

COMMON COUNCIL OF THE CITY OF HOBART, INDIANA

Resolution Number 2017- 11

A Resolution Amending Resolution No. 2017-10 Authorizing an Installment Contract for the Purchase of Improvements for a New City Department of Public Works Maintenance Facility

WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”) adopted its Resolution No. 2017-10 on May 3, 2017 authorizing the City, with respect to the purchase of fully developed improvements for a new Maintenance Facility for the Department of Public Works in the City (the “Project”), to enter into the Installment Contract and the Project Agreement, to execute and deliver any agreements, acknowledgements or assignments as may be requested by the Developer’s Lender and to take any other action necessary to consummate the purchase of the Project pursuant to the Installment Contract with GM Development Companies LLC, or an affiliate thereof (“Developer”), for the Project; and

WHEREAS, said Resolution also pledged distributions received and to be received by the City from (a) the Motor Vehicle Highway Account” pursuant to I.C. §8-14-1, and (b) the “Local Road and Street Account” pursuant to I.C. §8-14-2 (“Highway Revenues”) to the payment of the Installment Contract for a period of 10 years; and

WHEREAS, said Resolution contained a provision on “Parity Obligations” in Section 5 thereof which defined the conditions under which the City may authorize and issue additional obligations, payable from the Highway Revenues or otherwise pledge the Highway Revenues to secure lease rental payments or other obligations, ranking on a parity with the pledge made to the Installment Contract; and

WHEREAS, it is necessary to amend said provision to conform to the requirements of the Developer’s Lender as stated in Section 6 (d) and related sections of the Participation Agreement for the Project.

THEREFORE, BE IT RESOLVED by the Common Council of the City of Hobart that:

SECTION ONE. Section Five of Common Council Resolution 2017-10 is hereby amended to strike the entirety of the language in that Section and insert, in lieu thereof, the following new language:

SECTION FIVE. The City reserves the right to authorize and issue additional obligations, payable from the Highway Revenues or otherwise pledge the Highway Revenues to secure lease rental payments or other obligations, ranking on a parity with the pledge made to the Installment Contract (such bonds, lease rental payments or other obligations, “Parity Obligations”), subject to the following conditions precedent:

(1) Any such Parity Obligations shall not cause the City to exceed its debt limitation under Article 13, Section 1, of the Indiana Constitution as of the date of issuance.

(2) All interest and principal payments with respect to the Installment Contract and any outstanding Parity Obligations shall have been paid in accordance with their terms.

(3) So long as, in connection with the issuance of any such Parity Obligations, the City certifies to the Bank which is signatory to the Participation Agreement that:

(i) For the fiscal year immediately preceding the year in which the City intends to issue Parity Obligations, the City maintained on deposit in the Pledged Revenue Account funds in an amount sufficient to maintain the Minimum Coverage Ratio; and

(ii) For the fiscal year immediately following the year in which the City intends to issue Parity Obligations, funds on deposit in the Pledged Revenue Account will equal or exceed the amount required to maintain the Minimum Coverage Ratio.

“Pledged Revenue” means distributions received by City from the Highway Revenues and pledged by the City to the payment of the Installment Payments. The “Pledged Revenue Account” means the account into which the Pledged Revenue is deposited by or on behalf of the City under the Participation Agreement for the Project, and the “Minimum Coverage Ratio” means a minimum Contract Payment Coverage Ratio of 1.10:1.0. “Contract Payment Coverage Ratio” means, for a given 12-month period, the ratio of: the amount of the accrued Pledged Revenue (regardless of whether received) for such 12-month period to the Contract Payment Service for such 12-month period. “Contract Payment Service” means, with respect to a given period, the sum of: (a) all Installment Payments for such period; plus (b) all amounts payable under any Bonds or Contracts (excluding any Bonds or Contracts, the payments with respect to which are subordinate to the Installment Payments) for such period; plus (c) all amounts payable under the Bonds that City intends to issue, or the Contracts into which City intends to enter (excluding any Bonds or Contracts, the payments with respect to which are subordinate to the Installment Payments) if, thereafter, funds sufficient to maintain the Minimum Coverage Ratio will remain on deposit in the Pledged Revenue Account.

For purposes of this Section Five, the records of the City shall be analyzed and all showings prepared by a certified public accountant or independent financial advisor employed by the City for that purpose.

Except as otherwise provided in this Section, so long as any of the Installment Contract is outstanding, no bonds or other obligations secured by pledge of any portion of the Highway Revenues of the City shall be authorized,

executed or issued by the Council except such as shall be made subordinate and junior in all respects to the payments due on the Installment Contract, unless all of the Installment Contract is prepaid and retired coincidentally with the delivery of such bonds or other obligations.

SECTION TWO: All other provisions of Resolution Number 2017-10 not amended by the preceding section of this Resolution are affirmed.

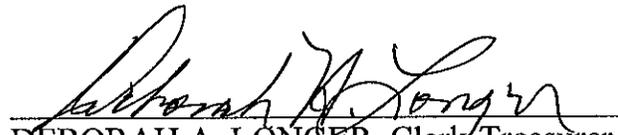
SECTION THREE: This Resolution shall be in full force and effect from and after its adoption in the manner required by law.

ALL OF WHICH is ADOPTED AND APPROVED by the Common Council of the City of Hobart, Indiana on this 17th day of May, 2017.


BRIAN K. SNEDECOR, Presiding Officer

ATTEST: 
DEBORAH A. LONGER, Clerk-Treasurer

PRESENTED by me to the Mayor of the City of Hobart on the 17th day of May, 2017 at the hour of 6:35 p.m.


DEBORAH A. LONGER, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City of Hobart on this 17th day of May, 2017.


BRIAN K. SNEDECOR, Mayor

ATTEST: 
DEBORAH A. LONGER, Clerk-Treasurer