

John M. Guthery*
Thomas M. Haase
James B. Gessford***
Rex R. Schultze***
Daniel F. Kaplan
Gregory H. Perry
Joseph F. Bachmann*
Riko E. Bishop
R.J. Shortridge*
Jeanette Stull
Corey L. Stull*
Joshua J. Schauer*
Shawn P. Dontigney
Derek A. Aldridge**
Dyana N. Wolkenhauer



PERRY, GUTHERY, HAASE & GESSFORD, P.C., L.L.O.

233 South 13th Street, Suite 1400 * Lincoln, Nebraska 68508
Telephone (402) 476-9200 * Fax (402) 476-0094
www.perrylawfirm.com

Of Counsel
Edwin C. Perry

Ernest B. Perry (1876-1962)
Arthur E. Perry (1910-1982)
R.R. Perry (1917-1999)

*Also Admitted in Iowa
** Also Admitted in Kansas
*** Also Admitted in Wyoming

Attached are the following agreements:

1. Purchase and Sale Agreement (PSA);
2. Site Development Agreement (SDA);
3. Operations, Maintenance and Easement Agreement and Covenants, Conditions and Restrictions (OMEC);

NOTE: Except for the Contract Price in Section 2 of the PSA, negotiations are continuing and the final agreements to be presented at the March 27, 2012 meeting for approval may contain some modifications.

SITE DEVELOPMENT AGREEMENT

This Site Development Agreement (this “**Agreement**”) is made and entered into as of the _____ day of _____, 2012, by and between Lancaster County Public School District 001, a/k/a Lincoln Public Schools, a Class IV school district under the laws of the State of Nebraska (“**LPSD**”), and CP Lincoln O Street, LLC, a Delaware limited liability company (“**CP**”).

Recitals

A. CP and LPSD are parties to a certain Purchase and Sale Agreement dated as of _____, 2012 (as the same may have been amended from time to time, the “**PSA**”) pursuant to which CP has purchased from LPSD certain real property in the City of Lincoln, Nebraska, known as “Lot 2 and Lot 3” and more particularly described on **Exhibit A** of this Agreement (the “**CP Property**”). The CP Property is generally adjacent to certain real property owned and retained by LPSD and known as “Lot 1” (the “**LPSD Administrative Offices Property**”), and “Outlot A and Outlot B” (collectively, the “**Surrounding LPSD Property**”). The LPSD Administrative Offices Property and the Surrounding LPSD Property are more particularly described on **Exhibit B** of this Agreement and are sometimes herein collectively referred to as the “**LPSD Property**.” The CP Property, the LPSD Administrative Offices Property and the Surrounding LPSD Property are each depicted on the Site Plan attached to this Agreement as **Exhibit C** (the “**Site Plan**”) and the Subdivision Plat attached hereto as **Exhibit C-1**, and are collectively referred to herein as the “**Project Site**”.

B. CP intends to construct and operate retail buildings and related improvements on the CP Property and LPSD intends to construct and operate an administrative office building and related improvements on the LPSD Administrative Offices Property.

C. CP and LPSD recognize that LPSD is already in the process of having certain site development and improvement work performed on the Project Site and that it is cost-efficient and in their mutual interest to have LPSD, in connection with its development of the LPSD Administrative Offices Property and site improvements in the Surrounding LPSD Property, to continue to perform certain site improvement work for the benefit of the Project Site, including the CP Property and the Surrounding LPSD Property.

D. CP and LPSD have agreed to enter into this Agreement by which LPSD agrees that LPSD will cause the Site Development and Improvement Work (as defined in Section 2 below) to be constructed at LPSD’s cost, with CP’s contribution to the cost of such Site Development and Improvement Work as provided herein in Section 4.

Agreement

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Site Construction Documents. LPSD has engaged Olsson Associates, Inc., whose address is 1111 Lincoln Mall, Suite 111, Lincoln, Nebraska 68508, as the civil engineer for the project (the “**Project Engineer**”). The Project Engineer has prepared or will prepare final plans and specifications for the Site Development and Improvement Work, which are more particularly identified in **Exhibit D** attached hereto (collectively the “**Site Construction Documents**”). The Site Construction Documents identified in **Exhibit D** were prepared in conformance with the concepts and specifications set forth in the Site Plan and as set forth in **Exhibit E** attached hereto. To the extent the Site Construction Documents are not fully prepared, approved and attached hereto, LPSD and CP will continue to use good faith efforts to agree upon the same, such agreement not to be unreasonably withheld, conditioned or delayed and, in any event, materially consistent with the concepts and specifications set forth in **Exhibit E** or as the parties otherwise mutually agree. In addition to other duties and responsibilities, the Project Engineer shall be responsible for the design and construction observation of the Site Development and Improvement Work and shall: (a) make necessary periodic observations of the Site Development and Improvement Work such that the Project Engineer will be ready, willing and able to complete and execute the Certificate of Substantial Completion (as defined below) when required as provided below; (b) ensure that the Site Construction Documents comply with all applicable laws and the requirements of all governmental agencies and other entities having or exercising jurisdiction over construction activities occurring on or about the CP Property and the LPSD Property; and (c) recognize the right of CP or its lender to exercise the self-help remedy to complete the Site Development and Improvement Work or portions thereof pursuant to Section 4(e) below provided CP or its lender agrees to assume LPSD’s payment obligations with respect to such work under the Engineer Contract from and after the exercise of the self-help remedy in which case, CP and CP’s lender may enforce the obligations of the Project Engineer under the Engineer Contract with respect to such work with the same force and effect as if enforced by LPSD and the Project Engineer will accept such performance of such work in lieu of performance by LPSD and in satisfaction of LPSD’s obligations under the Engineer Contract with respect to such work from and after the exercise of the self-help remedy. Prior to or contemporaneously with the execution of this Agreement, LPSD will sign, and will cause the Project Engineer to sign, a certification confirming the foregoing terms and provisions and will promptly deliver the same to CP. The form of such certification to be signed by LPSD and the Project Engineer is attached hereto as **Exhibit F**. LPSD agrees to use good faith efforts and will use good faith efforts to cause the Project Engineer to entertain reasonable requests from CP’s lender in addressing the items covered by **Exhibit F**, or otherwise. LPSD shall timely apply for and procure all necessary permits and other approvals for the Site Development and Improvement Work and pay any and all fees associated with the Site Development and Improvement Work and CP shall, at no additional cost to CP, reasonably cooperate in such efforts, which cooperation will include, without limitation, signing any permit applications. Except as provided in Section 3 below, no changes shall be made to the Site Construction Documents.

2. Site Development and Improvement Work. The term “**Site Development and Improvement Work**” means collectively, all site work and improvements as shown on the Site Construction Documents, including, without limitation those specific items referenced in **Exhibit E** and as depicted on the Site Plan, all to be performed by LPSD on the Project Site, including the CP Property, the LPSD Administrative Offices Property and the Surrounding LPSD Property, and including without limitation, (a) all off-site work necessary or required to perform

and complete the same, including roads, traffic signals, median cuts, utilities and deceleration lanes; (b) all permits, variances, approvals and entitlements that may be necessary or required by governmental authorities or third parties to construct the same, except those as may be required to construct and operate the intended retail buildings and related improvements within the boundaries of the CP Property other than in connection with Site Development and Improvement Work to be performed on the CP Property; (c) obtaining the final inspections and approvals of all of the Site Development and Improvement Work described above, except those as may be required to construct and operate the intended retail buildings and related improvements within the boundaries of the CP Property other than in connection with Site Development and Improvement Work to be performed on the CP Property, from all appropriate governmental authorities, utility companies or third parties, and obtaining from the Project Engineer a certificate of substantial completion in the form of an AIA Form G 704 (the “**Certificate of Substantial Completion**”) attached hereto as **Exhibit G** which provides that the Site Development and Improvement Work is substantially complete according to the Site Construction Documents and the terms of this Agreement as of the applicable Milestone Date (as defined in Section 3(b) below); and (d) the work and improvements to be constructed on the CP Property as described and labeled in **Exhibit E** as the “**CP Property Site Work.**” LPSD shall cause the Site Development and Improvement Work to be completed in a good and workmanlike manner, in compliance with all laws and in accordance with the Site Construction Documents and the other requirements of this Agreement on or before the applicable Milestone Date as set forth in the Construction Schedule prepared pursuant to Section 3(b) below, subject to the terms of Section 3(g) and Section 6 below concerning remedies and permitted delays. For the avoidance of doubt and notwithstanding any term or provision herein to the contrary, all way-finding, directional, parking and other parking control signs on or about the Project Site (the “**Directional and Parking Signs**”) will comply with all applicable laws and governmental requirements and will be mutually agreed upon by LPSD and CP, each acting reasonably and in good faith (including the cost therefor), and paid for as follows: (1) CP will be solely responsible for the cost and expense of any such Directional and Parking Signs located on Outlot B and will pay LPSD for such costs and expenses within 30 days after the later of the date such Directional and Parking Signs are erected in Outlot B, and the date CP receives reasonable documentation concerning such costs and expenses; (2) LPSD will be solely responsible for the cost and expense of any such Directional and Parking Signs located on the LPSD Administrative Offices Property; and (3) CP and LPSD will share equally the costs and expenses of Directional and Parking Signs on Outlot A, with CP paying its one-half share in the same manner as set forth in (1) above. The design of any monument sign(s) to be located on the Project Site will be subject to the mutual agreement of the parties, each acting reasonably and in good faith, and to the extent such monument sign is for the benefit of CP and/or the retailer or the occupants of the CP Property and not LPSD, CP will be responsible for all costs and expenses of such sign. Notwithstanding any term or provision herein to the contrary, CP’s costs and expenses as outlined above with respect to the Directional and Parking Signs and any monument sign solely benefiting CP and/or the retailer or the occupants of the CP Property as outlined shall be in addition to CP’s Contribution to Site Development and Improvement Costs. Except as otherwise provided herein, the parties further understand and agree that LPSD and CP is each solely responsible at its own cost and expense for all site improvements or development work, including without limitation, all construction, fine grading, paving, sidewalks, utility hook-ups, building permits, governmental inspections or approvals, buildings, signage, or other site improvements or enhancements along

with any related costs and expenses required to construct, operate, maintain, repair or replace the buildings and other related improvements located within the boundaries of the LPSD Administrative Offices Property or the CP Property, respectively.

3. Construction/Installation of the Site Development and Improvement Work.

(a) LPSD has selected Hampton Commercial Construction Inc., a Nebraska corporation ("**Hampton**"), as the construction manager for the Site Development and Improvement Work for the entire Project Site. It is agreed that Hampton will require each of the contractor(s), including Hampton (each a "**Contractor Contract**"), to agree that if CP exercises its self-help remedy to complete all or a portion of the Site Development and Improvement Work pursuant to Section 4(e) below and agrees to assume LPSD's payment obligations under the Contractor Contract with respect to such work from and after the exercise of the self-help remedy then CP and CP's lender may enforce the obligations of the contractor under the Contractor Contract with respect to such work with the same force and effect as if enforced by LPSD and the contractor will accept such performance in lieu of performance by LPSD with respect to such work and in satisfaction of LPSD's obligations with respect to such work under the Contractor Contract from and after the exercise of the self-help remedy. In addition, Hampton will require and provide in each Contractor Contract that all warranties of work (subject to any disclaimers or limitations) performed by the contractor, and any manufacturers' warranties (if any) related to the Site Development and Improvement Work located on the CP Property or performed by CP or its lender in connection with the exercise of the self-help remedy, shall also run to the benefit of CP and its lender and shall be issued in the name of CP and CP's lender and LPSD (collectively, the "**Warranties**") regardless of the fact that CP is not a party to the Contractor Contract and to provide that CP and its lender shall have the right to enforce such Warranties. Such certification and agreement form for each Contractor to sign is as set forth in **Exhibit H** attached hereto. LPSD agrees to use good faith efforts and will use good faith efforts to cause such Contractors to entertain reasonable requests from CP's lender in addressing the items covered by **Exhibit H**, or otherwise. All subcontractors and suppliers shall be selected by LPSD, with the assistance of Hampton, in conjunction with the Site Development and Improvement Work on a low responsible bid basis according to Nebraska law and LPSD policy. LPSD and/or Hampton will provide CP and CP's lender a list of all subcontractors and suppliers for the Site Development and Improvement Work upon CP or its lender's written request therefor.

(b) LPSD and CP have agreed on a construction schedule for certain critical phases of the Site Development and Improvement Work (as attached as **Exhibit I** attached hereto, the "**Milestone Schedule**") including a commencement date and completion date for each such phase (each, a "**Milestone Date**"). The Milestone Schedule shall include the completion date for **CP's Plaza Obligation and Work** as provided in Section 4(b) below. Except as provided in Section 3(c) below, no changes shall be made to the Milestone Schedule without the prior approval of both LPSD and CP.

(c) In the event that CP requests changes in the Site Construction Documents (a “**Change Order**”), the parties shall proceed as follows.

(i) CP shall request any such Change Order in writing, and LPSD shall respond within five Business Days following receipt of CP’s request, with either: (A) a written proposal for the Change Order (“**LPSD’s Change Order Proposal**”), confirming the scope of the work and the reasonable cost of the requested change to be paid for by CP and a proposed method of payment (the “**Change Order Price**”); or (B) a written notice objecting or refusing to consent to the request for the Change Order (but such objection or refusal shall only be permitted to the extent described in Section 3(c)(iv) below). With respect to any Change Order Price, LPSD shall also submit, to the extent available with respect to the proposed Change Order, appropriate supporting documentation including supplier invoices and bids and a breakdown of labor costs.

(ii) Each LPSD Change Order Proposal also shall include an estimate of any changes to the Milestone Schedule as the result of such Change Order, including any estimated delays in the Milestone Dates, as well as a statement of any estimated delay-related costs and expenses associated with the Change Order to be paid by CP.

(iii) If LPSD provides CP with an LPSD’s Change Order Proposal for a Change Order requested by CP, CP shall respond to LPSD’s Change Order Proposal within five Business Days following CP’s receipt of the LPSD’s Change Order Proposal, and if CP fails to do so, CP will be deemed conclusively to have rejected the proposal, and LPSD will continue with construction according to the Site Construction Documents then in place (as amended by any previously agreed upon Change Orders), without giving effect to the Change Order. If CP accepts LPSD’s Change Order Proposal, CP shall, within the five Business Day period hereinabove provided, return the LPSD’s Change Order Proposal in question to LPSD with (A) written notice confirming CP’s approval and (B) payment in full of the Change Order Price associated with CP’s portion of the cost of the Change Order (if any). Upon satisfaction of those conditions, LPSD and Hampton shall sign the Change Order and proceed with construction accordingly.

(iv) LPSD may reject or refuse to consent to a proposal for a Change Order by CP in LPSD’s sole but reasonable judgment, and must notify CP of such rejection or refusal in writing, with a reasonably detailed explanation, within five Business Days following receipt of the Change Order from CP. The required detailed explanation for LPSD’s rejection or refusal of the proposed Change Order may include, but shall not be limited to the reason that proceeding with the Change Order would be contrary to generally accepted construction practices, or that proceeding with the Change Order would likely, in LPSD’s sole but reasonable judgment: (A) materially delay the substantial completion of Site Development and Improvement Work; (B) delay the issuance of the certificate of occupancy (temporary or permanent) for the building to be constructed by LPSD on the LPSD Administrative Offices Property to an extent which could cause a

material adverse effect on LPSD; (C) potentially expose LPSD to any prosecution, fine, penalty, sanction or other proceeding for any violation of any law or other legal requirement binding LPSD; or (D) have a material adverse effect on the Site Plan.

(v) CP hereby agrees that any fair share costs and expenses as provided above associated with a CP initiated and approved Change Order are in addition to CP's Contribution to Site Development and Improvement Costs, and shall be paid by CP within the 30 days after the later of completion of the work under the Change Order and CP's receipt of reasonable supporting documentation therefor.

(d) LPSD shall have the right to make changes in the Site Construction Documents relating to the LPSD Administrative Offices Property in its sole discretion without consultation with CP provided such changes do not materially and adversely affect the Site Plan or the CP Property. In addition, LPSD shall have the right to make changes to the Site Construction Documents relating to the CP Property and the Surrounding LPSD Property: (i) as necessary to comply with requirements of law, but if alternative changes are possible to effectuate such compliance LPSD shall first discuss such alternatives with CP and obtain CP's written consent to the alternative to be employed (which consent shall not be unreasonably withheld, if applicable); (ii) with CP's written consent (which shall not be unreasonably withheld), as necessary to conform to prudent construction practices; and (iii) provided such change does not have a material adverse effect on the Site Plan or CP's construction, use or operation of the CP Property, or materially delay completion. If within five Business Days after LPSD submits a written request to CP (in the form of a proposed Change Order) to make a change to the Site Construction Documents, LPSD does not receive from CP a written objection to the proposed change, then CP will be deemed conclusively to have agreed to the change as proposed by LPSD. CP hereby agrees that there may be fair share costs and expenses associated with an LPSD initiated Change Order in which CP approves and in which CP agrees such Change Order has a benefit to CP, and, in such event, the fair share costs and expenses are in addition to CP's Contribution to Site Development and Improvement Costs, and shall be paid by CP within the 30 days after the later of completion of the work under the Change Order and CP's receipt of reasonable supporting documentation therefor.

(e) As soon as reasonably practicable upon substantial completion of each phase of the Site Development and Improvement Work as described in the Milestone Schedule, LPSD shall give written notice to CP that such phase of the Site Development and Improvement Work is ready for final inspection. Within ten (10) Business Days after receipt of such written notice, the Project Engineer shall complete its inspection of the applicable phase of the Site Development and Improvement Work. CP (and CP's lender) shall be permitted to conduct its own inspection of the applicable phase of the Site Development and Improvement Work during such 10 day period. If no written objections are made by the Project Engineer or CP, LPSD shall cause the Project Engineer to issue to LPSD, CP and CP's lender the Certificate of Substantial Completion

for the applicable phase, as applicable. If written reasonable objections to the applicable phase of the Site Development and Improvement Work are delivered by CP to LPSD within the 10 day period, then LPSD shall promptly take such action as is reasonably necessary to cure CP's and/or the Project Engineer's reasonable objections to the Site Development and Improvement Work included in such phase. As used herein, "**substantial completion**" shall mean when each phase of the Site Development and Improvement Work, as applicable, has been completed in accordance with this Agreement and applicable laws, including the approval of or acceptance by the City of Lincoln, if so required, even though minor items that do not adversely affect CP's development of the CP Property may remain to be installed, finished or corrected.

(f) LPSD and CP agree to cooperate with each other in order that the work being performed on each party's respective property shall be completed in a timely fashion. LPSD shall have, or shall cause Hampton to have, an on-site representative throughout the construction of the Site Development and Improvement Work and such person (or any successor thereof) shall be designated in writing to CP by LPSD.

(g) LPSD shall cause the Project Engineer, Hampton or the applicable construction manager and all contractor(s) to maintain the Site Development and Improvement Work in a good and safe condition until the Project Engineer issues the Certificate of Substantial Completion for the final phase as provided in Section 2, subject to willful acts or negligence of LPSD, CP, the Project Engineer, Hampton or the applicable construction manager, or any contractor (in which case such party shall be responsible for any repair or replacement work necessitated by its willful acts or negligence). If, after all Site Development and Improvement Work has been completed and the Certificate of Substantial Completion has been issued, it is determined there are any defects existing in the Site Development and Improvement Work other than on the LPSD Administrative Offices Property, at CP's request, LPSD shall assign, to the extent allowed, any Warranties, all rights under the applicable contract(s) or otherwise, and any claim(s) for breach of warranty or otherwise to CP. Notwithstanding, to the extent that such assignment of warranties, or contract rights or claim(s) for breach of warranty are not enforceable or allowed by law, LPSD shall, for the benefit of CP and its lender, use reasonable good faith efforts to enforce the Warranties, the contract with the Project Engineer, and the Contractor Contracts and upon agreement as to the terms and conditions of such good faith efforts shall pursue claims thereunder with respect to such defective work upon the written request of CP subject to the terms and provisions thereof of any such Warranties,; provided, however, if such defective work affects only the CP Property or Outlot B and CP elects and LPSD agrees to pursue the Warranty claim through legal proceedings, CP shall be responsible for paying all reasonable attorneys' fees, expert fees and court costs relating to such enforcement or claim, and if such work relates to the CP Property, and/or Outlot B and the LPSD Administrative Offices Property and/or Outlot A, the parties shall agree on an equitable and fair share allocation of such attorneys' fees, expert fees and court costs and expenses incurred by LPSD. The parties will cooperate with one another in good faith in the pursuit of any such enforcement or claims. The terms and provisions of this Section 3(g) will survive the

Substantial Completion of the Site Development and Improvement Work for the applicable statute of limitations associated with such enforcement or claims.

(h) LPSD shall be responsible for all permit fees and other fees applicable to the Site Development and Improvement Work and shall be entitled to any and all credits or reductions from subsidies contributed by the City of Lincoln. The foregoing is not intended to impact or impede CP from seeking relief from any requirement for impact fees. Except as otherwise provided herein, with respect to the construction of the retail buildings and improvements on the CP Property, CP shall be responsible for all construction, signage, sidewalks, lighting, landscape, and for water/wastewater utility impact fees, arterial street impact fees and building permit fees or any other fees, costs, or expenses for improvements, work, permits, inspections and governmental approvals incurred or required to construct, operate, maintain and repair the intended retail buildings and other related improvements located within the boundaries of the CP Property.

(i) CP hereby grants to LPSD and its contractor(s) a non-exclusive temporary construction easement (the “**Temporary Construction Easement**”) over, through, under and across those portions of the CP Property reasonably necessary for the purposes of performing the Site Development and Improvement Work and otherwise fulfilling its obligations under this Agreement. All activities performed by LPSD or on behalf of LPSD pursuant to the Temporary Construction Easement shall be conducted in accordance with all applicable laws and in a good and workmanlike manner. In addition to Section 3(f) above, LPSD and its contractors shall use commercially reasonable efforts to ensure that use of the Temporary Construction Easement does not interfere with or interrupt any work on the CP Property being performed by CP and to that end the parties agree to coordinate and cooperate with each other in good faith regarding any timing issues and the performance of overlapping work; provided, however, that CP shall cooperate as reasonably necessary in order for LPSD not to be delayed in meeting the Milestone Schedule. The term of the Temporary Construction Easement shall commence on the date of this Agreement and shall automatically terminate, without any further action by LPSD or CP, upon issuance of the Certificate of Substantial Completion for the final phase of the Site Development and Improvement Work by the Project Engineer pursuant to this Agreement. Upon the expiration of the term of the Temporary Construction Easement, all rights of LPSD and its contractor(s) in the Temporary Construction Easement shall cease and terminate and the CP Property shall be deemed released of all burdens and covenants created under this Agreement with regard to the Temporary Construction Easement.

(j) LPSD will be solely responsible, and without contribution from CP, for (i) except as provided in the Site Construction Documents, cleaning up any dirt, mud or debris deposited on the CP Property resulting from construction access over the LPSD Property during the period of any construction activities on the LPSD Property related to the Site Development and Improvement Work or the LPSD Administrative Offices Property; and (ii) Change Order costs and expenses and any damage to or destruction of the CP Property caused by LPSD or its employees, agents or contractors during the

period of any construction activities related to the Site Development and Improvement Work or construction of improvements on the LPSD Administrative Offices Property, the damage or destruction being other than the actual intended Site Development and Improvement Work. CP will be solely responsible for (A) cleaning up any dirt, mud or debris deposited on the LPSD Property resulting from construction access over the LPSD Property during the period of any construction activities on the CP Property; and (B) any damage to or destruction of the LPSD Property caused by CP or its employees, agents or contractors during the period of any construction activities related to the CP Property.

4. Payment of Site Development and Improvement Costs.

(a) **“Site Development and Improvement Costs”** shall mean the aggregate cost of: (i) performing the Site Development and Improvement Work, (ii) any permit fees applicable to the Site Development and Improvement Work, payment and performance bonds and insurance premiums relating thereto, (iii) preparing the Site Construction Documents, (iv) periodic on-site observations required to be made by the Project Engineer or other special consultants in order to certify substantial completion of the Site Development and Improvement Work, (v) any cost to maintain the Site Development and Improvement Work during the course of construction thereof to the extent provided in Section 3(g); and (vi) LPSD’s on-site representative or construction manager but only to the extent of the management and oversight of the Site Development and Improvement Work (provided, however, in the event CP exercises its self-help rights under this Agreement, the Site Development and Improvement Costs shall not include the cost of LPSD’s on-site representative for the period from and after the date CP exercises its self-help rights under this Agreement).

(b) Subject to the terms of this Agreement regarding the Escrow Deposit (as defined below), to assure LPSD that CP shall pay its agreed upon share of the Site Development and Improvement Work, upon the execution of this Agreement, CP shall deposit \$580,000.00 (**“CP’s Contribution to Site Development and Improvement Costs”**) in an escrow account with Fidelity National Title Insurance Company (**“Fidelity”**) and/or Nebraska Title Company as appropriate, pursuant to and under the terms of an escrow agreement in the form attached hereto as **Exhibit J** (the **“Escrow Deposit”**). Except as otherwise expressly provided herein, CP’s Contribution to Site Development and Improvement Costs shall be CP’s only payment and contribution to the Site Development and Improvement Costs. Accordingly, at the Closing under the PSA, LPSD and CP have established an escrow account in the amount of the Escrow Deposit in the amount of CP’s Contribution to Site Development and Improvement Costs.

(c) The payment of a portion of the Site Development and Improvement Costs from the Escrow Deposit constituting CP’s Contribution to Site Development and Improvement Work shall be made subject to the following provisions of this paragraph. LPSD shall submit or cause its contractor(s) to submit to CP and Fidelity as the Site Development and Improvement Work progresses, on the Project Site, periodic application(s) for payment on Form G702 published by the American Institute of Architects, provided that the Project Engineer, rather than an architect, shall certify such application(s) for payment. Hampton, as the construction manager must provide LPSD a

Guaranteed Maximum Price (“**GMP**”) for the Site Development and Improvement Work for the Project Site. The GMP may be adjusted from time to time base on approved Change Orders. LPSD shall make all payments to contractors for the Site Development and Improvement Work from the GMP amount until the balance of the GMP due is \$580,000, as shown by the aggregate amount of payments on submitted certificate(s) for payment. When the GMP balance due reaches the amount of \$580,000, Fidelity, shall thereafter pay to LPSD from the CP’s Escrow Deposit each of the subsequent certificate(s) for payment submitted by or on behalf of LPSD for Site Development and Improvement Work. Payments to LPSD from the CP’s Escrow Deposit shall be monthly. Upon completion of the Site Development and Improvement Work and issuance of the Certificate of Substantial Completion by the Project Engineer, the remaining balance of CP’s Escrow Deposit, if any, shall be paid by Fidelity to LPSD.

(d) Subject to the terms of this Agreement regarding the Escrow Deposit, LPSD will pay or cause to be paid all costs and charges for the Site Development and Improvement Work when and as the same become due. LPSD will indemnify CP against and hold CP and the CP Property, clear and harmless of and from all mechanics’ liens and claims of liens, and all other liabilities, liens, claims and demands on account of the Site Development and Improvement Work. If any such lien, at any time, is filed against the CP Property, or any part of the CP Property, LPSD will cause such lien to be bonded over or released within 30 days after the filing of such lien. If LPSD fails to pay any charge for which a mechanics’ lien has been filed, CP may, at its option, pay such charge and related costs and interest from the Escrow Deposit or from its own funds, and, if from its own funds, the amount so paid, together with reasonable attorneys’ fees actually incurred in connection with such lien, will be immediately due from LPSD to CP upon receipt of invoices or other reasonably requested documentation evidencing such costs. Nothing contained in this Agreement will be deemed the consent or agreement of CP to subject CP’s interest in the CP Property to liability under any mechanics’ or other lien law. If LPSD receives written notice that a lien has been or is about to be filed against the CP Property or any action affecting title to the CP Property has been commenced on account of work done by or for or materials furnished to or for LPSD, it will immediately give CP written notice of such notice. CP will have the right to post notices of non-responsibility or similar written notices on the CP Property in order to protect the CP Property against any such liens. LPSD’s obligations under this Section shall survive the expiration or earlier termination of this Agreement.

(e) If LPSD (i) fails to cause any phase of the Site Development and Improvement Work to be completed in accordance with the final approved Site Construction Documents and the other requirements of this Agreement on or before an applicable Milestone Date as set forth in the Milestone Schedule, as amended from time to time, subject to the terms of Section 6 below concerning permitted delays, or (ii) fails to pay the Site Development and Improvement Costs when due pursuant to the foregoing provisions of this Section 4 (the “**Payment Provisions**”), and such failure is not cured or a dispute resolution process has not been initiated under the applicable contract documents for the work within 20 Business Days after LPSD receives written notice of such failure from CP; or with respect to a dispute resolution initiated within such 20

Business Day period, such dispute resolution isn't pursued diligently by LPSD to completion, then, in any such event, such failure by LPSD shall constitute an "**Event of Default.**" If an Event of Default by LPSD occurs, CP shall have the right (but not the obligation), in addition to any other remedy at law or in equity for any such Event of Default, upon not less than ten (10) Business Days' prior written notice to LPSD, to complete all or any portion of the construction of the Site Development and Improvement Work on the CP Property and/or Outlot A and/or Outlot B with a contractor of its selection and/or cause the Site Development and Improvement Costs to be paid from the Escrow Deposit, as applicable, and as to Outlot A, CP's rights hereunder shall at all times be subject to LPSD's right to complete its well field on Outlot A prior to CP's completing construction of the Site Development and Improvement Work. If CP elects to complete all or a portion of the construction of the Site Development and Improvement Work on the CP Property and/or Outlot A and/or Outlot B pursuant to the preceding sentence, then it shall do so in accordance with the applicable Site Construction Documents, the applicable Milestone Schedule and the other requirements of this Agreement that apply to LPSD's completion of such work, provided that the Milestone Dates for completion of any incomplete phases of the Site Development and Improvement Work that CP elects to perform shall be reasonably extended as necessary to account for any delays caused by LPSD's Event of Default and CP's taking over such portion of the Site Development and Improvement Work and delays outside the reasonable control of CP. All payment of the Site Development and Improvement Costs by CP pursuant to the preceding provisions of this Section 4(e) shall be made from the Escrow Deposit pursuant to the Payment Provisions, except that (A) Any Certificate of Substantial Completion may be completed by any engineer engaged by CP if CP has elected not to assume LPSD's applicable obligations under the Engineer Contract; and (B) CP shall be entitled to receive from the Escrow Deposit 100% of the amount approved or deemed approved pursuant to the application for payment. Upon the making of the final payment from the Escrow Deposit, any remaining Escrow Deposit balance shall be simultaneously released to LPSD.

(f) LPSD will cause all contractors to provide payment and performance bonds in the amount of the contracts pursuant to Nebraska Revised Statute § 52-118, which shall be included in the cost of construction for the Site Development and Improvement Work. LPSD, as a Nebraska political subdivision represents and warrants to CP that along with the Escrow Deposit, LPSD has sufficient lawful funds to and will complete the Site Development and Improvement Work.

(g) In addition to CP's contribution as provided in the PSA and the Escrow Deposit as provided herein, CP is also to spend not less than \$280,000.00 for site improvements and development costs for the plaza areas and mixed-use enhancements on the CP Property (the "**CP Plaza Obligation and Work**") for the benefit of the CP Property and the overall mixed-use nature of the development. CP Plaza Obligation and Work quality characteristics and areas are set forth on **Exhibit E**. It is agreed that LPSD shall have the right to review but not approve the construction plans and specifications and that CP will maintain a separate accounting for the CP Plaza Obligation and Work. It is agreed that the CP Plaza Obligation and Work shall be completed by the Milestone

Date as provided in Section 3(b). In the event the CP Plaza Obligation and Work is not completed by such Milestone Date or mutual extensions thereof, LPSD shall be entitled to bill CP for any remaining unexpended balance and CP shall pay such amount within thirty (30) days of billing as liquidated damages and not as a penalty. It is further agreed that CP will pay its contractors as expenses are incurred for the CP Plaza Obligation and Work and that upon completion of the CP Plaza Obligation and Work the Project Engineer or another Lincoln, Nebraska professional as reasonably agreed upon by the parties shall date, sign and certify in writing to LPSD that CP's Plaza Obligation and Work have been substantially completed in accordance with the terms hereof.

5. Indemnity. Except to the extent caused by the gross negligence or willful misconduct of CP, LPSD shall defend, protect, indemnify and hold harmless CP and its members, managers, employees, agents and representatives from and against all claims or demands by third parties, including any actions or proceedings brought thereon, and all costs, expenses and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from any construction activity performed on or around the LPSD Property or the CP Property by LPSD or any party or entity claiming by, through or under LPSD. Except to the extent caused by the gross negligence or willful misconduct of LPSD, CP shall defend, protect, indemnify and hold harmless LPSD and its board of education, officers, administrators, employees, agents and representatives from and against all claims or demands by third parties, including any actions or proceedings brought thereon, and all costs, expenses and liabilities of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from any construction activity on or around the CP Property or the Surrounding LPSD Property by CP or anyone claiming by, through or under CP.

6. Permitted Delays. Each party shall use due diligence to perform and take all reasonable measures to perform its obligations under this Agreement. If a Force Majeure Event (as defined below) delays a party's ability to perform its obligations under this Agreement, such delayed party may extend the applicable completion deadline or Milestone Date by the number of days of delay caused by such Force Majeure Event, or by the number of days the parties agree are reasonable, by providing written notice of such Force Majeure Event to the other party promptly after the delayed party becomes aware of the effect of its occurrence and no later than thirty (30) business days following the end of such Force Majeure Event or promptly upon determining the impact of such event, which notice shall include reasonable evidence or details sufficient to permit the other party to confirm the occurrence and duration of such Force Majeure Event. A "**Force Majeure Event**" is a cause for delay in a party's ability to have its respective work obligations under this Agreement performed that is beyond the reasonable control of such party or its contractors (but that is not specific to disputes or problems with such party's contractor(s) or supplier(s)), including, without limitation, a local, regional or national labor strike, a local, regional or national shortage of building materials, a natural catastrophe such as a tornado, fire, earthquake or flood, or weather conditions; provided, however, that in no event will lack of financing or a party's inability to fund construction costs constitute basis of such party to claim a Force Majeure Event.

7. Third Party Reports. LPSD will promptly provide CP with all third party reports prepared in connection with the performance of the Site Development and Improvement Work,

and will cause the preparer thereof to certify any of such third party reports relating to the CP Property to CP and its lender.

8. Notice. Any notice required or permitted to be sent pursuant to this Agreement shall be in writing and shall be deemed received (a) within the same Business Day when personally delivered; (b) within the same Business Day when sent by confirmed facsimile transmission or other electronic delivery (e.g. email); (c) three days after having been deposited in a U.S. Postal Service depository and sent by registered or certified mail, return receipt requested, with all required postage prepaid, and addressed; or (d) the next Business Day after deposit with Federal Express or a similar overnight courier service, with delivery charges for morning delivery on the next Business Day prepaid. Either party may change its address or other listed information below for notices by written notice to the other party in accordance with this Section 8:

If to LPSD: Lancaster County School District 001
3801 S. 14th Street
Lincoln, Nebraska 68502
Attention: Mark Shepar, Associate Superintendent for
Business Affairs or successor
Telephone: (402) 436-1000
Facsimile: (402) 458-3285
Email: mshepar@lps.org

with a copy to: Perry, Guthery, Haase, and Gessford
233 South 13th Street, Suite 1400
Lincoln, Nebraska 68508
Attention: James B. Gessford, Attorney for the Board of
Education or successor
Telephone: (402) 476-9200
Facsimile: (402) 476-0094
Email: jgessford@perrylawfirm.com

If to CP: CP Lincoln O Street, LLC
c/o Continuum Partners, LLC
7171 W. Alaska Drive
Lakewood, Colorado 80226
Attention: Roger Pecsok and Daniel J. Murphy
Telephone: 303-573-0050
Facsimile: 303-573-0011
Email: roger.pecsok@continuumllc.com;
dan.murphy@contiumllc.com

and to: Continuum Partners, LLC
7171 W. Alaska Drive
Lakewood, Colorado 80226
Attention: Lenn A. Moldenhauer, Esq.
Telephone: 303-573-0050
Facsimile: 303-573-0011
Email: lenn.moldenhauer@continuumllc.com

Upon at least five (5) days' prior written notice, each party shall have the right to change its address to any other address within the United States of America. Informal communications made between LPSD and CP during the completion of construction activities performed under this Agreement may be made by their respective project managers as designated from time to time; however, the same shall not qualify as written notice.

9. Relationship of Parties. Nothing contained in this Agreement shall be deemed or construed, either by the parties hereto or by any third party, to create the relationship of principal and agent or to create any partnership, joint venture or other association between CP and LPSD.

10. Damages Limitation. No party shall be liable to the other party or any successor thereto for any claim arising from this Agreement for special, consequential or punitive damages, and LPSD and CP hereby waive any right to make any claim for any such damages arising from this Agreement.

11. Successors and Assigns.

(a) This Agreement and the benefits and obligations hereunder shall inure to the parties and their respective permitted successors and assigns.

(b) LPSD shall have the right to assign its rights and obligations under this Agreement and the Escrow Deposit to any successor in title to the LPSD Property who agrees in writing to be bound by the obligations of LPSD under this Agreement and provided that CP has approved the same, provided such approval by CP shall not be unreasonably withheld, conditioned or delayed.

(c) CP shall have the right to assign its rights and obligations under this Agreement (i) to any successor in title to the CP Property who agrees in writing to be bound by the obligations of CP under this Agreement and provided that LPSD has approved the same, provided such approval by LPSD shall not be unreasonably withheld, conditioned or delayed, and further provided that any such assignment or an assignment to a CP Affiliate shall not terminate the liability of the assignor to perform, unless a specific release in writing is given and signed by LPSD and (ii) to a CP Affiliate without the prior written consent of LPSD as long as there is no change in the Project Manager or CP has identified a new project manager and LPSD agrees in writing to such new Project Manager. Seller hereby pre-approves Daniel J. Murphy, Doug Alexander or Roger Pecsok to act as Project Manager. "CP Affiliate" means any entity in which Mark G. Falcone, Michael J. Falcone, Michael P. Falcone, Peter A. Fair and/or Daniel J. Murphy has a direct or indirect economic interest, whether as member, partner, shareholder or

otherwise and/or any trust established for the benefit of any of them or any of their family members, or any entity under common control with CP or any one or more of the foregoing individuals.

(d) In addition to the rights described in subsection (c) above, CP shall have the right to assign this Agreement to CP's lender as collateral for CP's loan obligations without LPSD's consent. LPSD acknowledges that CP's lender shall have the right, while an event of default exists under CP's loan documents, to exercise all of CP's rights hereunder, including, without limitation, the rights described in Section 4(e), in accordance with such collateral assignment.

(e) Notwithstanding the foregoing, no assignment by either party of its rights and obligations shall release the assigning party from its obligations under this Agreement unless such release is in writing and executed by the non-assigning party.

12. Exhibits Incorporated. Each exhibit attached to and referred to in this Agreement is hereby incorporated by reference as though set forth in full where referred to herein.

13. Counterparts; Facsimile. This Agreement may be signed in counterparts and all of which, when taken together, shall constitute one instrument. The parties hereto agree that a signature transmitted by facsimile or electronic delivery shall be effective as an original signature for the purposes of executing this Agreement.

14. Applicable Law. This Agreement should be governed by and construed in accordance with the laws of the State of Nebraska without reference to its conflict of laws principles.

15. Entire Agreement. This Agreement contains the complete and entire agreement between the parties respecting negotiations, agreements, representations and understandings, if any, between the parties respecting such matters, and neither party makes any warranties, express or implied, except those set forth in this Agreement.

16. Time Periods. In the event the last day permitted for the performance of any act required or permitted under this Agreement falls on a day other than a Business Day (as defined below), the time for such performance will be extended to the next succeeding Business Day. Each time period under this Agreement will exclude the first day and include the last day of such time period. A "**Business Day**" is any day other than a Saturday, Sunday or holiday generally observed by banking institutions in the State of Nebraska.

17. No Third Party Beneficiaries. Except for the rights of CP's lender under Section 11(d), this Agreement does not create, and shall not be construed as creating, any rights enforceable by any person not a party to this Agreement.

18. Modifications; Waiver. This Agreement may not be modified or discharged in any respect, except by a further agreement in writing duly executed by LPSD and CP or their successors and assigns. However, any consent, waiver, approval or authorization will be effective if signed by the party granting or making such consent, waiver, approval or authorization. No

waiver shall be deemed a continuing waiver with respect to any breach or default, whether of similar or different nature, unless expressly stated in writing.

19. Expenses. Except as otherwise expressly provided herein, each party to this Agreement shall pay its own costs and expenses, including attorneys' fees, incurred in connection with the transactions contemplated hereby.

20. Severability. The invalidation or unenforceability in any particular circumstances of any of the provisions of this Agreement will in no way affect any of the other provisions hereof, which will remain in full force and effect.

21. Construction. The language used in this Agreement will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against any party hereto. This Agreement shall be given a reasonable construction so that the intention of the parties can be carried out. The parties hereby acknowledge and agree that they have been represented by counsel in the negotiation of this Agreement, and, accordingly, this Agreement shall be deemed to have been prepared jointly by the parties and shall not be construed against any party as the drafter hereof.

22. Further Assurances. Each party agrees that it will, without further consideration, execute and deliver such other documents and take such actions, whether before or after completion of the Site Development and Improvement Work, as may be reasonably requested by the other party to this Agreement so as to consummate more effectively the purposes or subject matter of this Agreement or to evidence the full and final performance of this Agreement.

23. CP Property Development and Improvement Work. The "**CP Property Development and Improvement Work**", means, collectively, all site development work and improvements as shown on the CP Property Construction Documents (as defined below) to be performed on the CP Property, and including without limitation, (a) the retail buildings and related improvements within the boundaries of the CP Property; (b) the mixed-use enhancements and plaza area within the boundaries of the CP Property; and (c) a certificate of substantial completion from an architect or engineer which provides that the CP Property Development and Improvement Work is substantially complete according to the CP Property Construction Documents. LPSD will have the right to review (but not approve) the plans and specifications for the CP Property Development and Improvement Work, which shall be consistent with the quality for first-class shopping centers in the Lincoln metropolitan market and consistent with the quality and architectural themes depicted in the renderings on **Exhibit E**, (the "**CP Property Construction Documents**") before any excavation work for foundations is performed on the CP Property. CP shall also obtain the appropriate governmental approvals before the CP Property Development and Improvement Work is performed on the CP Property. CP, at its sole cost and expense, shall cause the CP Property Development and Improvement Work to be completed in a good and workmanlike manner, in compliance with all laws and in accordance with the CP Property Construction Documents and the other requirements of this Agreement. The CP Development and Improvement Work shall be substantially completed by the date that is four months after the date LPSD first occupies the office building to be constructed by LPSD on the LPSD Administrative Offices Property for the regular conduct of its business, but notwithstanding anything in this Agreement to the contrary, in no event shall CP be obligated to

have the CP Development and Improvement Work substantially completed earlier than October 31, 2013, as such deadline may be extended due to Force Majeure Events (as provided in Section 6 above) or the mutual agreement of the parties.

24. CP's Liability Insurance [Note: Subject to Risk Management Review] The term "CP Property Development Period" shall mean the time between commencement of CP Property Development and Improvement Work and the date of substantial completion of the CP Property Development and Improvement Work identified in Section 23. CP shall purchase from and maintain in a company or companies lawfully authorized to do business in Nebraska such insurance as will protect CP from claims set forth below which may arise out of or result from the CP Property Development and Improvement Work during the CP Property Development Period and for which CP may be legally liable, whether the CP Property Development and Improvement Work be performed by CP or be performed by anyone directly or indirectly employed or contracted by CP, or by anyone for whose acts any of them may be liable: (a) claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to such work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of CP's employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than CP's employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (i) by a person as a result of an offense directly or indirectly related to employment of such person by CP, or (ii) by another person; (e) claims for damages, other than to such work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims involving contractual liability insurance applicable to CP's obligations; and (h) claims for damages to the CP Property and CP Property Development and Improvement Work itself.

The insurance required by this Section 24 shall be written for not less than limits of liability specified herein or as required by law, whichever coverage is greater. Coverages shall be written on an occurrence basis and shall be maintained without interruption during the CP Property Development Period. Certificates of insurance shall be available for inspection by LPS prior to commencement of the CP Property Development and Improvement Work. CP shall give written notice to LPS at least thirty (30) days prior to the cancellation or expiration of any insurance policy required by this Section 24. If any of the foregoing insurance coverages are required to remain in force after the CP Property Development Period and are reasonably available, an additional certificate evidencing continuation of such coverage shall be available for inspection by LPS.

Unless otherwise modified by a separate written agreement, CP shall maintain the following levels of insurance coverage:

- (a) Workers' Compensation: Nebraska statutory limits.
- (b) Employer's Liability: The minimum annual limits per insured shall be as follows:
 - (i) \$500,000 bodily injury by accident; (ii) \$500,000 policy limit for bodily injury by disease; and (iii) \$500,000 bodily injury by disease per each employee.

- (c) Automobile Liability: Combined single limit of \$1,000,000 per occurrence.
- (d) Commercial General Liability: For commercial general liability insurance, the minimum annual limits of liability shall be as follows: (i) \$2,000,000 general aggregate; (ii) \$2,000,000 products/completed operations aggregate; (iii) \$1,000,000 personal/advertising injury aggregate; and (iv) \$1,000,000 each occurrence limit.
- (e) Excess Liability: For excess liability insurance, the minimum coverage shall be as follows: (i) \$5,000,000 per each occurrence; and (ii) \$5,000,000 annual aggregate.

Property insurance shall be on an “all-risk” policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architect’s/engineer’s services and expenses required as a result of such insured loss. The level of insurance for property insurance / builder’s risk insurance maintained during the CP Property Development Period shall be in the amount of 100% of the initial Cost of the CP Property Development and Improvement Work as well as subsequent modifications thereto for the entire CP Property Development and Improvement Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained during the CP Property Development Period. CP shall purchase and maintain boiler and machinery insurance which shall specifically cover such insured objects during the CP Property Development Period.

25. LPS’ Liability Insurance [Note: Subject to Risk Mangement Review]. The term “**LPS Development Period**” shall mean the time between commencement of the Site Development and Improvement Work and the date of Substantial Completion of the Site Development and Improvement Work identified in Section 2 or the substantial completion of the administrative office building to be constructed by LPS on the LPSD Administrative Offices Property (the “**LPS Office Building Work**”), whichever occurs last. LPS shall purchase from and maintain in a company or companies lawfully authorized to do business in Nebraska such insurance as will protect LPS from claims set forth below which may arise out of or result from the Site Development and Improvement Work and the LPS Office Building Work during the LPS Development Period and for which LPS may be legally liable, whether the LPS Development Work and the LPS Office Building Work to be performed by LPS or be performed by anyone directly or indirectly employed or contracted by LPS, or by anyone for whose acts any of them may be liable: (a) claims under workers compensation, disability benefit and other similar employee benefit acts which are applicable to the such work to be performed; (b) claims for damages because of bodily injury, occupational sickness or disease, or death of LPS’ employees; (c) claims for damages because of bodily injury, sickness or disease, or death of any person other than LPS’ employees; (d) claims for damages insured by usual personal injury liability coverage which are sustained (i) by a person as a result of an offense directly or indirectly related to employment of such person by LPS, or (ii) by another person; (e) claims for damages, other than to the such work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (f) claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle; (g) claims

involving contractual liability insurance applicable to LPS' obligations; and (h) claims for damages to the Site Development and Improvement Work and LPS Office Building Work itself.

The insurance required by this Section 25 shall be written for not less than limits of liability specified herein or as required by law, whichever coverage is greater. Coverages shall be written on an occurrence basis and shall be maintained without interruption during the LPS Development Period. Certificates of insurance shall be available for inspection by CP after the effective date of this Agreement and during the LPS Development Period. LPS shall give written notice to CP at least thirty (30) days prior to the cancellation or expiration of any insurance policy required by this Section 25. If any of the foregoing insurance coverages are required to remain in force after the LPS Development Period and are reasonably available, an additional certificate evidencing continuation of such coverage shall be available for inspection by CP.

Unless otherwise modified by a separate written agreement, LPS shall maintain the following levels of insurance coverage:

- (a) Workers' Compensation: Nebraska statutory limits.
- (b) Employer's Liability: The minimum annual limits per insured shall be as follows:
 - (i) \$500,000 bodily injury by accident; (ii) \$500,000 policy limit for bodily injury by disease; and (iii) \$500,000 bodily injury by disease per each employee.
- (c) Automobile Liability: Combined single limit of \$1,000,000 per occurrence.
- (d) Commercial General Liability: For commercial general liability insurance, the minimum annual limits of liability shall be as follows: (i) \$2,000,000 general aggregate; (ii) \$2,000,000 products/completed operations aggregate; (iii) \$1,000,000 personal/advertising injury aggregate; and (iv) \$1,000,000 each occurrence limit.
- (e) Excess Liability: For excess liability insurance, the minimum coverage shall be as follows: (i) \$5,000,000 per each occurrence; and (ii) \$5,000,000 annual aggregate.

Property insurance shall be on an "all-risk" policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for architect's/engineer's services and expenses required as a result of such insured loss. The level of insurance for property insurance / builder's risk insurance maintained during the LPS Development Period shall be in the amount of 100% of the initial cost of the Site Development and Improvement Work and LPS Office Building Work as well as subsequent modifications thereto for the entire Site Development and Improvement Work and LPS Office Building Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained during the LPS Development Period. LPS shall purchase and maintain boiler and machinery insurance which shall specifically cover such insured objects during the LPS Development Period.

26. Waivers of Subrogation: Each party waives all rights against the other for damages caused by fire or other perils to the extent covered by property insurance obtained or required to be obtained by the party pursuant to Section 24 or Section 25, as applicable or other property insurance applicable to the CP Property Development and Improvement Work, or the Site Development and Improvement Work and LPS Office Building Work, as applicable. The property policies in Section 24 and Section 25 shall each provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

[Remainder of page intentionally blank]

DRAFT - For Reference Only

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the day and year first above written.

**Lancaster County School District No. 001, a/k/a
Lincoln Public Schools**, Class IV school district
existing under the laws of the State of Nebraska

By: _____

Name: _____

Title: _____

CP Lincoln O Street, LLC, a Delaware limited
liability company

By: _____

Name: _____

Title: _____

DRAFT - For Reference Only

EXHIBIT A

Legal Description of the CP Property

DRAFT - For Reference Only

EXHIBIT B

Legal Description of the LPSD Property

LPSD Administrative Offices Property

Surrounding LPSD Property

DRAFT - For Reference Only

EXHIBIT C

Site Plan

DRAFT - For Reference Only

EXHIBIT C-1

Subdivision Plat

DRAFT - For Reference Only

EXHIBIT D

Site Construction Documents

[To Be Updated]

List Site Construction Documents LPS and CP have agreed upon to date, if any.

DRAFT - For Reference Only

EXHIBIT E

General Specifications for CP Related Site Development and Improvement Work

CP Property Site Work

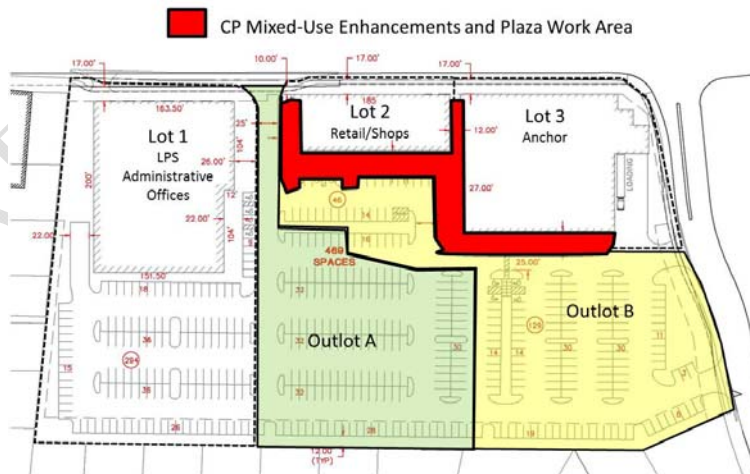
Surrounding LPSD Property Site Work

CP MIXED-USE ENHANCEMENTS AND PLAZA WORK

A. CP's minimum \$280,000 in mixed-use enhancements and plaza work shall be built consistent with the quality and architectural themes depicted in the rendering below:



B. The area in which CP shall conduct its mixed-use enhancements and Plaza work is depicted as follows:



CP PROPERTY DEVELOPMENT AND IMPROVEMENT WORK

CP's buildings shall be built consistent with the quality and architectural themes depicted in the renderings below:



DRAFT

EXHIBIT F

**Certificate of Project Engineer
(subject to review)**

Project Name: _____ (Phase ____)

The undersigned Project Engineer hereby certifies that:

The undersigned Project Engineer shall be responsible for the design and construction observation of the Site Development and Improvement Work for the above named Project and will: (a) make necessary periodic observations of the Site Development and Improvement Work so as to be ready, willing and able to complete and execute the Certificate of Substantial Completion as required; (b) ensure that the Site Construction Documents comply with all applicable laws and the requirements of all governmental agencies and other entities having or exercising jurisdiction over construction activities occurring on or about the above named Project; and (c) recognize the right of CP Lincoln O Street, LLC, a Delaware limited liability company ("CP") to exercise the self-help remedy to complete the Site Development and Improvement Work of Lincoln Public Schools, a school district under the laws of the State of Nebraska ("LPSD") pursuant to Project documents provided CP or its lender agrees to assume LPSD's payment obligations under the Engineer Contract from and after the exercise of the self-help remedy in which case, CP and CP's lender may enforce the obligations of the Project Engineer under the Engineer Contract with the same force and effect as if enforced by LPSD and the Project Engineer will accept such performance in lieu of performance by LPSD and in satisfaction of LPSD's obligations under the Engineer Contract from and after the exercise of the self-help remedy.

PROJECT ENGINEER

Company: **Olsson Associates, Inc.**

By: _____

Date: _____

Registration No. _____

Approved this ____ day of _____, 2012.

Lincoln Public Schools

By: _____

An Authorized Official

EXHIBIT G

CERTIFICATE OF SUBSTANTIAL COMPLETION

(Insert AIA Form G 704)

DRAFT AIA® Document G702/CMA™ - 1992

Application and Certificate for Payment Construction Manager-Adviser Edition

TO OWNER: Lincoln Public Schools 3801 S. 14th Street, Lincoln, NE 68501	PROJECT: LPSDO Site Development and Improvement Project	APPLICATION NO: 001	Distribution to: OWNER: <input checked="" type="checkbox"/> CONSTRUCTION MANAGER: <input checked="" type="checkbox"/> ARCHITECT: <input checked="" type="checkbox"/> CONTRACTOR: <input checked="" type="checkbox"/> FIELD: <input type="checkbox"/> OTHER: <input type="checkbox"/>
FROM CONTRACTOR:	VIA CONSTRUCTION MANAGER: Hampton Commercial Construction	PERIOD TO:	
CONTRACT FOR:	VIA ARCHITECT: Sinclair-Hille Architects	CONTRACT DATE:	
		PROJECT NOS: / / 00001	

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM	\$	0.00
2. Net change by Change Orders	\$	0.00
3. CONTRACT SUM TO DATE (Line 1 + 2)	\$	0.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	0.00
5. RETAINAGE:		
a. 0 % of Completed Work (Column D + E on G703)	\$	0.00
b. 0 % of Stored Material (Column F on G703)	\$	0.00
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	0.00
6. TOTAL EARNED LESS RETAINAGE	\$	0.00
(Line 4 Less Line 5 Total)		
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT	\$	0.00
(Line 6 from prior Certificate)		
8. CURRENT PAYMENT DUE	\$	0.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE		
(Line 3 less Line 6)	\$	0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
By: _____ Date: _____
State of: _____
County of: _____
Subscribed and sworn to before
me this _____ day of _____
Notary Public:
My Commission expires: _____

CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Construction Manager and Architect certify to the Owner that to the best of their knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ 0.00
(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

CONSTRUCTION MANAGER:
By: _____ Date: _____
ARCHITECT:
By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ 0.00	\$ 0.00
Total approved this Month	\$ 0.00	\$ 0.00
TOTALS	\$ 0.00	\$ 0.00
NET CHANGES by Change Order	\$	0.00

AIA Document G702/CMA™ - 1992, Copyright © 1992 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. This draft was produced by AIA software at 11:33:10 on 02/16/2007 under Order No.1000241344_3 which expires on 6/1/2007, and is not for resale. (2514945062)

EXHIBIT H

**Certificate of Contractor
(subject to review)**

(Hampton and all Project Contractors or Materialman)

Project Name: _____ (Phase ____)

The undersigned Contractor for the above named Project hereby certifies and agrees to the following terms as an Addendum to its contract for such Project:

1. That if CP Lincoln O Street, LLC, a Delaware limited liability company (“CP”) exercises its contractual self-help remedy against Lincoln Public Schools, a school district under the laws of the State of Nebraska (“LPSD”) to complete all or a portion of the Site Development and Improvement Work for the Project and CP or its lender agrees to assume LPSD’s payment obligations under the Contractor Contract from and after the exercise of the self-help remedy then CP and CP’s lender may enforce the obligations of the Contractor under the Contractor Contract with the same force and effect as if enforced by LPSD and the Contractor will accept such performance in lieu of performance by LPSD and in satisfaction of LPSD’s obligations under the Contractor Contract from and after the exercise of the self-help remedy.
2. All warranties of work performed by the Contractor, and any manufacturers’ warranties related to the Site Development and Improvement Work located on the CP Property or performed by CP or its lender in connection with the exercise of the self-help remedy, shall also run to the benefit of CP and its lender and shall be issued in the name of CP and CP’s lender and LPSD (collectively, the “Warranties”) regardless of the fact that CP is not a party to the Contractor Contract and that CP and its lender shall have the right to enforce such Warranties.

Company Name

By: _____

Date: _____

Registration No. _____

EXHIBIT I

Milestone Schedule

DRAFT - For Reference Only

EXHIBIT J

Escrow Deposit

DRAFT - For Reference Only