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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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COVENANT

RPI LIMITED PARTNERSHIP #14, a Nebraska limited partnership ("RPI"), for good and valuable consideration, as hereinafter set forth, receipt of which is hereby acknowledged, hereby warrants, covenants and agrees as follows:

1. RPI warrants that it is the owner of fee title to the following described real estate, to wit:

Lot 1, the south 63 feet of Lot 2, and the south 63 feet of the east 46 feet of Lot 3, Block 140, Original City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska (the "Property").

2. This Covenant is granted to First Bank, National Association, formerly FirstTier Bank, as Trustee ("First Bank"), by RPI in consideration of and pursuant to the terms of the Settlement Agreement among RPI, FirstTier Bank, Douglas County, and the City of Omaha, a true and correct copy of which is attached hereto as Exhibit A and incorporated herein by reference, which Settlement Agreement was approved by the United States Bankruptcy Court for the District of Nebraska in Case No. BK94-81567 (Chapter 11) on December 4, 1995, and the terms of which were incorporated in the confirmed Plan in said bankruptcy proceeding (the "Settlement Agreement").

3. RPI covenants and agrees to the valuations of the Property set forth in the Settlement Agreement and further covenants and agrees

RETURN TO: Stephen H. Nelsen
CLINE WILLIAMS LAW FIRM
1900 First Bank Bldg.
Lincoln, NE 68508

that RPI and its successors and assigns shall under no circumstances hereafter challenge or protest the valuations of the Property set forth in the Settlement Agreement.

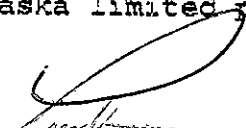
4. RPI further covenants and agrees that this Covenant is a real covenant that shall run with the Property, and shall be binding on all parties who claim or may hereafter claim an interest in the Property.

5. RPI further covenants and agrees that this Covenant is and shall be enforceable by First Bank against RPI and its successors and assigns, and against all parties who claim or may hereafter claim an interest in the Property.

6. RPI hereby acknowledges and agrees that this Covenant touches and concerns the Property based on the interest of RPI as the fee owner and the interest of First Bank as the ultimate beneficiary and real party in interest, as assignee, of the right to receive the ad valorem real estate taxes paid on the valuations of the Property in excess of the base redevelopment value of \$694,400 established by the Douglas County Assessor.

7. This Covenant is and shall be senior to any lien, encumbrance or interest in the Property.

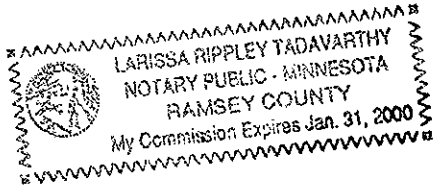
RPI LIMITED PARTNERSHIP #14,
a Nebraska limited partnership

By: 
Title: TREASURER, R.G. SERVICES, JR.
G.P.

STATE OF Minnesota)
COUNTY OF Ramsey) ss.

The foregoing instrument was acknowledged before me this 6th day of ~~June~~ ^{August}, 1996, by Lawrence Olson, Treasurer of RPI Limited Partnership #14, a Nebraska limited partnership, on behalf of said limited partnership.

Larissa Rippley Tadavarthi
Notary Public



NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made this 31st day of October ~~September~~, 1995, by and among RPI Limited Partnership #14 (the "Debtor"), FirstTier Bank, N.A., Omaha, Nebraska, as Trustee (the "Trustee"), Douglas County, Nebraska ("Douglas County"), and the City of Omaha, Nebraska ("Omaha").

WHEREAS, Debtor is the debtor-in-possession in a Chapter 11 proceeding pending in the United States District Court for the District of Nebraska at Case No. BK94-81567; and

WHEREAS, Debtor and Omaha previously entered into a Redevelopment Agreement dated June 28, 1988, which was approved by Ordinance No. 31549 duly enacted by Omaha on or about June 30, 1988 for the rehabilitation of the real estate commonly known as the First National Bank Building at 16th and Farnam Streets in Omaha and legally described on Exhibit "A" attached hereto (the "Property"); and

WHEREAS, the Redevelopment Agreement provides *inter alia* that the Debtor shall not protest any valuation of the Property of up to \$4,801,000, plus annual increases of not more than 3%; and

WHEREAS, the Debtor and the Trustee entered into a Trust Agreement Relating to a Certain Tax Allocation Bond ("Trust Agreement") dated as of July 15, 1988 pursuant to which the Debtor assigned its rights to receive the proceeds of the Bond issued by Omaha pursuant to the Redevelopment Agreement; and

WHEREAS, Events of Default have occurred under the terms of the Trust Agreement; and

WHEREAS, the Certificates have been accelerated and are not reinstated by this Settlement Agreement; and

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EXHIBIT A



WHEREAS, the Debtor has filed a Motion for Determination of Ad Valorem Tax Liability Pursuant to 11 U.S.C. §505, and a Motion to Avoid Protest Provision of Redevelopment Agreement Pursuant to 11 U.S.C. §544(A) (the "Motions") by which Motions the Debtor seeks to avoid its contractual obligations under the Redevelopment Agreement; and

WHEREAS, the Trustee and Douglas County have filed resistances to the Motions filed by the Debtor; and

WHEREAS, the Trustee believes it is in the best interests of the Owners of Certificates, including the beneficial owners, to enter into this Settlement Agreement with the Debtor; and

WHEREAS, many terms of the Trust Agreement are no longer applicable due to changed circumstances resulting from the Debtor's bankruptcy and this Settlement Agreement, and an amendment of the Trust Agreement is necessary; and

WHEREAS, the Trustee is acting on behalf of the Owners of Certificates issued pursuant to the Trust Agreement, as a third party beneficiary of the Redevelopment Agreement and as the assignee of the Bond issued by the City of Omaha pursuant to the Redevelopment Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth and other good and valuable consideration, receipt of which is hereby acknowledged by the parties hereto, the parties agree as follows:

1. The Property shall be valued by the County Assessor of Douglas County, Nebraska as hereinafter set forth:



<u>Date of Assessment</u>	<u>Valuation</u>
January 1, 1994	\$2,950,000
January 1, 1995	\$3,050,000
January 1, 1996	\$3,150,000
January 1, 1997	\$3,250,000
January 1, 1998	\$3,250,000
January 1, 1999	\$3,250,000
January 1, 2000	\$3,250,000
January 1, 2001	\$3,250,000

2. Debtor and its successors and assigns shall under no circumstances hereafter challenge the valuation of the Property set forth herein in a subsequent bankruptcy, a Plan or modification of a Plan in this bankruptcy, or by any other means whatsoever.

3. The Debtor hereby covenants not to protest and reaffirms the covenant not to protest set forth in the Redevelopment Agreement with respect to the valuations set forth herein, and acknowledges and agrees that the covenant not to protest the valuations of the Property set forth herein and in the Redevelopment Agreement shall run with the land. The Debtor further agrees that the covenant not to protest the valuations set forth herein shall be enforceable by the Trustee. The Debtor shall execute whatever documents are required by the Trustee to evidence this covenant for filing with the City Clerk of Omaha and with the Douglas County Register of Deeds.

Except as hereinafter set forth, Debtor shall obtain a written subordination from each and every party claiming a lien, encumbrance, or other interest in the Property, acknowledging and agreeing that the covenant not to protest the valuations set forth herein is an interest or encumbrance on the Property that is senior to any other lien, encumbrance, or interest in the Property, and that the covenant is and shall be enforceable by the Trustee. The subordination shall be in



form and substance satisfactory to the Trustee and shall be recorded with the Douglas County Register of Deeds and the City Clerk of Omaha.

The Debtor agrees to use its "best efforts" to obtain the U.S. Department of Housing & Urban Development's ("HUD") agreement to subordinate any right or interest it now has, or may have in the future, in the Property to the covenant not to protest the valuations of the Property set forth herein and in the Redevelopment Agreement. For purposes of this paragraph, "best efforts" shall mean"

a. If the Debtor reaches an agreement with HUD as to treatment of HUD's claim in the Debtor's Chapter 11 case, the agreement shall include HUD's written acknowledgement that the covenant not to protest the valuations set forth herein is an interest or encumbrance on the Property that is senior to any lien, encumbrance or interest which HUD has or may have in the Property, and that the covenant is and shall be enforceable by the Trustee.

b. Whether or not the Debtor has reached an agreement with HUD as to treatment of its claim in this case, in any Chapter 11 plan filed by the Debtor in this case, or any amendment or modification thereto, the Plan shall include a provision substantially as follows:

The agreement not to protest the valuations set forth in the Settlement Agreement between the Debtor and FirstTier Bank dated _____ is an interest or encumbrance on Property that is senior to any lien, encumbrance or interest which HUD has or may have in the Property, and the covenant not to protest is and shall be enforceable by FirstTier, as Trustee, against HUD.



c. The Debtor shall also include in any proposed order confirming the Debtor's Plan language substantially similar to the quoted language set forth in subparagraph b.

4. The Debtor shall pay whatever real estate taxes are levied against the Property based on the foregoing valuations. The Debtor shall pay real estate taxes on April 1 and August 1 of each year based on the valuation for the preceding year, with payments commencing in 1995 and continuing to and including 2002. Any payments made in 1995 in excess of the amounts required by the valuation for 1994 shall be credited to subsequent payments due hereunder.

5. Douglas County agrees to value the property as set forth herein, and Douglas County hereby agrees to pay all Tax Increment Funds (taxes based on the valuations in excess of the base value of \$694,400) to Omaha.

6. Omaha agrees that it shall continue to pay all Tax Increment Funds received from Douglas County to the Trustee pursuant to its Bond, and hereby reaffirms its obligation under the Bond.

7. Debtor for itself and for its successors and assigns hereby releases and discharges Omaha, Douglas County, the Trustee and all Owners and beneficial owners of Certificates from any claim it now has or may claim to have in the future relating to real estate taxes paid or to be paid based on any and all prior valuations of the Property and/or the valuations of the Property provided herein, including, without limitation, any claim to a refund of real estate taxes pursuant to 11 U.S.C. § 505.



8. As set forth herein, the terms of the Redevelopment Agreement are hereby amended and shall be binding on the parties hereto.

9. Debtor hereby reaffirms its obligation under the Guaranty Agreement for the full amount due on the Certificates, which obligation shall be immediately due and payable upon a default by Debtor under this Settlement Agreement, but which obligation shall be fully satisfied upon payment of the amounts set forth herein. Debtor further consents to any settlement between the Trustee and the other Guarantors of their liabilities under the Guaranty Agreement.

10. The Payment in Lieu of Taxes Agreement dated as of July 15, 1988 between the Debtor and the Trustee is hereby terminated, and neither party shall have any future or ongoing obligations under said Payment in Lieu of Taxes Agreement.

11. Debtor and the Trustee shall enter into such amendments to the Trust Agreement as are necessary or appropriate to restate the duties of the Trustee resulting from the Debtor's bankruptcy and this Settlement Agreement, and do hereby amend the Trust Agreement, in the following respects:

(a) All funds currently held or subsequently received by the Trustee shall be held in the Payment Account, and no other accounts shall be maintained by the Trustee.

(b) The Trustee shall distribute the proceeds in the Payment Account to the Owners of Certificates on June 1 and December 1 of each year, except that an initial distribution shall be made by the Trustee of any available funds held by



the Trustee at the time this Settlement Agreement is approved by the Bankruptcy Court and a Plan that incorporates the terms of this Settlement Agreement is confirmed by the Bankruptcy Court.

(c) All distributions of proceeds received from Omaha and/or the Guarantors hereafter shall be made by the Trustee pro rata based on the face amount of the Certificates that are presently outstanding and are owned or held by Owners and/or beneficial owners who have consented or are deemed to have consented to this Settlement Agreement.

(d) Prior to making any distribution to Owners of the Certificates, the Trustee shall be entitled to deduct its fees and expenses, including, without limitation, its attorneys fees.

(e) An event of default shall hereafter be the occurrence of one or more of the following:

(i) Omaha fails to make a Bond Payment or any portion thereof as it becomes due in accordance with the terms of the Bond, and any such failure continues for more than ten (10) days after the due date thereof;

(ii) Debtor shall fail to pay real estate taxes to Douglas County based on the valuations for each preceding year, as set forth herein, on or before April 1 and August 1 of each year, or within five (5) days thereafter;

(iii) A petition in bankruptcy is subsequently filed against Omaha or the Debtor, or the Debtor files a plan or a proposed modification of a plan in the pending bankruptcy proceeding that is inconsistent in any respect with this Settlement Agreement.



(f) Upon the occurrence of an event of default hereunder, the total amount due on the Certificates shall immediately be due and payable, and the Trustee shall take such actions as it deems appropriate in its sole discretion to collect the amounts due.

(g) All provisions of the Trust Agreement relating to or pertaining to the following topics shall be of no further force and effect:

(i) All references to accounts to be maintained by the Trustee, except as provided herein.

(ii) All references to payments of principal and interest, maturities and redemption of Certificates.

(iii) All rights of the Guarantors with respect to subrogation, "best efforts", further assurances and consent under the terms of the Trust Agreement.

(h) In general, the duties of the Trustee hereafter shall consist of receiving the Bond payments from Omaha, receiving or collecting payments from the Guarantors under the Guaranty Agreement presently in effect, or as amended, and distributing the proceeds to the Owners of the Certificates.

(i) All other provisions of the Trust Agreement that are not necessary to the performance of the duties set forth herein, shall no longer be effective.

(j) All other provisions of the Trust Agreement that are not inconsistent with this Settlement Agreement shall continue to be enforceable.



12. This Settlement Agreement is contingent upon the consent of the Guarantors (Lawrence W. Olson, Gary L. Stenson, Brian E. Pellowski and RPI Services, Inc.) in form and substance satisfactory to the Trustee, including, without limitation, consent to the amendments to the Trust Agreement and consent to the termination of the Payment in Lieu of Taxes Agreement, and the reaffirmation by the Guarantors of their obligations under the Guaranty Agreement, in form and substance satisfactory to the Trustee, which obligations are and shall be unaffected by this Settlement Agreement.

13. This Settlement Agreement is contingent upon and shall be binding upon each Owner of a Certificate and each beneficial owner of a Certificate upon consent, and each Owner of a Certificate and each Owner and beneficial owner shall be deemed to have consented to the Settlement Agreement and to the amendment of the Settlement Agreement set forth herein, unless the Owner or beneficial owner objects to this Settlement Agreement by filing an objection with the Bankruptcy Court within ninety (90) days after notice is sent to the Owner and any known beneficial owners.

14. The Debtor hereby acknowledges and agrees that under the terms of the Trust Agreement, only those Owners and beneficial owners of Certificates who consent to this Settlement Agreement are bound hereby.

15. The Trustee shall use its best efforts to give notice to all Owners of Certificates and all known beneficial owners of Certificates as soon as possible notifying them of the Stipulation regarding this Settlement Agreement and giving them an opportunity to consent or



object to the terms of this Settlement Agreement. The Trustee will notify the Debtor when the aforesaid notice has been sent.

16. This Settlement Agreement is contingent upon approval by the Bankruptcy Court and upon confirmation of a Plan that incorporates the terms of this Settlement Agreement.

17. Approval of this Settlement Agreement and confirmation of a Plan that incorporates the terms of this Settlement Agreement by the Bankruptcy Court shall constitute a ruling and order that the covenant not to protest set forth herein and in the Redevelopment Agreement is a covenant that runs with the land with respect to the valuations of the Property set forth herein and is prior and superior to any and all liens or encumbrances on the property now in existence or hereafter acquired.

18. The Debtor shall not propose or consent to any Plan in this proceeding unless any such Plan contains the provisions set forth in this Settlement Agreement.

19. Capitalized terms used herein that are not otherwise defined shall have the meanings set forth in the Trust Agreement.

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

RPI LIMITED PARTNERSHIP #14,
Debtor

By: RPI Services, Inc, General Partner
By: Gary L. Stenow, President

FIRSTIER BANK, N.A., OMAHA,
NEBRASKA, Trustee

By: Steve A. Higgins
Title: Vice President



DOUGLAS COUNTY, NEBRASKA

By: John Hol Deputy County Clerk

CITY OF OMAHA, NEBRASKA

By: Hal Daeb 10/27/45

ATTEST:

[Signature]
Deputy City Clerk

APPROVED AS TO FORM:

[Signature]
ASSISTANT CITY ATTORNEY



EXHIBIT "A"

Lot 1, the South 63 feet of Lot 2, and the South 63 feet of the East 46 feet of Lot 3, Block 140, Original City of Omaha as surveyed, platted and recorded in Douglas County, Nebraska.

