

9-23-08

SPECIAL ORDINANCE 2008-034-2008
OF THE DELAWARE COUNTY COUNCIL
REGARDING APPROVAL OF GARMONG LEASE FOR SHELL BUILDING

WHEREAS, Delaware County has adopted a County Economic Development Income Tax pursuant to IC 6-3.5-7; and

WHEREAS, Delaware Advancement Corporation has proposed to construct certain improvements including a spec industrial commercial building on the real estate described in Exhibit A attached hereto and made a part hereof in order to attract commercial/industrial development and proposes to lease said facilities to the County with the lease payments by the County to be made from the County Economic Development Income Tax; and

WHEREAS, the County is authorized pursuant to IC 6-3.5-7-21 to enter into a lease for such facilities; and

WHEREAS, Delaware Advancement Corporation is a leasing body as defined in IC 5-1-1-1; and

WHEREAS, the County Commissioners have conducted a public hearing on July 21 and August 4, 2008, after notice duly published on July 11, 2008, concerning such lease and there were no objections to such lease; and

WHEREAS, the County Commissioners have approved said Lease subject to action by the County Council; and

WHEREAS, such lease must be approved by the County Council, by ordinance, upon approval by the County Commissioners; and

WHEREAS, the County Council understands that, pursuant to IC 6-3.5-7-13.1, the County may not expend money from its Economic Development Income Tax Fund in a manner that would adversely affect the payment of any lease rentals due under such lease; and

WHEREAS, the County Council finds and determines that the making of said lease will promote significant opportunities for the gainful employment of its citizens, attracting major new business enterprise to the unit or retain or expand significant business enterprise within the unit by the expenditure of lease payments for the acquisition of interests in land and buildings and facilities, and the matter is properly before the County Council;

NOW, THEREFORE, BE IT RESOLVED, FOUND, AND DETERMINED THAT:

1. Delaware Advancement Corporation is a leasing body as defined in IC 5-1-1-1.

2. The Lease submitted and approved by the County Commissioners after public hearing and approved by the County Commissioners by and between Delaware Advancement Corporation and Delaware County and submitted to this meeting is in all respects approved and the execution thereof by the County Commissioners is approved and confirmed.

3. Said Lease will promote significant opportunities for gainful employment of the citizens of Delaware County, attract a major new business enterprise to the unit or retain or expand significant business enterprise within the unit and such Lease involves expenditure of Economic Development Income Tax Funds for interest in land and buildings and facilities and is in the public interest.

4. The lease rental payments payable pursuant to said Lease shall be paid from the County Economic Development Income Tax.

5. The lease rental payments based upon the value of the facilities leased and do not create a debt of the unit for purposes of the Constitution of the State of Indiana.

6. So long as said Lease is in effect, the County may not expend money from its Economic Development Income Tax Fund in any manner which would adversely affect the payment of any lease rentals due under the Lease.

7. In order to induce Delaware Advancement Corporation to enter into said Lease, the County Council agrees that it will not rescind the Economic Development Income Tax during the term of said lease or reduce such tax below an amount sufficient to make the lease rental payments.

Dated: September 23, 2008

DELAWARE COUNTY COUNCIL

Mel Bottom
Donald B. Trakenberg
Mary Chambers
Chad H. H. H.
Jeddy Brown
Joseph M. Russell
Bradley T. Boodat

2 Judy Rust