

ORDINANCE NO. 9192

A HOME RULE ORDINANCE OF THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS, APPROVING AN ECONOMIC DEVELOPMENT GRANT IN AN AMOUNT NOT TO EXCEED \$250,000.00, AND THE ISSUANCE OF BONDS THEREFOR, AND APPROVING AN ECONOMIC DEVELOPMENT GRANT IN THE AMOUNT OF \$549,350.00.

WHEREAS, Menard, Inc. ("Developer") has proposed a manufacturing and distribution facility development with an estimated development cost of over \$15 million (the "Project") to be located on approximately 90.5 acres at Block C, Lot 1, Lawrence VenturePark, City of Lawrence, Douglas County, Kansas (as replatted or modified), and as more particularly shown on Exhibit A attached hereto and incorporated herein by this reference (the "Project Site");

WHEREAS, the Project Site is subject to certain special assessments authorized, imposed, or levied pursuant to K.S.A. 12-6a01 *et seq.* and City Resolution No. 7012 (2013), No. 7016 (2013), No. 7046 (2013), and No. 7049 (2013) (collectively, the "Assessments");

WHEREAS, as partial consideration for Developer's purchase of the Project Site and development of the Project, Developer has agreed to prepay, at the time of Developer's acquisition of the Project Site, and not over a term of years as may be allowed under Kansas law, a portion of the Assessments in the amount of \$1,084,018.00;

WHEREAS, City Staff and the City Public Incentives Review Committee have recommended an economic development grant in favor of Developer in an amount not to exceed \$250,000.00 (U.S.), which amount shall be used by City to prepay the remainder of the Assessments (such grant referred to herein as the "Prepayment Grant");

WHEREAS, as an inducement for Developer to develop and complete the Project, City Staff and the City Public Incentives Review Committee have further recommended an economic development grant in the amount of \$549,350.00 (U.S.), to be disbursed to Developer in equal annual installments over a term of ten (10) years, for the benefit of the Project to be used to defray Developer's prepayment of Assessments (such grant referred to herein as the "Annual Grant");

WHEREAS, City intends that the funds for the Annual Grant will be maintained in a separate fund or account of the City specifically for the purposes of such grant, and that distribution of such funds shall further be subject to the terms and conditions of that certain "Development Agreement" related to the Project to be entered into by and among City, Developer, and the Board of County Commissioners for Douglas County, Kansas (the "County");

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the "Home Rule Amendment") authorizes City to determine its local affairs and government and provides that such power and authority granted thereby to cities shall be liberally construed for the purpose of giving to cities the largest measure of self-government;

WHEREAS, there is no enactment of the Kansas Legislature which prohibits City from issuing general obligation bonds or notes to finance the costs of an economic development grant; and

WHEREAS, the Governing Body of City hereby finds that pursuant to and in furtherance of the purposes of the Home Rule Amendment, it is in the interest of the public health, safety and welfare of City to authorize the issuance of general obligation temporary notes and/or bonds (the "Obligations") for

the purpose of financing the cost of the Prepayment Grant, all for economic development purposes.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAWRENCE, KANSAS:

SECTION I. Subject to the terms, conditions, and contingencies of this Ordinance, City hereby approves an economic development grant to Developer for an amount not to exceed \$250,000.00 (U.S.), which grant shall be used to prepay a portion of the Assessments, and which grant shall further be subject to the terms and conditions of that certain Development Agreement to be entered into by and among City, Developer, and the County.

SECTION II. Subject to the terms, conditions, and contingencies of this Ordinance, City hereby approves an economic development grant to Developer for an amount totaling \$549,350.00 (U.S.), which grant shall be distributed to Developer in equal annual installments over a term of ten (10) years, and which grant shall further be subject to the terms and conditions of that certain Development Agreement to be entered into by and among City, Developer, and the County.

SECTION III. The costs of the Prepayment Grant may be paid, in whole or in part, from the proceeds of general obligation temporary notes and/or bonds of City, which are hereby authorized to be issued for such purposes pursuant to the authority of the Home Rule Amendment in an amount not to exceed \$250,000.00, plus costs of issuance and interest on any temporary financing.

SECTION IV. Notwithstanding anything in this Ordinance to the contrary, approval of the economic development grants, and performance by City hereunder, is contingent and dependent upon satisfaction of all of the following conditions:

(a) City and Developer closing on the sale and purchase of the Project Site pursuant to the terms of a Purchase and Sale Agreement entered into, or to be entered into, between City (as seller) and Developer (as purchaser).

(b) Prepayment by Developer to City of the Assessments in the amount of \$1,084,018.00.

(c) City, Developer, and County entering into the Development Agreement, on terms acceptable to City, in City's sole discretion. The terms, conditions, and provisions of the Development Agreement shall thereafter govern distribution of grant funds and eligibility therefor.

SECTION V. The Annual Grant approved pursuant to this Ordinance is and shall be subject to the provisions of the Kansas cash basis law, K.S.A. 10-1101 *et seq.*, the Kansas budget law, K.S.A. 79-1935, and other laws of the State of Kansas.

SECTION VI. City hereby authorizes and directs City Staff and City legal counsel, for and on behalf of City, to negotiate the Purchase and Sale Agreement and the Development Agreement, and such other documents, agreements, or instruments, as City Staff and legal counsel may deem to be necessary or appropriate for the consummation and closing of the purchase and sale of the Project Site, the development of the Project, and the distribution of the economic development grants approved by this Ordinance.

SECTION VII. This Ordinance shall take effect after its publication once in the official City newspaper.

PASSED AND APPROVED this ____ day of _____, 20__, by a majority of all of the members of the Governing Body of the City of Lawrence, Kansas

CITY OF LAWRENCE, KANSAS

Mike Amyx, Mayor

ATTEST:

Brandon McGuire, Acting City Clerk

APPROVED AS TO FORM:

Toni R. Wheeler, City Attorney

EXHIBIT A

[Depiction of the Project Site]

