

**CITY OF LINCOLN
REDEVELOPMENT AGREEMENT**

Nebraska Innovation Campus, Phase I

THIS REDEVELOPMENT AGREEMENT (Nebraska Innovation Campus, Phase I) (“**Agreement**”) is made and entered into as of the date of execution hereof by the last signatory hereto as indicated below (the “**Effective Date**”) by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation in the State of Nebraska and its successors and assigns (“**City**”); **NEBRASKA NOVA ~~DEVELOPMENT~~ L.L.C.**, a ~~Utah~~Wyoming limited liability company, doing business in Nebraska as Nebraska Nova Development L.L.C., and its successors and assigns (“**Redeveloper**”); ~~THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA, a public body corporate and governing body of the University of Nebraska-
Lincoln and its successors and assigns (“University”)~~; and **NEBRASKA INNOVATION CAMPUS DEVELOPMENT CORPORATION**, a Nebraska non-profit corporation and its successors and assigns (“**NICDC**”).

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 Nebraska Innovation Campus Redevelopment Plan designating a portion of such blighted and substandard areas as a community redevelopment area for a renewal project or renewal projects designated the NIC Area (“**Redevelopment Area**”), which is shown and legally described on Exhibit “A”, which is attached hereto and incorporated herein by this reference. A copy of said Redevelopment Plan, together with any and all amendments thereto (collectively “**Redevelopment Plan**”), is on file in the Office of the City Clerk of the City of Lincoln, Nebraska

("City Clerk"). The Redevelopment Plan has been adopted in compliance with the Nebraska Community Development Law codified at Neb. Rev. Stat §§18-2101 through 18-2144 (the "Act") through City of Lincoln Resolution No. A-86109 adopted November 8, 2010 as amended by City of Lincoln Resolution No. A-86800 adopted April 30, 2012.

B. The University Board of Regents of the University of Nebraska, a public body corporate and governing body of the University of Nebraska-Lincoln ("University") is the legal title holder of the property known as Nebraska Innovation Campus ("NIC"), including the Redevelopment Area. The University retained the services and support of NICDC to develop, maintain and operate NIC. In turn, the University and NICDC entered into a Master Lease Agreement, dated September 10, 2010 and filed of record with the Lancaster County Register of Deeds Office as Instrument Number 2010060349, as may be amended ("**Master Lease Agreement**"), granting NICDC the right to develop, maintain, operate, sublease, and subdivide NIC for a period of ninety-nine (99) years, unless terminated earlier pursuant to the terms of the Master Lease Agreement.

C. NICDC and Redeveloper have entered into certain agreements which authorize the Redeveloper to assist NICDC in the development of NIC. As part of its services, the Redeveloper prepared on behalf of NICDC a Master Plan of NIC ("**Master Plan**"), which is attached hereto as Exhibit "B", and incorporated herein by this reference and NICDC has approved said Master Plan.

D. The University submitted a Planned Unit Development for NIC, dated June 6, 2011 ("**Original PUD**"), which was approved by the City. Redeveloper, on behalf of NICDC and the University, has submitted an administrative amendment to the Original PUD, which was approved is currently under review by the City on _____, 2012 ("**Amended**

PUD”). The AmendedOriginal PUD, as may be amended from time to time with the approval of the City, is on file with the Planning Department and is hereinafter referred to as the “**PUD**”. The PUD area is shown on Exhibit “C”, which is attached hereto and incorporated herein by this reference. The approved public roadways for the PUD are shown on Exhibit “D-1”, which is attached hereto and incorporated herein by this reference and the approved water, sanitary sewer, storm sewer, and dry utility infrastructure for the PUD are shown on Exhibit “D-2”, which is attached hereto and incorporated herein by this reference. In addition, the Redeveloper and the City have approved the implementation of a renewable energy system infrastructure for a portion of the Redevelopment Area as shown on Exhibit “H-1”, which is attached hereto and incorporated herein by this reference.

E. On behalf of NICDC, the Redeveloper has submitted a project proposal to the City to redevelop a portion of Redevelopment Area (“**Project Area**”) shown on Exhibit “E”, which is attached hereto and incorporated herein by this reference and legally described (except for the public right-of-ways and public utility easements). This redevelopment project shall be known as “**Nebraska Innovation Campus Phase I Project**” or “**Redevelopment Project**”.

F. The planned construction for the Project Area includes, but is not limited to, four or more buildings containing approximately 280,000 square feet of research, office, service, retail, classrooms, and conference spaces to be used to foster public-private research and innovation in collaboration with University students, staff and faculty and the private sector. The buildings (individually “**Building**” and collectively “**Buildings**”) that are planned in the Project Area include:

- “**4-H Building & NIC Building**” or “**SDL1**”, consisting of (i) the rehabilitation of the historic and former State Fair Park 4-H Building (“**4-H Building**”), to

include approximately 25,840 square feet of space of the 4-H Building to be owned by the University and be tax exempt (“**University 4-H Unit**”) for so long as it is so owned and used for educational or other public purposes and 32,072 square feet of the 4-H Building space to be owned by the Redeveloper and subject to ad valorem taxes, and (ii) a new building to the north of the 4-H Building and connected to the 4-H Building by a building link connection, consisting of approximately 86,465 square of new building space to be owned by the Redeveloper (“**NIC Building**”). The elevation illustrations of the 4-H Building and NIC Building are shown on Exhibit “F-1”, which is attached hereto and incorporated herein by this reference;

- “**Industrial Arts Building & Life Science Collaboration Center**” or “**SDL2**”, consisting of (i) the rehabilitation of a significant portion of the historic Industrial Arts Building into 77,160 square feet of greenhouses, research, office and service spaces to be owned by the Redeveloper (“**Industrial Arts Building**”), and (ii) a new building to the north of the Industrial Arts Building (“**Life Science Collaboration Center**”) and connected to the 4-H Building by a skywalk bridge, approximately 90,000 square feet of new building space to be owned by the Redeveloper. The elevation illustrations for the Industrial Arts Building and Life Science Collaboration Center are shown on Exhibit “F-2”, which is attached hereto and incorporated herein by this reference;
- “**Building Three**” or “**SDL3**”, estimated to be approximately 80,000 square feet of research, office, service, and/or retail space and to be owned by the Redeveloper or a third party (“**Assigned Redeveloper**”) who is assigned and

assumes the Redeveloper's rights, title and interest in this Agreement as it touches and concerns Building Three; and

- **“Building Four”** or **“SDL4”**, estimated to be approximately 80,000 square feet of research, office, service, and/or retail space and to be owned by the Redeveloper or Assigned Redeveloper.

G. Each Building and related improvements will be constructed on all or portions of the Project Area (**“Site Development Parcel”**) that will be defined in a written sublease (individually **“Sublease”** and collectively **“Subleases”**) between NICDC and the Redeveloper or Assigned Redeveloper, subject to the terms and conditions of the Master Lease Agreement and this Agreement. It is anticipated that the 4-H Building & NIC Building will be built upon Site Development Parcel 1, the Industrial Arts Building & Life Science Collaboration Center will be built upon Site Development Parcel 2, Building Three will be built upon Site Development Parcel 3 and Building Four will be built upon Site Development Parcel 4.

H. The planned construction and operation of the private infrastructure within the Project Area (**“Private Infrastructure”**) to serve the Buildings includes:

- **“Renewable Energy System”** includes condensate lines, pumps, valves, heat exchangers, generators, building, and related improvements (but excluding the Effluent Lines) as shown on the PUD and illustrated on Exhibit “H-1”, which is attached hereto and incorporated herein by this reference and the Renewable Energy System Easement and corresponding easement area map to permit the construction, operation, maintenance, repair and replacement of the Renewable Energy System within the public Roadway right-of-way, which is attached hereto as Exhibit “H-2”, and incorporated herein by this reference.; and

- **“Communication System”** includes underground data, internet and communication lines, conduits, vaults, switchgears, buildings and related improvements as shown on the PUD and illustrated on Exhibit “H-3”, which is attached hereto and incorporated herein by this reference.

I. The planned construction and operation of the public infrastructure within the Project Area (**“Public Infrastructure”**) to serve the Buildings includes:

- **“Roadways”** includes public streets, street lighting, street trees, on-street and off-street trails, sidewalks, storm water improvements, and other related improvements as shown on the PUD, which are illustrated on Exhibit “G-1”, attached hereto and incorporated herein by this reference;
- **“Public Streetscape”** includes pavers, landscape, vegetation, irrigation, signage, pedestrian and specialty lighting, canopies, and awnings;
- **“Water”** includes public water lines and related improvements, as shown on the PUD, which are illustrated on Exhibit “G-2”, attached hereto and incorporated herein by this reference;
- **“Sanitary Sewer”** includes sanitary sewer lines and related improvements, as shown on the PUD, which are illustrated on Exhibit “G-3”, attached hereto and incorporated herein by this reference;
- **“Stormwater Management”** includes stormwater management, storm sewer lines and related improvements, as shown on the PUD, which are illustrated on Exhibit “G-4”, attached hereto and incorporated herein by this reference;
- **“Demolition and Grading”** includes demolition, erosion control, rough grading and site preparations as shown on the PUD to permit the construction and

operation of the Buildings, Public Infrastructure, Private Infrastructure, parking areas and open space, which is shown on Exhibit “G-5”, attached hereto and incorporated herein by this reference; provided that any demolition of the historic 4-H Building and Industrial Arts Building demolition will be limited to permit the rehabilitation of the remaining portion of the buildings as generally shown on Exhibit “F-1” and Exhibit “F-2”; and

- **“Dry Utilities”** includes electric, data/internet/communication, telephone, cable, gas and other future dry utilities in public right-of-ways and easements. Dry Utilities do not include the Communication System.

J. **“Public Enhancements”** includes certain rehabilitation and upgraded improvements for the historically significant 4-H Building and Industrial Arts Building that are to be constructed as part of the Redevelopment Project so as to preserve these local landmarks in a manner consistent with their historical character as well as the activities taking place on Nebraska Innovation Campus.

K. On behalf of NICDC, Redeveloper has submitted a list of Potential Master Plan Public Improvements for the Redevelopment Area that could potentially be eligible for tax increment financing (“TIF”) for the City’s review and consideration. Said list is shown on Exhibit “I”, which is attached hereto and incorporated herein by this reference. Subject to the prioritization of the TIF Proceeds described below, the Redeveloper is willing to assist the City to implement other NIC public improvements (**“Other NIC Public Improvements”**) as described as the items listed in section (iii) of Exhibit “I”.

L. Neb. Rev. Stat. § 18-2103(12) (2007 Supp.) 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 Area and to pay for the same from TIF Proceeds (as defined herein).

M. Neb. Rev. Stat. § 18-2107 (2007 Supp) authorizes the City to enter into contracts with redevelopers of property containing covenants and conditions regarding the use of such property as the City may deem necessary to prevent the recurrence of substandard and blighted areas.

N. Redeveloper is willing to enter into this Agreement and through an anticipated Minimum Investment (defined below) of approximately Seventy-Nine Million and No/100 Dollars (\$79,000,000.00) to redevelop the Project Area by constructing the following private improvements (“**Private Improvements**”): (1) the Buildings located within the Project Area previously described as the 4-H Building & NIC Building, the Industrial Arts Building and Life Science Collaboration Center, Building Three and Building Four and any accessory improvements constructed therewith and (2) Private Infrastructure. The term “**Minimum Investment**” in this Agreement shall include all costs incurred by Redeveloper when constructing the Private Improvements, including but not limited to design costs, permits, impact fees, financing costs and subleasing costs.

O. Redeveloper is willing to assist the City in the implementation of the following public improvements (“**Public Improvements**”): Public Infrastructure and Public Enhancements.

P. The Private Improvements and Public Improvements are collectively known as the “**Redevelopment Project Improvements**”. The costs of the Redevelopment Project Improvements are collectively known as the “**Redevelopment Project Costs**” and are shown on

the Uses and Sources of Funds in Exhibit “J”, which is attached hereto and incorporated herein by this reference.

Q. In order to help remove blight and substandard conditions and improve conditions in this economically underutilized Project Area, the City is willing to enter into this Agreement and to make grants to the Redeveloper to be used to carry out the Redevelopment Project Improvements as described in Recital P above. The City and Redeveloper agree that such assistance is deemed essential to the success of the Redevelopment Project and for the future success of completing the subsequent Buildings and improvements shown in Exhibit “B”, Exhibit “D-1” and Exhibit “D-2”.

R. The City is willing to support the above described redevelopment of the Project Area in accordance with the Redevelopment Project; provided that, ~~the University~~, NICDC and the Redeveloper are willing to restrict the use of the Project Area to certain approved uses; and further provided that, the Redeveloper is willing to agree to (i) covenants and conditions regarding compulsory maintenance and upkeep of the Private Improvements and Public Enhancements to prevent a recurrence of substandard and blighted conditions; and (ii) restrict the use of the grants provided hereunder for the sole purpose of design, construction and implementation of the Redevelopment Project Improvements on behalf of the City and in the manner contractually described herein.

S. The Redevelopment Plan contains a provision dividing ad valorem property taxes upon property in the Redevelopment Project for the benefit of any public body for a period not to exceed fifteen (15) years after the effective date of such provision, as provided for in Neb. Rev. Stat. § 18-2147, et seq. Said provision is hereinafter referred to as the “**Ad Valorem Tax Provision.**”

T. Neb. Rev. Stat. § 18-2107 and § 18-2150 (Reissue 2007) authorize the City to provide grants to private parties in order to accomplish rehabilitation or redevelopment of the Project Area in accordance with the Redevelopment Plan. In order to make the grant or grants to the Redeveloper, the City intends to issue a tax increment financing indebtedness instrument or instruments in tax exempt and taxable series (individually and collectively “**TIF Bond**”) and to incur indebtedness (“**TIF Indebtedness**”) upon the sale of the TIF Bond to be repaid with the tax increment revenues generated under the Ad Valorem Tax Provision (“**TIF Tax Revenues**”).

U. The City and Redeveloper desire to enter into this Agreement to implement the Redevelopment Project for the above purposes and in accordance with the Redevelopment Plan.

V. The City and Redeveloper mutually agree that the redevelopment of the Project Area is in the vital and best interest of the City and is in furtherance of the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of applicable laws and requirements under which the Redevelopment Plan has been undertaken.

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

ARTICLE I

REDEVELOPMENT AREA

Section 101. Redevelopment Plan. The City desires to implement a program for the redevelopment of blighted and substandard areas in the Redevelopment Area. The adopted Redevelopment Plan outlines such a program for the Redevelopment Area.

Section 102. Approved Vision. Subject to the terms and conditions of this Agreement, the City acknowledges the Redevelopment Plan, Master Plan, PUD and Redevelopment Project as a

desirable plan and vision to encourage research, job creation and economic development opportunities for the City and to help remove blight and substandard conditions from the Redevelopment Area.

Section 103. NIC Phases. The Redevelopment Area covers approximately 167 acres. This large Redevelopment Area will require NIC to be redeveloped and built in phases in order to meet market conditions and absorption rates. Yet, the prospective first NIC phase tenants in the Project Area, University and the community will have an expectation that these subsequent phases will be implemented to ensure the shared vision of maximizing synergy, research collaboration and community economic opportunities. This Agreement describes the parties' responsibilities for the first NIC phase Redevelopment Project located in the Project Area. As described in Section 602 below, the Redeveloper and the City pledge to fund subsequent Public Improvements described in Exhibit "D-1" and Exhibit "D-2" to the extent that TIF Tax Revenues are generated by the Redevelopment Area so as to enable subsequent NIC phase(s) to have adequate transportation and utility services. This paragraph shall not be construed or interpreted to be an approval of any future NIC Phase or any Public or Private Improvements that might be included therein.

ARTICLE II

REDEVELOPER'S RESPONSIBILITIES

Section 201. Evidence of Financial Ability of Redeveloper. The Redeveloper shall provide to the City evidence of availability of the specific amount of finances necessary for purposes of carrying out the commitment of the Redeveloper in connection with the Project Area. To the extent allowed by law, the City agrees to keep said information confidential. Such information

shall state the amount and source of liquid assets on hand or immediately available to the Redeveloper for use in the Nebraska Innovation Campus Phase I Project; and shall state the amount and source of debt financing which is available, or irrevocably committed, to the Redeveloper for use in the Project Area. Such information shall be provided in a form satisfactory to the Finance Director of the City, and evidence of loan commitments shall include all the documents evidencing the loan commitment, and acceptance by the Redeveloper, the purposes of the loan, the authorized use of loan funds, and all other terms and conditions of the loan commitment, the acceptance, and the loan. Submittal of such financial information in a form satisfactory to the Finance Director of the City shall be a condition precedent to the requirement of the City to proceed with its obligations under this Agreement.

Section 202. Construction of Redevelopment Project Improvements.

A. **Conceptual Drawings.** Redeveloper has prepared or caused to be prepared overall conceptual drawings of the Master Plan which will serve as the basis for development of plans and specifications for the Redevelopment Project Improvements to be located in the Nebraska Innovation Campus Project Area. In addition, the Redeveloper has prepared or caused to be prepared a conceptual set of drawings for the Public Infrastructure and Private Infrastructure which are illustrated on the PUD, Exhibit “F-1” and Exhibit “F-2”.

B. **Preliminary Plans for 4-H Building & NIC Building, Industrial Arts Building & Life Science Collaboration Center and Public Enhancements.** Redeveloper has prepared preliminary design plans and specifications (hereinafter “**Preliminary Plans**”) for the 4-H Building & NIC Building, the Industrial Arts Building & Life Science Collaboration Center and Public Enhancements, which are shown on Exhibit “F-1” and Exhibit “F-2”. The Preliminary Plans were submitted to and reviewed by the Historic Preservation Commission in accordance with

submittal requirements in 4.36.040 of the Lincoln Municipal Code. The City hereby approves the Preliminary Plans for the 4-H Building & NIC Building, the Industrial Arts Building & Life Science Collaboration Center and Public Enhancements.

C. Preliminary Plans for Building Three and Building Four. Redeveloper will prepare or cause to be prepared Preliminary Plans for Building Three and Building Four. The Preliminary Plans for Building Three and Building Four shall conform with any and all applicable NIC design standards for the Redevelopment Area as well as the applicable PUD. Such Preliminary Plans shall show Building Three and Building Four to be constructed by the Redeveloper or Assigned Redeveloper as part of the Nebraska Innovation Campus Phase I Project. Said plans will be submitted to the Director of Urban Development Department for approval by the City. Said plans shall be approved if they are in substantial conformity with the applicable NIC design standards and the PUD.

D. Construction Documents. The Redeveloper shall prepare or cause to be prepared, at Redeveloper's expense, subject to reimbursement as provided in Section 404 (Use of TIF Proceeds) below, detailed final construction plans and specifications for the Redevelopment Project Improvements (hereinafter "**Construction Documents**"). Redeveloper shall submit such Construction Documents to the City for review and approval. The City shall so approve or reject the Construction Documents for the Redevelopment Project Improvements within fourteen (14) days after receipt thereof. Unless otherwise provided herein, the Public Infrastructure and Private Infrastructure shall be designed in accordance with the City's Standard Specifications and shall be submitted to the Director of the Public Works and Utilities Department for review and approval. The Public Infrastructure will be implemented pursuant to the City's executive order construction process. The Redeveloper, at its expense, subject to reimbursement as provided in

Section 404 (Use of TIF Proceeds) below, will pay for construction inspection, staking and testing of the Public Improvements as part of the construction and inspection process.

E. Approvals. City shall so approve or reject the Preliminary Plans and Construction Documents within fourteen (14) days after receipt of the applicable documents and/or any report and recommendation of the Historic Preservation Commission. Such Preliminary Plans and Construction Documents shall be reviewed by the City and approved only if they are prepared from and in substantial conformance with the applicable NIC design standards, PUD and the provisions of this Agreement. If the City rejects the applicable plans, the City shall deliver to Redeveloper notice thereof accompanied by an explanation of the reasons for such rejection. If rejected, Redeveloper shall work with the architect or engineer to submit corrected Preliminary Plans and Construction Documents, as applicable, within fourteen (14) days after the date of receiving the written rejection notice. Resubmitted Preliminary Plans and Construction Documents shall be approved as provided above for original submittals.

F. Approval Limitation. None of the approvals listed in subsections B, C, D or E of Section 202 of this Agreement apply to the building permit review process. Nothing in said subsections is a substitute for and does not eliminate the requirement that the Redeveloper applies for and receives any necessary building permits for construction of the Redevelopment Project Improvements.

G. Historic Preservation Commission Failure to Act. In the event the Historic Preservation Commission fails to submit its recommendation as required by subsection B above within thirty (30) days of the submittal, then Redeveloper may provide the Preliminary Plans directly to the City for its review and approval.

H. Condominium Regime. Redeveloper reserves the right to subject the Private Improvements to be constructed by Redeveloper to a condominium regime to facilitate the separation and financing of the various components. Redeveloper shall obtain the City's consent to the condominium declaration, which consent shall not be unreasonably withheld or delayed.

Section 203. Construction of Redevelopment Project Improvements.

A. Construction of Private Improvements. The Redeveloper, through an anticipated Minimum Investment of Seventy-Nine Million and No/100 Dollars (\$79,000,000.00), shall at its own cost and expense construct the Private Improvements and associated Public Enhancements substantially in conformance with the Preliminary Plans and the Construction Documents. All Private Improvements and associated Public Enhancements shall be constructed in compliance with all applicable local, state, and federal building and construction laws and codes. Redeveloper agrees to secure and maintain all permits and licenses necessary for its use of the Nebraska Innovation Campus Phase I Project including, but not limited to, necessary building permits and inspections.

1. Professional Design. All Private Improvements shall have consistent architectural or engineering features, detailing, and design elements in accordance with this Agreement. All accessory building walls, screening walls or fences, and canopy columns shall be in substantial conformity with the applicable NIC design standards and the applicable PUD.

2. Energy Efficiency. Construction of the Buildings shall utilize energy efficient building practices to the extent that they are reasonably available on a cost-effective basis. Specifically, Redeveloper shall use the standard established by U.S. Green Building Council through its Leadership in Energy and Environmental Design (“**LEED**”) Green Building Rating Systems as a guideline for the design and construction of the Private Improvements.

B. Construction of Public Improvements. To the extent allowed by law and then only to the extent TIF Proceeds are lawfully available and granted to the Redeveloper as described in Section 403 (Grant of Funds) below, the Redeveloper shall use the TIF Proceeds to construct the Public Improvements through the City's executive order construction process. The City shall not have any obligations to fund the Public Improvements or make grants to the Redeveloper in excess of the available TIF Proceeds as provided within this Agreement. Redeveloper shall complete all necessary Public Improvements for the Project Area as shown on Exhibit "G-1" through Exhibit "G-5". Any shortfall resulting from costs incurred for construction of any Public Improvements that exceed the TIF Proceeds that are lawfully available and granted to the Redeveloper hereunder shall be borne entirely by the Redeveloper without recourse of any kind against the City. To the extent required by law, contracts for construction of the Public Improvements shall be bid in accordance with City procedures.

Section 204. Payment of Costs for Private Improvements and Public Enhancements.

A. Complete Construction. Redeveloper agrees to use commercially reasonable efforts to complete construction of the Private Improvements and Public Enhancements as provided in this Agreement, and to pay, or cause to be paid, in a timely manner all persons, firms, or organizations who performed labor or furnished materials, equipment or supplies used in the prosecution of the Private Improvements and Public Enhancements. Such payment shall be made promptly after completion of the Private Improvements and Public Enhancements in accordance with all the provisions of this Agreement relating to the obligations of Redeveloper to construct said improvements. If requested by City, the Redeveloper shall, in addition to this promise to pay, obtain and supply the City with lien waivers in favor of the Redeveloper from all persons, firms, or organizations performing any work on the Private Improvements and Public

Enhancements or furnishing any materials, equipment, or supplies for construction of the said improvements. In addition, the City shall be entitled to inspect at reasonable times all records of the Redeveloper or its agents regarding such lien waiver procedures.

B. Certificate of Building Completion. Promptly after the Redeveloper provides the City the proper documentation that all persons, firms or organizations who performed labor or furnished materials, equipment, or supplies in the prosecution of the Private Improvements and Public Enhancements for each Building has been properly paid or satisfactorily secured, the City shall upon request by the Redeveloper cause a final inspection to be made of the of the Private Improvements and Public Enhancements for each Building. If the work has been completed according to this Agreement, the City shall execute and deliver to Redeveloper the City's acceptance of the Redeveloper's Certificate of Building Completion, the form of which is shown on Exhibit "K", which is attached hereto and incorporated herein by this reference. Such certification by the City shall be a conclusive determination of satisfaction of the agreements and covenants in this Agreement with respect to the obligations of Redeveloper to construct the Private Improvements and Public Enhancements for said Building and the effective date of the Ad Valorem Provision for the Redevelopment Project when executed and recorded for any Site Development Parcel within the Redevelopment Project shall be the date of the Certificate for Building Completion. If the City shall refuse or fail to provide the certification in accordance with the provisions of this Section after being requested to do so by Redeveloper, the City shall, within fifteen (15) days after written request by Redeveloper, provide Redeveloper with a written statement indicating in what respect Redeveloper has failed to complete the Private Improvements and Public Enhancements subject to such certification in accordance with the provisions of Section 204 and what measures or acts will be necessary, in the opinion of the

City, for Redeveloper to take or perform in order to obtain such certification. As used herein, the term “**completion**” shall mean substantial completion of the Private Improvements and Public Enhancements so that they may be reasonably used for their intended purposes but need not include the tenant finish improvements required for occupancy by such tenant.

C. **Certificates Recorded.** The Certificate of Building Completion for each Building shall be recorded by the City or Redeveloper in the office of the Register of Deeds for Lancaster County, Nebraska.

Section 205. Cost Certification. The Redeveloper shall submit authentic documentation to the City on approved forms or format for payment of any expenses related to construction of the eligible Redevelopment Project Improvement Costs. The Redeveloper shall timely submit receipts, invoices, or proof of payment concurrently with the request for payment of eligible Redevelopment Project Improvement Costs. The City shall approve or reject the same with reasons stated, based on the review within ten (10) days of receipt of the same.

Section 206. Duty to Maintain. Redeveloper shall, following construction of the Private Improvements and Private Infrastructure and during the useful and functional life of each such improvement, keep the same in a safe and sanitary condition and shall take all action reasonably necessary to (a) maintain, in good order and condition and state of repair, all interior and exterior portions of a Building including the routine and reasonable preventive maintenance of a Building and its service facilities including, but not limited to, Private Infrastructure, 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 related grounds of the Site Development Parcel in a safe and sanitary condition including, but not limited to, sweeping and removal of trash, litter and refuse, repair and replacement of paving as reasonably necessary,

maintenance of landscaped areas (including replacement and replanting), removal of snow and ice from sidewalks, driveways, parking areas, and private roadways, 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.

ARTICLE III

SECURITY AND RESTRICTIONS

Section 301. Penal Bond. Pursuant to Neb. Rev. Stat. § 18-2151, Redeveloper shall furnish or cause to be furnished to the City, prior to commencement of construction of the Redevelopment Project Improvements, a penal bond in an amount of Five Thousand and No/100 Dollars (\$5,000) with a corporate surety authorized to do business in the State of Nebraska. Such penal bond shall be conditioned upon the Redeveloper at all times making payment of all amounts lawfully due to all persons, firms, or organizations who performed labor or furnished materials, equipment, or supplies used in the construction of the Redevelopment Project Improvements. Proof of such penal bond shall be supplied to the City prior to commencement of construction of the applicable Redevelopment Project Improvements ready for construction. Redeveloper shall also obtain and keep in force at all times, prior to and until recording of the Certificate of Building Completion of the applicable Redevelopment Project Improvements, a title insurance policy insuring the City against loss by the Redeveloper in the Project Area by reason of construction liens, mechanic's liens or similar liens. The City shall be supplied, upon written demand, with copies of all lien waivers of each of the Redeveloper's contractors, or his or her subcontractors who performed labor or applied materials performed or used in the construction of the applicable Redevelopment Project Improvements and shall be entitled to

inspect at reasonable times all records of Redeveloper or their agents regarding such lien waiver procedures. If this alternative is used, proof of such penal bond and title insurance policy shall be supplied to the City prior to the start of construction of each applicable Redevelopment Project Improvements. If requested by the Redeveloper, the Mayor is authorized to execute and deliver a second deed of trust or second lien as a beneficiary to secure the Redeveloper's agreement in this subsection to make payment of all amounts lawfully due to all persons, firms, or organizations who performed labor or furnished materials, equipment, or supplies used in the construction of the Redevelopment Project Improvements. Said City second deed of trust or second lien shall be in a form acceptable to the City Law Department and be fully subordinate and junior to the Redeveloper lender's first deed of trust to fund the Redevelopment Project Improvements.

B. The City shall accept, in lieu of the requirements in Section 301 A above, a similar payment and performance bond supplied by Redeveloper's general contractor in an amount equal to the costs of the applicable Redevelopment Project Improvements and a lien waiver from the general contractor. If this alternative is used, proof of said payment and performance bond and lien waiver shall be provided to the City prior to the start of construction of the applicable Redevelopment Project Improvements.

C. The City shall accept, in lieu of the requirements in Section 301 A or B. above, a similar performance bond, escrow, or other security agreement approved by the City Law Department. If this alternative is used, proof of said security shall be provided to the City prior to the start of construction of the applicable Redevelopment Project Improvements.

Section 302. Indemnification. Redeveloper agrees to indemnify and hold City harmless to the extent of any payments in connection with carrying out construction of the Redevelopment Project

Improvements the City may be required to make, for failure of Redeveloper to make payments of all amounts lawfully due to all persons, firms, or organizations who performed labor or furnished materials, equipment, or supplies used in construction of the Redevelopment Project Improvements. The City does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law. This section survives any termination of this Agreement.

Section 303. Use Restrictions. Redeveloper agrees that during the Tax Increment Period no portion of the Redeveloper Property shall be used for any of the following uses:

A. A liquor store selling alcoholic beverages for consumption off the premises, but excluding micro-brewing establishments that sells alcoholic beverages for consumption off the premises and restaurants allowing the removal of an unsealed bottles of wine pursuant to Neb. Rev. Stat. §53-123.04, as amended;

B. The retail sale of alcoholic beverages for consumption on the premises if such use, in the opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;

C. Any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such use that has an unreasonable pattern of unlawful disturbances or tobacco law violations;

D. A sexually oriented business including live entertainment establishments as defined in Section 27.03.545 of the Lincoln Municipal Code and any other business engaged 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. The foregoing exclusion shall not include pay for view video/audio services, internet and other forms of telecommunication/communication systems offered or available to guests in the ordinary course of hotel business and trade or to Lincoln residents.

E. Any business whose predominant operation is 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.

F. Any business involving gambling or wagering even if otherwise permitted by law including slot machines, video lottery machines, casino games, or off-site pari-mutual wagering sites, but excluding live horse-racing, off-site pari-mutual and simulcast horse-racing, keno, bingo, and the retail sale of lottery tickets as permitted by applicable law.

G. Any business involving the sale of weapons, self-service laundromats for nonresidents or non-occupants, illegal activities, or sale of any illegal goods or products.

H. Off premises signs as defined in Section 27.69.020 of the Lincoln Municipal Code subject to the allowances provided in the ~~Amended~~-PUD.

I. Any business providing payday loans, liens, check cashing services, or other similar services, except for banks, savings and loans, insurance company, investment companies, stock brokers, credit unions and automated teller machines.

Section 304. Construction Administration.

A. Redevelopment Project Improvements. Redeveloper shall be responsible for all components of the Redevelopment Project Improvements, including construction management, coordination of contractors and regulatory permitting and other requirements. Redeveloper shall be entitled to charge a reasonable administrative fee for such services described above. The Redeveloper will be solely responsible for payment of all construction costs attributable to the Redevelopment Project Improvements subject to the terms and conditions of this Agreement.

B. Upon notification being provided by the Redeveloper to the City that the Public Improvements, or any portion thereof, to be constructed under this Agreement have been completed, the City shall inspect or cause to be inspected said Public Improvements so as to make certain that said improvements are properly constructed according to applicable standard specifications.

Section 305. Timing of Construction. The City and Redeveloper agree to use their best efforts to timely complete the tasks described on the Timeline, which is attached hereto as Exhibit “L” and incorporated herein by this reference. Redeveloper will use commercially reasonable efforts to complete the 4-H Building & NIC Building, Industrial Arts Building & Life Science Collaboration Center, Private Infrastructure, Public Enhancements, and Public Improvements, within twenty-six (26) months following City Council’s approval and the Mayor’s execution of this Agreement.

Section 306. Internal Sanitary Sewer Lines. A 12” diameter internal north/south sanitary sewer line located north of Invention Boulevard needs to be constructed as generally shown on the PUD (“North 12” Sewer Line”). On behalf of the City, the Redeveloper will design,

competitively bid, construct and fund the North 12” Sewer Line through the City’s executive order process. The City agrees to reimburse the Redeveloper for all costs attributable to the North 12” Sewer Line (estimated cost of \$50,000) with pipe, valves, fittings and all other accessories. Upon completion of the North 12” Sewer Line, the City agrees to reimburse the Redeveloper with City funds (excluding TIF funds).

Section 307. Parking. City will manage the public on-street parking within the Project Area. The City will work cooperatively with the other parties to this Agreement on event parking and parking management and parking regulations. The foregoing notwithstanding, the final decision on parking regulations along the public right of ways remains within the sole discretion of the City.

Section 308. Communication System. The City acknowledges the Redeveloper’s Communication System as shown on the PUD and Exhibit “H-3”, which is attached hereto and incorporated herein by this reference. The construction and operation of the Communication System will require the Redeveloper to apply and be approved by the City under Chapter 14.53 of the Lincoln Municipal Code.

Section 309. Water Main. The City of Lincoln Water System is preparing for a 2012 master plan update. The City agrees that the 2012 master plan update will consider the following:

- A. Viability of the Merrill Street Pump Station as a suitable backup for the NIC water system;
- B. Installation of secondary water main to provide backup for the NIC water system; and
- C. Verify the necessary fire flow in the Redevelopment Area as recommended by the Innovation Campus Water System Study prepared by Olsson Associates, dated May 3, 2012 (Project #011-0407).

The City acknowledges that the above described items, if needed, will be the City's cost responsibilities and not the Redeveloper's, and the City will use available City water funds (excluding TIF Revenues) to fund said future NIC water system improvements.

Section 310. Water Service to the Former State Fair Administrative Building and the Grandstand. Redeveloper and NICDC shall be allowed to construct a private water service(s) from the water mains being constructed in Nebraska Innovation Campus Phase I in the public right of way for Invention Boulevard to provide water to the Former State Fair Administrative Building and/or the Grandstand at the Lincoln Race Course. Construction of this service will be done at the cost of the Redeveloper or NICDC. Further, construction of said service shall be completed in compliance with applicable City Design Standards for temporary private water service. Prior to commencing construction of said service line(s), Redeveloper shall submit all design and construction documents associated with said service line to the City's Director of Public Works and Utilities for review and approval.

Section 311. Water Service to the Devaney Center and the Ice Box. Redeveloper, NICDC and the University shall be allowed to construct private water services from the water mains being constructed in Nebraska Innovation Campus Phase I in the public right of way for Invention Boulevard to provide water to the Devaney Center and Ice Box buildings. Construction of these services will be done at the cost of the Redeveloper, NICDC or the University. Further, construction of said services shall be completed in compliance with applicable City Design Standards for private water services. Prior to commencing construction of said service lines, Redeveloper shall submit all design and construction documents associated with said service lines to the City's Director of Public Works and Utilities for review and approval.

ARTICLE IV

TAX AGREEMENT

Section 401. Issuance of TIF Indebtedness. As soon as is practicable following the execution of this Agreement and as set forth in this Article IV of this Agreement, the City shall issue TIF Indebtedness evidenced by the TIF Bond in the estimated amount of the tax increment to be generated on the Nebraska Innovation Campus Phase I Project (“**TIF Bonds**”) to be purchased by the Redeveloper and shall receive TIF Bond Proceeds from the Redeveloper to be deposited into a fund account (the “**Project Account**”) and expended in the priority set forth in this Agreement. The TIF Bond shall specifically provide that any shortfall in anticipated TIF Tax Revenues from the Buildings and related improvements for any reason whatsoever, specifically including a decline in taxable valuation of the Buildings and related improvements or a lack of sufficient taxable Private Improvements in the Project Area, shall be borne entirely by the Redeveloper without recourse of any kind against the City. The City and Redeveloper agree that the City Finance Director on behalf of the City shall have the authority to determine all the other necessary and reasonable details and mechanics of the TIF Indebtedness, TIF Bond, TIF Tax Revenues, TIF Proposals, Project Account and the grant of funds for the eligible TIF cost of the Redevelopment Project Improvements.

Section 402. Valuation of Site Development Parcel and Improvements. The City intends to use the Ad Valorem Tax Provision to generate TIF Revenues which shall be used to finance (i) approximately Ten Million Seven Hundred and Thirty-Nine Thousand Seven Hundred and Twenty-Four and No/100 Dollars (\$10,739,724) in available TIF Proceeds, and (ii) the grant or

grants to Redeveloper of the TIF Proceeds in accordance with this Agreement. The TIF is to be derived from the increased valuation of the Project Area, determined in the manner provided for in Article 8, Section 12 of the Constitution of the State of Nebraska and the Community Development Act which will be attributable to the redevelopment contemplated under this Agreement. The TIF Tax Revenues which are to be used to pay debt service on the TIF Indebtedness from the sale of the TIF Bond will be derived from the increased valuation from redeveloping the Project Area and improvements thereon as provided in this Agreement. Redeveloper agrees not to contest any taxable valuation assessed for the Project Area and improvements thereon which does not exceed the following values, commencing on the effective date of the Ad Valorem Tax Provision and continuing for a period of not to exceed fifteen (15) years after said effective date or so long as any portion of the TIF Indebtedness with respect to the Redevelopment Project remains outstanding and unpaid, whichever period of time is shorter:

Not to Protest Total	\$61,536,790
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Section 403. Grant of Funds. In order to support redevelopment of the Project Area and as an inducement for the Redeveloper to construct the Redevelopment Project Improvements, the City agrees, to the extent allowed by law and then only to the extent are lawfully available from the issuance of the TIF Bond from the Project Area (“**TIF Proceeds**”), to make a grant or grants to Redeveloper in the total amount of the TIF Proceeds less the City’s cost to issue the TIF Bond (“**Grant Funds**”), to reimburse Redeveloper for the cost of the priority items identified in Section 404 (Use of TIF Proceeds) below, provided that only costs incurred after the date of this Agreement shall be eligible for payment. In order to receive reimbursement from Grant Funds, the Redeveloper shall submit authentic and satisfactory documentation to the City to verify the

expenditures were eligible Redevelopment Project Costs. Any ineligible use of the Grant Funds shall immediately be repaid to the City.

Section 404. Use of TIF Proceeds. The TIF Proceeds shall be deposited into the Project Account to be used for payment of the City's TIF Bond cost of issuance and the grant or grants of funds for the costs of the following Redevelopment Project Improvements to the extent available. The TIF Proceeds from the Project Area shall be expended in the following priority:

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

SECOND PRIORITY: Reimburse Redeveloper for costs of Public Infrastructure in the Project Area.

THIRD PRIORITY: Reimburse Redeveloper for costs of the Public Enhancements specifically identified as historic preservation and rehabilitation of the 4-H Building and Industrial Arts Building located within the Project Area.

FOURTH PRIORITY: In the event TIF Proceeds are available, reimburse Redeveloper or City for costs of (a) the Other NIC Public Improvements and (b) Surrounding Neighborhood Improvements specifically identified on Exhibit "I" within the Project Area as may mutually agree between the City and the Redeveloper.

In the event there is not enough available TIF Proceeds to complete the First, Second and Third Priority item(s) as shown above, the City and Redeveloper are authorized to use their best efforts to agree reduce the scope, scale, size or phasing of the priority item(s). The grants are restricted and earmarked for the funding of TIF eligible Redevelopment Project Improvements as

described herein and the Redeveloper does not have discretionary judgment over the applications of said Grant Funds.

Section 405. Debt Service for TIF Indebtedness. The City shall, to the extent allowed by law, and then only to the extent funds are lawfully available from TIF Tax Revenues, pay the TIF Bond purchaser (“**TIF Bond Purchaser**”) the principal of and/or interest on the TIF Indebtedness with interest at a rate per annum not to exceed Five Hundred (500) basis points above the Bond Buyer 20-Bond GO Index. Any debt service on the TIF Indebtedness (including interest) to be paid from TIF Tax Revenues shall not constitute a general obligation or debt of the City. Any excess TIF Tax Revenues resulting from the Tax Increment Provision on the Building not needed or required to pay any of the outstanding TIF Bond Purchasers for the TIF Indebtedness shall be expended by the City for priorities described above in Section 404 (Use of TIF Proceeds) and then returned to the applicable taxing authorities as provided in the Community Development Law.

Section 406. Tax Increment Deficiency on TIF Bond.

A. Redeveloper Purchased TIF Bond. If the Redeveloper purchases the TIF Bond, any shortfall in anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Site Development Parcel and any improvements located thereon or a lack of sufficient taxable Site Development Parcel and any improvements located thereon, shall be borne entirely by the Redeveloper without recourse of any kind against the City. To the extent of any deficiency in TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Indebtedness, the Redeveloper as purchaser of the TIF Bond agrees to defer payment of the same for each year that there exists a deficiency such TIF Tax Revenues bring during the Tax Increment Period. If

Redeveloper is required to defer any such payments, the City shall reimburse all sums deferred plus interest (at the same interest rate of the then outstanding TIF Bond) if and when TIF Tax Revenues do become available from the Ad Valorem Tax Provision to meet current debt service and reimburse Redeveloper for such deferred payments. In the event the TIF Indebtedness for the Project Area is not retired in full at the end of the Tax Increment Period, any remaining TIF Indebtedness shall be forgiven. In the event that any deficiency payments made by the Redeveloper as required by this subsection or any interest that has accrued thereon have not been repaid at the end of the Tax Increment Period, Redeveloper agrees that the City shall not be liable for payment of said amounts and that said amounts shall be forgiven.

B. Lender Purchased TIF Bond. If Redeveloper's Lender purchases the TIF Bond, any shortfall in anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Site Development Parcel and any improvements located thereon or a lack of sufficient taxable Site Development Parcel and any improvements located thereon, shall be borne entirely by the Redeveloper without recourse of any kind against the City. In the event of and to the extent of any deficiency in annual TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Indebtedness, the Redeveloper agrees to pay the City the amount of said deficiency within thirty (30) days following receipt of a written request from the City. If Redeveloper is required to pay any such deficiency, the City shall reimburse all sums paid by said Redeveloper for such purposes plus interest (at the same interest rate of the then outstanding TIF Bond) if and when TIF Tax Revenues do become available from the Ad Valorem Provision to meet current debt service and reimburse Redeveloper for such deficiency payments. In the event that any deficiency payments made by the Redeveloper as required by this subsection or any interest that

has accrued thereon have not been repaid at the end of the Tax Increment Period, Redeveloper agrees that the City shall not be liable for payment of said amounts and that said amounts shall be forgiven.

Section 407. Reimbursement of Grants. Subject to Section 701 (Remedies) below, Redeveloper agrees to repay the City the grant or grants of funds as provided for in Section 404 (Use of TIF Funds) above in the event Redeveloper fails to substantially complete the Redevelopment Project Improvements as provided in Section 304 (Time of Construction) above and, upon such repayment of the of the grant funds, this Agreement shall be null and void in regards to the Redeveloper and the Site Development Parcel and the improvements located thereon. Subject to Section 701 (Remedies) below, in the event the Redeveloper fails to maintain the Redeveloper's Private Improvements and Public Enhancements for a Site Development Parcel as provided in Section 206 (Duty to Maintain) above, then the Redeveloper shall reimburse the City the proportionate share (1/15) of the grant funds for said Site Development Parcel provided for in Section 403 (Grant of Funds) above, for each year the Redeveloper fails to maintain the Private Improvements and Public Enhancements for said Site Development Parcel.

Section 408. Restriction on Transfer. Redeveloper will not, for a period of fifteen (15) years after the effective date of the Ad Valorem Provision hereof or so long as the TIF Bond remains outstanding whichever period of time is shorter (tax increment period), convey the Private Improvements within the Project Area or any portion thereof, as being used for any non-exempt purpose to any entity which will result in such property being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions. The City acknowledges and agrees that the University 4-H Unit will be owned by the University and will be a tax-exempt for so

long as it is so owned and used for educational or other public purposes and permitted to be tax exempt under applicable law.

Section 409. Agreement to Pay Taxes. Redeveloper agrees to pay all real property taxes levied upon the Site Development Parcel and improvements thereon prior to the time the taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency shall cease upon expiration of the Site Development Parcel's Tax Increment Period, but the City in no way waives the 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.

Section 410. Insurance Damage or Destruction of Private Improvements. During the construction period of each Site Development Parcel, 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 of the Private Improvements but allowing for reasonable coinsurance clauses and deductibles. In the event of any insured damage or destruction, Redeveloper agrees to restore the Private Improvements to their 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 for said Site Development Parcel 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 Redeveloper or other 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 Redeveloper or other owner or tenant's obligation to restore the Private Improvements to their prior condition within twelve (12) months from the date of the damage or destruction, diligently pursuing the same to completion.

Section 411. Condemnation. If during the Tax Increment Period, all or any portion of the Site Development Parcel 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 Condemner an interest in said property equal to the present value of the pro rata share of tax increment indebtedness outstanding as of the date of taking.

Section 412. Termination. The provisions of Article IV of this Agreement shall terminate for the Project Area upon expiration of the Tax Increment Period.

ARTICLE V

MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

Section 501. Definitions.

A. **Holder.** For the purpose of this Agreement, the term "**Holder**" in reference to a Mortgage (defined below) shall be deemed to include any insurer or guarantor of any obligation or conditions secured by such Mortgage or similar type of encumbrance who succeeds to or becomes subrogated to the rights of the Mortgagee.

B. **Mortgage.** For the purpose of this Agreement, the term "**Mortgage**" shall include a deed of trust or other instrument creating an encumbrance or lien as security for a loan.

Section 502. Financing Creating Encumbrances Restricted. Prior to completion of Private Improvements on a Site Development Parcel, neither Redeveloper, nor any successors in interest with respect to the Site Development Parcel shall engage in any financing or any other transaction creating any Mortgage upon the Site Development Parcel, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to any of such Site Development Parcel, except for the purposes of obtaining funds only to the extent necessary to design, construct, maintain, repair, replace and insure the Redevelopment Project 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 Site Development Parcel, and shall promptly notify the City of any Mortgage that has been created on or attached to Site Development Parcel whether by voluntary act of Redeveloper or otherwise. Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to any of the Site Development Parcels and which is contested by Redeveloper, then Redeveloper may defend against such encumbrance or lien, provided that a sufficient bond or security is posted with the clerk of the district court pursuant to Neb. Rev. Stat. § 52-142 to permit Redeveloper to avoid or prevent foreclosure of such encumbrance or lien. In addition, Redeveloper agrees that prior to completion of the Private Improvements on a Site Development Parcel; any loan proceeds secured by any interest in the Site Development Parcel shall be used solely for the payment of costs and expenses related to the development of the Private Improvements on the Project Area. Redeveloper shall provide a copy of all bank approvals related to the Private Improvements to the Director of Urban Development in a timely fashion.

Section 503. Mortgage Holder Obligations. Each Mortgage Holder who obtains title to a Site Development Parcel or any part thereof as a result of foreclosure or other judicial proceedings or

action in lieu thereof shall not be obligated by and shall be exempt from those provisions of this Agreement which require construction and completion of the Private Improvements and which require such holder to be obligated to guarantee such construction and completion. The above exemption shall not run in favor of any purchaser at foreclosure or judicial sale other than the Holder of the Mortgage; nor in favor of any person who subsequently obtains title to the Site Development Parcel or any part thereof from the Holder of the Mortgage; provided, however, no person, including the Holder of a Mortgage authorized by this Agreement, may devote the Private Improvements thereon or any part thereof to any use or construct any improvements thereon other than those uses and improvements provided and permitted in accordance with this Agreement.

Section 504. Copy of Notice of Default to Mortgage Holder. Whenever the City shall deliver any notice or demand to Redeveloper with respect to any breach or default by Redeveloper of its obligations or covenants in this Agreement, the City shall at the same time forward a copy of such notice or demand to each Holder of any Mortgage against the Site Development Parcel at the last address of such Holder as shown in the records of the Register of Deeds of Lancaster County.

Section 505. Mortgage Holder Option to Cure Default. 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 Private 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 within sixty (60) days after the notice or demand referred to in Section 504 (Copy of Notice of Default) above 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 the Private Improvements, nothing contained in this Section or any

other Section of this Agreement shall be deemed to permit or authorize Holder to modify this Agreement as approved by the City. If the Holder commences efforts to cure the default within such sixty (60) day period and the default cannot, in the exercise of due diligence, be cured within such period, the Holder shall have the right to diligently continue to cure the defaults. In the event the Holder fails to cure, then the City shall have the remedies provided for in this Agreement.

Section 506. Rights Applicable to Other Forms of Encumbrance. The rights and obligations of this Agreement relating to Mortgages of any portion of the Site Development Parcel shall apply to any other type of encumbrance on any of the Site Development Parcels, 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.

Section 507. Termination. The provisions of Article V of this Agreement shall terminate upon City's issuance to Redeveloper of Redeveloper's Certificate of Building Completion for all the Private Improvements to be constructed on the applicable Site Development Parcel pursuant to this Agreement.

ARTICLE VI

FUTURE NIC PHASE(S)

Section 601. The Start-Up Challenges. NIC represents many exciting University and community opportunities. However, the current blighted and substandard condition of the former State Fair Park and the required large up-front infrastructure investments produce many start-up difficulties and challenges.

A. The Need to Build NIC in Phases. The NIC Master Plan covers a very large urban area (approximately 167 acres). This large Redevelopment Area will necessitate NIC being built in phases in order to meet market conditions and absorption rates. In turn, the required roadways and infrastructure should be also be timed and completed in phases to permit the required transportation and utility services to be completed in a manner that encourages and facilitates construction of the research facilities that are built in phases.

B. Need for New Roadways and Infrastructure. Most of the existing infrastructure and roadways within the former State Fair Park are very old, in disrepair and needs to be totally replaced. With very little useable existing infrastructure and roadways, NIC requires an extensive set of new public infrastructure (estimated construction cost of \$27 million without inflation) within the 167 acre campus as generally shown in Exhibit “D-1” and Exhibit “D-2” in order to fully implement the Master Plan as shown on Exhibit “B”. The City current and projected funding sources do not provide any available surplus funding that can be committed to the Redevelopment Area in Phase I or subsequent phases, without major impacts and delays to other important City public works and utilities projects.

C. Large Upfront Investment. Vast stretches of the Phase I new roadways and utility infrastructure need to be constructed as part of the Nebraska Innovation Campus Phase I Redevelopment Project as shown in Exhibit “G-1” through Exhibit “G-5” in order to serve the needs of the tenants of the Phase I Private Improvements. Current Uses and Sources of Funds (Exhibit “J”) show the Public Improvements costs in Phase I exceeding the “bankable” TIF Proceeds to be generated by the current committed first set of Buildings (4-H Building & NIC Building and Industrial Arts Building & Life Science Collaboration Center). The projected

public funding gap that the Redeveloper is taking on and funding is proportionately larger than any other past Lincoln redevelopment projects.

D. Extra Costs Associated with Public Enhancements. There is strong public sentiment for NIC to rehabilitate two former State Fair Park historic structures and put them back into service as research facilities: 4-H Building and Industrial Arts Building. These two historic buildings currently lack even the most basic building and research requirements and have also been allowed to fall into serious disrepair, requiring reinvestment that exceeds the costs of new research construction.

E. Phase I Tenants' Expectation. Subsequent NIC phase(s) will require future City approval of proposed amendments to this Agreement and such amendments will specifically show and describe the next phase(s) of Public Improvements and Public Enhancements that are acceptable to the City. However, the prospective Phase I tenants in the Project Area are assuming that later phase(s) will be approved and implemented by the City to ensure the University's vision of maximizing synergy, economics of scale and research collaboration. In other words, the Phase I tenants' decision to pioneer and locate at NIC is being made with the expectation that other researchers will follow in other implemented NIC phases.

F. Possible Timing of Subsequent Research Tenants Outside the Project Area. Phase I has extraordinary up-front Public Improvements that the Redeveloper is required to assume. If the next set of prospective tenants do not want to locate their facilities within the Project Area, but instead demand a facility located outside the Project Area, this will present a dilemma and require additional large investments in Public Improvements, further putting the Redeveloper at risk for purchasing the TIF Bonds associated with the Project Area without

adequate Tax Revenues and then having to purchase additional TIF Bonds to enable additional research in another NIC phase(s) outside the Project Area.

G. Need to Complete All the NIC Public Improvements. Subsequent NIC phases will, in turn, need the resulting Tax Proceeds to fund additional and remaining Public Improvements as generally shown on Exhibit “D-1” and Exhibit “D-2” in order to provide necessary site preparation as well as transportation and utilities infrastructure for subsequent phase(s). When completed, NIC Tax Proceeds are projected to be adequate to (i) to fund the costs of the necessary Public Improvements in the Project Area, (ii) fund the subsequent and remaining Public Improvements in the Redevelopment Area as generally shown on Exhibit “D-1” and Exhibit “D-2”, and (iii) fund many of the Other NIC Public Improvements and Surrounding Neighborhood Improvements outlined on Exhibit “I”.

Section 602. Redeveloper’s and City’s Pledge. In summary, there is a combination of investor risks facing the Redeveloper: (a) market conditions, requiring NIC to be developed in one or more phases, (b) the poor existing condition of the former State Fair roadways and utilities, (c) a large disproportionate upfront investment in the Public Improvements, (d) extra costs associated with historic Public Enhancements, (e) Phase I tenants’ expectation that other critical mass researchers will follow in other implemented NIC phases, (f) the possibility of subsequent research tenants demanding new facilities located outside the Phase I Project Area, and (g) the additional and remaining public roadways and utilities in the Redevelopment Area that will need to be built after Phase I Public Improvements are constructed. Notwithstanding any contrary provisions herein the Redeveloper and City make the following pledges to each other:

A. Redeveloper's Pledge. The Redeveloper pledges to (i) assume the above described up-front investment risks and (ii) will acquire and fund the Tax Indebtedness for eligible and appropriate Public Improvements generally described on Exhibit "D-1" and Exhibit "D-2"; provided that, there is market demand for research and related facilities in a subsequent phase(s) of NIC development and the City and Redeveloper execute either subsequent written amendments to this Agreement or new written Redevelopment Agreement(s) for the subsequent NIC phase(s); and

B. City's Pledge. The City acknowledges the need for the construction of additional roadways, public streetscape, water, sanitary sewer, stormwater management, demolition, grading, and dry utilities in the Redevelopment Area beyond what is planned for the Phase I Redevelopment Project and as generally shown on the PUD, Exhibit "D-1" and Exhibit "D-2" (collectively "Future Public Infrastructure"). In the event the City and Redeveloper are successful in negotiating and executing additional redevelopment agreements for subsequent phases of redevelopment within the Redevelopment Area, the City generally agrees: (i) to issue Tax Indebtedness and to pledge the Tax Revenues generated through the use of Tax Increment Financing for financing the costs of Future Public Infrastructure to be constructed in subsequent phases of development within the Redevelopment Area to assist in the removal or prevention of blight and substandard conditions in the Redevelopment Area and (ii) that the Second Priority, after the payment of the City's costs and fees associated with issuing such indebtedness will be to fund said necessary Future Public Infrastructure in subsequent phases of redevelopment within the Redevelopment Area. The City's pledge, as stated in this subsection, is further conditioned upon the understanding between the parties that any remaining subsequent NIC phase shortfall in

anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, shall be borne entirely by the Redeveloper without recourse of any kind against the City.

C. **Interpretation.** Except for the pledges described above, this Agreement does not commit or bind the Redeveloper or the City to any future responsibilities, liabilities and costs for subsequent NIC phase(s).

ARTICLE VII

REMEDIES

Section 701. In General. Except as otherwise provided in this Agreement, in the event of any default in performance of this Agreement, the party in default, or its successors, shall, upon written notice from the other, 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 defaulting party shall commence efforts to cure and shall diligently continue to cure the default. If the default is not cured, the non-defaulting party may institute any proceedings which may be necessary to cure and remedy the default.

Section 702. Waiver. The parties shall have the right to institute actions or proceedings as they may deem necessary to enforce this Agreement. Any delay in instituting or prosecuting any action or otherwise asserting rights under this Agreement shall not operate as a waiver of rights or limit rights in any way.

Section 703. Delay in Performance For Causes Beyond Control of Party (“Force Majeure”). The parties and their 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 but not limited to 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, shortages of labor or materials, 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 of either party with respect to construction of improvements shall be extended for the period of delay. However, in order to obtain the benefit of the provisions of this Section, the party seeking the benefit shall within thirty (30) days after the beginning of the delay of performance notify the other party in writing of the cause and the reasonably expected length of delay.

Section 704. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement shall be cumulative and the exercise by either party of anyone or more remedies shall not preclude the exercise by it of any other remedies for any other default or breach by the other party. A waiver of any right of either party conferred by this Agreement shall be effective only if in writing and only to the extent specified in writing.

ARTICLE VIII

REPRESENTATIONS OF THE REDEVELOPER AND CITY

Section 801. 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 Area and not for speculation in land holding.

Section 802. Restrictions on Assignments of Rights or Obligations. Redeveloper represents and agrees that prior to completion of the Private Improvements provided for above there shall be no sale or transfer of the Site Development Parcel or assignment of Redeveloper's rights or obligations under this Agreement to any party without the prior written approval of the City (which

shall not be unreasonably withheld, conditioned, or delayed), 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;

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.

D. Nothing herein contained shall prohibit the Redeveloper from entering into any agreement to sell or other agreement as to transfer of any interest if such agreement can, by its terms only, become effective after the City has issued a Redeveloper's Certificate of Building Completion.

Section 803. Redeveloper Representations and Warranties. Redeveloper represents and warrants to the parties as follows:

A. **Organization; Power; Good Standing.** Redeveloper is a limited liability company duly organized and validly existing in good standing under the laws of ~~Utah~~Wyoming. Redeveloper is qualified to do business in the State of Nebraska and has all requisite power and

authority to own and operate its properties and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

B. Authority Relative to Agreement. This Agreement has been duly executed and delivered by Redeveloper and constitutes a legal, valid and binding obligation of Redeveloper, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

C. Effect of Agreement. The execution, delivery and performance of this Agreement by Redeveloper has been duly authorized by all necessary action by Redeveloper and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not violate any provision of law applicable to Redeveloper, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which Redeveloper is a party.

Section 804. City Representations to Redeveloper. City represents and warrants to the parties as follows:

A. Requisite Power and Authority. The City has all requisite power and authority to carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

B. Authority Relative to Agreement. This Agreement has been duly executed and delivered by the City and constitutes a legal, valid and binding obligation of the City, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

C. **Effect of Agreement.** The execution, delivery and performance of this Agreement by the City has been duly authorized by all necessary action by the City and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not violate any provision of law applicable to the City, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which the City is a party.

D. **City Maintenance.** Upon completion of the Public Improvements to be constructed as part of the Nebraska Innovation Campus Phase I Project, and after ~~the University dedicates~~ NICDC causes the dedication in a final plat or ~~conveyed~~ causes the conveyance by a recordable document the applicable public right-of-ways and public easements for the Project Area as generally shown on Exhibit "M", which is attached hereto and incorporated herein by this reference. The City, at its expense, will maintain the Public Improvements as public right-of-way, public easements, public improvements and public utilities.

Section 805. Conflicts of Interest: City Representatives Not Individually Liable. 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 or for any amount which may become due to Redeveloper or any successors under the terms of this Agreement.

ARTICLE IX

COVENANTS AND REPRESENTATIONS OF ~~THE UNIVERSITY AND~~ NICDC

~~Section 901. University Representations. University represents and warrants to the parties as follows:~~

~~A. **Requisite Power and Authority.** The University has all requisite power and authority to own and operate the Redevelopment Area and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.~~

~~B. **Authority Relative to Agreement.** This Agreement has been duly executed and delivered by the University and constitutes a legal, valid and binding obligation of the University, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.~~

~~C. **Effect of Agreement.** The execution, delivery and performance of this Agreement by the University have been duly authorized by all necessary action by the University and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not violate any provision of law applicable to the University, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which the University is a party.~~

~~Section 902. **University**Section 901. **NICDC Covenants.**~~

A. **Dedication of Right-of-Way.** Upon completion of the Public Improvements to be constructed as part of the Nebraska Innovation Campus Phase I Project, ~~the University~~NICDC agrees to dedicate in a final plat or convey by a recordable document the applicable public right-of-ways and public easements for the Project Area as generally shown on Exhibit "M".

B. **Use Restrictions.** ~~The University~~NICDC agrees that during the Tax Increment Period no portion of the Project Area shall be used for any of the following uses:

1. A liquor store selling alcoholic beverages for consumption off the premises, but excluding micro-brewing establishments that sells alcoholic beverages for consumption off the premises and restaurants allowing the removal of an unsealed bottles of wine pursuant to Neb. Rev. Stat. §53-123.04, as amended;

2. The retail sale of alcoholic beverages for consumption on the premises if such use, in the opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;

3. Any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such use that has an unreasonable pattern of unlawful disturbances or tobacco law violations;

4. A sexually oriented business including live entertainment establishments as defined in Section 27.03.545 of the Lincoln Municipal Code and any other business engaged 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. The foregoing exclusion shall not include pay for view video / audio services, internet and other forms of telecommunication / communication systems offered or available to guests in the ordinary course of hotel business and trade or to Lincoln residents;

5. Any business whose predominant operation is 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;

6. Any business involving gambling or wagering, even if otherwise permitted by law including slot machines, video lottery machines, casino games, or off-site pari-mutual wagering sites, but excluding live horse-racing, off-site pari-mutual and simulcast horse-racing, keno, bingo, and the retail sale of lottery tickets as permitted by applicable law; and

7. Any business involving the sale of weapons, self-service laundromats for nonresidents or non-occupants of the Project Area, illegal activities, or sale of any illegal goods or products.

8. Off premises signs as defined in Section 27.69.020 of the Lincoln Municipal Code subject to the allowances provided in the ~~Amended~~ PUD.

9. Any business providing payday loans, liens, check cashing services, or other similar services, except for banks, savings and loans, insurance company, investment companies, stock brokers, credit unions and automated teller machines.

Section 903902. **NICDC Representations.** NICDC represents and warrants to the parties as follows:

A. Organization; Power; Good Standing. NICDC is a non-profit corporation duly organized and validly existing in good standing under the laws of Nebraska. NICDC is qualified to do business in the State of Nebraska and has all requisite power and authority to own

and operate its properties and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

B. Authority Relative to Agreement. This Agreement has been duly executed and delivered by NICDC and constitutes a legal, valid and binding obligation of NICDC, enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

C. Effect of Agreement. The execution, delivery and performance of this Agreement by NICDC has been duly authorized by all necessary action by NICDC and except as provided in this Agreement will not require the consent, waiver, approval, license or authorization of any person or public authority, and will not violate any provision of law applicable to NICDC, and will not violate any instrument, agreement, order, judgment, decree, statute, regulation, or any other restriction of any kind to which NICDC is a party.

ARTICLE X

MISCELLANEOUS

Section 1001. Persons Authorized to Issue Approvals. For purposes of this Agreement and the approvals and disapprovals required hereunder, the parties shall be entitled to rely on the written approval or disapproval of (i) the City Council, the Mayor, the Director of the Department of Urban Development, or the Director of Public Works, or its successor, as constituting approval or disapproval of the City; (ii) Zach Wiegert or Jeffrey K. Woodbury, or its successor, as constituting approval or disapproval of the Redeveloper; ~~(iii) the Chancellor of the University as constituting approval or disapproval of the University; and (iv) and (iii) the~~

President of NICDC as constituting approval or disapproval of NICDC. The Mayor is hereby authorized to take such action as the Mayor may deem necessary or advisable in order to carry out this Agreement, including, but not limited to, the authority to make ministerial alterations, changes or additions to the foregoing described Public Improvements.

Section 1002. Notices and Demands. A notice under this Agreement by a party to the other party shall be deemed delivered on the date it is postmarked, sent postage prepaid, certified or registered mail, or delivered personally to:

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

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

If to Redeveloper: Nebraska Nova ~~Development~~ L.L.C.
c/o ~~Dinwoodey L.L.C. and~~

Woodbury Corporation, Manager
Attn: Jeffrey K. Woodbury
2733 E. Parleys Way, Suite 300
Salt Lake City, UT 84109

With a copy to: [Dinwoodey L.L.C.](#)
[Attn: Jeffrey K. Woodbury](#)
[2733 E. Parleys Way, Suite 300](#)
[Salt Lake City, UT 84109](#)

With a copy to: Tetrad Real Estate, LLC
c/o Tetrad Corporation
Attn: W. David Scott
11422 Miracle Hills Drive, Suite 400
Omaha, NE 68154

With a copy to: Wiegert Development, LLC

c/o Wiegert Properties, LLC
Attn: Zachary A. Wiegert
728 Q Street
Lincoln, NE 68508

With a copy to: Nebraska Nova L.L.C.
c/o Woodbury Corporation, Manager
Attn: Walker Kennedy III
2733 E. Parleys Way, Suite 300
Salt Lake City, UT 84109

~~If to the University: The Board of Regents of The University of Nebraska
3835 Holdrege Street—Varner Hall
Lincoln, Nebraska 68583-0745
Attention: Corporation Secretary~~

~~With a copy to: The University of Nebraska—Lincoln
Office of Business & Finance
302 Canfield Administration
Lincoln, Nebraska 68588-0425
Fax: (402) 472-7963~~

~~With a copy to: University General Counsel
3835 Holdrege Street, Suite 201
Lincoln, NE 68583-0745
Fax: (402) 472-2038~~

If to NICDC: Nebraska Innovation Campus Development
Corporation
c/o The University of Nebraska—Lincoln
Chancellor's Office
201 Canfield Administration
Lincoln, Nebraska 68588

With a copy to: University of Nebraska General Counsel
3835 Holdrege Street, Suite 201
Lincoln, NE 68583-0745
Fax: (402) 472-2038

With a copy to: The University of Nebraska—Lincoln
 Office of Business & Finance
 302 Canfield Administration
 Lincoln, Nebraska 68588-0425
 Fax: (402) 472-7963

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

Section 1003. Approval Not Unreasonably Withheld and Timely Approval. Whenever approval or consent of either party is required hereunder, such consent shall not be unreasonably withheld or delayed. Except as may be specifically otherwise stated, any approval or disapproval required in this Agreement shall be issued within fourteen (14) days after receipt by the party issuing such approval/disapproval of all necessary information from the party requesting such approval. The party issuing such approval/disapproval shall promptly advise the requesting party as to whether all necessary information has been received. If any party to this Agreement submits any item to another party to this Agreement for approval pursuant to this Agreement, and the party so requested to approve fails to issue written approval or disapproval within the time period specified for such approval or disapproval, then such failure shall constitute approval of such item.

Section 1004. Access to Site Development Parcel. During construction of the Redevelopment Project Improvements, the other parties shall permit the representatives of the City to enter all areas of the Project Area 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 Project Improvements. No compensation shall be payable nor shall any charges be made in any form by any party for the access or inspection provided in this Section. The City's right of access

granted under this Section as it applies to the Private Improvements within the Project Area shall terminate for any Building upon issuance by the City of the Certificate of Building Completion.

Section 1005. Provisions Run With the Land. This Agreement shall run with the Project Area and shall inure to and bind the parties and their successors in interest. This Agreement or a Memorandum hereof, substantially similar to the Memorandum attached hereto as Exhibit “N”, and incorporated herein by this reference, shall be recorded with the Register of Deeds of Lancaster County, Nebraska, against the Project Area, at the Redeveloper’s expense. Except as otherwise provided herein, the provisions and covenants of this Agreement shall terminate upon issuance by the City of the Certificate of Building Completion and the City’s acceptance of the Public Improvements and dedication or conveyance of the related public right-of-way and public easements.

Section 1006. Equal Employment Opportunity. Pursuant to requirements of Section 11.08.160 of the Lincoln Municipal Code and Neb. Rev. Stat. § 48-1122 (Reissue 2010), Redeveloper, and its successors and transferees, agree that, during the performance of this Agreement, it will not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment because of race, religion, sex, color, national origin, ancestry, disability, age or marital status. Redeveloper further agrees to require that its contractor and subcontractors shall agree to conform to said requirements.

Section 1007. Audit and Review. Redeveloper shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Agreement, as allowed by law. The City shall cooperate and make available to the Redeveloper or its agent, copies of all financial and performance related records and materials germane to the Project Account and the TIF Proceeds.

Section 1008. Titles of Articles and Sections. Titles of the Articles and Sections and other parts of this Agreement are inserted for convenience only and shall be disregarded in interpreting any of its provisions.

Section 1009. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally. The parties agree that any grant paid hereunder to the Redeveloper for TIF Eligible Redevelopment Project Improvements are for the benefit of the City and the public and are granted pursuant to the contract provisions described herein and that such grant funds are not under the dominion and control of the Redeveloper and should not be construed as income to the Redeveloper under the Internal Revenue Code Section 61 (I.R.C. § 61), as may be amended.

Section 1010. Certain Public Improvements, Compatibility with Historic Design and Construction. Notwithstanding any contrary provisions herein, certain Public Enhancements and Public Improvements will include design costs, improvements and construction that the City determines to be unique and not-competitive or otherwise involving professional services to the extent the same are required to coordinate, match and integrate the Redevelopment Project Improvements with the existing or recreated historic elements within the Project Area specifically including the 4-H Building and the Industrial Arts Building. The City and Redeveloper shall seek the input and recommendation of the Historic Preservation Commission on the visual design aspects of said Public Improvements and Public Enhancements. Redeveloper shall timely submit architect, engineer or other professional designer estimates or contractor's estimates for said Public Improvements and Public Enhancements in advance of requesting payment for the same to enable the City to obtain an independent review of the same

by a qualified professional or contractor. The City shall approve or reject said cost estimates based on the review within ten (10) days of receipt of the same. Where reasonable and appropriate, the Redeveloper shall utilize unit price or itemized contracts specifically showing the eligible items or quantities prior to letting or entering into the same. Overhead, overtime, incentive, office, mobilization, administration or similar generalized charges shall be allowed only as authorized by the City in advance of incurring the same. The Redeveloper agrees to assist and make any and all pertinent documents available for inspection and copying by the City or its auditors in support of the same.

Section 1011. Integrated Contract; Severance Provisions; Interpretation; Governing Law.

It is intended by the parties that this Agreement and the incorporated, attached, and referenced documents shall be an integrated contract, but that invalidation of any of its provisions by judgment or court order shall in no way affect any other provisions which remain in full force and effect unless such court action shall materially change the intent of this Agreement. As this Agreement has been negotiated drafted through the efforts of the parties, any uncertainty or ambiguity shall be interpreted according to the application of rules of interpretation generally and not against either party for the reason that said party drafted that portion of the Agreement. This Agreement shall be construed and governed by the laws of the State of Nebraska.

Section 1012. Effective Date of Ad Valorem Tax Provision. The Effective Date of the Ad Valorem Tax Provision shall be the date of the City's issuance of the Certificate of Building Completion for the first Building to be constructed in the Project Area pursuant to this Agreement.

Section 1013. Successors and Assigns. The provisions of this Agreement shall be binding upon Redeveloper and its successors and assigns; provided, however, that the obligations of the

Redeveloper pursuant to this Agreement shall be binding upon Redeveloper and its successors and assigns only during their respective periods of ownership.

Section 1014. Purpose of Agreement. This Agreement has been entered into by the City to provide financing for the Nebraska Innovation Campus Phase I Project, an approved project within the Nebraska Innovation Campus Redevelopment Plan.

Section 1015. Expiration. Except as otherwise provided herein, this Redevelopment Agreement shall terminate and expire for each Site Development Parcel upon (i) the completion of the Redevelopment Project Improvements for said Site Development Parcel and (ii) the expiration of the Tax Increment Provision for said Site Development Parcel.

Section 1016. Counterparts. This Agreement may be executed in one or more counterparts which, when assembled, shall constitute an executed original hereof.

EXHIBIT LIST:

- Exhibit A – Redevelopment Area Map and Legal Description
- Exhibit B – Master Plan
- Exhibit C – Planned Unit Development (PUD)
- Exhibit D-1 – PUD Roadways
- Exhibit D-2 – PUD Infrastructure
- Exhibit E – Project Area (Phase 1)
- Exhibit F-1 – Preliminary Plans for 4-H Building & NIC Building
- Exhibit F-2 – Preliminary Plans Industrial Arts Building & Life Science Collaboration Center
- Exhibit G-1 – Roadway (Phase 1)
- Exhibit G-2 – Water (Phase 1)
- Exhibit G-3 – Sanitary Sewer (Phase 1)
- Exhibit G-4 – Stormwater Management (Phase 1)
- Exhibit G-5 – Demolition/Grading (Phase 1)
- Exhibit H-1 –Renewable Energy System
- Exhibit H-2 –Condensate Lines Easement
- Exhibit H-3 – Communication System
- Exhibit I – Potential Master Plan Public Improvements
- Exhibit J – Uses and Sources of Funds

Exhibit K – Certificate of Building Completion

Exhibit L –Timeline

Exhibit M – Right-of-Way & Easements

Exhibit N – Memorandum of Redevelopment Agreement and Use Restrictions

[SIGNATURE AND NOTARY PAGES TO FOLLOW]

Executed by the City this ____ day of _____, 2012.

“City”

CITY OF LINCOLN, NEBRASKA, a municipal corporation

By: _____
Chris Beutler, Mayor

Attest

By: _____
City Clerk

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Chris Beutler, Mayor of the **City of Lincoln**, a municipal corporation, on behalf of the municipal corporation.

(Seal)

Notary Public

Executed by the Redeveloper this _____ day of _____, 2012.

“Redeveloper”

NEBRASKA NOVA ~~DEVELOPMENT~~ L.L.C., a
~~Utah liability company~~

~~By: Tetrad Real Estate, LLC, a Wyoming limited liability company, Member~~
~~doing business in Nebraska as Nebraska Nova Development L.L.C.~~

By: ~~Tetrad Corporation~~ **WOODBURY CORPORATION**, a ~~Wyoming~~ **Utah** corporation,
its ~~sole member~~ **Manager**

By: _____
_____ **W. David Scott, President**

~~By: Dinwoodey L.L.C., a Utah limited liability company, Member~~

~~By: Woodbury Corporation, a Utah corporation, its sole member~~

By: _____

By: _____

Title: _____

By: _____

By: _____

Title: _____

~~By: Wiegert Development, LLC, a Nebraska limited liability company, Member~~

~~By: Wiegert Properties, LLC, a Nebraska limited liability company, its sole member~~

By: _____
_____ Zachary A. Wiegert, Manager

STATE OF _____)
_____)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, ~~2012~~, ~~2011~~, by ~~W. David Scott,~~ ~~President~~ _____, as _____ of ~~Tetrad Corporation~~ WOODBURY CORPORATION, a ~~Wyoming~~Utah corporation, as ~~its sole member~~Manager of ~~Tetrad Real Estate, LLC, a NEBRASKA NOVA L.L.C., a~~ Wyoming limited liability company, ~~Member of, doing business in Nebraska as~~ Nebraska Nova Development L.L.C., ~~a Utah limited liability company,~~ on behalf of the limited liability company.

(Seal)

Notary Public

STATE OF _____)
_____)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, ~~2012~~, ~~2011~~, by _____, _____, _____ as _____ of ~~Woodbury Corporation~~ WOODBURY CORPORATION, a Utah corporation, as ~~the sole Member~~Manager of ~~Dinwoodey~~ NEBRASKA NOVA L.L.C., a ~~Utah~~Wyoming limited liability company, ~~Member of, doing business in Nebraska as~~ Nebraska Nova Development L.L.C., ~~a Utah limited liability company,~~ on behalf of the limited liability company.

(Seal)

Notary Public

~~STATE OF _____)~~
~~_____)~~ss.
~~COUNTY OF _____)~~

~~The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by _____, as _____ of Woodbury Corporation, a Utah corporation, as the sole Member of Dinwoodey L.L.C., a Utah limited liability company, Member of **Nebraska Nova Development L.L.C.**, a Utah limited liability company, on behalf of the limited liability company.~~

(Seal) _____ Notary Public

~~STATE OF NEBRASKA _____)
_____)ss.
COUNTY OF _____)~~

~~The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Zachary A. Wiegert, Manager of Wiegert Properties, LLC, a Nebraska limited liability company, as the sole Member of Wiegert Development, LLC, a Nebraska limited liability company, Member of **Nebraska Nova Development L.L.C.**, a Utah limited liability company, on behalf of the limited liability company.~~

(Seal) _____ Notary Public

Executed by the University this ____ day of _____, 2012.

“University”

~~THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA~~, a public body corporate and governing body of the University of Nebraska Lincoln

By: _____
James B. Milliken, President

By: _____
Carmen Maurer, Corporation Secretary

STATE OF NEBRASKA _____)
_____) ss.
COUNTY OF LANCASTER _____)

_____ The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by James B. Milliken, President of ~~The Board of Regents of The University of Nebraska~~, a public body corporate and governing body of the University of Nebraska Lincoln, on behalf of the public body corporate.

(Seal) _____ Notary Public

STATE OF NEBRASKA _____)
_____) ss.
COUNTY OF LANCASTER _____)

_____ The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by Carmen Maurer, Corporation Secretary of ~~The Board of Regents of The University of Nebraska~~, a public body corporate and governing body of the University of Nebraska Lincoln, on behalf of the public body corporate.

(Seal) _____ Notary Public

|

Executed by NICDC this _____ day of _____, 2012.

“NICDC”

**NEBRASKA INNOVATION CAMPUS
DEVELOPMENT CORPORATION**, a Nebraska
non-profit corporation

By: _____
Harvey Perlman, Chair

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____,
2012, by Harvey Perlman, Chair of **Nebraska Innovation Campus Development Corporation**,
a Nebraska non-profit corporation, on behalf of the non-profit corporation.

(Seal)

Notary Public