

COUNTY COUNCIL OF MORGAN COUNTY, INDIANA

ORDINANCE NO. 2023-22

**AN ORDINANCE OF THE COUNTY COUNCIL OF MORGAN COUNTY, INDIANA,
MAKING DETERMINATIONS RELATED TO THE COURTHOUSE
PROJECT, AUTHORIZING THE FORM OF AND EXECUTION OF LEASE,
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 undertake renovations, remodeling and improvements to the historic Morgan County Courthouse (the "Courthouse Project") together with paying all necessary and incidental costs of issuance of such lease financing;

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 Courthouse Project, to finance the costs of the Courthouse Project, including all other necessary and incidental costs of issuance, with the proceeds of *ad valorem* property tax lease rental 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 (the "Lease") with the Building Corporation, as Lessor, for the Courthouse Project pursuant to Ind. Code § 36-1-10, for the purpose of financing all or a portion of the Courthouse Project, including the necessary and incidental costs related thereto, and issuance of the bonds by the Building Corporation to finance the Courthouse Project in an amount not to exceed Twenty-Six Million Dollars (\$26,000,000);

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 Courthouse 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 Courthouse Project;

WHEREAS, preliminary drawings, plans, specifications and estimates for the acquisition, construction and equipping of the Courthouse 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, a notice of a hearing on the execution of the Lease were given by publication in *The Reporter-Times*, pursuant to Indiana Code § 5-3-1 and Indiana Code § 36-1-10, and said public hearing has been held in accordance with said notice;

WHEREAS, the County Council reasonably expects and intends to pay for a portion of the costs of the Courthouse 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 Courthouse 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 Courthouse Project by the Building Corporation, and the leasing of the Courthouse Project to the County, acting by and through the Board of Commissioners (the "Commissioners") 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 petition of taxpayers submitted to the County and filed with the County Council is hereby accepted and approved.

Section 3. 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 Courthouse 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 previously held on the determination to make lease rental payments to support the financing of the Courthouse 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 Courthouse Project.

Section 4. The County Council finds that the preliminary drawings, plans, specifications and estimates of the Courthouse Project are reasonable and necessary for the citizens of this County and are hereby approved.

Section 5. The County Council, after investigating the need for the Courthouse Project and holding public hearings related to the Courthouse Project and the Lease, hereby determines that the County shall enter into a Lease to support the financing of the Courthouse Project and further finds that the proposed Lease with the Building Corporation, as Lessor, provides for a fair and reasonable rental.

Section 6. 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 Commissioners and the Commissioners 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 7. The issuance, sale and delivery by the Building Corporation of lease rental bonds, in one or more series, designated as its Ad Valorem Property Tax Lease Rental Bonds of 2024 (with series designation updated and completed as relevant) in the aggregate principal amount not to exceed Twenty-Six Million Dollars (\$26,000,000) is hereby approved (the "Bonds").

Section 8. 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 Courthouse Project, free and clear of any and all liens and encumbrances thereon.

Section 9. The County Council finds that the Building Corporation may issue, sell and deliver the 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 Courthouse 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 Courthouse 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 Courthouse Project, including, without limitation, reimbursement of costs of the Courthouse 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 10. Any member of the County Council and the Commissioners, 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 11. The full faith and credit of the County are hereby irrevocably pledged to the punctual payment of 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 Indiana 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 commencing not earlier than July 15, 2024, and the proceeds of this tax are hereby pledged solely to the payment of the lease rentals due under the Lease.

Section 12. 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 Two Million Five Hundred Thousand Dollars (\$2,500,000), shall be and are hereby appropriated to support for the Courthouse 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.

Section 13. The County Auditor is hereby authorized and directed to have published notice of the execution of Lease upon its execution by the Commissioners.

Section 14. 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 Courthouse 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 A. Rogers as members of the Board of Directors of the Building Corporation.

Section 15. 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 16. 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 17. 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 18. This Ordinance shall be in full force and effect immediately upon its execution by the Council.

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ALL OF WHICH IS PASSED AND ADOPTED BY THE COUNTY COUNCIL OF
THE COUNTY OF MORGAN, INDIANA, THIS 8th DAY OF NOVEMBER, 2023 by a vote of
6 ayes and 0 nays.

**MORGAN COUNTY COUNCIL,
MORGAN COUNTY, INDIANA**

Kim Merideth, President

Vickie Kivett

Vickie Kivett, Vice-President

Chip Keller

Chip Keller

Melissa Greene

Melissa Greene

Brian Culp

Brian Culp

Troy Sprinkle

Troy Sprinkle

Jason Maxwell

Jason Maxwell

ATTEST:

Linda Pruitt

Linda Pruitt, County Auditor
Morgan County, Indiana