

**ORDINANCES AND RESOLUTIONS
UP FOR INTRODUCTION
MARCH 24, 2009**

FINANCE COMMITTEE

*Glynn A. Hines - Chair
Elizabeth M. Brown - Co-Chair
All Council Members*

ACTION

S-09-03-07

**AN ORDINANCE approving the awarding of purchase of 43 Motorola XTS 5000 Portable Radios by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and Motorola - (State QPA #9167) for the Fort Wayne Police Department
Total cost of \$125,762**

S-09-03-18

**AN ORDINANCE approving the awarding of RFP #2765 - annual contract for Street Tree Pruning by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and Mudrack Tree Service, Inc. for the Parks and Recreation Department
Total cost of \$267,500**

S-08-03-24

**AN ORDINANCE certifying and approving Resolution #2187 - 2009, the need for the services of a consultant to provide professional engineering services for the Digester Improvements Phase 2, Gas and Safety Equipment for the Water Pollution Control Plant
Total cost of \$141,843**

FINANCE COMMITTEE CONTINUED

ACTION

R-09-03-19

**A DECLARATORY RESOLUTION designating an
“Economic Revitalization Area” under I.C. 6-1.1-12.1
for property commonly known as 6710 Innovation
Boulevard, Fort Wayne, Indiana 46818 (AccuGear, Inc.)
Total cost of \$9,931,000**

TO BE PASSED THIS EVENING

R-09-03-20

**A CONFIRMING RESOLUTION designating an
“Economic Revitalization Area” under I. C. 6-1.1-12.1
for property known as 6710 Innovation Boulevard, Fort
Wayne, Indiana 46818 (AccuGear, Inc.)
Total cost of \$9,931,000**

PUBLIC HEARING 4-14-09 – 5:30 P.M.

R-09-03-21

**A DECLARATORY RESOLUTION designating an
“Economic Revitalization Area” under I. C. 6-1.1-12.1
for property commonly known as 4636 Newago Road,
Fort Wayne, Indiana 46808 (GCG Industries, Inc.)
Total cost of \$199,800**

TO BE PASSED THIS EVENING

R-09-03-22

**A CONFIRMING RESOLUTION designating an
“Economic Revitalization Area” under I.C. 6-1.1-12.1
for property commonly own as 4636 Newago Road,
Fort Wayne
Total cost of \$199,800**

PUBLIC HEARING 4-14-09 – 5:30 P.M.

REGULATIONS COMMITTEE

*John Shoaff - Chair
Thomas F. Didier - Co-Chair
All Council Members*

ACTION

G-09-03-27

**AN ORDINANCE amending Ordinance G-15-92
“Clarifying Eligibility for paid Vacation Leaves”**

G-09-03-23

**AN ORDINANCE amending Chapter 33:
Departments, Boards and Other Administrative Bodies
of the Fort Wayne Municipal Code**

G-09-03-13

**AN ORDINANCE amending Chapter 157 of the City of
Fort Wayne Municipal Code
Flood Plain Ordinance**

G-09-03-14

**AN ORDINANCE amending the Thoroughfare Plan of
the City Comprehensive (“Master”) Plan by vacating
public right-of-way
North five (5) feet of Oakland Street**

**PUBLIC HEARING 4-14-09 -- 5:30
P.M.**

Z-09-03-12

**AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. K-50 (Sec. 10 of Washington
Township)
8800 block of Lima Road – allow for an entrance
drive
For Auto Zone Store**

PUBLIC WORKS COMMITTEE

*Karen E. Goldner- Chair
Marty Bender - Co-Chair
All Council Members*

ACTION

No Ordinances or Resolutions up for introduction

CITY UTILITIES COMMITTEE

*Mitch Harper - Chair
Tim Pape- Co-Chair
All Council Members*

S-09-03-26

**AN ORDINANCE approving addendum for the biosolids processing, handling and marketing operations assistance agreement between Fox Contractors and the City of Fort Wayne, Indiana, in connection with the Board of Public Works
Approving the Addendum for the Biosolids Processing**

S-09-03-25

**AN ORDINANCE approving Resolution #96-3-18-09-1 between Fox Contractors and the City of Fort Wayne, Indiana, in connection with the Board of Public Works
Correcting scrivener's error**

S-09-03-16

**AN ORDINANCE approving Resolution #2173-2009, General Cipp 2009 Package #1 (1/1 Reduction) between Miller Pipeline and the City of Fort Wayne, Indiana, in connection with the Board of Public Works
Total cost of \$351,337**

BILL NO. S-09-03-07

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of PURCHASE OF 43 MOTOROLA XTS 5000 PORTABLE RADIOS by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and MOTOROLA - (State QPA #9167) for the FORT WAYNE POLICE DEPARTMENT.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;

SECTION 1. That PURCHASE OF 43 MOTOROLA XTS 5000 PORTABLE RADIOS between the City of Fort Wayne, by and through its Department of Purchasing and MOTOROLA - (State QPA #9167) for the FORT WAYNE POLICE DEPARTMENT, respectfully for:

purchase of 43 Motorola XTS 5000 portable radios for the Fort Wayne Police Department:

involving a total cost of ONE HUNDRED TWENTY-FIVE THOUSAND, SEVEN HUNDRED SIXTY-TWO AND NO/100 DOLLARS (\$125,762.00).

SECTION 2. Prior Approval has been requested from Common Council on MARCH 10, 2009. Said copy is on file in the Office of the City Clerk and made available for public inspection, according to law.

SECTION 3. That this Ordinance shall be in full force and effect from and after its

passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol T. Taylor, City Attorney

BILL NO. S-09-03-18

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of RFP #2765 - ANNUAL CONTRACT FOR STREET TREE PRUNING by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and MUDRACK TREE SERVICE, INC. for the THE PARKS AND RECREATION DEPARTMENT.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;

SECTION 1. That RFP #2765 - ANNUAL CONTRACT FOR STREET TREE PRUNING between the City of Fort Wayne, by and through its Department of Purchasing and MUDRACK TREE SERVICE, INC. for THE PARKS AND RECREATION DEPARTMENT, respectfully for:

pruning services necessary to maintain the street trees in a safe and healthy condition. The contract is for pruning 5000 trees during the 12 months of the contract;

involving a total cost of TWO HUNDRED SIXTY-SEVEN THOUSAND, FIVE HUNDRED AND NO/100 DOLLARS all as more particularly set forth in said RFP #2765 - ANNUAL CONTRACT FOR STREET TREE PRUNING which is on file in the Office of the Department of Purchasing, and is by reference incorporated herein, made a part hereof, and is hereby in all things ratified, confirmed and approved.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol T. Taylor, City Attorney

AN ORDANCE certifying and approving Resolution #2187-2009, the need for the services of a consultant to provide professional engineering services for the Digester Improvements Phase 2, Gas and Safety Equipment for the Water Pollution Control Plant.

WHEREAS, the Board of Public Works desires to hire DONOHUE & ASSOCIATES, INC. for professional engineering services for design and construction, including design, bidding, construction and operation procedures and training for Digester Improvements Phase 2, Gas and Safety Equipment, at the Water Pollution Control Plant;
and

WHEREAS, the City of Fort Wayne does not have the capability of performing this work with in-house forces; and

WHEREAS, it is anticipated that the amount to be paid to the consultant is ONE HUNDRED FORTY-ONE THOUSAND, EIGHT HUNDRED FORTY-THREE AND NO/100 DOLLARS – (\$141,843.00).

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA;

SECTION 1. The Common Council of the City of Fort Wayne hereby certifies and approves the need for the services of Donohue & Associates, Inc. to provide professional engineering services for the Digester Improvements Phase 2, Gas and Safety Equipment for the Water Pollution Control Plant

SECTION 2. That this Ordinance shall be in full force and effect from and after its

passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

DECLARATORY RESOLUTION NO. R-_____

A DECLARATORY RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 6710 Innovation Boulevard, Fort Wayne, Indiana 46818 (AccuGear, Inc.)

WHEREAS, Petitioner has duly filed its petition dated March 11, 2009 to have the following described property designated and declared an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and

I.C. 6-1.1-12.1, to wit:

Attached hereto as “Exhibit A” as if a part herein;

and

WHEREAS, said project will create 72 full-time, permanent jobs for a total new, annual payroll of \$2,663,040, with the average new annual job salary being \$36,987 and retain 45 full-time, permanent jobs for a total current annual payroll of \$1,784,200, with the average current, annual job salary being \$39,649; and

WHEREAS, the total estimated project cost is \$9,931,000; and

WHEREAS, it appears the said petition should be processed to final determination in accordance with the provisions of said Division 6.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That, subject to the requirements of Section 6, below, the property hereinabove described is hereby designated and declared an “Economic Revitalization Area” under I.C. 6-1.1-12.1. Said designation shall begin upon the effective date of the Confirming Resolution referred to in Section 6 of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

SECTION 2. That, upon adoption of the Resolution:

- (a) Said Resolution shall be filed with the Allen County Assessor;
- (b) Said Resolution shall be referred to the Committee on Finance requesting a recommendation from said committee concerning the advisability of designating the above area an “Economic Revitalization Area”;
- (c) Common Council shall publish notice in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 of the adoption and substance of this resolution and setting this designation as an “Economic Revitalization Area” for public hearing;

SECTION 3. That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to both a deduction of the assessed value of real estate and personal property for new manufacturing and information technology equipment.

SECTION 4. That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of redevelopment or rehabilitation and the estimate of the value of new manufacturing and information technology equipment, all contained in Petitioner’s Statement of Benefits, are reasonable and are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation and from the installation of new manufacturing and information technology equipment.

SECTION 5. That, the current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed development does not occur, the approximate current year tax rates for this site would be \$2.5736/\$100.
- (b) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$2.5736/\$100 (the change would be negligible).
- (c) If the proposed development occurs and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.5736/\$100 (the change would be negligible).
- (d) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.

- (e) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (f) If the proposed new manufacturing equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (g) If the proposed new information technology equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.
- (h) If the proposed new information technology equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (i) If the proposed new information technology equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).

SECTION 6. That, this Resolution shall be subject to being confirmed, modified and confirmed, or rescinded after public hearing and receipt by Common Council of the above described recommendations and resolution, if applicable.

SECTION 7. That, pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the real property shall be for a period of ten years, and the deduction from the assessed value of the new manufacturing and information technology equipment shall be for a period of ten years.

SECTION 8. That, the benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

SECTION 9. That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

SECTION 10. That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of this chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which

the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

SECTION 11. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 6710 Innovation Boulevard, Fort Wayne, Indiana 46818 (AccuGear, Inc.)

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution the following described property as an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

Attached hereto as “Exhibit A” as if a part herein; and

WHEREAS, said project will create 72 full-time, permanent jobs for a total additional annual payroll of \$2,663,040, with the average new annual job salary being \$36,987 and retain 45 full-time, permanent jobs for a current annual payroll of \$1,784,200, with the average current annual job salary being \$39,649; and

WHEREAS, the total estimated project cost is \$9,931,000; and

WHEREAS, a recommendation has been received from the Committee on Finance concerning said Resolution; and

WHEREAS, notice of the adoption and substance of said Resolution has been published in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 and a public hearing has been conducted on said Resolution; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That, the Resolution previously designating the above described property as an “Economic Revitalization Area” is confirmed in all respects.

SECTION 2. That, the hereinabove described property is hereby declared an “Economic Revitalization Area” pursuant to I.C. 6-1.1-12.1, said designation to begin on the effective date of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

SECTION 3. That, said designation of the hereinabove described property as an

“Economic Revitalization Area” shall apply to a deduction of the assessed value of real estate and personal property for new manufacturing and information technology equipment.

SECTION 4. That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of redevelopment or rehabilitation and estimate of the value of the new manufacturing and information technology equipment, all contained in Petitioner’s Statement of Benefits are reasonable and are benefits that can be reasonably expected to result from the proposed described installation of the new manufacturing and information technology equipment.

SECTION 5. The current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed development does not occur, the approximate current year tax rates for this site would be \$2.5736/\$100.
- (b) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$2.5736/\$100 (the change would be negligible).
- (c) If the proposed development occurs, and a deduction percentage of fifty percent (50%) is assumed, the approximate current year tax rate for the site would be \$2.5736/\$100 (the change would be negligible).
- (d) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.
- (e) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (f) If the proposed new manufacturing equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (g) If the proposed new information technology equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.

- (h) If the proposed new information technology equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (i) If the proposed new information technology equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).

SECTION 6. That, pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the real property shall be for a period of ten years, and that the deduction from the assessed value of the new manufacturing and information technology equipment shall be for a period of ten years.

SECTION 7. That, the benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

SECTION 8. For new manufacturing and information technology equipment, a deduction application must contain a performance report showing the extent to which there has been compliance with the Statement of Benefits form approved by the Fort Wayne Common Council at the time of filing. This report must be submitted to the Allen County Auditor's Office, and the City of Fort Wayne's Community Development Division and must be included with the deduction application. For subsequent years, the performance report must be updated and submitted along with the deduction application at the time of filing.

SECTION 9. For real property, a deduction application must contain a performance report showing the extent to which there has been compliance with the Statement of Benefits form approved by the Fort Wayne Common Council at the time of filing. This report must be submitted to the Allen County Auditor's Office and the City of Fort Wayne's Community Development Division and must be included in the deduction application. For subsequent years, the performance report must be updated each year in which the deduction is applicable at the same time the property owner is required to file a personal property tax return in the taxing district in which the property for which the deduction was granted is located. If the taxpayer does not file a personal property tax return in the taxing district in which the property is located, the information must be provided by May 15.

SECTION 10. The performance report must contain the following information:

- A. The cost and description of real property improvements and/or new manufacturing and information technology equipment acquired.
- B. The number of employees hired through the end of the preceding calendar year as a result of the deduction.
- C. The total salaries of the employees hired through the end of the preceding calendar year as a result of the deduction.
- D. The total number of employees employed at the facility receiving the deduction.
- E. The total assessed value of the real and/or personal property deductions.
- F. The tax savings resulting from the real and/or personal property being abated.

SECTION 11. That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

SECTION 12. That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of this chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

SECTION 13. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM A LEGALITY

Carol Taylor, City Attorney

**A DECLARATORY RESOLUTION designating an
“Economic Revitalization Area” under I.C. 6-1.1-12.1
for property commonly known as 4636 Newago
Road, Fort Wayne, Indiana 46808 (GCG Industries,
Inc.)**

WHEREAS, Petitioner has duly filed its petition dated March 5, 2009 to have the following described property designated and declared an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

Attached hereto as “Exhibit A” as if a part herein;

and

WHEREAS, said project will create two full-time, permanent jobs for a total new, annual payroll of \$41,600, with the average new annual job salary being \$20,800 and retain 20 full-time, permanent jobs for a total current annual payroll of \$692,984, with the average current, annual job salary being \$34,649; and

WHEREAS, the total estimated project cost is \$199,800; and

WHEREAS, it appears the said petition should be processed to final determination in accordance with the provisions of said Division 6.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That, subject to the requirements of Section 6, below, the property hereinabove described is hereby designated and declared an “Economic Revitalization Area” under I.C. 6-1.1-12.1. Said designation shall begin upon the effective date of the Confirming Resolution referred to in Section 6 of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

SECTION 2. That, upon adoption of the Resolution:

- (a) Said Resolution shall be filed with the Allen County Assessor;
- (b) Said Resolution shall be referred to the Committee on Finance requesting a recommendation from said committee concerning the advisability of designating the above area an “Economic Revitalization Area”;
- (c) Common Council shall publish notice in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 of the adoption and substance of this resolution and setting this designation as an “Economic Revitalization Area” for public hearing;

SECTION 3. That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of personal property for new manufacturing equipment.

SECTION 4. That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of new manufacturing equipment, all contained in Petitioner’s Statement of Benefits, are reasonable and are benefits that can be reasonably expected to result from the proposed described installation of new manufacturing equipment.

SECTION 5. That, the current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.
- (b) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (c) If the proposed new manufacturing equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).

SECTION 6. That, this Resolution shall be subject to being confirmed, modified and confirmed, or rescinded after public hearing and receipt by Common Council of the above described recommendations and resolution, if applicable.

SECTION 7. That, pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the new manufacturing equipment shall be for a

period of ten years.

SECTION 8. That, the benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

SECTION 9. That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

SECTION 10. That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of said chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

SECTION 11. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

BILL NO. R-09-03-22

CONFIRMING RESOLUTION NO. R-_____

**A CONFIRMING RESOLUTION designating an
“Economic Revitalization Area” under I.C. 6-1.1-12.1
for property commonly known as 4636 Newago
Road, Fort Wayne, Indiana 46808 (GCG Industries,
Inc.)**

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution the following described property as an “Economic Revitalization Area” under Sections 153.13-153.24 of the Municipal Code of the City of Fort Wayne, Indiana, and I.C. 6-1.1-12.1, to wit:

Attached hereto as “Exhibit A” as if a part herein; and

WHEREAS, said project will create two full-time, permanent jobs for a total new, annual payroll of \$41,600, with the average new annual job salary being \$20,800 and retain 20 full-time, permanent jobs for a current annual payroll of \$692,984, with the average current annual job salary being \$34,649; and

WHEREAS, the total estimated project cost is \$199,800; and

WHEREAS, a recommendation has been received from the Committee on Finance on said Resolution; and

WHEREAS, notice of the adoption and substance of said Resolution has been published in accordance with I.C. 6-1.1-12.1-2.5 and I.C. 5-3-1 and a public hearing has been conducted on said Resolution; and

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That, the Resolution previously designating the above described property as an “Economic Revitalization Area” is confirmed in all respects.

SECTION 2. That, the hereinabove described property is hereby declared an “Economic Revitalization Area” pursuant to I.C. 6-1.1-12.1, said designation to begin on the effective date of this Resolution and shall terminate on December 31, 2011, unless otherwise automatically extended in five year increments per I.C. 6-1.1-12.1-9.

SECTION 3. That, said designation of the hereinabove described property as an “Economic Revitalization Area” shall apply to a deduction of the assessed value of

personal property for new manufacturing equipment.

SECTION 4. That, the estimate of the number of individuals that will be employed or whose employment will be retained and the estimate of the annual salaries of those individuals and the estimate of the value of the new manufacturing equipment, all contained in Petitioner's Statement of Benefits are reasonable and are benefits that can be reasonably expected to result from the proposed described installation of the new manufacturing equipment.

SECTION 5. The current year approximate tax rates for taxing units within the City would be:

- (a) If the proposed new manufacturing equipment is not installed, the approximate current year tax rates for this site would be \$3.0035/\$100.
- (b) If the proposed new manufacturing equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).
- (c) If the proposed new manufacturing equipment is installed, and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0035/\$100 (the change would be negligible).

SECTION 6. Pursuant to I.C. 6-1.1-12.1, it is hereby determined that the deduction from the assessed value of the new manufacturing equipment shall be for a period of ten years.

SECTION 7. The benefits described in the Petitioner's Statement of Benefits can be reasonably expected to result from the project and are sufficient to justify the applicable deductions.

SECTION 8. For new manufacturing equipment, a deduction application must contain a performance report showing the extent to which there has been compliance with the Statement of Benefits form approved by the Fort Wayne Common Council at the time of filing. This report must be submitted to the Allen County Auditor's Office, and the City of Fort Wayne's Community Development Division and must be included with the deduction application. For subsequent years, the performance report must be updated and submitted along with the deduction application at the time of filing.

SECTION 9. The performance report must contain the following information

- (a) The cost and description of real property improvements and/or new manufacturing equipment acquired.
- (b) The number of employees hired through the end of the preceding calendar year as a result of the deduction.
- (c) The total salaries of the employees hired through the end of the preceding calendar year as a result of the deduction.
- (d) The total number of employees employed at the facility receiving the deduction.
- (e) The total assessed value of the real and/or personal property deductions.
- (f) The tax savings resulting from the real and/or personal property being abated.

SECTION 10. That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

SECTION 11. That, pursuant to I.C. 6-1.1-12.1-12 et al, any property owner that has received a deduction under section 3 or 4.5 of said chapter may be required to repay the deduction amount as determined by the county auditor in accordance with section 12 of said chapter if the property owner ceases operations at the facility for which the deduction was granted and if the Common Council finds that the property owner obtained the deduction by intentionally providing false information concerning the property owner's plans to continue operation at the facility.

SECTION 12. That, this Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Member of Council

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

**AN ORDINANCE AMENDING CHAPTER 33:
DEPARTMENTS, BOARDS AND OTHER
ADMINISTRATIVE BODIES OF
THE FORT WAYNE MUNICIPAL CODE**

WHEREAS, The Fort Wayne Common Council is charged with appointing many people to Boards and Commissions that have been established by State and/or Municipal codes; and,

WHEREAS, The Fort Wayne Common Council understands that Boards and Commissions are created to meet certain goals and objectives for the common good of the people, and must work at the highest levels of service to give citizens the benefits of their labors; and,

WHEREAS, The Fort Wayne Common Council takes pride in appointing qualified persons, both citizens and City Council members, who voluntarily step into these roles of public service; and,

WHEREAS, Appointees being charged with this responsibility of service also need to show their due diligence by informing citizens of the proper function and progress of a Board or Commission, as well as acknowledge an ability to fulfill their service as a City Council board appointee,

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA TO AMEND CHAPTER 33 OF THE MUNICIPAL CODE,

SECTION 1. DELETE § 33.001 (B) Reports to Common Council. in its entirety and REPLACE with the following:

§ 33.001 (B) Reports to Common Council.

- (1) The respective chairperson of any city board shall be responsible for forwarding all reports, minutes, studies and the like, to the President of the Common Council upon their completion. An attendance list and minutes of each board meeting is required to be documented and sent to the President of the Common Council. A copy of these materials shall be kept on file in the office of the City Clerk for the purpose of review in accordance with this chapter, and in compliance with state law.
- (2) In addition, all persons appointed by Common Council to any boards shall submit annually either a written report to the President of Common Council or come before the Council to give a verbal report in the seventh month of the board's annual term. Such reports, written or verbal, shall contain brief, candid detail on progress being made toward goals and objectives set by the board or commission, and the amount of time the appointee dedicates to the board in accomplishing the board's endeavors. For purposes of review, written reports shall be kept in the office of the City Clerk or posted on the City's website for one month after receipt.

SECTION 2. This ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Joseph G. Bonahoom, Council Attorney

#1167

BILL NO. G-09-03-13

ZONING MAP ORDINANCE NO. G-_____

AN ORDINANCE amending chapter 157
of the City of Fort Wayne Municipal Code

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the current Zoning Ordinance Chapter 157, Sections 157.161 Definitions, 157.162 Permitted and Prohibited Uses in the Floodplain, 157.164 Standard of Protection, 157.166 Improvement Location Permit, and 157.169 Building Protection Standards are proposed to be amended and changes as follows:

§157.161 DEFINITIONS.

For the purposes of this subchapter, the following definitions are adopted; the definitions in §157.101 apply to this subchapter also.

BASE FLOOD ELEVATION (BFE). The elevation of the regulatory flood.

BUILDING. See “structure.”

CRITICAL FACILITY. Any facility with the purpose of aiding and promoting the health, safety, and welfare of the community.

DEVELOPMENT. Any change or improvement to land brought about by human activity, including but not limited to:

- (1) Renovation, remodeling, construction, reconstruction, or placement of a structure or any addition to a structure. This includes construction such as decks, open porches, gazebos, signs, swimming pools or fences;
- (2) Installation of a manufactured home on a site, preparing a site for a manufactured home or installation of a recreational vehicle on a site for more than 180 days;
- (3) Installation of utilities, erection of walls, construction of roads, or similar projects;
- (4) Construction of flood control structures and improvements such as levees, dikes, dams, channel improvements, and other similar construction;
- (5) Mining, dredging, filling, grading, excavating, or drilling operations;
- (6) Construction and/or reconstruction of bridges or culverts;
- (7) Outside storage of materials; or
- (8) Any other activity that might change the direction, height, or velocity of flood waters.

“Development” does not include activities such as: the maintenance of existing buildings and facilities (such as painting or re-roofing); improvements to structures to correct violations of state or local health, safety, or building code requirements; resurfacing roads; or gardening, plowing, and similar agricultural practices that do not involve

filling, grading, excavating, or the construction of permanent structures.

FEMA. Federal Emergency Management Agency.

FIRM. Flood Insurance Rate Map.

FLOOD. A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow, unusual and rapid accumulation, or runoff of surface waters from any source.

FLOOD RESISTANT MATERIALS. Building or construction materials which are not subject to damage from exposure to or inundation by floodwater.

FLOODPLAIN. The channel proper and the areas adjoining any wetland, lake or watercourse which have been or hereafter may be inundated by the regulatory flood. The floodplain includes both the floodway and the floodway fringe. For the purposes of this subchapter, the floodplain is the area covered by a “regulatory flood”, as generally shown and delineated on the current FEMA Flood Insurance Rate Map for Allen County and Incorporated Areas. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this subchapter.

FLOODPROOFING. A combination of structural provisions, changes or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages to properties, water and sanitary sewer facilities, structures and contents of buildings in a floodplain. Floodproofing must be watertight below the flood protection grade.

FLOODPROOFED BUILDING. A commercial or industrial building designed to exclude floodwater from the interior of that building. All such floodproofing shall be adequate to withstand the flood depths, pressures, velocities, impact and uplift forces and other factors associated with the regulatory flood.

FLOOD PROTECTION GRADE. The elevation of the regulatory flood plus two feet at any given location in the Special Flood Hazard Area (SFHA).

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

FLOODWAY FRINGE. Those portions of the floodplain lying outside the floodway area.

HISTORIC STRUCTURE. Any structure that is:

- (1) Listed individually on the National Register of Historic Places (a listing maintained by the Department of the Interior) or determined by the United States Secretary of the Interior as eligible for individual listing on the National Register; or
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district; or
- (3) Listed on or determined eligible for the National Register of Historic Places as contributing to the significance of a historic district; or
- (4) Individually listed on the Indiana Register of Historic Sites and Structures; or
- (5) Located in an area designated as a local historic district under Chapter; or

- (6) Individually listed on or designated as a contributing resource in a historic district listed in the Fort Wayne Cultural Resources Survey.

LETTER OF MAP AMENDMENT (LOMA). An amendment to the currently effective FEMA map that establishes that a property is not located in a Special Flood Hazard Area (SFHA). A LOMA can only be issued by FEMA.

LETTER OF MAP REVISION (LOMR). An official revision to the currently effective FEMA map. It is issued by FEMA and can change flood zones, floodplain delineations, and flood elevations.

LOWEST FLOOR. The lowest of the following:

- (1) The top of the basement floor;
- (2) The top of the garage floor, if the garage is the lowest level of the building;
- (3) The top of the first floor of buildings elevated on pilings or constructed on a crawl space with permanent openings;
- (4) The top of the floor level of any enclosure below an elevated building where the walls of the enclosure provide any resistance to the flow of flood waters unless as otherwise provided by these regulations; or
- (5) The lowest interior ground level elevation of any structure which does not have a finished floor.

MANUFACTURED HOME. A structure, fabricated in an off-site manufacturing facility, which is transportable in one or more sections and is designed for use as a dwelling with or without a permanent foundation when connected to the required utilities. Such a structure may or may not be built on a permanent chassis. The term “manufactured home” shall not include a “recreational vehicle.”

MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before March 30, 1985.

MANUFACTURED HOME PARK OR SUBDIVISION, EXPANSION. The preparation of additional sites by the construction of facilities for servicing the lots on which manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

MANUFACTURED HOME PARK OR SUBDIVISION, NEW. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of this subchapter.

MARKET VALUE. The value of a structure as established by a professional appraisal.

NEW CONSTRUCTION. Structures for which “start of construction” commenced on or after the effective date of these floodplain management regulations, including any subsequent improvements to such structures.

OBSTRUCTION. A structure, object or other matter in, along, across or projecting into any channel, watercourse, floodplain, river, stream, or flood hazard area which may impede, retard or change the direction of flow of water.

RECREATIONAL VEHICLE. A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projections, designed to be self-propelled or permanently towable, and designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

REGULATORY FLOOD. A flood having a 1% probability of being equaled or exceeded in any given year, as calculated by a method and procedure approved by the Indiana Department of Natural Resources and the Federal Emergency Management Agency. A “Regulatory Flood” is also known by the terms “Base Flood” and “100 year

flood.”

REGULATORY FLOOD PROFILE. A longitudinal profile along the channel of a stream showing the maximum water surface elevations attained by the regulatory flood.

RIVER OR STREAM. All open channels, whether natural, man-made, or modified by man, which carry or discharge water.

SPECIAL FLOOD HAZARD AREA (SFHA). Those lands within the jurisdiction of the City of Fort Wayne that are subject to inundation by the regulatory flood. For the purposes of this subchapter, the SFHAs of the City of Fort Wayne are generally identified as such on the current Flood Insurance Rate Maps of Allen County, Indiana and Incorporated Areas prepared by the Federal Emergency Management Agency dated August 3, 2009, and any future revisions thereto. However, if a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area and subject to the regulations of this subchapter.

START OF CONSTRUCTION. The date a building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 60 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of pilings, the construction of columns, or any work beyond excavation or filling; or placement of a manufactured home on a foundation. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other actual parts of a building, whether or not the alteration affects the external dimensions of the building.

STRUCTURE. Any building or other construction partially or completely enclosed by walls and a roof. For the purpose of this subchapter, the term also includes attached and detached decks, open porches, and gazebos 144 square feet or more in size; above-ground gas or liquid storage tanks; a manufactured home; a prefabricated building; or a recreational vehicle to be installed on a site for more than 180 days. It does not include other construction that meets the definition of “structure” as set forth in the Definitions section of the Zoning Ordinance, but does not meet this definition or fall under the inclusions listed here.

SUBSTANTIAL DAMAGE. Damage of any origin sustained by a structure, where the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

SUBSTANTIAL IMPROVEMENT. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the “start of construction” of the improvement. This term includes structures which have incurred “substantial damage” regardless of the actual repair work performed. The term does not include:

- (1) Improvements of structures to correct violations of state or local health, safety, or building code requirements, or
- (2) Any alteration, reconstruction, addition to, or restoration of a “historic structure”, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

For the purposes of this subchapter, substantial improvement shall include any applicable addition or improvement made to a floodway fringe building or property since March 30, 1985.

VIOLATION. The failure of a structure or other development to be fully compliant with this ordinance. A structure or other development without the elevation, other certification, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

WATERSHED. An area which drains to a single point. In a natural basin, this is the area contributing flow to a given place or stream.

WATERSHED, IMMEDIATE. A sub-drainage area within a larger area which accumulates the storm water runoff within that area. For the purposes of this subchapter, an “immediate watershed” shall be based on the current City Master Plan for Storm Drainage and other relevant information including but not limited to topographical maps.

ZONE A. Shaded areas on the Flood Insurance Rate Map where no base flood elevation has been determined.

ZONE AE. Shaded areas of the Flood Insurance Rate Map where base flood elevations have been determined.

ZONE AH. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually areas of ponding) and where base flood elevations have been determined.

ZONE AO. Shaded areas on the Flood Insurance Rate Map depicting flood depths of one to three feet (usually sheet flow on sloping terrain) where average depths have been determined.

ZONING DISTRICT. Portions of the territory within the jurisdiction on the City of Fort Wayne Plan Commission shown on zoning maps for the City of Fort Wayne to which a uniform set of regulations apply. These regulations permit or prohibit certain land uses per district, while also prescribing certain yard, height, and other dimensional requirements.

(Ord. G-20-95, passed 7-25-95; Am. Ord. Z-25-03, passed 12-23-03)

§157.162 PERMITTED AND PROHIBITED USES IN THE FLOODPLAIN.

- (A) **Floodway.** The purpose of this section is to guide development away from areas identified as floodway. The floodway is not to be considered a zoning district. The floodway is identified as such by the Federal Emergency Management Agency on the current Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps. These maps, along with any subsequent revisions, are hereby adopted by reference and made a part of this section.
- (1) **Permitted uses.** The following uses shall be permitted, excluding any enclosed structures, if the use is permitted by the zoning district in which the property is located:
- (a) Agricultural uses;
 - (b) Wildlife areas, nature preserves, forests, and wetlands;
 - (c) Parks and recreational uses, such as golf courses and driving ranges, and play areas, provided that no structures or fill will be located within the floodway;
 - (d) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;
 - (e) Public transportation facilities, such as roads, streets, and bridges, which are located in public rights-of-way;
 - (f) Public works projects for flood control improvements such as levees, dikes, floodwalls, and dams;
 - (g) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property, and parking lots or parking areas; and
 - (h) Projects within the floodplain of the Junk Ditch which have received approval by the Indiana Department of Natural Resources, subject to the applicable damage prevention, flood protection and building protection standards of this subchapter.

Any proposed use which requires a permit from the Indiana Department of Natural Resources shall also be subject to the requirements and conditions of that review and approval process.

- (2) **Prohibited uses.** Any non-permitted encroachments, including structures and fill, except the fill needed for public transportation facilities, utility collection or transmission lines, public flood control improvement projects, or fill approved as part of the Indiana Department of Natural Resources review of an application for other work for public projects within a floodway.

(B) **Floodway fringe.** The purpose of this section is to regulate and minimize development in areas subject to potential flooding which are outside of an identified floodway. The floodway fringe is not to be considered a zoning district. The floodway fringe is that area identified by the Federal Emergency Management Agency on the current Allen County and Incorporated Areas Flood Insurance Study and Flood Insurance Rate Maps as outside of the floodway, but subject to inundation by the regulatory flood.

(1) **Permitted uses.**

- (a) All uses permitted in the floodway, provided the use is permitted by the zoning district in which the property is located.
- (b) All structures permitted in the applicable zoning district, which meet all applicable requirements of the Zoning Ordinance, provided the structure also meets all applicable damage prevention, flood protection, and building protection standards of this subchapter.
- (c) Accessory uses and structures permitted in the applicable zoning district, which meet all applicable requirements of the Zoning Ordinance, provided any accessory structure also meets all applicable damage prevention, flood protection, and building protection standards of this subchapter.

(2) **Prohibited uses.** Fill placed for any purpose other than for: public transportation facilities; utility collection or transmission lines; public flood control improvement projects; compensatory storage as permitted in §157.168; or approved structures as permitted above.

(Ord. G-20-95, passed 7-25-95)

§157.164 STANDARD OF PROTECTION.

This subchapter's protection standard is the regulatory flood. Any reference in this subchapter to the Flood Insurance Rate Map, or FIRM, refers to the Flood Insurance Rate Map for Allen County and Incorporated Areas dated August 3, 2009, and any future revisions thereto. These maps, along with any subsequent revisions and/or updates, are hereby adopted by reference and made a part of this subchapter. The best available regulatory flood data is listed below. If a party disagrees with the best available data, the party needs to replace the existing data with data based on a detailed engineering study and submit it to the Department of Natural Resources for review and approval.

- (A) The regulatory flood elevation for the floodplain of all studied watercourses shall be as delineated on the flood profiles in the current Flood Insurance Study of Allen County and Incorporated Areas prepared by the Federal Emergency Management Agency dated August 3, 2009, and any future revisions thereto, and as shown on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas.
- (B) In cases where a submitted topographic or topographic/utility survey indicates an area that by elevation would be subject to inundation by the regulatory flood which lies outside of the floodplain identified on the Flood Insurance Rate Map, the information on the survey shall govern and that area shall be considered a special flood hazard area subject to the regulations of this subchapter.
- (C) The regulatory flood elevation for each SFHA delineated as an "AH Zone" or "AO Zone" shall be that elevation (or depth) delineated on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas.
- (D) The regulatory Flood Elevation for each SFHA delineated as an "A Zone" on the current Flood Insurance Rate Maps of Allen County and Incorporated Areas shall be according to the best available data as provided by the Department of Natural Resources.

(Ord. G-20-95, passed 7-25-95, Am. Ord. Z-25-03, passed 12-23-03)

- (J) Notify any affected adjacent communities and the State Coordinating Office prior to any City initiated substantial alteration or relocation of a watercourse which lies within a SFHA, and submit copies of such notifications to FEMA.

(Ord. G-20-95, passed 7-25-95)

§157.166 IMPROVEMENT LOCATION PERMIT.

No construction or development which requires an Improvement Location Permit according to the terms of this subchapter shall commence within a floodplain prior to the issuance of an Improvement Location Permit from the Zoning Enforcement Officer. The Zoning Enforcement Officer shall not issue an Improvement Location Permit if the proposed use, structure, site work, or development does not meet the applicable requirements of this subchapter.

- (A) Any use permitted within the floodway or the floodway fringe which does not involve the construction of structures shall not require an improvement location permit. This shall include but not be limited to:
 - (1) Agricultural uses;
 - (2) Wildlife areas, nature preserves, forests and wetlands;
 - (3) Public parks and recreational uses, such as golf courses and driving ranges, and play areas;
 - (4) Public and quasi-public utility collection and/or transmission lines, pipes, cables, and the like;
 - (5) Public transportation facilities such as roads, streets, and bridges which are located in public rights-of-way;
 - (6) Public works projects for flood control improvements such as levees, dikes, floodwalls, and dams;
 - (7) Private transportation facilities such as roads, bridges, or driveways which are necessary to access private property;
 - (8) Parking lots or parking areas; however, any parking lot or parking area proposed to be located within the floodway must be reviewed and approved by the Department of Natural Resources prior to the issuance of a City parking lot permit.

However, these uses shall still be subject to review as necessary to determine compliance with the applicable provisions of this subchapter.

- (B) Upon receipt of an application for an Improvement Location Permit, the Zoning Enforcement Officer shall determine if the site is located within an identified floodway, floodway fringe, or within the floodplain where the limits of the floodway have not yet been determined. If necessary, the Zoning Enforcement Officer may route the application to other appropriate City Departments for assistance in this determination.
 - (1) If the site is located within an identified floodway, the Zoning Enforcement Officer shall inform the applicant that the permit cannot be issued, unless the request is for a use or development permitted under §157.162. In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.
 - (2) If the site is located in an identified floodway fringe, the Zoning Enforcement Officer may issue an Improvement Location Permit provided there is compliance with the applicable provisions of §§157.162, 157.168, and 157.169 of this subchapter.

- (3) If the site is in an identified floodplain where the limits of the floodway and floodway fringe have not yet been determined (shown as Zone A on the Flood Insurance Rate Map), the Zoning Enforcement Officer shall require the applicant to forward plans and specifications to the Department of Natural Resources, requesting a review and letter of recommendation.
 - (a) If the review indicates the site is in the floodway, the Zoning Enforcement Officer shall not issue an Improvement Location Permit, unless the request is for a use or development permitted under § 157.162. In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1.
 - (b) If the review indicates the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of §§ 157.162, 157.168, and 157.169 of this subchapter.
 - (c) If the review indicates the upstream drainage area is less than one square mile, an engineering study of the site shall be completed by the applicant and submitted to the Zoning Enforcement Officer. A determination shall then be made by the Zoning Enforcement Officer with assistance if needed by other appropriate City Departments, or the Allen County Surveyor's office, as to whether the site is in the floodway or floodway fringe. No permit shall be issued by the Zoning Enforcement Officer if the site is within the floodway, unless the request is for a use or development permitted under § 157.162. In that instance, prior to the issuance of the Improvement Location Permit, the applicant must furnish a copy of any applicable Indiana Department of Natural Resources construction permit required by IC 14-28-1. If the site is in the floodway fringe, the Improvement Location Permit may be issued provided there is compliance with the applicable provisions of §§ 157.162, 157.168, and 157.169, of this subchapter.
- (C) The application for an Improvement Location Permit shall be accompanied by the following:
 - (1) A plan showing the location of existing and proposed structures, and existing and proposed land grades on the site;
 - (2) The proposed elevation of the top of the lowest floor (including basement) of all proposed development. Elevation should be in National Geodetic Vertical Datum of 1929 (NGVD) or North American Vertical Datum (NAVD). In either case, the conversion formula should be included;
 - (3) A plan showing the location of existing and proposed structures in relation to any stream, drain, ditch, or waterway; and
 - (4) Any additional information which may be necessary to determine the disposition of a proposed development or structure with respect to the requirements of this subchapter.
- (D) After the Zoning Enforcement Officer has determined that a requested Improvement Location Permit can be issued for any structure in the floodway fringe, the permit shall be issued for the construction of the foundation and lowest floor only. Prior to the Zoning Enforcement Officer issuing a release for the remaining construction, the applicant shall submit a completed Elevation Certificate showing the elevation of the lowest floor. The Zoning Enforcement Officer shall maintain a record of all submitted Elevation Certificates.

(Ord. G-20-95, passed 7-25-95)

§ 157.169 BUILDING PROTECTION STANDARDS.

In addition to the damage prevention requirements of § 157.168, all buildings to be located in the SFHA shall be protected from flood damage below the flood protection grade.

- (A) This building protection requirement applies to the following situations:
 - (1) Construction, reconstruction or placement of a new primary structure;

- (2) Construction or reconstruction of an addition to an existing building, that constitutes substantial improvement, or is proposed for a building after the one-time exclusion noted in §157.163 has been used for that building;
 - (3) Structural alterations and/or renovations made to an existing building, that constitute substantial improvement; or are proposed for a building after the one-time exclusion noted in §157.163 has been used for that building;
 - (4) Construction, reconstruction, or placement of a permitted deck, open porch, gazebo, or detached accessory structure over 144 square feet in size;
 - (5) Reconstruction or repairs made to a building that experienced substantial damage. Any structure receiving substantial damage must comply with all applicable requirements of this subchapter, regardless of the level of repairs actually made to the structure;
 - (6) Installing a manufactured home on a new site or a new manufactured home on an existing site. This subchapter does not apply to returning an existing manufactured home to the same site it lawfully occupied before it was removed to avoid flood damage or installing/replacing a manufactured or mobile home on an existing site within a legal nonconforming mobile or manufactured home park or subdivision; and
 - (7) Installing a travel trailer or recreational vehicle on a site for more than 180 days.
- (B) The building protection standards may be met by one of the following methods. The Zoning Enforcement Officer shall maintain a record of compliance with these building protection standards as required in §157.166 of this subchapter.
- (1) A structure or addition to a structure may be constructed on a site within the floodway fringe on permanent fill in accordance with the applicable portions of §157.168(B), and the following:
 - (a) The fill shall be placed in layers no greater than one foot deep before compacting to 95 percent dry density obtainable according to the Standard Proctor or Modified Proctor test method;
 - (b) The fill shall extend at least ten feet beyond the foundation of the building or to the property line, whichever is less, before sloping below the flood protection grade;
 - (c) The fill shall be protected against erosion and scour during flooding by vegetative cover, riprap, bulkheading, or other acceptable method. If vegetative cover is used, the slopes shall be no steeper than 3 to 1 (horizontal to vertical);
 - (d) The fill shall not adversely affect the flow of surface drainage from or onto any adjacent properties;
 - (e) The top of the lowest floor of the structure or addition shall be at or above the flood protection grade.

The applicant shall submit a plan, certified by a registered Professional Engineer, showing how items 1(b) and 1(d) above will be met prior to the issuance of the Improvement Location Permit for the project. The applicant shall submit compaction test results after the fill has been placed. Compliance with the remaining applicable items listed under section (B)(1) above shall be verified as necessary after the fill has been placed, prior to the issuance of the certificate of compliance for the project. If necessary, the Zoning Enforcement Officer may rely on other appropriate City departments for any required assistance in documenting compliance with the fill requirements.

- (2) A structure or addition to a structure may be elevated in accordance with the following:
 - (a) The structure or addition shall be elevated on posts, piers, columns, extended walls, or other types of similar foundation provided:
 - (i) The walls of any enclosure below the elevated floor shall be designed to automatically equalize hydrostatic flood forces on the walls by allowing for the entry and exit of flood waters, through providing a minimum of two openings (in addition to doorways and windows) having a total area of

- one (1) square foot for every two (2) square feet of enclosed area subject to flooding. The bottom of all such openings shall be no higher than one (1) foot above grade; and
- (ii) Any enclosure below the elevated floor is only used for storage and building access;
- (b) The foundation and supporting members shall be anchored and aligned in relation to flood flows and adjoining structures so as to minimize exposure to known hydrodynamic forces such as current, waves, ice, and floating debris;
 - (c) All areas below the flood protection grade shall be constructed of materials resistant to flood damage, including but not limited to poured concrete or treated lumber. The top of the lowest floor and all electrical, heating, ventilating, plumbing, and air conditioning equipment and utility meters shall be located at or above the flood protection grade. Water and sewer pipes, electrical and telephone lines, submersible pumps, and other waterproofed service facilities may be located below the flood protection grade.
- (3) Manufactured homes to be installed or substantially improved on a site must meet one of the following anchoring requirements:
- (a) The manufactured home shall be elevated on a permanent foundation so that the lowest floor shall be at or above the flood protection grade and securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site:
 - (i) Outside a manufactured home park or subdivision;
 - (ii) In a new manufactured home park or subdivision;
 - (iii) In an expansion to an existing manufactured home park or subdivision; or
 - (iv) In an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood.
 - (b) The manufactured home shall be elevated so that the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. This requirement applies to all manufactured homes to be placed on a site in an existing manufactured home park or subdivision that has not been substantially damaged by a flood.
- (4) Recreational vehicles placed on a site shall either:
- (a) Be on the site for less than 180 consecutive days; or
 - (b) Be fully licensed and ready for highway use (defined as being on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and having no permanently attached additions); or
 - (c) meet the requirements for “manufactured homes” in § 157.169(B)(4).
- (5) A non-residential structure or addition(s) to a structure may be floodproofed to the flood protection grade (in lieu of elevating) if done in accordance with the following:
- (a) A registered professional engineer or architect shall certify that the portion of the structure and attendant utility facilities located below the flood protection grade have been designed to be watertight and capable of resisting the effects of the regulatory flood; the building design shall take into account flood velocities, duration, rate of rise, hydrostatic pressures, and impacts from debris or ice; and
 - (b) Floodproofing measures shall be operable without human intervention and without an outside source of electricity.

- (6) Any detached accessory structure which receives approval of a flood protection grade elevation waiver from the Board of Zoning Appeals shall also meet the following building protection standards, as required by the Indiana Department of Natural Resources:
- (a) The structure shall be designed with an unfinished interior and constructed of flood resistant materials;
 - (b) Any proposed utilities shall be located above the base flood elevation, or shall be floodproofed; and
 - (c) The structure shall be less than 500 square feet in size and used only for personal storage; and
 - (d) The structure shall meet the 44 CFR §60.3(C)(5) openings requirement.

(Ord. G-20-95, passed 7-25-95)

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Taylor, City Attorney

#1168

BILL NO. G-09-03-14

GENERAL ORDINANCE NO. G-_____

**AN ORDINANCE amending the Thoroughfare
Plan of the City Comprehensive (“Master”)
Plan by vacating public right-of-way.**

WHEREAS, a petition to vacate public right-of-way within the City of Fort Wayne, Indiana, (as more specifically described below) was duly filed with the City Clerk of the City of Fort Wayne, Indiana; and;

WHEREAS, Common Council of the City of Fort Wayne, Indiana, duly held a public hearing and approved said petition, as provided in I.C. 36-7-3-12.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the petition filed herein to vacate public right-of-way within the City of Fort Wayne, Indiana, more specifically described as follows, to-wit:

The north five feet of Oakland Street in Pape’s Third Addition as recorded in Plat Book 5, page 51 in the Office of the Recorder of Allen County, Indiana.

and which vacating amends the Thoroughfare Plan of the City Comprehensive (“Master”) Plan and is hereby approved in all respects.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage, any and all necessary approval by the Mayor.

COUNCILMEMBER

APPROVED AS TO FORM AND LEGALITY:

Carol T. Taylor, City Attorney

#1166

ZONING MAP ORDINANCE NO. Z-_____

AN ORDINANCE amending the City of Fort Wayne
Zoning Map No. K-50 (Sec. 10 of Washington Township)

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the area described as follows is hereby designated a CM2
(Limited Retail and Commercial) District under the terms of Chapter 157 Title XV of the Code
of the City of Fort Wayne, Indiana:

A parcel of land located in the Northeast One-quarter of Section 10, Township 31 North, Range 12 East,
Allen County, Indiana and more particularly described as follows:

**Commencing at the North One-quarter of Section 10, Township 31 North, Range 12 East as
marked by a railroad spike found per Indiana Department of Transportation plans Project
STP-237-1(004) and recorded survey in Document #2008043551; thence North 88 degrees
12 minutes 17 seconds East (bearing based on recorded deed in Document #205017621)
along the north line of said Northeast One-quarter, a distance of 152.0 feet-deed (151.0
feet-measured) to the northwest corner of a parcel described in Document #205017621;
thence South 01 degrees 19 minutes 16 seconds East along the west line of the
aforementioned parcel, a distance of 330.0 feet-deed (333.33 feet-measured) to the
southwest corner of said parcel also being the northeast corner of a parcel in Deed Record
304, page 522, said point being the point of beginning.**

**Beginning at the above described point; thence North 88 degrees 09 minutes 04 seconds
East, a distance of 70.0 feet; thence South 01 degrees 19 minutes 16 seconds East, a
distance of 60.0 feet; thence South 88 degrees 09 minutes 04 seconds West, a distance of
116.48 feet to a point on the east right-of-way line of State Road #3 (Lima Road) per
Project STP-237-1(004); thence North 01 degrees 08 minutes 45 seconds West along said
east right-of-way line, a distance of 60.0 feet; thence North 88 degrees 09 minutes 04
seconds East, a distance of 46.30 feet to the point of beginning, containing 0.16 acres of
land, more or less.**

**and the symbols of the City of Fort Wayne Zoning Map No. K-50 (Sec. 10 of Washington
Township), as established by Section 157.082 of Title XV of the Code of the City of Fort
Wayne, Indiana is hereby changed accordingly.**

**SECTION 2. That this Ordinance shall be in full force and effect from and after its
passage and approval by the Mayor.**

Council Member

APPROVED AS TO FORM AND LEGALITY:

Carol T. Taylor, City Attorney

AN ORDINANCE approving ADDENDUM FOR THE BIOSOLIDS PROCESSING, HANDLING AND MARKETING OPERATIONS ASSISTANCE AGREEMENT between FOX CONTRACTORS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the ADDENDUM FOR THE BIOSOLIDS PROCESSING, HANDLING AND MARKETING OPERATIONS ASSISTANCE AGREEMENT by and between FOX CONTRACTORS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

approving the Addendum for the Biosolids Processing, Handling and Marketing Operations Assistance Agreement (S-149-07):

A copy said Addendum is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol T. Taylor, City Attorney

BILL NO. S-09-03-25

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving RESOLUTION #96-3-18-09-1 between FOX CONTRACTORS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the RESOLUTION #96-3-18-09-1 by and between FOX CONTRACTORS and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

correcting scrivener's error for the calendar date for the Agreement for Biosolids Processing, Handling and Marketing Operations Assistance - (S-149-07). Correct contract date is January 1, 2008 to December 31, 2017. :

A copy said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol T. Taylor, City Attorney

BILL NO. S-09-03-16

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving RESOLUTION #2173-2009, GENERAL CIPP 2009 PACKAGE #1 (I/I REDUCTION) between MILLER PIPELINE and the City of Fort Wayne, Indiana, in connection with the Board of Public Works.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That the RESOLUTION #2173-2009, GENERAL CIPP 2009 PACKAGE #1 (I/I REDUCTION) by and between MILLER PIPELINE and the City of Fort Wayne, Indiana, in connection with the Board of Public Works, is hereby ratified, and affirmed and approved in all respects, respectfully for:

All labor, insurance, material, equipment, tools, power, transportation, miscellaneous equipment, etc., necessary for Sanitary sewer rehab by means of cured-in-place-pipe (CIPP) approximately 13,640 linear feet of small diameter (8" to 12"):

involving a total cost of THREE HUNDRED FIFTY-ONE THOUSAND, THREE HUNDRED THIRTY-SEVEN AND NO/100 DOLLARS - (\$351,337.00). A copy said Contract is on file with the Office of the City Clerk and made available for public inspection, according to law.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol T. Taylor, City Attorney

BILL NO. G-09-03-27

GENERAL ORDINANCE NO. _____

**AN ORDINANCE AMENDING ORDINANCE G-15-92
“CLARIFYING ELIGIBILITY FOR PAID VACATION
LEAVES.”**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF FORT WAYNE, INDIANA:**

SECTION 1. That Ordinance G-15-92 (attached hereto and made a part hereof) is hereby amended as follows:

“SECTION 1.” Former employees of the city or its utilities who are rehired, or employees with past service with another Indiana political subdivision, will not gain in seniority as the result of any prior service but will be given credit for such prior service for the purpose of determining eligibility for vacation leave if the prior service is reinstated by PERF (Public Employees’ Retirement Fund), at the time that PERF credits the service.

“SECTION 2.” This provision shall apply to all employees who were first employed by the City or its utilities on or before April 1, 1992, and who leave, or have left, such employment on or after November 1, 1987. Employees hired on or after April 2, 1992, shall be subject to said provision provided, however, credit for past service with another Indiana political subdivision may be granted only with the express approval of the Mayor.

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.

Council Member

APPROVED AS TO FORM AND LEGALITY

Carol Taylor, City Attorney

