



Generated at 3/10/2019 19:28

## **CH22 22 .5 - Construction of a Fire Station by the Township**

**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF LAPEL, MADISON COUNTY, INDIANA, MAKING CERTAIN AGREEMENTS WITH STONY CREEK TOWNSHIP, MADISON COUNTY, INDIANA, IN ORDER TO FACILITATE THE CONSTRUCTION OF A FIRE STATION BY THE TOWNSHIP.**

**WHEREAS**, the Town Council (the "Council") of the Town of Lapel, Madison County, Indiana (the "Town"), met at a duly called and authorized meeting of the Council held on the date set forth below, such meeting being called pursuant to a notice stating the time, place, and purpose of the meeting received by all the members of the Council, and the following actions were taken, seconded and adopted by a majority of those present at the meeting, which constituted a legal quorum of the Council; and

**WHEREAS**, Stony Creek Township, Madison County, Indiana (the "Township"), and the Town have, prior to this date, formed the Lapel Stony Creek Township Fire Protection Territory (the "Territory") pursuant to Indiana Code [36-8-19](#), as amended (the "Fire Protection Territory Act"); and

**WHEREAS**, the Township is the provider unit of the Territory, and the Town is the only other participating unit of the Territory; and

**WHEREAS**, the Township is considering the financing of the construction of a new fire station (the "Project") so that it can carry out its responsibilities as the provider unit under the Fire Protection Territory Act to provide the fire protection services within the Territory; and

**WHEREAS**, an appropriate site on which the Project could be constructed, consists of real property currently owned by the Town, the area of which is slightly less than five acres, and which is commonly referred to as the "Girls' Softball Field".

**EXHIBIT A**

That portion of the real estate upon which the Project shall be located and part of the real estate in the Town of Lapel, Indiana, with the preliminary legal description set forth below and which will be more particularly described in the legal description to be prepared and provided to the Town and the Township prior to the convenience of the Fire Station Site and may replace or modify the legal description below at such time.

## LEGAL DESCRIPTION

Commencing at the Northwest Corner of Section 27, Township 19 North, Range 6 East, said point being a 3/4" square bolt, thence North 90 Degrees 00 Minutes 00 Seconds East (Assumed Bearing) 769.63 feet along the North Line of said Section to the centerline of Stony Creek to the Point of Beginning and to a PK Nail Set; thence continuing North 90 Degrees 00 Minutes 00 Seconds East 565.22 feet along said North Line to a PK Nail Set; thence South 00 Degrees 37 Minutes 56 Seconds West 330.02 feet and parallel to the West Line of said Section to a capped rebar set; thence South 90 Degrees 00 Minutes 00 Seconds West 506.72 feet and parallel to said North Line to a capped rebar set; thence continuing South 90 Degrees 00 minutes 00 seconds West 25.00 feet to the centerline of Stony Creek; thence along the centerline meanderings of Stony Creek 428.86 feet to the said North Line to the Point of Beginning and containing 4.7135 Acres more or less.

WHEREAS, the amount of funds that can be raised by means of the Fire Protection Territory Act is insufficient to finance the cost of the Project, which is estimated to be approximately \$1,150,000; and

WHEREAS, in order to finance the cost of the Project, it has been proposed that the Project would be financed by means of:

1. the Township approving the establishment of a building corporation, as an Indiana nonprofit corporation (the "Building Corporation"), which would issue first mortgage bonds (the "Bonds"), the proceeds of which would be used to acquire the Fire Station Site from the Town and pay the costs of construction of the Project and the issuance costs of the Bonds;
2. the Building Corporation leasing the Fire Station Site and the Project to the Township pursuant to a Lease (the "Lease"), between the Building Corporation, as lessor, and the Township, as lessee; and
3. the Township making rental payments under the Lease, which would be sufficient to pay debt service on the Bonds, when due, and which would be payable from ad valorem property taxes levied at a uniform rate in the entirety of the township, including the Town; all of which would be completed pursuant to and in accordance with Indiana Code [36-1-10](#), as amended (the "Building Corporation Act"); and

WHEREAS, under the Building Corporation Act, the Building Corporation would be required to hold the Fire Station Site in fee simple, and if the Township were the owner of the Fire Station Site, the Township would be required to sell the Fire Station Site to the Building Corporation for not less than the appraised value, as determined by two appraisers appointed by the Township, all in accordance with the Building Corporation Act (the "Appraised Value"); and

WHEREAS, pursuant to Indiana Code [36-1-11-8](#), governmental entities, such as the Town and the Township, may transfer or exchange fixtures and real property, such as the Fire Station Site, upon terms and conditions agreed upon by the governmental entities as evidenced by the adoption of substantially identical resolutions or ordinances by each entity; and

WHEREAS, in order to facilitate the issuance of the Bonds and the financing of the Project, it has been proposed that the Township acquire the Fire Station Site from the Town at the Appraised Value, at the time determined necessary or appropriate by the Township; and

WHEREAS, in order to facilitate the efficient provision of effective fire protection services within the Territory, the Town recognizes that:

1. the proceedings proposed herein carry out that purpose; and
2. the Township in reliance on the adoption of this Ordinance by the Town, will incur substantial costs in connection with the proceedings for the execution and delivery of the Lease and the issuance of the Bonds by the Building Corporation; and

WHEREAS, in order that the interest on the Bonds be excludable from the gross income of the holders thereof for federal income tax purposes, thereby enabling the Bonds to bear lower interest rates, it is necessary that, upon the defeasance, redemption or payment of the Bonds and the expiration of the Lease, the Building Corporation convey the entirety of the Fire Station Site and the Project to the Township and not the Town, in fee simple.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF LAPEL, INDIANA, ORDAINS THE FOLLOWING:

### **Section 1 - Findings of the Town**

The Town hereby finds and determines that:

- a. it is necessary or appropriate for the Township to finance the construction of the project, so that it can carry out its duties as the provider unit under the Fire Protection Territory act to provide the protection services within the Territory;
- b. the Fire Station Site is an appropriate site on which the Project could be constructed;
- c. the amount of funds that can be raised by means of the Fire Protection Territory Act is insufficient to finance the cost of the Project, which is estimated to be approximately \$1,150,000;
- d. it is necessary or appropriate for the Township to finance the cost of the construction of the Project by means if the issuance of the Bonds and the execution and delivery of the Lease pursuant to the Building Corporation Act, as described in the preamble hereto;
- e. it is necessary and appropriate for the Township to make rental payments under the Lease, which would be sufficient to pay debt service on the Bonds, when due, and which would be payable from ad valorem property taxes levied at a uniform rate in the entirety of the Township, including the Town;

- f. in order to facilitate the issuance of the Bonds and the financing of the Project, it is necessary or appropriate for the Township to acquire the Fire Station Site from the Town at the Appraised Value, at the time determined necessary or appropriate by the Township; and
- g. the Township, in reliance on the adoption of this Ordinance by the Council, will incur substantial costs in connection with the proceedings for the execution and delivery for our Lease and the issuance of the Bonds by the Building Corporation.

## **Section 2 - Agreements of the Town**

The town hereby agrees that:

- a. for the purpose of the Township making rental payments under the Lease, which would be sufficient to pay debt service on the Bonds, when due, such payments will be payable from ad valorem property taxes levied at a uniform rate in the entirety of the Township, including the Town;
- b. the Town will sell the Fire Station Site to the Township at the Appraised Value, at the time determined necessary or appropriate by the Township; and
- c. in order that the interest on the Bonds be excludable from the gross income of the holders thereof for federal income tax purposes, upon the defeasance, redemption or payment of the Bonds and the expiration of the Lease, the Building Corporation will convey the entirety of the Fire Station Site and the Project to the Township and not the Town, in fee simple.

## **Section 3- No Conflict**

All ordinances, resolutions and orders or parts thereof in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed. After the adoptions of the resolution that is nearly identical to this Ordinance by the Township Board of the Township, this Ordinance shall not be repealed or annexed in any respect which will adversely affect the rights of the Township under this Ordinance, nor shall the Town adopt any law, ordinance or resolution which in any way adversely affects the rights of the Township under this Ordinance.

## **Section 4 - Severability**

If any section, subsection or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, subsection or provision shall not affect any of the remaining provisions of this Ordinance.

## **Section 5 - Authority to Effectuate this Ordinance**

The Council and the Clerk-Treasurer of the Town are hereby authorized and directed to take any and all other actions on behalf of the Town as many be necessary, appropriate or desirable to carry out the purposes of this Ordinance.

Passed by the Town Council of the Town of Lapel, Indiana, this 18th day July, 2013 by a vote of 5 ayes and 0 nays.

## Further Information

**5-2013**

**Date Passed: 7/18/2013**