

AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF NOT TO EXCEED \$15,000,000 DELAWARE COUNTY, INDIANA VARIABLE RATE DEMAND SEWAGE FACILITIES REVENUE BONDS (BELL AQUACULTURE LLC PROJECT), SERIES 2012, AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, Delaware County, Indiana (the "Issuer"), is authorized by the Constitution and laws of the State of Indiana, including without limitation the provisions of Indiana Code 36-7-11.9 and 36-7-12 (collectively, the "Act") to issue revenue bonds for the financing of economic development facilities and pollution control facilities, the funds from said financing to be used for the acquisition, construction, expansion, reconstruction and equipping of said facilities either directly or by loan to a company and said facilities to be either directly owned by a company or leased or sold to a company; and

WHEREAS, Bell Aquaculture LLC, a Colorado limited liability company doing business in the State of Indiana, together with its successors and assigns (collectively, the "Borrower"), has proposed that the Delaware County Economic Development Commission (the "Commission") and the Issuer that the Issuer should issue not to exceed \$15,000,000 in aggregate principal amount of its revenue bonds under the Act (the "Bonds"), and loan the proceeds of the Bonds to the Borrower to assist in acquiring, constructing, expanding, reconstructing, furnishing and equipping certain sewage facilities which are components of the Borrower's recirculating aquaculture system, located or to be located at 11550 East Gregory Road, Niles Township, within Delaware County, Indiana (the "Project"); and

WHEREAS, in accordance with the Act and the provisions of Section 147 of the Internal Revenue Code of 1986, as amended (the "Code"), the Commission held a public hearing regarding the Project in order to receive written and oral comments regarding the Project and to determine whether the use of Bonds in support of the Project would have an anti-competitive effect on similarly situated businesses, if any, within the jurisdiction of the Issuer; and

WHEREAS, pursuant to the Act and the Code, notice of the public hearing referred to in the preceding clause was published on April 26, 2012, in the *Star Press*, a newspaper of general circulation in the jurisdiction of the Project and the Issuer; and

WHEREAS, as set forth in the report of the Commission attached hereto as Exhibit A, at the time and place set for the public hearing, the Borrower presented evidence establishing that the Project will create additional job opportunities in the region, and will cause to occur, directly or indirectly, other positive economic effects in the area of the Project and in the jurisdiction of the Issuer, and there was no evidence presented orally or in writing at the hearing which would have established an anti-competitive impact on any other local or regional business or other evidence against the Project; and

WHEREAS, the diversification of economic development and increase in job

opportunities to be achieved by the construction of the Project will be of public benefit to the health, safety and general welfare of the Issuer and its citizens.

NOW THEREFORE, BE IT ORDAINED BY DELAWARE COUNTY, INDIANA, ACTING BY AND THROUGH ITS COUNTY COUNCIL, AS FOLLOWS:

Section 1. The proposed issuance of the Bonds in the aggregate principal amount not to exceed \$15,000,000 for the benefit of the Borrower complies with the purposes and provisions of I.C. 36-7-11.9 and 12, and will be of benefit to the health and welfare of Delaware County and its citizens.

Section 2. The Bonds, in the aggregate principal amount not to exceed Fifteen Million Dollars (\$15,000,000), shall (i) be executed at or prior to the closing date by the manual or facsimile signatures of the Board of the President or Acting President of the Board of Commissioners and the Auditor of the County; (ii) be dated as of the date of their delivery; (iii) mature on a date not later than forty (40) years after the date of issuance; (iv) bear interest at such rates (while the Bonds bear interest at the variable rate defined in the Bond Documents, such rate shall not exceed ten percent (10%) per annum) as determined through negotiation with the purchaser thereof, with such interest payable as provided in the Bond Documents; (v) be issuable in such denominations as set forth in the Bond Documents; (vi) be issuable only in fully registered form; (vii) be subject to registration on the bond register as provided in the Bond Documents; (viii) be payable in lawful money of the United States of America; (ix) be payable at an office as provided in the Bond Documents; (x) be subject to optional redemption prior to maturity and subject to redemption as otherwise provided in the Bond Documents (as defined below); (xi) be issued in one or more series; and (xii) contain such other terms and provisions as may be provided in the Bond Documents.

Section 3. The proceeds of the Bonds will be used solely to pay certain costs of the Project, including certain costs of issuance of the Bonds.

Section 4. The substantially final forms of the Trust Indenture; the Bonds; the Loan Agreement; the Note; the Tax Regulatory Agreement; the Preliminary Offering Memorandum; and the Bond Purchase Agreement (the "Bond Documents") presented to this meeting are hereby approved. The Board of Commissioners and Auditor of the Issuer are hereby authorized, in the name and on behalf of the Issuer, without further approval of the County Council or the Commission, to approve such changes in the Bond Documents as may be permitted by the Act, such approval to be conclusively evidenced by their execution thereof; provided, however, that such changes may not affect terms approved by this Ordinance pursuant to Indiana Code 36-7-12-27(a)(1) through (a)(10).

Section 5. The Bonds shall not in any respect be a general obligation of the Issuer, nor shall they be payable in any manner from revenues raised by taxation. The Bonds and the interest thereon do not and shall never constitute an indebtedness of, or a charge against the general credit or taxing power of, the Issuer, but shall be special and limited obligations of the Issuer, payable solely from revenues and other amounts derived from the Bond Documents.

Section 6. The Project will not have an adverse competitive effect on any similar facilities already under construction or in operation in Delaware County. Based on oral and written presentations of evidence before the County, it is further found that:

(a) No member of the public or competitor presented any evidence of substantial probative value establishing that the Project would have any adverse competitive effect on any other business in Delaware County, Indiana, in any respect.

(b) There are no competitors to the Borrower in Delaware County, Indiana.

(c) In the absence of any evidence of any adverse competitive effect, the benefits to the public from the creation of job opportunities to be generated by the Project clearly indicate that the Project should be supported by the issuance of economic development revenue bonds.

Section 7. The Auditor of the Issuer shall initial and then insert a copy of the forms of documents approved by this Ordinance in the minute book.

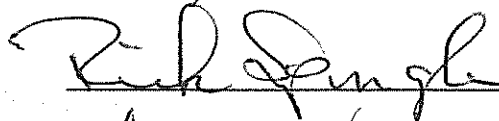
Section 8. All hearings required by law which precede the actions and recommendations within this Ordinance have been held in accordance with requirements of state and federal law, including but not limited to the requirements of the Act and the Code and regulations promulgated thereto.

Adopted this 22nd day of May, 2012.

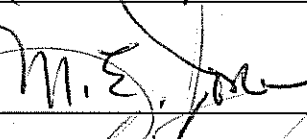
DELAWARE COUNTY COUNCIL

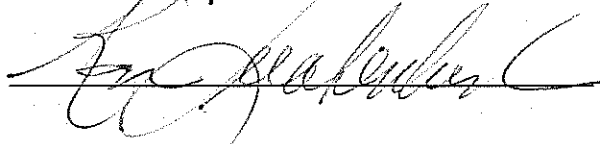












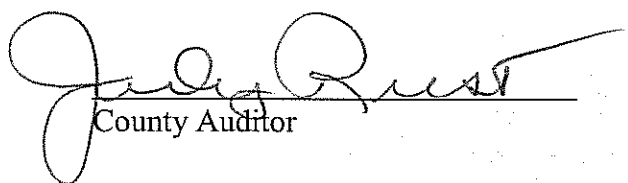

County Auditor

EXHIBIT A

REPORT OF DELAWARE COUNTY ECONOMIC DEVELOPMENT COMMISSION TO DELAWARE COUNTY COUNCIL CONCERNING PROPOSED BOND FINANCING TO BENEFIT BELL AQUACULTURE LLC IN DELAWARE COUNTY, INDIANA

The Delaware County Economic Development Commission (the "Commission") recommends to the Delaware County Council that Delaware County, Indiana issue up to Fifteen Million Dollars (\$15,000,000) in aggregate principal amount of its Variable Rate Demand Sewage Facilities Revenue Bonds (Bell Aquaculture LLC Project), Series 2012, and loan the proceeds therefrom to Bell Aquaculture, LLC, a Colorado limited liability company doing business in the State of Indiana (the "Borrower"), to finance the acquisition, construction, expansion, reconstruction, furnishing and equipping of certain sewage facilities which are components of the Borrower's recirculating aquaculture system located at or near 11550 East Gregory Road, Niles Township, Indiana which is within Delaware County, Indiana, as well as certain costs of issuance not exceeding two percent (2%) of the net proceeds of the Bonds (the "Project"), under the authority of the Constitution and laws of the State of Indiana, including without limitation the provisions of, collectively, Title 36, Article 7, Chapters 11.9 and 12 of the Indiana Code, as supplemented and amended from time to time (the "Act").

In connection therewith, the Commission hereby finds and reports as follows:

1. The Commission estimates that no public works or services (including public ways, schools, water, sewers, street lights and fire protection) will be made necessary or desirable by the Project.
2. The Commission estimates that the total costs of the acquisition, construction and equipping of the Project, including a reasonable allowance of issuance costs of the bonds, will not exceed Fifteen Million Dollars (\$15,000,000).
3. The Commission estimates that economic benefit to Delaware County, Indiana will be derived through the number of jobs to be maintained or created by the Project and the direct economic impact of such jobs is as follows:

Current Number of Indiana Employees at Project location **28**

New Delaware County Jobs Projected

Year 1	<u>13</u>
Year 2	<u>2</u>
Year 3	<u>0</u>

Total New Delaware County Jobs 15

Average hourly wages of created positions:

\$11.00/hour (without benefits) \$12.13/hour (with benefits)

4. The Project consists of sewage facilities which, when operational, will serve to promote the public policies of the Act with respect to water pollution control facilities.

The Borrower is addressing these issues by implementing its recirculating aquaculture system, which employs a number of water cleaning technologies to: (a) clean and return used tank water to the fish growing tank effecting an overall reduction in average daily biological oxygen demand from the water stream from 1995 mg/L to an extremely low 12 mg/L; (b) dewater the wastewater stream exiting the tank facility; and (c) concentrate and separate solid effluents (principally composed of uneaten feed, manure, and biofloc) from the water stream. The end result is clean water which may be discharged in wetlands without significant contribution of pollutants to ground water.

To accomplish this objective, the Borrower will treat process water by gravity settling units to remove heavier, settled gross particulate (suspended in used tank water) from the bottom and sides of the culture tanks. The collected settling water will be pumped to a series of rotating micro screen drum filters and mechanical self-cleaning fabric filters which trap solid particulates. Biofilters will assist in solids separation and removal as well as denitrification. Wastewater will then be pumped to a lift station for distribution to four gravity thickening settlers ("GTS"), which will (a) de-water and (b) concentrate and prepare to transport the waste solids. Concentrated solids will be moved to the Borrower's liquid slurry transport tank from which the waste solids can be distributed to nearby farms for use as a soil amendment. Another lift station will distribute wastewaters from the existing culture buildings and the BSH and PTB facilities to the four GTS facilities.

5. For the reasons set forth in the Findings of Fact attached hereto, the Commissions finds that the Project will have no adverse competitive effect on similar facilities already constructed or operating in Delaware County, Indiana.

6. All public hearings in connection with these proceedings have been held in open meetings in compliance with the requirements of state and federal law.

Adopted this 11th day of May, 2012.

President

Attest:

Secretary

FINDINGS OF FACT

Based upon careful consideration of evidence and testimony submitted to the Delaware County Economic Development Commission (the "Commission"), the Commission hereby makes the following findings of fact with respect to the competitive impact of the proposed sewage facilities of Bell Aquaculture LLC (the Borrower) on any similar facilities already constructed or operating in the County of Delaware, Indiana.

1. The public hearing in connection with this proposal was duly noticed by newspaper publication in the April 26th edition of the Muncie, Indiana *Star Press*, a newspaper of general circulation in the area of the Project and in Delaware County, Indiana, in accordance with the affidavit of the publisher of such newspaper, attached hereto as Exhibit A hereto.
2. At the time of the hearing, the Borrower presented evidence concerning the nature and scope of the Project and the economic benefits to the region and the county which will flow from the construction and operation of the Project. The Borrower's testimony has been summarized in the findings contained in the Report of the Commission to the Delaware County Council with respect to the Project.
3. No person testified or presented written evidence that approval of this Project will have an anti-competitive effect on other similarly situated businesses within Delaware County, Indiana. The Borrower testified that, to the best of its knowledge, no such similarly situated business exists within Delaware County, Indiana.

EXHIBIT A

Publisher's Affidavit of Notice of Public Hearing, Attached.