

Ordinance 2010- 4

An Ordinance

**Approving the Execution of a Lease between the Gibson County Facilities Holding Corporation and Gibson County, Indiana, Pledging County EDIT Tax, and Assigning Construction Bids**

**WHEREAS**, the Gibson County Facilities Holding Corporation (the "Holding Corp") is a nonprofit corporation organized under the laws of the State of Indiana for the purpose of undertaking certain upgrades to electrical, mechanical, plumbing, and related systems at the Gibson County Courthouse and the Gibson County Jail buildings (collectively, the "Project"); and

**WHEREAS**, the Holding Corp intends to issue bonds in the aggregate amount of One Million Six Hundred Thousand Dollars (\$1,600,000) for the purpose of financing the Project, which would then be leased to Gibson County, Indiana (the "County"); and

**WHEREAS**, at a meeting held November 16, 2010, the Board of Commissioners of Gibson County, Indiana (the "Commissioners") adopted Resolution 2010-06 giving preliminary approval of a Lease between Gibson County Facilities Holding Corporation and Gibson County, Indiana (the "Lease"), subject to final approval after a public hearing; and

**WHEREAS**, at its meeting held on November 19, 2010, the Holding Corp approved the form of Lease between Gibson County Facilities Holding Corporation and Gibson County, Indiana (the "Lease"); and

**WHEREAS**, the Commissioners received construction bids for the Project on December 2, 2010 (the "Bids"), a tabulation of which is attached hereto as Exhibit A and incorporated by reference; and

**WHEREAS**, the Commissioners have had an opportunity to review the Bids, as well as the plans and specifications for the Project; and

**WHEREAS**, the Commissioners have caused a public hearing on the Lease to be advertised in a manner consistent with Indiana law; and

**WHEREAS**, the Commissioners have, on this date, conducted said public hearing on the terms of the Lease, as well as the merits of the underlying Project, and all interested parties have had an opportunity to be heard; and

**WHEREAS**, after consideration of the public comments, the Bids, and the plans and specifications of the Project, the Commissioners find that a need exists to undertake the Project at this time, so as to avoid the potentially catastrophic loss associated with electrical and mechanical system malfunctions at the courthouse building and the potentially high cost associated with emergency repairs of the mechanical and plumbing systems at the jail building; and

**WHEREAS**, the Commissioners find that the County does not have sufficient funds on hand to complete the Project without the issuance of bonds or entering into a lease purchase arrangement; and

**WHEREAS**, the Commissioners find that the Project is best undertaken by having the Holding Corp build the Project and lease it to the County pursuant to I.C. § 6-3.5-7-21; and

**WHEREAS**, the Commissioners find that the terms of the Lease, the Lease rental payments, and overall structure of the Lease transaction are fair and reasonable; and

**WHEREAS**, the Commissioners find that the Project and the Lease will serve the public purpose of Gibson County, Indiana, and that the Project and the Lease are in the best interests of the residents of Gibson County, Indiana; and

**WHEREAS**, the Commissioners find that the Project is a project described in I.C. § 6-3.5-7-13.1(c)(1); and

**WHEREAS**, the Commissioners find that the Project is located within a "Recovery Zone", as defined by 26 U.S.C.A. § 1400U-2, and previously declared by Ordinance 2010-01 of the Commissioners; and

**WHEREAS**, the Commissioners find that the Project involves: a) capital expenditures to be paid or incurred with respect to property located in a Recovery Zone, and b) expenditures for public infrastructure and construction of public facilities located in a Recovery Zone; and

**WHEREAS**, the County has received One Million Four Hundred Thirteen Thousand Dollars (\$1,413,000) of Recovery Zone Economic Development Bond volume directly allocated to the County through the American Recovery and Reinvestment Act of 2009, along with the Four Hundred Thousand Dollars (\$400,000) of Recovery Zone Economic Development Bond volume that has been reallocated to the County by the Indiana Finance Authority, all for the purpose of financing qualifying projects in a Recovery Zone; and

**WHEREAS**, the Holding Corp, as a 501(c)(2), is eligible to Issue Recovery Zone Economic Development Bond volume on behalf of the County; and

**WHEREAS**, the Commissioners now wish to give final approval of the Lease, subject to: 1) final concurrence by the Holding Corp, 2) final concurrence of the Gibson County Council, 3) a lease rental rate not to exceed Fifty Thousand Dollars (\$50,000.00) per quarter, payable on the first business day of each quarter, commencing with the first quarter after the Project is placed in service or January 3, 2012, whichever is later, and 4) a lease term not to exceed fifteen (15) years from the date the Project is placed in service; and

**WHEREAS**, pursuant to I.C. § 6-3.5-7-21, the County Council for Gibson County Indiana (the "Council"), as the fiscal body for the County, must also approve the execution of the Lease and pledge the County's Economic Development Income Tax revenues for the payment of lease rental payments thereunder.

**NOW, THEREFORE, BE IT ORDAINED** as follows:

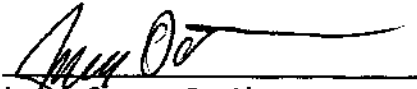
1. All interested parties have had an opportunity to be heard concerning the Lease, its terms and conditions, and the underlying Project.

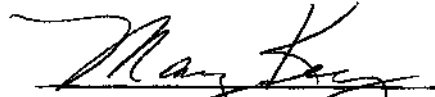
2. The terms of the Lease, the Lease rental payments, and overall structure of the Lease transaction are fair and reasonable.
3. The Project and the Lease serve the public purpose of the County, will provide value to the public, and are in the best interests of the residents of Gibson County.
4. The Lease is hereby approved by both the Commissioners and the Council; and the President or Vice President of the Commissioners is hereby authorized and directed, on behalf of the County, to execute and deliver the Lease in substantially the form attached hereto as Exhibit B, with such changes in form or substance as the President or Vice President shall approve, such approval being evidenced by the execution thereof.
5. The rental payments to be made by the County to the Holding Corp pursuant to the terms of the Lease shall be made at a rental rate not to exceed Fifty Thousand Dollars (\$50,000) per quarter beginning on the date the Project is placed in service or January 3, 2010, whichever is later, through the end of the Lease term.
6. The Commissioners and the Council hereby irrevocably pledge the County's share of the Gibson County Economic Development Income Tax revenue for the payment of the rental obligations under the Lease, such pledge to be effective without the filing or recording of this Ordinance or any other instrument.
7. The bonds to be issued by the Holding Corp, on behalf of the County, for the purpose of constructing the Project shall be irrevocably designated as Recovery Zone Economic Development Bonds; and the One Million Four Hundred Thirteen Thousand Dollars (\$1,413,000) of Recovery Zone Economic Development Bond volume directly allocated to the County through the American Recovery and Reinvestment Act of 2009, along with the Four Hundred Thousand Dollars (\$400,000) of Recovery Zone Economic Development Bond volume that has been reallocated to the County by the Indiana Finance Authority, will be available to use for such designation.
8. The Bids are hereby assigned by the Commissioners to the Holding Corp for further action.
9. The Commissioners hereby grant the Holding Corp, as well as its duly authorized agents, right of entry to the Gibson County Courthouse, the Gibson County Jail, and the appurtenances thereto, for the purpose of undertaking the Project in accordance with the plans and specifications on file with the Commissioners, including any changes thereto that have been approved by the Commissioners.
10. This Ordinance shall be in full force and effect after its passage.

Duly PASSED AND ADOPTED this 20<sup>th</sup> day of December 2010, by the County Council of Gibson County, Indiana, having been passed by a vote of 6 in favor and 0 opposed.

County Council of  
Gibson County, Indiana, by:



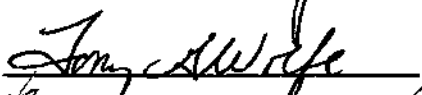
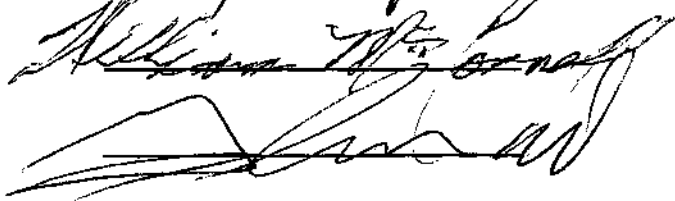
Attest:

  
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Jeremy Overton, President

  
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Mary Key, Auditor

Voting Yea:

Voting Nay:

  
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Duly PASSED AND ADOPTED this 7 day of December 2010, by the Board of Commissioners of Gibson County, having been passed by a vote of 3 in favor and 0 opposed.

Board of Commissioners of  
Gibson County, Indiana, by:

Attest:

  
Robert Townsend, President

  
Mary Key, Auditor

Voting Yea:

Voting Nay:

Bob Townsend

Gerald Bledsoe

Don Whithead

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