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MELISSA BAHNSEN, RECORDER
CEDAR COUNTY IOWA

Prepared by: Kevin D. Olson, West Branch City Attorney, PO Box 5640, Coralville, Iowa 52241 (319)351-2277
Return to: City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52358.

RESOLUTION 2022-40

RESOLUTION APPROVING A DEVELOPER'S AGREEMENT WITH ADVANTAGE DEVELOPMENT INC. INCLUDING TAX INCREMENT REBATE PAYMENTS.

WHEREAS, Advantage Development, Inc. (the "Developer") has agreed to construct improvements on the Property described Lots 10, 13 and 14, Parkside Hills, West Branch, Iowa (the "Project"); and

WHEREAS, the City has agreed to grant tax increment payments to the Developer as an incentive to construct the Project; and

WHEREAS, to that end, the City Attorney has drafted a Developer's Agreement which states that the Developer is eligible for 70% of available tax increment revenues created by the Project over a 10-year period for Lots 13 and 14; and

WHEREAS, the City has also agreed that the Developer is eligible for 70% of the available tax increment revenues created by Lot 10 over a ten-year period, up to a maximum amount of \$400,000 aggregate payments over the term of the Development Agreement as it pertains to said Lot 10.

WHEREAS, it is now necessary to approve said Developer's Agreement.

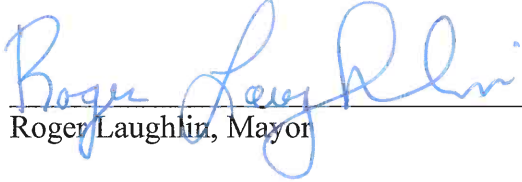
NOW, THEREFORE, BE IT RESOLVED, by the City Council of West Branch, Iowa, that this Council hereby finds:

1. That the use of tax increment rebate payments pursuant to Chapters 15A and 403 of the Code of Iowa will generate new opportunities for the state and local economies.
2. That the funds dispensed pursuant to this Agreement will generate appropriate public gains and benefits that are warranted in comparison to the funds dispensed.

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BE IT FUTHER RESOLVED, that the aforementioned Agreement be and the same is hereby approved. Further, the Mayor and City Clerk are hereby directed to execute this Agreement on behalf of the City.

Passed and approved this 2nd day of May, 2022.



Roger Laughlin, Mayor

ATTEST:



Leslie Brick, City Clerk

Prepared by: Kevin D. Olson, West Branch City Attorney, PO Box 5640, Coralville, Iowa 52241 (319) 351-2277
Return to: City Clerk, City of West Branch, Iowa, 110 N. Poplar Street, West Branch, Iowa 52358

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") entered into by and between the **City of West Branch, Iowa**, 110 N. Poplar Street, West Branch, Iowa 52358, hereafter referred to as "City"; and **Advantage Development, Inc.**, 760 Liberty Way, North Liberty, Iowa 52317, hereafter referred to as "Developer."

WHEREAS, the Developer is the owner of that certain real property legally described as:

Lots 10, 13 and 14, Parkside Hills, West Branch, Cedar County, Iowa, according to the recorded plat thereof in Book 1622 at Page 81, Records of the Cedar County Recorder

(the "Development Property"); and

WHEREAS, the Developer desires to develop the Development Property by constructing commercial buildings on Lots 10, 13 and 14 (collectively the "Development Project"); and

WHEREAS, the Development Property is located within the West Branch Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, the Developer is willing to construct the Development Project on the Development Property in accordance with the requirements outlined in this Development Agreement.

NOW, THEREFORE, ON THE BASIS OF THE PRECEDING RECITALS, AND FOR THE MUTUAL CONSIDERATION OF ENTERING INTO THIS AGREEMENT, THE DEVELOPER AND CITY AGREE AS FOLLOWS:

A. Developer's Obligations.

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1. The Developer shall construct the Development Project on the Development Property no later than December 1, 2030. All of the buildings shall be constructed in strict compliance with the West Branch Code of Ordinances.

2. The Developer, shall operate or cause to be operated, each building on the Development Property for a period of ten (10) years following the issuance of an occupancy permit for each building in the Development Project.

3. In order to collect the ten (10) full incremental tax revenue payments under this Agreement, the Developer shall cause the Lots 13 and 14 to be divided into a condominium regime to enable the City to pass a separate ordinance setting the base value on each building on the Development Property or resubdivide Lots 13 and 14 into a separate lot for each building. In the event that this does not occur, the Developer shall only be entitled to ten (10) years of incremental tax revenue payments for each of Lot.

4. The Developer shall pay, when due, all real estate taxes levied against the Development Property to the Cedar County Treasurer. Prior to receiving any economic development tax increment payments, the Developer shall provide receipts to the City evidencing payment of said real estate taxes. Failure to pay property taxes for any year shall constitute a breach of this Agreement by the Developer. Prior to receiving any Payment contemplated under this Agreement, the Developer shall submit a receipt of payment to evidence the payment of property taxes.

B. City's obligations.

1. In recognition of the Developer's obligations set out above, the City agrees to maintain the tax increment ordinances in effect and to make economic development tax increment payments (the "Payments") to the Developer in the amounts outlined below in each fiscal year during the term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa.

Lots 13 and 14

The annual Payments for the commercial properties on Lots 13 and 14 shall be equal to the seventy percent (70%) of the incremental tax revenues generated on Lots 13 and 14 by the Development Property according to the Cedar County Auditor and Cedar County Treasurer. Said Payments shall be made semi-annually, on December 1st and June 1st for each of the buildings on the Development Property, subject to the submission of a receipt of property taxes paid as outlined in Section (A)(4) above. The Developer may request this Agreement be amended to adjust the 70% rebate threshold upwards to a maximum of 100% based on the commercial business to be located on either Lot 13 or Lot 14.

Lot 10

The annual Payments for the improvements to be installed on Lot 10 shall be equal to seventy percent (70%) of the incremental tax revenues generated on Lot 10 according to the Cedar County Auditor and the Cedar County Treasurer. The aggregate amount of Payments for Lot 10 shall not exceed the amount of \$400,000. Once the Payments for Lot 10 has reached \$400,000, the Payments for Lot 10 shall cease. Said Payments for Lot 10 shall be made semi-annually, subject to the submission of a receipt of property taxes paid as outlined in Section (A)(4) above. Developer expressly acknowledges that if the Developer fails to receive \$400,000 in aggregate Payments for Lot 10 during the term of this Agreement, that the Developer shall have no recourse against the city for any such shortfall.

General Provisions for all Payments

1. The Payments shall be made on June 1st and December 1st (the "Payment Date") of each fiscal year. The Developer expressly agrees that no Payment will be made to the Developer if the Developer is not in compliance with this Agreement.
2. The Payments to the Developer for each commercial and/or residential building contemplated under this Agreement will be for ten (10) fiscal years (a total of 20 payments), the first Payment being made on the first tax payment based upon the assessment for the completed Development Project for each Lot. (By way of example, if a commercial building receives an occupancy permit or is substantially complete on December 15, 2022, the first Payment contemplated under this Agreement will be based upon the January 1, 2023 tax assessment made by the Cedar County Assessor, and the first Payment would be made December 1, 2024 because taxes payable on January 1, 2023 assessment are paid by October 1, 2024 and April 1 of 2025.)
3. The Payments contemplated under this Agreement shall not constitute general obligations of the City, but shall be made solely and only from incremental property taxes received by the City from the Cedar County Treasurer, which are attributable to the Development Property.
4. Each Payment contemplated under this Agreement shall be subject to the annual appropriation of the City Council. Prior to December 1st of each year during the term of this Agreement, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year 100% of the amount of incremental tax increment revenues to be collected in the following fiscal year. (the "Appropriated Amount").

The City agrees to certify pursuant to Section 403.19 of the Iowa Code by December 1st of each year during the term of this Agreement to the Cedar County Auditor an amount equal to the most recent Appropriated Amount. The City will give notice to the Developer of the amount

certified pursuant to Section 403.19 of the Code on or before December 1st of each year, for the fiscal year beginning the following July 1st. If the City fails to certify an amount to be collected pursuant to said Section 403.19 of the Code for the obligations contemplated under this Agreement, then an event of non-appropriation shall have occurred, as discussed herein. If an event of non-appropriation occurs, the City's obligation to pay pursuant to this Agreement for the fiscal year in question shall cease, and the Developer expressly acknowledges that is has no recourse against the City for said non-appropriation. Future Payments, if any, contemplated under this Agreement shall be subject to future appropriation by the City, all of which shall be contemplated pursuant to said Section 403.19 and certified each December 1st for the fiscal year beginning the following July 1st.

C. Administrative Provisions.

1. Each party represents to the other that the party has full power and authority to enter into this Agreement and that this Agreement is a binding Agreement duly authorized by the governing body of each party.

2. This Agreement represents the entire agreement between the parties and may not be amended or assigned without the express permission of the other party. However, by execution of this Agreement, the City hereby authorizes the Developer to assign the rights to receive the Payments to a private lender, as security, without further action of the City Council and the receipt of a written assignment to receive the Payments from the Developer.

3. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

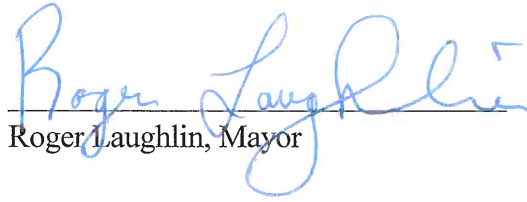
4. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa, and for all purposes shall be governed by and construed in accordance with the laws of the State of Iowa.

5. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law.

6. That this Agreement may be executed in counterparts.

(Signature pages to follow)

SIGNATURE PAGE OF CITY OF WEST BRANCH, IOWA.


Roger Laughlin, Mayor

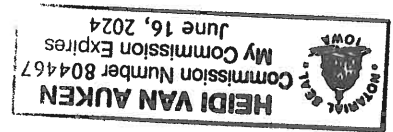
ATTEST:


Leslie Brick, City Clerk

STATE OF IOWA, CEDAR COUNTY, ss:

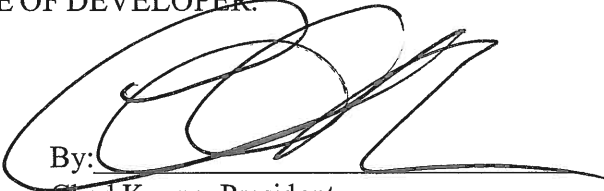
This instrument was acknowledged before me on this 3 day of May, 2022, by Roger Laughlin and Leslie Brick as Mayor and City Clerk respectively of the City of West Branch, Iowa.


Notary public



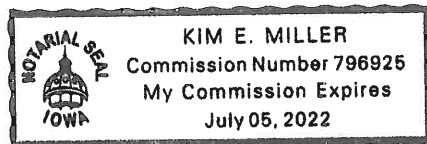
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SIGNATURE PAGE OF DEVELOPER:

By: 
Chad Keune, President

STATE OF IOWA, COUNTY OF Johnson _____:

On this 29 day of April, 2022, this document was executed by Chad Keune as President of Advantage Development, Inc.




Notary Public

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