

Execution Copy

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

This Second Amendment to Development Agreement (the “Second Amendment”) is entered into by and among the City of Council Bluffs, Iowa, an Iowa municipal corporation (the “City”); Questa LLC, a Delaware limited liability company; and Gable Corporation, an Iowa corporation (both entities collectively referred to as the “Developer”) effective as of the date of the last signature below in this Second Amendment (the “Effective Date”).

RECITALS:

- A. Effective January 16, 2009 the City entered into a Development Agreement with the Developer (the “Development Agreement”). On December 20, 2011 the City and the Developer entered into an Amendment to Development Agreement (the “First Amendment to Development Agreement”) which, among other things, established a cap for payment by Developer of the City’s electricity franchise fee.
- B. Developer was billed for the electricity franchise fee since the effective date of the First Amendment to Development Agreement; however, the City and Developer have discovered that the City inadvertently received substantially more than the cap provided in the First Amendment to Development Agreement through no fault of either the City or the Developer.
- C. The City and the Developer now desire to structure the Development Agreement in a fashion that will not require reimbursement by the City of the overpayment of the electricity franchise fee by the Developer and to confirm the real estate tax exemption arrangement in the Development Agreement going forward.
- D. The City and the Developer also now desire to confirm the Developer’s commitment to maintain jobs in the City and to clarify how the jobs at the present time and in the future will be counted.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are acknowledged, the City and the Developer agree as follows:

1. PROPERTY TAX VALUATION FORMULA.

Section 3 of the First Amendment to Development Agreement captioned “Property Tax Valuation Formula Changes By State of Iowa” is deleted in its entirety. The City and the Developer confirm and agree that the property tax exemption/abatement schedule set forth in the Development Agreement shall remain in full force and effect in regard to all present and future improvements by the Developer regardless of any change in state of Iowa property tax valuation procedures or policies now or in the future.

2. CALCULATION OF JOBS.

In monitoring jobs that the Developer is enabling in connection with its operations now and which the Developer will be enabling in the future under the Development Agreement, the City agrees that the number of jobs shall include salaried employees as well as extended workforce performing jobs for the Developer.

3. RELEASE BY THE DEVELOPER.

The Developer hereby releases the City from any obligation to repay the Developer for the overpayment of the electricity franchise fee as described in this Second Amendment.

4. CONFIRMATION OF DEVELOPMENT AGREEMENT.

Except as amended herein and as previously amended in the First Amendment to Development Agreement, the Development Agreement between the City and the Developer shall remain in full force and effect according to its terms.

EXECUTION IN COUNTERPARTS.

This Second Amendment may be executed in counterparts and each such counterpart, and all of them together, shall constitute one instrument.

IN WITNESS WHEREOF, The City and the Developer have entered into this Second Amendment as of the Effective Date.

**CITY OF COUNCIL BLUFFS, IOWA, a municipal corporation**

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

Title:\_\_\_\_\_

Date:\_\_\_\_\_

**ATTEST BY CITY CLERK:**

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

Title:\_\_\_\_\_

Date:\_\_\_\_\_

**QUESTA LLC, a Delaware limited liability company**

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

Title:\_\_\_\_\_

Date:\_\_\_\_\_

**GABLE CORPORATION, an Iowa corporation**

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

Title:\_\_\_\_\_

Date;\_\_\_\_\_