



August 21, 2013

DATE (Month, Day, Year)

STATE OF TENNESSEE

Hamilton County

Hamilton County Board of Commissioners

RESOLUTION

No. 813-44

A RESOLUTION TO MAKE CERTAIN FINDINGS RELATING TO THE WNA AMERICAN PLASTIC INDUSTRIES, INC. PROJECT, TO DELEGATE CERTAIN AUTHORITY TO THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA, AND TO AUTHORIZE THE COUNTY MAYOR TO ENTER INTO AND EXECUTE AN AGREEMENT FOR PAYMENTS IN LIEU OF AD VALOREM TAXES.

WHEREAS, pursuant to Tennessee Code Annotated, Section 7-53-305(b) the County of Hamilton (the "County") is permitted to delegate to The Industrial Development Board of the City of Chattanooga (the "Board") the authority to negotiate and accept payments in lieu of ad valorem taxes from lessees of the Board upon a finding by the County that such payments are deemed to be in furtherance of the Board's public purposes; and

WHEREAS, WNA American Plastic Industries, Inc. (the "Company") is contemplating the acquisition and installation of certain machinery, equipment and other personal property to be located in a manufacturing facility in Chattanooga, Hamilton County, Tennessee, (the "Project") and because of the substantial economic benefits to the City of Chattanooga and Hamilton County resulting from the Project, has asked the Board and the County Commission to approve payments in lieu of ad valorem taxes; and

WHEREAS, the Commission has determined that payments in lieu of ad valorem taxes from such a project would be in furtherance of the Board's public purposes as set forth within Chapter 53 of Title 7 of the Tennessee Code Annotated;

NOW, THEREFORE, BE IT RESOLVED BY THIS COMMISSION:

That we do hereby find that the Project is in the best interest of the County, and that payments in lieu of ad valorem taxes derived therefrom would be in furtherance of the Board's public purposes; and

That, having made such a finding in this instance, we do hereby delegate to the Board the authority to negotiate and accept payments in lieu of ad valorem taxes from the Company, it being further noted that this delegation is for this purpose and this project only; and

That the County Mayor is hereby authorized to enter into an Agreement for Payments In Lieu Of Ad Valorem Taxes in substantially the form attached hereto, with such changes thereto as he shall approve; and,

BE IT FURTHER RESOLVED THAT THIS RESOLUTION TAKE EFFECT FROM AND AFTER ITS PASSAGE, THE PUBLIC WELFARE REQUIRING IT.

BECAME LAW UNDER TEN (10) DAY PROVISION
CHAPTER 934, TENNESSEE PUBLIC ACTS OF 1978
ATTEST MICHAEL CLARK
DEPUTY COUNTY CLERK
DATE 09-03-13

MB: 396
PAGE: 403

Approved:

CERTIFICATION OF ACTION

Rejected:

W.D. [Signature]
County Clerk

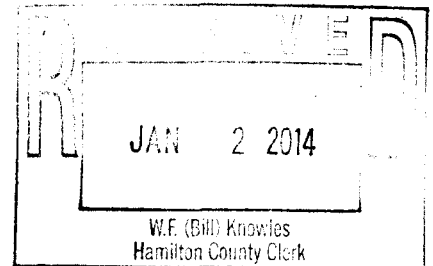
Approved:

County Executive

Vetoed:

August 21, 2013
Date





**AGREEMENT FOR PAYMENTS IN LIEU
OF AD VALOREM TAXES**

THIS AGREEMENT (the “Agreement”) is made and entered into as of this the 31st day of December, 2013, by and among **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA** (the “Board”); **WNA AMERICAN PLASTIC INDUSTRIES, INC.**, a Delaware corporation (the “Company”); the **CITY OF CHATTANOOGA** (the “City”); and **HAMILTON COUNTY** (the “County”) and is joined in, for purposes of evidencing their acceptance of the agency relationship established herein, by **WILLIAM F. HULLANDER** and his successors, acting in the capacity of **HAMILTON COUNTY TRUSTEE** (the “Trustee”), and by **WILLIAM C. BENNETT** and his successors, acting in the capacity of **HAMILTON COUNTY ASSESSOR OF PROPERTY** (the “Assessor”).

WITNESSETH:

WHEREAS, the Company is contemplating the acquisition of machinery, equipment and other personal property, as more particularly described on Exhibit A attached hereto and incorporated herein (the “Property”), for installation in connection with an expansion to the Company’s manufacturing facility located in Chattanooga, Hamilton County, Tennessee (the “Project”), resulting in the creation of at least 53 full-time jobs by the Company and the addition of at least \$15,245,000 in personal property over a period beginning January 1, 2013 and ending January 1, 2016, which jobs shall have an average annual wage (excluding benefits) equal to at least \$33,125.00 (collectively the “Investment, Jobs and Wage Projection”), and has requested the Board’s assistance with the Project; and

WHEREAS, substantial economic benefits to the City and County economies will be derived from the Project; and

WHEREAS, the Board has agreed to take title to the Property, together with all additions thereto, replacements thereof, and substitutions therefor and to lease the Property to the Company; and

WHEREAS, because the Property is to be owned by the Board, which is a public corporation organized under the provisions of Tennessee Code Annotated, § 7-53-101, *et seq.*, the Property will be exempt from ad valorem property taxes (“property taxes”) normally paid to the City and to the County, so long as the Property is owned by the Board, pursuant to the provisions of Tennessee Code Annotated, § 7-53-305; and

WHEREAS, for the public benefit of the citizens of the City and the County, the Board has requested that the Company make certain payments to the Board in lieu of the payment of property taxes that would otherwise be payable on the Property; and

WHEREAS, the Company has agreed to make such payments to the Board in lieu of the property taxes otherwise payable on the Property (the “In Lieu Payments”), as more particularly set forth hereinafter; and

WHEREAS, the Board has been authorized to receive the In Lieu Payments in lieu of property taxes by resolutions adopted by the City and the County, acting through their duly elected Council and Commission, respectively, which resolutions delegate to the Board the authority to accept the In Lieu Payments upon compliance with certain terms and conditions, including, without limitation, the requirement that the Board collect and expend such payments in furtherance of the public purposes for which the Board was created; and

WHEREAS, the Company and the Board have agreed that all In Lieu Payments made to the Board by the Company shall be paid to the Trustee, who shall disburse such amounts to the City and the County in accordance with the requirements specified herein; and

WHEREAS, the Board wishes to designate the Assessor as its agent to appraise the Property and assess a percentage of its value in the manner specified herein; and

WHEREAS, the Board wishes to designate the Trustee as its agent to receive the In Lieu Payments in accordance with the terms of this Agreement;

NOW, THEREFORE, IN CONSIDERATION OF the mutual covenants and agreements set forth herein, the parties hereto agree as follows:

1. Designation of Assessor; Appraisal and Assessment of Property. The Board hereby designates the Assessor as its agent to appraise and assess the Property. The Assessor shall appraise and assess the Property in accordance with the Constitution and laws of the State of Tennessee as though the Property were subject to property taxes. The Assessor shall give the Trustee, the City Treasurer, the Board, and the Company written notice of any changes in appraisals of the Property in the same manner that notices are given to owners of taxable property. The Assessor shall make available to the Board and the Company all records relating to the appraisal and assessment of the Property.

2. Designation of Trustee; Computation and Billing of Payments In Lieu of Taxes. The Board hereby designates the Trustee as its agent to compute the amounts of the In Lieu Payments, to receive such payments from the Company and to disburse such payments to the City and the County. On or about October 1 of each year during the term of this Agreement, the Trustee shall compute the taxes which would be payable on the Property if it were subject to property taxes, in accordance with the Constitution and laws of the State of Tennessee and in accordance with the appraisal and assessment of the Assessor. Each year hereunder, the Trustee shall send the Board and the Company bills for appropriate amounts of In Lieu Payments (the "Tax Bill").

3. Payments in Lieu of Taxes. After receipt of the Tax Bill, the Company shall pay to the Trustee the amounts indicated on the Tax Bill which amounts shall be determined in accordance with the provisions set forth below in Paragraph 4. The In Lieu Payments shall be made by the Company in lieu of the property taxes which would otherwise be payable on the Property if it were subject to property taxes.

4. Amount of Payments by the Company. For the four (4) year period covering and inclusive of years 2014 through 2017 (the "Tax Abatement Period"), the Company shall make In Lieu Payments with respect to the Property in an amount, as determined by the Assessor and the Trustee, equal to the following percentage of the taxes that would have been payable on the Property if it were subject to property taxes for the respective years shown:

<u>Year</u>	<u>City General</u> <u>Fund</u>	<u>County General</u> <u>Fund</u>	<u>County School</u> <u>Fund</u>
2014	0%	0%	100%
2015	25%	25%	100%
2016	40%	40%	100%
2017	50%	50%	100%

For the avoidance of doubt, the parties intend that the Company shall make (i) In Lieu Payments in an amount equal to one hundred percent (100%) of all ad valorem taxes that would be dedicated to the support of the County school system, which the parties acknowledge and agree currently equates to twenty-seven and one tenth percent (27.1%) of the amount of the total City and County taxes that would have been payable on the Property if it were subject to property taxes, and (ii) In Lieu Payments in an amount equal to the above graduated amounts for all other ad valorem taxes of the City and the County, excluding the educational portion of the County ad valorem taxes.

For any periods before the Tax Abatement Period or after the Tax Abatement Period that the Property is owned by the Board and leased to the Company, the Company shall make In Lieu Payments in an amount, as determined by the Assessor and the Trustee, equal to one hundred percent (100%) of the amount of taxes that would have been payable on the Property if it were subject to property taxes. Notwithstanding the above, any amounts assessed as property taxes against the Property shall be credited against any In Lieu Payments due under this Agreement.

5. Penalties and Late Charges. The Company shall make the In Lieu Payments for each year during the term before March 1 of the following year. All In Lieu Payments shall be subject to penalties, late charges, fees and interest charges as follows:

(a) If the Company fails to make any In Lieu Payment when due, and such failure to pay shall continue and not be fully paid within thirty (30) days after written notice of such non-payment has been provided to the Company, then a late charge shall be charged and shall also be immediately due and payable. The late charge shall be in the amount of one and one-half percent (1-1/2%) of the owed amount. Additional late charges of one and one-half percent (1-1/2%) of the amount shall accumulate and become immediately due and payable upon the expiration of each subsequent thirty (30) day period when there remains any outstanding unpaid amount.

(b) If the Company should fail to pay all amounts and late charges due as provided hereinabove, then the Board, the City or the County may bring suit against the Company in the Chancery Court of Hamilton County to seek to recover the In Lieu Payments due, late charges, expenses and costs of collection in addition to reasonable attorneys' fees.

(c) If the Company fails to achieve the Investment, Jobs and Wage Projection for the Tax Abatement Period by January 1, 2016, then the City and the County reserve the right but are not obligated to adjust the terms and conditions of the tax abatement granted to the Company under this Agreement for the Tax Abatement Period by requiring the Company to pay an additional amount of the In Lieu Payments on the Property based upon the actual jobs, wages and investment associated with the Tax Abatement Period as compared to the Investment, Jobs and Wage Projection. If the City and the County elect to consider making an adjustment to the terms and conditions of the tax abatement for the Tax Abatement Period, the Assessor and Trustee shall confer with the Chattanooga Area Chamber of Commerce and shall make a reasonable determination of the terms and conditions of the tax abatement for the Tax Abatement Period by applying the policies, practices and procedures in effect as of January 1, 2013 to the actual jobs, wages and investment associated with the Tax Abatement Period as of January 1, 2016. The Assessor and Trustee shall provide this determination to the City and the County. The City and the County may then require the Company to pay an amount up to the difference between the amounts of the In Lieu Payments required pursuant to Paragraph 3 of this Agreement and the amounts that the Company would have paid using the actual jobs, wages and investment associated with the Tax Abatement Period. Except as specifically provided in paragraph (d), immediately below, which shall be the exclusive remedy for a closure of the Project or a relocation of the Project from the County, the remedy under this paragraph (c) shall be the sole remedy for any shortfall in the Investment, Jobs and Wage Projection during the Tax Abatement Period.

(d) In the event the Project closes or moves from the County during the term of this Agreement, the City and the County reserve the right to immediately terminate

the tax abatements provided by this Agreement and require the partial repayment of amounts that would have been payable on the Property as if it were subject to property taxes.

6. Disbursements by Trustee. All sums received by the Trustee pursuant to Paragraph 3 for the benefit of the City and County general funds shall be disbursed to the general funds of the City and the County in accordance with this paragraph and in accordance with the normal requirements of law governing the settlement and paying over of taxes to counties and municipalities. All such sums received shall be divided into two (2) accounts, one for the use and benefit of the City and the other for the use and benefit of the County. The account for the use and benefit of the City shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the City, and the account for the use and benefit of the County shall be funded with the proportionate amount to which the In Lieu Payments are attributable to property taxes which would otherwise be owed to the County. All sums received by the Trustee pursuant to Paragraph 3 for the benefit of the County school system shall be disbursed to the County and thereafter deposited into an account for the educational use and benefit of the County schools. All disbursements to the general funds of the City and County shall be made by the Trustee subject to the requirement that all funds disbursed may be used by the City and the County only in furtherance of the public purposes of the Board, as described in Tennessee Code Annotated, § 7-53-102.

7. Contest by the Company. The Company shall have the right to contest the appraisal or assessment of the Property by the Assessor and the computation by the Trustee of the amount of the In Lieu Payment. If the Company contests any such appraisal or assessment, then they shall present evidence to the Assessor in favor of its position. If the In Lieu Payments being contested shall be or become due and payable, the Company shall make such payments

under protest. The Company and the Assessor or the Trustee, as the case may be, shall negotiate in good faith for a period not to exceed sixty (60) days to resolve any disputes as to appraisal, assessment or computation of the In Lieu Payment. If the Company and the Assessor or the Trustee, as the case may be, are unable to resolve a dispute, then the Company may file suit in the Chancery Court of Hamilton County to ask that the provisions of this Agreement, including those covering appraisal, assessment and computation, be construed or applied to the relevant facts by the Chancery Court in order to resolve such dispute.

8. Lien on the Property. Any amounts which remain payable under this Agreement shall become a lien on the Property, and such lien shall be enforceable against the Property in the event that any payment owing hereunder is not timely made in accordance with this Agreement.

9. Term. This Agreement shall become effective on the date that the Board leases the Property to the Company and shall continue for so long as the Board holds title to any of the Property and leases such property to the Company or the Company has made all payments required hereunder, whichever shall later occur.

10. Leasehold Taxation. The Board, the City, the County, the Trustee and the Assessor covenant and agree that the Company's personal property leasehold interest in the Property shall not be subject to assessment for ad valorem tax purposes, as the Company's leasehold interest is subject to this agreement for payments in lieu of taxes. If the leasehold interest of the Company should be subject to ad valorem taxation, then any amounts assessed as taxes thereon shall be credited against any In Lieu Payments due hereunder.

11. Notices, etc. All notices and other communications provided for hereunder shall be written (including facsimile transmission and telex), and mailed or sent via facsimile transmission or delivered addressed as follows:

Board or to the City:	Wade A. Hinton City Attorney City of Chattanooga Suite 200, 100 E. 11 th Street Chattanooga, Tennessee 37402
The County:	Rheubin M. Taylor County Attorney Hamilton County Government Room 204, County Courthouse Chattanooga, Tennessee 37402
Company:	WNA American Plastic Industries, Inc. 5930 Quintus Loop Chattanooga, Tennessee 37421 Attention: Mr. Thomas Spurr, Controller
With a Copy to:	Miller & Martin PLLC 832 Georgia Avenue Suite 1000 Chattanooga, Tennessee 37402 Attn: Mark W. Smith
The Trustee:	Hamilton County Trustee Hamilton County Courthouse Chattanooga, Tennessee 37402
The Assessor	Hamilton County Assessor of Property Hamilton County Courthouse Chattanooga, Tennessee 37402

Any such person may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent. All such notices and communications shall, when mailed by registered and certified mail, return receipt requested, Express Mail, or facsimile, be effective when deposited in the mails or if sent upon facsimile transmission, confirmed electronically, respectively, addressed as aforesaid.

12. No Waiver; Remedies. No failure on the part of any party hereto, and no delay in exercising any right under this Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and are not exclusive of any remedies provided by law.

13. Severability. In the event that any clause or provision of this Agreement shall be held to be invalid by any court or jurisdiction, the invalidity of any such clause or provision shall not affect any of the remaining provisions of this Agreement.

14. No Liability of Board's Officers. No recourse under or upon any obligation, covenant or agreement contained in this Agreement shall be had against any incorporator, member, director or officer, as such, of the Board, whether past, present or future, either directly or through the Board. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, director or officer, as such, is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

15. Binding Effect. This Agreement shall be binding upon and inure to the benefit of each of the parties and signatories hereto and to their respective successors and assigns.

16. Governing Law. The Agreement shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

17. Amendments. This Agreement may be amended only in writing, signed by each of the parties hereto, except that the Trustee and the Assessor shall not be required to join in amendments unless such amendments affect their respective duties hereunder.

18. Annual Report. On or before March 1 of each year this Agreement is in effect, the Company shall provide a report to the Mayor of the City and the Mayor of the County summarizing its investment in the Property for purposes of analyzing the Company's progress in achieving the Investment, Jobs and Wage Projection.

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

ATTEST:

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF CHATTANOOGA

By: *Chris Ramsey*
Secretary

By: *[Signature]*
Chairman

WNA AMERICAN PLASTIC INDUSTRIES, INC., a Delaware corporation

By: _____
Name: _____
Title: _____

CITY OF CHATTANOOGA, TENNESSEE

By: *Andy Bark*
Mayor

HAMILTON COUNTY, TENNESSEE

By: *J. M. Coppage*
County Mayor

WILLIAM F. HULLANDER

By: *William F. Hullander*
Hamilton County Trustee

WILLIAM C. BENNETT

By: *William C. Bennett*
Hamilton County Assessor of Property

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

ATTEST:

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF CHATTANOOGA**

By: _____
Secretary

By: _____
Chairman

**WNA AMERICAN PLASTIC INDUSTRIES,
INC., a Delaware corporation**

By: Thomas Spurr

Name: THOMAS SPURR

Title: CONTROLLER

CITY OF CHATTANOOGA, TENNESSEE

By: _____
Mayor

HAMILTON COUNTY, TENNESSEE

By: _____
County Mayor

WILLIAM F. HULLANDER

By: _____
Hamilton County Trustee

WILLIAM C. BENNETT

By: _____
Hamilton County Assessor of Property

EXHIBIT "A"
TO PILOT AGREEMENT

PROPERTY

During the Tax Abatement Period, the Property shall include all machinery, equipment and other tangible personal property that is installed or otherwise located on or about the Company's facility located at 5930 Quintus Loop, Chattanooga, Tennessee 37421 (and such other locations of the Company in Hamilton County, Tennessee as the Company may acquire, lease or utilize from time to time) between January 1, 2013 and January 1, 2016 in connection with the Company's expansion of said facility.

Cost Versus Benefit Analysis for Payment In Lieu of Ad Valorem Tax

Date: December 31, 2013

Person Completing Form: Mark W. Smith

Title: Attorney

Lessor: IDB of City of Chattanooga

Lessee: WNA American Plastics Industries, Inc.

Lease Term	Term Beginning Date	December 31, 2013	Total Term Ending Date	December 31, 2017									
Step 1	53	x	\$ 33,125.00	=	\$ 1,755,625.00	x	2.0	=	\$ 3,511,250.00				
	Number of New Jobs		Annual Company Wage		Direct Income		See Note 1		Direct & Indirect Income				
Step 2	\$ 1,755,625.00	+	\$ 41,978.00	=	42								
	Indirect Income		See Note 1		Number Indirect Jobs								
Step 3	\$ 3,511,250.00	x	0.097	=	\$ 340,591.25	x	0.6	=	\$ 204,354.75	x	0.29	=	\$ 59,262.88
	Direct & Indirect Income		See Note 1		New Total Annual State Tax		See Note 1		New Annual State Sales Tax		See Note 1		New Annual Local Sales Tax

Calculation Summary:

Additional comments and information about costs or benefits associated with the project may be attached.

Total of New and Indirect Jobs	95	First Year PILOT Payment County:	See Note *
Total of Direct and Indirect Income	\$3,511,250	First Year PILOT Payment City:	\$0
Total of New Annual State Sales Tax and New Annual Local Sales Tax	\$263,618	Total First Year PILOT:	\$0
<i>To be completed by Comptroller of Treasury</i>			
Market Value of Leased Real Property Improvements	\$0	Tax Year	2001
Market Value of Leased Machinery & Equipment	Est \$15,245M	Co. Tax Rate	\$0.00
Market Value of Leased Land	\$0	City Tax Rate	\$0.00
Total Appraised Value:	\$0	Other Rate(s)	\$0.00
Total Assessed Value:	\$0	Total Tax Rate	\$0.00
		Legal Ratio	NA
		Appraisal Ratio	1.0000
		Eff Tax Rate	0.00%

EqTR x Assessed Value

Eq TR = Total Rate x Appraisal Ratio

(New Local Sales tax plus PILOT) Less Estimated Property Tax

* First year PILOT payment will vary depending upon amount of investment. The required PILOT payment equals the school portion of the County property tax.

Note 1 Economic factors and multipliers provided by University of Tennessee for Business and Economic Research