

RESOLUTION 2005- 17

**RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF RISING SUN,
INDIANA AGREEING IN PRINCIPLE WITH THE TERMS OF ECONOMIC
DEVELOPMENT NEGOTIATIONS WITH HYATT GAMING SERVICES, LLC.**

- WHEREAS, Hyatt Gaming Services, LLC has approached the City of Rising Sun and the Rising Sun Regional Foundation, Inc. with a proposed 100 room expansion of its hotel facility at the Grand Victoria Casino and Resort in Rising Sun, Indiana.
- WHEREAS, There is a need for certain economic incentives on behalf of the City of Rising Sun and the Rising Sun Regional Foundation, Inc. in order to encourage and assure the completion of this investment by Hyatt Gaming Services, LLC.
- WHEREAS, under I.C. 6-1.1-12.1-2.5 the Common Council of the City of Rising Sun, Indiana (the "Council"), upon recommendation of the Rising Sun Redevelopment Commission, may designate an area as an Economic Revitalization Area ("ERA") and determine tax abatement incentives for such property; and
- WHEREAS, At its meeting on November 16th, 2005, the Board of Directors of the Rising Sun Regional Foundation (RSRF) discussed the proposal of Hyatt Gaming Services, LLC and the impact of a \$180,000 annual credit to the Grand Victoria (or reduction in income) up to a maximum \$1.25 million over a seven-year period and determined that the Rising Sun Regional Foundation would not materially be compromised in its grant making operations in relation to the current level of the Grand victoria's Adjusted Gross Revenue (AGR) of approximately \$150 million annually.
- WHEREAS, 100 new rooms will be added to the Grand Victoria Casino and Resort by Hyatt Gaming Services, LLC., i If Hyatt is able to obtain the real property tax deductions and credits from the RSRF as described; and

WHEREAS, Hyatt Gaming Services, LLC. seeks to have the Council authorize real property tax deductions in connection with the construction of the new rooms and an amendment to the Project Development Agreement allowing for such development; and

WHEREAS, the City and the Regional Foundation can join in an innovative partnership to help bring this expansion to our community. Along with an anticipated direct employment impact of about 30 new positions; the impact of having 100 new rooms of potential overnight visitors is a very positive thing for Rising Sun's business community.

WHEREAS, the Council has reviewed such information together with Hyatt Gaming Services, LLC, the Rising Sun Regional Foundation, Inc. and now desires to take actions hereinafter set forth.

NOW, THEREFORE, BE IT RESOLVED THAT, That the Common Council of the City of Rising Sun agrees in principle with the terms of the above proposed incentives to Hyatt Gaming Services, LLC and refers this matter to the Rising Sun Redevelopment Commission for review and designation as an Economic Revitalization Area ("ERA") for purposes of granting real property tax abatement(s) to Hyatt Gaming Services, LLC.

BE IT FURTHER RESOLVED THAT, That the Common Council of the City of Rising Sun further authorizes the Mayor of the City of Rising Sun along with the City Attorney and the legal counsel for the Rising Sun Regional Foundation, Inc. to negotiate and prepare an amendment to the Project Development Agreement with Hyatt upon the following parameters:

- a) A \$180,000 annual credit to the Grand Victoria (or reduction in income) up to a maximum of \$1.25 million over a seven-year period.
- b) That this income credit will begin on the same month that the new Grand Victoria hotel expansion facility formally opens to the public for business
- c) That should ownership of the Grand Victoria Casino and Resort change from that of Hyatt Gaming Services, L.L.C during this seven-year income credit period, the unclaimed credit balance of the total \$1.25 million credit commitment by the City of

Rising Sun will be forfeited and the remaining credit commitment shall become null and void.

BE IT FURTHER RESOLVED THAT, the Council has the right to reduce the length of and/or end any real property tax abatement granted for the site should Hyatt Gaming Services, LLC, its related entities, or a subsequent owner of the building not fulfill commitments made regarding the amount of capital investment, job creation/retention and salary levels.

BE IT FURTHER RESOLVED THAT, in the event Hyatt Gaming Services, LLC is sold to a new owner, the new owner of the company shall appear before the Rising Sun City Council within 90 days of closing on the purchase of the company to present information regarding the plans for the company's operations in the City of Rising Sun.

BE IT FURTHER RESOLVED THAT, the anticipated tax deductions contemplated herein are contingent upon the designation of the ERA prior to breaking of ground at the site and that this resolution is a commitment in principle and is contingent upon compliance with all requisite statutes and the approval, if required, of any State or Federal entities.

ADOPTED AND PASSED BY THE COMMON COUNCIL OF THE CITY OF RISING SUN, INDIANA THIS 1st DAY OF December, 2005.

NAY

Michael Padgett

Gerald L. Brown

Angel Siekman

Stephanie Scott

Steven Slack

AYE

Michael Padgett
Michael Padgett

Gerald L. Brown
Gerald L. Brown

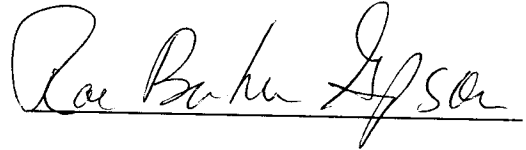
Angel Siekman
Angel Siekman

Stephanie Scott
Stephanie Scott

Steven Slack
Steven Slack

Presented by me to the Mayor of the City of Rising Sun, Indiana, for his approval and signature this

1st DAY OF December, 2005



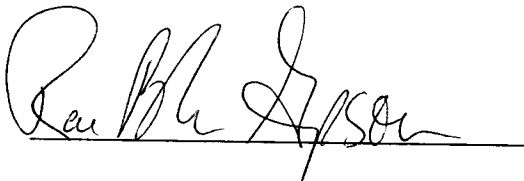
Rae Baker Gipson, Clerk Treasurer

This Resolution approved and signed by me on this 1st DAY OF December, 20 05



William A. Marksberry, Mayor

ATTEST:



Rae Baker Gipson, Clerk Treasurer

STEPS IN TAX ABATEMENT

The property where the investment is to occur must first be designated as an Economic Revitalization Area (ERA). The process requires a review and recommendation by either the economic development commission or redevelopment commission if either commission exists. If there is no commission, then application is submitted to the designating body. The next step requires two meetings by the city council. A Declaratory Resolution is approved at the first meeting and a Confirming Resolution is approved at the second meeting. The ERA designation generally occurs based upon an application submitted by a company who is requesting tax abatement. However, a local governing body can establish an ERA at its discretion to encourage development in designated parts of a community.

1. The applicant submits a SB-1 (Statement of Benefits) outlining the benefits of the proposed development, new jobs, retained jobs, payroll, and investment.
2. The local designating body must review the Statement of Benefits to determine whether an area should be designated as an ERA and whether a deduction should be allowed based upon the following findings.
 - Ø Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.
 - Ø Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed redevelopment or rehabilitation.

Whether the estimated for the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed redevelopment or rehabilitation.

- Ø Whether any other benefits about which information was requested can be reasonably expected to result from the proposed redevelopment or rehabilitation.

Whether the totality of the benefits is sufficient to justify the deduction.

- The local governing body determines the length of time to allow for the abatement plus any other restrictions they wish to require.
- Once the ERA is approved, the investment made, and the assessed value determined, the company must then apply for the deduction in assessed value.

Ø **The Application for Deduction from Assessed Valuation – New Manufacturing**

Equipment in Economic Revitalization Area (Form 322 ERA/PP) must be filed with the local County Auditor and the State Board of Tax Commissioners between March 1 and May 15 of each year (unless a filing extension has been granted). This form is filed each year to obtain the full benefits of the tax abatement.

The Application or Deduction or Structures in Economic Revitalization Areas (Form 322 ERA/PP) must be filed with the local County Auditor before May 10 of the year in which addition to the assessed valuation is made or 30 days from the date on the Notice of Change in Assessment (Form #11). The Notice of Change in Assessment is normally sent in June or July and it reflects the assessment as of March 1st of that year. Due to this time frame, the actual application cannot be filed by May 10th but must be filed within 30 days of the notice. If the structure is partially completed by May 1st, a second filing is required the following year. In that case, the 1- year abatement would last 11 years.

- Once a year, the company must file **Compliance with Benefits form** (CF-1) with the County Auditor and the local designating body to show compliance with the Statement of Benefits.

- Ø The CF-1 must be filed within 60 days after the end of each year in which the deduction is applicable for real estate improvements.
- Ø The CF-1 must be filed with Form 322 ERA/PP between March 1 and May 15 of each year (unless a filing extension has been granted).
- Ø With approval of the designating body, compliance information for multiple projects can be consolidated on one compliance form CF-1.

The governing body must review the CF-1 and accept the status as being (1) in compliance or (2) determine that the property owner has not substantially complied with the statement of benefits and that the failure to do so was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services). If the designating body determines that the property owner is not in compliance, then a written notice is sent to the property owner with an explanation of the reasons for the termination. The letter must also state the date, time and place for a hearing by the designating body for the purpose of further consideration of the property owner's compliance.