



City of  
**Blue Earth**

**CITY OF BLUE EARTH  
AGENDA  
CITY COUNCIL WORKSESSION  
MONDAY, JUNE 18, 2018 @ 4:30 P.M.**

**Call to order.**

**Roll call.**

**Old Business.**

1. 3 sisters Development Agreement Discussion
  - a. Recommendations from EDA

**New Business.**

- 1.

**Adjourn.**

**By Order of the Blue Earth City Council**

**Timothy Ibisch**

**City Administrator**

Post @ City Hall-Friday, June 15, 2018 through Monday, June 18, 2018

Distribute to Mayor & Council members-Media & file

DEVELOPMENT AGREEMENT

THIS AGREEMENT, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between the Economic Development Authority of the City of Blue Earth (the “Authority”), a body politic and corporate, Rural Renaissance Project, ~~Inc.~~ a charitable corporation (the “Company”) and the City of Blue Earth, a municipal corporation (the “City”); regarding the redevelopment of real property located in the City of Blue Earth, Faribault County, Minnesota described as:

Tract 1: A tract commencing 46 2/3 feet North of the Southeast corner of Block 95 of the Original Plat of the City of Blue Earth, West 64 feet, North 24 1/3 feet, East 4 feet, South 3 1/3 feet, East 60 feet, South 20 feet 11 inches as designated as Auditor’s Lot 42.

Tract 2: A tract commencing 23 2/3 feet North of the Southeast corner of Block 95 of the Original Plat of the City of Blue Earth, North 23 2/3 feet, West 64 feet, South 23 2/3 feet, East 64 feet to place of beginning. (Auditor’s Lot 43)

Tract 3: A tract commencing at the Southeast corner of Block 95 of the City of Blue Earth, North 23 2/3 feet, West 64 feet, North 47 1/3 feet, West 23 feet, South 71 feet, East 87 feet to place of beginning. (Auditor’s Lot 44).

WITNESSETH:

WHEREAS, Company for this redevelopment project has proposed to purchase and redevelop the existing commercial structures as a multiple purpose facility for economic entrepreneurship and education with available commercial enterprise spaces available for lease as shown on the project design plans described in Exhibit “A” attached hereto and incorporated herein by reference. (collectively the “project”); and

WHEREAS, the City and the Authority believe that the redevelopment proposal and the fulfillment of this Agreement are vital and are in the best interests of the City, the health, safety, morals and welfare of residents of the City, and are in accordance with the public purpose and provisions of the applicable state and local laws and requirements under which the Project has been undertaken and is being assisted; and

WHEREAS, the requirements of the Business Subsidy Law, Minnesota Statutes Sections 116J.993 through 116J.995, do not apply to this Agreement pursuant to Section 116J.993, Subd. 3(\_\_\_\_); and

WHEREAS, on \_\_\_\_\_ 2018, the City of Blue Earth City Council adopted an Ordinance approving the sale of the real property described herein above;

NOW, THEREFORE in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I.  
REPRESENTATIONS AND WARRANTIES

Section 1.1. Representations and Warranties of the City and Authority. The City and Authority make the following representations and warranties:

(1) The City is a municipal ~~corporation~~, corporation; the Authority is a body politic and corporate and the City and Authority each has the power to enter into this Agreement and carry out its obligations hereunder.

(2) The activities of the City and Authority are for the purpose of encouraging development of the project area, which is currently underutilized, and for promoting economic development and job opportunities.

(3) The City and Authority make no representation or warranty, either express or implied, as to the Development Property or its condition or the soil conditions thereon, or that the Development Property shall be suitable for the Company's purposes or needs.

(4) The City and Authority, to the best of its knowledge, represents and agrees that no member, official or employee of City and/or Authority shall have any personal interest, direct or indirect in this Agreement, nor shall such member, official or employee participate in decision making relating to the Agreement which affects his/her personal interests. No member shall be personally liable to Developer, or successors, in the event of any default or breach by City/Authority for any amount, which may become due to Company or its successor or on any obligations under the terms of this Agreement.

(5) The City and Authority will use its best efforts to assist in obtaining, 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 Project may be lawfully constructed.

Section 1.2. Representations and Warranties of the Company. The Company makes the following representations and warranties:

(1) The Company has power to enter into this Agreement and to perform its obligations hereunder and by so doing will not be in violation of the laws of the State.

(2) The Company will cause the Project to be constructed and installed in accordance with the terms of this Agreement, all local, state and federal laws and regulations (including, but not limited to, environmental, zoning, energy conservation, building code and public health laws and regulations).

(3) The acquisition, installation and construction of the Project would not have been undertaken by the Company, and in the opinion of the Company would not have been economically feasible within the reasonably foreseeable future, without the assistance and benefit to the Company provided for in this Agreement.

(4) The Company 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 Project may be lawfully constructed.

(5) Neither the execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement is prevented, limited by or conflicts with or results in a breach of, the terms, conditions or provision of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Company is now a party or by which it is bound, or constitutes a default under any of the foregoing.

(6) The Company will cooperate fully with the City and the Authority with respect to any litigation commenced with respect to the Project.

(7) The Company will cooperate fully with the City and the Authority in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Project.

(8) The Company will cause the completion of a minimum of ~~12,000~~ 10,000 square feet of ~~leasable/usable~~ space with a ~~minimum value of \$ \_\_\_\_\_, 75% nonprofit and 25% certain percentage reserved for commercial enterprises and a certain percentage reserved for non-profit uses to be determined~~ of which \_\_\_\_\_ square feet is for commercial enterprise purposes, within 24 months of the date of this agreement.

ARTICLE II.  
UNDERTAKING BY COMPANY, CITY AND AUTHORITY

Section 2.1. The City agrees to an exclusive memorandum of understanding entering into the terms of this agreement with the Company for a period of 90 days to allow the Company the opportunity to raise by donations the sum of \$1,000,000.00 in cash pledged for the redevelopment project specified herein. All other commitments and obligations specified in this agreement are contingent upon the Company successfully raising said \$1,000,000.00 ~~by September 30, 2018~~within 90 days of the date of this agreement.

Section 2.2. Public Redevelopment Costs. The parties agree that the Public Redevelopment Costs incurred and to be incurred by the Company are essential to the successful completion of the Project. The Public Redevelopment Costs shall be paid by the Company. The Authority shall, without interest, reimburse the Company for the Public Redevelopment Costs actually incurred and paid by the Company as further provided in Section 2.3 hereof in an amount in the aggregate not to exceed \$\_\_\_\_\_, said payments constituting a grant to the Company. \*\* should this be \$150,000??

Section 2.3. Conveyance of Real Property. The City shall convey to Company the 3 parcels of real property specified herein within 10 days of the successful completion of the passage of an Ordinance authorizing the sale of said 3 parcels to Company for \$1.00 and other good and valuable consideration and the passing of the time for the recall of such Ordinance pursuant to the Blue Earth City Charter. Said conveyance shall be subject to a retained right of reverter in the 3 parcels providing that title to said 3 parcels of real property shall revert to the City in the event that Company fails to complete and abide by the terms required by Company in this Agreement.

Section 2.4. The City shall pay all special assessments assessed against the 3 parcels in full so that no special assessments shall be due or payable in any year subsequent to the conveyance of the 3 parcels to Company for the special assessments imposed as part of the Main Street Improvement Project of 2016.

Section 2.5. The Company shall redevelop the existing structures located upon the 3 parcels in a manner consistent with the floor plans attached hereto as Exhibit "A" and in accordance with the terms of paragraph 1.2(8) herein within 24 months of the date of the conveyance of the 3 parcels of real property to Company. There will be some updates to the plans as needed to complete this project.

Section 2.6. Restoration of Project. If the Project shall be damaged or destroyed in whole or part, the Company shall, if the cost of restoration exceeds \$\_\_\_\_\_ give the City and Authority written notice of the damage or destruction and shall, in any event, as soon as reasonably possible, construct and restore the Project to the same or an improved condition or value that existed immediately preceding such damage or destruction. In the event the Company does not

choose to restore the Project as provided in this Section the Company can elect to terminate this Agreement. [???](#)

Section 2.7. Minimum Goals. The Company agrees to satisfy certain minimum wage and employment goals by creating within 1 year hereunder to lease space to \_\_\_\_\_, a commercial enterprise, who will employ at least \_\_\_\_\_ full time employees to work in the leased space within 1 year of the conveyance date of the real property specified herein. Upon satisfying these goals, nothing herein shall be construed as imposing on the Company any obligation beyond any obligation otherwise imposed by law to maintain such minimum employment and wage levels. In the event that these goals are not met by the Company, the Company and the City shall enter into an agreement providing for the repayment to the City of the financial assistance provided by the City to the Company pursuant to this Agreement. If Minnesota Statutes Section 116J.991 is amended or repealed, this Section 2.6 and Section 2.7 shall be amended to conform to it or deleted, respectively.

[\\*\\*\\* within one year we not be fully up and running due to construction.](#)

[Lease space change to useable or operational as business may share space or it is educational space, art gallery etc](#)

Section 2.8. Reports. The Company shall provide the City in a timely manner with such information about the Project as the City may reasonably request, including information regarding goals as to minimum employment and wage levels set forth in Section 2.6 for purposes of satisfying any reporting requirements imposed by law on the City.

[Timeframe of report -- 24 months? Annually? Will change as construction is completed.](#)

Section 2.9. Development Purposes. Company represents and agrees that the execution of this agreement is for the purpose of economic development of the 3 parcels of real property and not for speculative land holding.

### ARTICLE III EVENTS OF DEFAULT

Section 3.1. 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:

(a) Failure by the Company to timely pay any special assessments levied against the Development Property and/ or any ad valorem real property taxes assessed with respect to the Development Property.

(b) Failure by the Company to cause the installation of the Project to be completed pursuant to the terms, conditions and limitations of this Agreement.

(c) Failure of the Company to observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement.

(d) 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.

Section 3.2. Remedies on Default. Whenever any Event of Default referred to in Section 3.1 occurs and is continuing, the City or Authority may take any one or more of the following actions after the giving of thirty (30) days' written notice to the Company, but only if the Event of Default has not been cured within said thirty (30) days:

(a) The City or Authority may suspend its performance under this Agreement until it receives assurances from the Company, deemed adequate by the City or Authority, as the case may be, that the Company will cure its default within a reasonable period of time and continue its performance under this Agreement.

(b) The City or Authority may cancel and rescind the Agreement.

(c) The City or Authority may take any action, including legal or administrative action, in law or equity, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Company under this Agreement.

Section 3.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City and Authority is intended to be exclusive of any other available remedy or remedies, but each and every such 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 3.4. 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 3.5. Agreement to Pay Attorney's Fees and Expenses. Whenever any Event of Default occurs and the City or Authority shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Company herein contained, the Company agrees that it shall, on demand therefor, pay to the City or Authority, as the case may be, the reasonable fees of such attorneys and such other expenses so incurred by the City or Authority, as the case may be.

Section 3.6 . Indemnification of City and Authority.

(1) The Company releases from and covenants and agrees that the City and Authority, each of its governing body members, officers, agents, including the independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purposes of this Section, collectively the "Indemnified Parties" ) shall not be liable for and agrees to indemnify 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 Project.

(2) Except for any willful misrepresentation or any willful or wanton misconduct of the Indemnified Parties, the Company agrees to protect and defend the Indemnified Parties, now and forever, and further agrees to hold the aforesaid harmless from any claim, demand, suit, action or other proceeding whatsoever by any person or entity whatsoever arising or purportedly arising from the actions or inactions of the Company (or if other persons acting on its behalf or under its direction or control) under this Agreement , or the transactions contemplated hereby or the acquisition, construction, installation, ownership, and operation of the Project; provided, that this indemnification shall not apply to the warranties made or obligations undertaken by the City in this Agreement.

(3) All covenants, stipulations, promises, agreements and obligations of the City or Authority contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City or Authority, as the case may be, and not of any governing body member, officer, agent, servant or employee of the City or Authority, as the case may be.

#### ARTICLE IV ADDITIONAL PROVISIONS

Section 4.1. Restrictions on Use. The Company agrees for itself, its successors and assigns and every successor in interest to the Development Property, or any part thereof, that the Company and such successors and assigns shall operate, or cause to be operated, the Project as a commercial enterprise facility or any other facility permitted under the City's zoning laws and shall devote the Development Property to, and in accordance with, the uses specified in this Agreement.

Section 4.2. Conflicts of Interest. No member of the governing body or other official of the City or Authority shall have any financial interest, direct or indirect, in this Agreement, the Development Property or the Project, or any contract, agreement or other transaction contemplated to occur or be undertaken thereunder or with respect thereto, nor shall any such member of the governing body or other official participate in any decision relating to the Agreement which affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. No member, official or employee of the City or Authority shall be personally liable to the Company in the event of any default or breach by the City or Authority on any obligations of the City or Authority under the terms of this Agreement.

Section 4.3. Titles of Articles and Sections. Any titles of the several parts, articles and sections of the Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.



Section 4.4. Notices and Demands. Except as otherwise expressly provided in this Agreement, a notice, demand or other communication under this Agreement by any party to any 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 the Company is addressed to or delivered personally to:

Rural Renaissance Project  
530 North Riverfront Drive Suite 260  
Mankato MN 56001

(b) in the case of the City is addressed to or delivered personally to the City at:

The City of Blue Earth  
125 West 6th Street  
P.O. Box 38  
Blue Earth, Minnesota 56013-0038

(c) in the case of the Authority is addressed to or delivered personally to the Authority at:

Economic Development Authority of the City of Blue Earth  
125 West 6th Street  
P .O. Box 38  
Blue Earth, Minnesota 56013-0038

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other, as provided in this Section.

Section 4.5. Counterparts. This Agreement may be executed in any number of counterparts each of which shall constitute one and the same instrument.

Section 4.6. Law Governing. This Agreement will be governed and construed in accordance with the laws of the State.

Section 4.7. Expiration. This Agreement shall expire when the Note(???) is paid, unless earlier terminated or rescinded in accordance with its terms.

Section 4.8. Provisions Surviving Rescission or Expiration. Sections 3.5 and 3.6 shall survive any rescission, termination or expiration of this Agreement with respect to or arising out of any event, occurrence or circumstance existing prior to the date thereof.

Section 4.9. Assigns. Upon completion of the Project, the Company may, without the consent of the City or Authority, assign its rights and obligations hereunder to any subsequent owner of the Development Property.

IN WITNESS WHEREOF, the City, the Authority and the Company have caused this Agreement to be duly executed by their duly authorized representatives, on or as of the date first above written.

CITY OF BLUE EARTH

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

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

ECONOMIC DEVELOPMENT AUTHORITY OF  
THE CITY OF BLUE EARTH

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

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

This is a signature page to the Development Agreement dated \_\_\_\_\_, 2018 by and between the City of Blue Earth, the Economic Development Authority of the City of Blue Earth and Rural Renaissance Project, Inc.

RURAL RENAISSANCE PROJECT, INC.

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

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

This is a signature page to the Development Agreement dated \_\_\_\_\_, 2018 by and between the City of Blue Earth, the Economic Development Authority of the City of Blue Earth and Rural Renaissance Project, Inc.