

RESOLUTION NO. 19-\_\_\_\_\_

**A RESOLUTION EXPRESSING THE CITY OF NAPERVILLE'S INTENT TO CONSIDER DESIGNATION OF A BUSINESS DISTRICT ON PROPERTY WITHIN THE CITY, TO IMPOSE BUSINESS DISTRICT SALES TAXES, AND TO INDUCE DEVELOPMENT INTEREST WITHIN SUCH DISTRICT**

**WHEREAS**, the City of Naperville (hereinafter "**City**") is authorized under the provisions of the Illinois Business District Development and Redevelopment Law, 65 ILCS 5/11-74.3-1, *et seq.* (hereinafter the "**Business District Law**") to designate business districts in accord with the provisions and requirements of said Business District Law; and

**WHEREAS**, the City is a home rule unit of local government under the laws and Constitution of the State of Illinois; and

**WHEREAS**, at the request of PROJECT NAPERVILLE LLC and PROJECT NAPERVILLE 808 LLC (hereinafter cumulatively referenced as "**Developer**"), the City is contemplating the formation of a business district to complete a commercial project (hereinafter "**Project**") on approximately twenty-one (21) contiguous acres of land in the City of Naperville located east of Illinois Route 59, south of LaFox Avenue, and north of Ogden Avenue/Illinois Route 34 comprised of two properties formerly occupied by a Wal-Mart (776 S. Illinois Route 59) and Sam's Club (808 S. Illinois Route 59) (cumulatively referenced herein as "**Property**"); and

**WHEREAS**, the boundaries of the proposed business district (hereinafter "**Business District**") are generally depicted on **Exhibit A** and legally described on **Exhibit B**, which exhibits are attached hereto and made part hereof; the actual Business District to be designated may contain more or less land than that depicted and described on Exhibits A and B; and

**WHEREAS**, pursuant to the Business District Law, in order to designate a business district and to impose certain business district sales taxes, it is necessary for the City to adopt a business district plan and designate a business district on the basis of findings that the area to be included within the Business District qualifies for such designation pursuant to statutory requirements set forth in the Business District Law; and

**WHEREAS**, the City believes that the Property is likely to meet the requirements of a business district under the Business District Law and that it will not be economically feasible for the Developer to complete the Project without the formation of a Business District; and

**WHEREAS**, in anticipation of the possibility of the establishment of a Business District, the Developer will be expending funds to prepare the business district plan (as “business district plan” is defined in the Business District Law) which shall also include an eligibility analysis for the proposed Business District, in addition to other eligible business district Project costs (as “business district project costs” are defined in the Business District Law), for the development of the Property contemplated to be included within the proposed Business District, which expenses, shall only be eligible for reimbursement to the extent that they are incurred after passage of this Resolution and to the extent that they do not exceed the Maximum Reimbursement Amount as defined herein (hereinafter “**Eligible Expenditures**”); and

**WHEREAS**, contingent upon passage of a City ordinance approving establishment of the Business District and providing for imposition of a retailer’s occupation tax within the Business District at a rate to be determined by the City, which rate shall not exceed one percent (1%) as set forth in the Business District Law, (hereinafter “**Business District**

**Sales Tax**”) for up to a maximum of twenty-three (23) years from the effective date of such ordinance, the Developer shall be reimbursed up to a maximum of amount of Eligible Expenditures (herein “**Maximum Reimbursement Amount**”) from future Business District Sales Tax generated by the Business District and available in the business district tax allocation fund established by the City; the Maximum Reimbursement Amount will be finalized going forward, but shall not exceed nine million, nine hundred and thirteen thousand, four hundred and fifty-seven dollars (\$9,913,457.00).

**WHEREAS**, this Resolution does not obligate the City to create a Business District on the Property, or any portion thereof.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule powers that:**

**SECTION 1:** The foregoing Recitals are substantive and are incorporated as though fully set forth in this Section 1.

**SECTION 2:** The City has examined the circumstances applicable to the Property and believes that it is reasonable to believe that a Business Plan can be adopted and a Business District formed for the Property under the Business District Law.

**SECTION 3:** If a Business District is formed on the Property, the City shall make reimbursement to the Developer for Eligible Expenditures not to exceed the Maximum Reimbursement Amount or as otherwise authorized by the City pursuant to an ordinance establishing a Business District for the Property. This Resolution is not a guarantee that a Business Plan will be adopted or Business District formed on the Property, nor does it

represent a financial obligation of the City; rather it is an expression of the sense of the City at this time.

**SECTION 4:** The officers and employees of the City shall take all actions reasonably required or necessary to carry out and give effect to the intent of this Resolution.

**SECTION 5:** If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code.

**SECTION 6:** This Resolution shall be in full force and effect upon its passage and approval.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk