

DEVELOPMENT AGREEMENT

This Development Agreement is entered into between the City of Marshalltown, Iowa (the “City”) and Marshalltown Company (the “Company”) as of the ___ day of _____, 2022 (the “Commencement Date”).

WHEREAS, the City has established the Marshalltown Urban Renewal Area No. 2 (the “Urban Renewal Area”), and has adopted a tax increment ordinance for the Urban Renewal Area; and

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

WHEREAS, the Company has proposed to undertake the expansion of its manufacturing facilities (the “Project”) on the Property including (i) a building addition running south from Main Street to approximately halfway to Linn Street directly west of the north/south rail spur on the Property (the “Phase 1 Project”); and (ii) a building addition that extends the building from the south end of the Phase I Project to Linn Street (the “Phase 2 Project”); and

WHEREAS, the Company has proposed to undertake the construction of certain public infrastructure improvements (the “Public Infrastructure Project”) necessary to support the Project; and

WHEREAS, the Company has requested that the City provide financial assistance in the form of incremental property tax payments to be used by the Company in paying the costs of constructing the Project and the Public Infrastructure Project; and

WHEREAS, the base valuation of the Property for purposes of calculating Incremental Property Tax Revenues, as herein defined, under this Agreement and Section 403.19 of the Code of Iowa shall be the assessed taxable valuation of the Property as of January 1, 2021 (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. Project Construction and Operation. The Company agrees to construct the Project on the Property. Furthermore, the Company agrees to invest not less than \$12,000,000 into capital improvements for the Project, including construction work and other furnishings. The Company has submitted a detailed site plan (the “Site Plan”) for the development of the Project to the City. The Site Plan is attached hereto as Exhibit B. The Company has constructed the Phase 1 Project. The Company agrees complete the Phase 2 Project by no later than December 31, 2025.

The Company agrees to ensure that the completed Project is used in its business operations throughout the Term, as hereinafter defined, of this Agreement (the “Business Operations Requirement”). It is anticipated that the Company will create at least twenty (20) new jobs upon completion of the Phase 1 Project, and it is further anticipated that the Company will create an additional twenty (20) new jobs upon completion of the Phase 2 Project.

The Company further agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions. Further, the Company agrees to maintain compliance with local zoning, land use, building and safety codes and regulations.

2. Business Operations Certifications. The Company agrees to submit documentation to the satisfaction of the City by no later than each October 15 during the Term, as hereinafter defined, commencing October 15, 2023, demonstrating that the Business Operations Requirement is being met by the Company.

3. Public Infrastructure Project Construction. The Company agrees to cause the construction of the Public Infrastructure Project in accordance with the conceptual drawings set forth on Exhibit C hereto. Prior to constructing the Public Infrastructure Project, the Company will submit copies of all engineering documents related to the proposed Public Infrastructure Project to the City for review. The City may request reasonable changes in such documents, to ensure compliance with any applicable ordinances or regulations. The Company agrees to cause the completion of the Public Infrastructure Project by no later than December 31, 2025.

The City shall retain all rights to inspect the completed Public Infrastructure Project for quality of work and full compliance with City Code. Nothing in this subsection shall be interpreted as limiting the City’s rights to not accept the work if the Public Infrastructure Project is not completed to the satisfaction of the City.

Upon completion of the Public Infrastructure Project, provided that (i) such improvements are of the type ordinarily dedicated to the City; (ii) the City confirms to the Company in writing that such completed improvements meet City requirements; and (iii) the City accepts such Public Infrastructure Project in accordance with State law, the Company will provide the City with either a deed or permanent easement to the improvements and related right-of-way comprising the Public Infrastructure Project, which shall thereafter be maintained by the City.

4. Property Taxes. The Company agrees to make or ensure timely payment of all property taxes as they come due with respect to that portion of the Property with the completed Project thereon throughout the Term and to submit a receipt or cancelled check in evidence of each such payment.

5. No Abatement; No Property Tax Exemption. The Company agrees that it will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal or local law with respect to taxation of the Property throughout the Term (as hereinafter defined) including the property to be leased, sold, transferred

to or otherwise used by an entity that is exempt from property taxes under the laws of the State of Iowa. A determination by the City Council to not obligate funds for any particular fiscal year's Payment under Section B.1 below shall render this, Section A.5 of this Agreement, null and void and the Company may then seek any tax exemption deferral or abatement that it may be entitled to. The Company acknowledges that the total, aggregate amount of the Payments made under Section B.1 below will be reduced to the extent that the Company seeks tax exemption under this Section A.5.

6. Property Tax Payment Certification. The Company agrees to certify to the City by no later than October 15 of each year, commencing October 15, 2023, an amount (the "Company's Estimate") equal to 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 submitting each such Company's Estimate, the Company will complete and submit the worksheet attached hereto as Exhibit D. 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 calculated 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; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the Property, as shown on the property tax rolls of Marshall County, above and beyond the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to the Property.

Upon request, the City staff shall provide reasonable assistance to the Company in completing the worksheet required under this Section A.6. **Further, the Company acknowledges that, in lieu of submitting a Company's Estimate for the Payments (as defined in Section B.1 below) coming due in the City's 2023-2024 fiscal year, the City will make the necessary calculations hereunder for the certification that must be completed prior to December 1, 2022 (pursuant to Section B.4 below), in order for the Company to receive the first Payments in the City's 2023-2024 fiscal year.**

7. Default Provisions.

a. Events of Default. The following shall be "Events of Default" under this Agreement, and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless otherwise provided), any one or more of the following events:

- (i) Failure by the Company to complete construction of the Phase 1 Project pursuant to the terms and conditions of this Agreement.
- (ii) Failure by the Company to comply with the Business Operations Requirement pursuant to the terms and conditions of this Agreement.

- (iii) Failure by the Company to complete construction of the Public Infrastructure Project pursuant to the terms and conditions of this Agreement.
- (iv) Failure by the Company to fully and timely remit payment of property taxes when due and owing.
- (v) Failure by the Company to comply with Sections A.2, A.3, A.5 and A.6 of this Agreement.
- (vi) Failure by the Company to observe or perform any other material covenant on its part, to be observed or performed hereunder.

b. Notice and Remedies. Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Company describing the cause of the default and the steps that must be taken by the Company in order to cure the default. The Company shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible. If the Company fails to cure the default or provide assurances, the City shall then have the right to:

- (i) Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- (ii) Withhold the Payments provided for under Section B.1 below.

8. Legal and Administrative Costs. The Company hereby acknowledges that the City will cover the initial payment of legal fees and administrative costs (the “Actual Admin Costs”) incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the necessary amendment to the Urban Renewal Area.

B. City’s Obligations

1. Payments. In recognition of the Company’s obligations set out above, the City agrees to make twenty (20) semiannual economic development tax increment payments (the “Payments” and each, individually a “Payment”) to the Company during the Term pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments (the “Maximum Payment Total”) shall not exceed \$2,900,000. To the extent that the Company fails to satisfactorily complete the Public Infrastructure Project by December 31, 2025, the Maximum Payment Total shall be reduced to \$275,000. All 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 Marshall County Treasurer attributable to the taxable valuation of the Property.

It is assumed that the full taxable valuation from the Phase 1 Project went on the property tax rolls as of January 1, 2022. Accordingly, the Payments will be made on December 1 and June 1 of each fiscal year, beginning on December 1, 2023 and continuing to, and including, June 1, 2033, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

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) of this Agreement, beginning in calendar year 2022, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment 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 Payment scheduled to become due in the following fiscal year, and the Company will have no rights whatsoever to compel the City to make such Payment 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 Payment 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.6 above, provided however that no Payment shall be made after June 1, 2033.

3. Payment Amounts. The aggregate Payments to be made in a fiscal year shall not exceed an amount equal to the corresponding Appropriated Amount (for example, for the Payments due on December 1, 2023 and on June 1, 2024, the aggregate maximum amount of such Payments would be determined by the Appropriated Amount determined for certification by December 1, 2022). Furthermore, the amount of each such Payment shall not exceed the Annual Percentage of Incremental Property Tax Revenues (excluding allocations of “back-fill” or “make-up” payments from the State of Iowa for property tax credits or roll-back) actually received by the City from the Marshall County Treasurer attributable to the taxable incremental valuation of the Property in the six (6) months immediately preceding such Payment due date.

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

C. Administrative Provisions

1. Amendment and Assignment. Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior 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, 2033.

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 MARSHALLTOWN, IOWA

By: _____
Mayor

Attest:

City Clerk

Marshalltown Company

By: _____

EXHIBIT A
DESCRIPTION OF THE PROPERTY

Certain real property situated in the City of Marshalltown, Marshall County, State of Iowa bearing Marshall County Property Tax Parcel Identification Number 8418-36-108-013.

EXHIBIT B
SITE PLAN

EXHIBIT C
**TIMELINE AND SPECIFICATIONS FOR PUBLIC INFRASTRUCTURE
PROJECT**

EXHIBIT D
COMPANY'S ESTIMATE WORKSHEET

- (1) Date of Preparation: October _____, 20____.
- (2) Assessed Valuation of Property as of January 1, 20____:
\$_____.
- (3) Base Taxable Valuation of Property (January 1, 2021):
\$_____.
- (4) Incremental Taxable 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"):
\$_____ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).
\$_____ x \$_____/1000 = \$_____ (the "TIF Estimate")
- (7) Subtract anticipated property tax credits from the TIF Estimate (6 minus 7) =
\$_____ (the "Company's Estimate")