

REGULAR IN PERSON COUNCIL “HYBRID/ZOOM” MEETING August 4, 2025

The Common Council of the City of Michigan City, Indiana, met in Regular session on Tuesday evening, August 4, 2025, at the hour of 6:30 p.m., Hosted by “Hybrid/Zoom” and streamed live on “My Michigan City” Facebook Page.

The meeting was called to order at 6:30 p.m. by President Tillman.

Roll call was authorized, and the following were noted present and/or absent.

PRESENT: COUNCIL MEMBERS Tim Bietry, Greg Coulter, Bryant Dabney, Dr. Vidya Kora, Daisy Lee, Nancy Moldenhauer, Joe Nelson, Don Przybylinski, and Tracie Tillman (9)

ABSENT: COUNCIL MEMBER None (0)

A QUORUM WAS NOTED PRESENT

ALSO, PRESENT: Council Attorney Tramel Raggs, City Clerk Gale Neulieb, and Deputy Clerk Amanda Pickens

AMENDED AGENDA

APPROVAL OF MINUTES

President Tillman advised that the minutes for the Regular “Hybrid/Room” Council meeting minutes that was held on Tuesday July 15, 2025 will be on the August 19, 2025 Council meeting agenda for approval.

President Tillman indicated the Council’s Executive Session held on July 23, 2025 did meet and there was no decisions or vote made at that time.

NOTE: Councilman Dabney stated that due to having hip replacement he will be standing up during the meeting to stretch.

REPORTS OF STANDING COMMITTEES

President Tillman asked if there were any standing committee reports, there was no response.

FINANCE REPORT

President Tillman (Chair) stated the Finance Committee did meet this evening August 4, 2025 at 6:00 p.m.; a quorum was present Michigan City Riverboat/ Boyd Claim Docket for August 4, 2025 was as follows; Riverboat fund #2235 claims were \$37,799.86 Riverboat EFT fund #2235 claim \$500,000; Rainy Day fund #2236 claims were \$209,508.66 and Boyd Development fund #2504 was zero (0) with the total claims being \$747,308.52; stating those claims were for LaPorte Chrysler for the leasing of the MCPD police vehicles, \$500,000 to the City of Michigan City which was approved in our 2025 budget was for the transfer to the MVH operating fund, and the \$209,508.66 was to Ferguson Water Works

Councilman Przybylinski made a motion to approve the August 4, 2025, Riverboat/Boyd Development Claim Docket in the total amount of \$747,308.52, second by Councilman Bietry, the motion carried and the August 4, 2025, Riverboat/Boyd Development Claim Docket in the total amount of \$747,308.52 was approved by the following vote:

AYES: Council members Dabney, Dr. Kora, Lee, Moldenhauer, Nelson Przybylinski, Tillman, Bietry and Coulter (9) **NAYS:** None (0)

President Tillman advised the statement of cash position for August 4, 2025, Riverboat Fund #2235 was \$3,314,873.09 and the Rainy-Day Fund #2236 was \$1,167,490.42 with the fiscal grand total ending balance on August 4, 2025 was \$4,482,363.51.

REPORTS FROM BOARDS AND COMMISSIONS

President Tillman asked if there were any reports from any boards or commissions.

Councilwoman Moldenhauer invited the public to attend the Northwest Indiana Green Drinks, on Thursday, August 7th at 6:30 p.m., as Christian Bako, Environmental/Engineer for Northwest Indiana Green Drinks will be presenting "U.S. EPA Great Lakes Region" presentation can be watched on Save the Dunes Facebook Live or you can get the "Zoom" link from EM@SAVEDUNES.ORG.

President Tillman asked if there were any other reports from Boards and Commissions, there was no response.

REPORTS OF SPECIAL or SELECT COMMITTEES

President Tillman asked if there were any reports from special or select committee, there was no response.

REPORTS FROM THE MAYOR OR OTHER CITY OFFICERS AND DEPARTMENTS

President Tillman asked if there were any reports from the mayor or other city officers and departments.

MCFD Chief Bear Taylor presented their July 2025 monthly data and stats.

PETITIONS

President Tillman asked Clerk Neulieb if there were any petitions.

Clerk Neulieb advised that there were no petitions received in the Clerk's Office.

COMMUNICATIONS

President Tillman asked if there was any correspondence received.

Clerk Neulieb advised that there was no correspondence received.

RESOLUTIONS

The Clerk read the following proposed resolution by title only.

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4967

A RESOLUTION TERMINATING THE ASSESSED VALUE DEDUCTION (TAX ABATEMENT) FOR FAILURE TO SUBSTANTIALLY COMPLY WITH THE STATEMENT OF BENEFITS FOR CERTAIN PERSONAL PROPERTY OWNED BY THE PHM BRANDS, LLC WITHIN MICHIGAN CITY, INDIANA PURSUANT TO I.C. 6-1.1-12.1-5.9

WHEREAS, Indiana Code 6-1.1-12.1-1, *et seq.* (the "Act") authorizes deductions of assessed value for (i) qualified real property improvements; (ii) the installation of qualified personal property; and (iii) the occupancy of certain vacant buildings; and

WHEREAS, the PHM Brands, LLC (the "Applicant") filed with the Michigan City Common Council (the "Council") a Statements of Benefits (FORM SB-1/*Personal*) (the "Statement of Benefits") dated October 5th, 2005 which proposed the installation of certain personal property (the "Project") located at 1700 E Hwy 12, Michigan City, Indiana (the "Real Estate"); and

WHEREAS, on November 4th, 2020, the Council adopted Resolution No. 4792 which approved the Statement of Benefits, finding, among other things, that the totality of the benefits from the Project proposed by the Applicant were sufficient to justify the assessed valuation deduction for the Project; and

WHEREAS, the Council, based upon its findings in Resolution No. 4792, approved a deduction schedule over a five (5) year period (the "Assessed Value Deduction"); and

WHEREAS, the Act requires the Applicant to annually file certain information with the Council to show the extent to which the Applicant has substantially complied with the Statement of Benefits and the Council, pursuant to the Act, has the authority to determine whether the Applicant has substantially complied with the same; and

WHEREAS, the Council has determined that the Applicant has not made reasonable efforts to substantially comply with the Statement of Benefits based on the following findings: Compliance forms not filed as required by the Act; and

WHEREAS, the Council believes the Applicant's failure to comply with the Statement of Benefits was caused by factors such as economic conditions that led the Applicant to close operations; and

WHEREAS, due to Applicant's noncompliance, the Council now seeks to terminate the Assessed Value Deduction awarded to the Applicant under Resolution No. 4792

NOW, THEREFORE, BE IT RESOLVED that the action of the City of Michigan City Common Council to terminate the assessed value reduction is based upon the evidence and information presented by the Applicant, the Economic Development Corporation of Michigan City, and other interested parties.

BE IT FURTHER RESOLVED that the Council has determined that the Applicant has not made reasonable efforts to substantially comply with the Statement of Benefits based on the following findings: Failure to file documents required by the Act and economic conditions that resulted in closing and selling the business.

BE IT FURTHER RESOLVED that due to Applicant's noncompliance, the Council hereby terminates the Assessed Value Deduction awarded to Applicant under Resolution No. 4792.

BE IT FURTHER RESOLVED that the City Clerk shall mail a certified copy of this resolution to the Applicant, the County Auditor, and the County Assessor so that the deduction is removed from the tax duplicate.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon the signature of the Mayor of the City as the executive of the City.

INTRODUCED BY: /s/ Tim Bietry, Member
Michigan City Common Council

Councilman Bietry stated at the last Council meeting we approved the 2025 CF-1 Tax Abatements; advising that we do our due diligence and discovered that PHM Brand Company have not met their obligations under their SB1 tax abatement commitment and have actually left our community; they have two abatements; stating one is for personal property and the following proposed ordinance is for real property they had; advising that we need to terminate these agreements; explaining why it needs to be done.

President Tillman reminded everyone that public comment is three (3) minutes and that comments are to be made only on this proposed resolution

President Tillman asked if the public had any questions or comments at this time, there was no response.

President Tillman asked if the Council had any questions or comments.

Councilman Dabney advised that there has been misinformation regarding tax abatements being talked about within our community; stating that when companies don't meet their obligations in their signed agreement (SB1) when adopted, that will terminate their SB1 agreement, if each year they don't meet their obligation on their CF1 report that is reviewed and voted on by this council.

Councilman Bietry advised that he doesn't have a copy of the tax abatement document that was approved for PHM Brand to let you know when this abatement was adopted or how many years were left moving forward.

Clarence Hulce, Economic Development Corp. Director advised that PHM Brand LLC came to Michigan City in November of 2020; that they were supposed to create fifty (50) jobs and invest \$7 million in building expansion; stating that PHM never submitted a tax abatement regarding what they proposed.

President Tillman asked if there were any other questions from Mr. Hulce, there was no response.

Councilman Dr. Kora made a motion to approve the proposed resolution, second by Councilwoman Lee, the motion carried, and the proposed resolution was approved by the following vote: **AYES:** Council members Dr. Kora, Lee, Moldenhauer, Nelson Przybylinski, Tillman, Bietry, Coulter, and Dabney (9) **NAYS:** None (0)

The Clerk read the following proposed resolution by title only.

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4968

A RESOLUTION TERMINATING THE ASSESSED VALUE DEDUCTION (TAX ABATEMENT) FOR FAILURE TO SUBSTANTIALLY COMPLY WITH THE STATEMENT OF BENEFITS FOR CERTAIN REAL PROPERTY OWNED BY THE PHM BRANDS, LLC WITHIN MICHIGAN CITY, INDIANA PURSUANT TO I.C. 6-1.1-12.1-5.9

WHEREAS, Indiana Code 6-1.1-12.1-1, *et seq.* (the "Act") authorizes deductions of assessed value for (i) qualified real property improvements; (ii) the installation of qualified personal property; and (iii) the occupancy of certain vacant buildings; and

WHEREAS, the PHM Brands, LLC (the "Applicant") filed with the Michigan City Common Council (the "Council") a Statements of Benefits (FORM SB-1/*Personal*) (the "Statement of Benefits") dated October 5th, 2020 which proposed the installation of certain personal property (the "Project") located at 1700 E Hwy 12, Michigan City, Indiana (the "Real Estate"); and

WHEREAS, on November 4th, 2020, the Council adopted Resolution No. 4793 which approved the Statement of Benefits, finding, among other things, that the totality of the benefits from the Project proposed by the Applicant were sufficient to justify the assessed valuation deduction for the Project; and

WHEREAS, the Council, based upon its findings in Resolution No. 4793, approved a deduction schedule over a seven (7) year period (the "Assessed Value Deduction"); and

WHEREAS, the Act requires the Applicant to annually file certain information with the Council to show the extent to which the Applicant has substantially complied with the Statement of Benefits and the Council, pursuant to the Act, has the authority to determine whether the Applicant has substantially complied with the same; and

WHEREAS, the Council has determined that the Applicant has not made reasonable efforts to substantially comply with the Statement of Benefits based on the following findings: Compliance forms not filed as required by the Act; and

WHEREAS, the Council believes the Applicant's failure to comply with the Statement of Benefits was caused by factors such as economic conditions that led the Applicant to close operations; and

WHEREAS, due to Applicant's noncompliance, the Council seeks to terminate the Assessed Value Deduction awarded to the Applicant under Resolution No. 4793;

NOW, THEREFORE, BE IT RESOLVED that the action of the City of Michigan City Common Council to terminate the assessed value reduction is based upon the evidence and information presented by the Applicant, the Economic Development Corporation of Michigan City, and other interested parties.

BE IT FURTHER RESOLVED that the Council has determined that the Applicant has not made reasonable efforts to substantially comply with the Statement of Benefits based on the following findings: Failure to file documents required by the Act and economic conditions that resulted in closing and selling the business.

BE IT FURTHER RESOLVED that due to Applicant's noncompliance, the Council hereby terminates the Assessed Value Deduction awarded to Applicant under Resolution No. 4793.

BE IT FURTHER RESOLVED that the City Clerk shall mail a certified copy of this resolution to the Applicant, the County Auditor, and the County Assessor so that the deduction is removed from the tax duplicate.

BE IT FURTHER RESOLVED that this Resolution shall be in full force and effect from and after its passage and adoption by the Common Council and upon the signature of the Mayor of the City as the executive of the City.

INTRODUCED BY: /s/ Tim Bietry, Member
Michigan City Common Council

President Tillman asked if the author had anything to add at this time.

Council Bietry stated that this is the companion resolution to the one we just approved; that one was for personal property and this one is real property.

President Tillman asked if there were any questions or comments from the public, there was no response.

President Tillman asked if there were any comments from the council.

Councilman Bietry made a motion to approve the proposed resolution, second by Councilman Dabney, the motion carried, and the proposed resolution was approved by the following vote: **AYES:** Council members Lee, Moldenhauer, Nelson Przybylinski, Tillman, Bietry, Coulter, Dabney, and Dr. Kora (9) **NAYS:** None (0)

RESOLUTIONS NO. 4960 – Formal Public Hearing

The Clerk read Council Resolution No. 4960 that was adopted on June 3, 2025 by title only:

A DECLARATORY RESOLUTION DESIGNATING A CERTAIN AREA OF THE CITY OF MICHIGAN CITY, INDIANA BE DESIGNATED AS COOPER ECONOMIC REVITALIZATION AREA TO WHICH DEDUCTIONS FROM ASSESSED VALUE MAY BE REQUESTED BY AN APPLICANT TO THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY PURSUANT TO INDIANA CODE 6-1.1-12.1

Introduced by Councilman Bietry

President Tillman asked if the author had anything to add at this time.

Councilman Bietry stated that this resolution was adopted at the June 3, 2025 Council meeting; advising that this is a declaratory resolution and that a formal public hearing must happen in order for this to go into effect.

President Tillman stated the formal public hearing will be held August 4, 2025 which was advertised in the Herald Dispatch on July 24, 2025.

President Tillman opened the formal public hearing (repeating three times) "Is there anyone from the public that would like to speak on Council Resolution No. 4960 at this time"

Skyler York, Redevelopment Director stated the ERA is to establish an "Economic Revitalization Area" advising that the entire city is an ERA and every two (2) years the council adopts the entire city an "Economic Revitalization Area" so they can give tax abatements anywhere in the city; advising ERA is specific to this project which is the Phoenix project is being talked about this evening.

Mr. York advised the reason why Council Resolution No. 4960 was adopted prior to having a formal public hearing was that this resolution is "declaratory resolution"; advising essentially this resolution sets everything in motion to move forward; stating now you have to do a "confirmatory resolution" to put the (ERA) Economic Revitalization Area in place and that if the new ERA is adopted this evening it would grant the tax abatement for the longer term rather than a two-year period, that it would be a forty (40) year resolution/forty (ERA)

Discussion ensued between Mr. York and Councilman Bietry stated that he feels it is important to know in a technical sense, this is for Phoenix Industries who is the

developer and owner of this property at 402 Royal Road; advising that we are doing this for the developer not their client.

Discussion ensued between Mr. York and Councilman Dabney about the incentives that are being proposed one being the forty (40) year tax abatement that is being offered to Phoenix as a tool that allows the city to offer the (ERA) Economic Revitalization Area.

President Tillman advised that this formal public hearing is for comments, not questions to be answered; stating that any question someone may have can be given to the City Clerk and she will share them with the council to respond.

The following residents addressed the council with questions, comments and concerns regarding Council Resolution 4960 that was adopted at the July 15, 2025 Council meeting; Paul Przybylinski, Michelle Duck, Sergeant Anthony Lewis, State Representative Pat Boy, Amy Wiser, Andy Skwiat, Steven Kornacki, Kat and Brodie McIntosh, Larry Levandowski, Kenzo Sinsky, Ashley Williams, Michael Sitz, Kelly Levendoski, Tommy Kulavik, Dominique Yankee, Angie Hensman, Don Briggs, Tee Kuntz; Glen Plautus, why this resolution didn't have a public hearing prior to adopting it, the forty (40) year proposed city tax abatement, non-disclosure statements signed by the council prior to an executive session, no transparency to the public, why the Data Center located in New Carlisle doesn't apply to Michigan City, why this project would bring our property taxes down, what the proposed development is going to bring to our city regarding benefits in our community, gun shots, crime in our community, state the reasons this development should be brought to our city, no union workers doing the majority of the renovations, what qualifications needed to be hired, how many full time employees will work there, are there any tax breaks being received, will the Data Center be supplying their own electricity, what is water being used for and where is it coming from

Councilman Przybylinski called "Point of Order" stating this is a formal public hearing, we invited the public to attend this meeting, and in all fairness to the community they should be able to speak on this issue.

Councilman Dabney responded to Councilman Przybylinski comment advising that there are four (4) other proposed ordinances coming up on our agenda this evening; asking if the public is going to respond to each proposed ordinance under public comment.

President Tillman stated that she understands this is a public hearing, reminding everyone that they have three (3) minutes for comments and please state your name and address; the formal public hearing continued with the following comments; why the language is vague in these documents, NIPSCO's power study hasn't been completed to date, what is the plan in ten (10) years and the Data Center is out dated, the \$1 million gift to EDCMC, 402 Royal Road was purchased in 2023, why this location and why tax breaks being offered, people working on this project are non-union or don't even live in the state of Indiana, requested not to do any votes this evening regarding the proposed Data Center, that more details are needed, why the July 24th workshop regarding this project was not advertised public friendly to let the public know about it, a direct death threat to our children's lungs, Phoenix is promising \$832 million in investments which is a drop in the bucket who will receive fifty (50) years of sales tax exemptions that include utilities and equipment, Indiana governor reported there is a shortage of power in Indiana, 402 Royal Road has had environmental issues for years, will we be fighting for natural recourses and what studies have been regarding environmental impact, number of jobs that will be replaced or be retired from the manufacturing sectors in the near future.

President Tillman stated that public comments are now closed.

President Tillman asked if the Council had any questions or comments at this time.

Councilman Dr. Kora stated that we have discussed this, but there was supposed to be a presentation about the Data Center, but that has not happened; advising there wasn't a presentation at the July 24th workshop; advising that the developers are here this evening; asking before voting on anything that we need to at least listen to what they have to say.

President Tillman stated that we did have a presentation at the July 24th Council Workshop

President Tillman advised that there is a motion on the floor to TABLE Council Resolution No. 4960 indefinitely and a vote needs to be taken.

Councilman Nelson made a motion to TABLE Resolution No. 4960 indefinitely, second by Councilwoman Moldenhauer, the motion failed to TABLE Council Resolution No. 4960 by the following vote: **AYES:** Council members Moldenhauer, Nelson, and Lee (3) **NAYS:** Przybylinski, Tillman, Bietry, Coulter, Dabney, and Dr. Kora (6)

President Tillman stated the motion to TABLE Council Resolution No. 4960 failed.

Councilman Przybylinski called "Point of Order, asking if the Council could speak regarding Council Resolution No. 4960 at this time.

President Tillman stated that would be fair.

Councilman Przybylinski stated that he listened, he has seen, and he has read many of the comments, many by the citizens of Michigan City and who have posted and expressed their feeling this evening and have their sentiment ; but looking it from a business aspect stating what he learned about a DATA Centers in the last few months; that we have had an "Executive Session" a "Workshop" and this last week he Council members, Lee, Coulter, Tillman and Mayor Angie visited a DATA Center in Hammond; stating it is a large building with computers and other companies will rent out the storage space and the information moves on; did not see any environmental issues, no water pollution, or noise, nothing like that;

President Tillman called "Point of Order" stating there will be no outburst in the chamber.

President Przybylinski advised that even our Water Superintendent has reported that the city has plenty of water capacity; that there won't be any issues with water, noise or air pollution regarding this DATA Center; stating that the State put us in this predicament with cutting property taxes in the state of Indiana and making our city make up any revenue difference we aren't going to receive; advising the loss to the City for the next two (2) years is going to be \$3 to \$4 million and if we can't find any means of revenue to replace that loss, the bottom line is we have to cut services; commenting NIPSCO will not be supplying power but another source coming in and supplying this DATA Center with the power they will need; stating that he can't vote with that uncertainty and some of the other uncertainties that are here.

Councilman Przybylinski made a motion to TABLE Council Resolution No. 4960 for four (4) months, hire a consultant to see if there is actually a new company be proposed at the IURC and to see if a rate increase is going to be involved, second by Councilwoman Lee. The motion failed to TABLE Council Resolution No. 4960 for four months and hire a consultant to answer questions that have been asked by the public this evening by the following vote: **AYES:** Council members Nelson Przybylinski, Lee, and Moldenhauer (4) **NAYS:** Tillman, Bietry, Coulter, Dabney, Dr. Kora (5)

President Tillman stated the motion failed by the vote of 5 – 4.

President Tillman asked for motion on Council Resolution No. 4960.

Councilman Dr. Kora stated that he would have supported the last motion to postpone it but didn't that didn't agree with tabling it for four (4) months; that he thinks we need to

do a little more homework receive more information, do some research himself regarding health effects and will ask Mr. Hulce to give some tours for whoever is interested, for the citizens, to go to that DATA Center; that we need to approach newer technologies with an open mind, but if we don't move forward and bring new opportunities then we fall behind as a community.

Councilman Dr. Kora made a motion that we TABLE the Council Resolution No. 4960 for one month bringing this back at the September 2, 2025, Council meeting, second by Councilman Nelson. The motion carried and Council Resolution No. 4960 was TABLED until September 2, 2025, Council meeting by the following vote: **AYES:** Council members Przybylinski, Dr. Kora, Lee, Moldenhauer, and Nelson (5) **NAYS:** Tillman, Bietry, Coulter, Dabney, (4)

President Tillman stated Council Resolution No. 4960 will be TABLED until the September 2, 2025, Council meeting.

The Clerk read the following proposed resolution by title only. **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING PHOENIX MICHIGAN CITY INVESTORS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR A VACANT BUILDING DEDUCTION PURSUANT TO INDIANA CODE 6-1.1-12.1**

Introduced by: Tracie Tillman
Tim Bietry
Dr. Vidya Kora
Bryant Dabney

Councilman Dabney stated this proposed resolution and the following three (3) proposed resolution regarding 402 Royal Road will have to follow the Council Resolution No. 4960 that was TABLED until the September 2, 2025 Council meeting; questioning if this council is able to even send a consultant down to the IURC for information and have them tell us if they are going to increase rates; stating that he wished would have been able to comment before taking the vote.

Councilman Dabney stated that he understands the concerns of the people that are here this evening, especially with some of the things you read on Facebook; advising the City Clerk's Office put out the actual notification regarding the workshop that was scheduled on July 24th but wasn't posted on Facebook; stating that we will be back here in one month, the same people will be here, holding signs, screaming, and hollering but if we can't find a consultant to do get questions answered, where does that put this on September 2, 2025; advising we will be right back here repeating what occurred this evening.

Councilman Bietry stated that he listened to what everyone had to say and wrote down things that he hadn't heard before; that he questioned what Councilman Przybylinski stated, that another company would be supplying the DATA Center with power that it wouldn't be NIPSCO; questioning Councilman Przybylinski who told you or where did you get this information, because this entire thing is about "what is the truth" about anything in this world anymore you can go online to get any answer.

President Tillman asked the Phoenix investors to come up and speak.

Councilman Dr. Kora stated that he was going to ask that as well, they are the experts, and we should let them do their presentation and ask questions this evening.

President Tillman stated that in regard to comments made about the advertisement of the July 24, 2025 workshop it was stamped, posted, and filed on July 21, 2025 by the Clerk's Office and the questions that were asked by the public that evening and weren't answered, have been posted for the public; introducing John Pera representing Phoenix Investors.

John Peru, representing Phoenix Investors stated that he is hoping to answer questions and comments that were made this evening and any specifics that we can clear up this evening.

Discussion ensued between John Peru, Phoenix Investors, President Tillman and Council members Dr. Kora, Moldenhauer, Dabney, Przybylinski, and Lee regarding the DATA Center project and the electric being supplied by NIPSCO, the impact of water usage/fill, noise pollution, health issues, acoustic sound/noise study has been done, tree buffer, explained the operation, was already zoned for what is being developed, Federal Mogel Building was in this building prior to their purchase, affordability for local residents regarding utilities, asked if the residents that turned in the orange index cards at the workshop got answers to their questions and where they are posted, advising the noise decibel level is sixty (60) not 60 – 65 and is sixty (60) an inconsistency, when the generators are used what is noise level, self-noise monitoring devices could be used, if natural gas generators have been considered rather than diesel-powered generators that are being proposed and are quieter, consider using fuel cells which is not part of the considered plan, placing monitors at the roadside, advised that the former EPA Director of Region 4 (Great Lakes) offered services to review the plans for minimal environmental impact – asking to look at this as a possibility.

Katie Eaton representing NIPSCO stated specifically to a question regarding Genco that was mention earlier; advising that they are creating the Genco Model in order to protect existing customer base that it is front of the IURC and there is information on the IURC website to learn more about the Genco Model; advised that Genco is a separate company underneath NIPSCO which is their parent company and will only be used for large load customers.

Councilman Dr. Kora asked if the rates would increase for residential customers when large customer users enter the NIPSCO market with Ms. Eaton advising she couldn't speak on that this evening, but would give him someone he could contact in the Regulatory Department at NIPSCO

Chris Johnson, MC Water Superintendent addressed the council advising that he gave the stats at the Workshop; stating that during the time when our city had a large industrial base and had no qualm about wasting water, that at the present time the water departments treatment facilities are designed to treat thirty (30) million gallons a day and there will be no capacity issues or additional cost regarding adding this facility.

Councilman Przybylinski advised that he spoke to Mr. Pera regarding installing noise monitors surrounding their facility and he advised that he spoke to another individual within their group and they would not consider placing noise monitors around that facility

Mr. Pera wanted to make sure that we are all on the same page, that the end user of this facility wants to be a "good neighbor"; stating the engineering studies, design studies they have done or are doing follow what the city requires and to remember this is area was and is still is zoned M1 "Industrial Site", we are following all ordinances and codes required by both Michigan City and state.

Councilman Przybylinski advised that he realizes they are following codes, ordinances for both our city and state, but your company is requesting a \$250 million tax abatement for forty (40) years and we are asking for noise monitors to be installed around this property which might cost \$30,000: asking them to think about it.

Councilwoman Lee asked Mr. Pera to explain more about their "carbon emissions" and what their plan is; with Mr. Pera response that he would not be able to speak on that this evening but will get some follow-up information to you.

Councilman Dr. Kora suggested that we TABLE the resolutions that are related to the DATA Center until the September 2, 2025 Council meeting.

Attorney Raggs advised the proposed resolutions must be done individually, but it is important to know that the original resolution that was adopted confirming the (ERA) Economic Revitalization Area won't stop anything from moving forward.

Councilwoman Moldenhauer stated that at the workshop on July 24, 2025 they were told there would only be one building and an additional building possibly later; advising that in their proposal it states there could be one or more buildings

Mr. Pera advised there wasn't any plans soon that it'd be potentially just one more; stating that they would have to go through an engineering study prior to doing any additional buildings, like what was done before starting this building.

Councilwoman Moldenhauer asked if there would be any objection about changing the language in the proposal to one (1) more

Mr. Pera stated, No, that there is no more available room on that site for more than just one building.

President Tillman asked if there were any comments from the public.

Tommy Kulavik, 1316 Ohio Street, commented on his concerns regarding this being too close to Nieman School and that their property also shares their property line with Krueger Middle School; stating several reasons why he is against the forty (40) year tax abatement being proposed.

The following citizens commented on the proposed resolution, stating their concerns; Tommy Kulavik, Lisa Valley, Marcella Kunstek, Kelley Levendoski, John Watson, Glen Puda, Heather Ennis, John Carrington, Angie Henzman, Don Babcock, Jerry Brown, Nora McDonald and Paul Przybylinski.

President Tillman stated "public comments" are now closed.

President Tillman asked if the Council had any questions or comments at this time.

Councilman Dabney stated that there was a lot comments and information that came to the council this evening from the public and also from the Phoenix group; asking for a response from the public; "what will happen in a month if all the resolutions are TABLED and the information comes back to the public favorable to move forward regarding the DATA center project."

Councilman Dabney stated he will be the first to say he was wrong about any issue; advising that he has listened to all the information that he has been given regarding this project and is how he will make his discission regarding tabling these resolutions.

President Tillman stated that Councilman Dabney asked a question; advising it should have been something for them to think on, instead of opening it up as a question; advising this is not a workshop.

Councilwoman Moldenhauer called "Point of Order"

President Tillman thanked Councilwoman Moldenhauer

Councilman Dr. Kora made a motion to TABLE this resolution for one (1) month brining it back at the September 2, 2025, Council meeting, second by Councilman Nelson.

Attorney Raggs stated City Clerk Neulieb pointed out that it needs to be announced that there was an author's amendment on this resolution, that the council has seen it, they fixed various typos and whatnot in the resolution; stating there weren't substantial changes and it needs to be announced that there was an "authors amendment" to the resolution and was sent out; and that the amendments are available to the public.

President Tillman stated on this resolution there has been some amendments to the resolution - **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING PHOENIX MICHIGAN CITY INVESTORS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR A VACANT BUILDING DEDUCTION PURSUANT TO INDIANA CODE 6-1.1-12.1**

Attorney Raggs stated that now the resolution can be considered.

President Tillman asked Clerk Neulieb to take the vote: A motion was made by Dr. Kora, second by Councilman Nelson, the motion carried and the resolution was TABLED until the September 2, 2025 Council meeting by the follow vote: **AYES:** Council members Bietry, Dabney, Dr. Kora, Lee, Moldenhauer, Nelson and Przybylinski (7) **NAYS:** Tillman, Coulter, (2)

President Tillman stated that this resolution has been TABLED until the September 2, 2025 Council meeting.

President Tillman called a five (5) minute recess coming back at 9:15 p.m.

President Tillman called the meeting back to order.

Councilman Kora made a motion suspend the rules to TABLE the following three (3) proposed resolutions that are on the agenda this evening, second by Councilwoman Lee. The motion carried that the resolutions regarding the DATA center will be TABLED until September 2, 2025 Council meeting by the following vote: **AYES:** Council members Bietry, Coulter, Dabney, Dr. Kora Lee Moldenhauer, Nelson, Przybylinski, and Tillman (9) **NAYS:** None (0)

NOTE: FOR THE RECORD THE FOLLOWING RESOLUTIONS ARE BEING TABLED UNTIL THE SEPTEMBER 2, 2025 COUNCIL MEETING ARE AS FOLLOWS:

▪ **A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA GRANTING PHOENIX MICHIGAN CITY INVESTORS LLC AN ASSESSED VALUATION DEDUCTION (TAX ABATEMENT) FOR REAL PROPERTY, PURSUANT TO INDIANA CODE 6-1.1-12.1**

Introduced by: Tracie Tillman
Tim Bietry
Dr. Vidya Kora
Bryant Dabney

▪ **A RESOLUTION OF THE CITY OF MICHIGAN CITY COMMON COUNCIL CONFIRMING RESOLUTION NO. 4960 THAT DESIGNATED AND ESTABLISHED A CERTAIN AREA OF THE CITY OF MICHIGAN CITY, INDIANA AS AN ECONOMIC REVITALIZATION AREA TO WHICH DEDUCTIONS OF ASSESSED VALUE MAY BE REQUESTED BY AN APPLICANT TO THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY PURSUANT TO INDIANA CODE 6-1.1-12.1**

Introduced by: Tracie Tillman
Tim Bietry
Dr. Vidya Kora
Bryant Dabney

▪ **A RESOLUTION APPROVING A TAXPAYER AGREEMENT FOR "PROJECT MAIZE," A NEW ECONOMIC DEVELOPMENT PROJECT LOCATED AT THE ADDRESS COMMONLY KNOWN AS 402 ROYAL ROAD IN MICHIGAN CITY, INDIANA**

Introduced by: Tracie Tillman
Tim Bietry
Dr. Vidya Kora

Bryant Dabney

President Tillman stated this resolution are TABLED until the September 2, 2025 Council meeting.

ORDINANCES

The Clerk read the following proposed ordinance on first reading by title only.

ESTABLISHING A MUNICIPAL MOTOR VEHICLE LICENSE EXCISE SURTAX AND MUNICIPAL WHEEL TAX AND CREATING DIVISION 4 (EXCISE WHEEL SURTAX AND WHEEL TAX) IN ARTICLE VI (FINANCE) IN CHAPTER 2 (ADMINISTRATION) IN THE MICHIGAN CITY MUNICIPAL CODE

Introduced by: Bryant Dabney
Nancy Moldenhauer

President Tillman asked if the authors had anything to add at this time.

Councilman Dabney stated this proposed ordinance is establishing a motor vehicle Wheel Excise Tax; advising the state has created two (2) different funds one (1) are for paving streets in our community, but in order to receive money from the second fund/account for additional monies to pave our streets; the city has to establish the Wheel Excise Tax in our city; stating there has been several cuts in our budget by the state with revenues coming into our funds are a lot less annually.

Councilwoman Moldenhauer, advised that this is one of the platforms she ran on; that all of the communities surrounding our city have this wheel tax in place and have for years; stating that since our city didn't have the wheel tax, the city has lost hundred of thousands of dollars that could have been doing more of paving of streets and infrastructure; stating that she supports moving forward on this.

Mayor Angie advised that she scheduled a workshop regarding the proposed wheel tax on August 18, 2025, at 5:30 in the EOC Room, updating the council regarding the funds that the city has been receiving in our Riverboat Funds from the casino in past few years and what needs to be done moving forward. Reporting on what Baker/Tilley estimates the city will receive if the wheel tax is adopted.

Councilman Dabney advised that we need to get this ordinance adopted before that deadline, asking to have second and third reading at our August 19, 2025, Council meeting to beat the deadlines

Mayor Angie advised Councilman Dr. Kora that there is a set tax amounts to date that at the workshop she will explain the schedule with the proposed rates and what surrounding communities are doing.

President Tillman asked anyone from the public had any questions or comments.

Tommy Kulavik, 1316 Ohio Street stated several reasons why he is in favor of adopting this ordinance and has asked the city for years to move forward and adopt this tax.

Steven Komanke, 5410 Rogowski St. stated several reasons he supports adopting the Wheel Tax for our city.

Paul Przybylinski, 1716 Washington Street, would like to know how much the wheel tax is going to generate and supports doing the minimum wheel excise tax fee; commenting on the "city sidewalk program" and the "brick repair program" that was created.

Dominic Yankee, 903 Willow Spring Drive, agreed with Mr. Przybylinski's comments on the adoption of the minimum tax that there are two (2) different funds and that the city must adopt the wheel excise tax to get additional money from that second fund.

President Tillman asked if there were any other comments from the public, there was no response.

President Tillman asked if there were any Council comments, there was no response; stating the proposed ordinance will be held over for second reading at the September 2, 2025, Council meeting.

The Clerk read the following proposed ordinance on second reading by title only.
APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE GOLF NON-REVERTING FUND #2508 TO REPLACE THE SATELLITE IRRIGATION SYSTEM AT THE MICHIGAN CITY MUNICIPAL GOLF COURSES

Introduced by: Bryant Dabney

**(DECREASE Golf Non-Reverting Fund #2508 Unappropriated balance \$181,000.00
INCREASE ACCOUNT #2508.000.439.090 \$181,000.00 Contractual Services)**

Councilman Dabney reiterated that this appropriation is coming from a non-reverting fund to pay for the proposed satellite irrigation system in the amount of \$181,000.

President Tillman stated that there will be a formal public hearing this evening; that it was advertised in the Herald Dispatch on July 16, 2025.

President Tillman asked (repeating three times) "Is there anyone from the public that would like to speak at this time on this ordinance".

Steven Kornacki, 5410 Rogowski Avenue, questioned if this was being funded by the golf course itself and why city residents don't get a discount or play free since it is a municipal course.

Tommy Kulivak, 1316 Ohio Street, stated that he feels we should close the north course.

President Tillman asked, "is there were any other public comments regarding this ordinance" (repeating three times), there was no response, and the formal public hearing was closed.

President Tillman asked if there were any comments from the Council.

Councilman Przybylinski made a motion to have third reading this evening, second by Councilman Dabney, the motion carried and the motion to have third reading this evening was approved by the following vote: **AYES:** Council members Coulter, Dabney, Dr. Kora Lee Moldenhauer, Nelson, Przybylinski, Tillman and Bietry (9) **NAYS:** None (0)

The Clerk read the following proposed ordinance on third reading by title only.

ORDINANCE NO. 4768

**APPROVING ADDITIONAL APPROPRIATION IN THE BUDGET OF THE
GOLF NON-REVERTING FUND #2508 TO REPLACE THE SATELLITE IRRIGATION
SYSTEM AT THE MICHIGAN CITY MUNICIPAL GOLF COURSES**

WHEREAS, it has been demonstrated to the Common Council of the City of Michigan City that it is necessary to appropriate more money than was appropriated in the 2025 Annual Budget for the Golf Non-Reverting Fund #2508 for the Parks Department to replace the satellite irrigation system at the Michigan City Municipal Golf Courses; and

WHEREAS, the City Controller has determined that sufficient unappropriated funds are available in the Golf Non-Reverting Fund #2508 for the Parks Department to be appropriate for that purpose.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Michigan City, La Porte County, Indiana, that for the expenses of the City the following additional sums of money are hereby appropriated out of the fund named and for the purpose specified above, subject to the laws governing the same:

	<u>AMOUNT REQUESTED</u>	<u>AMOUNT APPROPRIATED</u>
DECREASE Golf Non-Reverting Fund #2508 Unappropriated balance	\$181,000.00	
INCREASE ACCOUNT #2508.000.439.090 Contractual Services		\$181,000.00
TOTAL FOR FUND	\$181,000.00	

This Ordinance to be effective upon passage by the Council, approval by the Mayor, any necessary publication, and any necessary approval by the Indiana Department of Local Government Finance.

INTRODUCED BY: /s/ Bryant Dabney, Member
Michigan City Common Council

President Tillman asked if the author had anything to add at this time, there was no response.

President Tillman asked if the public had any other questions or comments, there was no response.

President Tillman asked if the council had anything to add.

Councilman Dabney made amotion to approve the proposed ordinance, second by Councilman Dr. Kora, the motion carried, and the proposed ordinance was approved by the following vote: **AYES:** Council members Dabney, Dr. Kora Lee Moldenhauer, Nelson, Przybylinski, Tillman, Bietry and Coulter (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on second reading by title only.
AMENDING SEC. 2-403(a) AND (b) IN THE MICHIGAN CITY MUNICIPAL CODE REGARDING THE RESIDENT WORKER TRAINING DEVELOPMENT FUND

Introduced by: Nancy Moldenhauer
Tim Bietry
Dr. Kora
Daisy Lee
Don Przybylinski
Bryant Dabney

President Tillman asked if any of the authors had anything to add at this time.

Councilwoman Moldenhauer stated this proposed ordinance will enable individuals, corporations and nonprofit organization who would like to donate money toward the "Worker Training Programs" and also is a mechanism to make that possible.

Councilman Bietry advised this isn't only businesses who want to donate to this fund/program but businesses who have been fined.

Mayor Angie added that she was the one that brought this forward; stating that these fines have been in an account since 2014 from fines collected; that the city has their first Indiana Plan coming up in October; with the hope of having more than one; explaining what the Indiana Plan is about.

Councilwoman Moldenhauer advised that monies in this fund were left in this account were from when Jeff Deutch was the Human Rights Executive Director; that he would go out citing businesses that weren't meeting the requirements as far as hiring Michigan City residents for projects that were happening in our community.

President Tillman asked if there were any other comments from the authors, there was no response.

President Tillman asked if there were any questions or comments from the public.

Steven Kornaki, 5410 Rogowski Avenue stated if the money is there; stating there is no reason not to do the Indiana Plan; advising that how many times you hear a local company say, "it's hard to find workers", that this should open the doors in the future.

President Tillman asked if there were any other comments from the public, there was no response.

President Tillman asked if the council had anything to add at this time.

Councilman Przybylinski made a motion to have third reading this evening, second was made by Councilman Bietry. The motion carried and was approved to have third reading this evening by the following vote: **AYES:** Council members Dr. Kora Lee Moldenhauer, Nelson, Przybylinski, Tillman, Bietry, Coulter and Dabney (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on third reading by title only.

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4769

AMENDING SEC. 2-403(a) AND (b) IN THE MICHIGAN CITY MUNICIPAL CODE REGARDING THE RESIDENT WORKER TRAINING DEVELOPMENT FUND

WHEREAS, Sec. 2-403 of the Michigan City Municipal Code established the Resident Worker Training Development Fund, which currently reads as follows:

"Sec. 2-403. Restricted, non-reverting, resident worker training development fund.

- (a) The controller is hereby directed to create the restricted, non-reverting resident worker training program fund to be used exclusively to establish or help establish worker training related programs for the Michigan City residents. All fine money paid by contractors for failing to comply with the provisions of the Municipal Code regarding the local hiring program shall be deposited into this fund. The money in this fund shall only be expended for worker-training related programs for residents of Michigan City.*
- (b) Expenditures from the fund shall only be made upon appropriation by the common council. All monies to be disbursed from the fund in any year shall either be set forth in the budget of the human rights department for that year or shall be the subject of an additional appropriation ordinance.*
- (c) Any unexpended monies remaining in the fund at the end of the year shall not revert to the general fund of the city, but shall remain in the fund and become available for expenditure, under the terms and conditions set forth in this section, during the following year.";* and

WHEREAS, the City Controller's Office has advised that certain individuals/entities wish to provide the City with monetary donations to assist the City with workforce training development programs and initiatives; and

WHEREAS, the need exists to amend the Resident Worker Training Development Fund to allow said Fund to be able to receive donations; and

WHEREAS, the Common Council believes that it is in the best interest of the City and resident herein to now amend said Fund to allow said Fund to be able to receive donations.

THEREFORE, BE IT ORDAINED by the Common Council for the City of Michigan City, Indiana that Sec. 2-403(a) and (b) shall now be amended to read as follows:

- (a) The Controller is hereby directed to create the restricted, non-reverting resident worker training program fund to be used exclusively to establish or help establish worker training related programs for the Michigan City residents. All fine money paid by contractors for failing to comply with the provisions of the Municipal Code regarding the local hiring program shall be deposited into this Fund. In addition, this Fund may receipt monetary donations from individuals or entities specifically designated for resident worker training programs and initiatives. The money in this Fund shall only be expended for worker-training related programs for residents of Michigan City.
- (b) Expenditures from the fund shall only be made upon appropriation by the common council. All monies to be disbursed from the fund in any year shall either be set forth in the annual City budget or shall be the subject of an additional appropriation ordinance.

This Ordinance shall be in full force and effect after passage by the Michigan City Common Council and approval by the Mayor.

INTRODUCED BY: /s/ Nancy Moldenhauer, Member
Michigan City Common Council
/s/ Tim Bietry, Member
Michigan City Common Council
/s/ Dr. Vidya Kora, Member
Michigan City Common Council
/s/ Daisy Lee, Member
Michigan City Common Council
/s/ Don Przybylinski, Member
Michigan City Common Council
/s/ Bryant Dabney, Member
Michigan City Common Council
/s/ Joseph Nelson, Member
Michigan City Common Council

President Tillman asked if there were any public comments at this time, there was no response.

President Tillman asked if there were any comments from the Council.

Councilman Przybylinski made a motion to adopt the proposed ordinance, second by Councilman Dabney, the motion carried, and the ordinance was approved by the following vote: **AYES:** Council members Lee, Moldenhauer, Nelson, Przybylinski, Tillman, Bietry, Coulter, Dabney and Dr. Kora (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on second reading by title only.

REPEALING, AMENDING, AND CREATING VARIOUS ARTICLES AND SECTIONS IN THE MICHIGAN CITY MUNICIPAL CODE REGARDING STORMWATER AND DRAINAGE

Introduced by: Don Przybylinski

President Tillman asked if the author had anything to add at this time.

Councilman Przybylinski explained what was being proposed regarding the updates to various articles and sections in the municipal code; that Al Walus from the Sanitary District has worked hard on this, if anyone has any questions.

President Tillman asked if there were any questions or comments from the public.

Paul Przybylinski 1716 Washington Street, questions about if the amendments are going to create a different fee structure for the implementation of the MS4 program.

Al Walus, Sanitary District advised Mr. Przybylinski that there are no fees associated with this ordinance; it is simply technical of nature and brings the current ordinance in line with recent item permit renewals that happened in December of 2021; briefly noting some of the sections regarding stormwater drainage in our city are approaching twenty (20) years old and have consolidated and followed the Purdue Local Technical Assistance Program who created the model stormwater ordinances.

President Tillman asked if there were any other comments from the public, there was no response.

President Tillman asked if there were any comments from the council.

Councilman Dabney made a motion to have third reading this evening, second by Councilman Nelson. The motion carried and was approved to have third reading this evening by the following vote: **AYES:** Council members Moldenhauer, Nelson, Przybylinski, Tillman, Bietry, Coulter, Dabney, Dr. Kora and Lee (9) **NAYS:** None (0).

The Clerk the following proposed ordinance on third reading by title only.

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4770

REPEALING, AMENDING, AND CREATING VARIOUS ARTICLES AND SECTIONS IN THE MICHIGAN CITY MUNICIPAL CODE REGARDING STORMWATER AND DRAINAGE

WHEREAS, the Indiana Department of Environmental Management (IDEM) requires Indiana MS4 entities, such as counties, cities, and towns to update their existing local ordinances regarding stormwater and drainage; and

WHEREAS, the Michigan City Board of Sanitary Commissioners has studied the existing conditions, as well as the current state recommendations and has proposed a new stormwater and drainage ordinance, a copy of which is attached hereto and incorporated herein as **Exhibit A**, which was initially approved by the Michigan City Board of Sanitary Commissioners on January 22, 2025 and also on June 25, 2025; and

WHEREAS, also, while in the process of reviewing the Michigan City Municipal Code (“Code”) to draft the new stormwater and drainage ordinance, it was discovered that provisions for stormwater and drainage are randomly scattered through various chapters of the Code, including sections and articles within the City’s Joint Zoning Ordinance and Subdivision Ordinance; and

WHEREAS, the need exists to recodify the City’s stormwater and drainage ordinance in one (1) central location in the Code, more specifically in Chapter 46 under Article IX to be known as *Stormwater Management Regulations* and repeal all other articles and sections in the Code regarding stormwater and drainage, including repealing certain articles and sections in the City’s Joint Zoning Ordinance and Subdivision Ordinance; and

WHEREAS, the Plan Commission of the City of Michigan City, Indiana (the "Plan Commission") has the responsibility, in accordance with Appendix B-*Subdivision Control* ("the Subdivision Code") and Appendix C-*Joint Zoning Ordinance* of the City of Michigan City Municipal Code ("the Zoning Code") and in accordance with Indiana Code 36-7-4-605, to act as an advisory board to the Common Council of the City of Michigan City concerning the Zoning Code and Subdivision Code of the City of Michigan City, Indiana; and

WHEREAS, the Plan Commission may, pursuant to Indiana Code 36-7-4-602(b), initiate a proposal to amend or partially repeal the text of the Zoning Code and Subdivision Code; and,

WHEREAS, the Plan Commission has reviewed and studied the recommendations provided by its own Planning Department staff and staff of the Michigan City Sanitary District; and

WHEREAS, as presented to the Plan Commission at its May 27, 2025 public meeting, and as approved by the Plan Commission at its June 24, 2025 public meeting, the following Article and Sections should be repealed:

Section 06.07 *Stormwater Management* and Section 06.08 *Soil Erosion* in the Michigan City Subdivision Ordinance, which is codified in the Michigan City Municipal Code as Appendix B *Subdivision Control*;

Article 20 *Stormwater Management* in the Michigan City Joint Zoning Ordinance, which is codified in the Michigan City Code as Appendix C *Joint Zoning Ordinance*; and

WHEREAS, also presented to the Plan Commission at its May 27, 2025 public meeting, and as approved by said Commission at its June 24, 2025 meeting, the Plan Commission made findings of fact approving **Exhibit A** and also the additional amendments to accurately reflect cross-references to the Appendix B *Subdivision Control and Condominium Division Standards* and Appendix C *Joint Zoning Ordinance* as contained in **Exhibit B** attached hereto and made a part hereof; and

WHEREAS, upon notice having been duly published and a public hearing held, the Plan Commission: made findings of fact approving a copy of which is in the offices of the Plan Commission and the Michigan City Clerk; approved and adopted Plan Commission Resolution No. 2-2025 with a favorable recommendation to the Common Council of the City of Michigan City, Indiana (the "Common Council") and recommended that the Common Council approve and adopt said amendments; and

WHEREAS, pursuant to Indiana Code 36-7-4-607, the Common Council has the authority and duty to consider, adopt, reject or amend changes to the Zoning Code and the Subdivision Code; and, as evidenced by Resolution 2-2025 of the Plan Commission filed with the Common Council together with the Exhibit to said Resolution, which is the entire text of the proposed amendment and which is incorporated into this Ordinance and made a part hereof; and

WHEREAS, upon notice having been duly published, the Common Council considered the repeal of the various sections and article of the Joint Code and Subdivision Code at the regular monthly meeting of the Common Council; and

WHEREAS, the Michigan City Common Council has reviewed the Certified Resolution 2-2025 of the Plan Commission of the City of Michigan City, Indiana, the Findings of Fact contained therein, and related information and has received and considered comments from the public regarding the proposed amendments and the changes and provisions contained in **Exhibit A** and **Exhibit B**; and

WHEREAS, the Common Council has determined that amending the City Code, Zoning Code, and the Subdivision Code to adopt and incorporate the amendments would be in the best interests of the entire City; and

WHEREAS, in addition, the Common Council reasonably believes it is in the best interest of the City to adopt the recommendations of the Michigan City Board of Sanitary Commissioners and the Michigan City Plan Commission and adopt a new stormwater and drainage ordinance and

recodify the same into Chapter 46, Article IX to be known as *Stormwater Management Regulations*.

THEREFORE, BE IT ORDAINED by the Common Council for the City of Michigan City, Indiana as follows:

1. The following Articles and Sections in the Michigan City Municipal Code are hereby repealed:
 - a. Article XII in Chapter 22 entitled *MS4 Post-Construction Activity Stormwater Management Plan Program*;
 - b. Article XIII in Chapter 22 entitled *MS4 Construction Activity Erosion and Sediment Control Program*;
 - c. Sec. 50-143 entitled *Penalty for Violation of Article XII (Post-Construction Activity Stormwater Management Plan Program)* in Chapter 50; and
 - d. Sec. 50-144 entitled *Penalty for Violation of Article XIII (Construction Activity Erosion and Sediment Control Program)* in Chapter 50.
2. **Exhibit B**, which is attached hereto and incorporated herein, is hereby adopted, which reflects all the amendments to cross reference numbers in Appendix B *Subdivision Control and Condominium Division Standards* and Appendix C *Joint Zoning Ordinance*.
3. Article V entitled *MS4 Illicit Discharges and Connections Program* in Chapter 46 of the Michigan City Municipal Code is hereby repealed.
4. Article IX entitled *Stormwater Management Regulations* is hereby created in Chapter 46 and shall read as set forth in **Exhibit A**, which is attached hereto and incorporated herein.
5. Sec. 50-262 in Chapter 50 of the Michigan City Municipal Code is hereby amended to now read as follows:

Sec. 50-262. Fines for Violation of Stormwater Management Regulations

The fine required by Section 46-336(c) shall be not more than \$2,500.00 for each offense, plus costs, damages, and expenses.

This Ordinance shall be in full force and effect after passage by the Michigan City Common Council and approval by the Mayor and any necessary publication.

INTRODUCED BY: /s/ Don Przybylinski, Member
Michigan City Common Council

/s/ Greg Coulter, Member
Michigan City Common Council

EXHIBIT A

ARTICLE IX. STORMWATER MANAGEMENT REGULATIONS

Division 0 - General Provisions

- Sec. 46-218 Preamble
- Sec. 46-219 Conflicting ordinances
- Sec. 46-220 Compliance with this article and other ordinances
- Sec. 46-221 Definitions

Sec. 46-222—Sec. 46-229. Reserved. Division 1 - Illicit Discharge and Connection

- Sec. 46-230 Purpose/intent

- Sec. 46-231 Applicability
- Sec. 46-232 Responsibility for administration
- Sec. 46-233 Severability
- Sec. 46-234 Ultimate responsibility
- Sec. 46-235 Discharge prohibitions
- Sec. 46-236 Industrial or construction activity discharges
- Sec. 46-237 Monitoring of discharges
- Sec. 46-238 Requirement to prevent, control and reduce stormwater pollutants by the use of best management practices
- Sec. 46-239 Watercourse protection
- Sec. 46-240 Notification of spills
- Sec. 46-241—Sec. 46-249. Reserved*

Division 2 - Stormwater Quantity Management

- Sec. 46-250 Purpose/Intent
- Sec. 46-251 Applicability and Exemptions
- Sec. 46-252 Responsibility for administration
- Sec. 46-253 Severability
- Sec. 46-254 Ultimate responsibility
- Sec. 46-255 Policy on Stormwater Quantity Management
- Sec. 46-256 Calculations and Design Standards and Specifications
- Sec. 46-257 Drainage Easement Requirements
- Sec. 46-258 Placement of Utilities
- Sec. 46-259 Structures Near City Regulated Drains
- Sec. 46-260 Inspection, Maintenance, Record Keeping, and Reporting
- Sec. 46-261—Sec. 46-269. Reserved*

Division 3 - Stormwater Pollution Prevention for Construction Sites

- Sec. 46-270 Purpose/intent
- Sec. 46-271 Applicability and Exemptions
- Sec. 46-272 Responsibility for administration
- Sec. 46-273 Severability
- Sec. 46-274 Ultimate responsibility
- Sec. 46-275 Policy on Stormwater Pollution Prevention
- Sec. 46-276 Calculations and Design Standards and Specifications
- Sec. 46-277 Inspection, Maintenance, Record Keeping, and Reporting
- Sec. 46-278-Sec. 46-289. Reserved

Division 4 - Stormwater Quality Management for Post-Construction

- Sec. 46-290 Purpose/intent
- Sec. 46-291 Applicability and Exemptions
- Sec. 46-292 Responsibility for administration
- Sec. 46-293 Severability
- Sec. 46-294 Ultimate responsibility
- Sec. 46-295 Policy on Stormwater Quality Management
- Sec. 46-296 Calculations and Design Standards and Specifications
- Sec. 46-297 Easement Requirements
- Sec. 46-298 Inspection, Maintenance, Record Keeping, and Reporting
- Sec. 46-299—Sec. 46-309. Reserved*

Division 5 - Stormwater Permit Requirements and Procedures

- Sec. 46-310 Purpose/intent
- Sec. 46-311 Applicability and Exemptions
- Sec. 46-312 Responsibility for administration
- Sec. 46-313 Severability
- Sec. 46-314 Ultimate responsibility
- Sec. 46-315 Conceptual Drainage Plan Review
- Sec. 46-316 General Permit Procedures
- Sec. 46-317 Information Requirements
- Sec. 46-318 Review of Individual Lots
- Sec. 46-319 Changes to Plans
- Sec. 46-320 Fee Structure
- Sec. 46-321 Required Assurances
- Sec. 46-322 Terms and Conditions of Permits
- Sec. 46-323 Certification of As-Built Plans
- Sec. 46-324 Post-Project Maintenance Bond and Verifications
- Sec. 46-325—Sec. 46-329. Reserved.*

Division 6 - Compliance and Enforcement

- Sec. 46-330 Purpose/intent
- Sec. 46-331 Applicability and Exemptions
- Sec. 46-332 Responsibility for administration
- Sec. 46-333 Severability
- Sec. 46-334 Ultimate responsibility
- Sec. 46-335 Compliance
- Sec. 46-336 Enforcement and Penalties
- Sec. 46-337 Cost of Abatement of the Violation

Sec. 46-338 Appeals

Division 0 - GENERAL PROVISIONS**Section 46-218. PREAMBLE.**

- (a) The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of Michigan City through the regulation of stormwater and non-stormwater discharges to the storm drainage system and to protect, conserve and promote the orderly development of land and water resources within the City of Michigan City. This Article establishes methods for managing the quantity and quality of stormwater entering into the storm drain system. The objectives of this Article are:
 - (1) To reduce the hazard to public health and safety caused by excessive stormwater runoff.
 - (2) To regulate the contribution of pollutants to the storm drain system from construction site runoff.
 - (3) To regulate the contribution of pollutants to the storm drain system from runoff from new development and re-development.
 - (4) To prohibit illicit discharges into the storm drain system.
 - (5) To establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Article.
- (b) This Article regulates:
 - (1) Discharges of prohibited non-stormwater flows into the storm drain system.
 - (2) Stormwater drainage improvements related to development of lands located within the corporate boundaries of Michigan City.
 - (3) Drainage control systems installed during new construction and grading of lots and other parcels of land.
 - (4) Stormwater, including stormwater runoff, snowmelt runoff, and surface runoff and drainage, associated with construction activity.
 - (5) Stormwater discharges from construction support activities directly related to construction sites subject to this Article.
 - (6) Erosion and sediment control systems installed during new construction and grading of lots and other parcels of land.
 - (7) The design, construction, and maintenance of stormwater drainage facilities and systems.
 - (8) The design, construction, and maintenance of stormwater quality facilities and systems.
 - (9) The design, construction, and maintenance of new dams.
 - (10) The development downstream of existing dams.
 - (11) Development within floodplains, floodways, fluvial erosion hazard corridors, and bluff zones.

This Article shall be known and may be cited as the Michigan City Stormwater Management Ordinance. Once adopted, this Article will supersede any conflicting ordinances previously adopted by Michigan City.

Section 46-219. CONFLICTING ORDINANCES.

The provisions of this Article shall be deemed as additional requirements to minimum standards required by other ordinances of Michigan City. In case of conflicting requirements, the most restrictive shall apply.

Section 46-220. COMPLIANCE WITH THIS ARTICLE AND OTHER ORDINANCES.

- (a) In addition to the requirements of this Article, compliance with the requirements of other applicable ordinances with respect to submission and approval of preliminary and final subdivision plats, improvements plans, building and zoning permits, construction, inspections, appeals and similar matters and compliance with applicable State of Indiana statutes and regulations shall be required.
- (b) Subject to the applicability and exemptions noted throughout this Article, no drainage permit shall be issued for development within the city limits until the plans for construction, extension, remodeling,

alteration or repair have been approved in writing by the Sanitary District of Michigan City. This process for obtaining a drainage permit is outlined in Section 46-310 through 46-324.

Section 46-221. DEFINITIONS.

For the purpose of this Article, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

AGRICULTURAL LAND DISTURBING ACTIVITY. Tillage, planting, cultivation, or harvesting operations for the production of agricultural or nursery vegetative crops. The term also includes pasture renovation and establishment, the construction of agricultural conservation practices, and the installation and maintenance of agricultural drainage tile.

AUTHORIZED ENFORCEMENT AGENCY. Sanitary District of Michigan City.

BEST MANAGEMENT PRACTICES (BMPs). Design, construction, and maintenance practices and criteria for stormwater facilities that minimize the impact of stormwater runoff rates and volumes, prevent erosion, and capture pollutants.

- (1) Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters or stormwater conveyance systems.
- (2) **BMPs** also include treatment practices, operating procedures and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

BOARD. The Sanitary District of Michigan City Board of Commissioners.

CAPACITY (OF A STORM DRAINAGE FACILITY). The maximum flow that can be conveyed or stored by a storm drainage facility without causing damage to public or private property.

CHANNEL. A portion of a natural or artificial watercourse which periodically or continuously contains moving water, or which forms a connecting link between two bodies of water. It has a defined bed and banks which serve to confine the water.

CLEAN WATER ACT. The Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

COMPLIANCE. The act of correcting a violation or violations within the time frame specified by Michigan City.

CONSTRUCTION ACTIVITY. Land disturbing activities, and land disturbing activities associated with the construction of infrastructure and structures. This term does not include routine ditch or road maintenance or minor landscaping projects. Refers to activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more, as defined in Indiana Department of Environmental Management (IDEM) Construction Stormwater General Permit (CSGP). Such activities include, but are not limited to, clearing and grubbing, grading, excavating and demolition.

CONSTRUCTION SITE ACCESS. A stabilized stone surface at all points of ingress or egress to a project site, for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

CONTOUR. An imaginary line on the surface of the earth connecting points of the same elevation.

CONTRACTOR or SUBCONTRACTOR. An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services on the project site.

CONVEYANCE. Any structural method for transferring stormwater between at least two points. The term includes piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains, and roadways.

DEPARTMENT. The Sanitary District of Michigan City.

DETENTION. Managing stormwater runoff by temporary holding and controlled release.

DETENTION BASIN. A facility constructed or modified to restrict the flow of stormwater to a prescribed maximum rate, and to detain concurrently the excess waters that accumulate behind the outlet.

DETENTION STORAGE. The temporary detaining of storage of stormwater in storage facilities, on rooftops, in streets, parking lots, school yards, parks, open spaces or other areas under predetermined and controlled conditions, with the rate of release regulated by appropriately installed devices.

DEVELOPER. Any person financially responsible for construction activity, or an owner of property who sells or leases, or offers for sale or lease, any lots in a subdivision.

DEVELOPMENT. Any man-made change to improved or unimproved real estate including but not limited to:

- (1) Construction, reconstruction, or placement of a building or any addition to a building.
- (2) Construction of flood control structures such as levees, dikes, dams or channel improvements.
- (3) Construction or reconstruction of bridges or culverts.
- (4) Installing a manufactured home on a site, preparing a site for a manufactured home, or installing a recreational vehicle on a site for more than hundred eight (180) days.
- (5) Installing utilities, erection of walls, construction of roads, or similar projects.
- (6) Mining, dredging, filling, grading, excavation, or drilling operations.
- (7) Storage of materials.
- (8) Any other activity that might change the direction, height, or velocity of flood or surface waters.

DISCHARGE. In the context of water quantity provisions, usually the rate of water flow, i.e., a volume of fluid passing a point per unit time commonly expressed as cubic feet per second, cubic meters per second, gallons per minute, or millions of gallons per day. In the context of water quality provisions, the discharge means any addition of liquids or solids to a water body or a flow conveyance facility.

DITCH. A man-made, open watercourse in or into which excess surface water or groundwater drained from land, stormwater runoff, or floodwaters flow either continuously or intermittently.

DRAIN. A buried slotted or perforated pipe or other conduit (subsurface drain) or a ditch (open drain) for carrying off surplus groundwater or surface water.

DRAINAGE. The removal of excess surface water or groundwater from land by means of ditches or subsurface drains. Also see Natural Drainage.

EROSION. The wearing away of the land surface by water, wind, ice, gravity, or other geological agents. The following terms are used to describe different types of water erosion:

- (1) Accelerated erosion -- Erosion much more rapid than normal or geologic erosion, primarily as a result of the activities of man.
- (2) Channel erosion -- An erosion process whereby the volume and velocity of flow wears away the bed and/or banks of a well-defined channel.
- (3) Gully erosion -- An erosion process whereby runoff water accumulates in narrow channels and, over relatively short periods, removes the soil to considerable depths, ranging from 1-2 ft. to as much as 75-100 ft.
- (4) Rill erosion -- An erosion process in which numerous small channels only several inches deep are formed; occurs mainly on recently disturbed and exposed soils.

- (5) Splash erosion -- The spattering of small soil particles caused by the impact of raindrops on wet soils; the loosened and spattered particles may or may not be subsequently removed by surface runoff.
- (6) Sheet erosion -- The gradual removal of a fairly uniform layer of soil from the land surface by runoff water.

EROSION AND SEDIMENT CONTROL. A practice, or a combination of practices, to minimize sedimentation by first reducing or eliminating erosion at the source and then as necessary, trapping sediment to prevent it from being discharged from or within a project site.

FILTER STRIP. Usually a long, relatively narrow area (usually, 20-75 feet wide) of undisturbed or planted vegetation used near disturbed or impervious surfaces to filter stormwater pollutants for the protection of watercourses, reservoirs, or adjacent properties.

FLOODPLAIN. The channel proper and the areas adjoining the channel which have been or hereafter may be covered by the regulatory or 100-year flood. Any normally dry land area that is susceptible to being inundated by water from any natural source. The floodplain includes both the floodway and the floodway fringe districts.

FLOODWAY. The channel of a river or stream and those portions of the floodplains adjoining the channel which are reasonably required to efficiently carry and discharge the peak flow of the regulatory flood of any river or stream.

FLUVIAL EROSION HAZARD (FEH) CORRIDOR. Fluvial Erosion Hazard corridors represent the areas along the streams (including the channel and immediate overbanks areas) that are believed to be subject to stream movement or streambank erosion. These corridors have been delineated for most actively migrating and relatively stationary streams in Indiana through an Indiana Silver Jackets initiative.

GRADING. The cutting and filling of the land surface to a desired slope or elevation.

HAZARDOUS MATERIALS. Any material, including any substance, waste or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

HOT SPOT DEVELOPMENT. Projects involving land uses considered to be high pollutant producers such as vehicle service and maintenance facilities, vehicle salvage yards and recycling facilities, vehicle and equipment cleaning facilities, fleet storage areas for buses, trucks, etc., industrial/commercial or any hazardous waste storage areas or areas that generate such wastes, industrial sites, restaurants and convenience stores, any activity involving chemical mixing or loading/unloading, outdoor liquid container storage, public works storage areas, commercial container nurseries, and some high traffic retail uses characterized by frequent vehicle turnover.

ILLEGAL DISCHARGE. Any direct or indirect non-stormwater discharge to the storm drain system, except as exempted in Section 46-235 of this Article. Any discharge to a conveyance that is not composed entirely of stormwater except naturally occurring floatables, such as leaves or tree limbs. Illicit discharges include polluted flows from direct and indirect connections to the MS4 conveyance, illegal dumping, and contaminated runoff.

ILLICIT CONNECTIONS. Either of the following:

- (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency; or,
- (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

IMPERVIOUS SURFACE. Surfaces, such as pavement and rooftops, which prevent the infiltration of stormwater into the soil.

INDIVIDUAL BUILDING LOT. A single parcel of land within a multi-parcel development.

INDIVIDUAL LOT OWNER. A person who has financial control of construction activities for an individual lot.

INDUSTRIAL ACTIVITY. Activities subject to NPDES industrial permits, as defined in IDEM Industrial Stormwater General Permit.

INFILTRATION. Passage or movement of water into the soil. Infiltration practices include any structural BMP designed to facilitate the percolation of runoff through the soil to groundwater. Examples include infiltration basins or trenches, dry wells, and porous pavement.

LAND-DISTURBING ACTIVITY. Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting and grading.

LARGER COMMON PLAN OF DEVELOPMENT OR SALE. A plan, undertaken by a single project site owner or a group of project site owners acting in concert, to offer lots for sale or lease; where such land is contiguous, or is known, designated, purchased or advertised as a common unit or by a common name, such land shall be presumed as being offered for sale or lease as part of a larger common plan. The term also includes phased or other construction activity by a single entity for its own use.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORMWATER DISCHARGE PERMIT. A permit issued by the Federal Environmental Protection Agency (EPA), or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b), that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

NATURAL DRAINAGE. The flow patterns of stormwater runoff over the land in its pre-development state.

NON-STORMWATER DISCHARGE. Any discharge to the storm drain system that is not composed entirely of stormwater.

OFFENSE. Both a violation and a failure of compliance on a particular project constitute an “offense.” If there are multiple violations or multiple failures of compliance on the same project, each shall be considered a separate offense.

OUTLET. The point of water disposal from a stream, river, lake, tidewater, or artificial drain.

PERMANENT STABILIZATION. The establishment, at a uniform density of seventy percent (70%) across the disturbed area, of vegetative cover or permanent non-erosive material that will ensure the resistance of the soil to erosion, sliding, or other movement.

PERSON. Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner’s agent.

POLLUTANT.

- (1) Anything which causes or contributes to pollution.
- (2) Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter or other discarded or abandoned objects, ordinances and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

PREMISES. Any building, lot, parcel of land or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

PROJECT SITE OWNER. The person required to submit a stormwater permit application and required to comply with the terms of this Article, including a developer or a person who has

documented and applicable experience or coursework as deemed sufficient by Michigan City that enable the individual to make judgments regarding stormwater control or treatment and monitoring.

URBANIZATION. The development, change or improvement of any parcel of land consisting of one or more lots for residential, commercial, industrial, institutional, recreational or public utility purposes.

VIOLATION. Any action or inaction which violates the provisions of this Article, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement may be subject to the enforcement actions outlined in this Article. Any such action or inaction is deemed to be a public nuisance and may be abated by injunctive or other equitable relief, in addition to and separate from the imposition of any of the enforcement actions described below.

WASTEWATER. Any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

WATER QUALITY. A term used to describe the chemical, physical, and biological characteristics of water, usually in respect to its suitability for a particular purpose.

WATERCOURSE. Any river, stream, creek, brook, branch, natural or man-made drainageway in or into which stormwater runoff or floodwaters flow either continuously or intermittently.

WATERSHED. The region drained by or contributing water to a specific point that could be along a stream, lake or other stormwater facility. Watersheds are often broken down into subareas for the purpose of hydrologic modeling.

WETLANDS. Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Sec. 46-222—Sec. 46-229. Reserved.

Division 1 - ILLICIT DISCHARGE AND CONNECTION

Section 46-230. PURPOSE/INTENT.

- (a) It is the intent of this Division to prohibit the connection of non-stormwater discharges to the stormwater system.
- (b) The purpose of this Division is to provide for the health, safety and general welfare of the citizens of the city through the regulation of non-stormwater discharges to the storm drainage system to the maximum extent practicable as required by federal and state law.
- (c) This Division establishes methods for controlling the introduction of pollutants into the Municipal Separate Storm Sewer System (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process.
- (d) The objectives of this Division are:
 - (1) To regulate the contribution of pollutants to the municipal separate storm sewer system by stormwater discharges by any user.
 - (2) To prohibit illicit connections and discharges to the municipal separate storm sewer system.
 - (3) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this Division.

Section 46-231. APPLICABILITY.

This Division shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

Section 46-232. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-233. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or section of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-234. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

Section 46-235. DISCHARGE PROHIBITIONS.

- (a) *Prohibition of illegal discharges.*
 - (1) No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater.
 - (2) The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited, except as described as follows.
 - a. The following discharges are exempt from discharge prohibitions established by this Division:
 - i. Water line and hydrant flushing for maintenance
 - ii. Irrigation water
 - iii. Footing, foundation, and crawl Space drains (uncontaminated)
 - iv. Excess storm sewer cleaning water not collected by a vacuum truck (uncontaminated)
 - v. Fire suppression activities
 - vi. Uncontaminated pumped groundwater
 - vii. Springs
 - viii. Residential car washing
 - ix. Non-commercial car washing by community organizations
 - x. External building washdown, without detergents
 - xi. Dechlorinated/debrominated residential swimming pool discharges
 - xii. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20))
 - xiii. Pavement wash waters provided spills or leaks of toxic or hazardous materials have not occurred (unless all spill material has been removed) and where detergents are not used
 - xiv. Uncontaminated condensate from air conditioning units, coolers, and other compressors, and from outside storage of refrigerated gases or liquids
 - b. Discharges specified in writing by the Department as being necessary to protect public health and safety.
 - c. Dye testing is an allowable discharge but requires a verbal notification to the Department prior to the time of the test.
 - d. The prohibition shall not apply to any non-stormwater discharge permitted under an NPDES permit, waiver or waste discharge order issued to the discharger and administered under the authority of the EPA; provided that, the discharger is in full compliance with all requirements of the permit, waiver or order and other

applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(b) *Prohibition of illicit connections.*

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection.
- (3) A person is considered to be in violation of this Division if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

Section 46-236. INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Department prior to the allowing of discharges to the MS4.

Section 46-237. MONITORING OF DISCHARGES.

(a) *Applicability.* This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

(b) *Access to facilities.*

- (1) The Department shall be permitted to enter and inspect facilities subject to regulation under this Division as often as may be necessary to determine compliance with this Division. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the authorized enforcement agency.
- (2) Facility operators shall allow the Department ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge stormwater, and the performance of any additional duties as defined by state and federal law.
- (3) The Department shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the authorized enforcement agency to conduct monitoring and/or sampling of the facility's stormwater discharge.
- (4) The Department has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (5) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the Department access to a permitted facility is a violation of a stormwater discharge permit and of this Division. A person who is the operator of a facility with a NPDES permit to discharge stormwater associated with industrial activity commits an offense if the person denies the Department reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Division.

- (7) If the Department has been refused access to any part of the premises from which stormwater is discharged, and he or she is able to demonstrate probable cause to believe that there may be a violation of this Division, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Division or any order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Department may seek a court order to access the premises.

Section 46-238. REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORMWATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The Department will establish requirements identifying best management practices (BMPs) for any activity, operation or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system or waters of the United States. In addition to other requirements of this Ordinance, the owner or operator of a commercial or industrial establishment shall provide, at his, her or their own expense, protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Division. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

Section 46-239. WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee that has assumed the responsibility for managing a property, shall keep and maintain that part of the watercourse within the property free of trash, debris, and other obstacles that would pollute, contaminate or significantly retard the flow of water through the watercourse. In addition, the owner or lessee (as referenced above) shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function or physical integrity of the watercourse.

Section 46-240. NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into stormwater, the storm drain system or water of the United States, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Department in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Department within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years.

Sec. 46-241—Sec. 46-249. Reserved.

Division 2 - STORMWATER QUANTITY MANAGEMENT

Section 46-250. PURPOSE/INTENT.

The purpose of this Division is to reduce the hazard to public health and safety caused by excessive stormwater runoff and to establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Division.

Section 46-251. APPLICABILITY AND EXEMPTIONS.

The storage and controlled release of excess stormwater runoff shall be required for all new business, institutional developments, commercial and industrial developments, residential subdivisions, planned development, rural estate subdivisions, and any redevelopment or other new construction located within Michigan City that would disturb 10,000 square feet or more of land area. Exempt from the requirements of this Division shall be agricultural land-disturbing activities associated with normal farming operations. Additional potential exemptions regarding the detention requirements are provided under Section 46-255.

Section 46-252. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-253. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or division of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-254. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

Section 46-255. POLICY ON STORMWATER QUANTITY MANAGEMENT.

- (a) It is recognized that most streams and drainage channels serving Michigan City do not have sufficient capacity to receive and convey stormwater runoff resulting from continued urbanization. Accordingly, the storage and controlled release of excess stormwater runoff as well as compensation for loss of floodplain storage shall be required for all developments and redevelopments located within Michigan City. Release rate requirements, downstream restriction considerations, acceptable outlet, adjoining property impact considerations, policy on dams and levees, policy on Fluvial Erosion Hazard corridors, and compensatory floodplain storage rates are detailed in the Michigan City Stormwater Technical Standards.
- (b) Due to unknowns regarding the future development patterns and the associated proposed stormwater quantity management systems within a watershed, it is the policy of the Department to discourage direct release of runoff from a new development or redevelopment without providing detention. However, in rare circumstances, where a comprehensive watershed-wide hydrologic study or watershed plan of a major stream (not a “beat the peak” analysis) adopted by the Department substantiates the benefits of (or allows for) direct release for a proposed development located adjacent to a major stream, the detention requirements set in this Division may be waived. Other special circumstances when such a waiver may be considered by Department include situations where the design of a regional pond has already taken into account the provision of direct release in certain areas in the watershed.

Section 46-256. CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

The calculation methods as well as the type, sizing, and placement of all stormwater facilities shall meet the design criteria, standards, and specifications outlined in the Michigan City Stormwater Technical Standards Manual, a copy of which is on file in the Michigan City Clerk’s Office. The methods and procedures in the Stormwater Technical Standards Manual are consistent with the policy stated above.

Section 46-257. DRAINAGE EASEMENT REQUIREMENTS.

- (a) All stormwater systems, including detention or retention basins, conveyance systems, structures and appurtenances, located outside of the right-of-way shall be placed within a drainage easement. There shall be no trees or shrubs planted, nor any structures or fences erected in any drainage easement, unless otherwise accepted by the Department. Additional easement requirements along stormwater conveyance systems are contained in the Michigan City Stormwater Technical Standards Manual. All drainage improvements performed relative to the conveyance of stormwater runoff and the perpetual maintenance thereof, within the latter easements, shall be the responsibility of the owner or homeowner association.
- (b) Any outlet to, crossing, and/or encroachment of a City Regulated Drainage Easement requires application and acceptance from the Sanitary District Board of Commissioners in accordance with the "Indiana Drainage Code."

Section 46-258. PLACEMENT OF UTILITIES.

No utility company may disturb existing storm drainage facilities without the consent of the Department, whose decision may be appealed to the Sanitary District Board of Commissioners. All existing drainage facilities shall have senior rights and damage to said facilities shall result in penalties as prescribed in Section 46-336.

Section 46-259. STRUCTURES NEAR CITY REGULATED DRAINS.

For regulated drains, no permanent structure (including fences) shall be erected within seventy-five feet measured at right angles from a) the existing top of bank of a regulated open drain, as determined by the Sanitary District Board; or b) the center line of a piped Regulated Drain. The Indiana Drainage Code may be consulted for further details.

Section 46-260. INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

- (a) After the approval of the Stormwater Management Permit by the Department and the commencement of construction activities, the Department has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Division, the Stormwater Technical Standards Manual, Design and Construction Standards, and the terms and conditions of the approved permit.
- (b) The Department also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quantity facilities. The inspection will cover physical conditions, available storage capacity, and the operational condition of key facility elements. Stormwater quantity facilities shall be maintained in good condition, in accordance with the designed and approved performance specifications for the facilities, in addition to any prescribed Operation & Maintenance procedures, and shall not be subsequently altered, revised or replaced except as approved by the Department. If deficiencies are found during the inspection, the owner of the facility will be notified by the Department and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Department will undertake the work and collect from the owner using lien rights if necessary.
- (c) Assignment of responsibility for maintaining facilities serving more than one lot or holding shall be documented by appropriate covenants to property deeds, unless responsibility is formally accepted by a public body, and determined before the final stormwater permit is approved.

Division 3 - STORMWATER POLLUTION PREVENTION FOR CONSTRUCTION SITES**Section 46-270. PURPOSE/INTENT.**

The purpose of this Division is to regulate the contribution of pollutants to the storm drain system from construction site runoff and to establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Division.

Section 46-271. APPLICABILITY AND EXEMPTIONS.

- (a) The Department will require a Stormwater Pollution Prevention Plan (SWPPP), which includes erosion and sediment control measures and materials handling procedures, to be submitted as part of a project's construction plans and specifications. Any project located within the corporate boundaries of Michigan City that includes clearing, grading, excavation or other land disturbing activities resulting in the disturbance of 10,000 square feet or more of total land area is subject to the requirements of this Division. This includes both new development and re-development. This Division also applies to disturbances of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 10,000 square feet or more of total land area. Section 46-276 provides guidelines for calculating land disturbance. Projects meeting the coverage requirements of IDEM's CSGP shall also be in compliance with the requirements contained in that permit.
- (b) The requirements under this Division do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion and sediment control measures:
 - (1) Landfills that have been issued a certification of closure under 329 IAC 10.
 - (2) Coal mining activities permitted under IC 14-34.
 - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.
- (c) For an individual lot where land disturbance is expected to be one (1) acre or more, the individual lot owner must complete their own notice of intent letter, apply for a stormwater permit from the Department, and ensure that a sufficient construction and stormwater pollution prevention plan is completed and submitted in accordance with Section 46-317, regardless of whether the individual lot is part of a larger permitted project site. For an individual lot where land disturbance is 10,000 square feet or more but less than one (1) acre, an Individual Lot Plot Plan Permit application is required prior to receiving a building permit. Details of the permitting process are contained in Section 46-318.
- (d) An individual lot located within a larger permitted project site, is considered part of the larger permitted project site, and the individual lot operator must comply with the terms and conditions of the stormwater permit approved for the larger project site. The stormwater permit application for the larger project site must include detailed erosion and sediment control measures for individual lots. In addition, the builders of these individual lots are required to submit an Individual Lot Plot Plan Permit application along with an erosion and sediment control plan for that individual lot prior to receiving a building permit and complete a Construction Stormwater Residential Development Registration form (State Form 53049) and maintain it onsite. A copy of this form is included in the Michigan City Stormwater Technical Standards Manual. Details of the permitting process for individual lots and parcels are contained in Section 46-318 and additional requirements for individual lots may be found in the Michigan City Stormwater Technical Standards Manual.
- (e) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Department in accordance with Section 46-310 through Section 46-324. It will be the responsibility of the project site owner to ensure compliance with this Division during the construction activity and implementation of the construction plan, and to notify the Department upon completion of the project and stabilization of the site, requesting a termination inspection to be performed by the Department. However, all persons engaging in

construction and land disturbing activities on a permitted project site meeting the applicability requirements must comply with the requirements of this Division.

- (f) Also exempt from the requirements of this Division shall be agricultural land-disturbing activities associated with normal farming operations.

Section 46-272. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-273. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or section of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-274. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

Section 46-275. POLICY ON STORMWATER POLLUTION PREVENTION.

- (a) Effective stormwater pollution prevention on construction sites is dependent on a combination of preventing movement of soil from its original position (erosion control), intercepting displaced soil prior to entering a waterbody (sediment control), and proper on-site materials handling.
- (b) For land disturbance of one (1) acre or more, the developer must submit to the Department, a SWPPP with detailed erosion and sediment control plans as well as a narrative describing materials handling and storage, and construction sequencing. The SWPPP and the project management log must be retained for at least three (3) years from the date the project permit is terminated. For land disturbances totaling 10,000 square feet or more but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Michigan City Stormwater Technical Standards Manual are recommended to be designed and shown on the plans.
- (c) The required IDEM general and implementation requirements that apply to all land-disturbing activities are contained in the Michigan City Stormwater Technical Standards Manual.

Section 46-276. CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

In calculating the total area of land disturbance, for the purposes of determining applicability of this Division to a project, the following guidelines should be used:

- (a) When the activity is under the control of the project site owner, off-site construction activities that provide services (for example, road extensions, sewer, water, offsite stockpiles, and other utilities) to a land disturbing project site must be considered as a part of the total land disturbance calculation for the project site.
- (b) To determine if multi-lot project sites are regulated by this Division, the area of land disturbance shall be calculated by adding the total area of land disturbance for improvements, such as, roads, utilities, or common areas, and the expected total disturbance on each individual lot, as determined by the following:
 - (1) For a single-family residential project site where the lots are one-half (0.5) acre or more, one-half (0.5) acre of land disturbance must be used as the expected lot disturbance.

- (2) For a single-family residential project site where the lots are less than one half (0.5) acre in size, the total lot must be calculated as being disturbed.
- (3) To calculate lot disturbance on all other types of project sites, such as industrial and commercial projects project sites, a minimum of one (1) acre of land disturbance must be used as the expected lot disturbance, unless the lots are less than one (1) acre in size, in which case the total lot must be calculated as being disturbed.
- (c) The calculation methods as well as the type, sizing, and placement of all stormwater pollution prevention measures for construction sites shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual, the Michigan City Stormwater Technical Standards Manual, and the product guidance/specifications of the manufacturer. The methods and procedures included in these three references are in keeping with the above-stated policy and meet the requirements of the IDEM's CSGP. A Copy of the Indiana Stormwater Quality Manual may be obtained online through IDEM.
- (d) The design requirements that would apply to all land-disturbing activities and shall be considered in the selection, design, and implementation of all stormwater quality and management measures contained in the SWPPP are contained in the Michigan City Stormwater Technical Standards Manual.

Section 46-277. INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

- (a) Following approval of the Stormwater Management Permit or Individual Lot Plot Plan Permit by the Department and commencement of construction activities, the Department has the authority to conduct inspections of the site to ensure full compliance with the provisions of this Division, the approved Stormwater Pollution Prevention Plan, the Indiana Stormwater Quality Manual, and the terms and conditions of the approved permit.
- (b) A self-monitoring program (SMP) must be implemented by the project site owner to ensure the stormwater pollution prevention plan is working effectively. A trained individual, acceptable to the Department, shall monitor and manage project construction and stormwater activities. Details regarding the required monitoring activities are contained in the Michigan City Stormwater Technical Standards Manual.
- (c) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Division, all measures necessary to adequately prevent polluted stormwater runoff. Recommendations by the trained individual for modified stormwater quality measures should be implemented.
- (d) A project management log must be maintained at the project site or in the possession of on-site individuals associated with the management and operations of the construction activities. Details regarding requirements related to the project management log are contained in the Michigan City Stormwater Technical Standards Manual.

Division 4 - STORMWATER QUALITY MANAGEMENT FOR POST-CONSTRUCTION

Section 46-290. PURPOSE/INTENT.

The purpose of this Division is to regulate the contribution of pollutants to the storm drain system from post-construction runoff from new development and re-development and to establish legal authority to carry out all inspection, monitoring, and enforcement procedures necessary to ensure compliance with this Division.

Section 46-291. APPLICABILITY AND EXEMPTIONS.

- (a) In addition to the requirements noted in Section 46-270 through Section 46-277, the stormwater pollution prevention plan, which is to be submitted to the Department as part of

the Stormwater Management Permit application, must also include post-construction stormwater quality measures. These measures are incorporated as a permanent feature into the site plan and are left in place following completion of construction activities to continuously treat stormwater runoff from the stabilized site. Any project located within the corporate boundaries of Michigan City that includes clearing, grading, excavation, and other land disturbing activities resulting in the disturbance of 1 acre or more of total land area is subject to the requirements of this Division. This includes both new development and re-development, and disturbances of land less than 1 acre of total land area that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb 1 acre or more of total land area. In addition, regardless of the amount of disturbance, the Department reserves the right to require pre-treatment BMPs for proposed hot spot developments in accordance with provisions contained in the Michigan City Stormwater Technical Standards Manual.

- (b) The requirements under this Division do not apply to construction activities associated with a single-family residential dwelling disturbing less than one (1) acre, when the dwelling is not part of a larger common plan of development or sale; or individual building lots within a larger permitted project.
- (c) The requirements under this Division do not apply to the following activities, provided other applicable state permits contain provisions requiring immediate implementation of soil erosion control measures:
 - (1) Landfills that have been issued a certification of closure under 329 IAC 10.
 - (2) Coal mining activities permitted under IC 14-34.
 - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.
- (d) It will be the responsibility of the project site owner to complete a stormwater permit application and ensure that a sufficient construction plan is completed and submitted to the Department in accordance with Section 46-310 through Section 46-324. It will be the responsibility of the project site owner to ensure proper construction and installation of all stormwater BMPs (especially, the protection of post-stormwater BMPs during construction phase) in compliance with this Division and with the approved Stormwater Management Permit, notify the Department upon completion of the project and stabilization of the site, and request a termination inspection to be performed by the Department. However, all record title holders or persons otherwise in ownership of stormwater quality facilities meeting the applicability requirements must comply with the requirements of this Division.
- (e) Also exempt from the requirements of this Division shall be agricultural land-disturbing activities associated with normal farming operations.

Section 46-292. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-293. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or section of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-294. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

Section 46-295. POLICY ON STORMWATER QUALITY MANAGEMENT.

- (a) It is recognized that developed areas, as compared to undeveloped areas, generally have increased imperviousness, decreased infiltration rates, increased runoff rates, and increased concentrations of pollutants such as fertilizers, herbicides, greases, oil, salts and other pollutants. As new development and re-development continues within the corporate boundaries of Michigan City, measures must be taken to intercept and filter pollutants from stormwater runoff prior to reaching regional creeks, streams, and rivers. Through the use of appropriate BMPs to treat the Water Quality Volume (WQv) or the Water Quality Flow (Qwq), stormwater runoff will be filtered and harmful amounts of sediment, nutrients, and contaminants will be removed.
- (b) It is also recognized that another major source of pollution in many Indiana streams, including those within the corporate boundaries of Michigan City, is the streambank erosion associated with urbanizing watersheds. Stream channels develop their shape in response to the volume and rate of runoff that they receive from their contributing watersheds. Research has shown that in hydrologically stable watersheds, the stream flow responsible for most of the shaping of the channel (called the bankfull flow) occurs between every one to two years. When land is developed, the volume and rate of runoff from that land increases for these comparatively small flooding events that are not normally addressed by the detention practices and the stream channel will adapt by changing its shape. As the stream channel works to reach a new stable shape, excess erosion occurs. As new development and re-development continues within the corporate boundaries of Michigan City, measures must be taken to minimize the impact of such development or re-development on streambank erosion. Through the use of appropriate Best Management Practices (BMPs) to retain and/or detain and slowly release the Channel Protection Volume (CPv), the volume and rate of runoff for channel forming flows will be reduced in an attempt to minimize increased streambank erosion in the receiving streams and channels.
- (c) The project site owner must submit to the Department a Stormwater Pollution Prevention Plan (SWPPP) that shows placement of appropriate BMP(s) from a pre-approved list of BMP's specified in the Michigan City Stormwater Technical Standards Manual. The SWPPP submittal shall include an Operation and Maintenance Manual for all post-construction BMP(s) included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in the Michigan City Stormwater Technical Standards Manual, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMP(s) must be designed, constructed, and maintained according to guidelines provided or referenced in the Michigan City Stormwater Technical Standards Manual. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to guidelines provided in the Michigan City Stormwater Technical Standards Manual, would be placed with the applicant. Details regarding the procedures and criteria for consideration of acceptance of such BMP's are provided in the Michigan City Stormwater Technical Standards Manual.
- (d) Gasoline outlets and refueling areas must install appropriate practices (as noted under "Hot Spots" provision in the Technical Standards) to reduce lead, copper, zinc, and polyaromatic hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks, regardless of the size of the facility.
- (e) Discharges from new development and redevelopment sites will not be allowed directly into karst features without pre-treatment.

Section 46-296. CALCULATIONS AND DESIGN STANDARDS AND SPECIFICATIONS.

- (a) Calculation of land disturbance should follow the guidelines discussed in Section 46-276.
- (b) The calculation methods as well as the type, sizing, and placement of all stormwater quality management measures, or BMPs shall meet the design criteria, standards, and specifications outlined in the Michigan City Stormwater Technical Standards Manual. The methods and procedures included in the referenced Standards are in keeping with the above stated policy and meet or exceed the requirements of IDEM's MS4GP.

Section 46-297. EASEMENT REQUIREMENTS.

All stormwater quality management systems, including detention or retention basins, filter strips, pocket wetlands, in-line filters, infiltration systems, conveyance systems, structures, and appurtenances located outside of the right-of-way shall be incorporated into permanent easements. For the purposes of monitoring, inspection, and general maintenance activities, adequate easement width, as detailed in the Michigan City Stormwater Technical Standards Manual, beyond the actual footprint of the stormwater quality management facility as well as an access easement from a public right-of-way to each BMP shall be provided.

Section 46-298. INSPECTION, MAINTENANCE, RECORD KEEPING, AND REPORTING.

- (a) After the approval of the Stormwater Management Permit by the Department and the commencement of construction activities, the Department has the authority to conduct inspections of the work being done to ensure full compliance with the provisions of this Division, the approved Stormwater Pollution Prevention Plan, the Michigan City Stormwater Technical Standards Manual, and the terms and conditions of the approved permit.
- (b) Stormwater quality facilities shall be maintained in good condition, in accordance with the Operation and Maintenance procedures and schedules listed in the Michigan City Stormwater Technical Standards Manual, in addition to the designed and approved performance specifications for the facilities and shall not be subsequently altered, revised, or replaced except as approved by the Department.
- (c) Details regarding the required stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and a Maintenance Escrow account and their transfer to other parties or subsequent owners prior to release of the maintenance bond discussed in Section 46-324 is provided in the Michigan City Stormwater Technical Standards Manual.
- (d) The Department also has the authority to perform long-term, post-construction inspection of all public or privately owned stormwater quality facilities. The inspection will cover physical conditions, available water quality storage capacity and the operational condition of key facility elements. Noted deficiencies and required corrective action will be included in an inspection report.

Division 5 - STORMWATER PERMIT REQUIREMENTS AND PROCEDURES

Section 46-310. PURPOSE/INTENT.

The purpose of this Division is to specify the requirements and procedures for applying for and securing a stormwater permit from the Department for activities associated with new development and redevelopment within Michigan City and its extraterritorial areas.

Section 46-311. APPLICABILITY AND EXEMPTIONS.

The requirements in this Division applies to all development, or re-development of land, that results in land disturbance of one (1) acre or more. Individual lots with land disturbance less than one (1) acre shall refer to Section 46-318 for plan review requirements and procedures. Agricultural land-disturbing activities associated with normal farming operations shall be exempt from the requirements of this Division.

Section 46-312. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-313. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or section of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-314. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

Section 46-315. CONCEPTUAL DRAINAGE PLAN REVIEW.

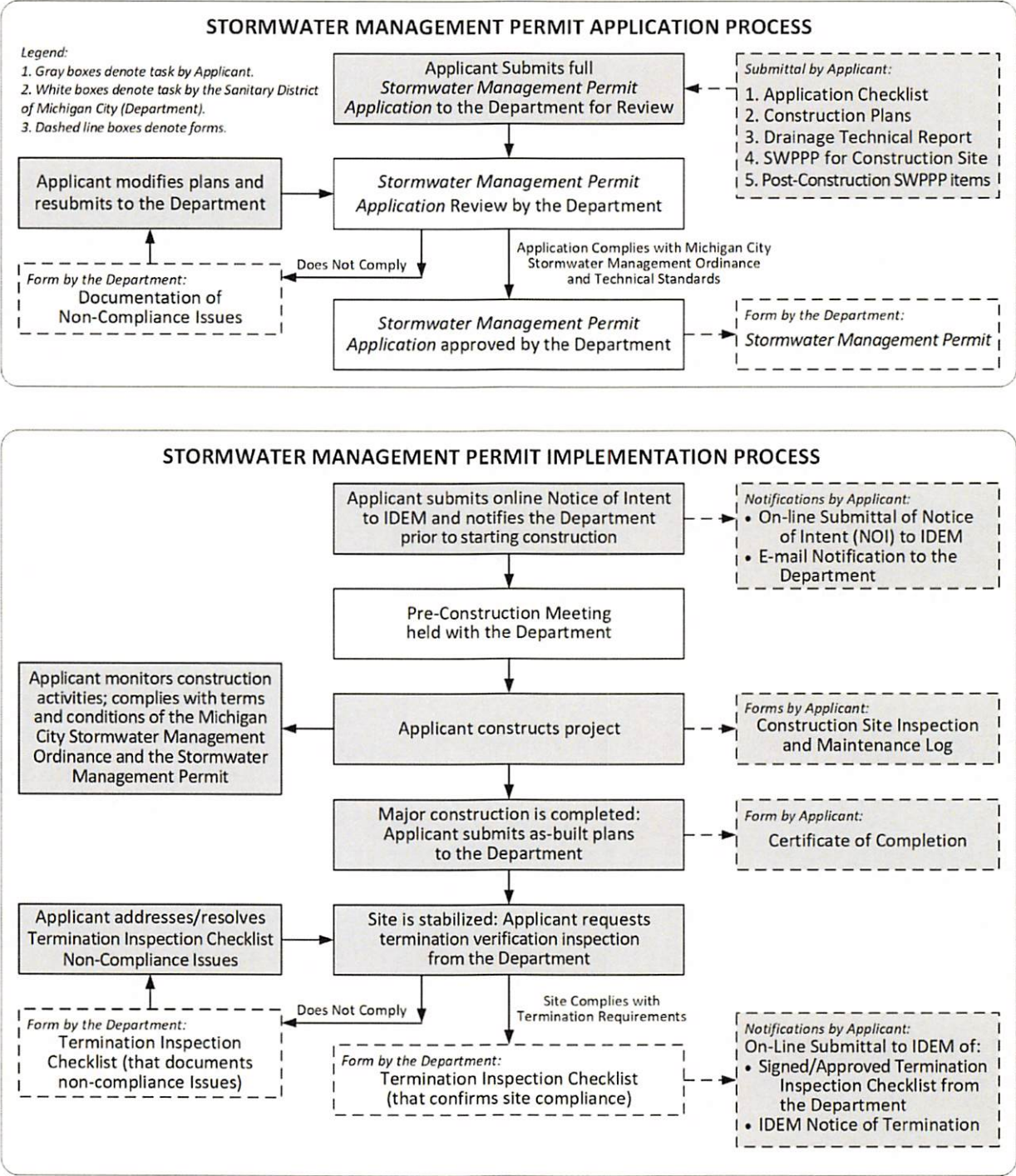
- (a) In order to gain an understanding of the drainage requirements for a specific project, a developer may submit conceptual drainage plans and calculations for review by the Department. The direction provided by the Department during such a review is based on preliminary data and shall not be construed as an acceptance or binding on either party. The following is a general listing of minimum data requirements for the review of conceptual drainage plans:
 - (1) Two (2) complete sets of conceptual plans showing general project layout, including existing and proposed drainage systems (plan sheets must be larger than 11" by 17", but not to exceed 24" by 36").
 - (2) General description of the existing and proposed drainage systems in narrative form.
 - (3) Map showing on-site 100-year floodplain and floodway (please note if none exists).
 - (4) Map showing all wetlands, lakes, and ponds on or adjacent to the site.
 - (5) Watershed Boundaries with State LiDAR Contours or best information possible. All contours shall be provided on the North American Vertical Datum of 1988 (NAVD '88).
 - (6) Two (2) copies of drainage calculations detailing existing and proposed discharges from the site.
 - (7) Existing watercourse or regulated drains.

Section 46-316. GENERAL PERMIT PROCEDURES.

- (a) The project site owner shall submit an application for a Stormwater Management Permit to the Department. The application will include a completed application checklist, construction plan sheets, a stormwater drainage technical report, a stormwater pollution prevention plan, a BMP Operation and Maintenance Manual, a formal recorded BMP Maintenance Agreement, and any other necessary support information. Specific information to be included in the application can be found in Section 46-317. One (1) copy of each application must be submitted to the Department. The Department may, at its discretion, require one or more copies be submitted to other entities deemed appropriate by the Department. Additionally, a digital copy of the construction plans is required in a format accepted by the Department.
- (b) After the Department's receipt of the application, the applicant will be notified as to whether their application was complete or insufficient. The applicant will be asked for additional information if the application is insufficient. If the application is complete, it will be reviewed in detail by the Department and/or its plan review consultant(s).

- (c) Pursuant to IC 13-18-27, an MS4-designated entity or other review authority such as SWCD (if applicable) must make a preliminary determination as to whether the construction plan associated with SWPPP is substantially complete before the end of the tenth (10th) working day (for sites with less than 5 acres of land disturbance) after the day on which the SWPPP is submitted to the review authority or the fourteenth (14th) working day (for sites with 5 acres or larger of land disturbance) after the day on which the SWPPP is submitted to the review authority. Note these time limits only apply to the SWPPP portion of the overall stormwater permit submittal and does not affect any official or non-official permit review timelines set by the entity for other aspects of the stormwater permit application.
- (d) Once all comments from all reviewers have been received and review completed, the Department will either approve the project, request modifications, or deny the project. If the applicant does not agree with or accept the review findings and wishes to seek an appeal, the Department will place the project on the agenda of the next regularly scheduled meeting of the Sanitary District of Michigan City Board of Commissioners, provided the agenda for the meeting has not yet been advertised or published. If time for notification does not allow, the project shall be placed on the following regularly scheduled meeting of the Board. If the project must go through a scheduled meeting, the Department will furnish the applicant a complete list of comments and objections to the plans and accompanying data prior to the scheduled meeting. After the scheduled meeting, the Department will either issue a permit, request modifications to the construction plans, or deny the project.
- (e) The project site owner must notify the Department and IDEM before beginning construction. Notification to the Department shall be in the form of an email while the notification to IDEM shall be in the form of an online IDEM NOI submittal. Once a permit has been issued and the pending construction notifications submitted to the Department and IDEM before the beginning of construction, construction may commence 48 hours after the NOI is submitted to IDEM. Once construction starts, the project owner shall monitor construction activities and inspect all stormwater pollution prevention measures in compliance with this Division and the terms and conditions of the approved permit. Upon completion of construction activities, a Certification of Completion and Compliance and as-built plans must be submitted to the Department.
- (f) Once the construction site has been stabilized and all temporary erosion and sediment control measures have been removed, a notification shall be sent to the Department, requesting a termination inspection. The Department, or its representative, shall inspect the construction site to verify that the completed project is fully stabilized and meets the requirements of Division and the Michigan City Technical Standards and that the terms and conditions of the permit. Once the applicant receives a signed copy of the Termination Inspection Checklist confirming compliance, they must file the IDEM-required NOT along with a copy of the "verified" Termination Inspection Checklist through IDEM's online portal. Permits issued by the Department under this scenario will expire 5 years from the date of issuance. If construction is not completed within 5 years, an updated permit application must be submitted to the Department and an updated NOI must be resubmitted to IDEM at least 90 days prior to expiration.
- (g) Figure 1 is a flowchart summarizing the plan review/permit approval/project termination compliance process for land disturbance of one (1) acre or more.

Figure 1: Stormwater Permit Approval and Project Termination Sign-Off Process



Section 46-317. INFORMATION REQUIREMENTS.

- (a) The different elements of a permit submittal include an application checklist, construction plans, a stormwater drainage technical report, a stormwater pollution prevention plan for active construction sites, a post-construction stormwater pollution prevention plan, a BMP Operation and Maintenance Manual, a formal recorded BMP Maintenance Agreement, and any other necessary supporting information. All plans, reports, calculations, and narratives shall be signed and sealed by a professional engineer or a licensed surveyor, registered in the State of Indiana who also meets the definition of a Trained Individual found in Section 46-221.
- (1) Application Checklist: As part of the Michigan City Stormwater Management Permit application package, the application checklist provided in the Michigan City Stormwater Technical Standards Manual must be completed by the applicant and provided along with other required supporting material.
- (2) Construction Plans: Construction plan sheets (larger than 11” by 17”, but not to exceed 24” by 36” in size) and an accompanying narrative report shall describe and depict the existing and proposed conditions. Note that in order to gain an understanding of and to

evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. Construction plans must include items listed in the application checklist provided in the Michigan City Stormwater Technical Standards Manual.

- (3) Stormwater Drainage Technical Report: A written stormwater drainage technical report must contain a discussion of the steps taken in the design of the stormwater drainage system. Note that in order to gain an understanding of and to evaluate the relationship between the proposed improvements for a specific project section/phase and the proposed improvements for an overall multi-section (phased) project, the detailed information requested herein for the first section/phase being permitted must be accompanied by an overall project plan that includes the location, dimensions, and supporting analyses of all detention/retention facilities, primary conveyance facilities, and outlet conditions. The technical report needs to include items listed in the application checklist provided in the Michigan City Stormwater Technical Standards Manual.
 - (4) Stormwater Pollution Prevention Plan for Construction Sites: For sites with total disturbance of one (1) acre or more, a stormwater pollution prevention plan associated with construction activities must be designed to, at least, meet the requirements of this Division. The SWPPP and construction plans must include the items listed in the application checklist provided in the Michigan City Stormwater Technical Standards Manual. For land disturbances totaling 10,000 square feet or more of land area but less than one (1) acre, appropriate erosion and sediment control measures that are consistent with the Michigan City Technical Standards are recommended to be designed and shown on the plans.
 - (5) Post-Construction Stormwater Pollution Prevention Plan: For sites with total land disturbance of one (1) acre or more of total land area, a post-construction stormwater pollution prevention plan must be designed to, at least, meet the requirements of this Division and must include the information provided in the Michigan City Stormwater Technical Standards Manual. The post-construction stormwater pollution prevention plan must include items listed in the application checklist provided in the Michigan City Stormwater Technical Standards Manual.
- (b) Specific projects or activities may be exempt from all or part of the informational requirements listed in Section 46-317. If based on the applicability and exemptions noted in Section 46-251, Section 46-271, or Section 46-291, the applicant believes that a project or activity is exempt from some or all requirements noted in Section 46-317, an application should be filed listing the exemption criteria met, in lieu of the information requirements listed in Section 46-317. This level of detailed information is not required from individual lots, disturbing less than 1 acre of land, developed within a larger permitted project site. Review and acceptance of such lots is covered under Section 46-318.

Section 46-318. REVIEW OF INDIVIDUAL LOTS.

- (a) For all individual lots disturbing 10,000 square feet or more but less than one (1) acre, a formal review and issuance of an Individual Lot Plot Plan Permit will be required before a building permit can be issued. Similarly, for individual lots disturbing less than 10,000 square feet of total land area, developed within a larger permitted project, a formal review and issuance of an Individual Lot Plot Plan Permit will be required before a building permit can be issued. All stormwater management measures necessary to comply with this Division must be implemented in accordance with permitted plan for the larger project.
- (b) The following information must be submitted to the Department, for review and acceptance, by the individual lot operator, whether owning the property or acting as the agent of the property owner, as part of a request for review and issuance of an Individual Lot Plot Plan Permit that must be obtained prior to the issuance of a building permit.

- (1) A site layout for the subject lot and all adjacent lots showing building pad location, dimensions, and elevations, and the drainage patterns and swales.
 - (2) Erosion and sediment control plan that, at a minimum, includes the following measures:
 - a. Installation and maintenance of a stable construction site access.
 - b. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
 - c. Minimization of sediment discharge and tracking from the lot.
 - d. Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable statutes and rules.
 - e. Implementation of concrete or cementitious wash water practices that securely contain and allow for the proper disposal of concrete or cementitious wash water.
 - f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
 - g. Self-monitoring program including plan and procedures.
 - (3) Certification of Compliance stating that the individual lot plan is consistent with the Stormwater Management Permit, as approved by the Department, for the larger project (if the individual lot is part of a larger permitted project). In addition, the builders of the individual lots that are part of a larger permitted project are required to complete a Construction Stormwater Residential Development Registration form (State Form 53049) and maintain it onsite. A copy of this form is included in the Michigan City Stormwater Technical Standards Manual.
 - (4) Name, address, telephone number, and list of qualifications of the trained individual in charge of the mandatory stormwater pollution prevention self-monitoring program for the project site.
- (c) The individual lot operator is responsible for installation and maintenance of all erosion and sediment control measures until the site is stabilized.
- (d) Detailed requirements regarding the individual lot plans and the associated permit are contained in the Michigan City Stormwater Technical Standards Manual.

Section 46-319. CHANGES TO PLANS.

Any changes or deviations in the detailed plans and specifications after approval of the applicable Stormwater Management Permit shall be filed with, and accepted by, the Department prior to the land development involving the change. Copies of the changes, if accepted, shall be attached to the original plans and specifications.

Section 46-320. FEE STRUCTURE.

- (a) As a condition of the submittal and the review of development plans by the Department, the applicant shall agree to pay the Department the applicable fee, as set by the Department with respect to the review of all drainage submittals, preliminary plans, final plans, construction plans and accompanying information and data, as well as prepaid inspection fees.
- (b) Time of Payment: Prior to acceptance of the applicant's final stormwater management plan, the Department will furnish a written statement to the applicant specifying the total amount due the Department in connection with the review of the applicant's submittals, plans and

accompanying information and data, including the amount required to be paid by applicant for review and pre-paid inspection fees.

- (1) As a condition of acceptance of final drainage plans by the Department, applicant shall pay to the Department the sum set forth in said statement. The Department may issue such a billing statement before the project advances to the final acceptance stage, and such payment is due by applicant upon receipt of said billing statement regardless of whether the project is advanced to the final acceptance stage.
 - (2) The Department shall have the right to not accept the drainage improvements or to not approve the advancement of any project for which the applicable fees have not been paid.
- (c) Method of Payment: Fees shall be paid by personal check, certified check, cashier's check, or money order. All checks shall be made payable to: Sanitary District of Michigan City.
 - (d) Refund of Payment: Fees are refundable **only** if the Department determines that compliance by the development or project with this Division is not necessary.
 - (e) Fee Schedule: Stormwater Permit Application and Inspection Fees will be in accordance with the fee schedule set by the Department as a separate resolution.

Section 46-321. REQUIRED ASSURANCES.

This Division shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to Michigan City or retained privately. As a condition of approval and issuance of the permit, the Department shall require the applicant to provide assurance in form of an irrevocable letter of credit or a bond when the stormwater management plan has been accepted and before construction begins. Said assurance will guarantee a good faith execution of the stormwater drainage plan, the stormwater pollution prevention plan, the stormwater quality management plan, and any permit conditions. The assurance shall be for an amount equal to 125 percent of the total costs of all stormwater management measures for the entire project. The above-mentioned costs shall be based on an estimate as prepared by a registered engineer or land surveyor. Said costs shall be for the installation and ongoing monitoring and maintenance of erosion control measures and the construction and ongoing monitoring and maintenance of storm drainage infrastructure, detention/retention facilities, and stormwater quality BMP's, as regulated under this Division, until the construction is completed, the site is stabilized, and as-built plans are accepted by the Department. Assurances shall be for a minimum of \$5,000. All other performance bonds, maintenance bonds or other assurances required by the Department in accordance with any and all other ordinances shall also apply and so be required. Local governmental jurisdictions may require additional performance and/or maintenance assurances. The intent of this assurance is not only to complete the installation of storm drain infrastructure for the project, but also to assure that adequate stormwater pollution prevention measures are properly installed and maintained. If adequate assurances are set aside by the project site owner for the overall project, proof of total assurance can be submitted in place of an individual stormwater assurance.

Section 46-322. TERMS AND CONDITIONS OF PERMITS.

- (a) In granting a Stormwater Management Permit, the Department may impose such terms and conditions as are reasonably necessary to meet the purposes of this Division. The project site owner shall ensure compliance with such terms and conditions. Non-compliance with the terms and conditions of permits will be subject to enforcement as described in Section 46-330 through Section 46-338.
- (b) The project site owner shall inform all general contractor, construction management firms, grading or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of the Stormwater Management Permit and the schedule for proposed implementation.

- (c) It is the intent of this Ordinance to direct the community's physical growth away from sensitive areas and towards areas that can support it without compromising water quality. In the event that a project site is determined to impact or discharge to a Sensitive Area or is located in an Impact Drainage Area, the Department may require more stringent stormwater quantity and quality measures than detailed in this Division or in the *Indiana Stormwater Quality Manual*.
- (d) **Determination of Sensitive Areas:** Sensitive Areas include highly erodible soils, wetlands, karst areas, threatened or endangered species habitat, outstanding waters, impaired waters, recreational waters, and surface drinking water sources. Any discharge from a stormwater practice that is a Class V injection well shall meet the Indiana groundwater quality standards and registered with US EPA as required by the IDEM. If wetlands are suspected on a site, a wetland delineation should be completed in accordance with the methodology established by the U.S. Army Corps of Engineers (USACE). The need for the applicant to check for the presence of threatened or endangered species habitat will be determined on a case-by-case basis. Special terms and conditions for development determined to impact or discharge to any Sensitive Area shall be included in the Stormwater Management Permit.
- (e) **Determination of Impact Drainage Areas:**
 - (1) The following areas shall be designated by default as Impact Drainage Areas unless good reason for not including them is presented to the Department.
 - a. A floodway or floodplain as designated by the most updated FEMA Code dealing with floodplain regulation and/or by the Best Available Data through IDNR Division of Water.
 - b. Land within 25 feet of each bank of any ditch within Michigan City's system.
 - c. Land within 15 feet of the centerline of any stormwater infrastructure or enclosed conduit within the Michigan City's system.
 - d. Land within 75 feet of each bank of a city open regulated drain.
 - e. Land within 50 feet of a natural drainageway.
 - f. Land within 75 feet of the centerline of any tiled regulated drain.
 - g. Land within the Fluvial Erosion Hazard (FEH) corridor.
 - h. Land within the expected breach inundation zone of an existing or proposed new dam, and areas protected from flooding by a levee.
 - (2) The Department is authorized, but is not required, to classify certain geographical areas as Impact Drainage Areas. In determining Impact Drainage Areas, the Department may consider such factors as topography, soil type, capacity of existing drains, and distance from adequate drainage facility.
 - (3) Land that does not have an adequate outlet, taking into consideration the capacity and depth of the outlet, may be designated as an Impact Drainage Area by the Department. Special terms and conditions for development within any Impact Drainage Area shall be included in the Stormwater Management Permit.
- (f) **Determination of Designated Drainage Areas Served by Regional Facilities:** The Department is authorized, but is not required, to classify certain geographical areas as Designated Drainage Areas that are or will be served by regional facilities, such as a regional pond. In such cases, an Infrastructure Development Fee (IDF) rate may be established for the Designated Drainage Area. The basis for determining such a fee for a proposed development or re-development within a Designated Drainage Area will be as detailed in the Michigan City Stormwater Technical Standards Manual.

Section 46-323. CERTIFICATION OF AS-BUILT PLANS.

- (a) This Division shall apply to all projects whether the stormwater management system or portions thereof will be dedicated to the Department or retained privately. After completion of construction of the project and before the release of required performance assurances referenced in Section 46-321, a professionally prepared and certified 'as-built' set of plans (record drawings) shall be submitted to the Department for review. These as-built plans/record drawings must be prepared and certified by the Engineer of Record, i.e., the company/engineer who originally prepared the construction plans. Additionally, a digital copy of the 'as-built' plans (record drawings) as well as finalized digital versions of all analyses, models, manuals, and reports that are consistent with the as-built conditions is required in a format acceptable to the Department. These plans shall include all pertinent data relevant to the completed storm drainage system and stormwater management facilities, and shall include:
- (1) Pipe size and pipe material.
 - (2) Invert elevations.
 - (3) Top rim elevations.
 - (4) Elevation of the emergency overflow (spillway) for ponds.
 - (5) Grades along the emergency flood routing path(s).
 - (6) Pipe structure lengths.
 - (7) As-Built values of all proposed elevations, lengths, sizes, etc. above or next to any superseded values shown as strikethrough.
 - (8) BMP types, dimensions, and boundaries/easements.
 - (9) "As-planted" plans for BMP's, as applicable.
 - (10) Data and calculations showing detention basin storage volume.
 - (11) Data and calculations showing BMP treatment capacity.
 - (12) Certified statement on plans stating the completed storm drainage system and stormwater management facilities substantially comply with construction plans and the Stormwater Management Permit as approved by the Department. (See certificate in the Stormwater Technical Standards Manual.)

Section 46-324. POST-PROJECT MAINTENANCE BOND AND VERIFICATIONS.

- (a) In addition to as-built plans and the certification of completion and compliance, following the release of performance assurances, the property owner, developer, or contractor shall be required to file a two-year maintenance bond or other acceptable guarantee with the Department in an amount not to exceed twenty five percent (25%) of the cost of the stormwater management system located outside the public road rights-of-way, and in a form satisfactory to the Department in order to assure that such stormwater system installation was done according to standards of good workmanship, that the materials used in the construction and installation were of good quality and construction, and that such project was done in accordance with the accepted plans and this Division and that any off-site drainage problems that may arise, whether upstream or downstream of such project, will be corrected if such drainage problems are determined by the Department to have been caused by the development of such project. The bond or other acceptable guarantee shall be in effect for a period of two years after the date of the release of required performance assurances referenced in Section 512. The beneficiary of all maintenance bonds shall be the Department.
- (b) To verify that all stormwater infrastructure is functioning properly, visual recordings (via closed circuit television) of such infrastructure, including all subsurface drains, shall be

required twice, once following the completion of installation of the stormwater management system and submittal of as-builts, and the second time before release of maintenance bonds. These visual recordings will be scheduled by the Department and paid for by the developer. Notices shall be provided to the Department within 72 hours following the completion of installation and again at least 60 days prior to the expiration date of the maintenance bond so that the noted recordings may be scheduled. Reports summarizing the results of the noted visual recordings shall be reviewed and accepted by the Department before the plat is recommended for recording and again before the maintenance bond shall be recommended to be released.

- (c) Additional requirements for transfer of any applicable stormwater BMP Maintenance Agreement, O&M Maintenance Manual, and Maintenance Escrow accounts to subsequent owners prior to release of the maintenance bond is discussed in the Michigan City Stormwater Technical Standards Manual.

Division 6 - COMPLIANCE AND ENFORCEMENT

Section 46-330. PURPOSE/INTENT.

The purpose of this Division is to set the compliance, enforcement, and penalties associated with the requirements and regulations discussed in this Article.

Section 46-331. APPLICABILITY AND EXEMPTIONS.

This Division applies to any action or inaction which violates the provisions of this Article, the requirements of an approved stormwater management design plan or permit, and/or the requirements of a recorded stormwater maintenance agreement.

Section 46-332. RESPONSIBILITY FOR ADMINISTRATION.

The Department shall administer, implement and enforce the provisions of this Division.

Section 46-333. SEVERABILITY.

- (a) The provisions of this Division are hereby declared to be severable.
- (b) If any provision, clause, sentence or division of this Division or the application thereof to any person, establishment or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Division.

Section 46-334. ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this Division are minimum standards; therefore, this Division does not intend, nor imply, that compliance by any person will ensure that there will not be a violation of any state or federal permits.

Section 46-335. COMPLIANCE.

- (a) To secure compliance with the requirements of this Article, violations thereof shall be subject to the enforcement provisions set forth under Section 46-336. Additionally, compliance with all applicable ordinances of Michigan City as well as with applicable State of Indiana statutes and regulations shall also be required. Unless otherwise stated, all other specifications referred to in this Division shall be the most recent edition available.
- (b) Warning Notice: When the Department finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Department may serve upon that person a written Warning Notice, specifying the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability

for any violations occurring before or after receipt of the Warning Notice. Nothing in this Division shall limit the authority of the Department to take any action, including emergency action or any other enforcement action, without first issuing a Warning Notice.

Section 46-336. ENFORCEMENT AND PENALTIES.

(a) Notice of Violation/Citation:

- (1) If the Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management design plan, a recorded stormwater management maintenance agreement, or the provisions of this Article, it may issue a written Notice of Violation to such applicant or other responsible person and the owner of the property. Where a person is engaged in an activity covered by this Article without having first secured a permit therefore, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.
- (2) The notice of violation can be in the form of a citation ticket and/or a written letter that would contain detailed inspection findings, conclusions of law, disposition of warning or fines assessed, stipulated remedial actions as discussed with the responsible party representative, reasonable deadlines for those remedial actions, and the date of re-inspection.

(b) Compensatory Action: In lieu of enforcement proceedings, penalties, and remedies authorized by this Division, the Department may impose upon a violator alternative compensatory actions such as storm drain stenciling, attendance at compliance workshops, creek cleanup, public education, etc.

(c) Civil Penalties for Violations:

- (1) Any person who commits an offense under this Article commits a civil infraction subject to a fine as set forth in Sec. 50-262. Each day such violation occurs or continues without a compliance action that is satisfactory to the Department may be deemed a separate offense and shall make the violator liable for the imposition of a fine for each day. The rights and remedies provided for in this Division are cumulative and in addition to any other remedies provided by law. An admission or determination of responsibility shall not exempt the offender from compliance with the requirements of this Division.
- (2) Any person who aids or abets a person in a violation of this Article shall be subject to the penalties provided in this Division.

(d) Stop Work Order:

- (1) In addition to the penalties listed above, if land disturbance activities are conducted contrary to the provisions of this Article or accepted final stormwater management plans, the Department may order the work stopped by notice in writing served on any person engaged in the doing or causing of such work to be done, and any such persons shall forthwith stop such work until authorized by the Department to proceed with the work. A Stop Work Order will be posted on the site by the Department and it is unlawful for any person to remove the notice or continue any work on the site without permission from the Department. The Department may also undertake or cause to be undertaken, any necessary or advisable protective measures to prevent violations of this Article or to avoid or reduce the effects of noncompliance herewith. The cost of any such protective measures shall be the responsibility of the owner of the property upon which the work is being done and the responsibility of any person carrying out or participating in the work.
- (2) The Department may bring an action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order against any person who neglects or fails to comply with a stop work order.

- (3) For construction projects that are operating under a SWPPP approved by the Department, if a Stop Work Order is issued on the grounds that the erosion and sediment control measures included in the construction plan are not adequate, the project site owner must be notified in writing of the inadequacies in the erosion and sediment control measures and the project site owner has seventy-two (72) hours after receiving written notice to resolve the identified inadequacies before the Stop Work Order can take effect.
- (4) The seventy-two (72) hour period to resolve identified inadequacies on a construction project does not apply if the Stop Work Order is issued to a construction project where the project site owner is creating a public health hazard or safety hazard.
- (e) **Withhold Certificate of Occupancy:** The Department may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise satisfied the requirements of this Article as determined by the Department.
- (f) **Suspension, Revocation, or Modification of Permits:** The Department may suspend, revoke, or modify any existing permit that the violator may also have been previously granted. A suspended, revoked, or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated upon such conditions as the Department may deem necessary to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (g) **Suspension of Access to the Stormwater Drainage System:**
 - (1) **Emergency Cease and Desist Orders**
 - a. When the Department finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has (have) caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Department may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to immediately comply with all ordinance requirements and take such appropriate preventive action as may be needed to properly address a continuing or threatened violation, including immediately halting operations and/or terminating the discharge.
 - b. Any person notified of an emergency order directed to it under this Division shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Department may commence court action against such person under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce a stop work order.
 - c. The Department may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Department that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Division. A person that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Department within 5 days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.
- (h) **Suspension Due to Illicit Discharges in Emergency Situations:** The Department may, without prior notice, suspend stormwater drainage system discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of

persons, or to the stormwater drainage system or waters of the state if the violator fails to comply with a suspension order issued in an emergency. The Department may take such steps as deemed necessary to prevent or minimize damage to the stormwater drainage system or waters of the state, or to minimize danger to persons.

- (i) **Suspension Due to the Detection of Illicit Discharge:** Any person discharging to the stormwater drainage system in violation of this Article may have their stormwater drainage system access terminated if such termination would abate or reduce an illicit discharge. The Department will notify a violator of the proposed termination of its stormwater drainage system access. The violator may petition the Department for a reconsideration and hearing. A person commits an offense if the person reinstates stormwater drainage system access to premises terminated pursuant to this Division, without the prior approval of the Department.

Section 46-337. COST OF ABATEMENT OF THE VIOLATION.

- (a) In addition to any other remedies, should any owner fail to comply with the provisions of this Article, the Department may, after giving notice and opportunity for compliance, have the necessary work done, and the owner shall be required to promptly reimburse the Department for all costs of such work.
- (b) Nothing herein contained shall prevent the Department from taking such other lawful action as may be necessary to prevent or remedy any violation. All costs connected therewith shall accrue to the person or persons responsible. Costs include, but are not limited to, repairs to the stormwater drainage system made necessary by the violation, as well as those penalties levied by the EPA or IDEM for violation of the Michigan City's NPDES permit, administrative costs, attorney fees, court costs, and other costs and expenses associated with the enforcement of this Article, including sampling and monitoring expenses.
- (c) If the amount due for abatement of the violation is not paid within a timely manner as determined by the decision of the Department or by the expiration of the time in which to file an appeal, the Department may commence a court action to recover the costs assessed under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4).

Section 46-338. APPEALS.

- (a) **Appeal of Notice of Violation:** Any person to whom any provision of this Division has been applied may appeal in writing, not later than 30 days after the action or decision being appealed from, to the Sanitary District of Michigan City Board of Commissioners the action or decision whereby any such provision was so applied. Such appeal shall identify the matter being appealed, and the basis for the appeal. The Sanitary District of Michigan City Board of Commissioners shall consider the appeal and make a decision whereby it affirms, rejects or modifies the action being appealed. In considering any such appeal, the Sanitary District of Michigan City Board of Commissioners may consider the recommendations of the Department Staff and the comments of other persons having knowledge of the matter. In considering any such appeal, the Sanitary District of Michigan City Board of Commissioners may grant a variance from the terms of this Division to provide relief, in whole or in part, from the action being appealed, but only upon finding that the following requirements are satisfied:
 - (1) The application of the Article provisions being appealed will present or cause practical difficulties for a development or development site; provided, however, that practical difficulties shall not include the need for the developer to incur additional reasonable expenses in order to comply with the Article; and
 - (2) The granting of the relief requested will not substantially prevent the goals and purposes of this Article, nor result in less effective management of stormwater runoff.
 - (3) Any person who has appealed a violation to the Sanitary District of Michigan City Board of Commissioners may appeal an adverse decision of the Board to the LaPorte County court within 60 days of the Board's order, all pursuant to IC 36-1-6-9 (e) & (f).

- (b) Enforcement Measures After Appeal: If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 5 days of the decision of the Sanitary District of Michigan City Board of Commissioners upholding the decision of the Department, then representatives of the Department shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property, including the commencing of a court action under IC 34-28-5-1 (b), to be read together with IC 34-6-2-86(1)(B) and 13-21-3-12(4), to enforce the order of the Board.

(End of Exhibit A)

EXHIBIT B

EXHIBIT B

The Michigan City Comprehensive Zoning Ordinance No. 4120 referred to herein as "the Zoning Code" and the Michigan City Subdivision Ordinance, referred to herein as "the Subdivision Code" are amended to incorporate the following additions and deletions:

A. The following amendments, additions and deletions (Nos. 1 to 27 inclusive) refer to the Zoning Code.

1. In the Table of Contents, the reference to "Article 20. Stormwater Management" shall be amended by:

(a) Deleting the references to Sections 20.02 General Requirements to and including Section 20.15 Enforcement and Penalties (retaining only the reference to Section 20.01 Intent).

(b) Adding after the reference to Section 20.01 Intent the following:

20.02 General Requirements
20.03 Enforcement and Penalties

2. Article 20. Stormwater Management shall be deleted in its entirety and a new article, to be known as "Article 20. Stormwater Management" together with the following three sections, shall be incorporated into the Zoning Code as follows

ARTICLE 20 STORMWATER MANAGEMENT

Section 20.01 Intent

The purpose of this Article is to protect the health, safety, and general welfare of the citizens by requiring compliance with accepted standards and practices for the management of stormwater runoff and drainage. These stormwater requirements are intended to minimize off-site water run-off, increase on-site infiltration, encourage natural filtration functions, simulate natural drainage systems, and minimize off-site discharge of pollutants. Stormwater shall be managed by the

best and most appropriate technology and environmentally-sound site planning and engineering techniques, which may include Low Impact Development principles and Green Infrastructure techniques such as permeable paving, infiltration basins and swales, distributed storage and bioretention as well as traditional storm sewer collection systems and storage basins.

Section 20.02 General Requirements.

- (a) All new developments shall provide for the management of all storm and surface water drainage and provide for controlled flood runoff.
- (b) All new developments shall comply with the requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances and other stormwater requirements of the Michigan City Sanitary District.

Section 20.03 Enforcement and Penalties.

The Michigan City Sanitary District shall be primarily responsible for enforcement of the stormwater management plan and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances. The Plan Department may assist in enforcement, may refuse approval of any plan, petition or project, or may require restoration of any area impacted in violation of Chapter 46 Article IX.

- 3. Section 04.04(1)(1)(b)4 shall be deleted in its entirety and replaced with the following:
 - 4. A proposed drainage plan, including the location and capacity of proposed storm sewer and other stormwater management facilities and proposed alternative methods for handling storm water (e.g. structural and non-structural best management practices (BMPs)) all in compliance with stormwater performance standards and the provisions of Chapter 46, Article IX of the Michigan City, Indiana Code of Ordinances.
- 4. Section 12.02(h)(2) shall be deleted in its entirety and replaced with the following:
 - (2) **Stormwater Management.** Stormwater management shall meet the requirements of Chapter 46, Article IX and all other provisions of the Michigan City, Indiana Code of Ordinances related to stormwater management. Phased developments shall provide for adequate stormwater management for each phase of development.
- 5. Section 12.02 (i)(1) shall be deleted in its entirety and shall be replaced with the following:
 - (1) **Site Plan Approval Required.** Site plans shall be submitted and approved or denied by the plan commission. Site plans shall include all items in Article 23 and the following:
 - (a) Transportation plan;
 - (b) Stormwater management plan as approved by the Sanitary District under Chapter 46, Article IX of the Michigan City, Indiana Code of Ordinances;

- (c) Fire protection plan; and,
 - (d) Phasing plan, including public improvements.
6. Sections 12.04 and 12.05 shall both be deleted in their entirety and shall be replaced with the following:
- Section 12.04 Intentionally Omitted**
- Section 12.05 Intentionally Omitted**
7. Section 14.17(a)(5) shall be deleted in its entirety and replaced with the following:
- (5) Storing and disposing of materials shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered and shall follow all requirements of the LaPorte County Health Department, the Natural Resources Preservation Guidelines, the Sanitary District of Michigan City and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.
8. Section 14.17(b)(4) shall be deleted in its entirety and replaced with the following:
- (4) Storing and disposing of materials shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered and shall follow all requirements of the LaPorte County Health Department, the Natural Resources Preservation Guidelines, the Sanitary District of Michigan City and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.
9. Section 14.17(c)(7) shall be deleted in its entirety and replaced with the following:
- (7) Storage or disposal of any kind shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered. The surface water detained on the site shall be purified of contaminants before leaving the site or must be disposed of in accordance with the requirements of the health department. All storage, processing and disposal areas shall be a minimum of 100 feet from any wetland, drain, stream, or body of water. Storing and disposing of materials shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered and shall follow all requirements of the LaPorte County Health Department, the Natural Resources Preservation Guidelines, the Sanitary District of Michigan City and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.
10. Section 14.17(d)(5) shall be deleted in its entirety and replaced with the following:
- (5) The facility shall be equipped with an approved waste water recycling system to avoid contaminated water or liquids from being discharged to ground water, surface water, or storm sewers. This shall include a wash-out,

wash-down and secondary containment system to recover and recycle impurities and other by-products processed from trucks, machinery products, supplies or waste. Storing and disposing of materials shall not pollute a water supply or contaminate surrounding land to the extent that public health is endangered and shall follow all requirements of the LaPorte County Health Department, the Natural Resources Preservation Guidelines, the Sanitary District of Michigan City and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

11. Section 16.05(d)(4)(d) shall be deleted in its entirety and shall be replaced with the following:

(d) Stormwater drainage and soil erosion will be properly managed in accordance with Chapter 46 Article IX of the Michigan City, Indiana code of Ordinances.

12. Section 18.02(e)(2) shall be deleted in its entirety and shall be replaced with the following:

(2) Parking aisles may be graded towards sunken, vegetated buffer strips that are a minimum of eight (8) feet wide and planted with trees and native herbaceous vegetation. An underdrain and soil amendment may be provided in the buffers if on-site soils are poorly drained. Surface water from parking areas shall be detained on site in accordance with Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

13. All of **Section 21.11 General Standards.** shall be deleted in its entirety and replaced with the following:

Section 21.11 General Standards.

Any new construction, replacement, repair, or other activity under this Article 21 shall comply with the requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

14. Section 21.20(e)(8) shall be deleted in its entirety and shall be replaced with the following:

(8) Erosion control and stormwater management measures must comply with all of the related provisions of this Zoning Ordinance and specifically the requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

15. Section 22.04(c)(2) shall be deleted in its entirety and shall be replaced with the following:

(2) Land surface modification within the minimum setback shall be permitted for development of stormwater drainage swales between the developed area of the site (including a storm water detention facility on the site) and a stream, lake or pond, or wetland. Detention basins within the setback are generally discouraged, unless it can be shown that resultant modifications will not impair water quality, habitat, or flood storage functions. All modifications, including detention facilities must be built pursuant to the requirements

found in Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

16. The table in Section 23.03 titled "Table 23 Required Plan Contents" shall be amended to add "X" in the box labeled "Master Development Plan" following the box stating "Location, type and dimensions of any stormwater structures, stormwater landscaping, conduits, or detention/retention ponds that are located on, cross, or adjoin the subject property".

17. The table in Section 23.03 titled "Table 23 Required Plan Contents" shall be amended by deleting all of the provisions contained in the box which reads as follows:

"Proposed location of buildings and other structures, parking areas, driveways, walks, noise generation sources (refrigeration units, mechanical equipment, loading docks, etc.) screening, drainage control, landscaping and proposed utility connection layouts for water and sewer"

and replacing said provisions with the following:

"Proposed location of buildings and other structures, parking areas, driveways, walks, noise generating sources (refrigeration units, mechanical equipment, loading docks, etc.) screening, landscaping and proposed utility connection layouts for water and sewer all of which shall conform to the provisions for stormwater management as set out in Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances."

18. Section 23.03(f) shall be deleted in its entirety and replaced with the following:

(f) A letter of approval from the Michigan City Sanitary District relative to the drainage and stormwater plans and setbacks from legal drains.

19. The last sentence of Section 23.04(a) shall be deleted and replace with the following:

"Based upon department reviews the enforcement official shall determine if the site plan/sketch plan complies with the requirements of this ordinance and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances."

20. Section 24.05(g) shall be deleted in its entirety and shall be replaced with the following:

(g) Comprehensive Plan. The proposed use will be consistent with the character of the zoning district in which it is located and the provisions of the Michigan City Comprehensive Plan.

21. Section 25.05(a)(2) shall be deleted in its entirety and replaced with the following:

(2) Land area uses shall meet the minimum 25% open space requirement; the land included in the 25% open space shall not include stormwater detention/retention basins as approved by the Michigan City Sanitary District, wetlands, open water, or other unbuildable areas. These

areas may be preserved as common open spaces but are not to be included in the 25% of required open space.

22. Section 25.06(c)(2) shall be deleted in its entirety and replaced with the following:
 - (2) Drainage board and/or MS4 coordinating agency and/or Michigan City Sanitary District.
23. Section 25.07(g) shall be deleted in its entirety and replaced with the following:
 - (g) Any additional graphics or written materials requested by the plan commission to assist in determining the appropriateness of the PUD such as, but not limited to: aerial photography; market studies; impact on public primary and secondary schools; impact on utilities; traffic impact study, impact on significant natural, historical, and architectural features; impact on drainage; stormwater management plan and drawings; impact on the general area and adjacent property; description of how property could be developed under the regulations of the underlying district; preliminary architectural sketches; and estimated construction cost.
24. Section 25.08(b) shall be deleted in its entirety and replaced with the following:
 - (b) The PUD must be consistent with the Michigan City Comprehensive Plan.
25. Section 25.08(k) shall be deleted in its entirety and replaced with the following:
 - (k) Adequate water, sewer and stormwater facilities shall be available or shall be provided by the developer as part of the site development.
26. Section 25.09(b) shall be deleted in its entirety and replaced with the following:
 - (b) Any additional graphics or written materials requested by the plan commission to assist in determining the impacts of the proposed PUD site plan, including, but not limited to: economic or market studies; impact on public utilities; traffic impacts; impact on significant natural, historical and architectural features; impact on stormwater drainage and management; impact on the general area and adjacent property; and estimated construction cost.
27. The definition of item (7) Construction Activity under the definition of "Stormwater - related Definitions" in Section 31.20 shall be deleted in its entirety and replaced with the following:
 - (7) Construction Activity. Activities subject to a stormwater management permit as set out in Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances. These include construction projects resulting in land disturbances of 10,000 square feet or more. Such activities include, but are not limited to,

clearing and grubbing, grading, excavation, and demolition.

B. The following amendments, additions and deletions (Nos. 28-30 inclusive) relate to the Subdivision Code.

28. Section 03.09(e) shall be deleted in its entirety and shall be replaced with the following:

(e) A drainage plan, complying with Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances and approved by the Michigan City Sanitary District as further described in Section 06.07(a);

29. The following provision shall be added at the end of Section 05.02 (b) as a new item (15):

(15) Approval of the stormwater management plan by the Michigan City Sanitary District and compliance with the requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances and Section 06.07.

30. In Section 06.07 the reference to "Article 20 of the Zoning Ordinance" shall be deleted and replaced with "Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances".

31. Section 1.05(a) shall be deleted in its entirety and replaced with the following:

(a) The subdivision of land and subsequent development of the subdivision plat shall be subject to the provisions and requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances for the orderly, efficient, and economical development of the community.

32. Section 1.05(c) shall be deleted in its entirety and replaced with the following:

S The existing and proposed public improvements shall conform to and be properly related to the provisions and requirements of Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances. It is intended that these provisions and requirements shall supplement and facilitate the enforcement of the provisions and standards contained in the building and zoning codes, the Michigan City Comprehensive Plan and the pertinent capital budget and program.

33. Section 1.06(b) shall be deleted in its entirety and replaced with the following:

(b) To guide the future growth and development of the city in accordance with the Michigan City Comprehensive Plan;

34. Section 1.08(a)(2)(c)a shall be deleted in its entirety and replaced with the following:

3. Drainage. All lots shall be provided with drainage improvements complying with the requirements of Chapter 47 Article IX of the Michigan City, Indiana Code of Ordinances.

35. The first paragraph of Section 06.07 shall be deleted in its entirety and replaced with the following:

All subdivisions shall make provisions for the installation and maintenance of an adequate stormwater

drainage system for the management of all storm and surface water drainage and the control of flood runoff to provide for the proper drainage of the subdivision. All such facilities are to control peak flow rates and volume of stormwater discharge associated with specified design storms and shall be designed, constructed and approved in accordance with Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

36. Section 3.09(e) shall be deleted in its entirety and replaced by the following:

(e) A drainage report, complying with Section 6.07(a) and Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances and approved by the Michigan City Sanitary District;

37. Section 4.04(a)(2) shall be deleted in its entirety and replaced with the following:

(2) Additional approvals will be required for the detailed improvement plans pertaining to water supply, storm drainage, sewerage, grading and gradients, roadway widths and surfaces all as set out in Article 6 and in Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

38. Section 4.06(d) shall be deleted in its entirety and replaced with the following:

(d) Review. The enforcement official shall review the plat for compliance with the primary plat and conditions, if any. The enforcement official shall request a review, and approval where necessary, of the plat by any departments deemed necessary under the circumstances including, as applicable but not limited to, the city engineer, fire department, water department, and sanitation and sewer departments. If the submission is complete and conforms to this ordinance, the enforcement official shall place the application on the plan commission agenda and provide a recommendation concerning secondary approval.

39. Section 6.04(j)(3) shall be deleted in its entirety and replaced with the following:

(3) Prior to paving the street and alley surfaces, an adequate drainage system, as review and approved by the Michigan City Engineer and the Michigan City Sanitation District under Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances shall be installed.

40. Section 6.07 shall be deleted in its entirety and replaced with the following:

All subdivisions shall make provision for the installation and maintenance of an adequate storm water drainage system for the management of all storm and surface water drainage and the control of flood runoff to provide for the proper drainage of the subdivision. All such facilities are to control peak flow rates and volume of stormwater discharge associated with specified design storms and shall be designed, constructed and approved by the Michigan City

Sanitary District under Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

41. Section 6.08 shall be deleted, except for subsections (a), (b), (c), and (d) which shall remain and replaced with the following:

Section 06.08. Soil erosion.

Since considerable soil erosion can take place during subdivision construction, development plans shall contain proposed erosion and sediment control measures. These measures shall be incorporated into the secondary plat and final construction plans and have been approved by the Michigan City Sanitation District under Chapter 46 Article IX of the Michigan City, Indiana Code of Ordinances.

42. Section 07.05 shall be deleted in its entirety and replaced with the following:

Section 07.05. As-built plans.

After completion of all public improvements and prior to the release of the performance bond on the improvements, the subdivider shall provide drawings showing the actual location of all street improvements, sanitary and storm sewer improvements, water mains, fire hydrants, valves and stubs, monuments and markers, drainage facilities and other installed permanent improvements. As-built plans shall be certified by an engineer or land surveyor registered in the State of Indiana. As-built electronic plans shall be consistent with the Michigan City geographic information system (coordinates system) and as-built prints must be submitted in digital format compatible with the Michigan City GIS format.

43. The definition of "Drainage system" found in Section 11.01 shall be deleted in its entirety and shall be replace with the following:

Drainage system. Any combination of surface and/or subsurface components fulfilling the drainage requirements of this ordinance and the requirements of Chapter 46 Article IX of the Michigan City City, Indiana Code of Ordinances.

END of Exhibit "B"

President Tillman asked if the author had anything to add at this time, there was no response.

President Tillman asked if there were any questions or comments from the public.

Tommy Kulavik, 1316 Ohio Street addressed the Council stating why we don't need any stormwater fees in this document at this time.

President Tillman asked if there were any other comments from the public, there was no response.

President Tillman asked if the Council had any comments at this time.

Councilman Dabney made a motion to adopt the proposed ordinance, second by Councilman Dabney. The motion carried and was approved by the following vote:

AYES: Council members Nelson, Przybylinski, Tillman, Bietry, Coulter, Dabney, Dr. Kora, Lee, and Moldenhauer (9) **NAYS:** None (0).

The Clerk read the following proposed Ordinance on second reading by title only.
**ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY,
 INDIANA ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT AND
 AUTHORIZING AND APPROVING OTHER ACTIONS WITH RESPECT THERETO**

Introduced by: Tracie Tillman

President Tillman asked Skyler York, Redevelopment Director to elaborate on this proposed ordinance.

Mr. York stated that what we are doing just by way of introduction; advised this is establishing/creating an EID (Economic Improvement District) and the Redevelopment Commission is the petitioner along with Clarence Hulce representing the Lakefront LLC's that they created and Seth Spencer represents South Lakeside LLC that was created; explaining why the city didn't just transfer the property to the developer.

President Tillman advised Mr. Skyler that it would be better to go over the overview and then move forward to the resolution.

Mr. Skyler introduced the representatives from Farpoint NWI and the developers Scott Goodman and Alan Schathman, addressing the council regarding the Sola development with the Marriott/Renaissance Hotel be a resident, retail space, eighteen (18) townhomes, enclosed parking on-site, commenting on community benefits and will be an all-union construction site for two (2) years and there will be 1,000 construction jobs; also advising there will be approximately three hundred-fifty (350) permanent jobs, and that they will be donating \$450,000 towards affordable housing, city permit fees for this project is approximately \$750,000, stating several things being offered for city residents; public access to restaurants, shopping, a deck, hotel parking, etc.

Mr. Schathman stated they are here is to explain briefly about the (EID) Economic Improvement District that is being proposed and also the sale of bonds; that we have all the professionals present that have been working on these proposed documents/ordinances if there are additional questions; stating that the bonds will generally be repaid by Room tax from hotel stays and a per-night tax on short term rentals; that it is important the revenue that we are creating will pay back the bonds only for the project; that the TIF and EID District is the project site; creating a revenue source by developing this project.

Skyler York agreed with Mr. Goodman comments that there is no city liability for any of these bonds, so that this all falls to the project and to the developer.

Mr. York introduced Mr. Sean Peterson and Tom Everett; advising that Tom represents the city and Sean Peterson represents the developers, stating they both worked together creating the proposed (EID) Economic Improvement District: when adopted it allows this project to move forward with the financing; explaining the benefits and process after the proposed ordinance is approved; stating that at the July 15, 2025 Council meeting the council adopted a resolution adopting the petition to form the (EID) "Economic Investment District" and also authorized the publication of a notice for a public hearing that will be held this evening; and is required to be done prior to the adoption of the EID.

President Tillman stated that the formal public hearing was advertised in the Herald Dispatch on July 18, 2025 and that the Formal Public Hearing will be held August 4, 2025; asking (repeating three times) "Is there anyone from the public that would like to speak on this proposed ordinance"

Tommy Kulavik, 1316 Ohio Street, commented on several benefits the city offers to people wanting to move and relocate to our community.

Mayor Angie, stated that this has been long time coming, she's excited and glad they made the announcement about the Marriott/ Renaissance Hotel; that the EID is a creative way of financing and using them in downtown areas throughout Indiana.

President Tillman asked (repeating three times) "Is there any other comments from the public regarding this proposed ordinance", there was no response and the public hearing was closed.

President Tillman asked if the Council had any questions or comments at this time.

Councilman Dabney stated that the mayor had a timeline that she wanted to keep regarding the Sola proposed ordinances and that he would be asking for second and third reading on this one and the following two (2) proposed ordinances.

Mr. Skyler stated that there are two (2) benchmarks August 19, 2025 having all the tools in place; EID, TIFF, bonding mechanisms, etc. in place and the second benchmark being December 19, 2025.

Councilman Dabney made a motion to suspend the rules and have third reading this evening, second by Councilman Przybylinski. The motion carried and was approved to have third reading this evening by the following vote: **AYES:** Council members Przybylinski, Tillman, Bietry, Coulter, Dabney, Dr. Kora, Lee, Moldenhauer and Nelson (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on third reading by title only.

MICHIGAN CITY COMMON COUNCIL

ORDINANCE NO. 4771

ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA ESTABLISHING AN ECONOMIC IMPROVEMENT DISTRICT AND AUTHORIZING AND APPROVING OTHER ACTIONS WITH RESPECT THERETO

WHEREAS, a petition (the "**Petition**") for the establishment of an economic improvement district to be known as the "SOLA Michigan City Economic Improvement District" (the "**Economic Improvement District**" or "**EID District**") in the City of Michigan City, Indiana ("**City**") under Indiana Code 36-7-22 (the "**Act**"), a copy of which is attached hereto as Appendix A, has been filed with the Common Council of the City (this "**Common Council**") to facilitate additional privately funded debt financing for a multi-story mixed use project including a hotel, a parking structure, residential and retail amenities (collectively, the "**Project**") to be conducted by YAB Development Partners, LLC or its designee ("**Developer**") in accordance with that certain Second Amended and Restated Development Agreement between Developer, the City and the Michigan City Redevelopment Commission ("**RDC**") dated December 10, 2024, as amended (the "**Development Agreement**");

WHEREAS, the Petition included the following information: (1) the boundaries of a proposed Economic Improvement District, including the boundaries of any zones to be established under Section 5(b) of the Act; (2) the name and address of each parcel and owner of land within the proposed Economic Improvement District and a description of the existing land use and zoning classification of each parcel; (3) a detailed description of the economic improvement projects to be carried out within the proposed Economic Improvement District to support the Project ("**Economic Improvement Projects**"), the estimated cost of the Economic Improvement Projects and the benefits to accrue to the property owners within the Economic Improvement District; (4) a plan for the application of assessment revenue to the cost of the Economic Improvement Projects within the Economic Improvement District; (5) a proposed formula for determining the percentage of the total benefit to be received by each parcel of real property within the Economic Improvement District, in the manner provided by Section 5 of the Act; (6) the number of years in which

assessments will be levied; and (7) a proposed list of members for the board of the Economic Improvement District (“**Economic Improvement Board**”);

WHEREAS, the Clerk of the City has cause to be published notice (the “**Notice**”) of a hearing on August 5, 2025 (the “**Hearing**”), on the proposed Economic Improvement District and mailed a copy of the Notice to each owner of real property within the proposed Economic Improvement District;

WHEREAS, at the Hearing, this Common Council heard all owners of real property in the proposed Economic Improvement District (who appeared and requested to be heard) upon the questions of: (1) the sufficiency of the Notice; (2) whether the proposed Economic Improvement Projects are of public utility and benefit; (3) whether the formula to be used for the assessment of special benefits is appropriate; and (4) whether the Economic Improvement District contains all, or more or less than all, of the property specially benefited by the proposed Economic Improvement Projects;

WHEREAS, at the Hearing, this Common Council received and considered evidence of the benefits from the Economic Improvement Projects accruing to the parcels of real property within the City, and within the Economic Improvement District, based on the following:

proximity of each parcel to the Economic Improvement Projects;

accessibility of each parcel to the Economic Improvement Projects;

true cash value of each parcel;

true cash value of any improvement on each parcel;

age of any improvement on each parcel; and

other similar factors, including without limitation the special benefits accruing to each real property owner receiving financing facilitated by the Economic Improvement Board, including an owner’s use of their parcel for commercial purposes as a short-term rental or a hotel and an allocation for any backup assessments required to facilitate the financing of the Project;

WHEREAS, in conjunction with the passage of this Ordinance, the Common Council will consider adoption of (i) an ordinance (“**TIF Bond Ordinance**”) authorizing the issuance of economic development revenue bonds (the “**TIF Bonds**”) pursuant to Indiana Code 36-7-11.9 and 12, as amended (the “**Economic Development Act**”), the principal of and interest on which TIF Bonds shall be payable solely from certain tax increment financing revenues (“**TIF Revenues**”) expected to be pledged for such purpose by the RDC through the adoption of a resolution (“**TIF Resolution**”) pursuant to Indiana Code 36-7-14, as amended (the “**Redevelopment Act**”) and (ii) an ordinance (“**EID Bond Ordinance**” and together with the TIF Bond Ordinance, the “**Bond Ordinances**”) authorizing the issuance of economic development revenue bonds (the “**EID Bonds**” and together with the TIF Bonds, the “**Bonds**”), the principal of and interest on which EID Bonds shall be payable from Pledged Funds (as defined herein) with the proceeds of such Bonds being used to finance a portion of the Economic Improvement Projects which constitute capital improvements (the “**Bond-Financed Improvements**”);

WHEREAS, as part of the approval process for the issuance of the Bonds, each of the RDC and the Michigan City Economic Development Commission (“**EDC**”) will take certain actions to approve of the Bond Financed Improvements as may be required by the Redevelopment Act and the Economic Development Act (as defined herein), finding that the Project and the Bond Financed Improvements will:

(a) create an environment conducive to new private investment and business expansion in the City and specifically within and adjacent to the EID District;

(b) provide and promote significant opportunities for gainful employment of City and regional residents through business retention, expansion and attraction; and

(c) be of public utility and benefit through an improved and diversified economic base for the City; and

WHEREAS, in conjunction with the passage of the Bond Ordinances, the Common Council will confirm the findings of the RDC and EDC, and further find that the Bond Financed Improvements and the Project will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens all as defined and contemplated in the Bond Ordinances;

WHEREAS, given the positive economic benefit the Project will provide to the City, it is reasonable to conclude that all of the Economic Improvement Projects made for the Project in the EID District shall be of "public utility and benefit" as contemplated under Section 6(b)(2) of the Act; and

WHEREAS, each of the EID Bonds and the TIF Bonds shall be special and limited obligations of the City, payable solely from the trust estates created and established under the trust indentures for each of the EID Bonds and the TIF Bonds;

WHEREAS, the EID Bonds and any other obligations of the EID District which may be entered into from time to time by the EID District ("EID Debt") shall not represent or constitute a debt of the City, the State of Indiana ("State") or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State or a pledge of the faith and credit of the City or the State or any political subdivision or taxing authority thereof;

WHEREAS, neither the faith and credit nor the taxing power of the City, the State or any political subdivision or taxing authority thereof shall be pledged to the payment of the principal of, premium, if any, or the interest on the EID Debt; and

WHEREAS, the EID Debt shall not grant the owners or holders thereof any right to have the City, the State or its general assembly, or any political subdivision or taxing authority of the State, levy any taxes or appropriate any funds for the payment of the principal of, premium, if any, or interest on the EID Bonds.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, LAPORTE COUNTY, INDIANA AS FOLLOWS:

Section 1. This Common Council hereby determines that:
the Petition meets the requirements of Sections 4, 5 and 7 of the Act;

the Economic Improvement Projects to be undertaken in the Economic Improvement District will provide special benefits to property owners in the Economic Improvement District and will be of public utility and benefit;

the benefits provided by the Economic Improvement Projects will be new benefits that do not replace benefits existing before the establishment of the Economic Improvement District;

the formula to be used for the assessment of benefits is appropriate;

the Petition has been signed by (a) a majority of the owners of real property within the Economic Improvement District; and (b) the owners of real property constituting more than 60% of the assessed valuation in the Economic Improvement District ((i) excluding the signatures of any persons described in Section 7(c) of the Act, and (ii) excluding, in determining the total assessed valuation in the proposed economic improvement district, the assessed valuation of any property described in Section 7(d) of the Act;

the benefit of the Economic Improvement Projects vary from one area and one use to another within the Economic Improvement District from time to time and three zones must be established within the Economic Improvement District to delineate the approximate difference in beneficial impact; and

the development of certain amenities, such as a parking garage, hotel, supportive retail and residential units, along with other Economic Improvement Projects, within the Economic Improvement District must be encouraged.

Section 2. The Economic Improvement District shall be, and hereby is, established under the Act. The Economic Improvement District is hereby designated the “SOLA Michigan City Economic Improvement District”.

Section 3. The boundaries of the Economic Improvement District shall consist of approximately 2.80 acres of real property as depicted on the map attached hereto and incorporated by reference herein as **Exhibit A** (“**District Land**”). Upon the completion of the replat of the District Land, the final plat shall be further attached hereto as **Exhibit B**.

Section 4. The following three zones under Section 5(b) of the Act shall be, and hereby are, established:

a zone comprised of the real property interests to be identified and located on the Commercial Parcel (as defined and more specifically described in the final recorded Master Declaration of Covenants, Conditions, and Restrictions for SOLA (“**Final Condo Declaration**”), a substantially final form of which is attached to the Petition) as the Hotel Component (as defined in the Final Condo Declaration) (“**Hotel Property**”), the retail space (“**Retail Space**”) and the other areas of the Project (as defined herein) on the Commercial Parcel excepting the Garage Component (as defined Final Condo Declaration) (the “**Commercial Common Areas**” and together with the Hotel Property, and the Retail Space, “**Zone 1**”);

a zone comprised of the real property to be identified and located on the Condominium Parcel (as defined in the Final Condo Declaration) inclusive of any individual condos or townhomes (“**Condos**”) and any common areas excepting the Garage Component (“**Condominium Common Areas**” and together with the Condos, “**Zone 2**”); and

a zone comprised of the real property to be identified and more specifically described in the Final Condo Declaration as the Garage Component (the “**Parking Garage**” and with any supporting or access areas referred to as “**Zone 3**”, and with Zone 1, and Zone 2, each a “**Zone**” and together the “**Zones**”).

Section 5. The boundaries or designations of each respective Zone set forth in the Final Condo Declaration shall be the boundaries of each respective Zone within the District. A copy of the Final Condo Declaration shall be attached hereto as **Exhibit C** upon its recording.

Section 6. The completion of the Economic Improvement Projects within the Economic Improvement District will include those required to complete the Project including but not limited to (a) the planning or managing of the development or improvement activities of the Zone 3 Improvements (as defined in the Petition) and other portions of the Project described in (b) through (h) below (collectively referred to as “**Planning and Managing Development and Improvement Activities**”), (b) designing, landscaping, beautifying, constructing, or maintaining of certain public areas, public improvements, or public ways (including designing, constructing, or maintaining lighting, infrastructure, utility facilities, improvements, and equipment, water facilities, improvements, and equipment, sewage facilities, improvements, and equipment, streets, or sidewalks for a public area or public way) related to the Project (collectively referred to as “**Public Improvements**”), (c) promoting commercial activity or public events for the Project, including but not limited to the financing, developing, constructing, staffing, marketing, renting-up, managing, operating, maintaining, repairing and sustaining all of the Zone 3 Improvements and the Hotel Property, Retail Space and the rental of Condos located in the EID District (collectively referred to as “**Commercial Activity**”), (d) supporting business recruitment and development for the Hotel Property, the Retail Space, the Parking Garage, and the renting of Condos within the EID District (“**Business Development**”), (e) providing security for public areas for the Project (“**Project Security**”), (f) acquiring, constructing, or maintaining the Parking Garage and potentially other parking facilities (collectively referred to as “**Parking Facilities**”), (g) constructing, rehabilitating, or repairing residential property, including the Developer Condos and improvements related to the habitability of the residential property (collectively referred to “**Residential Property**”), and (h) acquiring, constructing, rehabilitating,

or repairing redevelopment projects, economic development facilities described in IC 36-7-11.9-3, pollution control facilities described in IC 36-7-11.9-9, or other local improvements (collectively, “**Other Local Public Improvements**”).

Section 7. The detailed descriptions and estimated cost of all the current anticipated Economic Improvement Projects to be carried out in the District are set forth in **Exhibit D** attached.

Section 8. It is anticipated that all real property owners in the District will have access to and benefit from the completion of the Economic Improvement Projects but that owners of the Condos and the Hotel Property which rent their units or rooms for short-term occupancy will be the primary beneficiaries of the shared Economic Improvement Projects beyond the common area charges allocated to the owners pursuant to the Final Condo Declaration and the associated home owner associations.

Section 9. Each owner in the Economic Improvement District will benefit from the Economic Improvement Projects financed by the EID Bonds based upon the Special Assessments (defined below). Zone 1 will be used primarily for commercial purposes and will benefit generally from the Economic Improvement Projects. Zone 2 will be used for primarily for residential purposes and will benefit from the Economic Improvement Projects but to a lesser extent than Zone 1 which is predominately used for commercial purposes. Zone 3 also benefits from the Economic Improvement Projects but is allocated the least benefit, as Zone 3 will receive some public revenues for non-Project parking guests which will occasionally use the Economic Improvement Projects while the remainder would be paid by the owners who pay into the homeowners association that owns the Parking Garage under the Final Condo Declaration (“**Project HOA**”) which are already accounted for in Zone 1 and Zone 2.

Section 10. The Economic Improvement District was a vacant property prior to the development of the Project and its Economic Improvement Projects.

Section 11. The benefits provided by completion of all the improvements made for the Project, including the Economic Improvement Projects, are all new benefits and will not replace benefits existing before the establishment of the Economic Improvement District and the completion of the Economic Improvement Projects.

Section 12. During the period or term for which any obligation or debt service related to the EID Bonds is outstanding in which any assessment is pledged from the economic improvement fund created under IC 36-7-22-16 (“**Economic Improvement Fund**”) as approved by the Board (as defined below) for the Economic Improvement District to fund the completion of the Economic Improvement Projects (“**Pledged EID Assessments**”), the property owner(s) of the real property interests located in the Economic Improvement District, including all subsequent property owner(s) of such improvements, upon the completion of the statutory processes set forth in Indiana Code 36-7-22-12 and Indiana Code 36-7-22-13 for the maximum amounts of the schedule of the Pledged EID Assessments related to the EID Bonds (assuming no other revenues are available for debt service on the EID Bonds), waives its rights to request or file a remonstrance against any Pledged EID Assessments or otherwise contest the validity of an assessment schedule for any Pledged EID Assessments, whether available any time to a property owner as of or after the date of the Petition or which subsequently may be authorized under State law. Notwithstanding the foregoing, the Annual Backup Special Assessment Amount (defined below) shall not exceed the EID Backup Assessment Caps (as defined below), and the foregoing waiver shall not apply to any assessments that exceed the EID Backup Assessment Caps. The Board shall have a December 31st fiscal year-end (“**Fiscal Year**”).

Section 13. The assessment revenues to be collected and deposited into the Economic Improvement Fund for the Board shall be done on a zone-by-zone basis (“**Special Assessments**”). The Board shall establish, have and maintain subaccounts within the Economic Improvement Fund in which the Special Assessment for each

Zone shall be assessed, collected and deposited by the Board. The amount of the Special Assessments shall be an amount sufficient to collect the special assessments revenue necessary for each Fiscal Year to (a) cover the Annual Cost (as defined herein) of the Board and (b) make the necessary annual payments on all or a portion of the EID Debt.

Section 14. The EID Bonds shall be payable from the following sources (“**Pledged Funds**”):

Payments from the Developer on a borrower note (the “**Borrower Note**”) from certain Project revenues, which are anticipated to be offset by any of funds received under (b), (c) and (d) below;

TIF Revenues, the pledge of which shall be junior to the TIF Bonds;

Occupancy EID Assessments (defined below); and

Backup EID Assessment (as defined below).

Section 15. The Pledged EID Assessments shall consist of the Occupancy EID Assessments and the Backup EID Assessment.

Section 16. The Occupancy EID Assessments shall consist of an assessment levied against the Hotel Property and Condos equal to up to nine percent (9%) for room or unit base night rental cost (as determined by the Board from time to time in accordance with the EID Financing Agreement) and shall apply to the Hotel Property and to any Condos which have been rented more than fourteen (14) days per year (the “**Occupancy EID Assessments**” with the amount collected for a year for purposes of determining the Annual Backup Special Assessment Amount (as defined below) referred to herein as the “**Annual Occupancy EID Assessment Amount**”). The Hotel Owner (as defined in the Petition) and owners of the Condos shall provide the Developer the applicable year’s revenue information, which the Developer shall provide the Board no later than October 15 following each annual period commencing October 1 and ending September 30. Hotel Owner and the Developer shall collect such assessments from room or unit renters/guests on behalf of the Board and shall make the payments to the LaPorte County, Indiana Treasurer for the benefit of the Board or to the trustee of the EID Bonds on behalf of the Board, if permitted. The applicable property owner shall be liable for any shortfall and any deficiency in the Occupancy EID Assessments shall be levied against and attach against the applicable property (i.e. Hotel Property for delinquency in occupancy assessment payment related to the Hotel Property or the applicable Condo owner for a delinquency in its occupancy assessment payment).

Section 17. An annual Backup Special Assessment shall be made in accordance with Section 22 herein to the extent that Borrower Note payments, TIF Revenues and Occupancy EID Assessments are insufficient to cover the debt service obligation on the EID Bonds (the “**Backup EID Assessment**”).

Section 18. The EID Bonds are anticipated to be issued in one or more series in the aggregate principal amount of approximately \$43,490,000, provided however, such amount may be increased to up to \$80,000,000 to the extent the TIF Bonds are not issued or otherwise placed.

Section 19. No EID Bonds shall be issued after the Project is fully placed in service.

Section 20. The Annual Backup Special Assessment Amount shall not exceed the lesser of the assessments required to meet the debt service obligations (including any coverage ratios) to service the EID Bonds assuming no TIF Revenues, no Occupancy EID Assessment, and no payments made on the Borrower Note (“**EID Backup Assessment Cap**”).

Section 21. Any Pledged EID Assessments collected that are not used to make an annual or semi-annual debt service payment on the EID Bonds (whether

collected for EID Bond coverage ratio purposes or assessed prior to receipt of other funds deposited in the Economic Improvement Fund) shall first be allocated to establishing or replenishing a reasonable debt service reserve for the EID Bonds and then to the redemption of the EID Bonds pursuant to the trust indentures associated with each series of the EID Bonds.

Section 22. The amount of the Backup EID Assessment revenue collected from each Zone shall be based solely upon the amount of the annual Special Assessments necessary, after considering the other collected Pledged Funds, for each Fiscal Year to (a) cover the Annual Cost of the Board operating the EID District up to \$60,000.00 (which may be increased by up to 2% per year, which is to be payable by owners of Zone 3 Improvements as set forth in Section 23 hereof, and which may not be paid from TIF Revenues) (the “**Annual Cost**”), (b) make the annual payment of all or a portion of the debt service and other related expenses on the EID Bonds, and (c) insure that the Board achieves the required debt service coverage ratio required by the EID Bonds (collectively referred as the “**Annual Backup Special Assessment Amount**” and together with the Annual Occupancy EID Assessment Amount, the “**Annual Special Assessment Amount**”).

Section 23. The Annual Cost of the Board operating the EID District shall be allocated to the owners of Zone 3 Improvements by the Board and assessed against the Zone 3 Improvements and the remainder of the Annual Backup Special Assessment Amount shall be allocated as follows:

60% to the Hotel Owner (“**Zone 1 Backup Assessments**”), which Zone 1 Backup Assessments shall be assessed against the Zone 1 Improvements (as defined in the Petition) and payable by the Hotel Owner.

30% to the owner(s) of the Zone 2 Improvements (as defined in the Petition) (“**Zone 2 Backup Assessments**”). The Zone 2 Backup Assessments shall be allocated among the owner(s) of the Zone 2 Improvements based upon the assessed value of their respective real property interest.

10% to the owner(s) of the Zone 3 Improvements (i.e. the anticipated Project Condo Association) (“**Zone 3 Backup Assessments**”). The Zone 3 Backup Assessments shall be allocated among the owner(s) of the Zone 3 Improvements based upon the assessed value of their respective real property interest. (For example, the Parking Garage is owned by Project Condo Association and has an assessed value of \$30 million and other Zone 3 Improvements are owned by another non-exempt entity (“**Other Zone 3 Owner**”) with an assessed value of \$10 million, 7.5% of the Annual Backup Special Assessment Amount would be assessed against the Parking Garage and payable by the Project Condo Association and 2.5% of the Annual Backup Special Assessment Amount would be assessed against the other Zone 3 Improvements and payable by the Other Zone 3 Owner.)

A determination of assessed value by the Board based upon the available data by the LaPorte County, Indiana Assessor (the “**Assessor**”) or other professionals at such time shall be final for an applicable Fiscal Year and not subject to recalculation for an appeal or a subsequent adjustment by the Assessor. The Board shall update any revisions or determinations as to a real estate interest’s assessed value when calculating an Annual Backup Special Assessment Amount for a subsequent Fiscal Year.

Section 24. In determining the aggregate Annual Backup Special Assessment Amount, the Board shall determine, in consultation with the trustee of the EID Bonds and the municipal advisor for the City, the amount of TIF Revenues received (or to be received) for the applicable Fiscal Year. The Annual Backup Special Assessment Amount shall be reduced by the TIF Revenues received and available for the EID Bonds (such TIF Revenues to be pledged to the EID Bonds on a junior basis to the pledge thereof to the TIF Bonds), the Annual Occupancy EID Assessment Amount, and any other Project revenues paid by the Developer, effectively reducing the aggregate Zone 1 Backup Assessments, Zone 2 Backup Assessments and Zone 3 Backup Assessment on a prorated basis consistent with the calculation percentages set forth above.

Section 25. The Board may establish a reasonable debt service reserve by Zone to ensure that each Zone's contributions are realized for such Zone's applicable portion of the Annual Special Assessment Amount and available to timely and fully pay the debt service due on the Bonds. If the owners of a respective Zone fail to pay the Zone's respective portion of the Annual Special Assessment Amount, the Board may increase the Zone's respective Annual Special Assessment Amount, as needed, to cover any prior shortfalls and/or to enhance or replenish the Zone's debt service reserve.

Section 26. Prior to the issuance of the EID Bonds, the Board shall provide notice, conduct a public hearing and set an estimated maximum annual backup special assessment schedule for each projected property owner or real property interest in accordance with IC 36-7-22-12 based upon the Developer's estimated projected assessed value projection for the various property interest to be outlined in the Final Condo Declaration ("**Preliminary EID Backup Assessment Cap Schedule**"). The Board shall certify to the Auditor the Preliminary EID Backup Assessment Cap Schedule.

Section 27. Notwithstanding any provision of this Ordinance to the contrary, the assessment methodology set forth in this Ordinance may be adjusted with the approval of the Board and the Developer provided that any adjustments to the assessments or the assessment methodology set forth in this Ordinance that results in aggregate special assessments in excess of the Preliminary EID Backup Assessment Cap Schedule shall required an amendment to this Ordinance in accordance with IC 36-7-22-12 and follow the assessment process set forth in IC 36-7-22-12.

Section 28. The EID Bonds, and the interest payable thereon, shall not represent or constitute a debt of the City, the Redevelopment District, the State or any political subdivision or taxing authority thereof within the meaning of the provisions of the constitution or statutes of the State or a pledge of the faith and credit of the City or the State or any political subdivision or taxing authority thereof.

Section 29. Neither the faith and credit nor the taxing power of the City, the Redevelopment District, the State or any political subdivision or taxing authority thereof shall be pledged to the payment of the principal of, premium, if any, or the interest on the EID Bonds.

Section 30. The EID Bonds shall not grant the owners or holders thereof any right to have the City, the Redevelopment District, the State or its general assembly or any political subdivision or taxing authority of the State, levy any taxes or appropriate any funds for the payment of the principal of, premium, if any, or interest on the EID Bonds.

Section 31. The proceeds from the EID Bonds shall only be used to reimburse or to fund costs incurred by the Developer related the Economic Improvement Projects in accordance with the EID Financing Agreement.

Section 32. After completion of the Project, the full initial assessment of the property interests and the final issuance of the EID Bonds, the Board shall review the Preliminary EID Backup Assessment Cap Schedule and issue a final EID Backup Assessment Cap schedule ("**Final EID Backup Assessment Cap Schedule**"). To the extent that the Final EID Backup Assessment Cap Schedule includes an Annual Backup Special Assessment Amount that exceed a particular real property interest's maximum Annual Backup Special Assessment Amount set forth in the Preliminary EID Backup Assessment Cap Schedule, the Board shall provide notice to such owners, conduct a hearing and set a revised maximum EID Backup Assessment Cap for such real property interest. The Board shall then approve a Final EID Backup Assessment Cap Schedule (including, if applicable, reducing a real property interest's maximum EID Backup Assessment Cap) provided that the Final EID Backup Assessment Cap Schedule achieves the aggregate debt service and debt service coverage ratios contemplated with the issuance of the Bonds. The Final EID Backup Assessment Cap Schedule shall be recorded with the LaPorte County, Indiana Recorder (the "**Recorder**") and the Assessor.

Section 33. The Board may exempt a business established within the EID District after the creation of the EID District from assessment of any type of Special Assessment for a period not to exceed one (1) year as contemplated under IC 36-7-22-10.

Section 34. The plan for the application of assessment revenue and formula to be used for the assessment of special benefits shall be based upon the methods set forth in the Petition.

Section 35. The Board shall set and certify the final Special Assessment schedule for an applicable Fiscal Year ("**Annual Special Assessment Schedule**") and shall record the Annual Special Assessment Schedule with the Auditor by January 15 of such Fiscal Year. No Annual Backup Special Assessment Amount levied on a particular real estate property interest shall exceed the respective collective maximum Annual Backup Special Assessment Amount set forth in the Final EID Backup Assessment Cap Schedule (or until such Final EID Backup Assessment Cap Schedule is approved, the Preliminary EID Backup Assessment Cap Schedule).

Section 36. The signing of the Annual Special Assessment Schedule for each calendar year by a majority of the members of the Board and the delivery of the Annual Special Assessment Schedule to the Auditor shall constitute a final and conclusive determination of the benefits that are assessed.

Section 37. The Board shall include with each Annual Special Assessment Schedule certified by the Board to the Auditor ("**Assessment Supplement Statement**") an allocation of the Special Assessments into the following categories (as applicable):

- Interest on the EID Bonds;
- Principal of the EID Bonds;
- Other EID Bond expenses;
- Economic Improvement Projects maintenance and repair charges; and
- Other EID District expenses.

Section 38. The Auditor shall cause the information set forth in the Assessment Supplement Statement to be reflected on the tax statements of the persons owning the property affected by the Special Assessment as prepared by the Treasurer of LaPorte County, Indiana.

Section 39. Each Special Assessment is a lien on the real property that is assessed, second only to the ad valorem property taxes levied on the property located in the EID District as set forth and contemplated in IC 36-7-22-12(g) ("**Statutory Lien**") and shall be in compliance with IC 36-7-22-12 and any other applicable provisions under the Act. If unpaid, each Special Assessment shall otherwise accrue all penalties, interest, etc., applicable to unpaid property taxes under Indiana law.

Section 40. Any real property subject to a Statutory Lien shall be subject to sale in accordance with IC 6-1.1-24 and 6-1.1-25.

Section 41. The Board acknowledges and agrees that for payment of each Special Assessment the Board shall look solely to the Statutory Lien to secure and collect the payment of each Special Assessment, except as otherwise agreed and consented to by the owner of the real property to which the Special Assessment is levied.

Section 42. In addition to the Statutory Lien, the Board shall have and retain the right to also enforce, pursue, collect and secure the payment of each Special Assessment by agreement or instrument with a security interest in and on any other property located in the EID District as determined by the Board, including by mortgage, security agreement, UCC filings and any other form of secured transaction, upon the written consent and agreement of the owner of such property ("**Other Collateral**").

Section 43. The Board shall have and retain the right to pledge and assign the Special Assessment and any Other Collateral to secure the EID Bonds as determined from time to time by the Board.

Section 44. There shall be no other assessments of any type within the EID District.

Section 45. The Special Assessments with respect to EID Bonds are to remain in place for a period of up to thirty-five (35) years from the date when such EID Bonds are issued to finance a portion of the Project.

Section 46. It is anticipated that the EID Bonds shall be issued by the City pursuant to Economic Development Act.

Section 47. Any property owned by the RDC and used for an exempt purpose that is located in the EID District is and shall continue to be exempt from property taxation under IC 6-1.1-10.

Section 48. For the Economic Improvement District, an economic improvement board under the Act shall be, and is hereby, established (such economic improvement board, the “**Board**”), which Board is hereby designated the “**Sola Michigan City Economic Improvement Board**”. The Board shall have three members appointed by the City. One member shall be appointed by the City (“**City Representative**”). The other two members represent owners of real property within the Economic Improvement District, which initially will be Petitioner 1 (as defined in the Petition) and Petitioner 2 (as defined in the Petition) representatives. Once Petitioner 1 and Petitioner 2 transfer their interest in the District Land to the Project, including portions to the Project Developer and the Project HOA, one representative will be a manager or owner of Developer or its designee that owns real property within the Economic Improvement District (“**Developer Representative**”) and one will be a manager of the Project HOA (“**HOA Representative**”).

Section 49. This Common Council hereby appoints the following persons as the initial members of the Board:

Skylar York, as the City Representative

Clarence Hulse, as Petitioner 1 representative

Seth Spence, as Petitioner 2 representative

Effective upon the Initial District Land Transfer, the following persons shall become the members of the Board:

Skylar York, as the City Representative

Scott Goodman, the Developer Representative

Alan Schachtman, the Project HOA

This Common Council may at any time or from time to time appoint and remove without cause any person as a member of the Board. Each person appointed as a member of the Board shall serve for a term (a) commencing on the later of (i) such person’s appointment, or (ii) such person’s qualification; and (b) ending on the earliest of (i) such person’s removal, (ii) such person’s disqualification, or (iii) such person’s resignation. The appointment of each new member of the Board as a Developer Representative or a Project HOA Representative shall be subject to the prior written approval of the Developer and the Project HOA Representative, respectively.

Section 50. It is intended that the Board shall be treated as an organization contemplated in Section 115(2) of the Internal Revenue Code.

Section 51. Any EID Bonds for the District shall be issued as provided in and in accordance with IC 36-7-22 or IC 36-7-12 as determined from time to time by the Board and the Common Council (“**EID Bond Financing**”).

Section 52. The Board shall have and retain the right to pledge and assign the Special Assessment and any Other Collateral to secure the EID Bonds as determined from time to time by the Board.

Section 53. With each series of EID Bonds issued, the Board shall enter into a financing agreement with the City and Developer (for each EID Bond Financing, an “**EID Financing Agreement**”). A memorandum of the EID Financing Agreement disclosing the EID Waiver Provision (defined below) along with any other provisions required by the City shall be recorded in the offices of the Recorder and the Auditor of the County as part of the closing of series of EID Bonds.

Section 54. Each EID Financing Agreement shall have a waiver provision substantially similar to the provision below included therein (collectively referred to as the “**EID Waiver Provision**”):

“The City, the Developer, and all property owners, including all subsequent property owner(s) of any portion of the land located in the Economic Improvement District, hereby waive its rights (if any) to file an action to contest (a) the existence of the Economic Improvement District or the improvements in the Economic Improvement District under the Act, (b) the validity of the Economic Improvement District ordinance adopted to establish the Economic Improvement District and Zones 1, 2, and 3 under IC 36-7-22-7, or (c) the assessment schedule, including any assessments up to the Final EID Backup Assessment Cap Schedule as contemplated by the Ordinance, as contemplated under IC 36-7-22-13 whether available any time to such property owner as of or after the date of this Agreement or which subsequently may be authorized under the laws of the State of Indiana. Any subsequent property owners of land located in the Economic Improvement District shall be required to acknowledge the existence of the Economic Improvement District and declare and make the same waivers as set forth above concurrent with purchase of such land.”

Section 55. The Mayor of the City, the Clerk of the City and the Controller of the City and each other officer of the City shall be, and hereby is, authorized and directed, for and on behalf of the City to execute and deliver any instrument and take any other action determined by such officer to be necessary or convenient to carry out the purposes of this Ordinance, which determination shall be conclusively evidenced by such officer’s execution and delivery of such instrument or taking of such other action.

Section 56. Should any provision (section, paragraph, sentence, clause or any other portion) of this Ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provisions shall not be affected, if such remaining provisions can, without the invalid provision, be given the effect intended by this Common Council in adopting this Ordinance. To this end, the provisions of this Ordinance are severable.

Section 57. When implementing this Ordinance, this Ordinance and the Act shall be liberally construed by the parties to affect the purposes of this Ordinance and the Act to the extent allowed under Indiana law.

Section 58. This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-2-4-8.

Section 59. This Ordinance may be amended in accordance with the Act. Any amendment to this Ordinance shall be subject to prior written approval of the Developer.

Section 60. The foregoing recitals are fully incorporated herein by this reference.

This Ordinance to be effective upon passage by the Council and approval by the Mayor.

INTRODUCED BY:

/s/ Tracie Tillman, Member
Michigan City Common Council

NOTE: All Exhibits are attached to this Ordinance in the Clerk's Office in file O-205

President Tillman asked if there were any comments from the public, there was no response.

President Tillman asked if the Council had any questions or comments at this time.

Councilman Dabney made a motion to approve the proposed ordinance, second by Councilman Bietry. The motion carried and the ordinance was approved by the following vote: **AYES:** Council members Tillman, Bietry, Coulter, Dabney, Dr. Kora, Lee, Moldenhauer, Nelson, and Przybylinski (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on second reading by title only.

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AUTHORIZING THE CITY OF MICHIGAN CITY, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN CONNECTION WITH THE SOLA PROJECT

Introduced by: Tracie Tillman

President Tillman stated that she believes everything has already been elaborated; asking if Mr. York if he would like to add any additional. comments.

Mr. York clarified that this proposed ordinance when adopted creates the (EID) Economic Improvement District bond and the following proposed ordinance will be for the authorization of the TIF bond.

Randy Rompalo, Barnes & Thornburg and serving as bond counsel for the city; advised that the next two (2) proposed ordinances are related; this ordinance authorizes the economic development revenue bonds and will be supported by the EID revenues and generated by the district, you just approved EID ordinance and as that ordinance states, it would have an ability to be paid from the TIF revenue that is in the next proposed ordinance as well; advising the two (2) bonds are not to exceed \$80 million; stating neither bond will be a financial responsibility of the city; explaining how these bonds will be paid.

Councilman Coulter asked about the amendment by substitution the council received prior to this evening's meeting..

President Tillman stated that she would like to amend the ordinance by substitution; that a copy has been provided to all council members and had the opportunity to look at the amendments.

President Tillman asked if the public had any comments or questions.

Paul Przybylinski, 1716 Washington Street, questioned if this is creating a TIF inside the TIF and you're using the monies of the TIF as a backup payment for EID/TIF bonds.

President Tillman advised that this is not a Q & A just comments.

Mr. P. Przybylinski asked how much the developer is paying for the properties.

President Tillman stated this isn't a Q & A; that those questions can be filed (FOIA) in the Clerk's office for that information.

President Tillman asked if there were any other public comments.

Mr. York stated that the developer mentioned a donation of \$450,000; advising that we worked out a deal; we asked for their donation to go into the affordable housing fund that has been established and will help residents in our community.

President Tillman asked if there were any other public comments, there was no response.

President Tillman asked if there were any comments from the Council.

Councilman Dabney made a motion to suspend the rules and have third reading this evening, Councilman Przybylinski second his motion. The motion carried and was approved to have third reading this evening by the following vote: **AYES:** Council members Bietry, Coulter, Dabney, Dr. Kora, Lee, Moldenhauer, Nelson, Przybylinski, and Tillman (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on third reading by title only.

ORDINANCE NO. 4772

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AUTHORIZING THE CITY OF MICHIGAN CITY, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN CONNECTION WITH THE SOLA PROJECT

WHEREAS, Indiana Code 36-7-11.9 and 12, as amended from time to time (collectively, the “Act”), declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Michigan City, Indiana (the “City”) is authorized to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

WHEREAS, the Michigan City Redevelopment Commission (the “Redevelopment Commission”), the governing body of the City of Michigan City Department of Redevelopment and the Redevelopment District of the City (the “District”), exists and operates under the provisions of Indiana Code 36-7-14, as amended from time to time (the “Redevelopment Act”); and

WHEREAS, the Redevelopment Commission has previously declared an area within the City as an economic development area and known as the “Consolidated Economic Development Area” (the “Area”) and designated portions of the Area as allocation areas in accordance with Section 39 of the Redevelopment Act for the purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value in such Area; and

WHEREAS, the City, the Redevelopment Commission, and YAB Development Partners, LLC (the “Developer”), have negotiated a Second Amended and Restated Development Agreement, dated as of December 10, 2024, as amended by a First Amendment to Second Amended and Restated Development Agreement, dated as of June 9, 2025 (collectively, the “Development Agreement”) to provide for the acquisition, construction and equipping of a mixed-use development including (i) an approximately 242-room hotel; (ii) approximately 21,000 square feet of retail and/or commercial space; (iii) approximately 188 condos/townhomes and related improvements with a portion of such condos to be owned by the Developer or an affiliate thereof, with the remaining condos to be sold to third parties; and (iv) an approximately 385 parking structure and any supporting areas (collectively, the “Project”) as more fully described in the Development Agreement; and

WHEREAS, the Redevelopment Commission on July 14, 2025, approved and adopted a resolution for the purpose of making certain amendments to the Area and its plan to designate an area, presently part of the Area, as a separate allocation area pursuant to Section 39 of the Redevelopment Act to be known as the “SoLa Project Allocation Area” (the “SoLa Project Allocation Area”) for purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value located in the SoLa Project Allocation Area (the “SoLa Project Allocation Area TIF Revenues”); and

WHEREAS, the Common Council of the City (the “Common Council”) has approved and adopted an ordinance for the purpose of establishing an economic improvement district within the City in accordance with Indiana Code 36-7-22, as amended from time to time (the “EID Act”), to be known as the “SoLa Project Economic Improvement District” (the “EID District”) and appointing the EID District’s initial governing board (“EID Board”), for the purpose of levying special assessments on parcels of real property located within the EID District (“EID Assessments”) to be deposited in an economic improvement fund to finance economic development projects in the EID District (the “EID Assessment Revenues”); and

WHEREAS, prior to the issuance of the Bonds, the EID Board will provide notice of, including mailing notice to the owners of property within the EID District, and hold a public hearing on the proposed EID Assessments and thereafter adopt a resolution establishing the EID Assessments and pledging those EID Assessment Revenues to the Bonds; and

WHEREAS, the Developer has advised the City, the City of Michigan City Economic Development Commission (the “Economic Development Commission”) and the Redevelopment Commission concerning the Project, and has requested that the City authorize and issue its economic development revenue bonds in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Taxable Economic Development EID Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate), one or more series of which may be subordinate to one or more series of such Bonds, in an aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds (as defined herein) issued by the City (the “Bonds”), the net proceeds of such Bonds to be used for the purpose of financing a portion of the costs of the Project, capitalized interest on the Bonds, a debt service reserve fund from proceeds of the Bonds or the cost of a reserve surety, if necessary, and costs of issuance of the Bonds; and

WHEREAS, in addition to the Bonds authorized herein, the Common Council has approved and adopted an ordinance authorizing the issuance of economic development tax increment revenue bonds of the City in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Economic Development Tax Increment Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate) in an aggregate principal amount not to exceed Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) (the “Senior TIF Bonds”), for the purpose of financing a portion of the costs of the Project, and which Senior TIF Bonds will be payable from a senior pledge of the SoLa Project Allocation Area TIF Revenues (the “Senior TIF Pledge”); and

WHEREAS, the Economic Development Commission, following a public hearing, pursuant to Section 24 of the Act, adopted a resolution which has been transmitted to the Common Council (i) finding that the financing of all or a portion of the costs of the Project will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the City; (ii) further finding that the proposed financing of all or a portion of the costs of the Project complies with the purposes and provisions of the Act; (iii) further finding that such financing will be of benefit to the health and public welfare of the City; (iv) approving the financing of all or a portion of the costs of the Project, capitalized interest on the Bonds, a debt service reserve fund from proceeds of the Bonds or the cost of a reserve surety, if necessary, and costs of issuance of the Bonds, including the forms and terms of a Financing and Loan Agreement (the “Financing Agreement”) by and between the City and the Developer (or an affiliate thereof), a Trust Indenture (the “Trust Indenture”) between the City and a bank to be selected to serve as trustee for the Bonds, the Bonds from the City to the bondholders more fully described below, and this Ordinance (the Financing Agreement, the Trust Indenture, the Bonds, and this Ordinance, collectively, the “Financing Documents”), presented to the Economic Development Commission; and (v) recommending that this Common Council find that the proposed financing of the cost of the Project will be of benefit to the health and general welfare of the City and its citizens, and complies with

the purposes and provisions of the Act, and that this Common Council adopt an ordinance approving such financings; and

WHEREAS, no member of this Common Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Common Council, and no such member has voted on any such matter, all in accordance with the provisions of Section 16 of the Act;

NOW, THEREFORE, BE IT ORDAINED By the Common Council of the City of Michigan City, Indiana, that:

It is hereby found that the Project constitutes an “economic improvement project” within the meaning of the EID Act and constitutes an “economic development project” and “economic development facilities” within the meaning of the Act and the financing of a portion of the costs of the economic development facilities constituting the Project referred to in the Financing Documents previously approved by the Economic Development Commission and presented to this Common Council; the issuance and sale of the Bonds; the use of the proceeds of the Bonds to finance a portion of the costs of the Project, pay capitalized interest on the Bonds, fund a reserve fund from proceeds of the Bonds or by the purchase of a surety policy and pay the costs of issuance of the Bonds, the payment of the Bonds from the Note Payments (as hereinafter defined), a junior pledge of the SoLa Project Allocation Area TIF Revenues on a basis junior to the pledge of the SoLa Project Allocation Area TIF Revenues to the Senior TIF Bonds for a period not to exceed twenty-five (25) from the earlier of the date of issuance of the Senior TIF Bonds or the Bonds (the “Junior TIF Pledge”), a pledge of the EID Assessment Revenues by the EID District, and other sources described in the Financing Documents, and the securing of the Bonds under the Indenture comply with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

At the public hearing held before the Economic Development Commission, the Economic Development Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City. This Common Council hereby confirms the findings set forth in the Economic Development Commission’s resolution, and concludes that the Project will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the City.

The substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk of the City (the “Clerk”). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

The City shall issue the Bonds in one (1) or more series in the maximum aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds issued by the City, which Bonds shall mature no later than September 1, 2060, and shall bear interest at a per annum rate not exceeding ten percent (10%) per annum (determined through a negotiated sale, a private placement, or sale to the Developer or an affiliate thereof, as set forth herein). The Bonds are to be issued for the purpose of procuring funds to (a) pay all or a portion of the costs of acquiring, constructing and equipping the Project, (b) pay capitalized interest on the Bonds, (c) fund a debt service reserve fund or pay the cost of a reserve surety (if necessary), and (d) pay all incidental expenses on account of the issuance of the Bonds and acquiring any credit enhancement with respect thereto. The Bonds shall be issued in one (1) or more series as fully registered bonds in denominations of \$5,000, or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in any one (1) year (or in denominations of \$100,000 and \$1,000 in excess thereof) (each an “Authorized Denomination”) as may be determined by the Mayor of the City (the “Mayor”) and the Controller of the City (the “Controller”), shall be dated the date of their delivery as set forth in the Trust Indenture, shall be fully registered without coupons and numbered consecutively from R-1 upward, and shall be payable in the medium and at the place or places as set forth in the Trust Indenture. The Bonds may be issued as serial bonds and/or term bonds subject to mandatory sinking fund redemption. Principal of and interest on the Bonds shall be payable semiannually on March 1 and September 1, commencing not earlier than March 1, 2026, and shall have a final principal payment due not later than September 1, 2060. Interest on

the Bonds shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The Mayor and the Controller, upon consultation with the City's municipal advisor (the "Municipal Advisor"), may designate maturities of the Bonds (or a portion thereof in Authorized Denominations) that shall be subject to optional redemption and/or mandatory sinking fund redemption and the corresponding redemption dates, amounts and prices (including premium, if any) and such terms shall be as set forth in the Financing Documents, provided that the Bonds shall not be subject to optional redemption and/or mandatory sinking fund redemption prior to September 1, 2028.

The Bonds shall be executed on behalf of the City by, and bear the manual or facsimile signature of, the Mayor and the Clerk, and the seal of the City shall be thereunto affixed (or imprinted or engraved if in facsimile).

The Bonds shall be in the form set forth in the final form of the Trust Indenture.

The Bonds shall be special and limited obligations of the City, payable solely from the trust estate created and established under the Trust Indenture (the "Trust Estate"), which Trust Estate shall consist of the funds and accounts created under the Trust Indenture together with (i) promissory note payments (the "Note Payments") made by the Developer (or an affiliate thereof) under the Financing Agreement, (ii) the Junior TIF Pledge subject to the terms and conditions of a pledge agreement between the Redevelopment Commission and the City, and (iii) a pledge by the EID District of the EID Assessment Revenues subject to the terms and conditions of a pledge agreement between the EID Board and the City, and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit, or taxing power, of the City, but shall be special and limited obligations of the City, payable solely from the sources as described in the Financing Documents.

The Mayor and the Controller are authorized to provide for the sale of any series of the Bonds either through a negotiated sale or a private placement, or to the Developer or an affiliate thereof, based upon the advice provided by the Municipal Advisor as set forth herein. The Common Council hereby approves Stifel, Nicolaus & Company, Incorporated to serve as either the underwriter or the placement agent (the "Underwriter" or the "Placement Agent") with respect to the sale of any series of the Bonds through a negotiated sale or a private placement.

The Mayor and the Controller, upon consultation with the Municipal Advisor, may determine to provide for any series of the Bonds to be (i) sold through a negotiated sale in the manner and upon the terms and conditions set forth in a purchase agreement between the City and the Underwriter, (ii) placed through a private placement with a qualified purchaser in the manner and upon the terms and conditions set forth in a placement agent agreement between the City and the Placement Agent, at such prices and on such terms as may be determined at the time of such sale or placement and approved by the Mayor and the Controller, or (iii) sold to the Developer or an affiliate thereof. The Mayor and the Controller are hereby authorized to approve and execute a bond purchase agreement in the event any series of the Bonds are sold by negotiated sale to the Underwriter or sold to the Developer or an affiliate thereof, or a placement agent agreement in the event any series of the Bonds are privately placed by the Placement Agent (each, the "Agreement") for any series of the Bonds, in a form and substance approved by such officers, such approval to be conclusively evidenced by the execution thereof. Such Agreement may set forth the definitive terms and conditions for such sale or placement, but all such terms and conditions must be consistent with the terms and conditions of this Ordinance, including without limitation, the interest rate or rates on the Bonds which shall not exceed the maximum rate of interest for the Bonds authorized pursuant to this Ordinance.

In connection with the sale of the Bonds, the Mayor and the Controller each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating on the Bonds, if necessary, bond insurance for the Bonds, and/or a surety policy to satisfy any reserve requirement, if necessary, and the taking of such actions and the execution and delivery of agreements and instruments are hereby approved.

In the event the Bonds are sold by negotiated sale to the Underwriter, the Mayor and Controller are hereby authorized to approve the preparation and distribution of a Preliminary

Official Statement for the Bonds. The Mayor and Controller are hereby authorized to deem and determine the Preliminary Official Statement as the near final Official Statement with respect to the Bonds for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule"), subject to completion in accordance with such SEC Rule and in a manner acceptable to the Mayor and Controller of the City, and to place the Preliminary Official Statement into final form as the Final Official Statement. The Mayor and Controller of the City are hereby authorized to sign the Final Official Statement and by such signature approve of its distribution. In the event that the Bonds are privately placed by the Placement Agent, and a private placement memorandum or term sheet is determined to be necessary or desirable, the Mayor and the Controller are each authorized to approve a form of such document and each are authorized to execute said document as necessary with said execution evidencing their respective approval of such document.

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

Each of the Mayor, the Clerk, the Controller and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, Clerk, the Controller and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Clerk and any other officer of the City on the Bonds may be facsimile signatures or electronic signatures. The Mayor, the Controller and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser thereof, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk, the Controller and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk, the Controller or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

The provisions of this Ordinance and the Financing Documents securing the Bonds of a series shall constitute a contract binding between the City and the holders of the Bonds of such series, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

The Common Council hereby finds that (a) the Project and the related financing assistance for the Project provided in the Financing Documents are consistent with the economic development plan for the Area and the SoLa Project Allocation Area; (b) the Developer would not undertake the Project without the financing assistance provided in Financing Documents; and (c) the Project furthers the economic development of the SoLa Project Allocation Area and the Area generally.

This Common Council does hereby acknowledge and approve the Junior TIF Pledge to the payment of the Bonds pursuant to the Trust Indenture, junior to the Senior TIF Pledge thereof to the Senior TIF Bonds and any other obligations which by their terms may be payable on a basis senior to the Bonds. Pursuant to Indiana Code 5-1-14-4, the the Junior TIF Pledge, junior to the Senior TIF Pledge, pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with the Junior TIF Pledge so pledged and thereafter received by the City to be immediately subject to the lien of the pledge, junior to the Senior TIF Pledge, without any

further act, and the lien of such pledge, junior to the lien of the Senior TIF Pledge, to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

This Common Council does hereby acknowledge and approve the pledge of the EID Assessment Revenues to the payment of the Bonds pursuant to the Trust Indenture. Pursuant to Indiana Code 5-1-14-4, the pledge of the EID Assessment Revenues pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with such EID Assessment Revenues so pledged and thereafter received by the City to be immediately subject to the lien of the pledge without any further act, and the lien of such pledge to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

No stipulation, obligation or agreement herein contained or contained in the Financing Documents, the Bonds or in any other agreement or document executed on behalf of the City shall be deemed to be a stipulation, obligation or agreement of any member of the Common Council, or any officer, agent or employee of the City in his or her individual capacity, and no such member of the Common Council, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

It is hereby determined that all formal actions of the Common Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

The Mayor, the Clerk, the Controller and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver such further instruments and documents, and to take such further actions, in the name of the City as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this Ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

All acts of the officers of the City which are in conformity with the purpose and intent of this Ordinance and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects ratified, approved and confirmed.

Any ordinances, resolutions or orders or parts thereof in conflict with this Ordinance are to the extent of such conflict hereby repealed.

This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-4-6.

This Ordinance to be effective upon passage by the Council and approval by the Mayor.

INTRODUCED BY: /s/ Tracie Tillman, President
Michigan City Common Council

President Tillman advised that she had no comments at this time.

President Tillman asked if there questions or comments from the public.

Paul Przybylinski, 1716 Washington Street questioned If the property that is proposed for the SOLa project ever was appraised by three (3) appraisers to get a fair market value for it.

President Tillman asked if there were any public comments, there was no response.

President Tillman asked if the council had any comments.

Councilman Dabney made a motion to approve the proposed ordinance, second by Councilman Dr. Kora. The motion carried and was approved by the following vote:

AYES: Council members Coulter, Dabney, Dr. Kora, Lee, Moldenhauer, Nelson, Przybylinski, Tillman and Bietry (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on second reading by title only. **AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AUTHORIZING THE CITY OF MICHIGAN CITY, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT TAX INCREMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN CONNECTION WITH THE SOLA PROJECT**

Introduced by: Tracie Tillman

President Tillman stated that she didn't have any comments at this time.

President Tillman asked if the public had any questions or comments, there was no response.

President Tillman asked if the Council had anything to add at this time.

Councilman Dabney made a motion to suspend the rule to have second and third reading this evening, second by Councilman Przybylinski. The motion carried and the was approved to have second and third reading this evening by the following vote:

AYES: Council members Dabney, Dr. Kora, Lee, Moldenhauer, Nelson, Przybylinski, Tillman, Bietry and Coulter (9) **NAYS:** None (0).

The Clerk read the following proposed ordinance on third reading by title only.

ORDINANCE NO. 4773

AN ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY, INDIANA, AUTHORIZING THE CITY OF MICHIGAN CITY, INDIANA, TO ISSUE ONE OR MORE SERIES OF ITS ECONOMIC DEVELOPMENT REVENUE BONDS AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO IN CONNECTION WITH THE SOLA PROJECT

WHEREAS, Indiana Code 36-7-11.9 and 12, as amended from time to time (collectively, the "Act"), declares that the financing and refinancing of economic development facilities constitutes a public purpose; and

WHEREAS, pursuant to the Act, the City of Michigan City, Indiana (the "City") is authorized to issue revenue bonds for the purpose of financing, reimbursing or refinancing the costs of acquisition, construction, renovation, installation and equipping of economic development facilities in order to foster diversification of economic development and creation or retention of opportunities for gainful employment in or near the City; and

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

WHEREAS, the Redevelopment Commission has previously declared an area within the City as an economic development area and known as the "Consolidated Economic Development

Area” (the “Area”) and designated portions of the Area as allocation areas in accordance with Section 39 of the Redevelopment Act for the purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value in such Area; and

WHEREAS, the City, the Redevelopment Commission, and YAB Development Partners, LLC (the “Developer”), have negotiated a Second Amended and Restated Development Agreement, dated as of December 10, 2024, as amended by a First Amendment to Second Amended and Restated Development Agreement, dated as of June 9, 2025 (collectively, the “Development Agreement”) to provide for the acquisition, construction and equipping of a mixed-use development including (i) an approximately 242-room hotel; (ii) approximately 21,000 square feet of retail and/or commercial space; (iii) approximately 188 condos/townhomes and related improvements with a portion of such condos to be owned by the Developer or an affiliate thereof, with the remaining condos to be sold to third parties; and (iv) an approximately 385 parking structure and any supporting areas (collectively, the “Project”) as more fully described in the Development Agreement; and

WHEREAS, the Redevelopment Commission on July 14, 2025, approved and adopted a resolution for the purpose of making certain amendments to the Area and its plan to designate an area, presently part of the Area, as a separate allocation area pursuant to Section 39 of the Redevelopment Act to be known as the “SoLa Project Allocation Area” (the “SoLa Project Allocation Area”) for purposes of capturing *ad valorem* property taxes levied and collected on all taxable real property from the incremental assessed value located in the SoLa Project Allocation Area (the “SoLa Project Allocation Area TIF Revenues”); and

WHEREAS, the Common Council of the City (the “Common Council”) has approved and adopted an ordinance for the purpose of establishing an economic improvement district within the City in accordance with Indiana Code 36-7-22, as amended from time to time (the “EID Act”), to be known as the “SoLa Project Economic Improvement District” (the “EID District”) and appointing the EID District’s initial governing board (“EID Board”), for the purpose of levying special assessments on parcels of real property located within the EID District (“EID Assessments”) to be deposited in an economic improvement fund to finance economic development projects in the EID District (the “EID Assessment Revenues”); and

WHEREAS, prior to the issuance of the Bonds, the EID Board will provide notice of, including mailing notice to the owners of property within the EID District, and hold a public hearing on the proposed EID Assessments and thereafter adopt a resolution establishing the EID Assessments and pledging those EID Assessment Revenues to the Bonds; and

WHEREAS, the Developer has advised the City, the City of Michigan City Economic Development Commission (the “Economic Development Commission”) and the Redevelopment Commission concerning the Project, and has requested that the City authorize and issue its economic development revenue bonds in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Taxable Economic Development EID Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate), one or more series of which may be subordinate to one or more series of such Bonds, in an aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds (as defined herein) issued by the City (the “Bonds”), the net proceeds of such Bonds to be used for the purpose of financing a portion of the costs of the Project, capitalized interest on the Bonds, a debt service reserve fund from proceeds of the Bonds or the cost of a reserve surety, if necessary, and costs of issuance of the Bonds; and

WHEREAS, in addition to the Bonds authorized herein, the Common Council has approved and adopted an ordinance authorizing the issuance of economic development tax increment revenue bonds of the City in one or more series under the Act, to be designated as the “City of Michigan City, Indiana, Economic Development Tax Increment Revenue Bonds, Series 2025 (SoLa Project)” (with such further series or different series designation as determined to be necessary or appropriate) in an aggregate principal amount not to exceed Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) (the “Senior TIF Bonds”), for the purpose of financing a portion of the costs of the Project, and which Senior TIF Bonds will be payable from a senior pledge of the SoLa Project Allocation Area TIF Revenues (the “Senior TIF Pledge”); and

WHEREAS, the Economic Development Commission, following a public hearing, pursuant to Section 24 of the Act, adopted a resolution which has been transmitted to the Common Council (i) finding that the financing of all or a portion of the costs of the Project will not have an adverse competitive effect on any similar facilities already constructed or operating in or about the City; (ii) further finding that the proposed financing of all or a portion of the costs of the Project complies with the purposes and provisions of the Act; (iii) further finding that such financing will be of benefit to the health and public welfare of the City; (iv) approving the financing of all or a portion of the costs of the Project, capitalized interest on the Bonds, a debt service reserve fund from proceeds of the Bonds or the cost of a reserve surety, if necessary, and costs of issuance of the Bonds, including the forms and terms of a Financing and Loan Agreement (the "Financing Agreement") by and between the City and the Developer (or an affiliate thereof), a Trust Indenture (the "Trust Indenture") between the City and a bank to be selected to serve as trustee for the Bonds, the Bonds from the City to the bondholders more fully described below, and this Ordinance (the Financing Agreement, the Trust Indenture, the Bonds, and this Ordinance, collectively, the "Financing Documents"), presented to the Economic Development Commission; and (v) recommending that this Common Council find that the proposed financing of the cost of the Project will be of benefit to the health and general welfare of the City and its citizens, and complies with the purposes and provisions of the Act, and that this Common Council adopt an ordinance approving such financings; and

WHEREAS, no member of this Common Council has any pecuniary interest in any employment, financing agreement or other contract made under the provisions of the Act and related to the Bonds authorized herein, which pecuniary interest has not been fully disclosed to the Common Council, and no such member has voted on any such matter, all in accordance with the provisions of Section 16 of the Act;

NOW, THEREFORE, BE IT ORDAINED By the Common Council of the City of Michigan City, Indiana, that:

It is hereby found that the Project constitutes an "economic improvement project" within the meaning of the EID Act and constitutes an "economic development project" and "economic development facilities" within the meaning of the Act and the financing of a portion of the costs of the economic development facilities constituting the Project referred to in the Financing Documents previously approved by the Economic Development Commission and presented to this Common Council; the issuance and sale of the Bonds; the use of the proceeds of the Bonds to finance a portion of the costs of the Project, pay capitalized interest on the Bonds, fund a reserve fund from proceeds of the Bonds or by the purchase of a surety policy and pay the costs of issuance of the Bonds, the payment of the Bonds from the Note Payments (as hereinafter defined), a junior pledge of the SoLa Project Allocation Area TIF Revenues on a basis junior to the pledge of the SoLa Project Allocation Area TIF Revenues to the Senior TIF Bonds for a period not to exceed twenty-five (25) from the earlier of the date of issuance of the Senior TIF Bonds or the Bonds (the "Junior TIF Pledge"), a pledge of the EID Assessment Revenues by the EID District, and other sources described in the Financing Documents, and the securing of the Bonds under the Indenture comply with the purposes and provisions of the Act and will be of benefit to the health, prosperity, economic stability and general welfare of the City and its citizens.

At the public hearing held before the Economic Development Commission, the Economic Development Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City. This Common Council hereby confirms the findings set forth in the Economic Development Commission's resolution, and concludes that the Project will be of benefit to the health, prosperity, economic stability and general welfare of the citizens of the City.

The substantially final forms of the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk of the City (the "Clerk"). In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Clerk for public inspection.

The City shall issue the Bonds in one (1) or more series in the maximum aggregate principal amount not to exceed Eighty Million Dollars (\$80,000,000) provided that such amount shall be reduced by the aggregate principal amount of the Senior TIF Bonds issued by the City, which Bonds shall mature no later than September 1, 2060, and shall bear interest at a per annum

rate not exceeding ten percent (10%) per annum (determined through a negotiated sale, a private placement, or sale to the Developer or an affiliate thereof, as set forth herein). The Bonds are to be issued for the purpose of procuring funds to (a) pay all or a portion of the costs of acquiring, constructing and equipping the Project, (b) pay capitalized interest on the Bonds, (c) fund a debt service reserve fund or pay the cost of a reserve surety (if necessary), and (d) pay all incidental expenses on account of the issuance of the Bonds and acquiring any credit enhancement with respect thereto. The Bonds shall be issued in one (1) or more series as fully registered bonds in denominations of \$5,000, or any integral multiple thereof not exceeding the aggregate principal amount of the Bonds maturing in any one (1) year (or in denominations of \$100,000 and \$1,000 in excess thereof) (each an "Authorized Denomination") as may be determined by the Mayor of the City (the "Mayor") and the Controller of the City (the "Controller"), shall be dated the date of their delivery as set forth in the Trust Indenture, shall be fully registered without coupons and numbered consecutively from R-1 upward, and shall be payable in the medium and at the place or places as set forth in the Trust Indenture. The Bonds may be issued as serial bonds and/or term bonds subject to mandatory sinking fund redemption. Principal of and interest on the Bonds shall be payable semiannually on March 1 and September 1, commencing not earlier than March 1, 2026, and shall have a final principal payment due not later than September 1, 2060. Interest on the Bonds shall be calculated according to a three hundred sixty (360)-day calendar year containing twelve (12) thirty (30)-day months.

The Mayor and the Controller, upon consultation with the City's municipal advisor (the "Municipal Advisor"), may designate maturities of the Bonds (or a portion thereof in Authorized Denominations) that shall be subject to optional redemption and/or mandatory sinking fund redemption and the corresponding redemption dates, amounts and prices (including premium, if any) and such terms shall be as set forth in the Financing Documents, provided that the Bonds shall not be subject to optional redemption and/or mandatory sinking fund redemption prior to September 1, 2028.

The Bonds shall be executed on behalf of the City by, and bear the manual or facsimile signature of, the Mayor and the Clerk, and the seal of the City shall be thereunto affixed (or imprinted or engraved if in facsimile).

The Bonds shall be in the form set forth in the final form of the Trust Indenture.

The Bonds shall be special and limited obligations of the City, payable solely from the trust estate created and established under the Trust Indenture (the "Trust Estate"), which Trust Estate shall consist of the funds and accounts created under the Trust Indenture together with (i) promissory note payments (the "Note Payments") made by the Developer (or an affiliate thereof) under the Financing Agreement, (ii) the Junior TIF Pledge subject to the terms and conditions of a pledge agreement between the Redevelopment Commission and the City, and (iii) a pledge by the EID District of the EID Assessment Revenues subject to the terms and conditions of a pledge agreement between the EID Board and the City, and upon such terms and conditions as otherwise provided in the Financing Documents and this Ordinance. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit, or taxing power, of the City, but shall be special and limited obligations of the City, payable solely from the sources as described in the Financing Documents.

The Mayor and the Controller are authorized to provide for the sale of any series of the Bonds either through a negotiated sale or a private placement, or to the Developer or an affiliate thereof, based upon the advice provided by the Municipal Advisor as set forth herein. The Common Council hereby approves Stifel, Nicolaus & Company, Incorporated to serve as either the underwriter or the placement agent (the "Underwriter" or the "Placement Agent") with respect to the sale of any series of the Bonds through a negotiated sale or a private placement.

The Mayor and the Controller, upon consultation with the Municipal Advisor, may determine to provide for any series of the Bonds to be (i) sold through a negotiated sale in the manner and upon the terms and conditions set forth in a purchase agreement between the City and the Underwriter, (ii) placed through a private placement with a qualified purchaser in the manner and upon the terms and conditions set forth in a placement agent agreement between the City and the Placement Agent, at such prices and on such terms as may be determined at the time of such sale or placement and approved by the Mayor and the Controller, or (iii) sold to the Developer or an affiliate thereof. The Mayor and the Controller are hereby authorized to approve and execute a bond purchase agreement in the event any series of the Bonds are sold by negotiated sale to the

Underwriter or sold to the Developer or an affiliate thereof, or a placement agent agreement in the event any series of the Bonds are privately placed by the Placement Agent (each, the "Agreement") for any series of the Bonds, in a form and substance approved by such officers, such approval to be conclusively evidenced by the execution thereof. Such Agreement may set forth the definitive terms and conditions for such sale or placement, but all such terms and conditions must be consistent with the terms and conditions of this Ordinance, including without limitation, the interest rate or rates on the Bonds which shall not exceed the maximum rate of interest for the Bonds authorized pursuant to this Ordinance.

In connection with the sale of the Bonds, the Mayor and the Controller each are authorized to take such actions and to execute and deliver such agreements and instruments as they deem advisable to obtain a rating on the Bonds, if necessary, bond insurance for the Bonds, and/or a surety policy to satisfy any reserve requirement, if necessary, and the taking of such actions and the execution and delivery of agreements and instruments are hereby approved.

In the event the Bonds are sold by negotiated sale to the Underwriter, the Mayor and Controller are hereby authorized to approve the preparation and distribution of a Preliminary Official Statement for the Bonds. The Mayor and Controller are hereby authorized to deem and determine the Preliminary Official Statement as the near final Official Statement with respect to the Bonds for purposes of Rule 15c2-12 of the Securities and Exchange Commission (the "SEC Rule"), subject to completion in accordance with such SEC Rule and in a manner acceptable to the Mayor and Controller of the City, and to place the Preliminary Official Statement into final form as the Final Official Statement. The Mayor and Controller of the City are hereby authorized to sign the Final Official Statement and by such signature approve of its distribution. In the event that the Bonds are privately placed by the Placement Agent, and a private placement memorandum or term sheet is determined to be necessary or desirable, the Mayor and the Controller are each authorized to approve a form of such document and each are authorized to execute said document as necessary with said execution evidencing their respective approval of such document.

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

Each of the Mayor, the Clerk, the Controller and any other officer of the City are authorized and directed to execute the Financing Documents, such other documents approved or authorized herein and any other document which may be necessary, appropriate or desirable to consummate the transaction contemplated by the Financing Documents and this Ordinance, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, Clerk, the Controller and any other officer of the City on the Bonds which may be necessary or desirable to consummate the transaction, and their execution is hereby confirmed on behalf of the City. The signatures of the Mayor, the Clerk and any other officer of the City on the Bonds may be facsimile signatures or electronic signatures. The Mayor, the Controller and any other officer of the City are authorized to arrange for the delivery of such Bonds to the purchaser thereof, payment for which will be made in the manner set forth in the Financing Documents. The Mayor, the Clerk, the Controller and any other officer of the City may, by their execution of the Financing Documents requiring their signatures and imprinting of their facsimile signatures thereon, approve any and all such changes therein and also in those Financing Documents which do not require the signature of the Mayor, the Clerk, the Controller or any other officer of the City without further approval of this Common Council or the Economic Development Commission if such changes do not affect terms set forth in Sections 27(a)(1) through and including (a)(10) of the Act.

The provisions of this Ordinance and the Financing Documents securing the Bonds of a series shall constitute a contract binding between the City and the holders of the Bonds of such series, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any

respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

The Common Council hereby finds that (a) the Project and the related financing assistance for the Project provided in the Financing Documents are consistent with the economic development plan for the Area and the SoLa Project Allocation Area; (b) the Developer would not undertake the Project without the financing assistance provided in Financing Documents; and (c) the Project furthers the economic development of the SoLa Project Allocation Area and the Area generally.

This Common Council does hereby acknowledge and approve the Junior TIF Pledge to the payment of the Bonds pursuant to the Trust Indenture, junior to the Senior TIF Pledge thereof to the Senior TIF Bonds and any other obligations which by their terms may be payable on a basis senior to the Bonds. Pursuant to Indiana Code 5-1-14-4, the the Junior TIF Pledge, junior to the Senior TIF Pledge, pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with the Junior TIF Pledge so pledged and thereafter received by the City to be immediately subject to the lien of the pledge, junior to the Senior TIF Pledge, without any further act, and the lien of such pledge, junior to the lien of the Senior TIF Pledge, to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

This Common Council does hereby acknowledge and approve the pledge of the EID Assessment Revenues to the payment of the Bonds pursuant to the Trust Indenture. Pursuant to Indiana Code 5-1-14-4, the pledge of the EID Assessment Revenues pursuant to the Trust Indenture is intended to be binding from the time the pledge is made, with such EID Assessment Revenues so pledged and thereafter received by the City to be immediately subject to the lien of the pledge without any further act, and the lien of such pledge to be binding against all parties having claims of any kind, in tort, contract, or otherwise against the City, regardless of whether the parties have notice of any such lien.

No stipulation, obligation or agreement herein contained or contained in the Financing Documents, the Bonds or in any other agreement or document executed on behalf of the City shall be deemed to be a stipulation, obligation or agreement of any member of the Common Council, or any officer, agent or employee of the City in his or her individual capacity, and no such member of the Common Council, officer, agent or employee shall be personally liable on the Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

It is hereby determined that all formal actions of the Common Council relating to the adoption of this Ordinance were taken in one or more open meetings of the Common Council, that all deliberations of the Common Council and of its committees, if any, which resulted in formal action, were in meetings open to the public, and that all such meetings were convened, held and conducted in compliance with applicable legal requirements, including Indiana Code 5-14-1.5, as amended.

The Mayor, the Clerk, the Controller and any other officer of the City are hereby authorized and directed, in the name and on behalf of the City, to execute, attest and deliver such further instruments and documents, and to take such further actions, in the name of the City as in their judgment shall be necessary or advisable in order fully to consummate the transactions described herein and carry out the purposes of this Ordinance, and any such documents heretofore executed and delivered and any such actions heretofore taken, be, and hereby are, ratified and approved.

All acts of the officers of the City which are in conformity with the purpose and intent of this Ordinance and in the furtherance of the issuance of the Bonds and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects ratified, approved and confirmed.

Any ordinances, resolutions or orders or parts thereof in conflict with this Ordinance are to the extent of such conflict hereby repealed.

This Ordinance shall be in full force and effect upon adoption and compliance with Indiana Code 36-4-6.

This Ordinance to be effective upon passage by the Council and approval by the Mayor.

INTRODUCED BY: /s/ Tracie Tillman, President
Michigan City Common Council

President Tillman stated that she had no comments at this time.

President Tillman asked if the public had any questions or comments, there was no response.

President Tillman asked if the council had any further comments.

Councilman Przybylinski made a motion to approve the proposed ordinance, second by Councilman Dabney. The motion carried and was approved by the following vote:
AYES: Council members Dr. Kora, Lee, Moldenhauer, Nelson, Przybylinski, Tillman, Bietry, Coulter and Dabney (9) **NAYS: None (0)**

NEW BUSINESS

President Tillman asked if there was any new business.

Clerk Neulieb read the following:

FYI: The Council has one (1) appointment with the Michigan City Police Civil Service Commission— Incumbent Lela Simmons- Term expires September 7, 2025 (two- year term)

UNFINISHED BUSINESS

President Tillman asked if there was any unfinished business.

Clerk Neulieb advised there is no unfinished business.

COMMENTS FROM THE PUBLIC

President Tillman asked if there were any comments from the public at this time.

Tommy Kulavik, 1316 Ohio Street, stated that 402 Royal Road has not been vacant for decades, that in 2015 it held inventory for Tenneco and that in 2020 Phoenix Investors LLC, purchased the property and that when it became vacant; advised on how Michigan City received its name.

Tom Donegan, 205 E. 11th Street, asked the council to have the Chief of Police present to address the public at the next meeting regarding the violence in the community; inviting all to attend the Mayors "Town Hall" on Wednesday, August 27, 2025 located at the DAV at 5:30 p.m.; advising that if the violence does not stop no one will invest in our city.

Paul Przybylinski, 1716 Washington Street, asked the council what the proposed "Data Center" emergency plan would include during power outages, how many generators are allowed, and emergency drainage; stated he agrees with Mr. Donegan as to the violence in our community

Socrates Grey, 2030 Warnke Road, advised there has been an increase in truck/semi traffic on Warnke Road since the DATA construction has started, that truck traffic isn't allowed according to our city ordinance and that it is also creating a public safety issue.

President Tillman asked if there were any other comments from the public, there was no response.

COMMENTS FROM THE COUNCIL

President Tillman asked if there were any comments from the Council at this time.

Councilman Dabney stated that the resolutions regarding the proposed "Data Center" was tabled to get the answers for the questions that were asked at tonight's meeting; advising that he had researched information and visited the data center in Hammond and that in that upcoming meetings that this will be moving forward.

Councilwoman Moldenhauer addressed Mr. Grey regarding the truck traffic on Warnke Road stating that she sent out an email to have more enforcement in that area and that she will be having a meeting with those individuals responsible if the enforcement is not being handled correctly as this is a dangerous situation; advised that the trucks should go north on Royal Road, east on Tryon Road to exit on Highway 212 which is stated in the city ordinance.

Councilman Przybylinski advised Councilwoman Moldenhauer to speak to John, the developer of this project providing him the city ordinance as they intend to follow all city ordinances.

Councilman Dr. Kora thanked the public for stating their concerns and views on this proposed project as he will research on the health on well being for the community; stated that he is happy for the passing of the Soa project; and that is concerned for the safety in the community.

President Tillman thanked everyone for all there comment this evening regarding all the resolutions and ordinance that came before you all; and one of the things I'm required to do is to keep the council chambers to run efficiently in governing a council meeting and will continue to adhere to that.

President Tillman reminded everyone that tomorrow August 5th from 5:00 p.m.to 8:00 p.m. is the Michigan City Police Department National Night Out; inviting everyone. and Saturday August 9, 2025 is the Michigan City Area Schools "Back to School Rally" held at Gill Field (old Elston High School Football Field)

ADJOURNMENT

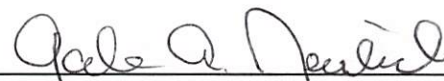
A motion by Councilman Dabney, second by Councilman Bietry and there being no further business to transact, President Tillman declared the meeting **ADJOURNED** (approximately 10:37 p.m.)

These minutes are a summary of actions taken at the Michigan City Common Council meetings. The full video archive of the meeting is available for viewing at:

<https://www.youtube.com/watch?v=PwiNkOjNI68&list=PL8L8Y5g9S6bqw-rohSfvSUA8dwegrb6st>



Tracie Tillman, President



Gale A. Neulieb, City Clerk