

ORDINANCE NO. 45, 2000

ORDINANCE AUTHORIZING THE CITY OF VALPARAISO TO
ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BOND, SERIES 2000
(VALPARAISO UNIVERSITY PROJECT)"
AND APPROVING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Valparaiso Economic Development Commission has rendered its Project Report for the Valparaiso University Project regarding the financing of proposed economic development facilities for The Lutheran University Association, Inc., d/b/a Valparaiso University (the "Borrower"), and the City of Valparaiso Plan Commission has commented favorably thereon; and

WHEREAS, the Valparaiso Economic Development Commission conducted a public hearing on November 27, 2000, and adopted a Resolution on November 27, 2000, which Resolution has been transmitted hereto, finding that the financing of certain economic development facilities of the Borrower complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and that such financing will be of benefit to the health and welfare of the City of Valparaiso and its citizens; and

WHEREAS, the Valparaiso Economic Development Commission has heretofore approved and recommended the adoption of this form of Ordinance by this Common Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the Common Council the Loan Agreement (the "Loan Agreement"); the Borrower Note; and the Purchase Agreement; now, therefore

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF VALPARAISO,
INDIANA THAT:

Section 1. It is hereby found that the financing of the economic development facilities referred to in the Loan Agreement approved by the Valparaiso Economic Development Commission and

presented to this Common Council, the issuance and sale of the City of Valparaiso, Indiana Economic Development Revenue Bond, Series 2000 (Valparaiso University Project) (the "Bond"), the loan of the proceeds of the Bond to the Borrower for the acquisition, construction and equipping of such facilities, the payment of the Bond by the note payments of the Borrower under the Loan Agreement and Borrower Note, and the sale of the Bond to Fifth Third Bank as Purchaser under the Purchase Agreement; complies with the purposes and provisions of I.C. 36-7-11.9 and 12 and will be of benefit to the health and welfare of the City of Valparaiso and its citizens.

Section 2. The economic development facilities financing will consist of the acquisition, construction and equipping of various economic development facilities of the Borrower, including (i) the installation of improvements in several buildings on the campus of Valparaiso University, intended to reduce energy and water consumption while upgrading lighting, HVAC systems, and portable water items, including lighting retrofits, expansion of full direct digital controls, water filters for plate and frame exchangers, low flow toilets, faucet aerators, water meter changes, and reduced kitchen exhaust systems, and (ii) the acquisition, construction and equipping of various other economic development facilities for the Borrower relating to energy conservation, including streets, grounds, landscaping and site improvements in connection with such facilities, all such facilities to be located on the campus of Valparaiso University in the City of Valparaiso, Indiana (the "Project").

Section 3. At the public hearing held before the Valparaiso Economic Development Commission, the Commission considered whether the economic development facilities would have an adverse competitive effect on any similar facilities located in or near the City of Valparaiso, and subsequently found, based on special findings of fact set forth in the Resolution transmitted hereto, that the facilities would not have an adverse competitive effect. This Common Council hereby confirms the findings set forth in the Commission's Resolution, and concludes that the economic development

facilities will not have an adverse competitive effect on any other similar facilities in or near the City of Valparaiso, and the facilities will be of benefit to the health and welfare of the citizens of the City of Valparaiso.

Section 4. The substantially final forms of the Loan Agreement; the Borrower Note; and the Purchase Agreement approved by the Valparaiso Economic Development Commission are hereby approved (herein collectively referred to as the "Financing Agreement" referred to in I.C. 36-7-11.9 and 12), and the Financing Agreement shall be incorporated herein by reference and shall be inserted in the minutes of the Common Council and kept on file by the Clerk/Treasurer. In accordance with the provisions of I.C. 36-1-5-4, two (2) copies of the Financing Agreement are on file in the office of the Clerk/Treasurer for public inspection.

Section 5. The City of Valparaiso shall issue its Bond in the total principal amount of not to exceed \$1,988,000 outstanding at any time and maturing no later than September 15, 2015. Said Bond is to be issued for the purpose of procuring funds to pay the costs of (i) the acquisition, construction and equipping of the Project as more particularly set out in the Purchase Agreement and Loan Agreement, incorporated herein by reference, which Bond will be payable as to principal, premium, if any, and interest from the note payments made by the Borrower under the Loan Agreement and Borrower Note or as otherwise provided in the above described Purchase Agreement, and (ii) the payment of certain costs of issuance. The Bond shall be issued in fully registered form in the amount of not to exceed \$1,988,000 outstanding at any time and shall be redeemable as provided in Section 4 of the Purchase Agreement. Payments of principal and interest are payable in lawful money of the United States of America by check or draft mailed or delivered to the registered owner as provided in the Purchase Agreement. The Bond shall never constitute a general obligation of, an indebtedness

of, or a charge against the general credit of the City of Valparaiso, nor is the Bond payable in any manner from revenues raised by taxation.

Section 6. The Mayor and Clerk/Treasurer are authorized and directed to sell the Bond to Fifth Third Bank, the original purchaser thereof, at the price of 100% of the principal amount thereof. The Bond shall bear interest at a fixed rate per annum of 6.0%.

Section 7. The Mayor and Clerk/Treasurer are authorized and directed to execute, attest, affix or imprint by any means the City seal to the documents constituting the Financing Agreement approved herein on behalf of the City and any other document which may be necessary or desirable to consummate the transaction, including the Bond authorized herein. The Mayor and Clerk/Treasurer are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Agreement which take place after the date of this Ordinance with the review and advice of the City Attorney; it being the express understanding of this Common Council that said Financing Agreement is in substantially final form as of the date of this Ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum principal amount of, interest rate on or term of the Bond as approved by the Common Council by this Ordinance without further consideration by the Common Council. The signatures of the Mayor and Clerk/Treasurer on the Bond may be either manual or facsimile signatures. The Clerk/Treasurer is authorized to arrange for delivery of such Bond to the Purchaser named in the Purchase Agreement. Payment for the Bond will be made to the Borrower named in the Purchase Agreement, and after such payment the Bond will be delivered to the Purchaser. The Mayor and Clerk/Treasurer shall execute and deliver the Bond to the

Purchaser within ninety days of the adoption of this Ordinance. The Bond shall be originally dated as of its closing date.

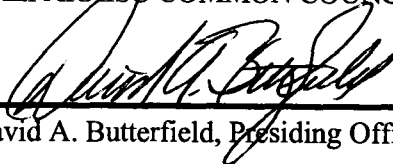
Section 8. The provisions of this Ordinance and the Purchase Agreement securing the Bond shall constitute a contract binding between the City of Valparaiso and the holder of the Bond, and after the issuance of said Bond, this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holder so long as said Bond or the interest thereon remains unpaid.

Section 9. This Common Council hereby represents that bonds, warrants and other evidences of indebtedness issued by it or on its behalf (other than "private activity bonds" which are not "qualified 501(c)(3) bonds" as those terms are defined in the Internal Revenue Code of 1986, as amended) during calendar year 2000 will be less than \$10,000,000 principal amount of tax-exempt obligations. The Common Council hereby designates the Bond as a qualified obligation pursuant to Section 265(b)(3) of the Internal Revenue Code of 1986, relating to the disallowance of 100% of the deduction for interest expense allocable to tax-exempt obligations acquired after August 7, 1986.

Section 10. This Ordinance shall be in full force and effect from and after its passage and signing by the Mayor.

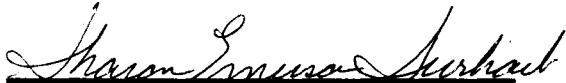
Passed and adopted this 27th day of November, 2000.

VALPARAISO COMMON COUNCIL




David A. Butterfield, Presiding Officer

Attest:



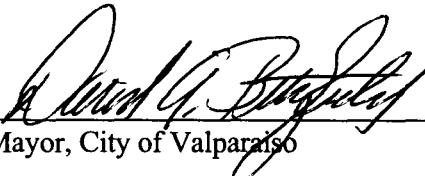
Sharon Emerson Swihart, Clerk/Treasurer

Presented by me to the Mayor of the City of Valparaiso, Indiana on this 27th day of November, 2000 at the hour of 8:25 p.m.



Sharon Emerson Swihart, Clerk/Treasurer

Approved and signed by me this 27th day of November, 2000.



Mayor, City of Valparaiso