

COUNTY COUNCIL OF MORGAN COUNTY, INDIANA

ORDINANCE NO. 2022-17

**AN ORDINANCE OF THE COUNTY COUNCIL OF MORGAN COUNTY, INDIANA,
MAKING DETERMINATIONS RELATED TO THE JUSTICE CENTER BUILDING
PROJECT, AUTHORIZING THE FORM OF AND EXECUTION OF LEASE,
APPROPRIATING THE LEASE RENTALS TO SUCH PURPOSES, APPROVING THE
ISSUANCE OF BONDS AND RELATED MATTERS**

WHEREAS, the County Council (the "County Council") of Morgan County, Indiana (the "County"), after investigation and the receipt of a taxpayer petition, has determined that there is a need for and is in the best interest of the County to construct improvements and expansions to various public buildings and facilities within the County including, without limitation, the construction of a new Justice Center Building and Bicentennial Park for use by the County and paying all necessary and incidental costs of issuance of such lease financing (collectively, the "Project");

WHEREAS, the County Council reasonably expects the Morgan County, Indiana Building Corporation (the "Building Corporation"), formed as a not-for-profit corporation to assist in the financing of public facilities, such as the Project, to finance the costs of the Project, including all other necessary and incidental costs of issuance, with the proceeds of lease revenue bonds issued for or on behalf of the County by the Building Corporation;

WHEREAS, the County Council, being duly advised, finds that there are not sufficient funds available and that it is in the best interests of the County and its citizens to enter into negotiations with the Building Corporation to enter into a lease agreement with the Building Corporation (the "Lease"), as Lessor, for all or a portion of the Project pursuant to Ind. Code § 36-1-10, for the purpose of financing all or a portion of the Project, including the necessary and incidental costs related thereto, and issuance of the bonds by the Building Corporation to finance the Project in an amount not to exceed Thirty-Three Million Dollars (\$33,000,000);

WHEREAS, the County Council finds that there are not sufficient funds available or provided for in existing tax levies with which to pay the total cost of said Project and that it is necessary to authorize the Lease and the issuance of bonds by the Building Corporation for the purpose of providing funds to be applied to the Project;

WHEREAS, preliminary drawings, plans, specifications and estimates for the acquisition, construction and equipping of the Project, and a proposed form of Lease, have been prepared and submitted to the County Council;

WHEREAS, the Lease provides that lease rentals will be payable from a general obligation pledge of *ad valorem* property taxes of the County, and that the proposed lease with the Building Corporation, as Lessor, provides for fair and reasonable lease rentals;

WHEREAS, prior to the adoption of this Ordinance, (i) a notice of preliminary determination hearings to enter into the Lease, and (ii) a notice of a hearing on the execution of

the Lease were given by publication in *The Reporter-Times*, pursuant to Ind. Code § 6-1.1-18, Ind. Code § 6-1.1-20, Ind. Code § 5-3-1 and Ind. Code § 36-1-10, and said public hearings have been held in accordance with said notices;

WHEREAS, the County Council reasonably expects and intends to pay for a portion of the costs of the Project prior to the Building Corporation's issuance of bonds;

WHEREAS, the County Council now determines that it is necessary and a proper exercise of the powers of the County to provide and appropriate funds related to the cost of the Project;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF MORGAN COUNTY, INDIANA, THAT:

Section 1. The County Council hereby determines that a need exists for the financing of the acquisition, construction, renovation and equipping of the Project by the Building Corporation, and the leasing of the Project to the County, acting by and through the Board of Commissioners (the "Board") of the County, is in the public interest of the citizens of the County and it is a proper public purpose for which this County Council agrees to cooperate with the Building Corporation and to assist it in fulfilling the needs of the community.

Section 2. The terms and conditions of the proposed form of the Lease and the preliminary drawings, plans, specifications and estimates for the acquisition, construction, renovation and equipping of the Project, which are on file with the County, are approved and agreed to, and that prior to the adoption of this Ordinance, public hearings were held on the determination to make lease rental payments to support the financing of the Project and the necessity for the execution of such Lease and whether the lease rentals provided therein are fair and reasonable rentals for the proposed Project.

Section 3. The County Council finds that the preliminary drawings, plans, specifications and estimates of the Project are reasonable and necessary for the citizens of this County and are hereby approved.

Section 4. The County Council, after investigating the need for the Project and holding public hearings related to the Project and the Lease, hereby determines that the County shall enter into a Lease to support the financing of the Project and further finds that the proposed Lease with the Building Corporation, as Lessor, provides for a fair and reasonable rental.

Section 5. The County Council further finds that the execution of the Lease is necessary and wise, and hereby approves the execution of the Lease by the Board and the Board and the County Auditor are each hereby authorized and directed to execute the Lease on behalf of the County upon the completion of all statutory requirements relating to the Lease. The County Auditor is authorized and directed to initial and date a copy of the proposed Lease and to place the same in the minute book immediately following the minutes of this meeting. The Lease is made a part of this Ordinance as fully as if the same were set forth herein.

Section 6. The issuance, sale and delivery by the Building Corporation of lease rental bonds, in one or more series, designated as its Property Tax Lease Rental Bonds, Series 2022 (with series designation completed as relevant) in the aggregate principal amount not to exceed Thirty-Three Million Dollars (\$33,000,000) is hereby approved (the "Bonds").

Section 7. Upon the redemption or retirement of the Bonds to be issued by the Building Corporation, the County will accept from the Building Corporation title to the Project, free and clear of any and all liens and encumbrances thereon.

Section 8. The County Council finds that the Building Corporation may issue, sell and deliver its bonds, pursuant to the applicable laws of the State of Indiana, and may encumber any real property or equipment acquired by it for the purpose of financing the Project and may enter into contracts for the sale of the bonds, the acquisition of real estate, and the acquisition, construction, renovation and equipping of the Project. The County Council hereby approves of the sale of the Bonds by the Building Corporation. The proceeds of the Bonds shall be used to finance the costs of the Project, including, without limitation, reimbursement of costs of the Project incurred by the County prior to the issuance of the Bonds, in accordance with Section 1.150-2 of the United States Treasury Regulations.

Section 9. Any member of the County Council and Board, any officer or attorney of the County, and the County Auditor is authorized on behalf of the County to approve and execute any certificates, documents and agreements in connection with the issuance and sale of the Bonds.

Section 10. The full faith and credit of the County are hereby irrevocably pledged to the punctual payment of the principal of and the interest on the lease rentals in accordance with the terms of the Lease. The County covenants that it will cause a property tax for the payment of the lease rentals to be levied, collected, appropriated and applied for that purpose as set forth in Ind. Code § 6-1.1-18.5-8. There shall be levied in each year upon all taxable property in the County, real and personal, and collected a tax in an amount and in such manner sufficient to meet and pay the lease rental payments as they become due under the Lease beginning July 15, 2023, and the proceeds of this tax are hereby pledged solely to the payment of the lease rentals due under the Lease.

Section 11. It is hereby determined that the annual lease rentals payable pursuant to the Lease providing for the proceeds derived from the sale of the Bonds, in an amount not to exceed Three Million Dollars (\$3,000,000), shall be and are hereby appropriated to support for the Project, together with expenses in connection with the issuance of the Bonds. Such appropriation shall be in addition to all appropriations provided for in the existing applicable budget and levy, and shall continue in effect until the lease rentals have resulted payment in full of the Bonds. The County has properly published notice in accordance with Ind. Code § 5-3-1 and Ind. Code § 6 1.1-18-5 regard appropriation of the lease rentals due on the Lease as provided herein and hereby authorizes the lease rentals due on the Lease pledged as payment for the debt service on the Bonds and related expenses, are appropriated to the cost of the Project pursuant to this Ordinance. A certified copy of this Ordinance shall be filed with the Indiana Department of Local Government Finance in accordance with Ind. Code § 6-1.1-18-5 regarding the proposed additional appropriations.

Section 12. Any officer of the County be, and hereby is, authorized and directed to have published notice of the adoption of this determination in accordance with Ind. Code § 6-1.1-20-3.1, and to mail such notice to the Clerk of the Morgan County Circuit Court and any organizations requesting such notice. The County Auditor is further authorized and directed to have published notice of the execution of Lease upon its execution.

Section 13. The County Council hereby ratifies and approves of the incorporation, establishment and formation of the Building Corporation and ratifies and approves the Articles of Incorporation and By-Laws of the Building Corporation for the purposes of financing the Project and other related projects for the benefit of the County and further ratifies and approves the appointment of Eric Bowlen, Terry Brock and David Rogers as members of the Board of Directors of the Building Corporation.

Section 14. If any section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

Section 15. All ordinances or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, hereby repealed or amended.

Section 16. This Ordinance and the Lease may, from time to time hereafter, be amended and supplemented without the consent of the owners of the Bonds, if such amendment shall not adversely affect the rights of the owners of any of the Bonds.

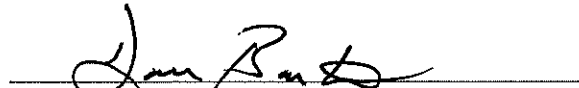
Section 17. This Ordinance shall be in full force and effect immediately upon its execution by the Council.

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Passed and adopted by the County Council of Morgan County, Indiana by a vote of 7
Aye and 0 Nay on the 28th day of November, 2022.


President, County Council

ATTEST:


Auditor