

Community Development Agency following the 7 p.m. City Council Meeting
Monday, May 16, 2022 7:30 PM
Council Chambers
1369 25 Avenue
Columbus, NE 68601

1. **Statement of compliance with Open Meetings Act and roll call.**

Open Meetings Act

Neb. Rev. Stat. § 84-1407. Act, how cited.

Sections 84-1407 to 84-1414 shall be known and may be cited as the Open Meetings Act.

Neb. Rev. Stat. § 84-1408. Declaration of intent; meetings open to public.

It is hereby declared to be the policy of this state that the formation of public policy is public business and may not be conducted in secret.

Every meeting of a public body shall be open to the public in order that citizens may exercise their democratic privilege of attending and speaking at meetings of public bodies, except as otherwise provided by the Constitution of Nebraska, federal statutes, and the Open Meetings Act.

Neb. Rev. Stat. § 84-1409. Terms, defined.

For purposes of the Open Meetings Act, unless the context otherwise requires:

(1)(a) Public body means (i) governing bodies of all political subdivisions of the State of Nebraska, (ii) governing bodies of all agencies, created by the Constitution of Nebraska, statute, or otherwise pursuant to law, of the executive department of the State of Nebraska, (iii) all independent boards, commissions, bureaus, committees, councils, subunits, or any other bodies created by the Constitution of Nebraska, statute, or otherwise pursuant to law, (iv) all study or advisory committees of the executive department of the State of Nebraska whether having continuing existence or appointed as special committees with limited existence, (v) advisory committees of the bodies referred to in subdivisions (i), (ii), and (iii) of this subdivision, and (vi) instrumentalities exercising essentially public functions; and

(b) Public body does not include (i) subcommittees of such bodies unless a quorum of the public body attends a subcommittee meeting or unless such subcommittees are holding hearings, making policy, or taking formal action on behalf of their parent body, except that all meetings of any subcommittee established under section 81-15,175 are subject to the Open Meetings Act, and (ii) entities conducting judicial proceedings unless a court or other judicial body is exercising rulemaking authority, deliberating, or deciding upon the issuance of administrative orders;

(2) Meeting means all regular, special, or called meetings, formal or informal, of any public body for the purposes of briefing, discussion of public business, formation of tentative policy, or the taking of any action of the public body; and

(3) Virtual conferencing means conducting or participating in a meeting electronically or telephonically with interaction among the participants subject to subsection (2) of section 84-1412.

Neb. Rev. Stat. § 84-1410. Closed session; when; purpose; reasons listed; procedure; right to challenge; prohibited acts; chance meetings, conventions, or workshops.

(1) Any public body may hold a closed session by the affirmative vote of a majority of its voting members if a closed session is clearly necessary for the protection of the public interest or for the prevention of needless injury to the reputation of an individual and if such

individual has not requested a public meeting. The subject matter and the reason necessitating the closed session shall be identified in the motion to close. Closed sessions may be held for, but shall not be limited to, such reasons as:

(a) Strategy sessions with respect to collective bargaining, real estate purchases, pending litigation, or litigation which is imminent as evidenced by communication of a claim or threat of litigation to or by the public body;

(b) Discussion regarding deployment of security personnel or devices;

(c) Investigative proceedings regarding allegations of criminal misconduct;

(d) Evaluation of the job performance of a person when necessary to prevent needless injury to the reputation of a person and if such person has not requested a public meeting;

(e) For the Community Trust created under section 81-1801.02, discussion regarding the amounts to be paid to individuals who have suffered from a tragedy of violence or natural disaster; or

(f) For public hospitals, governing board peer review activities, professional review activities, review and discussion of medical staff investigations or disciplinary actions, and any strategy session concerning transactional negotiations with any referral source that is required by federal law to be conducted at arms length.

Nothing in this section shall permit a closed meeting for discussion of the appointment or election of a new member to any public body.

(2) The vote to hold a closed session shall be taken in open session. The entire motion, the vote of each member on the question of holding a closed session, and the time when the closed session commenced and concluded shall be recorded in the minutes. If the motion to close passes, then the presiding officer immediately prior to the closed session shall restate on the record the limitation of the subject matter of the closed session. The public body holding such a closed session shall restrict its consideration of matters during the closed portions to only those purposes set forth in the motion to close as the reason for the closed session. The meeting shall be reconvened in open session before any formal action may be taken. For purposes of this section, formal action shall mean a collective decision or a collective commitment or promise to make a decision on any question, motion, proposal, resolution, order, or ordinance or formation of a position or policy but shall not include negotiating guidance given by members of the public body to legal counsel or other negotiators in closed sessions authorized under subdivision (1)(a) of this section.

(3) Any member of any public body shall have the right to challenge the continuation of a closed session if the member determines that the session has exceeded the reason stated in the original motion to hold a closed session or if the member contends that the closed session is neither clearly necessary for (a) the protection of the public interest or (b) the prevention of needless injury to the reputation of an individual. Such challenge shall be overruled only by a majority vote of the

members of the public body. Such challenge and its disposition shall be recorded in the minutes.

(4) Nothing in this section shall be construed to require that any meeting be closed to the public. No person or public body shall fail to invite a portion of its members to a meeting, and no public body shall designate itself a subcommittee of the whole body for the purpose of circumventing the Open Meetings Act. No closed session, informal meeting, chance meeting, social gathering, email, fax, or other electronic communication shall be used for the purpose of circumventing the requirements of the act.

(5) The act does not apply to chance meetings or to attendance at or travel to conventions or workshops of members of a public body at which there is no meeting of the body then intentionally convened, if there is no vote or other action taken regarding any matter over which the public body has supervision, control, jurisdiction, or advisory power.

Neb. Rev. Stat. § 84-1411. Meetings of public body; notice; method; contents; when available; right to modify; duties concerning notice; virtual meetings authorized; emergency meeting without notice; appearance before public body.

(1)(a) Each public body shall give reasonable advance publicized notice of the time and place of each meeting as provided in this subsection. Such notice shall be transmitted to all members of the public body and to the public.

(b)(i) Except as provided in subdivision (1)(b)(ii) of this section, in the case of a public body described in subdivision (1)(a)(i) of section 84-1409 or such body's advisory committee, such notice shall be published in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site.

(ii) In the case of the governing body of a city of the second class or village or such body's advisory committee, such notice shall be published by:

(A) Publication in a newspaper of general circulation within the public body's jurisdiction and, if available, on such newspaper's web site; or

(B) Posting written notice in three conspicuous public places in such city or village. Such notice shall be posted in the same three places for each meeting.

(iii) In the case of a public body not described in subdivision (1)(b)(i) or (ii) of this section, such notice shall be given by a method designated by the public body.

(c) In addition to a method of notice required by subdivision (1)(b)(i) or (ii) of this section, such notice may also be provided by any other appropriate method designated by such public body or such advisory committee.

(d) Each public body shall record the methods and dates of such notice in its minutes.

(e) Such notice shall contain an agenda of subjects known at the time of the publicized notice or a statement that the agenda, which shall be kept continually current, shall be readily available for public inspection at the principal office of the public body during normal business hours. Agenda items shall be sufficiently descriptive to give the public reasonable notice of the matters to be considered at the

meeting. Except for items of an emergency nature, the agenda shall not be altered later than (i) twenty-four hours before the scheduled commencement of the meeting or (ii) forty-eight hours before the scheduled commencement of a meeting of a city council or village board scheduled outside the corporate limits of the municipality. The public body shall have the right to modify the agenda to include items of an emergency nature only at such public meeting.

(2)(a) The following entities may hold a meeting by means of virtual conferencing if the requirements of subdivision (2)(b) of this section are met:

(i) A state agency, state board, state commission, state council, or state committee, or an advisory committee of any such state entity;

(ii) An organization, including the governing body, created under the Interlocal Cooperation Act, the Joint Public Agency Act, or the Municipal Cooperative Financing Act;

(iii) The governing body of a public power district having a chartered territory of more than one county in this state;

(iv) The governing body of a public power and irrigation district having a chartered territory of more than one county in this state;

(v) An educational service unit;

(vi) The Educational Service Unit Coordinating Council;

(vii) An organization, including the governing body, of a risk management pool or its advisory committees organized in accordance with the Intergovernmental Risk Management Act;

(viii) A community college board of governors;

(ix) The Nebraska Brand Committee;

(x) A local public health department;

(xi) A metropolitan utilities district;

(xii) A regional metropolitan transit authority;

(xiii) A natural resources district; and

(xiv) The Judicial Resources Commission.

(b) The requirements for holding a meeting by means of virtual conferencing are as follows:

(i) Reasonable advance publicized notice is given as provided in subsection (1) of this section, including providing access to a dial-in number or link to the virtual conference;

(ii) In addition to the public's right to participate by virtual conferencing, reasonable arrangements are made to accommodate the public's right to attend at a physical site and participate as provided in section 84-1412, including reasonable seating, in at least one designated site in a building open to the public and identified in the notice, with: At least one member of the entity holding such meeting, or his or her designee, present at each site; a recording of the hearing by audio or visual recording devices; and a reasonable opportunity for input, such as public comment or questions, is provided to at least the same extent as

would be provided if virtual conferencing was not used;

(iii) At least one copy of all documents being considered at the meeting is available at any physical site open to the public where individuals may attend the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act; and

(iv) Except as otherwise provided in this subdivision or subsection (4) of section 79-2204, no more than one-half of the meetings of the state entities, advisory committees, boards, councils, organizations, or governing bodies are held by virtual conferencing in a calendar year. In the case of an organization created under the Interlocal Cooperation Act that sells electricity or natural gas at wholesale on a multistate basis or an organization created under the Municipal Cooperative Financing Act, the organization may hold more than one-half of its meetings by virtual conferencing if such organization holds at least one meeting each calendar year that is not by virtual conferencing. The governing body of a risk management pool that meets at least quarterly and the advisory committees of the governing body may each hold more than one-half of its meetings by virtual conferencing if the governing body's quarterly meetings are not held by virtual conferencing.

(3) Virtual conferencing, emails, faxes, or other electronic communication shall not be used to circumvent any of the public government purposes established in the Open Meetings Act.

(4) The secretary or other designee of each public body shall maintain a list of the news media requesting notification of meetings and shall make reasonable efforts to provide advance notification to them of the time and place of each meeting and the subjects to be discussed at that meeting.

(5) When it is necessary to hold an emergency meeting without reasonable advance public notice, the nature of the emergency shall be stated in the minutes and any formal action taken in such meeting shall pertain only to the emergency. Such emergency meetings may be held by virtual conferencing. The provisions of subsection (4) of this section shall be complied with in conducting emergency meetings. Complete minutes of such emergency meetings specifying the nature of the emergency and any formal action taken at the meeting shall be made available to the public by no later than the end of the next regular business day.

(6) A public body may allow a member of the public or any other witness to appear before the public body by means of virtual conferencing.

(7)(a) Notwithstanding subsections (2) and (5) of this section, if an emergency is declared by the Governor pursuant to the Emergency Management Act as defined in section 81-829.39, a public body the territorial jurisdiction of which is included in the emergency declaration, in whole or in part, may hold a meeting by virtual conferencing during such emergency if the public body gives reasonable advance publicized notice as described in subsection (1) of this section. The notice shall include information regarding access for the public and news media. In addition to any formal action taken pertaining to the emergency, the public body may hold such meeting for the purpose of briefing, discussion of public business, formation of tentative policy, or the taking of any action by the public body.

(b) The public body shall provide access by providing a dial-in
Open Meetings Act

number or a link to the virtual conference. The public body shall also provide links to an electronic copy of the agenda, all documents being considered at the meeting, and the current version of the Open Meetings Act. Reasonable arrangements shall be made to accommodate the public's right to hear and speak at the meeting and record the meeting. Subsection (4) of this section shall be complied with in conducting such meetings.

(c) The nature of the emergency shall be stated in the minutes. Complete minutes of such meeting specifying the nature of the emergency and any formal action taken at the meeting shall be made available for inspection as provided in subsections (5) and (6) of section 84-1413.

Neb. Rev. Stat. § 84-1412. Meetings of public body; rights of public; public body; powers and duties.

(1) Subject to the Open Meetings Act, the public has the right to attend and the right to speak at meetings of public bodies, and all or any part of a meeting of a public body, except for closed sessions called pursuant to section 84-1410, may be videotaped, televised, photographed, broadcast, or recorded by any person in attendance by means of a tape recorder, a camera, video equipment, or any other means of pictorial or sonic reproduction or in writing.

(2) It shall not be a violation of subsection (1) of this section for any public body to make and enforce reasonable rules and regulations regarding the conduct of persons attending, speaking at, videotaping, televising, photographing, broadcasting, or recording its meetings, including meetings held by virtual conferencing. A body may not be required to allow citizens to speak at each meeting, but it may not forbid public participation at all meetings.

(3) No public body shall require members of the public to identify themselves as a condition for admission to the meeting nor shall such body require that the name of any member of the public be placed on the agenda prior to such meeting in order to speak about items on the agenda. The body shall require any member of the public desiring to address the body to identify himself or herself, including an address and the name of any organization represented by such person unless the address requirement is waived to protect the security of the individual.

(4) No public body shall, for the purpose of circumventing the Open Meetings Act, hold a meeting in a place known by the body to be too small to accommodate the anticipated audience.

(5) No public body shall be deemed in violation of this section if it holds its meeting in its traditional meeting place which is located in this state.

(6) No public body shall be deemed in violation of this section if it holds a meeting outside of this state if, but only if:

(a) A member entity of the public body is located outside of this state and the meeting is in that member's jurisdiction;

(b) All out-of-state locations identified in the notice are located within public buildings used by members of the entity or at a place which will accommodate the anticipated audience;

(c) Reasonable arrangements are made to accommodate the public's right to attend, hear, and speak at the meeting, including making virtual conferencing available at an in-state location to members, the public, or the press, if requested twenty-four hours in advance;

(d) No more than twenty-five percent of the public body's meetings in a calendar year are held out-of-state;

(e) Out-of-state meetings are not used to circumvent any of the public government purposes established in the Open Meetings Act; and

(f) The public body publishes notice of the out-of-state meeting at least twenty-one days before the date of the meeting in a legal newspaper of statewide circulation.

(7) Each public body shall, upon request, make a reasonable effort to accommodate the public's right to hear the discussion and testimony presented at a meeting.

(8) Public bodies shall make available at the meeting or the in-state location for virtual conferencing as required by subdivision (6)(c) of this section, for examination and copying by members of the public, at least one copy of all reproducible written material to be discussed at an open meeting, either in paper or electronic form. Public bodies shall make available at least one current copy of the Open Meetings Act posted in the meeting room at a location accessible to members of the public. At the beginning of the meeting, the public shall be informed about the location of the posted information.

Neb. Rev. Stat. § 84-1413. Meetings; minutes; roll call vote; secret ballot; when.

(1) Each public body shall keep minutes of all meetings showing the time, place, members present and absent, and the substance of all matters discussed.

(2) Any action taken on any question or motion duly moved and seconded shall be by roll call vote of the public body in open session, and the record shall state how each member voted or if the member was absent or not voting. The requirements of a roll call or viva voce vote shall be satisfied by a public body which utilizes an electronic voting device which allows the yeas and nays of each member of such public body to be readily seen by the public.

(3) The vote to elect leadership within a public body may be taken by secret ballot, but the total number of votes for each candidate shall be recorded in the minutes.

(4) The minutes of all meetings and evidence and documentation received or disclosed in open session shall be public records and open to public inspection during normal business hours.

(5) Minutes shall be written, except as provided in subsection (6) of this section, and available for inspection within ten working days or prior to the next convened meeting, whichever occurs earlier, except that cities of the second class and villages may have an additional ten working days if the employee responsible for writing the minutes is absent due to a serious illness or emergency.

(6) Minutes of the meetings of the board of a school district or educational service unit may be kept as an electronic record.

(7) Beginning July 31, 2022, the governing body of a natural resources district, the city council of a city of the metropolitan class, the city council of a city of the primary class, the city council of a city of the first class, the county board of a county with a population greater than twenty-five thousand inhabitants, and the school board of a school district shall make available on such entity's public web site the agenda and minutes of any meeting of the governing body. The agenda shall be placed on the web site at least twenty-four hours before the meeting of

the governing body. Minutes shall be placed on the web site at such time as the minutes are available for inspection as provided in subsection (5) of this section. This information shall be available on the public web site for at least six months.

Neb. Rev. Stat. § 84-1414. Unlawful action by public body; declared void or voidable by district court; when; duty to enforce open meeting laws; citizen's suit; procedure; violations; penalties.

(1) Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in violation of the Open Meetings Act shall be declared void by the district court if the suit is commenced within one hundred twenty days of the meeting of the public body at which the alleged violation occurred. Any motion, resolution, rule, regulation, ordinance, or formal action of a public body made or taken in substantial violation of the Open Meetings Act shall be voidable by the district court if the suit is commenced more than one hundred twenty days after but within one year of the meeting of the public body in which the alleged violation occurred. A suit to void any final action shall be commenced within one year of the action.

(2) The Attorney General and the county attorney of the county in which the public body ordinarily meets shall enforce the Open Meetings Act.

(3) Any citizen of this state may commence a suit in the district court of the county in which the public body ordinarily meets or in which the plaintiff resides for the purpose of requiring compliance with or preventing violations of the Open Meetings Act, for the purpose of declaring an action of a public body void, or for the purpose of determining the applicability of the act to discussions or decisions of the public body. It shall not be a defense that the citizen attended the meeting and failed to object at such time. The court may order payment of reasonable attorney's fees and court costs to a successful plaintiff in a suit brought under this section.

(4) Any member of a public body who knowingly violates or conspires to violate or who attends or remains at a meeting knowing that the public body is in violation of any provision of the Open Meetings Act shall be guilty of a Class IV misdemeanor for a first offense and a Class III misdemeanor for a second or subsequent offense.

Neb. Rev. Stat. § 84-1415. Open Meetings Act; requirements; waiver; validity of action.

No motion, resolution, rule, regulation, ordinance, or formal action made, adopted, passed, or taken at a meeting as defined in section 84-1409 of a public body as defined in such section shall be invalidated because such motion, resolution, rule, regulation, ordinance, or formal action was made, adopted, passed, or taken at a meeting or meetings on or after March 17, 2020, and on or before April 30, 2021, pursuant to a Governor's Executive Order which waived certain requirements of the Open Meetings Act.

2. **Resolution No. R22-64 approving redevelopment contract for B & R Stores Redevelopment Project.**

RESOLUTION NO. R22- 64

A RESOLUTION OF THE COUNCIL OF THE CITY OF COLUMBUS, NEBRASKA, AS THE GOVERNING BODY OF THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF COLUMBUS, NEBRASKA, APPROVING A REDEVELOPMENT CONTRACT FOR A REDEVELOPMENT PROJECT UNDERTAKEN BY COLUMBUS REALTY HOLDINGS LLC, AS SET FORTH IN THE "REDEVELOPMENT PLAN FOR B & R STORES REDEVELOPMENT PROJECT".

WHEREAS, the mayor and council of the City of Columbus, Nebraska (the "City"), previously approved a redevelopment plan entitled "Redevelopment Plan for B & R Stores Redevelopment Project" (the "Plan"); and

WHEREAS, the council of the City, as the governing body of the Community Development Agency of the City (the "Agency"), has for its consideration, attached hereto and incorporated herein as Exhibit "A", a proposed form of the redevelopment contract by and between Columbus Realty Holdings LLC, as redeveloper, and the Agency, with respect to a redevelopment project specified in the Plan (the "Redevelopment Contract").

NOW, THEREFORE, BE IT RESOLVED, by the council of the City of Columbus, Nebraska, as the governing body of the Community Development Agency of the City of Columbus, Nebraska, that the Redevelopment Contract by and between Columbus Realty Holdings, as redeveloper, and the Community Development Agency of the City of Columbus, Nebraska, in the form presented, is hereby acknowledged and approved. The council president and city clerk are hereby authorized to execute said Redevelopment Contract in substantially the form presented but with such changes as they shall deem appropriate or necessary. The execution and delivery by the council president of the Redevelopment Contract, or any such documents, instruments, agreements or certifications relating to such matters contained in the Redevelopment Contract, shall conclusively establish their authority with respect thereto and the authorization and approval thereof.

INTRODUCED BY COUNCIL MEMBER _____

PASSED AND ADOPTED THIS ____ DAY OF _____ 2022.

COUNCIL PRESIDENT

ATTEST:

CITY CLERK

APPROVED AS TO FORM:



SPECIAL CITY ATTORNEY

EXHIBIT "A"
Redevelopment Contract

(See attached)

REDEVELOPMENT CONTRACT
(The B & R Stores Redevelopment Project)

This Redevelopment Contract (“**Redevelopment Contract**”) is made and entered into as of the ____ day of _____, 2022, by and between the Community Development Agency of the City of Columbus, Nebraska (the “**Agency**”), and Columbus Realty Holdings, LLC, a Nebraska limited liability company (“**Redeveloper**”). The Agency and/or Redeveloper may be referred to hereinafter as the “**Party**” or collectively as the “**Parties**”.

WITNESSETH:

WHEREAS, in conformance with the Nebraska Community Development Law, sections 18-2101 et. seq., of the Nebraska Revised Statutes (the "**Act**"), the Mayor and City Council of the City of Columbus, Nebraska (the "**City**"), adopted and approved a plan entitled “Redevelopment Plan for B & R Stores Redevelopment Project,” as hereafter may be amended and supplemented (the “**Plan**”), for the real estate described on Exhibit “A”, attached hereto and incorporated herein (the “**Redevelopment Project Area**”), which is located in the City, and which has previously been declared blighted and substandard or otherwise eligible for redevelopment by the Mayor and Council of the City; and

WHEREAS, the Agency has encouraged and induced Redeveloper to engage in certain development activities and construct improvements in the Redevelopment Project Area and Redeveloper is not willing to incur the substantial investment necessary for such redevelopment of the Redevelopment Project Area without the assistance of tax-increment financing ("**TIF**") provided by the Agency to Redeveloper in this Redevelopment Contract; and

WHEREAS, Redeveloper pursuant to the Plan is undertaking the phased construction of a Super Saver grocery store, a gas station, and a multi-family residential apartment complex, together with such public improvements associated therewith, within the Redevelopment Project Area, all as more particularly described in the Plan and Exhibit "B", attached hereto and incorporated herein (collectively, said improvements are referred to in this Redevelopment Contract as the “**Redevelopment Project**”); and

WHEREAS, "**Phase One**" of the Redevelopment Project includes the construction of a new Super Saver grocery store and fuel center on an expanded footprint (than the current store), and the demolition of the existing Super Saver grocery store, together with such other public and private improvements ancillary thereto, all as more particularly described in the Plan and Exhibit "B"; and

WHEREAS, "**Phase Two**" of the Redevelopment Project includes the construction of a multi-family apartment complex, consisting of approximately 40 to 48 affordable housing units, together with such other public and private improvements ancillary thereto, all as more particularly described in the Plan and Exhibit "B"; and

WHEREAS, each Phase One and Phase Two are generally, and interchangeably, referred to herein as a “**Phase**”; and

WHEREAS, Phase One and Phase Two will each occur on separate portions/lots within the Redevelopment Area, as shown on Exhibit "B", referred to herein as the “**Phase One Site**” and the “**Phase Two Site**”, respectively; and

WHEREAS, the real property within the Redevelopment Project Area, other than easements for public utilities, is to be privately owned by Redeveloper; and

WHEREAS, the Agency proposes to authorize the issuance of its tax increment revenue bonds (each, a “**Bond**”, and collectively, the “**Bonds**”), to provide for the reimbursement of eligible costs relating to the Redevelopment Project, as shall be more specifically described in the resolution(s) to be adopted by the governing body of the Agency (the “**Resolution(s)**”); and

WHEREAS, Redeveloper seeks the assistance of the Agency for the costs of the eligible improvements for the Redevelopment Project and therefore is willing to agree to the conditions herein set forth as an inducement to the Agency to issue the Bonds as provided in the Resolution(s).

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants herein contained, the Agency and Redeveloper do hereby agree, covenant and warrant as follows:

Section 1. Representations, Warranties and Covenants of Redeveloper.

Redeveloper hereby represents, covenants and warrants as follows:

- (a) Redeveloper is a limited liability company duly organized and existing under the laws of the State of Nebraska, is not in violation of any provisions of its articles of organization or operating agreement(s), is authorized to enter into and perform its obligations under this Redevelopment Contract and, to the best of the knowledge of Redeveloper, is not in violation of the laws of the State of Nebraska.
- (b) Throughout the term of this Redevelopment Contract, Redeveloper will reasonably endeavor to construct, operate and maintain the Redevelopment Project in accordance with the terms of this Redevelopment Contract and the Plan, or amendments thereof, and all applicable local, state and federal laws and regulations (including, without limitation, environmental, zoning, building code and public health laws and regulations). Throughout the term of this Redevelopment Contract and subject to the provisions of Section 20 of this Redevelopment Contract, in the event of any casualty damage to the Redevelopment Project, as and to the extent owned by Redeveloper, Redeveloper agrees to repair and reconstruct such damaged portion or portions of the Redevelopment Project so that such reconstructed real property has a taxable value at least equal to the value as most recently determined prior to the event or events of casualty loss. Redeveloper agrees to substantially effect such repair and reconstruction whether or not insurance proceeds are sufficient or available for such purposes.

- (c) Redeveloper shall endeavor in good faith to complete Phase One on or before December 31, 2023, and Phase Two on or before December 31, 2025, at an estimated total cost of \$21,486,147.
- (d) Redeveloper has not received notices or communications from any local, state or federal official or body that the activities of Redeveloper respecting the Redevelopment Project Area or the construction of the Redevelopment Project thereon may be or will be in violation of any law or regulation.
- (e) Redeveloper will use its best efforts to obtain or to cause others to obtain, in a timely manner, all required permits, licenses and approvals and to meet, in a timely manner, all requirements of all applicable local, state and federal laws and regulations which must be obtained or met for the Redevelopment Project to be lawfully constructed, occupied or operated.
- (f) The execution and delivery of this Redevelopment Contract, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of this Redevelopment Contract are not prevented or limited by and will not conflict with or result in a breach (i) of any provision of any evidence of indebtedness, agreement or instrument of whatever nature to which Redeveloper is now a party or by which it is bound; or (ii) of any past, pending or threatened litigation, court order, or administrative proceeding, by which Redeveloper is or might become bound.
- (g) To the best of the knowledge of Redeveloper, Redeveloper is not aware of any hazardous waste or other significant environmental pollution condition or hazard existing on or within the Redevelopment Project Area.
- (h) Redeveloper acknowledges and agrees that neither the Agency nor the City shall be obligated to pay any costs related to the Redevelopment Project other than costs to be paid from available TIF Revenues (defined below), if any, and Redeveloper hereby undertakes and agrees to pay any and all such cost. All costs (both public and private) of the Redevelopment Project shall be paid in full and there are and shall be no construction liens unpaid against the Redevelopment Project Area or any of the improvements thereon. Redeveloper agrees to provide for the construction of both the Redevelopment Project public and private improvements located within the Redevelopment Project Area as described in the Plan or as described in this Redevelopment Contract, except to the extent that the Agency or the City shall agree otherwise by separate written agreement with Redeveloper.
- (i) Redeveloper agrees and covenants for itself, its successors and assigns that as long as a Bond is outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability, marital status or receipt of public assistance in connection with the

Redevelopment Project. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Redevelopment Project, Redeveloper will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance. Redeveloper will comply with all applicable federal, state and local laws related to the Redevelopment Project.

- (j) Redeveloper agrees that any contractor providing services related to the Redevelopment Project will utilize the federal immigration verification system, as defined in Section 4-114 of the Nebraska Revised Statutes, as may be amended or replaced, to determine the work eligibility status of new employees physically performing services on the Redevelopment Project.
- (k) Redeveloper owns or has contracted to purchase the Redevelopment Project Area, in fee simple and free from any liens, encumbrances, or restrictions which would prevent the performance of this Redevelopment Contract by Redeveloper.
- (l) Any general contractor chosen by Redeveloper or Redeveloper itself shall obtain and keep in force at all times until completion of construction, policies of insurance including coverage for contractors' general liability and completed operations of at least \$1,000,000 per occurrence and \$2,000,000 in the aggregate, and a penal bond as required by the Act and Section 10 of this Redevelopment Contract. The Agency, the City and Redeveloper shall be named as additional insureds on each such policy. Any contractor chosen by Redeveloper or Redeveloper itself, as an owner, shall be required to purchase and maintain property insurance upon the Redevelopment Project to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "All Risk" insurance for physical loss or damage. The contractor with respect to any specific contract or Redeveloper shall also carry insurance on all stored materials. The contractor or Redeveloper, as the case may be, shall furnish the Agency and the City with a certificate of insurance evidencing policies as required above. Such certificates shall state that the insurance companies shall give the Agency and the City prior written notice in the event of cancellation of or material change in any of the policies.
- (m) At all times during the term of this Redevelopment Contract, Redeveloper shall maintain policies insuring the improvements located within the Redevelopment Project Area in an amount equal to at least ninety percent (90%) of their full insurable value.
- (n) The Redevelopment Project is not economically viable without the assistance of TIF and Redeveloper would not construct the Redevelopment Project without TIF.
- (o) With respect to the Redevelopment Project, Redeveloper has not pursued or received, and will not pursue or receive, tax incentives under the Nebraska

Advantage Act or the ImagiNE Nebraska Act, or a refund of the City's local option sales tax revenue.

Section 2. Incorporation of Plan; Agency to Issue Bond.

This Redevelopment Contract hereby incorporates the Plan by this reference. The Agency and Redeveloper anticipate that the Redevelopment Project and related construction will be undertaken and constructed in two (2) Phases. The Parties anticipate that a total of two (2) Bonds will be issued for the Redevelopment Project (i.e., one Bond for each Phase). Each Phase may consist of multiple Sub-Phases (defined below), which will each have a different "**effective date**" (as defined in the Act) for the division of excess ad valorem real property taxes ("**TIF Revenues**") along with a new increment period. The increment for each Phase, or Sub-Phase thereof, as applicable, will end after the applicable 15 year period or when the respective Bond is paid in full, whichever occurs first.

Establishment of each Phase and/or Sub-Phase thereof in relation to the division of TIF Revenues shall be directly related to the construction of the private improvements completed on individual tax lot(s) within the Redevelopment Project Area as part of a respective Phase each year. Commencing on July 1st of the first year in which the Phase One improvements are being completed, and annually on or before each July 1st thereafter with respect to Phase One and each subsequent Phase, Redeveloper shall notify the Agency in writing of the lot(s) to be included in the "**Notice to Divide Taxes**" (as detailed under Section 18-2147 of the Act) for the respective Phase in such year. If the lot(s) identified by Redeveloper in a given year do not constitute all the lots within the applicable Phase, such identified lot(s) shall be a "**Sub-Phase**" of the respective Phase. The written notice shall include the legal description of the lot(s) in the Phase or Sub-Phase, as applicable, the effective date therefor, the base year valuation for the lot(s), and such other provisions as may be deemed necessary by the Agency including usual and customary representations. The Agency shall file the Notice to Divide Taxes with the Madison County Assessor on or prior to August 1 of such year, establishing such year as the effective date for the lots identified in Redeveloper's notice. Provision of notice from Redeveloper to the Agency to establish a Phase or Sub-Phase, as applicable, in the manner prescribed above, shall be the sole obligation of Redeveloper. If Redeveloper fails to provide such notice in conformance with the terms of this Section 2, Redeveloper shall indemnify and hold the Agency harmless in relation to the Agency's failure to file a Notice to Divide Taxes establishing such Phase or Sub-Phase, and any loss of TIF Revenues stemming therefrom.

In order to provide for payment of some of the TIF-eligible costs for the Redevelopment Project set forth in the Plan and this Redevelopment Contract, as described in Exhibit "C", attached hereto and incorporated herein (the "**Eligible Costs**"), the Agency shall proceed to issue the Bonds on a form approved by the Agency, in the principal amount not to exceed One Million Sixty-Six Thousand & 00/100 Dollars (\$1,066,000) with respect to Phase One (the "**Phase One Bond**"), and Four Hundred Thirty-Four Thousand & 00/100 Dollars (\$434,000) with respect to Phase Two (the "**Phase Two Bond**"), each at a rate of interest not to exceed four and sixty-five one hundredths percent (4.65%), pursuant to such terms and conditions as the Agency reasonably determines appropriate under the circumstances to be set forth in the Resolution(s).

The Bonds shall constitute a limited obligation of the Agency payable exclusively from the TIF Revenues generated from the Redevelopment Project pursuant to section 18-2147 of the Act and collected for a period not to exceed fifteen (15) years from the effective date of each Phase or Sub-Phase, as applicable. Upon receipt, the Agency shall, pursuant to the Resolution(s), disburse said TIF Revenues to the holder(s) of the Bonds as debt service thereon to provide for reimbursement of all or a portion of the costs of the Eligible Costs, to the extent paid by Redeveloper. The Agency shall have no obligation to disburse TIF Revenues in excess of the aggregate sum of Eligible Costs certified to and accepted by the Agency, in the Agency's discretion. To qualify as Eligible Costs, Redeveloper must first certify such costs to the Agency via the provision of paid invoices or other evidence acceptable to the Agency, in the Agency's sole discretion. Provided there is no duplication of costs, the Agency acknowledges and agrees that the TIF Revenues derived from a particular Phase may be applied towards the Eligible Costs incurred within a different Phase, as all such Phases and Eligible Costs are a part of the single Redevelopment Project. Additionally, if there is a shortfall of TIF Revenues collected with respect to one Bond and an excess of TIF Revenues collected with respect to the other Bond, the Agency may apply the excess TIF Revenues towards the Bond incurring a shortfall, as the Bonds shall each be secured by the TIF Revenues derived from both the Phase One Site and Phase Two Site.

Unless otherwise determined by the governing body of the Agency, the proceeds of the Bonds shall be applied to the costs described above. The Bonds shall be issued on the basis of interest which is includable in income for both federal and Nebraska State income taxes.

Section 3. Covenants With Respect to Taxation of Redevelopment Project Area.

Redeveloper agrees with respect to the Redevelopment Project as follows:

- (a) Until the termination of this Redevelopment Contract (as described in Section 19 hereof), the Redevelopment Project shall be operated for the use substantially similar to that contemplated in the Plan and Redeveloper, together with its successors and assigns, including subsequent purchasers of land within the Redevelopment Project Area, shall not sell or convey such property to any person or entity for ownership or use which would cause the real property within the Redevelopment Project Area to be eligible for exemption from ad valorem taxes under Section 77-202 of the Nebraska Revised Statutes, as now existing or hereafter amended, or any successor provision thereto, and shall not make application for any structure, or any portion thereof, to be taxed separately from the underlying land of any lot.
- (b) Redeveloper intends to create a taxable real property valuation of not less than: (i) \$7,656,000 for the Phase One Site by January 1, 2024 (the "**Phase One Minimum Valuation**"); and (ii) \$3,120,000 for the Phase Two Site by January 1, 2026 (the "**Phase Two Minimum Valuation**"); resulting in an aggregate valuation of \$10,776,000 for the entire Redevelopment Project Area (the "**Aggregate Minimum Valuation**"). During the period that the Bonds are outstanding, Redeveloper, its successors and assigns, including any subsequent

owners of the Redevelopment Project Area, or portion thereof, shall not protest a real estate property valuation, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes: (y) to an amount below the Phase One Minimum Valuation with respect to the Phase One Site; or (z) to an amount below the Phase Two Minimum Valuation with respect to the Phase Two Site. Additionally, during the period that the Bonds are outstanding, Redeveloper, its successors and assigns, including any subsequent owners of the Redevelopment Project Area, or portion thereof, shall not protest a real estate property valuation with respect to either the Phase One Site or Phase Two Site, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, if such protest would result in the assessed value for the entire Redevelopment Project Area to be below the Aggregate Minimum Valuation, irrespective of whether such protest would otherwise be permitted with respect to the individual sites in accordance with the above terms.

- (c) If Redeveloper has monetized a Bond by pledging it to its lender, Redeveloper shall solely be responsible for all payments due to such lender. If, during the period of this Redevelopment Contract and after the filing of a Notice to Divide Taxes, a portion of the Redevelopment Project Area is assessed at less than the Phase One Minimum Valuation or Phase Two Minimum Valuation, as applicable, Redeveloper agrees to defer receipt of any shortfall in TIF revenues caused thereby. If Redeveloper is required to defer the receipt of any such shortfall amounts, Redeveloper shall be entitled to receive reimbursement of any such shortfall payment to the extent TIF Revenues later become available during the fifteen (15) year period prescribed by the Act (for each Phase or Sub-Phase) in an amount in excess of the amount necessary to meet the current debt service payments. Redeveloper shall forgive any such shortfall amounts not reimbursed at the end of the fifteen (15) year period prescribed by the Act (for each Phase or Sub-Phase).
- (d) Redeveloper, its successors and assigns, including subsequent purchasers of land within the Redevelopment Project Area, further agree as follows:
 - (i) to pay all local ad valorem real estate taxes for the Redevelopment Project Area as levied and assessed before the same become delinquent; and
 - (ii) not to seek any administrative review or judicial review of the applicability or validity of any tax statute relating to taxation of the Redevelopment Project or to raise such inapplicability or invalidity as a defense in any administrative or judicial proceedings; and
 - (iii) not to seek any tax deferral or tax abatement with respect to local ad valorem taxes, either as presently or prospectively authorized under any law of the State of Nebraska or federal law with respect to the Redevelopment Project; and

- (iv) to pay or cause to be paid, when due and before any fine, penalty, interest or cost may be added thereto for the non-payment thereof, all water and sewer rates and charges, occupancy tax, special assessments and other governmental levies and charges, general and special, ordinary and extraordinary, unforeseen as well as foreseen, of any kind and nature whatsoever, which are assessed, levied, confirmed, imposed or become payable with respect to the Redevelopment Project or Redevelopment Project Area; provided, however, that any special assessments levied for water, sewer or paving improvements shall be permitted to be paid as the same fall delinquent and may bear interest from the date of levy or other appropriate date set by the levying body; and
- (v) to retain copies of all supporting documents (as defined under section 18-2119(4) of the Act) actually generated and received by Redeveloper in relation to the Redevelopment Project or Plan until the expiration of three years following the end of the last fiscal year in which ad valorem taxes were divided in relation to the Redevelopment Project.

Section 4. Release and Indemnification.

Redeveloper hereby releases from and covenants and agrees that the Agency and the City, together with their governing body, officers, agents, including their independent contractors, consultants and legal counsel, servants and employees thereof (hereinafter, for purpose of this Section 4, collectively the “**Indemnified Parties**”) shall not be liable for and agrees to indemnify and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect arising from the Redevelopment Project or within the Redevelopment Project Area. Provided, however, to the extent permitted under Nebraska law, such release shall not be deemed to include such liability actions as arise directly out of the willful misconduct of the Agency or the City.

Additionally, the Indemnified Parties shall not have any pecuniary obligation or monetary liability under this Redevelopment Contract. The obligation of the Indemnified Parties on the Bonds or any indebtedness contemplated hereunder shall be limited solely to the TIF Revenues generated from the Redevelopment Project pledged as security for such indebtedness. Specifically, but without limitation, the Indemnified Parties shall not be liable to Redeveloper or any other third party for any costs, liabilities, actions, demands, or damages for failure of any representations, warranties or obligations hereunder.

Section 5. Covenants to Run with the Land; Easement; Recording of Redevelopment Contract.

Redeveloper and Agency agree and acknowledge that this Redevelopment Contract and the undertakings of Redeveloper and the Agency as herein provided for shall be considered as and constitute covenants running with the land binding upon Redeveloper and the Agency and

their successors and assigns and upon each successive owner of the Redevelopment Project Area or any portion thereof. Redeveloper hereby acknowledges and agrees that by the terms of this Redevelopment Contract it is binding and obligating any and all of its interest in the Redevelopment Project Area, now or hereafter acquired, and hereby covenants and warrants for the benefit of the Agency and the registered owner of the Bonds that Redeveloper shall defend such interest in the Redevelopment Project Area against the claims and interests of any and all persons. Redeveloper and the Agency agree and acknowledge that a memorandum of this Redevelopment Contract, in substantially the same form attached hereto and incorporated herein as Exhibit "D", shall be recorded at the expense of Redeveloper against all real estate located in the Redevelopment Project Area and shall remain of record until the Bonds have been paid in full or matured. The Agency shall have the authority to execute such memorandum(s) without additional public determinations or meetings. As and to the extent that this Redevelopment Contract does not have priority by order of recording over each and every mortgage or other instrument securing indebtedness of Redeveloper, Redeveloper hereby agrees to obtain the written agreement in recordable form from each mortgagee or other encumbrancer having any such priority, which written form acknowledges and agrees to the terms of this Redevelopment Contract. Redeveloper agrees to provide the Agency with a title report or other evidence as to the status of title to the Redevelopment Project Area after the recording of this Redevelopment Contract and before the issuance of the Bond. After the Bonds have been paid in full, Redeveloper or any successor or assign of Redeveloper shall have the right to request in writing and the Agency shall, upon such request, execute and deliver an appropriate instrument evidencing the termination of this Redevelopment Contract and of the covenants and undertakings herein provided. The Agency shall have the right, from time to time in its sole and reasonable discretion, to release specific parcels or lots located within the Redevelopment Project Area from any or all of the specific provisions of this Redevelopment Contract.

Section 6. Default and Remedies upon Default.

Redeveloper and Agency agree with respect to any defaults or failures of performance by Redeveloper or Agency as follows:

- (a) The following shall constitute “**Events of Default**” under the terms of this Redevelopment Contract:
 - (i) failure by Redeveloper or Agency to observe timely or perform timely any covenant, condition, obligation or agreement on its part to be observed or performed under this Redevelopment Contract;
 - (ii) any representation or warranty made herein by Redeveloper or Agency proves untrue in any respect reasonably deemed to be material by the Agency or Redeveloper;
 - (iii) an event of default or material breach by or attributable to Redeveloper or Agency relating to the Redevelopment Project or any portion thereof, including, without limitation, breach of the terms of any agreement or other instrument relating to the financing or construction thereof; or

- (iv) Redeveloper makes an assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated insolvent or bankrupt or petitions for an order for relief, petitions or applies to any tribunal for the appointment of any receiver or any trustee or a debtor in possession of Redeveloper or any part of its property or commences any proceeding related to Redeveloper under any reorganization, arrangement, readjustment of debt, dissolution or liquidation act, code, law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against Redeveloper any such proceedings and Redeveloper by any act indicates its consent or approval of or acquiescence in any such proceeding or the appointment of any receiver or any trustee or debtor in possession for Redeveloper or any part of its property or suffers any such receivership or trusteeship.

- (b) Whenever an Event of Default occurs, in addition to all other remedies available to the Agency or Redeveloper at law or in equity, the Agency or Redeveloper may take such action at law or in equity as the Agency or Redeveloper reasonably deem appropriate, including specific performance or injunction to enforce or compel performance of the provisions of this Redevelopment Contract; provided that the remedy of specific performance against Redeveloper shall not include or be construed to include the covenant to build or construct the Redevelopment Project.

- (c) In addition to the remedies under subsection 6(b), above, the Agency shall have the following additional remedies upon an Event of Default by Redeveloper:
 - (i) If at any time during the term of this Redevelopment Contract an Event of Default shall occur and remain continuing and uncured for a period of more than thirty (30) days after written notice from the Agency to Redeveloper of such Event of Default, the City or Agency shall have the right, but not the obligation, to cure such breach on behalf of Redeveloper with respect to the construction of the improvements characterized as Eligible Costs. If the City or Agency elects to cure a breach of Redeveloper, Redeveloper shall reimburse the City or Agency for the documented and reasonable costs of curing Redeveloper's breach within 30 days of demand from City or Agency given to Redeveloper. If Redeveloper's breach can be cured by the payment of Eligible Costs, the City or Agency may cure such defect and obtain reimbursement, without notice to Redeveloper, via a set off to the principal amount of the Bonds equal to the Eligible Costs expended by the City or Agency. The Eligible Costs expended by the City or Agency must be certified by the City or Agency to the holder of the grant proceeds and all subsequent distributions of grant proceeds shall be distributed to the City or Agency, as applicable, until such Eligible Costs expended by the City or Agency have been reimbursed in full. Interest shall accrue on the amount expended by the

City or Agency at the rate provided in the Bonds and such interest shall commence from the date that the Agency gives notice to Redeveloper of Redeveloper's Event of Default.

- (ii) If at any time during the term of this Redevelopment Contract an Event of Default by Redeveloper shall occur, following written notice from the Agency to Redeveloper of such Event of Default, the Agency may withhold any TIF Revenues received, and shall not be required to remit said TIF Revenues as debt service on the Bonds unless and until Redeveloper cures the Event of Default.
- (iii) If at any time during the term of this Redevelopment Contract an Event of Default shall occur and remain continuing and uncured for a period of more than sixty (60) days after written notice from the Agency to Redeveloper of such Event of Default, the aggregate amount of all grants paid to Redeveloper (including principal and interest) for improvements shall stand forfeited and Redeveloper shall be required to repay the same to the Agency within thirty (30) days' written demand thereof.
- (d) No remedy herein conferred upon or reserved to the Agency or the registered owner of a Bond is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Redevelopment Contract or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.
- (e) If any provision of this Redevelopment Contract is breached by a Party and thereafter waived by the other Party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.
- (f) Anything in this Section 6 to the contrary notwithstanding, none of the events described in subsection 6(a)(iv) above shall constitute an Event of Default after Redevelopment Project has been completed and the proceeds of the Bonds have been disbursed in full.

Section 7. Status of Agency and City.

Neither the Agency nor the City is or shall be regarded as the partner, joint venturer or other jointly acting party with Redeveloper for any purpose whatsoever and the undertakings and agreements on the part of the Agency herein provided for are undertaken solely pursuant to the provisions of sections 18-2101 to 18-2150 of the Act and for the limited governmental purposes of promoting and encouraging redevelopment of a blighted and substandard area. Redeveloper acknowledges that Redeveloper or its successors and assigns are and shall remain in control of

the Redevelopment Project for all purposes provided that Redeveloper acknowledges and agrees that the City is and shall be the owner of and shall be in control of all public street, sewer and water improvements constituting a part of or serving the Redevelopment Project.

Section 8. Manner of Sale of Bond.

Redeveloper agrees either to purchase the Bonds for the principal amount thereof or to find a purchaser for the Bonds upon terms and conditions acceptable to the Agency. Neither the Agency nor the City under the terms of this Redevelopment Contract undertakes any responsibility with respects to the sale or placement of the Bond. Any such sale or placement of the Bonds shall be by means of a private placement to a financial institution or other institutional buyer capable of evaluating the risks of investment in the Bonds or to Redeveloper. Any such purchaser, including Redeveloper, shall provide to the Agency an investment letter setting forth the understanding as to purchase for investment and not for any further distribution, in substantially the same form as Exhibit "E", attached hereto and incorporated herein. The loan to be accomplished by this Section, and the obligation of the Agency to remit the TIF revenues for the Redevelopment Project as debt service on the Bond, may be accomplished by offset so that no bankable currency is exchanged between the Parties at closing of the Bond, except for other payments required hereunder. If the Agency so requests, Redeveloper shall, from time to time, furnish the Agency with satisfactory evidence as to the use and application of the TIF revenues.

Section 9. Reimbursement of Agency and City Fees.

Upon the full execution of this Redevelopment Contract, Redeveloper shall reimburse the Agency for its legal fees incurred in relation to the Redevelopment Project in the amount of \$12,000. Additionally, prior to or contemporaneously with issuance of the Phase One Bond, Redeveloper shall reimburse the Agency in the amount of \$3,000 for its legal fees incurred in relation to issuance of the Phase One Bond. Additionally, prior to or contemporaneously with issuance of each the Phase Two Bond, Redeveloper shall reimburse the Agency in the amount of \$3,000 for its legal fees incurred in relation to issuance of the Phase Two Bond. All such reimbursements shall be payable directly to the Agency's special counsel, at the direction of the Agency.

Section 10. Indemnification and Penal Bond

Redeveloper hereby agrees to indemnify and save the Agency and City harmless for any payment or liability to which the Agency or City may become subject for carrying out of any contract entered into by Redeveloper with respect to the Redevelopment Project. Redeveloper agrees to provide to the Agency evidence that there is in effect a bond for the payment costs as required under Section 18-2151 of the Act.

Section 11. Additional Parties Added as Redeveloper.

The Parties specifically agree that additional parties or entities may be admitted to and included within the meaning of the term "Redeveloper" upon the mutual written consent of both Parties.

Section 12. Redevelopment Contract Binding Upon Successors and Assigns.

This Redevelopment Contract is made for the benefit of Redeveloper, the Agency and the registered owners from time to time of the Bonds as third party beneficiaries. This Redevelopment Contract shall be binding upon the Agency and Redeveloper, and any successors or assigns thereof. Redeveloper may assign its interest in the Redevelopment Project only upon receipt of prior written consent from the Agency. The Agency and Redeveloper acknowledge and agree that, in the event Redeveloper assigns its rights and obligations under this Redevelopment Contract, in whole or in part, to any assignee, Redeveloper and the assignee shall both be bound by the terms of the Plan and this Redevelopment Contract (as and to the extent of any such assignment with respect to the Assignee). No assignment by Redeveloper to the Assignee shall be effective until a written instrument binding the Assignee under the terms of the Plan and this Redevelopment Contract (as and to the extent of such assignment), duly acknowledged and in recordable form, has been executed and delivered by the Assignee and recorded in the real estate records of Platte County, Nebraska, with respect to the Redevelopment Project Area.

Section 13. Titles of Sections.

Any titles of the several Sections of this Redevelopment Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of the provisions hereof.

Section 14. Notices.

Except as otherwise specified herein, all notices hereunder shall be in writing and shall be given to the relevant Party at its address set forth below, or such other address as such Party may hereafter specify by notice to the other given by United States mail or by other telecommunication device capable of creating a written record of such notice and its receipt. Notices hereunder shall be addressed:

- (a) in the case of Redeveloper, if mailed to or delivered personally to:

B & R Stores, Inc./Super Saver (Attn: Jane Raybould)
4554 W Street
Lincoln, NE 68503
jane@brstores.com

With a copy to:

Andrew Willis
Cline Williams Wright Johnson & Oldfather, L.L.P.
233 South 13th Street; 1900 US Bank Bldg.
Lincoln, NE 68508
awillis@clinewilliams.com

(b) in the case of Agency, if mailed to or delivered personally to:

Community Development Agency
Offices of the City of Columbus, Nebraska
Attention: Columbus City Clerk
2424 14th St.
P.O. Box 1677
Columbus, NE 68602

With a Copy to:

Michael Sands
Baird Holm LLP
1700 Farnam Street, Ste. 1500
Omaha, NE 68102
msands@bairdholm.com

Each such notice, request or other communication shall be effective (i) if given by mail, five (5) days after such communication is deposited in the mail, certified or registered with return receipt requested, addressed as aforesaid or (ii) if given by any other means, when delivered at the addresses specified in this Section or at any such other address with respect to any such Party as that Party may, from time to time, designate in writing and forward to the other Party as provided in this Section.

Section 15. Severability.

If any provision of this Redevelopment Contract shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case, for any reason, such circumstances shall not have the effect of rendering the provision in question inoperative and unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained, invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses, sections or paragraphs in this Redevelopment Contract shall not affect the remaining portions of this Redevelopment Contract or any part thereof.

Section 16. Counterparts.

This Redevelopment Contract may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 17. Law Governing.

The Parties agree that this Redevelopment Contract shall be governed and construed in accordance with the laws of Nebraska.

Section 18. Time of the Essence.

Time shall be of the essence of this Redevelopment Contract.

Section 19. Termination.

This Redevelopment Contract shall commence as of the date first above written and shall automatically terminate (if not otherwise terminated earlier pursuant to the terms of this Redevelopment Contract) upon the earlier of maturity of the Bonds or payment of all principal and interest owed toward the Bonds.

Section 20. Force Majeure Event.

Neither Redeveloper nor the Agency shall be considered in breach of, or in default in its obligations with respect to any of the obligations under this Redevelopment Contract in the event of an enforced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, caused by a Force Majeure Event. “**Force Majeure Event**” is defined herein as any failure or delay in performance by a Party that is proximately caused by acts of God, or wars or insurrections. In the event of the occurrence of any such enforced delay due to a Force Majeure Event, the time or times for performance of the obligations of Redeveloper or the Agency, as the case may be, shall be extended for the period of the enforced delay as determined by the mutual agreement of Redeveloper and the Agency; provided, that Redeveloper or the Agency, as the case may be, shall, within twenty (20) days after the beginning of any such enforced delay, notify the other Party in writing of the cause or causes thereof, and request an extension for the period of the enforced delay.

Section 21. Effect of Redevelopment Contract.

This Redevelopment Contract (including the Plan as incorporated by reference) constitutes the entire understanding by and between the Parties concerning the subject matter hereof, and supersedes and replaces all prior agreements. No other prior or contemporaneous representations, inducements, promises or agreements, oral or otherwise, between or among the Parties relating to the subject matter hereof and not embodied in this Redevelopment Contract shall be of any force and effect.

Section 22. Redeveloper’s Obligations with Respect to Public Improvements.

Prior to the completion of Phase One, Redeveloper shall:

- (a) Dedicate to the City, without charge, a portion of the Redevelopment Project Area adjacent to 35th Avenue for the widening of said 35th Avenue right-of-way by Redeveloper as part of the Redevelopment Project. The exact location and dimensions of such vacated land shall be determined by the City in accordance with its code and the oversight and approval of the City’s engineer.

(b) Construct all street, sidewalk, landscaping and other public improvements included as part of the Redevelopment Project that are located within or directly adjacent to any public rights-of-way. All such improvements shall be completed in accordance with the City's code and shall be subject to the oversight and approval of the City's engineer.

(The remainder of this page is intentionally left blank)

IN WITNESS WHEREOF, the Agency and Redeveloper have caused this Redevelopment Contract to be executed by their duly authorized representatives.

COMMUNITY DEVELOPMENT AGENCY OF
THE CITY OF COLUMBUS, NEBRASKA

By: _____
Chairperson

ATTEST:

Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF PLATTE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____, Chairperson, and _____, Secretary, of the governing body of the Community Development Agency of the City of Columbus, Nebraska on behalf of such agency.

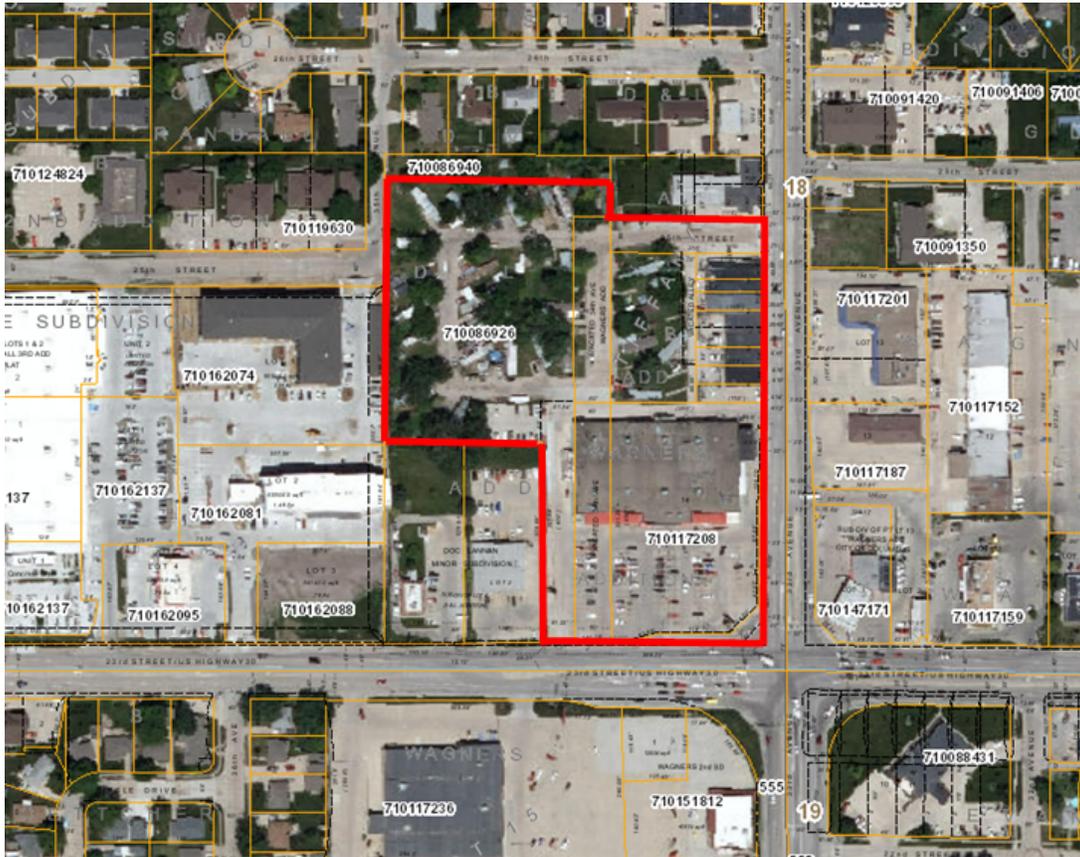
Notary Public

Exhibit "A"
Redevelopment Project Area

Legal Description:

Lot 3, D&L Addition, except the north 40.00 feet thereof; Lot 5, Block B, Tiffany's Addition, formerly known as Tiffany's Subdivision and 20.00 feet private drive adjacent to Lots 1, 2, and 3, Block B, Tiffany's Addition, formerly known as Tiffany's Subdivision, and Lot 14, Wagners Addition and all of that part of vacated 34th Avenue, lying adjacent thereto, except highway right-of-way, all in the City of Columbus, Platte County, Nebraska.

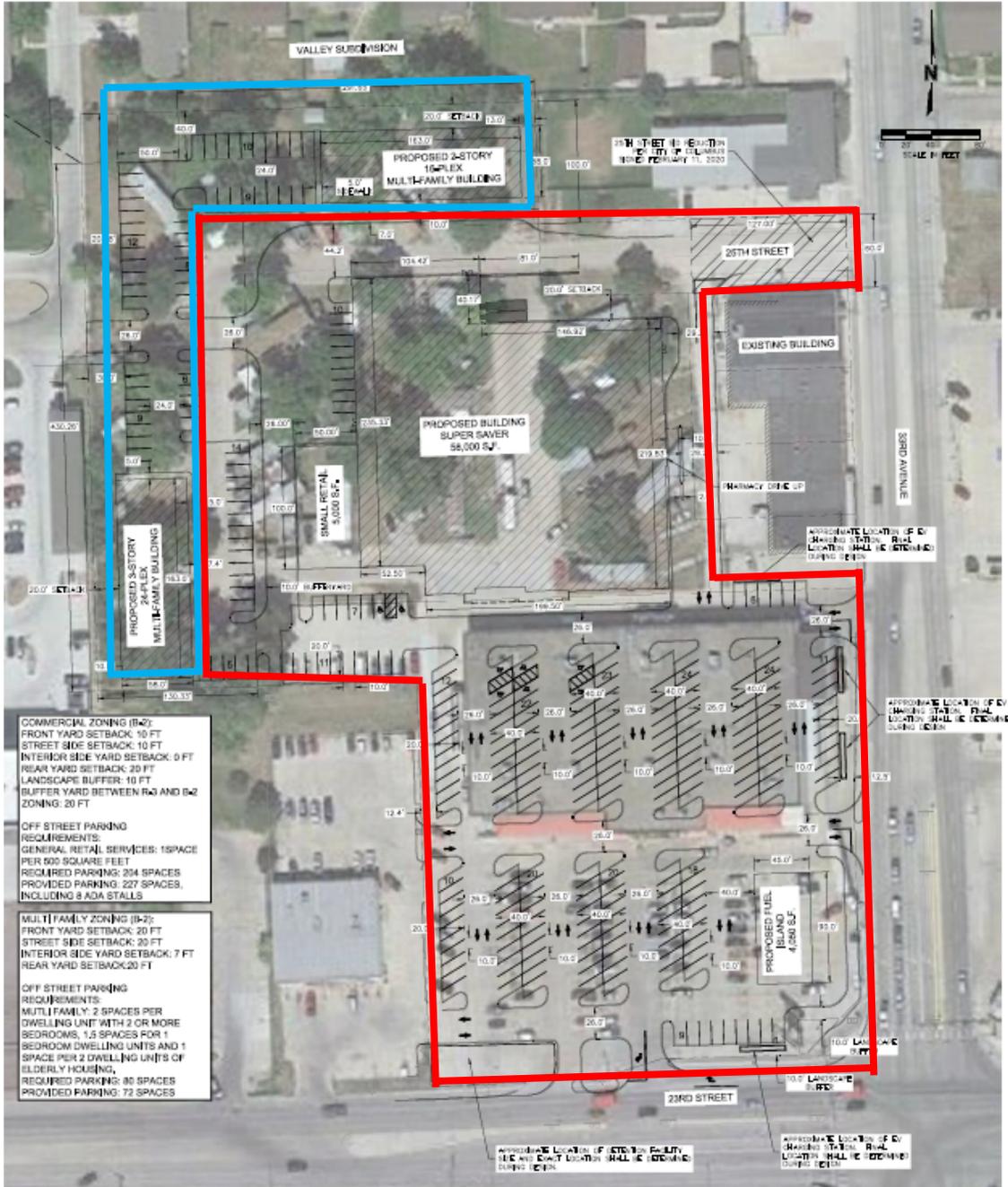
Depiction:



* Redeveloper intends to replat the Redevelopment Project Area as part of the Redevelopment Project. The legal description(s) for the Redevelopment Project Area derived from any such replat approved by the City shall supersede the legal description provided above and automatically be incorporated herein.

** Any discrepancies between the above legal description and depiction should be decided in favor of the legal description.

Exhibit "B" Redevelopment Project Conceptual Site Plans



- * Approximate boundaries of Phase One outlined in Red.
- ** Approximate boundaries of Phase Two outlined in Blue.
- *** The above is a preliminary site plan and is subject to change.

Exhibit "C"
Redevelopment Project Description and Projected TIF Sources and Uses

TIF Sources and Assumptions (Aggregate of Phase One and Phase Two):

Base Value:	\$3,269,205
Final Value:	\$10,776,000
Tax Levy (2021):	1.884353
TIF Revenues/Year (on average in aggregate):	\$140,040
Total Potential TIF Revenues:	\$2,100,600
Aggregate Bond Amount:	\$1,500,000
Interest Rate on Bonds:	4.65%

* The above figures are projections and subject to change.

Projected TIF Uses:

Land Acquisition	\$2,465,147
Dirt Work and Infill	\$492,000
FMV of Dedicated Land for 35th Ave ROW	\$8,363
Public roads and utilities	\$180,000
Architectural and Engineering Fees	\$329,000
Energy Efficiency Enhancements	\$4,200,000
Legal Fees	\$20,000
TOTAL	\$7,694,510

* The above figures are only estimates of the Eligible Costs and such actual costs will be reflected in the cost certifications required under Section 2 of the Redevelopment Contract.

** All Eligible Costs contemplated in the Plan and not otherwise specified herein shall be included as Eligible Costs for purposes of this Redevelopment Contract under this Exhibit "C".

Exhibit "D"
Form of Redevelopment Contract Memorandum for Recording

MEMORANDUM OF REDEVELOPMENT CONTRACT

This Memorandum of Redevelopment Contract ("Memorandum") is made this ___ day of _____, 20___, by and between the Community Development Agency of the City of Columbus, Nebraska ("Agency") and Columbus Realty Holdings, LLC, a Nebraska limited liability company ("Redeveloper").

1. **Redevelopment Contract.** Agency and Redeveloper have entered into that certain Redevelopment Contract dated as of _____, 2022 ("Redevelopment Contract"), describing the public and private improvements being made by the Redeveloper in the "Redevelopment Project Area", legally described as:

Lot 3, D&L Addition, except the north 40.00 feet thereof; Lot 5, Block B, Tiffany's Addition, formerly known as Tiffany's Subdivision and 20.00 feet private drive adjacent to Lots 1, 2, and 3, Block B, Tiffany's Addition, formerly known as Tiffany's Subdivision, and Lot 14, Wagners Addition and all of that part of vacated 34th Avenue, lying adjacent thereto, except highway right-of-way, all in the City of Columbus, Platte County, Nebraska.

Notwithstanding the above legal description, Redeveloper intends to replat the Redevelopment Project Area as part of the Redevelopment Project. The legal description(s) for the Redevelopment Project Area derived from any such replat approved by the City of Columbus, Nebraska, shall supersede the legal description provided above.

2. **Tax Increment Financing.** The Redevelopment Contract provides for the capture of the tax-increment financing ("TIF") revenues by the Agency generated by the improvements to be made by the Redeveloper for a period not to exceed fifteen (15) years after the effective date (as defined in the Nebraska Community Development Law) of each Phase and/or Sub-Phase of the Redevelopment Project. The TIF revenues so captured by the Agency shall be used to reimburse Redeveloper for construction of the Eligible Costs described in the Redevelopment Contract via debt service payments on the Bonds issued by the Agency.

3. **Redevelopment Project Valuation.** Pursuant to the Redevelopment Contract, Redeveloper shall create a taxable real property valuation of not less than: (i) \$7,656,000 for the Phase One Site by January 1, 2024 (the "**Phase One Minimum Valuation**"); and (ii) \$3,120,000 for the Phase Two Site by January 1, 2026 (the "**Phase Two Minimum Valuation**"); resulting in an aggregate valuation of \$10,776,000 for the entire Redevelopment Project Area (the "**Aggregate Minimum Valuation**"). In accordance therewith, during the period that the Bonds are outstanding, Redeveloper, its successors and assigns, including any subsequent owners of the Redevelopment Project Area, or portion thereof, shall not protest a real estate property valuation, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes: (y) to an amount below the Phase One Minimum Valuation with respect to the Phase One Site; or (z) to an amount below the Phase Two

Minimum Valuation with respect to the Phase Two Site. Additionally, during the period that the Bonds are outstanding, Redeveloper, its successors and assigns, including any subsequent owners of the Redevelopment Project Area, or portion thereof, shall not protest a real estate property valuation with respect to either the Phase One Site or Phase Two Site, as determined by the appropriate assessing and taxing officials of Platte County, Nebraska, for purposes of local ad valorem real estate taxes, if such protest would result in the assessed value for the entire Redevelopment Project Area to be below the Aggregate Minimum Valuation, irrespective of whether such protest would otherwise be permitted with respect to the individual sites in accordance with the above terms.

4. **Remaining Terms.** The rest and remaining terms of the Redevelopment Contract are hereby incorporated into this Memorandum as if they were set forth in full. All capitalized terms in this Memorandum that are not otherwise defined herein shall have the same meaning as set forth in the Redevelopment Contract. A full and correct copy of the Redevelopment Contract may be inspected at the Agency offices in Columbus, Nebraska.

5. **Termination of Memorandum.** Unless terminated sooner in accordance with the terms of the Redevelopment Contract, this Memorandum shall be deemed to automatically terminate and be released from the above-described real property upon the payoff or maturity of the Bonds.

(Signatures on following page(s))

COMMUNITY DEVELOPMENT AGENCY
OF THE CITY OF COLUMBUS, NEBRASKA

By: _____
Chairperson

ATTEST:

Secretary

STATE OF NEBRASKA)
) ss.
COUNTY OF PLATTE)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ and _____, the Chairperson and Secretary, respectively, of the Community Development Agency of the City of Columbus, Nebraska, on behalf of said agency.

(S E A L)

Notary Public

Columbus Realty Holdings, LLC, a Nebraska
limited liability company

By: _____

Name: _____

Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, the _____ of Columbus Realty Holdings, LLC, a Nebraska limited liability company, on behalf of the company.

(S E A L)

Notary Public

Exhibit "E"
Form of Investor Letter

_____, 20__

Community Development Agency
Offices of the City of Columbus, Nebraska
Attention: Columbus City Clerk
2424 14th St.
P.O. Box 1677
Columbus, NE 68602

Re: Tax Increment Revenue Bond (B & R Redevelopment Project), Series
20__

Ladies and Gentlemen:

The undersigned is the initial registered owner of the above Bond issued by the Community Development Agency of the City of Columbus, Nebraska (the "Agency"). The representations and statements made in this letter are made as an inducement to the Agency in connection with the issuance of the above Bond (the "Bond"). The undersigned acknowledges and represents that it has been advised that the Bond is not registered under the Securities Act of 1933, as amended, and that the Agency is not presently required to register under Section 12 of the Securities and Exchange Act of 1934. The undersigned therefore recognizes that if and when the undersigned may wish to resell the Bond as held by it there may not be any available current business and financial information about the Agency or the project being financed by the Bond. Further the undersigned realizes that no trading market presently exists or is expected to exist for the Bond. The undersigned understands that it may need to bear the risks of an investment in the Bond for an indefinite period of time, since any sale prior to maturity of the Bond may not be possible or may be at a price below that which the undersigned is paying for the Bond.

It is understood that the undersigned has undertaken to verify the accuracy and completeness and truth of any statements made or omitted to be made concerning any of the material facts relating to the Bond and the project being financed and transactions relating thereto, including information regarding the operations and financial condition of _____ ("Redeveloper"), as redeveloper for said project, and said project. The undersigned has conducted its own investigation and has had discussions with officials of the Agency and Redeveloper.

Exhibit "E"

In connection with the purchase of the Bond, the undersigned hereby acknowledges and represents that the undersigned is acquiring the Bond for its own account for investment and not with a view to the resale or distribution. The undersigned has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment represented by the purchase of the Bond, has financial resources sufficient to sustain the risks related to holding the Bond and is aware of the intended use of the proceeds and risks involved therein.

THE UNDERSIGNED UNDERSTANDS THAT THE BOND IS A LIMITED OBLIGATION OF THE AGENCY AND IS NOT SECURED BY ANY OBLIGATION OR PLEDGE OF ANY MONIES RECEIVED OR TO BE RECEIVED FROM TAXATION, OTHER THAN TAX INCREMENT REVENUES AS DESCRIBED IN THE RESOLUTION AUTHORIZING THE BOND. THE UNDERSIGNED UNDERSTANDS THAT THE BOND IS NOT AN OBLIGATION OF THE CITY OF COLUMBUS, NEBRASKA, EXCEPT AS TO ITS COMMUNITY DEVELOPMENT AGENCY OF WHICH IT IS A LIMITED OBLIGATION, THAT THE BOND IS NOT AN OBLIGATION OF THE STATE OF NEBRASKA OR ANY POLITICAL SUBDIVISION OF THE STATE OF NEBRASKA OR TAXING AUTHORITY THEREOF, OTHER THAN OF SUCH AGENCY, AND THAT NO RIGHT EXISTS TO HAVE TAXES LEVIED BY THE CITY OF COLUMBUS OR THE STATE OF NEBRASKA OR ANY POLITICAL SUBDIVISION THEREOF FOR THE PAYMENT OF PRINCIPAL OF OR INTEREST ON SAID BOND, OTHER THAN SAID TAX INCREMENT REVENUES.

The undersigned acknowledges that it has made its own investigation and inquiry concerning the due corporate authorization and execution of all documents executed and delivered by Redeveloper related to the Bond and has not relied upon the City or its counsel or special bond counsel concerning any such matters.

The undersigned acknowledges that the amount of the Bond has been established based upon estimated costs of development under the terms of an agreement between Redeveloper and the Agency. Such estimates have been established in order to assure the initial registered owner of the Bond with the fullest anticipated potential benefits related to tax increment revenues and the principal amount and interest thereon as set may not prove payable from such revenues. The undersigned acknowledges that the Agency has not undertaken or contracted in any way that such redevelopment will be commenced or completed and that such undertaking is the sole responsibility of Redeveloper.

The undersigned acknowledges further that the principal amount and interest rate on the Bond have also been established with respect to taxable valuations which are expected to be

Exhibit "E"

related to estimated costs and that the final assessment and taxable valuations determined by the appropriate assessing officials may be materially different from such projected assessment and that such principal amount and interest have also been established based upon estimated taxing rates to apply in the future and that such taxing rates could also be materially different from such estimated rates.

The undersigned acknowledges that it has been advised that interest on the Bond is not exempt from Nebraska state or federal income taxes, and that the City of Columbus, Nebraska, and Agency have not provided any assurances with respect to the tax consequences to the undersigned with respect to the transaction described herein. The undersigned further acknowledges that any future transfer of the Bond may only be made to a subsequent transferee registered owner who is able to execute and does execute a letter similar in form and substance to this investment letter, a copy of which shall have been delivered to the Agency.

Very truly yours,

By: _____

Name: _____

Title: _____

3. Adjournment.