

A. 85250



**AMENDMENT NO. 1**

**UNIVERSITY SQUARE REDEVELOPMENT AGREEMENT**

This Amendment No. 1 to the University Square Redevelopment Agreement is entered into this 12<sup>th</sup> day of March, 2009, by and between the City of Lincoln, Nebraska ("City"), a municipal corporation; Concorde Management and Development Inc. ("Concorde"), a Nebraska corporation; Foundation for Educational Services Inc. ("FES"), a Nebraska non-profit corporation; and University Towers Condominium Association ("University Towers").

**Recitals**

**I.**

On May 4, 1989 the City of Lincoln, Commercial Federal Savings and Loan Association ("CFSL"), Larry Price & Associates, Inc. ("Price"), Nebraska Education Loan Program and its nominee Foundation for Educational Funding Inc. (collectively "Neb Help"), Christopoulos Realty Inc. ("CR"), Jan Eric Pusch and Beverly Elaine Pusch, husband and wife, ("Pusch") and PMK Joint Venture ("PMK"), entered into the University Square Redevelopment Agreement ("Redevelopment Agreement").

**II.**

CFSL, Price and Neb Help were collectively referred to in the Redevelopment Agreement as the "Private Sector."

**III.**

Pursuant to Section 403 of the Redevelopment Agreement, the City agreed to construct the Parking Garage and grant the Private Sector first rights of refusal to lease 301 parking stalls in said Parking Garage.

**IV.**

Pursuant to Section 505 of the Redevelopment Agreement the Private Sector was granted the following rights of first refusal to lease parking permits in the Parking Garage at then currently monthly rates:

- A. The record owner of CFSL Building - 90.
- B. The record owner of Neb Help Building - 145.
- C. The record of owner of University Towers - 66.

V.

Concorde is successor in interest to CFSL, FES is successor in interest to Neb Help, and University Towers is successor in interest to Price.

VI.

The Concorde building has been condominiumized under the Lincoln Flats Condominium Regime. It is anticipated that Concorde will enter into the Lincoln Flats/Bank of the West Redevelopment Agreement with the City which will provide that the 24 units located above the ground floor will be occupied and used only as residential units (16 one-bedroom units and 8 two-bedroom units). Units on the ground floor will be occupied only for business and commercial purposes.

VII.

The City, Concorde, FES and University Towers desire to amend the Redevelopment Agreement to modify the parking rights granted to the Private Sector.

NOW, THEREFORE, IN CONSIDERATION of the above recitals and the mutual covenants contained herein, the parties agree that the University Square Redevelopment Agreement shall be amended as follows:

1. That all references to CFSL, Neb Help and Price shall now respectively refer to Concorde, FES and University Towers.
2. That Section 403 of the Redevelopment Agreement be amended to read as follows:

**Section 403. Conveyance of Retail Parcel 1, Banked Drive – Thru Parcel, Retail Parcel 2, and Outlot A.** The City will retain ownership of the Public Sector Parcel (Lot 3 and Outlot C) upon which the Parking Garage will be constructed. Subject to all the terms and conditions of this Agreement and in consideration of Three Hundred Sixty Seven Thousand Four Hundred Eighty Seven and No/100 Dollars (\$367,487.00) to be paid by Private Sector to the City, the City agrees to grant the Private Sector the right to obtain parking permits in the Parking Garage pursuant to Section 505.

The City acknowledges receipt of said \$367,487.00.

3. That Section 505 of the Redevelopment Agreement be amended to read as follows:

**Section 505. Monthly Parking.** Subject to availability of monthly parking stalls described herein, the Private Sector shall have the right to obtain

parking permits for parking stalls in the Parking Garage on a monthly basis at the same monthly rates charged to other monthly parkers in said Parking Garage provided that:

A. Concorde, as the record owner of the Concorde Building, shall be limited to monthly parking permits for 90 parking stalls. In the event Concorde enters into the Lincoln Flats/Bank of the West Redevelopment Agreement with the City, Concorde agrees that its right to 90 monthly parking permits shall be reduced to 60, provided that in return, the City agrees that the parking permits for the residential units shall be reserved and assigned to Concorde on a 24-hour/7-days-per-week basis as more particularly agreed upon in the Lincoln Flats/Bank of the West Redevelopment Agreement. The remaining parking permits shall be at large

B. FES, as the record owner of the FES Building, shall be limited to monthly parking permits for 145 at-large parking stalls.

C. University Towers, as the record owner of University Towers, shall be limited to one parking permit for each of the 78-80 residential units in University Towers which shall be reserved and assigned to University Towers on a 24-hour/7-days-per-week basis

The above-referenced parking permits may only be obtained by Concorde, FES and University Towers for parking associated with the use of its own building.

The Private Sector understands and acknowledges that the total number of permits issued for at-large monthly parking stalls in the Parking Garage in the future may exceed the physical number of at-large stalls designated for monthly parking as the City uses a shared parking methodology in calculating overall parking demand. The City's shared parking methodology is based upon national parking garage standards and local market usage and as a result, parking will generally be available on a regular basis throughout each day of the month except for Husker Home Football game days, but on rare occasions, may not be available in the Parking Garage. If space is not available, every effort will be made to accommodate monthly parking in the next available facility.


If monthly parking permits are not available when requested to meet any or all requests by of Concorde, FES, and University Towers, the City shall place any such unfilled request for monthly parking permits at the head of a waiting list to be compiled by the City or its agent operating the Parking Garage ("Waiting List"). As between the Private Sector members any unfilled request which is placed on the Waiting List shall be junior in priority to any other member of the Private Sector who has unfilled requests which were requested earlier in time.

Notwithstanding the above, the Private Sector understands and agrees that City has no duty or obligation to convert any hourly parking stalls to monthly parking stalls and/or to terminate any existing monthly parking permit to accommodate Private Sector's request for parking permits, but the City will use good faith efforts to encourage any existing monthly permit holder who is not subject to rights similar to those held by the Private Sector to transfer its monthly parking permit to another City parking garage that may have available monthly parking stalls. Said Private Sector rights shall run with the land and benefit the buildings described as the Concorde Building, FES Building and University Towers Building.


4. That all the terms and conditions of the University Square Redevelopment Agreement shall remain in full force and effect as provided therein except as modified by this Amendment No. 1.

5. Notwithstanding the above amendment to Section 505 of the University Square Redevelopment Agreement, the City agrees that 76 monthly parking permits may temporarily be reserved by signage on an 8:00-a.m.-to-5:00-p.m./7-days-per-week basis, except for Husker Home Football game days until such time as the City orders the signs removed. The City agrees to monitor the usage of FES' 76 signed stalls and the rest of the Parking Garage for a period of one year from the date of this Amendment No. 1 to determine the extent of usage during peak hours for the Parking Garage. The City agrees that at the end of the one-year evaluation, the City utilizing the data gathered will enter into good faith negotiations with FES to develop a long-term agreement to allow FES to retain the 76 signed stalls or a portion thereof on a long-term basis.

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation,

By:   
Chris Beutler, Mayor

**CONCORDE MANAGEMENT AND  
DEVELOPMENT, INC.,**  
a Nebraska corporation,

By:   
David Schmidt, President

**FOUNDATION FOR EDUCATIONAL SERVICES, INC.,**

a Nebraska non-profit corporation,

By: C.J. Thoma  
C.J. Thoma, President

**UNIVERSITY TOWERS CONDOMINIUM ASSOCIATION, INC.**

a Nebraska non-profit corporation,

By: Maury Halstead  
Maury Halstead, President

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of March, 2009, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

Joan E. Ross  
Notary Public



STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

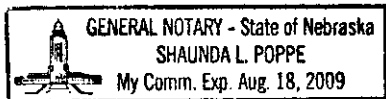
The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of February, 2009, by David Schmidt, President of Concorde Management and Development, Inc., a Nebraska corporation.



Mary J. Stanley  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of March, 2009, by C.J. Thoma, President of Foundation for Educational Services, Inc., a Nebraska non-profit corporation.



Shaunda L. Poppe  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 2 day of March, 2009, by Maury Halstead, President of University Towers Condominium Association, Inc., a Nebraska non-profit corporation.



David S. Astuto  
Notary Public

**Amendment No. 1 to the University Square Redevelopment Agreement shall be filed of record on the following properties:**

**University Towers Condominium Property Regime**

Lots 126, 130, 134, 144, 203, 204, 205, 207, 208, 303, 304, 305, 307, 308, 403, 404, 405, 407, 408, 503, 504, 505, 506, 507, 508, 603, 604, 605, 606, 607, 608, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1101, 1102, 1103, 1104, 1105, 1200, 1201, 1202, 1203, 1204, 1315, 1321, 1400, 1401, and PENTH. (86 units)

**Lincoln Flats Condominium**

Lots 1, 201, 202, 203, 204, 205, 206, 301, 302, 303, 304, 305, 306, 401, 402, 403, 404, 405, 406, 501, 502, 503, 504, 505 and 506. (25 units)

**Lots 7, 8, 9, and all that part of Lot 10 situated west of a north-south line commencing at a point 75.51 feet east of the northwest corner of Lot 7, running south to a point 75.53 feet east of the southwest corner of Lot 7, Block 39, Original Lincoln, Lancaster County, Nebraska.**

UNTO

L. FLCO

Lincoln