

## **REDEVELOPMENT CONTRACT**

This Redevelopment Contract is made and entered into on April \_\_\_\_, 2009, by and between the Community Redevelopment Authority of the City of Lexington, Nebraska (Authority) the Lexington Housing Authority, (Developer).

### **W I T N E S S E T H:**

WHEREAS, the Authority is a duly organized and existing Community Redevelopment Authority, a body politic and corporate under the laws of the State of Nebraska, with lawful power and authority to enter into this Redevelopment Contract;

WHEREAS, the City of Lexington, Nebraska (the "City"), in furtherance of the purposes and pursuant to the provisions of Section 12 of Article VIII of the Nebraska Constitution and Sections 18-2101 to 18-2154, Reissue Revised Statutes of Nebraska, 1997, as amended (collectively the Act), has designated an area described on the attached Exhibit A as a blighted and substandard area; and

WHEREAS, the Authority has completed all procedures necessary for adoption of a Redevelopment Plan and approval of a Redevelopment Contract; and

WHEREAS, pursuant to Section 18-2119 of the Act, Authority has solicited proposals for redevelopment of the redevelopment area, and Developer submitted a redevelopment contract proposal; and

WHEREAS, Authority and Developer desire to enter into this Redevelopment Contract for acquisition and redevelopment of the redevelopment area;

NOW, THEREFORE, in consideration of the premises and the covenants and agreements herein set forth, Authority and Developer do hereby covenant, agree and bind themselves as follows:

## ARTICLE I

### DEFINITIONS AND INTERPRETATION

#### Section 1.01      Terms Defined in this Redevelopment Contract.

Unless the context otherwise requires, the following terms shall have the following meanings for all purposes of this Redevelopment Contract, such definitions to be equally applicable to both the singular and plural forms and masculine, feminine and neuter gender of any of the terms defined:

“Act” means Section 12 of Article VIII of the Nebraska Constitution, Sections 18-2101 through 18-2154, Reissue Revised Statutes of Nebraska, 1943, as amended, and acts amendatory thereof and supplemental thereto.

"Bondholder" means the holders of Bonds issued by the Authority from time to time outstanding.

"Bonds" or "Series 2009 A Bonds" means the Authority's Community Redevelopment Revenue Bonds (Legend Oaks Project), Series 2009 A Bonds.

"Governing Body" means the City Council of the City.

"Premises" or "Redevelopment Area" means all that certain real property situated in Lexington, Dawson County, Nebraska, more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

"Project" means the improvements to the Premises, as further described in Exhibit C attached hereto and incorporated herein by reference.

"Project Costs" means only costs or expenses incurred by the City and Developer to acquire the Project, construct and install public infrastructure for the Project pursuant to the Act, including, but not limited to costs for: land survey and engineering, soil tests, excavation, grading, including paving, water, sanitary and storm sewer mains, manholes, pumping stations, force mains, pavement (including street, intersections, curb, gutter, and sidewalks), storm water runoff retention ponds, electric power substations and lines, including underground, street and area signage, sidewalks, related plan

preparation, planning, survey, other work incident to the Project and the preparation of all plans and arrangements for carrying out the Project, other work incident to a redevelopment project, including related off site infrastructure costs for the benefit of the project.

"Redevelopment Contract" means this redevelopment contract between Authority and Developer dated April \_\_\_\_, 2009, with respect to the Project.

"Redevelopment Plan" means the Area #2 Redevelopment Plan, duly adopted by the City and Authority as amended by Exhibit C attached hereto and supplemented by this Redevelopment Contract and the attachments hereto, adopted by the Authority and the City pursuant to the Act, as amended from time to time.

"Resolution" means the Resolution of the Authority dated April \_\_\_\_, 2009, as supplemented from time to time, approving this Redevelopment Contract and providing for the issuance of the Bonds.

"TIF Revenues" means incremental ad valorem taxes generated by the Project which are allocated to and paid to the Authority pursuant to the Act.

"City" means the City of Lexington, Nebraska.

Section 1.02 Construction and Interpretation.

The provisions of this Redevelopment Contract shall be construed and interpreted in accordance with the following provisions:

(a) This Redevelopment Contract shall be interpreted in accordance with and governed by the laws of the State of Nebraska, including the Act.

(b) Wherever in this Redevelopment Contract it is provided that any person may do or perform any act or thing the word "may" shall be deemed permissive and not mandatory and it shall be construed that such person shall have the right, but shall not be obligated, to do and perform any such act or thing.

(c) The phrase "at any time" shall be construed as meaning "at any time or from time to time."

- (d) The word "including" shall be construed as meaning "including, but not limited to."
- (e) The words "will" and "shall" shall each be construed as mandatory.
- (f) The words "herein, " "hereof, " "hereunder, " "hereinafter" and words of similar import shall refer to the Redevelopment Contract as a whole rather than to any particular paragraph, section or subsection, unless the context specifically refers thereto.
- (g) Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require.
- (h) The captions to the sections of this Redevelopment Contract are for convenience only and shall not be deemed part of the text of the respective sections and shall not vary by implication or otherwise any of the provisions hereof.

## ARTICLE II

### REPRESENTATIONS

#### Section 2.01      Representations by Authority.

Authority makes the following representations and findings:

- (a) Authority is a duly organized and validly existing Community Redevelopment Authority under the Act;
- (b) The proposed land uses and building requirements in the Project are designed with the general purpose of accomplishing, in conformance with the general plan of development of the City, a coordinated, adjusted, and harmonious development of the City and its environs which will, in accordance with present and future needs, promote health, safety, morals, order, convenience, prosperity, and the general welfare, as well as efficiency and economy in the process of development; including, among other things, adequate provision for traffic, vehicular parking, the promotion of safety from fire, panic, and other dangers, adequate provision for light and air, the promotion of healthful and convenient distribution of population, the provision of adequate

transportation, water, sewerage, and other public utilities, schools, parks, recreational and community facilities, and other public requirements, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary or unsafe dwelling accommodations, or conditions of blight;

(c) The Redevelopment Contract is feasible and in conformity with the general plan for the development of the City as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Act;

(d) Based on the representations of Developer and other information provided to the Authority,

(i) the Project would not be economically feasible without the use of tax-increment financing;

(ii) the Project would not occur in the Redevelopment Area without the use of tax-increment financing; and

(iii) the costs and benefits of the Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and the Authority and have been found to be in the long-term best interest of the community impacted by the Project;

(e) Attachment C to this Redevelopment Contract (and other attachments hereto) constitute a redevelopment plan amendment and has been duly approved and adopted by the Community Redevelopment Authority of the City pursuant to Section 18-2116 and 18-2117 of the Act;

(f) The Authority has requested proposals for redevelopment of the Redevelopment Area pursuant to section 18-2119 of the Act, and deems it to be in the public interest and in furtherance of the purposes of the Act to accept the proposal submitted by Developer as specified herein; and

(g) The Redevelopment Project will achieve the public purposes of the

Act by, among other things, increasing the tax base, and lessening blight and substandard conditions in the Redevelopment Area.

Section 2.02            Representations of Developer.

The Developer makes the following representations:

(a) The execution and delivery of the Redevelopment Contract and the consummation of the transactions therein contemplated will not conflict with or constitute a breach of or default under any bond, debenture, note or other evidence of indebtedness or any contract, loan agreement or lease to which Developer is a party or by which it is bound, or result in the creation or imposition of any lien, charge or encumbrance of any nature upon any of the property or assets of the Developer contrary to the terms of any instrument or agreement.

(b) There is no litigation pending or to the best of its knowledge, threatened against Developer affecting its ability to carry out the acquisition; construction, equipping and furnishing of the Project or the carrying into effect of this Redevelopment Contract or, except as disclosed in writing to the Authority, as to any other matter materially affecting the ability of Developer to perform its obligations hereunder.

(c) Developer has made a fiscal analysis of the project and specifically represents to the City and Authority that:

(i) the Project would not be economically feasible without the use of tax-increment financing, and Developer will not undertake the Project without tax-increment financing;

(ii) the Project would not occur in the Redevelopment Area and Developer will not construct the Project without the use of tax-increment financing;

## ARTICLE III

### OBLIGATIONS OF THE AUTHORITY

#### Section 3.01            Division of Taxes.

In accordance with Section 18-2147 of the Act, the Authority hereby includes in the Redevelopment Plan of the Authority a provision that any ad valorem tax on real property in the that portion of the Project, described on Exhibit A, for the benefit of any public body be divided for a period of fifteen years after the effective date of this provision as provided in Section 18-2147 of the Act. The effective date of this provision shall be January 1, 2011.

The City and Authority will timely file all appropriate notice with the Dawson County Treasurer and Assessor regarding the division of ad valorem taxes, as provided in Section 18-2147 of the Act.

#### Section 3.02            Issuance of Bonds.

(a) 2009 A Bonds: Authority on or about January 15, 2010, will issue Series 2009 A Bonds in the aggregate principal amount of approximately \$257,000.00, and according to the terms set forth on Exhibit B attached hereto. The Series 2009 A Bonds shall be limited obligations of the Authority, and shall be solely payable from and secured by TIF Revenues and other security specifically pledged therefore.

#### Section 3.03    Pledge of TIF Revenues.

Pursuant to the Resolution, the Authority will pledge the TIF Revenues as Security for the Bonds.

#### Section 3.04            Grant of Proceeds of Bonds.

Authority will, on or before January 15, 2009, and after the sale of the

2009 A bonds, grant the sum of \$100,000 of the proceeds from the Series 2009 A Bonds issued pursuant to this agreement, secured by a pledge of the TIF Revenues as contemplated in Sections 3.03 above, to the Developer for the purpose of paying allowable Project Costs incurred by the Developer or its assignee. The remaining portion of the proceeds of the 2009 A Bonds shall be used to pay for legal fees for the preparation of documents related to this redevelopment plan amendment and issuance of the Bonds with the balance thereof to be granted to the City for the purpose of paying Project Costs incurred by the City. The grant to the City may be offset against the purchase of the Series 2009 A bond, in the event that the City is the purchaser thereof.

Section 3.05            Creation of Fund.

Authority will create a special fund to collect and hold the TIF Revenues. Such special fund shall be used for no purpose other than to pay Bonds issued pursuant to Sections 3.02 above.

Section 3.06            Perform Obligations of Redevelopment Plan.

Authority will perform, or provide for the performance, in a timely manner, of all obligations to set forth in the Redevelopment Plan required to be performed by the Authority or City, as provided in this Redevelopment Contract, and attached Exhibit C.

Infrastructure. Specifically, Authority shall cause the City to install paving, sanitary sewer, storm sewer and water in the Replat of Block 3, Parkview Addition, to the city of Lexington, Dawson County, Nebraska on Legend Drive between 18<sup>th</sup> Street and 20<sup>th</sup> Street. Additionally, the City shall install sanitary sewer, storm sewer and water on 19<sup>th</sup> Street Place and shall pave 19<sup>th</sup> Street Place for a distance of 90 feet from the east line of Legend Drive.

Site Acquisition. Authority will acquire and deed to the Developer, or its assignee the real property described on Exhibit A hereto, subject to a deed restriction that the Developer or its assignee construct twenty townhouse units for low to moderate



income individuals and families age 55 and older or disabled pursuant to the terms of a housing tax credit program under §42 of the Internal Revenue Code of the United States.

Section 3.07 Purchase of Bonds.

The Authority shall provide for the purchase of the Series 2009 A by the City.

ARTICLE IV

OBLIGATIONS OF DEVELOPER

Section 4.01 Construction of Project.

Developer will acquire land and construct twenty townhouses in the Project. Construction on the project shall begin prior to the 3<sup>rd</sup> quarter of 2009 and shall be complete and ready for occupancy prior to January 1, 2011.

Section 4.02 Restricted Use of Project

The Developer shall operate the project for a minimum period of 15 years as a rental for low to moderate income individuals and families age 55 and older or disabled and maintain the project as a qualifying tax credit project under §42 of the Internal Revenue Code, and the regulations issued pursuant thereto.

Section 4.02 Non-Discrimination .

Developer agrees and covenants for itself, its successors and assigns that as long as any Bonds are outstanding, it will not discriminate against any person or group of persons on account of race, sex, color, religion, national origin, ancestry, disability marital status or receipt of public assistance in connection with the Project. Developer, for itself and its successors and assigns, agrees that during the construction of the Project, Developer will not discriminate against any employee or applicant for employment because of race, religion, sex, color, national origin, ancestry, disability, marital status or receipt of public assistance. Developer will comply with all applicable federal, state and local laws related to the Project.

Section 4.03 Real Estate Taxes.

Developer intends to create an increased taxable real property base

attributable to the Project no later than January 1, 2011 of \$\_\_\_\_\_.

Neither the Developer nor its assignees shall protest the assessment of the project for real property tax purposes at a level that would result in an assessment below the value of \$\_\_\_\_\_, prior to January 1, 2025.

Section 4.04            Acknowledgement of Tax Level.

Developer, City and Authority acknowledge that the payment of the Bonds is entirely contingent on factors over which the Authority has no control, including but not limited to the assessed valuation of the project, the variation of tax levies established in the future by taxing entities, statutory, constitutional and court ruling changes.

Section 4.05            Development of Project with Others.

Developer will develop the Project as part of a limited partnership or limited liability company with other parties. Developer intends to assign its interest in this redevelopment contract to such partnership or company. Such assignment shall be subject to the assignee executing an Assumption Agreement in a form satisfactory to the Authority.

Section 4.06            Use of Grant Funds.

Developer agrees that it will use the funds granted to it only for such project costs as are authorized under the Act.

ARTICLE V

FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES

Section 5.01            Financing.

Developer shall pay all Construction Costs for residential development, including, but not limited to normal utility extension and hookup fees.

## ARTICLE VI

### DEFAULT, REMEDIES; INDEMNIFICATION

#### Section 6.01      General Remedies of Authority and Developer.

Subject to the further provisions of this Article VI, in the event of any failure to perform or breach of this Redevelopment Contract or any of its terms or conditions, by either party hereto or any successor to such party, such party, or successor, shall, upon written notice from the other, proceed immediately to commence such actions as may be reasonably designed to cure or remedy such failure to perform or breach which cure or remedy shall be accomplished within a reasonable time by the diligent pursuit of corrective action. In case such action is not taken, or diligently pursued, or the failure to perform or breach shall not be cured or remedied within a reasonable time, this Redevelopment Contract shall be in default and the aggrieved party may institute such proceedings as may be necessary or desirable to enforce its rights under this Redevelopment Contract.

#### Section 6.02      Additional Remedies of Authority.

In the event that Developer, or its successor in interest, shall fail to commence the construction of the Project on or before July 1, 2009, such event shall be deemed a failure to perform under this Redevelopment Contract.

In the event of such failure to perform, breach or default occurs and is not cured in the period herein provided, the parties agree that the damages caused to the Authority would be difficult to determine with certainty and that a reasonable estimation of the amount of damages that could be incurred is the unpaid portion of the principal of the 2009 A Bond as of the date of declaration of default (the "Liquidated Damages Amount"). The Liquidated Damages Amount shall be paid by Developer to Authority within 30 days of demand from Authority.

Interest shall accrue on the Liquidated Damages Amount at the rate of one percent (1%) over the prime rate as published and modified in the Wall Street Journal from time to time and interest shall commence from the date that the Authority gives notice to the Developer demanding payment.

Section 6.03            Enforced Delay Beyond Party's Control.

For the purposes of this Redevelopment Contract, neither party, as the case may be, nor any successor shall be in breach of or in default in its performance of obligations within its control, when and without its fault, a default in such obligation occurs caused by acts of God, or Government, acts of terrorism, or in the event of enforced delay in the project due to unforeseeable causes beyond the control of the parties or either of them, including fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays in subcontractors due to such causes; it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Authority or of Developer with respect to construction of the Project, as the case may be, shall be extended for the period of the enforced delay: Provided, that the party seeking the benefit of the provisions of this section shall, within thirty (30) days after the beginning of any such enforced delay, have first notified the other party thereof in writing, and of the cause or causes thereof and requested an extension for the period of the enforced delay.

Section 6.04            Limitation of Liability; Indemnification.

Notwithstanding anything in this Article VI or this Redevelopment Contract to the contrary neither Authority, City, nor their officers, directors, employees, agents, attorneys or their governing bodies shall have any pecuniary obligation or monetary liability under this Redevelopment Contract. Specifically, but without limitation, neither City nor Authority shall be liable for any costs, liabilities, actions, demands, or damages for failure of any representations, warranties or obligations

hereunder.

ARTICLE VII  
MISCELLANEOUS

Section 7.01            Notice Recording.

This Redevelopment Contract or a notice memorandum of this Redevelopment Contract shall be recorded with the County Register of Deeds in which the Premises is located.

Section 7.02            Governing Law.

This Redevelopment Contract shall be governed by the laws of the State of Nebraska, including but not limited to the Act.

Section 7.03            Binding Effect; Amendment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and assigns. This Redevelopment Contract shall run with the Premises. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound.

IN WITNESS WHEREOF, Authority and Developer have signed this Redevelopment Contract as of the date and year first above written.

COMMUNITY REDEVELOPMENT  
AUTHORITY OF THE CITY OF  
LEXINGTON, NEBRASKA

LEXINGTON HOUSING  
AUTHORITY

\_\_\_\_\_  
Chairman

\_\_\_\_\_, Chair

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Secretary

STATE OF NEBRASKA )  
 )  
COUNTY OF DAWSON )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of April, 2009, by \_\_\_\_\_ and \_\_\_\_\_ Chair and Secretary, respectively, of the Community Redevelopment Authority of the City of Lexington, Nebraska, on behalf of the Authority.

\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA )  
 )  
COUNTY OF DAWSON )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of April, 2009, by \_\_\_\_\_, President, Lexington Housing Authority, on behalf of the Housing Authority.

\_\_\_\_\_  
Notary Public

EXHIBIT A

DESCRIPTION OF PREMISES  
(REDEVELOPMENT AREA)

Property to be pledged with an effective date of January 1, 2011:

Lots One through 20 of the Replat of Block 3 Parkview Addition to the City of  
Lexington, Dawson County, Nebraska.

## EXHIBIT B

### Terms of Series A Bonds

Date of issuance: On or about January 15, 2009

Interest rate: Not to exceed 6% per annum

Maturity date: December 31, 2025, subject to mandatory partial redemption as set forth in the Resolution



## EXHIBIT C

### DESCRIPTION OF PROJECT AND DEVELOPERS REDEVELOPMENT PLAN FOR LEGEND OAKS RESIDENTIAL PROJECT

#### OVERVIEW:

This plan is intended to redevelop an area within the City of Lexington, which has been declared blighted and substandard within the meaning of the Community Redevelopment Law of the State of Nebraska.

The Developer intends to acquire, develop and rehabilitate the real estate shown on Exhibit A to the Redevelopment Contract by constructing an approximate 20 townhomes on a 10 lot housing development, including infrastructure on the real estate and provide payment assistance to the City for certain off site infrastructure installation.

The Developer will not develop the project in the redevelopment area or elsewhere without the benefit of tax increment financing. The costs and risks of the project are simply too great to be absorbed by the Developers without the assistance of tax increment financing. All financing for the project is entirely contingent on the grant set forth in the redevelopment contract to which this exhibit is attached. The Developers propose that the Community Redevelopment Authority issue bonds, designated the 2009 A Bonds to be repaid from the incremental tax revenues generated by the redevelopment project pursuant to §18-2147 of the Nebraska Revised Statutes, for a period of 15 years from an effective date of January 1, 2011. The Developers will use the \$100,000.00 of the proceeds of the 2009 A bond to assist in payment of Project Costs in the construction and acquisition of the project. The City will use the balance of the proceeds of the Series 2009 A bond for payment of infrastructure.

#### THE REDEVELOPMENT PLAN:

1. Relationship of Plan to Local objectives for appropriate land use: This plan contemplates no change in current land use. Multi-Family Planned Residential District zoning is currently appropriate for the intended use. Reutilization of the existing real estate meets existing local objectives for appropriate land use for the area affected by this plan. The new development is targeted to provide residents of the community safe, decent and adequate housing for low to moderate income individuals and families.

2. Relationship of Plan to Local objectives for improved traffic flow and public utilities in plan area:

**Streets:** Streets will conform to current layout and design as set forth in the various subdivision plats affecting the project. The City will pay for the installation of paving, curbing and gutters in accordance with the Redevelopment Contract.

**Storm Water Facilities:** The City will pay for the installation of all storm sewer lines within the subdivision.

**Potable Water Lines:** The City will install all potable water lines and fire hydrants required in the subdivision.

**Sanitary Sewer Lines:** The City will pay for the installation sanitary sewer lines within the subdivision.

No special assessment districts will be established for the initial infrastructure installation.

3. Redevelopment project boundaries: Exhibit C 1 to the Redevelopment Contract shows the boundaries of the project. The property is currently unimproved.

4. Proposed land use plan: Exhibit C 2 shows the proposed land use plan after redevelopment as a fully developed residential development. This plat will be amended and changed as circumstances require for development.

5. Information on standards for population densities; land coverage; building intensities; and land coverage after redevelopment: Population density will change for the area. Currently there is no residential occupancy. Twenty townhomes will be developed.

6. Statement regarding change in street layouts: This Plan proposes street layouts as shown in Attachment C2.

7. Site plan after redevelopment: Exhibit C2 is an accurate proposed site plan of the redevelopment project after redevelopment.

8. Statement as to the kind and number of additional public facilities or utilities required to support land use after redevelopment: Additional public utilities are required to support the proposed plan, as discussed above.

9. Public cost/benefit analysis: This plan requires that the Developers acquire and construct a phased residential development. It is intended that no public funds, other than the tax increment financing benefit, will be used on the acquisition and development of the property.

Tax benefit: Currently the real estate is unimproved. The real estate taxes from the land will continue to be paid to the taxing authorities.

The project will result in at least 20 townhome units developed in the City. This will not require additional schools be built or result in an additional burden on community facilities. Many new residents will bring home paychecks to spend in City stores, thus expanding local sales tax base and property tax base. Therefore, no undue stress on the school system, police or fire protection is contemplated.

10. Pledge of Incremental Taxes. Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon real property in the redevelopment project specified in the plan, shall be divided, for the period not to exceed 15 years after the effective date of the provision, which effective date shall be January 1, 2011:

a. That portion of the ad valorem tax which is produced by levy at the rate fixed each year by or for each public body upon the redevelopment project valuation shall be paid into the funds, of each such public body in the same proportion as all other taxes collected by or for the bodies; and

b. That portion of the ad valorem tax on real property in the redevelopment project in excess of such amount, if any, shall be allocated to and, when collected, paid into a special fund of the Authority to pay the principal of; the interest on, and any premiums due in connection with the bonds, loans, notes, or advances on money to, or indebtedness incurred by, whether funded, refunded, assumed, or otherwise, such Authority for financing or refinancing, in whole or in part, a redevelopment project. When such bonds, loans, notes, advances of money, or indebtedness including interest and premium due have been paid, the Authority shall so notify the County Assessor and County Treasurer and all ad valorem taxes upon real property in such redevelopment project shall be paid into the funds of the respective public bodies.