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LISA SMITH, COUNTY RECORDER
MADISON COUNTY IOWA

CHEK

Amended Development Agreement

Type of Document

PREPARER INFORMATION: (name, address, phone number)

City of Winterset
124 W Court Ave
Winterset IA 50273
(515)462-1422

TAXPAYER INFORMATION: (name and mailing address)

N/A

E✓ RETURN DOCUMENT TO: (name and mailing address)

City of Winterset
124 W Court Ave
Winterset IA 50273
(515)462-1422

GRANTOR: (name)

City of Winterset

GRANTEE: (name)

Casper Family LC

LEGAL DESCRIPTION: (if applicable)

See page: 8

Document or instrument of associated documents previously recorded:

(if applicable)

AMENDED DEVELOPMENT AGREEMENT

This Amended Development Agreement is entered into between the City of Winterset, Iowa (the “City”) and Casper Family, LC (the “Developer”) as of the 4th day of January, 2021 (the “Commencement Date”).

WHEREAS, the City has established the 2017 Casper Commercial Urban Renewal Area (the “Urban Renewal Area”) and has adopted a tax increment ordinance for the Urban Renewal Areas; and

WHEREAS, the Developer owns certain real property which is situated in the City and lies within the Urban Renewal Area and is more specifically described on Exhibit A hereto (the “Property”); and

WHEREAS, the Developer has undertaken the development of the Property, including the installation of certain public infrastructure improvements (the “Infrastructure Project”) and the subsequent development (the “Commercial Development Project”) of new commercial lots thereon; and

WHEREAS, the Developer requested that the City provide financial assistance in the form of incremental property tax payments to be used by the Developer in paying the costs of constructing the Infrastructure Project; and

WHEREAS, the City and the Developer entered into a Development Agreement (the “Original Agreement”) dated May 3, 2018, pursuant to which the City agreed to provide tax increment financing assistance with respect to the Project in an aggregate amount not to exceed \$500,000; and

WHEREAS, the Developer has undertaken the construction of a commercial building (the “Commercial Building Project”) on the Property for leasing as part of the Developer’s business operations; and

WHEREAS, the Developer has requested, and the City is willing to provide, additional financial assistance to pay a portion of the costs of constructing the Commercial Building Project; and

WHEREAS, it is now necessary to amend the Original Agreement to (1) increase the amount of incremental property tax payments to be provided to the Developer; and (2) make other related changes; and

WHEREAS, this Amended Development Agreement (the “Agreement”) has been prepared to set forth the updated, mutual understanding between the City and the Developer and to replace the Original Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Developer's Covenants:

1. Development of Property; Commercial Building Project. The Developer agrees to use its best efforts to promote the development of commercial lots on the Property.

The Developer agrees to maintain and use the completed Commercial Building Project as part of its business operation through the Term, as hereinafter defined, of this Agreement. Furthermore, the Developer agrees to submit documentation to the satisfaction of the City by no later than each October 15 during the Term, as hereinafter defined, commencing October 15, 2021, demonstrating that the completed Project is being used as part of the Developer's business operations. As used in this Agreement, the Commercial Building Project is being maintained and used as part of the Developer's business operations if the Commercial Building Project: (i) is being used as part of the ongoing business operations of commercial enterprises, or (ii) is actively available for lease and use in the ongoing business operations of commercial enterprises.

2. Infrastructure Project Construction and Costs. The Developer agrees to cause the construction of the Infrastructure Project in accordance with the timeline and specifications set forth on Exhibit B hereto. Prior to constructing the Infrastructure Project, the Developer will submit copies of all engineering documents related to the proposed Infrastructure Project. The City may request reasonable changes in such documents, to ensure compliance with any applicable ordinances or regulations.

The City shall retain all rights to inspect the Infrastructure Project for quality of work and full compliance with City Code. Nothing in this subsection shall be interpreted as limiting the City's rights to not accept the work if the Infrastructure Project is not completed to the satisfaction of the City.

Upon completion of the Infrastructure Project, provided that (i) such improvements are of the type ordinarily dedicated to the City; (ii) the City confirms to the Developer in writing that such completed improvements meet City requirements; and (iii) the City accepts such Infrastructure Project in accordance with State law, the Developer will provide the City with either a deed or permanent easement to the improvements and related right-of-way comprising the Infrastructure Project, which shall thereafter be maintained by the City.

Furthermore, upon completion of the Infrastructure Project, the Developer agrees to provide documentation, in such form as may be requested by the City, of the costs incurred in the completion thereof (the "Infrastructure Costs"). Such costs may include all infrastructure-related land acquisition costs, cost of designing and constructing the Infrastructure Project, landscaping and grading all land for the Infrastructure Project, interest expense and other costs of financing, and other reasonably related costs of carrying out the Infrastructure Project, including the Legal Admin Costs defined in Section A.7 of this Agreement.

Each documentation of the Infrastructure Costs made under this Section will be accompanied by invoices, and such other documentation as is reasonably requested by the City, confirming that the costs detailed in such documentation were in fact incurred in the installation of the Infrastructure Project and that such costs are of an amount reasonably to have been expected

with respect to such installation. Upon acceptance of such demonstrated costs, the City shall record a summary of the date, amount and nature of such costs (the "Accepted Infrastructure Costs") on the Summary of Accepted Infrastructure Costs attached hereto as Exhibit C, and such summary shall be the official record of the Infrastructure Costs for purposes of tallying the maximum amount of Payments (as hereinafter defined) allowed to the Developer under this Agreement.

3. **Property Taxes.** The Developer agrees to ensure timely payment of all property taxes as they come due with respect to the Property, titled in Developer's name, with the completed Commercial Development Project, including the Commercial Building Project, thereon throughout the Term, as hereinafter defined, and to submit receipts, cancelled checks or certification based on public records as evidence of each such payment. The Developer shall also certify to the payment or nonpayment of taxes on the remainder of the Property regardless of ownership or responsibility for payment of the property taxes.

4. **Base Valuation.** The Developer agrees that the Property consists of five lots (each, a "Lot") bearing the Madison County Property Tax Parcel Identification Numbers set forth on Exhibit A hereto. The Developer further agrees that the base valuation (the "Base Valuation") for purposes of calculating Incremental Property Tax Revenues, as hereinafter defined, under Section 403.19 of the Code of Iowa and this Agreement for each Lot shall be the taxable valuation of such Lot as of January 1, 2018.

5. **Developer's Certifications – Phases.** The Developer shall have the right to divide the taxable parcels comprising the Property into five (5) phases (the "Phases" and, individually, each a "Phase") for purposes of calculating and administering the Payments, as hereinafter defined. The Developer agrees to certify to the City its intent to begin the process of dividing Incremental Property Tax Revenues, as hereinafter defined, from each Phase. In any year in which the Developer wishes to designate a new Phase, the Developer shall certify to the City, on or before October 15 of that year, the Lot or Lots to be included in such Phase. The Developer hereby agrees to certify as to the first Phase by no later than October 15, 2019. The Developer hereby acknowledges that the submission of the initial Worksheet, as defined in Section A.6 of this Agreement, for any particular Phase will satisfy the requirements of this Section A.5.

6. **Property Tax Payment Certification.** The Developer agrees to certify to the City by no later than October 15 of each year, commencing no later than October 15, 2019, an amount (each, the "Developer's Estimate") equal to the estimated Incremental Property Tax Revenues, as hereinafter defined, anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of each of the then-certified Phases of the Property. However, the Developer shall only have the right to include incremental valuation from a particular Phase in the Developer's Estimate for a period not in excess of ten (10) years. In submitting each such consolidated Developer's Estimate for each Phase, the Developer will complete and submit the worksheet (the "Worksheet") attached hereto as Exhibit D. A separate Worksheet must be submitted for each Phase. The City reserves the right to review and request revisions to each such Developer's Estimate to ensure the accuracy of the figures submitted.

For purposes of this Agreement, Incremental Property Tax Revenues are calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with

respect to taxation of the Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the relevant Phase of the Property, as shown on the property tax rolls of Madison County, above and beyond that the Base Valuation of the Lots included with each such Phase; and (4) deducting any property tax credits which shall be available with respect to the incremental valuation of the Property.

Upon request, the City staff shall provide reasonable assistance to the Developer in completing the worksheet(s) required under this Section A.6.

7. **Legal and Administrative Costs.** The Developer agreed to cover the legal fees and administrative costs incurred by the City in connection with the drafting, negotiation and authorization of the Original Agreement, including the creation of the Urban Renewal Area, up to an amount not in excess of \$8,000. The Developer further agreed to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Developer evidencing such costs.

The Developer hereby agrees to cover the legal fees and administrative costs incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the required amendment to the urban renewal plan for the Urban Renewal Area, up to an amount not in excess of \$8,000. The Developer further agrees to remit payment to the City within 30-days of the submission of reasonable documentation by the City to the Developer evidencing such costs.

8. **Remedy.** The Developer hereby acknowledges that failure to comply with the requirements of this Section A, will result in the City having the right to withhold the Payments under Section B of this Agreement at its sole discretion, such right being additional to the right of annual appropriation as set forth in Section B.2 below.

B. City's Covenants:

1. **Payments.** In recognition of the Developer's obligations set out above, the City agrees to make annual economic development tax increment payments (the "Payments" and, individually, each a "Payment") to the Developer during the Term, as hereinafter defined, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments (the "Maximum Payment Total") shall not exceed the lesser of (i) the Accepted Infrastructure Costs, or (ii) \$660,000. The Payments shall be funded from the incremental valuation of any given Phase for a period not in excess of ten (10) years after the certification of such Phase. All Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City, but shall be made solely and only from Incremental Property Tax Revenues received by the City from the Madison County Treasurer attributable to the taxable valuation of the Property.

The Payments with respect to each Phase will be made on June 1 of each fiscal year, beginning on the first June 1 for which Incremental Property Tax Revenues become available with

respect each Phase, and continuing for a total of ten (10) fiscal years for each Phase, or until such earlier time as total Payments equal to the Maximum Payment Total have been made

It is anticipated that new incremental property valuation relative to the Commercial Development Project will go on the property tax rolls as of January 1, 2019, and thus the first Payment would be made on June 1, 2021 with the final Payment to be made no later than the earlier of (i) June 1, 2040; or (ii) the date on which the total Payments remitted equal the Maximum Payment Total.

2. Annual Appropriation. Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term, as hereinafter defined, beginning in the City's 2019-2020 fiscal year, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Developer's Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payments scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payments shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer's Estimate as called for in Section A.6 above, provided however that no Payment shall be made under this Agreement after June 1, 2040.

3. Payment Amounts. Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2021, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2019), provided, however, that each Payment shall not exceed the amount of Incremental Property Tax Revenues (excluding allocations of "back-fill" or "make-up" payments from the State of Iowa for property tax credits or roll-back) received by the City from the Madison County Treasurer attributable to the taxable valuation of the Property.

4. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.2 above, then the City Clerk will certify by December 1 of each such year to the Madison County Auditor an amount equal to the most recently obligated Appropriated Amount.

C. Administrative Provisions

1. **Assignment.** Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the other party. However, the City hereby gives its permission that the Developer's rights to receive the Payments hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken with respect to the Project, without further action on the part of the City

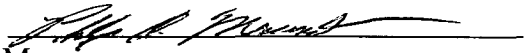
2. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on June 1, 2040 or on such earlier date upon which the aggregate sum of Payments made to the Developer equals the Maximum Payment Total.

4. **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.

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

CITY OF WINTERSET, IOWA

By: 
Mayor

Attest:



City Clerk

CASPER FAMILY, LC

By: 

EXHIBIT A
Legal Description of Property

Lots 1, 2, 3, 4 & 5, Casper First Addition to the City of Winterset, Madison County, Iowa, more particularly described as:

All that part of the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section 25, Township 76 North, Range 28, West of the 5th P.M., City of Winterset, Madison County, Iowa, including part of Parcel 'H' filed in Book 2016 page 1401, more particularly described as follows:

Commencing at the Southeast Corner of said Section 25; thence N 89°45'11" W, along the South line of said SE1/4 SE1/4, a distance of 1318.76 feet to the Southwest corner of said SE1/4 SE1/4; thence

N 00°08'18" E, a distance of 126.21 feet, to the Southwest corner of Lot B in North Stone Village Plat 4, an Official Plat in the City of Winterset, Madison County, Iowa; thence N 87°10'26" E, a distance of 33.14 feet, to the Southeast corner of said Lot B, also being the Point of Beginning; thence N 00°07'22" E, along the East line of said Lot B, a distance of 397.69 feet, to the Northeast corner of said Lot B; thence S 89°02'57" E, a distance of 200.00 feet; thence S 00°06'23" W, a distance of 46.97 feet; thence N 87°09'29" E, a distance of 700.00 feet; thence S 00°07'29" W, a distance of 337.49 feet, to the North right of way line of U.S. Highway 169; thence continuing along said right of way line,

S 87°09'32" W, a distance of 900.25 feet, to the Point of Beginning. Said parcel containing 7.21 acres, more or less.

The Property described above bears the following Madison County Property Tax Parcel Identification Numbers:

Lot 1	842007100021100
Lot 2	842007100021200
Lot 3	842007100021300
Lot 4	842007100021400
Lot 5	842007100021500

EXHIBIT B
Timeline and Specifications for Infrastructure Project

EXHIBIT D
DEVELOPER'S ESTIMATE WORKSHEET
COMPLETE ONE FOR EACH OPERATIVE PHASE
PHASE ____

- **Contains the following described taxable parcels:**

- (1) Date of Preparation: October ____, 20__.
- (2) Assessed Valuation of Property as of January 1, 20__:
\$ _____.
- (3) Base Taxable Valuation of Property:
\$ _____.
- (4) Incremental Taxable Valuation of Property (2 minus 3):
\$ _____ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):
\$ _____ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).
\$ _____ x \$ _____ /1000 = \$ _____ (the "Developer's Estimate")