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RESOLUTION NO.

**RESOLUTION IN SUPPORT OF THE ADVOCACY EFFORTS BY THE
CITY OF HOBART AND THE MERRILLVILLE COMMUNITY SCHOOL
CORPORATION TO EFFECT NECESSARY STATE LEGISLATIVE
CHANGE DURING THE SPECIAL SESSION OF THE INDIANA
GENERAL ASSEMBLY COMMENCING JULY 25, 2022**

- WHEREAS**, in 2017, the Indiana Board of Tax Review held that the burden-shifting mechanism in Ind. Code § 6-1.1-15-17.2 (repealed by Indiana House Enrolled Act 1260-2022) did not require assessors to prove that a property tax assessment determined at the county level is exactly correct, or risk, absent an exact property valuation, that the assessment would revert to the prior year's assessment for that property;
- WHEREAS**, the Indiana Board of Tax Review recognized that the valuation of real estate is subjective and based upon opinion;
- WHEREAS**, four years later, in September 2021, the Indiana Supreme Court in *Southlake Indiana, LLC v. Lake County Assessor*, 174 N.E. 3d 177 (Ind. 2021), reversed the Indiana Board of Tax Review's decision, holding that because the Ross Township Assessor in Lake County did not prove that the assessed value of 12 parcels owned by Southlake Indiana, LLC, was exactly correct and precise for tax years 2011-2014, the assessed value of those 12 parcels must revert back to their 2010 assessed value;
- WHEREAS**, as a result of the Indiana Supreme Court's decision in *Southlake Indiana, LLC*, a tax refund, coupled with interest thereon, will be due and owing to Southlake Indiana, LLC, in the amount of more than \$19 million, potentially impacting six local governmental units (Lake County, Ross Township, City of Hobart, Merrillville Schools, Lake County Library, and Lake County Solid Waste);
- WHEREAS**, the Indiana General Assembly passed House Enrolled Act 1260 during the Second Regular Session of the 122nd General Assembly (the 2022 state legislative session), which returned the burden-shifting mechanism for property tax assessments to its pre-*Southlake Indiana, LLC* regime, except, however, House Enrolled Act 1260 does not apply to appeals commenced prior to its passage, meaning the more than \$19 million refund amount still must be paid in a lump sum;
- WHEREAS**, such an enormous refund amount to be paid in a lump sum would be catastrophic;
- WHEREAS**, Ind. Code § 6-1.1-26-4.2 allows tax refunds greater than \$10 million resulting from a real property tax assessment appeal for an assessment date after December 31, 2014, to be paid in installments over ten years, thereby easing the difficulty local government units face in refunding large tax liabilities;

WHEREAS, the City of Hobart and the Merrillville Community School Corporation have been contacting state and local leaders to advocate for an amendment to Ind. Code § 6-1.1-26-4.2 (attached hereto as **Exhibit A**) that would allow tax refunds resulting from real property tax assessment appeals dating back to January 1, 2011, to also be paid in installments over ten years;

WHEREAS, this amendment to Ind. Code § 6-1.1-26-4.2 is a necessary change to state law that eases the burden affected by the Indiana Supreme Court's decision in *Southlake Indiana, LLC* by allowing the \$19 million refund amount to be paid back over ten years;

WHEREAS, if this amendment to Ind. Code § 6-1.1-26-4.2 is not passed during the Indiana General Assembly's upcoming special session, then the impact of paying the entire tax refund immediately would almost assuredly negatively impact those Hoosiers who rely on governmental services; and

WHEREAS, the Lake County Council hereby supports the City of Hobart and Merrillville Community School Corporation efforts to advocate for the inclusion of the statutory amendment outlined **Exhibit A** in Senate Bill 2 to be considered during the Indiana General Assembly's special session commencing Monday, July 25, 2022.

NOW, THEREFORE, LET IT BE RESOLVED AS FOLLOWS:

That the Lake County Council supports the efforts of the City of Hobart, Indiana, and the Merrillville Community School Corporation, Merrillville, Indiana, to advocate for an amendment to Ind. Code § 6-1.1-26-4.2, which eases the negative impact of the Indiana Supreme Court's decision in *Southlake Indiana, LLC v. Lake County Assessor*, 174 N.E. 3d 177 (Ind. 2021), by inserting the statutory amendment language attached hereto as **Exhibit A** in Senate Bill 2 to be considered during the special session of the Indiana General Assembly commencing Monday, July 25, 2022.

[SIGNATURE PAGE TO FOLLOW]

SO RESOLVED THIS ____ DAY OF _____, 2022.

TED F. BILSKI, President

DAVID HAMM

CHRISTINE CID

CHRISTIAN J. JORGENSEN

ALFREDO MENCHACA

DANIEL E. DERNULC

CHARLIE BROWN

Members of the Lake County Council

Exhibit A

Tax Appeal Payback Amendment
(to be considered as an amendment to Senate Bill 2 for the July 25, 2022, special session of the
Indiana General Assembly)

IC 6-1.1-26-4.2 Refund in excess of \$500,000 as a result of a property tax appeal; application to future installments

Sec. 4.2. (a) This section applies to any refund for a property resulting from a real property tax assessment appeal for the property for an assessment date occurring after **December 31, 2010** ~~December 31, 2014~~. This section does not apply if any refund for a property under appeal has been paid before January 1, 2020. Except as modified by this section, all other provisions of IC 6-1.1 apply regarding the payment of refunds and application of credits.

(b) If, upon conclusion of a real property tax assessment appeal, the total amount of property taxes owed to the taxpayer as a result of the appeal is five hundred thousand dollars (\$500,000) or more for the assessment dates under appeal, the auditor of the county in which the property is located may, instead of a refund, elect to apply credits in equal installments to future property tax installments for the property over a period of not more than:

(1) five (5) years following the date of the conclusion of the assessment appeal, if the total amount of property taxes owed to the taxpayer as a result of the appeal is:

(A) greater than or equal to five hundred thousand dollars (\$500,000); and

(B) less than five million dollars (\$5,000,000);

(2) seven (7) years following the date of the conclusion of the assessment appeal, if the total amount of property taxes owed to the taxpayer as a result of the appeal is:

(A) greater than or equal to five million dollars (\$5,000,000); and

(B) less than ten million dollars (\$10,000,000); or

(3) ten (10) years following the date of the conclusion of the assessment appeal, if the total amount of property taxes owed to the taxpayer as a result of the appeal is greater than or equal to ten million dollars (\$10,000,000).

The auditor may elect to accelerate credits or to provide a full or partial refund within the period specified under subdivision (1), (2), or (3), as applicable.

(c) Notwithstanding subsection (b), if a claimant is no longer the taxpayer for the property on which the appeal was filed, the overpayment shall not be applied as a credit and the overpayment may be refunded in equal installments over the period specified in subsection (b)(1), (b)(2), or (b)(3), as applicable.

As added by P.L. 159-2020, SEC. 46