

ORDINANCES AND RESOLUTIONS
UP FOR INTRODUCTION
JULY 12, 2011

BILL NO. S-11-07-10

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving SNIDER AND GLENWOOD PARK SEWER SEPARATION PROJECT: RES. #2392-2010, W.O. #75606 between CLARK KIETZ ENGINEERS 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 SNIDER AND GLENWOOD PARK SEWER SEPARATION PROJECT: RES. #2392-2010, W.O. #75606 by and between CLARK KIETZ ENGINEERS 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:

Professional Engineerings Services to provide the design and bid services for the Snider and Glenwood park Sewer Separation Project:

involving a total cost of ONE HUNDRED TWENTY-FIVE THOUSAND, EIGHT HUNDRED SEVENTY-FIVE AND 00/100 DOLLARS (\$125,875.00). 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 Helton, City Attorney

BILL NO. S-11-07-01

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving DIGESTER ELECTRICAL BUILDING AND STRUCTURAL UPGRADES, CM AND RPR SERVICES DURING CONSTRUCTION: RES. #2188-2009, W.O. #75386 between GAI CONSULTANTS 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 DIGESTER ELECTRICAL BUILDING AND STRUCTURAL UPGRADES, CM AND RPR SERVICES DURING CONSTRUCTION: RES. #2188-2009, W.O. #75386 by and between GAI CONSULTANTS 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:

Consultant will provide Construction Management and Resident Project Representative services during construction that include coordination with plant activities and staff, daily inspections, construction schedule management and coordination, construction progress meetings, administrative duties, coordination of training services, record drawing review, and other general construction management tasks;

involving a total cost of TWO HUNDRED SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS - (\$275,000.00). 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 Helton, City Attorney

AN ORDINANCE approving the awarding of ITB #3386-INSTALLATION OF A NEW RESTROOM/CONCESSION STAND BUILDING AT THE FOELLINGER-FREIMANN BOTANICAL CONSERVATORY by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and HAROLD MCCOMB & SON, INC. for the FORT WAYNE PARKS AND RECREATION DEPARTMENT.

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

SECTION 1. That ITB #3386-INSTALLATION OF A NEW RESTROOM/CONCESSION STAND BUILDING AT THE FOELLINGER-FREIMANN BOTANICAL CONSERVATORY between the City of Fort Wayne, by and through its Department of Purchasing and HAROLD MCCOMB & SON, INC. for the , respectfully for:

installation of a new restroom/concession stand building at the Foellinger-Freimann Botanical Conservatory:

involving a total cost of TWO HUNDRED FIFTY-TWO THOUSAND, FIVE HUNDRED AND 00/100 DOLLARS - (\$252,500.00) all as more particularly set forth in said ITB #3386-INSTALLATION OF A NEW RESTROOM/CONCESSION STAND BUILDING AT THE FOELLINGER-FREIMANN BOTANICAL CONSERVATORY 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 Helton, 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 2100 West State Boulevard, Fort Wayne, Indiana 46808 (Dana Light Axle Products, LLC)

WHEREAS, Petitioner has duly filed its petition dated June 29, 2011 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 50 full-time, permanent jobs for a total new, annual payroll of \$1,976,000, with the average new annual job salary being \$39,520 and retain 348 full-time, permanent jobs for a total current annual payroll of \$18,304,434, with the average current, annual job salary being \$52,599; and

WHEREAS, the total estimated project cost is \$3,551,830; 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 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 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 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 \$3.0384/\$100.
- (b) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 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 Helton, City Attorney

A CONFIRMING RESOLUTION designating an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 2100 West State Boulevard, Fort Wayne, Indiana 46808 (Dana Light Axle Products, LLC)

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 50 full-time, permanent jobs for a total additional annual payroll of \$1,976,000, with the average new annual job salary being \$39,520 and retain 348 full-time, permanent jobs for a current annual payroll of \$18,304,434, with the average current annual job salary being \$52,599; and

WHEREAS, the total estimated project cost is \$3,551,830; 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.

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 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 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 development does not occur, the approximate current year tax rates for this site would be \$3.0384/\$100.
- (b) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 \$3.0384/\$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 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 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 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 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 Helton, City Attorney

A CONFIRMING RESOLUTION amending R-12-10 an “Economic Revitalization Area” under I.C. 6-1.1-12.1 for property commonly known as 5130 Executive Boulevard, Fort Wayne, Indiana 46808 (Heritage Food Service Equipment, 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 150 full-time, permanent jobs for a total additional annual payroll of \$5,000,000, with the average new annual job salary being \$33,333 and retain 203 full-time, permanent jobs for a current annual payroll of \$7,033,000, with the average current annual job salary being \$34,645; and

WHEREAS, the total estimated project cost is \$1,240,250; 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;

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

SECTION 1. That, the Council hereby adopts a waiver of noncompliance with I.C. 6-1.1-12.1 regarding a clerical error on the Statement of Benefits Personal Property (Form SB-1/PP) and Statement of Benefits Real Estate Improvements (SB-1/Real Property) regarding the estimated completion date under R-12-10 before the completion of real estate improvements and installation of equipment for which Heritage Food Service Equipment, Inc. desires to claim

an economic revitalization area deduction. Such waiver shall be in effect for real and personal property improvements during the period of June 2, 2010 through the date of this resolution and is granted through the authority of I.C. 6-1.1-12.1-9.5, I.C. 6-1.1-12.1-11.3, I.C. 6-1.1-31.1, and 50 I.A.C. 10-4-1(a)(2) and (3).

SECTION 2. That, the Resolution previously designating the above described property as an “Economic Revitalization Area” is amended in all respects.

SECTION 3. 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 4. 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 logistical distribution and information technology equipment.

SECTION 5. 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 logistical distribution 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 logistical distribution and information technology equipment.

SECTION 6. The current year approximate tax rates for taxing units within the City would be:

- (g) If the proposed development does not occur, the approximate current year tax rates for this site would be \$3.0384/\$100.
- (h) If the proposed development does occur and no deduction is granted, the approximate current year tax rate for the site would be \$3.0384/\$100 (the change would be negligible).

- (i) 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 \$3.0384/\$100 (the change would be negligible).
- (j) If the proposed new logistical distribution equipment is not installed, the approximate current year tax rates for this site would be \$3.0384/\$100.
- (k) If the proposed new logistical distribution equipment is installed and no deduction is granted, the approximate current year tax rate for the site would be \$3.0384/\$100 (the change would be negligible).
- (l) If the proposed new logistical distribution equipment is installed and a deduction percentage of eighty percent (80%) is assumed, the approximate current year tax rate for the site would be \$3.0384/\$100 (the change would be negligible).
- (m) If the proposed new information technology equipment is not installed, the approximate current year tax rates for this site would be \$3.0384/\$100.
- (n) 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 \$3.0384/\$100 (the change would be negligible).
- (o) 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 \$3.0384/\$100 (the change would be negligible).

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 that the deduction from the assessed value of the new logistical distribution 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. For new logistical distribution 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 10. 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 11. The performance report must contain the following information:

- G. The cost and description of real property improvements and/or new logistical distribution and information technology equipment acquired.
- H. The number of employees hired through the end of the preceding calendar year as a result of the deduction.
- I. The total salaries of the employees hired through the end of the preceding calendar year as a result of the deduction.
- J. The total number of employees employed at the facility receiving the deduction.

K. The total assessed value of the real and/or personal property deductions.

L. The tax savings resulting from the real and/or personal property being abated.

SECTION 12. That, the taxpayer is non-delinquent on any and all property tax due to jurisdictions within Allen County, Indiana.

SECTION 13. 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 14. 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 Helton, City Attorney

A RESOLUTION approving a Waiver of Noncompliance for a Late-Filed Application for the Economic Revitalization Area Deduction on Personal Property Improvements (Form 103 ERA and Form 103 EL) for Inquest Health System, PC d/b/a Upright MRI

WHEREAS, Common Council has previously designated and declared by Declaratory Resolution and Confirming Resolution property at 6819 Lima Road for Inquest Health System, PC d/b/a Upright MRI (R-72-09) 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; and

WHEREAS, the original Statement of Benefits and economic revitalization area designation application submitted by Inquest Health System, PC d/b/a Upright MRI and approved under R-72-09 was for \$1,600,000 in personal property improvements; and

WHEREAS, representatives of Inquest Health System, PC d/b/a Upright MRI have informed the City of Fort Wayne that their schedule of deduction from assessed valuation of personal property in economic revitalization areas (Form 103-ERA) and the equipment list for new additions to ERA deduction personal property in an economic revitalization area (Form 103-EL) was not filed in a timely manner; and

WHEREAS, this oversight was an unusual occurrence for Inquest Health System, PC d/b/a Upright MRI which has made diligent efforts in good faith to make all required Indiana tax abatement filings on a timely basis; and

WHEREAS, the Common Council finds that Inquest Health System, PC d/b/a Upright MRI has fulfilled its pledge to install new information technology equipment; and

WHEREAS, Inquest Health System, PC d/b/a Upright MRI has grown its workforce and created new jobs as reported on the approved statement of benefits forms; and

WHEREAS, the Common Council acknowledges that Inquest Health System, PC d/b/a Upright MRI has requested a waiver of non compliance which the Common Council has the power and authority to approve, under I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3; and

WHEREAS, the Common Council intends that Inquest Health System, PC d/b/a Upright MRI receive the tax abatement benefits to which they would have been entitled had no non compliance event occurred, so long as the waiver of non compliance and the granting of those benefits does not prejudice the City of Fort Wayne; and

WHEREAS, the Common Council has concluded that granting of the ERA deduction for 2011 payable 2012 tax year will not create a strain on the City of Fort Wayne fiscal budget; and

WHEREAS, I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3 permit tax abatement non compliance events such as the untimely filing of deduction application paperwork to be waived; and

WHEREAS, the noncompliance event has been corrected and a public hearing of the Common Council has been held on the waiver.

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

SECTION 1. That, Common Council hereby waives all clerical and technical errors and nonconformities that are waivable under State and local law, including without limitation those errors and nonconformities described in I.C. 6-1.1-12.1-9.5 and I.C. 6-1.1-12.1-11.3.

SECTION 2. As authorized by I.C. 6-1.1-12.1-9.5(d), the Common Council will permit Inquest Health System, PC d/b/a Upright MRI to receive the lost ERA deduction amount in accordance with the following schedule:

Tax Year	Personal Property Deduction Amount
2011 pay 2012	\$615,620
TOTAL	\$615,620

The foregoing numbers represent deductions from assessed valuation of personal property, not tax liability. The total deduction amounts set forth in the preceding table represent deductions Inquest Health System, PC d/b/a Upright MRI will lose in 2011 payable 2012. The Allen County Assessor shall be supplied with a copy of this Resolution, upon passage, and instructed to apply the deduction amounts in accordance with this schedule. This resolution shall have no effect on the assessed value or taxes payable with respect to Inquest Health System, PC d/b/a Upright MRI's real property.

SECTION 3. 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 Helton, City Attorney

**A RESOLUTION APPROVING THE
PURCHASE OF CERTAIN REAL
ESTATE (5332 Kenton Lane) FOR THE
CITY OF FORT WAYNE, INDIANA.**

WHEREAS, the City of Fort Wayne desires to purchase property located at 5332 Kenton Lane, specifically described in "Exhibit "A," attached hereto and made a part hereof; and

WHEREAS, the purchase of this property is necessary for the City Utilities flood mitigation plan for the Lawrence Drain.

WHEREAS, the purchase price for this property is EIGHTY THOUSAND AND 00/100 DOLLARS – (\$80,000.00).

WHEREAS, Sec. 37-19 of the City of Fort Wayne Code of Ordinances, requires the Common Council approval of any purchase or conveyance of real estate by the City.

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

SECTION 1. The purchase of property located at 5332 Kenton Lane, by the City of Fort Wayne, is hereby approved and agreed to.

SECTION 2. This Resolution 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 Helton, City Attorney

#1249

BILL NO. G-11-07-03

Deed Book: 14B, Page 76

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 a public right-of-way within the City of Fort Wayne, Indiana, more specifically described as follows, to-wit:

Part of the Southwest Quarter of Section 1, Township 31 North, Range 12 East, Allen County, Indiana, more particularly described as follows:

Commencing at the Northwest corner of the Southwest Quarter of said Section 1, thence North 89 degrees 42 minutes 27 seconds East along the historical centerline of Till Road (basis of bearing), 822.57 feet to a point on the West right-of-way of Jenna Lane projected North; thence South 00 degrees 53 minutes 11 seconds East, along said West line, 49.92 feet to the South right-of-way of Till Road; thence North 89 degrees 06 minutes 49 seconds East, along said South line, 162.64 feet to the Point of Beginning; thence North 85 degrees 13 minutes 17 seconds East, a distance of 66.86 feet; thence South 09 degrees 33 minutes 21 seconds West, a distance of 71.34 feet; thence South 89 degrees 06 minutes 57 seconds West, a distance of 40.00 feet; thence North 12 degrees 45 minutes 14 seconds West, a distance of 67.05 feet to the Point of Beginning, containing 0.083 acres of land, more or less.

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 Helton, City Attorney

**AN ORDINANCE AMENDING CHAPTER 37, FINANCE
AND REVENUE, OF THE CITY OF FORT WAYNE,
INDIANA CODE OF ORDINANCES**

WHEREAS, the citizens of the City of Fort Wayne are entitled to have absolute faith in the integrity of governmental decisions and it is crucial that individuals who are elected to public office have the trust, respect and confidence of the citizenry; and

WHEREAS, in order to promote public confidence in government and its decision-making, the proper operation of representative government requires that the decisions of public officials be independent, impartial and responsible to the citizens; and

WHEREAS, it is essential that the public has confidence that the selection of City contractors is based on merit and that the public has trust in the processes by which taxpayer dollars are spent; so it is necessary that public officials and contractors adhere to the highest ethical standards and avoid transactions and circumstances that may compromise or appear to compromise the independence of any City decision; and

WHEREAS, this ordinance ensures that the agreements signed between the City of Fort Wayne and its City Contractors are free from ethical concerns such that this ordinance prohibits the City of Fort Wayne from entering into a contract with a City Contractor within certain timeframes if the City Contractor, Owners of City Contractors, spouses or domestic partners of Owners of City Contractors, subcontractors to a City Contractor on a City Contract, Owners of subcontractors to a City Contractor on a City Contract, and spouses or domestic partners of Owners of subcontractors to a City Contractor has made contributions of any amount to any City of a City of Fort Wayne elected officials; and

WHEREAS, municipalities have the right to establish rules and procedures for contracting with business entities and individuals provided such rules and procedures are not otherwise preempted by State and Federal law; and

WHEREAS, the provisions of this ordinance sends a message to every Fort Wayne citizen that the City Council is committed to a City administration and a contract and procurement process based on the highest ethical standards; and

WHEREAS, by this ordinance, an unmistakable message about ethical conduct will be conveyed;

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

SECTION 1. that Chapter 37 of the Municipal Code of Ordinances is hereby amended to add Section 37.23, under its “Purchasing” section to establish regulations affecting the award of contracts for materials, goods, supplies, equipment, and services as follows:

§ 37.23 PROHIBITION AGAINST AWARDED PUBLIC CONTRACTS TO CERTAIN CONTRIBUTORS

(A) Definitions.

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

- (1) **City** shall mean the City of Fort Wayne including any City owned or operated utilities, and any authority, board, commission, committee, department, division, office, service, or other instrumentality of the City government that is established by statute, ordinance, or executive order.
- (2) **City Contractor** means a person who or entity that has submitted a bid for or enters into a Contract with the City which term is intended to include, but shall not be limited to,

those contracts entered into with consultants, lobbyists, and other persons or entities for professional services as all of those terms are defined in Section 37.17(C) of the Fort Wayne Code of Ordinances.

- (3) **Contract** means any agreement between the City and any City Contractor that is (i) for the purchase, sale, or lease of any real or personal property, or (ii) for materials, supplies, equipment, or services which are approved and are authorized by City Council.
- (4) **Contribution** means any gift, subscription, loan, advance, deposit of money, allotment of money, or anything of value given or transferred by one person to another, including in cash, by check, by draft, through a payroll deduction or allotment plan, by pledge or promise, whether or not enforceable, or otherwise, for purposes of influencing in any way the outcome of any election. For the purposes of this definition, a political contribution does not include:
 - (i) a loan made at market rate by a lender in his or her ordinary course of business; (ii) the use of real or personal property and the cost of invitations, food, beverages, voluntarily provided by an individual and rendering voluntary personal services on the individuals, residential premises for candidate-related activities: provided the value of the services provided does not exceed an aggregate of One Hundred Fifty and No/100 Dollars (\$150.00) in a reporting period as defined under I.C. 3-9-5 *et seq.*
 - (iii) The sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a

candidate's campaign is at least equal to the cost of such food or beverage to the vendor.

(5) **Owner** means any person with an ownership or beneficial interest in any entity of more than five percent (5%).

(6) **Political Fundraising Committee** means any fund, organization, political action committee or other entity that, for purposes of influencing in any way the outcome of any election, receives or expends money or anything of value or transfers money or anything of value to any other fund, political party, candidate, organization, political action committee, or other entity.

(B) **Contribution Statement by City Contractor.**

Prior to entering into any Contract with a City Contractor the City shall obtain from the City Contractor a sworn statement made under penalty of perjury that the City Contractor, the Owner of any City Contractor, the spouse or domestic partner of the Owner of any City Contractor, a subcontractor of any City Contractor on a City Contract, the Owner of any subcontractor of any City Contractor, and the spouse or domestic partner of any Owner of any subcontractor of any City Contractor, has not made a Contribution or undertaken any other activity in violation of this Ordinance.

(C) **Prohibition Against the City of Fort Wayne from Entering into Certain Contracts.**

Any other provision of law to the contrary notwithstanding, the City shall be prohibited from and shall not enter into a Contract with any City Contractor, if within one (1) calendar year immediately preceding the start date of the bid process or of other solicitation for a Contract, any Contributions or other actions set forth in subparagraph (D) shall have occurred.

(D) Actions Taken and Contributions Made in Violation of this Ordinance; Resulting in Restriction on City Entering into a Contract. Any one or more of the following shall be a violation of this ordinance resulting in the restrictions, violations and penalties as set forth in subparagraphs C and F of this ordinance:

- (1) For any City Contractor, Owner of City Contractor, spouse or domestic partner of the Owner of a City Contractor, subcontractor of any City Contractor, or Owner of any subcontractor of any City Contractor, spouse or domestic partner of any Owner of any subcontractor of any City Contractor, to make a Contribution of any amount to any City of Fort Wayne candidate for or holder of any City of Fort Wayne elected public office or to said candidates or elected public office holder's Political Fundraising Committee, within the timeframe outlined in subsection (C) of this ordinance.
- (2) For any City Contractor, or subcontractor to a City Contractor, to coerce, compel or intimidate its employees to make a contribution of any amount to any City of Fort Wayne candidate for or holder of any City of Fort Wayne elected public office or to their respective Political Fundraising Committee.
- (3) For any City Contractor or subcontractor to a City Contractor engaged in a City Contract to reimburse its employees for a contribution of any amount made to any City of Fort Wayne candidate for or holder of any City of Fort Wayne elected public office or to their respective Political Fundraising Committees.
- (4) For any City Contractor or subcontractor to a City Contractor engaged in a City Contract to bundle or solicit others to bundle Contributions to any City of Fort Wayne candidate for or holder of any City of Fort Wayne elected public office or to

their respective Political Fundraising Committees For purposes of this ordinance, “bundle” shall mean to collect Contributions from more than one source which are then delivered by one person to any City of Fort Wayne candidate for or holder of any City of Fort Wayne elected public office or to their respective Political Fundraising Committees.

- (5) For any City Contractor, Owner of a City Contractor, spouse or domestic partner of an Owner of a City Contractor, subcontractor to a City Contractor on a City Contract, Owner of a subcontractor of a City Contractor on a City Contract, or spouse or domestic partner of an Owner of a subcontractor of a City Contractor engaged in a City Contract to engage in any conduct whatsoever designed to intentionally violate the provisions of this ordinance or to entice, direct or solicit others to intentionally violate the provisions of this ordinance.

(E) **Return of Excess Contributions/Cure.**

A violation of this ordinance may be cured if, within thirty (30) days after discovery of the prohibited contribution, the City of Fort Wayne is notified of the violation in writing and the prohibited contribution is returned to the persons or entity from whom it was received.

(F) **Penalty/Additional Remedies.**

In addition to any other penalty authorized by law, any Contract negotiated, entered into, or performed in violation of any provision of this ordinance shall be terminable by the City of Fort Wayne. Further, any Contractor, subcontractor, or other party to whom this ordinance applies found to be in violation of this ordinance shall be barred from entering into any Contracts with the City for a period of three (3) calendar years from the date of the violation

(G) Contributions Made Prior to the Effective Date of this Ordinance.

Any Contract entered into before the effective date of this ordinance shall not be affected, governed by or in any way in violation of this ordinance. Further, no Contribution shall be deemed a violation of this ordinance if that Contribution was made prior to the effective date of this ordinance. Notwithstanding the foregoing, any City Contractor which is a party to a Contract with the City prior to the effective date of this ordinance and which Contract remains in existence subsequent to the effective date of this ordinance, shall be subject to the restrictions set forth in this ordinance, as to any Contributions made after the effective date of this ordinance and prior to the termination or completion of the Contract.

(H) Severability.

If any provision of this ordinance, or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this ordinance to the extent it can be given effect, or the application of such provision to the persons or circumstances other than those for which it is held invalid, shall not be affected thereby, and to this extent the provisions of this ordinance are severable.

SECTION 2. That the City is directed to take all action necessary and proper for the implementation of this Ordinance.

SECTION 3. That this Ordinance shall be in full force and effect on the later of **September 1, 2011** or from and after its passage and any and all necessary approval by the Mayor.

Liz Brown, Council Member

APPROVED AS TO FORM AND LEGALITY

Joseph G. Bonahoom, City Council Attorney

BILL NO. S-11-07-04

SPECIAL ORDINANCE NO. S-_____

AN ORDINANCE approving the awarding of RFQ #3399 by the City of Fort Wayne, Indiana, by and through its Department of Purchasing and W.A. JONES for the FORT WAYNE STREET DEPARTMENT.

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

SECTION 1. That RFQ #3399 between the City of Fort Wayne, by and through its Department of Purchasing and W.A. JONES for the FORT WAYNE STREET DEPARTMENT, respectfully for:

purchase of three (3) single axle dump truck body beds with snow equipment

involving a total cost of ONE HUNDRED SEVENTY THOUSAND, NINE HUNDRED FIFTY-FIVE AND 00/100 DOLLARS - (\$170,955.00) all as more particularly set forth in said RFQ #3399 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 Helton, City Attorney

