

ORIGINAL

ORDINANCE NO. 2021-016

ORDINANCE AUTHORIZING DELAWARE COUNTY, INDIANA TO ISSUE ITS "ECONOMIC DEVELOPMENT REVENUE BONDS, SERIES 2021 (PROJECT HERE)" AND APPROVING AND AUTHORIZING OTHER ACTIONS IN RESPECT THERETO

WHEREAS, the Delaware County ("County") Economic Development Commission ("Commission") has rendered its Project Report regarding the financing of proposed economic development facilities by CANPACK US LLC, and all subsidiaries, designees, successors and assigns ("Company") and the Project Report will be submitted to the Delaware-Muncie Metropolitan Plan Commission and appropriate school(s) for comment thereon;

WHEREAS, the Commission conducted a public hearing on June 16, 2021 and adopted a resolution and Project Report, which resolution and Project Report have been transmitted hereto, finding that the financing of all or a portion of the acquisition, construction and equipping of an approximate 862,000 square foot and potential additional real property improvements consisting of either an addition to the existing manufacturing facility or a new manufacturing facility of approximately 196,000 square feet, together with all necessary appurtenances, related improvements and equipment and/or reimbursement of such costs (collectively, "Project"), including costs of issuance of the bonds, including capitalized interest, if necessary, complies with the purposes and provisions of IC 36-7-11.9 and -12 and that such financing will be of benefit to the health and welfare of the County and its citizens; and

WHEREAS, the Commission has heretofore approved and recommended the adoption of this form of ordinance by this County Council, has considered the issue of adverse competitive effect and has approved the forms of and has transmitted for approval by the County Council the Financing and Covenant Agreement between the County and the Company, the Bond Purchase

Agreement and the Trust Indenture (including the form of Bonds) between the Issuer and Old National Wealth Management ("Trustee");

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF DELAWARE COUNTY, INDIANA, THAT:

Section 1. It is hereby found that: (i) the financing of the Project referred to in the Financing Agreement approved by the Commission and presented to this County Council; (ii) the issuance and sale of the County's Economic Development Revenue Bonds, Series 2021 (Project Here), to be issued in one or more series (to be completed with series designation and year in which issued) (collectively, "Bonds"); (iii) providing the proceeds of the Bonds to the Company for the acquisition, construction and equipping of the Project and costs of issuance of the Bonds, including capitalized interest, if any; (iv) the payment of the Bonds by Pledged TIF Revenues (as defined in the Trust Indenture); and (v) the securing of the Bonds under the Trust Indenture, complies with the purposes and provisions of IC 36-7-11.9 and -12 (collectively, "Act") and will be of benefit to the health and welfare of the County and its citizens. The proceeds of the Bonds will be used for financing all or a portion of the acquisition, construction and equipping of the Project in, or physically connected to the Industria Centre Economic Development Area located in or under the jurisdiction of the County and to pay costs of issuance of the Bonds. The County Council further finds, determines, ratifies and confirms that the promotion of economic development and the creation of job opportunities in and near the County is desirable to preserve the health, safety and general welfare of the citizens of the County and that it is in the public interest that the Commission and the County take such action as they lawfully may to encourage economic development, diversification of industry and promotion of job opportunities in and near the County.

Section 2. The substantially final forms of the Financing and Covenant Agreement, the Trust Indenture and the Bond Purchase Agreement approved by the Commission are hereby approved (herein collectively referred to as the "Financing Documents," referred to in the Act), and the Financing Documents shall be incorporated herein by reference and shall be inserted in the minutes of the County Council and kept on file by the Auditor. In accordance with the provisions of IC 36-1-5-4, two (2) copies of the Financing Documents are on file in the office of the Auditor for public inspection.

Section 3. The County may issue its Bonds, maturing no later than February 1, 2042, in the aggregate principal amount not to exceed \$40,000,000 which Bonds may be subject to mandatory sinking fund redemption with payments structured to maximize the amount of Bond proceeds raised from the projected Pledged TIF Revenues, taking into account reasonable coverage needed to market the Bonds if requested by the bond purchaser. The Bonds are to be issued for the purpose of procuring funds to pay the cost of financing the Project, including capitalized interest, if requested by the bond purchaser, all as more particularly set out in the Financing Documents, which Bonds will be payable as to principal and interest, by Pledged TIF Revenues pursuant to the Financing Documents or as otherwise provided in the Trust Indenture. The Bonds shall be issued in fully registered form in minimum denominations of \$100,000 and integral multiples of \$0.01 thereafter or in denominations of \$0.01 and integral multiples thereof, in one or more series, or as provided in the Trust Indenture, payable semiannually on February 1 and August 1. The Bonds may be subject to optional redemption prior to maturity as further provided in the Trust Indenture. The Bonds may be issued as term bonds subject to mandatory sinking fund redemption. Payments on the Bonds are payable in lawful money of the United States of America by check mailed or delivered to the registered owners or by wire transfer as

provided in the Trust Indenture. The Bonds shall never constitute a general obligation of, an indebtedness of, or a charge against the general credit of the County nor are the Bonds payable in any manner from revenues raised by taxation, except for Pledged TIF Revenues, as described in the Trust Indenture.

Notwithstanding anything in this ordinance to the contrary, the Bonds issued hereunder, are anticipated to be issued to bear interest that is exempt from income taxation; provided that the Bonds, at bond purchaser's request, may bear interest that is taxable and included in the gross income of the owners thereof. If any such Bonds are issued on a taxable basis, the designated name shall include the term "Taxable" as the first word in the designated name.

Section 4. At the public hearing held before the Commission, the Commission considered whether the Project would have an adverse competitive effect on any similar facilities located in or near the County, and subsequently found, based on findings of fact set forth in the resolution transmitted hereto, that the Project would not have an adverse competitive effect. This County Council hereby confirms the findings set forth in the Commission's resolution, and concludes that the Project will not have an adverse competitive effect on any other similar facilities in or near the County, and the facilities will be of benefit to the health and welfare of the citizens of the County.

Section 5. The Board of Commissioners and the Auditor are authorized and directed to sell the Bonds to the bond purchaser thereof at a price not less than the 100% of the par value thereof. The Bonds shall bear interest at a rate not to exceed 5.00%.

Section 6. The Bonds may be drawn down by the Company in installments.

Section 7. The Board of Commissioners and the Auditor are authorized and directed to execute, attest, affix or imprint by any means the County seal to the documents constituting

the Financing Documents approved herein on behalf of the County and any other document which may be necessary or desirable to consummate the transaction, including the Bonds authorized herein. The Board of Commissioners and the Auditor are hereby expressly authorized to approve any modifications or additions to the documents constituting the Financing Documents which take place after the date of this ordinance with the review and advice of the counsel; it being the express understanding of this County Council that the terms of the Financing Documents are in substantially final form as of the date of this ordinance. The approval of said modifications or additions shall be conclusively evidenced by the execution and attestation thereof and the affixing of the seal thereto or the imprinting of the seal thereon; provided, however, that no such modification or addition shall change the maximum issuance amount or maturity amount of, interest rate on or term of the Bonds as approved by the County Council by this ordinance without further consideration by the County Council. The signatures of the Board of Commissioners and the Auditor on the Bonds may be either manual or facsimile signatures. The use of electronic signatures by the Board of Commissioners and the Auditor are authorized and affirmed with full valid legal effect and enforceability. The Auditor is authorized to arrange for delivery of such Bonds to the Trustee. Payment for the Bonds will be made to the Trustee, and after such payment the Bonds will be delivered by the Trustee to the purchaser thereof. The Bonds shall be originally dated as of the issue date.


Section 8. The provisions of this ordinance and the Trust Indenture securing the Bonds shall constitute a contract binding between the County and the holder of the Bonds, and after the issuance of the Bonds, this ordinance shall not be repealed or amended in any respect which would adversely affect the rights of such holders so long as the Bonds or any interest thereon remains unpaid.

Section 9. This ordinance shall be in full force and effect from and after its passage.


Passed and adopted by the County Council of Delaware County, Indiana this 27 day of July, 2021.



Scott Alexander, Councilman



Ryan M. Ballard, Councilman




Ryan Webb, Councilman



Jessica Piper, Councilwoman



Mary Chambers, Councilwoman



Ronald Quakenbush, Councilman

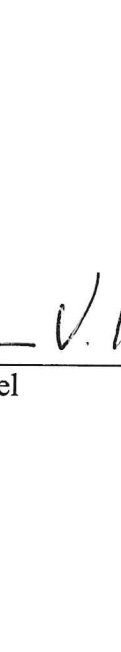


Jane Lasater, Councilwoman

Attest:



Steven Craycraft, Auditor

This Ordinance is approved in form by 

Legal Counsel