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Inst # 2011000023 Mon Jan 03 10:05:01 CST 2011  
Filing Fee: \$35.50  
Lancaster County, NE Assessor/Register of Deeds Office MEMLEA  
Pages 7



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**MEMORANDUM OF LEASE AGREEMENT**

This **MEMORANDUM OF LEASE AGREEMENT** dated December 31, 2010, gives notice of, ratifies and confirms the Lease Agreement dated December 31, 2010 (the "**Lease**"), among **THE CITY OF LINCOLN, NEBRASKA** (the "**City**"), a city of the primary class and political subdivision organized and existing under the laws of the State of Nebraska (the "**State**"), as lessor, whose mailing address is 555 South 10<sup>th</sup> Street, Lincoln, Nebraska 68508, **BLOCK 21 L.L.C.** (the "**Lessee**"), a limited liability company organized and existing under the laws of the State of Utah and authorized to do business in the State, whose mailing address is c/o Woodbury Corporation, 2733 Parleys Way #300, Salt Lake City, Utah 84109, and **MUTUAL OF OMAHA BANK**, a federal savings bank duly organized and validly existing under the laws of the United States of America (the "**Lender**"), whose mailing address is 3333 Farnam Street, Omaha, Nebraska 68131.

**RECITALS:**

1. The City is a city of the primary class and political subdivision organized and existing under the laws of the State with lawful power and authority to:

(a) acquire, purchase, construct, install, improve, equip and furnish on the real estate (the "**Project Site**") described on **Exhibit A-1** hereto located (1) within the corporate limits of the City and (2) within an area designated by the City as blighted and substandard within the meaning of Article XIII, Section 2 of the Nebraska Constitution in accordance with the provisions of the Community Development Law (Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended), but solely from the proceeds of the sale of the Note hereinafter described, (A) the project improvements set forth on **Exhibit A-2** (the "**Project Improvements**") which are suitable for any enterprise including, but not limited to, profit or nonprofit commercial, business, governmental or multifamily housing enterprises and (B) certain items of equipment and personal property set forth on **Exhibit A-3** (the "**Project Equipment**") for use in connection with the Project Improvements (the Project Site, Project Improvements and Project Equipment are hereinafter referred to as the "**Project**");

(b) lease the Project, together with all tenements, hereditaments, appurtenances, rights, privileges and immunities thereunto belonging or appertaining to the Lessee for the rentals and upon the terms and conditions set forth in the Lease; and

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(c) issue its \$14,000,000 principal amount Recovery Zone Facility Industrial Development Revenue Note (BLOCK 21 L.L.C. Project) Series 2010, dated the date of delivery thereof (the "Note"), pursuant to the Lease under and pursuant to the Act for the purpose of refinancing the costs of the Project and the costs of issuing the Note.

2. The City and the Lessee have determined that it is necessary, desirable, advisable and in the best interest of the City and the Lessee that the City issue the Note and enter into the Lease for the benefit of the Lessee.

3. On November 22, 2010, the Council passed Ordinance No. 19476 authorizing the City to (a) issue the Note for the purpose of providing funds to (1) finance the costs of acquiring, constructing furnishing and equipping of the Project and (2) pay the costs of issuing the Note; and (b) enter into the Lease under which the City will cause the proceeds of the Note to be used as provided therein in consideration of rental payments by the Lessee which are to be sufficient, during the term of the Lease, to pay the principal or redemption price of and interest on the Note as the same become due.

4. Pursuant to the foregoing, the City has leased the Project to the Lessee and the Lessee has leased the Project from the City, for the rental payments and upon the terms and conditions set forth in the Lease.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements set forth in the Lease, the City and the Lessee do hereby give notice of, ratify, covenant and agree as follows:

1. **Lease of Project.** The City rents, leases and lets the Project to the Lessee, and the Lessee hereby rents, leases and hires the Project from the City, for the rentals and upon and subject to the terms and conditions contained in the Lease.

2. **Lease Term.** The Lease shall become effective upon its delivery and, subject to earlier termination pursuant to the provisions of the Lease, shall have an term terminating on January 1, 2021.


3. **Termination of Lease Term.** The Lease Term shall terminate upon the earliest of January 1, 2021 or a default by the Lessee and the City's election to terminate the Lease under **Article XI** of the Lease.

4. **Lease Payments.** The Lessee covenants and agrees to make Lease Payments in lawful money of the United States of America to the Lender on the 1<sup>st</sup> day of each month, beginning February 1, 2011, in an amount sufficient to pay the principal or redemption price of and interest on the Note on the next succeeding payment date. Lease Payments shall be in consideration for the Lessee's use of the Project during the Lease Term.

5. **Definition of Terms.** Capitalized terms not defined herein shall have the meanings ascribed thereto in the Lease.




MUTUAL OF OMAHA BANK

By:   
James E. Barrett, Vice President  
Commercial Lending

STATE OF NEBRASKA )  
COUNTY OF Douglas ) ss.

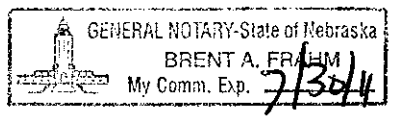
The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of December, 2010 by James E. Barrett, Vice President Commercial Lending of Mutual of Omaha Bank, a federal savings bank, on behalf of said Bank.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year last above written.

  
Notary Public

[SEAL]

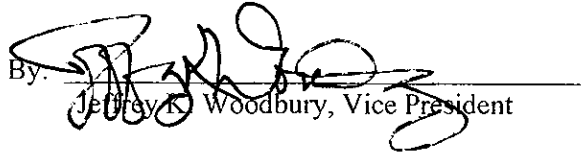
My commission expires: 7/30/11



Lessee:

BLOCK 21 L.L.C., a Utah limited liability company

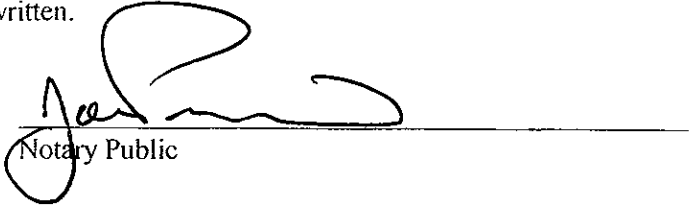
By: WOODBURY CORPORATION, a Utah corporation, its Manager

By:   
Jeffrey K. Woodbury, Vice President

STATE OF ALABAMA )  
PARISH ) ss.  
COUNTY OF ORLEANS )

The foregoing instrument was acknowledged before me this 29<sup>th</sup> day of December, 2010, by Jeffrey K. Woodbury, the vice president of Woodbury Corporation, a Utah corporation, in its capacity as the manager of BLOCK 21 L.L.C., a Utah limited liability company, on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year last above written.

  
Notary Public



My Commission expires: FOR LIFE



JONATHAN C. PELTIER  
Notary Public  
Bar No. 32290, ID. No. 88818  
Orleans Parish  
My Commission is issued for Life

Lessee:

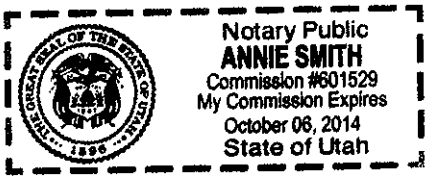
**BLOCK 21 L.L.C.**, a Utah limited liability company

By: *O. Randall Woodbury*  
O. Randall Woodbury, Secretary

STATE OF UTAH                    )  
  ) ss.  
COUNTY OF SALT LAKE        )

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of December, 2010, by O. Randall Woodbury, the secretary of Woodbury Corporation, a Utah corporation, in its capacity as the manager of BLOCK 21 L.L.C., a Utah limited liability company, on behalf of the company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid the day and year last above written.



*Annie Smith*  
Notary Public

[SEAL]

My commission expires: 10/06/2014

**SCHEDULE 1**

**PROJECT SITE**

All of the following described real estate situated in the City of Lincoln, County of Lancaster, State of Nebraska:

Lot 1, The Arts and Humanities Block Addition in Lincoln.