

# **City of Scottsbluff, Nebraska**

**Monday, July 14, 2014**

**Regular Meeting**

## **Item NewBiz1**

### **TIF Redevelopment Plan**

*Redevelopment Plan: 2627 Lodging (Fairfield Inn)*

*Applicant: 26727 Lodging*

*Owner: 2627 Lodging*

*Location: S. of Winter Creek Dr. & E of Primrose Dr.*

Staff Contact: Annie Urdiales



*SCOTTSBLUFF  
PLANNING COMMISSION  
Staff Report*

**To:** Planning Commission  
**From:** Annie Urdiales, Planning Administrator  
**Date:** July 14, 2014  
**Subject:** Redevelopment Plan – Fairfield Inn & Suites  
**Location:** 902 Winter Creek Drive

Twenty-six Twenty-seven Lodging (2627 Lodging) is proposing to redevelop commercial property in the 900 block of Winter Creek Drive, described as Block 2, Reganis Subdivision.

The City approved this area as Blighted and Substandard in August of 2013 and presently has one project being constructed (Reganis Auto) in the area. The proposed new development will be a Fairfield Inn & Suites, comprised of three stories, first story is 15,892 square feet the other two 15,677 square feet (85 rooms). The developer is hoping to begin phase I of the construction in the next month and hope to have the project completed in the fall of 2015. They will be able to use existing infrastructure for water and sewer and the streets 12<sup>th</sup> Avenue and Wintercreek Drive may be done with a Paving District and completed before final occupancy of the hotel.

Review by the Planning Commission of the redevelopment plan with recommendation and comments is asked for by the Developers as a Public Hearing is scheduled for the July 21<sup>st</sup> City Council meeting. The City will negotiate a specific redevelopment agreement with the Redeveloper outlining the project and contributions necessary from the City, the agreement will include a site plan, project description, and specific funding arrangements, covenants, and responsibilities of both the City and Redeveloper to implement the project.

The plan proposes that TIF Bonds purchased by the developer will fund the redevelopment area site acquisition, and site preparation of the project. The balance of private improvements and any required right of way improvements will be a paid by the developers, or districts.

The redevelopment plan is attached for your review.



**CITY OF SCOTTSBLUFF  
REDEVELOPMENT PLAN FOR THE  
FAIRFIELD INN & SUITES at WINTERS CREEK DRIVE**

I. INTRODUCTION.

The City of Scottsbluff, Nebraska, recognizes that blight is a threat to the continued stability and vitality of the City as a focal point of business, financial, social, cultural and civic activity of the region, and a focus of community pride and achievement. Therefore, the City has initiated a program of revitalization whose goal is to enhance the City of Scottsbluff as the center of government in the county-wide region; as the center of retail, business, industry, office, financial and entertainment activities, and of communication for the community, and as a center of tourism and meetings for the region. To reach this goal of the City of Scottsbluff has recently declared blighted and substandard the Highway 26/East 27th Street Corridor in the City. This area constitutes a critical portion of the community located on a major thoroughfare. The City recently approved the Highway 26/East 27th Street Corridor Redevelopment Plan providing for significant infrastructure improvement for the Winters Creek drainage. It also provided for significant investment by Reganis, L.L.C., resulting in the construction of a new automobile dealership. This plan seeks to further enhance the Highway 26/East 27th Street corridor by assisting in the site acquisition and site preparation for the development of an premium 85 room Fairfield Inn & Suites Hotel. The level of investment to finance the needed site acquisition and site preparation and related infrastructure will require the combined efforts of the public and private sectors.

This Redevelopment Plan covers an area consisting of approximately 147,232 square feet located east of and adjacent to U.S. Highway 26 which is legally described as Block 2 Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska and shown on Exhibit "A", attached hereto and incorporated herein by this reference ("Community Redevelopment Area"). The Community Redevelopment Area was declared blighted and substandard by the Scottsbluff City Council on August 20, 2013. The Community Redevelopment Area has been determined, through the blight and substandard resolution, to be in need of revitalization and strengthening to ensure that it will contribute to the economic and social well-being of the City. All available evidence suggests that the area has not had the private investment necessary to contribute to the well-being of the community, nor would the area be reasonably anticipated to be developed without public action.

To encourage private investment in the Community Redevelopment Area, this Redevelopment Plan has been prepared to set forth the Fairfield Inn & Suites at Winters Creek Drive Redevelopment Project ("Redevelopment Project"), which is considered to be of the highest priority in accomplishing the goal of revitalizing and strengthening the Community Redevelopment Area.

## II. EXISTING SITUATION.

This section of the Redevelopment Plan examines the existing conditions within the designated Community Redevelopment Area. This section is divided into the following subsections: existing land use, existing zoning, existing public improvements, and existing building condition/blighting influences.

A. Existing Land Use. The Community Redevelopment Area contains a platted block of undeveloped land consisting of approximately 147,232 square feet. This use is shown on Exhibit “B”.

B. Existing Zoning. The Community Redevelopment Area is zoned C-2. The intent of the Neighborhood Commercial District is to provide a zone consisting of retail stores and service establishments. The C-2 District includes a wide range of retail and service uses generally helpful to the traveling public and found along arterial roadways in the community. Some of the permitted uses include hotels/motels, banks, hospitals/clinics, restaurants/bars/taverns, and convenience stores.

### C. Existing Public Improvements.

1. Street System. The Redevelopment Area is accessed from Highway 26 by Winters Creek Drive. There is no internal street network or system constructed within the Community Redevelopment Area.

2. Utilities. The existing public utilities are available adjacent to the Redevelopment Area.

D. Existing Building Conditions/Blighting Influences. Charles K. Bunger, Attorney at Law, conducted a study entitled “Study of Blight and Substandard Conditions” dated July 7, 2013 (“Blight Study”). The “study area” for the Blight Study, which includes the Community Redevelopment Area, as well as additional property. The evaluation and subsequent findings of the Blight Study were based upon the criteria outlined in the Nebraska Community Development Law (**Neb. Rev. Stat.** § 18-2101 et seq.). The Blight Study determined that the study area exhibited a number of deficiencies applicable to the consideration of a “substandard and blight” designation including the existence of conditions which endanger life or property by fire or other causes, improper subdivision and dilapidation/deterioration. In addition, the Blight Study identified the existence of one condition within the study area that is a determinant of blight – the area substantially impairs or arrests the sound growth of the community and the average age of structures in the area is greater than 40 years. The City Council declared the Community Redevelopment Area blighted and substandard and eligible for a Redevelopment Project on August 20, 2013, by resolution of the Scottsbluff City Council, after a public hearing with notice pursuant to the Community Development Law. The Blight Study is incorporated herein by this reference. A copy of the Blight Study is available at the City of Scottsbluff Clerk’s Office.

### III. FUTURE SITUATION.

This section of the Redevelopment Plan examines the future conditions within the Community Redevelopment Area. This section is divided into the following subsections:

- A. Proposed Land Use Plan
- B. Conformance with the Comprehensive Plan; Conformance with the Community Development Law Declarations
- C. Relationship to Local Objectives
- D. Building Requirements and Standards after Redevelopment
- E. Proposed Changes and Actions
- F. Cost-Benefit Analysis
- G. Proposed Cost and Financing
- H. Procedure for Changes in the Approved Redevelopment Plan

A. Proposed Land Use Plan. No changes are contemplated in the current Land Use Plan for the area. However, the use of this site will go from undeveloped to developed. This plan contemplates site acquisition and site development resulting in the construction of a premium 85 room hotel with upscale amenities. The proposed site plan for the area after completion of a Redevelopment Project is shown on attached Exhibit "C" which is attached hereto and incorporated herein by this reference. The land use plan shows a proposed Redevelopment Project for the three story hotel consisting of approximately 15,892 square feet (ground floor) and 15,677 square feet for each upper story. A significant portion of the site will be paved parking lot with landscaping. The specific site plan, land uses, open space, buildings, parking lots, are shown on Exhibit "C".

The City of Scottsbluff will negotiate a specific redevelopment agreement with the redeveloper outlining the proposed Redevelopment Project, and contributions are necessary from the City of Scottsbluff. The written redevelopment agreement will include a site plan, Redevelopment Project description, specific funding arrangements, and specific covenants and responsibilities of the City and the redeveloper to implement the Redevelopment Project.

B. Conformance with the Comprehensive Plan; Conformance with the Community Development Law Declarations. In accordance with Nebraska State Law, the Redevelopment Plan described in this document has been designed to conform to the City of Scottsbluff Comprehensive Plan 2004 ("Comp Plan"). The City Council finds that this redevelopment plan 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 Community Development Law.

C. Relationship to Local Objectives. The Redevelopment Plan has been developed on the basis of the goals, policies and actions adopted by the City for the community as a whole and for the Redevelopment Area. General goals, policies and actions relating to the community as a whole and for Redevelopment Area are contained in the Comp Plan.

D. Building Requirements and Redevelopment Standards. The redevelopment of the Community Redevelopment Area should generally achieve the following requirements and standards:

1. Population Density. There are no dwelling units currently located within the Community Redevelopment Area. The development proposed under this Redevelopment Plan does not include any residential construction. Consequently, there will be no change proposed for the permanent population density within the Community Redevelopment Area. Transient population for the area will increase upon the opening of the hotel.

Redevelopment of the Community Redevelopment Area with the development of an upscale hotel should incent further development within the Redevelopment Area. Often an investment and improvement of the magnitude proposed by this Plan has the benefit of spurring improvements in adjacent developed and undeveloped commercial areas.

2. Land Coverage and Building Density. There are no existing buildings located within the Community Redevelopment Area. After redevelopment project completion, building coverage will be approximately 15,982 square feet on the ground floor. Paved parking lots are shown on Exhibit "C".

3. General Environment. The hotel and parking lot will not cover all of Block 2 Reganis Subdivision. The additional land, not utilized for hotel premises in Block 2, is reserved for additional and compatible commercial development. This commercial activity will intensify and strengthen Scottsbluff as a focal point for local and regional retail sales and development.

The Plan will provide for the establishment of a vibrant nationally recognized upscale hotel. Exhibit D provides a view of the structure that would be constructed pursuant to this Plan. This activity is intended to have a significant positive visual and economic impact in the Redevelopment Area.

The Plan provides an environment that minimizes automobile-pedestrian conflicts, assures that lighting, signs, pedestrian ways, and communication devices are oriented to the human scale and provides an attractive hotel facility for the community.

4. Pedestrian ways and Open Spaces. Provide a pedestrian circulation system to facilitate the movement of pedestrians to and within the major development activities within the area.

5. Building Heights and Massing. Building heights and massing for the proposed project will comply with the C-2 zone.

6. Circulation, Access and Parking. The Plan provides for vehicular access to the Community Redevelopment Area in a manner consistent with the needs of the development and the community.

The Plan provides for an adequate supply of appropriately located parking in accordance with applicable zoning district regulations. Adequate parking needs to be provided so the development does not generate parking problems for abutting commercial and residential streets.

7. Off-Street Loading, Service and Emergency Facilities. The Plan provides for consolidated off-street loading and service facilities.

The Plan provides for emergency vehicle access in a manner compatible with established design and environmental objectives.

The Plan provides a maximum floor area ratio in accordance with applicable zoning district regulations in the Community Redevelopment Area.

E. Proposed Changes and Actions. The Community Redevelopment Area is anticipated to function as an upscale hotel attracting commercial travelers and tourists. See Exhibit "C" for an example of a conceptual land use and site plan for the Community Redevelopment Area. This section describes the proposed changes needed, if any, to the zoning ordinances or maps, street layouts, street levels or grades, and building codes and ordinances, and actions to be taken to implement this Redevelopment Plan.

1. Zoning, Building Codes and Ordinances. The Community Redevelopment Area is zoned C-2 Neighborhood Commercial. No additional changes to the City's Zoning Ordinances, Building Codes, or other local ordinances are contemplated to implement this Redevelopment Plan.

2. Traffic Flow, Street Layout and Street Grades. The only street providing access to the Community Redevelopment Area is Winters Creek Drive from Highway 26.

3. Public Redevelopments, Improvements, Facilities, Utilities and Rehabilitations. In order to support the new land uses in the Community Redevelopment Area, utility extensions and right of way landscaping will be required.

4. Site Preparation and Demolition. Site preparation will consist of general earthmoving to support the building construction and parking areas.



5. Private Redevelopment, Improvements, Facilities and Rehabilitation. The private improvements anticipated within the Community Redevelopment Area include site preparation and the construction of a new three story 85 room upscale nationally-branded hotel.

6. Open Spaces, Pedestrian ways, Landscaping, Lighting, Parking. The proposed site plan and private sector improvements will comply with the City’s minimum open space, pedestrian way, landscaping, lighting, and parking standards as defined in the Zoning and Subdivision Ordinances, Building Codes, or other local ordinances. In addition, the City may elect to require additional standards in these areas as described in a written redevelopment agreement in order to help remove blight and substandard conditions

F. Cost-Benefit Analysis. A City of Scottsbluff Redevelopment Project TIF Statutory Cost Benefit Analysis is incorporated herein by this reference (“Cost-Benefit Analysis”) and is shown on Exhibit “E”. The Cost-Benefit Analysis complies with the requirements of the Community Development Law in analyzing the costs and benefits of the Redevelopment Project, including costs and benefits to the economy of the community and the demand for public and private services.

G. Proposed Costs and Financing; Statements. The City will work with the redeveloper owner of the Community Redevelopment Area to identify proposed funding, timeframe, ability to carry out the proposed Redevelopment Project, and the level of contributions necessary to be made by the City of Scottsbluff.

The City will begin good faith negotiating on a specific written redevelopment agreement with the redeveloper owner of the Community Redevelopment. The written redevelopment agreement will include a site plan consistent with this Redevelopment Plan, development descriptions, specific funding arrangements, and specific covenants and responsibilities of the City and the redeveloper to implement the Redevelopment Project.

Estimated Redevelopment Project costs, including site acquisition and site preparation, and are shown as follows:

**POTENTIAL ELIGIBLE PRIVATE IMPROVEMENTS\***

Site Acquisition	\$800,000.00
Site preparation	\$450,000.00
Plan preparation and legal	<u>\$ 22,500.00</u>
Total	\$1,272,500.00

The figures above are estimates. Final figures are subject to a specific site plan, design specifications, City approval and public procedures and regulations.

The Potential Eligible Private Improvements will exceed the amount of funds available from the tax-increment financing indebtedness.

This Plan proposes that TIF Bonds, purchased by the developer fund the Redevelopment Area site acquisition and site preparation for the project. The balance of private improvements and any required public right of way improvements will be paid by the developer.

The amount of the available proceeds from the TIF Bonds is estimated at approximately \$980,000.00 assuming the hotel will generate an estimated property valuation of \$5,300,000.00 over the present estimated property valuation base.

Any ad valorem tax levied upon the real property in a Redevelopment Project for the benefit of any public body shall be divided, for a period not to exceed fifteen (15) years after the effective date of such provision established in the redevelopment contract to be executed by the Redeveloper and the Community Development Agency. Said tax shall be divided as follows:

a. That portion of the ad valorem tax which is produced by the levy at the rate fixed each year by or for each such public body upon the Redevelopment Project valuation shall be paid into the funds of each such public body in the same proportion as are all other taxes collected by or for the body; 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 be used solely to pay the principal of, the interest on, and any premiums due in connection with the bonds of, loans, notes, or advances of 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 premiums due, have been paid, the authority shall so notify the county assessor and county treasurer and all ad valorem taxes upon taxable real property in such a Redevelopment Project shall be paid into the funds of the respective public bodies.

Because the redevelopment plan proposes to use tax-increment financing funds as authorized in section 18-2147 of the Community Development Law, the City Council in approving this Redevelopment Plan will be required to find as follows:

a. the Redevelopment Project in the plan would not be economically feasible without the use of tax-increment financing;

b. the Redevelopment Project would not occur in the community redevelopment area without the use of tax-increment financing; and

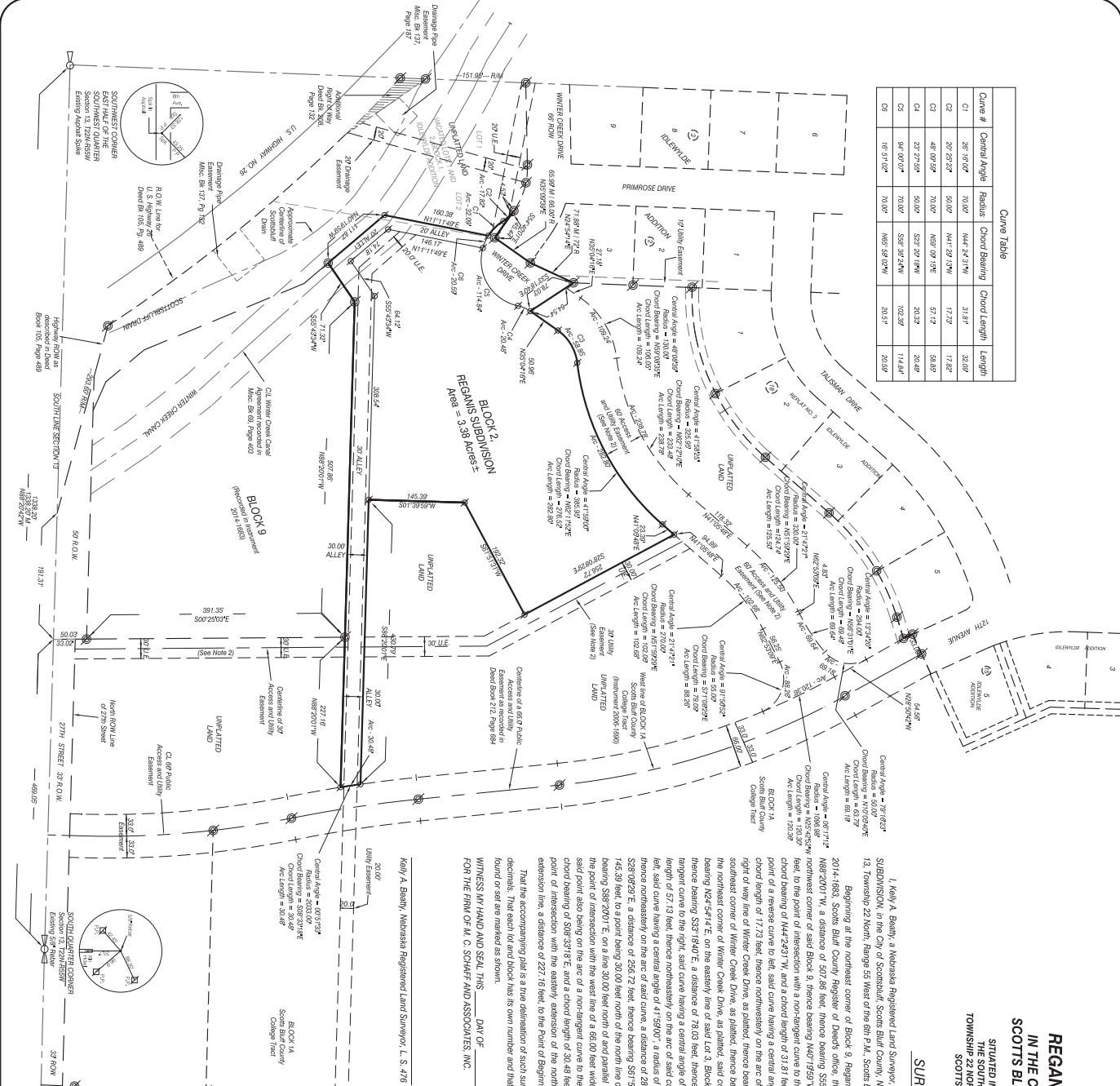
c. the costs and benefits of the Redevelopment Project, including costs and benefits to other affected political subdivisions, the economy of the community, and the demand for public and private services have been analyzed by the governing body and been found to be in the long term best interest of the community impacted by the Redevelopment Project.

H. Procedure for Changes in the Approved Redevelopment Plan. If the City of Scottsbluff desires to modify this Redevelopment Plan, it may do so after holding a public hearing on the proposed change in accordance with applicable state and local laws. A redevelopment plan which has not been approved by the governing body when recommended by the authority may again be recommended to it with any modifications deemed advisable. A redevelopment plan may be modified at any time by the authority, provided, that if modified after the lease or sale of real property in the Redevelopment Project Area, the modification must be consented to by the redeveloper or redevelopers of such property or his successor, or their successors, in interest affected by the proposed modification. Where the proposed modification will substantially change the redevelopment plan as previously approved by the governing body the modification must similarly be approved by the governing body.

# EXHIBIT "A" REDEVELOPMENT AREA

## Block 2 Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska

Curve #	Central Angle	Radius	Chord Bearing	Chord Length	Length
C1	89°10'00"	70.00'	M44°24'21"W	31.81'	32.60'
C2	80°29'24"	50.00'	M41°29'15"W	17.72'	17.82'
C3	48°09'36"	70.00'	M59°09'15"E	57.12'	58.89'
C4	23°27'48"	50.00'	S32°20'14"W	20.32'	20.48'
C5	94°30'00"	70.00'	S55°36'24"W	102.32'	114.84'
C6	10°57'00"	70.00'	M65°38'02"W	20.91'	20.99'



**BLOCK 2,  
REGANIS SUBDIVISION  
IN THE CITY OF SCOTTSBLUFF  
SCOTTS BLUFF COUNTY, NEBRASKA**

SITuated IN THE SOUTHEAST QUARTER OF  
THE SOUTHWEST QUARTER OF SECTION 13,  
TOWNSHIP 22 NORTH, RANGE 55 WEST OF THE 6TH P.M.,  
SCOTTS BLUFF COUNTY, NEBRASKA

**SURVEYOR'S CERTIFICATE**

I, Kay A. Beatty, a Nebraska Registered Land Surveyor, hereby certify that I have surveyed and prepared a plat of BLOCK 2, REGANIS SUBDIVISION in the City of Scottsbluff, Scotts Bluff County, Nebraska, situated in the Southeast Quarter of the Southwest Quarter of Section 13, Township 22 North, Range 55 West of the 6th P.M., Scotts Bluff County, Nebraska, more particularly described as follows:

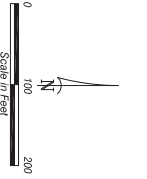
Beginning at the northeast corner of Block 9, Reganis Subdivision in the City of Scottsbluff, Nebraska, as recorded in Instrument 2014-1483, Scotts Bluff County Register of Deeds' office, thence westerly on the north line of said Block 9, a distance of 71.92 feet, to the northeast corner of said Block 9, thence bearing S55°43'15"W, a distance of 111.87 feet, thence bearing N17°14'45"E, a distance of 183.38 feet, to the point of intersection with a non-tangent curve to the right, said curve having a central angle of 28°18'00", a radius of 70.00 feet, a chord bearing of M44°24'21"W, and a chord length of 31.81 feet, thence non-tangent on the arc of said curve a distance of 32.00 feet to the point of intersection with a non-tangent curve to the right, said curve having a central angle of 20°25'23", a radius of 17.82 feet, to the point of intersection with the south right of way line of Winter Creek Drive, as platted, thence bearing S54°40'07"E, on said south right of way line a distance of 45.44 feet, to the southeast corner of Winter Creek Drive, as platted, thence bearing N57°09'39"E, a distance of 65.99 feet as measured (72 feet record), thence bearing N54°41'14"E, on the easterly line of said Lot 3, Block 2, (blowfly addition, a distance of 50.96 feet, as measured (72 feet record), thence bearing S33°18'40"E, a distance of 78.03 feet, thence bearing N57°04'19"E, a distance of 70.00 feet, to the point of curvature of a tangent curve to the right, said curve having a central angle of 48°09'59", a radius of 70.00 feet, to the point of curvature of a reverse curve of a left, said curve having a central angle of 41°59'07", a radius of 382.80 feet, thence bearing M1°09'48"E, a distance of 23.39 feet, thence bearing S39°09'29"E, a distance of 256.72 feet, thence bearing S81°51'31"W, a distance of 192.32 feet, thence bearing S01°39'59"W, a distance of 145.39 feet, to a point bearing on the arc of said curve, a distance of 58.85 feet, to the point of curvature of a reverse curve of a left, said curve having a central angle of 41°59'07", a radius of 382.80 feet, thence bearing M1°09'48"E, a distance of 23.39 feet, thence bearing S39°09'29"E, a distance of 256.72 feet, thence bearing S81°51'31"W, a distance of 192.32 feet, thence bearing S01°39'59"W, a distance of 145.39 feet, to a point bearing on the arc of said curve, a distance of 58.85 feet, to the point of curvature of a reverse curve of a left, said curve having a central angle of 41°59'07", a radius of 382.80 feet, thence bearing M1°09'48"E, a distance of 23.39 feet, thence bearing S39°09'29"E, a distance of 256.72 feet, thence bearing S81°51'31"W, a distance of 192.32 feet, thence bearing S01°39'59"W, a distance of 145.39 feet, to a point bearing on the arc of said curve, a distance of 58.85 feet, to the point of intersection with the west line of a 66.00 foot wide public access and utility easement as recorded in Deed Book 212, page 684, said point also being on the arc of a non-tangent curve to the left, said curve having a central angle of 00°51'33", a radius of 2033.00 feet, a chord bearing of S89°33'18"E, and a chord length of 30.48 feet, thence southeasterly on the arc of said curve a distance of 30.48 feet to the point of intersection with the easterly extension of the north line of Block 9, Reganis Subdivision, thence bearing N89°29'01"W, on said extension line, a distance of 227.16 feet, to the Point of Beginning, containing an area of 4.24 acres, more or less.

That the accompanying plat is a true delineation of such survey shown to a scale of 100 feet to the inch. That all dimensions are in feet and decimals. That each lot and block has its own number and that the boundary of the plat is shown with a heavy solid line. That all corners found or set are marked as shown.

WITNESS MY HAND AND SEAL THIS DAY OF \_\_\_\_\_ 2014.  
FOR THE FIRM OF M. C. SPARTAN AND ASSOCIATES, INC.

Kay A. Beatty, Nebraska Registered Land Surveyor, L.S. 476

- LEGEND**
- EXISTING QUARTER SECTION CORNER, AS NOTED
  - EXISTING SEVENTH SECTION CORNER, AS NOTED
  - SET FOR 1/4-1/4 REBAR, OR AS NOTED
  - THIS SYMBOL INCLUDES THE PERIODS 20 MOE
  - EAST - WEST SAWMILL SWAMP EASEMENT
  - RECORDED IN MISC BOOK 71, PAGE 431
  - BLOCK NUMBER
  - BOUNDARY OF FLATTED AREA
- NOTES**
1. All easements, restrictions and other documents of record, may not be shown on this plat.
  2. These utility and Access Easements to be deducted as they or stated right of way upon future final platting of the adjoining involved land.



**EXHIBIT "B"**  
**Aerial Photo of the Site**

**FAIRFIELD INN & SUITES  
SCOTTSBLUFF, NEBRASKA**

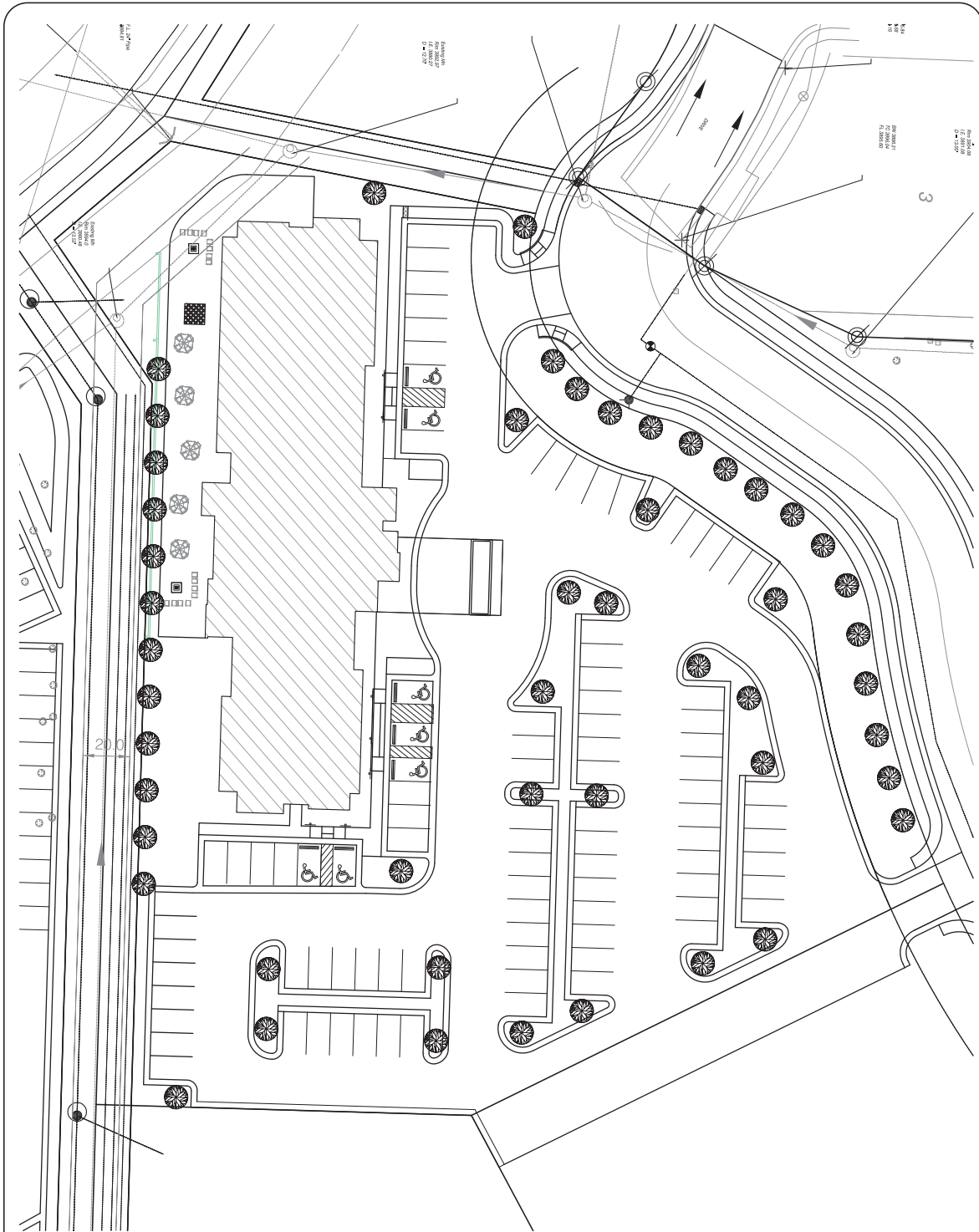


**M. C. SCHAFF AND ASSOCIATES, INC.**  
**818 SOUTH BELTLINE HIGHWAY EAST**  
**SCOTTSBLUFF, NEBRASKA 69361**

ENGINEERS ♦ PLANNERS ♦ DESIGNERS ♦ LAND SURVEYORS  
PH: 308-635-1926 FAX: 308-635-7807 INTERNET: WWW.MCSCHAFF.COM

# EXHIBIT "C"

## Redevelopment Area Site Plan



SHEET 1 OF 1 <b>SP-1</b>	DATE: _____ REVISION: _____	SEAL: _____	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="font-size: 8px;">PROJECT NUMBER: RM13028300</td> </tr> <tr> <td style="font-size: 8px;">PROJECT DATE: 02/13/2014</td> </tr> <tr> <td style="font-size: 8px;">PROJECT MGR: [Name]</td> </tr> <tr> <td style="font-size: 8px;">PROJECT TEAM: C.L.N./D.S./W.W.</td> </tr> </table>	PROJECT NUMBER: RM13028300	PROJECT DATE: 02/13/2014	PROJECT MGR: [Name]	PROJECT TEAM: C.L.N./D.S./W.W.
PROJECT NUMBER: RM13028300							
PROJECT DATE: 02/13/2014							
PROJECT MGR: [Name]							
PROJECT TEAM: C.L.N./D.S./W.W.							

**PROJECT: FAIRFIELD INN  
 SCOTTSBLUFF, NE  
 SITE PLAN**  
  
 CLIENT: XXXXXX

**M. C. SCHAFF & ASSOCIATES, INC.**  
**818 SOUTH BELTLINE HIGHWAY EAST**  
**SCOTTSBLUFF, NEBRASKA 69361**  
  
ENGINEERS • PLANNERS • DESIGNERS • LAND SURVEYORS  
PH: 308-635-1926 FAX: 308-635-7807 INTERNET: WWW.MCSCHAFF.COM

**Exhibit “D”  
Concept Drawing**



**View of proposed Fairfield Inn & Suites  
from Winters Creek Drive**



**View of proposed Fairfield Inn & Suites proposed  
pathway extension (Highway 26 view)**

**EXHIBIT “E”**  
**STATUTORY COST BENEFIT ANALYSIS**  
**FAIRFIELD INN & SUITES at WINTERS CREEK DRIVE REDEVELOPMENT PROJECT**

As authorized in the Nebraska Community Development Law, §18-2147, Neb. Rev. Stat. (2012), the City of Scottsbluff has analyzed the costs and benefits of the proposed Fairfield Inn & Suites and Winters Creek Drive Redevelopment Project, including:

**Project Sources and Uses.** Approximately \$980,000.00 in public funds from tax increment financing provided by the City of Scottsbluff will be required to complete the project. This investment by the city will leverage \$6,397,000.00 in private sector financing; a private investment of \$6.52 for every city dollar investment.

**Use of Funds.**

Description	TIF Funds	Private Funds	Total
Site Acquisition	\$ 800,000.00	\$ 0.00	\$ 800,000.00
Site Preparation	\$ 180,000.00	\$ 270,000.00	\$ 450,000.00
Legal and Plan	\$ 0.00	\$ 22,500.00	\$ 22,500.00
Building	\$ 0.00	\$ 4,850,000.00	\$ 4,850,000.00
Personal Property	\$ 0.00	\$ 1,255,000.00	\$ 1,255,000.00
<b>TOTALS</b>	<b>\$ 980,000.00</b>	<b>\$ 6,397,000.00</b>	<b>\$ 7,377,500.00</b>

**Tax Revenue.** The property to be redeveloped is anticipated to have a January 1, 2014, valuation of approximately \$225,000. Based on the 2013 levy this would result in a real property tax of approximately \$4,575.00. It is anticipated that the assessed value will increase by \$5,300,000, upon full completion in 2015, as a result of the site redevelopment. This development will result in an estimated tax increase of over \$107,000.00 annually. The tax increment gained from this Redevelopment Project Area would not be available for use as city general tax revenues, for a period of 15 years, or such shorter time as may be required to amortize the TIF bond, but would be used for eligible private redevelopment costs to enable this project to be realized.

Estimated 2014 assessed value:	\$ 225,000.00
Estimated value after completion	\$ 5,525,000.00
Increment value	\$ 5,300,000.00
Annual TIF generated (estimated)	\$ 107,000.00
TIF bond issue	\$ 980,000.00

**Public Infrastructure and Community Public Service Needs.** The Project is currently served by sanitary sewer and potable water by the city; however, minor modifications will need to be made to accommodate the site layout. This cost will be borne by the developer.

**Employment Within the Project Area.** Employment within the Project Area is currently zero. At project stabilization employment is expected to increase to 13 full time equivalent employees. Temporary construction employment will increase during the construction. The construction period is expected to exceed nine months.



**Employment in the City Outside the Project Area.** The latest available labor statistics show that the Scotts Bluff County labor pool is 19,591, with a 4.3% unemployment rate.

**Other Impacts.** Personal property in the project is subject to current property tax rates. Personal property for the Project is estimated at \$1,255,000, resulting in an estimated personal property tax for the first year of operations of \$25,000. Personal property tax is not subject to TIF and will be paid to the normal taxing entities. Annual city sales taxes paid to the city of Scottsbluff as a result of hotel operations are estimated to exceed \$30,000.00. Local lodging taxes are estimated to exceed \$50,000 annually.

**Tax shifts.** No shift of taxes or other negative impact is expected.

**RESOLUTION 14-**

**BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SCOTTSBLUFF, NEBRASKA:**

**Recitals:**

a. Pursuant to and in furtherance of the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the "Act"), a Redevelopment Plan (the "Redevelopment Plan"), has been prepared and submitted to the Planning Commission in the form of the attached Exhibit A, for the purpose of redeveloping the Redevelopment Area legally described on Exhibit B;

b. The City has previously adopted and has in place a Comprehensive Plan, which includes a general plan for development of the City within the meaning of Section 18-2110 of the Act; and

c. The Planning Commission has reviewed the Redevelopment Plan as to its conformity with the general plan for the development of the City.

**Resolved that:**

1. The Planning Commission recommends approval of the Redevelopment Plan.
2. All prior resolutions of the Commission in conflict with the terms and provisions of this Resolution are repealed to the extent of such conflicts.
3. This Resolution shall become effective immediately upon its adoption.

**PASSED and APPROVED** on July \_\_\_\_, 2014.

**PLANNING COMMISSION OF THE CITY OF SCOTTSBLUFF, NEBRASKA**

ATTEST:

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

By: \_\_\_\_\_  
Recording Secretary

**EXHIBIT A**

**Redevelopment Plan  
(see attached copy)**

**EXHIBIT B**

**LEGAL DESCRIPTION OF REDEVELOPMENT AREA**

Block 2 Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska.

## REDEVELOPMENT CONTRACT

This "Redevelopment Contract" is made and entered into as of July\_\_\_\_, 2014, by and between the Community Development Agency of the City of Scottsbluff, Nebraska ("Agency"), and 2627 Lodging, LLC., a Nebraska limited liability company ("Redeveloper").

### Recitals:

a. The City of Scottsbluff, 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 through 18-2154, Reissue Revised Statutes of Nebraska, 2012, as amended (collectively the "Act"), has designated an area within the City as blighted and substandard;

b. The Agency has adopted, after approval by the Mayor and Council of the City, that redevelopment plan entitled " **CITY OF SCOTTSBLUFF REDEVELOPMENT PLAN FOR FAIRFIELD INN at WINTERS CREEK DRIVE** (the "Redevelopment Plan");

c. Agency and Redeveloper desire to enter into this Redevelopment Contract in order to implement the Redevelopment Plan and provide for the redevelopment of lands located in a blighted and substandard area;

### Agreement:

## 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.

"Agency" means the Community Development Agency of the City of Scottsbluff, Nebraska.

"City" means the City of Scottsbluff, Nebraska.

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

"Holder(s)" means the registered owner or owners of Indebtedness issued by the Agency from time to time outstanding.

"Indebtedness" means any bonds, notes, loans, and advances of money or other indebtedness, including interest and premium, if any, thereon, incurred by the Agency pursuant to Article III hereof to provide financing for a portion of the Project Costs and secured in whole or in part by TIF Revenues. The Indebtedness issued by the Agency shall consist of the Agency's Tax Increment Development Revenue Bond (2627 Lodging Project), Series 2014, to be issued in the stated principal amount of \$980,000.00 on terms described in Exhibit C and purchased by 2627 Operating, Inc. (the "Corporation"), as set forth in Section 3.04 of this Redevelopment Contract.

"Liquidated Damages Amount" means the amounts to be repaid to Agency by Redeveloper pursuant to Section 6.02 of this Redevelopment Contract.

"Project" means the improvements to the Redevelopment Project Area, as further described in Exhibit B attached hereto and incorporated herein by reference and, as used herein, shall include the Redevelopment Project Property and additions and improvements thereto. The Project shall include site acquisition costs, engineering, site preparation costs, and Plan preparation and legal costs as described in Exhibit B.

"Project Cost Certification" means a statement prepared and signed by the Redeveloper verifying that the Redeveloper has become legally obligated for the payment of Project Costs identified on Exhibit D.

"Project Costs" means only costs or expenses incurred by Redeveloper for the purposes set forth in §18-2103(12)(a) through (f), inclusive, including the providing for such costs by the exercise of the powers set forth in §18-2107(4) of the Act, all as identified on Exhibit D.

"Redeveloper" means 2627 Lodging, LLC, a Nebraska limited liability company.

"Redevelopment Project Area" means that certain real property situated in the City of Scottsbluff, Scotts Bluff County, Nebraska which has been declared blighted and substandard by the City pursuant to the Act, and which is more particularly described on Exhibit A attached hereto and incorporated herein by this reference. The Redevelopment Project Area is also described on Exhibit A to the Redevelopment Plan.

"Redevelopment Project Property" means all of the Redevelopment Project Area which is the site for the improvements constituting the Project, as more particularly described on Exhibit A attached hereto and incorporated herein by this reference.

"Redevelopment Contract" means this redevelopment contract between the Agency and Redeveloper with respect to the Project, as the same may be amended from time to time.

"Redevelopment Plan" means the Redevelopment Plan (also defined in the recitals hereto) for the Redevelopment Project Area related to the Project, as attached hereto as

Exhibit B, prepared by the Redeveloper, approved by the City and adopted by the Agency pursuant to the Act.

"Resolution" means the Resolution of the Agency authorizing the issuance of the Indebtedness, as supplemented from time to time, and also approving this Redevelopment Contract.

"TIF Revenues" means incremental ad valorem taxes generated on the Redevelopment Project Property by the Project which are to be allocated to and paid to the Agency pursuant to 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:

(a) Whenever 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.

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

(c) The word "including" shall be construed as meaning "including, but not limited to".

(d) The words "will" and "shall" shall each be construed as mandatory.

(e) 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.

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

(g) 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

### FINDINGS AND REPRESENTATIONS

#### Section 2.0 Findings of Agency.

The Agency makes the following findings:

(a) The Agency is a duly organized and validly existing community development agency under the Act.

(b) The Redevelopment Plan has been duly approved by the City and adopted by the Agency pursuant to Sections 18-2109 through 18-2117 of the Act.

(c) The Agency deems it to be in the public interest and in furtherance of the purposes of the Act to accept the proposal submitted by Redeveloper as specified herein.

(d) The Redevelopment Project is expected to 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 Project Area and other purposes set forth in the Act.

(e) (1) The Redevelopment Plan is feasible and in conformity with the general plan for the development of the City as a whole and the Redevelopment Plan is in conformity with the legislative declarations and determinations set forth in the Act, and

(2) Based solely on representations made by the Redeveloper:

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

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

(f) The Agency has determined that 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 Agency and have been found to be in the long-term best interest of the community impacted by the Project.

(g) The Agency has determined that the proposed land uses and building requirements in the Redevelopment Project Area are designed with the general purpose of accomplishing, in conformance with the general plan, 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 the 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 insanitary or unsafe dwelling accommodations, or conditions of blight.

## Section 2.02 Representations of Redeveloper.

The Redeveloper makes the following representations:

(a) The Redeveloper is a limited liability company, having the power to enter into this Redevelopment Contract and perform all obligations contained herein and is duly authorized to execute and deliver this Redevelopment Contract.

(b) 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 Redeveloper 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 Redeveloper contrary to the terms of any instrument or agreement.

(c) There is no litigation pending or to the best of its knowledge threatened against Redeveloper 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 to Redeveloper to perform its obligations hereunder.

(d) The Project would not be economically feasible without the use of tax increment financing.

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

(f) The grant of funds described in Section 3.04 hereof to be paid by the Agency to the Corporation will be contributed by the Corporation to the Redeveloper. Such funds, in the hands of the Redeveloper will then be utilized for financing the Redevelopment Project and that such funds will be expended for the purposes set forth in Sections 18-2103 (12)(a) through(f), inclusive of the Act.

## ARTICLE III

### OBLIGATIONS OF THE AGENCY

#### Section 3.01 Division of Taxes.

In accordance with Section 18-2147 of the Act and the terms of the Resolution, the Agency hereby provides that any ad valorem tax on Block 2, Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska, for the benefit of any public body be divided for a period of fifteen years after the effective date (the "Effective Date"), as described in Section 18-2147 (1) of the Act which Effective date shall be January 1, 2015. Said taxes shall be divided as follows:

(a) That portion of the ad valorem tax on the Redevelopment Project Area which is produced by levy at the rate fixed each year by or for each public body upon the "redevelopment project valuation" (as defined in the Act) 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 excess of such amount (the "Incremental Ad Valorem Tax"), if any, shall be allocated to, is pledged to, and, when collected, paid into a special fund of the Agency (designated in the Resolution as the "Bond Fund") to pay the principal of, the interest on, and any premium due in connection with the Indebtedness. When such 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 Phase shall be paid into the funds of the respective public bodies.

#### Section 3.02 Issuance of Indebtedness

The Agency shall authorize the issuance of the Indebtedness to the Corporation, 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 Indebtedness shall be limited to the lesser of (i) the stated face amount of the Indebtedness, or (ii) the sum of all "Redevelopment Project Costs" incurred by the Redeveloper as set forth on Exhibit D. No Indebtedness will be issued until the Redeveloper has become obligated for construction of the improvements forming a part of the Project as described in the Plan.

The Redeveloper agrees that the Corporation will purchase the Indebtedness 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 Indebtedness. It is the sole responsibility of the Redeveloper to effect the sale of the Indebtedness to the Corporation, by providing for the purchase of the Indebtedness by the Corporation in accordance with the terms of this Redevelopment Contract and the Resolution. If the Indebtedness cannot be issued and sold to

the Corporation 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. Redeveloper acknowledges that it is its understanding and the Agency's understanding that interest on the Indebtedness will be includable in gross income for federal income tax purposes and subject to Nebraska State income taxation.

### Section 3.03 Pledge of Revenues.

Under the terms of the Resolution, the Agency pledges 100% of the available annual TIF Revenues derived from the Redevelopment Project Property as security for and to provide payment of the Indebtedness as the same fall due (including payment of any mandatory redemption amounts set for the Indebtedness in accordance with the terms of the Resolution).

### Section 3.04 Purchase and Pledge of Indebtedness/Grant of Net Proceeds of Indebtedness.

The Corporation, has agreed to purchase the Indebtedness from the Agency for a price equal to the principal amount thereof, payable as provided in Section 3.02 and this Section 3.04. The Redevelopment Plan provides that the Agency shall make a grant from the proceeds of the Indebtedness for the purposes set forth in the Act. In accordance with the terms of the Redevelopment Plan, the Agency shall grant to the Corporation, an amount sufficient to pay the costs for those items described on Exhibit D (the "Project Costs"), in the aggregate maximum amount of \$980,000.00. As a condition of making a grant to the Corporation, the Corporation is obligated to transfer the funds, representing the proceeds of the grant to the Redeveloper upon receipt thereof. Notwithstanding the foregoing, the aggregate amount of the Indebtedness and the grant shall not exceed the amount of Project Costs as certified pursuant to Section 4.02 of this Redevelopment Contract. Such grant shall be made to the Corporation, upon execution of this Redevelopment Contract and payment purchase of the Indebtedness as provided in Section 3.02. The Agency shall have no obligation to provide grant funds from any source other than the purchase price paid to the Agency for the Indebtedness.

### Section 3.05 Creation of Fund.

In the Resolution, the Agency has provided for the creation of a special fund (the "Bond Fund" as defined in the Resolution) to collect and hold the TIF Revenues pledged to the payment of the Indebtedness. Such special fund shall be used for no purpose other than to pay (including any redemptions of principal made in accordance with the terms of the Resolution and this Redevelopment Contract) the Indebtedness issued pursuant to this Article III.

### Section 3.06 Prepayment of Indebtedness.

Upon the furnishing by Redeveloper of the final Certificate of Completion of the Project as provided in section 4.01(a) and the final Project Cost Certification as provided in section 4.02, and in the event that such final Project Cost Certification certifies total Project Costs in an amount less than total Project Costs specified in Exhibit D, then there shall be an immediate mandatory prepayment of the Indebtedness in the amount of such shortfall and the principal amount of the Indebtedness outstanding shall be reduced by the amount of such prepayment. The

grant to Redeveloper shall be reduced by such amount and, in the event the Corporation, has received proceeds of such grant in excess of the certified Project Costs, then such excess shall be repaid by Redeveloper to Agency. Such mandatory prepayment of the Indebtedness shall be payable solely from proceeds of the sale of the Indebtedness to Redeveloper and repayment of grant amounts by Redeveloper and neither Agency nor City shall have any liability therefore. In the event the Indebtedness was purchased by offset of the grant amount, the purchase price shall be reduced accordingly and shall in kind offset the amount of the grant received.

## ARTICLE IV

### OBLIGATIONS OF REDEVELOPER

#### Section 4.01 Construction of Project; Insurance.

(a) Redeveloper will acquire Block 2, Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska, complete the Project, prepare the site for redevelopment and install all required private improvements, fixtures, equipment and furnishings necessary to operate the Project. Redeveloper 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, Redeveloper shall make reports in such detail and at such times as may be reasonably requested by the Agency as to the actual progress of Redeveloper with respect to construction of the Project. Redeveloper shall furnish to the Agency a Certificate of Completion upon full completion of the Project.

(b) Any general contractor chosen by the Redeveloper or the Redeveloper itself shall be required to obtain and keep in force at all times until completion of construction, policies of insurance including coverage for contractors' general liability and completed operations and a penal bond or bonds as required by the Act or as is otherwise required by law. The City, the Agency and the Redeveloper shall be named as additional insureds. Any contractor chosen by the Redeveloper or the Redeveloper itself, as owner, shall be required to purchase and maintain property insurance upon the Project to the full insurable value thereof. This insurance shall insure against the perils of fire and extended coverage and shall include "All Risk" insurance for physical loss or damage. The contractor with respect to any specific contract or the Redeveloper shall also carry insurance on all stored materials. The contractor or the Redeveloper, as the case may be, shall furnish the Agency and the City with a Certificate of Insurance evidencing policies as required above. Such certificates shall state that the insurance companies shall give the Agency prior written notice in the event of cancellation of or material change in any of any of the policies.

#### Section 4.02 Cost Certification.

Redeveloper shall submit to Agency a certification of the estimated Project Costs for the Project on or before the issuance of the Indebtedness

Redeveloper shall provide a final certification of Project Costs actually incurred by Redeveloper as to those items specified on attached Exhibit D on or before July 1, 2015.

Section 4.03 No Discrimination.

Redeveloper agrees and covenants for itself its successors and assigns that 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. Redeveloper, for itself and its successors and assigns, agrees that during the construction of the Project, Redeveloper 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. Redeveloper will comply with all applicable federal, state and local laws related to the Project.

Section 4.04 Assignment or Conveyance.

This Redevelopment Contract shall not be assigned by the Redeveloper without the written consent of the Agency. Such consent shall not be unreasonably withheld. Redeveloper agrees that it shall not convey the Redevelopment Project Area or any portion thereof or any structures thereon to any person or entity that would be exempt from payment of real estate taxes, and that it will not make application for any structure, or any portion thereof, to be taxed separately from the underlying land of any Lot.

Section 4.05 Federal Immigration Verification System.

The Redeveloper agrees that Redeveloper and any contractor for the improvements to be reimbursed as a part of the Project Costs shall be required to agree to use a federal immigration verification system (as defined in Section 4-114, Reissue Revised Statutes of Nebraska, 2012) to determine the work eligibility status of new employees physically performing services on the Project and to comply with all applicable requirements of Section 4-114, Reissue Revised Statutes of Nebraska, 2012.

Section 4.06 Administrative Fee.

The Redeveloper shall pay the City an "Administrative Fee" in connection with this Agreement in the amount of \$4,000. The Administrative Fee shall be paid to the City on or before September 1, 2014.

Section 4.07 Penal Bond.

Pursuant to Section 18-2151 of the Act, Redeveloper shall furnish or cause to be furnished to the City, prior to commencement of construction of the Redevelopment Project Improvements, a penal bond in an amount of Five Thousand and No/100 Dollars (\$5,000) with a corporate surety authorized to do business in the State of Nebraska. Such penal bond shall be conditioned upon the Redeveloper at all times making payment of all amounts lawfully due to all persons supplying or furnishing the Redeveloper, the Redeveloper's contractor, or his or her subcontractors who performed labor or applied materials performed or used in the prosecution of the Private Improvements. Proof of such penal bond shall be supplied to the Authority prior to the start of

construction of the Redevelopment Project Improvements.

## **ARTICLE V**

### **FINANCING REDEVELOPMENT PROJECT; ENCUMBRANCES**

#### Section 5.01 Financing

Redeveloper shall pay all costs related to the redevelopment of the Redevelopment Project Area and the Redevelopment Project Property which are in excess of the amounts paid from the proceeds of the grant provided from the proceeds of the Indebtedness and granted to Redeveloper. Redeveloper shall timely pay all costs, expenses, fees, charges and other amounts associated with the Project.

## **ARTICLE VI**

### **DEFAULT, REMEDIES; INDEMNIFICATION**

#### Section 6.01 General Remedies of Agency and Redeveloper.

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 any 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, including, but not limited to, proceedings to compel specific performance by the party failing to perform or in breach of its obligations. The Redeveloper hereby acknowledges and agrees that the Agency shall have completed its required performances and satisfied all of its obligations under this Redevelopment Contract upon the issuance of the Indebtedness and the subsequent payment of grant amounts to the Redeveloper as set forth in Article III hereof and by complying with the obligations of all Redevelopment Contract Amendments.

#### Section 6.02 Additional Remedies of the Agency

In the event that (each such event an "event of default"):

(a) the Redeveloper, or its successor in interest, shall fail to commence the construction of the improvements included in the Project Costs on or before December 1, 2014, or shall abandon construction work related to the Project Costs, once commenced, for any period of 180 days, excepting delays caused by inclement weather,

(b) the Redeveloper, shall fail to pay real estate taxes or assessments on the Redevelopment Project Property owned by the Redeveloper or any part thereof when due; and

(c) there is a violation of any other provision of this Redevelopment Contract, and such failure or action by the Redeveloper has not been cured within 90 days following written notice from Agency, then the Redeveloper shall be in default of 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 Agency would be difficult to determine with certainty and that a reasonable estimation of the amount of damages that could be incurred is the amount of the grant to Redeveloper pursuant to Section 3.04 of this Redevelopment Contract, less any reductions in the principal amount of the Indebtedness, plus interest on such amounts as provided herein (the "**Liquidated Damages Amount**"). Upon the occurrence of an event of default, the Liquidated Damages Amount shall be paid by Redeveloper to Agency within 30 days of demand from Agency given to the Redeveloper.

Interest shall accrue on the Liquidated Damages Amount at the rate of three percent (3%) per annum and interest shall commence from the date that the Agency gives notice to the Redeveloper demanding payment.

Payment of the Liquidated Damages Amount shall not relieve Redeveloper of its obligation to pay real estate taxes or assessments with respect to the Redevelopment Project Property and the Project.

Redeveloper, on or before contracting for work included within the Project Costs, shall furnish to the Agency copies of labor and materials payment bonds and performance bonds for each contract entered into by Redeveloper related to Project Costs. Each such bond shall show the Agency and the City as well as the Redeveloper as beneficiary of any such bond, as and to the extent commercially obtainable (as determined in the discretion of the Agency). In addition, the Redeveloper shall provide a penal bond with good and sufficient surety to be approved by the Agency, conditioned that the Redeveloper shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing to any contractor or his or her subcontractors (for each contract entered into by Redeveloper related to Project Costs) with labor or materials performed or used in the prosecution of the work provided for in such contract, and will indemnify and save harmless the Agency to the extent of any payments in connection with the carrying out of such contracts which the Agency may be required to make under the law.

#### Section 6.03 Remedies in the Event of Other Redeveloper Defaults.

In the event the Redeveloper fails to perform any other provisions of this Redevelopment Contract (other than those specific provisions contained in Section 6.02), the Redeveloper shall be in default. In such an instance, the Agency may seek to enforce the terms of this Redevelopment Contract or exercise any other remedies that may be provided in this

Redevelopment Contract or by applicable law; provided, however, that any defaults covered by this Section shall not give rise to a right or rescission on termination of this Redevelopment Contract, and shall not be covered by the Liquidated Damages Amount.

Section 6.04 Forced Delay Beyond Party's Control.

For the purposes of any of the provisions of this Redevelopment Contract, neither the Agency nor the Redeveloper, as the case may be, nor any successor in interest, shall be considered in breach of or default in its obligations with respect to the conveyance or preparation of the Redevelopment Project Area or any part thereof for redevelopment, or the beginning and completion of construction of the Project, or progress in respect thereto, in the event of forced delay in the performance of such obligations due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, or of the public enemy, acts of the Government, acts of the other party, 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 forced delay, the time or times for performance of the obligations of the Agency or of the Redeveloper with respect to construction of the Project, as the case may be, shall be extended for the period of the forced 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 forced delay, have first notified the other party thereto in writing, and of the cause or causes thereof and requested an extension for the period of the forced delay.

Section 6.05 Limitations of Liability; Indemnification.

Notwithstanding anything in this Article VI or this Redevelopment Contract to the contrary, neither the City, the Agency, nor their respective elected officials, officers, directors, appointed officials, employees, agents or their governing bodies shall have any pecuniary obligation or monetary liability under this Redevelopment Contract. The sole obligation of the Agency under this Redevelopment Contract shall be the issuance of the Indebtedness and granting of a portion of the proceeds thereof to Redeveloper, and full compliance with the terms specifically set forth Article III hereof and payment of TIF Revenues pledged pursuant to the Resolution. The Redeveloper releases the City and the Agency from, agrees that neither the City nor the Agency shall be liable for, and agrees to indemnify and hold the City and the Agency 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 any cause whatsoever pertaining to the Project.

The Redeveloper will indemnify and hold each of the City and the Agency and their respective elected officials, directors, officers, appointed officials, agents, employees and members of their governing bodies free and harmless from any loss, claim, damage, demand, tax, penalty, liability, disbursement, expense, excluding litigation expenses, attorneys' fees and expenses, or court costs arising out of any damage or injury, actual or claimed, of whatsoever kind or character, to property (including loss of use thereof) or persons, occurring or allegedly occurring in, on or about that portion of the Project owned by the Redeveloper, during the term of this Redevelopment Contract or arising out of any action or inaction of Redeveloper, related to



activities of the Redeveloper or its agents during the construction of the public infrastructure or public right of ways in the Project.

## ARTICLE VII

### MISCELLANEOUS

#### Section 7.01 Notice Recording.

This Redevelopment Contract or a notice memorandum of this Redevelopment Contract may be recorded in the office of the Register of Deeds of Scotts Bluff County, Nebraska.

#### 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. The Redevelopment Contract shall not be amended except by a writing signed by the party to be bound.

#### Section 7.04 Effective Date and Implementation of Redevelopment Contract.

This Agreement is in full force and effect from and after the date of execution hereof by both the Redeveloper and the Agency.

#### Section 7.05 Notices to Parties.

Notices to Parties shall be mailed by U. S. Mail to the following addresses:

#### **Redeveloper:**

2627 Lodging, LLC.  
818 South Beltline Hwy East  
Scottsbluff, NE 69361

With a Copy to:

Michael L. Bacon  
Bacon & Vinton Attorneys  
P.O. Box 208  
Gothenburg, NE 69138

**Agency and City:**

Scottsbluff City Clerk  
2525 Circle Drive  
Scottsbluff, NE 69361

With a Copy to:

Simmons Olsen Law Firm, P.C.  
1502 2<sup>nd</sup> Avenue  
Scottsbluff, NE 69361

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

ATTEST:

COMMUNITY DEVELOPMENT  
AGENCY OF THE CITY OF  
SCOTTSBLUFF, NEBRASKA

\_\_\_\_\_  
Cynthia A. Dickinson, Secretary

By: \_\_\_\_\_  
Randy Meininger, Chairman

2627 LODGING, LLC.

By: \_\_\_\_\_  
Aldo Gonzales, President

STATE OF NEBRASKA            )  
  ) SS  
COUNTY OF SCOTTS BLUFF    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of July 2014, by Randy Meininger and Cynthia A. Dickinson, Chairman and Secretary, respectively, of the Community Development Agency of the City of Scottsbluff, Nebraska, on behalf of the Agency.

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

STATE OF NEBRASKA            )  
  ) SS  
COUNTY OF SCOTTS BLUFF    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of July,2014, by Aldo Gonzales, President of 2627 Lodging, LLC., on behalf of the company.

\_\_\_\_\_

Notary Public

**EXHIBIT A**  
**DESCRIPTION OF REDEVELOPMENT PROJECT AREA**

Block 2, Reganis Subdivision to the City of Scottsbluff, Scotts Bluff County, Nebraska

**EXHIBIT B  
REDEVELOPMENT PLAN**

See Attached

**EXHIBIT C  
INDEBTEDNESS**

1. Principal Amount: to be set at \$980,000.00
2. Payments: Semi-annually (with principal to be paid from available amounts as mandatory redemptions, after payment of accrued interest), with payments limited to net annual TIF Revenues.
3. Interest Rate: to be determined by Redeveloper, not to exceed 7% per annum.
4. Maturity Date: December 31, 2029.
5. Time for Issuance: At Redeveloper's request as agreed to by the Agency but not earlier than 30 days after passage and approval of the Resolution

**EXHIBIT D  
PROJECT COSTS**

Redevelopment Project Costs:

Site Acquisition	\$800,000.00
Site preparation	\$450,000.00
Plan preparation and legal	<u>\$ 22,500.00</u>
Total	\$1,272,500.00

(Proceeds of Tax Increment Debt limited to \$980,000.00)