AGENDA
KOKOMO COMMON COUNCIL
CITY OF KOKOMO, INDIANA
PUBLIC INFORMATIONAL MEETING AT 5:30 P.M.
IN THE LOUKS CONFERENCE ROOM LOCATED ON THE
FIRST FLOOR. COUNCIL MEETING AT 6:00 P.M. IN THE
COUNCIL CHAMBERS. AUGUST 12TH, 2019
COUNCIL CHAMBERS CITY HALL 100 SOUTH UNION STREET

CALL TO ORDER:

INVOCATION:

PLEDGE:

ROLL CALL:

APPROVAL OF MINUTES: Council Meeting Minutes July 29th, 2019

COMMUNICATIONS:

COMMITTEE REPORTS

ORDINANCE 6935: AN ORDINANCE VACATING RIGHT-OF-WAY
Young First reading
ORDINANCE 6937: Young
Rezoning: R1, AG and AR to C2
Location:
Parcel #34-04-32-426-008.000-002
Parcel #34-04-32-476-003.000-002
Parcel #34-04-33-301-004.000-028
Parcel #34-04-33-351-001.000-007
Parcel #34-04-33-351-016.000-007
Parcel #34-04-33-351-018.000-007
Petitioner: Phil A. Sundling
First reading

ORDINANCE 6938: Young
AN ORDINANCE AMENDING ORDINANCE 6279, AS AMENDED, NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, that Ordinance No. 6279, as amended with all subsequent amendments, be and is hereby further amended as follows:
Second reading

ORDINANCE 6942: Kennedy
First reading
COUNCIL MEETING MINUTES  
July 29th, 2019

The Common Council of the City of Kokomo, Indiana met Monday July 29th, 2019 at 6:00 P.M. in the City Hall Council Chambers.

The meeting was called to order by President Hayes.

President Hayes states, those who wish to stand may stand, or you may remain seated.

Invocation was offered by Pastor Jerry Van Auken, from First Evangelical Presbyterian Church.

Pledge:

Present: Wyant, Cameron, Young, Haworth, Kennedy, Hayes, Johnson, Sanders, Miklik

Absent: None

The minutes of the Council Meeting July 8th, 2019 were declared approved as presented.

COMMUNICATIONS: President Hayes states, we have a Petition for Vacation of a Right-of-way by the Rail Minor LLC; has been filed with the Common Council. A Petition for Vacation of the Street Right-of-way. It is a street address or common description of adjacent 807 S. Reed Road. I am introducing that tonight on July 29th. We will have first reading on August 12th, 2019. Public Hearing, and second reading on August 26th, 2019. That is Ordinance #6935.

There were no committee reports given at this regular meeting.
ORDINANCE 6936:  Rezoning: R4 to M1
Location: 602 & 600 Williamsburg Dr. & 507 S. Webster St.
Petitioner: Clinton Scruggs
First reading

Ordinance 6936 was read by the Clerk by title only. Councilwoman Young moved for suspension of the rules, and pass ordinance #6936 on first, and second reading; seconded by Councilman Cameron. Vote for suspension of the rules:
Aye: All
Nay: None
The vote was 9 to 0 for suspension of the rules.

Councilwoman Young moved for passage on ordinance #6936 on second reading; seconded by Councilman Wyant.

Councilwoman Young states, Clinton Scruggs is requesting a change in zone classification from R4 (Medium Density Urban Residential) to M1 (Low Density Multifamily Residential) for property located at 602, and 600 Williamsburg Dr., and 5007 S. Webster Street. This property is going to be used for assistant living. Director Greg Sheline from the Plan Commission is in the audience if anyone has any questions.

Plan Commission Director Greg Sheline states, this is 3 lots. They were zoned residential last year. They want to put a residential assistant living facility there. It is actually a home with about 3000 square feet. There is going to be 8 to 9 rooms in that home. There will be staff available at the home.

Vote for passage follows:
Aye:
Nay:
The vote was 9 to 0 for passage on first, and second reading.
ORDINANCE 6938: AN ORDINANCE AMENDING ORDINANCE #6279, AS AMENDED, NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, that Ordinance No. 6279, as amended with all subsequent amendments, be and is hereby further amended as follows:

First reading

Ordinance 6938 was read by the Clerk by title only. Councilwoman Young moved for passage on ordinance #6938 on first reading; seconded by Councilman Wyant.

Councilwoman Young states, this ordinance was passed by the Planning Commission to this Common Council. It is an ordinance amending 6279. This ordinance is expanding 931, and State Road 31 Overlay Sub-districts. It encompasses the nine properties for the Sports Complex being built on State Road 31; for a high end mixed use Commercial Development. Director Greg Sheline from the Plan Commission is in the audience if anyone has any questions.

Jennifer Goad 3411 Judson Road Kokomo, Ind. states, give this a little more consideration before making your motion, and green lining this project 100%. The problem that we have is: what is going to happen to our current little leagues? There are a lot of rumors. We need answers. There are a lot of questions surrounding this. I ask, and urge you to do more research on this project; to make sure the kids, and the City of Kokomo will be best served by this project.

David Tharp, Deputy Mayor 1027 West Walnut City of Kokomo, Ind. states, this project does not consolidate or force or deny anything involving Youth Sports in our Community.
Cont. Ordinance #6938.
It helps facilitate the Development of a $86 Million Dollar historic investment $77 Million Dollars in which is private that funds the creation of these ball-fields. It is our intention as a City as we drive this project forward; to make sure that is the place that our kids get to call home field. I would urge Council to pass this.

Chuck Sosbe 1715 S. Courtland Ave. Kokomo, Ind. states, my concerns are like Jennifer’s. I think we need to look at what we can do for our own kids; and not worry about what we can do for Grand Park.

Jeff Ely 520 S. Goyer Road Kokomo, Ind. states, it has been my privilege to live next to this park for the last fifteen years. I will say that for me it was a blind-side; because living adjacent to the park, apparently I was not subject to mandatory notification for the rezoning of the property that is on the other side of the park. Had I known about the Planning Meeting; I would of ask about traffic on Goyer; so much is unknown. I want to know more; and I want to have a voice. I want to be in the loop.

President Hayes states, I want you to understand that we do not send out notifications. It is not the Council’s responsibility. It is the Plan Commission. I would have some words with him about that. I apologize that you were not notified; even though it is not our responsibility; sorry.

Chris Beatty 716 Lakeside Drive Kokomo, Ind. states, I am the President of UCT Little League. Our board, and myself is in support of the park. I think it will be very good for the City of Kokomo to have this facility as long as the concerns have been shared. The main concern that we have heard is making sure that the Local players are taken care of.
Council Meeting Minutes  
July 29th, 2019 Page-5

Cont. Ordinance #6938.  
I am in chats with all the Local Presidents; and hav’ent really heard anybody push back against it. I think most of us are for even consolidating our leagues. I just wanted you to know I am in-support of it, and UCT as long as our kids are taking care of.

Councilman Cameron states, just a little history at one-time City of Kokomo had All Stars from all leagues; and they did very well.

Councilman Kennedy states, I don’t know of any of us unless we have grand kids involved probably don’t know a whole lot about what is going on at all the Little League Parks right now. I think a Committee, or a group needs to get together to meet with all the Presidents of the Leagues, to understand all their concerns; and see if everybody is on the same page. I think we need as a Council should have more information on what’s going on with these Leagues.

Councilman Miklik states, we have a standing Department within the City that manages, and integrated into Youth Baseball. The Park Department maintains a lot of the parks. The discussion that Councilman Kennedy suggested should fall to the Parks Department to help as a place to centralize that kind of discussion. My suggestion would be the Parks Department take that on to gather input; and then they can come-back, and tell us what they found out.

Councilwoman Sanders states, one of my concerns is what is the cost going to be to the kids, and to the families? I want to make sure that every kid can play ball some-place.

President Hayes states, I want to remind everybody what were here to do tonight is to vote on this Over-lay. I like the idea of the Park Department.
Cont. Ordinance #6938.
I think that is a good start. I think we are here tonight to move this project forward of voting on the Over-lay.

Councilman Cameron ask, isn’t it true that there is room to expand more out in there?

David Tharp, Deputy Mayor states, I have had conversations that I can share with the Developer Steve Henke. He actually purchased most this land from adjacent land-owners; letting them know I am going to build a large Commercial Recreational Facility here. Hinkee has received word from property owners to the North that they would be interest in selling more land.

President Hayes states, it is my understanding that Mr. Henke is going to put some infrastructure roads going in there?

David Tharp, Deputy Mayor states, yes. The infrastructure is actually supported by the tax investment from the private developer thru a Tiff District. This project has been in the works for years.

Vote for passage:
Aye: All
Nay: None
The vote was 9 to 0 for passage on first reading.
RESOLUTION 2731: Resolution authorizing the filing of applications with the Federal Transit Administration, an operating administration of the United States Department of Transportation, for Federal transportation assistance Authorized by 49 U.S.C. chapter 53, title 23 United States Code, and other Federal statues administrated by the Federal Transit Administration.

Resolution 2731 was read by the Clerk by title only. Councilman Miklik moved for passage on resolution #2731; seconded by Councilwoman Sanders.

Councilman Miklik states, this resolution is a yearly resolution that authorizes the Mayor on behalf of City of Kokomo to file for grants. He read the resolution.

Vote for passage follows:
Aye: All
Nay: None

The vote was 9 to 0 for passage.

RESOLUTION 2734: A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA APPROVING THE PURCHASE OF CERTAIN REAL PROPERTY

Resolution 2734 was read by the Clerk by title only. Councilman Miklik moved for passage on resolution #2734; seconded by Councilwoman Sanders.

Councilman Miklik states, this resolution is authorizing the City to exam due diligence for the purchase of real estate on South Main.
Cont. Resolution #2734.
Formerly it was a Power Sub Station; just South of Foxes Trail.
He reads the resolution.
Vote for passage follows:
Aye: All
Nay: None
The vote was 9 to 0 for passage.

President Hayes states, this marks the end of this Council Meeting.
Our next Council Meeting will be August 12th, 2019; with an 
Informational Meeting at 5:30 P.M. in the Louks Room; and Council 
Meeting at 6:00 P.M. in the Council Chambers.

Adjourned at 6:50 P.M.

___________________________
ATTEST:  
Presiding Officer

_____________________
City Clerk
NOTICE OF HEARING ON PETITION FOR VACATION OF RIGHT-OF-WAY

Please take notice that pursuant to I.C. 36-7-3-12, Rayl Minor LLC, has filed with the Common Council of the City of Kokomo, a petition for the vacation of street right-of-way described as follows:

Street Address or Common Description: Adjacent to 807 S. Reed Rd.

Legal Description:

A part of the Homestead Addition, as shown recorded in Recorder’s Plat Book 3, page 97, Center Township, City of Kokomo, Howard County, Indiana described as follows:

Beginning at the southeast corner of Lot 10 in said Homestead Addition, thence East 176 feet on and along the north Right-of-way line of Markland Avenue as shown in said Homestead Addition; thence South 20 feet; thence West 176 feet on and along the south line of said Homestead Addition; thence North 20 feet the point of beginning, containing approximately 0.08 acres, more or less.

The Common Council of the City of Kokomo has set a hearing on this petition for the 26th day of August 2019, at 6:00 pm in the Ralph Neal Council Chambers, City Hall, 100 South Union Street, Kokomo, Indiana. At this time, the Council will hear any person who is interested or affected by this proposed petition or anyone submitting a remonstrance against said petition.

COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA
Robert L. Hayes Sr., President
Brenda Ott, Clerk
TO THE MEMBERS OF THE
HONORABLE KOKOMO COMMON COUNCIL

Re: 5 - Z - 19

R1 (Very Low Density Residential), AG (Agriculture)
and AR (Agricultural Residential) to C2 (Medium to
Large Scale General Commercial)

1110 N 200 E, 2038 E 00 NS, 3008 E 00 NS

Ordinance No. 6937

Dear Honorable Members:

Please be advised the Kokomo City Plan Commission, at their public hearing
held Tuesday, July 9, 2019 considered and voted unanimously to forward a favorable
recommendation of the above captioned case to the Kokomo Common Council.

Case 5 - Z - 19 is the petition of Phil A. Sundling requesting the Kokomo City
Plan Commission petition and recommend to the Kokomo Common Council for a
change in zone classification from R1 (Very Low Denity Residential), AR (Agricultural
Residential) and RR (Rural Residential) to C2 (Medium to Large Scale General
Commercial) for the following parcels: 34-04-32-426-008.000002,
34-04-32-476-003.000-002, 34-04-33-301-004.000-028, 34-04-33-351-001.000-007,
34-04-33-351-016.000-007 and 34-04-33-351-018.000-007; City of Kokomo, Center
Township, Howard County, Indiana.

The Commission believes that said amendment promotes the health, safety, and
general welfare of the community and would not adversely affect the values of the
surrounding properties.

Respectfully submitted,

[Signature]

Mike Besser, President
Kokomo City Plan Commission
Certification
Ordinance No.: 6937
Case: 5 - Z - 19

STATE OF INDIANA
CITY OF KOKOMO
COUNTY OF HOWARD

Greg Sheline, being first duly sworn upon his oath, according to law, disposes and says:

1) That he is duly elected, qualified, and acting Secretary of the Kokomo City Plan Commission, and,

2) That the above and foregoing is a true and exact copy of an amendment to the Kokomo City Ordinance No. 6279, as amended, and the same was considered by the Kokomo City Plan Commission at a public hearing held in the Neal Council Chamber in Kokomo City Hall at 5:00 p.m. on the 9th day of July, 2019, after due notice of such public hearing being published in the Kokomo Tribune and the Herald Newspaper at least ten (10) days prior to the date of the public hearing.

3) By a resolution adopted by the majority of its members at said public hearing, the Kokomo City Plan Commission gave a favorable recommendation to the passage of said amendatory ordinance by the Common Council of the City of Kokomo, Indiana.

DATED this _______ day of ________ July ___________, 2019.

[Signature]
Greg Sheline, Secretary
Kokomo City Plan Commission

Subscribed and sworn to before me this 23rd day of ________ July ________, 2019.

[Signature]
Dianne Trobaugh
Notary Public
A resident of Howard County

My commission expires:

February 1, 2020

This instrument was prepared by Jessica Calderon, Secretary, City Plan Commission. I affirm, under the penalty for perjury, that I have taken reasonable care to redact each social security number in this document unless required by law.
AN ORDINANCE AMENDING ORDINANCE NO. 6279, AS AMENDED, NOW THEREFORE, BE IT ORDAINED
BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, that Ordinance No. 6279, as amended,
with all subsequent amendments be and is hereby amended as follows:

SECTION I. The following described tract of land shall be changed from R1 (Very Low Density
Residential), AG (Agriculture) and AR (Agricultural Residential) to C2 (Medium to Large
Scale General Commercial) for property described: for the following parcels:
34-04-32-426-008.000-002, 34-04-32-476-003.000-002, 34-04-33-301-004.000-028,
34-04-33-351-001.000-007, 34-04-33-351-016.000-007 and 34-04-33-351-018.000-007; City of
Kokomo, Center Township, Howard County, Indiana, at 1110 N 200 E, 2038 E 00 NS, 3008 E
00 NS.

SECTION II. The above changes shall be duly entered on the filed copies of the zone map, which is a part of
Kokomo Zoning Ordinance No. 6279.

SECTION III. This Ordinance shall be in full force and effect from and after its passage, signature by the Mayor,
and publication as provided by law.

PASSED by the Kokomo Common Council this____day of______________, 2019.

Attest:

Brenda Ott, City Clerk

Robert L. Hayes, Sr., President,
Kokomo Common Council

PRESENTED by me to the Mayor this____day of______________, 2019.

Brenda Ott, City Clerk

APPROVED by me this____day of______________, 2019.

Attest:

Greg Goodnight, Mayor
City of Kokomo, Indiana

This instrument was prepared by Jessica Calderon, City Plan Commission Secretary.
I affirm, under the penalty for perjury, that I have taken reasonable care to redact each social security number
in this document, unless, required by law. Jessica Calderon, Plan Commission Secretary
Ordinance No. 6938

AN ORDINANCE AMENDING ORDINANCE 6279, AS AMENDED, NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA, that Ordinance No. 6279, as amended with all subsequent amendments, be and is hereby further amended as follows:

SECTION I. That a new overlay district be created and established as SR 931/SR 31 Overlay District and Regional Center Overlay Sub-districts.

SECTION II. That the following described parcels shall be added to the SR 931 and SR 31 Overlay Districts and Regional Center Overlay Sub-districts: 34-04-324-26-008.000-002, 34-04-324-76-001.000-002, 34-04-324-76-003.000-002, 34-04-333-01-004.000-028, 34-04-333-51-001.000-007, 34-04-333-51-002.000-007, 34-04-333-51-016.000-007, 34-04-333-51-018.000-007, and 34-04-333-51-019.000-007.

SECTION III. That the above changes shall be duly entered on the filed copies of the zone map, which is part of the Kokomo Zoning Ordinance No. 6279.

SECTION IV. This Ordinance shall be in full force and effect from and after its passage, signature by the Mayor, and publication as provided by law.

________________________________________
Robert L. Hayes, Sr., President
Kokomo Common Council

Attest:

________________________________________
Brenda Ott, City Clerk

Presented by me to the Mayor this ___________ day of ___________________, 2019.

________________________________________
Brenda Ott, City Clerk

Approved by me this ___________ day of ___________________, 2019.

________________________________________
Greg Goodnight, Mayor
City of Kokomo, Indiana
ORDINANCE NO. 6942

ORDINANCE OF THE COMMON COUNCIL OF THE CITY OF KOKOMO
AUTHORIZING THE ISSUANCE OF LOCAL INCOME TAX REVENUE BONDS FOR
THE PURPOSE OF FINANCING THE COSTS OF CERTAIN PARKS AND
RECREATION PROJECTS AND INCIDENTAL EXPENSES IN CONNECTION
THEREWITH AND ON ACCOUNT OF THE ISSUANCE OF THE BONDS

WHEREAS, the City of Kokomo, Indiana is a governmental unit and political subdivision of the State of Indiana (the “City”); and

WHEREAS, the Howard County Income Tax Council has previously adopted an ordinance imposing what is now known as the local income tax (“LIT”) on the taxpayers of Howard County, Indiana (the “County”) pursuant to what has been recodified in Indiana Code 6-3.6-6, as amended (the “LIT Act”); and

WHEREAS, it would be of public utility and benefit and in the best interests of the City and its citizens to finance the costs of constructing and equipping various parks and recreation and related public infrastructure projects at and near Darrough Chapel Park in the City, including, without limitation, four high school sized baseball fields and four Little League sized baseball fields, parking improvements, concession stands and restrooms, and related public infrastructure in the vicinity of these projects (collectively, the “Projects”), and costs of the issuance of bonds therefor, such bonds to be issued as negotiable bonds of the City; and

WHEREAS, the Common Council deems it advisable to issue, pursuant to the LIT Act, Indiana Code § 36-4-6-19, and other applicable provisions of the Indiana Code, the “City of Kokomo, Indiana Local Income Tax Revenue Bonds, Series 2019 (the “2019 Bonds”) in an original principal amount not to exceed Nine Million Dollars ($9,000,000) (the “Authorized Amount”) payable from the City’s distributions of certified shares of LIT additional revenue derived from the expenditure rate under the LIT Act (the “LIT Revenues”), and for the purpose of providing for the payment or reimbursement of all or a portion of the costs of the Projects, including preliminary and incidental expenses incurred in connection therewith, and the costs of selling and issuing the 2019 Bonds; and

WHEREAS, the original principal amount of the 2019 Bonds, together with the outstanding principal amount of previously issued bonds which constitute a debt of the City, is no more than two percent (2%) of one-third (1/3) of the total net assessed valuation of the City; and

WHEREAS, the City has no prior pledges of LIT Revenues to bond, lease or other indebtedness obligations; and

WHEREAS, all conditions precedent to the adoption of an ordinance authorizing the issuance of the 2019 Bonds have been complied with in accordance with the applicable provisions of the Act; and

WHEREAS, the Common Council did not include the proceeds of the 2019 Bonds in the regular budget for the year 2019; and
WHEREAS, there are insufficient funds available or provided for in the existing budget and tax levy which may be applied to the cost of the Project, and the issuance of the 2019 Bonds has been authorized to procure the necessary funds and necessity exists for the making of the additional appropriation set out herein; and

WHEREAS, notice of a hearing on said appropriation has been published as required by law; and

WHEREAS, such public hearing was held on August 26, 2019, on said appropriation at which all taxpayers and interested persons had an opportunity to appear and express their views regarding such additional appropriation; and

WHEREAS, it is anticipated that the City may advance all or a portion of the cost of the Projects prior to the issuance of the Bonds, with such advance to be repaid from proceeds of the Bonds upon the issuance thereof; and

WHEREAS, Section 1.150-2 of the Treasury Regulations on Income Tax (the “Reimbursement Regulations”) specifies conditions under which a reimbursement allocation may be treated as an expenditure of bond proceeds, and the City intends by this Ordinance to qualify amounts advanced by the City to pay the cost of the Projects for reimbursement from proceeds of the Bonds in accordance with the requirements of the Reimbursement Regulations.

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

SECTION 1. Authorization for Bonds; Appropriation of Proceeds. (a) In order to provide financing for the Projects as described above and the costs of selling and issuing the 2019 Bonds, the City shall borrow money, and shall issue the 2019 Bonds as herein authorized. The City covenants that the proceeds of the 2019 Bonds will not be used for any purpose except as described in this Ordinance.

(b) The Common Council hereby appropriates a sum not to exceed Nine Million Dollars ($9,000,000), out of the proceeds of the 2019 Bonds, together with all investment earnings thereon, for the use of the City in paying or reimbursing the prior payment of the costs of the Projects and the costs of issuing the 2019 Bonds. Such appropriation shall be in addition to all appropriations provided for in the existing budget and levy, and shall continue in effect until the completion of the Projects. Any surplus of such proceeds shall be credited to the proper fund as provided by law. All actions previously taken in connection with such appropriation, including publication of the notice of the public hearing, be, and hereby are, ratified and approved. A certified copy of this Ordinance, together with such other proceedings and actions as may be necessary, shall be filed by the City, along with a report of the appropriation, with the Indiana Department of Local Government Finance.

(c) The City hereby declares that it reasonably expects to reimburse any City’s advances to the cost of the Projects from proceeds of the Bonds, as anticipated by this Ordinance.
SECTION 2. General Terms of Bonds.

(a) Issuance of 2019 Bonds. In order to procure said loan for such purposes, the City hereby authorizes the issuance of the 2019 Bonds, in one or more series, as described herein. The Controller, as the fiscal officer of the City (the “Controller”), is hereby authorized and directed to have prepared and to issue and sell the 2019 Bonds as negotiable, fully registered bonds of the City in an amount not to exceed the Authorized Amount.

The 2019 Bonds shall be executed in the name of the City by the manual or facsimile signature of the Mayor of the City (the “Mayor”) and attested by the manual or facsimile signature of the Controller, who shall affix the seal of the City to each of the 2019 Bonds manually or shall have the seal imprinted or impressed thereon by facsimile or other means. In case any officer whose signature appears on the 2019 Bonds shall cease to be such officer before the delivery of 2019 Bonds, such signature shall nevertheless be valid and sufficient for all purposes as if such officer had remained in office until delivery thereof. The 2019 Bonds also shall be, and will not be valid or become obligatory for any purpose or entitled to any benefit under this ordinance unless and until, authenticated by the manual signature of the Registrar (as defined in Section 4 hereof). Subject to the provisions of this Ordinance regarding the registration of the 2019 Bonds, the 2019 Bonds shall be fully negotiable instruments under the laws of the State of Indiana.

The 2019 Bonds shall be numbered consecutively from R-1 up, shall be issued in denominations of Five Thousand Dollars ($5,000) (or such higher amount as may be determined by the Controller at the time of the sale of the Bonds), shall be originally dated as of the first day of the month in which the 2019 Bonds are sold or the date of issuance, as determined by the Mayor and the Controller, and shall bear interest payable semi-annually on each January 15 and July 15, commencing not earlier than January 15, 2020, at a rate or rates not exceeding five percent (5.00%) per annum (the exact rate or rates to be determined by bidding or negotiation pursuant to Section 6 of the Ordinance), calculated on the basis of a 360-day year comprised of twelve 30-day months.

The 2019 Bonds shall mature on the dates and shall be issued in the principal amounts, as applicable, as determined by the Controller and Mayor, provided that the original aggregate principal amount does not exceed the Authorized Amount, that the first maturity shall be no earlier than January 15, 2020, and that the final maturity shall be no later than January 15, 2044.

(b) Source of Payment. Pursuant to Section 18 of the LIT Act, the City irrevocable pledges the LIT Revenues to the payment of the 2019 Bonds and any obligations hereinafter ranking on parity therewith. The City may use any legally available revenues or funds to pay debt service on the 2019 Bonds, but is only pledging the LIT Revenues to such payments. The 2019 Bonds are not a general obligation of the City, but are payable solely from the LIT Revenues.
(c) **Payments.** All payments of interest on the 2019 Bonds shall be paid by check or draft mailed one business day prior to the interest payment date, to the registered owners thereof as of the first (1st) day of the month in which interest is payable (the “Record Date”) at the addresses as they appear on the registration and transfer books of the City kept for that purpose by the Registrar (the “Registration Record”) or at such other address as is provided to the Paying Agent (as defined in Section 4 hereof) in writing by such registered owner. Each registered owner of $1,000,000 or more in principal amount of 2019 Bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the record date for any payment. All payments of the principal of, and premium, if any, on the 2019 Bonds shall be made upon surrender thereof at the principal office of the Paying Agent in any coin or currency of the United States of America which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a registered owner of $1,000,000 or more in principal amount of 2019 Bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date.

Interest on 2019 Bonds shall be payable from the interest payment date to which interest has been paid next preceding the authentication date thereof unless such 2019 Bonds are authenticated after the Record Date for an interest payment and on or before such interest payment date in which case they shall bear interest from such interest payment date, or unless authenticated on or before the Record Date for the first interest payment date, in which case they shall bear interest from the original date, until the principal shall be fully paid.

(d) **Transfer and Exchange.** Each 2019 Bond shall be transferable or exchangeable only upon the Registration Record, by the registered owner thereof in writing, or by the registered owner’s attorney duly authorized in writing, upon surrender of such 2019 Bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the registered owner or such attorney, and thereupon a new fully registered bond or bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the registered owner, as the case may be, in exchange therefor. The costs of such transfer or exchange shall be borne by the City, except for any tax or governmental charge required to be paid in connection therewith, which shall be payable by the owner requesting such transfer or exchange. The City, Registrar and Paying Agent may treat and consider the persons in whose name such 2019 Bonds are registered as the absolute owners thereof for all purposes including for the purpose of receiving payment of, or on account of, the principal thereof and interest due thereon.

(e) **Mutilated, Lost, Stolen or Destroyed Bonds.** In the event any 2019 Bond is mutilated, lost, stolen or destroyed, the City may execute and the Registrar may authenticate a new bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed, which new bond shall be marked in a manner to distinguish it from the bond for which it was issued, provided that, in the case of any mutilated bond, such mutilated bond shall first be surrendered to the Registrar,
and in the case of any lost, stolen or destroyed bond there shall be first furnished to
the Registrar evidence of such loss, theft or destruction satisfactory to the Controller
and the Registrar, together with indemnity satisfactory to them. In the event any
such bond shall have matured, instead of issuing a duplicate bond, the City and the
Registrar may, upon receiving indemnity satisfactory to them, pay the same without
surrender thereof. The City and the Registrar may charge the owner of such 2019
Bond with their reasonable fees and expenses in this connection. Any 2019 Bond
issued pursuant to this paragraph shall be deemed an original, substitute contractual
obligation of the City, whether or not the lost, stolen or destroyed 2019 Bond shall
be found at any time, and shall be entitled to all the benefits of this ordinance,
equally and proportionately with any and all other 2019 Bonds issued hereunder.

**SECTION 3. Terms of Redemption.** The Mayor and the Controller, upon consultation
with the City’s municipal advisor, may designate maturities of 2019 Bonds that shall be subject to
optional redemption and/or maturity sinking fund redemption, and the corresponding redemption
dates, amounts and prices (including premium, if any). Except as otherwise set forth in this
Ordinance, the Mayor and the Controller, upon consultation with the City’s municipal advisor, is
hereby authorized and directed to determine the terms governing any such redemption.

Notice of redemption shall be mailed by first-class mail or by registered or certified mail
to the address of each registered owner of a 2019 Bond to be redeemed as shown on the
Registration Record not more than sixty (60) days and not less than thirty (30) days prior to the
date fixed for redemption except to the extent such redemption notice is waived by owners of 2019
Bonds redeemed, provided, however, that failure to give such notice by mailing, or any defect
therein, with respect to any 2019 Bond shall not affect the validity of any proceedings for the
redemption of any other 2019 Bonds. The notice shall specify the date and place of redemption,
the redemption price and the CUSIP numbers (if any) of the 2019 Bonds called for redemption.
The place of redemption may be determined by the Controller. Interest on the 2019 Bonds so
called for redemption shall cease on the redemption date fixed in such notice if sufficient funds
are available at the place of redemption to pay the redemption price on the date so named, and
thereafter, such 2019 Bonds shall no longer be protected by this Ordinance and shall not be deemed
to be outstanding hereunder, and the holders thereof shall have the right only to receive the
redemption price.

All 2019 Bonds which have been redeemed shall be canceled and shall not be reissued;
provided, however, that one or more new registered bonds shall be issued for the unredeemed
portion of any 2019 Bond without charge to the holder thereof.

No later than the date fixed for redemption, funds shall be deposited with the Paying Agent
or another paying agent to pay, and such agent is hereby authorized and directed to apply such
funds to the payment of, the 2019 Bonds or portions thereof called for redemption, including
accrued interest thereon to the redemption date. No payment shall be made upon any 2019 Bond
or portion thereof called for redemption until such bond shall have been delivered for payment or
cancellation or the Registrar shall have received the items required by this ordinance with respect
to any mutilated, lost, stolen or destroyed bond.

**SECTION 4. Appointment of Registrar and Paying Agent.** The Controller is hereby
initially appointed to serve as registrar and paying agent for the 2019 Bonds, but the Controller
shall have the option of appointing a successor registrar and paying agent at any time (together with any successor, the “Registrar” or “Paying Agent”). The Registrar is hereby charged with the responsibility of authenticating the 2019 Bonds, and shall keep and maintain the Registration Record at its office. The Mayor and Controller are hereby authorized to enter into such agreements or understandings with any institution hereafter serving in such capacities as will enable the institution to perform the services required of the Registrar and Paying Agent. The Controller is authorized to pay such fees as the institution may charge for the services it provides as Registrar and Paying Agent.

The Registrar and Paying Agent may at any time resign as Registrar and Paying Agent by giving thirty (30) days written notice by first-class mail to the Controller and to each registered owner of the 2019 Bonds then outstanding, and such resignation will take effect at the end of such thirty (30) days or upon the earlier appointment of a successor Registrar and Paying Agent by the Controller. Such notice to the Controller may be served personally or be sent by registered mail. The Registrar and Paying Agent may be removed at any time as Registrar and Paying Agent by the Controller, in which event the Controller may appoint a successor Registrar and Paying Agent. The Controller shall notify each registered owner of the 2019 Bonds then outstanding by first-class mail of the removal of the Registrar and Paying Agent. Notices to registered owners of the 2019 Bonds shall be deemed to be given when mailed by first-class mail to the addresses of such registered owners as they appear on the Registration Record. Any predecessor Registrar and Paying Agent shall deliver all the 2019 Bonds, cash related thereto in its possession and the Registration Record to the successor Registrar and Paying Agent. At all times, the same entity shall serve as Registrar and as Paying Agent.

SECTION 5. Form of Bonds; Book-Entry Form. (a) The form and tenor of the 2019 Bonds shall be substantially as follows, all blanks to be filled in properly prior to delivery thereof:

(Form of Bond)

No. R-___

UNITED STATES OF AMERICA

STATE OF INDIANA  COUNTY OF HOWARD

CITY OF KOKOMO, INDIANA

LOCAL INCOME TAX REVENUE BOND, SERIES 2019

Interest Rate     Maturity Date     Original Date     Authentication Date

Registered Owner:

Principal Sum:
The City of Kokomo, Indiana (the “City”), for value received, hereby promises to pay to the Registered Owner set forth above, the Principal Sum set forth above on the Maturity Date set forth above (unless this bond is called for redemption prior to maturity as hereafter provided), and to pay interest thereon until the Principal Sum shall be fully paid at the Interest Rate per annum specified above from the interest payment date to which interest has been paid next preceding the Authentication Date of this bond unless this bond is authenticated after the first day of the month in which interest is payable (the “Record Date”) and on or before such interest payment date in which case interest shall be paid from such interest payment date, or unless this bond is authenticated on or before __________ in which case it shall bear interest from the Original Date, which interest is payable semi-annually on January 15 and July 15 of each year, beginning on ______________. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months.

The principal of this bond is payable at the principal corporate trust office of ________________________________(the “Registrar” or “Paying Agent”), in ____________, Indiana. All payments of interest on this bond shall be paid by check or draft mailed one business day prior to the interest payment date, to the Registered Owner as of the Record Date at the address as it appears on the registration books kept by the Registrar or at such other address as is provided to the Paying Agent in writing by the Registered Owner. Each registered owner of $1,000,000 or more in principal amount of bonds shall be entitled to receive interest payments by wire transfer by providing written wire instructions to the Paying Agent before the record date for any payment. All payments of principal of and premium, if any, on this bond shall be made upon surrender thereof at the principal office of the Paying Agent in any coin or currency of the United States of America which on the date of such payment shall be legal tender for the payment of public and private debts, or in the case of a Registered Owner of $1,000,000 or more in principal amount of bonds, by wire transfer on the due date upon written direction of such owner provided at least fifteen (15) days prior to the maturity date.

This bond is one of an authorized issue of bonds of the City of like original date, tenor and effect, except as to denominations, numbering, interest rates, and dates of maturity, in the total amount of ________________________________Dollars ($______), numbered from R-1 up, issued for the purpose of providing funds for the construction and equipping of various parks and recreation projects at Darrough Chapel Park in the City, and for the purpose of paying incidental expenses to be incurred in connection therewith and on account of the sale and issuance of bonds therefor, as authorized by Ordinance No. ___ adopted by the Common Council of the City on the 26th day of August, 2019, entitled “Ordinance of the Common Council of the City of Kokomo Authorizing the Issuance of Local Income Tax Revenue Bonds for the Purpose of Financing the Costs of Certain Parks and Recreation Projects and Incidental Expenses in Connection Therewith and on Account of the Issuance of the Bonds” (the “Ordinance”), and in strict compliance with Indiana Code 6-3.6-6 (the “LIT Act”), Indiana Code § 36-4-6-19, and other applicable provisions of the Indiana Code, as amended (collectively, the “Act”), all as more particularly described in the Ordinance. The owner of this bond, by the
acceptance hereof, agrees to all the terms and provisions contained in the Ordinance and the Act.

This bond and all other bonds of this issue, and any other bonds issued or other obligations entered into hereafter on parity therewith, are payable solely from the sources described in the Ordinance (as hereinafter defined), which consist primarily of the City’s distributions of certified shares of LIT additional revenue derived from the expenditure rate under the LIT Act (the “LIT Revenues”). The City irrevocably pledges the LIT Revenues to the prompt payment of the principal of and interest on the bonds authorized by the Ordinance, of which this is one, and any obligations hereafter ranking on parity therewith. Reference is made to the Ordinance for a more complete statement of the revenues from which and conditions under which this bond is payable, a statement of the conditions on which obligations may hereafter be issued on parity with this bond, the manner in which the Ordinance may be amended and the general covenants and provisions pursuant to which this bond has been issued.

[INSERT REDEMPTION TERMS]

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

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

If this bond shall not be presented for payment or redemption on the date fixed therefor, the City may deposit in trust with the Paying Agent or another paying agent, an amount sufficient to pay such bond or the redemption price, as the case may be, and thereafter the Registered Owner shall look only to the funds so deposited in trust for payment and the City shall have no further obligation or liability in respect thereto.

This bond is transferable or exchangeable only upon the registration record kept for that purpose at the office of the Registrar by the Registered Owner in person, or by the Registered Owner’s attorney duly authorized in writing, upon
surrender of this bond together with a written instrument of transfer or exchange satisfactory to the Registrar duly executed by the Registered Owner or such attorney duly authorized in writing, and thereupon a new fully registered bond or bonds in the same aggregate principal amount, and of the same maturity, shall be executed and delivered in the name of the transferee or transferees or the Registered Owner, as the case may be, in exchange therefor. The City, any registrar and any paying agent for this bond may treat and consider the person in whose name this bond is registered as the absolute owner hereof for all purposes including for the purpose of receiving payment of, or on account of, the principal hereof and interest due hereon.

The bonds maturing on any maturity date are issuable only in denominations of [$5,000].

It is hereby certified and recited that all acts, conditions and things required to be done precedent to and in the preparation and complete execution, issuance and delivery of this bond have been done and performed in regular and due form as provided by law.

This bond shall not be valid or become obligatory for any purpose until the certificate of authentication hereon shall have been executed by an authorized representative of the Registrar.

IN WITNESS WHEREOF, the City of Kokomo, State of Indiana, has caused this bond to be executed in the name of such City, by the manual or facsimile signature of the Mayor of said City, and attested by manual or facsimile signature by the Controller of said City, and the seal of said City or a facsimile thereof to be affixed, engraved, imprinted or otherwise reproduced hereon.

CITY OF KOKOMO, INDIANA

By: __________________________
   Mayor

(SEAL)

ATTEST:

___________________________
   Controller

(Form of Registrar’s Certificate of Authentication)
It is hereby certified that this bond is one of the bonds described in the within-mentioned Ordinance duly authenticated by the Registrar.

_____________________, as Registrar

By _________________________
Authorized Representative

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

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

(State)

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

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto ________________________________ (Please Print or Typewrite Name and Address and Social Security or Other Identifying Number) $_________________ principal amount (must be a multiple of $5,000) of the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints ________________________, attorney to transfer the within bond on the books kept for the registration thereof with full power of substitution in the premises.

_____________________

NOTICE: The signature to this assignment must correspond with the name as it appears on the face of the within bond in every particular, without alteration or enlargement or any change whatsoever.
Signature Guaranteed:

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

(End of Bond Form)

(b) The 2019 Bonds may, in compliance with all applicable laws, initially be issued and held in book-entry form on the books of the central depository system, The Depository Trust Company, its successors, or any successor central depository system appointed by the City from time to time (the “Clearing Agency”), without physical distribution of bonds to the purchasers. The following provisions of this section apply in such event.

One definitive 2019 Bond of each maturity shall be delivered to the Clearing Agency (or its agent) and held in its custody. The City and the Registrar and Paying Agent may, in connection therewith, do or perform or cause to be done or performed any acts or things not adverse to the rights of the holders of the 2019 Bonds as are necessary or appropriate to accomplish or recognize such book-entry form 2019 Bonds.

During any time that the 2019 Bonds remain and are held in book-entry form on the books of a Clearing Agency, (1) any such 2019 Bond may be registered upon the books kept by the Registrar in the name of such Clearing Agency, or any nominee thereof, including Cede & Co., as nominee of The Depository Trust Company; (2) the Clearing Agency in whose name such 2019 Bond is so registered shall be, and the City and the Registrar and Paying Agent may deem and treat such Clearing Agency as, the absolute owner and holder of such 2019 Bond for all purposes of this Ordinance, including, without limitation, the receiving of payment of the principal of and interest on such 2019 Bond, the receiving of notice and giving of consent; (3) neither the City nor the Registrar or Paying Agent shall have any responsibility or obligation hereunder to any direct or indirect participant, within the meaning of Section 17A of the Securities Exchange Act of 1934, as amended, of such Clearing Agency, or any person on behalf of which, or otherwise in respect of which, any such participant holds any interest in any 2019 Bond, including, without limitation, any responsibility or obligation hereunder to maintain accurate records of any interest in any 2019 Bond or any responsibility or obligation hereunder with respect to the receiving of payment of principal of or interest or premium, if any, on any 2019 Bond, the receiving of notice or the giving of consent; and (4) the Clearing Agency is not required to present any 2019 Bond called for partial redemption prior to receiving payment so long as the Registrar and Paying Agent and the Clearing Agency have agreed to the method for noting such partial redemption.

If either the City receives notice from the Clearing Agency which is currently the registered owner of the 2019 Bonds to the effect that such Clearing Agency is unable or unwilling to discharge its responsibility as a Clearing Agency for the 2019 Bonds, or the City elects to discontinue its use of such Clearing Agency as a Clearing Agency for the 2019 Bonds, then the City and Registrar and Paying Agent each shall do or perform or cause to be done or performed all acts or things, not adverse to the rights of the holders of the 2019 Bonds, as are necessary or
appropriate to discontinue use of such Clearing Agency as a Clearing Agency for the 2019 Bonds and to transfer the ownership of each of the 2019 Bonds to such person or persons, including any other Clearing Agency, as the holders of the 2019 Bonds may direct in accordance with this Ordinance. Any expenses of such discontinuance and transfer, including expenses of printing new certificates to evidence the 2019 Bonds, shall be paid by the City.

During any time that the 2019 Bonds are held in book-entry form on the books of a Clearing Agency, the Registrar shall be entitled to request and rely upon a certificate or other written representation from the Clearing Agency or any participant or indirect participant with respect to the identity of any beneficial owner of 2019 Bonds as of a record date selected by the Registrar. For purposes of determining whether the consent, advice, direction or demand of a registered owner of a 2019 Bond has been obtained, the Registrar shall be entitled to treat the beneficial owners of the 2019 Bonds as the bondholders and any consent, request, direction, approval, objection or other instrument of such beneficial owner may be obtained in the fashion described in this Ordinance.

During any time that the 2019 Bonds are held in book-entry form on the books of a Clearing Agency, the Mayor, the Controller and/or the Registrar are authorized to execute and deliver a Letter of Representations agreement with the Clearing Agency, or a Blanket Issuer Letter of Representations, and the provisions of any such Letter of Representations or any successor agreement shall control on the matters set forth therein. The Registrar, by accepting the duties of Registrar under this Ordinance, agrees that it will (i) undertake the duties of agent required thereby and that those duties to be undertaken by either the agent or the issuer shall be the responsibility of the Registrar, and (ii) comply with all requirements of the Clearing Agency, including without limitation same day funds settlement payment procedures. Further, during any time that the 2019 Bonds are held in book-entry form, the provisions of Section 5 of this Ordinance shall control over conflicting provisions in any other section of this Ordinance.

SECTION 6. Sale of Bonds.  (a) After completion of all of the necessary legal requirements for the marketing of the Bonds, the Mayor is hereby authorized and directed to sell the 2019 Bonds to a purchaser at a negotiated public sale upon receipt of the purchase price, including interest accrued to the date of delivery, in immediately available funds pursuant to the terms of a purchase agreement, which shall be consistent with this Ordinance or alternatively, at a competitive sale, as determined by the Controller with the advice of the City’s municipal advisor. The Bonds shall be sold at a price of not less than ninety-nine percent (99.0%) of par. The Common Council hereby approves a purchase agreement by which the 2019 Bonds are to be sold to the purchaser (if sold by a negotiated sale) with terms consistent with this Ordinance and the Mayor is hereby authorized and directed to execute, and the Controller is hereby authorized and directed to attest, the purchase agreement in such form as they deem necessary or appropriate, upon advice of counsel, to consummate the transactions contemplated this Ordinance. The purchase agreement in the form executed shall constitute the valid and binding obligation of the City, the full performance and satisfaction of which by the City is hereby authorized and directed.

(b) The Controller is hereby authorized and directed to have the 2019 Bonds prepared, the Mayor and the Controller are hereby authorized and directed to execute the 2019 Bonds in substantially the form and the manner herein provided. The Controller is hereby authorized and directed to deliver the 2019 Bonds to the purchaser; thereupon, the Controller shall be authorized to receive from the purchaser the purchase price and take the purchaser’s receipt for the 2019 Bonds.
Bonds. The amount to be collected by the Controller shall be the full amount which the purchaser has agreed to pay therefor, which shall be not less than ninety-nine percent (99.0%) of the face value of the 2019 Bonds plus accrued interest to the date of delivery.

The Controller is hereby authorized and directed to obtain a legal opinion as to the validity of the 2019 Bonds from Barnes & Thornburg LLP, and to furnish such opinion to the purchasers of the 2019 Bonds. The cost of such opinion shall be paid out of the proceeds of the 2019 Bonds.

The Mayor and/or Controller are hereby authorized to deem final an official statement with respect to the 2019 Bonds, as of its date, if required by and in accordance with the provisions of Rule 15c2-12 of the U.S. Securities and Exchange Commission, as amended (the “SEC Rule”), subject to completion as permitted by the SEC Rule, and the Common Council further authorizes the distribution of the deemed final official statement, and the execution, delivery and distribution of such document as further modified and amended with the approval of the Mayor and/or Controller in the form of a final official statement.

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

SECTION 7.

(a) Use of Bond Proceeds: Project Fund. Any accrued interest and capitalized interest received at the time of delivery of the 2019 Bonds will be deposited in the Principal and Interest Account of the Sinking Fund as defined below and applied to payments on the 2019 Bonds on the first interest payment date. If recommended by the municipal advisor to the City, an amount equal to the Debt Service Reserve Requirement (defined below) may be deposited into the Reserve Account of the Sinking Fund. The remaining proceeds received from the sale of the 2019 Bonds shall be deposited in the fund hereby created and designated as the “City of Kokomo Local Income Tax Revenue Bonds, Series 2019 Project Fund” (the “Project Fund”). The proceeds deposited in the Project Fund, together with all investment earnings thereon, shall be expended by the City only for the purpose of paying (or reimbursing the City for the prior payment of) expenses incurred in connection with all or a portion of the Projects and on account of the sale and issuance of the 2019 Bonds. Any balance remaining in the Project Fund after the completion of the Projects which is not required to meet unpaid obligations incurred in connection therewith and on account of the issuance of the 2019 Bonds may be used to pay debt service on the 2019 Bonds, to fund or replenish the Reserve Account, or otherwise used as permitted by law.
(b) **Sinking Fund.** There is hereby created a separate fund designated as the Sinking Fund, which shall consist of a Principal and Interest Account and a Reserve Account. One day prior to each January 15 and July 15, there shall be deposited in the Principal and Interest Account an amount of LIT Revenues which, together with any money contained in the Principal and Interest Account, is sufficient to pay the principal of and interest on the 2019 Bonds and any Parity Obligations (as defined in Section 11) due on the following January 15 and July 15. No such deposit need be made into the Principal and Interest Account if the amount contained therein is sufficient to pay such amounts. All money in the Principal and Interest Account shall be used and withdrawn solely for the purpose of paying the interest on and the principal of the 2019 Bonds and any Parity Obligations, including accrued interest on any such obligations purchased or redeemed prior to maturity.

If the municipal advisor of the City recommends the establishment of a reserve for the 2019 Bonds, after making the required deposits into the Principal and Interest Account, LIT Revenues shall be set aside from the Sinking Fund and (i) deposited in the Reserve Account in an amount sufficient to maintain the Reserve Account in the full amount of the Debt Service Reserve Requirement (as defined below), and (ii) deposited in any reserve account established for any Parity Obligations in the amount required thereby. No deposit need be made in the Reserve Account so long as there shall be on deposit therein a sum equal to but not exceeding the least of (i) the maximum annual debt service on the 2019 Bonds and any Parity Obligations secured by the Reserve Account, (ii) 125% of the average annual debt service on the 2019 Bonds and any Parity Obligations secured by the Reserve Account, or (iii) 10% of the proceeds of the 2019 Bonds and any Parity Obligations secured by the Reserve Account, plus a minor portion as defined in the Internal Revenue Code of 1986 (the “Debt Service Reserve Requirement”). All money in the Reserve Account shall be used and withdrawn solely for the purpose of making deposits into the Principal and Interest Account, in the event of any deficiency at any time in such account, or for the purpose of paying the interest on or principal of or redemption premiums, if any, on the 2019 Bonds or any Parity Obligations secured by the Reserve Account, in the event that no other money is lawfully available therefor. Any amount in the Reserve Account in excess of the Debt Service Reserve Requirement shall be withdrawn from the Reserve Account and deposited in the Principal and Interest Account. Money in the Reserve Account shall also be available to make the final payments of interest and principal on the 2019 Bonds and any Parity Obligations secured by the Reserve Account.

(c) **Investment of Funds.** All money available hereunder for the payment of debt service on the 2019 Bonds and any Parity Obligations shall be held in trust for the benefit of the holders of the bonds and shall be applied, used and withdrawn in accordance with this Section 7. The proceeds of the funds and accounts described below shall be deposited with a legally qualified depository or depositories for funds of the City as now provided by law and shall be segregated and kept separate and apart from all other funds of the City and may be invested in accordance with applicable provisions of Indiana law.

**SECTION 8. Defeasance.** If, when the 2019 Bonds or any portion thereof shall have become due and payable in accordance with their terms or shall have been duly called for redemption or irrevocable instructions to call the 2019 Bonds or any portion thereof for redemption have been given, and the whole amount of the principal and the interest so due and payable upon such bonds or any portion thereof then outstanding shall be paid, or (i) cash, or (ii) direct non-callable obligations of (including obligations issued or held in book entry form on the books of)
the Department of the Treasury of the United States of America, and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, the principal of and the interest on which when due without reinvestment will provide sufficient money, or (iii) any combination of the foregoing, shall be held irrevocably in trust for such purpose, and provision shall also be made for paying all fees and expenses for the payment, then and in that case the 2019 Bonds or such designated portion thereof shall no longer be deemed outstanding or secured by this ordinance.

SECTION 9. Tax Matters. In order to preserve the exclusion of interest on the 2019 Bonds from gross income for federal income tax purposes and as an inducement to purchasers of the 2019 Bonds, the City represents, covenants and agrees that:

(a) The City will not take any action or fail to take any action with respect to the 2019 Bonds that would result in the loss of the exclusion from gross income for federal income tax purposes of interest on the 2019 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”), and the regulations thereunder as applicable to the 2019 Bonds, including, without limitation, the taking of such action as is necessary to rebate or cause to be rebated arbitrage profits on 2019 Bond proceeds or other monies treated as 2019 Bond proceeds to the federal government as provided in Section 148 of the Code, and will set aside such monies, which may be paid from investment income on funds and accounts notwithstanding anything else to the contrary herein, in trust for such purposes.

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

(c) The City will not make any investment or do any other act or thing during the period that any 2019 Bond is outstanding hereunder which would cause any 2019 Bond to be an “arbitrage bond” within the meaning of Section 148 of the Code and the regulations thereunder as applicable to the 2019 Bonds.

Notwithstanding any other provisions of this ordinance, the foregoing covenants and authorizations (the “Tax Sections”) which are designed to preserve the exclusion of interest on the 2019 Bonds from gross income under federal income tax law (the “Tax Exemption”) need not be complied with if the City receives an opinion of nationally recognized bond counsel that any Tax Section is unnecessary to preserve the Tax Exemption.

SECTION 10. Amendments. Subject to the terms and provisions contained in this section, and not otherwise, the owners of not less than sixty-six and two-thirds percent (66-2/3%) in aggregate principal amount of the 2019 Bonds then outstanding shall have the right, from time to time, anything contained in this ordinance to the contrary notwithstanding, to consent to and approve the adoption by the City of such ordinance or ordinances supplemental hereto as shall be deemed necessary or desirable by the City for the purpose of modifying, altering, amending, adding to or rescinding any of the terms or provisions contained in this ordinance, or in any supplemental ordinance; provided, however, that nothing herein contained shall permit or be construed as permitting without the consent of all affected owners of the 2019 Bonds:
(a) An extension of the maturity of the principal of or interest on any 2019 Bond without the consent of the holder of each 2019 Bond so affected; or

(b) A reduction in the principal amount of any 2019 Bond or the rate of interest thereon or a change in the monetary medium in which such amounts are payable, without the consent of the holder of each 2019 Bond so affected; or

(c) A preference or priority of any 2019 Bond over any other 2019 Bond, without the consent of the holders of all 2019 Bonds then outstanding; or

(d) A reduction in the aggregate principal amount of the 2019 Bonds required for consent to such supplemental ordinance, without the consent of the holders of all 2019 Bonds then outstanding.

If the City shall desire to obtain any such consent, it shall cause the Registrar to mail a notice, postage prepaid, to the addresses appearing on the Registration Record. Such notice shall briefly set forth the nature of the proposed supplemental ordinance and shall state that a copy thereof is on file at the office of the Registrar for inspection by all owners of the 2019 Bonds. The Registrar shall not, however, be subject to any liability to any owners of the 2019 Bonds by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental ordinance when consented to and approved as herein provided.

Whenever at any time within one year after the date of the mailing of such notice, the City shall receive any instrument or instruments purporting to be executed by the owners of the 2019 Bonds of not less than sixty-six and two-thirds per cent (66 2/3%) in aggregate principal amount of the 2019 Bonds then outstanding, which instrument or instruments shall refer to the proposed supplemental ordinance described in such notice, and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice as on file with the Registrar, thereupon, but not otherwise, the City may adopt such supplemental ordinance in substantially such form, without liability or responsibility to any owners of the 2019 Bonds, whether or not such owners shall have consented thereto.

No owner of any 2019 Bond shall have any right to object to the adoption of such supplemental ordinance or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the City or its officers from adopting the same, or from taking any action pursuant to the provisions thereof. Upon the adoption of any supplemental ordinance pursuant to the provisions of this section, this ordinance shall be, and shall be deemed, modified and amended in accordance therewith, and the respective rights, duties and obligations under this ordinance of the City and all owners of 2019 Bonds then outstanding shall thereafter be determined, exercised and enforced in accordance with this ordinance, subject in all respects to such modifications and amendments.

Notwithstanding anything contained in the foregoing provisions of this ordinance, the rights, duties and obligations of the City and of the owners of the 2019 Bonds, and the terms and provisions of the 2019 Bonds and this ordinance, or any supplemental ordinance, may be modified or amended in any respect with the consent of the City and the consent of the owners of all the 2019 Bonds then outstanding.
Without notice to or consent of the owners of the 2019 Bonds, the City may, from time to time and at any time, adopt such ordinances supplemental hereto as shall not be inconsistent with the terms and provisions hereof (which supplemental ordinances shall thereafter form a part hereof),

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

(b) to grant to or confer upon the owners of the 2019 Bonds any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the owners of the 2019 Bonds; or to make any change which, in the judgment of the Common Council, is not to the prejudice of the owners of the 2019 Bonds;

(c) To modify, amend or supplement this ordinance to permit the qualification of the 2019 Bonds for sale under the securities laws of the United States of America or of any of the states of the United States of America, to obtain or maintain bond insurance with respect to payments of principal of and interest on the 2019 Bonds, or to procure a rating on the 2019 Bonds from a nationally recognized securities rating agency designated in such supplemental ordinance, if such supplemental ordinance will not adversely affect the owners of the 2019 Bonds; or

(d) to provide for the refunding or advance refunding of the 2019 Bonds; or

(e) to make any other change which, in the determination of the Common Council in its sole discretion, is not to the prejudice of the owners of the 2019 Bonds.

SECTION 11. Additional Bonds. The City reserves the right to enter into bonds, leases or other obligations entitled to the pledge of LIT Revenues on parity with the 2019 Bonds and in accordance with the requirements set forth below (“Parity Obligations”). The authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

(a) All payments due under the 2019 Bonds and on any Parity Obligations payable from LIT Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears;

(b) The City shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant certifying the amount of the LIT Revenues estimated to be received in each succeeding year shall be at least equal to one hundred twenty-five percent (125%) of the debt service and lease rental requirements with respect to the 2019 Bonds, any outstanding Parity Obligations, and the proposed Parity Obligations for each respective year during the term of the 2019 Bonds, any outstanding Parity Obligations, and the proposed Parity Obligations. If when the proposed Parity Obligations are issued, the Howard County Income Tax Council shall have finally approved an increase in the rate at which the LIT is imposed, the LIT Revenues estimate described in the preceding sentence
may be adjusted to take the increased LIT rate into account. The City shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the Parity Obligations.

(c) Payments of any Parity Obligations or junior obligations shall be payable semiannually on January 15 and July 15.

The terms and conditions of any Parity Obligations shall be set forth in the ordinance or resolution authorizing such Parity Obligation.

SECTION 12. No Conflict. All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this ordinance are to the extent of such conflict hereby repealed. After the issuance of the 2019 Bonds authorized by this ordinance and so long as any of the 2019 Bonds or interest thereon remains unpaid, except as expressly provided herein, this ordinance shall not be repealed or amended in any respect which will adversely affect the rights of the holders of the 2019 Bonds, nor shall the City adopt any law, ordinance or resolution which in any way adversely affects the rights of such holders.

SECTION 13. Severability. If any section, paragraph or provision of this ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this ordinance.

SECTION 14. Non-Business Days. If the date of making any payment or the last date for performance of any act or the exercising of any right, as provided in this ordinance, shall be a legal holiday or a day on which banking institutions in the City or the jurisdiction in which the Registrar or Paying Agent is located are typically closed, such payment may be made or act performed or right exercised on the next succeeding day not a legal holiday or a day on which such banking institutions are typically closed, with the same force and effect as if done on the nominal date provided in this ordinance, and no interest shall accrue for the period after such nominal date.

SECTION 15. Interpretation. Unless the context or laws clearly require otherwise, references herein to statutes or other laws include the same as modified, supplemented or superseded from time to time.

SECTION 16. Other Action. The appropriate officers are hereby authorized to take all actions to obtain a rating, bond insurance or any other form of credit enhancement for the 2019 Bonds if economically feasible and desirable and with the favorable recommendation of the municipal advisors to the City. In addition, the appropriate officers of the City are hereby authorized and directed to take any other action deemed necessary or advisable in order to effectuate the acquisition, construction and equipping of the Projects, the issuance of the 2019 Bonds, or any other purposes of this ordinance.

SECTION 17. Effectiveness. This ordinance shall be in full force and effect from and after its passage. Upon payment in full of the principal and interest respecting the 2019 Bonds authorized hereby or upon deposit of an amount sufficient to pay when due such amounts in accord with the defeasance provisions herein, all pledges, covenants and other rights granted by this ordinance shall cease.
Passed and adopted by the Common Council of the City of Kokomo, Indiana this ___ day of _____________, 2019.

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ATTEST:

Brenda Brunnemer-Ott, Clerk

PASSED by the Common Council of Kokomo, Indiana by a _____ vote of all members present and voting this ____ day of _____________, 2019.

Greg Goodnight, Mayor

Presented by me to the Mayor of the City of Kokomo, Indiana, on the ____ day of _____________, 2019, at the hour of ____:____ m.

Brenda Brunnemer-Ott, Clerk

This ordinance approved and signed by me, the Mayor of the City of Kokomo, Indiana, on the ____ day of _____________, 2019, at the hour of ____:____ m.

Greg Goodnight, Mayor

DMS BDD 14901278v3
BEFORE THE COMMON COUNCIL OF THE CITY OF KOKOMO
ORDINANCE NO. 6935

PETITION FOR VACATION OF STREET RIGHT-OF-WAY

Rayl Minor LLC, whose address is 522 Belvedere Drive, Kokomo, IN, 46904 - 2166, petitions the Common Council of the City of Kokomo, for the vacation of street right-of-way in Homestead Addition, Center Township, Howard County, Indiana, as recorded in Plat Book 3, page 97 and in support of the petition shows the Council as follows:

1. Petitioner proposes to vacate a street right-of-way which is 176 feet in width and 20 feet in depth, described as follows:

A part of the Homestead Addition, as shown recorded in Recorder’s Plat Book 3, page 97, Center Township, City of Kokomo, Howard County, Indiana described as follows:

Beginning at the southeast corner of Lot 10 in said Homestead Addition, thence East 176 feet on and along the north Right-of-way line of Markland Avenue as shown in said Homestead Addition; thence South 20 feet; thence West 176 feet on and along the south line of said Homestead Addition; thence North 20 feet the point of beginning, containing approximately 0.08 acres, more or less

2. The street right-of-way when vacated will be attached to the petitioner’s real estate.

3. The names and mailing addresses of the owners of real estate abutting or near the said public street right-of-way are as follows:

Bowyer Restaurant Group, 2653 S 400 W, Peru, IN 46970

4. The utility companies that may be affected include the following:

NIPSCO; 290 W Nationwide Blvd., Columbus, OH 43215

Indiana American Water Company, Inc.; 1700 East Superior Street; P.O. Box 740; Kokomo IN 46903-0740

Duke Energy Corp.; 1619 W Deffenbaugh St.; Kokomo IN 46902

AT&T Indiana; Right-Of-Way Dept.; 302 W Washington Street, Floor 1; Lebanon IN 46052

5. Vacating the above street right-of-way is appropriate for the following reasons:

A. Petitioner owns all the real estate adjoining the street right-of-way to be vacated.

B. Vacating the street right-of-way will not hinder or interfere with the public's access to any of the adjoining real estate.
C. The proposed vacation of the street right-of-way will not hinder the growth or development of the neighborhood, but will allow the petitioner to redevelop and grow within the neighborhood. Since the petitioner is a church it is an integral and important part of the community and the neighborhood.

D. Vacating the street right-of-way will facilitate the development of all of the real estate in the affected block.

Wherefore Petitioner requests:

1. A hearing on this petition be set within thirty (30) days after it is received by the Council.

2. The Clerk of the Council to publish notice of the hearing on this petition as required by I.C. 36-73-12 (c) in the manner prescribed in I.C 5-3-1 in the form and content as attached as Exhibit A hereto. After such notice and hearing, the Council approves the proposed ordinance attached to this petition vesting the entire vacated street right-of-way to the adjoining property owners as set forth above.

Dated this 12th day of August, 2019
By: Beth Copeland, Corporation Counsel
BEFORE THE COMMON COUNCIL OF THE CITY OF KOKOMO ORDINANCE NO. 6935

AN ORDINANCE VACATING RIGHT-OF-WAY

WHEREAS, Rayl Minor LLC, has petitioned this body to vacate a portion of a certain Street Right-Of-Way located in the City of Kokomo, more particularly described hereafter, and
WHEREAS, this Council conducted a public hearing on the 26th day of August, 2019, at 6:00 p.m., pursuant to the provisions of I.C 36-7-3-12(C) following presentation of proof of publication pursuant to I.C 5-3-1; and
WHEREAS, notice of the proposed vacation was served on all necessary parties; and
WHEREAS, the vacation of the Street Right-Of-Way would not limit access to any real estate or hinder the growth or development of the neighborhood in which it is located; and
WHEREAS, there are no public utilities maintained in the Street Right-Of-Way, or if any be in said Street Right-Of-Way then per stature an easement is maintained over said utility line; and
WHEREAS, the Common Council of the City of Kokomo deems it appropriate and necessary to vacate said Street Right-Of-Way as it no longer serves any public purpose.

NOW, THEREFORE, be it ordained by the Common Council of the City of Kokomo, Indiana, that:

SECTION I

It is hereby found that the portion of Street Right-Of-Way hereafter described should be vacated. Said Street Right-Of-Way is not currently used for access to any real estate and will not hinder the public's access to a church, school, or other public building or place, or make access to any real estate by the public difficult or inconvenient. It is determined that such proposed vacation of the Street Right-Of-Way complies with the purpose and provisions of I.C. 36-73-12 through I.C. 36-7-3-16.

SECTION II

It is hereby found that proper notice was given in accordance with I.C. 36-7-3-12© and I.C. 5-3-1.
SECTION III

It is hereby found that the following described Street Right-Of-Way located in the City of Kokomo, Indiana, should be, and it is hereby vacated:

A part of the Homestead Addition, as shown recorded in Recorder’s Plat Book 3, page 97, Center Township, City of Kokomo, Howard County, Indiana described as follows:

Beginning at the southeast corner of Lot 10 in said Homestead Addition, thence East 176 feet on and along the north Right-of-way line of Markland Avenue as shown in said Homestead Addition; thence South 20 feet; thence West 176 feet on and along the south line of said Homestead Addition; thence North 20 feet the point of beginning, containing approximately 0.08 acres, more or less.
The vacated Street Right-Of-Way as described above shall become a part of the adjoining real estate.

SECTION IV

The City Clerk of the City of Kokomo, Indiana is instructed to furnish a copy of this vacation Ordinance to the Howard County Recorder for recording and to the Howard County Auditor.

SECTION V

This Ordinance shall be in full force and effect from and after its passage by this Council and its approval and signing by the Mayor of the City of Kokomo.

PASSED AND ADOPTED THIS 26th DAY OF August, 2019.

ATTEST: COMMON COUNCIL OF THE CITY OF KOKOMO, INDIANA

By

CLERK: BRENDA OTT Robert L. Hayes Sr., PRESIDENT

Presented by the Clerk of the Common Council of the City of Kokomo to the Mayor of the City of Kokomo, Indiana on this 26th day of August, 2019 at Kokomo, Indiana, for approval by his signature below.

ATTEST: By

GREG GOODNIGHT

CLERK: BRENDA OTT Mayor of the City of Kokomo, Indiana

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law: Beth Copeland

This instrument was prepared by Beth Copeland, Corporation Counsel

Return deed to City of Kokomo, 100 S. Union St., Kokomo, Indiana

Grantee’s Mailing Address: 100 S. Union Street, Kokomo, IN 46901