

RESOLUTION NUMBER 08-31

RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF WESTFIELD, INDIANA REGARDING CERTAIN TAX ABATEMENT DEDUCTIONS FOR I.B.C. REAL ESTATE INVESTMENT, LLC

WHEREAS, pursuant to Indiana Code 6-1.1-12.1-1, *et. seq.* (the “Act”), the City of Westfield, Indiana (the “City”) by and through its Common Council as the fiscal body of the City and as the designating body identified in the Act (the “Council”) has the right and opportunity to abate the payment of real property taxes for real estate located within an area declared by the Council to be an Economic Revitalization Area and to also abate the payment of personal property taxes within the Economic Revitalization Area;

WHEREAS, pursuant to the Act, the Council may find that a particular area within the jurisdiction of the City is an Economic Revitalization Area and may by adoption of a resolution declare such area to be an Economic Revitalization Area which resolution must be confirmed, modified, or rescinded;

WHEREAS, the Council adopted its Resolution Number 08-15 (the “Declaratory Resolution”) on June 9, 2008 pursuant to the Act declaring the area commonly collectively known as 734 East 169th Street, and also commonly known as 16933 Oak Ridge Road and 17001 Oak Ridge Road, Westfield, Indiana more particularly described in Exhibit A (the “Area”) attached hereto and made a part hereof which Area is also shown on the map attached hereto as Exhibit B and made a part hereof as an Economic Revitalization Area in which property owners making application to the City pursuant to the Act subsequently approved by this Council pursuant to the Act may receive real property tax abatement and/or personal property tax abatement pursuant to the applicable procedures of the Act;

WHEREAS, the Council caused to be published a notice (the “Notice”) pursuant to the Act and Indiana Code 5-3-1 of the adoption and substance of the Declaratory Resolution, including notice that the Council would hold a public hearing on June 23, 2008 which Notice was published at least ten (10) days prior to the date of the public hearing;

WHEREAS, the City Clerk-Treasurer in accordance with the Act has caused to be filed a copy of the Notice and the Declaratory Resolution with the Hamilton County Assessor and the officers of each taxing unit which is authorized to fix budgets, tax rates, and tax levies under Indiana Code 6-1.1-17-5 in the Area at least ten (10) days prior to the date of the June 23, 2008 public hearing;

WHEREAS, at the Public Hearing held on June 23, 2008, the Council received, heard and considered any remonstrances and objections from interested persons and heard evidence concerning the qualification of the Area as an Economic Revitalization Area;

WHEREAS, after considering the evidence, this Council took final action determining that the qualifications for an economic revitalization area have been met and took final action by adopting its Resolution Number 08-22 confirming the Declaratory Resolution;

WHEREAS, I.B.C. Real Estate Investment, LLC (the “Applicant”) has filed with this Council a Statement of Benefits Real Estate Improvements (Form SB-1/Real Property) (“Form SB-1”) which describes the proposed project (the “Project”) to be constructed by the Applicant, in order to receive real property tax abatement for the Project;

WHEREAS, the Project consists of constructing Phase I of a development which Phase I will include construction of a portion of the outside storage yard to be leased by the Applicant to and used by Indiana Brick Corporation on approximately 2.4 acres of land located in the Area;

WHEREAS, this Council has reviewed the Form SB-1;

WHEREAS, the improvement of the Area will be of public utility and will be to the benefit and welfare of the citizens and taxpayers of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF
THE CITY OF WESTFIELD, INDIANA AS FOLLOWS:**

SECTION I. The proposed Project will be located in the Area which has been confirmed as an economic revitalization area pursuant to the Act.

SECTION II. Based upon the information in the Form SB-1, this Council makes the following findings:

- (1) The estimate of \$136,000 as the value of the improvements to be constructed is reasonable for projects of that nature.
- (2) The estimate of 12 individuals whose employment will be retained can be reasonably expected to result from the proposed construction of the Project.
- (3) The estimate of \$700,000 for the annual salaries of those individuals whose employment will be retained can be reasonably expected to result from the proposed construction of the Project.

- (4) The other benefits about which information was requested are benefits that can be reasonably expected to result from the construction of the Project.
- (5) The totality of benefits is sufficient to justify the granting of real property tax abatement to the Applicant through the deduction provided by the Act.

SECTION III. Real property tax deductions for the Project are hereby approved. The period for real property tax deductions under the Act for the Project shall be eight (8) years utilizing such schedule provided in the Act.

SECTION IV. Pursuant to the Act, the City Clerk-Treasurer shall cause to be filed a certified copy of this Resolution with the Hamilton County Auditor.

SECTION V. This Resolution shall be in full force and effect immediately upon its adoption.

THE REMAINDER OF THIS PAGE IS BLANK INTENTIONALLY

ADOPTED AND PASSED THIS 14TH DAY OF JULY 2008, BY THE
WESTFIELD COMMON COUNCIL, HAMILTON COUNTY, INDIANA.

WESTFIELD COMMON COUNCIL
Hamilton County, Indiana

WESTFIELD COMMON COUNCIL

Voting For

Voting Against

Abstain

John Dippel

John Dippel

John Dippel

Bob Horkay

Bob Horkay

Bob Horkay

Ken Kingshill

Ken Kingshill

Ken Kingshill

Bob Smith

Bob Smith

Bob Smith

Thomas Smith

Thomas Smith

Thomas Smith

Rob Stokes

Rob Stokes

Rob Stokes

Melody Sweat

Melody Sweat

Melody Sweat

ATTEST:

Clerk-Treasurer, Cindy Gossard

This resolution prepared by:
Brian J. Zaiger, Attorney at Law
KRIEG DEVAULT LLP
949 E. Conner Street, Suite 200
Noblesville, IN 46060
317-238-6266

James T. Crawford, Jr., Attorney at Law
KRIEG DEVAULT LLP
949 E. Conner Street, Suite 200
Noblesville, IN 46060
317-238-6239

1548768_3.DOC

I hereby certify that RESOLUTION 08-31 was delivered to the Mayor of Westfield on the _____ day of _____, 2008, at _____ m.

Cindy Gossard, Clerk-Treasurer

I hereby APPROVE Resolution 08-31
this _____ day of _____, 2008.

J. Andrew Cook, Mayor

I hereby VETO Resolution 08-31
this _____ day of _____, 2008.

J. Andrew Cook, Mayor

This document prepared by
Brian J. Zaiger, Esq.
KRIEG DEVAULT LLP
(317) 238-6266

James T. Crawford, Jr., Esq.
KRIEG DEVAULT LLP
(317) 238-6239

EXHIBIT A

Legal Description of Area

Commonly Collectively Known as 734 East 169th Street, Westfield, Indiana

TRACT 1: Also commonly known as 17001 Oak Ridge Road

A part of the Northwest quarter of the Southwest quarter of Section 1, Township 18 North, Range 3 East in Washington Township, Hamilton County, Indiana, more particularly described as follows:

Beginning at the Northwest corner of the Southwest quarter of Section 1, Township 18 North, Range 3 East, thence N 86° 34' 58" E along the North line of said quarter 574.65 feet, thence S 00° 18' 18" 808.68 feet, thence S 87° 50' 20" W 578.34 feet to a point on the West line of said quarter, thence N 00° 00' 00" (assumed bearing) along said West line 796.23 feet to the point of beginning and containing 10.608 acres, more or less.

TRACT 2: Also commonly known as 16933 Oak Ridge Road

PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID QUARTER-QUARTER SECTION; THENCE NORTH 0 DEGREES 00 MINUTES 00 SECONDS EAST (ASSUMED BASIS OF BEARING) ALONG THE WEST LINE OF SAID QUARTER-QUARTER SECTION, 521.37 FEET TO A POINT 796.23 FEET SOUTH OF THE NORTHWEST CORNER OF SAID QUARTER-QUARTER SECTION; THENCE NORTH 87 DEGREES 50 MINUTES 20 SECONDS EAST 578.34 FEET; THENCE SOUTH 0 DEGREES 18 MINUTES 18 SECONDS EAST 515.37 FEET TO THE SOUTH LINE OF SAID QUARTER-QUARTER SECTION; THENCE SOUTH 87 DEGREES 15 MINUTES 25 SECONDS WEST ALONG SAID SOUTH LINE, 581.35 FEET TO THE POINT OF BEGINNING.

EXCEPT:

PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 18 NORTH, RANGE 3 EAST IN WASHINGTON TOWNSHIP, HAMILTON COUNTY, INDIANA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID QUARTER-QUARTER SECTION SAID POINT ALSO BEING THE SOUTHWEST CORNER OF A PARCEL CONVEYED TO WILLIAM H. BANGS AND JANET L. BANGS RECORDED AS INSTRUMENT #89-18154 IN THE OFFICE OF THE RECORDER OF HAMILTON COUNTY, INDIANA; THENCE

NORTH ALONG THE WEST LINE OF SAID QUARTER QUARTER SECTION AND OF SAID PARCEL 300.00 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID QUARTER QUARTER SECTION AND OF SAID PARCEL 30.00 FEET; THENCE SOUTH PARALLEL WITH THE AFORESAID WEST LINE 225.00 FEET; THENCE SOUTHEASTERLY 49.50 FEET TO A POINT 65.00 EAST AND 40 FEET NORTH OF SAID SOUTHWEST CORNER; THENCE EAST PARALLEL WITH THE AFORESAID SOUTH LINE 235.00 FEET; THENCE SOUTH PARALLEL WITH THE AFORESAID WEST LINE 40.00 FEET TO A POINT ON THE AFORESAID SOUTH LINE; THENCE WEST ALONG THE SAID SOUTH LINE 300 FEET TO THE PLACE OF BEGINNING, CONTAINING 0.468 ACRES, MORE OR LESS.

EXHIBIT B





**STATEMENT OF BENEFITS
REAL ESTATE IMPROVEMENTS**

State Form 51767 (R2 / 1-07)
Prescribed by the Department of Local Government Finance

20 07 PAY 20 10

FORM SB-1 / Real Property

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

- Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)
- Eligible vacant building (IC 6-1.1-12.1-4.8)

INSTRUCTIONS:

1. This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction. "Projects" planned or committed to after July 1, 1987, and areas designated after July 1, 1987, require a STATEMENT OF BENEFITS. (IC 6-1.1-12.1)
2. Approval of the designating body (City Council, Town Board, County Council, etc.) must be obtained prior to initiation of the redevelopment or rehabilitation, **BEFORE** a deduction may be approved.
3. To obtain a deduction, application Form 322 ERA/RE or Form 322 ERA/VBD, Whichever is applicable, must be filed with the County Auditor by the later of: (1) May 10; or (2) thirty (30) days after the notice of addition to assessed valuation or new assessment is mailed to the property owner at the address shown on the records of the township assessor.
4. Property owners whose Statement of Benefits was approved after June 30, 1991, must attach a Form CF-1/Real Property annually to the application to show compliance with the Statement of Benefits. [IC 6-1.1-12.1-5.1(b) and IC 6-1.1-12.1-5.3(f)]
5. The schedules established under IC 6-1.1-12.1-4(d) for rehabilitated property and under IC 6-1.1-12.1-4.8(1) for vacant buildings apply to any statement of benefits approved on or after July 1, 2000. The schedules effective prior to July 1, 2000, shall continue to apply to a statement of benefits filed before July 1, 2000.

SECTION 1			TAXPAYER INFORMATION		
Name of taxpayer I.B.C. Real Estate Investment, LLC.					
Address of taxpayer (number and street, city, state, and ZIP code) 734 E. 169th St. Westfield, IN. 46074					
Name of contact person BRUCE R. LYON		Telephone number 317-896-1600		E-mail address brlyon@ibcbrick.com	

SECTION 2			LOCATION AND DESCRIPTION OF PROPOSED PROJECT		
Name of designating body City of Westfield			Resolution number		
Location of property 170th & Oakridge Rd.		County Hamilton		DLGF taxing district number	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) Phase # 1 - See attached			Estimated start date (month, day, year) 7-01-08		
			Estimated completion date (month, day, year) 10-01-08		

SECTION 3						ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT					
Current number 12		Salaries \$ 700,000⁰⁰		Number retained 12		Salaries \$ 700,000⁰⁰		Number additional		Salaries	

SECTION 4			ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT		
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.			REAL ESTATE IMPROVEMENTS		
			COST		ASSESSED VALUE
Current values			228,480		228,480
Plus estimated values of proposed project			136,000		
Less values of any property being replaced			364,480		
Net estimated values upon completion of project					

SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER	
Estimated solid waste converted (pounds) _____		Estimated hazardous waste converted (pounds) _____	
Other benefits			

SECTION 6			TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.					
Signature of authorized representative 		Title Member		Date signed (month, day, year) 5-27-08	

FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this Economic Revitalization Area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed _____ calendar years* (see below). The date this designation expires is _____.
- B. The type of deduction that is allowed in the designated area is limited to:
 - 1. Redevelopment or rehabilitation of real estate improvements Yes No
 - 2. Residentially distressed areas Yes No
 - 3. Occupancy of a vacant building Yes No
- C. The amount of the deduction applicable is limited to \$ _____.
- D. Other limitations or conditions (specify) _____
- E. The deduction is allowed for _____ years* (see below).

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

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

* If the designating body limits the time period during which an area is an economic revitalization area, it does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years designated under IC 6-1.12-12.1-4.

- A. For residentially distressed areas, the deduction period may not exceed five (5) years.
- B. For redevelopment and rehabilitation or real estate improvements:
 - 1. If the Economic Revitalization Area was designated prior to July 1, 2000, the deduction period is limited to three (3), six (6), or ten (10) years.
 - 2. If the Economic Revitalization Area was designated after June 20, 2000, the deduction period may not exceed ten (10) years.
- C. For vacant buildings, the deduction period may not exceed two (2) years.

May 27, 2008

I.B.C. Real Estate Investments, LLC will be purchasing from B&K Real Estate Investment approximately 2.4 acres for the purpose of constructing a new facility for Indiana Brick Corporation. I.B.C. Real Estate Investment, LLC. (Lessor) will enter into a long term lease with Indiana Brick Corporation (Lessee). Phase I of this project would include the development of a portion of the outside storage yard. This area will be lime stabilized and paved similar to the adjacent Custom Cast Stone yard.