

RESOLUTION NO. 2020-08

**RESOLUTION OF THE COUNTY COUNCIL OF JEFFERSON COUNTY,
INDIANA PLEDGING THE COUNTY'S INCOME TAX REVENUES TO THE
PAYMENT OF THE LEASE RENTAL UNDER A LEASE WITH THE JEFFERSON
COUNTY, INDIANA JAIL BUILDING CORPORATION AND APPROVING
MATERIALS RELATED THERETO**

WHEREAS, Indiana Code 36-1-10-7 provides that the Board of County Commissioners of Jefferson County, Indiana (the "Board") may not lease a structure unless the County Council of Jefferson County, Indiana (the "Council") determines, after investigation, that the structure is needed; and

WHEREAS, to provide for the acquisition, construction, improvement, and/or equipping of all or any portion of a new county jail facility located at 1150 J.A. Berry Lane, Madison, Indiana 47250, and any related improvements, all to be used for the purposes of providing incarceration, community corrections or other law enforcement or criminal justice services by Jefferson County, Indiana (the "Project"), the Board adopted on July 9, 2020, a resolution approving the terms and conditions of a Lease between the Jefferson County, Indiana Jail Building Corporation (the "Building Corporation"), as lessor, and Jefferson County, Indiana (the "County"), as lessee (the "Lease"), for all or a portion of the existing county jail facility located at 317 Walnut Street, Madison, Indiana 47250 and the new county jail facility located at 1150 J.A. Berry Lane, Madison, Indiana 47250, including the site and appurtenances thereto; and

WHEREAS, the Building Corporation was incorporated to assist the County in financing, from time to time, the construction and renovation of County facilities to be operated by the County, including the Project; and

WHEREAS, such Lease has been presented to the Council; and

WHEREAS, there have been prepared drawings, plans, specifications and estimates for the cost of such Project which have been reviewed by the Council; and

WHEREAS, the County has imposed the income tax on the taxpayers of the County pursuant to IC 6-3.6 (the "LIT") and allocated a portion of the additional revenue category of the expenditure rate of the LIT to the sub-category of public safety (the revenues from such public safety sub-category, the "Public Safety Revenues"); and

WHEREAS, to assist in the financing of the Project by the County, the City of Madison, Indiana (the "City") has agreed that the County shall receive 50% of the portion of the Public Safety Revenues received by the City (such portion of Public Safety Revenues received by the County, the "City Contribution"); and

WHEREAS, lease rentals under the Lease shall be payable solely from (i) the revenues of (a) the adjusted gross income tax levied and collected by the County pursuant to Indiana Code § 6-3.6-6-2.7 (the "Jail Income Tax Revenues"), (b) the share of the Public Safety Revenues received by the County (the "County Public Safety Revenues"), and (c) the City Contribution (the Jail Income Tax Revenues, the County Public Safety Revenues, and the City Contribution, collectively, the "Income Tax Revenues"), and (ii) to the extent that the Income Tax Revenues are insufficient to pay such amounts, from the revenues of an ad valorem tax levied by the

County on all taxable property in the County pursuant to the IC 36-1-10-17 (the "Property Tax Revenues"); and

WHEREAS, the Council has received on the date hereof information regarding the anticipated Income Tax Revenues to be received by the County during the term of the Lease; and

WHEREAS, the County Council of the County (the "County Council") desires to approve the Lease and pledge the Income Tax Revenues to the payment of lease rentals due under the Lease pursuant to the terms of this Resolution.

NOW, THEREFORE, THE COUNTY COUNCIL OF JEFFERSON COUNTY, INDIANA RESOLVES THE FOLLOWING:

Section 1. Findings; Approval of Lease. After investigation, the Council hereby finds and determines that a need exists for the Project and that the Project to be financed through the Lease will be of public utility and benefit to the County. The Council further determines that the Project cannot be acquired, constructed, improved and equipped from any funds available to the County. The Council hereby approves the Lease in substantially the form presented on the date hereof, and the County shall proceed to take such steps as may be necessary to secure the acquisition, construction, equipping and leasing of the Project as provided by Indiana Code 36110.

Section 2. Pledge of Income Tax Revenues. Pursuant to IC 5-1-14-4 and IC 6-3.6, the Council hereby pledges the Income Tax Revenues to the payment of all lease rental due under the Lease. The Council hereby finds and determines that the County reasonably expects to pay all lease rentals due under the Lease from the Income Tax Revenues and not from the Property Tax Revenues. To the extent that that the Income Tax Revenues are insufficient to pay such amounts, the lease rental shall be payable from the Property Tax Revenues.

Section 3. Issuance of Parity Obligations. The County reserves the right to authorize and issue bonds or incur additional lease or other obligations entitled to the pledge of Income Tax Revenues on a parity with the Lease in accordance with the requirements set forth below ("Parity Obligations"). The authorization and issuance of Parity Obligations shall be subject to the following conditions precedent:

- (a) All payments due under the Lease and all payments on any Parity Obligations payable from Income Tax Revenues shall be current to date in accordance with the terms thereof, with no payment in arrears.

- (b) For Parity Obligations payable from Income Tax Revenues, the County shall have received a certificate prepared by an independent, qualified accountant or feasibility consultant certifying the amount of the Income Tax Revenues estimated to be received in each succeeding year shall be at least equal to one hundred twenty-five percent (125%) of the lease rental and debt service requirements with respect to the Lease and the proposed Parity Obligations for each respective year during the term of the Lease and the Parity Obligations. If when the proposed Parity Obligations are issued, the Jefferson County Income

Tax Council shall have finally approved an increase in the income tax rate, the Income Tax Revenues estimate described in the preceding sentence may be adjusted to take the increased income tax rate into account. The County shall approve and confirm the figures and estimates set forth in the above-described certificate in any resolution or ordinance authorizing the Parity Obligations.

(c) Payments of any Parity Obligations payable from Income Tax Revenues shall be payable semiannually on January 1 and July 1.

The terms and conditions of any Parity Obligations shall be set forth in the ordinance or resolution authorizing such Parity Obligations.

The County may issue obligations payable from Income Tax Revenues on a junior basis to the Lease and the Parity Obligations. Any such junior obligations shall be payable semiannually on January 1 and July 1.

Section 4. Sinking Fund. (a) There is hereby created a separate fund designated as the Sinking Fund, which shall consist of a Principal and Interest Account and a Reserve Account. One day prior to each January 1 and July 1, there shall be deposited in the Principal and Interest Account an amount of Income Tax Revenues, which together with any money contained in the Principal and Interest Account is sufficient to pay the lease rentals or principal of and interest on the Lease and the Parity Obligations therewith due on the following January 1 and July 1. No such deposit need be made into the Principal and Interest Account if the amount contained therein is sufficient to pay such amounts. All money in the Principal and Interest Account shall be used and withdrawn solely for the purpose of paying the lease rentals or principal of and interest on the Lease and any Parity Obligations, including accrued interest on any such obligations purchased or redeemed prior to maturity.

(b) Reserve Account. If it is determined by the Board, with the advice of the County's financial advisor, to establish a reserve account for the Lease, then, on the date of issuance of the bonds of the Building Corporation to finance the Project (the "Bonds"), Income Tax Revenues or a portion of the proceeds of the Bonds shall be deposited in Reserve Account in an amount sufficient to maintain the Reserve Account in the full amount of the Debt Service Reserve Requirement (as defined below). After making the required deposits into the Principal and Interest Account under Section 4(a), Income Tax Revenues shall be set aside from the Sinking Fund and (a) deposited in the Reserve Account in an amount sufficient to maintain the Reserve Account in the full amount of the Debt Service Reserve Requirement, and (b) deposited in any reserve account established for any Parity Obligations secured by a reserve other than the Reserve Account in the amount required thereby. No deposit need be made in the Reserve Account so long as there shall be on deposit therein a sum equal to but not exceeding the least of (i) the maximum annual debt service and lease rentals due on the Lease and any Parity Obligations secured by the Reserve Account, (ii) 125% of the average annual debt service and lease rentals due on the Lease and any Parity Obligations secured by the Reserve Account, or (iii) 10% of the proceeds of the Bonds and any Parity Obligations secured by the Reserve Account, plus a minor portion as defined in the Code (the "Debt Service Reserve Requirement"). All money in the Reserve Account shall be used and withdrawn solely for the purpose of making deposits into the Principal and Interest Account, in the event of any deficiency at any time in

such account, or for the purpose of paying the interest on or principal of or redemption premiums or lease rentals due, if any, on the Lease and any Parity Obligations secured by the Reserve Account, in the event that no other money is lawfully available therefor. Any amount in the Reserve Account in excess of the Debt Service Reserve Requirement shall be withdrawn from the Reserve Account and deposited in the Principal and Interest Account. Money in the Reserve Account shall also be available to make the final payments of interest and principal or lease rentals due on the Lease and any additional Parity Obligations secured by the Reserve Account.

Section 5. General. Any member of the Board of Commissioners or the Council, the Auditor of the County, and the County Attorney are hereby authorized, empowered and directed, on behalf of the County to take any other action as such individual deems necessary or desirable to effectuate the foregoing resolutions, and any actions heretofore made or taken be, and hereby are, ratified and approved.

Section 6. Effective Date. This Resolution shall be in full force and effect from and after its adoption by the Council.

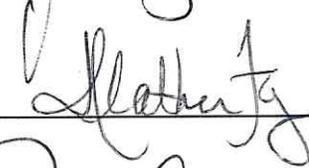
DULY ADOPTED on this 8th day of September, 2020, by the County Council of Jefferson County, Indiana.

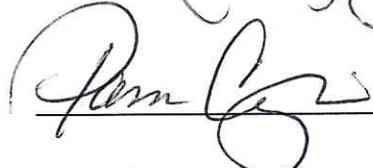
COUNTY COUNCIL OF JEFFERSON
COUNTY, INDIANA















ATTEST:



County Auditor