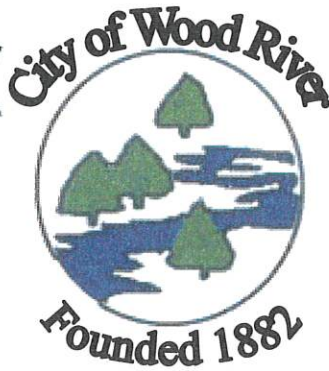


A Proud Past

108 W. 10th Street
PO Box 8
Wood River, NE 68883



A Promising Future

Phone: 308-583-2066
Fax: 308-583-2316
clerkcwr@woodriverne.com

REGULAR CITY COUNCIL MEETING
AGENDA

2023 August 22

TIME: 7:00 PM

BILL READERS: RODRIGUEZ & KLINGSPORN
PUBLIC NOTICE: (FOLLOWING PAGES)

I. CALL TO ORDER:

II. ROLL CALL:

III. RECITE THE PLEDGE OF ALLEGIANCE:

The Mayor led the Council Members and audience in the Pledge of Allegiance. Mayor Cramer advised the public body of the Open Meetings Act that is posted in the meeting room and entry hall.

IV. CITY COUNCIL OF WOOD RIVER DECLARATION OF OPEN MEETINGS ACT:

The City of Wood River abides by the open meetings act in conducting business. A copy of the open meetings act is displayed around the board room and in the hall as required by state law. The City Council may vote to go into closed session on any agenda item as allowed by state law.

V. CITIZENS WITH BUSINESS NOT SCHEDULED ON THE AGENDA.

(Comments may have a limitation of 15 minutes per topic. The purpose of the public comment is for the presentation of an item to the City Council that is not on the agenda) (As required by State Law, no matter may be considered under this item unless Council determines that the matter requires emergency action.)

VI. CONSENT AGENDA:

(All items listed under consent agenda, are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a council member or citizen requests it, in which case the item will be removed and will be considered after completion of the consent agenda.)

VI. Regular Meeting Minutes, August 8, 2023.

Pages 1-2

VI. Disbursements \$116,563.40

Page 3

VI. Payroll for July 2023 \$84,161.58

VI. Payroll Tax \$11,485.38



VI. Retirement \$3,516.88

VI. Sales Tax Paid \$5,429.37

VI. Pool Sales Tax Paid \$2,244.37

VII. Public Hearing(s)

7:00pm Public Hearing to consider the purchase of property located at Lots 11 and 12, Block 1, Clark's Addition, Wood River, Hall County, Nebraska.

Page 4

VII. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

Ordinance 581 AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY LOCATED AT LOTS ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), CLARK'S ADDITION, TO WOOD RIVER, HALL COUNTY, NEBRASKA, BY PURCHASE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Pages 5-10

Resolution 2023-193 A RESOLUTION TO SEEK APPROVAL FROM THE NEBRASKA DEPARTMENT OF TRANSPORTATION TO REDUCE THE SPEED LIMIT TO 40 MPH ON HIGHWAY 11 NORTH OF THE INTERSECTION OF WOOD RIVER ROAD AND ON HIGHWAY 11 SOUTH/EAST OF THE INTERSECTION OF WALNUT ST AND DIRECTING GREG CRAMER, MAYOR, AND STEVE WOLFORD, CITY STREET SUPERINTENDENT, TO CONTACT THE NEBRASKA DEPARTMENT OF TRANSPORTATION FOR APPROVAL ON THE CITY'S BEHALF.

Pages 11-13

VIII. UNFINISHED OR NEW BUSINESS, COMMUNICATIONS AND ACTION ITEMS
(City Council may vote to go into **CLOSED SESSION** on any agenda item as allowed by State Law.)

1. GREG CRAMER discuss and review proposed COMPOST ORDINANCE to replace section 4-830 of the municipal code of Wood River related to the use of City compost area.

Pages 14-16

2. GREG CRAMER discuss and review proposed documents regarding the City purchasing the commercial real estate located at 1401 East St. (Old Good Sam Building)

Packet # 1
(Page 17)

3. MAYOR CRAMER discuss weed and property nuisance enforcement.

4. CHRISTINA WEMHOFF discuss/approve final budget review.

5. CHRISTINA WEMHOFF discuss/approve exceeding the allowable growth rate by an additional 1%.

6. CHRISTINA WEMHOFF present Treasurer's Report for July 2023.

Handout

IX. COUNCIL REMARKS:

X. MAYOR'S REMARKS:

XI. DEPARTMENTS REMARKS:

XII. NEXT REGULAR MEETINGS SCHEDULES ARE AS FOLLOWS:

September 5

|

September 19

|

October 3

**Official
City Council Minutes
City of Wood River, Nebraska
Regular Meeting
August 8, 2023**

Pursuant to due call and notice thereof, a Regular Meeting of the City Council of the City of Wood River, Nebraska was conducted in the Council Chambers of City Hall, 108 W. 10th St, on August 8, 2023. Notice of the time and place of the meeting was given in advance thereof by publicized notice on August 2, 2023 in the Clipper and the Grand Island Independent. An agenda for the meeting, was kept continuously current, and was made available for public inspection on the City's website (woodriverne.com).

Mayor Greg Cramer called the meeting to order at 7:00 p.m.

Council Present: Nielsen, Rotter, Rennau, Klingsporn, Thompson.

City Officials Present: Brent Gascho, Utilities Superintendent; Christina Wemhoff, Treasurer; Drew Graham, City Attorney

Public Present: Deputy J. Jones; Chad Shuda; Grant Packer, Nate Mayhew, Anna Wood, Josh Follmer

The **Mayor** led the Council Members and audience in the Pledge of Allegiance.

Mayor Cramer advised the public body of the Open Meetings Act that is posted in the meeting room and entry hall.

Public Comment(s): None.

Items on the consent agenda for approval were:

July 25, 2023, Regular Meeting Minutes.

Disbursements reviewed this meeting by: **THOMPSON & KLINGSPORN**

Disbursements totaling: **\$146,896.18**

Checks not on list: **\$51,830.54**

Sunlife Financial: **\$166.26**

Blue Cross BlueShield: **\$5,447.37**

Lincoln Financial Group: **\$495.12**

Redwing Software **\$54.52**

Ameritas **\$59.16**

Clearlyfly **\$353.82**

SDL Request(s):

Wedding Reception 9/23/23 4:00pm – 12:00am

Mjr Inc. dba Bandits
1016 N Diers Ave Ste 118
Grand Island, NE

Babel's Barn
510 W Old Military Rd.
Wood River, NE

Nielsen made the motion to approve items on the consent agenda. Motion seconded by **Rotter**. Motion carried. 4/0. Rennau abstained. Rodriguez absent.

Deputy J. Jones offered a summary of the Sheriff's report for July 2023.

Council requested more information regarding area compost site fees and will discuss further at a future meeting.

The League of Nebraska Municipalities raised the membership dues again this year. Council asked for more information on their services and will discuss further at a future meeting.

Greg Cramer discussed the purchasing of parcel 400178257 called "the old depot". Anna discussed the intent to sell it and preserve some of the history. Greg contacted the railroad to see if they would be interested in

helping with preservation. Rotter motioned to purchase the depot for \$20,000. Nielsen seconded. Motion carried 5/0. Rodriguez absent.

Brent Gascho presented the two quotes for renting a bobcat. The first was from Bobcat and the other was from Titan. He explained he would like to try a New Holland machine and maybe work to purchase a machine in the future. Nielsen motioned to accept the bid for \$10,000 from Titan. Rennau seconded. Motion carried 5/0. Rodriguez absent.

Brent Gascho explained Marty Brown had completed all of the requirements of Utility Worker II by getting all of his licenses and obtaining a CDL. Effective Monday August 14th Brown will move to \$22.95/hr. Rotter motioned to accept. Rennau seconded. Motion carried 5/0. Rodriguez was absent.

Chief Nate Mayhew asked to add Brady Heitman and Dan Woodrich to the Fire Department. Nielsen motioned to add them to the roster. Rotter seconded. Motion carried 5/0. Rodriguez absent.

City Attorney Drew Graham discussed the sale document that was sent to him from Vision 20/20. Drew mentioned he didn't see anything outside of a reasonable scope of lease. In his review he made many suggestions of clarifying verbiage on the terms of the sale. He will get ahold of Vision 20/20 to make some changes and bring back the purchase agreement.

Christina Wemhoff presented the actual budget from 2021-2022 and the actual and estimated from 2022-2023.

Nielsen motioned to extend the meeting at 9:00 pm. Rotter seconded.

Mayor Cramer commented that Felsburg, Holt, Ullevig are almost done with the drainage study.

Department Remarks:

Nate Mayhew mentioned they will need to buy a new fire truck in 3 years. It looks like it will cost \$750,000.

Council Remarks:

none

Mayor's Remarks:

none

As there was no further business to come before this session of the Council, Council member Nielsen made the motion to adjourn at 9:05 p.m. Motion seconded by Thompson.

You can find agenda request forms and minutes from previous meetings on the city's website at www.woodriverne.com/agendaform.htm. You can preview all ordinances and resolutions at the city office during regular business hours.

Greg Cramer, Mayor

Christina Wemhoff, Treasurer

CLAIMS

8/22/2023

ABBREVIATIONS USED: RP=REPAIRS, SU=SUPPLIES,
 SE=SERVICES, IT=INS/TAXES/RETRM, RE=REIMBURSEMENTS
 UE=UTIL. EXPENSES, DM=DUES/MEMBERSHIPS/FEES, SP=SALARIES
 PAID, ER=ELECTRICAL REBATE, MI=MISCELLANEOUS, OE=OPERATING
 EXPENSES, CD=CD'S PURCHASED

General Fund

CHRISTINA WEMHOFF	RE	40.00
ASHLEY MANNING	RE	40.00
LINCOLN JOURNAL STAR	SE	25.60
HOMETOWN LEASING	OE	44.71

Street Fund

HOOKEBROS	SU	384.02
CHAD SHUDA	RE	40.00
BARCO	SU	2247.20

Sewer Fund

MARTY BROWN	RE	489.10
W DESIGN ASSOCIATES	SE	8326.70
CONSOLIDATED CONCRETE	SU	516.10

REVIEWED BY: _____

Fire Fund

SANDRY FIRE SUPPLY	SU	1153.15
PAGE MY CELL	SE	600.00

COUNCILPERSON _____

Park Fund

ISLAND SPRINKLER	SU	36.01
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Electric Fund

BRENT GASCHO	RE	40.00
KENS APPLIANCE	RP	15.40
BORDER STATES	SU	714.71
CRESCENT ELECTRIC	SE	112.28
SPPD	UE	81889.20
VERIZON	UE	80.02
CONSTRUCTION RENTAL	SU	741.74
EAKES	SU	139.99
MATHESON	SU	236.83

Water Fund

ZANE STRODE	RE	40.00
MUNICIPAL SUPPLY	SU	1567.44

Police Fund

NEBRASKA DEPT OF AG	DM	175.00
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Senior Center Fund

DENNIS WAGONER	RE	422.48
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Pool Fund

CHESTERMAN	SU	283.12
KIDWELL	RE	1020.44

Ambulance Fund

OMNI	SE	8.95
JENIFER MALONEY	SE	700.00
BOUND TREE	SU	71.99

Variety Fund

CPI	SU	986.37
CITY OF WOOD RIVER	UE	7206.40
NT&T	UE	229.00
MENARDS	MI	1253.07
USBANK	MI	1103.10
SVEHLA LAW	SE	2875.00
PRESTO X	SE	169.63
GREAT PLAINS COMMUNICATIONS	UE	538.65

TOTAL DISB.	\$	116,563.40
CHECKS NOT ON LIST	\$	-
	\$	116,563.40

Checks not on list:

**NOTICE OF PUBLIC HEARING
WOOD RIVER CITY COUNCIL**

Notice is hereby given that a public hearing will be held to consider the purchase of the real property located at Lots Eleven (11) and Twelve (12), Block One (1), Clark's Addition, to Wood River, Hall County, Nebraska.

The public hearing will begin at 7:00 P.M. on Tuesday, August 22, 2023 at 108 w 10th Street, Wood River, Nebraska, and continue until all attendee testimony has concluded.

Ashley Manning
City Clerk

ORDINANCE 581

AN ORDINANCE AUTHORIZING THE ACQUISITION OF REAL PROPERTY LOCATED AT LOTS ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), CLARK'S ADDITION, TO WOOD RIVER, HALL COUNTY, NEBRASKA, BY PURCHASE; AND TO PROVIDE FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to Neb.Rev.Stat. §18-1755, "[a] city... acquiring an interest in real property by purchase... shall do so only after the governing body of such city... has authorized the acquisition by action taken in a public meeting after notice and public hearing."; and

WHEREAS, the required notice has been published, and said public hearing was held on Tuesday, August 22, 2023 at 7:00 p.m.; and

WHEREAS, the City of Wood River has identified a property and desires to purchase said property.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF WOOD RIVER, NEBRASKA:

That the City of Wood River is hereby authorized to purchase the property located at Lots Eleven (11) and Twelve (12), Block One (1), Clark's Addition, to Wood River, Hall County, Nebraska, for the consideration of twenty thousand dollars (\$20,000.00) and all expenses involved in this purchase, including legal expenses, advertising charges and filing fees, and subject to existing taxes and special assessments, if any, and also subject to any existing easements, the following described property:

LOTS ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), CLARK'S ADDITION, TO WOOD RIVER, HALL COUNTY, NEBRASKA,

and the Mayor is hereby directed to execute and acknowledge for and in the name of the City of Wood River, a purchase agreement, to be attested by the City Clerk, with the seal of the City affixed, offering to purchase said property from Erhard J. Opp.

This ordinance shall take effect and be in force from and after its passage, approval and publication.

PASSED and APPROVED this 22nd day of August, 2023.

Greg Cramer, Mayor

Attest:

Ashley Manning, City Clerk

PURCHASE AGREEMENT

This Purchase Agreement is made and entered into this ____ day of August, 2023, by and between Erhard J. Opp, hereinafter called SELLER, and the City of Wood River, Nebraska, a Nebraska Municipal Corporation, hereinafter called BUYER.

RECITALS

WHEREAS, SELLER is the owner of a property legally described as follows:

LOTS ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), CLARK'S ADDITION, TO WOOD RIVER, HALL COUNTY, NEBRASKA.

and which is identified by Hall County as Parcel No. 0400178257.

AND WHEREAS SELLER desires to sell the above-described real estate to BUYER, AND WHEREAS, BUYER desires to purchase the said real estate from SELLER.

WITNESSETH

In consideration of the mutual covenants and agreements hereinafter contained, the parties have agreed as follows:

1. Agreement to Sell. SELLER has agreed to sell to BUYER and BUYER has agreed to purchase from SELLER for the consideration of Twenty Thousand and no/100ths Dollars (\$20,000.00) on the terms and conditions hereinafter mentioned, the following described real estate situated in Hall County, Nebraska, to-wit:

LOTS ELEVEN (11) AND TWELVE (12), BLOCK ONE (1), CLARK'S ADDITION, TO WOOD RIVER, HALL COUNTY, NEBRASKA.

and the improvements located thereon. All furniture, fixtures, equipment and other personal property located in or on the above-described real estate at the date of closing owned by Seller shall remain the personal property of Seller after closing.

2. Payment. BUYER agrees to make a payment of Twenty-Thousand and no/100ths Dollars (\$20,000) to SELLER at the Date of Closing. BUYER shall further pay at closing any additional charges or amounts to be paid by BUYER pursuant to the terms of this Purchase Agreement.

3. Insurance and Maintenance. SELLER agrees to keep the property insured until the possession date, after which BUYER shall assume full responsibility for the insurance. In the event the dwelling located on the subject real estate is damaged between the date of execution of this agreement and the date of closing, BUYER and SELLER shall each have the option of rescinding this agreement. Risk of loss prior to the date of closing shall be upon SELLER.

SELLER agrees to bear responsibility for all maintenance, including lawn care, and utilities until closing, after which BUYER shall assume full responsibility for such maintenance and utilities.

4. Real Estate Taxes. SELLER will pay the real estate taxes for 2022 and all prior years at or before closing. The 2023 real estate taxes shall be prorated to closing based on the actual 2023 real estate taxes, if available, and if unavailable the 2022 real estate taxes shall be used to calculate the proration.

5. Evidence of Title. BUYER shall order a title insurance commitment immediately upon execution of this purchase agreement in an amount equal to the purchase price. The cost of an owner's title insurance policy shall be paid equally by SELLER and BUYER. The title insurance commitment may show standard title insurance exceptions and utility easements of record, and may show liens which may be removed by the payment of money at closing by the owner of said Tract. No lien, encumbrance, easement or other right to the property shall be granted by either Party pending closing. If any defects in title are shown by the title insurance commitment, the party purchasing the real estate shall give the Party selling the real estate notice of any defects in title and the selling Party shall clear any impermissible defects within a reasonable period of time. If impermissible defects are not cleared to the purchasing Party's satisfaction after notification or cannot be cured by payment of money at closing, this purchase agreement shall become null and void and the parties will be absolved on any obligation contained in this purchase agreement. The title standards issued by the Nebraska State Bar Association shall serve as a guide as resolving any disputes with respect to title to the real estate.

6. Conveyance of Title. SELLER shall furnish a Warranty Deed to BUYER conveying the property free and clear of all liens, encumbrances or special assessments, but subject to all building and use restrictions, restrictive covenants and utility easements now of record at closing.

7. Condition of the Property. SELLER warrants that the plumbing, furnace, air conditioning, water heater and electrical wiring are in good working order and SELLER agrees to maintain the same in good working condition until delivery of possession. The Property may have been built prior to 1974 and may contain lead-based paint. No lead tests have been conducted on the dwelling. By executing this agreement, BUYER acknowledges that BUYER has been informed and provided all information as to the possible existence of lead-based paint and agrees to waive the testing requirements for lead-based paint.

8. Inspection of Premises. This Purchase Agreement is based upon BUYER'S inspection of the property and not upon any representations made by SELLER. BUYER may obtain such inspections of the Property as the BUYER may desire. All such inspections shall be made at the BUYER'S sole cost and expense. The SELLER agrees to give the BUYER and the BUYER'S agents reasonable access to the Property as necessary to complete any inspections which the BUYER deems to be necessary. BUYER may have the Property inspected for mold, radon, termites or other wood-destroying pests or organisms at BUYER'S expense prior to closing. If mold, radon, termites or other wood destroying pests or organisms are discovered or dry rot exist or damage caused thereby is revealed by the inspection, SELLER shall pay for any abatement, treatment or repairs required. Working smoke detector(s) shall be present as required by law.

SELLER and BUYER shall conduct a walk-through of the property immediately prior to closing.

9. Warranties. SELLER warrants that prior to the execution of this agreement the SELLER has not received any notice issued by any governmental authority of any actual or contemplated proceeding in condemnation or eminent domain affecting the property. SELLER further warrants that to SELLER'S knowledge no judgment liens or construction liens exist or are contemplated to be levied on the property. SELLER further warrants that they have not received any notice issued by any city, or other governmental authority of a dwelling code violation concerning the property and that neither of them has any knowledge whatsoever of any actual or contemplated public improvements or the creation of any public improvement district which would give rise to any levy of any special assessments against the property.

10. Possession. This Purchase Agreement shall in no manner be construed to convey title to the property or to give any additional right to possession thereof. Possession shall be given in full at closing.

11. Closing. The closing and consummation of this transaction will be concluded by Advantage Title Services and shall take place at 503 W Koenig Street, Grand Island, NE, on such specific time and date as the parties hereto shall mutually agree.

12. Closing Costs. SELLER shall pay the following costs and expenses:

- (a) All costs associated with the removal of title defects, if any;
- (b) Real estate taxes for 2022 and prior years and proration of the 2023 real estate taxes to date of closing; and

The BUYER shall pay the following costs and expenses in addition to the balance of the purchase price:

- (a) Deed preparation and the Documentary tax on the Deed;
- (b) Recording of deed, trust deed and any other documents relating to the financing obtained by BUYER to purchase the property;
- (c) legal fees for preparation of the Purchase and Sale Agreement and related documents;
- (d) closing fees charged by the escrow agent.

13. General Provisions. This agreement contains the entire agreement between the parties and recites the entire consideration given and accepted by the parties. Any agreement hereafter made shall be ineffective to change, modify, waive or discharge it in whole or in part unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, waiver or discharge is sought.

BUYER,
City of Wood River, NE,

By: _____
Greg Cramer, Mayor

STATE OF NEBRASKA)
) ss.
County of Hall)

The foregoing instrument was acknowledged before me this ____ day of August, 2023, by Greg Cramer, Mayor of the City of Wood River, NE, BUYER, on behalf of the City.

Notary Public

RESOLUTION 2023-193

A RESOLUTION TO SEEK APPROVAL FROM THE NEBRASKA DEPARTMENT OF TRANSPORTATION TO REDUCE THE SPEED LIMIT TO 40 MPH ON HIGHWAY 11 NORTH OF THE INTERSECTION OF WOOD RIVER ROAD AND ON HIGHWAY 11 SOUTH/EAST OF THE INTERSECTION OF WALNUT ST AND DIRECTING GREG CRAMER, MAYOR, AND STEVE WOLFORD, CITY STREET SUPERINTENDENT, TO CONTACT THE NEBRASKA DEPARTMENT OF TRANSPORTATION FOR APPROVAL ON THE CITY'S BEHALF.

BE IT RESOLVED by the Mayor and the Council of the City of Wood River, Nebraska that:

1. The posted speed limit be reduced from 50 mph to 40 mph on Highway 11 north of the intersection of Wood River Road and on Highway 11 south/east of the intersection of Walnut Street, see attached map.
2. Greg Cramer, Mayor, and Steve Wolford, City Street Superintendent, shall seek approval of said speed limit change from the Nebraska Department of Transportation.

PASSED AND APPROVED this _____ day of _____ 2023.

CITY OF WOOD RIVER, HALL COUNTY, NEBRASKA

Greg Cramer, Mayor

ATTEST:

Ashley Manning, City Clerk

WOOD RIVER

HALL COUNTY
NEBRASKA
POPULATION 1,172
2021

Current intersections
subject to 50mph

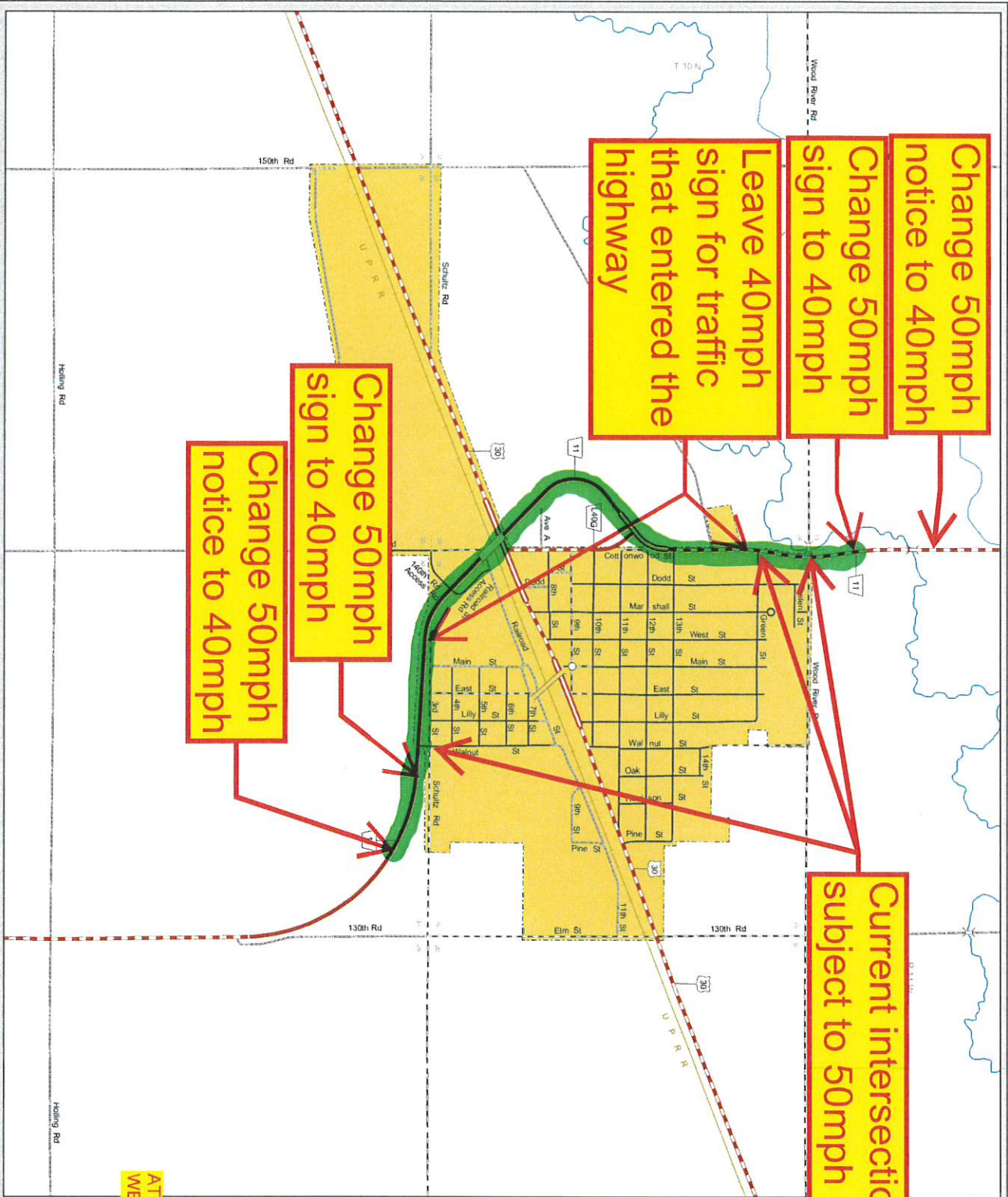
Change 50mph
notice to 40mph

Change 50mph
sign to 40mph

Leave 40mph
sign for traffic
that entered the
highway

Change 50mph
sign to 40mph

Change 50mph
notice to 40mph



- STATE HIGHWAYS**
- Interstate Highway
 - Divided Highway
 - Multiple Lane Undivided Highway
 - Concrete/Block Surface
 - Asphalt/Bituminous Surface
 - Gravel or Crushed Rock
- CITY STREETS AND COUNTY ROADS**
- Divided Street
 - Concrete/Block Surface
 - Asphalt/Bituminous Surface
 - Gravel or Crushed Rock
 - Frontage
 - Interstate Numbered Route
 - U.S. Numbered Route
 - State Numbered Route
 - State Numbered Spur
 - State Numbered Link
 - Main St. Street Name
 - County Seat
 - City Center
 - Corporate Limits



ATTACHMENT FOR LETTER TO
WES WAHLGREN AUGUST 2023

NEBRASKA
Good Life. Great Journey.
DEPARTMENT OF TRANSPORTATION

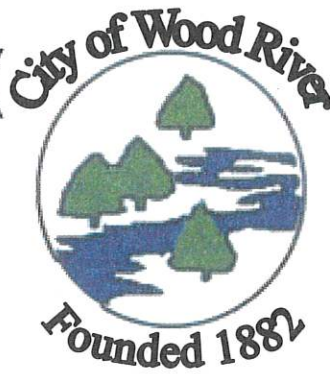
The map is to be used for information only and is not intended to show ownership or to be definitive on which roads are public under Nebraska Law. The Nebraska Department of Transportation makes no warranties, guarantees or representations for the accuracy of this information and assumes no liability for errors or omissions. Any inconsistencies should be reported to NDOT.

CORPORATE LIMITS AS OF 2021 - STATE HIGHWAYS CORRECTED TO 2021

WOOD RIVER - 40

A Proud Past

108 W. 10th Street
PO Box 8
Wood River, NE 68883



A Promising Future

Phone: 308-583-2066
Fax: 308-583-2316
clerkcwr@woodriverne.com

August 22, 2023

Wes Wahlgren, District Engineer
NDOT District 4
211 North Tilden St.
PO Box 1488
Grand Island, NE 68802

RE: Speed Limits on Highway 11 through Wood River, NE

Dear Mr. Wahlgren:

With the construction of the overpass in 2014/15 the speed limit through most of the City limits of Wood River was lowered to 40 mph. Since that time, the City limits have been extended to Wood River Road and the pool has been added on the southeast corner of that intersection.

Currently the speed limit on Highway 11 is reduced to 50mph north of Wood River Road but continues to south of Green Street. A similar situation exists on the south side of town. The 50mph speed limit extends past the Walnut Street intersection. With the school, pool and fire department just east of the north side intersections and the south entrance to town being the Walnut intersection, we believe, for the safety of traffic entering the highway at these intersections, it warrants a slower speed limit on Highway 11 through these areas. The City would like to see the 40 mph reduction moved as shown on attachment included.

NDOT may have some information on this as we requested a speed study in a letter dated December 22, 2020.

Respectfully,

Greg Cramer, Mayor
City of Wood River

Steven W. Wolford, P.E.
Wood River Street Supt.

Council Resolution No. _____ Vote: ___ Yes, ___ No

ORDINANCE NO. ____-23

AN ORDINANCE TO REPEAL AND REPLACE SECTION 4-830 OF THE MUNICIPAL CODE OF WOOD RIVER, NEBRASKA, RELATED TO USE OF CITY COMPOST AREA; REPEAL ALL OTHER ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF WOOD RIVER, HALL COUNTY, NEBRASKA, AS FOLLOWS:

SECTION 1. AMENDMENT:

That Section 4-830 of the Municipal Code of Wood River, Nebraska, is hereby repealed and replaced in its entirety so as to read as follows:

§ 4-830 USE OF CITY COMPOST AREA

- (1) The following definitions shall apply in the interpretation and enforcement of this Section.

CITY COMPOST AREA. The term “City Compost Area” shall mean the area designated for the dumping of grass, leaves, and tree branches by the City of Wood River, generally located at [REDACTED].

YEARLY REGISTRATION FEE. The term “yearly registration fee” shall mean a recurring charge imposed for the privilege of utilizing the City Compost Area.

RESIDENT. The term “resident” shall mean an individual that resides permanently within the boundaries of the municipality.

COMMERICAL ENTITY. The term “commercial entity” shall mean any entity engaged in commercial or business-related activities, including but not limited to landscaping companies, tree service providers, and other similar businesses.

- (2) The dumping of grass, leaves, and tree branches at the City Compost Area shall be authorized only after a yearly registration fee has been paid. The yearly registration fee will not be prorated and is not transferrable. No refunds

will be allowed for any reason. Following initial registration, the yearly registration fee will be billed on January 1 of each year.

- (3) Any resident of the City shall be entitled to dump grass, leaves, and tree branches generated from their own property, upon the payment of a yearly registration fee in the amount of [REDACTED]. Each household is permitted to have only one active residential registration.
- (4) Any commercial entity shall be entitled to dump grass, leaves, and tree branches generated from within boundaries of the municipality, upon the payment of a yearly registration fee in the amount of [REDACTED]. Each commercial entity is permitted to have only one active commercial registration, regardless of the number of employees.
- (5) Anyone who authorizes another to make use of such a registration shall automatically have their privilege to make use of the City Compost Area revoked for a period of one year, and upon completion of said revocation period, shall pay a reinstatement fee of [REDACTED] in addition to the yearly registration fee. Such revocation period shall apply to any individuals residing within the same household, or working/operating as the same commercial entity.
- (6) Any person who dumps or deposits any item of refuse other than grass, leaves, and tree branches at the City Compost Area; or any person who is not a registered user of the City Compost Area who deposits any refuse including grass, leaves and tree branches at the City Compost Area shall be guilty of a misdemeanor and shall be fined an amount not to exceed one hundred dollars (\$100.00) together with court costs.
- (7) The provisions of this Section shall not apply to the City of Wood River.
- (8) The City of Wood River shall have the discretion to grant authorization to specific entities not otherwise qualified to dump grass, leaves, and tree branches at the City Compost Area. A request for such authorization shall be made to the City Council, and approval shall come in the form of a formal vote.

SECTION 2. REPEAL:

That all ordinances or portions of ordinances in conflict herewith are hereby repealed.

SECTION 3. PUBLICATION AND EFFECTIVE DATE:

This ordinance is adopted and approved for publishing in pamphlet form, and shall be in full force and effect from and after 15 days after its passage, approval, and publication or posting as provided by law. The provisions of this Ordinance shall become and be made part of the Municipal Code of the City of Wood River, Nebraska and sections of this Ordinance may be renumbered to accomplish such intention.

Passed and approved this ____ day of _____, 2023.

Greg Kramer, Mayor

ATTEST:

Ashley Manning, City Clerk

COMMERCIAL REAL ESTATE PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (“Agreement”) is made by and between Wood River Vision 20/20, Inc., Nebraska Non-Profit Corporation (“Seller”), and the City of Wood River, Nebraska, a Nebraska Municipal Corporation (“Buyer”), and is effective on the date this Agreement is executed by Buyer and Seller as reflected on the signature page(s) (the “Effective Date”).

WHEREAS, Seller is the owner of commercial real estate and a building located at 1401 East Street, Wood River, NE 68883 (described hereinafter as the “Premises”); and

WHEREAS, Seller desires to sell the Premises and Buyer desires to purchase the Premises on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Sale and Purchase.** On and subject to the terms and conditions set forth in this Agreement, Seller shall sell, convey, transfer and deliver to Buyer, and Buyer shall purchase from Seller, all that certain lot, tract or parcel of land together with the improvements constructed thereon located at 1401 East Street, Wood River, NE 68883, as more particularly described in Exhibit 1 attached hereto and made part hereof (the “Premises”). All furniture, fixtures, equipment and other personal property located in or on the Premises at the Date of Closing owned by Seller shall remain the personal property of Seller after Closing.

2. **Purchase Price and Manner of Payment.** In exchange for the Premises, Buyer shall pay to Seller, and Seller shall accept from Buyer, the balance of one million one hundred nineteen thousand eight hundred seventy-six dollars and seventy-nine cents (\$1,119,876.79), together with interest at the rate of 4.00% per annum from the date of closing (the “Purchase Price”). The Purchase Price shall be paid to the Seller according to the terms of a promissory note to be executed by Buyer made payable to the order of Seller at the time of closing.

The Purchase Price has been calculated based on 35 equal, yearly payments of \$60,000.00, using the July 2023 IRS long-term applicable rate to equate a principal balance of \$1,119,876.79. The total payments, including interest, collected by Seller will equal \$2,100,000.00.

3. **Closing.** The closing and consummation of this transaction (the “Closing”) will be concluded by Advantage Title Services (the “Escrow Agent”) and shall take place at the Escrow Agent’s office at 503 W Koenig Street, Grand Island, NE, on September 2023 (the “Closing Date”), at such specific time and date as the parties hereto shall mutually agree.

4. **Title to the Premises.** Seller shall convey, and Buyer shall accept, good and marketable title in fee simple, to the Premises that any title insurance company authorized and licensed to do business in the State of Nebraska would be willing to insure, subject to the matters

set forth in this Agreement. For purposes of this Agreement, “good and marketable fee simple title” shall mean fee simple ownership that is: (i) free of all claims, liens and encumbrances of any kind or nature whatsoever other than the Permitted Encumbrances (as defined in this Paragraph), and (ii) insurable by a title insurance company reasonably acceptable to Buyer, at the then current standard rates under the standard form of ALTA owner’s policy of title insurance, without exception other than for the Permitted Encumbrances (the “Title Policy”). For purposes of this Agreement, “Permitted Encumbrances” shall mean: (a) current taxes not yet due and payable; and (b) such covenants, conditions, and restrictions of record, public utility easements, and zoning restrictions, subdivision controls, building restrictions and rules, regulations and laws which will not adversely affect the value or the utility of the Premises for Buyer’s intended use as a commercial building.

In the event that Seller shall be unable to deliver at Closing title to the Premises as required, Buyer shall have the right, as Buyer’s sole option: (1) to take such title as Seller may be able to convey without reduction in the Purchase Price; or (2) to terminate this Agreement, and this Agreement shall be and become null and void without any further right or remedy in favor of either party against the other except for liabilities, rights and remedies which survive Closing or termination as provided in this Agreement.

5. **Apportionments, Adjustments and Incidental Costs.** At Closing, Seller shall pay all real estate taxes relative to the Premises levied and assessed for calendar years 2022 and prior years. The real estate taxes for calendar year 2023, shall be prorated between Seller and Buyer from January 1, 2023, to the Closing Date, using the most currently available information as the basis for proration.

Buyer and the Seller agree to equally split the total amount of the documentary stamp transfer tax payable in connection with the recording of the Deed (as hereinafter defined). Seller shall pay the recording fees associated with releases of any mortgage or deed of trust of Seller to be released at Closing. Buyer shall pay the recording fees associated with filing the Deed (as hereinafter defined). Each party shall be responsible for the payment of its own counsel fees and other costs and expenses in connection with the transaction.

The premium for the Title Policy shall be paid equally by Buyer and Seller, and any separate premium relating to any Lender’s Policy shall be paid solely by Buyer.

Buyer and Seller shall pay equally all fees associated with closing this transaction, including any closing costs of the Escrow Agent.

The provisions of this Paragraph 5 shall survive Closing and termination of this Agreement.

6. **Title Conveyance and Possession.** Title to the Premises shall be conveyed to Buyer at Closing by Seller’s warranty deed, duly executed, acknowledged and otherwise in proper form for recording (the “Deed”). Actual possession of the Premises shall be delivered to Buyer on the date of Closing by delivery of the Deed.

7. **Condition of Premises.** Notwithstanding anything contained in this Agreement to the contrary, Seller does not make any representation, either prior to or at Closing, with respect to the condition or character of the Premises or the use or uses to which the Premises may be put. Buyer hereby acknowledges, agrees and represents that Buyer has had the opportunity to fully inspect the Premises and that Buyer is purchasing the Premises “as is” and “where is,” and in its present condition, subject to all use, wear and tear between the Effective Date and the date of Closing. In making and executing this Agreement, Buyer has not relied upon or been induced by any statements or representations of Seller or of any information provided by Seller to Buyer regarding the Premises, if any, including but not limited to appraisals, plans, surveys, environmental studies and/or inspections in respect of the title to, or the physical or environmental condition of, the Premises, or this transaction in general, which might be pertinent or considered in the making or the execution of this Agreement. Buyer has, on the contrary, relied solely on such representations, if any, as are expressly made herein and on such investigations, examinations and inspections as Buyer has chosen to make or have made.

Without in any way limiting the generality of Subparagraph a, Buyer specifically acknowledges and agrees that Buyer hereby waives, releases and discharges any claims it has, might have had, or may have against Seller, its successors and agents, with respect to the condition of the Premises, either patent or latent, Buyer’s ability or inability to obtain or maintain building permits, either temporary or final certificates of occupancy or other licenses for the use or operation of the Premises, the compliance with any land use laws, rules, regulations or requirements and any other state of facts which exist with respect to the Premises.

8. **Environmental Representations.** Seller represents and warrants to Buyer that to the best of Seller’s actual knowledge and belief and without investigation, there are no hazardous substances present on the Premises. Within five (5) days of the Effective Date, Seller will provide to Buyer any environmental studies, assessments, audits or other environmental documents in Seller’s possession regarding the Premises, if any.

9. **Casualty Loss.** Risk of loss by damage or destruction to the Premises prior to Closing shall be borne by Seller. In the event of material loss to the Premises prior to Closing, Buyer shall have the option to terminate this Agreement or to proceed with closing. In the event Buyer elects to proceed with Closing, all insurance proceeds, if any, resulting from such damage or destruction shall be assigned in writing by Seller to Buyer, or if previously paid to Seller, then paid by Seller to Buyer at Closing, and the Purchase Price shall be reduced only by the deductible amount.

10. **Condemnation.** If prior to Closing, condemnation proceedings are commenced against all or a portion of the Premises, which materially and adversely affect access thereto in Buyer’s sole judgment, Buyer, at Buyer’s option, may terminate this Agreement by written notice to Seller within five (5) days after Buyer is advised of the commencement of condemnation proceedings in which event neither party shall have any further rights or obligations pursuant to this Agreement except those obligations that are specifically to survive termination. If not so terminated, Buyer shall close this Agreement without adjustment to the Purchase Price and Buyer shall have the right to appear and defend such condemnation proceedings, whether occurring or completed prior to or after Closing, and any award in condemnation relating to the Premises shall

become the property of Buyer. Any condemnation award or payment in lieu of such condemnation proceedings made to Seller prior to Closing shall reduce the Purchase Price by the amount of such award. Seller shall not accept any payment or award in lieu of condemnation proceedings without Buyer's prior written consent.

11. **Deliveries.** At Closing, Seller shall deliver, or cause to be delivered, to Buyer the following:

a. The Deed;

b. An affidavit from Seller stating its taxpayer identification number and that it is not a foreign person, foreign corporation, foreign partnership, foreign trust or foreign estate (as those terms are defined in the Internal Revenue Code) and setting forth such other information as may be required by Section 1445(b)(2) of the Internal Revenue Code or any amendment or replacement thereof; and

c. Such other documents and instruments as shall be reasonably required by the Escrow Agent and approved in form by Seller in order for Seller to consummate this transaction in accordance with the terms and conditions of this Agreement.

At Closing, Buyer shall deliver, or cause to be delivered, to Seller the following:

a. The portion of the Purchase Price required to be paid pursuant to Paragraph 2 of this Agreement after crediting for Closing adjustments as may be provided for herein; and

b. Such other documents and instruments as shall reasonably be required for Buyer to consummate Closing in accordance with the terms of this Agreement.

12. **Sale Conditional Upon Seller's Lease of Premises.** If the sale is completed as provided above, and transfer of title and possession is consummated, Buyer shall lease to Seller or Seller's nominee, the Premises. The rental, terms and conditions of the lease shall be as set forth in Exhibit 2, which is attached and incorporated by this reference.

13. **Brokerage.** Seller and Buyer represent that there are no real estate brokerage fees, finders' fees or any other fees owing to anyone.

14. **Assignment.** This Agreement may not be assigned by either party without the prior written consent of the other party to this Agreement. Any assignment by either party shall not terminate the liability of the assigning party to perform, unless a specific release in writing is given and signed by the other party to this Agreement.

15. **Default.** Unless otherwise provided for herein, if Seller fails to comply with any obligation or duty set forth herein, Buyer may pursue, as its sole remedy, specific performance of

this Agreement. In the event Buyer fails to comply with any obligation or duty set forth herein, Seller may terminate this Agreement.

16. **Time.** The date and time of Closing and all dates and times specified for performance by Seller and Buyer under this Agreement are hereby agreed to be of the essence of this Agreement.

17. **Survival of Terms.** Unless expressly provided for in this Agreement, no representations, warranties, terms or provisions contained in this Agreement shall survive the Closing and delivery of the Deed, or any termination of this Agreement.

18. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

19. **Entire Agreement.** This Agreement (including the Exhibits attached hereto which are by this reference made a part hereof) contains the entire agreement between the parties and all understandings and agreements heretofore had between the parties hereto are merged into this Agreement.

20. **Notices.** Any notice required or permitted to be delivered hereunder shall be deemed received when personally delivered (including, without limitation, facsimile delivery) or three (3) days after being sent by United States mail, postage prepaid, certified mail, return receipt requested, addressed to Seller or Buyer, as the case may be, at the address of the respective party.

21. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

22. **Counterparts and Electronic Signature.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement and all ancillary documents may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

23. **Modification.** This Agreement may not be modified orally, but only by a writing duly executed by each party hereto.

24. **Binding Effect.** This Agreement shall be binding upon each of the parties hereto, their legal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Purchase Agreement to be executed the day and year set forth below.

[signatures on following pages]

Dated this ____ day of _____, 2023.

SELLER,
Wood River Vision 20/20, Inc.,

By: _____
Tyler C. Doane, President

STATE OF NEBRASKA)
) ss.
County of Hall)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Tyler C. Doane, President of Wood River Vision 20/20, Inc. a Nebraska Non-profit Corporation, Seller, on behalf of the corporation.

Notary Public

[remainder of page intentionally left blank]

[remaining signatures on following page]

Dated this ____ day of _____, 2023.

BUYER,
City of Wood River, NE,

By: _____
Greg Cramer, Mayor

STATE OF NEBRASKA)
) ss.
County of Hall)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Greg Cramer, Mayor of the City of Wood River, NE, Buyer, on behalf of the City.

Notary Public

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EXHIBIT 1

LEGAL DESCRIPTION OF PREMISES

Lots One (1), Two (2), Three (3), Four (4), Five (5), Six (6), Seven (7), Eight (8), Nine (9) and Ten (10), Block Two (2), East North Lawn Addition, Village of Wood River, Hall County, Nebraska.

EXHIBIT 2
COMMERCIAL LEASE AGREEMENT

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (this "Lease") is made by and between the City of Wood River, Nebraska, a Nebraska Municipal Corporation ("Landlord"), having an address at 108 W 10th Street, Wood River, NE 68883, and Wood River Vision 20/20, Inc., Nebraska Non-Profit Corporation ("Tenant"), having an address as 1401 East Street, Wood River, NE 68883, and is effective on the date this Lease is executed by Landlord and Tenant as reflected on the signature page(s) (the "Effective Date").

WHEREAS, Landlord is purchasing from Tenant a free-standing commercial building and real estate located at 1401 East Street, Wood River, NE 68883, pursuant to the terms and conditions of a Commercial Real Estate Purchase Agreement entered into by and between the parties;

WHEREAS, a term of that Commercial Real Estate Purchase Agreement is that Landlord will leaseback to Tenant part of the free-standing commercial building and real estate located at 1401 East Street, Wood River, NE 68883, on the terms and conditions set forth herein; and

WHEREAS, Landlord desires to lease part of the free-standing commercial building and real estate to Tenant, and Tenant desires to lease the same from Landlord on the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, it is understood and agreed by and between the parties hereto as follows:

1. **Description of Premises.** Landlord leases to Tenant part of the commercial building and premises located at 1401 East Street, Wood River, NE 68883, and legally described as follows, to wit:

That portion of the commercial building located at 1401 East Street, Wood River, NE, situated to the north of the fire-rated doors. Additionally, including the fenced playground areas, the front entry, and the garden. The premises also include access to storage space located within the south half of the building; the specific dimensions and configuration of said storage space are yet to be determined (the "Premises").

2. **Term.** This Lease shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for five (5) years and shall commence on the Effective Date. This Lease shall automatically be extended for six (6) additional five (5) year terms unless either party terminates it at the end of the then current term by giving the other party written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

3. **Rent.** Rental payments shall commence on the Effective Date and be due at a total annual rental of twelve thousand and 00/100 Dollars (\$12,000.00) for the initial lease term. For any subsequent lease renewal term, the rental amount shall be subject to adjustment as follows:

a. At the time of each lease extension, the rent payment amount shall be adjusted based on negotiations conducted in good faith between Tenant and Landlord. Both parties shall work together to determine a fair and mutually agreeable rental increase for the upcoming lease term.

b. Landlord agrees to provide Tenant with written notice of the proposed rent adjustment at least six (6) months prior to the end of the then current term. Tenant shall have the right to review and contest the proposed adjustment within thirty (30) days of receiving the notice.

c. In the event of a dispute regarding the proposed rent adjustment, both parties shall attempt to resolve the dispute through good faith negotiations.

d. The adjusted rent shall become effective upon the commencement of the renewed lease term and shall remain in effect until any subsequent lease renewal.

e. All other terms and conditions of this lease agreement shall remain unchanged during the renewal term unless mutually agreed upon by both parties.

The rental payments for the initial lease term shall continue to be paid in equal monthly installments on the first day of each month, in advance, to Landlord or to such other person, firm, or place as Landlord may, from time to time, designate in writing.

4. **Use of Premises.** The Premises are to be used solely for the purposes of operating an early learning center. In the event Tenant desires to use the Premises for an activity other than the operation of an early learning center, Tenant shall submit a written request for such use to Landlord. The request shall include a detailed description of the proposed activity, its nature, duration, and any potential impacts on the Premises and surrounding areas. Upon receipt of the written request, Landlord shall evaluate the proposed activity and its compatibility with the property, local zoning regulations, and other applicable factors. If Landlord determines that the proposed activity is potentially acceptable, Landlord and Tenant shall engage in good faith negotiations to establish the terms and conditions under which the activity may be conducted. This may include any necessary modifications to the lease agreement or rental terms. If an agreement is reached between Landlord and Tenant regarding the proposed activity, Landlord shall provide Tenant with written consent for the specific activity, detailing any conditions, limitations, or requirements associated with the approved use. Any modifications to the lease agreement required for the approved use of the Premises for the proposed activity shall be documented in writing and signed by both Landlord and Tenant.

5. **Restrictions on Use.** Tenant shall not use the Premises in any manner that will increase risks covered by insurance on the Premises and result in an increase in the rate of insurance or a cancellation of any insurance policy, even if such use may be in furtherance of Tenant's business purposes. Tenant shall not keep, use or sell anything prohibited by any policy of fire insurance covering the Premises and shall comply with all requirements of the insurers applicable to the Premises necessary to keep in force the fire and liability insurance.

6. **Waste, Nuisance or Unlawful Activity.** Tenant shall not allow any waste or nuisance on the Premises, or use or allow the Premises to be used for any unlawful purpose.

7. **Utilities.** Tenant shall be responsible for arranging and paying for all utilities provided to the Premises for the term of this Lease. These utilities include, but are not limited to, electricity, natural gas, water, and sewer charges.

Recognizing that Landlord is a municipality and a utility provider, utilities provided by Landlord shall be paid at the wholesale utility rate. Tenant shall abide by the utility rate structure and payment methods established by the municipality.

The responsibility for payment of utilities shall extend to all utility services specific to the Premises. To the greatest extent possible, Landlord shall ensure that all utility services provided to the Premises are metered separately. Landlord shall ensure that separate utility metering systems are installed for each distinct part of the building leased by Tenant. Both parties shall diligently work towards having these separate utility meters installed and operational within three (3) months from the Effective Date of this Lease. The timeline may be subject to adjustments based on factors beyond the parties' control, such as regulatory approvals, construction schedules, and utility provider coordination.

Tenant shall ensure that utility bills are obtained, paid promptly, and maintained for record-keeping purposes. Tenant shall provide Landlord with copies of utility bills or any relevant documentation upon request. Landlord, as the municipality and utility provider, shall provide Tenant with relevant utility rate information and shall reasonably address any questions or concerns Tenant may have about the utility charges.

8. **Repairs and Maintenance.** Landlord shall maintain the structural integrity of the Premises, including the roof, walls, foundation, and major systems such as heating, ventilation, and air conditioning (HVAC). Landlord shall promptly address any maintenance issues that affect the habitability or safety of the Premises, including plumbing, electrical, and other essential systems.

Tenant shall keep the leased premises clean and in good condition. Tenant shall promptly notify Landlord of any maintenance or repair issues that arise during the lease term. Tenant shall be responsible for the repair and replacement of any fixtures, appliances, or improvements provided by Landlord, if such damage is caused by Tenant's negligence or misuse. Tenant shall promptly inform Landlord of any damage caused by Tenant's actions or guests, and shall bear the cost of repairs beyond normal wear and tear.

Landlord shall conduct routine maintenance as needed to maintain the property's appearance and value. In addition to such routine maintenance, Landlord shall be specifically responsible for maintenance and repairs relating to the walk-in cooler, as well as replacement of air-filters for the HVAC system. Tenant shall be responsible for routine interior maintenance, such as changing light bulbs and minor repairs due to everyday wear and tear.

For repairs and maintenance that are not emergencies, Tenant shall provide written notice to Landlord, and Landlord shall strive to address these issues in a reasonable time frame. In case of emergencies that threaten the safety or habitability of the premises, Tenant shall notify Landlord immediately. Landlord shall make every effort to promptly address such emergencies.

Tenant shall obtain Landlord's prior written consent before making any alterations, improvements, or modifications to the premises. Tenant shall also ensure that any alterations comply with local codes and regulations. Upon the termination of the lease, Tenant shall restore the premises to its original condition, excluding normal wear and tear.

9. **Lawn Care and Snow Removal.** Tenant shall arrange and be solely responsible for the cost of the lawn care inside of the fenced areas on the Premises. Landlord will generally be responsible for snow removal at the Premises, including any parking lots and the general sidewalks. To the extent that Landlord can safely mechanically remove snow from the doorways, Landlord will assist in such snow removal.

10. **Delivery, Acceptance and Surrender of Premises.** Landlord represents that the Premises are in fit condition for use by Tenant. Acceptance of the Premises by Tenant shall be construed as recognition that the Premises are in a good state of repair and in sanitary condition. Tenant shall surrender the Premises at the end of the Lease term, or any renewal of such term, in the same condition as when Tenant took possession, allowing for reasonable use and wear, and damage by acts of God, including fires and storms. Before delivery, Tenant shall remove all business signs placed on the Premises by Tenant and restore the Premises on which they were placed in the same condition as when received.

11. **Partial Destruction of Premises.** Partial destruction of the Premises shall not render this Lease void or voidable, nor terminate it except as specifically provided in this Lease. If the Premises are partially destroyed during the term of this Lease, Landlord shall repair them when such repairs can be made in conformity with governmental laws and regulations, within 90 days of the partial destruction. Written notice of the intention of Landlord to repair shall be given to Tenant within 10 days after any partial destruction. If the repairs cannot be made within the time specified above, Landlord shall have the option to make them within a reasonable time and continue this Lease in effect with proportional rent rebate to Tenant as provided for in this Lease. If the repairs cannot be made in 90 days, and if Landlord does not elect to make them within a reasonable time, either party shall have the option to terminate this Lease.

12. **Entry on Premises by Landlord.** Landlord reserves the right to enter on the Premises at reasonable times to inspect them, perform required maintenance and repairs, or to make additions, alterations or modifications to any part of the Premises, and Tenant shall permit Landlord to do so.

13. **Signs, Awnings and Marquees.** Tenant may construct or place signs, awnings, marquees or other structures projecting from the exterior of the Premises advertising Tenant's business so long as the design and location of such signs, awnings, marquees or other structures are approved by Landlord.

14. **Nonliability of Landlord for Damages.** Landlord shall not be liable for liability or damage claims for injury to persons or property from any cause relating to the occupancy of the Premises by Tenant, including those arising out of damages or losses occurring on sidewalks and other areas adjacent to the Premises during the term of this Lease or any extension of such term. Tenant shall indemnify Landlord from any and all liability, loss or other damage claims or obligations resulting from any injuries or losses of this nature.

15. **Liability Insurance.** Tenant shall procure and maintain in force at Tenant's expense during the term of this Lease and any extension of such term, public liability insurance with insurers and through brokers approved by Landlord. Such coverage shall be adequate to protect against liability for damage claims through public use of or arising out of accidents occurring in or around the Premises, in a minimum amount of \$500,000.00 for each person injured, \$1,000,000.00 for any one accident, and \$50,000.00 for property damage. The insurance policies shall provide coverage for contingent liability of Landlord on any claims or losses. Tenant shall obtain a written obligation from the insurers to notify Landlord in writing at least 30 days prior to cancellation or refusal to renew any policy.

16. **Assignment, Sublease or License.** Tenant shall not assign or sublease the Premises, or any right or privilege connected with the Premises, or allow any other person except agents and employees of Tenant to occupy the Premises or any part of the Premises without first obtaining the written consent of Landlord. A consent by Landlord shall not be a consent to a subsequent assignment, sublease or occupation by other persons. An unauthorized assignment, sublease or license to occupy by Tenant shall be void and shall terminate this Lease at the option of Landlord.

17. **Breach and Remedies for Breach.** Landlord may terminate this Lease in the event: (1) Tenant defaults in the payment of rent and the default continues for 30-days after notice of the default from Landlord; or (2) Tenant defaults in the performance of any of its other obligations under this Lease and the default continues for 30-days after notice of the default from Landlord specifying in what manner Tenant has defaulted. If the default cannot be cured within the 30-day period, the period shall be extended for a reasonable additional time, provided that Tenant commences to cure the default within the 30-day period and proceeds diligently to effect a cure. In the event of any default described in this Paragraph, Landlord may: (1) cure the default, in which case any costs and expenses and reasonable attorneys' fees and court costs incurred by Landlord because of the default shall be deemed additional rent; or (2) lawfully enter the Premises and repossess the same and expel Tenant and those claiming under Tenant, without being deemed guilty of any manner of trespass and without prejudice to any other remedies which Landlord may have for arrears of rent or breach of covenant.

18. **Condemnation.** Eminent domain proceedings resulting in the condemnation of a part of the Premises, but leaving the remaining premises usable by Tenant for the purposes of its business, will not terminate this Lease unless Landlord, at Landlord's option, terminates this Lease by giving written notice of termination to Tenant. The effect of any condemnation, where the option to terminate is not exercised, will be to terminate this Lease as to the portion of the Premises condemned, and the lease of the remainder of the Premises shall remain intact. The rental for the

remainder of the Lease term shall be reduced by the amount that the usefulness of the Premises has been reduced for the business purposes of Tenant.

19. **No Waiver.** Waiver by Landlord of any breach of any covenant or duty of Tenant under this Lease is not a waiver of a breach of any other covenant or duty of Tenant, or of any subsequent breach of the same covenant or duty.

20. **Governing Law.** This Lease shall be governed by, construed and enforced in accordance with the laws of Nebraska.

21. **Entire Agreement.** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

22. **Modification of Agreement.** Any modification of this Lease or additional obligation assumed by either party in connection with this Lease shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

23. **Notices.** All notices under this Lease shall be in writing and shall be effective when mailed by certified mail, return receipt requested, or when delivered personally to Landlord or Tenant at their addresses set forth above or to such other addresses as may be designated by notice.

24. **Binding Effect.** This Lease shall bind and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties.

25. **Time of Essence.** It is specifically declared and agreed that time is of the essence of this Lease.

26. **Counterparts and Electronic Signature.** This Lease may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Lease. The counterparts of this Lease and all ancillary documents may be executed and delivered by facsimile or other electronic signature by any of the parties to any other party and the receiving party may rely on the receipt of such document so executed and delivered by facsimile or other electronic means as if the original had been received.

IN WITNESS WHEREOF, the parties have executed this Lease the day and year set forth below.

[remainder of page intentionally left blank]

[signatures on following pages]

Dated this ____ day of _____, 2023.

LANDLORD,
City of Wood River, NE,

By: _____
Greg Cramer, Mayor

STATE OF NEBRASKA)
) ss.
County of Hall)

The foregoing instrument was acknowledged before me this ____ day of _____,
2023, by Greg Cramer, Mayor of the City of Wood River, NE, Landlord, on behalf of the City.

Notary Public

[remainder of page intentionally left blank]

[remaining signatures on following page]

Dated this ____ day of _____, 2023.

TENANT,
Wood River Vision 20/20, Inc.,

By: _____
Tyler C. Doane, President

STATE OF NEBRASKA)
) ss.
County of Hall)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Tyler C. Doane, President of Wood River Vision 20/20, Inc. a Nebraska Non-profit Corporation, Tenant, on behalf of the corporation.

Notary Public

SECTION 2: TERM

OPTION 1: Initial City proposal of 3-year term, with 2-year renewals... both parties have power to terminate at end of current term with 6-month notice.

Term. This Lease shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for three (3) years and shall commence on the Effective Date. This Lease shall automatically be extended for sixteen (16) additional two (2) year terms unless either party terminates it at the end of the then current term by giving the other party written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

OPTION 2: Wood River Vision counter proposal of 3-year term, with 2-year renewals... City only has power to terminate with Wood River Vision consent, Wood River Vision has power to terminate at the end of current term with 6-month notice.

Their concern is to gain more surety that the lease cannot be terminated without Wood River Visions' consent.

Term. This Lease shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for three (3) years and shall commence on the Effective Date. This Lease shall automatically be extended for sixteen (16) additional two (2) year terms. Landlord shall not be able to unilaterally terminate lease at the end of the current term without notice and consent of Tenant. Tenant may terminate lease at the end of the current term by giving Landlord written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

OPTION 3: 5-year term, with 5-year renewals... both parties have power to terminate at end of current term with 6-month notice.

The intention here is that I do not recommend the City giving up the ability to unilaterally terminate the lease. The proposed terms cover far too much time to give up that power. In an attempt to provide more surety to the tenant, the individual lease terms could be increased to five years. This was they would have absolute surety in 5-year increments.

Term. This Lease shall be effective as of the date of execution by both parties, provided, however, the initial term shall be for five (5) years and shall commence on the Effective Date. This Lease shall automatically be extended for six (6) additional five (5) year terms unless either party terminates it at the end of the then current term by giving the other party written notice of the intent to terminate at least six (6) months prior to the end of the then current term.

SECTION 3: RENT

OPTION 1: Initial City proposal.

Rent. Rental payments shall commence on the Effective Date and be due at a total annual rental of twelve thousand and 00/100 Dollars (\$12,000.00) to be paid in equal monthly installments on the first day of the month, in advance, to Landlord or to such other person, firm or place as Landlord may, from time to time, designate in writing.

OPTION 2: City counter to clear up rental increases at renewal period. In essence, City proposes a rental increase amount 6-months prior to the end of the current term, Tenant then has 30 days to dispute the proposed increase. If no dispute is made, the increase will take effect. If disputed, the parties will negotiate in good faith to determine the increased payment.

Rent. Rental payments shall commence on the Effective Date and be due at a total annual rental of twelve thousand and 00/100 Dollars (\$12,000.00) for the initial lease term. For any subsequent lease renewal term, the rental amount shall be subject to adjustment as follows:

1. **Rent Adjustment:** At the time of each lease extension, the rent payment amount shall be adjusted based on negotiations conducted in good faith between Tenant and Landlord. Both parties shall work together to determine a fair and mutually agreeable rental increase for the upcoming lease term.
2. **Notice of Adjustment:** Landlord agrees to provide Tenant with written notice of the proposed rent adjustment at least six (6) months prior to the end of the then current term. Tenant shall have the right to review and contest the proposed adjustment within thirty (30) days of receiving the notice.
3. **Dispute Resolution:** In the event of a dispute regarding the proposed rent adjustment, both parties shall attempt to resolve the dispute through good faith negotiations.
4. **Implementation of Adjustment:** The adjusted rent shall become effective upon the commencement of the renewed lease term and shall remain in effect until any subsequent lease renewal.
5. **Other Terms:** All other terms and conditions of this lease agreement shall remain unchanged during the renewal term unless mutually agreed upon by both parties.

The rental payments for the initial lease term shall continue to be paid in equal monthly installments on the first day of each month, in advance, to Landlord or to such other person, firm, or place as Landlord may, from time to time, designate in writing.

SECTION 4: USE OF PREMISES

OPTION 1: Initial City proposal. Restricts to “early learning center”, and provides that any other use would need consent of Landlord.

Use of Premises. The Premises are to be used for the purposes of operating an early learning center. Tenant shall restrict its use to such purposes and shall not use or permit the use of the Premises for any other purpose without the prior, express and written consent of Landlord.

OPTION 2: Counter proposal from Wood River Vision. Their intention would be to change the allowable uses to “any activities of Wood River Vision 2020 Inc. I would not recommend this, as their Articles of Incorporation likely state that Wood River Vision can conduct “any legal activities”. In my opinion, this is far too vague. Additionally, if Stick Creek Kids were to close, I believe it is in the best interest of the City to review for any future intended use.

Use of Premises. The Premises are to be used for any legal activities of Tenant. Tenant shall restrict its use to such purposes and shall not use or permit the use of the Premises for any other purpose without the prior, express and written consent of Landlord.

OPTION 3: Mirrors the initial City proposal, restricting to “early learning center”. Provides a more explicit process for approval of other activities.

Use of Premises. The Premises are to be used solely for the purposes of operating an early learning center.

In the event Tenant desires to use the Premises for an activity other than the operation of an early learning center, Tenant shall submit a written request for such use to Landlord. The request shall include a detailed description of the proposed activity, its nature, duration, and any potential impacts on the Premises and surrounding areas. Upon receipt of the written request, Landlord shall evaluate the proposed activity and its compatibility with the property, local zoning regulations, and other applicable factors. If Landlord determines that the proposed activity is potentially acceptable, Landlord and Tenant shall engage in good faith negotiations to establish the terms and conditions under which the activity may be conducted. This may include any necessary modifications to the lease agreement or rental terms. If an agreement is reached between Landlord and Tenant regarding the proposed activity, Landlord shall provide Tenant with written consent for the specific activity, detailing any conditions, limitations, or requirements associated with the approved use.

Any modifications to the lease agreement required for the approved use of the Premises for the proposed activity shall be documented in writing and signed by both Landlord and Tenant.

SECTION 7: UTILITIES

OPTION 1: Initial City proposal.

Utilities. Tenant shall arrange and pay for all utilities, including but not limited to electricity, natural gas, water and sewer, furnished to the Premises for the term of this Lease, except for any natural gas that is separately metered, and water used for the underground sprinkler system on the exterior of the building.

OPTION 2: Address wholesale rate, and specific metering.

Utilities. Tenant shall be responsible for arranging and paying for all utilities provided to the Premises for the term of this Lease. These utilities include, but are not limited to, electricity, natural gas, water, and sewer charges.

Recognizing that Landlord is a municipality and a utility provider, utilities provided by Landlord shall be paid at the wholesale utility rate. Tenant shall abide by the utility rate structure and payment methods established by the municipality.

The responsibility for payment of utilities shall extend to all utility services specific to the Premises. To the greatest extent possible, Landlord shall ensure that all utility services provided to the Premises are metered separately. Landlord shall ensure that separate utility metering systems are installed for each distinct part of the building leased by Tenant. Both parties shall diligently work towards having these separate utility meters installed and operational within three (3) months from the Effective Date of this Lease. The timeline may be subject to adjustments based on factors beyond the parties' control, such as regulatory approvals, construction schedules, and utility provider coordination.

Tenant shall ensure that utility bills are obtained, paid promptly, and maintained for record-keeping purposes. Tenant shall provide Landlord with copies of utility bills or any relevant documentation upon request. Landlord, as the municipality and utility provider, shall provide Tenant with relevant utility rate information and shall reasonably address any questions or concerns Tenant may have about the utility charges.

SECTION 8: REPAIRS AND MAINTENANCE

OPTION 1: Initial City proposal.

Repairs and Maintenance. Tenant shall maintain the Premises and keep the Premises in good repair at Tenant's expense. Landlord shall maintain the front, side and rear exterior walls and the roof in good condition. Landlord shall be responsible for the cost of any repairs relating to the plumbing, electrical, and HVAC systems serving the Premises, including the walk-in cooler HVAC filter replacement. Any service calls generated by Tenant and not authorized in advance by Landlord, shall be the responsibility of Tenant.

OPTION 2: Much more defined roles.

Repairs and Maintenance. Landlord shall maintain the structural integrity of the Premises, including the roof, walls, foundation, and major systems such as heating, ventilation, and air conditioning (HVAC). Landlord shall promptly address any maintenance issues that affect the habitability or safety of the Premises, including plumbing, electrical, and other essential systems.

Tenant shall keep the leased premises clean and in good condition. Tenant shall promptly notify Landlord of any maintenance or repair issues that arise during the lease term. Tenant shall be responsible for the repair and replacement of any fixtures, appliances, or improvements provided by Landlord, if such damage is caused by Tenant's negligence or misuse. Tenant shall promptly inform Landlord of any damage caused by Tenant's actions or guests, and shall bear the cost of repairs beyond normal wear and tear.

Landlord shall conduct routine maintenance as needed to maintain the property's appearance and value. In addition to such routine maintenance, Landlord shall be specifically responsible for maintenance and repairs relating to the walk-in cooler, as well as replacement of air-filters for the HVAC system. Tenant shall be responsible for routine interior maintenance, such as changing light bulbs and minor repairs due to everyday wear and tear.

For repairs and maintenance that are not emergencies, Tenant shall provide written notice to Landlord, and Landlord shall strive to address these issues in a reasonable time frame. In case of emergencies that threaten the safety or habitability of the premises, Tenant shall notify Landlord immediately. Landlord shall make every effort to promptly address such emergencies.

Tenant shall obtain Landlord's prior written consent before making any alterations, improvements, or modifications to the premises. Tenant shall also ensure that any alterations comply with local codes and regulations. Upon the termination of the lease, Tenant shall restore the premises to its original condition, excluding normal wear and tear.

PROMISSORY NOTE

THIS PROMISSORY NOTE obligation is given by the City of Wood River, Nebraska, a Nebraska Municipal Corporation, hereinafter referred to as "Payor," to, and in favor of, Wood River Vision 20/20, Inc., Nebraska Non-Profit Corporation, hereinafter referred to as "Payee." Payor's address is 108 W 10th Street, Wood River, NE 68883. Payee's address is 1401 East Street, Wood River, NE 68883.

1. **Intent.** The intent of this Deed of Trust Note, hereinafter referred to as "Note," is to describe the balance of a debt owed by Payor to Payee as a result of the sale of real estate by Payee to Payor.

2. **Consideration.** The consideration for the Payor giving this Note to Payee is the mutual promises found within the written Commercial Real Estate Purchase Agreement entered into by and between the parties to this Note.

3. **Amount of Debt and Repayment of Debt.** The balance of the debt owed and the obligation of this Note, after giving possession to Payor and the closing of the real estate sale referred to above, is \$1,119,876.79. This amount shall to be paid by Payor to Payee upon the following specific terms and conditions:

a. This debt of \$1,119,876.79 shall accrue interest at the rate of 4.00% per annum, amortized into 35 payments, this interest rate accruing and measured forward from the Closing Date, as defined in the Commercial Real Estate Purchase Agreement executed herewith.

b. The debt shall be paid at the rate of \$60,000.00 per year for 35 such payments, the first payment due on October 2, 2023, with like payments on the first day of October each year thereafter. The final payment would regularly be paid on October 1, 2058, if the debt has been faithfully maintained. Attached hereto as Exhibit "A" is an amortization schedule indicating the payments to be made pursuant to the terms of this Note provided the debt has been faithfully maintained.

c. Any payment ever paid by Payor, no matter how expressed in this Note, shall be applied: first, to reimburse Payee for any advancement made for the protection of the security as provided in the security instrument/Deed of Trust; second, to accruing interest which is then due and payable; third, to the principal of the debt.

d. This Note may be prepaid without prepayment penalty or premium. If any partial prepayment is accepted, then it shall be applied to the last of the principal due and not to the next principal payment; which has the

effect of continuing the schedule of payments on a monthly basis, regardless of prepayment, unless the holders hereof shall otherwise agree in writing.

e. This Note obligation is not assumable and transferable by the Payor, without the written consent of the Payee.

f. Time is of the essence of this obligation as applied to the payment of the consideration, herein, by Payor to Payee; which joins this expression with any default privileges which are set forth in following paragraph. Time of essence is important to the Payee because the Payee has other obligations to fill upon the receipt of the monthly payments.

4. **Default.** The Payor is in default on this Note if any required payment is not paid within ten days after any due date (referring to the payment due on the first of each month). The above-referenced ten days is a "grace period" which means Payor has only the referenced ten days of grace to pay any payment after the due date. In the event of a default the Payee, or any holder of this Note in due course, shall have any one or more of the following remedies:

a. To charge a late payment amount equal to 15% of any missed payment not received in the grace period of ten days. This late payment amount may be paid within the next twenty days (a total of thirty days after the payment was due). If the same is not paid by the thirty days, then it becomes a part of the principal debt with all other Note considerations remaining the same, except the debt is re-amortized.

b. Or, and, to declare and charge interest on the entire unpaid principal balance, and any accruals thereto, at the accelerated rate of 16% per annum, which accelerated rate of interest shall commence on all of the principal balance on that date which is thirty days after the original due date of the payment in default, and shall continue thereafter until all payments are current. Again, a re-amortization will be necessary at the end of the thirty days.

c. Or, and, to declare the whole of the obligation due and payable at once (an acceleration of the debt) and to proceed to collect the balance and all accruing interest and other charges then owed, by either a personal action on this Note or a non-judicial foreclosure on the security held on this transaction (the first lien, Deed of Trust)

d. Or, and, to avail of any other legal remedies as may be provided by law in the circumstances, in addition to those set forth above.

e. Any missed payment is a separate default

f. In the event of default, and Payee's selection of any remedies set forth in this paragraph 4, the Payee shall also be entitled to all expenses in any effort to collect unpaid amounts as well as a reasonable attorney's fee incurred in such effort these expenses and attorney's fee shall, if not paid within twenty days after they are submitted to Payor for payment, become a part of the principal debt with all of the other Note considerations remaining the same.

g. The failure of the Payee or holder of this Note to exercise any option, above, on any default, shall not waive the right of the Payee/holder to exercise any option on any subsequent default Receipt by Payee or the holder hereof of any payment due hereunder, with knowledge of any breach of the terms of this Note, shall not be deemed a waiver of such breach. Further, none of the rights and remedies of Payee or any holder hereunder are to be waived or affected by failure or delay to exercise them.

h. The Payor hereby waives presentment, protest, notice of protest, diligence in bringing suit hereon, and notice of extension of time for payment

5. **Security.** This Note, which expresses the debt due by Payor to Payee, shall be secured by the Payor giving to Payee a first lien-Deed of Trust on the real estate premises sold in the underlying transaction; which security the Payee agrees to reconvey only upon the payment of all of the debt expressed in this Note.

6. **Insurance.** Payor is required to carry complete physical damage and liability insurance on said property in the amount of not less than \$1,119,876.79, with the Payee noted as a loss payee on the policy. Further, the Payor shall see to it that the Payee is notified by the insurance carrier if, at any time, this insurance is not in place.

7. **Nebraska Law.** This Note is to be construed under and governed by the laws of the State of Nebraska.

Dated this ____ day of _____, 2023.

PAYOR,
City of Wood River, NE,

By: _____
Greg Cramer, Mayor

EXHIBIT "A"

Amortization Schedule

To be returned to: Drew A. Graham
Svehla Law Office, PC
1223 M Street, Aurora, NE 68818
(402) 694-5504

DEED OF TRUST

This Deed of Trust, security instrument, is made on the date set forth by the signature of Trustor. The Trustor is the City of Wood River, Nebraska, a Nebraska Municipal Corporation ("Trustor" or "Borrower"). Trustor's address 108 W 10th Street, Wood River, NE 68883. The Trustee is Drew A. Graham, #25052, Attorney at Law ("Trustee"). The Trustee's address is 1223 M Street, Aurora, NE 68818. The Beneficiary is Wood River Vision 20/20, Inc., Nebraska Non-Profit Corporation ("Beneficiary" or "Lender"). The Beneficiary's address is 1401 East Street, Wood River, NE 68883.

Borrower irrevocably conveys to Trustee, in trust, with power of sale, the following described real property:

LOTS ONE (1), TWO (2), THREE (3), FOUR (4), FIVE (5), SIX (6), SEVEN (7), EIGHT (8), NINE (9) AND TEN (10), BLOCK TWO (2), EAST NORTH LAWN ADDITION, VILLAGE OF WOOD RIVER, HALL COUNTY, NEBRASKA (the "Property");

but subject to any easements, and rights of way, and restrictions and reservations, of record, which may affect title to the Property.

Borrower owes Lender \$1,119,876.79, evidenced by Borrower's Promissory Note ("Note") of even date as this Deed of Trust ("DOT"), which amount (the debt owed) is payable according to the terms of the Note in 35 payments. The first payment on the Note is due on October 2, 2023, and the last payment is due on October 1, 2058. This DOT secures to Lender the debt evidenced by this Note the payment of which, together with interest accruing, is advanced under the provisions hereafter to protect the security and the performance of Borrower's covenants and agreements. Therefore, Borrower covenants that Borrower is lawfully seized of such Property and has the legal power and lawful authority to convey the same as set forth in this DOT, and warrants and will defend title to the Property against the lawful claims of all persons. Accordingly,

Borrower and Lender agree as follows:

1. Pay When Due. Borrower shall pay, when due, the principal and interest as provided in said Note.
2. Application of Payments. All payments received by Lender shall be first applied to advances which may have been made by Lender and then to interest due and last to principal due. Payments are not made by Borrower until they are actually received by Lender which means that timely mailing is not relevant, what is relevant is the actual receipt by Lender.

3. Taxes & Assessments. Borrower shall pay all general real estate taxes and special assessments against the Property before the same become delinquent, or become a lien.

4. Prior Liens. If Lender determines that any part of the Property is subject to any other lien, which other lien is or may attain priority over this DOT, Lender may give Borrower a written notice identifying the lien and then Borrower shall have ten days to satisfy that lien and have it released of record.

5. Insuring Improvements. Buyer shall keep the improvements on said Property insured against loss by fire and hazards included within the term "extended coverage" for their insurable value, never to be less than the unpaid balance of this debt in any circumstances. Any policy for the same shall include a "standard mortgage clause" showing Lender as the payee. In event of loss, Lender may make proof of loss if not promptly made by Borrower. Insurance proceeds shall be applied to restoration or repair of the Property damaged, unless both parties otherwise agree; except, if restoration or repair is not economically feasible or Lender's security is not lessened, otherwise said proceeds shall be paid on the debt herein, whether or not then due. Unless Lender and Borrower otherwise agree in writing, any proceeds from insurance shall not extend or postpone the due date of the monthly payments provided in said Note, or change the amount of the payments, but shall be added onto principal to reduce the number of payments.

6. Protection of Property. If Borrower fails to perform the covenants and agreements herein contained, Lender may do and pay for whatever is necessary to protect the value of the Property and Lender's rights in the Property, including: the paying of any sum secured by a lien which has priority over this DOT; appearing in Court; paying reasonable attorney fees; and, entering the Property to make repairs. Any amount disbursed by Lender under this paragraph shall become an additional debt of Borrower secured by this DOT, to bear interest from the date of disbursement and said amount, together with the then unpaid principal amount, and shall bear interest at the highest lawful rate until refunded by Borrower. The lawful rate shall be whatever Nebraska law allows in such circumstances at the time of default in any covenant or agreement.

7. Forbearance Not A Waiver. Any extensions or modifications of the debt herein granted by Lender to any successor in interest of Borrower, shall not operate to release the liability of the original Borrower or Borrower's successors in interest. Any forbearance by Lender in exercising any right or remedy shall not be a waiver of or preclude the exercise of any right or remedy; because Lender has the right to declare when a default occurs according to the terms of this DOT.

8. Environmental Compliance. Borrower shall comply with all federal, state and local environmental laws, ordinances, rules, requirements, regulations and publications as now existing or hereafter existing, amended, supplemented or supplanted relating to the preservation of the environment or the regulation or control of toxic or hazardous substances or materials. Borrower hereby warrants and represents to Lender that there are no toxic or hazardous substances or materials on or under the Property. Borrower does hereby indemnify and hold Lender harmless, and any successors to Lender's interest, from and against any and all claims, damages, losses and liabilities arising in connection with the presence, use, disposal or transport of any substance the subject of any environmental law, regulation or control of toxic or hazardous substances or materials on, under, from or about the Property. This indemnity shall survive reconveyance of the Property secured by this DOT.

9. Use & Preservation of Property. Borrower shall occupy, establish and use the Property in compliance with all laws and regulations applicable to the use of the Property, and shall maintain the improvements thereon in good repair.

10. Inspection. Lender or Lender's agents may make reasonable entries on the Property for purposes of inspection.

11. Transfer of Property. Borrower enters into this DOT with responsibility owed to Lender, and on the basis of the amicable relations which have previously existed between Lender and Borrower with respect to the Property. Should Borrower desire to sell or encumber the Property or any part thereof, Borrower shall forthwith obtain the consent of Lender to such sale or encumbrance while any sums remain due on the Note secured by this DOT. Should Borrower sell or encumber any part of the Property or any interest therein to any third party, or enter into an agreement to sell, encumber, or create an interest in a third person in the Property without consent of Lender or should Borrower permit any part of the Property or any interest therein to become subject to a lien of any kind without the consent of Lender, Lender, at Lender's option, can declare the entire indebtedness remaining due and unpaid secured hereby immediately due and payable, and exercise any remedies available under the provisions of this DOT.

12. Condemnation. The proceeds of any condemnation award are hereby assigned and shall be paid to Lender, and shall be applied to the sums secured by this DOT whether or not then due, with any excess paid to Borrower.

13. Notices. Notices, when any may be required in this DOT, shall be: To each of the Trustor or Trustee or Beneficiary, at the addresses which are set forth on the first page. That is, unless a different address has been provided, however any other address shall be not effective unless the same appears of record as an amendment to this DOT.

14. Governing Law. This DOT and the Note which it secures shall be governed by Nebraska Law.

15. Trustee's Duties. Trustor acknowledges that:

- a. The duties and obligations of Trustee shall be determined solely by the express provisions of this DOT, and Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth herein, and no implied covenants or obligations shall be imposed upon Trustee;
- b. No provision of this DOT shall require Trustee to expend or risk Trustee's own funds or otherwise incur any financial obligation in the performance of any of Trustee's duties herein, or in the exercise of any of Trustee's rights or powers if Trustee shall have grounds for believing that assurance of the repayment of such funds is uncertain;
- c. Trustee may consult with counsel of Trustee's own choosing and the advice of such counsel shall be full and complete authorization and protection in respect to any action taken or suffered by Trustee hereunder in good faith and in reliance upon such advice;
- d. Trustee shall not be liable for any action taken by Trustee in good faith and reasonably believed by Trustee to be authorized or within the discretion or rights or powers conferred upon Trustee by this DOT.

16. Events of Default. Any of the following events shall be deemed an event of default under this DOT:

- a. Any default of a term or condition within the Note which this DOT secures;
- b. Borrower has, at any time within negotiations leading to the execution of this DOT, given any materially false, misleading, or inaccurate information or statements, which induced Lender to loan money and enter into this DOT;
- c. Borrower shall have failed to perform any covenant required by Borrower to be performed herein. Lender may elect to give Borrower written notice of any failure of Borrower to perform covenants hereunder, after which Borrower shall have 30 days after such written notice from Lender to Borrower to perform. However, Lender is not obliged to give this notice as Borrower is responsible to perform the covenants, herein, without notice;
- d. Borrower shall have failed to pay any money as required in the Note which is secured by this DOT, on or before 10 days after such payment of money is required; or
- e. Borrower shall have sold or encumbered the Property in violation of paragraph "11. Transfer of Property" herein.

17. Acceleration Upon Default & Additional Remedies. Should an event of default occur, Lender may declare all indebtedness secured hereby to be due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter, Lender may:

- a. Either in person or by agent, with or without bringing any action or proceeding or by a receiver appointed by a court and without regard to the adequacy of trust property, enter upon and take possession of the Property, or any part thereof, in Lender's own name or in the name of Trustee, and do any acts which Lender deems necessary or desirable to preserve the value, marketability or rentability of the Property, or any part thereof, or interest therein; increase the income therefrom or protect the trust property hereof, and with or without taking possession of the Property, sue for or otherwise collect the rents, issues and profits thereof, including those, past due and unpaid, and apply the same, less costs and expenses of operation and collection, including attorney's fees, if permitted, on any indebtedness secured hereby, all in such order as Lender may determine. The entering upon and taking possession of the Property, the collection of such rents, issues and profits and the application thereof shall not cure or waive any default or notice of default hereunder, or invalidate any act done in response to such default or pursuant to such notice of default and, notwithstanding the continuance in possession of the Property or the collection, receipt and application of rents, issues or profits, Trustee or Lender shall be entitled to exercise every right provided for in the DOT or Note, or by law on occurrence of any event of default, including the right to exercise the Power of Sale;
- b. Commence an action to foreclose this DOT as a mortgage, to seek deficiency on the indebtedness after foreclosure, to appoint a receiver,

and to otherwise specifically enforce any of the covenants or provisions hereof;

- c. Deliver to Trustee a written declaration of default and demand for sale, and a written notice of default and election to cause Borrower's interest in the Property to be sold under the Power of Sale contained herein, which notice to Trustee shall cause to be duly filed for record in the appropriate official records of the county where the Property is located, all to the extent required by applicable law. Neither Lender nor Trustee is obliged to give Borrower any written notice, upon the election of the Power of Sale, except the statutory "Notice of Default" required by Neb. Rev. Stat. §76-1006; and, no language in this DOT shall be interpreted to the contrary.
- d. Expend such sums as Lender deems necessary to protect the Property and cure any default of Borrower;
- e. Exercise all rights and remedies available to Lender under the Nebraska Trust Deeds Act.

18. Foreclosure Using Power of Sale. Should Lender elect to foreclose by exercise of the Power of Sale herein contained, Lender shall notify Trustee and shall deposit with Trustee this DOT and the Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require.

- a. On receipt of such notice from Lender, Trustee shall cause to be recorded, published and delivered to Borrower such notice of default as then required by law and by this DOT. Trustee shall, without demand on Borrower, after such time as may then be required by law and after recording of such notice of default and publishing notice of sale, all as required by law, sell the Property at the time and place of sale fixed by Trustee in such notice of sale, either as a whole or in separate lots, parcels or items as Trustee shall deem expedient, and in such order as Trustee may determine, at public auction to the highest bidder for cash or in lawful money of the United States, or certified or cashier's check, payable at the time of sale; or as otherwise may be provided in the published notice of sale. Trustee shall deliver to such purchaser, or purchasers thereof, Trustee's good and sufficient deed conveying the Property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person including, without limitation, Borrower, Trustee or Lender, may purchase at such sale and Borrower hereby covenants to warrant and defend the title of such purchaser or purchasers;
- b. As may be permitted by law, after deducting all costs, fees and expenses of Trustee and of this DOT incurred in connection with any such default or sale or foreclosure, or all of them, including costs of evidence of title in connection with a default or sale, a Trustee's fee and an attorney's fee, as provided by law, or provided by Paragraph "20. Trustee's Fee & Attorney's Fee." Also, any attorney's fees incurred by the Trustee shall be paid, whether such fees were incurred addressing a default or using the Power of Sale. Trustee shall apply the proceeds of sale to payment of:
 - i. All sums expended under the terms hereof not then repaid with accrued interest at the default rate provided in the Note,

- ii. All other sums then secured hereby, and
 - iii. The remainder, if any, to the person or persons legally entitled thereto;
- c. Trustee may, in any manner provided by law, or as referenced in the published notice of sale, postpone sale of all or any portion of the Property.

19. Remedies Not Exclusive. No remedy herein conferred upon or reserved to Trustee or Lender is intended to be exclusive of any other remedy herein or permitted or provided by law, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing by law or in equity or by statute. Nothing herein shall be construed as prohibiting Lender from seeking a deficiency judgment against Borrower to the extent such action is permitted by law.

20. Trustee's Fee & Attorney's Fee. In the event of any default, unless specifically waived in writing by Lender or Trustee, Borrower agrees to pay Trustee a fee which is reasonably related to the work actually done by Trustee. This reference is made so that the language of Neb. Rev. Stat. § 76-1011 is incorporated herein. In the event there is a reinstatement, the Trustee's fee may be limited as provided in Neb. Rev. Stat. § 76-1012. Further, Trustor agrees to pay an attorney's fee incurred either by Lender or Trustee for the enforcement of the rights of Lender or Trustee in the event of any default. Such attorney's fee shall be reasonable under the circumstances.

21. Right To Reinstate. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this DOT discontinued at any time and in the manner provided by Neb. Rev. Stat. §§ 76-1006 and 76-1012, as now or hereafter amended.

22. Reconveyance. Upon payment of all sums as herein provided, Lender shall direct Trustee to reconvey the real estate and shall surrender this DOT and the Note it secures. Trustee shall reconvey the Property, without warranty of title and without charge to the persons legally entitled to it.

23. Successor Trustee. Lender, at its option, may from time to time remove Trustee and appoint a successor Trustee by an instrument recorded in the county in which this DOT is recorded. Without conveyance of the Property, the successor Trustee shall succeed to all the title, power and duties conferred upon Trustee, herein, and by Nebraska law.

24. Time of Essence. Time is of the essence of this DOT, which means that any performance required on a particular date must to be accomplished on that exact date because such is the specific bargain of the parties, hereto.

IN WITNESS WHEREOF the Borrower has signed this Deed of Trust intending to be bound, and the date affixed is the time of this expression.

[signatures on following page]

