ORIG.
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Dubuque County Iowa
Kathy Flynn Thurlow Recorder
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GRANT AND DEVELOPMENT AGREEMENT
Recorder's Cover Sheet

Preparer Information:
Mick Michel, 340 1st Avenue East, Dyersville, IA 52040
(563) 875-7724

Taxpayer Information:
K & K Building & Supply, Inc.
598 6th Ave SW
Dyersville, IA 52040

Return Address:
City of Dyersville, Iowa
340 1st Ave E
Dyersville, IA 52040

Grantors:
City of Dyersville, Iowa

Grantees:
K & K Building & Supply, Inc.

Legal Description:
See Page 8

Document or instrument number if applicable:

49.00
MARC CASEY

GRANT AND DEVELOPMENT AGREEMENT

This Development Agreement, including Exhibits (the "Agreement") is entered into between the City of Dyersville, Iowa (the "City") and the K&K Building & Supply, Inc. (the "Developer") as of the 6th day of July, 2009.

Preamble

WHEREAS, the City wishes to encourage more development of single-family residential housing units in the City in addition to a significant number of affordable single-family residential lot options; and

WHEREAS, the City has established a Local Option Sales and Service Tax Fund under Chapter 107 of the Code of Iowa, and has adopted a ordinance for the use of said funds; and

WHEREAS, Chapter 403 of the Code of Iowa grants City's the authority to enter into development agreements with private entities to provide for the proper development and use of real property within an urban renewal area; and

WHEREAS, the Developer intends to develop their real property into a residential subdivision which is proposed for inclusion in the City and the Urban Renewal Area and is more specifically described on Exhibit A and shown on the map on Exhibit B hereto (the "Property"); and

WHEREAS, the City and the Developer intend that the development of a residential subdivision on the Property be undertaken and the subsequent development of single-family residential units; and

WHEREAS, it has been proposed that the City undertake the provision of financial assistance (the "Economic Development Grant") to the Developer to assist with the upfront infrastructure improvements on the Property; and,

WHEREAS, the City is willing to undertake such proposed obligations provided that the Developer agrees to undertake the promotion and development of single-family residential units on the Property; and

WHEREAS, it is now necessary to set forth the agreement between the City and the Developer with respect to the Development of the Property; and,

NOW THEREFORE, the parties hereto agree as follows:

A. Developer's Covenants

1. Development of the Property.

1.1. The Developer agrees to use its best efforts on the Property to cause the construction and development of a single family residential subdivision and the establishment of a minimum of fifteen (15) single-family residential lots prior to December 1, 2009 in accordance with Chapter 166 of the Code of Ordinances for the City of Dyersville except as otherwise provided for herein, and as normally provided by the City of Dyersville, Iowa.

1.2. The Developer agrees to use the proceeds from the Economic Development Grant to offset the upfront infrastructure improvements on the Property.

1.3. Upon completion of the infrastructure improvements to the Property, the Developer shall prepare a detailed statement of the actual costs for the infrastructure improvements, as provided in this Agreement, and shall submit said statement to the City Administrator and Mayor for verification and approval that the Economic Development Grant amount does not exceed the cost of the infrastructure improvements.

1.4. In exchange for the Economic Development Grant, the Developer and the City shall agree on a fixed price per lot subdivided on the Property prior to any residential lot being sold. Furthermore, the Developer agrees per single-family residential lot amount from the Economic Development Grant shall be discounted from the fixed price per lot subdivided on the Property.

2. Infrastructure Improvements.

2.1. The Developer agrees to dedicate to the City such construction easements, permanent easements, rights-of-way and/or other real property interests (collectively the "Infrastructure Property Interests") from the Property as are reasonably requested by the City. The Developer acknowledges that the timing of such dedications and the scope and location of the Infrastructure Property Interests shall be determined by the City in order to best accommodate the tailoring of the Infrastructure Project for the development needs on the Property.

2.2. The Developer agrees to reduce the streets to grade and curb and gutter and surface the streets in accordance with Chapter 166 of the Code of Ordinances.

2.3. The Developer agrees to install sanitary sewer mains and sewer service laterals in accordance with Chapter 166 of the Code of Ordinances for the City of Dyersville. Prior to installation of said sanitary sewer mains

and sewer service laterals, plans and specifications shall be approved by the City Administrator.

2.4. The Developer agrees to install a potable water mains and water service laterals in accordance with Chapter 166 of the Code of Ordinances for the City of Dyersville. Prior to installation of said potable water mains and water service laterals, plans and specifications shall be approved by the City Administrator.

2.5. The Developer agrees to install a storm sewers and catch basins in accordance with Chapter 166 of the Code of Ordinances for the City of Dyersville. Prior to installation of said storm sewers and catch basins, plans and specifications shall be approved by the City Administrator.

2.6. The Developer agrees to construct the Infrastructure Improvements approved by the City and State of Iowa, under the supervision of the Developer's Engineer. Any changes in the plans and specifications must be approved by the Developer's Engineer and a revised plan and specification submitted and approved by the City. The Developer's Engineer shall certify to the substantial compliance with said plans upon completion. That upon completion, Developer's Engineer shall provide the City with a complete set of as built drawings which must be received prior to final acceptance of the Infrastructure Improvements.

2.7. The Developer agrees to maintain Infrastructure Improvements for a period of two (2) years from the date of their acceptance by the City.

2.8. The Developer agrees to provide the forgoing construction and maintenance at the sole expense of the Developer as the Property Owner, except as otherwise provided for in this Agreement, and as normally provided by the City.

2.9. The Developer or owner of the lot shall install sidewalks in accordance with Chapter 136 and 166 of the Code of Ordinances for the City of Dyersville at such time a single-family residential until has been constructed on a single-family residential lot subdivided on the Property.

3. Platting and Engineering of the Property.

The Developer shall be responsible for carrying out the future platting, preparation and development of the Property and for paying the costs thereof, including legal and engineering expenses.

B. <u>City's Obligations</u>

1. The Economic Development Grant.

1.1. For a period of five (5) years from the date of this Agreement, the City shall agree to make an Economic Development Grant in the amount of Five Thousand Dollars ($5,000) per single-family residential lot subdivided on the Property to the Developer to assist with the upfront infrastructure improvements on the Property.

1.2. The Economic Development Grant shall be made when the Infrastructure Improvement plans and specifications have been approved by the City and State of Iowa.

1.3. The City and the Developer agree that no interest shall accrue on the Economic Development Grant.

2. Other City Incentives

2.1. If the Developer install street pavement with Portland Cement Concrete as provided in Section 166.07(E) of the Code of Ordinances for the City of Dyersville, the City shall reimburse the Developer $9.00 for each square yard of Portland Cement Concrete Pavement street, exclusive of curb and gutter. That reimbursement shall be made when the Developer's Engineer Certifies the final amount of Portland Cement Concrete Pavement installed that is eligible for reimbursement.

2.2. The City agrees to a 50 foot wide Right-of-Way with 16 foot public utility easements, except on 12th Avenue SW.

2.3. The City shall reimburse the Developer for only the material cost difference above and beyond the minimum Infrastructure Improvement standards as provided under Chapter 166 of the Code of Ordinances for the City of Dyersville. That reimbursement shall be made upon the successful completion of the infrastructure improvements to the Property and at such time the City approves the Developer's detailed statement of the actual costs for the infrastructure improvements.

2.4. For a period of five (5) years from the date of this Agreement, the City shall agree to reimburse the Developer for only the material costs of the sidewalk improvements as provided under Chapter 136 and 166 of the Code of Ordinances for the City of Dyersville. That reimbursement shall be made upon the successful completion of the sidewalk improvement to the Property and at such time the City approves the Developer's detailed statement of the actual costs for the sidewalk improvement.

C. Administrative Provisions

1. Assignment. This Agreement may not be amended or assigned by either party without the express permission of the other party.

2. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

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

4. Preamble. All terms and definitions set forth in the Preamble of this Agreement shall apply and be binding as if set forth thereafter.

5. Notice. Any notices, demand or other communication permitted or required to be given under this Agreement shall be deemed given if either personally delivered or delivered by U.S. Certified Mail, postage prepaid, return receipt requested, or by recognized overnight courier such as Federal Express, U.P.S., or Airborne, and addressed as follows:

To City:
City Administrator
City of Dyersville
340 First Avenue East
Dyersville, Iowa 52040-1298

To Developer:
Developers
K & K Building and Supply, Inc.
598 6th Avenue SW
Dyersville, IA 52040

Changes in the above address may be made by notifying the other party as described above. Notices shall not be deemed effective until received by the party being notified.

6. Indemnification. It is hereby agreed that the Developer shall indemnify, defend and hold harmless the City, its officers, employees and departments, from and against any and all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or in connection with any of the following:

(a) Any claim, demand, action, citation or legal proceeding arising out of or resulting from the development of the Property, excluding the Infrastructure Project; and

(b) Any claim, demand, action, citation or legal proceeding arising out of or related to occurrences that the Developer will insure against in connection with the development of the Property, excluding the Infrastructure Project; and

(c) Any claim, demand, action, citation or legal proceeding arising out of or resulting from an act or omission of the Developer or any of its agents in its or their capacity as an employer of a person in connection with the development of the Property, excluding the Infrastructure Project.

The City and the Developer have caused this Agreement to be signed, and the City's seal to be affixed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF DYERSVILLE, IOWA

By James A Heavens
James Heavens, Mayor

Attest:

Tricia L. Maiers
Tricia L. Maiers, City Clerk

K & K BUILDING AND SUPPLY, INC.

K & K Building & Supply Inc
By Jerome A Koch

and

Jeannie Koch
By V/P & Sec, Treas.

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Certain real property situated in the City of Dyersville, County of Delaware, State of Iowa more particularly described as follows:

58 acres, more or less, located in Section 36, Township 89 North, Range 3 West of the 5th P.M., as shown on attached Exhibit B.

EXHIBIT B
MAP OF THE PROPERTY

