

SPONSOR: 5<sup>TH</sup> DISTRICT COUNCILMAN MICHAEL OPINKER

ORDINANCE No. 9301

ORDINANCE AUTHORIZING THE CITY OF HAMMOND, INDIANA, TO  
ISSUE ITS ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2015  
(THRUPORT INTERMODAL PROJECT) AND APPROVING OTHER  
ACTIONS IN RESPECT THERETO

WHEREAS, the Economic Development Commission (the “Commission”) of the City of Hammond, Indiana (the “City”), has rendered its Project Report concerning the proposed financing of economic development facilities for the benefit of Thruport Intermodal LLC (the “Developer”), and the Project Report will be submitted to the City of Hammond Plan Commission for comment thereon, if any; and

WHEREAS, the Commission conducted a public hearing and adopted a resolution (the “EDC Resolution”) and approved the Project Report (the “Project Report”) on June 1, 2015, which EDC Resolution and Project Report have been transmitted hereto, finding that the financing of certain economic development facilities in connection with a development to be constructed, equipped and installed by the Developer complies with the purposes and provisions of Indiana Code 36-7-11.9, Indiana Code 36-7-12 and Indiana Code 36-7-14 (collectively, “Act”) and that such financing will be of benefit to the health and welfare of the City and its citizens; and

WHEREAS, the Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council of the City (the “Council”), has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for

approval by the Council the Financing and Covenant Agreement, the Trust Indenture and all other documents to be executed in connection therewith;

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

Section 1. It is hereby found that: (i) the financing of the economic development facilities referred to in the Financing and Covenant Agreement approved by the Commission and presented to this Council; (ii) the issuance and sale of the City's Economic Development Revenue Bonds, Series 2015 (Thruport Intermodal Project) (the "Bonds"); (iii) the use of the proceeds of the Bonds for the benefit of Thruport Intermodal LLC (the "Developer") for the construction, equipping and installation of such facilities; (iv) the payment of the Bonds from TIF Revenues; and (v) the securing of the Bonds under the Trust Indenture, complies with the purposes and provisions of the Act and will be of benefit to the health and welfare of the City and its citizens. The proceeds of the Bonds will be used for the financing of the economic development facilities located in the East Gibson Yard Area bounded by Kennedy Avenue on the west, U.S. 20 on the north and Cline Avenue on the east in the City, which will consist of the construction of commercial and infrastructure facilities including (i) a multi-tenant rail and intermodal center, (ii) wetland mitigation to satisfy the U.S. Army Corps of Engineers and the City, (iii) other related financing costs permissible under the Act located in, or physically connected to, the Hammond Central Economic Development Area, and funding of costs of issuance (the "Project"). The Council further finds, determines, ratifies and confirms that the promotion of diversification of economic development and job opportunities in and near the City, is desirable to preserve the health, safety and general welfare of the citizens of the City; and that it is in the public interest that the Commission and the Issuer take such action as they

lawfully may to encourage economic development, diversification of industry and promotion of job opportunities in and near the Issuer.

Section 2. At the public hearing held before the Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the City, and subsequently found, based on findings of fact set forth in the EDC Resolution transmitted hereto, that the Project would not have an adverse competitive effect. This Council hereby confirms the findings set forth in the EDC Resolution, and concludes that the Project will not have an adverse competitive effect on any other similar facilities in or near the City, and the facilities will be of benefit to the health and welfare of the citizens of the City.

Section 3. The substantially final forms of the Financing and Covenant Agreement between the City and the Developer (the "Developer's Financing Agreement"), the Trust Indenture and all other documents to be executed in connection therewith approved by the Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in the Act), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Council and kept on file by the Clerk. In accordance with the provisions of Indiana Code 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk for public inspection.

Section 4. The City shall issue its Bonds in the total principal amount not to exceed \$3,500,000 maturing no later than January 15, 2035. The Bonds are to be issued for the purpose of procuring funds to pay the costs of the construction, equipping and installation of the Project, as more particularly set out in the Trust Indenture and the Developer's Financing Agreement, incorporated herein by reference, which Bonds will be payable as to principal, premium, if any,

and interest from TIF Revenues, as provided in the Trust Indenture. The Bonds shall be issued in fully registered form in denominations of \$5,000 and any integral in excess thereof or as otherwise provided in the Trust Indenture, and the Bonds maturing not later than July 15, 2026, shall be redeemable in whole or in part, on any date not later than January 15, 2026, at face value, plus accrued interest to the date fixed for redemption as provided in Article V of the Trust Indenture. Payments of principal and interest are payable in lawful money of the United States of America by check mailed or delivered to the registered owners as provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City.

Section 5. The Mayor and the Clerk are authorized and directed to sell the Bonds to the Developer and the other purchasers identified in the Trust Indenture.

Section 6. The Mayor and the Clerk are authorized and directed to execute, attest, affix or imprint by any means the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable prior to, on or after the date hereof to consummate or facilitate the transaction, including the Bonds authorized herein. The Mayor and the Clerk are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of counsel to the City; it being the express understanding of this Council that the Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of these modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal

amount of or term of the Bonds as approved by the Council by this Ordinance without further consideration by the Council. The signatures of the Mayor and the Clerk on the Bonds may be either manual or facsimile signatures. The Controller is authorized to arrange for delivery of such Bonds to the Trustee named in the Trust Indenture, and payment for the Bonds will be made to the Trustee named in the Trust Indenture and after such payment, the Bonds will be delivered by the Trustee to the purchaser thereof. The Bonds shall be originally dated the date of issuance and delivery thereof. Terms used herein with their initial letters capitalized which are defined in the Financing Agreement are used herein as so defined.

Section 7. The provisions of this Ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the City and the holders of the Bonds, and after the issuance of the Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or the interest thereon remains unpaid.

Section 8. This Ordinance shall constitute official action for purposes of compliance with federal and state laws requiring governmental action as authorization for future reimbursement from the proceeds of bonds.

Section 9. This Ordinance shall be in full force and effect from and after its passage by the Common Council, signing by the President thereof, and approval by the Mayor.

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Michael Opinker, President /s/

Attest:

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Robert J. Golec, City Clerk /s/

PRESENTED BY ME, the undersigned City Clerk of the City of Hammond to the Mayor of said City, for his approval on the 23<sup>rd</sup> day of June, 2015.

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Robert J. Golec, City Clerk /s/

The foregoing Ordinance No. 9301, consisting of six (6) pages, including this page, was approved by the Mayor on the 24<sup>th</sup> day of June, 2015.

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Thomas M. McDermott, Jr., Mayor /s/  
City of Hammond, Indiana

PASSED by the Common Council on the 22<sup>nd</sup> day of June, 2015 and approved by the Mayor on the 24<sup>th</sup> day of June, 2015.

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Robert J. Golec, City Clerk /s/