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**REDEVELOPMENT AND LIMITED TERM USE  
RESTRICTIONS AGREEMENT**

THIS REDEVELOPMENT AND LIMITED USE RESTRICTIONS  
AGREEMENT (“Agreement”) is entered into between the CITY OF LINCOLN,  
NEBRASKA, a municipal corporation in the State of Nebraska (“City”), and David A. Wood  
 (“Redeveloper”).

**RECITALS**

A. The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska. As part of that program the City has prepared and approved the West O Redevelopment Plan as amended (Redevelopment Plan) a copy of which, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City (City Clerk).

B. The Redevelopment Plan calls for the City to support commercial/industrial redevelopment efforts of Lot 12, Block 1, Western State Industrial Tract 1st Addition, Lincoln, Lancaster County, Nebraska, generally known as 2600 West M Court (“Redevelopment Site Project”). Lot 12, Block 1, Western State Industrial Tract 1st Addition, Lincoln, Lancaster County, Nebraska is hereinafter referred to as the “Project Site.”

C. Redeveloper has purchased the Project Site for the purpose of constructing an approximately 6,336 square foot building for commercial use as an office building with

warehouse space, including parking and related uses as provided in this Agreement (Redeveloper Improvements). The face of the building will have a brick band with aluminum store front entry.

D. Redeveloper does not have the financial resources to fund the Redeveloper Improvements and has requested a grant of funds from the City in the amount of \$42,200.00 for that purpose.

E. *Neb. Rev. Stat. § 18-2103(12)* (Reissue 1997) authorizes the City to carry out plans for a program of compulsory repair and rehabilitation of buildings and other improvements in connection with redevelopment of the Project Site and to pay for the same from TIF funds.

F. *Neb. Rev. Stat. § 18-2107* (Reissue 1997) 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.

G. The City is willing to support redevelopment of the Project Site in accordance with the Redevelopment Site Project provided Redeveloper is will to restrict the use of the Project Site to certain approved uses and is willing to agree to covenants and conditions regarding compulsory maintenance and upkeep of the Redeveloper Improvements to prevent a recurrence of substandard and blighted conditions.

H. The City and Redeveloper desire to enter into this Agreement to implement the construction of the Redeveloper Improvements in accordance with the Redevelopment Plan.

NOW, THEREFORE, in consideration of the above recitals which are hereby made a part of this Agreement and of the mutual covenants contained herein, the parties do agree as follows:

1. Redeveloper Responsibilities. Redeveloper, at its own cost and expense, shall commence the process to design and construct Redeveloper Improvements as described in

Recital C above and commence construction within 30 days after execution of this Agreement. Redeveloper agrees that the grant of funds from the City as provided in paragraph 4 below shall be used solely for the purpose of constructing the Redeveloper Improvements.

2. Duty to Maintain. Redeveloper shall, following construction, operate the Redeveloper Improvements in a safe and sanitary manner and shall take all action necessary to (a) maintain, in good order and condition and state of repair, all interior and exterior portions of the building including the routine preventive maintenance of the building and its 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, painting and striping parking areas, repair and replacement of paving as 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.

3. Use Restrictions. Redeveloper agrees that during the Tax Increment Period no portion of the Project Site shall be used for any of the following purposes:

a. Any business whose predominant operation is the retail sale of alcoholic beverages (predominant shall mean retail gross sales of alcoholic beverages, including mixed drinks, 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;

b. 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;

c. 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.

d. Any business whose predominant operation is the use, storage or processing of hazardous or potentially hazardous materials as defined under applicable law, including any salvage or recycling operation, car wash, dry cleaning, vehicle body repair, paint, refinishing, or parts and equipment cleaning business; provided nothing herein shall be construed to prohibit dry cleaning pickup facility, convenience, food or fuel store.

e. 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.

f. Any business involving a residential use, sale or display of weapons, self service laundromat, industrial manufacturing, off-site outdoor advertising on the premises, cell tower, radio telecommunication or other communication tower, illegal activities, or sale of any illegal goods or products.

4. City Grant to Redeveloper. The City agrees to support the Project by making a grant to Redeveloper in the amount of \$42,200.00 to be used solely for the purpose of constructing Redeveloper's Improvements.

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

6. Restrictions on Assignments of Rights or Obligations. Redeveloper represents and agrees that, prior to completion of the building provided for above, there shall be no sale or transfer of the Project Site or assignment of its rights or obligations under this Agreement to any party without the prior written approval of the City (which shall not be unreasonably withheld), other than mortgages, and involuntary transfers by reason of death, insolvency, or incompetence. The City shall be entitled to require, as conditions to any required 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; and

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

c. There shall be submitted to the City for review, not less than ten (10) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer or described in this Agreement; and if disapproved by the City, its disapproval and reasons therefore shall be indicated to Redeveloper in writing.

7. Valuation of Property Within the Project Area. The City intends to use the ad valorem tax provisions set forth in Neb. Rev. Stat. § 18-2147 et seq. in accordance with the Redevelopment Plan. The tax increment is to be derived from the increased valuation, determined in the manner provided for in Article 8, Section 12 of the Constitution of the State of Nebraska and the Community Development Law (as amended). The tax increment revenues which are to be used to reimburse the City for the grant of \$42,200.00 will be derived from the increased valuation from redeveloping the Project Site as provided in this Agreement. So long as any reimbursement to the City for the grant remains outstanding and unpaid, Redeveloper agrees not to contest any taxable valuation assessed for the Project Site which does not cumulatively exceed \$362,000.00 provided that the construction of the Redeveloper Improvements on the Project Site are completed as provided in this Agreement.

8. Restriction on Transfer. Redeveloper will not, for a period of fifteen (15) years after the effective date of the Ad Valorem Tax Provision, or so long as the tax increment indebtedness remains outstanding whichever period of time is shorter (Tax Increment Period), convey the Project Site or any portion thereof to any entity which would result in the Project Site or any building built upon the Project Site being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions.

9. Issuance of TIF Indebtedness. The Finance Director shall issue a City of Lincoln Nebraska Taxable Small Issue Tax Allocation Bond pursuant to Ordinance No. 18887 adopted by the City Council on February 26, 2007 in the estimated amount of \$46,400.00. The City Finance Director shall purchase the same in the name of the City from idle or other available funds. The funds from the sale of the Bonds shall be applied solely in payment of (a) the \$42,200.00 grant to redeveloper, (b) debt services, (c) the redemption price of the Bonds and the necessary expenses in connection with the issuance of the Bonds. The Bonds shall be special obligations of the City secured solely by an irrevocable pledge of and shall be payable as to principal and interest solely from TIF proceeds generated by this

redevelopment site project and other monies or funds from Redeveloper as provided for herein.

10. Agreement to Pay Taxes and Tax Increment Deficiency. Redeveloper agrees to pay all real property taxes levied upon Project Site prior to the time the taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency shall cease upon expiration of the Tax Increment Period, but the City in no way waives Redeveloper's statutory obligation to continue to pay real estate taxes. This provision shall not be deemed a waiver of the right to protest or contest the valuation of the lots or improvements for tax purposes. In the event of any deficiency in the Tax Increment Provision for required annual debt service on the TIF indebtedness, the Redeveloper agrees to pay the amount of the deficiency to the City within thirty (30) days of a written request of the City and shall pay the same for each year that there exists a deficiency in the Tax Increment Provision.

11. Financing Creating Encumbrances Restricted.

a. Prior to completion of the Redeveloper Improvements, neither Redeveloper nor any successors in interest to the Project Site as Redeveloper shall engage in any financing or any other transaction creating any Mortgage upon the Project Site, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to any of such Project Site, except for the purposes of obtaining funds only to the extent necessary to design, construct, maintain, repair, replace and insure the Redeveloper Improvements. Redeveloper or any successor in interest as Redeveloper shall notify the City in advance of any financing secured by Mortgage that it proposes to enter into with respect to the Project Site, and shall promptly notify the City of any Mortgage that has been created on or attached to Project Site whether by voluntary act of Redeveloper or otherwise. Notwithstanding the above, if any involuntary encumbrance or lien is made on

or attached to any portion of the Project Site and which is contested by Redeveloper, then Redeveloper may defend against such encumbrance or lien, provided that a sufficient bond or security is posted with the City and Redeveloper's lender to permit Redeveloper to avoid or prevent foreclosure of such encumbrance or lien. In addition, Redeveloper agrees that prior to completion of Redeveloper Improvements, any loan proceeds secured by any interest in the Project Site shall be used solely for the payment of costs and expenses related to construction of the Improvements based on the Architect's certification as to percentage of completion. Redeveloper shall provide a copy of all draw requests and bank approvals related to the Redeveloper Improvements to the director of Urban Development in a timely fashion.

b. In the event that any foreclosure of any Mortgage, deed of trust or other encumbrance should occur prior to the furnishing of the Certificate of Completion or at any time when any casualty damage to the Redeveloper Improvements has occurred and has not been fully restored, any party who obtains title to any portion of the Project Site from or through Redeveloper or the holder of any Mortgage or any other purchase at foreclosure sale shall be obligated to commence construction or reconstruction within three (3) months from the date of acquisition of title by said party and to complete construction or restoration within twenty-four (24) months from the date of such acquisition.

c. Notice of Default. 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

at the last address of such Holder as shown in the records of the Register of Deeds of Lancaster County.

d. Option to Cure. If thirty (30) days after any notice or demand with respect to any breach or default, such breach or default remains uncured, each such Holder shall (and every Mortgage or other instrument of encumbrance made prior to completion of the Redeveloper Improvements by Redeveloper or its successors in interest shall so provide) have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its Mortgage; provided, that if the breach or default is with respect to construction of Redeveloper Improvements, nothing contained in this section or any other section of this Agreement shall be deemed to permit or authorize.

e. Rights Applicable to Other Forms of Encumbrance (Deed of Trust). The rights and obligations of this Agreement relating to Mortgages on any portion of the Project Site shall apply to any other type of encumbrance on any of the Project Site, and any of the stated rights, obligations and remedies of any party relating to mortgage foreclosures shall be applicable to procedures under any deed of trust or similar method of encumbrance.

12. Damage or Destruction of the Redeveloper Improvements. During the construction period, Redeveloper agrees to keep the construction area, including completed operations insured against loss or damage by fire, and such other risks, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value but allowing for reasonable coinsurance clauses and deductibles. In the event of any insured damage or destruction, Redeveloper agrees to restore the Redeveloper Improvements to its prior condition within twelve (12) months from the date of the damage or destruction, and shall diligently pursue the same to completion. In

the event Redeveloper fails to restore the same for any reason, Redeveloper shall pay to the city the amount of tax increment received by the City in the preceding year times the number of years remaining in the Tax Increment Period. During the tax increment period, Redeveloper shall include by restrictive covenant an enforceable obligation on the owner or tenant in possession to maintain property insurance on an extended coverage all-risk basis in an amount not less than the replacement value, allowing for reasonable coinsurance clauses and deductibles and also subject to the owner or tenant's obligation to restore the Redeveloper Improvements to its prior condition within twelve (12) months from the date of the damage or destruction, diligently pursuing the same to completion.

13. Condemnation. If during the Tax Increment Period, all or any portion of Project Site is condemned by a condemning authority other than the City, and the 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 Condemnor an interest in the property equal to the present value of the pro rata share of tax increment indebtedness outstanding as of the date of taking.

14. Remedies. Except as otherwise provided in this Agreement, in the event of any default in performance of this Agreement by the Redeveloper, the Redeveloper shall, upon written notice from the City, proceed immediately to cure or remedy such default within thirty (30) days after receipt of notice. However, if the default cannot, in the exercise of reasonable diligence, be cured within thirty (30) days, then the Redeveloper shall commence efforts to cure and shall diligently continue to cure the default. In the default is not cured, the City may institute any proceedings which may be necessary to cure and remedy the default. Notwithstanding the above, if the Redeveloper fails in his maintenance obligations under Paragraph 2 after receipt of written notice as provided above, the City may thereafter perform such maintenance obligations or institute any proceedings which may be

necessary to cure and remedy the default. If the City performs such maintenance, then the Redeveloper shall pay the City all amounts expended to cure or remedy the default.

15. Waiver. The City shall have the right to institute actions or proceedings as the City may deem necessary to enforce this Agreement. Any delay by the City in instituting any action or otherwise asserting its rights under this Agreement shall not operate as a waiver of rights or limit rights in any way.

16. Delay in Performance For Causes Beyond Control of Redeveloper. The Redeveloper or Redeveloper's successors or assigns shall not be in default of their obligations for delay in performance due to causes beyond their reasonable control and without their fault, including acts of God, acts of the public enemy, acts of the federal or state government or subdivisions thereof, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of contractors, or subcontractors due to such causes. The purpose and intent of this section is that in the event of the occurrence of any such delay, the time for performance of the obligations by Redeveloper with respect to construction of Redeveloper Improvements or the maintenance and repair thereof shall be extended for the period of delay. However, in order to obtain the benefit of the provisions of this section, the Redeveloper shall within twenty (20) days after the beginning of the delay of performance notify the City in writing of the cause and the reasonably expected length of delay.

17. Rights and Remedies Cumulative. The rights and remedies of the City to this Agreement shall be cumulative and the exercise by the City of any one or more remedies shall not preclude the exercise by it of any other remedies for any other default or breach by the Redeveloper. A waiver of any right by the City conferred by this Agreement shall be effective only if in writing and only to the extent specified in writing.

18. Conflicts of Interest. City Representatives Not Individually Liable. No officer or employee of the City shall have any personal interest, direct or indirect, in this Agreement. No official or employee of the City shall be personally liable to Redeveloper or any

successors in interest due to any default or breach by the City under the terms of this Agreement.

19. Approvals. For purposes of this Agreement and the approvals and disapprovals required, Redeveloper shall be entitled to rely on the written approval or disapproval of the City Council, the Mayor, or the Director of the Department of Urban Development or their representative or successor as constituting the approval or disapproval required by any one or more of them. City shall be entitled to rely on the written approval of the David A. Wood, or his successor, as constituting the approval or disapproval of Redeveloper.

20. Notices and Demands. A notice under this Agreement by the City to the Redeveloper shall be deemed delivered on the date it is postmarked, sent postage prepaid, or delivered personally to Redeveloper, at 2600 West M Court, Lincoln, NE 68528.

21. Access to Project Area. During construction of the Redevelopment Improvements, Redeveloper shall permit the representatives of the City to enter all areas of the Project Site and at any and all reasonable times, as the City may deem necessary for the purposes of inspection of work being performed in connection with the construction of the Redevelopment Improvements and Public Improvements.

22. Provisions Run With the Land. This Agreement shall run with Project Site and shall inure to and bind the parties and their successors in interest.

23. Headings. Headings of the sections of this Agreement are inserted for convenience only and shall be disregarded in interpreting any of its provisions.

24. Severance and Governing Law. Invalidation of any provision of this Agreement by judgment or court order shall not affect any other provisions which shall remain in full force and effect . This Agreement shall be construed and governed by the laws of Nebraska.

25. Expiration of Agreement. This Agreement shall expire upon expiration of the Tax Increment Period, or retirement of the tax increment indebtedness, whichever first occurs.

26. Recording. This Agreement shall be recorded by the City with the Register of Deeds for Lancaster County, filing fees therefore to be paid in advance by the Redeveloper.

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

ATTEST:

CITY OF LINCOLN, NEBRASKA,  
a municipal corporation

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

By: \_\_\_\_\_  
Mayor

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

By: \_\_\_\_\_  
David A. Wood

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2007, by \_\_\_\_\_, Mayor of the City of Lincoln, Nebraska. on behalf of the City.

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

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2007, by David A. Wood.

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