

Meeting No.

18

Paper No.

2

PUBLIC HEARING STATEMENT

THIS IS THE TIME SET FOR HEARING FOR CONSIDERATION OF A DEVELOPMENT AGREEMENT WITH WINEGARD COMPANY, INCLUDING ANNUAL APPROPRIATION TAX INCREMENT PAYMENTS IN AN AMOUNT NOT TO EXCEED \$1,380,330.

PUBLICATION HAS BEEN MADE IN THE HAWK EYE AS PRESCRIBED BY LAW.

THOSE FOR OR AGAINST MAY BE HEARD AT THIS TIME.

FILED-For Record

SEP 17 2012

CITY CLERKS OFFICE
BURLINGTON, IOWA

NOTICE OF MEETING FOR
APPROVAL OF DEVELOPMENT
AGREEMENT WITH WINEGARD
COMPANY AND AUTHORIZATION
OF ANNUAL APPROPRIATION
TAX INCREMENT PAYMENTS

The City Council of the City of Burlington, Iowa, will meet at the Thomas J. Smith Council Chambers, on the 17th day of September, 2012, at 6:30 o'clock p.m., at which time and place proceedings will be instituted and action taken to approve a Development Agreement between the City and Winegard Company, in connection with the expansion of an industrial facility, which provides for certain property tax incentives in the form of annual appropriation incremental property tax payments in a total amount not exceeding \$1,380,330, as authorized by Section 403.9 of the Code of Iowa.

The Agreement to make annual appropriation incremental property tax payments will not be a general obligation of the City, but will be payable solely and only from incremental property tax revenues generated within the Flint Hills Urban Renewal Area. All payments under the Development Agreement will be subject to annual appropriation by the City Council.

At the meeting, the Council will receive oral or written objections from any resident or property owner of the City. Thereafter, the Council may, at the meeting or at an adjournment thereof, take additional action to approve the Development Agreement or may abandon the proposal.

This notice is given by order of the City Council of Burlington, Iowa, in accordance with Section 403.9 of the Code of Iowa.

Kathleen P. Salisbury
City Clerk

September 10, 2012_11

2012-004857
FILED FOR RECORD
DES MOINES COUNTY, IOWA

2012 OCT 10 A 11: 32

TOLL FEES 12-
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RECORDER
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****Do not write in the space above - it is for recording purposes****

Prepared by: Kathleen P. Salisbury, City Clerk, 400 Washington St, Burlington, IA 52601 319-753-8124

PURCHASE ORDER NO. 20130201

9/5/12

The Hawk Eye Newspaper is authorized to publish one time: **MONDAY, SEPTEMBER 10, 2012**

NOTICE OF PUBLIC HEARING: NOTICE OF MEETING FOR APPROVAL OF DEVELOPMENT AGREEMENT WITH WINEGARD COMPANY AND AUTHORIZATION OF ANNUAL APPROPRIATION TAX INCREMENT (SEPTEMBER 17, 2012)

Kathleen P. Salisbury
Kathleen P. Salisbury, MMC, City Clerk

STATE OF IOWA, {
Des Moines County, {SS.

I, being first duly sworn, state that I am the Advertising Director of The Hawk Eye, a Corporation, publisher of The Hawk Eye, a newspaper of general circulation, published in the City of Burlington, Iowa, and that I am authorized by said publisher to make affidavit of publication of notice in such paper and that the attached notice was published correctly in said newspaper on the 10 day of September, 20 12 of which facts I have personal knowledge.

Greg Stollmeier

Subscribed and sworn to before me by the said Advertising Director this 10 day of September, 20 12.

Deanna Kitsch

Notary Public



**NOTICE OF MEETING FOR
APPROVAL OF DEVELOPMENT
AGREEMENT WITH WINEGARD
COMPANY AND AUTHORIZATION
OF ANNUAL APPROPRIATION
TAX INCREMENT PAYMENTS**

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Kathleen P. Salisbury
City Clerk

September 10, 2012_1t

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Meeting No. 18 Paper No. 3 Seconded By: Fleming
AYES: Anderson, Davidson, Fleming + McCampbell
NAYS: none
Introduced By: Anderson MOTION CARRIED absent - Beed

That the hearing regarding CONSIDERATION OF A DEVELOPMENT AGREEMENT WITH WINEGARD COMPANY, INCLUDING ANNUAL APPROPRIATION TAX INCREMENT PAYMENTS IN AN AMOUNT NOT TO EXCEED \$1,380,330,

be closed.

FILED-For Record
SEP 17 2012
CITY CLERKS OFFICE
BURLINGTON, IOWA

Meeting No.

18

Paper No.

4

Seconded By: Fleming

AYES: Anderson, Davidson, Fleming + McCampbell

Introduced By:

Anderson

NAYS: none

RESOLUTION 2012-184 absent - Reed

Approving Development Agreement with Winegard Company, Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of Burlington, 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 Flint Hills Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, this 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 Winegard Company has been prepared (the "Agreement"), pursuant to which Winegard Company would expand an industrial facility in the Urban Renewal Area (the "Winegard Company Project") and the City would provide annual appropriation tax increment payments in a total amount not exceeding \$1,380,330; and

WHEREAS, an amendment (the "2012 Urban Renewal Amendment") to the Urban Renewal Plan for the Urban Renewal Area has been prepared in which the Winegard Company Project is designated as a new urban renewal project, and a public hearing will be held on that amendment on October 15, 2012; 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 September 17, 2012, 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 Burlington, Iowa, as follows:

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

(a) The Winegard Company Project will add diversity and generate new opportunities for the Burlington and Iowa economies;

(b) The Winegard Company Project will generate public gains and benefits, particularly in the creation of new jobs, which are warranted in comparison to the amount of the proposed property tax incentives.

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

Section 3. The Agreement is hereby approved, subject to the approval of the 2012 Urban Renewal Amendment on October 15, 2012, 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 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 with a Des Moines County Property Tax ID Number of: 11-30-351-007


(the "Winegard Company Subfund").

Section 5. The City hereby pledges to the payment of the Agreement the Winegard Company 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 Winegard Company 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 Des Moines County to evidence the continuing pledging of the Winegard Company 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.

Passed and approved this 17th day of September, 2012.



Mayor

Attest:



City Clerk

Contract No. 6797

FILED-For Record

SEP 17 2012

CITY CLERKS OFFICE
BURLINGTON, IOWA

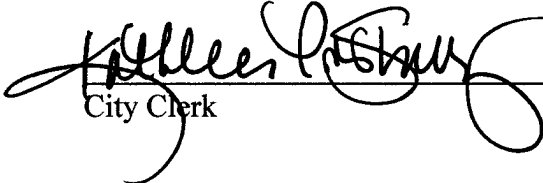
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On motion and vote the meeting adjourned.



Mayor

Attest:

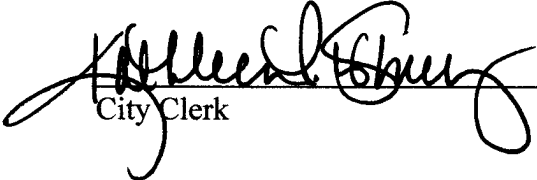


City Clerk

STATE OF IOWA
COUNTY OF DES MOINES:
CITY OF BURLINGTON

I, the undersigned, Clerk of the City of Burlington, 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 18th day of September, 2012.



City Clerk

FILED

SEP 20 2012

STATE OF IOWA

SS:

COUNTY OF DES MOINES

DES MOINES CO AUDITOR

I, the undersigned, County Auditor of Des Moines County, in the State of Iowa, do hereby certify that on the 19th day of September, 2012, the City Clerk of the City of Burlington filed in my office a certified copy of a resolution of the City shown to have been adopted by the Council and approved by the Mayor thereof on September 17, 2012, entitled: "Resolution Approving Development Agreement with Winegard Company, 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 19th day of September, 2012.


County Auditor

HOLD HEARING ON AND APPROVE
DEVELOPMENT AGREEMENT AND
TAX INCREMENT PAYMENTS

(Winegard Company)

419845-44

Burlington, Iowa

September 17, 2012

A meeting of the City Council of the City of Burlington, Iowa, was held at 6:30 o'clock p.m., on September 17, 2012, at the Thomas J. Smith Council Chambers, Burlington, Iowa, pursuant to the rules of the Council.

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

Present: (4) Jim Davidson, Mayor; Becky Anderson, Robert Fleming and Shane McCampbell, Council Members

Absent: (1) Christopher Reed, Council Member

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 Winegard Company in connection with the expansion of an industrial facility, which provides for certain property tax incentives in the form of annual appropriation, incremental property tax payments in a total amount not exceeding \$1,380,330, 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:

A total of 4 people spoke including the City Council.

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

Council Member Anderson introduced the resolution next hereinafter set out and moved its adoption, seconded by Council Member Fleming; 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: (4) Jim Davidson, Mayor; Becky Anderson, Robert Fleming and Shane McCampbell, Council Members

Nays: None

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

September 14, 2012

Kathleen P. Salisbury
City Clerk/City Hall
400 Washington Street
Burlington, IA 52601-5142

Re: Winegard Company Development Agreement
File No. 419845-44

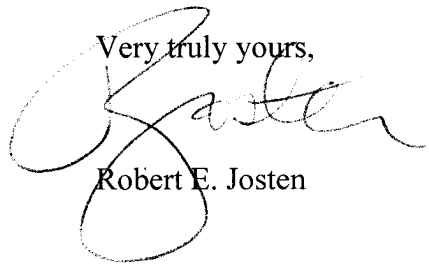
Dear Kathleen:

Enclosed are copies of proceedings covering the City Council's public hearing on the proposed Development Agreement with Winegard Company, followed by a resolution approving the Agreement and pledging incremental tax revenues.

A copy of the Resolution must be filed with the Des Moines County Auditor and an extra copy is enclosed for that purpose.

We would appreciate receiving one fully executed copy of these proceedings and of the executed Development Agreement as soon as they are available.

Very truly yours,



Robert E. Josten

REJ:mlj
Enclosures

cc by email: Jim Ferneau
Stephanie Stuecker

DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Burlington, Iowa (the "City") and Winegard Company (the "Company") as of the 15th day of October, 2012.

WHEREAS, the City has established the Flint Hills 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 which is situated within the Urban Renewal Area, which is identified with a Des Moines County Property Tax ID Number of 11-30-351-007

(the "Property")

and;

WHEREAS, the Company intends to expand an industrial facility on the Property (the "Project"); and

WHEREAS, the Company has requested tax increment financing assistance in paying the costs of the Project; 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. The Company agrees to complete the Project and to use the Project as an industrial facility throughout the term of this Agreement.

2. The Company agrees to make timely payment of all property taxes, or to cause such timely payment to be made, as such payments come due throughout the term of this Agreement.

B. City's Obligations

In recognition of the Company's obligations set out above, the City agrees to make 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 \$1,380,330, and all Payments shall be subject to annual appropriation by the City Council.

The Payments will be made on December 1 and June 1 of each fiscal year, beginning in the first fiscal year for which the City receives incremental property tax revenues with respect to an increase in the taxable valuation of the Property over the valuation shown on the tax rolls as of January 1, 2012 (the "Incremental Property Tax Revenues"), and continuing for a total of ten

fiscal years or until such earlier date upon which total Payments equal to \$1,380,330 have been made. For example, if an increase in taxable valuation of the Property is placed on the Des Moines County tax rolls as of January 1, 2013, the first Payment will be made on December 1, 2014.

For the first five years of this Agreement, each Payment shall be in an amount equal to 75% of the Incremental Property Tax Revenues received by the City during the six months immediately preceding each Payment Date, and for the second five years of this Agreement, each Payment shall be in an amount equal to 50% of the Incremental Property Tax Revenues received by the City during the six months immediately preceding each Payment Date.

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 physical plant and equipment and instructional support levies and subtracting any other levies which may be exempted from such calculation by action of the Iowa General Assembly.

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

Each Payment shall be subject to annual appropriation by the City Council. Prior to November 15 of each year during the term of this Agreement, the City Council shall consider the question of obligating for appropriation to the funding of the Payments due in the next succeeding fiscal year, an amount of Incremental Property Tax Revenues to be collected in such following fiscal year equal to the City's estimate of the amount of Incremental Property Tax Revenues that could be collected in such year (the "Appropriated Amount"). Each such estimate shall be based on then current consolidated property tax levy and most recent incremental valuation of the Property.

To the extent the City Council decides to obligate funds for appropriation to the Payments, the City agrees to certify to the Des Moines County Auditor by December 1 of each year during the term of this Agreement, an amount equal to the most recently determined Appropriated Amount.

C. Administrative Provisions

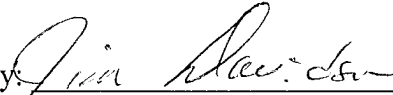
1. This Agreement may not be amended or assigned by either party without the express permission of the other party. However, the City hereby gives its permission that the Company's rights to receive the economic development tax increment payments hereunder may be assigned by the Company to a lender, as security, without further action on the part of the City.

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

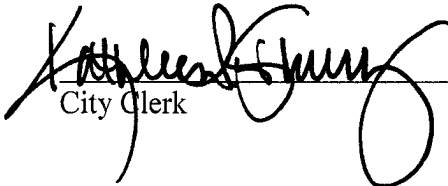
3. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

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 BURLINGTON, IOWA

By: 
Mayor

Attest:


City Clerk

WINEGARD COMPANY

By: _____