

**VILLAGE OF WATERLOO
RESOLUTION NO. 02-09-21-04**

WHEREAS, the Village Board of the Village of Waterloo, Nebraska, has approved the Harvest Heights Redevelopment Plan, Project Three authorizing redevelopment of the redevelopment plan area pursuant to the Nebraska Community Development Law; and,

WHEREAS, the Village of Waterloo, Nebraska, acting as its Community Development Authority, and the Redeveloper desire that a Redevelopment Contract be entered into to allow the development of a subsequent phase of the Redevelopment Plan (Lots 3 and 12 of Harvest Heights of Waterloo Subdivision) and issue a Redevelopment Promissory Note in the principal amount of \$150,000.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF WATERLOO, NEBRASKA, AS FOLLOWS:

THAT, the proposed Redevelopment Contract, between the Village of Waterloo, Nebraska, acting as its Community Development Authority, and TDH Home Building, Inc. (the "Redeveloper") is hereby approved.

PASSED THIS 9 DAY OF February, 2021

ATTEST:



Melissa Johnson
Clerk





Bill Rotert
Vice-Chairperson

REDEVELOPMENT CONTRACT

THIS CONTRACT is entered into by and between the Village of Waterloo, Nebraska, acting as the Community Redevelopment Authority of the Village of Waterloo, (the "Authority") and TDH Home Building, Inc., a Nebraska Corporation (the "Redeveloper") to implement the Harvest Heights Redevelopment Plan, Project Three.

RECITALS:

WHEREAS, on June 11, 2019, the Village Board of the Village of Waterloo approved the Harvest Heights Redevelopment Plan and subsequently approved Project Three (the "Redevelopment Plan") which provides for the redevelopment of substandard and blighted property into a residential subdivision; and,

WHEREAS, the Redevelopment Plan provided for the use of the excess *ad valorem* real property taxes generated by such redevelopment to assist in offsetting certain project costs; and,

WHEREAS, this Contract is a redevelopment contract prepared pursuant to the Nebraska Community Development Law (the "Act") in order to implement the Redevelopment Plan.

IN CONSIDERATION OF THESE MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS

The following terms, whether plural or singular, shall have the following meanings for purposes of this Contract.

- 1.1 "Authority" shall mean the Community Redevelopment Authority of the Village of Waterloo, Nebraska, or such successor entity lawfully established pursuant to the applicable provision of the Nebraska Community Development Act.
- 1.2 "Redeveloper" shall mean TDH Home Building, Inc.

- 1.3 "Redevelopment Plan Area" shall mean the area described in the Redevelopment Plan, Project Three, attached hereto as Exhibit "A" and abutting public rights-of-way.
- 1.4 "Redevelopment Project" or "Project" shall mean the construction of the public improvements, site preparation and the construction the two single family residences as located and described in the Redevelopment Plan.
- 1.5 "Redevelopment Site" shall mean the area legally described on Exhibit "B", attached hereto, as Lots 3 and 12, Harvest Heights of Waterloo.
- 1.6 "Redevelopment Promissory Note" shall mean an obligation issued by the Authority secured by the excess *ad valorem* taxes generated within the Redevelopment Site.
- 1.7 "Excess *ad valorem* taxes" shall mean the additional real estate property taxes generated by this Redevelopment Project pursuant to Section 18-2147 of the Nebraska Revised Statutes.

SECTION 2. OBLIGATIONS OF THE AUTHORITY

The Authority shall:

- 2.1 Execute and deliver to the Redeveloper at closing the Redevelopment Promissory Note (the "Note") in substantially the same form as the copy attached hereto as Exhibit "C".
- 2.2 Grant proceeds of the loan described in Section 3 to the Redeveloper up to the sum of \$150,000.00.
- 2.3 Pay debt retirement principal and interest from the excess *ad valorem* taxes (TIF). Interest on monies in the special fund shall accrue first to debt retirement interest and then to principal.
- 2.4 Ensure that prior to expenditure or disbursement of loan (Section 3) proceeds, the following shall be obtained, to wit:
 - 2.4.1 Redeveloper shall provide the Authority with evidence, acceptable to the Authority, that funds have been irrevocably committed in the amount sufficient to complete the Project.
 - 2.4.2 Redeveloper shall provide evidence of, and maintain adequate performance and labor materials bonds during the period of construction of the Project.
- 2.5 Establish a special fund under Section 18-2147 of the Act for the purpose of collecting the excess *ad valorem* taxes generated by the Project. Monies collected

and held in the special fund shall be used for no purpose other than to repay the loan secured by the Note.

SECTION 3. OBLIGATIONS OF THE REDEVELOPER

The Redeveloper shall:

- 3.1 Complete the Project on or before December 31, 2021, or such longer period as the parties hereto may agree.
- 3.2 Cause all real estate taxes and assessments levied on the Project to be paid prior to the time such become delinquent.
- 3.3 Loan redevelopment funds to the Authority in the principal amount of \$150,000.00 as set forth in Section 2, which, when combined with other funds available, will be sufficient to construct the Project. Execution and delivery of the Note shall be at closing which shall be as soon as reasonably possible after execution of this Contract but not more than 60 days thereafter. At closing, such loan and the obligation of the Authority to use the loan proceeds for redevelopment purposes under Section 2 may be accomplished by offset so that the Redeveloper retains the loan proceeds. If the Authority so requests, the Redeveloper shall, from time to time, furnish the Authority with satisfactory evidence as to the use and application of the loan proceeds.
 - 3.3.1 Such loan funds shall be disbursed as provided in Section 2.
 - 3.3.2 The principal shall be repaid by the Authority from the special fund established pursuant to Section 2, as excess *ad valorem* taxes, pursuant to the Redevelopment Plan and Section 18-2147 of the Act, become available to the Authority for such use. To the extent of such excess *ad valorem* taxes are unavailable to the Authority, the loan shall be forgiven and the obligations of the Redeveloper shall remain unaffected.
 - 3.3.3 Redeveloper shall directly pay as fee, on behalf of Authority, the law firm of Charles K. Bunger the sum of Five Thousand (\$500) Dollars for preparation of documents in connection with the Redevelopment Plan and Project.
- 3.4 Provide the Authority with annual progress reports during the redevelopment and allow the Authority reasonable access to any relevant financial records pertaining to the Project; and, retain copies of all supporting documents that are associated with the Redevelopment Plan or Project that are received or generated by the Redeveloper for three years following the end of the last fiscal year in which *ad valorem* taxes are divided and provide such copies to the Authority as needed to comply with retention requirements under Section 18-2117.04 of the Act. For purposes of this subsection, a supporting document includes any cost-benefit analysis conducted pursuant to

Section 18-2113 of the Act and any invoice, receipt, claim, or contract received or generated by the Redeveloper that provides support for receipts or payments associated with the division of taxes.

- 3.5 During the period that the Note is outstanding or enforceable, (1) not protest a real estate improvement valuation on the Redevelopment Site of \$250,000 per lot or less after substantial completion; (2) not convey the Redevelopment 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; (3) not apply to the Douglas County Assessor for the structures, or any portion thereof, to be taxed separately from the underlying land of the Redevelopment Site; (4) maintain insurance for ninety percent (90%) of the full value of the structures on the Redevelopment Site; (5) in the event of casualty, apply such insurance proceeds to their reconstruction; (6) cause all real estate taxes and assessments levied on the Redevelopment Site to be paid prior to the time such become delinquent; and, (7) Pay the Village with funds from Available Monies, not to exceed Five Hundred (\$500.00) annually, for those direct costs of the Village in administering this Contract. In lieu of the above, the Redeveloper may surrender any remaining amount outstanding of the Note to Authority. Each of the foregoing covenants may be referenced by Notice of Contract recorded by the Authority with the Douglas County, Nebraska, Register of Deeds in lieu of the recording of this Contract. The Redeveloper agrees to include these same restrictions in any subsequent sale, assignment, sale leaseback or other transfer of the Redevelopment Site, or thereof, but shall not be responsible otherwise for the actions of the third parties if these covenants are breached by such third parties if the Redeveloper no longer owns the Redevelopment Site.

SECTION 4. FINANCING OBLIGATIONS

4.1 Effective Date. The parties agree that the effective date of the division of *ad valorem* real property taxes on the Redevelopment Site shall be January 1, 2021.

4.2. The Authority shall pledge the excess *ad valorem* real property taxes as security for the Note according to its terms issued pursuant to the Redevelopment Plan.

SECTION 5. PROVISIONS OF THE CONTRACT

5.1 Captions. Captions used herein are for convenience and are not to be used in the construction of this Contract.

5.2 Applicable Law. Parties to this Contract shall conform to all existing and applicable local ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations. The terms and performance of this Contract shall be governed by the laws of the State of Nebraska.

- 5.3 Merger. This Contract shall not be merged into any other oral or written contract, lease or deed of any type. No provision of his Contract shall create any easement or right of entry to the Redevelopment Site for the benefit of either party or the general public, other than the specific provisions of this Contract or the Note.
- 5.4 Modification. This Contract contains the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms herein unless done in writing and signed by an authorized officer of each of the respective parties.
- 5.5 Assignment. The Redeveloper may not assign its rights under this Contract without the express prior written consent of the Authority, such consent not to be unreasonably withheld. Notice to the parties, but not consent, shall be required if the assignment is to the Manager, its successors or heirs.
- 5.6 Strict Compliance. All provisions of this Contract, and each and every document that is attached, shall be strictly complied with as written.
- 5.7 Recording. This Contract shall be binding upon the Redeveloper's successors and assigns, and shall run with the land described in Exhibit "B", attached hereto, to the benefit of the Village of Waterloo and the Authority.

SECTION 5. AUTHORIZED REPRESENTATIVE

In further consideration of the mutual covenants herein contained, the parties hereto expressly agree that for the purposes of notice, including legal service of process, during the term of this Contract and for the period of any applicable statute of limitations thereafter, the following named individuals shall be the authorized representatives of the parties:

- (1) Authority:
Village Clerk
Village of Waterloo
P.O. Box 127
Waterloo, NE 68069
- (2) Redeveloper:
TDH Home Building, Inc.
Travis Harlow, President
2513 River Road
Waterloo, NE 68069

EXHIBIT "B"

Harvest Heights Redevelopment Project Three

Legal Description of Redevelopment Site

Base redevelopment valuation date of *ad valorem* real estate taxes is January 1, 2020

Effective date of Division of *ad valorem* real estate taxes is January 1, 2021

Lots 3 and 12, of Harvest Heights of Waterloo in the Village of Waterloo, Nebraska, as surveyed, platted and recorded in Douglas County, Nebraska.

EXHIBIT "C"

THIS BOND 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 VILLAGE OF WATERLOO PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE COMMUNITY REDEVELOPMENT AUTHORITY OF THE VILLAGE OF WATERLOO TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

REDEVELOPMENT PROMISSORY NOTE

\$150,000.00

_____, 2021

FOR VALUE RECEIVED, the undersigned Village of Waterloo as the Community Redevelopment Authority of the Village of Waterloo (the "Authority") promises to pay TDH Home Building, Inc., a Nebraska Corporation, 2513 River Road, Waterloo, NE 68069, (the "Holder"), and/or its assigns, the principal sum of Sixty-Five Thousand and No/100 Dollars (\$150,000.00), together with interest thereon at the rate of 6.5% per annum from the date of the execution of this Redevelopment Promissory Note (the "Note") until paid in full. The principal balance and interest thereon shall be due and payable to the Holder of this Note as and at such time as any excess *ad valorem* taxes generated by the Redevelopment Project as set forth in that certain Redevelopment Contract, as from time to time amended, dated the 9th day of February, 2021, by and between the Authority and the Holder, collected by the Authority and available for the retirement of this debt. The Redevelopment Contract established the "Effective Date" for such division of taxes as January 1, 2021 pursuant to the Nebraska Community Development Law.

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 six and one half percent (6.5%) above the national 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.

Authority may prepay the principal amount outstanding in whole or in part, without 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, and all excess *ad valorem* taxes generated by the Redevelopment Project, as assessed through tax year 2035 and set forth in the Redevelopment Contract, have been collected by the Authority and have been paid, immediately upon being available, towards the retirement of the amounts due hereunder, then, at said date or upon the date such excess *ad valorem* taxes have been collected and paid, the Holder shall waive any unpaid portion of the principal and interest due upon written request of the Authority.

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.

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

Unless prohibited by law, the Holder may, at its option, declare the entire unpaid balance of principal and interest immediately due and payable without notice or demand at any time after default, as such term is defined in this paragraph.

Holder may at any time before or after default, exercise his right to set off all or any portion of the indebtedness evidenced hereby against any liability or indebtedness of the Holder to the Authority without prior notice to the Authority.

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

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

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

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

Executed this ____ day of _____, 2021.

ATTEST:

AUTHORITY:

VILLAGE CLERK



ACTING CHAIRPERSON