

ORDINANCE NO. 14,2001

ORDINANCE AUTHORIZING THE CITY OF VALPARAISO TO
ISSUE ITS "VARIABLE RATE DEMAND ECONOMIC DEVELOPMENT REVENUE
BONDS, SERIES 2001 (MARIPOSA OF INDIANA, INC.
AND NATURAL OVENS BAKERY, INC. PROJECT)"
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Valparaiso Economic Development Commission has rendered its Project Report for Mariposa of Indiana, Inc. and Natural Ovens Bakery, Inc. Project regarding the financing of proposed economic development facilities for Mariposa of Indiana, Inc. and Natural Ovens Bakery, Inc. and the Valparaiso Plan Commission has commented favorably thereon; and

WHEREAS, the Valparaiso Economic Development Commission conducted a public hearing on May 8, 2001 before a representative of the Commission, and adopted a Resolution on May 8, 2001, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of Mariposa of Indiana, Inc. and Natural Ovens Bakery, Inc. complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and that such financing will be of benefit to the health and welfare of the City of Valparaiso and its citizens; and

WHEREAS, the Valparaiso Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Loan Agreement (the "Loan Agreement"); the Note; the Bond Placement Agreement; the Indenture of Trust; the Lease; and the Offering Memorandum; now, therefore

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA THAT:

Section 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Valparaiso Economic Development Commission and presented to this Common Council, the issuance and sale of the City of Valparaiso, Indiana Variable Rate Demand Economic Development Revenue Bonds, Series 2001 (Mariposa of Indiana, Inc. and Natural Ovens Bakery, Inc. Project) (the "Bonds") , the loan of the proceeds of the Bonds to Mariposa of Indiana, Inc. and Natural Ovens Bakery, Inc. (collectively, the "Borrower") for the acquisition, construction and equipping of such facilities, the payment of the Bonds by the note payments of the Borrower under the Loan Agreement and Note, the issuance of a letter credit to secure the payment of interest on or principal of the Bonds, and the securing of said Bonds under the Indenture of Trust complies with the purposes and provisions of I.C. 36-7-11.9 and 12, and will be of benefit to the health and welfare of the City of Valparaiso and its citizens.

Section 2. The proceeds of the Bonds will be used for the financing of new economic development facilities, which will consist of the acquisition, construction and equipping of an approximate 64,000 square foot building, to be used for the production of a variety of bakery products, to be located on approximately 16 acres of land, at 3400 Mariposa Drive, Valparaiso, Indiana (the "Project").

Section 3. At the public hearing held before a representative of the Valparaiso Economic Development Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near Valparaiso, and subsequently found, based on special findings of fact set forth in the Resolution transmitted hereto, that the Project would

not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the Project will not have an adverse competitive effect on any other similar facilities in or near the City of Valparaiso, and the facilities will be of benefit to the health and welfare of the citizens of the City of Valparaiso.

Section 4. The substantially final forms of the Loan Agreement; the Note; the Bond Placement Agreement; the Offering Memorandum; the Lease; and the Indenture of Trust approved by the Valparaiso Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk-Treasurer. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk-Treasurer for public inspection.

Section 5. The City of Valparaiso shall issue its Bonds in the total principal amount not to exceed \$7,000,000 and maturing no later than May 1, 2031. Said Bonds are to be issued for the purpose of procuring funds to pay the costs of acquisition, construction and equipping of the Project, as more particularly set out in the Indenture of Trust and Loan Agreement, incorporated herein by reference, which Bonds will be payable as to principal, premium, if any, and interest from the note payments made by the Borrower under the Loan Agreement and Note or as otherwise provided in the above described Indenture of Trust. The Bonds shall be issued in fully registered form in denominations of \$100,000 or \$5,000 integral multiples in excess thereof or as otherwise provided in the Indenture of Trust, and shall be redeemable as provided in Article IV of the Indenture of Trust. Payments of principal and interest are payable in lawful money of the United States of America by

check or draft mailed or delivered to the registered owners as provided in the Indenture of Trust. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the City of Valparaiso nor are the Bonds payable in any manner from revenues raised by taxation.

Section 6. The Mayor and Clerk-Treasurer are authorized and directed to sell the Bonds to the original purchasers thereof at the price of 100% of the principal amount thereof. The Bonds shall bear interest at the rates per annum established pursuant to Section 3.02 of the Indenture of Trust, provided that the interest rate on the Bonds shall in no case exceed 12% per annum. The Placement Agent, M & I Marshall & Ilsley Bank, shall be entitled to a fee not to exceed .80% of the face amount of the Bonds.

Section 7. The Mayor and Clerk-Treasurer 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 Clerk-Treasurer are hereby expressly authorized to deem the Offering Memorandum relating to issuance of the Bonds as nearly final and the distribution of the nearly final Offering Memorandum is hereby approved. The Mayor and Clerk-Treasurer 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 Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said 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, interest rate on or term of the Bonds as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk-Treasurer on the Bonds may be either manual or facsimile signatures. The Clerk-Treasurer is authorized to arrange for delivery of such Bonds to the Trustee named in the Indenture of Trust, and payment for the Bonds will be made to the Trustee named in the Indenture of Trust and after such payment, the Bonds will be delivered by the Trustee to the purchasers thereof. The Bonds shall be originally dated the date of issuance and delivery thereof.

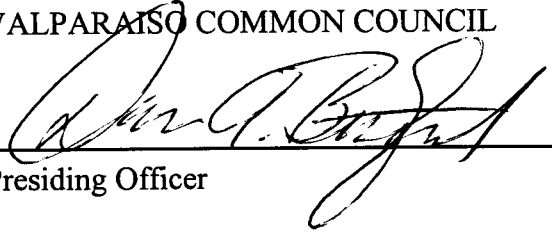
Section 8. The provisions of this Ordinance and the Indenture of Trust securing the Bonds shall constitute a contract binding between the City of Valparaiso and the holders of the Bonds, and after the issuance of said Bonds, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as said Bonds or the interest thereon remains unpaid.

Section 9. The City of Valparaiso, Indiana hereby elects to issue the Bonds pursuant to the \$10,000,000 small issue exemption set out in Section 144(a)(4) of the Internal Revenue Code of 1986.

Section 10. This Ordinance shall be in full force and effect from and after its passage.

Passed and adopted this 14th day of May, 2001.

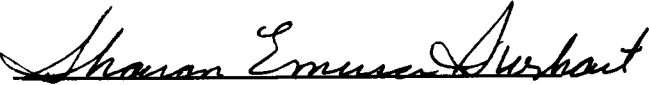
VALPARAISO COMMON COUNCIL



Presiding Officer

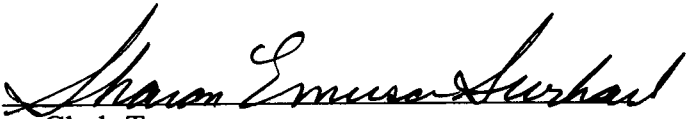
(SEAL)

Attest:



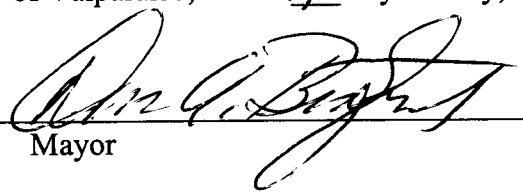
Clerk-Treasurer

Presented by me to the Mayor of the City of Valparaiso, on the 14 day of May, 2001.



Clerk-Treasurer

Approved and signed by the Mayor of the City of Valparaiso, on the 14 day of May, 2001.



Mayor