

REDEVELOPMENT AGREEMENT

This Agreement, made and effective as of the date subscribed below, by and between the City of Mitchell, a South Dakota municipal corporation, hereafter “City”, and Mitchell Area Development Corporation, a South Dakota nonprofit corporation, hereafter “MADC”, and collectively as the “parties”.

WHEREAS this Agreement relates to properties at 301, 303, 305, and 307 N Main Street, Mitchell, SD 57301, hereafter “Property”, which are legally described as:

“Lots Nine (9), Ten (10), Eleven (11) and Twelve (12), Block Three (3), Original Town (now city) of Mitchell, Davison County, South Dakota.”; and

WHEREAS the City declared a portion of the Property (Lots 11 and 12) a nuisance in violation of state law and city ordinance due to the condition of the structures thereon and filed a civil lawsuit in Davison County (File # 17CIV18-146) regarding said portion of the Property and subsequently approved an agreement with the Property Owner of the same whereby the City will take ownership of those lots; and

WHEREAS, MADC entered into a purchase agreement for the portion of the Property on Lots 9 and 10; and

WHEREAS both parties desire to see redevelopment of the area; and

WHEREAS, to make redevelopment feasible, all structures on the Property need to be demolished in the interest of correcting a nuisance, removing a threat to public safety, and fiscal responsibility, and

WHEREAS MADC is able to better focus on the redevelopment of the Property than the City and is able to prepare the lots for redevelopment in a more expedient and cost effective manner than the City.

THEREFORE, upon the mutual consideration outlined in this Agreement, the Recitals of which are a contractual part hereof, the City and MADC agree as follows:

1. Upon acquiring Lots 11 and 12 as described above, City agrees to transfer such property to MADC as soon as practicable. MADC agrees to accept Lots 11 and 12 AS-IS with no guarantee or warranty as to the condition of any structures on said lots. The Mayor is authorized to make such transfer without further action of the City Council upon approval of this Agreement.
2. In order to facilitate redevelopment of the Property and hopefully spur further improvements in the downtown area, and subject to the further conditions of this Agreement, MADC agrees to demolish or cause to be demolished all structures on the entire Property and to

leave such property in a reasonably safe condition until such time as the Property can be redeveloped.

3. City shall pay to MADC a lump sum of \$419,000.00 to complete all steps necessary to allow for demolition, to complete the demolition project, and to actively seek redevelopment opportunities that will expeditiously return the Property to being a productive asset to the downtown area and community as a whole. In addition, City will pay to MADC the costs for asbestos removal in relation to the demolition project. Payments shall be made at the time the demolition project is completed.

4. MADC must comply with the State Historic Preservation Office process. As City makes the final determination under that process if a project will proceed, this Agreement shall not bind the City into making any specific conclusion during that process and this Agreement shall be null and void if the City ultimately determines that the project should not proceed on state historic preservation grounds.

5. Except as set forth in Paragraph 6 below, MADC shall complete or cause to be completed the demolition project described in Section 1 no later than December 31, 2019. In completing such project MADC, its employees agents, and assigns shall be deemed independent contractors and no special relationship is created by this Agreement between the City and MADC, its employees, agents, or assigns.

6. In the event that MADC fails to complete the demolition project by December 31st, 2019 for a reason other than weather prohibiting the completion of the demolition or an act of God prohibits the completion of the demolition by such date all or a portion of the funds allocated under Section 3 may be withheld at the discretion of City. If failure to complete by December 31st, 2019 is for a reason other than weather related or an act of God, MADC also grants City the right to complete the demolition project at City expense commencing on January 1st 2020. However in the event such delay was caused due to weather or an act of God, MADC shall be granted adequate time to complete the demolition project.

7. If any provision or part of a provision of this Agreement is determined to be unenforceable, the remaining provisions or parts of provisions shall continue in full force and effect to the maximum extent permitted by law.

8. This Agreement constitutes the full and final agreement of the parties and supersedes any prior agreement, verbal or written, in relation to the subject matter addressed herein.

9. This Agreement does not bestow any rights or interests upon any third party beneficiary and is for the sole benefit of the parties hereto.

Dated this ____ day of _____, 2019.

[signature page to follow]

CITY OF MITCHELL, SD

(seal)

Attest:

Robert B. Everson, Jr., Mayor

Michelle Bathke, Finance Officer

MITCHELL AREA DEVELOPMENT CORPORATION

Mark Vaux, Executive Director