

SPECIAL ORDINANCE NO. 11, 2017

CITY CLERK

AN ORDINANCE AUTHORIZING THE ISSUANCE OF CITY OF TERRE HAUTE, INDIANA ECONOMIC DEVELOPMENT SOLID WASTE FACILITY REVENUE BONDS (PYROLYX USA, INC. PROJECT), SERIES 2017, AND THE LENDING OF THE PROCEEDS THEREOF TO PYROLYX USA, INC. AND AUTHORIZING AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the City of Terre Haute, Indiana (the "City"), is a municipal corporation and political subdivision of the State of Indiana and by virtue of I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act"), is authorized and empowered to adopt this ordinance (this "Bond Ordinance") and to carry out its provisions; and

WHEREAS, Pyrolyx USA, Inc. or an affiliate thereof (the "Borrower"), desires to finance the acquisition, construction and equipping of that portion of a new manufacturing facility involving the extraction of carbon black, oil and metal from waste rubber to produce raw materials for the rubber and plastics industries, to be located at 4150 East Steelton Avenue, Terre Haute, Indiana 47805 (the "Facilities"), which constitutes solid waste disposal facilities under Section 142(a)(6) of the Internal Revenue Code of 1986, as amended (the "Code") (the acquisition, construction and equipping of such solid waste disposal facilities, the "Project"); and

WHEREAS, the Borrower has advised the City of Terre Haute Economic Development Commission (the "Commission") and the City that it proposes the City issue its Economic Development Solid Waste Facility Revenue Bonds (Pyrolyx USA, Inc. Project), Series 2017, in one or more series, in an amount not to exceed Thirty-Two Million Dollars (\$32,000,000) (the "Bonds") under the Act and loan the proceeds of the Bonds to the Borrower for the purpose of financing all or a portion of the Project; and

WHEREAS, the completion of the Project and the related Facilities will result in the diversification of industry, the creation of approximately fifty-five (55) jobs and the creation of business opportunities in the City; and

WHEREAS, pursuant to I.C. § 36-7-12-24 and Section 147 of the Code, the Commission published notice of a public hearing (the "Public Hearing") on the Project and on the proposed issuance of the Bonds to finance the Project; and

WHEREAS, the Commission has held the Public Hearing on the Project and the proposed issuance of the Bonds, approved the issuance of the Bonds and received uncontroverted evidence that there are no facilities which are similar to the Facilities that have already been constructed or operating in or near the City; and

WHEREAS, the Commission has performed all actions required of it by the Act preliminary to the adoption of this Bond Ordinance and has approved and forwarded to the Common Council the forms of: (1) a Loan Agreement between the City and the Borrower (including a form of Note) relating to the Bonds (the "Loan Agreement"); (2) a Trust Indenture with respect to the Bonds between the City and a bond trustee (the "Trustee") (the "Indenture");

(3) the Bonds; and (4) this Bond Ordinance (the Loan Agreement, the Indenture, the Bonds, and this Bond Ordinance, collectively, the "Financing Agreements").

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TERRE HAUTE, INDIANA, THAT:

Section 1. Findings; Public Benefits. The Common Council hereby finds and determines that the Project involves the acquisition, construction and equipping of an "economic development facility" as that phrase is used in the Act; that the Project and related Facilities will increase employment opportunities and increase diversification of economic development in the City, will improve and promote the economic stability, development and welfare in the City, will encourage and promote the expansion of industry, trade and commerce in the City and the location of other new industries in the City; that the public benefits to be accomplished by this Bond Ordinance, in tending to overcome insufficient employment opportunities and insufficient diversification of industry, are greater than the cost of public services (as that phrase is used in the Act) which will be required by the Project; and, therefore, that the financing of the Project by the issuance of the Bonds under the Act: (i) will be of benefit to the health and general welfare of the City; and (ii) complies with the Act.

Section 2. Approval of Financing. The proposed financing of the Project by the issuance of the Bonds under the Act, in the form that such financing was approved by Commission, is hereby approved.

Section 3. Authorization of the Bonds. The issuance of the Bonds, payable solely from revenues and receipts derived from the Financing Agreements, is hereby authorized.

Section 4. Terms of the Bonds. (a) The Bonds shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Mayor of the City (the "Mayor") and the Clerk of the City (the "Clerk"); (ii) be dated as of the date of their delivery; (iii) mature on a date not later than December 31, 2039; (iv) bear interest at such rates as determined through the marketing of the Bonds on the date of sale at rates not to exceed ten percent (10.0%) per annum, with such interest payable as provided in the Financing Agreements; (v) be issuable in such denominations as set forth in the Financing Agreements; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Indenture; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office of the Trustee as provided in the Indenture; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Financing Agreements; (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Financing Agreements.

(b) The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the City, but shall be special and limited obligations of the City, payable solely from revenues and other amounts derived from the Financing Agreements. Forms of the Financing

Agreements are before this meeting and are by this reference incorporated in this Bond Ordinance, and the Clerk is hereby directed, in the name and on behalf of the City, to insert them into the minutes of the Common Council and to keep them on file.

Section 5. Sale of the Bonds. The Mayor is hereby authorized and directed, in the name and on behalf of the City, to select, as directed by the Borrower, an underwriter or placement agent to facilitate the sale of the Bonds, to sell the Bonds to the selected purchaser or purchasers at the price, in the manner and at the time set forth in a bond purchase or placement agreement to be approved by the Mayor, at such prices as are determined on the date of sale and approved by the Mayor.

Section 6. Offering Circular. The Common Council hereby authorizes and directs the Mayor, for and on behalf of the City, to approve and to distribute or cause to be distributed, an offering memorandum or other offering circular, in form and substance approved by the Mayor.

Section 7. Execution and Delivery of Financing Agreements. The Mayor and the Clerk are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse and deliver the Indenture, the Loan Agreement, the Note from the Borrower to the City, the Bonds and any bond purchase or placement agreement relating to each series of the Bonds.

Section 8. Changes in Financing Agreements. The Mayor is hereby authorized, in the name and on behalf of the City, without further approval of the Common Council or the Commission, to approve such changes in the Financing Agreements with respect to any series of Bonds as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof.

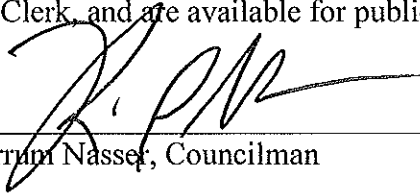
Section 9. General. The Mayor and the Clerk, and each of them, are hereby authorized and directed, in the name and on behalf of the City, to execute or endorse any and all agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by them, or either of them, to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this Bond Ordinance (including the preambles hereto and the documents mentioned herein), the Project, the issuance and sale of the Bonds, and the securing of the Bonds under the Financing Agreements, and any such execution, endorsement, performance or doing of other things heretofore effected be, and hereby is, ratified and approved.

Section 10. Binding Effect. The provisions of this Bond Ordinance and the Financing Agreements shall constitute a binding contract between the City and the holders of the Bonds, and after issuance of the Bonds this Bond Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Bonds as long as the Bonds or interest thereon remains unpaid.

Section 11. Repeal. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 12. Effective Date. This Bond Ordinance shall be in full force and effect from and upon compliance with the procedures required by law.

Section 13. Copies of Financing Agreements on File. Two copies of the Financing Agreements incorporated into this Bond Ordinance were duly filed in the office of the Clerk, and are available for public inspection in accordance with I.C. 36-1-5-4.

Introduced by: 
Karrum Nasser, Councilman

Passed in open Council this 9th day of March, 2017.


Karrum Nasser, City Council President


Attest:


Charles P. Hanley, City Clerk

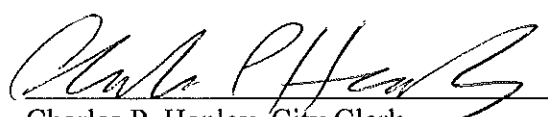
Presented by me to the Mayor this 10th day of March, 2017.


Charles P. Hanley, City Clerk

Approved by me, the Mayor, this 10th day of MARCH, 2017.


Duke A. Bennett, Mayor

Attest:


Charles P. Hanley, City Clerk

**REPORT OF CITY OF TERRE HAUTE ECONOMIC DEVELOPMENT COMMISSION
CONCERNING PROPOSED FINANCING OF ECONOMIC DEVELOPMENT SOLID
WASTE FACILITIES FOR PYROLYX USA, INC.**

The City of Terre Haute Economic Development Commission (the "Commission") proposes to recommend to the City of Terre Haute Common Council that it loan the proceeds of certain economic development revenue bonds (the "Bonds") to Pyrolyx USA, Inc. or an affiliate thereof (the "Applicant") for the financing of certain economic development facilities.

In connection therewith, the Commission hereby reports as follows:

A. The proposed economic development facilities consist of the acquisition, construction and equipping of that portion of a new solid waste facility involving the extraction of carbon black, oil and metal from waste rubber to produce raw materials for the rubber and plastics industries, to be located at 4150 East Steelton Avenue, Terre Haute, Indiana 47805 (the "Facilities"), which constitutes solid waste disposal facilities under Section 142(a)(6) of the Internal Revenue Code of 1986, as amended (the "Code") (the acquisition, construction and equipping of such solid waste disposal facilities, the "Project").

B. The Commission estimates that no public works or services, including public ways, schools, water, sewer, street lights and fire protection, will be made necessary or desirable by the Project, because any such works or services already exist or will be provided by the Applicant or other parties.

C. The Commission estimates that the total costs of the Facilities will be approximately \$32,000,000.

D. The Commission estimates that the Project will create approximately 55 jobs with an annual payroll of approximately \$2,100,000.

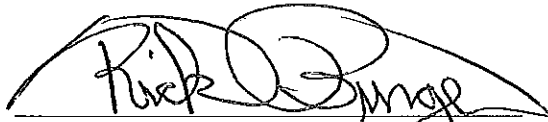
E. There are no facilities similar to the Facilities or the Project that are already constructed or operating in the City, and consequently, the Facilities and the Project will have no adverse competitive effect on similar facilities already constructed or operating in the City.

Adopted this 9th day of March, 2017.



Secretary, City of Terre Haute
Economic Development Commission

Attest:



President, City of Terre Haute
Economic Development Commission

RESOLUTION NO. 2, 2017

A RESOLUTION APPROVING AND AUTHORIZING CERTAIN ACTIONS AND PROCEEDINGS WITH RESPECT TO CERTAIN PROPOSED ECONOMIC DEVELOPMENT REVENUE BONDS

WHEREAS, the City of Terre Haute, Indiana (the "City"), is authorized by I.C. 36-7-11.9 and I.C. 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities, and loan the proceeds of the revenue bond issue to another entity to finance or refinance the acquisition, construction, renovation, installation and equipping of economic development facilities; and

WHEREAS, Pyrolyx USA, Inc. or an affiliate thereof (the "Borrower"), desires to finance the acquisition, construction and equipping of that portion of a new solid waste facility involving the extraction of carbon black, oil and metal from waste rubber to produce raw materials for the rubber and plastics industries, to be located at 4150 East Steelton Avenue, Terre Haute, Indiana 47805 (the "Facilities"), which constitutes solid waste disposal facilities under Section 142(a)(6) of the Internal Revenue Code of 1986, as amended (the "Code") (the acquisition, construction and equipping of such solid waste disposal facilities, the "Project"); and

WHEREAS, the Borrower has advised the City of Terre Haute Economic Development Commission (the "Commission") and the City that it proposes the City issue its Economic Development Solid Waste Facility Revenue Bonds (Pyrolyx USA, Inc. Project), Series 2017, in one or more series, in an amount not to exceed Thirty-Two Million Dollars (\$32,000,000) (the "Bonds") under the Act and loan the proceeds of the Bonds to the Borrower for the purpose of financing all or a portion of the Project; and

WHEREAS, the Commission has studied the Facilities, the Project and the proposed financing of the Project and its effect on the health and general welfare of the City and its citizens; and

WHEREAS, the completion of the Project and the related Facilities will result in the diversification of industry, the creation of approximately fifty-five (55) new jobs and the creation of business opportunities in the City; and

WHEREAS, pursuant to I.C. 36-7-12-24 and Section 147 of the Internal Revenue Code of 1986, as amended (the "Code") the Commission published notice of a public hearing (the "Public Hearing") on the proposed issuance of the Bonds to finance the Project; and

WHEREAS, on the date hereof the Commission held the public hearing on the proposed issuance of the Bonds and the Project and received uncontroverted evidence that there are no facilities which are similar to the Project and the related Facilities and have already been constructed or operating in or near the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TERRE HAUTE ECONOMIC DEVELOPMENT COMMISSION AS FOLLOWS:

SECTION 1. The Commission hereby finds, determines, ratifies and confirms that the diversification of industry, the creation of business opportunities, and the creation of opportunities for gainful employment within the jurisdiction of the City is desirable, serves a public purpose, and is of benefit to the health and general welfare of the City; and that it is in the public interest that the City take such action as it lawfully may to encourage the diversification of industry, the creation of business opportunities, and the creation of opportunities for gainful employment within the jurisdiction of the City.

SECTION 2. The Commission hereby makes a finding of fact, based upon the uncontroverted evidence presented at the Public Hearing, that there are no facilities which are similar to the Project and the related Facilities and already constructed or operating in or near the City and, based upon such finding of fact, hereby determines that the Project and the related Facilities will not have an adverse competitive effect on any similar facilities already constructed or operating in or near the City.

SECTION 3. The Commission hereby approves the report with respect to the Project and the related Facilities presented at this meeting. The Secretary of this Commission shall submit such report to the executive director or chairman of the Vigo County Area Plan Commission.

SECTION 4. The Commission finds, determines, ratifies and confirms that the issuance and sale of the Bonds, in one or more series, in an amount not to exceed Thirty-Two Million Dollars (\$32,000,000), and the loan of the proceeds of the Bonds to the Borrower for the financing of all or a portion of the Project will be of benefit to the health and general welfare of the City, will serve the public purposes referred to above in accordance with the Act, and fully comply with the Act.

SECTION 5. The financing of all or a portion of the Project through the issuance of the Bonds, in one or more series, in an amount not to exceed Thirty-Two Million Dollars (\$32,000,000), is hereby approved.

SECTION 6. The Commission hereby approves the terms of the following documents in the form presented at this meeting: (i) a Loan Agreement, between the City and the Borrower; (ii) a Trust Indenture, between the City and a trustee to be determined (the "Trustee"); (iii) the Bonds; and (iv) an Ordinance of the City Council. The President of the Commission is hereby authorized and directed to approve such changes to the terms of such documents as deemed by him or her to be necessary or desirable in order to issue the Bonds and to carry out and comply with the intent, conditions, and purposes of this resolution.

SECTION 7. Any officer of the Commission is hereby authorized and directed, in the name and on behalf of the Commission, to execute any and all other agreements, documents and instruments, perform any and all acts, approve any and all matters, and do any and all other things deemed by him to be necessary or desirable in order to carry out and comply with the intent, conditions and purposes of this resolution (including the preambles hereto and the documents mentioned herein), the Project and the issuance and sale of the Bonds, and any such execution, performance, approval or doing of other things heretofore effected be, and hereby is, ratified and approved.

SECTION 8. The Secretary of this Commission shall transmit this resolution, together with the forms of the documents approved by this resolution, to the City Council.

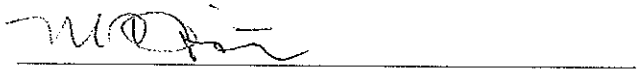
SECTION 9. This resolution shall be in full force and effect upon adoption.

Adopted this 9th day of March, 2017.

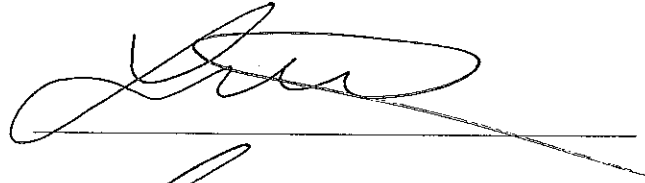
CITY OF TERRE HAUTE ECONOMIC
DEVELOPMENT COMMISSION



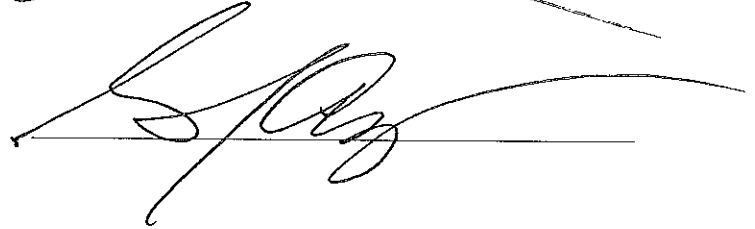
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