PURCHASE, SALE, AND DEVELOPMENT AGREEMENT

By and Between

THE CITY OF COUNCIL BLUFFS, IOWA

AND

34TH AND 1ST HOLDINGS, LLC, an Iowa domestic limited liability company

_____, 2021

Revised Draft 5/5/21

AGREEMENT FOR
PRIVATE DEVELOPMENT

THIS PURCHASE, SALE, AND DEVELOPMENT AGREEMENT (hereinafter called "Agreement"), is made on or as of the _____ day of _____, 2021, by and between the CITY OF COUNCIL BLUFFS, IOWA, a municipality (hereinafter called "City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2021, as amended (hereinafter called "Urban Renewal Act") and 34TH AND 1ST HOLDINGS, LLC, an Iowa domestic limited liability company (the "Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of a blighted area in the City and, in this connection, by Resolution No. 87-570 in 1987 approved and adopted the West Broadway Urban Renewal Plan ("Plan" or "Urban Renewal Plan") for purposes of carrying out urban renewal project activities in an area known as the West Broadway Urban Renewal Area (the "Area" or "Urban Renewal Area"), which Plan, as amended, is on file in the office of the Recorder of Pottawattamie County, Iowa; and

WHEREAS, the City owns certain real property located within the Urban Renewal Area consisting of a north portion located at the southeast corner of West Broadway and 34th Street, approximately 3 acres in size, and a south portion located between 32nd and 34th Streets, on the north side of 2nd Avenue, approximately 5.5 acres in size, as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, the Plan provides for, among other things, the disposition of properties for development or redevelopment as an urban renewal project; and

WHEREAS, in response to the City's Request for Proposals to purchase and develop the Development Property into multi-family or mixed-use housing, the Developer submitted a proposal to purchase and develop the Development Property in multiple phases; and

WHEREAS, the Developer is willing to cause a mixed-use residential and commercial development project to be constructed on the Development Property; and

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment generally of this Agreement, are in the vital and best interests of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Purchase, Sale, and Development Agreement and all exhibits and appendices hereto, as the same may be from time to time modified, amended, or supplemented.

Blight Remediation Grants or Grants mean the payments from Tax Increment to be made by the City to the Developer under Article VIII of this Agreement.

Certificate of Completion means a certification in the form of the certificate attached hereto as Exhibit G and hereby made a part of this Agreement.

Certificate of Occupancy means a certificate allowing occupancy within the Minimum Improvements issued by the proper governmental authority with jurisdiction thereover. A Certificate of Occupancy shall mean a final Certificate of Occupancy; provided that, upon the written approval of the City, not to be unreasonably withheld or delayed, a partial or temporary Certificate of Occupancy shall meet the definition herein provided and any deadlines or conditions related thereto so long as Developer diligently pursues a final Certificate of Occupancy for the Minimum Improvements.

City means the City of Council Bluffs, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2021, as amended.

Commencement Date means the date of this Agreement.

Commercial Space means the approximately 17,400 square feet of building space intended for commercial use to be constructed as part of the Minimum Improvements. Developer may, with the written approval of City staff, which approval shall not be unreasonably withheld, decrease the amount of square footage of Commercial Space or substitute additional dwelling units based on the market conditions at the time of construction. The parties will work together in good faith to determine the alternative use of the square footage consistent with City ordinances, plans and policies.

Construction Plans means the plans, specifications, drawings and related documents reflecting the construction work to be performed by Developer on the Development Property referred to in Article IV.

County means the County of Pottawattamie, Iowa.

Developer means 34th and 1st Holdings, LLC, an Iowa domestic limited liability company, and its permitted successors and assigns.

Development Property means that portion of the West Broadway Urban Renewal Area of the City, made up of distinct subareas which may be referred to as the Phase I Property, Phase II Property, and Phase III Property, as more particularly described in Exhibit A hereto.

Event of Default means any of the events described in Section 11.1 of this Agreement.

First Mortgage means any mortgage(s) or security agreement(s) in which the Developer has granted a mortgage(s) or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon, granted to secure any loan made pursuant to either a mortgage commitment(s) obtained by the Developer from a commercial lender(s) or other financial

institution(s) to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements, or all such mortgages as appropriate.

Homebuyer means the person or persons who buy or rent a completed Housing Unit on the Development Property.

Housing Unit means each dwelling unit constructed as part of the Minimum Improvements.

Indemnified Parties means the City and the governing body members, officers, agents, servants, and employees thereof.

34th and 1st Holdings, LLC TIF Account means a separate account within the West Broadway Urban Renewal Area Tax Increment Revenue Fund of the City in which there shall be deposited Tax Increments received by the City with respect to the Minimum Improvements and Development Property.

Minimum Actual Value means the minimum actual value of the Minimum Improvements on the Development Property (buildings value only) as set forth in the Minimum Assessment Agreement (Exhibit E).

Minimum Assessment Agreement means the minimum assessment agreement in the form of Exhibit E attached hereto.

Minimum Improvements means the Housing Units, Commercial Space, and related site improvements to be constructed in phases by Developer on the Development Property, as more particularly described in Exhibits B and B-1 to this Agreement.

Net Proceeds means any proceeds paid by an insurer to the Developer under a policy or policies of insurance required to be provided and maintained by the Developer pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinance of the City under which the taxes levied on the taxable portion of the Development Property shall be divided and a portion paid into the West Broadway Urban Renewal Area Tax Increment Revenue Fund.

Phase I Improvements means that portion of the Minimum Improvements constructed on the portion of the Development Property described as the Phase I Property, as more particularly described in Exhibits B and B-1.

Phase II Improvements means that portion of the Minimum Improvements constructed on the portion of the Development Property described as the Phase II Property, as more particularly described in Exhibits B and B-1.

Phase III Improvements means that portion of the Minimum Improvements constructed on the portion of the Development Property described as the Phase III Property, as more particularly described in Exhibits B and B-1.

Project shall mean the construction of the Minimum Improvements and the lease and/or sale of the Housing Units and Commercial Space, as described in this Agreement.

State means the State of Iowa.

Tax Increments means the property tax revenues on the Minimum Improvements and Development Property divided and made available to the City for deposit in the 34th and 1st Holdings, LLC TIF Account of the West Broadway Urban Renewal Area Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code and the Ordinance.

Termination Date means the date of termination of this Agreement, as established in Section 12.9 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions, or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts, or other labor disputes; wars, acts of terrorism, riots, or other civil or military disturbances; epidemics or pandemics recognized by the World Health Organization affecting the parties thereof; loss of malfunction of utilities, computer or telephone communication service, or similar technology or services for more than thirty days; inability of the parties to obtain labor, material, equipment or transportation necessary to the Project; litigation commenced by third parties, or the acts of any federal, State, or local governmental unit (other than the City with respect to the City's obligations).

Urban Renewal Area shall mean the area known as the West Broadway Urban Renewal Area.

Urban Renewal Plan means the West Broadway Urban Renewal Plan, as amended, approved in respect of the West Broadway Urban Renewal Area, described in the preambles hereof.

West Broadway Urban Renewal Area Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403, or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Urban Renewal Area.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City makes the following representations and warranties:

a. The City is a municipal corporation and political subdivision organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever

nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing, nor do they conflict with or contravene any laws, order, rule or regulation applicable to the City.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City only, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

d. City owns the Development Property in fee title, subject to encumbrances of record, and the conveyance of the Development Property from City to Developer, as provided for in this Agreement and any other documents, instruments and agreements now or hereafter to be executed and delivered by City pursuant to this Agreement are within the power of City and have been duly authorized by all necessary or proper action.

Section 2.2. Representations and Warranties of Developer. The Developer makes the following representations and warranties:

a. The Developer is an Iowa domestic limited liability company duly organized and validly existing under the laws of the State of Iowa, and duly registered to do business in the State of Iowa, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under this Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by the Developer and, assuming due authorization, execution, and delivery by the City, is in full force and effect and is a valid and legally binding instrument of the Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of the Developer or of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which the Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits, or proceedings pending or threatened against or affecting the Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results or operations of the Developer or which in any manner raises any questions affecting the validity of the Agreement or the Developer's ability to perform its obligations under this Agreement.

e. The Developer shall cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan and all applicable local, State, and federal laws and regulations.

f. The Developer shall use its best efforts to obtain, or cause others to obtain, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

g. To its knowledge, the Developer has not received any notice from any local, State, or federal official that the activities of the Developer with respect to the Development Property and/or the Minimum Improvements may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). The Developer is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State, or federal environmental law, regulation, or review procedure applicable to the Development Property and/or Minimum Improvements, and the Developer is not currently aware of any violation of any local, State, or federal environmental law, regulation, or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

h. The Developer will exercise commercially reasonable efforts to obtain firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements in accordance with this Agreement.

i. The Developer expects that, barring Unavoidable Delays, each phase of the Minimum Improvements shall be complete on or before the respective dates set forth in Exhibit B; provided that such date may be extended upon the mutual written agreement of the Developer and the City. For purposes of this Agreement, the Minimum Improvements shall be deemed "complete" or "completed" upon Developer's receipt of a Certificate of Occupancy for the Minimum Improvements.

j It is anticipated that the construction of the Minimum Improvements will require a total investment of approximately $36,873,140.

k. The Developer would not undertake its obligations under this Agreement without the potential for payment by the City of the Blight Remediation Grants being made to the Developer pursuant to this Agreement.

ARTICLE III. SALE AND PURCHASE OF DEVELOPMENT PROPERTY

Section 3.1. Conditions Precedent to Transfer. The City's obligation to transfer title and possession of the Development Property to Developer at Closing, and Developer's obligation to pay the Purchase Price, shall be subject to satisfaction of the following conditions precedent:

a. The Developer is in material compliance with all of the terms of this Agreement;

b. There has not been a substantial change for the worse in the financial resources and ability of the Developer, or a substantial decrease in the financing commitments secured by the Developer for construction of the Minimum Improvements, which change(s) make it likely, in the reasonable judgment of the City, that the Developer will be unable to fulfill its covenants and obligations under this Agreement; and

c. The City and Developer have executed the Minimum Assessment Agreement, any Development Property lienholders have provided their consent to the Minimum Assessment Agreement, and the County Assessor has completed the certification to the Minimum Assessment Agreement.

Section 3.2. Transfer of Development Property. For the purchase price of $1,870,000.00 (the "Purchase Price") and other consideration, including the obligations being assumed by the Developer under this Agreement, the City agrees to sell, and the Developer agrees to purchase, the Development Property, including all improvements, streets, alleys, right-of-way and other appurtenances thereto, subject to easements and appurtenant servient estates and any zoning and other ordinances. Such transfer shall occur under the terms and conditions of this Agreement and following all process required by the City pursuant to Section 364.7 of the Iowa Code. The Purchase Price shall be financed by the City and payable by the Developer in the form of the Forgivable Loan from the City to the Developer, as detailed in Section 3.3 below. The Developer shall not be required to issue payment to the City for the Purchase Price of the Development Property prior to transfer of the Development Property but shall instead execute a Promissory Note as described below. City and Developer agree that the Purchase Price is the fair market as-appraised value of the Development Property, pursuant to an appraisal of the Development Property prepared by Mitchell & Associates, Inc., dated January 15, 2019 (File #00190018), in the possession of both City and Developer.

Section 3.3. Forgivable Loan; Promissory Note.

a. For and in consideration of the obligations being assumed by the Developer hereunder, the City agrees to make a forgivable loan to the Developer in the amount of One Million Eight Hundred Seventy Thousand and 00/100 Dollars ($1,870,000.00) (the "Forgivable Loan") at Closing to be used for the purpose of paying the Purchase Price, subject to the following terms and conditions:

i. City and Developer shall have executed this Agreement;

ii. Developer shall have executed a promissory note in an amount equal to the amount of the Forgivable Loan (the "Promissory Note"), in the form attached hereto and incorporated herein as Exhibit H; and

iii. No Event of Default under this Agreement shall have occurred and be continuing past applicable cure periods.

b. The City shall forgive the Forgivable Loan pursuant to the schedule set forth in subsection (c), below, subject to and conditioned upon satisfaction of the following conditions:

i. Developer's completion of construction of the Minimum Improvements by the dates set forth in Exhibit B, subject to Unavoidable Delays, consistent with this Agreement, including the issuance of a certificate of occupancy for the same; and

ii. Developer shall have timely paid all property taxes that are due and owing on the Development Property; and

iii. No Event of Default under this Agreement shall have occurred and be continuing past applicable cure periods.

c. Subject to Developer's satisfaction of the conditions set forth in subsection (b), above, the Forgivable Loan shall be forgiven, and the balance of the Promissory Note reduced, pursuant to the following schedule:

i. 38% of the Forgivable Loan, or $710,600, shall be forgiven upon Developer's receipt of a Certificate of Occupancy from the City for the Phase I Minimum Improvements.

ii. 25% of the Forgivable Loan, or $467,500, shall be forgiven upon Developer's receipt of a Certificate of Occupancy from the City for the Phase II Minimum Improvements.

iii. 37% of the Forgivable Loan, or $691,900, shall be forgiven upon Developer's receipt of a Certificate of Occupancy form the City for the Phase III Minimum Improvements.

d. Upon occurrence of an Event of Default that is not cured in the 30-day period provided for in Section 11.1, if the Forgivable Loan has not yet been forgiven and the Promissory Note has not yet been cancelled, in addition to all other remedies available to City in Section 11.2, the City may immediately demand repayment of the Forgivable Loan and the entire outstanding balance of the Promissory Note that the City has not yet forgiven will become immediately due and payable thirty (30) days after the City gives written notice to the Developer of such demand for repayment. In the event the City accelerates the debt secured by the Promissory Note as provided above, and the Developer fully and timely satisfies repayment of such debt, the Developer shall retain fee simple title to the Development Property without further obligation under the Promissory Note. All unpaid sums will accrue interest at the rate of 4% per annum accruing from the date payment is due.

e. The Promissory Note shall be terminated and cancelled upon forgiveness of the Forgivable Loan. City and Developer shall amend the Promissory Note in accordance with the schedule provided in subsection (c), above, to reflect the remaining amount owed under the Forgivable Loan. Should the Developer fail to qualify for forgiveness of the Forgivable Loan in whole, the entire outstanding balance of the Promissory Note will become immediately due and payable thirty (30) days after the City gives written notice to the Developer of such failure to qualify for loan forgiveness. All unpaid sums will accrue interest at the rate of 4% per annum accruing from the date payment is due. Following the Developer's full satisfaction of the Promissory Note, the City shall provide, within thirty (30) days upon receipt of the written request of the Developer, an instrument executed by City evidencing termination and cancellation of the Forgivable Loan and Promissory Note. In the event the City accelerates the debt secured by the Promissory Note as provided above, and the Developer fully and timely satisfies repayment of such debt, the Developer shall retain fee simple title to the Development Property without further obligation under the Promissory Note, Forgivable Loan or this Agreement.

Section 3.4. Due Diligence Period and Closing.

a. Within ninety (90) days after the Commencement Date, Developer may, at its sole cost and expense, conduct due diligence to assess the legal and physical condition of the Development Property, including, without limitation, conducting physical inspections and environmental studies on the Development Property, procuring a title report or commitment for the Development Property, and procuring a survey of the Development Property. If such due diligence reveals, in Developer's sole and absolute discretion, conditions that inhibit Developer's ability to construct the Minimum Improvements or carry out its obligations under this Agreement, Developer shall provide written notice to City detailing such conditions. Within fifteen (15) days after receipt of such written notice, City shall respond via written notice to Developer whether and how such conditions can be cured prior to Closing. If any such conditions cannot be cured prior to Closing, or if the actions required to cure such conditions are unduly burdensome, costly or time-intensive, in Developer's sole and absolute discretion, Developer may terminate this

Agreement via written notice to City without further rights, liabilities, or obligations of City or Developer under this Agreement.

b. The City's obligation to transfer title of the Development Property to Developer, and Developer's obligation to pay the Purchase Price to the City, upon the obligations of both parties hereunder being met, including the execution of all documents required hereunder, shall occur on or before _____ (the "Closing Date"). Possession of the Development Property ("Possession") shall be delivered to Developer on the Closing Date. Any adjustments of rent, insurance, taxes, interest, and all charges attributable to the City's possession shall be made as of the date of Possession. Developer shall pay the Purchase Price to the City by check or wire transfer at the Closing (subject to prorations, reductions, and credits as provided below). The transfer shall be considered closed upon the delivery to Developer of a duly executed special warranty deed for the Development Property in the form attached hereto as Exhibit D, the filing of all title transfer documents, and the City's receipt of all funds due at the Closing Date from Developer under this Agreement ("Closing"). All parties and individual signatories hereto further agree to make, execute and deliver such further and additional documents as may be reasonably requested by the other party for the purpose of accomplishing the transfer herein contemplated.

Section 3.5. Real Estate Taxes and Special Assessments.

a. The Development Property is currently tax-exempt while owned by the City; therefore, there will be no proration or credit of real estate taxes at Closing and Developer shall be responsible for all taxes post-Closing, if any; and

b. All special assessments, if any, assessed post-Closing shall be paid by Developer.

Section 3.6. Risk of Loss and Insurance. The City shall bear the risk of loss or damage to the Development Property prior to Closing, excepting any improvements undertaken or caused by Developer on the Development Property prior to Closing. The City agrees to maintain existing insurance, if any, and Developer may purchase additional insurance on the Development Property prior to Closing, in Developer's discretion. In the event of substantial damage or destruction prior to the Closing, the City shall have the option of using insurance proceeds to repair the Development Property such that this Agreement shall continue, subject to Unavoidable Delays, and Developer shall complete the Closing, provided that such insurance proceeds are sufficient to reconstruct and return the Development Property to a condition substantially similar to that prior to the casualty event, excepting any improvements undertaken or caused by Developer on the Development Property prior to Closing. Developer shall bear the risk of loss or damage to: (i) any improvements undertaken or caused by Developer on the Development Property prior to Closing, and (ii) the Development Property after the Closing.

Section 3.7. Condition of Property; Care and Maintenance. The Developer agrees to take the Development Property "As Is," including with respect to environmental matters. Except as specifically set forth in this Agreement, the City makes no warranties or representations as to the condition of the Development Property. The City and Developer acknowledge and agree that City has undertaken no investigations with respect to the suitability of the Development Property for Developer's proposed uses, including but not limited to subsurface investigations regarding the soil conditions of the Development Property. Notwithstanding anything herein to the contrary, Developer hereby waives all claims against the City as to the condition of the Development Property. Developer agrees to indemnify, release, defend, and hold harmless the City for all claims, damages, or costs relating to the Development Property that arise after the date of Closing. This Section shall survive the Closing. Such release shall not include claims,

damages, costs or other liabilities that arise directly out of the gross negligence or willful misconduct of the Indemnified Parties.

Section 3.8. Abstract and Title. The City shall provide an abstract of title for the Development Property, continued through a date continued to and including the date of this Agreement, and deliver it to Developer for examination, which shall become the property of Developer upon Closing. Such abstract of title shall show merchantable title in the City in conformity with this Agreement, the land title laws of the State of Iowa, and the Iowa Title Standards of the Iowa State Bar Association. Developer may, at its sole cost and expense, obtain title insurance on the Development Property for itself and/or its lenders.

Section 3.9. Survey and Platting. Developer may, at Developer's expense prior to Closing, have the Development Property surveyed and certified by a Registered Land Surveyor. Developer shall be responsible for all surveys and platting of the Development Property after Closing, if any.

Section 3.10. Certification. Developer and City each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

Section 3.11. Environmental Matters. At Closing, the City will file with the County Recorder's Office a properly executed Groundwater Hazard Statement to the extent required by law. Developer takes the Development Property "As Is" with respect to any environmental matters. The City makes no representation or warranties as to the environmental condition of the Development Property. Developer agrees to indemnity, release, defend and hold harmless the City for all claims, damages or costs relating to the Development Property that arise after the Closing Date and that were not caused directly or indirectly by the City. This Section shall survive Closing. Provided, however, such release shall not be deemed to include loss or damage that arises directly out of the gross negligence or intentional misconduct of City.

Section 3.12. Deed Restriction. Developer acknowledges and agrees that the City is selling the Development Property to Developer on the condition that it be developed for the Minimum Improvements as described in this Agreement, in accordance with all terms of this Agreement. Developer agrees that, until the Termination Date, the Development Property shall be substantially used for the commercial and residential purposes of the Minimum Improvements described in this Agreement. This entire Section shall survive Closing.

Section 3.13. Reversionary Right.

a. As security for completion of the Minimum Improvements, the City shall hold a right of reversion in the Phase I Property, Phase II Property, and Phase III Property portions of the Development Property (the "Reversionary Right"). The City shall hold the Reversionary Right for each Phase portion of the Development Property until the Developer has completed construction of the respective Phase of the Minimum Improvements on the particular Phase portion of the Development Property. Upon issuance

of a Certificate of Occupancy for the particular Phase of the Minimum Improvements, the City shall record a release of its Reversionary Right with respect to the corresponding Phase portion of the Development Property, using the form attached hereto as Exhibit G. Accordingly, it is anticipated that the City's Reversionary Right will be released at different times with respect to the Phase I Property, the Phase II Property, and the Phase III Property.

b. Prior to the release of the City's Reversionary Right with respect to any portion of the Development Property, the City may exercise its Reversionary Right, in its reasonable discretion, if: (i) Developer has not completed construction of a Phase of Minimum Improvements on the corresponding portion of the Development Property by the respective deadline set forth in Exhibit B, subject to Unavoidable Delays; provided, however, that the City and the Developer may agree to amend or extend such deadlines as set forth in this Agreement; or (ii) Developer otherwise commits an Event of Default, subject to any applicable cure periods, under this Agreement, as defined in Section 11.1. If one of the above conditions occurs, then the City shall automatically be entitled to exercise the City's Reversionary Right to reacquire title to any portion of the Development Property that has not been released from the Reversionary Right.

c. To exercise the Reversionary Right described herein, the City must provide written notice to Developer (or its permitted successors, assigns, or transferees) within sixty (60) days of the City providing notice to the Developer of an Event of Default under this Agreement, and record such notice with the County Recorder of deeds, in which case title to the entirety of the Development Property that has not been released from this Reversionary Right shall automatically revert to the City as of the date of the recording of the notice at no cost to the City. Upon request from the City, within sixty (60) days of the City's request, Developer shall obtain and record, at no cost to the City, releases of all mortgages or liens on the Development Property (excepting any portion of the Development Property that has been previously released from the Reversionary Right) and shall take all reasonable steps to ensure the City acquires marketable title to the Development Property through its exercise of its rights under this Section, including without limitation, the execution of appropriate deeds and other documents. Notwithstanding the foregoing, the City's reversionary rights for all Phases shall terminate automatically upon the Termination Date, except that any such rights shall continue with respect to any and all Phases for which the City has already begun the process to exercise its reversionary rights under this Section 3.13. This provision shall survive the Closing.

ARTICLE IV. CONSTRUCTION OF MINIMUM IMPROVEMENTS, PROPERTY TAXES

Section 4.1. Construction of Minimum Improvements.

a. The Developer agrees that it will cause the Minimum Improvements to be constructed in conformance with the terms of this Agreement and all applicable federal, State, and local laws, ordinances, and regulations, including any City permit and/or building requirements. All work with respect to the Minimum Improvements shall be in conformity with any plans approved and/or permits issued by the building official(s) of the City, which approvals and permits shall be made according to standard City processes for such plans and permits.

b. The Developer agrees that, subject to Unavoidable Delays, each Phase of the Minimum Improvements shall be completed by the respective date set forth in Exhibit B, unless otherwise extended. Time lost as a result of Unavoidable Delays shall be added to extend the dates set forth in Exhibit B by a number of days equal to the number of days lost as a result of Unavoidable Delays. The Developer

acknowledges and agrees that failure to complete the Phase I Improvements in accordance with the terms of this Agreement shall constitute an Event of Default with respect to all Phases of the Minimum Improvements, and furthermore, that failure to complete any Phase of the Minimum Improvements in accordance with the terms of this Agreement shall constitute an Event of Default with respect to all subsequent Phases of the Minimum Improvements.

c. The Developer agrees that the scope and scale of the Minimum Improvements to be constructed shall not be significantly less than the scope and scale as detailed and outlined in this Agreement, including but not limited to the description and depictions in Exhibit B attached hereto.

d. The Developer agrees that it shall permit designated representatives of the City, upon at least twenty-four (24) hours notice to the Developer (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof. To the greatest extent provided under the law, City shall indemnify and hold harmless Developer for any damages, claims, liabilities or injuries caused by an employee or agent of the City that occurs during any City inspection.

Section 4.2. Construction Plans. A preliminary description and depictions of the Minimum Improvements are provided in Exhibit A and Exhibit A-1 attached hereto. Upon City's approval of the Construction Plans, as provided below, such approved Construction Plans shall automatically replace and supersede the preliminary description and depictions set forth in Exhibit A and Exhibit A-1. Developer shall cause Construction Plans to be provided for the Minimum Improvements, which shall be subject to approval by City as provided in this Section 4.2. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable State and local laws and regulations. Within thirty (30) days of Developer's provision of the Construction Plans to City, City shall administratively approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (v) no Event of Default under the terms of this Agreement has occurred; provided, however, that any such approval of the Construction Plans pursuant to this Section 4.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by City with respect to any building, fire, zoning or other ordinances or regulations of City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of City for the Development Property and the surrounding areas where the Minimum Improvements are to be constructed shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official. If City does not approve of the Construction Plans, City shall, within thirty (30) days of City's receipt of the Construction Plans, provide Developer with written notice of City's non-acceptance, and such notice shall detail all reasons for City's non-acceptance. Upon receipt of City's written notice of non-acceptance, Developer shall revise the Construction Plans in accordance with City's comments and resubmit revised Construction Plans to City, and the approval process for the Construction Plans detailed in this Section 4.2 shall begin anew.

Approval of the Construction Plans by City shall not relieve any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State and local laws,

ordinances and regulations, nor shall approval of the Construction Plans by City be deemed to constitute a waiver of any Event of Default.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject City to any liability for the Minimum Improvements as constructed.

Section 4.3 Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to City performance by Developer of all the terms and provisions of this Agreement pertaining to Developer's obligations with respect to the construction of the Minimum Improvements. Without limiting the generality of the foregoing, Developer guarantees that: (a) construction of the Minimum Improvements shall commence and be completed within the time limits set forth herein; (b) the Minimum Improvements shall be constructed and completed in accordance with the Construction Plans; (c) the Minimum Improvements shall be constructed and completed free and clear of any mechanic's liens, materialman's liens and equitable liens; and (d) all costs of constructing the Minimum Improvements shall be paid when due.

Section 4.4. Certificate of Completion. Upon written request of Developer after issuance of a final certificate of occupancy for the Minimum Improvements for a particular Phase, City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit G attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of Developer to cause construction of the Minimum Improvements for that Phase.

The Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 4.4, City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the reasonable opinion of City, for Developer to take or perform in order to obtain such Certificate of Completion. If Developer completes City's requested measures or acts it deems necessary within a reasonable time after receiving City's notice, City shall promptly issue a Certificate of Completion to Developer.

Section 4.5. Real Property Taxes. Developer or its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property owned by Developer. Until Developer's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes.

Developer and its successors agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property or Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property between the Commencement Date and the Termination Date

The Developer's obligations in this Section 4.5 shall cease to apply with respect to any Housing Unit for which ownership is conveyed by Developer to a Homebuyer, or with respect to any portion of the Development Agreement and Minimum Improvements that Developer conveys to a third party in compliance with this Agreement.

Section 4.6. Minimum Assessment Agreement.

a. As further consideration for this Agreement, Developer shall execute, contemporaneous with the Closing, a Minimum Assessment Agreement pursuant to the provisions of Iowa Code Section 403.6(19) specifying the Assessor's Minimum Actual Values for the Minimum Improvements on the Development Property for calculation of real property taxes in the form attached as Exhibit E ("Assessment Agreement" or "Minimum Assessment Agreement"). Specifically, Developer, the Assessor, the holder of any Mortgage and all prior lienholders shall agree to a Minimum Actual Value for the Phase I Improvements, Phase II Improvements, and Phase III Improvements (building value only), pursuant to the following table:

Legal Description	**To Be Assessed Upon Completion, But No Later Than the Following Date:**	**Phase of Improvements**	**Minimum Actual Values (building value only):**
PHASE I PROPERTY: Lot 1 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2024	**Phase I Improvements** – Multi-Residential Apartments Portion	$10,473,337
		Phase I Improvements – Townhome Portion	$3,442,066
PHASE II PROPERTY: Lot 2 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2025	**Phase II Improvements** – Commercial Portion	$3,225,977
		Phase II Improvements – Multi-Residential Apartments Portion	$6,115,085
PHASE III PROPERTY: Lot 3 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2026	**Phase III Improvements** - Multi-Residential Apartments Portion	$10,473,337
		Phase III Improvements - Townhome Portion	$3,143,338
		TOTAL	**$36,873,140**

Such minimum actual values at the time applicable is herein referred to as the "Assessor's Minimum Actual Values."

b. Nothing in the Assessment Agreement shall limit the discretion of the Assessor to assign actual values to the Buildings on the Development Property in excess of such Assessor's Minimum Actual Values nor prohibit Developer from seeking through the exercise of legal or administrative remedies a

reduction in such actual values for property tax purposes; provided, however, that Developer shall not seek a reduction of such actual values below the Assessor's Minimum Actual Values in any year so long as the Assessment Agreement shall remain in effect. The Assessment Agreement shall remain in effect until it terminates in accordance with its terms. The Assessment Agreement shall be certified by the Assessor for the County as provided in Iowa Code Section 403.6(19) and shall be filed for record in the office of the County Recorder, and such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property or parts thereof, whether voluntary or involuntary. Such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer of any portion of the Development Property, as well as all prior lienholders and the holder of any Mortgage, each of which shall sign a consent to the Minimum Assessment Agreement. Developer shall obtain from each purchaser of any portion of the Development Property an acknowledgment of, and consent to, the Assessment Agreement in the form of Exhibit E. Developer shall ensure that any existing lienholder shall sign a written consent to the Minimum Assessment Agreement in a form satisfactory to the City.

ARTICLE V. INSURANCE

Section 5.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of coverage or payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk–Completed Value Basis," in an amount equal to the full replacement cost of the Minimum Improvements, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least $1,000,000 for each occurrence.

iii. Workers' compensation insurance that, at a minimum, meets statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date (excepting any portion of the Minimum Improvements no longer owned by Developer), Developer shall maintain or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of coverage or the payment of premiums on), insurance as is statutorily required and any additional insurance customarily carried by like enterprises engaged in like activities of comparable size and liability exposure.

c. All insurance required by this Article V to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby.

d. Developer agrees to notify the City immediately in the case of damage exceeding $25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to Developer (as applicable to the specific policy), and Developer, as applicable, will forthwith repair, reconstruct, and restore the

Minimum Improvements (excepting any portion of the Minimum Improvements no longer owned by Developer) to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer will apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements (excepting any portion of the Minimum Improvements no longer owned by Developer), whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE VI. COVENANTS OF THE DEVELOPER

Section 6.1. Maintenance of Properties. The Developer will maintain, preserve, and keep the Development Property (for so long as it is owned by Developer), in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions. Furthermore, the Developer shall maintain right of ways, sidewalks, and other public property adjacent to the Development Property, consistent with City ordinances and regulations.

Developer's obligation under this Section 6.1 shall cease to apply to those portions of the Development Property for which title is conveyed to a Homebuyer or a third party in accordance with the terms of this Agreement.

Section 6.2. Maintenance of Records. The Developer will keep at all times proper books of record and account in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of the Developer relating to this Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and the Developer will provide reasonable protection against loss or damage to such books of record and account.

Section 6.3. Compliance with Laws. The Developer will comply with all State, federal, and local laws, rules, and regulations relating to the Minimum Improvements.

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, the Developer shall not discriminate against any applicant, employee, tenant, or prospective Homebuyer because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer shall ensure that applicants, employees, tenants, and Homebuyers are considered and are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

Section 6.5. Available Information. Upon written request from the City, Developer shall within a reasonable time provide the City with copies of information requested by City that are reasonably related to this Agreement so that City can determine compliance with the Agreement.

Section 6.6. No Abatement and Notice of Minimum Assessment Agreement. Homebuyers who purchase Housing Units on the Development Property and entities that purchase any portion of the Commercial Space are not eligible for tax abatement under any Urban Revitalization Plan or any other State, federal or local law, and shall obtain the Housing Unit subject to the terms of the Minimum Assessment Agreement described in Section 4.3. Developer shall inform all such prospective purchasers of this information in writing prior to the sale of any Housing Unit or portion of the Commercial Space

on the Development Property and secure a receipt from all such prospective purchasers that they received such information prior to the sale in the form of Exhibit F.

ARTICLE VII. ASSIGNMENT AND TRANSFER

Section 7.1. Status of the Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of the Developer under this Agreement, the Developer represents and agrees that, prior to the Termination Date, the Developer will not dispose of all or substantially all of its assets or transfer, convey, or assign its interest in the Development Property or this Agreement to any other party unless (i) the transferee partnership, corporation or individual assumes in writing all of the obligations of the Developer under this Agreement with respect to the portion of the Development Property being transferred and (ii) the City consents thereto in writing in advance thereof, which the City shall not unreasonably withhold, delay or condition; provided City's consent shall not be required for any transfer or assignment of its interest in the Development Property or this Agreement to an affiliated entity that is controlled or managed by Developer so long as Developer provides prior written notice to City of such transfer or assignment.

Notwithstanding the forgoing, or any other provisions of this Agreement, Developer may:

a. Transfer or convey its interests in distinct Housing Units and corresponding portions of the Development Property to Homebuyers; and

b. Pledge any and/or all of its assets as security to finance the construction of the Minimum Improvements, and the City agrees that Developer may assign its interest in the Blight Remediation Grants for such purpose, provided Developer remains responsible for performing or satisfying all of the covenants, obligations, and agreements in this Agreement.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally-Assessed Property. During the term of this Agreement, the Developer agrees that no portion of the Development Property or Minimum Improvements shall be transferred or sold to a non-profit entity or used for a purpose that would exempt said portion of the Development Property from property tax liability. Notwithstanding the prior sentence, Developer may convey portions of the Development Property to the City to be used by the City for public infrastructure, parks, trails or other public purposes. During the term of this Agreement, Developer agrees not to allow any portion of the Development Property or Minimum Improvements to be used as centrally-assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. BLIGHT REMEDIATION GRANTS

Section 8.1. Blight Remediation Grants. For and in consideration of the obligations being assumed by Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement at the time of each payment (subject to all applicable cure periods), to make up to seventeen (17) consecutive annual payments of Blight Remediation Grants to Developer for each Phase of Minimum Improvements completed on the Development Property,

under the following terms and conditions.

a. Schedule of Grants. The Blight Remediation Grants for each Phase of Minimum Improvements shall be paid according to the following schedules and formulas, provided that Developer remains in compliance with the terms of this Agreement and becomes entitled to the Grants for such Phase. Under no circumstances shall the failure by Developer to qualify for a Blight Remediation Grant in any year serve to extend the term of this Agreement beyond the Termination Date, or extend the years during which Blight Remediation Grants may be awarded, or increase the total amount thereof; it being the intent of parties hereto to provide Developer with an opportunity to receive Blight Remediation Grants only if Developer fully complies with the provisions hereof and the Developer becomes entitled thereto, up to the maximum aggregate amounts set forth in Section 8.1(c).

i. Phase I Improvements. Assuming completion of Phase I Improvements by December 31, 2023, full assessment of Phase I Improvements on January 1, 2024, debt certification to the Auditor by the City prior to December 1, 2024, the Blight Remediation Grants for Phase I Improvements shall commence on June 1, 2026, and end on June 1, 2042, pursuant to Section 403.19 of the Urban Renewal Act under the following formula:

June 1, 2026	80% of Tax Increments for Phase I Improvements for Fiscal Year 25-26
June 1, 2027	80% of Tax Increments for Phase I Improvements for Fiscal Year 26-27
June 1, 2028	80% of Tax Increments for Phase I Improvements for Fiscal Year 27-28
June 1, 2029	80% of Tax Increments for Phase I Improvements for Fiscal Year 28-29
June 1, 2030	80% of Tax Increments for Phase I Improvements for Fiscal Year 29-30
June 1, 2031	80% of Tax Increments for Phase I Improvements for Fiscal Year 30-31
June 1, 2032	80% of Tax Increments for Phase I Improvements for Fiscal Year 31-32
June 1, 2033	80% of Tax Increments for Phase I Improvements for Fiscal Year 32-33
June 1, 2034	80% of Tax Increments for Phase I Improvements for Fiscal Year 33-34
June 1, 2035	80% of Tax Increments for Phase I Improvements for Fiscal Year 34-35
June 1, 2036	80% of Tax Increments for Phase I Improvements for Fiscal Year 35-36
June 1, 2037	80% of Tax Increments for Phase I Improvements for Fiscal Year 36-37
June 1, 2038	80% of Tax Increments for Phase I Improvements for Fiscal Year 37-38
June 1, 2039	80% of Tax Increments for Phase I Improvements for Fiscal Year 38-39
June 1, 2040	80% of Tax Increments for Phase I Improvements for Fiscal Year 39-40
June 1, 2041	80% of Tax Increments for Phase I Improvements for Fiscal Year 40-41
June 1, 2042	80% of Tax Increments for Phase I Improvements for Fiscal Year 41-42

ii. Phase II Improvements. Assuming completion of Phase II Improvements by December 31, 2024, full assessment of Phase II Improvements on January 1, 2025, debt certification to the Auditor by the City prior to December 1, 2025, the Blight Remediation Grants for Phase II Improvements shall commence on June 1, 2027, and end on June 1, 2043, pursuant to Section 403.19 of the Urban Renewal Act under the following formula:

June 1, 2027	80% of Tax Increments for Phase II Improvements for Fiscal Year 26-27
June 1, 2028	80% of Tax Increments for Phase II Improvements for Fiscal Year 27-28
June 1, 2029	80% of Tax Increments for Phase II Improvements for Fiscal Year 28-29
June 1, 2030	80% of Tax Increments for Phase II Improvements for Fiscal Year 29-30
June 1, 2031	80% of Tax Increments for Phase II Improvements for Fiscal Year 30-31
June 1, 2032	80% of Tax Increments for Phase II Improvements for Fiscal Year 31-32

June 1, 2033	80% of Tax Increments for Phase II Improvements for Fiscal Year 32-33
June 1, 2034	80% of Tax Increments for Phase II Improvements for Fiscal Year 33-34
June 1, 2035	80% of Tax Increments for Phase II Improvements for Fiscal Year 34-35
June 1, 2036	80% of Tax Increments for Phase II Improvements for Fiscal Year 35-36
June 1, 2037	80% of Tax Increments for Phase II Improvements for Fiscal Year 36-37
June 1, 2038	80% of Tax Increments for Phase II Improvements for Fiscal Year 37-38
June 1, 2039	80% of Tax Increments for Phase II Improvements for Fiscal Year 38-39
June 1, 2040	80% of Tax Increments for Phase II Improvements for Fiscal Year 39-40
June 1, 2041	80% of Tax Increments for Phase II Improvements for Fiscal Year 40-41
June 1, 2042	80% of Tax Increments for Phase II Improvements for Fiscal Year 41-42
June 1, 2043	80% of Tax Increments for Phase II Improvements for Fiscal Year 42-23

iii. Phase III Improvements. Assuming completion of Phase III Improvements by December 31, 2025, full assessment of Phase III Improvements on January 1, 2026, debt certification to the Auditor by the City prior to December 1, 2026 the Blight Remediation Grants for Phase III Improvements shall commence on June 1, 2028, and end on June 1, 2044, pursuant to Section 403.19 of the Urban Renewal Act under the following formula:

June 1, 2028	80% of Tax Increments for Phase III Improvements for Fiscal Year 27-28
June 1, 2029	80% of Tax Increments for Phase III Improvements for Fiscal Year 28-29
June 1, 2030	80% of Tax Increments for Phase III Improvements for Fiscal Year 29-30
June 1, 2031	80% of Tax Increments for Phase III Improvements for Fiscal Year 30-31
June 1, 2032	80% of Tax Increments for Phase III Improvements for Fiscal Year 31-32
June 1, 2033	80% of Tax Increments for Phase III Improvements for Fiscal Year 32-33
June 1, 2034	80% of Tax Increments for Phase III Improvements for Fiscal Year 33-34
June 1, 2035	80% of Tax Increments for Phase III Improvements for Fiscal Year 34-35
June 1, 2036	80% of Tax Increments for Phase III Improvements for Fiscal Year 35-36
June 1, 2037	80% of Tax Increments for Phase III Improvements for Fiscal Year 36-37
June 1, 2038	80% of Tax Increments for Phase III Improvements for Fiscal Year 37-38
June 1, 2039	80% of Tax Increments for Phase III Improvements for Fiscal Year 38-39
June 1, 2040	80% of Tax Increments for Phase III Improvements for Fiscal Year 39-40
June 1, 2041	80% of Tax Increments for Phase III Improvements for Fiscal Year 40-41
June 1, 2042	80% of Tax Increments for Phase III Improvements for Fiscal Year 41-42
June 1, 2043	80% of Tax Increments for Phase III Improvements for Fiscal Year 42-43
June 1, 2044	80% of Tax Increments for Phase III Improvements for Fiscal Year 43-44

b. Calculation. Each annual payment shall be equal in amount to the above percentages of the applicable Tax Increments collected by the City with respect to the applicable portion of the Minimum Improvements (building value only) under the terms of the Ordinance and deposited into the West Broadway Urban Renewal Area Tax Increment Revenue Fund (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to the Developer) during the preceding twelve-month period, but subject to limitation and adjustment as provided in this Article.

c. Aggregate Maximum for Blight Remediation Grants. If Developer completes the Phase I Improvements in accordance with the terms and conditions of this Agreement, then the aggregate amount

of Blight Remediation Grants that may be paid to Developer under this Section 8.1 shall not exceed the lesser of: (i) the amount of available Tax Increments under the formula and schedule set forth in Section 8.1(a)(i) or (ii) $3,500,000; provided however, that if Developer completes additional Phases in accordance with the terms and conditions of this Agreement, then the aggregate amount of Blight Remediation Grants shall increase as follows:

i. If Developer completes the Phase I Improvements and Phase II Improvements in accordance with the terms and conditions of this Agreement, then the maximum aggregate amount of Blight Remediation Grants payable under this Agreement shall be the lesser of: (i) the amount of available Tax Increments under the formulas and schedules set forth in Section 8.1(a), or (ii) $6,500,000.

ii. If Developer completes the Phase I Improvements, Phase II Improvements, and Phase III Improvements in accordance with the terms and conditions of this Agreement, then the maximum aggregate amount of Blight Remediation Grants payable under this Agreement shall be the lesser of: (i) the amount of available Tax Increments under the formulas and schedules set forth in Sections 8.1(a), or (ii) $10,000,000.

It is further agreed and understood that each Blight Remediation Grant shall come solely and only from incremental taxes received by the City under Iowa Code Section 403.19 from levies upon the Development Property, the City makes no representation with respect to the amounts that may finally be paid to the Developer, and in no event shall Developer be entitled to receive more than calculated under the formulas set forth in this Section 8.1, even if the applicable aggregate maximum as set forth above is not met.

d. Limitation to Minimum Improvements. The Blight Remediation Grants are only for the Minimum Improvements (and development of the underlying land) described in this Agreement and not any expansions or improvements not included within the definition of the Minimum Improvements which, to be eligible for Blight Remediation Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

e. Conditions Precedent. Notwithstanding the provisions of Sections 8.1(a) above, the obligation of the City to make a Blight Remediation Grant in any year shall be subject to and conditioned upon all of the following:

i. Developer's compliance with the terms of this Agreement by Developer at the time of payment.

ii. Developer's phased completion of the Phase I Improvements, Phase II Improvements, and Phase III Improvements as set forth in Exhibit B and consistent with the terms of this Agreement. For the avoidance of doubt, the City and Developer agree the Blight Remediation Grants will be initiated consistent with the schedules in Section 8.1(a)(i – iii), assuming the timely completion and assessment of the relevant improvements in each Phase and subject to the City's right of non-appropriation, even though other Minimum Improvements are not yet scheduled for completion. However, if the Phase I Improvements are not completed by the deadline set forth in this Agreement, subject to Unavoidable Delays or extension or amendment by the parties, then the Developer shall no longer be eligible for any Blight Remediation Grants under any schedule set forth in Section 8.1(a). Furthermore, the Developer shall only be eligible for Blight Remediation Grants with respect to Phase II Improvements under Section 8.1(a)(ii) if the Phase I Improvements and Phase II Improvements are both completed in

compliance with the terms of the Agreement, and the Developer shall only be eligible for Blight Remediation Grants with respect to Phase III Improvements under Section 8.1(a)(iii) if the Phase I Improvements, Phase II Improvements, and Phase III Improvements are all completed in compliance with the terms of the Agreement.

iii. City's receipt of Tax Increment from the County pursuant to Iowa Code Section 403.19 generated by the respective Phase of the Minimum Improvements.

In the event that an Event of Default occurs past any applicable cure period, the City shall have no obligation thereafter to make any payments to Developer in respect of the Blight Remediation Grants and the provisions of this Article shall terminate and be of no further force or effect.

Section 8.2. Source of Grant Funds Limited.

a. The Blight Remediation Grants shall be payable from and secured solely and only by amounts deposited and held in the 34th and 1st Holdings, LLC TIF Account of the West Broadway Urban Renewal Area Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the account with respect to the Development Property in force during the term hereof and to apply the incremental taxes collected in respect of the Development Property and the Minimum Improvements and allocated to the 34th and 1st Holdings, LLC TIF Account to pay the Blight Remediation Grants, as and to the extent set forth in this Article. The Blight Remediation Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under Chapter 441.21A of the Code shall not be included in the calculation to determine the amount of Blight Remediation Grants for which Developer is eligible, and any monies received back under Chapter 426C of the Code relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Blight Remediation Grants for which Developer is eligible.

b. Each Blight Remediation Grant is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Blight Remediation Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make a Blight Remediation Grant to the Developer if at any time during the term hereof the City exercises its right of non-appropriation, the ability to collect Tax Increments from the Development Property terminates pursuant to the law then in effect, or the City receives an opinion from a court of competent jurisdiction to the effect that the use of Tax Increments resulting from the Minimum Improvements and Development Property to fund a Blight Remediation Grant to the Developer, as contemplated under said

Section 8.1, is not authorized or otherwise lawful urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted. Upon such non-appropriation, termination of collection of Tax Increments by act of law, or receipt of such an opinion, the City shall promptly forward a notice of the same to the Developer.

d. The City makes no representation with respect to the amounts that may finally be paid to the Developer as the Blight Remediation Grants, and under no circumstances shall the City in any manner be liable to the Developer so long as the City timely applies the Tax Increments actually collected and held in the 34th and 1st Holdings, LLC TIF Account (regardless of the amounts thereof) to the payment of the Blight Remediation Grants to the Developer, as and to the extent described in this Article.

Section 8.3. Use of Other Tax Increments. Subject to this Article VIII, the City shall be free to use any and all available Tax Increments in excess of the maximum amount in Section 8.1(c) or resulting from the suspension or termination of the Blight Remediation Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act, and the City shall have no obligations to the Developer with respect to the use thereof.

ARTICLE IX. RESERVED

ARTICLE X. INDEMNIFICATION

Section 10.1. Release and Indemnification Covenants.

a. The Developer releases the Indemnified Parties from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend, and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about, or resulting from any defect in, the Development Property or the Minimum Improvements. Provided, however, such release shall not be deemed to include loss or damage that arises directly out of the gross negligence or intentional misconduct of the Indemnified Parties.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now or forever, and further agrees to hold the Indemnified Parties harmless, from any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from (i) any violation of any agreement or condition of this Agreement (except with respect to any suit, action, demand or other proceeding brought by the Developer against the City to enforce its rights under this Agreement), (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements, or (iii) any hazardous substance or environmental contamination located in or on the Development Property arising subsequent to Closing.

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants, or employees or any other person who may be about the Minimum Improvements due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants, or employees.

d. The provisions of this Article X shall survive the termination of this Agreement.

ARTICLE XI. DEFAULT AND REMEDIES

Section 11.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events; provided, however, that if Developer has timely completed the Phase I Improvements, then a breach of the terms of this Agreement under Section 11.1(a)-(e) that can be attributed directly to a particular Phase of the Minimum Improvements shall not constitute a default with respect to the Phase(s) previously completed in accordance with the terms of this Agreement and which remain(s) in compliance with the terms of the Agreement:

a. Failure by the Developer to cause the construction of the Minimum Improvements to be commenced and completed pursuant to the terms, conditions, and limitations of this Agreement;

b. Failure by the Developer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

c. Transfer of Developer's interest in the Development Property or this Agreement in violation of the provisions of this Agreement;

d. Failure by Developer to pay ad valorem taxes on the Development Property or Minimum Improvements (excepting any portion thereof no longer owned by Developer);

e. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

f. Developer shall:

i. file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or

ii. make an assignment for the benefit of its creditors; or

iii. admit in writing its inability to pay its debts generally as they become due; or

iv. be adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer as bankrupt or either entity's reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against Developer, and shall not be discharged within ninety (90) days after such appointment, or if Developer shall consent to or acquiesce in such appointment; or

g. Any representation or warranty made by the Developer in this Agreement, or made by the Developer in any written statement or certification furnished by the Developer pursuant to this Agreement, shall prove to have been incorrect, incomplete or misleading in any material respect on or as of the date of the issuance or making thereof.

Section 11.2. Remedies on Default. Whenever any Event of Default referred to in Section 11.1 of this Agreement occurs and is continuing, the City, as specified below, may take any one or more of the following actions after the giving of thirty (30) days' written notice by the City to the Developer and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and the Developer does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement, including payment of Blight Remediation Grants, until it receives assurances from the Developer, deemed adequate by the City, that the Developer will cure its default and continue its performance under this Agreement;

b. The City may terminate this Agreement; provided however, that if Developer has timely completed the Phase I Improvements and a breach of the terms of this Agreement under Section 11.1(a)-(e) can be attributed directly to a particular Phase of the Minimum Improvements, then the City shall only terminate the Agreement with respect to those Phases that have not been previously completed in accordance with the terms of this Agreement or which are no longer in compliance with the terms of the Agreement; and

c. The City may take any action, including legal, equitable, or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Developer, as the case may be, under this Agreement; or

d. The City shall be able to exercise its rights under the Promissory Note; and

e. The City will have no obligation to make payment of Blight Remediation Grants to Developer subsequent to the Event of Default and shall be entitled to recover from Developer, and Developer shall repay to the City, an amount equal to the full amount of the Blight Remediation Grants previously made to Developer under Article VIII hereof, with interest thereon at the highest rate permitted by State law. The City may take any action, including any legal action it deems necessary, to recover such amounts from Developer; provided however, that if Developer has timely completed the Phase I Improvements and a breach of the terms of this Agreement under Section 11.1(a)-(e) can be attributed directly to a particular Phase of the Minimum Improvements, then the City shall only terminate the Blight Remediation Grants and/or recover previously paid Grants with respect to those Phases that have not been previously completed in accordance with the terms of this Agreement or which are no longer in compliance with the terms of the Agreement.

Section 11.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to

the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 11.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith; provided that Developer shall not be liable for any such fees or expenses incurred prior to the expiration of any applicable cure period, or if it is conclusively determined or agreed to between the parties that such Event of Default did not occur or give rise to City's remedies under Section 11.2.

Section 11.6. Limitation of Remedies and Damages. In no event shall Developer or City be liable to the other party for any special, indirect, punitive or consequential damages resulting from or arising out of this Agreement or any breach thereof, including, without limitation, loss of profits or business interruptions however caused.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. The Developer represents and warrants that, to its best knowledge and belief after due inquiry, no officer or employee of the City, or its designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 12.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

a. In the case of the Developer, is addressed or delivered personally to 34th and 1st Holdings, LLC at 29 South Main St., Council Bluffs, IA 51503; Attn: K.C. Knudson and Michael R. Townsend; and

b. In the case of the City, is addressed to or delivered personally to the City of Council Bluffs at City Hall, 209 Pearl Street, Council Bluffs, IA 51503, Attn: Brandon Garrett, Community Development Director;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 12.3. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement, in substantially the form attached as Exhibit C, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for the costs of recording.

Section 12.4. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 12.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 12.6. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 12.7. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement between the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 12.8. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 12.9. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2044, unless the Agreement is terminated earlier by the other terms of this Agreement. Unless the City previously provided the Developer with written notice of an Event of Default, and the Developer fails to cure such Event of Default within the applicable cure period, prior to termination of this Agreement, it shall be conclusively deemed that the Developer was in full compliance of this Agreement as of the Termination Date.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, Homebuyer, contractor, subcontractor, material supplier, or any other person or entity, and no such landowner, Homebuyer, contractor, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

Section 12.11. Force Majeure. Neither the City nor the Developer shall be liable for any failure or delay in performance of its obligations under this Agreement arising out of or caused directly or indirectly by Unavoidable Delays; provided, however, in the event of a failure or delay, the affected party shall provide the other party notice of such delay as soon as reasonably practicable following its discovery and each party shall use its best efforts to mitigate the effects of any such failure or delay.

Section 12.12. Counterparts. This Agreement may be executed in counterparts, all of which taken together shall be deemed one original, and shall be effective upon execution thereof by the City and the Developer, notwithstanding the fact that both of the parties hereto are not signatories to the original or same counterpart. Any signature of the City or the Developer which is delivered by facsimile, photocopy or electronic means (scan or email) shall be deemed to be an original signature and shall be effective upon receipt thereof.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, the

Developer has caused this Agreement to be duly executed in its name and behalf all on or as of the day first above written.

[Remainder of this page intentionally left blank. Signature pages to follow.]

(SEAL) CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matt Walsh, Mayor

ATTEST:

By: _____
Jodi Quackenbush, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2021, before me a Notary Public in and for said State, personally appeared Matt Walsh and Jodi Quackenbush, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Council Bluffs, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Purchase, Sale, and Development Agreement – City of Council Bluffs, Iowa]

34TH AND 1ST HOLDINGS, LLC,
an Iowa domestic limited liability company

By: _____
Michael R. Townsend

Its: _____

ATTEST:

By: _____

Name: _____

Its: _____

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for said State, personally appeared Michael R. Townsend and _____ to me personally known, who, being by me duly sworn, did say that they are the President and _____, respectively of 34th and 1st Holdings, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said officers as such, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Purchase, Sale, and Development Agreement – 34th and 1st Holdings, LLC]

EXHIBIT A

DEVELOPMENT PROPERTY

The Development Property is described as consisting of all that certain parcel or parcels of land located in the City of Council Bluffs, County of Pottawattamie, State of Iowa, more particularly described as follows:

Lots 1, 2 and 3 of the Main Line Subdivision, Council Bluffs, Iowa

INCLUDING THE FOLLOWING SUBAREAS:

PHASE I PROPERTY

Lot 1 of the Main Line Subdivision, Council Bluffs, Iowa

AND

PHASE II PROPERTY

Lot 2 of the Main Line Subdivision, Council Bluffs, Iowa

AND

PHASE III PROPERTY

Lot 3 of the Main Line Subdivision, Council Bluffs, Iowa

EXHIBIT B
MINIMUM IMPROVEMENTS

The Minimum Improvements consist of the Phase I Improvements, Phase II Improvements, Phase III Improvements, and related site improvements to be constructed by the Developer on the Development Property, consistent with approved plats and plans, the Urban Renewal Plan, and the terms of the Agreement, including this Exhibit B and the diagrams in Exhibit B-1.

The Phase I Improvements include buildings that will create approximately 86 apartment Housing Units and approximately 18 townhome Housing Units. **The Phase I Improvements shall be completed by December 31, 2023 in order to be first fully assessed on January 1, 2024.**

The Phase II Improvements include buildings that will create approximately 17,400 square feet of retail space (Phase II-A) and approximately 45 apartment Housing Units (Phase II-B). **The Phase II Improvements shall be completed by December 31, 2024 in order to be first fully assessed on January 1, 2025.**

The Phase III Improvements include buildings that will create approximately 86 apartment Housing Units and approximately 16 townhome Housing Units. **The Phase III Improvements shall be completed by December 31, 2025 in order to be first fully assessed on January 1, 2026.**

The Housing Units constructed as part of the Minimum Improvements are expected to consist of apartments and townhomes. The breakdown of Housing Units constructed as part of the Minimum Improvements is anticipated to be as follows:

- Six apartment buildings
    - Two bedroom (1,000 – 1,100 SF): 77 units total
    - One bedroom (550 – 750 SF): 107 units total
    - Studio apartments (400 – 500 SF): 33 units total
- Townhomes – two bedroom (1,000 SF over 550 SF garage): 34 units total

The combination of units will be monitored as the buildings are developed and adjustments may be made to the mix on an as-needed basis, by mutual written agreement by City and Developer. Three-bedroom units have not been included, but if the market favors them as the phases build-out, they would be brought in and limited at no more than five percent of the mix.

See Exhibit B-1 for site plans and renderings of the Minimum Improvements. The renderings and plans set forth in Exhibit B are preliminary in nature and subject to change pursuant to the terms of this Agreement.

EXHIBIT B-1
SITE PLANS AND RENDERINGS

[DEVELOPER WILL PROVIDE UPDATED SITE PLANS]

Prepared by: Nathan J. Overberg, Ahlers & Cooney, 100 Court Ave. #600, Des Moines, IA 50309, 515-243-7611
Return to: City of Council Bluffs, Iowa, City Hall, 209 Pearl Street, Council Bluffs, IA 51503, Attn: City Clerk

EXHIBIT C
MEMORANDUM OF PURCHASE, SALE, AND DEVELOPMENT AGREEMENT

WHEREAS, the City of Council Bluffs, Iowa (the "City") and 34th and 1st Holdings, LLC, an Iowa domestic limited liability company (the "Developer"), did on or about the _____ day of _____, 2021, make, execute, and deliver an Purchase, Sale, and Development Agreement (the "Agreement"), wherein and whereby the Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

Lots 1, 2 and 3 of the Main Line Subdivision, Council Bluffs, Iowa

(the "Development Property"); and

WHEREAS, the term of this Agreement shall commence on the ____ day of _____, 2021 and terminate on the Termination Date, as set forth in the Agreement; and

WHEREAS, the City and the Developer desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Purchase, Sale, and Development Agreement shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Purchase, Sale, and

Development Agreement made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, City Hall, Council Bluffs, Iowa.

IN WITNESS WHEREOF, the City and the Developer have executed this Memorandum of Purchase, Sale, and Development Agreement as of the ____ day of _____, 2021.

[Remainder of page intentionally left blank; signature pages to follow]

(SEAL) CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matt Walsh, Mayor

ATTEST:

By: _____
Jodi Quackenbush, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2021, before me a Notary Public in and for said State, personally appeared Matt Walsh and Jodi Quackenbush, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Council Bluffs, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Memorandum of Purchase, Sale, and Development Agreement – City of Council Bluffs, Iowa]

34TH AND 1ST HOLDINGS, LLC, an Iowa domestic limited liability company

By: _____
Michael R. Townsend

Its: _____

ATTEST:

By: _____

Name: _____

Its: _____

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for said State, personally appeared Michael R. Townsend and _____ to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively of 34th and 1st Holdings, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said officers as such, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Memorandum of Purchase, Sale, and Development Agreement – 34th and 1st Holdings, LLC]

FORM VERSION – DO NOT SIGN UNTIL CLOSING

Prepared by: Nathan J. Overberg, Ahlers Cooney P.C., 100 Court Ave #600, Des Moines, IA 50309 515-243-7611
Return to: City of Council Bluffs, Iowa, City Hall, 209 Pearl Street, Council Bluffs, IA 51503, Attn: City Clerk

EXHIBIT D
SPECIAL WARRANTY DEED

For the consideration of $1,870,000.00 and other valuable consideration, the **City of Council Bluffs, Iowa,** ("Grantor") does hereby convey to **34th and 1st Holdings, LLC**, an Iowa domestic limited liability company("Grantee"), the following described real estate in Pottawattamie County, Iowa:

Lots 1, 2 and 3 of the Main Line Subdivision, Council Bluffs, Iowa

This Deed is subject to all the terms, provisions, covenants, conditions, and restrictions contained in the Purchase, Sale, and Development Agreement by and between Grantor and Grantee dated _____, 2021 ("Agreement"), including (A) a use restriction that, until at least December 31, 2043, the real estate shall be used solely and exclusively for the commercial and residential purposes of the Minimum Improvements described in the Agreement, and (B) a Reversionary Right held by the Grantor in the real estate as described in the Agreement. The Agreement is incorporated herein by reference and is on file for public inspection at the office of the City Clerk of the Grantor.

None of the provisions of the Agreement shall be deemed merged in, affected by, or impaired by this Deed. All capitalized terms contained in this Deed have the same meaning as assigned to them in the Agreement.

This transfer is exempt under Iowa Code Chapter 428A.2.19

Grantor does hereby covenant with Grantee and successors in interest to warrant and defend the real estate against the lawful claims of all persons claiming by, through or under them, except as may be above stated. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share in and to the real estate.

Words and phrases herein, including acknowledgment hereof, shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

Dated: _____

(SEAL) CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matt Walsh, Mayor

ATTEST:

By: _____
Jodi Quackenbush, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 20___, before me a Notary Public in and for said State, personally appeared Matt Walsh and Jodi Quackenbush, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Council Bluffs, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Special Warranty Deed]

Prepared by: Nathan J. Overberg, Ahlers & Cooney, 100 Court Ave. #600, Des Moines, IA 50309, 515-243-7611
Return to: City of Council Bluffs, Iowa, City Hall, 209 Pearl Street, Council Bluffs, IA 51503, Attn: City Clerk

EXHIBIT E

MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT ("Minimum Assessment Agreement" or "Assessment Agreement"), is dated as of _____, 2021, by and between the CITY OF COUNCIL BLUFFS, IOWA (the "City"), a municipal corporation established pursuant to the Code of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2021, as amended (the "Urban Renewal Act"), and Chapter 15A, and 34TH AND 1ST HOLDINGS, LLC, an Iowa domestic limited liability company having an office for the transaction of business at 29 South Main Street, Council Bluffs, Iowa 51503 ("Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into an Purchase, Sale, and Development Agreement dated as of _____, 2021 ("Development Agreement" or "Agreement") regarding certain real property located in the City which is legally described as follows:

Lots 1, 2 and 3 of the Main Line Subdivision, Council Bluffs, Iowa

(the "Development Property"); and

WHEREAS, the defined terms in the Development Agreement will also apply to this Minimum Assessment Agreement; and

WHEREAS, it is contemplated that Developer will undertake the construction of Minimum Improvements (as defined in the Development Agreement) including the Phase I Improvements, Phase II Improvements, and Phase III Improvements on the Development Property, as provided in the Development Agreement; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, as amended, the City and Developer desire to establish a minimum actual value for the Minimum Improvements to be constructed on the Development Property by Developer pursuant to the Development Agreement; and

WHEREAS, the City and the Assessor for the County have reviewed the preliminary plans and specifications for the Minimum Improvements that are contemplated to be constructed.

NOW, THEREFORE, the parties to this Developer's Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon completion of construction of the above-referenced Minimum Improvements, but no later than the dates set forth in the table below, the minimum actual values, after rollback, which shall be fixed for assessment purposes for the improvements (building value only) to be constructed on the Development Property shall be not less than the values set forth below (hereafter referred to as the "Minimum Actual Values"):

Legal Description	**To Be Assessed Upon Completion, But No Later Than the Following Date:**	**Phase of Improvements**	**Minimum Actual Values (building value only):**
PHASE I PROPERTY: Lot 1 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2024	**Phase I Improvements** – Multi-Residential Apartments Portion	$10,473,337
		Phase I Improvements – Townhome Portion	$3,442,066
PHASE II PROPERTY: Lot 2 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2025	**Phase II Improvements** – Commercial Portion	$3,225,977
		Phase II Improvements – Multi-Residential Apartments Portion	$6,115,085
PHASE III PROPERTY: Lot 3 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2026	**Phase III Improvements** - Multi-Residential Apartments Portion	$10,473,337
		Phase III Improvements - Townhome Portion	$3,143,338
		TOTAL	**$36,873,140**

The Minimum Actual Values shall continue to be effective until the Development Agreement's Termination Date (the "Assessment Agreement Termination Date"). The Minimum Actual Values shall be maintained during such period regardless of: (a) any failure to complete the Minimum Improvements; (b) destruction of all or any portion of the Minimum Improvements; (c) diminution in value of the Development Property or the Minimum Improvements; or (d) any other circumstance, whether known or unknown and whether now existing or hereafter occurring.

2. Developer shall pay or cause to be paid when due all real property taxes and assessments payable with respect to all and any parts of the Development Property and the Minimum Improvements pursuant to the provisions of this Minimum Assessment Agreement and the Development Agreement. Such tax payments shall be made without regard to any loss, complete or partial, to the Development Property or the Minimum Improvements, any interruption in, or discontinuance of, the use, occupancy, ownership or operation of the Development Property or the Minimum Improvements by Developer, or any other matter or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Development Property or the Minimum Improvements.

3. Developer agrees that, prior to the Assessment Termination Date, it will not:

a. seek administrative review or judicial review of the applicability or constitutionality of any Iowa tax statute relating to the taxation of property contained as a part of the Development Property or the Minimum Improvements determined by any tax official to be applicable to the Development Property, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

b. seek any tax deferral or abatement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other local or State law, of the taxation of real property, including improvements and fixtures thereon, contained in the Development Property or the Minimum Improvements between the date of execution of this Agreement and the Assessment Termination Date; or

c. request the Assessor to reduce the Minimum Actual Values; or

d. appeal to the board of review of the County, State, District Court or to the Director of Revenue of the State to reduce the Minimum Actual Values; or

e. cause a reduction in the actual value or the Minimum Actual Values through any other proceedings

4. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Pottawattamie County, Iowa. Such filing shall constitute notice to any subsequent purchaser or encumbrancer of the Development Property (or part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

5. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Development Agreement.

6. This Minimum Assessment Agreement shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

7. Nothing herein shall be deemed to waive the rights of Developer under Iowa Code Section 403.6(19) to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Values established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Values established herein during the term of this

Agreement. This Minimum Assessment Agreement may be amended or modified and any of its terms, covenants, representations, warranties or conditions waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance.

8. If any term, condition or provision of this Minimum Assessment Agreement is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity or inoperability shall not affect the remainder hereof, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained herein.

9. The Minimum Actual Values herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Assessment Agreement Termination Date set forth in Section 1 above.

10. Developer has provided a title opinion or lien or title search/certificate to City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders have signed a consent to this Assessment Agreement substantially in the form of the Lienholder Consent set forth in this Exhibit E, which consents are attached hereto and made a part hereof.

[Signatures Start on Next Page]

(SEAL) CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matt Walsh, Mayor

ATTEST:

By: _____
Jodi Quackenbush, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2021, before me a Notary Public in and for said State, personally appeared Matt Walsh and Jodi Quackenbush, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Council Bluffs, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Minimum Assessment Agreement – City of Council Bluffs, Iowa]

34TH AND 1ST HOLDINGS, LLC, an Iowa domestic limited liability company

By: _____
Michael R. Townsend

Its: _____

STATE OF IOWA)
) SS
COUNTY OF _____)

This instrument was acknowledged before this _____ day of _____, 2021 by Michael R. Townsend as _____ of 34th and 1st Holdings, LLC.

_____
Notary Public in and for the State of Iowa

[Signature page to Minimum Assessment Agreement– 34th and 1st Holdings, LLC]

EXHIBIT E (Cont.)

LIENHOLDER CONSENT

In consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, and notwithstanding anything in any loan or security agreement to the contrary, the undersigned ratifies, approves, consents to and confirms the Minimum Assessment Agreement entered into between the parties, and agrees to be bound by its terms and subordinates any previously acquired mortgage, lien or other interest in the Development Property to the City of Council Bluffs, Iowa. This provision shall be binding on the parties and their respective successors and assigns.

_____
Name of Lienholder

By: _____
Signature

ATTEST:

By: _____
Signature

_____
Date

STATE OF IOWA)
) SS
COUNTY OF _____)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____ of _____ and that said instrument was signed on behalf of said company, and that the said acknowledged the execution of said instrument to be the voluntary act and deed of said domestic company, by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

[add additional pages for each lienholder]

Note: If there are no lienholders, this page shall have no signatures.

EXHIBIT E (Cont.)
CERTIFICATION OF POTTAWATTAMIE COUNTY ASSESSOR

The undersigned, having reviewed the plans and specifications for the Minimum Improvements already constructed or to be constructed and the market value assigned to the land upon which the Minimum Improvements are constructed, and being of the opinion that the minimum market values contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Development Property described in the foregoing Minimum Assessment Agreement, certifies that the actual values assigned to Phase I Improvements, Phase II Improvements, and Phase III Improvements on the Development Property shall be fixed for assessment purposes at no less values set forth below until the Assessment Agreement Termination Date:

Legal Description	**To Be Assessed Upon Completion, But No Later Than the Following Date:**	**Phase of Improvements**	**Minimum Actual Values (building value only):**
PHASE I PROPERTY: Lot 1 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2024	**Phase I Improvements** – Multi-Residential Apartments Portion	$10,473,337
		Phase I Improvements – Townhome Portion	$3,442,066
PHASE II PROPERTY: Lot 2 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2025	**Phase II Improvements** – Commercial Portion	$3,225,977
		Phase II Improvements – Multi-Residential Apartments Portion	$6,115,085
PHASE III PROPERTY: Lot 3 of the Main Line Subdivision, Council Bluffs, Iowa	January 1, 2026	**Phase III Improvements** - Multi-Residential Apartments Portion	$10,473,337
		Phase III Improvements - Townhome Portion	$3,143,338
		TOTAL	**$36,873,140**

_____
Assessor for the County of Pottawattamie, Iowa

_____
Date

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

Subscribed and sworn to before me by _____, Assessor for the County of Pottawattamie, Iowa on this _____ day of _____, 2021.

_____
Notary Public for the State of Iowa

EXHIBIT E (cont.)

Consistent with Iowa Code §403.6(19)(b), filed with this assessor certification is a copy of subsection 19 as follows:

19. a. A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than $ .....

b. This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue, or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

EXHIBIT F

CONSENT OF HOMEBUYER REGARDING DEVELOPMENT AGREEMENT, MINIMUM ASSESSMENT AGREEMENT, AND ACKNOWLEDGEMENT OF NON-ELIGIBILITY FOR TAX ABATEMENT

By signing this form, you, the undersigned "Homeowner," hereby acknowledge the Purchase, Sale, and Development Agreement by and between the City of Council Bluffs, Iowa and 34th and 1st Holdings, LLC, a Memorandum of which is dated _____, 2021 and recorded at Book _____ Page _____ in the Pottawattamie County Recorder's records; and Minimum Assessment Agreement dated _____, 2021 and recorded at Book _____ Page _____ in the Pottawattamie County Recorder's records (collectively the "Agreements"), which Agreements concerns the below-described property (the "Property"), and agree to be bound thereby, including without limitation the following terms and conditions:

a. Homeowner will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of the Property determined by any tax official to be applicable to the Property, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings;

b. Homeowner will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of the Property;

c. The Property is not eligible for tax abatement under any Urban Revitalization Plan or any other State, federal or local law;

d. Homeowner shall timely pay all real estate taxes for the Property; and

e. Homeowner acknowledges that the Property is subject to a Minimum Assessment Agreement which imposes a minimum assessed value on the Property. Depending on various factors, the minimum assessed value may be more than the fair market value of the Property and therefore may result in Homeowner paying more in real estate taxes than Homeowner otherwise might pay if the Property were not subject to the Minimum Assessment Agreement.

By signing this form, you (the homebuyer) acknowledge receipt of this document, which informs you that as a homeowner purchasing the below-described property, the owner of the Property shall be obligated to comply with all terms and conditions in the Agreements as they pertain to the Property.

[legal description, property address]

Signature: _____ Date: _____

Print Name: _____

Address: _____

DRAFT – DO NOT SIGN UNTIL MINIMUM IMPROVEMENTS COMPLETED

EXHIBIT J
CERTIFICATE OF COMPLETION
PHASE _____

WHEREAS, the City of Council Bluffs, Iowa ("City") and 34th and 1st Holdings, LLC, an Iowa domestic limited liability company ("Developer"), did on or about the _____ day of _____, 2021, make, execute, and deliver an Purchase, Sale, and Development Agreement (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within City and as more particularly described as follows:

Lot __ of the Main Line Subdivision, Council Bluffs, Iowa

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated Developer to construct certain Minimum Improvements (as defined therein) in Phases in accordance with the Agreement; and

WHEREAS, Developer has to the present date performed said covenants and conditions insofar as they relate to the construction of said Phase ___ Minimum Improvements in a manner deemed by City to be in conformance with the Agreement to permit the execution and recording of this certification.

NOW, THEREFORE, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Phase ____ Minimum Improvements on the Development Property have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Pottawattamie County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Phase ___ Minimum Improvements on the Development Property.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

[Signature page follows]

(SEAL) CITY OF COUNCIL BLUFFS, IOWA

By: _____
Matt Walsh, Mayor

ATTEST:

By: _____
Jodi Quakenbush, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 20___, before me a Notary Public in and for said State, personally appeared Matt Walsh and Jodi Quakenbush, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Council Bluffs, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Certification of Completion]

EXHIBIT H
PROMISSORY NOTE

FOR VALUE RECEIVED, 34TH AND 1ST HOLDINGS, LLC (the "Borrower") agrees and promises to pay to the order of the CITY OF COUNCIL BLUFFS, IOWA (the "Lender") the sum of $1,870,000, which is the total amount of the Forgivable Loan as defined in that certain Purchase, Sale, and Development Agreement between the Lender and the Borrower dated _____, 2021 (the "Agreement"). The following are the terms of this Promissory Note (the "Note").

1. The entire principal balance hereof or the portion due and owing shall be payable to the Lender according to the terms of the Agreement, unless this Note is forgiven or cancelled pursuant to the terms of the Agreement. If Lender does not forgive or cancel this Note, or if Borrower has not repaid the amount of the principal or the portion due and owing, as defined by the Agreement, or if Borrower defaults under any term or condition of the Agreement, then Borrower will be in Default and subject to the consequences for Default in Paragraph 3 of this Note and the Agreement.

2. The Borrower may at any time prepay without penalty all or any part of the unpaid principal balance of this Note.

3. Any default under the Agreement shall be a Default hereunder and payment may be accelerated. Upon Default, the Lender may, at its option, exercise any and all rights and remedies available to it under this Promissory Note, or any applicable law, including, without limitation, the right to collect from the Borrower all sums due under this Note with interest accruing at an annual rate of 4% beginning 30 days following City's demand for payment until paid in full. The Borrower hereby waives presentment, demand for payment, notice of nonpayment, notice of dishonor, protest, and all other notices or demands in connection with the delivery, acceptance, performance, or Default of this Note.

4. If this Note is placed in the hands of an attorney for collection after Default in the payment of principal or interest, or if all or any part of the indebtedness represented hereby is proved, established, or collected in any court or in any bankruptcy, receivership, debtor relief, probate, or other court proceeding, the Borrower shall pay all reasonable costs and expenses incurred by or on behalf of Lender in connection with the Lender's exercise of any or all of its rights and remedies under this Note, including, without limitation, court costs, and attorneys' fees.

5. No delay or failure of the Lender to exercise any power or right shall operate as a waiver thereof, and such rights and powers shall be deemed continuous; nor shall a partial exercise preclude full exercise of such rights and powers. No right or remedy of the Lender shall be deemed abridged or modified by any course of conduct, and no waiver thereof shall be predicated thereon.

6. The obligations of the Borrower under the terms of this Note shall be binding on the successors-in-interest, legal representatives, and assigns of the Borrower, and shall inure to the benefit of the Lender and the Lender's successors-in-interest, legal representatives, and assigns.

7. This Note is also subject to the terms and conditions of the Agreement.

IMPORTANT: READ BEFORE SIGNING: The terms of this Note and the Agreement should be read carefully because only those terms in writing are enforceable. No other terms or oral promises not contained may be legally enforced. You may change the terms of this Note only by another written agreement.

Dated as of _____, 2021.

34TH AND 1ST HOLDINGS, LLC, an Iowa limited liability company

By: _____

ATTEST:

By: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2021, before me the undersigned, a Notary Public in and for said State, personally appeared _____ and _____ to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively of 34th and 1st Holdings, LLC, and that said instrument was signed on behalf of said limited partnership; and that the said officers as such, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by them voluntarily executed.

_____
Notary Public in and for said state

[Signature Page to Promissory Note]