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UNIVERSITY SQUARE REDEVELOPMENT AGREEMENT

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UNIVERSITY SQUARE
REDEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City"; Commercial Federal Savings and Loan Association, a federal association ("CFSL"); Larry Price and Associates, Inc., a Nebraska corporation ("Price"); Nebraska Higher Education Loan Program, a Nebraska nonprofit corporation, and its nominee, Foundation for Educational Funding, Inc., a Nebraska nonprofit corporation (collectively "NebHelp"); Christopulos Realty, Inc., a Nebraska corporation ("CR"), Jan Eric Pusch and Beverly Elaine Pusch, husband and wife ("Pusch"), and PMK Joint Venture, a Nebraska partnership ("PMK"), as of this 4th day of May, 1989.

RECITALS

1. The City has undertaken a program for the redevelopment of blighted and substandard areas in the City of Lincoln, Nebraska, and is engaged in carrying out a project commonly known as the University Square Project (hereinafter called "Project") in the "Community Redevelopment Area" bounded by 13th, 14th, "O" and "P" Streets in Lincoln, said Project Area being legally described as Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, along with abutting public rights-of-way and Alley ("Block 39" or "Project Area").

2. The City has prepared and approved the Lincoln Center Redevelopment Plan, as amended, providing for the Project (as specified in Section IV-F of said plan), a copy of which, together with any and all amendments thereto, is on file in the Office of the City Clerk of the City ("City Clerk") and which plan is incorporated into this Agreement by reference, and is hereinafter referred to as the "Redevelopment Plan" or the "Plan."

3. The Project calls for the construction and rehabilitation of properties within the Project Area, the acquisition of

certain property rights by the City, and the construction of public parking and other public and private facilities and improvements within the Project Area.

4. CR is the present fee owner of Lots 17 and 18, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska ("Lots 17 and 18"), and has leased Lots 17 and 18 to Pusch. CR and Jan Eric Pusch, a partner in PMK, have granted options to CFSL, as nominee for CFSL, Price and NebHelp, to acquire Lots 17 and 18 and the improvements located thereon. CFSL, Price, and NebHelp are sometimes individually and collectively referred to as "Private Sector." CFSL, as nominee for Private Sector, is the fee owner or option holder of Lots 1, 2, 3 (except the west twelve feet of Lot 3 to be retained by Price as Outlot B), 13, 14, 15, 16, 17 and 18 of Block 39, Lincoln, Lancaster County, Nebraska ("East 1/2 of Block 39"). Pursuant to this Agreement, CFSL, as nominee for the Private Sector, will convey the East 1/2 of Block 39 to the City. CFSL, as nominee for the Private Sector, Price and the City are in the process of subdividing and replatting the East 1/2 of Block 39 into five (5) lots and three (3) outlots (known as "University Square Addition"), as shown on the University Square Plat. Pursuant to this Agreement and separate agreements, the City will retain Outlot C and Lot 3, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska ("Public Sector Parcel"). The City will convey the remaining portion of the University Square Addition as follows:

Outlot "A" to CFSL as nominee for Private Sector;

Lots 1 and 4, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska ("Retail Parcel 1") to CR and CR in turn will lease the Retail Parcel 1 to Pusch under separate agreement;

Lot 2, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska ("Bank Drive-Thru Parcel") to CFSL;

Lot 5, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska ("Retail Parcel 2") to Pusch.

The Retail Parcel 1, Bank Drive-Thru Parcel, Public Sector Parcel, and Retail Parcel 2 are sometimes referred to collectively as the "Mixed-Use Facility."

5. CFSL, Price, NebHelp and PMK are sometimes individually referred to as "Redeveloper" and collectively "Redevelopers." The City, Redevelopers and CR are desirous of implementing the redevelopment of the Project Area in accordance with the Project as set forth in the Redevelopment Plan and mutually agree that the redevelopment of the Project Area is in the vital and best interest of the City and is in furtherance of the health, safety, and welfare of its residents, and is in accordance with the public purposes and provisions of the applicable laws and requirements under which the Project has been undertaken.

6. The following definitions are used in this Agreement:

"Alley" - The east-west alley located on Block 39, Original Plat, Lincoln, Lancaster County, Nebraska

"Architect" - The Clark-Enerson Partners

"Balance of E 1/2 of Block 39" - Lots 13, 14, 15, 16, 17 and 18 of Block 39, Lincoln, Lancaster County, Nebraska

"Balance of E 1/2 of Block 39 Deed" - Special Warranty Deed from CFSL, as nominee for Private Sector to City, conveying the Balance of E 1/2 of Block 39

"Bank Drive-Thru Parcel" - The drive-thru facility of CFSL located on Lot 2, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska

"Block 39" - Block 39 of Original Plat, Lincoln, Lancaster County, Nebraska, along with abutting public rights-of-way and Alley

"CFSL" - Commercial Federal Savings and Loan Association, a federal association

"CFSL Building" - The structure currently located on that part of Lot 10 east of a north-south line commencing at a point 75.51 feet east of the northwest corner of Lot 7, running south to a point 75.53 feet east of the southwest corner of Lot 7, and Lots 11 and 12, Block 39, owned by CFSL

"City" - City of Lincoln, Nebraska, a municipal corporation

"City Improvements" - The collective reference to the Parking Garage and the Streetscape Improvements owned by the City

"City Clerk" - The City Clerk of the City

"Completion Date" - Shall be no later than nine (9) months from the date upon which the City awards the Parking Garage construction contract to the lowest responsible bidder

"Construction Documents" - The collective reference to the Private Sector Parcel Construction Documents and the Mixed-Use Facility Construction Documents

"Cost Overruns" - Any hard or soft construction costs of the Project which exceed the Maximum Budget

"CR" - Christopulos Realty, Inc., a Nebraska corporation

"Deeds" - The collective reference to Donated Deed, Outlot B, Balance of E 1/2 of Block 39, and Redeveloper Parcel Deeds

"Donated Deed" - Special Warranty Deed from Price to City, whereby Price donates the Donated Property to the City

"Donated Property" - Lots 1, 2 and 3, except the west twelve (12) feet of Lot 3, Block 39

"East 1/2 of Block 39" - Lots 1, 2, 3, 13, 14, 15, 16, 17, and 18 of Block 39, Lincoln, Lancaster County, Nebraska

"Holder" - The mortgagee or an insurer or guarantor of any fiduciary obligation or condition secured by a mortgage or a similar type of encumbrance who succeeds to or becomes subrogated to the rights of the mortgagee

"Lots 17 and 18" - Lots 17 and 18, Block 39, presently owned by CR but subject to separate agreements between CR and the Private Sector

"Maximum Budget" - The City's financial obligation to the Project not to exceed \$4,637,430

"Mixed-Use Facility" - The collective improvements located on Retail Parcel 1, Bank Drive-Thru Parcel, Public Sector Parcel, and Retail Parcel 2

"Mixed-Use Facility Construction Documents" - The construction documents for the Mixed-Use Facility, dated February, 1989, as prepared by the Architect

"Mixed-Use Facility Schematic Drawings" - Schematic Design Drawings of E 1/2 of Block 39, dated November 18, 1988, as prepared by the Architect

"Mortgage" - The reference to a mortgage, deed of trust, bond indentures, or other instruments creating an encumbrance or lien as security for a loan or other indebtedness by the Redevelopers in the performance of this Agreement

"NebHelp" - Nebraska Higher Education Loan Program, a Nebraska non-profit corporation, and its nominee, Foundation for Educational Funding, Inc., a Nebraska non-profit corporation

"NebHelp Building" - The structure currently located on Lots 7, 8, 9, and all that part of Lot 10 described as lying west of north-south line commencing at a point 75.51 feet east of the north-west corner of Lot 7 running south to a point 75.53 feet east of the southwest corner of Lot 7, all on Block 39, owned by NebHelp

"Outlot A" - The west half of the Alley on Block 39 which will be vacated and replatted as Outlot A, as shown on the Plat of University Square Addition

"Outlot A Easements" - The nonexclusive underground utility easement and the nonexclusive ground level public pedestrian easement, as described in paragraph 101.B.4.

"Outlot B" - The west 12 feet of Lot 3, Block 39, retained by Price adjacent to the University Towers which will be replatted as Outlot B, as shown on the Plat of University Square Addition

"Outlot C" - The southwest corner of the East 1/2 of Block 39 as shown on the University Square Plat which shall be public access area and stairwell for the Parking Garage and be owned by the City

"Parking Garage" - A 450-stall and related public parking garage facility located on the Public Sector Parcel and on the easement areas of the Redeveloper's Parcels as defined herein

"Plan" - The Lincoln Center Redevelopment Plan, as amended, prepared and approved by the City

"PMK" - PMK Joint Venture, a Nebraska Partnership

"Price" - Larry Price and Associates, Inc., a Nebraska corporation

"Private Improvements" - The collective reference to the Private Sector Improvements and Redeveloper Improvements

"Private Parcel" and "Private Parcels" - The individual or collective reference to the Redevelopment Parcels and Private Sector Parcels

"Private Sector" - The individual or collective reference to CFSL, Price, and NebHelp

"Private Sector Improvements" - The Skywalk and improvements to be made by the Private Sector on their respective Private Sector Parcels, excluding Private Sector's tenant improvements and University Tower condominium units interior improvements

"Private Sector Parcel" and "Private Sector Parcels" - The individual or collective reference to the University Towers, NebHelp Building, CFSL Building and Outlot A

"Private Sector Parcel Construction Documents" - The detailed final construction plans and specifications for the Private Sector Improvements to be constructed and rehabilitated on the Private Sector Parcels

"Private Sector Parcel Schematic Drawings" - The schematic drawings of the Private Sector Parcels

"Project" - The University Square Project

"Project Area" - The block bounded by 13th, 14th, "O", and "P" Streets in Lincoln, legally described as Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, along with abutting public rights-of-way and Alley

"Public Sector Parcels" - Lot 3 and Outlot C, University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, along with abutting rights-of-way, to be retained by the City

"Pusch" - Jan Eric Pusch and Beverly Elaine Pusch, husband and wife

"Redeveloper" and "Redevelopers" - The individual and collective reference to CFSL, Price, NebHelp, and PMK

"Redeveloper Improvements" and "Redevelopers Improvements" - The improvements to be constructed by the Redevelopers on the Redeveloper Parcels, excluding Redevelopers' tenant interior finish and University Tower condominium units interior improvements

"Redeveloper Parcel" and Redevelopers Parcels" - The individual or collective reference to Retail Parcel 1, Bank Drive-Thru Parcel, Retail Parcel 2, and Outlot B

"Redevelopment Plan" - The Lincoln Center Redevelopment Plan, as amended, providing for the Project

"Retail Parcel 1" - Lots 1 and 4, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska to be conveyed to CR by the City and which CR will lease to Pusch

"Retail Parcel 2" - Lot 5, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska, to be conveyed to Pusch by the City

"Schematic Drawings" - The collective reference to the Private Sector Parcel Schematic Drawings and the Mixed-Use Facility Schematic Drawings

"Skywalk" - The private walkway connecting the NebHelp Building, CFSL Building, and the University Towers with the Parking Garage

"Streetscape Improvements" - Subject to the limitations in Section 601, the term shall mean the improvements located in the public right-of-way of "O", "P", and 14th Streets adjacent to the Mixed-Use Facility, including but not limited to curbs, on-street parking, loading areas, sidewalks, trees, bushes, plantings, ornamental street lighting, benches, bike racks, and trash receptacles

"University Square Addition" - The subdivision plat replatting the East 1/2 of Block 39, Original Plat, and the East-West alley of Block 39, Original Plat, as prepared by the Architect, dated _____, 1989 and submitted to the Lancaster County - City of Lincoln Planning Departments

"University Towers" - The structure currently located on Lots 4, 5, and 6, Block 39, condominiumized as the University Towers Condominium Property Regime and Outlot B

"Utility Relocation" - The relocation and capping of utilities in the Alley and the E 1/2 of Block 39.

NOW, THEREFORE, in consideration of the mutual obligations of the parties hereto, each of them hereby covenant and agree with each other as follows:

ARTICLE I

CONSTRUCTION OF PRIVATE IMPROVEMENTS ON AND IN THE REDEVELOPERS PARCELS; FINANCIAL ABILITY OF REDEVELOPERS

Section 101. Schematic Design Drawings; Construction Documents; Approval; Changes.

A. Schematic design drawings of Private Sector Parcels. The Private Sector Parcel Schematic Drawings have been prepared by Private Sector for the contemplated private improvements to be constructed by the Private Sector in that portion of the Project Area designated herein as Private Sector Parcels. Such Private Sector Parcel Schematic Drawings show all Private Sector Improvements to be made by the Private Sector on their respective Private Sector Parcels generally as follows:

1. University Towers has been condominiumized and Price is owner of the condominium units ("University Tower Units") described in Exhibit "A", which is attached hereto and incorporated herein by this reference. Once completed, renovated and rehabilitated, University Towers shall consist of approximately 12,000 square feet of commercial space, a theater, and nine (9) floors comprising sixty-six (66) condominium residential units at a total project cost of not less than \$5,823,000.00. Price is the Redeveloper who is specifically and solely responsible for completion of the renovation and rehabilitation described in this subparagraph.

2. The NebHelp Building (former Penney Building) owned by NebHelp is being renovated and rehabilitated into approximately 64,000 square feet of commercial space at a total project cost of not less than \$3,300,000.00. NebHelp is the Redeveloper who is specifically and solely responsible for completion of the renovation and rehabilitation described in this subparagraph.

3. The CFSL Building is owned by CFSL and shall be renovated and rehabilitated to provide approximately 30,600 square feet of commercial space. In addition, CFSL shall construct and rehabilitate a bank drive-thru facility on the Bank Drive-Thru Parcel, as described in Section 101B.2. below. The total project cost for the construction and rehabilitation of the CFSL Building and Bank Drive-Thru Parcel will not be less than \$800,000.00. CFSL is the Redeveloper who is specifically and solely responsible for completion of the renovation and rehabilitation described in this subparagraph.

4. The Skywalk shall be constructed and maintained on Outlot A by the Private Sector under separate skywalk agreement between the Private Sector. The Private Sector shall cause the construction of the Private Skywalk over Outlot A, which will connect the Mixed-Use Facility to the Private Sector Parcels, as shown on the Mixed-Use Facility Schematic Drawings. The Private Sector shall be specifically responsible for the construction of the Skywalk described in this subparagraph.

Each set of Private Sector Parcel Schematic Drawings of the respective Private Sector Parcels are being individually submitted to the City for approval and shall be reviewed and approved by the Director of Urban Development for conformance with the Project, the Redevelopment Plan and this Agreement.

B. Schematic Design Drawings of Mixed-Use Facility. The Mixed-Use Facility Schematic Drawings dated November 18, 1988, which are incorporated herein by this reference, have been prepared by the City, at City's expense, for the contemplated public and private improvements to be constructed by the City, CFSL and PMK in that portion of the Project Area designated herein as the Mixed-Use Facility which includes the Retail Parcel 1, Bank Drive-Thru Parcel, Public Sector Parcel, and Retail Parcel 2 on the East 1/2 of Block 39. Such Mixed-Use Facility Schematic Drawings are hereby approved by the City, Redevelopers and CR. Such Mixed-Use Facility Schematic Drawings show all improvements to be made by City and Redevelopers on their respective properties generally as follows:

1. City shall convey the Retail Parcel 1 (Lots 1 and 4, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska) to CR, who shall lease said Retail Parcel 1 to Pusch. In turn, PMK shall cause the construction of retail commercial space on approximately 12,000 gross square feet comprising Retail Parcel 1. City shall also convey Retail Parcel 2 (Lot 5, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska) to Pusch, and PMK shall cause the construction of approximately 4000 gross square feet of retail/commercial space. The construction in Retail Parcel 1 and Retail Parcel 2 shall be completed at a total project value of not less than \$350,000, as shown on the Mixed-Use Facility Schematic Drawings. PMK shall be the Redeveloper specifically and solely responsible for completion of the construction described in this subparagraph.

2. City shall convey the Bank Drive-Thru Parcel (Lot 2, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska) to CFSL, who shall cause the construction of a drive-thru teller facility and eight (8) customer parking stalls, as shown on the Mixed-Use Facility Schematic Drawings. CFSL shall be the Redeveloper specifically and solely responsible for completion of the construction described in this subparagraph.

3. City shall retain title to the Public Sector Parcel (Lot 3 and Outlot C, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska). In turn, the City shall cause the construction of approximately 450 public parking stalls and related public Parking Garage, as described in Section 501, and the Streetscape Improvements, as described in Section 601 and as shown on the Mixed-Use Facility Schematic

Drawings on the Public Sector Parcel. The City shall be specifically and solely responsible for completion of the construction of the City Improvements described in this subparagraph.

4. Pursuant to a petition to vacate the ("Alley") located on Block 39 presented by the Redevelopers and CR, the City will vacate the Alley and the City will relocate, at City's expense, the sanitary sewer located under the vacated east half of the Alley on Block 39. The west half of the Alley on Block 39 will be replatted as Outlot A, University Square Addition, Block 39, Lincoln, Lancaster County, Nebraska, as shown on the University Square Plan. The City will convey Outlot A to CFSL as nominee for the Private Sector, as tenants in common by quitclaim deed and the City shall retain a nonexclusive ground level public pedestrian easement over Outlot A and a nonexclusive underground utility easement under Outlot A. Private vehicular traffic in Outlot A is restricted one-way from the West to the East and said restriction shall run with the land or until said restriction is removed by the owners thereof.

C. Construction Documents for Private Sector Improvements. Upon approval of their respective Private Sector Parcel Schematic Drawings by the City, each Private Sector shall prepare or have prepared, detailed final construction plans and specifications for the Private Sector Improvements to be constructed and rehabilitated on the Private Sector Parcels (collectively, "Private Sector Parcel Construction Documents") which shall be individually submitted to the City's Director of Urban Development for approval prior to commencement of construction and rehabilitation on the Private Sector Parcels. Such Private Sector Parcel Construction Documents shall be approved only if they are prepared from and in conformance with the approved respective Private Sector Parcel Schematic Drawings, and in conformity with the Project and this Agreement. Approval of the Private Sector Parcel Construction Documents or approval of any changes thereto shall not be an indication of approval or waiver of any requirements with respect to applicable building and construction laws or codes, and shall not subject the City to any liability to any party or person for any purpose whatsoever. All Private Sector Improvements to the Private Sector Parcels must be made in compliance with all applicable local, state, and federal building and construction laws or codes and shall include, where necessary, proper provisions for asbestos abatement complying with applicable OSHA and EPA requirements. The approval hereunder shall not be required for tenant interior improvements or Univer-

sity Tower condominium unit's interior improvements to the Private Sector Parcels; however such improvements must be made in compliance with all applicable local, state, and federal building and construction laws or codes.

D. Construction Documents for Mixed-Use Facility. The City's Architect, The Clark Enersen Partners, has prepared the Mixed-Use Facility Schematic Drawings for the Mixed-Use Facility. The Architect, at the expense of the City, shall prepare detail final construction plans and specifications for the City Improvements to be constructed and rehabilitated in the Mixed-Use Facility. The Redevelopers, at their own expense, shall cause the preparation of detail final construction plans and specifications by a licensed architect or licensed engineer for the Redeveloper Improvements to be constructed and rehabilitated in the Mixed-Use Facility (collectively, the construction documents for the City Improvements and the Redeveloper Improvements shall be referred to as "Mixed-Use Facility Construction Documents").

The Mixed-Use Facility Construction Documents shall be submitted to the Redevelopers and the City's Director of Urban Development for approval prior to bidding of the City Improvements and Redevelopers Improvements and construction and rehabilitation of the Mixed-Use Facility by the City and Redevelopers. There shall be no party walls between the improvements to be constructed on the East 1/2 of Block 39 and the CFSL Building or University Towers on the west half of Block 39. Such Mixed-Use Facility Construction Drawings shall be approved by the City and Redeveloper if they are prepared from and in conformance with the Mixed-Use Facility Schematic Drawings, and in conformity with the Project and this Agreement. Approval of the Mixed-Use Facility Construction Documents or approval of any change thereto shall not be an indication of approval or waiver of any requirements with respect to applicable building and construction laws or codes, and shall not subject the City or Redevelopers to any liability to any party or person for any purpose whatsoever. All improvements to the Mixed-Use Facility must be made in compliance

with all applicable local, state, and federal building and construction laws or codes. The approval hereunder shall not be required for tenant interior improvements; however, such tenant interior improvements must be made in compliance with all applicable local, state, and federal building and construction laws or codes.

E. Bidding the Mixed-Use Facility Construction Documents. Upon approval of the City Improvements in the Mixed-Use Facility Construction Documents by the City and Redevelopers, the City will immediately thereafter bid the City Improvements in incremental packages according to its own procedures and subject to all applicable ordinances, provisions of the Lincoln City Charter, and state statutes. The incremental bid packages prepared by the City shall include the basic construction to which is added further features and amenities based upon the Mixed-Use Facility Construction Documents. The Redevelopers will separately bid their Redeveloper Improvements in the Mixed-Use Facility. The Redevelopers may coordinate with the Architect the timing of Redeveloper's bids with the City's bids to enable the Mixed-Use Facility to be bid at or near the same time, but in separate bid packages for the City Improvements and the individual Redeveloper Improvements.

F. Changes in Construction Documents. The Private Sector Parcel Schematic Drawings and the Mixed-Use Facility Schematic Drawings are sometimes referred to collectively as "Schematic Drawings". The Private Sector Parcel Construction Documents and Mixed-Use Facility Construction Documents are sometimes referred to collectively as "Construction Documents." The Redevelopers and City shall work with the Architect to submit any material changes in the Construction Documents affecting exterior design, structural support, or exterior finish materials, or affecting adjacent City Improvements or Redeveloper(s) Improvements for approval or disapproval of said amendment to the Director of Urban Development and to the Redeveloper(s) only if such amendment affects that Redeveloper's particular Redeveloper Parcel. If amendment requires the approval of any Redeveloper because the

amendment affects that Redeveloper's Parcel, approval shall only be required as pertaining to the amendment. If the Construction Documents, as amended by the proposed change, are deemed by the Director of Urban Development and affected Redeveloper(s) to be in conformity with the Project and this Agreement, the Director and affected Redeveloper(s) shall approve the proposed amendment and notify the City or respective Redeveloper, as the case may be, in writing of its approval. Otherwise, the Director or affected Redeveloper(s) shall disapprove the proposed amendment and shall notify the party requesting the proposed amendment of the specific areas of wherein such amendment is not in conformance with the Project. The Redeveloper or City, as the case may be, may resubmit the amendment after correction by the Architect to eliminate the items of nonconformance.

G. Approval. The City and affected Redevelopers shall so approve or reject said Schematic Drawings, Construction Documents, and amendments thereto, within fourteen (14) days after receipt thereof and, if rejected, the party receiving the rejection shall work with the Architect to submit corrected Schematic Drawings, Construction Documents, and/or amendments thereto, within fourteen (14) working days after the date of receiving the written rejection notice of the latest submitted Schematic Drawings, Construction Documents, and/or amendments thereto, and the reasons for such rejection, and such corrected Schematic Drawings, Construction Documents, and/or amendments thereto shall be approved or rejected as hereinbefore provided. However, if the Schematic Drawings, Construction Documents and amendments thereto are in conformance with the Project and this Agreement, the party rejecting the Schematic Drawings, Construction Documents and amendments thereto shall be obligated to pay the additional costs and fees of the Architect incurred as a result of said party's rejection of the conforming Schematic Drawings, Construction Documents, and amendments thereto.

Section 102. Construction of Improvements. The Private Sector shall construct or provide all Private Sector Improvements to their respective Private Sector Parcels in the Project Area as

described above in conformity with the approved Private Sector Parcel Construction Documents or any approved changes thereto. The Redevelopers shall construct or provide all Redeveloper Improvements to their respective Redeveloper Parcels in the Project Area as described above in conformity with the approved Mixed-Use Facility Construction Documents or any approved changes thereto.

Section 103. Time for Completion of Improvements. The Private Sector will use their best efforts to cause the substantial completion of the construction of the Private Sector Improvements to the Private Sector Parcels referred to in Section 101 twelve (12) months after the date of this Agreement; provided, however, that any tenant improvements or University Tower condominium unit improvements for currently unoccupied property shall be completed within one (1) year after the lease of such space or sale of such condominium unit. The construction of the Redeveloper Improvements to the Retail Parcel 1, Bank Drive-Thru Parcel, and Retail Parcel 2, shall be substantially completed within sixty (60) days after the City substantially completes the construction of the Parking Garage on the Public Sector Parcel, as described in Article V hereof. PMK shall cause the construction of the exterior structural walls (excluding columns) abutting "O" Street, 14th Street and "P" Street rights-of-way for Retail Parcel 1 and Retail Parcel 2 to be substantially completed two (2) months prior to the Completion Date, in order to enable the City to attach the granite facade to such structural walls on or before the Completion Date. The City shall be responsible for attaching the granite facade to the columns and the adjacent areas around the windows abutting "O" Street, 14th Street and "P" Street rights-of-way for Retail Parcel 1 and Retail Parcel 2. PMK shall further cause the North wall of Lot 1 to be substantially completed two (2) months prior to the Completion Date, in order to enable CFSL to attach such North wall on or before the Completion Date.

Section 104. Progress Reports. Each Redeveloper shall make reports in such detail and at such times and as may be reasonably

requested by the City as to the actual progress of the Redeveloper with respect to construction of the Private Sector Improvements in the Private Sector Parcels and Redeveloper Improvements in the Redeveloper Parcels, but such reports shall not be required more frequently than every ninety (90) days.

Section 105. Certificate of Completion.

A. Issuance. Promptly after completion by a Redeveloper of each Private Sector's Improvements and Redeveloper Improvements (excluding tenant improvements and University Tower condominium units' interior improvements) (collectively "Private Improvements") in the Project Area for which such Redeveloper is specifically responsible as described above, in accordance with all provisions of the Project and this Agreement, the City shall, upon request of such respective Redeveloper, cause a final inspection to be made of all the Private Improvements required to be constructed by the particular Redeveloper on a Private Parcel. If all Private Improvements have been substantially completed and are in conformance with the Project, the approved Construction Documents, and this Agreement, the City shall issue to such Redeveloper for each Private Parcel a Certificate of Completion, the form of which is attached hereto and marked as Exhibit "B." The issuance of such a Certificate of Completion by the City shall be a conclusive determination of satisfaction of the agreements and covenants contained in this Agreement with respect to the obligations of that particular Redeveloper and its successors and assigns to construct the Private Improvements on a particular Private Parcel as shown on the Construction Documents and any amendments thereto.

B. Recordation. The Certificate of Completion shall be recorded by the respective Redeveloper in the Office of the Register of Deeds for Lancaster County, Nebraska. If the City shall refuse or fail to issue a Certificate of Completion after a final inspection has been requested and performed, the City shall, within thirty (30) days, provide the Redeveloper with a written statement indicating in what particulars the Redeveloper has failed to complete the Private Improvements in accordance

with the provisions of this Agreement or is otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Redeveloper to take or perform in order to obtain such certification.

Section 106. Contractors: Bonds, Insurance, Ability to Perform.

A. Bonds. PMK and CFSL shall be required to furnish, prior to commencement of construction of their respective Redeveloper Improvements, a \$10,000 penal bond with a good and sufficient corporate surety to be approved by the City and authorized to do business in the State of Nebraska. Such penal bond will be conditioned upon PMK's or CFSL's contractor at all times promptly making payment of all amounts lawfully due to all persons supplying or furnishing the contractor or his or her subcontractors with labor or materials performed or used in the prosecution of the work provided for in the construction contract. PMK and CFSL individually shall also obtain and keep in force at all times prior to acceptance by the City of the Certificate of Completion, a title insurance policy insuring the City against loss of title or interest to their respective Redeveloper Parcels by reason of construction liens, mechanic's liens or similar liens. Proof of such penal bond and title insurance policy shall be promptly supplied to the City and the City shall be supplied, upon demand, with copies of all lien waivers, and shall be entitled to inspect at reasonable times all records of the Redeveloper or its agents regarding such lien waiver procedures.

B. Insurance. Any general contractor chosen by a Redeveloper, or the Redeveloper itself, shall be required to obtain and keep in force at all times until completion of construction policies of insurance upon the Redeveloper Parcel, including coverage for contractors' general liability, standard blasting or explosion, and underground coverage, completed operations, automobile liability, and statutory Worker's Compensation and Employer's Liability insurance. The minimum acceptable limits of liability to be provided by such insurance shall be:

Bodily injury - \$1,000,000 per person or occurrence;
Property damage - \$5,000,000 per occurrence.

Any general contractor chosen by a Redeveloper, or the Redeveloper itself, shall be required to purchase and maintain property insurance upon the Redeveloper Parcel to the full insurable value thereof or in the amount as described in Section 901, whichever amount is less. This insurance shall insure against the perils of fire and extended coverage and shall include "all-risk" insurance for physical loss or damage.

The general contractor or contractors, or the Redevelopers, as the case may be, shall furnish the City and other Redevelopers with a Certificate of Insurance evidencing policies as required above. Such certificate shall specifically indicate that the liability insurance includes all extensions of coverage required and shall state that the insurance company or companies shall give the City at least thirty (30) days written notice in the event of cancellation of, or material change in, any of the policies. The City shall be named as an additional insured on all such policies of liability insurance and the City, Redevelopers, and CR shall be named as an additional insured on all policies of liability and property insurance on the Mixed-Use Facility.

C. Ability to Perform. Each Redeveloper, in choosing any contractor for construction of any of the Redeveloper Improvements on a Redeveloper Parcel, shall do so in part on the basis of ability to perform such contracts.

Section 107. Evidence of Financial Ability of Redevelopers. Each Redeveloper has provided to the City satisfactory evidence of availability of the specific amount of finances necessary for purposes of carrying out the commitment of each Redeveloper in connection with the Project. Such information states the amount and source of liquid assets on hand or immediately available to each Redeveloper for use in the Project; and states the amount and source of debt or bond financing which is available, or committed, to each Redeveloper for use in the Project.

Such information is in a form satisfactory to the Finance Director of the City, and evidence of loan or bond commitments includes all the documents evidencing the loan or bond commitments, and acceptance by the Redeveloper as borrower, the purposes of the loan or bonds, the authorized use of loan or bond funds, and all other terms and conditions of the loan or bond commitment and the acceptance of the loan or bond commitment.

The evidence of financial ability of the Redevelopers and other financial information submitted by each Redeveloper to the City shall be confidential to the extent permitted by law, and the City shall not disclose said information to third parties under any circumstances unless required by law.

ARTICLE II

REPRESENTATIONS AS TO DEVELOPMENT; AGAINST ASSIGNMENT AND TRANSFER

Section 201. Redevelopment. Each Redeveloper represents and agrees that its undertakings, pursuant to this Agreement, have been, are, and will be for the purpose of redevelopment of such Redeveloper Parcels and not for speculation in land holding.

Section 202. Restrictions on Assignments of Rights or Obligations. Each Redeveloper represents and agrees that prior to issuance of the Certificate of Completion by the City for its respective ownership, (1) there shall be no sale or transfer of the Redeveloper or assignment of rights or obligations under this Agreement, or of any interest in any of the corporations which constitute the Redeveloper (other than stock transfers if such corporation's stock is, as of the date of this Agreement, publicly traded or the stock of CFSL), to any party without the prior written approval of the City, which approval shall not be unreasonably withheld, other than written tenant space leases, leases to affiliated entities, institution of a condominium regime, sale of condominium units, mortgages, bond financings, and involuntary transfers by reason of death, insolvency, or incompetency; (2) nor shall any officer of the Redeveloper suffer any unapproved transfer to be made, except by reason of death, insolvency, or incompetency; provided that any Redeveloper may

sell, transfer or assign, without the City's approval, all or any part of their interest in a condominium unit of a condominium regime properly declared pursuant to the provisions of the Nebraska Condominium Act in the Redeveloper Parcels. The City shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval, that:

1. Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to fulfill the obligations undertaken to this Agreement by the particular Redeveloper for a particular Private Parcel; and

2. Any proposed transferee, by instrument satisfactory to the City and in form recordable in the Office of the Register of Deeds, shall for itself and its successors and assigns and for the benefit of the City, have expressly assumed all of the obligations of the particular Redeveloper for a particular Private Parcel under this Agreement and agreed to be subject to all the conditions and restrictions to which the particular Redeveloper is subject. No transfer of, or change with respect to ownership in the Private Parcels 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 Agreement with respect to the Private Parcels and the construction of the Private Improvements that would have occurred had there been no such transfer or change; and

3. 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 the particular Redeveloper in writing; and

4. Each 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 Project and the Redevelopment Plan; 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 particular Redeveloper of any of its obligations with respect to the construction of the Private Improvements as described in this Agreement.

Nothing herein contained shall prohibit any 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 grants approval hereunder or after the City has issued a Certificate of Completion on the Redeveloper's particular Private Parcel.

ARTICLE III

MORTGAGE FINANCING; RIGHTS OF MORTGAGEES

Section 301. Limitation Upon Encumbrance of Property. Prior to issuance of the Certificate of Completion by the City for their respective ownerships, neither the Redevelopers nor any successors in interest to the Private Parcels shall engage in any financing or any other transaction creating any mortgage or any other encumbrance or lien upon any of the Private Parcels, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to any of such Private Parcels, except for the purposes of obtaining funds only to the extent necessary to purchase such respective Private Parcel, construct and reconstruct the Private Improvements thereon, including tenant space and condominium unit improvements, and to finance, operate, maintain, and repair the Private Parcel and the improvements thereon. Any financing obtained by a Redeveloper from the Nebraska Investment Finance Authority or any other bond financing is a permitted encumbrance on that Redeveloper's particular parcel. All mortgages and other encumbrances or liens shall be recorded in the appropriate public records in a timely manner following their execution.

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

Section 302. Mortgagee Obligated to Construct. Prior to the issuance of a Certificate of Completion and if the holder of any mortgage authorized by this Agreement obtains title to any of the Private Parcels as a result of foreclosure proceedings or action in lieu thereof, or if any other party obtains title to any of the Private Parcels from the holder of any mortgage authorized by this Agreement and any other party who thereafter obtains title to any of the Private Parcels from or through such holder or

purchaser, they shall be obligated by the provisions of this Agreement to construct or to complete the Private Improvements on the particular Private Parcel or to guarantee such construction and completion pursuant to the terms of this Agreement. Any such party shall be obligated to commence construction within four (4) months from the date of acquisition of title by said party and to complete construction in accordance with this Agreement within twenty-four (24) months from the date of such acquisition. Such party shall also be obligated to complete construction of the tenant improvements to the particular Private Parcel in accordance with this Agreement within one (1) year after lease of such tenant space and to complete construction of a condominium unit's improvements in accordance with this Agreement within one (1) year after the sale of such condominium unit.

Section 303. Copy of Notice of Default to Mortgagee. Whenever the City shall deliver any notice or demand to a particular Redeveloper or any of them with respect to any breach or default by a Redeveloper or any of them of their obligations or covenants in this Agreement, the City shall at the same time forward a copy of such notice or demand to each holder of any mortgage authorized by this Agreement at the last address of such holder, as shown in the Register of Deeds Office of Lancaster County, Nebraska or as provided by such mortgagee.

Section 304. Mortgagee's Option to Cure Defaults. If thirty (30) days after notice or demand with respect to any breach or default, as referred to in Section 303, such breach or default remains uncured, each such holder shall (and every mortgage instrument made after the date of this Agreement, but prior to issuance by the City of the Certificate of Completion for the applicable ownership shall so provide) have the right, at its option, to cure or remedy such breach or default within sixty (60) days after the notice or demand as referred to in Section 303, 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.

Section 305. City's Option to Purchase Redeveloper Parcels. In any case where the holder of any mortgage obtains title to any of the Private Parcels as a result of foreclosure proceedings or action in lieu thereof, prior to issuance by the City of the Certificate of Completion, the City shall (and any additional mortgage instrument made after the date of this Agreement with respect to any of the Private Parcels prior to issuance by the City of the Certificate of Completion for the applicable ownership shall so provide) be entitled, at its option, to a conveyance to it of any such Private Parcel upon payment to such holder of an amount equal to the sum of:

(1) The mortgage debt at the time of foreclosure or action in lieu thereof (less all the appropriate credits including those resulting from collection and application of rentals and other income received during foreclosure proceedings);

(2) All expense with regard to foreclosure;

(3) The net expense, if any, incurred by such holder in and as a direct result of its subsequent management and operation of such Private Parcel;

(4) The depreciated cost of any improvement made by such holder;

(5) An amount equal to the interest that would have accrued on the aggregate of such amounts had all such amounts become a part of the mortgage debt and such debt had continued in existence; and

(6) All other reasonable holding costs actually incurred as to such Private Parcel.

The City's option hereunder shall remain in force for thirty (30) days after the date the holder of any mortgage obtains title to such Private Parcel and notifies the City, unless the City waives the option prior to the end of such 30-day period. In the event that the City should exercise its option to purchase under this Section 305, the City agrees to pay into the appropriate fund securing the tax increment indebtedness referred to in Article IX, in lieu of taxes, an amount which would have been paid by Redeveloper had it remained the owner of the Private Parcel purchased pursuant to this option for such period that the City owns said Private Parcel.

Section 306. Mortgage Rights Applicable to Other Forms of Encumbrance. The rights and obligations of this Agreement relating to mortgages of any of the Private Parcels shall apply to any other type of encumbrance on any of Private Parcels, and any of the stated rights, obligations, and remedies of any party relating to mortgage foreclosures shall be applicable to procedures under any deed of trust, bond indenture, or similar method of encumbrance, all of which shall be duly recorded in a timely manner in the public records of Lancaster County, Nebraska.

ARTICLE IV

ACQUISITION AND CONVEYANCE

Section 401. Acquisition by Private Sector; Replat of University Square Addition.

Pursuant to a petition to vacate the Alley on Block 39 presented by the Private Sector and CR, the City will vacate said Alley. CFSL, as nominee for Private Sector, presently owns or has options to acquire all right, title and interest to the East 1/2 of Block 39, including the abutting Alley. CFSL, as nominee for Private Sector, and City are in the process of vacating said Alley and subdividing and replatting the East 1/2 of Block 39 into five (5) lots and three (3) outlots, as described in the Plat of University Square Addition. The five (5) lots shall have the dimensions and heights set forth in said plat. However, in the event that the Mixed-Use Facility is destroyed or the Parking Garage is terminated after its destruction, pursuant to Section 502, Lots 1, 2, 4, and 5 shall be resubdivided so that Lots 1, 2, 4, and 5 have a uniform height of fourteen (14) feet.

Section 402. Conveyance of East 1/2 of Block 39 to City. Price agrees to donate to the City, on an "as is," "where is" basis, Lots 1, 2, and 3, Block 39, except the west twelve (12) feet of Lot 3 ("Donated Property"). Price will retain title to the west twelve (12) feet of Lot 3 and such area will be replatted as Outlot B, subject to the easements described in this Agreement. Subject to all the terms and conditions of this Agreement, Redevelopers and CR agree to cause CFSL, as nominee for the Private Sector, to convey the balance of the East 1/2 of

Block 39 (Lots 13, 14, 15, 16, 17 and 18 of Block 39) ("Balance of E 1/2 of Block 39") on an "as is," "where is" basis to the City, and the City agrees to pay to CFSL, as nominee for the Private Sector, the purchase price of Two Hundred Eighty Three Thousand Four Hundred Eighty-Seven and No/100 Dollars (\$283,487.00), utilizing proceeds from the City's Advance Acquisition Fund.

Section 403. Conveyance of Retail Parcel 1, Bank Drive-Thru Parcel, Retail Parcel 2, and Outlot A. The City will retain ownership of the Public Sector Parcel (Lot 3 and Outlot C) upon which the Parking Garage will be constructed. Subject to all the terms and conditions of this Agreement and in consideration of Three Hundred Sixty Seven Thousand Four Hundred Eighty-Seven and No/100 Dollars (\$367,487.00), to be paid by Private Sector to the City, the City agrees to grant the Private Sector 301 first rights of refusal to lease parking stalls, pursuant to Section 505 and to reconvey the remainder of the East 1/2 of Block 39 as follows:

Retail Parcel 1 (Lots 1 and 4) to CR
Bank Drive-Thru Parcel (Lot 2) to CFSL
Retail Parcel 2 (Lot 5) to Pusch
Outlot A to CFSL as nominee for Private Sector.

Section 404. Deeds.

A. Form of Deeds. Price has placed the Donated Deed in escrow in 1988. On or before May 31, 1989, (1) Price will donate to the City title to the Donated Property by a Special Warranty Deed ("Donated Deed"); (2) Price will retain title to Outlot B; and (3) CFSL, as nominee for Private Sector will convey to the City title to the Balance of E 1/2 of Block 39 by a Special Warranty Deed ("Balance of E 1/2 of Block 39 Deed"). After (1) delivery of the Donated Deed from Price to the City, (2) delivery of the Balance of E 1/2 of Block 39 Deed from CFSL, as nominee for Private Sector, to the City, and (3) approval of the University Square Plat, the City shall convey title, on or before April 30, 1989, to the appropriate Redevelopers and CR to the Redeveloper Parcels by delivering Special Warranty Deeds except that City shall convey Outlot A to CFSL, as nominee for the Private Sector, by quitclaim deed, reserving unto City the

Outlot A Easements (collectively "Redeveloper Parcels Deeds") in form and content mutually satisfactory to the City and CFSL, as nominee for the Private Sector. Such conveyance and title of the East 1/2 of Block 39 and the Redeveloper Parcels shall be subject to all conditions, covenants, and restrictions set forth or referred to elsewhere in this Agreement, and shall be free and clear of all taxes, special assessments, and liens, encumbrances, encroachments, and boundary line disputes, and other recorded public utility easements. The Donated Deed, Outlot B and the Balance of E 1/2 of Block 39 Deed and Redeveloper Parcel Deeds (collectively "Deeds") shall also be subject to such further easements, rights, restrictions, and covenants as the parties may agree subsequent to such conveyance to implement the purpose and spirit of this Agreement.

B. Time and Place for Delivery of Deeds. CFSL, as nominee for Private Sector, and City shall exchange the Deeds to and possession of the East 1/2 of Block 39 to City and the Redeveloper Parcels to the appropriate Redevelopers and CR on or before May 31, 1989.

Closings shall take place at the office of the City Attorney's Office, 555 South 10th Street, Lincoln, Nebraska. It is understood and agreed between the parties that time is of the essence of this Agreement.

C. Recordation of Deeds. Redevelopers, CR and City, at their own expense, shall promptly file the Deeds for recordation in the Office of the Register of Deeds of Lancaster County, Nebraska.

D. Title Insurance for the East 1/2 of Block 39. CFSL, as nominee for Private Sector has obtained a title insurance commitment issued by American Title Insurance Company authorized to issue policies of title insurance in the State of Nebraska, through its agent, State Title Services, Inc., agreeing to insure in City marketable fee title to the East 1/2 of Block 39 and the appropriate Redevelopers and CR marketable fee title to the Redeveloper Parcels, subject only to the terms, conditions and easements of University Square Addition, and the covenants,

conditions, and easements as set forth in this Agreement and in the Deeds. Redeveloper shall, at time of closing, pay the cost of any owners' or mortgagees' title insurance policy requested by Redeveloper or Redeveloper's lender.

E. City's Authority. Upon request, the City will provide to a Redeveloper or its lenders a legal opinion as to the authority of the City to engage in the Project, to convey the Redeveloper Parcels, and to bind itself to the terms and conditions of this Agreement, and whether or not all steps have been taken to legally exercise that authority. The City hereby represents that it is of the opinion that it has such authority and that all necessary steps have been or will be taken to legally exercise that authority.

F. Access to Project Area. Prior to and after the exchange of the Deeds, each party shall permit representatives of the other party to have access to any part of the Project Area at all reasonable times for the purpose of obtaining data and making tests as may be necessary to carry out this Agreement.

Section 405. Intention. It is the intent of the parties that the Deeds are to convey all the rights and obligations as stated therein without dependence upon the necessity or validity of said replat of University Square Addition, and that if said plat is in any way defective or invalid for the reason that air space is therein platted, then the Deeds shall be construed as permanent air space rights and easements to Lot 3, as approved by the City and recorded in the Office of the Lancaster County Register of Deeds.

ARTICLE V

CONSTRUCTION OF PARKING GARAGE ON AND IN THE PUBLIC SECTOR PARCEL

Section 501. Construction of Parking Garage. The City will be responsible for all costs in regards to design, site preparation, construction, maintenance, repairs and replacement of the Parking Garage, including, without limitation, the following activities on the East 1/2 of Block 39: asbestos removal; demolition; site clearance; testing; foundation and debris removal; soil fill and compaction; relocation and capping of the sanitary

sewer in the East 1/2 of the Alley and all utilities on the East 1/2 of Block 39, if necessary, in relation to the Construction Documents ("Utility Relocation"); construction of footings, pilings, columns, floors, exterior lighting, exterior finished walls and columns (except windows, doors, and first-floor structural walls), canopies, signage, and other improvements as shown on the Mixed-Use Facility Schematic Drawings and Mixed-Use Construction Documents, except for the cash contributions and Redeveloper Improvements as set forth in Section 1002 hereof. However, if the City locates, replaces or repairs any utility in the West 1/2 of the Alley (Outlot A) and the bricks constituting the Outlot A surface are removed or disturbed, the City shall, at its cost and expense, replace said bricks to their original condition and position. There shall be no party walls between the improvements on the East 1/2 of Block 39 and the CFSL Building or the University Towers on the west half of Block 39. The City shall cause the Parking Garage and Streetscape Improvements to be bid according to its own procedures and subject to all applicable ordinances, provisions of the Lincoln City Charter, and state statutes.

The City will use its best efforts to complete the construction of the Parking Garage by no later than the Completion Date. The City's contract with the lowest responsible bidder will include the payment of liquidated damages to the City by the City's contractor in the event that the construction is not completed by the Completion Date. Notwithstanding the above, the City reserves the right to reject bids for the construction of the Parking Garage if the bid(s) submitted by the lowest responsible, responsive bidder(s) exceeds the incremental bid packages for the construction costs as budgeted under Section 1001 hereof. If the bid(s) submitted by the lowest responsible, responsive bidder(s) exceed the Maximum Budget as described in Section 1001 plus the contingent contribution to be contributed by NebHelp in the event of Cost Overruns as described in Section 1002, then the City may, at its option, within sixty (60) days of receipt of the bid(s) (i) increase the monies to be

allocated to construction above the Maximum Budget so as to equal the price submitted by the lowest responsible bidder; or (ii) the City and the Redevelopers shall review and revise the approved Construction Documents and incremental bid packages for the Parking Garage for the purpose of reducing the construction costs, and as soon as reasonably possible thereafter, advertise for and accept new bids thereon. If, after such revision and rebidding, the bids still exceed the Maximum Budget and the contingent contribution to be contributed by NebHelp in the event of Cost Overruns, the City may terminate this Agreement.

Section 502. Use and Operation of Parking Garage; Termination. The Parking Garage shall be used as a multi-level garage for the off-street parking of vehicles, and accessory incidental uses normally accompanying such parking garages for not less than the useful life of the Parking Garage; provided that the City will design, construct, maintain, repair and replace the Parking Garage to have a thirty (30) year minimum useful life; and further, provided that this restriction shall terminate and the City has the option to terminate the operation of the Parking Garage prior to the end of such useful term if: (a) the City (by declaring the Parking Garage to be surplus) reasonably determines that the Parking Garage is no longer required to serve the reasonable needs of the then existing uses located within the Project Area; (b) modes of transportation change so radically that the operation of a Parking Garage serving the Project Area becomes unnecessary and impractical, particularly in, but not limited to, the event that the general use of automobiles is discontinued by the general public; or (c) if, following the 30th anniversary of the opening of the Parking Garage, the Parking Garage shall be destroyed or damaged in whole or in part by fire or other casualty of any kind or nature, ordinary or extraordinary, foreseen or unforeseen, the City shall have no obligation to restore said Parking Garage. In the event of (c) above, the City elects not to restore the Parking Garage, it shall so notify the Redevelopers within ninety (90) days following a determination of material damage or destruction and the Private Sector

shall thereupon (for a period of sixty (60) days following a receipt of written notice of such damage or destruction) have the right to exercise their option to purchase the Parking Garage on the terms and conditions hereinafter provided.

Section 503. First and Second Options to Purchase Parking Garage. Should the City, pursuant to provisions (a), (b) or (c) of Section 502 hereof, elect to terminate the operation of the Parking Garage, the Private Sector collectively, or any two members of the Private Sector collectively, and then Price, NebHelp and CFSL respectively shall have first options to purchase the Parking Garage, together with all improvements thereon, for a purchase price equal to the then fair market value thereof less the amortized contribution by the Private Sector of \$360,000 ("Purchase Price"). The first option to purchase the Parking Garage shall run to, in order: 1) The Private Sector collectively; 2) any two members of the Private Sector collectively; 3) Price; 4) NebHelp; 5) CFSL; or their successors and assigns, and said parties, in that order, shall be referred to "Private Optionee". Said fair market value shall be determined by an independent appraiser mutually satisfactory to the City and the Optionee. If no such appraiser is found to be mutually satisfactory, the City and the Private Optionee shall each be entitled to select one (1) MAI-certified or similarly accredited appraiser, each of whom shall appraise the property at the separate cost and expense of each party. If both appraisers' fair market value determinations are within ten percent (10%) of each other, the mean average between the two shall be determined and said mean average shall be the fair market value. If the fair market values of the two appraisals are not within ten percent (10%) of each other, the two appraisers shall jointly select a third qualified appraiser who shall appraise the Parking Garage and the City and Private Optionee shall each pay fifty percent (50%) of the cost of the third appraiser. When the third appraisal is completed, then the high and low fair market value determination shall be disregarded and the middle fair market value determination shall be the fair market value for the Parking Garage. The

Private Optionee shall have one hundred twenty (120) days following the determination of the Purchase Price in which to exercise its option.

The Purchase Price, once determined, shall be paid within sixty (60) days following notice of exercise being delivered to the City and concurrently with the receipt thereof, the City shall convey the Parking Garage to the Private Optionee or their designee by warranty deed, subject to matters of record and easements for existing underground utilities. If the first option is exercised by the Private Sector collectively or any two members of the Private Sector collectively, the proportionate interests of the Private Sector shall be in accordance with their agreement to the same, but if no agreement is made, then in accordance with the respective proportionate rights of first refusal to lease parking under this Agreement. In the event that a Private Optionee does not exercise its first option to purchase the Parking Garage from the City, CR and/or PMK shall have a second option to purchase the Parking Garage from the City, together with all improvements thereon, for a purchase price equal to the then fair market value thereof. Fair market value shall be determined in the same manner provided above. CR and/or PMK's second option shall be exercised and the purchase price paid within the same time periods provided for the first option after the Private Optionees refuse to exercise their first option.

Section 504. City's Intention; Standards of Operation. Subsequent to completion of the Parking Garage, it is the express intention of the City to retain its interest in the Parking Garage and to operate the Parking Garage, or cause the same to be operated, in accordance with commonly accepted industry standards for parking garages of a similar size and nature.

Section 505. Monthly Parking; Private Sector's Right of First Refusal. So long as the Parking Garage is in operation, the Private Sector shall have the following rights of first refusal to lease, for the use with Private Parcels on Block 39, parking permits at the then current monthly rates:

A.	The record owner of CFSL Building	90
B.	The record owner of NebHelp Building	145
C.	The record owner of University Tower	66

Such right of first refusal may be exercised by each or any of the Private Sector or 1) their successors and assigns which touch and concern Block 39; 2) an entity located within 300 feet of Block 39; or 3) an entity involved in a related activity, for the amounts of parking described above, subject to availability of monthly parking permits at the time of the exercise of such right, it being understood that the City shall not be required at any time to issue more than 301 permits in the Parking Garage for monthly parking.

Except as stated herein, the rights granted to the Private Sector under this Section shall be similar to the monthly parking rights granted to monthly parkers in other City garages. However, in the event the Private Sector does not initially exercise all of the 301 first rights, the balance may be exercised by the Private Sector at any time by placing its rights at the top of a waiting list, if any, compiled by the City. The Private Sector and the City agree that the sixty-six (66) stalls for University Towers or its successors and assigns are for Residential Parking and shall be marked "Residential Parking" as needed based upon the timing of sales of individual condominium units in University Towers. However, the City shall not enforce any such restriction.

Except for Residential Parking, monthly parking spaces will not be assigned within the Parking Garage by the City, but the City may, at its option, segregate the location of those spaces devoted primarily to monthly parking from those devoted primarily to hourly parking and the City may designate the most convenient spaces or areas for hourly parking.

ARTICLE VI

CONSTRUCTION OF STREETScape IMPROVEMENTS BY CITY; MAINTENANCE

Section 601. Design, Construction. Each Private Sector will replace any damaged or destroyed streetscape improvements in the public right-of-way of "O" Street, "P" Street, and 13th Street on the west half of Block 39 adjacent to their Private Sector Parcels. Utilizing special assessment revolving funds, and, if

available, other public financing as described in Article X below, the City will construct Streetscape Improvements in the public right-of-way of "O" Street, "P" Street, and 14th Street on the east half of Block 39 adjacent to the Mixed-Use Facility, as shown on the Mixed-Use Facility Construction Drawings. CFSL, Pusch and CR agree to participate in and as necessary to either petition for or to not protest against the creation of special assessments districts, including business improvements districts, for the construction and installation of the Streetscape Improvements.

The City will pay up to One Hundred Thousand Dollars (\$100,000) for the Streetscape Improvements. Each Redeveloper and the City will pay for any curb cuts and driveway entrances located in the public right-of-way that serves that Redeveloper's Private Parcel or the City's Public Sector Parcel. The City will cause the construction of the Streetscape Improvements to be completed by no later than June 31, 1990.

Section 602. Maintenance Districts. Each Redeveloper and CR agrees to participate in and, as necessary, to either petition for or to not protest against the creation of special assessment districts, including business improvement districts, for the maintenance, repair, reconstruction, and replacement of streetscape improvements as described above in the public right-of-way of "O" Street, "P" Street, 13th Street, and 14th Street adjacent to the Project Area. Such participation may be in existing districts or in districts to be created in the future, as the case may be.

ARTICLE VII

EASEMENTS TO BE GRANTED

Section 701. Intention. It is the intention of City, Redevelopers, and CR that the Mixed-Use Facility and Private Sector Parcels and their City Improvements and Private Improvements shall have all necessary and reasonably desirable easements for support, installation, construction, maintenance, repair, replacement, improvement, ingress and egress for the Mixed-Use Facility, City Improvements and Private Improvements as shown on the Construction Drawings. City, Redevelopers, and CR deem it

desirable to impose a general plan of easements, covenants, conditions, reservations, and restrictions to provide for the foregoing.

Section 702. Declaration. In order to effectuate the foregoing, the City, Redevelopers, and CR do hereby certify and declare that each does hereby establish the covenants, conditions, restrictions, and reservations hereinafter contained for the design, installation, construction, protection, maintenance, repair, replacement, improvement, ingress and egress, and development of the Mixed-Use Facility, City Improvements and Private Improvements shown on the Construction Drawings. These covenants, conditions, restrictions, easements, and reservations shall run with the Mixed-Use Facility and Private Sector Parcels, and each lot thereof, and shall be binding upon all persons having or acquiring any right, title, or interest therein or any portion thereto, and shall inure to the benefit of and bind each owner thereof and their respective successors and assigns in interest and are imposed upon the Mixed-Use Facility and Private Sector Parcels and each and every lot thereof as a covenant running with the land in favor of the Parcel(s) intended to be benefited thereby for the time period specified, and if no time period is specified, then for a period of thirty (30) years and thereafter for so long as is reasonably required for any then existing City Improvements and Private Improvements in the Mixed-Use Facility and Private Sector Parcels.

Section 703. Mutual Cooperation. The successful operation of the City Improvements and Private Improvements to be constructed and operated in the Mixed-Use Facility and Private Sector Parcels are dependent upon the continued cooperation and good faith of the owners and users of all of the interrelated uses therein. Such cooperation shall be required of all parties interested in any phase or element of the Mixed-Use Facility and Private Sector Parcels. Every covenant, restriction, or easement herein stated shall be construed in recognition of this interdependence and need for continued mutual cooperation. Any easement or license herein or hereinafter granted by the owner of any of the lots or interests in the Mixed-Use Facility and Private

Sector Parcels for the use or enjoyment of the public or for another owner or user of any other interest in the Mixed-Use Facility and Private Sector Parcels shall be liberally construed with the intention of providing such rights and privileges as may be reasonably necessary or convenient to adequately and properly operate the benefited facilities and properties without encroaching or interfering needlessly with the subservient facility or property. No person or entity involved with or interested in any part of the Mixed-Use Facility and Private Sector Parcels shall take any action or permit any action to be taken to interfere with the free beneficial use and enjoyment of any easement provided for herein or hereafter, or as may be expressly agreed by the interested parties, or as may be necessary for proper maintenance or repairs. This covenant shall have no time limit and shall last as long as any of the City Improvements and Private Improvements to be constructed in the Mixed-Use Facility and Private Sector Parcels.

Section 704. Construction Easement for Parking Garage. The City, Redevelopers, and CR shall grant to each other a temporary construction easement to use and temporarily occupy during the initial construction of the Mixed-Use Facility and Private Sector Parcels, and appurtenances and improvements thereto, for the accommodation of construction equipment, construction activity, materials, and excavated earth over and across the Mixed-Use Facility and Private Sector Parcels. The grant of said easement shall be at no cost to any party and shall terminate upon completion of the City Improvements and Private Improvements, final inspection and acceptance thereof by the City and Redevelopers.

Section 705. Easements for Support Structures. This Agreement includes as easements the locations for all support structures to be constructed by the City at its cost and expense, (except as hereinafter provided in Section 1002). The City will be granted the permanent right to maintain, repair, replace, construct and reconstruct such support structures as may from time to time be necessary or appropriate by the City, and will be granted permanent rights of access to and through said Retail Parcel 1, Bank Drive-Thru Parcel, and Retail Parcel 2 for such purposes.

Section 706. Future Skywalk Access and Easements. In the event that a skywalk bridge (or tunnel) is constructed over (or under) "O" Street between 13th and 14th Streets, or over (or under) 13th Street between "O" Street and "P" Street, or both, then each Private Sector will:

A. Grant to the City for public access, without further consideration, the necessary skywalk access easements (both vertical and horizontal) through their respective Private Sector Parcels to allow easy and convenient connection between the skywalk bridges (or tunnels) to the Mixed-Use Facility and their Private Sector Parcels for such public access.

B. Construct, secure, and maintain, at each Private Sector's own expense, skywalk corridors through each Private Sector Parcel pursuant to the City of Lincoln's skywalk design policies then in effect, and grant to the City skywalk corridor easements covering the whole of such skywalk corridors.

The Private Sector shall plan for the proposed future location of the skywalk corridors through their respective properties so that Private Improvements and future improvements do not significantly interfere with the implementation of a skywalk system for Block 39.

However, all parties recognize and agree that it is not currently feasible to specifically locate and delineate such skywalk access easements and corridor easements, but mutually agree to use their best efforts to reach a mutual agreement on the same, and, in the event that agreement cannot be reached, the parties agree that the City may designate the location and width of said skywalk access easements and skywalk corridor easements pursuant to Section 707.

Section 707. Specific Easements. Grantor hereby grants and/or reserves and/or creates the following easements, licenses and rights, such easements, licenses and rights being permanent unless otherwise provided:

A. To the City of Lincoln d/b/a Lincoln Electric System a non-exclusive easement within Lots 1, 2, 4, and 5, and Outlot A, for the purpose of installing and maintaining such meters, and utility conduits as may be required in connection with providing

electrical service to Lots 1, 2, 4, and 5, and Outlot A, the improvements thereon, and Outlot A. Said installation shall be implemented in accordance with the Construction Documents. Said maintenance shall be undertaken, to the extent reasonably practical, in the least disruptive manner with respect to the then uses and improvement of Lots 1, 2, 4, and 5, and Outlot A, and such improvements shall promptly be restored to their original condition at no cost to the Owners of Lots 1, 2, 4, and 5, and Outlot A.

B. To Minnegasco a non-exclusive easement within Lots 1, 2, 4, and 5, and Outlot A, for the purpose of installing and maintaining such meters and Utility Conduits as may be required in connection with gas service to Lots 1, 2, 4, and 5, and Outlot A, it being expressly understood that the Utility Conduits on the customer side of the meters shall be owned and maintained by the Owner of the Lot in which said Utility Conduits are located or by the customer for such gas service. Said installation shall be implemented in accordance with the Construction Documents. Said maintenance shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then uses and improvements of Lots 1, 2, 4, and 5, and Outlot A, and such improvements shall be restored to their original condition at no cost to the Owners of Lots 1, 2, 4, and 5, and Outlot A.

C. To Lincoln Telephone and Telegraph Co. a non-exclusive easement within each of Lots 1, 2, 4, and 5, and Outlot A, for the purpose of installing and maintaining such telephone connecting equipment and Utility Conduits as may be required to provide telephone service to Lots 1, 2, 4, and 5, and Outlot A, the improvements thereon, and Outlot A. Said installation shall be implemented in accordance with the Construction Documents. Said maintenance shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then uses and improvements of the Project and such improvements shall promptly be restored to their original condition at no cost to any Owner of Lots 1, 2, 4, and 5, or Outlot A.

D. A non-exclusive easement for the benefit of and appurtenant to Lot 3 over such portions of Lots 1, 2, 4 and 5 (as reasonably required) for the purpose of allowing the Owner of Lot 3 to install Utility Conduits and meters thereon in accordance with the Construction Documents and to operate and maintain same for the purpose of providing utility service to Lot 3; provided that such installation and/or maintenance shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then uses of Lots 1, 2, 4 and 5 and the improvements thereon and such improvements shall promptly be restored to their original condition at no cost to the Owner of Lots 1, 2, 4 and 5.

E. A non-exclusive easement for the benefit of and appurtenant to Lots 1, 2, 3, 4 and 5 over such portions of Lots 1, 2, 3, 4 and 5 (as reasonably required) for the purpose of allowing the Owner of Lots 1, 2, 3, 4 and 5 to install Utility Conduits and meters thereon in accordance with the Construction Documents and to operate and maintain same for the purpose of providing utility service to Lot 1, 2, 3, 4 and 5; provided that such installation and/or maintenance shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then uses of Lots 1, 2, 3, 4 and 5 and the improvements thereon and such improvements shall promptly be restored to their original condition at no cost to the Owner of Lots 1, 2, 3, 4 and 5.

F. Subject to the terms and conditions of a Private Skywalk Agreement between the Private Sector, dated _____ and recorded as Instrument Number _____ in the Lancaster Register of Deeds Office ("Skywalk Agreement"), a non-exclusive easement for the benefit of and appurtenant to the Skywalk over such portions of Lot 3, University Towers, CFSL Building and NebHelp Building (as reasonably required) for the purpose of allowing the Owners of the Skywalk to install the Skywalk and Utility Conduits and meters thereon in accordance with the Construction Documents and to operate and maintain same for the purpose of providing support, access and utility service to the Skywalk; provided that such installation and/or maintenance shall be undertaken, to the

extent reasonably practicable, in the least disruptive manner with respect to the then uses of Lot 3, University Towers, CFSL Building and NebHelp Building and the improvements thereon, and such improvements shall promptly be restored to their original condition at no cost to the Owner(s) of Lot 3, University Towers, CFSL Building and NebHelp Building.

G. A non-exclusive easement for the benefit of and appurtenant to Lots 1, 2, 3, 4, and 5, over and under such portions of Lots 1, 2, 3, 4, and 5, and along the boundary lines thereof for the construction and maintenance of caissons, other elements of foundations and supports as may be reasonably required by the Construction Documents for the improvements to be constructed on Lots 1, 2, 3, 4, and 5; provided that such construction and/or maintenance shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then uses of Lots 1, 2, 3, 4, and 5 and the improvements thereon and such improvements shall promptly be restored to their original condition at no cost to the Owner of Lots 1, 2, 3, 4, and 5.

H. For the benefit of and appurtenant to each lot of the Mixed-Use Facility a non-exclusive easement:

1. To construct, maintain and use columns, footings, foundations and other structural supports in, under and through each Lot to support each Lot's use and/or to house Utility Conduits in such columns, footings, foundations and supports, all in accordance with the Construction Documents.

2. To connect and coordinate the drainage system of the Parking Garage to the extent required by the Construction Documents.

3. To connect and coordinate the smoke exhaust system of Lots 1, 2, 4 and 5 with that of the Parking Garage on Lot 3 to the extent required by the Construction Documents.

4. To enter upon and through and transport and use personnel, materials, and equipment on and over each Lot to the extent necessary to develop the Mixed-Use Facility, and to maintain, repair and rebuild same.

In using all of the foregoing easements the Owner of a Lot, and anyone using said easements pursuant to such Owner's authorization, shall coordinate same with the construction of the improvements on the Mixed-Use Facility. The utilization of the foregoing easements for the benefit of each Lot shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then use of the other Lots and

the improvements thereon and such improvements shall promptly be restored to their original condition at no cost to the Owner of the other Lots.

I. An exclusive easement for the benefit of and appurtenant to the Skywalk to connect the Skywalk to the Mixed-Use Facility, CFSL Building, NebHelp Building and University Towers as provided in the Construction Documents. Such connection shall be undertaken, to the extent reasonably practicable, in the least disruptive manner with respect to the then existing uses of the Mixed-Use Facility, CFSL Building, NebHelp Building, and University Towers. Said properties shall promptly be restored to their original condition at no cost to the Owners of Mixed-Use Facility, CFSL Building, NebHelp Building and University Towers other than any assessments for the construction of the Skywalk for which the Private Sector is responsible by separate Skywalk Agreement.

J. For the benefit of University Towers, a non-exclusive easement for use as an emergency fire exit through the Mixed-Use Facility on Lot 3 as specified in the Construction Documents.

K. A non-exclusive easement for the benefit of and appurtenant to Lot 1 for use as an emergency exit through the west five (5) feet of Lot 2 and for the benefit of and appurtenant to Lots 4 and 5 for use as an emergency exit through Lot 3.

L. A non-exclusive easement for the benefit of and appurtenant to Lots 1, 2, 3, 4, and 5 through that portion of Lots 2, 3, and Outlot A for ingress and egress for the purpose of removing trash from Lots 1, 2, 3, 4, and 5. The trash shall be stored inside Lots 1 and 3, and at no time shall the owner of Lots 1, 2, and 3 cause or permit trash to be stored outside of their respective lots. Such easement shall be used (i) in the least disruptive manner to the improvements on each Lot, (ii) subject to and in compliance with all security precautions of the owner or operator of the improvements on each Lot, and (iii) only during those hours from time to time designated by the owner or operator of the improvements on each Lot when the easement area free of trash removal operations is not reasonably necessary for business operations of the improvements on each Lot.

In using the easement for such purposes, the owner or operator of improvements on Lots 1, 2, 3, 4, and 5 shall not be permitted to leave any litter or other refuse in the improvements on any Lot or to damage the improvements on any Lot in any manner, and in the event of any damage shall promptly cause same to be repaired or restored at no cost or expense to the owner or operator of the improvements on any Lot.

M. A nonexclusive easement for the benefit of and appurtenant to Lots 4 and 5 on and through Lot 3 for the purpose of storing trash receptacles, air-handling equipment and storage under an entrance/exit ramp (such area to be included in the Mixed-Use Facility Construction Documents) and for ingress and egress for the purpose of removing the trash so stored. All architectural fees and added construction costs required to locate a trash storage area under the entrance/exit ramp shall be the responsibility of and be paid by PMK prior to the initiation of the change order for such change. The trash area in Lot 3 shall be totally enclosed at the sole cost and expense of the owner or operator of the improvements on Lots 4 and 5. The owner or operator of Lots 4 and 5 shall have an easement for and be obligated to maintain said trash area. Such easements shall be used in the least disruptive manner to the improvements on Lot 3, and subject to and in compliance with all security precautions of the owner or operator of the improvements on Lot 3. In using the easements for such purposes, the owner or operator of the improvements on Lots 4 and 5 shall not leave any litter or other trash, not stored in trash receptacles, on Lot 3 and shall not damage the improvements on Lot 3, and in the event of any damage shall promptly cause the same to be repaired at no cost or expense to the City.

N. A nonexclusive easement for the benefit of and appurtenant to Lot 3 over and on Outlot B for the purpose of constructing and installing the stairwell access and entranceway pavers and installing the bushes and landscaping amenities, presently or in the future. In addition, the owner of Lot 3 shall have a nonexclusive easement on and through Outlot B for the purpose of maintaining and repairing the stairwell access,

entranceway pavers, and landscaping. The owner or operator of Outlot B shall not be responsible for the maintenance of the stairwell access, entranceway pavers, and landscaping which responsibility shall be that of the owner of Lot 3. In using the easements for such purposes, the owner of Lot 3 shall not damage the improvements presently located on Outlot B, and in the event of any damage shall promptly repair the same at no cost to the owner or operator of the improvements on Outlot B.

O. An exclusive perpetual easement for the benefit of and appurtenant to University Towers over that top portion of Lot 3 (N 1/2 of E 1/2 of Block 39) which is required in order to enable the Owners and Users of University Towers to have an unobstructed view over Lot 3, except that elevator towers, stairwell entrances, and associated structures may be located on the top level of Lot 3.

P. An exclusive perpetual easement for the benefit of and appurtenant to CFSL Building over that top portion of Lot 3 (S 1/2 of E 1/2 of Block 39) which is required in order to enable the Owners, Tenants, and Users of CFSL Building to have an unobstructed view over Lot 3, except that elevator towers, stairwell entrances, and associated structures may be located on the top level of Lot 3. Additionally, it is understood that the elevator in Outlot C will not be installed, however the shaft and tower for such elevator will be constructed so that the elevator can be installed in the future, which may necessitate increasing the height of such elevator tower which shall, in such event, be accomplished in the least disruptive manner to the CFSL Building as possible.

Q. An exclusive maintenance easement for the benefit of appurtenant to Lot 2 on that portion of Lot 1 which is adjacent to and abuts Lot 2 known as the North Wall of Lot 1. Said easement shall permit the owner of Lot 2 to maintain and make minor repairs to the North Wall to complement Lot 2. The owner of Lot 1 shall retain the obligation for capital repairs and replacement of the North Wall.

R. In the event that CFSL encloses or erects a fence around the Bank Drive-Thru Parcel (Lot 2) or the City encloses or erects

a fence around Lot 3, preventing ingress and egress for the purpose of removing trash from Lots 1, 4, and 5, CFSL and the City shall provide the owner, tenant, or subtenant, as the case may be, with access for the purpose of removing trash from said retail parcels subject to those restrictions described in Section 707(L).

S. An exclusive easement for the benefit of and appurtenant to Lot 2 through that portion of Lot 3 for motor vehicle ingress and egress purposes from the Bank Drive-Thru Parcel.

T. An exclusive easement for the benefit of and appurtenant to Lot 2 on that portion of Lot 3 which extends over Lot 2 to enable the owner of Lot 2 to construct, repair and maintain improvements including but not limited to a pneumatic tube system and lights to be used on the Bank Drive-Thru Parcel.

U. A nonexclusive easement for the benefit of and appurtenant to Lot 1 on the east twenty (20) feet of Lots 2 and 3 for the purposes of installing, maintaining, and repairing the air-handling equipment for Lot 1 which shall be suspended above Lot 2 and attached to the floor of Lot 3. The air-handling equipment attached to Lot 3 and suspended above Lot 2 shall be enclosed and any and all construction costs for installing, maintaining and enclosing the air-handling equipment shall be the sole expense of the owner or operator of Lot 1.

V. An exclusive easement for the benefit of and appurtenant to Lots 4 and 5 on that portion of Lot 3 which serves as sight distance corners adjacent to the northwest corner of Lot 5 and the southeast corner of Lot 4 so that no landscaping item will be placed within said sight distance corners which could obstruct the windows adjacent to said corners.

W. An exclusive easement for the benefit of and appurtenant to the CFSL Building from Lot 1 that no building or structure will be constructed above 87 feet, more or less, from the City of Lincoln Datum Point within ten (10) feet of the east line of the CFSL Building where Lot 1 is adjacent to the CFSL Building.

X. An exclusive easement for the benefit of and appurtenant to the CFSL Building from Outlot C that no building or structure will be constructed above the stairwell and elevator tower on

Outlot C, except as provided in Section 707(P), within ten (10) feet of the east line of the CFSL Building where Outlot C is adjacent to the CFSL Building.

Y. A nonexclusive easement for the benefit of Outlot B and University Towers from Lot 3 extending twenty (20) feet east from the east edge of the fire exit stairway for the width of the stairway located in Outlot B.

Z. A nonexclusive easement for the benefit of NebHelp Building, CFSL Building, and University Towers from Outlot A that no building (except for the Skywalk to be located within Outlot A) will be constructed in Outlot A.

AA. A nonexclusive easement for the benefit of Lot 1 from Lot 2 extending ten (10) feet north from the south line of Lot 2 to enable the north wall of Lot 1 to meet the building requirements of the Uniform Building Code ("UBC").

BB. A nonexclusive easement for the benefit of Lot 2 from Lot 1 for the construction, use and maintenance of a kiosk and improvements for use in the operation of Lot 2 on that portion of Lot 1 between the south side of the columns on Lot 1 and the property line between Lots 1 and 2.

CC. A nonexclusive easement for the benefit of Lot 4 from Lot 3 ten (10) feet west of the west line of Lot 4 for use as an emergency exit and trash removal purposes and to enable Lot 4 to meet the building requirements of the UBC.

DD. A nonexclusive easement for the benefit of Lot 4 from Lot 3 ten (10) feet south of the south wall of Lot 4 for use as an emergency exit through Lot 3 and to enable Lot 4 to meet the building requirements of the UBC.

EE. An exclusive easement for the benefit of Lot 1 from Outlot C that no building will be constructed within thirteen (13) feet of the west line of Lot 1 and from the recessed south wall of Lot 1 where Outlot C is adjacent to the south wall and west wall of Lot 1 to enable Lot 1 to meet the building requirements of the UBC.

FF. A nonexclusive easement for the benefit of Lot 5 from Lot 3 ten (10) feet west of the west line of Lot 5 to enable Lot 5 to meet the building requirements of the UBC.

GG. A nonexclusive easement for the benefit of Lot 1 through Lot 3 for the location and use of a venting system subject to the approval of the City and CFSL for the location, design and materials of such venting system, which approval shall not be unreasonably withheld.

HH. A nonexclusive easement for the benefit of Lot 3 from Outlot B that no building or structure will be constructed on the south twelve (12) feet of Outlot B.

II. If, after the completion of the development of improvements on a Lot, the parties agree that a particular easement granted or reserved hereunder is not necessary or should be terminated for some other reason or should be modified or relocated, the parties shall execute an instrument in recordable form terminating or modifying such easement or relocating same.

JJ. The parties agree that if any additional easement with respect to the development and use of a Lot or the improvements developed thereon is determined to be reasonably required to effectuate the development and use of such Lot or is reasonably required to take advantage of any new technology which would reasonably benefit a Lot and/or the improvements thereon, then the parties shall promptly enter into an appropriate written agreement establishing such easement.

KK. As soon as the precise location(s) of any blanket easement hereby granted has been more precisely ascertained, the Owner(s) of all Lots affected by such easement shall file a supplemental document or documents which shall thereby specifically locate such easement, thereby limiting the extent of the blanket easement so modified (a "limitation document"). Any such limitation document shall relate back to this Agreement and shall have equal priority with this Agreement. Should any person or entity contend or assert that any such limitation document affects or diminishes the priority of this Agreement over other interests in any or all of the Lots, then such limitation document shall be deemed separate from this Agreement and the priority of this Agreement shall not be affected in any way.

LL. The parties agree that no easement reserved or granted therein is intended in any way to change or alter the responsibilities and obligations of the parties to construct the project

4.

improvements in accordance with this Agreement and in accordance with the Construction Documents and all responsibilities and obligations shall be as set forth in this Agreement and Construction Documents.

Section 708. Agreement to Grant Easements, Covenants, and Rights for Use and Enjoyment. It is recognized and agreed by the parties hereto that their mutual cooperation in granting to each other the necessary and desired rights, licenses and easements to enter and make use of portions of their respective properties in the Project Area both temporarily during construction and permanently after construction, is required in order for any and all of the improvements to the Project Area to be functional and useful. In addition to the above-described easements and rights, other rights between the parties may be provided in one or more operating agreements or other documents and instruments after approval of the Construction Documents. It is recognized by all parties hereto that subsequent to the execution of this Agreement, various items may be discovered which will require the granting of additional easements, permits, and licenses for the proper and convenient functioning of the various improvements in the Project Area. It is hereby agreed that such rights, licenses, permits, and easements as may be necessary for the reasonable and proper operation of the improvements in the Project Area as contemplated by the Redevelopment Plan, this Agreement, and the Schematic Drawings, shall be granted by each party to the other without additional consideration being required, provided that such easements, rights, or licenses shall (i) be required only for the most direct route or smallest space reasonably feasible and in conformity with applicable codes and regulations, and (ii) be limited to areas or routes so as not to interfere with the operation of permitted activities in the area in or adjacent to such easement or license areas, and (iii) provide for and permit reasonable maintenance and repairs in such a manner as to not interfere with the use of areas adjacent to such easement, permitted, and license areas, and (iv) shall be subject to the owner of the benefited property being responsible for payment of any construction costs of any alterations or

renovations related to same, and (v) shall be to the extent and duration necessary to assure the benefited property to be in compliance with applicable codes and laws, and to provide a reasonable and beneficial use to the benefited property for the required purposes. Such easements, permits, licenses and rights to be conveyed in subsequent instruments shall include, without in any way being intended to be limited to, such items as temporary construction access and use, utility access, areaways for utilities to the streetscape, supportive structures and maintenance or support, pedestrian vertical access, and skywalk corridors or other authorizations as may be required, practical and reasonable according to the then custom.

ARTICLE VIII

RESTRICTIONS ON USE

Section 801. Restrictions on Retail Parcel 1 and Retail Parcel 2. The Donated Deed from Price and the Balance of the E 1/2 of Block 39 Deed from CFSL, as nominee for the Private Sector, to the City shall prohibit the following uses on Retail Parcels 1 and 2 until December 31, 2020:

- A. A restaurant with motor vehicle drive-through service;
- B. A business operating under a liquor license granted by the State of Nebraska which does not offer sit-down hot food service and in which less than fifty percent (50%) of the business patrons or visitors, on the average, do not consume or utilize such sit-down hot food service;
- C. A movie theater;
- D. A massage parlor, except therapeutic massage associated with a health club;
- E. A business whose predominant operation is an adult-only bookstore;
- F. A business whose predominant operation is promoting gambling or any gaming-for-risk activities;
- G. A business which sells petroleum-based fuel for motor vehicles;
- H. A self-service laundromat;
- I. A business whose predominant operation is entertainment or amusement game arcade; or
- J. A residential dwelling.

Section 802. Restrictions on East 1/2 of Block 39. The Redeveloper Parcel Deeds from the City to the appropriate

Redevelopers and CR shall restrict the use of such Redeveloper Parcels to the following permitted uses described in Chapter 27.31.030 of the Lincoln Municipal Code:

- A. Parks, playgrounds and community buildings, owned or operated by a public agency;
- B. Public libraries;
- C. Public schools, elementary or high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- D. Churches;
- E. Nonprofit religious, educational, and philanthropic institutions;
- F. Banks, savings and loan associations, credit unions, and finance companies;
- G. Garden centers;
- H. Barber shops, beauty parlors, and shoe-shine shops;
- I. Private schools, including but not limited to business or commercial schools, dance or music academies, and nursery schools;
- J. Child-care centers;
- K. Service stations;
- L. Hospitals and clinics for animals, but not open kennels;
- M. Self-service laundromats;
- N. Receiving stores for dry-cleaning or laundry;
- O. Messenger and telegraph stations;
- P. Office buildings;
- Q. Restaurants;
- R. Stores and shops for the sale of goods at retail, but not including motor vehicles;
- S. Undertaking establishments;
- T. Photography studios;
- U. Bicycle sales and repair shops;
- V. Key shops;
- W. Ambulance services;
- X. Clubs;
- Y. Enclosed commercial facilities.

Definitions of said uses shall be the same as those set forth in Chapter 27 of the Lincoln Municipal Code.

Section 803. Non-discrimination. The parties hereto agree and covenant for themselves and their successors and assigns that they shall not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability, or marital status in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of any or all property within the Project Area, nor will they themselves or any claiming under or through them establish or permit such practices of discrimination or segregation with reference to the selection, location, number or use or occupancy of tenants, lessees, sublessees, vendees or invitees within the Project Area.

Section 804. Term of Restrictions. The agreements and covenants provided in Section 802 hereof shall remain in effect without limitation as to time.

ARTICLE IX

AGREEMENT AS TO TAXES

Section 901. Valuation of Property Within the Project Area. It is understood that the City intends to use tax increment financing provisions as set forth in Neb. Rev. Stat. Section 18-2147, et. seq., to generate approximately Eight Hundred Sixty Eight Thousand Three Hundred Dollars (\$868,300) which shall be used to partially finance the Parking Garage and Streetscape Improvements to be constructed by the City in accordance with this Redevelopment Agreement. The tax increment is to be derived from the increased redevelopment Project's valuation, determined in the manner provided for in Article 8, Section 12, of the Constitution of the State of Nebraska and in Neb. Rev. Stat. Sections 18-2147 to 18-2150 (Reissue 1987), which will be attributable to the rehabilitation and redevelopment contemplated under this Agreement. The Redevelopers (except NebHelp) and CR, individually and not collectively, represent, covenant, warrant, undertake, and agree hereby that from and after January 1, 1992, any real property valuation of their individual Private Parcels established by the Lancaster County Assessor for tax purposes based upon fair market values not exceeding:

- A. For University Tower Units (University Towers), see Exhibit "A-1" for individual unit's dollar amounts;
- B. For the east portion of Lot 10, and Lots 11 and 12, Block 39, (CFSL Building) One Million Five Hundred Thirty-five Thousand Dollars (\$1,535,000);
- C. For Lots 7, 8, 9, and the west portion of Lot 10, Block 39 (NebHelp Building), Three Million Four Hundred Seventy Thousand Dollars (\$3,470,000);
- D. For Lot 2, University Square Addition, Block 39, (Bank Drive-Thru Parcel), Two Hundred Ninety-five Thousand Dollars (\$295,000);
- E. For Lot 1, University Square Addition, Block 39, Four Hundred Ninety-five Thousand Dollars (\$495,000);
- F. For Lot 4, University Square Addition, Block 39, One Hundred Fifteen Thousand Dollars (\$115,000);
- G. For Lot 5, University Square Addition, Block 39, One Hundred Seventy Thousand Dollars (\$170,000);
- H. For Outlot A, University Square Addition, Block 39 (Outlot A), Fifty Thousand Dollars (\$50,000);
- I. For Outlot B, University Square Addition, Block 39 (Outlot B), Sixteen Thousand Two Hundred Dollars (\$16,200);

will not be protested by the Redevelopers (except NebHelp), or CR or any lessee or sublessee for a period of fifteen (15) years after the year of the effective date of the tax increment financing provision for the Project, or so long as the tax increment indebtedness remains outstanding, whichever period of time is shorter, and that each deed, lease, and sublease shall contain a like provision binding upon the transferee, lessee, or sublessee which is a party thereto in form and substance approved by the City in writing.

The valuations stated above shall not be protested by and shall be binding on the Redevelopers (except NebHelp) and CR from and after January 1, 1992 for a period of fifteen (15) years after the year of the effective date of the tax increment financing provision for this Project, or so long as the tax increment indebtedness remains outstanding, whichever period of time is shorter. However, the valuations which will not be protested ("Protest Values") by the Redevelopers (except NebHelp) and CR for the years of 1989, 1990, 1991 are set forth in and determined by the formulas described in: a. Exhibit "A-1" - University Towers; b. Exhibit "A-2" - CFSL Building and Bank Drive Thru Parcel; and c. Exhibit "A-3" - Lots 1, 4 and 5; which are attached hereto and incorporated herein by this reference.

If the Redevelopers (except NebHelp), CR, or any of them protest any real property valuation established in the Project Area in contravention to this section, or in the event that all or any portion of this section is declared invalid, illegal or unenforceable for any reason, then, and in that event, the breaching party agrees to pay directly to the City, in lieu of such taxes and proportionate to the non-protestable maximum valuations established in this subsection for their respective properties, an amount equal to the difference between the real property taxes as actually and finally levied and the amount which would have been paid based on the non-protestable maximum valuations established above, which such payments shall continue for so long as such invalidity, illegality or unenforceability continues.

Section 902. Conveyance to Tax Exempt Entities. So long as any applicable tax increment financing remains outstanding and unpaid, no Private Parcel (except the NebHelp Building) in the Project Area or any part thereof after the date of this Agreement will be conveyed, leased, or otherwise conveyed to any entity which would result in any part thereof being exempt from ad valorem taxes levied by the State of Nebraska or any of its subdivisions unless such tax-exempt entity agrees in writing to make payments to the City in an amount which would equal the amount of tax increment which would otherwise have been available to the City if the property had remained in the ownership of a taxable entity over the remaining tax increment period.

Notwithstanding any provision in this Article IX to the contrary, it is understood between the City and NebHelp that NebHelp has filed an application with the County Assessor of Lancaster County seeking an exemption from real estate taxes for the NebHelp Building. NebHelp, being a duly qualified tax-exempt organization under Internal Revenue Code Section 501(c)(3), will not be paying real estate taxes. If NebHelp conveys or leases the NebHelp Building or any portion therein to an entity which is not exempt from taxation within fifteen (15) years after the year of the effective date of the tax increment financing provision for the Project, or so long as the tax increment indebtedness

remains outstanding, whichever period is shorter, such successor for-profit entity will be subject to real estate taxes for all or that portion of the NebHelp Building which said for-profit entity may own or lease, as the case may be.

Section 903. Limitations on Assessment Valuation. The word "valuation," as used in this Article, shall mean the fair market value or assessed value as that term appears on Lancaster County real estate tax statements. Nothing herein shall be deemed an agreement by the Redevelopers or CR not to protest valuation for tax purposes as of any assessment date on which the rehabilitation of any Private Improvements are not fully completed or not to protest the allocation of improvements between real property and personal property which is not appropriately made. Furthermore, nothing herein shall be deemed an agreement by the Redevelopers or CR not to protest the tax levy rate.

Section 904. Agreement to Pay Taxes. The Redevelopers (except NebHelp) and CR agree to pay all real property taxes levied upon their respective Private Parcels within the Project Area prior to the time such taxes become delinquent. This contractual obligation to pay such taxes prior to delinquency on the part of the Redevelopers and CR shall cease upon fifteen (15) years after the effective date of the tax increment financing for the Project, or upon the full repayment of the tax increment indebtedness, whichever period of time is shorter, but the City in no way waives the statutory obligation of Redevelopers and CR to continue to pay real estate taxes, except for the exemption from real estate taxes granted to NebHelp for the NebHelp Building.

Section 905. Damage or Destruction of Redevelopers' Property. During the tax increment period, Redevelopers agree to keep their respective Private Parcels insured against loss or damage by fire, and such other risks, casualties, and hazards as are customarily covered by builders' risk or extended coverage policies in an amount not less than the valuation set forth in Section 901. In the event of any damage or destruction, which is insured as aforesaid and which would reduce the valuations set forth in Section 901, the Redevelopers agree to restore their

respective Private Parcels so that their valuation and that of the tenant improvements are not less than the amounts set forth in Section 901; provided, however, that each Redeveloper (except NebHelp) may, at its option, pay to the City from the proceeds of such insurance an amount which would retire a portion of the remaining tax increment indebtedness (in proportion to the respective valuations for each individual Private Parcel as set forth in Section 901), less the amount of any reserves in any fund or account securing such indebtedness in such similar proportion and, upon such payment, would be under no obligation to restore, repair, or replace the Private Improvements on their respective Private Parcels. The City shall use its best efforts to cause the Redevelopers to receive a reasonable credit (or other benefit) against future property taxes levied against their properties for any insurance proceeds so used to retire the bonds. In no event shall the City be required to pay such taxes directly. If the Redevelopers elect to so restore, they shall commence to do so within twelve (12) months from the date of the damage or destruction, and shall diligently pursue the same to completion.

Section 906. Condemnation. In the event that all or a substantial portion of any or all of the Private Parcels within the Project Area are condemned and the condemning party would not be obligated to pay real estate taxes upon that portion condemned, the City shall be entitled to claim against the Condemnor an interest in such property equal to the total remaining tax increment available over the remaining tax increment period. The amount to which the City would be entitled under this Section shall be in proportion to the respective valuations for each of the individual Private Parcel as set forth in Section 901, less the proportionate amount of any reserve in any fund or account securing such indebtedness in such similar proportion.

Section 907. Obligation Runs With the Land. The obligations of the Redevelopers and CR contained herein shall run with the land and shall become the obligation of the owner or owners of the Private Parcels within the Project Area so long as the bonds remain outstanding or until fifteen (15) years after the

effective date of the tax increment financing for the Project, whichever period of time occurs first. Notwithstanding anything to the contrary, the obligations, representations, and covenants contained in this Article IX shall not continue in the event that the City exercises its option under Section 502 to terminate the operation of the parking garage within the time period that the tax incremental indebtedness remains outstanding or within fifteen (15) years after the year of the effective date of the tax incremental financing provision, whichever period of time is shorter.

ARTICLE X

CITY FINANCING; CONTRIBUTIONS FROM PRIVATE SECTOR;
PUBLIC IMPROVEMENTS AND PRIVATE IMPROVEMENTS SHARED;
ALLEY VACATION AND COST OF UTILITY RELOCATION

Section 1001. City Financing. It is understood that the City will issue One Million Nine Hundred Thousand Dollars (\$ 1,900,000) in parking revenue bonds and shall utilize Eight Hundred Eighty Four Thousand Dollars (\$ 884,000) in street construction funds with the express intention of the City being to reimburse the City's street construction fund with proceeds from tax increment financing payments received annually. The City also agrees to utilize interest income and any Private Sector contributions set forth in Section 1002 below in fulfillment of its obligations to construct the Parking Garage and Streetscape under this Agreement. The parties agree that the City, utilizing the above specified sources and other public funds, shall not be obligated to pay any more than Four Million Six Hundred Thirty-seven Thousand Four Hundred and Thirty Dollars (\$4,637,430) ("Maximum Budget") for all direct and indirect costs of acquisition, asbestos removal, demolition, utility relocation, site preparation and construction, and contingency for the Parking Garage and Streetscape Improvements unless the City receives additional contributions from the Redevelopers or other parties expressly directed to such purpose. In the event that the direct and indirect costs of acquisition, asbestos removal, demolition, site preparation, utility relocation and construction and contingency for the Parking Garage and Streetscape are found to exceed, through the competitive bidding process, the maximum amount to be

paid by the City above, the City may exercise its rights as described in Section 501 above, including the right to terminate this Agreement without being in default of or in breach of this Agreement.

Section 1002. Contribution From Private Sector.

A. Cash Contribution. NebHelp and CFSL, as nominee for the Private Sector, has paid to the City, as consideration for the 301 rights of first refusal to lease monthly parking and for the reconveyance of Retail Parcel 1, Bank Drive-Thru Parcel, Retail Parcel 2 and Outlot A, the sum of Three Hundred Sixty Seven Thousand Four Hundred Eighty-Seven Dollars (\$367,487). The City hereby acknowledges receipt of said amount.

In the event that the costs associated with the construction of the Project exceed the Maximum Budget as established by Section 1001 ("Cost Overruns"), NebHelp, on behalf of the Private Sector, will contribute a sum equal to the amount of the Cost Overruns, not to exceed the sum of One Hundred Fifty Thousand Dollars (\$150,000). The City acknowledges the receipt of Fifty Thousand Dollars (\$50,000) from NebHelp. If the Project goes forward and costs associated with the construction of the Project do not exceed the Maximum Budget, the City shall refund the Fifty Thousand Dollar (\$50,000) sum to NebHelp. If the Project goes forward and the Cost Overruns do not exceed Fifty Thousand Dollars (\$50,000), the City shall refund to NebHelp the balance of Fifty Thousand Dollars (\$50,000) less the Cost Overruns. If the Project does not go forward, NebHelp shall not receive a refund of its additional \$50,000 contribution.

PMK has paid Twenty Two Thousand Five Hundred Dollars (\$22,500) to the City, in consideration of the extra costs associated with the Redeveloper's Improvements described in Section 1002B below. CFSL shall contribute a sum approximately equal to Twenty Two Thousand Five Hundred Dollars (\$22,500) for the extra costs associated with the Redeveloper's Improvements.

B. Redevelopers Improvements. The City, at City's expense will provide the Redevelopers with the following improvements, as shown on the Mixed-Use Facility Schematic Drawings:

1. An excavated, cleared compacted and "ready to pour" dirt surface at the elevation shown on the Mixed-Use Facility Construction Documents on Retail Parcel 1, Bank Drive-Thru Parcel, and Retail Parcel 2.

2. The City's footings, pilings, columns, floors, and exterior finish walls of the Parking Garage may be used without charge for the benefit of the Redeveloper Improvements on the Retail Parcel 1, Bank Drive-Thru Parcel, and Retail Parcel 2, provided that the Redevelopers will be responsible for the construction and cost of the floors, structural walls (except exterior finished walls), windows and doors on the first floor of the Retail Parcel 1, Bank Drive-Thru Parcel and Retail Parcel 2.

3. All signage as shown on the Mixed-Use Schematic Drawings, except Redevelopers will be responsible for the installation and cost of the signs designated for "store name and graphic" abutting Retail Parcel 1, Bank Drive-Thru Parcel, and Retail Parcel 2. Any signs erected or displayed by the Redevelopers on said parcels must be approved by the City and shall comply with Chapters 22.04 and 27.69 of the Lincoln Municipal Code.

Section 1003. Utility Connections. The City at its expense shall be relocating the sanitary sewer and, if necessary in relation to the Mixed-Use Facility Construction Documents, all other utilities on the East 1/2 of Block 39. Each Redeveloper at its expense shall be responsible for obtaining the necessary permits for and connecting any utilities to its respective Redeveloper Parcel.

ARTICLE XI

REMEDIES

Section 1101. In General. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement, or any of its terms or conditions by the City or the Redevelopers, CR, or any successors to such parties, such party (or successor) shall, upon written notice from the other, 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 cannot, in the exercise of reasonable diligence, be cured within such 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. Any default which cannot, by its nature, be cured in the time allowed shall be determined cured if curing is commenced in the time allowed and diligently pursued to completion thereafter. In case such action is not cured as provided above, the aggrieved party may institute such proceed-

ings 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 by a mortgagee of Redevelopers shall be deemed to be a curing by Redevelopers. Except with respect to construction commencement and completion dates, any default which cannot, by its nature, be cured in the time allowed shall be deemed cured if curing is commenced in the time allowed and diligently pursued to completion thereafter.

Section 1102. Other Rights and Remedies of City; 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 Agreement. Any delay in instituting or prosecuting any action or proceeding or otherwise asserting its right under this Agreement shall not operate as a waiver of such rights to deprive a party of or limit such rights in any way.

Section 1103. Delay in Performance For Causes Beyond Control of Party. For the purpose of any provisions of this Agreement, the City, Redevelopers, and CR 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, acts 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 Redevelopers, 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 ten (10) days after the beginning of any such delay notify the other party thereof in writing, and of the cause or causes thereof.

Section 1104. Rights and Remedies Cumulative. The rights and remedies of the parties to this Agreement, whether provided by law or by this 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 either party conferred by this Agreement shall be effective only if such waiver is in writing and only to the extent as so specified in writing.

ARTICLE XII

MISCELLANEOUS

Section 1201. Conflicts of Interest; City Representatives Not Individually Liable. No officer or employee of the City shall have any personal interest, direct or indirect, in this Agreement. No official or employee of the City shall be personally liable to Redevelopers, any successors in interest or transferees of Redevelopers, 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 Redevelopers, CR or their successors or transferees, or on any obligations under the terms of this Agreement.

Section 1202. Persons Authorized to Issue Approvals. For purposes of this Agreement and the approvals and disapprovals required hereunder, Redevelopers shall be entitled to rely on the written approval or disapproval of the City Council, the Mayor, or the Department of Urban Development or its successor as constituting the approval or disapproval required by any one or more of the City, the Mayor, or the Department of Urban Development or its successor hereunder. Until City receives further written notice from each Redeveloper, City shall be entitled to rely on the written approval of the undersigned as constituting the approval or disapproval of each Redeveloper.

Section 1203. Equal Employment Opportunity. Redevelopers, for themselves and their successors and transferees, agree that during the construction of the improvements provided for in this Agreement, Redevelopers will not discriminate against any employee or applicant for employment because of race, religion,

sex, color, national origin, ancestry, disability or marital status. Redevelopers will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, religion, sex, color, national origin, ancestry, disability, or marital status. 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 1204. Notices and Demands. A notice, demand, or other communication under this 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, in the case of Redevelopers, to Commercial Federal Savings and Loan Association, Attention Richard Fitzgerald, First Vice President, 1314 "O" Street, Lincoln, Nebraska 68508; Larry Price and Associates, Inc., Attention Larry Price, President, 128 North 13th Street, Suite 206, Lincoln, Nebraska 68508; Nebraska Higher Education Loan Program, Inc., and its nominee, Foundation for Educational Funding, Inc., Attention Guy L. Saunders, President, 4732 Calvert Street, Lincoln, Nebraska 68506; Christopulos Realty, Inc., Attention George Christy, President, 4000 South Monaco Parkway, Denver, Colorado 80237; Jan Eric Pusch and Beverly Elaine Pusch, 115 South 121st, Omaha, Nebraska 68154; PMK Joint Venture, Attention Jan Eric Pusch, 115 South 121st, Omaha, Nebraska 68154; and, in the case of the City, to the Mayor, 555 South 10th Street, 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 1205. Approval Not Unreasonably Withheld and Timely Approval. Whenever approval or consent of any party is required hereunder, such consent shall not be unreasonably withheld or delayed.

Except as may be specifically otherwise stated, any approval or disapproval required in this Agreement shall be issued within fourteen (14) days after receipt by the party issuing such approval/disapproval of all necessary information from the party requesting such approval. When approval relates to financing ability to complete the improvements required in this Agreement, such information shall include full financial statements regarding the person or entity to be involved in completing the improvements, full financial disclosures regarding the transaction by which such person or entity is to become involved in the project, and all documents or agreements between the parties to such transaction, provided any financial statements or disclosures given by a Redeveloper shall remain confidential to the extent permitted by law and shall not be disclosed to third parties under any circumstances unless required by law. The party issuing such approval/disapproval shall promptly advise the requesting party as to whether all necessary information has been received.

If any party to this Agreement submits any item to another party to this Agreement for approval pursuant to this Agreement, and the approving party 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 1206. Access to Project Area. Redevelopers shall permit the representatives of the City to enter all areas of the Redevelopment Parcels at any and all reasonable times, as the City may deem necessary for the purposes of this Agreement. 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 to a particular Redevelopment Parcel shall terminate upon issuance by the City of the Certificate of Completion.

Section 1207. Titles of Articles and Sections. Any titles of the several parts, articles, and sections of this Agreement are inserted for convenience of index and reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 1208. Integrated Contract; Severance of Provisions; Governing Law. It is intended by the parties that this Agreement and the incorporated, attached and referenced documents shall be an integrated contract, but that invalidation of any of its provisions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect unless such court action shall materially change the intent of this Agreement. This Agreement shall be construed and governed by the law of the State of Nebraska.


Section 1209. Binding. This Agreement shall be binding and obligatory on the parties hereto and their successors and assigns. Notwithstanding any contract provision in this Agreement, the terms and conditions of this Agreement (except for Article IX) shall not apply to any successor or assign of a Redeveloper who acquires any right, title or interest in any condominium unit of a condominium regime properly declared pursuant to the provisions of the Nebraska Condominium Act after the sale of such condominium unit from a Redeveloper or its successors and assigns to a third party.

Section 1210. Mutual Cooperation. The parties agree to mutually cooperate in constructing the various improvements each is to construct in the Project 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 1211. Operating Agreement. Attached hereto as Exhibit D and incorporated herein by this reference is an Operating Agreement between City, CFSL and PMK regarding the operation of the Mixed-Use Facility.

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

ATTEST:


[Signature]
City Clerk

"City"
CITY OF LINCOLN, NEBRASKA
A Municipal Corporation

[Signature]
Mayor

"CFSL"
COMMERCIAL FEDERAL SAVINGS AND
LOAN ASSOCIATION

BY: *Richard Fitzgerald*
Richard Fitzgerald
First Vice President

"Price"
LARRY PRICE & ASSOCIATES

BY: *L. Price*
Larry Price, President

"NebHelp"
NEBRASKA HIGHER EDUCATION LOAN
PROGRAM, INC. and its nominee,
Foundation for Education
Funding, Inc.

BY: *Guy L. Saunders*
Guy L. Saunders, President

"CR"
CHRISTOPULOS REALTY, INC.

BY: *George Christy*
George Christy, President

"Pusch"

Jan Eric Pusch
Jan Eric Pusch

Beverly Elaine Pusch
Beverly Elaine Pusch

"PMK"
PMK JOINT VENTURE

Jan Eric Pusch
Jan Eric Pusch

J. E. Kelly
Jerry E. Kelly

Approval and Subordination

Vistar Bank consents to and agrees that it is a mortgagee of University Towers under the terms of this Agreement, with all of the rights and obligations pertaining thereto. Without the necessity of executing any additional document effecting a subordination, Vistar agrees to subordinate the liens all recorded with the Register of Deeds of Lancaster County as follows:

- (a) Construction Security Agreement and Deed of Trust dated August 7, 1986, and recorded on August 8, 1986, as Instrument No. 86-26408;
- (b) Assignment of Rents, dated August 7, 1986, and recorded on August 8, 1986, as Instrument No. 86-26409;
- (c) Security Agreement, dated August 7, 1986, and recorded on August 8, 1986, as Instrument No. 86-26410;
- (d) U.C.C. Financing Statement, dated August 7, 1986, and recorded on August 8, 1986, as Instrument No. 86-26411; and
- (e) Deed of Trust, dated July 3, 1987, recorded July 6, 1987, as Instrument No. 87-23039

on the University Towers Condominium Property Regime, formerly known as Lots 4, 5, and 6, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, to the terms and conditions of this Agreement and amendments thereto.

VISTAR BANK

BY: *DH Henricksen*
Dana Henricksen, President

STATE OF NEBRASKA)
) ss
COUNTY OF LANCASTER)

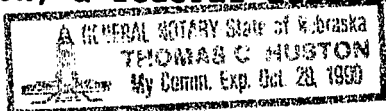
The foregoing instrument was acknowledged before me this 30th day of May, 1989, by Bill Harris, Mayor of the City of Lincoln, Nebraska.



Cheryl Eno
Notary Public

STATE OF NEBRASKA)
) ss
COUNTY OF LANCASTER)

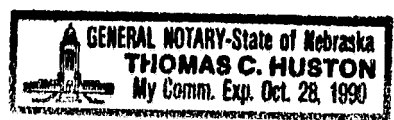
The foregoing instrument was acknowledged before me this 15 day of May, 1989, by Richard Fitzgerald, First Vice President of Commercial Federal Savings and Loan Association, a federal association, on behalf of the association.



Thomas C. Husted
Notary Public

STATE OF NEBRASKA)
) SS
COUNTY OF LANCASTER)

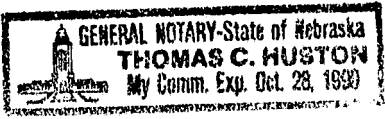
The foregoing instrument was acknowledged before me this 4 day of May, 1989, by Larry Price, President of Larry Price & Associates, a Nebraska corporation, on behalf of the corporation.



Thomas C. Huston
Notary Public

STATE OF NEBRASKA)
) SS
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 5 day of May, 1989, by Guy L. Saunders, as President of Nebraska Higher Education Loan Program, Inc., a Nebraska nonprofit corporation and of its nominee Foundation for Educational Funding, Inc., a Nebraska nonprofit corporation, on behalf of the corporations.



Thomas C. Huston
Notary Public

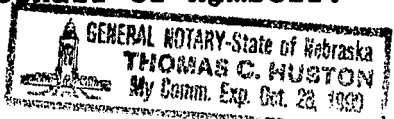
STATE OF Colorado)
) SS
COUNTY OF Denver)
DEPARTMENT OF REVENUE
NOTARY PUBLIC
STATE OF COLORADO

The foregoing instrument was acknowledged before me this 6th day of May, 1989, by George Christy, as President of Christopolis Realty, Inc., a Nebraska corporation, on behalf of the corporation.

John J. Seal
Notary Public 9-24-89

STATE OF NEBRASKA)
) SS
COUNTY OF Lancaster)

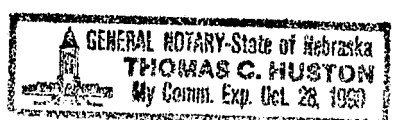
The foregoing instrument was acknowledged before me this 4 day of May, 1989, by Jan Eric Pusch, an individual, on behalf of himself.



Thomas C. Huston
Notary Public

STATE OF NEBRASKA)
) SS
COUNTY OF Lancaster)

The foregoing instrument was acknowledged before me this 4 day of May, 1989, by Beverly Elaine Pusch, an individual, on behalf of herself.

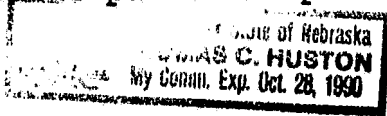


Thomas C. Huston
Notary Public

07

STATE OF NEBRASKA)
) ss
COUNTY OF Lancaster)

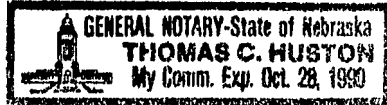
The foregoing instrument was acknowledged before me this 4 day of May, 1989, by Jan Eric Pusch, as general partner of PMK Joint Venture, a Nebraska partnership, on behalf of the partnership.



Thomas C. Huston
Notary Public

STATE OF NEBRASKA)
) ss
COUNTY OF Lancaster)

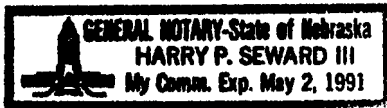
The foregoing instrument was acknowledged before me this 5 day of May, 1989, by Jerry E. Kelley, as general partner of PMK Joint Venture, a Nebraska partnership, on behalf of the partnership.



Thomas C. Huston
Notary Public

STATE OF NEBRASKA)
) ss
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 5 day of May, 1989, by Dana Henricksen, President of Vistar Bank, a Nebraska banking corporation, on behalf of Vistar Bank.



Harry P. Seward III
Notary Public

EXHIBIT "A-1"

UNIVERSITY TOWERS VALUES

Valuations Effective 1-1-1992

THEATRE	391,000	701	66,253	1005	98,813
126	33,991	702	66,700	1006	50,798
130	43,304	703	38,706	1007	97,033
134	22,462	704	85,612	1008	85,095
144	66,306	705	86,550	1009	94,211
1315	10,469	706	40,514	1010	97,056
1321	10,469	707	84,706		
203	21,000	708	83,582	CLUB	<u>318,987</u>
204	77,422	709	84,129		
205	79,199	710	80,442		\$5,830,0000
207	79,190	801	77,951		
208	72,499	802	68,532		
303	39,040	833	43,124		
304	77,303	804	86,398		
305	78,079	805	88,928		
307	77,030	806	43,209		
308	68,992	807	86,539		
403	43,453	808	83,944		
404	80,038	809	86,633		
405	81,006	810	82,510		
407	79,549	901	81,181		
408	80,094	902	69,240		
503	44,205	903	43,826		
504	81,523	904	87,526		
505	83,390	905	87,573		
506	36,900	906	45,649		
507	81,730	907	89,132		
508	94,726	908	81,933		
603	49,000	909	88,071		
604	82,384	910	86,586		
605	84,578	1001	86,753		
606	37,202	1002	72,371		
607	82,610	1003	53,088		
608	85,627	1004	94,346		

The above valuations represent those valuations which will not be protested by Price and/or the individual condominium unit owners for the time periods stated in Section 901 from and after January 1, 1992.

1989, 1990 and 1991 Protest Values

1. January 1, 1989: In protesting University Towers valuation for 1989, Price will not cause the collective valuation for University Towers to be less than Four Million Dollars (\$4,000,000).

2. January 1, 1990: Price will not protest the valuation for unsold condominium units and commercial space in 1990 below an amount equal to a collective sum of Four Million Six Hundred Thousand Dollars (\$4,600,000) less the total of the valuations stated above for those individual condominium units which Price has sold to third parties.

3. January 1, 1991: Price will not protest the valuation for the unsold condominium units and commercial space in 1991 below an amount equal to a collective sum of Five Million Two Hundred Thousand Dollars (\$5,200,000) less the total of the valuations stated above for those individual condominium units which Price has sold to third parties.

EXHIBIT "A-2"

CFSL BUILDING AND BANK DRIVE THRU PARCEL

1990 and 1991 Protest Values

1. January 1, 1990: CFSL will not protest the valuations for the CFSL Building and the Bank Drive Thru Parcel below a collective amount of One Million Dollars (\$1,000,000).

2. January 1, 1991: CFSL will not protest the valuations for the CFSL Building and the Bank Drive Thru Parcel below a collective amount of One Million Eight Hundred Thirty Thousand Dollars (\$1,830,000) based on the separate valuations stated in Section 901 B and D respectively.

EXHIBIT "A-3"

LOTS 1, 4 AND 5

1990 and 1991 Protest Value

1. January 1, 1990: PMK and/or Pusch will not protest the valuations for Lots 1, 4 and 5 below a collective amount of Five Hundred Thousand Dollars (\$500,000) broken down as follows:

- A. Lot 1: Three Hundred Eighteen Thousand Dollars (\$318,000);
- B. Lot 4: Seventy-Three Thousand Dollars (\$73,000);
- C. Lot 5: One Hundred Nine Thousand Dollars (\$109,000).

2. January 1, 1991: PMK and/or Pusch will not protest the valuations for Lots 1, 4 and 5 below a collective amount of Seven Hundred Eighty Thousand Dollars (\$780,000) based on the separate valuations given for each lot in Section 901 E, F and G respectively.

EXHIBIT "B"

CERTIFICATE OF COMPLETION OF IMPROVEMENTS

KNOW ALL MEN BY THESE PRESENTS: That _____
hereby certifies, represents, and warrants to the City of
Lincoln, Nebraska, the conclusive determination and certification
with regard to the following real property situated in the City
of Lincoln, Lancaster County, Nebraska, to wit:

that all the Private Improvements required to be constructed by
the Redeveloper upon the above-described property have been
satisfactorily completed in accordance with the requirements of
the University Square Redevelopment Agreement, dated the ___ day
of _____, 1989, and recorded as Instrument No.
_____ in the Office of the Register of Deeds for Lancaster
County, Nebraska.

(Developer)

BY: _____
Title: _____

BY: _____

Accepted by the City of Lincoln, Nebraska, this ___ day of
_____, 1989.

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

City Clerk

Mayor

EXHIBIT "C"

Commercial Federal Savings and Loan Association, a federal association, Grantor, as nominee for Commercial Federal Savings and Loan Association, a federal association, Larry Price & Associates, Inc., a Nebraska corporation; Nebraska Higher Education Loan Program, Inc., a Nebraska nonprofit corporation, and its nominee, Foundation for Educational Funding, Inc., a Nebraska nonprofit corporation, in consideration of one dollar and other valuable consideration received from the City of Lincoln, Nebraska, Grantee, the following described real estate (as defined in Neb. Rev. Stat. §76-201):

Lots Thirteen (13), Fourteen (14), Fifteen (15), Sixteen (16), Seventeen (17), and Eighteen (18), Block Thirty-Nine (39), Original Plat, Lincoln, Lancaster County, Nebraska

Grantor covenants with Grantee that Grantor:

1. Is lawfully seized of such real estate and that it is free from encumbrances;
2. Has legal power and lawful authority to convey the same;
3. Warrants and will defend title the real estate against the lawful claims of Grantor.

Executed as of this ___ day of _____, 1989.

COMMERCIAL FEDERAL SAVINGS AND
LOAN ASSOCIATION, Grantor,
as nominee for Commercial
Federal Savings and Loan
Association; Larry Price &
Associates, Inc.; Nebraska
Higher Education Loan Program,
Inc., and its nominee,
Foundation for Educational
Funding, Inc.

By: _____
Richard Fitzgerald
First Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ___ day of _____, 1989, by Richard Fitzgerald, as First Vice President of Commercial Federal Savings and Loan Association, a federal association, on behalf of the association.

Notary Public

73

OPERATING AGREEMENT

This Agreement is entered into this 30 day of May, 1989, by and between the City of Lincoln, Nebraska, a municipal corporation ("City"); Commercial Federal Savings and Loan Association, a federal association ("CFSL"); Jan Eric Pusch and Beverly Elaine Pusch, husband and wife ("Pusch"); and PMK Joint Venture, a Nebraska Partnership ("PMK") (collectively, CFSL, Pusch and PMK sometimes referred to as "Private Operators") (collectively, City, CFSL, Pusch and PMK sometimes referred to as "Parties").

WHEREAS, CFSL and the City have subdivided and replatted the east half of Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, into five (5) lots known as the University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, as shown on the plat of the University Square Addition;

WHEREAS, the City is the record owner of the real property described as Lot 3 and Outlot C, University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, and the improvements located thereon ("Public Sector Parcel") which shall be used for public parking and necessary ingress and egress purposes;

WHEREAS, Christopulos Realty, Inc., a Nebraska corporation, is the record owner of the real property described as Lots 1 and 4, University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska ("Retail Parcel 1"), which in turn Pusch leases pursuant to a certain ground lease dated November 20, 1984, and PMK is the developer of the improvements located thereon;

WHEREAS, CFSL is the record owner of the real property described as Lot 2, University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, and the improvements located thereon ("Bank Drive-Thru Parcel");

WHEREAS, Pusch is the record owner of the real property described as Lot 5, University Square Addition, Block 39, Original Plat, Lincoln, Lancaster County, Nebraska, and PMK is the developer of the improvements located thereon ("Retail Parcel 2");

WHEREAS, Retail Parcel 1, Bank Drive-Thru Parcel, Retail Parcel 2, and the Public Sector Parcel (collectively, the "Mixed-Use Facility") are integrally related and mutually interdependent for maintenance, insurance, and operational purposes; and

WHEREAS, City, CFSL, and Pusch desire to combine their efforts and delineate their respective rights and obligations for the efficient and economical operation and maintenance of the Mixed-Use Facility.

NOW, THEREFORE, IN CONSIDERATION of the mutual covenants contained herein and other valuable consideration, the parties agree as follows:

ARTICLE I

OPERATION OF PARKING FACILITY

Section 101. Parking Garage. The City is constructing or has constructed a 450-car parking garage and egress/ingress ramps (collectively, "Parking Garage") on the Public Sector Parcel and covenants and agrees that said Parking Garage shall be operated by the City or by some person, firm, or corporation on behalf of the City for a minimum of thirty years after completion of construction, subject to the limitations and conditions of Section 502 of the University Square Redevelopment Agreement dated as of this even date. It is the intent of the City to operate the Parking Garage as a parking facility at rates generally competitive to those charged by other downtown parking facilities in the area of the garage. The City agrees to cooperate in developing a validation system with owners of businesses in the general vicinity, provided that the City is thereby paid for all parking.

ARTICLE II

TRASH STORAGE AND REMOVAL

Section 201. Trash Storage. The City agrees to grant to Pusch the use of a certain area in Lot 3 ("Lot 3 Trash Area") to be used jointly with the City for trash storage purposes solely from Lots 4 and 5, air-handling equipment and storage to be located under an entrance/exit ramp as shown on the Mixed-Use Facility Construction Documents. It is agreed and understood

that the trash receptacles incident to the retail area of Lot 1 shall be stored inside said lot. Screening for the Lot 3 Trash Area shall be provided by Pusch to ensure that said area is totally enclosed. Pusch shall remove all trash and shall maintain the trash storage area and keep the same clean and free from debris and litter to the satisfaction of the City.

The right to use the Lot 3 Trash Area shall commence on the day that Lots 4 and 5 open for retail business and shall continue for as long as PMK or its successors or assigns operate retail area in Lots 4 and 5, University Square Addition.

ARTICLE III

COVENANTS RE: MAINTENANCE

Section 301. Maintenance. The parties hereby covenant and agree that for a period of thirty (30) years and thereafter as long as any improvement to Mixed-Use Facility may be reasonably structurally functional, subject to the provisions of Section 502 of the University Square Redevelopment Agreement, such improvements shall be operated, maintained, repaired and replaced (collectively "Maintenance") in such a manner as to be clean and sanitary, and all Maintenance as may be necessary to keep such improvements functional and operable and in accordance with applicable laws and codes shall be promptly and properly made. Unless otherwise agreed by the Parties, each party shall be responsible for the Maintenance of its respective parcel. In particular, the City shall be responsible for the Maintenance of the stairwells and elevators located in the Mixed-Use Facility. In addition, the City shall be responsible for the Maintenance of all landscaping and stairwells installed on Outlot B, University Square Addition, Lincoln, Lancaster County, Nebraska.

Section 302. Cost Maintenance. Cost-Sharing and Common Facilities. City and the Private Operators agree that to the extent feasible and in accordance with the detailed construction documents for the Mixed-Use Facility, each Lot shall be separately metered for the costs of water, electricity, and other utilities. However, the City and the Private Operators recognize that certain improvements to the Mixed-Use Facility shall be for

the benefit of all parties ("Common Facilities"). To the extent feasible and in accordance with the detailed construction documents for the Mixed-Use Facility, if a need for Common Facilities arises, they shall be operated by all parties and the cost for such Common Facilities shall be borne by the parties in proportion as may be agreed upon by the parties.

Section 303. Amendments. If, pursuant to the immediately preceding paragraph, the allocation of any cost shall be determined, then the parties shall upon request of any party execute, acknowledge and deliver to each other an instrument in recordable form modifying this Agreement to conform to such revision.

Section 304. Billing. Any party who shall be entitled to receive from any other party the whole or any portion of any cost referred to in Section 302 and Section 401 shall give to such other party written notice of the amount estimated to be payable during the immediately succeeding sixty (60) day period by such other party, which notice shall set forth in reasonable detail the estimated expenditures of the party giving such notice and all such other data and computations as shall be necessary to determine such amount. Such amount shall be payable within fifteen (15) days after the giving of such notice. Any excess or deficiency with respect to the actual (as opposed to estimated) amounts payable during said sixty (60) day period shall be paid to the party entitled to same within fifteen (15) days following the expiration of such sixty (60) day period. Any party who shall be entitled to receive from any other party any such cost (or portion thereof) shall be entitled to have on deposit from such other party an amount of not less than the reasonably estimated cost (or portion thereof to be so incurred) for an average thirty (30) day period.

ARTICLE IV

COVENANTS RE: INSURANCE

Section 401. Structure Damage Insurance. The parties shall jointly keep the entire Mixed-Use Facility insured against loss or damage by the special perils endorsement (all-risk) with a

deductible of One Thousand Dollars (\$1,000), including earthquake coverage which may bear a deductible of Twenty-Five Thousand Dollars (\$25,000), under insurance policies issued by one insurance company chosen by mutual assent of the parties as may from time to time be carried by prudent owners of buildings in the City of Lincoln, in an amount at least equal to one hundred percent (100%) of the full replacement value thereof excluding the cost of excavation and of foundations, piers or other supports which are below the surface of the cellar of the various buildings. (The full replacement value of any improvements, exclusive of the cost of excavation and foundations, piers, or other supports, is hereinafter referred to as "such full replacement value".) Such policies shall be issued by an insurance company authorized to do business in Nebraska having a current Best's rating of at least A. Such policies shall name as parties insured, as their interests may appear, (i) City, CFSL, and Pusch, (ii) at the request of any party, any lessee, lessor, or mortgagee of all or any portion of the properties owned by such party, and (iii) at the request of any party or such lessee, any holder of a fee mortgage or a leasehold mortgage which is a lien upon the fee interest of any party or the lease held by such lessee. At the request of any party, such policy shall contain a standard mortgagee clause in favor of any mortgagee of all or any portion of the properties owned by such party and/or any holder of a mortgage on a leasehold interest in all or any portion of such properties, as their interests may appear. The policy shall provide that the acts of any insured party shall not invalidate the policy as against any other insured party or otherwise adversely affect the rights of any other insured party under the policy. The cost of such insurance shall be allocated among the parties in that proportion which such full replacement value of the improvements within the properties of each party, respectively, shall bear to such full replacement value of Mixed-Use Facility, adjusted to the extent the use or condition of the improvements within the property of a party either favorably or adversely affects the average property insurance rating for the

Mixed-Use Facility improvements. The allocation of the cost of such insurance shall include adjustment for the full replacement value of the improvements of any party located within easement areas of the property or any other party and as to those common elements of the improvements which serve more than one party, the respective share of the full replacement value of such common elements of the improvements. In the event insurance policies required to be maintained pursuant to this Agreement are not issued explicitly in accord with the intent of the parties, the parties shall execute appropriate insurance agreements for the use of insurance loss proceeds. Each insured party shall be entitled to be provided with a duplicate original of the policy or policies or appropriate insurance certificates that same will not be cancelled without 30 days prior notice.

In the event that the Parking Garage is destroyed or damaged in whole or in part by fire or other casualty following the 30th anniversary of its opening and the City elects not to rebuild or restore the Parking Garage pursuant to Section 502(c) of the University Square Redevelopment Agreement, the City shall assign that portion of the insurance proceeds which are attributable to and sufficient for the restoration of the footings, columns, and roof for Retail Parcels 1 and 2, less the portion of the insurance premium paid by the City to insure the footings, columns, and roof.

Section 402. Liability Insurance.

A. Following completion of construction by each party of its respective portions of the Mixed-Use Facility, each party shall cause to be maintained (a) Comprehensive General Liability insurance against claims for personal injury, death or property damage occurring upon, in or about the properties or any elevators therein and on, in or about the adjoining streets, sidewalks and passageways, and (b) statutory Workmen's Compensation and Employer's Liability insurance. Said insurance shall be in such amounts as from time to time are carried by prudent owners of comparable buildings in the City of Lincoln; provided, however, that in no event shall the Comprehensive General

Liability insurance required by clause (a) above afford protection to the limit of less than One Million Dollars (\$1,000,000) per person or per occurrence and One Million Dollars (\$1,000,000) in respect to property damage nor shall the Workmen's Compensation and Employer's Liability insurance required under clause (b) above be in the amount of less than that required by law. Notwithstanding any other provision to the contrary, the City of Lincoln shall be entitled to be a self-insurer in whole or in part for Comprehensive General Liability insurance, Workmen's Compensation, and Employer's Liability insurance by providing to the Private Operators a satisfactory letter of self-insurance. At the written request of the Private Operators, but no more than once a year, the City shall furnish to the Private Operators a satisfactory letter of self-insurance.

B. Each party shall cause the other insured parties and any ground lessees of such party to be provided with appropriate evidence that the insurance required to be provided pursuant to Section 402(A) is in full force and effect and will not be modified or reduced without thirty (30) days prior written notice to each party and/or such certificate holders. Such policies shall be issued by insurance companies authorized to do business in Nebraska having a current Best's rating of at least A.

Section 403. Mutual Release of Liability for Hazards Covered by Insurance. City, Redevelopers and CR and all parties claiming under them hereby mutually release and discharge each other from all claims and liabilities arising from or caused by any hazard covered by property insurance in connection with the Mixed-Use Facility, regardless of the cause of the damage or loss.

ARTICLE V

BINDING

Section 501. Binding. This agreement runs with the land and shall be binding upon the parties, their successors, and assigns. This agreement may be amended only by written agreement of the parties hereto.

ARTICLE VI

APPROVALS

Section 601. Approvals. Wherever approval or consent of either party is required hereunder, such consent shall not be unreasonably withheld or delayed.

ARTICLE VII

SECURITY

Section 701. Public Sector Parcel. City will provide policing of the Public Sector Parcel to a degree comparable to that now provided generally to the downtown area.

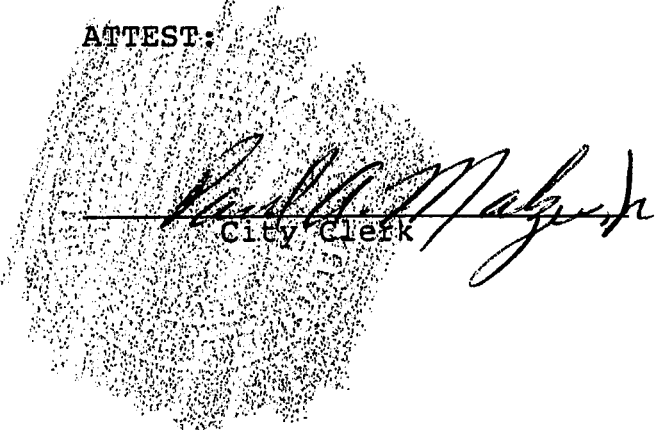
ARTICLE VIII

ESTOPPEL CERTIFICATES

Section 801. Estoppel Certificates. Each of the parties hereto agrees to furnish the other, upon any reasonable request or requests of the other, with a certificate stating that this Agreement is in full force and effect and without default or stating any contrary state of facts as to the status of this Agreement and the rights of the parties hereunder.

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

ATTEST:



[Signature]
City Clerk

"City"
CITY OF LINCOLN, NEBRASKA
A Municipal Corporation

[Signature]
Mayor

"CFSL"
COMMERCIAL FEDERAL SAVINGS AND
LOAN ASSOCIATION

BY: *[Signature]*
Richard Fitzgerald
First Vice President

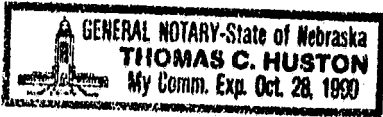
"Pusch"

[Signature]
Jan Eric Pusch

[Signature]
Beverly Elaine Pusch

STATE OF NEBRASKA)
) SS
COUNTY OF Lincoln)

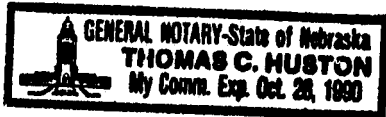
The foregoing instrument was acknowledged before me this 4 day of May, 1989, by Jan Eric Pusch, on behalf of PMK Joint Venture, a Nebraska Partnership.



Thomas C. Huston
Notary Public

STATE OF NEBRASKA)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this 5 day of May, 1989, by Jerry E. Kelley, on behalf of PMK Joint Venture, a Nebraska Partnership.



Thomas C. Huston
Notary Public

TCH/Agmt 6

LANCASTER COUNTY, NEBR.

Dan Jallo
REGISTER OF DEEDS

89 MAY 31 PM 3:57

ENTERED ON
NUMERICAL INDEX
FILED FOR RECORD AS:

INST. NO. 89 **14390**

8417.00

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