

FIRST PUBLISHED IN THE WICHITA EAGLE ON

ORDINANCE NO. 48-184

AN ORDINANCE EXEMPTING PROPERTY FROM AD VALOREM TAXATION FOR ECONOMIC DEVELOPMENT PURPOSES PURSUANT TO ARTICLE 11, SECTION 13, OF THE KANSAS CONSTITUTION; PROVIDING THE TERMS AND CONDITIONS FOR AD VALOREM TAX EXEMPTION; AND DESCRIBING THE PROPERTY OF CNH AMERICA, LLC, SO EXEMPTED.

WHEREAS, Article 11, Section 13, of the Kansas Constitution provides that the governing body of the City may, by Ordinance, exempt from all ad valorem taxation all or any portion of the appraised value of certain property meeting the requirements of the constitutional provision; and

WHEREAS, the City of Wichita has adopted an Economic Development Incentive Policy by which the City will consider granting tax exemptions upon a clear and factual showing of direct economic benefit including the creation of additional jobs or the upgrading of existing jobs and the stimulation of additional private investment; and

WHEREAS, CNH America, LLC, requests an ad valorem tax exemption on a proposed expansion project of 100% for a five-plus-five year term on the construction of a new building; and

WHEREAS, CNH America, LLC, has operated within the City for approximately 40 years as a manufacturer of skid steers and compact track loaders; and

WHEREAS, CNH America, LLC, proposes a \$5,889,480 expansion by the construction of a new building expansion to be located at 3301 S. Hoover in southwest Wichita; and

WHEREAS, the City Council of the City of Wichita has reviewed the application and supporting documentation supplied by CNH America, LLC, has reviewed the impact statements provided by Staff, and the Cost-Benefit Analysis by the Wichita State University and has conducted a public hearing on such application on February 10, 2009; and

WHEREAS, the City Council of the City of Wichita has found and determined:

1. CNH America, LLC is an existing business located in Wichita, Kansas, and intends to expand its business by construction of a building expansion.
2. The construction of the expansion for which exemption is given occurred after May 25, 2007. No exemption will be given for construction which occurred before that date.
3. Such construction is to be used exclusively for the purposes specified in Section 13 of Article 11 of the Kansas Constitution.
4. By such expansion, CNH America, LLC will create new employment for 65 employees within five years after the start of the project.

5. Tax exemption will be given only for the construction of a building expansion.
6. The property on which exemption is given will meet the requirements of the Kansas Constitution and the City of Wichita's Economic Development Incentive Policy.
7. Such ad valorem tax exemption is in the public interest providing for economic growth and benefit including the creation of jobs and stimulating additional private investment.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WICHITA, KANSAS,

1. The City Council of the City of Wichita, Kansas hereby makes a factual determination that an ad valorem tax exemption of the type requested by CNH America, LLC is required to retain jobs in the State of Kansas, and that the property to be exempted is to be used exclusively for manufacturing articles of commerce.

2. CNH America, LLC is hereby granted an ad valorem tax exemption of 100% for a five-year term on the construction of a building expansion and 100% for a second five years, subject to approval by the then current governing body, located within the Wichita City limits at 3301 S. Hoover in southwest Wichita, at an estimated cost of \$5,889,480. Such exemption is to begin in the calendar year after the calendar year in which the expansion is completed, and may be terminated early (and CNH America, LLC may be required to repay amounts previously abated), in the event of any failure by CNH America, LLC, to perform its obligations under the Economic Development Incentive Agreement it has executed with the City.

3. The Economic Development Incentive Agreement between the City of Wichita and CNH America, LLC is hereby approved.

4. The Office of Urban Development shall be responsible for monitoring the performance of CNH America, LLC and shall provide annual reports on such performance.

5. Such exemption is subject to verification that the level of employment at the time of the completion of the project is at least equal to the level of employment as stated in CNH America, LLC's written request for ad valorem tax exemptions as presented to the City Council and to administrative staff and dated December 28, 2008 and as stated in CNH America, LLC's annually approved EEO/AA Plan.

6. Such exemption may hereafter be withdrawn by the City Council upon a finding that CNH America, LLC no longer is entitled to such exemption in accordance with the Economic Development Incentive Agreement, which CNH America, LLC has executed with the City.

7. The City Council may, at its discretion, require CNH America, LLC to return all funds exempted if there is a failure to meet the terms and conditions of the Economic Development Incentive Agreement which CNH America, LLC has executed with the City.

8. Upon finding that CNH America, LLC has failed to meet its obligations under the Economic Development Incentive Agreement, the City Council shall require the repayment of all prior amounts of taxes that have been exempted and shall withhold any future exemption of taxes on CNH America, LLC's expansion project. All repayments shall be redistributed to the local taxing authorities at the proper taxing rates.

9. This Ordinance shall be in full force and effect from and after its passage and publication in the official City paper.

Passed by the governing body of the City of Wichita, Kansas this 24th day of February, 2009.

Carl Brewer, Mayor

ATTEST:

Karen Sublett, City Clerk

Approved as to Form:

Gary E. Rebenstorf, City Attorney