442-131

L E A S E

ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation
to
LINCOLN DEVELOPMENT COMPANY, a corporation

This agreement, made this 28 day of July 1940, between ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation party of the first part, and hereinafter called the lessor, and LINCOLN DEVELOPMENT COMPANY, a corporation, of Lincoln, Nebraska, party of the second part, and hereinafter called the lessee, witnesseth:

In consideration of the rents and covenants hereinafter reserved, the lessor does hereby demise and let to the lessee, all the following described premises situated and being in the City of Lincoln, County of Lancaster and State of Nebraska, to-wit: Lots Seven (7), Eight (8), Nine (9), Block Sixty-five (65), according to the Original Plat of the City of Lincoln, on file in the office of the Register of Deeds in said County.

TO HAVE AND TO HOLD the same, with all the rights, privileges, easements, and appurtenances thereunto attaching and belonging unto the said lessee, for and during the term of ninety-nine years, commencing on the first day of January, 1940, and ending on the thirty-first day of December, 2040, the said lessee paying rent therefor and yielding possession thereof as hereinafter provided.

The said lessee, in consideration of the leasing of said premises aforesaid of the said lessor, does hereby covenant and agree to and with said lessor to pay rent as follows: Said lessee covenants and agrees to pay said lessor, as rent for and during said period, the sum of eight thousand ($8,000.00) dollars for each and every year during the period of said term, all without any relief whatever from valuation and appraisement laws of the State of Nebraska, the rent for the first year shall be paid in advance and thereafter the rent shall be paid in

quarterly instalments in advance, and all of said payments during said demised term shall be paid in such place in the City of Lincoln, in the State of Nebraska, as the lessor may from time to time previously designate in writing, and in default of such designation at the Parish House of St. Mary's Cathedral in the City of Lincoln, Nebraska. It is further stipulated and agreed, that all rent reserved and agreed to be paid under this lease shall be paid in coin or currency of the United States of America which at the time of payment is legal tender for public and private debts, or said rental payments may be made by check or by draft as lessor may direct.

The total amount of rent that lessee shall pay the lessor under the terms of this lease amounts to the sum of seven hundred ninety-two thousand dollars ($792,000.00).

As a further consideration of the leasing and letting aforesaid, the said lessee further covenants and agrees to bear, pay and discharge, in addition to the rent herein reserved, all taxes, assessments and levies of every name, nature and kind, including water rents, which may be taxed, charged or assessed against said premises, or upon any of the buildings or improvements thereon, or which may be levied or imposed upon the leasehold estate hereby created, and upon the reversionary interest in said estate, during the term hereinbefore granted.

The said lessee further covenants and agrees to and with the said lessor, to construct, erect and complete upon said premises, at its own expense and cost within ten years from the first of January, 1949, a building costing not less than the sum of two hundred thousand dollars ($200,000.00). Lessee shall have the right to remodel, or tear down and rebuild, said building at any time after the erection thereof, PROVIDED, that lessee shall immediately following the tearing down of said building construct a new building or buildings at least equivalent in value to the building so torn down. It is understood that the lessee shall have the privilege of tearing down all buildings now upon said premises

and shall have and retain ownership of all materials contained in said buildings. It is expressly understood and agreed that the lessor shall be saved free and harmless from all loss or damage growing out of or on account of the tearing down of any buildings upon said premises, the lessee assuming all and every responsibility for loss or damage incurred on account of such tearing down of old buildings or erection of new buildings upon said premises.

It is further covenanted and agreed that the said term hereof shall be no mechanic's lien upon any building or improvements, and that, in the event of any mechanic's lien attaching hereto, said lessee shall pay and fully discharge the same within thirty days after written notice to the lessee, the lessor having full and complete rights to discharge and pay off all liens, taxes, assessments, or any part of insurance against said premises, remaining unpaid by reason of payment by the lessee, and the lessor shall be reimbursed, on demand, for such payments with interest at the rate of six per cent per annum; provided, however, that the lessee shall have the right to contest any lien filed by an adverse claimant in court action and lessee shall not be in default until said court action is finally determined and judgment rendered against lessee.

It is further covenanted and agreed by and between the parties hereto that the said lessee will, at its own expense and so long as this lease shall be in force, keep any newly constructed buildings and improvements that may hereafter be built upon said premises insured against loss by fire, lightning, windstorm and tornado, in good and responsible insurance companies, to an amount not less than the reasonable insurable value thereof, and that the lessee will cause the policies therefor at all times to be payable, in the event of loss, to the lessor. In the event of the destruction of said buildings or improvements by fire or other causes for which insurance money shall be payable and shall have been paid to the lessor,

the said lessor shall turn over such amounts, on [illegible] on architects' certificate, as the building or improvements are repaired, rebuilt or restored, to the contractor entitled to the same, for work done and materials furnished, if any, and any remaining sums not expended shall be paid to lessee.

It is further understood and agreed that as often as said buildings and improvements shall be damaged or destroyed by fire or otherwise, the lessee shall, within a reasonable period of time and, further, subject to contractual delays over which said lessee has no control, at its own cost and expense, and without expense to said lessor, repair or rebuild the same, upon the same general plans and dimensions as before said fire or casualty; or the buildings may be repaired or rebuilt upon some general plan then deemed by lessor and lessee reasonable and appropriate for the premises.

The lessee shall conform to all municipal ordinances or laws affecting said premises. The lessee shall [illegible] during the term of this lease keep the property [illegible] to protect lessor against loss or damage [illegible] to any person or property [illegible] directly or indirectly to the use or occupancy of said premises by the lessee. The lessee shall save the lessor free from any loss, [illegible], or damage arising out of the failure of said lessee to comply with the requirements and provisions of this lease.

The lessee shall not assign this lease until the improvements contemplated upon said premises, as above, shall have been fully completed. The said lessee may, when there is a new building upon the said premises, as hereinbefore provided, and when said building and premises shall have become free from mechanic's liens, sell or assign this lease and its interest in said demised premises and any buildings thereon, PROVIDED that all taxes and assessments and other charges shall have been paid to the date of such sale or assignment; and PROVIDED that all covenants and agreements herein contained to be kept and performed by said lessee shall have been fully complied with

at the date of such sale or assignment; and [illegible] that in the event of such sale or assignment, [illegible] be evidenced in writing, executed and acknowledged by both assignor and assignee, and duly recorded in the [illegible] office of [illegible] County, State of Nebraska, in which writing [illegible] assignee shall expressly accept, assume and agree to [illegible] all [illegible] terms, conditions [illegible] [illegible] [illegible] [illegible] said lessee; [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] valid, [illegible] said lessee, [illegible] [illegible] [illegible] [illegible]

[illegible] lessee [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] provisions [illegible] within lease.

It is further covenanted [illegible] [illegible] [illegible] [illegible] lessee [illegible] pay [illegible] any rent herein [illegible] [illegible] the [illegible] the same shall become due and payable, and such default shall continue for ninety days after notice thereof in writing [illegible] said lessor to said lessee; or in the event of any default in relation to liens as hereinbefore provided, which shall continue for ninety days after notice thereof in writing [illegible] said lessor to said lessee; or in the event said lessee shall fail to pay any of the taxes and assessments as hereinbefore provided to be paid within either the time provided by law, or in the event of contest by court action as to such taxes or assessments, then immediately following final determination in such court proceedings, and such default shall continue for ninety days after notice thereof in writing shall have been given by said lessor to said lessee; or in the event the lessee

shall fail to rebuild the buildings on said premises in the event of destruction by fire or other elements within the time hereinbefore mentioned, which default shall continue for ninety days after notice thereof in writing shall have been given by said lessor to lessee; or in the event of default by lessee of any other covenant or condition of the lease to be performed by lessee which shall continue for ninety days after notice thereof in writing shall have been given by said lessor to lessee, said lessor may at its option, after such ninety days' notice in writing given to said lessee, declare said lease absolutely at an end, the term thereof ended by written notice of such declaration delivered to lessee, and may enter upon said premises, with or without process of law, and take possession thereof, with any and all buildings or improvements which shall have been erected thereon, by lessee herein, waiving any demand for possession thereof, and all buildings, fixtures, and improvements situate on said premises shall be and become the property of the lessor.

It is further covenanted and agreed by and between the parties hereto that in the event the lessor shall, without on its part, be made party to any litigation concerning said lease brought by or against said lessee, then said lessee shall employ a competent legal counsel for lessor and shall pay all costs and attorneys' fees incurred on account of such litigation.

Lessor agrees to give lessee possession of said premises on or before January 1, 1949, and in case lessee shall be delayed in occupying a school building in Lincoln, Nebraska, lessee located on K Street, Lincoln, Nebraska, lessee a room to give lessor additional time required to move into said new school building, and in consideration therefor lessor a room to move into said building at the earliest possible date; PROVIDED, HOWEVER, that in the event lessee does not receive possession of the leased premises on or before January 1, 1949, the rent payable by lessee shall be abated for the period lessee is so delayed and refund of any rent paid shall be made by lessor to lessee

on a prorata basis for such period of delay, and in no event shall possession to lessee be delayed beyond June 1, 1[illegible].

It is further covenanted and agreed by and between the parties hereto that no waiver by said lessor of any breach of any of the said covenants herein contained or of performance by the said lessee shall be construed to be a waiver of any succeeding breach of the same covenant or agreement.

It is further expressly understood and agreed by and between the parties hereto that in event of [illegible] conveyance by the lessor of its title or interest in [illegible] demised premises, including the [illegible] reversion, [illegible] said lessor shall thereupon be completely relieved [illegible] from the performance of any and all covenants [illegible] herein by the lessor to be performed [illegible] that any such sale shall be made subject to this lease.

It is expressly understood and agreed that the lessee shall have the right, at any and all times, [illegible] real estate mortgage, creation, including, any and [illegible] improvements erected on said demised premises, by mortgage or deeds of trust in the nature of mortgages, or other instruments in the nature thereof, to secure any actual loan, debt or [illegible] of the lessee, which said mortgage, deeds of trust or other instruments in the nature thereof, shall, however, be subject and subordinate to this lease, and the terms, conditions, covenants and agreements hereof.

Lessee agrees to keep an amount equal to one year's rent in advance on deposit to the credit of the lessee with the National Bank of Commerce of Lincoln, Nebraska, or with whom during the term of this lease until the new building proposed to be erected has been completed, or in the alternative lessee may deposit for safekeeping with said bank for the account of the lessee during said period, United States government bonds or Certificates of Indebtedness of said government of a market value in said amount, and lessee shall receive and collect all interest thereon.

Upon the expiration of the ninety-nine year period of this lease, lessee shall redeliver said premises with the buildings thereon to lessor and all of said improvements now on said property shall then become the property of the lessor.

It is further agreed that if, at any time or times within the term of this lease, the lessor should desire to sell the within demised premises, then the lessee shall have the first privilege of purchasing the premises for the same price and the same or equally favorable terms and conditions on which the lessor would be willing to sell to any other person. Lessor agrees that no sale will be made by it of said demised premises to any other person than lessee unless (a) it first receives a bona fide offer in writing, accompanied by an earnest money deposit in the form of a cashier's check, a money order or bank draft of not less than ten per cent of the proposed purchase price; and (b) written notice of such offer and price, terms and conditions thereof, together with a written offer by lessor to sell said premises to lessee at said price and on the same or equally favorable terms and conditions as given by lessor to lessee; and (c) lessee shall fail to notify lessor in writing of lessee's acceptance of said offer of sale of the demised premises within a period of thirty days after receipt of such notice of offer to purchase and lessor's said offer to sell to lessee and promptly complete said purchase.

It is further agreed that in the event lessee does not accept lessor's said offer to sell and complete the said sale and thereafter lessor, for any reason whatsoever, does not accept the offer of purchase from a person other than the lessee above referred to, or accepting the same, the sale of the demised premises will not be or is not completed in strict and complete accordance with such offer of purchase from such other person than the lessee, then the lessor agrees that it will not complete said sale to such other person or make any subsequent sale of said premises without first following the procedures hereinabove set forth, and thereby extending to lessee the

privilege to purchase the premises at the same price and on the same or equally favorable terms and conditions as contained in any modification or change in the original offer from some other person or in any subsequent bona fide written offer or offers from some other person or persons, and in each and every instance the lessor agrees to extend to the lessee the said right to exercise the first privilege of purchase in the event of subsequent offer as hereinabove provided.

It is further covenanted and agreed by and between the parties hereto that all the expressions, terms, conditions, provisions, and agreements herein shall extend to and be binding upon, and inure to the benefit of, as the case may be, each and every one of the successors and assigns of each of the parties hereto, to the same extent as if in every case so expressed.

In witness whereof, the parties hereto have caused this instrument to be executed by its duly authorized officers and additionally the lessor executed by its Trustees, duly authorized, and the corporate seals of the respective corporations are affixed, all as of the day and year first above written.

(Seal)

Attest:

Secretary

ST. MARY'S ATHLETIC CLUB, INCORPORATED, a corporation

By _____ President

By _____ Trustee and Member of the corporation

By _____ Trustee and Member of the corporation

By _____ Trustee and Member of the corporation

By _____ Trustee and Member of the corporation

LESSOR

(Seal)

LINCOLN DEVELOPMENT CORPORATION

Attest:

E. Phillip Watkins
Secretary

LINCOLN DEVELOPMENT COMPANY,
a corporation

By Curtis C. Grimball
President

LESSEE

STATE OF NEBRASKA }
LANCASTER COUNTY } ss

On this 24 day of August, 194[illegible], before me, the undersigned, a Notary Public in and for said County, personally came Louis B. Kucera, President of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and Clarence J. Riordan, Secretary of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, to me personally known to be the President and Secretary whose names are affixed to the above agreement, and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of the said corporation, and that the corporate seal of the said corporation was thereto affixed by its authority.

Witness my hand and notarial seal at Lincoln in said County the day and year last above written.

T. M. Kealy
Notary Public

My commission expires the 15 day of April

STATE OF NEBRASKA }
LANCASTER COUNTY } ss

On this 24 day of August, 1945, before me, the undersigned, a Notary Public in and for said County, personally came Louis B. Kucera, Bishop of Lincoln, (being the chief officer of the Roman Catholic Church in and for the Diocese of Lincoln, Nebraska), and Trustee of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and a Member of said Corporation, to me personally known, whose name is affixed to the above agreement and who acknowledged the execution thereof to be his voluntary act and deed as a Trustee of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and as a Member of said Corporation, and the voluntary act and deed of the said Corporation and that the corporate seal of the said Corporation was thereto affixed by his authority.

Witness my hand and notarial seal at Lincoln in said County the day and year last above written.

T. M. Kealy
Notary Public

My commission expires the 15 day of April

STATE OF NEBRASKA }
LANCASTER COUNTY } SS

On this 24 day of August, 194, before me, the undersigned, a Notary Public in and for said county, personally came Clarence J. Riordan, Vicar General of Lincoln (being a subordinate officer of the Roman Catholic Church in and for the Diocese of Lincoln, Nebraska) and Rector of the Church known as St. Mary's Cathedral located in Lincoln, Nebraska, and Trustee of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and a Member of said Corporation, to me personally known, whose name is affixed to the above agreement and who acknowledged the execution thereof to be his voluntary act and deed as a Trustee of said ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and as a Member of said Corporation and to be the voluntary act and deed of said Corporation, and that the corporate seal of the said Corporation was thereto affixed by his authority.

Witness my hand and notarial seal at Lincoln in said County the day and year last above written.

T. M. Healy
Notary Public

My commission expires the 15 day of April 1950

STATE OF NEBRASKA }
LANCASTER COUNTY } SS

On this 25th day of August, 194, before me, the undersigned, a Notary Public in and for said county, personally came David J. Boyle, a lay member of the Roman Catholic Church, in and for the Diocese of Lincoln, Nebraska, a Trustee of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and a Member of said Corporation, to me personally known, and whose name is affixed to the above agreement and who acknowledged the execution thereof to be his voluntary act and deed as a Trustee of said ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and as a Member of said Corporation, and the voluntary act and deed of the said Corporation, and that the corporate seal of said Corporation was thereto affixed by his authority.

Witness my hand and notarial seal at Lincoln in said County the day and year last above written.

Richard [illegible]
Notary Public

My commission expires the 4th day of September 1953

STATE OF NEBRASKA }
LANCASTER COUNTY } SS

On this 25th day of August, 194, before me, the undersigned, a Notary Public in and for said county, personally came Emil J. Beaurivage, a lay member of the Roman Catholic Church, in and for the Diocese of Lincoln, Nebraska, a Trustee of ST. MARY'S CATHEDRAL OF LINCOLN, NEBRASKA, a corporation, and a Member of said Corporation, to me personally known, and whose name is affixed to the above agreement and who

acknowledged the execution thereof to be his voluntary act and deed as a Trustee of said ST. [illegible] AT [illegible] [illegible] A, a corporation, and as a Member of said Corporation, and the voluntary act and deed of the said Corporation, and that the corporate seal of said Corporation was thereto affixed by his authority.

Witness my hand and notarial seal at [illegible] county the day and year last above written.

[illegible]
Notary Public

My commission expires the [illegible] day of [illegible]

[illegible] }
[illegible] County } ss.

On this [illegible] day of [illegible], [illegible], before me, the undersigned, a Notary Public in and for said County, personally came [illegible], President of [illegible] V [illegible] NT C [illegible] ANY, a corporation, and [illegible] Phillip Watkins, Secretary of [illegible] A-Y, a corporation, to me personally known to be the President and Secretary whose names are affixed to the above agreement, and acknowledged the execution thereof to be their voluntary act and deed and the voluntary act and deed of the said corporation and that the corporate seal of the said corporation was thereto affixed by its authority.

Witness my hand and notarial seal at [illegible] in said County the day and year last above written.

Isabel Montgomery
Notary Public

My commission expires the [illegible] day of [illegible]

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