

(AMENDED: 10/24/22)

**AGENDA  
COMMUNITY REDEVELOPMENT AUTHORITY  
CITY COUNCIL CHAMBERS  
306 PEARL STREET  
October 25, 2022**

1. 4:00 p.m. - Call the meeting to order

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the southwest wall of the City Council Chambers as well as on the City of Wayne website.

The Community Redevelopment Authority may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

2. Action to approve the Minutes of September 27, 2022
3. Action to approve the Claims
4. **CRA Res. 2022-6: Rescinding in full CRA Resolution 2022-4; authorizing the issuance of a Tax Increment Financing Promissory Note; providing for the terms and provisions of said Note; pledging revenues of the Authority pursuant to the Community Development Law; and authorizing a Redevelopment Contract**
5. Discussion and action to implement an admin fee for tax increment financing projects
6. Update and discussion and/or action on the following properties:
  - Lot 5 and Part of Lot 6, Block 5, John Lake's Addition to the City of Wayne, Wayne County, Nebraska (106 E. 7<sup>th</sup> Street)
  - Part of Lot 5 and all of Lot 6, Block 14, Original Town of Wayne, and Lots 7 and 8, Block 14, Original Town of Wayne (located at 2<sup>nd</sup> and Logan/Nebraska Streets)
  - 721 Main Street
7. Recap/Review of Hastings CRA Trip
8. Discussion regarding other potential properties of interest
9. Adjourn

**NEXT MEETING IS SCHEDULED FOR NOVEMBER 29, 2022**

September 27, 2022

The Wayne Community Redevelopment Authority (CRA) met in regular session at City Hall on Tuesday, September 27, 2022, at 4:00 o'clock p.m. Chair Jill Brodersen called the meeting to order with the following in attendance: Members Mark Lenihan, Greg Ptacek, Terry Sievers and Mike Powicki; City Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Members Jon Meyer and Cale Giese.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on September 15, 2022, and a copy of the meeting notice and agenda were simultaneously given to the Chair and all members of the Community Redevelopment Authority. All proceedings hereafter shown were taken while the Authority convened in open session.

Chair Brodersen advised the public that a copy of the Open Meetings Act was located on the southwest wall of the Council Chambers and was available for public inspection. In addition, she advised the public that the Community Redevelopment Authority may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Member Sievers made a motion, which was seconded by Ptacek, to approve the minutes of the August 30, 2022, meeting. Chair Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Members Meyer and Giese who were absent, the Chair declared the motion carried.

Member Ptacek made a motion, which was seconded by Member Lenihan, to approve the following CRA Claims:

|   |             |
|---|-------------|
| Bockmann, Inc.                            | \$29,979.00 |
| Removal/disposal asbestos2nd/Nebraska St. |             |
| City of Wayne                             |             |
| Ads/notices                               | \$565.12    |
| Misc. costs – 200 S Lincoln St.           | 1.27        |
| Utilities – 106 E. 7 <sup>th</sup>        | 37.00       |

|                           |          |
|---------------------------|----------|
| Miller Law                |          |
| Certified Mailing         | \$7.00   |
| Nix LLC LB840             | 24.40    |
| Olsson                    | \$550.00 |
| Wayne CRA Jimmy John's    |          |
| Wayne County Clerk        | \$16.00  |
| Wayne CRA Easement Mosely |          |

Chair Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Members Meyer and Giese who were absent, the Chair declared the motion carried.

Member Giese arrived at 4:05 p.m.

Administrator Blecke updated the CRA on the following properties:

- Lot 5 and Part of Lot 6, Block 5, John Lake's Addition to the City of Wayne, Wayne County, Nebraska (106 E. 7<sup>th</sup> Street)

The contractor is supposed to be starting the first part of October. Attorney Miller closed on the LB840 loan this morning.

- Part of Lot 5 and all of Lot 6, Block 14, Original Town of Wayne, and Lots 7 and 8, Block 14, Original Town of Wayne (located at 2<sup>nd</sup> and Logan/Nebraska Streets)

Administrator Blecke stated three bids were received on September 22, 2022, regarding the demolition of the structures and foundations at 2<sup>nd</sup> and Logan/Nebraska Streets. His recommendation is to award the contract to the low bidder, Kay Contracting, Inc., for \$31,950.00. The other two bids came from Robert Woehler & Sons Construction, Inc., - \$44,685.33 and Detlefsen Construction -\$78,000.00.

Finance Director Beth Porter stated that \$46,490 is what is in the CRA account at this time. The CRA owes \$172,000 on their line of credit with the City.

November 15<sup>th</sup> is the construction end date on this project.

Member Giese made a motion, which was seconded by Member Lenihan, accepting the bid and awarding the contract to Kay Contracting, Inc., for \$31,950.00 on the "2<sup>nd</sup> and Logan/Nebraska Street Razing Project." Chair Brodersen stated the motion, and the result of roll

call being all Yeas, with the exception of Member Meyer who was absent, the Chair declared the motion carried.

City Administrator Blecke updated the CRA on the “Request for Proposals” for the 2<sup>nd</sup> and Logan/Nebraska Street property. November 9<sup>th</sup> is the deadline for submittals. Staff was directed to publish the same in the Norfolk Daily News. Administrator Blecke would reach out to a few engineers, etc., for suggestions on who to send the RFP’s to. Administrator Blecke also noted he had spoken to Bill Reeg, and he would be interested in doing something to square up the one parcel.

Staff was directed to take 200 S. Lincoln Street off the agenda. Ken Knust and Carter Urwiler from Wisner purchased that property.

➤ 721 Main Street

Attorney Miller reviewed the Purchase Agreement with Wayne Rentals, LLC, on the 721 Main Street property. She requested that the same be approved with the amendment that the house be vacant at the time of closing.

Member Giese made a motion, which was seconded by Member Powicki, approving the Purchase Agreement with Wayne Rentals, LLC, with the amendment that the house be vacant at the time of closing and authorizing reimbursement for repairs required by the Problem Resolution Team. Chair Brodersen stated the motion, and the result of roll call being all Yeas, with the exception of Member Meyer who was absent, the Chair declared the motion carried.

Discussion took place on other potential properties of interest.

Administrator Blecke reminded the CRA of their trip to Hastings on October 19<sup>th</sup> to take a tour of their downtown improvement district and attend a CRA meeting.

There being no further business to come before the CRA, Chair Brodersen declared the meeting adjourned at 4:45 p.m.

**City of Wayne  
CRA Claims List**

**September 28, 2022**

|           |       |   |              |
|-----------|-------|---|--------------|
| 9/25/2022 | #1495 | City of Wayne<br>Line of credit repayment \$45,000.00 | \$ 45,000.00 |
|-----------|-------|---|--------------|

**October 25, 2022**

|            |        |  |           |
|------------|--------|--|-----------|
| 10/25/2022 | # 1496 | City of Wayne<br>Ads/notices \$305.67<br>Utilites 106 E 7th St \$37.84 | \$ 343.51 |
|------------|--------|--|-----------|

|            |        |  |              |
|------------|--------|--|--------------|
| 10/25/2022 | # 1497 | Robert Woehler & Sons Construction Inc<br>Pay app #1 CRA JJ site | \$ 15,300.00 |
|------------|--------|--|--------------|

|              |  |  |                     |
|--------------|--|--|---------------------|
| <b>Total</b> |  |  | <b>\$ 60,643.51</b> |
|--------------|--|--|---------------------|

CRA  
BANK SUMMARY  
CHECKING ACCOUNT  
October 25, 2022

BALANCE 9/27/22 1,108.06

DEPOSITS:

|                     |           |
|---------------------|-----------|
| Interest            | 2.75      |
| Sale of lot 23      | 45,382.45 |
| Econ dev transfer   | 14,045.03 |
| Line of credit draw | 5,000.00  |

SUBTOTAL: 65,538.29

CLAIMS:

|             |           |
|-------------|-----------|
| Claims Paid | 60,643.51 |
|-------------|-----------|

BOOK BALANCE as of 10/25/22 4,894.78

**CRA RESOLUTION NO. 2022-6**

**A RESOLUTION OF THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF WAYNE, NEBRASKA; RESCINDING IN FULL CRA RESOLUTION NO. 2022-4; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT FINANCING PROMISSORY NOTE; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID NOTE; PLEDGING REVENUES OF THE AUTHORITY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW AND AUTHORIZING A REDEVELOPMENT CONTRACT.**

BE IT RESOLVED by the Chair and Members of the Community Redevelopment Authority of the City of Wayne, Nebraska (the "Authority"), as follows:

Section 1. The Chair and Members of the Authority hereby find and determine:

(a) that the Mayor and City Council of the City of Wayne, Nebraska (the "City") duly created the Authority by ordinance for purposes of assisting with redevelopment of blighted and substandard real estate located within the City; that the Authority has and may exercise all of the powers of a redevelopment authority provided for under the Nebraska Community Development Law, sections 18-2101, et. seq., of the Nebraska Revised Statutes (the "Act"); that there has been prepared a redevelopment plan, entitled "City of Wayne Redevelopment Plan for the Perry Apartment Development" (the "Plan") for the redevelopment of the real estate described and referred to in Exhibit A (hereinafter in this Resolution referred to as the "ProjectArea");

(b) that prior to the recommendation or approval of the Plan an area which includes the Project Area was declared blighted and substandard by action of the Mayor and City Council of the City;

(c) that the City has had in effect its comprehensive plan for the development of the City from the time prior to the preparation of the Plan;

(d) that the Plan was submitted to the Planning Commission of the City which held a public hearing on the Plan and recommended its approval and thereafter was recommended by the Authority to the Mayor and City Council of the City, as and to the extent required by the Act;

(e) that on the 19th day of July, 2022, the Mayor and City Council of the City held a public hearing on the Plan, for which notice was given by publication prior to such hearing in the *Wayne Daily News* on June 30th, 2022 and July 11th, 2022, and, after such hearing, the Mayor and Council gave their approval to the Plan;

(f) that the Plan, among other things, calls for the site preparation and construction of a multi-family residential apartment complex on property to be acquired by the

Redeveloper, defined hereafter, and creation of a recreational lake on land owned by the City, together with the public improvements related thereto, as more particularly described in the Plan;

(g) that Wayne Development, LLC, a Nebraska limited liability company (hereafter in this resolution referred to as the "Redeveloper"), will undertake the redevelopment of the real estate in the Project Area by constructing Project I and Project II, as described in the Plan and the redevelopment contract entered into between Redeveloper and the Authority, substantially in the form attached hereto as Exhibit B and incorporated herein by reference (the "Redevelopment Contract"), and the City and the Authority have previously communicated willingness to assist such redevelopment in order to encourage employment and economic development of the City as well as for the redevelopment of a blighted and substandard area of the City;

(h) that Redeveloper and the Authority anticipate that Redeveloper will submit an amendment to the Redevelopment Contract, as contemplated therein, establishing an "Effective Date" (as defined in the Act);

(i) that Redeveloper has entered into an agreement with the City for the construction of the recreational lake to be developed as part of Project II;

(j) that Redeveloper has incurred or is expected to incur costs in excess of \$31,426,724 relating to redevelopment of the Project Area (the "Project Costs") pursuant to the Plan and the Redevelopment Contract;

(k) that the Authority and the City have agreed to assist the Redeveloper with certain grants as set forth in the Redevelopment Contract and in consideration for undertaking the costs of constructing the improvements associated with Project I and Project II in the Project Area, and for such purpose it is necessary for the Authority to authorize the issuance of its Tax Increment Financing Promissory Note in an amount not to exceed \$4,880,000 (the "Note");

(l) that the Redevelopment Contract provides that the Authority will assist the Redeveloper with certain grant assistance and the issuance of the Note as provided for in this Resolution;

(m) that all ad valorem taxes received by the Authority's Treasurer related to the Project I Area shall be allocated to the Note pursuant to the terms of said Note;

(n) that all conditions, acts and things required by law to exist or to be done precedent to the authorizing of the Authority's Note as provided for in this Resolution do exist and have been done as provided by law, or will be done prior to the Authority's issuance of the Note to Redeveloper; and

(o) that the Authority has previously adopted CRA Resolution No. 2022-4 and the same should be rescinded as said Resolution approves a version of a redevelopment contract that has not been fully executed.

Section 2. The Resolution adopted by the Authority as CRA Resolution 2022-4, adopted July 26, 2022, is hereby rescinded in full.

Section 3. A Note in the amount Four Million Eight Hundred Eighty Thousand Dollars (\$4,880,000) is hereby ordered issued in accordance with Section 18-2125, R.R.S. Neb. 2012, by the Authority and shall be designated as its "Tax Increment Financing Promissory Note of the Community Redevelopment Authority for City of Wayne, Nebraska, (Perry Apartment Development)," in such series as determined by the Authority. The Note shall be issued in the single denomination in the amount of \$4,880,000. The Note shall be dated as of Effective Date, as determined in the Redevelopment Contract ("Dated Date"). The Note shall bear interest from the Dated Date until maturity (or earlier redemption) at the rate of three and one half percent (3.50%) per annum. The principal balance and interest thereon shall be due and payable on this Note as and at such time as any excess ad valorem taxes generated by the "Redevelopment Project" (as set forth in the Redevelopment Contract) are collected by the Authority and available for the retirement of this debt.

The Note shall be issued in registered form. The Authority's Treasurer (the City Treasurer of the City of Wayne) is hereby designated as paying agent and registrar for the Note (the "Agent"). The Agent shall serve in such capacities pursuant to the terms of this Resolution. The interest due on each payment date prior to maturity shall be payable to the registered owner of record as of the last business day of the calendar month immediately preceding the calendar month in which such payment date occurs (the "Record Date"), subject to the provisions of Section 5 hereof. Payments of interest due on the Note, except for payments due on final maturity date, or other final payment, shall be made by the Agent by mailing or delivering a check or draft in the amount then due for interest on the Note to the registered owner of the Note to such owner's registered addresses as shown on the books of registration as required to be maintained in Section 4 hereof. Payments of principal and interest due at final maturity or other final payment shall be made by the Agent to the registered owner upon presentation and surrender of the Note to the Agent at the Authority's offices at City Hall in the City of Wayne, Nebraska. The Authority and the Agent may treat the registered owner of the Note as the absolute owner of the Note for the purpose of making payments thereon and for all other purposes and neither the Authority nor the Agent shall be affected by any notice or knowledge to the contrary, whether the Note or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of the Note in accordance with the terms of this Resolution shall be valid and effectual and shall be a discharge of the Authority and the Agent, in respect of the liability upon the Note or claims for interest to the extent of the sum or sums so paid.

Section 4. The Agent shall keep and maintain for the Authority books for the registration and transfer of the Note at the Authority's offices at City Hall in Wayne, Nebraska. The name and registered address of the registered owner of the Note shall at all times be recorded in such books. The Note may be transferred pursuant to its provisions at the Authority's offices by surrender of such Note for notation of transfer, accompanied by a written instrument of transfer, in form satisfactory to the Agent, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Agent on behalf of the Authority will register such transfer upon its books and make notation thereof on the Note and deliver the Note at its office to the transferee owner (or send it by registered mail to the transferee owner thereof at such transferee

owner's expense). Any transfers of the Note shall be upon the basis of a private placement and each proposed transferee registered owner shall furnish the Agent with assurances in form satisfactory to the Agent that such Note is being purchased for investment purposes only, without view to redistribution and upon the independent credit judgment and investigation of the proposed transferee. The Authority and the Agent shall not be required to transfer the Note during any period from any Record Date until its immediately following interest payment date or to transfer the Note when called for redemption, in whole or in part, for a period of 15 days next preceding any date fixed for redemption or partial redemption.

Section 5. In the event that payments of interest or principal on any interest payment date are not timely made, such interest or redemption price shall cease to be payable to the registered owner as of the Record Date for such interest payment date and shall be payable to the registered owner of the Note as of a special date of record for payment of such defaulted interest or redemption price as shall be designated by the Agent whenever monies for the purpose of paying such defaulted interest or redemption price become available.

Section 6. At any time, the Authority shall have the option of prepaying in whole or in part principal of the Note. Any such optional prepayment of principal shall be accompanied by an amount equal to all accrued but unpaid interest on the principal amount being prepaid. In the event of prepayment in whole the Note shall be cancelled. The determination of the amount and timing of any optional redemption of the Note shall be in the absolute discretion of the Authority. The Payment Account (as hereinafter established and defined in section 8 of this resolution), including all amounts, if any, from investment earnings for such fund, rounded down to the nearest one hundred dollars, after payment of all accrued but unpaid interest on each payment date are referred to in this Resolution as "Available Funds". Available Funds shall be applied to the prepayment of principal on each payment date and shall be remitted to the registered owner of the Note with interest payments. The Agent shall mark the Agent's records with respect to each mandatory partial principal prepayment made from Available Funds and it shall not be necessary for the registered owner to present the Note for notation of such prepayment. The records of the Agent shall govern as to any determination of the principal amount of the Note outstanding at any time and the registered owner shall have the right to request information in writing from the Agent at any time as to the principal amount outstanding upon the Note .

Section 7. The Note shall be in substantially the following form:

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "'33 ACT") AND MAY NOT BE TRANSFERRED, ASSIGNED, SOLD OR HYPOTHECATED UNLESS A REGISTRATION STATEMENT UNDER THE '33 ACT SHALL BE IN EFFECT WITH RESPECT THERETO AND THERE SHALL HAVE BEEN COMPLIANCE WITH THE '33 ACT AND ALL APPLICABLE RULES AND REGULATIONS THEREUNDER, OR THERE SHALL HAVE BEEN DELIVERED TO THE CITY OF WAYNE PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF WAYNE TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

**TAX INCREMENT FINANCING PROMISSORY NOTE**

(Perry Apartment Development)

\$4,880,000.00

\_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, the undersigned, Community Redevelopment Authority of the City of Wayne, Nebraska ("Authority"), promises to pay Wayne Development, LLC, a Nebraska limited liability company ("Holder"), and/or its assigns, the principal sum of Four Million Eight Hundred Eighty Thousand and No/100 Dollars (\$4,880,000.00), together with interest thereon at the rate of 3.50% per annum, in accordance with the terms of that certain Redevelopment Contract dated \_\_\_\_\_, 20\_\_ (the "Redevelopment Contract"), as between the Authority and Holder, until such date that the excess ad valorem real property taxes may no longer be divided and pledged towards the payment of this Tax Increment Financing Promissory Note (this "Note") under section 18-2147 of the Nebraska Community Development Law, Sections 18-2101 et seq., of the Nebraska Revised Statutes (the "Act"), or until all principal and interest on this Note is paid in full, whichever occurs first. The principal balance and interest thereon shall be due and payable on this Note as and at such time as any excess ad valorem taxes generated by the "Redevelopment Project" (as set forth in the Redevelopment Contract) are collected by the Authority and available for the retirement of this debt. Interest on this Note shall begin accruing on January 1 of the year of the "Effective Date" (as defined in the Act) for the Redevelopment Project.

All terms of the Redevelopment Contract authorizing the issuance of this Note are hereby incorporated and adopted by this Note as if specifically set forth herein. To the extent the terms of this Note conflict with the Redevelopment Contract, the terms of this Note shall control.

The Authority may prepay the principal amount outstanding in whole or in part, without penalty or the prior consent of the Holder.

In the event the monies collected and held in that special fund established under Section 18-2147 of the Act are insufficient to pay in full all amounts due and owing after all excess ad valorem taxes generated by the Redevelopment Project have been collected by the Authority and paid, within a reasonable time after becoming available, towards the retirement of the amounts due hereunder, then the Holder shall waive any unpaid portion of the principal and interest due hereon and shall surrender this Note to the Authority.

Demand, presentment, protest and notice of nonpayment under this Note are hereby waived.

A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT OF THE AUTHORITY. THE HOLDER OR ANY TRANSFEREE OR ASSIGNEE OF SUCH HOLDER MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED BY THE RECORDS OF THE AUTHORITY.

Pursuant to the Redevelopment Contract and Sections 18-2124 and 18-2150 of the Act, the excess ad valorem real property taxes generated by the Redevelopment Project, and collected within the Redevelopment Project Area, have been pledged for the payment of this Note, both principal and interest as the same fall due or become subject to mandatory redemption. This Note shall not constitute a general obligation of the Authority and the Authority shall be liable for the payment thereof only out of said portion of taxes as described in this paragraph. This Note shall not constitute an obligation of the State of Nebraska, the Authority, or of the City of Wayne (except for such receipts as have been pledged pursuant to said Sections 18-2124 and 18-2150 R.R.S. Neb. 2012) and neither the State of Nebraska, the Authority nor the City of Wayne shall be liable for the payment thereof from any fund or source including but not limited to tax monies belonging to either thereof (except for such receipts as have been pledged as described above in this paragraph). Neither the members of the Authority's governing body nor any person executing this Note

shall be liable personally on this Note by reason of the issuance hereof.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Note shall operate as a waiver of such remedy, right or option. In any event, a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion.

Any notice provided for in this Note to the Authority or the Holder shall be in writing and shall be given by regular mail to the Holder or Authority, or at such other address as either party may designate by notice in writing.

This Note shall be governed by and construed in accordance with the laws of the State of Nebraska. All payments hereunder shall be payable in lawful money of the United States of America and shall be legal tender for public and private debts at the time of payment.

IN WITNESS WHEREOF, the Chairperson and Secretary of the Authority have caused this Note to be executed on behalf of the Authority, all as of the Dated Date shown below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COMMUNITY REDEVELOPMENT AUTHORITY OF  
THE CITY OF WAYNE, NEBRASKA

ATTEST:

By: (Sample – Do Not Sign)  
Chairperson

(Sample – Do Not Sign)  
Secretary

PROVISION FOR REGISTRATION

The ownership of this Note shall be registered as to both principal and interest on the books and records of the Community Redevelopment Authority for the City of Wayne, Nebraska kept by the Paying Agent and Registrar identified in the foregoing Note, who shall make notation of such registration in the registration blank below, and the transfer of this Note may thereafter be registered only upon an assignment duly executed by the registered owner or such owner's attorney or legal representative, in such form as shall be satisfactory to said Paying Agent and Registrar, such registration of transfer to be made on such books and endorsed hereon by said Paying Agent and Registrar.

| Date of Registration | Name of Registered Owner | Signature of Paying Agent and Registrar |
|----------------------|--------------------------|---|
| _____, 20__          | Wayne development , LLC  | (Sample – Do Not Sign)                  |
|                      |                          |   |
|                      |                          |   |
|                      |                          |   |
|                      |                          |   |

Section 8. The Effective Date (as defined in the Act) with respect to the Project I Area shall be set forth in an amendment to the Redevelopment Contract, as contemplated therein. After the Effective Date ad valorem taxes on real property located within the area associated with Project One are to be apportioned pursuant to Section 18-2147, R.R.S. Neb. 2012, as amended. From and after the effective date with respect to the Project I Area, that portion of the ad valorem taxes collected on the real estate located within the Project I Area, which is described in subdivision (1)(b) of Section 18-2147, R.R.S. Neb. 2012, as amended, and which ad valorem taxes received by the Authority's Treasurer attributable to the Project I Area, which are attributable to valuation increases determined as of the effective date for the Project I Area (the "Project Area Tax Receipts"), shall be paid into a special fund of the Authority to be designated as the "Community Redevelopment Authority — Perry Apartment Project Fund" (the "Note Payment Account") to be held by the Agent for application to payments on the Note .

The Authority hereby pledges for the payment of the Note both principal and interest as the same fall due all Project Area Tax Receipts associated with the real estate described in the Redevelopment Contract and so paid into the Note Payment Account as a prior and first lien upon said receipts for the security and payment of the Note. Monies held in the Note Payment Account shall be invested to the extent practicable and investment earnings on such monies shall be applied in the same manner as all other funds held in the Note Payment Account.

Section 9. The Note shall be executed on behalf of the Authority by the Chair and Secretary. Upon execution, the Note shall be registered by the Agent in the name of the Redeveloper or its designee as the initial registered owner and shall be delivered in consideration of the performance by the Redeveloper (and certain of its predecessors) in accordance with the Plan. The Redeveloper may request notation of a pledge interest in the Note on the records of the Agent. The initial purchaser (and any pledgee) of the Note shall be required to deliver an investment representation letter to the Agent. Such letter shall be satisfactory in form to the officers of the Authority, or any one or more of them, as advised by the Authority's attorneys.

Section 10. If the date for payment of the interest or principal on the Note shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Wayne, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 11. The Secretary of the Authority shall make and certify one or more copies of the transcripts of the proceedings of the Authority precedent to the issuance of the Note one of which copies shall be delivered to the Authority.

Section 12. The Chair and Secretary or any one of them are hereby authorized to take any and all actions, and to execute any and all documents deemed by them necessary to effect the transactions authorized by this Resolution.

Section 13. The authorization for the Note provided for in this Resolution is based upon expectations as to completion of construction, valuation and proposed tax rates suggested by and/or

agreeable to the Redeveloper. The Authority has given and hereby gives no assurances that such expectations will in fact be fulfilled.

Section 14. Interest on the Notes shall be subject to taxation for both federal and Nebraska state income taxes, as and to the extent provided by law, and no information report shall be filed with the Internal Revenue Service under Section 149(e) of the Code.

Section 15. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

Section 16. This Resolution shall be in force and take effect from and after its adoption as provided by law.

**PASSED AND APPROVED** this 25<sup>th</sup> day of October, 2022.

**THE COMMUNITY REDEVELOPMENT  
AUTHORITY OF THE CITY OF WAYNE,  
NEBRASKA**

By \_\_\_\_\_  
Chair

ATTEST:

By: \_\_\_\_\_  
(Secretary) City Clerk

**Exhibit "A"**  
**Legal Description of the Project Area**

Project One Site also known as the Apartment Site: Lot Three (3), Southeast Addition to the City of Wayne, Wayne County, Nebraska. Parcel 0080238.00

Project Two Site also known as the Lake Site: Lot Five (5), Southeast Addition to the City of Wayne, Wayne County, Nebraska. Parcel 0080235.00

**Exhibit "B"**

**Redevelopment Contract**

(See attached)

## REDEVELOPMENT CONTRACT

This Redevelopment Contract is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022, by and between the Community Redevelopment Authority of the City of Wayne, Nebraska ("Authority"), and Wayne Development, LLC, a Nebraska limited liability company ("Redeveloper").

WITNESSETH:

WHEREAS, the City of Wayne, Nebraska (the "City"), in furtherance of the purposes and pursuant to the provisions of Section 12 of Article VIII of the Nebraska Constitution and Sections 18-2101 through 18-2155, Reissue Revised Statutes of Nebraska, 2012, as amended (collectively the "Act"), has designated an area within the City as blighted and substandard;

WHEREAS, the Authority has adopted, after approval by the Mayor and Council of the City, that redevelopment plan entitled "City of Wayne Redevelopment Plan For The Perry Apartment Development" (the "Redevelopment Plan") a copy of which is on file in the office of the Wayne City Clerk and is incorporated herein as though fully set forth;

WHEREAS, the Redevelopment Plan calls for the Authority to support two redevelopment projects designated in the Redevelopment Plan as Project One and Project Two. Project One includes Redeveloper's real estate acquisition and construction of an apartment complex on real estate to be purchased from the City. Project Two includes the construction of a recreational lake on property owned by the City. Exhibit 1 attached hereto and incorporated herein by this reference describes the Redevelopment Project Area and shows the Project One real estate designated as the "Apartment Site" and Project Two real estate designated as the Lake Site;

WHEREAS, Section 18-2107 of the Act authorizes the Authority to carry out plans for a program of acquisition, and improvements in connection with redevelopment of the Redevelopment Project Area and to pay for the same from TIF Proceeds (as defined herein). The Redeveloper intends to utilize the TIF Proceeds from the Apartment Site to pay for the eligible costs on the Project One and Project Two as defined herein;

WHEREAS, Section 18-2107 of the Act authorizes the Authority to enter into contracts with redevelopers of property containing covenants and conditions regarding the use of such property as the Authority may deem necessary to prevent the recurrence of substandard and blighted areas;

WHEREAS, Redeveloper is willing to enter into this Contract and invest in excess of Twenty Two Million Dollars (\$22,000,000.00) on Project One and undertake community betterment improvements on Project Two pursuant to a Lake Agreement, hereinafter defined;

WHEREAS, the site plan attached hereto as Exhibit 2 shows the Project One design;

WHEREAS, in order to help remove blight and substandard conditions and improve conditions in an economically underutilized area, the Authority is willing to enter into this Contract

and to utilize TIF Proceeds to fund a portion of the Project Costs in order to induce the Redeveloper to undertake the Private Improvements (“Private Improvements”) and Public Improvements (“Public Improvements”) described below;

WHEREAS, the Private Improvements and Public Improvements on the Project Site comprise the Redevelopment Project and are collectively known as the “Redevelopment Project Improvements”. The costs of the Redevelopment Project Improvements are collectively known as the “Redevelopment Project Costs” and are shown on Exhibit 3, which is attached hereto and incorporated herein by this reference. The Authority and Redeveloper agree that assistance with the Redevelopment Project Costs is deemed essential and the Redevelopment Project would not be economically feasible without it;

WHEREAS, the Authority is willing to support the above described redevelopment of the Project Site in accordance with the Redevelopment Plan; provided that, Redeveloper is willing to agree to covenants and conditions regarding compulsory maintenance and upkeep of the Private Improvements to prevent a recurrence of substandard and blighted conditions;

WHEREAS, Authority and Redeveloper desire to enter into this Redevelopment Contract in order to implement the Redevelopment Plan and provide for the redevelopment of the Project Site;

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, Authority and Redeveloper do hereby covenant, agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

#### Section 1.01 Terms Defined in this Redevelopment Contract.

Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Redevelopment Contract, such definitions to be equally applicable to both the singular and plural forms and masculine, feminine and neuter gender of any of the terms defined:

"Act" means Section 12 of Article VIII of the Nebraska Constitution, Sections 18-2101 through 18-2155, Reissue Revised Statutes of Nebraska, 2012, as amended, and acts amendatory thereof and supplemental thereto.

"Authority" means the Community Redevelopment Authority of the City of Wayne, Nebraska.

"City" means the City of Wayne, Nebraska.

"Governing Body" means the Mayor and City Council of the City.

"Owner(s)" means the registered owner or owners of Indebtedness issued by the Authority from time to time outstanding.

"Indebtedness" means any notes, loans, and advances of money or other indebtedness, including interest and premium, if any, thereon, incurred by the Authority pursuant to the Resolution and Article III hereof to provide financing for a portion of the Project Costs and secured in whole or in part by TIF Revenues. The Indebtedness as initially issued by the Authority shall consist of a Tax Increment Development Revenue Note in an amount not to exceed \$4,880,000.00 and purchased by the Redeveloper or Redeveloper's lender as set forth in Section 3.02 of this Redevelopment Contract.

"Liquidated Damages Amount" means the amounts to be repaid to Authority by Redeveloper pursuant to Section 6.02 of this Redevelopment Contract.

"Redevelopment Project" or "Project" means the improvements to the Redevelopment Project Area, as further described in the Redevelopment Plan and, as used herein, shall include the Project Site and additions and improvements thereto. Without limitation, those improvements include the following public and private improvements:

Private improvements:

Site acquisition, preparation, private roadways, infrastructure extension, sidewalks, exterior lighting, public parking, right-of-way improvements and construction of 144 apartments in four separate buildings, club house, pool and associated improvements including the planning and engineering therefore.

Public improvements:

Planning, engineering, excavation, contouring and general construction of a recreational lake not to exceed 4 acres as provided in the Lake Agreement;

"Project Costs" means only costs or expenses incurred by Redeveloper for the purposes set forth in §18-2103(28)(a) through (f), inclusive, including the providing for such costs by the exercise of the powers set forth in §18-2107(4) of the Act, all as identified on Exhibit 3.

"Redeveloper" means Wayne Development, LLC, a Nebraska limited liability company, and its successors and assigns.

"Redevelopment Project Area" means that certain real property situated in the City of Wayne, Wayne County, Nebraska which has been declared blighted and substandard by the City pursuant to the Act, and which is more particularly described on Exhibit 1 attached hereto and incorporated herein by this reference. All such legal descriptions are subject to change based upon any re-platting requested by the Redeveloper and approved by the City.

"Project Site" means all of the Redevelopment Project Area which is the site for the improvements constituting the Project, as more particularly described on Exhibit 1 attached hereto and incorporated herein by this reference.

"Redevelopment Contract" means this redevelopment contract between the Authority and Redeveloper with respect to the Project.

"Redevelopment Plan" means the Redevelopment Plan (also defined in the recitals hereto) for the Redevelopment Project Area related to the Project, prepared by the Authority, approved by the City and adopted by the Authority pursuant to the Act.

"Resolution" means the Resolution of the Authority authorizing the issuance of the Indebtedness, as supplemented from time to time, and also approving this Redevelopment Contract.

"TIF Proceeds" means the Note proceeds described in Section 3.02.

"TIF Revenues" means incremental ad valorem taxes generated on the Apartment Site which are to be allocated to and paid to the Authority pursuant to the Act.

Section 1.02 Construction and Interpretation.

The provisions of this Redevelopment Contract shall be construed and interpreted in accordance with the following provisions:

(a) Whenever in this Redevelopment Contract it is provided that any person may do or perform any act or thing the word "may" shall be deemed permissive and not mandatory and it shall be construed that such person shall have the right, but shall not be obligated, to do and perform any such act or thing.

(b) The phrase "at any time" shall be construed as meaning at any time or from time to time.

(c) The word "including" shall be construed as meaning "including, but not limited to."

(d) The words "will" and "shall" shall each be construed as mandatory.

(e) The words "herein," "hereof," "hereunder", "hereinafter" and words of similar import shall refer to the Redevelopment Contract as a whole rather than to any particular paragraph, section or subsection, unless the context specifically refers thereto.

(f) Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require.

(g) The captions to the sections of this Redevelopment Contract are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

## ARTICLE II

### FINDINGS AND REPRESENTATIONS

#### Section 2.01 Findings of Authority.

The Authority makes the following findings:

(a) The Authority is a duly organized and validly existing Community Redevelopment Authority under the Act.

(b) The Redevelopment Plan has been duly approved by the City and adopted by the Authority pursuant to Sections 18-2109 through 18-2117 of the Act.

(c) The Authority deems it to be in the public interest and in furtherance of the purposes of the Act to accept the proposal submitted by Redeveloper as specified herein.

(d) The Redevelopment Project is expected to achieve the public purposes of the Act by among other things, increasing employment, improving public infrastructure, increasing the tax base, and lessening blighted and substandard conditions in the Redevelopment Project Area and other purposes set forth in the Act.

(e) (1) The Redevelopment Plan is feasible and in conformity with the general plan for the development of the City as a whole and the Redevelopment Plan is in conformity with the legislative declarations and determinations set forth in the Act, and

(2) Based on representations made by the Redeveloper and information provided to the Authority:

(i) the Project would not be economically feasible without the use of tax-increment financing, and

(ii) the Project would not occur in the Redevelopment Project Area without the use of tax-increment financing. Documentation of this finding is provided by correspondence from the Redeveloper's lender showing that the project will not be financed without the provision of tax increment financing.

(f) The Authority has determined that the costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the Authority and have been found to be in the long-term best interest of the community impacted by the Project.

(g) The Authority has determined that the proposed land uses and building requirements in the Redevelopment Area are designed with the general purpose of accomplishing, in conformance with the general plan, a coordinated, adjusted, and

harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development: including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of the healthful and convenient distribution of population, the provision of adequate transportation, water, sewerage and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of insanitary or unsafe dwelling accommodations, or conditions of blight.

(h) The Redevelopment Plan includes a cost benefit analysis pursuant to §18-2113 of the Act. The Authority has reviewed such analysis and adopts and approves the cost benefit analysis.

#### Section 2.02 Representations of Redeveloper.

The Redeveloper makes the following representations:

(a) The Redeveloper is a Nebraska limited liability company having the power to enter into this Redevelopment Contract and perform all obligations contained herein and by proper action has been duly authorized to execute and deliver this Redevelopment Contract. Prior to the execution and delivery of this Redevelopment Contract, the Redeveloper has delivered to the Authority a certificate of good standing, a certified copy of the Redeveloper's operating agreement and a certified copy of the resolution or resolutions authorizing the execution and delivery of this Redevelopment Contract.

(b) The execution and delivery of this Redevelopment Contract and the consummation of the transactions herein contemplated will not conflict with or constitute a breach of or default under any debenture, note or other evidence of indebtedness or any contract, loan agreement or lease to which Redeveloper is a party or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Redeveloper contrary to the terms of any instrument or agreement.

(c) There is no litigation pending or to the best of its knowledge threatened against Redeveloper affecting its ability to carry out the acquisition, construction, equipping and furnishing of the Project or the carrying into effect of this Redevelopment Contract or in any other matter materially affecting the ability of Redeveloper to perform its obligations hereunder.

(d) The Project would not be economically feasible without the use of tax increment financing. Documentation of this fact has been provided in a letter from the Redeveloper's lender. Financing of the redevelopment project is contingent on receipt of the TIF proceeds.

(e) The Project would not occur in the Redevelopment Project Area without the use of tax-increment financing.

(f) The Redeveloper certifies that it has not and will not apply for: (i) tax incentives under the Nebraska Advantage Act or the ImagiNe Act for a project located or to be located within the redevelopment project area; (ii) a refund of the city's local option sales tax revenue; and that no application has been made or approved under the Nebraska Advantage Act or the ImagiNe Act.

### ARTICLE III

#### OBLIGATIONS OF THE AUTHORITY

##### Section 3.01 Division of Taxes.

In accordance with Section 18-2147 of the Act and the terms of the Resolution, the Authority hereby provides that any ad valorem tax on the Apartment Site portion of the Redevelopment Project Area for the benefit of any public body be divided for a period of fifteen years after the effective date as described in Section 18-2147 (1) of the Act which shall be identified in a Redevelopment Contract Amendment executed on behalf of the Redeveloper and delivered to the Authority in the form attached hereto as Exhibit 4. The Authority shall file with the Wayne County Assessor the "Notice to Divide Taxes" on or prior to August 1 in the calendar year of the Effective Date. Said taxes shall be divided as follows:

(a) That portion of the ad valorem tax on the real estate located within the Redevelopment Project Area which is produced by levy at the rate fixed each year by or for each public body upon the "redevelopment project valuation" (as defined in the Act) shall be paid into the funds of each such public body in the same proportion as all other taxes collected by or for the bodies; and

(b) That portion of the ad valorem tax on real property within the Project Lot in excess of such amount (the "Incremental Ad Valorem Tax"), if any, shall be allocated to, is pledged to, and, when collected, paid into a special fund of the Authority to pay the principal of, the interest on, and any premium due in connection with the Indebtedness. When such Indebtedness, including interest and premium due have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property within the Redevelopment Project Area shall be paid into the funds of the respective public bodies.

With respect to the Redevelopment Project Area, Redeveloper shall execute and deliver to the Authority the Redevelopment Contract Amendment by no later than July 1 of the year of the Effective Date proposed in the Redevelopment Contract Amendment.

Section 3.02 Issuance of Indebtedness.

The Authority shall authorize the issuance of the Indebtedness in one taxable note, in the form attached hereto and incorporated herein as Exhibit 5 (the "TIF Note"). The TIF Note shall be in the form and stated principal amount and bearing interest and being subject to such terms and conditions as are specified in the Resolution and this Redevelopment Contract. No Indebtedness will be issued until Redeveloper has acquired fee title to the Apartment Site and provided the Authority with proof of financial ability to construct the Project.

In accordance with the foregoing, and subject to the additional terms and conditions set forth herein, in consideration of Redeveloper undertaking the Project, the Authority shall issue the TIF Note to Redeveloper within a commercially reasonable time following Redeveloper's request therefor. At closing of the TIF Note, the loan to be accomplished by this section and the obligation of the Authority to use the TIF Revenues for redevelopment purposes under this Redevelopment Contract may be accomplished by offset so that the Redeveloper retains the TIF Revenues and no bankable currency is exchanged at closing of the TIF Note, except as otherwise provided herein.

The TIF Note shall constitute a limited obligation of the Authority payable exclusively from TIF Revenues generated from the Apartment Site pursuant to section 18-2147 of the Act and collected for a period not to exceed fifteen (15) years from the Division Date. Prior to receipt of any TIF Revenues, the Authority shall create a special fund established solely to make payments on the TIF Note. Upon receipt of the TIF Revenues, the Authority shall deposit the TIF Revenues into the special fund, and disburse said TIF Revenues to the holder of the TIF Note (but only from available TIF Revenues) at the times provided in the TIF Note to provide for reimbursement of all or a portion of the Project Costs, to the extent paid by Redeveloper, as evidenced by paid invoices or other evidence acceptable to the Authority ("Project Cost Certifications"). The principal amount paid on the TIF Note shall not exceed the aggregate amount of Project Cost Certifications received by the Authority. Each such reimbursement hereunder shall be and constitute a grant to Redeveloper made under the terms of this Redevelopment Contract and the Act. Redeveloper may, at its option, submit one or more partial Project Cost Certifications prior to expenditure of all Project Costs providing certification of receipt and payment of billings for work in progress. Project Cost Certifications during construction shall be provided every 3 months beginning with commencement of construction. Failure by Redeveloper to timely submit Project Cost Certifications every 3 months shall not constitute a material breach or event of default under this Redevelopment Contract. However, Redeveloper shall be assessed a \$500 penalty for each instance in which Redeveloper fails to timely submit Project Cost Certifications. The penalty shall become due and owing, from Redeveloper to the Authority, upon the Authority's written demand therefor following such failure. Each Project Cost Certification shall be compiled in categories set forth under "Project TIF Expenses" as shown on Exhibit 3. All Project Cost Certifications shall be subject to review and approval by the Authority prior to the funding of such Project Costs. If

Redeveloper fails to submit Project Cost Certifications in an amount equal to or greater than the principal amount on the TIF Note within a reasonable time following completion of the Project, Redeveloper shall reimburse the Authority in an amount equal to the initial principal amount of the TIF Note, less aggregate total of the Project Cost Certifications received by the Authority. Said reimbursement shall be due and owing, from Redeveloper to the Authority, immediately following Redeveloper's receipt of the Authority's written demand therefor.

Redeveloper acknowledges that it is its understanding and the Authority's understanding that interest on the Indebtedness may be includable in gross income for federal income tax purposes and subject to Nebraska State income taxation.

The Parties agree that any grant paid hereunder to the Redeveloper as reimbursement for the cost of the Public Improvements are for the benefit of the City and the public and are granted pursuant to the contract provisions described herein and that such grant funds are not under the dominion and control of the Redeveloper and should not be construed as income to the Redeveloper under the Internal Revenue Code Section 61 (I.R.C. § 61).

Any excess TIF Revenues resulting from the Apartment Site not needed or required to pay the principal and interest on the TIF Note shall be expended by the Authority or returned to the applicable taxing authorities as provided in the Act. Any shortfall in anticipated TIF funds from the TIF Revenues for any reason whatsoever, specifically including a decline in taxable valuation of the Apartment Site, shall be borne entirely by the Redeveloper and/or the holder of the TIF Note without recourse of any kind against the Authority or the City.

### Section 3.03 Pledge of Revenues.

Under the terms of the Resolution, the Authority pledges 100% of the available annual TIF Revenues derived from the Apartment Site as security for and to provide payment of the Indebtedness as the same fall due (including payment of any mandatory redemption amounts set for the Indebtedness in accordance with the terms of the Resolution). The tax increment is to be derived from the increased valuation, determined in the manner provided for in Article 8, Section 12 of the Constitution of the State of Nebraska and the Act which will be attributable to the redevelopment contemplated under this Contract and within the Redevelopment Project Area. The TIF Revenues which are to be used to pay debt service on the TIF Note will be derived from the increased valuation from redeveloping the Apartment Site as provided in this Contract. Redeveloper specifically acknowledges that a reduction in assessed valuation of all or any portion of the Apartment Site shall reduce the TIF Revenues available for payment on TIF Note. The Redeveloper specifically acknowledges, as the TIF Note Purchaser, that it bears the entire risk of an assessed valuation being less than projected and any subsequent reduction in assessed valuation or tax levy.

Section 3.04 Creation of Funds.

In the Resolution, the Authority has provided for the creation of the following fund and account which fund shall be held by the Authority separate and apart from all other funds and moneys of the Authority and the City:

A special trust fund called the "Perry Project Note Fund" (the "Project Note Fund"). All of the TIF Revenues from the Apartment Site shall be deposited into the Project Note Fund. The TIF Revenues accumulated in the Project Note Fund shall be used and applied on the Business Day prior to each Interest Payment Date to pay principal of or interest on the TIF Note to the extent of any money then remaining in the Project Note Fund on such Interest Payment Date. Money in the Project Note Fund shall be used solely for the purposes described herein and in the Resolution. All TIF Revenues received shall be used solely for the payments required herein and by the Resolution.

ARTICLE IV

OBLIGATIONS OF REDEVELOPER

Section 4.01 Construction of Project.

Redeveloper shall:

- (a) Provide and pay for: (1) the timely installation of the extension of sanitary sewer, water mains, storm sewers and improvements in the public right-of-way for Project One; (2) construction of the improvements for Project One in accordance with the plans and specifications provided to the Authority and City in a timely manner; (3) construction of the recreational lake on the Lake Site in accordance with plans and specifications as agreed with the City and approved by the City's Engineer and subject to the City's inspection; and (4) inspections of improvements under construction shall be performed under the supervision of a professional registered engineer and upon completion shall be subject to inspection and approval by the City's Engineer prior to acceptance by the City of Wayne. An "as built" set of plans and specifications including required test results bearing the seal and signature of a registered professional engineer shall be filed with the City's Engineer by Redeveloper prior to acceptance of these improvements by the City.
- (b) Construct all Private Improvements in compliance with all applicable local, state, and federal building and construction laws and codes. Redeveloper agrees to secure and maintain all permits and licenses necessary for its use of the Redevelopment Project including, but not limited to, necessary building permits and inspections. Redeveloper shall invest a minimum of \$22,000,000.00 as part of the Private Improvements.
- (c) Prior to commencing any construction on Project One or Project Two, to the extent required under Section 18-2151 of the Act, provide a payment and performance bond from a bond company doing business in the state of Nebraska in the total amount of all the Public Improvements located in Project One and Project Two. The City and Authority shall be named as beneficiaries under such bond.

- (d) Until construction of the Project has been completed, make reports in such detail and at such times as may be reasonably requested by the Authority as to the actual progress of Redeveloper with respect to construction of Project One and Project Two. Such reports shall include actual expenditures incurred as described on Exhibit 3.
- (e) Require any general contractor chosen by the Redeveloper to obtain and keep in force at all times until completion of construction, policies of insurance including coverage for contractors' general liability and completed operations. The City, the Authority and the Redeveloper shall be named as additional insureds. Any contractor chosen by the Redeveloper or the Redeveloper itself, as owner, shall be required to purchase and maintain property insurance upon the Project to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "All Risk" insurance for physical loss or damage. The contractor with respect to any specific contract or the Redeveloper shall also carry insurance on all stored materials. The contractor or the Redeveloper, as the case may be, shall furnish the Authority and the City with a Certificate of Insurance evidencing policies as required above. Such certificates shall state that the insurance companies shall give the Authority prior written notice in the event of cancellation of or material change in any of the policies.
- (f) The Redeveloper agrees that Redeveloper and any contractor for the improvements to be reimbursed as a part of the Project Public Costs shall be required to agree to use a federal immigration verification system (as defined in §4-114, R.S. Supp. 2012) to determine the work eligibility status of new employees physically performing services on the Project and to comply with all applicable requirements of §4-114, R.S. Supp. 2012.
- (g) The scope and extent of Redeveloper's obligations in relation to Project Two are set forth in that certain "Contractual Agreement" between Redeveloper and the City, a copy of which is attached to this Amendment and incorporated herein as Exhibit 6 (the "Lake Agreement"). Notwithstanding anything to the contrary in the Redevelopment Contract, the scope of Redeveloper's work with respect to Project Two, and the extent of Redeveloper's obligations in relation thereto, shall be governed and defined by the Lake Agreement. Accordingly, with respect to the construction of Project Two only, so long as Redeveloper is in compliance with the Lake Agreement, Redeveloper shall likewise be deemed in compliance with this Redevelopment Contract. Redeveloper shall commence construction of the lake as soon as reasonably practical. Additionally, contemporaneously with Redeveloper's execution of this Redevelopment Contract, Redeveloper's affiliate, R. Perry Construction, Inc., shall provide a limited guaranty, for the benefit of the Authority and City, guarantying Redeveloper's obligations with respect to Project Two under this Redevelopment Contract, in the form attached hereto and incorporated herein as Exhibit 7.
- (h) Retain copies of all supporting documents that are associated with the redevelopment plan or redevelopment project and that are received or generated by the Redeveloper for three years following the end of the last fiscal year in which ad valorem taxes are divided and provide such copies to the City as needed to comply with the City's retention requirements under section 18-2117.04 of the Act. For purposes of this subsection, supporting document includes any cost-benefit analysis conducted pursuant to section 18-2113 of the Act and any invoice, receipt, claim, or contract received or

generated by the Redeveloper that provides support for receipts or payments associated with the division of taxes.

- (i) Pay to the Authority the sum of \$15,000 upon the execution of the Redevelopment Contract for legal costs incurred for preparation of the Redevelopment Plan, Redevelopment Contract and issuance of the Indebtedness.

#### Section 4.02 No Discrimination.

So long as the TIF Note is outstanding Redeveloper shall not discriminate against any person or group of persons on account of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance in connection with the Redevelopment Project. Redeveloper, its successors and transferees, agrees that during the construction of the Redevelopment Project, Redeveloper will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance, and further agrees to require that its contractor and subcontractors shall agree to conform to said requirements. Redeveloper will comply with all applicable federal, state and local laws related to the Redevelopment Project. For purposes of this paragraph, discrimination shall mean discrimination as defined by the laws of the United States and the State of Nebraska.

#### Section 4.03 Assignment or Conveyance.

Provided that, at all times, the guaranty under Section 4.01(h) of this Redevelopment Contract remains valid and effective, Redeveloper may, without the prior consent of the Authority, assign the Redevelopment Contract to an entity that is wholly-owned by Redeveloper, or under the common control of Redeveloper's principals. Notwithstanding, Redeveloper must provide the Authority with a fully-executed copy of any such assignment before the same shall be deemed effective between the Parties. Upon provision of the same to the Authority, and provided the assignee under said permitted assignment fully and unconditionally assumed, in writing, all of Redeveloper's obligations and liabilities under the Redevelopment Contract, Redeveloper shall be released from the Redevelopment Contract, without further duties, obligations or liabilities thereunder.

Additionally, Redeveloper may, without the prior consent of the Authority, pledge, transfer and/or assign the TIF Note to a lender as collateral on a loan between Redeveloper and said lender for the purpose of financing Redeveloper's construction of the Redevelopment Project; provided that Redeveloper shall be required to provide the Authority with written notice of any such transaction within a commercially reasonable time. Unless and until Redeveloper provides the Authority with such notice, the pledge, transfer and/or assignment of the TIF Note shall not be considered legally effective under this Redevelopment Contract.

Other than those permitted above, this Redevelopment Contract shall not be assigned by the Redeveloper without the written consent of the Authority. Such consent shall not be unreasonably withheld, conditioned or delayed. Redeveloper agrees that it shall not convey any portion of the Apartment Site or any structures thereon to any person or entity that would be exempt from payment of real estate taxes, and that it will not make application for any structure,

or any portion thereof, to be taxed separately from the underlying land. Any successor in interest or transferee of any real estate in the Redevelopment Project shall be bound by and have the same obligations hereunder as the Redeveloper. The Authority shall be entitled to require, as conditions to any required approval, that:

- a. Any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the Authority, necessary and adequate to fulfill the obligations undertaken in this Contract by Redeveloper relating to the applicable real estate being transferred; and
- b. Any proposed transferee, by instrument satisfactory to the Authority and in form recordable in the Office of the Register of Deeds, shall for itself and its successors and assigns and for the benefit of the Authority, have expressly assumed all of the obligations of Redeveloper under this Contract with respect to the applicable Lot being transferred; and
- c. Copies of the documents addressing items (a) and (b) shall be submitted to the Authority for review not less than less than ten (10) days prior to the proposed transfer. If the transfer or any of the documentation in connection therewith is disapproved by the Authority, its disapproval and reasons therefore shall be indicated to Redeveloper in writing.

Section 4.04. Obligation to Restore.

In the event of any damage or destruction to the Private Improvements during the Tax Increment Period, Redeveloper agrees to use good faith efforts to commence restoration of the Private Improvements to its prior condition within twelve (12) months from the date of the damage or destruction, and shall pursue the same to completion.

Section 4.05 Maintenance of Private Improvements.

Redeveloper and any successor in interest shall maintain the improvements constituting Project One including buildings, drives, parking areas and communal areas in a clean and proper manner in accordance with the best reasonable standards for similar rental projects in the state of Nebraska.

**ARTICLE V  
FINANCING REDEVELOPMENT PROJECT**

Section 5.01 Financing Creating Encumbrances Restricted.

Redeveloper shall pay all costs related to Project One in excess of the amounts paid from the proceeds of the Indebtedness and granted to Redeveloper. Redeveloper shall timely pay all such costs, expenses, fees, charges and other amounts associated with Project One.

## ARTICLE VI

### DEFAULT, REMEDIES; INDEMNIFICATION

#### Section 6.01 General Remedies of City, Authority and Redeveloper.

Subject to the further provisions of this Article VI, in the event of any failure to perform or breach of this Redevelopment Contract or any of its terms or conditions, by any party hereto or any successor to such party, such party, or successor, shall, upon written notice from the other, proceed immediately to commence such actions as may be reasonably designed to cure or remedy such failure to perform or breach which cure or remedy shall be accomplished within a reasonable time by the diligent pursuit of corrective action. In case such action is not taken, or diligently pursued, or the failure to perform or breach shall not be cured or remedied within a reasonable time, this Redevelopment Contract shall be in default and the aggrieved party may institute such proceedings as may be necessary or desirable to enforce its rights under this Redevelopment Contract, including, but not limited to, proceedings to compel specific performance by the party failing to perform or in breach of its obligations. The Redeveloper hereby acknowledges and agrees that the Authority shall have completed its required performances and satisfied all of its obligations under this Redevelopment Contract upon the issuance of the Indebtedness and the subsequent payment of grant amounts to the Redeveloper as set forth in Article III hereof.

#### Section 6.02 Additional Remedies of Authority

If Redeveloper, or its successor in interest, shall fail to substantially complete the construction of the improvements included in the Project Costs within 36 months of the Effective Date, excepting delays caused by inclement weather or any delays set forth in section 6.03, then Redeveloper shall be deemed in default of this Redevelopment Contract.

If such default exists following all applicable notice requirements and cure periods, then the Authority may, via written notice to Redeveloper, terminate and void the TIF Note, in which case no further payments shall be made thereon, and the aggregate amount of all grants paid to Redeveloper on the TIF Note shall stand forfeited and Redeveloper shall repay the same to the Authority within thirty (30) days' of said written notice.

#### Section 6.03 Forced Delay Beyond Party's Control.

For the purposes of any of the provisions of this Redevelopment Contract, neither the Authority nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of or default in its obligations with respect to the conveyance or preparation of the Redevelopment Area or any part thereof for redevelopment, or the beginning and completion of construction of the Project, or progress in respect thereto, in the event of forced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays in subcontractors due to such causes; it being

the purpose and intent of this provision that in the event of the occurrence of any such forced delay, the time or times for performance of the obligations of the Authority or of the Redeveloper with respect to construction of the Project, as the case may be, shall be extended for the period of the forced delay: Provided, that the party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such forced delay, have first notified the other party thereto in writing, and of the cause or causes thereof and requested an extension for the period of the forced delay.

Section 6.04 Limitations of Liability; Indemnification.

Notwithstanding anything in this Article VI or this Redevelopment Contract to the contrary, neither the City, the Authority, nor their respective elected officials, officers, directors, appointed officials, employees, attorneys, agents or their governing bodies shall have any pecuniary obligation or monetary liability under this Redevelopment Contract. The sole obligation of the Authority under this Redevelopment Contract shall be the issuance of the Indebtedness and granting of a portion of the proceeds thereof to Redeveloper, and full compliance with the terms specifically set forth in Article III hereof and payment of TIF Revenues pledged pursuant to the Resolution. The Redeveloper releases the City and Authority from, agrees that neither the City nor Authority shall be liable for, and agrees to indemnify and hold the City and Authority harmless from any liability for any loss or damage to property or any injury to or death of any person that may be occasioned by any cause whatsoever pertaining to the Project.

The Redeveloper will indemnify and hold each of the City and Authority and their respective elected officials, directors, officers, appointed officials, attorneys, agents, employees and members of their governing bodies free and harmless from any loss, claim, damage, demand, tax, penalty, liability, disbursement, expense, excluding litigation expenses, attorney's fees and expenses, or court costs arising out of any damage or injury, actual or claimed, of whatsoever kind or character, to property (including loss of use thereof) or persons, occurring or allegedly occurring in, on or about that portion of the Project owned by the Redeveloper or City, except for or any liabilities, claims, losses, damages, or injuries arising from the gross negligence or intentional misconduct of the City or Authority, during the term of this Redevelopment Contract or arising out of any action or inaction of Redeveloper, related to activities of the Redeveloper or its agents during the construction of the public infrastructure or public right of ways in the Project. The Redeveloper shall not be liable for any loss, claim, damage, demand, tax, penalty, liability, disbursement, expense arising from any of the work, loss, claim, damage, demand, tax, penalty, liability, disbursement, expense or improvements that were not within the scope of Redeveloper's obligations for Project Two, as set forth in the Lake Agreement, or that arose subsequent to Redeveloper's completion of Project Two, and do not relate to any act or omission of Redeveloper in constructing Project Two.

Section 6.05 Indemnification for Relocation Expenses.

The Redeveloper agrees to indemnify and hold the City and the Authority harmless from any and all liability to the extent resulting from the Redeveloper's failure to make payments of all amounts lawfully due to all persons, firms, or organizations under any city, state or federal relocation laws or regulation in connection with the Project Site. The terms of this section shall survive any termination of this Contract.

**ARTICLE VII**

**MISCELLANEOUS**

Section 7.01 Notice Recording.

A notice memorandum of this Redevelopment Contract shall be recorded in the office of the Register of Deeds of Wayne County, Nebraska.

Section 7.02 Governing Law.

This Redevelopment Contract shall be governed by the laws of the State of Nebraska, including but not limited to the Act.

Section 7.03 Binding Effect: Amendment, Assignment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and assigns. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound. The Redeveloper may assign its rights and obligations to a controlled entity which shall be bound by all the terms hereof.

Section 7.04 Effective Date and Implementation of Redevelopment Contract.

This Agreement shall be in full force and effect from and after the date of execution hereof by the Redeveloper and the Authority.

Section 7.05 Notices to Parties.

Notices to Parties shall be mailed by U. S. Mail to the following addresses:

Redeveloper:  
Wayne Development, LLC  
P.O. Box 2853  
Sioux City, IA 51106

With copy to  
Michael Sands  
Baird Holm, LLP  
1700 Farnam Street  
Suite 1500  
Omaha, NE 68102-2068

Authority and City:  
City Administrator  
Wayne Community Redevelopment Authority  
306 Pearl Street  
Wayne, NE 68787

(Signatures on following page)

IN WITNESS WHEREOF, City and Redeveloper have signed this Redevelopment Contract as of the date and year first above written.

COMMUNITY REDEVELOPMENT  
AUTHORITY OF THE CITY OF  
WAYNE, NEBRASKA

ATTEST:

\_\_\_\_\_  
Secretary

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

STATE OF NEBRASKA     )  
  ) SS  
COUNTY OF WAYNE     )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_ and \_\_\_\_\_, Chairman and Secretary, respectively, of the Community Redevelopment Authority of the City of Wayne, Nebraska, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

Wayne Development, LLC, a Nebraska limited liability company

By: \_\_\_\_\_  
Roy Perry, Managing Member

STATE OF \_\_\_\_\_ )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by Roy Perry, Managing Member of Wayne Development, LLC, a Nebraska limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

EXHIBIT 1

DESCRIPTION OF REDEVELOPMENT PROJECT AREA

Legal Description:

Apartment Site: Lot Three (3), Southeast Addition to the City of Wayne, Wayne County, Nebraska. Parcel 0080238.00

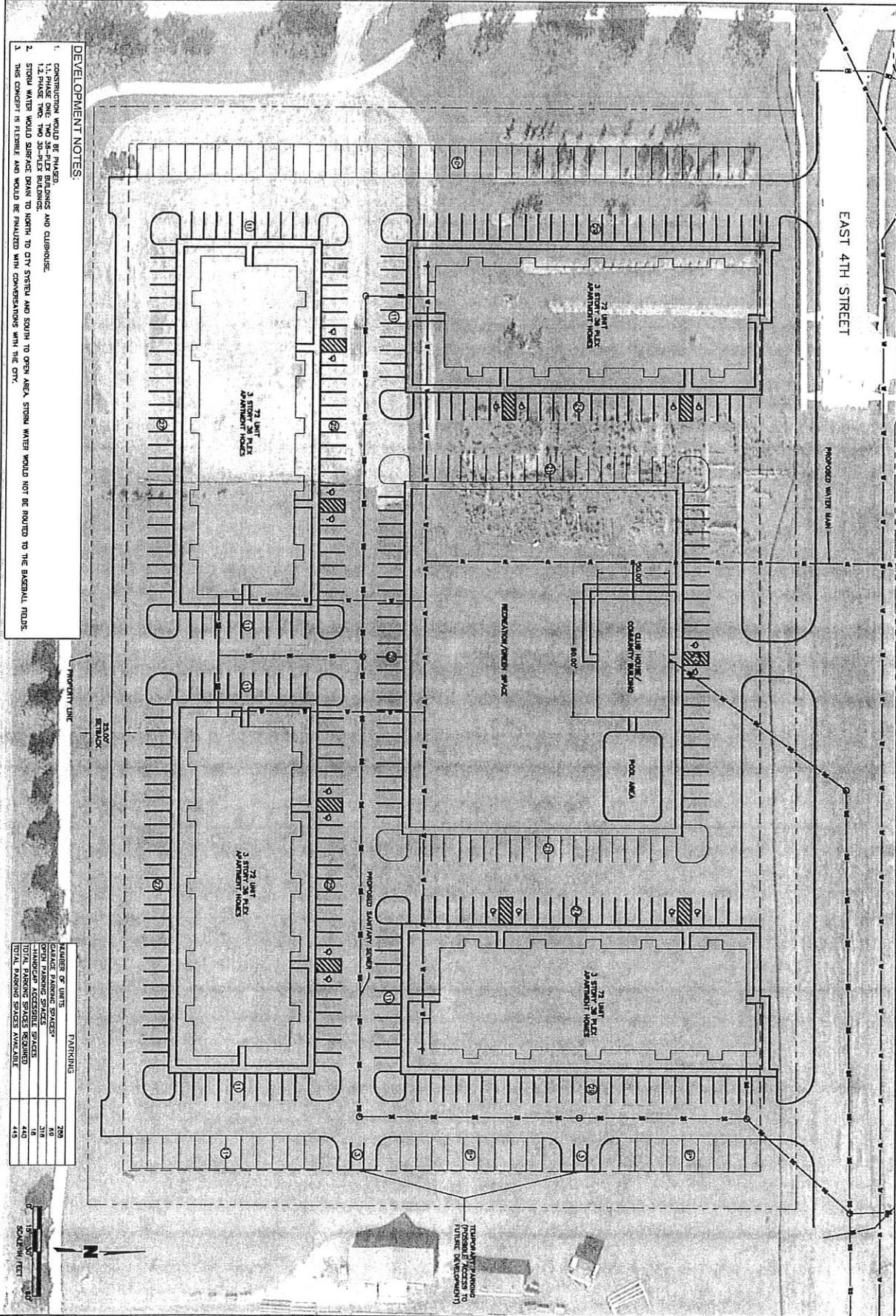
Lake Site: Lot Five (5), Southeast Addition to the City of Wayne, Wayne County, Nebraska. Parcel 0080235.00

EXHIBIT 2  
SITE PLAN

(See Attached)

# ADDENDUM 1

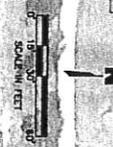
DWG: C:\SSC\Admin\GPODR\HNTBES\Roy Perry, Wayne Development\Proposed\Development Exhibit\Wayne-RPerry Development U Layout.dwg USDR: dmckee  
 DATE: Feb 03, 2022 9:55am XREFS: 21-11-03\_GNOV\_PBASE Unework



- DEVELOPMENT NOTES:**
1. CONSTRUCTION WOULD BE PHASED.
  - 1.1. PHASE ONE: TWO 36-FLUX BUILDINGS AND CLUBHOUSE.
  - 1.2. PHASE TWO: THE 72-FLUX BUILDING.
  2. STORM WATER WOULD SURFACE DRAIN TO NORTH TO CITY STREET AND SOUTH TO GOLF AREA. STORM WATER WOULD NOT BE ROUTED TO THE BASEBALL FIELDS.
  3. THIS CONCEPT IS FLEXIBLE AND WOULD BE PHASED WITH COMPENSATIONS WITH THE CITY.

| NUMBER OF UNITS | PARKINGS |
|-----------------|----------|
| 288             | 288      |
| 318             | 318      |
| 440             | 440      |
| 445             | 445      |

CHANGE PARKING SPACES  
 HANDICAP ACCESSIBLE SPACES  
 TRAIL PARKING SPACES REQUIRED  
 TOTAL PARKING SPACES AVAILABLE



PROPOSED LAYOUT  
 ROY PERRY DEVELOPMENT  
 WAYNE, NEBRASKA

| REV. NO. | DATE | REVISION DESCRIPTION |
|----------|------|----------------------|
|          |      |                      |
|          |      |                      |
|          |      |                      |
|          |      |                      |

2021

**PRELIMINARY**  
 NOT TO BE USED FOR CONSTRUCTION  
 February 03, 2022  
 15100 UNIVERSITY  
 OLSSON

**olsson**  
 1707 D Street, Lincoln, NE 68502  
 TEL: 402.434.3555 www.olsson.com

EXHIBIT 3  
REDEVELOPMENT PROJECT COSTS

**TIF Sources**

|             |  |       |
|-------------|--|-------|
| Assumptions | Tax Levy   | 1.931 |
|             | Interest Rate  | 3.5%  |
|             | Number of TIF years – 15 (only a partial valuation anticipated in the first year after the Effective Date) |       |

Property Value Assumptions

| Project           | Assessed Value      | Taxes            |
|-------------------|---------------------|------------------|
| Base Year         | \$100,000           | \$1,931          |
| Completed Project | <u>\$22,100,000</u> | <u>\$428,682</u> |
| Increment         | \$22,000,000        | \$426,751        |

The Projected Tax Increment is based on assumed values and levy rates; actual amounts and rates will vary from those assumptions, and it is understood that the actual tax shift may vary materially from the projected amount. There has been no accounting for incremental growth or change in the tax levy over the 15 year TIF period. Additionally, the Indebtedness could increase or decrease based upon the interest rate actually approved by a lender purchasing one or more of the TIF Note.

**Project TIF expenses**

|                            |    |                  |
|----------------------------|----|------------------|
| Site Purchase              | \$ | 100,000          |
| Site Prep & infrastructure |    | 1,770,113        |
| Lake Construction          |    | 2,200,000        |
| Engineering & Planning     |    | 803,000          |
| Contingencies              |    | 487,311          |
| Financing                  |    | <u>1,432,172</u> |
| Total                      |    | \$6,792,596      |

Total TIF uses are not to exceed \$4,880,000. The projected costs are estimates and the final amounts may vary. The Authority agrees that individual line items that are eligible costs may be adjusted up or down based on final costs, provided that the total TIF Uses shall equal or exceed the amount of Indebtedness issued.

### **Project Costs**

|                            |                     |
|----------------------------|---------------------|
| Land purchase              | \$ 100,000          |
| Construction hard costs    | \$21,247,000        |
| Site Work & Infrastructure | \$1,770,113         |
| Lake Construction          | \$2,200,000         |
| Soft Costs                 | \$250,000           |
| Contingencies              | \$2,855,611         |
| Arch & Engineering         | \$803,000           |
| Financing Fees             | <u>\$2,186,000</u>  |
| <b>Total</b>               | <b>\$31,411,724</b> |

EXHIBIT 4  
AMENDMENT TO REDEVELOPMENT CONTRACT

This Amendment to Redevelopment Contract (this "Amendment") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Community Redevelopment Authority of the City of Wayne, Nebraska ("Authority"), and Wayne Development, LLC, a Nebraska limited liability company ("Redeveloper").

RECITALS

WHEREAS, Authority and Redeveloper entered into a Redevelopment Contract, dated as of \_\_\_\_\_, 2022 (the "Agreement");

WHEREAS, the Agreement intended to implement the redevelopment plan entitled City of Wayne Redevelopment Plan For The Perry Apartment Development to provide for the redevelopment of lots and lands located in a blighted and substandard area of the City of Wayne, Nebraska (the "City");

WHEREAS, in order to assist in the financing of the Redevelopment Project described in the Redevelopment Plan, the Agreement provides for an amendment thereto to establish an Effective Date for division of taxes; and

WHEREAS, pursuant to Section 3.01 of the Agreement the parties desire to amend the Agreement on the terms set forth herein and this Amendment shall constitute a "Redevelopment Contract Amendment" as defined in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein set forth, Authority and Redeveloper do hereby agree to amend the Agreement as follows:

1. Definitions. All capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings ascribed to such terms in the Agreement.
2. Effective Date. The effective date of the Amendment shall be January 1, 20\_\_\_\_.
3. Division Date. The Division Date (the "Division Date") shall mean the effective date for purposes of dividing taxes pursuant to Section 18-2147 of the Nebraska Community Development Law. The Division Date shall be January 1, 20\_\_\_\_; and a proposed form of the "Notice to Divide Tax for Community Redevelopment Project" is attached hereto as Exhibit 1 and incorporated herein by this reference. For purposes of the Notice to Divide Tax for Community Redevelopment Project, the calendar year in which the division of real property tax becomes effective shall be the year of the Division Date.
4. Base Value Year. The base value year shall be 20\_\_\_\_.

6. Requirement to File Notice to Divide Tax for Community Redevelopment Project. The Authority shall execute and file with the Wayne County Assessor and Treasurer a signed original of Exhibit 1, attached hereto, being the Notice to Divide Tax for Community Redevelopment Project, prior to August 1, of the year of the Division Date

7. Miscellaneous Provisions.

(a) Effectiveness. This Amendment shall become effective when and only when counterparts of this Amendment have been duly executed by both Authority and Redeveloper.

(b) Ratification of Agreement. Except as amended by this Amendment, the Agreement shall remain in full force and effect and is hereby ratified and confirmed in all respects. Each party acknowledges and agrees to all terms of the Agreement, as the same are amended by this Amendment, and makes and restates each representation and warranty set forth therein as if made on the date of this Amendment.

**[Signature and notary page follows]**

IN WITNESS WHEREOF, Authority and Redeveloper have signed this Amendment as of the date and year first above written.

COMMUNITY REDEVELOPMENT  
AUTHORITY OF THE CITY OF  
WAYNE, NEBRASKA

ATTEST:

\_\_\_\_\_  
Secretary

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

STATE OF NEBRASKA    )  
  ) SS  
COUNTY OF WAYNE    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ and \_\_\_\_\_, Chairman and Secretary, respectively, of the Community Redevelopment Authority of the City of Wayne, Nebraska, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

Redeveloper  
Wayne Development, LLC, a Nebraska limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by Roy Perry, Managing Member of Wayne Development, LLC, a Nebraska limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

EXHIBIT 1 TO AMENDMENT TO REDEVELOPMENT CONTRACT

Notice to Divide Tax for Community Redevelopment Project

[TO BE ATTACHED]

EXHIBIT 5  
TIF NOTE

(See Attached)

THIS PROMISSORY NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "'33 ACT") AND MAY NOT BE TRANSFERRED, ASSIGNED, SOLD OR HYPOTHECATED UNLESS A REGISTRATION STATEMENT UNDER THE '33 ACT SHALL BE IN EFFECT WITH RESPECT THERETO ANO THERE SHALL HAVE BEEN COMPLIANCE WITH THE '33 ACT AND ALL APPLICABLE RULES AND REGULATIONS THEREUNDER, OR THERE SHALL HAVE BEEN DELIVERED TO THE CITY OF WAYNE PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF WAYNE TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

**TAX INCREMENT FINANCING PROMISSORY NOTE**  
(Perry Apartment Development)

\$4,880,000.00 \_\_\_\_\_, 20\_\_

FOR VALUE RECEIVED, the undersigned, Community Redevelopment Authority of the City of Wayne, Nebraska ("Authority"), promises to pay Wayne Development, LLC, a Nebraska limited liability company ("Holder"), and/or its assigns, the principal sum of Four Million Eight Hundred Eighty Thousand and No/100 Dollars (\$4,880,000.00), together with interest thereon at the rate of 3.50% per annum, in accordance with the terms of that certain Redevelopment Contract dated \_\_\_\_\_, 20\_\_ (the "Redevelopment Contract"),as between the Authority and Holder, until such date that the excess ad valorem real property taxes may no longer be divided and pledged towards the payment of this Tax Increment Financing Promissory Note (this "Note") under section 18-2147 of the Nebraska Community Development Law, Sections 18-2101 et seq., of the Nebraska Revised Statutes (the "Act"), or until all principal and interest on this Note is paid in full, whichever occurs first. The principal balance and interest thereon shall be due and payable on this Note as and at such time as any excess ad valorem taxes generated by the "Redevelopment Project" (as set forth in the Redevelopment Contract) are collected by the Authority and available for the retirement of this debt. Interest on this Note shall begin accruing on January 1 of the year of the "effective date" (as defined in the Act) for the Redevelopment Project.

All terms of the Redevelopment Contract authorizing the issuance of this Note are hereby incorporated and adopted by this Note as if specifically set forth herein. To the extent the terms of this Note conflict with the Redevelopment Contract, the terms of this Note shall control.

The Authority may prepay the principal amount outstanding in whole or in part, without penalty or the prior consent of the Holder.

In the event the monies collected and held in that special fund established under Section 18-2147 of the Act are insufficient to pay in full all amounts due and owing after all excess ad valorem taxes generated by the Redevelopment Project have been collected by the Authority and paid, within a reasonable time after becoming available, towards the retirement of the amounts due hereunder, then the Holder shall waive any unpaid portion of the principal and interest due hereon and shall surrender this Note to the Authority.

Demand, presentment, protest and notice of nonpayment under this Note are hereby waived.

A PORTION OF THE PRINCIPAL AMOUNT OF THIS NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT OF THE AUTHORITY. THE HOLDER OR ANY TRANSFEREE OR ASSIGNEE OF SUCH HOLDER MAY NOT RELY UPON THE PRINCIPAL AMOUNT INDICATED HEREON AS THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID. THE PRINCIPAL AMOUNT HEREOF OUTSTANDING AND UNPAID SHALL FOR ALL PURPOSES BE THE AMOUNT DETERMINED BY THE RECORDS OF THE AUTHORITY.

Pursuant to the Redevelopment Contract and Sections 18-2124 and 18-2150 of the Act, the excess ad valorem real property taxes generated by the Redevelopment Project, and collected within the Redevelopment Project Area, have been pledged for the payment of this Note, both principal and interest as the same fall due or become subject to mandatory redemption. This Note shall not constitute a general obligation of the Authority and the Authority shall be liable for the payment thereof only out of said portion of taxes as described in this paragraph. This Note shall not constitute an obligation of the State of Nebraska, the Authority, or of the City of Wayne (except for such receipts as have been pledged pursuant to said Sections 18-2124 and 18-2150 R.R.S. Neb. 2012) and neither the State of Nebraska, the Authority nor the City of Wayne shall be liable for the payment thereof from any fund or source including but not limited to tax monies belonging to either thereof (except for such receipts as have been pledged as described above in this paragraph). Neither the members of the Authority's governing body nor any person executing this Note shall be liable personally on this Note by reason of the issuance hereof.

No delay or omission on the part of the Holder in exercising any remedy, right or option under this Note shall operate as a waiver of such remedy, right or option. In any event, a waiver on any one occasion shall not be construed as a waiver or bar to any such remedy, right or option on a future occasion.

Any notice provided for in this Note to the Authority or the Holder shall be in writing and shall be given by regular mail to the Holder or Authority, or at such other address as either party may designate by notice in writing.

This Note shall be governed by and construed in accordance with the laws of the State of Nebraska. All payments hereunder shall be payable in lawful money of the United States of America and shall be legal tender for public and private debts at the time of payment.

IN WITNESS WHEREOF, the Chairperson and Secretary of the Authority have caused this Note to be executed on behalf of the Authority, all as of the Dated Date shown below.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

COMMUNITY REDEVELOPMENT AUTHORITY  
OF THE CITY OF WAYNE, NEBRASKA

ATTEST:

By:           (Sample – Do Not Sign)            
Chairperson

          (Sample – Do Not Sign)            
Secretary

PROVISION FOR REGISTRATION

The ownership of this Note shall be registered as to both principal and interest on the books and records of the Community Redevelopment Authority for the City of Wayne, Nebraska kept by the Paying Agent and Registrar identified in the foregoing Note, who shall make notation of such registration in the registration blank below, and the transfer of this Note may thereafter be registered only upon an assignment duly executed by the registered owner or such owner's attorney or legal representative, in such form as shall be satisfactory to said Paying Agent and Registrar, such registration of transfer to be made on such books and endorsed hereon by said Paying Agent and Registrar.

| Date of Registration | Name of Registered Owner | Signature of Paying Agent and Registrar |
|----------------------|--------------------------|---|
| _____, 20__          | Wayne development , LLC  | (Sample – Do Not Sign)                  |
|                      |                          |   |
|                      |                          |   |
|                      |                          |   |
|                      |                          |   |

EXHIBIT 6  
LAKE AGREEMENT

(See Attached)

## CONTRACTUAL AGREEMENT

This "Agreement" is by and between R Perry Construction, Inc, an Iowa Corporation ("Contractor") and the City of Wayne, Nebraska, a municipal corporation ("City").

In exchange for City selling to Contractor the property located at *Lot 3, Southeast Addition to the City of Wayne, Nebraska*, (the "Apartment Site");

And in exchange for City approving Tax Increment Financing ("TIF") for purposes of construction of a lake by Contractor (the "Lake Project") on City's property located adjacent to the above-described legal description, Contractor hereby agrees as follows:

1. The Lake Project will be constructed on City's property located on Lot 5, Southeast Addition to the City of Wayne, Wayne County, Nebraska. Said lake will be of a size as determined by Contractor's engineer and City, but will be a minimum of four (4) acres.
2. Prior to Contractor commencing construction of the Lake Project, Contractor and City shall work together in good faith to establish mutually-agreeable engineering plans and specifications for the Lake Project (the "Plans").
3. Contractor's obligations with respect to the Lake Project (the "Obligations") shall be undertaken by Contractor at its sole cost and expense. The scope of Contractor's Obligations shall be as follows:
  - a. Contractor shall be responsible for the costs to prepare the Plans.
  - b. Contractor shall conduct the dirt work for the Lake Project. Such work shall be carried out in accordance with the specifications in the Plans.
  - c. Contractor shall install a high-capacity well in accordance with the specifications in the Plans.
4. Contractor's Obligations with respect to the Lake Project shall be limited to the items set forth above, and Contractor shall not be obligated to either construct or finance any other items related to the Lake Project.
5. City and Contractor understand the exact design of the Lake Project may change from time to time, and this Agreement may be amended, in writing, upon agreement of both City and Contractor.
6. Contractor may use dirt removed for lake construction for purposes of Contractor's development of the Apartment Site. However, any additional dirt not utilized for this purpose shall be the property of City, and shall be stored on either the parcel containing the Lake Project or on a

parcel adjacent thereto, the specific locations for which shall be determined by City and conveyed to Contractor.

7. The exact commencement and completion date of the Lake Project has not yet been determined. However, Contractor agrees to complete construction of the Lake Project at the same time, or prior to, completion of Contractor's housing project located on the Apartment Site.
8. This obligations and liabilities of Contractor under this Agreement shall be contingent upon the Community Redevelopment Authority of the City (the "CRA") approving and entering into (with Contractor) an amendment to that certain TIF redevelopment contract between Contractor and the CRA with respect to the Lake Project. Specifically, such amendment shall adopt and incorporate this Agreement. The amendment shall further specify that, notwithstanding any terms to the contrary in the initial redevelopment contract, the scope of Contractor's obligations with respect to the construction and financing of the Lake Project, and the commitments related thereto in consideration of Contractor's receipt of TIF, shall be limited as set forth in this Agreement. In the event such amendment is not approved and entered into by the CRA within ninety (90) days from the date hereof, either of the undersigned parties may terminate this Agreement via written notice to the other, in which case the undersigned parties shall have no further rights, obligations or liabilities under this Agreement, except as set forth in Section 9, below. Notwithstanding the foregoing, the conditions set forth in this Section 8 are in no way a guaranty or commitment from the CRA and/or City for the approval of the aforementioned amendment to the redevelopment contract. Such determination will be made independent of this Agreement by the CRA, in conformance with the Nebraska Community Development Law.
9. If this Agreement is terminated in accordance with Section 8, above, Contractor may elect, via written notice to City tendered within ninety (90) days following such termination, to sell the Apartment Site back to City. Thereupon, City shall be obligated to repurchase the Apartment Site from Contractor within sixty (60) days of such election, in the amount equal to the purchase price paid by Contractor to City with respect to the Apartment Site, and Contractor shall convey the Apartment Site to City via warranty deed, subject only to the same encumbrances that existed at the time of the conveyance of the Apartment Site from City to Contractor. This Section 9 shall survive termination of this Agreement.

(SIGNATURES ON FOLLOWING PAGE)

CITY:

Cale Giese

Cale Giese, Mayor  
o/b/o The City of Wayne, Nebraska,  
a municipal corporation

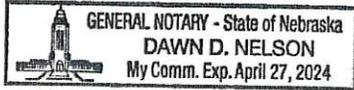
CONTRACTOR:

Roy Perry

Roy Perry, President, o/b/o R Perry  
Construction, Inc., an Iowa Corporation

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF WAYNE )

SUBSCRIBED and sworn to before me this 2 day of <sup>September</sup> ~~August~~, 2022, by Cale Giese,  
Mayor, o/b/o the City of Wayne, Nebraska, a municipal corporation.



Dawn D Nelson  
Notary Public

STATE OF IOWA )  
 ) ss.  
COUNTY OF WOODBURY )

SUBSCRIBED and sworn to before me this 31<sup>st</sup> day of August, 2022, by Roy Perry,  
o/b/o R Perry Construction, Inc., an Iowa Corporation, Contractor.

Brooke Hegarty  
Notary Public

EXHIBIT 7  
LIMITED GUARANTY

(See Attached)

## LIMITED GUARANTY AGREEMENT

This Limited Guaranty Agreement (this "Limited Guaranty") is executed as of the date set forth in the signature block below, by **R. Perry Construction, Inc.**, an Iowa corporation (the "Guarantor") to and in favor of the **Community Redevelopment Authority for the City of Wayne, Nebraska** (the "Authority"), and the **City of Wayne, Nebraska** (the "City").

WHEREAS, the Authority and Wayne Development, LLC, a Nebraska limited liability company ("Redeveloper"), entered into a Redevelopment Contract, dated as of even date herewith (as amended, restated, extended, supplemented, or otherwise modified in writing, the "Redevelopment Contract"), pursuant to which the Authority agreed to provide a grant of tax increment financing in return for Redeveloper's construction of certain public and private improvements located in the City, all as more particularly described in the Redevelopment Contract; and

WHEREAS, Guarantor is an affiliate of Redeveloper and will benefit from Redeveloper's rights and entitlements under the Redevelopment Contract; and

WHEREAS, as a condition to the Authority entering into the Redevelopment Contract, Guarantor has agreed to execute and deliver this Limited Guaranty.

WHEREAS, all capitalized terms in this Limited Guaranty that are not otherwise defined herein shall have the meanings set forth in the Redevelopment Contract.

NOW, THEREFORE, for valuable consideration, the receipt of which are hereby acknowledged:

1. Guarantor hereby unconditionally guarantees and promises on demand to perform and/or pay all of Redeveloper's obligations with respect to "Project Two" under the Redevelopment Contract (collectively, the "Guaranteed Obligations").
2. In accordance with the foregoing, Guarantor agrees to undertake such Guaranteed Obligations even if the Redevelopment Contract becomes void or voidable as against Redeveloper or any of Redeveloper's creditors, including a trustee in bankruptcy of Redeveloper, by reason of any fact or circumstance, including, without limiting the generality of the foregoing, failure by any person to file any document or to take any other action to make the Redevelopment Contract enforceable in accordance with its terms.
3. Subject to Section 5, below, unless otherwise agreed to by the City and Authority in writing, this Limited Guaranty is a continuing guaranty and shall terminate only upon full satisfaction of Redeveloper's obligations with respect to Project Two under the Redevelopment Contract.
4. Subject to Section 5, below, unless otherwise agreed to by the City and Authority in writing, this Limited Guaranty shall not be rescinded or modified without the prior written consent of each Guarantor, the Authority and the City.
5. Notwithstanding the foregoing to the contrary, Guarantor may assign this Limited Guaranty, in writing, without the prior written consent of the City and/or Authority, so long as the assignee maintains at least \$3,000,000 in assets, as evidenced by such assignee's most recently-filed tax return or an audited financial statement prepared within the prior year. In order for such assignment to be deemed effective, Guarantor shall first provide to the City and Authority a copy of the written assignment documenting the assignee's complete and unconditional assumption of all the terms, liabilities and obligations of Guarantor under this Limited Guaranty, and further provide the

documentation evidencing the assignee's financial condition as required above; and upon the provision thereof, Guarantor shall be released and have no further liabilities or obligations under this Limited Guaranty.

6. Except as provided in Section 5 above, under no circumstance shall Redeveloper's assignment of the Redevelopment Contract release Guarantor of any of its obligations or liabilities under this Limited Guaranty, or result in the reduction thereof, and all such obligations and liabilities shall continue and remain binding against Guarantor with respect to any assignee or successor of Redeveloper.
7. The obligations of Guarantor are independent of the obligations of Redeveloper. The liability of Guarantor shall be primary under this Limited Guaranty and if any right of action shall accrue to the City and/or Authority with respect to the Guaranteed Obligations, the City and/or Authority may at its option, proceed against Guarantor without having commenced any action or having obtained any judgment against Redeveloper, it being the understanding that this Limited Guaranty is a guaranty of payment and/or performance and not of collection. Notwithstanding the foregoing, the City and/or Authority shall not be entitled to bring any claims or causes of action, or seek any remedies or damages, as against Guarantor that said parties could not bring and/or pursue against Redeveloper under the terms of the Redevelopment Contract. Specifically, without limiting the foregoing, the City and/or Authority shall not have the right to seek a remedy of specific performance as against Guarantor with respect to the physical construction of Project Two.
8. Notwithstanding any other term in this Limited Guaranty, Guarantor's obligations and liability under this Limited Guaranty are strictly limited to the Guaranteed Obligations, in accordance with the explicit terms and limitations provided herein, and Guarantor shall not guaranty or be liable for any other obligation or liability under the Redevelopment Contract.
9. This Limited Guaranty shall inure to the benefit of the City and the Authority, and their successors and assigns, and shall be binding upon the successors and assigns of Guarantor. This Limited Guaranty shall be governed by the laws of the State of Nebraska.
10. This Guaranty shall automatically terminate upon the full satisfaction of Redeveloper's obligations with respect to Project Two under the Redevelopment Contract, at which point Guarantor shall be unconditionally released and have no further liabilities or obligations under this Limited Guaranty.

Executed and entered into by Guarantor as of the date set forth below.

**R. Perry Construction, Inc.**

By: \_\_\_\_\_  
Roy Perry, President

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

| <b>Potential TIF Admin Fee</b> |                       |                      |                      |
|--------------------------------|-----------------------|----------------------|----------------------|
|                                |                       | <b>FY 20-21</b>      | <b>FY 21-22</b>      |
| 801                            | Angel Acres           | \$ 29,408.87         | \$ 34,957.67         |
| 802                            | Wayne Crown           | \$ 1,341.06          | \$ 3,116.79          |
| 810                            | Bomgaars              | \$ 27,777.53         | \$ 28,305.49         |
| 820                            | Benscoter             | \$ 25,325.20         | \$ 25,292.95         |
| 825                            | Grainland             | \$ 22,691.18         | \$ 34,060.71         |
| 830                            | Jorgensen             | \$ 25,675.55         | \$ 26,153.36         |
| 835                            | Mid Plains Grain      | \$ 12,980.34         | \$ 13,254.88         |
| 840                            | Motel                 | \$ 40,797.08         | \$ 41,660.12         |
| 845                            | MZRB                  | \$ 6,528.42          | \$ 6,844.93          |
| 850                            | Nebr St Prog Prop     | \$ 17,356.52         | \$ 5,099.31          |
| 851                            | 1st St Prog Prop      | \$ 5,417.11          | \$ 1,588.95          |
| 852                            | E 6th St Prog Prop    | \$ 15,043.28         | \$ 4,425.53          |
| 855                            | Sebade                | \$ 4,231.57          | \$ 4,565.52          |
| 856                            | Sebade Valley Dr      | \$ 15,230.08         | \$ 15,552.28         |
| 857                            | Sebade Nebr St        | \$ -                 | \$ -                 |
| 858                            | Sanctuary Apts        | \$ -                 | \$ -                 |
| 860                            | Wayne Rentals         | \$ 22,605.25         | \$ 25,064.94         |
| 866                            | West Ridge Pick/Meyer | \$ 19,884.36         | \$ 5,239.99          |
| 870                            | Windom Ridge          | \$ 5,490.55          | \$ 16,136.65         |
|                                | <b>Total</b>          | <b>\$ 297,783.95</b> | <b>\$ 291,320.07</b> |
|                                |                       |                      |                      |
|                                | 1% Admin fee          | \$ 2,977.84          | \$ 2,913.20          |
|                                | 2% Admin fee          | \$ 5,955.68          | \$ 5,826.40          |
|                                | 3% Admin fee          | \$ 8,933.52          | \$ 8,739.60          |
|                                | 4% Admin fee          | \$ 11,911.36         | \$ 11,652.80         |
|                                | 5% Admin fee          | \$ 14,889.20         | \$ 14,566.00         |