



Book 1755 Page 261-267

Document 2024 3094 Pages 7  
Date 11/27/2024 Time 11:01:33AM  
Rec Amt \$37.00

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.

PO Box 218

**RESOLUTION 2024-117**

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

WHEREAS, Advantage Development, Inc. (the "Developer") has agreed to construct an assisted living project on Lot 4, The Meadows Subdivision, Part Three, 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 not-to-exceed 70% in tax increment rebate payments 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 21st day of October, 2024.**

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. Polar Street, West Branch, Iowa 52358

PO Box 218

## 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.**, 2881 Independence Road, Iowa City, Iowa 52240, hereafter referred to as “Developer.”

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

Lot 4, The Meadows Subdivision, Part 3, West Branch, Cedar County, Iowa, according to the recorded plat thereof in Book 1754 at Page 336-337, Records of the Cedar County Recorder

(the “Development Property”); and

**WHEREAS**, Developer desires to develop the Development Property as an assisted living residential facility (the “Development Project”); and

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

**WHEREAS**, 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 entered into this agreement, the Developer and City agree as follows:

**A. Developer’s Obligations.**

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1. Developer shall construct the Development Project on the Development Property and shall have received an occupancy permit for said Development Project from City no later than twenty-four (24) months from the date of this Agreement.

2. Developer, shall operate the Development Project on the Development Property as a residential assisted living facility for a period of ten (10) years following the issuance of an occupancy permit for the Development Project. A "residential assisted living facility" means a residential property or properties that provide(s) personal assistance with essential daily living activities to its occupants, needed or desired by the occupants because of the occupants' illness, disease, or physical or mental impairment.

3. 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, Developer shall provide receipts to the City evidencing payment of said real estate taxes. Failure to pay property taxes for any year when due and payable shall constitute a breach of this Agreement by Developer.

**B. City's obligations.**

1. In recognition of Developer's obligations set out above, City agrees to maintain the tax increment ordinances in effect and to make economic development tax increment payments (the "Payments") to the Developer in each fiscal year during the term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa. Said annual Payments shall be equal to seventy percent (70%) of the incremental tax revenues received by the City from the Cedar County Treasurer attributable to the Development Property. The Payments shall be payable in two equal, semi-annual installments.

2. The Payments shall be made on June 1<sup>st</sup> and December 1<sup>st</sup> (the "Payment Date") of each fiscal year. Developer expressly agrees that no Payment will be made to Developer if Developer is not in compliance with this Agreement.

3. The Payments to Developer contemplated under this Agreement will be for ten (10) fiscal years (a total of 20 payments), the first Payment being made on the receipt of the first tax payment based upon the assessment for the completed Development Project. (By way of example, if the Project receives an occupancy permit on November 30, 2025, the first Payment contemplated under this Agreement will be based upon the January 1, 2026 tax assessment made by the Cedar County Assessor, and the first Payment would be made December 1, 2027 because taxes payable on the January 1, 2026 assessment are paid by October 1, 2027 and April 1 of 2028.)

4. The Payments contemplated under this Agreement shall not constitute general obligations of City, but shall be made solely and only from incremental property taxes received by City from the Cedar County Treasurer, which are attributable to the Development Property.

5. Each Payment contemplated under this Agreement shall be subject to the annual appropriation of the City Council. Prior to December 1<sup>st</sup> of each year during the term of this Agreement, the City Council of City shall consider the question of obligating for appropriation the funding of the Payments due in the following fiscal year, said Payment to be equivalent to 70% of the amount of incremental tax increment revenues to be collected in the following fiscal year. (the "Appropriated Amount").

6. City agrees to certify pursuant to Section 403.19 of the Iowa Code by December 1<sup>st</sup> of each year during the term of this Agreement to the Cedar County Auditor an amount equal to the most recent Appropriated Amount. City will give notice to Developer of the amount certified pursuant to Section 403.19 of the Code on or before December 1<sup>st</sup> of each year, for the fiscal year beginning the following July 1<sup>st</sup>. If 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, City's obligation to pay pursuant to this Agreement for the fiscal year in question shall cease, and Developer expressly acknowledges that it has no recourse against City for said non-appropriation. Future Payments, if any, contemplated under this Agreement shall be subject to future appropriation by City, all of which shall be contemplated pursuant to said Section 403.19 and certified each December 1<sup>st</sup> for the fiscal year beginning the following July 1<sup>st</sup>.

7. City agrees that inasmuch as the Development Project, is being developed as a residential assisted living facility, the Development Project shall be classified as a residential property by the Cedar County Assessor for real estate tax classification purposes.

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. At all times during the term of this Agreement, Developer shall maintain the right to transfer the Development Property and/or assign its rights and obligations under and pursuant to this Agreement. All of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of City

and Developer to the same extent as if each successor and assign were in each case named a party to this Agreement.

3. 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, or to assign its rights hereunder to an entity in which the Developer or the principals of the Developer, individually or collectively, own at least twenty-five percent (25%) which is or will be the owning entity of the Development Project, 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.

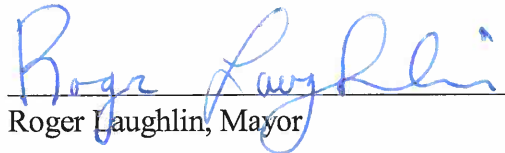
4. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa, and for all purposes shall be governed by and construed in accordance with the laws of the State of Iowa.

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.

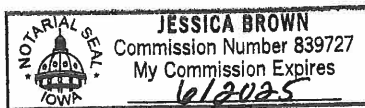
  
Roger Laughlin, Mayor


ATTEST:

  
Leslie Brick, City Clerk

STATE OF IOWA, CEDAR COUNTY, ss:

This instrument was acknowledged before me on this 22nd day of October, 2024, by Roger Laughlin and Redmond Jones II as Mayor and City Clerk respectively of the City of West Branch, Iowa.



  
Notary Public

SIGNATURE PAGE OF DEVELOPER:

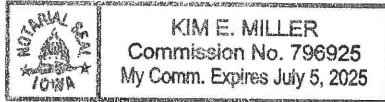
Advantage Development, Inc.

By: \_\_\_\_\_

Chad A. Keune, President

STATE OF IOWA, COUNTY OF JOHNSON:

On this 16 day of October, 2024, this document was executed by Chad A. Keune, as President of Advantage Development, Inc.



Kim E Miller

Notary Public