

FILED

DEC 28 2012

CITY CLERK

**RESOLUTION NO. 2, 2013**

A Resolution of the Common Council of the City of  
Terre Haute, Indiana, Designating an Area Within the City  
Commonly Identified as **JWS Machine, Inc.**,  
501 S. Airport, Terre Haute, Indiana,  
as an Economic Revitalization Area  
for the Purpose of Ten Year Real Property Tax Abatement

WHEREAS, a petition for ten year real property tax abatement has been filed with the Common Council of the City of Terre Haute requesting that the real property described therein be designated as Economic Revitalization Area for purposes of real property tax abatement; and

WHEREAS, **JWS Machine, Inc. and the Terre Haute International Airport<sup>1</sup>**, the "petitioner," have submitted a Statement of Benefits and provided all information and documentation necessary for the Common Council to make an informed decision, said information including a description of the real property which is commonly known as 501 S. Airport, Terre Haute, Indiana, and more particularly described as follows:

*See legal description attached as Exhibit A.*

WHEREAS, petitioner has represented that the project itself will create 35 new permanent full-time jobs with a payroll of \$1,264,372.00 (approximately) and that the cost of the project will be \$500,000.00 for real property improvements and \$1,600,000.00 for equipment.

WHEREAS, the Common Council of the City of Terre Haute is authorized under the provisions of I.C. 6-1.1-12.1-1 et. seq. to designate areas of the City as economic revitalization areas for the purpose of tax abatement; and

WHEREAS, the Common Council of the City of Terre Haute has considered the petition and Statement of Benefits and has conducted a complete and proper investigation of the subject property and neighborhood to determine that the area qualifies as an economic revitalization area under Indiana statutes; and

WHEREAS, the Common Council has found the subject property to be an area where facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues and has become undesirable for or impossible of normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements, character of occupancy, age, obsolescence, substandard buildings and other factors which prevent normal development or use;

---

<sup>1</sup> The Real Estate is being leased by Petitioner from Terre Haute International Airport.

NOW, THEREFORE, IT IS FOUND, DETERMINED AND RESOLVED by the Common Council of the City of Terre Haute that:

1. The petitioner's estimate of the value of the redevelopment and rehabilitation and the project to be constructed on the subject real property is reasonable for projects of that nature in order to maintain, expand, update and improve efficiency and capabilities for machining operations.

2. The petitioner's estimate of the number of individuals who will be employed and retained, and the benefit thereby, can reasonably be expected to result from the project and the redevelopment and rehabilitation.

3. The petitioner's estimate of the annual salaries or wages of the individuals who will be employed and retained, and the benefit thereby, can reasonably be expected to result from the project and the redevelopment and rehabilitation.

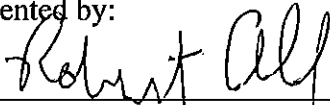
4. That the other benefits about which information has been requested can be expected to result from the project and the redevelopment and rehabilitation.

5. The totality of the benefits of the proposed redevelopment and rehabilitation can reasonably be expected to result from the project and are sufficient to justify a ten year real property tax deduction from assessed valuation under Indiana statutes, and each such deduction should be, and they are hereby, allowed.

6. That the petition for designating the subject property as an economic revitalization area for the purposes of ten year real property tax abatement and the Statement of Benefits copies of which were submitted with the petitions are hereby approved and the Real Estate described hereinabove is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.1-1 et. seq., and petitioner is entitled to the ten year real property tax abatement provided therein for the proposed redevelopment and rehabilitation.

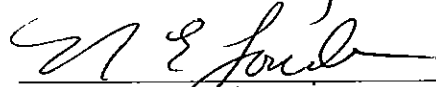
7. That notice hereof should be published according to law stating the adoption and substance hereof, that a copy of the description of the affected area is available for inspection in the County Assessor's Office and stating a date on which the Council will hear and receive remonstrances and objections and take final action, all as required by law.

Presented by:

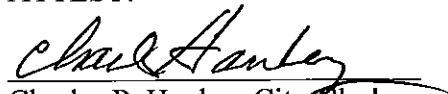


Robert "Bob" All, Councilman, District 2

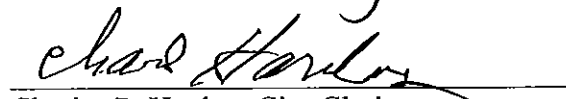
Passed in open Council this 10<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
Norman Loudermilk, President  
Common Council of Terre Haute, Indiana

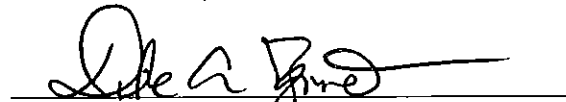
ATTEST:

  
\_\_\_\_\_  
Charles P. Hanley, City Clerk

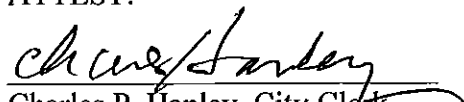
Presented by me to the Mayor this 11<sup>th</sup> day of January, 2013.

  
\_\_\_\_\_  
Charles P. Hanley, City Clerk

Approved by me this 11<sup>th</sup> day of JANUARY, 2013.

  
\_\_\_\_\_  
Duke A. Bennett, Mayor  
City of Terre Haute, Indiana

ATTEST:

  
\_\_\_\_\_  
Charles P. Hanley, City Clerk

This instrument prepared by \_\_\_\_\_

Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP  
511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

Legal Description – JWS Machine, Inc.

Property address: 501 S. Airport Street  
Terre Haute, IN 47803

Parcel No. 84-07-28-100-003.000-009

Building 2  
Former Ivy Tech facility

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12/20/2012

EXHIBIT A

**FINAL ACTION BY COMMON COUNCIL OF  
THE CITY OF TERRE HAUTE, INDIANA  
REGARDING RESOLUTION NO. 2, 2013  
(Real Property)**

WHEREAS, the Common Council of the City of Terre Haute adopted Resolution No. 2, 2013, on the 10th day of January, 2013, and pursuant to Indiana Law has published notice of the adoption and substance of said Resolution including a description of the affected area and notice that a description of the affected area is available for inspection in the office of the county assessor and further stating a date on which the Common Council would receive and hear remonstrances and objections; and

WHEREAS, the Common Council has conducted the hearing as required by law and has received no remonstrances or objections to designation of the affected area as a revitalization area or to approval of the Statement of Benefits; and

WHEREAS, said matter is before the Common Council for final action pursuant to Indiana Law; and

WHEREAS, the Common Council has received and examined, prior to such hearing, a Statement of Benefits on the forms prescribed by the Department of Local Government Finance and proper application for designation and has heard all appropriate evidence concerning the proposed project and has found and does find:

1. That the estimate of the cost of the redevelopment and rehabilitation and equipment is reasonable for projects of that type.
2. That the estimate of individuals who will be employed or whose employment will be retained as a result of the redevelopment and rehabilitation and installation of the new manufacturing equipment can reasonably be expected to result from the proposed project.
3. The estimate of annual salaries of those individuals who will be employed or whose employment will be retained can reasonably be expected to result from the proposed redevelopment and rehabilitation and the project.
4. That the benefits can reasonably be expected to result from the proposed redevelopment and rehabilitation and the project.
5. That the totality of benefits is sufficient to justify the deduction.
6. That all qualifications for establishing an economic revitalization area have been met.

NOW, THEREFORE, for final action on Resolution No. 2, 2013, the Common Council of the City of Terre Haute, RESOLVES, FINDS AND DETERMINES:

1. That all of the requirements for designation of the real estate described in Resolution No. 2, 2013, as an Economic Revitalization Area have been met, the foregoing findings are true and that all information required to be submitted has been submitted in proper form.

2. That Resolution No. 2, 2013, is in all respects confirmed and approved (as modified to incorporate therein this final action) and that the benefits of the proposed project and the redevelopment and rehabilitation are sufficient to justify ten year real property tax abatement under Indiana statutes for the proposed redevelopment and rehabilitation described in the petitioner's Statement of Benefits and the deduction for the proposed project and redevelopment and rehabilitation and the statements of benefits submitted are approved and the Council authorizes and directs the endorsement of said Statement of Benefits to show such approval and that the real estate described in Resolution No. 2, 2013, is declared an economic revitalization area for the purposes of ten year real property tax abatement and the said real estate is hereby designated as an Economic Revitalization Area pursuant to I.C. 6-1.1-12.0-1 et. seq. and petitioner is entitled to the ten year real property tax abatement as provided therein in connection with the proposed redevelopment/rehabilitation and the project.

3. That said Resolution supplements any other designation of the real estate as a Revitalization Area or similar designation.

4. That this Final Action, findings and confirmation of Resolution No. 2, 2013, shall be incorporated in and be a part of Resolution No. 2, 2013.

Presented by:

  
Robert "Bob" All, Councilman, District 2

Passed in open Council this 14 day of Feb, 2013.

  
Norman E. Loudermilk, President  
Common Council of Terre Haute, Indiana

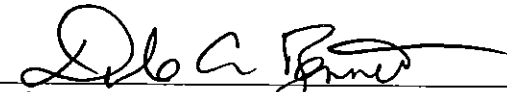
ATTEST:

  
Charles P. Hanley, City Clerk

Presented by me to the Mayor this 15<sup>th</sup> day of February, 2013.

  
Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 15<sup>th</sup> day of FEBRUARY, 2013.

  
Duke A. Bennett, Mayor  
City of Terre Haute, Indiana

ATTEST:

  
Charles P. Hanley, City Clerk

This instrument prepared by \_\_\_\_\_  
Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP  
511 Wabash Avenue, Terre Haute, IN 47807; (812) 232-6003.

Legal Description – JWS Machine, Inc.

Property address: 501 S. Airport Street  
Terre Haute, IN 47803

Parcel No. 84-07-28-100-003.000-009

Building 2  
Former Ivy Tech facility



**CITY OF TERRE HAUTE  
 PETITION FOR REAL PROPERTY  
 TAX ABATEMENT CONSIDERATION**

The undersigned owner(s) of real property located within the City of Terre Haute hereby petition the Common Council of the City of Terre Haute for real property tax abatement consideration pursuant to I.C. 6-1.1-12.1-1, et seq. and for this petition state the following:

1. Describe the proposed redevelopment or rehabilitation project, including information about physical improvements to be made, the amount of land to be used, the proposed use of the improvements and a general statement as to the importance of the project to your business:

JWS Machine, Inc. plans to make interior renovations to the building owned by the Terre Haute International Airport located at 501 S. Airport in order to update those facilities for use in JWS Machine, Inc.'s machining business.

2. The redevelopment or rehabilitation project itself will maintain 35 existing permanent full-time with an annual payroll of \$1,264,372.00 (approximately). Petitioner is moving operations from Clay County, Indiana. These employees are current employees of Petitioner but are new to Vigo County.

3. Estimate the dollar value of the redevelopment or rehabilitation project: \$1,600,000.00 (approximately) for equipment and \$500,000.00 (approximately) for real property improvements.

4. (a) The real property for which tax abatement consideration is petitioned (Property) is owned or to be owned by the following individuals or corporations (if the business organization is publicly held, indicate also the name of the corporate parent, if any, and the name under which the corporation has filed with the Securities and Exchange Commission):

<u>NAME</u>	<u>ADDRESS</u>	<u>INTEREST</u>
Terre Haute International Airport	581 S. Airport Street Terre Haute, IN 47803	Owner

(b) The following other persons lease, intend to lease or have an option to buy the Property (including corporate information as required in 4(a) above, if applicable):

<u>NAME</u>	<u>ADDRESS</u>	<u>INTEREST</u>
JWS Machine, Inc.	501 S. Airport Street Terre Haute, IN 47803	Tenant

(c) A brief description of the overall nature of the business and of the operations occurring at the Property: machining

5. The commonly known address of the Property is:

501 S. Airport Street, Terre Haute, Indiana 47803,

a legal description of which is attached hereto, marked Exhibit A and incorporated herein.

6. A map designating the Property is attached hereto, marked Exhibit B and incorporated herein.

7. The best estimate of the amount of taxes to be abated during each of the first five (5) years after rehabilitation is: Property is currently exempt – see attached.

8. No building permit has been issued for construction on the property in connection with the improvement in question as of the date of filing of this petition. The signature below is verification of this statement.

9. Other anticipated public financing for the project (including, if any, industrial revenue bonding to be sought or already authorized, assistance through the United States Department of Housing and Urban Development funds from the City of Terre Haute, or other public financial assistance: IEDC Funding – job training

10. Describe how the Property has become undesirable for or impossible of normal development and occupancy because of lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings or other factors which have impaired values and prevent a normal development of the property or property use: Property has been vacant for some time and needs substantial repairs.

11. (a) The current use of the Property is vacant and the current zoning is O-1 (use) and airport (height and area).

(b) The Property is located in the following Allocation Area (if any) declared and confirmed by the Terre Haute Redevelopment Commission: Airport TIF Area.

12. The following person(s) should be contacted as the petitioner's agent regarding additional information and public hearing notifications:

Name: Louis F. Britton, COX, ZWERNER, GAMBILL & SULLIVAN, LLP  
Address: 511 Wabash Avenue  
City, State, Zip: Terre Haute, IN 47807  
Telephone: (812) 232-6003

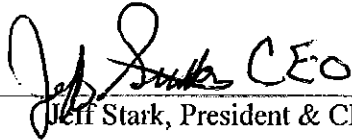
16. Please indicate the type of Economic Development Revitalization project involved in your request:

- a. Housing
- b. Office
- c. Retail/Commercial
- d. Mixed Use - Retail, Housing and Office
- e. Industrial
- f. Warehousing

WHEREFORE, petitioner requests that the Common Council of the City of Terre Haute, Indiana, adopt a declaratory resolution designating the area described herein to be an economic revitalization area for purposes of real property tax abatement consideration and, after publication of notice and public hearing, determine qualifications for an economic revitalization area have been met and confirm such resolution.

Name of Property Owner(s):

JWS MACHINE, INC.

By  CEO  
Jeff Stark, President & CEO

DO NOT USE THIS SPACE

Resolution #      Target Area Required

\_\_\_\_\_ Yes \_\_\_\_\_ No \_\_\_\_\_

Confirming Ordinance # \_\_\_\_\_

Date of Notice \_\_\_\_\_

Final Action \_\_\_\_\_

Target Area Ord. Effective \_\_\_\_\_

Legal Description – JWS Machine, Inc.

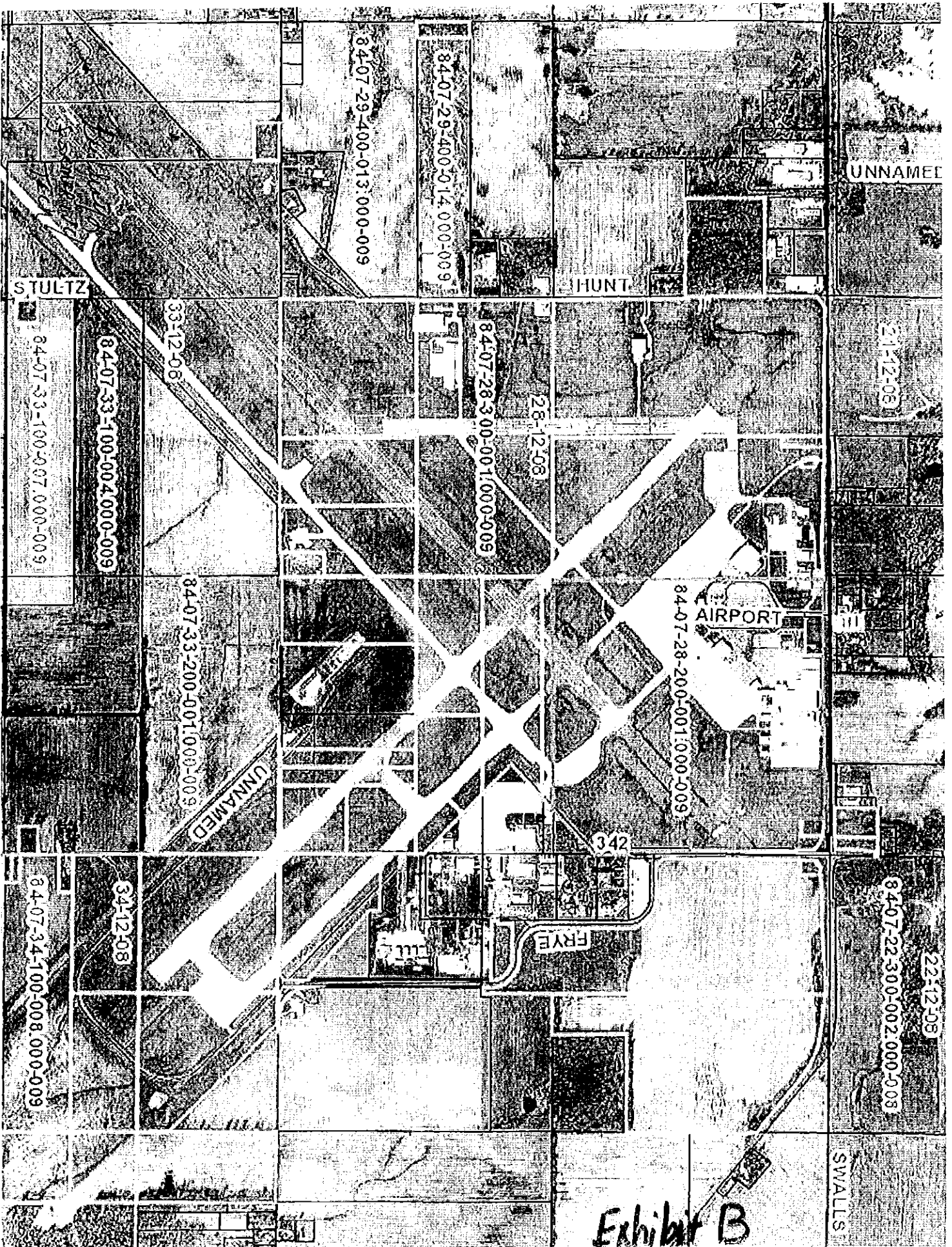
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Terre Haute, IN 47803

Parcel No. 84-07-28-100-003.000-009

Building 2  
Former Ivy Tech facility

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12/20/2012

EXHIBIT A



UNNAMED

HUNT

STULTZ

21-12-08

28-12-08

AIRPORT

UNNAMED

342

FRYE

22-12-08  
84-07-22-300-002, 000-008

SWALLS

Exhibit B

### Indiana Property Tax Estimator

Vigo County, TERRE HAUTE CITY-HARRISON TOWN, Tax District No: 84002

Tax Rate (2012): \$3.7269

Project Name: JWS

**REAL PROPERTY**  
Cost of Real Property: \$500,000.00

	With Abatement			Without Abatement			Esti Abat Sa
	Property Taxes	Circuit Breaker Tax Credit	Net Property Taxes	Property Taxes	Circuit Breaker Tax Credit	Net Property Taxes	
Year 1	\$0	\$0	\$0	\$18,635	(\$3,635)	\$15,000	
Year 2	\$932	\$0	\$932	\$18,635	(\$3,635)	\$15,000	
Year 3	\$3,727	\$0	\$3,727	\$18,635	(\$3,635)	\$15,000	
Year 4	\$6,522	\$0	\$6,522	\$18,635	(\$3,635)	\$15,000	
Year 5	\$9,317	\$0	\$9,317	\$18,635	(\$3,635)	\$15,000	
Year 6	\$11,181	\$0	\$11,181	\$18,635	(\$3,635)	\$15,000	
Year 7	\$13,044	\$0	\$13,044	\$18,635	(\$3,635)	\$15,000	
Year 8	\$14,908	\$0	\$14,908	\$18,635	(\$3,635)	\$15,000	
Year 9	\$16,771	\$0	\$16,771	\$18,635	(\$3,635)	\$15,000	
Year 10	\$17,703	\$0	\$17,703	\$18,635	(\$3,635)	\$15,000	
<b>Totals</b>	<b>\$94,104</b>	<b>\$0</b>	<b>\$94,105</b>	<b>\$186,346</b>	<b>(\$36,345)</b>	<b>\$150,000</b>	<b>\$</b>

*Note: The rates used in the tax abatement calculator are certified 2010 rates (unless otherwise noted). Taxing districts will be updated when the DLGF certifies their 2010 rates.*

**DISCLOSURES**

- o The abatement calculations were prepared by Umbaugh, a financial consulting firm, in conjunction with Hoosier Energy, based on current State statute. This calculation is intended to provide an ILLUSTRATIVE and PRELIMINARY indication of the level of property taxes and potential tax savings for a proposed investment based on certain assumptions. Please read the Disclosures carefully.
- o Companies must consult their own tax advisors to determine their actual tax liability and to prepare their annual Indiana property tax filings.
- o To be eligible to receive property tax abatements in Indiana, a Company must follow a specific application process. Please contact your Hoosier Energy representative for further guidance.
- o Assumes 2012 pay 2013 property tax rates as indicated, as provided by the Department of Local Government Finance.
- o Actual assessed value of a structure will be determined by the local Assessor upon completion. This value may be materially different from the value provided in this estimate.
- o Real property in Indiana is subject to annual adjustments of assessed value to the market value of the structure based on annual sales data ("Trending"), no adjustments for Trending are made in this estimate.
- o All personal property (equipment) is assumed to be new, and is assumed to be depreciated for property tax purposes in Pool #2 (5-7 year depreciable life). A mixture of new and existing equipment (as well as a mixture of depreciation pools) will produce different tax savings results.
- o Assumes a one-time investment in real and personal property. Staggering the investments may have a material effect on the actual value of property tax abatements.
- o Includes the calculation of the Minimum Value Ratio (MVR) for the abatement calculation for personal property investments. The MVR effectively increases the assessed value used in the abatement calculation when the taxpayer is subject to the 30% depreciation floor. The MVR equals the adjusted assessed value at the 30% floor divided by the depreciated assessed value of the equipment.
- o Includes the application of the Circuit Breaker Tax Credit, which limits the total property tax liability of a taxpayer to 3.00% of the gross assessed value of real and personal property, beginning with taxes payable in 2010.
- o The tax abatement savings value is an ESTIMATE based on preliminary information entered into this calculator. Actual abatement savings may vary materially from the results of this calculator, based on the timing of the investment, the actual assessment of structures (including Trending), differences in the depreciation pools for personal property, annual changes in tax rates, adoption of a local option income tax for property tax relief purposes, changes to Indiana property tax law or regulations, or changes in assessment methodology.
- o The results of this calculator should be treated as an ESTIMATE available for illustrative purposes only, and should be treated as an estimate when discussing, negotiating and offering incentives; and should be noted as such in memoranda and legal documents related thereto.



7398 N. State Road 37  
Bloomington, Indiana 47404  
Phone: 812.876.0294  
Fax: 812.876.5030  
hgutzwiller@hepn.com

8355 Keystone Crossing, Suite 300  
Indianapolis, IN 46240  
Phone: 317.465.1500  
Fax: 317.465.1550  
umbaugh@umbaugh.com

Legal Description -- JWS Machine, Inc.

Property address: 501 S. Airport Street  
Terre Haute, IN 47803

Parcel No. 84-07-28-100-003.000-009

Building 2  
Former Ivy Tech facility

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12/20/2012

EXHIBIT A



**City of Terre Haute  
Real Property Tax Abatement Guideline Scoring Criteria**

Company Name: JWS Machine, Inc.

Application Date: \_\_\_\_\_

1. New Real Property Investment	5 points maximum	<u>2</u>
< \$500,000	1	
\$501,000 to \$1,000,000	2	
\$1,000,001 to \$2,000,000	3	
\$2,000,001 to \$3,000,000	4	
\$3,000,001 and up	5	
2. Anticipated New Full-Time Jobs Created Within 5 Years	5 points maximum	<u>3</u>
1 to 10 employees	1	
11 to 20 employees	2	
21 to 30 employees	3	
31 to 40 employees	4	
41 employees and up	5	
3. Anticipated Jobs To Be Retained	5 points maximum	<u>4</u>
1 to 10 employees	1	
11 to 20 employees	2	
21 to 30 employees	3	
31 to 40 employees	4	
41 employees and up	5	
4. Wage Rates	3 points maximum	<u>3</u>
\$7.50 to \$10.00 per hour	0	
\$10.01 to \$12.00 per hour	1	
\$12.01 to \$14.00 per hour	2	
\$14.01 per hour and up	3	
5. Benefits Package	1 point if offered	<u>1</u>
6. Targeted Business	1 point if project is good fit for community	<u>1</u>
7. Community Involvement	1 point if company plans or is already involved in community activities	<u>1</u>
8. Is this project a headquarters or a new project to the community?	1 point if "Yes"	<u>1</u>
9. Diverse Workforce	1 point if applicant maintains an affirmative action plan or other statement of specific goals with respect to employee diversity	_____

Total Points 16

Scoring

Length of Real Property Abatement

20 points and up	10 years
18 to 19 points	9 years
16 to 17 points	8 years
14 to 15 points	7 years
12 to 13 points	6 years
10 to 11 points	5 years
8 to 9 points	4 years
6 to 7 points	3 years
4 to 5 points	2 years
2 to 3 points	1 year

Bonus Points

1. Common Construction Wage Council may award one bonus point if company includes common construction wage requirement in its bid specs           

2. Contractors Licensed To Do Business in Vigo County Council may award one bonus point if a substantial percentage of the total fees for construction work associated with the project are paid to companies licensed to do business in Vigo County 1

3. Materials and Supplies From Vigo County Vendors Council may award one bonus point if the applicant commits to purchase a substantial amount of materials and supplies for the construction work associated with the project from Vigo County-based vendors 1

4. Existing Facility Council may award one bonus point for use, reuse, rehabilitation and/or expansion of an existing facility 1

5. Mentoring/Intern Program Council may award one bonus point if applicant pledges to participate in a mentoring or intern program associated with a Vigo County educational institution 1

Total Bonus Points 4

Grand Total Points 21

Recommended Length of Real Property Abatement Per Guideline Scoring Criteria 10 Years

## AGREEMENT

This Agreement (the "Agreement") dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2013, serves as a confirmation of the commitment of JWS Machine, Inc. (the "Applicant") to comply with the project description, job creation and retention (and associated wage rates and salaries) figures contained in its designation application, Statement of Benefits, the Preliminary Economic Revitalization Area Resolution No. \_\_\_\_\_, 2013, and attachments thereto adopted by the Common Council of the City of Terre Haute, Indiana (the "Council") on the \_\_\_\_\_ day of \_\_\_\_\_, 2013, all of which are attached hereto and incorporated herein, and this Agreement (the "Commitments").

Subject to the adoption of a Final Economic Revitalization Area Resolution by the Council, the City of Terre Haute, Indiana (the "City") commits to providing a ten (10) year real property tax abatement for the Applicant's anticipated capital expenditure estimated to be \$500,000.00 for real property improvements (the "Project") described and approved as a part of the Commitments. It is estimated in the Statement of Benefits the Project will maintain the following positions at the rate of compensation shown: 35 full-time @ \$1,264,372.00/year. The Project is also expected to add ----- employees at the following rate of compensation: N/A. The capital expenditure for the Project and the retention and/or addition of positions as stated in the Statement of Benefits shall occur within two (2) years of the estimated completion date of March 30, 2013, all as contained in the approved Statement of Benefits Form SB-1 (the "Commitment Date").\*

During the term of the abatement, the City may annually request information from the Applicant concerning the status of the Project, including but not limited to, the capital expenditure for the Project, the number of full-time permanent positions retained and/or newly created by the Project, and the average wage rates and salaries (excluding benefits and overtime) associated with the position. The Applicant shall provide the City with adequate written evidence thereof within 15 days of such request (the "Annual Survey"). The Applicant shall provide a copy of the annual CF1 to the Board of Public Works and Safety at the same time the CF1 is filed with the County. The City shall utilize this information to verify that the Applicant has complied with the Commitments at all times after the Commitment Date and during the duration of the abatement. The Applicant further agrees to provide, upon request by the City, any additional information provided in the Annual Survey and the CF1 form, and shall provide the information within a reasonable time following any such additional request.

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\*Applicant is seeking real and personal property tax abatements. The job creation commitment is the total commitment for both the abatements.

The benefit of the tax abatement is conditioned on the Applicant achieving substantial compliance with the Commitment in the Statement of Benefits. The City, by and through the Council, reserves the right to terminate the Economic Revitalization Area designation and associated property tax abatement deductions if it determines that the Applicant has not made reasonable efforts to substantially comply with all the Commitments, and the Applicant's failure to substantially comply with the Commitments was not due to factors beyond its control. As used in the Agreement, "substantial compliance" shall mean the Applicant has effectuated at least eighty percent (80%) of each of the Commitments set forth in the Statement of Benefits.

As used in this Agreement, factors beyond the control of the Applicant shall only include factors not reasonably foreseeable at the time of the designation application and submission of Statement of Benefits which are not caused by any act or omission of the Applicant and which materially and adversely affect the ability of the Applicant to substantially comply with the Commitments. Factors beyond the control of the Applicant could include but would not be limited to: a substantial change in economic conditions for the Applicant which would prevent the expenditure of monies or eliminate the need for the Project at this time; or a delay in construction occasioned by third parties or circumstances beyond the control of the Applicant which prevents compliance with the time periods set out in the Statement of Benefits; or a change in ownership or plans of a parent company not controlled by the Applicant which adversely affects the needs or resources of the Applicant.

If the City terminates the Economic Revitalization Area designation and associated tax abatement deductions, it may require the Applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. The amount of tax abatement required to be repaid for each year of noncompliance shall not exceed an amount equal to the percentage by which the Applicant has failed to attain substantial compliance with the Commitments. If the Applicant fails to substantially comply with more than one of the Commitments, repayment shall be based on the highest level of noncompliance.


If at any time during the term of this Agreement, whether before or after the Commitment Date, the Applicant shall: (i) cease operations at the facility for which the tax abatement was granted; or (ii) announce the cessation of operations at such facility, then the City may immediately terminate the Economic Revitalization Area designation and associated future tax abatement deductions.

**In the event the City requires repayment of the tax abatement savings as provided hereunder, it shall provide Applicant with a written statement calculating the amount due (the "Statement"), and Applicant shall make such repayment to the City within 30 days of the date of the Statement. If the Applicant does not make timely repayment, the City shall be entitled to all reasonable costs and attorneys fees incurred in the enforcement and collection of the tax abatement savings required to be repaid hereunder.**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first above written.

**"Applicant"**

**JWS MACHINE, INC.**

By:  CEO  
Jeff Stark, President & CEO

**"City"**

**Board of Public Works and Safety**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Approved as to Legal Adequacy and Form on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

By: \_\_\_\_\_

Title: \_\_\_\_\_