

## DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Dyersville, Iowa (the “City”) and Dyersville Industries, Inc. d/b/a Dyersville Economic Development Corporation (“DEDC”) as of the \_\_\_\_ day of \_\_\_\_\_, 2024 (the “Commencement Date”).

WHEREAS, the City has established the Consolidated Dyersville Economic Development District (the “Urban Renewal Area”), and has adopted a tax increment ordinance for the Urban Renewal Area; and

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

WHEREAS, DEDC has proposed to undertake the construction of a new commercial building (the “Project”) for use in the business operations of a childcare center on the Property; and

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

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

NOW THEREFORE, the parties hereto agree as follows:

### **A. Company’s Covenants**

**1. Project Construction; Operational Requirement.** DEDC agrees to construct the Project on the Property. DEDC has submitted a detailed site plan (the “Site Plan”) for the development of the Project to the City, which was approved by the City on \_\_\_\_\_, 20\_\_\_. The Site Plan is attached hereto as Exhibit B. DEDC agrees to construct the Project in accordance with the Site Plan and to substantially complete such construction by no later than December 31, 2024.

DEDC agrees to maintain ownership of the Project and to ensure that the completed Project is used in its business operations on the Property (the “Operational Requirement”) throughout the Term (as hereinafter defined) of this Agreement.

DEDC further agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and 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. Further, DEDC agrees to maintain compliance with local zoning, land use, building and safety codes and regulations.

2. **Company's Operational Certifications.** At the request of the City, DEDC agrees to certify and provide documentation (each, an "Operational Certification") to the City demonstrating that DEDC owns the Project and that DEDC is in compliance with the Operational Requirement. Each Operational Certification shall be accompanied by documentation demonstrating, to the satisfaction of the City, that DEDC is in compliance with the Operational Requirement.

3. **Property Taxes.** DEDC agrees to make or ensure timely payment of all property taxes as they come due with respect to the Property with the completed Project thereon throughout the Term and to submit a receipt or cancelled check in evidence of each such payment.

4. **Default Provisions.**

a. **Events of Default.** 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 (unless otherwise provided), any one or more of the following events:

- (i) Failure by DEDC to complete construction of the Project pursuant to the terms and conditions of this Agreement.
- (ii) Failure by DEDC to maintain compliance with the Operational Requirement set forth in Section A.1 of this Agreement.
- (iii) Failure by DEDC to fully and timely remit payment of property taxes when due and owing pursuant to Section A.3 of this Agreement.
- (iv) Failure by DEDC to comply with Section A.2 of this Agreement.
- (v) Failure by DEDC to observe or perform any other material covenant on its part, to be observed or performed hereunder.

b. **Notice and Remedies.** Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to DEDC describing the cause of the default and the steps that must be taken by DEDC in order to cure the default. DEDC shall have thirty (30) days from the mailing of the notice or from the personal delivery of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible. If DEDC fails to cure the default or provide assurances, the City shall then have the right to:

- (i) Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- (ii) Withhold the Payments provided for under Section B.1 below.
- (iii) Terminate this Agreement.

**B. City's Obligations**

**1. Payments.** In recognition of DEDC's obligations set out above, the City agrees to make ten (10) annual economic development tax increment payments (the "Payments" and, individually each, a "Payment") to DEDC during the Term, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that each Payment shall not exceed \$50,000, and the aggregate, total amount (the "Maximum Payment Total") of the Payments made under this Agreement during the Term shall not exceed \$500,000. All Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City but shall be made solely and only from unencumbered Incremental Property Tax Revenues (as hereinafter defined) received by the City from the Delaware County and Dubuque County Treasurers which are attributable to the Urban Renewal Area. Incremental Property Tax Revenues are determined by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the property in the Urban Renewal Area; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the property situated in the Urban Renewal Area, as shown on the property tax rolls of Delaware County and Dubuque County; and (4) deducting any property tax credits which shall be available with respect to the Property.

The Payments will be made on June 1 in each of the City's 2026 through 2035 fiscal years.

**2. Annual Appropriation.** Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term (as hereinafter defined) of this Agreement, beginning December 1, 2024, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than \$50,000.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and DEDC will have no rights whatsoever to compel the City to make such Payment, to seek damages relative thereto, or to compel the funding of such Payment in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payments shall not render this Agreement null and void, provided however that no Payment shall be made after June 1, 2035.

**3. Payment Amounts.** Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2026, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2024), provided, however, that no Payment shall exceed the amount of Incremental Property Tax Revenues received by the City from the Delaware and Dubuque County Treasurers attributable to the taxable valuation of the Urban Renewal Area.

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

C. **Administrative Provisions**

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

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

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on June 1, 2036, or on such earlier date upon which the aggregate sum of Payments made to DEDC equals the Maximum Payment Total.

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

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

CITY OF DYERSVILLE, IOWA

By: \_\_\_\_\_  
Mayor

Attest:  
\_\_\_\_\_  
City Clerk

DYERSVILLE INDUSTRIES, INC.

By: \_\_\_\_\_  
Its: \_\_\_\_\_

**EXHIBIT A**  
**LEGAL DESCRIPTION OF THE PROPERTY**

Certain real property bearing Delaware County Property Tax Parcel Identification Number 540000200171, more particularly described as:

20 West Industrial Center Seventh Addition, Lot 1, City of Dyersville, Delaware County, Iowa.

**EXHIBIT B**  
**SITE PLAN**