

REAL ESTATE PURCHASE AGREEMENT

This real estate purchase agreement ("Agreement") is made and entered into as of the last date of execution on the signature page hereof ("Effective Date"), by and between the City of Lincoln, a Nebraska municipal corporation ("Seller"); and TR Novak, LLC, a Nebraska limited liability company ("Buyer").

RECITALS

WHEREAS, Seller is the owner of the following described real estate ("Property"):

Lot 2, Highlands Coalition 4th Addition, Lincoln, Lancaster County, Nebraska, commonly known as 5255 NW 12th Street, Lincoln, NE;

WHEREAS, Seller declared the Property as surplus in 2003 and desires to sell the Property, and Buyer desires to purchase the Property for the purpose of developing thereon approximately 120 apartment units and a clubhouse subject to approval of a use permit in accordance with City zoning requirements, all under the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of and incorporating the foregoing recitals and of the mutual covenants and conditions contained herein, Buyer and Seller agree as follows:

TERMS

1. Agreement to Sell and Purchase. Seller agrees to sell, and Buyer agrees to purchase, the Property, together with any and all rights and easements appurtenant thereto, upon the terms and conditions set forth herein.

2. Purchase Price.

2.1 Purchase Price - The purchase price of the Property shall be Five Hundred Fifty Thousand Dollars (\$550,000) ("**Purchase Price**"). The Purchase Price, less the Deposit (as defined below), and subject to customary adjustments at Closing for closing costs and prorations, shall be due and payable by Buyer to Seller in collected funds at Closing, as defined below.

2.2 Deposit - Not later than five (5) days after the Effective Date, Buyer shall deposit with the Title Company (defined in Section 5 below) the sum of \$5,000 as earnest money (the "**Deposit**") to be held and released by the Title Company in accordance with the terms of this Agreement.

2.3 Refund of Earnest Money - The Deposit shall be fully refundable to Buyer if Buyer elects to terminate this Agreement pursuant to Section 3 or Section 9, or if any contingency expressly set forth in this Agreement for Buyer's benefit has not been satisfied or otherwise waived in writing by Buyer by the Contingency Satisfaction Deadline.

3. Contingencies. This Agreement and Closing hereunder shall be and hereby is made contingent upon the satisfaction of each of the following, which both parties agree to make a good faith effort to satisfy within two (2) months from the Effective Date ("**Contingency Satisfaction Deadline**"):

TRN 12-11-14

Formatted: Font: 11 pt
Formatted: Font: (Default) Times New Roman, 11 pt

soils testing and deliver a preliminary geotechnical report. Seller shall provide such test results and preliminary report to the Buyer. Buyer shall have had an opportunity to review such reports and shall be satisfied, in Buyer's sole discretion, with the results of such report.

3.2 *Financing* – Buyer shall have procured suitable financing of the Purchase Price.

3.3 *Governmental Approval* – Seller shall obtain all necessary approvals under state law, municipal ordinances, or any other laws applicable to real estate purchases, prior to Closing, including, but not limited to, the Lincoln City Council approval of an ordinance authorizing sale to Buyer under the terms provided herein per Article II, Section 2 of the City Charter. It is understood and agreed that the parties shall in no manner be bound by the terms and conditions of this Agreement until the sale has been properly executed as provided by the Charter.

In the event the contingencies stated above are not satisfied by the Contingency Satisfaction Deadline, then Buyer shall have the option of (i) waiving the contingencies and proceeding to Closing, (ii) extending the Contingency Satisfaction Deadline to three (3) months from the Effective Date (“**Extended Contingency Satisfaction Deadline**”), in which event the Deposit shall become non-refundable, or (iii) terminating this Agreement, in which event the Deposit shall be refunded to Buyer, this Agreement shall be null and void, and both parties shall have no further obligation or liability under this Agreement.

4. Utilities. Buyer agrees that City sewer and water adequate to serve a 120-unit apartment complex shall be extended and installed by Buyer to the Property line on NW 12th Street as shown on the attached exhibit from Olsson Associates at its sole cost.

5. Closing. The closing (“**Closing**”) shall occur on or before twenty (20) days following the expiration of the Contingency Satisfaction Deadline, in the offices of Charter Title & Escrow, 6333 Apples Way #115, Lincoln, Nebraska 68516, phone (402) 435-1244 (“**Title Company**”) or such other time and place as may be acceptable to both Buyer and Seller.

6. Closing Costs; Appointment of Closing Agent. The parties hereby appoint Title Company as closing agent to close this transaction. The closing agent's fee shall be shared equally between Buyer and Seller. At Closing, Seller shall pay documentary stamps or taxes imposed by law on the conveyance of the Property. Buyer and Seller shall each pay one-half of the title insurance premium pursuant to paragraph 9 below. Buyer shall pay all filing or recordation fees. Each party shall pay its respective attorneys' fees. At the Closing, the parties will execute and deliver all deeds and other documents reasonably necessary to consummate the sale and purchase of the Property pursuant to the terms of this Agreement and shall pay all monies called for hereunder.

7. Real Estate Taxes. The real estate taxes with respect to the Property for the calendar year of Closing shall be prorated as of the date of Closing. Seller shall pay all real estate taxes and assessments attributable to the Property prior to Closing, and Buyer shall pay all real estate taxes and assessments attributable to the Property after Closing. In the event the current year's taxes are not available at Closing, the real estate tax proration required for the calendar year of Closing shall be based upon the previous year's tax rate and the current valuation of the Property.

8. Title to Property. Seller shall convey to Buyer good and marketable fee simple title to the Property by Warranty Deed, which title shall also be free and clear of all liens and encumbrances, except for and subject to: (a) real estate taxes for the calendar year of Closing, if payable as a result of this transaction; (b) easements and restrictions of record; (c) City restrictions, including but not limited to, zoning and subdivision ordinances and requirements; (d) any encroachments, overlaps, boundary line disputes, and any other matter which would be disclosed by an accurate survey and inspection of the

Property; and (e) any title matters expressly approved by Buyer in writing or in accordance with the provision of paragraph 9 below.

9. Title Examination. Within ten (10) days following the date of this Agreement, Buyer shall deliver to Seller a copy of a title insurance commitment (the "**Commitment**") bearing an effective date subsequent to the date hereof in favor of Buyer for an owner's title to the Property and in the amount of the Purchase Price underwritten by a title insurance company acceptable to Seller. No later than twenty (20) days after receipt of the Commitment, Buyer shall deliver to Seller a statement of any objections to Seller's title to the Property as disclosed by the Commitment. Any matter not timely objected to by Buyer shall be deemed approved exceptions to title by Buyer. Within ten (10) days after Buyer's notice to Seller of said objections, Seller shall deliver to Buyer a statement of any objections which Seller is unable or unwilling to cure prior to or concurrent with Closing. If Seller gives notice to Buyer of any objections which cannot or will not be cured, then Buyer shall have the option of: (i) waiving such objections and proceeding with this Agreement; or (ii) terminating this Agreement, and thereupon this Agreement shall be null and void and neither Buyer nor Seller shall have any further obligations hereunder.

10. Buyer Inspections. Buyer and its agents and contractors shall have the right to enter upon the Property at any time after the Effective Date of this Agreement to make any inspections of the Property and to perform any tests on the Property deemed necessary by the Buyer. Buyer shall pay the cost of any such inspections, except for the soils testing referred to in Section 3.1. A copy of the tests together with related documents, reports and test reports shall be delivered to Seller prior to Closing. Buyer and its agents or representatives shall be responsible for and hereby agree to indemnify and hold Seller harmless from any damages, loss, or expenses as a result of any damages arising out of any entry or use of the Property as a result of the due diligence or tests undertaken by Buyer or its representatives. Buyer and its representatives shall take all reasonable efforts to maintain the security of the Property while performing any due diligence or survey tests activities on the site, and shall, in the event of any termination of this Agreement, promptly repair any damage to the Property, including fill in of any holes bored on the Property. Buyer shall have until Closing to conduct all tests or terminate the Agreement. In the event Buyer determines in its sole satisfaction based upon the tests that there exists environmental hazards, materials, or liabilities or other matters which are material to the use of the Property, then Buyer's sole remedy shall be the right to terminate this Agreement. Seller shall have no obligation to correct any defects or environmental hazards or materials, liabilities or other matters.

11. Condition of Property. Buyer acknowledges that it has not been influenced to enter into this transaction, nor has Buyer relied upon any warranties or representations not set forth or incorporated in this Agreement, or otherwise previously made in writing. Buyer hereby acknowledges that Buyer has personally examined the Property prior to entering into this Agreement. Seller makes no representation or warranties of any kind whatsoever, either express or implied, with respect to the use, condition, code or law compliance, or occupation of the Property with respect to the physical or structural condition of the property, the Property's compliance with the Americans with Disabilities Act, or with respect to the existence or absence of toxic or hazardous materials, substances or wastes in, on, under or affecting the Property and hereby disclaims any implied warranty regarding the fitness for any particular purpose, quality or merchantability of the Property or any portion thereof. The Property shall be conveyed to Buyer on an "as is" basis, except for any warranties and representations as provided in this Agreement. From and after Closing, Seller shall be released and indemnified from all responsibility and liability to Buyer regarding the condition of the Property, including environmental conditions, valuation, salability or utility of the Property, or its suitability for any purpose whatsoever. Buyer agrees that it will not seek to recover from Seller any costs that may be incurred for the clean-up or remediation in any manner of any toxic or hazardous materials, substances or wastes as may exist in, on, under or affecting the Property, or which may have first originated on the Property regardless of where now located, and specifically waives any right to recovery thereof. The foregoing terms of this paragraph shall survive Closing.

12. Notices. All notices given pursuant to this Agreement by either party to the other shall be in writing and personally delivered, sent electronically via facsimile or e-mail with transmission confirmed, or mailed by Certified Mail, postage prepaid, and addressed as provided below or at such other address or addresses as either party may designate by notice given to the other party. With respect to all notices so mailed, the same shall be deemed effective on the day of mailing. All notices shall be addressed to the parties as follows:

To Seller: City of Lincoln
ATTN: Clint Thomas, Real Estate Division
555 S. 10 St., Rm. 205
Lincoln, NE 68508
Phone (402) 441-7569
e-mail cthomas@lincoln.ne.gov

copy to: Cathy Kottwitz
Greenleaf Properties
300 N. 44th Street, Suite 207
Lincoln, NE 68503
Phone (402) 467-2525
Email: cathy@greenleafproperties.com

To Buyer: TR Novak, LLC
ATTN: Terry Novak
5950 Arbor Rd.
Lincoln, NE 68517
Phone 402-464-7868
Email: terry@lincolntrucking.net

copy to: Jim Tomasek
5649 S. 31st Street #2
Lincoln, NE 68516
Phone (402) 483-1130
Email: tomasekhomesinc@gmail.com

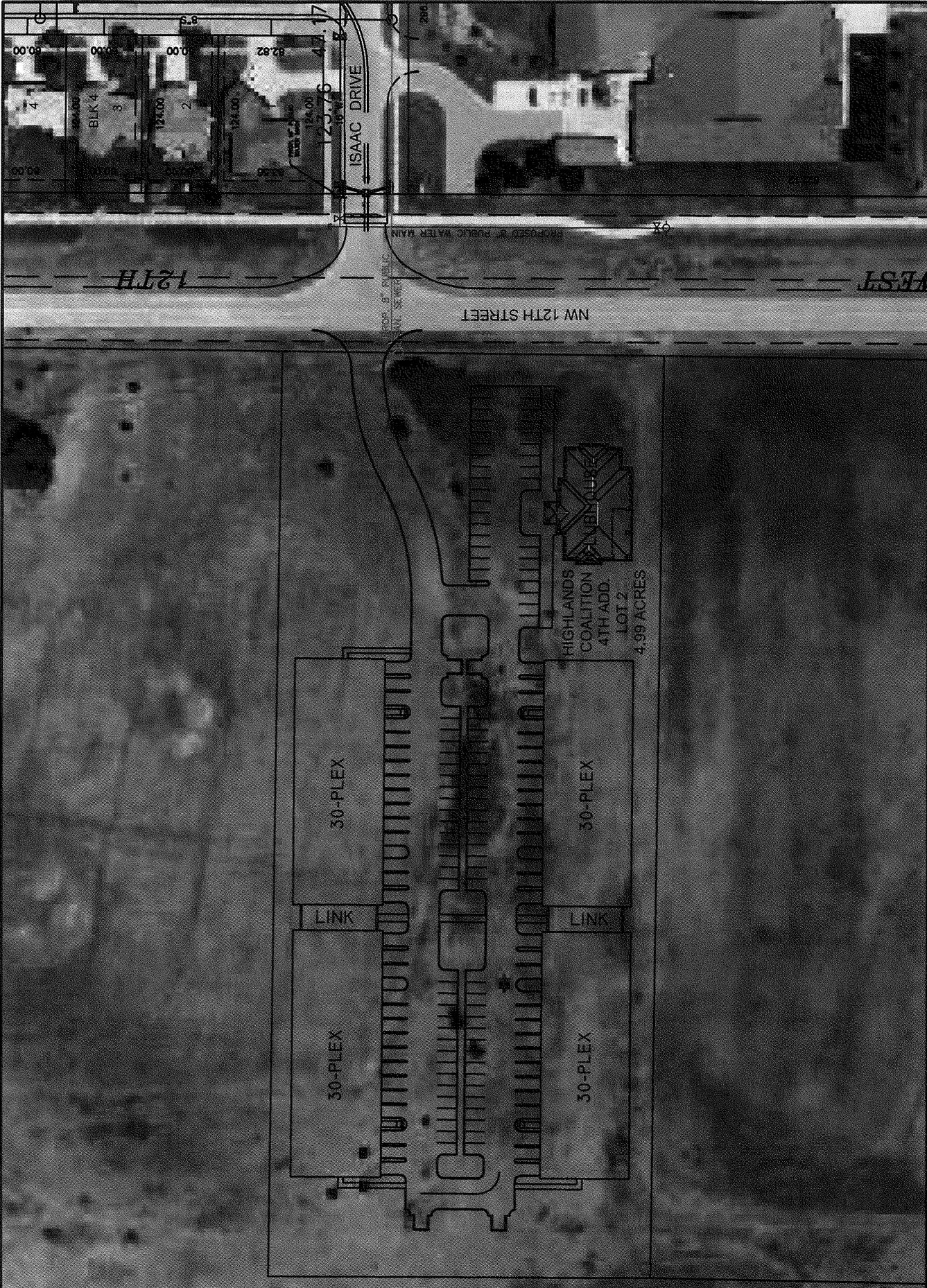
13. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the sale and purchase of the Property, and this Agreement may not be changed or modified in any manner unless an instrument in writing is executed by both parties hereto.

14. Authority. By the execution hereof, the individual executing and delivering this Agreement on behalf of each party represents, warrants and certifies to the other party that it has all requisite authority to enter into and bind itself to the terms of this Agreement and the performance thereof.

15. Assignment. This Agreement shall not be assigned without the prior written consent of the other party.

16. Real Estate Agent; Brokerage Commissions. The parties represent and warrant to each other that they have no knowledge of any real estate broker, salesman, or agent involved in this proposed transaction, other than Greenleaf Properties (Cathy Kottwitz, Don Linscott, Tara Galaviz), 300 N. 44th Street, Suite 207, Lincoln, NE 68503 ("Seller's Agent"), Seller shall pay Seller's Agent's commission, which shall be paid pursuant to a separate agreement between Seller and Seller's Agent.

DWG: G:\lincoln\Teams\L\Langston\Highlands\SITE.dwg
DATE: Nov 05, 2014 4:44pm
USER: mlangston XREFS:



PROJECT NO: XXXX-XXXX
DRAWN BY: MCL
DATE: 10/28/2014

UTILITY EXHIBIT



601 P Street, Suite 200
P.O. Box 84608
Lincoln, NE 68508
TEL 402.474.6311
FAX 402.474.5160

EXHIBIT
1