

**WEST HAYMARKET
REDEVELOPMENT AGREEMENT
(TDP Project)**

THIS WEST HAYMARKET REDEVELOPMENT AGREEMENT (TDP Project) (“**Redevelopment Agreement**”) is entered into as of the ____ day of _____, 2015 by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as “**City**”), the WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and corporate body politic of the State of Nebraska (hereinafter referred to as “**JPA**”), and TDP PHASE THREE, LLC, a Nebraska limited liability company (hereinafter referred to as “**Redeveloper**”).

RECITALS

A. The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska, and as part of that program the City has prepared and approved the Lincoln Center Redevelopment Plan, as amended (the “**Redevelopment Plan**”), pursuant to the Community Development Law of the State of Nebraska, Chapter 18, Article 21, Sections 18-2101-18-2144, as supplemented by and including Sections 18-2147 to 18-2153, Reissue Revised Statutes of Nebraska, 1943, as may be amended from time to time (“**Community Redevelopment Law**”). The Redevelopment Plan provides for the West Haymarket Redevelopment Project in an area generally bounded on the west by the BNSF and UP railroad lines, by approximately 7th Street on the east, the south interior roadway of Haymarket Park and the Bereuter Pedestrian Bridge on the north, and “M” Street on the south (“**West Haymarket Redevelopment Area**”) as shown on Exhibit A. A copy of the Redevelopment Plan, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City (the “**City Clerk**”).

B. Redeveloper has submitted a proposal for Redeveloper Improvements (defined below) designated as the “**TDP Project**” in an area generally bounded by R Street on the north, O Street on the south, Pinnacle Arena Drive on the west, and 7th Street on the east, including Canopy Street south to N Street and the Project Site (defined below) as shown on Exhibit B (“**TDP Project Area**”). The TDP Project provides for the Redeveloper to acquire property owned by the JPA located in the West Haymarket Redevelopment Area and legally described as the South Half of Lot 3, Block 6, and the South 5 feet of the North Half of Lot 3, Block 6, West Haymarket Addition, Lincoln, Lancaster County, Nebraska, (“**Project Site**”) to grade and prepare the Project Site for development (“**Site Preparation**”) and to construct certain Private Improvements (defined below) and Redeveloper Public Improvements (defined below) thereon. The Project Site and the remaining portion of the North Half of Lot 3, Block 6, West Haymarket Addition are to be replatted as two separate lots tentatively identified as Lots 1 and 2, West Haymarket 2nd Addition. Acquisition of the Project Site is sometimes referred to herein as “**Site Acquisition.**”

C. The Redeveloper undertakings (“**Redeveloper Undertakings**”) for the TDP Project consist of the following activities:

- (1) Site Acquisition;
- (2) Site Preparation;
- (3) Design and construction of a seven-story building containing approximately 140,000 square feet of office space, and approximately 10,000 square feet of retail space and/or enclosed commercial recreational facility (“**New Building**”);
- (4) Design of an outdoor plaza (“**Plaza**”) on the Project Site satisfactory to the City which includes design of a unified Plaza on the remaining portion of the North Half of Lot 3, Block 6, West Haymarket Addition. The Plaza is more particular defined in Exhibit M;

(5) Design and construction of a skywalk bridge connecting the New Building and the JPA Green 2 Parking Garage (Deck 2) located at 530 P Street (“**Skywalk Bridge**”);

(6) Design and construction and installation of certain upgraded improvements to the New Building, Plaza and Skywalk Bridge on the Project Site to the greater good of the community, which are beyond the requirements of City standards, regulations or codes consisting of Façade Enhancements, Energy Enhancements, and Plaza Enhancements (collectively “**Public Enhancements**”) as defined in Section 302.B below;

(7) Design and construction and installation of certain upgraded streetscape improvements primarily along, but not limited to, the P Street and Canopy Street abutting the Project Site within the TDP Project Area (“**Redeveloper Streetscape Improvements**”) as defined in Section 303.B below.

The New Building and Skywalk Bridge are hereinafter collectively referred to as the “**Private Improvements.**” The Public Enhancements and Redeveloper Streetscape Improvements are collectively referred to as the “**Redeveloper Public Improvements.**”

D. City Public Improvements. Intentionally Omitted.

E. The JPA and the District Energy Corporation (“**DEC**”) have entered into an Energy Services Agreement dated October 1, 2011 wherein the JPA and DEC agreed for the DEC to construct a district energy plant and provide Energy Services (as defined in the Energy Services Agreement) to the Arena and certain other buildings and facilities in the West Haymarket Redevelopment Area, including the Private Improvements.

F. Under the Energy Services Agreement, the JPA is and will remain the DEC’s sole customer and it is the JPA’s responsibility to split off the proportional cost of the DEC bill to the Arena and the other buildings and facilities, including the Private Improvements receiving heating and cooling from the Energy Services provided by the DEC to the JPA.

G. This Redevelopment Agreement implements the TDP Project and sets forth the terms and conditions for the Project.

H. *Neb. Rev. Stat. §18-2107* (Reissue 2007) 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.

I. The City and JPA are willing to support the above described redevelopment of the Project Site provided Redeveloper is willing to (1) restrict the use of the Project Site to certain approved uses, (2) agree to covenants and conditions regarding compulsory maintenance and upkeep of the Private Improvements to prevent a recurrence of substandard and blighted conditions, and (3) agree to covenants and conditions regarding environmental use restrictions.

J. Pursuant to *Neb. Rev. Stat. §18-2147, et seq.*, the Redevelopment Plan contains a provision which provides that any ad valorem tax levied upon real property in the TDP Project for the benefit of any public body shall be divided, for a period not to exceed fifteen (15) years after the Effective Date as identified herein as follows:

- That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the Redevelopment Project Area valuation as of January 1 of the year prior to the year that the ad valorem taxes are to be divided shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and
- That portion of the ad valorem tax on real property as provided in the redevelopment contract or bond resolution in the Redevelopment Project Area in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principle and the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority (“**TIF Indebtedness**”) for financing or refinancing in whole or in part, the TDP Project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the County Assessor and County Treasurer

and all ad valorem taxes upon taxable real property in the Redevelopment Project Area shall be paid into the funds of the respective public bodies.

Said provision is hereinafter referred to as the “**Ad Valorem Tax Provision**” or the “**Tax Increment Provision.**”

K. Resolution No. A-84988 adopted by the City Council for the City of Lincoln, Nebraska on August 25, 2008 adopted the City of Lincoln FY 2008/2009 annual budget and as part of said budget resolution, established Fund #230 to be known as the Fast Forward Fund. The purpose of Fund #230 is to make funds available for economic projects where (1) there is a demonstrated benefit to the community, and/or (2) where incentive(s) can positively influence the outcome of the project. Resolution No. A-85490 adopted by the City Council on August 24, 2009 adopted the City’s FY 2009/2010 annual budget and, as part of said budget, said budget resolution modified the purpose of the Fast Forward Fund to provide priority for economic development and/or infrastructure project. The resolution further provides that “any project relating to business shall be required to show: (1) that new employees added as a result of the project will meet a median wage requirement that is 120% of the county average wage, and (2) that the business derives 50% or more of its revenue from outside of the county. Any project not related to a particular business must be in the CIP. The eligibility of projects and the amount of funding must be approved on a case-by-case basis by resolution of the City Council.” The Mayor is recommending the TDP Project as an economic development project to be supported by the Fast Forward Funds in the amount of \$600,000 to be used for construction of the Skywalk Bridge connecting the New Building to the JPA Green 2 Parking Garage (Deck 2).

L. The Redeveloper is willing to enter into this agreement provided TIF Proceeds (defined below) are available to be used to pay for or reimburse the Redeveloper for Redeveloper Priority Expenses which are more particularly described in Section 603 below and summarized

on Exhibit C, Sources and Uses of TIF. In order to pay for or reimburse Redeveloper for Redeveloper Priority Expenses, the City intends to issue tax increment financing indebtedness (“**TIF Indebtedness**”) to be repaid with the tax increment revenues generated under the Ad Valorem Tax Provision.

M. The parties mutually agree that the redevelopment of the Project Site 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, for and in consideration of the recitals set forth above and the mutual representations, warranties and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

ARTICLE I.

EVIDENCE OF REDEVELOPER'S ABILITY

Section 101. Evidence of Redeveloper's Ability.

A. Evidence of Redeveloper's Financial Ability. Redeveloper shall, within sixty (60) days following the date of this Agreement, state the amount and source of liquid assets on hand and the amount and source of debt financing which has been obtained or irrevocably committed to Redeveloper in connection with acquisition of the Project Site, construction of the Private Improvements, and construction of the Redeveloper Public Improvements. Such information shall be provided in a form satisfactory to the Finance Director of the City. Evidence of loan commitments shall include all the documents evidencing the loan commitment, and acceptance by the borrower, the purposes of the loan, the authorized use of loan funds, and all other terms

and conditions of the loan commitment, the acceptance, and the loan. To the extent allowed by law, the City agrees to keep the information confidential.

B. Timely Submittal of Evidence. Timely submittal of financial information required in subsection A above in a form satisfactory to the Finance Director of the City shall be a condition precedent to the requirement of the City to proceed with its obligations under this Redevelopment Agreement.

Section 102. Evidence of Redeveloper's Ability to Timely Commence Construction of the Private Improvements. Redeveloper shall, prior to Closing (defined below) of the Project Site, provide satisfactory documentation to the JPA that Redeveloper has entered into a construction contract and is ready, willing and able to timely commence construction of the Private Improvements as provided in Section 304 below. Submittal of such information and documentation in a form satisfactory to the City shall be a condition precedent to the requirement of the JPA to proceed with its obligation to convey the Redevelopment Project Area to Redeveloper under this Redevelopment Agreement.

ARTICLE II.

CLOSING

Section 201. Conveyance of Project Site.

A. Payment of Purchase Price. The JPA agrees to sell and Redeveloper agrees to buy the Project Site which purchase shall include associated prepaid parking rights related to Redeveloper's use of the Project Site for office use by Redeveloper's tenants. The Parking Rights are more particularly described in Article V below. The prepaid Parking Rights are intended to provide free parking for an average of 263.4 non-reserved parking stalls per month based upon the estimated number of new employees to be employed by Redeveloper's tenants in

the New Building during the first five years following substantial completion of the New Building. The Purchase Price shall be determined as follows:

$$\text{Land Price} + \text{Prepaid Parking Rights} = \text{Purchase Price}$$

The Land Price is the sum arrived at by multiplying the square footage of the Project Site (assumed to be 34,580 sq. ft., subject to confirmation of the actual square footage in the final plat) x \$33.00 per square foot, or \$1,141,140. The prepaid Parking Rights is the sum arrived at by multiplying the 263.4 stalls x \$56.25/month/stall (\$62.50/month x 90% (10% discount for large volume and annual prepayment)) x 60 months = \$888,975 (called \$890,000).

The City agrees to assist in Redeveloper's acquisition of the Project Site (including the prepaid Parking Rights) by providing a grant of TIF Bond A Proceeds (defined below) to the Redeveloper in the amount of \$1,590,000 to be applied toward the Purchase Price. The City further agrees to make a grant of Excess Tax Increment Revenues (defined below) to the Redeveloper to be applied to the remaining portion of the Purchase Price (collectively "**Land Purchase Assistance**"). Redeveloper's payment of the Purchase Price to the JPA shall be evidenced by:

(1) A cash payment of \$700,000 (Land Value Payment) from TIF Bond A Proceeds to the JPA at Closing.

(2) A cash payment of \$890,000 from TIF Bond A Proceeds to the City's Parking Manager for the benefit of JPA upon substantial completion of the New Building and prior to the use of the parking by Redeveloper and its Tenants.

(3) An assignment to the JPA of the Redeveloper's rights to the grant of Excess TIF Tax Revenues from the City for the remaining \$441,140.00 (Land Value portion) of the Purchase Price.

Redeveloper does hereby assign its rights to a grant of funds from Excess TIF Tax Revenues for Land Purchase Assistance in the amount of \$441,140.00 to the JPA and JPA does hereby accept said assignment. The JPA understands and agrees that the Purchase Price shall be paid solely from the aforementioned payments from TIF Bond A Proceeds and Excess TIF Tax Revenues and without recourse against Redeveloper.

B. Administrative Plat. Prior to Closing, the JPA shall cause Olsson Associates (“**Engineer**”) to prepare and obtain the necessary final approval of an administrative final plat (“West Haymarket 2nd Addition) which replats (i) the North Half of Lot 3, Block 6, except for the south five feet and the South Half of Lot 3, Block 6, and the south five feet of the North Half of Lot 3, Block 6, West Haymarket Addition, Lincoln, Lancaster County, Nebraska into two individual lots tentatively identified as Lots 1 and 2, West Haymarket 2nd Addition, respectively. In the event the City places any conditions to the approval of the administrative plat, then JPA, at its expense, shall be required to comply with such administrative plat conditions. At Closing, Redeveloper will reimburse the JPA one half (1/2) of the Engineer’s cost to prepare and obtain the City’s approval of the West Haymarket 2nd Addition administrative final plat.

Section 202. Closing.

A. Closing Date. The conveyance and delivery of the Project Site by the JPA to the Redeveloper shall occur at closing (“**Closing**”) which shall be as soon as possible after the date of this Agreement but shall not be later than September 30, 2015, unless the parties mutually agree to another Closing date (“**Closing Date**”). If the Closing on the Project Site does not occur by the Closing Date, neither party shall have any further obligations with respect to the TDP Project.

B. Closing Contingencies.

1. Redeveloper Closing Contingencies. Redeveloper's obligation to close shall be contingent upon the following:

(i) Receipt of the written indemnification from JPA described in Section 404.C below;

(ii) Redeveloper's acceptance of the "clean" fill confirmation, environmental covenants, and Operations and Maintenance Plan regarding the Project Site as described in Section 404.A below;

(iii) Execution and delivery of the Energy Services Agreement between the Redeveloper and JPA pursuant to Section 302.A.2(c) below;

(iv) City approval of the Administrative Final Plat of West Haymarket 2nd Addition which in part replats the Project Site as Lot 2, West Haymarket 2nd Addition pursuant to Section 201.A above;

(v) Execution and delivery of the Skywalk Bridge Easement Agreement between the JPA and Redeveloper pursuant to Section 310.B below;

(vi) Availability of city water, city sanitary sewer, city storm sewer, electrical, cable/data and natural gas utilities within the public right-of-way abutting the Project Site;

(vii) City Council approval of the use of Fast Forward Funds to assist in the cost of financing the Skywalk Bridge;

(viii) Execution and delivery of the Use of Right-of-Way Easements and Hold Harmless Agreement.

2. JPA Closing Contingencies. The JPA's obligation to close shall be contingent upon (i) the execution and delivery of the Energy Service Agreement between the

Redeveloper and the JPA pursuant to Section 302A.2(c) below; and (ii) execution and delivery of the Skywalk Bridge Easement Agreement between the Redeveloper and JPA pursuant to Section 310.B below.

C. Closing Documents.

1. Deliveries at Closing by the JPA. At Closing, the JPA shall deliver to Redeveloper, and Redeveloper shall accept from the JPA, the following:

(a) A Special Warranty Deed conveying to Redeveloper fee simple title to the Project Site, subject to the Permitted Exceptions. JPA shall pay Nebraska Documentary Stamp taxes, if not exempt, relating to the transfer of the Project Site. For purposes hereof, **“Permitted Exceptions”** shall mean (i) covenants, conditions and restrictions of record which shall be approved by Redeveloper if they do not unreasonably interfere with Redeveloper’s intended use of the Project Site; (ii) taxes not yet due and payable; (iii) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of Closing and which JPA is willing to and does so remove at Closing; (iv) title exceptions caused by the acts or omissions of Redeveloper; (v) easements, licenses and use restrictions granted under this Redevelopment Agreement; and (vi) any other title exceptions shown on the Title Commitment and which are not properly and timely objected to by Redeveloper. Risk of loss or damage to the Project Site shall rest with the JPA until the time of delivery of possession at Closing.

(b) Such affidavits, statements and other documents as are reasonably required by the Title Company (defined below) in order to issue a title policy (**“Title Policy”**) in accordance with the Redeveloper’s Title Commitment (defined below), including the JPA executing at Closing an affidavit on the title insurance company’s form which will remove all standard exceptions to Buyer’s title insurance policy, including without limitations (i)

representing that there are no unpaid special assessments levied against the Property as of the Closing, except as provided in Section 203 below, (ii) representing that there are no outstanding unpaid bills for labor, material, or utilities furnished to the Project Site as of the Closing, and (iii) agreeing to indemnify and hold harmless the Redeveloper and title insurance company against all payments and expenses, including court costs and attorney's fees, if the above representations prove inaccurate in whole or in part.

2. Documents to be Delivered by Redeveloper. At Closing, Redeveloper shall deliver to the JPA, and the JPA shall accept from Redeveloper such affidavits, statements and other documents as are reasonably required by the Title Company (defined below) in order to issue the Title Policy in accordance with the Redeveloper's Title Commitment.

3. Evidence of Title. The Redeveloper shall obtain (i) a title commitment (the "**Title Commitment**") from Union Title for an ALTA owner's title insurance policy issued by Old Republic National Title Insurance Company, or another title insurance company duly authorized to do business in Nebraska acceptable to Redeveloper (the "**Title Company**") covering title to the Project Site and showing fee simple title in the JPA and (ii) an ALTA Survey of the Project Site by the Engineer to be coordinated with the Title Commitment. A copy of the Title Commitment and ALTA Survey shall be delivered to the City Attorney's Office no later than fifteen (15) days prior to Closing and shall include copies of the underlying exception documents which affect the Project Site. Redeveloper agrees to review the Title Commitment and ALTA Survey and advise the JPA whether the Title Commitment and ALTA Survey discloses exceptions to title, title matters or encroachments other than Permitted Exceptions or discloses matters that render title to the Project Site unmarketable. Redeveloper shall notify JPA of such title defects within fifteen (15) days after receipt of the Title Commitment and Survey. JPA shall have ten (10) days after written notice of such defects from Redeveloper to have the

exceptions removed from the Title Commitment or to have the title insurer commit to insure against loss or damage that may be occasioned by such exceptions or defects. Provided, however, in the event that JPA shall be unable or unwilling to correct such title defects within the ten (10) day period, Redeveloper shall have the option, by written notice delivered to JPA and the City to either (i) terminate this Redevelopment Agreement or (ii) take title to the Project Site subject to such exceptions or defects. In the event Redeveloper provides timely notice to terminate this Redevelopment Agreement, the Redevelopment Agreement shall be deemed terminated, and the parties shall have no further obligation to one another. In the event Redeveloper elects to take title to such exceptions or defects, said exceptions or defects shall be deemed to be Permitted Exceptions.

JPA will reimburse the Redeveloper for the cost of the ALTA Survey. Redeveloper and the JPA shall each pay one-half of the cost of the owner's title insurance policy.

Section 203. Property Taxes and Assessments. All real and personal property taxes and assessments, if any, for the year in which Closing occurs shall be prorated as of the Closing Date, and all prior years' taxes, assessments, and interest, if any, shall either be exempt or paid in full by the JPA at or prior to Closing. If no tax values have been established by the Lancaster County Assessor for the Project Site created by the West Haymarket subdivision, the tax proration shall be based on the Purchase Price for the Project Site and the most recent Lancaster County tax levy.

Section 204. Title and Possession of Project Site. At the Closing, title to and possession of the Project Site shall be conveyed by the JPA to Redeveloper under the terms and conditions set forth herein.

Section 205. JPA's Option to Purchase Project Site. In the event Redeveloper fails to timely commence construction of the Private Improvements in accordance with Section 304,

the JPA, subject to the Redeveloper's right to cure in Section 901 and/or for delay of performance for cause beyond the control of the Redeveloper pursuant to Section 903, shall be entitled, at its option, to purchase the Project Site (including the Parking Rights) upon payment to the Redeveloper the Purchase Price set forth in Section 201.

Section 206. Full Disclosure. The parties represent that no party was used as an agent or finder to bring about this sale.

Section 207. Right to Effectuate Section 1031 Land Exchange. JPA and the City acknowledge that the Redeveloper may undertake an Internal Revenue Code Section 1031 tax deferred exchange of their interest in the all or any portion of the Project Site. The Redeveloper's rights and obligations under this Agreement may be assigned to facilitate such exchange(s) under an assignment and assumption agreement approved and consented to by the JPA and the City. Each party agrees to cooperate with the other party and any assignee of the other party to enable the Redeveloper to qualify for such exchange(s); provided that such cooperation shall not require the JPA or the City to incur any additional costs or liability and the JPA and the City shall be able to realize all intended benefits of this Redevelopment Agreement.

ARTICLE III.

CONSTRUCTION OF REDEVELOPER IMPROVEMENTS

Section 301. Private Improvements - Schematic Drawings; Exterior Drawings & Specifications; Final Exterior Construction Documents; Approval; Changes.

A. Conceptual Plans and Drawings. Overall conceptual plans and drawings (“**Project Schematic Drawings**”) for the Private Improvements have been prepared by the Redeveloper. The Project Schematic Drawings are based upon the West Haymarket Integrated Development Plan - July 30, 2009 (“**IDP**”), a copy of which is on file in the office of the City's Director of Planning. The Project Schematic Drawings attached as Exhibit D have been

reviewed and approved by the Mayor. The Project Schematic Drawings shall serve as the basis for development of the plans and specifications for the Private Improvements.

B. Design Development Plans. Design development plans and specifications (“**Design Development Plans**”) will be prepared by Redeveloper for the Private Improvements to be constructed by Redeveloper on the Project Site. Prior to the finalization of the New Building’s finished floor elevation and right-of-way elevations, Redeveloper must receive City approval that these grades are in concert and achieve the proper grades. This will require the streetscape elevations to be completed concurrently with the finish floor elevations. Such Design Development Plans shall be based upon the approved Project Schematic Drawings and shall show all the exterior faces of the Private Improvements to be constructed by Redeveloper as part of the TDP Project the construction materials to be used for the exterior walls, elevation views of the exterior faces of the Private Improvements, and the attachment of the Skywalk Bridge to the Green 2 Parking Garage (“**Exterior Drawings**”). The Exterior Drawings shall be submitted to the Mayor for his review and approval, as provided in subsection D below.

The Design Development Plan shall also include a site plan (“**Site Plan**”). Ingress and egress to and from the Project Site from the public streets as shown on the Site Plan shall be subject to City approval based upon Chapter 14.75 of the Lincoln Municipal Code and the City’s Access Management Policy.

C. Final Construction Documents. Upon approval of the Exterior Drawings by the City, Redeveloper shall prepare or have prepared the final construction documents for the private improvements which shall include exterior construction documents (“**Exterior Construction Documents**”). The Exterior Construction Documents shall be submitted to the Mayor for review and approval, as provided in subsection D below.

D. City and JPA Approval. City and JPA, acting through the Mayor, shall so approve or reject the Exterior Drawings and Exterior Construction Documents within fourteen (14) days after receipt of the applicable documents. The Exterior Drawings shall be reviewed by the Mayor and approved only if they are prepared from and in substantial conformance with the approved Project Schematic Drawings, and in substantial conformity with this Redevelopment Agreement. The Exterior Construction Documents shall be reviewed by the Mayor and approved only if they are prepared from and in substantial conformance with the approved Exterior Drawings, and in substantial conformity with this Redevelopment Agreement. Failure of the Mayor to reject the applicable documents within said fourteen (14) days shall be deemed as approval by the City and JPA. If the Mayor rejects the applicable plans, the Mayor shall deliver to Redeveloper notice thereof accompanied by an explanation of the reasons for such rejection based on the standards for this TDP Project. If rejected, Redeveloper shall work with the Architect to submit corrected Exterior Drawings and Exterior Construction Documents, as applicable, within fourteen (14) days after the date of receiving the written rejection notice. Resubmitted Exterior Drawings and Exterior Construction Documents shall be approved or rejected as provided above for original submittals.

E. Approval Limitation. Approval of the Exterior Drawings and Exterior Construction Documents is not a substitute for and does not eliminate the requirement that Redeveloper apply for and receive necessary building permits for construction of the Private Improvements. Approval of a building permit for construction of the exterior walls and the attachment of the Skywalk Bridge to the Green 2 Parking Garage is not a substitute for and does not eliminate the requirement that Redeveloper submit the Exterior Drawings and Exterior Construction Documents to the Mayor for his review and approval.

F. Changes. If the Exterior Drawings, or Exterior Construction Documents are substantially and materially modified after the Mayor's approval, any such modification shall be resubmitted to the Mayor for review and approval, provided that such Exterior Drawings or Exterior Construction Documents shall first be submitted to the Historical Preservation Commission and Urban Design Committee in accordance with the submittal requirements in Section 4.36.040 of the Lincoln Municipal Code for their joint review and submittal of their recommendations to the Mayor.

Section 302. Construction of Private Improvements.

A. Construction. Redeveloper shall, at its own cost and expense, through an approximate investment of Thirty Million Dollars (\$30,000,000.00), subject to reimbursement for the Skywalk Bridge and Public Enhancements as set forth in this Agreement, construct the Private Improvements as described in Recital C above in conformity with the approved Exterior Construction Documents, building permits and this Redevelopment Agreement.

1. Architecture. All Private Improvements shall have consistent architectural features, detailing, and design elements in accordance with the Project Schematic Drawings and the IDP. All accessory building walls, screening walls or fences shall use the same primary material, color, and detailing as on the main building.

2. Energy Efficiency.

(a) General. Construction of the Private Improvements shall utilize energy efficient building practices. 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 or a similar program as a guideline for the design and construction of the Private Improvements.

(b) Heating and Cooling. JPA, at its expense, (i) will cause the DEC to extend the DEC heating and cooling piping from the DEC Plant to the point where the DEC piping is joined with the Redeveloper's service piping ("**Point of Delivery**") at the New Building, including DEC making the service tap connection, to the New Building and (ii) will cause DEC to design and install all other DEC equipment and controls needed in order for the DEC to deliver energy services to the New Building, on or before the Estimated Completion Date (defined in §304 below) and in accordance with DEC requirements. The Point of Delivery, including service tap location and location of the meter shall be in a reasonable location as determined by DEC in coordination with the Redeveloper.

(c) Energy Services Agreement. Redeveloper agrees to purchase all Energy Services as defined in the Energy Services Agreement for the Private Improvements from the JPA, subject to the terms and conditions of an Energy Services Agreement between JPA and the Redeveloper, which shall be prepared and negotiated with terms and conditions reasonably acceptable to JPA and the Redeveloper as soon as reasonably possible and entered into between JPA and the Redeveloper prior to Closing Date (defined below), provided, however, Redeveloper understands and acknowledges that such terms and conditions shall include Redeveloper agreeing to pay Redeveloper's allocated share of the Demand Charge – Facilities Financing, the Demand Charge – Other, and the Commodity Charge the DEC will charge the JPA on a monthly basis for Energy Services under the Energy Services Agreement between DEC and the JPA.

3. Height of Private Improvements. Private Improvements constructed in the Redevelopment Project Area shall have a maximum height of 110 feet.

4. Landscaping. All mechanical units and condensing units shall be visually screened from public view. Large trash receptacles for business use and any outside storage

areas shall be screened on three sides with a masonry screen wall. Redeveloper shall submit a landscape plan for such screening to the Mayor for his review and approval which will not be unreasonably withheld.

5. Staging and Construction Activities.

(a) Staging. The Redeveloper and its contractor, subcontractors and material suppliers, shall have a right of entry subject to the below terms and conditions to exclusively use the surface and air right space on the remaining portion of the north half of Lot 3, Block 6, West Haymarket Addition (“**Staging Area**”) during the construction of the Private Improvements, without additional consideration. The Staging Area is to be left in the same or better condition vs. before its use. Any damage to the abutting public right-of-way shall be repaired at Redeveloper’s own cost and expense.

Section 303. Construction of Redeveloper Public Improvements. Redeveloper at its own cost and expense, except as otherwise provided in this Agreement, shall construct/install or cause the Redeveloper Public Improvements to be designed and constructed/installed.

A. Redeveloper Streetscape Improvements (Minimum Invest of \$300,000). Overall conceptual plans and drawings (“**Streetscape Drawings**”) for the Redeveloper Streetscape Improvements shall be prepared by the Redeveloper. The Redeveloper Streetscape Improvements shall include but not be limited to decorative hardscape, landscaping, and pedestrian lighting and other streetscape features and amenities. The Streetscape Drawings shall be based upon and consistent with the existing streetscape installed along Canopy Street. The Streetscape Drawings shall be submitted to the City’s Urban Development Department for review and submittal of a recommendation to the Mayor. Upon receipt of the Urban Development’s recommendation, the Mayor shall approve or reject the Streetscape Drawings within fourteen (14) days after receipt. Upon approval of the Streetscape Drawings, the

Redeveloper shall prepare or cause to be prepared final Streetscape Construction Documents in accordance with City Design Standards and Standard Specifications which shall be submitted to the Mayor for review and approval as provided above. The Redeveloper Streetscape Improvements shall be competitively bid through the City's Purchasing Division or by the Redeveloper pursuant to the Redeveloper Bidding Procedures attached hereto as Exhibit F.

B. Redeveloper shall, at its own cost and expense, subject to a minimum investment of \$400,000 reimbursable from TIF Bond A Proceeds, design the Plaza and construct the Plaza Enhancements included in the approved design. Design development plans and specification for the Plaza will be prepared for the Plaza and the Plaza Enhancements to be construction within the Plaza and submitted to the Mayor of his review and approval. The design development plans and specifications will include a concept design to incorporate a similar plaza on the remaining portion of the North Half of Lot 3, Block 6, West Haymarket Addition. The Plaza Enhancements shall be competitively bid through the City's Purchasing Division or by the Redeveloper pursuant to the Redeveloper Bidding Procedures (Exhibit F).

C. Façade and Energy Enhancements. Redeveloper shall, at its own cost and expense, subject to reimbursement with available TIF Bond A Proceeds and TIF Bond B Proceeds as set forth in this Redevelopment Agreement, construct the Façade Enhancements and Energy Enhancements. The City shall not have any obligation to reimburse Redeveloper for the cost of the Façade Enhancements and Energy Enhancements in excess of available TIF Bond A Proceeds and TIF Bond B Proceeds as provided for in this Redevelopment Agreement. Redeveloper shall use its own funds to fund any Façade Enhancements and Energy Enhancements costs that exceed the TIF Bond A Proceeds and TIF Bond B Proceeds that are lawfully available and granted to Redeveloper under this Redevelopment Agreement.

1. For the purpose of this Redevelopment Agreement, “**Façade Enhancements**” shall be the vertical exterior façade of the New Building as shown on Exhibit D, excluding signage.

2. For the purpose of this Redevelopment Agreement, “**Energy Enhancements**” shall consist of the following: Redeveloper’s cost, after deducting any Lincoln Electric System or other rebates, to construct and/or upgrade the energy, cooling, heating, lighting, insulation, controls, equipment, hardware and/or software improvements and systems made to the Private Improvements including, but not limited to, air handling units (fan and coils) and associated piping in the New Building to accommodate the DEC heating and cooling piping for the greater good of the community to exceed energy efficiencies in excess of that required by the International Building Code, 2009 Edition, and in particular Chapter 13, Energy Code (“**State Building Code**”), or the City of Lincoln Building Code.

3. For the purpose of this Agreement, Plaza Enhancements shall consist of and include all common areas and amenities located within the Plaza including, but not limited to, landscaping, hardscape permanent seating, permanent furnishings, canopies, and related improvements and equipment subject to the “Plaza License Agreement” in Exhibit M.

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

Section 304. Commencement and Completion Deadline for Private Improvements. The Redeveloper anticipates the commencement of the Private Improvements on or before October 1, 2015. The Redeveloper shall commence the Private Improvements on the Project Site within ninety (90) days following Closing of the Project Site and shall use its best efforts to substantially complete the Private Improvements on or before April 30, 2017

(“**Estimated Completion Date**”) and will substantially complete the Private Improvements on or before December 31, 2017 (“**Completion Date**”).

Section 305. Payment of Costs for Private Improvements. Redeveloper agrees to use commercially reasonable efforts to complete construction of the Private Improvements as provided in this Redevelopment Agreement, and to pay, or cause to be paid, in a timely manner all persons, firms, or organizations 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 in accordance with all the provisions of this Redevelopment Agreement relating to the obligations of Redeveloper to construct said improvements. If requested by City, the Redeveloper shall, in addition to this promise to pay, obtain and supply the City with lien waivers in favor of the Redeveloper from all persons, firms, or organizations performing any work on the Private Improvements or furnishing any materials, equipment, or supplies for construction of the said improvements. In addition, the City shall be entitled to inspect at reasonable times all records of the Redeveloper or its agents regarding such lien waiver procedures.

Section 306. Redeveloper’s Certificate of Completion of Improvements.

A. Promptly upon substantial completion by Redeveloper of the Private Improvements in accordance with all provisions of the this Redevelopment Agreement, and promptly after the Redeveloper provides the City with the proper documentation that Redeveloper’s contractor or his or her subcontractors who performed labor or supplied materials, equipment or supplies in the prosecution of the Private Improvements have been properly paid, the City shall, upon request of such Redeveloper, cause a final inspection to be made of the Private Improvements. If the work has been completed in conformance with this Redevelopment Agreement, the City shall execute and deliver to Redeveloper the City's acceptance to the

Redeveloper's Certificate of Completion of Improvements, the form of which is attached hereto as Exhibit G. The acceptance to the Redeveloper's Certificate of Completion of Improvements by the City shall be a conclusive determination of satisfaction of the agreements and covenants contained in this Redevelopment Agreement with respect to the obligations of Redeveloper and its successors and assigns to construct the Private Improvements. As used herein, the term "completion" shall mean substantial completion of the required Private Improvements. Substantial completion is the stage in the construction progress of the Private Improvements when they are sufficiently complete in accordance with the Exterior Construction Documents and when the Redeveloper has secured a temporary or permanent certificate of occupancy so that the Redeveloper can occupy or utilize the Private Improvements for their intended use. With respect to the New Building, substantial completion need not include the tenant finish improvements required for occupancy by such tenants.

B. The Redeveloper's Certificate of Completion of Improvements shall be recorded by Redeveloper in the Office of the Register of Deeds for Lancaster County, Nebraska against the Project Site. If the City shall refuse or fail to execute the acceptance to a Redeveloper's Certificate of Completion of Improvements after a final inspection has been requested and performed, the City shall, within fourteen (14) days provide Redeveloper with a written statement indicating in what particulars Redeveloper has failed to complete the Private Improvements in accordance with the provisions of this Redevelopment Agreement or is otherwise in default, 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 acceptance.

Section 307. Duty to Maintain. 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 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 (including replacement and replanting), 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. With regard to the Façade Enhancements, the Redeveloper shall not, except for ordinary or necessary maintenance, undertake or allow to be undertaken any material change to the Façade Enhancements 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 Enhancements that alters their state from the Construction Documents, wear and tear excepted.

Section 308. Construction Administration. Redeveloper shall be responsible for all components of the Private Improvements constructed by Redeveloper including construction management, coordination of contractors and regulatory permitting and other requirements. The Redeveloper will be solely responsible for payment of all construction costs for the Private Improvements.

Section 309. Cost Certification. Redeveloper shall submit authentic documentation to the City on approved forms or format for payment of any expenses related to reimbursement for the cost to construct the Redeveloper Priority Expenses. Redeveloper shall timely submit receipts, invoices, or proof of payment concurrently with the request for reimbursement of

Redeveloper Priority Expenses. The City shall approve or reject the request for reimbursement with reasons stated, based on the review within ten (10) days of receipt of the same; provided, however, the City shall generally approve requests for reimbursement made by Redeveloper that are consistent with Section 603 of this Redevelopment Agreement. Once the Redeveloper Priority Expense evidence or invoices have been approved by the City, the City shall pay such expense to Redeveloper within two (2) business days from the Project Account (defined below) established by the City for the Project.

Section 310. Grant of Easements, Licenses and Consents.

A. Façade Easement. The City and Redeveloper shall enter into a Façade Easement Agreement wherein Redeveloper shall grant to the City a Façade Easement. The form of the Façade Easement Agreement is attached hereto as Exhibit H.

B. Skywalk Bridge Easement. The JPA and JPA agree to enter into a Skywalk Bridge Easement Agreement in which the JPA shall convey to Redeveloper a Skywalk Bridge Easement (including a Skywalk Bridge Footings Easement for the Skywalk Bridge support columns(s) next to Deck 2) over portions of Lots 1 and 2, Block 6, West Haymarket Addition, Lincoln, Lancaster County, Nebraska, for the Skywalk Bridge connecting the New Building to the JPA Parking Garage (Deck 2). The Skywalk Bridge Easement Agreement shall be in the form attached hereto as Exhibit I. Redeveloper, at its expense, shall cause the Engineer to prepare the legal descriptions of the Skywalk Bridge Easement Premises as generally shown on the Project Schematic Drawings, Exhibit D. As part of the Skywalk Easement Agreement, Redeveloper agrees to convey to the JPA for the benefit of the public a pedestrian access easement connecting the first floor retail area and/or enclosed commercial recreational facility in the New Building to the Skywalk Bridge and the Skywalk Bridge to Deck 2.

C. Use of Right of Way Easements. The City and Redeveloper shall enter into a Use of Right of Way Easements and Hold Harmless Agreement wherein City shall grant to the Redeveloper (i) a foundation easement for the New Building over a portion of the street and alley rights of way adjacent to the east, south, and west property lines of the Project Site permitting the footings of the New Building to encroach into the rights of way; and (ii) a facade easement permitting an ornamental shade structure to the New Building to extend above the Canopy Street and Q Street rights of way. The form of the Use of Right of Way Easements and Hold Harmless Agreement is attached hereto as Exhibit E.

D. The City and Redeveloper shall enter into a Plaza License Agreement wherein Redeveloper shall grant to the City a permanent, limited, nonexclusive license to use the Plaza. The form of the Plaza License Agreement is attached hereto as Exhibit M.

ARTICLE IV.

SECURITY AND RESTRICTIONS

Section 401. Penal Bond.

A. Penal Bond Amount. Pursuant to Neb. Rev. Stat. § 18-2151, Redeveloper shall furnish or cause to be furnished to the City, prior to commencement of construction of the Private Improvements, a penal bond in an amount equal to the total cost of the Private 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 J. Such penal bond shall stay in place until the City executes the Certificate of Completion of Improvements for the Private Improvements and shall be conditioned upon Redeveloper or Redeveloper's contractor at all times making payment of all amounts lawfully due to all persons supplying or furnishing Redeveloper, Redeveloper's contractor, or his or her subcontractors with labor or materials performed or used

in the prosecution of the Private Improvements. Proof of such penal bond shall be supplied to the City prior to the construction of the Private Improvements.

B. Surety Bond Alternative. The City shall accept, in lieu of the requirements in Section 401.A above, a surety bond supplied by Redeveloper or Redeveloper's prime contractor meeting the requirements of Neb. Rev. Stat. §52-141 (Reissue 2010) and a lien waiver from the prime contractor. The penal amount of the bonds shall be Two Million Five Hundred Thousand Dollars (\$2,500,000). As required by Neb. Rev. Stat. § 52-141, recorded notice of the bond must be filed of record against the Project Site. If this alternative is used, proof of said payment and recording shall be provided to the City prior to the start of construction of the Private Improvements. A copy of the lien waiver shall be provided to the City prior to the start of construction of the Private Improvements.

C. Disbursement Agreement. The City shall accept in lieu of the requirements in Sections 401.A and 401.B above a fully executed Disbursement Agreement in the form attached hereto as Exhibit K and a Redeveloper cash deposit for the purposes set forth in Sections 401.A and 401.B to be held by the City in the amount of \$10,000. The cash deposit will be refunded upon issuance of the Certificate of Completion for the Private Improvements.

Section 402. Indemnification. Redeveloper agrees to indemnify and hold the City harmless to the extent of any payments in connection with carrying out construction of the Private Improvements the City may be required to make for failure of Redeveloper or Redeveloper's contractor to make payments of all amounts lawfully due to all persons supplying or furnishing Redeveloper's contractor or his or her subcontractors with labor or materials performed or used in construction of Private Improvements.

Section 403. Use Restrictions. Redeveloper hereby represents and agrees that neither all nor any portion of the TDP Project Area, Project Site, and/or New Building shall be used, directly or indirectly, for the following uses:

(a) any outdoor off premises advertising specifically including billboards, signboards and related structures and appurtenances, except temporary signs advertising such lot is for sale or lease by the owner thereof;

(b) any business whose predominant operation is the retail sale of alcoholic beverages for consumption on and off the premises (predominant shall mean retail gross sales of alcoholic beverages in excess of 50% of gross sales on the premises); except that up to 50% of the overall retail space contained in the Private Improvements may be used for restaurants wherein the gross sales of alcoholic beverages exceed 50% of gross retail sales, provided such restaurants have a licensed kitchen and offer a full menu during the hours of 5:00 p.m. to 8:00 p.m. or any such business that has an unreasonable pattern of unlawful disturbances or liquor law violations (does not include micro-breweries, wine bars, pharmacies, or grocery stores);

(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 business that has an unreasonable pattern of unlawful disturbances or tobacco law violations (does not include pharmacies, cigar bars, or grocery stores);

(d) any business operated or held out to the public as a sexually oriented business including any business 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; sex toys or sexually oriented paraphernalia; sexually oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort service;

(e) any ground floor use by a business for which a majority of its ground floor area displays adult-oriented products;

(f) any business involving gambling or wagering even if otherwise permitted by law including keno, bingo, slot machines, video lottery machines, casino games, or off site pari mutual wagering sites, but excluding the retail sale of lottery tickets as permitted by applicable law;

(g) the first floor of the New Building shall be used for retail use and/or enclosed commercial recreational facility and at least 50% of the leasable retail square footage of the 10,000 square feet of retail and/or enclosed commercial recreational facility on any block face will have users whose minimum normal hours of operation, six days a week, are from 11:00 a.m. to 8:00 p.m.;

(h) no freestanding cell towers, excluding a cell antenna on top of the New Building located on the Project Site.

Section 404. Environmental.

A. History. JPA is the owner of real property, including the Project Site, located within the East Flank of the West Haymarket Redevelopment Site North (WHRSN). . The Project Site has been used for railroad operations and was the site of release(s) of certain hazardous substances, pollutants or contaminants described in detail in the “West Haymarket Redevelopment Site North Investigation Report and Remedial Action Plan” (Benesch, 2012). The Project Site is now the subject of environmental response projects or actions pursuant to enrollment in the Nebraska Department of Environmental Quality’s Voluntary Cleanup Program (VCP) authorized by the Remedial Action Plan Monitoring Act and the Petroleum Products and

Hazardous Substances Storage and Handling Act. The selected environmental response projects or actions which has heretofore been performed by JPA, is documented in “West Haymarket North Investigation Report and Remedial Action Plan,” (Benesch, 2012). The administrative record for this project or action is available to the public and located at the Nebraska Department of Environmental Quality, 1200 N St., Suite 400; Lincoln, NE.

B. Environmental Covenant. Redeveloper understands and agrees that the Project Site will be bound by, held, sold, and conveyed subject to the terms, conditions, obligations, and restrictions set forth in an NDEQ approved Environmental Covenant. The purpose of this Environmental Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to contamination that remains on the Project Site and to ensure that the Project Site is not developed, used, or operated in a manner incompatible with the approved remediation.

C. Activity and Use Limitations. The Environmental Covenant will subject the Project Site to the following activity and use limitations:

1. Groundwater shall not be used as a potable drinking water source.
2. Contact with contaminated soils shall be prevented by maintaining hard surface (building floor slabs, roadways, sidewalks, etc.) and/or a minimum of three ft. thick soil cover (East Flank).
3. Any ground intrusive work (including, but not limited to excavation, digging and drilling) conducted must be conducted in accordance with the West Haymarket Area Environmental Operations and Maintenance Plan (Benesch, XXX) (“**O & M Plan**”). The O & M Plan has not been finalized and is still under review by NDEQ. A copy of the draft O & M Plan has been provided to the Redeveloper.

D. No Further Action Letter. JPA is in the process of seeking and will continue to seek a “**No Further Action Letter**” from the Nebraska Department of Environmental Quality (“**NDEQ**”) verifying that based upon NDEQ’s investigation and required remediation, the area

of concern or areas of concern at that Project Site, as applicable, and at any other site to which a discharge originating at the Project Site has migrated, or that any contaminants present at the Project Site or that have migrated from the Project Site have been remediated in accordance with applicable remediation statutes, rules and guidance and all applicable permits and authorizations. The JPA and Redeveloper shall reasonably cooperate with each other and the NDEQ to obtain the “No Further Action Letter” and to ensure the Redeveloper is a named recipient to the No Further Action Letter once issued by the NDEQ.

E. Environmental Insurance Policy. The City and/or JPA currently holds and shall continue to hold an environmental insurance policy covering the Project Site (the “**Environmental Insurance Policy**”). The Redeveloper and the lender of the Redeveloper shall be specifically named as additional insureds on the Environmental Insurance Policy. The City and/or JPA shall provide a Certified Copy of the Environmental Insurance Policy to the Redeveloper on or before Closing.

F. Redeveloper Environmental Tests. The Redeveloper is hereby granted the right prior to the Closing, at its own expense, to enter the Project Site to undertake an environmental audit, testing, samplings, clean-up soil tests, core drillings, engineering tests and studies, and floodplain analysis (collectively “**Tests**”) of and affecting Project Site, subject to the following conditions:

1. Any ground intrusive Test (including, but not limited to, excavation, digging, and drilling) must be conducted in accordance with NDEQ approved O & M Plan.
2. City and JPA shall not be responsible for the actions of the Redeveloper, its employees, or contractors while they are on the Project Site.
3. Redeveloper shall indemnify and hold City and JPA harmless from and against any loss, claim, expense, or demand arising out of such testing.

4. Damage to any abutting property, street right-of-way, or utilities caused by the Redeveloper, its employees, and contractors shall be repaired and/or reconstructed at Redeveloper's expense.
5. Redeveloper shall restore the Project Site to the same condition as before any Tests occurred. A copy of the results of the Tests shall be provided to the JPA and City as soon as such Test results are reasonably available.
6. Commercial General Liability Insurance. Redeveloper shall maintain or cause its contractor(s) performing the Tests to maintain Commercial General Liability Insurance at its own expense during the performance of the Tests and occupancy of the Project Site, naming and protecting Redeveloper and the City, its officers, agents, employees, successors, assigns, legal representatives, and agents as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations are conducted by Redeveloper and its employees, or those directly or indirectly employed by Redeveloper. This insurance shall be written by an insurance company authorized to do business in the State of Nebraska. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:
 - a. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - b. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
 - c. Personal Injury Damage - \$1,000,000 each Occurrence; and
 - d. Contractual Liability - \$1,000,000 each Occurrence; and
 - e. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
 - f. Medical Expenses (any one person) - \$10,000; and
 - g. Fire Damage (any one fire) - \$100,000; and
 - h. Umbrella or excess coverage - \$2,000,000 each Occurrence.
7. Worker's Compensation Insurance and Employer's Liability Insurance. Redeveloper shall provide applicable statutory Worker's Compensation Insurance with minimum limits within the statutory requirements covering all Redeveloper' employees, and in the case of any contracted or subcontracted work, Redeveloper shall require the contractor and any subcontractor similarly to provide Worker's Compensation Insurance for contractor's and subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of City."

Redeveloper shall provide Employer's Liability Insurance with minimum limits or \$500,000 for bodily injury by accident or disease for each accident and each employee placed with an insurance company authorized to write

such insurance in all states where Redeveloper will have employees located in the performance of this contract, and Redeveloper shall require each contractor and subcontractor similarly to maintain Employer's Liability Insurance on the contractor's and subcontractor's employees.

8. Vehicle liability insurance coverage. Redeveloper shall provide reasonable insurance coverage for all owned, non-owned, hired, and leased vehicles. This insurance shall obtain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to bodily injury and property damage and any and all vehicles owned, used, or hired.

9. Certificate of Insurance. Prior to entering the Project Site to perform the tests as authorized by this Agreement, Redeveloper shall furnish the City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. The City of Lincoln shall be specifically named as an additional insured on the Commercial General Liability Insurance. Proof of worker's compensation insurance shall be shown as appropriate. All certificates shall provide for thirty (30) days written notice to Redeveloper prior to cancellation, non-renewal, or material change of any insurance referred to therein. Redeveloper shall provide the City a copy of such notice of cancellation, non-renewal, or material change within five (5) days following its receipt of said notice. Failure of Redeveloper to provide such certificate or other evidence of full compliance with these insurance requirements may result in termination of this Agreement at City's option. If Redeveloper fails to maintain the insurance as set forth herein throughout the term of this Agreement, City shall have the right, but not the obligation, to purchase said insurance at Redeveloper's expense. Redeveloper shall provide certified copies of all insurance policies required above within ten (10) days of City's written request for said copies. By requiring insurance herein, City does not represent that coverage and limits will necessarily be adequate to protect Redeveloper, and such coverage and limits shall not be deemed as a limitation on Redeveloper's liability under the indemnities granted to City in this contract.

10. Waiver of Subrogation. City and Redeveloper hereby waive any recovery of damages against each other (including their employees, officers, directors, agents, or representatives) for any loss or damage to the Project Site, tenant improvements and betterments, fixtures, equipment, and any other personal property to the extent covered by the commercial property insurance required by this Agreement. Redeveloper waives all rights against City and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance or by the Worker's Compensation or Employer's Liability Insurance.

G. Right to Terminate Redevelopment Agreement. Prior to the Closing, the Redeveloper shall have the right to notify JPA and City that based upon the results of the Tests, the Redeveloper has determined, in its sole discretion, that the condition of the Project Site is not suitable for its intended uses. In the event of such notice from the Redeveloper to the JPA and the City on or before the Closing, Redeveloper shall have the option, by written notice delivered to JPA and the City to terminate this Redevelopment Agreement. In the event Redeveloper provides timely notice to terminate this Redevelopment Agreement, the Redevelopment Agreement shall be deemed terminated, and the parties shall have no further obligation to one another.

H. Indemnification. The JPA shall, from and after the conveyance of the Project Site to Redeveloper, indemnify and hold Redeveloper harmless from and against any claim, demand, cost or liability arising out of or attributable to the environmental condition of the Project Site conveyed to Redeveloper by the JPA, except to the extent such claim, demand, cost or liability arises out of, or is attributable to the Redeveloper's failure to comply with the post-acquisition due diligence requirements in 42 USC § 9601(40), the Environmental Covenant and/or the O & M Plan.

Section 405. Article IV - Run with the Land. It is intended that each of the restrictions set forth in Section 403 and Section 404 shall extend beyond the expiration of the Tax Increment Period, shall run with the land and shall bind every person having any fee or other interest in the Project Site, and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

ARTICLE V.

PARKING RIGHTS

Section 501. Office & Retail Monthly Parking; Redeveloper's Right to Lease.

After substantial completion of the Private Improvements, the Redeveloper, for the sole use of its tenants, shall have the right to lease the following monthly parking in the JPA Green 2 Parking Garage (“**Deck 2**”), which is operated, managed, and maintained by the City, acting through its Parking Manager, on behalf of the JPA.

A. Non-Reserved Monthly Parking Stalls. Subject to Section 402.B below, the first right of refusal to lease up to Three Hundred Ninety (390) parking stalls (“**Non-Reserved Parking**”). The Non-reserved Parking shall be for 24 hours a day, seven (7) days a week, three hundred sixty-five (365) days a year except for parking for University of Nebraska home football games, Nebraska men’s home basketball games, and the largest twenty (20) Arena events (collectively, “Events”). The Redeveloper’s right to lease the Non-Reserved Parking shall be placed ahead of all other requests for parking except for those requests made pursuant to parking rights contained in an earlier Redevelopment Agreement. Redeveloper understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing parking permit to accommodate Redeveloper’s request for Non-Reserved Parking permits. The Non-Reserved Parking shall initially be leased under parking permits issued by the City at the rate of \$56.25/month/stall which reflects the current monthly rate of \$62.50/month/stall discounted 10% for the combined large volume and annual prepayment discount. The \$62.50/month/stall rate (subject to eligible discounts) shall apply for the first five (5) years following Substantial Completion of the New Building, and thereafter parking permits shall be at the then-current monthly rates (subject to eligible discounts) charged to other non-reserved monthly parkers in similarly situated garages. The City’s Parking Manager

shall use the \$890,000 prepaid Parking Rights payment portion of the Purchase Price to fund a Redeveloper Parking Account Fund which the City Parking Manager will draw down upon to pay for the Redeveloper's Non-Reserved Parking until the Redeveloper Parking Account Fund is depleted. Except as herein stated, the rights granted hereunder shall be subject to regular and timely payment of the parking charges as the same may from time to time be established or revised by the City. Redeveloper agrees that Redeveloper shall not charge its tenants for use of said parking stalls a fee during the life of the Redeveloper Parking Account Fund and thereafter shall not charge its tenants a fee in excess of the rate paid by the Redeveloper and a reasonable administrative fee that may be charged by the Redeveloper to its tenants to manage the parking rights.

B. Duration. The parking rights outlined in this Section 501 shall survive the expiration of the fifteen (15) year tax increment capture period and shall continue so long as the New Building is adequately maintained and utilized for office and retail use.

Section 502. Failure to Exercise Parking Rights. If Redeveloper does not exercise any or all of the above rights to lease parking stalls in Deck 2, Redeveloper shall have the following continuing right to lease parking stalls:

If Non-Reserved Parking permits are not available when requested to meet any or all requests by Redeveloper, the City shall place any such unfilled request for permits at the head of the Non-Reserved Parking waiting list to be compiled by the City or its agent operating the Deck 2 ("**Waiting List**"). Notwithstanding the above, Redeveloper understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing Reserved Parking, Monthly Parking and Event Parking permit to accommodate Redeveloper's request for parking permits.

Section 503. Termination of Parking Rights. The City shall have the right to terminate any or all of the parking rights granted to Redeveloper in this Article IV in the event the Redeveloper fails to pay the ad valorem taxes on the Private Improvements.

ARTICLE VI.

TAX AGREEMENT

Section 601. 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 A and TIF Bond B (defined below) to fund the Redeveloper Public Improvements 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 A and TIF Bond B will be derived from the increased valuation from redeveloping the Project Site as provided in this Agreement. Redeveloper agrees not to contest any taxable valuation assessed for the Project Site and Private Improvements thereon which do not exceed \$26,928,000.00 commencing on the Effective Date (defined below) of the Ad Valorem Tax Proposition and continuing for a period of not to exceed fifteen (15) years after the Effective Date or so long as any portion of the TIF Indebtedness with respect to the TDP Project remains outstanding and unpaid, whichever period of time is shorter.

Section 602. 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 Indebtedness (defined below) has been authorized by an ordinance adopted by the City Council of the City of Lincoln (“**TIF Bond Ordinance**”), which date is after the remonstrative period in Neb. Rev. Stat § 18-2142.01 but as soon thereafter as is practicable and on or before the date(s) the City needs funds in the Project Account A or Project Account B in order to reimburse the City for the First Priority use of TIF Bond A Proceeds and TIF Bond B Proceeds or for the City to timely make a grant or grants from the TIF Bond A Proceeds and/or TIF Bond B Proceeds to the Redeveloper, the City shall issue TIF Indebtedness as follows: (i) “TIF Bond A” in the aggregate principal sum of Five Million Dollars (\$5,000,000) to be purchased by the JPA or other investor purchaser of the City’s choosing (“**TIF Bond A Purchaser**”) and receive TIF Bond A Proceeds from the TIF Bond A Purchaser to be deposited into a City fund account (the “**Project Account A**”) for payment of the City’s First Priority expenses set forth in Section 603.A below and to fund in the Second, Third, Fourth, and Fifth Priority Expenses in Section 603.A below, and (ii) “TIF Bond B” in the aggregate principal sum of One Million Dollars (\$1,000,000) to be purchased by the Redeveloper or Redeveloper’s Lender (“**TIF Bond B Purchaser**”) and receive TIF Bond B 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 First Priority Expenses in Section 603.B below and to fund the Second Priority Expenses as set forth in Section 603.B below. The combined total dollar amount of the above TIF Indebtedness is the estimated amount of the tax increment to be generated on the Project Site and Private Improvements based upon an estimated taxable valuation of \$26,928,000.00 after substantial completion of the Private Improvements in 2017.

B. Authority of City Finance Director. Subject to the terms of the TIF Bond Ordinance and this Redevelopment Agreement, the City Finance Director on behalf of the City shall make all necessary arrangements regarding timing of issuance of TIF Bond A and TIF

Bond B in one or more series and all other details of TIF Bond A and TIF Bond B, TIF Tax Revenues, Project Account A, Project Account B, and Grant of Funds to reimburse Redeveloper for all or a portion of the Site Acquisition, 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, or as otherwise provided in the TIF Bond Ordinance and any amendments thereto authorizing issuance of the TIF indebtedness. Upon retirement of TIF Bond A and TIF Bond B, any remaining semi-annual TIF Tax Revenues received during the Tax Increment Period (“**Excess TIF Tax Revenues**”) shall be applied toward the remaining payment of Purchase Price for so long as any portion of the Purchase Price remains outstanding. Thereafter, Excess TIF TAX Revenues shall be used to reimburse the City for other eligible public expenditures in the TDP Project Area or returned to the County Treasurer for distribution to the taxing authorities as provided in the Community Development Law. All such arrangements made by the Finance Director shall be subject to approval of the Mayor.

Section 603. Use of TIF Bond Proceeds.

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

FIRST PRIORITY: Reimburse the City for the cost of issuing the TIF Bond A, including but not limited to bond counsel fees, fiscal advisory fees, placement fees, capitalized interest and reserves, the Tax Increment Financing Fee in the amount of one percent (1%) of the

combined total of TIF Bond A and TIF Bond B, and the City's cost to record Exhibits G, H, I, and L.

SECOND PRIORITY: Payment of grant or grants in the amount of \$1,590,000 to reimburse Redeveloper for a portion of the Purchase Price for the Site Acquisition including the acquisition of the Parking Rights.

THIRD PRIORITY: Payment of grant or grants in the minimum amount of \$300,000 to reimburse Redeveloper for costs of the Redeveloper Streetscape Improvements and in the minimum amount of \$400,000 to reimburse Redeveloper for costs to design the Plaza and construct the Plaza Enhancements.

FOURTH PRIORITY: Payment of grant or grants to reimburse Redeveloper for the cost of the Energy Enhancements.

FIFTH PRIORITY: Payment of grant or grants to reimburse Redeveloper for the costs of the Façade Enhancements.

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

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

SECOND PRIORITY: Payment of grant or grants to reimburse Redeveloper for costs of the Façade Enhancements.

Only costs for Redeveloper Streetscape Improvements, Site Acquisition (including the acquisition of the Parking Rights), Plaza design, Plaza Enhancements, Energy Enhancements, and Façade Enhancements incurred after the date of this Agreement shall be eligible for reimbursement Priority items under Section 603.A and Section 603.B above.

The City shall not have any obligation to making a grant or grants to reimburse the Redeveloper for the Redeveloper Streetscape Improvements, Site Acquisition, Energy Enhancements and/or Façade Enhancements in excess of the available TIF Bond A Proceeds and TIF Bond B Proceeds as described above. Redeveloper shall use its own funds to fund any such costs that exceed the TIF Bond A Proceeds and TIF Bond B Proceeds that are lawfully available and granted to the Redeveloper hereunder. The funds granted to Redeveloper are restricted and earmarked solely for the reimbursement of eligible Redeveloper Streetscape Improvements, Site Acquisition (including the acquisition of the Parking Rights), Site Preparation, and Public Enhancements as described herein and the Redeveloper does not have discretionary judgment over the applications of said grant funds.

Section 604. 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 TIF Bond A Purchaser and TIF Bond B Purchaser the principal of the TIF Bond A and TIF Bond B, respectively, with interest as provided in the TIF Bond Ordinance at a rate not to exceed four percent (4%) per annum for TIF Bond A and not to exceed eight percent (8%) per annum for TIF Bond B. 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 Project Site not needed or required to pay the TIF A Bond Purchaser or TIF Bond B Purchaser for the TIF Bond A or TIF Bond B, respectively, 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 Project Site, shall be borne entirely by the

Redeveloper, TIF Bond A Purchaser and TIF Bond B Purchaser without recourse of any kind against the City.

605. Tax Increment Deficiency on TIF Bonds.

A. JPA or Investor Purchased TIF Bond A. If the JPA or an investor purchases TIF Bond A, 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 Project Site, shall be borne entirely by the JPA or investor 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 Bond A, 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. In the event the Redeveloper fails to pay any deficiency in annual TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Bond A, the TIF Bond A Purchaser agrees to defer payment of the same for each year that there exists a deficiency during the Tax Increment Period. If the TIF A Bond Purchaser 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 TIF Bond A Purchaser for such deferred payments. In the event the TIF Bond A is not retired in full at the end of the Tax Increment Period, any remaining indebtedness on TIF Bond A shall be forgiven.

B. Redeveloper Purchased TIF Bond B. If the Redeveloper purchases TIF Bond B, 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 Project Site, 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 Bond B, the Redeveloper as purchaser of the TIF Bond B 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 Bond B is not retired in full at the end of the Tax Increment Period, any remaining indebtedness on TIF Bond B shall be forgiven.

C. Lender Purchased TIF Bond B. If Redeveloper's Lender purchases the TIF Bond B, 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 Project Site, shall be borne entirely by the Redeveloper and TIF Bond B 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 Bond B, 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. In the event the Redeveloper fails to pay any deficiency in annual TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Bond B, the TIF Bond B Purchaser agrees to defer payment of the same for each year that there exists a deficiency during the Tax Increment Period.

If the TIF B Bond Purchaser 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 TIF Bond B Purchaser for such deferred payments. In the event the TIF Bond B is not retired in full at the end of the Tax Increment Period, any remaining indebtedness on TIF Bond B shall be forgiven.

D. 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 A and/or TIF Bond B as provided in paragraphs A, B, and C of this Section 605, 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 A or TIF Bond B) (“**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 Bond A or TIF Bond B, 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.

Section 606. Grant of Funds.

A. Grant of Funds. In order to support redevelopment of this TDP Project and as an inducement for Redeveloper to construct the Private Improvements, the City agrees to the extent allowed by law and then only to the extent funds are lawfully available from issuance of the TIF Indebtedness from TIF Bond A (“**TIF Bond A Proceeds**”) and TIF Bond B (“**TIF Bond B Proceeds**”), to pay on behalf of or make a grant of funds (“**Grant Funds A and Grant Funds B, respectively**”) to the Redeveloper up to the total amount of the respective TIF Bond A and TIF Bond B Proceeds, less the amounts expended on the First Priority Item for each TIF Bond, to reimburse Redeveloper for the cost of the TIF Bond A and TIF Bond B Priority Expenses. In

order to receive reimbursement from Grant Funds A and Grant Funds B, the Redeveloper shall submit authentic and satisfactory documentation to the City to verify the Private Improvements have been substantially completed and that the expenditures were made for eligible Redeveloper Priority Expenses. The City shall maintain a record of all expenditures of the TIF Bond A Proceeds and TIF Bond B Proceeds to determine the total amount of TIF Bond A Proceeds and TIF Bond B Proceeds expended on Redeveloper Priority Expenses. The City further agrees to grant Excess TIF Tax Revenues to Redeveloper to be applied toward the payment of the Purchase Price.

B. Reimbursement of Grants. Subject to Section 901 (Remedies) below, Redeveloper agrees to repay the City for the aid to construction and any grant or grants of funds to Redeveloper as provided for in Section 603.A (Use of TIF Bond A Proceeds) Section 603.B (Use of TIF Bond B Proceeds) and Section 606.A (Grant of Funds) above in the event Redeveloper fails to substantially complete the Private Improvements as provided in Section 304 (Commencement and Completion Deadline for Private Improvements) above and, upon such repayment of the of the grant funds, this Redevelopment Agreement shall be null and void in regards to Redeveloper's obligation to construct the Private Improvements located upon the Project Site. Subject to Section 901 (Remedies) below, in the event Redeveloper fails to maintain the Private Improvements as provided in Section 307 (Duty to Maintain) above, then said Redeveloper shall reimburse the City 1/15 of the grant funds granted Redeveloper for construction of the Private Improvements as provided for in Section 606 A (Grant of Funds) above, for each year a Redeveloper fails to maintain the Private Improvements.

Section 607. Restriction on Transfer. Redeveloper will not, for a period of fifteen (15) years after the issuance by the City to Redeveloper the Redeveloper's Certificate of Completion of the Private Improvements, or so long as the tax increment indebtedness remains

outstanding, whichever period of time is shorter (the “**Tax Increment Period**”), convey the Project Site to any entity which would result in the underlying real estate being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions or subsidiaries.

Section 608. Agreement to Pay Taxes. Redeveloper agrees to pay all real property taxes levied upon the Project Site 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 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 Project Site and improvements for tax purposes except as provided in Section 701.

Section 609. 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 agrees to maintain property insurance on an extended coverage all-risk basis in an amount not less than the replacement value but allowing for reasonable coinsurance clauses and deductibles. Redeveloper agrees 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, and shall pursue 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 pay the City the necessary amount for the City to retire the TIF Bond A in full, including interest. In addition, Redeveloper shall either forgive any remaining indebtedness and interest on TIF Bond B if the Redeveloper was the TIF Bond B Purchaser, or pay to the City the necessary amount of to retire the TIF BOND B in full (including interest) if the TIF Bond B was purchased by the Redeveloper's Lender.

D. Evidence of Insurance. On or before September 1 of each year during the Construction Period and Tax Increment Period, the Redeveloper shall provide the City with a certificate of insurance showing the above required insurance coverage, and said certificate shall include the amount of coverage provided under the policy.

Section 610. Condemnation. In the event that during the Tax Increment Period all or a substantial portion of the Project Site and Private Improvements is condemned by a condemning authority other than the City, and such 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 condemning authority an interest in such property equal to the amount of tax increment received by the City in the preceding year times the number of years remaining in the Tax Increment Period.

Section 611. Termination of Provisions. The provisions of this Article VI shall terminate upon the end of the Tax Increment Period.

ARTICLE VII.

MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

Section 701. Limitation Upon Encumbrance of Property. 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 to Redeveloper shall engage in any financing or any other transaction creating any mortgage or any other monetary encumbrance or monetary lien upon the Project Site and Private Improvements, whether by express agreement or operation of law, or suffer any monetary encumbrance or monetary lien to be made on or attached to such Project Site and Private Improvements, except for the purposes of obtaining funds only to the extent necessary to construct and develop the Private Improvements, and to finance, operate, maintain, repair, replace and insure said Private Improvements. All such mortgages, financial encumbrances, or monetary liens shall be subject to the terms and conditions of this Redevelopment Agreement and shall be recorded in the appropriate public records in a timely manner following their execution.

Redeveloper or any successors in interest shall notify the City in advance of any additional financing secured by mortgage or similar lien instrument that it proposes to enter into with respect to the Project Site and Private Improvements, and shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Project Site and Private Improvements whether by voluntary act of Redeveloper or otherwise.

Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to the Project Site and Private Improvements 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 avoid or prevent foreclosure of such encumbrance or lien.

Section 702. Mortgage Holder Obligations. Each mortgage holder who obtains title to the Project Site or any part thereof as a result of 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. The above exemption shall not run in favor of any purchaser at foreclosure or judicial sale other than the holder of the mortgage; nor in favor of any person who subsequently obtains title to the Project Site or any part thereof from the holder of the mortgage; provided, however, no person, including the holder of a mortgage authorized by this Redevelopment Agreement, may devote the Private Improvements thereon or any part thereof to any use or construct any improvements thereon other than those uses and improvements provided and permitted in accordance with this Redevelopment Agreement.

Section 703. Copy of Notice of Default to Mortgage Holder. 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 Redevelopment Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by this Redevelopment Agreement at the last address of such holder as shown in the records of the Register of Deeds of Lancaster County, Nebraska or as provided to the City by such mortgage holder.

Section 704. Mortgage Holder's Option to Cure Defaults. If thirty (30) days after notice or demand with respect to any breach of default as referred to in Section 703, such breach or default remains uncured, each such holder shall (and every mortgage instrument made prior to issuance by the City of the Redeveloper's Certificate of Completion) have the right, at its option, to cure or remedy such breach or default within sixty (60) days after the notice or demand

as referred to in Section 703, 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.

Section 705. City's Option to Purchase Property. In any case where the holder of any mortgage obtains title to the Project Site and any Private Improvements as a result of foreclosure proceedings or action in lieu thereof, prior to issuance by the City of the Redeveloper's Certificate of Completion of Improvements for the Private Improvements, the City shall (and any additional mortgage instrument made after the date of this Redevelopment Agreement with respect to the Project Site prior to issuance by the City of the Redeveloper's Certificate of Completion of Improvements shall so provide) be entitled, at its option, to a conveyance to it of the Project Site upon payment to such holder of an amount equal to the sum of:

- (1) The mortgage debt at the time of foreclosure or action in lieu thereof (less all the appropriate credits including those resulting from collection and application of rentals and other income received during foreclosure proceedings);
- (2) All expense with regard to foreclosure;
- (3) The net expense, if any, incurred by such holder in and as a direct result of its subsequent management and operation of the Project Site;
- (4) The depreciated cost of any improvement made by such holder;
- (5) An amount equal to the interest that would have accrued on the aggregate of such amounts had all such amounts become a part of the mortgage debt and such debt had continued in existence; and

(6) All other reasonable holding costs actually incurred as to the Project Site.

The City's option shall remain in force for ninety (90) days after the date the holder of any mortgage obtains title to said Project Site and notifies the City, unless the City waives the option prior to the end of such 90-day period. In the event the City exercises its option under this Section, then the City shall also be required to repay in full any and all outstanding TIF Bond A and TIF Bond B and shall be entitled to receive the TIF Bond A Proceeds and TIF Bond B Proceeds.

Section 706. Mortgage Rights Applicable to Other Forms of Encumbrance.

The rights and obligations of this Redevelopment Agreement relating to mortgages of the Project Site prior to issuance of the Redeveloper's Certificate of Completion of Improvements for the Private Improvements thereon shall apply to any other type of encumbrance on the Project Site, 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, all of which shall be as duly recorded in a timely manner in the public records of Lancaster County, Nebraska.

Section 707. Termination of Provisions. The provisions of this Article VIII shall terminate upon issuance by the City to the Redeveloper the Redeveloper's Certificate of Completion of Improvements for all the Private Improvements.

ARTICLE VIII.

REPRESENTATIONS

Section 801. Development of Project. Redeveloper represents and agrees that its undertakings, pursuant to this Redevelopment Agreement, have been, are, and will be, for the purpose of redevelopment of the Project Site and not for speculation in land holding.

Section 802. Restrictions on Assignments of Rights or Obligations. Redeveloper represents and agrees that prior to issuance of the Redeveloper's Certificate of Completion of Improvements by the City, there shall be no sale or transfer of Redeveloper or assignment of its rights or obligations under this Redevelopment Agreement to any party without the prior written approval of the City Administration, other than mortgages and involuntary transfers by reason of death, insolvency, or incompetency. The City shall be entitled to require, except as otherwise provided in this Redevelopment Agreement, as conditions to any such 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 Redevelopment Agreement by Redeveloper;

B. Any proposed transferee, by instrument satisfactory to the City and in form recordable in the Office of the Register of Deeds of Lancaster County, 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 Redevelopment Agreement and agreed to be subject to all of the conditions and restrictions to which Redeveloper is subject. No transfer of, or change with respect to ownership in Redeveloper's interest in the Project Site or any interest therein, however consummated or occurring and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Redevelopment Agreement with respect to the Project Site and

the construction of the Private Improvements that would have occurred, had there been no such transfer or change;

C. There shall be submitted to the City for review, not less than seven (7) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer; and if disapproved by the City, its disapproval shall be indicated to Redeveloper in writing; and

D. Redeveloper and its transferees shall comply with such other reasonable conditions as the City may find desirable in order to achieve and safeguard the purposes of the Proposal for Redevelopment; provided that in the absence of a specific written agreement by the City to the contrary, no such transfer or approval by the City shall be deemed to relieve the Redeveloper of any of its obligations with respect to the construction of the Private Improvements.

Nothing herein contained shall prohibit the Redeveloper from entering into any agreement to sell or other agreement as to transfer of any interest if such agreement can, by its terms only, become effective after the City has issued a Redeveloper's Certificate of Completion. The restrictions set forth in this Section 802 shall automatically terminate and no longer be binding on the Redeveloper upon the issuance of the Redeveloper's Certificate of Completion of Improvements by the City.

Section 803. Change in Scope, Termination of Project. City and Redeveloper agree that any material change in the scope of the TDP Project including termination of the entire Project for any reason, except as specifically set forth herein, shall require mutual written agreement considering the established Sources and Uses of Funds for the Project and, if applicable, the costs incurred by the respective parties to date. Notwithstanding the foregoing, in the event that Redeveloper is unable through no fault of Redeveloper to obtain the necessary

governmental approvals and permits from the City prior to Closing to construct the Private Improvements as reflected on the Project Schematic Drawings, Redeveloper may terminate this Redevelopment Agreement by delivering written notice to the City.

ARTICLE IX.

REMEDIES

Section 901. In General. Except as otherwise provided in this Redevelopment Agreement, in the event of any default in or breach of this Redevelopment Agreement, or any of its terms or conditions by the City, the JPA, Redeveloper, or any successors to such parties, such party (or successor) shall, upon written notice from the aggrieved party, proceed immediately to cure or remedy such default or breach, and in any event, such default or breach shall be cured within thirty (30) days after receipt of such notice, except that if such default or breach cannot, in the exercise of reasonable diligence, be cured within such thirty (30) day period, then the defaulting party within such period shall commence efforts to cure such default and shall diligently continue to cure the same. In case such action is not cured as provided above, the aggrieved party may institute such proceedings as may be necessary or desirable in its option to cure and remedy such default or breach including, but not limited to, proceedings to seek recovery for damages or to compel specific performance by the party in default or breach of its obligation. Any curing of any default or breach by a mortgagee of Redeveloper shall be deemed to be a curing by Redeveloper.

Section 902. Other Rights and Remedies; No Waiver by Delay. The parties hereto shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purposes of this Redevelopment Agreement. Any delay in instituting or prosecuting any action or proceeding or otherwise asserting its rights under this Redevelopment

Agreement shall not operate as a waiver of such rights to deprive a party of or limit such rights in any way.

Section 903. Delay in Performance For Causes Beyond Control of Party (“Force Majeure”). For the purpose of any provisions of this Redevelopment Agreement, the City, the JPA, and Redeveloper or their successors or assigns, shall not be considered in breach or default of their obligations in the event of delay in the performance of such obligations due to causes beyond their reasonable control and without their fault, including acts of God, acts of the public enemy, act of the federal or state government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of contractors, or subcontractors due to such causes (financial incapacity of the Redeveloper, contractors or subcontractors excepted); it being the purpose and intent of this section 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 the improvements shall be extended for the period of delay, provided that 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 any such delay, notify the other party thereof, in writing, and of the cause(s) thereof.

Section 904. Rights and Remedies Cumulative. The rights and remedies of the parties to this Redevelopment Agreement, whether provided by law or by this Redevelopment Agreement, shall be cumulative and the exercise by either party of any one or more such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for any other default or breach by the other party. A waiver of any right of either party conferred by this Redevelopment Agreement shall be effective only if such waiver is in writing and only to the extent as so specified in writing.

ARTICLE X.

MISCELLANEOUS

Section 1001. Conflicts of Interest; City Representatives Not Individually Liable.

No official or employee of the City shall be personally liable to Redeveloper, any successors in interest or transferees of Redeveloper, or any other party or person, in consequence of any default or breach by the City or for any amount which may become due to Redeveloper, its successors or transferees, or on any obligations under the terms of this Redevelopment Agreement.

Section 1002. Persons Authorized to Issue Approvals. For purposes of this Redevelopment Agreement and the approvals and disapprovals required hereunder, Redeveloper shall be entitled to rely on the written approval or disapproval of the City Council, or the Mayor, or the Director of the Department of Urban Development or its successor as authorized in this Redevelopment Agreement, as constituting the approval or disapproval required by the City. The Mayor is hereby authorized to amend or modify the Order of Priority and use of TIF Bond A Proceeds and TIF Bond B Proceeds for the Priority items as shown in Section 603.A and Section 603.B. Until City receives further written notice from Redeveloper, City shall be entitled to rely on the written approval of WRK, LLC as constituting the approval or disapproval of Redeveloper.

Section 1003. Equal Employment Opportunity. Redeveloper, for itself and its successors and transferees, agrees that during the construction and operation of the Private Improvements provided for in this Redevelopment Agreement, Redeveloper will not discriminate against any employee or applicant for employment for the Redeveloper because of race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Redeveloper will take affirmative action to ensure that applicants for employment are

employed, and that employees are treated during employment without regard to their race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Section 1004. Notices and Demands. A notice, demand, or other communication under this Redevelopment 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, Nebraska 68508

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

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

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

If to Redeveloper: TDP Phase Three, LLC
440 North 8th Street, Suite 140
Lincoln, NE 68508

With copies to: Cline Williams Wright Johnson & Oldfather, LLP
Attn: Thomas C. Huston
233 S. 13th Street, Suite 1900
Lincoln, Nebraska 68508

WRK Development, LLC
440 N. 8th St. #140
Lincoln, Nebraska 68508

B&J Partnership, Ltd.
340 Victory Lane
Lincoln, Nebraska 68528

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

Section 1005. Approval Not Unreasonably Withheld and Timely Approval.

Whenever approval or consent of either party is required hereunder, such consent shall not be unreasonably withheld or delayed. Except as may be specifically otherwise stated, any approval or disapproval required in this Redevelopment Agreement shall be issued within fourteen (14) days after receipt by the party issuing such approval/disapproval of all necessary information from the party requesting such approval. The party issuing such approval/disapproval shall promptly advise the requesting party as to whether all necessary information has been received. If any party to this Redevelopment Agreement submits any item to another party to this Redevelopment Agreement for approval pursuant to this Redevelopment Agreement, and the party so requested to approve fails to issue written approval or disapproval within the time period specified for such approval or disapproval, then such failure shall constitute approval of such item.

Section 1006. Access to Project Site. Redeveloper shall permit the representatives of the City to enter Project Site at any and all reasonable times, as the City may deem necessary for the purposes of this Redevelopment Agreement, including but not limited to work and inspection

of all work being performed in connection with the construction of the Private Improvements. Similarly, the City shall permit Redeveloper such entry upon the public rights of way for such purposes. 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. Notwithstanding the above, Redeveloper shall not be relieved of the provisions contained in Chapter 14.29 of the Lincoln Municipal Code regarding the use of streets for private construction purposes.

Section 1007. Termination of Provisions; Provisions Run With the Land. This Redevelopment Agreement shall run with the Project Site and shall inure to and bind the parties and their successors in interest. Except as otherwise provided herein, the provisions and covenants of this Redevelopment Agreement shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion of Improvements for the Private Improvements.

Section 1008. 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.

Section 1009. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Redevelopment Agreement are inserted for convenience of index and reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 1010. Mutual Cooperation. The parties agree to mutually cooperate in constructing the various improvements each is to construct in the West Haymarket Redevelopment Area so as to coordinate all timing to the extent reasonable, and further to facilitate opening of each facility at the earliest possible time.

Section 1011. Integrated Contract; Severance of Provisions; Interpretation; Governing Law. 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. Any uncertainty or ambiguity existing herein shall not be interpreted against a party because such party prepared any portion of this Redevelopment 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 as reimbursement for the cost of the Redeveloper 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). This Redevelopment Agreement shall be construed and governed by the laws of the State of Nebraska.

Section 1012. Definitions.

A. For the purpose of this Redevelopment Agreement, the term “holder” in reference to a mortgage shall be deemed to include any insurer or guarantor of any obligation or conditions secured by such mortgage or similar type of encumbrance who succeeds to or becomes subrogated to the rights of the mortgagee.

B. The term “mortgage” shall include a deed of trust or other instrument creating an encumbrance or lien as security for a loan.

C. The term “minimum investment” shall include all costs incurred by Redeveloper when constructing the Private Improvements and Public Enhancements, including but not limited to construction costs, fees, financing costs, and land costs.

Section 1013. Audit. 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 Redevelopment Agreement, as allowed by law. City shall be subject to audit by Redeveloper with regard to the collection, disbursement, and/or funding of any of the uses set forth in Section 603.B. and shall make available to Redeveloper and/or any auditor working on behalf of Redeveloper copies of all financial and performance-related records and materials germane to this Redevelopment Agreement and the use of the Tax Bond B Proceeds for the Priority Expenses described in Section 603.B.

Section 1014. Effective Date of Ad Valorem Tax Provision. At the request of the Redeveloper, the effective date of the Ad Valorem Tax Provision shall be January 1, 2017 (the year of Substantial Completion of the Private Improvements) as opposed to January 1 of the year of Site Acquisition and the City will deliver written notice to the County Assessor on or before August 1, 2017 to divide the property taxes in the Project Area and use the last certified

valuation for 2016 to divide the taxes for the remaining portion of the fifteen-year period as described in Section 18-2147 (3) of the Nebraska Revised Statutes. In consideration of the City approving the above request, Redeveloper agrees to defend, indemnify, and hold harmless the City of Lincoln against any claims, damages, losses, expenses, or challenges, including associated litigation costs and attorney fees, arising out of the establishment of the Effective Date as set forth in this Section. Further, to the extent that this provision is deemed invalid, void, unconstitutional, or otherwise unenforceable, the Redeveloper agrees to assume any and all risk associated with such an outcome and any effect it might have on the availability of proceeds otherwise allowed for repayment of indebtedness associated with this Agreement as described in Article III of this Agreement without any recourse against the City of Lincoln.

Section 1015. Expiration. Except as otherwise provided herein, this Redevelopment Agreement shall expire upon the expiration of the Tax Increment Period.

Section 1016. Recording. A Memorandum of this Redevelopment Agreement (in the form attached hereto as Exhibit O shall be recorded with the Register of Deeds of Lancaster County, Nebraska, against the Project Site.

Section 1017. Representations and Warranties of Parties.

A. Redeveloper represents and warrants to City as follows:

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

ii. Authority Relative to Agreement. This Redevelopment 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 Redevelopment Agreement by Redeveloper has been duly authorized by all necessary action by Redeveloper and except as provided in this Redevelopment 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 Redevelopment 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 Redevelopment Agreement by City has been duly authorized by all necessary action by the City and except as provided in this Redevelopment 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.

C. JPA represents and warrants to Redeveloper as follows:

i. Authority Relative to Agreement. This Redevelopment Agreement has been duly executed and delivered by JPA and constitutes a legal, valid and binding obligation of JPA, 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 Redevelopment Agreement by JPA has been duly authorized by all necessary action by JPA and except as provided in this Redevelopment 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 JPA, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which JPA is a party.

Section 1018. Counterparts. This Redevelopment Agreement may be executed in one or more counterparts which, when assembled, shall constitute an executed original hereof.

Section 1019. Successors and Assigns. The provisions of this Redevelopment Agreement shall be binding upon Redeveloper and its successors and assigns; provided, however, that the obligations of Redeveloper pursuant to this Redevelopment Agreement shall be binding upon Redeveloper and its successors and assigns only during their respective periods of ownership.

Section 1020. Purpose of Agreement. This Redevelopment Agreement has been entered into by the City to provide financing for the TDP Project, an approved redevelopment

project as defined in Neb. Rev. Stat. § 18-2103(12) within the Lincoln Center Redevelopment Plan.

Section 1021. Certain Public Enhancements. Notwithstanding any contrary provisions herein, the 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 coordinate, match and integrate the Public Enhancements with the New Building and Skywalk. Redeveloper shall timely submit architect, engineer or other professional designer estimates or contractor's competitive bids 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, 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. 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.

Section 1022. Authority. The Mayor is hereby authorized to take such action as the Mayor may deem necessary or advisable in order to carry out this Agreement, including, but not limited to, the authority to make minor alterations, changes or additions to the Agreement and the Exhibits.

Section 1023. Exhibits. The following Exhibits are attached to this Redevelopment

Agreement and are incorporated herein by this reference:

- Exhibit A - West Haymarket Redevelopment Area
- Exhibit B – TDP Project Area
- Exhibit C – Sources and Uses of TIF
- Exhibit D - Project Schematic Drawings
- Exhibit E- Use of Right of Way Easements and Hold Harmless Agreement
- Exhibit F - Redeveloper Bidding Procedures
- Exhibit G - Certificate of Completion of Improvements
- Exhibit H - Façade Easement Agreement
- Exhibit I - Skywalk Bridge Easement Agreement
- Exhibit J - Penal Bond
- Exhibit K - Disbursement Agreement
- Exhibit L - Environmental Covenant (Draft)
- Exhibit M - Plaza License Agreement
- Exhibit N - Intentionally Omitted
- Exhibit O - Memorandum of Redevelopment Agreement, Use Restrictions, Environmental Restrictions, and Parking Rights

[SIGNATURE AND NOTARY PAGES TO FOLLOW]

Executed by Redeveloper this ____ day of _____, 2015.

“Redeveloper”

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

EXHIBIT A

West Haymarket Redevelopment Area



Exhibit IV-141

West Haymarket Redevelopment Project Area

 Project Area  Parcels  Streets

City of Lincoln
Urban Development GIS
Printed 8/2007



TDP Phase Three

EXHIBIT B - PROJECT AREA

 TDP Phase Three

City of Lincoln - Urban Development Department

Created by: UDD



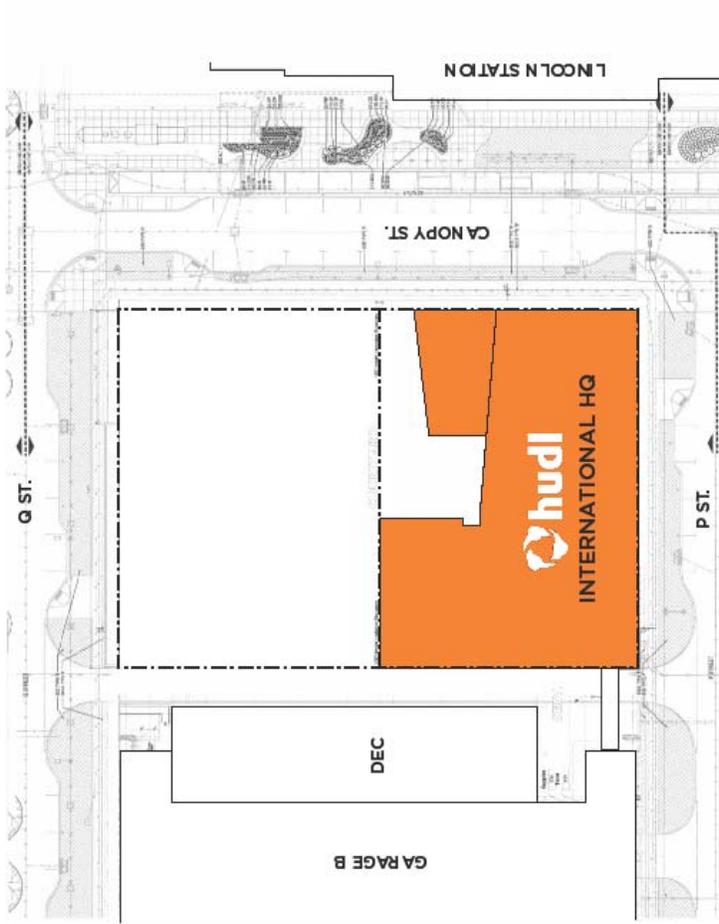
EXHIBIT C

Sources and Uses of TIF

TDP Phase Three Project	Total	Series A	Series B	Purchase Price Differential	Detailed Expenses
FIRST PRIORITY					
1. Cost of Issuance	\$10,000.00				Cost of issuing TIF indebtedness and City administrative fee
	<u>\$60,000.00</u>				
2. City Fee	\$70,000.00				
		\$70,000.00			
SECOND PRIORITY					
1. Cost of Land	\$700,000.00				Cost of land and 5 year parking arrangement
2. Cost of Parking	<u>\$890,000.00</u>				
	\$1,590,000.00				
		\$1,590,000.00		\$441,140.00	
THIRD PRIORITY					
1. Streetscape Improvements	\$300,000.00				Improvements to the public ways and design of Plaza and construction of Plaza Enhancements
2. Plaza Design & Enhancements	<u>\$400,000.00</u>				
	\$700,000.00				
		\$700,000.00			
FOURTH PRIORITY					
1. Energy Enhancements	\$1,415,000.00				Installation of DEC infrastructure and additional energy enhancements
2. DEC Capital Costs	<u>\$205,000.00</u>				
	\$1,620,000.00				
		\$1,620,000.00			
FIFTH PRIORITY					
Façade Costs	\$2,020,000.00	\$1,020,000.00	\$1,000,000.00		Difference between use of quality materials and use of materials that would satisfy Downtown Design Standards and Integrated Development Plan
TOTAL	\$6,000,000.00	\$5,000,000.00	\$1,000,000.00	\$441,140.00	

EXHIBIT D

PROJECT SCHEMATIC DRAWINGS



HUDL HEADQUARTERS
SITE PLAN



07.30.2015



SINCLAIR *hille* architects



HUDL HEADQUARTERS
WEST HAYMARKET DEVELOPMENT



SINCLAIR **hille** architects

07.30.2015

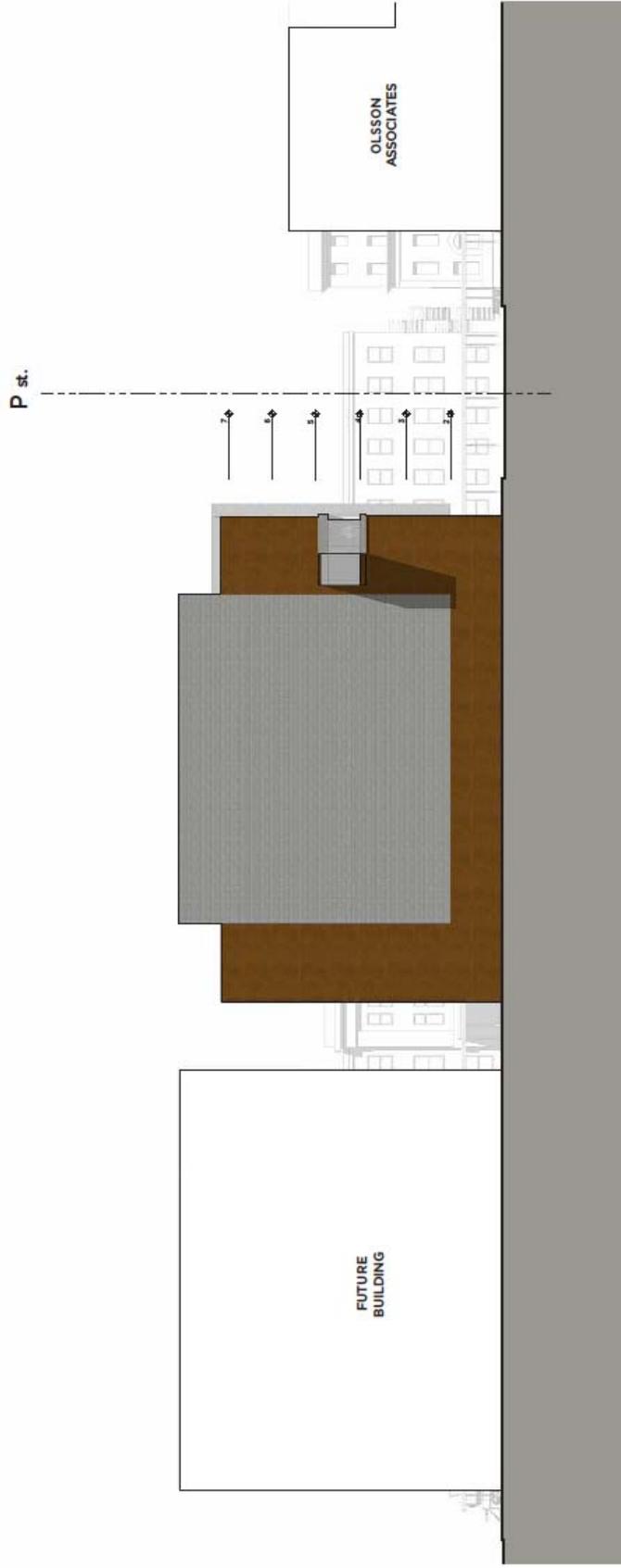


HUDL HEADQUARTERS
WEST HAYMARKET DEVELOPMENT



SINCLAIR **hille** architects

07.30.2015



BLOCK B SOUTH
WEST ELEVATION



SINCLAIR **hille** architects

EXHIBIT E

USE OF RIGHTS OF WAY EASEMENT AND HOLD HARMLESS AGREEMENT

THIS USE OF RIGHTS OF WAY EASEMENT AND HOLD HARMLESS AGREEMENT (“Agreement”) is entered into by and between the **City of Lincoln, Nebraska**, a municipal corporation (“City”), and **TDP Phase III, LLC**, a Nebraska limited liability company, (“Redeveloper”).

RECITALS

A.

Redeveloper has entered into a Redevelopment Agreement with the City to construct a seven-story building containing approximately 140,00 square feet of office space, and approximately 10,000 square feet of retail space or enclosed recreational facility and related outdoor courtyard and softscape treatments (“New Building”) to be located on the property legally described as:

Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster
County, Nebraska,

(“Project Site”).

B.

In order to construct the New Building with zero setbacks from the abutting public rights-of-way abutting the east, south, and west property lines of the Project Site as shown on the Footing and Foundation Encroachment Exhibit attached hereto as Attachment “A”, Redeveloper

has requested the City to grant Redeveloper a permanent two-foot wide and 3'4" deep foundation easement for the construction of an underground foundation system ("Foundation") to use space underneath and on the surface of City street and alley rights-of-way for the purpose of supporting said New Building.

C.

In order to construct the exterior of the New Building with an ornamental shade structure with vertical "fins" attached to the exterior walls of the New Building above the surface and overhanging the Canopy Street and Q Street rights of way as shown on the Area of Property Line Overhang Exhibit attached hereto as Attachment B, Redeveloper has requested the City to grant Redeveloper a permanent four-foot Overhang Easement for the construction of the ornamental shade structure to the New Building.

D.

The City is agreeable to granting Redeveloper the above described permanent for use of the public rights-of-way upon the terms and conditions below.

NOW, THEREFORE, in consideration of the above recitals and the covenants contained herein, the parties agree as follows:

1. Grant of Easements. The City agrees to and does hereby grant Redeveloper a two-foot permanent footings and encroachment foundation easement ("Building Foundation Easement") and a permanent four-foot Overhang Easement ("Building Overhang Easement) for the New Building on, under, or over those specific portions of the public street and alley rights-of-way abutting the New Building ("Easement Area") as shown on Attachment "A" and Attachment "B" to construct, maintain and repair the Foundation below the ground surface and to construct, maintain, and repair the ornamental shade structure above the ground surface. The Building Foundation Easement and Building Overhang Easement are granted in connection with

and for the benefit of Redeveloper's construction and use of the New Building. Redeveloper has the right of ingress and egress to (enter, exit and re-enter by vehicle or otherwise) the applicable Easement Area at all times and in such places as may be necessary or convenient to construct, maintain and repair the Foundation or ornamental shade structure for the New Building as permitted in this Agreement. Redeveloper may temporarily use such additional portions of the applicable right-of-way as may be reasonably required to access the applicable Easement Area and to construct, maintain or repair the Foundation and/or the ornamental shade structure as permitted in this Agreement, provided prior written notice is given to and written approval is received from the City for any such temporary use of public right-of-way outside any Easement Area, which approval will not be unreasonably withheld.

2. Covenants. In consideration of the grant of this Building Foundation Easement and Building Overhang Easement to Redeveloper, Redeveloper covenants and agrees with the City that the Redeveloper shall be bound by the following terms and conditions:

(i) In the exercise of Redeveloper's rights under the Building Foundation Easement and/or the Building Overhang Easement, Redeveloper is subject to any and all design, construction, or safety permits and the conditions of such permits required for the Foundation or ornamental shade structure by the City, including but not limited to applicable permits for land use, excavation, obstructions, stormwater and building construction. Prior to the commencement of work to construct, maintain or repair the Foundation or ornamental shade structure for the New Building, Redeveloper shall obtain all requisite governmental approvals and permits necessary for such work. All such work shall be completed in accordance with the governmental approvals and permits issued to Redeveloper and shall be made at Redeveloper's sole cost and expense. Redeveloper shall perform all work so as to cause no unnecessary damage or disturbance to any existing utilities located in the public right-of-way. Following completion of

the Foundation and ornamental shade structure, Redeveloper shall cause all debris and materials incident to such activity to be removed; fill any excavations and to the extent reasonably possible cause any damage to public right-of-way to be repaired and restored to a condition fully equal to that existing before construction operations were commenced. Such restoration work shall be performed in accordance with all governmental regulations, permits and approvals, and such restoration shall be made at Redeveloper's sole cost and expense.

(ii) Except during construction, maintenance and repair of the Foundation or the ornamental shade structure, Redeveloper shall not impair the use of the abutting rights-of-way, nor impair the protection of pedestrians and vehicles traveling upon said rights-of-way.

(iii) Redeveloper shall be responsible for any damages caused to the public utilities located in the public rights-of-way. Redeveloper further agrees that if such utilities are damaged or destroyed by construction, maintenance or repair of the Foundation or ornamental shade structure for the New Building, the City shall have the right to restore or replace the damaged utilities to a condition reasonably satisfactory to the City and consistent with the condition existing prior to such damage and bill Redeveloper for the cost thereof. Redeveloper shall pay said cost to the City within thirty (30) days from the date Redeveloper receives a request from the City for payment of said cost. Redeveloper further agrees that if the City's costs to maintain, repair or replace the utilities are increased due to the close proximity of the Foundation or ornamental shade structure to the utilities, Redeveloper shall be responsible for such reasonable increased costs. Redeveloper shall pay said increased cost to the City within thirty (30) days from the date Redeveloper receives a request from the City for payment of said costs.

(iv) The City shall not be responsible for any damages to the Project Site or the New Building, or injuries to persons resulting from a damaged public utility in the public rights-

of-ways, or any subsequent repair or maintenance thereof, except for damages or injuries covered by the negligent acts or omissions of the City due to causes unrelated to the Foundation or ornamental shade structure of the New Building. Redeveloper agrees to make no claim against the City for and expressly waives all rights and claims Redeveloper may have against the City for loss or damage to the Project Site or the New Building or the Redeveloper's business operations due to the loss of use thereof arising or resulting from a damaged public utility in the public rights-of-way or any other failure of such utility, except for damages or injuries covered by the negligent acts or omissions of the City due to causes unrelated to the Foundation or ornamental shade structure of the New Building.

(v) Redeveloper agrees to indemnify, defend and hold the City harmless and free from any and all liability and expense, including reasonable attorney fees incurred by City arising out of Redeveloper's use of either Easement Area or other parts of public rights-of-way pursuant to this Agreement.

(vi) Redeveloper agrees to make no claim against the City or any of its officers, employees, agents or representatives and expressly waives all rights and claims of Redeveloper for any loss or damage caused by the City's use or maintenance of the rights-of-way including, but not limited to, any loss or damage arising out of or resulting from any resurfacing thereof, to the extent such loss or damage is caused by the presence of the Foundation or ornamental shade structure in the applicable Easement Area.

The City is not divesting itself of title and ownership of the rights to use and enjoy each Easement Area for any purpose except the construction thereon of permanent buildings. The City specifically retains the right to use the surface of each Easement Area for right-of-way purposes. Said Building Foundation Easement and Building Overhang Easement is conveyed by City to Redeveloper "AS IS, WHERE AS" and "WITH ALL FAULTS;" and

neither City nor its agents, employees or other representatives make any guarantee, representation or warranty, express or implied (and City shall not have any liability to Redeveloper whatsoever) as to the condition or fitness of the Easement Area for the Foundation to support the New Building. Further, City shall have no liability for any latent, hidden, or patent defect as to any Easement Area or the City's rights-of-way adjacent thereto.

(vii) Redeveloper shall maintain in effect throughout the term of this Agreement comprehensive general liability insurance with an A rated insurance carrier, or better, qualified to transact business in the State of Nebraska, insuring against all legal liability for injuries or damages suffered as a result of the exercise of rights granted pursuant to this Easement and Agreement in an amount not less than \$2,000,000 each occurrence and \$5,000,000 aggregate. The City shall be named as an additional insured on such insurance policy.

Prior to commencement of construction of the Foundation or Facade, Redeveloper shall furnish the City with a certificate of insurance which shall include the provision that the City is named as an additional insured and shall be given 30 days written notification prior to cancellation of such insurance. It is the responsibility of Redeveloper to ensure that a current certificate of insurance is on file with the City at all times.

3. Covenant Running with the Land. This Agreement and the duties imposed hereunder shall run with the Project Site including the New Building and each Easement Area and shall be binding and obligatory upon the parties, and their successors and assigns, and shall terminate only at such time as the New Building is demolished.

4. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall constitute the same instrument, and any of the undersigned may execute this Agreement by signing any counterpart.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date indicated below.

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

Date of Execution: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

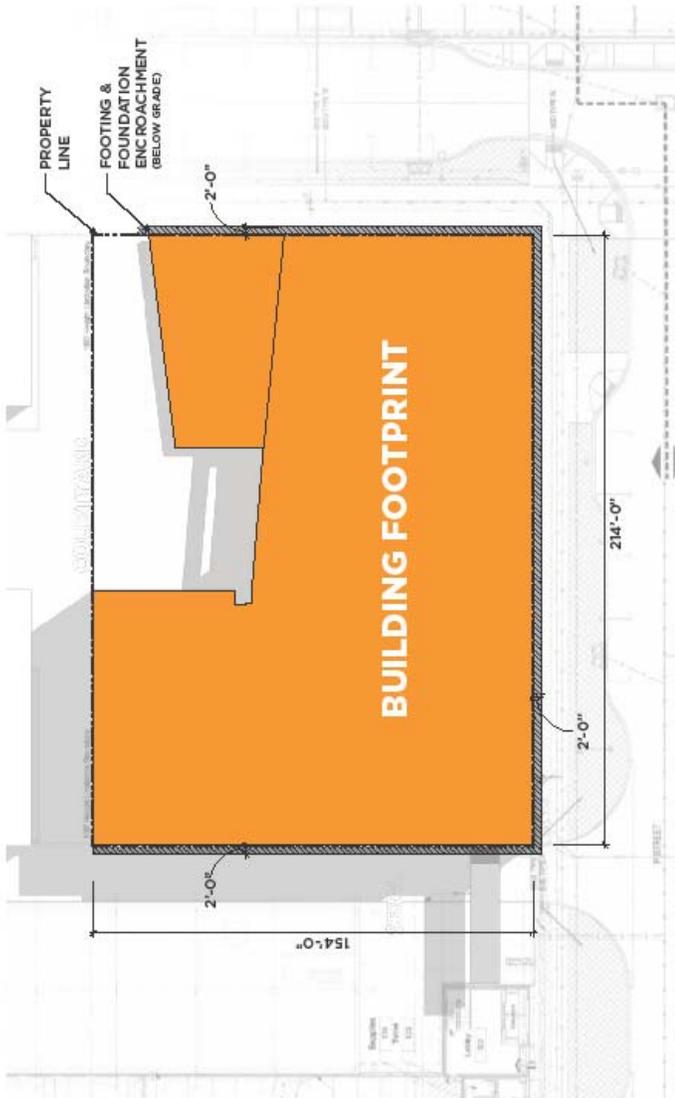
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public



SECTION "A"

- AREA OF PROPERTY LINE ENCROACHMENT

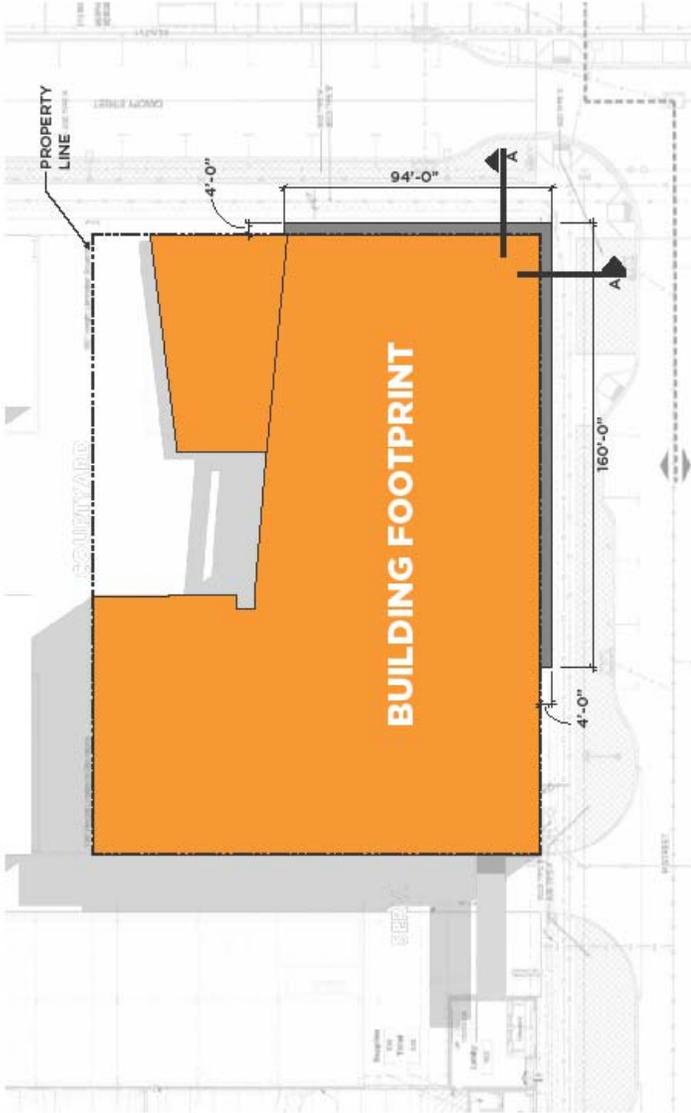
BLOCK B SOUTH
SITE PLAN & SECTION



07.23.2015

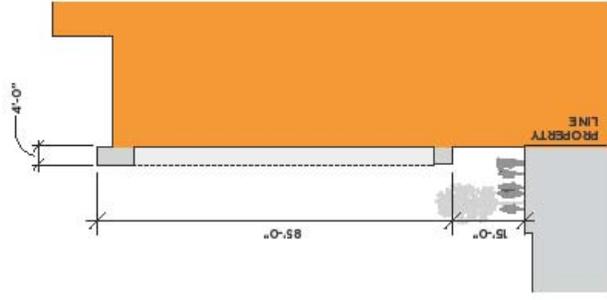


SINCLAIR *hille* architects



■ - AREA OF PROPERTY LINE OVERHANG

SECTION "A"



BLOCK B SOUTH
SITE PLAN & SECTION



SINCLAIR *hille* architects



07.23.2015

EXHIBIT F

REDEVELOPER BIDDING PROCEDURES

Redeveloper may conduct its own bidding for TIF funded improvements in lieu of using the City's Purchasing Division of the Finance Department provided that the following procedures are followed:

GENERAL REQUIREMENTS

1. Any and all bid specifications need to be presented to the City at the time when the Notice to Bidders is published. They can be delivered to the Director of Urban Development.
2. The Notice to Bidders shall be published at least once per week for two consecutive weeks in a newspaper of general daily circulation in the City. Redeveloper shall be required to provide proof that proper publication of the Invitation for Bids has been completed prior to opening the bids. An Affidavit of Publication from the Journal Star would be deemed acceptable.
3. The Notice to Bidders itself must meet the following requirements:
 - A. Be open to all potential bidders;
 - B. State the date when sealed bids must be received and the location where the bids are to be delivered;
 - C. State that the bids will be publicly opened and read in the presence of all bidders who attend the opening;
 - D. State where plans and specifications may be examined; and
 - E. Inform bidders that the redeveloper has the right to reject all bids.
4. A City representative shall be present when the bids are opened by the Redeveloper or its representative.

EXCEPTIONS TO FORMAL BIDDING

1. Single purchases of materials, parts, supplies, and equipment with an estimated cost of less than \$3,000 may be purchased directly by the Redeveloper, provided that at least three informal bids shall be obtained and recorded with the Urban Development Department.
2. Executive Order Construction Contracts approved by the Mayor and specifically authorizing without formal sealed bids the construction of street paving, water mains, sanitary sewers, and storm sewers by Redeveloper or its contractor when the payment of reimbursement or subsidies for such construction does not exceed \$100,000.

3. Competitive bidding shall not be required in contracting for professional services (e.g. architects, engineers, etc.)
4. Contracts for Public Enhancements, which include reasonable and appropriate design, improvement, and construction costs that are unique and not-competitive or otherwise required to transition, coordinate and integrate with Public Enhancements with or into the Private Improvements. Prior to entering into contracts for such Public Enhancements, Redeveloper shall submit architect, engineer or other professional designer or contractor's estimates for the cost of the Public Enhancements. The City shall approve or reject said cost estimates within ten (10) days of receipt of the same.
5. The bid must be awarded to the lowest responsible bidder. Any claim by the developer that the lowest bidder is not the lowest responsible bidder must be submitted with evidence to support said claim to the City in writing no later than five days following the public opening of the bids. The City, acting through the Mayor, shall review said request and either approve or deny said request within ten days of receiving said request. In considering the developer's request, the Mayor shall consider the factors listed in Lincoln Municipal Code Section 2.18.030(j). Denial of developer's request shall result in the lowest bidder being declared the lowest responsible bidder. Approval of the developer's request shall result in the bidder shown to be the lowest responsible bidder being selected. Redeveloper shall be specifically prohibited from awarding the contract to a bidder of its choosing subject to limiting the amount of reimbursement to the amount submitted by the lowest responsible bidder. Copies of all bids submitted pursuant to each Notice to Bidders shall be provided to the City Urban Development Department prior to the redeveloper awarding a contract based on said bids.

PURCHASING AGENT APPOINTMENT

If the Redeveloper is responsible for installing/constructing any City Public Improvements under the Redevelopment Agreement, the Redeveloper is deemed to be the City's Prime Contractor. As the City's Prime Contractor, the Redeveloper will be issued a Purchasing Agent Appointment (and Delegation of Authority for Sales and Use Tax), Form 17, signed by the Purchasing Agent or other authorized representative of the City. The Purchasing Agent Appointment shall be used by the Redeveloper to purchase building materials that will be annexed into the City Public Improvements. The Purchasing Agent Appointment does not apply to (1) the purchase of tools, supplies, or any items that will not be annexed into the City Public Improvements, including but not limited to form lumber, scaffolding, etc.; (2) the purchase or rental of machinery, equipment, or tools owned or leased by the Redeveloper or its Subcontractors and used in installing/constructing the City Public Improvements; or (3) the purchase of building materials to be used for the installation/construction of (i) City water mains and appurtenances thereto, and (ii) Lincoln Electric System facilities. Purchases qualifying as aforesaid shall be considered as being made by the City.

The Redeveloper may delegate its authority as Prime Contractor to Redeveloper's Subcontractor by completing and signing a copy of the original Purchasing Agent Appointment for each subcontractor as provided in the Form 17 Instructions. Each Subcontractor is hereby given the authority to reproduce copies of the Redeveloper's copy of said Purchasing Agent Appointment provided to the Subcontractor by the Redeveloper and to furnish the same to the Subcontractor's subcontractor(s), and the Subcontractor's subcontractor(s) shall complete and sign the same for its purchases in the same manner as above set forth for the Redeveloper and Subcontractor. The Redeveloper or its Subcontractor will provide a Nebraska Resale or Exempt Sale Certificate with Section C, Part 2 completed to supplier when purchasing building materials to be annexed into the City Public Improvements. The City shall be obligated to the vendor for the purchase price, but the Redeveloper or Subcontractor, as the case may be, shall handle all payments therefore on behalf of the City. The vendor shall agree to make demand or claim for payment of the purchase price from the City by submitting an invoice to the Redeveloper or Subcontractor. Title to all materials and supplies so qualifying shall vest in the City directly from the vendor. Regardless of the method of payment, title shall vest immediately in the City. The Redeveloper or Subcontractor shall not acquire title to any building materials annexed into the City Public Improvements. All invoices shall bear the Redeveloper's or Subcontractor's name as agent for the City.

EXHIBIT G

CERTIFICATE OF COMPLETION OF IMPROVEMENTS

Return the Original to:

TDP Phase Three, LLC

CERTIFICATE OF COMPLETION OF IMPROVEMENTS

KNOW ALL PERSONS BY THESE PRESENTS: That the undersigned Redeveloper certifies, represents and warrants to the City of Lincoln, Nebraska, (“**City**”) the conclusive determination and certification with regard to the following real property situated in the City of Lincoln, Lancaster County, Nebraska, to wit:

Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster County,
Nebraska,

that the Private Improvements required to be constructed by the undersigned “**Redeveloper**” upon the above described property have been satisfactorily completed in accordance with the requirements of the Redevelopment Agreement dated as of the ____ day of _____, 2015, between the City, the West Haymarket Joint Public Agency (“**JPA**”), and the Redeveloper, as evidenced by a Memorandum of the Redevelopment Agreement and Use Restrictions, dated as of the ____ day of _____, 2015 between the City, JPA and Redeveloper and recorded as Instrument No. _____ in the office of the Register of Deeds for Lancaster County, Nebraska.

Executed by Redeveloper this ____ day of _____, 2015.

TDP PHASE THREE, LLC, a Nebraska limited liability
company

By: **From Lincoln For Lincoln III, LLC**, a
Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited
liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

ACCEPTED by the City of Lincoln, Nebraska, this ____ day of _____, 201__.

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 _____, 2015, by Chris Beutler, Mayor of the City of Lincoln.

Notary Public

EXHIBIT H

FAÇADE EASEMENT AGREEMENT

Return the Original to:

City Attorney's Office
Attention: Rick Peo
555 South 10th Street
Lincoln, NE 68508

FAÇADE EASEMENT AGREEMENT

THIS FAÇADE EASEMENT AGREEMENT (the "**Agreement**") is made this as of this ____ day of _____, 20____ by and between TDP Phase Three, LLC, a Nebraska limited liability company ("**Grantor**"), and the City of Lincoln, Nebraska, a municipal corporation in the State of Nebraska ("**Grantee**").

RECITALS

- A. Grantor owns certain real estate located in Lincoln, Lancaster County, Nebraska, legally described as:

Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster County, Nebraska
(the "**Property**").

- B. Grantor entered into a Redevelopment Agreement, dated as of _____, 2015 between the Grantor as Redeveloper, the Grantee as the City and the West Haymarket Joint Public Agency ("**JPA**"), as evidenced by a Memorandum of the Redevelopment Agreement and Use Restrictions, dated as of the ____ day of _____, 2013 between the Grantor, Grantee and JPA and recorded as Instrument No. _____ in the office of the Register of Deeds for Lancaster County, Nebraska (the "**Redevelopment Agreement**") for the redevelopment and renovation of the Property.
- C. Pursuant to the Redevelopment Agreement, to ameliorate the blighted and substandard conditions of the Property and to enhance the aesthetics of the new building constructed on the Property (the "**New Building**"), Grantor agreed to make certain improvements to the vertical exterior façade of the New Building (the "**Façade**") for the benefit of the public. Under the Redevelopment Agreement Grantor is receiving tax increment financing from Grantee 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, Grantor and Grantee do now hereby agree as follows:

1. Façade. In consideration of the benefits received by Grantor under the Redevelopment Agreement, Grantor hereby agrees to subject the façade of the Property to the restrictions described herein.

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

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

b. Grantor shall not undertake, or allow to be undertaken, any material changes to the Façade, without the express written consent of Grantee. 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 Grantor from implementing any ordinary or necessary maintenance as set forth in Section 3 below or permitted signage.

3. Façade Maintenance. Grantor 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 Grantor desires to make any material changes to the Façade, Grantor shall give Grantee 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 Building or any part thereof shall be damaged by fire or other casualty, then Grantor shall use reasonable effort to reconstruct the Façade to the condition required under this Agreement. If the Building is damaged to such an extent that Grantor determines that reconstruction of said Building is not feasible and provides Grantee 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 Building.

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

7. Term. The term of this Agreement shall be fifteen (15) years from the date of completion of the improvements to the Façade. Provided, however, this Agreement shall terminate at any earlier date that the Redevelopment Agreement is terminated and is no longer in effect.

8. Public Access. Grantor 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 Building. Grantor shall have no obligation under this Agreement to allow the general public to view the interior of the Building.

9. Indemnification. Grantor shall defend, indemnify and hold Grantee 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 Grantor arising out of the conveyance of or possession of the Façade Easement.

10. Binding Effect. This Agreement shall be appurtenant to and run with the property. The grant of this easement shall be binding upon the heir, executors, administrators, successors and assigns of Grantor.

[SIGNATURE PAGE FOLLOWS]

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

“Grantor”

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

“Grantee”

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 _____, 2015, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public

EXHIBIT I

SKYWALK BRIDGE EASEMENT

Return the Original to:

City Attorney's Office
Attention: Rick Peo
555 South 10th Street
Lincoln, NE 68508

SKYWALK BRIDGE EASEMENT

That the **WEST HAYMARKET JOINT PUBLIC AGENCY**, herein called "**JPA**", record owner of the real property hereinafter described, for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, duly paid, the receipt whereof is hereby acknowledged, and the further consideration of the performance of the covenants and agreements by Redeveloper as hereinafter set out and expressed, does hereby **GRANT, REMISE and RELINQUISH** unto TDP PHASE THREE, LLC, a Nebraska limited liability company, and its successors and assigns, (collectively "**Redeveloper**"), the **RIGHT, PRIVILEGE and NONEXCLUSIVE PERPETUAL SKYWALK BRIDGE EASEMENT** to permit the design, construction, reconstruction, inspection, support, footings, connection, operation, maintenance, repair and replacement of a private skywalk bridge connecting the Redeveloper's New Building located on Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster County, Nebraska ("**New Building Property**") and the JPA Parking Garage ("**Deck 2**") located on Lot 1, Block 6, West Haymarket 2nd Addition, Lincoln, Lancaster County, Nebraska ("**Deck 2 Property**"), and to permit pedestrian ingress and egress from the New Building over and through the JPA Parking Garage (Deck 2) including Deck 2 vertical access between street level and the private skywalk bridge and to permit the construction, maintain, repair and replace said skywalk bridge (collectively "**Easement**").

The "**Easement Premises**" includes: (i) the width and length location for said skywalk bridge and the area necessary (including the area for footings and support columns) to construct, maintain, repair and replace said skywalk bridge between the New Building and the JPA Parking Garage (Deck 2) ("**Skywalk Bridge Permanent Easement Area**") and (ii) the pedestrian vertical access between street level and the Skywalk Bridge Permanent Easement ("**Vertical Access Permanent Easement Area**") and is shown on Attachment A.

Said Easement shall run with the land, New Building Property and Deck 2 Property for the benefit the New Building Property.

TO HAVE AND TO HOLD UNTO THE REDEVELOPER, its successors and assigns, so long as the JPA Parking Garage (Deck 2) is used as a parking garage and so long as the private skywalk bridge shall be in existence, subject to early termination as provided below, together with the right of ingress and egress, for the purpose of designing constructing, reconstructing, inspecting, supporting, connecting, operating, maintaining, repairing and replacing the skywalk bridge and appurtenances thereto, located thereon, in whole or in part, at the will of Redeveloper, it being the intention of the parties hereto that JPA is hereby granting the uses herein specified without divesting JPA of title and ownership of the rights to use and enjoy the above described JPA Parking Garage (Deck 2).

This Easement shall be subject to the following terms and conditions:

- (1) Prior to commencement of construction, reconstruction or repair of the skywalk bridge, Redeveloper shall submit for the JPA's review and approval, architectural and engineering plans for the construction, reconstruction or repair of the skywalk bridge.
- (2) Redeveloper shall cause the skywalk bridge to be constructed, reconstructed or repaired in substantial conformance with the skywalk bridge construction plans as approved by the JPA.
- (3) Responsibility for the cost of the private skywalk bridge and corridors within the New Building shall rest with the Redeveloper and no responsibility thereof shall accrue to the JPA by reason of the Redeveloper's benefits from this Easement. The services to be provided by the Redeveloper shall include, but not be limited to, the design, construction, reconstruction, inspection, support, connection, operation, maintenance, repair and replacement of a private skywalk bridge connecting the New Building and the JPA Parking Garage (Deck 2).
- (4) Redeveloper shall indemnify, defend and save harmless the JPA or its representatives from all claims, demands, suits, actions, payments, liability, and judgments, including reasonable attorney's fees arising out of the activities of Redeveloper or of Redeveloper's contractors or their agents, employees or invitees, in constructing, maintaining, operating, repairing or reconstructing the skywalk bridge, or the negligent or wrongful use of the Easement by Redeveloper or Redevelopers employees, invitees or agents. In this connection Redeveloper shall maintain during the life of this Easement, Commercial General Liability Insurance, naming and protecting Redeveloper and the JPA against claims for damages resulting from (1) bodily injury, including wrongful death, (2) personal injury; liability, and (3) property damage which may arise from work under this Easement whether such work be by Redeveloper or by any contractor, or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be a combined single limit of \$2,000,000 and \$5,000,000 aggregate.
 - i. The coverage shall be provided under a Comprehensive General Liability form of policy or similar thereto including contractual liability; and

- ii. The property damage coverage shall include a Broad Form Property Damage Endorsement and shall include the following extensions of coverage: Contractual Liability, Products Liability and/or Completed Operation.

The coverage required herein shall be subject to review and the minimum coverage amounts may be increased at any time by the JPA after a public hearing. At all times the Redeveloper shall keep on file with the City Clerk for the City of Lincoln, Nebraska a current certificate of insurance signed by a qualified agent of an insurance company licensed to do business in the State of Nebraska and approved by the City Attorney for the City of Lincoln, Nebraska for conformance with this section evidencing the existence of valid and effective policies of insurance naming the JPA as an additional insured for the coverage required herein, the limits of each policy, the policy number, the name of the insurer, the effective date and expiration date of each policy, the deductibles or self-insurance retainers of each policy, and a copy of an endorsement placed on each policy requiring thirty (30) days' notice by mail to the City Clerk before the insurer may cancel the policy for any reason, and upon request of the City Clerk or the City Attorney, a copy of any endorsements placed on such policies or the declaration page of such policies.

- (5) This Easement shall be permanent and shall be appurtenant to and run with the New Building Property. The JPA shall have the right to determine the location of the access corridor through the JPA Parking Garage (Deck 2).
- (6) Upon completion of construction of the skywalk bridge the Redeveloper shall be responsible for managing, maintaining, operating, repairing, and cleaning the skywalk bridge, the same to be done in a good and workmanlike manner.
- (7) This Easement shall not be released, terminated, revoked, amended, or modified, in any manner, without the express written consent of the City of Lincoln and the Redeveloper. Any purported release, termination, revocation, amendment, or modification of this Easement without such written consent shall be null and void and of no force or effect.
- (8) Notwithstanding any contrary provision herein, the City shall reserve all its rights to acquire by voluntary negotiation, and, if necessary, by the exercise of the power of eminent domain and payment of just compensation for the skywalk bridge and terminate this Easement for public purposes after the adoption by it of a resolution or ordinance declaring that the acquisition of skywalk bridge and terminate this Easement is necessary for such purposes.

THIS INSTRUMENT, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties.

Executed by Redeveloper this ____ day of _____, 2015.

“Redeveloper”

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

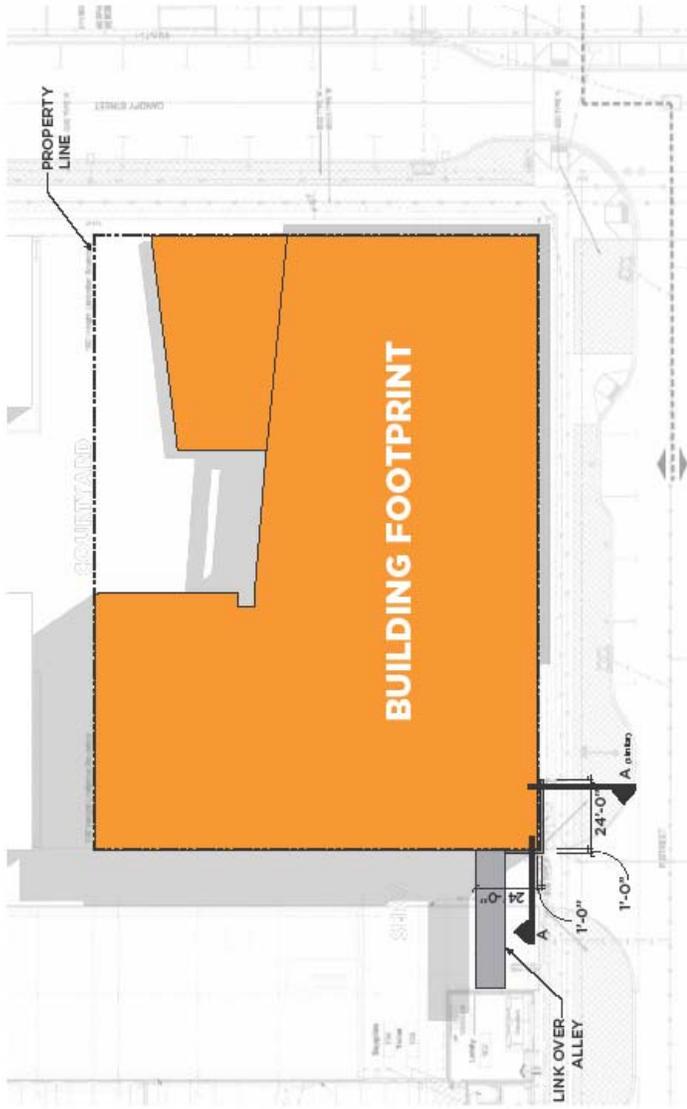
The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public



ATTACHMENT 'A' to Exhibit I



■ - AREA OF PROPERTY LINE OVERHANG

BLOCK B SOUTH
SITE PLAN & SECTION



07.23.2015



SINCLAIR *hille* architects

EXHIBIT J

Bond No. _____

PENAL BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, **TDP Phase Three, LLC**, a Nebraska 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 (\$_____00)**, 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 (TDP Project), dated _____, 2013 (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 Private Improvements as defined in said Redevelopment Agreement to be funded in part by tax increment financing pursuant to the Nebraska Community Development Law, upon the 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 Private 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 Private 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 Private 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]

Signed and dated this ____ day of _____, 2015.

“Redeveloper”

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

EXHIBIT K

DISBURSEMENT AGREEMENT

This Disbursement Agreement is entered into between the City of Lincoln, Nebraska, a municipal corporation (City) and TDP Phase Three, LLC, a Nebraska limited liability company (Redeveloper).

City and Redeveloper have entered into a Redevelopment Agreement for the TDP Project (Project). The Redevelopment Agreement provides for City support for the Project through grants to Redeveloper, funded through the issuance of a TIF Bond, to be repaid with tax increment revenue generated by the Ad Valorem Tax Provision, all in accordance with the terms of the Redevelopment Agreement and the Nebraska Community Development Law.

The Redevelopment Agreement requires the Redeveloper to construct certain Private Improvements and to provide evidence of a performance and payment bond from the Redeveloper.

In consideration of the foregoing recitals which are made a part of this Agreement and the mutual covenants of this Agreement, the parties agree as follows:

1. Terms, definitions. Capitalized terms used in this Agreement shall have the same definitions as contained in the Redevelopment Agreement, unless specifically defined otherwise.
2. Guarantee of Performance and Payment. Redeveloper guarantees 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.
3. Construction Loan. Redeveloper shall, prior to commencement of the Private Improvements, provide evidence that the construction financing or title insurance for such work provides for construction draws only upon demonstration of work completed as being in accordance with the approved plans pursuant to the Redevelopment Agreement and that all persons having performed labor or furnished materials, equipment or supplies for such category of improvement have been paid and given lien waivers in exchange for payment.
4. City Discretion. The parties acknowledge that this Agreement is entered into in lieu of City requiring a performance and payment bond by the Redeveloper on the Project. City's decision as to whether a category of improvement has been completed satisfactorily shall be final up to completion of all work required under the Redevelopment Agreement.

Dated: _____, 2015.

REDEVELOPER:

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

CITY:

CITY OF LINCOLN, NEBRASKA
a municipal corporation

By: _____
Chris Beutler, Mayor of Lincoln

EXHIBIT L

RECORDING REQUESTED BY AND WHEN RECORDED RETURN TO:

West Haymarket Joint Public Agency
c/o Rick Peo, Chief Assistant City Attorney
555 South 10th Street, Suite 300
Lincoln, NE 68508

Space Above for Record's Use Only

ENVIRONMENTAL COVENANT

This Environmental Covenant is executed this ____ day of _____, ____, by the West Haymarket Joint Public Agency ("JPA"), a political subdivision and corporate body politic of the State of Nebraska, as Grantor and Holder/Grantee, pursuant to the Uniform Environmental Covenants Act, Neb. Rev. Stat. §§76-2601 to 76-2613, hereinafter the "Act."

RECITALS:

A. Grantor is the owner of real property located within the East Flank of the West Haymarket Redevelopment Site North (WHRSN) generally located on the NW corner of Canopy and P Streets ("Property") and legally described as Lot 2, West Haymarket 2nd Addition (f/n/a the South 1/2 of Lot 3, Block 6, West Haymarket Addition).

B. Holder/Grantee (hereinafter "Holder") is JPA.

C. The Property has been used for railroad operations and was the site of release(s) of certain hazardous substances, pollutants or contaminants described in detail in the "West Haymarket Redevelopment Site North Investigation Report and Remedial Action Plan" (Benesch, 2012).

D. The Property is the subject of environmental response projects or actions pursuant to enrollment in the Nebraska Department of Environmental Quality's Voluntary Cleanup Program (VCP) authorized by the Remedial Action Plan Monitoring Act and the Petroleum Products and Hazardous Substances Storage and Handling Act.

E. The Agency, as defined in Neb. Rev. Stat. §76-2602, is the Nebraska Department of Environmental Quality (NDEQ).

F. The selected environmental response projects or actions which has heretofore been performed by Grantor, is documented in "West Haymarket North Investigation Report and

Remedial Action Plan”, (Benesch, 2012). The administrative record for this project or action is available to the public and located at the Nebraska Department of Environmental Quality, 1200 N St., Suite 400; Lincoln, NE.

NOW, THEREFORE, Grantor hereby declares that the Property will hereinafter be bound by, held, sold and conveyed subject to the following terms, conditions, obligations, and restrictions set forth herein, which will run with the land, in perpetuity, unless amended or terminated pursuant to Paragraph 11 below.

1. Representations and Warranties. The Grantor warrants to the other signatories to this Covenant that:

- a. The Grantor is the sole fee title owner of the Property;
- b. The Grantor holds sufficient fee title to the Property to grant the rights and interests described in this Environmental Covenant free of any conflicting legal and equitable claims; and
- c. The Grantor has identified all other persons holding legal or equitable interests, including but not limited to contract buyers, mortgage holders, other consensual lien holders, and lessees and secured their consent.

2. Purpose. The purpose of this Environmental Covenant is to ensure protection of human health and the environment by minimizing the potential for exposure to contamination that remains on the Property and to ensure that the Property is not developed, used, or operated in a manner incompatible with the approved remediation.

3. Running with the Land. The Environmental Covenant is perpetual and conveys to the Grantor/Holder real property rights that will run with the land, and gives to the Agency the right to enforce the activity and use limitations described in Paragraph 4. The terms, conditions, obligations, and limitations in this Environmental Covenant are binding on the Grantor, its successors, heirs, executors, assigns and transferees, and all persons, corporations or other entities obtaining or succeeding to any right, title or interest in the Property after the effective date of this Environmental Covenant. All real estate, lots, or parcels located within the Property are subject to the terms, conditions, obligations and limitations in this Environmental Covenant. Acceptance of any conveyance, transfer, lease or sublease of the Property, or part thereof, will bind each transferee, its heirs, executors, successors, transferees and assigns to the terms, conditions, obligations, and limitations during their respective period of ownership or occupancy, as applicable. Notice of any transfer of any interest in the Property must be promptly provided to the Agency by the transferor. The Grantor is bound by the terms, conditions, obligations and limitations in this Environmental Covenant only during its period of ownership or occupancy after the effective date. This Environmental Covenant in no way amends, modifies, limits, or releases the Grantor from its duties and obligations under the approved environmental response project or action.

4. Activity and Use Limitations. The Property is subject to the following activity and use limitations:

- a. Groundwater shall not be used as a potable drinking water source.
- b. Contact with contaminated soils shall be prevented by maintaining hard surface (building floor slabs, roadways, sidewalks, etc.) and/or a minimum of three ft. thick soil cover (East Flank).

- c. Any ground intrusive work (including, but not limited to excavation, digging and drilling) conducted must be conducted in accordance with the West Haymarket Area Environmental Operations and Maintenance Plan (Benesch, XXX).

5. Reserved Rights of Grantor. The Grantor hereby reserves unto itself and its successors all rights and privileges in and to the use of the Property which are not incompatible with the limitations granted herein.

6. Compliance Reporting. One year from the effective date of this Environmental Covenant, and on an annual basis thereafter until such time as this Environmental Covenant is terminated, the then-current fee simple owner of the Property shall submit to the Agency written documentation verifying that the activity and use limitations remain in place and are being complied with. Any signatory to this Environmental Covenant shall notify the Agency as soon as possible of conditions that would constitute a breach of the activity and use limitations.

7. Enforcement. The terms of this Environmental Covenant may be enforced in a civil action for injunctive or other equitable relief by the signatories and those persons authorized by and in accordance with Neb. Rev. Stat. §76-2611. Failure to exercise such rights of enforcement will in no event bar subsequent enforcement by any signatory and shall not be deemed a waiver of the signatory's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict or limit the Agency from exercising any authority under applicable law. The prevailing party in any action to enforce any provision of this Environmental Covenant is entitled to recover all costs of such action, including reasonable attorney fees. Any Holder and the Agency shall be entitled to recover damages for violations of this Environmental Covenant or for any injury to the remedial action required by the Agency, to the public or to the environment protected by this Environmental Covenant.

8. Rights of Access. The Grantor and any then-current owner hereby grants to the Agency, its agents, contractors, and employees, the right of access to the Property to monitor compliance with the terms, conditions, obligations, and limitations of this Environmental Covenant. Nothing in this Environmental Covenant shall limit or otherwise affect the Agency's right of entry and access or the Agency's authority to take response actions under applicable law.

9. Notice Upon Conveyance. Each instrument hereafter conveying any interest in the Property or any portion of the Property, including but not limited to, deeds, leases and mortgages, shall contain a notice of the activity and use limitations set forth in this Environmental Covenant, and provide the recorded location of this Environmental Covenant. The notice shall be in substantially the form set forth below. Within thirty (30) days of the date any such instrument of conveyance is executed, the Grantor or then-owner must provide the Agency with a certified copy of said instrument and its recording reference in the Lancaster County Register of Deeds.

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO AN ENVIRONMENTAL COVENANT DATED _____, RECORDED IN THE OFFICE OF THE REGISTER OF DEEDS OF LANCASTER COUNTY, NEBRASKA ON _____, AS INSTRUMENT NO. _____. THE ENVIRONMENTAL

COVENANT CONTAINS THE FOLLOWING ACTIVITY AND USE LIMITATIONS:

- 1) Groundwater shall not be used as a potable drinking water source.
- 2) Contact with contaminated soils shall be prevented by maintaining hard surface (building floor slabs, roadways, sidewalks, etc.) and/or a minimum of three ft. thick soil cover (East Flank).
- 3) Any ground intrusive work (including, but not limited to excavation, digging and drilling) must be conducted in accordance with the West Haymarket Area Environmental Operations and Maintenance Plan (Benesch, XXX).

10. Waiver of Certain Defenses. The persons and entities bound by this Environmental Covenant hereby waive any defense to the enforcement of this Environmental Covenant based on laches, estoppel, statute of limitations, or prescription.

11. Amendment and Termination. Amendment or termination of this Environmental Covenant shall comply with Neb. Rev. Stat. §76-2610. The terms of this Environmental Covenant may be modified or terminated by written consent of the Director of the Agency, the then current fee simple title owner, and all original signatories unless exempted by Neb. Rev. Stat. §76-2610. The amendment or termination is not effective until the document evidencing consent of all necessary persons is properly recorded. If not by consent, any amendment or termination of this Environmental covenant shall be as provided by Neb. Rev. Stat. §76-2609 and such additional terms as specified in this Environmental Covenant. As provided in Neb. Rev. Stat. §76-2610(c), except for an assignment undertaken pursuant to a governmental reorganization, assignment of an environmental covenant to a new holder is an amendment.

12. Severability. If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

13. Captions. The captions in this Environmental Covenant are for convenience and reference only and are not a part of this instrument and shall have no effect upon construction or interpretation.

14. Governing Law. This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Nebraska.

15. Recordation. Within thirty (30) days after the date of the Agency's approval of this Environmental Covenant, the Grantor shall record the Environmental Covenant, in the same manner as a deed to the property, with the Lancaster County Register of Deeds.

16. Effective Date. The effective date of this Environmental Covenant is the date upon which the fully executed Environmental Covenant has been recorded as a deed record for the Property with the Lancaster County Register of Deeds.

17. Distribution of Environmental Covenant. Within 60 days of the effective date, the Grantor shall distribute a file- and date-stamped copy of the recorded Environmental Covenant to the Agency and each person identified in Neb. Rev. Stat. §76-2607(a).

18. Notice. Unless otherwise notified in writing by the Agency, any document or communication required by this Environmental Covenant shall be submitted to:

Remediation Section
Waste Management Division
Nebraska Department of Environmental Quality
P.O. Box 98922
Lincoln, NE 68509-8922

City of Lincoln, Nebraska
Compliance Administrator
Public Works & Utilities Department
555 South 10th Street
Lincoln, NE 68508

West Haymarket Joint Public Agency
c/o City Attorney
555 South 10th Street, Suite 300
Lincoln, NE 68508

EXHIBIT M

Return the Original to:

City Attorney's Office
Attention: Rick Peo
555 South 10th Street
Lincoln, NE 68508

PLAZA LICENSE AGREEMENT

THIS PLAZA LICENSE AGREEMENT (the "**Agreement**") is made as of this ____ day of _____, 2015 by and between TDP PHASE THREE, LLC, a Nebraska limited liability company, ("**Grantor**"), and the City of Lincoln, Nebraska, a municipal corporation ("**Grantee**").

RECITALS

- A. Grantor owns or will own certain real estate located in Lincoln, Lancaster County, Nebraska, legally described as Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster County, Nebraska (the "**Property**").
- B. Grantor has identified an area of the Property that are accessible by the general public for nonexclusive limited uses, as defined in this Agreement. Such area include the outdoor plaza ("**Plaza**"), located on the Property as described on the attached Exhibit 1.
- D. Grantor has identified an area of the Property that is accessible by the Grantor and its tenants for nonexclusive limited uses as an outdoor plaza ("Courtyard"), located on the Property as described on the attached Exhibit 2.
- E. Grantor entered into the West Haymarket Redevelopment Agreement (TDP Project) (the "**Redevelopment Agreement**") for, inter alia, the redevelopment of the Property, dated as of _____, 2015 between the Grantor as Redeveloper, the Grantee as the City and the West Haymarket Joint Public Agency ("**JPA**"), as evidenced by a Memorandum of the Redevelopment Agreement, Use Restrictions, Environmental Restrictions, and Parking Rights dated as of the ____ day of _____, 2015 between the Grantor, Grantee and JPA and recorded as Instrument No. _____ in the office of the Register of Deeds for Lancaster County, Nebraska.
- D. Pursuant to the Redevelopment Agreement, and to ameliorate the blighted and substandard conditions of the Property, Grantor agrees to grant a nonexclusive limited license for the Grantee and its permittees to use the Plaza. Under the Redevelopment

Agreement, Grantor is utilizing tax increment financing facilitated by Grantee to improve the Plaza provided that the general public is granted certain rights to have access to the Plaza as described hereunder.

- E. This Agreement sets forth the parties' rights and obligations with respect to the license of the Plaza.

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

1. General Conditions of Use.

- a. Subject to the terms of this Agreement, Grantor hereby grants to Grantee for the benefit of the public a permanent limited, nonexclusive license to use the Plaza during the useful life of the Plaza. This license shall permit the Grantee and the general public rights for use of the Plaza in a manner that does not unreasonably interfere with Grantor's or any other permittee or authorized person's nonexclusive use of the Plaza, Courtyard or Property.
- b. Nothing in this Agreement is intended to permit any of the following enumerated or similar activities by the permittees in the Plaza: loitering, demonstrating, picketing, soliciting, begging, camping, littering, sunbathing, carrying firearms, engaging in any illegal, offensive, indecent, obscene, vulgar, lewd or disorderly speech, dress or conduct, or otherwise disturbing the peace ("**Prohibited Activities**").
- c. Grantor shall have the right to implement use restrictions, rules or regulations, subject to Grantee's approval which shall not be unreasonably withheld, which may include the right to deny access to the Plaza to persons who are disorderly or intoxicated or engaging in any of the Prohibited Activities.
- d. The rights and the license granted herein for the Plaza shall be in effect from 6:00 a.m. to 10:00 p.m. each day or the closing hours of the retail uses located on the Property, whichever is later, (the "Authorized Hours"). Provided, however, Grantor reserves the right to extend or decrease the Authorized Hours on certain specific days or for specific events if Grantor has a reasonable necessity or justifiable cause to do so. Grantor may deny access to the Plaza during the hours that do not constitute the Authorized Hours.
- e. Notwithstanding any contrary provision herein, the Grantor and its tenants shall have the right to restrict the public from having access to the Plaza for private special events, up to twenty (20) days per year. "**Private Special Events**" shall mean events formally sponsored by the Grantor or its tenants that require additional personnel or barriers to restrict or control access to the Plaza; provided that, the Property's building's entryways and Courtyard shall not be blocked nor barricaded. Grantor and Grantee shall mutually agree upon a calendar that outlines the permitted dates for the Private Special Events.
- f. The Grantee and its designated users shall have the right restrict the public from having access to the Plaza for city special events, up to ten (10) days per year. "**City**

- Special Events**” shall mean events formally sponsored by the Grantee or its designated users that require additional personnel or barriers to restrict or control access to the Plaza; provided that, the Property’s building’s entryways and Courtyard shall not be blocked nor barricaded. Grantor and Grantee shall mutually agree upon a calendar that outlines the permitted dates for the City Special Events. After each City Special Events, the Grantee or its sponsoring user, at their expense, shall be responsible to immediately clean up and remove all trash and event items and restore the Plaza to its pre-event condition.
- g. Grantor shall not deny access to the Plaza to any persons based on their age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry, disability or veteran status.
 - h. Grantor shall have the ability to deny access to the Plaza to any persons under the legal drinking age during certain hours or Private Special Events and City Special Events (collectively “**Special Events**”) where the Plaza constitutes a licensed premises for liquor license purposes.
 - i. Guide dogs or other animals specifically trained to assist persons utilizing the Plaza shall be permitted. Persons may bring other animals, birds, or other living creatures (“**Other Animals**”) into the Plaza, subject to the Grantor’s rules and regulations; provided however, Grantor shall not prohibit dogs being offered for adoption during City Special Events.
 - j. The Grantee, to the fullest extent permitted by law, agrees to indemnify, save, and hold harmless the Grantor , its tenants, managers, members, officers, agents and employees from and against all suits, claims, demands or actions, liabilities, judgments, costs, and reasonable attorneys’ fees (if permitted by applicable law) arising out of, claimed on account of, or in any manner predicated upon losses, damages, bodily injury, death, or property loss/damage resulting from, related to, caused by, or arising out of the City Special Events or the Grantee or its entities hosting or sponsoring a City Special Event (collectively “**City Special Event Sponsor**”), or their members, directors, officers, agents, servants, employees, contractors, invited guests, visitors, Other Animals, or others who may be on the Plaza for City Special Events (collectively “**City Special Event Parties**”). This section will not require Grantee to indemnify, defend, or hold harmless Grantor for any losses, claims, damages, and expenses arising out of ore resulting from the sole negligence of the Grantor.

Grantee further agrees that it shall require any and all City Special Event Sponsor to maintain General Liability Insurance, at its own expense, during the of City Special Event’s set-up, event, take-down, clean up, removal of all trash and event items, and restoration of the Plaza to its pre-event condition, naming and protecting said City Special Event Sponsor, the Grantee, and the Grantor, along with their members, directors, officers, agents, servants, employees, tenants, and visitors as additional insured against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury, and (d) property damage which may arise from the City Special Events whether caused by or as a result of the City Special Event Sponsor, or the City Special Event Parties. The minimum acceptable

limits of liability to be provided by such insurance shall be \$1,000,000 for each Occurrence and \$3,000,000 aggregate. The minimum amount of liability insurance coverage is subject to reasonable review and increases by the Grantor and Grantee every five (5) years based upon the reasonably comparable to the liability coverage generally carried by other owners of buildings similar to the Property. The Grantee hereby agrees to deliver or cause the City Special Event Sponsor to deliver to the Grantor within ten (10) days of the City Special Events, a copy of the certificate or certificates of insurance evidencing the purchase of such insurance in a form reasonably acceptable to the Grantor, and including such endorsements necessary to afford additional insured status.

- k. The Plaza shall at all times remain the private property of the Grantor and nothing in this Agreement or the granting of this License shall be deemed to create or constitute a public forum, limited or otherwise.
- l. Grantor shall, at its own cost and expense, perform all ordinary and/or necessary maintenance and repairs on the Plaza.

2. Mutual Cooperation. The parties specifically agree to mutual cooperation in modifying the terms and conditions of this License to avoid unintended consequences for all parties.

3. Binding Effect. Unless defined within, this Agreement shall be appurtenant to and run with the property. The grant of this easement shall be binding upon the heirs, executors, administrators, successors and assigns of Grantor.

[SIGNATURE PAGES TO FOLLOW]

"Grantor"

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

|

"Grantee"

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 _____, 2015, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Notary Public

EXHIBIT N

Intentionally Omitted

EXHIBIT O

**MEMORANDUM OF REDEVELOPMENT AGREEMENT,
USE RESTRICTIONS, ENVIRONMENTAL RESTRICTIONS,
AND PARKING RIGHTS**

Return the Original to:

City Attorney's Office
Attention: Rick Peo
555 South 10th Street
Lincoln, NE 68508

**MEMORANDUM OF REDEVELOPMENT AGREEMENT, USE RESTRICTIONS,
AND ENVIRONMENTAL RESTRICTIONS**

This Memorandum of Redevelopment Agreement & Use Restrictions (“**Memorandum**”) is made as of this ___ day of _____, 2015 by and between the City of Lincoln, Nebraska, a municipal corporation (“**City**”), the West Haymarket Joint Public Agency, a political subdivision and corporate body politic of the State of Nebraska (“**JPA**”), and TDP Phase Three, LLC, a Nebraska limited liability company (“**Redeveloper**”).

1. Redevelopment Agreement. The City, JPA, and Redeveloper have entered into that certain Redevelopment Agreement dated as of this even date, describing the public improvements being made by the City in the Redevelopment Area and the private improvements being made to real property owned by Redeveloper and legally described as:

Lot 2, West Haymarket 2nd Addition, Lincoln, Lancaster County, Nebraska
(the “**Project Site**”).

2. Parking Deck 2. Redeveloper will be constructing a skywalk connecting to Park Deck 2 west of the Project Site, and legally described as:

Lot 1, Block 6, West Haymarket Addition, Lincoln, Lancaster County, Nebraska
(the “**Deck 3 Site**”).

3. 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 Project Effective Date defined in the Redevelopment Agreement. The Tax Increment so captured by the City shall be used to make the public improvements as described in the Redevelopment Agreement.

4. 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.

5. Use Restrictions of the Property. Redeveloper hereby represents and agrees that neither all nor any portion of the Project Site shall be used, directly or indirectly, for the following uses:

(a) any outdoor off premises advertising specifically including billboards, signboards and related structures and appurtenances, except temporary signs advertising such lot is for sale or lease by the owner thereof;

(b) any business whose predominant operation is the retail sale of alcoholic beverages for consumption on and off the premises (predominant shall mean retail gross sales of alcoholic beverages in excess of 50% of gross sales on the premises); except that up to 50% of the overall retail space contained in the Private Improvements may be used for restaurants wherein the gross sales of alcoholic beverages exceed 50% of gross retail sales, provided such restaurants have a licensed kitchen and offer a full menu during the hours of 5:00 p.m. to 8:00 p.m. or any such business that has an unreasonable pattern of unlawful disturbances or liquor law violations (does not include micro-breweries, wine bars, pharmacies, or grocery stores);

(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 business that has an unreasonable pattern of unlawful disturbances or tobacco law violations (does not include pharmacies, cigar bars, or grocery stores);

(d) any business operated or held out to the public as a sexually oriented business including any business 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; sex toys or sexually oriented paraphernalia; sexually oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort service;

(e) any ground floor use by a business for which a majority of its ground floor area displays adult-oriented products;

(f) any business involving gambling or wagering even if otherwise permitted by law including keno, bingo, slot machines, video lottery machines, casino games, or off site pari

mutual wagering sites, but excluding the retail sale of lottery tickets as permitted by applicable law;

(g) at least 50% of the leasable retail square footage on any block face will have users whose minimum normal hours of operation, Monday through Saturday, are from 11:00 a.m. to 8:00 p.m.;

(h) no cell towers.

6. Environmental Use Restrictions on the Property. Redeveloper hereby represents and agrees that the Project Site is subject to the Environmental Covenant recorded against the Project Site which includes, but is not limited to, the following Environmental Use Restrictions:

(1) The Project Site shall not be used or developed in any manner that impairs, degrades or compromises the remediation performed by the JPA.

(2) Groundwater use is strictly prohibited as the entire redevelopment area is classified under Nebraska law as a RAC-III groundwater site. The only exception is for the drilling, operation or maintenance of groundwater monitoring wells by the JPA for environmental purposes.

(3) The clean soil capping system of three (3) feet that was put into place by the JPA during site preparation must be maintained in both the short and long term. This cap serves as a protective barrier to any residual environmental contaminants that remain in the ground, and is required to meet federal, state and local floodplain regulations.

(4) Prior to beginning vertical development of the site and prior to planned penetration of the soil capping system, any impacted soils leaving the area must be managed appropriately and in accordance with the West Haymarket Area Environmental Operations and Maintenance Plan (Benesch XXX). If impacted, those soils must be separately disposed at a permitted landfill.

(5) Changes in use or development to the property to any use other than industrial, commercial, office, multi-functional hotel, public park or plaza, open or green space, recreational area, or residential use, will require the approval of the Nebraska Department of Environmental Quality (“NDEQ”).

It is intended that each of the restrictions set forth herein shall extend beyond the expiration of the Tax Increment Period, shall run with the land and shall bind every person having any fee or other interest in the Project Site and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

7. Office & Retail Monthly Parking; Redeveloper’s Right to Lease. After substantial completion of the Private Improvements, the Redeveloper, for the sole use of its tenants, shall have the right to lease the following monthly parking in the JPA Green 2 Parking Garage (“Deck 2”), which is operated, managed, and maintained by the City, acting through its Parking Manager, on behalf of the JPA.

A. Non-Reserved Monthly Parking Stalls. Subject to Section 402.B below, the first right of refusal to lease up to Three Hundred Ninety (390) parking stalls (“**Non-Reserved Parking**”). The Non-reserved Parking shall be for 24 hours a day, seven (7) days a week, three hundred sixty-five (365) days a year except for parking for Events (defined below). The Redeveloper’s right to lease the Non-Reserved Parking shall be placed ahead of all other requests for parking except for those requests made pursuant to parking rights contained in an earlier Redevelopment Agreement. Redeveloper understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing parking permit to accommodate Redeveloper’s request for Non-Reserved Parking permits. The Non-Reserved Parking shall initially be leased under parking permits issued by the City at the rate of \$56.25/month/stall which reflects the current monthly rate of \$62.50/month/stall discounted 10% for the combined large volume and annual prepayment discount. The \$62.50/month/stall rate (subject to eligible discounts) shall apply for the first five (5) years following Substantial Completion of the New Building, and thereafter parking permits shall be at the then-current monthly rates (subject to eligible discounts) charged to other non-reserved monthly parkers in similarly situated garages. The City’s Parking Manager shall use the \$889,000 prepaid Parking Rights payment portion of the Purchase Price to fund a Redeveloper Parking Account Fund which the City Parking Manager will draw down upon to pay for the Redeveloper’s Non-Reserved Parking until the Redeveloper Parking Account Fund is depleted. Except as herein stated, the rights granted hereunder shall be subject to regular and timely payment of the parking charges as the same may from time to time be established or revised by the City. Redeveloper agrees that Redeveloper shall not charge its residential tenants for use of said parking stalls a fee during the life of the Redeveloper Parking Account Fund and thereafter shall not charge its tenants a fee in excess of the rate paid by the Redeveloper and a reasonable administrative fee that may be charged by the Redeveloper to its tenants to manage the parking rights.

B. Duration. The parking rights outlined in this Section 501 shall survive the expiration of the fifteen (15) year tax increment capture period and shall continue so long as the New Building is adequately maintained and utilized for office and retail use.

8. Failure to Exercise Parking Rights. If Redeveloper does not exercise any or all of the above rights to lease parking stalls in Deck 2, Redeveloper shall have the following continuing right to lease parking stalls:

If Non-Reserved Parking permits are not available when requested to meet any or all requests by Redeveloper, the City shall place any such unfilled request for permits at the head of the Non-Reserved Parking waiting list to be compiled by the City or its agent operating the Deck 2 (“**Waiting List**”). Notwithstanding the above, Redeveloper understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing Reserved Parking, Monthly Parking and Event Parking permit to accommodate Redeveloper’s request for parking permits.

9. Termination of Parking Rights. The City shall have the right to terminate any or all of the parking rights granted to Redeveloper in this Article IV in the event the Redeveloper fails to pay the ad valorem taxes on the Private Improvements..

[SIGNATURE PAGES TO FOLLOW]

Executed by Redeveloper this ____ day of _____, 2015.

"Redeveloper"

TDP PHASE THREE, LLC, a Nebraska limited liability company

By: **From Lincoln For Lincoln III, LLC**, a Nebraska limited liability company, Member

By: WRK Management, LLC, a Nebraska limited liability company, Manager

By: _____
William D. Scott, Co-Manager

By: _____
Robert E. Scott, Co-Manager

By: **Prataria Ventures – West Haymarket Phase One, LLC**, a Nebraska limited liability company, Member

By: _____
DJ Eihusen, Manager

By: **B&J Partnership, Ltd.**, a Nebraska limited partnership, Member

By: _____
Clay F. Smith, General Partner

By: **Nelnet Real Estate Ventures, Inc.**, a Florida corporation, Member

By: _____
Terry J. Heimes, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **William D. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **Robert E. Scott**, Co-Manager of WRK Management, LLC, Manager of From Lincoln for Lincoln III, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2015, by **D J Eihusen**, Manager of Prataria Ventures – West Haymarket Phase One, LLC, a Nebraska limited liability company, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Clay F. Smith**, General Partner of B & J Partnership, Ltd. a Nebraska limited partnership, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by **Terry J. Heimes**, Vice President of Nelnet Real Estate Ventures, Inc., a Florida corporation, Member of TDP Phase Three, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

(Seal)

Notary Public