

RESOLUTION NO. 13-577

A RESOLUTION OF THE CITY OF STOCKBRIDGE, GEORGIA DOWNTOWN DEVELOPMENT AUTHORITY TO AUTHORIZE THE EXECUTION, DELIVERY AND PERFORMANCE OF AN INTERGOVERNMENTAL CONTRACT TO BE ENTERED INTO BETWEEN SAID AUTHORITY AND THE CITY OF STOCKBRIDGE, GEORGIA, PROVIDING FOR SAID AUTHORITY TO PROVIDE CERTAIN ECONOMIC DEVELOPMENT SERVICES AND FACILITIES AND FOR THE CITY TO AGREE TO MAKE CERTAIN PAYMENTS, IF REQUIRED, IN SUPPORT OF THE DEVELOPMENT OF BUSINESS PARKS, INITIALLY CONSISTING OF A HIGH-SPEED DATA CAMPUS FOR TECHNOLOGY COMPANIES WITHIN THE CENTRAL BUSINESS DISTRICT OF THE CITY; AND FOR OTHER PURPOSES.

WHEREAS, the City of Stockbridge, Georgia Downtown Development Authority (the “**Authority**”) is a public corporation duly created for the purpose, *inter alia*, of promoting for the public good and general welfare trade, commerce, industry, and employment opportunities and is existing under the laws of the State of Georgia, and particularly by O.C.G.A. §§ 36-42-1 *et seq.*, as amended (the “**Act**”) as reinstated by a resolution of the Mayor and Council of the City of Stockbridge, Georgia (the “**City**”) adopted on April 8, 2013 (“**Activating Resolution**”); and

WHEREAS, the City is a municipal corporation located within Henry County, Georgia duly authorized and existing under the laws of the State of Georgia and is charged with providing public services to residents located within the corporate limits of the City; and

WHEREAS, the City Council of the City previously determined in its Activating Resolution that there is a continuing need in the City for the revitalization and redevelopment of the central business district of the City so as to promote for the public good and general welfare, trade, commerce, industry, and employment opportunities and to promote the general welfare of the State of Georgia by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City; and

WHEREAS, pursuant to Article 3 of Chapter 82 of Title 36 of the Official Code of Georgia Annotated, as amended (the “**Revenue Bond Law**”) both the Authority and the City each have the power to acquire, construct, to improve, to better, and to extend any “undertaking” as described in the Revenue Bond Law, which definition of undertaking, as described in O.C.G.A. Section 36-82-61(4)(K), includes “[t]he purchase of land and the construction thereon of facilities for lease to industries, so as to relieve abnormal unemployment conditions”; and

WHEREAS, under the Act, the Authority is authorized to encourage and promote the improvement and revitalization of the downtown development area designated by the governing body of the City and to make, contract for, or otherwise cause to made long-range plans or proposals for the downtown development area in cooperation with the City; and

WHEREAS, in furtherance of its public purpose, the Authority entered into a Public Private Partnership Agreement as of December 10, 2013 (the “**Public Private Partnership Agreement**”) with World Internet Group, LLC (the “**Company**”), a limited liability company duly formed and existing under and by virtue of the laws of the State of Georgia, for the acquisition, construction, and installation of business parks, initially consisting of a high speed data campus for technology companies (the “**Project**”), located within the downtown development area designated by the governing body of the City; and

WHEREAS, it is expected that the Project will generate up to 3,500 permanent jobs and an additional 5,250 indirect jobs, for a total of up to 8,750 jobs and other economic benefits in and for the City; and

WHEREAS, the City, in accordance with Resolution 13-569 adopted on December 9, 2013, previously loaned \$5,000,000 (the “**City Loan**”) to the Authority to be used toward the cost of the Project, including debt service, and both the City and the Authority now desire now desire to deem the loan to be repaid and the debt cancelled in accordance with Section 5.1(a) of the Contract (as hereinafter defined); and

WHEREAS, in order to provide funds necessary to pay or reimburse the cost of the acquisition, construction and installation of the Project, the Authority determined, by its resolution adopted December 9, 2013 (the “**Authority Intent Resolution**”) to issue its revenue bonds and/or secure additional loans in an amount not to exceed \$25,000,000, including the City Loan (the “**Authority Obligations**”); and

WHEREAS, on December 20, 2013, the City adopted resolution 13-571 (the “**City Resolution**”) authorizing the Mayor and the City Manager to execute, deliver and perform the City obligations contained in the commitment letter (the “**Commitment Letter**”) that memorialized its financial commitment to the Project and authorized the execution and delivery of all documents necessary to effectuate the transaction contemplated by the City Resolution as further described therein; and

WHEREAS, the Commitment Letter was delivered to and executed by the Authority; and

WHEREAS, Article IX, Section III, Paragraph I of the Constitution of the State of Georgia authorizes any county, municipality or other political subdivision of the State of Georgia to contract for any period not exceeding 50 years with each other or with any other public agency, public corporation, or public authority for joint services, for the provision of services, for the joint or separate use of facilities or equipment; provided that such contracts deal with activities, services or facilities which the contracting parties are authorized by law to undertake or provide; and

WHEREAS, under the Act and the Constitution of the State of Georgia, the Authority is authorized to (i) contract with the City, for a period not exceeding fifty (50) years, for the use by the City of any facilities or services of the Authority relating to activities that both the City and Authority are authorized by law to undertake and (ii) receive and use the proceeds of any tax levied by the City to pay the costs of any project or for any other purpose for which the Authority may use its own funds pursuant to the Act; and

WHEREAS, in consideration of the Authority's (i) provision of economic development services to the City, including entering into the Public Private Partnership Agreement (ii) facilitating and coordinating the Project, including the performance of its obligation to provide economic development and facilities under the Public Private Partnership Agreement and (iii) issuing or incurring the Indebtedness (as defined in the Contract) necessary to purchase, construct and install the Project, the City had determined, as set forth in the City Resolution, that it is in its best interest of the citizens of the City to enter into an Intergovernmental Contract (the "**Contract**") and the Authority has determined that it should enter into the Contract, in substantially the form attached hereto as Exhibit "A", pursuant to which the City will pledge its full faith and credit and, to the extent required, exercise its power of taxation within the limits of Georgia law to meet its contractual obligation thereunder, up to a maximum principal amount of \$20,000,000 of the Indebtedness; and

WHEREAS, the City had determined that it will commit in the Contract to make contract payments, if and to the extent required; provided, that such payments shall not exceed \$1,500,000 in any one calendar year, for a term of up to thirty (30) years from the date of the execution and delivery of the Contract; and

WHEREAS, the City currently imposes and collects a "franchise fee" which, upon collection is deposited in the general funds of the City and is available to be applied to all lawful general expenditures of the City, including payments under the Contract, to the extent required; and

WHEREAS, the Authority expects to pay the principal of, and interest on, the Indebtedness and the Initial Payment (as defined in the Contract) from amounts derived from the Project and from other resources of the Authority and, if, and only to the extent required, from the City in the amounts paid pursuant to the Contract; and

WHEREAS, the City is authorized by the General Assembly of the State of Georgia to provide financial assistance to the Authority for the purpose of developing trade, commerce, industry and employment opportunities by levying and collecting municipal taxes upon all taxable property within the limits of the City, not to exceed three mills per dollar upon the assessed value of the property in accordance with O.C.G.A. Section 48-5-350, provided that such tax is not the exclusive source of funding by the City for the Authority; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF STOCKBRIDGE, GEORGIA DOWNTOWN DEVELOPMENT AUTHORITY AND IT IS HEREBY RESOLVED as follows:

Section 1. Authority for Resolution. This Resolution is adopted pursuant to the provisions of the Constitution and the laws of the State of Georgia, including the Act.

Section 2. Findings. It is hereby ascertained, determined and declared that:

- (a) The Project constitutes a "project" within the meaning of that term as defined in the Act;

(b) The Project will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities, will promote the general welfare of the State of Georgia (the "State") by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the City;

(c) The Project will revitalize and redevelop the central business district of the City and will further the public purposes of the Act;

(d) The acceptance of the Initial Payment and the issuance of the Indebtedness, the acquisition, construction, and installation of the Project, and other supporting activities as contemplated herein and the issuance of notes, bonds or other evidences of debt in support thereof is a lawful and valid public purpose in that it will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities in the City by stimulating economic development and employment, thereby promoting the general welfare of the citizenry; and

(e) The most feasible way to finance the cost of acquiring, constructing, and installing the Project and to achieve the public purposes referred to in the Contract is to accept the Initial Payment and to incur the Indebtedness as evidenced by notes, bonds or other obligations to be issued by the Authority and to pledge to the holders of such notes, bonds or other obligations, the payments that the City has agreed to make pursuant to the Contract.

Section 3. Ratification and Confirmation of Commitment Letter. The Authority hereby ratifies and confirms that the Commitment Letter was delivered to the Authority and executed by the Chairman of the Authority.

Section 4. Execution of Intergovernmental Contract. The Contract, in substantially the form attached hereto as Exhibit "A", is hereby approved by the Authority, and by this reference, the Contract is made a part hereof. The execution, delivery and performance of the Contract provided in this Section are hereby authorized. The Contract shall be executed on behalf of the Authority by the Chairman of the Authority and the seal thereof impressed thereon and attested by the Secretary of the Authority. The Chairman may agree to such changes, alterations or corrections to the Contract as may be necessary to affect the purposes thereof, and the execution of the Contract by such official shall constitute approval of such alterations, changes or corrections.

Section 5. Binding Agreement. The execution of the Contract shall constitute a binding agreement on the part of the Authority and the Authority acknowledges that the Company is entitled to rely upon the Contract in performing its obligations under the Public Private Partnership Agreement.

Section 6. Actions of the Chairman. The Chairman and other appropriate officials of the Authority are authorized to certify any documents and execute any receipts or other closing papers necessary to affect the purposes of the Contract.

Section 7. Contract Payments Shall Constitute a General Obligation. To the extent revenues received by the Authority from the Project and from other resources available to it to make debt service payments on the Indebtedness are insufficient, then the City will make payments to the Authority to enable such debt service payments to be made in a timely matter. The obligation of the City to make the payments provided for pursuant to the terms of the Contract shall constitute a general obligation of the City, payable out of any funds lawfully available to it for such purpose, from whatever source derived (including general funds or franchise fees). The City has covenanted in the Contract, to the extent necessary, to levy an annual ad valorem tax on all taxable property located within the territorial limits of the City, as now existent and as the same may hereafter be extended, at such rate or rates within the three (3) mill limit authorized pursuant to O.C.G.A. § 48-5-350 or within such greater millage as may hereafter be prescribed by applicable law; and provided, that such payments shall not exceed \$1,500,000 in any one calendar year, for a term of up to thirty (30) years from the date of the execution and delivery of the Contract.

Section 8. Partial Invalidity. In case any one or more of the provisions of this resolution shall for any reason be held to be illegal or invalid by a court of competent jurisdiction, such illegality or invalidity shall not affect any other provisions hereof unless expressly so held, but this resolution shall be construed and enforced as if such illegal or invalid provisions had not been contained herein, and this resolution shall be construed to adopt, but not to enlarge upon, all applicable provisions of Georgia law, and, if any provisions hereof conflict with any applicable provision of such law, the latter as adopted by the legislature and as interpreted by the courts of this state shall prevail and shall be substituted for any provision hereof in conflict or not in harmony therewith.

Section 9. General Authority. The Chairman is hereby authorized to execute and deliver all documents and certificates necessary to effectuate the transaction contemplated by this resolution and all actions heretofore taken and all documents heretofore executed in connection with the transaction contemplated by this resolution are hereby ratified and approved.

Section 10. Repealer. Any and all ordinances or parts of ordinances in conflict with this ordinance shall be and the same hereby are repealed, and this ordinance shall be in full force and effect from and after its adoption.

Section 11. Effective Date. This resolution shall be in full force and effect immediately upon its adoption.

NOW THEREFORE BE IT RESOLVED, by the City of Stockbridge, Georgia Downtown Development Authority, this 30th day of December, 2013.

**CITY OF STOCKBRIDGE, GEORGIA
DOWNTOWN DEVELOPMENT AUTHORITY**

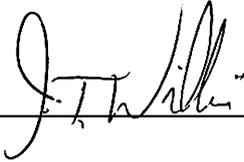
By: 

EXHIBIT "A"

CONTRACT

SECRETARY'S CERTIFICATE

I, the undersigned Secretary of the City of Stockbridge, Georgia Downtown Development Authority (the "Authority"), DO HEREBY CERTIFY, that the foregoing pages of typewritten matter, pertaining to the execution, delivery and performance of an Intergovernmental Contract, constitutes a true and correct copy of the Resolution adopted on December 30, 2013 by the Authority in a meeting duly called and assembled, which was open to the public and at which a quorum was present and acting throughout, and that the original of said Resolution appears of record in the Minute Book of the Secretary which is in my custody and control.

WITNESS my hand and official seal of the Authority, this 30th day of December, 2013.

**CITY OF STOCKBRIDGE, GEORGIA
DOWNTOWN DEVELOPMENT AUTHORITY**

By. _____

Secretary

(SEAL)