

GREENWOOD COMMON COUNCIL

AMENDED AND RESTATED ORDINANCE NO. 17-33

**AN ORDINANCE OF THE CITY OF GREENWOOD, INDIANA,
MAKING DETERMINATIONS RELATED TO THE PUBLIC SAFETY BUILDING
PROJECT, AUTHORIZING THE FORM OF AND EXECUTION OF LEASE,
APPROPRIATING THE LEASE RENTALS TO SUCH PURPOSES, APPROVING THE
ISSUANCE OF BONDS AND RELATED MATTERS**

WHEREAS, the Common Council (the “Common Council”) of the City of Greenwood, Indiana (the “City”), after investigation and the receipt of a taxpayer petition, has determined that there is a need for and is in the best interest of the City to acquire, construct and equip certain public safety facilities, including the construction, renovation and equipping of the police station, probation offices and facilities, court facilities, Clerk’s Office, road, parking and other public infrastructure, as well as the acquisition of the gun range practice facility (collectively, the “Project”);

WHEREAS, the Common Council reasonably expects the City of Greenwood Building Corporation II (the “Building Corporation”), formed as a not-for-profit corporation to assist in the financing of public facilities, such as the Project, to finance the costs of the Project, including capitalized interest and all other necessary and incidental costs of issuance, with the proceeds of lease revenue bonds issued for or on behalf of the City by the Building Corporation;

WHEREAS, the Common Council, being duly advised, finds that there are not sufficient funds available and that it is in the best interests of the City and its citizens to enter into negotiations with the Building Corporation to enter into a lease agreement with the Building Corporation (the “Lease”), as Lessor, for all or a portion of the Project pursuant to Ind. Code § 36-1-10, for the purpose of financing all or a portion of the Project, including the necessary and incidental costs related thereto, and issuance of the bonds by the Building Corporation to finance the Project in an amount not to exceed Four Million One Hundred Thousand Dollars (\$4,100,000);

WHEREAS, the Common Council finds that there are not sufficient funds available or provided for in existing tax levies with which to pay the total cost of said Project and that it is necessary to authorize the Lease and the issuance of bonds by the Building Corporation for the purpose of providing funds to be applied to the Project;

WHEREAS, preliminary drawings, plans, specifications and estimates for the acquisition, construction and equipping of the Project, and a proposed form of Lease, have been prepared and submitted to the Common Council;

WHEREAS, the Lease provides that lease rentals will be payable from a general obligation pledge of *ad valorem* property taxes of the City, and that the proposed lease with the Building Corporation, as Lessor, provides for fair and reasonable lease rentals;

WHEREAS, prior to the adoption of this ordinance, (i) a notice of preliminary determination hearing to enter into the Lease, (ii) a notice of a hearing on the execution of the Lease, and (iii) a notice of additional appropriation hearing, were given by publication in the *Daily Journal*, pursuant to Ind. Code § 6-1.1-18, Ind. Code § 6-1.1-20, Ind. Code § 5-3-1 and Ind. Code § 36-1-10, and said public hearings have been held in accordance with said notices;

WHEREAS, the Common Council reasonably expects and intends to pay for a portion of the costs of the Project prior to the Building Corporation’s issuance of bonds;

WHEREAS, the Common Council now determines that it is necessary and a proper exercise of the powers of the City to provide and appropriate funds related to the cost of the Project;

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

Section 1. The Common Council hereby determines that a need exists for the financing of the acquisition, construction, renovation and equipping of the Project by the Building Corporation, and the leasing of the Project to the City, acting by and through the Board of Public

Works of the City, is in the public interest of the citizens of the City and it is a proper public purpose for which this Common Council agrees to cooperate with the Building Corporation and to assist it in fulfilling the needs of the community.

Section 2. The terms and conditions of the proposed form of the Lease and the preliminary drawings, plans, specifications and estimates for the acquisition, construction, renovation and equipping of the Project, which are on file with the City, are approved and agreed to, and that prior to the adoption of this ordinance, public hearings were held on the determination to make lease rental payments to support the financing of the Project and the necessity for the execution of such Lease and whether the lease rentals provided therein are fair and reasonable rentals for the proposed Project.

Section 3. The Common Council finds that the preliminary drawings, plans, specifications and estimates of the Project are reasonable and necessary for the citizens of this City and are hereby approved.

Section 4. The Common Council, after investigating the need for the Project and holding public hearings related to the Project and the Lease, hereby determines that the Board of Public Works of the City shall enter into a Lease to support the financing of the Project and further finds that the proposed Lease with the Building Corporation, as Lessor, provides for a fair and reasonable rental.

Section 5. The Common Council further finds that the execution of the Lease is necessary and wise, and hereby approves the execution of the Lease, and the Board of Public Works of the City and the City Clerk are each hereby authorized and directed to execute the Lease on behalf of the City upon the completion of all statutory requirements relating to the Lease. The City Clerk is authorized and directed to initial and date a copy of the proposed Lease and to place the same in the minute book immediately following the minutes of this meeting. The Lease is made a part of this ordinance as fully as if the same were set forth herein.

Section 6. The issuance, sale and delivery by the Building Corporation of bonds, in one or more series, designated as its Lease Rental Revenue Bonds, Series 2017 (with series designation completed as relevant) in the aggregate principal amount not to exceed Four Million One Hundred Thousand Dollars (\$4,100,000) is hereby approved (the "Bonds").

Section 7. Upon the redemption or retirement of the Bonds to be issued by the Building Corporation, the Board of Public Works of the City will, on behalf of the City, accept from the Building Corporation title to the Project, free and clear of any and all liens and encumbrances thereon.

Section 8. The Common Council finds that the Building Corporation may issue, sell and deliver its bonds, pursuant to the applicable laws of the State of Indiana, and may encumber any real property or equipment acquired by it for the purpose of financing the Project and may enter into contracts for the sale of the bonds, the acquisition of real estate, and the acquisition, construction, renovation and equipping of the Project. The Common Council hereby approves of the sale of the Bonds by the Building Corporation. The proceeds of the Bonds shall be used to finance the costs of the Project, including, without limitation, reimbursement of costs of the Project incurred by the City prior to the issuance of the Bonds, in accordance with Section 1.150-2 of the United States Treasury Regulations.

Section 9. The Mayor, the Controller and the City Clerk, are hereby authorized on behalf of the City to approve and execute any certificates, documents and agreements in connection with the issuance and sale of the Bonds.

Section 10. The City reasonably expects that tax-exempt obligations issued by or on behalf of the City, including the Bonds, as well as bonds and any temporary loan warrants of the City will not exceed \$10,000,000 in calendar year in which they are issued. The Bonds are hereby designated as qualified tax-exempt obligations for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 11. The full faith and credit of the City are hereby irrevocably pledged to the punctual payment of the principal of and the interest on the lease rentals in accordance with the

terms of the Lease. The City covenants that it will cause a property tax for the payment of the lease rentals to be levied, collected, appropriated and applied for that purpose as set forth in Ind. Code § 6-1.1-18.5-8. There shall be levied in each year upon all taxable property in the City, real and personal, and collected a tax in an amount and in such manner sufficient to meet and pay the lease rental payments as they become due under the Lease beginning January 15, 2018, and the proceeds of this tax are hereby pledged solely to the payment of the lease rentals due under the Lease.

Section 12. It is hereby determined that the lease rentals payable pursuant to the Lease providing for the proceeds derived from the sale of the Bonds, in an amount not to exceed Four Million One Hundred Thousand Dollars (\$4,100,000), shall be and are hereby appropriated to support for the Project, together with expenses in connection with the issuance of the Bonds. Such appropriation shall be in addition to all appropriations provided for in the existing applicable budget and levy, and shall continue in effect until the lease rentals have resulted payment in full of the Bonds. The City has properly published notice in accordance with Ind. Code § 5-3-1 and Ind. Code § 6-1.1-18-5 regard appropriation of the lease rentals due on the Lease as provided herein and hereby authorizes the lease rentals due on the Lease pledged as payment for the debt service on the Bonds and related expenses, are appropriated to the cost of the Project pursuant to this ordinance. A certified copy of this ordinance shall be filed with the Indiana Department of Local Government Finance in accordance with Ind. Code § 6-1.1-18-5 regarding the proposed additional appropriations.

Section 13. The City Clerk is hereby authorized and directed to have published notice of the adoption of this determination in accordance with Ind. Code § 6-1.1-20-3.1, and to mail such notice to the Circuit Court Clerk and any organizations requesting such notice. The City Clerk is further authorized and directed to have published notice of the execution of Lease upon its execution.

Section 14. The Common Council hereby authorizes the establishment and formation of the Building Corporation, approves the Articles of Incorporation and By-Laws of the Building Corporation, and authorizes the Mayor or his designee to appoint members to serve and act as the Board of the Directors of the Building Corporation for the purposes of financing the Project and other related project for the benefit of the City.

Section 15. Pursuant to Ind. Code § 36-1-10.5-5, the Common Council hereby expresses interest in purchasing the real estate legally described in Exhibit A, attached hereto and made a part hereof, and the improvements thereon, including, without limitation, the gun range practice facility (collectively, the “Gun Range Property”). The Board of Public Works of the City is hereby authorized to purchase the Gun Range Property in accordance with Ind. Code § 36-1-10.5 and other applicable law. In the event that the Board of Public Works is unable to purchase the Gun Range Property from the current owner thereof for a price less than or equal to the average of the two appraisals of the Gun Range Property received by the Board of Public Works, then the Board of Public Works is authorized to take any and all action necessary to acquire fee simple title to the Gun Range Property by condemnation in accordance with applicable law.

Section 16. The Board of Public Works of the City and, as necessary, the Mayor, the Controller and the City Clerk of the City, are authorized to convey real estate and other property related to the Project and to execute a deed and other related documents evidencing such conveyance to the Building Corporation.

Section 17. 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.

Section 18. All ordinances or parts thereof, in conflict with the provisions of this ordinance, are, to the extent of such conflict, hereby repealed or amended.

Section 19. This ordinance and the Lease may, from time to time hereafter, be amended and supplemented without the consent of the owners of the Bonds, if such amendment shall not adversely affect the rights of the owners of any of the Bonds.

Section 20. This ordinance shall be in full force and effect immediately upon its passage and signing by the Mayor.

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PASSED and ADOPTED by the Common Council of the City of Greenwood, Indiana, on this 7th day of August, 2017.

Michael Campbell
Michael Campbell, President
Greenwood Common Council

FOR:

Linda S. Gibson

Linda S. Gibson

Ezra J. Hill

Ezra J. Hill

Ronald Bates

Ronald Bates

J. David Hopper

J. David Hopper

Michael Campbell

Michael Campbell

Brent Corey

Brent Corey

Charles Landon

Charles Landon

AGAINST:

ATTEST:

Jeannine Myers
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 7th day of August, 2017, is presented by me this 7th day of August, 2017, at 7:55 O'Clock P.M., to the Mayor of the City of Greenwood, Indiana.

Jeannine Myers
Jeannine Myers, Clerk

The foregoing within and attached Ordinance passed by the Common Council of the City of Greenwood, Indiana, on the 7th day of August, 2017, is signed and approved by me this 8th day of August, 2017, at 9:00 O'Clock A.M.

Mark W. Myers
MARK W. MYERS, Mayor of
the City of Greenwood, Indiana

EXHIBIT A

LEGAL DESCRIPTION OF GUN RANGE PROPERTY

A portion of Lot 1 in Cameron Square, an addition to the City of Greenwood, as recorded in Plat Book 11 page 23 and Amended in Plat Cabinet C, page 97 in the Office of the Recorder of Johnson County, Indiana.