

COMMUNITY DEVELOPMENT AGENCY PROCEEDINGS

April 26, 2023

The Community Development Agency of the City of David City, Nebraska, convened in open public session at 9:01 p.m. in the meeting room of the City Office at 490 "E" Street, David City, Nebraska. The Public had been advised of the meeting by publication of notice in The Banner Press on April 20, 2023, and an affidavit of the publisher is on file in the office of the CDA Secretary. The Community Development Agency members acknowledged advance notice of the meeting. The advance notice to the Public, and Community Development Agency members conveyed the availability of the agenda, which was kept continuously current in the office of the Secretary and was available for public inspection on the City's website. No new items were added to the agenda during the twenty-four hours immediately prior to the opening of the meeting.

Present for the meeting were: Community Development Agency Members—Jessica Miller, Tom Kobus, Kevin Woita, Bruce Meysenburg, Jim Angell, Pat Meysenburg, Community Development Agency Secretary Tami Comte, and City Attorney Michael Sands.

Also present were: Deputy Clerk Lori Matchett, and Police Chief Marla Schnell.

Chairman Jessica Miller informed the public of the "Open Meetings Act" posted on the west wall of the meeting room and asked those present to please silence their cell phones. She also asked that anyone addressing the Agency to introduce themselves.

CDA member Pat Meysenburg made a motion to approve the minutes of the April 12, 2023 meeting of the CDA as presented. CDA Member Tom Kobus seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Abstain (Without Conflict), Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 6, Nay: 0, Abstain (Without Conflict): 1

CDA member Tom Kobus made a motion to pass and adopt Resolution No. 4-2023 CDA approving a Redevelopment Contract undertaken by GDC Properties, LLC. CDA Member Pat Meysenburg seconded the motion. The motion carried.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

RESOLUTION NO. 4-2023 CDA

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA, APPROVING A REDEVELOPMENT CONTRACT FOR A REDEVELOPMENT PROJECT UNDERTAKEN BY GDC PROPERTIES, LLC, AS SET FORTH IN THE "REDEVELOPMENT PLAN FOR GDC PROPERTIES, LLC, REDEVELOPMENT PROJECT"; AND AUTHORIZING ISSUANCE OF ITS TAX INCREMENT FINANCING PROMISSORY NOTE PURSUANT TO THE TERMS OF THE REDEVELOPMENT CONTRACT.

WHEREAS, the Mayor and City Council of the City of David City, Nebraska (the "City"), previously approved a redevelopment plan entitled, "Redevelopment Plan for GDC Properties, LLC, Redevelopment Project" (the "Plan"); and

WHEREAS, the Community Development Agency of the City of David City, Nebraska (the "Agency"), has for its consideration, attached hereto and incorporated herein as Exhibit "A", a proposed form of the redevelopment contract by and between GDC Properties, LLC ("Redeveloper"), as redeveloper, and the Agency, with respect to the first phase of the redevelopment project specified in the Plan (the "Redevelopment Contract").

NOW, THEREFORE, BE IT RESOLVED, by the Agency, as follows:

Section 1. That the Redevelopment Contract by and between the Agency and the Redeveloper, in the form presented, is hereby acknowledged and approved. The Agency Chairperson and Secretary are hereby authorized to execute said Redevelopment Contract in substantially the form presented but with such changes as they shall deem appropriate or necessary. The execution and delivery by the Agency Chairperson of the Redevelopment Contract, or any such documents, instruments, agreements or certifications relating to such matters contained in the Redevelopment Contract, shall conclusively establish their authority with respect thereto and the authorization and approval thereof.

Section 2. That following the expiration of thirty (30) days from the Agency's adoption of this Resolution, the Agency is hereby authorized to issue its tax increment financing promissory note, in the principal amount of \$502,000, at a 5.00% rate of interest per annum, in accordance with the Redevelopment Contract, and in substantially the same form as that set forth in Exhibit "B" (the "TIF Note"), attached hereto and incorporated herein, but with such changes as the Agency deems appropriate or necessary.

Section 3. That the TIF Note shall be executed on behalf of the Agency by its Chairperson and Secretary, and shall be delivered to Redeveloper or its designee in consideration of the Redeveloper's expenditures under and pursuant to the Redevelopment Contract which are eligible for reimbursement from tax increment financing.

Section 4. That the holder of the TIF Note shall have a first-priority lien interest on all payments allocated to the TIF Note, pursuant to and in conformance with the terms of the Redevelopment Contract and TIF Note.

Section 5. That the Agency's administration of the TIF Note shall be governed by the terms of the Nebraska Community Development Law, this Resolution, the TIF Note, and the Redevelopment Contract, and in the event of any conflict between the foregoing, such conflict shall be determined in accordance with the above priority.

Section 6. That, unless excepted under the law, interest on the TIF Note 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 Internal Revenue Code.

Section 7. The Agency Chairperson and Secretary, on behalf of the Agency, 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 and the Redevelopment Contract.

Section 8. This Resolution shall be in force and take effect from and after its adoption as provided by law.

INTRODUCED BY _____

PASSED AND ADOPTED THIS 26TH DAY OF APRIL, 2023.

CHAIRPERSON

ATTEST:

SECRETARY

EXHIBIT "A"
Redevelopment Contract

(See attached)

REDEVELOPMENT CONTRACT

(GDC PROPERTIES REDEVELOPMENT PROJECT – PHASE ONE)

This Redevelopment Contract is made and entered into as of the ___ day of _____, 2023, by and between the Community Development Agency of the City of David City, Nebraska (“CDA”) and GDC Properties, LLC, a Nebraska limited liability company (“Redeveloper”).

RECITALS

A. The CDA is a duly organized and existing community redevelopment authority, a body politic and corporate under the laws of the State of Nebraska, with lawful power and authority to enter into this Redevelopment Contract.

B. The City of David City, in furtherance of the purposes and pursuant to the provisions of Article VIII, Section 12 of the Nebraska Constitution and Neb. Rev. Stat. §§ 18-2101 to 18-2155, as amended (collectively the “Act”), has adopted a Redevelopment Plan for a blighted and substandard area designated by the City, including the Redevelopment Area.

C. The Redevelopment Plan for GDC Properties, LLC was adopted by the City Council of the City of David City on March 13, 2019, pursuant to Resolution 4-2019 (“Redevelopment Plan”).

D. The project identified in the Redevelopment Plan will be implemented in phases.

E. The proposed first phase of Redeveloper’s redevelopment project will consist of the construction of a gas station and associated improvements on the Project Site, which is located in the Redevelopment Area and more particularly described on the attached Exhibit “A” (“Project Site”). The proposed first phase shall also include the public rights of way in the larger project area identified in

the Redevelopment Plan to the extent construction of eligible public improvements for phase one occur in said project area rights of way.

F. The CDA has approved Redeveloper's proposed redevelopment project.

G. CDA and Redeveloper desire to enter into this Redevelopment Contract to implement phase one of the GDC Properties redevelopment project, including the utilization of tax-increment financing to provide for the construction of the eligible public improvements defined in this Redevelopment Contract.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein set forth, CDA 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:

A. "Act" means Article VIII, Section 12 of the Nebraska Constitution, Neb. Rev. Stat. §§ 18-2101 through 18-2155, as amended, and acts amendatory thereof and supplemental thereto.

B. "Anticipated Tax Increment" means the Anticipated Tax Increment for this Project as set forth on the attached Exhibit "B".

C. "City" means the City of David City, Nebraska.

D. "CDA" means Community Development Agency of the City of David City, Nebraska.

E. “Effective Date” means January 1, 2025; provided that Redeveloper may set said Effective Date to January 1, 2024, upon written notice from Redeveloper to the CDA tendered prior to July 1, 2024. Such written notice received by the CDA, as applicable, shall automatically be incorporated herein and amend the above definition under this Redevelopment Contract in accordance therewith. If no written notice is received from Redeveloper prior to July 1, 2024 as set forth above, the Effective Date shall be January 1, 2025.

F. “Eligible Project Costs” means only costs or expenses incurred by Redeveloper for Public Improvements and other items eligible for reimbursement under the Act.

G. “Minimum Project Valuation” means the amount of Three Million and No/100 Dollars (\$3,000,000).

H. “Private Improvements” means all the private improvements to be constructed on the Project Site as more particularly described on Exhibit “A”.

I. “Project” means the Project Site and includes improvements to the Project Site and adjacent thereto, including the Private Improvements and Public Improvements defined herein and described on Exhibit “A”.

J. “Project Completion Date” means December 31, 2024.

K. “Project Site” means all that certain real property situated in the City of David City, Butler County, Nebraska, more particularly described on Exhibit “A”.

L. “Public Improvements” shall include all the public improvements more particularly described on Exhibit “A” which are eligible improvements under the Act. The costs of the Public Improvements include the debt service payments of the TIF Indebtedness.

M. “Redevelopment Contract” means this Redevelopment Contract between the CDA and Redeveloper with respect to the Project.

N. “Redeveloper” means GDC Properties, LLC, a Nebraska limited liability company.

O. “Redevelopment Area” means the Redevelopment Area set forth in the Redevelopment Plan.

P. “Redevelopment Plan” means the Redevelopment Plan identified in Recital D, above, as amended from time to time.

Q. “Tax Increment” means in accordance with Neb. Rev. Stat. § 18-2147 of the Nebraska Community Development Law, the difference between the ad valorem tax which is produced by the tax levy (fixed each year by the Butler County Board of Equalization) for the Project Site before the completion of the construction of the Private Improvements and the ad valorem tax which is produced by the tax levy for the Project Site after completion of construction of the Private Improvements as part of the Project.

R. “TIF Indebtedness” means the sums payable under any bonds, notes, loans and advances of money or other indebtedness, including interest thereon, issued by the CDA or the City secured in whole or in part by Tax Increment.

Section 1.02 Construction and Interpretation.

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

(a) This Redevelopment Contract shall be interpreted in accordance with and governed by the laws of the State of Nebraska, including the Act.

(b) Wherever 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.

(c) The phrase “at any time” shall be construed as meaning “at any time or from time to time.”

(d) The word “including” shall be construed as meaning “including, but not limited to.”

(e) The words “will” and “shall” shall each be construed as mandatory.

(f) 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.

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

(h) 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 REPRESENTATIONS

Section 2.01 Representations by the CDA.

The CDA makes the following representations and findings:

(a) The CDA is a duly organized and validly existing community development agency under the Act.

(b) The CDA deems it to be in the public interest and in furtherance of the purposes of the Act to accept the proposal submitted by Redeveloper for the redevelopment of the Project Site as specified herein.

(c) The Project will achieve the public purposes of the Act by, among other things, increasing employment, increasing the tax base, and lessening blighted and substandard conditions in the Redevelopment Area.

(d) 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 CDA and have been found to be in the long-term best interest of the community impacted by the Project.

Section 2.02 Representations of Redeveloper.

Redeveloper makes the following representations and findings:

(a) Redeveloper is a Nebraska limited liability company in good standing and has the power to enter into this Redevelopment Contract and perform all obligations contained herein.

(b) The execution and delivery of the Redevelopment Contract and the consummation of the transactions therein contemplated will not conflict with or constitute a breach of or default under any bond, 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 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, except as disclosed in writing to the CDA, as to any other matter materially affecting the ability of Redeveloper to perform its obligations hereunder.

(d) Redeveloper owns the Project Site in fee simple and free from any liens, encumbrances, or restrictions which would prevent the performance of this Redevelopment Contract by Redeveloper.

(e) Pursuant to Neb. Rev. Stat. § 18-2119, Redeveloper certifies to the CDA that Redeveloper does not intend to file an application with the Nebraska Department of Revenue to receive tax incentives under the ImagiNE Nebraska Act.

(f) The Project would not be economically feasible without the use of tax increment financing.

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

(h) Redeveloper agrees that any contractor providing services related to the Project will utilize the federal immigration verification system, as defined in Section 4-114 of the Nebraska Revised Statutes, as amended or transferred, to determine the work eligibility status of new employees physically performing services on the Project.

ARTICLE III

OBLIGATIONS OF THE CDA AND PUBLIC IMPROVEMENTS

Section 3.01 Capture of Tax Increment.

Subject to the contingencies described below and to all of the terms and conditions of this Redevelopment Contract, commencing for the tax year of the Effective Date and continuing thereafter, the CDA shall capture the Tax Increment from the Project Site pursuant to the Nebraska Community Development Law. The CDA shall capture the Tax Increment generated by the Project Site for a total period of not to exceed fifteen (15) years after the Private Improvements have been included in the assessed valuation of the Project Site and the Project Site is generating the Tax Increment subject to capture by the CDA. The effective date of this provision shall be the Effective Date. The CDA shall file with the Butler County Assessor the “Notice to Divide Taxes” on or prior to August 1 in the year of the Effective Date.

Section 3.02 Issuance of TIF Indebtedness.

On or after thirty (30) days following the approval and execution of this Redevelopment Contract, the CDA shall incur or issue TIF Indebtedness in an amount not to exceed Five Hundred Two Thousand Five Hundred and No/100 Dollars (\$502,500.00), as calculated on the attached and incorporated Exhibit “B”. The TIF Indebtedness shall be issued in a TIF Promissory Note or TIF Bond in a commercially reasonable and customary form approved by the CDA (“Note”). The TIF Indebtedness shall be purchased by Redeveloper or a lender of Redeveloper. The TIF Indebtedness shall not be a general obligation of the CDA or City which shall issue such Note solely as a conduit. If Redeveloper does not acquire and fund the TIF Indebtedness itself, Redeveloper shall locate a lender or other entity to acquire and fund the acquisition of the Note for the TIF Indebtedness. The TIF Indebtedness shall be secured by a pledge or assignment of the Tax Increment or otherwise secured by Redeveloper as required by the lender. The issuance of the TIF Indebtedness may be accomplished by offset so that the Redeveloper retains the TIF Revenues and no bankable currency is exchanged at closing of the TIF Indebtedness and issuance of the Note, except as otherwise provided herein.

Section 3.03 Use of TIF Indebtedness.

The CDA will collect the Tax Increment and use said Tax Increment to pay debt service on the TIF Indebtedness incurred as provided in Section 3.02 of this Redevelopment Contract. Notwithstanding the foregoing, the amount of the TIF

Indebtedness that the CDA agrees to service and repay with the Tax Increment shall not exceed the amount of the Eligible Project Costs certified pursuant to Section 4.03. In addition, at or prior to the issuance of the Note, Redeveloper shall pay to the CDA an amount equal to the CDA's reasonable and necessary cost of issuance, including attorney fees. The cost of issuance shall be paid prior to the issuance of the Note. Unless otherwise specified in this Redevelopment Contract, no other fees shall be due to the City or CDA in connection with the issuance of the Note, or in connection with the application of the terms of the Redevelopment Contract. The Tax Increment shall be paid pursuant to the terms of the Note and this Redevelopment Contract.

Section 3.04 Creation of Fund.

CDA will create a special fund to collect and hold the receipts of the Tax Increment. Such special fund shall be used for no purpose other than to pay TIF Indebtedness issued pursuant to Section 3.02 above.

Section 3.05 Projected TIF Sources and Uses.

In addition to the TIF Indebtedness calculation formula set forth on Exhibit "B", Redeveloper's anticipated TIF sources and eligible uses are attached and incorporated for the parties' reference as Exhibit "C."

**ARTICLE IV
OBLIGATIONS OF REDEVELOPER**

Section 4.01 Evidence of Financial Ability.

Upon written request from the CDA to Redeveloper, Redeveloper shall provide to the CDA evidence of availability of the specific amount of finances necessary for purposes of carrying out the commitment of Redeveloper in connection with acquisition of the Project Site and construction of the Public Improvements. To the extent allowed by law, the CDA agrees to keep said information confidential. Such information shall state the amount and source of liquid assets on hand or immediately available to Redeveloper for use in constructing the Public Improvements; and shall state the amount and source of debt financing which is available, or irrevocably committed, to Redeveloper for use in completing the Public Improvements. Such information shall be provided in a form satisfactory to the CDA, and evidence of loan commitments shall include all of the documents evidencing the loan commitment, acceptance by Redeveloper, the purposes of the loan, the authorized use of loan funds, and all other terms and conditions of the loan commitment, the acceptance, and the loan. Submittal of such financial information in a form satisfactory to the CDA shall be a condition

precedent to the requirement of the CDA to proceed with its obligations under this Redevelopment Contract.

Section 4.02 Construction of Project; Insurance.

(a) Redeveloper will complete the Public Improvements and install all equipment necessary to operate the Public Improvements no later than the Project Completion Date. Redeveloper shall be solely responsible for obtaining all permits and approvals necessary to acquire, construct and equip the Public Improvements. Until construction of the Public Improvements has been completed, Redeveloper shall make reports in such detail and at such times as may be reasonably requested by the CDA as to the actual progress of Redeveloper with respect to construction of the Public Improvements.

(b) Redeveloper or Redeveloper's successor and assign will complete the Private Improvements and install all equipment necessary to operate the Private Improvements no later than the Project Completion Date. Redeveloper or Redeveloper's successor and assign shall be solely responsible for obtaining all permits and approvals necessary to acquire, construct and equip the Private Improvements.

(c) Any contractor chosen by Redeveloper or Redeveloper itself shall be required 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 (provided that Redeveloper may self-insure in lieu of obtaining and keeping in force such policy of insurance) and a penal bond as required by the Act. Any contractor chosen by Redeveloper or Redeveloper itself, as an owner, shall be required to purchase and maintain property insurance upon the Project to the full insurable value thereof (provided that Redeveloper may self-insure in lieu of obtaining and keeping in force such policy of insurance). This insurance shall insure against the perils of fire and extended coverage and shall include "special causes of loss" insurance for physical loss or damage.

Section 4.03 Cost Certification.

Redeveloper shall submit to the CDA a certification of Eligible Project Costs in the form of the certification attached hereto as Exhibit "E" ("Eligible Project Costs Certification"), after expenditure of such project costs. Redeveloper may, at its option, submit one or more partial Eligible Project Costs Certifications prior to expenditure of all Eligible Project Costs providing certification of receipt of billings for work in progress. All Eligible Project Costs Certifications shall be subject to

review and approval by the CDA. Determinations by the CDA whether costs included in the Eligible Project Costs Certification are properly included in Eligible Project Costs as defined in this Redevelopment Contract shall be made in its sole discretion and shall be conclusive and binding on Redeveloper.

The TIF Indebtedness shall not exceed the actual and certified Eligible Project Costs for the Project. Provided, however, the Project identified herein is phase one of the overall redevelopment project identified and approved in the Redevelopment Plan, and the TIF Indebtedness from this phase one may be utilized to assist with the cost of eligible public improvements in subsequent phases of the redevelopment project. In the event that the certified Eligible Project Costs for the Project are less than the TIF Indebtedness on the Project Completion Date, Redeveloper acknowledged and understands that the CDA shall reduce the TIF Indebtedness amount until the implementation of phase two of the redevelopment project and Redeveloper shall repay to the CDA within ten (10) days of said cost certification any amount in excess of the Eligible Project Costs issued prior to the Eligible Project Costs Certification, provided that the CDA shall continue to collect all Tax Increment from this phase one for use of subsequent phases of the redevelopment project. If the CDA requests, Redeveloper shall, from time to time, furnish the CDA with satisfactory evidence as to the use and application of the Tax Increment.

Section 4.04 No Discrimination.

Redeveloper agrees and covenants for itself, its successors and assigns that as long as this Redevelopment Contract is outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability, marital status or receipt of public assistance in connection with the Project. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Project, Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, disability, marital status or receipt of public assistance. Redeveloper will comply with all applicable federal, state and local laws related to the Project.

Section 4.05 Pay Real Estate Taxes.

Redeveloper intends to create a taxable real property valuation of the Project and Project Site of not less than the Minimum Project Valuation no later than the Project Completion Date. During the period of this Redevelopment Contract, Redeveloper, and any successors and assigns, will not convey the Project Site or structures thereon to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes. The CDA makes no representations with respect to the actual amount of the Tax Increment that will be generated by the Project.

Redeveloper agrees to forgive any shortfall in repayment of the TIF Indebtedness at the end of the 15-year TIF period. If a lender or third party other than Redeveloper funds the Note, Redeveloper shall be solely responsible for all obligations to said lender or third party on whatever terms and conditions are agreed between Redeveloper and lender. Redeveloper, its successors and assigns, including subsequent purchasers of Project Site, further agree as follows:

(a) to pay all local ad valorem real estate taxes for the Project Site as levied and assessed before the same become delinquent; and

(ii) not to seek any administrative review or judicial review of the applicability or validity of any tax statute relating to taxation of the Project Site or to raise such inapplicability or invalidity as a defense in any administrative or judicial proceedings; and

(iii) not to seek any tax deferral or tax abatement with respect to local ad valorem taxes, either as presently or prospectively authorized under any law of the State of Nebraska or federal law with respect to the Project Site; and

(iv) to pay or cause to be paid, when due and before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all water and sewer rates and charges, occupancy tax, special assessments and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which are assessed, levied, confirmed, imposed or become payable with respect to the Project Site and/or Project; provided, however, that any special assessments levied for water, sewer or paving improvements shall be permitted to be paid as the same fall delinquent and may bear interest from the date of levy or other appropriate date set by the levying body.

Section 4.06 Conveyance of Project Site.

The CDA acknowledges and understands that Redeveloper intends to construct the Public Improvements and convey the Project Site to a third party owner/operator of the proposed gas station for the development, construction, and operation of the Private Improvements, and the CDA expressly consents to such sale and conveyance of the Property Site. It is not anticipated that the third party purchaser will assume any obligations under this Redevelopment Contract, and the agreements and obligations herein shall be solely between the CDA and Redeveloper. In accordance with the foregoing, Redeveloper acknowledges and agrees that with respect to a subsequent

owner/operator of the Project and Project Site who is not bound by this Redevelopment Contract, such owner's actions or inactions could still result in Redeveloper's and/or its successors and assigns breach of this Redevelopment Contract. In such instance, Redeveloper, together with its successors and assigns, agrees to indemnify and hold harmless the CDA and City from any claims, defenses or liabilities resulting from such a default and/or the CDA's pursuit of remedies related thereto. Redeveloper and its successors and assigns, together with Redeveloper's lender(s) and/or the holder of the TIF Indebtedness, further agrees to waive any claims, defenses, or causes of action, both legal and equitable, as against the CDA and/or City resulting from such a default and/or the CDA's pursuit of remedies related thereto.

If Redeveloper does wish to assign its interests under this Redevelopment Contract, it may do so upon the prior written approval of the CDA, not to be unreasonably withheld. The CDA and Redeveloper acknowledge and agree that, in the event Redeveloper assigns its rights and obligations under this Redevelopment Contract, in whole or in part, to any assignee, Redeveloper and the assignee shall both be bound by the terms of this Redevelopment Contract (as and to the extent of any such assignment with respect to the assignee). No assignment by Redeveloper to the assignee shall be effective until a written instrument binding the assignee under the terms of this Redevelopment Contract (as and to the extent of such assignment), duly acknowledged and in recordable form, has been executed and delivered by the assignee and recorded in the real estate records of Butler County, Nebraska, with respect to the Project Site.

ARTICLE V

FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES

Section 5.01 Financing.

Redeveloper and/or Redeveloper's successor and assign shall pay all costs for the construction of the Private Improvements and the Public Improvements. Redeveloper shall be responsible for arranging all necessary financing for the construction of the Public Improvements including the TIF Indebtedness. Redeveloper acknowledges and agrees that neither the CDA nor the City shall be obligated to pay any costs related to the Project other than costs to be paid from available grant monies derived from the Tax Increment, if any, and Redeveloper hereby undertakes and agrees to pay any and all such costs. All costs (both public and private) of the Project shall be paid in full and there are and shall be no construction liens unpaid against the Redevelopment Area or any of the improvements thereon.

ARTICLE VI
DEFAULT, REMEDIES; INDEMNIFICATION

Section 6.01 **General Remedies of the CDA 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 either 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; provided that, in view of the additional remedies of the CDA set out in Sections 6.02 and 6.03, the remedy of specific performance by Redeveloper shall not include or be construed to include the covenant to build or construct the Private Improvements or Project.

Section 6.02 **Additional Remedies of the CDA.**

In the event that Redeveloper, or successor in interest, shall fail to complete the construction of the Public Improvements on or before the Project Completion Date, then Redeveloper shall be in default of this Redevelopment Contract; and if such failure to perform, breach or default is not cured in the period herein provided, the CDA may declare the Note as terminated and void, and thereafter shall not be obligated to remit the Tax Increment as debt service thereon. In addition to the foregoing, if such default arises under this Section the aggregate amount of all Tax Increment previously paid to Redeveloper as debt service on the Note shall stand forfeited and Redeveloper shall be required to repay the same to the CDA within thirty (30) days' written demand thereof, and such amount or any portion thereof which may from time to time remain unpaid shall bear interest at a rate of twelve percent (12%) per annum or, if less, the maximum legal rate permitted by law, until all amounts due hereunder are paid in full. No remedy herein conferred upon or reserved to the CDA or the registered owner of the TIF Indebtedness is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other

remedy given under this Redevelopment Contract or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. If any provision of this Redevelopment Contract is breached by a party and thereafter waived by the other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 6.03 Limitation of Liability; Indemnification.

(a) Notwithstanding anything in this Article VI or this Redevelopment Contract to the contrary, neither the CDA, City, nor their officers, directors, employees, agents or their governing bodies shall have any pecuniary obligation or monetary liability under this Redevelopment Contract. The obligation of the CDA on any TIF Indebtedness shall be limited solely to the Tax Increment pledged as security for such TIF Indebtedness. Specifically, but without limitation, neither City nor the CDA shall be liable for any costs, liabilities, actions, demands, or damages for failure of any representations, warranties or obligations hereunder. Redeveloper releases the CDA and the City from and agrees that the CDA and the City shall not be liable 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.

(b) Redeveloper shall indemnify, defend (at the CDA's and/or the City's option) and hold harmless the CDA, the City, their respective employees, officials, agents, representatives and volunteers from and against any and all liabilities, damages, injuries (including death), property damage (including loss of use), claims, liens, judgments, costs, expenses, suits, actions, or proceedings and reasonable attorney's fees, and actual damages of any kind or nature, arising out of or in connection with any aspect of the acts, omissions, negligence or willful misconduct of Redeveloper, its employees, agents, officers, contractors or subcontractors, or Redeveloper's performance or failure to perform under the terms and conditions of this Redevelopment Contract. Such indemnification, hold harmless and defense obligation shall exclude only such liability actions as arise directly out of the sole negligence or willful misconduct of the CDA or the City. The indemnification and defense obligations set forth herein shall survive the termination of this Redevelopment Contract.

**ARTICLE VII
MISCELLANEOUS**

Section 7.01 Memorandum.

A Memorandum of this Redevelopment Contract shall be recorded with the Butler County Register of Deeds. The form of the Memorandum is attached as Exhibit “D” and incorporated by this reference.

Section 7.02 Governing Law.

This Redevelopment Contract shall be governed by the laws of the State of Nebraska, including the Act.

Section 7.03 Binding Effect; Amendment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and assigns. This Redevelopment Contract shall run with the Project Site. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound.

Section 7.04 No Agency or Partnership.

This Redevelopment Contract is not intended and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture or association as between: (i) the CDA and/or the City; and (ii) Redeveloper, or any officer, employee, contractor or representative of Redeveloper. No joint employment is intended or created by this Redevelopment Contract for any purpose. Redeveloper agrees to so inform its employees, agents, contractors and subcontractors who are involved in the implementation of or construction under this Redevelopment Contract.

Section 7.05 Document Retention.

Redeveloper shall retain copies of all supporting documents that are associated with the Redevelopment Plan, Project, or this Redevelopment Contract and that are received or generated by Redeveloper for three (3) years following the end of the last fiscal year in which ad valorem taxes are divided for the Project and provide such copies to the City as needed to comply with the City’s retention requirements under the Act. Supporting documents shall include, but not be limited to, any cost-benefit analysis conducted pursuant to Section 18-2113 of the Act and any invoice, receipt, claim, or

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

Section 7.06 Notice to Redeveloper.

For the purpose of any notice requirement set forth in this Redevelopment Contract, the CDA's address shall be the address of the City's offices (attn: City Clerk), and Redeveloper's address shall be:

GDC Properties, LLC
Attn: Cory Vandenberg
595 North 4th Street
P.O. Box 124
David City, NE 68632
cory@vandenbergelectric.com

Section 7.07 Time of the Essence.

Time shall be of the essence for this Redevelopment Contract.

Section 7.08 Termination.

This Redevelopment Contract shall commence as of the date first above written and shall terminate upon the earlier of the date on which Tax Increment for the Project is no longer collectable under Section 18-2147 of the Act, or payment of all principal and interest owed toward the TIF Indebtedness.

[Signature Page Follows]

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

“CDA”
COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF DAVID CITY,
NEBRASKA

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF DAVID CITY)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____ and _____, _____ and _____ respectively of the Community Development Agency of the City of David City, Nebraska, a public body corporate and politic, on behalf of the Authority.

Notary Public

“REDEVELOPER”
GDC PROPERTIES, LLC,
a Nebraska limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____, _____ of GDC Properties, LLC, on behalf of the company.

Notary Public

EXHIBIT “A”
DESCRIPTION OF PROJECT

The Project Site is defined as the real estate legally described as:

Lot 2, Zegers 1st Addition, David City, Butler County, Nebraska,

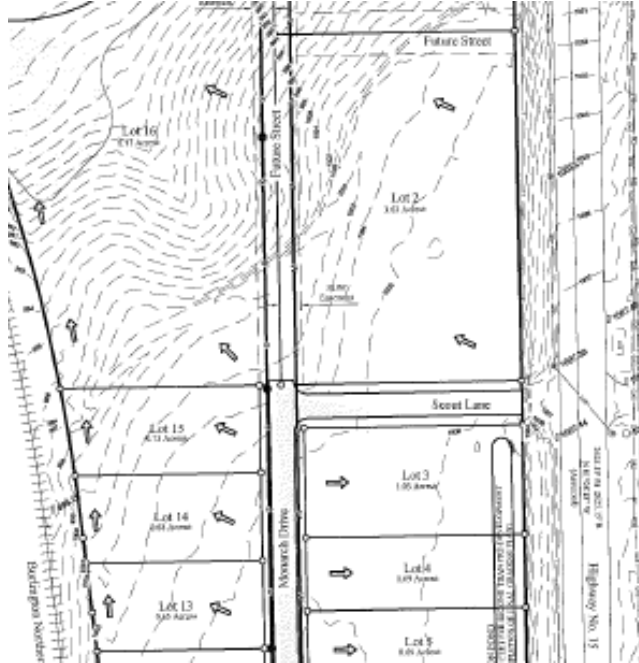
together with the public rights of way and/or public easement areas in the larger project area identified in the Redevelopment Plan for the purpose of the construction of the Public Improvements.

The Project undertaken by Redeveloper on the Project Site includes the following Public Improvements and Private Improvements, which shall be undertaken and completed by Redeveloper.

- (a) **Private Improvements.** The construction of a gas station/convenience store and associated improvements on the Project Site. The preliminary site plan for the Private Improvements is attached hereto as Exhibit “A-1” for reference.

- (b) **Public Improvements.** Site acquisition, site preparation, construction and extension of public infrastructure, right-of-way landscaping, and other eligible public improvements on the Project Site and in the Redevelopment Area, which public improvements are eligible improvements under the Act pursuant to this Redevelopment Contract; paid for, in part, by the Tax Increment created by the Private Improvements.

EXHIBIT "A-1"
PRELIMINARY SITE PLAN



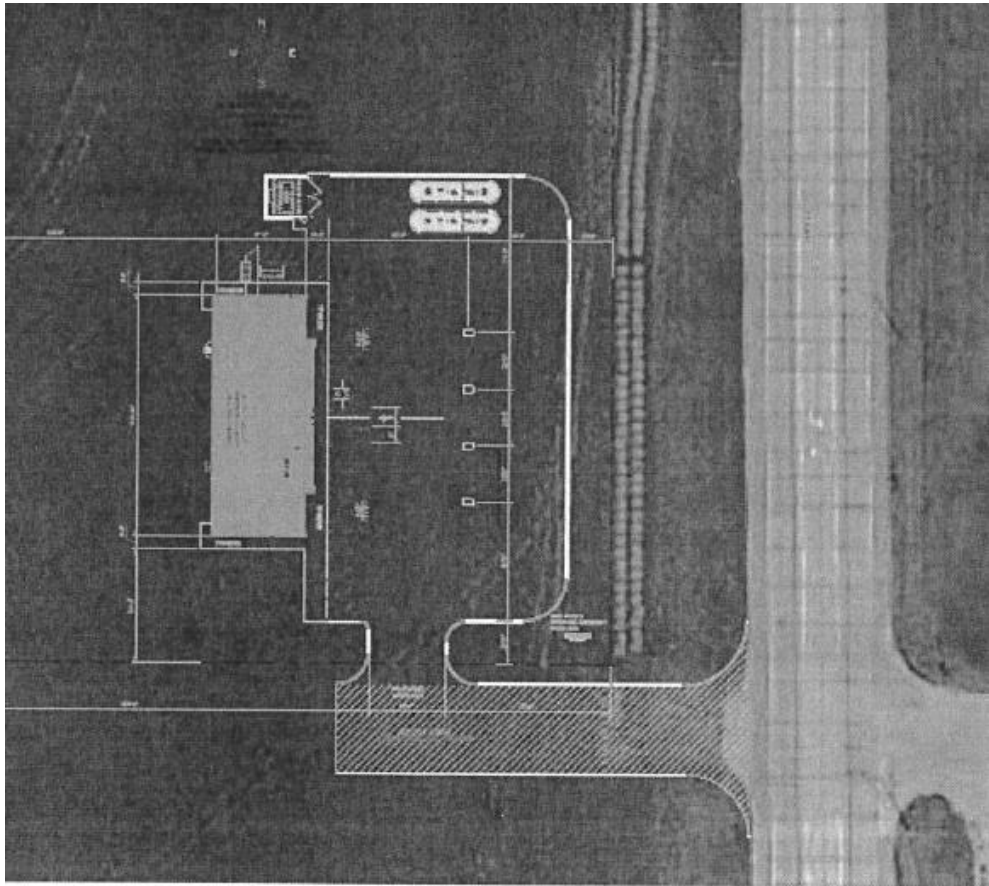


Exhibit "A-1"

EXHIBIT "B"
TIF INDEBTEDNESS

1. Projected Base Value: \$50,000
2. Projected Minimum Final Value: \$3,000,000
3. Projected Incremental Valuation: \$2,950,000
4. Assumed Tax Levy: 1.64422
5. Anticipated Tax Increment: \$48,019 annually
6. Assumed Interest Rate: 5%
7. TIF Indebtedness:
 - a. **Principal Amount.** The principal amount of the TIF Indebtedness shall be equal to or less than \$502,500, which is the maximum amount, together with interest accruing thereon, which can be amortized by December 31, 2039, solely from the Tax Increment Revenues based upon the Anticipated Tax Increment.
 - b. **Interest Rate.** The interest rate for the TIF Indebtedness shall be determined prior to the issuance of the Note. A 5.0% interest rate has been used for the TIF projections, but the 5.0% interest rate may be adjusted based upon Redeveloper's reasonable evidence of lender requirements that will necessitate a reasonable change to the interest rate.
 - c. **Payments.** Semi-annually commencing when real estate taxes are fully collected for the 2025 tax year. The CDA shall utilize all Tax Increment received from the Project to pay debt service on the TIF Indebtedness until the TIF Indebtedness is fully repaid. Provided, however, the CDA does not warrant, represent, or guaranty that the Tax Increment will be sufficient to repay the entire amount of the TIF Indebtedness. The CDA has no obligation to make any payments other than the actual Tax Increment received from the Project.
 - d. **Maturity Date.** On or before December 31, 2040.
 - e. **TIF Period.** Except as otherwise provided herein, the period for the division of taxes for this Project shall be fifteen (15) years, commencing on the Effective Date of January 1, 2025 (2025 taxes paid in 2026) and terminating on December 31, 2039 (2039 taxes due on December 31, 2039 but paid in 2040). Payment of ad valorem taxes in arrears pursuant to customary payments in Nebraska shall not affect the fifteen (15) year TIF period.

Notes:

All calculations are based on assumptions and estimates of future values that may be different than the values used herein or may vary from year to year.

If the Effective Date is set to January 1, 2024 pursuant to Section 101.E., the dates set forth in this Exhibit B shall be adjusted accordingly without any further approval to correspond to the actual Effective Date.

EXHIBIT "C"
PROJECTED TIF SOURCES AND USES

1. TIF SOURCES:

Assumptions:

Tax Levy	1.64422000
Interest Rate	5.0%
Number of Years	15

Property Valuation:

	Assessed Val.	Est. Taxes
Pre-Project	\$50,000	\$822
Completed Project	\$3,000,000	\$49,327
Difference	\$2,950,000	\$48,504

TIF Calculations:

Annual TIF Amount (99% of increment)	\$48,019
TIF Indebtedness	\$502,500

* For purposes of calculating the TIF sources for this Project, the CDA (1) has assumed the Project will capture the full 15 years of tax increment and there will not be a partial valuation in the first year; and (2) has not accounted for any increases in the assessed value of the Project Site during the 15 year tax increment financing period. Any changes to these assumptions will change the actual amount of the tax increment generated by the Project.

2. TIF USES:

All TIF Use amounts are preliminary and subject to change.

- Earthwork - \$127,705
- Water & Sanitary Sewer - \$530,791.00
- Paving - \$356,245.00

Total - \$1,014,740.93

A more detailed breakdown of each category is set forth below:

DESCRIPTION	COST
EROSION CONTROL	\$10,200.00
STRIPPING-APPROX. 10 ACRES	\$18,000.00
EARTHWORK-APPROX. 14,000 CU. YDS.	\$56,000.00

SEEDING-APPROX. 10 ACRES	\$25,000.00
18" RCP CLASS III STORM SEWER	\$5,005.00
18" RCP FES	\$1,000.00
OUTLET STRUCTURE	\$10,000.00
CONCRETE RIP-RAP	\$2,499.93
TOTAL DIVISION I - EARTHWORK	\$127,704.93

DESCRIPTION	COST
8" PVC DR18 WATER MAIN	\$103,796.00
6" PVC DR18 WATER MAIN	\$1,000.00
WET TAP 8" WATER MAIN W/ TAPPING TEE	\$13,000.00
BORE HIGHWAY UNDERCROSSING 16" DIAMETER CASING	\$30,000.00
8" GATE VALVE W/ RDWY BOX	\$15,400.00
6" GATE VALVE W/ RDWY BOX	\$7,500.00
8" TEE	\$1,500.00
8" 45° BEND	\$1,100.00
8" 45° BEND W/ "MEGA LUGS"	\$2,200.00
8" X 6" REDUCER	\$900.00
8" X 6" TEE	\$2,250.00
6" FIRE HYDRANT	\$23,750.00
8" X 1" SERVICE SADDLE	\$3,250.00
1" CORPORATION STOP	\$3,900.00
1" CURB STOP W/ RDWY BOX	\$4,225.00
1" POLYETHYLENE SERVICE LINE	\$8,316.00
8" PVC SDR26 SANITARY SEWER	\$51,440.00
CONSTRUCT CONCRETE MANHOLE	\$29,375.00
CONNECT TO EXISTING MANHOLE	\$1,000.00
8" X 6" SERVICE WYE	\$3,250.00
6" PVC SCHEDULE 40 SERVICE LINE	\$13,230.00
CONSTRUCT LIFT STATION	\$125,000.00
3" PVC DR18 FORCE MAIN	\$16,884.00
3" 90° BEND	\$275.00
BORE HIGHWAY UNDERCROSSING 8" DIAMETER CASING	\$30,000.00
ROCK ACCESS ROAD	\$23,250.00
SWPPP/EROSION CONTROL MAINTENANCE	\$15,000.00
TOTAL DIVISION II - WATER & SANITARY SEWER	\$530,791.00

DESCRIPTION	COST
9" PC CONCRETE PAVING	\$317,520.00
SUBGRADE PREPARATION	\$16,425.00

CONCRETE HEADER	\$600.00
CONSTRUCT BARRICADE	\$2,500.00
BACKFILL AND FINE GRADING	\$10,000.00
SEEDING	\$4,700.00
SWPPP/EROSION CONTROL MAINT	\$2,000.00
BARRICADING & TRAFFIC CONTROL	\$2,500.00
TOTAL DIVISION III - PAVING	\$356,245.00

EXHIBIT “D”

After recording please return to:

City Clerk
City of David City, Nebraska
490 E Street
PO Box 191
David City, NE 68632

**MEMORANDUM OF REDEVELOPMENT CONTRACT
(GDC Properties Redevelopment Project – Phase One)**

This Memorandum of Redevelopment Contract (“Memorandum”) is made this ___ day of _____, 2023 by and between the Community Development Agency of the City of David City, Nebraska (“CDA”) and GDC Properties, LLC, a Nebraska limited liability company (“Redeveloper”).

1. **Redevelopment Contract.** CDA and Redeveloper have entered into that certain Redevelopment Contract dated as of this even date, describing the public improvements and the private improvements being made to real property owned by Redeveloper and legally described as:

Lot 2, Zegers 1st Addition, David City, Butler County, Nebraska (the “Project Site”).

2. **Tax Increment Financing.** The Redevelopment Contract provides for the capture of the Tax Increment, as defined therein, by the CDA of the private improvements to be made by Redeveloper on the Project Site for a period not to exceed fifteen (15) years after the Effective Date set forth in the Redevelopment Contract. The Tax Increment so captured by the CDA shall be used to make the public improvements as described in the Redevelopment Contract.

3. **Remaining Terms.** The rest and remaining terms of the Redevelopment Contract are hereby incorporated into this Memorandum as if they were set forth in full. A full and correct copy of the Redevelopment Contract may be inspected at the CDA offices in David City, Nebraska.

[Signature Page Follows]

“CDA”

COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF DAVID CITY,
NEBRASKA

ATTEST:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF DAVID CITY)

The foregoing instrument was acknowledged before me this ___ day of _____, 2023, by _____ and _____, _____ and _____ respectively of the Community Development Agency of the City of David City, Nebraska, a public body corporate and politic, on behalf of the Authority.

Notary Public

“REDEVELOPER”

GDC PROPERTIES, LLC,
a Nebraska limited liability company

By: _____
Name: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ___ day of _____,
2023, by _____, _____ of GDC Properties, LLC, on behalf of
the company.

Notary Public

EXHIBIT "E"
FORM OF A CERTIFICATION OF ELIGIBLE PROJECT COSTS

Date: _____

GDC Properties, LLC, a Nebraska limited liability company ("Redeveloper"), hereby certifies that it has incurred and paid the Eligible Costs indicated herein, pursuant to the terms of the Redevelopment Contract between Redeveloper and the Community Development Agency of the City of David City. The portion of the Project as indicted herein is substantially completed. Attached hereto are documents substantiating the actual Eligible Costs and payment by Redeveloper.

REDEVELOPMENT ELIGIBLE COSTS

Certified and Requested

Site Prep/Earthwork	\$ _____
Water & Sanitary Sewer Improvements	\$ _____
Paving	\$ _____
<hr/>	
Total:	\$ _____*

***Principal Amount of TIF Indebtedness shall not exceed \$502,500.**

GDC PROPERTIES, LLC,
a Nebraska limited liability company

By: _____
Name: _____
Title: _____

COPIES OF PROOF OF PAYMENT ARE ATTACHED HERETO.

Approved the by Chairperson of the CDA:

By: _____

Name: _____

Title: _____

EXHIBIT "B"
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 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 DAVID CITY, NEBRASKA, PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF DAVID CITY, NEBRASKA, TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

TAX INCREMENT FINANCING PROMISSORY NOTE
(GDC Properties Redevelopment Project – Phase One)

\$502,500 _____, 20__

FOR VALUE RECEIVED, the undersigned, Community Development Agency of the City of David City, Nebraska (hereinafter known as "Agency"), promises to pay _____ ("Holder"), and/or its assigns, the principal sum of Five Hundred Two Thousand Five Hundred and No/100 Dollars (\$502,500), together with interest thereon at the rate of 5.00% per annum, accruing as of the "Effective Date" (as defined in the Redevelopment Contract), in accordance with the terms of that certain Redevelopment Contract dated _____, 20__ (the "Redevelopment Contract"), as between the Agency and Holder, until excess ad valorem taxes generated in the "Project Site" (as defined in the Redevelopment Contract) may no longer be divided and collected for payment on this Redevelopment Promissory Note under the Nebraska Community Development Law, sections 18-2101 et seq. (the "Act"), or until this Redevelopment Promissory Note is paid in full, whichever occurs first. The principal balance and interest thereon shall be due and payable on this Redevelopment Promissory Note as and at such time as any excess ad valorem taxes generated in the Project Site are collected by the Agency and available for the retirement of this debt.

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

The Agency 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 and pursuant to the Redevelopment Contract are insufficient to pay in full all amounts due and owing after all excess ad valorem taxes generated by the Project Site, as set forth in the Redevelopment Contract, have been collected by the Agency and paid, within a reasonable time after becoming available, towards the retirement of the amounts due hereunder, then the Holder shall unconditionally waive any unpaid portion of the principal and interest due hereon.

A PORTION OF THE PRINCIPAL AMOUNT OF THIS REDEVELOPMENT PROMISSORY NOTE MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT OF THE AGENCY. 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 AGENCY.

Pursuant to the Redevelopment Contract and Sections 18-2124 and 18-2150 of the Act, the excess ad valorem real property taxes within the Project Site have been pledged for the payment of this Redevelopment Promissory Note, both principal and interest as the same fall due or become subject to mandatory redemption. This Redevelopment Promissory Note shall not constitute a general obligation of the Agency and the Agency shall be liable for the payment thereof only out of said portion of taxes as described in this paragraph. This Redevelopment Promissory Note shall not constitute an obligation of the State of Nebraska, the Agency, or of the City of David City (except for such receipts as have been pledged pursuant to said Sections 18-2124 and 18-2150 of the Act) and neither the State of Nebraska, the Agency nor the City of David City 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 Agency's governing body nor any person executing this Redevelopment Promissory Note shall be liable personally on this Redevelopment Promissory 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 Redevelopment Promissory 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 Redevelopment Promissory Note to the Agency or the Holder shall be in writing and shall be given by regular mail to the Holder or Agency, at the address(es) provided in the Redevelopment Contract, or at such other address as either party may designate by notice in writing.

This Redevelopment Promissory 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 Agency have caused this Redevelopment Promissory Note to be executed on behalf of the Agency, all as of the Dated Date shown below.

Dated this ____ day of _____, 20__.

COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF DAVID CITY, NEBRASKA

ATTEST:

By: (Sample – Do Not Sign)
Chairperson (Mayor)

(Sample – Do Not Sign)
Secretary (City Clerk)

CDA member Tom Kobus made a motion to pass and adopt Resolution No. 5-2023 CDA approving a Redevelopment Contract undertaken by Ag Processing, Inc. CDA Member Pat Meysenburg seconded the motion. The motion carried.
Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

RESOLUTION NO. 5 CDA

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF DAVID CITY, NEBRASKA, APPROVING A REDEVELOPMENT CONTRACT FOR A REDEVELOPMENT PROJECT UNDERTAKEN BY AG PROCESSING INC, AND THE CITY OF DAVID CITY, NEBRASKA, AS SET FORTH IN THE "REDEVELOPMENT PLAN FOR THE NORTHWEST INDUSTRIAL AREA"; AND AUTHORIZING ISSUANCE OF ITS TAX INCREMENT FINANCING PROMISSORY NOTES PURSUANT TO THE TERMS OF THE REDEVELOPMENT CONTRACT.

WHEREAS, the Mayor and City Council of the City of David City, Nebraska (the "City"), previously approved a redevelopment plan entitled, "Redevelopment Plan for the Northwest Industrial Area", as amended (the "Plan"); and

WHEREAS, the Community Development Agency of the City of David City, Nebraska (the "Agency"), has for its consideration, attached hereto and incorporated herein as Exhibit 1, a proposed form of the redevelopment contract by and between Ag Processing Inc ("AGP"), the City, and the Agency, with respect to a redevelopment project specified in the Plan (the "Redevelopment Contract").

NOW, THEREFORE, BE IT RESOLVED, by the Agency, as follows:

Section 1. That the Redevelopment Contract by and between the Agency, the City, and AGP, in the form presented, is hereby acknowledged and approved. The Agency Chairperson and Secretary are hereby authorized to execute said Redevelopment Contract in substantially the form presented but with such changes as they shall deem appropriate or necessary. The

execution and delivery by the Agency Chairperson of the Redevelopment Contract, or any such documents, instruments, agreements or certifications relating to such matters contained in the Redevelopment Contract, shall conclusively establish their authority with respect thereto and the authorization and approval thereof.

Section 2. That following full execution of the Redevelopment Contract by the parties thereto, the Agency is hereby authorized to issue those certain tax increment financing promissory notes, in accordance with the terms of the Redevelopment Contract, and in substantially the same form as that set forth in Exhibit “E” of the Redevelopment Contract (the “TIF Notes”), but with such changes as the Agency deems appropriate or necessary.

Section 3. That the TIF Notes shall be executed on behalf of the Agency by its Chairperson and Secretary, and shall be delivered to AGP and/or the City, as applicable, in consideration of such party’s expenditures under and pursuant to the Redevelopment Contract which are eligible for reimbursement from tax increment financing.

Section 4. That AGP and City, as applicable, shall have a first-priority lien interest on all payments allocated towards their respective TIF Note, pursuant to and in conformance with the terms of the Redevelopment Contract and TIF Note.

Section 5. That the Agency’s administration of the TIF Notes shall be governed by the terms of this Resolution, the Redevelopment Contract and the terms set forth in the TIF Notes.

Section 6. That with respect to AGP’s TIF Note, unless excepted under the law, interest on said TIF Note 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 Internal Revenue Code.

Section 7. The Agency Chairperson and Secretary, on behalf of the Agency, 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 and the Redevelopment Contract.

Section 8. This Resolution shall be in force and take effect from and after its adoption as provided by law.

INTRODUCED BY _____

PASSED AND ADOPTED THIS 26TH DAY OF APRIL, 2023.

CHAIRPERSON

ATTEST:

SECRETARY

EXHIBIT "A"
Redevelopment Contract

(See attached)

REDEVELOPMENT CONTRACT
(The Northwest Industrial Area Redevelopment Project)

This Redevelopment Contract for the Northwest Industrial Area Redevelopment Project ("**Redevelopment Contract**") is made and entered into as of the _____, 2023, by and between the Community Development Agency of the City of David City, Nebraska (the "**Agency**"), the City of David City, Nebraska (the "**City**"), and Ag Processing Inc a cooperative, an Iowa corporate cooperative association ("**Redeveloper**"). The Agency, City and/or Redeveloper may be individually referred to hereinafter as the "**Party**", or collectively as the "**Parties**".

WITNESSETH:

WHEREAS, pursuant to the Nebraska Community Development Law, Sections 18-2101, et. seq. (the "**Act**") the City Council adopted and approved a plan entitled "Redevelopment Plan for the Northwest Industrial Area", as amended (the "**Plan**"), and provided therein is a redevelopment project for the real estate described on Exhibit "A" hereto attached and by such reference incorporated herein (the "**Redevelopment Area**"), which is located in the City, and which has previously been declared blighted and substandard or otherwise eligible for redevelopment by the City; and

WHEREAS, the Agency has encouraged and induced Redeveloper to engage in certain development activities and construct improvements in the Redevelopment Area and Redeveloper is not willing to incur the substantial investment necessary for such redevelopment of the Redevelopment Area without the assistance of tax-increment financing ("**TIF**") provided by the Agency in this Redevelopment Contract; and

WHEREAS, Redeveloper, pursuant to the Plan, intends to construct an agricultural processing facility, together with such other improvements ancillary thereto (said improvements are referred to herein as the "**AGP Private Improvements**"), within a portion of the Redevelopment Area (inclusive of the real property and improvements, the "**AGP Site**"), as further shown and described in Exhibit "B", attached hereto and incorporated herein; and

WHEREAS, Redeveloper, pursuant to the Plan, further intends to construct certain public improvements within the public rights-of-way within the Redevelopment Area, for the benefit of the AGP Site and the Redevelopment Area as a whole (said public improvements are referred to herein as the "**AGP Public Improvements**"), as further shown and described in Exhibit "B"; and

WHEREAS, the AGP Private Improvements and AGP Public Improvements are collectively referred to herein as the “**AGP Improvements**”; and

WHEREAS, the City, pursuant to the Plan, intends to construct certain public improvements within and/or serving the Redevelopment Area, for the benefit of the entire Redevelopment Area, inclusive of the AGP Site, as further detailed below (said public improvements are referred to herein as the “**City Public Improvements**”); and

WHEREAS, the AGP Private Improvements, AGP Public Improvements and City Public Improvements are collectively referred to herein as the “**Redevelopment Project**”; and

WHEREAS, the real property within the AGP Site, other than easements for public utilities and public rights-of-way, is or shall be privately owned by Redeveloper; and

WHEREAS, the Agency proposes to authorize, and via the adoption and execution of this Redevelopment Contract, hereby does authorize issuance of its tax increment financing promissory notes (the “**TIF Indebtedness**”, which collectively consists of the City Note, and Redeveloper Note, as defined below) pursuant to the terms herein, to provide for eligible costs relating to the Redevelopment Project; and

WHEREAS, Redeveloper and the City seek the assistance of the Agency for the costs of the eligible improvements related to the Redevelopment Project and therefore are willing to agree to the conditions herein set forth as an inducement to the Agency to issue the TIF Indebtedness, as provided herein and in the TIF Indebtedness.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency, the City and Redeveloper do hereby agree, covenant and warrant as follows:

Section 1. Representations, Warranties and Covenants of Redeveloper.

Redeveloper hereby represents, covenants and warrants as follows:

- (a) Redeveloper is a corporate cooperative duly organized and existing under the laws of the State of Iowa, is not in violation of any provisions of its articles of incorporation or bylaws, is authorized to enter into and perform its obligations under this Redevelopment Contract and, to the best of the knowledge of Redeveloper, is not in violation of the laws of the State of Nebraska.
- (b) Throughout the term of this Redevelopment Contract, Redeveloper will reasonably endeavor to construct the AGP Improvements, and subsequently operate and maintain the AGP Private Improvements, in accordance with the

terms of this Redevelopment Contract and the Plan, or amendments thereof, and all applicable local, state and federal laws and regulations (including, without limitation, environmental, zoning, building code and public health laws and regulations).

- (c) [Intentionally omitted]
- (d) Redeveloper or its assignee will endeavor, with commercially reasonable diligence, to complete the AGP Improvements on or before July 1, 2025.
- (e) Redeveloper has not received, nor is it aware of, notices or communications from any local, state or federal official or body that the activities of Redeveloper respecting the Redevelopment Area or the construction of the AGP Improvements thereon may be or will be in violation of any law or regulation.
- (f) Redeveloper will use commercially reasonable and diligent efforts to obtain or to cause others to obtain, in a timely manner, all required permits, licenses and approvals and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met for the AGP Improvements to be lawfully constructed, occupied or operated; provided, however, the City will obtain any necessary permits with respect to the connection to or modification of State Highway 15.
- (g) The execution and delivery of this Redevelopment Contract, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Redevelopment Contract are not prevented or limited by and will not conflict with or result in a breach (i) of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which Redeveloper is now a party or by which it is bound; or (ii) of any past, pending or threatened litigation, court order, or administrative proceeding, by which Redeveloper is or might become bound.
- (h) To the best of the knowledge of Redeveloper, Redeveloper is not aware of any hazardous waste or other significant environmental pollution condition or hazard existing on or within the AGP Site.
- (i) Redeveloper acknowledges and agrees that neither the Agency nor the City shall be obligated to pay any costs related to the AGP Improvements other than costs to be paid from available grant monies derived from ad valorem incremental real estate taxes (referred to herein as “**TIF Revenues**”) and, as applicable, the PILOT Payments (defined below), generated from the AGP Private Improvements and/or AGP Site, if any, and Redeveloper hereby undertakes and

agrees to pay any and all such costs. All costs (both public and private) of the AGP Improvements shall be paid in full and there are and shall be no construction liens unpaid against the Redevelopment Area arising from the AGP Improvements. Redeveloper agrees to provide for the construction of both the public and private improvements included as part of the AGP Improvements, and located within the Redevelopment Area, as described in the Plan or this Redevelopment Contract, except to the extent that the Agency or the City agree otherwise in this Redevelopment Contract, or by separate written agreement with Redeveloper.

- (j) Redeveloper agrees and covenants for itself, its successors and assigns that as long as the Redeveloper Note is outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability, marital status or receipt of public assistance in connection with the AGP Improvements. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the AGP Improvements, 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. Redeveloper will comply with all applicable federal, state and local laws related to the AGP Improvements.
- (k) Redeveloper agrees that any contractor providing services related to the AGP Public Improvements will utilize the federal immigration verification system, as defined in Section 4-114, *Neb. Rev. Stat.* 2012, as amended or transferred, to determine the work eligibility status of new employees physically performing services on the AGP Public Improvements.
- (l) Redeveloper owns all real property within the AGP Site, other than public rights-of-way, in fee simple and free from any liens, encumbrances, or restrictions which would prevent the performance of this Redevelopment Contract by Redeveloper.
- (m) With respect to the AGP Public Improvements, any general contractor chosen by Redeveloper or Redeveloper itself shall obtain and keep in force at all times until completion of construction, policies of insurance including coverage for contractors' general liability and completed operations of at least \$2,000,000 per occurrence and \$5,000,000 in the aggregate, and a penal bond as required by the Act and Section 12 of this Redevelopment Contract. The Agency, the City and Redeveloper shall be named as additional insureds on such policies. Any contractor chosen by Redeveloper or Redeveloper itself, as an owner, shall be required to purchase and maintain property insurance upon the AGP Public

Improvements to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "Builders Risk" insurance for physical loss or damage. The contractor or Redeveloper, as the case may be, with respect to any specific contract, shall also carry insurance on all stored materials. The contractor or Redeveloper, as the case may be, shall furnish the Agency and the City with a certificate of insurance evidencing policies as required above. Redeveloper shall give the Agency and the City prior written notice in the event of cancellation of or material change in any of the policies.

- (n) Upon completion of the AGP Public Improvements City, shall be entitled to inspect said improvements for conformance with the agreed upon specifications. Any defects discovered as a result of such inspection(s) shall be remedied at Redeveloper's expense. Upon City's confirmation the AGP Public Improvements meet the applicable specifications ownership of the AGP Public Improvements, and all contractor and material warranties related thereto, shall be transferred to the City. CITY SHALL ACCEPT THE AGP PUBLIC IMPROVEMENTS IN "AS-IS, WHERE-IS" CONDITION WITH ALL FAULTS AND DEFECTS KNOWN OR UNKNOWN. FOLLOWING TRANSFER OF OWNERSHIP OF THE AGP PUBLIC IMPROVEMENTS TO THE CITY, CITY SHALL BE SOLELY RESPONSIBLE FOR THE MAINTENANCE, REPAIR AND CONDITION OF THE AGP PUBLIC IMPROVEMENTS AND REDEVELOPER SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO.
- (o) With respect to the AGP Public Improvements, Redeveloper has not pursued or received, and will not pursue or receive, tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act, or a refund of the City's local option sales tax revenue. Redeveloper shall be entitled to pursue and receive tax incentives under the Nebraska Advantage Act, the ImagiNE Nebraska Act, or any other available federal, state or local grants or incentives, including a refund of the City's local option sales tax revenue, with respect to the AGP Private Improvements.
- (p) The City shall maintain, and Redeveloper hereby grants to the City, a revocable license and temporary construction easement to undertake and construct applicable City Public Improvements on the AGP Site. Such license and temporary easement shall automatically terminate upon completion of construction of the City Public Improvements; provided that Redeveloper agrees to further grant any permanent easements necessary for the continued operation and maintenance of the same.
- (q) Redeveloper shall, upon the City's written request therefor, grant the City an exclusive easement for the construction and operation of an electric substation,

together with such other improvements and uses ancillary thereto, on up to three (3) contiguous acres of the AGP Site, in addition to any ingress/egress easements and/or other rights reasonably related thereto. The easement shall be perpetual in duration, subject to the City's continued use and operation of an electric substation thereon. Following the City's written request for the easement, the City and Redeveloper shall work together in good faith to establish a mutually-agreeable location for the easement, as shall be set forth in a survey obtained by the City at its sole cost. The City acknowledges and agrees that the final acreage of the easement shall be dependent upon its location, and may be less than three (3) contiguous acres if the location desired by the City cannot reasonably accommodate the same. Upon establishing the location of the easement, Redeveloper and the City shall enter into the foregoing easement agreement, on a form acceptable to the Parties, such acceptance not to be unreasonably withheld, conditioned or delayed, which shall be recorded against the AGP Site in the land records of Butler County, Nebraska.

- (r) Redeveloper shall make twenty (20) annual payments to the City, each in the amount of \$345,000, in consideration of the capital improvement costs associated with the expansion of the City's sewage treatment facilities to (in part) accommodate the increased capacity requirements of the AGP Private Improvements. The first such annual payment shall become due and owing on January 1 of the year in which the City's first payment becomes due on the financing for the sewage treatment improvements. The City shall provide written notice to Redeveloper specifically identifying such date at least ninety (90) days in advance of the same. Each subsequent payment shall become due and owing on January 1 of each subsequent calendar year until payment of the final installment (i.e., 20th installment). Following the full and final payment of all installments required hereunder, Redeveloper shall have no further obligations or liabilities under this Section 1(r). This Section 1(r) shall survive the expiration or early termination of this Redevelopment Contract.

Section 2. Public Improvements; Private Development Outside of AGP Site.

For the benefit of the Redevelopment Area, the City will construct the City Public Improvements, as shown and/or described on Exhibit "C" attached hereto and incorporated herein (the "**City Public Improvements**"). The City will finance the City Public Improvements via the Agency's issuance of its TIF Indebtedness to the City, in the form attached hereto as Exhibit "E" and incorporated herein (the "**City Note**"), in the principal amount established in accordance with Section 5, below, at a 5.0% rate of interest per annum, pursuant to the terms of the City Note and this Redevelopment Contract. Debt service payments on the City Note shall be funded from the TIF Revenues and, as applicable, the PILOT Payments, in accordance with

the priority of payment set forth in Section 4 of this Redevelopment Contract. So long as Redeveloper is not delinquent in its payment of the (a) ad valorem real property taxes for the AGP Site, (b) the payment obligations under Section 1(r) of this Redevelopment Contract, or (c) as applicable, its PILOT Payment (defined below) obligations under this this Redevelopment Contract, and to the extent permitted by law, the City shall indemnify and hold Redeveloper harmless from any shortfall due to the inadequacy of the funding mechanisms provided in this Redevelopment Contract to meet the City's debt service payments on the City Note or the costs of the City Public Improvements.

As detailed above, the City Public Improvements will benefit the entire Redevelopment Area, inclusive of, but not limited to, the AGP Site. The City and Agency anticipate that the Redevelopment Project will result in the development and redevelopment of the other parcels within the Redevelopment Area outside of the AGP Site (such parcels being referred to herein as the "**Future Development Sites**"). In accordance with the Plan, the prospective development of the Future Development Sites constitutes additional phases of the Redevelopment Project, from which the TIF Revenues will be allocated as debt service on the City Note, as reimbursement of the City Public Improvements which benefited and facilitated the same. Notwithstanding the foregoing, the Parties shall not have any obligations or liabilities to one another with respect to the Future Development Sites and/or the prospective development thereon, other than their respective obligations related to the AGP Improvements and City Public Improvements as provided hereunder. Additionally, this Redevelopment Contract shall not confer any rights or remedies upon any person or entity, including but not limited to the owner(s) or future owner(s) of the Future Development Sites, other than the Parties hereto and their respective successors and permitted assigns.

Section 3. Representations, Warranties and Covenants of the City.

The City hereby represents, covenants and warrants as follows:

- (a) The City is a municipal corporation duly organized and existing under the laws of the State of Nebraska, and is authorized to enter into and perform its obligations under this Redevelopment Contract.
- (b) The City or its assignee will endeavor, with commercially reasonable diligence, to complete the City Public Improvements on or before January 1, 2025.

- (c) The City will use commercially reasonable and diligent efforts to obtain or to cause others to obtain, in a timely manner, all required permits, licenses and approvals and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met for the City Public Improvements to be lawfully constructed.
- (d) The City acknowledges and agrees that, so long as Redeveloper is not in material default of this Redevelopment Contract, Redeveloper shall not be obligated to pay any costs related to the City Public Improvements, and the City hereby undertakes and agrees to pay any and all such costs.
- (e) Subject to the requirements of Section 12 below, Redeveloper shall maintain, and the City hereby grants to Redeveloper, a revocable license and temporary construction easement to undertake and construct the AGP Public Improvements within City rights-of-way. Such license and temporary easement shall automatically terminate upon completion of construction of the AGP Public Improvements.
- (f) The current (as of the effective date of this Redevelopment Contract) utility rates for water, sanitary sewer and electric services charged by the City in relation to the operation of the AGP Improvements are set forth in Exhibit "G", attached hereto and incorporated herein. The City anticipates such rates will be in effect upon completion of the AGP Improvements; provided, however, such rates are subject to adjustment, as necessitated by changes to the City's cost(s) to provide and maintain such services. Notwithstanding the foregoing, in accordance with Section 70-655 of the Nebraska Revised Statutes, the City represents and warrants that, with respect to any adjustments to the rates of the foregoing utilities, either prior to or following completion of the AGP Improvements, such adjustments shall be, "fair, reasonable, nondiscriminatory, and so adjusted as in a fair and equitable manner to confer upon and distribute among the users and consumers of commodities and services furnished or sold by the district the benefits of a successful and profitable operation and conduct of the business of the district."
- (g) Unless otherwise agreed to by the Parties in writing, any incentive payments or grants that are not addressed in this Redevelopment Contract which are obtained or procured with respect to the AGP Improvements shall be the sole property of Redeveloper. If such payments or grants are received by the City or Agency, such Party shall remit the same to Redeveloper, and such funds shall not be applied as debt service on the TIF Indebtedness nor shall it alter TIF Fund disbursements as set forth in Section 4 below.

- (h) If the AGP Public Improvements necessitate the acquisition of private land for the widening of the Road 37 public right-of-way, the City and/or Agency will undertake the same and perform such necessary actions for said public acquisition of private land. The City shall inform Redeveloper of any costs in excess of \$10,000 associated with such activities prior to their incurrence; provided that any failure by the City to do so shall not be considered a breach of this Redevelopment Contract, and such costs shall still be reimbursable in the manner provided below so long as they were reasonable and necessary. Redeveloper shall have five (5) days to either consent or object to such cost(s), via a written response to the City. Redeveloper's failure to respond within the time period prescribed above shall conclusively be deemed a consent to such cost(s). In the event Redeveloper objects to a particular cost, then Redeveloper shall be responsible for the action/item associated with such cost, at its sole expense, and the City and/or Agency, as applicable, shall have no further obligation or liability with respect thereto. In accordance with the foregoing, all approved and other reasonable and necessary costs incurred by the City and/or Agency in relation to the undertakings under this subsection shall be reimbursed by Redeveloper, within thirty (30) days of the City's and/or Agency's written request therefor; provided that any such request shall include invoices or other documentation reasonably evidencing the incurrence of the costs to be reimbursed. To the extent any disagreement exists with respect to the reasonableness or necessity of the costs incurred by the City and/or Agency under this subsection, such question shall be submitted to a mutually-agreeable and qualified third-party professional, and such third party's determination on the same shall be binding upon the Parties with respect to the reimbursement obligations under this subsection.

Section 4. Incorporation of Plan; Issuance and Payment Priority of TIF Indebtedness.

This Redevelopment Contract hereby incorporates the Plan by this reference. In order to provide for payment of some of the eligible costs of the AGP Improvements set forth in the Plan and this Redevelopment Contract, as described in Exhibit "D", attached hereto and incorporated herein (the "**Eligible Costs**"), the Agency shall proceed to issue its TIF Indebtedness to Redeveloper in the form attached hereto and incorporated herein as Exhibit "E" (the "**Redeveloper Note**"), in the principal amount established in accordance with Section 5, below, at a variable interest rate, pursuant to the terms of the Redeveloper Note and this Redevelopment Contract. In consideration of Redeveloper undertaking the AGP Improvements, the Agency shall issue the Redeveloper Note to Redeveloper, upon request therefor, no earlier than thirty (30) days following the Agency's approval and adoption of this Redevelopment Contract. At issuance of the Redeveloper Note, the loan to be accomplished thereby and the

obligation of the Agency to use the TIF Revenues for redevelopment purposes under this Redevelopment Contract may be accomplished by offset so that Redeveloper retains the TIF Revenues to fund the AGP Public Improvements and no bankable currency is exchanged at issuance the Redeveloper Note, except as otherwise provided herein.

The "**Effective Date**" (as defined in the Act) for the division of TIF Revenues with respect to the Redevelopment Project, or portion thereof, shall be January 1 of the year in which a "Notice to Divide Tax for Community Redevelopment Project" (the "**Notice to Divide**") is filed with the offices of the Butler County Treasurer and Assessor, pursuant to Section 18-2147 of the Act, with respect to the Redevelopment Area, or portion thereof. The "redevelopment project valuation" (as defined in the Act) shall be the assessed value attributable to the Redevelopment Area, or applicable portion thereof, on January 1 of the year prior to the Effective Date. Redeveloper shall provide written notice to the Agency requesting filing of the Notice to Divide prior to July 1 of the calendar year in which Redeveloper wishes to establish the Effective Date for the AGP Site. Upon receipt of said timely notice, and in conformance with Section 18-2147 of the Act, the Agency shall file the Notice to Divide for the AGP Site on or before August 1 of such year. If Redeveloper fails to timely request filing of the Notice to Divide in accordance with this paragraph, neither the Agency nor City shall be liable for any damages stemming therefrom, including but not limited to, any loss, or potential loss, in TIF Revenues related to the failure to establish the Effective Date in the year desired. With respect to the Future Development Sites, the Agency shall determine, in its sole and exclusive discretion, the timing for filing of the Notice(s) to Divide. As between the AGP Site and the Future Development Sites, it is anticipated that the various parcels within the Redevelopment Area may be subject to different Notices to Divide, and thereby have different Effective Dates. The parcel or collection of parcels included within the same Notice to Divide is referred to herein as a "**Phase**".

The TIF Indebtedness shall constitute a limited obligation of the Agency payable exclusively from the TIF Revenues and, as applicable the PILOT Payments, and collected for a period not to exceed fifteen (15) years from the Effective Date for each Phase. Prior to receipt of any TIF Revenues, the Agency, as paying agent and registrar of the TIF Indebtedness, shall create a special fund (or funds) established solely to make payments on the TIF Indebtedness (the "**TIF Fund**"). Upon receipt of the TIF Revenues and, as applicable, the PILOT Payments, the Agency shall deposit the same into the TIF Fund, and shall disburse said funds to the holders of the TIF Indebtedness (but only from available TIF Revenues) at the times provided in the TIF Indebtedness, in accordance with the following priority:

- (a) Seventy percent (70%) of annual TIF Revenues and/or PILOT Payments collected on the AGP Site, up to those collected on a tax assessed valuation of the AGP Site at or below the AGP Site Minimum Valuation, shall be disbursed and allocated towards debt service on the Redeveloper Note. Only TIF

Revenues or PILOT Payments received from Redeveloper shall be used by City and Agency to repay the Redeveloper Note.

- (b) Thirty percent (30%) of annual TIF Revenues and/or PILOT Payments collected, up to those collected on a tax assessed valuation of the AGP Site at or below the AGP Site Minimum Valuation, shall be disbursed and allocated towards debt service on the City Note.
- (c) As applicable, one hundred percent (100%) of annual TIF Revenues collected on a tax assessed valuation of the AGP Site above the AGP Site Minimum Valuation shall exclusively be disbursed and allocated towards debt service on the Redeveloper Note; provided that the disbursements under subsections (a) and (b) above shall occur prior to any disbursements under this subsection (c).
- (d) One hundred percent (100%) of annual TIF Revenues collected on the Future Development Sites shall be disbursed and allocated towards debt service on the City Note.
- (e) Following the full payment of all principal and interest on either the Redeveloper Note or City Note, one hundred percent (100%) of the TIF Revenues collected on the AGP Site for the remainder of the TIF period shall be disbursed and allocated towards debt service on the portion of the TIF Indebtedness that remains outstanding, until full payment or final maturity thereof, whichever occurs first.

The proceeds of the TIF Indebtedness shall be applied as described above. The Redeveloper Note shall be issued on the basis of interest which is includable in income for both federal and Nebraska State income taxes.

Notwithstanding the foregoing, if Redeveloper fails to make a required PILOT Payment under Section 6(c) below, the percentages under subsections (a) and (b) above shall be adjusted for the applicable calendar year, so that the amount of TIF Revenues generated by the AGP Site and allocated towards debt service on the City Note, shall equal the amount of property taxes that would be owed on the AGP Site for such year, and allocable towards debt service on the City Note if the taxable real property valuation of the AGP Site equaled the AGP Site Minimum Valuation (defined below).

The Agency may treat the registered holder of the City Note and Redeveloper Note, as applicable, as the absolute owner of the same for the purpose of making payments thereon and for all other purposes. All payments on account of interest or principal made to the registered owner(s) of the TIF Indebtedness in accordance with the terms of this Redevelopment Contract shall be valid and effectual and shall be a discharge of the Agency and its officers and agents, in respect of the liability upon the TIF Indebtedness or claims for interest to the extent of the

sum or sums so paid. The Agency shall keep current and accurate records of all payments on the TIF Indebtedness and the outstanding balance of principal and interest on the TIF Indebtedness, and such records shall be treated as determinative by the Parties and/or their assigns, provided such records are current and do not include any material mistakes or errors. The City or Redeveloper, as applicable, may transfer or pledge the TIF Indebtedness as collateral upon prior written notice to the Agency, accompanied by such documentation effectuating such transfer or pledge, in accordance with such other requirements as may be set forth in the TIF Indebtedness. At any time, the Agency shall have the option of prepaying in whole or in part principal of the TIF Indebtedness; provided, however, any such prepayment shall only utilize TIF Revenues and/or PILOT Payments. The Chairperson (Mayor) and Secretary (City Clerk) of the Agency, or any one of them, shall be 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 Redevelopment Contract.

Section 5. Certification of Eligible Costs; Advances of Principal on TIF Indebtedness.

Notwithstanding anything to the contrary in this Redevelopment Contract, all TIF Revenues and, as applicable, the PILOT Payments, paid as debt service on the TIF Indebtedness shall provide for reimbursement of the Eligible Costs, to the extent paid by Redeveloper or the City, as applicable, as evidenced by paid invoices or other evidence acceptable to the Agency ("**Eligible Costs Certification(s)**"). Redeveloper and/or the City, as applicable, may, at its option, submit one or more partial Eligible Costs Certifications prior to expenditure of all Eligible Costs providing certification of receipt of billings for work in progress. All Eligible Costs Certifications shall be subject to review and approval by the Agency prior to the funding of such Eligible Costs via the payment of debt service on the TIF Indebtedness; provided, however, such approval shall not be unreasonably withheld. All Eligible Costs Certifications shall be submitted within one hundred-eighty (180) days after substantial completion of the AGP Public Improvements and/or City Public Improvements, as applicable.

Upon receipt of an approved Eligible Cost Certification, the Agency shall notify Redeveloper or City, as applicable, in writing of the "Principal Amount Advanced" on the respective note, as provided in Schedule 1 of the respective note, in relation to such Eligible Cost Certification. Such written notice shall also include the then-current "Principal Amount Redeemed" and "Cumulative Outstanding Principal Amount" on Schedule 1 of the respective note. Upon receipt of such notice from the Agency, the holder of the respective note shall update Schedule 1 of such note in conformance with the amounts provided by the Agency. Notwithstanding the foregoing, the Agency's records as to "Principal Amount Advanced", "Principal Amount Redeemed" and "Cumulative Outstanding Principal Amount" shall act as the official records of the TIF Indebtedness and shall supersede those shown on Schedule 1 of the notes.

In accordance with the foregoing, the principal amount of the Redeveloper Note and City Note, as applicable, shall equal the aggregate total of Eligible Costs Certifications received and approved by the Agency with respect to the AGP Public Improvements or City Public Improvements, as applicable; subject to and in accordance with the following:

- (a) the aggregate total of "Principal Amount Advanced" on the Redeveloper Note shall not exceed \$37,332,510;
- (b) the aggregate total of "Principal Amount Advanced" on the City Note shall not exceed \$9,673,853; and

Section 6. Covenants With Respect to Taxation of Redevelopment Area.

Redeveloper agrees with respect to the Redevelopment Project as follows:

- (a) Until the termination of this Redevelopment Contract (as described in Section 20 hereof), the AGP Private Improvements shall not be sold or conveyed to any person or entity for ownership or use which would cause the real property within the AGP Site to be eligible for exemption from ad valorem taxes under Section 77-202 R.R.S. Neb. 2009, as now existing or hereafter amended, or any successor provision thereto, and that it will not make application for any structure, or any portion thereof, to be taxed separately from the underlying land of any lot.
- (b) For the purposes of this Agreement Redeveloper estimates it will create a taxable real property valuation of not less than \$80,000,000 within the AGP Site (the "**AGP Site Minimum Valuation**") by no later than July 1, 2025.
- (c) If, during the period of this Redevelopment Contract and after the filing of a Notice to Divide with respect to the AGP Site, the taxable real property valuation of the AGP Site is less than the AGP Site Minimum Valuation, Redeveloper and/or its successors and assigns, inclusive of future owner(s) of the AGP Site, shall make a payment in lieu of taxes ("PILOT Payment") to the Agency within thirty (30) days of the Agency's written demand therefor. The amount of the PILOT Payment shall be the amount of property taxes that would be owed on the AGP Site had the taxable real property valuation for the same equaled the AGP Site Minimum Valuation in the applicable year, less the actual amount of property taxes paid and/or owing with respect to the AGP Site for such year. If Redeveloper has monetized the Redeveloper Note by pledging it to its lender, Redeveloper shall solely be responsible for all payments due to such lender.

- (d) Redeveloper shall and hereby does unconditionally forgive all outstanding principal and interest amounts remaining unpaid on the Redeveloper Note at the end of the fifteen (15) year period for the division of ad valorem real estate taxes prescribed by the Act.
- (e) Redeveloper, its successors and assigns, including subsequent purchasers of land within the AGP Site, further agree as follows:
 - (i) to pay all local ad valorem real estate taxes for the AGP Site as levied and assessed before the same become delinquent; and
 - (ii) not to seek any administrative review or judicial review of the applicability or validity of any tax statute relating to taxation of the AGP Site or to raise such inapplicability or invalidity as a defense in any administrative or judicial proceedings; provided, however, the foregoing shall not prevent Redeveloper to challenge the assessed value of the AGP Improvements or any other property owned by Redeveloper in the Redevelopment Area; and
 - (iii) to pay or cause to be paid, when due and before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all water and sewer rates and charges, occupancy tax, special assessments and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which are assessed, levied, confirmed, imposed or become payable with respect to the AGP Site or AGP Improvements; provided, however, that any special assessments levied for water, sewer or paving improvements shall be permitted to be paid as the same fall delinquent and may bear interest from the date of levy or other appropriate date set by the levying body, and Redeveloper shall not be responsible for any such costs hereunder with respect to the AGP Public Improvements following their completion, so long as the same is not imposed as a result of the gross negligence or intentional misconduct of Redeveloper; and
 - (v) to retain copies of all supporting documents (as defined under Section 18-2119(4) of the Act) actually generated and received by Redeveloper in relation to the Redevelopment Project or Plan until the expiration of three years following the end of the last fiscal year in which ad valorem taxes are divided in relation to the Redevelopment Project.

Section 7. Release and Indemnification.

Redeveloper hereby releases from and covenants and agrees that the Agency and the City, together with their governing body, officers, agents, including their independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purpose of this Section 7, collectively the “**Indemnified Parties**”) shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect arising from the AGP Improvements or within the AGP Site. Provided, however, such release shall not be deemed to include liability for loss or damage to the extent proximately caused by the negligence or willful misconduct of the Indemnified Parties and/or with respect to the actions of the Indemnified Parties in relation to the City Public Improvements.

Except for the City’s obligations with respect to the City Public Improvements, the Indemnified Parties shall not have any pecuniary obligation or monetary liability under this Redevelopment Contract. The obligation of the Indemnified Parties on the TIF Indebtedness or any indebtedness contemplated hereunder shall be limited solely to the TIF Revenues and, as applicable, the PILOT Payments, pledged as security for such indebtedness, and the Indemnified Parties shall not be liable to Redeveloper or any other third party for any costs, liabilities, actions, demands, or damages for failure of any representations, warranties or obligations hereunder, with respect to the AGP Improvements, to the extent of Redeveloper’s obligation(s) related to the same under this Redevelopment Contract.

Following transfer of ownership of the AGP Public Improvements to City, City, to the greatest extent allowed by law, agrees to indemnify, defend and hold Redeveloper and its officers, employees and agents and their respective successors, heirs and assigns (the "Redeveloper Indemnitees"), harmless against any liability, damage, loss or expense (including reasonable attorney's fees and expenses of litigation) incurred by or imposed upon the Redeveloper Indemnitees or any one of them in connection with any claims, suits, actions, demands or judgment arising out of any alleged construction defect, design defect, failure to repair or failure to maintain (including, but not limited to, actions in the form of tort, warranty or strict liability) concerning the AGP Public Improvements, except those arising from the gross negligence or willful misconduct of the Redeveloper Indemnitees. Not to limit the foregoing, but to further clarify, once the AGP Public Improvements are transferred to the City, AGP shall be released from any and all obligations relating to the ownership, design, construction, maintenance and repair of the AGP Public Improvements, and those obligations shall be assumed by the City.

Section 8. Covenants to Run with the Land; Easement; Recording of Redevelopment Contract.

The Parties agree and acknowledge that this Redevelopment Contract and the undertakings of Redeveloper and the Agency as herein provided for shall be considered as and constitute covenants running with the land binding upon the Parties and their successors and

assigns and upon each successive owner of the AGP Site or any portion thereof. Redeveloper hereby acknowledges and agrees that by the terms of this Redevelopment Contract it is binding and obligating any and all of its interest in the AGP Site, now or hereafter acquired, and hereby covenants and warrants for the benefit of the Agency and the registered owner(s) of the TIF Indebtedness that Redeveloper shall defend such interest in the AGP Site against the claims and interests of any and all persons. Redeveloper shall record a memorandum of this Redevelopment Contract, in the form attached hereto and incorporated herein as Exhibit "F", against all real estate located in the AGP Site, and such document shall remain of record until termination of this Redevelopment Contract. The Agency shall have the authority to execute any such memorandum without additional public determinations or meetings. As and to the extent that this Redevelopment Contract does not have priority by order of recording over each and every mortgage or other instrument securing indebtedness of Redeveloper, Redeveloper hereby agrees to obtain the written agreement in recordable form from each mortgagee or other encumbrancer having any such priority, which written form acknowledges and agrees to the terms of this Redevelopment Contract, unless waived in writing by the Agency. Redeveloper agrees to provide the Agency with a title report or other evidence as to the status of title to the AGP Site after the recording of this Redevelopment Contract. After the expiration of the 15-year TIF period, or once the TIF Indebtedness has been paid in full, whichever occurs first, Redeveloper or any successor or assign of Redeveloper shall have the right to request in writing and the Agency shall, upon such request, execute and deliver an appropriate instrument evidencing the termination of this Redevelopment Contract.

Section 9. Default and Remedies upon Default.

The Parties agree with respect to any defaults or failures of performance by a Party as follows:

- (a) The following shall constitute "Events of Default" under the terms of this Redevelopment Contract:
 - (i) failure by a Party to observe timely or perform timely any material covenant, condition, obligation or agreement on its part to be observed or performed under this Redevelopment Contract;
 - (ii) any representation or warranty made herein by a Party herein proves untrue in any material respect; or
 - (iii) A Party makes an assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt or petitions for an order for relief, petitions or applies to any tribunal for the appointment of any receiver or any trustee or a debtor in possession or commences any proceeding related to any reorganization, arrangement, readjustment of

debt, dissolution or liquidation act, code, law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against either Party any such proceedings and a Party by any act indicates its consent or approval of or acquiescence in any such proceeding or the appointment of any receiver or any trustee or debtor in possession for said Party or any part of its property or suffers any such receivership or trusteeship.

- (b) Whenever a material Event of Default occurs, in addition to all other remedies available to the Parties at law or in equity, an aggrieved Party may: (1) suspend its performance under this Redevelopment Contract, including suspension of contracting for TIF-Eligible improvements or disbursement of monies for Eligible Costs or other improvements until receiving adequate assurances from the defaulting Party that it has cured the default and will continue performance under this Redevelopment Contract; and (2) take such action at law or in equity as the aggrieved Party reasonably deems appropriate, including specific performance or injunction to enforce or compel performance of the provisions of this Redevelopment Contract.
- (c) In addition to the remedies under Section 6(b), the Agency and/or City, as applicable, shall have the following additional remedies upon a material Event of Default by Redeveloper:
 - (i) If at any time during the term of this Redevelopment Contract an Event of Default shall occur and remain continuing and uncured for a period of more than thirty (30) days after written notice from the Agency to Redeveloper of such Event of Default, the City or Agency shall have the right, but not the obligation, to cure such breach on behalf of Redeveloper with respect to the construction of the AGP Public Improvements. If the City or Agency elects to cure any such breach of Redeveloper, Redeveloper shall reimburse the City or Agency for the documented and reasonable costs of curing Redeveloper's breach within 30 days of demand from City or Agency given to Redeveloper. Alternatively, if Redeveloper fails or refuses to cure the Event of Default, the City or Agency may cure such defect and obtain reimbursement, without notice to Redeveloper, via a set off to the principal amount of the Redeveloper Note equal to the Eligible Costs expended by the City or Agency. The Eligible Costs expended by the City or Agency must be certified by the City or Agency to the City Treasurer and all subsequent distributions of grant proceeds shall be distributed to the City or Agency, as applicable, until such Eligible Costs expended by the City or Agency have been reimbursed in full. Interest shall accrue on the amount expended by the

City or Agency at the rate provided in the Redeveloper Note and such interest shall commence from the date that the Agency gives notice to Redeveloper of Redeveloper's Event of Default.

- (ii) If at any time during the term of this Redevelopment Contract an Event of Default by Redeveloper shall occur and remain continuing, following written notice from the Agency and/or City to Redeveloper of such Event of Default, the Agency may withhold any TIF Revenues received, and shall not be required to remit said TIF Revenues as debt service on the Redeveloper Note unless and until Redeveloper cures the Event of Default.
- (iii) If at any time during the term of this Redevelopment Contract an Event of Default by Redeveloper shall occur and remain continuing and uncured for a period of more than sixty (60) days after written notice from the Agency and/or City to Redeveloper of such Event of Default, unless Redeveloper has commenced to cure the same and is diligently prosecuting the same to completion, the Agency may, upon further written notice to Redeveloper, terminate and void the Redeveloper Note.
- (d) No remedy herein conferred upon or reserved to the Agency or the registered owner(s) of the TIF Indebtedness is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Redevelopment Contract or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
- (f) If any provision of this Redevelopment Contract is breached by a Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.
- (g) An Event of Default by either the City or Redeveloper shall not, under any circumstances, result in a termination of this Redevelopment Contract, as between the non-defaulting Party and the Agency, unless otherwise agreed to between such non-defaulting Party and the Agency in writing.

Section 10. Status of Agency and City.

Neither the Agency nor the City is or shall be regarded as the partner, joint venturer or other jointly acting party with Redeveloper for any purpose whatsoever and the undertakings and agreements on the part of the Agency herein provided for are undertaken solely pursuant to the provisions of Sections 18-2101 to 18-2150 of the Act and for the limited governmental purposes of promoting and encouraging redevelopment of a blighted and substandard area. Redeveloper acknowledges that Redeveloper or its successors and assigns are and shall remain in control of the AGP Site and AGP Private Improvements for all purposes, provided that Redeveloper acknowledges and agrees that the City is and shall be the owner of and shall be in control of all public street, sewer and water improvements constituting a part of or serving the Redevelopment Project following the completion of their construction, including the AGP Public Improvements.

Section 11. TIF Indebtedness; Manner of Sale; Payment of Agency's Legal Fees.

Redeveloper and the City agree to purchase the Redeveloper Note and City Note, respectively, for the principal amount thereof. The loan to be accomplished by this Section 11, and the obligation of the Agency to remit the TIF Revenues and, as applicable, the PILOT Payments, as debt service on the TIF Indebtedness, may be accomplished by offset in consideration of Redeveloper's and the City's respective warranties and obligations hereunder related to the expenditure of Eligible Costs, so that no bankable currency is exchanged between the Parties at issuance of the TIF Indebtedness, except as otherwise required hereunder. If the Agency so requests, Redeveloper and the City shall, from time to time and as applicable, furnish the Agency with satisfactory evidence as to the use and application of the TIF Revenues and, as applicable, the PILOT Payments.

Upon full execution and effectiveness of this Redevelopment Contract, Redeveloper shall reimburse the Agency for its legal fees incurred in relation to the Redevelopment Project in the amount of \$25,000. Such reimbursements shall be payable directly to the Agency or Agency's special counsel, at the direction of the Agency.

Section 12. Indemnification and Penal Bond

Redeveloper hereby agrees to indemnify and save the City and Agency harmless from any payment or liability to which the City or Agency may become subject for carrying out of any contract entered into by Redeveloper with respect to the AGP Improvements. With respect to the AGP Public Improvements, Redeveloper agrees to provide to the Agency evidence that there is in effect a bond for the payment costs as required under Section 18-2151 of the Act. With respect to the City Public Improvements, the City agrees to provide to the Agency evidence that there is in effect a bond for the payment costs as required under Section 18-2151 of the Act.

Section 13. Additional Parties Added as Redeveloper.

The Parties specifically agree that additional parties or entities may be admitted to and included within the meaning of the term “Redeveloper” upon the mutual written consent of both Parties.

Section 14. Redevelopment Contract Binding Upon Successors and Assigns.

This Redevelopment Contract is made for the benefit of Redeveloper, the Agency, the City and the registered owners from time to time of the TIF Indebtedness as third-party beneficiaries, and no others. This Redevelopment Contract shall be binding upon the Parties, and any successors or assigns thereof. Redeveloper may assign its interest in the Redevelopment Project, in whole or in part, upon the prior written approval of the Agency, not to be unreasonably withheld. The Agency and Redeveloper acknowledge and agree that, in the event Redeveloper assigns its rights and obligations under this Redevelopment Contract, in whole or in part, to any assignee, Redeveloper and the assignee shall both be bound by the terms of the Plan and this Redevelopment Contract (as and to the extent of any such assignment with respect to the assignee). No assignment by Redeveloper to the assignee shall be effective until a written instrument binding the assignee under the terms of the Plan and this Redevelopment Contract (as and to the extent of such assignment), duly acknowledged and in recordable form, has been executed and delivered by the assignee and recorded in the real estate records of Butler County, Nebraska, with respect to the AGP Site.

Section 15. Titles of Sections.

Any titles of the several Sections of this Redevelopment Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions hereof.

Section 16. Notices.

Except as otherwise specified herein, all notices hereunder shall be in writing and shall be given to the relevant Party at its address set forth below, or such other address as such Party may hereafter specify by notice to the other given by United States mail or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices hereunder shall be addressed:

- (a) in the case of Redeveloper, if mailed to or delivered personally to:

Ag Processing Inc a cooperative
c/o Chief Financial Officer
12700 West Dodge Road

Omaha, NE 68154

with a copy to:

Ag Processing Inc a cooperative
c/o Legal Department
12700 West Dodge Road
Omaha, NE 68154

- (b) in the case of both the City Agency, if mailed to or delivered personally to:

Offices of the City of David City, Nebraska
c/o City Clerk
490 "E" Street
David City, NE 68632

with a copy to:

Baird Holm LLP
c/o Michael D. Sands
1700 Farnam Street; Suite 1500
Omaha, NE 68102

Each such notice, request or other communication shall be effective (i) if given by mail, five (5) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (ii) if given by any other means, when delivered at the addresses specified in this Section 16 or at any such other address with respect to any such Party as that Party may, from time to time, designate in writing and forward to the other Party as provided in this section.

Section 17. Severability.

If any provision of this Redevelopment Contract shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case, for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative and unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained, invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, sections or paragraphs in this Redevelopment Contract shall not affect the remaining portions of this Redevelopment Contract or any part thereof.

Section 18. Counterparts.

This Redevelopment Contract may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 19. Law Governing.

The Parties agree that this Redevelopment Contract shall be governed and construed in accordance with the laws of Nebraska.

Section 20. Time of the Essence.

Time shall be of the essence of this Redevelopment Contract.

Section 21. Termination.

This Redevelopment Contract shall commence as of the date first above written and shall terminate upon the earlier of the date on which TIF Revenues for the Redevelopment Project are no longer collectable under Section 18-2147 of the Act or payment of all principal and interest owed toward the TIF Indebtedness.

Section 22. Force Majeure Event.

No Party shall be considered in breach of, or in default in its obligations with respect to any of the obligations under this Redevelopment Contract in the event that a delay in the performance of such obligations is caused by a Force Majeure Event. A "**Force Majeure Event**" means any failure or delay in performance by a Party that is proximately caused by unforeseeable causes beyond its control and without its fault or negligence, such as acts of God, wars or insurrections, pandemics, and epidemics, among others. In the event of the occurrence of any such delay due to a Force Majeure Event, the time or times for performance of the obligations of the delayed Party shall be extended for the period of Force Majeure Event, as determined by the mutual agreement of the Parties. Any Party claiming such excused delay as the result of a Force Majeure Event shall, within twenty (20) days after the beginning of any such Force Majeure Event, notify the other Parties in writing of the cause or causes thereof, and request an extension for the period of the delay.

Section 23. Effect of Redevelopment Contract.

This Redevelopment Contract (including the Plan as incorporated by reference) constitutes the entire understanding by and between the Parties concerning the subject matter hereof, and supersedes and replaces all prior agreements. No other prior or contemporaneous representations, inducements, promises or agreements, oral or otherwise, between or among the Parties relating to the subject matter hereof and not embodied in this Redevelopment Contract shall be of any force and effect.

(Signatures on following pages)

IN WITNESS WHEREOF, the Agency, City and Redeveloper have caused this
Redevelopment Contract to be executed by their duly authorized representatives.

COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF DAVID CITY, NEBRASKA

By: _____
Chairperson (Mayor)

ATTEST:

Secretary (City Clerk)

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this _____ day of _____,
2023, by Jessica Miller, Chairperson (Mayor), and Tami Comte, Secretary (City Clerk), of the
Community Development Agency of the City of David City, Nebraska, on behalf of the agency.

Notary Public

THE CITY OF DAVID CITY, NEBRASKA

By: _____
Mayor

ATTEST:

City Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Jessica Miller, Mayor, and Tami Comte, City Clerk, of the City of David City, Nebraska, on behalf of the city.

Notary Public

AG PROCESSING INC A COOPERATIVE

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the _____ of Ag Processing Inc a cooperative, an Iowa corporate cooperative association, on behalf of the corporation.

Notary Public

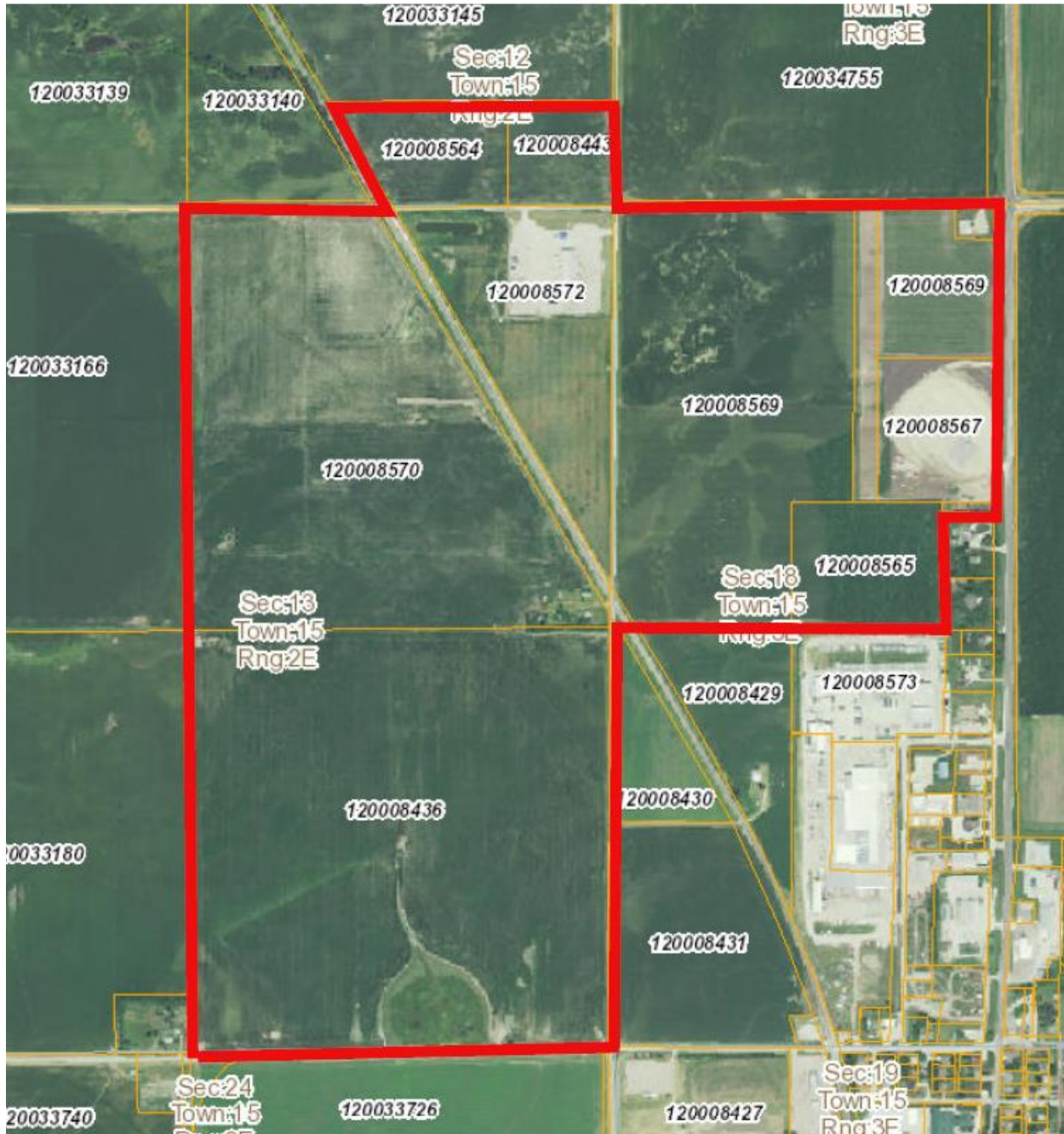
Exhibit "A"
Redevelopment Area

Parcel IDs:

120008436;
120008570;
120008572;
120008569;
120008565;
120008567;
120008566;
120008563;
120008564; and
120008443

* The above Parcel IDs are those in existence at the time of the drafting of this Redevelopment Contract, and may change over time. Additionally, in the event the Redevelopment Area is subdivided or replatted, the legal description(s) of such subdivided or replatted parcel(s) comprising the Redevelopment Area, upon final approval of the City with respect thereto, shall replace and supersede the above descriptions.

Redevelopment Area Depiction:



* Redevelopment Area outlined in red

Exhibit "B"
Redevelopment Project Description & AGP Site

AGP Site:

Parcel IDs 120008436 and 120008570, as outlined in red, below:

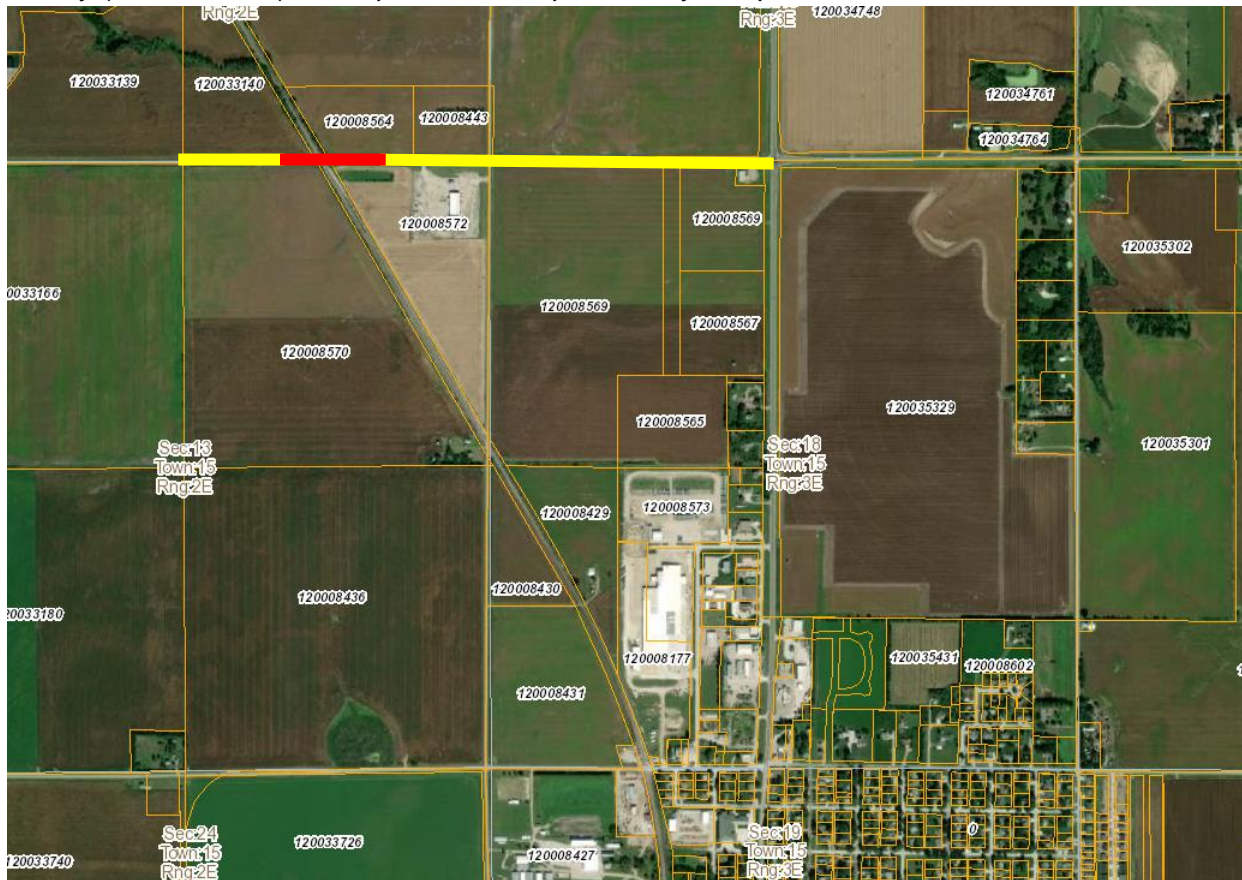


AGP Private Improvements:

The AGP Private Improvements shall be comprised of the construction of an agricultural processing facility on the AGP Site, together with such other improvements ancillary thereto.

AGP Public Improvements:

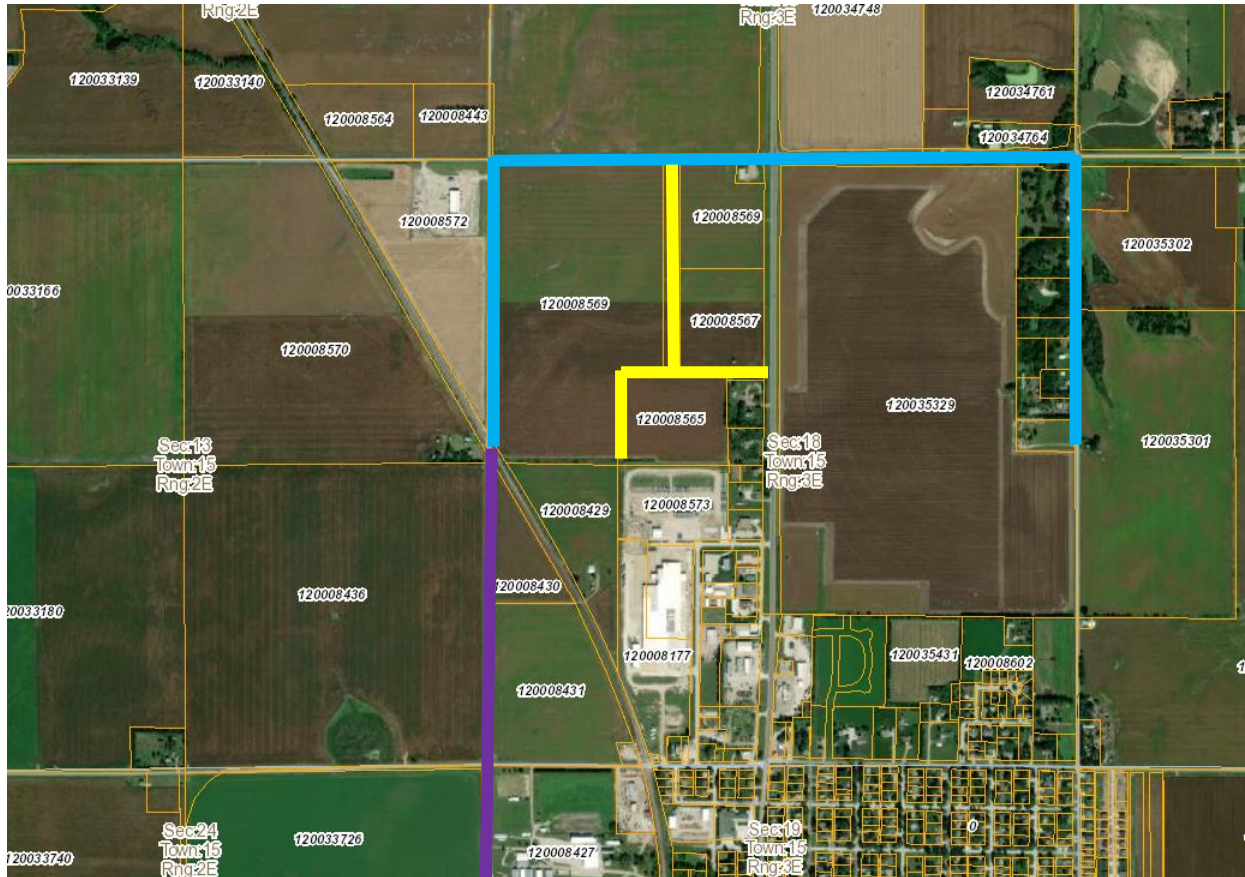
The AGP Public Improvements shall be comprised of: (1) construction of street improvements to Road 37 (shown in yellow); and (2) construction of vehicular bridge on Road 37 spanning BNSF railway (shown in red), as depicted on the preliminary site plan, below:



* The above are preliminary plans/descriptions for reference purposes only and are subject to change.

Exhibit "C"
City Public Improvements

The City Public Improvements shall consist of: (1) construction of a 16" water main from the City's water tower to Redevelopment Area (shown in blue); (2) extension of trunk sewer to Redevelopment Area (shown in purple); and (3) construction of a street connecting to Road 37 and 4th Street (shown in yellow), as depicted on the preliminary site plan, below:



* The above are preliminary descriptions/plans for reference purposes only and are subject to change.

Exhibit "D"
Eligible Costs

Projected Eligible Costs of Redeveloper

Land Acquisition for Infrastructure	\$150,000
Land Acquisition for AGP Improvements Site	\$7,000,000
Site Preparation Costs for AGP Improvements	\$40,000,000
A/E & Legal Fees for AGP improvements	\$15,000,000
Rd 37 & Bridge Improvements	\$19,020,000
City Fees	\$30,000
TOTAL	\$81,200,000

Projected Eligible Costs of City

Water Extension	\$4,200,000
Sewer Extension	\$2,383,920
Rd 37/4th St Connecting Road	\$1,800,000
Financing Costs	\$3,549,990
TOTAL:	\$11,933,910

* The above figures are only estimates of the Eligible Costs and other costs, and such actual costs will be reflected in the Eligible Costs Certifications required under Section 5 of the Redevelopment Contract.

** All Eligible Costs contemplated in the Plan and/or Act and not otherwise specified herein shall be included as Eligible Costs for purposes of this Redevelopment Contract under this Exhibit "D".

Exhibit "E"
Form of City Note and Redeveloper 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 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 DAVID CITY PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF DAVID CITY TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

TAX INCREMENT FINANCING PROMISSORY NOTE

(The Northwest Industrial Area Redevelopment Project – _____ Note)

Dated Date: _____, 20__

FOR VALUE RECEIVED, the undersigned, Community Development Agency of the City of David City, Nebraska (hereinafter known as "Agency"), in accordance with the terms of that certain Redevelopment Contract dated _____, 2023 (the "Redevelopment Contract"), as between the Agency, the City of David City, Nebraska, and Ag Processing Inc a cooperative, hereby acknowledges itself to owe and for value received promises to pay, but only from the sources herein designated, to _____ ("Holder"), or its registered assigns, in lawful money of the United States of America, the principal amount on Schedule 1 attached hereto, with such principal sum to become due on the maturity date set forth below, with interest on the unpaid balance of the "Cumulative Outstanding Principal" amount reflected in Schedule 1 from January 1, 2025, until maturity or earlier redemption at a rate of ___% per annum. Maturity of this Tax Increment Financing Promissory Note (this "Note") shall be the date that the excess ad valorem real property taxes derived from the [AGP Site/Redevelopment Area] (as defined in the Redevelopment Contract) may no longer be divided and pledged towards the payment of 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. Interest on this Note shall be payable on July 1 of the year following the initial Effective Date (as defined in the Redevelopment Contract) for the [AGP Site/Redevelopment Area], and semiannually thereafter on January 1 and July 1 of each year, until maturity.

[The interest rate on this Note is subject to change from time to time, with respect to the Cumulative Outstanding Principal Amount as of the date of such change. Changes to the interest rate shall be determined annually on September 1 of each calendar year, based upon the tax assessed property valuation of the AGP Site for the applicable year, as determined by the county assessor for Butler County, Nebraska, in accordance with the rate schedule set forth under Schedule 2, attached hereto. Any adjustment to the interest rate on this Note in accordance with the foregoing shall be notated by Holder in the rate adjustment ledger provided

under Schedule 2; provided that the records accurately maintained by the Agency as to the interest rate shall be the official records of this Note for all purposes. Notwithstanding the foregoing, under no circumstance shall the interest rate on this Note exceed the maximum rate allowed by applicable law.]

**THE PRINCIPAL AMOUNT OF THIS NOTE IS SET FORTH IN SCHEDULE 1
ATTACHED HERETO. THE MAXIMUM PRINCIPAL AMOUNT OF THIS NOTE IS
\$ _____.**

This Note is one of two notes of its series in the total principal amount not to exceed \$23,078,029, issued by the Agency for the purpose of paying a portion of the costs of redevelopment of certain real estate as described in the Redevelopment Contract, and as designated in that certain redevelopment plan recommended by the Agency and approved by the Mayor and City Council of the City of David City, Nebraska, on December 14, 2022 (the "Plan"), all in compliance with the Act, as amended, and has been duly authorized by the Agency.

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. Unless otherwise prescribed herein, to the extent the terms of this Note directly conflict with the Redevelopment Contract, the terms of the Redevelopment Contract shall control. All capitalized terms in this Note that are not otherwise defined herein shall have the same meaning as set forth in the Redevelopment Contract.

In the event of default under this Note, all sums secured by this Note or any other agreement securing this Note shall bear interest at a rate equal to five percent (5%) above the prime rate as published by the Wall Street Journal from time-to-time; however, in the event said interest rate exceeds the maximum rate allowable by law, then such rate of interest shall equal the highest legal rate available.

The Agency may prepay the principal of this Note, in whole or in part, without penalty or the prior consent of the Holder; provided, however, any such prepayment shall be made solely from TIF Revenue in accordance with the Redevelopment Contract.

Holder, pursuant to the terms of Section 5 of the Redevelopment Contract, may from time to time enter the respective amounts advanced under the column headed "Principal Amount Advanced" on Schedule 1 hereto (the "Table") and may enter the aggregate principal amount of this Note then outstanding under the column headed "Cumulative Outstanding Principal Amount" on the Table, pursuant to the terms of the Redevelopment Contract. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid on this Note, Holder may enter the principal amount paid on this Note under the column headed "Principal Amount Redeemed" on the Table and may enter the then outstanding principal amount of this

Note under the column headed "Cumulative Outstanding Principal Amount" on the Table. Notwithstanding the foregoing, the records accurately maintained by the Agency as to the principal amount issued and principal amounts paid on this Note shall be the official records of the Principal Amount Advanced, Principal Amount Redeemed, and Cumulative Outstanding Principal Amount of this Note for all purposes.

In the event the monies collected and held in that special fund established under Section 18-2147 of the Act, and pursuant to the Redevelopment Contract, are insufficient to pay in full all amounts due and owing after all excess ad valorem taxes collected within the [AGP Site/Redevelopment Area] and allocable towards this Note, have been collected by the Agency 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. Notwithstanding the foregoing, the Agency shall not be obligated to make more than two payments on this Note, at least five months apart, during any single calendar year.

In the event this Note is referred to an attorney for collection the Holder shall be entitled to reasonable attorney fees allowable by law and all court costs and other expenses incurred in connection with such collection. 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 AGENCY. 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 AGENCY.

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 [AGP Site/Redevelopment Area], and, as applicable, the PILOT Payments (as defined in the Redevelopment Contract), have, in part, been pledged for the payment of this Note, both principal and interest as the same fall due or become subject to mandatory redemption. Notwithstanding any terms to the contrary in this Note, said excess ad valorem real property taxes collected within the [AGP Site/Redevelopment Area], and, as applicable, the PILOT Payments, shall be allocated and disbursed as debt service towards this Note in accordance with the payment terms and priorities set forth in Section 4 of the Redevelopment Contract.

This Note shall not constitute a general obligation of the Agency and the Agency shall be liable for the payment thereof only out of said portion of taxes as described in this paragraph

and, as applicable, the PILOT Payments. This Note shall not constitute an obligation of the State of Nebraska, the Agency, or of the City of David City (except for such receipts as have been pledged pursuant to said Sections 18-2124 and 18-2150 of the Act and, as applicable, the PILOT Payments) and neither the State of Nebraska, the Agency nor the City of David City 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 Agency'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 Agency or the Holder shall be in writing and shall be given by regular mail to the Holder or Agency, 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 (Mayor) and Secretary (City Clerk) of the Agency have caused this Note to be executed on behalf of the Agency, all as of the Dated Date shown below.

Dated this ____ day of _____, 20__.

COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF DAVID CITY, NEBRASKA

ATTEST:

By: (Sample – Do Not Sign)
Chairperson (Mayor)

(Sample – Do Not Sign)
Secretary (City Clerk)

SCHEDULE 1
TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

Date	Principal Amount Advanced	Principal Amount Redeemed	Cumulative Outstanding Principal Amount	Notation Made By

SCHEDULE 2
INTEREST RATE ADJUSTMENTS

Rate Schedule:

Assessed Valuation of AGP Site	Interest Rate
\$0 to \$178,000,000	0.00%
\$178,000,001 to \$198,000,000	2.30%
\$198,000,001 to \$218,000,000	3.80%
218,000,001 to \$238,000,000	5.20%
\$238,000,001 to \$258,000,000	6.50%
\$258,000,001 or greater	7.80%

Rate Adjustment Ledger:

Date	Interest Rate	Cumulative Outstanding Principal Amount

Exhibit "F"
Form Memorandum of Redevelopment Contract

(See Attached)

MEMORANDUM OF REDEVELOPMENT CONTRACT

This Memorandum of Redevelopment Contract ("Memorandum") is made this ___ day of _____, 2023, by and between the Community Development Agency of the City of David City, Nebraska ("Agency"), the City of David City, Nebraska (the "City"), and Ag Processing Inc a cooperative, an Iowa corporate cooperative association ("Redeveloper").

1. **Redevelopment Contract.** Agency, the City and Redeveloper have entered into that certain Redevelopment Contract dated as of _____, 2023 ("Redevelopment Contract"), describing the public and private improvements being made by the Redeveloper on the real property legally described as:

[Insert legal description]

(the "AGP Site")

2. **Tax Increment Financing.** The Redevelopment Contract provides for the capture of the tax-increment financing ("TIF") revenues by the Agency of the improvements made by the Redeveloper on the AGP Site for a period not to exceed fifteen (15) years after the effective date (as defined in the Nebraska Community Development Law) of the Redevelopment Project. The TIF revenues so captured by the Agency shall be used to reimburse Redeveloper for construction of certain TIF-eligible improvements described in the Redevelopment Contract via debt service payments on TIF Indebtedness issued by the Agency.

3. **Minimum Lot Valuation.** The Redevelopment Contract establishes a minimum taxable real property valuation of \$80,000,000 for the AGP Site (the "AGP Site Minimum Valuation"). The Redevelopment Contract further provides that if, during the period of the Redevelopment Contract, the taxable real property valuation of the AGP Site is less than the AGP Site Minimum Valuation, Redeveloper and/or its successors and assigns, inclusive of future owner(s) of the AGP Site, shall make a payment in lieu of taxes ("PILOT Payment") to the Agency within thirty (30) days of the Agency's written demand therefor. The amount of the PILOT Payment shall be the amount of property taxes that would be owed on the AGP Site had the taxable real property valuation for the same equaled the AGP Site Minimum Valuation in the applicable year, less the actual amount of property taxes paid and/or owing with respect to the AGP Site for such year. Additionally, the Redevelopment Contract prohibits the conveyance of the AGP Site, or portion thereof, or any structures or units thereon, to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes.

4. **Remaining Terms.** The rest and remaining terms of the Redevelopment Contract are hereby incorporated into this Memorandum as if they were set forth in full. All capitalized terms in this Memorandum that are not otherwise defined herein shall have the same

meaning as set forth in the Redevelopment Contract. A full and correct copy of the Redevelopment Contract may be inspected at the Agency offices in David City, Nebraska.

5. **Termination of Memorandum.** Unless terminated sooner in accordance with the terms of the Redevelopment Contract, this Memorandum shall be deemed to automatically terminate and be released from the above-described real property upon the payoff or maturity of the TIF Indebtedness.

(Signatures on following page)

IN WITNESS WHEREOF, the Agency, City and Redeveloper have caused the foregoing instrument to be executed by their duly authorized representatives.

COMMUNITY DEVELOPMENT AGENCY OF THE
CITY OF DAVID CITY, NEBRASKA

By: _____
Chairperson (Mayor)

ATTEST:

Secretary (City Clerk)

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Jessica Miller, Chairperson (Mayor), and Tami Comte, Secretary (City Clerk), of the Community Development Agency of the City of David City, Nebraska, on behalf of the agency.

Notary Public

THE CITY OF DAVID CITY, NEBRASKA

By: _____
Mayor

ATTEST:

City Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF BUTLER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Jessica Miller, Mayor, and Tami Comte, City Clerk, of the City of David City, Nebraska, on behalf of the city.

Notary Public

AG PROCESSING INC A COOPERATIVE

By: _____

Name: _____

Title: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by _____, the _____ of Ag Processing Inc a cooperative, an Iowa corporate cooperative association, on behalf of the corporation.

Notary Public

Exhibit "G"
Initial Utility Rates

<u>Utility</u>	<u>Rate*</u>
Sanitary Sewer	Customer charge of \$11.35 per month; PLUS \$3.25 per 1,000 gallons of outflow water (See Ordinance No. 1436-B)
Water**	Customer charge: \$300.00 per month for 4" and \$375.00 per month for 6"; PLUS \$2.55 per 1,000 gallons for first 10,000 gallons: AND \$2.65 per 1,000 gallons over 10,000 gallons
Electric	Customer charge: \$1,000 per month (or partial month) Demand charge: 110% of NPPD and Butler PPD actual cost Energy charge: 110% of NPPD actual cost (See Ordinance No. 1432)

* The above descriptions are merely a synopsis of the rates in existence at the Effective Date of the Redevelopment Contract and are for reference purposes only. The actual rates, and the terms/context related to the same, shall be exclusively governed by the applicable ordinance(s) of the City, that are in effect at any given time, and which are subject to change from time to time.

** The water rate applicable to the AGP Private Improvements has not been established as of the Effective Date of the Redevelopment Contract. Accordingly, the rate provided in the above

table is the anticipated rate, to be established via the City's subsequent adoption of an ordinance.

CDA member Pat Meysenburg made a motion to adjourn. CDA Member Kevin Woita seconded the motion. The motion carried and Chairman Jessica Miller declared the meeting adjourned at 9:04 p.m.

Jim Angell: Yea, Tom Kobus: Yea, Keith Marvin: Yea, Bruce Meysenburg: Yea, Pat Meysenburg: Yea, Jessica Miller: Yea, Kevin Woita: Yea
Yea: 7, Nay: 0

Secretary Tami Comte