

ORDINANCE NO. BL2012-116

An ordinance authorizing The Industrial Development Board of The Metropolitan Government of Nashville and Davidson County to negotiate and accept payments in lieu of ad valorem taxes with respect to HCA – Information Technology & Services, Inc.

WHEREAS, The Metropolitan Government of Nashville and Davidson County (the “Metropolitan Government”) is vitally interested in the economic welfare of its citizens and wishes to provide the necessary leadership to enhance this area’s capabilities for growth and development; and

WHEREAS, the provision of jobs to area citizens by local business is both necessary and vital to the economic well-being of the Metropolitan Government; and

WHEREAS, pursuant to the Industrial Development Corporations Act, currently codified at Tenn. Code Ann. §§ 7-53-101 through 315 (such act, as heretofore or hereafter amended, referred to as the “Act”), the General Assembly of the State of Tennessee (the “General Assembly”) has authorized the incorporation of public corporations known as “industrial development boards” in municipalities in the State of Tennessee (the “State”); and

WHEREAS, the Industrial Development Board of The Metropolitan Government of Nashville and Davidson County (the “Board”) has been duly organized and incorporated in compliance with the Act; and

WHEREAS, the General Assembly has found and declared that the Board is performing a public function on behalf of the Metropolitan Government and that the Board is a public instrumentality of the Metropolitan Government; and

WHEREAS, the Supreme Court of Tennessee (the “Supreme Court”) has found that the Board is an agency or instrumentality of the Metropolitan Government; and

WHEREAS, the Act expressly incorporates by reference the statement of public policy set forth in Section 3 of Chapter 209 of the Public Acts of 1955; and

WHEREAS, Chapter 209 of the Public Acts of 1955 states that the declared purpose of the Act is to do that which the State welfare demands and that which the State public policy requires to alleviate the problems of unemployment, to raise family income, to provide a means by which the citizens of the community may promote and develop industry in their area so as to obtain a balanced economic development highly essential to the welfare of the State, and to promote the development of commercial, industrial, agricultural, and manufacturing enterprises by the several municipalities so as to be given local benefits peculiar to each and general benefits to the entire State; and

WHEREAS, the General Assembly also has declared that the purposes of the Act include maintaining and increasing employment opportunities by promoting industry, trade, and commerce by inducing manufacturing, industrial, financial, service, and commercial enterprises to locate or remain in the State; and

WHEREAS, the Supreme Court has held that the purposes of the Act include the promotion of industry and the development of trade to provide against low wages and unemployment and that such purposes are public in nature; and

WHEREAS, the Board is empowered pursuant to the Act to acquire, whether by purchase, exchange, gift, lease or otherwise, and to improve, maintain, equip and furnish, "projects" (as defined in the Act), and to lease such projects to others; and

WHEREAS, HCA – Information Technology & Services, Inc. ("HCA – IT&S") provides services and technology solutions to the healthcare industry; and

WHEREAS, HCA – IT&S currently has four locations in Tennessee, including two facilities in Davidson County located at 2555 One Park Plaza, Nashville TN 37203 and 490 Metroplex Drive, Nashville TN 37211 (these two facilities will hereafter be referred to as the "Existing Facilities"); and

WHEREAS, HCA – IT&S employs approximately 1,200 full-time employees and approximately 180 contract employees at its Existing Facilities; and

WHEREAS, in order to accommodate the quickly changing technology requirements in the healthcare industry, including electronic health records, HCA – IT&S is planning to expand operations at its Existing Facilities in Davidson County by making a significant investment in the equipment and infrastructure at those Existing Facilities (the "Existing Facility Expansion"); and

WHEREAS, to further accommodate the quickly changing technology requirements in the healthcare industry, HCA – IT&S is planning to establish a new regional data center at The Crossings site located on Old Franklin Road on the following three parcels in Davidson County: Parcel No. 17400006800, Parcel No. 17400006700, and Parcel No. 17400003200 (the "New Regional Data Center"); and

WHEREAS, the New Regional Data Center will consist of an approximately 76,000 square foot building with approximately 10,000 square feet of office space and approximately 30,000 square feet of white space; and

WHEREAS, the first phase of construction of the New Regional Data Center is anticipated to be completed in 2013, with the final phase of construction anticipated to be completed by December 31, 2017; and

WHEREAS, the Existing Facility Expansion and the construction of the New Regional Data Center will hereafter be referred to collectively as the "Project;" and

WHEREAS, HCA – IT&S intends to make a significant investment in excess of two hundred million dollars (\$200,000,000) in connection with the Project; and

WHEREAS, HCA – IT&S expects its expenditures within the boundaries of the Metropolitan Government in connection with the Project to create approximately 155 full time employee positions at the New Regional Data Center and Existing Facilities, to provide significant continued employment at the Existing Facilities, and to provide other commercial opportunities for area citizens; and

WHEREAS, pursuant to Tenn. Code Ann. § 7-53-305, all properties owned by the Board are exempt from ad valorem taxation in the State of Tennessee; and

WHEREAS, pursuant to Tenn. Code Ann. § 7-53-305(b), the Metropolitan County Council (the "Council") has the power to delegate to the Board the authority to negotiate and accept from its lessees payments in lieu of ad valorem taxes, provided that such payments are in furtherance of the Board's public purposes; and

WHEREAS, the Board may only negotiate and accept payments in lieu of ad valorem taxes with authorization from the Council; and

WHEREAS, it is in the interest and welfare of the citizens of the Metropolitan Government to delegate authority to the Board to negotiate and execute a payment-in-lieu-of-tax agreement with HCA – IT&S.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1: That the Council of the Metropolitan Government finds that the Board's acceptance of payments in lieu of ad valorem taxes with respect to the Project is in furtherance of the Board's public purpose of maintaining and increasing employment opportunities, as set forth in Tenn. Code Ann. § 7-53-102, and the other public purposes described above.

Section 2: That the Metropolitan Government hereby delegates to the Board the authority to negotiate and execute an agreement for payments in lieu of personal and real property taxes with respect to the Project for a period of up to seven years, beginning on the date that the Board enters into a lease with HCA – IT&S with respect to the Project. The amount of the payments in lieu of property taxes that shall be required with respect to that seven-year period shall be as follows:

- (a) Payments in lieu of real property taxes and personal property taxes with respect to the New Regional Data Center shall be forty percent (40%) of the Standard Tax;
- (b) Payments in lieu of personal property taxes with respect to the personal property acquired and used in connection with the Existing Facility Expansion shall be forty percent (40%) of the Standard Tax.

Section 3: That the term "Standard Tax" shall mean the amount of ad valorem tax that HCA – IT&S otherwise would be required to pay to the Metropolitan Government with respect to the real and personal property that is then subject to the payment in lieu of tax arrangement authorized hereby if HCA – IT&S owned such property. HCA – IT&S shall be permitted to challenge the assessment of any real or personal property that is then subject to the payment in lieu of tax arrangement authorized hereby in the same manner as if HCA – IT&S owned such property.

Section 4: (a) That the payment in lieu of tax arrangement authorized by this Ordinance shall apply to all real property and personal property comprising a portion of, or used at or in connection with, the New Regional Data Center and all personal property acquired and used in connection with the Existing Facility Expansion, provided that such property is conveyed to the Board pursuant to the payment in lieu of tax agreement entered between the Board and HCA – IT&S.

(b) That the payment in lieu of tax arrangement authorized by this Ordinance shall apply to all land, easements or other property rights, buildings, improvements, fixtures, construction in progress, equipment, furniture, and other properties of any nature comprising a portion of, or used in connection with, facilities located on the property described above. Such arrangement shall apply to such facilities and such properties in their current scope and configuration and to all replacements, enhancements, additions, expansions, and improvements to such properties and facilities.

Section 5: That the benefits of the payment in lieu of tax agreement authorized by this Ordinance are dependent upon the occurrence of the Performance Milestones set forth below. To the extent that any of the Performance Milestones do not occur at any point during the term of the payment in lieu of tax agreement authorized by this Ordinance, the benefits of that agreement will terminate effective the year subsequent to the year in which such Performance Milestones are not met.

(a) The Performance Milestones are as follows:

(1) HCA – IT&S will create at least 155 new full-time jobs in Davidson County in accordance with the milestones for the five-year period projected below:

- 50 total jobs by 12/31/2013
- 80 total jobs by 12/31/2014
- 110 total jobs by 12/31/2015
- 140 total jobs by 12/31/2016
- 155 total jobs by 12/31/2017

(2) HCA – IT&S will invest at least \$200 million in Davidson County in accordance with the milestones for the five-year period projected below:

- \$75 million by 12/31/2013
- \$125 million by 12/31/2014
- \$150 million by 12/31/2015
- \$175 million by 12/31/2016
- \$200 million by 12/31/2017

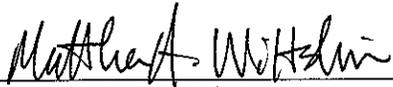
(b) For the purpose of applying these Performance Milestones, any new full-time job HCA – IT&S creates in Davidson County and any new investment HCA – IT&S makes in Davidson County in connection with the Project will be counted toward the Performance Milestones, provided that such job was created or investment was made on or after January 1, 2012.

Section 6: That the final version of the payment in lieu of tax agreement authorized by this Ordinance must be approved as to legality by the Department of Law of the Metropolitan Government prior to being executed by the Board.

Section 7: That all ordinances or resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, hereby repealed.

Section 8: That this Ordinance shall take effect from and after its final passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:



Matthew A. Wiltshire
Director of the Mayor's Office of Economic
and Community Development

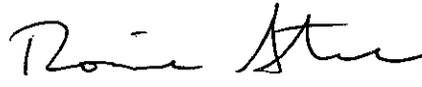
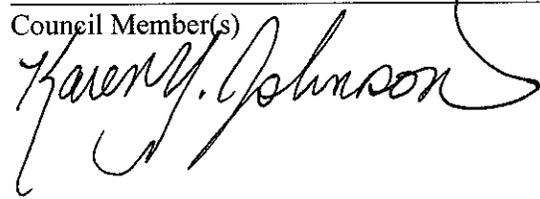
INTRODUCED BY:

APPROVED AS TO AVAILABILITY OF
FUNDS:



Richard M. Riebeling
Director of Finance

Council Member(s)

APPROVED AS TO FORM AND
LEGALITY:


Assistant Metropolitan Attorney

Electronic Signature Page

(Attach to Legislation Pursuant to Rule 8 of the Council Rules of Procedure)

A handwritten signature in black ink, appearing to read "Sean McGuire". The signature is written in a cursive style with a large initial "S" and "M".

Sean McGuire
Councilmember, District 25