

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

By and between

CITY OF MASON CITY, IOWA

AND

G8 DEVELOPMENT, INC.

January 20, 2016

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

THIS PURCHASE, SALE AND DEVELOPMENT AGREEMENT (hereinafter called the "Agreement"), is made on or as of the ____ day of _____, 2016, by and between the CITY OF MASON CITY, IOWA, a municipality (hereinafter called the "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 (hereinafter called the "Urban Renewal Act") and G8 DEVELOPMENT, INC., a California corporation, having offices for the transaction of business at 4538 Cass Street, San Diego, California (hereinafter called the "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 and blight area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Mason City Downtown Reinvestment Urban Renewal Area (the "Urban Renewal Area"), which is described in the Mason City Downtown Reinvestment Urban Renewal Plan approved for such Urban Renewal Area by Resolution No. 15-238 on October 20, 2015 (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 Cerro Gordo 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 City is the owner of certain real property located within the Urban Renewal Area as described in Exhibit J attached hereto and made a part hereof (the "Parking Facility Property") on which the City will construct the Parking Facility; and

WHEREAS, the City is willing to transfer ownership of the Development Property and the Parking Facility Property (at a later date) to Developer in exchange for Developer's agreement to make certain improvements to the Development Property, agreement to enter into a minimum assessment agreement, and agreement to certain conditions and restrictions regarding future use of the Development Property; and

WHEREAS, the City anticipates issuing one or more municipal bonds to finance construction of the Parking Facility (the "City Bonds"); and

WHEREAS, the City anticipates that transfer of the Development Property to Developer will remediate the blighted nature 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 foregoing project 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 Mason City Downtown Reinvestment 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 Mason City, Iowa, or any successor to its functions.

City Bonds means the general obligation bonds or notes issued by the City to fund construction of the Parking Facility in an amount not to exceed \$18,750,000.

Closing means the closing of the real estate transfer of the Development Property to Developer, as further defined in Article IV which shall be on or before June 1, 2016.

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

Commence Construction means to commence construction after entry into a valid and binding construction contract (including, at a minimum demolition of any existing structures and construction of underground facilities such as utilities and foundation), which shall be on or before July 31, 2016.

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 G8 Development, Inc., and its permitted successors and assigns.

Development Property means that portion of the Mason City Downtown Reinvestment Urban Renewal Area described in Exhibit A.

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

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.

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 City Assessor.

Minimum Improvements means the construction of a business class hotel on the Development Property as more particularly described and depicted in Exhibit B and Exhibit B-1 to this Agreement. The increased value after construction of the Minimum Improvements for the purpose of this Agreement is expected to be a minimum of \$6,450,000, but the Mason City City Assessor will make the final determination as to the value.

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.

Parking Facility means the construction of a parking ramp on the Parking Facility Property as more particularly described and depicted in Exhibit K and Exhibit K-1 to this Agreement.

Parking Facility Closing means the closing of the real estate transfer of the Parking Facility Property to Developer, as further defined in Article XI which shall be within ninety (90) days of the Parking Facility Transfer Date.

Parking Facility Property means that portion of the Mason City Downtown Reinvestment Urban Renewal Area described in Exhibit J.

Parking Facility Purchase Price means the price set forth in Section 11.7 hereof.

Parking Facility Transfer Date means the date set forth in Section 11.4 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.

State means the State of Iowa.

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, delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the City) or during a period where there is an increase in the prime rate as established by Bank of America of more than 1% point over the prime rate established by Bank of America as of the Commencement Date; provided, however, that any Unavoidable Delay based on an increase in the prime rate shall not, in any event, exceed three (3) months.

Urban Renewal Plan means the Urban Renewal Plan, as amended, approved with respect to the Mason City Downtown Reinvestment 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. City has good and marketable title to the Development Property in conformity with this Agreement, Iowa law, and the title standards of the Iowa State Bar Association.
- d. Except as shown on Schedule 2.1.d. attached hereto and by this reference made a part hereof, to the City Administrator's actual knowledge (without investigation of City records): (a) City has not received any current written notice that the Development Property is in violation, or is currently under investigation for violation of any Environmental Law; and (b) there is not now, nor has there ever been during City's ownership of the Development Property underground storage tanks or surface or below-grade impoundments used to store, treat or handle Hazardous Materials or debris or refuse buried in, on or under the Development Property.

The term "Hazardous Material" as used herein shall mean any hazardous or toxic substances, materials, chemicals, or wastes in any form and in any concentration that is or becomes, prior to the Closing, regulated by the United States or any state government authority having jurisdiction over the Development Property (including any present order or agreement imposing liability or standards concerning any such substances, materials, chemicals, or wastes and any future such order or agreement that becomes effective prior to the Closing), and includes without limitation: any "hazardous substance," as that term is defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 United States Code sections 9601-9675); any "hazardous waste," as that term is defined in the Resource Conservation and Recovery Act of 1976 (RCRA) (42 United States Code sections 6901-6992k); petroleum products; volatile organic compounds; radioactive materials; asbestos and lead paint, in any form or condition; and substances or compounds containing PCBs. The term "Environmental Law" as used herein shall mean any federal, state, or local law, ordinance or regulation, or any order, demand or guidance document of any governmental agency, relating to Hazardous Materials.

e. 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. G8 Development, Inc. is a California corporation duly organized and validly existing under the laws of the State of California, 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 \$11,437,135 for 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 shall receive a commitment(s) 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 within thirty (30) days of final approval by City of all governmental approvals required by Developer to complete the Minimum Improvements.

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 December 31, 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 during the term of this Agreement.

n. At all times during the term of this Agreement, Developer will maintain in force a franchise agreement (or other similar instrument) with a reputable hotel franchisor acceptable to the City in the City's reasonable discretion.

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 \$11,437,135 for 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 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 beyond any applicable cure periods; 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 December 31, 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 to authorize this Project as an urban renewal project; and
- b. The ability of the City to meet its commitments under this Agreement is subject in all respects to completion of all required proceedings under the Code to vacate City owned right-of-way that is included in the Development Property; and
- c. The Developer having provided the City with the survey and plat required pursuant to Section 4.11 hereof; and
- d. The Developer having provided the City with the non-exclusive easement in substantially the form attached hereto as Exhibit I; and
- e. The Developer negotiating in good faith with the City to provide all necessary public utility easements over and through the Development Property; and
- f. The Developer is in material compliance with all of the terms of this Agreement; and
- g. 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.

Section 4.2. Transfer of Development Property. For One Dollar (\$1.00) 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 Iowa Code.

Section 4.3. Purchase Price. The purchase price for the Development Property shall be One Dollar (\$1.00) (the "Purchase Price"). Developer shall pay the Purchase Price to the City by 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, assessed post-closing shall be paid by Developer.

Section 4.5. Right of Reversion. Notwithstanding anything herein to the contrary, and as additional security for the Developer's obligation to Commence Construction of the Minimum Improvements, the Deed conveying the Development Property to Developer shall contain a right of reversion in all of the Development Property ("City's Reversionary Right" or "Reversionary Right"), which may be exercised by the City, in its reasonable discretion, if the following conditions occur:

- a. Developer does NOT Commence Construction of the Minimum Improvements by July 31, 2016;
- b. Developer does NOT obtain the performance bond required under Section 6.11; or
- c. An Event of Default has occurred by Developer, which is not cured within the time period allowed by Section 10.2.

If any of the above conditions occur, then the City shall automatically have the City's Reversionary Right to reacquire title to the Development Property. Developer shall allow no mortgages or liens to encumber the Development Property while the City holds its Reversionary Right. To exercise the City's Reversionary Right described herein, the City must provide written notice to Developer (or its permitted successors, assigns or transferees) within sixty (60) days of Developer's failure under this Agreement, and record such notice with the County Recorder of deeds, in which case the title to the Development Property shall automatically revert to the City as of the date of the recording of the notice. Upon request from the City, Developer shall take all reasonable steps to ensure the City acquires marketable title to the Development Property through its exercise of its rights under this Section within thirty (30) days of the City's demand, including without limitation, the execution of appropriate deeds and other documents. This Section shall survive the Closing.

Notwithstanding anything to the contrary herein, the City's Reversionary Right with respect to the Development Property shall terminate and be of no further force and effect if and when Developer (or its permitted successors, assigns or transferees) has: (i) Commenced Construction of the Minimum Improvements on the Development Property; or (ii) obtained the performance bond required under Section

6.11 of this Agreement. The City agrees to execute any documents reasonably requested by Developer or its lender to evidence any whole or partial termination of the City's Reversionary Right as set forth herein.

Section 4.6. Risk of Loss and Insurance – Development Property. 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. 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." Except as specifically set forth in this Agreement, the City makes no warranties or representations as to the condition of the Development Property. 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 on or before June 1, 2016. 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 City in conformity with this Agreement, Iowa law, and 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 which shall be completed prior to the City vacating that portion of the Development Property consisting of City owned right-of-way. 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. Deed Restriction. The Developer acknowledges and agrees that until the Termination Date, the Development Property shall be used solely and exclusively for a business class hotel as described and depicted in Exhibit B and Exhibit B-1. This Section shall survive the Closing.

Section 4.15. Reservation of Temporary Easement. The City hereby reserves for itself, and its successors, assigns, and licensees, a non-exclusive temporary easement for ingress and egress over and across the Development Property from Closing until the date the Developer Commences Construction. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in, on or to the Development Property. The City shall not be responsible for any maintenance of the Development Property whatsoever and that responsibility shall remain with the Developer. The City may, however, upon prior written notice to Developer, perform such maintenance should it determine in its sole discretion such maintenance is needed.

Section 4.16. Easement. As further consideration for this Agreement, Developer shall grant to the City a non-exclusive easement in substantially the form attached hereto as Exhibit I.

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 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 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 state, federal 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, or cause to be hired and retained, at least ten Full-Time Equivalent Employment Units to work at the Development Property until the Termination Date. 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 ten Full-Time Equivalent Employment Units has been maintained beginning on January 1, 2018. City agrees that Developer may hire a management company to operate the hotel on a day to day basis and it would be that entity that hires and retains the Full-Time Equivalent Employment Units.

"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 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 annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been 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 and the value assessed thereon, in addition to the assessed value of the Development Property and Minimum Improvements as of the date of the certification; (iii) certification of the number of employees employed by Developer at the Development Property as of October 1 and as of the first day of each of the preceding eleven (11) months (the Annual Certification due October 15, 2018 need only show employment beginning with January 1, 2018); and (iv) certification that such officers have 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 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 during such period, or if either of the signers 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 shall be provided not later than October 15 of each year, commencing October 15, 2018 and continuing each October 15 through the Termination Date. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit D for form required for Developer's Annual Certification.

Section 6.8. Term of Operation. Developer shall maintain their operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 6.6, until the Termination Date of this Agreement.

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 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 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 and shall be solely responsible for all assessments and taxes.

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

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

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

Section 6.11. Performance Bond. Prior to the time the Developer Commences Construction (which shall be no later than July 31, 2016), Developer shall obtain or shall require the general contractors retained to construct the Minimum Improvements to obtain, one or more surety bonds 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 December 31, 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 a Developer's 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.

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 existence as a company and will not wind up or otherwise dispose of all or substantially all of its assets or transfer, convey, or assign its interest in the Development Property, Minimum Improvements, franchise agreement 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 not be unreasonably withheld, delayed or conditioned.

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, which consent shall not be unreasonably withheld, delayed or conditioned. For the purposes of sub-section 7.1(ii), the Developer shall be permitted to assign this Agreement to G8 Hospitality Group, Inc., a Delaware corporation which is the franchisee under the franchise agreement for the hotel, provided that G8 Hospitality Group, Inc., in compliance with sub-section 7.1(i), assumes in writing all of the obligations of Developer under this Agreement.

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. MINIMUM ASSESSMENT AGREEMENT

Section 8.1. Minimum Assessment Agreement. As further consideration for this Agreement, Developer, City and the City 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 City 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 \$6,450,000 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, 2023 (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 first mortgage, each of which shall sign a consent to the Minimum Assessment Agreement. This Article shall survive the Closing.

ARTICLE IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

a. Except for the obligations of City as set forth in this Agreement, 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 6.6, 6.7, 6.8, 6.9, 6.10, and 6.11 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:
 - i. files 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. makes an assignment for the benefit of its creditors; or
 - iii. admits in writing its inability to pay its debts generally as they become due; or
 - iv. is 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.

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 exercise the City's Reversionary Right pursuant to Section 4.5;
- e. The City may enforce the Performance Bond pursuant to Section 6.11; or
- f. 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.

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 and the City shall each pay for its own attorney's fees associated with this Agreement; and
- b. If any party hereto institutes an action or proceeding for a declaration of the rights of the parties under this Agreement, for injunctive relief, for an alleged breach or default of, or any other action arising out of, this Agreement, or the transactions contemplated hereby, or if any party is in default of its obligations pursuant thereto, whether or not suit is filed or prosecuted to final judgment, the non-defaulting party or prevailing party shall be entitled to its actual attorneys' fees and to any court costs incurred, in addition to any other damages or relief awarded.

ARTICLE XI. PARKING FACILITY

Section 11.1. Conditions Precedent to Construction and Transfer of the Parking Facility. The City's obligation to finance the design and construction of a new Parking Facility on the Parking Facility Property and to transfer the Parking Facility Property to Developer at the Parking Facility Closing, and Developer's obligation to pay the Parking Facility Purchase Price, shall be subject to satisfaction of the following conditions precedent:

- a. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to the issuance of the City Bonds, which actions and legal proceedings City shall pursue in good faith; and
- b. The City shall have completed the sale of all or a portion of the City Bonds on such terms and conditions as it shall deem necessary or desirable in its sole discretion. Given the time frames set

forth in this Agreement, City agrees to pursue in good faith the sale of all or a portion of the City Bonds; and

c. The City receiving final approval of its Iowa Reinvestment District application and the City and State shall have entered into an Award Agreement; and

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

Section 11.2. Construction of New Parking Facility. The City shall finance the design and construction of a new Parking Facility with at least two hundred and sixty (260) total parking spaces to be located on the Parking Facility Property. To a commercially reasonable extent, the City shall collaborate with Developer to ensure that the design of the Parking Facility conforms to the requirements of the hotel corporation providing the franchise to Developer.

Section 11.3 Completion of Parking Facility. Subject to Unavoidable Delays, the City shall cause construction of the Parking Facility to be undertaken and completed by no later than December 31, 2017. 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. Construction of the Parking Facility shall not materially interfere with or delay Developer in the construction of the hotel. Construction of the hotel on the Development Property shall not materially interfere with or delay City in the construction of the Parking Facility. City acknowledges and agrees that the construction of the Parking Facility must be completed concurrent with hotel in order to allow Developer to timely open the hotel by no later than December 31, 2017.

Section 11.4. Ownership and Operation of Parking Facility. The City shall own and operate the Parking Facility until the later of: (a) the 20th anniversary of the first day the Parking Facility is in operation; and (b) the date when all bonds issued to finance the Parking Facility have been paid (the "Parking Facility Transfer Date"). Prior to the Parking Facility Closing, all parking revenues shall be collected and kept by the City.

Section 11.5. Reserved Parking Spaces Prior to Parking Facility Closing. Prior to the Parking Facility Closing:

a. The City shall reserve a minimum of ten (10) parking spaces in the Parking Facility for use by City vehicles;

b. The City shall provide Developer with one hundred (100) parking spaces free of charge (which shall include the required number of handicapped-accessible spaces) in the Parking Facility, which shall be so located to afford reasonably easy access to the Minimum Improvements;

c. The City shall provide Developer with 1.5 parking spaces in the Parking Facility per dwelling unit (which shall include the required number of handicapped-accessible spaces) constructed pursuant to that certain Purchase, Sale and Development Agreement by and between the City and Developer with respect to a Mixed Use Building which is the subject of that certain Resolution No. 15-164; provided, however, that the number of parking spaces shall not exceed 40. The Parking Spaces shall be provided free of charge; and

d. The City shall make all other parking spaces within the Parking Facility available to the general public for rent on an hourly or monthly basis at the City's sole discretion.

Section 11.6. Transfer of Parking Facility. Within ninety (90) days after the Parking Facility Transfer Date, the City agrees to sell, and the Developer agrees to purchase, the Parking Facility 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 Iowa Code. After the Parking Facility Closing, all parking revenues shall be collected and kept by the Developer.

Section 11.7. Parking Facility Purchase Price. The purchase price for the Parking Facility Property shall be One Dollar (\$1.00) (the "Parking Facility Purchase Price"). Developer shall pay the Parking Facility Purchase Price to the City by check or wire transfer at Parking Facility Closing (subject to prorations, reductions and credits as provided below).

Section 11.8. Real Estate Taxes and Special Assessments.

a. The Parking Facility Property is currently tax-exempt while owned by the City. Developer shall be responsible for all taxes post- Parking Facility Closing, if any; and

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

Section 11.9. Risk of Loss and Insurance – Parking Facility. The City shall bear the risk of loss or damage to the Parking Facility Property prior to the Parking Facility Closing. The City agrees to maintain insurance on the Parking Facility and its improvements prior to the Parking Facility Closing at the same level and coverage as set forth in Section 5.1 (and name Developer as an additional insured) and Developer may purchase additional insurance. In the event of substantial damage or destruction prior to the Parking Facility Closing, the City shall use the insurance proceeds to rebuild the Parking Facility Property and this Agreement shall continue and Developer shall complete the Parking Facility Closing provided the Parking Facility has been repaired or rebuilt or there is sufficient insurance coverage to repair or replace the Parking Facility and said proceeds are assigned to Developer. Developer shall bear the risk of loss or damage to the Parking Facility Property after the Parking Facility Closing.

Section 11.10. Condition of Property; Care and Maintenance. City shall prior to the Parking Facility Closing, at its sole cost, maintain, repair, replace, and repaint, all in commercially reasonable condition, the Parking Facility, all building systems serving the Parking Facility, and any damage to the Parking Facility. As of the Parking Facility Closing, Developer agrees to take the Parking Facility Property "As Is." The City makes no warranties or representations as to the condition of the Parking Facility or the Parking Facility Property.

Section 11.11. Possession; Closing. Upon the obligations of both parties hereunder being met, including the execution of all documents required hereunder, the Parking Facility Closing shall take place within ninety (90) days after the Parking Facility Transfer Date. This purchase shall be considered "Closed" upon the delivery to Developer of a duly executed special warranty deed for the Parking Facility Property. 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 11.12. Fixtures. Included with the Parking Facility 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 11.13. Abstract and Title. The City shall provide an abstract for the Parking Facility Property, continued through a date no more than forty-five (45) days prior to the Parking Facility Closing, and deliver it to Developer for examination, which shall become the property of the Developer upon the Parking Facility Closing. It shall show marketable title in City in conformity with this Agreement, Iowa law, and 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 Parking Facility Property.

Section 11.14. Environmental Matters. At the time of the Parking Facility Closing, the City will file with the County Recorder's office a properly executed Groundwater Hazard Statement as required by law. Developer shall take the property "As Is" with regard to any environmental matters. The City makes no warranties or representations as to the environmental condition of the Parking Facility Property. Developer agrees to indemnify, release, defend and hold harmless the City for all claims, damages or costs relating to the Parking Facility Property that arise after the date of Parking Facility Closing. This Section shall survive the Parking Facility Closing.

Section 11.15. Reserved Parking Spaces After the Parking Facility Closing. After the Parking Facility Closing:

- a. The Developer shall license a minimum of ten (10) parking spaces in the Parking Facility to the City free of charge through a license and use agreement (which shall have a perpetual term at the option of the City) for use by City vehicles (which number may be re-negotiated to a higher number based on City needs);
- b. The Developer agrees to reserve no more than a maximum of one hundred (100) parking spaces (which shall include the required number of handicapped-accessible spaces) in the Parking Facility for its own use, which shall be so located to afford reasonably easy access to the Minimum Improvements;
- c. The Developer agrees to reserve no more than a maximum of 1.5 parking spaces in the Parking Facility per dwelling unit (which shall include the required number of handicapped-accessible spaces) constructed pursuant to that certain Purchase, Sale and Development Agreement by and between the City and Developer with respect to a Mixed Use Building which is the subject of that certain Resolution No. 15-164; provided, however, that the number of parking spaces shall not exceed 50; and
- d. The Developer shall make all other parking spaces within the Parking Facility available to the general public for rent on an hourly or monthly basis.

This Section shall survive the Parking Facility Closing and termination of this Agreement.

Section 11.16. Developer's Option. Developer shall have an option prior to the Parking Facility Closing, to lease space above the top level of the Parking Facility at the rate of \$1.00 per year for the purpose of installing solar or wind energy conversion systems, which may be used for providing energy

to the hotel and other nearby facilities. Subject to Section 11.16.b. below, City agrees to cooperate with Developer in the design and construction of the Parking Facility to allow for the installation of solar or wind energy conversion systems.

- a. The term of such lease shall extend until the Parking Facility Closing.
- b. All costs of such development including, but not limited to, legal fees, engineering fees, architect fees, insurance and construction costs shall be the sole and absolute responsibility of the Developer; there shall be no cost to the City. The City shall not be required to make any modifications to the Parking Facility to enable Developer's use of the space above the top level of the Parking Facility.
- c. The exercise of such option and the construction of any such solar or wind energy systems shall not materially interfere with the City's use of the Parking Facility.
- d. All development under this Section 11.16 shall be in accordance with all applicable federal, State and local codes, regulations and ordinances.

To exercise such option, the Developer shall provide a minimum of one hundred and eighty (180) days prior written notice to the City. Such notice shall include complete copies of the plans and specifications for such construction as well as a specific plan, acceptable to the City, setting forth how the Developer will avoid interference with the City's use of the Parking Facility.

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 G8 Development, Inc. at 4538 Cass Street, San Diego, CA 92109, Attn: Philip Chodur, President;
- b. In the case of the City, is addressed to or delivered personally to the City at 10 1st St. NW, Mason City, IA 50401, Attn: Brent Trout, City Administrator;

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. 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 or federal courts located in Cerro Gordo 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, 2038, 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. Neither Developer nor City 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.

ARTICLE XIII. CONDITIONS PRECEDENT

Section 13.1. Conditions Precedent. Notwithstanding anything herein to the contrary, in addition to all other conditions precedent throughout this Agreement, Developer and City acknowledge and agree that the rights and obligations of both parties under this Agreement are subject to and contingent upon the following events occurring:

a. Completion of all required proceedings under Chapter 403 of the Code to approve the sale and the development agreement contemplated herein. The City shall, with all reasonable due diligence, conduct the foregoing proceedings and shall keep the Developer apprised of its progress in connection with the same; and

b. City approval and execution of that certain proposed Purchase, Sale and Development Agreement by and between the City and Developer with respect to a Mixed Use Building which is the subject of that certain Resolution No. 15-164.

Section 13.2. Conditions Precedent Deadline. If the conditions precedent provided in Section 13.1 above have not been satisfied by March 1, 2016, this Agreement shall be void from the outset and shall be of no force or effect.

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

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 Administrator, 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.

(SEAL)

CITY OF MASON CITY, IOWA

By: *Eric Bookmeyer*
Eric Bookmeyer, Mayor

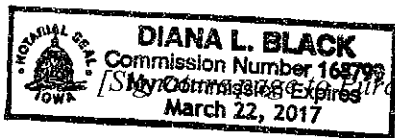
ATTEST:

By: *Brent Trout*
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

On this 20 day of January, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, 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 Administrator acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Diana B
Notary Public in and for the State of Iowa
(*Deputy*)



Purchase, Sale and Development Agreement – City of Mason City

SCHEDULE 2.1.d.

1. The Development Property is the site of the old Cerro Gordo County Courthouse which was demolished several years ago. Although no current investigation has been made by the City and the City Administrator does not have actual knowledge regarding the old Courthouse, City staff has heard that the foundation, debris and materials related to said Courthouse may remain buried in, on or under the Development Property.

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 (Development Property)
EXHIBIT F.....Memorandum of Agreement
EXHIBIT G.....Minimum Assessment Agreement
EXHIBIT H.....Enforceability Opinion
EXHIBIT I.....Form of Easement
EXHIBIT J.....Legal Description of Parking Facility Property
EXHIBIT K.....Description of Parking Facility
EXHIBIT K-1.....Diagram of Parking Facility

EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The Development Property is legally described as follows:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.50 ACRES INCLUDING AND SUBJECT TO ALL EASEMENTS.

PARCEL DESCRIPTION (for Lots 1, 3 & 6)

LOT 1 OF THE SUBDIVISION OF LOT 5, AND LOT 3 OF THE SUBDIVISION OF LOT 4, EXCEPT THE WEST 12.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

PARCEL DESCRIPTION (Alley)

A TRACT OF LAND LOCATED IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE ALLEY (COMMONLY KNOWN AS ENTERPRISE ALLEY) BETWEEN LOT 6 AND LOT 7 IN SAID BLOCK 10, LYING SOUTH OF THE NORTHWEST (NW) CORNER OF LOT 6 AND THE NORTHEAST (NE) CORNER OF LOT 7 AND THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET NORTHWEST, EXCEPTING THEREFROM THE NORTH 22.00 FEET.

SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

EXHIBIT B
DESCRIPTION OF MINIMUM IMPROVEMENTS

Minimum Improvements means the construction of a hotel on the Development Property that shall include, among other amenities typically found at a business class hotel, a conference facility capable of accommodating at least 300 persons, with pre-function and breakout spaces, and at least 3,000 square feet of leasable retail space. All construction shall be in accordance with City zoning and building requirements. The design of the hotel shall be in character with other architecture in the Mason City Downtown Reinvestment Urban Renewal Area. The construction of the Minimum Improvements will be completed by December 31, 2017. Construction costs are expected to be approximately \$11,437,135.

The increased value after construction of the Minimum Improvements for the purpose of this Agreement shall be a minimum of \$6,450,000, but the Mason City City Assessor will make the final determination as to the value.

EXHIBIT B-1
DIAGRAMS OF MINIMUM IMPROVEMENTS
(Representative only; see Construction Plans for specifics)

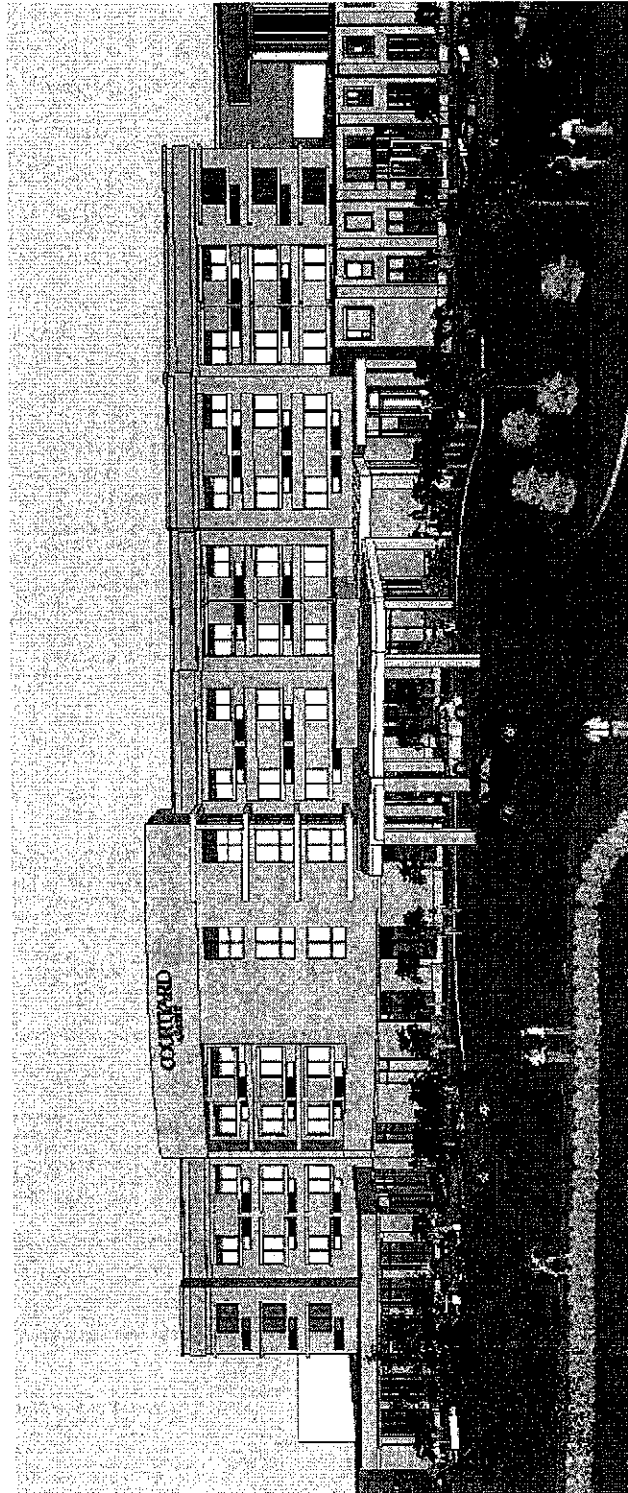


EXHIBIT B-1 (continued)
DIAGRAMS OF MINIMUM IMPROVEMENTS
(Representative only; see Construction Plans for specifics)

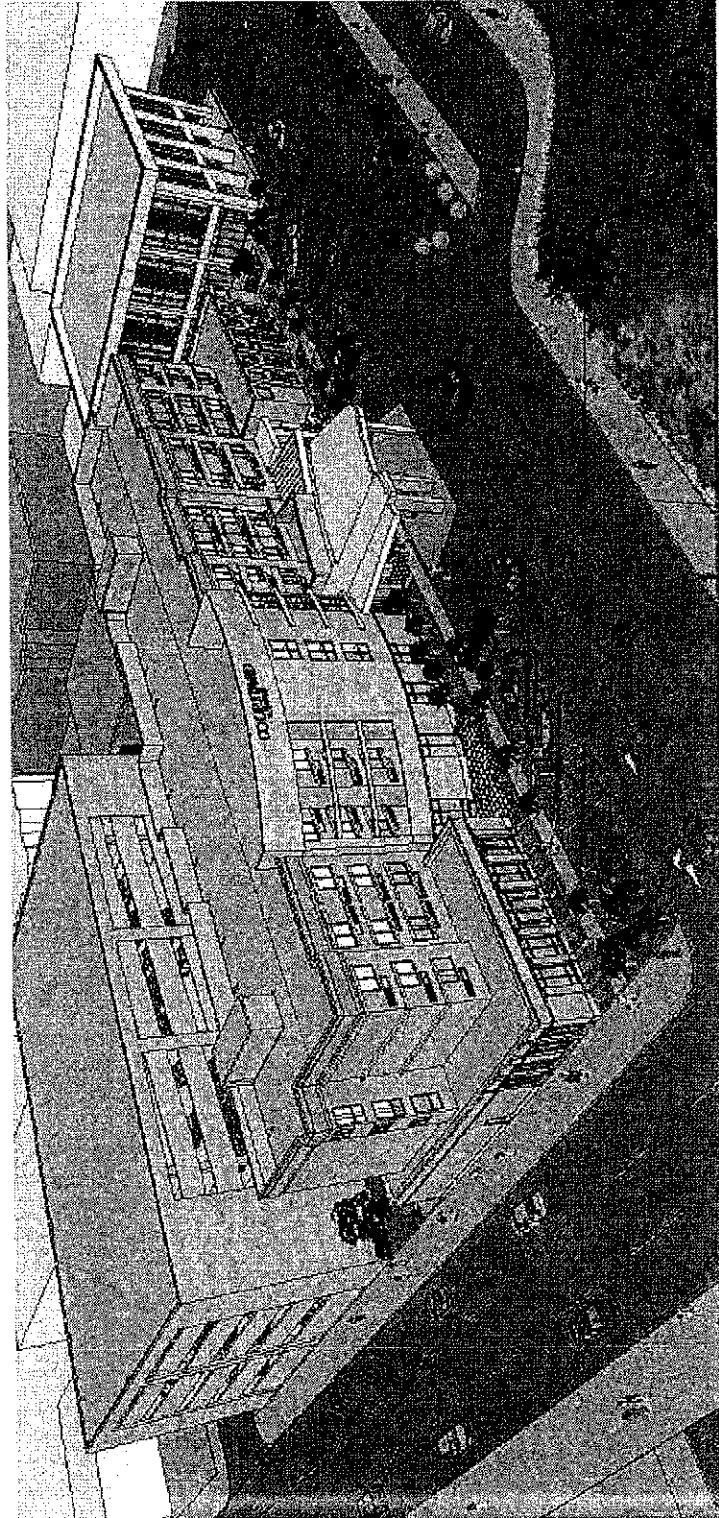


EXHIBIT C
CERTIFICATE OF COMPLETION

WHEREAS, the City of Mason City, Iowa, (the "City") and G8 Development, Inc., a California corporation ("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:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

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TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

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SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

(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 Cerro Gordo 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 MASON CITY, IOWA

By: _____
Eric Bookmeyer, Mayor

ATTEST:

By: _____
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, 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 Administrator 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 Mason City]

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

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 in the Urban Renewal Area have been 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 \$ _____, and the assessed value of the Development Property and Minimum Improvements as of the date of this certification is \$ _____;

(iii) The number of employees employed at the Minimum Improvements by Developer 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___ : _____

The "Monthly Average" means the number of employees as of the 1st of each of the 12 months and divided by 12.

(iv) The undersigned officers of Developer have re-examined the terms and provisions of this Agreement and that at the date of such certification, and during the preceding twelve (12) months, certify that Developer is not, or 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 officers have 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.

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

Signed this _____ day of _____, 20__.

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.

G8 DEVELOPMENT, INC.,
a California corporation

By: _____
Philip Chodur, President

Attachments: Proof of payment of taxes

[Signature page to Developer Annual Certification – G8 Development, Inc.]

EXHIBIT E
FORM OF SPECIAL WARRANTY DEED (DEVELOPMENT PROPERTY)

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:

G8 Development, Inc.
4538 Cass Street
San Diego, CA 92109

Return Document To:

G8 Development, Inc.
4538 Cass Street
San Diego, CA 92109

Grantors: City of Mason City, Iowa

Grantees: G8 Development, Inc.

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 Mason City, Iowa**, ("Grantor") does hereby convey to **G8 Development, Inc.** a California corporation, ("Grantee") the following described real estate in Cerro Gordo County, Iowa:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.50 ACRES INCLUDING AND SUBJECT TO ALL EASEMENTS.

PARCEL DESCRIPTION (for Lots 1, 3 & 6)

LOT 1 OF THE SUBDIVISION OF LOT 5, AND LOT 3 OF THE SUBDIVISION OF LOT 4, EXCEPT THE WEST 12.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

PARCEL DESCRIPTION (Alley)

A TRACT OF LAND LOCATED IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

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SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

This Deed is subject to all the terms, provisions, covenants, conditions and restrictions (including, but not limited to the City's Reversionary Right) contained in that certain Purchase, Sale and Development Agreement, executed by the Grantor and Grantee herein, dated January 22, 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]

Dated: _____

(SEAL)

CITY OF MASON CITY, IOWA

By: _____
Eric Bookmeyer, Mayor

ATTEST:

By: _____
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, 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 Administrator acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Special Warranty Deed – City of Mason City]

EXHIBIT F
MEMORANDUM OF AGREEMENT

WHEREAS, the City of Mason City, Iowa (the "City") and G8 Development, Inc., a California corporation ("Developer"), did on or about the 20 day of January, 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 Mason City Downtown Reinvestment Urban Renewal Plan (the "Plan"), to develop certain real property located within the City and within the Mason City Downtown Reinvestment Urban Renewal Area.

The Development Property is described as follows:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

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TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

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SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the 20 day of January, 2016 and terminates on December 31, 2038, 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, Mason City, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement on the 20 day of January, 2016.

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

(SEAL)

CITY OF MASON CITY, IOWA

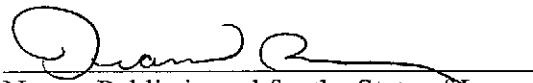
By: 
Eric Bookmeyer, Mayor

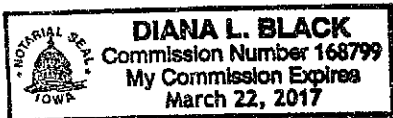
ATTEST:

By: 
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

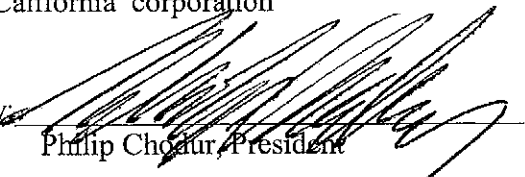
On this 20 day of January, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, Iowa, a Municipality created 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 Administrator 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 Mason City]

G8 DEVELOPMENT, INC.,
a California corporation

By: 
Philip Chodur, President

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN DIEGO)

On this 14th day of January, ^{2016 clb} ~~2015~~, before me the undersigned, a Notary Public in and for said State, personally appeared Philip Chodur, to me personally known, who, being by me duly sworn, did say that he is President of G8 Development, Inc., and that said instrument was signed on behalf of said corporation; and that the said Philip Chodur as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.



Cindy L. Schiff, a notary public
Notary Public in and for said State

[Signature page to Memorandum of Agreement – G8 Development, Inc.]

EXHIBIT G
MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT ("Minimum Assessment Agreement" or "Assessment Agreement") is dated as of January 20 2016, by and between the City of Mason City, Iowa (the "City"), a municipal corporation established pursuant to the Code of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2015, as amended (the "Urban Renewal Act"), and Chapter 15A, and G8 Development, Inc., a California corporation having an office for the transaction of business at 4538 Cass Street, San Diego, California ("Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into a Purchase, Sale and Development Agreement dated as of January 20, 2016 ("Agreement") regarding certain real property located in the City which is legally described as follows:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.50 ACRES INCLUDING AND SUBJECT TO ALL EASEMENTS.

PARCEL DESCRIPTION (for Lots 1, 3 & 6)

LOT 1 OF THE SUBDIVISION OF LOT 5, AND LOT 3 OF THE SUBDIVISION OF LOT 4, EXCEPT THE WEST 12.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

PARCEL DESCRIPTION (Alley)

A TRACT OF LAND LOCATED IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

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7 AND THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET NORTHWEST,
EXCEPTING THEREFROM THE NORTH 22.00 FEET.

SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL
EASEMENTS.

(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 City 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 Six Million Four Hundred and Fifty Thousand Dollars (\$6,450,000) (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, 2023 (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 \$6,450,000 until January 1, 2021, which shall govern the taxes collected for the entire fiscal year 2022-2023. 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 Cerro Gordo 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.

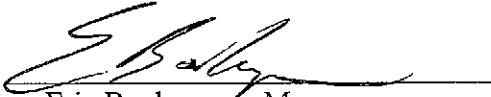
10. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Termination Date set forth in Section 1 above.

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 MASON CITY, IOWA

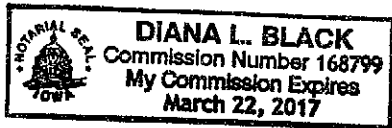
By: 
Eric Bookmeyer, Mayor


ATTEST:

By: 
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

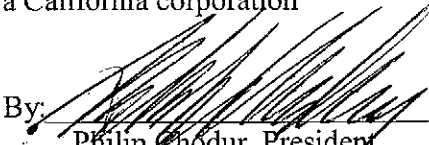
On this 20 day of January, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, Iowa, a Municipality created 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 Administrator 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 Mason City]

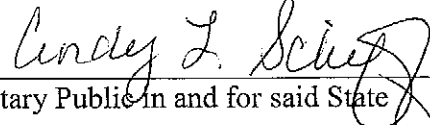
G8 DEVELOPMENT, INC.,
a California corporation

By: 
Philip Chodur, President

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN DIEGO)

On this 14th day of January, ²⁰¹⁵ ~~2016~~, before me the undersigned, a Notary Public in and for said State, personally appeared Philip Chodur, to me personally known, who, being by me duly sworn, did say that he is President of G8 Development, Inc., and that said instrument was signed on behalf of said corporation; and that the said Philip Chodur as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.



, a notary
Notary Public in and for said State public

[Signature page to Minimum Assessment Agreement – G8 Development, Inc.]

LIENHOLDER'S CONSENT, IF ANY

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

[NAME OF LIENHOLDER]

By: _____
Signature of Lienholder's
Authorized Representative

Date: _____

By: _____
Signature of Lienholder's
Authorized Representative

Date: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this ____ day of _____, 2016, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively, of _____ and that said instrument was signed on behalf of said company, and that the said _____, and _____ acknowledged the execution of said instrument to be the voluntary act and deed of said domestic company, by them voluntarily executed.

Notary Public in and for the State of _____

[Add additional pages for each Lienholder]

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 Six Million Four Hundred Fifty Thousand Dollars (\$6,450,000) (including taxable equipment value) all until the Assessment Agreement Termination Date of this Minimum Assessment Agreement.

Assessor for the City of Mason City, Iowa.

Date

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

Subscribed and sworn to before me by _____, Assessor for the City of Mason City, Iowa.

Notary Public in and for the State of Iowa

EXHIBIT H
FORM OF ENFORCEABILITY OPINION [ON FIRM LETTERHEAD]

City of Mason City
Mason City, Iowa

Re: Purchase, Sale and Development Agreement between the City of Mason City, Iowa, ("City") and G8 Development, Inc. ("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 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 corporation under the laws of the State of California. 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
FORM OF PERMANENT NON-EXCLUSIVE EASEMENT

NON-EXCLUSIVE EASEMENT

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:

G8 Development, Inc.
4538 Cass Street
San Diego, CA 92109

Return Document To:

City of Mason City, Iowa
c/o City Administrator
10 1st St. NW
Mason City, IA 50401

Grantors: G8 Development, Inc.

Grantees: City of Mason City, Iowa

Legal Description: See Page 2

Document or instrument number of previously recorded documents:

NON-EXCLUSIVE EASEMENT

THIS NONEXCLUSIVE EASEMENT ("Easement") is made between G8 Development, Inc., a California corporation ("Grantor") and the City of Mason City, Iowa, a municipal corporation ("Grantees").

The following recitals constitute a material part of this Easement instrument:

WHEREAS, Grantor is or will be the owner of the tract of land described as follows and referred to in this instrument as the "Easement Area":

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST (SW) CORNER OF SAID LOT 8; THENCE N 00°04'47" W 130.62 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE S 00°19'05" E 129.85 FEET ALONG SAID EAST LINE TO THE SOUTHEAST (SE) CORNER OF SAID LOT 7; THENCE S 89°38'42" W 166.70 FEET ALONG THE SOUTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.50 ACRES INCLUDING AND SUBJECT TO ALL EASEMENTS.

PARCEL DESCRIPTION (for Lots 1, 3 & 6)

LOT 1 OF THE SUBDIVISION OF LOT 5, AND LOT 3 OF THE SUBDIVISION OF LOT 4, EXCEPT THE WEST 12.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

TOGETHER WITH:

LOT 6, EXCEPT THE NORTH 20 FEET, AND EXCEPT THE EAST 17.00 FEET OF THE SOUTH 110.00 FEET, IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

PARCEL DESCRIPTION (Alley)

A TRACT OF LAND LOCATED IN BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

THAT PORTION OF THE ALLEY (COMMONLY KNOWN AS ENTERPRISE ALLEY) BETWEEN LOT 6 AND LOT 7 IN SAID BLOCK 10, LYING SOUTH OF THE NORTHWEST (NW) CORNER OF LOT 6 AND THE NORTHEAST (NE) CORNER OF LOT 7 AND THE NORTH RIGHT-OF-WAY LINE OF FIRST STREET NORTHWEST, EXCEPTING THEREFROM THE NORTH 22.00 FEET.

SAID TRACT CONTAINS 0.07 ACRES (2,917 Sq.Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

WHEREAS, Grantee is the owner of the tract of land described as follows and referred to in this instrument as the "Benefitted Property":

THE SOUTH TEN (10) FEET OF LOT 1, SUBDIVISION OF LOT 5, BLOCK 10 OF
PAUL FELT'S PLAT OF MASON CITY, IOWA

WHEREAS, Grantor desires to grant and Grantee desires to receive an access easement over and across the Easement Area in order to have access to the Benefitted Property.

NOW, THEREFORE, the following grants, agreements, and covenants are made in consideration of \$1 and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged:

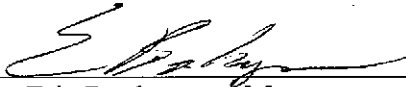
1. Grant of Easement. Grantor hereby grants to Grantee, its successors and assigns, as an easement appurtenant to the Benefitted Property, a nonexclusive easement for ingress and egress over and across the Easement Area in order to provide viable access to and from said Benefitted Property from and to the public roadway known as 1st St. NW, Mason City, Iowa.
2. Use of Easement Premises. Grantee may use the Easement Area for pedestrian use only.
3. Access. Both Grantor and Grantee covenant that neither party shall unreasonably block or obstruct access on or through the Easement Area.
4. Maintenance of Easement. Grantor shall maintain the Easement Area at Grantor's sole expense and with Grantor's equipment. The Grantee may, however, upon prior written notice to Grantor, perform such maintenance should it determine in its sole discretion such maintenance is needed.
5. Nonexclusive Easement. The easement rights granted under this Easement to Grantees are nonexclusive. This Agreement shall not preclude Grantor from granting similar easement rights to third parties upon the Easement Area upon terms and conditions that do not impair or diminish the rights granted under this Easement to Grantees.
6. Indemnification. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in, on or to the Easement Area, nor for property damage to any improvements or obstruction thereon resulting from the City's exercise of this Easement.
7. Running of Benefits and Burdens, Termination. This Easement is perpetual, and except as provided herein, all the provisions of this instrument, including the benefits and burdens, run with the land and are binding on and inure to the assigns, successors, tenants and personal representatives of the parties.
8. Integration/Waiver/Invalidity. This Easement shall constitute the entire agreement between the parties and no amendments or additions to this Easement shall be binding unless in writing and signed by both parties. The failure of any party hereto to insist in any one or more instances upon performance of any term or condition of this Easement shall not be construed as a waiver of future performance of any such term, covenant or condition, but the obligation of such party with respect thereto shall continue in full force and effect. If any provision of this Easement is held invalid, the remaining provisions of

this Easement shall remain in full force and effect as if that invalid provision had not been included in this Easement.

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

(SEAL)

CITY OF MASON CITY, IOWA

By: 
Eric Bookmeyer, Mayor


ATTEST:

By: 
Brent Trout, City Administrator

STATE OF IOWA)
) ss
COUNTY OF CERRO GORDO)

On this 20 day of January, 2016, before me a Notary Public in and for said State, personally appeared Eric Bookmeyer and Brent Trout, to me personally known, who being duly sworn, did say that they are the Mayor and City Administrator, respectively, of the City of Mason City, 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 Administrator 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 Non-Exclusive Easement – City of Mason City]

G8 DEVELOPMENT, INC.,
a California corporation

By: 
Philip Chodur, President

STATE OF CALIFORNIA)
) ss
COUNTY OF SAN DIEGO)

On this 14th day of January, ^{2016 ck} 2015, before me the undersigned, a Notary Public in and for said State, personally appeared Philip Chodur, to me personally known, who, being by me duly sworn, did say that he is President of G8 Development, Inc., and that said instrument was signed on behalf of said corporation; and that the said Philip Chodur as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.



Cindy L. Schiff, a notary public
Notary Public in and for said State

[Signature page to Non-Exclusive Easement – G8 Development, Inc.]

EXHIBIT J
LEGAL DESCRIPTION OF PARKING FACILITY PROPERTY

The Parking Facility Property is legally described as follows:

PARCEL DESCRIPTION (for Lots 7 & 8)

A PORTION OF LOTS 7 AND 8, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA, MORE COMPLETELY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST (NW) CORNER OF SAID LOT 8; THENCE S 00°04'47" E 2.19 FEET ALONG THE WEST LINE OF SAID LOT 8; THENCE N 89°54'37" E 166.16 FEET TO A POINT ON THE EAST LINE OF SAID LOT 7; THENCE N 00°19'05" W 2.58 FEET ALONG SAID EAST LINE TO THE NORTHEAST (NE) CORNER OF SAID LOT 7; THENCE S 89°46'38" W 166.15 FEET ALONG THE NORTH LINE OF SAID LOTS 7 AND 8 TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS 0.01 ACRES (500 Sq. Ft.) INCLUDING AND SUBJECT TO ALL EASEMENTS.

PARCEL DESCRIPTION (for Lot 2)

LOT 2, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

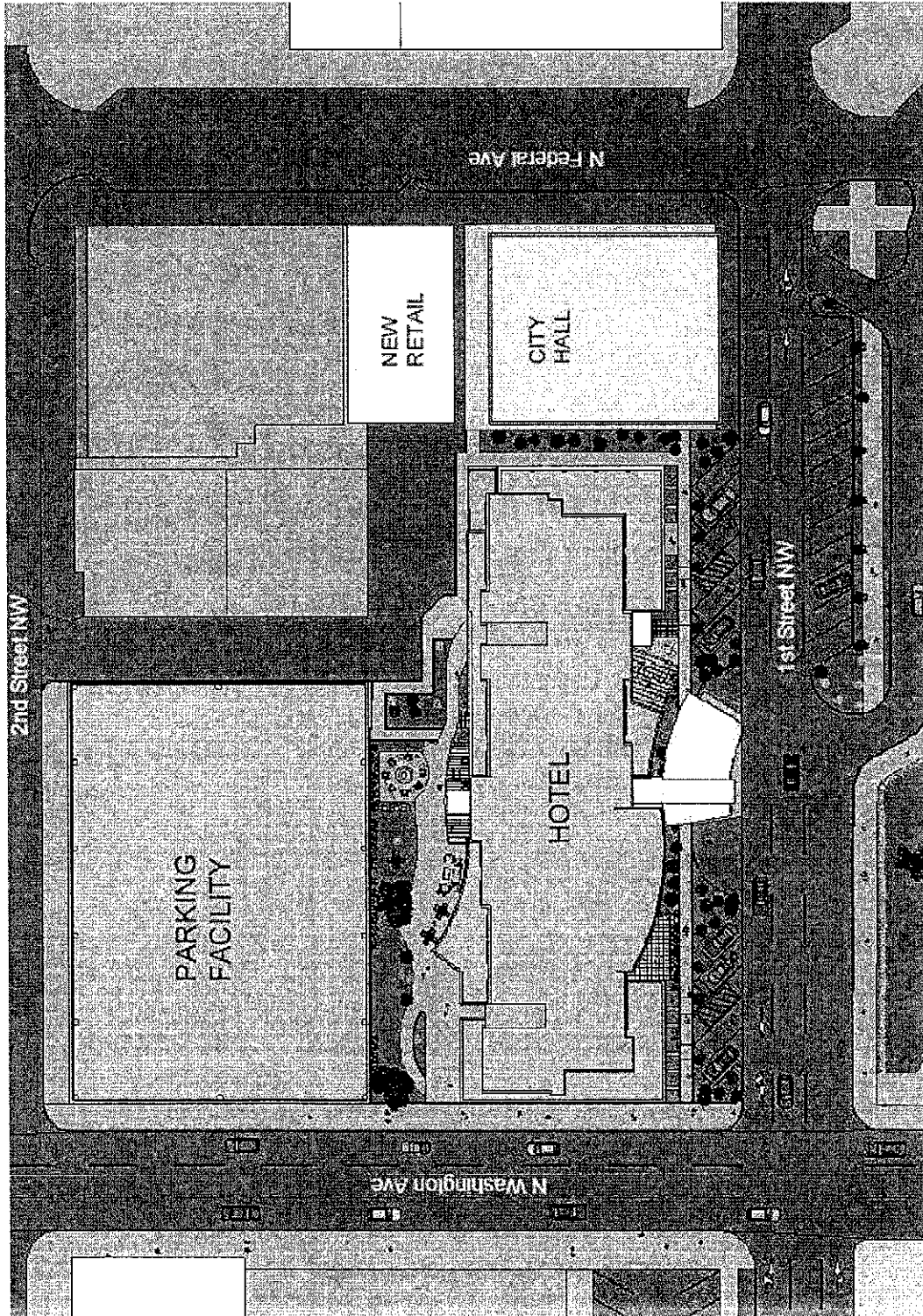
PARCEL DESCRIPTION (for Lot 3)

LOT 3, BLOCK 10, PAUL FELT'S PLAT OF MASON CITY, IOWA.

EXHIBIT K
DESCRIPTION OF PARKING FACILITY

Parking Facility means the construction of a three story parking ramp on the Parking Facility Property with a minimum of two hundred and sixty (260) parking spaces. All construction shall be in accordance with City zoning and building requirements. The design of the Parking Facility shall be in character with other architecture in the Mason City Downtown Reinvestment Urban Renewal Area. The construction of the Parking Facility is expected to be completed by approximately December 31, 2017.

EXHIBIT K-1
DIAGRAM OF PARKING FACILITY
(Representative only; subject to modification by City)



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