

**METROPOLITAN DEVELOPMENT COMMISSION OF
MARION COUNTY, INDIANA**

**FINAL RESOLUTION TO
AUTHORIZE AMENDMENTS TO THE MEMORANDUM OF AGREEMENT
ASSOCIATED WITH RESOLUTIONS 2019-A-061 AND 2019-A-062 REGARDING REAL
AND PERSONAL PROPERTY TAX ABATEMENT**

Messer, LLC
1045 Harding Court

Resolution No. 2023-A-016

WHEREAS, I.C. 6-1.1-12.1 allows a partial abatement of property taxes attributable to redevelopment or rehabilitation activities and the installation of new equipment in Economic Revitalization Areas; and

WHEREAS, pursuant to I.C. 6-1.1-12.1 Messer, LLC (hereinafter "Applicant") filed designation applications requesting that the subject real estate at 1045 Harding Court (hereinafter "Subject Real Estate") be designated as an Economic Revitalization Area for the purpose of achieving real and personal property tax savings in connection the proposed redevelopment or rehabilitation activities, and installation of new equipment. (hereinafter "Project"); and

WHEREAS, on Wednesday, August 7, 2019, the Metropolitan Development Commission (hereinafter "Commission") adopted Preliminary Economic Revitalization Area Resolutions No. 2019-A-060, and 2019-A-059, preliminary designating the Subject Real Estate as an Economic Revitalization Area; and

WHEREAS, on Wednesday, August 21, 2019, after conducting a public hearing, the Commission adopted Final Economic Revitalization Area Resolutions No. 2019-A-061 and 2019-A-062, (hereinafter referred to as the "Resolutions"), designating the Subject Real estate as an Economic Revitalization Area for the purpose of receiving seven (7) years real and personal property tax abatements; and

WHEREAS, in the Statement of Benefits Form contained in the Resolutions and the Memorandum of Agreement (hereinafter referred to as the "MOA") executed by and between the Applicant and the City of Indianapolis (hereinafter referred to as the "City"), the Applicant indicated that \$3,200,000 in personal property investments would be made at the Subject Real Estate, and \$35,113,900 in real property improvements would be made at the Subject Real Estate, 12 permanent positions would be retained at an average wage of \$28.00 per hour, and 23 permanent positions would be created at an average wage of \$28.00 per hour as a result of the Project (collectively, the "Commitments"); and

WHEREAS, in MOA required the Applicants to complete the Investment Commitments by December 31, 2022 and the job creation Commitments by December 31, 2023 (collectivity hereinafter the "Deadline Dates"); and

WHEREAS, the Applicant submitted SB-1 Statement of Benefits forms that showed the Applicant met the retained jobs and retained wages; and

WHEREAS, the Applicant's submitted SB-1 Statement of Benefits forms also showed that the Applicant exceeded the personal property investment commitment, but that the real property investment has not yet been met; and

WHEREAS, the Real Property Economic Revitalization Area (ERA) designated by the Resolutions expired 08/22/2022; and

WHEREAS, the Applicant's Real Property investment of was not completed until after the expiration of the Real Property ERA, , thereby disallowing abatement deduction on the totality of the real property investments; and

WHEREAS, the Applicant submitted SB-1 Statement of Benefits forms that showed the Applicant failed to meet the job creation Commitments; and

WHEREAS, the Applicant subsequently confirmed to DMD that they would be unlikely to comply with the job creation Commitment; and

WHEREAS, the City and Applicant (collectively, the "Parties") desire to amend the MOA in the following manner: extend the Real Property Economic Revitalization Area designation to December 31, 2023, reduce the job creation commitment to 17 full-time permanent positions, at an average hourly wage of not less than \$30.00 per hour, by December 31, 2024, and in consideration of these amendments to the agreement, to reduce the real and personal property tax abatement deduction schedules, as set forth in this Amending Resolution, and subsequently set for 1:00 p.m. on Wednesday, May 17th, 2023, for the public hearing of remonstrances and objections from persons interested in the Applicant's compliance with Resolutions and MOA, , and if the payment of the damages should be made to the City; and

WHEREAS, proper legal notices were published stating when and where such final hearing would be held; and

WHEREAS, The Parties requested and Commission and granted a continuance of the public hearing on the Amending Resolution to the June 7, 2023 hearing; and

WHEREAS, at such final hearing, evidence and testimony (along with all written remonstrances and objections previously filed) were considered by the Commission; and

WHEREAS, the DMD and The City of Indianapolis have satisfied all other conditions precedent to hold the hearing to amend the terms of the Economic Revitalization Area designations, associated tax abatement deductions and the associated Memorandum of Agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. The Commission hereby determines that the Applicant is unlikely to be able to comply with the job creation Commitments, as stated in the Statements of Benefits, the Resolutions, and the MOA.
2. The real and personal property tax abatement deduction schedules shall be amended as follows:

MESSER LLC

2023 AMENDED REAL & PERSONAL PROPERTY TAX ABATEMENT SCHEDULE

YEAR OF DEDUCTION	PERCENTAGE
1 st	100%
2 nd	85%
3 rd	71%
4 th	57%
5 th	43%
6 th	29%
7 th	0% (No Deduction)

3. The Commission finds that the reduction in job creation and increase in average hourly wage, as set forth in this resolution, are reasonable deviations from the Commitments set forth in the SB-1s, Resolutions and MOA, and authorizes the Director of DMD to execute the Amended Memorandum of Agreement, attached hereto as Exhibit A and incorporated herein, between the Parties (“Amended MOA”).
4. The Real Property Economic Revitalization Area previously authorized by resolution 2019-A-061 is hereby extended to terminate December 31, 2023. The extension of the Economic Revitalization Area designation is limited to allowing the partial abatement of property taxes attributable to redevelopment or rehabilitation activities. This designation does not allow abatement of property taxes for installation of new manufacturing equipment under I.C. 6-1.1-12.1-4.5, for new investments after December 31, 2022.
5. The Commission directs the Department of Metropolitan Development to continue to monitor the Applicant’s Project for the remainder of the term agreed upon in the Amended MOA.

METROPOLITAN DEVELOPMENT COMMISSION

John J. Dillion III, President

Dated

Bruce Schumacher, Vice Secretary

Dated

Approved as to Legal Form
and Adequacy this 24th day
of May, 2023.

/s/Toae Kim
Toae Kim,
Deputy Chief Counsel