

**DEVELOPMENT AGREEMENT  
IEDA Downtown Housing Grant  
22-ARPDH-026**

This Development Agreement ("Agreement") made this day \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, by and between the CITY OF INDEPENDENCE, IOWA ("City") and BKC Properties, LLC or Wise Block Hardware LLC, DBA Hardware Hank ("Developer").

WHEREAS, the City submitted a grant application ("Application") to the Iowa Economic Development Authority ("IEDA") for a Downtown Housing Grant for a proposed Project located at 312 1<sup>st</sup> Street East, Independence, IA 50644 ("Property") to be completed at Property owned by Developer; and

WHEREAS, the Application was approved for Project by IEDA and the Grant Agreement, including an Award for this Project in the total amount of \$600,000.00, was accepted by the City upon the terms and conditions set out by IEDA; and

WHEREAS, Developer, as owner of the property, agrees to be bound by the terms and provisions of the Grant Agreement, consistent with the terms and provisions of this Development Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein, , the Parties agree as follows:

**1. PROJECT.** "Project" means the activities and other obligations to be performed or accomplished by the City and the Developer as described in this Agreement, in the Scope of Work set out herein and, in the Application.

**2. PROJECT COMPLETION PERIOD.** The "Project Completion Period" commences with the Date of Award Letter from IEDA, June 14, 2022, and ends with the Project Completion Date set out in the grant, June 14, 2024.

**3. COSTS TO BE REIMBURSED.** The costs to be reimbursed under this agreement are those costs that are directly related to the Project, as allowed and permitted by Section 261-45.2 of Iowa Administrative Code, and as set out in the Project Application subsequently approved by IEDA, and resulting in the Project Award of \$600,000, to wit:

• Construction – Exterior Envelope	\$175,000.00
• Construction – Windows/Doors	\$ 75,000.00
• Construction – Roofing	\$ 82,000.00
• Construction - Plumbing	\$ 97,650.00
• Construction – Electrical	\$173,496.00
• Construction – Insulation	\$ 50,000.00
• Construction – General Carpentry	\$165,000.00
• Construction – Finishes (paint, carpet, fixtures, etc.)	\$300,000.00
• Site Preparation	\$100,000.00
• Professional Services	\$ 10,000.00
• Fees and Permits	\$ 2,475.00
• Contingencies (Otherwise eligible)	\$108,179.00

Those costs specifically do not include expenditures for furnishings, appliances, accounting services, legal services, loan origination and other financing costs, syndication fees and related costs, developer fees, or the costs associated with selling or renting dwelling units whether incurred before or after

completion of the Project.

**4. PRIOR EXPENSES.** No expenditures made prior to the Date of Award Letter may be included as Project Costs.

**5. MAINTENANCE OF INSURANCE.** The Developer shall maintain the Property in good repair and condition, ordinary wear and tear excepted, and shall not suffer or commit waste or damage upon the Property. The Developer shall pay for and maintain insurance in an amount not less than the full insurable value of the Property. The Developer shall name the City and the IEDA as Additional Insured under Developer insurance policies. The Developer shall provide the City with a copy of applicable declaration page(s) showing the City and IEDA as additional insured.

**6. SCOPE OF WORK.** The Project includes structural repairs, roof repairs, insulation updates, windows and awnings, updated electrical system, interior and exterior paint, bathroom installation, and plaster repair, as more specifically described in the Application.

**7. WORK RESPONSIBILITIES.** Subject to the terms of this Agreement, Developer will be solely responsible for completing all work on the Project. Neither party will be considered an agent of the other for purposes of this Project, and each will hold harmless and indemnify the other for any damages suffered by any person or entity as a result of its own or its agents' acts or failures to act in performance of its obligations under this Agreement.

**8. FINANCIAL OBLIGATION.** In addition to the Grant funding, the parties agree to the following financial commitments.

City agrees to contribute or commit \$50,000.00 towards eligible Project costs and expenses, in addition to in kind contributions deemed to be equal to \$52,475.75 related to dedicated off-street parking and the waiver of building permit fees.

Developer agrees to con commit \$523,750.00 towards eligible Project costs and expenses incurred in excess of Grant funds and City contribution. Any additional investment, above and beyond the amounts set forth above, shall be the sole responsibility of Developer.

**9. ASSIGNMENT OF AGREEMENT.** The Parties may not assign, transfer or convey in whole or in part this Agreement, without the consent of each Party. Consent shall not be unreasonably withheld.

**10. WRITING REQUIRED.** No change, modification, or termination of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed by the Parties.

**11. PAYMENT PROCEDURES FOR GRANT FUNDS.** Payment under the Grant shall be made on a reimbursement basis. Requests for reimbursement shall be submitted at two points in the Project. The first request shall be made after costs directly related to the Project are equal or greater than the sum of 60% of the Grant Award and the required 25% match. ("Project Mid-Point") The final request for reimbursement shall be made within thirty (30) days after Project Completion, for the remaining 40% of the Grant Funds. Payments will be made to Developer within thirty (30) days of the receipt by City of Grant funds from IEDA. For example: Pay Request #1 may be submitted after the following parameters have been met or exceeded:

- 60% of the \$600,000 Grant Award = \$360,000
- 25% of the required match (25% of \$600,000) = \$150,000

The request shall be submitted on a Draw Request Reimbursement Form and Itemization Form prescribed by IEDA, and shall be accompanied by documentation that the Project has a developer loan, developer cash contribution, or deferred developer fee that totals at least 25% of the Project Award amount. The IEDA may request additional documentation, which Developer agrees to provide, as follows: Copies of cancelled checks, invoices, receipts, staff time tracking, or payrolls; data completion or similar reports generated from the approved HMIS or DVIMS system; and Development Agreement between the City of Independence and the Developer.

**12. MISCELLANEOUS.**

a Any publications or media releases related to the Project will contain the following. This Project is Sponsored in Part by the Iowa Economic Development Authority and the City of Independence, IA.

b The City's obligation to provide funds is contingent on funds being available to the City from the IEDA under the Grant. Developer shall hold the City harmless from any damage Developer sustains as a result of funds for the Project being unavailable through the Grant.

c If the City's agreement with IEDA is modified in any way, this Agreement will be similarly modified, if necessary, to comply with or carry out the obligations placed on the City under the IEDA agreement. Developer shall hold the City harmless from any damage Developer sustains as a result of modifications to the City's agreement with IEDA over which the City has no control.

d The City of Independence Mayor, City Councilpersons, City employees, and/or the immediate family members of any of the above, shall not be paid for any work performed on the Project through contracts with Developer, or otherwise, unless that work was contracted through a competitive bidding process.

**13. ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the City and the Developer with respect to the Project contained herein.

IN WITNESS WHEREOF, the parties have executed this Agreement at City of Independence, Buchanan County, Iowa, the day and year first stated.

**CITY OF INDEPENDENCE**

BY: \_\_\_\_\_  
Mayor

ATTEST: \_\_\_\_\_  
City Administrator/Clerk

**BKC Properties, LLC or Wise Block Hardware LLC DBA Hardware Hank**

BY: \_\_\_\_\_  
Kellie Cole