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BILL NO. R-12-10-12 (As Amended)

RESOLUTION NO. R-59-12

A RESOLUTION OF THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA APPROVING THE SUBLEASE OF ALL AND A RE-LEASE OF A PORTION OF THE PUBLIC SAFETY ACADEMY OF NORTHEAST INDIANA TO AND FROM IVY TECH COMMUNITY COLLEGE OF INDIANA

WHEREAS, the City of Fort Wayne, Indiana (the "City"), previously entered into a lease dated as of February 1, 2006, as the same has been amended from time to time (the "City Lease"), with the Fort Wayne Municipal Building Corp. (the "Building Corporation") to provide for the construction and equipping of the approximately 132,000 square foot facility known as the Public Safety Academy (the "Facility"); and

WHEREAS, the Building Corporation issued its First Mortgage Bonds, Series 2006 (the "Bonds") to the Indiana Bond Bank for the purpose of providing the funds to construct and equip the Facility; and

WHEREAS, the Building Corporation applies the rentals it receives from the City pursuant to the City Lease to pay the principal of and interest on the Bonds; and

WHEREAS, the City currently subleases a portion of the Facility to Ivy Tech Community College of Indiana ("Ivy Tech"); and

WHEREAS, pursuant to the Lease, the City is currently responsible for and pays maintenance costs related to the Facility in the approximate amount of Four Hundred Thousand and 00/100 Dollars (\$400,000.00) annually; and

WHEREAS, Ivy Tech desires to expand its use of and become responsible for maintenance and upkeep for the Facility; and

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1 WHEREAS, the City and Ivy Tech desire to enter into a master
2 sublease agreement for the sublease of the entire Facility by the City to Ivy Tech for
3 the rental amount of One Dollar (\$1) per year until the Bonds finally mature in 2022
4 (the "Term"), provided that such master sublease agreement requires, among other
5 things, that Ivy Tech be solely responsible for all expenses related to operation,
6 maintenance and management of the Facility during the Term and upon ending of the
7 Term, title to the Facility will be transferred to Ivy Tech; and

8 WHEREAS, the City and Ivy Tech further desire that Ivy Tech sub-
9 sublease pursuant to a sub-sublease agreement approximately ~~41,806~~^{42,489} square feet of
10 the Facility to the City for the operation of certain training facilities for use by the
11 City Police and Fire Department Academies (the "Training Space"); and

12 WHEREAS, Indiana Code 36-1-11-8 permits the City and Ivy Tech to
13 transfer property upon terms and conditions agreed upon by the entities as evidenced
14 by the adoption of substantially identical resolutions by the entities; and

15 WHEREAS, there have been presented to this Common Council (i) a
16 form of master sublease agreement with Ivy Tech which is attached at Exhibit A
17 attached hereto and incorporated herein (the "Sublease") and (ii) a form of sub-
18 sublease agreement with Ivy Tech which is attached at Exhibit B attached hereto and
19 incorporated herein (the "Sub-Sublease");

20 WHEREAS, Ivy Tech has adopted or will adopt a resolution
21 approving and authorizing entering into the Sublease and the Sub-Sublease with the
22 City;

23 NOW THEREFORE, BE IT RESOLVED BY THE COMMON
24 COUNCIL OF THE CITY OF FORT WAYNE, INDIANA, AS FOLLOWS:

25 1. The Common Council hereby approves of the City subleasing
26 the Facility to Ivy Tech upon the terms and conditions set forth in the Sublease. The
27 Common Council hereby approves of the form of the Sublease and authorizes the
28 Mayor and the Clerk of the City to execute and attest, respectively, the Sublease with

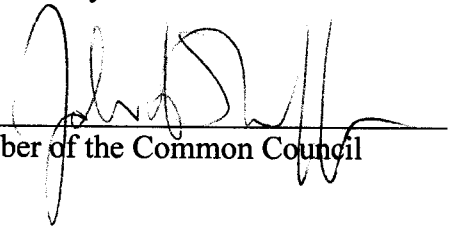
1 such changes as may be necessary or appropriate on the advice of counsel with such
2 execution and attestation to evidence approval of such changes. Upon the conclusion
3 of the Term, the City shall transfer or cause to be transferred title to the Facility to
4 Ivy Tech in accordance with the terms and conditions set forth in the Sublease.

5 2. The Common Council hereby approves of the City sub-
6 subleasing the Training Space from Ivy Tech upon the terms and conditions set forth
7 in the Sub-Sublease. The Common Council hereby approves of the form of the Sub-
8 Sublease and authorizes the Mayor and the Clerk of the City to execute and attest,
9 respectively, the Sub-Sublease with such changes as may be necessary or appropriate
10 on the advice of counsel with such execution and attestation to evidence approval of
11 such changes.

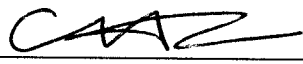
12 3. The Common Council hereby authorizes and directs the
13 Mayor and the Clerk of the City to execute and attest, respectively, any and all
14 documents and agreements reasonably necessary to consummate the transactions
15 contemplated by the Sublease and the Sub-Sublease, with any such agreements,
16 documents or instruments to be in such form and substance as the Mayor and the
17 Clerk shall, in their discretion, approve, and the execution and delivery of said
18 documents by the Mayor and the Clerk shall be conclusive evidence of the approval
19 thereof by the Common Council.
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4. This Resolution shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Member of the Common Council

APPROVED AS TO FORM AND LEGALITY



Carol Helton, City Attorney

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EXHIBIT A
Master Sublease
(See attached)

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EXHIBIT B

Sub-Sublease

(See attached)

Read the first time in full and on motion by Shoaff, and duly adopted, read the second time by title and referred to the Committee on _____, (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at Room 030 - Council Discussion Garden Level - Citizens Square, Fort Wayne, Indiana, on _____, the _____ day of _____, 2012, at _____ o'clock _____ M., E.S.T.

DATED: 10-9-12

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Shoaff, and duly adopted, placed on its passage. PASSED LOST
by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>7</u>	_____	<u>1</u>	_____
<u>BENDER</u>	<u>✓</u>	_____	_____	_____
<u>CRAWFORD</u>	<u>✓</u>	_____	_____	_____
<u>DIDIER</u>	<u>✓</u>	_____	_____	_____
<u>HARPER</u>	_____	_____	_____	_____
<u>HINES</u>	<u>✓</u>	_____	_____	_____
<u>JEHL</u>	_____	_____	<u>✓</u>	_____
<u>PADDOCK</u>	<u>✓</u>	_____	_____	_____
<u>SHOAFF</u>	<u>✓</u>	_____	_____	_____
<u>SMITH</u>	<u>✓</u>	_____	_____	_____

No Rec
✓

DATED: 10-16-12

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE (RESOLUTION) NO. R-59-12 on the 23rd day of October, 2012

ATTEST:
Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

SEAL
[Signature]
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 24th day of October, 2012, at the hour of 3 o'clock P M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 25th day of October, 2012, at the hour of 9:30 o'clock 11 M., E.S.T.

Thomas C. Henry
THOMAS C. HENRY, MAYOR