

RESOLUTION NO. 2020 - 8

**JOINT RESOLUTION CONCERNING THE PAYMENT AND REIMBURSEMENT
OF THE BENNINGTON LEVEE REPAIRS AND MAINTENANCE PROJECT**

WHEREAS, on September 22, 2020 and October 13, 2020 certain Bennington Levee Committee ("Levee Committee") members attended the Daviess County (the "County") Board of Commissioners (the "Commissioners") meeting and presented on the need for certain repairs and/or maintenance, specifically a pump repair project for Smothers Creek (the "Project"), which they anticipate will cost up Two Hundred Thousand Dollars (\$200,000.00); and

WHEREAS, the County acknowledges a similar presentation by the Levee Committee on October 14, 2020 to the Daviess County Council (the "Council") on the Project; and

WHEREAS, at those meetings and following the presentation, the Commissioners and Council agreed that the appropriate expenses presented to the County would be paid in accordance with the statute and that the Levee Committee will immediately assess the appropriate landowners and reimburse the County in accordance with the applicable statute; and

WHEREAS, the minutes of all related meetings should be attached to this resolution and maintained as an official County record, and

WHEREAS, the Council and Commissioners acknowledge the certain Mediated Agreement dated June 4, 2013, where "all future repair costs and expenses" submitted to the County would be apportioned and assessed by the Levee Committee on the appropriate land owners within 90 days of such expenses being submitted to the County and "any such assessment shall appear on the next tax statement," and

WHEREAS the County acknowledges that Indiana Code 14-27-3-7 et. seq, provides the parties with the applicable process for payment and reimbursement of appropriate "repairs and maintenance", and

NOW, THEREFORE, BE IT RESOLVED that the County understands and acknowledges as follows:

1. The Levee Committee is proceeding with the public bidding of the Project, and the Project is necessary to maintain the functionality of the Levee and the acceptable status of the Levee with the U.S. Army Corps of Engineers (the "Corps"), and the Levee is currently in an "acceptable" status with the Corps.
2. The Levee Committee does not have the funds on hand to pay the anticipated Project expenses.
3. On or after December 15, 2020, the Levee Committee will present Project bills will to the County Auditor for payment and such bills will collectively not exceed Two Hundred Thousand Dollars (\$200,000.00), and upon said bill submission, the Levee Committee will immediately assess its land owners for the purpose of reimbursing the County.

4. For the Project expenses, the Levee Committee has verbally agreed to reimburse the County not less than Thirty-Five Thousand Dollars (\$35,000.00) per year with the initial payment to be made in 2021. Within sixty (60) days of the last date hereof, the County requests a written reimbursement schedule authorized and approved by the Levee Committee.
5. The County wishes to work in good faith with the Levee Committee, provided however that any past, present or future agreement(s) with the Levee Committee shall not be considered a waiver of the County's rights under any agreement or under the applicable statute, nor does it deprive the County of the right hereafter to insist upon strict adherence to any term of an agreement or the applicable statute.

Adopted by the Board of Commissioners of Daviess County, Indiana this 24th day of November 2020.

BOARD OF COMMISSIONERS
OF DAVIESS COUNTY, INDIANA

By Nathan Sobhart
Commissioner

By Tom McInnes
Commissioner

By Absent
Commissioner

ATTEST:

By Patty Ball
Auditor

Adopted by the Daviess County Council, this 9th day of December 2020.

DAVIESS COUNTY COUNCIL

By *Rent J. Norris*
Council Member

By *David [unclear]*
Council Member

By *Mil [unclear]*
Council Member

By *[unclear]*
Council Member

By *[unclear]*
Council Member

By *Jamie McCracken*
Council Member

By *[unclear]*
Council Member

ATTEST:

By *Patricia K. Bae*
Auditor