

ORDINANCE NO. 2014-007

**ORDINANCE OF THE DELAWARE COUNTY COUNCIL APPROVING THE LEASE  
BY THE DELAWARE COUNTY REDEVELOPMENT COMMISSION OF A SHELL  
BUILDING**

**WHEREAS**, the County Council (the "Council") of Delaware County, Indiana (the "County"), desires to foster economic development within the County; and

**WHEREAS**, Garmong Development Company, LLC (the "Company") has approached the County regarding the construction by the Company of an approximately 200,000 square foot expandable shell building (the "Project"), at a cost to the Company of approximately \$7,600,000 (excluding utilities infrastructure to the site and land costs), on certain parcels of real property located within the County near Fuson Road (the "Land"); and

**WHEREAS**, Delaware Advancement Corporation ("DAC") and the Company propose to enter into a Design/Build Construction Services Agreement (the "Design/Build Agreement"), whereby DAC will engage the Company to construct the Project on the Land; and

**WHEREAS**, in connection with the Design/Build Agreement, the Company proposes to secure private financing for the construction of the Project, and DAC proposes to execute a promissory note to the Company (the "Promissory Note") for the costs of construction, payable upon the earlier of ten years or the sale of the Land and the Project; and

**WHEREAS**, DAC proposes to secure the Promissory Note with a non-recourse mortgage on the Land and the Project, and to further secure the Promissory Note with a pledge of the proceeds from the lease of the Land and the Project (or a portion thereof) to the Delaware County Redevelopment Commission (the "Redevelopment Commission"); and

**WHEREAS**, DAC proposes to lease the Land and the Project (or a portion thereof) to the Redevelopment Commission (the "Lease") for a term ending on the earlier of ten (10) years or the date of sale of the Land and the Project, subject to the following terms and conditions:

- (i) The annual lease rental amount payable by the Redevelopment Commission under the Lease shall be in the amount of 1.75% above the Wall Street Journal prime rate on the amount of the Company's debt incurred to finance the Project;
- (ii) The Redevelopment Commission shall have pledged revenues (the "TIF Revenues") generated by the Tax Increment Financing Districts where the Project is to be located or which the Project will benefit and serve (i.e., the Delaware County Magna Economic Development Area Allocation Area and the Industria Centre Economic Development Area Allocation Area) (collectively, the "TIF District") to secure the Redevelopment Commission's obligations under the Lease;

- (iii) The Redevelopment Commission shall also have pledged revenues (the "CREED Revenues") generated by the Magna Community Revitalization and Enhancement District to secure the Redevelopment Commission's obligations under the Lease; and
- (iv) The Redevelopment Commission shall have further secured its obligations under the Lease with a pledge of County Economic Development Income Tax revenues received from the County, or other available revenues of the Redevelopment Commission, to the extent the TIF Revenues and the CREED Revenues are insufficient for such purpose; and

**WHEREAS**, Indiana Code Section 36-7-14-25.2(c) requires the Redevelopment Commission to obtain the approval of the County Council prior to entering into the Lease;


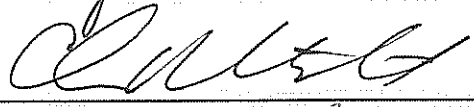
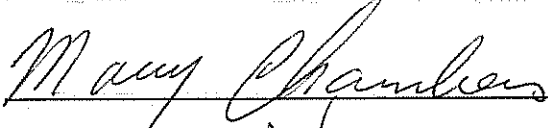
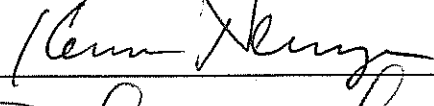

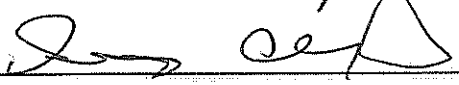
**NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF DELAWARE COUNTY, INDIANA, AS FOLLOWS:**

**SECTION 1.** The County Council hereby approves the Lease having substantially the terms and not economically inconsistent with the terms set forth hereinabove in any material manner.

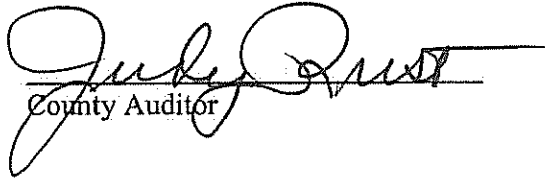
**SECTION 2. Effectiveness.** This Ordinance shall be in full force and effect from and after its passage.

Adopted this 12 day of March, 2014.

COUNTY COUNCIL OF  
DELAWARE COUNTY, INDIANA

  
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ATTEST:

  
County Auditor