

HOLD HEARING ON AND APPROVE
DEVELOPMENT AGREEMENT AND
TAX INCREMENT PAYMENTS

(WAL-VIEW DEVELOPMENTS)

421464-38

Muscatine, Iowa

June 20, 2013

A meeting of the City Council of the City of Muscatine, Iowa, was held at ____ o'clock __.m., on June 20, 2013, at the _____, Muscatine, Iowa, pursuant to the rules of the Council.

The Mayor presided and the roll was called, showing members present and absent as follows:

Present: _____

Absent: _____.

The City Council investigated and found that notice of the intention of the Council to conduct a public hearing on a Development Agreement between the City and Wal-View Developments Limited Company/GSTC Logistics, Inc. in connection with the construction of a new retail farm equipment facility, which Agreement provides for certain financial incentives in the form of annual appropriation, incremental property tax payments in a total amount not exceeding \$5,000,000, had been published according to law and as directed by the Council and that this is the time and place at which the Council shall receive oral or written objections from any resident or property owner of the City. All written objections, statements, and evidence heretofore filed were reported to the Council, and all oral objections, statements, and all other exhibits presented were considered.

The following named persons presented oral objections, statements, or evidence as summarized below; filed written objections or statements, copies of which are attached hereto; or presented other exhibits, copies of which are attached hereto:

(Here list all persons presenting written or oral statements or evidence and summarize each presentation.)

There being no further objections or comments, the Mayor announced that the hearing was closed.

Council Member _____ introduced the resolution next hereinafter set out and moved its adoption, seconded by Council Member _____; and after due consideration thereof by the Council, the Mayor put the question upon the adoption of said resolution, and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared said resolution duly adopted, as follows:

RESOLUTION_____

Approving Development Agreement with Wal-View Developments Limited Company/GSTC Logistics, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of Muscatine, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the Consolidated Muscatine Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the “Urban Renewal Tax Revenue Fund”), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, an agreement between the City and Wal-View Developments Limited Company/GSTC Logistics, Inc., (the “Developer”) has been prepared (the “Agreement”), in connection with the development of a new warehousing and distribution facility on property situated at 5415 49th Street South in the Urban Renewal Area (the “Wal-View Developments Project”); and

WHEREAS, under the Agreement, the City would provide annual appropriation tax increment payments to the Developer in a total amount not exceeding \$5,000,000; and

WHEREAS, this City Council, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Agreement on June 20, 2013, and has otherwise complied with statutory requirements for the approval of the Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors;

NOW, THEREFORE, It Is Resolved by the City Council of the City of Muscatine, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds that:

(a) The Wal-View Developments Project will add diversity and generate new opportunities for the Muscatine and Iowa economies;

(b) The Wal-View Developments Project will generate public gains and benefits, particularly in the potential creation of new jobs, which are warranted in comparison to the amount of the proposed financial incentives.

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax payments to the Developer.

Section 3. The Agreement is hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Agreement on behalf of the City, in substantially the form and content in which the Agreement has been presented to this City Council, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement.

Section 4. All payments by the City under the Agreement shall be subject to annual appropriation by the City Council, in the manner set out in the Agreement. As provided and required by Chapter 403 of the Code of Iowa, the City's obligations under the Agreement shall be payable solely from a subfund (the "Wal-View Developments Subfund") which is hereby established, into which shall be paid that portion of the income and proceeds of the Urban Renewal Tax Revenue Fund attributable to property taxes derived from the property described as follows:

Certain real property situated in the City of Muscatine, County of Muscatine, State of Iowa more particularly described as follows:

[Insert Legal Description]

Section 5. The City hereby pledges to the payment of the Agreement the Wal-View Developments Subfund and the taxes referred to in Subsection 2 of Section 403.19 of the Code of Iowa to be paid into such Subfund, provided, however, that no payment will be made under the Agreement unless and until monies from the Wal-View Developments Subfund are appropriated for such purpose by the City Council.

Section 6. After its adoption, a copy of this resolution shall be filed in the office of the County Auditor of Muscatine County to evidence the continuing pledging of the Wal-View Developments Subfund and the portion of taxes to be paid into such Subfund and, pursuant to the direction of Section 403.19 of the Code of Iowa, the Auditor shall allocate the taxes in

accordance therewith and in accordance with the tax allocation ordinance referred to in the preamble hereof.

Section 7. All resolutions or parts thereof in conflict herewith are hereby repealed.

Section 8. This resolution shall be in full force an effect immediately upon its adoption and approval, as provided by law.

Passed and approved this 20th day of June, 2013.

Mayor

Attest:

City Clerk

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On motion and vote the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
COUNTY OF MUSCATINE SS:
CITY OF MUSCATINE

I, the undersigned, Clerk of the City of Muscatine, hereby certify that the foregoing is a true and correct copy of the minutes of the Council of the City relating to holding a public hearing and adopting a resolution to approve a Development Agreement.

WITNESS MY HAND this _____ day of _____, 2013.

City Clerk

STATE OF IOWA

SS:

COUNTY OF MUSCATINE

I, the undersigned, County Auditor of Muscatine County, in the State of Iowa, do hereby certify that on the ____ day of _____, 2013, the City Clerk of the City of Muscatine filed in my office a certified copy of a resolution of the City shown to have been adopted by the City Council and approved by the Mayor thereof on April 1, 2013, entitled: "Resolution Approving Development Agreement with Wal-View Developments Limited Company/GSTC Logistics, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement", and that I have duly placed the copy of the resolution on file in my records.

WITNESS MY HAND this ____ day of _____, 2013.

County Auditor

DEVELOPMENT AGREEMENT

This Development Agreement (“Agreement”) is entered into between the City of Muscatine, Iowa (the “City”) and Wal-View Developments Limited Company/GSTC Logistics, Inc., (the “Company”) as of the 20th day of June, 2013 (the “Commencement Date”).

WHEREAS, the City has established the Muscatine Consolidated Urban Renewal Area (the “Urban Renewal Area”), and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Company owns certain real property situated at 5415 49th Street South in the Urban Renewal Area, such property being legal described on Exhibit A hereto, (the “Property”) and has undertaken the development of a new warehousing and distribution facility on the Property (the “Project”); and

WHEREAS, the Company has requested that the City provide financial assistance in the form of incremental property tax payments to be used by the Company in defraying the costs of constructing and maintaining the Project; and

WHEREAS, as of January 1, 2013, the assessed valuation of the Property showing on the records of the Muscatine County Assessor was \$178,270 (the “Base Valuation”); and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Company’s Covenants

1. Project. The Company agrees to cause the completion of the Project on the Property and to use the completed Project as part of its ongoing business operations throughout the Term, as hereinafter defined, of this Agreement. The Company will complete the Project in accordance with the site plan (the “Site Plan”) for the Property which was approved by the City Council on June 20, 2013. The Project shall be comprised of a 567,000 square foot warehouse and distribution facility. In the construction of the Project and affiliated development of the Property, the Company shall meet all municipal regulations, including, but not limited to, building code, fire code, zoning, platting and hard surfacing requirements. The Project shall include the planting of trees in the municipal right-of-way as detailed on the Site Plan.

The Company and the City agree to execute a certificate of completion when the Project is in fact completed to evidence compliance with this provision. The Company hereby acknowledges that its rights to receive the Payments, as set forth in Section B, hereof, is contingent upon its ongoing ownership and use of the Property and the Project in its business operations.

2. Operational Certification. The Company agrees to submit documentation to the satisfaction of the City by no later than each October 15 of each year during the Term, as hereinafter defined, demonstrating that the Project is being used as part of the Company's ongoing business operations.

3. Minimum Assessment Agreement. The Company agrees to enter into an assessment agreement (the "Assessment Agreement"), pursuant to Section 403.6 of the Code of Iowa fixing the minimum assessed valuation of the Property, in contemplation of the Base Valuation plus the value to be added by the proposed Project, at not less than Eighteen Million Dollars (\$18,000,000) (the "Minimum Assessed Valuation") as of January 1, 2014 (the "First Valuation Date"). It is intended by the Company that the Minimum Assessed Valuation shall be established on the Muscatine County property tax rolls as of the First Valuation Date regardless of the then-current degree of completion or incompleteness of the Private Project. The Assessment Agreement shall remain in effect throughout the Term.

4. Property Taxes. The Company agrees to ensure timely payment of all property taxes as they come due with respect to the Property throughout the Term, as hereinafter defined.

5. Property Tax Payment Certification. Furthermore, the Company agrees to certify to the City by no later than October 15 of each year, commencing October 15, 201___, an amount (the "Company's Estimate") equal to the estimated Incremental Property Tax Revenues anticipated to be paid in the fiscal year immediately following such certification with respect to the Property relative to new value added as a result of the property tax assessment of the Project (which amount shall not be less than the Minimum Assessed Valuation). The City reserves the right to review and request revisions to each such Company's Estimate to ensure the accuracy of the figures submitted. For purposes of this Agreement, Incremental Property Tax Revenues are produced by multiplying the consolidated property tax levy (city, county, school, etc.) times the incremental valuation of the Property, then subtracting debt service levies of all taxing jurisdictions, subtracting the school district instructional support and physical plant and equipment levies and subtracting any other levies which may be exempted from such calculation by action of the Iowa General Assembly.

Upon request, the City staff shall provide reasonable assistance to the Company in formulating the annual estimates required under this Section A.5.

6. Legal and Administrative Costs. The Company hereby agrees to pay for the legal fees and administrative costs incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the prerequisite amendment to the urban renewal plan, up to an amount not in excess of \$4,000. The Company agrees to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Company evidencing such costs.

7. Employment Requirements. The Company agrees to establish and maintain a workforce (the "Workforce Requirement") of not less than 25 employees with a minimum annual payroll of \$750,000 in connection with the Company's business operations on the Property. The Company agrees to demonstrate to the satisfaction of the City, by no later than

October 15 of each year, commencing October 15, 2014, the number of employees hired and the annual payroll anticipated with respect to the compensation of such employees. Failure to comply with this Section will give the City the right to withhold Payments, as defined in Section B, below.

8. Infrastructure Requirements. The Company hereby agrees to cause and pay for the construction of street improvements (the “Street Improvements”) (the details of which are set forth on Exhibit B hereto, including the extension of 49th Street and the construction of a new street adjacent to the north property line of the Property. The Street Improvements shall be constructed in accordance with the specifications to be provided by the City. The Street Improvements shall be completed by no later than January 1, 2014.

B. City’s Obligations

1. Payments. In recognition of the Company’s obligations set out above, the City agrees to make ten (10) annual economic development tax increment payments (the “Payments”) to the Company in each fiscal year during the term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments shall not exceed \$5,000,000, and all Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City, but shall be made solely and only from Incremental Property Tax Revenues received by the City from the Muscatine County Treasurer attributable to the Property.

The Payments will be made on June 1 of each fiscal year, beginning on June 1, 2015, and continuing through and including June 1, 2025, or until such earlier date upon which total Payments equal to \$5,000,000 have been made.

2. Annual Appropriation. Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the term of this Agreement, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year, an amount (the “Appropriated Amount”) of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Company’s Estimate factored by the annual percentage (the “Annual Percentage”) scheduled to be in effect in the following fiscal year. The Annual Percentages shall be as follows:

| | |
|---|------|
| For the first, second and third Payment Years: | 100% |
| For the fourth and fifth Payment Years: | 100% |
| For the sixth, seventh, and eighth Payment Years: | 50% |
| For the ninth and tenth Payment Years: | 50% |

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payments scheduled to become due in the following fiscal year, and the Company will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payments shall not render this Agreement null and void, and the Company shall make the next succeeding submission of the Company's Estimate as called for in Section A.5 above, provided however that no Payment shall be made after June 1, 2027.

3. Payment Amounts. Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for a Payment due on June 1, 2018, the amount would be determined by the Appropriated Amount determined for certification by December 1, 2016).

4. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.2 above, then the City Clerk will certify by December 1 of each such year to the Muscatine County Auditor an amount equal to the most recently obligated Appropriated Amount.

5. Connection Fees. The City will refrain from assessing all connection fees for municipal services against any portions of the Property comprising municipal right-of-way or serving as the site for storm water detention improvements.

C. Administrative Provisions

1. Assignment. This Agreement may not be amended or assigned by either party without the prior written consent of the other party. However, the City hereby gives its permission that the Company's rights to receive the Payments hereunder may be assigned by the Company to any "affiliate" or a private lender, as security on a credit facility taken in connection with the acquisition of the Property and/or the construction of the Project, without further action on the part of the City.

2. Successors. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. Term. The term (the "Term") of this Agreement shall commence on the Commencement Date and end on the date on which the last Payment is made by the City to the Company under Section B.1 above.

4. Choice of Law. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

The City and the Company have caused this Agreement to be signed in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF MUSCATINE, IOWA

By: _____
Mayor

Attest:

City Clerk

WAL-VIEW DEVELOPMENTS LIMITED
COMPANY/GSTC LOGISTICS, INC.

By: _____

By: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Certain real property situated in the City of Muscatine, County of Muscatine, State of Iowa bearing the Muscatine County Property Tax Identification Parcel Numbers as follows:

EXHIBIT B
Details of Street Improvements