

**Town of Erie Urban Renewal Authority
Resolution No. 22-04**

A Resolution of the Board of Commissioners of the Town of Erie Urban Renewal Authority Approving the Public Finance and Development Agreement Amendment with Erie Four Corners, LLC, the Four Corners Business Improvement District and the Four Corners Metropolitan District

Whereas, on February 14, 2017, the Authority executed a Public Finance and Development Agreement (the "PFA") with Erie Four Corners, LLC, a Colorado limited liability company (the "Developer"), the Four Corners Business Improvement District (the "BID"), and the Four Corners Metropolitan District (the "District");

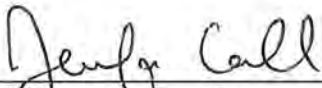
Whereas, the expected uses of the property within the related Urban Renewal Area and the financing plan has changed, which changes require an amendment to the PFA; and

Whereas, the Board of Commissioners finds that it is in the best interest of the public health, safety and welfare to approve the Public Finance and Development Agreement Amendment.

Now Therefore be it Resolved by the Board of Commissioners of the Town of Erie Urban Renewal Authority that:


Section 1. The Public Finance and Development Agreement Amendment is hereby approved in substantially the form attached hereto, subject to final approval by the Authority's General Counsel. Upon such approval, the Chair is authorized to execute the Amendment on behalf of the Authority.

Adopted this 22nd day of March, 2022.



Jennifer Carroll, Chair

Attest:



Heidi Leatherwood, Town Clerk



Public Finance and Development Agreement Amendment

(Four Corners Urban Renewal Plan)

This **Public Finance and Development Agreement Amendment** (this "**Agreement**") is made and entered into as of March 23, 2022 (the "**Effective Date**"), by and among the **Town of Erie Urban Renewal Authority**, an urban renewal authority organized and operating under the Colorado Urban Renewal Law, Title 31, Article 25, Part 1, C.R.S. (the "**Authority**"), **Erie Four Corners, LLC**, a Colorado limited liability company (the "**Developer**"), **Four Corners Business Improvement District**, a business improvement district organized and operating under the Colorado Business Improvement District Act, Title 31, Article 25, Part 12, C.R.S. (the "**BID**"), and **Four Corners Metropolitan District**, a special district organized and operating under the Colorado Special District Act, Title 32, Article 1, C.R.S. (the "**Metro District**").

Recitals:

A. Initially capitalized terms used in this Agreement have the defined meanings set forth in Article 1 of this Agreement.

B. The Authority is a body corporate and has been duly created, organized, established and authorized to transact business and exercise its powers as an urban renewal authority within the Town of Erie (the "**Town**") under the Urban Renewal Law.

C. The Town, by Board of Trustees Resolution No. 15- 129 (the "**Resolution**"), adopted September 22, 2015, adopted The Four Corners Urban Renewal Plan dated September 23, 2015 (the "**Plan**").

D. By the Resolution, the Authority has the power to undertake urban renewal projects and activities benefiting properties within the Plan Area, which is legally described on Exhibit A-1 (the "**Plan Area**"), in accordance with the Plan and the Urban Renewal Law, and to finance such projects and activities using a portion of the Incremental Property Tax Revenues.

E. The Town previously approved Canyon Creek Subdivision Filing No. 10. The Developer has submitted, and the Town may approve the Four Corners Subdivision Plat (a replat of a portion of Canyon Subdivision No. 10) and Erie Four Corners Site Plan.

F. Based upon the Developer's representations, the Authority has determined that the Project, as contemplated by the Master Plan, is in furtherance of the Plan's goal to eliminate and prevent blight within the Plan Area to meet the needs and expectations of the residents and tenants of the Project by remedying the following conditions in the Plan Area:

- (i)** defective and inadequate street layout;

- (ii) faulty lot layout of the size, adequacy, accessibility, and usefulness of the Plan Area;
- (iii) unsanitary and unsafe conditions;
- (iv) unusual topography and inadequate public improvements and utilities;
- (v) defective and unusual conditions of title that render title to the Plan Area non-marketable;
- (vi) conditions that endanger life and property;
- (vii) health, safety, and welfare factors that require high levels of municipal services; and
- (viii) substantial physical underutilization and vacancy of the Plan Area.

G. The Authority intends, insofar as it lawfully may, to exercise any of its powers that are necessary and desirable to facilitate the Project and the general development of the Plan Area.

H. The BID has been organized under the Business Improvement District Act to assist with the financing of the Eligible Public Improvements within or for the benefit of the Project Area.

I. The Project Area is, or prior to the issuance of the Bonds, will be within the BID's boundaries as described in Section 3.13.

J. Pursuant to the Operating Plan, the BID possesses the authority to provide for the planning, design, construction, installation, relocation, redevelopment, and financing of the Eligible Public Improvements (subject to the limitations set forth in the Operating Plan).

K. The Metro District has been organized under the Special District Act to assist with financing of the Eligible Public Improvements within or for the benefit of the Plan Area.

L. The Residential Area of the Plan Area is adjacent to the Project Area and, except for the Excluded Property, will be within the Metro District's boundaries prior to issuance of the Bonds, as described in Section 3.13.

M. Pursuant to the Service Plan, the Metro District possesses the authority to provide for the planning, design, construction, installation, relocation, redevelopment, and financing of the Eligible Public Improvements (subject to the limitations set forth in the Service Plan).

N. The Authority wishes to assist the Developer, the BID, and the Metro District by financing a portion of the costs of planning, designing, constructing, installing, relocating, redeveloping, and financing of the Eligible Public Improvements, thereby enabling the Authority to meet its objectives with respect to eliminating blight conditions in the Plan Area.

O. The Authority has determined that it is necessary and appropriate for the Pledged Revenues to be allocated to the payment of the Bond Requirements in satisfaction of the Authority's obligations under this Agreement.

P. Sections 29-1-203 and 31-25-112, C.R.S., authorize and enable governments and urban renewal authorities to enter into cooperative agreements or contracts.

Q. The Parties desire to enter into this Agreement to set forth their intent to cooperate as to the provision of the Eligible Public Improvements and to assure that the ad valorem property taxes levied by the Districts (as further provided herein and discussed as the "Pass-Through Obligation") and the Pledged Revenues are made available to the BID to implement the purposes of the Operating Plan and the Service Plan as well as to accomplish the redevelopment of the Plan Area in order to further assure the Authority that the Pledged Revenues will be sufficient, together with the other revenue streams available to the BID, for the purposes of achieving the goals of the Plan.

R. The Parties desire for this Agreement to supersede in its entirety the Public Finance Agreement – Four Corners Urban Renewal Plan entered into among the Parties as of February 14, 2017 (the "**Prior Agreement**").

Now Therefore, in consideration of the mutual covenants, agreements, and provisions herein contained, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by each Party, the Parties agree as follows:

Article I. Definitions

Section 1.01 Definitions. In this Agreement, the following terms shall have the following meanings unless otherwise indicated:

"Authority Administrative Fee" means, a fee of 105% of the Authority's actual documented costs, to be retained by the Authority from the Incremental Property Tax Revenue, which fee is intended to offset all amounts required to pay for the collection, enforcement, disbursement, and administrative fees and costs required to carry out the Plan, including without limitation the collection and disbursement of the Pledged Property Tax Revenues.

"Authority Payment Obligation" means collectively the Funding Obligation and the Pass-Through Obligation.

"Base Value" means, the assessed value of the Property as of the date last certified by the County Assessor prior to the adoption of the Plan plus, in future years, increases due to general reassessments as required by law. The Base Value as of the Effective Date for the Property is \$25,428, with \$25,407 attributable to the BID and \$21 attributable to the Metro District. The amount of the Base Value shall be calculated and adjusted from time-to-time as required by Colorado law.

"BID Excluded Property" means the real property within the Residential Area to be excluded from the BID as set forth in Section 3.13(d), and which is legally described on Exhibit A-5.

"BID Operations Mill Levy" means any ad valorem property tax mill levy imposed by the BID (subject to any limitations set forth in the Operating Plan), which levy is imposed for purposes of paying for the costs associated with the administration and management of the BID and the operation and maintenance of the Eligible Public Improvements.

"Bond Counsel" means nationally recognized bond counsel retained by the BID for an issue of Bonds.

"Bond Documents" means any resolution, indenture, reimbursement agreement or contract under which the BID incurs debt or other obligations in connection with financing the Eligible Public Improvements, including the Capital Pledge Agreement.

"Bond Requirements" means the debt service on, and related costs in connection with, the Bonds, including without limitation: payments with respect to principal; interest; prepayment premiums; reserve funds; surplus funds; sinking funds; costs of issuance; payments related to any credit enhancement, liquidity support or interest rate protection for the Bonds; fees and expenses of any trustee, bond registrar, paying agent, authenticating agent, rebate analyst or consultant, calculation agent, remarketing agent, or credit enhancement, liquidity support or interest rate protection provider; and other costs, fees and expenses related to the foregoing and any other amounts required to be paid by any Bond Documents.

"Bond Trustee" means the trustee or trustees for the holders of the Bonds appointed pursuant to the Bond Documents.

"Bonds" means those bonds or other obligations to be issued or incurred, from time to time by the BID, to be paid in part by the Funding Obligation in an aggregate principal amount not to exceed \$35,000,000 for the purpose of paying for the Eligible Public Improvements, and for any bonds or other obligations issued to refund the Bonds.

"Business Improvement District Act" means the Colorado Business Improvement District Act, Title 31, Article 25, Part 12, C.R.S.

"Capital Pledge Agreement" means the agreement between the Districts by which the Metro District will pledge the Metro District Debt Service Mill Levy to the BID for payment of the Bonds.

"CGIA" means the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S.

"Completion of Construction" for any Private Improvement means the issuance of a certificate of occupancy by the Town so that the Private Improvement described in such certificate may open for permanent occupancy and utilization for its intended purposes; and for any Eligible Public Improvement means construction acceptance in accordance with applicable laws, ordinances, and regulations of the Town, and any other governmental entity or public utility with jurisdiction, subject to any applicable conditions of maintenance and warranty and the terms of this Agreement.

"County" means Boulder County, Colorado.

"County Assessor" means the county assessor of Boulder County, Colorado.

"Cure Period" means the 30-day period immediately following the giving of notice in writing of an Event of Default by a non-defaulting Party to the defaulting Party.

"Developer Advances" means, collectively, amounts advanced or incurred by the Developer to pay any Eligible Costs; provided that the total amount of any such Developer Advances that are eligible to be reimbursed from proceeds of the Bonds or Pledged Revenues shall not exceed \$35,000,000.

"Districts" means the BID and the Metro District.

"District Incremental Property Tax Revenues" means the revenues actually received by the Authority from (a) the levy of (i) the Metro District Debt Service Mill Levy, (ii) the Metro District Operations Mill Levy and (iii) the BID Operations Mill Levy multiplied by (b) the Base Value of each District. District Incremental Property Tax Revenues are not a component of the Incremental Property Tax Revenues under this Agreement.

"Eligible Accrued Interest" means the amount of accrued interest that will be due and payable to the Developer on unreimbursed Developer Advances in accordance with Section 4.06.

"Eligible Costs" means, collectively, the reasonable and customary expenditures for design and construction of Eligible Public Improvements, including necessary and reasonable soft costs, as certified and approved in accordance with Exhibit E. The maximum amount of Eligible Costs to be paid or reimbursed pursuant to this Agreement shall be \$35,000,000.

"Eligible Public Improvements" means the public improvements described in **Exhibit D**.

"Environmental Laws" means all federal, State and local environmental, health and safety statutes and regulations in effect now or in the future and applicable to the Project, including, but not limited to, federal laws such as the Comprehensive Environmental Response, Compensation and Liability Act ("**CERCLA**"), 42 U.S.C. §§ 9602, *et seq.*, as amended, the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601(20(D)), the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, *et seq.*, the Federal Water Pollution Control Act, as amended by the Clean Water Act Amendments of 1977, 33 U.S.C. §§ 1251, *et seq.*, the Clean Air Act of 1966, as amended, 42 U.S.C. §§ 7401, *et seq.*, the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136, *et seq.*, the Occupational Safety and Health Act, 29 U.S.C. §§ 651, *et seq.*, the Safe Drinking Water Act, 42 U.S.C. §§ 300, *et seq.*, the Toxic Substances Control Act, 15 U.S.C. §§ 2601, *et seq.*, and any and all federal, State and local rules, regulations, authorizations, judgments, decrees, concessions, grants, franchises, agreements and other governmental restrictions and other agreements relating to the environment or to any pollutants as so defined under the Environmental Laws, as may from time to time be in effect.

"Environmental Liabilities" means any obligations or liabilities (including, without limitation, any claims, demands, actions, suits, enforcement actions, judgments, orders, writs, decrees, permits or injunctions imposed by any court, administrative agency, tribunal or otherwise, or other assertions of obligations and liabilities) that involve the Plan, the Project, or the Eligible Public Improvements, and are arising out of, based upon or related to Environmental Laws, including without limitation any judgment, order, writ, decree, permit or injunction imposed by any court, administrative agency, tribunal or otherwise, related to the Environmental Laws. The term "**Environmental Liabilities**" shall include, but not be limited to: (i) fines, penalties, judgments, awards, settlements, losses, damages (including foreseeable and unforeseeable consequential damages), costs, fees (including attorney and consultant fees), expenses and disbursements; (ii) defense and other responses to any administrative or judicial action (including claims, notice letters, complaints, and other assertions of liability); and (iii) financial responsibility for: (a) cleanup costs and injunctive relief, including any corrective action, removal, remedial or other response actions, and natural resource damages; (b) any other compliance or remedial measures; and (c) bodily injury, medical monitoring, wrongful death, and property damage. The terms "**removal**," "**remedial**" and "**response**" in the immediately preceding sentence shall include without limitation the types of activities covered by CERCLA, as amended, and whether the activities are those which might be taken by a government entity or those which a government entity might seek to require of waste generators, storers, treaters, owners, operators, transporters, disposers or other persons under "removal," "remedial," or other "response" actions.

"Event of Default" has the meaning, with respect to each Party, provided in Section 6.01.

"Excluded Property" means the BID Excluded Property and the Metro District Excluded Property.

"Force Majeure" means acts of God, strikes, lockouts or other major industrial disturbances, acts of public enemies, wars, terrorism, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts, unusual and severe weather conditions, pandemics, civil disturbances, explosions, litigation initiated by third parties seeking to overturn or enjoin any approval granted by the Town, the Authority, or any other governmental or quasi-governmental agency relating to the Project.

"Funding Obligation" means the obligation of the Authority described in Article IV, the principal amount of which shall not exceed \$35,000,000.

"Incremental Property Tax Revenues" means all revenues actually received by the Authority from the levy of Property Tax multiplied by the value of the Property in excess of the Base Value, as determined by the County according to applicable law, but excluding District Incremental Property Tax Revenues.

"Master Plan" means the Four Corners Site Plan and any other development plans for the remainder of the Plan Area as approved by the Town, as amended.

"Metro District Debt Service Mill Levy" means that certain ad valorem property tax mill levy imposed by the Metro District (subject to the limitations set forth in the Service Plan), in the maximum amount of 40 mills, which may be adjusted as provided in the Service Plan, which levy is pledged to and imposed for purposes of paying debt, which may include the Bonds. The Metro District Debt Service Mill Levy may be imposed only so long as there is outstanding Metro District debt, including the Capital Pledge Agreement.

"Metro District Excluded Property" means the real property within the Residential Area to be excluded from the Metro District as set forth in Section 3.13(c), and which is legally described on Exhibit A-4.

"Metro District Operations Mill Levy" means that certain ad valorem property tax mill levy imposed by the Metro District (subject to the limitations set forth in the Service Plan), which levy is imposed for purposes of paying for the costs associated with the administration and management of the District and the operation and maintenance of the Eligible Public Improvements.

"Operating Plan" means the Operating Plan of the BID submitted to the Town annually as required by the Business Improvement District Act, as such plan may be amended from time to time.

"Pass-Through Obligation" means the obligation of the Authority described in Section 4.01(b).

"Payment Date" means for Incremental Property Tax Revenues, May 1 and November 1 each year during the Term, commencing on the later of (a) November 1, 2022 and (b) the date the Town approves the Four Corners Subdivision Plat (a replat of a portion of Canyon Subdivision No. 10) and Erie Four Corners Site Plan.

"Person" means an individual, association, unincorporated organization, corporation (for profit or nonprofit), limited liability company, partnership, joint venture, business trust or government or agency or a political subdivision thereof, or any other entity.

"Pledged Property Tax Revenues" means all Incremental Property Taxes collected by the Authority, less (a) the Authority Administrative Fee, (b) mill levy override payments approved by the electors of Saint Vrain Valley School District Re-1J in 2012 and subsequent years (for clarity, such mill levy rate was 103.238 mills for collection year 2021), and (c) any offsets collected by the County Treasurer for return of overpayments or any reserve funds retained by the Authority for such purposes in accordance with Section 31-25-107(9)(a)(III), C.R.S.

"Pledged Revenues Calculation Period" means May 1 and November 1, commencing as of November 1, 2022. The duration of each succeeding Pledged Revenues Calculation Period shall be for 6 months, beginning on the 16th day of the month following the termination of the immediately preceding Pledged Revenues Calculation Period.

"Pledged Revenues Payment" means any payment of Pledged Revenues from the Pledged Revenues Fund made by the Authority to the BID for Bonds or to the Developer for the payment of the Funding Obligation pursuant to this Agreement.

"Pledged Revenues" means the Pledged Property Tax Revenues and any interest earned on the Pledged Property Tax Revenues on deposit in the Pledged Revenues Fund.

"Pledged Revenues Fund" means the fund or account line item established by the Authority to which Pledged Revenues shall be credited and from which Pledged Revenue Payments shall be made.

"Private Improvements" means all or any part of the taxable retail and other commercial building improvements or residential vertical improvements which the Developer intends to construct on the Project Area as described in **Exhibit B**.

"Project" means, collectively, the Private Improvements and the Eligible Public Improvements.

"Project Area" means that portion of the Plan Area legally described in **Exhibit A-2**, as the same may be supplemented and amended pursuant to **Section 3.13**.

"Property" means the taxable real and personal property in the Plan Area.

"Property Tax" means the taxes that are produced by the levy at the rate fixed each year by or for each Public Body upon the valuation for assessment of Property in the Plan Area.

"Public Body" means the State of Colorado or any municipality, quasi-municipal corporation, board, commission, authority, or other political subdivision or public corporate body of the State which levies an *ad valorem* property tax within the Plan Area boundaries.

"Residential Area" means the real property within the Plan Area that does not constitute the Project Area, and which is legally described in **Exhibit A-3**.

"Service Plan" means the Service Plan of the Metro District, as submitted July 13, 2016 and revised September 15, 2016 and approved by the Town, as amended.

"Special District Act" means the Colorado Special District Act, Title 32, Article 1, C.R.S.

"State" means the State of Colorado.

"Term" means the term of this Agreement, which, unless otherwise terminated as expressly provided in this Agreement, shall be the period commencing on the Effective Date and terminating December 31, 2040 to effectuate the Pass-Through Obligation under Section 4.01(b). Notwithstanding the foregoing, in no event shall the Authority be obligated to remit Pledged Revenues after satisfaction of the Funding Obligation.

"Urban Renewal Law" means the Colorado Urban Renewal Law, Title 31, Article 25, Part 1, C.R.S.

Article II. The Developer's Obligations

Section 2.01 Construction of the Project.

(a) The Developer shall develop the Project in a manner consistent with the Master Plan as approved by the Town and pursuant to the terms of this Agreement. The Developer shall cause the Project to be constructed to quality and design standards such that the Project positively contributes to the rehabilitation and the elimination of blight within the Plan Area.

(b) The Developer intends to commence construction, diligently pursue completion, and intend to complete construction of the Private Improvements and Eligible Public Improvements, in accordance with the Construction Schedule attached as **Exhibit E**.

(c) In developing the Project and placing the Project in operation, the Developer will, subject to the Master Plan and any approved variances and waivers, comply with all applicable Town permitting, zoning, and land use requirements and other applicable federal, State, County, and Town statutes, rules, regulations, and ordinances, including, but not limited to, the provisions of the Plan and this Agreement.

Section 2.02 Construction of Eligible Public Improvements.

(a) At its election, the Developer may self-finance, construct and install the Eligible Public Improvements with appropriate care and diligence and in a manner consistent with the Master Plan and any subsequent site plans as approved by the Town and pursuant to the terms of this Agreement.

(b) If constructing and installing the Eligible Public Improvements, the Developer shall, subject to the Master Plan and any approved variances and waivers, comply with all applicable Town permitting, zoning, and land use requirements and other applicable federal, State, County, and Town statutes, rules, regulations, and ordinances, including without limitation the provisions of the Plan and this Agreement.

(c) If constructing and installing the Eligible Public Improvements, the Developer shall ensure that any financial encumbrance or financial lien that has been or may have been created on or attached to any Eligible Public Improvement or any part thereof required by the Master Plan to be conveyed to the Town, whether by voluntary act of the Developer or otherwise, is removed, released, and discharged in its entirety prior to such conveyance.

(d) The Developer will cooperate with development surrounding the Project in the construction of the Eligible Public Improvements.

Section 2.03 Financing of Eligible Public Improvements. Subject to the terms and conditions set forth in this Agreement, the Authority agrees that the Developer may elect to be reimbursed from the Pledged Revenues directly or may elect to be reimbursed from proceeds of the Bonds if issued by the BID. The Developer has elected to be reimbursed from proceeds of the Bonds. Any reimbursement to the Developer directly from the Pledged Revenues must be (a) paid only after all of the Bonds have been defeased and (b) subject to the other terms and limits of this Agreement, including the maximum Funding Obligation of \$35,000,000.

Section 2.04 Verification of Public Improvement Costs. Whether reimbursed by direct disbursement to the Developer, or by means of Bond proceeds through the BID, all reimbursement of Eligible Costs pursuant to this Agreement shall be subject to the certification of Eligible Costs pursuant to this Section 2.04. All Eligible Costs shall be certified by the Developer in accordance with the procedures set forth in **Exhibit E** or as otherwise approved in writing by the Parties.

Section 2.05 General Indemnity; Environmental Indemnity.

(a) The Developer shall defend, indemnify, assume all responsibility for and hold the Authority, its commissioners, officers, agents, and employees, and any officers, agents, and employees of the Town that perform services for or on behalf of the Authority (collectively the "**Indemnified Parties**" or singularly, each an "**Indemnified Party**") harmless, including, without limitation, for attorney fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the Developer's activities undertaken pursuant to this Agreement or Developer's activities regarding the financing, development, improvement, redevelopment, construction, repair, maintenance, management, acquisition, leasing, sale, disposition or other conduct or activities of the Developer related to the Project Area, whether such activities are undertaken by the Developer or anyone directly or indirectly employed by or under contract to the Developer or contractor of the Developer and whether such damage shall accrue or be discovered before or after termination of this Agreement. The Developer's obligations under this Section 2.05 shall not apply to losses, damages or claims to the extent arising from acts or omission of the Indemnified Parties. It is agreed by the Parties that the Developer's indemnification obligations under this Section 2.05 and any other indemnification obligations of the Developer under this Agreement, shall run with the land, and be binding upon the then-current owner of the Project at the time such claim arises.

(b) The Developer hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any and all Environmental Liabilities. The Developer's obligations under this Section 2.05 shall not apply to losses, damages, or claims to the extent arising from acts or omissions of the Indemnified Parties.

Section 2.06 Litigation. The Developer will cooperate with the Authority in taking reasonable actions to defend against any litigation brought by a third party against the Authority concerning the Plan, the Project, or this Agreement.

Section 2.07 Transfer of Property Interests. Unless otherwise agreed, the Developer acknowledges that the exclusive source of payment of the Funding Obligation is the Pledged Revenues, and that, to the extent the Developer selects tenants or elects to dispose of property interests within the Plan Area to owners or tenants which are not required to pay property tax, such choice limits the amount of Pledged Revenues available for the Authority to discharge its Funding Obligation. The Developer further acknowledges that, as further set forth herein, the Authority's Funding Obligation terminates upon the repayment of the Bonds, payment in full of the Funding Obligation, or expiration of the Term, whichever comes first. The Developer therefore acknowledges and accepts the entirety of any risk that sufficient Pledged Revenues may not be available to pay the entire Funding Obligation.

Section 2.08 Risk of Insufficient Property Tax Increment Revenues. The Developer further understands and acknowledges that the Incremental Property Tax

Revenues are remitted to the Authority according to policies and procedures adopted by the State Property Tax Administrator, the County Assessor's Office, and the County Treasurer's Office, and based on the annual valuation of all properties located within the Plan boundaries. Accordingly, the timing and payment by the County to the Authority of all, or some portion of the Incremental Property Tax Revenues is a matter that is out of the control of the Authority. Nothing herein is intended to be, or shall be construed as, a promise or guarantee by the Authority that the Pledged Revenues will be collected and remitted to the Authority in any projected or anticipated amounts. The Developer acknowledges that the generation of Incremental Property Tax Revenues is significantly dependent upon completion of the development of the Property and agrees that the Authority is in no way responsible for the amount of Incremental Property Tax Revenues actually generated. The Developer further acknowledges that the Property Tax Administrator for the State and the County Assessor may modify the process for calculating Incremental Property Tax Revenues which may reduce the amount of Pledged Revenues. The Developer therefore agrees to assume the entire risk that insufficient Incremental Property Tax Revenues will be generated to reimburse all Eligible Costs.

Section 2.09 Property Reports. In order to enable the Authority to verify appropriate allocations to the Pledged Revenues Fund, the Developer agrees that, on or before April 1 of each year, it will submit a report to the Authority and the Districts identifying the name of the purchaser of property and the address or location of property in the Project Area since the last report. Subject to verification by the County Assessor, this report, in addition to certification data provided by the County Assessor, will be used by the Authority to confirm the allocations of Pledged Property Tax Revenues to the Pledged Revenues Fund.

Section 2.10 Books and Accounts. During the Term, Developer will keep proper and current books and accounts in which complete and accurate entries shall be made of such calculations, allocations, and payments as are required by this Agreement or as may be reasonably requested by the Authority in relation to this Agreement.

Section 2.11 Inspection of Records. All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of Developer relating to the Project Area, including the books and accounts described herein, shall at all reasonable times be open to inspection by such accountants or other agents as the Authority may from time to time designate.

Article III. The Districts' Obligations

Section 3.01 Financing of Eligible Public Improvements. Subject to the terms and conditions set forth in this Agreement, the BID may issue the Bonds from time to time, provided that: (a) the Bonds issued by the BID shall be issued on terms and conditions consistent with the Operating Plan; (b) any pledge of the Metro District under the Capital Pledge Agreement shall be consistent with the Service Plan; (c) all Bonds

issued shall be on terms and conditions consistent with this Agreement; and (d) the net proceeds of the Bonds shall be used to finance the costs of the Eligible Public Improvements. The BID may refinance the Bonds, in whole or in part, at any time in order to take advantage of beneficial financial market conditions; provided, however, that under no circumstances shall any refinancing of the Bonds, whether or not to avoid a default, increase the Funding Obligation or extend the Term.

Section 3.02 Approval of Bond Documents. The BID shall notify the Authority of its intent to issue Bonds and shall provide draft Bond Documents for the review and approval of the Authority for conformance with this Agreement no later than 14 days prior to the date on which such District intends to issue the Bonds. The Authority shall have 14 days after receipt of the Bond Documents to notify the BID in writing of any objections to any provisions set forth in such Bond Documents, setting forth the specific objection. If the Authority has not so objected in writing by the expiration of the 14-day period, then the Authority will be deemed to have consented to the form and substance of the Bond Documents.

Section 3.03 Limited Pledges. The Bonds and the payment of any Bond Requirements shall be special revenue obligations of the BID payable from the Pledged Revenues as provided in the Bond Documents and any other revenues pledged to the payment of the Bond Requirements. The pledge of the Metro District under the Capital Pledge Agreement shall be a limited obligation pledge of the Metro District Debt Service Mill Levy. The Bonds or Bond Requirements shall not constitute an indebtedness of the Authority within the meaning of any constitutional or statutory debt limitation or restriction; provided, however, the Authority acknowledges that (a) the BID may pledge, assign, and convey certain of its rights in this Agreement and certain revenues and receipts derived or to be derived hereunder in trust for the security for the payment of the Bond Requirements and (b) the Metro District may pledge, assign, and convey certain of its rights in this Agreement and certain revenues and receipts derived or to be derived hereunder in trust for the security for the payment of the Metro District's obligations under the Capital Pledge Agreement, and the Authority hereby consents to such pledges and conveyances, subject to the assignment provisions contained in Section 9.02.

Section 3.04 Districts' Funding Pledges. The Metro District hereby agrees to impose the Metro District Debt Service Mill Levy and to pledge the same under the Capital Pledge Agreement to pay the Bonds. Nothing herein shall preclude either the Metro District or the BID from pledging any other revenue source for the repayment of the Bond Requirements.

Section 3.05 Districts' Operations and Maintenance. The Authority agrees that the activities and undertakings of the Districts under this Agreement, including the ongoing operations of the Districts and the maintenance of the Eligible Public Improvements, are in compliance with and in furtherance of the objectives and goals of the Plan and the Urban Renewal Law, and that such activities and undertakings are being carried out by the Districts on behalf of the Authority to execute the Project.

Section 3.06 Verification of Public Improvement Costs. The expenditure of the proceeds of the Bonds or the reimbursement of Developer Advances shall be subject to cost verification and certification as set forth in **Exhibit E.**

Section 3.07 Books and Accounts; Financial Statement. During the Term, the Districts will keep, or cause to be kept, proper and current books and accounts in which complete and accurate entries shall be made of the receipt and use of the Pledged Revenues; the amounts paid out as principal of, and interest on the Bonds and other Bond Requirements; and the use of Bond proceeds, the outstanding principal and interest balance of the Funding Obligation at the end of each year of the Term; the costs and expenditures on the Eligible Public Improvements expended by the Districts; the Districts' administrative and management expenses; and such other calculations, allocations, and payments as are required by this Agreement or as may be reasonably requested by the Authority. Unless otherwise exempt pursuant to Colorado law, during the Term, the Districts shall prepare after the close of each fiscal year of the Districts, a complete audited financial statement for such year in reasonable detail covering the above information, certified by a public accountant selected by the Districts, and shall furnish a copy of such statement to the Authority upon its receipt.

Section 3.08 Inspection of Records. All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Districts relating to the Project Area, the Eligible Public Improvements, the Metro District Debt Service Mill Levy, the Metro District Operations Mill Levy, the BID Operations Mill Levy, the Funding Obligation, and the Bonds, including the books and accounts described herein, shall at all reasonable times be open to inspection by such accountants or other agents as the Authority may from time to time designate.

Section 3.09 BID General Indemnity; Environmental Indemnity.

(a) To the extent permitted by law, and without waiving or limiting the application of the CGIA, the BID shall defend, indemnify, assume all responsibility for and hold the Indemnified Parties harmless, including, without limitation, for attorney fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the BID's activities undertaken pursuant to this Agreement or the BID's activities regarding the financing, development, improvement, redevelopment, construction, repair, maintenance, management, acquisition, leasing, sale, disposition or other conduct or activities, including use of Bond proceeds, of the BID related to the Plan Area, whether such activities are undertaken by the BID or anyone directly or indirectly employed by or under contract to the BID or contractor of the BID and whether such damage shall accrue or be discovered before or after termination of this Agreement. The BID's obligations under this **Section 3.09** shall

not apply to losses, damages or claims arising from acts or omission of the Indemnified Parties.

(b) To the extent permitted by law, and without intending to waive or limit applicable the CGIA, the BID hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any and all Environmental Liabilities. The BID's obligations under this Section 3.09 shall not apply to losses, damages, or claims to the extent arising from acts or omissions of the Indemnified Parties.

Section 3.10 Metro District General Indemnity; Environmental Indemnity.

(a) To the extent permitted by law, and without waiving or limiting the application of the CGIA, the Metro District shall defend, indemnify, assume all responsibility for and hold the Indemnified Parties harmless, including without limitation for attorney fees and costs, from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the Metro District's activities undertaken pursuant to this Agreement or the Metro District's activities regarding the financing, development, improvement, redevelopment, construction, repair, maintenance, management, acquisition, leasing, sale, disposition or other conduct or activities, including use of Bond proceeds, of the Metro District related to the Plan Area, whether such activities are undertaken by the Metro District or anyone directly or indirectly employed by or under contract to the District or contractor of the District and whether such damage shall accrue or be discovered before or after termination of this Agreement. The Metro District's obligations under this Section 3.10 shall not apply to losses, damages or claims arising from acts or omission of the Indemnified Parties.

(b) To the extent permitted by law, and without intending to waive or limit applicable the CGIA, the Metro District hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any and all Environmental Liabilities. The Metro District's obligations under this Section 3.10 shall not apply to losses, damages, or claims to the extent arising from acts or omissions of the Indemnified Parties.

Section 3.11 Litigation. The Districts will cooperate with the Authority in taking reasonable actions to defend against any litigation brought by a third party against the Authority concerning the Plan, the Project, the Eligible Public Improvements, or this Agreement.

Section 3.12 Legal Opinion. The BID and the Metro District, at their sole cost and expense, shall each provide to the Authority an opinion of their general counsel to the effect that this Agreement and the obligations set forth herein are valid and binding, which opinion shall be reasonably acceptable to the Authority.

Section 3.13 Boundary Changes. Due to changes in expected use since the date of the Prior Agreement, the current boundaries of the BID contain certain

property expected to be residential and the Metro District contains certain property expected to be commercial. The following changes will be made prior to issuance of the Bonds:

(a) Inclusions into the Metro District and Exclusion from the BID. All property expected to be developed as residential and currently within the boundaries of the BID shall be excluded therefrom and included into the Metro District, except for the Excluded Property.

(b) Inclusions into the BID and Exclusion from the Metro District. All commercial property currently within the boundaries of the Metro District shall be excluded therefrom and included into the BID.

(c) Exclusion from the Metro District. The Developer has negotiated a purchase and sale agreement with a prospective owner (the "**Buyer**") of the Metro District Excluded Property, which desires to develop such property as for-rent residential units. The Buyer's purchase of the Metro District Excluded Property is expressly conditioned on the Metro District Excluded Property not being subjected to the Metro District Debt Service Mill Levy. The Buyer has agreed to imposition of a payment in lieu of tax ("**PILOT**") equal to the amount that would be generated on the Metro District Excluded Property from the Metro District Operations Levy, but not to exceed 10 mills, in compliance with the Metro District Service Plan. The Metro District will exclude the Excluded Property from its boundaries and subject such property to the PILOT by means of a covenant running with the land, which covenant shall comply with the Metro District Service Plan.

(d) Exclusion from the BID. The BID Excluded Property is currently within the boundaries of the BID, but is now intended to be developed as for-rent residential property and must be excluded from the BID under Section 31-25-1208, C.R.S. The BID Excluded Property and the Metro District Excluded Property are similarly situated, and thus a PILOT equal to the amount that would be generated on the BID Excluded Property from the BID Operations Levy, but not to exceed 10 mills, will be imposed on the BID Excluded Property. Under Section 31-25-1220, C.R.S., the Town will be asked to exclude the BID Excluded Property from the BID's boundaries.

(e) Amendment of Exhibits A-2 and A-3. Following the changes to the Districts' boundaries as described in this Section 3.13, the Parties will substitute **Exhibit A-2** and **Exhibit A-3** attached hereto as of the Effective Date with **Amended Exhibit A-2** and **Amended Exhibit A-3**.

Article IV. The Authority's Obligations

Section 4.01 Creation of Pledged Revenues Fund; Separate Treatment of Pass-Through Obligation. Pursuant to the terms of this Agreement,

the Pledged Revenues are revenues of the Authority as contemplated by the Plan and the District Incremental Property Tax Revenues are revenues of the respective Districts. The Authority Payment Obligations established by this Article IV shall be obligations of the Authority under Section 31-25-107(9), C.R.S.

(a) Pledged Revenues Fund. To satisfy the Funding Obligation, the Authority hereby establishes the Pledged Revenues Fund as a segregated account and shall provide accounting reports to the Districts with respect to the Pledged Revenues Fund at the time of each Pledged Revenue Payment hereunder.

(b) Pass-Through Obligation. No later than the 10th day of each month, the Authority shall disburse to: (i) the BID all revenues received by the Authority from the BID Operations Mill Levy; and (ii) the Metro District all revenues received by the Authority from (A) the Metro District Operations Mill Levy and (B) the Metro District Debt Service Mill Levy (collectively the "**Pass-Through Obligation**"). The Pass-Through Obligation shall not count against the principal amount of the Funding Obligation. The Authority shall not pay the Districts for interest on the Pass-Through Obligation.

Section 4.02 Calculation of Pledged Revenues. No later than the last day of each Pledged Revenues Calculation Period, the Authority shall calculate the following revenues from Property Tax records provided by the County relating to the Plan Area for that Pledged Revenues Calculation Period:

- (a) The Pledged Property Tax Revenues;
- (b) The total interest earned during the Pledged Revenues Calculation Period on Pledged Revenues on deposit in the Pledged Revenues Fund; and
- (c) The total amount of Pledged Revenues.

Section 4.03 Pledged Revenue Payments; Funding Obligation.

(a) Subject to the terms of this Agreement, the Authority shall deposit all of the Pledged Revenues into the Pledged Revenues Fund as soon as reasonably practical following receipt.

(b) Subject to the condition to the Authority's pledge set forth in the first sentence of Section 4.04, after the verification and certification of the completion of any portion of the Eligible Public Improvements in accordance with Section 3.06 and issuance of the Bonds, Pledged Revenue Payments consisting of all Pledged Revenues then on deposit in the Pledged Revenues Fund shall be disbursed on the Payment Date to the BID or any trustee, custodian or escrow agent designated by the BID in writing, for the purposes of paying the Bonds and any Bond Requirements. The Funding Obligation shall expire at the end of the Term.

(c) The total principal amount of the Funding Obligation shall not exceed \$35,000,000. For clarity, the Funding Obligation limitation is exclusive of interest payable under Section 4.06.

(d) To the extent that (i) the Funding Obligation has not been fully paid, (ii) the Bonds have been defeased and (iii) there are unreimbursed Eligible Costs, the Funding Obligation shall be payable to the Developer solely from Pledged Revenues. Subject to the foregoing requirements, after verification and certification of the completion of all of the Eligible Public Improvements in accordance with Section 2.04, the Pledged Revenue Payments shall be disbursed on the Payment Date to the Developer.

(e) Notwithstanding any provision herein to the contrary, the Authority, at its sole discretion, may make Pledged Revenue Payments at any time prior to the Payment Date.

Section 4.04 Pledged Revenues Condition and Supplemental Act.

(a) From the time that the BID issues the Bonds through the end of the Term, the Authority hereby irrevocably pledges the Pledged Revenues and amounts on deposit in the Pledged Revenues Fund to the payment of any Bond Requirement or Developer Advance, but only to the extent such amounts are pledged under any Bond Documents or Developer Advance reimbursement agreements.

(b) The Authority elects to apply the provisions of Section 11-57-208, C.R.S., to this Agreement. The creation, perfection, enforcement, and priority of the pledge of the Pledged Revenues as provided herein shall be governed by Section 11-57-208, C.R.S., and this Agreement. The Pledged Revenues as received by or otherwise credited to the Authority, shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge on the Pledged Revenues and the obligation to perform the contractual provisions made herein shall have priority over any or all other obligations and liabilities of the Authority. The lien of such pledge shall be valid, binding and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against the Authority irrespective of whether such persons have notice of such liens.

Section 4.05 Payments Limited to Allocated Revenues Actually Received. The Authority shall, in no event, be required to pay to the BID or the Developer any greater amount than the Pledged Revenues actually received by the Authority.

Section 4.06 Principal and Interest.

(a) Each Pledged Revenue Payment shall be payable from Pledged Revenues on deposit in the Pledged Revenues Fund as of the last day of the Pledged Revenues Calculation Period and shall include Eligible Accrued Interest, to the extent permitted by this Agreement. Pledged Revenues shall first be applied to the payment of

Eligible Accrued Interest on the outstanding balance of the Funding Obligation. Any Pledged Revenues remaining after the payment of Eligible Accrued Interest shall be applied to the reduction of principal of the outstanding balance of the Funding Obligation.

(b) Interest on Developer Advances will begin to accrue on the later of: (a) the date of Completion of Construction of the corresponding Private Improvements and (b) the date such Developer Advances are approved as constituting Eligible Costs by the Authority in accordance with **Exhibit E**. Eligible Accrued Interest shall accrue at a simple per annum interest rate and shall not compound. There shall be no obligation to pay or reimburse Eligible Accrued Interest on Developer Advances during any period of time that the Developer is in default under this Agreement or any agreement with the Town related to the Project.

(c) Interest on unreimbursed Developer Advances shall accrue at the following interest rate: (i) if the Developer borrows money to make such Developer Advances, interest shall accrue at the actual rate of interest that the Developer is paying to the Developer's lender under the applicable loan documents, at a maximum interest rate not exceeding 9.00% per annum and (ii) if the Developer does not borrow money to make such Developer Advances, interest shall accrue at an interest rate equal to the actual interest cost paid to an equity investor, that is not the Developer, a principal of the Developer or an affiliate of the Developer, in an amount not to exceed 9.00% per annum. The Developer shall notify the Town and the Authority in writing as to the interest rate that will apply to unreimbursed Developer Advances.

Section 4.07 Books and Accounts; Financial Statement. During the Term, the Authority will keep proper and current books and accounts in which complete and accurate entries shall be made of the Pledged Revenues received by the Authority; the amounts deposited into and paid out from the Pledged Revenues Fund; any interest earned on and credited to the Pledged Revenues Fund; and such other calculations, allocations and payments required by this Agreement. During the Term, the Authority shall prepare within 180 days after the close of each fiscal year of the Authority, a complete financial statement for such year in reasonable detail covering the above information, certified by a public accountant selected by the Authority, and shall furnish a copy of such statement to the Districts.

Section 4.08 Inspection of Records. Subject to applicable law, all books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Authority relating to the Plan Area, the Project Area, the Eligible Public Improvements, and Property Tax Revenues, the Pledged Revenues, and the Pledged Revenues Fund, including the books and records described in Section 4.07, shall at all reasonable times be open to inspection of the Bond Trustee and by such accountants or other agents of the Districts may from time to time designate.

Section 4.09 Limitation. During the Term, the Authority shall not enter into any agreement or transaction or take any action which impairs the rights of the Districts

or the Developer under this Agreement or has a direct negative impact on the Pledged Revenues.

Section 4.10 Authority Opinion. The Authority will provide an opinion of Authority Counsel on the due authorization, validity and enforceability of this Agreement that can be relied on by the BID and the underwriter of the Bonds in connection with each issuance or refunding of the Bonds, which opinion shall be reasonably acceptable to the BID and its Bond Counsel and such underwriter.

Section 4.11 Authority Costs. The Authority shall pay for any of its costs incurred related to the collection and remittance of sums due hereunder and administration of its obligations under this Agreement from the Incremental Property Tax Revenues collected from the Project Area that are not required under this Agreement to be included in the Pledged Revenues Fund.

Section 4.12 Obligation of the Authority. The Parties acknowledge that, according to the decision of the Colorado Court of Appeals in Olson v. City of Golden, 53 P.3d 747 (Colo. App. 2002), an urban renewal authority is not a local government and therefore is not subject to the provisions of Article X, Section 20 of the Colorado Constitution (the "**TABOR Amendment**"). Accordingly, the Authority must annually appropriate (a) Pledged Revenues for Pledged Revenue Payments to satisfy the Funding Obligation and (b) payments to the Districts to satisfy the Pass-Through Obligation.

Article V. Representations of the Parties

Section 5.01 Representations and Warranties of the Developer. The Developer represents and warrants that:

(a) The Developer is a limited liability company of the State, is duly organized and validly existing under the laws of the State, and is authorized to do business in the State.

(b) The Developer is not in violation of any provisions of its organizational documents or operating agreements, or the laws of the State.

(c) The Developer has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by proper action, which Agreement shall be a legal, valid, and binding obligation of the Developer, enforceable against the Developer in accordance with its terms, subject to bankruptcy, insolvency, and equitable remedies.

(d) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the organizational documents of the Developer or, to its knowledge, constitute a default or result in the breach of any term or

provision of any contract or agreement to which the Developer is a party or by which it is bound.

(e) There is no litigation, proceeding, or investigation contesting the power or authority of the Developer with respect to the Project or this Agreement, and the Developer is unaware of any such litigation, proceeding, or investigation that has been threatened.

Section 5.02 Representations and Warranties of the BID. The BID represents and warrants that:

(a) The BID is a quasi-municipal corporation and political subdivision of the State created pursuant to the Business Improvement District Act, and is duly organized and validly existing under the laws of the State.

(b) The BID is not in violation of any provisions of its Operating Plan or other governing documents, operating agreements, or the laws of the State.

(c) The BID has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by proper action, which Agreement shall be a legal, valid, and binding obligation of the BID, enforceable against the BID in accordance with their terms, subject to bankruptcy, insolvency, and equitable remedies.

(d) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the Operating Plan or any other governing documents of the BID or, to its knowledge, constitute a default or result in the breach of any term or provision of any contract or agreement to which the BID is a party or by which the BID is bound.

(e) There is no litigation, proceeding, or investigation contesting the power or authority of the BID with respect to the Project or this Agreement, and the BID is unaware of any such litigation, proceeding, or investigation that has been threatened.

(f) As of the date of issuance of the Bonds, the BID will represent and warrant that it has the authorization, authority and power to undertake and carry out all activities associated with the Eligible Public Improvements and payment of the same with the proceeds of the Bonds, and the use of the Pledged Revenues for payment of the Bond Requirements is permissible pursuant to State and federal law and regulations promulgated thereunder, including, but not limited to, the Urban Renewal Law, the Business Improvement District Act, and the Internal Revenue Code of 1986, as amended and as applicable.

Section 5.03 Representations and Warranties of the Metro District. The Metro District represents and warrants that:

(a) The Metro District is a quasi-municipal corporation and political subdivision of the State created pursuant to the Special District Act, and is duly organized and validly existing under the laws of the State.

(b) The Metro District is not in violation of any provisions of its Service Plan or other governing documents, operating agreements, or the laws of the State.

(c) The Metro District has the power and legal right to enter into this Agreement and have duly authorized the execution, delivery, and performance of this Agreement by proper action, which Agreement shall be a legal, valid, and binding obligation of the Metro District, enforceable against the Metro District in accordance with their terms, subject to bankruptcy, insolvency, and equitable remedies.

(d) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the Service Plan or any other governing documents of the Metro District or, to its knowledge, constitute a default or result in the breach of any term or provision of any contract or agreement to which the Metro District is a party or by which the Metro District is bound.

(e) There is no litigation, proceeding, or investigation contesting the power or authority of the Metro District with respect to the Project or this Agreement, and the Metro District is unaware of any such litigation, proceeding, or investigation that has been threatened.

(f) As of the date of issuance of the Bonds, the Metro District will represent and warrant that it has the authorization, authority and power to undertake and carry out all activities associated with the Eligible Public Improvements and payment of the same with the proceeds of the Bonds, and the use of the Pledged Revenues for payment of the Bond Requirements is permissible pursuant to State and federal law and regulations promulgated thereunder, including, but not limited to, the Urban Renewal Law, the Special District Act, and the Internal Revenue Code of 1986, as amended and as applicable.

Section 5.04 Representations and Warranties of the Authority. The Authority represents and warrants that:

(a) The Authority is a body corporate organized pursuant to the provisions of the Urban Renewal Law and is not a "district" within the meaning of the TABOR Amendment. As such, it has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action, which Agreement shall be a legal, valid, and binding obligation of the Authority, enforceable against the Authority in accordance with its terms.

(b) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the governing laws or formation documents

of the Authority or constitute a default or result in the breach of any term or provision of any contract or agreement to which the Authority is a party or by which it is bound.

(c) There is no litigation or administrative proceeding or investigation pending or, to the knowledge of the Authority, threatened, seeking to question the power or authority of the Authority to enter into or perform this Agreement or any action taken by the Authority with respect to the Project Area or the Plan.

(d) The Project is, for all purposes, an appropriate and proper urban renewal project as contemplated under the Urban Renewal Law and the Plan.

(e) The Authority has not pledged the Pledged Revenues for any other purpose.

Article VI. Defaults and Remedies

Section 6.01 Events of Default.

(a) By the Authority. An "**Event of Default**" by the Authority shall be limited to the following events:

(i) Any representation or warranty made herein by the Authority was materially and knowingly inaccurate when made; or

(ii) Failure or refusal to perform and/or observe any other of the material covenants, agreements, or conditions made by the Authority herein.

The declaration of an Event of Default shall be subject to the giving of not less than 30 days' notice in writing, specifying the nature of the Event of Default and requesting that it be corrected within the Cure Period. None of the foregoing acts, events, or omissions shall be an Event of Default hereunder so long as the Authority has in good faith commenced and is diligently pursuing efforts to correct the condition specified in such notice or if the Authority's failure to perform is caused by Force Majeure or by any act, omission, or Event of Default by the BID, the Metro District or the Developer.

(b) By the BID. An "**Event of Default**" by the BID shall be limited to the following:

(i) Any representations or warranties made herein by the BID was materially and knowingly inaccurate when made;

(ii) Failure or refusal to apply the Pledged Revenues to the payment of the Bond Requirements as provided herein;

(iii) Failure or refusal to apply the net Bond proceeds to the construction of the Eligible Public Improvements as provided herein; or

(iv) Failure or refusal to perform any other of the material covenants, agreements, or conditions made by the BID herein.

The declaration of an Event of Default shall be subject to the giving of not less than 30 days' notice in writing, specifying the nature of the Event of Default and requesting that it be corrected within the Cure Period. No act, event, or omission shall be an Event of Default hereunder so long as the BID has in good faith commenced and are diligently pursuing efforts to correct the condition specified in such notice or if the BID's failure to perform is caused by Force Majeure or by any act, omission, or Event of Default by the Authority or the Metro District.

(c) By the Metro District. An "**Event of Default**" by the Metro District shall be limited to the following:

(i) Any representations or warranties made herein by the Metro District was materially and knowingly inaccurate when made;

(ii) Failure or refusal to apply the Pledged Revenues under the Capital Pledge Agreement as provided herein; or

(iii) Failure or refusal to perform any other of the material covenants, agreements, or conditions made by the Metro District herein.

The declaration of an Event of Default shall be subject to the giving of not less than 30 days' notice in writing, specifying the nature of the Event of Default and requesting that it be corrected within the Cure Period. No act, event, or omission shall be an Event of Default hereunder so long as the Metro District has in good faith commenced and are diligently pursuing efforts to correct the condition specified in such notice or if the Metro District's failure to perform is caused by Force Majeure or by any act, omission, or Event of Default by the Authority or the BID.

(d) Defaults by the Developer. An "**Event of Default**" hereunder by the Developer shall be limited to the following:

(i) Any representation or warranty made herein by the Developer was materially and knowingly inaccurate when made; or

(ii) Failure or refusal to perform and/or observe any other of the material covenants, agreements, or conditions made by the Developer herein.

The declaration of an Event of Default shall be subject to the giving of not less than 30 days' notice in writing by the Authority, specifying the nature of the Event of Default and requesting that it be corrected within the Cure Period. No act, event, or

omission shall be an Event of Default hereunder so long as the Developer has in good faith commenced and is diligently pursuing efforts to correct the condition specified in such notice or if the Developer's failure to perform is caused by Force Majeure or by any act, omission, or Event of Default by the Authority.

Section 6.02 Remedies. The following remedies shall be available for Events of Default hereunder:

(a) Remedies of the Authority. Notwithstanding anything in this Agreement to the contrary, once the Bonds have been issued, under no circumstances shall the Authority's remedies upon an Event of Default by either the Districts or the Developer entitle the Authority to withhold payment of the Pledged Revenues, such commitment by the Authority to pay the Pledged Revenues upon issuance of the Bonds being irrevocable, or permit the Authority to interfere with the BID's ability to pay the Bond Requirements. The Authority's remedies for an Event of Default by the Districts that is not cured within the applicable Cure Period shall be strictly limited to the right to protect and enforce its rights under the Agreement by such suit, action, or special proceedings as it may deem appropriate under the circumstances, including without limitation an action for injunctive or similar relief that is available at law or in equity, including specific performance or an action in mandamus.

(b) Remedies of the BID. The BID's remedies for an Event of Default by either the Authority, the BID or the Developer that is not cured within the applicable Cure Period shall be strictly limited to the right to enforce its rights under the Agreement by such suit, action, or special proceedings as the BID may deem appropriate under the circumstances, including, without limitation, an action for actual damages, injunctive or similar relief that is available at law or in equity (but not specific performance or an action in mandamus). The Parties acknowledge that if there is an Event of Default of the Authority, the Bond Trustee shall have the right to exercise the BID's remedies provided for in this Section 6.02(b).

(c) Remedies of the Metro District. The Metro District's remedies for an Event of Default by the Authority, the BID or the Developer that is not cured within the applicable Cure Period shall be strictly limited to the right to enforce their rights under the Agreement by such suit, action, or special proceedings as the Metro District may deem appropriate under the circumstances, including, without limitation, an action for actual damages, injunctive or similar relief that is available at law or in equity (but not specific performance or an action in mandamus). The Parties acknowledge that if there is an Event of Default of the Authority, the Bond Trustee may have the right to exercise the Metro District's remedies provided for in this Section 6.02(c).

(d) Remedies of the Developer. The Developer's remedies for an Event of Default by the Authority, the BID or the Metro District that is not cured within the applicable Cure Period shall be strictly limited to an action to the right to enforce its rights under the Agreement by such suit, action, or special proceedings as it may deem

appropriate under the circumstances, including, without limitation, an action for actual damages, injunctive or similar relief that is available at law or in equity (but not specific performance or an action in mandamus).

Section 6.03 Waiver and Indemnity.

(a) In consideration for this Agreement, each Party expressly and unconditionally waives any claim for incidental, consequential, or punitive damages arising from any breach of this Agreement by any other Party or anyone acting on its behalf and covenants that, in connection with the subject matter of this Agreement, it will assert no claims against any other Party or anyone acting on its behalf and seek no relief of any kind in any court or administrative tribunal, other than those remedies expressly provided in Section 6.02.

(b) The BID and the Metro District specifically covenant and agree that, in addition to any other amounts that may be recoverable by the Authority hereunder, each will reimburse to the Authority any amounts determined to have been wrongfully, mistakenly, or incorrectly paid to the BID or the Metro District, respectively by the Authority in excess of the amounts payable pursuant to this Agreement.

Section 6.04 Delay or Omission No Waiver. No delay or omission of any Party to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or shall be construed to be a waiver of any such Event of Default, or acquiescence therein; and every power and remedy given by this Agreement may be exercised as often as may be deemed expedient.

Section 6.05 No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default hereunder by any Party shall extend to or affect any subsequent or any other then existing Event of Default or shall impair any rights or remedies consequent thereon. All rights and remedies of the Parties provided herein shall be cumulative and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

Section 6.06 Discontinuance of Proceedings; Position of Parties Restored. In case any Party shall have proceeded to enforce any right hereunder and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such Party, then and in every such case the Parties shall be restored to their former positions and rights hereunder, and all rights, remedies, and powers of the shall continue as if no such proceedings had been taken.

**Article VII.
Insurance**

At all times prior to Completion of Construction, the Developer, within 10 days after request by the Authority, will provide the Authority with proof of payment of premiums and certificates of insurance showing that the Developer is carrying, or causing

prime contractors to carry, builder's risk insurance (if appropriate), commercial general liability, automobile, and workers' compensation insurance policies in commercially reasonable amounts and coverages approved by the Authority in writing. Such policies of insurance shall be placed with financially sound and reputable insurers, require the insurer to give at least 30 days advance written notice of cancellation to the Authority, and will include the Authority as an additional insured on such policies.

Article VIII. Sales Tax Increment

This Agreement is not a pledge by the Authority, or any Public Body, of incremental sales tax revenues generated within the Plan Area (or any other revenues or funds other than the Pledged Revenues) associated with the Project, the Plan Area, or otherwise. Upon request by the Developer or one of the Districts, the Authority, in consultation with the Town, shall consider a pledge of sales tax increment for the Project and Plan Area on a case-by-case basis and the Authority's determination in such matters shall be in its sole and absolute discretion.

Article IX. Miscellaneous

Section 9.01 Binding Effect. This Agreement and the rights and obligations created hereby shall be binding upon and inure to the benefit of the Parties and their permitted successors and assigns, if any.

(a) Notwithstanding the provisions of this Agreement, the beneficiary of any mortgage, or deed of trust conveying a security interest in the Project (including any other person or entity who obtains title to all or part of the Project as a result of foreclosure proceedings, or deed in lieu thereof, or any successor-in-interest thereof) shall not be obligated by this Agreement to construct or complete the Eligible Public Improvements, or any of them, or to guarantee such construction or completion. In the event the Developer defaults in its obligations under this Agreement, the beneficiary of any such mortgage, or deed of trust and such other persons specified above and their successors in interests may, at their option, construct the Eligible Public Improvements, in accordance with this Agreement, the Master Plan and the Erie Municipal Code and any subsequent development agreements. However, in no event shall any such successor in interest construct the Project or any other improvements on the Project Area without complying with the Master Plan, this Agreement and the Erie Municipal Code, any subsequent development agreements, and in particular, the requirements set forth therein to construct the Eligible Public Improvements in connection with the development of the Project Area.

(b) The Authority shall deliver a copy of any notice of default or demand to cure such default to each owner of any such mortgage, or deed of trust at the last address of such owner shown in the real property records.

(c) Notwithstanding the provisions of this Agreement, the Parties acknowledge the Developer's intent to sell certain portions of the Project outright to third parties. Any fee owner of any portion of the Project other than the Developer (and its successor or assigns), shall not be obligated by this Agreement to construct or complete the Eligible Public Improvements, or to guarantee such construction or completion. In the event the Developer defaults in its obligations under this Agreement, the fee owner of any portion of the Project other than the Developer, may, at their option, construct the required Eligible Public Improvements. However, in no event shall any such successor in interest construct the Project or any other improvements in the Project Area without complying with the Master Plan, this Agreement and the Erie Municipal Code, and in particular, the requirements set forth therein to construct the Eligible Public Improvements.

Section 9.02 Restrictions on Assignment and Transfer.

(a) Upon prior written notice to the Authority, the Districts shall have the right to assign this Agreement as may be necessary to facilitate the issuance of the Bonds or the payment of any Bond Requirements. Except in connection with issuing the Bonds, the payment of any Bond Requirements, or the exercise of remedies with respect thereto, the Districts shall not assign all or any part of this Agreement without the prior written consent of the Authority, which consent shall not be unreasonably withheld. No voluntary or involuntary successor in interest to the Districts shall acquire any rights or powers under this Agreement except as expressly set forth in this Agreement.

(b) Upon prior written notice to the Authority, the Developer shall have the right to assign this Agreement provided that the controlling persons of Developer as of the date of this Agreement shall be the controlling interested persons in the assignee. For purposes of this definition and this Agreement, "control" means the power to direct the management and policies of a person through the ownership of at least a majority of its voting securities or otherwise, or the right to designate or elect at least a majority of the members of its governing body by contract or corporate membership rights or otherwise; and the term "person" means an individual, association, unincorporated organization, corporation (for profit or nonprofit), limited liability company, partnership, joint venture, business trust or government or agency or a political subdivision thereof, or any other entity. No other assignment is permitted without the express written consent of the Authority, which consent shall not be unreasonably withheld.

Section 9.03 Amendments. Except as expressly set forth in Section 3.13(e), this Agreement may be modified, amended, or changed, in whole or in part, only by an agreement in writing duly authorized and executed by the Parties, subject to any limitations set forth in the Bond Documents.

Section 9.04 Rights of the Bond Trustee. The Parties acknowledge that the rights of the BID hereunder in and to the Pledged Revenues will be pledged to the Bond Trustee for the benefit of the owners of the Bonds as contemplated by this

Agreement. The Bond Trustee is an intended third-party beneficiary of the rights expressly granted to the Bond Trustee pursuant to this Agreement and will be entitled to enforce such rights. During any time that any Bonds are outstanding, this Agreement may not be amended without the written consent of the Bond Trustee.

Section 9.05 Waiver. The waiver of any breach of any provision of this Agreement by any Party shall not constitute a continuing waiver of any subsequent breach of such Party, for either breach of the same or any other provision of this Agreement.

Section 9.06 Entire Agreement. This Agreement constitutes the entire agreement of the Parties with respect to the subject matter hereof and replaces in their entirety any prior agreements, understandings, warranties, or representations between the Parties on the matters specifically covered in this Agreement, including the Prior Agreement. No Party hereto has relied upon any fact or representation not expressly set forth herein.

Section 9.07 Headings for Convenience. The headings and captions used herein are for the convenience of the Parties only and shall have no effect upon the interpretation of this Agreement.

Section 9.08 Incorporation of Exhibits. All exhibits attached to the Agreement are incorporated into and made part of this Agreement.

Section 9.09 No Implied Terms. No obligations, agreements, representations, warranties, or certificates shall be implied from this Agreement, beyond those expressly stated herein.

Section 9.10 Severability. If any provision of this Agreement is held to be illegal, invalid or unenforceable, in whole or in part, under present or future laws effective during the Term, to the extent it does not materially alter the rights and obligations of the Parties, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by the severance of such provision from this Agreement. Furthermore, to the extent it does not materially alter the rights and obligations of the Parties, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and still be legal, valid and enforceable and this Agreement shall be deemed reformed accordingly. Without limiting the generality of the foregoing, if all or any portion of the Authority Payment Obligations are determined, by a court of competent jurisdiction in a final non-appealable judgment, to be contrary to public policy or otherwise precluded, the Parties shall utilize their reasonable best, good faith efforts to promptly restructure or amend this Agreement, or to enter into a new agreement, and

to assure, to the extent legally permissible, that the Authority Payment Obligations shall be made as specified in this Agreement.

Section 9.11 Governing Law; Venue. This Agreement and its application shall be interpreted and enforced in accordance with the laws of the State, without regard to choice of law analysis. The Parties agree that venue for any litigated disputes regarding this Agreement shall be the District Court in and for the County.

Section 9.12 Multiple Originals. This Agreement may be simultaneously executed in any number of counterparts, each of which shall be deemed original but all of which constitute one and the same Agreement

Section 9.13 No Attorney Fees or Costs. In the event of any litigation, mediation, arbitration or other dispute resolution process arising out of this Agreement, the Parties agree that each shall be responsible for its own costs and attorney fees associated with any such legal action.

Section 9.14 Expenses and Apportionment. Except as otherwise expressly set forth in this Agreement, each of the Parties will bear its own expenses in connection with the transactions contemplated by this Agreement.

Section 9.15 Joint Draft. The Parties agree they drafted this Agreement jointly with each having the advice of legal counsel and an equal opportunity to contribute to its content.

Section 9.16 Intent of Agreement. This Agreement is intended to describe the rights and responsibilities of and between the Parties and is not intended to, and shall not be deemed to, confer any rights or responsibilities upon any persons or entities not signatories hereto. Accordingly, except for assignees permitted by approval of the Parties in accordance with this Agreement, no third-party beneficiary rights are created in favor of any person not a Party to this Agreement.

Section 9.17 No Partnership or Joint Venture. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, the Parties shall not be deemed partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

Section 9.18 No Personal Obligations. No stipulation, obligation or agreement contained in this Agreement will be deemed to be a stipulation, obligation or agreement of any commissioner, officer, agent, or employee of the Authority, the Developer, the Districts, or of any officer, agent, or employee of the Town that performs services for or on behalf of the Authority, in his or her individual capacity, and no such Person will be personally liable on the Bonds or with respect to the obligations created herein or be subject to personal liability or accountability by reason of the issuance of such Bonds.

Section 9.19 Good Faith of the Parties. Except where any matter is expressly stated to be in the sole discretion of a Party, in performance of this Agreement or in considering any requested extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold any approval required by this Agreement.

Section 9.20 Days. If the day for any performance or event provided for herein is a Saturday, Sunday or other day on which either national banks or the office of the Authority is not open for the regular transaction of business, such day therefor shall be extended until the next day on which such banks and said office are open for the transaction of business.

Section 9.21 Further Assurances. The Parties agree to execute such documents or instruments and take such action as shall be reasonably requested by any other Party to confirm or clarify the status of this Agreement and the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

Section 9.22 Notices. All notices, certificates, reports or other communications hereunder shall be deemed given when personally delivered, or after the lapse of 5 business days following their mailing by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

To the Authority:

Town of Erie Urban Renewal Authority
c/o Town of Erie
Attention: Town Administrator
645 Holbrook Street
Erie, CO 80516

To the BID:

Four Corners Metropolitan District
Attention: Angela Elliott
Teleos Management Group
191 University Blvd. #358
Denver, CO 80206

with a copy to:

Cockrel Ela Glesne Greher & Ruhland, P.C.
Attention: David A. Greher
44 Cook Street, Ste 620
Denver, CO 80206

To the Metro District:

Four Corners Metropolitan District
Attention: Angela Elliott
Teleos Management Group
191 University Blvd. #358
Denver, CO 80206

with a copy to:

Cockrel Ela Glesne Greher & Ruhland, P.C.
Attention: David A. Greher
44 Cook Street, Ste 620
Denver, CO 80206

To the Developer:

Erie Four Corners, LLC
Attention: David Waldner
21 S. Sunset Street
Longmont, CO 80503

with a copy to:

John M. Gstalder, Esq.
The Louisville Law Group
1400 Main Street, Suite 200
Louisville, CO 80027
j.gstalder@thelouisvillelawgroup.com

To the Bond Trustee:

UMB Bank
Attention: John Wahl
1670 Broadway
Denver, CO 80202

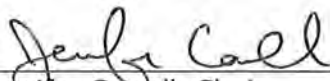
Any Party may designate a different notice address by written notice to the other Party delivered in accordance with this Section 9.22.

Section 9.23 Survival of Representations and Warranties. The Districts' and the Developer's respective obligations to indemnify the Indemnified Parties under Sections 2.05, 3.09 and 3.10 shall survive the Term. Otherwise, except as may be limited herein, the representations and warranties made by the Parties to this Agreement and the covenants and agreements to be performed or complied with by the respective Parties under this Agreement shall be continuing through the end of the Term.

Section 9.24 No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of the CGIA.

In Witness Whereof, the Parties have executed this Agreement as of the Effective Date.

Town of Erie Urban Renewal Authority

By: 
Jennifer Carroll, Chair

Attest

By: 
Heidi Leatherwood, Town Clerk

(Remainder of Page Intentionally Left Blank; Signature Pages Follow)

Four Corners Metropolitan District

By: 
President

ATTEST:

By: 
Secretary

(Remainder of Page Intentionally Left Blank; Signature Page Follows)

Four Corners Business Improvement District

By: 
President

Attest:

By: 
Secretary

(Remainder of Page Intentionally Left Blank; Signature Pages Follow)

Erie Four Corners, LLC

By: 
Its: Manager

(Remainder of Page Intentionally Left Blank; Exhibits Follow)

Summary of Exhibits

Exhibit A-1*	Legal Description of Plan Area
Exhibit A-2	Legal Description of Project Area
Exhibit A-3	Legal Description of Residential Area
Exhibit A-4	Legal Description of the Metro District Excluded Property
Exhibit A-5	Legal Description of the BID Excluded Property
Exhibit B	Site Plan, including Private Improvements
Exhibit C	[Exhibit has been consolidated with Exhibit B]
Exhibit D	Eligible Public Improvements
Exhibit E	Procedure for Documenting, Certifying and Paying Eligible Costs
Exhibit F	Schedule of Performance and Construction Schedule (See Section 2.01b)

*Unchanged from Prior Agreement

Exhibit A-1

Legal Description of Plan Area

A parcel of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24; thence North 44°35'20" East a distance of 98.02 feet to the true point of beginning;

Thence South 00°59'04" along the East Right-of-Way line of County Line Road East a distance of 1436.51 feet to a point on the South Right-of-Way line of Austin Avenue;

Thence North 89°52'59" West along said South Right-of-Way line of Austin Avenue a distance of 1769.35 feet;

Thence North 00°54'34" West a distance of 1437.87 feet to a point on the North Right-of-Way line of Erie Parkway;

Thence South 89°50'16" East along said North Right-of-Way line of Erie Parkway a distance of 1767.49 feet to the true point of beginning.

Town of Erie, County of Boulder, State of Colorado.

Exhibit A-2

Legal Description of Project Area

A tract of land located in the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East $\frac{1}{4}$ corner of said Section 24;
Thence South $00^{\circ}59'04''$ East, 70.00 feet;
Thence North $89^{\circ}50'16''$ West, 40.00 feet to the True Point of Beginning;
Thence South $00^{\circ}59'04''$ East, 1216.55 feet;
Thence North $89^{\circ}52'59''$ West, 495.59 feet;
Thence North $00^{\circ}00'00''$ East, 1216.69 feet;
Thence South $89^{\circ}50'16''$ East, 474 feet to the True Point of Beginning.
County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North $89^{\circ}50'16''$ West.)

Along with that tract of land described as follows:

A tract of land located in the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East $\frac{1}{4}$ corner of said Section 24;
Thence South $00^{\circ}39'06''$ East 70.00 feet;
Thence North $89^{\circ}30'16''$ West 514.89 feet to True Point of Beginning;
Thence South $00^{\circ}39'08''$ East, 640.16 feet;
Thence North $45^{\circ}39'10''$ West, 247.37 feet;
Thence North $44^{\circ}20'50''$ East, 120.00 feet;
Thence North $45^{\circ}39'10''$ West, 20.27 feet;
Thence along a curve to the right having a radius of 50.00 feet, a length of 40.25 feet and a chord that bears North $22^{\circ}36'08''$ West, 39.15 feet;
Thence North $00^{\circ}26'55''$ East, 332.05 feet;
Thence South $89^{\circ}30'16''$ East, 112.67 feet to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North $89^{\circ}30'16''$ West.)

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East, 70.00 feet;
Thence North 89°30'16" West, 514.89 feet;
Thence South 00°39'08" East, 807.30 feet to True Point of Beginning;

Thence North 44°20'50" East, 45.85 feet;
Thence along a curve to the right having a radius of 10.00 feet, a length of 16.35 feet and a chord that bears South 88°48'40" East, 14.59 feet;
Thence South 41°58'09" East, 71.19 feet;
Thence South 44°20'50" West, 109.36 feet;
Thence along a curve to the left having a radius of 38.0 feet, a length of 29.11 feet and a chord that bears South 22°23'52" West, 28.41 feet;
Thence South 00°26'55" West, 189.28 feet;
Thence North 89°33'05" West, 5.84 feet;
Thence South 00°26'55" West, 36.50 feet;
Thence North 00°39'08" West, 355.86 feet to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.)

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East, 70.00 feet;
Thence North 89°30'16" West, 514.89 feet;
Thence South 00°39'08" East, 544.59 feet;
Thence North 89°20'52" East, 75.39 feet; to True Point of Beginning;

Thence along a curve to the left having a radius of 48.00 feet, a length of 39.37 feet and a chord that bears South 80°23'06" East, 38.28 feet;
Thence along a curve to the right having a radius of 260.00 feet, a length of 26.26 feet and a chord that bears North 83°16'58" East, 64.86 feet;
Thence South 89°33'05" East, 79.11 feet;

Thence along a curve to the right having a radius of 28.00 feet, a length of 43.98 feet and a chord that bears South 44°33'05" East, 39.60 feet;
Thence South 00°26'55" West, 52.00 feet;
Thence North 89°33'05" West, 107.11 feet;
Thence along a curve to the left having a radius of 180.00 feet, a length of 97.23 feet and a chord that bears South 74°58'27" West, 96.05 feet;
Thence North 16°38'31" West, 60.12 feet;
Thence North 00°03'05" East, 37.49 feet;
Thence North 44°20'50" East, 12.04 feet to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.)

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East, 70.00 feet;
Thence North 89°30'16" West, 514.89 feet;
Thence South 00°39'08" East, 544.59 feet;
Thence North 89°20'52" East, 308.54 feet; to True Point of Beginning;

Thence North 45°33'05" East, 7.07 feet;
Thence North 89°33'05" East, 130.97 feet;
Thence South 00°39'08" East, 54.39 feet;

Thence along a curve to the right having a radius of 25.00 feet, a length of 39.75 feet and a chord that bears South 44°53'53" West, 35.69 feet;
Thence North 89°37'30" West, 112.02 feet;
Thence North 00°26'55" East, 75.00 feet; to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.)

Exhibit A-3

Legal Description of Residential Area

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°59'04" East, 70.00 feet;
Thence North 89°50'16" West, 514.69 feet to the True Point of Beginning;
Thence South 00°00'00" East, 1216.69 feet;
Thence North 89°52'59" West, 1173.64 feet;
Thence North 00°54'34" West, 1217.83 feet;
Thence South 89°50'16" East, 1192.96 feet to the True Point of Beginning.
County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°50'16" West.)

Along with that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East, 70.00 feet;
Thence North 89°30'16" West, 514.89 feet;
Thence South 00°39'08" East, 807.30 feet to True Point of Beginning;

Thence North 44°20'50" East, 45.85 feet;
Thence along a curve to the right having a radius of 10.00 feet, a length of 16.35 feet and a chord that bears South 88°48'40" East, 14.59 feet;
Thence South 41°58'09" East, 71.19 feet;
Thence South 44°20'50" West, 109.36 feet;
Thence along a curve to the left having a radius of 38.0 feet, a length of 29.11 feet and a chord that bears South 22°23'52" West, 28.41 feet;
Thence South 00°26'55" West, 189.28 feet;
Thence North 89°33'05" West, 5.84 feet;
Thence South 00°26'55" West, 36.50 feet;
Thence North 00°39'08" West, 355.86 feet to the True Point of Beginning.
County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.)

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;

Thence South 00°39'06" East 70.00 feet;

Thence North 89°30'16" West 945.01 feet to True Point of Beginning;

Thence along a curve to the right having a radius of 25.00 feet, a length of 39.25 feet and a chord that bears South 44°31'41" East, 35.34 feet;

Thence South 00°26'55" West, 376.20 feet;

Thence along a curve to the left having a radius of 10.00 feet, a length of 7.66 feet and a chord that bears South 22°23'52" West, 7.48 feet;

Thence South 44°20'50" West, 176.98 feet;

Thence along a curve to the right having a radius of 10.00 feet, a length of 5.83 feet and a chord that bears South 61°02'20" West, 5.74 feet;

Thence North 89°49'18" West, 52.05 feet;

Thence North 00°26'55" East, 87.50 feet;

Thence North 89°33'05" West, 115.00 feet;

Thence North 00°26'55" East, 307.21 feet;

Thence along a curve to the left having a radius of 205.00 feet, a length of 49.24 feet and a chord that bears North 06°25'57" West, 49.12 feet;

Thence North 13°59'59" West, 46.26 feet;

Thence along a curve to the right having a radius of 145.00 feet, a length of 23.85 feet and a chord that bears North 009°18'25" West, 23.82 feet;

Thence along a curve to the right having a radius of 25.00 feet, a length of 41.49 feet and a chord that bears North 42°57'01" East, 36.89 feet;

Thence South 89°30'16" East, 269.12 feet to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.)

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East $\frac{1}{4}$ corner of said Section 24;
Thence South $00^{\circ}39'06''$ East 70.00 feet;
Thence North $89^{\circ}30'16''$ West 627.36 feet to True Point of Beginning;

Thence South $00^{\circ}26'55''$ West, 332.05 feet;
Thence along a curve to the left having a radius of 50.00 feet, a length of 40.23 feet and a chord that bears South $22^{\circ}36'08''$ West, 39.15 feet;
Thence South $45^{\circ}39'10''$ East, 20.27 feet;
Thence South $44^{\circ}20'50''$ West, 120.00 feet;
Thence North $45^{\circ}39'10''$ West, 88.35 feet;
Thence along a curve to the right having a radius of 10.00 feet, a length of 8.05 feet and a chord that bears North $22^{\circ}36'08''$ West, 7.83 feet;
Thence North $00^{\circ}26'55''$ East, 375.21 feet;
Thence along a curve to the right having a radius of 25.00 feet, a length of 58.85 feet and a chord that bears North $44^{\circ}57'58''$ East, 35.06 feet;
Thence South $89^{\circ}30'16''$ East, 95.42 feet to the True Point of Beginning.

County of Boulder, State of Colorado

(Note: Bearings are based on the North line of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North $89^{\circ}30'16''$ West.)

Exhibit A-4

Legal Description of the Metro District Excluded Property

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;

Thence South 00°39'06" East 70.00 feet;

Thence North 89°30'16" West 945.01 feet to True Point of Beginning;

Thence along a curve to the right having a radius of 25.00 feet, a length of 39.25 feet and a chord that bears South 44°31'41" East, 35.34 feet;

Thence South 00°26'55" West, 376.20 feet;

Thence along a curve to the left having a radius of 10.00 feet, a length of 7.66 feet and a chord that bears South 22°23'52" West, 7.48 feet;

Thence South 44°20'50" West, 176.98 feet;

Thence along a curve to the right having a radius of 10.00 feet, a length of 5.83 feet and a chord that bears South 61°02'20" West, 5.74 feet;

Thence North 89°49'18" West, 52.05 feet;

Thence North 00°26'55" East, 87.50 feet;

Thence North 89°33'05" West, 115.00 feet;

Thence North 00°26'55" East, 307.21 feet;

Thence along a curve to the left having a radius of 205.00 feet, a length of 49.24 feet and a chord that bears North 06°25'57" West, 49.12 feet;

Thence North 13°59'59" West, 46.26 feet;

Thence along a curve to the right having a radius of 145.00 feet, a length of 23.85 feet and a chord that bears North 009°18'25" West, 23.82 feet;

Thence along a curve to the right having a radius of 25.00 feet, a length of 41.49 feet and a chord that bears North 42°57'01" East, 36.89 feet;

Thence South 89°30'16" East, 269.12 feet to the True Point of Beginning.

County of Boulder, State of Colorado

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;

Thence South 00°39'06" East 70.00 feet;

Thence North 89°30'16" West 627.36 feet to True Point of Beginning;

Thence South 00°26'55" West, 332.05 feet;

Thence along a curve to the left having a radius of 50.00 feet, a length of 40.23 feet and a chord that bears South 22°36'08" West, 39.15 feet;
Thence South 45°39'10" East, 20.27 feet;
Thence South 44°20'50" West, 120.00 feet;
Thence North 45°39'10" West, 88.35 feet;
Thence along a curve to the right having a radius of 10.00 feet, a length of 8.05 feet and a chord that bears North 22°36'08" West, 7.83 feet;
Thence North 00°26'55" East, 375.21 feet;
Thence along a curve to the right having a radius of 25.00 feet, a length of 58.85 feet and a chord that bears North 44°57'58" East, 35.06 feet;
Thence South 89°30'16" East, 95.42 feet to the True Point of Beginning.

County of Boulder, State of Colorado

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East 70.00 feet;
Thence North 89°30'16" West 514.89 feet to True Point of Beginning;

Thence South 00°39'08" East, 640.16 feet;
Thence North 45°39'10" West, 247.37 feet;
Thence North 44°20'50" East, 120.00 feet;
Thence North 45°39'10" West, 20.27 feet;
Thence along a curve to the right having a radius of 50.00 feet, a length of 40.25 feet and a chord that bears North 22°36'08" West, 39.15 feet;
Thence North 00°26'55" East, 332.05 feet;
Thence South 89°30'16" East, 112.67 feet to the True Point of Beginning.

County of Boulder, State of Colorado

Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16" West.

Exhibit A-5

Legal Description of the BID Excluded Property

A tract of land located in the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East $\frac{1}{4}$ corner of said Section 24;
Thence South $00^{\circ}39'06''$ East, 70.00 feet;
Thence North $89^{\circ}30'16''$ West, 514.89 feet;
Thence South $00^{\circ}39'08''$ East, 544.59 feet;
Thence North $89^{\circ}20'52''$ East, 75.39 feet; to True Point of Beginning;

Thence along a curve to the left having a radius of 48.00 feet, a length of 39.37 feet and a chord that bears South $80^{\circ}23'06''$ East, 38.28 feet;
Thence along a curve to the right having a radius of 260.00 feet, a length of 26.26 feet and a chord that bears North $83^{\circ}16'58''$ East, 64.86 feet;
Thence South $89^{\circ}33'05''$ East, 79.11 feet;
Thence along a curve to the right having a radius of 28.00 feet, a length of 43.98 feet and a chord that bears South $44^{\circ}33'05''$ East, 39.60 feet;
Thence South $00^{\circ}26'55''$ West, 52.00 feet;
Thence North $89^{\circ}33'05''$ West, 107.11 feet;
Thence along a curve to the left having a radius of 180.00 feet, a length of 97.23 feet and a chord that bears South $74^{\circ}58'27''$ West, 96.05 feet;
Thence North $16^{\circ}38'31''$ West, 60.12 feet;
Thence North $00^{\circ}03'05''$ East, 37.49 feet;
Thence North $44^{\circ}20'50''$ East, 12.04 feet to the True Point of Beginning.

County of Boulder, State of Colorado

Excluding that tract of land described as follows:

A tract of land located in the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of Section 24, Township 1 North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East $\frac{1}{4}$ corner of said Section 24;
Thence South $00^{\circ}39'06''$ East, 70.00 feet;
Thence North $89^{\circ}30'16''$ West, 514.89 feet;
Thence South $00^{\circ}39'08''$ East, 544.59 feet;
Thence North $89^{\circ}20'52''$ East, 308.54 feet; to True Point of Beginning;

Thence North $45^{\circ}33'05''$ East, 7.07 feet;
Thence North $89^{\circ}33'05''$ East, 130.97 feet;

Thence South 00°39'08" East, 54.39 feet;
Thence along a curve to the right having a radius of 25.00 feet, a length of 39.75 feet
and a chord that bears South 44°53'53" West, 35.69 feet;
Thence North 89°37'30" West, 112.02 feet;
Thence North 00°26'55" East, 75.00 feet; to the True Point of Beginning.

County of Boulder, State of Colorado

Excluding that tract of land described as follows:

A tract of land located in the North ½ of the Southeast ¼ of Section 24, Township 1
North, Range 69 West of the 6th P.M., described as follows:

Beginning at the East ¼ corner of said Section 24;
Thence South 00°39'06" East, 70.00 feet;
Thence North 89°30'16" West, 514.89 feet;
Thence South 00°39'08" East, 807.30 feet to True Point of Beginning;

Thence North 44°20'50" East, 45.85 feet;
Thence along a curve to the right having a radius of 10.00 feet, a length of 16.35 feet
and a chord that bears South 88°48'40" East, 14.59 feet;
Thence South 41°58'09" East, 71.19 feet;
Thence South 44°20'50" West, 109.36 feet;
Thence along a curve to the left having a radius of 38.0 feet, a length of 29.11 feet and
a chord that bears South 22°23'52" West, 28.41 feet;
Thence South 00°26'55" West, 189.28 feet;
Thence North 89°33'05" West, 5.84 feet;
Thence South 00°26'55" West, 36.50 feet;
Thence North 00°39'08" West, 355.86 feet to the True Point of Beginning.

County of Boulder, State of Colorado

Note: Bearings are based on the North line of the North ½ of the Southeast ¼ of
Section 24, Township 1 North, Range 69 West of the 6th P.M., being North 89°30'16"
West.

Exhibit B
Site Plan

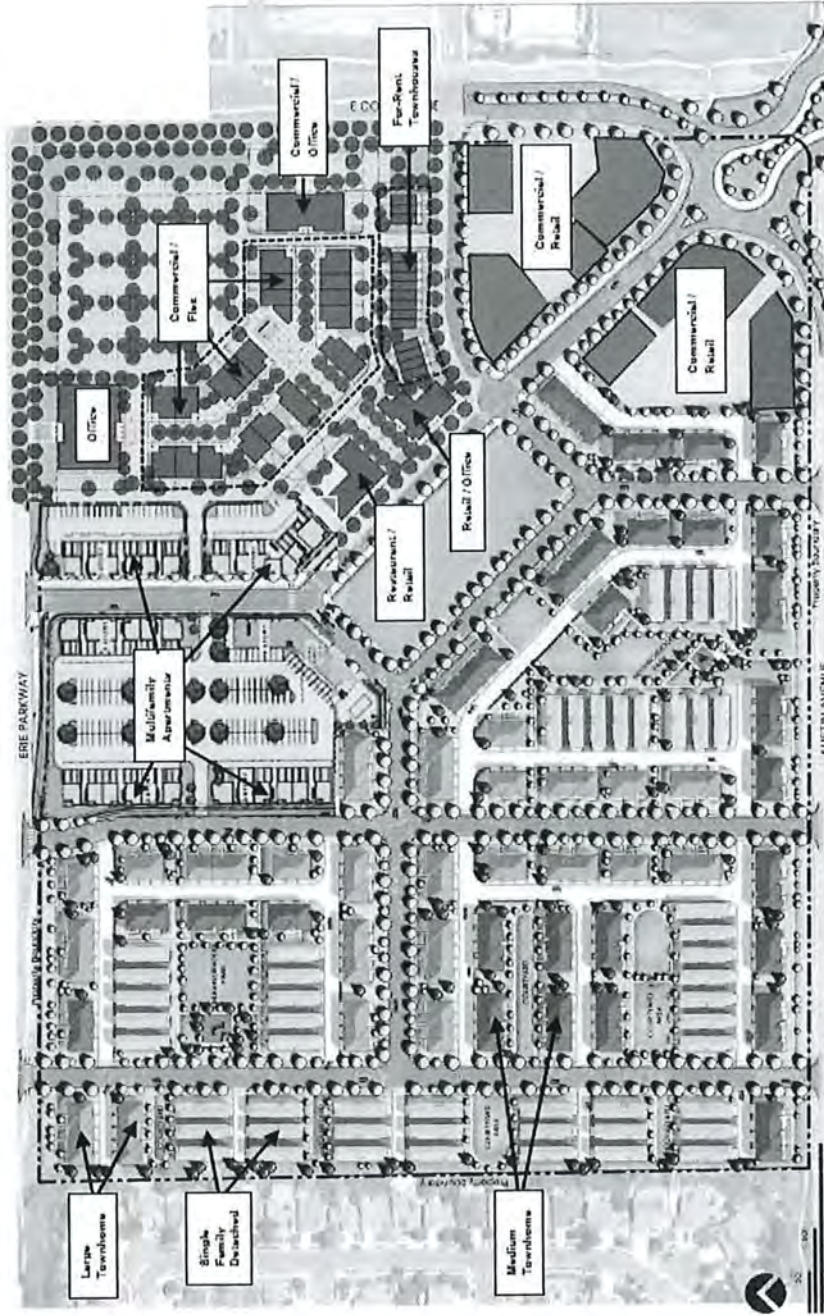


Exhibit C

[Note: Exhibit has been consolidated with Exhibit B]

Exhibit D

Eligible Public Improvements

ERIE FOUR CORNERS PROJECT TOTAL	Total
GENERAL	\$2,343,664
CONTRACTOR SUPPLIED SERVICES	\$13,500
EROSION CONTROL	\$108,148
EARTHWORK/REMOVALS	\$483,675
WET UTILITIES	\$4,204,346
UNDERGROUND DETENTION	\$2,722,901
SITE CONCRETE	\$2,100,971
ASPHALT PAVING	\$1,230,112
LANDSCAPING	\$359,210
ELECTRICAL	\$384,000
CENTRAL COMMUNITY PARK	\$316,570
LOCAL ROADS	\$1,119,770
LOCAL ROADS - WET UTILITIES	\$1,160,973
ERIE PARKWAY IMPROVEMENTS	\$708,029
COUNTY LINE ROAD IMPROVEMENTS	\$445,547
LAND ROW DEDICATED TO ERIE	\$4,246,649
RAW WATER FEE	\$5,715,849
BONDS - CAPITALIZED INTEREST	\$4,665,375
BONDS - SURPLUS DEPOSIT	\$2,343,000
BONDS - COST OF ISSUANCE	\$888,000
BONDS - ROUNDING	\$3,625
TOTAL	\$35,563,912

Note: Total Funding Obligation of Authority is limited to \$35,000,000.

Exhibit E

Procedure For Documenting, Certifying And Paying Eligible Costs

1. **Applicability.** All capitalized terms that are not specifically defined in this **Exhibit E** shall have the same meaning as defined in the Agreement. The Parties recognize and acknowledge that in connection with issuance and sale of Bonds or the Bond Documents may establish a different procedure for the requisition of Bond proceeds, in which event that procedure shall be substituted for the procedure in this **Exhibit E** to the extent that they conflict with the procedures in this **Exhibit E**; provided, however, the Parties agree to cooperate so that the Bond Documents will include a procedure for certifying the Eligible Costs payable under in-process construction and other contracts to permit Bond proceeds to be applied to direct payments under such contracts.
2. **Engineer.** The Authority and the Districts will jointly select an independent licensed engineer experienced in the design and construction of public improvements in the Erie metropolitan area (the "**Engineer**"). The Engineer shall be responsible for reviewing, approving, and providing the certificate required by paragraph 3 hereof.
3. **Documentation.** The Districts or 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 E** or upon Completion of Construction of an Eligible Public Improvement. All such submissions shall include a certification signed by both the Engineer and an authorized representative of the Districts or the Developer, as applicable. 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 Districts or the Developer for each item listed on the statement. Unless required by a District or Developer construction contract then being performed, 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 to the applicable District representative, the Executive Director of the Authority and the Bond Trustee for review within 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 requirements of this Agreement. Upon the earlier of approval of such documentation or expiration of the 10-

business day period, the Bond Trustee shall allocate the Eligible Costs to the Eligible Public Improvements according to the category for each listed in **Exhibit D** and compile an aggregate running total of the Eligible Costs in each category. Thereafter, the Bond Trustee will make payments of Eligible Costs plus any accrued and unpaid interest to the Districts or the Developer as provided in this Agreement. So long as the payment request is properly certified according to this procedure payment shall be made within twenty days of submission of the payment request.

In the event that no Bonds have been issued and Eligible Costs are to be remitted directly to the Developer or its designated payees in accordance with the provisions of this Agreement, each payment request shall be submitted to the applicable District representative and the Executive Director of the Authority for review within 15 business days. Such review is for the purpose of verifying that the work represented in each payment request and supporting documentation complies with the requirements of this Agreement. Upon the approval of such documentation, the Authority shall allocate the Eligible Costs to the Eligible Public Improvements according to the category for each listed in **Exhibit D** and compile an aggregate running total of the Eligible Costs in each category. Thereafter, the Authority shall remit Pledged Revenues on deposit in the Pledged Revenues Fund to pay or reimburse the Developer for Eligible Costs and Eligible Accrued Interest on Developer Advances. In the event that there are insufficient Pledged Revenues on deposit in the Pledged Revenues Fund to pay such requisition, any insufficiency shall be paid in connection with the next requisition submitted by the Developer, to the extent of available Pledged Revenues. So long as the payment request is properly certified according to this procedure payment shall be made within twenty days of submission of the payment request.

The Developer shall submit no more than one payment request per month.

If a requisition is made by the Developer in accordance with this **Exhibit E** and the Bond Trustee, District, or Authority object that the requisition does not comply with the provisions of this Agreement, and 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, the Bond Trustee or Authority, as applicable, may withhold the amounts in dispute from payment and shall process and pay the remainder of the undisputed Eligible Costs, and the Parties shall continue in good faith to resolve any remaining dispute.

Exhibit F

Schedule of Performance and Construction Schedule

The Developer shall reasonably determine the sequence and timing of the commencement and completion of the construction of the Eligible Public Improvements and Private Improvements.

The Developer shall complete all Eligible Public Improvements by December 31, 2026.

The Developer shall complete all Private Improvements by December 31, 2027.