

BILL NO. 23-051

AN ORDINANCE APPROVING AN AMENDED AND RESTATED PLAN FOR INDUSTRIAL DEVELOPMENT AND AUTHORIZING THE CITY OF LEE'S SUMMIT, MISSOURI TO ISSUE TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BONDS IN A PRINCIPAL AMOUNT NOT TO EXCEED \$24,500,000 IN CONNECTION WITH THE TOWN CENTRE INDUSTRIAL PROJECT; AND AUTHORIZING CERTAIN DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Lee's Summit, Missouri (the "City") is a constitutional charter city and municipal corporation of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and,

WHEREAS, the City is authorized under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the "Act"), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing, distribution and industrial development purposes upon such terms and conditions as the City shall deem advisable; and,

WHEREAS, on December 13, 2022, the City approved the Plan for an Industrial Development Project and Cost-Benefit Analysis for the Town Centre Industrial Project (the "Original Plan") which provides for the issuance of not-to-exceed \$17,800,000 of industrial development revenue bonds by the City with respect to an industrial building and related public improvements, anticipated to be 250,000 square feet, which will be used for warehousing, distribution, and / or manufacturing purposes (the "Project"), to be situated on approximately 22 acres bounded generally by NE Town Centre Boulevard to the north and west, NE Independence Avenue to the east and NE Town Centre Drive to the south, in Lee's Summit, Missouri; and,

WHEREAS, the developer for the Project has requested that the bonding capacity be increased to \$24,500,000 in connection with the implementation of the Project; and,

WHEREAS, the City has prepared an Amended and Restated Plan for an Industrial Development Project and Cost-Benefit Analysis for the Town Centre Industrial Project (the "Amended Plan") and notice of the Project, together with a copy of the Amended Plan was provided to the taxing jurisdictions by mail on February 13, 2023, in accordance with Section 100.059.1 of the Act and the City now desires to approve the Amended Plan; and,

WHEREAS, in furtherance of the Amended Plan, the Project is proposed to be undertaken within the area described in the Original Plan and the Amended Plan; and,

WHEREAS, the City desires to finance the costs of the Project out of the proceeds of industrial development revenue bonds to be issued under the Act (the "Bonds"); and,

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the issuance of the Bonds for the purpose described above; and,

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WHEREAS, because the Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of the Project and from no other source, the City has determined that it is appropriate that the Bonds be sold to Independence Safety Storage North II, L.L.C, a Missouri limited liability company, or its designee or assignee (the "Company"), pursuant to Section 108.170 of the Revised Statutes of Missouri, as amended, which provides that notwithstanding any other provisions of any law or any charter provision to the contrary, industrial development revenue bonds may be sold at private sale; and

WHEREAS, the City further finds and determines that it is necessary and desirable in connection with the Plan and approval of the issuance of the Bonds that the City enter into certain documents, and that the City take certain other actions and approve the execution of certain other documents as herein provided;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LEE'S SUMMIT, AS FOLLOWS:

SECTION 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the issuance of the Bonds by the City to pay the costs of the Project will be in furtherance of the public purposes set forth in the Act.

SECTION 2. Approval of Amended Plan. The Council hereby approves the Amended Plan attached hereto as **Exhibit A** in accordance with Section 100.050 of the Act.

SECTION 3. Authorization and Sale of the Bonds. The City is hereby authorized to issue and sell its Taxable Industrial Development Revenue Bonds (Town Centre Industrial Project), in an aggregate principal amount not to exceed \$24,500,000, for the purpose of providing funds to pay the costs of the Project. The Bonds shall be issued and secured pursuant to the herein authorized Trust Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall bear interest at such rate, shall be in such form, shall be subject to redemption, shall have such other terms and provisions, shall be issued, executed and delivered in such manner and shall be subject to such provisions, covenants and agreements as are specified in the Trust Indenture upon the execution thereof, and the signatures of the officers of the City executing the Trust Indenture shall constitute conclusive evidence of their approval and the City's approval thereof. The sale of the Bonds to the Company, or its assignee, at private sale pursuant to the provisions of Section 108.170 of Revised Statutes of Missouri, as amended, at the interest rate and upon the terms set forth in the Trust Indenture is hereby approved.

SECTION 4. Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the City payable solely out of the payments, revenues and receipts derived by the City from the herein authorized Lease Agreement, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Bonds as provided in the Trust Indenture. The Bonds and the interest thereon shall not be deemed to constitute a debt or liability of the City within the meaning of any constitutional provision, statutory limitation or City Charter provision and shall not constitute a pledge of the full faith and credit of the City. The issuance of the Bonds shall not, directly, indirectly or contingently, obligate the City to levy any form of taxation therefore or to make any appropriation for their payment.

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SECTION 5. Approval and Authorization of Documents. The following documents (the “City Documents”) are hereby approved in substantially the forms presented to the Council at this meeting (copies of which documents shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the City Documents with such changes therein as shall be approved by the officials of the City executing such documents, such officials’ signatures thereon being conclusive evidence of their approval thereof:

(a) Trust Indenture dated as of the date set forth therein (the “Trust Indenture”), between the City and BOKF, N.A., as trustee (the “Trustee”), pursuant to which the Bonds shall be issued and the City shall pledge and assign the payments, revenues and receipts received pursuant to the Lease Agreement to the Trustee for the benefit and security of the owners of the Bonds upon the terms and conditions as set forth in the Trust Indenture;

(b) Lease Agreement dated as of the date set forth therein (the “Lease Agreement”), between the City and the Company, under which the City will provide funds for the construction and improvement of the Project and lease the Project to the Company pursuant to the terms and conditions in the Lease Agreement, in consideration of rental payments by the Company which will be sufficient to pay the principal of, premium, if any, and interest on the Bonds and certain payments in lieu of taxes, and which shall include provisions relating to payment of certain public improvement assessments; and

(c) Bond Purchase Agreement dated as of the date set forth therein, between the City and the Company, pursuant to which the Company agrees to purchase the Bonds.

SECTION 6. Execution of Documents. The Mayor of the City is hereby authorized and directed to execute the Bonds and to deliver the Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Mayor, City Manager or Director of Finance of the City is hereby authorized and directed to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

SECTION 7. Further Authority. The Mayor, City Manager, Director of Finance and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance (including documentation subordinating the City’s interest in the Project and the land underlying the Project to a lender providing financing for the Project, providing for a mortgage of the fee interest in the Project and underlying land and/or assigning any interests in the Project and underlying land to third parties) and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents.

SECTION 8. Effective Date. This Ordinance shall take effect and be in full force from and after its passage and adoption by the City Council and approval by the Mayor.

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PASSED by the City Council of the City of Lee's Summit, Missouri, this _____ day of _____, 2023.

ATTEST:

Mayor William A. Baird

City Clerk Trisha Fowler Arcuri

APPROVED by the Mayor of said city this ____ day of _____, 2023.

ATTEST:

Mayor William A. Baird

City Clerk Trisha Fowler Arcuri

APPROVED AS TO FORM:

City Attorney Brian W. Head

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ORDINANCE NO. _____

Exhibit A

Amended and Restated Plan