

ORIGINAL

ORDINANCE NO. 2018-020

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE COUNTY OF DELAWARE, INDIANA CONCERNING APPROVAL AND EXECUTION OF A PROPOSED BUILD OPERATE TRANSFER LEASE AGREEMENT

WHEREAS, pursuant to Indiana Code 5-23-6-1 the Board of Commissioners of the County of Delaware ("County"), Indiana ("Commissioners") must approve any public-private agreement with an original term in excess of five (5) years; and

WHEREAS, pursuant to Indiana Code 6-3.6-10-4(c) the Commissioners are required to approve any lease of the County; and

WHEREAS, there have been prepared drawings, plans and estimates for the cost of the acquisition, construction, improvement, and financing of a jail and justice center ("Project"); and

WHEREAS, the attached form of Build Operate Transfer Lease Agreement ("Agreement") has been prepared for the design, construction, operation and financing of the Project and has been examined by the Commissioners; and

WHEREAS, notice of a public hearing on the proposed Agreement was given by publication in The Star Press and the hearing has been held in accordance with this notice; and

WHEREAS, the Commissioners have held a public hearing concerning whether to proceed with the Project and enter into a public and private agreement and lease to finance the Project; and

WHEREAS, the Commissioners have carefully considered the comments made and information presented at the public hearing; and

WHEREAS, it is in the best interests of the County and its citizens to proceed with the acquisition, construction, improvement and financing of such Project by Delaware County Justice Partners, LLC ("Corporation"), which will lease said Project to the County under terms whereby the County will own the leased Project at the end of the lease financing period; and

WHEREAS, the County currently owns property commonly known as 3100 S. Tillotson Avenue, Muncie, Indiana, which is the Project site; and

WHEREAS, in order to finance the Project, the Corporation needs to have a property interest in the Project site and the Agreement requires the County to lease the Project site owned by the County to the Corporation; and

WHEREAS, drawings, plans and specifications for the Project have been, or will be submitted to the agencies designated by law to approve plans and specifications for such facilities; and

WHEREAS, it now appears to the Commissioners that the leasing of said Project will satisfy the need for the County facilities and that the proposed form of Agreement therefore submitted to the Corporation with the County as lessee, which is incorporated herein, provides for a fair and reasonable rental.

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DELAWARE, INDIANA:

Section 1. The terms and conditions of the proposed form of Build Operate Transfer Lease Agreement are approved and agreed to as the basis for a determination to enter into a lease and public-private agreement.

Section 2. (a) The Commissioners hereby find that the execution of the Agreement is necessary and wise and is for a Project will that provide services that will serve the public purpose of the County and is in the best interests of the County's residents, and further finds that the lease rentals provided for in the Agreement are fair and reasonable.

(b) The execution of the Agreement between the County and the Corporation is hereby approved. The Commissioners and the County Auditor be, and they are hereby, authorized and directed to execute the aforesaid Agreement and any other documents necessary to carry out the purpose of the Agreement, including a ground lease for the Project site, one or more purchase agreements, continuing covenant agreements or similar agreements, on behalf of the County and to publish notice of execution of the Agreement after the execution of the Agreement.

(c) Providing for the financing, acquisition and construction of the Project by the Corporation and the leasing of the Project to the County is in the public interest of the citizens of this County and it is a proper public purpose for which the County agrees to cooperate with the Corporation to assist in fulfilling the requirements of all agencies of the Federal, State and local Government.



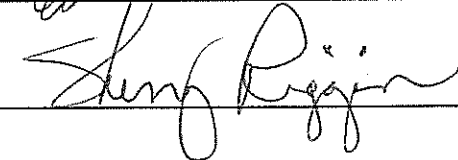
(d) The County Auditor is authorized and directed to initial and date a copy of the proposed Agreement and to place it in the minute book immediately following the minutes of this meeting, and the Agreement is made a part of this ordinance as fully as if it were set forth herein.

Section 3. The lease of the property commonly known as 3100 S. Tillotson Avenue, Muncie, Indiana from the County to the Corporation is hereby authorized.

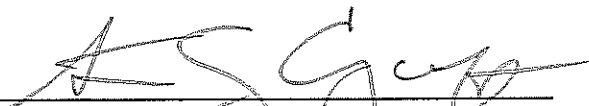
Section 4. This Ordinance shall be in effect from and after its passage by the Commissioners.

PASSED AND RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF DELAWARE, INDIANA this 17 day of December, 2018.

BOARD OF COMMISSIONERS OF THE COUNTY OF DELAWARE, INDIANA

By: 



ATTEST:


Auditor