

**ORDINANCE NO. 2021-85-09**

**AN ORDINANCE OF WABASH COUNTY, INDIANA  
APPROVING MATTERS RELATED TO LEASE FINANCING  
OF SHERIFF'S OFFICE AND JAIL FACILITY PROJECT**

WHEREAS, a petition (the "Petition") in three (3) or more counterparts, signed by at least fifty (50) taxpayers of Wabash County, Indiana (the "County"), has been filed with the County Council of the County (the "Council") requesting (i) the acquisition, construction and equipping by a nonprofit building corporation (the "Building Corporation") of a new sheriff's office and jail facility of approximately 90,000 square feet to be located in the County to hold approximately 300 men and women in separate areas, and all necessary and related improvements (collectively, the "Project"); (ii) the leasing by the County of the Project from the Building Corporation for the purpose of financing the Project; and (iii) the issuance of bonds by the Building Corporation to pay certain costs of the Project; and

WHEREAS, the Petition has been carefully considered and investigations have been conducted by the Council, both before and after the filing of said Petition; and

WHEREAS, the Council now finds that a need exists for the financing of the proposed Project, and that the County cannot provide the necessary funds to pay the costs of the Project required to meet such need; and

WHEREAS, a detailed summary of the Project has been presented to the Council, together with plans, specifications and cost estimates of the Project; and

WHEREAS, a proposed lease (the "Lease") for the Project between the Building Corporation, as lessor, and the County, as lessee, has been submitted to the Council; and

WHEREAS, it is deemed desirable to proceed with the necessary negotiations and all other steps necessary for the financing of the Project by the Building Corporation and the lease of the Project to the County; and

WHEREAS, notice of a hearing on the Lease pursuant to the provisions of Indiana Code 36-1-10-13 and 5-3-1 has been duly published in the *Wabash Plain Dealer* and the *News-Journal* and a hearing was held on the Lease on July 19, 2021 to determine the necessity for the execution of the Lease and whether the Lease rental provided is fair and reasonable rental for the Project; and

WHEREAS, the County has imposed a local income tax pursuant to Indiana Code 6-3.6, which local income tax includes an amount for correctional facilities pursuant to Indiana Code 6-3.6-6-2.7 and certified shares pursuant to Indiana Code 6-3.6-6-10, and the County is the recipient of certified distributions of the revenues of such income taxes (herein the "Jail LIT" and "Certified Shares", respectively); and

WHEREAS, pursuant to Indiana Code 6-3.6 and Indiana Code 5-1-14-4 the County is authorized to pledge the Jail LIT and Certified Shares to the payment of obligations, including lease rentals, incurred for sheriff and correctional facilities purposes; and

WHEREAS, the Council has determined that in order to facilitate the market of the bonds to be issued by the Building Corporation to finance the Project, it is necessary to pledge to the payment of the lease rentals under the Lease, the Jail LIT and Certified Shares, and to the extent such Jail LIT and Certified Shares are not sufficient, an ad valorem property tax on all taxable property, both real and personal, within the County;

NOW, THEREFORE, BE IT ORDAINED by the County Council of Wabash County, Indiana, as follows:

Section 1. The Petition heretofore filed with the Council is hereby approved.

Section 2. A need exists for the financing of the costs of the Project and the Project cannot be financed from any funds available to the County. The Council hereby authorizes the President of the Council, the Auditor of the County, the Board of Commissioners of the County (the "Commissioners"), the County's municipal advisor, Krohn & Associates, LLP, the County's counsel, Downs, Tandy & Petruniw, PC, and the County's bond counsel, Bose McKinney & Evans LLP, to take such steps as may be necessary to secure the financing and leasing of the Project as provided by Indiana Code 36-1-10, 6-3.6 and 6-1.1-20, each as amended (collectively, the "Act").

Section 3. Providing for the financing and construction of the Project by the Building Corporation and the leasing of the same to the County is in the public interest of the citizens of the County and is a proper public purpose for which the Council agrees to cooperate with the Building Corporation and to assist it in complying with all requirements of the Act and other applicable laws.

Section 4. The Council hereby agrees upon and approves the form of the Lease attached hereto as Exhibit A and incorporated herein by reference. The Council finds that the service and improvements to be provided throughout the term of the Lease will serve the public purposes of the County and are in the best interests of the County's residents. The rental provided under the Lease is fair and reasonable, and the execution of the Lease is necessary and wise. The Commissioners and the Auditor are hereby authorized and directed to execute the Lease on behalf of the County.

Section 5. As set forth in the Lease and as hereby pledged by the Council, the rentals due under the Lease shall be payable from Jail LIT and Certified Shares, and to the extent Jail LIT and Certified Shares are not sufficient, an ad valorem property tax on all taxable property, both real and personal, within the County.

Section 6. In accordance with Indiana Code 36-1-10-11, the President of the Commissioners is hereby authorized and directed to appoint two (2) appraisers to appraise the fair market value of the real estate upon which the Project will be constructed (the "Real

Estate”). Upon receipt of the appraisals, the Council hereby authorizes the sale of the Real Estate to the Building Corporation for not less than the average of the two (2) appraisals subject to (i) the execution of the Lease by the County and the Building Corporation and (ii) the issuance of the bonds by the Building Corporation to finance costs of the Project, including the purchase of the Real Estate. Any proceeds received by the County from the sale of the Real Estate shall be applied towards costs of the Project.

Section 7. The Auditor is hereby authorized to publish notice of the execution of the Lease as soon as possible after the Lease is executed in accordance with Indiana Code 36-1-10-13 and Indiana Code 5-3-1.

Section 8. The detailed summary of and plans, specifications and cost estimates for the Project as presented at this meeting, which is to be leased by the County from the Building Corporation, are hereby approved. The costs of the Project shall not exceed \$40,000,000 without further authorization of the Council.

Section 9. The Council hereby approves the issuance by the Building Corporation of bonds in the aggregate principal amount not to exceed \$40,000,000 to finance the costs of the Project, including but not limited to, the costs of acquiring the real property upon which the Project will be constructed and related financing costs, including costs of issuance, capitalized interest and, if necessary, a debt service reserve. The Council also approves the use of the proceeds of the Bonds to refinance any bond anticipation notes (the “BANs”) issued by the County to finance preliminary expenses related to the Project.


Section 10. The President of the Council, the Auditor, and the Commissioners, together and/or individually, are hereby authorized and directed to execute such documents, agreements, applications and instruments as may be necessary for (i) the issuance of the bonds by the Building Corporation to finance the Project, including refinancing any BANs, (ii) the acquisition, construction and equipping of the Project, (iii) the lease of the Project from the Building Corporation by the County pursuant to the Lease, and (iv) the completing of all other actions necessary to carry out and effectuate the intent of this ordinance.


Section 11. The Council hereby declares its official intent, pursuant to Treasury Regulation §1.150-2 and Indiana Code 5-1-14-6(c), to reimburse the County for costs incurred in connection with the Project prior to the issuance of bonds by the Building Corporation to finance the costs thereof.

Section 12. This ordinance shall be in full force and effect from and after its passage.

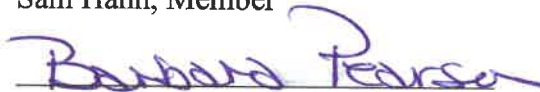
Adopted this 19<sup>th</sup> day of July, 2021.

COUNTY COUNCIL OF  
WABASH COUNTY, INDIANA


  
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Kyle Bowman, Chairman


  
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Matthew Mize, Vice Chairman

  
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Sam Hann, Member

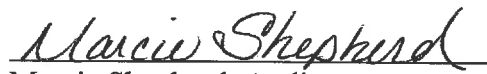
  
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Barbara Pearson, Member

  
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Philip Dale, Member

  
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Matthew Dillon, Member

  
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Lorissa Sweet, Member

ATTEST:

  
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Marcie Shepherd, Auditor