

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2009-19833

2009 JUN 24 P 3: 22 8

*Shawn J. Dowling*

REGISTER OF DEEDS

COUNTER ah C.E. ah  
VERIFY P D.E. ah  
PROOF LM  
FEES \$ 32.00  
CHECK # \_\_\_\_\_  
CHG. ATS CASH \_\_\_\_\_  
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**NOTICE OF REDEVELOPMENT AGREEMENT COVENANTS**

This Notice of Redevelopment Agreement Covenants ("Notice") is made and entered into by and among THE CITY OF BELLEVUE, NEBRASKA (the "City"), and 25<sup>TH</sup> STREET PARTNERS, LLC, a Nebraska limited liability company (the "Developer").

**WITNESSETH:**

1. The City and the Developer entered into a Redevelopment Agreement, dated September 22, 2008, as amended by the First Amendment to Redevelopment Agreement, dated June 5, 2009 (collectively the "Redevelopment Agreement"), pertaining to the real estate described on Exhibit A attached hereto and by this reference incorporated herein (the "Redevelopment Site"). Capitalized terms used in this Notice and not otherwise defined herein shall have the meanings given to such terms in the Redevelopment Agreement.

2. The Redevelopment Agreement provides that the following excerpts from Section 3 of the Redevelopment Agreement shall, except as limited in Section 2A herein, constitute covenants running with the land comprising the Redevelopment Site and be binding on subsequent owners of the Redevelopment Site. The covenants are, inter alia, as follows:

A. During the period that the Redevelopment Note (TIF Funds) is outstanding the Developer shall, (1) not protest a real estate improvement valuation on the Redevelopment Site of \$415,615 prior to construction or \$10,390,000 after substantial completion or occupancy of the Redevelopment Project; (2) not convey the Redevelopment Site or structures thereon to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes; (3) not apply to the Sarpy County Assessor for the structures, or any portion thereof, to be taxed separately from the underlying land of the Redevelopment Site; (4) maintain insurance for ninety percent (90%) of the full value of the structures on the Redevelopment Site; (5) in the event of casualty, apply such insurance proceeds to their reconstruction; and (6) cause all real estate taxes and assessments levied on the Redevelopment Site to be paid prior to the time such become delinquent. In lieu of the above, the Developer may surrender any remaining amount outstanding of the Redevelopment Promissory Note to City. This Section A shall constitute a covenant running with the land only for so long as any Redevelopment Note issued pursuant to the Redevelopment Agreement is outstanding.

B. The Developer shall grant an easement to the owner of the property to the north of the Redevelopment Site, Tax Lot B2B1A2 (referred to herein as the "Adjacent Property") to provide access to and from the Adjacent Property through any designated drive-lanes by Developer for

*RHP*  
RETURN TO  
ADAMS & SULLIVAN  
1246 Golden Gate Drive, Ste. 1  
PAPILLION, NEBRASKA 68046

the purposes of allowing ingress and egress from the Adjacent Property to 25<sup>th</sup> Street. The location of the easement and grant of access shall be on terms and conditions reasonably acceptable to the Developer and the owner of the Adjacent Property and as approved by the City, which terms and conditions shall include sharing of maintenance responsibilities and a contribution towards the cost of improving the access from the Redevelopment Site onto the 25<sup>th</sup> Street right-of-way based upon proposed use of the Adjacent Property.

C. The Developer and/or any land owners association formed by Developer shall be obligated to maintain, repair and, if necessary replace any materials or improvements located within Outlot "A". If the Developer and/or any land owners association fails to maintain, repair or replace any materials or improvements located within Outlot "A", then the City, upon ten (10) days prior written notice, shall have the right, but not the obligation, to enter onto the Redevelopment Site, as reasonably necessary, to maintain, repair and, if necessary replace any materials or improvements within Outlot "A" and specially assess the adjoining property or properties for such costs reasonably incurred by the City. In the event any sum of money payable by the Developer and/or any adjacent property owner to the City is not paid within thirty (30) days after the City levies the special assessment, the City shall have the right to record, in the Office of the Register of Deeds for Sarpy County, Nebraska, a notice of lien, which shall set forth the then-delinquent amount owed by the non-paying party (including interest at an annual rate of fourteen percent (14%) per annum (the "Default Rate"), and a legal description of the lot owned by the non-paying party (the "Notice of Lien"). Upon recordation of such Notice of Lien, the then delinquent amount owing by the non-paying party, together with interest thereon at the Default Rate, shall constitute a lien upon the parcel of such non-paying party (the "Lien"), as described in the Notice of Lien. In the event the amount secured by such Lien is not paid in full within ten (10) days after such Notice of Lien has been recorded, the City may enforce payment of the amount due, or enforce the Lien against the parcel of the non-paying party, by taking either or both of the following actions, concurrently or separately: (i) bringing an action at law against the non-paying party personally obligated to pay the unpaid sum of money; and/or (ii) foreclosing the Lien against the parcel of the non-paying party in accordance with the then prevailing Nebraska law relating to the foreclosure of realty mortgages or deeds of trust (including the right to recover any deficiency). Nothing contained herein shall be interpreted to prevent neither the Developer nor the land owners association from seeking reimbursement from the other owners of parcels located within the Redevelopment Site in accordance with the terms and conditions of any declaration of covenants, restrictions or easements filed of record.

3. The Developer has agreed to include the covenants set forth above in any subsequent sale, assignment, sale-leaseback or other transfer of the Redevelopment Site.

4. This Notice of Redevelopment Agreement Covenants is executed pursuant to the provisions contained in the Redevelopment Agreement and is not intended to vary the terms and conditions of the Redevelopment Agreement. The sole purpose of this Notice is to give notice of such covenants.

5. This Notice of Redevelopment Agreement Covenants may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one agreement. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

IN WITNESS WHEREOF, the Developer parties hereto have executed this Notice of Redevelopment Agreement Covenants on the dates set forth beneath their respective signatures.

DEVELOPER:

25<sup>TH</sup> STREET PARTNERS, LLC, a  
Nebraska limited liability company,

By: *Dennis J. Hoth*  
Dennis J. Hoth, Member

STATE OF NEBRASKA     )  
  )ss.  
COUNTY DOUGLAS     )

Dennis J. Hoth, Member of 25<sup>th</sup> Street Partners, LLC on behalf of said limited liability company,  
acknowledged the foregoing Notice of Redevelopment Agreement Covenants before me this 16<sup>th</sup> day of  
June, 2009.



*Richard F. Greene*  
Notary Public  
My commission expires on May 30, 2012.

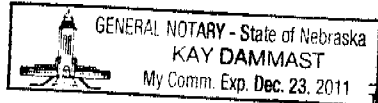
C

CITY OF BELLEVUE, a municipal corporation,

By: Ed Babbitt  
Name: Ed Babbitt  
Its: Mayor

STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF SARPY     )

The foregoing instrument was acknowledged before me this 29th day of June, 2009, by Ed Babbitt, Mayor of the City of Bellevue, on behalf of said municipal corporation.



Kay Dammast  
Notary Public  
My Commission expires: 12-23-2011

D

EXHIBIT A

LEGAL DESCRIPTION

Tax Lot B2B1B in Section 34, Township 14 North, Range 13 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows:

Commencing at the Southwest corner of Tax Lot B2B2; thence East 400 feet; thence South 350 feet; thence West to the East line of 25th Street; thence Northerly along the East line of 25th Street to the point of beginning,

AND

Tax Lot B2B1A1B in Section 34, Township 14 North, Range 13 East of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows:

All that part of Tax Lot B1B1A1 described as follows: Commencing at the Northwest corner of Tax Lot B2B1B; thence East a distance of 131.23 feet to the point of beginning; thence North 100.00 feet; thence East a distance of 431.27 feet; thence South a distance of 500.00 feet; thence West a distance of 598.92 feet to the East line of 25th Street; thence Northerly along the East line of 25th Street to the Southwest corner of Tax Lot B2B1B; thence along the South line of said Tax Lot B2B1B to the Southeast corner; thence North 350.00 feet to the Northeast corner of Tax Lot B2B1B; thence West along the North line of said Tax Lot B2B1B to the point of beginning.

AND

Tax Lot B2B2, Section 34, Township 14 North, Range 13 East of the 6<sup>th</sup> P.M., in Sarpy County, Nebraska, consisting of .27 acres of land, more or less.

The properties legally described above being replatted collectively as:

Lots 1, 2 and 3 and Outlot A, Bellevue Professional Park Addition, an Addition to the City of Bellevue, Sarpy County, Nebraska and all streets and rights of way dedicated therein

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**CONSENT OF BENEFICIARY AND TRUSTEE**  
**UNDER DEED OF TRUST**

In consideration of One Dollar (\$1.00) and other valuable consideration, the receipt and sufficiency whereof is hereby acknowledged, Union Bank & Trust Company, as Trustee and Beneficiary under that certain Deed of Trust, recorded June 8, 2006, as Instrument No. 2006-19127, in the Office of the Register of Deeds of Sarpy County, Nebraska, as amended by that Amendment to Land Acquisition Loan Agreement and Combination Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement, recorded August 4, 2008 as Instrument No. 2008-22376, in the Office of the Register of Deeds of Sarpy County, Nebraska, as further amended by that Second Amendment to Land Acquisition Loan Agreement and Combination Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing Statement, recorded on December 30, 2008 as Instrument No. 2008 - 34071, in the Office of the Register of Deeds of Sarpy County, Nebraska (collectively the "Deed of Trust"), hereby consents to the foregoing Notice such that the Deed of Trust shall be subject to said Notice, and that for itself and its successors and assigns, hereby agrees that in the event of foreclosure of the Deed of Trust, it shall not take any action to terminate the foregoing Notice.

Executed this 9<sup>th</sup> day of June, 2009.

TRUSTEE AND BENEFICIARY:

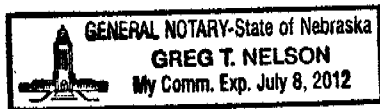
UNION BANK & TRUST COMPANY,

By: *Karen J. Cenovic*  
Karen J. Cenovic, President - Omaha

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF DOUGLAS     )

Before me, a Notary Public qualified for said County and State, personally came Karen J. Cenovic, President of Union Bank & Trust Company in Omaha, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be her voluntary act and deed on behalf of said company.

WITNESS my hand and Notary Seal on this 9<sup>th</sup> day of June, 2009.



*Greg T. Nelson*  
Notary Public