

February 3, 2015

To: Mayor Bemrich and City Council
From: David Fierke, City Manager
Subject: Development Agreement
Boehringer Ingelheim Vetmedica, Inc.
(BIVI)



ACTION: For vote Monday, February 9, 2015

Brief History

Boehringer Ingelheim Vetmedica, Inc. (BIVI) is planning a \$100,000,000 investment in their Fort Dodge facilities, including the following components:

- Enhancements to its freeze drying capacity with the addition of a 12,000 square foot expansion;
- Investments in equipment and other plant assets to increase the facility's overall competitiveness;
- Establishment of a Veterinary Research Center (VRC) to support research and development and quality control, including the construction of a 32,215 square foot building;

The project is scheduled to begin in the first quarter of 2015 and be completed in the second quarter of 2020.

Analysis of Issue

The City Council recently approved the sponsorship of an application from BIVI to the Iowa Economic Development Authority for funding through the High Quality Jobs Program. As part of the sponsorship, the City is required to provide matching funds in an amount estimated at \$1,333,713. Funding would be provided through a TIF Rebate of 65% of the increment produced from the project over an estimated 3.5 years.

Budget Impact

It is estimated that this project will produce approximately \$22 million in increased taxable value, which equates to an estimated \$592,761 in increment produced. Based on these calculations, 65% or \$385,294 would be provided to the company annually for 3.5 years.

Strategic Plan Impact

Policy C1.4: The current economy should be expanded through further development of the health and social services, manufacturing, and alternative fuels.

Policy C.1.6: City government shall be an active participant, facilitator and partner in the creation of large and small business and industrial development opportunities capitalizing upon the unique human and economic resources of the area.

Existing Plan Impact

This project is consistent with the City's Envision 2030 Plan.

Subcommittee or Commission Review / Recommendation

n/a

Staff Conclusions / Recommendations

Staff recommends approving the attached agreement with Boehringer Ingelheim Vetmedica, Inc.

Alternatives

The only alternative would be to not approve the agreement, which would prohibit the City from providing TIF incentives. This action could potentially delay, minimize or end the project and is not recommended.

Implementation and Accountability

If approved, staff will execute the attached agreement and oversee compliance of the terms of the agreement.

Signed

Approved



Vickie L. Reeck,
Community Development Mgr.

David R. Fierke
City Manager

RESOLUTION _____

Resolution Approving Development Agreement with Boehringer Ingelheim Vetmedica, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of Fort Dodge, 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 Center City and Industrial Park Urban Renewal Areas (the “Urban Renewal Areas”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Areas 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 Areas; and

WHEREAS, a certain development agreement (the “Agreement”) between the City and Boehringer Ingelheim Vetmedica, Inc. (the “Company”) has been prepared in connection with the expansion of the Company’s physical plant and the acquisition of machinery and equipment for the enhancement of its business operations situated at 800 5th Street NW in the Urban Renewal Areas (the “2015 BIVI Project”); and

WHEREAS, under the Agreement, the City would provide annual appropriation tax increment payments to the Company in a total amount not exceeding \$1,500,000; 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 February 9, 2015, 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 Fort Dodge, Iowa, as follows:

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

(a) The 2015 BIVI Project will add diversity and generate new opportunities for the Fort Dodge and Iowa economies;

(b) The 2015 BIVI Project will generate public gains and benefits, particularly in the leveraging of private investment and the 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 Company.

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 "2015 BIVI 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 Fort Dodge, County of Webster, State of Iowa legally described as follows:

The East ½ of Section 13, Township 89 North, Range 29 West of the 5th P.M., Webster County, Iowa.

Section 5. The City hereby pledges to the payment of the Agreement the 2015 BIVI 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 2015 BIVI 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 Webster County to evidence the continuing pledging of 2015 BIVI 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 February 9, 2015.

Ayes: _____

Nays: _____

Other: _____

CITY OF FORT DODGE, IOWA

By: Matt Bemrich, Mayor

Attest:

Jeff Nemmers, City Clerk

DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Fort Dodge, Iowa (the “City”) and Boehringer Ingelheim Vetmedica, Inc. (the “Company”) as of the ___ day of February, 2015 (the “Commencement Date”).

WHEREAS, the City has established the Center City and Industrial Park Urban Renewal Areas (the “Urban Renewal Areas”), and has adopted a tax increment ordinance for the Urban Renewal Areas; and

WHEREAS, the Company owns certain real property which is situated in the Urban Renewal Areas and is more specifically described on Exhibit A hereto (the “Property”); and

WHEREAS, the Company has proposed to undertake the improvements and expansion of its business operations on the Property through investments in machinery and equipment, furnishings, computer hardware and software, research and development and the construction of infrastructure and site improvements, improvements to existing facilities and a new building (the “Project”); and

WHEREAS, the City has offered to provide financial assistance to the Company in the form of incremental property tax payments to be made in connection with the development, construction and operation of the Project; and

WHEREAS, the Company will enter into a certain economic development agreement (the “State Agreement”) with the State of Iowa with respect to the Project in the form as will be attached hereto as Exhibit B;

WHEREAS, the base valuation of the Property for purposes of Section 403.19 of the Code of Iowa is _____ (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. Private Project Construction. The Company agrees to undertake and complete the Project on the Property. The Project is intended to enhance and expand the Company’s industrial freeze drying capabilities, improve the performance of aging systems equipment and other plant assets to increase the facility’s overall competitiveness, and support research and development and quality control purposes in a modern bio-secure facility. The project will include investment by the Company into: (i) furnishings, computer hardware and software (\$2,800,000); (ii) research and development (\$2,800,000); (iii) machinery and equipment (\$55,000,000); (iv) site preparation and infrastructure improvements (\$5,000,000); (v) remodeling of existing structures (\$7,600,000); and (vi) construction of a new 12,000 square foot facilities addition and a new 32,215 square foot building (\$26,800,000); (hereinafter the items

identified in this Section as iv, v and vi shall be collectively referred to as the “Property Improvements”). It is anticipated that the Company shall complete the Project by July 1, 2020.

The Company agrees to abide by the terms of the State Agreement as it constructs and operates the Project, and the requirements of the State Agreement are incorporated herein by this reference.

2. Property Taxes. The Company agrees to cause timely payment of all property taxes as they come due with respect to the Property throughout the Term, as hereinafter defined, and if requested by the City, to submit evidence of such payments.

3. Estimate of Incremental Property Tax Revenues. Furthermore, the Company agrees to certify to the City by no later than October 15 of each year, commencing October 15, 2017, an amount (the “Company’s Estimate”) equal to 65% of the estimated Incremental Property Tax Revenues anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of the Property. In determining such Company’s Estimate, the Company will complete and submit the worksheet attached hereto as Exhibit C. 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 determined by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; and (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the valuation of the Property, as shown on the property tax rolls of Webster County, above and beyond the Base Valuation.

Upon request, the City staff shall provide reasonable assistance to the Company in formulating the annual estimates required under this Section A.3 and in completing the annual worksheets.

4. Legal and Administrative Fees. The Company hereby agrees to cover 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 \$5,000. 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.

5. Remedy. The Company hereby acknowledges that failure to comply with the requirements of this Section A, will result in the City having the right to withhold Payments under Section B of this Agreement at its sole discretion, until such time as the Company has demonstrated, to the satisfaction of the City, that it has cured such non-compliance.

B. City’s Obligations

1. Payments. In recognition of the Company’s obligations set out above, the City agrees to make eight semiannual economic development tax increment payments (the

“Payments”) to the Company during the Term, as hereinafter defined, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments shall not exceed \$1,500,000 (the “Maximum Aggregate Payments”), and the 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 Webster County Treasurer attributable to the taxable valuation of the Property.

It is assumed that the new valuation from the Property Improvements will go on the tax rolls as of January 1, 2017. Accordingly, the Payments will be made on December 1 and June 1 of each fiscal year, beginning on December 1, 2018 and continuing to, and including, June 1, 2022, or until such earlier date upon which total Payments equal to the Maximum Aggregate Payments have been made. In the event that the new valuation resulting from the completion of the Project does not go on the property tax rolls until January 1, 2018, then the inception of the Payments shall be delayed by one-year and all relevant dates under this Agreement shall be extended accordingly.

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, as hereinafter defined, 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.

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.3 above, provided however that no Payment shall be made under this Agreement after June 1, 2023.

3. Payment Amounts. It is intended that each Payment shall be in an amount equal to 65% of the Incremental Property Tax Revenues available to the City with respect to the Property in the six months immediately preceding the respective payment date. Furthermore, each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payments due on December 1, 2019 and on June 1, 2020, the aggregate amount of such Payments would be determined by the Appropriated Amount determined for certification by December 1, 2018), provided, however, that no Payment shall exceed the amount of Incremental Property Tax Revenues received by the City from the Webster County Treasurer attributable to the taxable valuation of the Property.

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 Webster County Auditor an amount equal to the most recently obligated Appropriated Amount.

C. Administrative Provisions

1. Amendment and Assignment. This Agreement may not be amended or assigned by either party without the 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 a private lender, as security on a credit facility taken with respect to 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 June 1, 2023 or on such earlier date upon which the aggregate sum of Payments made to the Company equals the Maximum Aggregate Payments.

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 FORT DODGE, IOWA

By: _____
Matt Bemrich, Mayor

Attest:

Jeff Nemmers, City Clerk

BOEHRINGER INGELHEIM
VETMEDICA, INC.

By: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

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

The East ½ of Section 13, Township 89 North, Range 29 West of the 5th P.M., Webster County, Iowa.

DRAFT

EXHIBIT B
STATE AGREEMENT

DRAFT

EXHIBIT C
ANNUAL TIF WORKSHEET
COMPANY'S ESTIMATE

(1) Date of Preparation: 2/3/2015

(2) Assessed Valuation of Property as of January 1, 2017:

\$ _____.

(3) Base Valuation of Property:

\$ _____

(4) Incremental Valuation of Property (2 minus 3):

\$ _____ (the "TIF Value").

(5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):

\$36.30827 per thousand of value.

(6) The TIF Value (4) factored by the Adjusted Levy Rate (5).

\$ _____ x \$36.30827/1000

(7) Estimate = \$ _____ x .65 = \$ _____