

ORIGINAL

DELAWARE COUNTY COUNCIL

ORDINANCE NO.

2019-004

ORDINANCE OF THE DELAWARE COUNTY COUNCIL PLEDGING ECONOMIC DEVELOPMENT ALLOCATION OF LOCAL INCOME TAX FUNDS (EDIT) TOWARD A BUILD, OPERATE, TRANSFER LEASE AGREEMENT FOR THE CONSTRUCTION OF A COUNTY JAIL AND RELATED JUSTICE CENTER AND APPROVING MATTERS RELATED THERETO

WHEREAS, IC 5-23 (the "Act") authorizes political subdivisions to adopt certain powers with respect to the ability of a political subdivision to enter into Build, Operate, Transfer (BOT) Agreements; and

WHEREAS, the Board of Commissioners of Delaware County (the "Commissioners"), as the legislative body of Delaware County has adopted the provisions of the Act in its regular meeting of December 4, 2017; and

WHEREAS, Delaware County, through the Commissioners, has solicited and reviewed proposals for a BOT Agreement to provide for the construction, operation, maintenance, and transfer of a new county jail and related justice center; and

WHEREAS, the Commissioners have received a recommendation to accept the proposal submitted by Delaware County Justice Partners, LLC (the "Offerors") and have subsequently determined, at a public hearing pursuant to IC 5-23-5-9 and IC 5-23-5-11, that the most appropriate response is to accept the proposal of the Offerors; and

WHEREAS, the Delaware County Council (the "Council") is authorized to pledge the economic development allocation (EDIT) of local income tax (LIT) funds pursuant to Indiana Code 6-3.6-6-18 and 5-1-14-4;

NOW, THEREFORE, BE IT ORDAINED by the Council, as the fiscal body of Delaware County, Indiana as follows:

1. The Council pledges monies from the economic development allocation (EDIT) of its LIT Shares Fund, not to exceed \$3,700,000 per year, to fulfill the yearly obligation of the County pursuant to the Build, Operate, Transfer Lease Agreement ("Agreement"), as allowed by Indiana Code 6-3.6 and Indiana Code 5-1-14-4, so long as the obligation of the County pursuant to the Agreement remains outstanding under the terms of the Agreement. There are no other prior liens, encumbrances or other restrictions on the ability of the Council to pledge the not to exceed amount of \$3,700,000 per year of the economic development allocation (EDIT) of its LIT Shares Fund to the payment of the Agreement.

2. Upon the defeasance of the obligation of the County pursuant to the Agreement, this pledge shall terminate and thereafter any pledged economic development allocation (EDIT) of its LIT Shares Fund may be used by the County for any purpose permitted by law.

3. Once the Agreement has been executed, the provisions of this Ordinance shall not be repealed or amended in any respect which would adversely affect the rights of the holders of the Agreement obligation with respect to the pledge of the pledged economic development allocation (EDIT) of the County's LIT Shares Fund for so long as the Agreement obligation remains outstanding.

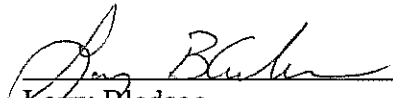
4. This pledge shall be on parity with all outstanding local income tax bonds and obligations, including the County's Economic Development Income Tax Revenue Refunding Bonds, Series 2013, Economic Development Income Tax Revenue Bonds, Series 2014, and Redevelopment District Tax Increment Revenue Bonds, Series 2013 (With Limited County Economic Development Income Tax Pledge).

5. The County reserves the right to authorize and issue additional obligations, payable from the pledged revenues, in this case the economic development allocation (EDIT) of its LIT Shares Fund, to secure lease rental payments or other obligations ranking on a parity with the pledge made pursuant to the Agreement.


6. This pledge shall be binding from the time this Ordinance is adopted.

7. This Ordinance shall take effect immediately upon approval by the Council.

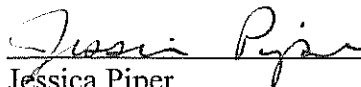
Passed this 20 day of FEBRUARY, _____ by the Delaware County Council.



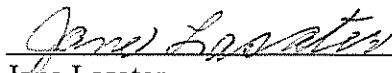
Larry Bledsoe



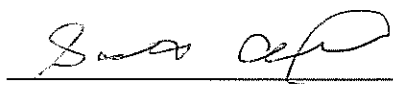
Mary Chambers




Jessica Piper



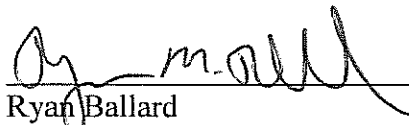
Jane Lasater



Scott Alexander

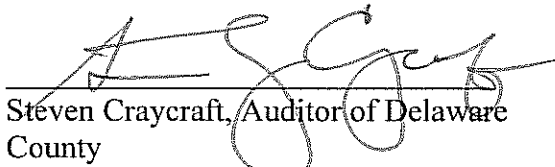


Ronald Quakenbush



Ryan Ballard

ATTEST:



Steven Craycraft, Auditor of Delaware
County