Community Development Agency following the 6p.m. City Council meeting
Monday, November 4, 2024 6:00 PM
Columbus Community Building/Community Room
2500 14 Street
Columbus, NE 68601

The Mayor and City Council reserve the right to go into closed session as per Section 84-1410 of the Nebraska Revised Statutes. A current agenda is on file at City Hall, 2500 14 Street, Columbus, Nebraska. For more information, call 402-562-4224 or visit our website at www.columbusne.us.

{{Name: Agenda Item Name}}

1. **Statement of compliance with Open Meetings Act and roll call.**

84-1407. Act, how cited.

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Source: Laws 2004, LB 821, § 34.

84-1408. Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Source: Laws 1975, LB 325, § 1; Laws 1996, LB 900, § 1071; Laws 2004, LB 821, § 35.

Annotations

- Nebraska's public meetings laws do not apply to school board deliberations pertaining solely to disputed adjudicative facts. McQuinn v. Douglas Cty. Sch. Dist. No. 66, 259 Neb. 720, 612 N.W.2d 198 (2000).
- The primary purpose of the public meetings law is to ensure that public policy is formulated at open meetings. Marks v. Judicial Nominating Comm., 236 Neb. 429, 461 N.W.2d 551 (1990).
- The public meetings law is broadly interpreted and liberally construed to obtain the objective of openness in favor of the public, and provisions permitting closed sessions must be narrowly and strictly construed. Grein v. Board of Education of Fremont, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- A county board of equalization is a public body whose meetings shall be open to the public. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

84-1409. Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders, and (iii) the Judicial Resources Commission or subcommittees or subgroups of the commission;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

Source: Laws 1975, LB 325, § 2; Laws 1983, LB 43, § 1; Laws 1989, LB 429, § 42; Laws 1989, LB 311, § 14; Laws 1992, LB 1019, § 124; Laws 1993, LB 635, § 1; Laws 1996, LB 1044, § 978; Laws 1997, LB 798, § 37; Laws 2004, LB 821, § 36; Laws 2007, LB296, § 810; Laws 2011, LB366, § 2; Laws 2021, LB83, § 11; Laws 2022, LB922, § 12.

Annotations

- A township is a political subdivision, and as such, a township board is subject to the provisions of the public meetings laws. Steenblock v. Elkhorn Township Bd., 245 Neb. 722, 515 N.W.2d 128 (1994).
- A county agricultural society is a public body to which the provisions of the Nebraska public meetings law are applicable. Nixon v. Madison Co. Ag. Soc'y, 217 Neb. 37, 348 N.W.2d 119 (1984).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. State ex rel. Schuler v. Dunbar, 208 Neb. 69, 302 N.W.2d 674 (1981).
- Although a committee was a subcommittee of a natural resources district board, it was not subject to the Open Meetings Act because there was never a quorum of board members in attendance and the committee did not hold hearings, make policy, or take formal action on behalf of the board. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- Although the Open Meetings Act does not define "subcommittee," a subcommittee is generally defined as a group within a committee to which the committee may refer business. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).
- The Open Meetings Act does not require policymakers to remain ignorant of the issues they must decide until the moment the public is invited to comment on a proposed policy. By excluding nonquorum subgroups from the definition of a public body, the Legislature

has balanced the public's need to be heard on matters of public policy with a practical accommodation for a public body's need for information to conduct business. Koch v. Lower Loup NRD, 27 Neb. App. 301, 931 N.W.2d 160 (2019).

- As an administrative agency of the county, a county board of equalization is a public body. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- The electors of a township at their annual meeting are a public body under the Open Meetings Act. State ex rel. Newman v. Columbus Township Bd., 15 Neb. App. 656, 735 N.W.2d 399 (2007).
- The meeting at issue in this case was a "meeting" within the parameters of subsection (2) of this section because it involved the discussion of public business, the formation of tentative policy, or the taking of any action of the public power district. Hansmeyer v. Nebraska Pub. Power Dist., 6 Neb. App. 889, 578 N.W.2d 476 (1998).
- Informational sessions in which the governmental body hears reports are briefings. Johnson v. Nebraska Environmental Control Council, 2 Neb. App. 263, 509 N.W.2d 21 (1993).

84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close

passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Source: Laws 1975, LB 325, § 3; Laws 1983, LB 43, § 2; Laws 1985, LB 117, § 1; Laws 1992, LB 1019, § 125; Laws 1994, LB 621, § 1; Laws 1996, LB 900, § 1072; Laws 2004, LB 821, § 37; Laws 2004, LB 1179, § 1; Laws 2006, LB 898, § 1; Laws 2011, LB390, § 29; Laws 2012, LB995, § 17.

Annotations

- There is no absolute discovery privilege for communications that occur during a closed session. State ex rel. Upper Republican NRD v. District Judges, 273 Neb. 148, 728 N.W.2d 275 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. Wasikowski v. Nebraska Quality Jobs Bd., 264 Neb. 403, 648 N.W.2d 756 (2002).
- The public interest mentioned in this section is that shared by citizens in general and by the community at large concerning pecuniary or legal rights and liabilities. Grein v. Board of Education, 216 Neb. 158, 343 N.W.2d 718 (1984).
- Hearing in closed executive session was contrary to this section since there was no showing of necessity or reason under subdivision (1)(a), (b), or (c), but did not result in reversal of board decision. Simonds v. Board of Examiners, 213 Neb. 259, 329 N.W.2d 92

(1983).

- Negotiations for the purchase of land need not be conducted at an open meeting but the deliberations of a city council as to whether an offer to purchase real estate should be made should take place in an open meeting. Pokorny v. City of Schuyler, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Public meeting law was not violated where the Board of Regents of the University of Nebraska voted to hold a closed session to consider the university president's resignation, and also discussed the appointment of an interim president during such session. Meyer v. Board of Regents, 1 Neb. App. 893, 510 N.W.2d 450 (1993).

84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual conferencing authorized; requirements; emergency meeting without notice; appearance before public body; applicability of section.

(1) Until January 1, 2025:

(a) Except as provided in subsection (10) of this section, each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee or the governing body of a rural or suburban fire protection district, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's website; or

(B) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to timely publish the notice, the public body shall (A) post such notice on its website, if available, and (B) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours.

Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2) Beginning January 1, 2025:

(a) Except as provided in subsection (10) of this section, each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (2)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committees, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(B)(I) Posting to the newspaper's website, if available, and (II) posting to a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper.

(ii) In the case of the governing body of a city of the second class or village, any advisory committee of such governing body, or the governing body of a rural or suburban fire protection district, such notice shall be given by:

(A)(I) Publication in a newspaper of general circulation within the public body's jurisdiction that is finalized for printing prior to the time and date of the meeting, (II) posting on such newspaper's website, if available, and (III) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers. Such notice shall be placed in the newspaper and on the websites by the newspaper;

(B)(I) Posting to the newspaper's website, if available, and (II) posting on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers if no edition of a newspaper of general circulation within the public body's jurisdiction is to be finalized for printing prior to the time and date of the meeting. Such notice shall be placed in the newspaper and on the websites by the newspaper; or

(C) Posting written notice in three conspicuous public places in such city, village, or district. Such notice shall be posted by the public body in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (2)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(iv) In case of refusal, neglect, or inability of the newspaper to publish the notice, the public

body shall (A) post such notice on its website, if available, (B) submit a post on a statewide website established and maintained as a repository for such notices by a majority of Nebraska newspapers, and (C) post such notice in a conspicuous public place in such public body's jurisdiction. The public body shall keep a written record of such posting. The record of such posting shall be evidence that such posting was done as required and shall be sufficient to fulfill the requirement of publication.

(3)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (3)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority; and

(xiii) A natural resources district.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsections (1) and (2) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as would be

provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision, subsection (1) of section 70-1014, subsection (2) of section 70-1014.02, or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of (A) an organization created under the Interlocal Cooperation Act that sells electricity or natural gas, (B) an organization created under the Municipal Cooperative Financing Act, (C) a governing body of a risk management pool and any advisory committee of such governing body, or (D) any advisory committee of any state entity created in response to the Opioid Prevention and Treatment Act, such organization, governing body, or committee may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing.

(4) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(5) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(6) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (5) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(7) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(8)(a) Notwithstanding subsections (3) and (6) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsections (1) and (2) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at

the meeting and record the meeting. Subsection (5) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsection (5) of section 84-1413.

(9) In addition to any other statutory authorization for virtual conferencing, any public body not listed in subdivision (3)(a) of this section may hold a meeting by virtual conferencing if:

(a) The purpose of the virtual meeting is to discuss items that are scheduled to be discussed or acted upon at a subsequent non-virtual open meeting of the public body;

(b) No action is taken by the public body at the virtual meeting; and

(c) The public body complies with subdivisions (3)(b)(i) and (ii) of this section.

(10) This section does not apply to a meeting of the Nebraska Power Review Board or a public power district, a public power and irrigation district, an electric membership association, an electric cooperative company, a municipality having a generation and distribution system, or a registered group of municipalities if such meeting is subject to section 70-1034.

Source: Laws 1975, LB 325, § 4; Laws 1983, LB 43, § 3; Laws 1987, LB 663, § 25; Laws 1993, LB 635, § 2; Laws 1996, LB 469, § 6; Laws 1996, LB 1161, § 1; Laws 1999, LB 47, § 2; Laws 1999, LB 87, § 100; Laws 1999, LB 461, § 1; Laws 2000, LB 968, § 85; Laws 2004, LB 821, § 38; Laws 2004, LB 1179, § 2; Laws 2006, LB 898, § 2; Laws 2007, LB199, § 9; Laws 2009, LB361, § 2; Laws 2012, LB735, § 1; Laws 2013, LB510, § 1; Laws 2017, LB318, § 1; Laws 2019, LB212, § 5; Laws 2020, LB148, § 3; Laws 2021, LB83, § 12; Laws 2022, LB742, § 1; Laws 2022, LB908, § 1; Laws 2022, LB922, § 13; Laws 2024, LB287, § 74; Laws 2024, LB399, § 4; Laws 2024, LB1370, § 8.
Note: The Revisor of Statutes has pursuant to section 49-769 correlated LB287, section 74, with LB399, section 4, and LB1370, section 8, to reflect all amendments.
Note: Changes made by LB287 became operative April 17, 2024. Changes made by LB399 became effective July 19, 2024. Changes made by LB1370 became operative July 19, 2024.

Cross References

- **Emergency Management Act,** see section 81-829.36.
- **Intergovernmental Risk Management Act,** see section 44-4301.
- **Interlocal Cooperation Act,** see section 13-801.
- **Joint Public Agency Act,** see section 13-2501.
- **Municipal Cooperative Financing Act,** see section 18-2401.
- **Opioid Prevention and Treatment Act,** see section 71-2485.

Annotations

- Under subsection (1) of this section, the Legislature has imposed only two conditions on

the public body's notification method of a public meeting: (1) It must give reasonable advance publicized notice of the time and place of each meeting and (2) it must be recorded in the public body's minutes. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).

- An emergency is "(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition." Steenblock v. Elkhorn Township Bd., 245 Neb. 722, 515 N.W.2d 128 (1994).
- An agenda which gives reasonable notice of the matters to be considered at a meeting of a city council complies with the requirements of this section. Pokorny v. City of Schuyler, 202 Neb. 334, 275 N.W.2d 281 (1979).
- When notice is required, a notice of a special meeting of a city council posted in three public places at 10:00 p.m. on the day preceding the meeting is not reasonable advance publicized notice of a meeting as is required by this section. Pokorny v. City of Schuyler, 202 Neb. 334, 275 N.W.2d 281 (1979).
- Teacher waived right to object to lack of public notice in board of education employment hearing by voluntary participation in the hearing without objection. Alexander v. School Dist. No. 17, 197 Neb. 251, 248 N.W.2d 335 (1976).
- A county board of commissioners and a county board of equalization are not required to give separate notices when the notice states only the time and place that the boards meet and directs a citizen to where the agendas for each board can be found. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- A county board of equalization is a public body which is required to give advanced publicized notice of its meetings. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Notice of recessed and reconvened meetings must be given in the same fashion as the original meeting. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- True notice of a meeting is not given by burying such in the minutes of a prior board proceeding. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- An agenda notice which merely stated "work order reports" was an inadequate notice under this section because it did not give interested persons knowledge that plans for a 345 kv transmission line through the district was going to be discussed and voted upon at the meeting. Inadequate agenda notice under this section meant there was a substantial violation of the public meeting laws; however, later actions by the board of directors cured the defects in notice, and such actions were in substantial compliance with the statute. Hansmeyer v. Nebraska Pub. Power Dist., 6 Neb. App. 889, 578 N.W.2d 476 (1998).

84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing. Except for closed sessions called pursuant to section 84-1410, a public body shall allow members of the public an opportunity to speak at each meeting.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an instate location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the instate location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Source: Laws 1975, LB 325, § 5; Laws 1983, LB 43, § 4; Laws 1985, LB 117, § 2; Laws 1987, LB 324, § 5; Laws 1996, LB 900, § 1073; Laws 2001, LB 250, § 2; Laws 2004, LB 821, § 39; Laws 2006, LB 898, § 3; Laws 2008, LB962, § 1; Laws 2021, LB83, § 13; Laws 2024, LB43, § 21.
Operative Date: July 19, 2024

Annotations

- To preserve an objection that a public body failed to make documents available at a public meeting as required by subsection (8) of this section, a person who attends a public meeting must not only object to the violation, but must make that objection to the public body or to a member of the public body. Stoetzel & Sons v. City of Hastings, 265 Neb. 637, 658 N.W.2d 636 (2003).

84-1413. Meetings; minutes; roll call vote; secret ballot; when; agenda and minutes; required on website; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written or kept as an electronic record and shall be available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing or keeping the minutes is absent due to a serious illness or emergency.

(6) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public website the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the website at least twenty-four hours before the meeting of the governing body. Minutes shall be placed on the website at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public website for at least six months.

> **Source:** Laws 1975, LB 325, § 6; Laws 1978, LB 609, § 3; Laws 1979, LB 86, § 9; Laws 1987, LB 663, § 26; Laws 2005, LB 501, § 1; Laws 2009, LB361, § 3; Laws 2015, LB365, § 2; Laws 2016, LB876, § 1; Laws 2021, LB83, § 14; Laws 2022, LB742, § 2.

Annotations

- Under prior law, if a person present at a meeting observes and fails to object to an alleged public meetings laws violation in the form of a failure to conduct rollcall votes before

taking actions on questions or motions pending, that person waives his or her right to object at a later date. Hauser v. Nebraska Police Stds. Adv. Council, 264 Neb. 944, 653 N.W.2d 240 (2002).

- Subsection (2) of this section does not require the record to state that the vote was by roll call, but requires only that the record show if and how each member voted. Neither does the statute set a time limit for recording the results of a vote, after which no corrections of the record can be made. If no intervening rights of third persons have arisen, a board of county commissioners has power to correct the record of the proceedings had at a previous meeting so as to make them speak the truth, particularly where the correction supplies some omitted fact or action and is done not to contradict or change the original record but to have the record show that a certain action was taken or thing done, which the original record fails to show. State ex rel. Schuler v. Dunbar, 214 Neb. 85, 333 N.W.2d 652 (1983).
- Failure by a public governing body, as defined under section 84-1409, R.R.S.1943, to take and record a roll call vote on an action, as required by section 84-1413(2), R.S.Supp.,1980, grants any citizen the right to sue for the purpose of having the action declared void. In this case such failure could not be later corrected by a nunc pro tunc order because there was no showing that a roll call vote on the disputed action was actually taken, and even if it was the record showed it was not recorded until over a year later. Sections 23-1301, R.R.S.1943, and 23-1302, R.R.S.1943, make it the duty of the county clerk to record proceedings of the board of county commissioners. State ex rel. Schuler v. Dunbar, 208 Neb. 69, 302 N.W.2d 674 (1981).
- There is no requirement that a public body make a record of where notice was published or posted. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).

84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Source: Laws 1975, LB 325, § 9; Laws 1977, LB 39, § 318; Laws 1983, LB 43, § 5; Laws 1992, LB 1019, § 126; Laws 1994, LB 621, § 2; Laws 1996, LB 900, § 1074; Laws 2004, LB 821, § 40; Laws 2006, LB 898, § 4.

Annotations

- The Legislature has granted standing to a broad scope of its citizens for the very limited purpose of challenging meetings allegedly in violation of the Open Meetings Act, so that they may help police the public policy embodied by the act. Schauer v. Grooms, 280 Neb. 426, 786 N.W.2d 909 (2010).
- Any citizen of the state may commence an action to declare a public body's action void. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).
- The reading of ordinances constitutes a formal action under subsection (1) of this section. City of Elkhorn v. City of Omaha, 272 Neb. 867, 725 N.W.2d 792 (2007).
- If a person present at a meeting observes a public meetings law violation in the form of an improper closed session and fails to object, that person waives his or her right to object at a later date. Wasikowski v. Nebraska Quality Jobs Bd., 264 Neb. 403, 648 N.W.2d 756 (2002).
- Under the Public Meetings Act, a county lacks capacity to maintain an action to declare its official conduct "void" for noncompliance with the act. County of York v. Johnson, 230 Neb. 403, 432 N.W.2d 215 (1988).
- When a petitioner under this section is successful in the district court, that court may allow attorney fees. Tracy Corp. II v. Nebraska Pub. Serv. Comm., 218 Neb. 900, 360 N.W.2d 485 (1984).
- Informal discussions between the Tax Commissioner and the State Board of Equalization in which instructions were clarified, with such clarification leading to the amendment of hearing notices, did not constitute a public meeting subject to the provisions of this section. Box Butte County v. State Board of Equalization and Assessment, 206 Neb. 696, 295 N.W.2d 670 (1980).
- The right to collaterally attack an order made in contravention of the Public Meeting Act must occur within a period of one year as is specifically provided by this section. Witt v. School District No. 70, 202 Neb. 63, 273 N.W.2d 669 (1979).
- Statutory change, requiring "publicized notice" for board of education employment hearings, occurring between dates meeting scheduled and conducted, held not to void proceedings. Alexander v. School Dist. No. 17, 197 Neb. 251, 248 N.W.2d 335 (1976).
- Voiding an entire meeting is a proper remedy for violations of the Open Meetings Act. Once a meeting has been declared void pursuant to Nebraska's public meetings law, board members are prohibited from considering any information obtained at the illegal meeting. Wolf v. Grubbs, 17 Neb. App. 292, 759 N.W.2d 499 (2009).
- Actions by the board of directors were merely voidable under this section, and not void. Pursuant to subsection (3) of this section, the plaintiffs were awarded partial attorney fees because they were successful in having the court declare that the board of directors was in substantial violation of the statute, even though the plaintiffs did not get the relief requested of having the board's actions declared void. Hansmeyer v. Nebraska Pub. Power Dist., 6 Neb. App. 889, 578 N.W.2d 476 (1998).

2. **Resolution No. R24-124 approving declaration of covenants, conditions, restrictions, and easements and declaration of affordability covenants and restrictions for the Redevelopment Plan of the 8th Street Residential Subdivision Redevelopment Project.**

DRAFT

RESOLUTION NO. R24-124

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA, APPROVING A DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS AND A DECLARATION OF AFFORDABILITY COVENANTS AND RESTRICTIONS, IN RELATION TO A REDEVELOPMENT PROJECT SET FORTH IN THE "REDEVELOPMENT PLAN FOR THE 8TH STREET RESIDENTIAL SUBDIVISION REDEVELOPMENT PROJECT".

WHEREAS, the Mayor and Council of the City of Columbus, Nebraska (the "City"), previously approved a redevelopment plan entitled, "Redevelopment Plan for the 8th Street Residential Subdivision Redevelopment Project" (the "Plan"); and

WHEREAS, the Community Development Agency of the City (the "Agency"), is the fee title owner of the real property comprising the redevelopment project set forth in the Plan (the "Project Area"); and

WHEREAS, in accordance therewith, the Mayor and Council of the City, as the governing body of the Agency, approved, adopted and entered into that certain purchase and sale agreement with Vitality Apartments, LLC, for a portion of the Project Area (the "PSA"); and

WHEREAS, pursuant to the Plan and the PSA, and in the public interest, the Agency wishes to record certain covenants upon the Project Area; and

WHEREAS, in accordance therewith, the Agency has for its consideration, attached hereto and incorporated herein as Exhibit A, a proposed form of declaration of covenants, conditions, restrictions, and easements for recordation against the Project Area (the "CCREs"); and

WHEREAS, in accordance therewith, the Agency has for its further consideration, attached hereto and incorporated herein as Exhibit B, a proposed form of declaration of affordability covenants and restrictions for recordation against the Project Area (the "Affordability Covenants"); and

WHEREAS, the CCREs and Affordability Covenants conform to the terms and intent of the Plan, and are for a public purpose and interest.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City, as the governing body of the Agency, that the CCREs and Affordability Covenants, in the forms presented, are hereby acknowledged and approved. The Agency Chairperson (Mayor) and Secretary (City Clerk) are hereby authorized to execute said CCREs and Affordability Covenants in substantially the forms presented but with such changes as

they shall deem appropriate or necessary. The execution and delivery by the Mayor of the CCREs and Affordability Covenants, or any such documents, instruments, agreements or certifications relating to such matters contained in the CCREs and Affordability Covenants, shall conclusively establish their authority with respect thereto and the authorization and approval thereof. Following execution of the CCREs and Affordability Covenants, the Secretary shall file the same upon all the real property comprising the Project Area.

INTRODUCED BY COUNCIL MEMBER _____

PASSED AND ADOPTED THIS _____ DAY OF _____, 2024.

_____
CHAIRPERSON (MAYOR)

ATTEST:

_____
SECRETARY (CITY CLERK)

APPROVED AS TO FORM:

_____
SPECIAL CITY ATTORNEY

City Hall
2500 14th St.
Columbus, NE 68601
402-562-4232
columbusne.us

memorandum

DATE: TO: October 31, 2024

FROM: RE: Tara Vasicek, City Administrator

Jean Van Iperen, Planning & Economic Development Coordinator

Affordability Covenants and CCRE's for Vitality Village

RECOMMENDATION:

Approval of both the Affordability Covenants and CCRE's for Vitality Village

DISCUSSION:

Last year, the City of Columbus took a major step toward increasing workforce housing by purchasing property on 8th St near 12th Ave, setting the stage for new construction by private developers. Now, as we prepare to finalize land purchases with the selected contractors, the City will be filing essential Affordability Covenants and a Declaration of Covenants, Conditions, Restrictions, and Easements (CCREs) for the property.

With Tax Increment Financing (TIF) supporting this development, both developers and buyers have a unique opportunity to acquire builder-ready lots within this subdivision at prices significantly below market value. To ensure housing remains affordable, Affordability Covenants will be in place for the next 15 years. These set a cap on maximum monthly rent for rental units (outlined in Article IV) and include guidelines for the sale of residential units (Article V).

The City and developers also agreed on specific CCREs to maintain community standards within the subdivision. These include requirements for underground sprinkler systems, approved exterior materials, guidelines for storage and waste, chattel restrictions, vehicle rules, placement of A/C units, outbuilding regulations, fencing, and exterior lighting, among other considerations.

This collaborative effort aims to provide affordable, quality housing that benefits both new residents and the community at large.

Signature:

By: *Jean Van Iperen*

Approved By: _____

EXHIBIT A

CCREs

(See attached)

(The above space for use of Register of Deeds)

AFTER RECORDING, RETURN TO:
City of Columbus, Nebraska
c/o City Administrator
2500 14t Street, Suite 3
P.O. Box 1677
Columbus, NE 68602

DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS (this "**Declaration**") is executed and effective this _____ day of _____, 2024 (the "**Effective Date**"), by the Community Development Agency of the City of Columbus, Nebraska ("**Declarant**").

WHEREAS, Declarant owns certain real estate located in Columbus, Platte County, Nebraska (the "**City**"), legally described on **Exhibit A**, attached hereto and incorporated herein (the "**Subdivision**"), and as shown on the plat attached hereto and incorporated herein as **Exhibit B** (inclusive of any amendment, addition, replat, or subdivision thereof, the "**Plat**"); and

WHEREAS, Declarant wishes to place development and use covenants, conditions, restrictions, and easements upon each Lot (defined below) within the Subdivision; and

WHEREAS, by virtue of recording this Declaration, the Subdivision shall be owned, held, transferred, sold, conveyed, developed, used, occupied, operated, improved and mortgaged or otherwise encumbered subject to the provisions of this Declaration and every grantee of any interest in the Subdivision or any portion thereof, by acceptance of

a deed or other conveyance of such interest, and every Owner (defined below) of a Lot within the Subdivision, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of this Declaration and shall be deemed to have consented to the terms hereof; and

WHEREAS, Declarant does hereby specify, agree, designate and direct that this Declaration and all of its provisions shall be and are covenants to run with the Subdivision and shall be binding on all current and future Owners, together with their grantee's successors, heirs, executors, administrators, devisees and assigns; and

NOW, THEREFORE, Declarant hereby imposes the following covenants, conditions, restrictions and easements on the Subdivision, which shall run with the equitable and legal title to the land and shall be for the benefit or burden, as the case may be, of the Declarant and Owners, together with their respective heirs, legal representatives, successors and assigns, and any mortgagees.

ARTICLE I
APPLICATION, DEFINITIONS, CONSTRUCTION AND INTERPRETATION

Section 1.1. Run with the Land. The covenants, conditions, restrictions, and easements set forth in this Declaration are for the benefit of the Declarant, as the current owner of the Subdivision, and each successor Owner of the Lots within the Subdivision. Such covenants, conditions, restrictions, and easements imposed upon the Subdivision herein shall run with the land, and with each and every part thereof, and shall bind all Owners and any assigns and successors in interest of such Owners and any lessees, tenants and other occupants of any Dwelling Units thereon.

Section 1.2. Definitions. For purposes of this Declaration, the capitalized terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular. The capitalized terms set forth and defined in other sections of this Declaration shall have the meanings ascribed to them therein.

a. "**Dwelling Unit**" shall mean each residential dwelling unit or structure constructed, or to be constructed, upon the Lots within the Subdivision, in accordance with the terms of this Declaration. By way of explanation and example only, a Rowhome Lot with a single structure comprised of eight (8) attached residential units would consist of eight (8) separate Dwelling Units.

b. "**Improvements**" shall mean all land preparation and excavation, Dwelling Units, buildings, structures, underground installations, slope and grade alterations, lighting, roads, walkways, curbs, gutters, storm drains, drainage ways, utilities, driveways, parking areas, fences, retaining walls, plantings, planted trees and shrubs, streetscaping, sidewalks, poles, signs and all

other structures and landscaping improvements, of every type and kind, constructed within the Subdivision.

c. "**Lot**" shall mean each and every residential lot within the Subdivision that is platted for the construction of Improvements thereon, including but not limited to, the Townhome Lots, MF Lot, Rowhome Lots, and SF Lots.

d. "**MF Lot**" shall refer to the following Lot within the Subdivision: Lot 1, Block D, Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

e. "**Owner**" shall mean the Person holding fee title to any Lot, Dwelling Unit, or Improvement within the Subdivision, inclusive of any developer that constructs the initial Dwelling Units within the Subdivision.

f. "**Person**" means any individual, corporation, limited liability company, trust, partnership, association, or other legal entity.

g. "**Rowhome Lots**" shall refer to the following Lots within the Subdivision: Lots 1-4, Block A, and Lots 1 and 2, Block B, and Lot 2, Block C, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

h. "**SF Lots**" shall refer to the following Lots within the Subdivision: Lots 1-7, Block A, and Lots 1 and 2, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

i. "**Townhome Lots**" shall refer to the following Lots within the Subdivision: Lots 3-10, Block B, Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND Lots 3-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

j. "**Unimproved Lot**" refers to any Lot on which there is no Dwelling Unit.

Section 1.3. Lot Types; Applicability. As set forth under Section 2.1, below, the Subdivision will consist of different types of Dwelling Units constructed on the SF Lots, Townhome Lots, Rowhome Lots, and MF Lot. In relation thereto, some of the covenants, conditions, restrictions, and easements set forth herein shall apply to some, but not all of

the Lots, or may vary between the various Lot types. In accordance therewith, references herein to the "Lots" or the "Subdivision", in relation to any such covenants, conditions, restrictions, and easements, are intended to apply uniformly and equally to each of the SF Lots, Townhome Lots, Rowhome Lots, and MF Lot, unless otherwise specified. Any reference herein to an "Owner" shall be to all Owners within the Subdivision, irrespective of the Lot type, unless otherwise specified. In the event any covenants, conditions, restrictions, and easements herein apply to some, but not all, Lot/Owner types, or vary among the Lot/Owner types, this Declaration explicitly references the Lot type(s)/Owner(s) for which such provisions shall apply, and/or the Lot type(s)/Owner(s) which are excluded therefrom.

ARTICLE II
RESTRICTIONS AND COVENANTS

Section 2.1. Lot Types; Permitted Uses. The Lots shall be developed and maintained in accordance with the following uses, as applicable, and for no other use unless consented to by Declarant in writing:

a. SF Lots shall be used exclusively for one (1) single-family detached Dwelling Unit.

b. Townhome Lots shall be used exclusively for single-family attached Dwelling Units constructed in a group of two (2) attached units per adjacent two (2) Lots.

c. Rowhome Lots shall be used exclusively for single-family Dwelling Units constructed in a group of three or more attached units, in which each unit extends from the foundation to roof and with open space on at least two sides.

d. MF Lot shall be used exclusively for multi-family apartment Dwelling Units, together with such Improvements and amenities ancillary thereto.

Section 2.2. No Combining Lots. No Owner may combine or build across Lots, resulting in less than a 1:1 Dwelling Unit to Lot ratio, without the prior written approval of Declarant.

Section 2.3. Owner-Occupied. The SF Lots must be owner-occupied, and an Owner of such SF Lot may not allow any Person other than Owner or such Owner's immediate family to occupy the Lot. For purposes of this Declaration, an Owner's "immediate family" shall mean the Owner's spouse, life partner, children or stepchildren, parents, siblings, stepparents, grandparents or grandchildren. The restrictions under this Section 2.3 shall not apply to the Townhome Lots, Rowhome Lots, or MF Lot.

Section 2.4. Exterior Construction Materials. The exterior of all Improvements shall be painted in neutral and muted tones, such as white, off white, tan, gray, brick, or

light brown, and shall not be painted in primary colors. The initial paint color for any Dwelling Unit constructed upon an Unimproved Lot shall be subject to Declarant's approval as part of the Owner's submissions of the Plans under Section 3.1, below. Any paint colors approved by Declarant as part of its review of the Plans shall be deemed as permitted colors for the Subdivision under this Section 2.4. Any repainting of the exterior of a Dwelling Unit shall either substantially match the prior paint color, or be substantially similar to the paint color(s) of the surrounding Dwelling Unit(s) within the Subdivision. Any Improvement constructed outside of or detached from the Dwelling Unit on a Lot must be consistent with the character and color of the Dwelling Unit on such Lot. Owner shall construct all Improvement(s) with high quality materials to protect the value, character, integrity and residential quality of the Lots and Subdivision.

Section 2.5. No Trailers, Modular Homes or Mobile Homes. Owner shall not place any mobile home, modular home, or trailer on any Lot. This Section 2.5 does not apply to newly-built homes which are assembled offsite and affixed to a permanent foundation on the Lot.

Section 2.6. Property Storage and Trash Removal. Owner shall not permit any incinerator or trash burners on any Lot. Owner shall not permit any fuel tanks on the Lot unless completely screened from view. Owner shall not store garden, lawn, maintenance equipment, clotheslines, large garbage receptacles, dog kennels, firewood piles, or other personal property other than customary and ordinary outdoor furniture and furnishings, outside of any Dwelling Unit or suitable storage facility, except when in actual use. Owner shall not deposit visible garbage, refuge, rubbish or cuttings on any street, road or Lot.

Section 2.7. Chattel Restrictions. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, semi-truck, aircraft, camper truck or similar chattel shall remain stationary on any part of a Lot, other than in an enclosed structure, for more than twenty-four (24) consecutive hours. With respect to the foregoing, "remain stationary" shall mean that such chattel remains on a Lot or public right-of-way adjacent thereto without Owner moving it outside the Subdivision. No person shall park or store a motor vehicle outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. Notwithstanding the foregoing, this Section 2.7 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction. Excluding the MF Lot, no dumpster shall remain on any Lot for more than thirty (30) consecutive days, except in the case of a permitted construction project.

Section 2.8. Vehicular Restrictions. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall remain on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during

actual building operations, and then only in as neat and inconspicuous a manner as possible.

Section 2.9. Air Conditioning Units. Excluding the MF Lot, Owner shall place any exterior air conditioning condenser unit in the rear yard or side yard so as not to be visible from public view.

Section 2.10. Upkeep of Outdoor Spaces. Excluding stormwater retention areas, Owner shall not permit weeds or other unmanicured vegetation to grow, nor maintain dangerous, diseased or otherwise objectionable shrubs or trees on any Lot, so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Following the initial construction of a Dwelling Unit on an Unimproved Lot, an Owner shall not remove any healthy and established trees from such Lot; provided that an Owner may remove a tree if, in its reasonable discretion, it poses a hazard towards human health and safety or to the preservation of the Dwelling Unit on the Lot or Lot(s) adjacent thereto, or such removal is necessary for the construction of permitted Improvements on such Lot.

Section 2.11. Exterior Lighting. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

Section 2.12. Fencing. Fencing shall be consistent with the architectural style and color of the Dwelling Unit on such Lot and shall not exceed the maximum height(s) permitted under City code. All fencing shall be made from wood, vinyl, chain link, or aluminum. Fencing shall not extend beyond the front line of the primary Dwelling Unit on a Lot. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front line of the primary Dwelling Unit on a Lot. This Section 2.12 shall apply to the Townhome Lots, Rowhome Lots, and SF Lots only. It shall not apply to the MF Lot. Installation of fences as part of the initial construction of a Dwelling Unit on a Lot shall be subject to Declarants review and approval, pursuant to Section 3.1, below.

Section 2.13. Outbuildings. The SF Lots and Townhome Lots shall be limited to a maximum of one (1) outbuilding per Lot. The general design, quality, and color scheme for an outbuilding shall substantially match that of Dwelling Unit on the Lot. For purpose of the foregoing, an outbuilding is any enclosed or partially-enclosed structure affixed to or existing upon a Lot, other than the Dwelling Unit, with a land coverage footprint of thirty (30) square feet or more. No outbuildings shall be permitted on the Rowhome Lots. The MF Lot shall not be subject to the restrictions under this Section 2.13.

Section 2.14. No Protests of Property Taxes Below Minimum Valuation. Declarant received and is utilizing tax-increment financing to aid in the cost of constructing the public improvements within the Subdivision. In accordance therewith:

a. For as long as taxes are being divided on a given SF Lot for the purposes of tax-increment financing, in accordance with Section 18-2147 of the Nebraska Revised Statutes, the Owner of such SF Lot shall not protest any taxable valuation assessed for the SF Lot, inclusive of the Improvements thereon, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, to an amount below $200,000.

b. For as long as taxes are being divided on a given Townhome Lot for the purposes of tax-increment financing, in accordance with Section 18-2147 of the Nebraska Revised Statutes, the Owner of such Townhome Lot shall not protest any taxable valuation assessed for the Townhome Lot, inclusive of the Improvements thereon, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, to an amount below $150,000.

c. For as long as taxes are being divided on a given Rowhome Lot for the purposes of tax-increment financing, in accordance with Section 18-2147 of the Nebraska Revised Statutes, the Owner of such Rowhome Lot shall not protest any taxable valuation assessed for the Rowhome Lot, inclusive of the Improvements thereon, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, to an amount below $110,000 per Dwelling Unit on such Lot. With respect to the foregoing, and for purposes of example only, if a given Rowhome Lot consists of eight (8) Dwelling Units, the assessed valuation for such Lot could not be protested below $880,000.

d. For as long as taxes are being divided on the MF Lot for the purposes of tax-increment financing, in accordance with Section 18-2147 of the Nebraska Revised Statutes, the Owner of such MF Lot shall not protest any taxable valuation assessed for the MF Lot, inclusive of the Improvements thereon, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, to an amount below $24,000,000.

ARTICLE III
APPROVAL AND CONSTRUCTION OF IMPROVEMENTS

Section 3.1. Plan Approval. No Improvements, including landscaping, above or below ground, shall be constructed, erected or placed or permitted to remain on any Unimproved Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

a. An Owner (or perspective Owner) desiring to erect an Improvement on an Unimproved Lot shall deliver construction plans, site plans, signage plans,

landscaping plans, and plot plans, as the case may be, to Declarant (herein collectively referred to as the "**Plans**"). Such Plans shall include a description of the type, quality, color and use of materials proposed for the exterior of such Improvement, together with such other detailed drawings as may reasonably be requested by Declarant to review such Improvement.

b. Declarant shall review such Plans in light of the covenants, conditions, restrictions and easements in this Declaration, and in relation to the type and exterior of Improvements permitted on the applicable Lot(s). The decision to approve or refuse approval of any proposed Improvement shall be exercised by Declarant in a reasonable manner to promote conformity and harmony of the design and development of the Improvements constructed within the Subdivision, and to protect the value, character and quality of the Subdivision as a whole, in a manner consistent with this Declaration. If Declarant determines that the Plans do not conform with the standards or requirements of this Declaration, do not conform with the surrounding Improvements and topography, or will not protect and enhance the integrity and character of the Subdivision, Declarant may refuse approval of any proposed Improvement set forth in the Plans, or portion thereof. Declarant's approval or rejection, as the case may be, of an Owner's (or prospective Owner's) Plans shall be provided in writing within thirty (30) days after the date of submission of the Plans. Declarant's failure to provide the same within thirty (30) days shall be deemed a rejection of the Plans by Declarant; provided, however, such Owner (or Prospective Owner) may resubmit the same Plans upon any deemed rejection due to Declarant's failure to respond. Additionally, upon Declarant's rejection of any Plans, an Owner may revise and resubmit the Plans, in which case the process under this subsection shall start anew. Declarant's approval of Plans submitted by a prospective Owner pursuant to the terms of a purchase and sale contract for certain Lot(s) entered into between Declarant and such prospective Owner, shall constitute Declarant's approval of such Plans hereunder, with respect to such Lot(s).

c. No Owner, or any other Person or Persons, shall have any right to any action by Declarant, or to control, direct or influence the acts of Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to the Declarant in this Section 3.1, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

d. Declarant's rights under this Section 3.1 shall cease and expire following the initial construction of Dwelling Units upon each Unimproved Lot within the Subdivision. With respect to the construction of Improvements occurring thereafter, the Owners shall not be required to submit Plans to Declarant, but such Improvements, and the construction thereof, shall

remain subject to, and must comply with, all other relevant terms of this Declaration.

Section 3.2. Construction of Improvements.

a. Following the initial transfer of an Unimproved Lot from Declarant to an Owner, such Owner shall commence construction of the Dwelling Unit thereon within six (6) calendar months from the date title to the Unimproved Lot was transferred from Declarant to Owner. For purposes of the foregoing, commencement of construction shall mean Owner's receipt of a validly issued building permit and the initiation of site improvements which affect the vertical construction of the Dwelling Unit on the Lot. Owner shall not allow any excavation dirt to be spread across any Lot so as to change the grade of any Lot in a way that has an adverse effect on another Lot or changes the intended drainage for such Lot or the Subdivision. If Owner does not commence construction within the time period prescribed above, Declarant may, in its discretion and without obligation, repurchase the Lot from Owner pursuant to the terms of Section 8.3, below.

b. Following the initial transfer of an Unimproved Lot from Declarant to an Owner, such Owner shall substantially complete construction of the Dwelling Unit(s) on such Lot within two (2) calendar years from the date title to the Lot was transferred from Declarant to Owner. If Owner does not substantially complete construction of the Dwelling Unit(s) on such Lot within the time period prescribed above, Declarant may charge Owner one and one-half (1.5) times the cost of the building permit(s) for the Improvements on the Lot for every month beyond the time period prescribed above that it takes Owner to achieve substantial completion of the Dwelling Unit(s). For purposes of this Declaration, substantial completion shall mean the completion of construction to the extent that Owner can obtain a certificate of occupancy for the Dwelling Unit(s) on the Lot from the appropriate governing authority. Notwithstanding the foregoing, if the Owner of the MF Lot has completed at least one hundred-fifty (150) Dwelling Units thereon within the aforementioned two-year period, such Owner shall not be subject to the charges hereunder, so long as Owner diligently and continuously constructs the remaining Dwelling Units, until their completion.

c. Each Owner agrees that all construction activities performed by it within the Subdivision shall be performed in compliance with all applicable laws, rules, regulations, orders, and ordinances of the City, Platte County, State of Nebraska, and federal government, or any department or agency thereof. All construction shall utilize new materials, and shall be performed in a good, safe, and workmanlike manner, in accordance with the then-current building requirements imposed by the City.

d. Each Owner agrees that its construction activities shall not:

i. Unreasonably interfere with the use, occupancy or enjoyment of any part of the other Lots owned by any other Owner; or

ii. Unreasonably interfere with the construction work being performed on any part of the other Lots.

e. Installation of entrance signs or related fixtures, as well as any median landscaping and related fixtures, if any, shall be undertaken by Owner, at Owner's cost. Plans for such proposed Improvements located in public rights-of-way shall be submitted to Declarant in the same manner as other Improvement Plans under Section 2.1, above. In conjunction therewith, Owner must submit a proposed maintenance agreement to Declarant and/or the City for the Improvements within public rights-of-way. The City must approve, in writing, of any such maintenance agreement prior to the installation of any such Improvements.

f. In connection with any construction, reconstruction, repair or maintenance on a Lot, the Owner of the Lot shall have the right to create a temporary staging and/or storage area on its Lot at such location as will not unreasonably interfere with the Owners of other Lots.

Section 3.3. Construction Requirements and Restrictions Applicable to all Lots. All Owners shall comply with and satisfy the following requirements as part of the construction of the initial Dwelling Units on each of the Unimproved Lots within the Subdivision:

a. Owner shall extend water and sanitary sewer service lines from the public rights-of-way onto the Lots, at locations shown on **Exhibit C-1**, attached hereto and incorporated herein.

b. Owner shall extend driveways from the public rights-of-way onto the Lots, at locations shown on **Exhibit C-2**, attached hereto and incorporated herein.

c. Owner shall obtain all permits and governmental approvals necessary or required to construct the Improvements on a Lot.

d. Without prior written approval by the City, Owner shall not permit any sewer lines or sewers outside the boundaries of the Subdivision to connect to the sewer or sewer lines of the Subdivision, any sewers of the City, any outfall sewer of the City, or any sewage treatment plant of the City. The City shall have exclusive control over connections to its sewers whether inside or outside the boundaries of the Subdivision.

e. Before connecting a Dwelling Unit to the City's sewer system, a permit shall be obtained for said Dwelling Unit, and its connection to the City's sewer system, it being expressly understood that the City maintains the right to collect all connection charges and fees as required by City ordinances or rules now or hereafter in force; and that all such connections shall comply with minimum standards prescribed by the City.

f. Owner shall install concrete sidewalks at 4-foot wide, 4-inches thick, except at driveways, which shall be 6-inches thick in accordance with the American's with Disability Act and City code.

g. Owner shall install a mailbox adjacent to the public right-of-way on each Lot for all Dwelling Units within the Lot. For Lots which encompass more than one (1) Dwelling Units, the mailboxes may be combined at a single location.

h. Owner shall not disturb any grading undertaken by Declarant prior to conveyance of the Lot for the purpose of stormwater drainage, and shall maintain the same as part of its construction of Improvements. Sufficient sediment control measures, including, but not limited to, installation and maintenance of sill fences, straw bale fences, storm water inlet protection and temporary seeding, to the extent deemed reasonably necessary by Declarant, shall be taken by the Owner to ensure that all sediment resulting from any land disturbance or construction operation is retained on the Lot in question. All sediment control measures must be maintained until such Lot has been permanently stabilized with respect to soil erosion. Owner shall be solely responsible for the cost of any erosion control measures. Owner shall not materially change the grade or contour of any Lot and shall control the flow of surface water from its Lot so not to interfere with the drainage of any adjoining or downstream Lot.

i. Owner shall install an underground sprinklers and sod for each Lot.

j. Unless otherwise approved by the City, the maximum grade elevation at the residential building setback line for a Dwelling Unit shall be a slope between four percent (4%) and six percent (6%), as calculated from the top of the pavement curb or edge of roadway to the building setback.

k. With respect to the reconstruction or refurbishment of any Improvement, due to casualty or otherwise, the reconstructed or refurbished Improvements shall be of a substantially similar type, nature, and design as the preexisting Improvements on such Lot.

Section 3.4. Construction Requirements and Restrictions Applicable to Specific Lots.

a. With respect to the SF Lots adjacent to 8th Street, driveway access must be from the northern end of the Lot with no access from 8th Street.

b. Driveway access for Lots 1 and 2, Block C, Vitality Village Subdivision (as shown on the Plat), shall be from the northern end of the Lots with no access from 8th Street.

c. As part of the initial Improvements on the Unimproved Lots, Owner(s) of the Rowhome Lots shall install an 8-foot wide, 6-inch thick, concrete trail along the frontage of Lots 3 and 4, Block A, Vitality Village Subdivision (as shown on the Plat), in accordance with the American's with Disability Act and per City code, all being subject to the City's oversight and approval. Such Owner(s) shall dedicate the same, either in fee simple or via perpetual easement, to the City for public use and enjoyment.

d. Unless otherwise agreed to by the City, the MF Lot shall be limited to two driveway access points from 8th Street at pre-approved locations in accordance with City code.

e. As part of the initial Improvements on the MF Lot, Owner shall construct and maintain post-construction stormwater treatment and detention facilities with overflow discharge piping to 8th Street storm sewer system, all in accordance with City code, and subject to City approval.

f. As part of construction of the initial Improvements on an Unimproved Lot: (i) at least one (1) tree shall be planted by Owner in the front yard of each SF Lot and Townhome Lot; and (ii) at least one (1) tree per every 100 linear feet shall be planted adjacent to the public rights-of-way on each Rowhome Lot and MF Lot. The diameter of the trunk for all such required trees must be at least one-inch in diameter at the time of planting. The type, size, and location of such trees shall be detailed in the Plans submitted under Section 3.1, above, and subject to Declarant's approval.

Section 3.5. Due Diligence in Construction. Once construction of Improvements on a Lot has commenced, such Improvements shall be undertaken in a reasonably diligent and workmanlike manner, until completion, without undue delay or stoppages.

Section 3.6. Damage and Destruction Dwelling Units; Duty to Rebuild. If all or any portion of a Lot or any Dwelling Unit on any such Lot is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Lot to rebuild, repair or reconstruct the Lot and the Dwelling Unit(s) thereon in a manner which will restore them to a condition reasonably-similar to that which existed prior to the casualty. The Owner of any Lot on which a damaged Dwelling Unit is located shall be obligated to proceed with all due diligence hereunder, and such Owner shall cause cleanup and removal and/or reconstruction to commence within six (6) months after the damage occurs and to be

completed within eighteen (18) months after damage occurs, unless prevented by causes beyond its reasonable control.

Section 3.7. Disclaimer of Liability. Declarant, together with its agents, officers or employees, shall not be liable in any way for any damage, loss or prejudice suffered or claimed by an Owner or any other Person who submits Plans to Declarant or seeks Declarant's approval with respect to any Improvements. In accordance therewith, the Owners and such other relevant Persons shall forever defend, indemnify and hold the Declarant and Declarant's employees, officers and agents harmless from all damage, loss or liability (including reasonable attorneys' fees) suffered or claimed by any third party on account of (i) any defects in any submitted Plans, or revised or approved in accordance with the foregoing provisions, or for any structural or other defects in any work done according to such Plans; (ii) the approval or disapproval of any Plans, whether or not defective; (iii) the construction or performance of any work, whether or not pursuant to approved Plans; or (iv) the development of any Lot within the Subdivision. Approval of the Plans or any other approval or consent by Declarant hereunder shall not be an indication of approval or waiver of any requirements with respect to applicable building and construction laws or codes and shall not subject the City or Declarant to any liability to any Person for any purpose whatsoever. Notwithstanding any provision hereunder to the contrary, or any omission herein, all Improvements must be made in compliance with all applicable local, state and federal building and construction laws and codes.

ARTICLE IV
EASEMENTS AND OTHER ENTITLEMENTS

Section 4.1. Utilities. To the extent necessary, Owners shall cooperate in the granting of appropriate and proper temporary and perpetual easements for the installation, repair and replacement of storm drains, sewers, utilities and other proper services necessary for the orderly development and preservation of the Subdivision. No such storm drains, utilities or services of an Owner required on its Lot shall be installed within the building areas on any other Owner's Lot.

Section 4.2. Surface Water. Each Owner hereby grants and conveys to the Owner owning an adjacent Lot the perpetual right and easement to discharge surface storm drainage and/or runoff from the grantee's Lot over, upon and across the unimproved portion of the grantor's Lot, provided, however, no Owner shall alter or permit to be altered the elevation or the surface of its Lot or the drainage/retention system constructed on its Lot if such alteration would materially increase the flow of surface water onto the adjacent Lot either in the aggregate or by directing the flow of surface water to a limited area.

Section 4.3. Connection to City's Sewer. Subject to the conditions and provisions hereinafter specified, an Owner shall be entitled to connect its sewer system to the sewer system of the City in such manner and at such place(s) designated on the approved Plans. Notwithstanding the foregoing, the City shall retain the right to disconnect a Lot's sewer from its system if such Lot is discharging into the City's sewer system in violation of any applicable ordinance, statute, rule, or regulations.

ARTICLE V
PUBLIC IMPROVEMENTS

With respect to any infrastructure or public improvements undertaken by Declarant within the Subdivision, Declarant makes no warranties or representations that such improvements are committed to or developed for any particular use with respect to the Lots; and Declarant shall have no liability in relation to the same. Owners', or Owners' predecessors', as the case may be, purchase and acceptance of their respective Lot(s) constituted an unconditional acceptance and approval of the improvements undertaken by Declarant for such Owners' intended purpose; and in accordance therewith, the Owners warrant and agree to hold Declarant harmless from and against any claims, liabilities, and damages arising from or related to such improvements.

ARTICLE VI
RESERVED RIGHTS OF DECLARANT

Declarant shall possess and maintain the following rights notwithstanding any provision to the contrary in this Declaration:

Section 6.1. Right to Complete Development of the Subdivision. Prior to Declarant's conveyance of all Lots within the Subdivision to third-party Owners, Declarant shall have, and hereby reserves, the right (i) to subdivide or re-subdivide or otherwise split or combine any portion of the Subdivision or otherwise to complete development of Lots; (ii) to construct or alter Improvements on any Lot owned by Declarant; and (iii) to excavate, cut, fill or grade any Lot owned by Declarant, or to construct, alter, demolish or replace or renovate any Improvements owned by Declarant, or to alter its construction plans or design or to rezone or amend its master plan or any development documents agreed to by Declarant and the City, and to permit any activity, use or improvement by Declarant on any Lot owned by Declarant.

Section 6.2. Declarant's Right to Grant Additional Easements. Declarant shall have, and hereby reserves the right to grant or create, temporary or permanent easements from time to time for construction, access, utilities, drainage and other purposes for the development and sale of the Subdivision in, on, under, over and across any Lots or other portion of the Subdivision owned by Declarant and/or any public rights-of-way within the Subdivision. The foregoing notwithstanding, the Declarant shall not grant an easement which materially and adversely impairs the use of any Lot not owned by Declarant for the purposes originally intended.

Section 6.3. Amending Plat. Declarant shall have, and hereby reserves, the right to record amendments to the Plat from time to time. Each Owner of a Lot (whether conveyed by metes and bounds description prior to the recording of a Plat, or as a platted Lot after the recording thereof) shall promptly upon receipt approve and sign any such Plat or consent to Plat and shall promptly return the same to Declarant, provided that

such Plat does not alter the size or configuration of said Owner's Lot or adversely affect ingress or egress to or from such Owner's Lot.

Section 6.4. Control over Construction of Initial Improvements. Declarant shall have the unilateral authority to amend and supplement the provisions of Article II and Article III of this Declaration, until a Dwelling Unit has been constructed on each Lot within the Subdivision; provided that such amendments/supplements shall not unduly burden or place additional covenants, conditions, restrictions or easements on another Lot not owned by Declarant, or bring the same into violation with this Declaration that was conforming prior to such amendment/supplement.

Section 6.5. Reserved Rights Do Not Create Obligations. Anything in this Declaration to the contrary notwithstanding, the reserved rights in favor of Declarant hereunder shall not in any way be construed as creating any obligation on the part of Declarant to exercise any such rights or to perform any of the activities, construct any Improvements, convey any property or grant any easements referred to in this Declaration.

ARTICLE VII
ASSIGNMENT OR SURRENDER OF DECLARANT'S RIGHTS AND DUTIES

Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant from time to time, in its discretion, to any Person who will assume the duties of Declarant pertaining to the particular rights, powers and reservations assigned. Upon such assignment, any such Person assuming such duties (and its heirs, successors and assigns) shall have, to the extent of such assignment, the same rights and powers and shall be subject to the same obligations and duties as are given to and assumed by Declarant in this Declaration. Any assignment made under this Article shall be in recordable form and shall be recorded in the Office of the Register of Deeds of Platte County, Nebraska. Notwithstanding any provision of this Declaration to the contrary, Declarant may, at any time and from time to time without the consent of the Owners, temporarily or permanently relieve itself of all or a portion of its rights and obligations under this Declaration by filing in the Register of Deeds of Platte County, Nebraska, a notice stating that Declarant has surrendered the rights and obligations specified therein, and upon the recording of such notice, said powers and obligations so specified shall immediately terminate.

ARTICLE VIII
LOT RE-SALES AND BUYBACK

Section 8.1. Applicability of Lot Re-Sales. Except for sales and conveyances by Declarant, no Unimproved Lot may be sold by any Owner except in compliance with the provisions of this Article VIII.

Section 8.2. Right of First Refusal.

a. Rights and Obligations. Before any Unimproved Lot (or any part thereof) may be sold by or to any Person other than Declarant, the Owner of such Unimproved Lot shall first deliver to Declarant an offer in writing to sell the Unimproved Lot to Declarant or its successors (an "**Offer Notice**") for an amount equal to the original price paid from Owner to Declarant in exchange for such Unimproved Lot (the "**Original Purchase Price**"). The Offer Notice shall include the Owner's address, a copy of the bona fide offer to purchase the Unimproved Lot and shall indicate that Owner is offering the Lot for sale to Declarant pursuant to this right of first refusal. If Declarant or its successors does not accept or reject in writing said offer of sale within thirty (30) days from the date of receipt of the Offer Notice, then the Owner of such Unimproved Lot shall have the right to sell said Lot to the third party making the bona fide offer pursuant to and in accordance with the terms of such bona fide offer, without any further additional obligation to offer said Lot to Declarant. Declarant shall have this right of first refusal with regard to each bona fide offer an Owner receives for the purchase of an Unimproved Lot. Any Owner who buys an Unimproved Lot from another Owner shall be governed by the provisions of this Section 8.2 and the failure to exercise or rejection of the right of first refusal with respect to any Offer Notice shall not limit Declarant's rights of first refusal with respect to any subsequent proposed sale of any Unimproved Lot. This Section 8.2 shall not be applicable with respect to any foreclosure sale of a first lien deed of trust or first lien mortgage on a Lot or deed in lieu thereof which is made and delivered in good faith. In each instance where an Offer Notice is delivered to Declarant by an Owner, Declarant shall determine in its sole discretion and on a case by case basis whether to exercise its right of first refusal, and such determination may be made on such basis and for any reason as Declarant in its sole discretion shall choose. Should an Owner fail to comply with the provisions of this Section 8.2 and sell an Unimproved Lot without delivering an Offer Notice to Declarant in accordance with the terms hereof, then the purchaser of such Lot shall purchase such Lot subject to the right of first refusal herein granted, and Declarant shall thereafter at any time have the right to purchase such Lot according to the provisions of this Section 8.2, from the purchaser thereof for the Original Purchase Price, until the substantial completion of a Dwelling Unit on such Lot, at which point Declarant's rights under this Section 8.2 shall be of no further force or effect with respect to such Lot; except such rights shall be reinstated if such Lot subsequently becomes an Unimproved Lot. In addition to the foregoing, Declarant shall be entitled to any other rights and remedies available at law or in equity for the violation of this Section 8.2.

b. Death of Owner; Gifts. The personal representative, heirs, successors and assigns of any Owner who dies while owning an Unimproved Lot, or the donee of a gift of an Unimproved Lot from an Owner, shall become an Owner subject to the terms and conditions of this Declaration and any

subsequent sale, transfer and conveyance of such Lot shall be governed by the provisions of this Section 8.2.

c. Duties Upon Election. If Declarant exercises its right of first refusal pursuant to Section 8.2(a), above, the closing of the conveyance of such Lot shall occur within thirty (30) days after receipt by the Owner of written notice from Declarant or its successors that it elects to exercise its right of first refusal with respect to such Lot. At closing, Declarant shall make payment to such Owner of the Original Purchase Price. The Owner shall deliver to Declarant a warranty deed conveying fee simple marketable title to the Lot free and clear of all liens and encumbrances except those that existed at the time of the acquisition of the Lot by such Owner, the lien of ad valorem taxes for the current year and any other liens and encumbrances which may be approved by Declarant, in Declarant's sole and exclusive discretion. In the event the closing occurs after the death of an Owner, Declarant may, in its discretion, require the personal representative of the Owner to post such bonds or other assurances as Declarant may deem reasonable in order to protect Declarant from any loss which might be caused by the failure to pay any federal or state inheritance tax or the failure to pay the claims of any creditors who may have a lien on the Lot superior to Declarant's rights as a purchaser of said Lot.

d. Terms Binding. The right of first refusal reserved by Declarant in this Section 8.2 shall run with the title to each Lot in the Subdivision and be binding upon each purchaser of a Lot from Declarant and upon any subsequent Owner of a Lot, whether such Owner purchased such Lot from Declarant or from a third party. The provisions of this Section 8.2 shall constitute record notice to all purchasers of Lots in the Subdivision of the right of first refusal herein reserved, and no additional language in any deed of conveyance of a Lot and no recording of any additional instrument shall be required to make all Owners of Lots in the Subdivision subject to the provisions of this Section 8.2.

Section 8.3. Option to Purchase.

a. Rights and Obligations. Should any Lot remain an Unimproved Lot following the passage of six (6) calendar months from the date of closing of the initial transfer of a Lot from Declarant to a third-party Owner (the "**Purchase Option Date**"), irrespective of whether such Lot has been re-purchased by any subsequent Persons, Declarant shall have the right, but not the obligation, to purchase such Lot from the current Owner. Declarant may exercise such right for a period of three (3) years from the Purchase Option Date, or until commencement of construction of a Dwelling Unit on

the Lot, whichever occurs first. The price at which the Unimproved Lot may be purchased under this Section 8.3 shall equal ninety percent (90%) of the Original Purchase Price. If Declarant desires to purchase a Lot under the provisions of this Section 8.3, Declarant shall deliver to the Owner written notice of Declarant's intent to exercise its right under this Section 8.3 with respect to such Lot. Notwithstanding the foregoing, any extension of time for the construction of Improvements granted by Declarant to an Owner, in writing, shall act to extend the Purchase Option Date for an equal duration. Additionally, any delay in constructing the improvements caused by an event of Force Majeure (defined below) shall act to extend the Purchase Option Date for an equal duration.

b. Duties Upon Election. If Declarant exercises its right to purchase a Lot pursuant to Section 8.3(a), above, the closing and transfer of title shall occur in accordance with the same procedures and requirements as set forth in Section 8.2(c), above.

c. Terms Binding. The option to purchase reserved by Declarant in this Section 8.3 shall run with the title to each Lot in the Subdivision and be binding upon each purchaser of a Lot from Declarant and upon any subsequent Owner of a Lot, whether such Owner purchased such Lot from Declarant or from a third party. The provisions of this Section 8.3 shall constitute record notice to all purchasers of Lots in the Subdivision of the option to purchase reserved, and no additional language in any deed of conveyance of a Lot and no recording of any additional instrument shall be required to make all Owners of Lots in the Subdivision subject to the provisions of this Section 8.3.

ARTICLE IX
REMEDIES AND ENFORCEMENT

Section 9.1. All Legal and Equitable Remedies Available. In the event of a breach or threatened breach by any Owner or other Person of any of the terms, covenants, restrictions or conditions hereof, the Declarant or the Owner(s) shall be entitled forthwith to full and adequate relief by injunction and/or all such other available legal and equitable remedies from the consequences of such breach, including specific performance.

Section 9.2. Self-Help. In addition to all other remedies available at law or in equity, upon the failure of a defaulting Owner to cure a breach of this Declaration within thirty (30) days following written notice thereof by the Declarant or an Owner (unless, with respect to any such breach the nature of which cannot reasonably be cured within such 30-day period, the defaulting Owner commences such cure within such 30-day period and thereafter diligently prosecutes such cure to completion), Declarant or any Owner shall have the right to perform such obligation contained in this Declaration on behalf of such defaulting Owner and be reimbursed by such defaulting Owner upon demand for the reasonable costs thereof together with interest at twelve percent (12%) per annum,

or the highest rate permitted under applicable law, whichever is less. Notwithstanding the foregoing, in the event of (i) an emergency or (ii) blockage or material impairment of the easement rights, the Declarant or an Owner may immediately cure the same and be reimbursed by the defaulting Owner upon demand for the reasonable cost thereof together with interest at the rate specified in this paragraph above.

Section 9.3. Lien Rights. Any claim for reimbursement, including interest as aforesaid, and all costs and expenses including reasonable attorneys' fees awarded to Declarant or any Owner in enforcing any payment in any suit or proceeding under this Declaration shall be assessed against the defaulting Owner in favor of the prevailing party and shall constitute a lien (an "**Assessment Lien**") against the Lot of the defaulting Owner until paid, effective upon the recording of a notice of lien with respect thereto in the Office of the Register of Deeds of Platte County, Nebraska; provided, however, that any such Assessment Lien shall be subject and subordinate to (i) liens for taxes and other public charges which by applicable law are expressly made superior, (ii) all liens recorded in the land records for Platte County, Nebraska, prior to the date of recordation of said notice of lien, (iii) all leases entered into, whether or not recorded, prior to the date of recordation of said notice of lien; and (iv) all first mortgages or deeds of trust recorded at any time on the Lots. Except as set forth above, all liens recorded subsequent to the recordation of the notice of lien described herein shall be junior and subordinate to the Assessment Lien. Upon the timely curing by the defaulting Owner of any default for which a notice of lien was recorded, the party recording same shall record an appropriate release of such notice of lien and Assessment Lien.

Section 9.4. Remedies Cumulative. The remedies specified herein shall be cumulative and in addition to all other remedies permitted at law or in equity.

Section 9.5. No Termination for Breach. Notwithstanding the foregoing to the contrary, no breach hereunder shall entitle Declarant or any Owner to cancel, rescind, or otherwise terminate this Declaration. No breach hereunder shall defeat or render invalid the lien of any mortgage or deed of trust upon any Lot made in good faith for value, but the easements, covenants, conditions and restrictions hereof shall be binding upon and effective against any Owner of such Lot covered hereby whose title thereto is acquired by foreclosure, trustee's sale, or otherwise.

ARTICLE X
MISCELLANEOUS

Section 10.1. Declarant's Disclaimer. Declarant makes no warranties or representations that the plans presently envisioned for the development of the Subdivision can or will be carried out, or that any Lot is or will be committed to or developed for any particular use. In addition, while Declarant has no reason to believe that any of the provisions of this Declaration are or may be unenforceable, Declarant makes no representations as to enforceability. Declarant shall have no liability for the development of the Subdivision or the enforcement of this Declaration.

Section 10.2. Term and Amendment.

a. This Declaration, and all covenants, conditions, and restrictions herein shall continue and remain in full force and effect for a ninety (90) year period under Nebraska Revised Statutes section 76-2002.

b. Except as otherwise set forth under Article VI, above, and subsections (c) and (d), below, Declarant and all current Owners may only modify, amend or terminate this Declaration by a written amendment signed by all current Owners.

c. Notwithstanding the foregoing, this Declaration may be modified or amended via a written amendment signed by all current Owners of the MF Lot, Townhome Lots, and Rowhome Lots, without written consent or execution of the Owners of the SF Lots, if such modifications or amendments do not materially impact the SF Lots, or the rights or obligations of the Owners of the SF Lots, hereunder.

d. Notwithstanding the foregoing, this Declaration may be unilaterally modified or amended by Declarant via a written amendment, without written consent or execution of the Owners of the MF Lot, Townhome Lots, and SF Lots, if: (i) such amendment relates to the Rowhome Lots only; (ii) such amendment does not have a material and adverse effect on the MF Lot, Townhome Lots, SF Lots, or the Owners thereof; and (iii) all Rowhome Lots are owned by Declarant at the time of such amendment.

Section 10.3. Declaration Shall Continue Notwithstanding Breach. Owners expressly agree that a breach of this Declaration shall not: (i) entitle any party to cancel, rescind, or otherwise terminate this Declaration, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value.

Section 10.4. Force Majeure. For the purpose of any provisions of this Declaration, Declarant and Owners, or their successors or assigns, shall not be considered in breach or default of their obligations hereunder in the event of delay in the performance of such obligations due to causes beyond their reasonable control and without their fault (referred to herein as "**Force Majeure**"), including acts of God, acts of the public enemy, act of the federal or state government, fires, floods, epidemics, pandemics, quarantine restrictions, strikes, freight embargoes, or delays of contractors, or subcontractors due to such causes (financial incapacity of Owners, contractors or subcontractors excepted); it being the purpose and intent of this Section 10.4 that in the event of the occurrence of any such delay due to an event of Force Majeure, the time for performance of the obligations of delayed Person shall be extended for the period of delay, provided that in order to obtain the benefit of the provisions of this Section 10.4, the Person seeking the benefit shall, within twenty (20) days after the beginning of any such delay, notify the other affected Persons hereunder, in writing, and of the cause(s) thereof.

Section 10.5. Affordability Covenants; How Construed. The Subdivision is further encumbered by those certain Declaration of Affordability Covenants and Restrictions filed by Declarant (the "**Affordability Covenants**"). It is the intent of Declarant that, for the purpose of giving full and proper effect to this Declaration, the Affordability Covenants and this Declaration shall, to the extent applicable, supplement one another, be read together and construed harmoniously. Notwithstanding the foregoing, to the extent the terms of the Affordability Covenants expressly, directly and irreconcilably conflict with the terms of this Declaration, the terms of this Declaration shall supersede and control with respect to such conflicting terms

Section 10.6. Notices. Any notices, requests or other communications hereunder shall be in writing and shall be delivered by: (i) a widely-recognized national overnight courier service (subject to a written confirmation thereof), (ii) mailed by United States registered or certified mail, return receipt requested, postage prepaid or (iii) hand-delivery, and addressed to each Owner at such Owner's address in the Subdivision, and to the Declarant at its address as set forth below:

If to Owner, deliver such notice to the address of record in the Platte County Register of Deeds Office at the time of the Effective Date.

If to Declarant:

City of Columbus, Nebraska
c/o City Administrator
2500 14t Street, Suite 3
P.O. Box 1677
Columbus, NE 68602

Any such notice, request or other communication shall be considered given or delivered, as the case may be, on the date of overnight courier delivery, upon deposit in the United States mail or upon delivery if hand-delivered. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication. Any party may from time to time at any time change its mailing address hereunder upon providing written notice to the other party.

Section 10.7. Rule Against Perpetuities. If the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective being contrary to applicable law or prohibited by the "rule against perpetuities" or any similar law, then in that event only the term hereof shall be reduced to the maximum period of time which does not violate such law or the rule against perpetuities as set forth in the laws of the State of Nebraska.

Section 10.8. Waiver. No delay or omission in exercising any rights, power or remedy herein provided, in the event of any breach of the restrictive covenants herein contained, shall be construed as a waiver thereof or acquiescence therein.

Section 10.9. Severability. If any part or provision of this Declaration is declared for any reason by a court of competent jurisdiction to be null and void, the judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the other parts and provisions of this Declaration not specifically declared to be void or unenforceable, but all of the remaining provisions of this Declaration not expressly held to be void or unenforceable shall continue unimpaired and in full force and effect.

Section 10.10. Beneficiaries. Owners benefit from the covenants, conditions, restrictions and easements set forth in this Declaration. Owners maintains the right to enforce the terms of this Declaration by injunction or other legal or equitable procedure, and to recover damages resulting from any violation thereof, including the cost of enforcing the same, which costs shall include court costs and reasonable attorneys' fees as permitted by law.

Section 10.11. Relationship of the Parties. Nothing contained herein shall be construed or interpreted as creating a partnership, joint enterprise or joint venture between or among the parties contemplated hereunder. It is understood that the relationship between the parties contemplated hereunder is an arms-length one that shall, at all times, be and remain that of separate owners of real property. Neither Declarant nor Owners may act for or on behalf of another party, as agent or otherwise, unless expressly authorized to do so by separate written instrument signed by the party to be charged or bound, except as otherwise specifically provided herein.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, this Declaration is executed as of the date shown in the notary block below.

DECLARANT:

Community Development Agency
of the City of Columbus, Nebraska

By: _____
James Bulkley, as Chairperson (Mayor)

ATTEST:

_____
Shuraya Choat, Secretary (City Clerk)

STATE OF NEBRASKA)
) ss.
COUNTY OF PLATTE)

The foregoing instrument was acknowledged before me this ____ day of _____ 20___, by James Bulkley, in his capacity as Chairperson, and Shuraya Choat, in her capacity as Secretary, of the Community Development Agency of the City of Columbus, Nebraska.

_____
Notary Public
My commission expires: _____

EXHIBIT A

Legal Description of the Subdivision

Lots 1-4, Block A, and Lots 1-10, Block B, and Lots 1 and 2, Block C, and Lot 1, Block D, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND

Lots 1-7, Block A, and Lots 1-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska.

EXHIBIT B

Plat

(See Attached)

FINAL PLAT

VITALITY VILLAGE ADDITION

A Subdivision of Part of The S1/2 SE1/4
Sec. 20, T17N, R1E of the 6th P.M., Platte County, Nebraska
Lying South and West of of the Southwesterly Right-of-Way line of the now abandoned C.B. & Q.R.R.

This plat was prepared at the request of the City of Columbus, Columbus NE

FIELD NOTES

NW Corner SW1/4 SE1/4 Sec. 20 T17N R1E: Found 1-1/2" iron pipe, bent over, as recorded on survey by Byron L. Willman, LS #316, dated August 11, 1989. Monument is also recorded on survey by Joseph J. Vetick, LS #500, on December 9, 2000. Perpetuated pipe with 5/8" x 24" iron bar with cap. Ties to the monument are more in line with the Willman survey.
26.95' NW to the southeast corner Leona Eilers head stone
10.88' NE to the southwest corner Bertha Eilers head stone
7.56' W to 1" iron pipe 0.6' deep (I believe this is corner of a cemetery plot)
59.98' E to 5/8" iron bar located at the edge asphalt near corner fence post
52.71' E to 5/8" iron bar in the middle of asphalt road

SW Corner SE1/4 Sec. 20 T17N R1E: Found 5/8" iron bar with aluminum cap in monument well in 8th Street as recorded on survey by Thomas A. Tremel, LS #455, dated August 20, 1996.
13.1' N to centerline concrete
14.74' N to 1" iron pipe in monument well
5.30' S to "X" nails in power pole
39.20' N to "X" nails in power pole

SW Corner SE1/4 SE1/4 Sec. 20 T17N R1E: Found star drill hole in concrete on the northeast side of monument well as recorded on survey by Joseph J. Vetick, LS #500, dated August 22, 1998.
0.45' SW to center of monument well
35.70' SW to "X" nails in power pole
58.34' NW to "X" nails in power pole
105.27' NE to "X" nails in power pole
On centerline 8th Street
45' W to centerline 7th Avenue south

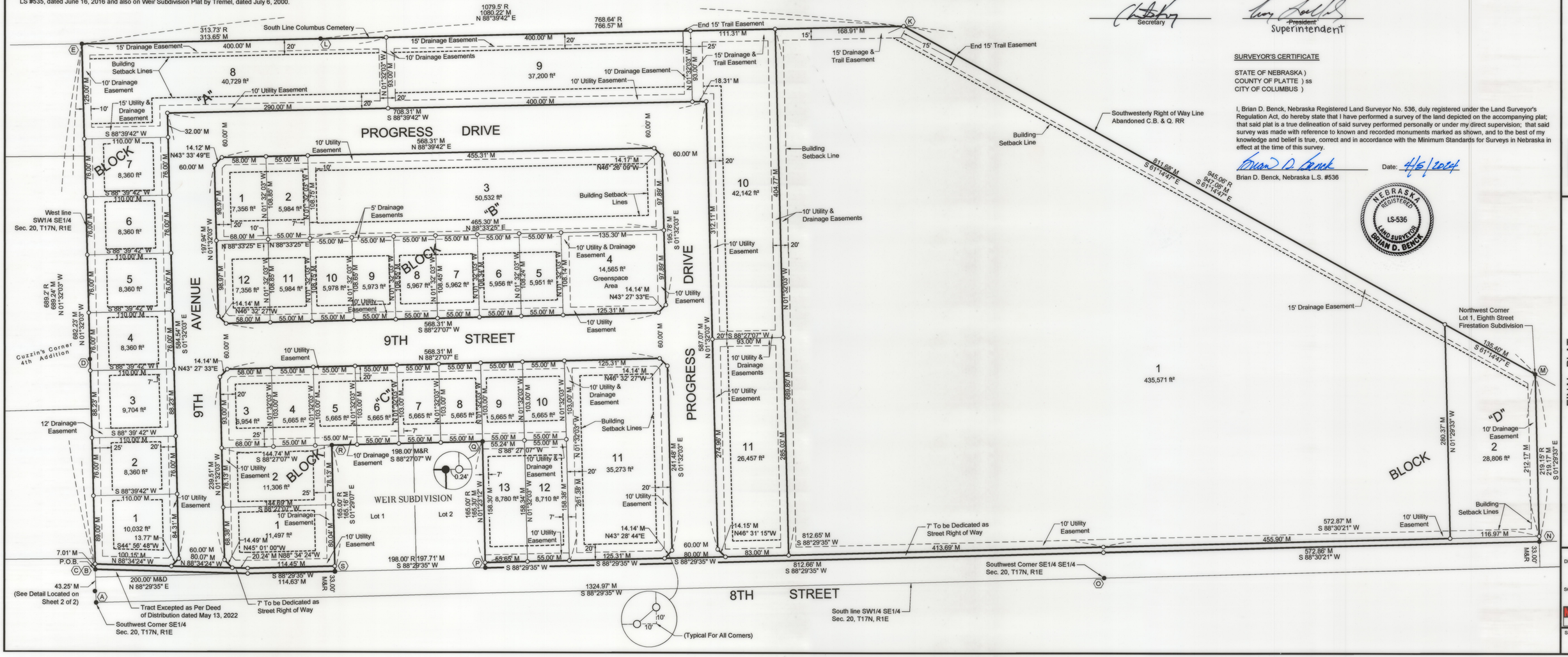
SE Corner SE1/4 Sec. 20 T17N R1E: Found aluminum cap in concrete as recorded on survey by Thomas A. Tremel, L.S. #455 dated February 27, 2007.
48.20' SW to "X" nails in power pole
47.51' SE to "X" nails in power pole
0.60' N to centerline 8th Street
1.1' E to centerline 3rd Avenue

At "A" found 1" iron pipe in monument well in 8th Street. At "B" found 5/8" iron bar as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. Found monument to be .11' E and .08' S of its recorded position. At "C" found 1-1/8" iron pipe 0.30' West of "B" as recorded. At "D" found 5/8" rebar with cap as recorded on Cuzzin's Corner 2nd Subdivision plat, by Thomas A. Tremel, LS #455, dated June 19, 2018. Found this monument to be 0.18' west of the West line SW1/4 SE1/4. At "E" found 1" iron pipe as recorded on Cuzzin's Corner 2nd Subdivision plat, by Thomas A. Tremel, LS #455, dated June 19, 2018. At "F" found 1-1/8" iron pipe as recorded on Cuzzin's Corner Subdivision Plat by Thomas A. Tremel, LS #455, dated January 26, 2012. At "G" found 1" iron pipe 0.6' deep located with in cemetery. I believe this is a cemetery plot corner and not to be confused with the NW Corner SW1/4 SE1/4 Sec 20, T17N, R1E. At "H" found 5/8" iron bar in asphalt road in cemetery 60.00' east of "G". This point is not to be confused with the 5/8" iron bar set by Willman in 1989. At "J" found 5/8" iron bar as recorded on survey Joseph J. Vetick, LS #500, dated December 9, 2000. Monument is located at the edge of asphalt road near corner fence post and is the same corner that Willman surveyed in 1989. At "K" found 5/8" rebar with cap as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. this monument was set as a witness to the actual corner which is recorded as being 2.00' east of witness and on the southeasterly right of way line of Burlington Northern Railroad now abandoned. I ran the right of way line as recorded by Vetick in May of 2002 and found the witness and the actual corner to not be on said line. I also ran the north line of the survey by Berry, dated June, 2016 and found the witness to not be on the extension of said line as surveyed. I disregard the witness corner. At "L" found 5/8" rebar with cap as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. Said point was set on the extension of line "F-E" as per survey. I found this monument to be 0.10' north of line. At "M", "N", and "O" found 1" iron pipe as recorded on survey by Joseph J. Vetick, LS #500, dated August 22, 1998. I found "N" to be 0.11' W and 0.29' N of the actual location of corner. At "P" found 1" iron pipe as recorded on Weir Subdivision Plat by Thomas A. Tremel, LS #455, dated July 6, 2000 and later by John V. Berry, LS #535, dated June 16, 2016. I found this monument to be .24' N of the north line 8th Street which is consistent with Tremel survey. At "Q", "R", and "S" found 1" iron pipe as recorded on survey by John V. Berry, LS #535, dated June 16, 2016 and also on Weir Subdivision Plat by Tremel, dated July 6, 2000.

LEGAL DESCRIPTION

A tract of land located in the South Half of the Southeast Quarter (S1/2 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, lying south and westerly of the south right-of-way line of the now abandoned C.B. & Q.R.R. right of way: EXCEPTING THEREFROM a tract of land in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, described as follows: Commencing at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), thence South along the West line thereof 591.4 feet; thence East 1079.5 feet to the South line of the right-of-way of the B. & M. R.R.; thence northwesterly along said South right-of-way line to the North line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); thence West along the North line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) approximately 59 feet to the place of beginning: FURTHER EXCEPTING THEREFROM a tract of land located in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, described as follows: Beginning at an iron pipe 314.7 feet East and 33 feet North of the South Quarter (S1/4) corner of said Section Twenty (20); thence North to an iron pipe 165 feet on an angel of 90° with the South line of said Section Twenty (20); thence East parallel to the South line of said Section (20), 198 feet to an iron pipe; thence South 165 feet parallel to the West line of tract to an iron pipe; thence West parallel to South line of said Section Twenty (20) to the place of beginning, 198 feet: FURTHER EXCEPTING commencing at a point on the West line of the Southeast Quarter (SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, which is 43.25 feet North of the South Quarter (S1/4) corner of Section Twenty (20); thence south along the West line of the Southeast Quarter (SE1/4), a distance of 10.25 feet; thence East parallel to the South line of the Southeast Quarter (SE1/4) of Section Twenty (20), a distance of 200 feet; thence northwesterly on a straight line to the point of beginning: FURTHER EXCEPTING a tract of land located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, more particularly described as follows: Commencing at the Southeast Corner of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4); thence S 90°00'00" W, (on an assumed bearing), on the South Line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 751.85 feet; thence N 0°00'00" E, perpendicular to the South Line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 33.00 feet to the Point of Beginning; thence continuing N 0°00'00" E, 219.15 feet to a point on the Southwesterly Right-of-Way line of the abandoned Burlington Northern Railroad; thence S 59°44'55" E on the Southwesterly Right-of-Way line of said Railroad, 435.00 feet to a location on the North Right-of-Way line of Eighth Street, said location is 33.00 feet North of the South line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4); thence S 90°00'00" W, parallel with and 33 feet North of the South line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 375.75 feet to the point of beginning.
All of which is more particularly described as follows:

A tract of land located in the South Half of the Southeast Quarter (S1/2 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, lying south and westerly of the Southwesterly Right-of-Way line of the now abandoned C.B. & Q.R.R. right of way described as follows: Commencing at the Southwest Corner of the Southeast Quarter (SE1/4), Section 20, Township 17 North, Range 1 East of the 6th P.M., Platte County Nebraska and assuming the South Line of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of said Section 20 to have a bearing of S 88°29'35" W; Thence N 01°32'03" W and on the West line of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), said Section 20, 43.25 feet to the Point of Beginning; thence N 01°32'03" W, and on said West Line, 689.24 feet to a point on the South Line of Columbus Cemetery; thence N 88°39'42" E and on said South Line, 1080.22 feet to a point on the Southwesterly Right of Way Line of the now abandoned C.B. & Q.R.R. right of way; thence S 61°14'47" E and on said Southwesterly line, 947.08 feet to the Northwest Corner Lot 1, Eighth Street Firestation Subdivision to the City of Columbus, Platte County, Nebraska; thence S 01°29'33" E and on the West Line said Lot 1, 219.17 feet to the Southwest Corner said Lot 1, said point also being on the north right of way line Eighth Street (8th); thence S 88°30'21" W and on said north line, 572.86 feet; thence S 88°29'35" W and on said north line, 812.66 feet to the Southeast Corner Lot 2, Weir Subdivision to the City of Columbus, Platte County, Nebraska; thence N 01°23'12" W and on the east Line said Weir Subdivision, 165.30 feet to the Northeast Corner said Lot 2; thence S 88°27'07" W and on the north line said Weir Subdivision, 198.00 feet to the Northern Corner Lot 1 said Weir Subdivision; thence S 01°29'07"E and on the west line said Lot 1, 165.16 feet to the Southwest Corner said Weir Subdivision, said point also being on the North Right of way line Eighth Street (8th); thence S 88°29'35" W and on said North line, 114.63 feet; thence N 88°34'24" W and on said north line 200.27 feet to the Point of Beginning, containing 25.11 Acres more or less.



PLANNING COMMISSION

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS
CITY OF COLUMBUS)

This plat of VITALITY VILLAGE ADDITION to the City of Columbus, Platte County, Nebraska, approved by the Planning Commission this 8 day of April, 2024.

Thomas L. Pillen
Chairman

CITY COUNCIL

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS
CITY OF COLUMBUS)

The foregoing plat approved by the City Council of Columbus, Nebraska, by Resolution No. R24-42 duly passed by the City Council on the 15 day of April, 2024.

Attest:
Janelle Kline
City Clerk
SEAL
Jim Theilen
Mayor

SCHOOL DISTRICT

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS

The above plat approved by Columbus School District No. 71-0001, Platte County, Nebraska

Attest:
Secretary
President
Superintendent

SURVEYOR'S CERTIFICATE

STATE OF NEBRASKA)
COUNTY OF PLATTE) ss
CITY OF COLUMBUS)

I, Brian D. Benck, Nebraska Registered Land Surveyor No. 536, duly registered under the Land Surveyor's Regulation Act, do hereby state that I have performed a survey of the land depicted on the accompanying plat; that said plat is a true delineation of said survey performed personally or under my direct supervision; that said survey was made with reference to known and recorded monuments marked as shown, and to the best of my knowledge and belief is true, correct and in accordance with the Minimum Standards for Surveys in Nebraska in effect at the time of this survey.

Brian D. Benck
Brian D. Benck, Nebraska L.S. #536
Date: 4/5/2024

NEBRASKA REGISTERED LS-536 LAND SURVEYOR BRIAN D. BENCK

OWNER:
Nels Johnson
22355 Pine Hill Dr.
Gretna, NE 68028

ENGINEER:
Richard J. Bogus
City of Columbus
2500 14th Street
Columbus, NE 68602

SURVEYOR:
Brian D. Benck
City of Columbus
2500 14th Street
Columbus, NE 68602

N

0 30 60 120

LEGEND
● - Monument Found
O - Set 5/8" x 30" I.B. with Survey Cap
D - Deeded Distance
R - Recorded Distance
M - Measured Distance
Building Setback Line
Easement Line

R1E
T17N
20
SITUATION SKETCH

REVISIONS

2500 14TH STREET, SUITE 3
P.O. BOX 1677
COLUMBUS, NE 68602-1677
(402)-562-5039

CITY OF COLUMBUS NEBRASKA
ENGINEERING DEPARTMENT

FINAL PLAT
VITALITY VILLAGE ADDITION
to the City of Columbus
Platte County, Nebraska

DRN BY JML
4/4/2024
SCALE 1" = 60'

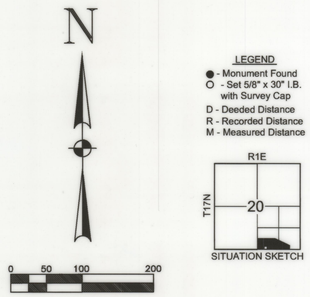
Nebraska 811 Know what's below. Call before you dig.

SHEET 1 of 2

FINAL PLAT

VITALITY VILLAGE ADDITION

A Subdivision of Part of The S1/2 SE1/4
Sec. 20, T17N, R1E of the 6th P.M., Platte County, Nebraska
Lying South and West of of the Southwesterly Right-of-Way line of the now abandoned C.B. & Q.R.R.



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58.34' NW to "X" nails in power pole
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47.51' SE to "X" nails in power pole
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1.1' E to centerline 3rd Avenue

At "A" found 1" iron pipe in monument well in 8th Street. At "B" found 5/8" iron bar as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. Found monument to be .11' E and .08' S of its recorded position. At "C" found 1-1/8" iron pipe 0.30' West of "B" as recorded. At "D" found 5/8" rebar with cap as recorded on Cuzzin's Corner 2nd Subdivision plat, by Thomas A. Tremel, LS #455, dated June 19, 2018. Found this monument to be 0.18' west of the West line SW1/4 SE1/4. At "E" found 1" iron pipe as recorded on Cuzzin's Corner 2nd Subdivision plat, by Thomas A. Tremel, LS #455, dated June 19, 2018. At "F" found 1-1/8" iron pipe as recorded on Cuzzin's Corner Subdivision Plat by Thomas A. Tremel, LS #455, dated January 26, 2012. At "G" found 1" iron pipe 0.6' deep located with in cemetery. I believe this is a cemetery plot corner and not to be confused with the NW Corner SW1/4 SE1/4 Sec 20, T17N, R1E. At "H" found 5/8" iron bar in asphalt road in cemetery 60.00' east of "G". This point is not to be confused with the 5/8" iron bar set by Willman in 1989. At "J" found 5/8" iron bar as recorded on survey Joseph J. Vetick, LS #500, dated December 9, 2000. Monument is located at the edge of asphalt road near corner fence post and is the same corner that Willman surveyed in 1989. At "K" found 5/8" rebar with cap as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. this monument was set as a witness to the actual corner which is recorded as being 2.00' east of witness and on the southeasterly right of way line of Burlington Northern Railroad now abandoned. I ran the right of way line as recorded by Vetick in May of 2002 and found the witness and the actual corner to not be on said line. I also ran the north line of the survey by Berry, dated June, 2016 and found the witness to not be on the extension of said line as surveyed. I disregard the witness corner. At "L" found 5/8" rebar with cap as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. Said point was set on the extension of line "F-E" as per survey. I found this monument to be 0.10' north of line. At "M", "N", and "O" found 1" iron pipe as recorded on survey by Joseph J. Vetick, LS #500, dated August 22, 1998. I found "N" to be 0.11' W and 0.29' N of the actual location of corner. At "P" found 1" iron pipe as recorded on Weir Subdivision Plat by Thomas A. Tremel, LS #455, dated July 6, 2000 and later by John V. Berry, LS #535, dated June 16, 2016. I found this monument to be .24' N of the north line 8th Street which is consistent with Tremel survey. At "Q", "R", and "S" found 1" iron pipe as recorded on survey by John V. Berry, LS #535, dated June 16, 2016 and also on Weir Subdivision Plat by Tremel, dated July 6, 2000.

LEGAL DESCRIPTION

A tract of land located in the South Half of the Southeast Quarter (S1/2 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, lying south and westerly of the south right-of-way line of the now abandoned C.B. & Q.R.R. right of way: EXCEPTING THEREFROM a tract of land in the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, described as follows: Commencing at the Northwest corner of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), thence South along the West line thereof 591.4 feet; thence East 1079.5 feet to the South line of the right-of-way of the B. & M. R.R.; thence northwesterly along said South right-of-way line to the North line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4); thence West along the North line of said Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) approximately 59 feet to the place of beginning: FURTHER EXCEPTING THEREFROM a tract of land located in the Southeast Quarter of the Southeast Quarter (SW1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, described as follows: Beginning at an iron pipe 314.7 feet East and 33 feet North of the South Quarter (S1/4) corner of said Section Twenty (20); thence North to an iron pipe 165 feet on an angel of 90° with the South line of said Section Twenty (20); thence East parallel to the South line of said Section (20), 198 feet to an iron pipe; thence South 165 feet parallel to the West line of tract to an iron pipe; thence West parallel to South line of said Section Twenty (20) to the place of beginning, 198 feet; FURTHER EXCEPTING commencing at a point on the West line of the Southeast Quarter (SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, which is 43.25 feet North of the South Quarter (S1/4) corner of Section Twenty (20); thence south along the West line of the Southeast Quarter (SE1/4), a distance of 10.25 feet; thence East parallel to the South line of the Southeast Quarter (SE1/4) of Section Twenty (20), a distance of 200 feet; thence northwesterly on a straight line to the point of beginning: FURTHER EXCEPTING a tract of land located in the Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, more particularly described as follows: Commencing at the Southeast Corner of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4); thence S 90°00'00" W, (on an assumed bearing), on the South Line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 751.85 feet; thence N 0°00'00" E, perpendicular to the South Line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 33.00 feet to the Point of Beginning; thence continuing N 0°00'00" E, 219.15 feet to a point on the Southwesterly Right-of-Way line of the abandoned Burlington Northern Railroad; thence S 59°44'55" E on the Southwesterly Right-of-Way line of said Railroad, 435.00 feet to a location on the North Right-of-Way line of Eighth Street, said location is 33.00 feet North of the South line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4); thence S 90°00'00" W, parallel with and 33 feet North of the South line of said Southeast Quarter of the Southeast Quarter (SE1/4 SE1/4), 375.75 feet to the point of beginning.
All of which is more particularly described as follows:

A tract of land located in the South Half of the Southeast Quarter (S1/2 SE1/4) of Section Twenty (20), Township Seventeen (17) North, Range One (1), East of the 6th P.M., Platte County, Nebraska, lying south and westerly of the Southwesterly Right-of-Way line of the now abandoned C.B. & Q.R.R. right of way described as follows:
Commencing at the Southwest Corner of the Southeast Quarter (SE1/4), Section 20, Township 17 North, Range 1 East of the 6th P.M., Platte County Nebraska and assuming the South Line of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4) of said Section 20 to have a bearing of S 88°29'35" W; Thence N 01°32'03" W and on the West line of the Southwest Quarter of the Southeast Quarter (SW1/4 SE1/4), said Section 20, 43.25 feet to the Point of Beginning; thence N 01°32'03" W, and on said West Line, 689.24 feet to a point on the South Line of Columbus Cemetery; thence N 88°39'42" E and on said South Line, 1080.22 feet to a point on the Southwesterly Right of Way Line of the now abandoned C.B. & Q.R.R. right of way; thence S 61°14'47" E and on said Southwesterly line, 947.08 feet to the Northwest Corner Lot 1, Eighth Street Firestation Subdivision to the City of Columbus, Platte County, Nebraska; thence S 01°29'33" E and on the West Line said Lot 1, 219.17 feet to the Southwest Corner said Lot 1, said point also being on the north right of way line Eighth Street (8th); thence S 88°30'21" W and on said north line, 572.86 feet; thence S 88°29'35" W and on said north line, 812.66 feet to the Southeast Corner Lot 2, Weir Subdivision to the City of Columbus, Platte County, Nebraska; thence N 01°23'12" W and on the east Line said Weir Subdivision, 165.30 feet to the Northeast Corner said Lot 2; thence S 88°27'07" W and on the north line said Weir Subdivision, 198.00 feet to the Northwest Corner Lot 1 said Weir Subdivision; thence S 01°29'07"E and on the west line said Lot 1, 165.16 feet to the Southwest Corner said Weir Subdivision, said point also being on the North Right of way line Eighth Street (8th); thence S 88°29'35" W and on said North line, 114.63 feet; thence N 88°34'24" W and on said north line 200.27 feet to the Point of Beginning, containing 25.11 Acres more or less.

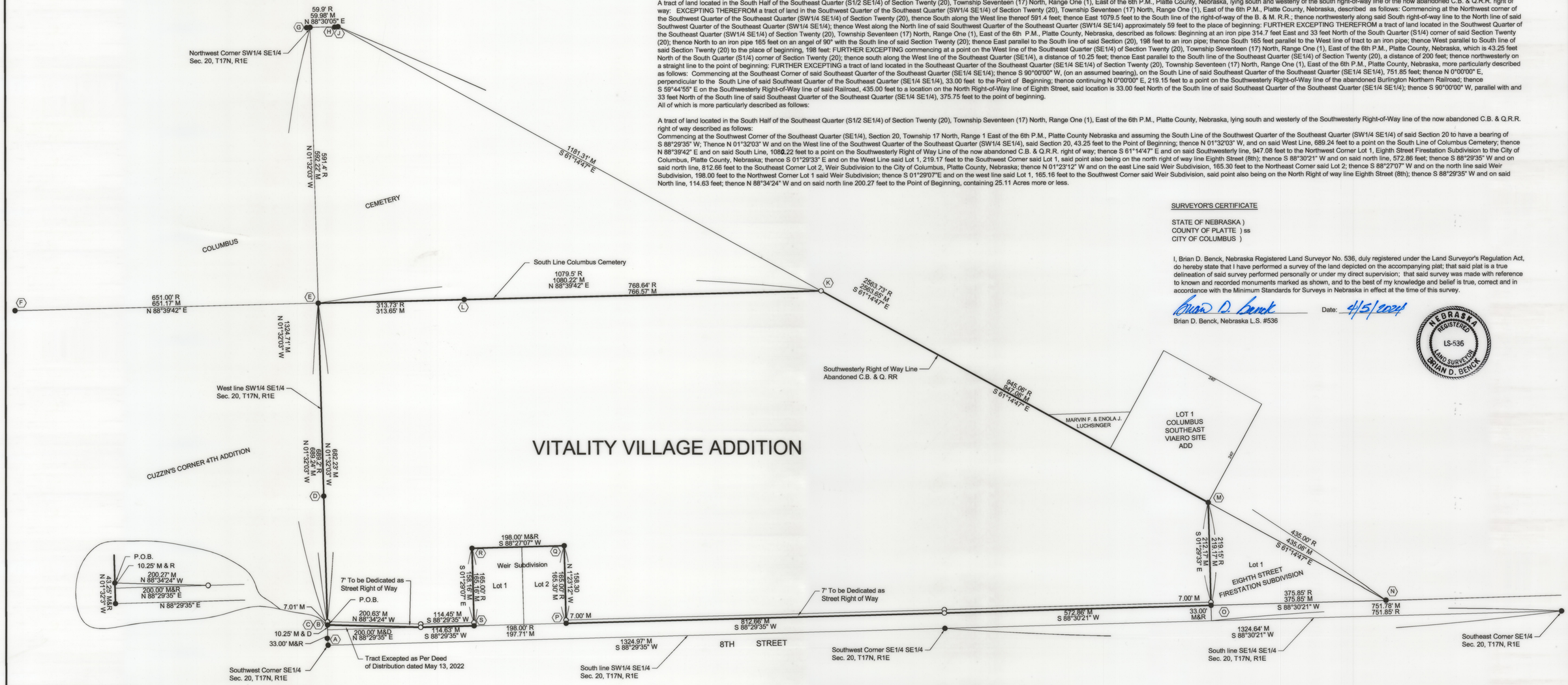
SURVEYOR'S CERTIFICATE

STATE OF NEBRASKA)
COUNTY OF PLATTE) ss
CITY OF COLUMBUS)

I, Brian D. Benck, Nebraska Registered Land Surveyor No. 536, duly registered under the Land Surveyor's Regulation Act, do hereby state that I have performed a survey of the land depicted on the accompanying plat; that said plat is a true delineation of said survey performed personally or under my direct supervision; that said survey was made with reference to known and recorded monuments marked as shown, and to the best of my knowledge and belief is true, correct and in accordance with the Minimum Standards for Surveys in Nebraska in effect at the time of this survey.

Brian D. Benck Date: 4/5/2024
Brian D. Benck, Nebraska L.S. #536

NEBRASKA REGISTERED LS-536 LAND SURVEYOR BRIAN D. BENCK



2500 14TH STREET, SUITE 3
P.O. BOX 187
COLUMBUS, NE 68602-1677
(402)-562-4309

THE CITY OF COLUMBUS NEBRASKA
ENGINEERING DEPARTMENT

REVISIONS

FINAL PLAT
VITALITY VILLAGE ADDITION
to the City of Columbus
Platte County, Nebraska

DRN BY JML
4/4/2024
SCALE 1" = 100'

Nebraska811 Know what's below. Call before you dig.

SHEET
2 of 2

This plat was prepared at the request of the City of Columbus, Columbus NE

FINAL PLAT

VITALITY VILLAGE SUBDIVISION

A Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B,
and Lots 9-13, Block C, and Lots 1 and 2 Block D, all in
Vitality Village Addition to the City of Columbus, Platte County, Nebraska,
along with that part of 9th Street and Progress Drive abutting said Lots.

FIELD NOTES

SW Corner SE1/4 Sec. 20 T17N R1E: Found 5/8" iron bar with aluminum cap in monument well in 8th Street as recorded on survey by Thomas A. Tremel, LS #455, dated August 20, 1996.
13.1' N to centerline concrete
14.74' N to 1" iron pipe in monument well
5.30' S to "X" nails in power pole
39.20' N to "X" nails in power pole

SW Corner SE1/4 SE1/4 Sec. 20 T17N R1E: Found star drill hole in concrete on the northeast side of monument well as recorded on survey by Joseph J. Vetick, LS #500, dated August 22, 1998.
0.45' SW to center of monument well
35.70' SW to "X" nails in power pole
58.34' NW to "X" nails in power pole
105.27' NE to "X" nails in power pole
On centerline 8th Street
45' W to centerline 7th Avenue south

SE Corner SE1/4 Sec. 20 T17N R1E: Found aluminum cap in concrete as recorded on survey by Thomas A. Tremel, L.S. #455 dated February 27, 2007.
48.20' SW to "X" nails in power pole
47.51' SE to "X" nails in power pole
0.60' N to centerline 8th Street
1.1' E to centerline 3rd Avenue

At "A" found 1" iron pipe as recorded on survey by Joseph J. Vetick, LS #500, dated August 22, 1998. At "B", "E", "F", "G", "H", "J", "K", "L", "M", "N", "O", "Q", "R", and "S" found 5/8" iron bar with survey cap as recorded on the final plat of Vitality Village Addition by myself, Brian D. Benck, LS #536, dated April 5th, 2024. At "C" found 5/8" rebar with cap as recorded on survey by John V. Berry, LS #535, dated June 16, 2016. At "D" found 1" iron pipe as recorded on Cuzzin's Corner 2nd Subdivision plat, by Thomas A. Tremel, LS #455, dated June 19, 2018. At "P" found 1" iron pipe as recorded on survey by John V. Berry, LS #535, dated June 16, 2016 and also on Weir Subdivision Plat by Tremel, dated July 6, 2000.

LEGAL DESCRIPTION

Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2 Block D, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska, along with that part of 9th Street and Progress Drive abutting said Lots, all of which is more particularly described as follows:

Beginning at the Southwest corner Lot 13, Block C, Vitality Village Addition to the City of Columbus, Platte County, Nebraska and assuming the West line of said Lot 13 to have a bearing of N 01°23'12" W; thence N 01°23'12" W, and on said West line 158.30 feet, to the Northwest corner said Lot 13; thence N 88°27'07" E, and on the North line said Lot 13, 0.24 feet to the Southwest corner Lot 9, said Block C; thence N 01°32'03" W, and on the West line said Lot 9, 103.00 feet to the Northwest corner said Lot 9, said point also being on the South line 9th Street; thence N 88°27'07" E, and on the South line 9th Street, 180.31 feet; thence N 01°32'03" W, 60.00 feet to a point on the North line 9th Street; thence S 88°27'07" W, and on the North line 9th Street, 531.31 feet; thence N 46°32'27" W, 14.14 feet to a point on the East line 9th Avenue; thence N 01°32'03" W, and on said East line 9th Avenue, 197.94 feet; thence N 43°33'49" E, 14.12 feet to a point on the South line Progress Drive; thence N 88°39'42" E, and on the South line said Progress Drive, 513.31 feet; thence N 01°32'03" W, 60.00 feet, to a point on the North line Progress Drive; thence S 88°39'42" W, and on the North line said Progress Drive, 583.30 feet to a point on the West line 9th Avenue; thence S 01°32'03" E, and on West line said 9th Avenue, 32.00 feet to the Northeast corner Lot 7, Block A, said Addition; thence S 88°39'42" W, and on the North line said Lot 7, 110.00 feet to the Northwest corner said Lot 7, said point also being on the West line SW1/4 SE1/4 Section 20, Township 17 North, Range 1 East of the 6th P.M., Platte County, Nebraska; thence N 01°32'03" W, and on said West line, 125.00 feet; thence N 88°39'42" E, 1080.22 feet to a point on the Southwesterly Right of Way Line of the Abandoned C.B.&Q. Rail Road; thence S 61°14'47" E, and on said Southwesterly line, 947.08 feet to the Northwest corner Lot 1, Eighth Street Fire Station Subdivision to the City of Columbus, Platte County, Nebraska; thence S 01°29'33" E, and on the West line said Lot 1, 212.17 feet to a point on the North line 8th Street, said point being 40.00 feet north of the South line SE1/4 SE1/4 said Section 20; thence S 88°30'21" W, and on said North line 572.87 feet; thence S 88°29'35" W, and on said North line 812.65 feet to the Point of Beginning, containing 19.84 acres more or less.

SURVEYOR'S CERTIFICATE

STATE OF NEBRASKA)
COUNTY OF PLATTE) ss
CITY OF COLUMBUS)

I, Brian D. Benck, Nebraska Registered Land Surveyor No. 536, duly registered under the Land Surveyor's Regulation Act, do hereby state that I have performed a survey of the land depicted on the accompanying plat; that said plat is a true delineation of said survey performed personally or under my direct supervision; that said survey was made with reference to known and recorded monuments marked as shown, and to the best of my knowledge and belief is true, correct and in accordance with the Minimum Standards for Surveys in Nebraska in effect at the time of this survey.

Brian D. Benck
Brian D. Benck, Nebraska L.S. #536

Date: 5/9/24

NEBRASKA REGISTERED LAND SURVEYOR BRIAN D. BENCK

PLANNING COMMISSION

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS
CITY OF COLUMBUS)

This plat of VITALITY VILLAGE SUBDIVISION to the City of Columbus, Platte County, Nebraska, approved by the Planning Commission this 13 day of May, 2024.

Chairman

CITY COUNCIL

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS
CITY OF COLUMBUS)

The foregoing plat approved by the City Council of Columbus, Nebraska, by Resolution No. R24-59 duly passed by the City Council on the 20 day of May, 2024.

Attest:
Shawna Fauendorfer, City Clerk

Mayor

SCHOOL DISTRICT

STATE OF NEBRASKA)
COUNTY OF PLATTE) SS

The above plat approved by Columbus School District No. 71-0001.
Platte County, Nebraska

Attest:
School Superintendent

N

0 30 60 120

LEGEND
- ● - Monument Found
- ○ - Set 5/8" x 30" I.B. with Survey Cap
- □ - Calculated Point (See Note Below)
- R - Recorded Distance
- M - Measured Distance
- ———— Easement Line

NOTE: Property corners from Vitality Village Addition had not been set at the time of this survey; therefore, the calculated corners on this plat wil not be set as referenced on the Final Plat of Vitality Addition

R1E
T17N
20
SITUATION SKETCH

OWNER:
Nels Johnson
22355 Pine Hill Dr.
Gretna, NE 68028

ENGINEER:
Richard J. Bogus
City of Columbus
2500 14th Street
Columbus, NE 68602

SURVEYOR:
Brian D. Benck
City of Columbus
2500 14th Street
Columbus, NE 68602

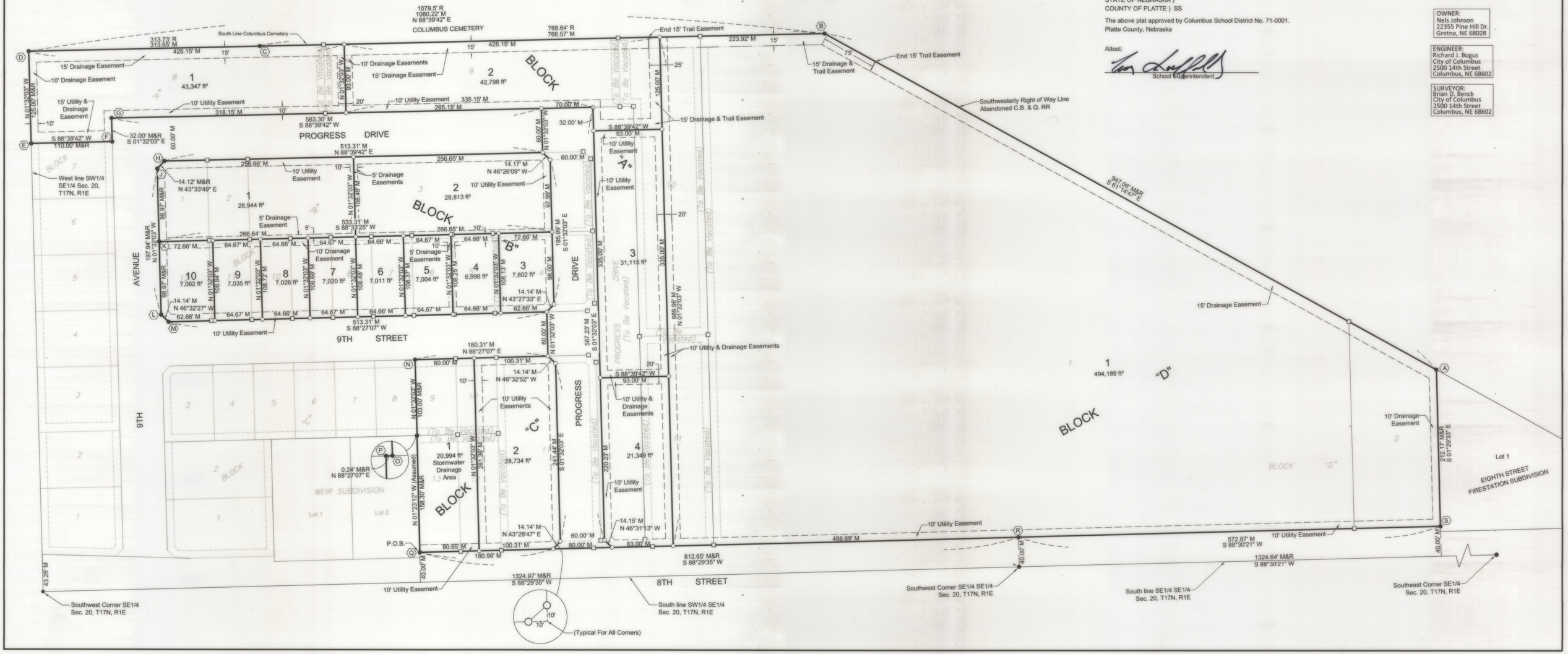
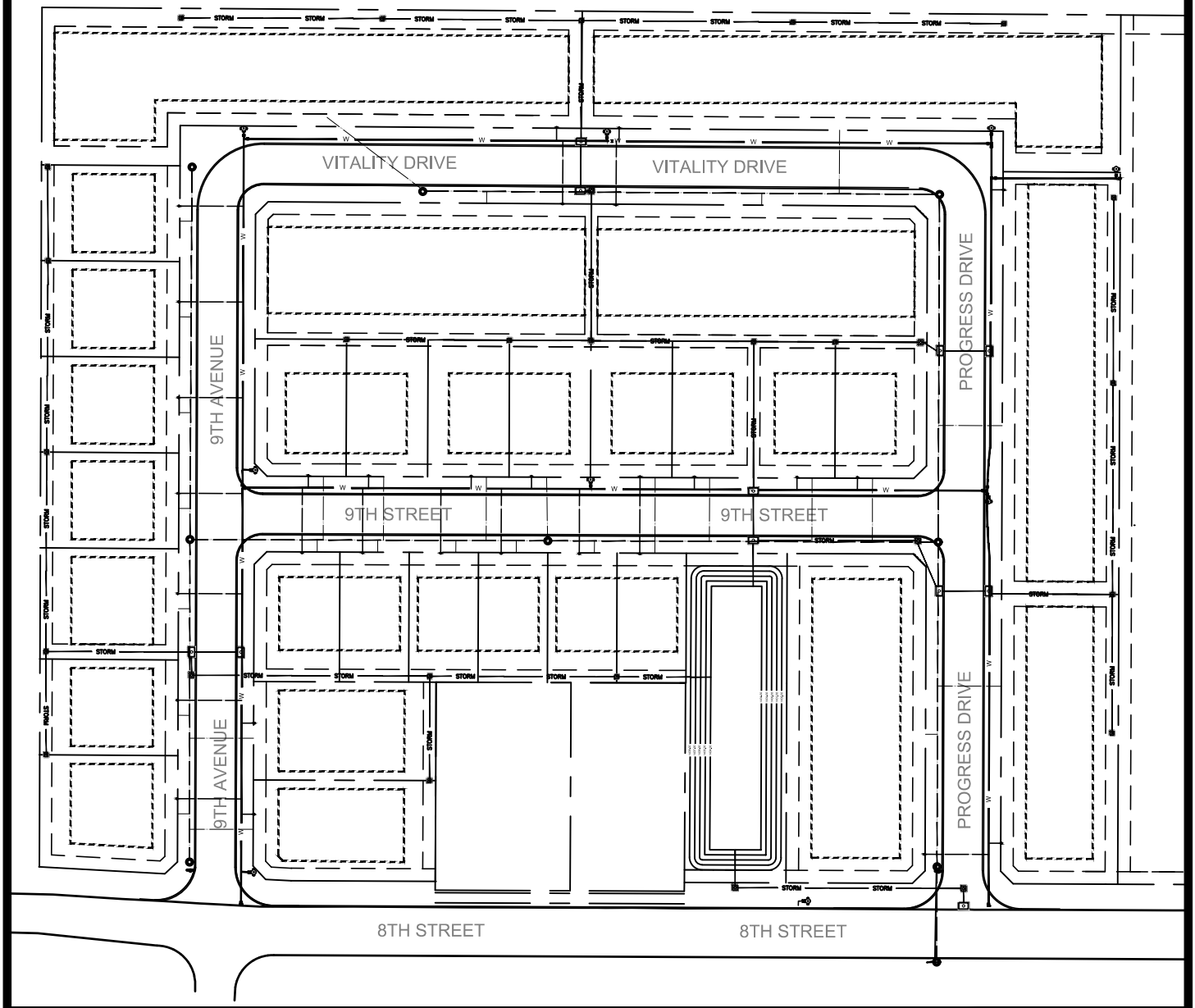


EXHIBIT C-1

(See Attached)

VITALITY VILLAGE SUBDIVISION



LEGEND

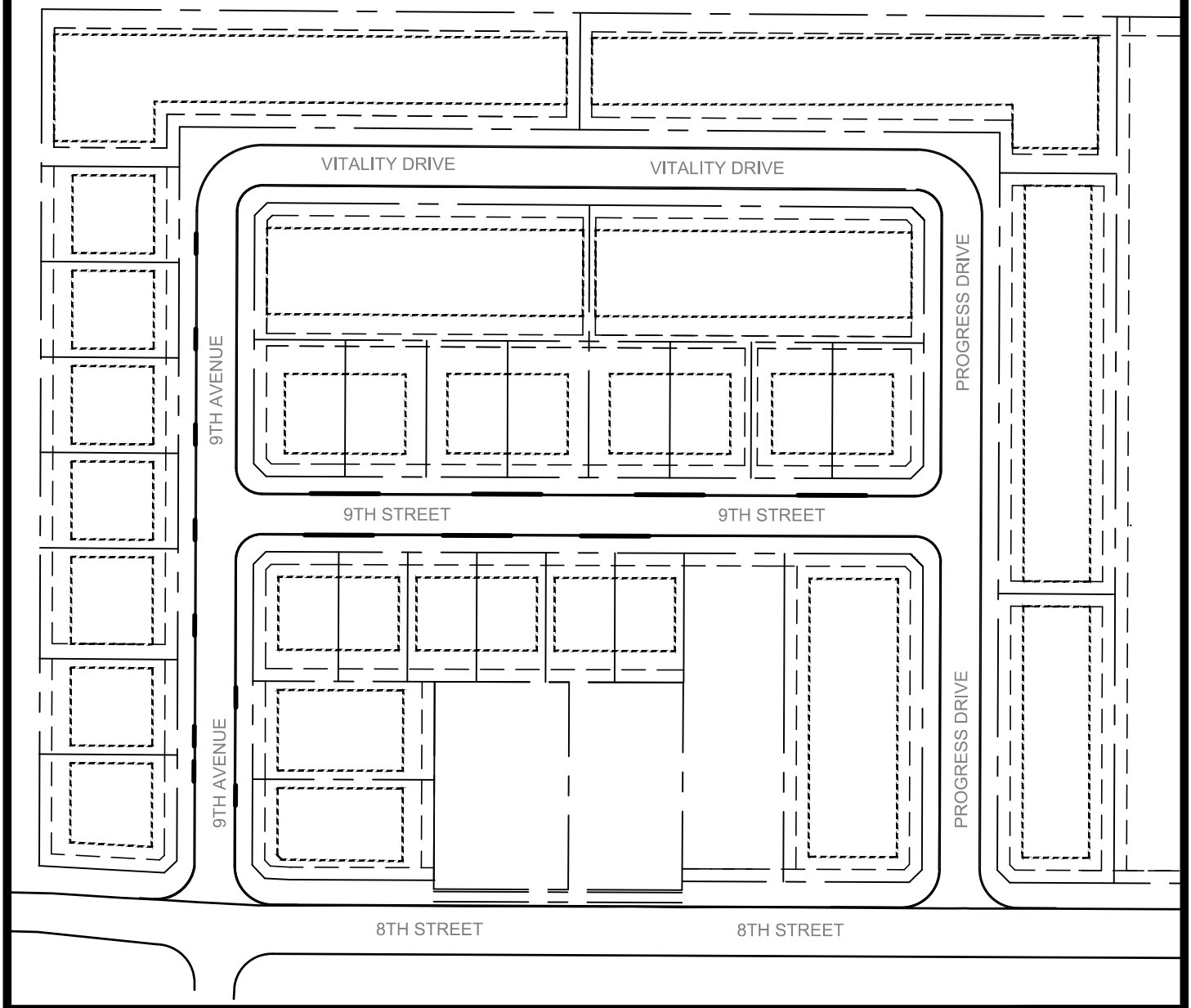
- SETBACK LINE
- EASEMENT LINE
- PROPERTY LINE
- SANITARY SEWER MAIN
- SANITARY SEWER SERVICE
- WATER MAIN
- WATER LINE SERVICE
- STORM SEWER MAIN

VITALITY VILLAGE SUBDIVISION	**NOT TO SCALE**	EXHIBIT C-1
COVENANTS EXHIBIT		

EXHIBIT C-2

(See Attached)

VITALITY VILLAGE SUBDIVISION



LEGEND

- CURB CUT
- SETBACK LINE
- EASEMENT LINE
- PROPERTY LINE

VITALITY VILLAGE SUBDIVISION **COVENANTS EXHIBIT**	**NOT TO SCALE**	EXHIBIT C-2

EXHIBIT B

Affordability Covenants

(See attached)

When Recorded Mail To:
City of Columbus, Nebraska
c/o City Administrator
2500 14t Street, Suite 3
P.O. Box 1677
Columbus, NE 68602

DECLARATION OF AFFORDABILITY COVENANTS AND RESTRICTIONS

This Declaration of Affordability Covenants and Restrictions (hereinafter "**Declaration**") is made as of this ____ day of _____, 2024, by the COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA (hereinafter "**Agency**").

RECITALS

WHEREAS, Agency is the fee simple owner of certain real property located in the City of Columbus, Nebraska (the "**City**"), as further described in **Exhibit A** (the "**Subdivision**"); and

WHEREAS, Agency has undertaken, or will undertake, certain infrastructure and public improvements for the Subdivision to incentivize the private development of housing that is affordable to the City's middle-income and workforce populations; and

WHEREAS, the developers and other third-party purchasers of the lots within the Subdivision will benefit from Agency's undertakings via the opportunity to purchase such property in a builder-ready condition, and at a price substantially below fair market value; and

WHEREAS, the intent of Agency in providing these development incentives is to preserve the affordability of the housing within the Subdivision; and

WHEREAS, subsequent owners and renters of the housing within the subdivision will benefit from the limitations on the rent and purchase prices for the housing within the Subdivision which this Declaration requires; and

WHEREAS, the intent of Agency is to preserve through this Declaration the affordability of the housing within the Subdivision and to establish Agency's rights to enforce compliance with this Declaration;

WHEREAS, in accordance with the foregoing, Agency desires to set forth herein the terms, restrictions, and conditions upon which third parties will construct, maintain, sell and/or lease the housing units within the Subdivision; and

NOW, THEREFORE, the Agency, as the owner of all real property within the Subdivision, for the purposes above set forth, does hereby declare and provide as follows:

ARTICLE I
DEFINITIONS

For the purposes of this Declaration, the capitalized terms used herein shall have the meanings ascribed to them below and, unless the context clearly indicates otherwise, shall include the plural as well as the singular.

Affordability Period: is defined in Article X.

Affordability Requirement: is the requirement that: all Rental Residential Units constructed and maintained upon the Subdivision are to be leased to Residential Unit Tenants in exchange for an amount not to exceed the Maximum Allowable Rent; and (ii) all Non-Rental Residential Units constructed and maintained upon the Subdivision are to be sold and resold to Owners for a purchase price not to exceed the Maximum Sale Price.

Agency: means the Community Development Agency of the City of Columbus, Nebraska, or such other agency of the City government that may subsequently be delegated the authority by the Mayor of the City to monitor, enforce, or otherwise administer the requirements of this Declaration.

Business Day: means Monday through Friday, inclusive, other than holidays recognized by the City government.

Debt Service Coverage Ratio: means, with respect to an Owner's outstanding Mortgage debt on all Rental Residential Units owned by such Owner, for any twelve-month period covered by an annual operating statement for the related Rental Residential Units, the ratio of (i) net operating income produced by the related Rental Residential Units during such period to (ii) the aggregate amount of monthly payments (which shall

not include balloon payments, fees, penalties, or other sums other than amortized principal and interest) due under such Mortgage debt during such period.

Developer: means any Person that purchases from Agency an unimproved lot within the Subdivision and constructs a Residential Unit thereon.

Eligible Capital Improvement: means major structural system upgrades, special assessments, new additions, and improvements related to increasing the health, safety, or energy efficiency of a Residential Unit, as determined by the Agency in its reasonable discretion. Such improvements generally include: (i) major electrical wiring system upgrades; (ii) major plumbing system upgrades; (iii) room additions; (iv) installation of additional closets and walls; (v) alarm systems; (vi) smoke detectors; (vii) removal of toxic substances, such as asbestos, lead, mold, or mildew; (viii) insulation or upgrades to double-paned windows or glass fireplace screens; and (ix) upgrade to Energy Star built-in appliances, such as furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods.

Eligible Replacement and Repair Cost: means in-kind replacement of existing amenities and repairs and general maintenance that keep a Residential Unit in good working condition, as determined by the Agency in its reasonable discretion. Such improvements generally include: (i) electrical maintenance and repair, such as switches and outlets; (ii) plumbing maintenance and repair, such as faucets, supply lines, and sinks; (iii) replacement or repair of flooring, countertops, cabinets, bathroom tile, or bathroom vanities; (viii) non-Energy Star replacement of built-in appliances, including furnaces, water heaters, stoves, ranges, dishwashers, and microwave hoods; (ix) replacement of window sashes; (x) fireplace maintenance or in-kind replacement; (xi) heating system maintenance and repairs; and (xii) lighting system.

Ineligible Costs: means costs of cosmetic enhancements, installations with limited useful life spans and non-permanent fixtures that do not meet the definition of an Eligible Capital Improvement, as determined by the Agency in its reasonable discretion.

Land Records: means the real property records for Platte County, Nebraska.

Maximum Allowable Rent: as defined in Section 403.

Maximum Sale Price: is the maximum sale price of a Non-Rental Residential Unit as determined pursuant to the procedures set forth under Article V, below.

Mortgage: means a mortgage, deed of trust, mortgage deed, or such other classes of instruments as are commonly given to secure a debt under the law.

Mortgagee: means the holder of a Mortgage.

MF Unit: means any of the residential dwelling units existing upon, either now or in the future, the following lot within the Subdivision: Lot 1, Block D, Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

Non-Rental Residential Unit: means any of the Townhome Units or Rowhome Units which are, at any one time, occupied by the Owner of such Residential Unit, or such other Person related to or affiliated with Owner that does not pay rent to Owner in exchange for occupancy. In accordance with Section 507, below, the term Non-Rental Residential Unit shall also apply to Transfers of a Residential Unit to a Transferee who intends to utilize the Residential Unit as a Non-Rental Residential Unit, irrespective of whether the transferring Owner utilizes the Residential Unit as a Rental Residential Unit.

Owner: means the Person holding fee title to a Residential Unit, inclusive of any Developer that constructs the initial residential improvements within the Subdivision.

Person: means any individual, corporation, limited liability company, trust, partnership, association, or other legal entity.

Principal Place of Residence: means the place where a person or persons reside on a full-time basis for a minimum of ten months out of each calendar year.

Rental Residential Unit: means , at all times, the MF Units, and any of the Townhome Units, Rowhome Units or MF Units which are, at any one time, leased to, or are otherwise occupied by, a third-party occupant in exchange for the payment of rent to the Owner of such Residential Unit.

Residential Unit: means each Rental Residential Unit and Non-Rental Residential Unit within the Subdivision.

Residential Unit Tenant: means a Person who lease(s) a Rental Residential Unit.

Rowhome Unit: means any of the residential dwelling units existing upon, either now or in the future, the following lots within the Subdivision: Lots 1-4, Block A, and Lots 1 and 2, Block B, and Lot 2, Block C, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

Single-Family Detached Unit: means any of the residential dwelling units existing upon, either now or in the future, the following lots within the Subdivision: Lots 1-7, Block A, and Lots 1 and 2, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

Townhome Unit: means any of the residential dwelling units existing upon, either now or in the future, the following lots within the Subdivision: Lots 3-10, Block B, Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND Lots 3-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska, and any subdivisions or replats thereof.

Transfer: means any sale, assignment, or transfer, either voluntary of involuntary, or by operation of law, whether by deed, contract of sale, gift, devise, bequest, trustee's sale, deed in lieu of foreclosure, or otherwise, of any interest in a Residential Unit, including but not limited to, a fee simple interest, joint tenancy, community property, life estate, leasehold, or an interest evidenced by a land contract by which possession of the Residential Unit is transferred and Owner retains title.

Transferee: means the Person receiving the interest in a Residential Unit via a Transfer.

ARTICLE II
AFFORDABILITY REQUIREMENT

Developer shall construct, reserve, and either maintain and lease as Rental Residential Units, or Transfer as Non-Rental Residential Units, all Residential Units constructed upon the Subdivision, in accordance with the terms of this Declaration. Upon any Transfer of a Residential Unit to a Transferee, such Transferee, as subsequent Owner, shall either maintain and lease as Rental Residential Units, or sell as Non-Rental Residential Units, all Residential Units within the Subdivision, in accordance with the terms of this Declaration.

ARTICLE III
USE

Section 301. Treatment of Residential Unit Tenant. Owners may, in accordance with commonly-accepted industry standards, charge Residential Unit Tenants for the actual and reasonable costs related to such Residential Unit Tenants' share of basic utilities, such as electricity, gas, water, trash, phone, internet, and cable television services; as well as commercially-reasonable pet fees and elective garage/storage rent, which shall be separate from, and not included as part of, Maximum Allowable Rent or the calculation thereof. Any charges, fees, or additional rents which are not commonly imposed on tenants of the comparable market-rate units, pursuant to commonly-accepted industry standards, shall be included as part of Maximum Allowable Rent and the calculation thereof.

Section 302. No Short-Term Rentals. All lease/occupancy arrangements for Residential Units shall be in writing, signed by the Owner and Residential Unit Tenant, and shall be for an occupancy period of no less than thirty (30) days.

ARTICLE IV
RENTAL OF RESIDENTIAL UNITS

Section 401. Lease of Rental Residential Units. All Rental Residential Units shall be reserved, maintained, and leased to Residential Unit Tenants (a) in accordance with this Declaration, and (b) at a rental rate at or below the Maximum Allowable Rent.

Section 402. Rental Residential Unit Lease Requirements.

a. Maximum Allowable Rent; Failure to Comply. Subject to the provisions of Section 301, above, the rent charge under a lease of a Rental Residential Unit shall be at or below the Maximum Allowable Rent. Any lease of a Rental Residential Unit that fails to comply with the foregoing shall remain in effect; but the rental amounts charged in excess of the Maximum Allowable Rent in relation thereto shall be subject to disgorgement to the Residential Unit Tenant, in accordance with the Agency's enforcement rights under Section 601, below.

b. Developer to Maintain Copies. Developer shall maintain or cause to be maintained copies of all initial and renewal leases executed with Residential Unit Tenants for a period of no less than five (5) years from the expiration or termination of such lease.

Section 403. Maximum Allowable Rent. The initial maximum allowable monthly rent ("**Maximum Allowable Rent**" or "**MAR**") for each Rental Residential Unit shall be as follows:

a. With respect to the MF Units:

i. No more than $995.00 per month for each studio/efficiency MF Unit;

ii. No more than $1,150.00 per month for each one-bedroom MF Unit;

iii. No more than $1,195.00 per month for each large one-bedroom MF Unit;

iv. No more than $1,395.00 per month for each two-bedroom MF Unit;

v. No more than $1,450.00 per month for each large two-bedroom MF Unit; and

vi. No more than $1,650.00 per month for each three-bedroom MF Unit.

b. No more than $1,800.00 per month with respect to each Townhome Unit.

c. No more than $1,750.00 per month with respect to each Rowhome Unit.

Section 404. Increases to Maximum Allowable Rent. The Maximum Allowable Rent amounts set forth in Section 403, above, shall apply, as applicable, to all initial leases entered into for occupancy of a Rental Residential Unit. Beginning January 1, 2026, the Maximum Allowable Rent amounts under Section 403, above, shall increase, on an annual basis as of January 1 of each calendar year, in an amount equal to the greater of: (i) two and one-half percent (2.5%); or (ii) the percentage increase determined by the Consumer Price Index for All Urban Consumers measured from January 1 of the prior calendar year (as applicable, the "**Annual Increase Limit**"). The Owners shall keep supporting records related to any increases to Maximum Allowable Rent, and shall produce the same to Agency upon written request therefor.

Section 405. Increases Above Annual Increase Limit; When Permitted. Notwithstanding the terms of Section 404, above, an Owner shall be entitled to increase Maximum Allowable Rent above the Annual Increase Limit if such increase is necessary for Owner to achieve a Debt Service Coverage Ratio of 1.25 in relation to its outstanding debt on the Rental Residential Units for the applicable annual period (hereinafter referred to as a "**Debt Service Coverage Shortfall**"). In the event of a Debt Service Coverage Shortfall, the Owner shall provide the Agency with written notice of the same, which shall include: (i) a cash flow and operating statement for the applicable period evidencing such Debt Service Coverage Shortfall, showing Owner's net operating income and debt service obligations, in form and substance equivalent to that which Owner is required to provide to its lender; and (ii) a calculation of the minimum increase to Maximum Allowable Rent necessary to achieve a Debt Service Coverage Ratio of 1.25. If the Agency is unsatisfied with the information provided by an Owner, the Agency may require the Owner, via written request, to supplement or provide additional information. Upon the Owner's provision of the foregoing notice and supporting information in accordance with this Section 405, the Owner shall be permitted to increase Maximum Allowable Rent by the minimum amount necessary to achieve a Debt Service Coverage Ratio of 1.25, without further approval by the Agency; provided, however, that if it is subsequently discovered that an Owner misrepresented or falsified information provided to the Agency in relation to any such increase, the Owner shall be in violation of this Declaration, and the rental amounts charged in excess of the Annual Increase Limit in relation thereto shall be subject to disgorgement pursuant to Section 601, below.

Section 406. Representations of Developer. By execution of a lease for a Rental

Residential Unit, Developer shall be deemed to represent and warrant to the Agency that Developer is not collecting more than the Maximum Allowable Rent.

Section 407. Inspection Rights. The Agency or its designee shall have the right to conduct audits of a random sampling of the Rental Residential Units and associated files and documentation to confirm compliance with the requirements of this Declaration. Owner shall cooperate with Agency to facilitate the same.

ARTICLE V
SALE OF RESIDENTIAL UNITS

Section 501. Sale of Non-Rental Residential Units; Maximum Sale Price. The monetary consideration for any Transfer of a Non-Rental Residential Unit to any Person shall not exceed the amount set forth in Section 502 and Section 503, as applicable (the "**Maximum Sale Price**"). No allowance shall be made in the Maximum Sale Price for the payment of real estate brokerage fees, or any other fees or costs, associated with the Transfer of the Non-Rental Residential Unit. Additionally, the value of personal property transferred to a Transferee in connection with the Transfer of a Non-Rental Residential Unit shall not be considered part of the sale price of the Non-Rental Residential Unit for the purposes of determining whether the sale price of the Non-Rental Residential Unit exceeds the Maximum Sale Price.

Section 502. Transfer from Developer to Initial Owner. With respect to the initial Transfer of a Non-Rental Residential Unit, from the Developer to such initial Owner:

a. All Townhome Units or Rowhome Units, inclusive of all land, fixtures, personal property, and other items associated with such Transfer, shall be sold for an amount not to exceed $325,000.

b. All Single-Family Detached Units, inclusive of all land, fixtures, personal property, and other items associated with such Transfer, shall be sold for an amount not to exceed $350,000.

Section 503. Subsequent Transfers. With respect to any subsequent Transfer of a Non-Rental Residential Unit:

a. The Maximum Sale Price shall be determined through use of the formula MSP = P x (F) + V, where:

i. P = the price Owner paid for the Residential Unit;

ii. V = the sum of the value of the Eligible Capital Improvements and Eligible Replacement and Repair Costs, as determined by the Agency pursuant to this Section 503; and

iii. F = ((1 + (0.01 x the number of calendar years that the transferring Owner has owned the Residential Unit)) + the percentage increase (where .01 = 1%) determined by the Consumer Price Index for All Urban Consumers from the first month of the Owner's ownership of the Non-Rental Residential Unit to the month the Non-Rental Residential Unit is listed for sale by the Owner. Notwithstanding the foregoing, if there is a decrease in the Consumer Price Index for All Urban Consumers during such period, then "F" shall equal ((1 + (0.01 x the number of calendar years that the transferring Owner has owned the Residential Unit)).

b. For the purposes of determining the value of "V" in the above formula, the following improvements made to a Non-Rental Residential Unit after the date of purchase may be included at the percentage of cost indicated, to the extent they are permanent in nature and add to the market value of the property:

i. Eligible Capital Improvements, which will be valued at 100% of reasonable cost, as determined by the Agency; and

ii. Eligible Replacement and Repair Costs, which shall be valued at 50% of reasonable cost, as determined by the Agency.

c. The value of improvements may be determined by the Agency based upon documentation provided by the Owner or, if not provided, upon a standard value established by the Agency.

d. The Agency may disallow an Eligible Capital Improvement or Eligible Replacement and Repair Cost if the Agency finds that the improvement diminished or did not increase the fair market value of the Non-Rental Residential Unit; or if such improvements constituted, in the Agency's discretion, an over-improvement in comparison to similar Residential Units within the Subdivision, rendering the Residential Unit unaffordable.

e. The Agency may reduce the value of an Eligible Capital Improvement or Eligible Replacement and Repair Cost if there is evidence of abnormal physical deterioration of, or abnormal wear and tear to, such improvements.

f. Owner shall permit a representative of the Agency to inspect the Non-Rental Residential Unit upon request to verify the existence and value of any Eligible Capital Improvement or Eligible Replacement and Repair Cost that is claimed by Owner.

g. Prior to selling or otherwise Transferring a fee interest in a Non-Rental Residential Unit, the Owner intending to Transfer such Non-Rental Residential Unit shall contact the Agency to obtain or verify the Maximum Sale Price.

Section 504. Procedures for Sales and Resales. In addition to the foregoing, the following procedures shall apply to (i) Developer with respect to the initial Transfer of a Non-Rental Residential Unit, (ii) an Owner of a Non-Rental Residential Unit desiring to sell his or her Non-Rental Residential Unit, and/or (iii) an Owner of a Residential Unit for which the Transferee intends to utilize as a Non-Rental Residential Unit, irrespective of the transferring Owner's use:

a. Owner to Provide Copy of Declaration. Owner shall provide the Transferee with a copy of this Declaration prior to or at the closing on the Transfer of the Non-Rental Residential Unit.

b. Form of Deed. All deeds used to convey a Non-Rental Residential Unit shall include the following statement, in all capital letters, on the front page of the deed:

THIS DEED IS DELIVERED AND ACCEPTED SUBJECT TO THE PROVISIONS AND CONDITIONS SET FORTH IN THAT CERTAIN DECLARATION OF AFFORDABILITY COVENANTS AND RESTRICTIONS, DATED AS OF_____, 20__, RECORDED AMONG THE LAND RECORDS OF PLATTE COUNTY, NEBRASKA, AS INSTRUMENT NUMBER _____, ON_____, 20__, WHICH AMONG OTHER THINGS IMPOSES RESTRICTIONS ON THE SALE AND CONVEYANCE OF THE SUBJECT PROPERTY.

c. Deed for Non-Rental Residential Unit. A deed for a Non-Rental Residential Unit shall not be combined with any other property, including parking spaces or storage facilities, unless the price of such property is included in the Maximum Sale Price.

d. Post-Closing Obligations. The purchaser of a Non-Rental Residential Unit shall submit to the Agency within thirty (30) days after the closing a copy of the deed recorded in the Land Records, as well as a copy of the real estate transfer statement (Form 521) filed in conjunction with such Transfer, disclosing the sales price associated with the Transfer.

Section 505. Representations of Owner. By execution of a deed for a Non-Rental Residential Unit, Developer (for initial Transfers) and the Owner (for subsequent Transfers) shall be deemed to represent and warrant to, and agree with, the Agency and, if applicable, the title company, each of whom may rely on, that the sale price satisfies the terms of this Declaration.

Section 506. Duties of Transferees. Upon any Transfer to a Transferee, such Transferee shall automatically be bound by all the terms, obligations and provisions of this Declaration, as the successor Owner.

Section 507. Application of Article to Transfers.

a. The terms of this Article V shall apply to any Transfer of a Residential Unit that is utilized by the transferring Owner as a Non-Rental Residential Unit, irrespective of whether the Transferee intends to use such Residential Unit as a Non-Rental Residential Unit or a Rental Residential Unit. Subject to the foregoing, there is no prohibition hereunder against a Transfer by an Owner of a Residential Unit that utilizes the same as a Non-Rental Residential Unit to a Transferee that will utilize the Residential Unit as a Rental Residential Unit; provided that such Transferee shall automatically be bound by all the terms, obligations and provisions of this Declaration, as the successor Owner, in relation to the Affordability Requirements applicable to Rental Residential Units hereunder.

b. The terms of this Article V shall apply to any Transfer of a Residential Unit that is utilized by the transferring Owner as a Rental Residential Unit, if the Transferee intends to utilize the Residential Unit as a Non-Rental Residential Unit. In accordance therewith, as a condition of each and every Transfer of a Rental Residential Unit, the Transferee must provide a written statement, within the purchase and sale agreement or in a separate writing, representing and warranting as to whether such Transferee will utilize the Residential Unit as a Non-Rental Residential Unit or Rental Residential Unit. Such representation and warranty shall explicitly survive the Transfer of the Residential Unit and shall state that it is being made for the express benefit of the transferring Owner and the Agency. Owner and Agency may rely on such representation and warranty of Transferee in relation to determining the application of this Article V under this Section 507(b) and/or Section 507(c), below.

c. The terms of this Article V shall not apply to any Transfer of a Rental Residential Unit to a Transferee who will continue to utilize the same as a Rental Residential Unit; provide, however, that following any such Transfer, the Transferee shall automatically be bound by all the terms, obligations and provisions of this Declaration, as the successor Owner, in relation to the Affordability Requirements applicable to Rental Residential Units hereunder.

ARTICLE VI
DEFAULT; ENFORCEMENT AND REMEDIES

Section 601. Default; Remedies. In the event Owner or other Person defaults under any term of this Declaration and does not cure such default within thirty (30) days following written notice of such default from the Agency, the Agency shall have the right to seek specific performance, injunctive relief and/or other equitable remedies, including compelling the re-sale or leasing of a Residential Unit and the disgorgement of rents and sale proceeds in excess of the rental rates and sale prices permitted hereunder, for defaults under this Declaration.

Section 602. No Waiver. Any delay by the Agency in instituting or prosecuting any actions or proceedings with respect to a default hereunder, in asserting its rights or pursuing its remedies hereunder shall not operate as a waiver of such rights.

ARTICLE VII
COVENANTS BINDING ON SUCCESSORS AND ASSIGNS

This Declaration is and shall be binding upon the Subdivision and each Residential Unit and Owner and shall run with the land as of the Effective Date through the Affordability Period. The rights and obligations of Agency, Developer, Owner, and their respective successors, heirs, and assigns shall be binding upon and inure to the benefit of the foregoing parties and their respective successors, heirs, and assigns; provided however that all rights of Agency pertaining to the monitoring and/or enforcement of the obligations of Developer or Owner hereunder shall be retained by Agency, or such designee of the Agency as the Agency may so determine. No Transfer shall affect the validity of this Declaration.

ARTICLE VIII
MORTGAGES

Section 801. Amount of Mortgage. In no event shall the aggregate amount of all Mortgages placed against a Non-Rental Residential Unit exceed an amount equal to one hundred five percent (105%) of the Maximum Sale Price for such Residential Unit. Prior to obtaining any Mortgage or refinancing thereof, the Owner shall request from the Agency the then-current Maximum Sale Price for its Non-Rental Residential Unit.

Section 802. Default of Mortgage and Foreclosure. In the event of foreclosure or deed in lieu thereof, this Declaration shall not be released or terminated and the Mortgagee or any Person who takes title to a Residential Unit through a foreclosure sale shall become a Transferee in accordance with Section 504.

ARTICLE IX
AMENDMENT OF COVENANT

Except as otherwise provided herein, neither this Declaration, nor any part hereof, can be amended, modified or released other than as provided herein by an

instrument in writing executed by a duly authorized official of the Agency, and by a duly authorized representative of all Owners. Notwithstanding the foregoing, the Agency may unilaterally amend this Declaration, without the consent or execution of the Owners, if: (i) such amendment is administrative or corrective in nature, and does not materially impact or alter the Owners' rights, title, and interests to the Residential Units; (ii) such amendment would result in increases to the Maximum Sale Price or Maximum Allowable Rent; (iii) such amendment would result in the removal of any other restriction or requirement placed on the Residential Units hereunder; or (iv) such amendment relates to the Rowhome Units only and all lots comprising the Rowhome Units are owned by the Agency at the time of such amendment. Any amendment to this Declaration that alters the terms and conditions set forth herein shall be recorded among the Land Records before it shall be deemed effective.

ARTICLE X
AFFORDABILITY PERIOD

All Residential Units shall be sold or leased in accordance with the terms of this Declaration for a period of fifteen (15) years from the recordation date of this Declaration ("**Affordability Period**"). Notwithstanding the foregoing, this Declaration may be terminated, in its entirety, upon the approval of the Agency, in its sole and absolute discretion. Any such termination this Declaration shall be recorded among the Land Records before it shall be deemed effective.

ARTICLE XI
NOTICES

Any notices given under this Declaration shall be in writing and delivered by certified mail (return receipt requested, postage pre-paid), by hand, or by reputable private overnight commercial courier service, to the applicable Person at the addresses specified in this Article, or to such other persons or locations as may be designated by the Agency from time to time. All notices to be sent to the Agency shall be sent to the following address:

City of Columbus, Nebraska
c/o City Administrator
2500 14t Street, Suite 3
P.O. Box 1677
Columbus, NE 68602

All notices to be sent to an Owner shall be sent to the address on record with the County Assessor for Platte County, Nebraska.

Notices shall be deemed delivered as follows: (i) if hand delivered, then on the date of delivery or refusal thereof; (ii) if by overnight courier service, then on the next

business day after deposit with the overnight courier service; and (iii) if by certified mail (return receipt requested, postage pre-paid), then on the date of actual delivery or refusal thereof.

ARTICLE XII
MISCELLANEOUS

Section 1201. Applicable Law: Forum for Disputes. This Declaration shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the City, without reference to the conflicts of laws provisions thereof. Owners, Residential Unit Tenants and the Agency irrevocably submit to the jurisdiction of the courts of Platte County, Nebraska, for the purposes of any suit, action or other proceeding arising out of this Declaration or any transaction contemplated hereby. Owners, Residential Unit Tenants and the Agency irrevocably and unconditionally waive any objection to the laying of venue of any action, suit or proceeding arising out of this Declaration or the transactions contemplated hereby in the courts of Platte County, Nebraska, and hereby further waive and agree not to plead or claim in any such court that any such action, suit or proceeding brought in any such court has been brought in an inconvenient forum.

Section 1202. Time of Performance. All dates for performance (including cure) shall expire at 5:00 p.m. (Central Time) on the performance or cure date. A performance date which falls on a Saturday, Sunday or City holiday is automatically extended to the next Business Day.

Section 1203. Waiver of Jury Trial. TO THE EXTENT PERMITTED BY LAW, ALL PARTIES HERETO WAIVE THE RIGHT TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION ARISING IN RESPECT OF THIS DECLARATION OR THE TRANSACTIONS CONTEMPLATED HEREBY.

Section 1204. Further Assurances. Each Person bound hereby agrees to execute and deliver to Agency such additional documents and instruments as Agency reasonably may request in order to fully carry out the purposes and intent of this Declaration; provided that such additional documents and instruments do not materially increase the obligations or burdens upon the non-Agency party.

Section 1205. Severability. If any provision of this Declaration is held to be unenforceable or illegal for any reason, said provision shall be severed from all other provisions. Said other provisions shall remain in effect without reference to the unenforceable or illegal provision.

Section 1206. Agency Limitation on Liability. Any review or approval by the City or the Agency shall not be deemed to be an approval, warranty, or other certification by the City or the Agency as to compliance of such submissions with any building codes, regulations, standards, laws, or any other requirements contained in this Declaration or any other covenant granted in favor of the City or Agency that is

filed among the Land Records; or otherwise contractually required.

Section 1207. No Third-Party Beneficiary. Except as expressly set forth in this Declaration, there are no intended third-party beneficiaries of this Declaration, and no Person other than the City or Agency shall have standing to bring an action for breach of or to enforce the provisions of this Declaration.

[*Signatures on Following Pages*]

AGENCY:

Community Development Agency
of the City of Columbus, Nebraska

By: _____
James Bulkley, as Chairperson (Mayor)

ATTEST:

_____
Shuraya Choat, Secretary (City Clerk)

STATE OF NEBRASKA)
) ss.
COUNTY OF PLATTE)

The foregoing instrument was acknowledged before me this ____ day of _____ 20___, by James Bulkley, in his capacity as Chairperson, and Shuraya Choat, in her capacity as Secretary, of the Community Development Agency of the City of Columbus, Nebraska.

_____
Notary Public
My commission expires: _____

EXHIBIT A

Legal Description of Subdivision

Lots 1-4, Block A, and Lots 1-10, Block B, and Lots 1 and 2, Block C, and Lot 1, Block D, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND

Lots 1-7, Block A, and Lots 1-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska.

3. **Resolution No. R24-125 authorizing the issuance of Tax Increment Revenue Bond in the amount of $2,068,000 to the City of Columbus for the 8th Street Residential Subdivision Redevelopment Project.**

DRAFT

RESOLUTION NO. R24-125

A RESOLUTION OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA, ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF COLUMBUS, ACTING AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA; AUTHORIZING THE ISSUANCE OF A TAX INCREMENT REVENUE BOND FOR THE 8TH STREET RESIDENTIAL SUBDIVISION REDEVELOPMENT PROJECT; PROVIDING FOR THE TERMS AND PROVISIONS OF SAID BOND; AND PLEDGING REVENUES OF THE AGENCY PURSUANT TO THE COMMUNITY DEVELOPMENT LAW.

BE IT RESOLVED by the Mayor and Council of the City of Columbus, Nebraska (the “City”), acting as the governing body of the Community Development Agency of the City of Columbus, Nebraska (the “Agency”), as follows:

Section 1. The Mayor and City Council hereby finds and determines:

(a) that, pursuant to the Nebraska Community Development Law, Article 21 of Chapter 18, Reissue Revised Statutes of Nebraska (the “Act”), the Agency has been duly created by ordinance for purposes of assisting with redevelopment of blighted and substandard real estate located within the City; that the Agency has and may exercise all of the powers of a redevelopment authority provided for under the Community Development Law of the State of Nebraska; that there has been prepared a redevelopment plan, entitled "Redevelopment Plan for the 8th Street Residential Subdivision Redevelopment Project" (the "Plan"), for the redevelopment of the real estate described and referred to in Exhibit A (hereinafter in this Resolution referred to as the "Redevelopment Area");

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

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

(d) that the Plan was submitted to the Planning Commission of the City and approved and thereafter recommended by the Agency to the Mayor and Council of the City, as and to the extent required by the Act;

(e) that on the 20th day of February, 2024, the Mayor and Council of the City held a public hearing on the Plan, for which notice was given by publication prior to such hearing in conformance with the Act, and, after such hearing, the Mayor and City Council approved and adopted the Plan;

(f) that the Plan, among other things, calls for the construction of mixed-dwelling residential subdivision within the Redevelopment Area (referred to herein as the “Project”);

(g) that the City has undertaken or will undertake certain infrastructure and other public improvements as part of the Project, as described in the Plan and the redevelopment contract between the Agency, the City, and Vitality Apartments LLC, as amended, attached hereto and incorporated herein as Exhibit B (collectively, the "Redevelopment Contract"), and the City and the Agency have previously communicated willingness to assist such redevelopment in order to encourage employment and economic development of the City as well as for the redevelopment of a blighted and substandard area of the City;

(h) that The City is expected to incur costs in the amount of $8,058,170 relating to redevelopment of the Redevelopment Area pursuant to the Plan and the Redevelopment Contract;

(i) that the Agency shall timely filed a "Notice to Divide Tax" for each phase of the Project with the county assessor for Platte County, Nebraska, on or before August 1 of such phase year until all phases are complete;

(j) that the Agency has agreed to assist the City with certain grants as set forth in the Redevelopment Contract and in consideration for undertaking the costs of the Project and for such purpose it is necessary for the Agency to authorize the issuance of its tax increment revenue bond in an amount not to exceed Two Million Sixty-Eight Thousand & 00/100 Dollars ($2,068,000.00);

(k) that the Redevelopment Contract provides that the Agency will assist the City with certain grant assistance and the issuance of the tax increment revenue bond as provided for in this resolution;

(l) that a portion of the ad valorem taxes received by the Agency's Treasurer related to the Redevelopment Area shall be allocated towards payment on the tax increment revenue bond pursuant to the terms of the Redevelopment Contract, this resolution, and said bond; and

(m) that all conditions, acts and things required by law to exist or to be done precedent to the authorizing of the Agency's tax increment revenue bond as provided for in this Resolution do exist and have been done as provided by the Act.

Section 2. A tax increment revenue bond in an amount not to exceed Two Million Sixty-Eight Thousand & 00/100 Dollars ($2,068,000.00) is hereby ordered issued in accordance with Section 18-2125 of the Act, by the Agency and shall be designated as its "Tax Increment Revenue Bond of the Community Development Agency for City of Columbus, Nebraska (Vitality Village Redevelopment Project – City Bond)" (herein referred to as the "Bond"). The Bond shall be issued in the single denomination in an amount not to exceed $2,068,000.00. The Bond shall be dated as of the date of its delivery ("Dated Date"). The Bond shall bear interest from its delivery date until maturity (or earlier redemption) at the rate of six and one-half percent (6.50%) per annum. The principal of the Bond shall become due upon the December 31 following the date that all excess ad valorem real estate taxes for the final phase of the Project have been divided and collected in conformance with Section 18-2147 of the Act; provided that such principal amount shall be subject to mandatory redemption from “Available Funds” as described in Section 5 below on June 1 and December 1 of each year. All interest upon the Bond shall be payable on June 1 of the year following the effective date for the first phase of the Project, and semiannually thereafter on June 1 and December 1 of each year.

The Bond shall be issued in fully registered form. The Agency's Treasurer (the City Treasurer of the City of Columbus) is hereby designated as paying agent and registrar for the Bond (the "Agent"). The Agent shall serve in such capacities pursuant to the terms of this Resolution. The interest due on each interest payment date prior to maturity shall be payable to the registered owner of record as of the last business day of the calendar month immediately preceding the calendar month in which such interest payment date occurs (the "Record Date"), subject to the provisions of Section 4 hereof. Payments of interest due on the Bond, except for payments due on final maturity date, or other final payment, shall be made by the Agent by mailing or delivering a check or draft in the amount then due for interest on the Bond to the registered owner of the Bond, as of the Record Date for such interest payment date, to such owner's registered addresses as shown on the books of registration as required to be maintained in Section 3 hereof. Payments of principal and interest due at final maturity or other final payment shall be made by the Agent to the registered owner upon presentation and surrender of the Bond to the Agent at the Agency's offices at City Hall in the City of Columbus, Nebraska. The Agency and the Agent may treat the registered owner of the Bond as the absolute owner of the Bond for the purpose of making payments thereon and for all other purposes and neither the Agency nor the Agent shall be affected by any notice or knowledge to the contrary, whether the Bond or any installment of interest due thereon shall be overdue or not. All payments on account of interest or principal made to the registered owner of the

Bond in accordance with the terms of this Resolution shall be valid and effectual and shall be a discharge of the Agency and the Agent, in respect of the liability upon the Bond or claims for interest to the extent of the sum or sums so paid. Notwithstanding anything in this Resolution or the Redevelopment Contract to the contrary, the Agent shall not disburse any amounts toward payment on the Bond unless and until the City has provided the Agency with certifications of Eligible Costs (as defined in the Redevelopment Contract). If the City fails to submit certifications of Eligible Cost in an amount equal to or greater than the principal amount on the Bond upon completion of the Project, the principal and outstanding interest on the Bond shall be adjusted to reflect the aggregate total of the certified Eligible Costs.

Section 3. The Agent shall keep and maintain for the Agency books for the registration and transfer of the Bond at the Agency's offices at City Hall in Columbus, Nebraska. The name and registered address of the registered owner of the Bond shall at all times be recorded in such books. The Bond may be transferred pursuant to its provisions at the Agency's offices by surrender of such Bond for notation of transfer, accompanied by a written instrument of transfer, in form satisfactory to the Agent, duly executed by the registered owner in person or by such owner's duly authorized agent, and thereupon the Agent on behalf of the Agency will register such transfer upon its books and make notation thereof on the Bond and deliver the Bond at its office to the transferee owner (or send it by registered mail to the transferee owner thereof at such transferee owner's expense). Any transfers of the Bond shall be upon the basis of a private placement and each proposed transferee registered owner shall furnish the Agent with assurances in form satisfactory to the Agent that such Bond is being purchased for investment purposes only, without view to redistribution and upon the independent credit judgment and investigation of the proposed transferee. The Agency and the Agent shall not be required to transfer the Bond during any period from any Record Date until its immediately following interest payment date or to transfer the Bond when called for redemption, in whole or in part, for a period of 15 days next preceding any date fixed for redemption or partial redemption.

Section 4. In the event that payments of interest or for mandatory partial redemption due on the Bond on any interest payment date are not timely made, such interest or redemption price shall cease to be payable to the registered owner as of the Record Date for such interest payment date and shall be payable to the registered owner of the Bond as of a special date of record for payment of such defaulted interest or redemption price as shall be designated by the Agent whenever monies for the purpose of paying such defaulted interest or redemption price become available.

Section 5. At any time, the Agency shall have the option of prepaying in whole or in part principal of the Bond. Any such optional prepayment of principal shall be accompa-

nied by an amount equal to all accrued but unpaid interest on the principal amount being prepaid. Notice of any optional redemption for the Bond shall be given at the direction of the Agency by the Agent by mail not less than 15 days prior to the date fixed for redemption, first class, postage prepaid, sent to the registered owner of the Bond at said owner's registered address. Notice of call for redemption may be waived in writing by any registered owner. In the event of prepayment in whole the Bond shall be cancelled. The determination of the amount and timing of any optional redemption of the Bond shall be in the absolute discretion of the Agency. The Bond shall also be subject to mandatory partial redemption, without notice, on each interest payment date from all funds to be available in the Bond Fund (as hereinafter established and defined), including all amounts, if any, from investment earnings for such fund, rounded down to the nearest one hundred dollars, after payment of all accrued but unpaid interest on each interest payment date (which funds are referred to in this Resolution as "Available Funds"). Available Funds shall be applied to the prepayment of principal on each interest payment date and shall be remitted to the registered owner of the Bond with interest payments. The Agent shall mark the Agent's records with respect to each mandatory partial principal prepayment made from Available Funds and it shall not be necessary for the registered owner to present the Bond for notation of such prepayment. The records of the Agent shall govern as to any determination of the principal amount of the Bond outstanding at any time and the registered owner shall have the right to request information in writing from the Agent at any time as to the principal amount outstanding upon the Bond.

Section 6. The Bond shall be in substantially the following form:

UNITED STATES OF AMERICA
STATE OF NEBRASKA
COUNTY OF PLATTE

TAX INCREMENT REVENUE BOND OF
THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA (VITALITY VILLAGE REDEVELOPMENT PROJECT – CITY BOND)
SERIES 20___

Dated Date: _____, 20___

Principal Amount	Interest Rate Per Annum
$2,068,000.00	6.50%

KNOW ALL PERSONS BY THESE PRESENTS: That the Community Development Agency of the City of Columbus, Nebraska (the "Agency"), hereby acknowledges itself to owe and for value received promises to pay, but only from the sources herein designated, to the registered owner designated on the reverse hereof, or registered assigns, the principal sum shown above in lawful money of the United States of America with such principal sum to become due on the maturity date set forth below, with interest on the unpaid balance from the delivery date of this bond, until maturity or earlier redemption, at the per-annum interest rate set forth above. Said interest shall be payable on June 1 of the year following the effective date for the first phase of the Project, and semiannually thereafter on June 1 and December 1 of each year. The maturity of this bond shall be the December 31 following the date that all excess ad valorem real estate taxes for the final phase of the Project have been divided and collected in conformance with the Nebraska Community Development Law (the "Act"), Section 18-2147.

The payment of principal and interest due upon the final maturity is payable upon presentation and surrender of this bond to the Treasurer of said Agency, as Paying Agent and Registrar for said Agency, at the offices of the Community Development Agency of the City of Columbus, Nebraska, at City Hall, in Columbus, Nebraska. The payments of interest and of mandatory redemptions of principal on each interest payment date (other than at final payment) will be paid when due by a check or draft mailed or delivered by said Paying Agent and Registrar to the registered owner of this bond, as shown on the books of record maintained by the Paying Agent and Registrar, at the close of business on the last business day of the calendar month immediately preceding the calendar month in which the interest payment date occurs, to such owner's address as shown on such books and records. Any payment of interest or mandatory redemption of principal not timely paid when due shall cease to be payable to the person entitled thereto as of the record date such interest was payable, and shall be payable to the person who is the registered owner of this bond on such special record date

for payment of such defaulted interest or redemption price as shall be fixed by the Paying Agent and Registrar whenever monies for such purpose become available.

This bond is the sole bond of its series of the total principal amount of Two Million Sixty-Eight Thousand & 00/100 Dollars ($2,068,000.00) 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 (as defined in the Resolution) and as designated in that Redevelopment Plan recommended by the Agency and approved by the Mayor and Council of the City of Columbus, Nebraska, on February 20, 2024 (the "Plan"), all in compliance with the Act, and has been duly authorized by resolution passed and approved by the Mayor and Council of the City of Columbus, acting as the governing body of the Agency (the "Resolution").

The conditions for the issuance and purchase of this bond are set forth in the Redevelopment Contract and the terms and conditions of the Redevelopment Contract are incorporated herein by reference.

The Agency reserves the right and option of prepaying principal of this bond, in whole or in part, from any available sources at any time, at the principal amount thereof designated for redemption plus accrued interest to the date fixed for redemption of the principal amount so designated for optional redemption. Notice of any such optional prepayment shall be given by mail, sent to the registered owner of this bond at said registered owner's address in the manner provided in the Resolution. The principal of this bond shall be subject to mandatory optional redemptions made in part on any interest payment date from "Available Funds" (as defined in the Resolution) without any requirement for notice. Such optional and mandatory prepayments shall be made upon such terms and conditions as are provided for in the Resolution.

A PORTION OF THE PRINCIPAL AMOUNT OF THIS BOND MAY BE PAID OR REDEEMED WITHOUT SURRENDER HEREOF TO THE PAYING AGENT AND REGISTRAR. THE REGISTERED OWNER OR ANY TRANSFEREE OR ASSIGNEE OF SUCH REGISTERED OWNER 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 PAYING AGENT AND REGISTRAR IN THE MANNER PROVIDED IN THE RESOLUTION.

This bond constitutes a limited obligation of the Agency payable exclusively from that portion of the ad valorem real estate taxes mentioned in Section 18-2147 of the Act, as levied, collected and apportioned from year to year with respect to certain real estate described in the Redevelopment Contract and located within the "Redevelopment Area" (as defined in the Resolution), which are received by said Treasurer as of and from and after January 1 of the year following the effective date for a phase of the Project and which are attributable to valuation increases of the real estate described in the Redevelopment Contract and within the Redevelopment Area based on any increase in the taxable value determined as of January 1 of

the year of the effective date with respect to such phase.

Pursuant to the Resolution and Sections 18-2124 and 18-2150 of the Act, said portion of taxes has been pledged for the payment of this bond, both principal and interest as the same fall due or become subject to mandatory redemption. This bond 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 bond shall not constitute an obligation of the State of Nebraska or of the City of Columbus (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 nor the City of Columbus 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 bond shall be liable personally on this bond by reason of the issuance hereof.

This bond is transferable by the registered owner or such owner's attorney duly authorized in writing at the office of the Paying Agent and Registrar upon surrender of this bond for notation of transfer as provided on the reverse hereof and subject to the conditions provided for in the Resolution. The Agency, the Paying Agent and Registrar and any other person may treat the person whose name this bond is registered as the absolute owner hereof for the purposes of receiving payment due hereunder and for all purposes and shall not be affected by any notice to the contrary, whether this bond be overdue or not. THIS BOND, UNDER CERTAIN TERMS SET FORTH IN THE RESOLUTION AUTHORIZING ITS ISSUANCE, MAY ONLY BE TRANSFERRED TO PERSONS OR ENTITIES DELIVERING AN INVESTMENT LETTER TO THE PAYING AGENT AND REGISTRAR CONFORMING TO REQUIREMENTS SET FORTH IN SAID RESOLUTION.

NOTWITHSTANDING ANYTHING IN THIS BOND, THE RESOLUTION OR THE REDEVELOPMENT CONTRACT TO THE CONTRARY, THE AGENT SHALL NOT DISBURSE ANY AMOUNTS TOWARD PAYMENT ON THIS BOND UNLESS AND UNTIL THE CITY HAS PROVIDED THE AGENCY WITH CERTIFICATIONS OF ELIGIBLE COSTS (AS DEFINED IN THE REDEVELOPMENT CONTRACT) PURSUANT TO THE REDEVELOPMENT CONTRACT. IF THE CITY FAILS TO SUBMIT CERTIFICATIONS OF ELIGIBLE COST IN AN AMOUNT EQUAL TO OR GREATER THAN THE INITIAL PRINCIPAL AMOUNT ON THIS BOND UPON COMPLETION OF THE PROJECT, THE PRINCIPAL AND OUTSTANDING INTEREST ON THIS BOND SHALL BE ADJUSTED, AS OF THE DATED DATE OF THIS BOND, TO REFLECT THE AGGREGATE TOTAL OF THE CERTIFIED ELIGIBLE COSTS.

NOTWITHSTANDING ANYTHING IN THIS BOND OR THE RESOLUTION TO THE CONTRARY, THE AMOUNTS AND PRIORITY OF THE FUNDS DISBURSED AS PAYMENTS ON THIS BOND SHALL BE GOVERNED BY, AND SUBJECT TO, THE TERMS AND PRIORITY SET FORTH IN SECTION 3 OF THE REDEVELOPMENT CONTRACT, AS

AMENDED, WITH RESPECT TO THAT CERTAIN OTHER "REDEVELOPER BOND" (AS DEFINED IN THE REDEVELOPMENT CONTRACT) ISSUED, OR TO BE ISSUED, IN RELATION TO THE PROJECT, ALL PURSUANT TO THE TERMS OF THE REDEVELOPMENT CONTRACT, WHICH SHALL SUPERSEDE AND CONTROL.

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

IT IS HEREBY CERTIFIED AND WARRANTED that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond, did exist, did happen and were done and performed in regular and due form and time as required by law and that the indebtedness of said Agency, including this bond, does not exceed any limitation imposed by law.

IN WITNESS WHEREOF, the Mayor and Council of the City of Columbus, Nebraska, as the governing body of the Community Development Agency of the City of Columbus, Nebraska, have caused this bond to be executed on behalf of said Agency by being signed by the Chairperson (Mayor) and Secretary (City Clerk), all as of the Dated Date shown above.

Dated this_____ day of _____, 2024.

COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF COLUMBUS

ATTEST:

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

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

PROVISION FOR REGISTRATION

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

Date of Registration	Name of Registered Owner	Signature of Paying Agent and Registrar
_____, 20___	City of Columbus, Nebraska	(Sample – Do Not Sign)

Section 7. This Resolution sets forth January 1 of the year that a notice of divide is filed with respect to any phase of the Project, as the effective date after which ad valorem taxes on real property located within the Redevelopment Area are to be apportioned pursuant to Section 18-2147 of the Act, with respect to such phase. As of and from and after January 1 of the year following the effective date of a phase of the Project, that portion of the ad valorem taxes on the real estate located within the Redevelopment Area which is described in subdivision (1)(b) of Section 18-2147 of the Act, and which ad valorem taxes received by the Agency's Treasurer attributable to the Redevelopment Area which are attributable to valuation increases determined as of January 1 of the year preceding the effective date for a phase of the Project (the "Redevelopment Area Tax Receipts"), shall be paid into a special fund of the Agency to be designated as the "Community Development Agency — Victory Village Project Fund" (the "Bond Fund") to be held by the Agent for application to payments on the Bond.

Subject to the priority set forth in the following paragraph, the Agency hereby pledges for the payment of the Bond both principal and interest as the same fall due, equally and ratably, the Redevelopment Area Tax Receipts associated with the real estate described in the Redevelopment Contract and so paid into the Bond Fund as a prior and first lien upon said receipts for the security and payment of the Bond. Monies held in the Bond Fund shall be invested to the extent practicable and investment earnings on such monies shall be applied in the same manner as all other funds held in the Bond Fund.

Notwithstanding anything in the Bond or this resolution to the contrary, the amounts and priority of the Redevelopment Area Tax Receipts disbursed as payments on the Bond shall be governed by, and subject to, the terms and priority set forth in Section 3 of the Redevelopment Contract, as amended, with respect to that certain other “Redeveloper Bond” (as defined in the Redevelopment Contract”) issued, or to be issued, in relation to the Project, all pursuant to the terms of the Redevelopment Contract, which shall supersede and control.

Section 8. The Bond shall be executed on behalf of the Agency by the Chairperson (Mayor) and Secretary (City Clerk). Upon execution, the Bond shall be registered by the Agent in the name of the City or its designee as the initial registered owner and shall be delivered in consideration of the performance by the City in accordance with the Redevelopment Contract and Plan. The City may request notation of a pledge interest in the Bond on the records of the Agent.

Section 9. If the date for payment of the interest or principal on the Bond shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Columbus, Nebraska, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

Section 10. The Secretary of the Agency shall make and certify one or more copies of

the transcripts of the proceedings of the Agency precedent to the issuance of the Bond one of which copies shall be delivered to the Agency.

Section 11. The Chairperson (Mayor) and Secretary (City Clerk) 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 affect the transactions authorized by this Resolution.

Section 12. The authorization for the Bond provided for in this Resolution is based upon expectations as to completion of construction, valuation and proposed tax rates suggested by and/or agreeable to the City. The Agency has given and hereby gives no assurances that such expectations will in fact be fulfilled.

Section 13. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Resolution.

Section 14. This Resolution shall be in force and take effect from and after its adoption as provided by law.

INTRODUCED BY COUNCIL MEMBER _____

PASSED AND ADOPTED THIS _____ DAY OF _____, 2024.

_____
CHAIRPERSON (MAYOR)

ATTEST:

_____
SECRETARY (CITY CLERK)

APPROVED AS TO FORM:

_____
SPECIAL CITY ATTORNEY

City Hall
2500 14th St.
Columbus, NE 68601
402-562-4232
columbusne.us

memorandum

DATE: October 31, 2024

TO: Tara Vasicek, City Administrator

FROM: Jean Van Iperen, Planning & Economic Development Coordinator

RE: 8th Street Residential Subdivision TIF Bond

RECOMMENDATION:

Approval of the 8th Street Residential Subdivision TIF Bond

DISCUSSION:

The CDA previously approved the "Redevelopment Plan for the 8th Street Residential Subdivision" for the workforce housing subdivision Vitality Village. This plan, utilizing tax increment financing (TIF), aims to establish a mixed-use housing subdivision with over 300 residential units, including new public infrastructure and improvements. The redevelopment is estimated to cost approximately $8.06 million, with funding shared between the Community Development Agency for the City of Columbus and Vitality Apartments LLC, a developer constructing a 243-unit apartment complex.

Currently, the City is seeking approval to issue a tax increment revenue bond of up to $2.068 million. This bond will reimburse the City for infrastructure and improvement expenses within the redevelopment area, supporting Columbus's vision for workforce housing. The bond will be issued at a 6.5% interest rate per annum.

Signature:

By: Jean Van Iperen

Approved By: _____

Exhibit A

Legal Description of the Redevelopment Area

Lots 1-4, Block A, and Lots 1-10, Block B, and Lots 1 and 2, Block C, and Lot 1, Block D, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND

Lots 1-7, Block A, and Lots 1-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska.

* In the event the Redevelopment Area is subsequently replatted, the above legal description shall be replaced with the legal description provided in the replat of the Redevelopment Area approved by the City.

Exhibit B
Redevelopment Contract

(See attached)

REDEVELOPMENT CONTRACT
(The 8th Street Residential Subdivision Redevelopment Project – Multifamily Phase)

This Redevelopment Contract for the 8th Street Residential Subdivision Redevelopment Project – Multifamily Phase ("**Redevelopment Contract**") is made and entered into as of August 5, 2024, by and between the Community Development Agency of the City of Columbus, Nebraska (the "**Agency**"), the City of Columbus, Nebraska (the "**City**"), and Vitality Apartments, LLC, a Nebraska limited liability company ("**Redeveloper**"). The Agency, City and/or Redeveloper may be referred to hereinafter individually as a "**Party**", or collectively as the "**Parties**".

WITNESSETH:

WHEREAS, pursuant to the Nebraska Community Development Law, Sections 18-2101, et seq. (the "**Act**"), the Mayor and City Council of the City adopted and approved a plan entitled "Redevelopment Plan for the 8th Street Residential Subdivision Redevelopment Project" (the "**Plan**"), setting forth a redevelopment project for the real estate described on Exhibit A, attached hereto and incorporated herein (the "**Redevelopment Area**"), which is located in the City, and which has previously been declared by the Mayor and City Council as a blighted and substandard area that is eligible for redevelopment; and

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

WHEREAS, the Plan contemplates the construction of a mixed-density residential subdivision within the Redevelopment Area (referred to herein as the "**Redevelopment Project**"); and

WHEREAS, Redeveloper, pursuant to the Plan, intends to construct the multifamily portion of the Redevelopment Project within the Redevelopment Area, as depicted on the site plan attached hereto and incorporated herein as Exhibit C, all as more particularly described in the Plan (collectively, said improvements are referred to in this Redevelopment Contract as the "**Multifamily Project**"); and

WHEREAS, the Multifamily Project will occur on a portion of the Redevelopment Area, as set forth under Exhibit B, attached hereto and incorporated herein (the "**Project Site**"); and

WHEREAS, the City is undertaking certain public infrastructure and other public improvements within the Redevelopment Area as part of the Redevelopment Project (the "**City Improvements**"); and

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

WHEREAS, the Agency proposes to authorize issuance of its tax increment revenue bond, to provide for eligible costs relating to the Multifamily Project (the "**Redeveloper Bond**"), as shall be more particularly described in the resolution of the Agency authorizing issuance of the Redeveloper Bond (the "**Bond Resolution**"); and

WHEREAS, the Agency has separately authorized, or will authorize, issuance of its tax increment revenue bond to the City, to provide for eligible costs relating to the City Improvements (the "**City Bond**"); and

WHEREAS, the incremental ad valorem real estate taxes derived from the Redevelopment Project (the "**TIF Revenues**") shall be pledged towards the payment of the Redeveloper Bond and City Bond, pursuant to, and in accordance with, the terms of this Redevelopment Contract; and

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

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency, 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 Nebraska limited liability company duly organized and existing under the laws of the State of Nebraska, is not in violation of any provisions of its certificate of organization or operating agreement(s), 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 Multifamily Project in accordance with the terms of this Redevelopment Contract and the Plan, or amendments thereof, the CCREs and Affordability Covenants (each defined below, 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 and subject to the provisions of Section 21 of this Redevelopment Contract, in the event of any casualty damage to the Multifamily Project, Redeveloper or its successors and assigns

agrees to repair and reconstruct such damaged portion or portions of the Multifamily 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. Redeveloper agrees to substantially effect such repair and reconstruction whether or not insurance proceeds are sufficient or available for such purposes.

(d) Redeveloper or its assignee shall complete the Multifamily Project on or before December 31, 2026, at an estimated cost of $36,124,400.

(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 Project Site or the construction of the Multifamily 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 Multifamily 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) 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 Project Site.

(i) Redeveloper acknowledges and agrees that neither the Agency nor the City shall be obligated to pay any costs related to the Multifamily Project other than costs to be paid from available TIF Revenues, if any, and Redeveloper hereby undertakes and agrees to pay any and all such costs. All costs of the Multifamily Project shall be paid in full and there are and shall be no construction liens unpaid against the Project Site or any of the improvements thereon.

(j) Redeveloper agrees and covenants for itself, its successors and assigns that while this Redevelopment Contract is in effect, 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 Multifamily Project. Redeveloper, for itself and its successors and

assigns, agrees that during the construction of the Multifamily 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 Multifamily Project.

(k) Redeveloper agrees that any contractor providing services related to the Multifamily 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 Multifamily Project.

(l) Prior to commencement of construction of the Multifamily Project, Redeveloper will own all real property within 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.

(m) 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 $1,000,000 per occurrence and $2,000,000 in the aggregate, and a penal bond as required by the Act and Section 11 of this Redevelopment Contract, if applicable. 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 Multifamily Project to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "All Risk" insurance for physical loss or damage. The contractor or Redeveloper, as the case may be, with respect to any specific contract, shall also carry insurance on all stored materials. Upon request of the Agency or City, 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. Such certificates shall state that the insurance companies 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) At all times during the term of this Redevelopment Contract, Redeveloper shall maintain policies insuring the improvements located within the Project Site in an amount equal to one-hundred percent (100%) of their full insurable value.

(o) With respect to the Multifamily 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.

(p) Redeveloper represents and warrants that the Multifamily Project would not be financially feasible without the use of TIF, and therefore would not occur but-for the grant of TIF provided hereunder.

(q) Subject to the approval rights contained herein, Redeveloper acknowledges and consents to the Agency filing those certain covenants, conditions, restrictions, and easements related to the construction, use and ownership of the residential subdivision comprising the Redevelopment Project, inclusive of the Multifamily Project and Project Site (referred to herein as the "**CCREs**"). Redeveloper further acknowledges and consents to the Agency filing those certain affordability covenants and restrictions governing the amount of rent which may be charged and/or the sale prices for the residential units constructed as part of the Redevelopment Project, inclusive of the Multifamily Project and Project Site (referred to herein as the "**Affordability Covenants**"). In accordance therewith, Redeveloper agrees to strictly comply with the CCREs and Affordability Covenants with respect to the Multifamily Project and/or Project Site. Redeveloper acknowledges and agrees that any action by the City or the Agency under this Redevelopment Contract shall not be deemed to be an approval, warranty, or other certification by the City or the Agency as to Redeveloper's compliance under the CCREs or Affordability Covenants. The rights and obligations of the Parties under this Redevelopment Contract are conditioned upon Redeveloper's review and approval of the CCREs and Affordability Covenants prior to said documents being filed against the Project Site. In the event the CCREs and Affordability Covenants are not acceptable to Redeveloper for Redeveloper's intended use and operation of the Project Site, Redeveloper may terminate this Redevelopment Contract via written notice to the Agency and this Redevelopment Contract shall be void ab initio. Redeveloper acknowledges and agrees that if the Agency files the CCREs and Affordability Covenants against the Project Site, and Redeveloper subsequently closes on the purchase and sale of the Project Site, such act shall be deemed as an acceptance and approval of the CCREs and Affordability Covenants by Redeveloper.

(r) Redeveloper acknowledges and agrees that vehicular ingress and egress to/from the Project Site shall be limited to two (2) driveway access points from 8th Street, at locations approved by the City, provided that the City may, in its discretion, approve an additional access point in the rear of the Project Site to connect with future development.

(s) As part of the Multifamily Project, Redeveloper shall construct and maintain post-construction stormwater treatment and detention facility, with overflow discharge piping to the 8th Street storm sewer system, subject to the City's oversight and approval.

(t) Prior to commencement of construction of the Redevelopment Project, in addition to any other plan approval requirements under the CCREs, Redeveloper shall submit a landscaping plan for the entire Project Site to the City. Such landscaping

plan shall be subject to the City's review and approval, not to be unreasonably withheld.

(u) As part of the Multifamily Project, Redeveloper shall construct two (2) sidewalk connections to the 8th Street trail being constructed by the City as part of the City Improvements for the Redevelopment Project.

(v) Any exterior lighting within the Project Site shall be designed and constructed to be directed downward and pointed towards the interior of the Project Site, as to eliminate light pollution to neighboring properties.

Section 2. <u>City Improvements; City Bond; Development Outside of Project Site; Conveyance of Project Site to Redeveloper</u>.

For the benefit of the Redevelopment Area, the City will construct the City Improvements, as shown and/or described in the Plan. Among other sources, the City will finance the City Improvements via the Agency's issuance of the City Bond. The principal amount of the City Bond shall equal the difference between the amount of TIF authorized under the Plan, as may be amended, and the principal amount of the Redeveloper Bond, as set forth under Section 3, below. The interest rate for the City Bond shall be determined by the Agency, in its reasonable discretion. Debt service payments on the City Bond shall be funded from the TIF Revenues in accordance with the priority of payment set forth in Section 3 of this Redevelopment Contract. The City Bond and Redeveloper Bond are collectively referred to herein as the "**Bonds**".

As detailed above, the City Improvements will benefit the entire Redevelopment Area, inclusive of, but not limited to, the Project 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 Project 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 both the City Bond and Redeveloper Bond (in addition to the TIF Revenues derived from the Multifamily Project). 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 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.

Following the full execution of this Redevelopment Contract, Redeveloper and the Agency shall enter into a mutually-agreeable purchase and sale contract for the Project Site. In accordance therewith, the rights and obligations of the Parties under this Redevelopment

Contract are conditioned upon Redeveloper and Agency closing on the sale of the Project Site to Redeveloper. In the event the purchase and sale contract for the Project Site between Redeveloper and Agency is terminated prior to such closing, this Redevelopment Contract shall be void ab initio.

Section 3. Incorporation of Plan; Redeveloper Bond; Priority.

This Redevelopment Contract hereby incorporates the Plan by this reference. In order to provide for payment of some of the eligible improvements for the Multifamily Project 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 the Redeveloper Bond on a form provided by the Agency and set forth in the Bond Resolution, in the principal amount not to exceed $3,350,000, at an interest rate not to exceed 6.50%. In consideration of Redeveloper undertaking the Multifamily Project, the Agency shall issue the Redeveloper Bond to Redeveloper no earlier than thirty (30) days following the Agency's adoption of the Bond Resolution. At closing of the Redeveloper Bond, the loan to be accomplished by this Section 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 the Redeveloper retains the TIF Revenues and no bankable currency is exchanged at closing of the Redeveloper Bond, except as otherwise provided herein. The Redeveloper Bond shall be issued on the basis of interest which is includable in income for both federal and Nebraska State income taxes.

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 Platte 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 Project 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 Project 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 Project 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 Bonds shall constitute a limited obligation of the Agency payable exclusively from the TIF Revenues generated from the Redevelopment Project pursuant to Section 18-2147 of the

Act and collected for a period not to exceed fifteen (15) tax years from the Effective Date of each Phase. Prior to receipt of any TIF Revenues, the Agency shall create a special fund established solely to make payments on the Bonds. Upon receipt of the TIF Revenues, the Agency shall first deposit the TIF Revenues into the special fund, and shall disburse said funds to the holders of the Bonds (but only from available TIF Revenues), at the times provided in the Bonds, in accordance with the following priority:

(a) Fifty percent (50%) of annual TIF Revenues derived from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the Redeveloper Bond.

(b) Fifty percent (50%) of annual TIF Revenues derived from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the City Bond.

(c) Following the full payment of all principal and interest on either the Redeveloper Bond or City Bond, one hundred percent (100%) of the TIF Revenues derived from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the portion of the Bonds that remains outstanding, until full payment or final maturity thereof, whichever occurs first.

The principal amount paid on the Redeveloper Bond and City Bond, as applicable, shall not exceed the aggregate amount of Eligible Costs incurred by Redeveloper and City, respectively, as evidenced by paid invoices or other materials tendered to the Agency ("**Eligible Costs Certifications**"). Each such reimbursement hereunder shall be and constitute a grant to Redeveloper or City, as applicable, made under the terms of this Redevelopment Contract and the Act. Redeveloper and City may 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. If Redeveloper fails to submit Eligible Cost Certifications in an amount equal to or greater than the principal amount on the Redeveloper Bond upon completion of the Multifamily Project, the principal and interest amounts on the Redeveloper Bond shall be reduced to the amount of Eligible Costs Certifications received/approved by the Agency; and Redeveloper shall cooperate with respect to all actions reasonably necessary, in the Agency's discretion, to accomplish the same.

Section 4. Workforce Housing Project; Conditions Related Thereto.

As set forth in the Plan, and pursuant to the Act and the workforce housing incentive plan adopted by the City in accordance therewith (the "**Incentive Plan**"), this Redevelopment Contract specifically contemplates and authorizes the use of TIF for the residential improvements constructed as part of the Multifamily Project that meet the criteria set forth under Section 18-2103(32)(c) of the Act, as may be adjusted from time to time (referred to herein as "**Workforce Housing TIF**").

So long as the residential units constructed as part of the Multifamily Project comply with the criteria set forth under 18-2103(32)(c) of the Act, such improvements shall be considered "Workforce Housing" under the Act, and shall be eligible for treatment as such with respect to the City's administration of TIF (i.e., such improvement shall constitute Eligible Costs).

If some, but not all, of the residential units constructed by Redeveloper meet the eligibility criteria for Workforce Housing TIF, only the qualifying units shall be eligible for Workforce Housing TIF. Any ineligible portion(s) or unit(s) shall still qualify for normal TIF, but the hard construction costs of the private improvements associated with such ineligible unit(s) shall not be considered Eligible Costs.

To ensure compliance with the foregoing, upon Redeveloper's submission of any Eligible Cost Certification which includes costs associated with the hard construction costs for private improvements (i.e., the construction of the physical apartment building(s) and units therein), such Eligible Cost Certification shall be supported and/or supplemented by sufficient documentation evidencing that the residential units associated therewith met the criteria under 18-2103(32)(c) of the Act. Unless and until the Agency receives the same, such improvements will not be deemed as Eligible Costs.

Section 5. Covenants With Respect to Taxation of Project Site.

Redeveloper agrees with respect to the Multifamily Project as follows:

(a) Until the termination of this Redevelopment Contract, the Multifamily 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 the Project Site (inclusive of the improvements thereon), or a portion thereof, shall be made to any person or entity for ownership or use which would cause the real property within the Project Site to be eligible for exemption from ad valorem taxes under Section 77-202 of the Nebraska Revised Statutes, 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 $26,400,000 within the Project Site (the "**Minimum Valuation**") no later than January 1, 2027. From and after the effective date of this Redevelopment Contract, and so long as the Redeveloper Bond remains outstanding and unpaid, Redeveloper, together with its successors and assigns, including subsequent purchasers of land within the Project Site, shall not protest any taxable valuation assessed for the Project Site, as determined by the appropriate assessing and taxing officials of Platte 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, Redeveloper's 50% allocation of the TIF Revenues from the Redevelopment Project on the entire

Redevelopment Area are not sufficient to provide debt service on the Redeveloper Bond: (1) if Redeveloper has monetized the Redeveloper Bond 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 Redeveloper Bond, Redeveloper agrees to defer receipt of any such shortfall. If Redeveloper defers the receipt of any such shortfall amounts as required hereunder, Redeveloper shall, subject to the payment priorities set forth under Section 3, be entitled to receive reimbursement of any such shortfall payment to the extent TIF Revenues later become available during the division 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 Redeveloper Bond at the end of the period for the division of ad valorem real estate taxes prescribed by the Act. Redeveloper shall have no obligations with respect to any shortfall on the City Bond.

(d) Redeveloper, its successors and assigns, including subsequent purchasers of land within the Project Site, further agree as follows:

(i) 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 or Multifamily 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) generated and received by Redeveloper in relation to

the Multifamily Project or Plan until the expiration of three years following the end of the last fiscal year in which TIF are divided in relation to the Redevelopment Project. This Section 5(d)(v) shall survive the expiration or termination of this Redevelopment Contract.

Section 6. 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 6, 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 Multifamily Project or within the Project Site. 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 with respect to the Multifamily Project or Project Site. The obligation of the Indemnified Parties on the Bonds or any indebtedness contemplated hereunder shall be limited solely to the TIF Revenues generated by 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 7. 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 Project 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 Project Site, now or hereafter acquired, and hereby covenants and warrants for the benefit of the Agency and the registered owner of the Redeveloper Bond that Redeveloper shall defend such interest in the Project Site against the claims and interests of any and all persons. Redeveloper shall record a memorandum of this Redevelopment Contract, in a form approved by the Agency, against all real estate located in the Project Site and such document shall remain of record until termination of this Redevelopment Contract. The Agency and City shall have the authority to execute the 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 Project Site after the recording of the memorandum of this Redevelopment Contract. After the Redeveloper Bond 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 evidencing the termination of this Redevelopment Contract and of the covenants and undertakings herein provided. The Agency shall have the right, from time to time in its sole and reasonable discretion, to release specific parcels or lots located within the Redevelopment Area, other than the Project Site, from any or all of the specific provisions of this Redevelopment Contract.

Section 8. 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 other Party;

(iii) an event of default or material breach by or attributable to Redeveloper relating to the Multifamily 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.

(v) an event of default or material breach by or attributable to Redeveloper, or in relation to the Multifamily Project and/or Project Site, under the CCREs or Affordability Covenants.

(b) Whenever an Event of Default occurs, and is not cured within thirty (30) days after written notice from a non-defaulting Party, in addition to all other remedies available to the Agency or Redeveloper at law or in equity, the Agency or Redeveloper may: (1) suspend its performance under this Redevelopment Contract until receiving adequate assurances from Redeveloper or Agency that Redeveloper or Agency has cured the default and will continue performance under this Redevelopment Contract; and/or (2) 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 Multifamily Project.

(c) In addition to the remedies under Section 8(b), the Agency shall have the following additional remedies upon an Event of Default by Redeveloper:

(i) If at any time during the term of this Redevelopment Contract an Event of Default by Redeveloper shall occur and remain continuing, 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 improvements characterized as Eligible Costs. If the City or Agency elects to cure a 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. If Redeveloper's breach can be cured by the payment of Eligible Costs, the City or Agency may cure such defect and obtain reimbursement, with notice to Redeveloper, via a set off to the principal amount of the Redeveloper Bond equal to the Eligible Costs reasonably 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 holder of the grant proceeds and all subsequent distributions of TIF Revenues 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 Bond 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 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 Bond 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 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 Bond, in which case Redeveloper shall reimburse the Agency in amount equal to all TIF Revenues previously paid towards the Redeveloper Bond, within thirty (30) days' of the Agency's written notice.

(d) No remedy herein conferred upon or reserved to the Agency or the registered owner of the Redeveloper Bond 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.

(e) 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.

(f) Anything in this Section 8 to the contrary notwithstanding, none of the events described in subsection 8(a)(iv) above shall, on their own, constitute an Event of Default after the Multifamily Project has been completed.

Section 9. 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 Multifamily 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 Multifamily Project.

Section 10. Manner of Sale of Bond; Payment of Agency's Legal Fees.

Redeveloper agrees either to purchase the Redeveloper Bond for the principal amount thereof or to find a purchaser for the Redeveloper Bond upon terms and conditions acceptable to the Agency. 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 Redeveloper Bond, may be accomplished by offset in consideration of Redeveloper's warranties and obligations hereunder, so that Redeveloper retains the TIF Revenues and no bankable currency is exchanged between the Parties at closing of the Redeveloper Bond, except as otherwise 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.

Upon full execution and effectiveness of this Redevelopment Contract, Redeveloper shall reimburse the Agency for its legal fees incurred in relation to the Multifamily Project in the amount of $12,000. Prior to or contemporaneously with issuance of the Redeveloper Bond, Redeveloper shall reimburse the Agency for its legal fees incurred in relation to the issuance of the Redeveloper Bond in the additional amount of $3,000. Such reimbursements shall be payable directly to the Agency or Agency's special counsel, at the direction of the Agency.

Section 11. 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 Multifamily Project. Redeveloper agrees to procure, through itself or its contractors, a bond (or bonds) for the payment of costs to the extent required under Section 18-2151 of the Act. The City and Agency shall be included as co-obligees on any such bond (or bonds). Prior to undertaking any construction upon public lands or within a public right-of-way, as applicable, Redeveloper shall provide a copy of such bond (or bonds) to the Agency, evidencing that the same is in effect in accordance with the requirements of this Section.

Section 12. 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 13. 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 Bonds as third party beneficiaries. This Redevelopment Contract shall be binding upon the Agency, City and Redeveloper, and any successors or assigns thereof. Redeveloper may assign its interests under this Redevelopment Contract, in whole or in part, and/or convey the Project Site, or a portion thereof, to an unrelated third party, upon the prior written approval of the Agency and City, not to be unreasonably withheld. The Agency, City 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 Platte County, Nebraska, with respect to the Project Site.

Section 14. 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 15. 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:

Vitality Apartments, LLC
c/o Spencer Lombardo
18210 Camelback Ave.
Omaha, NE 68136

with a copy to:

Cline Williams Wright Johnson & Oldfather, L.L.P.
c/o Andrew Willis
233 South 13th Street; Suite 19
Lincoln, NE 68508

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

City of Columbus, Nebraska
c/o City Administrator
2500 14t Street, Suite 3
P.O. Box 1677
Columbus, NE 68602

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 14 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 16. 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 17. Counterparts.

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

Section 18. Law Governing.

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

Section 19. Time of the Essence.

Time shall be of the essence of this Redevelopment Contract.

Section 20. 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 may no longer be divided under Section 18-2147 of the Act, or payment of all principal and interest owed toward the Bonds.

Section 21. 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 Party in writing of the cause or causes thereof, and request an extension for the period of the delay.

Section 22. 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
THE CITY OF COLUMBUS, NEBRASKA

By: _____
Chairperson

ATTEST:

_____
Secretary

CITY OF COLUMBUS, NEBRASKA SEAL FEBRUARY 11, 1865

STATE OF NEBRASKA)
) ss.
COUNTY OF PLATTE)

The foregoing instrument was acknowledged before me this 5 day of August, 2024, by James B. Bulkley, Chairperson, and Shuraya Choat, Secretary, of the Community Development Agency of the City of Columbus, Nebraska on behalf of such agency.

_____
Notary Public

GENERAL NOTARY - State of Nebraska
LINDA M. CLOETER
My Comm. Exp. August 9, 2025

VITALITY APARTMENTS, LLC,
a Nebraska limited liability company

By: _____

Name: SPENCER LOMBARDO

Title: MEMBER

STATE OF Nebraska)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 18th day of Sept., 2024, by Spencer Lombardo, the member of Vitality Apartments, LLC, a Nebraska limited liability company, on behalf of the company.

GENERAL NOTARY - State of Nebraska
IAN DUGAN
My Comm. Exp. June 9, 2027

_____
Notary Public

Exhibit A
Redevelopment Area

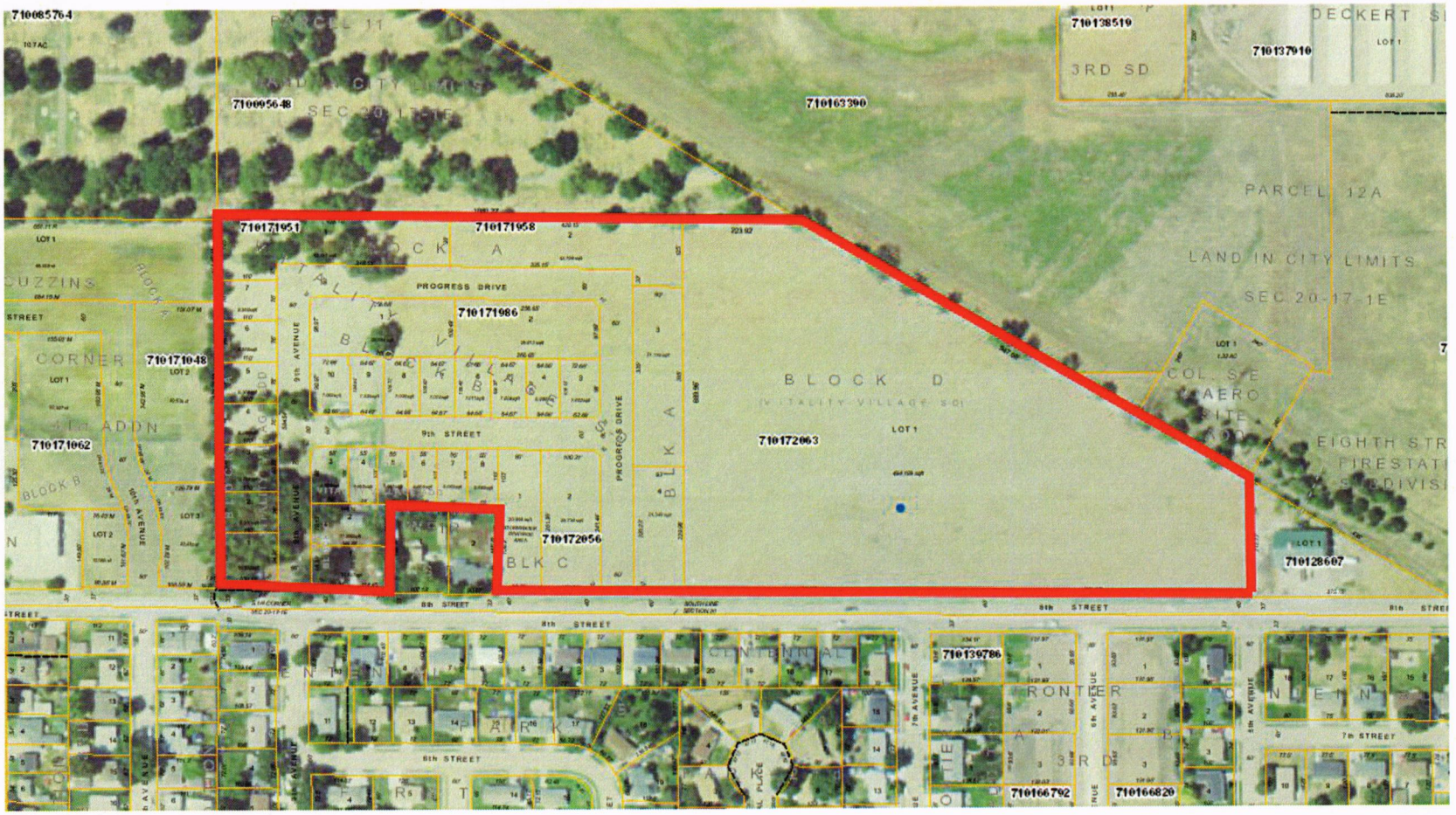
Legal Description:

Lots 1-4, Block A, and Lots 1-10, Block B, and Lots 1 and 2, Block C, and Lot 1, Block D, all in Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska; AND

Lots 1-7, Block A, and Lots 1-8, Block C, all in Vitality Village Addition to the City of Columbus, Platte County, Nebraska.

* In the event the Redevelopment Area is replatted or subdivided as part of the Redevelopment Project, the legal description(s) for the Redevelopment Area derived from any such replat or subdivision approved by the City of Columbus, Nebraska, shall supersede the legal description provided above.

Redevelopment Area Depiction:



* Redevelopment Area outlined in red

Exhibit A

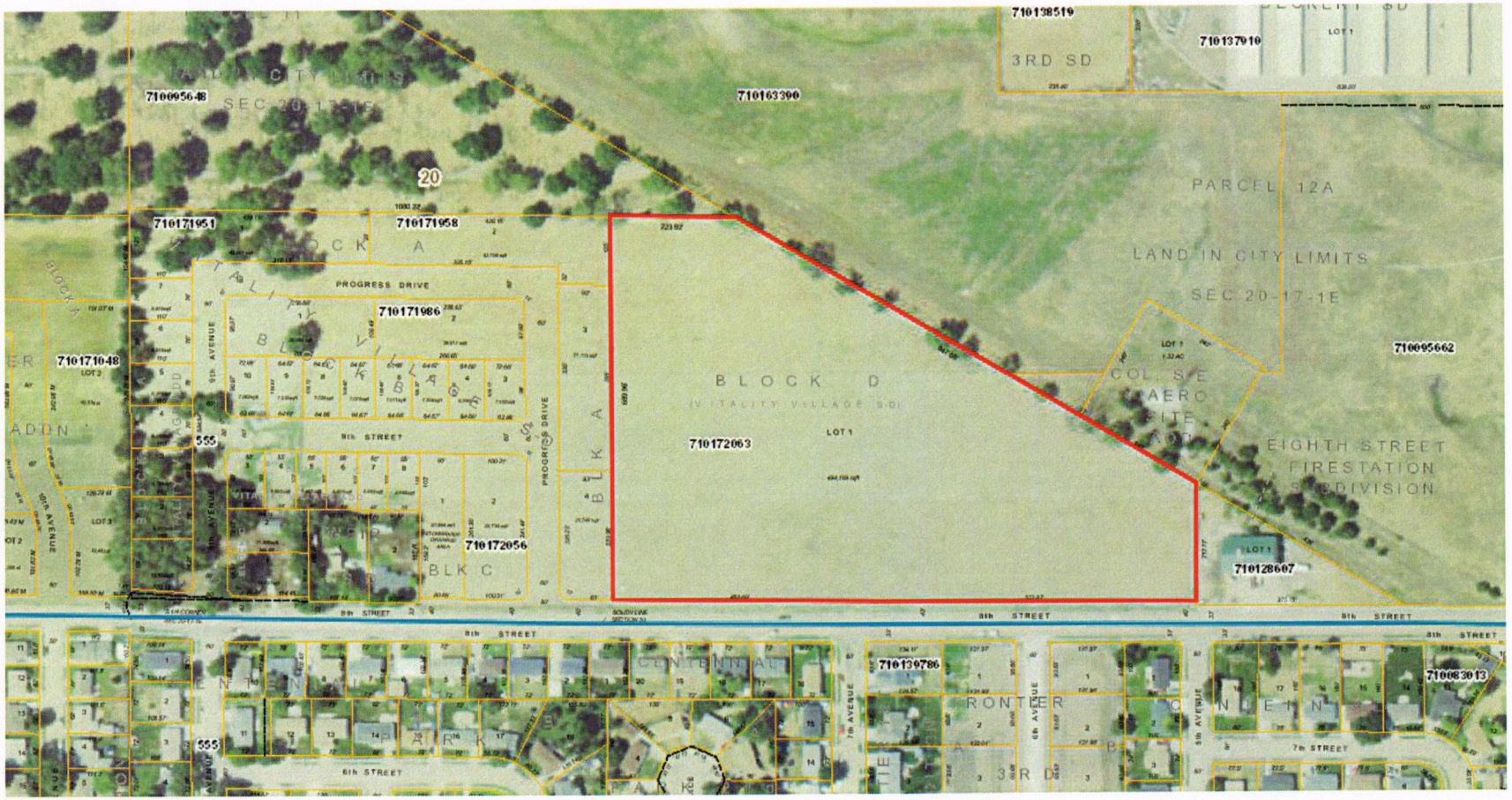
Exhibit B
Project Site

Legal Description:

Lot 1, Block D, Vitality Village Subdivision, a Subdivision of Lots 8-11, Block A, and Lots 1-12, Block B, and Lots 9-13, Block C, and Lots 1 and 2, Block D, Vitality Village Addition to the City of Columbus, Platte County, Nebraska.

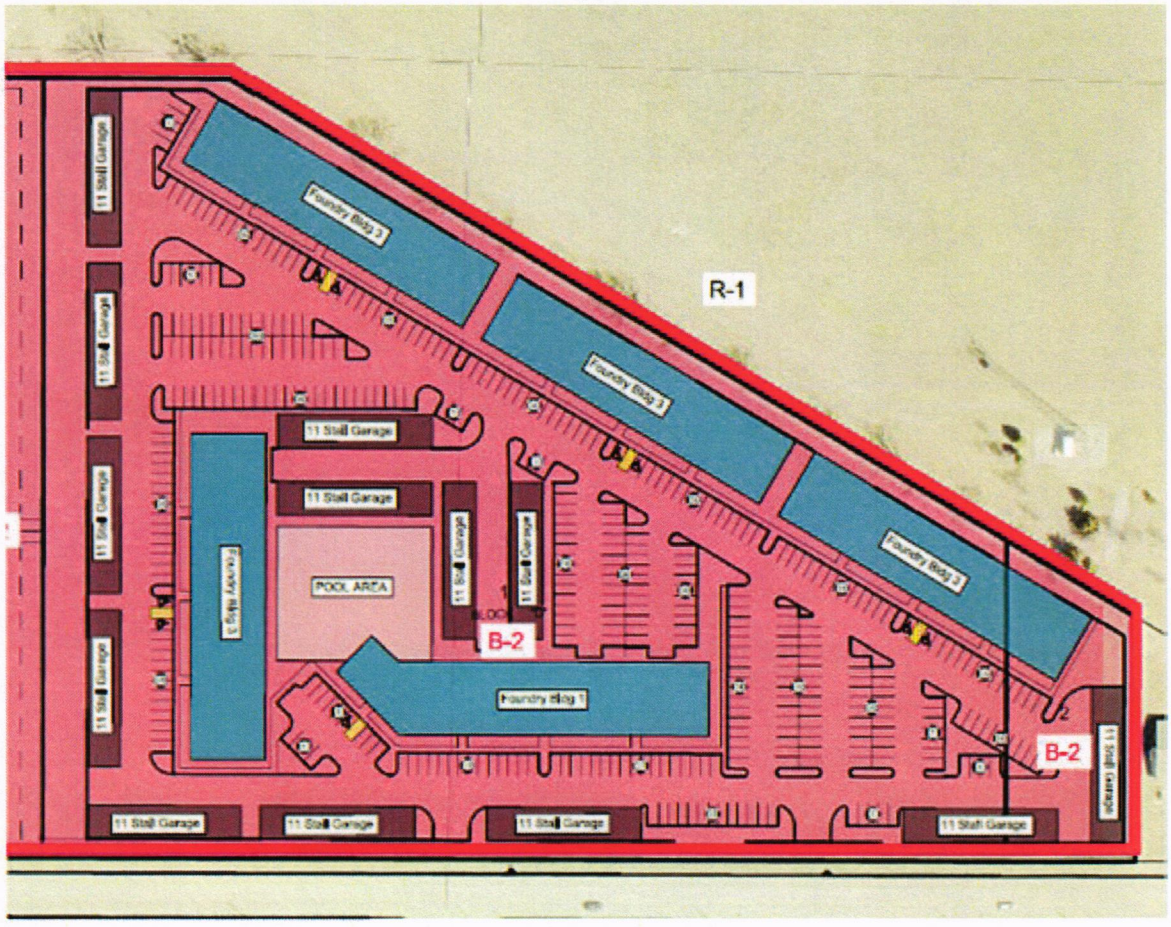
* In the event the Project Site is replatted or subdivided as part of the Redevelopment Project, the legal description(s) for the Project Site derived from any such replat or subdivision approved by the City of Columbus, Nebraska, shall supersede the legal description provided above.

Project Site Depiction:



* Project Site outlined in red

Exhibit C
Multifamily Project Plan



Conceptual Renderings:

* The site plans contained under this Exhibit C are for reference purposes only and are subject to change.

Exhibit D
Projected TIF Uses

Redeveloper's Eligible Costs/Projected TIF Uses

Land Acquisition:	$350,400
Workforce Housing Improvements:***	$31,440,000
Architecture and Engineering:	$339,000
Legal Fees:	$15,000
TOTAL:	**$32,144,400**

City's Eligible Costs/Projected TIF Uses

Land Acquisition:	$790,965
Mobilization & Site Preparation:	$51,925
Storm Water:	$78,300
Paving:	$1,763,550
Storm Sewer:	$758,000
Water:	$415,400
Sanitary Sewer:	$428,500
Contingency:	$428,664
Legal and Consulting Fees:	$42,886
8th Street Roundabouts:	$3,300,000
TOTAL:	**$8,058,170**

* 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 3 of the Redevelopment Contract.

** 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 D.

*** Subject to meeting the criteria of Workforce Housing TIF, as detailed under Section 4 of the Redevelopment Contract.

6446022.1
4879-9336-4692, v. 1

FIRST AMENDMENT TO
REDEVELOPMENT CONTRACT

(The 8th Street Residential Subdivision Redevelopment Project – Multifamily Phase)

This First Amendment to Redevelopment Contract (The 8th Street Residential Subdivision Redevelopment Project – Multifamily Phase) ("Amendment") is made and entered into as of the 3rd day of September, 2024, by and between the Community Development Agency of the City of Columbus, Nebraska ("Agency") and Vitality Apartments, LLC, a Nebraska limited liability company ("Redeveloper"). The Agency and/or Redeveloper may be referred to hereinafter as the "Party" or collectively as the "Parties".

WITNESSETH:

WHEREAS, the Parties entered into that certain Redevelopment Contract (The 8th Street Residential Subdivision Redevelopment Project – Multifamily Phase), dated August 5, 2024, adopted and approved by the Agency via Resolution No. R24-91 ("Redevelopment Contract"); and

WHEREAS, the Parties desire to make certain changes and amendments to the Redevelopment Contract, as set forth in this Amendment.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency and Redeveloper do hereby amend the Redevelopment Contact as follows:

1. The third paragraph of Section 3 of the Redevelopment Contract is hereby amended and restated, in its entirety, as follows:

> "The Bonds shall constitute a limited obligation of the Agency payable exclusively from the TIF Revenues generated from the Redevelopment Project pursuant to Section 18-2147 of the Act and collected for a period not to exceed fifteen (15) tax years from the Effective Date of each Phase. Prior to receipt of any TIF Revenues, the Agency shall create a special fund established solely to make payments on the Bonds. Upon receipt of the TIF Revenues, the Agency shall first deposit the TIF Revenues into the special fund, and shall disburse said funds to the holders of the Bonds (but only from available TIF Revenues), at the times provided in the Bonds, in accordance with the following priority:
>
> (a) The first $364,144, of annual TIF Revenues derived and collected from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the Redeveloper Bond.

(b) All other annual TIF Revenues, in excess of those under subsection (a), above, derived and collected from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the City Bond.

(c) Following the full payment of all principal and interest on either the Redeveloper Bond or City Bond, one hundred percent (100%) of the TIF Revenues derived from the Redevelopment Project on the entire Redevelopment Area shall be disbursed and allocated towards debt service on the portion of the Bonds that remains outstanding, until full payment or final maturity thereof, whichever occurs first."

2. The Agency and Redeveloper hereby reconfirm all other terms and conditions of the Redevelopment Contract, except as expressly modified by the terms of this Amendment.

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

CITY OF COLUMBUS, NEBRASKA SEAL FEBRUARY 11, 1865

COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA

ATTEST:

By: _____
Secretary (City Clerk)

By: _____
Chairperson (Mayor)

VITALITY APARTMENTS, LLC, a Nebraska limited liability company

By: _____

Name: _____

Title: Member

4. **Adjournment.**