Meeting Notice

Loveland Downtown Development Authority (4:00 P.M.)

Aug 15, 2022

Join Zoom Meeting

https://us02web.zoom.us/j/86385237023?pwd=N1llSWJvMHEyaWQ2dDFjQ0tROTZzZz09

Meeting ID: 863 8523 7023

Passcode: 332505

One tap mobile

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The Loveland Downtown Partnership and Downtown Development Authority are committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation, or gender. The LDP-DDA will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act.

For more information, please call our offices at 970.699.2856.

Agenda
Loveland Downtown Development Authority (DDA)
Special Meeting
Monday, August 15, 2022 4:00 pm

Zoom

4:00 pm

1. **Call to Order**
2. **Roll Call**

4:05 pm

3. **Public Comment** (individual introductions / comments are limited to 3 minutes)

4:10 pm

4. **Consideration of a Redevelopment Agreement by and among the City of Loveland, Colorado, the Loveland Urban Renewal Authority, the Loveland Downtown Development Authority and Draper LLC.**

   Sample motion: “I move that we approve the Redevelopment Agreement by and among the City of Loveland, Colorado, the Loveland Urban Renewal Authority, the Loveland Downtown Development Authority and Draper LLC; authorize the Executive Director, in consultation with DDA legal counsel, to approve changes to the Agreement that do not substantially alter the DDA’s rights or obligations thereunder; and authorize the Executive Director to execute the Agreement.”

4:30 pm

7. **Adjourn**

Butler Snow Draft: 8.5.2022

REDEVELOPMENT AGREEMENT

BY AND AMONG

CITY OF LOVELAND, COLORADO

LOVELAND URBAN RENEWAL AUTHORITY

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY

AND

DRAPER LLC

Dated _____ __, 2022

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this "Agreement") is entered into to be effective as of _____ __, 2022 (the "Effective Date"), by and among the CITY OF LOVELAND, COLORADO (the "City"), the LOVELAND URBAN RENEWAL AUTHORITY ("LURA"), the LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY (the "DDA") and DRAPER LLC, a Colorado limited liability company (the "Developer"). The City, LURA, the DDA and the Developer shall be collectively referred to hereafter as "Parties."

RECITALS:

WHEREAS, the City is a home rule municipality and political subdivision of the State of Colorado (the "State") organized and existing under a home rule charter (the "Charter") pursuant to Article XX of the Constitution of the State; and

WHEREAS, on July 2, 2002, the City Council of the City (the "City Council") established LURA by Resolution #R-44-2002; and

WHEREAS, LURA is a Colorado Urban Renewal Authority, with all the powers and authority granted to it pursuant to Title 31, Article 25, Part 1, Colorado Revised Statutes (the "Urban Renewal Law"); and

WHEREAS, the City Council has heretofore approved the City of Loveland, Urban Renewal Plan dated October 1, 2002, as amended from time to time (the "Urban Renewal Plan") and the downtown urban renewal area described therein (the "Urban Renewal Area"); and

WHEREAS, the term of the Urban Renewal Plan is for 25 years from the date of adoption of the Urban Renewal Plan, and the Urban Renewal Plan has a provision relating to the division of taxes that will be effective for 25 years beginning on the date of the approval of the Urban Renewal Plan; and

WHEREAS, the DDA is a body corporate duly created, organized and authorized pursuant to Title 31, Article 25, Part 8, Colorado Revised Statutes (the "DDA Act") by a vote of the majority of qualified electors within the boundaries of the DDA at a special election held on February 10, 2015 and thereafter officially established by the City Council upon the passage of Ordinance No. 5927, and as revised by Ordinance No. 6115; and

WHEREAS, the DDA is a Colorado Downtown Development Authority, with all the powers and authority granted to it pursuant to the DDA Act; and

WHEREAS, on July 5, 2017, the City Council approved the Plan of Development (the "Plan of Development") for the DDA, which was previously approved by the DDA by Resolution #R-52-2017, which established the plan for development or redevelopment of the area of the DDA (the "DDA District"); and

WHEREAS, the Plan of Development contains a provision for division of taxes that will be effective for thirty years following approval of the Plan of Development, or such longer period as authorized by the DDA Act; and

WHEREAS, at an election held in the City on November 7, 2017 (the "2017 Election"), a majority of the qualified electors within the DDA District authorized the City to issue debt in an amount not to exceed $61,000,000 to finance the costs of development projects to be undertaken by or on behalf of the DDA pursuant to the Plan of Development in accordance with the following ballot question (the "DDA Ballot Question"):

> WITHOUT RAISING TAXES, SHALL CITY OF LOVELAND DEBT BE INCREASED BY UP TO $61,000,000 WITH A REPAYMENT COST OF NO MORE THAN $135,000,000 FOR THE PURPOSE OF FINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, INCLUDING WITHOUT LIMITATION, PARKING, UTILITIES, STREETS, SIDEWALKS, ALLEYWAYS AND BEAUTIFICATION, AND APPLICABLE PROVISIONS OF COLORADO LAW; SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE CITY WHICH SHALL CONTAIN TAX INCREMENT REVENUES LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY; AND SHALL SUCH DEBT BE EVIDENCED BY BONDS, NOTES, CONTRACTS OR OTHER FINANCIAL OBLIGATIONS TO BE SOLD IN ONE SERIES OR MORE FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT THEREOF, ON SUCH TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS MAY BE PERMITTED BY LAW AND AS THE CITY MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO REDEEMED; AND SHALL THE CITY AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND PROCEEDS AND INVESTMENT INCOME THEREON AS A VOTER-APPROVED REVENUE CHANGE, AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

WHEREAS, the City has previously incurred debt in the original principal amount of $1,000,000 pursuant to the authority conferred at the 2017 Election; and

WHEREAS, the Plan of Development provides that the primary objectives of the DDA are to promote the safety, prosperity, security, and general welfare of the DDA District and its inhabitants, to prevent deterioration of property values and structures within the DDA District, to prevent the growth of blighted areas within the DDA District, to assist the City in the development, redevelopment, and planning of the economic and physical restoration and growth of the DDA District, to approve the overall appearance, condition, and function of the DDA District, to encourage a variety of uses compatible with the artistic and cultural community, to sustain and improve the economic vitality of the DDA District, to promote the historic, artistic, and cultural

elements of the DDA District, and to encourage pedestrian traffic and security in the DDA District; and

WHEREAS, the City is the owner of certain real property located in the City at the Southwest corner of East 5th Street and North Jefferson Street, which is legally described on Exhibit A attached hereto and incorporated herein by this reference (the "City Parcel"); and

WHEREAS, the Developer is the owner of certain real property and the buildings located thereon (collectively, the "Buildings") located in the City at 301 E. 4th Street, 309 East 4th Street, 313 East 4th Street, 315 East 4th Street and 333 East 4th Street, which is legally described on Exhibit A attached hereto and incorporated herein by this reference (collectively, the "Developer Parcel," and together with the City Parcel, the "Property"); and

WHEREAS, the Property is located within the Urban Renewal Area and the DDA District; and

WHEREAS, the Developer has submitted a proposal to the City, the DDA and LURA to redevelop the Property; and

WHEREAS, the City, the DDA, LURA and the Developer have agreed upon the scope and nature of a redevelopment project to be known as the Draper Project that will be constructed and installed by Developer on the Property, which consists generally of the construction of a parking facility on the City Parcel, the renovation and rehabilitation of the Buildings, and the construction of certain Additional Eligible Improvements (as hereinafter defined) related thereto, as more fully described on Exhibits B, C and D attached and incorporated by this reference (collectively, the "Project"); and

WHEREAS, the City, the DDA and LURA have determined that redevelopment of the Project will eliminate and prevent the growth of blighted areas within the downtown area of the City which constitute economic and social liabilities to the community, will prevent further physical and economic deterioration within the City, by stimulating redevelopment of downtown Loveland through the attraction of capital investment and assisting in the expansion and retention of existing business, will improve the overall appearance, condition and function of the downtown area and encourage a variety of uses compatible with the artistic and cultural community, will promote the historic, artistic and cultural elements of the downtown area, and will encourage pedestrian traffic and security, thereby serving the public interests of the City, and the citizens of Loveland; and

WHEREAS, the Board of LURA has determined that the redevelopment of the Property in order to remediate blight is consistent with and in furtherance of the purposes of LURA and the Urban Renewal Plan; and

WHEREAS, the Board of the DDA has determined that the redevelopment of the Property is consistent with the Plan of Development including the objectives and purposes set forth therein, and the City Council has concurred in this finding; and

WHEREAS, certain tax increment revenues will be generated by the Project, consisting of (a) sales tax increment revenues generated from retail sales occurring on the Property, and (b)

property tax increment revenues resulting from ad valorem property taxes levied on the Property (collectively, the "Tax Increment Revenues"); and

WHEREAS, pursuant to the Urban Renewal Act, such Tax Increment Revenues will be remitted to LURA for up to twenty-five years following the date of approval of the Urban Renewal Plan (which 25 year period continues through September 30, 2027 and expires on October 1, 2027), and will be held by LURA in a special fund (the "LURA Special Fund") to pay the bonds of, or loans or advances to, or indebtedness incurred by, LURA for financing or refinancing an urban renewal project in the Urban Renewal Area; and

WHEREAS, in the event that the Urban Renewal Plan is terminated, or following termination of the 25-year period during which LURA will receive the Tax Increment Revenues, the Tax Increment Revenues generated from the Property will no longer be remitted to LURA, but will be remitted to the City in accordance with the DDA Act; and

WHEREAS, pursuant to the DDA Act, any such Tax Increment Revenues received by the City will be held in a special fund of the City (the "City Special Fund") to pay the bonds of, or loans or advances to, or indebtedness incurred by, the City for financing or refinancing a development project within the boundaries of the DDA District, subject to the ballot question approved at the 2017 Election; and

WHEREAS, the Parties desire to set forth their agreement regarding the scope and design of the Project that will be constructed by the Developer on the Property, the reimbursements to be provided to the Developer in connection with such redevelopment, the application of the Tax Increment Revenues to finance or refinance a portion of the Project, and the Developer's undertaking to redevelop the Property and complete the Project.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. In this Agreement capitalized terms have the following meanings:

"2017 Election" means the election held in the DDA District on November 7, 2017.

"Add-On PIF" means the public improvement fee in the amount of 2.00% that will be imposed by the Developer on retail sales occurring on the Property that are subject to the municipal sales tax imposed in accordance with the City Code, as further set forth in the Add-On PIF Covenant. For purposes of this Agreement, in the event that the Developer imposes a public improvement fee on retail sales occurring on the Property in excess of 2.00%, the term "Add-On PIF" shall not include any such additional fee in excess of 2.00% and any such public improvement fee in excess of 2.00% shall not be included within the definition of Project Revenues.

"Add-On PIF Collection Agent" means the Owner or the entity to be engaged by the Owner as the collecting agent for collection, disbursement and accounting of the Add-On PIF Revenues pursuant to the Add-On PIF Collection Services Agreement.

"Add-On PIF Collection Services Agreement" means an agreement pursuant to which the Add-On PIF Collection Agent will collect, disburse and account for the Add-On PIF Revenues in accordance with the terms and provisions of this Agreement and the Add-On PIF Covenant.

"Add-On PIF Covenant" means a declaration of covenants by Developer imposing and implementing the Add-On PIF.

"Add-On PIF Revenues" means the net revenues generated by the Add-On PIF and remitted to the City or the City's designee by the Add-On PIF Collection Agent.

"Additional Eligible Improvements" means those Eligible Improvements that will be paid or reimbursed by the City in accordance with this Agreement that are not related to the design and construction of the Parking Facility.

"Additional Eligible Improvements Cap" means that component of the Cap Amount in the amount of [$870,000] that is allocated to the design and construction of the Additional Eligible Improvements, and which is the maximum amount of Eligible Costs relating to Additional Eligible Improvements that shall be paid or reimbursed to the Developer or its designees by the City pursuant to this Agreement, subject to adjustment as set forth in this Agreement.

"Agreement" means this Redevelopment Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified. All exhibits and the above stated recitals are hereby incorporated into this Agreement by this reference.

"Authorized Person" means: (i), with respect to the City, the Mayor or City Manager of the City, (ii) with respect to LURA, the Chair or Executive Director of LURA, and (iii) with respect to the DDA, the Chair or DDA Executive Director.

"Bond Trustee" means the trustee for the City Bonds.

"Buildings" means, collectively, the buildings located on the Developer Parcel.

"Business Day" means any day other than a Saturday, a Sunday, or any legal holiday (as recognized by the Federal government or the State).

"Cap Amount" means an amount equal to $[12,870,000], which is the maximum amount of Eligible Costs that shall be paid or reimbursed to the Developer or its designees by the City pursuant to this Agreement, as further set forth in Section 5 hereof, subject to adjustment as set forth in this Agreement. The Cap Amount shall be allocated as follows: $[12,000,000] shall be allocated to the Parking Facility Cap and $[870,000] shall be allocated to the Additional Eligible Improvements Cap. The payment or reimbursement of any design costs of the Parking Facility pursuant to the terms and provisions of the Parking Facility Design Cost Sharing Agreement shall be in addition to the Cap Amount and shall not be counted against the Parking Facility Cap.

"Charter" means the home rule charter of the City.

"City" means the City of Loveland, Colorado, a home rule municipal corporation.

"City Bonds" means any bonds, certificates of participation, securities or other obligations issued or incurred by the City to finance or refinance all or a portion of the Eligible Costs in accordance with the terms and provisions of this Agreement, including any bonds, certificates of participation, securities or other obligations issued to refund or refinance such City Bonds.

"City Change Order" has the meaning set forth in Section 7.4 hereof.

"City Council" means the City Council of the City.

"City Manager" means the City Manager of the City.

"City Parcel" means the portion of the Property that is owned by the City at the Southwest corner of East 5th Street and North Jefferson Street, on which the Parking Facility will be constructed, the legal description of which is set forth on Exhibit A attached hereto.

"City Special Fund" means the special fund of the City into which the Tax Increment Revenues from the DDA District are deposited as further set forth in the DDA Act.

"Commence Construction" means, except as otherwise provided in this Agreement, the commencement by the Developer of actual physical work, including, but not limited to, site grading and construction, on the Property as required to carry out the Project, pursuant to a permit issued by the City.

"County" means Larimer County, Colorado.

"Covenant Regarding Guarantee Payments" means the Covenant to be recorded against the Developer Parcel that sets forth the Guarantee Payments, if any, to be made by the Owner, as further set forth in Section 9 hereof.

"DDA" means the Loveland Downtown Development Authority, a duly organized and existing downtown development authority, created pursuant to and in accordance with the DDA Act.

"DDA Act" means the Downtown Development Authority Act, being part 8 of article 25 of title 31, Colorado Revised Statutes, as amended.

"DDA District" means the boundaries of the Loveland Downtown Development Authority.

"DDA Executive Director" means the Executive Director of the DDA.

"Developer" means Draper LLC, a Colorado limited liability company, and any successors and assigns approved in accordance with this Agreement.

"Developer Advances" means amounts advanced by the Developer to pay the costs of designing, acquiring, constructing or installing Eligible Improvements.

"Developer Improvements" means those Project improvements that (i) do not constitute Eligible Improvements, or (ii) are identified as "Developer Improvements" in Exhibit D attached hereto.

"Developer Parcel" means the portion of the Property that is currently owned by the Developer that is located in the City at 301 E. 4th Street, 309 East 4th Street, 313 East 4th Street, 315 East 4th Street and 333 East 4th Street, which is legally described on Exhibit A attached hereto and incorporated herein by this reference.

"Development Approvals" means, collectively, all land use and development plan approvals, including but not limited to, proper zoning approvals, the plat approval, architectural/aesthetic/visual approvals, site plan approvals, variance of use and/or development standards, environmental permits, from the City's Development Services Department, or other appropriate governmental authority, as necessary to permit construction of the Project in accordance with this Agreement.

"Effective Date" means the date of this Agreement.

"Eligible Costs" means the reasonable and customary expenditures for the design, acquisition, construction and installation of the Eligible Improvements, including without limitation, reasonable and customary soft costs and expenses related to the design, acquisition, construction and installation of the Eligible Improvements, subject to the Cap Amount and the limitations contained herein. Notwithstanding the foregoing, Eligible Costs shall not include (a) any interest on Developer Advances, or (b) the fees and expenses of attorneys for the Developer; and the City shall have no obligation to pay or reimburse any such interest on Developer Advances or any such fees or expenses.

"Eligible Improvements" means the improvements described in Exhibits B and C, as such exhibits may be amended from time to time in accordance with this Agreement, that are eligible for reimbursement by the City, which are to be designed, acquired, constructed or installed by the Developer as part of the Project. Eligible Improvements include improvements related to the Parking Facility and the Additional Eligible Improvements. Exhibits B and C may only be amended with the prior written consent of the City Manager.

"Financing Costs" means all costs of issuance incurred in connection with the issuance of any City Bonds. The City shall be responsible for the payment of any Financing Costs in connection with the issuance of any City Bonds, and Financing Costs shall not be counted against the Cap Amount.

"Force Majeure" means any delays in or failure of performance by any Party of its obligations under this Agreement as a result of acts of God; fires; floods; earthquake; strikes; labor disputes; regulation or order of civil or military authorities; material or labor shortages; supply chain disruptions; or other causes, similar or dissimilar, which are beyond the control of such Party. Failure by the Developer to obtain funding for the Project shall not be considered to be Force Majeure.

"Guarantee Payments" means payments required to be made by the Owner to the City to the extent that Project Revenues in each year are not at least equal to the Guaranteed Project Revenues for such year, as further set forth in Section 9 and Exhibit E of this Agreement.

"Guaranteed Project Revenues" means the minimum amount of Project Revenues that must be generated by the Project each year, as set forth in Exhibit E hereto, or the Owner shall be required to make Guarantee Payments to the City as further set forth in Section 9 of this Agreement.

"Holdback Amount" has the meaning set forth in Section 4.1 hereof.

"LURA" means the Loveland Urban Renewal Authority, an urban renewal authority and a body corporate and politic of the State of Colorado which has been duly created, organized, established and authorized by the City to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Urban Renewal Law, and its successors and assigns.

"LURA Special Fund" means the special fund held by LURA into which the Tax Increment Revenues from the Urban Renewal Area are deposited as further set forth in the Urban Renewal Law.

"Owner" shall mean, collectively, the owner or owners from time to time of the Developer Parcel.

"Parking Facility" means a parking garage with not less than 277 parking spaces, inclusive of handicap parking spaces, which shall be owned by the City and located on the City Parcel, which shall constitute an Eligible Improvement hereunder.

"Parking Facility Cap" means that component of the Cap Amount in the amount of [$12,000,000] that is allocated to the design and construction of the Parking Facility, and which is the maximum amount of Eligible Costs relating to the Parking Facility that shall be paid or reimbursed to the Developer or its designees by the City pursuant to this Agreement, subject to adjustment as set forth in this Agreement.

"Parking Facility Contracts" means any contract entered into by the Developer regarding the design, acquisition, construction, improvement or installation of any portion of the Parking Facility, including, without limitation, the design contracts, the construction contracts between the Developer and the contractors, and any other contracts between the Developer and anyone performing work or providing services in connection with the acquisition, construction, installation and completion of the Parking Facility.

"Parking Facility Costs" means costs properly allocable to the construction of the Parking Facility, including without limitation, engineering, design, site preparation and construction of the Parking Facility.

"Parking Facility Design Cost Sharing Agreement" means the agreement by that name, dated as of _____ __, 2022, as it may be amended from time to time, between the City and the Developer relating to the sharing of the design costs for the Parking Facility.

"Parking Facility Easement Agreement" means the agreement by that name, between the City and Developer granting the Owner an easement or license for access and parking for 106 parking stalls located in the Parking Facility.

"Parking Facility Operations and Maintenance Agreement" means the agreement by that name, as amended from time to time, between the City and the Developer relating to the operation and maintenance of the Parking Facility.

"Plan of Development" means the Amended Plan of Development of the DDA, dated July 19, 2016, as may further be amended from time to time, approved by the DDA Board and the City Council in accordance with the DDA Act.

"Plan of Development Area" means the area in the central business district of the City that the DDA Board and the City Council have designated as appropriate for a development project.

"Project" means, collectively, (a) the Eligible Improvements, including the construction of the Parking Facility on the City Parcel and Additional Eligible Improvements that are eligible for payment or reimbursement in accordance with this Agreement, and (b) the Developer Improvements that consist generally of the renovation and redevelopment of the Buildings of approximately 108,832 square feet, including approximately 96 multifamily units and approximately 14,559 square feet of ground level commercial and retail property (including approximately 1,950 square feet of basement space related to 333 East 4th Street), all as further set forth on Exhibits B, C and D hereto, as such exhibits may be amended from time to time in accordance with this Agreement.

"Project Revenues" means, collectively, the Tax Increment Revenues and the Add-On PIF Revenues generated by the Project.

"Property" means, collectively, the City Parcel and the Developer Parcel, as further set forth on Exhibit A hereto, on which the Project shall be constructed.

"Property Tax Increment Revenues" means that portion of the incremental increases in annual property tax revenues allocated, as applicable, (a) in the Urban Renewal Plan in accordance with the Urban Renewal Law, generated from the Project and credited to the LURA Special Fund, or (b) in the Plan of Development in accordance with the DDA Act, generated from the Project, and credited to the LURA Special Fund or the City Special Fund, as applicable.

"Sales Tax" means the municipal sales tax of the City imposed at the rate of 3.00% in accordance with the City's municipal code.

"Sales Tax Base Amount" means for purposes of this Agreement $_____.

"Sales Tax Increment Revenues" means, for each year that this Agreement remains in effect, that portion of the Sales Tax revenue received by the City, and remitted to LURA in accordance with the Urban Renewal Law or to the City in accordance with the DDA Act, as the case may be, equal to the product of the Sales Tax rate of three percent (3.00%) times the amount of the taxable transactions subject to the Sales Tax generated from retail sales occurring on the

Property, less the Sales Tax Base Amount, and less the proportionate share of the reasonable and necessary costs and expenses of collecting and enforcing the Sales Tax attributable to the Project.

"Substantial Completion" means the substantial completion of the applicable portion of the Project, as evidenced by issuance of a certificate of occupancy by the City or other evidence of completion customarily used in the City to confirm completion of the Project or Eligible Improvements.

"Tax Increment Revenues" means, collectively, the Property Tax Increment Revenues and the Sales Tax Increment Revenues.

"Urban Renewal Area" means the Urban Renewal Area for Downtown Loveland as described in the Urban Renewal Plan.

"Urban Renewal Law" means the Colorado Urban Renewal Law, part 1 of article 25 of title 31 of the Colorado Revised Statutes.

"Urban Renewal Plan" means the Urban Renewal Plan approved by the City on October 1, 2002, as amended, and as may hereinafter be amended from time to time.

2. Purpose of this Agreement. The purpose of this Agreement is to further the goals of the Urban Renewal Plan and the Plan of Development and effectuate the redevelopment of the Property by providing for the following:

(a) the construction of the Project on the Property by the Developer, including the Developer Improvements and the Eligible Improvements;

(b) the payment or reimbursement to the Developer by the City of the Eligible Costs relating to the design, acquisition, construction and installation of the Eligible Improvements, in an amount not exceeding the Cap Amount, in accordance with the terms and provisions of this Agreement, and subject to annual appropriation by the City; and

(c) the remittance of the Tax Increment Revenues to the City or the Bond Trustee to offset the payment obligations of the City hereunder, in accordance with the terms and provisions of this Agreement.

3. City's Financing Plan; Payment or Reimbursement of Eligible Costs; Tax Increment Revenues.

3.1 City's Financing Plan for Eligible Improvements. The City agrees that within 60 calendar days after the Effective Date that it shall deliver a written financing plan to the Developer setting forth the City's plan (the "City Financing Plan") to pay or reimburse the Developer for Eligible Costs, up to the Cap Amount, in accordance with the terms and provisions of this Agreement. The City Financing Plan shall set forth the anticipated sources of the proceeds or revenues from which the City expects to pay the Eligible Costs. The Parties acknowledge and agree that (a) the City Financing Plan shall not be binding on the City, and (b) the City shall have sole and absolute discretion to determine the source of proceeds or the revenues that will be utilized by the City to pay or reimburse the Developer for Eligible Costs.

3.2 Payment or Reimbursement of Eligible Costs. Subject to the terms, provisions and limitations of this Agreement, the City hereby covenants and agrees that it shall pay or reimburse the Developer for Eligible Costs up to the Cap Amount, subject to annual appropriation by the City Council. In the event that the Developer makes Developer Advances to finance or refinance any Eligible Costs hereunder, the Developer shall be entitled to reimbursement for the principal amount advanced, subject to the Cap Amount and the other provisions contained herein related to the payment or reimbursement of Eligible Costs, but the Developer shall not be entitled to receive any interest on such Developer Advances from the City or any other Party.

All reimbursements or payments of Eligible Costs shall be made in accordance with the requisition process set forth in Exhibit F attached hereto.

3.3 Issuance of City Bonds. In the event that the City determines to issue City Bonds, including without limitation certificates of participation, and apply the net proceeds thereof to the payment or reimbursement of all or a portion of the Eligible Costs, the City may require the Developer to remit the Add-On PIF Revenues to the Bond Trustee. In such event, the Developer agrees that, upon receipt of written directions from the City, it will remit, or cause to be remitted, the Add-On PIF Revenues to the Bond Trustee.

3.4 LURAs Obligation to Remit Tax Increment Revenues to City. The Board of Directors of LURA has determined and hereby determines that the redevelopment of the Property in order to remediate blight is consistent with and in furtherance of the purposes of LURA and the Urban Renewal Plan. In order to further the development of the Project and reimburse the City for a portion of the costs it has or will incur in connection with the Project, LURA hereby agrees and covenants that so long as LURA receives the Tax Increment Revenues generated by the Project, that it shall remit all such Tax Increment Revenues to the City or to the City's designee. LURA hereby pledges such Tax Increment Revenues to the City, subject to the terms and provisions hereof. Such revenues shall be remitted to the City, or the City's designee, as soon as practicable after receipt thereof by LURA, but in any event within thirty (30) days of receipt thereof. [LURA agrees that any tax increment revenues generated within the Urban Renewal Area that are not generated by the Project shall not be applied to pay or reimburse Eligible Costs or Financing Costs, or pay debt service on any outstanding City Bonds, without the prior written consent of the DDA Executive Director or the approval of the DDA Board.]

In addition, LURA hereby agrees and covenants that it shall apply at least $_____ of moneys on deposit in the LURA Special Fund as of the Effective Date to pay, reimburse or finance costs related to the Project, including, without limitation, amounts due under the Parking Facility Design Cost Sharing Agreement, the fees and expenses of outside consultants and attorneys performing services to the City in connection with the Project, this Agreement and related documents, and Financing Costs related to the issuance of City Bonds, provided that LURA agrees that it shall not apply more than $_____ of moneys on deposit in the LURA Special Fund as of the Effective Date to pay, reimburse or finance costs of the Project without the prior written consent of the DDA Executive Director or the approval of the DDA Board.

The Parties acknowledge that incremental property taxes that are remitted to LURA for deposit in the LURA Special Fund are based on the annual valuation of all properties located within the Urban Renewal Area, and not on a parcel by parcel basis. Therefore, property tax increment revenues are calculated and remitted to LURA in the aggregate for the entire Urban Renewal Area and the Property Tax Administrator will not calculate or determine those property tax increment revenues that are attributable to the Property or to each Building in the Project. LURA agrees that it will establish a reasonable methodology for determining the amount of property tax increment revenues on deposit in the LURA Special Fund that are allocable to the Property and to each Building, and that LURA will provide a detailed explanation to the City, the DDA Executive Director, and the Owner of the methodology used to establish the amount of Property Tax Increment Revenues that are allocable to the Property and to each Building, which explanation can be provided orally or in writing.

3.5 City Special Fund. In the event that the Urban Renewal Plan is terminated, or following termination of the 25-year period during which LURA will receive the Tax Increment Revenues, the Tax Increment Revenues generated from the Project will no longer be remitted to LURA, but will be remitted to the City in accordance with the DDA Act. The City agrees that once it begins receiving the Tax Increment Revenues that it will deposit such amounts into the City Special Fund upon receipt. The Parties acknowledge that incremental property taxes that are remitted to the City for deposit in the City Special Fund are based on the annual valuation of all properties located within the DDA District, and not on a parcel by parcel basis. Therefore, tax increment revenues are calculated and remitted to the City in the aggregate for the entire DDA District and the Property Tax Administrator will not calculate or determine those property tax increment revenues that are attributable to the Property or to each Building in the Project. The City agrees that it will establish a reasonable methodology for determining the amount of property tax increment revenues on deposit in the City Special Fund that are allocable to the Property and to each Building, and that the City will provide a detailed explanation to the DDA Executive Director and the Owner of the methodology used to establish the amount of Property Tax Increment Revenues that are allocable to the Property and to each Building, which explanation can be provided orally or in writing.

The Board of the DDA has determined, and hereby determines, that the acquisition, construction and installation of the Project and the Eligible Improvements will serve a public purpose and contribute to the redevelopment of the DDA District as contemplated by the Plan of Development. The Board of the DDA authorizes and approves the application of the Tax Increment Revenues generated by the Project on deposit in the City Special Fund to the payment or reimbursement of Eligible Costs or Financing Costs, and/or to the payment of City Bonds issued

or incurred to finance or refinance Eligible Costs. [The City agrees that any tax increment revenues generated within the DDA Plan Area that are not generated by the Project shall not be applied to pay or reimburse Eligible Costs or Financing Costs, or pay debt service on any outstanding City Bonds, without the prior written consent of the DDA Executive Director or the approval of the DDA Board.]

3.6 Annual Appropriation. Notwithstanding anything to the contrary contained herein, the City's obligation to pay or reimburse the Developer for Eligible Costs shall be subject to annual appropriation by the City Council, in its sole discretion, and a failure to make any such annual appropriation shall not be an event of default hereunder. Nothing in this Agreement is intended to nor shall be construed to create any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City within the meaning of the Constitution, the Charter, or the laws of the State, and any such financial obligation of the City created by this Agreement is expressly subject to annual appropriation by the City Council.

4. Conditions Precedent to Reimbursement of Eligible Costs. The City's obligation to pay or reimburse the Developer for any Eligible Costs, up to the Cap Amount, is subject to the following conditions precedent, which shall be satisfied or waived in writing by the City Manager:

4.1 Payment of Parking Facility Costs. Upon compliance with the conditions precedent set forth below in this Section 4.1, the City shall pay or reimburse the Developer for Eligible Costs related to the Parking Facility, in an amount not to exceed the Parking Facility Cap, with the remaining Eligible Costs related to the Additional Eligible Improvements in the amount of $[870,000] (the "Holdback Amount") to be paid upon compliance with Section 4.2 hereof, subject to the terms and provisions of this Agreement and subject to annual appropriation by the City Council.

(a) Developer shall have obtained all Development Approvals for the Property relating to the construction of the Project. The City agrees and acknowledges that the Developer's performance in obtaining such Development Approvals is partially dependent upon the City's cooperation and assistance in the Development Approval process and as such, the City agrees to review and expeditiously process and act on applications by the Developer for Development Approvals. The Developer shall submit the site plan and elevations to the DDA Executive Director at the time that it submits the same to the City to assure that the Project is consistent with the provisions of this Agreement.

(b) Developer shall submit to the City a complete budget setting forth the expected costs of the Project, including the estimated costs of the Developer Improvements and the estimated cost of the Eligible Improvements to be paid or reimbursed by the City, subject to the Cap Amount. The budget will set forth the hard construction costs, the soft costs and the contingencies budgeted for each portion of the Project. The City shall provide a copy of the budget to the DDA Executive Director.Developer shall have entered into a guaranteed maximum price contract for the construction of the Parking Facility. The Developer shall submit the guaranteed maximum price

contract to the City Manager. In the event that the Parking Facility Costs set forth in the guaranteed maximum price contract exceed the Parking Facility Cap, the Developer shall pay any excess costs, provided that the Developer shall not be obligated to pay any excess costs resulting from City Change Orders. The Developer shall provide evidence to the City that it has the equity or private financing necessary to pay any Parking Facility Costs that exceed the Cap Amount.Developer shall provide to the City evidence satisfactory to the City Manager that the Developer has obtained all equity and private financing necessary to construct the Developer Improvements, any costs of the Parking Facility in excess of the Parking Facility Cap and any costs of the Additional Eligible Improvements in excess of the Additional Eligible Improvements Cap. The Developer shall provide this evidence in the form of a financing plan. The City Manager's approval or disapproval of the financing plan will be provided in writing by the City to the Developer within twenty (20) Business Days of submittal of the financing plan to the City. If the City does not provide its approval or disapproval within such twenty (20) Business Days, the financing plan shall be deemed approved by the City. The City shall provide a copy of the financing plan to the DDA Executive Director.Developer shall have imposed the Add-On PIF by recording the Add-On PIF Covenant against the Developer Parcel in the real estate records of Larimer County. The Developer shall have also entered into the Add-On PIF Collection Services Agreement requiring the Add-On PIF Collection Agent to remit the Add-On PIF Revenues either to the Bond Trustee or to such other entity as agreed to in writing by the City and the Developer, after payment of reasonable fees and expenses to the Add-On PIF Collection Agent. The City shall have the right to review and consent to the forms of the Add-On PIF Covenant and the Add-On PIF Collection Services Agreement to ensure compliance with this Agreement and to review or audit the books and records relating to the imposition, collection and remittance of the Add-On PIF revenues. The City shall also have the right to review the fees and expenses charged by the Add-On PIF Collection Agent to verify that such fees and expenses are reasonable.The Parking Facilities Easement Agreement has been executed and delivered by the City and the Developer.

(g) The Parking Facility Operations and Maintenance Agreement has been executed and delivered by the City and the Developer.

(h) The Covenant Regarding Guarantee Payments shall have been recorded against the Developer Parcel in the real estate records of Larimer County.The Eligible Costs to be paid or reimbursed by the City shall have been verified in accordance with Exhibit F.Developer's warranties and representations set forth herein shall be true and correct in all material respects as of the date of the requisition request, and no Event of Default by the Developer shall have occurred and be continuing hereunder.Payment of Holdback Amount. The City's obligation to pay or reimburse the Developer for the Holdback Amount shall be subject to the conditions precedent set

forth in Section 4.1 hereof and the following additional conditions precedent that must be satisfied or waived in writing by the City Manager:

(a) The Parking Facility has been Substantially Completed by the Developer and accepted by the City in accordance with Section 7.5 hereof.

(b) The Additional Eligible Improvements have been Substantially Completed to the reasonable satisfaction of the City.

In the event that the City assumes control over completing the Parking Facility pursuant to Section 7.2 hereof, the City may apply any of the Holdback Amount to offset any additional costs incurred by the City as a result of the City assuming such construction. Any amounts applied by the City to offset such increased costs shall be credited against the amount of reimbursement to be paid to the Developer for Eligible Costs incurred in connection with Additional Eligible Improvements.

5. Cap Amount. The City's obligation to pay or reimburse the Developer for Eligible Costs shall be subject to the Cap Amount. The Cap Amount shall consist of two components: $[12,000,000] for Parking Facility Costs (as previously defined, the "Parking Facility Cap") and $[870,000] for Eligible Costs related to Additional Eligible Improvements (as previously defined, the "Additional Eligible Improvements Cap"). To the extent Eligible Costs allocated to a specific line item of Additional Eligible Improvements do not reach the amount set forth for that specific Additional Eligible Improvement on Exhibit C attached hereto, any such savings on an Additional Eligible Improvement may be allocated to another Additional Eligible Improvement, provided that the total amount of Eligible Costs paid or reimbursed by the City for all Additional Eligible Improvements shall not exceed the Additional Eligible Improvements Cap. Cost savings under the Parking Facility Cap may not be transferred or allocated to the Additional Eligible Improvement Cap, and cost savings under the Additional Eligible Improvement Cap may not be transferred or allocated to the Parking Facility Cap.

If the Parking Facility Costs are more than the Parking Facility Cap, the Developer shall be obligated to pay any additional costs necessary to Substantially Complete the Parking Facility and have the Parking Facility accepted by the City in accordance with this Agreement, provided that the Developer shall not be required to pay for any increase in costs resulting from a City Change Order in accordance with Section 7.4. If the costs for the Additional Eligible Improvements are more than the Additional Eligible Improvements Cap, the Developer shall be obligated to pay any additional costs necessary to Substantially Complete the Additional Eligible Improvements to the reasonable satisfaction of the City, provided that the Developer shall not be required to pay for any increase in costs resulting from a City Change Order in accordance with Section 7.4.

The City shall be responsible for the payment of any Financing Costs incurred in connection with the issuance of City Bonds. Financing Costs shall not be counted toward the Cap Amount. Amounts paid to the Developer by the City pursuant to the Parking Facility Design Cost Sharing Agreement shall be in addition to the Cap Amount, and shall not be counted toward the Cap Amount.

The Developer acknowledges and agrees that it shall be entitled to payment or reimbursement of the Eligible Costs only to the extent that such Eligible Costs are actually incurred, and that any cost savings resulting from the final costs of the design, acquisition, construction and installation of the Eligible Improvements being less than the applicable component of the Cap Amount shall be passed on to the City.

The City Manager shall have the right, in his sole discretion, to increase the Cap Amount by an additional $500,000 if (i) the City requests changes to the Eligible Improvements that increase the price thereof, or (ii) upon written request from the Developer containing the reasons for the requested increase in the Cap Amount. Upon any increase in the Cap Amount, the City Manager shall determine how much of the increase shall be allocated to the Parking Facility Cap, if any, and how much of the increase shall be allocated to the Additional Eligible Improvements Cap, if any. Any increase in the Cap Amount above $500,000 shall require the consent of the City Council by resolution.

6. Conceptual and Construction Drawings. Developer shall, at its cost and expense (subject to the provisions set forth in the Parking Facility Design Cost Sharing Agreement), prepare Conceptual and Construction Drawings (defined below) for redevelopment of the Property and construction of the Project according to the scope and general description set forth on Exhibits B, C and D attached and incorporated by this reference, and in accordance with the following:

6.1 Conceptual Drawings. On or before thirty (30) days after the Effective Date, Developer shall prepare and submit to the City for approval basic concept and design drawings and related documents containing the overall plan for redevelopment of the Property and construction of the Project, which shall be a logical extension of and consistent with the general description set forth on Exhibits B, C and D (the "Conceptual Drawings"). The Developer shall also submit the Conceptual Drawings to the DDA Executive Director. The DDA shall have the right to review and comment on the proposed Conceptual Drawings, provided that the City shall have the sole right to approve or disapprove the Conceptual Drawings. The Conceptual Drawings shall specifically identify and include in general terms all Eligible Improvements to be completed by Developer in connection with the Project, as further set forth on Exhibits B and C hereto.

Developer shall conduct at least one (1) public outreach meeting (in addition to any meetings or notices that may be required under the Loveland City Code in connection with the City's land use and development review process) to make the Conceptual Drawings available for public review and input by the citizens of Loveland. Developer shall make a reasonable record of such input and commentary as may be received and shall consider such input in further design and development activities. The City shall have ten (10) days after receipt of the Conceptual Drawings to review and approve or disapprove by written notice to the Developer building elevations of all portions of the Buildings visible from the public right-of-way, and which Drawings the Parties acknowledge are intended to be consistent with the description of the Project set forth on Exhibits B, C and D. Failure of the City to give such written notice of approval or disapproval within the required period shall be deemed an approval of the Conceptual Drawings for purposes of this Agreement. The Developer acknowledges and agrees that the City has the right to require additional design elements that exceed current standards, provided that any such additional design elements requested by the City shall be subject to review and approval by the Developer and the City for feasibility and cost.

6.2 Construction Drawings. On or before one hundred ten (110) days after the Effective Date, subject to an extension of such date by the City Manager, in his sole discretion, for up to two months upon a showing of reasonable cause for such delay ("Construction Drawings Submission Deadline"), Developer shall prepare and submit to the City Manager and his designee for approval proposed final architectural, design, engineering and construction drawings and specifications and related documents for redevelopment of the Property and construction of the Project, which shall be a logical extension of and consistent with the approved Conceptual Drawings and shall be in sufficient detail to obtain the necessary building permits (the "Construction Drawings"). The Developer shall also submit the Construction Drawings to the DDA Executive Director. The DDA shall have the right to review and comment on the proposed Construction Drawings, provided that the City shall have the sole right to approve or disapprove the Construction Drawings. The Construction Drawings shall include all permit level drawings for structures and site work, all landscape and planting drawings and all architectural drawings, and shall identify and include all Eligible Improvements (including each element thereof and the building facades) and the estimated costs of the Eligible Improvements and the Developer Improvements and each element thereof.

The proposed final Construction Drawings shall be reviewed and approved by the City in accordance with all required City land use and development plan approvals, as necessary to permit construction of the Project.

During the preparation of the Construction Drawings and prior to submission of the final Construction Drawings to the City for approval, the City, Developer and DDA shall hold such progress meetings to coordinate the preparation of, submission to, and review of the Construction Drawings by the City as may be reasonable and appropriate. Approval of progressively more detailed drawings and specifications will be promptly granted by the City if they are consistent with the Conceptual Drawings and are a logical extension of drawings that have been previously approved in the City's reasonable judgment. During this process, the Developer, City and DDA shall communicate and consult informally as frequently as necessary to ensure that formal submittal of Construction Drawings can receive prompt and speedy consideration.

If Developer or the City desire to make any substantial change in the Construction Drawings after the City's approval, the provisions of Section 7.4 shall apply to such change orders.

The Parties acknowledge that the City and the Developer have entered into the Parking Facility Design Cost Sharing Agreement that contains provisions relating to the design of the Parking Facility. In the event that there is a conflict between the provisions of this Agreement and the Parking Facility Design Cost Sharing Agreement relating to the design of the Parking Facility, the provisions of this Agreement shall control.

6.3 Application for Building Permits. Within thirty (30) calendar days after City's approval of the Construction Drawings, Developer shall submit an application to the City's Current Planning and Building Divisions for a site development plan, building permits, and all other governmental approvals required to acquire, construct and install the Project in accordance with the Construction Drawings. City agrees to review and expeditiously process and act on applications submitted by Developer under this Section.

7. Construction of the Project. The Developer agrees that it shall finance, design, acquire, develop, construct and install the Project, including the Developer Improvements and the Eligible Improvements, in accordance with the terms and provisions of this Agreement. The design, acquisition, construction and installation of the Project shall comply with all applicable codes and regulations of the City.

In the event that the cost of designing, acquiring, constructing and installing the Parking Facility exceeds the Parking Facility Cap, the Developer agrees that it shall pay all additional costs in connection therewith except that the Developer shall not be required to pay any increase in such additional costs resulting from a City Change Order, and provided that the design costs of the Parking Facility shall be paid or reimbursed by the City in accordance with the Parking Facility Design Cost Sharing Agreement.

In the event that the cost of designing, acquiring, constructing and installing the Additional Eligible Improvements exceeds the Additional Eligible Improvements Cap, the Developer agrees that it shall pay all additional costs in connection therewith except that the Developer shall not be required to pay any increase in such additional costs of the Additional Eligible Improvements resulting from a City Change Order.

7.1 Parking Facility. The Developer agrees that the Parking Facility is an Eligible Improvement that will be constructed on the City Parcel, and that the Parking Facility will be designed and built in accordance with the costs and design set forth in this Agreement and Exhibit B. The Parking Facility will be owned by the City and will serve the general public, as well as users of the Buildings.

Unless otherwise agreed to by the City Manager, the Parking Facility shall be constructed with the following elements:

(a) At least 277 parking spaces complying with all current ADA and occupancy codes;

(b) 106 dedicated spaces on [upper levels] for residential tenants;

(c) A brick facade as an anchoring element at least 8 feet tall along all elevations, at elevators, entrances and key architectural features primarily on the north and east sides of the Parking Facility;

(d) Glazed stairwells, stair plan and sections that include steel pan, concrete solid treads with steel risers, entirely enclosed;

(e) One commercial elevator that matches City standards and includes all anti-vandalism upgrades;

(f) Dedicated space for participation in Art in Public Places to enhance the exterior and showcase local artists;

(g) Parking management system for all garage stalls/gate access control as directed and desired by the City;

(h) HIP street and sidewalk design elements as determined by the City planning staff along the east and north side of the Parking Facility;

(i) Electronic wayfinding/enforcement technology; and

(j) Signage and striping.

7.2 Commencement and Completion of Construction of Parking Facility. Within forty-five (45) days after the receipt of all governmental approvals required to acquire, construct and install the Parking Facility, the Developer shall Commence Construction of the Parking Facility in accordance with the Construction Drawings. Developer shall thereafter diligently pursue and Substantially Complete the Parking Facility in accordance with the approved Construction Drawings by [March 31, 2024] subject to Force Majeure, and subject to an extension of such date by the City Manager, in his sole discretion, for up to six months upon a showing of reasonable cause for such delay.

In the event that the Developer does not Commence Construction on the Parking Facility by [March 31, 2023], subject to Force Majeure, and subject to an extension of such date by the City Manager, in his sole discretion, for up to six months upon a showing of reasonable cause for such delay, this shall not be an Event of Default hereunder but the City, in its sole discretion, shall have the right to terminate this Agreement upon written notice to the Developer, LURA and the DDA. Upon any such termination, the City shall not be required to reimburse the Developer for any Eligible Costs incurred by the Developer prior to such termination, provided that the City shall reimburse any costs owed to the Developer pursuant to the Parking Facility Design Cost Sharing Agreement.

After Commencement of Construction of the Parking Facility, if the Developer:

(i) fails to diligently pursue construction of the Parking Facility as required in this Agreement for a period of ninety (90) days after written notice thereof from the City, subject to Force Majeure; or

(ii) abandons or substantially suspends construction of the Parking Facility for a period of ninety (90) days after written notice thereof from the City, subject to Force Majeure; or

(iii) fails to obtain the Certificate of Occupancy for the Parking Facility as required herein;

then any such occurrence shall be deemed an Event of Default by the Developer to construct the Parking Facility as required by this Agreement and the City shall have the right, upon thirty (30) days written notice to the Developer, to complete the remainder of the Parking Facility from any available moneys of the City, including any moneys held back by the City pursuant to Section 4.2 hereof for the payment or reimbursement of Additional Eligible Improvements. Upon the City's assuming control over the completion of the Parking Facility as provided in this Section 7.2 ("triggering events"), the City may complete the construction of the Parking Facility, utilizing any moneys available therefor. The Developer hereby assigns its rights under the Parking Facility Contracts to the City, provided that such assignment shall become effective only upon written

notice thereof to the Developer and the applicable contractor that a triggering event has occurred, that the City is assuming such contract, and that the City has determined to complete the Parking Facility as provided in this Section 7.2. Upon receipt of such written notice, the assignment of the Parking Facility Contracts to the City shall be effective without any further action being taken by the Developer or the applicable contractor. The Developer shall ensure that all Parking Facility Contracts permit such assignment to the City, without the consent of any other person. If the City chooses to complete the Parking Facility and provides written notice that it has assumed the Parking Facility Contracts, the Developer agrees to cooperate in causing the other party or parties thereto to perform their obligations under such contracts for the City. Each Parking Facility Contract shall also permit termination for convenience of such Parking Facility Contract following its assumption by City; and the other party or parties thereto shall then be entitled to payment only for work done prior to such termination.

Nothing herein shall be construed to require the City to assume control over completion of the Parking Facility or to require the City to assume any or all of the Parking Facility Contracts. In the event that the City does not assume control of completion of the Parking Facility, the City shall continue to have all rights and remedies available to it upon the occurrence and continuation of an Event of Default by the Developer under this Agreement.

7.3 City's Right to Inspect. For purposes of assuring compliance with this Agreement and to inspect and verify completion of the Project described herein, including the Eligible Improvements, representatives of the City shall have the right to enter the Property without charges or fees during normal construction hours during the period of construction. Upon completion of each construction element approved as a part of the Eligible Improvements in the Construction Drawings, the Developer shall notify the City of such completion. The City, including such third-party representatives or consultants as it may desire, shall inspect the Eligible Improvements within ten (10) Business Days after such notice to determine whether it has been satisfactorily completed and is acceptable to the City.

7.4 Cost and Conformity with Approved Drawings; Change Orders. The cost of redeveloping the Property and constructing the Project in accordance with the approved Construction Drawings shall be borne by the Developer, except with respect to the payment or reimbursement of Eligible Costs by the City as set forth in this Agreement. Developer shall carry out redevelopment of the Property and construction of the Project in substantial conformity with the approved Construction Drawings and all applicable laws.

If the Developer desires to make any substantial change to the Construction Drawings related to the Eligible Improvements or any substantial change to the Eligible Improvements set forth in Exhibits B or C (a "Change Order"), the Developer shall submit the proposed change to the City Manager, or his designee, for its approval. The Developer shall also submit all requests for Change Order to the DDA Executive Director. The DDA shall have the right to review and comment on any proposed Change Orders, provided that the City shall have the sole right to approve or disapprove of any Change Order. The City Manager or his designee shall review and approve or disapprove such Change Order in writing within 10 Business Days after receipt of a Change Order request. If the City disapproves of the Change Order it shall explain the basis for such disapproval in sufficient detail to allow Developer to modify the Change Order to the Parties' mutual satisfaction. If the City does not approve or disapprove of the Change Order within such

10-day period, it shall be deemed to have approved of the same. The City's right to approve a Change Order is limited to approval of the revisions to the final Construction Drawings resulting from the Change Order for which the Developer seeks approval, and the City may not disapprove of any portion of the final Construction Drawings or any Change Order that the City previously approved.

If the City desires to make a material change to the Eligible Improvements, it shall initiate a Change Order (the "City Change Order") by requesting, in writing, changes to be made by the Developer. The City shall also submit all requests for City Change Orders to the DDA Executive Director. The DDA shall have the right to review and comment on any proposed City Change Order, but shall not have the right to approve or disapprove a City Change Order. The City Change Order shall be of sufficient detail to allow the Developer and its agents the ability to assess the cost and schedule implications. The Developer shall have 10 Business Days to respond to a City Change Order, including the cost and the timing of such City Change Order. Within 10 Business Days of receiving the proposal from the Developer, the City shall either accept such proposal or reject such proposal, in the City's sole discretion. If the City accepts the Developer's proposal to a City Change Order, the City shall pay the costs of any such City Change Order, and such payment shall not be counted against the Cap Amount. Furthermore, all deadlines for the performance of Developer's obligations concerning such Eligible Improvement shall be extended as set forth in the proposal. If the City rejects the Developer's proposal, upon written notice to the Developer, the City shall have the absolute right to self-perform any of the City Change Order or contract with third-parties to complete the City Change Order work, provided however, City's work shall not unreasonably interfere with Developer's construction activities.

7.5 Completion of Parking Facility; Acceptance by City. Within 30 days of the Developer providing written notice to the City that the Parking Facility has been Substantially Completed, the City shall inspect the Parking Facility to confirm that the Parking Facility conforms to the City's code, the specifications and plans set forth in this Agreement, including Exhibit B, and City accepted and approved standards. The City shall generate a punch list which shall be completed by the Developer prior to final acceptance by the City. At the time of final acceptance, after all punch list items have been corrected by the Developer, the City will issue a final acceptance letter, certificate of occupancy and other correspondence to finalize acceptance of the Parking Facility by the City ("Final Acceptance"). At the time of issuance of the final acceptance letter, the Developer shall provide to the City all electronic and hard copies of construction documentation (submittals, RFIs, ASIs, etc.) developed during the course of construction; record drawings; transfer all construction, equipment, product and material warranties; test reports; and special inspection letters.

7.6 Obligations to Insure and Reconstruct. Subject to the obligations of Developer to any Authorized Lender, Developer agrees to restore and reconstruct the portion of the Project owned by the Developer in the event of destruction of that portion of the Project, in whole or in part, due to fire or any other casualty and to maintain and keep in effect an insurance policy in an amount necessary to effect such restoration and reconstruction. A copy of such insurance policy shall be provided by the Developer to the City upon written request by the City. Upon payment or defeasance of all outstanding City Bonds issued to finance or refinance the Eligible Costs, this insurance requirement shall terminate.

Upon Final Acceptance of the Parking Facility by the City in accordance with Section 7.5 hereof, the City shall, at its own expense, cause casualty and property insurance to be carried and maintained with respect to the Parking Facility in an amount equal to the estimated replacement cost of the Parking Facility. Such insurance policy or policies may have a deductible clause in an amount deemed reasonable by the City Council. The City may, in its discretion, insure the Parking Facility under blanket insurance policies which insure not only the Parking Facility, but other buildings as well, as long as such blanket insurance policies comply with the requirements hereof. If the City shall insure against similar risks by self-insurance, the City may, at its election provide for casualty and property damage insurance with respect to the Parking Facility, partially or wholly by means of a self-insurance fund. Notwithstanding the foregoing, in the event the City enters into a lease purchase financing to finance all or a portion of the Parking Facility, and the Parking Facility is the leased property under such financing, the provisions set forth in the lease financing documents relating to insurance of the Parking Facility shall control.

7.7 Indemnification. For each Eligible Improvement, from Commencement of Construction through Substantial Completion and Final Acceptance of such Eligible Improvement, Developer agrees to indemnify, defend and hold harmless the City, LURA, the DDA and its respective officers, agents and employees, from and against all liability, claims, demands, and expenses, including fines imposed by any applicable state or federal regulatory agency, court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with any of the work to be performed by Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer under this Agreement, if such injury, loss, or damage is caused in whole or in part by, the negligent act or omission, error, professional error, mistake, accident, or other fault of Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer, but excluding any injuries, losses or damages which are due to the gross negligence, breach of contract or willful misconduct of the City, LURA, or the DDA, as applicable. Developer's obligation to indemnify the City, LURA and the DDA pursuant to this Agreement terminates, with respect to any Eligible Improvement, upon Substantial Completion of such Eligible Improvement.

7.8 No Transfer Before Financial Acceptance of Eligible Improvements. Except for a transfer or assignment to a special purpose entity as set forth herein, and except for the assignment to an Authorized Lender, prior to the Final Acceptance of the Eligible Improvements and Substantial Completion of the Developer Improvements, the Developer shall not transfer, convey, assign or lease or suffer any involuntary transfer of the whole or any part of the Developer Parcel or the Buildings or structures thereon without the prior written consent of the City. In the absence of such written consent from the City, any such transfer, assignment or lease shall be deemed void and a material default under this Agreement and shall not relieve the Developer from any obligations under this Agreement until Final Acceptance of the Eligible Improvements and Substantial Completion of the Developer Improvements. The prohibition set forth herein shall not be deemed to prevent the granting of easements or permits to facilitate redevelopment of the Property and construction of the Project, to restrict the leasing of all or any part of a Building or structure when such improvements are under construction, or to prevent the granting of a deed of trust, mortgage, or other security for financing permitted under Section 7.9 below or any transfer of all or any portion of the Project arising out of the exercise by an Authorized Lender of its remedies under any such deed of trust, mortgage, or other security interest, including, without limitation any foreclosure or delivery of a deed in lieu of foreclosure.

7.9 Authorized Lender. Notwithstanding the provisions of Section 7.8, mortgages, deeds of trust, or similar conveyances required for any reasonable method of financing the Developer Improvements are permitted, but only for the purpose of securing loans of funds to be used for construction and/or permanent financing of the redevelopment of the Property and construction of the Project. The holder of any mortgage, deed of trust, or other security interest authorized by this Section 7.9 (hereinafter referred to as an "Authorized Lender") shall have no obligation to construct or complete the Project or to guarantee such construction or completion. Nothing in this Agreement shall be deemed to construe, permit, or authorize an Authorized Lender or any successor or assign of an Authorized Lender to construct any improvements on the Property or devote the Property to any uses other than those improvements and uses authorized by this Agreement. Notwithstanding the foregoing, the Parking Facility shall be owned by the City, and the Developer shall not mortgage or impose any liens or security interests against the Parking Facility.

If the City gives Developer any notice of default under this Agreement, the City shall, at the same time, deliver notice to any Authorized Lender that has notified the City of its interest in the Property. Each such Authorized Lender shall have the right, at its option, to cure or remedy any such default within the same time as Developer may cure or remedy such default under this Agreement. Nothing in this Agreement shall permit or authorize an Authorized Lender to undertake or continue the construction or completion of the Project (beyond steps necessary to conserve or protect the improvements or construction already made) without first having expressly assumed the Developer's obligations hereunder by written agreement satisfactory to the City. Notwithstanding the foregoing, an Authorized Lender shall have no right to construct or complete all or any portion of the Parking Facility. All step-in rights of an Authorized Lender shall be limited to Developer Improvements.

7.10 Capital Expansion Fees. The City acknowledges that the Property is located in Historic Downtown Loveland and capital expansion fees and building permit fees imposed upon a construction project by the City are not charged or collected on projects within Historic Downtown Loveland pursuant to Section 18.16.04.03B of the Loveland Unified Development Code. County fees, school district fees, and fees due to the City's utility enterprises are not waived and shall remain due and payable in accordance with the Loveland Municipal Code.

8. Maintenance and Operation of Parking Facility.

8.1 Maintenance and Operation of Parking Facility; Parking Facility Operations and Maintenance Agreement. The City agrees that it shall pay all costs of operating and maintaining the Parking Facility, subject to the following provisions, and provided further that the City may enter into an agreement with a third-party entity to operate and maintain the Parking Facility. The City shall be responsible for capital repairs and replacements to the Parking Facility. The City agrees that the Parking Facility will contain 106 parking spaces on the [upper levels] that will be reserved for residential tenants that live in the Buildings. To the extent that the Owner is entitled to the exclusive use of 106 parking spaces, the Owner will be required to pay the City 38% of the annual operation and maintenance expenses related to the Parking Facility. The right to the exclusive use of 106 parking spaces by the Owner and the obligation of the Owner to remit the required operation and maintenance payments to the City will be set forth in the Parking Facilities Easement Agreement and the Parking Facilities Operation and Maintenance Agreement, which shall be recorded in the real estate records of Larimer County, Colorado and be a burden on the Developer Parcel that runs with the land. Unless otherwise agreed to by the City, the Parking Facility Operations and Maintenance Agreement will require the Owner to include a fee for parking in each lease agreement. At the written request of the Developer, the City or the DDA will record any additional document necessary to evidence that the City's obligation to provide Owner with the right to the 106 parking stalls runs with the land.

The City agrees that it will maintain, preserve and keep the Parking Facilities or cause the Parking Facilities to be maintained, preserved and kept, in good repair, working order and condition, and from time to time make or cause to be made all necessary and proper repairs, including replacements, if necessary. Notwithstanding the foregoing, in the event the City enters into a lease purchase financing to finance all or a portion of the Parking Facility, and the Parking Facility is the leased property under such financing, the provisions set forth in the lease financing documents relating to the maintenance and operation of the Parking Facility shall control.

8.2 Lease Purchase Financing; Rights of Bond Trustee. The City shall have the right to enter into a lease purchase financing to generate proceeds to pay or reimburse all or any portion of the Eligible Costs under this Agreement. In connection with any such lease purchase financing, the Parking Facility may be used as the leased property under the lease documents, and upon termination of the lease by the City for any reason, the Bond Trustee will have the right to the use of the Parking Facility as provided in such lease documents. If the City chooses to use the Parking Facility as leased property under a lease financing, the lease documents shall provide that in the event the Bond Trustee has the right to possession of the Parking Facility, the Bond Trustee will be obligated to continue to provide the 106 parking spaces exclusively to the Owner, but only to the extent that the Owner is in compliance with the terms and provisions of the Parking Facility Easement Agreement and the Parking Facility Operations and Maintenance Agreement. The Bond Trustee shall be made a third- party beneficiary of the Parking Facility Easement Agreement and the Parking Facility Operations and Maintenance Agreement

9. Guarantee Payments. The City has agreed that the Developer and any subsequent Owner shall have the exclusive right to use 106 parking spaces in the Parking Facility, which right shall be set forth in the Parking Facility Easement Agreement and in the Parking Facility Operation and Maintenance Agreement. In consideration of the right to use 106 parking spaces, the

Developer and any subsequent Owner shall guarantee that the Project will generate a certain amount of Project Revenues in each year (the "Guaranteed Project Revenues") that will be remitted to the City or the Bond Trustee, as applicable, to defray, in part, the cost of constructing the Parking Facility. The Guaranteed Project Revenues for each year are set forth on Exhibit E hereto and by this reference made a part hereof.

The Owner shall make any required Guarantee Payments to the City in accordance with this Agreement beginning in 2024. The Owner's obligation to make the Guarantee Payments shall also be set forth in the Covenant Regarding Guarantee Payments.

On or prior to January 30 of each year, beginning on January 30, 2024, the City shall provide written notice to the Owner, with a copy to the DDA Executive Director, setting forth:

(i) the Guaranteed Project Revenues set forth in Exhibit E for the preceding year;

(ii) the total amount of Project Revenues received in the preceding year, including (a) the Tax Increment Revenues credited to the LURA Special Fund or the City Special Fund, as the case may be, in the preceding fiscal year, from the Property, and (b) the amount of Add-On PIF Revenues generated by the retail sales from the Property in the preceding fiscal year and remitted to the City or the Bond Trustee, as applicable; and

(iii) setting forth the amount by which the Project Revenues received in such year either exceeded the Guaranteed Project Revenues for such year or were less than the Guaranteed Project Revenues for such year.

[In the event that the Project Revenues in such year exceeded the Guaranteed Project Revenues in such year, the Owner shall not be required to make any Guarantee Payment relating to such year, and shall receive a credit in the amount of such excess, up to $400,000, against any obligation it has to make a Guarantee Payment for the succeeding year, if any. Any such credit shall apply only to the succeeding year, and not any subsequent years.]

In the event that the Project Revenues in such year were less than the Guaranteed Project Revenues in such year, as set forth in the written notice from the City, the Owner shall be required to make a Guarantee Payment, no later than 30 days from receiving written notice from the City, in an amount equal to such deficit, less any credit that the Owner carried forward from the previous year.

The Owner shall continue to make any required Guarantee Payments until the total amount of Project Revenues plus any Guarantee Payments made by the Owner, equals $_____, which is an amount equal to the total Guaranteed Project Revenues set forth in Exhibit E.

The obligation to make any Guarantee Payments pursuant to this Section 9 shall be a burden that runs with the land. The Parties shall record the Covenant Regarding Guarantee Payments in the real estate records of Larimer County, Colorado against the Developer Parcel. At the written request of the City or the DDA, the Developer will record any additional document necessary to evidence that the obligation to pay the Guarantee Payment runs with the land.

10. Representations and Warranties.

10.1 City's Representations and Warranties. The City hereby makes the following representations and warranties:

(a) The City has been duly organized and is validly existing as a home rule municipality under the laws of the State of Colorado.

(b) The person executing this Agreement on behalf of City is duly and validly authorized to do so on behalf of City, and City has full right and authority to enter into this Agreement and perform all of its obligations hereunder subject to the conditions precedent set forth in this Agreement.

(c) To the City's knowledge, execution of this Agreement will not result in any breach of, or constitute a default under, any contract or other agreement to which City is a party.

(d) To the City's knowledge, there is no action or proceeding pending or threatened in writing against the City that challenges or impairs the City's ability to execute or perform its obligations under this Agreement.

(e) The City has informed the Developer that it does not have complete knowledge of the prior use of the City Parcel and that the Developer shall be required to perform all necessary due diligence to construct the Parking Facility on the City Parcel. The City shall provide access to the City Parcel to the Developer to conduct any due diligence the Developer deems necessary. However, the City represents and warrants to the Developer that the City has no actual knowledge of any condition on the City Parcel that would materially and adversely affect the ability of the Parking Facility to be constructed on the City Parcel, or that would materially increase the cost of the Parking Facility.

10.2 DDA Representations and Warranties. The DDA hereby makes the following representations and warranties:

(a) The DDA has been duly organized and is validly existing as a downtown development authority under the DDA Act.

(b) The person executing this Agreement on behalf of the DDA is duly and validly authorized to do so on behalf of the DDA, and the DDA has full right and authority to enter into this Agreement and perform all of its obligations hereunder subject to the conditions precedent in this Agreement.

(c) To the DDA's knowledge, execution of this Agreement will not result in any breach of, or constitute a default under, any contract or other agreement to which the DDA is a party.

(d) To the DDA's knowledge, there is no action or proceeding pending or threatened in writing against the DDA that challenges or impairs the DDA's ability to execute or perform its obligations under this Agreement.

10.3 LURA Representations and Warranties. LURA hereby makes the following representations and warranties:

(a) LURA has been duly organized and is validly existing as an urban renewal authority under the Urban Renewal Law.

(b) The person executing this Agreement on behalf of LURA is duly and validly authorized to do so on behalf of LURA, and LURA has full right and authority to enter into this Agreement and perform all of its obligations hereunder subject to the conditions precedent in this Agreement.

(c) To LURA's knowledge, execution of this Agreement will not result in any breach of, or constitute a default under, any contract or other agreement to which LURA is a party.

(d) To LURA's knowledge, there is no action or proceeding pending or threatened in writing against LURA that challenges or impairs LURA's ability to execute or perform its obligations under this Agreement.

10.4 Developer's Representations and Warranties. Developer hereby makes the following representations and warranties:

(a) Developer has been duly organized and is validly existing as a Colorado limited liability company and is in good standing and authorized to do business in the State of Colorado. Developer has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated herein. This Agreement has been duly authorized and properly executed and constitutes a valid and binding obligation of Developer, enforceable in accordance with its terms.

(b) There is no agreement to which Developer is a party or to Developer's knowledge binding on Developer which is in conflict with this Agreement. There is no action or proceeding pending or, to Developer's knowledge, threatened against Developer which challenges or impairs Developer's ability to execute or perform its obligations under this Agreement.Except for the express representations and warranties of City, the DDA and LURA set forth herein, Developer acknowledges and agrees that there are no representations or warranties of any kind whatsoever, express or implied, made by City, the DDA or LURA in connection with this Agreement or the redevelopment of the Project. The Developer acknowledges that the City has informed the Developer that the City does not have complete knowledge of the prior use of the City Parcel. Developer agrees that it shall perform all

necessary due diligence to construct the Parking Facility and that it shall pay all costs related to such due diligence and bear the cost of any remediation of elements found prior to construction of the Parking Facility. If the cost of such remediation is not acceptable to the Developer, in its sole discretion, the Developer shall have the right to terminate this Agreement upon written notice to the City and the DDA, provided that the City has not issued any City Bonds prior to such termination.Events of Default: Remedies.

11.1 Events of Default. Each of the following events shall constitute an Event of Default under this Agreement:

(a) The Events of Default set forth in Section 7.2 hereof relating to the construction of the Parking Facility by the Developer;

(b) Any representation or warranty made by any Party in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompletion would have a material adverse effect upon any other Party; and

(c) Any Party fails in the performance of any other covenant in this Agreement and such failure continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party. If such default is not of a type which can be cured within such thirty (30) day period and the defaulting Party gives written notice to the non-defaulting Party or Parties within such thirty (30) day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such thirty (30) day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure in good faith.

11.2 Remedies. Except as otherwise provided herein, upon the occurrence and continuation of an Event of Default hereunder, the non-defaulting Party's remedies shall be limited to the right to enforce the defaulting Party's obligations hereunder by an action for injunction, specific performance, or other appropriate equitable remedy or for mandamus, or by an action to collect and enforce payment of sums owing hereunder, and no other remedy, and no Party shall be entitled to or claim damages for an Event of Default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing party in such litigation or other proceeding may obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

12. Notices. Notice of any record shall be deemed delivered when the record has been (a) deposited in the United States Mail, postage pre-paid; (b) received by overnight delivery service; (c) received by electronic mail through the internet; or (d) when personally delivered at the following addresses:

To the City	City of Loveland, Colorado 500 East Third Street Loveland, Colorado 80537 Attention: City Manager
To the DDA:	Loveland Downtown Partnership Downtown Development Authority 350 No. Cleveland Loveland, Colorado 80537 Attention: Executive Director
To LURA:	Loveland Urban Renewal Authority 500 East Third Street Loveland, Colorado 80537 Attention: Executive Director
To the Developer:	Draper LLC c/o BH Developers 206 E. 4th Street, Suite 1 Loveland, CO 80537 Attn: Curt W. Burgener Email: curtburgener@icloud.com
With copy to:	Johnson Muffly & Dauster, PC 323 S. College Avenue, Suite 1 Fort Collins, CO 80524 Attn: Ryan S. Thorson Email: rthorson@nocolawgroup.com

The Parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, requests or other communications shall be sent, and may designate other methods of communication.

13. Termination. This Agreement shall terminate by its terms upon (i) the payment or reimbursement of all Eligible Costs to the Developer in accordance with the terms and provisions hereof, and (ii) the payment or defeasance of all City Bonds issued to finance or refinance all or portion of the Eligible Costs hereunder.

In addition, except as hereinafter provided, upon the occurrence of any of the following events, this Agreement may be terminated in accordance with the provisions hereinafter set forth:

(a) In the event that the Developer does not Commence Construction of the Parking Facility within the time period required by Section 7.2 hereof, then the City shall have the option to terminate this Agreement. Any such termination shall be binding on the Developer, LURA and the DDA.

(b) Any other event occurs hereunder that expressly provides or allows for a party to terminate this Agreement.

Except as otherwise provided herein, in order to terminate this Agreement, (a) a Party shall provide written notice of such termination to the other Parties, and (b) such termination shall be effective thirty (30) days after the date of such notice unless prior to such time, the Parties are able to negotiate in good faith to reach an agreement to avoid such termination.

Notwithstanding the foregoing, this Agreement shall not be terminated after the issuance of any City Bonds unless the bond documents specifically allow such termination.

Upon a termination of this Agreement, each of the Parties shall have no further obligation or liability to the other Parties under this Agreement, save and except for any obligations that are stated herein to survive termination.

14. Miscellaneous.

14.1 Delegation of Authority for Approvals. The City, LURA and the DDA hereby delegate to their respective Authorized Person the authority to waive any conditions precedent set forth in this Agreement for the benefit of the City, LURA or the DDA, as the case may be, and (ii) for good cause shown, grant requests for extensions of time to satisfy requirements set forth in this Agreement.

14.2 Time. Time is of the essence of each and every term, provision and covenant of this Agreement. Except as expressly provided otherwise herein, the expiration of any period of time prescribed in this Agreement shall occur at 11:59 p.m. of the last day of the period. Should any period of time prescribed herein end on a non-Business Day, the period of time shall automatically be extended to 11:59 p.m. (or such other time as is expressly provided herein) of the next full Business Day.

14.3 No Waiver. No waiver by any party of the performance or satisfaction of any covenant or condition herein shall be valid unless in writing and shall not be considered to be a waiver by such party of any other covenant or condition hereunder.

14.4 Entire Agreement. Except as hereinafter provided, this Agreement contains the entire agreement between the Parties regarding the redevelopment and construction of the Project on the Property, and supersedes all prior agreements, whether written or oral, between the Parties regarding the same subject including, without limitation, the term sheet among the Parties. Notwithstanding the foregoing, the City and the Developer have entered into the Parking Facility Design Cost Sharing Agreement relating to the design of the Parking Facility. In the event of a conflict between this Agreement and the Parking Facility Design Cost Sharing Agreement, the provisions of this Agreement shall control.

14.5 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

14.6 Binding Effect; Assignment. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of City, the DDA, LURA and the Developer; provided,

however, that except for assignments to Authorized Lenders and as hereafter provided, Developer shall not, prior to the Substantial Completion of all components of the Project, assign Developer's rights, benefits and/or obligations pursuant to this Agreement to any party or transfer a controlling interest in Developer without the prior written consent of the City Council. Any such assignment without the City Council's prior written consent shall be deemed null and void and without any affect and shall be considered a material default of this Agreement. Notwithstanding the foregoing or any provision to the contrary contained herein, the City, the DDA and LURA recognize that Developer may form, together with its investors, a separate, special purpose entity or entities to develop, own and/or operate all or a portion of the Project or the Eligible Improvements to be constructed thereon and that one or more assignments of all or any part of Developer's rights under this Agreement may be required in connection with such activities and any such assignment or transfer of the Developer's rights under this Agreement to any such special purpose entity will not require any consent by the City, the DDA or LURA. However, no assignment of this Agreement by Developer, whether or not such assignment requires the consent of the City, the DDA or LURA, shall relieve Developer of its personal and primary obligation to perform all of the obligations to be performed by Developer hereunder.

14.7 Severability. In the case that any one or more of the provisions contained in this Agreement are for any reason held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

14.8 Captions. Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement.

14.9 Exhibits. All exhibits attached to this Agreement shall be incorporated by reference as if set out herein in full.

14.10 Relationship of the Parties. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party. The Parties acknowledge that no party is an agent for any other party and that no party shall or can bind or enter into agreements for the other Parties.

14.11 Governing Law. This Agreement shall be governed by and enforced in accordance with the laws of the State of Colorado. The District Court of Larimer County, Colorado County will be the exclusive venue for any litigation.

14.12 Review by Counsel. The Parties acknowledge that each Party and its legal counsel have reviewed and approved this Agreement, and the Parties hereby agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

14.13 Third-Party Beneficiaries. This Agreement is solely for the benefit of the Developer, the City, the DDA and LURA and their respective members, principals, partners,

successors and permitted assigns, and no third party shall be entitled to the benefit of any of the provisions of this Agreement; provided, however, that (a) an Authorized Lender shall be deemed to be a third party beneficiary hereunder with respect to those provisions of this Agreement that grant specific rights to an Authorized Lender or impose specific duties on the City or the Developer for the benefit of an Authorized Lender, and (b) to the extent that City Bonds are issued and outstanding, the Bond Trustee shall be deemed to be a third party beneficiary hereunder.

14.14 Counterparts; Electronic Signatures. The Parties hereto agree that the transaction described herein may be conducted and related documents may be stored by electronic means. This Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

This Agreement may be executed using electronic signatures in accordance with Article 71.3 of Title 24, C.R.S., also known as the Uniform Electronic Transactions Act. Any electronic signature so affixed shall carry the full legal force and effect of any original, handwritten signature. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.Mutual Cooperation and Good Faith. The Parties each agree to execute, acknowledge and deliver or to cause to have executed, acknowledged and delivered, such other and further instruments and documents as may reasonably be requested another Party to carry out this Agreement. Each Party hereto shall use its good faith efforts to cause satisfaction of all conditions to its obligation under this Agreement, and to exercise good faith in fulfilling its obligations under this Agreement.

14.16 Disclosure. Developer understands and acknowledges that under the Colorado Open Records Act, C.R.S. §§ 24-72-201 et al., ("CORA") this Agreement is subject to public inspection. In addition to the public inspection requirements of CORA, the Developer also understands and acknowledges that the Colorado Open Meetings Law, C.R.S. § 24-6-402, ("COML.") may also require a disclosure of the terms and conditions of this Agreement at public meetings of the City Council and of the governing bodies of the DDA and LURA. Therefore, any such disclosures of the terms and conditions of this Agreement under CORA or COML are permitted under this Agreement and shall not be considered a breach of any provision of this Agreement. Additionally, Developer understands and acknowledges that if and to the extent the disclosure under CORA or COML requirements are in conflict with this Agreement, then the disclosure requirements under CORA and/or COML shall be deemed to control.

14.17 Waiver of Jury Trial. EACH OF LURA, THE CITY, THE DDA AND DEVELOPER HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH OF LURA, THE CITY, THE DDA AND DEVELOPER ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH HAS RELIED ON THE WAIVER IN ENTERING INTO THIS AGREEMENT, AND THAT EACH WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH OF LURA, THE CITY,

THE DDA AND DEVELOPER WARRANTS AND REPRESENTS THAT EACH HAS HAD THE OPPORTUNITY OF REVIEWING THIS JURY WAIVER WITH LEGAL COUNSEL, AND THAT EACH KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS.

14.18 Recording. This Agreement shall not be recorded in any place or office of public record and any action by a party in violation of this provision shall be deemed to be a material default hereunder; provided, however, that the filing of this Agreement as part of any proceedings instituted in any court of proper jurisdiction to enforce the provisions of this Agreement shall not be deemed to be a breach of this Section 15.17.

14.19 No Waiver of Sovereign Immunity. Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by the City, the DDA or LURA under applicable State law.

IN WITNESS WHEREOF, the Parties have entered into this Agreement on the date set forth above.

CITY OF LOVELAND, COLORADO

By: _____
City Manager

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

LOVELAND URBAN RENEWAL AUTHORITY

_____
Chair

ATTEST:

_____
Executive Director

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY

By: _____
Executive Director

DRAPER LLC,
a Colorado limited liability company

By:_____
Title:

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

The Property consists of the City Parcel and the Developer Parcel, as more fully set forth below.

City Parcel

[insert legal description]

Developer Parcel

[insert legal description]

The improvements located on the Developer Parcel include the following buildings (collectively, the "Buildings").

[include description of Buildings]

EXHIBIT B
DESCRIPTION OF THE PARKING FACILITY

[include detailed description and drawings of the Parking Facility]

EXHIBIT C
ELIGIBLE IMPROVEMENTS

Eligible Improvements

The Eligible Improvements shall consist of the construction of the Parking Facility, in accordance with Exhibit B attached hereto, and the design, development, acquisition, installation and construction of the following Additional Eligible Improvements:

[To Be Provided]

Eligible Costs

The following are estimated Eligible Costs for the design, acquisition, construction and installation of the Additional Eligible Improvements (not including the Parking Facility), including without limitation, reasonable and customary soft costs and expenses related to the design, acquisition, construction and installation of the Eligible Improvements.

The payment or reimbursement to the Developer will be based on actual Eligible Costs for the Additional Eligible Improvements after they have been certified in accordance with the Procedure for Documenting, Certifying and Paying Eligible Costs as outlined in Exhibit F to this Agreement. Regardless of the total actual Eligible Cost of the Additional Eligible Improvements, the total amount to be paid or reimbursed under this Agreement for Eligible Costs related to the Additional Eligible Improvements shall not exceed the Additional Eligible Improvements Cap, as it may be adjusted pursuant to this Agreement.

Reimbursements for any line item related to Additional Eligible Improvements set forth below may exceed the estimated cost so long as the reimbursement total for all Eligible Costs for the Additional Eligible Improvements does not exceed the Additional Eligible Improvements Cap Amount.

[Set forth line items of Additional Eligible Improvements and Estimated Costs]

EXHIBIT D
DESCRIPTION OF THE DEVELOPER IMPROVEMENTS

EXHIBIT E

Guaranteed Project Revenues

Year	Guaranteed Project Revenues
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	
2036	
2037	
2038	
2039	
2040	
2041	
2042	
2043	
Total	

EXHIBIT F

PROCEDURE FOR DOCUMENTING, CERTIFYING AND PAYING ELIGIBLE COSTS

1. Applicability. All capitalized terms that are not specifically defined in this Exhibit F shall have the same meaning as defined in the Agreement. The Parties recognize and acknowledge that in connection with issuance and sale of any City Bonds, the City Bond documents may establish a different procedure for the requisition of DDA Bond or City Bond proceeds, in which event that procedure shall be substituted for the procedure in this Exhibit F to the extent that they conflict with the procedures in this Exhibit F; provided, however, the Parties agree to cooperate so that the City Bond documents will include a procedure for certifying the Eligible Costs payable under in-process construction and other contracts to permit City Bond proceeds to be applied to direct payments under such contracts.

2. Engineer; City Verification. The City will select an independent licensed engineer experienced in the design and construction of public improvements (the "Engineer"). The Engineer shall be responsible for reviewing, approving, and providing the certificate required by paragraph 3 hereof. For purposes of assuring compliance with the Agreement, representatives from the City shall have reasonable rights of access to the Property and the Project without charges or fees at normal construction hours during the period of construction. Access shall include the right of inspection and field verification of Eligible Improvements for which requests for payments are submitted. The Engineer selected by the City and any representatives of the City that will be inspecting and verifying Eligible Improvements shall be identified in writing to the Developer.

3. Documentation. The Developer shall be responsible for documenting all Eligible Costs. Eligible Costs may be certified when a pay application has been submitted by a contractor that complies with the procedure set forth in this Exhibit or upon completion of construction of an Eligible Improvement, provided, however that the Developer shall submit no more than one payment request per month. All such submissions shall include a certification signed by both the Engineer and an authorized representative of the Developer. The certificate shall state that the information contained therein is true and accurate to the best of each individual's information and belief and, to the best knowledge of such individual, qualifies as Eligible Costs. Such submissions shall include copies of backup documentation supporting the listed cost items, including bills, statements, pay request forms from first-tier contractors and suppliers, conditional lien waivers, and copies of each check issued by the Developer for each item listed on the statement. The Developer shall allocate the Eligible Costs to the Eligible Improvements according to whether the Eligible Costs relates to the Parking Facility or to Additional Eligible Improvements listed on Exhibit ____, and each Requisition shall contain an aggregate running total of the Eligible Costs for the Parking Garage or each category of Additional Eligible Improvements, as applicable. Statements for payment of Eligible Costs shall not include advance payments of any kind for unperformed work or materials not delivered and stored on the Property.

4. Verification, Submission, and Payment. Each payment request will be submitted by the Developer to the City Manager, or his designee, for review within ten (10) Business Days. Such review is for the purpose of verifying that the work represented in each payment request and supporting documentation complies with the applicable requirements of this Agreement. Upon the

earlier of approval of such documentation or expiration of the 10-Business Day period, the City will make or cause the payments of Eligible Costs to be made to the Developer or the applicable payee listed in the payment request, as provided in this Agreement. So long as the payment request is properly certified according to this procedure payment shall be made within 30 calendar days of submission of the payment request.

If the City Manager or his designee dispute all or any portion of the requisition, the City shall provide the Developer with a written dispute prior to expiration of the foregoing 10-Business Day period, setting forth the reasons for such dispute; provided that the City Manager or his designee shall only have the right to dispute any payment request to the extent that the costs described therein for which the Developer seeks payment or reimbursement do not constitute Eligible Costs, or if the documentation provided is incomplete or insufficient for the City Manager or his designee to determine whether such costs constitute Eligible Costs. If the objection is made on the basis of incomplete or insufficient documentation, the Developer shall promptly provide complete and sufficient documentation in a good faith effort to facilitate resolution. The Parties shall cooperate in good faith to resolve any dispute concerning the payment or reimbursement of Eligible Costs, but without being obligated to waive or relinquish any rights hereunder. If the Parties have not satisfactorily resolved any such dispute within 10 Business Days after the date the City delivers such dispute notice to the Developer, the City may withhold the amounts in dispute from payment and shall process and pay the remainder of the undisputed Eligible Costs, and the Parties may proceed as hereinafter provided.

5. Dispute Resolution. If the Parties have not resolved a dispute pertaining to payment or reimbursement of Eligible Costs (a "Payment Objection") within 30 calendar days of the submission of the Requisition, at the written request of the City or the Developer, the Parties shall comply with the following procedures:

Within 10 Business Days after receipt of the foregoing written request, the Parties involved in the dispute shall select an individual or firm in the Denver metropolitan area with at least 10 years' experience in evaluating construction costs or construction litigation ("Independent Decision-maker") for purposes of resolving the dispute. If the Parties are unable to timely mutually agree on an Independent Decision-maker, the Developer shall select a decision-maker ("Developer Decision-maker"), the City shall select a decision-maker (the "City Decision-maker"), and the Developer Decision-maker and the City Decision-maker shall collectively select an individual or firm in the Denver metropolitan area with at least 10 years' experience in evaluating construction costs or construction litigation to serve as the Independent Decision-maker who shall comply with the procedures hereinafter set forth, as if such decision maker was selected directly by the Parties. The Independent Decision-maker shall have no current material financial affiliation or relationship with any of the Parties. If the Developer Decision-maker and the City Decision-maker are unable to so select the Independent Decision-maker, any Party may file an action in the District Court for Larimer County, Colorado, to have the Court select the Independent Decision-maker in accordance with the foregoing provisions.

The Independent Decision-maker shall review the information pertaining to any Payment Objection and shall provide an opinion in writing to the Parties involved with the dispute within ten (10) calendar days of submittal of the dispute as to whether the cost items in dispute constitute Eligible Costs. If the Independent Decision-maker determines that the disputed cost items

constitute Eligible Costs, then within 5 Business Days of receipt of the opinion, the City shall disburse the applicable amounts to the Developer or the applicable payee. In the event the Independent Decision-maker determines all or a portion of the disputed payments do not qualify as Eligible Costs, then the City shall have no obligation to disburse such amounts to the Developer or the applicable payee.

While each Party agrees to the process under this Exhibit F, paragraph 5 for purposes of facilitating payments and the construction process, it shall do so under a complete reservation of its rights under this Agreement and otherwise and without prejudice to any claims it may have against the other Parties or others, which may include as applicable, and without limitation, recovery of any costs paid in accordance with the following paragraph.

Each Party to any dispute agrees to pay its pro-rata share of any retainer required by the Independent Decision-maker. If a dispute is addressed by the process under this paragraph 5, the non-prevailing Party shall pay (i) all reasonable costs and expenses incurred by the Independent Decision-maker with respect to such dispute, and (ii) all the reasonable costs and expenses incurred by the prevailing Party or Parties in connection with such dispute. The non-prevailing Party's obligation to pay such costs and expenses shall be paid promptly after the decision is rendered. If a portion of each Parties' position is upheld, the Independent Decision-maker shall make a corresponding allocation between the Parties of the applicable costs and expenses.