

REDEVELOPMENT CONTRACT
(The R. Perry Construction, Inc. Redevelopment Project)

This Redevelopment Contract for the R. Perry Construction, Inc. Redevelopment Project (“**Redevelopment Contract**”) is made and entered into as of August 15, 2022, by and between the Community Development Agency of Lexington, Nebraska (the “**Agency**”) and R. Perry Construction, Inc., an Iowa corporation (“**Redeveloper**”). The Agency and/or Redeveloper may be 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 “Amendment to the Redevelopment Area #1 Redevelopment Plan (The R. Perry Construction, Inc. Redevelopment Project)” (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 Project Area**”), which is located in the City of Lexington, Nebraska (the “**City**”), and which has previously been declared blighted and substandard or otherwise eligible for redevelopment by the Council; and

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

WHEREAS, Redeveloper, pursuant to the Plan, intends to construct an apartment complex consisting of approximately three 30-unit apartment buildings (i.e., 90 total units), together with clubhouse and pool facilities within the Redevelopment Project Area, as depicted on the proposed site plan for the redevelopment project attached hereto and incorporated as Exhibit “B”, all as more particularly described in the Plan (collectively, said improvements are referred to in this Redevelopment Contract as the “**Redevelopment Project**”); and

WHEREAS, the real property within the Redevelopment Project Area, other than easements for public utilities, 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 note (the “**TIF Note**”) pursuant to the terms herein, to provide for eligible costs relating to the Redevelopment Project; and

WHEREAS, Redeveloper seeks the assistance of the Agency for the costs of the eligible improvements for the Redevelopment Project and therefore is willing to agree to the conditions herein set forth as an inducement to the Agency to issue the TIF Note as provided herein and in the TIF Note.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency 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 an Iowa corporation 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, operate and maintain the Redevelopment Project 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) Throughout the term of this Redevelopment Contract, subject to the provisions of section 19 of this Redevelopment Contract and only to the extent the Redevelopment Project, or portion thereof, is still owned by Redeveloper, in the event of any casualty damage to the Redevelopment Project, Redeveloper or its assignee agrees to repair and reconstruct such damaged portion or portions of the Redevelopment Project so that such reconstructed real property has a taxable value at least equal to the value as most recently determined prior to the event or events of casualty loss.
- (d) Redeveloper or its assignee intend to complete the Redevelopment Project on or before December 31, 2024, at an estimated cost of \$14,013,373.
- (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 Project Area or the construction of the Redevelopment Project thereon may be or will be in violation of any law or regulation.
- (f) Redeveloper will use its best 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 Redevelopment Project to be lawfully constructed, occupied or operated.

- (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) Redeveloper acknowledges and agrees that neither the Agency nor the City shall be obligated to pay any costs related to the Redevelopment Project other than costs to be paid from available grant monies derived from ad valorem incremental real estate taxes generated from the Redevelopment Project, if any, and Redeveloper hereby undertakes and agrees to pay any and all such cost. All costs (both public and private) of the Redevelopment Project shall be paid in full and there are and shall be no construction liens unpaid against the Redevelopment Project Area or any of the improvements thereon. Redeveloper agrees to provide for the construction of both the Redevelopment Project public and private improvements located within the Redevelopment Project Area as described in the Plan or as described in this Redevelopment Contract, except to the extent that the Agency or the City shall agree otherwise by separate written agreement with Redeveloper.
- (i) Redeveloper agrees and covenants for itself, its successors and assigns that as long as the TIF 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 Redevelopment Project. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Redevelopment Project, Redeveloper will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance. Redeveloper will comply with all applicable federal, state and local laws related to the Redevelopment Project.
- (j) Redeveloper agrees that any contractor providing services related to the Redevelopment Project 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 Redevelopment Project.
- (k) Redeveloper owns or will own all real property within the Redevelopment Project Area, in fee simple and free from any liens, encumbrances, or restrictions which would prevent the performance of this Redevelopment Contract by Redeveloper.
- (l) At all times during the term of this Redevelopment Contract, Redeveloper shall maintain policies insuring the improvements located within the Redevelopment

Project Area, to the extent owned by Redeveloper, in an amount equal to at least ninety percent (90%) of their full insurable value.

- (m) With respect to the Redevelopment Project, 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.

Section 2. Incorporation of Plan; Agency to Issue TIF Note.

This Redevelopment Contract hereby incorporates the Plan by this reference. In order to provide for payment of some of the eligible improvements for the Redevelopment Project set forth in the Plan and this Redevelopment Contract, as described in Exhibit "C", attached hereto and incorporated herein (the "**Eligible Costs**"), the Agency shall proceed to issue its Note in the form attached hereto and incorporated herein as Exhibit "D", in the principal amount not to exceed \$2,901,000 at a 5.00% rate of interest, pursuant to the terms of the TIF Note and this Redevelopment Contract. In consideration of Redeveloper undertaking the Redevelopment Project, the Agency shall issue the TIF Note to Redeveloper no earlier than thirty (30) days, and no later than sixty (60) days, following the Agency's approval and adoption of this Redevelopment Contract. At issuance of the TIF Note, the loan to be accomplished by this Section and the obligation of the Agency to use the incremental ad valorem real estate taxes collected on Redevelopment Project Area (the "**TIF Revenues**") for redevelopment purposes under this Redevelopment Contract may be accomplished by offset so that the Redeveloper retains the TIF Revenues and no bankable currency is exchanged at closing of the TIF Note, except as otherwise provided herein.

The "effective date" (as defined in the Act) for the division of ad valorem real property taxes as provided under the Act shall be January 1 of the year in which Redeveloper provides a written request to the Agency requesting the filing of a notice to divide taxes for the Redevelopment Project; provided such written request must be tendered by Redeveloper prior to July 30 of the applicable year. Upon receipt of such written request, in conformance with section 18-2147 of the Act, the Agency shall file notice for the division of taxes on the real property in the Redevelopment Project Area, or portion thereof described in Redeveloper's written request, on or before August 1 of said year. The "redevelopment project valuation" (as defined in the Act) shall be the assessed value attributable to the Redevelopment Project Area on January 1 of the year prior to the effective date. If the Redevelopment Project Area consists of multiple tax parcels, it shall be permitted, upon Redeveloper's written request, that different tax parcels have different effective dates; provided that under no circumstance may the TIF Revenues for a single tax parcel be divided for a period of more than fifteen (15) years.

The TIF Note shall constitute a limited obligation of the Agency payable exclusively from that portion of the incremental ad valorem real estate taxes generated from the Redevelopment Project pursuant to section 18-2147 of the Act and collected for a period not to exceed fifteen (15) years from the effective date (with respect to each tax parcel). Prior to receipt of any TIF Revenues, the Agency, as paying agent and registrar of the TIF Note, shall create a special fund established solely to make payments on the TIF Note (the "**TIF Fund**").

Upon receipt of the TIF Revenues, the Agency shall deposit the TIF Revenues into the TIF Fund, and the Agency shall disburse said TIF Revenues to the holder of the TIF Note (but only from available TIF Revenues) at the times provided in the TIF Note to provide for reimbursement of all or a portion of the Eligible Costs, to the extent paid by Redeveloper. Upon written request from the Agency, Redeveloper shall provide evidence of Eligible Costs incurred, via the provision of paid invoices or other materials acceptable to the Agency ("**Eligible Costs Certifications**"). Redeveloper 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.

The Agency may treat the registered holder of the TIF Note as the absolute owner of the TIF Note 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 of the TIF Note in accordance with the terms of this Redevelopment Contract and the TIF Note 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 Note or claims for interest to the extent of the sum or sums so paid. The Agency shall keep current records of all payments on the TIF Note and the outstanding balance of principal and interest on the TIF Note, and such records shall be treated as determinative by the Parties and/or their assigns. Redeveloper may transfer or pledge the TIF Note 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 Note. At any time, the Agency shall have the option of prepaying in whole or in part principal of the TIF Note. The chairperson and secretary 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.

Unless otherwise determined by the Agency, the proceeds of the TIF Note shall be applied to the costs described above. Unless otherwise determined appropriate by the Agency, the TIF Note shall be issued on the basis of interest which is includable in income for both federal and Nebraska State income taxes.

Section 3. Covenants With Respect to Taxation of Redevelopment Project Area.

Redeveloper agrees with respect to the Redevelopment Project as follows:

- (a) Until the termination of this Redevelopment Contract (as described in Section 18 hereof), the Redevelopment Project shall be operated for the use substantially similar to that contemplated in the Plan and this Redevelopment Contract, and no sale or conveyance of such property shall be made to any person or entity for ownership or use which would cause the real property within the Redevelopment Project Area 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) Redeveloper intends to create a taxable real property valuation of not less than \$15,036,000 within the Redevelopment Project Area (the “**Minimum Valuation**”) following construction of the Redevelopment Project. From and after the issuance of the TIF Note and so long as the TIF Note remains outstanding and unpaid, Redeveloper, together with its successors and assigns, including subsequent purchasers of land within the Redevelopment Project Area, shall not protest any taxable valuation assessed for the Redevelopment Project Area, as determined by the appropriate assessing and taxing officials of Dawson County, Nebraska, for purposes of local ad valorem real estate taxes, to an amount below the Minimum Valuation.
- (c) If, during the period of this Redevelopment Contract and after the filing of a notice to divide, the Redevelopment Project Area is assessed at less than the Minimum Valuation: (1) if Redeveloper has monetized the TIF Note by pledging it to its lender, Redeveloper shall solely be responsible for all payments due to such lender; and (2) in the event of a shortfall of TIF Revenues available as debt service on the TIF Note, Redeveloper agrees to defer receipt of any such shortfall. If Redeveloper defers the receipt of any such shortfall amounts as required hereunder, Redeveloper shall be entitled to receive reimbursement of any such shortfall payment to the extent TIF Revenues later become available during the fifteen (15) year period prescribed by the Act in an amount in excess of the amount necessary to meet the current debt service payments. Redeveloper shall and hereby does unconditionally forgive any such shortfall amounts remaining unpaid on the TIF Note at the end of the fifteen (15) year period for the division of ad valorem real estate taxes prescribed by the Act.
- (d) Redeveloper, its successors and assigns, including subsequent purchasers of land within the Redevelopment Project Area, further agree as follows:
 - (i) to pay all local ad valorem real estate taxes for the Redevelopment Project Area 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 Redevelopment Project Area 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 Redevelopment Project Area; 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 Redevelopment Project Area or Redevelopment 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; 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 4. 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 4, 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 Redevelopment Project or within the Redevelopment Project Area. Provided, however, such release shall not be deemed to include such liability actions arising directly out of the willful misconduct of the Agency or the City.

Additionally, 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 Note or any indebtedness contemplated hereunder shall be limited solely to the TIF Revenues generated from the Redevelopment Project pledged as security for such indebtedness. Specifically, but without limitation, 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.

Section 5. Covenants to Run with the Land; Easement; Recording of Redevelopment Contract.

Redeveloper and Agency 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 Redeveloper and the Agency and their successors and assigns and upon each successive owner of the Redevelopment Project Area 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 Redevelopment Project Area, now or hereafter acquired, and hereby covenants and warrants for the benefit of the Agency and the registered owner of the TIF Note that Redeveloper shall defend such interest in the Redevelopment Project Area against the claims and interests of any and all

persons. Redeveloper shall record a memorandum of this Redevelopment Contract, in the attached hereto and incorporated herein as Exhibit “E”, against all real estate located in the Redevelopment Project Area 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. After the TIF Note has been paid in full, 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, in recordable form, evidencing the termination of this Redevelopment Contract and of the covenants and undertakings herein provided.

Section 6. Default and Remedies upon Default.

Redeveloper and Agency agree with respect to any defaults or failures of performance by Redeveloper or Agency as follows:

- (a) The following shall constitute “Events of Default” under the terms of this Redevelopment Contract:
 - (i) failure by Redeveloper or Agency to observe timely or perform timely any 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 Redeveloper or Agency proves untrue in any respect reasonably deemed to be material by the Agency or Redeveloper;
 - (iii) an event of default or material breach by or attributable to Redeveloper or Agency relating to the Redevelopment Project or any portion thereof, including, without limitation, breach of the terms of any agreement or other instrument relating to the financing or construction thereof; or
 - (iv) Redeveloper 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 of Redeveloper or any part of its property or commences any proceeding related to Redeveloper under 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 Redeveloper any such proceedings and Redeveloper 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 Redeveloper or any part of its property or suffers any such receivership or trusteeship.

- (b) Whenever an Event of Default occurs, in addition to all other remedies available to the Agency or Redeveloper at law or in equity, the Agency or Redeveloper (1) may suspend its performance under this Redevelopment Contract, including suspension of contracting for TIF-Eligible Improvements or disbursement of TIF Revenues until receiving adequate assurances that Redeveloper or Agency, as applicable, has cured the default and will continue performance under this Redevelopment Contract; and (2) may take such action at law or in equity as the Agency or Redeveloper reasonably deem appropriate, including specific performance or injunction to enforce or compel performance of the provisions of this Redevelopment Contract; provided that the remedy of specific performance against Redeveloper shall not include or be construed to include the covenant to build or construct the Redevelopment Project.
- (c) No remedy herein conferred upon or reserved to the Agency or the registered owner of the TIF Note 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.
- (d) 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) Anything in this Section 6 to the contrary notwithstanding, none of the events described in subsection 6(a)(iv) above shall constitute an Event of Default after the Redevelopment Project has been completed.

Section 7. 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 Redevelopment Project 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.

Section 8. Manner of Sale of TIF Note.

Redeveloper agrees either to purchase the TIF Note for the principal amount thereof or to find a purchaser for the TIF Note upon terms and conditions acceptable to the Agency; provided that the loan to be accomplished by this section, and the obligation of the Agency to remit the TIF Revenues for the Redevelopment Project as debt service on the TIF Note, may be accomplished by offset in consideration of Redeveloper's warranties and obligations hereunder related to Redeveloper's expenditure of Eligible Costs, so that no bankable currency is exchanged between the Parties at closing of the TIF Note, notwithstanding other payments required hereunder. If the Agency so requests, Redeveloper shall, from time to time, furnish the Agency with satisfactory evidence as to the use and application of the TIF Revenues.

Section 9. 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 Redevelopment Project. If applicable, 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.

Section 10. 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 11. Redevelopment Contract Binding Upon Successors and Assigns.

This Redevelopment Contract is made for the benefit of Redeveloper, the Agency and the registered owners from time to time of the TIF Note as third party beneficiaries. This Redevelopment Contract shall be binding upon the Agency and Redeveloper, and any successors or assigns thereof. Redeveloper may assign its interest in the Redevelopment Project, in whole or in part, to an entity that is fully owned and controlled by Redeveloper and/or its principals, or to a lender as collateral on a loan, without the prior consent of the Agency. All other assignments shall require the prior written approval of the Agency, not to be unreasonably withheld, conditioned or delayed. 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 Dawson County, Nebraska, with respect to the Redevelopment Project Area.

Section 12. 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 13. 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:

R. Perry Construction, Inc.
c/o Roy Perry
P.O. Box 2853
Sioux City, IA 51106
Roy@rperryconstruction.com

with a copy to:

Michael D. Sands
Baird Holm LLP
1700 Farnam Street; Suite 1500
Omaha, NE 68102
msands@bairdholm.com

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

Community Development Agency of Lexington, Nebraska
Attention: City Manager
406 E 7th Street
Lexington, NE 68550
jpepp@cityoflex.com

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 13 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 14. 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 15. Counterparts.

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

Section 16. Law Governing.

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

Section 17. Time of the Essence.

Time shall be of the essence of this Redevelopment Contract.

Section 18. 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 Note.

Section 19. Force Majeure Event.

Neither Redeveloper nor the Agency 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 an enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, caused by a Force Majeure Event, which is defined herein as any failure or delay in performance by a Party that is proximately caused by acts of God, or wars or insurrections; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of Redeveloper or the Agency, as the case may be, shall be extended for the period of the enforced delay as determined by the mutual agreement of Redeveloper and the Agency; provided, that Redeveloper or the Agency, as the case may be, shall, within twenty (20) days after the beginning of any such enforced delay, have notified Redeveloper or the Agency (as applicable) in writing of the cause or causes thereof, and requested an extension for the period of the enforced delay.

Section 20. 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 and Redeveloper have caused this Redevelopment Contract to be executed by their duly authorized representatives.

COMMUNITY DEVELOPMENT AGENCY OF
LEXINGTON, NEBRASKA

By: _____
Chairperson

ATTEST:

Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF DAWSON)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by _____, Chairperson, and _____, Secretary, of the Community Development Agency of Lexington, Nebraska, on behalf of such agency.

Notary Public

R. PERRY CONSTRUCTION, INC.,
an Iowa corporation

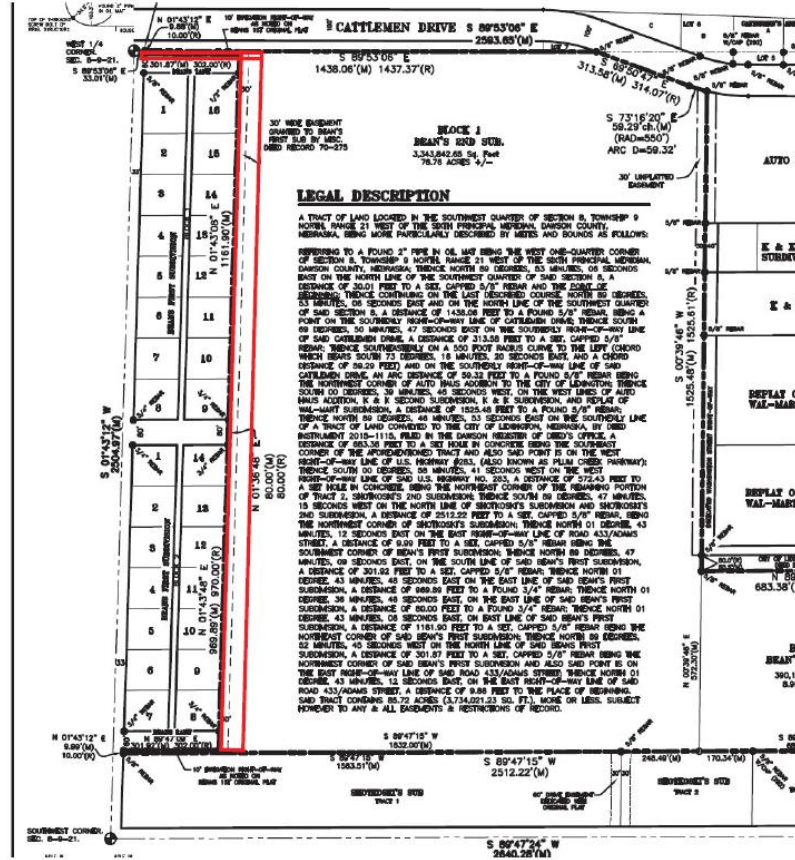
By: _____
Roy Perry, President

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by Roy Perry, the President of R. Perry Construction, Inc., an Iowa corporation, on behalf of the corporation.

Notary Public

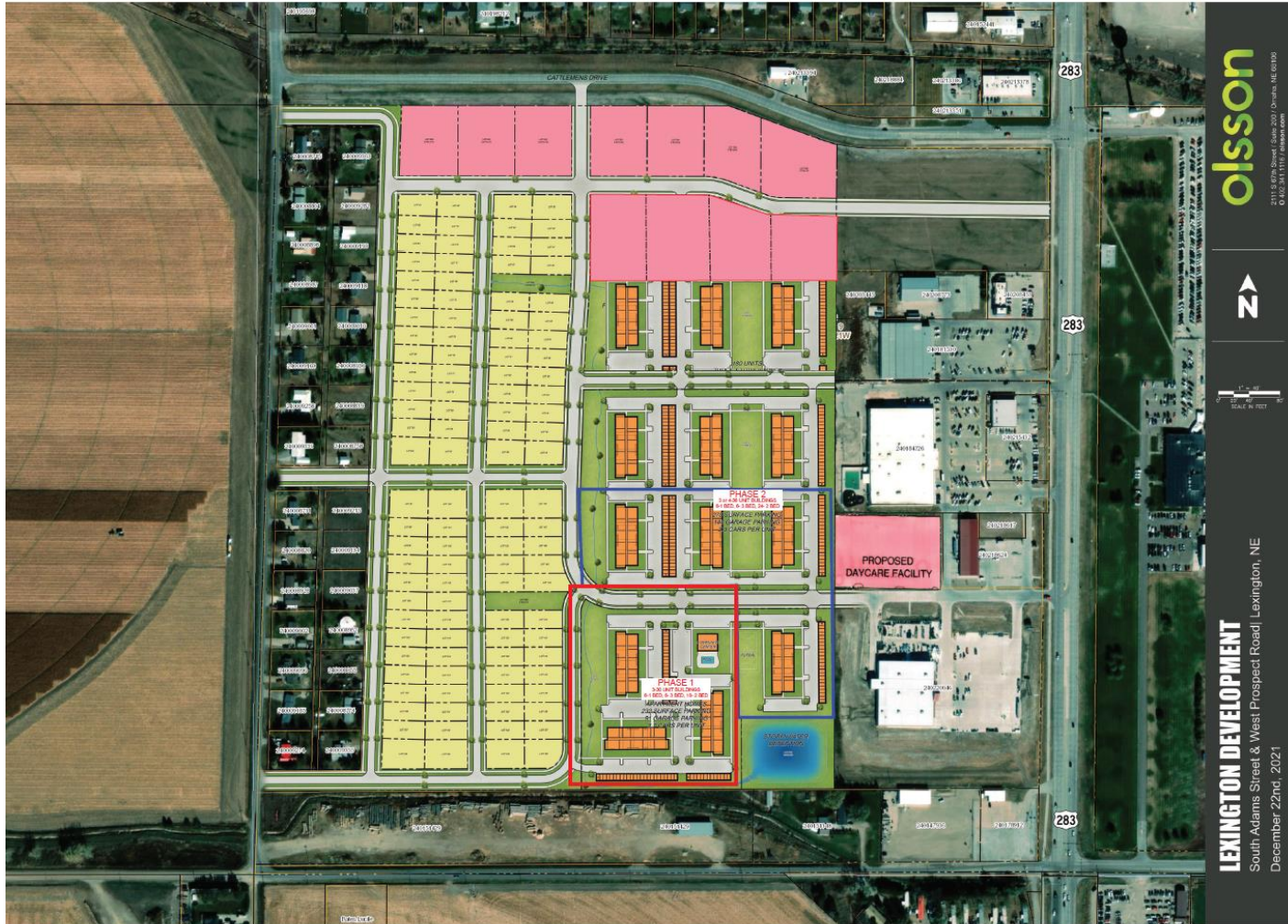
Exhibit "A" Redevelopment Project Area



* The Redevelopment Project Area consists of Parcel No. 240220067, less the area bordered in red, which will be retained by the Agency.

** In the event Redeveloper subdivides or replats the Redevelopment Project Area, the legal description(s) of such subdivided or replatted parcel(s) comprising the Redevelopment Project Area, upon final approval of the City with respect thereto, shall replace and supersede the above.

Exhibit "B" Redevelopment Project Plan



* Redevelopment Project and Redevelopment Project Area outlined in red.

** The attached is a preliminary site plan for reference purposes only and is subject to change.

Exhibit "B"

Exhibit "C"
Projected TIF Sources and Uses

Projected TIF Sources:

Assumptions:

Base Tax Amount of Project Site	\$36,000
Post-Redevelopment Valuation	\$15,036,000
Tax Levy (2021)	1.91086
Total Potential TIF Revenues	\$4,185,518

Eligible Costs/Projected TIF Uses

Site Acquisition, Survey and Title	\$ 500,000
Site Preparation	\$ 863,000
Paving and Infrastructure	\$ 1,020,000
Utilities	\$ 200,000
Architecture, Engineering & Legal	\$ 278,000
Contingencies (on TIF-eligible)	\$ 308,406
Capitalized Interest (on TIF)	\$ 223,060
<u>Legal Fees</u>	<u>\$ 15,000</u>
TOTAL	\$ 3,407,466

* The above figures are only estimates of the Eligible Costs and are subject to change.

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

Exhibit "D"
The 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 LEXINGTON PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF LEXINGTON TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

TAX INCREMENT FINANCING PROMISSORY NOTE

(The R. Perry Construction, Inc. Redevelopment Project)

\$2,901,000 _____, 2022

FOR VALUE RECEIVED, the undersigned, Community Development Agency of Lexington, Nebraska, Nebraska (hereinafter known as "Agency"), promises to pay _____ ("Holder"), and/or its assigns, the principal sum of Two Million Nine Hundred-One Thousand and No/100 Dollars (\$2,901,000), together with interest thereon at the rate of 5.00% per annum, in accordance with the terms of that certain Redevelopment Contract dated _____, 20__ (the "Redevelopment Contract"), as between the Agency and Holder, from the above date, until incremental ad valorem real estate taxes are no longer available for payment or until this Promissory Note is paid in full, whichever occurs first. The principal balance and interest thereon shall be due and payable on this Promissory Note as and at such time as any excess ad valorem taxes generated by the Redevelopment Project as set forth in the Redevelopment Contract are collected by the Agency and available for the retirement of this debt.

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

In the event of default under this Promissory Note, all sums secured by this Promissory Note or any other agreement securing this Promissory 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 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 Nebraska Revised Statutes 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 Redevelopment Project, 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 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 Promissory Note, at least five months apart, during any single calendar year.

In the event this Promissory 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.

The Agency shall be in default in the event the Agency shall fail to pay, when due, any amount required hereunder.

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

A PORTION OF THE PRINCIPAL AMOUNT OF THIS 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, R.R.S. Neb. 2012, the excess ad valorem real property taxes within the Redevelopment Project Area have been pledged for the payment of this Promissory Note, both principal and interest as the same fall due or become subject to mandatory redemption. This 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 Promissory Note shall not constitute an obligation of the State of Nebraska, the Agency, or of the City of Lexington (except for such receipts as have been pledged pursuant to said Sections 18-2124 and 18-2150 R.R.S. Neb. 2012) and neither the State of Nebraska, the Agency nor the City of Lexington 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 Promissory Note shall be liable personally on this 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 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 Promissory 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 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 Promissory Note to be executed on behalf of the Agency, all as of the Dated Date shown below.

Dated this ____ day of _____, 2022.

COMMUNITY DEVELOPMENT AGENCY OF
LEXINGTON, NEBRASKA

ATTEST:

By: (Sample – Do Not Sign)
Chairperson

(Sample – Do Not Sign)
Secretary

Exhibit "E"
Memorandum of Redevelopment Contract

(See Attached)

MEMORANDUM OF REDEVELOPMENT CONTRACT

This Memorandum of Redevelopment Contract ("Memorandum") is made this ___ day of _____, 2022, by and between the Community Development Agency of Lexington, Nebraska ("Agency") and R. Perry Construction, Inc., an Iowa corporation ("Redeveloper").

1. **Redevelopment Contract.** Agency and Redeveloper have entered into that certain Redevelopment Contract dated as of _____, 2022 ("Redevelopment Contract"), describing the public and private improvements being made by the Redeveloper on the real property legally described as:

[Insert legal description]

(the "Redevelopment Project Area")

Notwithstanding the above legal description, in the event Redeveloper replats or subdivides the Redevelopment Project Area, the legal description(s) for the Redevelopment Project Area derived from any such replat approved by the City of Lexington, Nebraska, shall supersede the legal description provided above.

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 for a period not to exceed fifteen (15) years after the effective date(s) (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 a TIF Note issued by the Agency.

3. **Minimum Lot Valuation.** The Redevelopment Contract establishes a minimum taxable real property valuation of \$15,036,000 for the Redevelopment Project Area (the "Minimum Valuation"). The Redevelopment Contract further provides that Redeveloper, and its successors and assigns shall not: (a) protest the real property valuation of the Redevelopment Project Area to a sum less than the Minimum Valuation; or (b) convey the Redevelopment Project Area, 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 Lexington, 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 Note.

(Signatures on following pages)

COMMUNITY DEVELOPMENT AGENCY
OF LEXINGTON, NEBRASKA

By: _____
Chairperson

ATTEST:

Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF DAWSON)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022,
by _____ and _____, the Chairperson and Secretary, respectively,
of the Community Development Agency of Lexington, Nebraska, on behalf of said agency.

(S E A L)

Notary Public

R. PERRY CONSTRUCTION, INC.,
an Iowa corporation

By: _____
Roy Perry, President

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by Roy Perry, the President of R. Perry Construction, Inc., an Iowa corporation, on behalf of the corporation.

(S E A L)

Notary Public