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PATRICK F GILL, AUDITOR AND RECORDER *PF*
WOODBURY COUNTY IOWA

STATE OF IOWA

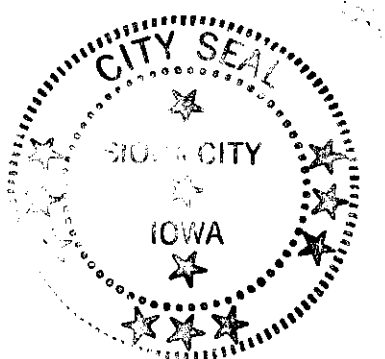
Woodbury County

CITY OF SIOUX CITY

Office of the City Clerk

I, Lisa L. McCardle, City Clerk of the City of Sioux City and City Clerk of the City Council thereof, and as such, having charge of and in my possession all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of the Resolution 2006-00847 adopted by the City Council of the City on the 27th day of November, 2006, upon the call of yeas and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 7th day of December, 2006.



(SEAL)

LISA L. McCARDLE
CITY CLERK

RESOLUTION NO. 2006-000847
with attachments

RESOLUTION ACCEPTING THE PROPOSAL OF CONNELLY TIEHEN AND
SONS, INC., FOR THE SALE OF LAND IN THE CENTRAL SIOUX CITY CBD
URBAN RENEWAL AREA AND AUTHORIZING SALE OF SAID PROPERTY.

WHEREAS, in furtherance of the objectives of Chapter 403 of the Code of Iowa, the City of Sioux City, Iowa, has undertaken a program of redevelopment of blighted areas in the City, and in this connection has instituted the Central Sioux City CBD Urban Renewal Area; and

WHEREAS, Chapter 403 of the Code of Iowa authorizes the City to invite proposals from all interested parties for the purchase of land in an urban renewal area by publishing a public notice of its intent to receive and accept any such proposal; and

WHEREAS, Connelly Tiehen And Sons, Inc., has submitted a proposal for the purchase of the following described property in the Central Sioux City CBD Urban Renewal Area:

Property commonly known as the Pierce Building and

WHEREAS, Resolution No. 2006-0629, passed and approved by the City Council on September 11, 2006, established a date and time for the submission of proposals by interested parties and authorized the publication of notice of such invitation; and

WHEREAS, Resolution No. 2006-0727, passed and approved by the City Council on October 16, 2006, indicated the City's intent to accept said proposal of Connelly Tiehen And Sons, Inc., established a date and time for a public hearing accepting such proposals, and authorized the publication of notice of such intent and hearing; and

WHEREAS, a hearing was held on the proposal so submitted and the City Council is of the opinion and belief that it would be in the best interests of the City to accept the proposal of Connelly Tiehen And Sons, Inc., for the purchase of said property, a copy of the proposal being attached hereto and by this reference incorporated herein; and accepting such proposal is in the public interests; and

WHEREAS, a city deed has been prepared for the purchase of said property pursuant to the terms of said proposal and should be approved as to form and content.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA, that the city deed attached hereto providing for the sale of said property to Connelly Tiehen And Sons, Inc., is hereby approved as to form and content and the Mayor and City Clerk be and they are hereby authorized and directed to execute same for and on behalf of the City of Sioux City, Iowa.

BE IT FURTHER RESOLVED that upon receipt of the consideration fixed in said proposal and city deed and the costs incurred in this sale that the city deed be delivered to Connelly Tiehen And Sons, Inc.

PASSED AND APPROVED: November 27, 2006


CRAIG S. BERENSTEIN, MAYOR

ATTEST: 
LISA L. MCCARDLE, CITY CLERK

Prepared by Patty Heigel P.O. Box 447, Sioux City, Iowa 51102 Telephone No. (712) 279-6103

After recording return to: City of Sioux City, Iowa, P.O. Box 447, Sioux City, Iowa 51102

**PIERCE BUILDING REDEVELOPMENT
DEVELOPMENT AGREEMENT FOR SALE OF LAND
FOR PRIVATE REDEVELOPMENT IN THE
CENTRAL SIOUX CITY URBAN RENEWAL AREA
BY AND BETWEEN
THE CITY OF SIOUX CITY, IOWA
and
CONNELLY TIEHEN AND SONS, INC.
P.O. BOX 1268, DAKOTA DUNES, S.D. 57049**

Legal Description:

Middle Sioux City E 100 Ft Lots 1-2-3 Block 22; and

The West 50 feet of Lots 1, 2, & 3, Block 22, Middle Sioux City Addition, Sioux City, Woodbury County, Iowa.

EXHIBITS -

- Exhibit A: Form of Deed**
- Exhibit B: Developer's Bid Proposal**
- Exhibit C: Description of Property**
- Exhibit D: Site Plan**
- Exhibit E: Assessment Agreement**

INTRODUCTION

This Agreement , consisting of this Introduction, Part I and Part II and Exhibits "A", "B", "C", "D", and "E" to Part I attached hereto and made a part hereof (which are together hereinafter called "Agreement "), made on or as of the 27th day of November, 2006 by and between the City of Sioux City, Iowa, an Iowa Municipal Corporation, (which, together with any successor public body or officer hereafter designated by or pursuant to law, is hereinafter called "City"), acting pursuant to Chapter 403 of the Code of Iowa which is in force on the date of execution of this Agreement , (hereinafter called "Urban Renewal Act"), and having its office at City Hall, 405 Sixth Street, in the City of Sioux City, and State of Iowa, and Connelly Tiehen & Sons, Inc. (hereinafter called "Redeveloper") and having an office for the transaction of business at P.O. Box 1268 in the City of Dakota Dunes and State of South Dakota, 57049, WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Law, the City proposes to undertake a program for the clearance and reconstruction or rehabilitation of slum and blighted areas in the City, and in this connection is engaged in establishing or has heretofore established an urban renewal Project known as the Central Sioux City CBD Urban Renewal Project (hereinafter called "Project ") in an area (hereinafter called "Project Area") located in the City; and

WHEREAS, as of the date of this Agreement, there is under preparation or has heretofore been prepared by the City an urban renewal plan for the Project consisting of the Urban Renewal Plan and amendments thereto, (which plan, as so amended, and as it may hereafter be further amended from time to time pursuant to law, and as so constituted from time to time, is, unless otherwise indicated by the context, hereinafter called (Urban Renewal Plan); and

WHEREAS, the City is the owner of or will acquire the Property in the Project areas shown generally on Exhibit "C"; and

WHEREAS the City has offered to sell said Property and the Redeveloper is willing to purchase said Property and to redevelop the Property for and in accordance with this Agreement; and

WHEREAS, the City believes that the redevelopment of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Iowa and local laws and requirements under which the Project has been undertaken.

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

CONTRACT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT

PART I

SECTION 1: Sale and Purchase Price. In consideration of the Redeveloper constructing improvements as described in the Preliminary Plans and the Narrative of the Redeveloper's Bid Proposal attached hereto as "Exhibit B of Part I" and by this reference made a part thereof on the Property and paying the City as follows:

- (a) The City shall acquire if it has not already done so the parcel or parcels described in "Exhibit C" of Part I for Redeveloper. The City shall vacate and convey the real estate described in Part I (hereinafter referred to as the "Property ") to Redeveloper and Redeveloper shall pay to City the Purchase Price (hereinafter called "Purchase Price") as hereinafter determined.
- (b) The Purchase Price shall be \$1.00 and other considerations.
- (c) Upon payment of the Purchase Price which shall be in cash or certified check, simultaneous with delivery of the Deed to the Redeveloper, and for other good and valuable consideration, all subject to the terms and conditions of this Agreement, the City shall sell to the Redeveloper and the Redeveloper shall purchase from the City the Property.
- (d) The City shall not, however, proceed to convey the Property described in "Exhibit C" until such time as:
 - (1) City has given preliminary approval of the Preliminary Site Plan
 - (2) Soil tests have been performed and the results are satisfactory to both City and Redeveloper; and

SECTION 2: Conveyance of Property.

- (a) Form of deed. The City shall convey to the Redeveloper title to the Property by City Deed (hereinafter called "Deed") substantially in the form attached hereto as "Exhibit A of Part I" and by this reference made a part hereof. Such conveyance and title shall be subject to the conditions, covenants, and restrictions set forth or referred to elsewhere in the Agreement; and to all conditions, covenants, restrictions, and requirements of the Urban Renewal Plan. Delivery of the Deed shall not abrogate the other responsibilities and covenants of the parties under this Agreement.
- (b) Time and place for conveyance. The City shall convey the Property as soon as reasonably possible. Such conveyance shall occur within ten (10) days after satisfaction of the following conditions:
 - (1) The City has approved the Redeveloper's proposal for financing the Project as provided in Section 303 hereof; and
 - (2) The City has approved the Final Construction and Site Plans as provided in Section 301 hereof; and

- (3) The City has acquired title to the Property.

Upon satisfaction of the above conditions, the City shall immediately deliver to the Redeveloper notice of the conveyance date. By no later than the delivery of such notice, or as soon thereafter as an abstract may be created, the City shall deliver to the Redeveloper an abstract of title to the Property. The Redeveloper shall notify the City in writing of any objections to title within ten (10) days of delivery of the abstract. The City shall take all steps reasonably necessary to cure defects in title prior to conveyance. The Redeveloper shall be entitled to possession of the abstract only on or after the delivery of title and possession of the Property.

The Redeveloper shall pay the Purchase Price and shall take title and possession of the Property and the City shall deliver the Deed and possession of the Property on the conveyance date.

- (c) Apportionment of current taxes The City shall pay a pro rata share of taxes (real and personal), based on the assessed value of the land and improvements included within the Property for the fiscal year of closing (July 1 to June 30), which are due and payable in the next subsequent fiscal year, and all unpaid taxes for prior years. To determine the pro rata share of such current fiscal year's taxes payable to the next subsequent fiscal year by the respective parties, the following procedure shall be used:
- (1) The most recent real estate taxes, based on the assessed value of the land, shall be added together and then divided by 365 to determine the per day figure; and
 - (2) The total number of days in said fiscal year commencing with the 1st day of July and ending with the day of closing shall be determined and said number multiplied by the per day tax figure and the product shall be the portion of the taxes payable by the City; and
 - (3) The remaining portion of the taxes for said fiscal year and all subsequent taxes shall be the responsibility of the Redeveloper.
- (d) Apportionment of special assessments. The City shall pay all special assessments or installments thereof which, if not paid, would become delinquent in the fiscal year of settlement, and all prior assessments and/or installments thereof. All other special assessments or installments thereof shall be paid by the Redeveloper.
- (e) Recordation of deed. If the City shall not already have done so, the Redeveloper shall promptly file the Deed for recordation among the land records of the Woodbury County Recorder's Office. The Redeveloper shall pay all costs (including the cost of the State documentary stamp tax, if any, on the Deed) for so recording the Deed and shall provide the City with a copy imprinted with the date, time, book and page numbers of recordation.

SECTION 3: Good faith deposit. (Reserve)

SECTION 4: Time for commencement and completion of improvements. The construction of the improvements referred to in Section 301 hereof shall be commenced in any event on or before January, 1, 2007, and except as otherwise provided in this Agreement shall be completed on or before Dec. 31, 2007.

SECTION 5: Time for certain other actions.

- (a) Time for site plan review pre-application conference. The Redeveloper shall participate in the pre-application conference of the Site Plan Review process required by City ordinance by no later than sixty (60) days after approval of this Agreement by the City. The Redeveloper shall contact the Planning Department of the City to schedule such conference.
- (b) Time for submission of construction plans. The Redeveloper shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City by no later than sixty (60) days after the approval by the City of the Site Plan.
- (c) Time for city action on construction plans. Within fourteen (14) days of submission of the Construction Plans or corrected Construction Plans by the Redeveloper as provided in subsections (b) and (d) of this section, the City shall approve or reject such plans as provided for in accordance with the provisions of Section 301 hereof. In the case of an initial submission of preliminary Construction Plans by Redeveloper the City's approval of same shall be contingent upon its approval of Final Construction Plans. Redeveloper shall be required to submit it's Final Construction Plans within thirty (30) days of the contingent approval of Preliminary Construction Plans. Such Final Construction Plans shall be subject to the approval processes set forth in subsections (c) through (f) of this section.
- (d) Time for submission of corrected construction plans. Except as provided in subsection (e) of this section, the time within which the Redeveloper shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall be not later than five (5) days after the date the Redeveloper receives written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.
- (e) Maximum time for approved construction plans. In any event, the time by which the Redeveloper shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City, shall be not later than sixty (60) days after the time stated in Section 5(b) above.
- (f) Time for city action on change in approved construction plans. The time within which the City may reject any change in the approved Construction Plans, as provided in Section 302 hereof, shall be thirty (30) days after the date of the City's receipt of notice of such change.
- (g) Time for submission of evidence of equity capital and mortgage financing. The time for which the Redeveloper shall submit to the City evidence as to equity capital and any commitment necessary for mortgage financing, as provided in Section 303 hereof, shall be not later than sixty (60) days after the approval of this Agreement by the City.

SECTION 6: Period of duration of covenant on use. The Covenant pertaining to the use of the Property, set forth in Section 401 hereof, shall remain in effect for a period of twenty-one (21) years from the date of the Deed.

SECTION 7: Notices and demands. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by

registered or certified mail, postage prepaid, return receipt requested, or delivered personally, as follows:

- (i) In the case of the Redeveloper, is addressed to or delivered personally to the Redeveloper at:

Bart Connelly
Connelly Tiehen & Sons
P.O. Box 1268
Dakota Dunes, SD 57049

- (ii) In the case of the City, is addressed to or delivered personally to:

City Manager, City of Sioux City, Iowa
405 Sixth Street
P.O. Box 447
Sioux City, Iowa 51102-0447

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

SECTION 8: Special provisions.

- (a) Type of development. The City and Redeveloper agree that the minimum improvements to be constructed on the Property by the Redeveloper shall include:

1. Demolition of structure to the west, roof replacement, tuck pointing, structural repairs, first floor window replacement;
2. Site utilities (including the sanitary sewer, storm sewer and water service lines from City mains).
3. Hard surface parking (to conform to the City code).
4. Landscaping.

The foregoing construction shall be in accordance with the site plan attached hereto as "Exhibit D of Part I", or such site plan as may hereafter be approved by the City.

- (b) Nonapplicability of Iowa Code § 614.24. The Redeveloper agrees on behalf of itself and its successors and assigns that the City may bring an action based upon any claim arising or existing by reason of any term or provision of the Deed provided for herein, the conveyance of this Property without regard to the lapse of time and/or any term or provision of this Agreement reserving or providing for any reversion, reverted interests or use restrictions into and on the Property without complying with the requirements of Iowa Code § 614.24 that the City periodically record or re-record such reversions, reverted interests or use restrictions, and the Redeveloper agrees that neither it or its successors or assigns will assert the City's failure to comply with such § 614.24 as a defense to any such action.

- (c) Required terms the redeveloper must include in any conveyance of its interest. The Redeveloper shall refer to and incorporate the terms, conditions, restrictions, and requirements of the Deed provided for herein, of the Urban Renewal Plan, and of this Agreement in any deed, will, conveyances or contract conveying part or all of its interest in the Property, shall provide therein that the City can enforce the terms, conditions, restrictions, and requirements of such Deed, Urban Renewal Plan and this Agreement against the Redeveloper's successors or assigns to the same extent it could against the Redeveloper; and shall indemnify the City for any damages, including attorney fees and the costs of litigation caused or occasioned by its failure to comply with this subsection of the Agreement.
- (d) The Redeveloper understands that it shall be necessary for the City to utilize tax increment revenues from the Project area to finance any or all of the work to be performed by the City under this Agreement. Redeveloper further agrees that in order for the City to finance its portion of the Project, Redeveloper shall hereby establish minimum actual values of the land and completed improvements which will enable the City to fund its portion of the Project through tax increment financing. Minimally, such minimum actual land values shall be: Total value as of January 1, 2008 shall be \$1,000,000. This value shall increase to \$4,000,000. as of January 1, 2015. On or after January 1, 2020 the assessment Agreement shall terminate. Redeveloper shall not apply for tax abatement pursuant to Chapter 404, Code of Iowa, for any value established for a tax year before January 1, 2020.
- (e) Pursuant to the authority granted the City in subsection 3 of § 403.6, Code of Iowa, the Redeveloper shall have the right as an agent of the City to enter into any building or Property within the proposed Project area in order to make inspections, surveys, soundings or test borings. Such right shall be afforded Redeveloper for a 90 day period commencing with the execution of this Agreement.
- (f) The City shall provide a maximum of \$300,000 toward the improvements in Section 8(a) upon the receipt of certification from the developer that the improvements have been complete; and invoices for the same.
- (g) Requests to the City for reimbursement of its share of improvement costs associated With the value of the Exhibit "C" Property shall be made by Developer on forms approved by the City. The City shall retain 5% of each payment requested until the City certifies and approves the completion of the construction of all improvements under this agreement.

The City shall process and pay all approved requests within 30 days of approval for payment. The review of such requests, confirmation as to accuracy and completeness of the information provided, and confirmation of the completion of work for which payment is requested shall constitute approval to pay.

SECTION 9: Incorporation of the construction plans into Agreement: recordation

- (a) The construction plans, drawings, specifications and related documents as finally approved by the City pursuant to Section 301 hereof, and any amendments thereto, as finally approved by the City pursuant to Section 302 hereof, shall be incorporated into this

Agreement as amendments thereto effective as of the date of such approvals. This Agreement and the following documents:

- (1) The City Council Resolution Offering the Property and Setting the Terms and Conditions for such Offering, Resolution No. 2006-0629 dated September 11, 2006, including all exhibits and attachments thereto;
- (2) The Redeveloper's Bid Proposal in its entirety;
- (3) The approved Construction Plans and any approved amendments thereto;
- (4) The Resolution approving the sale of the Property and approving this Agreement, Resolution No. 2006-0847, dated November 27, 2006, including all exhibits and attachments thereto;

shall be construed together and in harmony with one another in any interpretation of the entire Agreement of the parties. A copy of all such documents shall be placed on permanent file in the Office of the City Clerk, City Hall, Sioux City, Iowa.

The Redeveloper understands and acknowledges that this Resolution has not been adopted as of the date the Redeveloper executed this contract and hereby agrees and intends that the Resolution referred to hereby is that Resolution hereinafter formally adopted by the City by which it offers the Property for redevelopment as an Urban Renewal Project in accordance with the Urban Renewal Act.

- (b) This Agreement is hereby incorporated by reference in the Deed conveying the Property. The Redeveloper shall immediately cause this Agreement in its entirety to be recorded at its expense in the Woodbury County Recorder's Office (except the approved Construction Plans and any amendments thereto) and shall provide the City with a copy imprinted with the date, time, book and page numbers of recordation.

SECTION 10: Counterparts. This Agreement is executed in four counterparts, each of which shall constitute one and the same instrument.

SECTION 11: Other provisions. Notwithstanding any other provisions contained in this Agreement, in the event that at any time prior to conveyance of the Property to the Redeveloper:

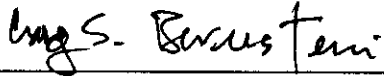
- (1) (reserved) _____; or
- (2) _____; or
- (3) _____;

then, and in those events, this Agreement, and any rights and obligations of the Redeveloper, shall (at the option of the Redeveloper or the City) be terminated and the City shall return or release the Deposit and neither the Redeveloper nor the City shall have any further rights against or liability to the other under this Agreement.

IN WITNESS WHEREOF, the City and the Redeveloper have caused the Agreement to be duly executed as of the day first above written.

CITY OF SIOUX CITY, IOWA

CONNELLY TIEHEN AND SONS, INC.



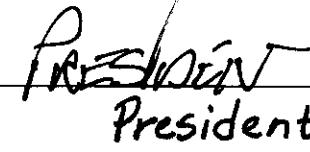
Craig S. Berenstein, Mayor

By:

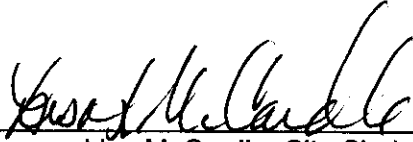


Bart Connelly

Its:


President

Attest:



Lisa McCardle, City Clerk

STATE OF IOWA)
 : ss
COUNTY OF WOODBURY)

BE IT REMEMBERED, on this 12th day of December, 2006, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Craig S. Berenstein, Mayor and Lisa McCardle, City Clerk, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Craig S. Berenstein and Lisa McCardle acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.



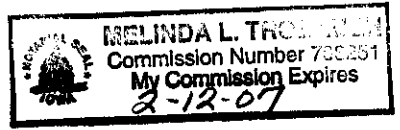
Sheri L. Young
NOTARY PUBLIC IN AND FOR WOODBURY COUNTY

STATE OF Iowa)
 : ss.
COUNTY OF Woodbury)

On this 12th day of December, 2006, before me, the undersigned a Notary Public in and for said County and State, personally appeared Bart Connelly and _____ to me personally known, who being by me duly sworn, did say that they are the President and _____ respectively, of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) corporation; that said instrument was ~~(the seal affixed thereto is the seal of said)~~ signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Bart Connelly and _____ as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

(SEAL)

Melinda L. Trobena
NOTARY PUBLIC IN AND FOR WOODBURY COUNTY



"EXHIBIT A OF PART I"

KNOW ALL MEN BY THESE PRESENTS:

That the City of Sioux City, Iowa, a municipal corporation, of the County of Woodbury, and the State of Iowa, by its Mayor thereunto duly authorized, as hereinafter set forth, in consideration of the sum of one dollar (\$1.00), in hand paid by _____, of the County of Woodbury and State of Iowa, does hereby release, remise, convey and quitclaim unto the said _____, all its right, title and interest in and to the following described premises situated in the County of Woodbury and State of Iowa, to wit:

It is specifically agreed that this Deed is subject to all of the terms, provisions, covenants, conditions and restrictions (including, but not limited to, the Grantor's right to re-entry contained in Section 704 thereof) contained in a certain Redevelopment Agreement entitled "Contract for Sale of Land for Private Redevelopment, Central Sioux City - CBD Urban Renewal Project," executed by the Grantor and Grantee herein dated _____, 2006 which is on file in the Office of the Clerk of the City of Sioux City, Iowa, and which is recorded in the records of the Recorder of Woodbury County, Iowa, said Redevelopment Agreement being incorporated herein by this reference; and

It is specifically agreed that this Deed is also subject to all the terms, provisions, covenants, conditions and restrictions contained in the Official Urban Renewal Plan, as revised, amended, and modified and adopted by the City of Sioux City, Iowa, for the Central Sioux City - CBD Urban Renewal Project which is on file in the Office of the City Clerk of the City of Sioux City, Iowa, and which is recorded in the records of the Recorder of Woodbury County, Iowa, said Urban Renewal Plan, as revised, amended and modified, being incorporated herein by this reference; and

It is specifically agreed that all the terms, provisions, covenants, conditions and restrictions contained in both said Urban Renewal Plan as amended and modified, and said Redevelopment Agreement, shall be and are hereby declared to be covenants running with the land, enforceable as therein set out or otherwise by the City of Sioux City, Iowa, regardless of whether or not title to all the land in the said Central Sioux City - CBD Urban Renewal Project area may have been transferred to private parties. Such Agreements and covenants shall run in favor of the Grantor, for the entire period during which such Agreements and covenants shall be in force and effect, without regard to whether the Grantor has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such Agreements and covenants relate.

This Deed shall not be deemed to affect or impair any of the provisions or covenants of said Agreement.

This Deed is executed under and by virtue of the authority vested in the Mayor of Sioux City, Iowa, under the provisions of a certain Resolution No. _____ duly passed and approved on the

_____ day of _____, 2006, under the provision of which and in accordance herewith, this Deed is executed.

IN WITNESS WHEREOF, the City of Sioux City, Iowa, has caused these Presents to be signed by its Mayor and the seal of said City duly attested by the City Clerk hereunto affixed this _____ day of _____, 2006.

Craig S. Berenstein, Mayor

Attest: _____
Lisa McCardle, City Clerk

STATE OF IOWA)
 :SS
COUNTY OF WOODBURY)

On this _____ day of _____, 2006, before me, a Notary Public duly commissioned and qualified in and for said County and State, personally appeared Craig S. Berenstein, Mayor of the City of Sioux City, Iowa, and Lisa McCardle, City Clerk of said City, each being to me personally known to be the identical persons and officers named in the foregoing instrument, who executed the same under and by virtue of the authority vested in them by the City Council of said City, and each for himself acknowledged the execution thereof to be his voluntary act and deed for the purposes herein expressed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notarial seal at Sioux City, Iowa, the day and year above written.

NOTARY PUBLIC IN AND FOR WOODBURY COUNTY

"EXHIBIT B OF PART I"

The exhibit is comprised of the Redeveloper's Proposal with all attached documents and Preliminary Plans and shall be added at the time of the City's selection of the Redeveloper and declaration of its intent to enter into the Agreement .

"EXHIBIT C OF PART I"

The exhibit is comprised of land which shall be acquired by the City for resale to Redeveloper.

"EXHIBIT D OF PART I"

The exhibit is comprised of a site plan of the Project to be constructed by Redeveloper.

ConnellyTiehen and Sons, Inc.

P.O. Box 1268 Dakota Dunes, SD 57049 712-944-5107

Confidentiality Notice: The information contained in this facsimile message and the documents accompanying this facsimile message are confidential information intended only for the use of the individual or entity named below. If the reader of this message is not the intended recipient, or the employee of agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone and return the original message to us at the above address via the U.S. Postal Service.

To: Patty Heagle
From: Bart Connelly
Date: 9/17/06
Notes:

To follow up on our previous letters regarding additional Fourth Street Project(s), we hereby formally propose to acquire the Pierce Warehouse and adjacent parcel 042405 located at 301 Jennings St.

Proposed Terms:

Purchase Price: \$1.00
T.I.F. funding requested: \$300,000.00
Assessment Agreement: See Attached

Our immediate plans would be to:

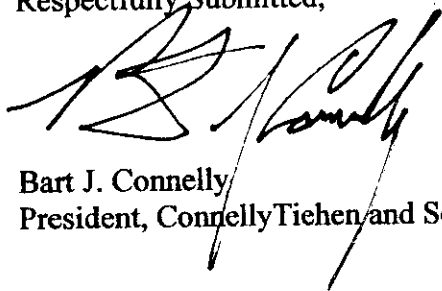
- remove single story structure to the west (parcel 043405)
- roof replacement
- critical tuckpointing
- critical structural repairs
- window replacement (floor 1)

Our longer term plans would be to:

- replace remaining windows
- remaining tuckpointing
- construct main entrance façade and balcony on west side of building
- elevator replacement
- fire protection system
- tenant finish out (as leased)

Please respond at your earliest convenience. The building is rapidly deteriorating with each rain. Another winter of water penetration/freezing will be devastating.
Thank you for your consideration.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Bart J. Connelly', written over a vertical line that extends from the signature down towards the typed name below.

Bart J. Connelly
President, Connelly Tichen and Sons, Inc.

Assessment Agreement for Pierce Warehouse Project

Cash Flow	Tax Year	Fiscal Year Value	Taxes @ 4%	Cumulative Pmnts
Start	1-Jan-07 FY2009	0	0	0
Yr.1	1-Jan-08 FY2010	1,000,000	40,000	40,000
Yr.2	1-Jan-09 FY2011	1,000,000	40,000	80,000
Yr.3	1-Jan-10 FY2012	1,000,000	40,000	120,000
Yr.4	1-Jan-11 FY2013	1,000,000	40,000	160,000
Yr.5	1-Jan-12 FY2014	1,000,000	40,000	200,000
Yr.6	1-Jan-13 FY2015	1,000,000	40,000	240,000
Yr.7	1-Jan-14 FY2016	1,000,000	40,000	280,000
Yr.8	1-Jan-15 FY2017	4,000,000	160,000	440,000
Yr.9	1-Jan-16 FY2018	4,000,000	160,000	600,000
Yr.10	1-Jan-17 FY2019	4,000,000	160,000	760,000
Yr.11	1-Jan-18 FY2020	4,000,000	160,000	920,000
Yr.12	1-Jan-19 FY2021	4,000,000	160,000	1,080,000

ConnellyTiehen and Sons, Inc.

P.O. Box 1268 Dakota Dunes, SD 57049 712-944-5107

Confidentiality Notice: The information contained in this facsimile message and the documents accompanying this facsimile message are confidential information intended only for the use of the individual or entity named below. If the reader of this message is not the intended recipient, or the employee of agent responsible to deliver it to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us by telephone and return the original message to us at the above address via the U.S. Postal Service.

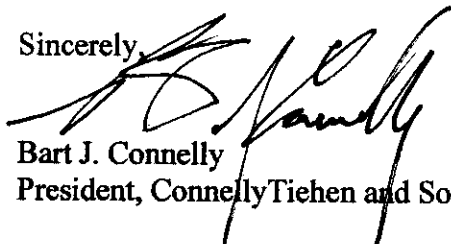
To: Patty Heagle
From: Bart Connelly
Date: 9/19/06
Notes:

To supplement our Pierce Warehouse proposal delivered to you on 9/18.

Estimated costs for the proposed immediate improvements to the building:

Demo of structure to west	\$35,000.00
Roof Replacement	\$175,000.00
Tuckpointing	\$150,000.00
Structural Repairs	\$100,000.00
First Floor Window Replacement	\$ 75,000.00
Total	\$535,000.00

Sincerely,



Bart J. Connelly
President, ConnellyTiehen and Sons, Inc.

EXHIBIT 'C'

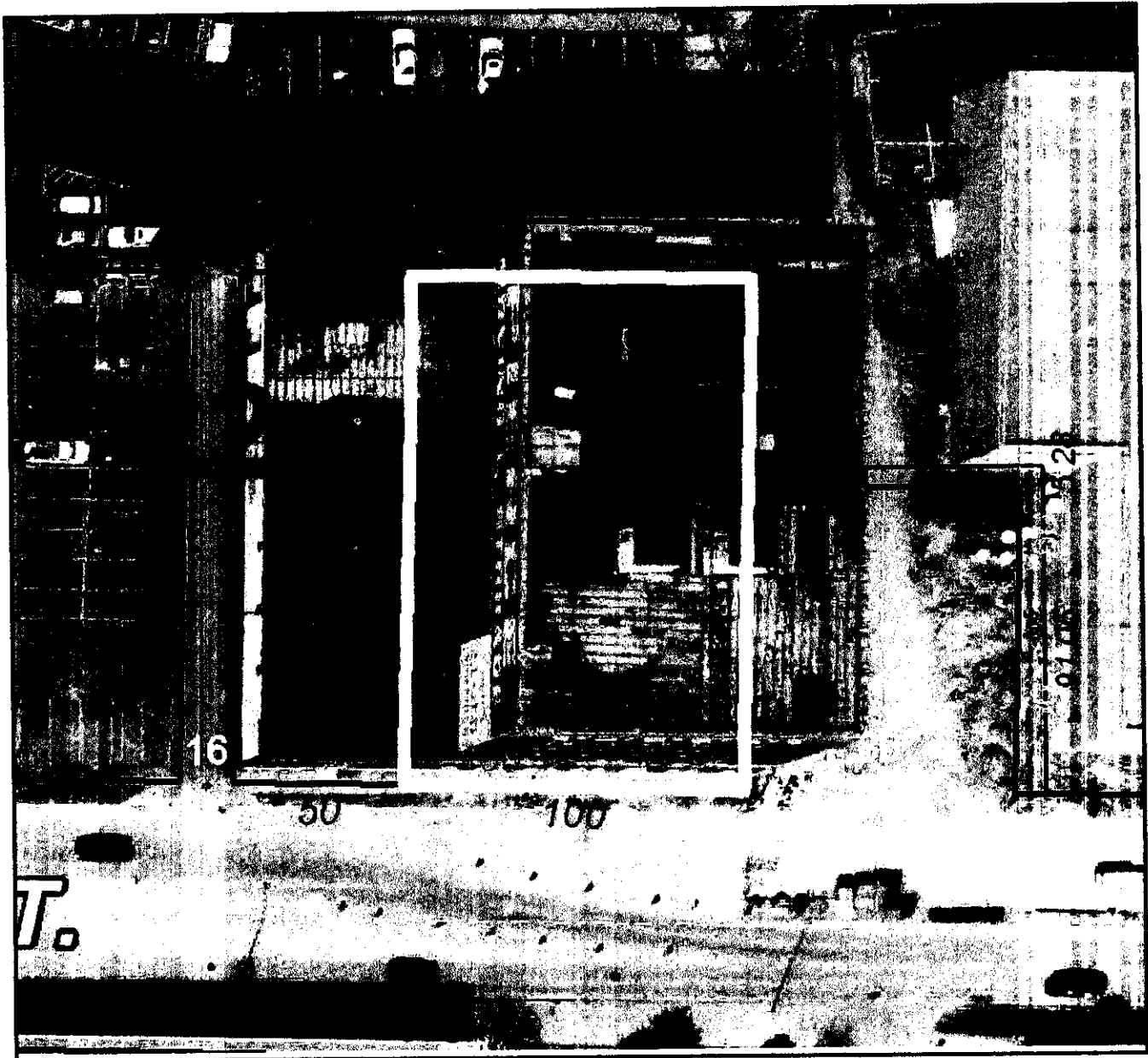
Legal Description:

Middle Sioux City E 100 Ft Lots 1-2-3 Block 22; and

The West 50 feet of Lots 1, 2, & 3, Block 22, Middle Sioux City Addition, Sioux City, Woodbury County, Iowa.

EXHIBIT 'D'

Parcel Information for 894728451004
As of Jan. 1 2006.



ASSESSMENT AGREEMENT

THIS AGREEMENT made on _____, 2006 by and between the City of Sioux City, Iowa, an Iowa municipal corporation, vested with urban renewal powers pursuant to Chapter 403, Code of Iowa, (hereinafter referred to as "City") and Connelly Tiehen and Sons, Inc. (hereinafter referred to as "Developer").

WHEREAS, Developer is the owner of the real estate in Sioux City, Woodbury County, Iowa, as described in the attached Exhibit "A"; and

Middle Sioux City E 100 Ft Lots 1-2-3 Block 22; and

The West 50 feet of Lots 1, 2, & 3, Block 22, Middle Sioux City Addition, Sioux City, Woodbury County, Iowa.

WHEREAS, City and Developer have undertaken a program of construction of public improvements and private improvements on or in conjunction with the development of said real estate; and

WHEREAS, City and Developer have heretofore entered into a development agreement concerning such construction of public improvements and private improvements; and

WHEREAS, pursuant to Section 403.6, Code of Iowa, the City and Developer desire to enter into a written agreement establishing the minimum actual value of land and improvements located upon the land.

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

1. For the purpose of tax increment financing to be utilized by City in the performance of its responsibilities under the development agreement, Developer agrees that the minimum actual value of the real estate and improvements shall be a total of \$1,000,000 and increase to \$4, 000,000.
2. Such \$1,000,000. minimum actual values shall be for the tax year commencing with the January 1, 2008. The \$4,000,000. minimum actual values shall be for the tax year commencing with the January 1, 2015 valuation and continuing through the January 1, 2019 tax year. The agreement shall terminate after the January 1, 2019 tax year. Although Developer may appeal or protest any valuation in excess of said minimum actual values, Developer shall not through protest, appeal or any other method seek to reduce the actual value of the real estate and improvements for tax purposes below the aforesaid minimum actual value.

3. Other than tax abatements specifically provided for in the development agreement, Developer agrees it shall not seek, nor shall the City grant, tax abatement during the term set forth in paragraph number two above.
4. In the event the manner of valuing properties for real estate tax purposes should change from the method existing at the time of the execution of this Agreement so as to substantially change the tax increment realized by the City, Developer agrees to adjust the minimum actual value of the land and improvements so as to achieve parity in tax increments raised by the City.
5. This Agreement shall be binding on the parties, their successors and assigns.
6. This Agreement shall be interpreted according to the laws of the State of Iowa.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be duly executed as of the day first above written.

CITY OF SIOUX CITY, IOWA

CONNELLY TIEHEN AND SONS, INC.

Craig Berenstein, Mayor

Bart Connelly
Its: _____

Attest: _____
Lisa McCardle, City Clerk

STATE OF IOWA)
 :
COUNTY OF WOODBURY)

BE IT REMEMBERED, on this ____ day of _____, 2006, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Craig Berenstein and Lisa McCardle, to me personally known, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Craig Berenstein and Lisa McCardle, acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.

Notary Public In And For Woodbury County

STATE OF IOWA)
 :
COUNTY OF _____)

On this ____ day of _____, 2006, before me, the undersigned a Notary Public in and for said County and State, personally appeared _____ and _____, to me personally known, who being by me duly sworn, did say that they are the _____ and _____ respectively, of said corporation executing the within and foregoing instrument, that
(no seal has been procured by the said) corporation; that said instrument was
(the seal affixed thereto is the seal of said)
signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said _____ and _____ as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

Notary Public In And For Woodbury County

ASSESSOR'S CERTIFICATE

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made upon it, certified that the actual value assigned to the land and improvements upon completion shall not be less than \$1,000,000.00 minimum actual values shall be for the tax year commencing with the January 1, 2008. The \$4,000,000.00 minimum actual values shall be for the tax year commencing January 1, 2015.

City Assessor

EXHIBIT 'A'

Legal Description:

Middle Sioux City E 100 Ft Lots 1-2-3 Block 22; and

The West 50 feet of Lots 1, 2, & 3, Block 22, Middle Sioux City Addition, Sioux City, Woodbury County, Iowa.

PART II

ARTICLE I.

PREPARATION OF PROPERTY FOR REDEVELOPMENT

SECTION 101: Work to be performed by City. The City shall not be required to prepare the Property for redevelopment by the Redeveloper.

SECTION 102: Redeveloper's responsibilities for certain other actions.

Maintenance of public utilities. Upon conveyance of the city-owned Property to the Redeveloper, any city-owned sanitary sewers, storm sewers, and water mains located on the Property and which exclusively serve the Property purchased by the Redeveloper shall also become the Property of the Redeveloper. The Redeveloper shall be responsible for the operation and maintenance of such sewers, water lines and utilities. Redeveloper shall not, however, take title to any city sanitary sewers, storm sewers or water mains which traverse the Property for the purposes of serving premises other than the Property purchased by the Redeveloper and City shall have a permanent easement for such utilities. The relocation of any such sewers or utilities as deemed necessary by the Redeveloper shall be at no cost to the City.

ARTICLE II

RIGHTS OF ACCESS TO PROPERTY

SECTION 201: Rights of access to Property. Prior to the conveyance of the Property by the City to the Redeveloper, the City shall assist representatives of the Redeveloper to have access to any part of the Property at all reasonable times for the purpose of obtaining data and making various tests concerning the Property necessary to carry out this Agreement. After the conveyance of the Property by the City to the Redeveloper, the Redeveloper shall permit the City and/or its representatives access to the Property and abutting Property owned or leased by the Redeveloper, at all reasonable times which any of them deems necessary for the purposes of this Agreement, including, but not limited to, inspection of all work being performed in connection with the construction of the improvements. No compensation shall be payable nor shall any charge be made in any form by any party for the access provided for in this section.

ARTICLE III

CONSTRUCTION PLANS, CONSTRUCTION OF IMPROVEMENTS, AND CERTIFICATE OF COMPLETION

SECTION 301: Plans for construction of improvements. Plans and specifications with respect to the redevelopment of the Property and the construction of improvements thereon shall be in conformity with the Urban Renewal Plan, this Agreement, all applicable state laws and local laws and regulations, and "Exhibit B of Part I" hereof. As promptly as possible after the date of this Agreement, and, in any event no later than the time specified therefor in subsection (b) of Section 5 thereof, the Redeveloper shall submit to the City, for approval by the City, construction plans as defined below and the proposed construction schedule with respect to the improvements to be constructed by the Redeveloper on the Property, in sufficient completeness and detail to show that such improvements and construction thereof will be in accordance with the provisions of the Urban Renewal Plan and this Agreement.

The construction plans, submitted by the Redeveloper, must be consistent with and be a logical development of or reasonably inferable from "Exhibit B of Part I" hereof. The City shall, if the construction plans originally submitted conform to the provisions of the Urban Renewal Plan and this Agreement, approve in writing such construction plans, and no further filing by the Redeveloper or approval by the City thereof shall be required under this requirement except with respect to any material change.

Such construction plans shall, in any event, be deemed approved unless rejection thereof in writing by the City, in whole or in part, setting forth in detail the reasons therefor, be made within fourteen (14) days after the date of their receipt by the City. If the City so rejects the construction plans, in whole or in part, as not being in conformity with the Urban Renewal Plan or this Agreement, the Redeveloper shall submit new or corrected construction plans which are in conformity with the Urban Renewal Plan and this Agreement, within the time specified in Section 5 hereof, after written notification to the Redeveloper of the rejection.

The provisions of this section relating to approval, rejection and resubmission of corrected construction plans herein above provided with respect to the original construction plans shall continue to apply until the construction plans have been approved by the City: provided, that in any event the Redeveloper shall submit construction plans which are in conformity with the requirements of the Urban Renewal Plan and this Agreement, as determined by the City, no later than the time specified in Section 5. All work with respect to the improvements to be constructed or provided by the Redeveloper on the Property shall be in conformity with the construction plans as approved by the City.

The term "improvements", as used in this Agreement, shall be deemed to have reference to the improvements, including landscaping, and signs as provided and specified in the construction plans once such plans are approved.

These construction plans shall include, but are not limited to, all plans and documents required for site plan review under the City's site plan ordinance together with detailed building elevations for each building face of the improvements, and floor plans for each level. The site plan ordinance review is a separate review process from the review of construction plans provided for in this Agreement. Approval of construction plans pursuant to one does not constitute approval for purposes of the other.

SECTION 302: Changes in construction plans. If the Redeveloper desires to make any change in the construction plans after their approval by the City, the Redeveloper shall submit the proposed change to the City for its approval. If the construction plans for the Property, as modified by the proposed change, conform to the requirements of Section 301 hereof with respect to such previously approved construction plans, the City shall approve the proposed change and notify the Redeveloper in writing of its approval. Such change in the construction plans shall, in any event, be deemed approved by the City unless they shall be rejected, in whole or in part, by written notice thereof by the City to the Redeveloper, setting forth in detail the reasons therefor, within the period specified in Section 5.

SECTION 303: Evidence of equity capital and mortgage financing. As promptly as possible and, in any event, no later than the time specified in Section 5 thereof, the Redeveloper shall submit to the City evidence satisfactory to the City that the Redeveloper has the equity, capital and commitments for mortgage financing necessary for the construction of the improvements on the Property.

SECTION 304: Deleted.

SECTION 305: Commencement and completion of construction of improvements. The Redeveloper agrees for itself, its successors and assigns, and every successor in interest to the Property, or any part thereof, that the Redeveloper, and such successors and assigns, shall promptly begin and diligently prosecute to completion the redevelopment of the Property through the construction of the improvements thereon, and that such construction shall in any event be begun and completed within the periods specified in Sections 4 and 5. It is intended and agreed that such Agreement s and covenants shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in the Agreement itself, be to the fullest extent permitted by law and equity, binding for the benefit of the community and the City and enforceable by the City against the Redeveloper and its successors and assigns to or of the Property or any part thereof or any interest therein.

SECTION 306: Progress Reports. Subsequent to conveyance of the Property to the Redeveloper and until construction of all improvements has been completed, the Redeveloper shall make reports, in such detail and at such times, as may reasonably be requested by the City, as to the actual progress of the Redeveloper with respect to such construction.

SECTION 307: Certificate of completion.

- (a) Promptly after the Redeveloper notifies the City, in writing, that it has completed the improvements on the Property, the City shall inspect the improvements and if the City determines that the Redeveloper has completed the improvements in accordance with the provisions of this Agreement relating solely to the obligation of the Redeveloper to construct the improvements, the City will furnish the Redeveloper with an appropriate instrument so certifying. The fact that the Redeveloper has secured an occupancy permit(s) pursuant to the building code of the City shall not entitle the Redeveloper to this certificate of completion unless in fact all improvements required by this Agreement have been satisfactorily completed. The Redeveloper shall be entitled to a certificate of completion when it has completed all improvements required by this Agreement.
- (b) Such certification by the City (and it shall so provide in the certification itself) be a conclusive determination of satisfaction and termination of the Agreement s and covenants in this Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the improvements and the dates for the beginning and completion thereof, and, if the other Agreement s and covenants in this Agreement obligating the Redeveloper in respect to the construction and completion of the improvements have been fully satisfied, the City shall forthwith issue its certification provided for in this section. Such certification and such determination shall not constitute evidence of compliance with or satisfaction of a mortgage, or any insurer of a mortgage, securing money loaned to finance the improvements, or any part thereof.
- (c) Upon completion of all elements of the improvements, except the landscaping, street trees or other similar common areas or facilities, which if incomplete shall not endanger the life or safety of any person who is to occupy a portion of the improvements prior to the issuance of a final partial certificate of completion, as defined below, or unreasonably interfere with access to or everyday use of such space by such person, the Redeveloper

may request a partial certificate of completion. If the Redeveloper desires a partial certificate of completion the Redeveloper shall notify the City, in writing, that it has completed at least the necessary part of the improvements and describing the part completed for which it desires such certificate.

Promptly after the City receives such written request for a certificate of partial completion and architect's certificate, the City shall inspect the improvements and if the City determines that the Redeveloper has completed such part of the Improvements in accordance with the provisions of this Agreement relating solely to the obligation of the Redeveloper to construct the improvements, the City shall furnish the Redeveloper with a certificate of partial completion so certifying.

Such certification by the City shall be (and it shall so provide therein) a conclusive determination of the satisfaction and termination of the Agreement s and covenants in this Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the part of the improvements covered there.

The issuance of such certificate of partial completion shall constitute the issuance of a certificate for purposes of Section 505 of this Agreement and thereafter, the Redeveloper may consummate any conveyance, sale, lease or other transfer of all or any part of the improvements to which such certificate of partial completion applies.

Furthermore, after the issuance of such certificate of partial completion and any conveyance, sales, lease or other transfer of all or any part of the improvements covered therein, any exercise by the City of its right to re-enter and take possession of the Property in accordance with Section 704 of this Agreement shall be subject to the rights granted any such purchaser, lessee or transferee (or the mortgage of any such purchaser, lessee or transferee) in the instrument of such conveyance, sale, lease, other transfer or mortgage.

In the event the Redeveloper obtains one or more certificates of partial completion, its obligation to complete the improvements shall not be discharged until the City issues a final certificate of partial completion covering completion (to the same extent required for a certificate of partial completion) of all remaining portions of the improvements not covered in any prior certificates of partial completion. Said final certificate of partial completion shall be, and shall so certify therein, a conclusive determination of the satisfaction and termination of the Agreement s and covenants in this Agreement and in the Deed with respect to the obligations of the Redeveloper, and its successors and assigns, to construct the improvements.

- (d) The certifications provided for in this section shall be in such form as will enable each to be recorded at the Redeveloper's expense in the proper office for the recordation of deeds and other instruments pertaining to the part of the Property, including the Deed. If the City shall refuse or fail to provide any such certification in accordance with the provisions of this section, the City shall, within thirty (30) days after written request by the Redeveloper, provide the Redeveloper with a written statement, indicating in adequate detail in what respects the Redeveloper has failed to complete the improvements or part thereof for which a certificate is requested in accordance with the provisions of this Agreement , or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

ARTICLE IV. RESTRICTIONS UPON USE OF PROPERTY

SECTION 401: Restrictions on use. The Redeveloper agrees for itself, and its successors and assigns; and every successor in interest to the Property, or any part thereof that the Redeveloper and such successors and assigns, shall:

- (1) Devote the Property to, and only to, and in accordance with the uses specified in the Urban Renewal Plan; and
- (2) Not discriminate upon the basis of race, color, creed, religion, sex, national origin, ancestry or disability in the sale, lease, or rental or in the use of occupancy of the Property or any improvements erected or to be erected thereon, or any part thereof.

SECTION 402: Covenants; binding upon successors in interest; period of duration. It is intended and agreed that the Agreement s and covenants provided in Section 401 hereof shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement , be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, its successors and assigns, the City and any successor in interest to the Property , or any part thereof, and the owner of any other land (or of any interest in such land) in the Project area which is subject to the land use requirements and restrictions of the Urban Renewal Plan against the Redeveloper, its successors and assigns and every successor in interest to the Property , or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof. It is further intended and agreed that the Agreement and covenant provided in subsection (1) of Section 401 hereof shall remain in effect until the date specified in Section 6 hereof unless this Agreement provides that a particular covenant expires sooner; and that the Agreement s and covenants provided in subsection (2) of Section 401 hereof shall remain in effect without limitation as to time: Provided, that such Agreement s and covenants shall be binding on the Redeveloper itself, each successor in interest to the Property , and every part thereof, and each part in possession or occupancy, respectively, only with respect to such period as such successor or party shall have title to, or an interest in, or possession or occupancy of, the Property or part thereof. The terms "uses specified in the Urban Renewal Plan" and "land use" referring to provisions of the Urban Renewal Plan, or similar language, in this Agreement shall include the land and all building, and other requirements or restrictions of the Urban Renewal Plan pertaining to such parcel.

SECTION 403: City rights to enforce. In amplification, and not in restriction of, the provisions of the preceding section, it is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the Agreement and covenants provided in Section 401 hereof, both for and in its own right and also for the purposes of protecting the interest of the community and other parties, public or private, in whose favor or for whose benefit such Agreement s and covenants have been provided. Such Agreement s and covenants shall run in favor of the City and its successors and assigns, for the entire period during which such Agreement s and covenants shall be in force and effect, without regard to whether the City or its successors or assigns has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such Agreement s and covenants relate. To enable the City to determine compliance with these covenants, the Redeveloper and its successors and assigns and tenants hereby grant the City the right, without securing a subpoena, to inspect during reasonable business hours all records and documents of such Redeveloper and its successors, assigns or tenants which may

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Date 12/27/2006 Time 3:55 PM
Rec Amt \$237.00

PATRICK F GILL, AUDITOR AND RECORDER *PF*
WOODBURY COUNTY IOWA

STATE OF IOWA

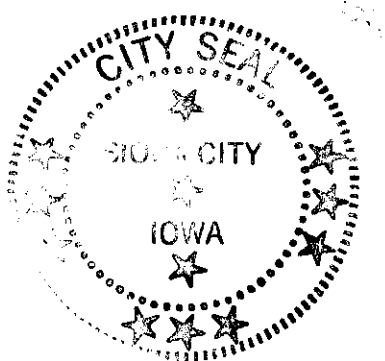
Woodbury County

CITY OF SIOUX CITY

Office of the City Clerk

I, Lisa L. McCardle, City Clerk of the City of Sioux City and City Clerk of the City Council thereof, and as such, having charge of and in my possession all the records and documents pertaining to said office now remaining therein, do hereby certify that it appears from such records that the foregoing is a true and correct copy of the Resolution 2006-00847 adopted by the City Council of the City on the 27th day of November, 2006, upon the call of yeas and nays thereof duly had and recorded.

Dated at Sioux City, Iowa this 7th day of December, 2006.



(SEAL)

LISA L. McCARDLE
CITY CLERK

RESOLUTION NO. 2006-000847
with attachments

RESOLUTION ACCEPTING THE PROPOSAL OF CONNELLY TIEHEN AND
SONS, INC., FOR THE SALE OF LAND IN THE CENTRAL SIOUX CITY CBD
URBAN RENEWAL AREA AND AUTHORIZING SALE OF SAID PROPERTY.

WHEREAS, in furtherance of the objectives of Chapter 403 of the Code of Iowa, the City of Sioux City, Iowa, has undertaken a program of redevelopment of blighted areas in the City, and in this connection has instituted the Central Sioux City CBD Urban Renewal Area; and

WHEREAS, Chapter 403 of the Code of Iowa authorizes the City to invite proposals from all interested parties for the purchase of land in an urban renewal area by publishing a public notice of its intent to receive and accept any such proposal; and

WHEREAS, Connelly Tiehen And Sons, Inc., has submitted a proposal for the purchase of the following described property in the Central Sioux City CBD Urban Renewal Area:

Property commonly known as the Pierce Building and

WHEREAS, Resolution No. 2006-0629, passed and approved by the City Council on September 11, 2006, established a date and time for the submission of proposals by interested parties and authorized the publication of notice of such invitation; and

WHEREAS, Resolution No. 2006-0727, passed and approved by the City Council on October 16, 2006, indicated the City's intent to accept said proposal of Connelly Tiehen And Sons, Inc., established a date and time for a public hearing accepting such proposals, and authorized the publication of notice of such intent and hearing; and

WHEREAS, a hearing was held on the proposal so submitted and the City Council is of the opinion and belief that it would be in the best interests of the City to accept the proposal of Connelly Tiehen And Sons, Inc., for the purchase of said property, a copy of the proposal being attached hereto and by this reference incorporated herein; and accepting such proposal is in the public interests; and

WHEREAS, a city deed has been prepared for the purchase of said property pursuant to the terms of said proposal and should be approved as to form and content.

NOW, THEREFORE, BE, AND IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF SIOUX CITY, IOWA, that the city deed attached hereto providing for the sale of said property to Connelly Tiehen And Sons, Inc., is hereby approved as to form and content and the Mayor and City Clerk be and they are hereby authorized and directed to execute same for and on behalf of the City of Sioux City, Iowa.

BE IT FURTHER RESOLVED that upon receipt of the consideration fixed in said proposal and city deed and the costs incurred in this sale that the city deed be delivered to Connelly Tiehen And Sons, Inc.

PASSED AND APPROVED: November 27, 2006


CRAIG S. BERENSTEIN, MAYOR

ATTEST: 
LISA L. McCARDLE, CITY CLERK

Prepared by Patty Heigel P.O. Box 447, Sioux City, Iowa 51102 Telephone No. (712) 279-6103

After recording return to: City of Sioux City, Iowa, P.O. Box 447, Sioux City, Iowa 51102

**PIERCE BUILDING REDEVELOPMENT
DEVELOPMENT AGREEMENT FOR SALE OF LAND
FOR PRIVATE REDEVELOPMENT IN THE
CENTRAL SIOUX CITY URBAN RENEWAL AREA
BY AND BETWEEN
THE CITY OF SIOUX CITY, IOWA
and
CONNELLY TIEHEN AND SONS, INC.
P.O. BOX 1268, DAKOTA DUNES, S.D. 57049**

Legal Description:

Middle Sioux City E 100 Ft Lots 1-2-3 Block 22; and

The West 50 feet of Lots 1, 2, & 3, Block 22, Middle Sioux City Addition, Sioux City, Woodbury County, Iowa.

EXHIBITS -

- Exhibit A: Form of Deed**
- Exhibit B: Developer's Bid Proposal**
- Exhibit C: Description of Property**
- Exhibit D: Site Plan**
- Exhibit E: Assessment Agreement**

INTRODUCTION

This Agreement , consisting of this Introduction, Part I and Part II and Exhibits "A", "B", "C", "D", and "E" to Part I attached hereto and made a part hereof (which are together hereinafter called "Agreement "), made on or as of the 27th day of November, 2006 by and between the City of Sioux City, Iowa, an Iowa Municipal Corporation, (which, together with any successor public body or officer hereafter designated by or pursuant to law, is hereinafter called "City"), acting pursuant to Chapter 403 of the Code of Iowa which is in force on the date of execution of this Agreement , (hereinafter called "Urban Renewal Act"), and having its office at City Hall, 405 Sixth Street, in the City of Sioux City, and State of Iowa, and Connelly Tiehen & Sons, Inc. (hereinafter called "Redeveloper") and having an office for the transaction of business at P.O. Box 1268 in the City of Dakota Dunes and State of South Dakota, 57049, WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Law, the City proposes to undertake a program for the clearance and reconstruction or rehabilitation of slum and blighted areas in the City, and in this connection is engaged in establishing or has heretofore established an urban renewal Project known as the Central Sioux City CBD Urban Renewal Project (hereinafter called "Project ") in an area (hereinafter called "Project Area") located in the City; and

WHEREAS, as of the date of this Agreement, there is under preparation or has heretofore been prepared by the City an urban renewal plan for the Project consisting of the Urban Renewal Plan and amendments thereto, (which plan, as so amended, and as it may hereafter be further amended from time to time pursuant to law, and as so constituted from time to time, is, unless otherwise indicated by the context, hereinafter called (Urban Renewal Plan); and

WHEREAS, the City is the owner of or will acquire the Property in the Project areas shown generally on Exhibit "C"; and

WHEREAS the City has offered to sell said Property and the Redeveloper is willing to purchase said Property and to redevelop the Property for and in accordance with this Agreement; and

WHEREAS, the City believes that the redevelopment of the Property pursuant to this Agreement, and the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals, and welfare of its residents, and in accord with the public purposes and provisions of the applicable State of Iowa and local laws and requirements under which the Project has been undertaken.

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

CONTRACT FOR SALE OF LAND FOR PRIVATE REDEVELOPMENT

PART I

SECTION 1: Sale and Purchase Price. In consideration of the Redeveloper constructing improvements as described in the Preliminary Plans and the Narrative of the Redeveloper's Bid Proposal attached hereto as "Exhibit B of Part I" and by this reference made a part thereof on the Property and paying the City as follows:

- (a) The City shall acquire if it has not already done so the parcel or parcels described in "Exhibit C" of Part I for Redeveloper. The City shall vacate and convey the real estate described in Part I (hereinafter referred to as the "Property ") to Redeveloper and Redeveloper shall pay to City the Purchase Price (hereinafter called "Purchase Price") as hereinafter determined.
- (b) The Purchase Price shall be \$1.00 and other considerations.
- (c) Upon payment of the Purchase Price which shall be in cash or certified check, simultaneous with delivery of the Deed to the Redeveloper, and for other good and valuable consideration, all subject to the terms and conditions of this Agreement, the City shall sell to the Redeveloper and the Redeveloper shall purchase from the City the Property.
- (d) The City shall not, however, proceed to convey the Property described in "Exhibit C" until such time as:
 - (1) City has given preliminary approval of the Preliminary Site Plan
 - (2) Soil tests have been performed and the results are satisfactory to both City and Redeveloper; and

SECTION 2: Conveyance of Property.

- (a) Form of deed. The City shall convey to the Redeveloper title to the Property by City Deed (hereinafter called "Deed") substantially in the form attached hereto as "Exhibit A of Part I" and by this reference made a part hereof. Such conveyance and title shall be subject to the conditions, covenants, and restrictions set forth or referred to elsewhere in the Agreement; and to all conditions, covenants, restrictions, and requirements of the Urban Renewal Plan. Delivery of the Deed shall not abrogate the other responsibilities and covenants of the parties under this Agreement.
- (b) Time and place for conveyance. The City shall convey the Property as soon as reasonably possible. Such conveyance shall occur within ten (10) days after satisfaction of the following conditions:
 - (1) The City has approved the Redeveloper's proposal for financing the Project as provided in Section 303 hereof; and
 - (2) The City has approved the Final Construction and Site Plans as provided in Section 301 hereof; and

- (3) The City has acquired title to the Property.

Upon satisfaction of the above conditions, the City shall immediately deliver to the Redeveloper notice of the conveyance date. By no later than the delivery of such notice, or as soon thereafter as an abstract may be created, the City shall deliver to the Redeveloper an abstract of title to the Property. The Redeveloper shall notify the City in writing of any objections to title within ten (10) days of delivery of the abstract. The City shall take all steps reasonably necessary to cure defects in title prior to conveyance. The Redeveloper shall be entitled to possession of the abstract only on or after the delivery of title and possession of the Property.

The Redeveloper shall pay the Purchase Price and shall take title and possession of the Property and the City shall deliver the Deed and possession of the Property on the conveyance date.

- (c) Apportionment of current taxes The City shall pay a pro rata share of taxes (real and personal), based on the assessed value of the land and improvements included within the Property for the fiscal year of closing (July 1 to June 30), which are due and payable in the next subsequent fiscal year, and all unpaid taxes for prior years. To determine the pro rata share of such current fiscal year's taxes payable to the next subsequent fiscal year by the respective parties, the following procedure shall be used:
- (1) The most recent real estate taxes, based on the assessed value of the land, shall be added together and then divided by 365 to determine the per day figure; and
 - (2) The total number of days in said fiscal year commencing with the 1st day of July and ending with the day of closing shall be determined and said number multiplied by the per day tax figure and the product shall be the portion of the taxes payable by the City; and
 - (3) The remaining portion of the taxes for said fiscal year and all subsequent taxes shall be the responsibility of the Redeveloper.
- (d) Apportionment of special assessments. The City shall pay all special assessments or installments thereof which, if not paid, would become delinquent in the fiscal year of settlement, and all prior assessments and/or installments thereof. All other special assessments or installments thereof shall be paid by the Redeveloper.
- (e) Recordation of deed. If the City shall not already have done so, the Redeveloper shall promptly file the Deed for recordation among the land records of the Woodbury County Recorder's Office. The Redeveloper shall pay all costs (including the cost of the State documentary stamp tax, if any, on the Deed) for so recording the Deed and shall provide the City with a copy imprinted with the date, time, book and page numbers of recordation.

SECTION 3: Good faith deposit. (Reserve)

SECTION 4: Time for commencement and completion of improvements. The construction of the improvements referred to in Section 301 hereof shall be commenced in any event on or before January, 1, 2007, and except as otherwise provided in this Agreement shall be completed on or before Dec. 31, 2007.

SECTION 5: Time for certain other actions.

- (a) Time for site plan review pre-application conference. The Redeveloper shall participate in the pre-application conference of the Site Plan Review process required by City ordinance by no later than sixty (60) days after approval of this Agreement by the City. The Redeveloper shall contact the Planning Department of the City to schedule such conference.
- (b) Time for submission of construction plans. The Redeveloper shall submit its "Construction Plans" (as defined in Section 301 hereof) to the City by no later than sixty (60) days after the approval by the City of the Site Plan.
- (c) Time for city action on construction plans. Within fourteen (14) days of submission of the Construction Plans or corrected Construction Plans by the Redeveloper as provided in subsections (b) and (d) of this section, the City shall approve or reject such plans as provided for in accordance with the provisions of Section 301 hereof. In the case of an initial submission of preliminary Construction Plans by Redeveloper the City's approval of same shall be contingent upon its approval of Final Construction Plans. Redeveloper shall be required to submit it's Final Construction Plans within thirty (30) days of the contingent approval of Preliminary Construction Plans. Such Final Construction Plans shall be subject to the approval processes set forth in subsections (c) through (f) of this section.
- (d) Time for submission of corrected construction plans. Except as provided in subsection (e) of this section, the time within which the Redeveloper shall submit any new or corrected Construction Plans as provided for in Section 301 hereof shall be not later than five (5) days after the date the Redeveloper receives written notice from the City of the City's rejection of the Construction Plans referred to in the latest such notice.
- (e) Maximum time for approved construction plans. In any event, the time by which the Redeveloper shall submit Construction Plans which conform to the requirements of Section 301 hereof and are approved by the City, shall be not later than sixty (60) days after the time stated in Section 5(b) above.
- (f) Time for city action on change in approved construction plans. The time within which the City may reject any change in the approved Construction Plans, as provided in Section 302 hereof, shall be thirty (30) days after the date of the City's receipt of notice of such change.
- (g) Time for submission of evidence of equity capital and mortgage financing. The time for which the Redeveloper shall submit to the City evidence as to equity capital and any commitment necessary for mortgage financing, as provided in Section 303 hereof, shall be not later than sixty (60) days after the approval of this Agreement by the City.

SECTION 6: Period of duration of covenant on use. The Covenant pertaining to the use of the Property, set forth in Section 401 hereof, shall remain in effect for a period of twenty-one (21) years from the date of the Deed.

SECTION 7: Notices and demands. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by

registered or certified mail, postage prepaid, return receipt requested, or delivered personally, as follows:

- (i) In the case of the Redeveloper, is addressed to or delivered personally to the Redeveloper at:

Bart Connelly
Connelly Tiehen & Sons
P.O. Box 1268
Dakota Dunes, SD 57049

- (ii) In the case of the City, is addressed to or delivered personally to:

City Manager, City of Sioux City, Iowa
405 Sixth Street
P.O. Box 447
Sioux City, Iowa 51102-0447

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

SECTION 8: Special provisions.

- (a) Type of development. The City and Redeveloper agree that the minimum improvements to be constructed on the Property by the Redeveloper shall include:

- 1. Demolition of structure to the west, roof replacement, tuck pointing, structural repairs, first floor window replacement;
- 2. Site utilities (including the sanitary sewer, storm sewer and water service lines from City mains).
- 3. Hard surface parking (to conform to the City code).
- 4. Landscaping.

The foregoing construction shall be in accordance with the site plan attached hereto as "Exhibit D of Part I", or such site plan as may hereafter be approved by the City.

- (b) Nonapplicability of Iowa Code § 614.24. The Redeveloper agrees on behalf of itself and its successors and assigns that the City may bring an action based upon any claim arising or existing by reason of any term or provision of the Deed provided for herein, the conveyance of this Property without regard to the lapse of time and/or any term or provision of this Agreement reserving or providing for any reversion, reverted interests or use restrictions into and on the Property without complying with the requirements of Iowa Code § 614.24 that the City periodically record or re-record such reversions, reverted interests or use restrictions, and the Redeveloper agrees that neither it or its successors or assigns will assert the City's failure to comply with such § 614.24 as a defense to any such action.

- (c) Required terms the redeveloper must include in any conveyance of its interest. The Redeveloper shall refer to and incorporate the terms, conditions, restrictions, and requirements of the Deed provided for herein, of the Urban Renewal Plan, and of this Agreement in any deed, will, conveyances or contract conveying part or all of its interest in the Property, shall provide therein that the City can enforce the terms, conditions, restrictions, and requirements of such Deed, Urban Renewal Plan and this Agreement against the Redeveloper's successors or assigns to the same extent it could against the Redeveloper; and shall indemnify the City for any damages, including attorney fees and the costs of litigation caused or occasioned by its failure to comply with this subsection of the Agreement.
- (d) The Redeveloper understands that it shall be necessary for the City to utilize tax increment revenues from the Project area to finance any or all of the work to be performed by the City under this Agreement. Redeveloper further agrees that in order for the City to finance its portion of the Project, Redeveloper shall hereby establish minimum actual values of the land and completed improvements which will enable the City to fund its portion of the Project through tax increment financing. Minimally, such minimum actual land values shall be: Total value as of January 1, 2008 shall be \$1,000,000. This value shall increase to \$4,000,000. as of January 1, 2015. On or after January 1, 2020 the assessment Agreement shall terminate. Redeveloper shall not apply for tax abatement pursuant to Chapter 404, Code of Iowa, for any value established for a tax year before January 1, 2020.
- (e) Pursuant to the authority granted the City in subsection 3 of § 403.6, Code of Iowa, the Redeveloper shall have the right as an agent of the City to enter into any building or Property within the proposed Project area in order to make inspections, surveys, soundings or test borings. Such right shall be afforded Redeveloper for a 90 day period commencing with the execution of this Agreement.
- (f) The City shall provide a maximum of \$300,000 toward the improvements in Section 8(a) upon the receipt of certification from the developer that the improvements have been complete; and invoices for the same.
- (g) Requests to the City for reimbursement of its share of improvement costs associated With the value of the Exhibit "C" Property shall be made by Developer on forms approved by the City. The City shall retain 5% of each payment requested until the City certifies and approves the completion of the construction of all improvements under this agreement.

The City shall process and pay all approved requests within 30 days of approval for payment. The review of such requests, confirmation as to accuracy and completeness of the information provided, and confirmation of the completion of work for which payment is requested shall constitute approval to pay.

SECTION 9: Incorporation of the construction plans into Agreement: recordation

- (a) The construction plans, drawings, specifications and related documents as finally approved by the City pursuant to Section 301 hereof, and any amendments thereto, as finally approved by the City pursuant to Section 302 hereof, shall be incorporated into this

Agreement as amendments thereto effective as of the date of such approvals. This Agreement and the following documents:

- (1) The City Council Resolution Offering the Property and Setting the Terms and Conditions for such Offering, Resolution No. 2006-0629 dated September 11, 2006, including all exhibits and attachments thereto;
- (2) The Redeveloper's Bid Proposal in its entirety;
- (3) The approved Construction Plans and any approved amendments thereto;
- (4) The Resolution approving the sale of the Property and approving this Agreement, Resolution No. 2006-0847, dated November 27, 2006, including all exhibits and attachments thereto;

shall be construed together and in harmony with one another in any interpretation of the entire Agreement of the parties. A copy of all such documents shall be placed on permanent file in the Office of the City Clerk, City Hall, Sioux City, Iowa.

The Redeveloper understands and acknowledges that this Resolution has not been adopted as of the date the Redeveloper executed this contract and hereby agrees and intends that the Resolution referred to hereby is that Resolution hereinafter formally adopted by the City by which it offers the Property for redevelopment as an Urban Renewal Project in accordance with the Urban Renewal Act.

- (b) This Agreement is hereby incorporated by reference in the Deed conveying the Property. The Redeveloper shall immediately cause this Agreement in its entirety to be recorded at its expense in the Woodbury County Recorder's Office (except the approved Construction Plans and any amendments thereto) and shall provide the City with a copy imprinted with the date, time, book and page numbers of recordation.

SECTION 10: Counterparts. This Agreement is executed in four counterparts, each of which shall constitute one and the same instrument.

SECTION 11: Other provisions. Notwithstanding any other provisions contained in this Agreement, in the event that at any time prior to conveyance of the Property to the Redeveloper:

- (1) (reserved) _____; or
- (2) _____; or
- (3) _____;

then, and in those events, this Agreement, and any rights and obligations of the Redeveloper, shall (at the option of the Redeveloper or the City) be terminated and the City shall return or release the Deposit and neither the Redeveloper nor the City shall have any further rights against or liability to the other under this Agreement.

IN WITNESS WHEREOF, the City and the Redeveloper have caused the Agreement to be duly executed as of the day first above written.

CITY OF SIOUX CITY, IOWA

Craig S. Berenstein

Craig S. Berenstein, Mayor

Attest:

Lisa McCardle

Lisa McCardle, City Clerk

CONNELLY TIEHEN AND SONS, INC.

By:

Bart Connelly

Bart Connelly

Its:

President

President

STATE OF IOWA)
 : ss
COUNTY OF WOODBURY)

BE IT REMEMBERED, on this 12th day of December, 2006, before me the undersigned, a Notary Public in and for Woodbury County, personally appeared Craig S. Berenstein, Mayor and Lisa McCardle, City Clerk, who, being by me duly sworn, did say that they are Mayor and City Clerk, respectively, of the City of Sioux City, Iowa; that the seal affixed hereto is the seal of the City of Sioux City, Iowa; that the said instrument was signed and sealed on behalf of said City of Sioux City, Iowa, and that the said Craig S. Berenstein and Lisa McCardle acknowledged the execution of said instrument to be the voluntary act and deed of said City of Sioux City, Iowa, by it and by them voluntarily executed.



Sheri L. Young
NOTARY PUBLIC IN AND FOR WOODBURY COUNTY

STATE OF Iowa)
 : ss.
COUNTY OF Woodbury)

On this 12th day of December, 2006, before me, the undersigned a Notary Public in Iowa and for Woodbury County and Iowa State, personally appeared Bart Connelly and _____ to me personally known, who being by me duly sworn, did say that they are the President and _____ respectively, of said corporation executing the within and foregoing instrument, that (no seal has been procured by the said) corporation; that said instrument was ~~(the seal affixed thereto is the seal of said)~~ signed (and sealed) on behalf of said corporation by authority of its Board of Directors; and that the said Bart Connelly and _____ as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation by it and by them voluntarily executed.

(SEAL)

Melinda L. Trobena
NOTARY PUBLIC IN AND FOR WOODBURY COUNTY

