



Book 856 Page 27-34

Document 2007 3032 Pages 8

Date 8/02/2007 Time 10:15:56AM

Rec Amt \$42.00

pd

CHARLINE L THUMM, RECORDER
CEDAR COUNTY IOWA

TAX INCREMENT DEVELOPMENT AGREEMENT

Recorder's Cover Sheet

Preparer Information:

Bruce D. Goddard, 103 E. College St. #311, Iowa City, (319) 338-0304

Taxpayer Information:

Acciona Energy North America, 101 N. Wacker Drive, Suite 610, Chicago, Illinois 60606

Return Address

City of West Branch, P.O.B. 218, West Branch, Iowa 52358

Grantors:

City of West Branch

Grantees:

Acciona Energy North America

Legal Description: See Exhibit A, attached hereto

Document or instrument number if applicable:

BOOK 856 PAGE 27

**TAX INCREMENT DEVELOPMENT AGREEMENT
BY AND BETWEEN
THE CITY OF WEST BRANCH, IOWA
AND
ACCIONA WINDPOWER NORTH AMERICA, L.L.C.**

The City of West Branch, Iowa, (hereinafter "City") has been presented with a proposal for an urban renewal project (hereinafter "Project") to be undertaken by ACCIONA WINDPOWER NORTH AMERICA, L.L.C. (hereinafter "ACCIONA") on property described on the attached Exhibit A (hereinafter "Project Area"). The Project Area is located in the West Branch Urban Renewal Project Area (hereinafter "Urban Renewal Area") which has been determined to be classified as an economic development area and for which the West Branch Urban Renewal Project Area Plan (hereinafter "Plan" has been adopted.

The City has also adopted Ordinance No. 421, Ordinance No. 465, and Ordinance No. 556, under which incremental tax revenues from the Urban Renewal Area are divided with a portion going into the Urban Renewal Tax Increment Fund of the City pursuant to Iowa Code Section 403.19.

ACCIONA intends to expand its business and to thereby generate employment opportunities within West Branch's Urban Renewal Area.

Under the terms of the proposal, ACCIONA will undertake the Project consisting of certain improvements as set forth in Section II (hereinafter "Minimum Improvements") to be completed in the Project Area by ACCIONA, and will create approximately 110 new full-time jobs in a period of not to exceed five (5) years commencing May, 2007, if the City will agree to assist the Project by rebating to ACCIONA, for a period eight years, incremental property taxes actually paid with respect to the Minimum Improvements and received under Iowa Code Section 403.19 by the City (hereinafter "City Contribution"), Code of Iowa. The eight-year rebate period shall begin with the tax year in which property taxes are paid on the completed value of the Minimum Improvements.

The City has determined that the Project is consistent with the objectives of the Plan for the Urban Renewal Area and that development of the Project Area and the Urban Renewal Area by construction of the Minimum Improvements is in the vital and best interests of the City. The City has further found that the use of City funds to finance the City Contribution is in accord with the provisions of the applicable laws under which the Project will be undertaken, including, but not limited to, Iowa Code Chapter 403.

Now, therefore, the City and ACCIONA, in consideration of the promises and mutual obligations set forth in the Development Agreement (hereinafter "Agreement"), agree and covenant as follows:

SECTION I

1. ACCIONA will cause the Minimum Improvements to be constructed in the Project Area in accordance with the terms of this Agreement, the Plan and all local, state and federal laws and regulations. The Minimum Improvements shall include:

a. A capital investment of at least \$11,000,000.

b. Provision and payment of at least 80 percent of the cost of a standard medical and dental insurance plan for all full-time employees working at the facilities in which the new investment will occur.

c. The creation of approximately 110 new, full-time jobs within a period of not to exceed five (5) years.

d. Payment of a median wage for the 95 new, full-time, hourly, non-management production jobs of at least \$14.57 per hour.

e. Provision of a retirement/pension plan of the 401(k) type to all full-time employees.

f. Provision of a productivity and safety improvement plan.

g. Annual investment of no less than one percent of the business' new Iowa facility's pretax profits in worker training and skills enhancement.

2. The Minimum Improvements shall be completed within a five-year period beginning May, 2007.

3. ACCIONA will own the Minimum Improvements and agrees to pay, when due, all real property taxes and assessments payable with respect to the Minimum Improvement.

4. ACCIONA agrees to indemnify, defend and hold harmless the City from any claim arising out of or connected with the Project Area, and agrees to maintain and provide proof of property insurance against loss or damage to the Project Area in amounts sufficient to replace the Minimum Improvements.

5. ACCIONA acknowledges that they may be eligible for certain property tax abatement benefits under Iowa Law, including, but not limited to, those provided under Iowa Code Chapters 427B and 15, and agrees that they will not file an application for any such abatement for which they are, or may in the future become, eligible with respect to the Project Area until the first eight years after which the rebate described in Section II has expired.

6. ACCIONA has the power to enter into the Agreement without violation of their articles of incorporation, bylaws, other charter documents or any other contract instrument or agreement to which they are a party.

7. ACCIONA is not in violation of any local, state or federal environmental law or regulation at the Project Area and is not aware of any pending or threatened claim against them with respect to such laws.

SECTION II

1. The City agrees to assist in the Project by rebating to ACCIONA, or its successor in interest with written consent of the City, that percentage of incremental taxes actually paid with respect to the Minimum Improvements and received under Iowa Code Chapter 403.19 by the City, as set forth in the attached Exhibit B, for a period of eight years beginning with the tax year in which property taxes on the completed value of the Minimum Improvements are first paid. PROVIDED FURTHER, HOWEVER, that in no event shall the total amount of rebate hereunder exceed the annual amounts specified in Exhibit B or the total amount of \$2,036,100 specified in Exhibit B. Except for certification of the City Contribution for reimbursement under Iowa Code Section 403.19, this shall be the only consideration given by the City in connection with this Agreement. The rebate shall be paid to ACCIONA within thirty days of receipt by the City of the incremental taxes paid.

The rebate shall not constitute general obligations of the City, but shall be paid solely from the incremental property taxes received by the City from the Cedar County Treasurer that are attributable to the Property.

Each rebate payment shall be subject to annual appropriation of the City Council. Prior to December 1st of each year during the term of this agreement, beginning December 1, 2007, the City Council shall consider the issue of obligating for appropriation to the funding of the payments due in the following fiscal year, an amount of tax increment revenues to be collected in the following fiscal year.

2. To effectuate this commitment, the City agrees to annually certify under Section 403.19 to the Cedar County Auditor no later than December 1 of each year the amount of taxes to be paid over to the City and the amount obligated for appropriation for rebate to Acciona in accordance with Exhibit B. If the City fails to certify and make the annual appropriation as set out above, no rebate shall be paid for said year and the remaining rebate schedule shall be extended by one year so as to allow eight full years of rebates under this Agreement. In any given year in which incremental taxes actually paid with respect to the Minimum Improvements cannot be paid to ACCIONA because of a change in state law, the rebate shall be limited to the amount that can be legally rebated to ACCIONA due to said change in law.

SECTION III

1. If ACCIONA breaches any term of this Agreement and said breach is not cured within thirty (30) days after written notice, the City shall have the right to cancel this Agreement, suspend performance, take any legal or administrative action deemed appropriate to obtain a refund of its consideration paid under Section II, and to recover damages under this Agreement, all costs of collection, including reasonable attorney fees, or seek any combination of these remedies.

2. If the City breaches its Agreement to provide the contribution to development of the Project as set forth herein and fails to cure said breach within 30 days after written notice to the City Clerk, ACCIONA shall have the right to terminate this Agreement or take any legal or administrative action deemed appropriate to recover damages or enforce the City's performance obligations under this Agreement.

SECTION IV

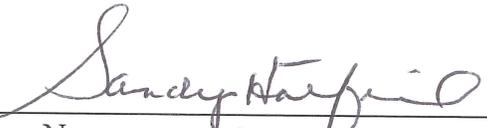
1. This Agreement shall be governed and construed under the laws of the State of Iowa.

2. This Agreement and Exhibits herein referenced shall constitute the entire contract between the City and ACCIONA, and supersedes all other written and oral agreements, discussions and negotiations. The terms of this Agreement may not be amended except in writing by agreement of the parties.

3. The rights and obligations in this Agreement shall be binding upon and inure to the successors in interest of ACCIONA and any subsequent owner of the Project Area, except no other person or entity shall be entitled to receive the rebates or exemptions provided herein without written approval of the City.

DATED this 2nd day of July, 2007.

CITY OF WEST BRANCH

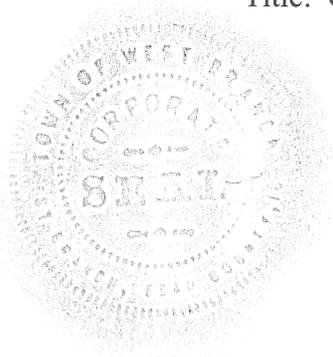
By: 
Name: Sandy Hatfield
Title: Mayor

By: 
Name: Deb Fiderlein
Title: City Clerk

ACCIONA WINDPOWER NORTH AMERICA, L.L.C.

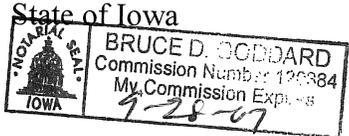
By: 
Name: Adrian LaTrace
Title: Manager

By: 
Name: Peter Duprey
Title: Manager



STATE OF IOWA)
) ss:
COUNTY OF Cedar)

On this 2nd day of July, 2007, before me, a Notary Public in and for the State of Iowa, personally appeared Sandy Whitfield and Rob Fushler, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; that ~~the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Ordinance No. /Resolution No. 809 passed by the City Council on the 2nd day of July, 2007, and that Sandy Whitfield and Rob Fushler acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.~~ ^{there is no}

Bruce D. Giddard
NOTARY PUBLIC in and for the
State of Iowa


STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

On this 18 day of June, A.D. 2007, before me, a notary public in and for said county, personally appeared **Adrian LaTrace**, to me personally known, who being by me duly affirmed did say that that he is a Manager of ACCIONA WINDPOWER NORTH AMERICA, L.L.C. and that said instrument was signed and sealed on behalf of the said company by authority of its Manager and the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said company by it voluntarily executed.

"OFFICIAL SEAL"
Mayari Guzman
Notary Public, State of Illinois
My Commission Exp. 07/20/2008

Mayari Guzman
NOTARY PUBLIC in and for the
State of Illinois

STATE OF ILLINOIS)
) ss:
COUNTY OF COOK)

On this 18 day of June, A.D. 2007, before me, a notary public in and for said county, personally appeared **Peter Duprey**, to me personally known, who being by me duly affirmed did say that that he is a Manager of ACCIONA WINDPOWER NORTH AMERICA, L.L.C. and that said instrument was signed and sealed on behalf of the said company by authority of its Manager and the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said company by it voluntarily executed.

"OFFICIAL SEAL"
Mayari Guzman
Notary Public, State of Illinois
My Commission Exp. 07/20/2008

Mayari Guzman
NOTARY PUBLIC in and for the
State of Illinois

EXHIBIT A

Lot 5, Rummells Commercial Subdivision to West Branch, Cedar County, Iowa, except for Lot A of Lot 5, Rummells Commercial Subdivision to West Branch, Cedar County, Iowa, as shown in Book 725 on page 54 in the Cedar County Records Office.

EXHIBIT B

Estimated Taxes Paid - \$330,000.00

<u>Year</u>	<u>Percentage</u>	<u>Dollars Rebated</u>	<u>Dollars to Taxing Authorities</u>	<u>City Portion</u>
1	60.00%	\$198,000	132,000	\$43,560
2	65.00%	\$214,500	115,500	\$38,115
3	70.00%	\$231,000	99,000	\$32,670
4	75.00%	\$247,500	82,500	\$27,225
5	80.00%	\$264,000	66,000	\$21,780
6	85.00%	\$280,500	49,500	\$16,335
7	90.00%	\$297,000	33,000	\$10,890
8	92.00%	\$303,600	26,400	\$8,712
		<u>\$2,036,100</u>	<u>\$603,900</u>	<u>\$199,287</u>

Project: 11 Million

Tax Value x 30.00 Less Debt Service Estimated 330,000 per year total