

VILLAGE OF WATERLOO
RESOLUTION NO. 05-08-23-04

WHEREAS, the Village Board of the Village of Waterloo, Nebraska, has approved the Properties Unlimited L.L.C. Redevelopment Plan Project Four 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 Redevelopment 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 2477 and 2487 of Waterloo Business Park Commercial Condominiums) and issue a Redevelopment Promissory Note in the principal amount of \$650,000.

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 Redevelopment Authority, and Properties Unlimited, L.L.C. (the "Redeveloper") is hereby approved.

PASSED THIS 8 DAY OF MAY, 2023

ATTEST:

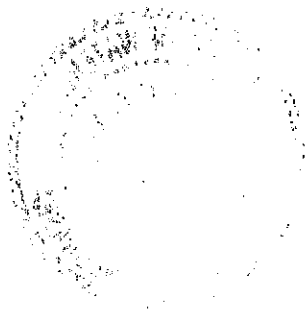
Melissa Smith

Melissa Smith
Clerk



Bill Rotert

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 Properties Unlimited, L.L.C., a Nebraska Limited Liability Company (the "Redeveloper") to implement the Properties Unlimited L.L.C. Redevelopment Plan, Project Four (the "Redevelopment Plan").

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 Properties Unlimited, L.L.C., a Nebraska Limited Liability Company.
- 1.3 "Redevelopment Plan Area" or "Redevelopment Project Area" shall mean the area described in the Redevelopment Plan and the contiguous condominium common area.
- 1.4 "Redevelopment Project" or "Project" shall mean the construction of the common area improvements, site preparation and the construction the two commercial buildings as located and described in the Redevelopment Plan.

- 1.5 "Redevelopment Site" shall mean the area legally described on Exhibit "A", attached hereto, as Lots 2477 and 2487 of Waterloo Business Park Commercial Condominiums.
- 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 attached hereto as Exhibit "B".
- 2.2 Distribute the redevelopment loan (Note) proceeds to the Redeveloper to pay the eligible costs of the Redevelopment Project as defined in the Redevelopment Plan.
- 2.3 Ensure that prior to expenditure or disbursement of redevelopment loan (Note) proceeds, the following shall be obtained, to wit:
 - 2.3.1 Redeveloper shall provide the Authority with evidence, acceptable to the Authority, that funds have been irrevocably committed in the amount sufficient to complete the Redevelopment Project.
 - 2.3.2 Redeveloper shall provide evidence of, and maintain adequate performance and labor materials bonds during the period of construction the Project.
- 2.4 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 principal and interest of loan secured by the Note and such administrative fees owed to the Authority. The Authority shall pledge the excess *ad valorem* real property taxes as security for the Note according to its terms and this contract pursuant to the Redevelopment Plan.
 - 2.4.1 The principal and interest 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.

2.4.2 To the extent that such excess *ad valorem* taxes are unavailable to the Authority, the loan shall be forgiven and the obligations of the Redeveloper shall remain unaffected.

SECTION 3. OBLIGATIONS OF THE REDEVELOPER

The Redeveloper shall:

- 3.1 Complete the Project improvements and redevelopment on or before December 31, 2024.
- 3.2 Loan redevelopment funds to the Authority in the principal amount of \$650,000.00 as set forth in Section 2, which, when combined with other funds available, will be sufficient to fund the Project as defined in the Redevelopment Plan. 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, disbursed in the manner provided for in Section 2, may be accomplished by offset so that the Redeveloper retains its stated portion of the loan proceeds; and the remaining portion of the loan proceeds shall be distributed as such excess *ad valorem* taxes are collected. 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 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.
- 3.4 During the period that the Note is outstanding or enforceable, (1) not protest a lesser real estate improvement valuation on the Redevelopment Site of \$3,500,000 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 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; and (6) cause all real estate taxes and assessments levied on the Redevelopment Site to be paid prior to the time such become delinquent:

- 3.5 Include the restrictive covenants of sections 3.3 and 3.4, herein, which shall run with the land, in any subsequent sale, assignment, sale leaseback or other transfer of the Redevelopment Site, or portion 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.
- 3.6 Pay the Authority with funds from Available Monies, not to exceed Five Hundred (\$500.00) annually, for those direct costs of the Authority in administering this Contract.

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, 2024.
- 4.2 The Authority shall pledge the excess *ad valorem* real property taxes as security for the Note according to its terms and Section 2 of this Contract.

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.
- 5.6 Certification. The Redeveloper hereby certifies that it has neither filed nor intends to file an application to receive tax incentives under the Nebraska Advantage Act or the ImagiNE Nebraska Act for a project located in or to be located within the Redevelopment Project Area.
- 5.7 Enforcement. The provisions of this Contract may be (1) enforced by either Party against the other or its successors or assigns, or (2) directly, by the holder of the Redevelopment Promissory Note to the extent its interest is impaired. The Village (Authority) shall not be required to enforce any provision of this Contract.

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:
Properties Unlimited, L.L.C.
Steve Franson, Manager
23502 Denton Street
Waterloo, NE 68069

Either party may designate additional representatives or substitute representatives by giving written notice thereof to the designated representative of the other party.

EXHIBIT "A"

Properties Unlimited L.L.C. Redevelopment Project Four

Legal Description of Additional Redevelopment Site

Base redevelopment valuation date of *ad valorem* real estate taxes is January 1, 2023

Effective date of Division of *ad valorem* real estate taxes is January 1, 2024

Lots 2477 and 2487 of Waterloo Business Park Commercial Condominiums in the Village of Waterloo, Nebraska, as surveyed, platted and recorded in Douglas County, Nebraska.

EXHIBIT "B"

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

\$650,000.00 _____, 2023

FOR VALUE RECEIVED, the undersigned Village of Waterloo as the Community Redevelopment Authority of the Village of Waterloo (the "Authority") promises to pay Properties Unlimited, L.L.C., a Nebraska Limited Liability Company, 23502 Denton Street, Waterloo, NE 68069, (the "Holder"), and/or its assigns, the principal sum of Six Hundred Fifty Thousand and No/100 Dollars (\$650,000.00), 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 Properties Unlimited Redevelopment Project Four as set forth in that certain Redevelopment Contract, as from time to time amended, dated the ___ day of _____, 2023, 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, 2024 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 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 2038 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 _____, 2023.

ATTEST:

AUTHORITY:

VILLAGE CLERK



ACTING CHAIRPERSON