

## DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Oelwein, Iowa (the “City”) and Oelwein Event Corporation (the “Developer”) as of the \_\_\_ day of \_\_\_\_\_, 2023 (the “Commencement Date”).

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

WHEREAS, the Developer has proposed to undertake the renovation (the “Project”) of an existing building (the “Existing Building”) situated on the Property for use in the business operations of an events center (the “Events Center”); and

WHEREAS, the Developer has requested that the City provide financial assistance in the form of an economic development grant (the “Grant”) to be used by the Developer in paying or reimbursing the costs of constructing the Project; and

WHEREAS, the City will also undertake the construction of certain parking lot improvements (the “City Parking Project”) in support of 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. Developer’s Covenants**

**1. Project Construction and Operation.** The Developer agrees to cause the construction of the Project on the Property. The Developer agrees to (i) approve a final design of the Project; (ii) enter into a contract for the construction of the Project; and (iii) and cause commencement of construction of the Project on the Property by July 1, 2023 (the “Initial Grant Disbursement Prerequisite Requirements”).

Further, subject to any Unavoidable Delays, the Developer agrees to (i) complete construction of the Project; and (ii) obtain a certificate of occupancy from the City for the Project by no later than July 1, 2024 (the “Second Grant Disbursement Prerequisite Requirements”).

For purposes of this Agreement the term “Unavoidable Delays” means delays resulting from acts or occurrences outside the reasonable control of Developer, 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 or delivery of material or equipment, litigation commenced by third parties, pandemics, or the acts of any federal, State, or local governmental unit.

Upon completion of the Project, the Developer agrees to continuously operate (the “Operational Requirement”) the Events Center on the Property throughout the Term (as hereinafter defined). Further, the Developer agrees to maintain, preserve, and keep the Property,

including but not limited to the Events Center, 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.

**2. Grant Disbursement Requests and Operational Documentation.** The Developer agrees to make certain grant disbursement requests (individually, each a “Grant Disbursement Request”) to the City in accordance with this Section A.2, as follows:

**a. Initial Grant Disbursement Request.** Upon satisfaction of the Initial Grant Disbursement Prerequisite Requirements, the Developer agrees to submit an initial grant disbursement request (the “Initial Grant Disbursement Request”) to the City. The Initial Grant Disbursement Request shall be accompanied by a copy of the construction contract entered into by the Developer for the Project and such invoices and other reasonable documentation demonstrating to the City that the Initial Grant Disbursement Prerequisites have been met by the Developer.

**b. Second Grant Disbursement Request.** Upon satisfaction of the Second Grant Disbursement Prerequisite Requirements, the Developer agrees to submit a second grant disbursement request (the “Second Grant Disbursement Request”) to the City. The Second Grant Disbursement Request shall be accompanied by reasonable documentation, including a copy of the Certificate of Occupancy, demonstrating to the City that the Second Grant Disbursement Prerequisites have been met by the Developer.

**c. Remaining Grant Disbursement Requests.** The Developer agrees to submit the remaining Grant Disbursement Requests on June 1 in each of the years 2025, 2026, and 2027. Each of the remaining Grant Disbursement Requests shall be accompanied by reasonable documentation demonstrating to the satisfaction of the City that the Developer is in compliance with the Operational Requirement. Such documentation shall include a copy of the Events Center’s reservation records for the twelve (12) months preceding each such remaining Grant Disbursement Request.

The Grant Disbursement Requests submitted under this Section A.2 shall be in the form attached hereto as Exhibit B.

**3. Review of Reservation Records.** Upon reasonable request, the Developer shall provide the City with access to the Events Center reservation records for inspection.

**4. City Event Reservations.** Each year during the Term of this Agreement after Project construction is completed, the Developer agrees to provide to the City two (2) weekday, four (4) hour rental reservations at no cost to the City.

**5. Sale or Lease of the Event Center.** The Developer agrees that it shall obtain written consent from the City prior to entering into any third-party agreement to sell or lease the Events Center for a period of longer than thirty (30) days. This covenant shall run with the land and be recorded by the Developer with the Fayette County Auditor upon commencement of this Agreement.

**6. Developer's Obligations with Respect to City Parking Project.** The Developer agrees to grant to the City, at no cost to the City, any and all easements necessary for the City to complete the City Parking Project. The Developer further agrees to maintain, preserve, and keep the City Parking Project, 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, the Developer agrees to maintain compliance with local zoning, land use, safety codes and all other rules regulations with respect to the maintenance of the City Parking Project.

**7. 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 the Developer to comply with the terms and conditions of Section A.1 of this Agreement with respect to the Project.
- (ii) Failure by the Developer to comply with Section A.2, A.3, A.4, A.5 and A.6 of this Agreement.
- (iii) Failure by the Developer 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 the Developer describing the cause of the default and the steps that must be taken by the Developer in order to cure the default. The Developer shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances reasonably satisfactory to City that the default will be cured as soon as reasonably possible. If the Developer fails to cure the default or provide assurances, 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 proceeds of the Grant under Section B.1 of this Agreement.
- (iii) Terminate this Agreement.

**B. City's Obligations**

**1. Grant Disbursements.**

**a. Grant Disbursements.** The City hereby agrees to fund the Grant in an amount equal to \$500,000, in accordance with this Section B.1, as follows:

(i) **Initial Grant Disbursement.** Upon receipt of the Initial Grant Disbursement Request from the Developer demonstrating that the Developer is in compliance with the Initial Grant Disbursement Prerequisite Requirements, the City agrees to pay a portion of the proceeds of the Grant to the Developer in an amount equal to \$100,000 within thirty (30) days of receipt of such Initial Grant Disbursement Request or on July 1, 2023 whichever is later.

In the event that the City determines that the Initial Grant Disbursement Request received from the Developer does not meet the requirements of Section A.2 above, the City shall notify the Developer within fifteen (15) days of such determination in order to allow an opportunity for the Developer to cure the noted deficiencies of such Initial Grant Disbursement Request.

(ii) Second Grant Disbursement. Upon receipt of the Second Grant Disbursement Request from the Developer demonstrating that the Developer is in compliance with the Second Grant Disbursement Prerequisite Requirements, the City agrees to pay a portion of the proceeds of the Grant to the Developer in an amount equal to \$100,000 within thirty (30) days of receipt of such Second Grant Disbursement Request or on July 1, 2024, whichever is later.

In the event that the City determines that the Second Grant Disbursement Request received from the Developer does not meet the requirements of Section A.2 above, the City shall notify the Developer within fifteen (15) days of such determination in order to allow an opportunity for the Developer to cure the noted deficiencies of such Second Grant Disbursement Request.

(iii) Remaining Grant Disbursements. Upon receipt from the Developer of the Grant Disbursement Request due June 1, 2025 demonstrating that the Developer is in compliance with the Operational Requirement, the City agrees to pay a portion of the proceeds of the Grant to the Developer in an amount equal to \$100,000 on July 1, 2025.

Upon receipt from the Developer of the Grant Disbursement Request due June 1, 2026 demonstrating that the Developer is in compliance with the Operational Requirement, the City agrees to pay a portion of the proceeds of the Grant to the Developer in an amount equal to \$100,000 on July 1, 2026.

Upon receipt from the Developer of the Grant Disbursement Request due June 1, 2027 demonstrating that the Developer is in compliance with the Operational Requirement, the City agrees to pay a portion of the proceeds of the Grant to the Developer in an amount equal to \$100,000 on July 1, 2027.

In the event that the City determines that a remaining Grant Disbursement Request received from the Developer does not meet the requirements of Section A.2 above, the City shall notify the Developer within fifteen (15) days of such determination in order to allow an opportunity for the Developer to cure the noted deficiencies of such Initial Grant Disbursement Request.

**3. City Parking Project Construction.** The City agrees to undertake the City Parking Project, consisting of the construction of improvements to the Event Center East and Event Center West parking lots owned by the Developer. The City agrees to cause the completion of the City Parking Project by no later than August 1, 2024 at a cost not to exceed \$300,000 (the “City Parking Project Cost Estimate”). Upon completion of the construction of the City Parking Project, the City shall be under no obligation to continue to maintain the Event Center East and/or the Event Center West parking lots.

The City may choose to procure construction contracts for the City Parking Project through the statutory process for public bid letting set forth in Chapter 26 of the Code of Iowa and otherwise in accordance with applicable law. To the extent that the bids received for the construction of the City Parking Project are higher than the City Parking Project Cost Estimate such that the actual

cost of the City Parking Project is projected to exceed the City Parking Project Cost Estimate by a factor of five percent (5%) the City may, with advice from the project engineers and legal counsel, make modifications to the City Parking Project, to the extent allowed under Chapter 26 of the Code of Iowa, and/or reject the bids and modify the timeline for completion and the specifications for the City Parking Project so that its costs are no longer likely to exceed the City Parking Project Cost Estimate.

**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, which consent shall not be unreasonably withheld. However, the City hereby gives its permission that the Developer's rights to receive the proceeds of the Grant hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken with respect to the Project, without further action on the part of the City.

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

**3. Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on date on which the Final Grant Disbursement is made under Section B.1 above.

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

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

CITY OF OELWEIN, IOWA

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

Attest:

\_\_\_\_\_  
City Administrator

OELWEIN EVENT CORPORATION

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

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

Certain real property located in the City of Oelwein, Fayette County, Iowa more particularly described as follows:

LOTS 21, 22, 23, 24, 25, 26 AND 27, AND THE WEST HALF  
OF LOTS 1, 2, 3 AND 4, BLOCK 2, OELWEIN, FAYETTE COUNTY, IOWA.

**EXHIBIT B**  
**FORM OF GRANT DISBURSEMENT REQUEST**

Date submitted: \_\_\_\_\_

Submitted by: \_\_\_\_\_

Contact information: \_\_\_\_\_

**Circle one: Initial Grant Disbursement Request      Second Grant Disbursement Request**  
**Third Grant Disbursement Request      Fourth Grant Disbursement Request**  
**Final Grant Disbursement Request**

Index of Documentation Attached to substantive request:

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OELWEIN EVENT CORPORATION

\_\_\_\_\_  
[Name/Title]

Reviewed and accepted by the City of Oelwein, Iowa this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

Attest: \_\_\_\_\_  
City Administrator