

IN THE DISTRICT COURT OF DOUGLAS COUNTY NEBRASKA

CITY OF RALSTON, a City and Political Subdivision of the State of Nebraska, and the COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF RALSTON, a Nebraska Municipal Corporation,

Plaintiffs,

vs.

J & M RALSTON GRANARY, LLC, a Nebraska Limited Liability Company,

Defendant.

CASE NO. CI 13-_____

COMPLAINT

COME NOW Plaintiffs, CITY OF RALSTON and COMMUNITY REDEVELOPMENT AUTHORITY OF THE CITY OF RALSTON (collectively, "Plaintiffs"), and for their causes of action against Defendant, J & M RALSTON GRANARY, LLC ("Defendant"), state and allege as follows:

PARTIES

- 1. Plaintiff City of Ralston ("City of Ralston") is a City of the First Class and Political Subdivision of the State of Nebraska.
2. Plaintiff the Community Redevelopment Authority of the City of Ralston ("Ralston CRA") is a Nebraska Municipal Corporation organized pursuant to the Community Development Law found at Neb. Rev. Stat. § 18-2101 et seq. There are 5 members of the Ralston CRA.
3. Defendant J & M Ralston Granary is a limited liability company organized and existing under the laws of the State of Nebraska.

JURISDICTION AND VENUE

- 4. The District Court has subject matter jurisdiction pursuant to Neb. Rev. Stat. § 24-302.
5. Venue is proper in Douglas County District Court pursuant to Neb. Rev. Stat. § 25-403.01 because a substantial part of the transactions giving rise to the claims occurred in

Douglas County, Nebraska, and the real property at issue in this matter is located in Douglas County, Nebraska.

GENERAL ALLEGATIONS

6. On or about October 5, 2004, the Ralston CRA and Defendant executed and entered into a Redevelopment Agreement, whereby Defendant was to take specific actions and undertake a plan providing for "the preservation, rehabilitation and development of the buildings located at 7401 Main Street and 7305 Main Street, Ralston, Nebraska, commonly known as the 'Olde Granary' property and the 'Tin Shed' property into a commercial area providing space to restaurants, retail shops, artists and office tenants, consisting of approximately 92,000 or more square feet of commercial buildings on a site of approximately 6.5 acres." In consideration for performing the actions described in the preceding sentence, Plaintiffs agreed to provide Tax Increment Financing ("TIF") to Defendant for the purpose of land acquisition, demolition of existing buildings, installation of public utilities, and site preparation, with costs up to the sum of \$360,000.00. A true and correct copy of the Redevelopment Agreement is attached hereto as Exhibit "A" and incorporated herein by this reference.

7. Prior to execution of the Redevelopment Agreement, Defendant submitted, and the City Council of the City of Ralston approved, a Redevelopment Plan detailing its plan to accomplish the objectives set forth in the preceding paragraph. A copy of the Redevelopment Plan is attached to the Redevelopment Agreement as Exhibit "A" and incorporated therein by reference. Collectively the Redevelopment Agreement and Redevelopment Plan are sometimes referred to herein as the "Redevelopment Agreement."

8. Pursuant to the Redevelopment Agreement, Defendant was to acquire marketable title to certain property legally described in Section 1.7 of the Redevelopment Agreement; said property is commonly known as 7401 Main Street, 7305 Main Street, and the Tin Shed property (collectively, this property is referred to herein as the "Redevelopment Site").

9. Subsequent to the execution of the Redevelopment Agreement, Defendant acquired title to so much of the Redevelopment Site that it did not already own, including the Tin Shed property, making Defendant the sole owner of the Redevelopment Site. A true and correct copy of a general diagram of the Redevelopment Site is attached to the Redevelopment Agreement, which Agreement is already incorporated herein.

10. The Redevelopment Agreement called for Defendant to undertake and perform, among other items, the following:

- a. Transform the property into a regional destination center with tenants offering food and entertainment services, retail shopping, art galleries and artists workshops, with some space used by office and warehouse tenants (Redevelopment Plan, § B.5.).
- b. Have the buildings on the "Tin Shed" property demolished. (Redevelopment Plan, § B.6).
- c. Do the necessary site preparations such as re-locating utilities, re-grading, installing lighting, and landscaping, so that the Tin Shed site is combined with and used as a parking area for the "Olde Granary". (Redevelopment Plan, § B.6.).
- d. Provide employment opportunities to the residents of Ralston, with an anticipation that the tenants of the Olde Granary development would hire forty to sixty employees. (Redevelopment Plan, § D.2.).

11. Specifically, with respect to the demolition of the Tin Shed, Defendant represented the following, in § B.6. of the Redevelopment Plan:

Demolition is scheduled to commence as soon as title transfers from the City to the J&M Ralston Granary LLC and site preparation will immediately follow. Construction for this should be completed within six months of the developer acquiring the property. The only delays that could arise would be due to weather.

12. On or about May 1, 2007, Plaintiffs and Defendant executed and entered into an Amendment to Redevelopment Agreement ("Amendment"), wherein it was agreed by the parties that Defendant was granted an extension of time until August 31, 2008, to demolish and remove the Tin Shed. A true and correct copy of the Amendment is attached hereto as Exhibit "B" and incorporated herein by this reference.

13. Despite the fact that Defendant expressly agreed to perform said obligations in the Redevelopment Agreement and Amendment, Defendant has failed and refused to perform the obligations set forth in paragraphs 10 and 11 above, and has breached the Redevelopment Agreement and Amendment in other manners. Specifically, Defendant has failed to demolish or tear down the Tin Shed.

14. Upon information and belief, and based upon certain communications between Defendant and Plaintiffs, Defendant has denied any obligation to perform any actions under the Redevelopment Agreement and Amendment, including demolition of the Tin Shed.

15. Plaintiffs have made requests to Defendant to perform its obligations under the Redevelopment Agreement and Amendment, but Defendant has failed and refused to perform said obligations.

16. Based upon Defendant's failure to perform its obligations under the Redevelopment Agreement and Amendment, Plaintiffs ceased distributions of TIF proceeds to Defendant.

17. Plaintiffs have indicated that they will restore distributions of TIF proceeds if Defendant performs its obligations under the Redevelopment Agreement and Amendment.

18. Defendant has breached the Redevelopment Agreement and Amendment in further and other manners, to be proved at trial of this matter.

FIRST CAUSE OF ACTION – DECLARATORY JUDGMENT

19. Plaintiffs restate and incorporate paragraphs 1 through 18 of this Complaint as if fully set forth herein.

20. The Redevelopment Agreement and Amendment are valid, binding, and legally enforceable agreements.

21. All conditions precedent to Defendant's obligations set forth in the Redevelopment Agreement and Amendment have been performed or met.

22. Defendant has denied that it is required to perform certain obligations under the Redevelopment Agreement and Amendment; said obligations are set forth in preceding paragraphs in this Complaint.

23. Plaintiffs have no adequate remedy at law.

24. Plaintiffs will suffer irreparable injury if the Court does not declare the Redevelopment Agreement and Amendment valid, binding, and legally enforceable, declare that all conditions precedent have been performed or met, and declare that Defendant has denied that it is required to perform certain obligations under the Redevelopment Agreement and Amendment.

SECOND CAUSE OF ACTION – SPECIFIC PERFORMANCE

25. Plaintiffs restate and incorporate paragraphs 1 through 18 of this Complaint as if fully set forth herein.

26. Plaintiffs are ready, willing and able to proceed with distribution of TIF funds, so long as Defendant performs and fulfills its obligations under the Redevelopment Agreement and Amendment. Specifically, the demolition of the Tin Shed is necessary, integral, and critical to facilitate the preservation, rehabilitation and development of the Redevelopment Site.

27. Defendant has breached the Redevelopment Agreement and Amendment by failing and refusing to perform several of its obligations under the Redevelopment Agreement.

28. Plaintiffs have no adequate remedy at law, since Defendant's obligations under the Redevelopment Agreement and Amendment, including the demolition of the Tin Shed, are unique obligations and critical to the proposed preservation, rehabilitation and development of the Redevelopment Site.

29. As a result of the Defendant's failure or refusal to perform its obligations described in the Redevelopment Agreement and Amendment, Plaintiff is entitled to a decree of specific performance requiring Defendant to perform its obligations under the Redevelopment Agreement and Amendment.

30. Plaintiffs will suffer irreparable injury if Defendant does not perform its obligations under the Redevelopment Agreement and Amendment, and Defendant can and should perform its obligations under the Redevelopment Agreement and Amendment.

WHEREFORE, Plaintiffs pray for the entry of an Order from this Court as follows:

- (1) Declaring that the Redevelopment Agreement and Amendment are valid, binding, and legally enforceable agreements between Plaintiffs and Defendant, that Defendant's obligations under the Redevelopment Agreement and Amendment are valid, binding and enforceable, that all conditions for Defendant's performance under the Redevelopment Agreement and Amendment have been met or occurred, and that Defendant's performance of its obligations under the Redevelopment Agreement and Amendment is now due and owing;
- (2) Granting Plaintiffs specific performance of the Redevelopment Agreement and Amendment as specified above;

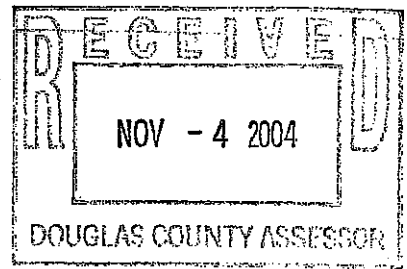
- (3) Granting Plaintiffs reimbursement of their costs and attorney fees expended herein; and
- (4) Granting Plaintiffs such other and further relief as the Court deems just and equitable.

DATED this 28th day of August, 2013.

CITY OF RALSTON, a City of the First Class and
Political Subdivision of the State of Nebraska, and
COMMUNITY REDEVELOPMENT
AUTHORITY OF THE CITY OF RALSTON, a
Nebraska Municipal Corporation, Plaintiffs

By: /s/ Luke J. Klinker
Luke J. Klinker, #23419
FRASER STRYKER PC LLO
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska 68102
(402) 341-6000
(402) 341-8290 (Facsimile)
lklinker@fslf.com
ATTORNEYS FOR PLAINTIFFS

881596



REDEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the Community Redevelopment Authority of the City of Ralston, a Nebraska Municipal Corporation in Douglas County, Nebraska, and J&M Ralston Granary L.L.C., a Nebraska Limited Liability Company, with its business office located at #4 Westlake, Council Bluffs, Iowa, 51501 and its registered office located at 1823 Harney Street, Omaha, Nebraska 68102.

RECITALS:

WHEREAS, on August 31, 2004, the City Council of the City of Ralston approved the J&M Ralston Granary L.L.C.'s Redevelopment Plan which provided for the preservation, rehabilitation and development of the buildings located at 7401 Main Street and 7305 Main Street, Ralston, Nebraska, commonly known as the "Olde Granary" property and the "Tin Shed" property into a commercial area providing space to restaurants, retail shops, artists and office tenants, consisting of approximately 92,000 or more square feet of commercial buildings on a site of approximately 6.5 acres, which is described more particularly in said Redevelopment Plan, a copy of which is attached hereto marked as Exhibit "A" and incorporated herein by this reference, including grading, and erosion control measures, and which provided for and the use of the excess ad-valorem taxes generated by such development; and,

WHEREAS, this agreement is a redevelopment agreement prepared pursuant to the Nebraska Community Development Law Sections 18-2101 to 18-2154, R. R. S. Nebraska 1943, in order to implement the above-referenced Redevelopment Plan.

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

SECTION 1. DEFINITIONS

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



- 1.1 "City" shall mean the City of Ralston, Nebraska, a Municipal Corporation of the first class or such successor entity lawfully established pursuant to the applicable provision of the Nebraska Community Development Act.
- 1.2 "Authority" shall mean the Community Redevelopment Authority of the City of Ralston.
- 1.3 "Developer" shall mean J&M Ralston Granary L.L.C., a Nebraska Limited Liability Company.
- 1.4 "Clerk" shall mean the City Clerk of the City of Ralston.
- 1.5 "Secretary" shall mean the ex-officio secretary of the Authority.
- 1.6 "Redevelopment Project" shall mean development of the Redevelopment Site through the preservation, rehabilitation and development of the commercial/office buildings with related improvements as set forth as part of the Redevelopment Plan, which is attached hereto as Exhibit "A" and by this reference incorporated herein.
- 1.7 "Redevelopment Site" shall mean 7401 Main Street and 7305 Main Street, Ralston Nebraska and the Tin Shed and is legally described as:

The legal description for the 7401 Main Street is as follows:

Lots 1 and 2, inclusive, Block 58; Lots 1 through 9 inclusive and Lots 13 through 21, inclusive, Block 59, in the City of Ralston, as surveyed, platted and recorded, except the following parcel:

Commencing at the Northeasterly most corner of said Lot 1, Block 59; thence Southerly along the Easterly common line of said Lots 1, 2 and 3 a distance of 219.25 feet; thence Westerly along a line which is perpendicular to the last described line, a distance of 142.37 feet; thence Northerly along a line which is 142.37 feet Westerly of and parallel to said Easterly common line of Lots 1, 2 and 3, a distance of 219.25 feet to the Northerly common line of Lots 21 and 1, Block 59; thence Easterly along said Northerly common line of Lots 21 and 1 a distance of 142.37 feet to the Northerly most corner of said Lot 1 and the point of beginning; and reserving unto the Grantor a perpetual easement for driveway purposes over and across the West 20 feet of the South 65 feet of the above described premises; together with a perpetual easement to use the East 45 feet of the parking area and driveway adjoining the subject premises on the West, for driveway and parking for its employees, customer and invitees in conjunction with the employees, customers and invitees of the other tenants and occupants of Block 59, City of Ralston, And

Lots 3 through 9 inclusive, Block 58, except the West 102.00 feet thereof, Town site of Ralston as surveyed, platted and recorded in Douglas County, Nebraska, And A 30 foot strip of land lying between Lots 1 through 9, Block 58 and Lots 13 through 21, Block 59, in the City of Ralston as surveyed, platted and recorded in Douglas County, Nebraska, And The vacated alley lying between Lots 6 and 7, Block 58, except the West 102 feet thereof; and the alley between Lots 15 and 16, Block 59, all in the City of Ralston as surveyed, platted and recorded in Douglas County, Nebraska.

The legal description for 7305 Main Street is as follows:

A tract of land located in Part of Lots 1, 2, 3, 19, 20, and 21, Block 59, City of Ralston, Douglas County, Nebraska, being particularly described as follows:

Commencing at the Northeasterly most corner of said Lot 1, Block 59, thence Southerly along the Easterly common line of said Lots 1, 2 and 3 a distance of 219.25 feet; thence Westerly along a line which is perpendicular to the last described line, a distance of 142.37 feet; thence Northerly along a line which is 142.37 feet Westerly of and parallel to said Easterly common line of Lots 1, 2 and 3, a distance of 219.25 feet to the Northerly common line of Lots 21 and 1, Block 59; thence Easterly along said Northerly common line of Lots 21 and 1 a distance of 142.37 feet to the Northeasterly most corner of said Lot 1 and the point of beginning; together with a perpetual easement to use the East 45 feet of parking area and driveways adjoining the subject premises on the West, for driveway and parking for its employees, customers and invitees in conjunction with the employees, customers and invitees of the other tenants and occupants of Block 59, City of Ralston.

The general legal description according to the Douglas County Assessor's office for the "Tin Shed" is as follows:

Irregular W 102 Ft, Lots 3 through 9, Block 58, City of Ralston, Douglas County, Nebraska.

- 1.8 "Redevelopment Note (TIF Funds/TIF Proceeds)" shall mean any obligation issued by the Authority and secured by the excess ad valorem taxes generated within the Redevelopment Site.
- 1.9 "Excess ad valorem taxes" shall mean the additional real estate property taxes generated by this Redevelopment Project pursuant to Section 18-2147 of the Nebraska Revised Statutes.

SECTION 2. OBLIGATIONS OF THE AUTHORITY

The Authority shall:

- 2.1 Execute and deliver to the Developer at closing the Redevelopment Note, to be payable exclusively from the tax revenues or other receipts which are generated as a result of the increased taxable valuation of the Property as of January 1, 2005, which revenues are authorized to be pledged under Section 18-2150, R.R.S. Nebraska, 1943, as amended, and to pay same over to Developer or its assignees, during the term such revenues are available, or until the Note, which is attached hereto as Exhibit "B" and incorporated by this reference is paid in full, whichever event shall first occur.
- 2.2 Grant Redevelopment Loan proceeds to the Developer for the purpose of land acquisition, demolition of existing buildings, installation of public utilities, and site preparation, with costs up to the sum of \$360,000.00, consisting of Tax Increment Financing in the sum of \$360,000.00.
- 2.3 Pay debt retirement principal and interest from, but only from, the Excess Ad Valorem Taxes (TIF tax proceeds). Interest on monies in the special fund shall accrue first to debt retirement interest and then to principal.
- 2.4 Ensure that prior to expenditure or disbursement of Redevelopment Loan proceeds, the following shall be obtained, to-wit:
 - 2.4.1 Developer shall provide the Secretary with evidence, acceptable to the Clerk, that the private funds have been irrevocably committed to the Redevelopment Project in the amount sufficient to complete the redevelopment project.
 - 2.4.2 Developer shall provide evidence of, and maintain, adequate performance and labor materials bonds during the period of construction of the project in a manner acceptable to the City Attorney. The Authority shall be specified as a co-obligee. In the alternative, the Developer may provide lien waivers executed by the contractor and subcontractors and material suppliers on the project.
- 2.5 Establish a special fund under Section 18-2147 of the Nebraska Revised Statutes for the purpose of collecting the excess ad valorem taxes generated by the Redevelopment Project. Monies collected and held in the special fund shall be used for no purpose other than to repay the Redevelopment Loan.
- 2.6 Following approval of a resolution of necessity, in connection with the Redevelopment Project, negotiate through either employees of the Authority or

the City of Ralston or through persons employed therefore or through any combination thereof, with the owners of the "tin shed" property, as legally described in Paragraph 1.7, herein, for the purchase of said property.

Upon failure to agree to purchase by negotiation with the owner of the above-described redevelopment property for the acquisition thereof by the Authority, the Authority is required to proceed forthwith to acquire such property not obtained by negotiation, by proceedings in accordance with the laws of the State of Nebraska, under the power of eminent domain.

- 2.7 If required to use its said power of eminent domain to acquire those portions of the Redevelopment property, described herein, not owned or under contract to be acquired by the Developer, the Authority shall acquire fee simple title, including any leasehold estates and rights of tenants under leases whatsoever, without exception, easement rights or other interests necessary to acquire marketable title to such real property.
- 2.8 Convey by quitclaim deed to the Developer, J&M Ralston Granary L.L.C., or its successors or assigns, all of the Authority's right, title and interest in the "tin shed" property, legally described as: Irregular W 102 Ft, Lots 3 through 9, Block 58, City of Ralston, Douglas County, Nebraska, as the Authority acquires same through eminent domain proceedings. Real estate taxes first becoming delinquent in the year of conveyance shall be prorated to the date possession of the real property is delivered to the Developer. The Authority shall not be required to pay the premium on any title insurance the Developer may purchase to insure its title to the Redevelopment property.
- 2.9 Cooperate with the Developer in enlisting the authority of the City if necessary to the fulfillment of the terms and conditions of the redevelopment Agreement.

SECTION 3. OBLIGATIONS OF THE CITY

The City shall:

- 3.1 Cooperate with the Authority and the Developer to fulfill the terms and conditions set forth herein in furtherance with the overall plan of the City.

SECTION 4. OBLIGATIONS OF THE DEVELOPER

The Developer shall:

- 4.1 Acquire marketable title to the real property to all the redevelopment property by negotiation or by deed from the City after eminent domain proceedings undertaken pursuant to Sections 2.6, 2.7 and 2.8 herein. The developer shall pay

or reimburse the Authority for the amount of the negotiated purchase price or the condemnation award, (including any award and interest on appeal), as the case may be, for any redevelopment property acquired by the Authority by the use of the power of eminent domain. All Court costs, expert witness fees, attorneys fees and other expenses paid by the Authority, or by the City on behalf of the Authority to third parties in connection with any such condemnation action shall be borne by the Developer.

- 4.2 Complete the Redevelopment Project in accordance with this Agreement and the Redevelopment Plan, provided and expressly conditioned upon the following:

the City's conveyance of the City's right, title and interest in Irregular W 102 Ft, Lots 3 through 9, Block 58, City of Ralston, Douglas County, Nebraska, by quitclaim deed to J&M Ralston Granary L.L.C., (or its successors or assigns); the closing on the Developer's TIF loan or loans from its lender; and the execution by the record title holders and other parties holding interests within the Redevelopment Site, of a Consent and Ratification of this Agreement and the execution of all other documents that are necessary or requested by the Developer in order to develop the Redevelopment Site.

- 4.3 Cause all real estate taxes and assessments levied on the Redevelopment Project to be paid prior to the time such becomes delinquent.

- 4.4 Agree that the minimum actual value (agreed value) of the property and of the improvements to be constructed thereon by the Developer shall not be less than \$2,355,000.00 of which \$1,282,000.00 represents the value of the property prior to the effective date of the plan, and not less than \$1,073,000.00 represents the incremental increase in valuation from which Tax increment financing will be derived.

- 4.5 Loan redevelopment funds to the Authority in the principal amount of approximately \$360,000.00 as set forth in Section 2.1, which, when combined with other private funds available, will be sufficient to construct the redevelopment project. Execution and delivery of the Redevelopment Promissory Note shall be executed at closing which shall be as soon as reasonably possible after execution of this Agreement but not more than 60 days thereafter. At closing, the loan to be accomplished by this Section and the obligation of the Authority to use the redevelopment loan proceeds for redevelopment purposes under Section 2.2 may be accomplished by offset so that the Developer retains the loan proceeds. If the Authority so requests, the developer shall, from time to time, furnish the Authority with satisfactory evidence as to the use and application of the redevelopment loan proceeds.

- 4.5.1 Such loan funds shall be disbursed as provided in Section 2.

- 4.5.2 Such loan shall bear a six percent (6.0%) interest rate.
- 4.5.3 The principal and interest shall be repaid by the Authority from the special fund established pursuant to Section 2.5, as excess ad valorem taxes, pursuant to the Redevelopment Plan and Section 18-2147 of the Nebraska Revised Statutes become available to the City for such use. To the extent of such excess ad valorem taxes are unavailable to the Authority, the loan shall be forgiven and the obligations of the Developer shall remain unaffected.
- 4.6 Provide the Authority with quarterly progress reports during the redevelopment and allow the Authority reasonable access to any relevant financial records pertaining to the Redevelopment Project.
- 4.7 During the period that the Redevelopment Note (TIF Funds) is outstanding, (1) not protest a real estate improvement valuation on the Redevelopment Site of \$1,282,000.00 or less prior to and during construction; and \$1,750,000.00 or less after substantial completion or occupancy of all property within the Redevelopment Site; (2) not convey the Redevelopment Site or structures thereon to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes; (3) not apply to the Douglas County Assessor for the structures, or any portion thereof, to be taxed separately from the underlying land of the Redevelopment Site; (4) maintain insurance for ninety percent (90%) of the full value of the structures on the Redevelopment Site; (5) in the event of casualty, apply such insurance proceeds to their reconstruction; and (6) cause all real estate taxes and assessments levied on the Redevelopment Site to be paid prior to the time such becomes delinquent. In lieu of the above, the Developer may forgive any remaining amount outstanding of the Redevelopment Promissory Note to the City. Each of the forgoing covenants shall be referenced in a Notice of Redevelopment Agreement to be recorded by the Developer with the Douglas County, Nebraska Register of Deeds. The Developer, and all owners of property in the Redevelopment Site, agree to include the same restrictions to be included in any subsequent sale, assignment, sale leaseback or other transfer of the property, but shall not be responsible otherwise for the actions of the third parties if these covenants are breached by such third parties if the Developer or the current owners no longer own the property.
- 4.8 Provide the Authority with the executed original copy of the Redevelopment Promissory Note prior to disbursement of any proceeds for repayment of such Note pursuant to Section 2.5, so that such payment can be noted on the Note and the Note returned to Developer.
- 4.9 Maintain the Redevelopment Project at all times in a safe and sanitary condition and hold the City of Ralston and the Authority harmless for any liability created

by conditions on the site, including the presence of environmentally hazardous materials.

- 4.10 The agreed incremental increase in value shall be effective commencing on January 1, 2005.

SECTION 5. PROVISIONS OF THE CONTRACT

- 5.1 Equal Employment Opportunity Clause. Annexed hereto as Exhibit "C" and made a part hereof by reference are the equal employment provisions of this contract, wherein the "Developer" is referenced to as "Contractor".
- 5.2 Non-discrimination. The Developer shall not, in the performance of this Contract, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations or national origin.
- 5.3 Captions. Captions used in this Contract are for convenience and are not used in the construction of this Contract.
- 5.4 Applicable Law. Parties to this Contract shall conform with all existing and applicable city ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Contract.
- 5.5 Merger. This Contract shall not be merged into any other oral or written contract, lease or deed of any type.
- 5.6 Modification. This Contract contains the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms herein unless done in writing and signed by an authorized officer of the respective parties.
- 5.7 Assignment. The Developer may not assign its rights under this Contract without the express prior written consent of the City and the Authority; such consent not to be unreasonably withheld. The Chairman of the Authority, may, with the advice and consent of the City attorney, approve, in writing, the assignment of all rights hereunder to a successor entity owned by, or under common control with Developer.
- 5.8 Strict Compliance. All provisions of this Contract and each and every document that shall be attached and shall be strictly complied with as written, and no

substitution or change shall be made except upon written direction from authorized representatives of the parties.

- 5.9 This Agreement shall be binding upon the Developer's successors and assigns, and shall run with the land described above, to the benefit of the City of Ralston and the Community Redevelopment Authority.

SECTION 6. AUTHORIZED REPRESENTATIVE

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

- | | |
|--|--|
| (1) City of Ralston:
Dolores Costanzo
City Clerk
City of Ralston
5500 South 77th Street
Ralston, NE 68127 | (3) Community Redevelopment Authority
Legal Service
c/o City Secretary
City Hall
5500 South 77th Street
Ralston, NE 68127 |
| (2) Developer:
J&M Ralston Granary L.L.C.
c/o John A. Hauschild
#4 Westlake
Council Bluffs, IA 51501 | (4) City Attorney
Mark A. Klinker
Attorney at Law
7777 L Street
Ralston, NE 68127 |

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

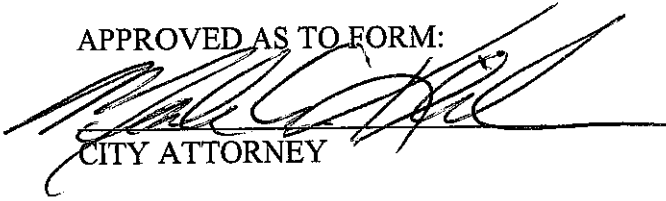
Executed this 5th day of October, 2004.

COMMUNITY REDEVELOPMENT AUTHORITY

W. O. Johnson
CHAIRMAN

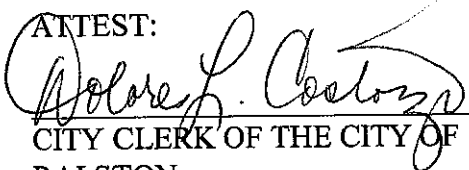
ATTEST:
Dolores L. Costanzo
SECRETARY

APPROVED AS TO FORM:

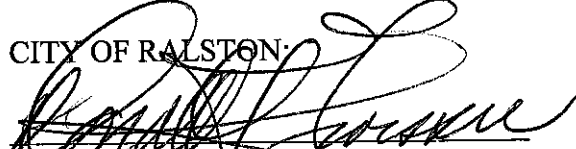

CITY ATTORNEY

ACKNOWLEDGED BY THE CITY OF RALSTON, NEBRASKA

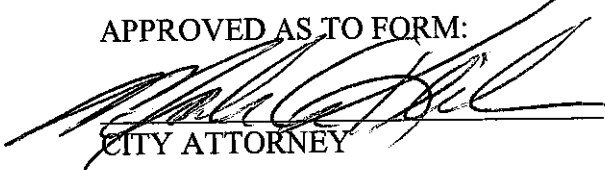
ATTEST:


CITY CLERK OF THE CITY OF RALSTON

CITY OF RALSTON:


MAYOR OF THE CITY OF RALSTON

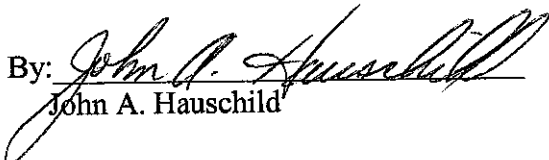
APPROVED AS TO FORM:


CITY ATTORNEY

Executed this 5th day of October, 2004.

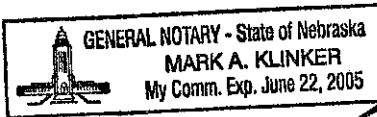
DEVELOPER:

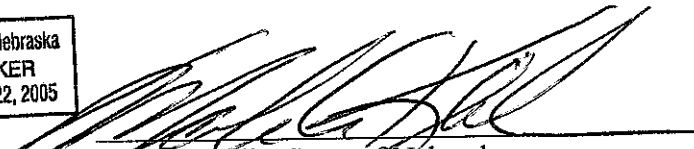
J&M RALSTON GRANARY L.L.C., a
Nebraska Limited Liability Company

By: 
John A. Hauschild

STATE OF NEBRASKA)
)ss
COUNTY OF DOUGLAS)

The foregoing Redevelopment Agreement was acknowledged before me this 5th day of October, 2004, by John A. Hauschild, managing member of J&M Ralston Granary L.L.C., a Nebraska Limited Liability Company, on behalf of the company.




Notary Public, State of Nebraska

My commission expires on June 5, 2005.

01/21
8-2-11
COP
3/11

Olde Granary Redevelopment Plan

J&M Ralston Granary, LLC Redevelopment Plan
And
TIF Application

J&M Ralston Granary LLC respectfully submits to the City of Ralston the following proposal and Tax Increment Financing (TIF) application. J&M Ralston Granary LLC requests approval of a TIF loan in the principal amount of approximately \$385,000 with the maximum amortization period of 15 years.

The subject property is located at 7401 and 7305 Main Street, Ralston, Nebraska 68127. The proposal and TIF application is responsive to, and in accordance with, the proposal and TIF application guidelines set forth by the City of Ralston. J&M Ralston Granary LLC would be pleased to provide any additional or supplementary information upon request which may be directed to Frank Rayer, 7401 Main Street, Ralston, NE 68127. The telephone number is 402-593-9037 and FAX number is 402-593-6652.

Application Requirements

A. Proposer Information

1. J&M Ralston Granary LLC
#4 Westlake
Council Bluffs, Iowa 51501
402-681-4083
2. John A. Hauschild
President
402-681-4083
3. Mary O. Hauschild
Vice-President
402-681-4083
4. J&M Ralston Granary LLC was formed in 2004
5. J&M Ralston Granary LLC's mission is to preserve or rehabilitate historic property and rent space to tenants in the buildings located at 7401 Main Street and 7305 Main Street, Ralston Nebraska commonly known by the developer as the "Olde Granary" property.

6. J&M Ralston Granary LLC will oversee the design, construction and rehabilitation of the property.
7. John A. Hauschild and Mary O. Hauschild formed this company in 2004 for the sole purpose to develop an area that will provide space to restaurants, retail shops, artists, and office tenants. John Hauschild has been in the real estate property investment and management business since 1986. He started by buying and renting single family houses and has since built a portfolio that includes duplexes, apartment complexes, and commercial property in Omaha and Council Bluffs. His strategy has always been to purchase undervalued property with deferred maintenance and upgrade the property to attract tenants willing to pay for quality space.
8. Since J&M Ralston Granary LLC was formed this year, an audited financial statement for the most recent full calendar year is not available.
9. J&M Ralston Granary LLC will own and manage the development property.

B. Project Description

1. **Metropolitan Area**

Ralston Nebraska is conveniently located in the center of the area, convenient to major traffic ways, commercial resources, and the other advantages of the Omaha greater metropolitan area. Yet, it has maintained its independence and physical integrity, truly giving its residents the best of both worlds. Ralston's special character as a distinctive small community in the metropolitan area makes it an ideal center for new small business development. Ralston is an extremely compact community with few potential growth directions. Unlike other cities in Nebraska, Ralston is surrounded by urban development and other municipalities. New development opportunities are rare as developable commercial land is at a premium.

2. **Project Location**

7401 and 7305 Main Street, Ralston, Nebraska 68127 and the adjacent property west. These properties are commonly referred to by the developer as the "Olde Granary" and the "Tin Shed", respectively.

The legal description for the 7401 Main Street is as follows:

Lots 1 and 2, inclusive, Block 58; Lots 1 thru 9, inclusive and Lots 13 thru 21, inclusive, Block 59, in the City of Ralston, as surveyed, platted and recorded, except the following parcel:

Commencing at the Northeasterly most corner of said Lot 1, Block 59; thence Southerly along the Easterly common line of said Lots 1, 2 and 3 a distance of 219.25 feet; thence Westerly along a line which is perpendicular to the last described line, a distance of 142.37 feet; thence Northerly along a line which is 142.37 feet Westerly of and parallel to said Easterly common line of Lots 1, 2 and 3, a distance of 219.25 feet to the Northerly common line of Lots 21 and 1, Block 59; thence Easterly along said Northerly common line of Lots 21 and 1 a distance of 142.37 feet to the Northerly most corner of said Lot 1 and the point of beginning; and reserving unto the Grantor a perpetual easement for driveway purposes over and across the West 20 feet of the South 65 feet of the above described premises; together with a perpetual easement to use the East 45 feet of the parking area and driveway adjoining the subject premises on the West, for driveway and parking for its employees, customer and invitees in conjunction with the employees, customers and invitees of the other tenants and occupants of Block 59, City of Ralston,

And

Lots 3 through 9 inclusive, Block 58, except the West 102.00 feet thereof, Town site of Ralston as surveyed, platted and recorded in Douglas County, Nebraska,

And

A 30 foot strip of land lying between Lots 1 through 9, Block 58 and Lots 13 through 21, Block 59, in the City of Ralston as surveyed, platted and recorded in Douglas County, Nebraska,

And

The vacated alley lying between Lots 6 and 7, Block 58, except the West 102 feet thereof; and the alley between Lots 15 and 16, Block 59, all in the City of Ralston as surveyed, platted and recorded in Douglas County, Nebraska.

The legal description for 7305 Main Street is as follows:

A tract of land located in Part of Lots 1, 2, 3, 19, 20, and 21, Block 59, City of Ralston, Douglas County, Nebraska, being particularly described as follows:

Commencing at the Northeasterly most corner of said Lot 1, Block 59, thence Southerly along the Easterly common line of said Lots 1, 2 and 3 a distance of 219.25 feet; thence Westerly along a line which is perpendicular to the last described line, a distance of 142.37 feet; thence Northerly along a line which is 142.37 feet Westerly of and parallel to said Easterly common line of Lots 1, 2 and 3, a distance of 219.25 feet to the Northerly common line of Lots 21 and 1, Block 59; thence Easterly along said Northerly common line of Lots 21 and 1 a distance of 142.37 feet to the Northeasterly most corner of said Lot 1 and the point of beginning; together with a perpetual easement to use the East 45 feet of parking area and driveways adjoining the subject premises on the West, for driveway and parking for its employees, customers and invitees in conjunction with the employees, customers and invitees of the other tenants and occupants of Block 59, City of Ralston.

The general legal description according to the Douglas County Assessor's office for the "Tin Shed" is as follows:

Ralston Add Lot 9, Block 58, Irreg W 102 Ft, Lots 3 thru 9.

(See attached Survey/Site Plan/Plat Plan)

3. **Project Zoning:**

The area is currently zoned General Industrial (GI) within the City of Ralston jurisdiction. This district is intended to accommodate a wide variety of industrial uses, some of which may have significant external effects. These uses may have operating characteristics that create conflicts with lower-intensity surrounding land uses. The district provides the reservation of land for these activities and includes buffering requirements to reduce incompatibility.

The site is within a designated blighted and substandard area, having been so designated by resolution of the Ralston City Council.

No rezoning will be required.

4. **Existing Land Use and Condition:**

The "Olde Granary" property contains eight buildings that were built beginning approximately 1910. The buildings and site are in substandard condition and is rented to tenants for retail, entertainment, light industrial, and warehouse/office use. The "Tin Shed" property contains a metal "Quonset" type building build in the mid 1900's intended to be used for grain storage and is no longer suitable for which it was built. The building is currently rented as storage space. The "Tin Shed" property has been overgrown with wild trees and is unsightly.

Both properties have been declared blighted and substandard by the City of Ralston due to the fact that the properties contain old and dilapidated buildings, which have a commercial value far below other commercial properties in the area.

5. **Land Use Plan**

J&M Ralston Granary LLC plans to redevelop the "Olde Granary" property for mixed commercial use. The developer intends to transform the property into a regional destination center with tenants offering food and entertainment services, retail shopping, art galleries and artists workshops with an emphasis on the country western theme. Some space will also be used by office and warehouse tenants.

The developer believes the building on this property is historical and unique in character to the City of Ralston. The developer wants to preserve the building and incorporate the property's venues, whenever possible, into events sponsored and promoted by the City of Ralston.

The developer believes this development will have a tremendous benefit to Ralston's economic and environment development. In addition to owning the "Olde Granary" buildings, the developer owns the Bushwackers business. The Bushwackers business has a regional draw bringing people into the City of Ralston from rural areas around the metropolitan area at a distance of up to 300 miles. By restoring the "Olde Granary" building and making site improvements, the developer believes he can build on this strength to create unique opportunities for the property and the City of Ralston.

6. **Project Acquisition and Demolition**

The Development Plan proposes that the City of Ralston enter into an agreement with a developer to form a Public/Private Partnership. The City will acquire the "Tin Shed" property through condemnation from the present owners, The Silver Family Trust, and sell it to the developer at cost, but not to exceed one-hundred and fifty thousand dollars (\$150,000). Once acquired by the developer, it will be consolidated and replatted with the "Olde Granary" property and become one parcel. The developer will then have the buildings on the "Tin Shed" property demolished and do the necessary site preparations such as re-locating utilities, re-grading, installing lighting, and landscaping. It will be combined with and used as a parking area for the "Olde Granary".

Demolition is scheduled to commence as soon as title transfers from the City to the J&M Ralston Granary LLC and site preparation will immediately follow. Construction for this should be completed within six months of the developer acquiring the property. The only delays that could arise would be due to weather.

7. **Utility Services:**

The area is currently served with all public utility services including gas, water, sewer, and electricity. Capacity appears to be adequate for all utilities. Utilities within the redevelopment area will require some revision for future land and tenant use.

8. **Transportation:**

The streets in the Redevelopment Area are paved and have curbs and gutters. The streets are adequate to meet current and foreseeable transportation needs.

9. **Environmental Issues:**

Any outstanding site issues will be resolved in the demolition and site preparation of the project. There are no major environmental or regulatory issues to be resolved.

C. Project Cost and Financing:

Financing arrangements have been secured and are being handled by the Bank of Nebraska. The following is a summary of preliminary estimated project costs. Final estimates will be determined at a later date after all subcontractor bids have been reviewed, construction plans finalized and after J&M Ralston Granary LLC takes title to the "Tin Shed" property. Upon request, J&M Ralston Granary L.L.C. will furnish any relevant information the City of Ralston requires.

1. Development Costs:

Olde Granary:

Land Acquisition (7401 Main St)	\$ 371,110
Land Acquisition (7305 Main St)	\$ 101,143
Building Acquisition (7401 Main St)	\$ 268,890
Building Acquisition (7305 Main St)	\$ 430,857
Building Rehabilitation (7401 Main St)	\$ 565,203

Tin Shed:

Land Acquisition	\$ 150,000
Demolition	\$ 27,747

Site Improvements: (All Development Properties \$ 110,050

Fees:

Development fees and services	<u>\$ 20,000</u>
Total Development Costs	\$2,045,000

2. Sources of Funds:

Principals of J&M LLC	\$ 200,000
Bank of Nebraska Loan Commitment	\$1,215,000
TIF Financing	\$ 385,000
Facade Improvement Program	\$ 150,000
CDBG Revolving Loan Program	<u>\$ 95,000</u>
Total Source of Funds	\$2,045,000

3. The terms of the Bank of Nebraska loan is a 6.0%, twenty year loan amortized over twenty years.
4. All site improvements and services related to this project will occur in year one of the project. The final project timetable and budget information will be provided as it becomes available.
5. The redevelopment of the "Olde Granary" requires the maximum allowable TIF financing to make the site a viable project for redevelopment. The site in its current condition is dilapidated and under utilized. It does not present itself as an inviting entry to the City of Ralston. The "Tin Shed", miscellaneous structures, wild trees, and debris on the property need to be removed. The parking area for the "Olde Granary" redevelopment with proper grading, resurfacing, lighting, and green space will further Ralston's development goals. TIF financing for this historic structure is critical to retain this irreplaceable property, its charm and unique character while encouraging higher use development and beautifying the entry into the City of Ralston.
6. Total development cost of \$2,045,000 exceeds assessed value of \$1,032,100 by \$1,013,000 which assures there will be no loss of pre-existing tax revenue

D. Community Served

1. This project will draw its labor from the Omaha metropolitan area and all employees, contractors, and subcontractors will be residents of the metropolitan area.
2. This project will provide employment opportunities to the residents of Ralston. We anticipate that the tenants of the development will hire forty to sixty employees.

E. Compatibility with Ralston's City Comprehensive Development Plan

The City Comprehensive Development Plan calls for expanding employment opportunities, conserving neighborhoods, promoting commercial and industrial development, supporting the historic heritage and mitigating environmental problems.

This "Olde Granary" Redevelopment Plan is consistent with the City Comprehensive Development Plan in that it supports the historic heritage, mitigates environmental problems caused by deterioration, weeds, and litter, and promotes commercial development and resultant employment opportunities by attracting commercial tenants to its development. In addition, J&M Ralston Granary LLC would like to incorporate the properties venues, whenever possible, into events sponsored and promoted by the City of Ralston

The City of Ralston's financial participation (tax increment financing and economic development contributions) will be dependent upon the proposed use of the property and the degree which the proposal furthers the City's community development objectives.

F. Cost/Benefit Analysis

The Granary redevelopment's benefits exceed the cost to the City of Ralston. First and foremost, the project requires **no cash expenditures nor loss of real estate property tax revenue to the city.**

The benefits to the community and City of Ralston include:

Hard Dollar Benefits:

1) Increased annual employment payroll	
Approximately 50 full-time employees at an	
Average hourly rate of \$12 per hour	\$1,248,000
2) Increased Tourism	
Approximately 10% of the 50,000 anticipated	
Bushwackers customers come from Iowa and	
Spend on average \$12 per person.....	\$ 60,000
3) Increased neighboring property tax valuations by	
approximately \$5,000,000 annually.....	<u>\$ 105,000</u>
 Total Annual Hard Dollar Benefits	 \$1,413,000

Other Intangible Benefits:

- 1) Beautification of the main entrance to the city
- 2) Conservation of a historical building and site
- 3) Mitigation of an environmental problem
- 4) Promotion of further commercial development

G. Division of Ad Valorem Tax

(1) Any ad valorem tax levied upon real property in the redevelopment project for the benefit of any public body shall be divided, for a period of fifteen years after the effective date of this provision, as follows:

(a) That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the redevelopment project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body;

(b) That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Ralston Community Redevelopment Authority to be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority for financing or refinancing, in whole or in part, the redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a redevelopment project shall be paid into the funds of the respective public bodies; and

(c) Any interest and penalties due for delinquent taxes shall be paid into the funds of each public body in the same proportion as are all other taxes collected by or for the public body.

(2) The effective date of this provision is December 31, 2004.

Criteria For Evaluation

A. Mandatory Criteria

To be considered for TIF, a project must meet each of the following criteria:

1. Blighted Area
This criteria has been met. See Section B-2
2. Conformity With City Of Ralston's Comprehensive Development
This criteria has been met. See Section E
3. Non-loss of Pre-existing Tax Revenues
This criteria has been met. See Section C-6
4. Capital Investment Greater Than \$150,000
This criteria has been met. See Section C-1

In addition, project must further meet one of the following five criteria

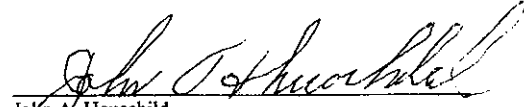
1. Project Feasibility With TIF
This criteria has been met. See Section 1 and 2
2. Eliminate Unsafe Or Unsightly Property
This criteria has been met. See Section C5
3. Project Makes Use Of A Building With A Minimum 50% Vacancy
Approximately 32,000 of the 80,000 available square feet are vacant. However, J&M Ralston Granary LLC plans to terminate the leases of many tenants responsible for unsightly clutter on the property or who do not maintain their leased property. After this, approximately 52,000 square feet or 65% of the available space will be vacant.
4. Provides Minimum of 25 New Jobs
This criteria has been met. See Section D-2
5. Minimum \$1.5 Million Investment
This criteria has been met. See Section C-1

B. Discretionary Criteria

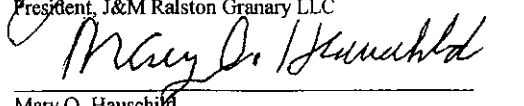
The project must meet several of the following criteria. A project meeting two criteria qualifies for a 10-year amortization period and three criteria qualify for a 15-year amortization period.

1. Generates at least one full-time job for each \$10,000 in principal value of TIF loan or a minimum of 25 jobs within Ralston.
This criteria has been met. See Section D-2
2. All TIF proceeds are used for the construction of public improvements.
This redevelopment project does not meet this criteria.
3. The project provides housing for senior citizens, or is used for the development of affordable housing.
This redevelopment project does not meet this criteria.
4. The project is located in an area previously declared blighted by the City of Ralston.
This criteria has been met. See Section B-2
5. The building or site to be redeveloped displays conditions of blighted as established by Nebraska State Statute.
This criteria has been met. See Section B-2
6. The project involves the start-up of an entirely new business in the City of Ralston.
This criteria has been met. See Section B-2
7. Redevelopment site has displayed recent pattern of declining real property assessments as measured by the Douglas County Assessor's Office.
This redevelopment project does not meet this criteria.
8. The project completes a private physical improvement implementing a part of the City of Ralston Plan.
This criteria has been met. See Section E
9. Upon good cause shown, the city council may waive the discretionary criteria requirement and qualify a project for a 15-year amortization period.

J&M Ralston Granary LLC respectfully submits this redevelopment plan and TIF application to the City of Ralston and agrees to be bound to the terms of the City of Ralston's guidelines and criteria for the redevelopment agreement and the TIF financing for the proposed project.



John A. Hauschild
President, J&M Ralston Granary LLC



Mary O. Hauschild
Vice-President, J&M Ralston Granary LLC

ARTICLES OF ORGANIZATION
OF
J & M RALSTON GRANARY, LLC

The undersigned, desiring to form a limited liability company for the purposes hereinafter set forth, under and in conformity with the laws of the State of Nebraska do hereby adopt and make the following Articles of Organization:

ARTICLE I -- The name of this limited liability company is J & M RALSTON GRANARY, LLC (the "Company").

ARTICLE II -- The Company is organized to engage in and to do any lawful act concerning any and all lawful business, other than banking or insurance, for which a limited liability company may be organized under the laws of the State of Nebraska.

ARTICLE III -- 1823 Harney St., Omaha, Nebraska 68102, is the initial principal place of business in Nebraska.

ARTICLE IV -- The address of the Company's initial registered office is 1823 Harney Street, Omaha, Nebraska, 68102, and the registered agent at such address is Allan M. Ziebarth.

ARTICLE V -- The total amount of cash and a description and agreed value of all property, other than cash, initially contributed by the Members of the Company as a basis for capitalization of the Company as set forth as follows:

Allan M. Ziebarth	\$100.00 Cash
Kendall R. Ziebarth	\$100.00 Cash

ARTICLE VI -- Additional contributions to the capital of the Company shall be made only at such times and in such amounts as the Members of the Company shall consent to in writing, as provided in the Operating Agreement of the Company.

ARTICLE VII -- Additional Members may be admitted to the Company from time to time upon approval by two-thirds majority interest of Members and upon such terms and conditions of admission as may be determined by the then-existing Members at the time of admission. Except as provided in the Operating Agreement, the interest of the Members in the Company may not be transferred or assigned.

ARTICLE VIII -- If a Member of the Company does not obtain the prior written consent of at least two-thirds majority in interest of the other Members of the Company to the transfer or assignment by contract, gift, bequest, operation of law, or otherwise, of all or any portion of such transferring Member's interest in the Company, then the transferee shall have no right to participate in the management of the Company or to become a Member of the Company. In such event, the transferee shall only be entitled to

receive the share of the Company's profits or other compensation by way of income allocable to the transferred interest and the return of any capital contributions to which the transferring Member would otherwise have been entitled with respect to the transferred interest. Any Member of the Company may in such Member's sole discretion withhold consent to any such transfer or assignment.

ARTICLE IX -- In the event of the death, retirement, resignation, expulsion, bankruptcy, or dissolution of a Member or the occurrence of any other event which terminates the continued membership of a Member in the Company, the remaining Members of the Company shall have the right to continue the business of the Company with written consent of at least two-thirds majority in interest of the remaining Members of the Company.

ARTICLE X -- Management of the Company shall be vested in its Members in proportion to their contribution to the capital of the Company, as adjusted from time to time, to reflect additional contributions or withdrawals by the Members. The name and address of the initial Members are as follows:

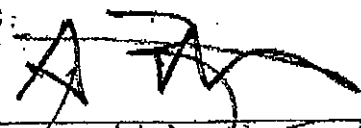
Allan M. Ziebarth 1823 Harney St., Omaha, NE 68102
Kendall R. Ziebarth 1823 Harney St., Omaha, NE 68102

ARTICLE XI -- Whenever the terms "majority in interest" is used in these Articles of Organization or in the Operating Agreement, it shall mean a majority of both the capital interests and the profits interest in question in the Company, determined as of the date of question.

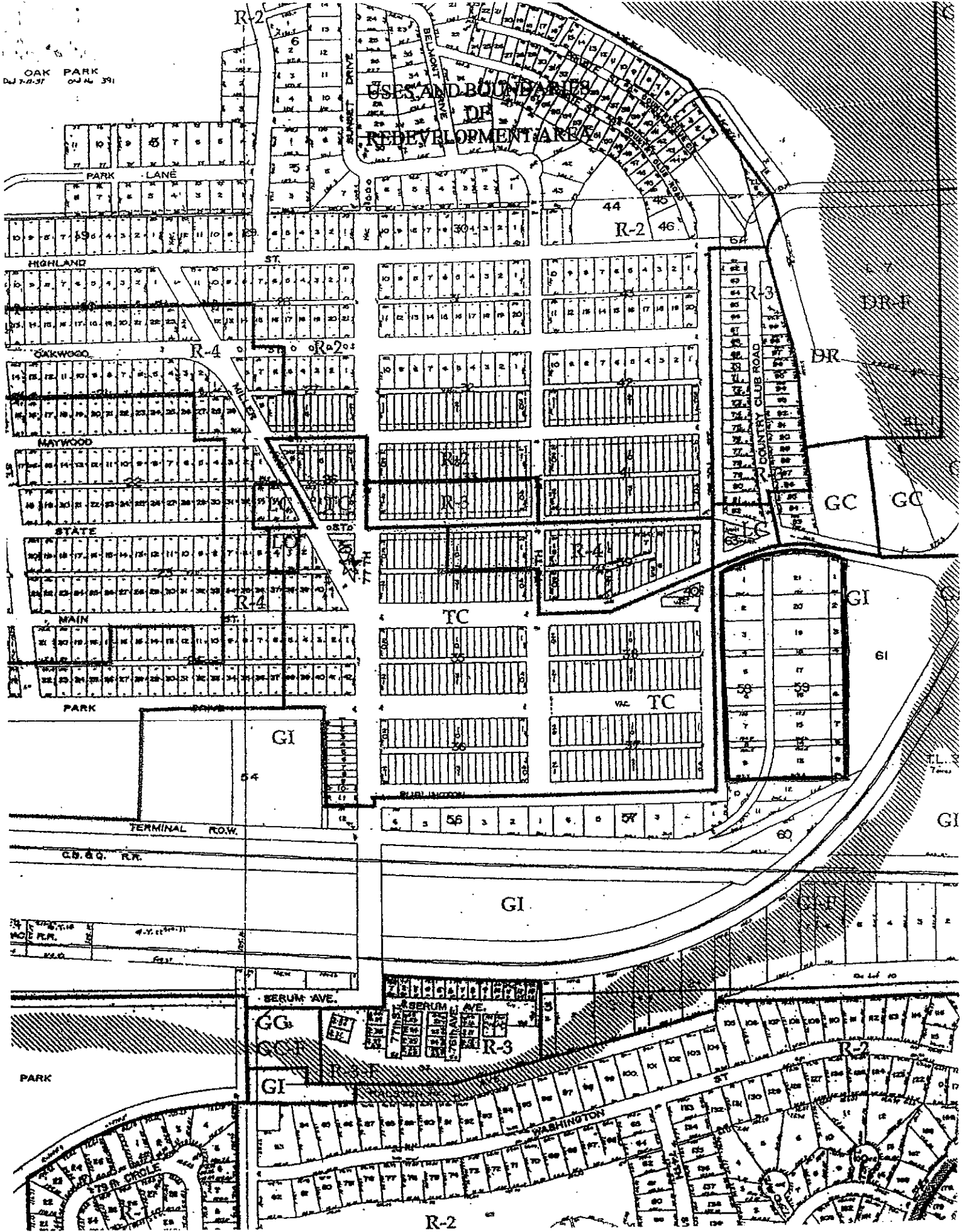
ARTICLE XII -- These Articles of Organization shall be amended as the Act requires. In all other circumstances, these Articles of Organization may be amended only upon the affirmative vote of at least a two-thirds majority in interest of the Members of the Company.

Dated: May 12, 2004.

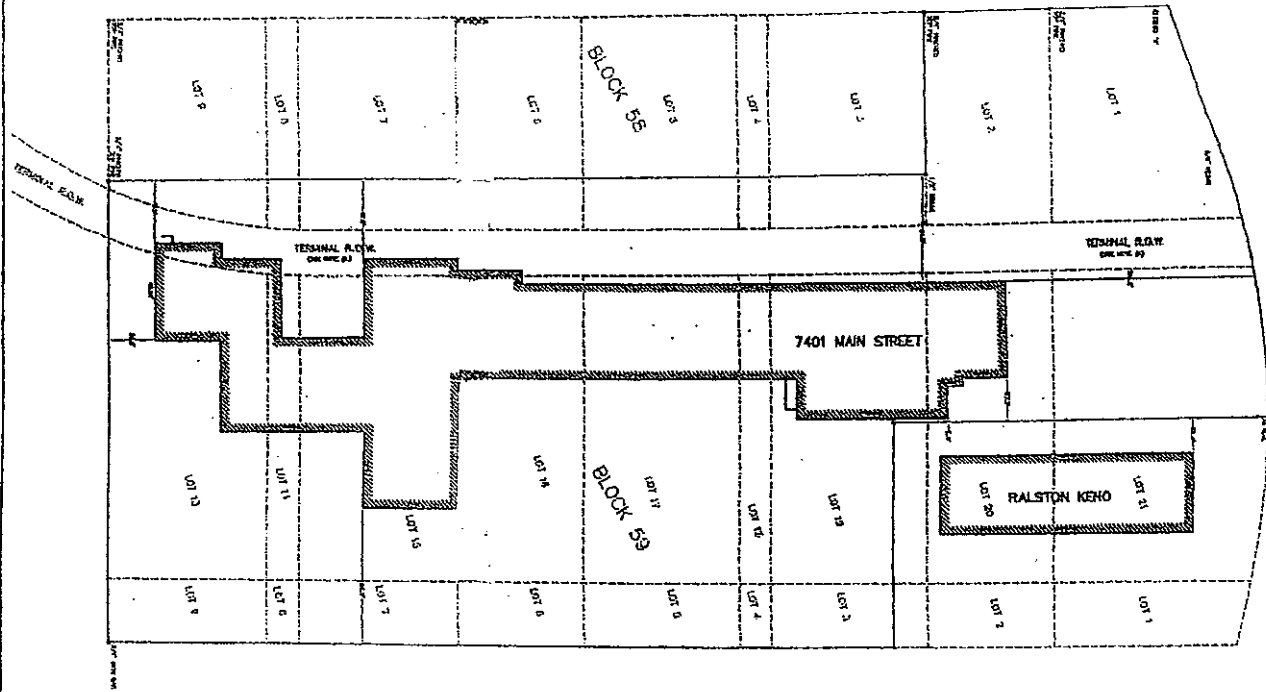
MEMBERS:


Allan M. Ziebarth


Kendall R. Ziebarth



REDEVELOPMENT
SITE PLAN

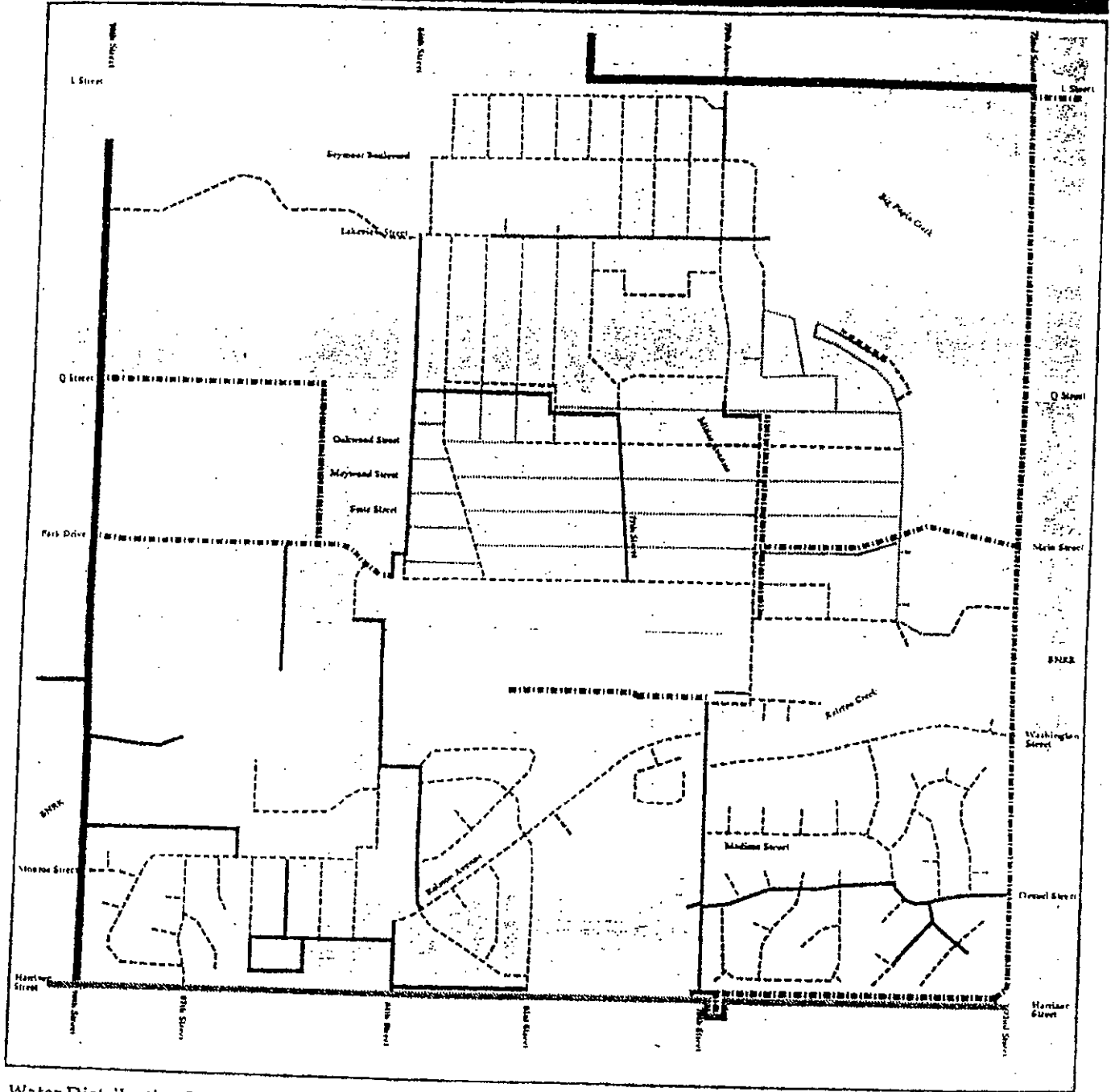


PART OF BLOCKS 58 AND 59,
TOGETHER WITH RAILROAD TERMINAL RIGHT-OF-WAY
CITY OF RALSTON, DOUGLAS COUNTY, NEBRASKA



PART OF BLOCKS 58 AND 59,
TOGETHER WITH RAILROAD TERMINAL RIGHT-OF-WAY
CITY OF RALSTON, DOUGLAS COUNTY, NEBRASKA

Water Distribution System

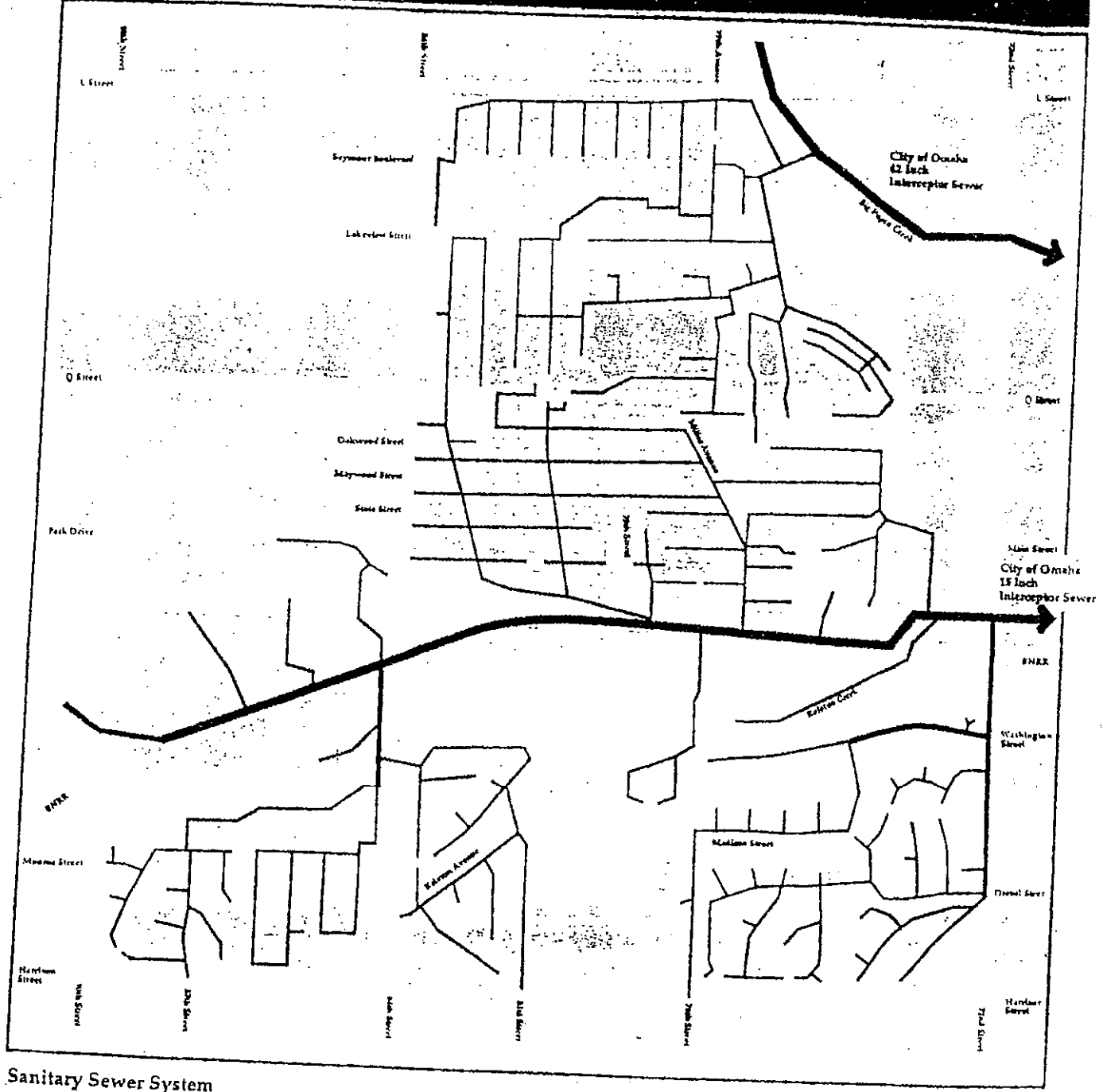


Water Distribution System

	Old Ralston System Mains: 4 inches
	Mains: 6 inches
	Mains: 8 inches
	Mains: 10-12 inches
	MUD 16 inch Distribution Mains
	MUD 42 inch Transmission Mains

1" = 100'

Sanitary Sewer System



Sanitary Sewer System

	8 inches and under
	10-12 inches
	15 inches and over

0 40 80 120

EXHIBIT "B"

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 (THE "33 ACT") AND MAY NOT BE TRANSFERRED, ASSIGNED, SOLD OR HYPOTHECATED UNLESS A REGISTRATION STATEMENT UNDER THE '33 ACT SHALL BE IN EFFECT WITH RESPECT THERETO AND THERE SHALL HAVE BEEN COMPLIANCE WITH THE '33 ACT AND ALL APPLICABLE RULES AND REGULATIONS THEREUNDER, OR THERE SHALL HAVE BEEN DELIVERED TO THE CITY OF RALSTON PRIOR TO TRANSFER, ASSIGNMENT, SALE OR HYPOTHECATION AN OPINION OF COUNSEL, SATISFACTORY TO THE CITY OF RALSTON TO THE EFFECT THAT REGISTRATION UNDER THE '33 ACT IS NOT REQUIRED.

REDEVELOPMENT PROMISSORY NOTE

\$360,000.00

_____, 2004

FOR VALUE RECEIVED, the Undersigned, Borrower, promises to pay J&M Ralston Granary L.L.C., a Nebraska Limited Liability Company, at #4 Westlake, Council Bluffs, Iowa 51501, Holder, and/or their assigns, the principal sum of Three Hundred Sixty Thousand dollars (\$360,000.00), together with interest thereon at a rate of six percent (6.0%) per annum from the date of the execution of this Note until paid in full. The principal balance and interest thereon shall be due and payable to the holder of said Redevelopment Promissory Note as and at such time as any excess ad valorem taxes generated by the Redevelopment Project as set forth in that certain Redevelopment Agreement dated the _____ day of _____, 2004, by and between the Community Redevelopment Authority of the City of Ralston, Borrower, and the Holder, (the "Redevelopment Agreement") are collected by the Community Redevelopment Authority of the City of Ralston and available for the retirement of this debt.

In the event of default under said Redevelopment Promissory Note, all sums secured by this Note or any other agreement securing this note shall bear interest at a rate equal to five percent (5%) above the regional prime or base rate as used by the Wells Fargo Bank Nebraska, N.A., Omaha, Nebraska, from time to time, however, in the event said interest rate exceeds the maximum rate allowable by law, then such rate of interest shall equal the highest legal rate available.

Borrower may prepay the principal amount outstanding in whole or in part, without the prior consent of the Holder.

In the event the monies collected and held in that special fund established under Section 18-2147 of the Nebraska Revised Statutes and pursuant to the Redevelopment Agreement are insufficient to pay in full all amounts due and owing at a date fifteen (15) years from the effective date of the Redevelopment Plan, and all excess ad valorem taxes generated by the Redevelopment Project, as set forth in the Redevelopment Agreement, have been collected by the City of Ralston and have been paid, immediately upon being able, towards the retirement of the amounts due hereunder, then, at said date fifteen (15) years from the effective date of the Redevelopment Plan, the Holder shall waive and forgive any unpaid portion of the principal and interest due upon written request of the Community Redevelopment Authority of the City of Ralston.

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

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

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

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

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

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

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

This Redevelopment Promissory Note shall be governed by and construed in accordance with the Laws of the State of Nebraska. All payments hereunder shall be

payable in lawful money of the United States of America and shall be legal tender for public and private debts at the time of the payment.

COMMUNITY REDEVELOPMENT
AUTHORITY OF THE CITY OF
RALSTON
DO NOT SIGN

BY: _____
Chairman of the Authority

ATTEST:

APPROVED AS TO FORM:

Secretary of the Authority

City Attorney

EXHIBIT "C"

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor shall not discriminate against any employee applicant for employment because of race, religion, color, sex, national origin, or disability as defined by the Americans With Disabilities Act of 1990 and the Ralston Municipal Code. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. The Contractor shall take all actions necessary to comply with the Americans With Disabilities Act of 1990 and Ralston Municipal Code including, but not limited to, reasonable accommodation. As used herein, the word "treated" shall mean and include, without limitation, the following: Recruited, whether advertising or by other means; compensated; selected for training, including apprenticeship; promoted; upgraded; demoted; down graded; transferred; laid off; and terminated. The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of this nondiscrimination clause.

(2) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin, or disability as recognized under 42 USCS 12101 et seq.

(3) The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Contractor's commitments under the Equal Employment Opportunity Clause of the City and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor shall furnish to the Contract Compliance Officer all Federal forms containing the information and reports required by the Federal government for Federal contracts under Federal rules and regulations, and including the information required by Sections 10-192 to 10-194, inclusive, and shall permit reasonable access to his records. Records accessible to the Contract Compliance Officer shall be those, which are related to Paragraphs (1) through (7) of this subsection and only after reasonable notice is given the Contractor. The purpose for this provision is to provide for investigation to ascertain compliance with the program provided for herein.

(5) The Contractor shall take such actions with respect to any subcontractor as the City may direct as a means of enforcing the provisions of Paragraphs (1) through (7) herein, including penalties and sanctions for noncompliance; however, in the event the Contractor becomes involved in or is threatened with litigation as the result of such directions by the City, the City will enter into such litigation as necessary to protect the interests of the City and to effectuate the provisions of this division; and in the case of contracts receiving Federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.

(6) The Contractor shall file and shall cause his subcontractors, if any, to file compliance reports with the Contractor in the same form and to the same extent as required by the Federal government for Federal contracts under Federal rules and regulations. Such compliance reports shall be filed with the Contract Compliance Officer. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of the Contractor and his subcontractors.

(7) The Contractor shall include the provisions of Paragraphs (1) through (7) of this Section, "Equal Employment Opportunity Clause", and Section 10-193 in every subcontract or purchase order so that such provisions will be binding upon each subcontractor or vendor.

AMENDMENT TO REDEVELOPMENT AGREEMENT

This Agreement made this 1st day of ~~April~~ ^{MAY}, 2007, between J & M Ralston Granary, LLC, and the Community Redevelopment Authority for the City of Ralston and the City of Ralston.

WHEREAS the parties have entered into a Redevelopment Agreement executed by them on or about the 5th day of October, 2004; and,

WHEREAS the provisions of said Redevelopment Agreement call for the demolition and removal of the "tin shed" on or before August of 2007; and,

WHEREAS the development of the property has encountered unforeseen difficulties with respect to the development; and,

WHEREAS the Redeveloper desires and has requested an extension of the period of time in which to demolish and remove the tin shed and the Authority and City are willing to consent to said extension under certain conditions; and,

WHEREAS the City has tentative plans to mount a promotional beacon upon the roof of the redevelopment property and the Redeveloper has agreed to consent to the City's plans and to grant a license for the mounting of such a beacon and to provide the electricity for the lighting of such beacon.

NOW, THEREFORE, IT IS AGREED BY AND BETWEEN THE PARTIES that the Developer is hereby granted an extension of time to demolish and remove the tin shed. It is hereby agreed that the Developer will demolish and remove the tin shed not later than August 31, 2008.

IT IS FURTHER AGREED that upon request by the City, the Redeveloper will execute a perpetual license to the City, authorizing the City to mount a promotional beacon upon the redevelopment property, at the City's expense and at the City's risk for property, casualty and liability insurance purposes.

IT IS FURTHER AGREED that as a part of granting the license, the Redeveloper and his successors and assigns, will pay the charges for the electrical power to light the beacon.

Executed this 1st day of May, 2007.

COMMUNITY REDEVELOPMENT AUTHORITY

W. O. F. H.
CHAIRMAN

EXHIBIT "B"

ATTEST:

Dolores L. Costanzo
SECRETARY

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

ACKNOWLEDGED BY THE CITY OF RALSTON, NEBRASKA

ATTEST:

Dolores L. Costanzo
CITY CLERK OF THE CITY OF
RALSTON

CITY OF RALSTON:

[Signature]
MAYOR OF THE CITY OF RALSTON

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

Executed this 1st day of May , 2007.

DEVELOPER:

J&M RALSTON GRANARY L.L.C., a
Nebraska Limited Liability Company

By: [Signature]
John A. Hauschild

STATE OF NEBRASKA)
)ss
COUNTY OF DOUGLAS)

The foregoing Amendment to Redevelopment Agreement was acknowledged before me this 1st day of May, 2007, by John A. Hauschild, managing member of J&M Ralston Granary L.L.C., a Nebraska Limited Liability Company, on behalf of the company.




Notary Public, State of Nebraska

My commission expires on June 22, 2009