

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

By and Between

CITY OF GRINNELL, IOWA
("City")

AND

GRINNELL CENTER, LLC
("Developer")

_____, 2016

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS PURCHASE, SALE AND DEVELOPMENT AGREEMENT ("Agreement"), is made on or as of the ____ day of _____, 2016, by and between the CITY OF GRINNELL, IOWA, a municipality ("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, 2015, as amended (the "Urban Renewal Act"), and GRINNELL CENTER, LLC an Iowa limited liability company having offices for the transaction of business at 102 East St., Grinnell, Iowa ("Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Grinnell Urban Renewal Area (the "Urban Renewal Area"), which is described in the Grinnell Urban Renewal Plan approved for such Urban Renewal Area by Resolution No. 1687 on March 21, 1994, which has been amended seven times, lastly by Amendment #7 as approved by Resolution No. 2016-06 on January 18, 2016 (the "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has been recorded among the land records in the office of the Recorder of Poweshiek County, Iowa; and

WHEREAS, the City is the owner of certain real property located within the Urban Renewal Area as described in Exhibit A attached hereto and made a part hereof (the "Development Property"); and

WHEREAS, the Development Property is located within the original subarea of the Urban Renewal Area which has a mixed economic development and blight designation; and

WHEREAS, due to the ownership and type of use the Development Property has been subjected to, the Development Property has not produced property taxes for many years; and

WHEREAS, the City believes that the Development Property has been underutilized since the time it was operated as a public school and is in jeopardy of falling into a state of disrepair and/or being a blighting influence on the Grinnell Downtown Historic District; and

WHEREAS, the City has been presented with a proposal to be undertaken by the Developer to develop the Development Property into a boutique hotel and event center; and

WHEREAS, one of the primary considerations of the City when reviewing this proposal is the need for increased event center facilities in the Grinnell Downtown Historic District; and

WHEREAS, under the terms of the proposal the Developer will undertake certain construction activities as described on the attached Exhibit B on and within the Development Property in return for the City transferring ownership of the Development Property to Developer, certain tax rebates, other

incentives and agreement to conditions and restrictions regarding future use of 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 Project (as defined below) has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the promises 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.

Area or Urban Renewal Area means the area known as the Grinnell Urban Renewal Area.

Award Agreement means the Agreement entered into between the City and the State with respect to the award of the Reinvestment District Funds.

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

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

Closing means the closing of the real estate transfer of the Development Property to Developer, as further defined in Article IV which shall be within one hundred twenty (120) days of the execution of this Agreement by the City.

Code means the Code of Iowa, 2015, as amended.

Commence Construction means to commence renovation and construction of the Minimum Improvements to the Existing Facility after entry into a valid and binding construction contract (including, at a minimum, demolition and the erection of interior framing or other structural improvements), which shall be within thirty (30) days after the Closing.

Commencement Date means the date of this Agreement.

Construction Plans means the plans, specifications, drawings and related documents reflecting the construction work to be performed by the Developer on the Development Property; the Construction Plans shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building inspector of the City as required by applicable City codes.

Deed means the Special Warranty Deed given by the City to Developer for the Development Property in the form attached as Exhibit E.

Developer means Grinnell Center, LLC, and its permitted successors and assigns.

Development Property means that portion of the Grinnell Urban Renewal Area described in Exhibit A.

Economic Development Grants means the Tax Increment payments to be made by the City to the Developer under Article VIII of this Agreement.

Event of Default means any of the events described in Section 10.1 of this Agreement.

Existing Facility means the building located on the Development Property prior to commencement of the Minimum Improvements and further described in Exhibit B attached hereto and depicted in Exhibit B-1 attached hereto.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by Developer from a commercial lender or other financial institution to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or all such Mortgages as appropriate.

Full-Time Equivalent Employment Unit means the employment by Developer of the equivalent of one person for 2,000 hours per year, assuming eight hours per day for a five-day, forty-hour work week for fifty weeks per year.

Grinnell Center, LLC TIF Account means a separate account within the Grinnell 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.

Grinnell 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.

Hard Construction Costs means materials and labor directly associated with the renovation of the Minimum Improvements including, but not limited to, sitework, framing, millwork, doors, windows, walls, ceilings, fixtures, flooring, painting, signage, plumbing, HVAC, electrical, sprinkler system, job site expenses and contractor fees.

Iowa Reinvestment Act Grants means the payments to be made by the City to the Developer under Article XIV of this Agreement.

Letter of Credit means an irrevocable direct pay letter of credit, in a form acceptable to the City, as further defined and set forth in Section 6.11 hereof.

Local Hotel Tax means the local hotel/motel tax generated by the hotel on the Development Property and actually collected by the City under Iowa Code Chapter 423A.

Local Hotel Tax Rebates means the rebate payments to be made by the City to the Developer under Article XIII of this Agreement.

Minimum Actual Value means the actual value assigned to the Minimum Improvements (including taxable equipment) and the Development Property, pursuant to the Minimum Assessment Agreement entered into between the parties and the County Assessor.

Minimum Improvements means the renovation of the Existing Facility on the Development Property as more particularly described and depicted in Exhibit B and Exhibit B-1 to this Agreement. After construction of the Minimum Improvements, the value of the Renovated Facility for the purpose of this Agreement is expected to be approximately \$3,000,000, but the Poweshiek County Assessor will make the final determination as to the value. The increased value of the Renovated Facility, over and above \$1,228,190 (which is the January 1, 2015 assessed value of the improvements on the Development Property (building value only)) is the value upon which the Economic Development Grants will be measured.

Mortgage means any mortgage or security agreement in which Developer has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

Net Proceeds means any proceeds paid by an insurer to Developer under a policy or policies of insurance required to be provided and maintained by Developer, as the case may be, 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 Ordinances of the City under which the taxes levied on the taxable property in the Area shall be divided and a portion paid into the Grinnell Urban Renewal Area Tax Increment Revenue Fund.

Performance Bond means one or more surety bonds, acceptable to the City, that guarantee the faithful performance of this Agreement for, in the aggregate, the anticipated full value of the completed Minimum Improvements and that further guarantees the prompt payment of all materials and labor, as further defined and set forth in Section 6.11 hereof.

Project means the construction and operation of the Minimum Improvements on the Development Property and the creation and retention of jobs, as described in this Agreement.

Purchase Price means the price set forth in Section 4.3 hereof.

Reinvestment District means that certain Grinnell Historic Downtown and Campus Confluence Iowa Reinvestment District established by the City under Iowa Code Chapter 15J, pursuant to the application filed by the City with the Iowa Economic Development Authority.

Reinvestment District Funds means the applicable portion of the State sales and use tax and State hotel and motel tax revenues generated by the improvements constructed and/or reconstructed in the Reinvestment District, that are granted to the City under the Award Agreement. Among other things, the Reinvestment District Funds shall be used to make the Iowa Reinvestment Act Grants as described in Article XIV.

Renovated Facility means the building located on the Development Property after completion of the Minimum Improvements.

Soft Construction Costs means building/land acquisition, architectural, engineering, design, consultant, legal, accounting, developer fees as well as interest reserve, working capital, furniture, and equipment.

State means the State of Iowa.

Stabilization and Transition Grants means the annual payments to be made by the City to the Developer under Article XV of this Agreement.

Tax Increments means the property tax revenues divided and made available to the City for deposit in the Grinnell Center, LLC TIF Account of the Grinnell 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 12.8 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, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State (including State Historic Preservation Office review delays) or local governmental unit (other than the City).

Urban Renewal Plan means the Grinnell Urban Renewal Plan, as amended, approved with respect to the Grinnell Urban Renewal Area, described in the preambles hereof.

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 municipality 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.

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.

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

a. Grinnell Center, LLC is an Iowa limited liability company duly organized and validly existing under the laws of 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 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 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. Developer's attorney has provided an enforceability opinion as of the date of this Agreement in the form attached hereto as Exhibit H.

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 Developer or of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which 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 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 of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

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

f. Developer will use its best efforts to obtain or cause to be obtained, 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. The construction of the Minimum Improvements will require a total investment of approximately \$5,000,000, which includes \$3,500,000 for Hard Construction Costs and \$1,500,000 for Soft Construction Costs.

h. Developer has not received any notice from any local, State or federal official that the activities of Developer with respect to the Development Property 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). 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 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.

i. Developer has 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 the Construction Plans contemplated in this Agreement.

j. Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

k. Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by August 30, 2017.

l. Developer would not undertake its obligations under this Agreement without the incentives provided to the Developer by the City pursuant to this Agreement.

m. Developer will not seek to change the current land assessment category, or the zoning classification, of the Development Property or the Minimum Improvements between the date of execution of this Agreement and the Termination Date.

n. Developer and its permitted assigns will not request, nor will it be granted, any additional Local Hotel Tax (other than what is provided in this Agreement) between the date of execution of this Agreement and the Termination Date.

o. A list of the members (as of the date of this Agreement) of Grinnell Center, LLC, including the ownership interest of each such member, the capital investment made by each member to acquire such ownership interest, and an organizational chart of the officers and/or management of Grinnell Center, LLC, is attached hereto as Exhibit I.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City. Developer agrees that the scope and scale of the Minimum Improvements to be constructed shall not be significantly less than the scope and scale of the Minimum Improvements as detailed and outlined in the Construction Plans, and shall require a total investment of

approximately Five Million Dollars (\$5,000,000), which includes \$3,500,000 for Hard Construction Costs and \$1,500,000 for Soft Construction Costs.

Section 3.2. Construction Plans. Developer shall cause Construction Plans to be provided for the Minimum Improvements, which shall be subject to approval by the City as provided in this Section 3.2. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable federal, State and local laws and regulations. The City shall 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 3.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations of the 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 the 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.

Approval of the Construction Plans by the City shall not relieve Developer of 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 the 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 the City to any liability for the Minimum Improvements as constructed.

Section 3.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be undertaken and completed: (i) by no later than August 30, 2017; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (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.

Section 3.4. Certificate of Completion. Upon written request of Developer after issuance of an occupancy permit for the Minimum Improvements, the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C 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.

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 the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.4, the 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 opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

Issuance by the City of the Certificate of Completion pursuant to this Section 3.4 is solely for the purposes of this Agreement, and shall not constitute approval for any other City purpose shall it subject the City to any liability for the Development Property or the Minimum Improvements as constructed.

ARTICLE IV. TRANSFER OF CITY OWNED REAL ESTATE

Section 4.1. 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 ability of the City to meet its commitments under this Agreement is subject in all respects to completion of all required proceedings under Chapter 403 of the Code to effect adoption of the Urban Renewal Plan, and amendments thereto, to authorize this Project as an urban renewal project;
- b. The Developer is in material compliance with all of the terms of this Agreement; and
- c. Execution of the Minimum Assessment Agreement by Developer and any prior lienholder, approval of the Minimum Assessment Agreement by the County, and Developer's compliance with the Minimum Assessment Agreement; and
- d. The Developer shall have delivered a Performance Bond or Letter of Credit, in a form acceptable to the City, as required in Section 6.11 of this Agreement.

Section 4.2. Transfer of Development Property. For Seven Hundred Thousand Dollars (\$700,000) and other consideration including the obligations being assumed by the Developer hereunder and in furtherance of the Urban Renewal Plan and the Urban Renewal Act, the City agrees to sell, and the Developer agrees to purchase, the Development Property, together with all improvements thereon, 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 403.8 of the Code.

Section 4.3. Purchase Price. The purchase price for the Development Property shall be Seven Hundred Thousand Dollars (\$700,000) (the "Purchase Price"). Developer shall pay the Purchase Price to the City by certified check or wire transfer at Closing (subject to prorations, reductions and credits as provided below).

Section 4.4. Real Estate Taxes and Special Assessments.

- a. The Development Property is currently tax-exempt while owned by the City. Developer shall be responsible for all taxes post-closing, if any; and
- b. All special assessments, if any, shall be paid by Developer. To the City Clerk's actual knowledge as of the date of this Agreement, there will be no special assessments against the Development Property between the date of this Agreement and the Closing.

Section 4.5. Reserved.

Section 4.6. Risk of Loss and Insurance. The City shall bear the risk of loss or damage to the Development Property prior to Closing. The City agrees to maintain existing insurance, if any, and Developer may purchase additional insurance prior to Closing. In the event of substantial damage or destruction prior to Closing, the City shall have the option of using insurance proceeds to rebuild the Development Property such that this Agreement shall continue and Developer shall complete the Closing regardless of the extent of damages. Developer shall bear the risk of loss or damage to the Development Property after Closing in accordance with Article V.

Section 4.7. Condition of Property; Care and Maintenance. As of Closing, Developer agrees to take the Development Property "As Is." The City makes no warranties or representations as to the condition of the Development Property including, but not limited to, latent or hidden conditions. Developer hereby waives all claims against the City as to the condition of the Development Property.

Section 4.8. Possession; Closing. Upon the obligations of both parties hereunder being met, including the execution of all documents required hereunder, Closing shall take place within one hundred twenty (120) days after the execution of this Agreement by the City. This purchase shall be considered "Closed" upon the delivery to Developer of a duly executed special warranty deed for the Development Property in the form of deed attached hereto as Exhibit E. 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 4.9. Fixtures. Included with the Development Property shall be all fixtures that integrally belong to, are specifically adapted to or are a part of the real estate, whether attached or detached.

Section 4.10. Abstract and Title. The City shall provide an abstract for the Development Property, continued through a date no more than forty-five (45) days prior to Closing, and deliver it to Developer for examination, which shall become the property of the Developer upon Closing. It shall show marketable title in the City in conformity with this Agreement, Iowa law, and the title standards of the Iowa State Bar Association. The City shall make reasonable efforts to promptly perfect title. The City makes no representations or warranties concerning the marketability of title to the Development Property.

Section 4.11. Survey and Platting. Developer shall be responsible for all survey and platting of the Development Property. The City authorizes Developer and/or its agents and contractors access to the Development Property for survey and platting purposes prior to Closing.

Section 4.12. Environmental Matters. At Closing, the City will file with the County Recorder's office a properly executed Groundwater Hazard Statement as required by law. Developer takes the property "As Is" with regard to any environmental matters. The City makes no warranties or representations as to the environmental 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.

Section 4.13. 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 4.14. Reserved.

Section 4.15. Assignment and Assumption of Leases. The Developer acknowledges and agrees that the Development Property is currently, and at the time of Closing will be, subject to certain leases with third-party tenants which are disclosed on the Assignment and Assumption Agreement attached hereto as Exhibit J. Developer hereby acknowledge receipt of a copy of said leases. Developer and City shall enter into an Assignment and Assumption Agreement in the form attached hereto as Exhibit J at the time of Closing.

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 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 one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, 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. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way

associated with the project and arising out of any act, error, or omission of Developer, its directors, officers, shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, 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 the payment of premiums on), insurance as follows:

i. Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limiting the generality of the foregoing) fire, extended coverage, vandalism and malicious mischief, explosion, water damage, demolition cost, debris removal, and collapse in an amount not less than the full insurable replacement value of the Minimum Improvements, but any such policy may have a deductible amount of not more than \$50,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains, and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by Developer and approved by the City.

ii. Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$1,000,000.

iii. Such other insurance, including workers' compensation insurance respecting all employees of Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

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 rated by A. M. Best as A (Excellent), FSC X or better and authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to Developer and the City at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy

conforming to the provisions of this Article V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

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, and Developer will forthwith repair, reconstruct, and restore the Minimum Improvements 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.

e. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer will maintain, preserve, and keep its properties within the City (whether owned in fee or a leasehold interest), including but not limited to the Development Property and Minimum Improvements, 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.

Section 6.2. Maintenance of Records. 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 Developer relating to this Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and Developer will provide reasonable protection against loss or damage to such books of record and account.

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

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer shall not discriminate against any applicant or employee because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer shall ensure that applicants and employees 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 request, Developer shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with this Agreement.

Section 6.6. Employment. Developer shall hire and retain at least 5 Full-Time Equivalent Employment Units to work at the Development Property by September 1, 2017 and continuing until the Termination Date in order to be eligible for Economic Development Grants. Developer's Annual Certifications, starting with the Certification due on October 15, 2018 and continuing until the Termination Date, shall show that a Monthly Average of at least 5 Full-Time Equivalent Employment Units has been maintained beginning on September 1, 2017.

"Monthly Average" means the average number of Full-Time Equivalent Employment Units employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in Developer's Annual Certification in Section 6.7. Developer shall not receive any Economic Development Grants if the Monthly Average of Full-Time Equivalent Employment Units employed by Developer does not meet the requirements of this Section 6.6. Developer shall provide information as requested by the City to determine compliance with the foregoing employment obligations.

Section 6.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Developer hereunder, a duly authorized officer of Developer shall provide Annual Certifications to the City.

Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been timely paid for the prior fiscal year and for the current fiscal year as of the date of certification (if due and payable); (ii) the date of the first full assessment of the Minimum Improvements; (iii) certification of the number of Full-Time Equivalent Employment Units as of October 1 and as of the first day of each of the preceding eleven (11) months; (iv) proof that all local hotel/motel taxes in connection with the Development Property and Minimum Improvements have been timely paid for the prior calendar year; (v) certification of the amount of revenue generated from meals served in the event center portion of the Minimum Improvements in the prior calendar year; (vi) certification that the gross revenues for the hotel and event center were at least \$1,000,000 for the prior calendar year; and (vii) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certification, and during the preceding twelve (12) months, Developer is not, and were not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certification or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

Such statement, proof and certificate from Developer shall be provided not later than October 15 of each year, commencing October 15, 2018 through the Termination Date. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit D for the forms required for Developer's Annual Certification.

Section 6.8. Term of Operation. Developer shall maintain its operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 6.6, until the Termination Date of this Agreement. If Developer ceases its operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 6.6, prior to the Termination Date, it shall be an Event of Default.

Section 6.9. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to the 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 6.10. Real Property Taxes. Developer or its permitted 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 acquired and owned or leased by them and pursuant to the provisions of this Agreement. Until Developer's obligations have been assumed by any other person or legal title to the Development Property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be responsible for all assessments and taxes.

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

- a. It 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, 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. It 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 date of execution of this Agreement and the Termination Date.

Section 6.11. Performance Bond; or Letter of Credit.

- a. Prior to the Closing, Developer shall obtain, and shall require each of its general contractors to obtain, one or more surety bonds, acceptable to the City, that guarantee the faithful performance of this Agreement for, in the aggregate, the anticipated full value of the completed Minimum Improvements and that further guarantees the prompt payment of all materials and labor. Specifically, such surety bond shall guarantee 100% performance, and labor and materials payment for the Minimum Improvements in a form reasonably acceptable to the City, to assure completion of the Minimum Improvements. The surety bond(s) shall remain in effect until construction of the Minimum Improvements are completed. The bonds shall clearly specify the Developer and City as joint obligees. If the Developer fails to construct the Minimum Improvements by August 30, 2017 (with the exception of Unavoidable Delays), or by such other date as the parties shall mutually agree upon in writing, such failure shall constitute an Event of Default under Section 10.1 and the City may exercise all of its rights under Section 10.2, and shall immediately pursue all necessary actions against the surety for the Minimum Improvements and shall use its best efforts to urge the surety to complete construction of the Minimum Improvements. The Developer shall assist the City's efforts. If the surety for the Minimum Improvements elects to advance funds to the City in lieu of completing the construction, then upon receipt of such funds, the City may complete or cause to be completed construction of the Minimum Improvements. If the surety for the Minimum Improvements fails for any reason or is insufficient to

complete the Minimum Improvements, the City reserves the right to finance the shortfall of the costs to complete the Minimum Improvements through various financing avenues, including but not limited to, special assessments. All Performance Bonds required by this Section shall be taken out and maintained in responsible companies selected by Developer, which are rated by A. M. Best as A (Excellent) FSC X or better and authorized under the laws of the State to assume the risks covered thereby.

b. In lieu of the Performance Bond required in Section 6.11.a., Developer may obtain, and shall require each of its general contractors to obtain, and deliver to the City prior to Closing an irrevocable direct pay letter of credit, in a form acceptable to the City.

i. The Letter of Credit shall be renewable annually without amendment, at Developer's sole cost. A failure by Developer during the term of this Agreement to obtain a renewed or a replacement Letter of Credit that complies with this Agreement shall be an Event of Default.

ii. The amount of the Letter of Credit shall be the anticipated full value of the completed Minimum Improvements.

iii. The issuer of the Letter of Credit shall be an institution rated no less than an A rating from a nationally recognized rating agency.

Section 6.12. Minimum Revenue Generated from Meals Served at Event Center. Developer will use its best efforts to generate a minimum of \$50,000 in revenue from the sale of meals per calendar year in the events center portion of the Minimum Improvements during the first five (5) calendar years (prorated for the first partial calendar year) and thereafter use its best efforts to generate a minimum of \$75,000 in revenue from the sale of meals per calendar year in the events center portion of the Minimum Improvements until at least the Termination Date of this Agreement. For purposes of this Section 6.12, meals shall mean the serving of food and beverages; provided, however, that beverages shall not account for more than twenty percent (20%) of the minimum revenue required under this Section 6.12.

Section 6.13. Local Hotel Tax Reports. To assist the City in monitoring the Agreement and performance of Developer hereunder, a duly authorized officer of Developer shall simultaneously provide certified copies of all reports and/or certifications required to be provided to the State of Iowa by Iowa Code Chapter 423A (or the administrative rules governing Chapter 423A) to the City.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of Developer under this Agreement, Developer represents and agrees that, prior to the Termination Date, Developer will maintain its existence as a company and will not wind up or otherwise dispose of all or substantially all of its assets or terminate, transfer, convey, or assign its interest in the Development Property, Minimum Improvements, Performance Bond, Letter of Credit or this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof which consent shall be given or withheld in the sole and absolute discretion of the City. As further security for the obligations of Developer under this Agreement, Developer represents and agrees that, until the fifth anniversary of the date the City issues a

Certificate of Occupancy for the Project, each member of Grinnell Center, LLC as shown on Exhibit I attached hereto shall not dispose of, gift, terminate, transfer, convey, or assign (except in the event of the death of such member) his or her current level of interest in Grinnell Center, LLC to any other party unless the City consents thereto in writing in advance thereof which consent shall not be unreasonably withheld.

In the event that Developer wishes to assign this Agreement, including its rights and duties hereunder, Developer and transferee individual or entity shall request that the City and Developer consent to an amendment of this Agreement to accommodate the transfer and to provide for the assumption of all Developer obligations under this Agreement. Such transfer shall not be effective unless and until the City and Developer consent in writing to an amendment of this Agreement authorizing the transfer.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Developer or its successors, or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements 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. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development 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, to make up to ten (10) years of consecutive annual payments of Economic Development Grants to Developer up to a total amount not to exceed Five Hundred Sixty-one Thousand Five Hundred Forty Dollars (\$561,540) in the aggregate, under the following formula:

Assuming completion of the Minimum Improvements by August 30, 2017 and full assessment of the Minimum Improvements on January 1, 2018, and debt certification by the City to the Auditor prior to December 1, 2018, the Economic Development Grants shall commence on June 1, 2020 and end on June 1, 2029 pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2020	One Hundred percent (100%) of Tax Increments for Fiscal Year 2019-2020
June 1, 2021	One Hundred percent (100%) of Tax Increments for Fiscal Year 2020-2021
June 1, 2022	One Hundred percent (100%) of Tax Increments for Fiscal Year 2021-2022
June 1, 2023	One Hundred percent (100%) of Tax Increments for Fiscal Year 2022-2023
June 1, 2024	One Hundred percent (100%) of Tax Increments for Fiscal Year 2023-2024
June 1, 2025	One Hundred percent (100%) of Tax Increments for Fiscal Year 2024-2025

June 1, 2026	One Hundred percent (100%) of Tax Increments for Fiscal Year 2025-2026
June 1, 2027	One Hundred percent (100%) of Tax Increments for Fiscal Year 2026-2027
June 1, 2028	One Hundred percent (100%) of Tax Increments for Fiscal Year 2027-2028
June 1, 2029	One Hundred percent (100%) of Tax Increments for Fiscal Year 2028-2029

Each annual payment shall be equal in amount to the above percentages of the Tax Increments, not to exceed \$561,540 in the aggregate, collected by the City with respect to the Minimum Improvements on the Development Property under the terms of the Ordinance and deposited into the Grinnell Center, LLC TIF Account (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 Developer) during the preceding twelve-month period in respect of the Minimum Improvements, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Economic Development Grants").

The Parties recognize that the Minimum Improvements consist of the complete renovation of the Existing Facility located on the Development Property. Subject to Unavoidable Delays, the construction of the Minimum Improvements is expected to be completed in August 2017. Total construction costs are expected to be a minimum of \$5,000,000, which includes \$3,500,000 for Hard Construction Costs and \$1,500,000 for Soft Construction Costs. For the purposes of this Agreement, the January 1, 2015 assessed value of the Existing Facility will not be considered part of the incremental value of the Renovated Facility for any Economic Development Grants. The parties agree that the January 1, 2015 assessed value of the Existing Facility (building value only) is \$1,228,190. The parties agree that the increased value of the Renovated Facility for the purpose of this Agreement is expected to be approximately \$3,000,000, but the Poweshiek County Assessor will make the final determination as to the value.

Section 8.2. Payment Schedule. After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if Developer's Annual Certification is timely filed and contain the information required under Section 6.7 and the Council approves of the same, the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on the following June 1. (Example: assuming completion by August 2017 and first full assessment on January 1, 2018, if Developer certifies in October 2018 and the City certifies to the County by December 1, 2018, the first Economic Development Grants would be paid to Developer on June 1, 2020 (for one-hundred percent (100%) of the Tax Increment for fiscal year 2019-2020 and thereafter during the term of this Agreement). The schedule of the payments for Economic Development Grants set forth in Section 8.1 is based on the first full assessment of the Minimum Improvements being January 1, 2018. If the completion of the Minimum Improvements is delayed so that the Minimum Improvements are not fully assessed as of January 1, 2018, then the first Economic Development Grant will not begin as scheduled, but will be delayed one year. However, in no event shall the schedule of Economic Development Grants be delayed more than one year, meaning that the latest potential date for Developer's first Economic Development Grant, if eligible, is June 1, 2021.

Section 8.3. Maximum Amount of Grants. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of Tax Increments collected in respect of the assessments

imposed on the Minimum Improvements over the specified time period, but in no event shall exceed Five Hundred Sixty-one Thousand Five Hundred Forty Dollars (\$561,540) over ten (10) years. It is recognized by all parties that the total aggregate amount set forth above is a maximum amount only and was calculated based on the construction of the Minimum Improvements and that the actual payment amounts will be determined as set forth in Section 8.1 and this Article. The Developer understands that the actual payments could be significantly less than the total aggregate amount set forth above.

Section 8.4. Limitations. The Economic Development Grants are only for the Minimum Improvements described in this Agreement (building/improvement increase value only) and not any future expansions or phases which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 8.5. Conditions Precedent. Notwithstanding the provisions of Section 8.1 above, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the payment of property taxes; and
- b. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Economic Development Grant payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto, up to the maximum aggregate amount set forth in Sections 8.1 and 8.3.

Section 8.6. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by amounts deposited and held in the Grinnell Center, LLC TIF Account of the Grinnell Urban Renewal Area Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force during the term hereof and to apply the appropriate percentage of Tax Increments collected in respect of the Development Property and Minimum Improvements and allocated to the Grinnell Center, LLC TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development 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 shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible.

b. Each Economic Development Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. 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 Economic Development 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 or by the City's bond counsel 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 an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Tax Increments resulting from the Minimum Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is not authorized or otherwise an appropriate 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 or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Economic Development Grants would otherwise have been paid to Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

Section 8.7. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the percentages to be given to Developer in this Agreement, or any available Tax Increments resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use thereof.

ARTICLE IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

- a. Developer releases the City and the governing body members, officers, agents, servants and employees thereof (hereinafter, for purposes of this Article IX, 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 Minimum Improvements or Development Property.
- b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, 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 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.
- c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer or their officers, agents, servants or employees or any other person who may be about the Minimum Improvements or Development Property 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. 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, and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.
- e. The provisions of this Article IX shall survive the termination of this Agreement.

ARTICLE X. EVENTS OF DEFAULT AND REMEDIES

Section 10.1. 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 during the Term of this Agreement:

- a. Failure by Developer to Commence Construction;
- b. Failure by Developer to cause the construction of the Minimum Improvements to be completed and the operations to continue pursuant to the terms and conditions of this Agreement;
- c. Transfer of Developer's interest in the Development Property, Minimum Improvements, or this Agreement or the assets of Developer in violation of the provisions of this Agreement;

- d. Failure by Developer to timely pay ad valorem taxes on the Development Property and Minimum Improvements;
- e. Failure by Developer to substantially observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, including but not limited to Sections 4.1, 6.6, 6.7, 6.8, 6.9, 6.10, 6.11, 6.12, 8.5, 13.3, 14.3, and 15.4 of this Agreement;
- f. 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;
- g. 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 a bankrupt or its 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
- h. Any representation or warranty made by Developer in this Agreement or in any written statement or certificate furnished by 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; or
- i. Reserved;
- j. The Developer ceases operations prior to the Termination Date.

Section 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 of this Agreement occurs and is continuing, the City may take any one or more of the following actions after giving thirty (30) days' written notice to 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 to the satisfaction of the City within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and 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 until it receives assurances from Developer, deemed adequate by the City, that Developer will cure the default and continue its performance under this Agreement;
- b. The City may forfeit or terminate this Agreement;
- c. The City may withhold the Certificate of Completion;
- d. 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 Developer, as the case may be, under this Agreement;
- e. The City may exercise its rights under the Performance Bond or Letter of Credit; or
- f. The City shall have no obligation to make payment of Economic Development Grants to Developer subsequent to an Event of Default that remains uncured and shall be entitled to recover from the Developer, and the Developer shall repay to the City, an amount equal to the full amount of the Economic Development 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 amount from Developer. The City may demand such payment at any time following its determination that Developer is in default under this Agreement, including if Developer fails to employ Full-Time Equivalent Employment Units as required by Section 6.6 of this Agreement.

Section 10.3. 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 10.4. 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 10.5. Agreement to Pay Attorneys' Fees and Expenses.

- a. Developer understands and agrees that an amount equivalent to the City's costs and attorney fees incurred in connection with the drafting and execution of this Agreement, sale of the Development Property, as well as attorneys and planning fees in connection with the drafting and adoption of the Urban Renewal Plan or Amendment, shall be deducted from Developer's Economic Development Grants, Local Hotel Tax Rebates and/or Iowa Reinvestment Act Grants; and
- b. Whenever any Event of Default occurs and the City employs attorneys or incurs 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 Developer herein contained, 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.

ARTICLE XI. MINIMUM ASSESSMENT AGREEMENT

Section 11.1. Minimum Assessment Agreement. As further consideration for this Agreement, Developer, City and the County Assessor shall execute an Assessment Agreement pursuant to the provisions of Iowa Code Section 403.6(19) specifying the Assessor's Minimum Actual Value for the Minimum Improvements on the Development Property for calculation of real property taxes in the form attached as Exhibit G ("Assessment Agreement" or "Minimum Assessment Agreement"). Specifically, Developer, City, the County Assessor, the holder of any mortgage and all prior lienholders shall agree to a minimum actual value for the Minimum Improvements to be constructed on the Development Property and Development Property of not less than \$3,000,000 upon completion of the Minimum Improvements until the Assessment Agreement Termination Date (as defined below). Such minimum actual value at the time applicable is herein referred to as the "Assessor's Minimum Actual Value" (land and taxable improvement value).

Nothing in the Assessment Agreement shall limit the discretion of the Assessor to assign an actual value to the property in excess of such Assessor's Minimum Actual Value nor prohibit Developer from seeking through the exercise of legal or administrative remedies a reduction in such actual value for property tax purposes; provided, however, that Developer shall not seek a reduction of such actual value below the Assessor's Minimum Actual Value in any year so long as the Assessment Agreement shall remain in effect. The Assessment Agreement shall remain in effect until June 30, 2029 (the "Assessment Agreement Termination Date"). The Assessment Agreement shall be certified by the Assessor for the County as provided in Iowa Code Section 403.6(19) (2015) 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 part thereof, whether voluntary or involuntary. Such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, as well as all prior lienholders and the holder of the First Mortgage, each of which shall sign a consent to the Minimum Assessment Agreement. This Article shall survive the Closing.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. Developer represents and warrants that, to its best knowledge and belief after due inquiry, no officer or employee of the City, or their 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 Developer, is addressed or delivered personally to Grinnell Center, LLC at 102 East St., Grinnell, IA 50112, Attn: Angela Harrington;
- b. In the case of the City, is addressed to or delivered personally to the City at City of Grinnell, 927 4th Avenue, Grinnell, IA 50112, Attn: City Clerk;

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

Section 12.5. Governing Law; Venue. The parties intend that this Agreement and the relationship of the parties shall be governed by the laws of the State of Iowa applicable to contracts wholly to be performed therein. The parties agree that any action, suit or proceeding based upon any matter, claim or controversy arising hereunder or relating hereto shall be brought solely in the state courts located in Poweshiek County, Iowa. The parties irrevocably waive objection to the venue of the above-mentioned courts, including any claim that such action, suit or proceeding has been brought in an inconvenient forum. The parties further expressly waive any right to a jury trial.

Section 12.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among 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 12.7. 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 permitted successors and assigns.

Section 12.8. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2036, unless terminated earlier under the provisions of this Agreement.

Section 12.9. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit F, 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. Developer shall reimburse the City for all costs of recording.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, 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. Time. In the performance of each part of this Agreement, time shall be of the essence.

Section 12.12. Real Estate Agent or Broker. No party to this Agreement is represented in this transaction by a real estate agent or broker and no real estate commission is due.

Section 12.13. Performance by City. Developer acknowledges and agrees that all of the obligations of the City under this Agreement shall be subject to, and performed by the City in accordance with, all applicable statutory, common law or constitutional provisions and procedures consistent with the City's lawful authority.

Section 12.14. Severability and Survival. Any Article, Section, paragraph or provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining Articles, Sections, paragraphs and provisions shall continue in full force and effect. Notwithstanding anything to the contrary herein, the parties agree that this entire Agreement shall survive Closing and shall not be considered to have merged into the deed.

Section 12.15. Interpretation. The parties agree that this Agreement shall not be construed more strictly against one party than the other party merely by virtue of the fact that it was initially drafted by counsel for one of the parties, it being recognized that both parties and their respective counsel have had a full and fair opportunity to review and negotiate the terms of this Agreement and to contribute to the substance of this Agreement.

ARTICLE XIII. LOCAL HOTEL TAX REBATES

Section 13.1. Local Hotel Tax Rebates. For and in consideration of the obligations being assumed by Developer hereunder, including, but not limited to, the creation of an event center within the Grinnell Downtown Historic District as part of the Minimum Improvements, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make up to ten (10) years of consecutive annual payments of Local Hotel Tax Rebates generated by the operation of the hotel on the Development Property to Developer as follows:

<u>Date</u>	<u>Amount of Local Hotel Tax Rebates</u>
June 1, 2018	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2017
June 1, 2019	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2018
June 1, 2020	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2019
June 1, 2021	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2020
June 1, 2022	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2021
June 1, 2023	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2022
June 1, 2024	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2023
June 1, 2025	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2024
June 1, 2026	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2025
June 1, 2027	One Hundred percent (100%) of Local Hotel Tax for Calendar Year 2026

Each annual payment shall be equal in amount to the above percentages of the Local Hotel Tax generated by the operation of the hotel and event center on the Development Property, collected by the City from the State during the preceding calendar year, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Local Hotel Tax Rebates").

Section 13.2. Limitations. The Local Hotel Tax Rebates are only for the Minimum Improvements described in this Agreement and not any future expansions or phases which, to be eligible for Local Hotel Tax Rebates, would be the subject of an amendment or new agreement, at the sole discretion of the City Council. Developer and its permitted assigns acknowledge and agree that they will not request, nor will they be granted, any additional Local Hotel Tax (other than what is provided in this Agreement) during the term of this Agreement.

Section 13.3. Conditions Precedent. Notwithstanding the provisions of Section 13.1 above, the obligation of the City to make a Local Hotel Tax Rebate in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the payment of property taxes and hotel/motel tax; and
- b. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof; and
- c. timely filing by Developer of the Local Hotel Tax Reports required under Section 6.13 hereof and the Council's approval thereof.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Local Hotel Tax Rebates and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Local Hotel Tax Rebate payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for a Local Hotel Tax Rebate in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Local Hotel Tax Rebates may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Local Hotel Tax Rebates only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto.

Section 13.4. Source of Local Hotel Tax Rebates Limited.

- a. The Local Hotel Tax Rebates shall be payable from and secured solely and only by the amount of local hotel/motel tax generated by the operation of the hotel and event center on the Development Property and collected by the City from the State under Iowa Code Chapter 423A. To the extent of its authority, the City hereby covenants and agrees to maintain the local hotel tax in force during the term hereof and to apply the appropriate percentage of Local Hotel Tax collected in respect of

the Development Property and Minimum Improvements to pay the Local Hotel Tax Rebates, as and to the extent set forth in this Article. The Local Hotel Tax Rebates shall not be payable in any manner by other tax revenues or by general taxation or from any other City funds.

b. Each Local Hotel Tax Rebate is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. 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 Local Hotel Tax Rebates 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 or by the City's bond counsel 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 13.1 hereof, the City shall have no obligation to make a Local Hotel Tax Rebate to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Local Hotel Tax in connection with the Minimum Improvements to fund an Local Hotel Tax Rebate to Developer, as contemplated under said Section 13.1, is not authorized or otherwise an appropriate activity permitted to be undertaken by the City under the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Local Hotel Tax Rebates would otherwise have been paid to Developer under the terms of Section 13.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

Section 13.5. Use of Other Local Hotel Tax. The City shall be free to use any and all of the Local Hotel Tax collected by the City above and beyond the percentages to be given to Developer in this Agreement, or any available Local Hotel Tax collected by the City resulting from the suspension or termination of the Local Hotel Tax Rebates hereunder, for any purpose for which the Local Hotel Tax may lawfully be used pursuant to the provisions of the Code, and the City shall have no obligations to Developer with respect to the use thereof.

ARTICLE XIV. IOWA REINVESTMENT ACT GRANTS

Section 14.1. Iowa Reinvestment Act Grants. For and in consideration of the obligations being assumed by Developer hereunder, including, but not limited to, the creation of an event center within the Grinnell Downtown Historic District as part of the Minimum Improvements, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make consecutive annual payments of Iowa Reinvestment Act Grants to Developer, equal to 80% of the Reinvestment

District Funds collected by the City in the prior calendar year, up to a total amount not to exceed Two Million Five Hundred Eighty Thousand Dollars (\$2,580,000) in the aggregate. The City may use the other 20% of the Reinvestment District Funds for other projects in the Reinvestment District at the City's sole and absolute discretion. The Iowa Reinvestment Act Grants shall begin on June 1 in the year following the first calendar year the City receives Reinvestment District Funds from the State and shall continue until the earlier of: (a) termination of the Reinvestment District; (b) termination of the Award Agreement; or (c) the City having paid Developer a total of \$2,580,000 in Iowa Reinvestment Act Grants.

Each annual payment shall be equal in amount to the above percentage of the Reinvestment District Funds, collected by the City during the preceding calendar year, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Iowa Reinvestment Act Grants").

Section 14.2. Limitations. The Iowa Reinvestment Act Grants are only for the Minimum Improvements described in this Agreement and not any future expansions or phases which, to be eligible for Iowa Reinvestment Act Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 14.3. Conditions Precedent. Notwithstanding the provisions of Section 14.1 above, the obligation of the City to make an Iowa Reinvestment Act Grant in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the payment of property taxes and hotel/motel tax; and
- b. gross revenues from the hotel and event center are at least \$1,000,000 for the prior calendar year; and
- c. the City shall have received final approval of its Iowa Reinvestment District application and the City and State shall have entered into an Award Agreement; and
- d. the City receiving Reinvestment District Funds from the State in the amount of \$6,100,000; and
- e. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Iowa Reinvestment Act Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Iowa Reinvestment Act Grant payments available to Developer under this Section. Under no circumstances shall the failure by

Developer to qualify Developer for a Iowa Reinvestment Act Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Iowa Reinvestment Act Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Iowa Reinvestment Act Grants only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto.

Section 14.4. Source of Iowa Reinvestment Act Grants Limited.

a. The Iowa Reinvestment Act Grants shall be payable from and secured solely and only by the Reinvestment District Funds collected by the City in the prior calendar year. To the extent of its authority, the City hereby covenants and agrees to maintain the Reinvestment District in force during the term hereof and to apply the appropriate percentage of the Reinvestment District Funds to pay the Iowa Reinvestment Act Grants, as and to the extent set forth in this Article. The Iowa Reinvestment Act Grants shall not be payable in any manner by other tax revenues or by general taxation or from any other City funds.

b. Each Iowa Reinvestment Act Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. 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 Iowa Reinvestment Act 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 or by the City's bond counsel 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 14.1 hereof, the City shall have no obligation to make an Iowa Reinvestment Act Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of the Reinvestment District Funds to fund an Iowa Reinvestment Act Grant to Developer, as contemplated under said Section 14.1, is not authorized or otherwise an appropriate activity permitted to be undertaken by the City under the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Iowa Reinvestment Act Grants would otherwise have been paid to Developer under the terms of Section 14.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

Section 14.5. Maximum Amount of Iowa Reinvestment Act Grants. The aggregate amount of the Iowa Reinvestment Act Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of the Reinvestment District Funds over the specified time period, but in no event shall exceed Two Million Five Hundred and Eighty Thousand Dollars (\$2,580,000) in the aggregate. It is recognized by all parties that the total aggregate amount set forth above is a maximum amount only and that the actual payment amounts will be determined as set forth in Section 14.1 and this Article. The Developer understands that the actual payments could be significantly less than the total aggregate amount set forth above.

Section 14.6. Use of Other Reinvestment District Funds. The City shall be free to use any and all of the Reinvestment District Funds collected by the City above and beyond the percentages to be given to Developer in this Agreement, or any available Reinvestment District Funds collected by the City resulting from the suspension or termination of the Iowa Reinvestment Act Grants hereunder, for any purpose for which the Reinvestment District Funds may lawfully be used pursuant to the provisions of the Code, and the City shall have no obligations to Developer with respect to the use thereof.

ARTICLE XV. STABILIZATION AND TRANSITION GRANTS

Section 15.1. Stabilization and Transition 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, to make up to ten (10) years of consecutive annual payments of Thirty-six Thousand Eight Hundred Forty-six Dollars (\$36,846) in Stabilization and Transition Grants to Developer up to a total amount not to exceed Three Hundred Sixty-eight Thousand Four Hundred Sixty Dollars (\$368,460) in the aggregate.

Assuming completion of the Minimum Improvements by August 30, 2017 and full assessment of the Minimum Improvements on January 1, 2018, and debt certification by the City to the Auditor prior to December 1, 2018, the Stabilization and Transition Grants shall commence on June 1, 2020 and end on June 1, 2029 pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2020	\$36,846 for Fiscal Year 2019-2020
June 1, 2021	\$36,846 for Fiscal Year 2020-2021
June 1, 2022	\$36,846 for Fiscal Year 2021-2022
June 1, 2023	\$36,846 for Fiscal Year 2022-2023
June 1, 2024	\$36,846 for Fiscal Year 2023-2024
June 1, 2025	\$36,846 for Fiscal Year 2024-2025
June 1, 2026	\$36,846 for Fiscal Year 2025-2026
June 1, 2027	\$36,846 for Fiscal Year 2026-2027
June 1, 2028	\$36,846 for Fiscal Year 2027-2028
June 1, 2029	\$36,846 for Fiscal Year 2028-2029

Each annual payment shall be equal in amount to the above schedule, not to exceed \$368,460 in the aggregate (such payments being referred to collectively as the "Stabilization and Transition Grants").

Section 15.2. Payment Schedule. After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if Developer's Annual Certification is timely filed and contain the information required under Section 6.7 and the Council approves of the same, the City shall certify to the County prior to December 1 of that year its request for the amount of the annual Stabilization and Transition Grant which shall thereafter be disbursed to Developer on the following June 1. (Example: assuming completion by August 2017 and first full assessment on January 1, 2018, if Developer certifies in October 2018 and the City certifies to the County by December 1, 2018, the first Stabilization and Transition Grant would be paid to Developer on June 1, 2020 (for \$36,846 for fiscal year 2019-2020 and thereafter during the term of this Agreement). The schedule of the payments for Stabilization and Transition Grants set forth in Section 15.1 is based on the first full assessment of the Minimum Improvements being January 1, 2018. If the completion of the Minimum Improvements is delayed so that the Minimum Improvements are not fully assessed as of January 1, 2018, then the first Stabilization and Transition Grant will not begin as scheduled, but will be delayed one year. However, in no event shall the schedule of Stabilization and Transition Grants be delayed more than one year, meaning that the latest potential date for Developer's first Stabilization and Transition Grant, if eligible, is June 1, 2021.

Section 15.3. Maximum Amount of Grants. The aggregate amount of the Stabilization and Transition Grants that may be paid to Developer under this Agreement shall not exceed Three Hundred Sixty-eight Thousand Four Hundred Sixty Dollars (\$368,460) over ten (10) years. It is recognized by all parties that the total aggregate amount set forth above is a maximum amount only. The Developer understands that the actual payments could be significantly less than the total aggregate amount set forth above.

Section 15.4. Conditions Precedent. Notwithstanding the provisions of Section 15.1 above, the obligation of the City to make a Stabilization and Transition Grant in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the payment of property taxes; and
- b. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Stabilization and Transition Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Stabilization and Transition Grant payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for a Stabilization and Transition Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Stabilization and Transition Grants may be awarded to Developer or the total amount thereof, it being the intent of parties

hereto to provide Developer with an opportunity to receive Stabilization and Transition Grants only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto, up to the maximum aggregate amount set forth in Sections 15.1 and 15.3.

Section 15.5. Source of Grant Funds Limited.

a. The Stabilization and Transition Grants shall be payable from and secured solely and only by amounts deposited and held in the Grinnell Urban Renewal Area Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force during the term hereof to pay the Stabilization and Transition Grants, as and to the extent set forth in this Article. The Stabilization and Transition 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 shall not be included in the calculation to determine the amount of Stabilization and Transition Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Stabilization and Transition Grants for which Developer is eligible.

b. Each Stabilization and Transition Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. 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 Stabilization and Transition 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 or by the City's bond counsel 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 15.1 hereof, the City shall have no obligation to make a Stabilization and Transition Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of tax increments to fund a Stabilization and Transition Grant to Developer, as contemplated under said Section 15.1, is not authorized or otherwise an appropriate 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 or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Stabilization and Transition Grants would otherwise have been paid to Developer under the terms of Section 15.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

Section 15.6. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the dollar amount to be given to Developer in this Agreement, or any available Tax Increments resulting from the suspension or termination of the Stabilization and Transition Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use 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, Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

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

GRINNELL CENTER, LLC,
an Iowa limited liability company

By: _____
Steve Holtze, Manager

By: _____
Angela Harrington, Manager

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Steve Holtze, to me personally known, who, being by me duly sworn, did say that he is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Steve Holtze as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Angela Harrington, to me personally known, who, being by me duly sworn, did say that she is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Angela Harrington as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by her voluntarily executed.

Notary Public in and for said State

[Signature page to Purchase, Sale and Development Agreement – Grinnell Center, LLC]

SCHEDULE OF EXHIBITS

EXHIBIT A.....Legal Description of Development Property
EXHIBIT B.....Description of Minimum Improvements
EXHIBIT B-1.....Diagrams of Minimum Improvements
EXHIBIT C.....Certificate of Completion
EXHIBIT D.....Developer Annual Certification
EXHIBIT E.....Form of Special Warranty Deed
EXHIBIT F.....Memorandum of Agreement
EXHIBIT G.....Minimum Assessment Agreement
EXHIBIT H.....Enforceability Opinion (Developer)
EXHIBIT I.....Membership Interest
EXHIBIT J.....Assignment and Assumption Agreement

EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The Development Property is legally described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel No. 0501900 in Poweshiek County, Iowa.

EXHIBIT B
DESCRIPTION OF MINIMUM IMPROVEMENTS

Minimum Improvements means the renovation of the Existing Facility into a boutique hotel and event center on the Development Property that shall include, among other amenities typically found at such a hotel, an event center with a 5,000 square foot ballroom which will seat 250 people at banquet tables or 500 people in assembly seating. Further details for the boutique hotel and event center are listed below. The construction of the Minimum Improvements will be completed in 2017. Construction costs are expected to be approximately \$5,000,000, which includes \$3,500,000 for Hard Construction Costs and \$1,500,000 for Soft Construction Costs.

The increased value after construction of the Minimum Improvements for the purpose of this Agreement is expected to be approximately \$3,000,000, but the Poweshiek County Assessor will make the final determination as to the value.

Boutique Hotel

37 to 42 total hotel rooms
24 hour staffed front desk

Free Parking
Wireless Internet

Event Center

5,000 square foot ballroom (seating 250 at banquet tables or 500 at assembly seating)

EXHIBIT B-1
DIAGRAMS, SITE-PLANS AND FLOOR PLANS OF MINIMUM IMPROVEMENTS

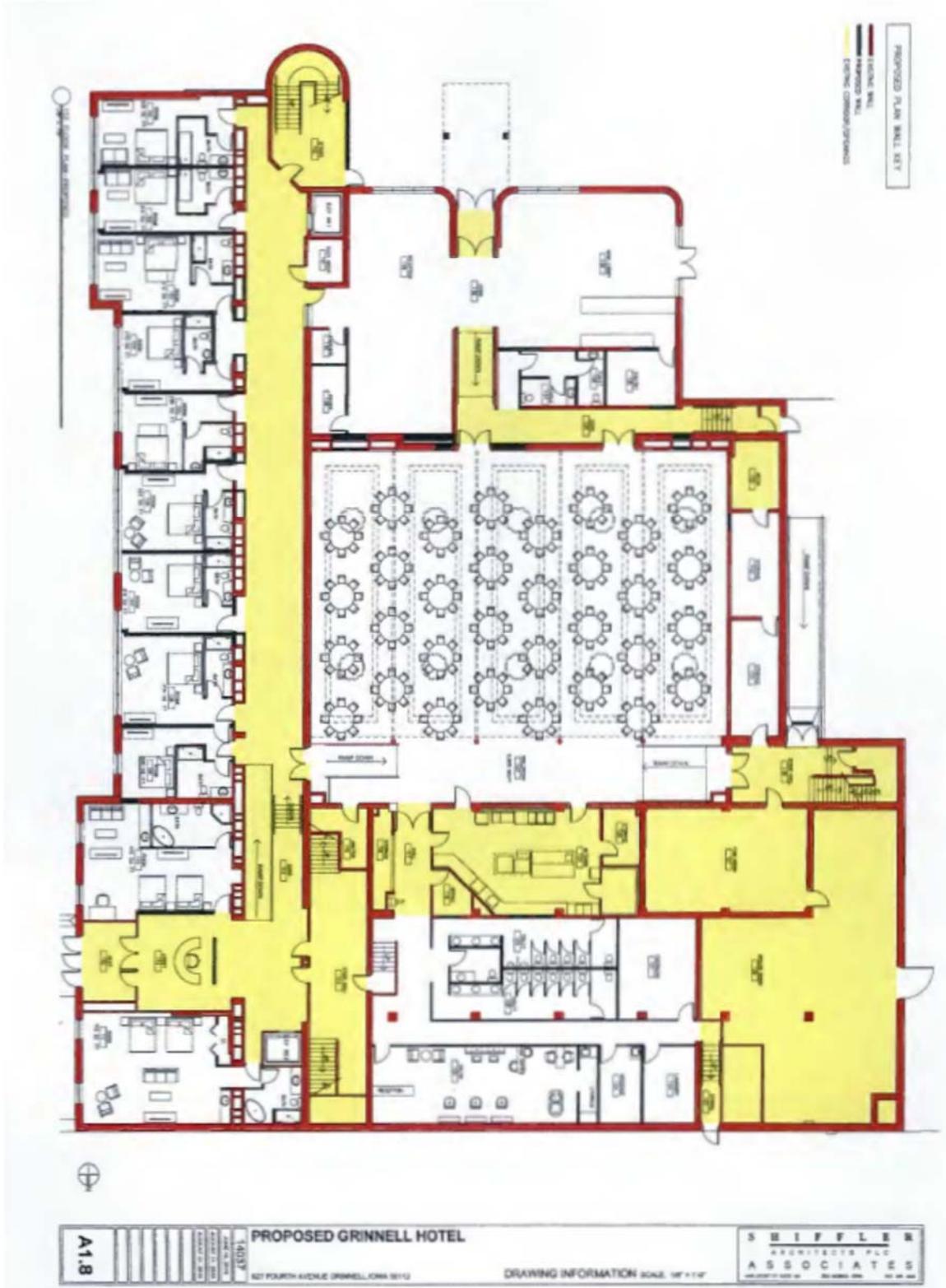


EXHIBIT B-1 (continued)
 DIAGRAMS, SITE-PLANS AND FLOOR PLANS OF MINIMUM IMPROVEMENTS



EXHIBIT B-1 (continued)
 DIAGRAMS, SITE-PLANS AND FLOOR PLANS OF MINIMUM IMPROVEMENTS



EXHIBIT C
CERTIFICATE OF COMPLETION

WHEREAS, the City of Grinnell, Iowa ("City"), and Grinnell Center, LLC ("Developer") did on or about the ____ day of _____, 2016, make, execute and deliver, each to the other, a 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 the City and as more particularly described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel No. 0501900 in Poweshiek County, 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 the Developer to construct certain Minimum Improvements (as defined therein) 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 Minimum Improvements in a manner deemed by the 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 permitted successors and assigns, to construct the 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 Poweshiek 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 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.

[Remainder of page intentionally left blank; signature page follows]

(SEAL)

CITY OF GRINNELL, IOWA

By: _____
Gordon R. Canfield, Mayor

ATTEST:

By: _____
Kay Cmelik, City Clerk

STATE OF IOWA)
) ss
COUNTY OF POWESHIEK)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Gordon R. Canfield and Kay Cmelik, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Grinnell, 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 Certificate of Completion – City of Grinnell]

EXHIBIT D
DEVELOPER ANNUAL CERTIFICATION
(due before October 15th as required under terms of Development Agreement)

The Developer certifies the following:

During the time period covered by this Certification, Developer is and was in compliance with Section 6.7 as follows:

(i) all ad valorem taxes on the Development Property then owned by the Developer in the Urban Renewal Area have been timely paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

(ii) the Minimum Improvements were first fully assessed on January 1, 20___, at a full assessment value of \$_____;

(iii) The number of Full-Time Equivalent Employment Units employed at the Minimum Improvements as of October 1, 20___ and as of the first day of each of the preceding eleven (11) months were are follows:

October 1, 20__:	_____	April 1, 20__:	_____
September 1, 20__:	_____	March 1, 20__:	_____
August 1, 20__:	_____	February 1, 20__:	_____
July 1, 20__:	_____	January 1, 20__:	_____
June 1, 20__:	_____	December 1, 20__:	_____
May 1, 20__:	_____	November 1, 20__:	_____

(iv) all local hotel/motel taxes in connection with the Development Property and Minimum Improvements have been timely paid for the prior fiscal year and attached to this Annual Certification are proof of payment of said taxes;

(v) the Developer generated \$_____ in revenue from the sale of meals in the event center portion of the Minimum Improvements in the prior calendar year;

(vi) the gross revenues for the hotel and event center were at least \$1,000,000 for the prior calendar year;

(vii) the undersigned officer of Developer has re-examined the terms and provisions of this Agreement and that at the date of such certification, and during the preceding twelve (12) months, certifies that Developer is not, and was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certification, or if the signers are aware of any such Event of Default, said officer has disclosed

the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this _____ day of _____, 20__.

GRINNELL CENTER, LLC,
an Iowa limited liability company

By: _____
_____, _____

Attachments: (a) Proof of payment of ad valorem taxes; (b) Proof of payment of local hotel/motel taxes

EXHIBIT E
FORM OF SPECIAL WARRANTY DEED

SPECIAL WARRANTY DEED

Recorder's Cover Sheet

Preparer Information: (name, address and phone number)

Jason L. Comisky
Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, IA 50309
(515) 243-7611

Taxpayer Information:

Grinnell Center, LLC
102 East St.
Grinnell, IA 50112

Return Document To:

Grinnell Center, LLC
102 East St.
Grinnell, IA 50112

Grantors: City of Grinnell, Iowa

Grantees: Grinnell Center, LLC

Legal Description: See Page 2

Document or instrument number of previously recorded documents:

SPECIAL WARRANTY DEED

For the consideration of One Dollar (\$1.00) and other valuable consideration, the **City of Grinnell, Iowa**, (“Grantor”) does hereby convey to **Grinnell Center, LLC** an Iowa limited liability company, (“Grantee”) the following described real estate in Poweshiek County, Iowa:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel No. 0501900 in Poweshiek County, Iowa.

This Deed is subject to all the terms, provisions, covenants, conditions and restrictions contained in that certain Purchase, Sale and Development Agreement, executed by the Grantor and Grantee herein, dated _____, 2016, as amended (hereinafter the "Agreement") which is herein incorporated by reference, a copy of which is on file for public inspection at the office of the City Clerk of the Grantor. All capitalized terms contained in this Deed have the same meaning as assigned to them in the Agreement.

None of the provisions of the Agreement shall be deemed merged in, affected or impaired by this Deed.

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.

[Remainder of page intentionally left blank; signature page follows]

EXHIBIT F
MEMORANDUM OF AGREEMENT

WHEREAS, the City of Grinnell, Iowa (the "City"), and Grinnell Center, LLC ("Developer") did on or about the _____ day of _____, 2016, make, execute and deliver, each to the other, a Purchase, Sale and Development Agreement (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement and the Grinnell Urban Renewal Plan (the "Plan"), to develop certain real property located within the City and within the Grinnell Urban Renewal Area.

The Development Property is described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel Nos. 0501900 in Poweshiek County, Iowa.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the ____ day of _____, 2016 and terminates on December 31, 2036, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City and Developer desire to record a Memorandum of 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 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 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, Grinnell, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement on the _____ day of _____, 2016.

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

(SEAL)

CITY OF GRINNELL, IOWA

By: _____
Gordon R. Canfield, Mayor

ATTEST:

By: _____
Kay Cmelik, City Clerk

STATE OF IOWA)
) ss
COUNTY OF POWESHIEK)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Gordon R. Canfield and Kay Cmelik, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Grinnell, 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 Agreement – City of Grinnell]

GRINNELL CENTER, LLC,
an Iowa limited liability company

By: _____
Steve Holtze, Manager

By: _____
Angela Harrington, Manager

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Steve Holtze, to me personally known, who, being by me duly sworn, did say that he is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Steve Holtze as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Angela Harrington, to me personally known, who, being by me duly sworn, did say that she is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Angela Harrington as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by her voluntarily executed.

Notary Public in and for said State

[Signature page to Memorandum of Agreement – Grinnell Center, LLC]

EXHIBIT G
MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT ("Minimum Assessment Agreement" or "Assessment Agreement") is dated as of _____, 2016, by and between the City of Grinnell, Iowa ("City"), a municipal corporation established pursuant to the Code of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2015, as amended (the "Urban Renewal Act"), and Chapter 15A, and Grinnell Center, LLC, an Iowa limited liability company having an office for the transaction of business at 102 East St., Grinnell, Iowa ("Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into a Purchase, Sale and Development Agreement dated as of _____, 2016 ("Agreement") regarding certain real property located in the City which is legally described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel Nos. 0501900 in Poweshiek County, Iowa.

(the "Development Property"); and

WHEREAS, it is contemplated that Developer will undertake the construction of the Minimum Improvements (as defined in the Agreement) on the Development Property, as provided in the 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 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 Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon substantial completion of construction of the above-referenced Minimum Improvements, but no later than January 1, 2018, the minimum actual value which shall be fixed for assessment purposes for the Minimum Improvements to be constructed on the Development Property and the Development Property shall be not less than Three Million Dollars (\$3,000,000) (hereafter referred to as the "Minimum Actual Value").

The Minimum Actual Value shall continue to be effective until termination of this Minimum Assessment Agreement on June 30, 2029 (the "Assessment Agreement Termination Date"). This means that the Minimum Improvements and Development Property will be required to have a Minimum Actual

Value pursuant to this Minimum Assessment Agreement of at least \$3,000,000 until January 1, 2027, which shall govern the taxes collected for the entire fiscal year 2028-2029. The Minimum Actual Value 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 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 its obligations to make the tax payments required hereby and to perform and observe its other agreements contained in this Minimum Assessment Agreement shall be absolute and unconditional obligations of Developer (not limited to the statutory remedies for unpaid taxes) and that Developer shall not be entitled to any abatement or diminution thereof, or set off therefrom, nor to any early termination of this Minimum Assessment Agreement for any reason whatsoever.

4. Developer agrees that, prior to the 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 the Minimum Improvements, 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 Minimum Assessment Agreement and the Termination Date; or

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

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

5. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Poweshiek County, Iowa. Such filing shall constitute notice to any subsequent

encumbrancer of the Development Property (or any part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

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

7. This Minimum Assessment Agreement shall not be assignable without the consent of the City and shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

8. 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 Value established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Value established herein during the term of this Minimum Assessment 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.

9. 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.

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

11. Developer shall provide a title opinion or title search to the City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders shall have signed consents to this Assessment Agreement, which consents are attached hereto and made a part hereof.

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

(SEAL)

CITY OF GRINNELL, IOWA

By: _____
Gordon R. Canfield, Mayor

ATTEST:

By: _____
Kay Cmelik, City Clerk

STATE OF IOWA)
) ss
COUNTY OF POWESHIEK)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Gordon R. Canfield and Kay Cmelik, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Grinnell, 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 Grinnell]

GRINNELL CENTER, LLC,
an Iowa limited liability company

By: _____
Steve Holtze, Manager

By: _____
Angela Harrington, Manager

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Steve Holtze, to me personally known, who, being by me duly sworn, did say that he is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Steve Holtze as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Angela Harrington, to me personally known, who, being by me duly sworn, did say that she is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Angela Harrington as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by her voluntarily executed.

Notary Public in and for said State

[Signature page to Minimum Assessment Agreement – Grinnell Center, LLC]

CERTIFICATION OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the Minimum Improvements to be constructed, and being of the opinion that the minimum market value 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 upon completion of the Minimum Improvements, but in no event later than January 1, 2018, the actual value assigned to the Minimum Improvements and the Development Property shall not be less than Three Million Dollars (\$3,000,000) (including taxable equipment value) all until the Assessment Agreement Termination Date of this Minimum Assessment Agreement.

Assessor for the County of Poweshiek, Iowa.

Date

STATE OF IOWA)
) ss
COUNTY OF POWESHIEK)

Subscribed and sworn to before me by _____, Assessor for the County of Poweshiek, Iowa.

Notary Public in and for the State of Iowa

EXHIBIT H
FORM OF DEVELOPER ENFORCEABILITY OPINION [ON FIRM LETTERHEAD]

City of Grinnell
Grinnell, Iowa

Re: Purchase, Sale and Development Agreement between the City of Grinnell, Iowa, ("City"), and Grinnell Center, LLC, ("Developer")

As counsel for Developer in connection with the execution and delivery of a certain Purchase, Sale and Development Agreement (the "Agreement") between the Developer and the City dated as of _____, 2016 and referenced above, we hereby render the following opinion:

We have examined the original certified copy, or copies otherwise identified to our satisfaction as being true copies, of the following:

- a. The governing documents of the Developer;
- b. Resolution(s) of the Developer at which action was taken with respect to the transactions covered by this opinion;
- c. The Agreement and all exhibits thereto;

and such other documents and records as we have deemed relevant and necessary as a basis for the opinion set forth herein.

Based on the pertinent law, the foregoing examination and such other inquiries as we have deemed appropriate, we are of the opinion that:

1. The Developer is a duly organized and validly existing limited liability company under the laws of the State of Iowa. The Developer has full power and authority to execute, deliver and perform the Agreement and all attachments thereto; and the Agreement and all attachments thereto have been duly and validly authorized, executed and delivered by the Developer and, assuming due authorization, execution and delivery by the City, the Agreement is a legally-binding instrument enforceable against the Developer, 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.
2. The consummation of the transaction contemplated by the Agreement and the carrying out of the terms thereof, will not result in violation of any provision of, or in default under the governing documents of the Developer, or any indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule, regulation or restriction to which the Developer is a party or by which it or its property is bound or subject.

Very truly yours,

EXHIBIT I
MEMBERSHIP INTEREST

<u>Member</u>	<u>Percentage Interest</u>	<u>Capital Investment</u>
Steve Holtze	75%	\$450,000
Catalyst Development LLC (sole member/manager Angela Harrington)	25%	\$150,000

Managers of Grinnell Center, LLC: Steve Holtze and Angela Harrington

EXHIBIT J
ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is dated as of _____, 2016, by and between the City of Grinnell, Iowa ("City"), a municipal corporation established pursuant to the Code of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2015, as amended (the "Urban Renewal Act") and Chapter 15A, and Grinnell Center, LLC, an Iowa limited liability company having an office for the transaction of business at 102 East St., Grinnell, Iowa ("Developer").

WHEREAS, the City and Developer have entered into a Purchase, Sale and Development Agreement dated as of _____, 2016 ("Agreement") regarding certain real property located in the City which is legally described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel Nos. 0501900 in Poweshiek County, Iowa.

(the "Development Property"); and

WHEREAS, City and Developer now desire to make the assignment and assumption required by the Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth herein, City and Developer hereby agree as follows:

Assignment and Assumption. As of the date hereof: (a) City hereby assigns all of its rights, obligations and liabilities under the lease agreements shown on Schedule 1 (the "Lease Agreements") arising from the inception of the applicable Lease Agreements to Developer; and (b) Developer hereby (i) assumes all of City's rights, obligations and liabilities under the Lease Agreements for the period after the date hereof, and (ii) agrees that Developer shall be substituted for City as a party under the Lease Agreements.

Consents. Developer hereby acknowledges receipt of a Consent to Assignment and Termination from each tenant under the Lease Agreements in the form attached hereto as Addendum 1.

Governing Law. This Agreement shall in all respects be governed by, construed, and enforced in accordance with the laws of the State of Iowa (without giving effect to such state's principles of conflicts of law).

Counterparts. This Agreement may be executed by in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same Agreement.

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

GRINNELL CENTER, LLC,
an Iowa limited liability company

By: _____
Steve Holtze, Manager

By: _____
Angela Harrington, Manager

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Steve Holtze, to me personally known, who, being by me duly sworn, did say that he is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Steve Holtze as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

STATE OF _____)
) ss
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Angela Harrington, to me personally known, who, being by me duly sworn, did say that she is a Manager of Grinnell Center, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Angela Harrington as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by her voluntarily executed.

Notary Public in and for said State

[Signature page to Assignment and Assumption Agreement – Grinnell Center, LLC]

Schedule 1 to Assignment and Assumption Agreement
Lease Agreements

1. Lease Agreement by and between the City of Grinnell, Iowa and Grinnell Low Rent Housing dated April 28, 2014.
2. Lease Agreement by and between the City of Grinnell, Iowa and Orchard Place dated June 17, 2015.
3. Lease Agreement by and between the City of Grinnell, Iowa and Crisis Intervention Services dated August 28, 2015.
4. Lease Agreement by and between the City of Grinnell, Iowa and Poweshiek County Council on Aging dated July 1, 2015.
5. Lease Agreement by and between the City of Grinnell, Iowa and Poweshiek County Board of Supervisors dated June 30, 2014.6. Lease Agreement by and between the City of Grinnell, Iowa and Prairie Lakes Church dated June 11, 2015.
6. Lease Agreement by and between the City of Grinnell, Iowa and POW I-80 dated December 16, 2013.

Addendum 1 to Assignment and Assumption Agreement
Consent to Assignment and Termination

_____ (“Tenant”) has been informed by the City of Grinnell, Iowa (“City”), that the City is selling property locally known as the Grinnell Community Center and legally described as follows:

GRINNELL LOTS 9, 10, 11 & 12, BLOCK 14

Parcel Nos. 0501900 in Poweshiek County, Iowa (the "Development Property").

to Grinnell Center, LLC and that from and after such sale Grinnell Center, LLC will assume all of the rights, obligations and liabilities of the City under that certain lease agreement by and between the City and Tenant dated _____, 20____ (the “Lease”).

The City has requested that Tenant consent to the assignment of the Lease for the office location on the Development Property. City has further requested that Tenant consent to the termination of the Lease for the office location on the Development Property as of _____, 2016.

Pursuant to such request, Tenant does hereby consent to the assignment and termination of the Lease as herein described.

Dated this _____ day of _____, 201____.

_____[TENANT NAME]

BY: _____
_____, Its Authorized Representative

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