

**FIRST AMENDMENT TO  
HY-VEE REDEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO HY-VEE REDEVELOPMENT AGREEMENT ("Amendment") is made and entered into as of the \_\_\_ day of January, 2007, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as "City") and HY-VEE, INC. ("Hy-Vee"). Hy-Vee is sometimes hereinafter referred to as "Redeveloper".

**RECITALS**

WHEREAS, on June 29, 2006, the City and Hy-Vee entered into the Hy-Vee Redevelopment Agreement ("Agreement"); and

WHEREAS, the City and Hy-Vee desire to amend the Agreement.

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:

1. Defined Terms. All capitalized terms not otherwise defined herein shall have the meaning ascribed to such term(s) in the Agreement.

2. Amendments to Article I Redeveloper's Responsibilities. The parties agree to amend Article I of the Agreement as follows:

A. Subparagraph C. of Section 101 is hereby deleted.

B. Exhibit "D" referred to in Section 103 is hereby deleted and replaced with Exhibit "D-1", which is attached hereto and incorporated herein by this reference.

3. Amendments to Article II Closing. The parties agree to amend Article II of the Agreement as follows:

A. Subparagraph d. of Section 201.B.1. is hereby deleted.

B. The language "on or before six (6) months of the date of this Agreement" contained in subparagraphs b., e. and f. of Section 201.B.1. is hereby deleted and replaced with the language "on or before January 29, 2007."

C. Subparagraph 2 of Section 204.A. is hereby deleted.

4. Amendments to Article VI City Improvements. The parties agree to amend Article VI of the Agreement as follows:

- A. The second line of Subparagraph B. of Section 601 is hereby amended to delete the reference to "50<sup>th</sup> Street."
- B. Subparagraph C. of Section 601 is hereby amended and restated as follows:
  - C. **New 50th Street.** On or before December 15, 2007, the City shall complete, at its cost, "New 50<sup>th</sup> Street" between "O" Street and "R" Street. New 50<sup>th</sup> Street shall include the following: acquisition of 66' feet of right-of-way from the terminus of the existing 50<sup>th</sup> Street right-of-way north of "O" Street north to "R" Street, as well as additional right-of-way to transition from new to existing 50<sup>th</sup> Street pavement; grading and pavement, including city standard curb and gutter, of 50th Street as a thirty-three (33) feet wide roadway, from its terminus north of "O" Street north to "R" Street, as well as a transition between the existing and new pavement; appurtenant storm sewer extension and improvements; sidewalks and street trees along the east side of 50<sup>th</sup> Street from "O" Street to "R" Street; water line, relocation of existing sanitary sewer line located on the 5000 "O" Street property, other utilities and ornamental street lights from "O" Street to "R" Street. The City is authorized to utilize any of its potential funding sources for the construction of New 50<sup>th</sup> Street. To the extent tax increment funds are available after the completion of sidewalks along "O" Street and 52<sup>nd</sup> Street, the City may utilize such funds for reimbursement of New 50<sup>th</sup> Street construction costs. In addition, the City is authorized to utilize condemnation, if necessary, to acquire the right-of-way and any temporary and permanent easements necessary to construct New 50<sup>th</sup> Street. At the Closing, the City will acquire from the Redeveloper the necessary real estate interests for the New 50th Street right-of-way, as well as right-of-way for future improvements to the existing 50<sup>th</sup> Street north of "O" Street, abutting 5000 O Street as shown on the Approved Plans for the appraised fair market value.

5. Full Force and Effect. Except as modified by this Amendment, each of the conditions, covenants, restrictions and reservations set forth in the Declaration shall continue and be binding upon the parties hereto and upon their successors and assigns and upon each of them and all parties and all persons claiming under them.

Executed by City this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

CITY OF LINCOLN, NEBRASKA  
a Municipal Corporation

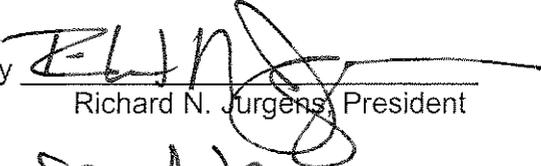
\_\_\_\_\_  
City Clerk

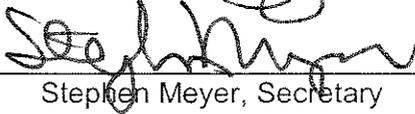
By \_\_\_\_\_  
Coleen J. Seng, Mayor

Executed by Redeveloper this 3<sup>rd</sup> day of January, 2007.

REDEVELOPER

HY-VEE, INC., an Iowa corporation

By   
Richard N. Jurgens, President

By   
Stephen Meyer, Secretary

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of the municipal corporation.

\_\_\_\_\_  
Notary Public

(Seal)

STATE OF IOWA     )  
                                  ) ss.  
POLK COUNTY        )

On this 3<sup>rd</sup> day of January, 2007, before me, the undersigned, a Notary Public in and for the state of Iowa, personally appeared Richard N. Jurgens and Stephen Meyer, to me personally known, who being by me duly sworn did say that they are the President and Secretary, respectively, of Hy-Vee, Inc.; that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Richard N. Jurgens and Stephen Meyer as such officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

(Seal)



Julie L. Jensen  
Notary Public in and for the State of Iowa

## EXHIBIT "D-1"

### TIMELINE

August 2004 Blight and Substandard Designation

April 15, 2005 Response to RFP Specification No. 05-049

May 2005 Redeveloper of Record selected under Nebraska Community Development Law including Hy-Vee, Inc. for 5000 O Street parcel – Negotiations begin

June 19, 2006 Introduction of Hy-Vee Redevelopment Agreement before City Council

June 26, 2006 Public Hearing and Action on Redevelopment Agreement

January 29, 2007 Environmental Site Assessment Complete

January 29, 2007 Closing on 5000 O Street Parcel

January to March 2007 Site demolition

Spring 2007 Private Construction begins

December 15, 2007 City Improvements are completed

Spring 2008 Redevelopment Project Grand Opening