

## REDEVELOPMENT CONTRACT

This Redevelopment Contract is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2014, by and between the Community Development Agency of Lexington, Nebraska (the "Agency") and Orthman Investments, L.L.C., a Nebraska limited liability company (the "Company").

### WITNESSETH:

WHEREAS, the Agency is a duly organized and existing community development agency, a body politic and corporate under the laws of the State of Nebraska, with lawful power and authority to enter into this Redevelopment Contract, acting by and through its Chair or Vice Chair and Members;

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, 2012, as amended (collectively the "Act"), has adopted a Redevelopment Plan for a blighted and substandard area designated by the City;

WHEREAS, pursuant to Section 18-2119 of the Act, the Agency has solicited proposals for redevelopment of a redevelopment area included in the Redevelopment Plan, and the Company submitted a redevelopment contract proposal;

WHEREAS, the Agency and the Company desire to enter into this Redevelopment Contract for acquisition and redevelopment of the redevelopment area.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein set forth, the Agency and the Company 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, 2012, as amended, and acts amendatory thereof and supplemental thereto.

"Bond" or "Bonds" means the Agency's Community Development Revenue Bonds (Orthman Manufacturing Project), authorized to be issued by the Agency pursuant to the terms and

conditions of the Resolution and this Redevelopment Contract and subject to the terms and conditions set forth on attached Exhibit D.

"City" means the City of Lexington, Nebraska.

"Company" shall have the meaning set forth in the preamble to this Redevelopment Contract.

"County Treasurer" shall have the meaning set forth in Section 4.06.

"Debt Service Fund" shall have the meaning set forth in Section 3.05.

"Deficiency Payment" shall have the meaning set forth in Section 4.07

"Economic Development Loan" means a loan from the City's sales tax fund allocated to provide assistance companies locating or expanding in the City.

"Effective Date" shall have the meaning set forth in Section 3.01.

"Force Majeure" shall mean acts of God, acts of war, civil disturbance, governmental action (including the revocation or refusal to grant licenses or permits, where such revocation or refusal is not due to the fault of the party claiming excuse), strikes, lockouts, fire, unavoidable casualties or any other causes beyond the reasonable control of the party claiming excuse (other than lack of arranging other funding for the Project in the case of the Company), and of which the party claiming excuse shall have notified the other party in writing within ten (10) days after its occurrence.

"Paying Agent" means the paying agent with respect to the Bond appointed pursuant to the Resolution, and who shall initially be the treasurer of the City.

"Person" shall mean any individual or entity, including a corporation, partnership, association, limited liability company, limited liability partnership, joint-stock company, trust, unincorporated association, government or governmental agency or authority.

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

"Project Costs" means only costs or expenses incurred by the Company to acquire the Redevelopment Area and such other eligible costs permitted under §18-2103(12) of the Act and shall include costs of issuing the Bond.

"Redevelopment Contract" means this Redevelopment Contract between the Agency and the Company with respect to the Project.

"Redevelopment Plan" means the Redevelopment Plan of the Agency adopted in accordance with the Act, as amended from time to time and shown on Exhibit C attached hereto and incorporated herein by reference.

"Resolution" means the Resolution of the Agency, as supplemented from time to time, approving this Redevelopment Contract, Redevelopment Plan and providing for the issuance of the Bond.

"Substantial Completion" means the completion of all elements of the Project with the exception of minor or insubstantial details of construction, mechanical adjustment or decoration.

"TIF Period" means the period commencing on the Effective Date and expiring midnight on December 31, 2029.

"TIF Revenues" means incremental ad valorem taxes generated by the Project which are allocated to and paid to the Agency pursuant to §18-2147(1)(b) of the Act.

#### Section 1.02 Construction and Interpretation.

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

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

2. 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.

3. The phrase "at any time" shall be construed as meaning "at any time or from time to time."

4. The word "including" shall be construed as meaning "Including, but not limited to."

5. The words "will" and "shall" shall each be construed as mandatory.

6. 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.

7. Forms of words in the singular, plural, masculine, feminine or neuter shall be construed to include the other forms as the context may require.

8. 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 the Agency.

The Agency makes the following representations and findings:

1. The Agency is a duly organized and validly existing community development agency under the Act.
2. The Redevelopment Plan has been duly approved and adopted by the City pursuant to Sections 18-2116 and 18-2117 of the Act.
3. The Agency 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 the Company as specified herein.
4. The Project will achieve the public purposes of the Act by, among other things, increasing employment, improving public infrastructure, increasing the tax base, and lessening blighted and substandard conditions in the Redevelopment Area.

### Section 2.02 Representations of The Company.

The Company makes the following representations:

1. The Company is a Nebraska limited liability company, having the power to enter into this Redevelopment Contract and perform all obligations contained herein and by proper action has been duly authorized to execute and deliver this Redevelopment Contract. Prior to the execution and delivery of this Redevelopment Contract, the Company has delivered to the Agency a certificate of good standing, a certified copy of the Company's Operating Agreement and a certified copy of the Company resolution or resolutions authorizing the execution and delivery of this Redevelopment Contract.
2. The execution and delivery of this Redevelopment Contract and the consummation of the transactions herein 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 Company 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 Company contrary to the terms of any instrument or agreement.
3. There is no litigation pending or to the best of its knowledge threatened against Company 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 in any other matter materially affecting the ability of Company to perform its obligations hereunder.

4. Any financial statements of the Company delivered to the Agency prior to the date hereof are true and correct in all respects and fairly present the financial condition of the Company and the Project as of the dates thereof; no materially adverse change has occurred in the financial condition reflected therein since the respective dates thereof; and no additional borrowings have been made by the Company since the date thereof except in the ordinary course of business, other than the borrowing contemplated hereby or borrowings disclosed to or approved by the Agency.

5. The Project would not be economically feasible without the use of tax increment financing.

6. The Project would not occur in the Redevelopment Area without the use of tax-increment financing.

### ARTICLE III OBLIGATIONS OF THE AGENCY

#### Section 3.01 Division of Taxes.

In accordance with Section 18-2147 of the Act, the Agency hereby provides that any ad valorem tax on real property in the Project 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, 2015, (the "Effective Date").

#### Section 3.02 Issuance of Bond.

1. The Agency shall issue the Bond to the Company in the form and stated principal amount and bearing interest and being subject to such terms and conditions as are specified in the Resolution and this Redevelopment Contract; provided, at all times the maximum amount of the Bond shall be limited to the lesser of (i) the stated face amount of the Bond, or (ii) the sum of all Project Costs incurred by the Company as set forth on Exhibit D. No Bond will be issued until Company has (a) acquired fee title to the Redevelopment Area; and (b) entered into a contract for construction of the additions and improvements forming a part of the Project.

The Company agrees to purchase the Bond at a price equal to the principal amount thereof, in a private placement satisfactory to the Agency as to its terms and participants (including any pledgee thereof). Neither the Agency nor the City shall have any obligation to provide for the sale of the Bond. It is the sole responsibility of the Company to effect the sale of the Bond by purchasing the Bond in accordance with the terms of this Redevelopment Contract and the Resolution. If the Bond cannot be issued and sold to the Company in a private placement under terms acceptable to the Agency, this Redevelopment Contract shall cease to be in force and effect and the Agency and the City shall have no further obligations hereunder. Company acknowledges that it is its understanding and the Agency's understanding that interest

on the Bond will be includable in gross income for federal income tax purposes and subject to Nebraska State income taxation.

2. Pursuant to the Resolution the Agency will allocate and pay the TIF Revenues in retirement of the principal and interest of the bond solely from the TIF Revenues. Neither the City or Agency shall have any obligation to pay any amounts due on the Bond from any source other than the TIF Revenues.

#### Section 3.03 Pledge of TIF Revenues.

Pursuant to the Resolution, the Agency will pledge the TIF Revenues as security for the Bond as provided herein. The Agency hereby represents that the aggregate mill levy on real property within its jurisdiction for fiscal 2013 is 2.177554. The Agency is aware that one or more taxing entities may retire outstanding bonds during the TIF Period which may result in a material lowering of the aggregate mill levy. Notwithstanding the foregoing, and based upon the representations of the Company of anticipated construction costs of the Project, the amount of TIF Revenues which the Company reasonably believes will be generated annually from the Project is set forth in Exhibit D hereto.

#### Section 3.04 Grant.

The Agency shall grant one hundred percent (100%) of the proceeds of the Bond issued pursuant to Section 3.02 above, to the Company for the purpose of paying Project Costs.

#### Section 3.05 Creation of Fund.

In accordance with Sections 18-2147 and 18-2102.01(7) of the Act, the Agency will create a debt service fund (the "Debt Service Fund") pursuant to the Resolution to collect, hold and disburse the TIF Revenues. TIF Revenues deposited into the Debt Service Fund shall be used for no purpose other than to pay the principal of, interest, if any, and premium, if any, due on the Bond issued pursuant to Section 3.02 above. The description and operation of the Debt Service Fund shall be set forth in more detail in the Resolution. Interest on monies in the Debt Service Fund and any Deficiency Payment contemplated by Section 4.07 shall accrue, be held and disbursed in the same manner as the TIF Revenues (i.e. for the repayment of the Bond).

#### Section 3.06 Purchase of Existing Facilities.

The Agency shall purchase the real estate used by the Company and described on attached Exhibit A-1, from the owner thereof, for the sum of \$1,210,000 and subject to the representations, warranties, covenants and considerations of that certain Real Estate Purchase Agreement dated as of the date hereof, by and between the Agency and the owner of said real estate (the "Exiting Property Purchase Agreement").

Section 3.07 Off-Site and Public Improvements.

The Agency has provided the following improvements to the Redevelopment Area which will benefit the Project:

1. Extension to the Redevelopment Area of potable water and sewer lines providing sufficient capacity for the intended use by the Company.
2. Paved streets along the boundary of the Redevelopment Area.
3. Placed and compacted fill dirt on the Redevelopment Area.

The water line extension, sewer line extension, pavement extension and provision of fill dirt are included in the purchase price of the Redevelopment Area. Agency further represents to the Company that the City shall not create special improvement districts for such installation.

Section 3.08 Economic Development Loan.

The Agency, through the City shall provide for a loan to the Company in the amount of \$500,000.00 from the City's Economic Development Sales Tax Fund. The loan shall be for a term of 15 years and shall bear interest at the rate of 0.0% per annum. The sum of \$500,000.00 shall be repaid in 15 annual installments of \$33,333.33 from and after the first day of July, 2015. The Economic Development Loan shall be made pursuant to a separate written loan agreement and promissory note, with such terms and collateral pledge as shall be required by the City (all such documents referred to herein as the "EDL Documents"). The Company shall comply at all times with the terms and conditions of the EDL Documents, and any breach thereof shall be deemed a breach of this Redevelopment Contract.

Section 3.09 Grant of Agency Funds.

The Agency, upon closing of the purchase and sale of real estate contemplated in Sections 3.06, 3.10 and 4.10 hereof, shall grant the sum of \$800,000.00 to the Company for purposes of implementing the Project. The source of said funds are not from the proceeds of the Bond or any taxes divided pursuant to §18-2147(1)(b) of the Act.

Section 3.10 Sale of Real Estate.

The Agency shall sell to the Company Lot 11, Southeast Second Addition to the City of Lexington, Dawson County, Nebraska for the sum of \$1,250,000.00 pursuant to a purchase agreement between the Agency and Company of even date herewith.

ARTICLE IV  
OBLIGATIONS OF THE COMPANY

Section 4.01 Construction of Project; Insurance.

The Company shall use the Bond proceeds to pay for the Project Costs. The Company will complete the Project by construction of a 115,000 square foot manufacturing facility and install all equipment and furnishings necessary to operate the Project. The Company shall be solely responsible for obtaining all permits and approvals necessary to acquire, construct and equip the Project. Until construction of the Project has been completed, the Company shall make reports in such detail and at such times as may be reasonably requested by the Agency as to the actual progress of the Company with respect to construction of the Project, Promptly after completion by the Company of the Project, the Company shall furnish to the Agency a Certificate of Completion. The certification by the Company shall be a conclusive determination of satisfaction of the agreements and covenants in this Redevelopment Contract with respect to the obligations of the Company and its successors and assigns to construct the Project. As used herein, the term "completed" or "completion" shall mean Substantial Completion of the Project.

Any contractor chosen by the Company or the Company itself shall be required to obtain and keep in force at all times until completion of construction, policies of insurance including commercial general liability insurance and coverage for contractors' general liability, completed operations and automobile liability. The minimum acceptable limits of liability to be provided by such insurance are: bodily injury of three million dollars per person or occurrence and property damage of three million dollars per occurrence. The Company, the City and the Agency shall be named as additional insureds on such policy.

Any contractor chosen by the Company or the Company itself, as an owner, shall be required to purchase and maintain property insurance upon the Project to the full insurable value thereof and such policy shall be on a special causes of loss form. The Company, the City and the Agency shall be named as additional insureds on such policy.

The contractor or the Company, as the case may be, shall furnish the Agency with a Certificate(s) of Insurance evidencing policies as required above. Such certificates shall specifically indicate that the public liability insurance includes all extensions of coverage required and shall state that the insurance companies shall give the Agency and all other named insureds at least thirty (30) days' written notice in the event of cancellation of or material change in any of the policies.

Section 4.02 The Company to Operate Project.

If the Company fails to operate the Project for at least 15 years from and after January 1, 2016, then such failure shall constitute an Event of Default hereunder, subject however to the Force Majeure provisions of Section 7.01 hereof. The Company shall be deemed to be operating the Project so long as the Company is operating in the in the ordinary course of its business on a substantial and continuous basis.



#### Section 4.03 Other Agreements.

The Company will enter into and perform its obligations under such other agreements as are reasonably necessary in connection herewith, including but not limited to those documents set forth and described in Section 8.01 hereof.

#### Section 4.04 Penal Bond.

The Company shall execute a penal bond for the Project with good and sufficient surety in an amount to be approved by the Agency meeting the requirements of §18-2151 of the Act, as amended, on or prior to its execution of this Contract.

#### Section 4.05 No Discrimination.

The Company agrees and covenants for itself, its successors and permitted assigns that as long as any Bond is outstanding, it shall not knowingly 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. The Company, for itself and its successors and permitted assigns, agrees that during the construction of the Project, the Company shall not knowingly 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. The Company shall use its best efforts to comply with all applicable federal, state and local laws related to the Project.

#### Section 4.06 Pay Real Estate Taxes.

The Company intends to create a taxable real property base attributable to the Project of not less than \$2,000,000.00, no later than January 1, 2015. The Company further intends to create a taxable real property base attributable to the Project of not less than \$8,000,000.00 by January 1, 2016 (the "TIF Valuation"). Prior to January 1, 2030 or any shorter period during which the holder of the Bond has not been paid in full the Company shall (1) not convey the Premises or structures thereon to any entity which would be exempt from the payment of real estate taxes or cause the nonpayment of such real estate taxes; (2) cause all real estate taxes and assessments levied on the Premises to be paid prior to the time such become delinquent during the term that any Bond is outstanding; (3) not protest a real property and improvement valuation on the Redevelopment Area seeking to obtain an assessable valuation less than the TIF Valuation after completion of the Project; (4) not apply to the Dawson County Assessor for the structures located on the Premises, or any portion thereof, to be taxed separately from the underlying land of the Premises; (5) at all times maintain or cause to be maintained in effect insurance policies, as required under the terms of attached Exhibit D, and shall furnish the holder of the Bond and the Agency (upon request therefor) proof of payment of all premiums for such insurance; (6) upon occurrence of a casualty loss, cause any and all insurance proceeds to be used for the cost of restoring and repairing the Project to the equivalent of its physical condition immediately prior to the casualty; and (7) pay any and all Deficiency Payments required by Section 4.07 The Company shall pay all real estate taxes assessed on the Premises directly to the Dawson County, Nebraska Treasurer ("County Treasurer") as required by applicable law. After deducting County

taxes in the amount of one percent (1%) of said funds plus associated collection fees as required pursuant to Neb. Rev. Stat. §33-14, the County Treasurer is expected to promptly pay the remaining balance of said taxes to the Paying Agent for deposit in the Debt Service Fund established pursuant to the Resolution.

#### Section 4.07 Payment in Lieu of Taxes.

In order to provide sufficient revenues for the Debt Service Fund, minimum payments (each the “Minimum Payment”) shall be required. The Minimum Payment for the 2015 tax year is \$40,000.00. For the tax years 2016 through 2029, inclusive, the Minimum Payment for each such tax year shall be \$160,000.00. If for any reason, at any time, TIF Revenues received by the Agency are less than the Minimum Payment for such year, the Company hereby agrees to make such payments in lieu of taxes to the Paying Agent as shall be necessary to pay the difference between the TIF Revenue for such tax year and the Minimum Payment (the “Deficiency Payment”). Any Deficiency Payment shall be made in immediately available funds in U.S. Dollars prior to the time the corresponding real estate taxes and assessments become delinquent the Company agrees to pay the real property taxes for the year 2029 prior to December 31, 2029.

#### Section 4.08 Payment of Expenses.

Upon the execution of this Redevelopment Contract, the Company shall pay to Bacon and Vinton, Gothenburg, Nebraska, the sum of \$\_\_\_\_\_ for certain legal costs incurred by the Agency in connection with this Redevelopment Contract, provided, however, in the event the Agency fails to provide or cause to be provided to the Company the documents set forth in Section 8.01 hereof, the sum set forth above shall be paid into escrow until such documents are provided to the Company.

#### Section 4.09 No Assignment or Conveyance.

The Company may not assign its rights under this Redevelopment Contract without the express prior written consent of the Agency

#### Section 4.10 Sale of Existing Facilities.

Notwithstanding anything set forth in this Redevelopment Contract to the contrary, the Agency's obligations under this Redevelopment Contract are expressly conditioned upon the owner of the real estate described on attached Exhibit A-1, selling to the Agency said real estate which is currently occupied by the Company for the sum of \$1,210,000.00 and subject to the representations, warranties, covenants and considerations of the Existing Property Purchase Agreement.

#### Section 4.11 Immigration Status.

The Company agrees that any contractor for the Project shall be required to agree to use a federal immigration verification system (as defined in §4-114, R.S. Supp. 2009) to determine the work eligibility status of new employees physically performing services on the Project and to comply

with all applicable requirements of §4-114, Revised Reissued Statutes.

Section 4.12 Purchase of Bond.

Upon issuance, the Company or its designee shall purchase, at the full principal amount thereof the Bond issued pursuant to Section 3.02 hereof pursuant to a purchase agreement in a form acceptable to the Agency.

ARTICLE V  
FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES

Section 5.01 Other Sources of Funding.

The Company represents and warrants that the initial Bond proceeds, together with the other sources of funding indicated on attached Exhibit F hereto, will be sufficient to cause completion of the Project. The Company shall pay all Project Costs, if any, which are in excess of the amounts paid from the proceeds of the Bond granted to the Company

ARTICLE VI  
DEVELOPMENT SCHEDULES

Section 6.01 Development Schedule.

The Agency and the Company acknowledge that time is of the essence in the development of the Project and that each party hereby agrees to use its best efforts to follow and complete the schedule of development activities and performance contemplated by this Redevelopment Contract.

ARTICLE VII  
DEFAULT, REMEDIES; INDEMNIFICATION

Section 7.01 Event of Default.

Any one or more of the following events shall constitute an Event of Default hereunder:

1. Failure by the Company to pay when due real estate taxes or assessments on the Premises or any part thereof or Minimum Payments in lieu of taxes pursuant to Section 4.07 hereof and such failure shall continue for a period of thirty (30) business days after written notice thereof shall have been given to the Company by the Agency or the City;

2. Failure by the Company to complete construction of the Project on or before September 1, 2015, and such failure shall not be cured, ended or remedied within three (3) months after written demand by the Agency to the Company to so complete construction of the Project, provided, however, that no Event of Default shall occur if, at the conclusion of such three (3) month period, the Company is constructing the Project and diligently pursuing the Substantial Completion of construction within a reasonable time;

3. The Company shall abandon the Project, or any substantial part thereof, or the operation thereof as defined in Section 4.02 hereof; and such abandonment shall continue, without an agreement between the Company and the Agency or the City for the exercise by the Company of its best efforts to resume operating the Project, for a period of ninety (90) days after written notice thereof shall have been given to the Company by the Agency or the City;

4. There shall occur an Event of Default under the Economic Development Loan Agreement;

5. There shall occur an Event of Default under the Resolution;

6. Failure by the Company or the Agency to observe or perform any other agreement, term or condition contained in this Redevelopment Contract and such failure shall continue for a period of thirty (30) days after written notice of such failure shall have been given to the breaching party by the non-breaching party, or for such longer period as the non-breaching party may agree to in writing; provided, that if the failure is other than the payment of money and is of such nature that it cannot be corrected within the applicable period, such failure shall not constitute an Event of Default so long as the breaching party institutes curative action within the applicable period and diligently pursues (in the sole judgment of the non-breaching party) that action to completion;

7. Any representation or warranty made by the Company or the Agency herein or any statement made by the Company or the Agency in any report, certificate, financial statement or other instrument furnished in connection with this Redevelopment Contract or with the purchase of the Bond shall at any time prove to have been false or misleading in any material respect when made or given.

Notwithstanding the foregoing, if, by reason of Force Majeure, the Company or the Agency is unable to perform or observe any agreement, term or condition of this Redevelopment Contract, then such party shall not be deemed in breach during the continuance of such Force Majeure event. However, the party claiming excuse shall promptly give notice to the other party of the existence of an event of Force Majeure and shall use its best efforts to remove the effects thereof. With respect to the Company's obligations to complete construction of the Project and to operate the Project, it is the purpose and intent of this provision that in the event of the occurrence of any such Force Majeure event, the time or times for performance by the Company with respect thereto shall be extended until the sooner of (i) such time as the party claiming excuse has secured an alternative means of performance using commercially reasonable efforts or (ii) expiration of the Force Majeure

In the event of any default by the Company in performance any of its covenants or obligations pursuant to this Redevelopment Contract, the Company or its successors, shall, upon written notice from the Agency, proceed immediately to cure or remedy such default within thirty (30) days after receipt of notice. If the default cannot, in the exercise of reasonable diligence, be cured within thirty (30) days, then the Company shall commence efforts to cure and shall diligently continue to cure the default within a reasonable time. If the default is not cured, then

after obtaining the prior written approval from the holder of any Bond, the Agency may institute any proceedings which may be necessary to cure and remedy the default. Any delay by the Agency in instituting or prosecuting any action or otherwise asserting rights under this Redevelopment Contract shall not operate as a waiver of rights or limit rights in any way. Upon the request of a secured party to which the holder of any Bond has pledged its interest in, and rights to payment under, the Bond (each a "Secured Party"), the Agency will (without the consent of the Company) assign its rights under this paragraph to the Secured Party, and upon the assignment the Secured Party may institute any proceedings which may be necessary to cure and remedy the Company's default. Upon any such assignment the Agency shall be relieved of all obligations for enforcing such default.

#### Section 7.02 Remedies of The Company.

Upon the occurrence of a breach of this Redevelopment Contract by the Agency, the Company may take one or more of the following remedial steps, which shall be the Company's exclusive remedies:

1. Initiate by mandamus, suit, action or proceeding at law or in equity a proceeding, as provided in §18-2133 of the Act, to compel the Agency and the members, officers, agents or employees thereof to perform each and every term, provision, and covenant contained in this Redevelopment Contract and to require the carrying out of any and all such covenants and agreements to the Agency and the fulfillment of all duties imposed upon the Agency by the provisions of, the Act and this Redevelopment Contract; or

2. Initiate a suit, action or proceeding in equity to enjoin (i) any act or things which may be unlawful or (ii) the violation of any of the rights of the Company by the Agency.

#### Section 7.03 No Remedy Exclusive.

Unless otherwise provided herein, no remedy conferred upon or reserved to the Agency by this Redevelopment Contract is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Redevelopment Contract, or now or hereafter existing at law, in equity or by statute.

#### Section 7.04 No Waiver.

No failure by the Company or the Agency to insist upon the strict performance by the other of any provision hereof shall constitute a waiver of their right to strict performance and no express waiver shall be deemed to apply to any other existing or subsequent right to remedy the failure by the other party to observe or comply with any provision thereof. No delay or omission to exercise any right or power accruing upon any breach of this Redevelopment Contract shall impair that right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 7.05 Limitation of Liability; Indemnification.

No member, official, attorney, employee, consultant, or agent (the "Indemnified Parties") of the Agency shall be personally liable to the Company or any successor in interest in the event of any default or breach by the Agency or for any amount which may become due to the Company or successor or on any obligations under the terms of this Redevelopment Contract. It is the intention of the parties hereto that the Agency and its officers, shall not incur pecuniary liability by reason of or in connection with the issuance of the Bond or the execution of the Resolution; nevertheless, if the Agency or its officers should incur any pecuniary liability, then in such event the Company shall indemnify and hold the Indemnified Parties harmless against all claims by or on behalf of any Person, arising out of the same. The Company releases the Agency and the City from, agrees that the Agency and the City shall not be liable for, and agrees to indemnify and hold the Agency and the City harmless from any liability for any loss or damage to property or any injury to or death of any Person that may be occasioned by, resulting from, connected with or growing out of any act of commission or omission of the Company or any of its officers, employees, agents, assignees, contractors or subcontractors.

Notwithstanding any provision of this Redevelopment Contract to the contrary, after issuance of and delivery of the Bond and compliance with Sections 3.06, 3.08, and 3.09, the sole obligation of the Agency is to transmit to the Paying Agent the TIF Revenues to the extent the Agency may lawfully do so.

Section 7.06 Cooperation of the Company and the Agency.

The Company hereby covenants and agrees to cooperate with and assist the Agency in remarketing and selling the Project in the event that the Company should permanently close, abandon, or cease operating the Project. . Nothing in this Section 7.06 shall in any way relieve the Company of its obligation to own and operate the Project during the duration of the TIF Period as required by Section 4.02.

ARTICLE VIII  
MISCELLANEOUS

Section 8.01 Delivery of Documents.

Upon the execution of this Redevelopment Contract, the Agency and the Company agree to execute, deliver and provide or cause to be provided the documents listed forth in Exhibit "\_\_\_" attached hereto.

Section 8.02 Notice Recording.

This Redevelopment Contract or a true and correct notice or memorandum of this Redevelopment Contract shall be recorded with the Dawson County Register of Deeds with respect to the Premises. Such notice shall include, but not be limited to, each of the covenants set forth in Section 4.06.

Section 8.03 Governing Law.

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

Section 8.04 Binding Effect; Amendment.

This Redevelopment Contract shall be binding on the parties hereto and their respective successors and permitted 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.

Section 8.05 Counterparts.

This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same instrument.

Section 8.06 Severability.

The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections contained in this Redevelopment Contract shall not affect the validity or enforceability of the remaining portions of this Redevelopment Contract, or any part thereof.

Section 8.07 Strict Compliance.

All provisions of this Redevelopment Contract (together with the exhibits hereto) shall be strictly complied with as written, and may be amended, modified, waived, discharged or terminated only by an instrument in writing signed by the party against whom enforcement of such amendment, modification, waiver, discharge, termination or consent is sought.

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

COMMUNITY DEVELOPMENT AGENCY  
OF LEXINGTON, NEBRASKA

ORTHMAN INVESTMENTS,  
L.L.C.

By: \_\_\_\_\_

By: \_\_\_\_\_

EXHIBIT A  
DESCRIPTION OF PREMISES

Lot 11, Replat of Southeast Second Addition to the City of Lexington, Dawson County, Nebraska.



## EXHIBIT A-1

A tract of land in the Northeast Quarter of Section 9, in Township 9 North, Range 21 West of the 6th P.M., Dawson County, Nebraska, and more particularly described as follows: Beginning at a point 1,321.8 feet North from the East Quarter corner on Section line and 74° 17' left, a distance of 449.8 feet, (260 feet South and parallel to Centerline Union Pacific Railroad, also the Northwest corner of Canada tract); thence South (along West side of Canada tract and parallel to Section line) a distance of 472.3 feet to a point; thence 88° 56' right, a distance of 848.1 feet to a point; thence 91° 04' right, a distance of 726.5 feet to a point; thence 105° 43' right, a distance of 880.9 feet to the place of beginning, and

A tract of land in the Northeast Quarter of Section 9, in Township 9 North, Range 21 West of the 6th P.M., Dawson County, Nebraska, and more particularly described as follows: Beginning at a point 1,321.8 feet North from the East Quarter corner on Section line and 74° 17' left, a distance of 449.8 feet, (260 feet South and parallel to Centerline of Union Pacific Railroad, also the Northwest corner of Canada Tract); thence continue on the last described course, a distance of 880.9 feet to a point; thence 74° 17' right, a distance of 62.3 feet to a point on the South line of the Union Pacific Railroad Right-of-Way; thence Southeasterly and along the South line of the Union Pacific Railroad Right-of-Way, a distance of 880.9 feet to a point; thence 74° 17' right, a distance of 62.3 feet to the place of beginning.

Except: A tract of land located in the East One-Half of the Northeast Quarter (E1/2NE1/4) of Section Nine (9), Township Nine (9) North, Range Twenty-one (21) West of the 6th P.M., Dawson County, Nebraska, and more particularly described as follows:

Referring to the East One-Quarter Corner of Section Nine (9), Township Nine (9) North, Range Twenty-one (21) West of the 6th P.M., Dawson County, Nebraska.

Thence North (an assumed bearing), and along the East Line of the Northeast Quarter of said Section Nine (9), a distance of 1321.80 feet;

Thence N 74 °17'00" W, a distance of 681.29 feet, to the Point of Beginning.

Thence S 0° 49'36" W, a distance of 539.20 feet;

Thence N 88° 55'30" E, a distance of 230.56 feet;

Thence North, and parallel to the East Line of the Northeast Quarter of said Section Nine (9), a distance of 472.30 feet;

Thence N 74° 17'00" W, a distance of 231.49 feet, to the place of beginning, said parcel containing 2.63 acres, more or less.

EXHIBIT B  
DESCRIPTION OF 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 Company intends to acquire, develop and rehabilitate the real estate shown on Exhibit A to the Redevelopment Contract by constructing a 115,000 square foot manufacturing facility, creating 100 additional jobs.

The Company will not develop the Project in the Redevelopment Area or elsewhere without the benefit of the benefits under the Redevelopment Contract. The costs and risks of the Project are simply too great to be absorbed by the Company without this assistance.

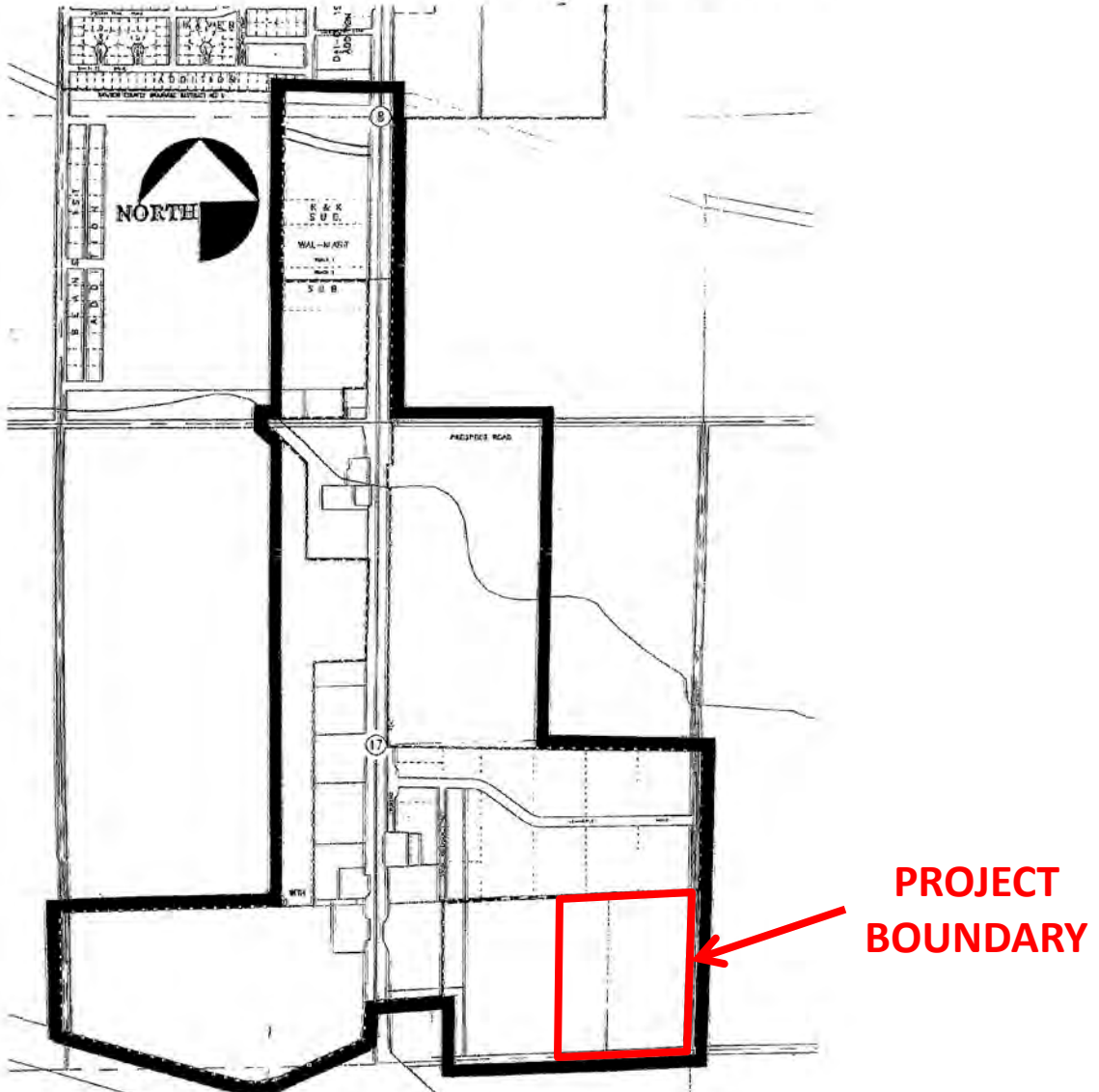
The Agency will sell the real estate shown on Exhibit A to the Company which will use the proceeds of a Community Development Revenue Bond to pay for the Project Costs.

Exhibit B-1

Project Boundaries

[attach plat map of Lot 11]

# LOCATION MAP REDEVELOPMENT AREA #1 LEXINGTON, NEBRASKA



HANNA:KEELAN ASSOCIATES, P.C.

ILLUSTRATION 1  
Blight/Substandard Determination Study  
Redevelopment Area #1

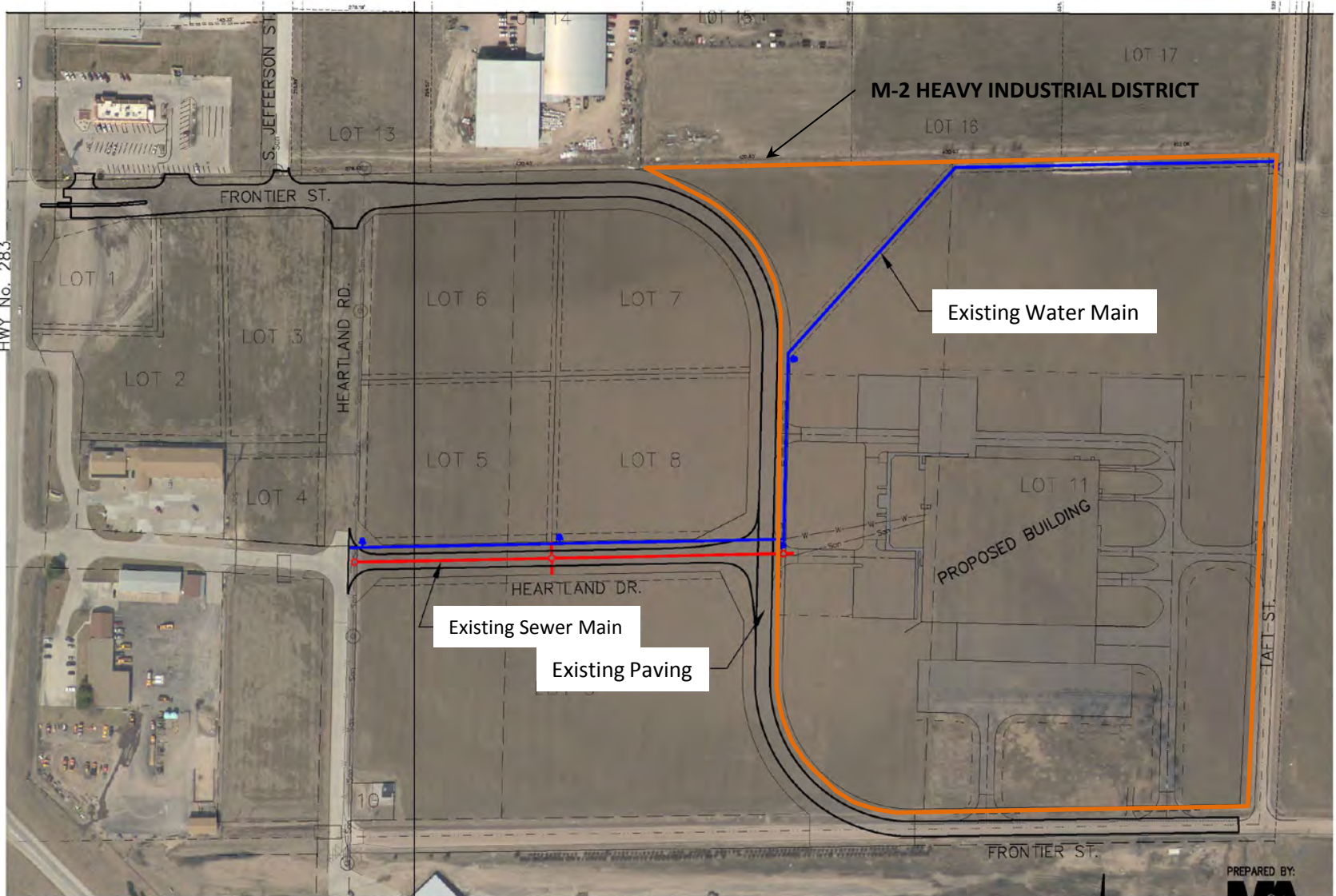
Exhibit B-2

Site Plan

[attach site plan showing location of proposed building]

# EXHIBIT B2

PLOTTED: 9/14/2012 9:04 AM Andrew C. Olson  
C:\Projects\127\127-A1-084\Civil-Dwg\Sheel Drawings\City Figure.dwg



## SOUTHEAST BUSINESS PARK IMPROVEMENTS LEXINGTON, NEBRASKA

PREPARED BY:  
**MA**  
MILLER & ASSOCIATES  
CONSULTING ENGINEERS, P.C.  
1111 CENTRAL AVENUE  
KEARNEY, NE 68847

EXHIBIT C  
AMENDED  
REDEVELOPMENT PLAN

THE REDEVELOPMENT PLAN:

This is an amended redevelopment plan which amends the Redevelopment Plan for the Redevelopment Area previously approved by the Lexington City Council on the 25<sup>th</sup> day of September, 2012

1. Relationship of Plan to Local objectives for appropriate land use: This plan contemplates a change in current land use. Industrial 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.

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

**Streets:** Streets conform to current layout and design as set forth in the various subdivision plats affecting the project.

**Potable Water Lines:** The City has installed potable water lines and fire hydrants required to Redevelopment Area.

**Sanitary Sewer Lines:** The City has installed sanitary sewer lines to the Redevelopment Area.

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

3. Redevelopment Area Boundaries: Exhibit B-1 to the Redevelopment Contract shows the boundaries of the Redevelopment Area. The Redevelopment Area is currently improved with compacted fill and concrete slabs and foundations.

4. Proposed land use plan: Exhibit B-2 to the Redevelopment Contract shows the proposed land use plan for the Redevelopment Area after redevelopment as an industrial development.

5. Information on standards for population densities; land coverage; building intensities; and land coverage after redevelopment: Population density will not change for the area. Currently there is no residential occupancy.

6. Statement regarding change in street layouts: This Plan proposes no change in street layouts.

7. Site plan after redevelopment: Exhibit B-2 to the Redevelopment Contract is an accurate proposed site plan of the Redevelopment Area after redevelopment.

8. Statement as to the kind and number of additional public facilities or utilities required to support land use after redevelopment: No additional public utilities are required to support the proposed plan, as discussed above.

10. Pledge of Incremental Taxes. Pursuant to Section 18-2147 of the Act, any ad valorem tax levied upon Redevelopment Area (which is legally described in attached Exhibit "A" to the Redevelopment Contract) 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, 2015. Said taxes shall be divided, as follows:

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 Agency 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 Agency 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 Agency 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.

11. Cost Benefit Analysis. This Plan when presented for recommendation and approval shall be accompanied by a cost benefit analysis. Such analysis is as follows:

a. Tax shifts resulting from the approval of the use of funds pursuant to section 18-2147:

This project is intended to add new positions for this facility. This may result in new residents in the City of Lexington resulting in a possible increase student load for the school system. However, implementation of the full project employment will occur a number of years. Any increase in students will be spread over the entire class range provided by the Lexington School District and should not result in increased teacher hires.

b. Public infrastructure and public service needs:

No additional public service needs are contemplated. Sales tax generated by new hires and the construction of the facility will reimburse the City for any possible increased public service expenditures as a result of the project.

c. Impacts on employers and employees within the project area:

None exist. Therefor no impact is expected.



d. Impacts on employers and employees in the city, but not in the project area:

The construction of the facility will increase demand for employees, resulting in upward pressure on wages.

e. Other impacts:

No significant negative additional impacts are anticipated. However the Project will invite population growth with its attendant spending and investment in the community. The Project is projected to be assessed for real property purposes after completion at \$8,000,000.

## Exhibit D

1. Principal amount \$1,250,000.00
2. Payments: Payments will be made to the holder of the Bond each June 1 and October 1 commencing June 1, 2016 through October 1, 2029. Payments for June 1, 2016 and October 1, 2016, shall be \$20,000 for each such date. Thereafter on each payment date the payment shall be \$80,000. Payment for the taxes for the 2029 tax year shall be \$160,000 and shall be paid prior to December 31, 2029. Ad Valorem TIF Revenues for the 2029 year, if paid to the Dawson County Treasurer prior to December 31, 2029 shall be allocated to payment on the bond.
3. Interest Rate: 7.00% interest annually.
4. Maturity Date: On or before December 31, 2029.
7. Insurance Requirements: The Company will maintain insurance policies with insurance companies that are financially sound and reputable, in such amounts and covering such risks as are usually carried by entities engaged in similar businesses and owning similar properties in the same general areas in which the Company operates, provided that in any event the Company will maintain workers' compensation insurance, property insurance and comprehensive general liability insurance reasonably satisfactory to the holder of the Bond or any secured party to which the holder has pledged its interest in the Bond (a "Secured Party") and provide the holder of the Bond and Secured Party with a copy of all insurance reviews conducted by any insurance broker or agent. At all times during construction of the Project, in addition to any other policies referred to herein, the Company shall maintain (a) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned liability insurance policy; and (b) the above mentioned property insurance policy shall be written in a so-called builder's risk completed value form (i) on a non-reporting basis, (ii) against all risks insured against pursuant to the aforementioned property insurance, (iii) including permission to occupy the Redevelopment Area and the Project, and (iv) with an agreed amount endorsement waiving co-insurance provisions. All policies of insurance must be issued by companies approved by the Secured Party and must be acceptable to the Secured Party as to amounts, forms, risk coverages, deductibles,

expiration dates, and loss payable and cancellation provisions. In addition, each required policy shall contain such endorsements as the Secured Party may require, provide that all proceeds be payable Secured Party to the extent of its interest, and contain a provision that such insurance may not be cancelled by the issuer thereof without at least 10 days' advance written notice to the Secured Party.

Exhibit F  
Sources and Uses of Funding

[TO BE SUPPLIED]

DOCS/1258992.5