

**CITY OF LINCOLN, NEBRASKA  
REDEVELOPMENT AGREEMENT  
(Schwarz Paper Building Redevelopment Project)**

THIS SCHWARZ PAPER BUILDING REDEVELOPMENT AGREEMENT (“**Redevelopment Agreement**” or “**Agreement**”) is entered into this \_\_\_ day of \_\_\_\_\_, 2014 (“**Date of this Agreement**”), by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as “**City**”) and CBLINC, LLC, a Nebraska limited liability company (hereinafter referred to as “**Redeveloper**”).

**RECITALS**

A. Redevelopment Project Area. The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska, and as part of that program the City has prepared and approved the Lincoln Center Redevelopment Plan, as amended (“**Redevelopment Plan**”), pursuant to the Community Development Law of the State of Nebraska, Chapter 18, Article 21, Sections 18-2101-18-2144, as supplemented by and including Sections 18-2147 to 18-2153, Reissue Revised Statutes of Nebraska, 1943, as amended as may be amended from time to time (“**Community Redevelopment Law**”). The Redevelopment Plan provides for the Schwarz Paper building as a Redevelopment Project (“**Redevelopment Project**”) in an area described as follows (collectively “**Redevelopment Project Area**”):

- (1) Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska (“**Project Site**”);
- (2) Lots 15-16, Block 52, Original Plat, City of Lincoln, Lancaster County Nebraska, Lots 1-7, Lincoln Land Company’s Subdivision (of Lots 13-14,

Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska) and Lots 1-7, Lincoln Land Company's Subdivision (of Lots 17-18, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska) ("**LES Property**");

- (3) East-West Alley in Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska that has not been vacated ("**Alley**"); and
- (4) 8<sup>th</sup> Street from the north edge of "O" Street right of way to the south edge of "N" Street right of way, "O" Street and "N" Street right of ways from the east edge of Canopy Street right of way to the east edge of 8<sup>th</sup> Street right of way.

The Redevelopment Project Area is shown on Exhibit A. A copy of the Redevelopment Plan, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City (the "**City Clerk**").

B. Exchange Agreement. Schwarz Paper Company, a Nebraska corporation ("**Property Owner**"), is the current owner of the Project Site. The Property Owner and Redeveloper have entered into an Exchange Agreement, dated October 10, 2014, as may be amended, (collectively "**Exchange Agreement**") which permits the Redeveloper to acquire the Project Site from the Property Owner pursuant to the terms of the Exchange Agreement.

C. Redeveloper Improvements. The Exchange Agreement provides for the transfer of the Project Site from the Property Owner to the Redeveloper. Upon acquiring title and taking possession of the Project Site from the Property Owner, the Redeveloper intends to rehabilitate and renovate, in a manner consistent with its historic character, the existing structure and construct a four-story addition to said structure located generally on the

southwest corner of the intersection of South 8<sup>th</sup> and O Streets in such a manner that it will be used as (i) one floor of commercial space comprised of approximately 9,000 square feet of habitable space (6,600 SF on the first floor and 2,400 SF in the basement) and three floors of residential space with a combined area of approximately 19,800 square feet or (ii) two floors of commercial space comprised of approximately 15,600 square feet of habitable space (13,200 SF on the first and second floors and 2,400 SF in the basement) and two floors of residential space with a combined area of approximately 13,200 square feet. The Redeveloper undertakings for the Redevelopment Project consist of the following activities as generally shown on Exhibit C (collectively “**Redeveloper Improvements**”):

- (1) The Redeveloper shall design and construct the following public enhancement improvements which are intended to correct and eliminate blighted and substandard conditions present within the Project Area (collectively “**Public Enhancements**”): restoration of the public dock and canopy immediately abutting the east façade of the Schwarz Paper Building (“**Dock & Canopy Enhancement**”) and restoration of the historic facades of the Schwarz Paper Building (“**Façade Enhancement**”).
- (2) The design and renovation of a four story historic building containing approximately 9,000 square feet of commercial space and 19,800 square feet of residential space, including construction of a four story addition on the south end of the existing building (collectively “**Schwarz Paper Building**”). The Schwarz

Paper Building and Public Enhancements are hereafter collectively referred to as the “**Private Improvements**”.

- (3) The Redeveloper shall through the City Executive Order process remove and fill in the building’s underground vault space located in the public right of way (“**Vault Space**”). Removal of said Vault Space shall sometimes be referred to herein as “**Redeveloper Public Improvements**”.

D. City Public Improvements. The City shall complete the final design and construct the following public improvements (collectively “**City Public Improvements**”): public street parking on South 8<sup>th</sup> Street from “O” Street to the Alley (“**Public Parking**”), public streetscape, including sidewalks, ADA ramps, hardscape, landscape, pedestrian and street lighting, signage, curb and gutters, and related public improvements that abut the Project Site (collectively “**Streetscape**”) and other Block 52 public improvements within the Redevelopment Project Area (collectively “**Block 52 Improvements**”).

E. This Redevelopment Agreement implements the Schwarz Paper Redevelopment Project and sets forth the terms and conditions for the Project.

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

G. The City is willing to support the above described redevelopment of the Redevelopment Project Area provided Redeveloper is willing to (1) restrict the use of the Project Site to certain approved uses and (2) agree to covenants and conditions regarding

compulsory maintenance and upkeep of the Private Improvements to prevent a recurrence of substandard and blighted conditions.

H. Pursuant to *Neb. Rev. Stat.* §18-2147, et seq., the Redevelopment Plan contains a provision which provides that any ad valorem tax levied upon real property in the Redevelopment Project for the benefit of any public body shall be divided, for a period not to exceed fifteen (15) years after the Effective Date as identified herein as follows:

- That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the Redevelopment Project Area valuation as of January 1 of the year prior to the year that the ad valorem taxes are to be divided shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; and
  
- That portion of the ad valorem tax on real property as provided in the redevelopment contract or bond resolution in the Redevelopment Project Area in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the authority to be used solely to pay the principle and the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such authority (“**TIF Indebtedness**”) for financing or refinancing in whole or in part, of the Redevelopment Project. When such bonds, loans, notes, advances of money, or indebtedness, including interest and premiums due, have been paid, the authority shall so notify the County Assessor

and County Treasurer and all ad valorem taxes upon taxable real property in the Redevelopment Project Area shall be paid into the funds of the respective public bodies.

Said provision is hereinafter referred to as the “**Ad Valorem Tax Provision**” or the “**Tax Increment Provision.**”

I. The Redeveloper is willing to enter into this Agreement provided TIF Proceeds (defined below) are available to be used to pay for or reimburse the Redeveloper for Redeveloper Priority Expenses which are more particularly described Section 503 below and summarized on Exhibit B, Uses and Sources of Funds. In order to pay for or reimburse Redeveloper for Redeveloper Priority Expenses, the City intends to issue tax increment financing indebtedness to be repaid with the tax increment revenues generated under the Ad Valorem Tax Provision.

J. The parties mutually agree that the redevelopment of the Redevelopment 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, for and in consideration of the recitals set forth above and the mutual representations, warranties, and covenants set forth below, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and intending to be legally bound, the parties hereto agree as follows:

## **ARTICLE I.**

### **EVIDENCE OF REDEVELOPER’S ABILITY**

**Section 101. Evidence of Redeveloper's Ability.**

A. Evidence of Redeveloper's Financial Ability to Construct Private Improvements.

Redeveloper shall, within one hundred and eighty (180) days following the Date of this Agreement, state the amount and source of debt financing which has been obtained or irrevocably committed to Redeveloper for use in completing the Private Improvements. Such information shall be provided in a form satisfactory to the Finance Director of the City. Evidence of loan commitments shall include all the documents evidencing the loan commitment, and acceptance by the borrower, 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.

B. Timely Submittal of Evidence. Timely submittal of financial information required in subsection A above 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 Redevelopment Agreement.

**Section 102. Evidence of Redeveloper's Ability to Timely Commence Construction of the Private Improvements.**

Redeveloper shall, within two hundred and ten (210) days of execution of this Agreement by the City, provide satisfactory documentation to the City that Redeveloper has entered into a construction contract and is ready, willing, and able to timely commence construction of the Private Improvements as provided in Section 202 B below.

**Section 103. Timely Submittal of Evidence.** Timely submittal of financial information required in Section 101 above and the construction contract required in Section 102 above shall

be a condition precedent to the requirement of the City to proceed with its obligations under this Agreement.

## ARTICLE II

### CONSTRUCTION OF REDEVELOPER IMPROVEMENTS

**Section 201. Private Improvements - Schematic Drawings; Exterior Drawings & Specifications; Final Exterior Construction Documents; Approval; Changes.**

A. Conceptual Plans and Drawings. Overall conceptual plans and drawings (“**Project Schematic Drawings**”) shall be based upon restoring and preserving the historic facades of the Schwarz Paper Building and maintaining the historic nature of the Haymarket District. The Project Schematic Drawings shall serve as the basis for development of the plans and specifications for the Private Improvements, Public Parking and Streetscape. Ingress and egress to and from the Project area from the public streets as shown on Exhibit C are acceptable to the City based upon Chapter 14.75 of the Lincoln Municipal Code and the City’s Access Management Policy.

B. Design Development Plans. Design development plans and specifications (“**Design Development Plans**”) will be prepared by Redeveloper for the Private Improvements to be constructed by Redeveloper on the Redevelopment Project Area. Such Design Development Plans shall be based upon the Project Schematic Drawings and shall show all the exterior of the Private Improvements to be constructed by Redeveloper as part of the Redevelopment Project and shall also include a site plan (“**Site Plan**”) and elevation views of the exterior of the Private Improvements (“**Exterior Drawings**”) and the construction materials to be used for such exterior walls.

The Exterior Drawings of the Private Improvements shall be submitted to the Historic Preservation Commission, in accordance with the submittal requirements in Chapter 27.57 of the Lincoln Municipal Code, for its review and submittal of its recommendation to the City no later than thirty (30) days following Redeveloper's submittal of the Exterior Drawings. The Exterior Drawings shall be approved if they are in substantial conformity with the Project Schematic Drawings and this Redevelopment Agreement. The Site Plan and the Exterior Drawings shall be submitted to the Mayor for his review and approval, which will not be unreasonably withheld.

C. Exterior Construction Documents. Upon approval of the Exterior Drawings by the City, taking into account the recommendations of the Historic Preservation Commission, Redeveloper shall prepare or have prepared the exterior construction documents (“**Exterior Construction Documents**”) which shall be submitted to the Mayor for his review and approval, which will not be unreasonably withheld. The Exterior Construction Documents and exterior construction materials shall be reviewed by the Mayor and approved only if they are prepared from and in substantial conformance with the approved Exterior Drawings, and in substantial conformity with this Redevelopment Agreement.

D. Historic Preservation Commission Failure to Act. In the event the Historic Preservation Commission fails to submit its recommendation to the City as provided for in subparagraph B above within forty-five (45) days after receipt of the submittal, then Redeveloper may submit such documents directly to the City for its review and approval.

E. Approval. City, acting through the Mayor, shall so approve or reject the Exterior Drawings and Exterior Construction Documents within fourteen (14) days after receipt of the

applicable documents and/or any report and recommendation of the Historic Preservation Commission. Such Exterior Drawings and Exterior Construction Documents shall be reviewed by the Mayor and approved only if they are prepared from and in substantial conformance with the approved Project Schematic Drawings, and in substantial conformity with this Redevelopment Agreement. Failure of the City to reject the applicable documents within said fourteen (14) days shall be deemed as approval. 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 based on the standards for this Redevelopment Project. If rejected, Redeveloper shall work with the Architect to submit corrected Exterior Drawings and Exterior Construction Documents, as applicable, within fourteen (14) days after the date of receiving the written rejection notice. Resubmitted Exterior Drawings and Exterior Construction Documents shall be approved or rejected as provided above for original submittals.

F. Approval Limitation. Approval of the Exterior Drawings and Exterior Construction Documents is not a substitute for and does not eliminate the requirement that Redeveloper apply for and receive necessary building permits for construction of the Private Improvements.

G. Changes. If the Site Plan, Exterior Drawings, or Exterior Construction Documents are substantially and materially modified after City approval, any such modification shall be resubmitted to the City in accordance with this Section 201.

H. Redeveloper Public Improvements. Site Plan, Design Development Plans and Exterior Construction Documents will be prepared by the Redeveloper, at its expense, subject to reimbursement with available TIF Proceeds from the Series B TIF Bond as described in this

Redevelopment Agreement, for the Redeveloper Public Improvements to be constructed by the Redeveloper on the Redevelopment Project Area.

I. City Public Improvements. Site Plan, Design Development Plans and Exterior Construction Documents will be prepared by the City, at its expense, subject to reimbursement with available TIF Proceeds from the Series A TIF Bond as described in this Redevelopment Agreement, for the City Public Improvements to be constructed by the City on the Redevelopment Project Area.

**Section 202. Construction of Private Improvements.**

A. Construction. Redeveloper at its own cost and expense shall, through a minimum investment of Four Million Two Hundred Thousand and No/100 Dollars (\$4,200,000.00), construct the Private Improvements in conformity with the approved Exterior Construction Documents, building permits, and this Redevelopment Agreement.

1. Architecture. All Private Improvements shall have consistent architectural features, detailing, and design elements in accordance with the Project Schematic Drawings. All accessory building walls, screening walls, or fences shall use the same primary material, color, and detailing as on the main buildings, unless shown differently on approved Exterior Construction Documents.

2. Screening. All ground level mechanical units shall be visually screened from public view. Large trash receptacles for business use and any outside storage areas shall either be enclosed within the Schwarz Paper Building or be screened on three sides with masonry screen wall. Redevelopers shall submit the screening plan as part of the Exterior Construction Documents to the Mayor for his review and approval which will not be unreasonably withheld.

3. Green Building Practices. Construction of the Private Improvements shall utilize energy efficient building practices to the extent that they are reasonably available on a cost-effective basis. Specifically, Redeveloper shall use the equivalent of the standard established by the 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 to the extent design and construction based on LEED standards are reasonable and cost-effective.

4. Construction of Public Enhancements. Redeveloper shall, at its own cost and expense, subject to reimbursement with available TIF Proceeds as set forth in this Redevelopment Agreement, construct the Public Enhancements. The City shall not have any obligation to reimburse Redeveloper for the cost of the Enhancements in excess of available TIF Proceeds as provided for in this Redevelopment Agreement. Redeveloper shall use its own funds to fund any Enhancements costs that exceed the TIF Proceeds that are lawfully available and granted to Redeveloper under this Redevelopment Agreement. To the extent required by law, the Public Enhancements shall be competitively bid, subject to Section 922.

5. Façade Easement. Redeveloper shall grant to the City a Façade Easement in the form attached hereto as Exhibit “I” related to the facades to be restored by the Redeveloper as part of the Public Enhancements approved herein.

6. Permits and Approvals. Redeveloper agrees to secure all permits and licenses necessary for construction of the Private Improvements and its intended use of the Project Site including, but not limited to, necessary building permits and inspections.

B. Commencement and Completion Deadline for Private Improvements. The Redevelopers anticipate the commencement of the Private Improvements within two hundred and forty (240) days following the Date of this Agreement and will substantially complete the same Private Improvements on or before October 1, 2016 (“**Completion Date**”).

**Section 203. Payment of Costs for Private Improvements.** Redeveloper agrees to use commercially reasonable efforts to complete construction of the Private Improvements as provided in this Redevelopment Agreement for its respective part of the Redevelopment Project, and to pay, or cause to be paid, in a timely manner all persons, firms, or organizations that performed labor or furnished materials, equipment or supplies used in the prosecution of the Private Improvements subject to reimbursement with available TIF Proceeds as set forth in this Redevelopment Agreement. Such payment shall be made promptly after completion of the Private Improvements in accordance with all the provisions of this Redevelopment 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 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.

**Section 204. Redeveloper’s Certificate of Completion of Private Improvements.**

A. Promptly upon substantial completion by Redeveloper of the Private Improvements in accordance with all provisions of the this Redevelopment Agreement, and promptly after the

Redeveloper provides the City with the proper documentation that Redeveloper's contractor or his or her subcontractors who performed labor or supplied materials, equipment or supplies in the prosecution of the Private Improvements have been properly paid, the City shall, upon request of such Redeveloper, cause a final inspection to be made of the Private Improvements. If the work has been completed in conformance with this Redevelopment Agreement, the City shall execute and deliver to Redeveloper the City's acceptance to the Redeveloper's Certificate of Completion of Private Improvements, the form of which is attached hereto as Exhibit D. The acceptance of the Redeveloper's Certificate of Completion of Private Improvements by the City shall be a conclusive determination of satisfaction of the agreements and covenants contained in this Redevelopment Agreement with respect to the obligations of Redeveloper and its successors and assigns to construct the Private Improvements. As used herein, the term "completion" shall mean substantial completion of the required Private Improvements. Substantial completion is the stage in the construction progress of the Private Improvements when they are sufficiently complete in accordance with the Exterior Construction Documents and when the Redeveloper has secured a temporary or permanent certificate of occupancy so that the Redeveloper can occupy or utilize the Private Improvements for their intended use. With respect to the retail, office and residential components of the Private Improvements, substantial completion need not include the tenant finish improvements required for occupancy by such tenants.

B. The Redeveloper's Certificate of Completion of Private Improvements shall be recorded by Redeveloper in the Office of the Register of Deeds for Lancaster County, Nebraska against the Project Site. If the City shall refuse or fail to execute the acceptance to a Redeveloper's Certificate of Completion of Private Improvements after a final inspection has been requested

and performed, the City shall within fourteen (14) days provide Redeveloper with a written statement indicating in what particulars Redeveloper has failed to complete the Private Improvements in accordance with the provisions of this Redevelopment Agreement or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for Redeveloper to take or perform in order to obtain such acceptance.

**Section 205. Duty to Maintain.** Redeveloper at its own cost and expense shall, following construction of the Private Improvements and during the TIF Period, 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 the buildings including the routine and reasonable preventive maintenance of the buildings and their service facilities such as the wiring, plumbing, heating and air conditioning systems, interior insect treatment, and all glass including plate glass, exterior doors and automatic doors, and (b) maintain the grounds in a safe and sanitary condition including but not limited to sweeping and removal of trash, litter and refuse, repair and replacement of paving as reasonably necessary, maintenance of landscaped areas (including replacement and replanting), removal of snow and ice from sidewalks 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. With regard to the historic facade, the Redeveloper shall not, except for ordinary or necessary maintenance, undertake or allow to be undertaken any material change to said facade during the TIF Period including the alteration, partial removal, construction, remodeling or physical or structural change or change in color or surfacing with respect to the appearance or construction of the façade that alters its state from the Exterior Construction Documents, wear and tear excepted.

**Section 206. Construction Administration.** Redeveloper shall be responsible for all components of the Private Improvements constructed by Redeveloper including construction management, coordination of contractors and regulatory permitting and other requirements. Redeveloper and its contractor(s) shall reasonably cooperate with City contractors performing work in the vicinity of the Redevelopment Project Area including, but not limited to, Redeveloper's scheduling of its work to provide for a smooth sequence of operations. The Redeveloper will be solely responsible for payment of all construction costs for the Private Improvements subject to reimbursement for the Public Enhancements with available TIF Proceeds as set forth in this Redevelopment Agreement.

**Section 207. Redeveloper Public Improvements.**

A. Schematic Drawings. The Redeveloper has prepared Schematic Drawings showing the preliminary size, shape, and location of the Redeveloper Public Improvements. Such Schematic Drawings will serve as the basis for development of final plans and specifications for the Redeveloper Public Improvements to be constructed by the Redeveloper.

1. Preparation of Redeveloper Public Improvements Construction Documents.

Based upon the Schematic Drawings, the Redeveloper shall prepare or cause to be prepared, at Redeveloper's own cost and expense, subject to reimbursement with available TIF Proceeds as set forth in this Redevelopment Agreement, detailed final construction plans and specifications for the Redeveloper Public Improvements. Said construction plans and specifications shall be in compliance with the City of Lincoln Design Standards including,

but not limited to, the Lincoln Downtown Design Standards and the Design Standards for Pedestrian Circulation in Commercial and Industrial Areas.

2. Construction of Redeveloper Public Improvements. Redeveloper, at its own cost and expense, subject to reimbursement with available TIF Proceeds as set forth in this Redevelopment Agreement, shall (1) design or cause the Redeveloper Public Improvements to be designed in accordance with the City's Standard Specifications, (2) submit or cause final construction documents to be submitted to the Director of the Public Works & Utilities Department for review and approval, (3) install and construct or cause to be constructed pursuant to the City's executive order construction process and subject to Section 922, and (4) pay for or cause to be paid construction inspection staking and testing of the Redeveloper Public Improvements as part of the construction and inspection process. The Redeveloper will substantially complete the Redeveloper Public Improvements on or before the completion of the Private Improvements.

B. Construction Easement. Redeveloper shall grant or convey to the City without additional consideration all necessary permanent and/or temporary construction easements (if any) on, over, or across the Project Site required to construct any of the Redeveloper Public Improvements.

**Section 208. City Public Improvements.** The City, at its expense, will design and construct the Public Parking and Public Streetscape in an amount not to exceed One Hundred and Twenty-Four Thousand and No/100 Dollars (\$124,000.00. The City, at its expense, subject to

reimbursement from a portion of available TIF Bond Proceeds as provided in section 503 below and shown in the Public Uses and Sources of TIF Funds as shown on Exhibit B will design and construct the Block 52 Improvements within the Project Area. The prior sentence notwithstanding, the City's obligations to construct the City Public Improvements shall at no time exceed the amounts designated for such uses on Exhibit B of this Agreement. The City will substantially complete the Public Parking and Public Streetscape on or before the completion of the Private Improvements. Upon completion of the City Public Improvements, the City shall be responsible for maintaining the City Public Improvements, at its own cost and expense, and no responsibility thereof shall accrue to the Redeveloper; provided that, the Redeveloper shall take necessary and reasonable steps to protect the Public Improvements from damage during construction of the Private Improvements and be responsible for certain aspects of the Streetscape pursuant to the general terms and provisions of the Streetscape Maintenance Agreement, which is attached hereto as Exhibit E, except for the work to be performed and the specific improvements to be made or maintained under a business improvement district.

A. District Energy Corporation. The City, at its sole election, may request the West Haymarket Joint Public Agency (“**JPA**”) and the District Energy Corporation (“**DEC**”) to design and construct extended heating and cooling piping and related improvements (“**DEC Improvements**”) as a Block 52 Improvements within the Project Area and to serve the Schwarz Paper Building at the City's sole expense. The DEC Improvements will enable the Redeveloper to make a service tap connection and receive energy services from JPA and DEC to the Schwarz Paper Building. In the event the City elects to fund the DEC Improvements, then the City shall provide to the Redeveloper a copy of the JPA Energy Services Agreement on or before

December 31, 2014 and the Redeveloper will use its best efforts to review, finalize and execute the JPA Energy Service Agreement on or before January 31, 2015; provided that, the projected future energy and maintenance costs do not materially cost more than traditional energy systems for the Schwarz Paper Building. In the event the JPA and Redeveloper successfully execute a JPA Energy Service Agreement, then the City, at its expense, will cause said DEC Improvements to be substantially complete on or before August 1, 2015.

**Section 209. Cost Certification.** Redeveloper shall submit authentic documentation to the City on approved forms or format for payment of any expenses related to construction of the eligible Redeveloper Priority Expenses. Redeveloper shall timely submit receipts, invoices, or proof of payment concurrently with the request for reimbursement of eligible Redeveloper Priority Expenses. The City shall approve or reject the request for reimbursement with reasons stated, based on the review within ten (10) days of receipt of the same. The foregoing notwithstanding, the City reserves the right during said ten day period to request additional information and documentation related to a request for reimbursement from Redeveloper, and such a request by the City shall have the effect of restarting the ten (10) day period upon receipt of all requested information. Failure of the City to reject the request for reimbursement within said ten (10) days shall be deemed as approval. Once the Redeveloper Priority Expense evidence or invoices have been approved by the City, the City shall pay such expense to Redeveloper within two (2) business days from the Project Account B (defined below) established by the City for the Project.

### ARTICLE III.

#### SECURITY AND RESTRICTIONS

**Section 301. Bond.**

A. Penal Bond –Redeveloper Public Improvements. Pursuant to *Neb. Rev. Stat.* §§ 18-2151 and 52-141, Redeveloper shall furnish or cause to be furnished to the City, prior to commencement of construction of the Redeveloper Public Improvements, a penal bond in the amount of the contract sum for such improvements with a corporate surety authorized to do business in the State of Nebraska. The form of the penal bond is attached hereto as Exhibit “F”. Such penal bond shall stay in place until the City executes the Certificate of Completion of Private Improvements for the Private Improvements and shall be conditioned upon Redeveloper or Redeveloper’s contractor at all times making payment of all amounts lawfully due to all persons supplying or furnishing Redeveloper, Redeveloper’s contractor, or his or her subcontractors with labor or materials performed or used in the prosecution of the Private Improvements. Proof of such penal bond shall be supplied to the City prior to construction of the Private Improvements.

B. Payment and Performance Bond – Private Improvements. Prior to commencing construction of the Private Improvements, Redeveloper shall either (1) submit proof to the City that Redeveloper’s general contractor has furnished Redeveloper with a construction performance and construction payment bond in a sum not less than the contract sum for the Private Improvements. Such bonds shall be conditioned upon the Redeveloper at all times making payment of all amounts lawfully due to each person, as defined in *Neb. Rev. Stat.* §49-801, that performed labor or furnished materials, equipment or supplies used in the prosecution

of the Private Improvements, or (2) a payment bond supplied by Redeveloper's general contractor meeting the requirements of Neb. Rev. Stat. §52-141 (Reissue 2010) and a lien waiver from the general contractor. The penal amount of the bond shall be Two Million Five Hundred Thousand Dollars (\$2,500,000). As required by Neb. Rev. Stat. § 52-141, recorded notice of the bond must be filed of record against the Project Site. If this alternative is used, proof of said payment and recording shall be provided to the City prior to the start of construction of the Private Improvements. The lien waiver shall be provided upon completion of the Private Improvements.

C. Disbursement Agreement. The City shall accept in lieu of the requirement in Sections 301.A and 301.B above a fully executed Disbursement Agreement in the form attached hereto as Exhibit "G" and a Redeveloper cash penal bond for the purposes set forth in Sections 301.A and 301.B to be held by the City in the amount of \$10,000.

**Section 302. Indemnification**. Redeveloper agrees to indemnify and hold the City harmless to the extent of any payments in connection with carrying out construction of the Private Improvements the City may be required to make for failure of Redeveloper or Redeveloper's contractor to make payments of all amounts lawfully due to all persons supplying or furnishing Redeveloper's contractor or his or her subcontractors with labor or materials performed or used in construction of Private Improvements.

**Section 303. Use Restrictions**. Redeveloper hereby represents and agrees that no portion of the Project Site shall be used, directly or indirectly, for the following uses:

(a) any outdoor off premises advertising specifically including billboards, signboards and related structures and appurtenances, except as shown on the Project Schematic Drawings and temporary signs advertising such lot is for sale or lease by the owner thereof;

(b) any business whose predominant operation is the retail sale of alcoholic beverages for consumption off the premises (predominant shall mean retail gross sales of alcoholic beverages, including mixed drinks, in excess of 50% of gross sales on the licensed premises) or any such business that in the opinion of the City has an unreasonable pattern of liquor law violations;

(c) any business for the sale of alcoholic beverages for consumption on the premises if such use, in the reasonable opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;

(d) any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such business that has an unreasonable pattern of unlawful disturbances or tobacco law violations (does not include pharmacies, cigar bars, or grocery stores);

(e) any business operated or held out to the public as 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; 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 Lincoln residents.

(f) any ground floor use by a business for which a majority of its ground floor area displays adult-oriented products;

(g) any business involving gambling or wagering even if otherwise permitted by law including bingo, slot machines, video lottery machines, casino games, or off site pari mutual wagering sites, but excluding the retail sale of lottery tickets as permitted by applicable law;

(h) any business involving the sale or display of weapons, self-service Laundromats for non-residents or non-occupants of the Project Site, illegal activities, or the sale of any illegal goods or products;

(i) any business providing payday loans, liens, check cashing services, or other similar services except for banks, savings and loans, insurance companies, investment companies, stock brokers, credit unions, and automated teller machines;

(j) cell towers, although cellular antennae and transmission equipment may be incorporated into the Private Improvements provided that they are properly screened and otherwise meet design standards that meet the City's approval.

**Section 304. Article III – Run with the Land.** It is intended by the parties that each of the restrictions set forth in Section 303 shall extend during the Tax Increment Period, shall run with the land, and shall bind every person having any fee or other interest in the Project Site, and shall inure to the benefit of the parties hereto and their successors and permitted assigns. The use restrictions set forth in this Section shall automatically run with the Project Site upon the date that the Redeveloper acquires title to the Project Site pursuant to the Exchange Agreement. The City and Redeveloper shall record the permanent covenants against the Project Site with respect to the use restrictions set forth in this Section in the form attached as the Memorandum of Redevelopment Agreement as shown on Exhibit H.

#### **ARTICLE IV**

#### **PARKING RIGHTS**

**Section 401. Redeveloper’s Right to Lease.** After completion of the Private Improvements, Redeveloper for the sole use of its tenants and owners of the Project Site shall have the right to lease the following parking in the Lumberworks Parking Garage:

A. Residential Reserved Parking Stalls. For residential uses, up to thirty (30) fully reserved parking stalls (“**Residential Parking**”).

(1) The Residential Parking shall be for 24 hours a day, seven (7) days a week, three hundred sixty-five (365) days a year, including all Nebraska home football games and Pinnacle Bank Arena events (collectively “**Events**”). The Residential Parking need not be signed or otherwise designated as reserved parking within the Lumberworks Parking Garage and may be located in any parking stalls allocated for monthly parkers.

(2) The Residential Parking shall be leased under parking permits issued by the City at the then-current monthly rates charged to other residential monthly parkers in similarly situated garages or surface parking lots. Except as herein stated, the rights granted hereunder shall be similar to the residential parking rights granted to residential monthly parkers in similar City garages and in particular shall be subject to regular and timely payment of the parking charges as the same may from time to time be established or revised by the City. Redeveloper agrees that Redeveloper shall not charge its residential tenants for use of said parking stalls a fee in excess of the rate paid by the Redeveloper.

B. Commercial Monthly Parking Stalls. For office, retail and commercial uses, up to thirty-six (36) parking stalls (“**Commercial Parking**”), but excluding Events parking.

(1) The Commercial Parking need not be assigned or otherwise designated as reserved parking within the Lumberworks Parking Garage and may be located in any parking stalls allocated for monthly parkers.

(2) The Commercial Parking shall be leased under parking permits issued by the City at the then-current monthly rates charged to other commercial monthly parkers in similarly situated garages or surface parking lots. Except as herein stated, the rights granted hereunder shall be similar to the commercial parking rights granted to commercial monthly parkers in similar City garages and in particular shall be subject to regular and timely payment of the parking charges as the same may from time to time be established or revised by the City. Redeveloper agrees that Redeveloper shall not charge its commercial tenants for use of said parking stalls a fee in excess of the rate paid by the Redeveloper.

C. Events Parking. Up to thirty-six (36) of the Commercial Parking permits may include the right to park in the Lumberworks Parking Garage for Events. The Event Parking will not be in assigned stalls. Rather, stalls will be occupied on a first come, first serve basis; provided that an eligible Commercial Parking parker who is already parked for their commercial use, shall not be required to re-park for the Events.

(1) The City projects that Lumberworks Parking Garage, in addition to University of Nebraska home football games, will be totally filled for the largest twenty (20) Arena Events per year. To be sure the City does not lose parking revenues, the Event Parking Rate will be the sum of (i) the twenty (20) largest Arena Events per year (subject to adjustment as provided below), times the City's published Lumberworks Parking Garage Arena Event parking rate per Arena event for the upcoming year and (ii) the City's published Lumberworks Parking Garage University of Nebraska Football Game season parking rate for all games for the upcoming year. The pre-paid Events Parking will be paid to the City on a monthly basis amortized over a twelve (12) month period ("**Event Parking Rate**"). Each party reserves the right on the fifth anniversary of the Events Parking and every five years thereafter, to request an increase or decrease in the projected number of Arena Events in which Lumberworks Parking Garage will be totally filled based upon the average number of per year Arena Events in which Lumberworks Parking Garage was totally filled during the prior five (5) years and to increase or decrease the Event Parking Rate accordingly.

D. Duration. The parking rights outlined in this Section 401 shall survive the expiration of the fifteen (15) year tax increment capture period and shall continue so long as the Private Improvements continue in the Redevelopment Area.

**Section 402. Failure to Exercise Parking Rights.** If Redeveloper does not exercise any or all of the above rights to lease parking stalls within thirty days after the execution of the Certificate of Completion of Private Improvements, Redeveloper shall have the following continuing right to lease parking stalls:

If Residential Parking, Commercial Parking and Event Parking permits are not available when requested to meet any or all requests by Redeveloper, the City shall place any such unfilled request for permits at the head of the applicable Residential Parking, Commercial Parking and Event Parking waiting list to be compiled by the City or its agent operating the Lumberworks Parking Garage (collectively “**Waiting Lists**”). Notwithstanding the above, Redeveloper understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing Residential Parking, Commercial Parking and Event Parking permit to accommodate Redeveloper’s request for parking permits.

## **ARTICLE V.**

### **TAX AGREEMENT**

**Section 501. Valuation of Project Site.** The City intends to use the Tax Increment Provision to generate tax increment revenues in the estimated amount of Five Hundred and Thirty-Three Thousand Three Hundred and Fifty-Four Dollars (\$533,354.00) on the Project Site which tax increment revenues (“**TIF Tax Revenues**”) when collected shall be used to pay debt service of the TIF Indebtedness to be incurred as provided below. The tax increment is to be derived from the increased valuation, determined in the manner provided for in Article 8, Section 12 of the

Constitution of the State of Nebraska and the Community Development Law which will be attributable to the construction of the Private Improvements and redevelopment and rehabilitation contemplated under this Redevelopment Agreement. The TIF Tax Revenues which are to be used to pay debt service for the TIF Indebtedness will be derived from the increased valuation from redeveloping the Project Site as provided in this Redevelopment Agreement.

Redeveloper further agrees not to contest any taxable valuation assessed for the Project Site which does not exceed Three Million Six Hundred and No/100 Dollars (\$3,600,000.00) commencing the first tax year following the completion of the Private Improvements and continuing for a period of not to exceed fifteen (15) years after the Effective Date or so long as any portion of the TIF Indebtedness remains outstanding and unpaid, whichever period of time is shorter.

**Section 502. Issuance of TIF Indebtedness.** Not earlier than thirty (30) days following the later Date of this Agreement or the date the issuance of the TIF Bond (defined below) has been authorized, which date is after the remonstrative period in Neb. Rev. Stat § 18-2142.01 or as soon thereafter as is practicable, the City shall issue TIF Indebtedness in the total sum of Five Hundred Thirty-Three Thousand Three Hundred Fifty-Four and No/100 Dollars (\$533,354.00) to be purchased by the Redeveloper or Redeveloper's Lender ("**TIF Bond Purchaser**") and receive TIF Proceeds from the TIF Bond Purchaser to be deposited into a City or Lender fund account ("**Project Account**") for payment of the City's TIF Bond cost of issuance and the Eligible Project Costs in the Second and Third Priority set forth in Section 503 A 2. below. The total dollar amount of the TIF Bond is the estimated amount of the tax increment to be generated on

the Project Site and Private Improvements based upon an estimated taxable valuation of Three Million Six Hundred and No/100 Dollars (\$3,600,000.00) after completion of the Private Improvements.

**Section 503. Use of TIF Proceeds.**

A. Priority of Expenditures. TIF Proceeds from the issuance of TIF Indebtedness shall be expended in the following priority in accordance with those cost estimates listed on Exhibit B. Only those costs incurred after the execution of this Redevelopment Agreement by all parties hereto shall be eligible for payment.

TIF Proceeds from the sale of the TIF Bond shall be expended in the following priority in accordance with those cost estimates listed on Exhibit B.

FIRST PRIORITY: Reimburse the City for the cost of any Relocation Assistance (define in Section 925 below), if any, and costs associated with issuance of the TIF Indebtedness including bond counsel fees, fiscal advisory fees, placement fees, administrative fees, capitalized interest, if any, and reserves;

SECOND PRIORITY: Reimburse the City for the Block 52 Improvements in an amount not to exceed the amount shown on Exhibit B.

THIRD PRIORITY: Reimburse the Redeveloper for Façade Enhancement, Fill Vault Space and Demolition, to the extent TIF Proceeds are available.

The City and Redeveloper may by mutual written agreement reduce or increase the scope, scale, size or phasing of a Third Priority item or items so long as the overall available Total TIF Uses amount is not exceeded. In the event there is not enough

available Grant Funds (defined below) from TIF Proceeds to complete the Third Priority item(s) as shown above, then the City and Redeveloper may by mutual written agreement reduce the scope, scale, size or phasing of a Third Priority item or items or eliminate a Third Priority item or items. The Third Priority Items are hereinafter referred to as the “**Redeveloper Priority Expenses.**” The costs for the Uses listed in Exhibit B are estimates and reimbursements will be based upon the actual design, engineering, staking, inspections, project administration, construction, and implementation costs.

B. Authority of City Finance Director. Subject to the terms of this Redevelopment Agreement, the City Finance Director on behalf of the City shall have the authority to determine the timing of issuance of the TIF Indebtedness and all other details of the TIF Indebtedness, TIF Bond, TIF Tax Revenues, Project Account, and Grant of Funds for the eligible TIF Cost of the Public Enhancements and Redeveloper Public Improvements; provided that, the semi-annual TIF Tax Revenues shall be applied toward payment of the annual debt service of the TIF Indebtedness. All such arrangements made by the Finance Director shall be subject to approval of the Mayor.

**Section 504. Debt Service for TIF Indebtedness.** The City shall, to the extent allowed by law, and then only to the extent funds are lawfully available from TIF Tax Revenues, pay the TIF Bond Purchaser the principal of and/or interest on the TIF Bond with interest as provided in the TIF Bond Ordinance(s) with interest at a rate not to exceed nine percent (9.0%) per annum. Any unpaid debt service on the TIF Indebtedness (including interest) is not payable from any other source whatsoever and shall not constitute a general obligation or debt of the City. Any excess TIF Tax Revenues resulting from the Tax Increment Provision on the Project Site not

needed or required to pay the TIF Bond Purchaser for the TIF Indebtedness or for the repayment of Redeveloper's Aggregate Deficiency Payments shall be used to reimburse the City for eligible public expenditures. Any shortfall in anticipated TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in the taxable valuation of the Project Site, shall be borne entirely by the Redeveloper and TIF Bond Purchaser without any recourse of any kind against the City.

**Section 505. Tax Increment Deficiency on Redeveloper Purchased TIF Bond.**

A. Redeveloper Purchased TIF Bond; Deferral/Forgiveness of Tax Increment Deficiency.

If the Redeveloper purchases the TIF Bond, any shortfall in the TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Project Site which impedes the City's ability to pay debt service on the TIF Bond, shall be borne entirely by the Redeveloper without recourse of any kind against the City. Specifically, in the event of and to the extent of any deficiency in TIF Tax Revenues from the Ad Valorem Tax Provision for required debt service on the TIF Bond, the Redeveloper agrees to defer payment of the same for each year that there exists a deficiency in such TIF Tax Revenues during the Tax Increment Period. If Redeveloper is required to defer any such payments, the City shall reimburse Redeveloper for all sums deferred if and when TIF Tax Revenues do become available from the Ad Valorem Tax Provision to meet current debt service. In the event the TIF Bond is not retired in full at the end of the Tax Increment Period, any remaining TIF Indebtedness on such Bond shall be forgiven.

B. Lender Purchased TIF Bond; Redeveloper Payment of Tax Increment Deficiency. If Redeveloper's Lender purchases the TIF Bond, the Redeveloper shall be liable to cover any

shortfall in the TIF Tax Revenues from the Tax Increment Provision for any reason whatsoever, specifically including a decline in taxable valuation of the Project Site and Private Improvements located thereon. Specifically, 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, Redeveloper agrees to pay the City the amount of said deficiency within thirty (30) days following receipt of a written request for such payment from the City. If Redeveloper is required to pay any such deficiency, the City shall reimburse Redeveloper for all sums paid by Redeveloper for such purposes to the extent TIF Tax Revenues do become available during the Tax Increment Period (defined below) 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 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.

C. Adjustments for any Payments of Tax Increment Deficiency. If Redeveloper makes one or more payments to cover a deficiency in the required debt service payments on the TIF Bond as provided in paragraph A and paragraph B of Section 505, the City shall maintain a record of the aggregate amount of said payments (“**Redeveloper’s Aggregate Deficiency Payments**”). If the TIF Tax Revenues from the Tax Increment Provision for any year exceeds the amount necessary to meet current debt service of the TIF Indebtedness, then the excess TIF Tax Revenues shall be paid to Redeveloper and deducted from the Redeveloper’s Aggregate

Deficiency Payments until Redeveloper's Aggregate Deficiency Payments have been fully reimbursed.

**Section 506. Grant of Funds.**

A. In order to support redevelopment of this Redevelopment Project and as an inducement for Redeveloper to construct the Private Improvements and Redeveloper Public Improvements, the City agrees to the extent allowed by law and then only to the extent funds are lawfully available from issuance of the TIF Indebtedness from the TIF Bond ("**TIF Proceeds**") to pay on behalf of or make a grant of funds ("**Grant Funds**") to the Redeveloper up to the total amount of the remaining TIF Proceeds, less the amounts expended on the First and Second Priority Items, to pay the for the cost of the Redeveloper Priority Expenses identified as Third Priority Items. In order to receive reimbursement from Grant Funds, the Redeveloper shall submit authentic and satisfactory documentation to the City to verify the Private Improvements and Redeveloper Public Improvements have been substantially completed and that the expenditures were made for eligible Redeveloper Priority Expenses pursuant to Section 503 A 2. The City shall maintain a record of all expenditures to determine the total amount of TIF Proceeds expended on Redeveloper Priority Expenses.

B. Reimbursement of Grants. Subject to Section 801 (Remedies) below, Redeveloper agrees to repay the City for the aid to construction and any grant or grants of funds to Redeveloper as provided for in Section 503 A 2. (Use of TIF Proceeds) and Section 506 A. (Grant of Funds) above in the event Redeveloper fails to substantially complete the Private Improvements as provided in Section 202 B. (Commencement and Completion Deadline for Private Improvements) above and, upon such repayment of the of the grant funds, this

Redevelopment Agreement shall be null and void in regards to Redeveloper's obligation to construct the Private Improvements located upon the Project Site. Subject to Section 801 (Remedies) below, in the event Redeveloper fails to maintain the Private Improvements as provided in Section 205 (Duty to Maintain) above, then said Redeveloper shall reimburse the City 1/15 of the grant funds granted Redeveloper for construction of the Private Improvements as provided for in Section 506 A. (Grant of Funds) above, for each year a Redeveloper fails to maintain the Private Improvements.

**Section 507. Restriction on Transfer.** Redeveloper will not, for a period of fifteen (15) years after the issuance of the Redeveloper's Certificate of Completion of the Private Improvements by the City to the Redeveloper, or so long as the tax increment indebtedness remains outstanding, whichever period of time is shorter ("**Tax Increment Period**"), convey the Project Site to any entity which would result in the underlying real estate being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions or subsidiaries.

**Section 508. Agreement to Pay Taxes.** Redeveloper agrees to pay all real property taxes levied upon the Project Site and Private Improvements prior to the times such taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency on the part of Redeveloper shall cease upon expiration of the Tax Increment Period, but the City in no way waives the statutory obligation of Redeveloper to continue to pay real estate taxes. Nothing herein shall be deemed an agreement by Redeveloper to waive its right to protest or contest the valuation of the Project Site and improvements for tax purposes except as provided in Section 501.

**Section 509. Damage or Destruction of Redeveloper's Property.**

- A. Construction Period. During the construction period, Redeveloper agrees to keep the construction area, including completed operations, insured against loss or damage by fire, and other such risks, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value but allowing for reasonable coinsurance clauses and deductibles. In the event of any insured damage or destruction, Redeveloper agrees to use its good faith efforts to commence restoration of the Private Improvements to its prior condition within eighteen (18) months from the date of the damage or destruction, and shall diligently pursue the same to completion.
- B. Tax Increment Period. During the Tax Increment Period, Redeveloper agrees to keep the Project Site and the Private Improvements (during construction and after completed) insured against loss or damage by fire, and such other risk, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the replacement value thereof based upon an estimate of insurable value (less footings and foundations) but allowing for reasonable compliance with standard coinsurance clauses and standard deductibles. Any insurance carried or required to be carried by Redeveloper pursuant to this Section may, at Redeveloper's option, be carried under an insurance policy or pursuant to a master policy of insurance or so called blanket policy of insurance covering other property owned by Redeveloper or its corporate affiliates, or any combination thereof. In the event of any insured damage or destruction, Redeveloper agrees to use reasonable efforts to restore the Private Improvements to their

prior condition within eighteen (18) months from the date of the damage or destruction, and shall diligently pursue the same to completion.

- C. Failure to Restore. In the event Redeveloper fails for any reason to restore the Private Improvements as provided in A and/or B above, Redeveloper shall either forgive any remaining TIF Indebtedness and interest thereon if the Redeveloper was the TIF Bond Purchaser, or pay to the City the necessary amount to retire the TIF Indebtedness in full (including interest) if the TIF Bond was purchased by Redeveloper's lender.

**Section 510. Condemnation.** In the event that during the Tax Increment Period all or a substantial portion of the Project Site and Private Improvements is condemned by a condemning authority other than the City, and such condemning authority or its successor in interest, would not be obligated to pay real estate taxes upon that portion condemned, the City shall be entitled to claim against the condemning authority an interest in such property equal to the amount of tax increment received by the City in the preceding year times the number of years remaining in the Tax Increment Period.

**Section 511. Termination of Provisions.** The provisions of this Article V shall terminate upon the end of the Tax Increment Period.

## ARTICLE VI

### MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

**Section 601. Limitation Upon Encumbrance of Property.** Prior to issuance of the Redeveloper's Certificate of Completion of Private Improvements by the City for the Private Improvements, neither Redeveloper nor any successors in interest to Redeveloper shall engage in any financing or any other transaction creating any mortgage or any other monetary encumbrance or monetary lien upon the Project Site and Private Improvements, whether by express agreement or operation of law, or suffer any monetary encumbrance or monetary lien to be made on or attached to such Project Site and Private Improvements, except for the purposes of obtaining funds only to the extent necessary to construct and develop the Redeveloper Improvements, and to finance, operate, maintain, repair, replace and insure said Redeveloper Improvements. All such mortgages, financial encumbrances, or monetary liens shall be subject to the terms and conditions of this Redevelopment Agreement and shall be recorded in the appropriate public records in a timely manner following their execution.

Redeveloper or any successors in interest shall notify the City in advance of any additional financing secured by mortgage or similar lien instrument that it proposes to enter into with respect to the Project Site and Redeveloper Improvements, and shall promptly notify the City of any encumbrance or lien that has been created on or attached to the Project Site and Redeveloper Improvements whether by voluntary act of Redeveloper or otherwise.

Notwithstanding the above, if any involuntary encumbrance or lien is made on or attached to the Project Site and Private Improvements 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 avoid or prevent foreclosure of such encumbrance or lien.

**Section 602. Mortgage Holder Obligations.** Each mortgage holder who obtains title to the Project Site 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 exempted from those provisions of this Redevelopment Agreement which require construction and completion of the Redeveloper 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 Project Site or any part thereof from the holder of the mortgage; provided, however, no person, including the holder of a mortgage authorized by this Redevelopment 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 Redevelopment Agreement.

**Section 603. 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 Redevelopment Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by this Redevelopment Agreement at the last address of such holder as shown in the records of the Register of Deeds of Lancaster County, Nebraska or as provided to the City by such mortgage holder.

**Section 604. Mortgage Holder's Option to Cure Defaults.** If thirty (30) days after notice or demand with respect to any breach of default as referred to in Section 603, such breach or default remains uncured, each such holder shall (and every mortgage instrument made prior to issuance by the City of the Redeveloper's Certificate of Completion of Private Improvements) have the right, at its option, to cure or remedy such breach or default within sixty (60) days after the notice or demand as referred to in Section 603, and to add the cost thereof to the mortgage debt and the lien of its mortgage. If the mortgage holder commences efforts to cure the default within such period and the default cannot, in the exercise of due diligence, be cured within such period, the holder shall have the right to diligently continue to cure the default. In the event the Holder fails to cure, then the City shall have the remedies provided for in this Redevelopment Agreement.

**Section 605. Mortgage Rights Applicable to Other Forms of Encumbrance.** The rights and obligations of this Redevelopment Agreement relating to mortgages of the Project Site prior to issuance of the Redeveloper's Certificate of Completion of Private Improvements for the Private Improvements thereon shall apply to any other type of encumbrance on the Project Site, and any of the stated rights, obligations, and remedies of any party relating to mortgage foreclosures shall be applicable to procedures under any deed of trust or similar method of encumbrance, all of which shall be as duly recorded in a timely manner in the public records of Lancaster County, Nebraska.

**Section 606. Termination of Provisions.** The provisions of this Article VI shall terminate upon issuance of the Redeveloper's Certificate of Completion of Private Improvements for all the Private Improvements by the City to the Redeveloper.

## ARTICLE VII.

### REPRESENTATIONS

**Section 701. Development of Project.** Redeveloper represents and agrees that its undertakings, pursuant to this Redevelopment Agreement, have been, are, and will be, for the purpose of redevelopment of the Project Site and not for speculation in land holding.

**Section 702. Restrictions on Assignments of Rights or Obligations.** Redeveloper represents and agrees that prior to issuance of the Redeveloper's Certificate of Completion of Private Improvements by the City, there shall be no sale or transfer of Redeveloper or assignment of its rights or obligations under this Redevelopment Agreement to any party without the prior written approval of the City Administration, other than mortgages and involuntary transfers by reason of death, insolvency, or incompetency. The City shall be entitled to require, except as otherwise provided in this Redevelopment Agreement, as conditions to any such approval, that:

A. Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken in this Redevelopment 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 of Lancaster County, 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 Redevelopment Agreement and agreed to be subject to all of the conditions and restrictions to which Redeveloper is subject. No transfer of, or change with respect to ownership in Redeveloper's interest in the Project Site or any interest therein, however

consummated or occurring and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Redevelopment Agreement with respect to the Project Site and the construction of the Private Improvements that would have occurred, had there been no such transfer or change;

C. There shall be submitted to the City for review, not less than seven (7) days prior to the proposed execution thereof, all instruments and other legal documents involved in the transfer; and if disapproved by the City, its disapproval shall be indicated to Redeveloper in writing; and

D. Redeveloper and its transferees shall comply with such other reasonable conditions as the City may find desirable in order to achieve and safeguard the purposes of the Proposal for Redevelopment; provided that in the absence of a specific written agreement by the City to the contrary, no such transfer or approval by the City shall be deemed to relieve the Redeveloper of any of its obligations with respect to the construction of the Private Improvements.

E. Nothing herein contained shall prohibit the Redeveloper from entering into any agreement to sell or other agreement as to transfer of any interest if such agreement can, by its terms only, become effective after the City has issued a Redeveloper's Certificate of Completion of Private Improvements. The restrictions set forth in this Section 702 shall automatically terminate and no longer be binding on the Redeveloper upon the issuance of the Redeveloper's Certificate of Completion of Private Improvements by the City.

**Section 703. Change in Scope, Termination of Project.** City and Redeveloper agree that any material change in the scope of the Redevelopment Project including termination of the entire Project for any reason, except as specifically set forth herein, shall require mutual written agreement considering the established Sources and Uses of Funds for the Project and, if applicable, the costs incurred by the respective parties to date. Notwithstanding the foregoing, in the event that Redeveloper is unable through no fault of Redeveloper to obtain the necessary governmental approvals and permits from the City prior to construct the Private Improvements as reflected on the Project Schematic Drawings, Redeveloper may terminate this Redevelopment Agreement by delivering written notice to the City.

## **ARTICLE VIII.**

### **REMEDIES**

**Section 801. In General.** Except as otherwise provided in this Redevelopment Agreement, in the event of any default in or breach of this Redevelopment Agreement, or any of its terms or conditions by the City or the Redeveloper, or any successors to such parties, such party (or successor) shall, upon written notice from the aggrieved party, proceed immediately to cure or remedy such default or breach, and in any event, such default or breach shall be cured within thirty (30) days after receipt of such notice, except that if such default or breach cannot, in the exercise of reasonable diligence, be cured within such thirty (30) day period, then the defaulting party within such period shall commence efforts to cure such default and shall diligently continue to cure the same. In case such action is not cured as provided above, the aggrieved party may institute such proceedings as may be necessary or desirable in its option to cure and remedy such default or breach including, but not limited to, proceedings to seek recovery for damages or to compel specific performance by the party in default or breach of its obligation.

Any curing of any default or breach by a mortgagee of Redeveloper shall be deemed to be a curing by Redeveloper.

**Section 802. Other Rights and Remedies; No Waiver by Delay.** The parties hereto shall have the right to institute such actions or proceedings as they may deem desirable for effectuating the purposes of this Redevelopment Agreement. Any delay in instituting or prosecuting any action or proceeding or otherwise asserting its rights under this Redevelopment Agreement shall not operate as a waiver of such rights to deprive a party of or limit such rights in any way.

**Section 803. Delay in Performance For Causes Beyond Control of Party (“Force Majeure”).** For the purpose of any provisions of this Redevelopment Agreement, the parties or their successors or assigns, shall not be considered in breach or default of their obligations in the event of delay in the performance of such obligations due to causes beyond their reasonable control and without their fault, including acts of God, acts of the public enemy, act of the federal or state government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of contractors, or subcontractors due to such causes (financial incapacity of the Redeveloper, contractors or subcontractors excepted); it being the purpose and intent of this Section that in the event of the occurrence of any such delay, the time for performance of the obligations of either party with respect to construction of the improvements shall be extended for the period of delay, provided that in order to obtain the benefit of the provisions of this Section, the party seeking the benefit shall, within twenty (20) days after the beginning of any such delay, notify the other party thereof, in writing, and of the cause(s) thereof.

**Section 804. Rights and Remedies Cumulative.** The rights and remedies of the parties to this Redevelopment Agreement, whether provided by law or by this Redevelopment Agreement, shall be cumulative and the exercise by either party of any one or more such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for any other default or breach by the other party. A waiver of any right of a party conferred by this Redevelopment Agreement shall be effective only if such waiver is in writing and only to the extent as so specified in writing.

## ARTICLE IX.

### MISCELLANEOUS

**Section 901. Conflicts of Interest; City Representatives Not Individually Liable.** No official or employee of the City shall be personally liable to the Redeveloper, any successors in interest or transferees of the Redeveloper, or any other party or person, in consequence of any default or breach by the City or for any amount which may become due to Redeveloper, its successors or transferees, or on any obligations under the terms of this Redevelopment Agreement.

**Section 902. Persons Authorized to Issue Approvals.** For purposes of this Redevelopment Agreement and the approvals and disapprovals required hereunder, Redeveloper shall be entitled to rely on the written approval or disapproval of the City Council, or the Mayor, or the Director of the Department of Urban Development or its successor as authorized in this Redevelopment Agreement, as constituting the approval or disapproval required by the City. The Mayor is hereby authorized to amend or modify the Order of Priority and use of TIF Proceeds for the Priority items as shown in Section 503 A 2. Until City receives further written notice from Redeveloper, City shall be entitled to rely on the written approval of Craig Gies or Boyd

Batterman, as Manager of the Redeveloper, as constituting the approval or disapproval of Redeveloper.

**Section 903. Equal Employment Opportunity.** Redeveloper, for itself and its successors and transferees, agrees that during the construction and operation of the Private Improvements provided for in this Redevelopment Agreement, Redeveloper will not discriminate against any employee or applicant for employment for the Redeveloper because of race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Redeveloper will take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment without regard to their race, religion, sex, color, national origin, ancestry, disability, marital status, or receipt of public assistance. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

**Section 904. Notices and Demands.** A notice, demand, or other communication under this Redevelopment Agreement by either party to the other shall be sufficiently given or delivered if it is sent by registered or certified mail, postage prepaid, return receipt requested, or delivered personally as follows:

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: CBLINC, LLC  
Attention: Craig Gies  
4400 Lowell Avenue  
Lincoln, Nebraska 68506

With a copy to: Kent Seacrest  
Seacrest & Kalkowski, PC, LLO  
1111 Lincoln Mall, Suite 350  
Lincoln, Nebraska 68508

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

**Section 905. 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 Redevelopment 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 Redevelopment Agreement submits any item to another party to this Redevelopment Agreement for approval pursuant to this Redevelopment 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 906. Access to Project Site.** Redeveloper shall permit the representatives of the City to enter Project Site at any and all reasonable times, as the City may deem necessary for the purposes of this Redevelopment Agreement, including but not limited to work and inspection of all work being performed in connection with the construction of the Private Improvements.

Similarly, the City shall permit Redeveloper such entry upon the public rights of way for such purposes. No compensation shall be payable nor shall any charges be made in any form by any party for the access or inspection provided for in this Section. The City's right of access granted under this Section shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion of Private Improvements. Notwithstanding the above, Redeveloper shall not be relieved of the provisions contained in Chapter 14.29 of the Lincoln Municipal Code regarding the use of streets for private construction purposes.

**Section 907. Termination of Provisions; Provisions Run With the Land.** This Redevelopment Agreement shall run with the Project Site and shall inure to and bind the parties and their successors in interest. Except as otherwise provided herein, the provisions and covenants of this Redevelopment Agreement shall terminate upon issuance by the City of the Redeveloper's Certificate of Completion of Private Improvements.

**Section 908. Federal Immigration Verification System Requirements.** In accordance with *Neb. Rev. Stat.* §§ 4-108 through 4-114, the Redeveloper agrees to register with and use a federal immigration verification system to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized. The Redeveloper shall not discriminate against any employee or applicant for employment to be employed in the performance of this Section pursuant to the requirements of state law and 8 USC 1324b. The Redeveloper shall

require any contractor constructing the Private Improvements on behalf of Redeveloper to comply with the provisions of this Section.

**Section 909. Titles of Articles and Sections.** Any titles of the several parts, articles and sections of this Redevelopment Agreement are inserted for convenience of index and reference only and shall be disregarded in construing or interpreting any of its provisions.

**Section 910. Mutual Cooperation.** The parties agree to mutually cooperate in constructing the various improvements each is to construct in the Lincoln Center Redevelopment Area so as to coordinate all timing to the extent reasonable, and further to facilitate opening of each facility at the earliest possible time.

**Section 911. Integrated Contract; Severance of Provisions; Interpretation; Governing Law.** It is intended by the parties that this Redevelopment Agreement and the incorporated, attached and referenced documents shall be an integrated contract, but that invalidation of any of its provisions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect unless such court action shall materially change the intent of this Redevelopment Agreement. Any uncertainty or ambiguity existing herein shall not be interpreted against a party because such party prepared any portion of this Redevelopment 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 as reimbursement for the cost of the Public Enhancements, Redeveloper Public Improvements and City Public 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). This Redevelopment Agreement shall be construed and governed by the laws of the State of Nebraska.

**Section 912. Definitions.**

A. For the purpose of this Redevelopment Agreement, the term “holder” in reference to a mortgage shall be deemed to include any insurer or guarantor of any obligation or conditions secured by such mortgage or similar type of encumbrance who succeeds to or becomes subrogated to the rights of the mortgagee.

B. The term “mortgage” shall include a deed of trust or other instrument creating an encumbrance or lien as security for a loan.

C. The term “minimum investment” shall include all costs incurred by Redeveloper when constructing the Private Improvements, including but not limited to design and engineering costs, construction costs, fees, financing costs, and land and improvement costs.

**Section 913. Audit.** Redeveloper shall be subject to audit pursuant to Chapter 4.66 of the Lincoln Municipal Code and shall make available to a contract auditor, as defined therein, copies of all financial and performance related records and materials germane to this Redevelopment Agreement, as allowed by law. City shall be subject to audit by Redeveloper with regard to the collection, disbursement, and/or funding of any of the uses set forth in Section 503 A 2 and shall make available to Redeveloper and/or any auditor working on behalf of Redeveloper copies of all financial and performance-related records and materials germane to this Redevelopment Agreement and the use of the Tax Increment Financing Proceeds for the Redeveloper Priority Expenses described in Section 503 A 2.

**Section 914. Effective Date of Ad Valorem Tax Provision.** The Effective Date of the Ad Valorem Tax Provision of the Redevelopment Project shall be the date the City accepts Redeveloper’s Certificate of Completion of Private Improvements, but in no event shall said date be later than August 1, 2016, unless the Redeveloper otherwise notifies the City in writing (“**Effective Date**”). The City will deliver written notice to the County Assessor on or before August 1 of the year the Certificate of Completion of Private Improvements is signed to divide the property taxes in the Project Area and use the last certified valuation to divide the taxes for the remaining portion of the fifteen-year period as described in Section 18-2147 (3) of the Nebraska Revised Statutes.

**Section 915. Expiration.** Except as otherwise provided herein, this Redevelopment Agreement shall expire upon the expiration of the Tax Increment Period.

**Section 916. Recording.** A Memorandum of this Redevelopment Agreement (in the form attached hereto as Exhibit H) shall be recorded with the Register of Deeds of Lancaster County, Nebraska, against the Project Site, at the Redeveloper’s expense.

**Section 917. Representations and Warranties of Parties.**

A. Redeveloper represents and warrants to City as follows:

i. Organization; Power; Good Standing. Redeveloper is a Nebraska limited liability company, duly organized and validly existing in good standing under the laws of Nebraska. 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 Redevelopment Agreement and perform the obligations hereunder.

ii. Authority Relative to Agreement. This Redevelopment 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.

iii. Effect of Agreement. The execution, delivery and performance of this Redevelopment Agreement by Redeveloper has been duly authorized by all necessary action by Redeveloper and except as provided in this Redevelopment 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.

B. City represents and warrants to Redeveloper as follows:

i. Authority Relative to Agreement. This Redevelopment 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.

ii. Effect of Agreement. The execution, delivery and performance of this Redevelopment Agreement by City has been duly authorized by all necessary action by the City and except as provided in this Redevelopment 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.

**Section 918. Counterparts.** This Redevelopment Agreement may be executed in one or more counterparts which, when assembled, shall constitute an executed original hereof.

**Section 919. Successors and Assigns.** The provisions of this Redevelopment Agreement shall be binding upon Redeveloper and its successors and assigns; provided, however, that the obligations of Redeveloper pursuant to this Redevelopment Agreement shall be binding upon Redeveloper and its successors and assigns only during their respective periods of ownership.

**Section 920. Purpose of Agreement.** This Redevelopment Agreement has been entered into by the City to provide financing for the Redevelopment Project, an approved redevelopment project as defined in Neb. Rev. Stat. § 18-2103(12) within the Lincoln Center Redevelopment Plan.

**Section 921. Authority.** 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 this Agreement and the Exhibits.

**Section 922. Public Enhancements.** Notwithstanding any contrary provisions herein, the Public Enhancements 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 Public Enhancements into the Redeveloper Private Improvements. Redeveloper shall timely submit architect, engineer or other professional designer estimates or contractor's competitive bids for said 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, 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. 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 923. Use of the Alley.** The parties anticipate that one or more of the Building's units or tenant spaces may have balconies within and over the West Alley (i.e. the south edge of the Schwarz Paper Building). Any proposed balconies with the West Alley will be required to apply and be approved under Chapter 14.54 (Occupancy above or below public property) of the Lincoln Municipal Code prior to them being constructed or installed.

**Section 924. Exchange Agreement; Right to Effectuate Exchange.** The Property Owner and Redeveloper have entered into the Exchange Agreement, which permits the Redeveloper to

acquire the Project Site from the Property Owner pursuant to the terms of the Exchange Agreement. Upon the closing of the Exchange Agreement, the Redeveloper shall acquire the Project Site and, without further notice, have all the Property Owner's rights, title and interest in the Project Site. The City acknowledges that the Redeveloper may undertake an Internal Revenue Code Section 1031 tax deferred exchange of its interest in the all or any portion of the Project Site. The Redeveloper's rights and obligations under this Agreement may be assigned to facilitate such exchange(s) under an assignment and assumption agreement approved and consented to by the City. Each party agrees to cooperate with the other party and any assignee of the other party to enable the Redeveloper to qualify for such exchange(s); provided that such cooperation shall not require the City to incur any additional costs or liability and the City shall be able to realize all intended benefits of this Redevelopment Agreement.

**Section 925 Relocation Assistance.**

A. "Relocation Assistance" shall mean any relocation assistance and relocation notices under any federal, state, or local relocation assistance law, including but not limited to the Nebraska Relocation Assistance Act (Neb Rev. Stat., Section 76-1214 et seq.), Title 410 – Nebraska Department of Roads, Chapter 5 Relocation Assistance, Nebraska Administrative Code, and any compensation, allowance, claim, or offset of any kind against the City of Lincoln or any other displacing Agency as damages or otherwise, by reason or being deprived of the ownership, possession and use of the Project Site. The Exchange Agreement between the Redeveloper and Property Owner was executed by both parties prior to and independent of any provisions contained in this Agreement. The Redeveloper will, within seven (7) days of the closing of the Exchange Agreement, provide satisfactory evidence to the City Attorney's Office

either that the Property Owner is not entitled to Relocation Assistance or has forever released and discharged all the Property Owner's rights, title and interest that the Property Owner may have by executing the Release, which is attached hereto and incorporated herein as Exhibit "J". The Mayor is authorized to execute said Release on behalf of the City.

B. In the event any or all portions of the Property Owner's Relocation Assistance cannot be waived or released, then the Redeveloper shall cause the Property Owner to assign to the City said Relocation Assistance on a form acceptable to the City Attorney's Office.

C. In the event that Relocation Assistance as described in Section 925 A. is required by law, and the provisions of Section 925 B. cannot be implemented, then the Relocation Assistance shall be paid by the City from the TIF Proceeds as described in Section 503 A. above.

**Section 926 Redeveloper Contingencies.** The Redeveloper's performance of this Agreement is contingent upon the following:

A. On or before one hundred and eighty (180) days following the Date of this Agreement, or mutual extension thereof, the Redeveloper qualifying, securing and closing on the TIF Bonds and loan financing of the Private Improvements and Redeveloper Public Improvements, with terms and conditions acceptable to the Redeveloper;

B. On or before within two hundred and ten (210) days following the Date of this Agreement, or mutual extension thereof, the Redeveloper obtaining the necessary approvals from the applicable governmental entities having jurisdiction of the design and construction of the Private Improvements and related Redeveloper Public Improvements, to qualify said improvements and related expenses for federal and state Historic Tax

Credits, pursuant to the applicable federal and state regulations and with terms and conditions that are in conformance with the and acceptable to the Redeveloper; and

C. On or before one hundred and eighty (180) days following the Date of this Agreement, or mutual extension thereof, the Redeveloper and the Property Owner close on the Exchange Agreement and the Redeveloper acquires marketable title to the Project Site.

In the event the contingencies set forth in this paragraph are not satisfied or waived by the Redeveloper by the contingency deadlines described above, then the Redeveloper shall have the option to terminate this Agreement, including the executed Exhibits hereto, by delivering written notice to the City on or before two hundred and forty (240) days following the Date of this Agreement.

**Section 927 Exhibits.** The following Exhibits are attached to this Redevelopment Agreement and are incorporated herein by this reference:

- Exhibit A – Redevelopment Project Area
- Exhibit B – Public Uses and Sources of TIF Funds
- Exhibit C – Project Schematic Drawings
- Exhibit D – Certificate of Completion of Private Improvements
- Exhibit E – Streetscape Maintenance Agreement
- Exhibit F – Penal Bond
- Exhibit G – Disbursement Agreement
- Exhibit H – Memorandum of Redevelopment Agreement and Use Restrictions.
- Exhibit I - Façade Easement

Exhibit J - Release, Waiver, and Assignment of Relocation Assistance

[SIGNATURE PAGES TO FOLLOW]

Executed by City this \_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014 by CHRIS BEUTLER, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of the municipal corporation.

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

Executed by Redeveloper this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CBLINC, LLC**, a Nebraska limited liability company

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

Title: \_\_\_\_\_

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, \_\_\_\_\_ of CBLINC, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

Notary Public

\_\_\_\_\_

Exhibit A

**Redevelopment Project Area**



Schwarz Paper Building Redevelopment Project Area

 Schwarz Paper Building Redevelopment Project Area



Exhibit B

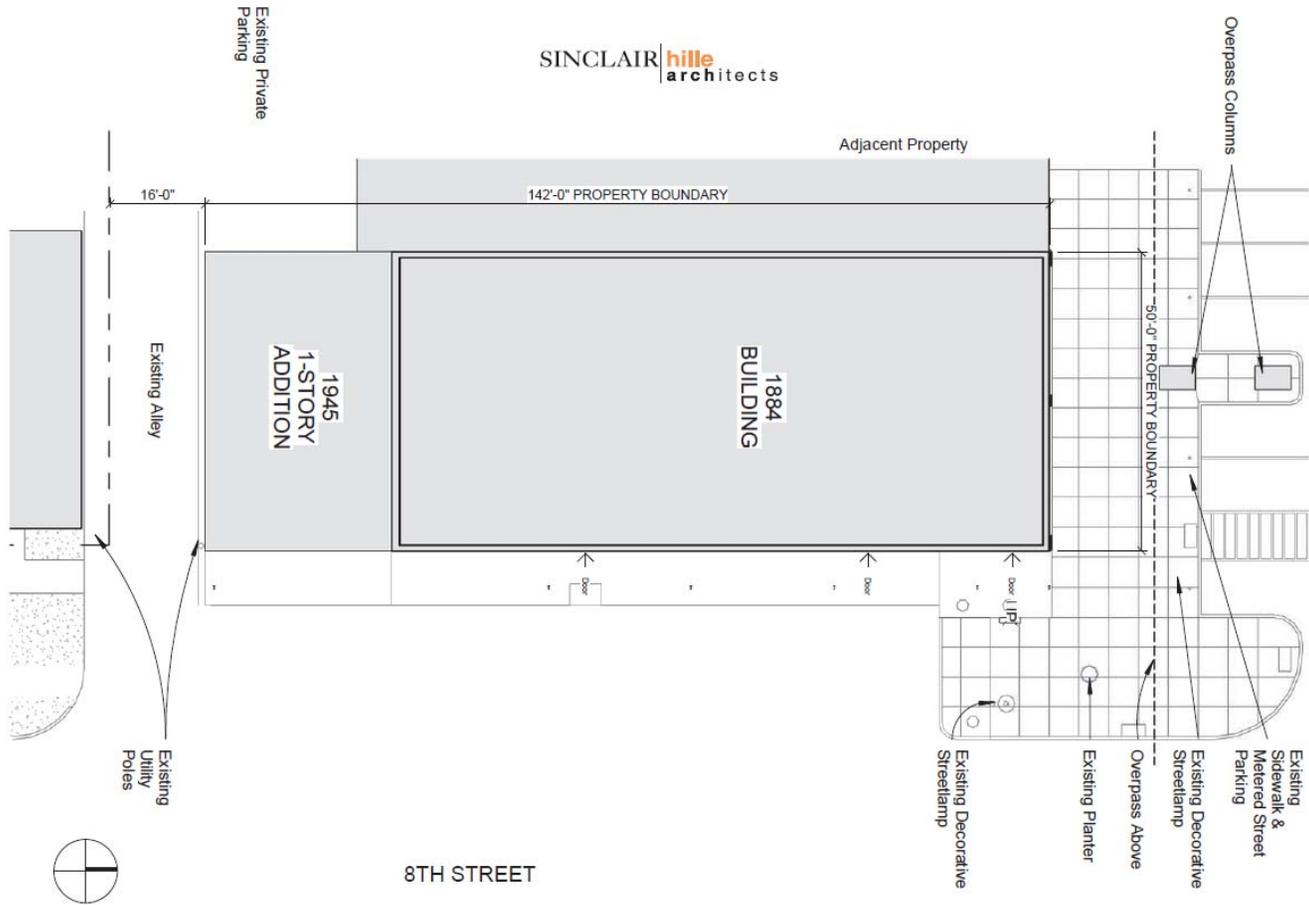
**Uses and Sources of Funds**

<b>Public Uses and Sources of TIF Funds</b>						
#	Priorities	Description	Total Public Uses	Redeveloper Private Funds	TIF Bonds <sup>3</sup>	Total Sources
a	1	Issuance Costs	\$10,000		\$10,000	\$10,000
b		Construction/Capitalized Interest	\$20,000	\$7,000	\$13,000	\$20,000
c		City 1% Administrative Fee	\$4,670		\$4,670	\$4,670
d	2	Block 52 Improvements (LES, alley, etc.)	\$150,000		\$150,000	\$150,000
e	3	Façade Enhancement	\$340,000		\$340,000	\$340,000
f		Fill Vault Space	\$20,000	\$4,316	\$15,684	\$20,000
g		Demolition	\$140,000	\$140,000		\$140,000
h		Dock & Canopy Enhancement	\$75,000	\$75,000		\$75,000
i		<b>Total</b>	<b>\$759,670</b>	<b>\$226,316</b>	<b>\$533,354</b>	<b>\$759,670</b>

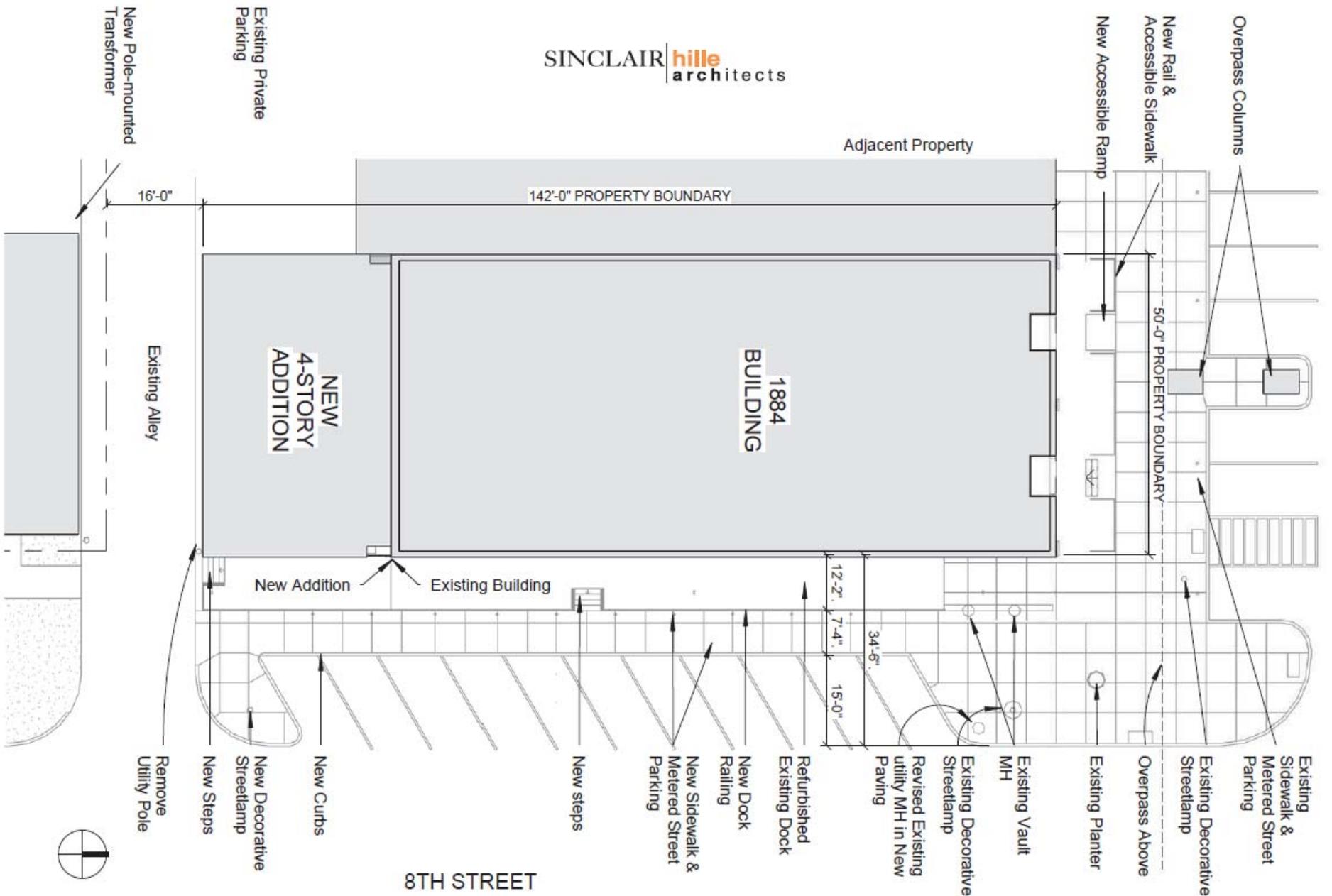
- Notes:
1. Available TIF from Redevelopment Project Area is estimated at \$533,354
  2. Above uses include design, engineering, staking and inspection.
  3. If actual TIF proceeds are more than \$533,354 or public improvement costs are less than the estimates shown in this column, then any excess funds may be used to fund Fill Vault Space or another eligible public improvements listed under the Redeveloper Private Fund column.

Exhibit C

Project Schematic Drawings



S.01 Existing Site Plan  
Hargreaves / Schwarz Paper Co. Building

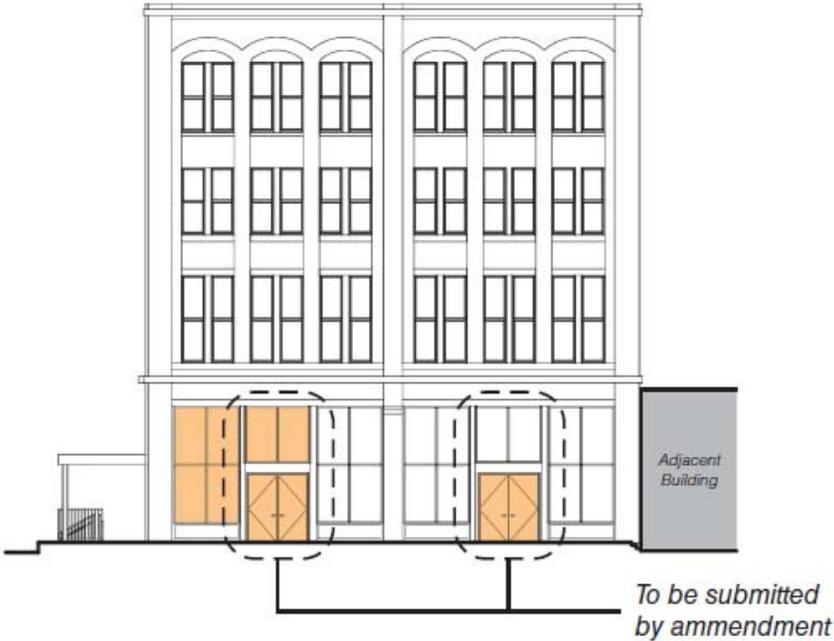


S.02 Proposed Site Plan

Hargreaves / Schwarz Paper Co. Building

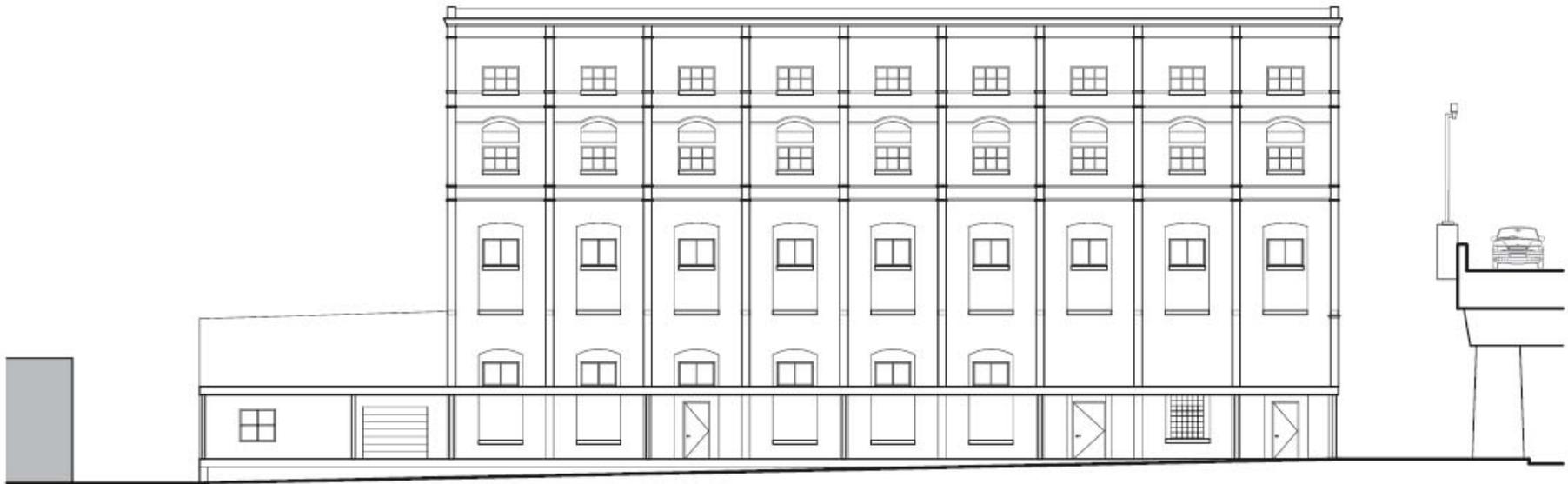


**S.03 Existing North Elevation**  
(“O” Street)



**S.04 Proposed North Elevation**  
(“O” Street)

 Restored Window and Door Locations  
*Windows and doors to be re-installed in the original locations shown in historic photographs.*



**S.05 Existing East Elevation** (8th Street)  
Hargreaves / Schwarz Paper Co. Building



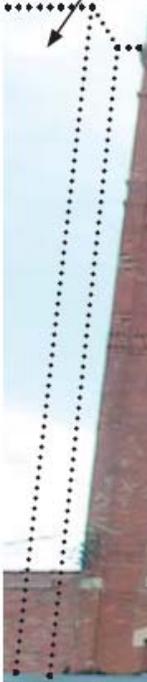
- Restored Window Locations  
*Windows to be re-installed in the original locations shown in historic photographs*
- New Window Locations  
*New windows to be located below existing second-story windows; window size to match the windows located directly above*

**S.06 Proposed East Elevation (8th Street)**  
Hargreaves / Schwarz Paper Co. Building

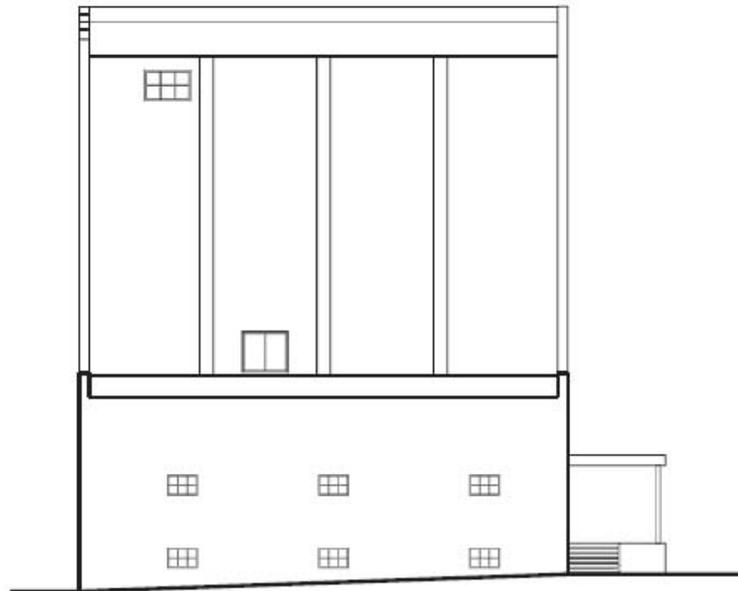


**S.07 Existing East Elevation** (8th Street)  
Hargreaves / Schwarz Paper Co. Building

New South Addition  
w/ Recessed "Hyphen"



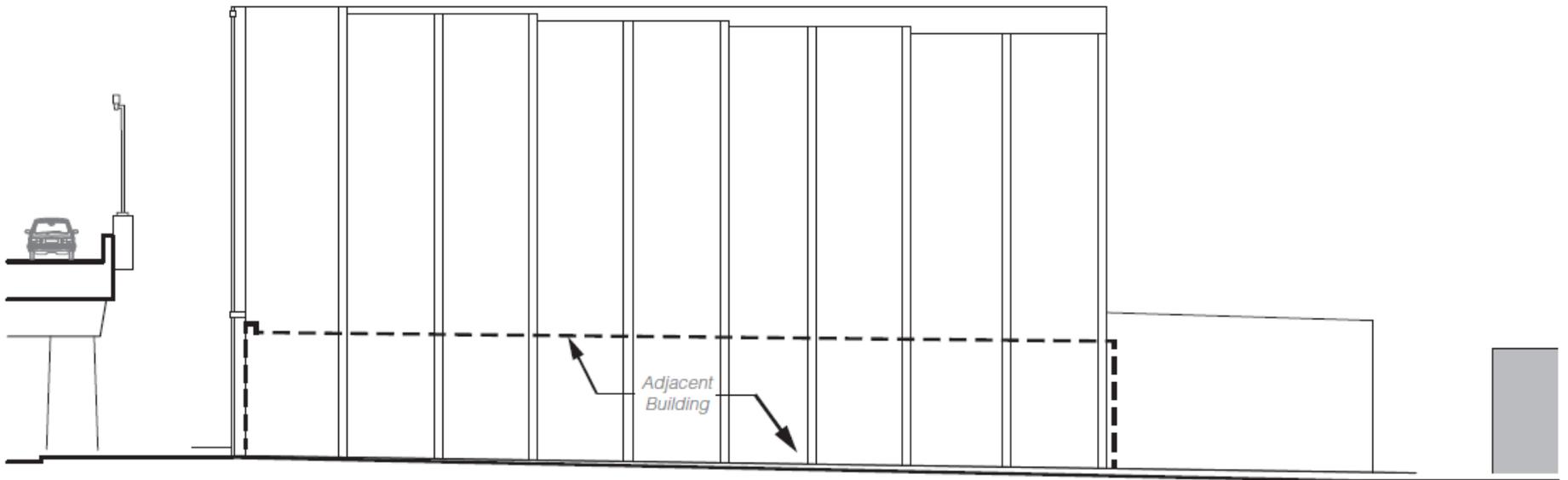
S.08 Proposed East Elevation (8th Street)  
Hargreaves / Schwarz Paper Co. Building



**S.09 Existing South Elevation**  
*(Alley)*

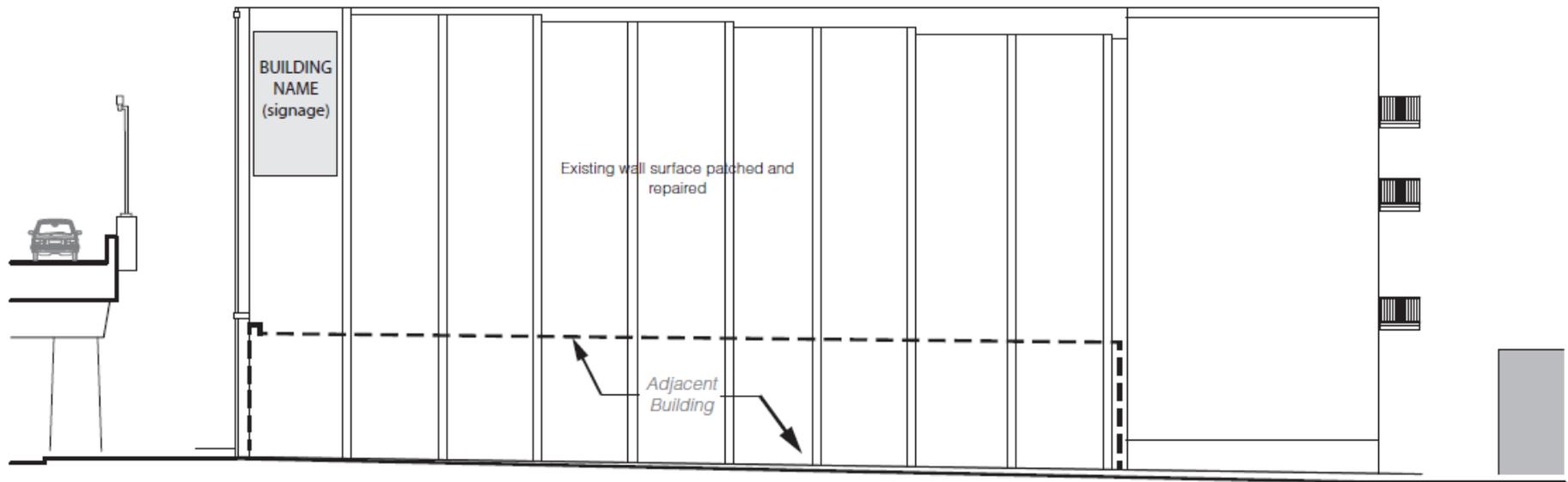


**S.10 Proposed South Elevation**  
*(Alley)*



**S.11 Existing West Elevation**

Hargreaves / Schwarz Paper Co. Building



**S.12 Proposed West Elevation**

Hargreaves / Schwarz Paper Co. Building

Exhibit D

Return to:  
Seacrest & Kalkowski Law Firm  
1111 Lincoln Mall, Suite 350  
Lincoln, Nebraska 68508

**CERTIFICATE OF COMPLETION OF  
PRIVATE IMPROVEMENTS**

KNOW ALL PEOPLE BY THESE PRESENTS: That the City of Lincoln, Nebraska, a Nebraska municipal corporation, hereinafter called “**City**,” hereby makes the conclusive determination and certification that, with regard to Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska (“**Project Site**”), all the improvements required to be constructed upon the above-described Project Site have been satisfactorily completed in accordance with the requirements of the CITY OF LINCOLN REDEVELOPMENT AGREEMENT (“**Agreement**”) by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation in the State of Nebraska (“**City**”) and **CBLINC, LLC**, a Nebraska limited liability company, and its successors and assigns (“**Redeveloper**”). A Memorandum of Agreement of said Agreement is dated as of \_\_\_\_\_, 2014, and recorded as Instrument No. \_\_\_\_\_, in the office of the Register of Deeds for Lancaster County, Nebraska.

The City further makes the conclusive determination that the Private Improvements (as defined in the Agreement) to the above-described Project Site are presently in conformance with the Agreement.

IN WITNESS WHEREOF, the City and Redeveloper have executed this instrument this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

**“City”**

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

ATTEST:

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

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA    )  
  )ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

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

**“Redeveloper”**

**CBLINC, LLC**, a Nebraska limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, \_\_\_\_\_ of CBLINC, LLC, a Nebraska limited liability company on behalf of said limited liability company.

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

Exhibit E

**SCHWARZ PAPER BUILDING DOCK AND CANOPY  
MAINTENANCE AGREEMENT**

This MAINTENANCE AGREEMENT (“Agreement”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_ 2014, by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation (hereinafter referred to as the "City"), and CBLINC,LLC, a Nebraska limited liability company (hereinafter referred to as "CBLINC").

**RECITALS**

**I.**

WHEREAS, the City and CBLINC have entered into a Redevelopment Agreement with respect to the redevelopment of the real property that includes Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska as well as the abutting 8<sup>th</sup> Street right of way along with other property not otherwise relevant to this Maintenance Agreement (hereinafter referred to as the "Project").

**II.**

WHEREAS, CBLINC has entered into an Exchange Agreement with Schwarz Paper Company, a Nebraska corporation, which permits CBLINC to acquire Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska (hereinafter referred to as the "Property"). The Property is generally located immediately south and west of the intersection of 8<sup>th</sup> Street and “O” Street.

**III.**

WHEREAS, the Redevelopment Agreement calls for the rehabilitation and renovation, by CBLINC, of the public dock and canopy improvements (“Dock and Canopy Improvements”) abutting and affixed to the Property so that said Dock and Canopy Improvements will remain consistent with the east façade of the building located on the Property as it was originally constructed and modified; provided that CBLINC assumes, at its sole cost and expense, responsibility for the maintenance and repair of the Dock and Canopy Improvements.

**IV.**

WHEREAS, the City has requested that CBLINC assume, and CBLINC is willing to assume, responsibility for the maintenance and repair of the Dock and Canopy Improvements.

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

1. Construction by CBLINC. As part of the Project, CBLINC agrees to construct the Dock and Canopy improvements pursuant to the City's executive order construction process in accordance with the terms of the Redevelopment Agreement. CBLINC shall be responsible for all costs associated with the construction of the Dock and Canopy Improvements subject to reimbursement as provided for in the Redevelopment Agreement.

2. Maintenance of Dock and Canopy Improvements. The Dock and Canopy Improvements shall at all times during the useful life of the Dock and Canopy Improvements be maintained in good order and state of repair including the routine and reasonable preventative maintenance thereof and in the form approved in the Redevelopment Agreement. CBLINC shall further keep the Dock and Canopy Improvements free from litter, debris and unsafe conditions and cleared of snow and ice, except to the extent such maintenance work is included within and performed under a Maintenance Business Improvement District. The maintenance of the Dock and Canopy Improvements shall be the responsibility of CBLINC and shall be performed by CBLINC at its sole cost and expense.

3. Public Use and Access. Notwithstanding any contrary provision herein, the Redeveloper without charge will have the right to use the Dock and excluded the general public for up to twenty (20) days per year for events formally sponsored by the Redeveloper, its tenants, occupants, successors or assigns ("collectively "Users"). After each event formally sponsored by the Users, at their expense, shall be responsible to immediately clean up and remove all trash and event items and restore the Dock to its pre-event condition. The Redeveloper may adopt reasonable rules and regulations regarding the use of the Dock after said rules and regulations are reviewed and approved by the City Attorney for the City.

4. License to Perform Maintenance. The City shall and does hereby grant CBLINC permission and license following construction of the Dock and Canopy Improvements to maintain said improvements as provided above, provided that CBLINC shall notify the City if any maintenance work requires closure of the dock or any portion of the sidewalk immediately in front of the dock and/or which involves partial removal and reconstruction of any portion of the Dock and Canopy Improvements. In such event the closure of any sidewalk may be limited by the City to non-peak hours of traffic. The City may reasonably require CBLINC to install a construction fence and/or provide traffic control devices for public safety and to keep traffic flowing. The permission and license to maintain the Dock and Canopy Improvements in good repair does not authorize CBLINC to make any material change in the Dock and Canopy Improvements including, but not limited to, a change in color, materials or other alteration with respect to the appearance of the Dock and Canopy Improvements. This permission and license to maintain the Dock and Canopy Improvements is not a substitute for and does not eliminate the requirement that CBLINC apply for and receive necessary excavation, building or other permits needed for such work.

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

detailed statement reflecting such costs.

6. Emergency Repairs. In the event that any emergency repairs must be made to the Dock and Canopy Improvements, the City will use reasonable efforts to provide notice to CBLINC to allow CBLINC the potential opportunity to mitigate or perform such repairs and if CBLINC is unable to timely make such repairs, then the City may perform said work and CBLINC will reimburse the City for the actual costs incurred by the City in connection with such repairs within thirty (30) days of receipt of a detailed statement reflecting such costs.

7. Hold Harmless. CBLINC shall hold the City harmless from any and all liability resulting from the construction, maintenance, and repair of the Dock and Canopy Improvements performed by CBLINC, its contractors, employees, agents or others acting on behalf of CBLINC; provided that, such hold harmless shall not apply to the City's intentional misconduct or negligence.

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

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

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

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

E. Products Liability and/or Completed Operations coverage shall be included.

F. Personal Injury Liability coverage shall be included.

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

Bodily Injury and Property Damage	\$1,000,000 Combined Single Limit
--------------------------------------	-----------------------------------

10. Minimum Scope of Insurance. All liability insurance policies shall be written on an "occurrence" basis only. All insurance coverage required hereunder shall be placed with insurers authorized to do business in the State of Nebraska.

11. Certificate of Insurance. All Certificates of Insurance shall be filed with the City Clerk on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by Sections 8 and 9 above and naming the City as an additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the City thirty (30) days' notice of cancellation, non-renewal, or any material reduction of insurance coverage.

12. Replacement of Dock and Canopy Improvements. The City shall be responsible for all costs associated with the replacement of Dock and Canopy Improvements upon expiration of their useful life as the same would have been designed and constructed without the enhancements made thereto pursuant to the Redevelopment Agreement. CBLINC, at its own cost and expense, may enhance the replacement improvements subject to the same conditions provided in this Agreement for the Dock and Canopy Improvements, except that the required amounts of insurance shall be adjusted to conform to the City's requirements then in effect.

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

Executed by City this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

CITY OF LINCOLN, NEBRASKA  
a municipal corporation

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

\_\_\_\_\_  
Chris Beutler, Mayor

Executed by CBLINC this \_\_\_\_ day of \_\_\_\_\_, 2014.

CBLINC,  
a Nebraska limited liability company

By: \_\_\_\_\_  
Name, Title

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2014, by Chris Beutler, Mayor of the City of Lincoln.

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

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, \_\_\_\_\_ of CBLINC, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

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

Exhibit F

Bond No. \_\_\_\_\_

**PENAL BOND**

KNOW ALL MEN BY THESE PRESENTS:

That we, **CBLINC, LLC**, a Nebraska limited liability company, as **Principal**, and \_\_\_\_\_, a corporation organized under the laws of the State of \_\_\_\_\_ and authorized to transact business in the State of Nebraska, as **Surety**, are held and firmly bound unto the **City of Lincoln, Nebraska**, as **Obligee**, for the use of all persons entitled thereto, under Neb. Rev. Stat. § 18-2151, in the penal sum of \_\_\_\_\_ **Dollars** (\$ \_\_\_\_\_), lawful money of the United States of America and to the faithful payment of which, well and truly to be made, we bind ourselves, our heirs, executors, and administrators (or, assigns), firmly by this presents.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That,

WHEREAS, Principal and Obligee have entered into a CITY OF LINCOLN, NEBRASKA REDEVELOPMENT AGREEMENT (Schwarz Paper Building Project), dated \_\_\_\_\_, 2014 (an original of which is on file in the Office of the City Clerk of the City of Lincoln, Nebraska) which provided in part for the building and construction of Redeveloper Public Improvements as defined in said Redevelopment Agreement to be funded in part by tax increment financing pursuant to the Nebraska Community Development Law, upon condition that Principal at all times promptly make payment of all amounts lawfully due to all persons supplying or furnishing the Principal, its contractor and/or subcontractors with labor or materials used in the prosecution of said Improvements provided for in the Redevelopment Agreement.

NOW, THEREFORE, if Principal shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing the Principal, its contractor and/or subcontractors with labor or materials in the prosecution of the Redeveloper Public Improvements as require the execution of this Penal Bond, then this obligation shall become void, otherwise to remain in full force and effect. In the event Principal shall be declared by the Obligee to be in default under the above obligation, Surety shall promptly indemnify and save harmless the Obligee to the extent any payment in connection with the carrying out of the prosecution of the Redeveloper Public Improvements provided for in the Redevelopment Agreement which Obligee may be required to make under the law, provided that the aggregate liability of Surety of any default(s) hereunder by the Principal shall in no event exceed the penal sum of this Bond.

All persons who have supplied or furnished the Principal, its Contractors and/or Subcontractors with labor or materials in the prosecution of the Redeveloper Public

Improvements provided for in the Redevelopment Agreement shall have the direct right of action under this bond subject to the Obligee's priority.

**[SIGNATURE PAGE FOLLOWS]**

Signed and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**CBLINC, LLC**, a Nebraska limited liability company

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, \_\_\_\_\_ of CBLINC, LLC, a Nebraska limited liability company on behalf of said limited liability company.

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

\_\_\_\_\_, **Surety**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

Exhibit "G"

**DISBURSEMENT AGREEMENT**

This Agreement is entered into between the City of Lincoln, Nebraska, a municipal corporation (City) and CBLINC, LLC, a Nebraska limited liability company (Redeveloper).

City and Redeveloper have entered into a CITY OF LINCOLN, NEBRASKA REDEVELOPMENT AGREEMENT (Schwarz Paper Building Project) for the Schwarz Paper Redevelopment Project (Project). The Redevelopment Agreement provides for City support for the Project through grants to Redeveloper, funded through the issuance of a TIF Bond. The TIF Bond is to be repaid with tax increment revenue generated by the Ad Valorem Tax Provision in accordance with the terms of the Redevelopment Agreement and the Nebraska Community Development Law.

The Redevelopment Agreement provides for the issuance of a TIF Bond and grants of up to \$533,354.00, to the extent of availability of such bond proceeds.

The Redevelopment Agreement requires the Redeveloper to construct certain Private Improvements and Redeveloper Public Improvements and to provide evidence of a performance and payment bond from the Redeveloper.

In consideration of the foregoing recitals which are made a part of this Agreement and the mutual covenants of this Agreement, the parties agree:

1. Terms, definitions. Capitalized terms used in this Agreement shall have the same definitions as contained in the Redevelopment Agreement, unless specifically defined otherwise.
2. Guarantee of Performance and Payment. Redeveloper guarantees payment of all amounts lawfully due to each person, as defined in Neb. Rev. Stat. §49-801 that performed labor or furnished materials, equipment or supplies used in the prosecution of the Private Improvements.
3. Disbursements. Redeveloper shall, prior to commencement of the Private Improvements, provide evidence satisfactory to the City that the construction financing or title insurance for the Private Improvements provides for disbursements for reimbursement of construction costs only upon demonstration that the work has been completed in accordance with the approved plans pursuant to the Redevelopment Agreement and that all persons having performed labor or furnished materials, equipment or supplies for such work have been paid and given lien waivers in exchange for payment.
4. Grant of TIF Funds. Grants of TIF Funds for reimbursement of the cost of certain Redeveloper Public Improvements pursuant to the Redevelopment Agreement shall be made upon a showing satisfactory to the Urban Development Director of the City that the Redeveloper Public Improvements for which reimbursement is requested is entirely complete and that all

persons having performed labor or furnished materials, equipment or supplies for such work have been paid in exchange for payment.

5. City Discretion. The parties acknowledge that this Agreement is entered into in lieu of City requiring a performance and payment bond by the Redeveloper on the Project. City's decision as to whether a category of improvement has been completed satisfactorily shall be final up to completion of all Private Improvements.

Dated: \_\_\_\_\_, 201\_\_.

REDEVELOPER:  
CBLINC, LLC,  
a Nebraska limited liability company

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

Title: \_\_\_\_\_

CITY OF LINCOLN, NEBRASKA,  
a municipal corporation

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

Title: \_\_\_\_\_

Exhibit “H”

Memorandum

Return the original to:  
City Attorney’s Office  
555 South 10<sup>th</sup> Street  
Lincoln, NE 68508

**MEMORANDUM OF REDEVELOPMENT AGREEMENT & USE RESTRICTIONS**

THIS MEMORANDUM OF SCHWARZ PAPER BUILDING REDEVELOPMENT AGREEMENT & USE RESTRICTIONS (“**Memorandum**”) is made and entered into as of the date of execution hereof by the last signatory hereto as indicated below (“**Effective Date**”) by and between the CITY OF LINCOLN, NEBRASKA, a municipal corporation in the State of Nebraska and its successors and assigns (“**City**”) and CBLINC, LLC, a Nebraska limited liability company (hereinafter referred to as “**Redeveloper**”).

1. **Redevelopment Agreement.** The City, Redeveloper and Property Owner entered into that certain Redevelopment Agreement dated as of this even date, describing the Redeveloper Public Improvements being made on behalf of the City in the Redevelopment Project Area and the Private Improvements being made to real property currently owned by the Property Owner and eventually by the Redeveloper in the City of Lincoln, Nebraska, as more particularly described as Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska (“**Project Site**”).

2. **Tax Increment Financing.** The Redevelopment Agreement provides for the capture of the Tax Increment, as defined therein, by the City of the Private Improvements to be made by the Redeveloper for a period not to exceed fifteen (15) years after the Redevelopment Project effective date defined in the Redevelopment Agreement. The Tax Increment so captured by the City shall be used for to make the Redeveloper Public Improvements and City Public Improvements as described in the Redevelopment Agreement.

3. **Remaining Terms.** The rest and remaining terms of the Redevelopment Agreement are hereby incorporated into this Memorandum as if they were set forth in full. A full and correct copy of the Redevelopment Agreement may be inspected at the office of the City Clerk of Lincoln, Nebraska.

4. **Development and Use Restrictions.** Redeveloper agrees that during the Tax Increment Period no portion of the Project Site shall be used for any of the following uses and practices:

- (a) any outdoor off premises advertising specifically including billboards, signboards and related structures and appurtenances, except as shown on the Project Schematic Drawings and temporary signs advertising such lot is for sale or lease by the owner thereof;
- (b) any business whose predominant operation is the retail sale of alcoholic beverages for consumption off the premises (predominant shall mean retail gross sales of alcoholic beverages, including mixed drinks, in excess of 50% of gross sales on the licensed premises) or any such business that in the opinion of the City has an unreasonable pattern of liquor law violations;
- (c) any business for the sale of alcoholic beverages for consumption on the premises if such use, in the reasonable opinion of the City, has an unreasonable pattern of unlawful disturbances or alcoholic beverage law violations;
- (d) any business whose predominant operation is the retail sale of tobacco products (predominant shall mean retail gross sales of tobacco products, including mixed products, in excess of 50% of gross sales on the premises) or any such business that has an unreasonable pattern of unlawful disturbances or tobacco law violations (does not include pharmacies, cigar bars, or grocery stores);
- (e) any business operated or held out to the public as 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; 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 Lincoln residents;

- (f) any ground floor use by a business for which a majority of its ground floor area displays adult-oriented products;
- (g) any business involving gambling or wagering even if otherwise permitted by law including bingo, slot machines, video lottery machines, casino games, or off site pari mutual wagering sites, but excluding the retail sale of lottery tickets as permitted by applicable law;
- (h) any business involving the sale or display of weapons, self-service Laundromats for non-residents or non-occupants of the Project Site, illegal activities, or the sale of any illegal goods or products;
- (i) any business providing payday loans, liens, check cashing services, or other similar services except for banks, savings and loans, insurance companies, investment companies, stock brokers, credit unions, and automated teller machines;
- (h) cell towers, although cellular antennae and transmission equipment may be incorporated into the Private Improvements provided that they are properly screened and otherwise meet design standards that meet the City's approval.

5. **Public Use and Access.** Notwithstanding any contrary provision herein, the Redeveloper without charge will have the right to use the Dock and excluded the general public for up to twenty (20) days per year for events formally sponsored by the Redeveloper, its tenants, occupants, successors or assigns ("collectively "Users"). After each event formally sponsored by the Users, at their expense, shall be responsible to immediately clean up and remove all trash and event items and restore the Dock to its pre-event condition. The Redeveloper may adopt reasonable rules and regulations regarding the use of the Dock after said rules and regulations are reviewed and approved by the City Attorney for the City.

6. **Inquiries.** Further inquiries regarding this Memorandum may be made to the following parties:

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:

CBLINC, LLC  
Attention: Craig Gies  
4400 Lowell Avenue  
Lincoln, Nebraska 68506

With a copy to:

Kent Seacrest  
Seacrest & Kalkowski, PC, LLO  
1111 Lincoln Mall, Suite 350  
Lincoln, Nebraska 68508

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

[SIGNATURE PAGES TO FOLLOW]

Executed by City this \_\_\_\_ day of \_\_\_\_\_, 2014.

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA     )  
  ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014 by CHRIS BEUTLER, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of the municipal corporation.

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

Executed by Redeveloper this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**CBLINC, LLC**, a Nebraska limited liability company

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

Title: \_\_\_\_\_

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, \_\_\_\_\_ of CBLINC, LLC, a Nebraska limited liability company, on behalf of the limited liability company.

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

**EXHIBIT "I"**

**FAÇADE EASEMENT AGREEMENT**

(Schwarz Paper Building)

THIS FAÇADE EASEMENT AGREEMENT (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2014 by and between CBLINC, L.L.C., a Nebraska limited liability company ("Grantor"), and the City of Lincoln, Nebraska, a municipal corporation in the State of Nebraska ("Grantee").

RECITALS

- A. Grantor owns certain real estate located in Lincoln, Lancaster County, Nebraska, legally described on the attached Attachment A (the "Property").
- B. Grantor entered into a Redevelopment Agreement (the "Redevelopment Agreement") with Grantee for the redevelopment and renovation of the Schwarz Paper Building (the "Building").
- C. Pursuant to the Redevelopment Agreement, for the historic preservation of the Building and to ameliorate the blighted and substandard conditions of the Property, Grantor agrees to make certain improvements to the façade of the Building (the "Façade") for the benefit of the public. Under the Redevelopment Agreement Grantor is receiving tax increment financing from Grantee to make certain public improvements including, but not limited to the improvements to the Façade.
- D. This Agreement sets forth the parties' rights and obligations with respect to the Façade.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, Grantor and Grantee do now hereby agree as follows:

1. Façade. In consideration of the benefits received by Grantor under the Redevelopment Agreement, Grantor hereby agrees to subject the façade of the Property to the restrictions described herein.

2. Façade Restrictions. Grantor agrees to observe and comply with the following restrictions:

a. Grantor shall not demolish, remove or raze the Façade during the term of this Agreement.

b. Other than any material changes or improvements to the façade approved in the Schwarz Paper Redevelopment Agreement as approved by the City Council for the City of Lincoln, Nebraska through Resolution No. \_\_\_\_\_, Grantor shall not undertake, or allow to be undertaken, any material changes to the Façade without the express written consent of Grantee. Changes to the Façade include, but are not limited to:

(i) Any material change in the Façade, including the alteration, partial removal, construction, remodeling or physical or structural change or change in color or surfacing with respect to the appearance or construction of the Façade;

(ii) The addition of any signs, canopies, plaques or other attachments to the Façade; or

(iii) Any significant reconstruction, repair, repainting or refinishing of any Façade feature that alters its state from the existing condition.

c. This section shall not preclude Grantor from implementing any ordinary or necessary maintenance as set forth in Section 3 below.

3. Façade Maintenance. Grantor shall perform all ordinary and/or necessary maintenance and repairs on the Façade to maintain its appearance and structural soundness and to prevent any deterioration of the Façade.

4. Specification of Work. In the event Grantor desires to make any material changes to the Façade, Grantor shall give Grantee copies of the plans, designs, elevations, specifications and documents relating to the change or work, including specification of all materials, colors and construction techniques to be used in any such work and photographs of the subject area as it appears at the time of the request.

5. Casualty Damage. In the event that the Buildings or any part thereof shall be damaged by fire or other casualty, then Grantor shall use reasonable effort to reconstruct the Façade to the condition required under this Agreement. If the Building is damaged to such an extent that Grantor determines that reconstruction of said Building is not feasible and provides Grantee with a statement from an independent engineer to the same effect, then this Agreement shall be void and of no further force or effect with respect to said Building.

6. Inspection. Grantee shall be permitted to have reasonable access to the Property to inspect the Façade for the purpose of determining conformance with this Agreement.

7. Term. The term of this Agreement shall be fifteen (15) years from the date of completion of the improvements to the Façade. Provided, however, this Agreement shall terminate at any earlier date that the Redevelopment Agreement is terminated and is no longer in effect.

8. Public Access. Grantor acknowledges and agrees that the general public shall have the regular and substantial opportunity to view the Façade from the streets, sidewalks and other property near the Buildings. Grantor shall have no obligation under this Agreement to allow the general public to view the interior of the Buildings.

9. Indemnification. Grantor shall defend, indemnify and hold Grantee harmless from and against any liability, claims, suits, demands, judgments (including costs, expenses and attorneys fees, to the extent permitted by law), resulting from actions or claims by third parties or defaults under this Agreement by Grantor arising out of the conveyance of or possession of the Façade Easement.

10. Binding Effect. This Agreement shall be appurtenant to and run with the Property. The grant of this easement shall be binding upon the heir, executors, administrators, successors and assigns of Grantor.

“GRANTOR”

CBLINC, L.L.C., a Nebraska limited liability company

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

Craig Gies, Manager

Date: \_\_\_\_\_

STATE OF NEBRASKA )

) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Craig Gies, Manager of CBLINC, L.L.C., a Nebraska limited liability company, on behalf of the company.

\_\_\_\_\_

Notary Public

ATTEST:

“GRANTEE”

The City of Lincoln, Nebraska, a municipal corporation

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

City Clerk

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

Chris Beutler, Mayor

Date: \_\_\_\_\_

STATE OF NEBRASKA )

) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

\_\_\_\_\_

Notary Public

**FAÇADE EASEMENT AGREEMENT**

**ATTACHMENT A**

**Legal Description**

Lots 1-2, Block 52, Original Plat for the City of Lincoln, Lancaster County,  
Nebraska.

## EXHIBIT "J"

### Release, Waiver and Assignment of Relocation Assistance

This Release, Waiver and Assignment of Relocation Assistance, hereinafter referred to as the "Agreement" is made as of this \_\_\_\_ day of \_\_\_\_\_, 2014, by and between and Schwarz Paper Company, a Nebraska corporation ("Seller"), and CBLINC, LLC, a Nebraska limited liability company ("Purchaser"), and the City of Lincoln, Nebraska, a municipal corporation ("City").

WHEREAS, on or about October 10, 2014, the parties entered into an Exchange Agreement, a may be amended (collectively "Exchange Agreement") in which the Purchaser and the Seller have agreed to exchange Lots 1-2, Block 52, Original Plat, City of Lincoln, Lancaster County, Nebraska ("Property") for other real estate and improvements located in Lincoln, Lancaster County, Nebraska; and

WHEREAS, the Seller desires to release and waive all its relocation expenses, if any, the Seller may be entitled to for the relocation of the Seller from the Property to enable the historic redevelopment and reuse of the Property as redevelopment project; and

WHEREAS, in the event the relocation expenses cannot be waived or released, then the Seller desires to assign said relocation expenses to the City.

NOW, THEREFORE, in consideration of the covenants and conditions contained herein, the Seller and Purchaser hereby agree as follows:

1. Release and Waiver. The Seller, on behalf of itself and its heirs, administrators, executors, successors and assigns, hereby completely, finally and forever release and discharge all its rights, title and interest the Seller may have, if any, under for any relocation assistance and relocation notices under any federal, state or local relocation assistance law, including but not

limited to the Nebraska Relocation Assistance Act (Neb Rev. Stat., Section 76-1214 et seq.), Title 410 – Nebraska Department of Roads, Chapter 5 Relocation Assistance, Nebraska Administrative Code (collectively “Relocation Laws”), and any related compensation, allowance, claim, or offset of any kind against the City of Lincoln or any displacing Agency as damages or otherwise, by reason or being deprived of the possessory interest, relocation assistance, ownership and use of the Property (collectively “**Relocation Assistance**”) upon the closing of the Exchange Agreement (collectively “Relocation Assistance”) pursuant to the Relocation Laws or associated with the redevelopment of the Property as determined by the City of Lincoln.

2. Assignment of Relocation Expenses. In the event the Seller’s rights, title and interest in the Relocation Assistance cannot be waived or released, then Seller’s hereby assigns all its rights, title and interest in the Relocation Assistance to the City.

3. Warranty. Seller hereby covenants with the City of Lincoln and the Purchaser, and their successors and assigns, that Seller is the lawful owner of the Property and is in possession of the Property; that the Seller is lawfully seized of the Property; that Seller has good right to sell and convey the Relocation Assistance free of any liens or security interests; and that Seller will warrant and defend the rights of the City and the Purchaser, and their successor and assigns, in and to the Relocation Assistance against the lawful claim of all persons or entities.

4. Time of the Essence. Time is of the essence for this Agreement, and the entirety thereof. The covenants, representations and warranties of the parties hereto are continuing covenants, representations and warranties and they shall survive the closing of the Exchange Agreement. Whenever used herein, as the context shall warrant, the singular shall include the plural, the plural the singular and the use of any gender shall include all genders. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns, each to the other.

5. Effective. This Agreement shall not be altered or amended except in writing by the parties hereto and it shall be construed under, and governed by the laws of the state of Nebraska. This Agreement constitutes the entire agreement of the parties hereto in regards to the Relocation Assistance. It supersedes any prior agreements or understandings among them and it shall not be modified or amended in any manner other than as set forth herein. This Agreement shall be effective upon its execution by all parties hereto.

6. Contingencies. This Agreement is contingent upon the Seller and Purchaser closing on the exchange agreement and the Purchaser acquires marketable title to the Property.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

"SELLER"

**SCHWARZ PAPER COMPANY**, a Nebraska corporation

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

Title: \_\_\_\_\_

"PURCHASER"

**CBLINC, LLC**, a Nebraska limited liability company

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

Title: \_\_\_\_\_

“CITY”

CITY OF LINCOLN, NEBRASKA,  
a municipal corporation

---

Chris Beutler, Mayor

STATE OF NEBRASKA )

) ss.

COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2014, by \_\_\_\_\_, \_\_\_\_\_ of Schwarz Paper Company, a Nebraska corporation, on behalf of the corporation.

---

Notary Public

