

13R-287

MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 13R-287 by accepting Attachment "A" attached hereto to replace Attachment "A" previously provided with Bill No. 13R-287.

Introduced by:

Approved as to Form and Legality:

City Attorney

Requested by: Law Department and Applicant

Reason for Request: To accept the Substitute Redevelopment Agreement for Block 68. The only substantive change between the Redevelopment Agreement and the Substitute Redevelopment Agreement is the Substitute Agreement allows for the Site Plan (Exhibit B) and the Streetscape Improvements Schematic Drawings (Exhibit D-2) to be provided and made part of the Redevelopment Agreement at a later date subject to prior review and approval by the Mayor. The Substitute Redevelopment Agreement also cleans up inconsistent language in the Redevelopment Agreement and certain Exhibits with regard to the legal description of the Redevelopment Property and the description of prohibited uses.

**SUBSTITUTE
CITY OF LINCOLN
REDEVELOPMENT AGREEMENT**

THIS REDEVELOPMENT AGREEMENT is entered into between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation in the State of Nebraska (“City), and **CA/ARGENT BLOCK 68 LINCOLN, LLC**, a Delaware limited liability company, and its successors and assigns (“Redeveloper”).

RECITALS

A. The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska. As part of that program the City has prepared and approved the Lincoln Center Redevelopment Plan a copy of which, together with any and all amendments thereto (collectively “Redevelopment Plan”), is on file in the Office of the City Clerk of the City (“City Clerk”). The Redevelopment Plan has been adopted in compliance with the Nebraska Community Development Law codified at *Neb. Rev. Stat.* §§18-2101 through 18-2144 (the “Act”).

B. The Block 68 Redevelopment Project included within the Redevelopment Plan calls for the City to support redevelopment efforts on real estate owned by Acher Arms LLC, a Nebraska limited liability company, and legally described as:

Parcel 1:

Lot A, Brock’s Subdivision of Lots 11 and 12,
Block 68, Original Plat, Lincoln, Lancaster

County, Nebraska, together with vacated alleys abutting thereon; Lost 4, 5, 6, 7, 8, 9 and 10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots A, B, C, D, E, and F, Cropsey's Subdivision of Lots 1, 2, and 3, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots B, C, D, E, and F, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon.

Parcel 2:

Lots 4, 5 and 6, Block 68, Original Plat of the City of Lincoln, Lancaster County, Nebraska.

Parcels 1 and 2 shall be acquired by Redeveloper and is hereinafter referred to as the "Redeveloper Property."

C. The Block 68 Redevelopment Project area ("Project Area") is shown in Exhibit "A" and incorporates the Redeveloper Property, and the following street right-of-way:

9th Street from M to N
10th Street from L to O
11th Street from L to P
M Street from 9th to 12th
N Street from 9th to 12th

to be improved according to the terms of this Agreement in Lincoln, Lancaster County, Nebraska. The Project Area may be expanded, at the City's sole discretion, to include any City property currently owned or hereinafter acquired which abuts upon any of the above right-of-way.

D. *Neb. Rev. Stat.* § 18-2103(12) (Reissue 2012) authorizes the City to carry out plans for a program of compulsory repair and rehabilitation of buildings and other improvements in connection with redevelopment of the Project Area and to pay for the same from TIF Bond Proceeds (as defined herein).

E. *Neb. Rev. Stat.* § 18-2107 (Reissue 2012) authorizes the City to enter into contracts with redevelopers of property containing covenants and conditions regarding the use of such property as the City may deem necessary to prevent the recurrence of substandard and blighted areas.

F. Redeveloper is willing to enter into this Agreement and through a hard construction cost investment of approximately Forty-six Million Five Hundred Thousand Dollars (\$46,500,000) to redevelop the Project Area by removing the existing parking lot improvements, performing site grading and excavation (“Site Preparation”) and constructing a mixed-use student housing complex with approximately 600 beds and approximately 40,000 square feet of retail (if there is a grocery store in the first floor retail space or approximately 27,500 square feet of retail space if there is no grocery store) and related surface and underground parking on the Redeveloper Property, including certain public enhancements to the complex for the greater good of the community and which are beyond the requirements of City standards, regulations or codes (“Public Enhancements”). The Site Preparation, the mixed use student housing complex, and the Public Enhancements are collectively referred to as the “Private Improvements.” The Redeveloper shall prepare a site plan for the Private Improvements (“Site Plan”) and submit it to the Mayor for his review and approval. The approved Site Plan shall be signed by the Redeveloper and the Mayor and attached to this Agreement as Exhibit “B”. At a minimum the

Site Plan shall show the location of the Private Improvements and ingress and egress to and from the Redeveloper Property from the abutting streets. Such ingress and egress shall be limited to those locations shown on the Site Plan (including no ingress or egress from N Street) except as otherwise approved by the City pursuant to Chapter 14.75 of the Lincoln Municipal Code and the City's Access Management Policy. In such event, the Mayor is authorized to execute an amendment to this Agreement substituting a new site plan reflecting the revised ingress and egress. The Public Enhancements are more particularly described in Section 201.A.3 below.

G. In order to help remove blight and substandard conditions and improve conditions in an economically underutilized area, the City is willing to enter into this agreement and to make a grant or grants to the Redeveloper to be used to construct the Public Enhancements and certain streetscape and utility public improvements identified in the Sources and Uses of Funds in Exhibit "C" through the City's executive order construction process as described in Section 201.B below ("Redeveloper Public Improvements"). The City and Redeveloper agree that such assistance is deemed essential to the preparation of the Project Area for the mixed use project containing student housing and retail space.

H. The Private Improvements and Redeveloper Public Improvements are collectively known as the "Redeveloper Project Improvements" and are generally shown on the Site Plan in Exhibit "B". The costs of the Redeveloper Project Improvements are collectively known as the "Redeveloper Project Costs" and are summarized on the Sources and Uses of Funds in Exhibit "C". The Redeveloper Project Improvements and the City Public Improvements (defined below) are collectively known as the Block 68 Redevelopment Project Improvements.

I. The City shall support the above described redevelopment of the Project Area in accordance with the Block 68 Redevelopment Project; provided that, Redeveloper is willing to restrict the use of the Redeveloper Property to certain use restrictions as provided in Section 303 and is further willing to agree to covenants and conditions regarding compulsory maintenance and upkeep of the Private Improvements to prevent a recurrence of substandard and blighted conditions as provided in Section 206; and further provided that, Redeveloper is willing to restrict the use of the grants provided hereunder for the sole purpose of design, construction and implementation of the Redeveloper Project Improvements on behalf of the City and in the manner contractually described herein.

J. The Redevelopment Plan contains a provision dividing any ad valorem tax levied upon real property in the Project Area for the benefit of any public body shall be divided, for a period not to exceed fifteen (15) years after the effective date of such provision as provided for in *Neb. Rev. Stat. § 18-2147 et seq.* Said provision is hereinafter referred to as the “Ad Valorem Tax Provision.”

K. *Neb. Rev. Stat. § 18-2107 (Reissue 2012) and § 18-2150 (Reissue 2012)* authorize the City to provide grants to private parties in order to accomplish rehabilitation or redevelopment of the Project Area in accordance with the Redevelopment Plan. In order to make a grant or grants to the Redeveloper, the City intends to issue tax increment financing indebtedness instrument or instruments in tax exempt and/or taxable series (collectively “TIF Bond”) to be repaid with the tax increment revenues generated under the Ad Valorem Tax Provision (“TIF Tax Revenues”).

L. The City and Redeveloper desire to enter into this Agreement to implement the Block 68 Redevelopment Project for the above purposes and in accordance with the Redevelopment Plan.

M. The City and Redeveloper mutually agree that the redevelopment of the Project Area is in the vital and best interest of the City and is in furtherance of the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of applicable laws and requirements under which the Redevelopment Plan has been undertaken.

NOW, THEREFORE, in consideration of the above recitals which are hereby made part of this Agreement and of the mutual covenants contained herein the parties do agree as follows:

ARTICLE I. EVIDENCE OF REDEVELOPER'S ABILITY

101. Evidence of Financial Ability of Redeveloper. The Redeveloper shall within sixty (60) days of the execution of this Agreement provide to the City on a confidential and privilege basis evidence of availability of the specific amount of finances necessary for purposes of carrying out the commitment of the Redeveloper in connection with redevelopment of the Project Area. Such information shall state the amount and source of liquid assets on hand or immediately available to the Redeveloper for design and construction of the Redeveloper Project Improvements. Such information shall be provided in a form satisfactory to the Finance Director of the City.

102. Evidence of Redeveloper's Ability to Timely Commence Construction of the Private Improvements. Redeveloper shall, within one hundred twenty (120) days of execution of this Agreement by the City, provide satisfactory documentation to the City that Redeveloper

has acquired the Redeveloper Property and entered into a construction contract and is ready, willing, and able to timely commence and complete construction of the Private Improvements as provided in Section 205 below.

103. Timely Submittal of Evidence. Timely submittal of financial information required in Section 101 above and the construction contract in Section 102 above shall be a condition precedent to the requirement of the City to proceed with its obligations under this Agreement.

ARTICLE II. CONSTRUCTION OF BLOCK 68 PROJECT IMPROVEMENTS

201. Construction/Installation of Redeveloper Project Improvements.

A. Private Improvements.

1. **Schematic Drawings.** The preliminary size, shape and location of the Private Improvements are schematically outlined on Exhibit “D-1” (“Private Improvement Schematic Drawings”). The Private Improvement Schematic Drawings also include a delineation of construction materials to be used for the exterior walls of the Private Improvements. The Private Improvement Schematic Drawings have been approved by the City and will serve as the basis for development of final plans and specifications for the Private Improvements to be constructed by the Redeveloper. Prior to being approved by the City, the Private Improvement Schematic Drawings were presented to the City’s Urban Design Committee for its review and recommendation as to approval.

2. Construction Documents.

(a) **Preparation of Construction Documents.** Based upon the Schematic Drawings, the Redeveloper shall prepare or cause to be prepared, at Redeveloper’s

own cost and expense, detailed final construction plans and specifications (hereinafter “Construction Documents”) for the Private Improvements. The Construction Documents for the Private Improvements shall be in compliance with the City of Lincoln Design Standards including, but not limited to, the Lincoln Downtown Design Standards and Design Standards for Pedestrian Circulation in Commercial and Industrial Areas and based upon the Private Improvement Schematic Drawings. Such Construction Documents shall include elevation views of the exterior of the Private Improvements (“Exterior Drawings”) and delineation of the construction materials to be used for the exterior walls of the Private Improvements. The Construction Documents for the Private Improvements will be submitted to the Department of Building and Safety for building permit review and approval following the Mayor’s approval of the Exterior Drawings. If the Redeveloper requests and receives a limited building permit for footings and foundation before receiving the Mayor’s approval of the Exterior Drawings and Building and Safety’s issuance of the building permit for all of the Private Improvements, such limited permit shall be subject to the Redeveloper executing the City’s “Acknowledgment of the Conditions for Granting of Limited Construction Permit” including the agreement that the Redeveloper, as the recipient of such limited construction permit, is proceeding at Redeveloper’s own risk without assurance that a permit for all of the Private Improvements will be granted. The Exterior Drawings from the Construction Documents for the Private Improvements will at the same time be submitted to the Urban Development Department and Mayor for review and approval as provided in subsection (b) below.

(b) Approvals. The Mayor shall so approve or reject the Exterior Drawings for the Private Improvements within ten (10) days after the Mayor’s receipt of the

Exterior Drawings. Such Exterior Drawings shall be approved by the Mayor only if they are prepared from and in substantial conformance with the approved Schematic Drawings and the provisions of this Agreement. If the Mayor rejects the Exterior Drawings, the Mayor shall deliver or cause to be delivered to Redeveloper notice thereof accompanied by an explanation of the reasons for such rejection. If rejected, Redeveloper shall work with the architect or engineer to submit corrected Exterior Drawings, as applicable, within ten (10) days after the date of receiving the written rejection notice. Resubmitted Exterior Drawings shall be approved or rejected as provided above for original submittals.

(c) Approval Limitation. The Mayor's review and approval of the Exterior Drawings does not apply to the building permit review process and is not a substitute for nor an elimination of the requirement that the Redeveloper apply for and receive any necessary building permits for construction of the Private Improvements.

3. Construction of Private Improvements. The Redeveloper, through an anticipated hard construction cost investment of approximately Forty-Six Million Five Hundred Thousand and No/100 Dollars (\$46,500,000.00), shall at its own cost and expense construct the Private Improvements substantially in conformance with the Construction Documents as approved by the City. The Site Preparation portion of the Private Improvements shall be competitively bid and contracts awarded to the lowest responsible bidder in accordance with City requirements. As part of said construction, the Redeveloper, at its own cost and expense subject to reimbursement as provided in Section 403 below, shall construct the following Public Enhancements: (1) Façade Enhancements to include full dimensional brick, decorative metals, precast, glazing, metal panels, solar shades and awnings; (2) Energy Efficiency Enhancements in

accordance with Section 201A.3.(b) below which may include increased thermal rating for glazing, reflective roofing surfaces, energy management system for the building, soft start technology, (Wye Delta), for HVAC, Plumbing, Electrical and FP Equipment, increased efficiency for HVAC system (VRF or similar system), water saver technology, smart thermostat, smart lighting controls, energy efficient light fixtures, solar collecting devices, natural gas micro-turbine technology, photovoltaic energy system, solar shades to reduce heat loads, sun shades and architectural features to reduce solar heat gain, improved insulation of building envelope and roof, improved air infiltration protection, architectural features to harvest daylight; and (3) Green System Enhancements to include elevated deck storm water management, permeable surfaces on green space, selective rainwater harvesting. All Private Improvements shall be constructed in compliance with all applicable local, state, and federal building and construction laws and codes. Redeveloper agrees to secure and maintain all permits and licenses necessary for its use of the Redeveloper Property including, but not limited to, necessary building permits and inspections. Redeveloper shall grant to the City a Façade Easement in the form attached hereto as Exhibit "E" related to the Façade Enhancements.

(a) Professional Design. All Private Improvements shall have consistent architectural or engineering features, detailing, and design elements in accordance with this Agreement. All accessory building walls, screening walls or fences, and canopy columns shall be in substantial conformity with the applicable City design standards

(b) Energy Efficiency. Construction of the Private Improvements shall utilize energy efficient building practices to the extent that they are reasonably available on a cost-effective basis. Specifically, Redeveloper shall use the equivalent of the standard

established by U.S. Green Building Council through its Leadership in Energy and Environmental Design (“LEED”) Green Building Rating Systems as a guideline for the design and construction of the Private Improvements to the extent design and construction based on LEED standards are reasonable and cost-effective.

4. Commencement/Completion of Private Improvements. Redeveloper agrees to use commercially reasonable efforts to substantially complete construction of the Private Improvements as provided for in Section 205 below and to pay or cause to be paid in a timely manner each person, as defined in Neb. Rev. Stat. §49-801, that performed labor or furnished materials, equipment or supplies used in the prosecution of the Private Improvements. Such payment shall be made promptly after completion of the Private Improvements and submission of all final and unconditional lien waivers and in accordance with all the provisions of this Agreement relating to the obligations of Redeveloper to construct the Private Improvements. Failure to construct a specific element of Private Improvements due to a failure to obtain a necessary easement, license, permit or authorization in form and substance reasonably satisfactory to the Redeveloper and its counsel shall not be considered an item of default. Developer and the City shall agree on a reasonable alternative to such element of the Private Improvements.

5. Certificate of Completion. Promptly after final completion of the Private Improvements in accordance with all the provisions of this Agreement relating to the obligations of Redeveloper to construct the Private Improvements and promptly after the Redeveloper provides the City the proper documentation that each person, as defined in Neb. Rev. Stat. §49-801, that performed labor or furnished materials, equipment or supplies used in

the prosecution of the Private Improvements have been properly paid, the City shall upon request by the Redeveloper furnish a Certificate of Completion of Private Improvements, the form of which is shown on Exhibit “F”. Such certification by the City shall be a conclusive determination of satisfaction of the agreements and covenants in this Agreement with respect to the obligations of Redeveloper to construct the Private Improvements. The Certificate of Completion of Private Improvements shall be recorded by the Redeveloper at its own cost and expense in the office of the Register of Deeds for Lancaster County, Nebraska. If the City shall refuse or fail to provide the certification in accordance with the provisions of this paragraph after being requested to do so by Redeveloper, the City shall, within fifteen (15) days after written request by Redeveloper, provide Redeveloper with a written statement indicating in what respect Redeveloper has failed to complete the Private Improvements subject to such certification in accordance with the provisions of this Agreement and what measures or acts will be necessary, in the opinion of the City, for Redeveloper to take or perform in order to obtain such certification.

B. Redeveloper Public Improvements.

1. Streetscape Improvements.

(a) Schematic Drawings. The Redeveloper shall prepare schematic drawings showing the preliminary size, shape and location of the Redeveloper Public Improvements for Streetscape Improvements (“Streetscape Improvements Schematic Drawings”). The Streetscape Improvements Schematic Drawings shall be submitted to the Mayor for his review and approval. The approved Streetscape Improvements Schematic Drawings shall be signed by the Redeveloper and the Mayor and attached to the Agreement as

Exhibit D-2. Such drawings will serve as the basis for development of final plans and specifications for the Streetscape Improvements to be constructed by the Redeveloper as part of the Redeveloper Public Improvements. Prior to being approved by the Mayor, the Streetscape Improvements Schematic Drawings were presented to the City's Urban Design Committee for its review and recommendation as to approval.

(b) Preparation of Streetscape Improvements Construction Documents.

Based upon the Streetscape Improvements Schematic Drawings, the Redeveloper shall prepare or cause to be prepared, at Redeveloper's own cost and expense, detailed final construction plans and specifications (hereinafter "Construction Documents") for the Streetscape Improvements. The Construction Documents for the Streetscape Improvements shall be in compliance with the City of Lincoln Design Standards including, but not limited to, the Lincoln Downtown Design Standards and Design Standards for Pedestrian Circulation in Commercial and Industrial Areas and based upon the Streetscape Schematic Drawings.

2. Public Utilities. As part of the Redeveloper Public Improvements, Redeveloper shall design and construct those public utilities listed in the attached Exhibit "J".

3. Construction. Redeveloper, at its own cost and expense, subject to reimbursement as provided in Section 403 shall (1) design or cause the Redeveloper Public Improvements to be designed in accordance with the City's Standard Specifications, (2) submit or cause final construction documents to be submitted to the Director of the Public Works and Utilities Department for review and approval, (3) install and construct or cause the Redeveloper Public Improvements to be competitively bid, installed and constructed pursuant to the City's executive order construction process, and (4) pay for or cause to be paid construction inspection,

staking and testing of the Redeveloper Public Improvements as part of the construction and inspection process.

4. Construction Easement. Redeveloper will grant or convey to the City without additional consideration all necessary permanent and/or temporary construction easements (if any) on, over or across the Redeveloper Property required to construct any of the Redeveloper Public Improvements.

C. City Public Improvements. The City and Redeveloper agree that the City may use a portion of available TIF Bond Proceeds as provided in Section 403 below to fund the purchase and/or installation of such Redevelopment Project Improvements (as defined in Section 12-2103(12) of the Community Development Law) (“City Public Improvements”) which the City determines to be beneficial for the elimination of substandard and blighted conditions during the TIF Period to be located within the Project Area.

202. Cost Certification. The Redeveloper shall submit a construction draw request, accompanied by a certificate from the Redeveloper’s architect that the work has been completed in accordance with the Contract Documents, to the City for reimbursement from the City or Lender Project Account B (as defined in Section 402.A below) of any expenses related to construction of the Redeveloper Project Improvements. The Redeveloper shall timely submit receipts, invoices, or proof of payment concurrently with the request for reimbursement of Redeveloper Project Improvement costs. The City shall approve or reject the same with reasons stated, based on the review within ten (10) days of receipt of the same; provided, however, the City shall generally approve request for reimbursement made by Redeveloper that are consistent with this Agreement. If the TIF Bond Proceeds are held in the City Project Account B, the

reimbursement payment by the City to Redeveloper shall be made within fifteen (15) days after approval by the City. If the TIF Bond Proceeds are held in the Lender Project Account B, the reimbursement payment shall be promptly made by the Lender.

203. Construction Administration. Redeveloper shall be responsible on a pay-as-you-go basis for all components of the Redeveloper Project Improvements, including construction management, coordination of contractors and regulatory permitting and other requirements. Subject to reimbursement for Public Enhancements as provided for in Section 403 below, the Redeveloper will be solely responsible for payment of all construction cost attributable to the Private Improvements. Subject to reimbursement as provided in Section 403 below, the Redeveloper will be solely responsible for payment of all construction cost attributable to the Redeveloper Public Improvements.

204. Permits and Approvals. Redeveloper agrees to secure all permits and licenses necessary for construction of the Private Improvements and its intended use of the Redeveloper Property including, but not limited to, necessary building permits and inspections.

205. Commencement and Completion Deadline for Private Improvements. The Redeveloper shall use its best efforts to commence construction of the Private Improvements within ninety (90) days following Redeveloper's submission of satisfactory documentation under Section 102 above that the Redeveloper has acquired the Redeveloper Property and entered into a construction contract for construction of the Private Improvements and shall use its best efforts to substantially complete the Private Improvements by August 31, 2015.

206. Duty to Maintain.

A. Private Improvements. Redeveloper at its own cost and expense shall, following construction of the Private Improvements, keep the same in a safe and sanitary condition and shall take all necessary action reasonably necessary to (a) maintain, in good order and condition and state of repair, all interior and exterior portions of the buildings including the routine and reasonable preventive maintenance of the buildings and their service facilities such as the wiring, plumbing, heating and air conditioning systems, interior insect treatment, and all glass including plate glass, exterior doors, and automatic doors, and (b) maintain the grounds in a safe and sanitary condition including but not limited to sweeping and removal of trash, litter, and refuse; repair and replacement of paving as reasonably necessary; maintenance of landscaped areas; removal of snow and ice from sidewalks, driveways, and parking areas, in order to keep the same free from dilapidation or deterioration and free from conditions which endanger life or property by fire or other causes.

B. Streetscape Improvements. Upon completion of the Streetscape portion of the Redeveloper Public Improvements, the City shall be responsible for street trees and the Redeveloper shall have all the other duties and responsibilities to maintain and repair the remaining portion of the Streetscape Improvements, at its own cost and expense and no responsibility thereof shall accrue to the City by reason of its benefits from the Streetscape Improvements pursuant to the general terms and provisions of the Streetscape Maintenance Agreement, which is attached hereto as Exhibit "G" and incorporated herein by this reference, except for the work to be performed and the specific improvements to be made or maintained under a business improvement district.

207. Grocery Store. Redeveloper shall use its best efforts to obtain a 20,000 square foot grocery store as a tenant in the first floor retail space within the Private Improvements. Best efforts shall include, but not be limited to, offering such retail space for rent or lease only to prospective grocery store tenants at a base rental rate of \$15.00 per square foot (exclusive of tenant improvements), and reserving a location as shown on Exhibit “B” (site plan), for a period commencing with approval of this agreement by the City Council of the City of Lincoln and continuing through January 15, 2015. In the event Redeveloper is unable to enter into a rental or lease agreement for a grocery store occupancy of the retail space within the above-referenced time frame and upon the terms set forth above, the Redeveloper may offer said retail space for other retail uses.

ARTICLE III. SECURITY AND RESTRICTIONS

301. Bonds.

A. Penal Bond – Redeveloper Public Improvements. Pursuant to *Neb. Rev. Stat.* §§ 18-2151 and 52-141, Redeveloper shall furnish or cause to be furnished to the City, prior to commencement of construction of the Redeveloper Public Improvements through the City’s executive order construction process, a penal bond in the amount of the contract sum for such improvements with a corporate surety authorized to do business in the State of Nebraska. The form of the penal bond is attached hereto as Exhibit “H”.

B. Payment and Performance Bond – Private Improvements. Prior to commencing construction of the Private Improvements, Redeveloper shall submit proof to the City that Redeveloper’s general contractor has furnished Redeveloper with a construction performance and construction payment bond in a sum not less than the contract sum for the

Private Improvements, including the contract sum for the Site Preparation and Public Enhancements. Such bonds shall be conditioned upon the Redeveloper at all times making payment of all amounts lawfully due to each person, as defined in Neb. Rev. Stat. §49-801, that performed labor or furnished materials, equipment or supplies used in the prosecution of the Private Improvements.

302. Indemnification. Redeveloper agrees to indemnify and hold City harmless to the extent of any payments in connection with carrying out construction of the Redeveloper Project Improvements the City may be required to make for failure of Redeveloper or its contractor to make payments of all amounts lawfully due to each person, as defined in Neb. Rev. Stat. §49-801, that performed labor or furnished materials, equipment or supplies used in prosecution of the Redeveloper Project Improvements.

303. Use Restrictions. Redeveloper agrees that during the Tax Increment Period no portion of the Redeveloper Property shall be used for any of the following uses:

- a. Any business whose predominant operation is the retail sale of alcoholic beverages for consumption off the premises (predominant shall mean retail gross sales of alcoholic beverages, including mixed drinks, in excess of 50% of gross sales on the premises) or any such business that in the opinion of the City has an unreasonable pattern of liquor law violations;;
- b. The retail sale of alcoholic beverages for consumption on the premises if such use, in the reasonable opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;

c. Any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such use that has an unreasonable pattern of unlawful disturbances or tobacco law violations;

d. A sexually oriented business including live entertainment establishments as defined in Section 27.03.545 of the Lincoln Municipal Code and any other business engaged in sexually oriented entertainment or materials such as any: sexually oriented show, movie, picture, exhibition, performance, demonstration, film, video, book, or other depictions of a sexually explicit nature; sexually oriented live entertainment or exotic dance; exotic lingerie; sex toys or sexually oriented paraphernalia; sexually oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort service. The foregoing exclusion shall not include pay for view video/audio services, internet and other forms of telecommunication/communication systems offered or available to guests in the ordinary course of hotel business and trade or to Lincoln residents.

e. Any business whose predominant operation is the use, storage or processing of hazardous or potentially hazardous materials as defined under applicable law, including any salvage or recycling operation, car wash, dry cleaning, vehicle body repair, paint, refinishing, or parts and equipment cleaning business; provided nothing herein shall be construed to prohibit dry cleaning pickup facility, convenience, food or fuel store.

f. Any business involving gambling or wagering even if otherwise permitted by law including slot machines, video lottery machines, or casino games, but excluding keno, bingo, and the retail sale of lottery tickets as permitted by applicable law.

g. Any business involving the sale or display of weapons, self-service laundromat for nonresidents or non-occupants of the Redeveloper Property, illegal activities, or sale of any illegal goods or products.

h. Off-premises signs as defined in Section 27.69.020 of the Lincoln Municipal Code.

i. Any business providing payday loans, liens, check cashing services, or other similar services, except for banks, savings and loans, insurance company, investment companies, stock brokers, credit unions and automated teller machines.

j. Cell towers, although cellular antennae and transmission equipment may be incorporated into the Private Improvements provided that they are properly screened and otherwise meet design standards that meet the City's approval.

ARTICLE IV. TAX AGREEMENT

401. Grant of Funds. In order to support redevelopment of the Project Area and as an inducement for the Redeveloper to construct the Redeveloper Project Improvements, the City agrees, to the extent allowed by law and then only to the extent funds are lawfully available from the issuance of the TIF Bond B (defined below) and receipt of proceeds from the sale thereof

("TIF Bond B Proceeds") as shown in Exhibit "C", to make a grant or grants to Redeveloper to reimburse Redeveloper (or make payments directly to Redeveloper's Contractor) as provided in Section 403 below for the Site Preparation, Public Enhancements, and Redeveloper Public Improvements in a maximum amount not to exceed the total amount of TIF Bond B Proceeds remaining after first reimbursing the City for the City's cost to issue the TIF Bond B. Redeveloper shall submit authentic and satisfactory documentation to the City to verify the grant was expended on TIF eligible Redeveloper Project Costs. Any ineligible use of the grant shall immediately be repaid to the City.

402. TIF.

A. Issuance of TIF Indebtedness. Not earlier than thirty (30) days following the later date of the approval and execution of this Redevelopment Agreement or the date the issuance of the TIF Bond (defined below) has been authorized, which date is after the remonstrative period in Neb. Rev. Stat § 18-2142.01 or as soon thereafter as is practicable, the City shall issue TIF Indebtedness as follows: (i) "TIF Bond A" in the sum of Eight Hundred Eleven Thousand and No/100 Dollars (\$811,000.00) to be purchased by the City or other purchaser ("TIF Bond A Purchaser") and receive TIF Proceeds from the TIF Bond A Purchaser to be deposited into a City or Lender fund account (the "Project Account A") for payment of the City's TIF Bond A cost of issuance and to fund the City Public Improvements set forth in the Second Priority in Section 403 below and (ii) "TIF Bond B" in the sum of Seven Million Three Hundred Thousand and No/100 Dollars (\$7,300,000.00) to be purchased by the Redeveloper or Redeveloper's Lender ("TIF Bond B Purchaser") and receive TIF Proceeds from the TIF Bond B Purchaser to be deposited into a City or Lender fund account (the "Project Account B") for

payment of the City's TIF Bond B cost of issuance in Priority One and reimbursement of the cost for the Site Improvements, Public Enhancements, and Redeveloper Public Improvements in the Third Priority, Fourth Priority, and Fifth Priority items as set forth in Section 403 below. TIF Bond A and TIF Bond B are individually and collectively referred to herein as the "TIF Bond." The TIF Bond A Purchaser and TIF Bond B Purchaser are individually and collectively referred to herein as the "TIF Bond Purchaser". The total dollar amount of the TIF Bond is the estimated amount of the tax increment to be generated on the Redeveloper Property and Private Improvements based upon an estimated taxable valuation of \$37,000,000 after completion of the Private Improvements in 2015 and increasing at the compound rate of 3% per annum thereafter. The Redeveloper or Redeveloper's Lender shall have the option to buy TIF Bond A and be the TIF Bond A Purchaser as a separate TIF Bond or the TIF Bond A and the TIF Bond B into one TIF Bond and be the TIF Bond Purchaser.

B. Authority of City Finance Director. Subject to the terms of this Redevelopment Agreement, the City Finance Director on behalf of the City shall make all necessary arrangements regarding timing of issuance of the TIF Indebtedness and all other details of the TIF Indebtedness, TIF Bond, TIF Tax Revenues, Project Account and Grant of Funds to reimburse Redeveloper for the Site Improvements, Public Enhancements, and Redeveloper Public Improvements; provided that, the semi-annual TIF Tax Revenues shall first be applied toward payment of the annual debt service on TIF Bond A and then applied toward payment of the annual debt service on TIF Bond B. Thereafter, any remaining unencumbered TIF Tax Revenues shall be allocated between the debt service on the TIF Bond A and the TIF

Bond B based upon the prorated principal amount of the TIF Bond A and TIF Bond B. All such arrangements made by the Finance Director shall be subject to approval of the Mayor.

403. Use of TIF Bond Proceeds. TIF Bond Proceeds shall be used for and expended in the following priority:

FIRST PRIORITY: Reimburse the City for the cost of issuing the TIF Bond, including but not limited to bond counsel fees, fiscal advisory fees, placement fees, capitalized interest, and reserves.

SECOND PRIORITY: Fund the City Public Improvements Project Account in the amount of \$811,000.

THIRD PRIORITY: Payment of grant or grants to reimburse Redeveloper for costs of the Redeveloper Public Improvements.

FOURTH PRIORITY: Payment of grant or grants to reimburse Redeveloper for the Site Preparations.

FIFTH PRIORITY: Payment of grant or grants to reimburse Redeveloper for the cost of the Public Enhancements.

Only Site Preparation, Redeveloper Public Improvements and Public Enhancement costs incurred after the date of this Agreement shall be eligible for reimbursement as Third Priority, Fourth Priority, and Fifth Priority items.

The City shall not have any obligation to making a grant or grants to reimburse the Redeveloper for the Redeveloper Public Improvements, Site Preparation, and/or Public Enhancements in excess of the available TIF Bond Proceeds as described above. Redeveloper shall use its own funds to fund any Redeveloper Public Improvements costs that exceed the TIF

Bond Proceeds that are lawfully available and granted to the Redeveloper hereunder. In the event there is not enough available TIF Bond Proceeds to complete the Fifth Priority items as shown above, the City Urban Development Director and the Redeveloper shall use their best efforts to agree to modify or reduce the scope, scale, size or phasing of the Fifth Priority item(s), but not eliminate any Fifth Priority item in order to have enough available TIF Bond Proceeds to fund the modified or reduced Fifth Priority items. Subject to the preceding sentence, the City Urban Development Director on behalf of the City is hereby authorized to modify or reduce the scope, scale, size or phasing of the Fifth Priority items, but not to eliminate any Fifth Priority item in order to have enough available TIF Bond Proceeds to fund the modified or reduced Fifth Priority items. The funds granted to Redeveloper are restricted and earmarked solely for the reimbursement of eligible Redeveloper Public Improvements, Site Preparation, and Public Enhancements as described herein and the Redeveloper does not have discretionary judgment over the applications of said grant funds.

404. Valuation of the Redeveloper Property. The City intends to use the Ad Valorem Tax Provision to generate tax increment financing funds which shall be used to finance the issuance of the TIF Bond and to make the grant or grants to Redeveloper in accordance with this Redevelopment Agreement. The tax increment is to be derived from the increased valuation, determined in the manner provided for in Article 8, Section 12 of the Constitution of the State of Nebraska and the Community Development Act which will be attributable to the redevelopment contemplated under this Agreement. The TIF Tax Revenues which are to be used to pay debt service on the TIF Indebtedness from the sale of the TIF Bond will be derived from the increased valuation from redeveloping the Redeveloper Property as provided in this Agreement.

Redeveloper agrees not to contest any taxable valuation assessed for the Redeveloper Property and Private Improvements thereon which do not exceed \$37,000,000 commencing tax year 2015 and increasing at the compound rate of 3% per year and continuing for a period of not to exceed fifteen (15) years after the effective date hereof or so long as any portion of the TIF Indebtedness with respect to the Redevelopment Project remains outstanding and unpaid, whichever period of time is shorter.

405. Debt Service for TIF Indebtedness. The City shall, to the extent allowed by law, and then only to the extent funds are lawfully available from TIF Tax Revenues, pay the purchaser of the TIF Bond (“TIF Bond Purchaser”) the principal of the TIF Indebtedness with interest as provided in the TIF Bond Ordinance at a rate not to exceed seven percent (7%) per annum. Any debt service on the TIF Indebtedness (including interest) to be paid from TIF Tax Revenues shall not constitute a general obligation or debt of the City. Any excess TIF Tax Revenues resulting from the Tax Increment Provision on the Redeveloper Property not needed or required to pay the TIF Bond Purchaser for the TIF Indebtedness shall be expended by the City or returned to the applicable taxing authorities as provided in the Community Development Law. Any shortfall in anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Redeveloper Property, shall be borne entirely by the Redeveloper and TIF Bond Purchaser without recourse of any kind against the City.

406. Tax Increment Deficiency on Redeveloper Purchased TIF Bond.

A. Redeveloper Purchased TIF Bond. If the Redeveloper purchases the TIF Bond, any shortfall in the annual TIF Tax Revenues from the Tax Increment Provision for any

reason whatsoever, specifically including a decline in taxable valuation of the Redeveloper Property, shall be borne entirely by the Redeveloper without recourse of any kind against the City. To the extent of any deficiency in annual TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Indebtedness, the Redeveloper as purchaser of the TIF Bond agrees to defer payment of the same for each year that there exists a deficiency during the Tax Increment Period. If Redeveloper is required to defer any such payments, the City shall reimburse all sums deferred if and when annual TIF Tax Revenues do become available from the Ad Valorem Tax Provision to meet current debt service and reimburse Redeveloper for such deferred payments. In the event the TIF Indebtedness is not retired in full at the end of the Tax Increment Period, any remaining TIF Indebtedness shall be forgiven.

B. Lender Purchased TIF Bond. If Redeveloper's Lender purchases the TIF Bond, any shortfall in the annual TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Redeveloper Property, shall be borne entirely by the Redeveloper and TIF Bond Purchaser without recourse of any kind against the City. To the extent of any deficiency in annual TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Indebtedness, the Redeveloper agrees to pay the same upon written request of the City and shall pay the same for each year that there exists a deficiency in such TIF Tax Revenues. If Redeveloper is required to pay any such deficiency, the City shall reimburse all sums paid by said Redeveloper for such purposes if and when annual TIF Tax Revenues do become available from the Ad Valorem Provisions to meet current debt service and reimburse Redeveloper for such deficiency payments.

C. Adjustments for any Payments of Tax Increment Deficiency. If Redeveloper makes one or more payments to cover a deficiency in the required debt service payments on the TIF Bond as provided in paragraph A and paragraph B of this Section 406, the City shall maintain a record of the aggregate amount of said payments, which shall include interest (at the same interest rate of the then outstanding TIF Bond) (“**Redeveloper’s Aggregate Deficiency Payments**”). If the TIF Tax Revenues from the Tax Increment Provision for any year exceeds the amount necessary to meet current debt service on the TIF Indebtedness, then the excess TIF Tax Revenues shall be paid to Redeveloper and deducted from the Redeveloper’s Aggregate Deficiency Payments until Redeveloper’s Aggregate Deficiency Payments have been fully reimbursed.

407. Reimbursement of Grants. Subject to Section 701 below, Redeveloper agrees to repay the City the grant or grants of funds provided for in Section 401 above in the event Redeveloper fails to substantially complete the Redeveloper’s Private Improvements as provided in Section 201.A.3 and, upon such repayment of the of the grant funds, this Agreement shall be null and void in regards to the Redeveloper and the Redeveloper Property.

Subject to Section 701 below, in the event the Redeveloper fails to maintain the Redeveloper’s Private Improvements as provided in Section 206 above, then the Redeveloper shall reimburse the City the proportionate share (1/15) of the grant funds provided for in Section 401 above for the year the Redeveloper fails to maintain the Private Improvements.

408. Restriction on Transfer. Redeveloper will not, for a period of fifteen (15) years after the effective date hereof or so long as the TIF Bond remains outstanding whichever period of time is shorter (tax increment period), convey the Redeveloper Property or any portion thereof

to any entity which will result in such property being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions.

409. Damage or Destruction of Private Improvements.

A. Construction Period. During the construction period, Redeveloper agrees to keep the construction area, including completed operations insured against loss or damage by fire, and such other risks, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value but allowing for reasonable coinsurance clauses and deductibles. In the event of any insured damage or destruction, Redeveloper agrees to use its good faith efforts to commence restoration of the Private Improvements to its prior condition within nine (9) months from the date of the damage or destruction, and shall diligently pursue the same to completion.

B. Tax Increment Period. During the tax increment period, Redeveloper shall include by restrictive covenant an enforceable obligation on the Redeveloper or other owner or tenant in possession to maintain property insurance on an extended coverage all-risk basis in an amount not less than the replacement value, allowing for reasonable coinsurance clauses and deductibles and also subject to the Redeveloper or other owner or tenant's obligation to use good faith efforts to commence restoration of the Private Improvements to its prior condition within nine (9) months from the date of the damage or destruction, diligently pursuing the same to completion.

C. Failure to Restore. In the event Redeveloper fails for any reason to restore the Private Improvements as provided in A and/or B above, Redeveloper shall either forgive any remaining TIF Indebtedness and interest thereon if the Redeveloper was the TIF Bond Purchaser,

or pay to the City the necessary amount of to retire the TIF Indebtedness in full (including interest) if the TIF Bond was purchased by the Redeveloper's Lender.

410. Condemnation. If during the Tax Increment Period, all or any portion of the Redeveloper Property is condemned by a condemning authority other than the City, and the condemning authority or its successor in interest would not be obligated to pay real estate taxes upon that portion condemned, the City shall be entitled to claim against the Condemner an interest in the property equal to the present value of the pro rata share of TIF Indebtedness outstanding as of the date of taking.

411. Agreement to Pay Taxes. Redeveloper agrees to pay all real property taxes levied upon the Redeveloper Property and Private Improvements prior to the times such taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency on the part of the Redeveloper shall cease upon expiration of the Tax Increment Period, but the City in no way waives the statutory obligation of Redeveloper to continue to pay real estate taxes. Nothing herein shall be deemed an agreement by Redeveloper to waive its right to protest or contest the valuation of the Redeveloper Property and Private Improvements for tax purposes except provided herein.

ARTICLE V. MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

501. Financing Creating Encumbrances Restricted.

A. Prior to issuance of the Redeveloper's Certificate of Completion of Improvements by the City for the Private Improvements, neither Redeveloper, nor any successors in interest with respect to the Redeveloper Property shall engage in any financing or any other transaction creating any Mortgage upon the Redeveloper Property, whether by express

agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to any of the Redeveloper Property, except for the purposes of obtaining funds only to the extent necessary to design, construct, maintain, repair, replace and insure the Private Improvements. Redeveloper or any successor in interest as Redeveloper shall notify the City in advance of any financing secured by Mortgage that it proposes to enter into with respect to the Redeveloper Property, and shall promptly notify the City of any Mortgage that has been created on or attached to the Redeveloper Property whether by voluntary act of Redeveloper or otherwise. Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to any of the Redeveloper Property and which is contested by Redeveloper, then Redeveloper may defend against such encumbrance or lien, provided that a sufficient bond or security is posted with the Clerk of the district court pursuant to Neb. Rev. Stat. §52-142, to permit the Redeveloper to avoid or prevent foreclosure of such encumbrance or lien. In addition, Redeveloper agrees that prior to completion of Private Improvements; any loan proceeds secured by any interest in the Redeveloper Property shall be used solely for the payment of costs and expenses related to the design and construction of the Private Improvements. Redeveloper shall provide a copy of all draw requests and bank approvals related to the Private Improvements to the Director of Urban Development in a timely fashion.

B. In the event that any foreclosure of any Mortgage, deed of trust or other encumbrance should occur prior to the furnishing of the Certificate of Completion or at any time when any casualty damage to the Private Improvements has occurred and has not been fully restored, any party who obtains title to any portion of the Redeveloper Property from or through Redeveloper or the holder of any Mortgage or any other purchaser at foreclosure sale shall be

obligated to use good faith efforts to commence construction or reconstruction within nine (9) months from the date of acquisition of title by said party and to diligently pursue the same to completion or, in lieu thereof, the holder of any Mortgage or any other purchaser at foreclosure sale shall pay to the City the amount necessary to fully retire the TIF Indebtedness within three (3) months from the date of acquisition of title. Each Mortgage holder who obtains title to the Redeveloper Property or any part thereof as a result of a foreclosure or other judicial proceedings or action in lieu thereof shall not be obligated by and shall be exempted from those provisions of this Redevelopment Agreement which require construction and completion of the Private Improvements and which require such holder to be obligated to guarantee such construction and completion.

502. Notice of Default. Whenever the City shall deliver any notice or demand to Redeveloper with respect to any breach or default by Redeveloper of its obligations or covenants in this Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any Mortgage at the last address of such holder as shown in the records of the Register of Deeds of Lancaster County.

503. Option to Cure. If thirty (30) days after any notice or demand with respect to any breach or default, such breach or default remains uncured, each such holder of a mortgage shall (and every Mortgage or other instrument of encumbrance made prior to completion of the Private Improvements by Redeveloper or its successors in interest shall so provide) have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its Mortgage. If the Mortgage holder commences efforts to cure the default within such period and the default cannot, in the exercise of due diligence, be cured within such

period, the holder shall have the right to diligently continue to cure the default. In the event the holder fails to cure, then the City shall have the remedies provided for in this Redevelopment Agreement.

504. Rights Applicable to Other Forms of Encumbrance (Deed of Trust). The rights and obligations of this Agreement relating to Mortgages of any portion of the Redeveloper Property shall apply to any deed of trust or other type of encumbrance on any of the Redeveloper Property, and any of the stated rights, obligations and remedies of any party relating to mortgage foreclosures shall be applicable to procedures under any deed of trust or similar method of encumbrance.

ARTICLE VI. REPRESENTATIONS

601. Representations. Redeveloper represents and agrees that its undertakings, pursuant to this Agreement, have been, are, and will be, for the purpose of redevelopment of the Redeveloper Property and not for speculation in land holding.

602. Restrictions on Assignments of Rights or Obligations. Redeveloper represents and agrees that prior to completion of the Private Improvements provided for above there shall be no sale or transfer of the Redeveloper Property or assignment of Redeveloper's rights or obligations under this Agreement to any party without the prior written approval of the City (which shall not be unreasonably withheld, conditioned, or delayed), other than mortgages and involuntary transfers by reason of death, insolvency, or incompetence. The City shall be entitled to require, as conditions to any required approval, that:

a. Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in this Agreement by Redeveloper; and

b. Any proposed transferee, by instrument satisfactory to the City and in form recordable in the Office of the Register of Deeds, shall for itself and its successors and assigns and for the benefit of the City, have expressly assumed all of the obligations of Redeveloper under this Agreement; and

c. There shall be submitted to the City for review, not less than ten (10) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer or described in this Agreement; and if disapproved by the City, its disapproval and reasons therefore shall be indicated to Redeveloper in writing.

603. Representations and Warranties of Parties.

A. Redeveloper represents and warrants to City as follows:

i. Organization; Power; Good Standing. Redeveloper is a limited liability company duly organized and validly existing in good standing under the laws of the State of Delaware. Redeveloper is qualified to do business in the State of Nebraska and has all requisite power and authority to own and operate their properties and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

ii. Authority Relative to Agreement. This Agreement has been duly executed and delivered by Redeveloper and constitutes a legal, valid and binding

obligation of Redeveloper, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

iii. Effect of Agreement. The execution, delivery and performance of this Agreement by Redeveloper have been duly authorized by all necessary action by Redeveloper and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not violate any provision of law applicable to Redeveloper, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which Redeveloper is a party.

B. City represents and warrants to Redeveloper as follows:

i. Authority Relative to Agreement. This Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

ii. Effect of Agreement. The execution, delivery and performance of this Agreement by City have been duly authorized by all necessary action by the City and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not

violate any provision of law applicable to the City, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which the City is a party.

ARTICLE VII. REMEDIES

701. Remedies. Except as otherwise provided in this Agreement, in the event of any default in performance of this Agreement by the City or Redeveloper, the party in default shall, upon written notice from the other, proceed immediately to cure or remedy such default within thirty (30) days after receipt of notice. However, if the default cannot, in the exercise of reasonable diligence, be cured within thirty (30) days after receipt of such notice, then the defaulting party shall within such 30-day period notify the non-defaulting party of the reasonably expected time needed to cure the default and commence efforts within such 30-day period to cure and shall use its best efforts to cure the default within said reasonably expected time line. If the default is not timely cured, the non-defaulting party may institute any proceedings which may be necessary to cure and remedy the default.

702. Waiver. The parties shall have the right to institute actions or proceedings as they may deem necessary to enforce this Agreement. Any delay in instituting any action or otherwise asserting rights under this Agreement shall not operate as a waiver of rights or limit rights in any way.

703. Delay in Performance For Causes Beyond Control of Party. The parties or their successors or assigns shall not be in default of their obligations for delay in performance due to causes beyond their reasonable control and without their fault, including but not limited to acts of God, acts of the public enemy, acts of the federal or state government or subdivisions

thereof, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, shortages of labor or materials, or delays of contractors, or subcontractors due to such causes. The purpose and intent of this section is that in the event of the occurrence of any such delay, the time for performance of the obligations of either party with respect to construction of improvements shall be extended for the period of delay. However, in order to obtain the benefit of the provisions of this section, the party seeking the benefit shall within twenty (20) days after the beginning of the delay of performance notify the other party in writing of the cause and the reasonably expected length of delay.

704. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement shall be cumulative and the exercise by either party of anyone or more remedies shall not preclude the exercise by it at the same or different times of any other remedies for any other default or breach by the other party. A waiver of any right of either party conferred by this Agreement shall be effective only if in writing and only to the extent specified in writing.

ARTICLE VIII. MISCELLANEOUS

801. Conflicts of Interest: City Representatives Not Individually Liable. No official or employee of the City shall be personally liable to Redeveloper or any successors in interest due to any default or breach by the City under the terms of this Agreement.

802. Notices and Demands. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested or delivered personally as follows:

If to the City: Mayor
555 South 10th Street
Lincoln, NE 68508

With a copy to: City Attorney
555 South 10th Street
Lincoln, NE 68508

If to Redeveloper: Tom Scott
161 N. Clark St.
Suite 4900
Chicago, IL 60601

with a copy to: Eric Greenfield, Esq.
Polsinelli Law Firm
161 N. Clark St.
Suite 4200
Chicago, IL 60601

or at such other address with respect to either party as that party may from time to time designate in writing and notify the other as provided in this section.

803. Access to Redeveloper Property. During construction of the Private Improvements, Redeveloper shall permit the representatives of the City to enter all areas of the Redeveloper Property and at any and all reasonable times, as the City may deem necessary for the purposes of inspection of work being performed in connection with the construction of the Redeveloper Project Improvements. No compensation shall be payable nor shall any charges be made in any form by any party for the access or inspection provided for in this section. The City's right of access granted under this Section shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion.

804. Provisions Run With the Land. This Agreement shall run with the Redeveloper Property and shall inure to and bind the parties and their successors in interest. This

Redevelopment Agreement or a Memorandum hereof shall be recorded with the Register of Deeds of Lancaster County, Nebraska, against the Redeveloper's Property, at the City's expense.

805. Headings. Headings of the sections of this Agreement are inserted for convenience only and shall be disregarded in interpreting any of its provisions.

806. Severance and Governing Law. Invalidation of any provision of this Agreement by judgment or court order shall not affect any other provisions which shall remain in full force and effect. This Agreement shall be construed and governed by the laws of Nebraska.

807. Expiration of Agreement. Unless otherwise stated in this Agreement, this Agreement shall expire upon expiration of the Tax Increment Period, or retirement of the TIF Bond, whichever first occurs; provided the City and the Redeveloper each agree to execute any release necessary to be filed of record to evidence such expiration or termination, unless otherwise stated herein.

808. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally. The parties agree that any grant paid hereunder to the Redeveloper for Public Improvements are for the benefit of the City and the public and are granted pursuant to the contract provisions described herein and that such grant funds are not under the dominion and control of the Redeveloper and should not be construed as income to the Redeveloper under the Internal Revenue Code Section 61 (I.R.C. § 61).

809. Counterparts. This Agreement may be executed in one or more counterparts which, when assembled, shall constitute an executed original hereof.

810. Equal Employment Opportunity. Pursuant to requirements of Section 11.08.160 of the Lincoln Municipal Code and *Neb. Rev. Stat.* § 48-1122 (Reissue 2004), Redeveloper, and its successors and transferees, agree that, during the performance of this Agreement, it will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment because of race, religion, sex, color, national origin, ancestry, disability, age or marital status. Redeveloper further agrees to require that its contractor and subcontractors shall agree to conform to said requirements.

811. Federal Immigration Verification System Requirements. In accordance with *Neb. Rev. Stat.* §§4-108 through 4-114, the Redeveloper agrees to register with and use a federal immigration verification system to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized. The Redeveloper shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 USC 1324b. The Redeveloper shall require any contractor constructing the Private Improvements on behalf of Redeveloper to comply with the provisions of this Section.

812. Audit and Review. Redeveloper shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this

Agreement, as allowed by law. The City shall cooperate and make available to the Redeveloper or its agent copies of all financial and performance related records and materials germane to the Project Account and the TIF Bond Proceeds.

813. Certain Public Enhancements Design and Construction. Notwithstanding any contrary provisions herein, certain Public Enhancements will include design costs, improvements and construction that the City determines to be unique and not-competitive or otherwise involving professional services to the extent the same are required to transition, coordinate, and integrate the Public Enhancements with the Haymarket Landmark District. The City and Redeveloper shall seek the input and recommendation of the Historic Preservation Commission on the visual design aspects of said Public Enhancements. Redeveloper shall timely submit architect, engineer or other professional designer estimates or contractor's estimates for said Public Enhancements in advance of requesting payment for the same to enable the City to obtain an independent review of the same by a qualified professional or contractor. The City shall approve or reject said cost estimates based on the review within ten (10) days of receipt of the same. Where reasonable and appropriate, the Redeveloper shall utilize unit price or itemized contracts specifically showing the eligible items or quantities prior to letting or entering into the same. Overhead, overtime, incentive, office, mobilization, administration or similar generalized charges shall be allowed only as authorized by the City in advance of incurring the same. The Redeveloper agrees to assist and make any and all pertinent documents available for inspection and copying by the City or its auditors in support of the same.

814. Effective Date of Ad Valorem Tax Provision. The Effective Date of the Ad Valorem Tax Provision of the Private Improvements portion of the Redevelopment Project shall

be the earlier of the date when construction of the Private Improvements is completed or January 1, 2015 (“Effective Date”). The City will deliver written notice to the County Assessor on or before August 1st of the year in which the Effective date occurs to divide the property taxes in the Project Area and use the last certified valuation to divide the taxes for the remaining portion of the fifteen (15) year period as described in Section 18-2147 of the Nebraska Revised Statutes.

815. Integrated Contract; Severance of Provisions. It is intended by the parties that this Redevelopment Agreement and the incorporated, attached, and referenced documents shall be an integrated contract, but that invalidation of any of its provisions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect unless such court action shall materially change the intent of this Redevelopment Agreement.

816. Exhibits. The following Exhibits are or will be attached to the Redevelopment Agreement and are incorporated herein by this reference:

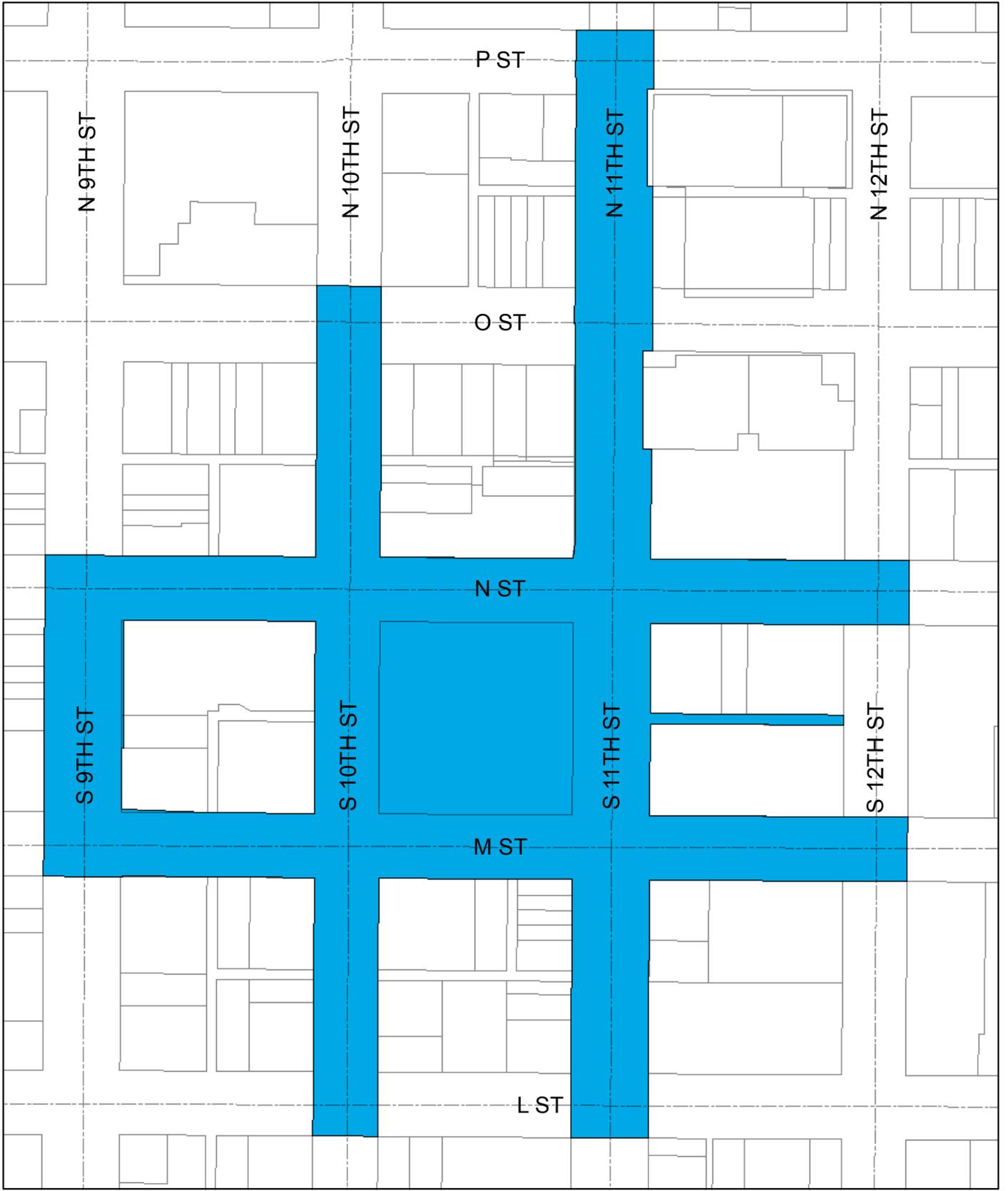
- Exhibit A – Project Area Map
- Exhibit B – Site Plan
- Exhibit C – Sources and Uses of Funds
- Exhibit D-1 – Private Improvement Schematic Drawings
- Exhibit D-2 – Streetscape Improvements Schematic Drawings
- Exhibit E – Façade Easement
- Exhibit F – Certificate of Completion of Private Improvements
- Exhibit G – Streetscape Maintenance Agreement
- Exhibit H – Penal Bond

Exhibit I – Memorandum of Redevelopment Agreement and Use Restrictions.

Exhibit J – List of Redeveloper Public Improvements.

817. Recording. The City, at Redeveloper’s cost and expense, shall record the Memorandum of Redevelopment Agreement and Use Restrictions with the Lancaster County Register of Deeds to be indexed against the Redeveloper Property.

[SIGNATURE PAGES TO FOLLOW]



Block 68 Project Area

 Block 68



EXHIBIT "B"

SITE PLAN

-- TO BE ADDED AFTER REVIEW AND APPROVAL BY THE MAYOR --

Exhibit C

Block 68 - Uses of TIF

Priorities	Uses of TIF	Estimate
1	Issuance Costs	\$ 15,000.00
2	Public Improvements	\$ 811,000.00
3	Utility Relocation and Improvements	\$ 1,153,290.00
3	Street, Streetscape, and ROW Improvements	\$ 779,250.00
4	Demolition and Site Preparation	\$ 1,350,700.00
5	Building Façade Upgrades	\$ 2,519,575.00
5	Energy Enhancement Grant	\$ 3,324,800.00
5	Storm Water Mitigation Grant	\$ 914,864.00
	Total Uses	\$ 10,868,479.00
	Total TIF Dedicated	\$ 8,116,515.00
	Estimated Difference	\$ (2,751,964.00)



VIEW FROM 11TH & N STREET



VIEW FROM 11TH & M STREET



AERIAL VIEW

Campus Acquisitions/Argent Group
Block 68

Lincoln, Nebraska

Shepley Bulfinch

Shepley Bulfinch Richardson & Abbott | 1437 North First Street, Suite 201, Phoenix, AZ 85004 | T:602.430.3223 F:602.254.1501 | www.ShepleyBulfinch.com



SECTION THROUGH NORTH DECK 1
SCALE 3/32" = 1'-0"



LONGITUDINAL SECTION 2
SCALE 3/32" = 1'-0"

BUILDING SECTIONS

EXHIBIT "D-2"

STREETSCAPE IMPROVEMENTS SCHEMATIC DRAWINGS

-- TO BE ADDED AFTER REVIEW AND APPROVAL BY THE MAYOR --

Exhibit "E"
Façade Agreement

FAÇADE AGREEMENT
(_____)

THIS FAÇADE AGREEMENT (the "Agreement") is made this ____ day of _____, 20____, by and between, **CA/ARGENT BLOCK 68 LINCOLN, LLC**, a Delaware limited liability company, ("Redeveloper"), and the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation in the State of Nebraska ("City").

RECITALS

A. Redeveloper is the owner of the following described property:

Parcel 1:

Lot A, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lot 4, 5, 6, 7, 8, 9 and 10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots A, B, C, D, E, and F, Cropsey's Subdivision of Lots 1, 2, and 3, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots B, C, D, E, and F, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon.

Parcel 2:

Lots 4, 5 and 6, Block 68, Original Plat of the City of Lincoln, Lancaster County, Nebraska.

("Redeveloper Property").

B. Redeveloper entered into a Redevelopment Agreement (the "Redevelopment Agreement") with City for the redevelopment and renovation of the Redeveloper Property.

- C. Pursuant to the Redevelopment Agreement, to ameliorate the blighted and substandard conditions of the Redeveloper Property and to enhance the aesthetics of the mixed use housing complex constructed on the Redeveloper Property (the “Private Improvements”), Redeveloper agreed to make certain improvements to the façade of the Private Improvements (the “Façade”) for the benefit of the public. Under the Redevelopment Agreement, Redeveloper is receiving tax increment financing from City to make certain public improvements including, but not limited to the improvements to the Façade.
- D. This Agreement sets forth the parties’ rights and obligations with respect to the Façade.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, Redeveloper and City do now hereby agree as follows:

1. Façade. In consideration of the benefits received by Redeveloper under the Redevelopment Agreement, Redeveloper hereby agrees to subject the façade of the Private Improvements located on the Redeveloper Property to the restrictions described herein.

2. Façade Restrictions. Redeveloper agrees to observe and comply with the following restrictions:

a. Redeveloper shall not demolish, remove or raze the Façade during the term of this Agreement.

b. Redeveloper shall not undertake, or allow to be undertaken, any material changes to the Façade without the express written consent of the City. Such restricted changes to the Façade include, but are not limited to:

(i) Any material change in the Façade, including the alteration, partial removal, construction, remodeling or physical or structural change or change in color or surfacing with respect to the appearance or construction of the Façade;

(ii) Any significant reconstruction, repair, repainting or refinishing of any Façade feature that alters its state from the existing condition.

c. This section shall not preclude Redeveloper from implementing any ordinary or necessary maintenance as set forth in Section 3 below.

3. Façade Maintenance. Redeveloper shall perform all ordinary and/or necessary maintenance and repairs on the Façade to maintain its appearance and structural soundness and to prevent any deterioration of the Façade.

4. Specification of Work. In the event Redeveloper desires to make any material changes to the Façade, Redeveloper shall give the City for its review and approval copies of the plans, designs, elevations, specifications and documents relating to the change or work, including specification of all materials, colors and construction techniques to be used in any such work and photographs of the subject area as it appears at the time of the request.

5. Casualty Damage. In the event that the Private Improvements or any part thereof shall be damaged by fire or other casualty, then Redeveloper shall use reasonable effort to reconstruct the Façade to the condition required under this Agreement. If the Private Improvements are damaged to such an extent that Redeveloper determines that reconstruction of said Improvements is not feasible and provides City with a statement from an independent engineer to the same effect, then this Agreement shall be void and of no further force or effect with respect to said Private Improvements.

6. Inspection. The City shall be permitted to have reasonable access to the Redeveloper Property to inspect the Façade for the purpose of determining conformance with this Agreement.

7. Term. The term of this Agreement shall be permanent and shall run from and after the date of substantial completion of the improvements to the Façade. Provided, however, this Agreement shall terminate upon expiration of the useful life of the Façade as determined by the City or at any earlier date that the Redevelopment Agreement is terminated and is no longer in effect.

8. Public Access. Redeveloper acknowledges and agrees that the general public shall have the regular and substantial opportunity to view the Façade from the streets, sidewalks and other property near the Private Improvements. Redeveloper shall have no obligation under this Agreement to allow the general public to view the interior of the Private Improvements.

9. Indemnification. Redeveloper shall defend, indemnify and hold the City harmless from and against any liability, claims, suits, demands, judgments (including costs, expenses and attorneys fees), resulting from actions or claims by third parties or defaults under this Agreement by Redeveloper arising out of the conveyance of or possession of the Façade Agreement.

10. Binding Effect. This Agreement shall be appurtenant to and run with the Project Site while under the control or ownership of the Redeveloper its successor and permitted assigns. The Redeveloper Agreement shall bind every person having any fee or other interest in the Redeveloper Property and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

This Façade Agreement is effective as of the date first stated above.

[SIGNATURE PAGES TO FOLLOW]

“CITY”

THE CITY OF LINCOLN, NEBRASKA,
a municipal corporation

Attest: _____
City Clerk

By: _____
Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public

Exhibit "F"
Certificate of Completion

**CERTIFICATE OF COMPLETION OF
PRIVATE IMPROVEMENTS**

KNOW ALL PEOPLE BY THESE PRESENTS: That the City of Lincoln, Nebraska, a Nebraska municipal corporation, hereinafter called "**City,**" hereby makes the conclusive determination and certification that, with regard to the following real property situated in the City of Lincoln, Lancaster County, Nebraska, to wit:

Parcel 1:

Lot A, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots 4, 5, 6, 7, 8, 9 and 10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots A, B, C, D, E, and F, Cropsy's Subdivision of Lots 1, 2, and 3, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots B, C, D, E, and F, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon.

Parcel 2:

Lots 4, 5 and 6, Block 68, Original Plat of the City of Lincoln, Lancaster County, Nebraska.

("Redeveloper Property"), all the improvements required to be constructed upon the above-described Redeveloper Property have been satisfactorily completed in accordance with the

requirements of the CITY OF LINCOLN REDEVELOPMENT AGREEMENT by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation in the State of Nebraska (“City”) and CA/ARGENT BLOCK 68 LINCOLN, LLC, a Delaware limited liability company, and its successors and assigns (“Redeveloper”), said Agreement dated as of _____, 20____ and recorded as Instrument No. _____, in the office of the Register of Deeds for Lancaster County, Nebraska.

The City further makes the conclusive determination that the Private Improvements (as defined in the Agreement) to the above-described Redeveloper Property are presently in conformance with the Agreement.

IN WITNESS WHEREOF, the City and Redeveloper have executed this instrument this _____ day of _____, 20____.

“City”

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

ATTEST:

City Clerk

By: _____
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
)ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public

Exhibit "G"
Streetscape Maintenance Agreement

STREETSCAPE MAINTENANCE AGREEMENT

This STREETSCAPE MAINTENANCE AGREEMENT is made and entered into as of this ____ day of _____, 20___, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as the "**City**"), and CA/ARGENT BLOCK 68 LINCOLN, LLC, a Delaware limited liability company,, and its successors and assigns (hereinafter referred to as "**Redeveloper**").

RECITALS

I.

WHEREAS, the City and Redeveloper on _____, 20___, entered into a City of Lincoln Redevelopment Agreement ("Redevelopment Agreement") with respect to the redevelopment of the real property ("Redeveloper Property") bounded by N Street on the north and M Street on the south, 9th Street on the west and 11th Street on the east and legally described as:

Parcel 1:

Lot A, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lot 4, 5, 6, 7, 8, 9 and 10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots A, B, C, D, E, and F, Cropsey's Subdivision of Lots 1, 2, and 3, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots B, C, D, E, and F, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon.

Parcel 2:

Lots 4, 5 and 6, Block 68, Original Plat of the City of Lincoln, Lancaster County, Nebraska.

In particular the Redevelopment Agreement defines the Redeveloper's responsibilities regarding the construction and maintenance of the sidewalks, landscaping, pedestrian decorative lighting, and other streetscape amenities in the public right-of-way abutting the Redeveloper Property (collectively "Streetscape Improvements").

II.

WHEREAS, as an inducement for the City to enter into the Redevelopment Agreement and reimburse Redeveloper for its cost to construct the Streetscape Improvements the City requested that Redeveloper assume, and Redeveloper agreed to assume, responsibility for the maintenance and repair of the Streetscape Improvements. The Streetscape Improvements are depicted on Exhibit "A" attached hereto and by this reference incorporated herein.

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties hereto agree as follows:

1. Construction of the Streetscape Improvements. Redeveloper shall construct the Streetscape Improvements pursuant to the City's executive order construction process in accordance with the terms of the Redevelopment Agreement. Redeveloper shall be responsible for all cost associated with the construction of the Streetscape Improvements subject to reimbursement as provided in the Redevelopment Agreement.

Redeveloper shall further keep the Streetscape Improvements free from litter, debris and unsafe conditions and cleared of snow and ice, except to the extent such maintenance work is included and performed under a Maintenance Business Improvement District.

2. Maintenance of the Streetscape Improvements. The Redeveloper, at its sole cost and expense, shall maintain the Streetscape Improvements in good order and state of repair (including removal and replacement thereof as reasonably necessary) so as to prevent deterioration thereof.

3. License to Perform Maintenance. The City shall and does hereby grant Redeveloper permission and license to enter upon the public right-of-way to maintain the Streetscape Improvements in good order and state of repair, provided that Redeveloper shall notify the City if any maintenance work requires closure of any sidewalk or lane of traffic and/or which involves partial removal and reconstruction of any portion of the Streetscape Improvements. In such event the closure of any sidewalk or lane of traffic may be limited by the City to non-peak hours of traffic. The City may reasonably require Redeveloper to install a construction fence and/or provide traffic control devices or use flagman operations for public safety and to keep traffic flowing. The permission and license to maintain the Streetscape Improvements in good order and state of repair does not authorize Redeveloper to make any material change in the Streetscape Improvements including, but not limited to, a change in color, materials or other alteration with respect to the appearance of the Streetscape Improvements. This permission and license to maintain the Streetscape Improvements is not a substitute for and does not eliminate the requirement that Redeveloper apply for and receive necessary excavation, building or other permits needed for such work.

4. Notice of Lack of Repair. The City shall give Redeveloper thirty (30) days written notice regarding any lack of repair of the Streetscape Improvements.

5. Failure to Maintain. In the event Redeveloper fails to timely repair the Streetscape Improvements after receiving thirty (30) days written notice from the City to perform needed repairs, the City may perform said work or remove in whole or part the Streetscape Improvements at its option and Redeveloper will bear and pay the entire cost of repairing or removing the Streetscape Improvements. Redeveloper will reimburse the City for the actual costs incurred by the City in connection with such repairs within thirty (30) days of receipt of a detailed statement reflecting such costs. Redeveloper shall and does hereby grant the City permission and license to enter upon the Property to perform such repair and/or removal of the Streetscape Improvements. Said permission and license to enter upon the Property shall also apply to Emergency Repair and Removal of the Streetscape Improvements pursuant to Section 6 and Section 13 below, respectively.

6. Emergency Repairs. In the event that any emergency repairs must be made to the Streetscape Improvements, the City may perform said work and Redeveloper will reimburse the City for the actual costs incurred by the City in connection with such repairs within thirty (30) days of receipt of a detailed statement reflecting such costs.

7. Indemnification by Redeveloper. Redeveloper shall, to the maximum extent allowed by law, fully release, indemnify, defend, save and keep harmless the City from and against all claims, losses, damages, or expenses, including but not limited to attorney fees, for any injury, sickness, disease, or death of persons or damage to, destruction of a loss of use of tangible or intangible property on account of, arising out of or resulting from Redeveloper's construction, maintenance, repair and/or removal of the Streetscape Improvements performed by Redeveloper, its contractors, employees, agents or others acting on behalf of Redeveloper. Provided, Redeveloper's indemnification obligations set forth in this paragraph shall not apply to any work performed by the City as described in paragraphs 5 and 6 of this Agreement.

8. Commercial General Liability Insurance. During the term of this Agreement, Redeveloper shall maintain commercial general liability insurance naming and protecting it and the City against claims for damages resulting from (i) bodily injury, including wrongful death, (ii) personal injury liability, and (iii) property damages occurring on the Streetscape Improvements. The minimum acceptable limits of coverage to be provided by such insurance shall be as follows:

A.	Bodily Injury and Property Damage	\$1,000,000 Each Occurrence/\$2,000,000 Aggregate
B.	Personal Injury Damage	\$1,000,000 Each Occurrence/\$2,000,000 Aggregate
C.	Contractual Liability	\$1,000,000 Each Occurrence/\$2,000,000 Aggregate

- D. Products Liability and Completed Operations \$1,000,000 Each Occurrence/\$2,000,000 Aggregate

The liability insurance required by this section shall include the following extensions of coverage:

- A. The coverage shall be provided under a Commercial General Liability form or similar thereto.
- B. X.C.U. Coverage - If the contract requires any work procedures involving blasting, excavating, tunneling, or other underground work, the liability coverage shall include Standard Blastings or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.
- C. The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
- D. Contractual Liability coverage shall be included.
- E. Products Liability and/or Completed Operations coverage shall be included.
- F. Personal Injury Liability coverage shall be included.

9. Automobile Liability Insurance. Redeveloper shall take out and maintain during the term of this Agreement such automobile liability insurance as shall protect it against claims for damages resulting from bodily injury, including wrongful death, and property damage which may arise from the operations of any owned, hired, or non-owned automobiles used by or for it in any capacity in connection with the carrying out of this Agreement. The minimum acceptable limits of liability to be provided by such Automobile Liability Insurance shall be as follows:

Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
--------------------------------------	-----------------------------------

10. Minimum Scope of Insurance. All liability insurance policies shall be written on an "occurrence" basis only. All insurance coverage required hereunder shall be placed with insurers authorized to do business in the State of Nebraska.

11. Certificate of Insurance. All Certificates of Insurance shall be filed with the City Clerk on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by Sections 8 and 9 above and naming the City as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City thirty (30) days' notice of cancellation, non-renewal, or any material reduction of insurance coverage.

12. Replacement of Streetscape Improvements. Upon expiration of the useful life of the Streetscape Improvements (assuming the Streetscape Improvements have been kept in good order and state of repair) the City shall be responsible for all costs associated with any replacement of the Streetscape Improvements, in accordance with standard design requirements of the City and without the enhancements made thereto pursuant to the Redevelopment Agreement. Redeveloper, at its own cost and expense, may enhance the replacement improvements subject to the same conditions provided for in the Redevelopment Agreement and this Streetscape Maintenance Agreement, except that the required amounts of insurance shall be adjusted to conform to the City's requirements then in effect.

13. Removal of Streetscape Improvements. Redeveloper agrees that the construction and maintenance of the Streetscape Improvements and any use thereof by Redeveloper does not grant or convey to Redeveloper any right, title or interest in such Streetscape Improvements. Redeveloper acknowledges and understands that the City is hereby reserving the right at any time to remove any or all of the Streetscape Improvements at its sole discretion. Redeveloper agrees that in such event that the removal of any of such Streetscape Improvements shall not be deemed to be a taking of or damage to the Property for public use by the City without paying just compensation therefor.

14. Notices and Demands. A notice by a party to the other party shall be deemed delivered on the date it is postmarked, sent postage prepaid, certified or registered mail, or delivered personally to the address set forth in the Redevelopment Agreement, or at such other address that Redeveloper may from time to time designate in writing.

15. Binding Effect. This Maintenance Agreement shall run with Redeveloper's interest in the Property and shall be binding upon Redeveloper and Redeveloper's successors or assigns in interest.

16. Agreement Runs with the Redeveloper Property. Redeveloper shall in any reconveyance of the Redeveloper Property cause the Redeveloper Property to be subject to this Maintenance Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

[SIGNATURE PAGES TO FOLLOW]

Executed by City this _____ day of _____, 20__.

ATTEST:

**CITY OF LINCOLN, NEBRASKA
a municipal corporation**

City Clerk

Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by Chris Beutler, Mayor of the City of Lincoln.

Notary Public

EXHIBIT "H"

Bond No. _____

PENAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, **CA/ARGENT BLOCK 68 LINCOLN, LLC**, a Delaware limited liability company, as **Principal**, and _____, a corporation organized under the laws of the State of _____ and authorized to transact business in the State of Nebraska, as **Surety**, are held and firmly bound unto the **City of Lincoln, Nebraska**, as **Obligee**, for the use of all persons entitled thereto, under Neb. Rev. Stat. § 18-2151, in the penal sum of _____ **Dollars** (\$ _____), lawful money of the United States of America and to the faithful payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators (or, assigns), firmly by this presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That,

WHEREAS, Principal has entered into the City of Lincoln Redevelopment Agreement, dated _____, 20__ (an original of which is on file in the Office of the City Clerk of the City of Lincoln, Nebraska) which provided in part for the building and construction of Redeveloper Public Improvements as defined in said Redevelopment Agreement to be funded in part by tax increment financing pursuant to the Nebraska Community Development Law, upon condition that Principal at all times promptly make payment of all amounts lawfully due to all persons supplying or furnishing the Principal, its contractor and/or subcontractors with labor or materials used in the prosecution of said Improvements provided for in the Redevelopment Agreement.

NOW, THEREFORE, if Principal shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing the Principal, its contractor and/or subcontractors with labor or materials in the prosecution of the Redeveloper Public Improvements as require the execution of this Penal Bond, then this obligation shall become void, otherwise to remain in full force and effect. In the event Principal shall be declared by the Obligee to be in default under the above obligation, Surety shall promptly indemnify and save harmless the Obligee to the extent any payment in connection with the carrying out of the prosecution of the Redeveloper Public Improvements provided for in the Redevelopment Agreement which Obligee may be required to make under the law, provided that the aggregate liability of Surety of any default(s) hereunder by the Principal shall in no event exceed the penal sum of this Bond.

All persons who have supplied or furnished the Principal, its Contractors and/or Subcontractors with labor or materials in the prosecution of the Private Improvements provided for in the Redevelopment Agreement shall have the direct right of action under this bond subject to the Obligee's priority.

[SIGNATURE PAGE FOLLOWS]

Exhibit "T"
Memorandum

MEMORANDUM OF REDEVELOPMENT AGREEMENT & USE RESTRICTIONS

THIS MEMORANDUM OF REDEVELOPMENT AGREEMENT & USE RESTRICTIONS ("**Memorandum**") is made and entered into as of the date of execution hereof by the last signatory hereto as indicated below (the "**Effective Date**") by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation in the State of Nebraska and its successors and assigns ("**City**") and **CA/ARGENT BLOCK 68 LINCOLN, LLC**, a Delaware limited liability company, and its successors and assigns ("**Redeveloper**").

1. **Redevelopment Agreement.** The City and Redeveloper entered into that certain Redevelopment Agreement dated as of this even date, describing the public improvements being made on behalf of the City in the Project Area and the Private Improvements being made to real property owned by the Redeveloper and legally as:

Parcel 1:

Lot A, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots 4, 5, 6, 7, 8, 9 and 10, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots A, B, C, D, E, and F, Cropsey's Subdivision of Lots 1, 2, and 3, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon; Lots B, C, D, E, and F, Brock's Subdivision of Lots 11 and 12, Block 68, Original Plat, Lincoln, Lancaster County, Nebraska, together with vacated alleys abutting thereon.

Parcel 2:

Lots 4, 5 and 6, Block 68, Original Plat of the City of
Lincoln, Lancaster County, Nebraska.

(“Redeveloper Property”).

2. **Tax Increment Financing.** The Redevelopment Agreement provides for the capture of the Tax Increment, as defined therein, by the City of the Private Improvements to be made by the Redeveloper for a period not to exceed fifteen (15) years after the Redevelopment Project effective date defined in the Redevelopment Agreement. The Tax Increment so captured by the City shall be used to reimburse the Redeveloper for its cost to conduct the Site Preparation and to construct the Public Enhancements and the Redeveloper Public Improvements as described in the Redevelopment Agreement.

3. **Remaining Terms.** The rest and remaining terms of the Redevelopment Agreement are hereby incorporated into this Memorandum as if they were set forth in full. A full and correct copy of the Redevelopment Agreement may be inspected at the office of the City Clerk of Lincoln, Nebraska.

4. **Use Restrictions of the Redeveloper Property.** The Redeveloper agrees that no portion of the Redeveloper Property shall be used for any of the following uses:

A. Any business whose predominant operation is the retail sale of alcoholic beverages for consumption off the premises (predominant shall mean retail gross sales of alcoholic beverages, including mixed drinks, in excess of 50% of gross sales on the premises) or any such business that in the opinion of the City has an unreasonable pattern of liquor law violations;

B. The retail sale of alcoholic beverages for consumption on the premises if such use, in the reasonable opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;

C. Any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such use that has an unreasonable pattern of unlawful disturbances or tobacco law violations;

D. A sexually oriented business including live entertainment establishments as defined in Section 27.03.545 of the Lincoln Municipal Code and any other business engaged in sexually oriented entertainment or materials such as any: sexually oriented show, movie, picture, exhibition, performance, demonstration, film, video, book, or other depictions of a sexually explicit nature; sexually oriented live entertainment or exotic dance; exotic lingerie; sex toys or sexually oriented paraphernalia; sexually

oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort service. The foregoing exclusion shall not include pay for view video/audio services, internet and other forms of telecommunication/communication systems offered or available to guests in the ordinary course of hotel business and trade or to Lincoln residents.

E. Any business whose predominant operation is the use, storage or processing of hazardous or potentially hazardous materials as defined under applicable law, including any salvage or recycling operation, car wash, dry cleaning, vehicle body repair, paint, refinishing, or parts and equipment cleaning business; provided nothing herein shall be construed to prohibit dry cleaning pickup facility, convenience, food or fuel store.

F. Any business involving gambling or wagering even if otherwise permitted by law including slot machines, video lottery machines, casino games, but excluding keno, bingo, and the retail sale of lottery tickets as permitted by applicable law.

G. Any business involving the sale or display of weapons, self-service laundromat for nonresidents or non-occupants of the Redeveloper Property, illegal activities, or sale of any illegal goods or products.

H. Off-premises signs as defined in Section 27.69.020 of the Lincoln Municipal Code.

I. Any business providing payday loans, liens, check cashing services, or other similar services, except for banks, savings and loans, insurance company, investment companies, stock brokers, credit unions and automated teller machines.

J. Cell towers, although cellular antennae and transmission equipment may be incorporated into the Private Improvements provided that they are properly screened and otherwise meet design standards that meet the City's approval.

5. **Inquiries.** Further inquiries regarding this Memorandum may be made to the following parties:

If to the City: Mayor
555 South 10th Street
Lincoln, Nebraska 68508

With a copy to: City Attorney
555 South 10th Street
Lincoln, Nebraska 68508

If to Redeveloper: Tom Scott
161 N. Clark St.
Suite 4900
Chicago, IL 60601

With a copy to: Eric Greenfield, Esq.
Polsinelli Law Firm
161 N. Clark St.
Suite 4200
Chicago, IL 60601

or at such other address with respect to either party as that party may from time to time designate in writing and notify the other as provided in this Section.

[SIGNATURE PAGES TO FOLLOW]

Executed by the City this ____ day of _____, 20__.

“City”

CITY OF LINCOLN, NEBRASKA
a municipal corporation

By: _____
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 20__, by Chris Beutler, Mayor of the **City of Lincoln**, a municipal corporation, on behalf of the municipal corporation.

(Seal)

Notary Public

Argent-CA JV LLC - Block 68
 DEVELOPMENT IMPACTED UTILITY MATRIX
 Block 68 - Lincoln, NE
 11/24/13

UTILITIES ON or ADJACENT TO BLOCK 68 TO MOVED OR PROTECTED DURING CONSTRUCTION	UTILITY	LOCATION	NOTES
WITHIN PROPERTY LINE(S) - REQUIRING RELOCATION			
15" Storm Sewer Inlet and Branch Line	Property Owner Utility	N Center of Site	Cap and Remove
8" Sanitary Sewer	City of Lincoln Dept. of Public Works	Vacated EW Alley	Relocate
Underground Electrical Service - unspecified size	Lincoln Electrical System or District Energy System	Vacated EW Alley	This line may be the original Public Steam System Line - (abandoned)
Storm Sewer inlet and Branch Line	Property Owner Utility	Vacated EW Alley	Cap and Remove
Underground Telephone, (Fiber Optic), Line	Windstream Corporation, (subsidiary of Windstream Holdings)	Vacated EW Alley	Relocate
(2) - Overhead Electrical Service Lines	Lincoln Electrical System	Vacated EW Alley	Relocate
8" Sanitary Sewer	City of Lincoln Dept. of Public Works	Vacated NS Alley	Relocate
(2) Storm Sewer inlets and Branch Line	Property Owner Utility	SW Corner of Site	Cap and Remove
ADJACENT TO PROPERTY - REQUIRING PROTECTION OR RELOCATION			
Underground Electrical Service & Fiber w/ appurtenances	City of Lincoln Dept. of Public Works	N St. Sidewalk	Protect in place
Street Lighting	City of Lincoln Dept. of Public Works	N St. Sidewalk	New City Street lighting
Street Lighting	City of Lincoln Dept. of Public Works	10th St. Sidewalk	New City Street lighting
Fire Hydrant	City of Lincoln Dept. of Public Works	10th St. Sidewalk	Protect in place
Street Lighting	City of Lincoln Dept. of Public Works	11th St.	New City Street lighting
Underground Electrical Service - unspecified size	City of Lincoln Dept. of Public Works	M St. Sidewalk	Protect in Place
Street Lighting	City of Lincoln Dept. of Public Works	M St. Sidewalk	New City Street lighting
8" Watermain & Fire Hydrants	City of Lincoln Dept. of Public Works	M St.	Protect
Parking Meters	City of Lincoln	N, 11th, M St.(s)	Relocate
Storm Sewer Curb Inlets	City of Lincoln Dept. of Public Works	N, 10th, 11th, M St.(s)	Possible Relocate