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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 2022-46

RESOLUTION APPROVING A DEVELOPER'S AGREEMENT WITH ADVANTAGE RENTALS, LLC, INCLUDING TAX INCREMENT REBATE PAYMENTS.

WHEREAS, Advantage Rentals, LLC (the "Developer") has agreed to construct improvements on the Property described on Exhibit "A" attached hereto (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; and

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.

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.

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Roger Laughlin
Roger Laughlin, Mayor

ATTEST:

Leslie Brick
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 Rentals, LLC**, 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:

See Exhibit "A" attached hereto.

(the "Development Property"); and

WHEREAS, the Developer desires to develop an expanded commercial project on the Development Property by constructing an addition to the existing building on the Development Property (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.

1. The Developer shall construct the Development Project on the Development Property by December 31, 2022. The Development Project shall be constructed in strict compliance with the West Branch Code of Ordinances.

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

3. 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.

2. The annual Payments for the Development Project shall be equal to seventy percent (70%) of the incremental tax revenues generated by the Development Property according to the Cedar County Auditor and Cedar County Treasurer. (Developer acknowledges that the original building on the Development Property will be part of the base value of the Development Property for calculating the Payments). Said Payments shall be made semi-annually, on December 1st and June 1st for the Development Property, subject to the submission of a receipt of property taxes paid as outlined in Section (A)(4) above.

3. 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.

4. The Payments to the Developer for each commercial 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 improved Development Project.

(By way of example, if the Development Project 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.)

5. 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.

6. Each Payment contemplated under this Agreement shall be subject to the annual appropriation of the City Council. Prior to December 1 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.

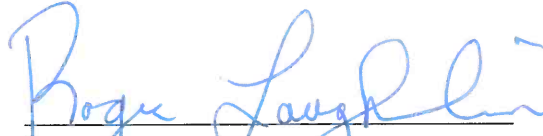
4. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa, and for all purposes shall be governed by and construed in accordance with the laws of the State of Iowa.

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

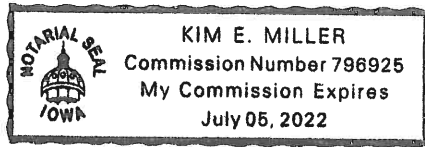


SIGNATURE PAGE OF DEVELOPER:

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

EXHIBIT A
LEGAL DESCRIPTION

Commencing at a point of reference at the Northwest corner of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian, West Branch, Cedar County, Iowa, thence South 1,638.0 feet along the West line of the Northwest Quarter of said Section 8 (the West line of the Northwest quarter of said Section 8 is assumed to bear true North and South) to the Southwest corner of Lot A of the Northwest Quarter of said Section 8, according to the plat of survey made for James Cook, said survey being filed in Surveyor's Record 3, Page 265, in the office of the Auditor of Cedar County, Iowa, thence South 89°37' East 60 feet, more or less, along the South line of said Lot A to a point of intersection with the easterly right-of-way line of the public highway and point of beginning of tract herein described; thence continuing South 89°37' East 176.0 feet along the Southerly line of said Lot A to a point; thence South 0°23' West 200.00 feet to a point; thence North 89°37' West 140.84 feet to a point of intersection with the easterly right-of-way line of the public highway; thence North 11°59' West 18.54 feet along the Easterly right-of-way line of said highway to a point; thence North 9°21' West 184.55 feet along the easterly right-of-way line of said public highway (whose right-of-way is described in Iowa State Land Office Correction Patent No. 603, recorded in Volume 5, Page 158, Records of the Iowa Secretary of State, Des Moines, Iowa) to the point of beginning, and except the North 60.84 feet of tract above described; and subject to a perpetual easement for foot and motor vehicle travel, in common with others, over and across the westerly 30 feet of tract above described.

AND

Commencing as a point of reference at the Northwest corner of Section 8, Township 79 North, Range 4 West of the 5th Principal Meridian, West Branch, Cedar County, Iowa; thence South 1638.0 feet along the West line of the Northwest Quarter of said Section 8 (the West line of the Northwest Quarter of said Section 8 is assumed to bear true North and South) to the Southwest corner of Lot A of the Northwest Quarter of said Section 8 according to plat of survey made for James Cook, said survey being filed in Surveyor's Record 3, page 265 in the office of the Auditor of Cedar County, Iowa; thence South 89°37' East 60 feet, more or less, along the South line of said Lot A to a point of intersection with the Easterly right-of-way line of the public highway; thence South 9°21' East 184.55 feet along the Easterly right-of-way line of said public highway to a point; thence South 11°59' East 18.54 feet to point of beginning of tract herein described; thence South 89°37' East 140.84 feet to a point; thence South 0°23' West 174.42 feet to a point of intersection with the Northerly right-of-way line of Interstate Highway #80; thence North 68°03' West 120.79 feet along the Northeasterly right-of-way line of said highway to a point; thence North 11°59' West 133.11 feet along the Northeasterly right-of-way line of said highway to the point of beginning. (Right-of-way of the subject highway is described in Iowa State Land Office Correction Patent No. 603, recorded in Volume 5, page 158, records of the Iowa Secretary of State, Des Moines, Iowa).

Also a perpetual easement for foot and motor vehicle travel, in common with others, over and across the Westerly 30 feet of the following described property: Commencing as a point of

reference at the Northwest corner of Section 8, township and range aforesaid; thence South 1638.0 feet along the West line of the Northwest Quarter of said Section 8 (the West line of the Northwest Quarter of said Section 8 is assumed to bear true North and South) to the Southwest corner of Lot A of the Northwest Quarter of said Section 8 according to the plat of survey made for James Cook, said survey being filed in Surveyor's Record Book 3, page 265, in the office of the Auditor of Cedar County, Iowa; thence South $89^{\circ}37'$ East 60 feet, more or less, along the South line of said Lot A to a point of intersection with the Easterly right-of-way line of the public highway; thence South $9^{\circ}21'$ East 40.54 feet along the Easterly right-of-way line of said highway to point of beginning of tract herein described; thence continuing South $9^{\circ}21'$ East 144.01 feet along the Easterly right-of-way line of said highway to a point; thence South $11^{\circ}59'$ East 18.54 feet along the Easterly right-of-way line of said highway to a point; thence South $89^{\circ}37'$ East 140.84 feet to a point; thence North $0^{\circ}23'$ East 160.00 feet to a point; thence North $89^{\circ}37'$ West 169.41 feet to point of beginning.