

**PHASE I ANTELOPE VALLEY PARKWAY PLAZA TRIANGLE
REDEVELOPMENT AGREEMENT**

THIS PHASE I ANTELOPE VALLEY PARKWAY PLAZA TRIANGLE REDEVELOPMENT AGREEMENT ("Redevelopment Agreement") is entered into as of the ____ day of _____ 2009, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as "City"), and ASSURITY LIFE INSURANCE COMPANY, a Nebraska stock life insurance 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 Antelope Valley Redevelopment Plan (the "Redevelopment Plan") providing for redevelopment in the City of Lincoln in an area generally located on the north, east and southeast sides of Traditional Downtown and the University of Nebraska, a copy of which, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City (the "City Clerk").

B. On May 27, 2008, Redeveloper submitted a Proposal for Redevelopment to the City ("Proposal for Redevelopment"), in response to the City's Notice of Invitation to Submit Redevelopment Proposals with respect to the redevelopment of, among other areas, the real property bounded by 'Q' Street on the south, 'R' Street on the north, Union Plaza on the east, and 19th Street (a/k/a Antelope Valley Parkway) on the west, ("Phase I Project Site") and the real property bounded by 'R' Street on the south, 'S' Street on the north, Union Plaza on the east, and 19th Street (a/k/a Antelope Valley Parkway) on the west ("Phase II Project Site"). The Phase I Project Site and Phase II Project Site (jointly, the "Project Site") are more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

C. *Neb. Rev. Stat. § 18-2107 (2007 Supp)* 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.

D. Redeveloper is willing to enter into this Agreement and through an estimated investment of Forty Nine Million Eight Hundred Sixty Seven Three Hundred Fourteen and No/100ths Dollars (\$49,867,314.00) to redevelop the Phase I Project Site by constructing an approximately 175,000 square foot building for office use ("Office Building") and a six level parking structure containing approximately 590 parking stalls ("Parking Garage") for use as Redeveloper's new corporate headquarters on the Phase I Project Site, provided the City is willing to assist Redeveloper by making a grant or grants to be used by Redeveloper to conduct certain demolition, site preparation and remediation work (collectively "Site Improvements") and to pay for project related public utility relocation and/or public utility improvement and street right-of-way improvements (collectively "Public Improvements") as more particularly

described in Section 105A to make the Phase I Project Site available for redevelopment. The Office Building and Parking Garage are hereinafter collectively referred to as the “Private Improvements.”

E. The Leadership in Energy and Environmental Design (“LEED”) Green Building Rating System, developed by the U.S. Green Building Council (“USGBC”) provides standards for environmentally sustainable construction. The Private Improvements could qualify for four levels of LEED certification: Certified 23-27 points; Silver 28-33 points; Gold 36-44 points; and Platinum 45-61 points. Certification is obtained from the USGBC.

LEED certification would require the Redeveloper to incur additional up front capital costs compared to tradition new construction. The additional up front capital costs would not translate into overall savings to Redeveloper and therefore requiring LEED certification justifies the expenditure of public funds in order to obtain this public benefit.

F. The City is willing to support the above described redevelopment of the Phase I Project Site in accordance with the Proposal for Redevelopment provided Redeveloper is willing to restrict the use of the Phase I Project Site to certain approved uses and is further willing to agree to covenants and conditions regarding compulsory maintenance and upkeep of the Private Improvements to prevent a recurrence of substandard and blighted conditions.

The City is further willing to support the described redevelopment of the Phase I Project Site provided Redeveloper agrees, subject to reimbursement from available TIF Proceeds (as hereinafter defined), to construct certain facade upgrades consisting of limestone cladding to the Office Building and limestone cladding and buff concrete to the Parking Garage (“Facade Upgrades”), gray water recycling system improvements and such improvements as are necessary to obtain LEED certification on the Office Building (“LEED Certification Improvements”). The Facade Upgrades, gray water recycling system improvements and LEED Certification Improvements are hereinafter collectively referred to as the “Public Enhancements”.

G. 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 Redevelopment Project (as hereinafter defined) for the benefit of any public body shall be divided, for a period not to exceed fifteen (15) years after the effective date of such provision by the governing body 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 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 in the Redevelopment Project 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 of 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 Redevelopment 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 such Redevelopment Project 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."

H. *Neb. Rev. Stat.* §§ 18-2107 and 18-2150 (Reissue 2007) authorize the City to provide grants to the Redeveloper in order to accomplish rehabilitation or redevelopment of the Phase I Project Site in accordance with the Redevelopment Plan. In order to make a grant to the Redeveloper to construct the Public Enhancements and to reimburse Redeveloper for the cost of the Public Improvements, the City intends to issue tax increment financing indebtedness ("TIF Bond") to be repaid with the tax increment revenues generated under the Ad Valorem Tax Provision ("TIF Tax Revenues").

I. The City and Redeveloper desire to enter into this Agreement to implement the redevelopment of the Phase I Project Site in accordance with the Redevelopment Plan and the Proposal for Redevelopment (the "Redevelopment Project").

J. The City and Redeveloper mutually agree that the redevelopment of the Phase I 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. REDEVELOPER'S RESPONSIBILITIES

Section 101. Redeveloper Private Improvements Design Documents. Redeveloper shall prepare exterior schematic design plans (hereinafter "Design Documents") for the Private Improvements and Public Enhancements. The Design Documents will be submitted to and reviewed by the Urban Design Committee and approved by the City's Director of Urban Development. The preliminary concept drawings for the Private Improvements and Public Enhancements are attached hereto as Exhibit "B" and are incorporated herein by this reference.

Redeveloper shall submit any material changes in the Design Documents as approved to the Director of Urban Development for his review and approval.

Section 102. Private Improvements/Public Enhancements – Construction

Documents. The Redeveloper shall prepare or cause to be prepared at Redeveloper's expense detailed final construction plans and specifications for the Private Improvements and the Public Enhancements (hereinafter "Construction Documents") and shall submit such Construction Documents to the Director of the Urban Development Department for his review and approval; provided that his review and approval shall be limited to the design and type of materials to be used for the Private Improvements and Facade Upgrades to assure the Private Improvements and Facade Upgrades meet the City of Lincoln's design standards. The Director shall so approve or reject the Construction Documents within fourteen (14) days after receipt thereof. Such submittal approval is not a substitute for and does not eliminate the Redeveloper's requirement to apply for and receive the necessary building permit for construction of the Private Improvements and Public Enhancements.

The Construction Documents approved by the Director of Urban Development are hereinafter referred to as the "Approved Plans."

Section 103. Public Improvements – Design and Construction Documents. The Public Improvements shall be designed and final construction plans and specifications for the Public Improvements and Site Improvements shall be prepared in accordance with the City's Standard Specifications and shall be submitted to the Director of the Public Works & Utilities Department for review and approval pursuant to the City's executive order construction process.

Section 104. Construction of Improvements.

A. **Construction.** Redeveloper at its own cost and expense shall, through an estimated investment of \$49,867,314.00, construct the Private Improvements and Public Enhancements on the Phase I Project Site as described above in conformity with the Approved Plans. Redeveloper agrees to use commercially reasonable efforts to substantially complete construction of the Private Improvements and Public Enhancements and to pay in a timely manner Redeveloper's contractor, or his or her subcontractors who performed labor or supplied materials in the prosecution of the Private Improvements and Public Enhancements. In the event there is not enough available TIF Proceeds to complete the Public Enhancements the Redeveloper agrees to pay the City the necessary amount to complete the Public Enhancements and assume the cost for the same.

B. **LEED Certification.** Redeveloper agrees to use its best efforts to obtain LEED certification on the Office Building. In the event Redeveloper fails to meet the minimum requirements for LEED certification, then the Redeveloper agrees to repay the City the grant funds expended on LEED Certification Improvements.

C. **Reimbursement for Public Enhancements.** The City agrees to make a grant from available TIF Proceeds to reimburse Redeveloper for the cost of the Public Enhancements,

provided that the available TIF Proceeds amount shall not exceed \$4,713,889.00, which is the estimated construction costs for the Public Enhancements. Upon completion of the Public Enhancements, the Redeveloper shall have the duty and responsibility to maintain and repair the Public Enhancements at its own cost and expense and no responsibility thereof shall accrue to the City.

The Redeveloper shall not, except for ordinary or necessary maintenance, undertake or allow to be undertaken any changes to the façade of the Office Building or Parking Garage, including any of the following without the prior written consent of the City Director of the Urban Development Department: any material change in the façade the Office Building or Parking Garage 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 Office Building or Parking Garage; any significant reconstruction, repair, repainting or refinishing of the Façade Upgrades that alters its state from the Approved Plans, wear and tear excepted.

D. Time for Completion of Improvements. The development and construction of the Private Improvements (except for tenant finish within the buildings) shall be completed within three (3) years after the date hereof.

Section 105. Construction of Public Improvements.

A. Public Improvements. The Redeveloper, at its own cost and expense, through the City's Executive Order construction process shall, subject to reimbursement as provided below, to the extent of available TIF Proceeds as reflected in the Uses and Sources attached hereto as Exhibit "C" and incorporated herein by this reference: (i) design and relocate existing utility lines and easements on the Phase I Project Site to the extent necessary; (ii) relocate and/or replace the sanitary sewer and water main improvements on the Phase I Project Site; (iii) construct storm sewer improvements on the Phase I Project Site; (iv) construct public street improvements on the Phase I Project Site; (v) construct a left-turn lane in 19th Street at the approach to 'R' Street; (vi) construct and/or install sidewalks, street lighting and perimeter landscaping on the Phase I Project Site; (vii) design and construct 21st Street improvements for public parking in accordance with the Approved Plans; (viii) design and construct streetscape and right-of-way improvements on 'Q' Street; and (ix) construct the Site Improvements (collectively "Public Improvements"). The City shall not have any obligation to fund any Public Improvements costs that exceed the available TIF Proceeds. In the event there is not enough available TIF Proceeds to complete the Public Improvements, the Redeveloper agrees to assume the cost for the same.

It is understood and agreed that the City shall not be responsible for any of the cost to construct the Public Improvements except as otherwise provided herein.

B. Contractor; Bond and Insurance. The Redeveloper shall select a general contractor or contractors to construct or install the Public Improvements and Site Improvements described above in accordance with the City's competitive bidding procedures. Any such general

contractor shall be required to provide a performance and payment bond in the amount of the contract, or otherwise enter into a guarantee of payment and performance as may be acceptable to the City. Any such contractor for the Public Improvements and Site Improvements shall be required to obtain and keep in force at all times until completion of construction policies of insurance, including coverage for contractor's general liability, including Standard Blasting or Explosion coverage, Standard Collapse coverage, Standard Underground coverage, completed operations, and automobile liability, in the minimum amounts required by the city's standard specifications.

C. Reimbursement for Construction of Public Improvements. The City (to the extent TIF Proceeds are available) agrees to reimburse Redeveloper for Redeveloper's costs to construct the Public Improvements within thirty (30) days following completion of the work.

D. 21st Street. Upon the vacation of 21st Street, the City shall retain the south half of vacated of 21st Street as reflected on the Site Plan ("21st Plaza"). The Redeveloper shall cause the improvements to 21st Plaza for public parking to be completed as provided in Section A above. Upon completion of such improvements to 21st Plaza, the City and Redeveloper shall enter into a maintenance agreement pursuant to which Redeveloper shall be responsible for the maintenance and repair of 21st Plaza, in the form attached hereto as Exhibit "D" and incorporated herein by this reference.

Section 106. Progress Reports. Redeveloper shall make reports in such detail and at such times as may be reasonably requested by the City as to the actual progress of Redeveloper with respect to construction of the Redeveloper Improvements, but such reports shall not be required more frequently than every ninety (90) days.

Section 107. Redeveloper's Certificate of Completion.

A. Promptly after completion by Redeveloper of the Private Improvements and Public Enhancements on the Phase I Project Site, as specified above, in accordance with all provisions of the this 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 in the prosecution of the Private Improvements and Public Enhancements have been properly paid, the City shall, upon request of such Redeveloper, cause a final inspection to be made of the Private Improvements and Public Enhancements required to be constructed by Redeveloper. If the work has been completed in conformance with this Agreement, the City shall issue to Redeveloper a Certificate of Completion, the form of which is attached hereto as Exhibit "E" and incorporated herein by this reference. The issuance of the Redeveloper's Certificate of Completion by the City shall be a conclusive determination of satisfaction of the agreements and covenants contained in this Agreement with respect to the obligations of Redeveloper and its successors and assigns to construct the Private Improvements and Public Enhancements. As used herein, the term "completion" shall mean substantial completion of the required Private Improvements and Public Enhancements.

B. The Redeveloper's Certificate of Completion shall be recorded by Redeveloper in the Office of the Register of Deeds for Lancaster County, Nebraska. If the City shall refuse or fail to issue a Redeveloper's Certificate of Completion after a final inspection has been requested and performed, the City shall, within thirty (30) days provide Redeveloper with a written statement indicating in what particulars Redeveloper has failed to complete the Private Improvements and Public Enhancements in accordance with the provisions of this 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 certification.

Section 108. Evidence of Financial Ability of Redeveloper. Redeveloper shall provide in confidence to the City Finance Director such evidence of availability of finances necessary for purposes of carrying out the commitments of Redeveloper in connection with the construction of the Private Improvements as the City may reasonably require. Such information shall state the amount and source of capital and/or debt financing which is available, or irrevocably committed, to Redeveloper for construction of the Private Improvements and Public Enhancements. Submittal of such financial information in a form satisfactory to the Finance Director of the City shall be a condition precedent to the City's obligations under Article V of this Agreement.

Section 109. Penal Bond. 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, Public Enhancements and/or the Public Improvements, a penal bond in an amount equal to the costs of the Private Improvements, Public Enhancements and/or Public Improvements with a corporate surety authorized to do business in the State of Nebraska. Such penal bond shall be conditioned upon the Redeveloper at all times making payment of all amounts lawfully due to all persons supplying or furnishing the Redeveloper with labor or materials performed or used in the prosecution of the Private Improvements, Public Enhancements and/or Public Improvements and will indemnify and save harmless the City to the extent of any payments in connection with the carrying out of such contracts which the City may be required to make under the law. Proof of such penal bond shall be supplied to the City prior to the construction of the Private Improvements, Public Enhancements and/or Public Improvements. The City shall accept, in lieu of said penal bond, a similar payment and performance bond supplied by Redeveloper's general contractor in an amount equal to the costs of the Private Improvements, Public Enhancements and/or Public Improvements and a lien waiver from the general contractor. Proof of said payment and performance bond and lien waiver shall be provided to the City prior to the start of construction of the Private Improvements, Public Enhancements and/or Public Improvements.

Section 110. Indemnification. Redeveloper agrees to indemnify and hold City harmless to the extent of any payments in connection with carrying out construction of the Private Improvements, Public Enhancements and/or Public 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 its subcontractors with labor or materials performed or used in construction of the Private Improvements, Public Enhancements and/or Public Improvements.

Section 111. Duty to Maintain. Redeveloper shall, following construction, keep the Private Improvements and Public Enhancements 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.

Section 112. Construction Administration. Redeveloper shall be responsible for all components of the Private Improvements, Public Enhancements and the Public Improvements 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, Public Enhancements and Public Improvements regardless of any expectation for reimbursement hereunder.

ARTICLE II CLOSING

Section 201. Conveyance of City Parcels. The City agrees to convey and Redeveloper agrees to accept as partial payment for the Parking Garage License (as hereafter defined), provided for in Section 205 below, those portions of the Phase I Project Site and Phase II Project Site owned by the City ("City Parcels"). The parties agree that the City Parcels have a fair market value of One Million Five Hundred Thousand Dollars (\$1,500,000) The City Parcels are more particularly described on Exhibit "F".

Section 202. Closing. The conveyance of the City Parcels from the City to Redeveloper ("Closing") shall be no later than thirty (30) days after final approval by the City Council of this Agreement (the "Closing Date").

A. **Permits and Approvals.** Redeveloper agrees to secure all permits and licenses necessary for its intended use of the Phase I Project Site including, but not limited to, necessary building permits and inspections.

B. **Inspection and Testing.** The City shall, at the City's sole cost and expense (i) obtain and deliver to Redeveloper a Limited Subsurface Investigation a/k/a Phase II with respect to the Phase I Project Site as recommended by the Phase I Environmental Site Assessment dated October, 2007 prepared by Olsson Associates, including sampling of the Phase I Project Site soils and water for hazardous materials and/or substances as determined appropriate by the consulting ESA engineer selected and hired by the City. In the event any areas of concern at the Phase I Project Site reasonably require remediation including sampling or professional fees in

excess of the estimated costs related to the same as set forth on the Uses and Sources of Funds, then the City and Redeveloper agree that such event will be deemed to be a material change in the scope of the Project requiring a written amendment or termination under Section 304 of this Agreement.

C. Evidence of Title. Prior to Closing, Redeveloper shall obtain a title commitment (the "Title Commitment") for an ALTA owner's title insurance policy issued by a title insurance company duly authorized to do business in Nebraska (the "Title Company") covering title to the City Parcels and showing the condition of title to the City Parcels. For purposes hereof, "Permitted Exceptions" shall mean (i) covenants, conditions and restrictions of record which shall be approved by Redeveloper if they do not interfere with Redeveloper's intended use of the City Parcels; (ii) taxes not yet due and payable; (iii) public utility easements of record which shall be approved by Redeveloper, and which do not interfere with Redeveloper's intended use of the City Parcels; (iv) 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 City is willing to and does so remove at closing; (v) title exceptions caused by the acts or omissions of Redeveloper; (vi) easements and use restrictions to be granted under this Redevelopment Agreement; and (vii) any other title exceptions shown on the Title Commitment and which are not properly and timely objected to by Redeveloper. The cost of the owner's title insurance policy shall be paid by the Redeveloper.

If the Title Commitment shall disclose exceptions to title other than the Permitted Exceptions noted in subparagraphs (i) through (v) above, or disclose matters that render title to the City Parcels unmarketable, Redeveloper shall notify City of same within thirty (30) days after receipt of the Title Commitment, and City shall have fifteen (15) days after written notice of such defect 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. In the event that City shall be unable or unwilling to correct such title defects within the fifteen (15) day period, Redeveloper shall have the option, by written notice delivered to City after expiration of the fifteen (15) day period, to either terminate this Agreement or take title to the City Parcels subject to such exceptions or defects. In the event Redeveloper provides timely notice to terminate this Agreement, the 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.

Section 202. Closing Documents.

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

1. A Warranty Deed conveying to Redeveloper fee simple title to the City Parcels, subject to the Permitted Exceptions. Redeveloper shall pay the applicable real estate transfer taxes shown due on such conveyance.

2. Such affidavits, statements and other documents as are reasonably required by the Title Company in order to issue the Title Policy in accordance with the Commitment.

B. Documents to be Delivered by Redeveloper. At Closing Redeveloper shall deliver to the City, and the City shall accept from Redeveloper, the following:

1. A duly executed and acknowledged declaration of Parking Garage License in form and substance reasonably acceptable to the City, granting a limited public parking garage license and public access as described in Section 205 below.

2. A duly executed and acknowledged Declaration of Use Restrictions generally in the form of Exhibit G attached hereto.

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, interest and other charges, if any, shall either be exempt or paid in full by the City at or prior to Closing.

Section 204. Title and Possession of City Parcels. At Closing, (i) title to and possession of the City Parcels shall be conveyed by the City to Redeveloper under the terms and conditions set forth herein.

Section 205. Grant of Parking Garage License. In consideration of the conveyance of City Parcels to Redeveloper and payment of \$1,400,000.00 solely from available TIF Proceeds, Redeveloper shall grant to the City for the benefit of the public a fifteen (15) year license for public parking in the Parking Garage located on the Phase I Project Site (the "Parking Garage License") subject to the following conditions:

A. The public shall have use of the Parking Garage for parking, except for those parking stalls marked and designated as "Reserved Parking"; provided that the no more than one hundred (100) parking stalls shall be so reserved.

B. The Parking Garage License shall be limited to the following hours:

(1) Every Friday commencing at 6:00 p.m. through Sunday until two hours after closing of Union Plaza Park, with the exception of Saturdays on which the University of Nebraska football team plays at Memorial Stadium; and

(2) Monday through Thursday not to exceed twenty-five (25) days per calendar year commencing at 6:00 p.m. until two hours after closing of Union Plaza, upon request by the City and subject to availability; and

(3) Other mutually agreed upon dates and times.

C. The Redeveloper shall retain the right to charge the public a fee to park in the Parking Garage, except that the first ninety (90) minutes of parking shall be free. In addition, the City

may select up to ten (10) days per calendar year on which no fee shall be charged during the times the Parking Garage is open for public use. Fees shall not exceed the rate charged by the City in its parking facilities.

D. Redeveloper shall retain and have the right to exercise that degree of control and supervision over the Parking Garage and the Phase I Project Site as Redeveloper deems reasonably necessary for the effective management and safe use of the Parking Garage including, but not limited to, alarm services and security patrols. Redeveloper shall be responsible for payment of all costs associated therewith.

E. Redeveloper shall, during the hours the Parking Garage is open for public use, provide the City (and public) with (a) full and convenient vehicular ingress and egress from the public streets to the Parking Garage; and (b) full and convenient pedestrian ingress and egress from the Parking Garage to Union Plaza Park. The general location and size of the vehicular and pedestrian ingress and egress routes across the Project Site are shown on Exhibit "H", which is attached hereto and incorporated herein by reference (the "Site Plan").

F. The Project Site and Parking Garage is and shall at all times remain the private property of the Redeveloper and nothing in the Parking Garage License shall be deemed to create or constitute a public forum, limited or otherwise.

G. Nothing in this Parking Garage License is intended to permit any of the following enumerated or similar activities in the Parking Garage or on the Project Site: loitering, partying, demonstrating, picketing, soliciting, begging, littering, sunbathing, consuming alcoholic beverages, carrying firearms, erecting signs or displays, engaging in any illegal, offensive, indecent, obscene, vulgar, lewd or disorderly speech, dress or conduct, or otherwise disturbing the peace. Redeveloper shall have the right to deny access to the Parking Garage and Project Site to persons who are disorderly or intoxicated or engaging in any of the activities identified above.

H. The City shall have no responsibility to provide or pay for any security, upkeep, or maintenance services related to use of the Parking Garage by the public.

I. In the event there is not enough available TIF Proceeds to make the \$1,400,000.00 payment provided for above, any remaining indebtedness shall be forgiven.

Section 206. Final Plat. Prior to Closing, Redeveloper and the City shall jointly cause the Phase I Project Site to be replatted as shown on the Site Plan attached hereto as Exhibit "I" and incorporated herein by this reference (the "Plat").

ARTICLE III REPRESENTATIONS

Section 301. Development of Phase I Project Site. Redeveloper represents and agrees that its undertakings, pursuant to this Agreement, have been, are, and will be, for the purpose of redevelopment of such property and not for speculation in land holding.

Section 302. Restrictions on Assignments of Rights or Obligations. Redeveloper represents and agrees that prior to issuance of the Redeveloper's Certificate of Completion by the City, there shall be no sale or transfer of Redeveloper or assignment of rights or obligations under this Agreement to any party without the prior written approval of the City, 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 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 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, shall, for itself and its successors and assigns, and for the benefit of the City, have expressly assumed all of the obligations of Redeveloper under this Agreement and 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 Phase I 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 Agreement with respect to the Phase I Project Site and the construction of the Redeveloper 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 302 shall automatically terminate and no longer be binding on the Redeveloper upon the issuance of the Redeveloper's Certificate of Completion by the City.

Section 303. Change in Scope, Termination of Project. City and Redeveloper agree that any material change in the scope of the Project including termination of the entire Project for any reason, except as specifically set forth herein, shall require mutual written agreement considering the established Uses and Sources of Funds for the Project attached hereto as Exhibit "C" and incorporated herein by this reference, 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 Approved Plans, Redeveloper may terminate this Agreement by delivering written notice to the City of default pursuant to Section 601 including the opportunity to cure the same.

Section 304. Use Restrictions of the Property. Redeveloper's intended use of the Phase I Project Site as reflected on the Approved Plans is in compliance with the Redevelopment Plan and any applicable zoning and local ordinances. Redeveloper hereby represents and agrees that neither all or any portion of the Phase I Project Site shall be used, directly or indirectly, for the operation of 1) any outdoor off-premise 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; 2) any business whose predominant operation is the retail sale of alcoholic beverages for off-premises consumption (predominant shall mean retail gross sales of alcoholic beverages in excess of 50% of gross sales on the premises) or any such business that has an unreasonable pattern of unlawful disturbances or liquor law violations; 3) 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; 4) 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; exotic lingerie; sex toys or sexually oriented paraphernalia; sexually oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort service; or 5) 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.

It is intended that each of the restrictions set forth in this Section 304 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 Phase I Project Site and shall inure to the benefit of the parties hereto and their successors and permitted assigns. The use restrictions set forth in this Section shall survive Closing. At Closing, the Redeveloper shall record permanent covenants against the Phase I Project Site with respect to the use restrictions set forth in this Section in the form attached hereto as Exhibit "G" and incorporated herein by this reference.

**ARTICLE IV.
MORTGAGE FINANCING; RIGHTS OF MORTGAGEES**

Section 401. Limitation Upon Encumbrance of Property. Prior to issuance of the Redeveloper's Certificate of Completion by the City, neither Redeveloper nor any successors in interest to Redeveloper shall engage in any financing, except for construction financing in connection with construction of the Private Improvements and Public Enhancements which lender(s) shall have prior liens upon the Phase I Project Site, or any other transaction creating any mortgage or any other encumbrance or lien upon the Phase I Project Site, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Phase I Project Site, except for the purposes of obtaining funds only to the extent necessary to construct and develop the Private Improvements and Public Enhancements on the Phase I Project Site, and to finance, operate, maintain and repair the Private Improvements. All such additional mortgages and other encumbrances or liens shall provide that they are subject to the terms and conditions of this 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 Phase I Project Site, and shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Phase I Project Site whether by voluntary act of any of Redeveloper or otherwise.

Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to the Phase I Project Site and which is contested by Redeveloper, then Redeveloper may defend against such encumbrance or lien, provided that a sufficient bond, security or title insurance coverage insuring over such encumbrance or lien is posted with the City to permit the City to avoid foreclosure of such encumbrance or lien.

Section 402. Mortgage Holder Obligated to Construct. Prior to the issuance of a Redeveloper's Certificate of Completion and if the holder of any mortgage authorized by this Agreement obtains title to any of the Phase I Project Site as a result of foreclosure proceedings or action in lieu thereof, or if any other party obtains title to the Phase I Project Site from the holder of any mortgage authorized by this Agreement, and any other party who thereafter obtains title to any of the Phase I Project Site from the holder of any mortgage authorized by this Agreement, and any other party who thereafter obtains title to any of the Phase I Project Site from or through such holder or purchaser, they shall be obligated by the provisions of this Agreement to construct or to complete the Private Improvements and Public Enhancements or to guarantee such construction and completion.

Section 403. 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 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

Agreement at the last address of such holder as shown in the records of the City or as provided by such mortgage holder.

Section 404. 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 403, 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 for the applicable ownership shall so provide) 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 403, 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.

Section 405. City's Option to Purchase Property. In any case where the holder of any mortgage obtains title to the Phase I Project Site as a result of foreclosure proceedings or action in lieu thereof, prior to issuance by the City of the Redeveloper's Certificate of Completion, the City shall (and any additional mortgage instrument made after the date of this Agreement with respect to the Phase I Project Site prior to issuance by the City of the Redeveloper's Certificate of Completion for the applicable ownership shall so provide) be entitled, at its option, to a conveyance to it of the Phase I 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 Phase I 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 Phase I 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 the Phase I Project Site and notifies the City, unless the City waives the option prior to the end of such 90-day period.

Section 406. Mortgage Rights Applicable to Other Forms of Encumbrance. The rights and obligations of this Agreement relating to mortgages of the Phase I Project Site prior to issuance of the Redeveloper's Certificate of Completion shall apply to any other type of encumbrance on the Phase I Project Site, and any of the state 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 407. Termination of Provisions. The provisions of Article IV shall terminate upon issuance by the City to the Redeveloper the Redeveloper's Certificate of Completion.

ARTICLE V. TAX AGREEMENT

Section 501. Issuance of TIF Indebtedness. As soon as is practicable following the execution of this Agreement, the City shall issue TIF Indebtedness in the estimated amount of \$7,200,000.00 (the "TIF Bond") to be purchased by Redeveloper or a lender and receive TIF Proceeds from the purchaser ("TIF Bond Purchaser") to be deposited into a fund account (the "Project Account") and expended in the following priority:

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

SECOND PRIORITY: Pay for and/or reimburse Redeveloper for the costs of the Public Improvements and Public Enhancements.

THIRD PRIORITY: Pay for the purchase of the Parking Garage License.

Section 502. Tax Increment Deficiency on Redeveloper Purchased TIF Bond.

A. **Redeveloper Purchased TIF Bond.** If the Redeveloper purchases the TIF Bond, any shortfall in the tax revenues generated from the Tax Increment Provision ("TIF Tax Revenues) for any reason whatsoever, specifically including a decline in taxable valuation of the Phase I Project Site, shall be borne entirely by the Redeveloper without recourse of any kind against the City. To the extent of any deficiency in TIF Tax Revenues required debt service on the TIF Indebtedness, the Redeveloper as purchaser of the TIF Bond agrees to defer payment of the same for each year that there exists a deficiency during the Tax Increment Period. If Redeveloper is required to defer any such payments, the City shall reimburse all sums deferred if and when TIF Tax Revenues do become available to meet current debt service and reimburse

Redeveloper for such deferred payments. In the event the TIF Indebtedness is not retired in full at the end of the Tax Increment Period, any remaining TIF Indebtedness shall be forgiven.

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

Section 503. Reimbursement of TIF Proceeds.

A. Redeveloper agrees to repay the City the TIF Proceeds provided for in Section 501 above in the event Redeveloper fails to substantially complete the Private Improvements as provided in Section 106 above and, upon such repayment of the TIF Proceeds, this Agreement shall be null and void in regards to the Redeveloper and the Phase I Project Site.

B. In the event Redeveloper fails to maintain the Private Improvements and Public Enhancements as provided in Section 111 above, then the Redeveloper shall reimburse the City the proportionate share (1/14) of the grant funds provided for herein for each year the Redeveloper fails to maintain the Private Improvements and Public Enhancements.

Section 504. 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 Purchaser the principal of and/or interest on the TIF Indebtedness with interest at the rate of Six and One-Half percent (6 1/2%) per annum. Any debt service on the TIF Indebtedness (including interest) to be paid from TIF Tax Revenues shall not constitute a general obligation or debt of the City. Only costs incurred after the effective date of this Agreement shall be eligible for payment. The City shall not be liable nor be required to reimburse Redeveloper for any costs incurred by Redeveloper in the event this Agreement is not approved for any reason, including for reasons alleged to be the fault of the City. Any excess TIF Tax Revenues resulting from the Tax Increment Provision on the Phase I Project Site not needed or required to pay Redeveloper for the TIF Indebtedness shall be expended by the City or returned to the applicable taxing authorities as provided in the Community Development Law. Any shortfall in anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Phase I Project Site, shall be borne entirely by the Redeveloper without recourse of any kind against the City.

Section 505. Valuation of Property Within the Phase I Project Site. The City intends to use the Tax Increment Provision to generate approximately Seven Million Two Hundred Thousand and No/100 Dollars (\$7,200,000.00) ("TIF Proceeds") which shall be used to

finance the issuance of the TIF Indebtedness and the assistance 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 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 for the TIF Indebtedness will be derived from the increased valuation from redeveloping the Phase I Project Site as provided in this Agreement. Redeveloper agrees not to contest any taxable valuation assessed for the Phase I Project Site and improvements thereon which does not exceed the amounts set forth in the schedule attached hereto as Exhibit "J" commencing tax year 2009 and continuing for a period of not to exceed fifteen (15) years after the effective date hereof or so long as any portion of the TIF Indebtedness remains outstanding and unpaid, whichever period of time is shorter.

Section 506. 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, or so long as the tax increment indebtedness remains outstanding, whichever period of time is shorter (the "Tax Increment Period"), convey the Phase I 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 507. Agreement to Pay Taxes. Redeveloper agrees to pay all real property taxes levied upon the Phase I Project Site 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 Phase I Project Site and improvements for tax purposes except as provided in Section 505.

Section 508. Damage or Destruction of Redeveloper's Property. During the Tax Increment Period, Redeveloper agrees to keep the construction area and completed premises insured against loss or damage by fire, and such other risk, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value thereof based upon an estimate of insurable value but allowing for reasonable compliance with standard coinsurance clauses and standard deductibles. Any insurance carried or required to be carried by Redeveloper pursuant to this Section 508 may, at Redeveloper's option, be carried under an insurance policy or pursuant to a master policy of insurance or so-called blanket policy of insurance covering other property owned by Redeveloper or its corporate affiliates, or any combination thereof. In the event of any insured damage or destruction, Redeveloper agrees to restore its facility to its prior condition within thirty-six (36) months from the date of the damage or destruction, and shall diligently pursue the same to completion.

Section 509. Condemnation. In the event that during the Tax Increment Period all or a substantial portion of the Phase I Project Site 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 510. Termination of Provisions. The provisions of Article V shall terminate upon the end of the Tax Increment Period.

Section 511. Successors and Assigns. The provisions of Article V shall be binding upon Redeveloper and its successors and assigns; provided, however, that the obligations of Redeveloper pursuant to this Agreement shall be binding upon Redeveloper and its successors and assigns only during their respective periods of ownership.

ARTICLE VI. REMEDIES

Section 601. In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions by the City, Redeveloper, or any successors to such parties, such party (or successor) shall, upon written notice from the other, 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 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 602. 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 Agreement. Any delay in instituting or prosecuting any action or proceeding or otherwise asserting its rights under this Agreement shall not operate as a waiver of such rights to deprive a party of or limit such rights in any way.

Section 603. Delay in Performance For Causes Beyond Control of Party. For the purpose of any provisions of this Agreement, the City 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 604. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by this 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 Agreement shall be effective only if such waiver is in writing and only to the extent as so specified in writing.

ARTICLE VII. MISCELLANEOUS

Section 701. 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 Agreement.

Section 702. Persons Authorized to Issue Approvals. For purposes of this 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 TIF Proceeds for the Second Priority and Third Priority items as shown in Section 501. Until City receives further written notice from Redeveloper, City shall be entitled to rely on the written approval of William R. Schmeeckle as constituting the approval or disapproval of Redeveloper.

Section 703. 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 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 704. Notices and Demands. A notice, demand, or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is sent by

registered or certified mail, postage prepaid, return receipt requested, or delivered personally, in the case of Redeveloper, to William R. Schmeckle, 4000 Pine Lake Road, Lincoln, Nebraska 68516, with a copy to Jennifer J. Strand, Woods & Aitken LLP, 301 S. 13th Street, Suite 500, Lincoln, Nebraska 68508, and, in the case of the City, to the Mayor, 555 South 10th Street, Lincoln, Nebraska 68508, with a copy to City Attorney, 575 S. 10th Street, Lincoln, Nebraska 68508 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 705. 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 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 Agreement submits any item to another party to this Agreement for approval pursuant to this 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 706. Access to Phase I Project Site. Redeveloper shall permit the representatives of the City to enter all of the Phase I Project Site and at any and all reasonable times, as the City may deem necessary for the purposes of this 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 City Parcels and 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 707. Termination of Provisions; Binding. The provisions and covenants of this Agreement shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion contemplated herein, except as otherwise set forth herein. This Agreement shall run with the Phase I Project Site and shall inure to and bind the undersigned parties, successors and assigns.

Section 708. Titles of Articles and Sections. Any titles of the several parts, articles and sections of this Agreement are inserted for convenience of index and reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 709. Mutual Cooperation. The parties agree to mutually cooperate in constructing the various improvements each is to construct in the Phase I Project Site so as to

coordinate all timing to the extent reasonable, and further to facilitate opening of each facility at the earliest possible time.

Section 710. Integrated Contract; Severance of Provisions; Governing Law. It is intended by the parties that this 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 Agreement. This Agreement shall be construed and governed by the laws of the State of Nebraska.

Section 711. Definitions.

A. For the purpose of this 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.

Section 712. 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 Agreement, as allowed by law.

Section 713. Expiration. This Redevelopment Agreement shall expire upon the expiration of the Tax Increment Provision. Except as specifically set forth herein, Redeveloper shall have no further liability or obligation hereunder upon expiration or earlier termination of this Agreement.

Section 714. Recording. This Redevelopment Agreement shall be filed of record against all of the Lots and Blocks within the final plat of the Phase I Project Site provided for in Section 206.

Executed by City this _____ day of _____, 2009.

ATTEST:

CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

Chris Beutler, Mayor

Executed by Redeveloper this ____ day of _____, 2009.

ASSURITY LIFE INSURANCE COMPANY,
a Nebraska stock life insurance company

By: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Chris Beutler, Mayor of the City of Lincoln.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by _____, _____ of Assurity Life Insurance Company, a Nebraska stock life insurance company, on behalf of the company.

Notary Public

EXHIBITS

Exhibit A - Project Site (Phase I & Phase II)

Exhibit B - Preliminary Concept Drawings for Office Building & Parking Garage

Exhibit C - Sources & Uses

Exhibit D - 21st Plaza Maintenance Agreement

Exhibit E - Certificate of Completion

Exhibit F – City Parcels

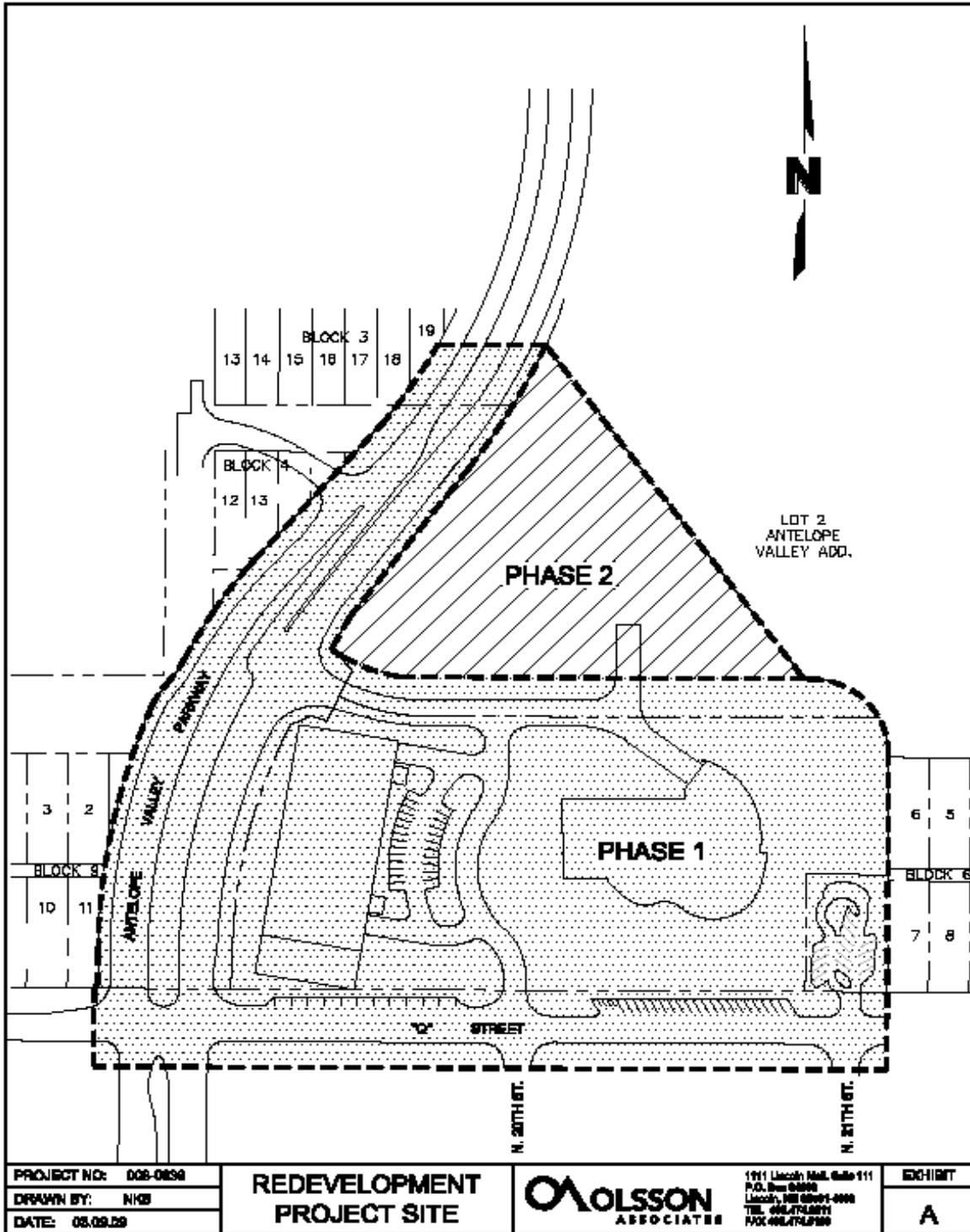
Exhibit G - Declaration of Use Restrictions

Exhibit H – Site Plan

Exhibit I – Plat

Exhibit J – Phase I Project Site Valuation Schedule

EXHIBIT A
PROJECT SITE





Southeast Corner Overview





View of Building from Northwest



View of Building from Southwest





View of Building from Southwest



Parking Garage West Elevation

Exhibit C
Sources and Uses

Sources	Description	Amount
<i>TIF</i>		\$ 7,200,000
<i>Public Land Contribution</i>		\$ 1,500,000
<i>Private Sources (does not include private land acquisition)</i>		\$ 49,867,314
Total Sources		\$ 58,567,314
Uses of Funds	Description	Amount
<i>Total Private Improvements (i.e., Office Building, Garage, Surface Parking)</i>		\$ 48,000,000
<i>Total Public Improvements and Enhancements</i>		\$ 7,667,314
<i>Public Improvements</i>		
Public Utility Relocation and Improvements (i.e., Water, Sanitary Sewer, Storm Sewer)		\$ 757,373
Dry Utility Relocation and Improvements (i.e., LES, Time Warner, Fiber)		\$ 70,000
Demolition, Site Preparation, and Remediation		\$ 948,693
Right-of-Way and Public Easement Improvements (i.e., Deceleration Lane, On-Street Parking, Streetscape Improvements, 21st St Parking)		\$ 1,177,359
<i>Public Enhancements</i>		
Reimbursement for Gray Water Recycling System (i.e., Cistern, Green Roof, Overland Gray Water Drainage, Pervious Pavement, Bioswales)		\$ 1,280,289
Reimbursement for LEED Certification Improvements		\$ 1,415,000
Reimbursement for Façade Upgrades		\$ 2,018,600
<i>Acquisition of Parking Garage License</i>		\$ 2,900,000
Total Uses		\$ 58,567,314

EXHIBIT D

**21ST STREET PLAZA
MAINTENANCE AGREEMENT**

This MAINTENANCE AGREEMENT is made and entered into as of this ____ day of _____ 2009, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as the "City"), and ASSURITY LIFE INSURANCE COMPANY, a Nebraska stock life insurance company (hereinafter referred to as "Assurity").

RECITALS

I.

WHEREAS, the City and Assurity have entered into a Redevelopment Agreement with respect to the redevelopment of the real property bounded by 'Q' Street on the south, 'R' Street on the north, Union Plaza on the east, and 19th Street (a/k/a Antelope Valley Parkway) on the west (hereinafter referred to as the "Project").

II.

WHEREAS, Assurity is the owner of Lot 1, Assurity Addition, Lincoln, Lancaster County, Nebraska (hereinafter referred to as the "Property"). The Property is located on the west side of vacated 21st Street north of 'Q' Street ("21st Plaza"). Union Plaza is located on the east side of 21st Plaza.

III.

WHEREAS, the Redevelopment Agreement calls for the construction, by Assurity, of certain improvements to enhance 21st Plaza so that 21st Plaza will better fit with the redevelopment planned on the Property and Union Plaza; provided that Assurity assumes, at its sole cost and expense, responsibility for the maintenance and repair of 21st Plaza.

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

1. Construction by Assurity. As part of the Project, Assurity agrees to construct the improvements to 21st Plaza pursuant to the City's executive order construction process in accordance with the terms of the Redevelopment Agreement (the "21st Plaza Improvements"). Assurity shall be responsible for all costs associated with the construction of the 21st Plaza Improvements subject to reimbursement as provided for in the Redevelopment Agreement.

2. Maintenance of 21st Plaza Improvements. The 21st Plaza Improvements shall at all times be maintained in good repair and in the form approved in the Redevelopment Agreement. The maintenance of the 21st Plaza Improvements shall be the responsibility of Assurity and shall be performed by Assurity at its sole cost and expense. The City shall and does hereby grant Assurity permission and license following construction of the 21st Plaza Improvements to maintain the 21st

Plaza Improvements in good repair.

3. Failure to Maintain. In the event Assurity fails to maintain the 21st Plaza Improvements in good repair after receiving thirty (30) days written notice from the City to perform needed repairs, the City may perform said work and Assurity will bear and pay the entire cost of repairing the 21st Plaza Improvements. Assurity will reimburse the City for the actual costs incurred by the City in connection with such repairs within thirty (30) days of receipt of a detailed statement reflecting such costs.

4. Emergency Repairs. In the event that any emergency repairs must be made to the 21st Plaza Improvements, the City may perform said work and Assurity will reimburse the City for the actual costs incurred by the City in connection with such repairs within thirty (30) days of receipt of a detailed statement reflecting such costs.

5. Hold Harmless. Assurity shall hold the City harmless from any and all liability resulting from the construction, maintenance, and repair of the 21st Plaza Improvements performed by Assurity, its contractors, employees, agents or others acting on behalf of Assurity.

6. Public Liability Insurance. During the term of this Agreement, Assurity shall maintain public liability insurance naming and protecting it and the City against claims for damages resulting from (i) bodily injury, including wrongful death, (ii) personal injury liability, and (iii) property damages occurring on 21st Plaza. The minimum acceptable limits of coverage to be provided by such insurance shall be as follows:

A.	Bodily Injury and Property Damage	\$1,000,000 Each Occurrence
B.	Personal Injury Damage	\$1,000,000 Each Occurrence
C.	Contractual Liability	\$1,000,000 Each Occurrence
D.	Products Liability and Completed Operations	\$1,000,000 Each Occurrence

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

- A. The coverage shall be provided under a Commercial General Liability form or similar thereto.
- B. X.C.U. Coverage - If the contract requires any work procedures involving blasting, excavating, tunneling, or other underground work, the liability coverage shall include Standard Blastings or Explosion Coverage, Standard Collapse Coverage, and Standard Underground Coverage commonly referred to as XCU Property Damage Liability.

- C. The property damage coverage shall include a Broad Form Property Damage Endorsement or similar thereto.
- D. Contractual Liability coverage shall be included.
- E. Products Liability and/or Completed Operations coverage shall be included.
- F. Personal Injury Liability coverage shall be included.

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

Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
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8. Minimum Scope of Insurance. All liability insurance policies shall be written on an "occurrence" basis only. All insurance coverage required hereunder shall be placed with insurers authorized to do business in the State of Nebraska.

9. Certificate of Insurance. All Certificates of Insurance shall be filed with the City Clerk on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by Sections 6 and 7 above and naming the City as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City thirty (30) days notice of cancellation, non-renewal, or any material reduction of insurance coverage.

10. Replacement of 21st Street Improvements. The City shall be responsible for all costs associated with the replacement of 21st Plaza upon expiration of its useful life as originally designed without the 21st Plaza Improvements. Assurity, at its own cost and expense, may enhance the replacement improvements subject to the same conditions provided in this Agreement for the 21st Plaza Improvements, except that the required amounts of insurance shall be adjusted to conform to the City's requirements then in effect.

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

Executed by City this _____ day of _____, 2009.

ATTEST:

CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

Chris Beutler, Mayor

Executed by Assurity this ____ day of _____, 2009.

ASSURITY LIFE INSURANCE COMPANY,
a Nebraska stock life insurance company

By: _____
William R. Schmeckle, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

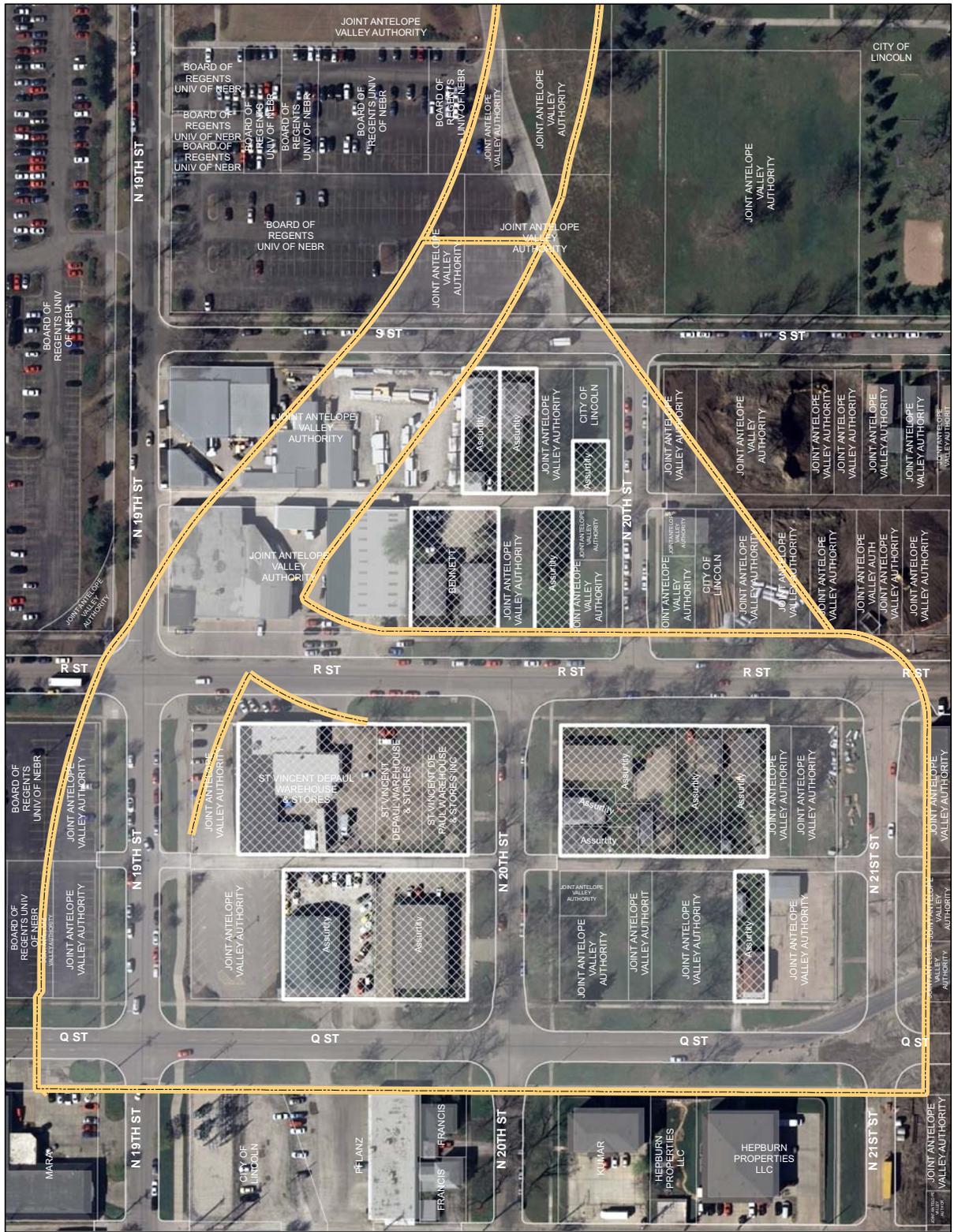
The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by Chris Beutler, Mayor of the City of Lincoln.

Notary Public

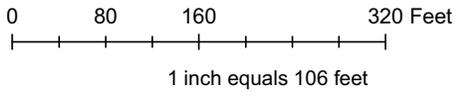
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2009, by William R. Schmeckle, Vice President of Assurity Life Insurance Company, a Nebraska stock life insurance company, on behalf of the company.

Notary Public



Assurity Parcel Ownership - Exhibit F



- - - - - Assurity Boundary/Roadway
- Assurity_Parcels
- Private Property
- City Controlled Property
- Streets
- Paving Boundary

EXHIBIT G

DECLARATION OF USE RESTRICTIONS

This Declaration of Use Restrictions (this "Declaration") is made as of the ____ day of _____, 2009, by ASSURITY LIFE INSURANCE COMPANY, a Nebraska stock life insurance company ("Declarant").

RECITALS

WHEREAS, Declarant is the owner of the real property legally described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property"); and

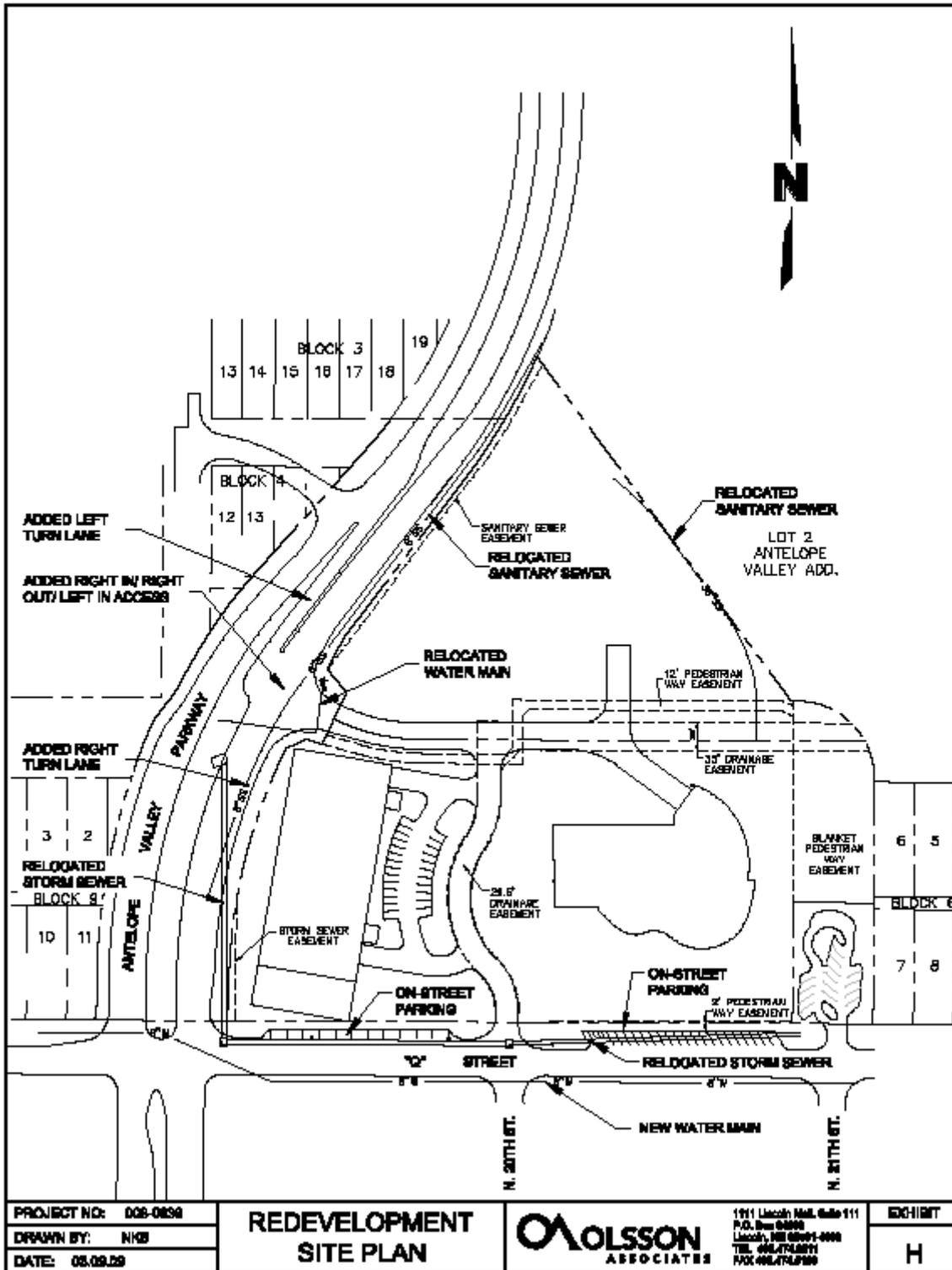
WHEREAS, Declarant and the City of Lincoln, Nebraska entered into a Redevelopment Agreement dated _____, 2009 with respect to the Property (the "Redevelopment Agreement"); and

WHEREAS, Declarant desires to hereby establish certain restrictions upon the Property in accordance with the terms and conditions of the Redevelopment Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Declarant hereby subjects the Property to the following covenants, restrictions and agreements:

1. Use Restrictions. Declarant hereby covenants and agrees that neither all or any portion of the Property shall be used, directly or indirectly, for the operation of 1) any outdoor off-premise 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; 2) any business whose predominant operation is the retail sale of alcoholic beverages for off-premises consumption (predominant shall mean retail gross sales of alcoholic beverages in excess of 50% of gross sales on the premises) or any such business that has an unreasonable pattern of unlawful disturbances or liquor law violations; 3) 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; 4) 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; exotic lingerie; sex toys or sexually oriented paraphernalia; sexually oriented telecommunication, internet or similar service; sexually oriented massage parlor; or escort

EXHIBIT H SITE PLAN



PROJECT NO: 028-0830 DRAWN BY: NKB DATE: 05.09.09	REDEVELOPMENT SITE PLAN	 1911 Lincoln Mall, Suite 111 P.O. Box 82800 Lincoln, NE 68501-0000 TEL: 402-774-8711 FAX: 402-774-8700	EXHIBIT H
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EXHIBIT I
PLAT

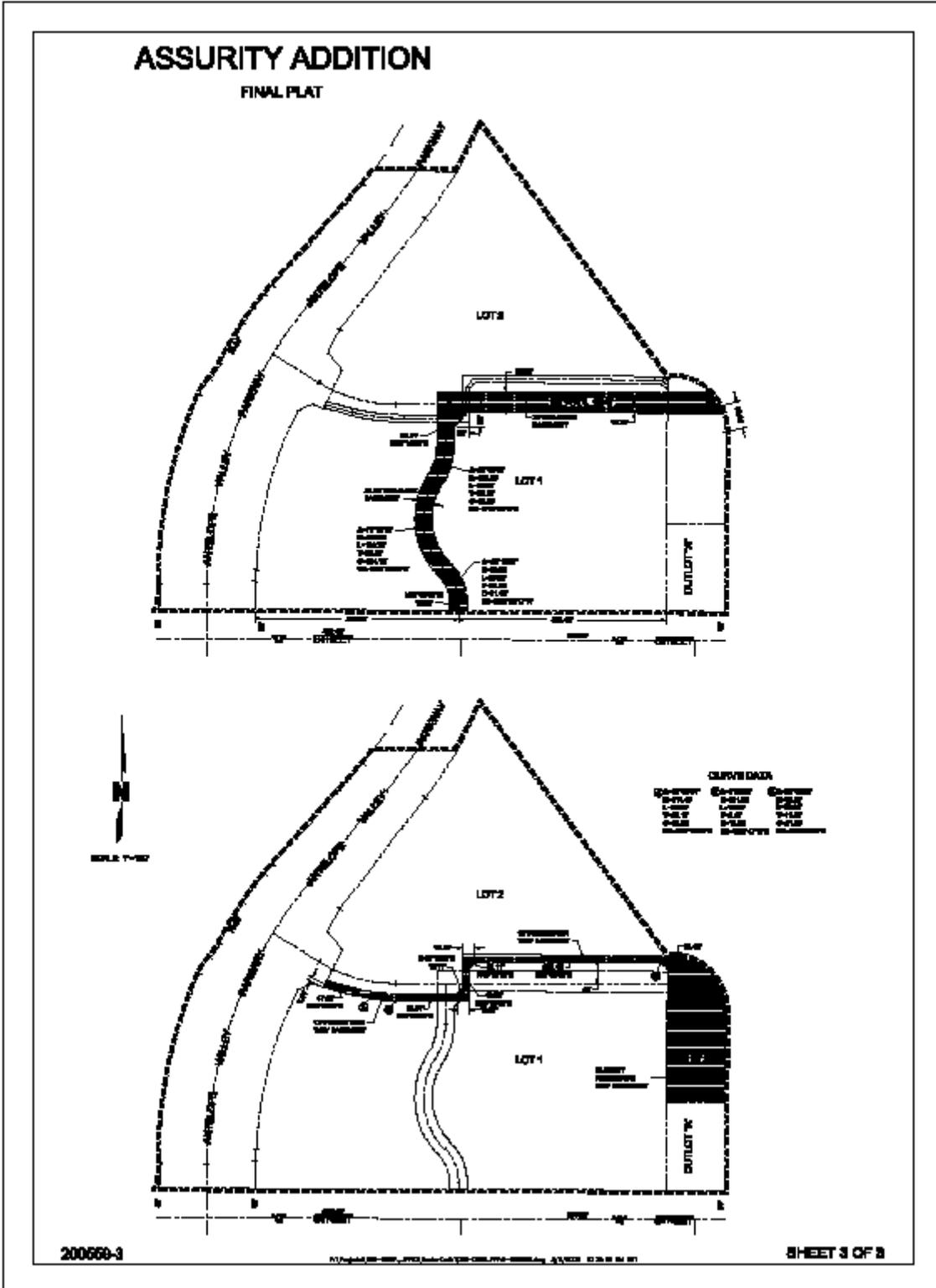


Exhibit J		
Tax Increment Finance Analysis -		
Valuation Schedule		
Phase I AV Parkway Plaza Project		
Year Assessed	Year Paid	Estimated TIF
2009	2010	\$0
2010	2011	\$0
2011	2012	\$289,965
2012	2013	\$985,085
2013	2014	\$985,085
2014	2015	\$1,006,250
2015	2016	\$1,006,250
2016	2017	\$1,027,838
2017	2018	\$1,027,838
2018	2019	\$1,049,858
2019	2020	\$1,049,858
2020	2021	\$1,072,318
2021	2022	\$1,072,318
2022	2023	\$1,095,227
2023	2024	\$1,095,227
	<i>Estimated TIF</i>	\$7,206,499
Assumptions: The Project will be assessed at 100 percent of the construction cost. The value of the land and buildings will grow at 2 percent every other year. The tax rate will stay at or near the 2008 tax rate of 2.009031%.		