

RESOLUTION NO. *2021-06-CM*
BOARD OF COMMISSIONERS OF TIPPECANOE COUNTY
ADOPTING A RESOLUTION MAKING A PRELIMINARY DETERMINATION
TO ENTER INTO A BUILD-OPERATE-TRANSFER LEASE AGREEMENT

WHEREAS, the Board of Commissioners of Tippecanoe County, Indiana (the "Board") has determined to undertake the construction of (a) additions to a public jail and (b) additions to a community corrections facility, together with related improvements to be constructed on the project site (the "Project");

WHEREAS, in furtherance of the Project, and as required by Indiana Code §§6-1.1-20-3.1 and 5-3-1, Tippecanoe County, Indiana (the "County"): (a) published notice that two preliminary determination hearings would be held; and (b) mailed such notice to both the Clerk of the Tippecanoe Circuit Court and any organizations requesting such notice; in each case in accordance with Ind. Code §6-1.1-20-3.1;

WHEREAS, the first preliminary determination hearing was held on February 16, 2021, and the second such hearing was held on February 17, 2021, and each of the foregoing was held in accordance with above-referenced notice and Ind. Code §6-1.1-20-3.1;

WHEREAS, prior to the date hereof the Board, in accordance with Ind. Code §5-23, authorized the execution of a build-operate-transfer Lease Agreement (the "BOT Lease Agreement"), together with such other documents necessary or reasonably appropriate to close the transaction contemplated by the BOT Lease Agreement;

WHEREAS, payments required to be made by the County under the BOT Lease Agreement (the "BOT Lease Payments") are payable from *ad valorem* property taxes to be collected on all taxable property within the County (the "Tax Revenue");

WHEREAS, the project to be constructed pursuant to the BOT Lease Agreement constitutes a "controlled project", as defined in Ind. Code §6-1.1-20-1.1 and, accordingly, the County must comply with Ind. Code §6-1.1-20-3.1; **WHEREAS**, pursuant to Ind. Code §6-1.1-20.3.1, the Board, being the proper elected officials, must make a preliminary determination to enter into the BOT Lease Agreement and to pay BOT Lease Payments from the Tax Revenue and

WHEREAS, the Board now desires to make such preliminary determination.

ACCORDINGLY, be it resolved by the Board of Commissioners of Tippecanoe County as follows:

- 1. Preliminary Determination** The County preliminarily determines to enter into the BOT Lease Agreement, and acknowledges that the BOT Lease Payments due thereunder shall be payable from the Tax Revenue;
- 2. Term.** The BOT Lease Agreement shall be for a maximum term of 20 years from the date of execution of the BOT Lease Agreement with the estimated maximum annual BOT Lease Payment being \$1,320,000). The BOT Lease Payments have been estimated based upon: (a) an estimated principal lease amount of \$15,700,000.00; and (b) an estimated interest rate of 1.90 – 2.50%, with the total estimated interest costs being \$3,400,000. The purpose of the BOT Lease Agreement is to provide for the construction of the Project. The additional information required by Ind. Code §6-1.1-20-3.1, which was made available to the public during each preliminary determination hearing, is set forth in Exhibit A, attached hereto
- 3. Publishing of Notice.** The Auditor hereby is authorized and directed to publish notice of this Resolution in accordance with Ind. Code §6-1.1-20-3.1.

4. **Filing of Petition.** If a petition is filed pursuant to Ind. Code §6-1.1-20-3.1, the Auditor hereby is authorized to publish and mail a notice of the applicability of the petition and remonstrance process pursuant to Ind. Code §6-1.1-20-3.2.

5. **Other Actions.** Any officer of the Board hereby is authorized to take any and all actions, and execute any documents or certificates necessary or deemed by such officers to be desirable to effect the foregoing Resolutions. Any such actions taken, or documents or certificates executed and delivered, hereby are ratified, confirmed, and approved.

6. **No Conflict.** All ordinances, resolutions, and orders (or parts thereof) that conflict with the provisions of this Resolution hereby are repealed to the extent of such conflict. After the issuance of the BOT Lease Agreement, and until all BOT Lease Payments have been paid (or prepaid) in full: (a) this Resolution shall not be repealed or amended; and (b) the Board shall not adopt any ordinance or resolution that in any way adversely affects this Resolution.

7. **Severability.** If any section, paragraph, or provision of this Resolution is held to be invalid or unenforceable for any reason, then the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this Resolution.

8. **Effectiveness.** This Resolution shall be in full force and effect from and after its passage.

PASSED AND ADOPTED by the Board of Commissioners of Tippecanoe County on this 17th day of February, 2021.

By: _____
Thomas P Murtaugh, President

By: _____
David Byers, Vice-President

By: _____
Tracy Brown, Member

Attest:

By: _____
Robert Plantenga, County Auditor