

RESOLUTION NO. 096 (2024/2025)

Resolution Authorizing Economic Development Grant Agreement with Sierra Heights, L.L.C. and Nevada Dev, LLC and Authorizing Agreement for Private Development with Sierra Heights, L.L.C.

WHEREAS, Sierra Heights, L.L.C. has proposed to undertake the construction of a residential subdivision (the "Sierra Heights Housing Project") in the City of Nevada, Iowa (the "City"), including the construction of public infrastructure improvements necessary for the development of the Sierra Heights Housing Project; and

WHEREAS, Nevada Dev, LLC has undertaken the construction of a residential subdivision (the "Nevada Dev Housing Project") in the City, including the construction of public infrastructure improvements necessary for the development of the Nevada Dev Housing Project; and

WHEREAS, Sierra Heights and Nevada Dev have proposed to cooperate to cause the construction of certain trail improvements (the "Trail Project") in connection with the Sierra Heights Housing Project and the Nevada Dev Housing Project; and

WHEREAS, Sierra Heights has requested that the City provide financial assistance in the form of an economic development grant (the "Sierra Heights Grant") in an amount no to exceed \$395,000 to be used by Sierra Heights in paying the costs of undertaking the extension of an eighteen-inch sewer line at the request of the City in connection with the Sierra Heights Housing Project; and

WHEREAS, a certain Agreement for Private Development (the "Sierra Heights Agreement") between the City and Sierra Heights has been prepared which sets forth the responsibilities of the City and Sierra Heights with respect to the Sierra Heights Housing Project and the Sierra Heights Grant; and

WHEREAS, Sierra Heights and Nevada Dev have requested that the City provide financial assistance in the form of an economic development grant (the "Trail Project Grant") in an amount no to exceed \$150,000 to be used by Sierra Heights and/or Nevada Dev in paying the costs of undertaking the Trail Project; and

WHEREAS, a certain economic development grant agreement (the "Trail Project Agreement") among the City, Sierra Heights and Nevada Dev has been prepared which sets forth the responsibilities of the City, Sierra Heights and Nevada Dev with respect to the Trail Project and the Trail Project Grant; and

WHEREAS, Chapter 15A of the Code of Iowa ("Chapter 15A") declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors; and

NOW, THEREFORE, It Is Resolved by the City Council of the City of Nevada, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds that:

(a) The Sierra Heights Housing Project, the Nevada Dev Housing Project and the Trail Project will add diversity and generate new opportunities for the Nevada and Iowa economies;

(b) The Sierra Heights Housing Project, the Nevada Dev Housing Project and the Trail Project will generate public gains and benefits, particularly in the creation and retention of jobs and income and new housing opportunities, which are warranted in comparison to the amount of the proposed Sierra Heights Grant and the Trail Project Grant.

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by entering into the Sierra Heights Agreement and funding the Sierra Heights Grant, and a public purpose will reasonably be accomplished by entering into the Trail Project Agreement and funding the Trail Project Grant.

Section 3. The Sierra Heights Grant in an amount not to exceed \$395,000 is hereby approved, subject to the terms and conditions set out in the Sierra Heights Agreement to be entered into by Sierra Heights and the City. The Mayor and the City Administrator, with advice from legal counsel to the City, are hereby authorized and directed to prepare any additional documentation and to make such changes to the Sierra Heights Agreement as are deemed necessary to carry out the purposes of this Resolution. The Mayor and the City Clerk are hereby authorized to execute such documents as may be necessary to implement the Sierra Heights Grant approved herein, including the Sierra Heights Agreement, in substantially the form as has been presented to this City Council.

Section 4. The Trail Project Grant in an amount not to exceed \$150,000 is hereby approved, subject to the terms and conditions set out in the Trail Project Agreement to be entered into by Sierra Heights, Nevada Dev and the City. The Mayor and the City Administrator, with advice from legal counsel to the City, are hereby authorized and directed to prepare any additional documentation and to make such changes to the Trail Project Agreement as are deemed necessary to carry out the purposes of this Resolution. The Mayor and the City Clerk are hereby authorized to execute such documents as may be necessary to implement the Trail Project Grant approved herein, including the Trail Project Agreement, in substantially the form as has been presented to this City Council.

Section 5. All resolutions or parts thereof in conflict herewith are hereby repealed.

AGREEMENT FOR PRIVATE DEVELOPMENT
Between the City of Nevada, Iowa and
_____, L.L.C.

Preparer Information: Jeffrey G. Baxter, 801 Grand Avenue, Suite 3700, Des Moines, Iowa 50309 (515) 244-2600

Taxpayer Information: Sierra Heights, L.L.C., 7008 Madison Avenue, Urbandale, IA 50322

Return Document to: Sierra Heights, L.L.C., 7008 Madison Avenue, Urbandale, IA 50322

Grantor: City of Nevada, Iowa

Grantee: Sierra Heights, L.L.C.

Property Description: See Page 1

AGREEMENT FOR PRIVATE DEVELOPMENT
Between the City of Nevada, Iowa and
_____, L.L.C.

This AGREEMENT FOR PRIVATE DEVELOPMENT (the "Agreement") is made on or as of the _____ day of _____, 2025, by and between the CITY OF NEVADA, IOWA, a municipality (the "City") and SIERRA HEIGHTS, L.L.C., an Iowa limited liability company (the "Developer"), whose principal place of business is located at 7008 Madison Avenue, Urbandale, IA 50322.

Recitals

A. The City has undertaken a program for economic development in the City by adopting its Urban Revitalization Plan in _____, 20____, and the City will amend its Urban Revitalization Plan pursuant to this Agreement with the Developer.

B. The Developer is under contract, subject to the satisfaction of certain conditions, to purchase certain real property, commonly known as a portion of Assessor Parcel No. 1106300105 and legally described in the attached **Exhibit "A-1"** and as depicted on the attached Preliminary Plat as **Exhibit "A-2"** ("Property");

C. The Developer proposes to construct on the Property a residential rental housing development, including the infrastructure necessary for it (the "Project"), and the City desires that Developer do so.

D. The City and Developer desire to have Developer construct all infrastructure located within the Property in accordance with the City's comprehensive plan and to SUDAS and City standards according to an approved site plan.

E. The City has agreed to provide a tax abatement to Developer as provided in this Agreement.

F. The City and Developer desire to enter into this Agreement for the purpose of detailing the responsibilities of each party in the construction of certain improvements associated with the Property.

Terms of Agreement

NOW, THEREFORE, in consideration of the above-stated recitals and the promises and assurances set forth below, the City and Developer agree as follows:

1. THE PROJECT: The Developer, at its expense, shall construct a residential housing development (the "Development") [in no fewer than ____ () phases at Developer's reasonable discretion, collectively] consisting of no fewer than _____ () market-rate multi-bedroom leased housing units [within _____ () months ("Construction Deadline") following the last to occur of (i) acquisition of title to the

Property; and (ii) the completion of construction of the City Infrastructure, as defined below, if any.] All specifications for the Development shall be derived from approved site plans, landscape plans, grading plans, and other plans submitted by Developer to City that are approved by the City. Any changes to the plans must first be approved by the City in writing.

2. CONTRIBUTIONS, OBLIGATIONS AND UNDERTAKINGS OF DEVELOPER:

- A) The Developer shall utilize standard construction practices with regard to the construction of the residences, including architectural shingles, engineered wood siding (or comparable) with 50-year warranty stone veneer, and neutral earth tone colors.
- B) The Developer, at its expense, shall construct private entrances and streets located within the Property, public storm sewer lines and public sanitary lines to serve the Development and to be connected to the City's infrastructure, and will be dedicated to the City following construction. All maintenance on private infrastructure will be performed by, and at the expense of, Developer. The necessary private drives, storm sewer lines, and sanitary sewer lines will be constructed in accordance with SUDAS standards, according to the approved site plan. The connections of all such private infrastructure to the City's infrastructure shall be supervised by, and subject to the approval of City officials. Following construction, the Developer shall dedicate the public storm sewer and public sanitary sewer lines to the City, and the City will accept such dedications.
- C) The Developer hereby agrees that it shall install an extension of the eighteen inch sanitary sewer line in the location shown on the attached Exhibit "C" ("Sewer Extension"), provided, however that the City will repay Developer for the costs of extending the sanitary sewer line (the "Sewer Extension Costs"). Upon completion of the Sewer Extension, the Developer shall submit to the City a "Disbursement Request" in the form attached hereto as Exhibit B for review as provided herein requesting reimbursement of the Sewer Extension Costs. The Sewer Extension will be constructed in accordance with SUDAS standards, according to the approved site plan. The connections of the Sewer Extension to the City's infrastructure shall be supervised by, and subject to the approval of City officials. Following construction, the Developer shall dedicate the Sewer Extension to the City, and the City will accept such dedication.
- D) The Developer, at its expense, shall install onsite watermains and appurtenances to connect to the City water system. The Developer shall construct watermains in accordance with specifications set forth in the City Code and administrative rules and in locations approved by the City, as shown on the concept plan for the development ("Concept Plan"). Upon issuance of a final Certificate of Occupancy for the last unit in the development, the Developer shall dedicate the watermains to

the City, and will provide City with an easement for future maintenance of the Development's watermains, and other infrastructure, in dimensions and locations approved by the City, and the City will accept such dedications.

- E) The Developer, at its expense, shall construct any required storm water detention facility, if any, in accordance with SUDAS standards, according to the approved site plan, and in accordance with specifications set forth in the City Code and administrative rules and in locations approved by the City.
- F) Developer shall construct and extend a portion of the public street known as R Street ("R St.") to and connecting to the southern portion of the Property, as shown on the Concept Plan ("R St. Extension") which shall be dedicated to the City as a public road. The R St. Extension shall include the cost of installation of watermains and other appurtenances. The R St. Extension, including watermains, storm sewer lines, and sanitary sewer lines located therein will be constructed in accordance with SUDAS standards, according to the approved site plan. The connections of all private infrastructure to the City's infrastructure shall be supervised by, and subject to the approval of City officials. Following construction of the R St. Extension, the Developer shall dedicate the Public Street, watermains, and the public storm sewer and public sanitary sewer lines to the City, and the City will accept such dedications.
- G) Developer, at its expense, shall have installed individual water meters for each residential unit in the Development.
- H) Developer, at its expense, shall acquire all necessary permits required by law associated with the Project and Development.
- I) As a prerequisite for the granting of the property tax exemption described in Section 3.A below, Developer shall complete the Development in accordance with this Agreement, make qualifying improvements, and make timely application for property tax abatement with respect to the Property and the completed Development pursuant to the requirements of Chapter 404 of the Code of Iowa and the plan for the City's Urban Revitalization Area. For purposes of clarification, qualifying improvements in this Section means that the Developer constructs new residential facilities on the Property that are assessed as residential property under Section 441.21, subsection 14, paragraph "a", subparagraph (6) of the Code of Iowa and which increase the assessed valuation of the Property by at least ten percent (10%).
- J) Developer shall prohibit parking on the private streets in the Development and shall enforce the prohibition. The private streets shall be kept free of parked vehicles, snow, and other obstructions so public safety agencies and utility and maintenance workers can drive vehicles on such streets. Employees and agents of public safety

agencies, including City, county, state, and federal agencies, and agencies cooperating with such public safety agencies, as well as City utility and other public utility employees and agents shall be permitted to use such private streets and sidewalks within the Development, and private entrances to the Development at all times, as if they were public streets and public sidewalks.

3. CITY OBLIGATIONS AND UNDERTAKINGS:

- A) The City hereby agrees to use its best efforts to complete the statutory requirements of Chapter 404 of the Code of Iowa in order amend its Urban Revitalization Plan for the Urban Revitalization Area to provide for a tax exemption schedule available to the property owner of the Property for the construction of new residential facilities assessed as residential property under Section 441.21, subjection 14, paragraph "a", subparagraph (6) of the Code of Iowa, as follows:

A partial exemption from taxation for a period of ten (10) years as follows:

For the first year, an exemption from taxation on 100% of the actual value added.

For the second year, an exemption from taxation on 90% of the actual value added.

For the third year, an exemption from taxation on 80% of the actual value added.

For the fourth year, an exemption from taxation on 70% of the actual value added.

For the fifth year, an exemption from taxation on 60% of the actual value added.

For the sixth year, an exemption from taxation on 50% of the actual value added.

For the seventh year, an exemption from taxation on 40% of the actual value added.

For the eighth year, an exemption from taxation on 30% of the actual value added.

For the ninth year, an exemption from taxation on 20% of the actual value added.

For the tenth year, an exemption from taxation on 10% of the actual value added.

- B) City shall accept dedication of the public infrastructure (R St. Extension, public storm sewer lines, public sanitary sewer lines, and watermain) that serves the Development at such time as it becomes obligated to maintain such improvements under Sections 2(B), 2(C), 2(D) and 2(F) above.

The City agrees to pay the Sewer Extension Costs. The City will review and either approve or disapprove the Disbursement Request within fifteen (15) days after receipt thereof. If the City approves the Disbursement Request, then the City agrees to remit payment to the Developer for the Sewer Extension Costs within fifteen (15)

days of such approval. If the City disapproves the Disbursement Request, then the Developer and the City will meet and negotiate in good faith to achieve a resolution.

- C) The City agrees to vacate, or shall cause to be vacated, any unnecessary easements which interfere with the Developer's development of the project.
- D) The City agrees to grant, or cause to be granted, any required access, ingress/egress, utility, storm sewer or sanitary sewer easement for access to any facilities as necessary for the Developer's development of the Property. The City shall also grant, or cause to be granted, any temporary construction easements necessary for the Developer to construct the connections to any such infrastructure.
- E) The City shall conduct and provide to Developer any such reviews or studies necessary for the Developer's connection to City Infrastructure, including without limitation, a lift station capacity study, traffic study, storm sewer capacity study, or sanitary sewer capacity study (collectively, the "City Studies").
- F) In the event one or more of the City Studies indicates that existing City infrastructure is unable to handle the increased capacity anticipated by the Project, then the City agrees, at the City's cost, to upgrade the existing City infrastructure, including without limitation, streets, water lines, storm sewer lines, sanitary sewer lines, lift stations, downstream gravity sewers, or any other City infrastructure (collectively, "City Infrastructure") to be able to accommodate such anticipated increased capacity due to the Project.
- G) The City agrees to grant reasonable variances, zoning changes, or other modifications necessary to allow for the construction of the project in conformance with the approved Site Plan.
- H) If necessary, the City shall cause the Property to be rezoned to a Residential Multi-Family District, or to a PUD, in which case Developer shall work in good faith with City to reach a mutually acceptable PUD agreement.
- I) If applicable, the City shall work with Developer to remove and relocate any wetlands to another location either within the Project, that is acceptable to Developer and approved by all other necessary state and local agencies, and which does not materially interfere with the intended Project, as shown on the Site Plan, or to a location outside the Project, prior to the closing on the Property. The City shall be responsible for any expenses to mitigate the Wetlands.
- J) Upon Developer's acquisition of title to the Property, this Agreement shall be recorded by the City in the Story County, Iowa Recorder's Office. The recording of the Agreement shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Property and the improvements located and operated on the Property. All provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the

filing of the Agreement made a part hereof by reference, and anyone making any claim against any of the 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.

4. TRAIL CONSTRUCTION AGREEMENT. The Developer, City and Nevada Dev, LLC, an Iowa limited liability company ("Seller"), and the Seller of the Property to Developer, have tentatively agreed to jointly pay for the costs of constructing a bike and walking trail located partially on the Property, partially on Seller's property and partially on other adjacent property. The City and Developer shall both reasonably cooperate to come to terms on an agreement with Seller reflecting the terms and conditions of the construction of the trail ("Trail Construction Agreement").
5. CLOSING CONTINGENCY. In the event that Developer does not close on the Property, in accordance with the terms of the purchase agreement for the Property, then this Agreement shall be of no further force or effect. [If Developer has not closed on the Property before _____, 20____, then the City may provide Developer notice that this Agreement shall terminate, and be of no further force or effect, unless Developer shall close on the Property within sixty (60) days following receipt of such written notice from the City.
6. RECORDING OF THE AGREEMENT. Neither the City nor the Developer shall record this Agreement with the Story County, Iowa Recorder's Office at any time, except as provided in Section 3(J) above.
7. SUCCESSORS AND ASSISGNS BOUND. The terms and provisions of this Agreement shall bind, and inure to the benefit of, the Developer's and the City's successors in interest and assigns.
8. 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, subcontractor, landowner, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions of this Agreement.
9. INSPECTION OF AGREEMENT BY PUBLIC. 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, Nevada, Iowa.
10. AMENDMENT/ASSIGNMENT. This Development Agreement may not be amended or assigned by any party without the expressed permission of the other parties.
11. MISCELLANEOUS PROVISIONS.
 - A) Attorneys' Fees. If either Party brings an action at law or in equity to enforce the provisions of this Agreement against the other Party, including, without limitation, in an action for declaratory relief, the prevailing Party shall be entitled to receive

from the other Party its reasonable attorneys' fees and other reasonable expenses incurred in connection with such action. In addition to the foregoing award of attorneys' fees to the prevailing Party, the prevailing Party in any lawsuit on this Agreement shall be entitled to its attorneys' fees incurred in any post judgment proceedings to collect or enforce the judgment.

- B) Waiver of Jury Trial. The parties by this Section waive trial by jury in any dispute brought by either of the Parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Agreement and/or the relationship of the Parties under this Agreement.
- C) Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.
- D) Further Assurances. Each Party shall take all actions and do all things, and execute, with acknowledgement or affidavit, if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement.
- E) Severability. If any provisions, conditions, or covenants of this Agreement, or the application thereof to any circumstances of either Party, shall be held invalid or unenforceable, the remainder of this Agreement or the application of such provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- F) Entire Agreement. This Agreement, together with all exhibits and schedules attached hereto, constitutes the Parties' entire agreement and understanding regarding the matters set forth herein. All prior or contemporaneous oral or written drafts of this Agreement or other understandings with respect to the subject matter herein between the parties are merged into this Agreement.
- G) Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered (by electronic means or otherwise) shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.
- H) Choice of Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Iowa.
- I) Neutral Interpretation; Headings. Each Party acknowledges that it has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions

of this Agreement shall be construed as to their fair meaning, and not for or against any Party based upon any attribution to such Party as the source of the language in question. The headings used in this Agreement are for the convenience of reference only and shall not be used in construing this Agreement.

- J) Condition. In the event that the Developer and City fail to close on the Property in accordance with the terms of the Purchase Agreement, this Agreement shall be of no further force or effect.
- K) Approved by City Council. This Agreement is subject to the approval of the City of Nevada City Council and shall be of no force or effect unless and until approved by the City Council for the City of Nevada.

SIGNATURES APPEAR ON THE FOLLOWING PAGES

The City has executed this Agreement on the ____ day of _____, 2025.

(seal)

CITY OF NEVADA, IOWA

By: _____,
_____, Mayor

ATTEST:

By: _____,
_____, City Clerk

STATE OF IOWA)
) ss.
COUNTY OF STORY)

On this _____ day of _____, 2025, before me a Notary Public in and for said State, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Nevada 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 Clerk 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

SIERRA HEIGHTS, L.L.C.

By: Karie Ramsey, its Manager

STATE OF IOWA)
) ss.
COUNTY OF _____)

This record was acknowledged on the _____ day of _____, 2025, by
Karie Ramsey, as Manager of Sierra Heights, L.L.C.

Notary Public in and for the State of Iowa

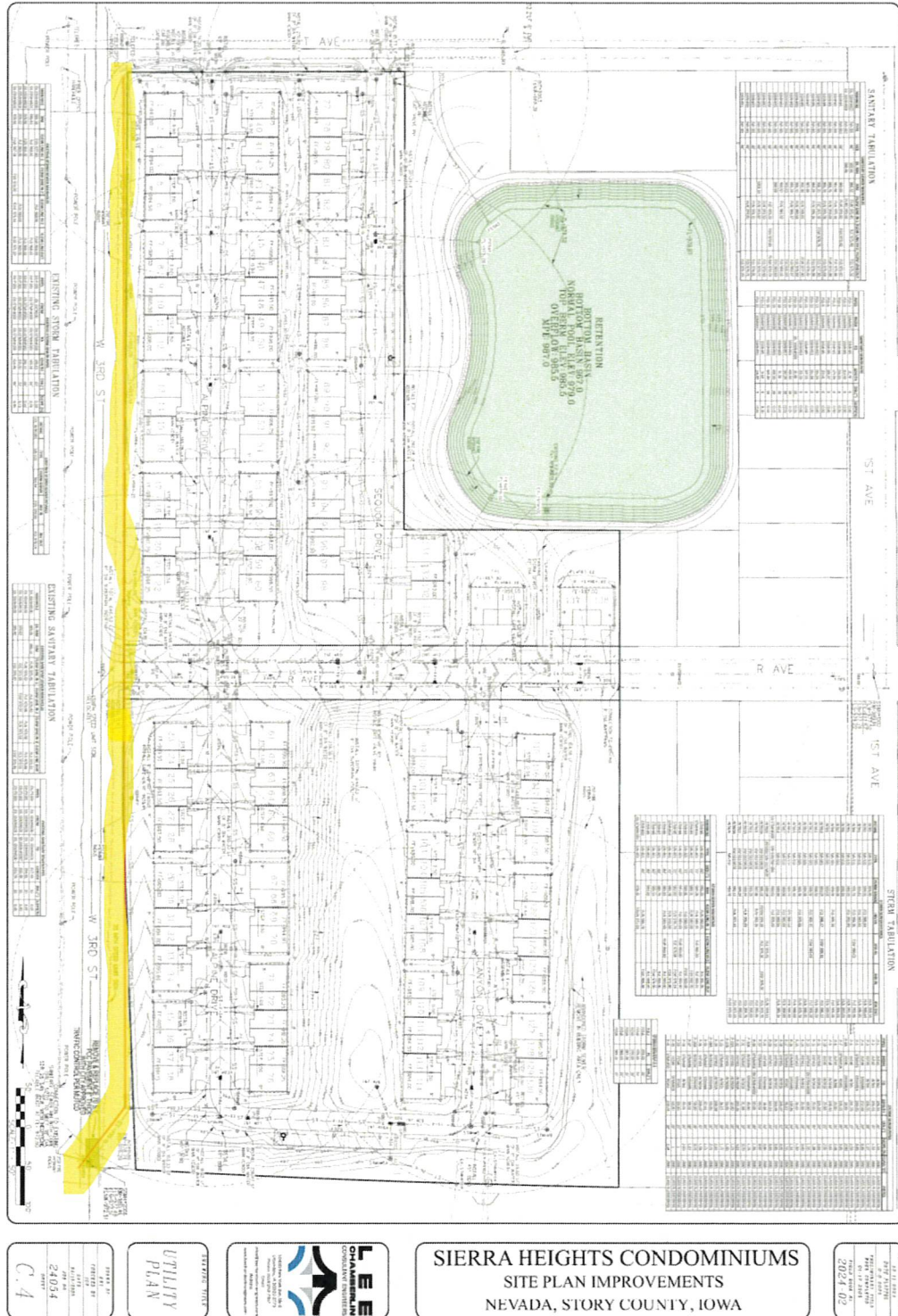
EXHIBIT A-1
Legal Description – City Property

[To be Added]

EXHIBIT A-2
Legal Description – Preliminary Site Plan

[To be Added]

EXHIBIT C Sewer Extension



DEVELOPMENT AGREEMENT

This Agreement is entered into among the City of Nevada, Iowa (the "City"), Sierra Heights, Inc. ("Sierra Heights") and Nevada Dev, LLC ("Nevada Dev" and together with Sierra Heights, the "Developers") as of _____, 2025 (the "Commencement Date").

WHEREAS, Sierra Heights owns, or is under contract to purchase, certain real property which is situated in the City and is more specifically described on Exhibit A hereto (the "Sierra Heights Property"); and

WHEREAS, Nevada Dev owns certain real property which is situated in the City and is more specifically described on Exhibit A-1 hereto (the "Nevada Dev Property" and together with the Sierra Heights Property, the "Property"); and

WHEREAS, the Developers have proposed to undertake certain improvements on the Property consisting of the construction of certain trail improvements (the "Trail Project"); and

WHEREAS, the Developers have requested that the City provide financial assistance in the form of an economic development grant (the "Grant") to be used by the Developers in paying a portion of the costs of constructing the Trail 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. **Trail Project Construction.** Sierra Heights will be responsible for causing the planning, design and construction of the Trail Project. Sierra Heights agrees to cause the preparation of plans and specifications (the "Engineering Documents") for the Trail Project by a licensed engineer which will minimally include the specifications set forth in Exhibit B hereto. Prior to constructing the Trail Project, the Constructing Developer will submit copies of all Engineering Documents related to the proposed Trail Project to the City for review. The City may request reasonable changes in such documents, to ensure compliance with any applicable ordinances or regulations of the City. Further, prior to construction of the Trail Project, Sierra Heights agrees to submit a site plan (the "Site Plan") for the Trail Project. Upon approval by the City Council, the Site Plan shall be attached hereto as Exhibit B-1.

Sierra Heights agrees to cause the construction of the Trail Project in accordance with the Engineering Documents and the Site Plan by June 1, 2027 ("Construction Deadline").

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

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

3. Grant Disbursement Request and Costs Documentation. Sierra Heights agrees to submit a grant disbursement request (the "Disbursement Request") to the City in accordance with this Section A.3. The Disbursement Request submitted under this Section A.3 shall be in the form attached hereto as Exhibit C.

Upon completion of the Trail Project, Sierra Heights agrees to submit a grant disbursement request (the "Disbursement Request") to the City. The Disbursement Request shall be accompanied by documentation (the "Costs Documentation") detailing the costs (the "Trail Project Costs") incurred in completion of the Trail Project, including invoices, and such other documentation as may reasonably be requested by the City, confirming that the Trail Project Costs detailed in the Costs Documentation were in fact incurred in the construction of the Trail Project and that such Trail Project Costs are of an amount reasonably to have been expected with respect to such construction.

The Trail Project Costs may include all costs related to planning, designing and constructing the Trail Project, including without limitation, the preparation of the Engineering Documents, and interest expense and other costs of financing for the Trail Project.

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 the Developers to cause the construction of the Trail Project on or before the Construction Deadline, pursuant to the terms and conditions of this Agreement.
- ii. Failure by the Developers to comply with Sections A.2 and A.3 of this Agreement.
- iii. Failure by any party to observe or perform any other material covenant on his part, to be observed or performed hereunder.

b. Notice and Remedies. Whenever any Event of Default described in this Agreement occurs, the non-defaulting Party shall provide written notice to the defaulting Party(ies) describing the cause of the default and the steps that must be taken by the defaulting Party(ies) in order to cure the default. The defaulting Party shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to the non-defaulting Party that the default will be cured as soon as reasonably possible. If the defaulting Party fails to cure the default or provide assurances, the non-defaulting Party 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. In the case of the City as the non-defaulting Party, withhold the disbursement of the Grant proceeds provided for under Section B.2 of this Agreement.
- iii. Terminate this Agreement.

B. City's Obligations

1. Review of Disbursement Request and Costs Documentation.

The City staff will review the Disbursement Request upon receipt from Sierra Heights. If the City staff determines that the Disbursement Request satisfies the requirements of Section A.3 above, then the City shall record a summary of the date, amount and nature of the Trail Project Costs (the "Accepted Trail Project Costs") reflected in the Disbursement Request on the Summary of Accepted Trail Project Costs attached hereto as Exhibit D, and such summary shall be the official record of the Accepted Trail Project Costs for purposes of tallying the Maximum Grant Disbursement Amount (as hereinafter defined) allowed to the Developer under this Agreement.

If the City determines that the Disbursement Request received from Sierra Heights does not meet the requirements of Section A.3 above, then the City shall notify Sierra Heights (15) days of such determination in order to allow an opportunity for the Constructing Developer to cure the noted deficiencies.

2. Grant Disbursements. Within thirty (30) days of receipt from ~~the Constructing Developer~~ Sierra Heights of an acceptable Disbursement Request, the City agrees to disburse the proceeds of the Grant to the Developer in an amount (the "Maximum Grant Disbursement Amount") equal to the lesser of (i) the one-third (1/3) of the amount of the Accepted Trail Project Costs, or (ii) \$148,619.67.

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 Sierra Heights' rights to receive the proceeds of the Grant hereunder may be assigned by Sierra Heights to a private lender, as security on a credit facility taken with respect to the Trail 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 the date on which the proceeds of the Grant are advanced to Sierra Heights under Section B.2 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 NEVADA, IOWA

By: _____
Mayor

Attest:

City Clerk

SIERRA HEIGHTS, INC.

By: _____
Its: _____

NEVADA DEV, LLC

By: _____
Its: _____

EXHIBIT A
LEGAL DESCRIPTION OF THE SIERRA HEIGHTS PROPERTY

EXHIBIT A-1
LEGAL DESCRIPTION OF THE NEVADA DEV PROPERTY

EXHIBIT B
SPECIFICATIONS OF TRAIL PROJECT

The Trail Project shall consist of the construction of 10 foot wide, 6" subgrade-4" asphalt overlay recreational trail in the following location: **[provide description of location]**

EXHIBIT B-1
SITE PLAN

1

[illegible]