

## **RESOLUTION NO. 2020-26**

### **RESOLUTIONS OF THE BOARD OF COMMISSIONERS OF HENDRICKS COUNTY, INDIANA RECEIVING AND APPROVING THE PETITION OF TAXPAYERS REQUESTING THE LEASING OF CERTAIN JAIL FACILITIES, APPROVING THE TERMS AND CONDITIONS REGARDING THE LEASING OF CERTAIN JAIL FACILITIES AND TAKING OTHER ACTIONS REGARDING THE PROPOSED LEASE**

WHEREAS, a petition signed by fifty (50) or more taxpayers of Hendricks County, Indiana (the "County") has been filed with the Board of Commissioners of the County (the "Board") requesting the Board (1) to enter into negotiations with the Hendricks County Building Facilities Corporation (the "Corporation"), for the financing of the acquisition, construction, improvement, and/or equipping of all or any portion of a new county jail facility to be located on a +/- 14 acre parcel near the southeast corner of East Main Street and East Campus Boulevard, Danville, Indiana 46122 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 the County (the "Project"), and (2) to enter into a lease between the Corporation, as lessor, and the County, as lessee, for all or a portion of the existing county jail facility located at 925 E Main St, Danville, Indiana 46122 and the new county jail facility to be located on a +/- 14 acre parcel near the southeast corner of East Main Street and East Campus Boulevard, Danville, Indiana 46122, including the site and appurtenances thereto (collectively, the "Premises"); and

WHEREAS, the Board finds that a need exists for the Project, and that the County cannot provide the necessary funds to pay the costs of the Project to meet such needs; and

WHEREAS, the 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, it is deemed desirable to proceed with the necessary negotiations and all other steps looking toward the completion of the Project; and

WHEREAS, there have been prepared drawings, plans, specifications and estimates for the costs of the Project; and

WHEREAS, said drawings, plans and specifications will be submitted to the agencies designated by law to pass on plans and specifications for such buildings, and the estimates for the costs of the Project have been submitted to and now meet with the approval of this Board; and

WHEREAS, it now appears to this Board that said drawings, plans, specifications and estimates provide for necessary jail facilities; and

WHEREAS, this Board now desires, to the extent permitted by law, to take all of the necessary steps to enter into a lease, and there has been prepared and previously submitted to the members of the Board a proposed form of the lease (the "Lease"), by and between the Corporation, as lessor, and the County, as lessee, to include the lease of all or any portion of the Premises in accordance with the terms and conditions set forth in this resolution and in the Lease; and

WHEREAS, lease rentals under the Lease shall be payable solely from the revenues of 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"), and to the extent that the Jail 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, based on the estimated amount of future Jail Income Tax Revenues, the County reasonably expects all lease rentals to be paid from Jail Income Tax Revenues, and not paid from Property Tax Revenues.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF HENDRICKS COUNTY, INDIANA, that:

Section 1. The petition of taxpayers heretofore filed with this Board is hereby approved.

Section 2. Need exists for the Project, and the Project cannot be provided from any funds available to the County, and this Board shall proceed to take such steps as may be necessary to secure (1) the acquisition of all or any portion of the Premises by the Corporation, if necessary, (2) the payment of all costs of the Project and all of the costs associated therewith by the Corporation and the County, and (3) the leasing of all or any portion of the Premises by the Corporation to the County as provided by Indiana Code 36-1-10, as amended, with a term not to exceed twenty (20) years from the date the Bonds are issued, for an annual lease rental not to exceed \$6,000,000.

Section 3. The Board hereby ratifies and approves the appointment of Brent Shay and Danny Keers as Directors of the Corporation. The Board hereby appoints Jeff Smallwood to serve as a Director of the Corporation.

Section 4. The Project is in the public interest of the citizens of the County and is a proper public purpose for which this Board agrees to cooperate with the Corporation and assist it in fulfilling the requirements of all agencies, including the federal, state and city governments.

Section 5. The Corporation, being duly organized to conduct business, may issue, sell and deliver its bonds, in one or more series, in an aggregate principal amount not to exceed \$80,000,000 (the "Bonds"), pursuant to the applicable laws of the State of Indiana, 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 and the acquisition of the Premises.

Section 6. Upon the redemption or retirement of the Bonds to be issued by the Corporation in connection with the financing of the Project, the County will accept all or any portion of the Premises from the Corporation, as renovated and expanded, free and clear of all liens and encumbrances thereon, except as otherwise provided therefor in the Lease.

Section 7. The County shall apply the proceeds received by the County from the sale of all or any portion of the Premises to the Corporation to the costs of all or any portion of the Project not funded by the Corporation.

Section 8. The terms and conditions of the proposed form of the Lease and the plans, drawings, specifications and estimates of the Project are hereby approved and agreed to as the basis for a hearing as required by law, and such hearing shall be held by this Board upon the necessity for the execution of the Leases and whether the lease rental provided therein is a fair and reasonable rental for all or any portion of the Premises prior to the final determination of such questions so that this Board may determine whether to execute the Leases as now written or as modified hereafter by agreement of the parties prior to execution, and the President of the Board is hereby authorized to call said hearing, at such date, time, and location, as determined by the President of the Board.

Section 9. Any member of the Board or officer or attorney of the County is authorized pursuant to Indiana Code 36-1-10-11, to appoint appraisers (the "Appraisers") to determine the fair market value of the Premises. Following the issuance of each series of the Bonds and upon receipt of cash in an amount not less than the amount fixed by the Appraisers as the fair market value of the Premises, the President of the Board be, and hereby is, authorized and directed, in the name and on behalf of the County, to execute and deliver one or more special warranty deeds conveying title to all or a portion of the Premises to the Corporation.

Section 10. Any officer of the County be, and hereby is, authorized, empowered and directed, on behalf of the County to publish notices of said public hearings and to take any other action as such officer deems necessary or desirable to effectuate the foregoing resolutions, and any such publication or other actions heretofore made or taken be, and hereby are, ratified and approved.

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Passed and adopted by the Board of Commissioners of Hendricks County, Indiana on the 25<sup>th</sup> day of August, 2020.

BOARD OF COMMISSIONERS OF  
HENDRICKS COUNTY, INDIANA

*Phyllis A. Palmer*  
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*Mark [unclear]*  
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*Bob Gentry*  
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ATTEST:

*Nancy D. Marsh*  
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County Auditor