

RESOLUTION 2019-11

Resolution Terminating Development Agreements and Tax Increment Payments

WHEREAS, Lyon County, Iowa (the “County”), pursuant to and in strict compliance with all laws applicable to the County, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the Lyon County 2002 Novartis Economic Development District (the “Urban Renewal Area”); and

WHEREAS, this Board 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 County 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, the County previously authorized and entered into a development agreement dated March 10, 2003 (the “2003 Agreement”) with Novartis Animal Vaccines, Inc. (the “Original Company”), pursuant to which the Original Company agreed to undertake the construction and operation of a horse feedlot and facility and the County agreed to provide tax increment payments (the “2003 Payments”) to the Original Company; and

WHEREAS, the Original Company was succeeded under the Agreement by Novartis Animal Health US, Inc. (the “Successor Company”); and

WHEREAS, the County previously authorized and entered into a second development agreement dated November 8, 2010 (the “2010 Agreement”) with the Successor Company, pursuant to which the Successor Company agreed to undertake certain improvements to their property and private business facilities and the County agreed to provide tax increment payments (the “2010 Payments”) to the Successor Company; and

WHEREAS, in 2017 the County consented to the assumption of both the 2003 Agreement and the 2010 Agreement (collectively hereinafter the “Agreements”) by Elanco U.S. Inc. (“Elanco”); and

WHEREAS, in late 2018 the County became aware of a change in Elanco’s ownership and operational status with respect to the facilities covered by the Agreements and sought confirmation from Elanco that Elanco would no longer be performing under the Agreements; and

WHEREAS, in January of 2019, the County received a letter from Elanco confirming that it has ceased all operational activities related to the 2003 Agreement and that it is winding down the last of its operational activities related to the 2010 Agreement in 2019; and

WHEREAS, it is now necessary for the County to make provision for the termination of the Agreements and for the approval of the final payment to Elanco under the 2010 Agreement;

NOW, THEREFORE, It Is Resolved by the Board of Supervisors of Lyon County, Iowa, as follows:

Section 1. In light of Elanco's confirmed inability to further perform under the contract, the 2003 Agreement is hereby terminated. The Board hereby finds that the County owes no additional payments to Elanco with respect to the 2003 Agreement.

Section 2. In light of Elanco's confirmed inability to further perform under the 2010 Agreement beyond 2019, the 2010 Agreement is hereby terminated. The Board hereby finds that the County will remit one final payment in the amount of \$23,910 to Elanco under the 2010 Agreement, such amount representing consideration for the last remainder of Elanco's performance with respect to the Main Campus facilities (as defined in the 2010 Agreement) in 2019. After the remittance of this payment, the County will owe no additional payments to Elanco with respect to the 2010 Agreement.


Section 3. All resolutions or parts thereof in conflict herewith are hereby repealed.

Passed and approved this February 26, 2019.



Chairperson

Attest:



County Auditor