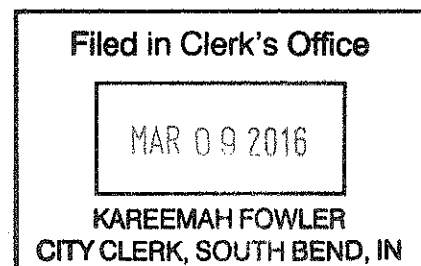


Tim Scott, 1st District Council Member
South Bend Common Council



Karen L. White, Council Member at Large
South Bend Common Council

Attachment



BILL No. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA,
AMENDING CHAPTER 6 OF THE *SOUTH BEND MUNICIPAL CODE* BY THE INCLUSION OF NEW
ARTICLE 10 ENTITLED LANDLORD REGISTRATION PROGRAM

STATEMENT OF PURPOSE AND INTENT

The South Bend Common Council, in collaboration with the City Administration, believe that the following landlord registration program is in the best interests of the City of South Bend. The regulations have been carefully drafted to comply with the new governing Indiana state law. In 2014, the Indiana Association of Realtors (IAR) worked with the Indiana General Assembly to pass HEA 1403 which “caps the amount a local unit can charge for landlord registry fees at \$5.00...” Some of the benefits of having such a local program which would incorporate best practices focus on:

- Acknowledging data from the U.S. Census Bureau last revised on December 2, 2015 which reported that 43.3 % of housing units in the City of South Bend are rental units
- Developing positive and improved communications and exchange of information among landlords, tenants and the community
- Maintaining a registration program which assembles accurate information and which is informative for landlords, tenants and the general public
- Enhancing housing quality and neighborhood stability through an improved informational system on rental properties

In the preparation of the proposed regulations, several ordinances and best practices were carefully reviewed with a particular emphasis on two (2) city ordinances which were passed after the new state law took effect. These included the Indianapolis landlord registration regulations, which took effect on January 1, 2015, as well as the rental registration program in Evansville which was approved on September 8, 2014, when their Council passed Ordinance No. G-2014-29.

Annual registration of property owners with the Department of Code Enforcement along with a fee of \$ 5.00 per property owner will be required. Failure to register would result in a \$500 fine.

The City of South Bend’s government website maintains a “Ten Tips Every Landlord Should Know” program in the interest of furthering collaboration between landlords and tenants. The City believes that the proposed registration program will enhance such opportunities throughout South Bend. The City’s website will be updated to include information on the Landlord Registration Program as part of its proactive outreach to the community.

Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows:

Section I. Chapter 6 of the *South Bend Municipal Code* is amended by the inclusion of new Article 10 which shall read in its entirety as follows:

Article 10. Landlord Registration Program.

Sec. 6-40 Establishment of Landlord Registration Program.

- (a) Effective June 30, 2014, political subdivisions in the State of Indiana were authorized to establish and enforce registration programs for rental units within their jurisdiction, subject to certain conditions and limitations.
- (b) The South Bend Landlord Registration Program is established pursuant to the authority granted by the state.¹

Sec. 6-41 Definitions.

- (a) For purposes of this Article, the following definitions shall apply:
 - (1) *City* means the City of South Bend, Indiana.
 - (2) *Commercial domicile* has the meaning set forth in *Indiana Code* § 6-3-1-22.²
 - (3) *Department* means the Department of Code Enforcement established and addressed in Section 2-13 of the *South Bend Municipal Code*.
 - (4) *Landlord* has the meaning set forth in *Indiana Code* § 32-31-3-3.
 - (5) *Owner* has the meaning set forth in *Indiana Code* § 32-31-3-4.
 - (6) *Person* has the meaning set forth in *Indiana Code* § 32-31-3-5.
 - (7) *Rental unit* has the meaning set forth in *Indiana Code* § 32-31-3-8, except that an owner-occupied structure that:
 - i. Has no portion of the area thereof promised for the use of a residential unit; or
 - ii. Has a single sleeping unit being rented to a tenant shall not be considered a “Rental Unit”.
 - (8) *Rental unit community* has the meaning set forth in *Indiana Code* § 36-1-20-1.5.
 - (9) *Tenant* has the meaning set forth in *Indiana Code* § 32-31-3-10.
- (b) All definitions referred to in this section which incorporate the state law definitions shall reflect the most recent version of the state law definitions.

¹ Indiana House Enrolled Act 1403 (2014) added *Indiana Code* §36-1-20-1.5 defining “rental unit community”; amended Section 1 of *Indiana Code* §36-1-20-2, amended *Indiana Code* §36-1-20-3; added new sections *Indiana Code* §36-1-20-1.5, *Indiana Code* §36-1-20-4.1, *Indiana Code* §36-1-20-5, and *Indiana Code* §36-1-20-6.

² This definition is from Indiana’s tax regulations which requires the identification of the “principal place from which the trade or business of the taxpayer is directed or managed”.

Sec. 6-42 Registration Required and Elements of the Landlord Registration Program.³

- (a) Beginning September 15, 2016, all owners or landlords of rental units within the city must begin to register with the Department of Code Enforcement via a method or form prescribed by the department. However, to assist in the first-time implementation of the regulations under this Article, for calendar year 2016 only, registration shall be extended to December 30, 2016. The registration form shall include the following:
- (1) The name, telephone number, and the commercial domicile address of the owner’s physical business location. Additional listing of a secondary address which is not required to be physical, may also be given when used for availability to the public;
 - (2) The name and address of:
 - a. The person(s) residing in Indiana authorized to manage the rental unit; and
 - b. The person listed as the “responsible party” with the Internal Revenue Service;⁴ and
 - c. The person who is authorized to act as agent for the owner for purposes of service of process and receiving and receipting for notices and demands on record with the Indiana Secretary of State’s Business Services Division; and
 - d. The property manager, if any, licensed by the Indiana Real Estate Commission.⁵
 - (3) Real property tax identification key number of each rental unit and/or rental unit community which the owner or landlord is submitting for registration purposes under this Article;
 - (4) An affirmation of whether or not the rental units, the real property of which the rental units are a part, and any other rental unit property owned or registered by the owner in the city, are subject to any un-remediated citation or violation of the state and local codes and ordinances;
 - (5) An affirmation of whether or not there is more than one (1) delinquent payment of real property taxes, assessments, or penalties (other than those that are the subject of an ongoing appeal or bankruptcy proceeding) with respect to the property or any other rental unit property owned or registered by the owner in the city;

³ All landlords and owners are also required to comply to the applicable provisions of the City of South Bend’s Human Rights Ordinance which are codified in *South Bend Municipal Code* § 2-126 through § 2-132.1., as well as applicable provisions of federal and state laws which include but are not limited to the Fair Housing Act which is Title VIII of the Civil Rights Act of 1968 codified at 42 *United States Code* § 3601 *et seq.*; the Architectural Barriers Act of 1968 codified at 42 *United States Code* § 4151, *et seq.*; Title II of the Americans With Disabilities Act of 1990 (ADA), codified at 42 *United States Code* § 12131, *et seq.*; and the Indiana Civil Rights Act codified at *Indiana Code* § 22-9-5.

⁴ The Internal Revenue Service requires the disclosure of the “name and taxpayer identification number of the true responsible party for the entity requesting an Employer Identification Number (EIN)”.

⁵ *Indiana Code* § 25-34.1 sets for the Real Estate Brokers and Salespersons state law. Property management is covered under the broker and salesman’s licenses by including renting, leasing, and managing covered activities. Limited exemptions are provided for such as “owners who only regulate activities are in relation to a maximum of 12 apartment units located on a single or contiguous parcels of land may rent them without a license”.

- (6) A statement of the number of rental units on each separate parcel of real property covered by the registration.

In the event of affirmation that the owner or landlord acknowledges that he or she does have real property with un-remediated citations as addressed in sub-paragraph (4) and/or more than one (1) delinquent payment of items addressed in sub-paragraph (5), the applicant shall be required to work with the issuing Department or Agency to amicably resolve such matters.

- (b) Beginning September 15, 2016, an owner or landlord of a rental unit must pay to the Department of Code Enforcement an initial registration fee of five dollars (\$5.00), with all such fees deposited into the Landlord Registration Fund. However, to assist in the first-time implementation of the regulations under this Article, for calendar year 2016 only, registration shall be extended to December 30, 2016. Only one (1) registration fee is required for all rental units in a rental unit community. If a rental unit is not part of a rental unit community, a separate registration fee must be paid for each separate parcel of real property on which a rental unit is located, unless they are all registered at the same time.
- (c) In the event of a change of ownership, the new owner or landlord must, not later than thirty (30) days after the change of ownership, pay the registration fee of five dollars (\$5.00) and provide updated registration information to the Department of Code Enforcement. The effective date of new ownership will be the date the property was transferred or the date the deed was recorded, whichever occurs earlier.
- (d) Registrations must be renewed annually with the Department of Code Enforcement. The renewal fee shall be five dollars (\$5.00), with all such fees deposited into the Landlord Registration Fund.
- (e) The owner or landlord must notify in writing the Department of Code Enforcement within thirty (30) days of any changes to the registration information.

Sec. 6-43 Landlord Registration Fund.

A special fund designated as the “Landlord Registration Fund”, Fund No. 221, is created. It shall be a continuing, non-reverting fund, with all balances remaining therein at the end of the year, with such balances not reverting to the City’s General Fund. All fees assessed and collected under this Article shall be deposited into this fund, with such monies being dedicated solely to reimbursing the costs actually incurred which are related to the South Bend Landlord Registration Program. This fund will be subject to annual appropriation by the South Bend Common Council.

Sec. 6-44 Enforcement and Penalties

- (a) This Article shall be enforced by the Department of Code Enforcement or an authorized designee.
- (b) Failure to register as required by Section 6-42 of the *South Bend Municipal Code* is subject to a civil penalty of five hundred dollars (\$500.00) for each rental unit or rental unit community in violation.
- (c) Submitting an incomplete registration form is subject to a civil penalty of one hundred dollars (\$100.00).

- (d) Providing any false, material misrepresentation or false statement on each filing of a registration form required in Section 6-42 is subject to a civil penalty of two thousand five hundred dollars (\$2,500.00).
- (e) Failure to update the registration within thirty (30) days of a change in ownership and/or registration information, as required by Section 6-42 of the *South Bend Municipal Code*, is subject to a civil penalty of five hundred dollars (\$500.00).
- (f) Failure to renew the registration as required by Section 6-42 of the *South Bend Municipal Code* is subject to a civil penalty of five hundred dollars (\$500.00).
- (g) Civil penalties paid in response to violating this Article shall be deposited into Fund No. 221. Such civil penalty monies shall be kept segregated from fees deposited into this fund for accounting purposes, and shall be subject to appropriation by the South Bend Common Council for the replacement of curbs and/or sidewalks which may be located contiguous to a property registered under this program. Location determination shall be based on a public safety priority need basis, as determined by the City's Department of Public Works Director.
- (h) The penalties allowed under subsections (a) through (e) of this section may not be imposed until after:
 - (1) A notice of violation has been issued to the owner or the owner's designee by personal service or by first class United States Mail, postage prepaid;
 - (2) Passage of thirty (30) days from receipt of the notice, which must be stated in the notice, for the violation to be cured; and
 - (3) Failure of the violation to be cured within the time stated in the notice.

Sec. 6-45 Performance Measures and Reporting.

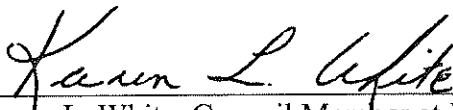
As part of the annual report, the Department of Code Enforcement shall measure the success of the Landlord Registration Program using the following performance measures, which may be supplemented with additional performance measures:

- (a) Number of landlords registered under the Program;
- (b) Number of parcels identified by their individual real property tax identification key number under the Program;
- (c) Number of fines and civil penalties issued, the number and amount of fines and civil penalties collected, the number and amount of fines and civil penalties unpaid and the status of their collection with such data being organized by the category of the civil penalty identified in the notice of violation; and
- (d) Status of balances of the Landlord Registration Fund, Fund No. 221 identifying fees and civil penalty dollars transactions separately.

Section II. 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 III. This ordinance shall be in full force and effect on September 15, 2016, from and after its passage by the Common Council, approval by the Mayor, and legal publication.

Tim Scott, 1st District Council Member
South Bend Common Council



Karen L. White, Council Member at Large
South Bend Common Council

Attest:

Office of the City Clerk

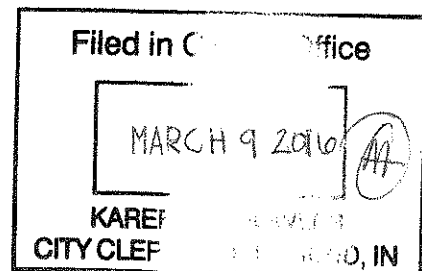
Presented by me to Pete Buttigieg, the Mayor of the City of South Bend, Indiana, on the ____ day of _____, 2016, at _____ o'clock __. m.

Office of the City Clerk

Approved and signed by me on the ____ day of _____, 2016, at ____ o'clock __.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana

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





Common Council
City of South Bend Indiana
Tim Scott, Council President
4th Floor County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601
(574) 235-9173 Facsimile

(574) 235-5980

(574)235-5567 TTY/TDD

March 21, 2016

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

Re: Ordinance to Repeal Ordinance No. 10343-14

Dear Council Members:

As the original sponsors of Ordinance No. 10343-14, we are recommending that the ordinance which we sponsored, along with former Council Member at Large Derek D. Dieter, which formally created policies and procedures for South Bend Common Council Members regarding city-owned technologies, Facebook standards, social media and social networking be repealed.

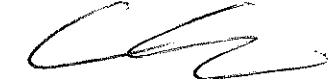
We did not anticipate that a sitting member of the Council would initiate litigation against the City of South Bend challenging the regulations. In light of that action, which is currently being defended by the City's Department of Law, we believe it would be best to repeal the regulations.

Thank you.

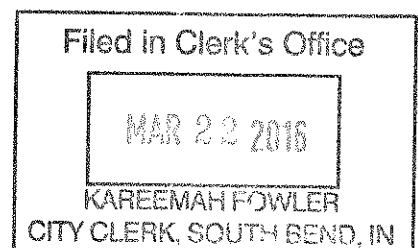
Sincerely,


Tim Scott, Council President
1st District Council Member


Karen L. White
Council Member at Large


Gavin Ferlic
Council Member at Large

Attachment



Bill No. _____

Ordinance No. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, AMENDING CHAPTER 2, ARTICLE 1 OF THE *SOUTH BEND MUNICIPAL CODE* BY DELETING SECTIONS 2-9.1 ADDRESSING POLICIES AND PROCEDURES GOVERNING CITY-OWNED TECHNOLOGIES, FACEBOOK STANDARDS, SOCIAL MEDIA AND SOCIAL NETWORKING POLICIES AND PROCEDURES

STATEMENT OF PURPOSE AND INTENT

The South Bend Common Council passed Ordinance No. 10343-14 on December 8, 2014, which policies and procedures governing city-owned technologies, facebook standards, social media and social networking regulations for members of the South Bend Common Council. Those regulations were based on best practices and included among other things that the Council's Information and Technology Committee would be responsible for ongoing training and educational sessions for the Council Members. Similar regulations for such training are required by the House Ethics Committee for members of the U.S. House of Representative. The ordinance called for an effective date of February 2, 2015.

Oliver Davis, Jr. filed a lawsuit against the City of South Bend, Indiana in the United State District Court, Northern District of Indiana, South Bend Division, No. 3:14-cv-2082 RLM-CAN challenging the regulations.

In the interest of amicably resolving concerns, the original sponsors of Ordinance No. 10343-14 filed Resolution No. 4419-15 which was adopted by the South Bend Common Council and "delayed indefinitely" the effect date of the ordinance's regulations.

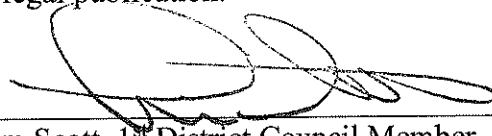
On March 4, 2016, the United States Magistrate Judge in the pending lawsuit issued an Order establishing a deadline of March 31, 2016 regarding the stayed judicial proceedings for the parties.

In the interest of minimizing any potential costs resulting from the pending litigation, this ordinance would repeal in its entirety Ordinance No. 10343-14.

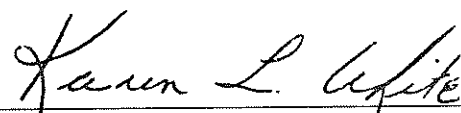
Now, Therefore, Be It Ordained by the Common Council of the City of South Bend, Indiana, as follows :

Section I. Ordinance No. 10343-14 passed by the Common Council on December 9, 2014, is hereby repealed in its entirety.

Section II. 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, 1st District Council Member



Karen L. White, Council Member at Large

Gavin Ferlic, Council Member at Large

Attest:

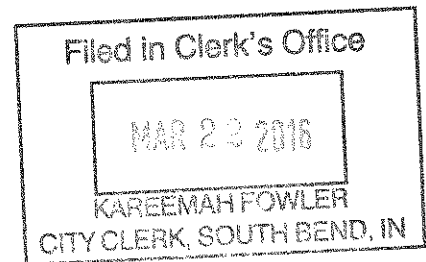
Office of the City Clerk

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 _____, 2015, at _____ o'clock __.m.

Pete Buttigieg, Mayor
City of South Bend, Indiana



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

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



PHONE 574/235-9241
FAX 574/235-7670
TTY 574/235-5567

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF LAW

CRISTAL C. BRISCO
CORPORATION COUNSEL

ALADEAN M. DEROSE
CITY ATTORNEY

March 23, 2016

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

Re: Ordinance to Further Amend Municipal Code Regarding Buskers

Dear Council President Scott:

On December 9, 2013 the South Bend Common Council passed Ordinance No. 10274-13 which amended Chapter 4, Article 4, of the South Bend Municipal Code by adding a new Section 4-21. This new Section licensed and regulated “busking” which is the performance of entertainment by individuals on public sidewalks. That regulatory scheme was designated as a “pilot program” for which review by the Common Council and City Administration was to be done by December 31, 2014. I made a report to the Common Council about busking on December 8, 2014. In that report, I concluded that the presence of buskers or street performers in the downtown area of South Bend had a positive effect on the area and continued to be favored by businesses and the public. One comment summarized the overall attitude of those interviewed by DTSB: “Busking is awesome; people really seem to appreciate it and enjoy it....”

The other uniform comment from interviewees was that some regulation is desirable because rules not only ensure public safety resulting from potential crowding in critical areas like business entrances and sidewalks adjacent to busy streets, but rules also assist buskers resolve conflicts that may arise with competition for busking placement, and it helps buskers be aware of public safety concerns.

Since July 29, 2014 (under Ord. No. 10318-14), the City has not enforced the busker ordinance (No. 10274-13) due to pending federal litigation. In order to retain the important

ELLIOT A. ANDERSON
TASHA REED OUTLAW

BENJAMIN J. DOUGHERTY
MICHAEL J. SCHMIDT

ANDREA HUNTINGTON
STEPHANIE STEELE

objective of public safety, yet make the busking process minimally onerous for performers, the attached ordinance is being submitted to the Council. It varies from the original in the following significant ways:

(1) The registration and permit process has been eliminated.

(2) The distance requirements for proximity between other buskers, and between buskers and buildings, driveways, curb cuts, outdoor eating areas and similar places or structures, has been clarified, and the linear distances are recommendations, not mandates.

(3) Clarification has been made to permit busking on days that special events occur in the Central Business and Entertainment Area (CBEA) during hours and places within the CBEA outside the time and location of the event, and to permit performances during special events by certain buskers if approved by the event organizer.

(4) The fine for a second offense has been reduced from \$250.00 to \$200.00.

(5) A busker has a duty to provide true and accurate self-identification information to a person authorized to enforce the ordinance when that authorized person has probable cause to believe a violation of the ordinance has occurred.

(6) An exemption in the regulation of solicitation under Chapter 13, Article 2, Section 13-26 of the *Municipal Code* has been inserted to exclude from regulation those buskers who solicit money for their performances.

Please note, too, that because this regulatory scheme remains subject to federal judicial review, the City Administration has agreed that it will not enforce the proposed, attached ordinance until that litigation is concluded either by court order or agreement between the parties. Notwithstanding this limitation, passage of this ordinance is necessary to conclude the federal litigation process. Because this is no longer a licensing ordinance, it has been re-codified under Chapter 14 of the Municipal Code, which comprises Specific Public Safety Regulations. A new Article 13 of this Chapter has been added entitled: "Busker and Street Performer Regulations."

Tim Scott
March 23, 2016
Page 3

I will present this Ordinance to the South Bend Common Council both at its formal meeting and at its appropriate Committee meeting which are expected to take place April 11, 2016. However, if the Council schedule for April 11 is expected to be unusually time consuming, I would not object to postponing public hearing on this Bill for the meeting of April 25, 2016.

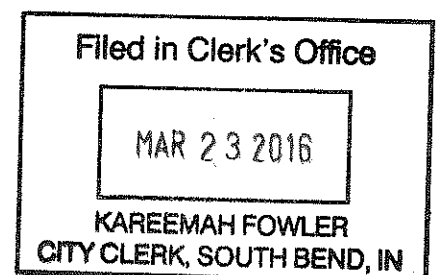
The City Administration would appreciate your favorable consideration of this ordinance. Thank you.

Sincerely,



Aladean M. DeRose
City Attorney

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



**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, TO ADDRESS BUSKERS AND SIDEWALK PERFORMERS BY
REPEALING CHAPTER 4, ARTICLE 4, SECTION 4-21 OF THE SOUTH BEND
MUNICIPAL CODE, RE-CODIFYING AND AMENDING IT WITHIN A NEW
ARTICLE 13 OF CHAPTER 14, NEW SECTIONS 14-123 THROUGH 14-126 OF THE
MUNICIPAL CODE, AND FURTHER AMENDING CHAPTER 13, ARTICLE 12,
SECTION 13-26 CONCERNING SOLICITATIONS**

STATEMENT OF PURPOSE AND INTENT

On July 28, 2014 the South Bend Common Council passed Ordinance No. 10318-14 which directed that a full and complete review be undertaken of the City of South Bend's pilot program busker ordinance, Chapter 4, Article 4, Section 4-21 of the *Municipal Code of the City of South Bend, Indiana (Municipal Code)* which was originally enacted December 9, 2013 Ordinance No. (10274-13).

The South Bend Common Council and the City Administration have completed their review of the busker ordinance and the busking activity which has occurred in South Bend pursuant to that ordinance since its effective date. They have determined that street entertainers should be encouraged and promoted in the Central Business and Entertainment Area of South Bend; that the City continues to have a substantial interest in the safety of the public and of street performers in the public right of way, and also in protecting the public from aggressive, harassing activity.

However, in achieving these goals of maintaining a safe environment to maximize social, business, cultural and recreational activities, while eliminating nuisance activity which could harm the social environment, it is desirable to modify the existing legislation affecting buskers and solicitation in the South Bend Municipal Code.

As a pilot program, the original ordinance was limited to the Central Business and Entertainment area identified as Exhibit A-1 in the original ordinance (10274-13). At this time that area remains the most heavily travelled pedestrian portion of the City, and the pilot program review did not suggest a present need to expand busking activity into other areas, although this may be desirable in the future.

The most significant changes in the prior busker program under this ordinance include the elimination of the licensing process, and an exemption in the regulation of solicitation under Chapter 13, Article 2, Section 13-26 of the *Municipal Code* for those buskers who solicit money for their performances.

Because buskers and sidewalk performers were previously required to obtain permits, which process is governed generally under Chapter 4 of the *Municipal Code*, elimination of the permit requirement means that regulation of buskers and street performers must be located in another Chapter of the *Municipal Code*. Chapter 14 of the *Municipal Code* governs “Specific Public Safety Regulations,” and, accordingly, a new Article and Section of that Chapter have been added to address regulations for buskers and street performers, specifically, Chapter 14, Article 13 (new), Sections 14-123 through 126. The regulations under this new Article 13, Sections 123-126 of Chapter 14 are similar to prior Chapter 4, Article 4, Section 4-21 with the following changes:

(1) Clarification has been made to permit busking on days that special events occur in the Central Business and Entertainment Area (CBEA) during hours and places within the CBEA outside the time and location of the event.

(2) The fine for a second offense has been reduced from \$250.00 to \$200.00.

(3) A busker has a duty to provide true and accurate self-identification information to a person authorized to enforce the ordinance when that person has probable cause to believe that a violation of the ordinance has occurred.

(4) The distance requirements for proximity between other buskers and between buskers and buildings, driveways, curb cuts, outdoor eating areas and similar places or structures has been clarified and the linear distances are recommendations, not mandates.

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

Section I. Chapter 4, Article 4, Section 4-21 of the South Bend Municipal Code addressing Buskers and Sidewalk Performers is hereby repealed.

Section II. Former Chapter 4, Article 4, Section 4-21 is re-codified and amended at Chapter 14, by adding a new Article 13, comprised of Sections 14-123 through 126, to read in its entirety as follows:

ARTICLE 13. Buskers and Sidewalk Performers Regulations.

Sec. 14-123. Definitions

For purposes of this Section, the following definitions shall apply:

- (a) *Busker(s)* means and includes person(s) who wish to perform on public sidewalks as entertainer(s), including but not limited to performing or entertaining through music, dance, mime, pantomime, theater, acting, puppetry, and similar artistic expression.
- (b) *Central Business and Entertainment Area* means the area depicted in the attached Exhibit A-1.

- (c) ~~City shall mean City of South Bend, through its Office of the City Controller in the Department of Administration and Finance.~~
- (d) ~~Designated locations shall mean areas on public sidewalks located within the Central Business and Entertainment Area, except those areas which have been excluded by the Board of Public Works for events approved for locations within this area during the scheduled hours for such events, and any other public sidewalk locations excluded by the Director of the Department of Public Works or his/her designee due to public safety concerns.~~
- (e) ~~Perform shall mean forms of entertainment which do not violate the noise regulations set forth in Sections 3-9, and 13-57 of the South Bend Municipal Code.~~
- (f) ~~Sidewalk Performer(s) shall have the same meaning as buskers(s).~~

~~(b) Permit Required No person who wishes to perform as a busker or sidewalk performer in the Central Business and Entertainment Area shall do so without a permit required by this Section from the Office of the City Controller Sidewalk Performer(s) shall have the same meaning as busker(s).~~

~~(e) Application: Any person wishing to perform as a busker or sidewalk performer must file a completed application through the Office of the City Controller. Said application shall require:~~

- ~~(1) Name, address, cell phone number and email of person(s) wishing to perform;~~
- ~~(2) Provide proof of identity by a government or school issued identification card or license;~~
- ~~(3) If a minor (under the age of 18 years of age) consent of parent or legal guardian;~~
- ~~(4) Description of form of entertainment the application wishes to perform, and~~
- ~~(5) Signature of the application that he/she acknowledges receiving a copy of the governing regulations and agrees to abide by such regulations if his/her application is approved.~~

Sec. 14-124. General Rules and Conditions for Buskers.

~~(b) Permit Conditions: General Rules and Conditions for Buskers: All persons who are to be issued a permit under this section perform as buskers shall:~~

- ~~(1) Be authorized to perform for the calendar year for which the permit is issued, except on dates which are excluded.~~
- ~~(2) Be authorized to perform at a designated location on a first come first serve basis.~~

- ~~(a)(3)~~ Be authorized to perform in the Central Business and Entertainment Area on a first come first serve basis Mondays through Thursdays from 8:00 a.m. to 9:00 p.m. and from 8:00 a.m. to 11:00 p.m. on Fridays through Sundays, except on those dates and at those times and places which are specifically excluded under subpart (c) of this Section .
- ~~(4)~~ Be required to pay the permit fee of twenty dollars (\$20.00) for said calendar year.
- ~~(5)~~ Be required to prominently display the permit issued while performing.
- ~~(b)~~ ~~(6)~~ Not be required to get a permit under *South Bend Municipal Code* § 13-57 (d) “Permit for playing noncommercial music in public places”.
- ~~(c)~~ ~~(7)~~ Not block the passage of the public through a public area on the sidewalk in order to maintain public order and convenience, with blockage or obstruction to such public way being dispersed by police upon complaint to allow passage of the public.
- ~~(d)~~ ~~(8)~~ Not offer for sale any merchandise at any designated location.
- ~~(e)~~ ~~(9)~~ Not use electrical and extension cords of any kind in light of public safety concerns; but may use battery-powered microphones and/or amplified speaker(s) so long as such equipment is used in compliance with *South Bend Municipal Code* § 3-8 addressing “Advertising with music for commercial purposes prohibited” and *South Bend Municipal Code* § 3-57 addressing “Unreasonable noise”.
- ~~(f)~~ ~~(10)~~ May accept monetary donations, while performing with such donations not being considered as a prohibited act under *South Bend Municipal Code* § 13-26 so long as ~~the busker has registered under subpart (d) of this Section and if~~ solicitation is not done in an aggressive manner which recklessly interferes with pedestrian safety and/or vehicular traffic.
- ~~(g)~~ ~~(11)~~ Not be performing within such distance of any street corner, marked pedestrian crosswalk, entrance to any building, driveway, curb cut, outdoor eating area, emergency exit, kiosk, or ATM machine, which is reasonably likely to cause obstruction or blockage of the free and safe movement of pedestrians or which would reasonably likely cause the site vision needed for the safety of motor vehicle drivers to be blocked. A distance of twenty feet is recommended between a busker/street performer and the foregoing specified locations.

(h) (12) Not perform within such a distance from another busker or sidewalk performer so as to reasonably likely cause congestion of spectators which would impede emergency medical, law enforcement or safety officers from access to the area or which would make it unreasonably difficult for pedestrians to freely and safely pass through the area. A distance of forty feet between each busker/street performer is recommended.

(i) (13) Not have any equipment or items used for performing which obstructs or blocks the free and safe movement of pedestrians or blocks the site vision for the safety of motor vehicle drivers; with all stages and platforms being prohibited. No equipment or items used for performing shall be left unattended by the busker or sidewalk performer.

(j) Provide information necessary to truly and correctly identify the busker or street performer to any and all persons authorized to enforce this Section when the authorized person has probable cause to believe that a violation of the ordinance has occurred.

~~(d) Permit Conditions: All persons who are to be issued a permit under this section shall:~~

~~(1) Be authorized to perform for the calendar year for which the permit is issued, except on dates which are excluded.~~

~~(2) Be authorized to perform at a designated location on a first come first serve basis.~~

~~(3) Be authorized to perform on Mondays through Thursdays from 8:00 a.m. to 9:00 p.m. and from 8:00 a.m. to 11:00 p.m. on Friday through Sundays.~~

~~(4) Be required to pay the permit fee of twenty dollars (\$20.00) for said calendar year.~~

~~(5) Be required to prominently display the permit issued while performing.~~

~~(6) Not be required to get a permit under *South Bend Municipal Code* § 13-57 (d) "Permit for playing noncommercial music in public places".~~

~~(7) Not block the passage of the public through a public area on the sidewalk in order to maintain public order and convenience, with blockage or obstruction to such public way being dispersed by police upon complaint to allow passage of the public.~~

~~(8) Not offer for sale any merchandise at any designated location.~~

- ~~(9) Not use electrical and extension cords of any kind in light of public safety concerns; but may use battery powered microphones and/or amplified speaker(s) so long as such equipment is used in compliance with *South Bend Municipal Code § 3-8* addressing “Advertising with music for commercial purposes prohibited” and *South Bend Municipal Code § 3-57* addressing “Unreasonable noise”.~~
- ~~(10) May accept monetary donations while performing with such donations not being considered as a prohibited act under *South Bend Municipal Code § 13-26* so long as the solicitation is not done in an aggressive manner which recklessly interferes with pedestrian safety and/or vehicular traffic.~~
- ~~(11) Not be performing within twenty feet (20’) of any street corner, marked pedestrian crosswalk, entrance to any building, driveway, curb cut, outdoor eating area, emergency exit in order to not obstruct or block the free and safe movement of pedestrians or block the site vision needed for the safety of motor vehicle drivers.~~
- ~~(12) Not perform less than fifty feet (50’) from another busker or sidewalk performer.~~
- ~~(13) Not have any equipment or items used for performing which obstructs or blocks the free and safe movement of pedestrians or blocks the site vision for the safety of motor vehicle drivers; with all stages and platforms being prohibited. No equipment or items used for performing shall be left unattended by the busker or sidewalk performer.~~
- ~~(e) Permit Non Transferable: All permits issued under this section are non-transferable.~~

Sec. 14-125. Days Excluded from Performing.

~~(d)(f) Days Excluded from Performing: Annual special events taking place in the Central Business and Entertainment Area and other events requiring the use of sidewalks in this Area to shall take precedence over buskers and sidewalk performers. The Clerk to the Board of Public Works shall be responsible for notifying all persons seeking a permit under this section maintaining a list of such annual and other special event dates, which shall also be posted on the City’s website within and at least seventy-two (72) hours’ notice of new events which are approved requiring the use of such designated areas prior to any such event. Buskers and sidewalk performers shall not perform on those days during the hours when, and at the locations where, the designated special event(s) takes place unless they have been authorized to perform by the event organizer. Buskers and sidewalk performers may perform at regular hours during the special event day in those portions of the Central Business and Entertainment area which are not part of the designated area of the special event.~~

~~(e)(g) Refusal to Issue Permit; Suspension or Revocation of Permit:~~ The City may refuse to issue a permit, and any permit issued under this Section may be suspended or revoked. Such actions shall be governed by Section 4-16 of the *South Bend Municipal Code*.

Sec. 14.126. Penalties.

~~(e)(f)(h) Penalties:~~ Any person violating any provisions of this Section shall be issued an ordinance violation citation. Penalties shall be one hundred dollars (\$100.00) for the first violation; two hundred fifty dollars (~~\$25~~200.00) for the second violation and five hundred dollars (\$500.00) for all violations thereafter. Payment of penalties up to two hundred fifty (~~\$25~~200.00) shall be made through the Ordinance Violations Bureau. Failure to make payment within thirty (30) days of the issuance of the citation shall result in a late fee of an additional fifty dollars (\$50.00) for every thirty (30) days it remains unpaid.

~~(i) — Any person who is issued a permit under this Section in 2013, said permit shall also be valid throughout the 2014 calendar year.~~

Section III. Chapter 13, Article 12, Section 13-26 of the South Bend Municipal Code be and hereby is amended to read as follows:

Sec. 13-26. Prohibited acts.

- (a) In light of the City's duty to provide residents and visitors to the downtown of the city with a safe environment where social, business, cultural, and recreational opportunities can be maximized while eliminating nuisance activities which negatively affect such interactions, the following regulation shall be in full force and effect:
- (1) Except as otherwise provided in section 13-26(a) (2) and section 13-26(a) (3) below, Solicitation is prohibited in the Central Business and Entertainment Area (CBEA).
 - (2) Solicitation of immediate donation of money or other thing of value or the sale of goods or services that (i) is performed by a person who is a "licensee" (as defined in section 4-2(c) of this Code) under section 4-55, Charitable solicitations, busker or street entertainment under Chapter 14, Article 13 of this Code and (ii) consists of actions permissible under the regulations set forth in section 4-55, Charitable solicitations, and (iii) is fully compliant with the provisions of section 13-26(b), shall be excluded from the prohibition set forth in section 13-26(a)(1) above.
 - (3) Solicitation of the sale of goods or services that (i) is performed by a person who is a "licensee" (as defined in section 4-2(c) of this Code) under one or more of the sections of this Code listed below, and (ii) consists of actions permissible under the regulations set forth therein, and (iii) is fully compliant with the provisions of section 13-26(b), shall be excluded from the prohibition set forth in section 13-26(a)(1) above:
 - a. Section 4-25: Food vending vehicles,
 - b. Section 4-43: Peddlers and canvassers,
 - c. Section 4-60: Transient merchants.

(b) Because solicitation in an aggressive manner creates a reckless interference with pedestrians and vehicular traffic in public places, the following regulations shall be in full force and effect:

- (1) Solicitation in an aggressive manner is prohibited in any public place.
- (2) Solicitation in an aggressive manner is prohibited within twenty (20) feet of any Automated teller machine (ATM).
- (3) Solicitation in an aggressive manner is prohibited within twenty (20) feet of any pay telephone.
- (4) Solicitation in an aggressive manner from an operator or occupant of a motor vehicle located in any public place is prohibited.

Section IV. Severability Clause: If any subsection, sentence, clause, phrase or word of this ordinance is declared to be unconstitutional or otherwise invalid by a Court of proper jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section V. 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, South Bend Common Council

Attest:

City Clerk

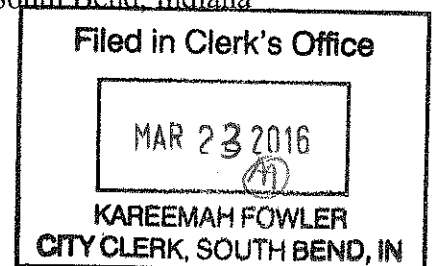
Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2____, at _____ o'clock _____. m.

Deputy City Clerk

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

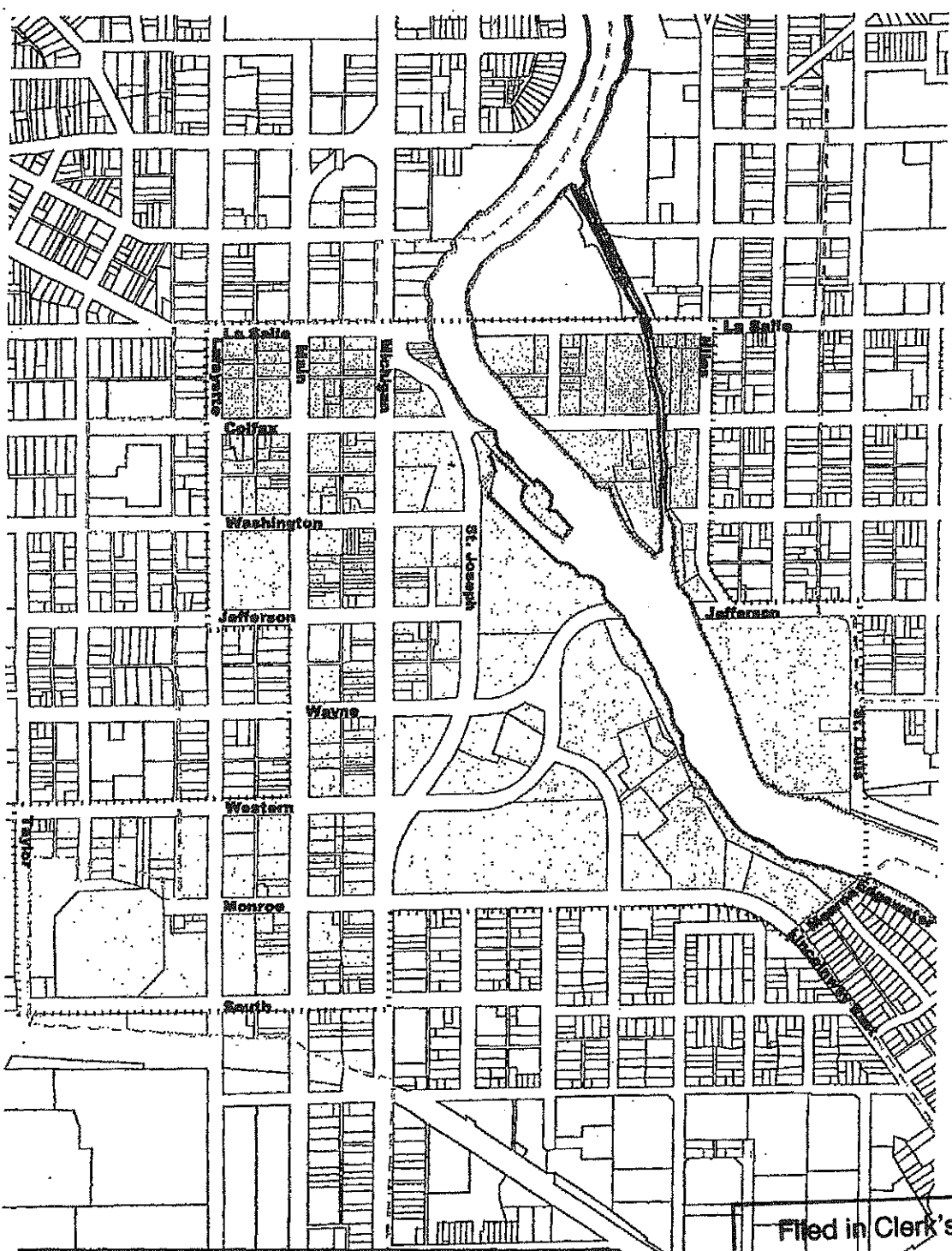
Mayor, City of South Bend, Indiana




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



NOV 26 2007

Exhibit A-1 Central Business and Entertainment Area



-  Central Business and Entertainment Area Boundary
-  South Bend Central Development Area Boundary
-  Panhandling and Solicitation Regulation Area

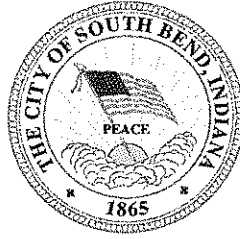
Filed in Clerk's Office

MAR 26 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

S

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



PHONE 574/235-9241
FAX 574/235-7670
TTY 574/235-5567

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF LAW

CRISTAL C. BRISCO
CORPORATION COUNSEL

ALADEAN M. DEROSE
CITY ATTORNEY

April 7, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bill No. 05-16

Dear Council President Scott,

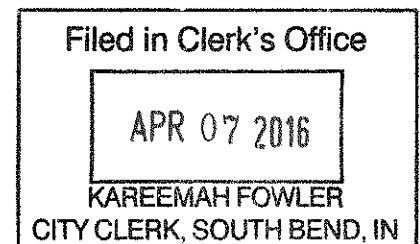
After discussion with members of the Council's Health and Public Safety Committee and internal discussion within the city's administration, we are now requesting that the above captioned bill number 05-16 be withdrawn and removed from further council consideration at this time.

Thank you for your assistance in this matter.

Sincerely,

Aladean DeRose
City Attorney

cc: Randy Wilkerson, Director of Code Enforcement
Tasha Reed Outlaw, Assistant City Attorney



1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

February 18, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bills Nos. 05-16 and 06-16 -- Increase of Fees for Code Services Related to Demolition and Nuisance Abatement

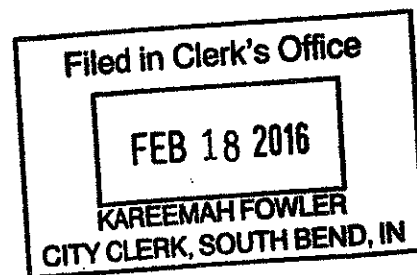
Dear Council President Scott,

In light of questions from Council members received February 4, 2016, I request that Bills Nos. 05-16 and 06-16 related to fees for certain Code Enforcement services be continued to the Council's meeting on March 14, 2016. Although our Department has compiled a good portion of the Council's requested information, it will take more time to complete this search.

Sincerely,

Randy Wilkerson

Director, Department of Code Enforcement



1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

February 5, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bills Nos. 05-16 and 06-16 -- Increase of Fees for Code Services Related to Demolition and Nuisance Abatement

Dear Council President Scott,

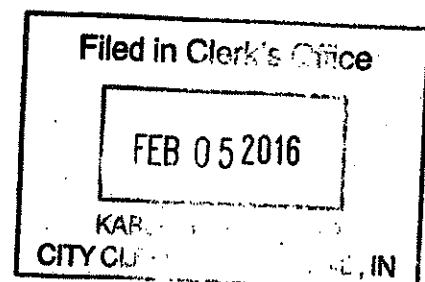
In light of questions from Council members received February 4, 2016, I request that Bills Nos. 05-16 and 06-16 related to fees for certain Code Enforcement services be continued to the Council's meeting on February 22, 2016. This should allow our Department time to respond to the Council's questions.

Sincerely,



Randy Wilkerson

Director, Department of Code Enforcement



1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

January 5, 2016

Tim Scott, Council President
Common Council of the City of South Bend
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601

The Department of Code Enforcement respectfully requests that the Council consider this ordinance to raise the cost of abatements that are completed by the Department. The current increases reflect an 11.5 percent increase from the last increase in 2008. I have also revised some of the charges to be accurate with our current processes. It is important to point out this is not a request for a budget increase; this is a cost of service fee for the Department to complete the abatements on property owners that do not comply with the Indiana Unsafe Building Law and the City of South Bend's Ordinance's. I will be available as the presenter on behalf of the Department.

The costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation from real property include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

We presented this to the City of South Bend Board of Public Works on November 24, 2015 at a public hearing and received information on the current costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation, and by Resolution No. 67-2015, it recommended for Common Council approval a schedule of fees for costs involved in the abatement of a nuisance, which is attached hereto and incorporated herein.

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the South Bend Municipal Code (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to remove trash, debris, fire hazardous material, or a public health hazard in an about an unsafe premises. The Indiana Code at IC 36-7-10.1-1 et seq. also authorizes municipalities to require property owners to remove weeds and other rank vegetation.

OK
RD

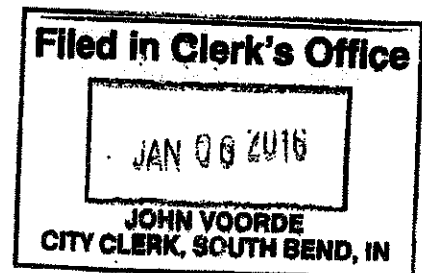
The Department of Code Enforcement may at the owner's expense enter an owner's property to abate a nuisance such as trash, debris, fire hazardous material and public health hazards, and/or may also remove weeds and rank vegetation if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

Respectfully,



Randy Wilkerson
Director of Code Enforcement



ORDINANCE NO. 10417-16**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROVING FEES FOR NUISANCE ABATEMENT SUCH AS TRASH, DEBRIS AND HAZARDOUS MATERIAL REMOVAL, AND FOR REMOVAL OF WEEDS AND RANK VEGETATION PURSUANT TO THE INDIANA UNSAFE BUILDING LAW**

STATEMENT OF PURPOSE AND INTENT

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the *South Bend Municipal Code* (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to remove trash, debris, fire hazardous material, or a public health hazard in an about an unsafe premises. The Indiana Code at IC 36-7-10.1-1 et seq. also authorizes municipalities to require property owners to remove weeds and other rank vegetation. The Department of Code Enforcement may at the owner's expense enter an owner's property to abate a nuisance such as trash, debris, fire hazardous material and public health hazards, and/or may also remove weeds and rank vegetation if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

The costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation from real property include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

At its meeting held on November 24, 2015, the South Bend Board of Public Works conducted a public hearing and received information on the current costs of abating a nuisance such as trash, debris, fire hazardous materials and public health hazards and/or removing weeds and rank vegetation, and by Resolution No. 67-2015, it recommended for Common Council approval a schedule of fees for costs involved in the abatement of a nuisance, which is attached hereto and incorporated herein.

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 67-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

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

Section I. The Schedule of Fees for the Department of Code Enforcement's services in abating public nuisances such as trash, debris, fire hazardous material, or a public health hazard,

and for removing weeds and rank vegetation from real property, all as set out specifically in Section II of the Board of Public Works Resolution No. 67-2015 attached hereto and incorporated herein, is approved and confirmed.

Section II. A copy of the Schedule of Fees approved by this Resolution shall be on file for public inspection in the office of the City Clerk, the office of the Clerk of the Board of Public Works, and shall be posted on the City of South Bend's website.

Section III. 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 _____, 2014, at _____ o'clock _____ m.

City Clerk

Approved and signed by me on the _____ day of _____, 20____, 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

JAN 00 2015

JOHN VOORDE
CITY CLERK, SOUTH BEND

ATTACHMENT

Board of Public Works Resolution No. 68- 2015 enacted on November 24, 2015

(Remainder of Page left intentionally blank)

RESOLUTION NO. 67-2015

A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, ADJUSTING THE FEES RELATED TO ABATING NUISANCES AND REMOVING VEGETATION PURSUANT TO INDIANA CODE 36-7-9 AND 36-7-10.1 AND SOUTH BEND MUNICIPAL CODE CHAPTER 16, ARTICLE 8

WHEREAS, the Board of Public Works ("Board") has authority to determine the costs for performance of work required by orders issued under the Unsafe Building Law, 36-7-9-1, et al., including orders to remove trash, debris, fire hazardous material, or a public health hazard in and about an unsafe premises; and

WHEREAS, the Board also has authority to abate nuisances described in South Bend Municipal Code Chapter 16, Article 8, Section 16-53; and

WHEREAS, the Indiana Code provision for removal of weeds and rank vegetation, Indiana Code 36-7-10.1-1, et seq., allows municipalities to require property owners to remove weeds and other rank vegetation, and sets forth procedures for giving notice to property owners and removing weeds and rank vegetation at the owner's expense; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, after giving notice to the owner, enter property and remove weeds and rank vegetation at the owner's expense, pursuant to South Bend Municipal Code Chapter 16, Article 8, Section 16-59; and

WHEREAS, the Board has the expertise to determine the costs of abating nuisances such as trash, debris, fire hazardous material and public health hazards, and or removing weeds and rank vegetation, including the cost of providing notice, use of equipment and labor, and administrative costs; and

WHEREAS, the Board determines that the fees imposed for nuisance abatement and removal of weeds and rank vegetation should be adjusted from the 2008 schedule to reflect the current cost the City of South Bend incurs providing such services.

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

Section I. That the Board of Public Works hereby sets forth fees for services in abating public nuisances such as trash, debris, fire hazardous material, or a public health hazard, and of removing weeds and rank vegetation from real property.

Section II. The owner, occupant or person in control of the property upon which the public nuisance or rank vegetation exists in violation of South Bend Municipal Code Chapter 16, Article 8, as it may be amended from time to time, shall be charged fees for the cost of equipment, services and labor incurred by the City in abatement of the nuisance or removal of vegetation. The following fees shall be charged:

Fees and Costs

Dump fee	\$150.00
Handling and disposal	\$ 84.00
Administrative fee	\$ 40.00
Technology and software	\$ 10.00
Supplies	\$ 8.00

Hourly Labor and Equipment Use


Inspection	\$ 29.00
Labor (General)	\$ 23.00
Labor (Operator – skilled)	\$ 34.00
Supervisory staff	\$ 40.00
Dump truck	\$ 51.00
Small loader	\$ 51.00
Lightening loader	\$ 84.00
Large loader	\$119.00
Pick up and mower	\$ 44.00
Tractor mower	\$ 38.00

Grass Cutting Fees

Inspection (2)	\$58.00
Administrative fee	\$40.00
Supervisory Staff	\$40.00
Pickup truck and mower	\$22.00
Labor general	\$11.50
Technology and software	\$10.00
Supplies	\$ 8.00
TOTAL	\$189.50

Adopted on the 24th day of November, 2015, by the Board of Public Works of the City of South Bend, Indiana.


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

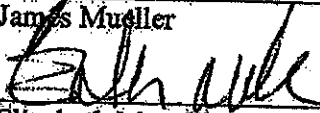


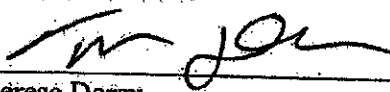
Gary Gilot




David Relos


James Mueller

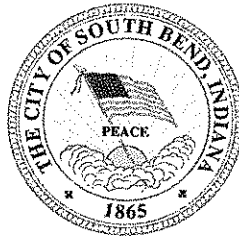

Elizabeth Maradik


Therese Dorau

ATTEST:


Linda Martin, Clerk

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



PHONE 574/235-9241
FAX 574/235-7670
TTY 574/235-5567

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF LAW

CRISTAL C. BRISCO
CORPORATION COUNSEL

ALADEAN M. DEROSE
CITY ATTORNEY

April 7, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

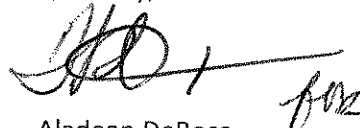
RE: Bill No. 06-16

Dear Council President Scott,

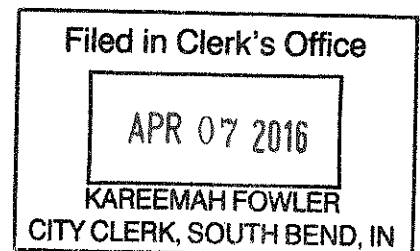
After discussion with members of the Council's Health and Public Safety Committee and internal discussion within the city's administration, we are now requesting that the above captioned bill number 06-16 be withdrawn and removed from further council consideration at this time.

Thank you for your assistance in this matter.

Sincerely,


for Aladean DeRose
Aladean DeRose
City Attorney

cc: Randy Wilkerson, Director of Code Enforcement
Tasha Reed Outlaw, Assistant City Attorney



ELLIOT A. ANDERSON
MICHAEL J. SCHMIDT

BENJAMIN J. DOUGHERTY
PAUL E. SINGLETON

TASHA REED OUTLAW
STEPHANIE STEELE

1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

February 18, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bills Nos. 05-16 and 06-16 – Increase of Fees for Code Services Related to Demolition and Nuisance Abatement

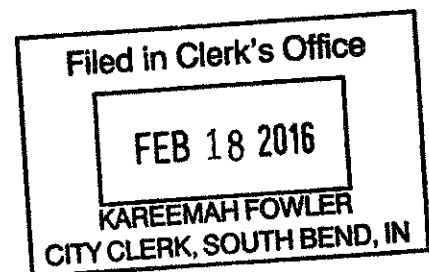
Dear Council President Scott,

In light of questions from Council members received February 4, 2016, I request that Bills Nos. 05-16 and 06-16 related to fees for certain Code Enforcement services be continued to the Council's meeting on March 14, 2016. Although our Department has compiled a good portion of the Council's requested information, it will take more time to complete this search.

Sincerely,

Randy Wilkerson

Director, Department of Code Enforcement



1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

February 5, 2016

Honorable Tim Scott, President
South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Bills Nos. 05-16 and 06-16 – Increase of Fees for Code Services Related to Demolition and Nuisance Abatement

Dear Council President Scott,

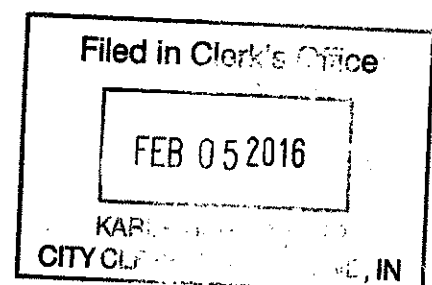
In light of questions from Council members received February 4, 2016, I request that Bills Nos. 05-16 and 06-16 related to fees for certain Code Enforcement services be continued to the Council's meeting on February 22, 2016. This should allow our Department time to respond to the Council's questions.

Sincerely,



Randy Wilkerson

Director, Department of Code Enforcement



1300 COUNTY-CITY BUILDING
227 W. JEFFERSON BOULEVARD
SOUTH BEND, INDIANA 46601-1830



PHONE 574/ 235-9486
FAX 574/ 235-7703

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
DEPARTMENT OF CODE ENFORCEMENT
RANDY WILKERSON
DIRECTOR

January 5, 2016

Tim Scott, Council President
Common Council of the City of South Bend
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601

The Department of Code Enforcement respectfully requests that the Council consider this ordinance to raise the fees associated to demolitions that are completed by the Department. The current increases reflect an 11.5 percent increase from the last increase in 2008. I have also revised some of the charges to be accurate with our current processes including the cost associated with testing for asbestos. This was not charged in the past. It is important to point out this is not a request for a budget increase; this is a cost of service fee for the Department for property owners that do not comply with the Indiana Unsafe Building Law. I will be available as the presenter on behalf of the Department.

The costs of securing property and/or removing structures upon unsafe premises include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

We presented this to the South Bend Board of Public Works on November 24, 2015 at a public hearing and received information on the current costs of securing property or removing structures at an unsafe premises, and by Resolution No. 68-2015, it recommended for Common Council approval a schedule of fees for costs involved in the demolition of real property and in the securing of real property, which is attached hereto and incorporated herein.

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the South Bend Municipal Code (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to enter into and secure an owner's property or remove structures at an unsafe premises at the owner's expense if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

OK
[Signature]

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 68-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

On behalf of the Department of Code Enforcement, it is my belief that this ordinance is in the best interest of the citizens of the City of South Bend.

Respectfully,



Randy Wilkerson

Director of Code Enforcement

ORDINANCE NO. _____

**AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, APPROVING FEES FOR SECURING AND DEMOLISHING STRUCTURES
PURSUANT TO THE INDIANA UNSAFE BUILDING LAW**

STATEMENT OF PURPOSE AND INTENT

The Indiana Unsafe Building Law, Ind. Code 36-7-9-1, which is incorporated into the *South Bend Municipal Code* (the Code) in full and by reference at Chapter 6, Article 8, Section 6-37, authorizes the City of South Bend through its Department of Code Enforcement to enter into and secure an owner's property or remove structures at an unsafe premises at the owner's expense if the City has complied with statutory procedures and given the owner proper notice, but the owner has failed to comply with the notice.

The costs of securing property and/or removing structures upon unsafe premises include the costs of providing notice, the use of labor and equipment, and administrative costs. A schedule of fees for these services was last implemented in 2008, but the costs have increased since that time and now require adjustment.

At its meeting held on November 24, 2015, the South Bend Board of Public Works conducted a public hearing and received information on the current costs of securing property or removing structures at an unsafe premises, and by Resolution No. 68-2015, it recommended for Common Council approval a schedule of fees for costs involved in the demolition of real property and in the securing of real property, which is attached hereto and incorporated herein.

The Council finds that the Schedule of Fees recommended for approval by the Board of Public Works in its Resolution No. 68-2015 attached hereto reflect the current and actual costs for performing the specific services and should be approved.

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

Section I. The Schedule of Fees for the Department of Code Enforcement's processing of orders for demolition of structures and for securing structures as set out specifically in Sections II and III of the Board of Public Works Resolution No. 68-2015 attached hereto and incorporated herein is approved and confirmed.

Section II. A copy of the Schedule of Fees approved by this Resolution shall be on file for public inspection in the office of the City Clerk, the office of the Clerk of the Board of Public Works, and shall be posted on the City of South Bend's website.

Section III. 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

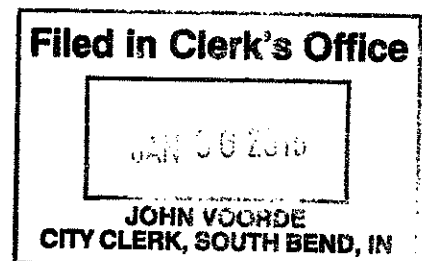
Presented by me to the Mayor of the City of South Bend, Indiana on the _____ day of _____, 2014, at _____ o'clock _____m.

City Clerk

Approved and signed by me on the _____ day of _____, 20____, at _____ o'clock, _____m.

Mayor, City of South Bend, Indiana

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



ATTACHMENT

Board of Public Works Resolution No. 68-2015 enacted on November 24, 2015

(Remainder of Page left intentionally blank)

RESOLUTION NO. 68-2015

A RESOLUTION OF THE BOARD OF PUBLIC WORKS OF THE CITY OF SOUTH BEND, INDIANA, ADJUSTING THE FEES FOR SERVICES RELATED TO SECURING AND DEMOLISHING STRUCTURES PURSUANT TO THE INDIANA UNSAFE BUILDING LAW, INDIANA CODE 36-7-9 AND SOUTH BEND MUNICIPAL CODE CHAPTER 6, ARTICLE 8, SECTIONS 37 AND 37.1

WHEREAS, the Board of Public Works is the Board with control over the Department of Code Enforcement for purposes of setting performance bonds and processing expenses provided under the Unsafe Building Law, and has the responsibility for fixing the average processing expenses and a schedule of performance bonds as provided in the Unsafe Building Law, Indiana Code 36-7-9-1 et seq., and South Bend Municipal Code Chapter 6, Article 8; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, after giving notice to the owner, enter onto and secure property at the owner's expense, pursuant to South Bend Municipal Code Chapter 6, Article 8 and the Unsafe Building Law; and

WHEREAS, the Department of Code Enforcement or an entity acting on its behalf may, pursuant to the procedures set forth in the Unsafe Building Law and after giving notice to the owner, remove structures from unsafe premises at the owner's expense; and

WHEREAS, the Board of Public Works has the expertise to determine the costs of securing and removing structures upon unsafe premises, including the cost of providing notice, use of equipment and labor, and administrative costs; and

WHEREAS, the Board of Public Works determines that the fees imposed for securing and removing structures should be adjusted from the 2008 schedule to reflect the current cost the City of South Bend incurs providing such services.

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

Section I. The Board of Public Works hereby sets forth administrative and service fees related to securing and removing structures upon unsafe premises pursuant to the Unsafe Building Law and South Bend Municipal Code Chapter 6, Article 8.

Section II. The following fees reflect the average expenses which are incurred by the Department of Code Enforcement in processing orders for demolition of structures, and shall be charged in addition to the costs of the demolition contractor for each demolition order issued:

Inspections – average of 8	\$203.00
Legal notices, recording fees	\$113.00
Title search	\$ 27.00
Forms, letters, postage	\$100.00
Supplies	\$ 8.00
Legal services and hearing officer	\$200.00
Clerical staff	\$ 76.00
Management staff	\$200.00
Technology and software	\$ 10.00

TOTAL DEMOLITION COST **\$937.00**

Asbestos Testing for Demolition, if Applicable

First Inspection –prelim testing requires 2 inspectors
at 1.5 hours/inspector \$ 87.00

Second Inspection—testing and completion of
papers requires 2 inspectors at 1.5/inspector \$ 87.00

Tools, supplies, and safety costs \$ 22.00

Test 10 samples at \$8.00/sample (average) \$ 80.00

TOTAL ASBESTOS COST **\$276.00**


Section III. The following fees reflect the average expenses which are incurred by the Department of Code Enforcement in processing orders to secure structures, and which shall be charged in addition to the costs of the contractor for each order to secure issued:

Inspections – average of 3	\$ 87.00
Forms, letters, postage	\$ 7.00
Clerical staff	\$ 23.00
Management staff	\$ 35.00
Technology and software	\$ 10.00

TOTAL COST TO SECURE **\$162.00**

Adopted on the 24 day of November, 2015, by the Board of Public Works of the City of South Bend, Indiana.

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



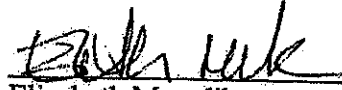
Gary Gilot




David Relos



James Mueller



Elizabeth Maradik



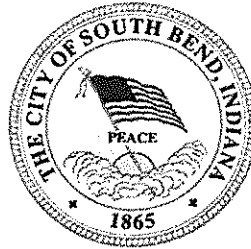
Therese Dorau

ATTEST:



Linda Martin, Clerk

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



Bill No. 15-16

PHONE 574/ 235-7678
FAX 574/ 235-9928

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

March 3, 2016

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

RE: March 2016 Appropriation Ordinance – Enterprise Funds

Dear President Scott,

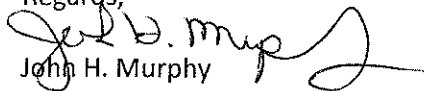
During the past several years, it has been the practice of the City of South Bend to request department heads, fiscal staff and city administration to conduct an extensive review of the status of compliance with the adopted city budget and propose necessary adjustments periodically throughout the year. For 2016, we plan to propose adjustments during four time periods—March, June, September and December.

Based on our budget review, we are submitting the enclosed additional appropriation ordinance for your consideration. Please note that the negative amount for the Consolidated Building Fund (#600) of \$926,497 consists of costs that have been transferred to the new Unsafe Building Fund (#219). This appropriation is included on the ordinance for Civil City funds.

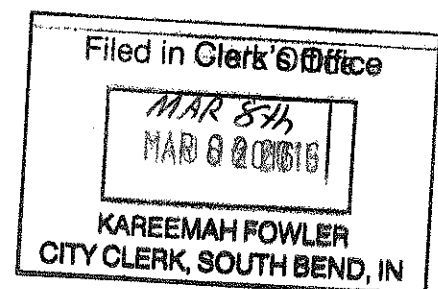
I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on March 14, 2016 with 2nd reading, public hearing and 3rd reading scheduled for March 28, 2016.

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

CC: Pete Buttigieg, Mayor
James Mueller, Chief of Staff
Cristal Brisco, Corporation Counsel
Aladean DeRose, City Attorney
Jennifer Hockenhull, Deputy City Controller



OK

ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND ENTERPRISE OPERATIONS IN 2016 OF (\$926,497) FROM CONSOLIDATED BUILDING FUND (#600), \$480,000 FROM EMS CAPITAL FUND (#287), \$25,000 FROM EMS OPERATING FUND (#288), \$2,500 FROM 2015 SEWER BOND ISSUANCE FUND (#666), \$188,621 FROM CENTURY CENTER CAPITAL FUND (#671), \$63,000 FROM WATERWORKS O&M FUND (#620), AND \$361,294 FROM SEWAGE O&M FUND (#641).

STATEMENT OF PURPOSE AND INTENT

The Common Council passed the City's 2016 operating and capital budgets in 2015 (Ordinances #10389-15 passed on October 12, 2015), which included expenditures for various City enterprise operations. It is now necessary to appropriate additional funds for operational expenditures necessary for the City to effect provision of services to its citizens which were not anticipated at the time the City budget was adopted.

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

Section I. The following amounts are hereby appropriated in fiscal year 2016 and set apart within the following designated funds for operational expenses as follows:

<u>Fund</u>	<u>Amount</u>
Consolidated Building Fund (#600)	\$(926,497)
EMS Capital Fund (#287)	480,000
EMS Operating Fund (#288)	25,000
2015 Sewer Bond Issuance Fund (#666)	2,500
Century Center Capital Fund (#671)	188,621
Waterworks O&M Fund (#620)	63,000
Sewage O&M Fund (#641)	<u>361,294</u>
TOTAL	<u>\$193,918</u>

Section II. 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

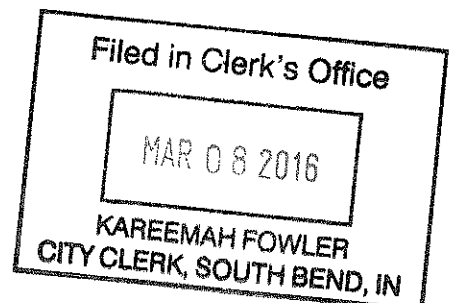
Presented by me to the Mayor of the City of South Bend, Indiana, on the _____ day of _____, 2016, at _____ o'clock ____ . m.

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 HEAR.
3rd READING
NOT APPROVED
REFERRED
PASSED



City of South Bend, Indiana
March 2016 Additional Appropriation Requests - Enterprise Funds
 (increase or decrease in total fund expenditures)
 March 3, 2016

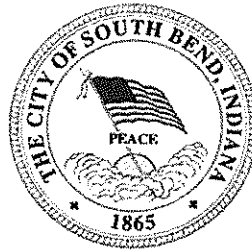
Fund Name	Department Name	Account Name	Fiscal Officer/Contact Name	Account Number	Project Number	Budget Increase/Decrease	Justification
Consolidated Building Fund	Code Enforcement	Illegal Dumping	Seema Trimble	600-1201-415-36-14		(600,098)	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Consolidated Building Fund	Code Enforcement	Legal	Seema Trimble	600-1201-415-31-01		(48,000)	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Consolidated Building Fund	Code Enforcement	Site Mowing	Seema Trimble	600-1201-415-36-13		(163,905)	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Consolidated Building Fund	Code Enforcement	Grass Removal	Seema Trimble	600-1201-415-36-15		(99,694)	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Consolidated Building Fund	Code Enforcement	Misc. Charges	Seema Trimble	600-1201-415-36-89		(14,800)	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
EMS Capital	EMS	Motor Equipment	Todd Skwarcan	287-0902-422-43-02		200,000	Purchase demo model ambulance - unplanned at budget time.
EMS Capital	EMS	Materials & Equipment	Todd Skwarcan	287-0902-422-43-09		280,000	Cardiac Monitors originally in the 2016 Capital plan; however, was inadvertently left out of the budget
EMS Operating	EMS	Professional Services	Todd Skwarcan	288-0902-422-31-06		25,000	Temp assistance to assist with accounting/budget work for EMS and Fire Department
2015 Sewer Bond Issuance	Admin & Finance	Professional Services	Jen Hockenhull	695-0630-793-31-10		2,500	Issuance costs were budgeted in 2015; however, invoice was not received for payment until 2016
Century Center Capital	Century Center	Equipment Purchase	Learnna Below	671-0406-645-43-09		11,254	Purchase equipment with remaining SMG contribution. SMG contributed \$575,000 in 2013. Balance was appropriated in 2015, however, was not spent before year-end.
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		1,600	Floor Burnisher
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		1,100	Toolcat Bucket
Century Center Capital	Century Center	Equipment Purchase	Learnna Below	671-0406-645-43-09		45,000	Tractor blade, chains and cab
Century Center Capital	Century Center	Building Improvements	Learnna Below	671-0406-645-42-02		20,000	Security System DVR Replacements
Century Center Capital	Century Center	Building Improvements	Learnna Below	671-0406-645-42-02		25,000	Lock and Key Replacement
Century Center Capital	Century Center	Equipment Purchase	Learnna Below	671-0406-645-43-09		47,867	Skylight Glass Replacement
Century Center Capital	Century Center	Equipment Purchase	Learnna Below	671-0406-645-43-09		20,000	Staging
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		1,500	Pipe and Draps, Backdrop
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		6,000	Floor Mats
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		2,000	Flatbed Carts
Century Center Capital	Century Center	Operational Supplies	Learnna Below	671-0406-645-22-24		7,500	Washer & Dryer for Kitchen
Century Center Capital	Century Center	Building Improvements	Learnna Below	671-0406-645-42-02		188,821	Bendix Handrails and 2nd entrance to Convention Hall
WaterWorks	O&M	Interfund Transfers	Roxanne Lawson	620-0640-658-50-02		63,000	Revision in the Cash Reserve computation is attributed to the required reserves. Cash Reserves = 2 months of operations expenditures per bond ordinance.
Sewage O&M	Wastewater	Interfund Transfers	Carol Kurzhial	641-0630-793-50-02		361,294	Revision in the Cash Reserve computation is attributed to the required reserves. Cash Reserves = 2 months of operations expenditures per bond ordinance.
				Grand Total		193,918	

Filed in Clerk's Office

MAR 08 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

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



Bill No. 16-16

PHONE 574/ 235-7678
FAX 574/ 235-9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

March 3, 2016

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

RE: March 2016 Appropriation Ordinance – Civil City Funds

Dear President Scott,

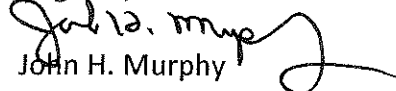
During the past several years, it has been the practice of the City of South Bend to request department heads, fiscal staff and city administration to conduct an extensive review of the status of compliance with the adopted city budget and propose necessary adjustments periodically throughout the year. For 2016, we plan to propose adjustments during four time periods—March, June, September and December.

Based on our budget review, we are submitting the enclosed additional appropriation ordinance for your consideration.

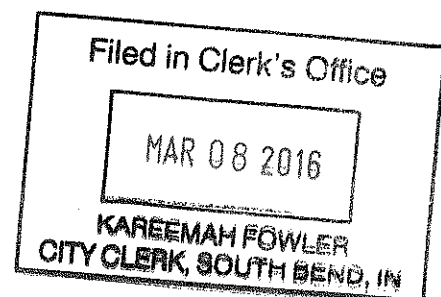
I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on March 14, 2016 with 2nd reading, public hearing and 3rd reading scheduled for March 28, 2016.

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

CC: Pete Buttigieg, Mayor
James Mueller, Chief of Staff
Cristal Brisco, Corporation Counsel
Aladean DeRose, City Attorney
Jennifer Hockenhill, Deputy City Controller



Excellence | Accountability | Innovation | Inclusion | Empowerment



ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND, INDIANA, APPROPRIATING ADDITIONAL FUNDS FOR CERTAIN DEPARTMENTAL AND CITY SERVICES OPERATIONS IN 2016 OF \$25,000 FROM GENERAL FUND (#101), \$587,022 FROM DCI STATE GRANTS FUND (#210), \$926,497 FROM UNSAFE BUILDING FUND (#219), \$17,500 FROM CENTRAL SERVICES FUND (#222), \$22,000 FROM COVELESKI NON REVERTING CAPITAL FUND (#401) AND \$29,300 FROM COUNTY OPTION INCOME TAX FUND (#404).

STATEMENT OF PURPOSE AND INTENT

The Common Council passed the City's 2016 operating and capital budgets in 2015 (Ordinances #10388-15 passed on October 12, 2015) which included expenditures for various City operations. It is now necessary to appropriate additional funds for operational and capital expenditures necessary for the City to effect provision of services to its citizens which were not anticipated at the time the City budget was adopted.

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

Section I. The following amounts are hereby appropriated in fiscal year 2016 and set apart within the following designated funds for expenditures as follows:

<u>Fund</u>	<u>Amount</u>
General Fund (#101)	\$ 25,000
DCI State Grant Fund (#210)	587,022
Unsafe Building Fund (#219)	926,497
Central Services Fund (#222)	17,500
Coveleski Non Reverting Capital Fund (#401)	22,000
County Option Income Tax (#404)	<u>29,300</u>
TOTAL	<u>\$1,607,319</u>

Section II. 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

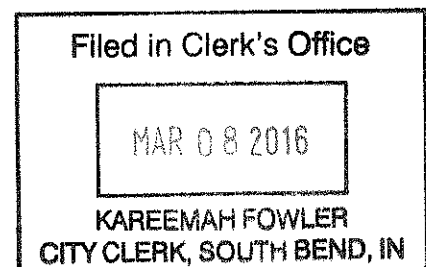
Presented by me to the Mayor of the City of South Bend, Indiana, on the
_____ day of _____, 2016 at _____ o'clock __ . m.

Deputy City Clerk

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

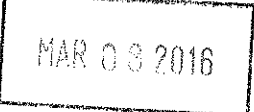
Mayor, City of South Bend, Indiana

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

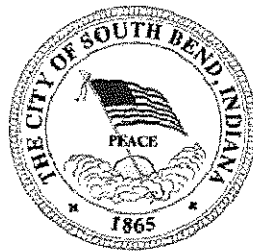


City of South Bend, Indiana
March 2016 Additional Appropriation Requests - Civil City Funds
 (Increase or decrease in total fund expenditures)
 March 3, 2016

Fund Name	Department Name	Account Name	Fiscal Officer/ Contact Name	Account Number	Project Number	Budget Increase/ (Decrease)	Justification
General Fund	Fire	Professional Services	Todd Skwarcan	101-0901-422-31-06		25,000	Temp assistance to assist with accounting/budget work for EMS and Fire Department
State Grants	DCI	Demolition & Clearance	John March	210-1060-460-36-82		587,022	To budget remainder of Blight Elimination Plan Reimbursement Grant funds. Originally received \$1,579,000; 100% grant funded
Unsafe Building Fund	Code Enforcement	Illegal Dumping	Seema Timble	219-1201-415-36-14		600,098	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Unsafe Building Fund	Code Enforcement	Legal	Seema Timble	219-1201-415-31-01		48,000	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Unsafe Building Fund	Code Enforcement	Site Mowing	Seema Timble	219-1201-415-36-13		163,905	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Unsafe Building Fund	Code Enforcement	Graffiti Removal	Seema Timble	219-1201-415-36-15		99,894	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
Unsafe Building Fund	Code Enforcement	Misc. Charges	Seema Timble	219-1201-415-36-89		14,900	Transferring budget from Code to Unsafe Building Fund due to set up of new fund in 2016
						926,487	
Central Services	Central Services	Office Equipment	Mary Wisniewski	222-0613-419-36-02		13,500	Add 500,000 impressions for Park Department were unknown during budget process. Increase for larger, more productive copier and additional maintenance and toner costs.
Central Services	Central Services	Capital Lease Principal	Mary Wisniewski	222-0613-419-37-11		3,720	
Central Services	Central Services	Capital Lease Interest	Mary Wisniewski	222-0613-419-37-12		280	
						17,500	
Coveleski Non Reverting Capital	Parks	Repairs & Maintenance Buildings	Ron O'Connor	401-1101-452-36-01		22,000	Per 2015 agreement with Swing Batter Swing to split costs, not known at time of budget.
COIT	Community Investment	Other Professional Services	John March	404-1001-460-31-06		29,300	Job Training Costs - contract signed in 2015 was not encumbered as originally planned.
				Grand Total		1,607,319	

Filed in Clerk's Office

 KAREEMAN FOWLER
 CITY CLERK, SOUTH BEND, IN

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



Bill No. 17-16

PHONE 574/ 235-7678
FAX 574/ 235-9928

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR

DEPARTMENT OF ADMINISTRATION AND FINANCE

March 3, 2016

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

RE: March 2016 Transfer Ordinance


Dear President Scott,

During the past several years, it has been the practice of the City of South Bend to request department heads, fiscal staff and city administration to conduct an extensive review of the status of compliance with the adopted city budget and propose necessary adjustments periodically throughout the year. For 2016, we plan to propose adjustments during four time periods—March, June, September and December.

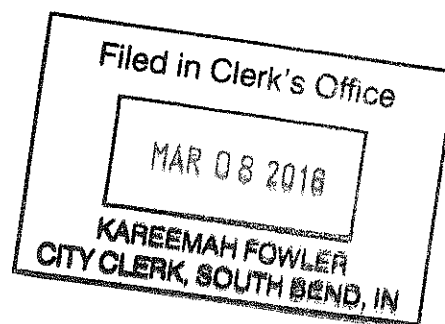
I will present this bill to the Common Council at the appropriate committee and council meetings. It is requested that this bill be filed for 1st reading on March 14, 2016 with 2nd reading, public hearing and 3rd reading scheduled for March 28, 2016.

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

CC: Pete Buttigieg, Mayor
James Mueller, Chief of Staff
Cristal Brisco, Corporation Counsel
Aladean DeRose, City Attorney
Jennifer Hockenhull, Deputy City Controller





ORDINANCE NO. _____

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, FOR BUDGET TRANSFERS FOR VARIOUS DEPARTMENTS WITHIN
THE CITY OF SOUTH BEND, INDIANA FOR THE YEAR 2016

STATEMENT OF PURPOSE AND INTENT

Unforeseen conditions have developed since the adoption of the existing budgets (Ordinances #10388-15 and 10389-15 passed on October 12, 2015) which necessitate the increase and reduction of appropriations within the various departments of the General Fund and other funds of the City of South Bend during 2016.

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

Section I. All accounts as set forth in the detailed attachment hereto which are incorporated herein shall be adjusted by increase or reduction of appropriation in the designated sums.

Section II. 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

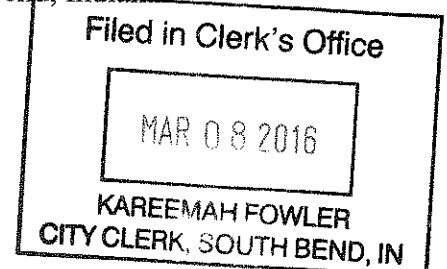
Presented by me to the Mayor of the City of South Bend, Indiana, on the _____ day of _____, 2016, at _____ o'clock ____ . m.

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



City of South Bend, Indiana
 March 2016 Budget Transfers
 (budget transfers between expenditure categories or departments within the same fund)
 March 3, 2016

Fund Name	Department Name	Account Name	Fiscal Officer/Contact Name	Account Number	Project Number	Budget Increase/Decrease	Justification
Parks	Recreation	Park Equipment	Ron O'Connor	203-1103-452-43-07	K3COONS	22,500	Purchase 2 concession trailers - Aerial Park/East Race; originally budgeted in supplies
Parks	Recreation	Recreation Supplies	Ron O'Connor	203-1103-452-22-23	K3COONS	(22,500)	
COIT	Admin & Finance	Office Equipment Repair	Jen Hockenhuil	404-0617-415-36-02		500	Installation of new desk on the 14th floor
COIT	Admin & Finance	Office Supplies	Jen Hockenhuil	404-0617-415-21-04		3,565	New office furniture for the County City Building
COIT	Admin & Finance	Election Costs	Jen Hockenhuil	404-0617-431-39-60		(4,065)	Election costs less than estimated per County
Solid Waste	Solid Waste	Uniforms - Code NEAT Crew	Carol Kurzhal	610-6117-791-22-05		13	Underestimated final costs before Code moved to different fund
Solid Waste	Solid Waste	Uniforms - Trash Dept	Carol Kurzhal	610-6117-791-22-05		(13)	Available budget
Solid Waste	Solid Waste	Landfill - Code NEAT Crew	Carol Kurzhal	610-6117-791-39-85		1,134	Underestimated final costs before Code moved to different fund
Solid Waste	Solid Waste	Landfill - Trash Dept	Carol Kurzhal	610-6117-791-39-85		(1,134)	Available budget
				Grand Total		0	

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



The South Bend Common Council

4th Floor County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601-1830
274.235.9321

Fax: 574.235.9173

TDD: 574.235.5567

March 9, 2016

The South Bend Common Council
4th Floor County-City Building
South Bend, Indiana 46601

Re: Community Project

Dear Council Members:

We are pleased to introduce the attached Resolution which supports the proposed installation of a fence near Coquillard Park.

It showcases another community project to be built and constructed by volunteers. The project would use absolutely no tax dollars. We believe that the volunteers and businesses donating their resources should be commended for stepping up in making South Bend better because of their efforts.

We request that this Resolution be sent to the Parks Committee and have public hearing on March 14th.

Most sincerely,

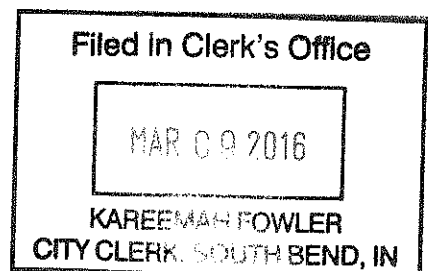
Council Member Gavin Ferlic, Council Member at Large

Council Member Karen L. White, Council Member at Large

Council Member Jo Broden, 4th District Council Member

Council Member Oliver J. Davis, 6th District Council Member

Attachment



RESOLUTION NO. 4545-16

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, PUBLICLY SUPPORTING THE INSTALLATION OF A FENCE ON THE EAST
SIDE OF PERLEY PRIMARY FINE ARTS ACADEMY AND ON THE WEST SIDE OF
COQUILLARD PARK**

Whereas, the South Bend Common Council recognizes that Coquillard Park is named after Alexis Coquillard, who is credited with the founding of South Bend and who believed in developing land for park purposes; and

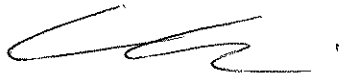
Whereas, the Common Council notes that a proposed four-foot high picket style fence is proposed to be constructed on the east side of Perley Primary Fine Arts Academy and on the west side of Coquillard Park; and

Whereas, the proposed installation of the fence will be a community project which will involve no tax dollars, but instead will be funded by donations, constructed by volunteers, and will utilize paint donated by one of the Sherwin-Williams stores in our city.

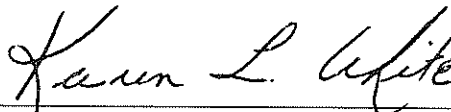
Now, Therefore, be it resolved, by the Common Council of the City of South Bend, Indiana, as follows:

Section I. The Common Council publicly supports this community project and believes it adds to the civic pride and beautification of the City of South Bend.

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



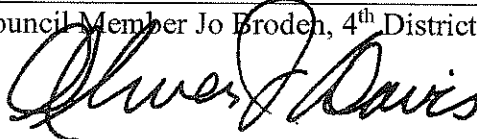
Council Member Gavin Ferlic, Council Member at Large



Council Member Karen L. White, Council Member at Large



Council Member Jo Broden, 4th District Council Member

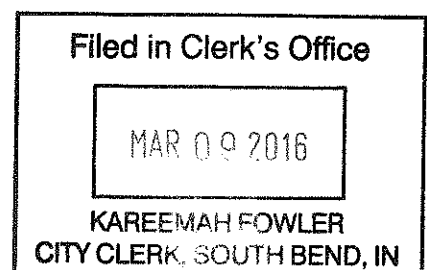


Council Member Oliver J. Davis, 6th District Council Member

PRESENTED

NOT APPROVED

ADOPTED



227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 7, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Real Property Tax Abatement Petition for: **East Bank South Bend Development, LLC**

Dear Council Member Ferlic:

Please find the attached information pertaining to a real property tax abatement petition for East Bank South Bend Development, LLC:

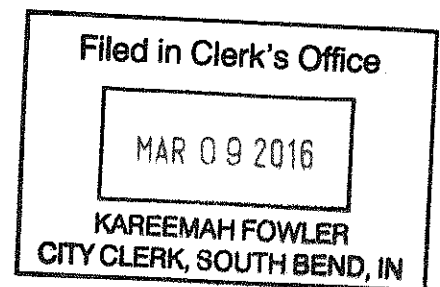
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. East Bank South Bend Development, LLC will be investing approximately \$2,500,000 in the construction of a new six story mixed use building. The project meets the qualifications for an (8) eight year real property tax abatement. A representative from East Bank South Bend Development, LLC will be available to meet with the Committee on Monday, March 14, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Aaron Kobb
Director Economic Resources



RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

215 Sycamore Street, South Bend, IN 46617

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF AN EIGHT (8) YEAR REAL
PROPERTY TAX ABATEMENT FOR

East Bank South Bend Development, LLC

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as 215 Sycamore Street, South Bend, IN 46617 and which is more particularly described as follows:

LOT 9 EAST BANK TOWNHOMES MINOR SUB NP#132 01-06-11

and which has Key Numbers 018-5003-005808 be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the

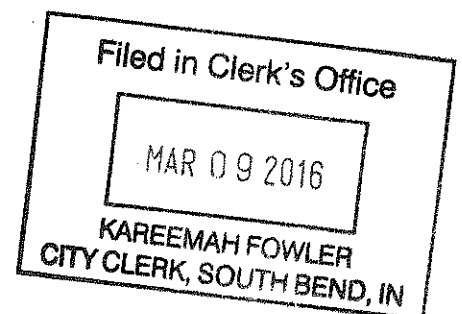
purposes of tax abatement. Such designation is for Real Property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of (8) eight years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED
NOT APPROVED
~~ADOPTED~~



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
East Bank South Bend Development, LLC

DATE: March 8, 2016

On Wednesday, March 9, 2016, a petition from East Bank South Bend Development, LLC was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at 215 Sycamore Street, South Bend, IN 46617. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Estimated \$2,500,000 construction of a six story mixed use building with ground floor commercial and residential on floors 2-5 along with a common area on the sixth floor. The ground floor commercial space will be approximately 3200 square feet. Each floor of the residential units will consist of a one, two, and three bedroom apartment for a total of 12 residential units.
- Estimated total taxes on new and existing building construction during the eight year abatement period – \$580,917
- Estimated taxes being abated on new building construction during the eight year abatement period – \$234,495
- Estimated taxes to be paid on new and existing building construction during the eight year abatement period – \$346,422

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 2 permanent, full-time jobs within the eight year abatement period, representing a new estimate annual payroll of \$91,520
- 14 total jobs will be retained with a total annual payroll of \$640,640

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has been granted or associated with previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for an (8) eight-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

East Bank South Bend Development, LLC

South Bend Portage Township
Real Property Tax Abatement Schedule*

Tax Key Number
018-5003-005808
Current Assessed Value:
6,100
Estimated Project Cost:
2,500,000

Assessed Value:	Current AV & Tax	Without Abatement	100% Year 1	88% Year 2	75% Year 3	63% Year 4	50% Year 5	38% Year 6	25% Year 7	13% Year 8
Current Assessed Value	6,100	6,100	6,100	6,100	6,100	6,100	6,100	6,100	6,100	6,100
Base Assessed Value	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000
Less Abatement Deduction	0	(2,000,000)	(1,750,000)	(1,500,000)	(1,250,000)	(1,000,000)	(750,000)	(500,000)	(250,000)	0
Net Assessed Value	6,100	2,006,100	6,100	246,100	506,100	746,100	1,006,100	1,246,100	1,506,100	1,746,100
Property Taxes:										
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	335	110,272	335	13,528	27,819	41,012	55,303	68,486	82,787	95,980
Less Circuit Breaker Credit	(115)	(37,657)	0	0	0	0	0	(591)	(13,271)	(24,979)
Net Tax	221	72,615	335	13,528	27,819	41,012	55,303	67,905	69,516	71,003

	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
Circuit Breaker Cap	183	60,183	60,183	60,183	60,183
Circuit Breaker Debt Service	38	12,432	38	1,525	60,183
Circuit Breaker Cap	221	72,615	60,221	61,708	60,183
Totals	1,766	579,151	580,917	234,495	346,422

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

City of South Bend

Petition for Incentives

Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbend.in.gov/government/content/tax-abatement> before processing can be complete



General Information		Project Name	East Bank Flats	Project Number
Legal name as registered with Secretary of State	East Bank South Bend Development, LLC			
Business structure	Single member LLC			
Company website	MatthewsLLC.com			
Proposed Project Information				
Proposed project address	215 Sycamore St	Parent company name		
City, State, Zip	South Bend, IN 46617	Legal owner	East Bank South Bend Development, LLC	
Site acreage or acreage required	.1	Is the real estate owned or leased?	Owned	
Square feet of facility	16,000	If leased by whom		
Primary Contact Information				
Primary company contact name	David Matthews	Title	Member	
Address of company contact	121 S. Niles Ave	Phone	574-607-4271	
City, State, Zip	South Bend, IN 46617	Email	David@MatthewsLLC.com	
Senior Official Information				
Company senior official name	David Matthews	Title	Member	
Address of company contact (if different from above)		Phone		
City, State, Zip		Email		
Consultant Information/Agent				
Hired business consultant/agent name		Consultant release (Y/N)		
Address		Local economic development partners approval (Y/N)		
City, State, Zip		Email		
Project Overview				
Brief description of your company, project, and why the property is necessary for economic growth	Construction of a 6 story mixed use building with ground floor commercial and residential on floors 2, 3, 4 and 5, and a common area on floor 6. Commercial ground floor space is approximately 3,200 square feet. The objective is to test the market for new residential apartments in South Bend's Central Business District. Each of the floors 2 - 5 will consist of a one bedroom apartment, a two bedroom apartment and a three bedroom apartment. The total # of residential units is 12. The building is to be built adjacent to the the East Bank Townhomes, facing Sycamore St.			
Certified Technology Park appropriate				
Community Revitalization Enhancement District				
Certify that the Building Permit has not been issued (Y/N)	Y	Number of residential units created by project	12	
If this is a petition for personal property tax abatement, has the equipment been installed				

Filed in Clerk's Office

MAR 09 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Investment Details			
Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
0	No		

New Project Investments								
Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition	\$ 8,400	\$ 0						
Building Lease Payments	\$ 0	\$ 0						
Building Purchase Costs	\$ 0	\$ 0						
New Building Construction	\$ 20,000	\$ 2,800,000						
Existing Building Improvements	\$ 0	\$ 0						
New Machinery & Equipment	\$ 0	\$ 0						
Special Tooling/Retooling	\$ 0	\$ 0						
New Furniture/Fixtures	\$ 0	\$ 10,000						
New Computer/IT Hardware	\$ 0	\$ 0						
New Software	\$ 0	\$ 7,000						
On-site Rail Infrastructure	\$ 0	\$ 0						
On-site Fiber Infrastructure	\$ 0	\$ 15,000						
TOTAL								

Full-Time Permanent Indiana-Resident Positions by Calendar Year						
Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net-NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2015	14	22				
2016			2	22		
2017						
2018						
2019						
2020						
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers	15	12.50
Technical	15	15
Managerial	20	16
Administrative	15	15

Who will be the individual responsible for coordinating with WorkOne on recruiting? **David Matthews**

Does your company have an EEO hiring policy? **Yes** Are you an EEO employer? **Yes**

Please list the number of full time and part time minority and/or female employees for each of the last three years:							Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.
Year	2014		2015		2016		
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	
Black	0	1	1	0	1	0	Open door, facebook posts, open door and conversations with WorkOne, Ivy Tech, WEI and Spark programs at St. Marys.
Hispanic	0	0	0	0	0	0	
Asian	0	0	0	0	0	0	
Indian	1	0	1	0	1	0	
Female	3	0	8	0	5	0	
Other							

What is the current assessed value?	Real Property:	6,100	Personal Property:	0
What is the projected assessed value?	Real Property:	0	Personal Property:	0
What is the tax key number for this project?	018-5003-005808			
What is the six digit NAICS code?				

Please attach a Google map and street view of the location.			
Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:	
	Year One	0	0
	Year Two	0	0
	Year Three	0	0
	Year Four	0	0
	Year Five	0	0

Staff Use Only
Please fill out the Public Benefit Summary information and add to the total from above.

Public Benefit Item:		(Y or N)	Points	Points
Project Related:				
5	A. Redevelop a Site that has Special Needs			49
	B. Develop Based on Local University Research			35
	C. Achieve a Physical Element of a Plan		36	36
	Sub-total Project Related:		36	120
	Super Size Projects (point values are cumulative):			
6	A. 100% to 199%		25	25
	B. 200% to 299%		68	68
	C. 300% to 399%			65
	D. 400% and Over			52
	Sub-total Super Size Projects:		93	210
7	Pay for Municipal Infrastructure:			
	A. Pay for Oversizing or Upgrading			14
	B. Pay for 26-50% of Extension Cost			26
	C. Pay for 51-75% of Extension Cost			39
	D. Pay for 76-100% of Extension Cost			52
	Sub-total Infrastructure Related:		0	131
Total from Applicant Section:			414	539
Total from Staff Section:			129	461
Total Public Benefit Points:			543	1000



**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 61787 (R4 / 2-13)
Prescribed by the Department of Local Government Finance

20__ PAY 20__
FORM SB-1 / Real Property
PRIVACY NOTICE The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.1(c) and (d).

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

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

INSTRUCTIONS:

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body BEFORE the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987, and areas designated after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
- Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, BEFORE a deduction may be approved.
- To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. If the property owner misses the May 10 deadline in the initial year of occupation, he can apply between March 1 and May 10 of a subsequent year.
- Property owners whose Statement of Benefits was approved after June 30, 1991, must attach a Form CF-1/Real Property annually to the application to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.1(b) and IC 6-1.1-12.1-5.3(j)).
- The schedules established under IC 6-1.1-12.1-4(d) for rehabilitated property apply to any economic revitalization areas designated after June 30, 2000, unless an alternative deduction schedule is adopted by the designating body (IC 6-1.1-12.1-17). The schedules effective prior to July 1, 2000, shall continue to apply to economic revitalization areas designated before July 1, 2000.

SECTION 1 TAXPAYER INFORMATION

Name of taxpayer East Bank South Bend Development, LLC		
Address of taxpayer (number and street, city, state, and ZIP code) 121 S. Niles Ave, South Bend, IN 46617		
Name of contact person David Matthews	Telephone number (574) 607 4271	E-mail address David@MathewsLLC.com

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body South Bend Common Council	Resolution number
Location of property 215 Sycamore St, South Bend, IN 46617 St. Joseph County	County
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Construction of a 6 story mixed use building with ground floor commercial and residential on floors 2, 3, 4 and 5, and a common area on floor 6.	
DLGF taxing district number	
Estimated start date (month, day, year) May 1, 2016	
Estimated completion date (month, day, year) September 1, 2016	

SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
14	768,000	14	14	2	90000

SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	8,500	6,100
Plus estimated values of proposed project	2,500,000	2,126,000
Less values of any property being replaced	0	0
Net estimated values upon completion of project	2,508,500	2,131,100

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (pounds) _____	Estimated hazardous waste converted (pounds) _____
--	--

Other benefits

SECTION 6 TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative 	Title Member	Date signed (month, day, year) 3/6/2016
--	-----------------	--

FOR USE OF THE DESIGNATING BODY

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

- A. The designated area has been limited to a period of time not to exceed _____ calendar years* (see below). The date this designation expires is _____.
- B. The type of deduction that is allowed in the designated area is limited to:
 - 1. Redevelopment or rehabilitation of real estate improvements Yes No
 - 2. Residentially distressed areas Yes No
- C. The amount of the deduction applicable is limited to \$ _____.
- D. Other limitations or conditions (specify) _____
- E. The deduction is allowed for _____ years* (see below).
- F. Did the designating body adopt an alternative deduction schedule per IC 6-1.1-12.1-17? Yes No
If yes, attach a copy of the alternative deduction schedule to this form.

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

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

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.1-12.1-4.

- A. For residentially distressed areas, the deduction period may not exceed five (5) years.
- B. For redevelopment and rehabilitation or real estate improvements:
 - 1. If the Economic Revitalization Area was designated prior to July 1, 2000, the deduction period is limited to three (3), six (6), or ten (10) years.
 - 2. If the Economic Revitalization Area was designated after June 30, 2000, and is not in a residentially distressed area, the deduction period may not exceed ten (10) years.

City of South Bend



Payment Receipt

Transaction time
Mar 6, 2016 20:40:10 PST

PayPal transaction number
3JA07248G1321444S

Total
\$250.00 USD

We'll send a confirmation email to ebay@davidmatthews.com. This transaction will appear on your statement as PayPal *CITYSOUTHBE.

Paid to
City of South Bend

Shipped to
David Matthews
P.O. Box 338
Notre Dame, IN 46556-0338
United States

Your shopping cart

Description	Price	Quantity	Amount
Tax Abatement Petition Application	\$250.00	1	\$250.00
Item total			\$250.00
Tax			\$0.00
Total			\$250.00 USD

Filed in Clerk's Office

MAR 06 2016
KAR...
CITY C...

227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 8, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Personal Property Tax Abatement Petition for: **Spectron mrc, LLC.**

Dear Council Member Ferlic:

Please find the attached information pertaining to a personal property tax abatement petition for Spectron mrc, LLC:

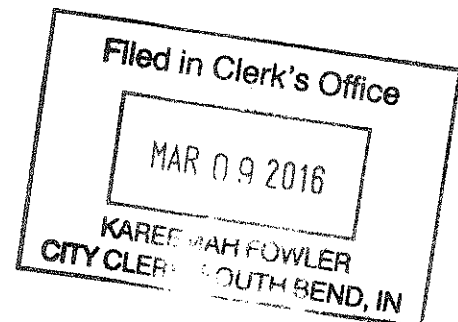
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. Spectron mrc, LLC will be investing approximately \$2,780,000 in the purchase of new pharmaceutical equipment. Spectron mrc, LLC will be leasing space in the newly constructed Ignition Park Catalyst Two building. The project meets the qualifications for a (5) five year personal property tax abatement. A representative from Spectron mrc, LLC will be available to meet with the Committee on Monday, March 14, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Aaron Kobb
Director of Economic Resources



RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

**1265 Franklin, Catalyst Two Building, Ignition Park, South Bend, IN
46601**

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A FIVE (5) YEAR PERSONAL
PROPERTY TAX ABATEMENT FOR

Spectron mrc, LLC

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as 1265 Franklin, Catalyst Two Building, Ignition Park, South Bend, IN 46601 and which is more particularly described as follows:

Business Personal Property

and which has Key Numbers to be assigned be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for personal property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted personal property tax deduction for a period of five (5) years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

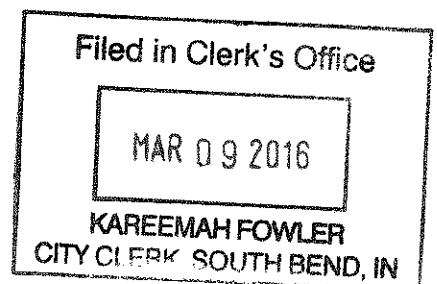
SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOB

SUBJECT: PERSONAL PROPERTY TAX ABATEMENT PETITION FOR:
Spectron mrc, LLC

DATE: March 8, 2016

On Monday, March 7, 2016, a petition from Spectron mrc, LLC was received and subsequently filed with the City Clerk for personal property tax abatement consideration for property to be located at 1265 Franklin, Catalyst Two Building, Ignition Park, South Bend, IN 46601. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Purchase of approximately \$2,780,000 of new pharmaceutical equipment.
- Estimated total taxes on new equipment over the five abatement period – \$238,487
- Estimated taxes abated on new equipment over the five abatement period – \$109,315
- Estimated taxes to be paid on new equipment over five year abatement period – \$129,172

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 39 permanent, full-time jobs within the five year abatement period, representing a new estimated annual payroll of \$2,022,592
- 8 total jobs will be retained with a total annual payroll of \$582,400

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with any previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (5) five-year personal property tax abatement under section 2-84.2, Tangible Personal Property Tax Abatement.

Spectron mrc, LLC

South Bend Portage Township
Personal Property Tax Abatement Schedule*

Tax Key Number	TBD									
Current Assessed Value:	0									
Estimated Project Cost:	2,780,000									
	40%	55%	60%	45%	37%		60%	60%	40%	20%
	Year 1	Year 2	Year 3	Year 4	Year 5		Year 1	Year 2	Year 3	Year 4
Assessed Value:	Pay 2017	Pay 2018	Pay 2019	Pay 2020	Pay 2021		Pay 2017	Pay 2018	Pay 2019	Pay 2020
Current Assessed Value	0	0	0	0	0		0	0	0	0
Base Assessed Value	1,112,000	1,668,000	1,529,000	1,251,000	1,028,600		1,112,000	1,668,000	1,529,000	1,251,000
Less Abatement Deduction	(1,112,000)	(1,334,400)	(917,400)	(500,400)	(205,720)		(1,112,000)	(1,334,400)	(917,400)	(500,400)
Net Assessed Value	0	333,600	611,600	750,600	822,880		0	333,600	611,600	750,600
Property Taxes:										
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%		5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	0	18,337	33,619	41,259	45,232		0	18,337	33,619	41,259
Less Circuit Breaker Credit	0	0	0	0	(9,275)		0	0	0	0
Net Tax	0	18,337	33,619	41,259	35,957		0	18,337	33,619	41,259
Circuit Breaker Cap										
Circuit Breaker	3.0000%	33,360	45,870	37,530	30,858		33,360	50,040	45,870	37,530
Debt Service	0.6197%	0	3,790	4,651	5,099		0	2,067	3,790	4,651
Circuit Breaker Cap		33,360	49,660	42,181	35,957		33,360	52,107	49,660	42,181

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
Year 1	0	40,251	40,251	40,251	0
Year 2	0	60,376	60,376	42,039	18,337
Year 3	0	55,345	55,345	21,727	33,619
Year 4	0	45,282	45,282	4,023	41,259
Year 5	0	37,232	37,232	1,275	35,957
Totals	0	238,487	238,487	109,315	129,172

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

City of South Bend Petition for Incentives

Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbend.in.gov/government/content/tax-abatement> before processing can be complete



General Information		Project Name	Project Number
Legal name as registered with Secretary of State	Spectron mrc, LLC; Spectron Equipment, LLC; Spectron Land, LLC		
Business structure	Delaware LLCs		
Company website	www.spectronmrc.com		

Proposed Project Information			
Proposed project address	Catalyst Two; Ignition Park	Parent company name	Spectron mrc, LLC
City, State, Zip	South Bend, Indiana	Legal owner	Gregory S. Hiatt
Site acreage or acreage required	Building already completed	Is the real estate owned or leased	leased
Square feet of facility	11,400	If leased by whom	Great Lakes Capital

Primary Contact Information			
Primary company contact name	Gregory S. Hiatt	Title	President/CEO/Managing Director
Address of company contact	17490 Dugdale Drive	Phone	574-271-2800
City, State, Zip	South Bend, Indiana 46635	Email	g.hiatt@spectronmrc.com or TARQY@sbcglobal.net

Senior Official Information			
Company senior official name	Gregory S. Hiatt	Title	President/CEO/Managing Director
Address of company contact (if different from above)		Phone	
City, State, Zip	same	Email	same

Consultant Information/Agent			
Hired business consultant/agent name	none	Consultant release (Y/N)	NA
Address		Local economic development partners approval (Y/N)	
City, State, Zip		Email	

Project Overview	
<p>Brief description of your company, project, and why the property is necessary for economic growth</p>	<p>Spectron mrc, LLC is a PET (positron emission tomography) radiopharmacy and radiopharmaceutical manufacturer. The company operates a cyclotron that creates positron emitting radioactive isotopes for the use in manufacturing pharmaceuticals used in nuclear medicine departments within hospitals and clinics. Additionally, Spectron mrc, fills prescriptions written by local physicians and distributes the prescriptions to the hospitals and clinics involved.</p> <p>In addition to the hospitals and clinics using PET radiopharmaceuticals, they also need and use, on a daily basis, a different radionuclide for nuclear cardiology, nuclear bone imaging, lung, liver and kidney diagnostic studies. The radionuclide needed is Technetium-99m and has had periods of product interruption over the last several years with the product shortage situation predicted to get more severe in the years going forward.</p> <p>The new business is to operate a higher energy cyclotron and produce the technetium-99m. The business plan is to distribute compounded radiopharmaceuticals using the technetium-99m produced in our cyclotron. The hospitals and clinics being serviced by our radiopharmacy (which is a 2 to 3 hour delivery radius) won't be subject to the world wide shortages. This business advantage these health care providers will have will improve local patient care and enhance the reputation of the local health care facilities given that these health care providers will not have any product supply shortages other non-associated health care providers will have. The hospitals are very supportive of this project and several have already signed long term supply/purchase agreements with Spectron mrc.</p> <p>In the years ahead, Spectron mrc will be able to produce and supply other research, diagnostic and therapeutic</p>

Certified Technology Park appropriate	YES		
Community Revitalization Enhancement District	YES		
Certify that the Building Permit has not been issued (Y/N)	The building shell is complete	Number of residential units created by project	10-5 new employees moving into the area
If this is a petition for personal property tax abatement, has the equipment been installed	The equipment has not been purchased nor installed		

Filed in Clerk's Office

MAR 09 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Investment Details			
Public infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
I think all roadways, utilities and	No	\$1,400,000.00	\$2,700,000.00

New Project Investments

Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition	\$ 0	\$ 0						
Building Lease Payments	\$ 0	\$ 100,000	\$ 240,000	\$ 240,000	\$ 240,000	\$ 240,000	\$ 240,000	\$ 240,000
Building Purchase Costs	\$ 0	\$ 0						
New Building Construction	\$ 0	\$ 0						
Existing Building Improvements	\$ 0	\$ 1,200,000			\$ 15,000		\$ 5,000	
New Machinery & Equipment		\$ 2,700,000				\$ 30,000		
Special Tooling/Retooling		\$ 80,000				\$ 10,000		
New Furniture/Fixtures		\$ 10,000			\$ 5,000			\$ 3,000
New Computer/IT Hardware		\$ 12,000		\$ 5,000	\$ 5,000		\$ 3,000	
New Software		\$ 15,000	\$ 2,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000	\$ 3,000
On-site Rail Infrastructure								
On-site Fiber Infrastructure								
TOTAL								

Full-Time Permanent Indiana-Resident Positions by Calendar Year

Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2015	5-Professional FTEs/3-deliv	\$50.00/\$10.00				
2016			5-Professional FTEs + 5-Delivery FTEs	\$34.20/\$10.00	5x\$35k / 5x\$	10 FTEs (15
2017			5-Prof FTEs + 5-Del. FTEs	\$34.20/\$10.00	5x\$35k / 5x\$	10 FTEs (15
2018			5-Prof FTEs + 6-Del. FTEs	\$47.20 / \$11.00	5x\$37k / 6x\$	11 FTEs (18
2019			2-Prof FTEs + 3-Del. FTEs	\$47.20 / \$11.00		
2020			1-Prof FTE + 2-Del. FTEs	\$79.00/\$11.00		
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers		\$9.00/hr - \$13.00/hr
Technical	\$20.00/hr - \$55.00/hr	\$25.00/hr - \$35.00/hr
Managerial	\$25.00/hr - \$100.00/hr	\$70.00/hr - \$20.00/hr
Administrative	\$25.00/hr - \$75.00/hr	

Who will be the individual responsible for coordinating with WorkOne on recruiting? **Gregory S. Hlatt**

Does your company have an EEO hiring policy? **yes** Are you an EEO employer? **yes**

Please list the number of full time and part time minority and/or female employees for each of the last three years:

Year	2013		2014		2015	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Black						
Hispanic						
Asian						
Indian						
Female	1		1		1	
Other						

Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.

Spectron mrc has had very little growth and has retained all of the current full time technical/professional staff for eight to 14 years. The delivery personnel has had some turnover and adds have been run in the newspaper.

The company is committed equal opportunity employment but hasn't seen an opportunity to hire minority groups.

**Complete below for Real or Personal Property Tax Abatement only.
Please sign for all requested incentives.**

Public Benefit Item:

Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.

		Qualify (Yes or No)	Earned Points	Available Points	
1	Construction Related (Contractors):				
	A.	Employ Local Companies (75%)		20	
	B.	Purchase Materials from Local Companies (75%)		20	
	C.	Require Employees vs. Independent Contractors		19	
	D.	Require Prevailing Wage (Davis Bacon)		22	
	E.	Require Health Benefits		22	
	F.	Require Pension Benefits		18	
	G.	Maintain Affirmative Action Plan		20	
		Sub-total Construction Related:		0	141
2	Wage & Benefit Related (Owner):				
	A.	Pay Target Wage Levels	yes	33	33
	B.	Provide Health Benefits	yes	34	34
	C.	Provide Pension Benefits	no		29
	D.	Provide Training	yes	28	28
	E.	Provide Child Care	no		15
	F.	Provide Transportation Assistance	yes	14	14
	G.	Provide Employer Assisted Housing program	no		9
	Sub-total Wage & Benefit Related:		109	162	
3	Workforce Related:				
	A.	Create New Jobs	yes	42	42
	B.	Retain Existing Jobs	yes	41	41
	C.	Maintain Affirmative Action Plan	yes	35	35
	D.	Provide Targeted Hiring Preference	yes	34	34
	Sub-total Workforce Related:		152	152	
4	Support a Municipal Facility:				
	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)	yes	84	84
		Name of Facility			
	Sub-total Municipal Facility:		84	84	
Sub-total from Above:			345	539	

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for a real and/or personal property tax abatement consideration and pursuant to I.C., 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the above.

Submitted By: Gregory S. Hiatt

PROPERTY TAXATION
DIVISION
315 W. WASHINGTON ST.
SOUTH BEND, IN 46708-1000

Date: March 02, 2016

What is the current assessed value?	Real Property:		Personal Property:	
What is the projected assessed value?	Real Property:		Personal Property:	
What is the tax key number for this project?				
What is the six digit NAICS code?				
Please attach a Google map and street view of the location.				
Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:		
Year One				
Year Two				
Year Three				
Year Four				
Year Five				

Staff Use Only
Please fill out the Public Benefit Summary Information and add to the total from above.

		(Y or N)	Points	Points
Public Benefit Item:				
Project Related:				
5	A. Redevelop a Site that has Special Needs			49
	B. Develop Based on Local University Research			35
	C. Achieve a Physical Element of a Plan			36
	Sub-total Project Related:		0	120
6	Super Size Projects (point values are cumulative):			
	A. 100% to 199%			25
	B. 200% to 299%			68
	C. 300% to 399%			65
	D. 400% and Over			52
Sub-total Super Size Projects:			0	210
7	Pay for Municipal Infrastructure:			
	A. Pay for Oversizing or Upgrading			14
	B. Pay for 26-50% of Extension Cost			26
	C. Pay for 51-75% of Extension Cost			39
	D. Pay for 76-100% of Extension Cost			52
Sub-total Infrastructure Related:			0	131
Total from Applicant Section:			345	539
Total from Staff Section:			0	461
Total Public Benefit Points:			345	1000

Supplement to Petition for Incentives

Frequently Asked Questions

We are frequently asked to explain the following questions, in an effort to clarify we are providing answers below.

1) How do I pay my petition filing fee?

Your petition filing fee can be paid either in person or via mail to:

*City Clerk's Office
Attn: Deputy City Clerk
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601*

Or online via paypal at:

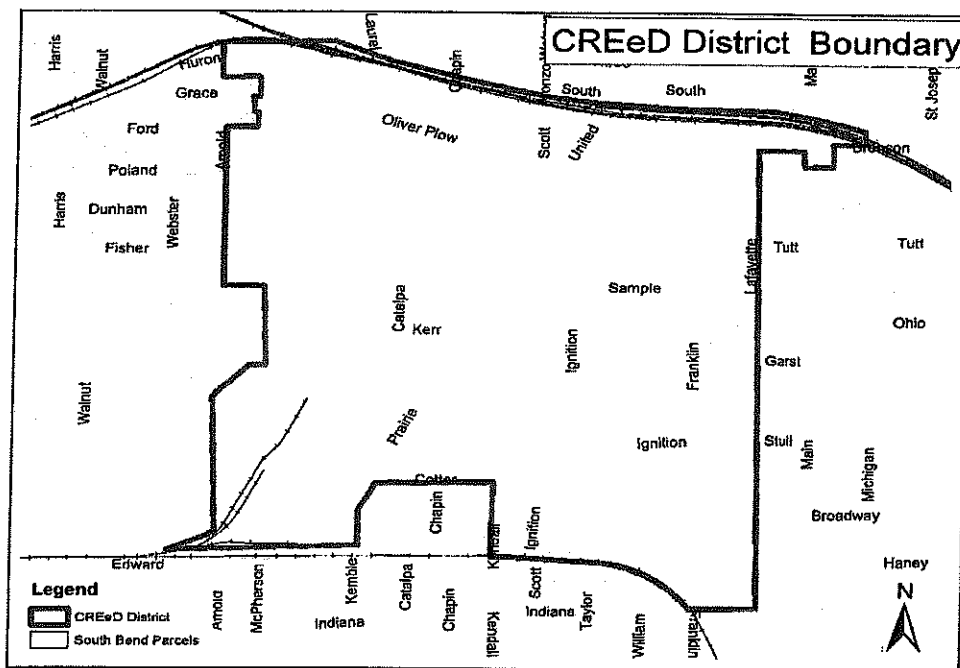
<http://southbendin.gov/government/content/tax-abatement>

2) Certified Technology Park appropriate? (Page one, under project overview)

In the South Bend area there are only two Certified Technology Parks, Innovation Park and Ignition Park. If your property is not located in either then the answer would be no.

3) Community Revitalization Enhancement District? (Page one, under project overview)

The map below outlines the CREd area, please check to see if you fall within the boundaries.



4) Has any 504 funding been received? (Page one, under investment details)

504 Funding is a loan that come from the Small Business Administration. This funding must be applied for to be received.

5) Total training expenditure – not cumulative (Page two, under full time Indiana resident positions)

The amount of money to be spent per year on training over the course of the project.

6) Total number to be trained – not cumulative (Page two, under full time Indiana resident positions)

The amount of people that you will train per year over the length of the project.

If you have any additional questions that are not addressed by this document, please contact Sarah Heintzelman in the Department of Community Investment at 574.235.5842 or email at sheintze@southbendin.gov



STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51764 (R2 / 12-11)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

PRIVACY NOTICE

The cost and any specific individual's salary information is confidential; the balance of the filing is public record per IC 6-1.1-12.1-5.1 (c) and (d).

INSTRUCTIONS:

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
2. Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to installation of the new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment, **BEFORE** a deduction may be approved
3. To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between March 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between March 1 and the extended due date of that year.
4. Property owners whose Statement of Benefits was approved after June 30, 1991, must submit Form CF-1 / PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
5. The schedules established under IC 6-1.1-12.1-4.5(d) and (e) apply to equipment installed after March 1, 2001, unless an alternative deduction schedule is adopted by the designating body (IC 6-1.1-12.1-17).

SECTION 1 TAXPAYER INFORMATION										
Name of taxpayer SPECTRON mrc, LLC; SPECTRON LAND, LLC; SPECTRON EQUIPMENT, LLC										
Address of taxpayer (number and street, city, state, and ZIP code) 17490 Dugdale Drive, South Bend, Indiana 46835										
Name of contact person Gregory S. Hiatt							Telephone number 574-271-2800			
SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT										
Name of designating body City of South Bend							Resolution number (s)			
Location of property Catalyst Two, Ignition Park; South Bend, Indiana					County South Bend		DLGF taxing district number			
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (use additional sheets if necessary) MANUFACTURING: 15 MeV Cyclotron to produce radionuclides, Targets for Cyclotron, Solid target transport system							ESTIMATED			
									START DATE	COMPLETION DATE
							Manufacturing Equipment		May 16, 2016	June 13, 2016
							R & D Equipment		May 30, 2016	June 13, 2016
							Logist Dist Equipment		June 13, 2016	July 11, 2016
IT Equipment		May 30, 2016	June 13, 2016							
SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT										
Current number 9 employees (5 Prof FTEs, 3 Part)		Salaries \$ 750,000.00		Number retained 9 employees		Salaries \$ 750,000.00		Number additional 50 New Employees in 4 to 5 yr		
								Salaries \$ 1,212,000.00 New wages		
SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT										
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.										
		MANUFACTURING EQUIPMENT		R & D EQUIPMENT		LOGIST DIST EQUIPMENT		IT EQUIPMENT		
		COST		COST		COST		COST		
		ASSESSED VALUE		ASSESSED VALUE		ASSESSED VALUE		ASSESSED VALUE		
Current values		\$2,300,000.00	\$1,100,000.00	\$150,000.00	\$70,000.00	\$60,000.00	\$25,000.00	\$45,000.00	\$10,000.00	
Plus estimated values of proposed project		\$2,780,000.00		\$ 50,000.00		\$60,000.00		\$27,000.00		
Less values of any property being replaced			\$180,000.00		\$15,000.00		\$6,000.00		\$7,000.00	
Net estimated values upon completion of project		\$3,700,000.00		\$105,000.00		\$78,000.00		\$30,000.00		
SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER										
Estimated solid waste converted (pounds) _____					Estimated hazardous waste converted (pounds) _____					
Other benefits: Local supply of radiopharmaceuticals required by local hospitals and clinics that are expected to be in short supply world wide in the next few years. Enhances the communities										
SECTION 6 TAXPAYER CERTIFICATION										
I hereby certify that the representations in this statement are true.										
Signature of authorized representative Gregory S. Hiatt				Title President		Date signed (month, day, year) 2/29/2016				

FOR USE OF THE DESIGNATING BODY

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

A. The designated area has been limited to a period of time not to exceed _____ calendar years * (see below). The date this designation expires is _____.

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

- | | | |
|--|------------------------------|-----------------------------|
| 1. Installation of new manufacturing equipment; | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. Installation of new research and development equipment; | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 3. Installation of new logistical distribution equipment. | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| 4. Installation of new information technology equipment; | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

C. The amount of deduction applicable to new manufacturing equipment is limited to \$ _____ cost with an assessed value of \$ _____.

D. The amount of deduction applicable to new research and development equipment is limited to \$ _____ cost with an assessed value of \$ _____.

E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ _____ cost with an assessed value of \$ _____.

F. The amount of deduction applicable to new information technology equipment is limited to \$ _____ cost with an assessed value of \$ _____.

G. Other limitations or conditions (specify) _____

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction on or after July 1, 2000, is allowed for:

- | | | |
|-------------------------------------|--------------------------------------|--|
| <input type="checkbox"/> 1 year | <input type="checkbox"/> 6 years | ** For ERA's established prior to July 1, 2000, <u>only</u> a 5 or 10 year schedule may be deducted. |
| <input type="checkbox"/> 2 years | <input type="checkbox"/> 7 years | |
| <input type="checkbox"/> 3 years | <input type="checkbox"/> 8 years | |
| <input type="checkbox"/> 4 years | <input type="checkbox"/> 9 years | |
| <input type="checkbox"/> 5 years ** | <input type="checkbox"/> 10 years ** | |

I. Did the designating body adopt an alternative deduction schedule per IC 6-1.1-12.1-17? Yes No
If yes, attach a copy of the alternative deduction schedule to this form.

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

Approved: (signature and title of authorized member)	Telephone number ()	Date signed (month, day, year)
Attested by:	Designated body	

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.1-12.1-4.5

STATEMENT OF BENEFITS
PERSONAL PROPERTY
State Form 51764 (R2 / 12-11)

FORM SB-1 / PP

SPECTRON mrc, LLC
March 1, 2016

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment.

MANUFACTURING: 15 MeV Cyclotron to produce radionuclides, Targets for Cyclotron, Solid target transport system, solid target dissolution and separation system, synthesis boxes, hot cells with robotic manipulators, mini cells, gas chromatography, HPLC, TLC, multi channel analyzer, single channel analyzer autoclave, incubator, automated limulus reagent testing system, ph test meter. Lead "L" shields, syringe shields, dose calibrators, GM meters, area monitors, stack and air monitors, filtering system. **IT EQUIPMENT:** Server upgrade for accounting , desk top data entry computers for accounting/book keeping/payroll/ order entry /billing, server for pharmacy system with seven single station systems for unit dose dispensing, several independent computers for the operation of the technical manufacturing and research equipment. **R and D:** Electronic balances, microscope both conventional and electronic, rockers, vortex stirrers, micro pipettes, centrifuges both small test tube and large, glass ware. **Logistical Distribution Equipment:** Vans and/or cars for medical delivery, special radioactive material reusable and disposable delivery containers, tungsten and lead syringe carriers to be used with delivery containers, tungsten and lead vial shields to be used with delivery containers. Charging stations for electric delivery vehicles

227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 8, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Real Property Tax Abatement Petition for: **Cohn & Cohn Investments, LLC**

Dear Council Member Ferlic:

Please find the attached information pertaining to a real property tax abatement petition for Cohn & Cohn Investments, LLC:

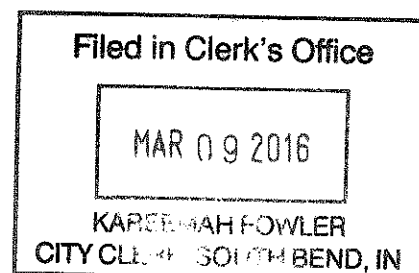
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. Cohn & Cohn Investments, LLC will be investing approximately \$1,600,000 on the construction of a new commercial distribution and office facility in the Blackthorn Corporate Park. The facility is intended to initially be more than 13,000 square feet to serve and support the expanding operations of UniFirst, which will lease the facility. The project meets the qualifications for a (5) five year real property tax abatement. A representative from Cohn & Cohn Investments, LLC will be available to meet with the Committee on Monday, March 14, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Aaron Kobb
Director Economic Resources



RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

Blackthorn Corporate Office Park Lot 6, South Bend, IN 46628

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A FIVE (5) YEAR REAL
PROPERTY TAX ABATEMENT FOR

Cohn & Cohn Investments, LLC

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as Blackthorn Corporate Office Park Lot 6, South Bend, IN 46628 and which is more particularly described as follows:

BLACKTHORN CORPORATE OFFICE PARK MINOR SUB #7 LOT 6

and which has Key Numbers 025-1018-062208 be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the

purposes of tax abatement. Such designation is for Real Property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of (5) five years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

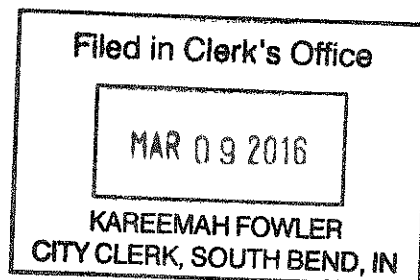
SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
Cohn & Cohn Investments, LLC

DATE: March 8, 2016

On Wednesday, March 9, 2016, a petition from Cohn & Cohn Investments, LLC was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at Blackthorn Corporate Office Park Lot 6, South Bend, IN 46628. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Approximately \$1,600,000 construction of a new commercial distribution and office facility in the Blackthorn Corporate Park. The facility will serve and support the expanding operations of UniFirst, one of the nation's largest workwear and textile service companies.
- Estimated total taxes on new building construction during five year abatement period – \$231,660
- Estimated taxes being abated on new building construction during five year abatement period – \$103,007
- Estimated taxes to be paid on new building construction during five year abatement period – \$128,653

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 5 permanent, full-time jobs within the five year abatement period, representing a new annual payroll of approximately \$202,800
- 23 total jobs will be retained with a total annual payroll of approximately \$932,880

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (5) five-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

5 YEAR

8-Mar-16

Cohn & Cohn Investments, LLC

South Bend German Township
Real Property Tax Abatement Schedule*

Tax Key Number
Current Assessed Value:
Estimated Project Cost:

025-1018-062208
0
1,600,000

Assessed Value: Current Assessed Value Base Assessed Value Less Abatement Deduction Net Assessed Value	100% 80%	Current AV & Tax	Without Abatement	100% Year 1	80% Year 2	60% Year 3	40% Year 4	20% Year 5	Property Taxes:	
									Assume constant tax rate of	5.4628%
Gross Tax (tax rate x net assessed value)		0	1,280,000	1,280,000	1,280,000	1,280,000	1,280,000	1,280,000	5.4628%	5.4628%
Less Circuit Breaker Credit		0	0	0	0	0	0	0		
Net Tax		0	1,280,000	1,280,000	1,280,000	1,280,000	1,280,000	1,280,000		
Circuit Breaker Cap		0	1,280,000	(1,280,000)	(1,024,000)	(768,000)	(512,000)	(256,000)		
Circuit Breaker	3.0000%	0	38,400	38,400	38,400	38,400	38,400	38,400		
Debt Service	0.6197%	0	7,932	7,932	1,586	3,173	4,759	6,346		
Circuit Breaker Cap		0	46,332	46,332	39,986	41,573	43,159	44,746		
Totals		0	231,660	231,660	103,007	128,654	103,007	128,654		

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	0	46,332	46,332	46,332	0
2	0	46,332	46,332	32,347	13,985
3	0	46,332	46,332	18,363	27,969
4	0	46,332	46,332	4,378	41,954
5	0	46,332	46,332	1,586	44,746
Totals	0	231,660	231,660	103,007	128,654

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

City of South Bend Petition for Incentives

Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbend.in.gov/government/content/tax-abatement> before processing can be complete



General Information		Project Name	Project Number
Legal name as registered with Secretary of State	Cohn & Cohn Investments, LLC (a South Carolina limited liability company (registered in South Carolina))		
Business structure	Limited Liability Company		
Company website	www.cohnconstruction.com		

Proposed Project Information			
Proposed project address	Blackhorn/Nimitz Development	Parent company name	
City, State, Zip	South Bend, IN 46628	Legal owner	
Site acreage or acreage required	5.6	Is the real estate owned or leased	Rental
Square feet of facility	Approximately 13,000-20,000 sq. feet	If leased by whom	UniFirst Corporation (Tenant)

Primary Contact Information			
Primary company contact name	Richard Cohn, Cohn Construction	Title	President
Address of company contact	912 Lady Street, Suite 200	Phone	803-699-1325x102
City, State, Zip	Columbia, SC 29201	Email	richardcohn@cohnconstructionllc.com

Senior Official Information			
Company senior official name	Michael Croatti (UniFirst)	Title	Senior Vice President
Address of company contact (if different from above)	68 Jonspin Rd	Phone	978-658-8888 x4225
City, State, Zip	Wilmington, MA 01887	Email	mcroatti@unifirst.com

Consultant Information/Agent			
Hired business consultant/agent name	Richard Deahl, Barnes & Thornburg LLP	Consultant release (Y/N)	Y
Address	100 N. Michigan Street, Suite 700	Local economic development partners approval (Y/N)	
City, State, Zip	South Bend, Indiana 46601	Email	rdeahl@btlaw.com

Project Overview	
<p>Brief description of your company, project, and why the property is necessary for economic growth</p>	<p>Cohn & Cohn Investments, LLC ("Petitioner") proposes to invest at least \$1,600,000 in the construction of a new commercial distribution and office facility in the Blackhorn Corporate Park in South Bend. The facility is intended to initially be more than 13,000 square feet to serve and support the expanding operations of UniFirst (which will lease the facility) in South Bend.</p> <p>UniFirst is one of North America's largest workwear and textile service companies, providing managed uniform, protective clothing, and custom corporate image apparel programs to businesses in diverse industries. In addition to outfitting more than 1.5 million workers in clean uniforms each workday, UniFirst also has a hand in keeping their businesses clean, safe, and healthy through UniFirst's Facility Service Programs. These programs allow UniFirst to be a single-source solution for a variety of needs.</p> <p>The project is intended to facilitate UniFirst's move from a leased facility to this project, which UniFirst will lease with an option to purchase. UniFirst's long term plan is to be in South Bend for the next several decades, if not longer. UniFirst's current growth objectives for the South Bend market include a long term objective to build a processing facility. Once our annual revenues surpass \$10 million, we will have the ability to expand the operation, adding numerous jobs to the local economy. This current property will allow UniFirst to continue to expand our operation, benefiting the South Bend economy.</p>

Certified Technology Park appropriate	No		
Community Revitalization Enhancement District	No		
Certify that the Building Permit has not been issued (Y/N)	No permit	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed	No request for personal property abatement is being made.		

Filed in Clerk's Office

MAR 09 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Investment Details			
Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
N/A	No	N/A	N/A

New Project Investments								
Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition		\$ 53,000						
Building Lease Payments		\$ 144,000	\$ 144,000	\$ 144,000	\$ 144,000	\$ 144,000	\$ 144,000	
Building Purchase Costs								
New Building Construction		\$ 1,600,000						
Existing Building Improvements		\$ 0	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	
New Machinery & Equipment		\$ 220,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	\$ 70,000	
Special Tooling/Retooling								
New Furniture/Fixtures		\$ 25,000						
New Computer/IT Hardware		\$ 40,000	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	\$ 2,500	
New Software								
On-site Rail Infrastructure								
On-site Fiber Infrastructure								
TOTAL								

Full-Time Permanent Indiana-Resident Positions by Calendar Year						
Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2015	23	19.50				
2016			3	19.50		3
2017			2	19.50		2
2018						
2019						
2020						
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers	\$10.00 - \$16.00/Hour	\$9.00 - \$12.00/Hour
Technical		
Managerial	\$25.00 - \$35.00/Hour	
Administrative	\$12.50 - \$18.00/ Hour	

Who will be the individual responsible for coordinating with WorkOne on recruiting? Steve Dobrzykowski

Does your company have an EEO hiring policy? Yes Are you an EEO employer? Yes

Please list the number of full time and part time minority and/or female employees for each of the last three years:

Year	2013		2014		2015	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Black			1		1	
Hispanic	6	2	7	2	9	
Asian						
Indian						
Female	6		8		8	
Other						

Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.

UniFirst is proud to be an Equal Employment/Affirmative Action Employer. Candidates are considered for employment with UniFirst Corporation without regard to their race, color, religion, national origin, age, sex, gender, pregnancy, disability, sexual orientation, gender identity, genetic information, military status, veteran status (specifically status as a disabled

*All employment information and projections are those of UniFirst (which will occupy/operate the Property).

**Complete below for Real or Personal Property Tax Abatement only.
Please sign for all requested incentives.**

Public Benefit Item:

Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.

		Qualify (Yes or No)	Earned Points	Available Points	
1	Construction Related (Contractors):				
	A.	Employ Local Companies (75%)	Yes	20	20
	B.	Purchase Materials from Local Companies (75%)	Yes	20	20
	C.	Require Employees vs. Independent Contractors	No		19
	D.	Require Prevailing Wage (Davis Bacon)	No		22
	E.	Require Health Benefits	Yes	22	22
	F.	Require Pension Benefits	No		18
	G.	Maintain Affirmative Action Plan	No		20
		Sub-total Construction Related:		62	141
2	Wage & Benefit Related (Owner):				
	A.	Pay Target Wage Levels	Yes	33	33
	B.	Provide Health Benefits	Yes	34	34
	C.	Provide Pension Benefits	No		29
	D.	Provide Training	Yes	28	28
	E.	Provide Child Care	No	0	15
	F.	Provide Transportation Assistance	No	0	14
	G.	Provide Employer Assisted Housing program	No	0	9
	Sub-total Wage & Benefit Related:		95	162	
3	Workforce Related:				
	A.	Create New Jobs	Yes	42	42
	B.	Retain Existing Jobs	Yes	41	41
	C.	Maintain Affirmative Action Plan	Yes	35	35
	D.	Provide Targeted Hiring Preference	Yes	34	34
	Sub-total Workforce Related:		152	152	
4	Support a Municipal Facility:				
	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)			84
		Name of Facility			
	Sub-total Municipal Facility:			84	
Sub-total from Above:			309	539	

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for a real and/or personal property tax abatement consideration and pursuant to I.C., 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the above.

Submitted By:



Date:

2/18/16

What is the current assessed value?	Real Property:	0	Personal Property:	
What is the projected assessed value?	Real Property:		Personal Property:	
What is the tax key number for this project?	025-1018-062208			
What is the six digit NAICS code?				

Please attach a Google map and street view of the location.

Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:
Year One		
Year Two		
Year Three		
Year Four		
Year Five		

Staff Use Only
Please fill out the Public Benefit Summary Information and add to the total from above

Public Benefit Item:		(Y or N)	Points	Points
Project Related:				
5	A. Redevelop a Site that has Special Needs			49
	B. Develop Based on Local University Research			35
	C. Achieve a Physical Element of a Plan		36	36
	Sub-total Project Related:	0		120
	Super Size Projects (point values are cumulative):			
6	A. 100% to 199%		25	25
	B. 200% to 299%			68
	C. 300% to 399%			65
	D. 400% and Over			52
	Sub-total Super Size Projects:	0		210
7	Pay for Municipal Infrastructure:			
	A. Pay for Oversizing or Upgrading			14
	B. Pay for 26-50% of Extension Cost			26
	C. Pay for 51-75% of Extension Cost			39
	D. Pay for 76-100% of Extension Cost			52
Sub-total Infrastructure Related:	0		131	
Total from Applicant Section:		309		539
Total from Staff Section:		0	61	461
Total Public Benefit Points:		309	370	1000



**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R6 / 10-14)

Prescribed by the Department of Local Government Finance

20 16 PAY 20 17

FORM SB-1 / Real Property

PRIVACY NOTICE

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

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

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

INSTRUCTIONS:

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

SECTION 1 TAXPAYER INFORMATION

Name of taxpayer COHN & COHN INVESTMENTS, LLC		
Address of taxpayer (number and street, city, state, and ZIP code) 912 Lady Street, Suite 200, Columbia SC 29201		
Name of contact person Richard H. Cohn, Sr.	Telephone number (803) 699-1325x102	E-mail address richardcohn@cohnconstrucionllc.com

SECTION 2 LOCATION AND DESCRIPTION OF PROPOSED PROJECT

Name of designating body Common Council of City of South Bend		Resolution number
Location of property Vacant Land - Lot 6 in Blackthorn Corporate Office Park	County St. Joseph	DLGF taxing district number SB-German
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Investment of ~\$1,600,000 in the construction of an approximate 13,000-20,000 square foot commercial distribution and office facility in the Blackthorn Corporate Park in South Bend. The facility is intended to initially serve and support the expanding operations of UniFirst in South Bend.		Estimated start date (month, day, year) March 1, 2016
		Estimated completion date (month, day, year) March 1, 2018

SECTION 3 ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT

Current number	Salaries	Number retained	Salaries	Number additional	Salaries
23	\$923,880	23	\$923,880	5	~\$180,000+

SECTION 4 ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT

	REAL ESTATE IMPROVEMENTS	
	COST	ASSESSED VALUE
Current values	58,000.00	8,300.00
Plus estimated values of proposed project	1,600,000.00	Reg. 17
Less values of any property being replaced	0.00	0.00
Net estimated values upon completion of project	1,658,000.00	Reg. 17

SECTION 5 WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER

Estimated solid waste converted (pounds) _____	Estimated hazardous waste converted (pounds) _____
--	--

Other benefits

1. The employment projections above are those of UniFirst, the intended occupant of the new facility.

SECTION 6 TAXPAYER CERTIFICATION

I hereby certify that the representations in this statement are true.

Signature of authorized representative 	Date signed (month, day, year) February 18, 2016
Printed name of authorized representative Richard H. Cohn, Sr.	Title Chairman

FOR USE OF THE DESIGNATING BODY

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

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

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

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

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

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

IC 6-1.1-12.1-17

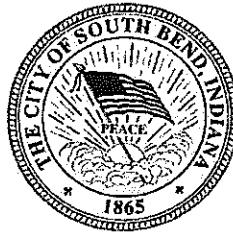
Abatement schedules

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

- (1) The total amount of the taxpayer's investment in real and personal property.
 - (2) The number of new full-time equivalent jobs created.
 - (3) The average wage of the new employees compared to the state minimum wage.
 - (4) The infrastructure requirements for the taxpayer's investment.
- (b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
- (c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.

227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830

PHONE: 574/235-9371
FAX: 574/235-9021



CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 8, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Real Property Tax Abatement Petition for: **South Bend Form Tool Co., Inc.**

Dear Council Member Ferlic:

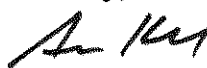
Please find the attached information pertaining to a real property tax abatement petition for South Bend Form Tool Co., Inc.:

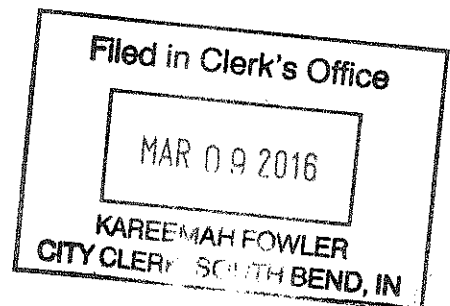
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. South Bend Form Tool Co., Inc. will be investing approximately \$220,000 in the expansion of their current floor space along with purchasing and installing approximately \$623,000 of new equipment. This expansion will grow their current customer base and allow them to pursue additional business from new customers. The project meets the qualifications for a (5) five year real property tax abatement. A representative from South Bend Form Tool Co., Inc. will be available to meet with the Committee on Monday, March 14, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,


Aaron Kobb
Director Economic Resources



RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

1619/1623 Franklin Street, South Bend, IN 46613

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A FIVE (5) YEAR REAL
PROPERTY TAX ABATEMENT FOR

South Bend Form Tool Co., Inc.

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as 1619/1623 Franklin Street, South Bend, IN 46613 and which is more particularly described as follows:

N ½ LOT 36 STULLS 5TH ADD
S ½ LOT 36 STULLS 5TH ADD

and which has Key Numbers 018-8028-1127 and 018-8028-1128 be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution

designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for Real Property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of (5) five years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

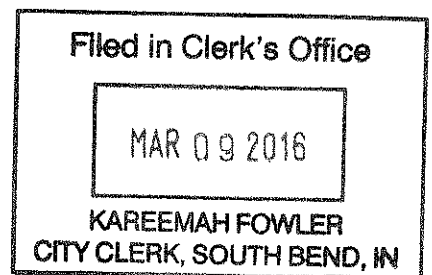
SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
South Bend Form Tool Co., Inc.

DATE: March 8, 2016

On Wednesday, March 9, 2016, a petition from South Bend Form Tool Co., Inc. was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at 1619 and 1623 Franklin Street, South Bend, IN 46613. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Approximately \$220,000 expansion of existing floor space along with the purchase of approximately \$623,000 of new equipment to better serve existing customers and pursue additional business.
- Total taxes on new and existing building and improvements during five year abatement period – \$37,796
- Estimated taxes being abated on new building improvements during five year abatement period – \$12,416
- Total taxes to be paid on new and existing building and improvements during five year abatement period – \$25,380

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 8 permanent, full-time jobs within the five year abatement period, representing a new annual payroll of \$378,560
- 17 total jobs will be retained with a total annual payroll of \$785,000

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (5) five-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

5 YEAR

4-Mar-16

South Bend Form Tool Co, Inc.

*South Bend Portage Township
Real Property Tax Abatement Schedule**

Tax Key Number
Current Assessed Value:
Estimated Project Cost:

018-8028-1128; 018-8025-1127
31,100
222,166

Assessed Value:	Current AV & Tax	Without Abatement	100% Year					20% Year 5
			Year 1	Year 2	Year 3	Year 4	Year 5	
Current Assessed Value	31,100	31,100	31,100	31,100	31,100	31,100	31,100	31,100
Base Assessed Value	177,733	177,733	177,733	177,733	177,733	177,733	177,733	177,733
Less Abatement Deduction	0	0	(177,733)	(142,186)	(106,640)	(71,093)	(35,547)	(35,547)
Net Assessed Value	31,100	208,833	31,100	66,647	102,193	137,740	173,286	173,286
Property Taxes:								
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	1,710	11,479	1,710	3,663	5,617	7,571	9,525	9,525
Less Circuit Breaker Credit	(584)	(3,920)	0	0	0	(453)	(2,186)	(2,186)
Net Tax	1,126	7,559	1,710	3,663	5,617	7,119	7,339	7,339
Circuit Breaker Cap								
Circuit Breaker	933	6,265	6,265	6,265	6,265	6,265	6,265	6,265
Debt Service	193	1,294	193	413	633	854	1,074	1,074
Circuit Braker Cap	1,126	7,559	6,458	6,678	6,898	7,119	7,339	7,339

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	1,126	6,433	7,559	5,850	1,710
2	1,126	6,433	7,559	3,896	3,663
3	1,126	6,433	7,559	1,942	5,617
4	1,126	6,433	7,559	441	7,119
5	1,126	6,433	7,559	220	7,339
Totals	5,629	32,167	37,796	12,348	25,448

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

City of South Bend

Petition for Incentives

Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbendin.gov/government/content/tax-abatement> before processing can be complete



General Information		Project Name	Project Number
Legal name as registered with Secretary of State	South Bend Form Tool Co. Inc.		
Business structure	Corporation		
Company website	http://www.sbform.com		
Proposed Project Information			
Proposed project address	1619 / 1623 Franklin Street	Parent company name	South Bend Form Tool Co. Inc.
City, State, Zip	South Bend, IN 46613	Legal owner	Eggers Real Estate, LLC
Site acreage or acreage required	0.23 acres (both lots together)	Is the real estate owned or leased	Owned
Square feet of facility	2,880	If leased by whom	
Primary Contact Information			
Primary company contact name	Kyle Harblson	Title	Project Manager
Address of company contact	408 W. Indiana Avenue	Phone	574-289-2441
City, State, Zip	South Bend, IN 46613	Email	kharblson@sbform.com
Senior Official Information			
Company senior official name	Herb Eggers	Title	President & Owner
Address of company contact (if different from above)	408 W. Indiana Avenue	Phone	574-289-2441
City, State, Zip	South Bend, IN 46613	Email	heggers@sbform.com
Consultant Information/Agent			
Hired business consultant/agent name	None	Consultant release (Y/N)	
Address		Local economic development partners approval (Y/N)	
City, State, Zip		Email	
Project Overview			
Brief description of your company, project, and why the property is necessary for economic growth	<p>Precision machine shop specializing in the aerospace and industrial markets.</p> <p>This project is an expansion of our floor space to allow for new equipment and material storage. The project is necessary due to the award of new business from a long-time existing customer. The expansion and additional equipment will allow us to bring on a second shift to cover the increased demand from our existing customer base. It will also allow us to pursue additional business from other existing and/or new customers.</p>		
<div style="border: 2px solid black; padding: 10px; display: inline-block;"> <p style="font-size: 1.2em; margin: 0;">Filed in Clerk's Office</p> <div style="border: 1px solid black; padding: 5px; display: inline-block; margin: 5px 0;"> <p style="font-size: 1.5em; margin: 0;">MAR 09 2016</p> </div> <p style="margin: 0;">KAREEMAH FOWLER CITY CLERK, SOUTH BEND, IN</p> </div>			
Certified Technology Park appropriate	No		
Community Revitalization Enhancement District	No		
Certify that the Building Permit has not been issued (Y/N)	No	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed	No		

Investment Details			
Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
\$0	No	\$84,705	\$558,977

New Project Investments

Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition								
Building Lease Payments								
Building Purchase Costs								
New Building Construction		\$ 182,166						
Existing Building Improvements		\$ 20,000	\$ 20,000					
New Machinery & Equipment		\$ 180,934	\$ 377,143					
Special Tooling/Retooling		\$ 30,000	\$ 35,000					
New Furniture/Fixtures		\$ 6,305	\$ 5,000					
New Computer/IT Hardware		\$ 3,000	\$ 3,000					
New Software		\$ 2,800	\$ 500					
On-site Rail Infrastructure								
On-site Fiber Infrastructure								
TOTAL								

Full-Time Permanent Indiana-Resident Positions by Calendar Year

Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2015	17	\$377	1	\$42	0	0
2016			5	\$20	0	0
2017			1	\$20	0	0
2018			1	\$20	0	0
2019						
2020						
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers	\$20	
Technical	\$20	
Managerial	\$42	
Administrative		

Who will be the individual responsible for coordinating with WorkOne on recruiting? **Kyle Harblson or Eric Lupa**

Does your company have an EEO hiring policy? **Yes** Are you an EEO employer? **Yes**

Please list the number of full time and part time minority and/or female employees for each of the last three years:							Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.
Year	2013		2014		2015		
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	
Black							South Bend Form Tool hires based on capabilities and experience. We openly post positions when hiring and accept applications from all qualified persons no matter their age, race or sex.
Hispanic							
Asian							
Indian							
Female	0	1	1	1	1	1	
Other							

**Complete below for Real or Personal Property Tax Abatement only.
Please sign for all requested incentives.**

Public Benefit Item:

Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.

		Qualify (Yes or No)	Earned Points	Available Points	
1	Construction Related (Contractors):				
	A.	Employ Local Companies (75%)	No	0	20
	B.	Purchase Materials from Local Companies (75%)	No	0	20
	C.	Require Employees vs. Independent Contractors	Yes	19	19
	D.	Require Prevailing Wage (Davis Bacon)	Yes	22	22
	E.	Require Health Benefits	Yes	22	22
	F.	Require Pension Benefits	No	0	18
	G.	Maintain Affirmative Action Plan	Yes	20	20
		Sub-total Construction Related:		83	141
2	Wage & Benefit Related (Owner):				
	A.	Pay Target Wage Levels	Yes	33	33
	B.	Provide Health Benefits	Yes	34	34
	C.	Provide Pension Benefits	No	0	29
	D.	Provide Training	Yes	28	28
	E.	Provide Child Care	No	0	15
	F.	Provide Transportation Assistance	No	0	14
	G.	Provide Employer Assisted Housing program	No	0	9
	Sub-total Wage & Benefit Related:		95	162	
3	Workforce Related:				
	A.	Create New Jobs	Yes	42	42
	B.	Retain Existing Jobs	Yes	41	41
	C.	Maintain Affirmative Action Plan	Yes	35	35
	D.	Provide Targeted Hiring Preference	Yes	34	34
	Sub-total Workforce Related:		152	152	
4	Support a Municipal Facility:				
	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)	Yes	84	84
		Name of Facility	Potawatomi Zoo		
	Sub-total Municipal Facility:		84	84	
Sub-total from Above:			414	539	

The undersigned owner(s) of real property, located within the City of South Bend, hereby petition the Common Council of the City of South Bend for a real and/or personal property tax abatement consideration and pursuant to I.C., 6-1.1-12.1-1, et seq., and South Bend Municipal Code Sec. 2-76 et seq., for this petition state the above.

Submitted By:

527 R.

Digitally signed by Kyle Harbison
Date: 2016.03.03 11:39:11 -0500

Date:

03/03/2016

What is the current assessed value?	Real Property:	\$31,000	Personal Property:	
What is the projected assessed value?	Real Property:		Personal Property:	
What is the tax key number for this project?	018-8028-1128; 018-8028-1127			
What is the six digit NAICS code?				
Please attach a Google map and street view of the location.				
Please list the amount of real and personal property taxes paid for the last five years when applicable.	Real Property Taxes:	Personal Property Taxes:		
	Year One	\$910.22		
	Year Two	\$912.26		
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	Year Four	\$665.28		
	Year Five	\$675.04		

Staff Use Only
Please fill out the Public Benefit Summary Information and add to the total from above.

Public Benefit Item:			(Y or N)	Points	Points
Project Related:					
5	A.	Redevelop a Site that has Special Needs			49
	B.	Develop Based on Local University Research			35
	C.	Achieve a Physical Element of a Plan			36
	Sub-total Project Related:			0	120
	Super Size Projects (point values are cumulative):				
6	A.	100% to 199%			25
	B.	200% to 299%			68
	C.	300% to 399%			65
	D.	400% and Over			52
	Sub-total Super Size Projects:			0	210
7	Pay for Municipal Infrastructure:				
	A.	Pay for Oversizing or Upgrading			14
	B.	Pay for 26-50% of Extension Cost			26
	C.	Pay for 51-75% of Extension Cost			39
	D.	Pay for 76-100% of Extension Cost			52
Sub-total Infrastructure Related:			0	131	
Total from Applicant Section:			414	539	
Total from Staff Section:			0	461	
Total Public Benefit Points:			414	1000	

**Supplement to Petition for Incentives
Frequently Asked Questions**

We are frequently asked to explain the following questions, in an effort to clarify we are providing answers below.

1) How do I pay my petition filing fee?

Your petition filing fee can be paid either in person or via mail to:

City Clerk's Office
Attn: Deputy City Clerk
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601

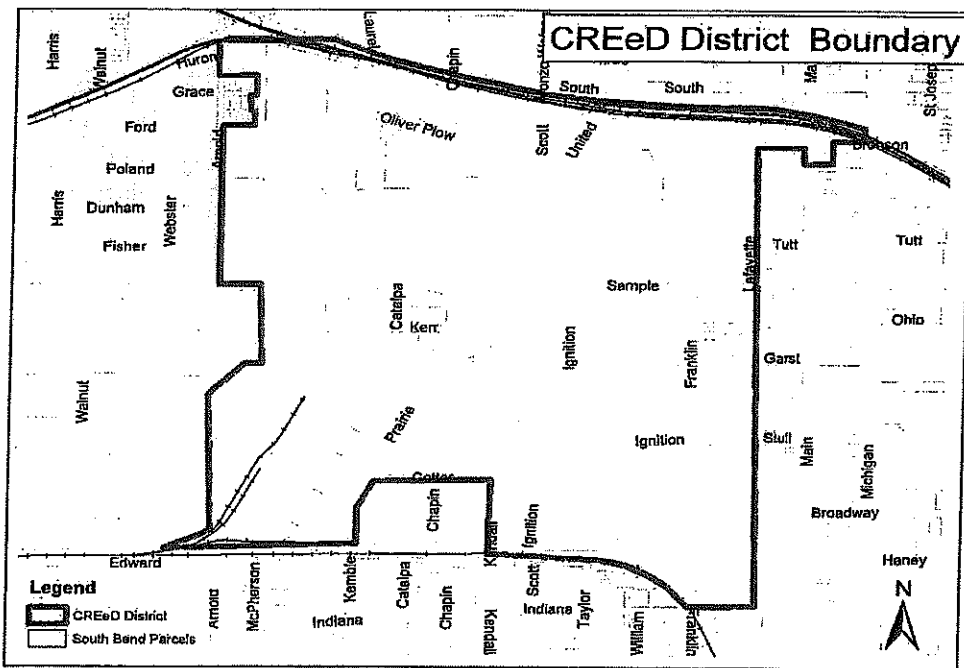
*Or online via paypal at:
<http://southbendin.gov/government/content/tax-abatement>*

2) Certified Technology Park appropriate? (Page one, under project overview)

In the South Bend area there are only two Certified Technology Parks, Innovation Park and Ignition Park. If your property is not located in either then the answer would be no.

3) Community Revitalization Enhancement District? (Page one, under project overview)

The map below outlines the CREd area, please check to see if you fall within the boundaries.



4) Has any 504 funding been received? (Page one, under investment details)

504 Funding is a loan that come from the Small Business Administration. This funding must be applied for to be received.

5) Total training expenditure – not cumulative (Page two, under full time Indiana resident positions)

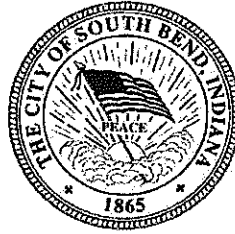
The amount of money to be spent per year on training over the course of the project.

6) Total number to be trained – not cumulative (Page two, under full time Indiana resident positions)

The amount of people that you will train per year over the length of the project.

If you have any additional questions that are not addressed by this document, please contact Sarah Heintzelman in the Department of Community Investment at 574.235.5842 or email at sheintze@southbendin.gov

227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 8, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Personal Property Tax Abatement Petition for: **South Bend Form Tool Co., Inc.**

Dear Council Member Ferlic:

Please find the attached information pertaining to a personal property tax abatement petition for South Bend Form Tool Co., Inc.:

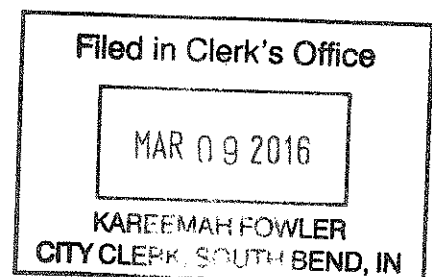
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. South Bend Form Tool Co., Inc. will be investing approximately \$220,000 in the expansion of their current floor space along with purchasing and installing approximately \$623,000 of new equipment. This expansion will grow their current customer base and allow them to pursue additional business from new customers. The project meets the qualifications for a (5) five year personal property tax abatement. A representative from South Bend Form Tool Co., Inc. will be available to meet with the Committee on Monday, March 14, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,

Aaron Kobb
Director of Economic Resources



RESOLUTION NO. _____

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

1619/1623 Franklin Street, South Bend, IN 46613

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A FIVE (5) YEAR PERSONAL
PROPERTY TAX ABATEMENT FOR

South Bend Form Tool Co., Inc.

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as 1619/1623 Franklin Street, South Bend, IN 46613 and which is more particularly described as follows:

Business Personal Property

and which has Key Numbers to be assigned be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the

purposes of tax abatement. Such designation is for personal property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted personal property tax deduction for a period of five (5) years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

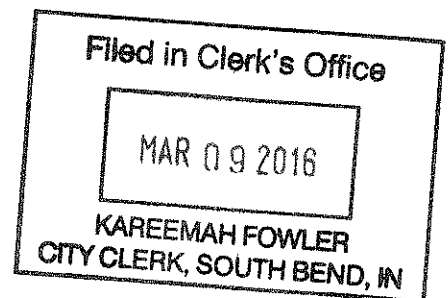
SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

ADOPTED



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
South Bend Form Tool Co., Inc.

DATE: March 8, 2016

On Wednesday, March 9, 2016, a petition from South Bend Form Tool Co., Inc. was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at 1619 and 1623 Franklin Street, South Bend, IN 46613. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Approximately \$220,000 expansion of existing floor space along with the purchase of approximately \$623,000 of new equipment to better serve existing customers and pursue additional business.
- Total taxes on new and existing building and improvements during five year abatement period – \$37,796
- Estimated taxes being abated on new building improvements during five year abatement period – \$12,416
- Total taxes to be paid on new and existing building and improvements during five year abatement period – \$25,380

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 8 permanent, full-time jobs within the five year abatement period, representing a new annual payroll of \$378,560
- 17 total jobs will be retained with a total annual payroll of \$785,000

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is located in the River West Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (5) five-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

5 YEAR

4-Mar-16

South Bend Form Tool Co, Inc.

South Bend Portage Township
Real Property Tax Abatement Schedule*

Tax Key Number
Current Assessed Value:
Estimated Project Cost:

018-8028-1128; 018-8025-1127
31,100
222,166

<u>Assessed Value:</u>	Current	Without	100%	80%	60%	40%	20%
Current Assessed Value	AV & Tax	Abatement	Year 1	Year 2	Year 3	Year 4	Year 5
100%	31,100	31,100	31,100	31,100	31,100	31,100	31,100
80%	177,733	177,733	177,733	177,733	177,733	177,733	177,733
	0	(177,733)	(177,733)	(142,186)	(106,640)	(71,093)	(35,547)
Net Assessed Value	31,100	208,833	31,100	66,647	102,193	137,740	173,286
<u>Property Taxes:</u>							
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	1,710	11,479	1,710	3,663	5,617	7,571	9,525
Less Circuit Breaker Credit	(584)	(3,920)	0	0	0	(453)	(2,186)
Net Tax	1,126	7,559	1,710	3,663	5,617	7,119	7,339

Circuit Breaker Cap	933	6,265	6,265	6,265	6,265	6,265	6,265
Circuit Breaker	193	1,294	193	413	633	854	1,074
Debt Service	1,126	7,559	6,458	6,678	6,898	7,119	7,339
Circuit Braker Cap							

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	1,126	6,433	7,559	5,850	1,710
2	1,126	6,433	7,559	3,896	3,663
3	1,126	6,433	7,559	1,942	5,617
4	1,126	6,433	7,559	441	7,119
5	1,126	6,433	7,559	220	7,339
Totals	5,629	32,167	37,796	12,348	25,448

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

City of South Bend

Petition for Incentives



Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbendin.gov/government/content/tax-abatement> before processing can be complete

General Information		Project Name	Project Number
Legal name as registered with Secretary of State	South Bend Form Tool Co. Inc.		
Business structure	Corporation		
Company website	http://www.sbform.com		
Proposed Project Information			
Proposed project address	1619 / 1623 Franklin Street	Parent company name	South Bend Form Tool Co. Inc.
City, State, Zip	South Bend, IN 46613	Legal owner	Eggers Real Estate, LLC
Site acreage or acreage required	0.23 acres (both lots together)	Is the real estate owned or leased	Owned
Square feet of facility	2,880	If leased by whom	
Primary Contact Information			
Primary company contact name	Kyle Harblson	Title	Project Manager
Address of company contact	408 W. Indiana Avenue	Phone	574-289-2441
City, State, Zip	South Bend, IN 46613	Email	kharblson@sbform.com
Senior Official Information			
Company senior official name	Herb Eggers	Title	President & Owner
Address of company contact (if different from above)	408 W. Indiana Avenue	Phone	574-289-2441
City, State, Zip	South Bend, IN 46613	Email	heggers@sbform.com
Consultant Information/Agent			
Hired business consultant/agent name	None	Consultant release (Y/N)	
Address		Local economic development partners approval (Y/N)	
City, State, Zip		Email	
Project Overview			
Brief description of your company, project, and why the property is necessary for economic growth	<p>Precision machine shop specializing in the aerospace and industrial markets.</p> <p>This project is an expansion of our floor space to allow for new equipment and material storage. The project is necessary due to the award of new business from a long-time existing customer. The expansion and additional equipment will allow us to bring on a second shift to cover the increased demand from our existing customer base. It will also allow us to pursue additional business from other existing and/or new customers.</p>		
Certified Technology Park appropriate	No		
Community Revitalization Enhancement District	No		
Certify that the Building Permit has not been issued (Y/N)	No	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed	No		

Filed in Clerk's Office

MAR 09 2016

KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN

Investment Details			
Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
\$0	No	\$84,705	\$558,977

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TOTAL								

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Who will be the individual responsible for coordinating with WorkOne on recruiting? **Kyle Harbison or Eric Lupa**

Does your company have an EEO hiring policy? **Yes** Are you an EEO employer? **Yes**

Please list the number of full time and part time minority and/or female employees for each of the last three years:

Year	2013		2014		2015	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Black						
Hispanic						
Asian						
Indian						
Female	0	1	1	1	1	1
Other						

Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.

South Bend Form Tool hires based on capabilities and experience. We openly post positions when hiring and accept applications from all qualified persons no matter their age, race or sex.

**Complete below for Real or Personal Property Tax Abatement only.
Please sign for all requested incentives.**

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Information is required on both the construction companies and the companies which will provide materials purchased for this project. Please complete the table below with the appropriate information. If you qualify for the points, please enter the full amount of available points.		Qualify (Yes or No)	Earned Points	Available Points	
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	B.	Purchase Materials from Local Companies (75%)	No	0	20
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	A.	Support a SB Municipal Facility (donations to the zoo, conservatory, museum, etc.)	Yes	84	84
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Sub-total Super Size Projects:			0	210	
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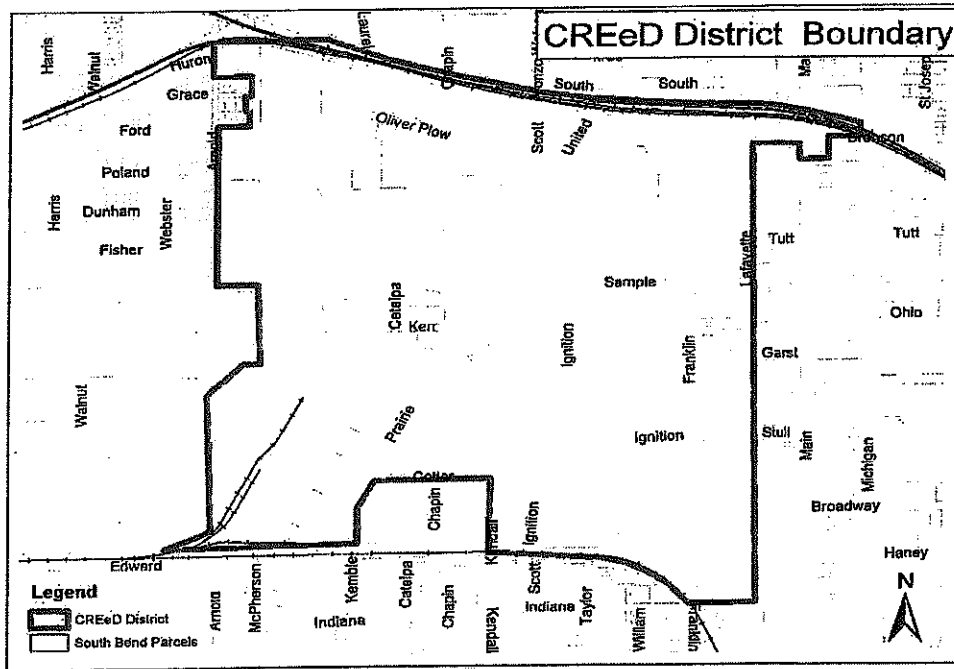
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The amount of money to be spent per year on training over the course of the project.

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The amount of people that you will train per year over the length of the project.

If you have any additional questions that are not addressed by this document, please contact Sarah Heintzelman in the Department of Community Investment at 574.235.5842 or email at sheintze@southbend.in.gov



CITY OF SOUTH BEND
PETE BUTTIGIEG, MAYOR
OFFICE OF THE MAYOR

March 23, 2016

Mr. Tim Scott
President
South Bend Common Council
400 County City Building
227 W. Jefferson Boulevard
South Bend, IN 46601

Re: Resolution To Approve Agreement
With Pokagon Band of Potawatomi Indians

Dear Council President Scott:

The City of South Bend and Pokagon Band of Potawatomi Indians have reached an agreement related to restoration of the Pokagon Band's homeland and proposed development of its 166-acre site in South Bend that will be home to a Tribal Village and a Four Winds Casino (the "Site").

The agreement involves payments in lieu of property taxes by the Pokagon Band to the City of South Bend, community development initiatives, and other terms and conditions related to the development of the Site. This agreement was recently approved by the Pokagon Band Tribal Council and the Pokagon Gaming Authority Board of Directors.

A Resolution for the Common Council to likewise approve this agreement is attached, along with a copy of the Agreement itself which includes as exhibits the approving resolutions of the Pokagon Band of Potawatomi Indians Tribal Council and of its Board of Directors. This agreement represents the spirit of mutual cooperation between the City of South Bend and the Pokagon Band, and further demonstrates the Pokagon Band's long-term commitment to investing in the City of South Bend and its residents.

As part of the Local Agreement, the Pokagon Band has agreed to make an annual payment to the City of South Bend equal to two percent of net win. Half of these payments (one percent of net win) will be paid directly to the City's General Fund to cover costs of providing services other than sewer and water to the site and for other purposes.¹ The other half of these payments (one percent

¹ Although private water and sewer systems would be permissible on the Site, both the City of South Bend and the Pokagon Band believe there would be mutual benefit from extending city services to the site. Consequently, the parties entered into a Sewer and Water Agreement, which was adopted by the Board of Public Works on March 22, 2016. The Sewer and Water Agreement is attached to this letter for the Council's information. In exchange for city water and

of net win) will be paid directly to the South Bend Redevelopment Commission to fund initiatives broadly aimed at contributing to the improvement of educational opportunities in the City and to address poverty and unemployment in the City. The annual payments made to the City will not be less than **\$1 million** annually if the casino has between 850 and 1,699 games and will not be less than **\$2 million** annually if the casino has more than 1,700 games.

In addition to the annual payments to the City of South Bend, the Pokagon Band will fund a variety of community development projects and causes in the total amount of more than **\$5 million over five years**. The projects and causes include:

- Bowman Creek Project – The Pokagon Band will provide \$500,000 to the Bowman Creek Project for initiatives intended to restore and protect the Creek and educate the public regarding its importance to the region.
- Boys and Girls Clubs of St. Joseph County – The Pokagon Band will provide \$100,000 to the Boys and Girls Clubs of St. Joseph County.
- Food Bank of Northern Indiana – The Pokagon Band will provide \$100,000 to the Food Bank of Northern Indiana.
- Howard Park Improvements – The Pokagon Band will provide \$2,225,000 to the City of South Bend for the purpose of renovating, modernizing and making other improvements to Howard Park.
- Jobs for Americas Graduates-Indiana – The Pokagon Band will provide \$250,000 to Jobs for America's Graduates-Indiana.
- Memorial Children's Hospital – The Pokagon Band will provide \$500,000 to Memorial Children's Hospital of South Bend for the renovation and modernization of the Newborn Intensive Care Unit (NICU).
- Prairie Avenue Landscaping – The Pokagon Band shall cover all costs to enhance the landscape of Prairie Avenue within the public right-of-way from US-31 to Locust Road, not to exceed \$200,000.
- Prairie Avenue Resurfacing – The Pokagon Band shall cover all costs to resurface Prairie Avenue from US-31 to Locust Road, not to exceed \$500,000.
- South Bend Community Schools – The Pokagon Band will provide \$500,000 to the South Bend Community School Corporation.
- YMCA Women's Shelter of South Bend – The Pokagon Band will provide \$125,000 to the YMCA Woman's Shelter of South Bend.

sewer services for the initial and build-out phases, the City will receive \$400,000 to assist with replacing and upgrading the Calvert Lift Station.

Further, the Pokagon Band will pay for all upfront costs to develop the Site, including related professional fees, whether associated with the initial and/or future development of the Site. Such development costs include, but are not limited to: (i) all costs of road improvements and traffic safety control devices reasonably related to ensuring safe and efficient means of ground transportation to, from and around the Site and (ii) all costs of bringing water, wastewater treatment, and other City-supplied utility services and infrastructure to the Site, subject to the terms of the Agreement, and the reasonable and necessary operational expenses of such services.

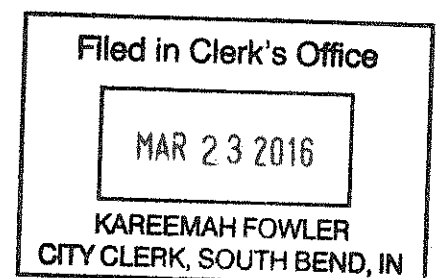
Although Common Council resolutions are usually heard at the Council's regular Monday meeting following the previous filing deadline, which in this case would be March 28, 2016, in the interest of greater public awareness, I request that hearing take place on April 11, 2016.

This Agreement represents a big win for the City, and I look forward to the opportunity for Council discussion.

Cordially,



Pete Buttigieg, Mayor



RESOLUTION NO. _____

**A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF SOUTH BEND,
INDIANA, APPROVING AN AGREEMENT WITH THE POKAGON BAND OF
POTAWATOMI INDIANS**

WHEREAS, under 25 U.S.C. §§1300j *et seq.* (**the Restoration Act**), the Pokagon Band of Potawatomi Indians (**the Band**) is a federally recognized Indian tribe eligible for special programs and services provided by the United States to Indians because of their status as Indians, as recognized by the United States Secretary of the Interior; and

WHEREAS, the Restoration Act sets out a ten (10) county service area in southwestern Michigan and northern Indiana in recognition of the Band's ancestral homelands, and the Band and the U.S. Secretary of the Interior (**the Secretary**) entered into a Memorandum of Understanding on January 11, 1999 (**the MOU**) establishing general principles for the geographic areas within which the Band will acquire land to submit to the Secretary to be taken into trust. The Band is directed under the MOU to concentrate its land acquisition within four "consolidation sites" within four geographic areas, three of which are in the State of Michigan and one of which is in the vicinity of South Bend, Indiana; and

WHEREAS, the Band acquired approximately 166 contiguous acres of land located within the City of South Bend (the City), bounded by Prairie Avenue (State Road 23), U.S. Highway 31, and Locust Road (**the Site**); and

WHEREAS, pursuant to the Restoration Act and the MOU, the Band on or about May 14, 2012, filed an application with the U.S. Department of the Interior, Bureau of Indian Affairs (**Trust Land Application**) to have the Secretary take title to the Site in trust for the Pokagon Band of Potawatomi Indians; and

WHEREAS, the Band plans to develop the Site into a tribal village with 44 housing units and a multi-purpose facility with health service and other tribal government facilities; and

WHEREAS, the Tribe's development plan for the Site also includes a casino gaming resort facility, in accordance with Pokagon Band law and the Indiana Gaming Regulatory Act of 1988, P.L. 100-497, 25 U.S. C. § 2701 *et seq.* (**IGRA**), which shall bear the Band's naming brand "Four Winds" (**the Resort**); and

WHEREAS, a "Local Agreement" has been negotiated among the Band, the City, through its Mayor and its Corporation Counsel, and the Pokagon Gaming Authority, an unincorporated instrumentality of the Band (**PGA**), which establishes and memorializes the various and beneficial mutual commitments made out of recognition and respect for the sovereignty and best interests of each party, a full, complete copy of which is attached hereto as Exhibit 1; and

WHEREAS, among the beneficial provisions of the Local Agreement, the City is assured

that design, construction, and health and safety standards for the Tribal Village and the Resort are at least as rigorous as state and local laws; that in hiring and purchasing for the Resort, preference will be given to residents of St. Joseph County, Indiana, including a good faith effort to use minority and women owned businesses; and that for as long as the Site includes an operating hotel, a contribution from Tribal Resort Taxes under the Tribal Tax Code will be made annually to the St. Joseph County Convention and Exhibition Center Fund for promotion of travel, business and tourism in St. Joseph County, Indiana; and

WHEREAS, the Site, upon being taken into trust by the Secretary and pursuant to federal law, will be removed from the State and local property tax rolls; however, the Band and the PGA have agreed to make payments in lieu of taxes for utility, infrastructure, and other services provided by the City under a formula based on the Resort Gaming revenue which guarantees the City a minimum, annual fixed amount (between one to two million dollars), and in addition, the Band and the PGA shall contribute fixed sums over a period of years to South Bend Community Development initiatives and to several important South Bend non-profit organizations. These are Howard Park Improvements, the Bowman Creek Project, Prairie Avenue Landscaping and Resurfacing, South Bend Community School Corporation, Memorial Children's Hospital, YMCA Women's Shelter, Jobs for Americas Graduates-Indiana, Food Bank of Northern Indiana, and Boys and Girls Clubs of St. Joseph County; and

WHEREAS, the Common Council finds that the Local Agreement provides significant benefit to the City and its residents, and that it should be approved.

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

Section I. The Common Council of the City of South Bend, Indiana has considered and hereby approves the Local Agreement, attached hereto as Exhibit 1 between and among the City of South Bend, the Pokagon Band of Potawatomi Indians, and the Pokagon Gaming Authority.

Section II. The Mayor is authorized to execute the Local Agreement in form and substance the same as or similar to that of the Agreement attached hereto as Exhibit 1.

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

Member, Common Council

City Clerk

PRESENTED
NOT APPROVED
ADOPTED

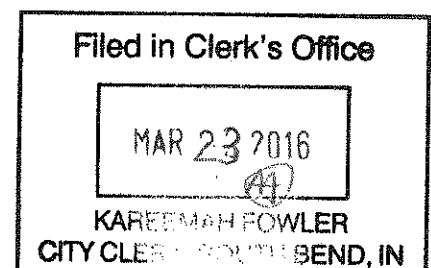


EXHIBIT 1

Execution Copy of Local Agreement

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LOCAL AGREEMENT

This "Agreement" is made on the ____ day of March, 2016 by and between the POKAGON BAND OF POTAWATOMI INDIANS (the "Band"), the POKAGON GAMING AUTHORITY, an unincorporated instrumentality of the Band ("PGA"), and the CITY OF SOUTH BEND, a municipal corporation existing under the laws of Indiana (the "City").

RECITALS

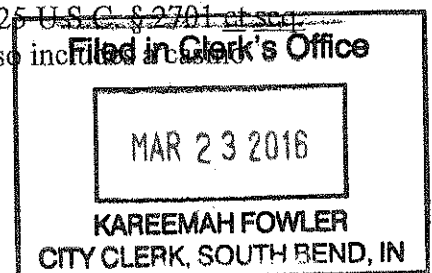
A. The Band, pursuant to 25 U.S.C. §§ 1300j et seq. (the "Restoration Act"), is a federally recognized Indian tribe recognized as eligible by the Secretary of the Interior for the special programs and services provided by the United States to Indians because of their status as Indians, and is recognized as possessing powers of self-government.

B. The Restoration Act sets forth a 10 county service area in southwestern Michigan and northern Indiana in recognition of the Band's ancestral homelands, and the anticipated acquisition by the Band of lands within its service area to be taken into trust by the federal government. The Band and the Secretary of the Interior have entered into a Memorandum of Understanding, executed by the Secretary on January 11, 1999 (the "MOU"), that establishes general principles setting forth the geographic areas within which the Band will acquire land to submit to the Secretary to be taken into trust. The Band is directed pursuant to the MOU to concentrate such acquisitions within four geographic areas, known as "consolidation sites", in the vicinity of: New Buffalo, Michigan; Hartford, Michigan; Dowagiac, Michigan; and South Bend, Indiana.

C. The Band acquired approximately 166 contiguous acres of land located within the City and bounded by Prairie Avenue (State Road 23), U.S. Highway 31, and Locust Road, as identified in the attached Exhibit A (the "Site").

D. On or about May 14, 2012, as provided in the Restoration Act and the MOU, the Band filed an application with the U.S. Department of the Interior, Bureau of Indian Affairs ("Trust Land Application"), to have the Secretary of the Interior take title to the Site in trust for the Pokagon Band of Potawatomi Indians, Michigan and Indiana.

E. The Band's plans and foreseeable development for the Site include a tribal village with 44 housing units and a multi-purpose facility with health service and other tribal government facilities ("Tribal Village"). In accordance with Pokagon Band law and the Indian Gaming Regulatory Act of 1988, P.L. 100-497, 25 U.S.C. § 2701 et seq. ("IGRA"), planned and foreseeable development of the Site also included in Clerk's Office



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gaming resort facility which shall bear the Band's gaming brand, "Four Winds" (the "Resort").

F. The purpose of this Agreement is to establish and memorialize the various and beneficial commitments that the Band and PGA ("**Band Parties**") and the City have made to each other out of recognition and respect for the sovereignty and mutual best interests of each party.

G. The City recognizes that representations and agreements made by the Band Parties under this Agreement are voluntary on the part of the Band Parties and are not required by any Indiana law or any federal law, including without limitation IGRA.

H. The City recognizes and agrees that the Tribal Village and Resort and the Band Parties' undertakings under this Agreement are intended and expected to substantially benefit the South Bend community, and the City wishes to formally acknowledge its support for the Trust Land Application and the Tribal Village and Resort.

I. The City represents that it was authorized to enter into this Agreement by duly adopted resolution of the City Common Council, a true copy of which is attached as Exhibit B-1.

J. The Band represents that it was authorized to enter into this Agreement by duly adopted resolution of the Band Tribal Council, a true copy of which is attached as Exhibit B-2.

K. PGA represents that it was authorized to enter into this Agreement by duly adopted resolution of the Pokagon Gaming Authority Board of Directors, a true copy of which is attached as Exhibit B-3.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and promises herein contained, the receipt and sufficiency of which are expressly acknowledged, the Band, PGA, and the City agree as follows:

1. Recitals true. The above recitals are true.
2. Tribal Laws Concerning Health, Environment and Building Construction. The Band, in the exercise of its sovereign powers, has enacted and shall sustain as enacted Band law a Health and Safety Act ("**Tribal Health and Safety Act**"), which establishes standards that are at least as rigorous as state and local laws concerning but, not limited to, health, environment, fire protection, and building construction. The Band shall ensure through implementation and enforcement of

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the Tribal Health and Safety Act that the design and construction of the Resort meets standards that are at least as rigorous as state and local laws.

3. Tribal Tax Code. The Band, in the exercise of its sovereign powers, has enacted and shall sustain as enacted Band law a Tribal Tax Revenue and Administration Code ("**Tribal Tax Code**"), which includes Tribal taxes on retail sales, food and beverage service, and hotel occupancy ("**Tribal Resort Taxes**"). The Band shall take all necessary steps to ensure that the Tribal Resort Taxes are equal to or greater than any state and local taxes which would be applicable to the Resort if it were not located on land held by the federal government in trust for the Band ("**Trust Land**").
4. Local Preference Policy. PGA agrees that it shall in hiring and purchasing for the Resort give preference to residents of St. Joseph County, Indiana and businesses located in St. Joseph County, Indiana, provided that: (a) any such preference shall be subordinate to preferences PGA gives to citizens of the Band, their spouses and children, and to businesses owned by, or affiliated with citizens of, the Band; (b) as to hiring, the resident is qualified, holds any licenses that may be required by the Band or PGA, and complies with employment policies established by PGA; and (c) as to purchasing, the vendor is qualified and holds any licenses that may be required by the Band or PGA, the vendor's price and other terms are reasonably competitive, and the proposed vendor can meet bonding and other requirements established by the Band or PGA. For purposes of this Section 4, qualifications, licensing, competitiveness and compliance with requirements shall be reasonably determined by the Band Parties.
5. Minority and Women's Business Participation. PGA agrees that in the operation of the Resort it shall make a good faith effort to utilize minority and women owned businesses in an amount that is consistent with the most recent disparity study conducted by the Indiana Gaming Commission ("**IGC**") under IC 4-33-14-5(b) and IC 4-35-11-6(b). To the extent that there may be a conflict between the Pokagon Band Employment and Contracting Preferences Code or any successor law and related policies and procedures ("**Pokagon Preference Requirements**") and this Section 5, the Pokagon Preferences Requirements shall take precedence. No later than the first business day of February of each calendar year, PGA shall file a written report with the City demonstrating its good faith efforts consistent with this Section 5 relating to the most recent calendar year.
6. Joint Marketing Contribution. PGA agrees that it will contribute to the St. Joseph County Convention and Exhibition Center Fund ("**Fund**") a portion of the Tribal Resort Taxes it assesses under the Tribal Tax Code in association with its operation of any hotel located on the Site ("**Tribal Hotel Taxes**"). Such contribution to the Fund shall be for the promotion of travel, business, and tourism

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in St. Joseph County, which the Fund's Board of Managers shall pool with funds it receives from other hotels in the local assessment area pursuant to Indiana Code § 6-9-1 *et seq.* (the "**Innkeeper's Tax**"). The Tribal Hotel Taxes collected by the PGA for this purpose shall be equal to the amount that would have been payable to local government by PGA, as owner of a hotel, pursuant to the Innkeeper's Tax. In computing the amount of Tribal Hotel Tax owed under this Section 6, PGA shall exclude amounts based on the use and occupancy of any hotel room or rooms it furnishes to its guests on a complimentary basis. No amount shall be payable under this Section 6 unless and until PGA owns and operates a hotel located on the Site. PGA's agreement to make payments as provided in this Section 6 shall be enforceable under this Agreement, but the Band expressly does not subject itself to, or waive its sovereign immunity as to, the Innkeeper's Tax or any other Indiana statute. PGA's obligations under this Section 6 are subject to the condition that PGA enjoys all the same rights under the Innkeepers Tax as all other parties that are subject to and pay the Innkeepers Tax, including without limitation the eligibility of persons affiliated with PGA to be appointed and serve on the Fund's Board of Managers.

7. Tort Claims Act. The Band, in the exercise of its sovereign powers, has enacted and shall sustain as enacted Band law a "**Tort Claims Act**" to provide tort remedies to guests and business invitees of the Band Parties for injuries and illness sustained within the territorial jurisdiction of the Band. PGA shall take reasonable steps to inform invitees of the applicability of the Tort Claims Act and other Band law by posting in a prominent location within Resort facilities a Notice to patrons at least two (2) feet by three (3) feet in dimension with the following language:

NOTICE

THIS FACILITY IS REGULATED BY ONE OR MORE OF THE
FOLLOWING:

THE NATIONAL INDIAN GAMING COMMISSION, BUREAU OF INDIAN
AFFAIRS OF THE U.S. DEPARTMENT OF THE INTERIOR, AND THE
GOVERNMENT OF THE POKAGON BAND OF POTAWATOMI INDIANS.

THIS FACILITY IS NOT REGULATED BY THE STATE OF INDIANA.

8. Tribal Court. The Band, in the exercise of its sovereign powers, has established under its Constitution and shall maintain during the Term an independent judicial forum for the enforcement of rights under the Tort Claims Act.
9. Support of the City. The City agrees, upon request from the Band and at all times subject to the City's determination that the relevant support activity would not be contrary to state or local law, to support in good faith the Band's efforts to:

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- (a). Have the United States take the Site into trust, by:
- (1). Submitting a letter and other pertinent documents to the Secretary of the Interior expressing support for the Trust land Application;
 - (2). Reasonably supporting the Band's efforts in legal or administrative proceedings relating to any decision by the Secretary of the Interior to take the Site into trust, including the filing of amicus briefs to assist in bringing about benefits associated with taking the Site into trust, provided this provision shall not be deemed to diminish the City's autonomy in determining the particular legal arguments or positions to be made by the City in any such amicus brief to the extent that they are not inconsistent with the legal arguments or positions of the Band Parties and the U.S. government in such proceedings;
 - (3). Reasonably communicating with and, when needed, traveling to meet with officials of the Department of the Interior and other federal officials, whether at Minneapolis, Minnesota, Washington, D.C., or elsewhere.
- (b). Negotiate a class III gaming compact ("**Compact**") with the state of Indiana, that is not inconsistent with the express terms of this Agreement, including ratification of the Compact by the Indiana general assembly and approval of the Compact by the Secretary of the U.S. Department of the Interior.
- (c). Obtain: (i) a wetland permit from the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act (33 U.S.C. § 1251 *et seq.*); (ii) a water quality certification from the Indiana Department of Environmental Management and/or the Indiana Department of Natural Resources under Section 401 of the Clean Water Act and applicable Indiana law; and (iii) all other environmental permits, certifications, and approvals for the development of the Site that may be required from federal or state agencies under applicable law.
- (d). In general, facilitate the earliest possible opening of the Resort or any phases thereof, which shall be in compliance with the requirements of Section 2 of this Agreement.

The Band Parties shall reimburse in a timely manner the City's costs in fulfilling its obligations under this Section 9, including but not limited to reasonable professional fees and travel expenses.

10. City Services to the Site. The City shall use reasonable efforts, subject to the limitations of applicable law, to cause the Department of Public Works to enter

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into, without unnecessary delay, an agreement with the Band Parties to provide any and all services to the Site requested by the Band Parties that the Department of Public Works usually and customarily provides to other residential and commercial customers, which shall include without limitation the extension of water service and sewer service, and may, as needed, include residential refuse collection and recycling service. To the extent needed to secure services, the City shall also use reasonable efforts, subject to the limitations of applicable law, to cause any other appropriate department or agency of the City to enter into, without unnecessary delay, one or more agreements with the Band Parties to provide any other services reasonably requested by the Band or PGA that the City usually and customarily provides to other residential and commercial customers. Subject to applicable law, the City shall provide all such services to the Site upon terms and conditions and at costs that are consistent with the City's usual and customary practices regarding its other commercial and residential customers.

Notwithstanding the foregoing, the parties understand and agree that the ILT Payments required under Section 14 fulfill all obligations the Band Parties might have to pay an equitable share of the operational costs and the costs for services that the City would recover through taxation or other form of assessment if the Site were subject to taxation by the state and its political subdivisions. Any agreements entered into under this Section 10 shall be included as separate exhibits and incorporated into this Agreement.

11. No Other Gaming. The City agrees to not solicit, encourage, induce, endorse or support the establishment, operation, or conduct of riverboat gambling and inland casino gambling under IC 4-33, *et seq.* and any other types of gaming in the City, except for the Indiana state lottery authorized under IC 4-30 *et seq.*, charity gaming activities authorized under IC 4-32.2 *et seq.*, and type II gaming authorized under IC 4-36 *et seq.*, all to the extent permitted under Indiana law as of the date of this Agreement written above. Upon the written request of the Band Parties, the City agrees to actively oppose any proposed expansion of the foregoing gaming activities in the City beyond the gaming activities that are already permitted in the City under Indiana law as of the date of this Agreement written above. Nothing in this Section 11 shall be construed as requiring the City to oppose, avoid or otherwise act or fail to act in a manner that hinders or prevents the conduct of gaming activity in the City, provided such gaming activity is being lawfully conducted in the City on the date of this Agreement written above under applicable state and federal laws.
12. Upfront Costs of Development. The Band Parties will pay for all upfront costs to develop the Site, including related professional fees, whether associated with the initial and/or future development of the Site. Such development costs shall include, but not be limited to: (i) all costs of road improvements and traffic and safety control devices reasonably related to ensuring safe and efficient means of

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ground transportation to, from and around the Site, as required by the Record of Decision to be issued by the Bureau of Indian Affairs, U.S. Department of the Interior ("BIA") in Compliance with the National Environmental Policy Act of 1970 (42 U.S.C. § 4321 *et seq.*) upon its approval of the Trust Land Application; and (ii) all costs of bringing water, wastewater treatment, and other City-supplied utility services and infrastructure to the Site and, subject to the limitations of Section 10, the reasonable and necessary operational expenses of such services.

13. Public Nuisances. The Band Parties shall be responsible for ensuring that the Resort operates in compliance with the following provisions of the City's Municipal Code: Sections 13-57(a)-(b), 13-82, and 17-8, as such sections exist at the time of the execution of this Agreement as well as any amendments and/or successor provisions to each. The Band Parties' agreement to comply with these provisions shall be enforceable solely under the terms of this Agreement, but the Band expressly does not subject itself to, or waive its sovereign immunity as to any enforcement action undertaken pursuant to the foregoing provisions or other provisions of the City's Municipal Code.

14. Payments in Lieu of Taxes to the City.
 - (a). The City, the Band, and PGA recognize that:
 - (1). When the Site is taken into trust, it will be removed from the property tax rolls and thereafter neither the Band nor PGA shall be under any legal obligation to make property tax payments for the Site;
 - (2). The City will experience increases in some operating costs as a direct result of the operation of the Resort;
 - (3). IGRA subsection 2710(b)(2)(B) strictly limits the use of net revenues from tribal gaming, but expressly permits payments to, among other things, help fund operations of local government agencies; and
 - (4). Establishing financial incentives to the City will encourage, promote and contribute to the success of the Resort and will benefit both parties and the region.

Based on those considerations, the City and the Band Parties have determined that it is in their mutual best interests to establish the requirements in this Section 14 for the Band Parties to make payments in lieu of taxes ("**ILT Payments**") to the City from revenue generated by the operation of Class II Games at the Resort.

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(b). Definitions.

- (1). As used in this Section 14, "**Net Win**" means the total amount wagered on each Class II Game, minus the total amount of prizes paid to players for winning wagers at such Class II Games. For purposes of calculating Net Win, the total amount wagered shall not include the value of "Promotional Wagers." The term "**Promotional Wagers**" shall include wagers made using non-cashable vouchers, coupons, electronic credits or electronic promotions provided by the Band or the PGA. The total amount of prizes paid to players for winning wagers at Class II Games shall include all prizes, consisting of electronic credits to the Game, cash, check, or merchandise from all wagers, including Promotional Wagers. The formula prescribed here for calculating Net Win applies only to the calculation of the payments due under this Agreement and is not intended to preclude the Band from otherwise following accepted GAAP and AICPA Guidelines in its general accounting practices.

- (2). As used in this Section 14, "**Class II Games**" means server based electronic bingo system games that are within the IGRA definition of "class II gaming" (25 U.S.C. § 2703(7)(a) and 25 C.F.R. § 502.3) and "**Class III Games**" means "slot machines" and "electronic or electromechanical facsimiles of any game of chance" as those terms are defined at 25 C.F.R. § 502.4(b). For avoidance of doubt, Class III Games shall include slot machines and electronic or electromechanical facsimiles of any game of chance located inside the Resort that are electronically linked through one or more progressive jackpot systems, to other electronic gaming devices or systems located anywhere inside or outside the Resort for the purpose of generating larger jackpots. The terms Class II Games and Class III Games do not include any gaming activity that is conducted through the world wide web or any other internet connection wherein both the player and the gaming or network hardware are not present within the Resort.

- (c). If requested by the City, the Band Parties shall permit a certified public accounting firm ("**CPA Firm**") reasonably selected by the City to verify for the ILT Payment period in question the Net Win at the Resort, provided that if an Indiana Compact includes provisions for verifying the Net Win, then such procedures shall be the exclusive method for verifying Net Win and this subsection (c) shall not apply. The Band Parties shall fully cooperate with all generally-accepted accounting procedures employed by the CPA Firm and shall be responsible for paying one half (1/2) of the CPA Firm's fees and costs associated with this Subsection 14(c).

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(d). *Revenue Sharing from Class II Gaming.* This Section exclusively addresses ILT Payments and any other form of gaming revenue sharing by PGA with the City from a Resort that cannot lawfully include “**Class III Gaming**”, as that term is defined in subsection 2703(8) of IGRA, due to the absence of: (i) a Class III Gaming compact entered into between the Band and the State of Indiana that is approved by the Secretary of the Interior pursuant to the requirements of subsection 2710(d)(8) of IGRA; or (ii) administrative procedures for the conduct of Class III Gaming by the Band on Indian lands located in the State of Indiana that are prescribed by the Secretary of the Interior pursuant to subsection (d)(7)(B)(vii) of IGRA (either such approved compact or administrative procedures are referred to hereunder as “**Indiana Compact**”).

(1). In furtherance of the determinations described above in subsection (a), to help fund operations of local government agencies, and as consideration for valuable concessions contained in this Agreement, the Band Parties agree that PGA shall make an annual ILT Payment to the City comprised of the following: (i) one percent (1%) of the Net Win from Class II Games at the Resort shall be paid directly to the City; and (ii) one percent (1%) of the Net Win from Class II Games at the Resort shall be paid directly to the South Bend Redevelopment Commission (“**Redevelopment Commission**”) (each such ILT Payment made annually under this Section 14(d) or any payment of Net Win from Class III Gaming under Section 14(e) of this Agreement, an “**Annual ILT Payment**”). It is the parties’ mutual intent that the Redevelopment Commission use and direct the Annual ILT Payment proceeds it receives from PGA pursuant to this Section 14 to fund initiatives broadly aimed at contributing to the improvement of educational opportunities in the City and to address poverty and unemployment in the City.

(2). The Annual ILT Payments shall be based on a twelve-month fiscal period beginning on August 1 and ending on July 31 of each year, provided that the first Annual ILT Payment under this provision may be for a period of less than twelve full months of operations beginning on the day the Resort opens to the public through July 31 immediately subsequent thereto. Annual ILT Payments shall be made within sixty (60) days of the end of each fiscal period. Interest on any Annual ILT Payment made more than sixty (60) days from the end of the fiscal period shall accrue at the annual rate of three percent (3%) on the unpaid balance due until paid in full. Any partial payments of the unpaid balance due shall first be applied to accrued interest with the remainder, if any, next applied to the unpaid balance.

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- (3). Provided that the Resort was the only casino conducting gaming that is substantially equivalent to “**Class II Gaming**”, as that term is defined in subsection 2703(7) of IGRA, or Class III Gaming within a twenty-five (25) mile radius of the Resort, excluding any other casino that may be operated by or on behalf of the Band or PGA, PGA guarantees that each Annual ILT Payment made to the City pursuant to this subsection (d) will not be less than:
- (A) ONE MILLION DOLLARS (\$1,000,000.00) if throughout the Annual ILT Payment period, excluding events or circumstances within PGA’s control, PGA had the physical infrastructure and legal right to conduct gaming at the Resort at a minimum capacity of not less than 850 Class II Games and not more than 1,699 Class II Games; or
 - (B) TWO MILLION DOLLARS (\$2,000,000.00) if throughout the Annual ILT Payment period, excluding events or circumstances within PGA’s control, PGA had the physical infrastructure and legal right to conduct gaming at the Resort at a minimum capacity of not less than 1,700 Class II Games.
- (e). *Revenue Sharing from Class III Gaming.* This Section exclusively addresses revenue sharing by PGA with the City from a Resort that can lawfully conduct Class III Gaming under an Indiana Compact.
- (1). If the Band, or any person or entity on its behalf, operates Class III Gaming pursuant to an Indiana Compact and IGRA and the Indiana Compact contains provisions for the use of net revenues from Class III Gaming to help fund operations of City agencies (regardless of the amount of such payments or method of control or distribution), then the provisions in the Indiana Compact that govern payments of such net revenue to the City shall: (i) be applicable and control and shall supersede the ILT Payment requirements for Class II Games in subsection (d) of this Section 14; and (ii) except as expressed in Section 14(e)(2) of this Agreement, PGA’s obligations regarding payments of such net revenue to the City shall be solely limited to those provided in the Indiana Compact.
 - (2). If the Band, or any person or entity on its behalf, operates Class III Gaming pursuant to an Indiana Compact and IGRA and the Indiana Compact contains no provisions for the use of net revenues from Class III Gaming to help fund operations of City agencies, or if such payments are less than two percent (2%) of the Net Win from Class III Games, then in such case PGA shall, upon the City’s request and subject to any

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prohibitions or limitations under IGRA or other applicable federal law, make payments of net revenue from Class III Games under this Agreement such that the total of the payments made under this Agreement and those made under the Indiana Compact equal two percent (2%) of the Net Win from Class III Games operated at the Resort. Except to the extent that the Indiana Compact provides otherwise, such payments shall be made in accordance with the standards and procedures in Section 14(d) applicable to ILT Payments from Class II Games.

(3). Provided that the Resort was the only casino conducting gaming that is substantially equivalent to Class II Gaming or Class III Gaming within a twenty-five (25) mile radius of the Resort, excluding any other casino that may be operated by or on behalf of the Band or PGA, PGA guarantees that each Annual ILT Payment made to the City pursuant to this subsection (e) will not be less than:

(A) ONE MILLION DOLLARS (\$1,000,000.00) if throughout the Annual ILT Payment period, excluding events or circumstances within PGA's control, PGA had the physical infrastructure and legal right to conduct gaming at the Resort at a minimum capacity of not less than 850 Class III Games and not more than 1,699 Class III Games; or

(B) TWO MILLION DOLLARS (\$2,000,000.00) if throughout the Annual ILT Payment period, excluding events or circumstances within PGA's control, PGA had the physical infrastructure and legal right to conduct gaming at the Resort at a minimum capacity of not less than 1,700 Class III Games.

15. Community Development Initiatives. IGRA subsection 2710(b)(2)(B) strictly limits the use of net revenues from tribal gaming, but expressly permits donations to, among other things, charitable organizations. In consideration of the Band Parties' and the City's mutual commitment to the health and welfare of the residents of the South Bend area and as an additional incentive for the City to fulfill its obligations under this Agreement, the Band Parties agree to: (i) fund the initiatives described below in this Section in accordance with the terms stated therein; and (ii) with respect to subsections (b) through (j) of this Section provide the City with an annual report demonstrating the Band Parties' full compliance with its obligations under each such subsection.

(a). *Howard Park Improvements.* The Band Parties shall contribute \$2,225,000.00 to the City for the purpose of renovating, modernizing and making other improvements to Howard Park, located at 219 S. St. Louis Blvd. in South

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Bend, which contribution shall be paid over a period of five (5) years at \$445,000.00 per year, with the first payment due twelve (12) months after the Resort commences gaming operations. The City shall use the entirety of the contributions made by the Band Parties under this subsection (a) exclusively for the express purposes stated herein. The City shall provide the Band parties with an annual report demonstrating the City's full compliance with its obligations under this subsection.

- (b). *Memorial Children's Hospital.* The Band Parties shall contribute \$500,000.00 to Memorial Children's Hospital of South Bend for the renovation and modernization of the Newborn Intensive Care Unit (NICU), which contribution shall be paid over a period of five (5) years at \$100,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations.
- (c). *Bowman Creek Project.* The Band Parties shall contribute \$500,000.00 to the Bowman Creek Project for initiatives intended to restore and protect the Creek and educate the public regarding its importance to the region, which contribution shall be paid over a period of five (5) years at \$100,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations. The use and purpose of each annual donation shall be determined by the Band Parties in consultation with the Bowman Creek Project representatives designated by the City.
- (d). *South Bend Community Schools.* The Band Parties shall donate \$500,000.00 to the South Bend Community School Corporation, which donation shall be paid over a period of five (5) years at \$100,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations. The use and purpose of each annual donation shall be determined by the Band Parties in consultation with the Superintendent of the South Bend Community School Corporation.
- (e). *Prairie Avenue Resurfacing.* The Band Parties shall cover all costs to resurface Prairie Avenue from US-31 to Locust Road, which costs shall not exceed \$500,000.00 and shall be payable in accordance with the payment requirements of a contract between INDOT and the contractor engaged to perform the work.
- (f). *Prairie Avenue Landscaping.* The Band Parties shall cover all costs to enhance the landscape of Prairie Avenue within the public right-of-way from US-31 to Locust Road, which costs shall not exceed \$200,000.00 and shall be payable in accordance with the payment requirements of a contract between INDOT and the contractor engaged to perform the work.

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- (g). *YMCA Women's Shelter of South Bend*. The Band Parties shall donate \$125,000.00 to the YMCA Woman's Shelter of South Bend, which donation shall be paid over a period of five (5) years at \$25,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations.
- (h). *Jobs for Americas Graduates-Indiana*. The Band Parties shall donate \$250,000.00 to Jobs for America's Graduates-Indiana, which donation shall be paid over a period of five (5) years at \$50,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations. The use and purpose of each annual donation shall be determined by the Band Parties in consultation with JAG-Indiana.
- (i). *Food Bank of Northern Indiana*. The Band Parties shall donate \$100,000.00 to the Food Bank of Northern Indiana, which donation shall be paid over a period of five (5) years at \$20,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations. The use and purpose of each annual donation shall be determined by the Band Parties in consultation with the Food Bank of Northern Indiana.
- (j). *Boys and Girls Clubs of St. Joseph County*. The Band Parties shall donate \$100,000.00 to the Boys and Girls Clubs of St. Joseph County, which donation shall be paid over a period of five (5) years at \$20,000.00 per year with the first payment due twelve (12) months after the Resort commences gaming operations. The use and purpose of each annual donation shall be determined by the Band Parties in consultation with the Boys and Girls Clubs of St. Joseph County.
16. Term. The term of this Agreement ("**Term**") shall commence upon its full execution, and shall continue in effect so long as the Band Parties, or any person or entity on their behalf, develop the Resort and, after the Resort opens, so long as the Band Parties, or any person or entity on their behalf, operate Class II Games or Class III Games at the Resort; provided that the term shall not exceed 99 years.
17. Dispute Resolution. The Band, PGA, and the City agree that the dispute resolution process set forth in this Section shall be the exclusive process available to the parties to resolve Disputes. The parties agree that through this Dispute resolution process, the parties shall be entitled to all forms of relief allowed by Governing Law for breach of contract, as defined below, not otherwise prohibited by this Agreement including, but not limited to, injunctive relief, specific performance, and actual damages.

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- (a). *Negotiation*. In the event of a dispute between either or both of the Band Parties and the City that arises out of or is related to this Agreement, including but not limited to, the validity, interpretation and/or enforcement of this Agreement (“**Dispute**”), the aggrieved party shall, prior to pursuing mediation or Arbitration, make a written request of the other party to engage in good faith negotiations aimed at resolving the Dispute (“**Negotiation**”). Upon submission of such request, each party will promptly appoint one or more representative(s) to participate in direct discussions regarding the Dispute. The written request shall set forth, with specificity, the issues to be resolved. The location, format, and frequency of these discussions shall be left to the discretion of the representatives. Except to the extent expressly provided otherwise by applicable law, all discussions and correspondence among the representatives for purposes of the Negotiation shall be treated as confidential and shall be inadmissible in any judicial proceeding or other dispute resolution forum, including mediation or arbitration, without the agreement of the parties. If the parties are unable to fully resolve the Dispute within thirty (30) days from the date either party submits a written request for Negotiation to the other party, or either party terminates the Negotiation before all of the elements of the Dispute are resolved, or the parties agree in writing to forego Negotiation, the Dispute, or any unresolved portion thereof, shall be submitted to Mediation.
- (b). *Mediation*. If a Dispute is not resolved through Negotiation, the Band Parties and the City shall submit the Dispute to nonbinding mediation (“**Mediation**”) before a single mediator (“**Mediator**”) prior to initiating Arbitration. The Mediation shall be administered by the American Arbitration Association (“**AAA**”) under its Commercial Arbitration Rules and Mediation Procedures or any successor rules adopted by the AAA (“**Rules**”), current as of the date the request for Mediation is filed with the AAA. The Mediation shall be commenced by either party filing a request for mediation with the AAA in accordance with the Rules. The Mediator shall be selected pursuant to the Rules. The Mediation shall take place in South Bend, Indiana, unless the parties agree in writing to a different location. The responsibility for the fees and expenses of the Mediation and the Mediator shall be allocated equally between the City and the Band Parties. The Mediation may be terminated at any time by either party. If the Band Parties and the City are unable to fully resolve the Dispute within sixty (60) days from the date the request for Mediation is filed with the AAA, unless the parties agree to extend the time for Mediation, either party may initiate Arbitration to resolve the Dispute, or any unresolved portion thereof.
- (c). *Arbitration*. If the Dispute is not resolved through Negotiation or Mediation, the Band Parties and the City shall submit the Dispute to arbitration

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(“**Arbitration**”), pursuant to this Agreement, which shall be commenced by either party filing a demand for Arbitration with the AAA in accordance with the Rules. The Band Parties and the City agree to avoid all unnecessary delays and expenses in Arbitration and to pursue in good faith a prompt and just resolution of their Dispute. The Arbitration shall occur within thirty (30) miles of South Bend, Indiana unless the parties agree in writing to a different location. Each party shall bear its own Arbitration costs and an equal share of the administrative cost of the Arbitration proceeding pending a final resolution of the Dispute. The following requirements shall apply to the Arbitration process:

- (1). Selection of Neutral Arbitrators. Arbitration shall occur before a panel of three (3) neutral arbitrators (“**Arbitrators**”), unless the parties agree in writing prior to commencing the arbitrator selection process to use a single neutral arbitrator. Each Arbitrator shall be a licensed attorney or a retired judge who has been actively engaged for at least ten years in the practice of law, the judicial process, or in alternative dispute resolution. Unless the parties agree otherwise in writing, an Arbitrator shall not have also served as a Mediator in any Mediation under this Section. No Arbitrator shall have or previously have had any significant relationship with either party. If the Arbitration will be held before a single neutral Arbitrator, the Arbitrator shall be selected by agreement of the parties within thirty (30) calendar days from the date a demand for arbitration is filed with the AAA. If the parties are unable to agree on the selection of an Arbitrator within thirty (30) calendar days, the Arbitrator shall be selected according to the process set forth in the Rules. If the Arbitration is held before a panel of three neutral Arbitrators, each party shall select a single Arbitrator within fifteen (15) calendar days from the date the demand for Arbitration is filed with the AAA. The two Arbitrators selected by the parties shall select the third Arbitrator with due consideration to any recommendations made jointly by the parties. The third Arbitrator shall be the chairperson of the panel. If all three Arbitrators have not been selected within thirty (30) calendar days from the date the demand for Arbitration is filed with the AAA, the panel of three Arbitrators shall be selected according to the process set forth in the Rules.
- (2). Arbitration Rules, Governing Law, and the Authority of the Arbitrators. The Arbitration shall be administered by the AAA under the requirements of this Section and the Rules, current as of the date the demand for Arbitration is filed with the AAA. The parties and the arbitrator(s) shall maintain strict confidentiality with respect to the arbitration. The requirements of this Section shall supersede any conflicting provisions in

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the Rules. The law to be applied in the Arbitration shall be the Governing Law, as stated in subsection 18(a) of this Agreement. The authority of the Arbitrators is derived solely from this Section and is limited to the enforcement of the rights of the Band Parties and the City under the express terms of this Agreement.

- (3). Discovery and Arbitration Procedure. Each party shall, upon the request of the other party, promptly provide the other with copies of all documents relevant to the issues raised as claims or defenses in the Arbitration. Notwithstanding any provision of Governing Law or Rule to the contrary, any party may avail itself of discovery procedures, including depositions, interrogatories, requests for production and inspection of documents and reports as provided in the Federal Rules of Civil Procedure then applicable in United States district courts. Discovery shall be completed within sixty (60) days from the date the Arbitrators are appointed, provided that at either party's request, the Arbitrators may order reasonable extensions of the time for discovery, but only to the extent that the Arbitrators determine that such discovery will be relevant, will not unduly burden the party against whom discovery is sought, and will further the goal of resolving the Dispute in an economic and expeditious manner. The parties shall have a continuing obligation to provide each other with all additional relevant documents and information within the scope of the discovery request that may thereafter become available. The Arbitrators may, at the request of a party or on their own initiative, impose upon any party who fails to comply with this subsection sanctions, penalties, or both, including an order that prohibits the non-complying party from introducing certain testimony or evidence or eliminates one or more claims or defenses of the non-complying party.
- (4). Statement of Claims. At least sixty (60) calendar days prior to the date of the first hearing on the merits, each party shall provide to the other party a detailed written statement of all claims, defenses, and counterclaims such party will present at the hearing and the witnesses, documents, and other evidence such party intends to offer in support each claim, defense, and counterclaim. Each party shall have seven (7) calendar days to serve on the other party a request for explanation of claims, defenses and counterclaims made and further identification of supporting evidence intended to be offered. Responses to requests for explanation of claims, defenses and counterclaims shall be served on the requesting party within ten (10) calendar days from the date such request is received.
- (5). Arbitration Award. The Arbitrators shall issue a well-reasoned written decision with findings of fact, conclusions of law, and a calculation of

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how damages, if any, were determined. The Arbitrators shall have no authority to award consequential, punitive, or other damages not measured by the prevailing party's actual damages. The Arbitrators may assess the costs of the Arbitration, excluding attorneys' fees, against a party or among the parties in such amount or amounts as the Arbitrators deems just, provided that such assessment bears a reasonable relationship to the relative fault of the parties stated in the final decision. The Arbitration award shall be final and binding upon the parties and shall be subject to judicial enforcement in accordance with the terms of this Agreement and Governing Law.

- (d). *Judicial Action.* Judicial actions under this Agreement shall be limited to actions to enforce (1) the agreement to arbitrate contained in this Agreement, (2) any interim order issued by the Arbitrators, including any grant of injunctive relief or order for specific performance, and (3) any Arbitration award or decision, (collectively, "**Judicial Actions**"). A Judicial Action may only be brought in: (1) the United States District Court for the Northern District of Indiana, the United States Court of Appeals for the Seventh Circuit, and the United States Supreme Court, and (2) if the United States District Court lacks jurisdiction, a Judicial Action may be brought in the Indiana State Court system (collectively, "**Courts of Competent Jurisdiction**"). The Band appoints the Chairman of the Pokagon Band Tribal Council and General Counsel for the Band as its agents for service of all process under or relating to this Agreement. PGA appoints the President and CEO of PGA and General Counsel for PGA as its agents for service of all process under or relating to this Agreement. The Band Parties agree that service in hand or by certified mail, return receipt requested, shall be effective for all purposes under or relating to this Agreement if served on such agents.
- (e). *Limited Waiver of Sovereign Immunity.* The Band Parties expressly waive their sovereign immunity from suit and consent to be sued for any Judicial Action in any of the Courts of Competent Jurisdiction. The Band Parties waive any requirement of exhaustion of tribal remedies.
- (f). *Limited Recourse.* The liability of the Band Parties under this Agreement shall always be payable solely from undistributed or future Revenues of PGA as governed by the Pokagon Band Revenue Allocation Plan ("**RAP**") enacted on January 21, 2012 and approved by the U.S. Secretary of the Interior ("**Secretary**") on June 8, 2012, or any subsequent version of the RAP that is from time to time lawfully approved by the Secretary. Without in any way limiting the foregoing, the Band Parties expressly authorize any governmental authorities who have the right and duty under Governing Law to take actions authorized or ordered by any such court to give effect, subject to such limited

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recourse, to any judgment entered; provided, however, that liability of the Band Parties under any judgment shall always be payable solely from undistributed or future Revenues of PGA as described in this subsection, and in no instance shall any enforcement of any kind whatsoever be allowed against any assets of the Band. For purposes of this Section, "Revenues" shall mean: (a) the gross gaming revenue (win) of PGA from Class II Gaming or Class III Gaming, plus the gross revenues of PGA from all other sources in support of Class II Gaming or Class III Gaming, including but not limited to food and beverage, entertainment and retail, and any hotel; less (b) all amounts paid out as, or paid for, prizes, all operating expenses, amortization and depreciation, in each case determined in accordance with generally accepted accounting principles.

- (g). *Limitations Period to Commence Dispute Resolution.* No claim included within the definition of Dispute or the definition of Judicial Action under this Agreement may be commenced by any party more than four (4) years from the date the aggrieved party has knowledge, or reasonably should have knowledge, of the facts or circumstances giving rise to the Dispute, provided that the applicable statute(s) of limitation under Governing Law shall be tolled and any requirement under such statute(s) regarding a notice of claim with respect to the Dispute shall be suspended for the duration of any Negotiation, Mediation, and Arbitration.

18. Miscellaneous.

- (a). Governing Law. This Agreement shall be deemed entered into in Indiana and shall be subject to the laws of the State of Indiana and any applicable federal laws ("**Governing Law**").
- (b). Notice. Any notice required to be given pursuant to this Agreement shall be delivered to the appropriate party by Certified Mail Return Receipt Requested, or by overnight mail or courier service, to the following addresses:

If to the Band:

Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047
Attn: Chairman, Tribal Council

with a copy to:

Pokagon Band of Potawatomi Indians

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58620 Sink Road
Dowagiac, MI 49047
Attn: Office of General Counsel

and to:

Robert Gips
Drummond, Woodsum, MacMahon
84 Marginal Way, Suite 600
Portland, ME 04101-2480

If to the City:

Mayor of South Bend
227 W. Jefferson Blvd., Ste. 1400 N
South Bend, Indiana 46601

with a copy to:

Corporation Counsel
City of South Bend
227 W. Jefferson Blvd., Ste. 1200
South Bend, Indiana 46601

And to:

Joe Champion
Bingham Greenebaum Doll LLP
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204

A party may designate a different address for notification under this subsection by notifying the other parties of such change in writing.

- (c). Further Actions. Each party agrees to execute all documents and to take all actions reasonably necessary to comply with the provisions of this Agreement and its intent.
- (d). Waivers. No failure or delay by a party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy upon the breach thereof, shall constitute a waiver of any such breach or any subsequent breach of such covenant, agreement,

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term or condition. No covenant, agreement, term, or condition of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument.

- (e) Captions. The captions for each section and subsection are intended for convenience only.
- (f) Severability. If any provision, or any portion of any provision, of this Agreement is found to be invalid or unenforceable, such unenforceable provision, or unenforceable portion of such provision, shall be deemed severed from the remainder of this Agreement and shall not cause the remainder of this Agreement to be invalid or unenforceable. If any provision, or any portion of any provision, of this Agreement is deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- (g) Third Party Beneficiary. This Agreement is exclusively for the benefit of the parties hereto. It may not be enforced by any party other than the parties to this Agreement, and shall not give rise to liability to any third party.
- (h) Successors and Assigns. The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto and their respective successors and assigns. The parties cannot assign their rights or obligations under this Agreement except with the written consent of the other parties, except that the PGA may, without the consent of the City, assign this Agreement to an instrumentality of the Band organized to conduct the business of the Resort for the Band if that instrumentality assumes all obligations of the PGA. No such assignment shall relieve the Band of any obligation under this Agreement, unless otherwise agreed by the City.
- (i) Modification. Any change to or modification of this Agreement must be in writing signed by the parties to this Agreement.
- (j) Entire Agreement. This Agreement contains the entire understanding and agreement of the parties hereto and supersedes all other prior agreements and understandings, written or oral between the parties. There are no oral agreements.
- (k) Preparation of Agreement. This Agreement was drafted and entered into after careful review and upon the advice of competent counsel; it shall not be construed more strongly for or against any party.

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- (l) Execution. This Agreement may be executed in counterparts, all of which taken together shall constitute one document.

- (m) Authorization. Each person signing on behalf of the Band, the PGA and the City represents and warrants that he or she is duly authorized to do so and that the consent to enforcement and jurisdiction by Courts of Competent Jurisdiction referenced in Section 17 of this Agreement has been authorized in accordance with all legal requirements applicable to each such party to this Agreement.

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Pokagon Band of Potawatomi Indians

By: John P. Warren
John P. Warren, Tribal Council Chairman

By: Mark Parrish
Mark Parrish, Tribal Council Secretary

Pokagon Gaming Authority

By: John P. Warren
John P. Warren, President/CEO

By: Mark Parrish
Mark Parrish, Board Secretary

City of South Bend

By: _____
Pete Buttigieg, Mayor

By: _____
Tim Scott, Common Council President

By: _____
City Clerk

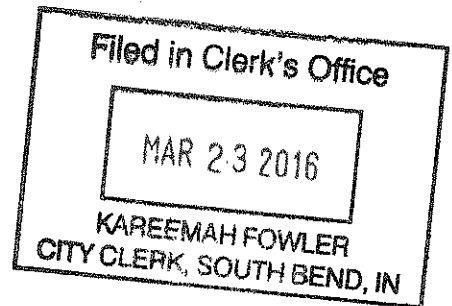


Exhibit A

Description of the Site

Exhibit A is comprised of the recorded deeds for each of the eighteen (18) parcels of land that comprise the Site.

Exhibit B-2

Resolution of the Pokagon Band Tribal Council



Pokégnek Bodéwadmik • Pokagon Band of Potawatomi
Tribal Council

P.O. Box 180 • 58620 Sink Road • Dowagiac, MI 49047 • www.PokagonBand-nsn.gov
(269) 782-6323 • (888) 376-9988 toll free • (269) 782-9625 fax

POKAGON BAND OF POTAWATOMI INDIANS

TRIBAL COUNCIL

RESOLUTION No. 16-03-10-01

WHEREAS: The Pokagon Band of Potawatomi Indians of Michigan and Indiana ("Pokagon Band") is a sovereign, federally-recognized Indian tribe, as reaffirmed under P.L. 103-323, enacted September 21, 1994; and

WHEREAS: The Pokagon Band is organized under a constitution, which was adopted on November 1, 2005 and became effective on December 16, 2005 ("Constitution"); and

WHEREAS: In accordance with P.L. 103-323 and pursuant to Article IX of the Constitution, the Tribal Council is the governing body of the Pokagon Band; and

WHEREAS: The Tribal Council is vested with the sovereign powers of the Band not inconsistent with any provisions of the Constitution, including without limitation those enumerated powers set forth in Article IX, Section 2, of the Constitution; and

WHEREAS: The Pokagon Band acquired approximately 166 contiguous acres of land located within the City of South Bend (the "City") and bounded by Prairie Avenue (State Road 23), U.S. Highway 31, and Locust Road (the "Site") and on or about May 14, 2012, as provided in Section 6 of the Pokagon Restoration Act, 25 U.S.C. § 1300j-5, the Band filed an application with the U.S. Department of the Interior, Bureau of Indian Affairs, to have the Secretary of the Interior take title to the Site in trust for the Pokagon Band of Potawatomi Indians, Michigan and Indiana; and

WHEREAS: The Pokagon Band's and the Pokagon Gaming Authority's ("Authority") plans and foreseeable development for the Site

include a tribal village with 44 housing units and a multi-purpose facility with health service and other tribal government facilities and, in accordance with Pokagon Band law and the Indian Gaming Regulatory Act of 1988, P.L. 100-497, 25 U.S.C. § 2701 *et seq.*, planned and foreseeable development of the Site also includes a casino gaming facility; and

WHEREAS: Pokagon Band and Authority representatives have been negotiating with City representatives concerning the terms of a local agreement (the "Local Agreement") to address matters of mutual concern regarding the Site and planned and foreseeable development for the Site; and

WHEREAS: The purpose of the Local Agreement is to establish and memorialize the various and beneficial commitments that the Pokagon Band, the Authority, and the City have made to each other out of recognition and respect for the sovereignty and mutual best interests of each party; and

WHEREAS: The Tribal Council has reviewed the Local Agreement and has concluded that the Local Agreement is in the best interests of the Pokagon Band and will further the Pokagon Band's long term interests and objectives.

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council approves the Local Agreement attached hereto and made a part of the record of this Council session and authorizes the Tribal Council Chairman and the Tribal Council Secretary to execute the Local Agreement, substantially identical to the attached Local Agreement, on behalf of the Pokagon Band of Potawatomi Indians; and

BE IT FURTHER RESOLVED that, as provided in Section 17 of the Local Agreement and subject to all conditions and limitations stated therein, the Tribal Council agrees to participate in any Mediation process and any Arbitration procedure commenced under the Local Agreement; and

BE IT FURTHER RESOLVED that, as provided in Section 17 of the Local Agreement and subject to all conditions and limitations stated therein and in this resolution, the Tribal Council (i) approves, authorizes and confirms in accordance with the Pokagon Band Constitution and enacted Pokagon

Band law the limited waiver of the Pokagon Band's tribal sovereign immunity from suit, (ii) consents to be sued for any Judicial Action in any of the Courts of Competent Jurisdiction, and (iii) waives any requirement of exhaustion of tribal remedies; and

BE IT FURTHER RESOLVED that, as provided in Section 16 of the Local Agreement and subject to all conditions and limitations stated therein and in this resolution, the Local Agreement and the limited waiver of the Pokagon Band's tribal sovereign immunity shall become effective upon the commencement of the Term of the Local Agreement and shall continue in effect during the Term so long as the Local Agreement remains enforceable against the City.

CERTIFICATION

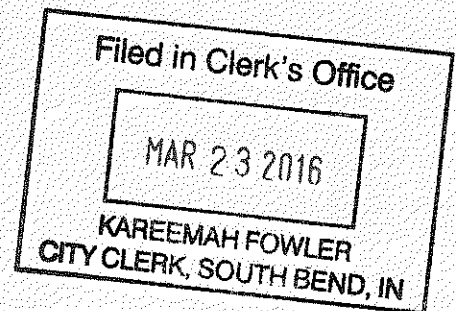
We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened Special meeting of the Tribal Council held on the 10th day of March, 2016 by a vote of 11 in favor, 0 opposed, 0 absent, and 0 abstaining.



John P. Warren
Tribal Council Chairman



Mark Parrish
Tribal Council Secretary





Pokégnek Bodéwadmik • Pokagon Band of Potawatomi
Gaming Authority

Box 180 • Dowagiac, MI 49047 • www.PokagonBand-mi.gov
(269) 782-6323 • (269) 782-9625 fax

**POKAGON BAND OF POTAWATOMI INDIANS
BOARD OF DIRECTORS
RESOLUTION NO. 16-03-10-01**

WHEREAS: The Pokagon Gaming Authority is a wholly-owned unincorporated instrumentality of the Pokagon Band of Potawatomi Indians of Michigan and Indiana (a sovereign, federally-recognized Indian tribe organized under a constitution adopted on November 1, 2005); and

WHEREAS: The Pokagon Gaming Authority (the "Authority") was chartered by the Pokagon Band Tribal Council through enactment of the Pokagon Gaming Authority Ordinance on May 25, 2006; and

WHEREAS: In accordance with Article IX, Section 2, of the Pokagon Band Constitution and pursuant to Section VIII of the Pokagon Gaming Authority Ordinance (the "Charter"), the Pokagon Gaming Authority Board of Directors is the duly recognized governing body of the Authority; and

WHEREAS: The Authority Board of Directors is authorized pursuant to subsection VI (C)(v) of the Charter to "make and enter into contracts in furtherance of the Gaming Business" and, pursuant to subsection VIII (C) of the Charter, is "delegated the power to manage and control the business, property and affairs of the Authority"; and

WHEREAS: The Pokagon Band acquired approximately 166 contiguous acres of land located within the City of South Bend (the "City") and bounded by Prairie Avenue (State Road 23), U.S. Highway 31, and Locust Road (the "Site") and on or about May 14, 2012, as provided in Section 6 of the Pokagon Restoration Act, 25 U.S.C. § 1300j-5, the Band filed an application with the U.S. Department of the Interior, Bureau of Indian Affairs, to have the

Secretary of the Interior take title to the Site in trust for the Pokagon Band of Potawatomi Indians, Michigan and Indiana; and

WHEREAS: The Pokagon Band's and the Authority's plans and foreseeable development for the Site include a tribal village with 44 housing units and a multi-purpose facility with health service and other tribal government facilities and, in accordance with Pokagon Band law and the Indian Gaming Regulatory Act of 1988, P.L. 100-497, 25 U.S.C. § 2701 *et seq.*, planned and foreseeable development of the Site also includes a casino gaming facility; and

WHEREAS: Pokagon Band and Authority representatives have been negotiating with City representatives concerning the terms of a local agreement (the "Local Agreement") to address matters of mutual concern regarding the Site and planned and foreseeable development for the Site; and

WHEREAS: The purpose of the Local Agreement is to establish and memorialize the various and beneficial commitments that the Pokagon Band, the Authority, and the City have made to each other out of recognition and respect for the sovereignty and mutual best interests of each party; and

WHEREAS: The Authority Board of Directors ("Board") has reviewed the Local Agreement and has concluded that the Local Agreement is in the best interests of the Authority and will further the Authority's long term interests and objectives.

NOW, THEREFORE, BE IT RESOLVED that the Board approves the Local Agreement attached hereto and made a part of the record of this Board session and authorizes the President/CEO and the Board Secretary to execute the Local Agreement, substantially identical to the attached Local Agreement, on behalf of the Authority; and

BE IT FURTHER RESOLVED that, as provided in Section 17 of the Local Agreement and subject to all conditions and limitations stated therein, the Board agrees to participate in any Mediation process and any Arbitration procedure commenced under the Local Agreement; and

BE IT FURTHER RESOLVED that, as provided in Section 17 of the Local Agreement and subject to all conditions and limitations stated therein and in this resolution, the Board (i) approves, authorizes and confirms in accordance with the Pokagon Band Constitution and enacted Pokagon Band law the limited waiver of the Authority's tribal sovereign immunity from suit, (ii) consents to be sued for any Judicial Action in any of the Courts of Competent Jurisdiction, and (iii) waives any requirement of exhaustion of tribal remedies; and

BE IT FURTHER RESOLVED that, as provided in Section 16 of the Local Agreement and subject to all conditions and limitations stated therein and in this resolution, the Local Agreement and the limited waiver of the Authority's tribal sovereign immunity shall become effective upon the commencement of the Term of the Local Agreement and shall continue in effect during the Term so long as the Local Agreement remains enforceable against the City.

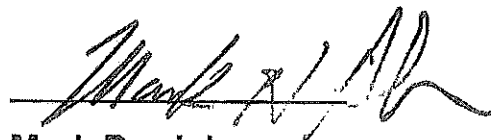
CERTIFICATION

We do hereby certify that the foregoing Resolution was presented and voted upon with a quorum present at a duly convened meeting of the Board of Directors held on the 10th day of March, 2016 by a vote of 11 in favor, 0 opposed, 0 absent, and 0 abstaining.



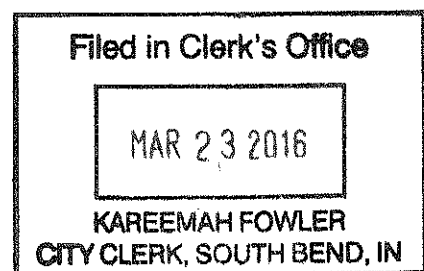
John P. Warren

President and CEO



Mark Parrish

Secretary



WATER SERVICE AND SEWER SERVICE AGREEMENT

This Agreement is made on the 22nd day of March, 2016 by and between the POKAGON BAND OF POTAWATOMI INDIANS (the "Band"), the POKAGON GAMING AUTHORITY, an unincorporated instrumentality of the Band ("PGA"), and the CITY OF SOUTH BEND, a municipal corporation existing under the laws of Indiana (the "City").

RECITALS

A. Concurrently with their approval of this Agreement, the Band Parties and the City are entering into a separate "Local Agreement" concerning the intended development by the Band of a Tribal Village and the development by PGA of a Resort on an approximately 166-acre site located within the City, which planned development as well as foreseeable but as yet unplanned development will require water service and sewer service.

B. On or about May 14, 2012, as provided in 25 U.S.C. §§ 1300j et seq. (the "Restoration Act"), the Band filed an application with the U.S. Department of the Interior, Bureau of Indian Affairs to have the Secretary of the Interior take title to the Site in trust for the Pokagon Band of Potawatomi Indians, Michigan and Indiana.

C. The City owns, operates and maintains a water supply system, including a filtration plant, storage and transmission facilities, and pumping stations, and furnishes filtered and treated water to customers. The City also owns, operates and maintains a complete sanitary sewer system, including a treatment plant, pump stations, lift stations, and sewer mains, and collects and treats wastewater from customers.

D. While the parties recognize that the Band Parties have the right and the ability to create a private water system and a private sewer system on the Site, the Band Parties and the City desire to extend City water services and sewer services to the Site for the Initial Phase and Full Build-Out Phase of development and to establish terms and conditions for upgrading and improving the systems that supply those services when the need arises, as determined by the City's standards and the obligations set forth in this Agreement. An engineer's drawing showing the layouts for the Initial Phase and Full Build-Out Phase of the water system and sewer system that will serve the Site is attached hereto as **Exhibit A**.

E. The City desires that the water system extension and the sewer system extension described in this Agreement be designed and constructed in a manner that will serve the City's plans for expanding services to future customers and the Band Parties share the City's desire and wish to assist the City in fulfilling its goal under the terms and conditions of this Agreement.

F. The City recognizes that representations and obligations made by the Band Parties under this Agreement are voluntary and are not required by any federal or state law.

G. The City represents that it is authorized to enter into this Agreement by a duly adopted resolution of the Board of Public Works, a true copy of which is attached as **Exhibit B-1**.

H. The Band represents that it is authorized to enter into this Agreement by a duly adopted resolution of the Band Tribal Council, a true copy of which is attached as **Exhibit B-2**.

I. PGA represents that it is authorized to enter into this Agreement by a duly adopted resolution of the Pokagon Gaming Authority Board of Directors, a true copy of which is attached as **Exhibit B-3**.

NOW, THEREFORE, in consideration of the obligations, terms and conditions contained herein, the adequacy of which the parties expressly acknowledge, the Band, PGA, and the City agree as follows:

1. Recitals true. The above recitals are true.
2. Definitions. The following terms, whenever used or referred to in this Agreement, shall have the respective meanings stated below:
 - (a). “**Agreement**” means this Water and Sewer Service Agreement.
 - (b). “**Band**” means the Pokagon Band of Potawatomi Indians, a sovereign federally-recognized Indian tribe, as reaffirmed in the Pokagon Restoration Act of 1994, 25 U.S.C. §§ 1300j et seq.
 - (c). “**Band Parties**” means the Band and PGA and “**Band Party**” means either the Band or PGA.
 - (d). “**Calvert Street Lift Station**” means the sewer system lift station located at or near the intersection of W. Calvert Street and Renewable Road.
 - (e). “**City**” means the City of South Bend, a municipal corporation existing under the laws of Indiana.
 - (f). “**Extension**” means the water system extension and/or the sewer system extension as described in Section 4, Section 5, and Exhibit A of this Agreement.

- (g). **“Full Build-Out Phase”** means the phase of on-site and off-site development of the water system and sewer system with a scope and design described more fully in Section 4 and Exhibit A of this Agreement, which will serve the needs of the Site after the Full-Build-Out Threshold is met.
- (h). **“Full Build-Out Threshold”** means that, due to projected increases in the demands on the system from planned development of the Site, the total use of the sewer system by all customers on the Site will exceed a threshold of 190 gallons per minute (“gpm”) discharged to the Locust Road gravity sewer. Under normal conditions, the lift station located on the Site will operate one pump at a time with a maximum individual pump capacity of 180 gpm. The Full Build-Out Threshold shall be considered exceeded when the flow meter installed at the lift station located on the Site measures a flow rate in excess of 190 gpm more than three times in any month.
- (i). **“Initial Phase”** means the phase of on-site and off-site development of the water system and sewer system with a scope and design described more fully in Section 4 and Exhibit A of this Agreement, which will serve the needs of the Site until the Full Build-Out Threshold is reached.
- (j). **“Local Agreement”** means the agreement titled “Local Agreement”, which is being entered into between the Band Parties and the City concurrently with their approval of this Agreement and that concerns the Band Parties’ intended development on the Site of a “Tribal Village” and a “Resort”, as those terms are defined in the Local Agreement.
- (k). **“PGA”** means the Pokagon Gaming Authority, an unincorporated governmental instrumentality of the Band.
- (l). **“Residential Site Customer”** means a Site Customer who is not a Band Party and receives water and sewer services to a residential location on the Site.
- (m). **“Resort”** means a casino gaming resort facility proposed to be developed on the Site, as show on Exhibit A.
- (n). **“Site”** means the approximately 166 acre site of land described in Exhibit A to the Local Agreement. The term Site also includes any other real property that is owned by the Band, including its agencies, instrumentalities, and enterprises, at the time this Agreement is entered into or in the future, will be served by the portion of the Extension located on the Site, and is located contiguous to:

- (1). the Site boundaries, notwithstanding any easements or right-of-way running between such real property and the Site, or
- (2). other real property owned by the Band that is contiguous to the Site boundaries.
- (o). “**Site Customer**” means a customer, including an individual residential customer, that receives from the City water services and/or sewer services from a connection or discharge point located on the Site.

3. Water System and Sewer System Service Requirements

- (a). All Site Customers shall become customers of the City water system and sewer system and each Site Customer shall be individually and solely responsible for the payment of charges for the water services and sewer services such Site Customer receives from the City.
- (b). Except as expressly provided otherwise in this Agreement, the City shall provide water service and sewer service to Site Customers under the same terms and conditions, as amended from time to time, as the City provides such services to its other customers located within the City.
- (c). All charges and fees for water and sewer service provided by the City to Site Customers shall be in accordance with the City’s water tariff, as approved by the Indiana Utility Regulatory Commission (“IURC”) from time to time; the City’s sewer tariff as adopted by the Common Council; and the City’s ordinances as applicable to water and sewer service; provided that under the City’s water tariff and sewer tariff the Site shall be considered to be within the City and the Site Customers shall not be part of any special rate category that imposes rates that are higher than rates paid by other City customers for substantially similar uses.
- (d). Provided there are no cross connections with City water, the Band Parties reserve the right to use one or more onsite wells for irrigation purposes and, regardless of the water source for such irrigation purposes, the City shall not include charges for sewer services when billing for water service for irrigation uses by Site Customers who are Band Parties.

4. Description of Water System and Sewer System Improvements.

(a). *Initial Phase.*

- (1). Water Extension.

- (A) Extend a 12" water main and services, including valves, hydrants, and fittings, from the existing main on Locust Road through the residential development on the Site to the hydrants and utility building located on the Site with tees and valves to extend and loop the water main offsite under US-31 and to Prairie Avenue to accommodate future off-site need;
- (B) Design and construct the system to City, State, and any other applicable regulatory standards, including hydrants, and valves; and
- (C) Include individual meters for all potable uses on the Site, including each residential unit, and for all irrigation uses, whether such potable and irrigation uses currently exist on the Site or will be developed in the future.

(2). Sewer Extension.

- (A) Install gravity sewers from existing and proposed development on the Site to a central lift station to be located on the Site near the detention basin, which lift station will discharge wastewater through a forcemain to the existing sewer on Locust Road and shall have a back-up power supply;
- (B) Install a section of 24" trunkline sewer from the truck dock area of the proposed casino development to the lift station on the Site, which will serve as a future trunkline; and
- (C) Construct the system in accordance with City, IDEM, and any other applicable regulatory standards, including a backup power supply and bypass pump connections.

(b). *Full Build-Out Phase.*

- (1). Water Extension. In the interest of increasing the reliability of the water system and depending on the needs for water in the area of the Site when the Full Build-Out Threshold is met or at another earlier time if mutually agreeable to the Band Parties and the City, the parties, pursuant to the terms herein agree as follows:

- (A) To loop the watermain located on the Site around the Resort to connect to the low-pressure system at Prairie Avenue or, in the

alternative at the Band Parties' sole discretion, complete the loop that is located off the Site; and

(B) To bore and jack to install a 12" diameter waterline Extension from the Site boundary south under US-31.

(2). Sewer Extension. The Band Parties agree to abandon the existing lift station and forcemain located on the Site and extend, at the Band Parties' cost, the trunkline sewer from the lift station located on the Site north under Prairie Avenue to the Calvert Street Lift Station.

5. Band Parties Obligations. The Band Parties shall fulfill the following obligations regarding water system and sewer system services and improvements:

- (a). At the Band Parties' cost, design, apply for City and State permits required by law, and construct the Extension for the Initial Phase improvements to the water system and sewer system located on the Site.
- (b). Provide all design plans for the Initial Phase improvements and the Full Build-Out Phase improvements to the City. The design plans will be prepared at the Band Parties' expense by an engineering firm that meets all Indiana professional registration and licensing requirements. The design plans will be performed in accordance with the City's standards and specifications and must be submitted and approved by the City, the applicable regulatory agencies, and other governmental bodies prior to construction.
- (c). In order to allow the system improvements located on Site to serve adjacent property owners in the future, the Band Parties shall, upon completion of the Initial Phase, convey an easement, not less than thirty (30) feet, and dedicate to the City within such easement all water system and sewer system improvements located on the Site, including the gravity sewer, forcemain, and lift station. Upon completion of the Full Build-Out Phase, the Band Parties shall also convey an easement and dedicate to the City within such easement all water system and sewer system improvements related to the Full Build-out Phase located on the Site *provided*, however, that at the Band Parties' discretion and to the extent feasible the Band Parties may, upon the written consent of the City, convey such easement to the City prior to the date of completion of the Full Build-Out Phase improvements. Prior to dedicating the Initial Phase and Full Build-Out Phase improvements to the City, the Band Parties shall be responsible for all maintenance and repairs to the improvements and shall be responsible for all costs related to such maintenance and repairs. Accordingly, the Band Parties must present the City

with a three (3) year maintenance bond from the contractor that installed the improvements effective the date of dedication to the City.

- (d). Use their best efforts to acquire at market value an easement or easements in the City's name from one or more property owners located adjacent to the Site on the north side of Prairie Avenue in order to permit the installation of a 36" sewer trunkline Extension from the Site to the Calvert Street Lift Station.
- (e). Contribute \$400,000 to the City to assist with the cost of replacement and upgrading the Calvert Street Lift Station, which contribution shall be made by the Band within fifteen (15) days from the date the City issues a notice to proceed to a contractor engaged by the City to perform the work.
- (f). Within eighteen (18) months, or twenty-four (24) months in the event of delays not within the Band Parties' control, from the date that the Full Build-Out Threshold is reached, at the Band Parties' cost, design, obtain all City, State or other regulatory permits required by law, and construct the Full Build-Out Phase improvements to the water system and sewer system located off the Site. Such improvements are limited to the following:
 - (1). Loop the watermain located on the Site around the Resort to connect to the low-pressure water supply system at Prairie Avenue or, in the alternative at the Band Parties' sole discretion, complete the loop that is located off the Site;
 - (2). Bore and jack to install a 24" diameter sewer trunkline Extension from the Site Boundary north under Prairie Avenue;
 - (3). Install a 36" diameter sewer trunkline Extension from Prairie Avenue along an easement to be acquired and continuing through an existing easement to the Calvert Street Lift Station;
 - (4). During the 18-month build out, the discharge from the lift station cannot exceed 225 gpm due to the existing capacity of the Locust Road sewer main; and
- (g). Pay charges for water services and sewer services provided by the City to Site Customers who are Band Parties in accordance with the charges in effect at that time as specified by the City's IURC-approved water tariff, the City's sewer tariff and the City's ordinances, subject to the qualifications stated in paragraph 3(c) of this Agreement.

- (h). During construction of the public portions of the water and sewer Extension located on the Site and until dedication to the City in accordance with the terms of this Agreement, carry and maintain comprehensive general liability and casualty insurance with regard to bodily injury, sickness, disease or death, and damage to or destruction of tangible property, including the loss of use resulting therefrom, for which the Band Parties may be liable, including, but not limited to damages, costs, claims, and expenses arising from or directly related to the public portions of the water and sewer Extension located on the Site. Such insurance shall, at a minimum, be in amounts equal to cover the repair and full replacement of the public portion of either the Initial Phase or the Full Build-Out Phase of the water and sewer Extension located on the Site, depending on which phase is being constructed.
6. City Obligations. The City shall fulfill the following obligations regarding water system services and sewer system services and improvements:
- (a). Review and approve in a timely and expeditious manner pursuant to applicable law and regulation and in accordance with the City's standards and specifications all design plans submitted by a Band Party to the City regarding upgrades and extensions of the water system and sewer system, and any approvals and permits required from the City shall not be unreasonably withheld.
 - (b). Conduct inspections and testing during construction of the Initial Phase and Full Build-Out Phase improvements. The inspections and testing will be done as necessary in order to ensure compliance with the design plans and the City's standards and specifications. The Band Parties and the City shall endeavor in good faith to reach agreement regarding the selection of a qualified firm to conduct the inspections and testing, which will be done at the Band Parties' expense.
 - (c). Within six (6) months prior to dedication of the Initial Phase and Full Build-Out Phase improvements from the Band Parties to the City, a final inspection will be conducted by the City at the City's expense. The City shall provide a copy of the results of such inspection along with a list of defects, if any, the Band Parties must rectify prior to dedicating the improvements to the City. Any defects reported shall be repaired by the Band Parties at their sole expense prior to dedication.
 - (d). Provide water services and sewer services to the Site and all current and future Site Customers in the full capacities of the systems.

- (e). Upon assurances that all good faith efforts were exhausted and receipt of written notice from the Band Parties that they were unable to acquire the easements described in subsection 5(c) of this Agreement, the City shall acquire, by purchase or condemnation, all such easements as may be necessary for the construction of the sewer trunkline Extension *provided*, however, that the Band Parties shall reimburse the City for their reasonable costs, including legal costs, in acquiring such easements, at either the cost of any easement voluntarily obtained after notice and approval to the Band Parties, which approval shall not be unreasonably withheld, or the cost of any easement obtained through condemnation or eminent domain.
- (f). Within eighteen (18) months from the date that the Full Build-Out Threshold is reached, design and complete construction of the replacement and upgrade to the Calvert Street Lift Station, and all costs for such improvements over and above the \$400,000 contribution due from the Band Parties under paragraph 5(d) of this Agreement shall be paid by the City.
- (g). Accept the dedication of, and operate the public portions of the water system and sewer system located on the Site, including the lift station, in accordance with all applicable laws and regulations in the same manner as the City operates the parts of such systems that are located off the Site, which obligation includes at the City's sole expense the provision of electrical, gas, telephone, diesel fuel, and other energy and support services needed for the operation of such systems.
- (h). Rebate to the Band Parties all amounts the City receives from –
 - (1). Subsequent connector charges and assessment fees paid by customers for non-mainline connections that connect to a trunkline sewer Extension or a water supply Extension directly extending from the Site but located off the Site if such Extension was paid for entirely by the Band Parties.
- (i). Maintain, repair, and replace the public portion of the water system and sewer system improvements located on the Site as needed in order to ensure the full and reliable function of such systems and their components, consistent with the City's standards and practices for the parts of such systems that are located off the Site. The public portion of the water and sewer Extension is described in Exhibit C-1, Exhibit C-2, and Exhibit C-3 attached and incorporated hereto.
- (j). Read the meters and directly bill each Site Customer for water services and sewer services and the due date for payment of such bills shall be consistent with the due dates that apply to the City's customers located off the Site;

- (k). Assist and cooperate with the Band Parties in their effort to obtain any necessary approvals and permits from the Indiana Department of Environmental Management and any other state or local agencies needed to construct the upgrades and extensions of the water system and the sewer system;
- (l). Allow the Band and PGA to expand water services and sewer services on the Site with timely and expeditious review, approval, and permitting procedures up to 190 gpm flow for sewer services at the Band Parties' cost;
- (m). The City is a municipal corporation organized under the laws of the State of Indiana, and is self-insured under provisions of Indiana statutes and local ordinance and as such, maintains blanket insurance coverage over real and personal property, and is covered by a non-reverting insurance premium and liability reserve fund created by the City, pursuant to Indiana Code 34-13-3-4, as amended from time to time. Under said statute, the City's liability is limited to:
 - (1). Three Hundred Thousand Dollars (\$300,000) for a cause of action that accrues before January 1, 2006;
 - (2). Five Hundred Thousand Dollars (\$500,000) for a cause of action that accrues on or after January 1, 2006, and before January 1, 2008; or
 - (3). Seven Hundred Thousand Dollars (\$700,000) for a cause of action that accrues on or after January 1, 2008; and
 - (4). for injury to or death of all persons in that occurrence, Five Million Dollars (\$5,000,000); and
 - (5). A governmental entity or an employee of governmental entity acting within the scope of employment is not liable for punitive damages.
- (n). Maintain, in a workmanlike manner, any and all other improvements off the Site that are not identified in this Agreement, but are required now or will be required in the future to provide the required water service and sewer service to the Site.

7. Residential Site Customers.

- (a). The Band Parties and the City acknowledge that upon the transfer of the Site by the Band to the United States Secretary of the Interior in trust for the Band, limitations under applicable law will prevent the City from placing a lien

against any portion of the Site in order to secure the payment of delinquent charges owed for water services and sewer services provided by the City to a Residential Site Customer. Therefore, the Band Parties and the City agree that the procedures set forth in this Section 7 shall be the exclusive process for addressing delinquencies by Residential Site Customers for water and sewer service:

- (b). In order to provide the Band an opportunity to address any delinquency regarding charges owed by a Residential Site Customer prior to the certification of such delinquent charges by the City, as provided below in subsection 7(c), the City shall provide written notice each month to the Band's Finance Director of delinquent charges owed by Residential Site Customers, which notice shall, at a minimum, include the name and address of each Site Customer that owes a delinquent charge and an itemized breakdown of the delinquent charges showing the month when each delinquent charge was first incurred and all interest and penalties added thereto.
 - (c). The City shall also provide the Finance Director with a written notice by the first day of April of each year regarding every delinquent charge that has been delinquent for at least sixty (60) days, which notice shall, at a minimum, meet the requirements of subsection 7(b) above and shall also include a statement that certifies the accuracy of the information contained in the notice according to the City's records.
 - (d). The Band shall pay in full to the City the amount of the certified delinquent charges for each Residential Site Customer within thirty days of receipt of a notice that conforms to the requirements of subsection 7(c).
 - (e). Upon its receipt of payment by the Band of any certified delinquent charges, the City shall be deemed to have assigned to the Band all of the City's rights in the certified delinquent charges and thereafter the City shall cease any and all efforts to collect such certified delinquent charges from the Residential Site Customer.
 - (f). The City may, in accordance with the standards and procedures of applicable law, regulations, and any validly adopted policy, temporarily suspend water service for any Residential Site Customer with delinquent charges owed to the City until such charges are paid in full.
8. Scope of Agreement. This agreement applies to the Site and all development located on the Site.

9. Force Majeure. The Band Parties and the City shall not be excused from the performance of any of their obligations under this Agreement except when such performance is prevented by causes which are beyond the reasonable control and without the fault of the party affected, such as acts of God, war, terrorism, civil unrest, labor shortages and acts of a government in its sovereign capacity. The party whose performance is delayed shall promptly notify the other party of any such cause for non-performance and, upon such notification, such party's performance shall be excused on a day-to-day basis only for the duration of the cause of non-performance and only to the extent that performance is actually prevented *provided*, however, that such party diligently pursues all reasonable efforts to eliminate the cause of non-performance. Where the performance of one party is excused, the performance of the other parties shall likewise be excused and all parties shall promptly resume performance upon the cessation of the cause of non-performance.
10. Term and Breach. This Agreement shall remain in full force and effect for ninety-nine (99) years and may only be terminated by the City due to a breach of material terms of this Agreement by a Band Party after first providing both Band Parties with a written notice of default and an opportunity to cure the default within thirty (30) days from the date of such notice. The Band Parties' remedies for a breach of material terms of this Agreement by the City include, without limitation, specific performance. If the City breaches its duty to provide water to Site Customers, as required by this Agreement, the Band Parties may obtain water from an alternative source including, without limitation, another municipal water supply system or a private water supply system located on the Site. In the event the Band Parties obtain water from an alternative source, as permitted in this subsection, or upon the expiration or termination of this Agreement, the City shall dedicate to the Band the public portion of the water system and sewer system located within the easements granted to the City on the Site, including the lift station and all other improvements.
11. Limitation on Liability. The Band Parties and the City may recover monetary damages incurred as a result of any material breach of this Agreement, including the failure of the Band Parties to complete their obligations related to the Full Build-Out Phase; provided, however, that in no event shall any party be liable for any special, incidental, consequential, or punitive damages.
12. Dispute Resolution. The Band Parties and the City shall resolve every controversy, question, claim, or dispute between the Band Parties and the City that arises out of this Agreement, including the validity of this Agreement ("Dispute") in accordance with the requirements of Subsections 17(a) through 17(d) of the Local Agreement, which provisions are incorporated herein and made a part of this Agreement as if restated herein in their entirety.

13. Governing Law. This Agreement shall be deemed entered into in Indiana and shall be subject to the laws of the State of Indiana and any applicable federal laws, including the approval provisions of 25 U.S.C. § 81.

14. Miscellaneous Provisions.

(a). *Notice.* Except for notices to the Band's Finance Director for delinquent charges as provided in Section 7, which may be delivered by U.S. Mail, first class postage pre-paid, or by other method acceptable to the City and the Finance Director, any notice required to be given pursuant to this Agreement shall be delivered to the appropriate party by Certified Mail Return Receipt Requested, or by overnight mail or courier service, to the following addresses:

If to the Band or PGA:

Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047
Attn: Chairman, Tribal Council

with a copy to:

Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047
Attn: Office of General Counsel

and to:

Robert Gips
Drummond, Woodsum, MacMahon
84 Marginal Way, Suite 600
Portland, ME 04101-2480

and if to the Finance Director regarding delinquent charges under Section 7 to:

Pokagon Band of Potawatomi Indians
58620 Sink Road
Dowagiac, MI 49047
Attn: Finance Director

If to the City:

The Mayor of South Bend
1400 County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601

With a copy to:

Corporation Counsel
1200 County-City Building
227 West Jefferson Boulevard
South Bend, Indiana 46601

With a copy to:

Bingham Greenebaum Doll, LLP
Attn: Joe Champion
2700 Market Tower
10 West Market Street
Indianapolis, Indiana 46204

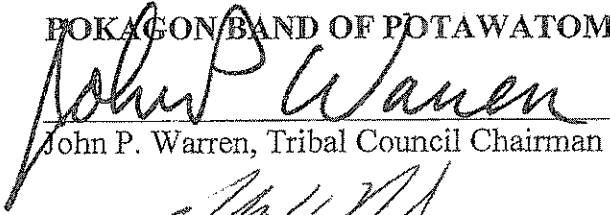
A party may designate a different address for notification under this subsection by notifying the other parties of such change in writing.

- (b). *Further Actions.* Each party agrees to execute all documents and to take all actions reasonably necessary to comply with the provisions of this Agreement and its intent.
- (c). *Waivers.* No failure or delay by a party to insist upon the strict performance of any covenant, agreement, term or condition of this Agreement, or to exercise any right or remedy upon the breach thereof, shall constitute a waiver of any such breach or any subsequent breach of such covenant, agreement, term or condition. No covenant, agreement, term, or condition of this Agreement and no breach thereof shall be waived, altered or modified except by written instrument.
- (d). *Captions.* The captions for each section and subsection are intended for convenience only.

- (e). *Severability*. If any provision, or any portion of any provision, of this Agreement is found to be invalid or unenforceable, such unenforceable provision, or unenforceable portion of such provision, shall be deemed severed from the remainder of this Agreement and shall not cause the remainder of this Agreement to be invalid or unenforceable. If any provision, or any portion of any provision, of this Agreement is deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.
- (f). *Third Party Beneficiary*. This Agreement is exclusively for the benefit of the parties hereto. It may not be enforced by any party other than the parties to this Agreement, and shall not give rise to liability to any third party.
- (g). *Successors and Assigns*. The benefits and obligations of this Agreement shall inure to and be binding upon the parties hereto and their respective successors and assigns. The parties cannot assign their rights or obligations under this Agreement except with the written consent of the other parties, except that the PGA may, without the consent of the City, assign this Agreement to an instrumentality of the Band organized to conduct the business of the Resort for the Band if that instrumentality assumes all obligations of the PGA. No such assignment shall relieve the Band of any obligation under this Agreement, unless otherwise agreed to by the City.
- (h). *Modification*. Any change to or modification of this Agreement must be in writing signed by the parties to this Agreement.
- (i). *Entire Agreement*. This Agreement contains the entire understanding and agreement of the parties hereto and supersedes all other prior agreements and understandings, written or oral between the parties. There are no oral agreements.
- (j). *Preparation of Agreement*. This Agreement was drafted and entered into after careful review and upon the advice of competent counsel; it shall not be construed more strongly for or against any party.
- (k). *Execution*. This Agreement may be executed in counterparts, all of which taken together shall constitute one document.
- (l). *Authorization*. Each person signing for an entity warrants that he or she is duly authorized to do so.

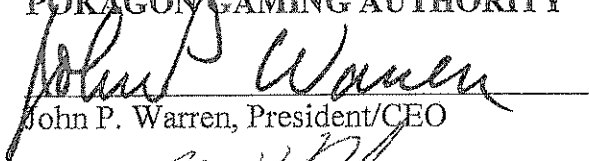
This Agreement was executed as of _____, 2016.

POKAGON BAND OF POTAWATOMI INDIANS


John P. Warren, Tribal Council Chairman



Mark Parrish, Tribal Council Secretary


POKAGON GAMING AUTHORITY


John P. Warren, President/CEO


Mark Parrish, Board Secretary

**CITY OF SOUTH BEND
BOARD OF PUBLIC WORKS**


Gary A. Gilot

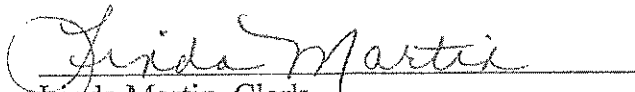

James A. Mueller

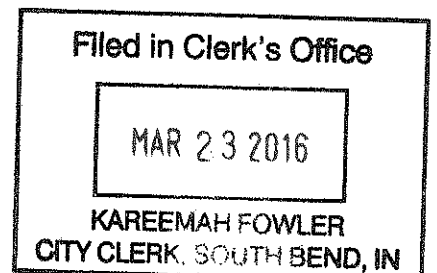

Elizabeth A. Maradik


David P. Relos

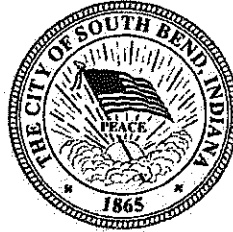
Therese J. Dorau

ATTEST:


Linda Martin, Clerk



227 W. JEFFERSON BOULEVARD
SUITE 1400 S.
SOUTH BEND, IN 46601-1830



PHONE: 574/235-9371
FAX: 574/235-9021

CITY OF SOUTH BEND PETE BUTTIGIEG, MAYOR
COMMUNITY INVESTMENT
SCOTT FORD, EXECUTIVE DIRECTOR

March 22, 2016

Council Member Gavin Ferlic, Chairperson
Community Investment Committee
South Bend Common Council
4th Floor, County City Building
South Bend, IN 46601

RE: Real Property Tax Abatement Petition for: **County Development, LLC**

Dear Council Member Ferlic:

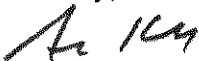
Please find the attached information pertaining to a real property tax abatement petition for County Development, LLC:

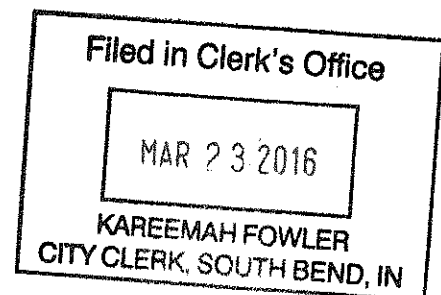
- Department of Community Investment's summary report
- Copy of the petition
- Statement of Benefits form
- Supporting information.

The report contains the Department's findings relative to the above petition. County Development, LLC will be investing approximately \$6,800,000 on the construction of a new 40,000 square foot supermarket store and 4000 square foot convenience store and fuel center business at the intersection of Mayflower Rd and Western Avenue. The project meets the qualifications for a (6) six year real property tax abatement. A representative from County Development, LLC will be available to meet with the Committee on Tuesday, March 29, 2016.

Should you or any of the other Council members have any questions concerning the report, or need additional information, please feel free to call me at 235-5823.

Sincerely,


Aaron Kobb
Director Economic Resources



RESOLUTION NO. 4555-16

A RESOLUTION CONFIRMING THE ADOPTION OF A
DECLARATORY RESOLUTION DESIGNATING CERTAIN AREAS
WITHIN THE CITY OF SOUTH BEND, INDIANA, COMMONLY
KNOWN AS

**Intersection of Mayflower Rd and Western Avenue, South Bend, IN
46619**

AS AN ECONOMIC REVITALIZATION AREA FOR
PURPOSES OF A SIX (6) YEAR REAL
PROPERTY TAX ABATEMENT FOR

County Development, LLC

WHEREAS, the Common Council of the City of South Bend, Indiana, has adopted a Declaratory Resolution designating certain areas within the City as Economic Revitalization Areas for the purpose of tax abatement consideration; and

WHEREAS, a Declaratory Resolution designated the area commonly known as the intersection of Mayflower Rd and Western Avenue, South Bend, IN 46619 and which is more particularly described as follows:

**LOTS 61 & 62 GROUSES PRO SEC 8-37-2E 16/17 ANNEXED ORD#10375-15
LOT 63 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 64 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 65 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 66 GROUSES ADD 16/17 ANNEXED ORD#10375-15
W 90 FT LOTS 67 & 68 GROUSES ADD 16/17 ANNEXED ORD#10375-15
E 75' LOT 54 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 54 EX E 75' GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 55 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOT 56 GROUSES ADD 16/17 ANNEXED ORD#10375-15
LOTS 57 & 58 100'S SIDE GROUSES ADD 16/17 ANNEXED ORD#10375-15**

and which has a Key Number [to be assigned] be designated as an Economic Revitalization Area; and

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

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

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

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

SECTION I. The Common Council hereby confirms its Declaratory Resolution designating the area described herein as an Economic Revitalization Area for the purposes of tax abatement. Such designation is for Real Property tax abatement only and is limited to two (2) calendar years from the date of adoption of the Declaratory Resolution by the Common Council.

SECTION II. The Common Council hereby determines that the property owner is qualified for and is granted a real property tax deduction for a period of (6) six years as shown by the attachment pursuant to Indiana Code 6-1.1-12.1-17 and further determines that the petition, the Memorandum of Agreement between the Petitioner and the City of South Bend, and the Statement of Benefits comply with Chapter 2, Article 6, of the Municipal Code of the City of South Bend and Indiana Code 6-1.1-12 et seq.

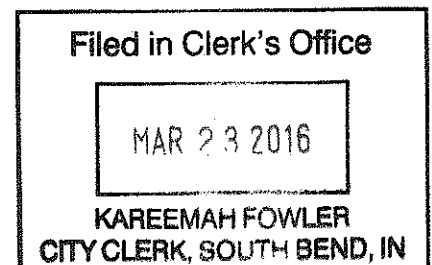
SECTION III. This Resolution shall be in full force and effect from and after its adoption by the Common Council and approved by the Mayor.

Member of the Common Council

PRESENTED

NOT APPROVED

~~ADOPTED~~



TAX ABATEMENT REPORT

TO: SOUTH BEND COMMON COUNCIL

FROM: AARON KOBBS

SUBJECT: REAL PROPERTY TAX ABATEMENT PETITION FOR:
County Development, LLC

DATE: March 22, 2016

On Tuesday, March 22, 2016, a petition from County Development, LLC was received and subsequently filed with the City Clerk for real property tax abatement consideration for property to be located at the intersection of Mayflower Rd and Western Avenue, South Bend, IN 46619. Pursuant to Chapter 2, Article 6, Section 2-84.2 of the Municipal Code of the City of South Bend, this petition was referred to the Department of Community Investment for purposes of investigation and preparation of a report determining whether the area qualifies as an Economic Revitalization Area pursuant to I.C.6-1.1-12.1 and whether all zoning requirements have been met.

The Department of Community Investment has reviewed the petition (a copy of which is attached), investigated the area, and makes the following report.

PROJECT SUMMARY

- Approximately \$6,800,000 construction of a new 40,000 square foot supermarket store and 4000 square foot convenience store and fuel center business.
- Estimated total taxes on new building construction during six year abatement period – \$1,180,460
- Estimated taxes being abated on new building construction during six year abatement period – \$464,668
- Estimated taxes to be paid on new building construction during six year abatement period – \$715,792

EMPLOYMENT IMPACT

Per the petition, it is estimated that the total project will:

- Create 13 permanent, full-time jobs within the six year abatement period, representing a new annual payroll of approximately \$453,440
- 30 total jobs will be retained with a total annual payroll of approximately \$936,000

ABATEMENT QUALIFICATION

1. A review of the tax abatements previously granted, finds that the petitioner has not been granted or associated with previous abatements.
2. The Building Commissioner has reviewed the petition and finds the property to be properly zoned for the proposed project.
3. A review of the South Bend Redevelopment designation areas finds that the property is not located in a designated Development Area.
4. A review of the Tax Abatement Ordinance No. 9394-03 finds that the petitioner meets the qualifications for a (6) six-year real property tax abatement under section 2-84.2, Real Property Tax Abatement.

6 YEAR

21-Mar-16

County Development, LLC

South Bend Portage Township South Bend Portage Township Real Property Tax Abatement Schedule*

Assessed Value:	Current AV & Tax	Without Abatement	to be assigned						17% Year 6
			100% Year 1	85% Year 2	66% Year 3	50% Year 4	34% Year 5	17% Year 6	
Current Assessed Value	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000	582,000
Base Assessed Value	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360	5,435,360
Less Abatement Deduction	0	0	(4,620,056)	(3,587,338)	(2,717,680)	(1,848,022)	(924,011)		
Net Assessed Value	582,000	6,017,360	582,000	1,397,304	2,430,022	3,299,680	4,169,338	5,093,349	
Property Taxes:									
Assume constant tax rate of	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%	5.4968%
Gross Tax (tax rate x net assessed value)	31,991	330,763	31,991	76,807	133,574	181,377	229,181	279,972	
Less Circuit Breaker Credit	(10,925)	(112,953)	0	0	0	0	(22,823)	(67,888)	
Net Tax	21,067	217,810	31,991	76,807	133,574	181,377	206,358	212,084	
Circuit Breaker Cap									
Circuit Breaker Cap	17,460	180,521	180,521	180,521	180,521	180,521	180,521	180,521	180,521
Circuit Breaker Debt Service	3,607	37,289	3,607	8,659	15,059	20,448	25,837	31,563	
Circuit Breaker Cap	21,067	217,810	184,127	189,180	195,579	200,969	206,358	212,084	
Totals	126,400	1,180,460	1,306,860	464,668	842,192				

Year	Existing Taxes	New Project Taxes	Combined Existing & New Taxes	Tax Abated	Net Tax Paid
1	21,067	196,743	217,810	185,819	31,991
2	21,067	196,743	217,810	141,003	76,807
3	21,067	196,743	217,810	84,236	133,574
4	21,067	196,743	217,810	36,433	181,377
5	21,067	196,743	217,810	11,452	206,358
6	21,067	196,743	217,810	5,726	212,084
Totals	126,400	1,180,460	1,306,860	464,668	842,192

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

City of South Bend Petition for Incentives

Petition must include a \$250 filing fee payable to the City Clerk's Office or online via the City's website at <http://southbendin.gov/government/content/tax-abatement-before-processing-can-be-complete>



General Information

Legal name as registered with Secretary of State	County Development LLC	Project Number	
Business structure	Limited Liability Company		
Company website	www.martins-supermarkets.com		

Proposed Project Information

Proposed project address		Intersection Mayflower Rd & Western Ave		Parent company name	Martin's Super Markets, Inc.
City, State, Zip	South Bend, IN 46619	Legal owner	County Development LLC		
Site acreage or acreage required	8.43 Acres	is the real estate owned or leased	Owned		
Square feet of facility	44,000	If leased by whom			

Primary Contact Information

Primary company contact name		Gregory L. Freehauf		Title	VP Finance, CFO
Address of company contact		PO Box 2709		Phone	574-239-1818
City, State, Zip	South Bend, IN 46680	Email	gfreehauf@martins-supermarkets.com		

Senior Official Information

Company senior official name		Gregory L. Freehauf		Title	VP Finance, CFO
Address of company contact (if different from above)		PO Box 2709		Phone	574-239-1818
City, State, Zip	South Bend, IN 46680	Email	gfreehauf@martins-supermarkets.com		

Consultant Information/Agent

Hired business consultant/agent name		N/A		Consultant release (Y/N)	
Address				Local economic development partners approval (Y/N)	
City, State, Zip		Email			

Project Overview

Brief description of your company, project, and why the property is necessary for economic growth	40,000 square foot supermarket store and 4,000 square foot convenience store and fuel center business		
--	---	--	--

Filed in Clerk's Office

MAR 23 2016

**KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN**

Certified Technology Park appropriate			
Community Revitalization Enhancement District			
Certify that the Building Permit has not been issued (Y/N)	Yes	Number of residential units created by project	0
If this is a petition for personal property tax abatement, has the equipment been installed	No		

Investment Details

Public Infrastructure needs (Off-site of project in dollars)	Has any 504 funding been received?	What is the value of any equipment being purchased in Indiana for the project?	What is the value of any equipment being purchased from out of state for the project?
\$550,000	No	\$945,900	\$2,837,700

New Project Investments								
Calendar Year	2015	2016	2017	2018	2019	2020	2021	2022
Land Acquisition	\$ 2,412,978							
Building Lease Payments								
Building Purchase Costs								
New Building Construction		\$ 5,394,200	\$ 1,400,000					
Existing Building Improvements								
New Machinery & Equipment		\$ 3,153,600	\$ 630,000					
Special Tooling/Retrofitting								
New Furniture/Fixtures		\$ 210,000	\$ 70,000					
New Computer/IT Hardware		\$ 155,000						
New Software		\$ 60,000						
On-site Rail Infrastructure								
On-site Fiber Infrastructure		\$ 15,000						
TOTAL								

Full-Time Permanent Indiana-Resident Positions by Calendar Year						
Calendar Year	Jobs retained	Total hourly wage w/o fringe or bonuses	Cumulative # of net NEW full time permanent jobs created at project	Hourly average wage, w/o benefits or bonuses, of cumulative net new jobs	Total training expenditure - not cumulative	Total # to be trained - not cumulative
2015	30	\$15.00				
2016			3	\$16.00	\$1,925	3
2017			10	\$17.00	\$6,800	10
2018						
2019						
2020						
2021						
2022						
2023						
2024						
2025						
2026						

Provide hourly wage information for new employees in the following positions.

	Full time	Part time
Laborers	\$9.50 (11 new employees)	\$9.50 (26 new employees & 58 retained employees)
Technical		
Managerial	\$31.00 (2 new employees)	
Administrative		

Who will be the individual responsible for coordinating with WorkOne on recruiting? Robyn Albert

Does your company have an EEO hiring policy? Yes Are you an EEO employer? Yes

Please list the number of full time and part time minority and/or female employees for each of the last three years:

Please describe your commitment to diversity and inclusion by detailing your outreach and recruitment efforts for the last three years as well as current policies.

Year	2015		2014		2013	
	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time
Black	5	11	5	11	5	10
Hispanic	2	3	1	1	2	3
Asian						
Indian						
Female	14	29	13	25	15	29
Other						

Martin's is committed to diversity and participates in many community job fairs. Recent participation would include job fairs with WorkOne, Goodwill and IUSB. We also partner with various schools in the SBCSC to provide guidance to students on aspects of getting a job.

What is the current assessed value?	Real Property:	620,700	Personal Property:	
What is the projected assessed value?	Real Property:	6,017,360	Personal Property:	
What is the tax key number for this project?	TO BE ASSIGNED			
What is the six digit NAICS code?				
Please attach a Google map and street view of the location:				
Please list the amount of real and personal property taxes paid for the last five years when applicable.		Real Property Taxes:	Personal Property Taxes:	
Year One		13,593		
Year Two		7586		
Year Three		6979		
Year Four		8870		
Year Five		8822		

Staff Use Only
Please fill out the Public Benefit Summary Information and add to the total from above.

		(Y or N)	Points	Points
Public Benefit Item:				
Project Related:				
5	A. Redevelop a Site that has Special Needs			49
	B. Develop Based on Local University Research			35
	C. Achieve a Physical Element of a Plan			36
	Sub-total Project Related:		0	120
	Super Size Projects (point values are cumulative):			
6	A. 100% to 199%			25
	B. 200% to 299%			68
	C. 300% to 399%			65
	D. 400% and Over			52
	Sub-total Super Size Projects:		0	210
7	Pay for Municipal Infrastructure:			
	A. Pay for Oversizing or Upgrading			14
	B. Pay for 26-50% of Extension Cost			26
	C. Pay for 51-75% of Extension Cost			39
	D. Pay for 76-100% of Extension Cost			52
	Sub-total Infrastructure Related:		0	131
Total from Applicant Section:			467	539
Total from Staff Section:			0	461
Total Public Benefit Points:			467	1000

Supplement to Petition for Incentives Frequently Asked Questions

We are frequently asked to explain the following questions, in an effort to clarify we are providing answers below.

1) How do I pay my petition filing fee?

Your petition filing fee can be paid either in person or via mail to:

City Clerk's Office
Attn: Deputy City Clerk
227 West Jefferson Blvd. • Suite 400 S
South Bend, Indiana 46601

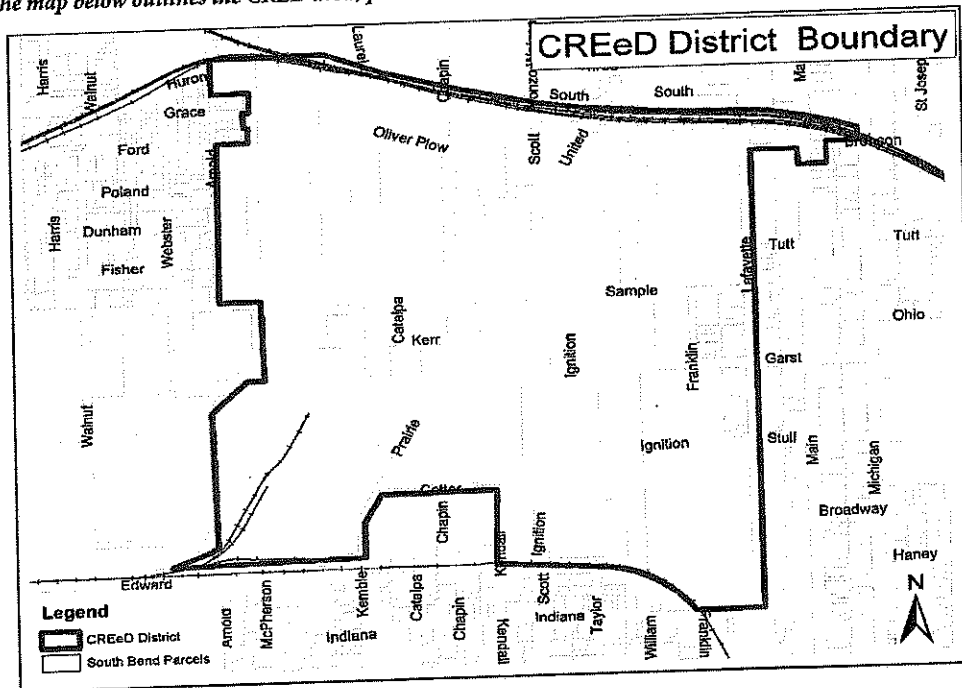
Or online via paypal at:
<http://southbend.in.gov/government/content/tax-abatement>

2) Certified Technology Park appropriate? (Page one, under project overview)

In the South Bend area there are only two Certified Technology Parks, Innovation Park and Ignition Park. If your property is not located in either then the answer would be no.

3) Community Revitalization Enhancement District? (Page one, under project overview)

The map below outlines the CREd area, please check to see if you fall within the boundaries.



4) Has any 504 funding been received? (Page one, under investment details)

504 Funding is a loan that come from the Small Business Administration. This funding must be applied for to be received.

5) Total training expenditure – not cumulative (Page two, under full time Indiana resident positions)

The amount of money to be spent per year on training over the course of the project.

6) Total number to be trained – not cumulative (Page two, under full time Indiana resident positions)

The amount of people that you will train per year over the length of the project.

If you have any additional questions that are not addressed by this document, please contact Sarah Heintzelman in the Department of Community Investment at 574.235.5842 or email at sheintze@southbend.in.gov



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

April 6, 2016

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: APC#2777-16 – Rezoning for 2724 Lincolnway West

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 April 11, 2016 Council meeting, and set it for public hearing at your May 23, 2106 Council meeting. The petition is tentatively scheduled for public hearing at the May 17, 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.

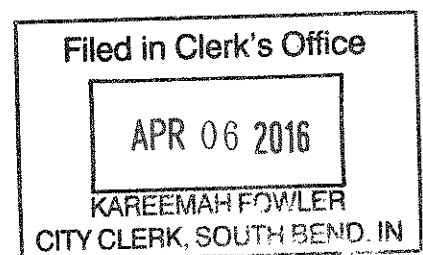
If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Chappuies'.

Matthew P. Chappuies
Planner

CC: Kathy Cekanski-Farrand



SERVING ST. JOSEPH COUNTY, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND

BLESSED
GOSPEL Magazine

March 29, 2016

Area Plan Commission of St. Joseph County, Indiana
1140 County-City Bldg.
227 W. Jefferson Blvd.
South Bend, Indiana 46601

Re: Rezoning Petition for 2724 Lincoln Way West, South Bend, IN
46628

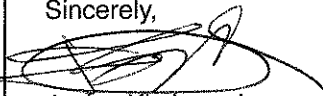
Dear Council Members,

I am requesting the Rezoning of my property located at 2724 Lincoln Way West, South Bend, Indiana for business activities to be conducted by BLESSED Gospel Magazine including publishing, marketing, general office, and retail. Retail activities would include sale of magazine subscriptions, single copy sales, antiques, and the sale of donor bricks for back yard gathering area.

Planned site improvements would include drive way upgrades and parking for at least five (5) automobiles, an outdoor patio, a monument sign with a variable message reader board in the front yard, and two (2) benches within or abutting the right-of-way of Lincoln Way with advertisements on the back panel of the benches. The improvements will be a compliment to the existing neighborhood.

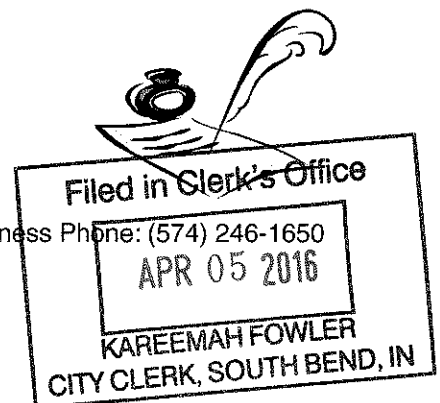
If you have any questions concerning this matter, please feel free to give me a call at (574) 246-1650

Sincerely,



Janice Kimbrough

1701 West Linden Street • South Bend, Indiana 46628 • Business Phone: (574) 246-1650



ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 2724 LINCOLNWAY WEST, COUNCILMANIC DISTRICT NO. 2 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

TO REZONE FROM SF2 SINGLE FAMILY & TWO FAMILY DISTRICT TO MU MIXED USE DISTRICT FOR AN ADVERTISING BUSINESS

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:

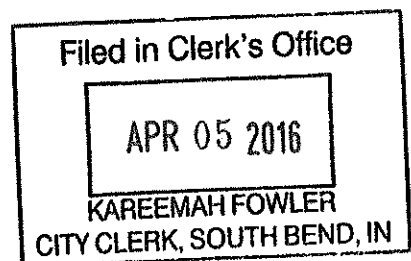
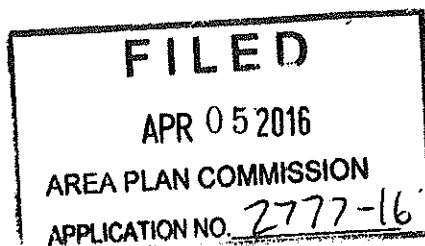
LOT NUMBERED THIRTY-THREE (33) AS SHOWN ON THE RECORDED PLAT OF KALEY'S SECOND LINCOLN HIGHWAY ADDITION TO THE CITY OF SOUTH BEND, EXCEPTING THEREFROM 120 FEET OFF OF THE SOUTHERLY END THEREOF, AS PER PLAT THEREOF RECORDED MAY 20, 1919 IN PLAT BOOK 10, PAGES 80 - 81 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY INDIANA

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

SECTION II. 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

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



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:

*2724 Lincoln Way West
South Bend, Indiana 46628*

2) The property Tax Key Number(s) is/are: *71-08-03-18-00-02-00-00-26*

3) Legal Descriptions: *LOT NUMBERED THIRTY-THREE (33) AS SHOWN ON THE RECORDED PLAT OF KALEY'S SECOND LINCOLNW HIGHWAY ADDITION TO THE CITY OF SOUTH BEND, EXCEPTING THEREFROM 120 FEET OFF OF THE SOUTHERLY END THEREOF, AS PER PLAT THEREOF RECORDED MAY 20, 1919 IN PLAT BOOK 10, PAGES 80-81 IN THE OFFICE OF THE RECORDER OF ST. JOSEPH COUNTY, INDIANA.*

4) Total Site Area: *0.48*

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

*JANICE KIMBROUGH
121 N. CARLISLE STREET
SOUTH BEND, INDIANA 46628
(574) 246-1650
bgmmagazine@gmail.com*

Name and address of additional property owners, if applicable:

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

NA

Name and address of additional property owners, if applicable: *NA*

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

From: Residential SF1 SINGLE FAMILY AND SF2 SINGLE FAMILY & TWO FAMILY DISTRICT

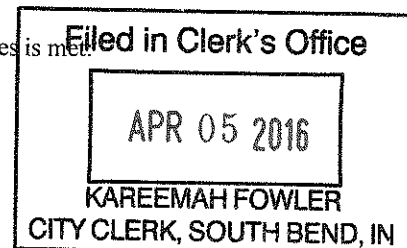
To: MU MIX USE DISTRICT

8) This rezoning is requested to allow the following use(s): *TO ALLOW BUSINESS ACTIVITIES FOR BLESSED GOSPEL MAGAZINE.*

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

1) *List each variance being requested. Contact Commission Staff if you need assistance.*

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: *Insert text*
- (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: *Insert text*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *Insert text*

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: *Insert text*
- 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: *Insert text*
 - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *Insert text*
 - (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: *Insert text*
 - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *Insert text*

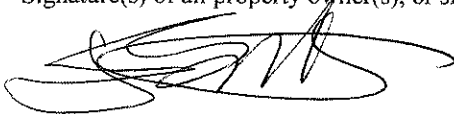
* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

JANICE KIMBROUGH
121 N. CARLISLE STREET
SOUTH BEND, INDIANA 46628
(574) 246-1650
bgmmagazine@gmail.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):



March 29, 2016

I, the undersigned, make an application to the Common Council of the City of South Bend, Indiana, to amend the zoning ordinance as herein requested:

1. The subject property is a 0.48 - acre lot situated in the City of South Bend, St. Joseph County, Indiana and having a 2-story residential structure on it at the present time located at: 2724 Lincoln Way West, South Bend, Indiana 46628.

2. Name and address of property Owner:

Janice Kimbrough
121 N. Carlisle Street
South Bend, Indiana 46628

3. It is desired and requested that the property be Rezoned from SF2 Single Family & Two Family District to MU Mixed Use District to allow business activities for BLESSED Gospel Magazine. **(Adjacent and contiguous to the subject property is the Palmer Funeral Home, which is zoned "Local Business" by the City).**


4. Attached is a copy of:

A.) Legal description of the property.

B) A list of names and addresses of all property owners within 300 feet of the petition property

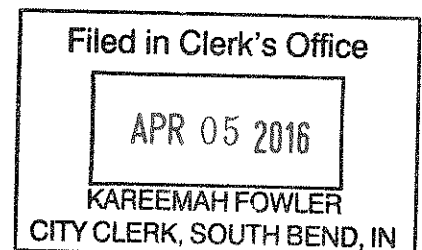
C) Seven (7) Site Plans

D) Addressed, stamped envelopes for all property owners within 300 feet of the petition property.

Signed: 
Date: 3-29-16
Janice Kimbrough
Publisher BLESSED Gospel Magazine

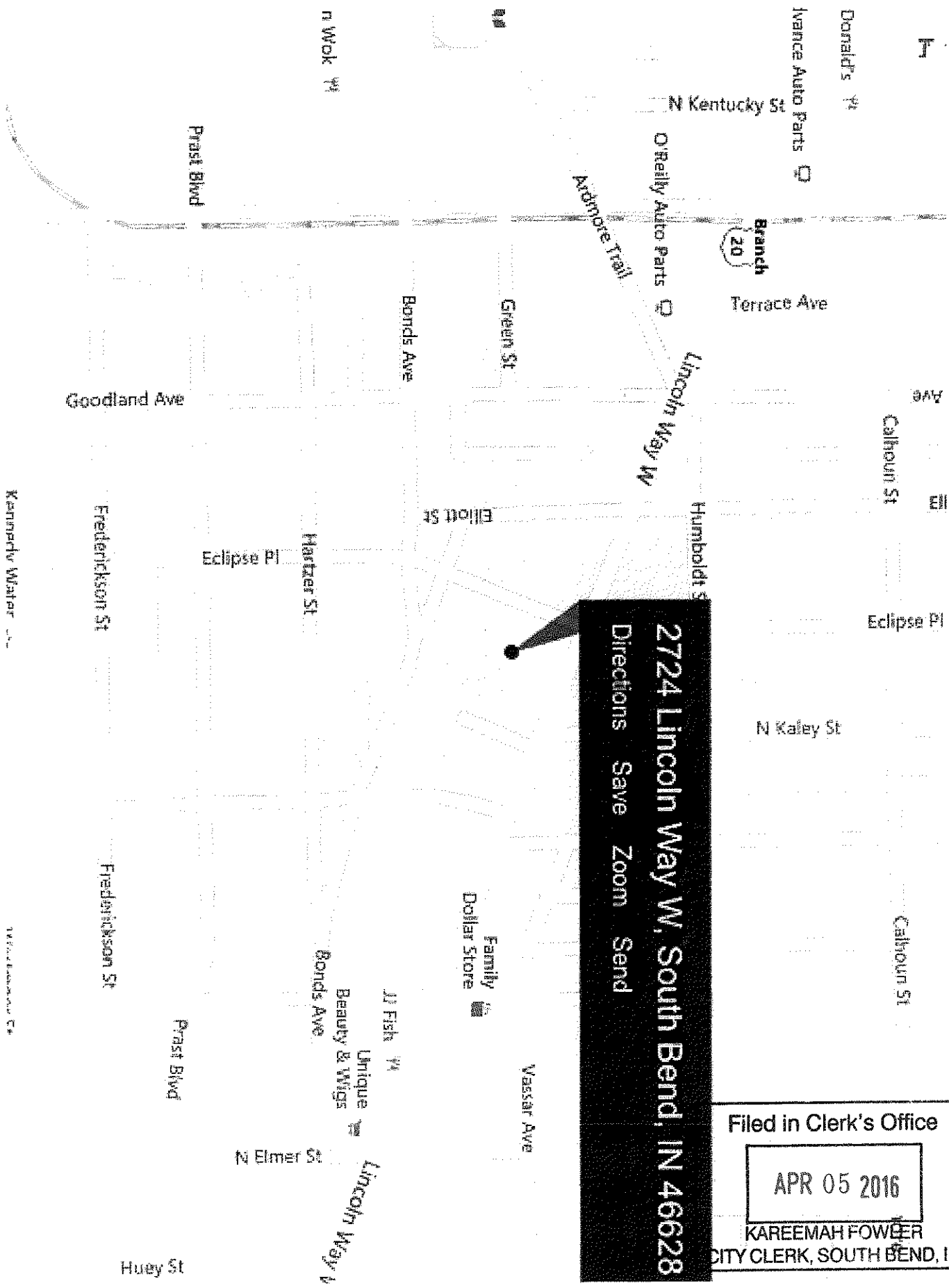
Petitioned Prepared By:

Janice Kimbrough (574) 246-1650



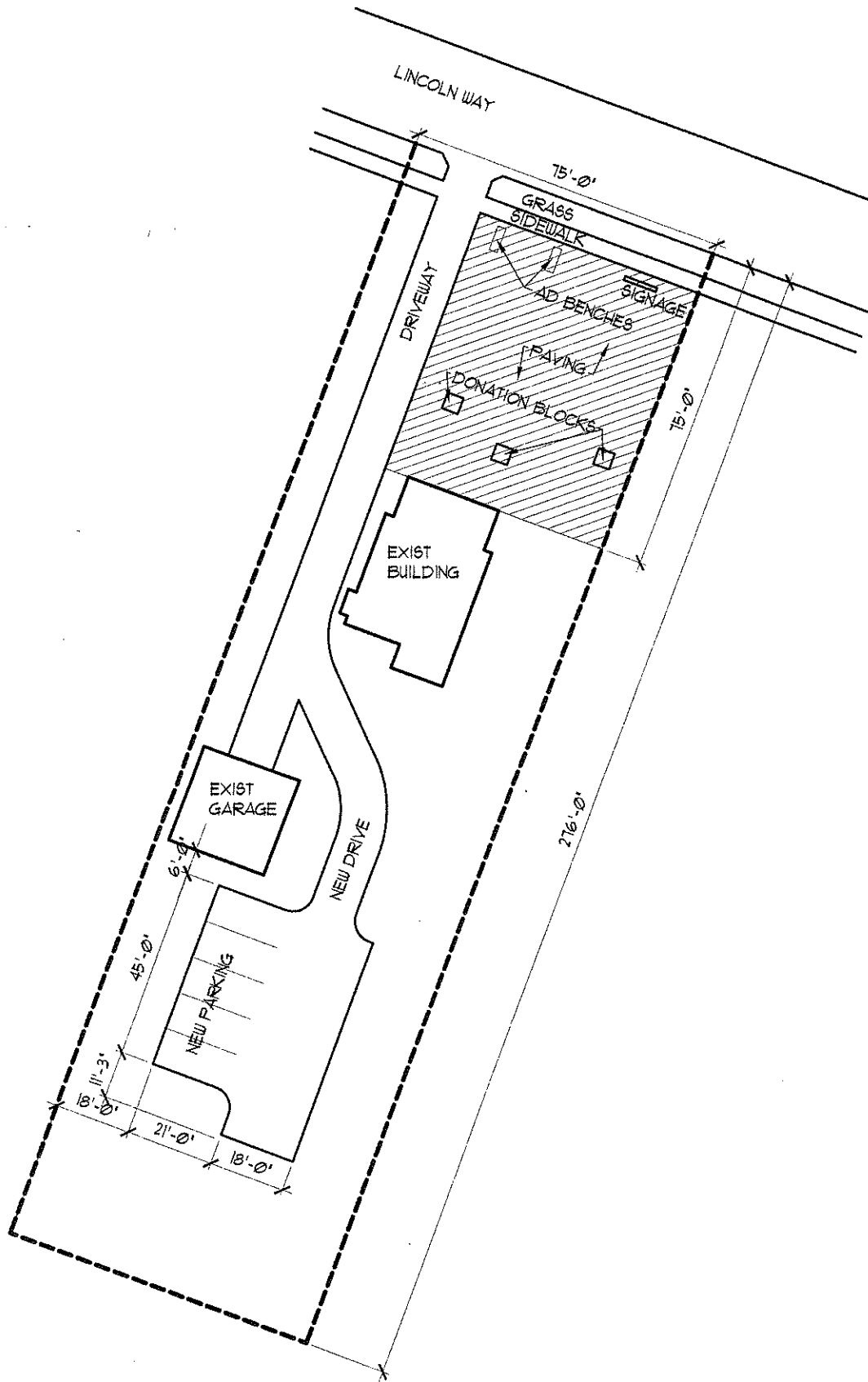
parcelid	name_1	mailingadd	mailingcit	mailingsta	mailingzip
018-2071-260401	ABBOTT TIMOTHY A	1044 Eclipse	South Bend	IN	46628
018-2061-2222	ALBAN AMPARO	2710 Bonds Ave	South Bend	IN	46628
018-2046-1596	CANNADY TONI E	1116 N Kaley St	South Bend	IN	46628
018-2062-2281	CASTELLANOS SANTA	1103 Eclipse	South Bend	IN	46628
018-2071-260301	DOUGLAS ARMON E	2813 Lincolnway West	South Bend	IN	46628
018-2071-2616	E AND L ASSOCIATES LLC	1921 S Lafayette	South Bend	IN	46613
018-2062-2278	FOSTER ERIC T	52060 Carriage Hills Dr	South Bend	IN	46635
018-2071-2621	G & DEE FINANCIAL LLC	15 W 319 Concord St	Elmhurst	IL	60126
018-2046-1625	GANSTROM NORRIS AND SUSAN	2766 Owyhee St	Pocatello	ID	83201
018-2062-228101	GAPCZYNSKI NORBERT I AND MARY A	1104 Elliott	South Bend	IN	46628
018-2061-2221	GONZALES RICHARD	2714 Bonds Ave	South Bend	IN	46628
018-2062-2269	HALE YOLANDA J AND PRESTON DESM	18571 S Cypress Circle	South Bend	IN	46637
018-2071-2614	HIGGINBOTHAM CARLTON	1015 N Meade St	South Bend	IN	46628
018-2071-262001	JONES OSCAR B JR & MAE MANUEL	2618 Lincolnway West	South Bend	IN	46628
018-2061-2216	KETTLE EVERETT R REVOCABLE TRUST V	2730 Bonds Ave	South Bend	IN	46628
018-2071-2607	KIMBROUGH JANICE D	2724 Lincolnway West	South Bend	IN	46628
018-2046-1612	MARKS BLUIE	2733 Lincoln Way W	South Bend	IN	46628
018-2071-2619	MARTINO DANIELLE	2617 Bonds	South Bend	IN	46624
018-2071-260701	MCCAULEY MARY ANN	2725 BONDS AVE	South Bend	IN	46628
018-2061-2219	MENDOZA PABLO	5215 Mayfair Place	South Bend	IN	46619
018-2071-2615	MFC SOUTH BEND HOLDINGS II LLC	309 S Logan St	South Bend	IN	46615
018-2046-1595	NUVO VISION LLC	19648 NE 79th Court Road	Citra	FL	32113
018-2071-260902	OLIVA ENRIQUE	2705 Bonds Ave	South Bend	IN	46628
018-2071-2606	ONEAL DARNELL & MARY J	2730 Lincolnway W	South Bend	IN	46628
018-2071-2610	PALMER FUNERAL HOMES INC	2528 Mishawaka Ave	South Bend	IN	46615
018-2071-2603	PATRICK KELLY L	2801 Lincolnway West	South Bend	IN	46628
018-2046-1594	PRESNELL GEORGE R	1124 N Kaley St	South Bend	IN	46628
018-2071-260802	PRESTON WARREN W & CYNTHIA M	2717 Bonds Avenue	South Bend	IN	46628
018-2062-227801	PROPERTY TECH LLC	250 W Wilson St	Elmhurst	IL	60126
018-2071-260901	QUINN MAE A	2703 Bonds	South Bend	IN	46628
018-2062-2292	REYGAERT STEVEN R JR	1050 Elliott St	South Bend	IN	46628
018-2071-2611	RIDGE COMPANY	1535 South Main St	South Bend	IN	46680

018-2071-2605	RIGBY BRANDON S	1102 Eclipse Place	South Bend	IN	46628
018-2046-1602	RL CALEY LLC	16001 S 108th Ave	Orland Park	IL	60467
018-2071-2620	SCHMIDT JAMES E & JULIE C	53330 Nadine St	South Bend	IN	46637
018-2061-2223	SCHROEDER ERNEST A JR	2706 Bonds	South Bend	IN	46628
018-2061-2224	SCHROEDER ERNIE K & LOUANN	2626 BONDS AVE	South Bend	IN	46628
018-2071-262101	SMITH DOUGLAS E	2610 Lincolnway West	South Bend	IN	46628
018-2071-2618	SMITH FLOYD M & LILLIE A	2620 Lincolnway West	South Bend	IN	46628
018-2071-260801	SMITH GEORGE E UND 1/3 INT & SMITH	2715 Bonds Ave	South Bend	IN	46628
018-2062-2294	SMITH VALLONIA	1045 Eclipse Place	South Bend	IN	46628
018-2062-2271	ST JOSEPH COUNTY MINORITY HEALTH	2806 Lincoln Way W	South Bend	IN	46628
018-2071-2613	SWOPE JACK L	1009 N Meade St	South Bend	IN	46628
018-2046-1624	TMQ PROPERTIES LLC	3423 W 228th St	Torrance	CA	90505
018-2071-2604	TREK INVESTMENTS LLC	623 E LaSalle	South Bend	IN	46617
018-2046-1613	TUESLEY MAE TRUSTEE	6438 Bennington Dr	Fort Wayne	IN	46815
018-2046-1623	WELCH JAMES L JR & DEBORAH J WELCH	2823 Lincolnway West	South Bend	IN	46628
018-2060-2182	WILDERNESS MARILYN A	1019 N Eclipse Pl	South Bend	IN	46628
018-2062-2268	WILLIAMS CARL & JAYNE S	2135 Riverside Dr	South Bend	IN	46616



2724 Lincoln Way W, South Bend, IN 46628
Directions Save Zoom Send

Filed in Clerk's Office
APR 05 2016
KAREEMAH FOWLER
CITY CLERK, SOUTH BEND, IN



2724 LINCOLN WAY WEST
 SOUTH BEND, INDIANA 466228

SITE PLAN
 SCALE 1" = 40'-0"



Filed in Clerk's Office
 APR 05 2016
 KAREEMAH FOWLER
 CITY CLERK, SOUTH BEND, IN



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

April 6, 2016

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: APC#2779-16 – Rezoning for 6100 Nimtz Parkway

Dear Council Members:

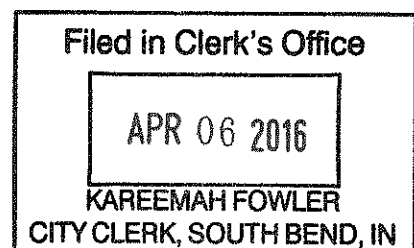
Enclosed is an Ordinance for the proposed Zone Map Amendment at the above referenced location. Please include the attached Ordinance on the Council agenda for first reading at your April 11, 2016 Council meeting, and set it for public hearing at your May 23, 2016 Council meeting. The petition is tentatively scheduled for public hearing at the May 17, 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,

A handwritten signature in black ink that reads "Angela M. Smith".

Angela M. Smith
Deputy Director



CC: Kathy Cekanski-Farrand

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE AND REQUESTING A SPECIAL EXCEPTION FOR PROPERTY LOCATED AT 6100 NIMTZ PARKWAY, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

To allow a hotel and recreation area adjacent to Blackthorn Golf Course

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:

A part of Lot Numbered Seven "A" (7A) as shown on the recorded plat of Blackthorn Corporate Office Park, Minor #10 and Blackthorn Corporate Office Park, First Replat Recorded July 19, 2006 as Instrument Number 0630469 in the Office of the Recorder of Saint Joseph County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of said Lot 7A, thence S89°47'23"E, along the North line of said Lot 7A, a distance of 329.80 feet; thence N86°03'23"E, along the North line of said Lot 7A, a distance of 829.78 feet; thence S00°08'55"W a distance of 140.00 feet; thence S64°04'20"W, a distance of 1342.84 feet; thence N01°18'46"E a distance of 215.97 feet; thence N04°41'34"E, a distance of 249.40 feet; thence S89°47'23"E a distance of 24.32 feet; and thence N00°12'37"E a distance of 206.90 feet to the point of beginning, containing 10.65 acres, more or less.

be and the same is hereby established as CB Community Business.

SECTION II.

That a Special Exception for a Recreation Use in a CB Community Business District is hereby granted subject to a site development plan hereby attached and made a part of this Ordinance and which site plan contains and lists all conditions, if any, of approval.

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

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

Filed in Clerk's Office
APR 06 2016
KAREEMAH 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:
*6100 Nimtz Parkway
South Bend, IN 46628*
- 2) The property Tax Key Number(s) is/are: *025-1018-062406*
- 3) Legal Descriptions: *[Enter full legal description]*
- 4) Total Site Area: *10.65 Acres +/-*
- 5) Name and address of property owner(s) of the petition site:
*Acquisition Group, LLC
124 North Sunnyside Avenue
South Bend, IN 46617
574-210-5032
tim@blackthorngolf.com*

Name and address of additional property owners, if applicable: N/A

- 6) Name and address of contingent purchaser(s), if applicable:
*Blackthorn Hotel and Golf Club, LLC
6100 Nimtz Parkway
South Bend, IN 46628
574-210-5032
tim@blackthorngolf.com*

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* Additional zoning district, if applicable

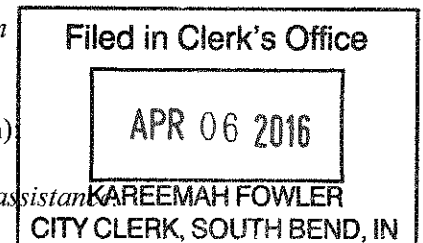
To: *CB Community Business District*

- 8) This rezoning is requested to allow the following use(s): *Hotel and Recreation*

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

- 1) *List each variance being requested. Contact Commission Staff if you need assistance.*
- 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 Attachment*
- (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 Attachment*
- (c) The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property: *See Attachment*



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: *Recreation Use*

- 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: *The property to be re-zoned is presently used for Recreation (Golf Course)*

 - (b) The proposed *use* will not injure or adversely affect the *use* of the adjacent area or property values therein: *The property to be re-zoned is presently used for Recreation (Golf Course)*

 - (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: *The adjacent property to remain as "LI - Light Industrial" is presently used for Recreation (Blackthorn Golf Club)*

 - (d) The proposed use is compatible with the recommendations of the City of South Bend Comprehensive Plan. *Proposed uses support Tourism and Economic Development in the City, offering both lodging and recreation options.*

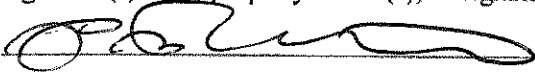
* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

*Abonmarche Consultants, Inc. (c/o Brian McMorrow)
750 Lincoln Way East
South Bend, IN 46601
574-203-9523
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):



ATTACHMENT – Variances

Rezoning Petition by Acquisition Group, LLC (Owner)

6100 Nimtz Parkway, South Bend, IN 46628

21-03.05 (b) (4): Proposing to construct a 6-story Hotel building as high as 80', whereas a maximum of fifty feet (50') is permitted in the "CB-District".

The approval will not be injurious to the public health, safety, morals and general welfare of the community because it will be constructed in strict accordance with currently published building codes and the use will help to promote economic development and tourism in South Bend and the region.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because, as currently zoned, the building could be as high as 85'.

The strict application of the terms of this Ordinance provision would result in practical difficulties in the use of the property because the existing topography is such that a larger building footprint would unnecessarily disturb more open space than is necessary.

21-07.01 (d) (1): Proposing less than one (1) interior landscape island for every fifteen (15) parking spaces, as otherwise required

The approval will not be injurious to the public health, safety, morals and general welfare of the community because the parking lot will otherwise meet all currently published rules, regulations and standards.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because proposing the parking lot with a "compact" footprint will aid in screening in from adjoining properties.

The strict application of the terms of this Ordinance provision would result in practical difficulties in the use of the property because we are attempting to minimize walking distance for hotel guests, while providing ample screening from adjoining properties and public right-of-way by preserving existing mature vegetation.

21-07.03 (d) (1) (D) i.b.: Proposing two (2) monument signs within the public right-of-way of Nimtz Parkway, whereas said signs should have a minimum setback of five feet (5') from the right-of-way.

The approval will not be injurious to the public health, safety, morals and general welfare of the community because the proposed monument signs will provide appropriate guidance and identification for guests and be otherwise designed to comply with the signage design standards set forth in the City of South Bend Code and by the Blackthorn Corporate Park.

The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because the proposed monument signs will be designed in accordance with the signage design standards of the Blackthorn Corporate Park, within which the Hotel will be situated.

The strict application of the terms of this Ordinance provision would result in practical difficulties in the use of the property because placing the monument signs at least 5' back from the right-of-way not allow the signs to be viewed from the access drive (which happens to be within the public right-of-way of Nimtz Parkway).

Proposed Lots 1 & 2, Blackthorn Minor #11 (Rezoning)

A part of Lot Numbered Seven "A" (7A) as shown on the recorded plat of Blackthorn Corporate Office Park, Minor #10 and Blackthorn Corporate Office Park, First Replat Recorded July 19, 2006 as Instrument Number 0630469 in the Office of the Recorder of Saint Joseph County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of said Lot 7A, thence S89°47'23"E, along the North line of said Lot 7A, a distance of 329.80 feet; thence N86°03'23"E, along the North line of said Lot 7A, a distance of 829.78 feet; thence S00°08'55"W a distance of 140.00 feet; thence S64°04'20"W, a distance of 1342.84 feet; thence N01°18'46"E a distance of 215.97 feet; thence N04°41'34"E, a distance of 249.40 feet; thence S89°47'23"E a distance of 24.32 feet; and thence N00°12'37"E a distance of 206.90 feet to the point of beginning, containing 10.65 acres, more or less.

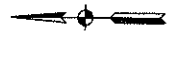
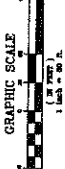
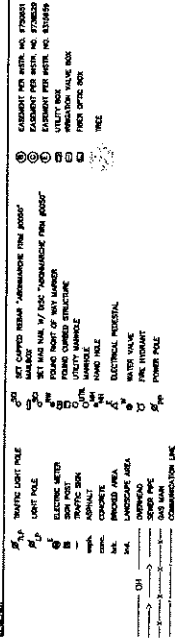
Subject to all easements, covenants, restrictions, and right of way of record.

ParcelIdCounty	PropAddress	PropCity	PropSt	PropZip	OwnerName	OwnerAddress	OwnerCity	OwnerState	OwnerZip
025-1018-062407	6101 F J NIMTZ	SOUTH BEND	IN	46628	6101 NIMTZ PARKWAY LLC	6101 Nirtz Parkway	South Bend	IN	46628
025-1018-062406	6100 F J NIMTZ	SOUTH BEND	IN	46628	ACQUISITION GROUP LLC	6100 Nirtz Pkwy	South Bend	IN	46628
025-1018-062202	6201 F J NIMTZ	SOUTH BEND	IN	46628	MLD MOB INDIANA LLC	5450 E High St	Phoenix	AZ	85054
025-1018-062219					SOUTH BEND DEPT OF REDEVELOPMENT FBO REDEV COMM	227 W Jefferson Blvd Ste 1400S	South Bend	IN	46601
025-1018-062405	6100 F J NIMTZ	SOUTH BEND	IN	46628	ACQUISITION GROUP LLC	6100 Nirtz Pkwy	South Bend	IN	46628
025-1018-0622					DEPARTMENT OF REDEVELOPMENT CITY OF SOUTH BEND	227 W Jefferson Blvd 1400	South Bend	IN	46601

BLACKTHORN CORPORATE OFFICE PARK, LOTS 1 & 2

BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 20, THE NORTHWEST QUARTER OF SECTION 29, AND THE NORTHEAST QUARTER OF SECTION 30 ALL OF TOWNSHIP 38 NORTH, RANGE 2 EAST, GERMAN TOWNSHIP, CITY OF SOUTH BEND, ST. JOSEPH COUNTY, INDIANA

SITE DEVELOPMENT PLAN



ZONING DISTRICT COMPARISON

Zoning Code	Standard/Requirements	U District (Current)	U District (Proposed)	Prepared
1. Proposed Land Use:	Office & Recreation	Office (U)	Office (U)	Office & Recreation
2. Minimum Lot Area & Frontage:	100 feet	100 feet	100 feet	100 feet (Office) / 100 feet (Recreation)
3. Maximum Building Height:	35 feet (7 stories)	35 feet	35 feet	35 feet (Office) / 35 feet (Recreation)
4. Maximum Building Setback:	10 feet	10 feet	10 feet	10 feet (Office) / 10 feet (Recreation)

1. Increase building height to 35 feet, the maximum front building setback along the side street to 10 feet, for every foot of existing height above 35 feet (100' x 100').
2. Increase building height to 35 feet, the maximum front building setback along the side street to 10 feet, for every foot of existing height above 35 feet (100' x 100').
3. Increase building height to 35 feet, the maximum front building setback along the side street to 10 feet, for every foot of existing height above 35 feet (100' x 100').

Max. Area Fronting (Minimum or Max)
 100 S.F.
 100 S.F.
 300 S.F.
 300 S.F.

Max. Height: 35 feet
 35 feet
 35 feet
 35 feet

Min. Setback: 10 feet
 10 feet
 10 feet
 10 feet

Min. Area Fronting (Minimum or Max)
 100 S.F.
 100 S.F.
 300 S.F.
 300 S.F.

Max. Height: 35 feet
 35 feet
 35 feet
 35 feet

Min. Setback: 10 feet
 10 feet
 10 feet
 10 feet

Min. Area Fronting (Minimum or Max)
 100 S.F.
 100 S.F.
 300 S.F.
 300 S.F.



BLACKTHORN CORPORATE OFFICE PARK, LOTS 1 & 2
 SITE DEVELOPMENT PLAN

PROJECT:	BLACKTHORN CORPORATE OFFICE PARK, LOTS 1 & 2
DATE:	04/06/2016
DRAWN BY:	ABONMARCHÉ
CHECKED BY:	ABONMARCHÉ
SCALE:	AS SHOWN

SEC. 20-138N-R2E

1 of 1

APR 06 2016

KAREEMAH FOWLER
 CITY CLERK, SOUTH BEND, IN

FILED in Clerk's Office

LANDSCAPING SUMMARY

Proposed Landscaping: 100 trees (includes 5 Ash trees)
 100 trees (includes 5 Ash trees)
 100 trees (includes 5 Ash trees)
 100 trees (includes 5 Ash trees)

PARKING SUMMARY

Proposed Parking: 100 spaces (includes 5 Ash trees)
 100 spaces (includes 5 Ash trees)
 100 spaces (includes 5 Ash trees)
 100 spaces (includes 5 Ash trees)



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

April 6, 2016

South Bend Common Council
4th Floor, County-City Building
South Bend, IN 46601

RE: Rezoning for 803 West Washington 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 April 11, 2016 Council meeting, and set it for public hearing at your May 23, 2106 Council meeting. The petition is tentatively scheduled for public hearing at the May 17, 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.

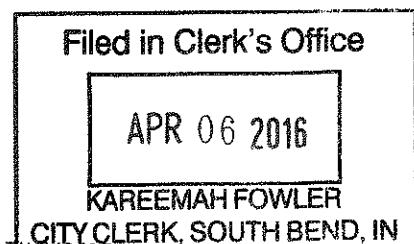
If you have any questions, please feel free to contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Chappuies'.

Matthew P. Chappuies
Planner

CC: Kathy Cekanski-Farrand



SERVING ST. JOSEPH COUNTY, SOUTH BEND, LAKEVILLE, NEW CARLISLE, NORTH LIBERTY, OSCEOLA & ROSELAND



April 6, 2016

Area Plan Commission of St. Joseph County, IN
1140 County-City Bldg., 227 W. Jefferson Blvd.
South Bend, IN 46601

Re: Variances as described below:
Parking lot with 13 spaces instead of the required 30 spaces

for

Indiana Landmarks
402 W. Washington
South Bend, IN 46601

Dear Commission Members:

Indiana Landmarks requests consideration of Variances described as follows:

Parking lot with 13 spaces instead of the required 30 spaces

for the property at 803 W. Washington, South Bend, IN 46615

The variance is requested for a new parking lot containing 13 parking spaces (with two accessible spaces) per the attached proposed site plan.

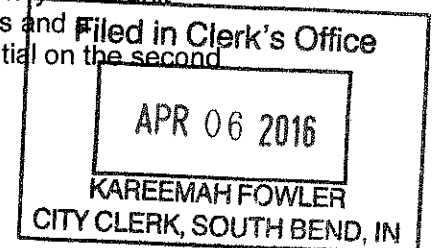
Per Section 21-07.04 (Off-Street Parking Regulations) we would be required to provide 30 parking spaces for the proposed building use (see calculations on attached Site Plan C1.0). The required parking spaces are dictated by the use of the building, Office, and the meeting/gallery space use on the first floor. This gallery/meeting space would be primarily used after hours, when the office space is not being used. The attached Site Plan C1.0 also shows additional spaces on Washington and Chapin Streets, and overflow parking lot West on Washington Street.

In accordance with requirements for variances, under the present zoning, the following is acknowledged that:

- a. The approval will not be injurious to the public health, safety, morals and general welfare of the community;

The proposed remodel entails a conversion of the existing three-story multi-unit residential apartment property into a business property with offices and meeting/gallery space on the first floor, and offices and/or residential on the second and third floors and office and apartment in the carriage house.

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- 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;

This project serves as a transition between the residential neighborhood to the east and the multi-use facilities to the west. The business immediately west of the project site is a multi-use commercial/residential building. Across the street to the south is the Oliver Mansion/ History Museum, a multi-use facility with meeting space, offices and museum. Other multi-use buildings exist to the west such as the Notre Dame Center for Art and Culture and the Civil Rights Heritage Center. The gallery/meeting space will be primarily used after hours with the office spaces used during normal daytime hours. There will also be parking lot screening provided at this rear parking lot and overall landscape improvements, per the attached plans.

- c. The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the property;

The strict application of this Ordinance would only allow for part of this building to be used for the intended office and meeting use.

On behalf of the Owners, Indiana Landmarks, thank you for considering the variance requests.

Sincerely,

Gregory A. Kil, NCARB, AIA
Architect

Kil Architecture / Planning
1126 Lincolnway East
South Bend, IN 46601
Phone (574) 288-2654
Fax (574) 289-2420

Cc: Todd Zeiger
file

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ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR PROPERTY LOCATED AT 803 WEST WASHINGTON STREET, COUNCILMANIC DISTRICT NO. 1 IN THE CITY OF SOUTH BEND, INDIANA

STATEMENT OF PURPOSE AND INTENT

To rezone property from MF1 Urban Corridor Multifamily District to MU Mixed Use District for a mixed use building with uses such as, but not limited to, offices and residential.

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

SECTION I. 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:

A part of Bank Out lot Numbered 31 and 32 of the First Plat of Out Lots of the Town, now City of South Bend, platted by the State Bank of Indiana, which part is bounded by a line running as follows, viz: Beginning on the north line of Washington Street (now Washington Avenue) in said City, at a point 24 3/4 feet East of the southeast corner of said Bank Out Lot Numbered 31; thence running West on the north line of said Washington Avenue a distance of 70 feet; thence North 198 feet; thence East 70 feet; thence South 198 feet to the place of beginning.

PARCEL II:

A part of Lot 4 in Mary Witherill's Subdivision of Bank Out Lot 32 described as follows: Beginning at the northwest corner of Lot 4; thence East 28.50 feet along the north line of said Lot 4; thence Southwesterly 43.60 feet along a line with a deflection angle of 96°37.40" right from the last described course extended thence Southwesterly 156.30 feet along an arc to the right having a radius of 909.93 feet and subtended by a long chord having a length of 156.03 feet with a deflection angle of 1°06.24" right from the last described course extended to a point on the South line of Lot 4; thence West 0.37 feet along the South line of Lot 4 to the southwest corner of said Lot 4; thence North 198.00 feet along the west line of Lot 4 to the point of beginning.

PARCEL III:

Beginning at the intersection of the Westerly right-of-way line of Chapin Street and the North right-of-way line Washington Street, thence North 89°-56'-50" East along said Northerly right-of-way line projected East, a distance of 6.19 feet; thence North 8°-53'-58" East, a distance of 76.25 feet; thence North 11°-10'-11" East, a distance of 114.09 feet; thence North 4°-28'-16" East, a

distance of 11.49 feet to the Southerly line of the 14 foot alley projected East; thence North 90°-00'-00" West, a distance of 15.10 feet to the Westerly right-of-way line of Chapin Street; thence South 7°-25'-20" West along said Westerly right-of-way line, a distance of 114.90 feet to the place of beginning containing 2053 square feet more or less.

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

SECTION II. 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

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

Filed in Clerk's Office
APR 06 2016
KAREEMAH 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:
*803 W. Washington
South Bend, Indiana 46615*
- 2) The property Tax Key Number(s) is/are: *018-1025-106201*
- 3) Legal Descriptions: *See attached Legal Description*
- 4) Total Site Area: *0.43 Acres*
- 5) Name and address of property owner(s) of the petition site:
*Historic Landmarks Foundation of Indiana, Inc. (DBA-Indiana Landmarks)
1201 Central Ave
Indianapolis, IN 46202
574-232-4534
TZeiger@indianalandmarks.org*

Name and address of additional property owners, if applicable:

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

Name and address of additional property owners, if applicable:

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

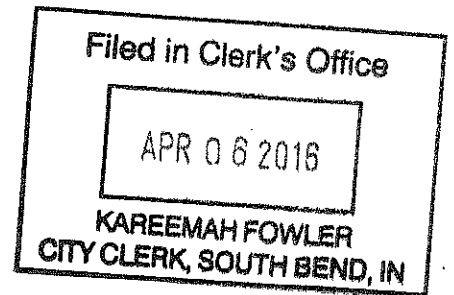
From: MF1 Urban Corridor Multifamily District

To: MU Mixed Use District

- 8) This rezoning is requested to allow the following use(s): *Mixed Use - Offices and Meeting/Gallery Space*

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

- 1) *Parking Variance from 30 spaces required to 13.*
- 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:** *The proposed remodel entails a conversion of the existing three-story, multi-unit residential property into a mixed use business property with offices and a meeting/gallery space on the first floor, and offices and/or apartments on the second and third floors of the main building as well as on the second floor of the carriage house.*
 - (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:** *This project serves as a transition between the residential neighborhood to the east and the multi-use facilities to the west. The business immediately west of the project site is a multi-use commercial/residential building. Across the street to the south is the Oliver Mansion/History Museum, a multi-use facility with meeting space, offices and museum.*



The gallery/meeting space will be primarily used after hours with the office spaces used during normal daytime hours. There will also be parking lot screening provided at this rear parking lot and overall landscape improvements, per the attached plans.

- (c) **The strict application of the terms of this Ordinance would result in practical difficulties in the use of the property:** *The strict application of this Ordinance would only allow for part of this building to be used for the intended office and meeting use. The proposed plan and parking with the approved parking variance will allow for a reduced amount of paved surface compared to the present site plan.*

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: *NA*
- 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.

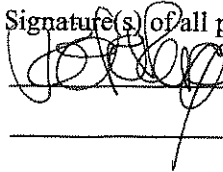
* In the case of a Special Exception Use, the petitioner shall be held to the representations made on the Preliminary Site Plan included with this petition.

CONTACT PERSON:

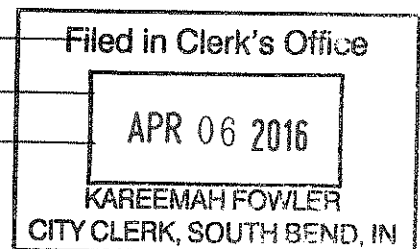
*Todd Zeiger
Director, Northern Regional Office
402 W. Washington
South Bend, Indiana 46601
574-232-4534
TZeiger@indianalandmarks.org*

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):

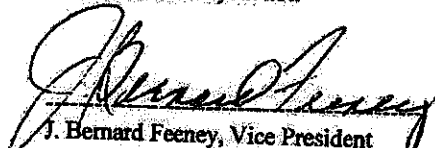
 _____

4.6.16



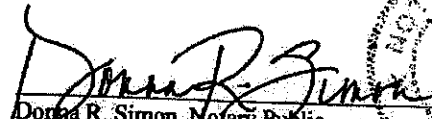
East, a distance of 114.09 feet; thence North 4°28'16" East, a distance of 11.49 feet to the Southerly line of the 14 foot alley project East; thence North 90°00'00" West, a distance of 15.10 feet to the Westerly right-of-way line of Chapin Street; thence South 7°25'20" West along said Westerly right-of-way line, a distance of 200.40 feet to the place of beginning containing 2053 square feet more or less.

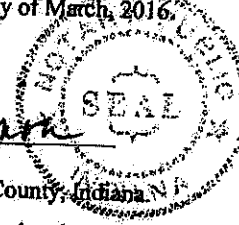
Further affiant sayeth not.


J. Bernard Feeney, Vice President
Lang, Feeney & Associates, Inc.

State of Indiana ()
) SS:
County of St. Joseph ()

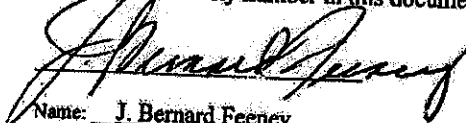
Subscribed and sworn to before me, the undersigned Notary Public in and for said County and State, aforesaid the 31 th day of March, 2016.


Donna R. Simon, Notary Public
Notary is a resident of St. Joseph County, Indiana



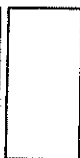
My Commission Expires August 29, 2020

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


Name: J. Bernard Feeney

This instrument prepared by:
Lang, Feeney & Associates, Inc.
715 S. Michigan St.
South Bend, In. 46601
(219) 233-1841

KILL
ARCHITECTURE
PLANNING
178 LINCOLNWAY EAST
SOUTH BEND, IN
47203-1108
GREGORY A. MILL
NORCARY ARCHITECT
ARCHITECT
574.288.2664
FAX: 289.2478
www.killarchitecture.com



PRELIMINARY
 CONSTRUCTION
 03/20/2016

REHABILITATION
AT THE FORMER
KIZER HOUSE
 803 W. WASHINGTON
 S. SOUTH BEND,
 IN 47203-1108

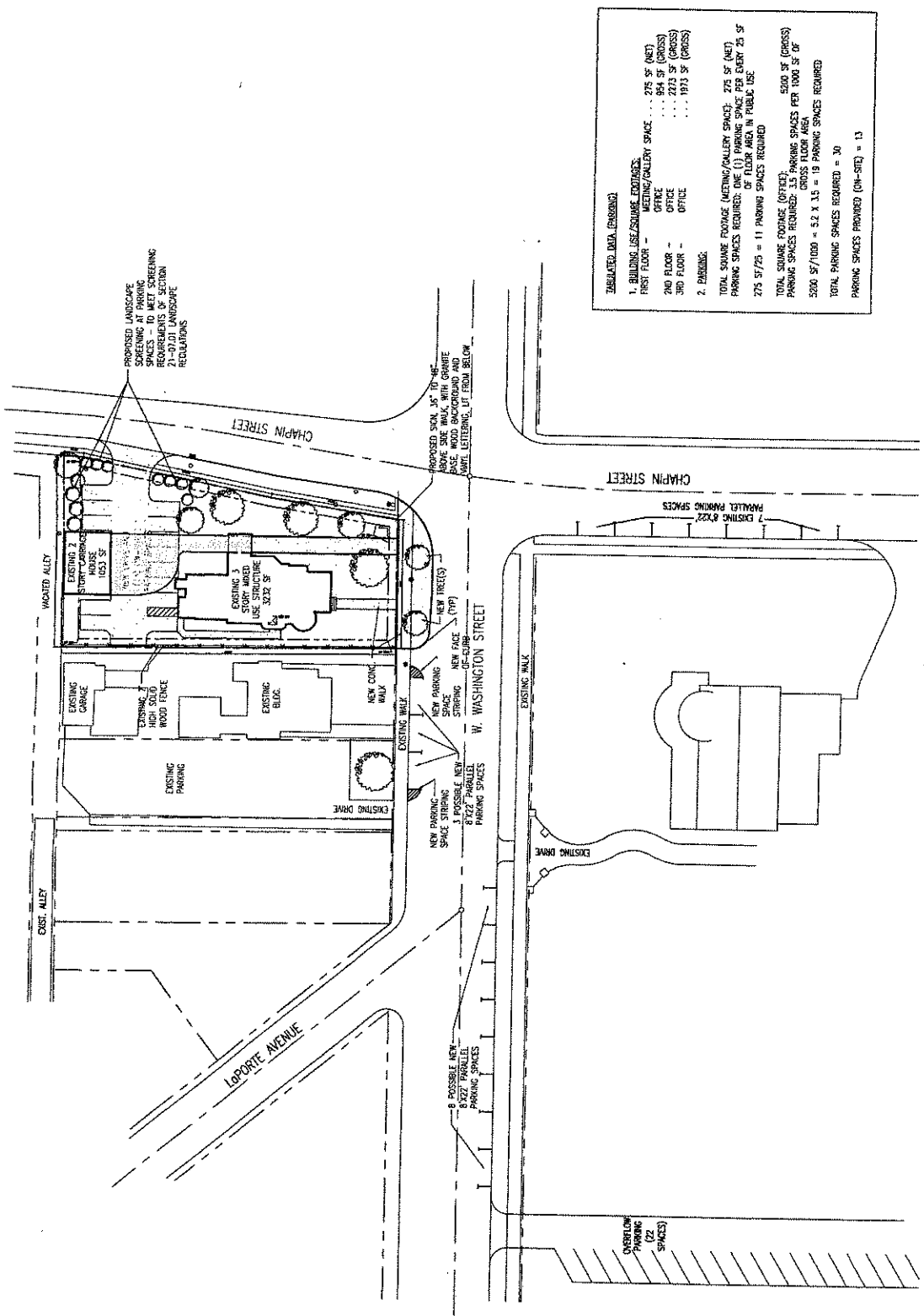
BLOCK
PLAN

DATE: APRIL 6, 2016
 Commission
 Submitted

REVISED:



C1.3
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 KILL ARCHITECTURE PLANNING



TABLED DATA (ENDING)

- BUILDING USE/SQUARE FOOTAGE:**
 1ST FLOOR - MEETING/GALLERY SPACE ... 275 SF (NET)
 OFFICE ... 984 SF (GROSS)
 2ND FLOOR - OFFICE ... 275 SF (GROSS)
 3RD FLOOR - OFFICE ... 173 SF (GROSS)
- PARKING:**
 TOTAL SQUARE FOOTAGE (MEETING/GALLERY SPACE): 275 SF (NET)
 PARKING SPACES REQUIRED: 11 (11 PARKING SPACE PER EVERY 25 SF)
 275 SF/25 = 11 PARKING SPACES REQUIRED

TOTAL SQUARE FOOTAGE (OFFICE): 5200 SF (GROSS)
PARKING SPACES REQUIRED: 33 (33 PARKING SPACES PER 1000 SF OF GROSS FLOOR AREA)
5200 SF/1000 = 5.2 x 3.5 = 19 PARKING SPACES REQUIRED
TOTAL PARKING SPACES REQUIRED = 30
PARKING SPACES PROVIDED (ON-SITE) = 13

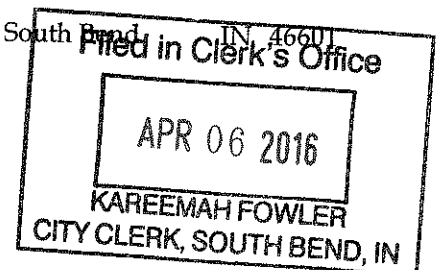


BLOCK PLAN
 SCALE: 1" = 30'-0"

18-1025-106201 Adjacent Property Owners

37 PROPERTIES,
29 ENVELOPES W/
SHARED PARC ID'S

PARCELID	PARCELSTAT	NAME 1	MAILINGADD	MAILINGCITY	MAILINGSTATE
018-1042-1822	71-08-11-204-007.000-026	A NORTHERN INDIANA HISTORICAL SOCIETY	808 W Washington	South Bend	IN 46601
018-1025-1072	71-08-11-205-010.000-026	C PHILLIPS DANNY AND LISA K	832 Colfax	South Bend	IN 46601
018-3054-2085	71-08-11-251-004.000-026	A NORTHERN INDIANA HISTORICAL SOCIETY	808 W. Washington	South Bend	IN 46601
018-3050-1911	71-08-11-254-003.000-026	RELOS DAVID P	128 Chapin St	South Bend	IN 46601
018-1025-1067	71-08-11-205-006.000-026	B SOUTH BEND HERITAGE PROPERTIES LLC	803 Lincolnway West	South Bend	IN 46616
018-1025-1079	71-08-11-206-011.000-026	BLAIN SUZANNE A	203 Swanson Circle E	South Bend	IN 46615
018-3050-1910	71-08-11-254-002.000-026	TOMAS-MORGAN RACHEL R & PETER L TOMAS-MORGAN	114 Chapin St	South Bend	IN 46601
018-1024-1037	71-08-11-206-012.000-026	CHAPMAN DAVID A & WENDY B	733 W Washington St	South Bend	IN 46601
018-3050-1908	71-08-11-254-001.000-026	YOUNES SAMIR & MARIA L	744 W Washington	South Bend	IN 46601
018-3050-1914	71-08-11-254-009.000-026	RUSH FRED L JR & CALLAHAN LESLIE D	730 W Washington St	South Bend	IN 46601
018-3050-1920	71-08-11-254-010.000-026	GIBNEY MARGARET C	726 W Washington	South Bend	IN 46601
018-1024-1038	71-08-11-206-013.000-026	DWYER LAWRENCE H AND DEBORAH A	727 W Washington	South Bend	IN 46601
018-1025-1057	71-08-11-205-016.000-026	HARTMAN GREG & ROGER	750 Island View Lane	Mishawaka	IN 46544
018-1025-105701	71-08-11-205-017.000-026	BROWN VERA	110 Laporte Ave	South Bend	IN 46616
018-1025-1058	71-08-11-205-018.000-026	A NORTHERN INDIANA HISTORICAL	808 W. Washington	South Bend	IN 46601



PARCELID	PARCELSTAT	NAME I	MAILINGADD	MAILINGCITY	MAILINGSTATE
		SOCIETY			
018-1025-1060	71-08-11-205-019.000-026	D BOGNAR JAMES E & PAUL M & WASIELEWSKI MARY JEAN	807 Washington St	South Bend	IN 46601
018-1025-1061	71-08-11-205-020.000-026	D BOGNAR JAMES E & PAUL M & WASIELEWSKI MARY JEAN	807 Washington St	South Bend	IN 46601
018-1025-106201	71-08-11-205-021.000-026	HISTORIC LANDMARKS FOUNDATION OF INDIANA INC	1201 N Central Ave	Indianapolis	IN 46202
018-1025-1068	71-08-11-205-005.000-026	B SOUTH BEND HERITAGE PROPERTIES LLC	803 Lincolnway West	South Bend	IN 46616
018-1025-1069	71-08-11-205-007.000-026	B SOUTH BEND HERITAGE PROPERTIES LLC	803 Lincolnway West	South Bend	IN 46616
018-1025-1070	71-08-11-205-009.000-026	BOGNAR LISA K	832 W Colfax St	South Bend	IN 46601
018-1025-1071	71-08-11-205-008.000-026	BOGNAR PAUL M & LISA K	838 W Colfax Ave	South Bend	IN 46601
018-1025-107001	71-08-11-205-022.000-026	C PHILLIPS DANNY AND LISA K	832 W Colfax	South Bend	IN 46601
018-1025-1073	71-08-11-205-011.000-026	E BARNHART LEE F AND JANICE L	828 W Colfax Av	South Bend	IN 46601
		SEE NOTES			
018-1025-107401	71-08-11-205-023.000-026	E BARNHART LEE F AND JANICE L	828 W Colfax Av	South Bend	IN 46601
018-1025-1075	71-08-11-205-014.000-026	KAADE THOMAS F & JAN A	820 W Colfax Av	South Bend	IN 46601
018-1025-1080	71-08-11-205-015.000-026	SOUTH BEND HERITAGE FOUNDATION INC	816 W Colfax Ave	South Bend	IN 46601
018-1025-1083	71-08-11-206-001.000-026	DICKEY ROBERT L II	802 W Colfax St	South Bend	IN 46601
018-1024-1032	71-08-11-206-002.000-026	HARRISON JEFFREY	50880 Redstone Dr	Granger	IN 46530
018-1024-1033	71-08-11-206-003.000-026	CHAMBERLAIN BARRY	730 Colfax	South Bend	IN 46601

PARCEL ID	PARCEL STAT	NAME /	MAILING ADDR	MAILING CITY	MAILING STATE
018-1024-1034	71-08-11-206-004.000-026	* KWOK SING WING & XUE ZHENG	168 Woodcliff Blvd	Morganville	NJ 07751
018-1024-1035	71-08-11-206-005.000-026	* BARNARD WILLIAM H & CRABILL ELEANOR AS JOINT TEN W/ROS NOT AS TIC	724 W Colfax Ave	South Bend	IN 46601
018-1026-1131	71-08-11-203-050.000-026	* ELEGANTE ANDREW T	831 W Colfax	South Bend	IN 46601
018-1026-1132	71-08-11-203-051.000-026	* ANDRZEJEWSKI DAVID M & CYNTHIA J	825 Colfax	South Bend	IN 46601
018-1026-1133	71-08-11-203-052.000-026	* NEWTON JOLENE K	817 W Colfax Ave	South Bend	IN 46601
018-1026-1134	71-08-11-203-053.000-026	* CIVIL CITY OF SOUTH BEND	227 W Jefferson Blvd Ste 1200	South Bend	IN 46601
018-1026-1137	71-08-11-203-054.000-026	* SHONE DONALD	809 W COLFAX AVE	Huntington	IN 46750