

COMMON COUNCIL OF THE CITY OF HOBART, INDIANA

Resolution Number 2015-14

A Resolution Authorizing An Installment Contract for the Purchase of Improvements to City of Hobart Fire Station No. 2

WHEREAS, the Common Council (“Council”) of the City of Hobart, Indiana (“City”) has considered the entry by the City into an installment contract (“Installment Contract”) with GM Development Companies LLC, or an affiliate thereof (“Developer”), for the purchase of fully developed improvements for Fire Station No. 2 in the City (the “Project”); and

WHEREAS, the Developer and the City intend to enter into a Project Agreement (the “Project Agreement”), which generally outlines the responsibilities of the Developer and City with respect to the development of the Project; and

WHEREAS, the City is authorized by I.C. §36-1-10.5-1, *et seq.* to purchase land or structures for the operation of the City government and to pay an amount not to exceed the average of two (2) appraisals performed by Indiana licensed appraisers; and

WHEREAS, said purchase shall be undertaken pursuant to an installment contract with the Developer or the Developer’s Lender, and the Council desires through this Resolution to pledge Gaming Revenues received and to be received by the City (“Gaming Revenues”) to the payment of the Installment Contract for a period of 10 years; and

WHEREAS, it is anticipated that the Developer will seek financing from a lender (the “Lender”) for the construction and development of the Project to be purchased by the City pursuant to the Installment Contract; and

WHEREAS, the Council now desires to authorize the City 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.

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

SECTION ONE. Authorization of Installment Contract. The Council hereby authorizes the City to negotiate and enter into the Installment Contract and the Project Agreement.

SECTION TWO. Execution of Installment Contract and Related Documents. The City Executive and the Clerk-Treasurer are hereby authorized to execute and attest to said execution for and on behalf of the City, of the Installment Contract, the Project Agreement and any and all other documents necessary to consummate the Project, including any agreements, assignments and acknowledgements requested by the Lender, and to deliver same to the Developer and Lender.

SECTION THREE. Pledge of Gaming Revenues. The Council hereby pledges the Gaming Revenues received by the City pursuant to IC ~~4-33-12.5~~⁴ to the payments due under the Installment Contract for the purchase of the Project and this pledge shall be binding from the time this Resolution is adopted. The Gaming Revenues are immediately subject to the lien created by this Resolution without any further act.

SECTION FOUR. Appropriation of Available Revenues. To the extent Gaming Revenues are ever insufficient to make payment due on the Installment Contract, the Council authorizes the City to utilize any other available funds to make payment on the Installment Contract, as permitted by applicable law.

SECTION FIVE. Parity Obligations. The City reserves the right to authorize and issue additional obligations, payable from the Gaming Revenues or otherwise pledge the Gaming 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) Either: (a) the Gaming Revenues of the City in the fiscal year immediately preceding the issuance of the additional Parity Obligations shall be not less than one hundred twenty percent (120%) of the maximum annual payment requirements of the Installment Contract and the annual interest and principal requirements of the then outstanding Parity Obligations and the additional Parity Obligations proposed to be issued; or (b) the Gaming Revenues for the first full fiscal year immediately succeeding the issuance of any such additional Parity Obligations shall be projected by a certified public accountant to be at least equal to one hundred twenty percent (120%) of the maximum annual payment requirements due on the Installment Contract and the annual interest and principal requirements of the then outstanding Parity Obligations and the additional Parity Obligations proposed to be issued.

For purposes of this Section, 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 Gaming 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.

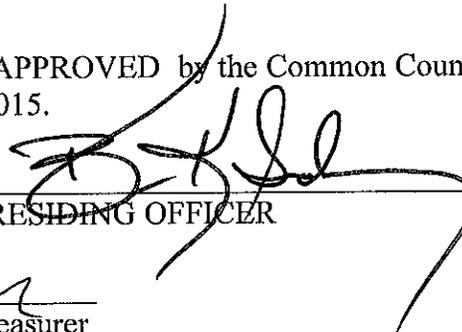
SECTION SIX. Other Actions. The Council hereby authorizes the Executive of the City, for and on behalf of the City, to negotiate, execute and deliver, and the Clerk-Treasurer to attest, in the name and on behalf of the City, any other documents, including closing certificates, agreements or other documents related to the Installment Contract, the Project Agreement or the Project, and take any other actions as they deem necessary or desirable to effect the foregoing resolutions, and any such documents and certificates heretofore executed and delivered and any such actions heretofore taken be, and hereby are, ratified and approved.

SECTION SEVEN. No Conflict. All resolutions, and orders or parts thereof in conflict with the provisions of this Resolution are to the extent of such conflict hereby repealed. After the issuance of the execution of the Installment Contract and so long as the Installment Contract remains unpaid, except as expressly provided herein, this Resolution shall not be repealed or amended, nor shall the Council adopt any law, ordinance or resolution which in any way adversely affects or impairs the obligations stated in this Resolution.

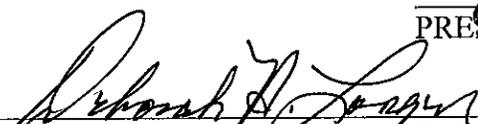
SECTION EIGHT. Severability. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions.

SECTION NINE. Effectiveness. This Resolution shall be in full force and effect from and after its passage.

ALL OF WHICH is ADOPTED AND APPROVED by the Common Council of the City of Hobart, Indiana on this 7th day of October, 2015.



PRESIDING OFFICER

ATTEST: 

DEBORAH A. LONGER, Clerk-Treasurer

PRESENTED by me to the Mayor of the City of Hobart on the 7th day of October, 2015 at the hour of 7:00 p.m.

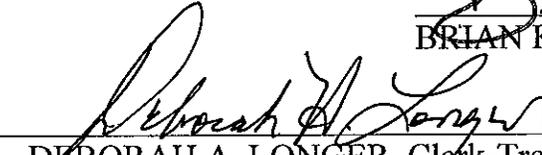


DEBORAH A. LONGER, Clerk-Treasurer

APPROVED, EXECUTED and RETURNED by me to the Common Council of the City of Hobart on this 7th day of October, 2015.



BRIAN K. SNEDECOR, Mayor

ATTEST: 

DEBORAH A. LONGER, Clerk-Treasurer