

URBAN RENEWAL AGREEMENT FOR DEVELOPMENT
OF THE TRUE NORTH COMMONS URBAN RENEWAL AREA

THIS URBAN RENEWAL AGREEMENT (the “Agreement”) FOR DEVELOPMENT OF THE TRUE NORTH COMMONS URBAN RENEWAL AREA is made as of the day of _____, ~~2019~~2020, by and among the COLORADO SPRINGS URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”), BLUE & SILVER DEVELOPMENT PARTNERS, LLC, a Colorado limited liability company (the “Developer”), and the USAFA VISITOR’S CENTER BUSINESS IMPROVEMENT DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”) (the Authority, the Developer and the District are also referred to herein collectively as the “Parties” or individually as a “Party”).

RECITALS

A. The Authority is an Urban Renewal Authority formed and created by the City Council, City of Colorado Springs, County of El Paso, Colorado.

B. Pursuant to that certain Site Development Lease by and between The United States of America, acting by and through The Secretary of the Air Force (“Lessor”), and the Developer dated as of _____, 2019 (the “Site Development Lease”), the Developer has leased certain real property from the Air Force located in Colorado Springs, El Paso County, Colorado which is depicted (or consists of the parcels listed) on the attached Exhibit A (the “Property”). The Property is located within the boundaries of the True North Commons Urban Renewal Plan adopted by the City Council of the City of Colorado Springs, Colorado (the “City”) on July 9, 2019 (the “Urban Renewal Plan”).

C. The Developer has been selected by the United States Air Force Academy (“USAFA”) as the developer of the U.S. Air Force Academy Gateway Visitor’s Center (the “Visitor’s Center”). The Colorado Economic Development Commission (the “Commission”) pursuant to Resolution No. 3 dated as of December 16, 2013 (as amended, restated, supplemented or otherwise modified from time to time, the “Resolution”) approved the “City for Champions” project. The Visitor’s Center is one of the Project Elements (as defined in the Resolution) within the “City for Champions” project described in the Resolution. The Visitor’s Center constitutes a portion of the larger development of the Property by the Developer as further described herein.

D. The Property is entirely included within the boundaries of the District. The Developer has entered into a Sublease Agreement with the District (the “District Sublease”) for the portion of the Property upon which the Visitor’s Center will be constructed. Pursuant to the District Sublease, the District intends to construct the Visitor’s Center in accordance with the Resolution and the Concept Plan (defined below).

E. The Developer and/or the District, as applicable, intend to develop the Property, or cause the Property to be developed, substantially in accordance with the Master Plan/Concept Plan dated March, 2019, File Nos. CPC MP 18-00138 and CPC PUP 18-00177, consisting of 5 pages (the “Concept Plan”), which Concept Plan is incorporated in and made a part of this Agreement by this reference. The Concept Plan may be supplemented, updated, and clarified in accordance

with Section 13.12 as to its more specific application to the Property, subject to approval by the Authority.

F. The District Improvements and Reimbursable Project Costs (as defined below) are listed on Exhibit B attached to and made a part hereof. The Urban Renewal Plan allocates property tax increment revenue (“Property Tax TIF”), municipal sales tax increment revenue (“City Sales Tax TIF”) and municipal use tax increment revenue (“City Use Tax TIF”), as well as all other revenues available, to the Authority to carry out the redevelopment of the Area defined in the Urban Renewal Plan. This Agreement shall, among other things, allocate and pledge the Property Tax TIF, City Sales Tax TIF and City Use Tax TIF produced from increases in municipal sales tax, certain municipal use tax and ad valorem property taxes levied on real and personal property within the Area to the District in accordance with this Agreement.

G. The Authority and the City have entered into that certain Cooperation Agreement dated as of July 9, 2019 (as the same may be amended from time to time, the “Cooperation Agreement”) providing for, among other things, the distribution and pledge of (i) the City Sales Tax TIF produced by taxable sales on and within the Area and (ii) the City Use Tax TIF paid solely on construction materials used within the Area to the BID in accordance with this Agreement and the Pledge Agreement (defined below).

H. The District and the Authority have entered into that certain Pledge Agreement dated as of the date hereof (the “Pledge Agreement”) whereby the Authority agreed to remit to the District, or as otherwise directed by the District, all revenues comprising the Authority Pledged Revenues (as defined in the Pledge Agreement). Such Authority Pledged Revenues include, but are not limited to, the Pledged Revenues described in this Agreement. To the extent conflict may exist between the Pledge Agreement and this Agreement relative to the District and the Pledged Revenues, the Pledge Agreement shall control.

I. The Authority, the Developer and the District have agreed to cooperate in a plan of finance whereby the District will issue its District Bonds (as defined below) and the Authority will assist in the issuance and repayment of the District Bonds by remitting the Authority Pledged Revenues pursuant to the Pledge Agreement, for the purpose of financing or refinancing the costs of District Improvements (as defined below) or any portion thereof.

J. The Parties to this Agreement intend to cooperate with each other in the development of the Property in furtherance of the Urban Renewal Plan.

NOW THEREFORE, based upon the mutual covenants and considerations contained herein, the Parties agree as follows:

1. PURPOSE

The purpose of this Agreement is to further the goals and objectives of the Colorado Urban Renewal Law, Colorado Revised Statutes §§ 31-25-101 et seq. (the “Act”) and the Urban Renewal Plan for the Property by eliminating blight and providing for the development and redevelopment of the Property. The Authority has determined that this Agreement and the development and redevelopment of the Property as described in the Concept Plan are consistent with and conform to the Urban Renewal Plan and the public purposes and provisions of applicable state and local

laws, including the Act. Specifically, but without limitation, this Agreement is intended to promote and facilitate the following objectives:

- (a) Remediate and prevent blighted conditions on the Property;
- (b) Encourage and protect existing development on the Property;
- (c) Renew and improve the character and environment of the Area;
- (d) Enhance the current sales tax base and property tax base of the Area;
- (e) Provide the incentives necessary to induce private development and redevelopment of the Area;
- (f) Effectively use undeveloped land within the Area;
- (g) Encourage financially successful projects within the Property;
- (h) Stabilize and upgrade property values within the Area;
- (i) Accommodate and provide for the voluntary environmental cleanup of the Area;
- (j) Promote improved traffic, public transportation, public utilities, recreational and community facilities within the Area; and
- (k) Promote the participation of existing owners in the revitalization and development of the Property.

2. CERTAIN DEFINITIONS

- 2.1. “Act” shall have the meaning set forth in Section 1.
- 2.2. “Affiliate” shall mean any entity in which the Developer or its manager serves as manager or general partner or otherwise is in control, directly or indirectly, of such entity.
- 2.3. “Agreement” shall have the meaning set forth in the Preamble.
- 2.4. “Area” shall have the meaning set forth in the Urban Renewal Plan.
- 2.5. “Authority” shall have the meaning set forth in the Preamble.
- 2.6. “Authority Administrative Fee” shall have the meaning set forth in Section 7.12.
- 2.7. “Authority Pledged Revenues” shall have the meaning set forth in the Pledge Agreement.
- 2.8. “Bond Documents” means the Indentures and the documents incidental thereto, including, without limitation, the Pledge Agreement.

- 2.9. “City” shall have the meaning set forth in Recital B.
- 2.10. “City Sales Tax TIF” shall have the meaning set forth in Recital F, as further described in Section 6.1.
- 2.11. “City Use Tax TIF” shall have the meaning set forth in Recital F, as further described in Section 6.1.
- 2.12. “Commence Construction” shall have the meaning set forth in Section 8.1.
- 2.13. “Commencement of Construction” shall have the meaning set forth in Section 8.1.
- 2.14. “Commission” shall have the meaning set forth in Recital C.
- 2.15. “Complete Construction” shall have the meaning set forth in Section 8.1.
- 2.16. “Completion of Construction” shall have the meaning set forth in Section 8.1.
- 2.17. “Concept Plan” shall have the meaning set forth in Recital E.
- 2.18. “Cooperation Agreement” shall have the meaning set forth in Recital G.
- 2.19. “County” means El Paso County, Colorado, a political subdivision of the State of Colorado.
- 2.20. “County Agreement” means that certain Property Tax Increment Revenue Agreement by and between the County and the Authority dated as of July 2, 2019, as the same may be amended from time to time.
- 2.21. “County Sales Tax TIF” shall mean, for each Plan Year (as defined in the County Agreement), the revenues received from the County Sales Tax (as defined in the County Agreement) within the boundaries of the Area which are in excess of that portion of the County Sales Tax collected within the boundaries of the Area in the twelve-month period ending on the last day of the month prior to the effective date of approval of the Urban Renewal Plan.
- 2.22. “D20” means Academy School District No. 20, a political subdivision of the State of Colorado.
- 2.23. “Default” shall have the meaning set forth in Sections 11.1, 11.2, and 11.3.
- 2.24. “Developer” shall have the meaning set forth in the Preamble.
- 2.25. “Development Plan” shall have the meaning set forth in Section 4.1.
- 2.26. “District” shall have the meaning set forth in the Preamble.
- 2.27. “District Account” shall have the meaning set forth in Section 7.7.
- 2.28. “District Bonds” shall have the meaning set forth in Section 7.2.

- 2.29. “District Debt Service Mill Levy” shall have the meaning set forth in the Indentures.
- 2.30. “District Improvements” shall have the meaning set forth in Section 3.2.
- 2.31. “District Operating Mill Levy Tax Increment Revenues” shall have the meaning set forth in Section 3.4.
- 2.32. “District Reimbursement Agreement” shall have the meaning set forth in Section 3.2.
- 2.33. “District Sublease” shall have the meaning set forth in Recital D.
- 2.34. “Duration” means the twenty-five (25) year period that the tax increment or tax allocation provisions will be in effect as specified in §31-25-107(9)(a) of the Act and the Urban Renewal Plan.
- 2.35. “Event of Default” shall have the meaning set forth in Sections 11.1, 11.2, and 11.3.
- 2.36. “Improvements” shall have the meaning set forth in Section 4.1.
- 2.37. “Indemnified Parties” and “Indemnified Party” shall have the meaning set forth in Section 12.1.
- 2.38. “Indentures” shall have the meaning set forth in Section 7.2.
- 2.39. “Lessor” shall have the meaning set forth in Recital B.
- 2.40. “Operating Plan” means, collectively, each Operating Plan and Budget filed annually by the District with the City Clerk of the City pursuant to the Business Improvement District Act, Title 31, Article 25, Part 12, C.R.S. As of the date of this Agreement, the 2020 Operating Plan and Budget is the most recent Operating Plan which has been so filed by the District.
- 2.41. “Parties” and “Party” shall have the meanings set forth in the Preamble.
- 2.42. “Phase” shall have the meaning set forth in Section 4.1.
- 2.43. “Pledge Agreement” shall have the meaning set forth in Recital H.
- 2.44. “Pledged Revenues” shall mean the TIF Revenue remaining in the Special Fund each year after the Authority (i) makes payments to the Taxing Entities pursuant to the Taxing Entity Agreements, including, without limitation, payment of the District Operating Mill Levy Tax Increment Revenues to the District, and (ii) collects the Authority Administrative Fee.
- 2.45. “PPLD” means the Pikes Peak Library District, a political subdivision of the State of Colorado.

2.46. “Private Improvements” means the improvements subject to ad valorem property taxes to be constructed on the Property by the Developer or an approved transferee of the Developer in accordance with the Concept Plan and within the time specified in the Schedule of Performance.

2.47. “Project” shall have the meaning set forth in the Site Development Lease.

2.48. “Property” shall have the meaning set forth in Recital B.

2.49. “Property Tax TIF” shall have the meaning set forth in Recital F.

2.50. “Reimbursable Project Costs” shall mean the reasonable and necessary expenditures, including Soft Costs, documented in accordance with this Agreement for the District Improvements constructed or otherwise provided by the District and shown on Exhibit B attached hereto and made a part hereof.

2.51. “Resolution” shall have the meaning set forth in Recital C.

2.52. “RTA” means the Colorado Regional Tourism Act, Part 3 of Article 46, Title 24, C.R.S.

2.53. “Sales Tax TIF” shall mean, collectively, the City Sales Tax TIF, the City Use Tax TIF and the County Sales Tax TIF.

2.54. “Schedule of Performance” shall mean the Schedule of Performance attached hereto as Exhibit C and made a part hereof.

2.55. “SECWCD” means the Southeastern Colorado Water Conservancy District, a political subdivision of the State of Colorado.

2.56. “Senior Bonds” shall have the meaning set forth in Section 7.2.

2.57. “Senior Indenture” shall have the meaning set forth in Section 7.2.

2.58. “Site Development Lease” shall have the meaning set forth in Recital B.

2.59. “Soft Costs” means the reasonable and necessary soft costs incurred by the District or Developer related to the District Improvements, the Urban Renewal Plan, and the Urban Renewal Project (excluding the Private Improvements) for the Area, including, without limitation, impact reports, financing projections, studies, surveys, agreements with the Taxing Entities, the Cooperation Agreement, this Agreement, architects, consultants, financial advisors, surveyors, engineers, lawyers, accountants, governmental fees and permits, utility fees and costs, and related interest and finance charges.

2.60. “Special Fund” shall have the meaning set forth in Section 7.7.

2.61. “Sublease” shall have the meaning set forth in Section 4.3.

2.62. “Sublessee” shall have the meaning set forth in Section 4.3.

- 2.63. “Subordinate Bonds” shall have the meaning set forth in Section 7.2.
- 2.64. “Subordinate Indenture” shall have the meaning set forth in Section 7.2.
- 2.65. “Sub-Sublease” shall have the meaning set forth in Section 4.3.
- 2.66. “Sub-Sublessee” shall have the meaning set forth in Section 4.3.

2.67. “Taxing Entities” means any county, special district, or other public body that levies an ad valorem property tax on property within the Area subject to a tax allocation provision. The Taxing Entities are the City, the County, the District, D20, PPLD and SECWCD.

2.68. “Taxing Entity Agreements” means those certain property tax (and sales tax, as applicable) revenue agreements by and between the Authority and each of the Taxing Entities made pursuant to C.R.S. § 31-25-107(9.5), including, without limitation, the Cooperation Agreement and the County Agreement, as the same may be amended from time to time. This Agreement shall constitute the Taxing Entity Agreement between the Authority and the District.

- 2.69. “TIF Revenue” shall mean the Property Tax TIF plus the Sales Tax TIF.
- 2.70. “Trustee” shall have the meaning set forth in Section 7.2.
- 2.71. “Urban Renewal Plan” shall have the meaning set forth in Recital B.
- 2.72. “USAFA” shall have the meaning set forth in Recital C.
- 2.73. “Visitor’s Center” shall have the meaning set forth in Recital C.

3. THE DISTRICT

3.1. Purpose. Pursuant to the City’s Ordinance No. 18-77 and the District’s 2019 Amended Operating Plan and Budget, the District’s primary purpose is to provide for the financing, acquisition, construction, completion, installation, replacement and/or operation and maintenance of the services and public improvements necessary to support the development of a commercial mixed-use development located near the north entrance of the USAFA, which will be developed by the Developer through the terms and conditions of the Site Development Lease. The 2019 Amended Operating Plan and Budget authorized the District to impose a debt service mill levy not to exceed 50 mills and an operations and maintenance mill levy not to exceed 10 mills in 2019 (for collection in 2020), and to establish public improvement fees and any other lawful revenue source, and may use the revenues derived therefrom to pay for the Project.

3.2. District Reimbursement Agreement. The District and the Developer entered into a Facilities Funding and Acquisition Agreement dated as of December 19, 2018 (the “District Reimbursement Agreement”), wherein the Developer agreed to either initially construct certain public infrastructure improvements to convey to the District, or to initially fund the construction of the improvements by the District, which improvements include but are not limited to water, sanitary sewer, park and recreation facilities, roadways, street and safety protection improvements, drainage improvements, and any other public improvements authorized by the District’s Operating

Plan, as amended (“District Improvements”). The District and the Developer determined that for reasons of economic efficiency and timeliness it is in the best interests of the District to establish a means by which either (1) the Developer will construct or cause to have constructed by a general contractor the District Improvements which the District will acquire after they have been completed; or (2) the Developer will initially fund the construction and installation of the District Improvements subject to reimbursement as provided in the Facilities Funding and Acquisition Agreement. As an alternative to the Developer’s construction of and the District’s subsequent acquisition of the District Improvements, at the Developer’s election, the District may construct all or a portion of the District Improvements and acquire related real property interests.

3.3. District Sublease. The District and the Developer have entered into the District Sublease, pursuant to which the District will construct the Visitors Center, among other things. The District agrees to construct the Visitor’s Center in accordance with the requirements of the Resolution and the District Sublease. The Parties acknowledge that the District Sublease requires, among other things, that upon substantial completion of the construction of the Visitor’s Center, the District is obligated to transfer the Visitor’s Center to the Lessor and that upon such transfer the District Sublease will terminate.

3.4. District Operating Mill Levy Tax Increment Revenues.

(a) In order to facilitate the funding by the District of the costs of operations and maintenance services, the Authority hereby agrees that it will segregate and promptly remit, on a monthly basis, to the District, all District Operating Mill Levy Tax Increment Revenues. Notwithstanding the foregoing, the Authority shall have the obligation to remit such District Operating Mill Levy Tax Increment Revenues to the District solely to the extent the Authority receives the same.

(b) The District agrees to use all District Operating Mill Levy Tax Increment Revenues to fund the costs of operations and maintenance services.

(c) The Authority will apply any Property Tax TIF received in respect of the District Debt Service Mill Levy as required by the Pledge Agreement and the other Bond Documents.

For purposes of this Section 3.4, the following capitalized terms shall have the following meanings:

(i) “Base Valuation” means, with respect to the Property, the total assessed valuation of all taxable property last certified by the assessor prior to the effective date of the approval of the Urban Renewal Plan, as the same may be subsequently adjusted in accordance with the Act.

(ii) “District Operating Mill Levy Tax Increment Revenues” means the portion of Property Tax Increment Revenues attributable to the District’s Operating Mill Levy.

(iii) “District Operating Mill Levy” means the operations and maintenance mill levy described in the Operating Plan.

(iv) “Incremental Valuation” means, with respect to the Property, the amount of assessed valuation, if any, which exceeds the Base Valuation.

(v) “Property Tax Increment Revenues” means the ad valorem property tax revenues collected on the Incremental Valuation of all taxable property located within the Property.

(d) Any limitation or procedure for the disbursement of Property Tax TIF funds elsewhere in this Agreement shall not apply to the District Operating Mill Levy Tax Increment Revenues, the disbursement of which shall be governed solely by this Section 3.4 and any subsequent writing executed by the District and the Authority.

4. DEVELOPMENT OF THE PROPERTY

4.1. Improvements. Development of the Property may occur in phases (each a “Phase”) as set forth in the Concept Plan. Development will consist of (i) the Private Improvements, which shall consist of the commercial uses more particularly described in the Concept Plan, and (ii) the District Improvements on the Property (collectively, the “Improvements”). Development shall take place as depicted on the Concept Plan, as updated and completed by agreement of the Parties, and as contemplated in any development plan approved as provided in this Agreement (each a “Development Plan”), the Operating Plan and the provisions of this Agreement, as applicable.

4.2. Developer Responsibility. Developer shall enter into Subleases which shall require that the Private Improvements be constructed on the Property in accordance with the Concept Plan as it applies to the Property. All construction required of the Parties by this Agreement shall be undertaken and completed in accordance with all applicable laws and regulations, including City codes and ordinances, the Resolution and the Urban Renewal Plan and shall be performed in accordance with and subject to the terms and conditions of this Agreement.

4.3. Subleases and Sub-Subleases. Notwithstanding the foregoing, the Authority acknowledges that the Site Development Lease contemplates that while Developer shall have the right to develop the Project itself, Developer intends to serve as master developer of the Project and to sublease all or portions of the Property to third-party developers who will design, finance, and develop the Project. As such, the Site Development Lease provides that Developer shall have the right from time to time to sublease or grant other subordinate property interests in all or portions of the Property to one or more sublessees (each a “Sublessee”) pursuant to written sublease agreements (“Subleases”) on such terms and conditions as Developer may determine, in its sole and absolute discretion, without the prior written consent of the Lessor, subject to certain conditions. Further, each Sublessee shall have the right from time to time to sub-sublease all or portions of the Property subject to its Sublease to one or more sub-sublessees (each a “Sub-Sublessee”) pursuant to written sub-sublease agreements (“Sub-Subleases”) on such terms and conditions as such Sublessee may determine, in its sole and absolute discretion, and without the consent of the Lessor, subject to certain conditions. In the event Developer transfers all or a portion of the Property pursuant to Subleases, Developer shall remain responsible to ensure that Sublessees and/or Sub-Sublessees construct their applicable portions of the Project pursuant to the Concept Plan and this Agreement. Without limiting the foregoing, Developer agrees to include in the

Sublease with the office developer an obligation on the part of such office developer to negotiate in good faith to include a branch library in the office development.

4.4. Relationship to Resolution and RTA. Nothing in this Agreement, including, without limitation, the financing provisions of Section 7 below, shall be deemed to alter, amend or limit the Authority's rights and obligations under the Resolution or the RTA. The Parties acknowledge that the Authority serves as the Financing Entity (as defined in the Resolution) for the City for Champions project. As such, the Authority is providing support for the Project pursuant to the Resolution and the RTA which is in addition to the support provided by virtue of the Urban Renewal Plan and this Agreement, including, without limitation, the payment of Dedicated State Sales Tax Increment Revenues (as defined in the Pledge Agreement) pursuant to the Pledge Agreement. The Developer and the District hereby agree to (i) cooperate with the Authority in support of the Authority's obligations under the Resolution and the RTA, including, without limitation, by providing timely information in support of the Authority's cost certification and reporting obligations, (ii) comply at all times with all applicable obligations of the Resolution and the RTA and all applicable direction of the Commission and (iii) to take no action which would cause the Authority to be in breach or violation of its obligations under the Resolution or the RTA.

5. PREPARATION OF THE PROJECT FOR DEVELOPMENT

5.1. Zoning. Because the Property is already zoned to allow the Project, the Authority is not requiring the Developer to rezone the Property, but the Developer agrees to comply with all applicable City codes, ordinances and planning requirements with regard to development of the Property and construction of the Improvements, including if required by the City, to rezone part of the Property.

5.2. District Improvements. The District shall design and construct or cause the designing and construction of the District Improvements for the Property within a reasonable period of time as established in the Schedule of Performance. With respect to each Phase, the District shall construct, in the public right-of-way and/or easements, all mains and lines necessary for the District Improvements and necessary to provide water, sanitary sewer, storm sewer, natural gas and electricity for the Improvements. The construction and installation of such utilities shall conform with the requirements of all applicable laws and ordinances. The District shall also be responsible for the relocation, design and construction of all new public streets, utilities, sidewalks, alleys, costs incurred in connection with Taxing Entity Agreements, excavation for and design and construction of parking facilities, landscaping and street lighting within the public right-of-way shown in the Concept Plan, as it may be refined and updated. The District shall be responsible for the design, construction and cost, if any, of utility and service lines necessary for the construction of the District Improvements within the Property, tap connection fees and other City requirements, including the cost of extending such utility lines from the District Improvements to the mains in the public right-of-way. The District shall be responsible for construction of improvements to existing facilities or improvements and construction of new facilities or improvements on locations outside the boundaries of the Property as may be required by agreement between the District and applicable governmental authorities.

5.3. Access to Property. At all reasonable times, any Party shall permit representatives of the other to have access to any part of the Property for the purpose of installing signs, obtaining

data, making tests, surveys, borings, engineering studies, carrying out or determining compliance with this Agreement, the Urban Renewal Plan or any City code or ordinance, including, but not limited to, inspection of any work required to construct the Improvements on the Property. Any such access or inspection shall not interfere with the use of the Property or any construction on the Property. No compensation shall be payable to the Parties nor shall any charge be made in any form by any Party for the access provided in this section. A Party entering upon the Property pursuant to this section shall restore such Property to its condition prior to any tests or inspections made by such Party and shall indemnify and hold harmless the Party owning such Property for any loss or damage or claim for loss or damage (including reasonable legal fees) resulting from any such entrance, tests or surveys (but this indemnity shall not apply to conditions existing on such Property at the time of such entry, even where such condition was discovered by virtue of the entry).

5.4. Replat and Dedications. The Authority is not requiring the Developer to replat or resubdivide the Property, but the Developer agrees to comply with all applicable City codes, ordinances and planning requirements with regard to development of the Property and construction of the District Improvements, including if required by the City, to replat or resubdivide part of the Property. The Developer shall secure, as appropriate, the right for utility and drainage facilities to occupy the Property, pursuant to the Site Development Lease, as needed to properly carry out and maintain the District Improvements.

5.5. Antidiscrimination. The Developer, for itself and its successors and assigns, agrees that in the construction of and in the use and occupancy of the Property, the Developer will not discriminate against any employee or applicant for employment because of race, color, creed, gender, religion, sexual orientation, disability, marital status, ancestry or national origin.

5.6. Signage. As soon as reasonably practicable, and until completion of construction, the Developer shall display temporary signage at the Property approved by the Authority and relating to the Authority's participation in the redevelopment of the Property. Such signage shall be connected to the primary signage identifying the redevelopment and visible to the general public. In addition, the Developer shall attach to the Improvements, at street level, or in or adjacent to a primary entrance to the Property, a permanent sign acceptable to the Authority not less than ninety (90) square inches acknowledging that the redevelopment was financed and constructed in cooperation with the Authority.

6. TAXING ENTITY AGREEMENTS

6.1. Cooperation Agreement. The Authority and the City have entered into the Cooperation Agreement. The Cooperation Agreement provides for, among other things, allocation by the City of (i) 87.5% of the City Sales Tax TIF (i.e., 1.75%) collected on or within the Property and (ii) 50% of the City Use Tax TIF (i.e. 1.00%) paid solely on construction materials used within the Area to the Authority for the Duration. In the interest of providing part of the financing of the redevelopment of the Property and accomplishing the goals of the Urban Renewal Plan and this Agreement, the Authority, the Developer, and the District agree to work with the City and dedicate such time and resources as may be required to implement this agreement to facilitate the timely planning and development of the Improvements. The primary purpose of the Cooperation Agreement is to pledge to distribute to the District City Sales Tax TIF and City Use Tax TIF to in

order to meet a portion of the requirements of the Bonds and such other reasonable and necessary terms reasonably acceptable to the Parties to carry out the Concept Plan and in furtherance of the Urban Renewal Plan. Developer and the District acknowledge that the Cooperation Agreement includes certain limitations on the use of City Sales Tax TIF and City Use Tax TIF and agrees to comply with such limitations.

6.2. County Agreement. The Authority and the County have entered into the County Agreement. The County Agreement provides for, among other things, allocation by the County of 87.5% of the County Sales Tax TIF (i.e., 0.875%) for the Duration. The County Sales Tax TIF shall be included in TIF Revenue and Pledged Revenue when and as received by the Authority pursuant to the County Agreement and paid over to the District as Pledged Revenue pursuant to the Pledge Agreement and this Agreement.

6.3. Taxing Entity Agreements. The Authority has entered into the Taxing Entity Agreements with each of the Taxing Entities pursuant to C.R.S. § 31-25-107(9.5). Pursuant to the Taxing Entity Agreements, each of the Taxing Entities has agreed to allocate some or all of its portion of the Property Tax TIF to the Authority pursuant to the Urban Renewal Plan in support of Developer's project. The Authority shall establish separate accounts for and make all payments of TIF Revenue, but not Pledged Revenues, required to be made to Taxing Entities pursuant to the Taxing Entity Agreements. Developer has reviewed each of the Taxing Entity Agreements and agrees to take no action that would be inconsistent with any of the Taxing Entity Agreements or would cause the Authority to be in breach of any of the Taxing Entity Agreements.

7. PROJECT FINANCING

7.1. Authority Financing. The sole financing provided by the Authority for the redevelopment of the Property pursuant to the Urban Renewal Plan shall be the payment of Authority Pledged Revenues to the District pursuant to the Pledge Agreement. The Property Tax TIF revenues shall be those revenues, if any, from the property tax levy of those taxing bodies that levy such taxes against the increment portion of the property tax assessment roll attributable to the Property as calculated and allocated by the Authority to the Property each year as part of the total property tax increment revenue, if any, received by the Authority from the entire Area described in the Urban Renewal Plan in accordance with the Act and applicable regulations. The Sales Tax TIF revenues shall be those revenues, if any, described in the Cooperation Agreement and the County Agreement generated from taxable sales on or from the Property and Improvements thereon, if any, as calculated and allocated by the Authority to the Property and Improvements each year as part of the total municipal or county, as applicable, sales tax increment revenue, if any, received by the Authority from the entire Area described in the Urban Renewal Plan in accordance with the Act, the Cooperation Agreement and the County Agreement. Nothing in this section shall be deemed to limit the Authority's rights and obligations under the RTA and the Resolution described in Section 4.4 above.

7.2. District Bonds. In furtherance of the foregoing, for the purpose of financing a portion of the District Improvements and portion of the District Improvements (including paying amounts due under the District Reimbursement Agreement), the District has agreed to issue (i) its Special Revenue Bonds, Series ~~2019A in the aggregate principal amount of \$ _____~~ 2020A (the "Series ~~2019A~~2020A Bonds") and its Special Revenue Bonds, Taxable Series ~~2019B in the~~

aggregate principal amount of \$ _____ 2020B (the “Series ~~2019B~~2020B Taxable Bonds” and together with the Series ~~2019A~~2020A Bonds, the “Senior Bonds”), pursuant to an Indenture of Trust (Senior) to be dated as of [____], 2019 on or about the date hereof (the “Senior Indenture”) between the District and BOK Financial, a division of BOKF, NA, as trustee (the “Senior Bond Trustee”), and (ii) its Subordinate Special Revenue Bonds, Series ~~2019C~~ in the aggregate principal amount of \$ _____ 2020C (the “Subordinate Bonds” and together with the Senior Bonds, the “District Bonds”) pursuant to an Indenture of Trust (Subordinate) to be dated as of _____, 2019 on or about the date hereof (the “Subordinate Indenture” and together with the Senior Indenture, the “Indentures”) between the District and BOK Financial, a division of BOKF, NA as trustee (the “Subordinate Bond Trustee” and together with the Senior Bond Trustee, the “Trustee”). In connection with the District Bonds, the Authority has agreed to pledge the Pledged Revenues to repayment thereof pursuant to the Pledge Agreement. The District has pledged the Authority Pledged Revenues for payment of the District Bonds. Developer and the District hereby agree to comply with all obligations of the Developer and the District, as applicable, in the Bond Documents and otherwise reasonably cooperate with the Authority as necessary and appropriate to allow the Authority to comply with its obligations under the Bond Documents.

7.3. Payment Requests. The District shall submit payment requests in accordance with the following procedure. Reimbursable Project Costs may include, without limitation, reasonable and customary expenditures, including Soft Costs, for design and construction of the District Improvements, demolition, site clearance, streets, sidewalks, curb, gutters, landscape, drainage improvements and amenities, parks, land assembly, site grading, and similar costs authorized under the Act, listed on Exhibit B, or otherwise eligible to be reimbursed pursuant to the Act. Any payment request shall indicate the applicable portion of the Reimbursable Project Costs for the District Improvements completed and to be reimbursed by the Authority and such other information as the Authority may from time to time reasonably require, including, but not limited to evidence satisfactory to the Authority of the proper application of past disbursements and evidence substantiating any and all of the Reimbursable Project Costs indicated in such notice. The payment request shall further include a certification by an engineering professional agreed to by the Parties that all Reimbursable Project Costs were actually incurred and not previously reimbursed to the Developer or the District pursuant to a payment request and that the Improvements made or the costs incurred therewith were constructed or incurred in compliance with applicable laws, ordinances and regulations, this Agreement and the Urban Renewal Plan. Prior to payment, the Authority has the right to require adequate documentation of expenditures from the District to include lien releases from contractors completing the work and included on the payment request. In addition to the foregoing requirements, prior to disbursement of bond proceeds, the Developer or District agrees to provide the documentation and certifications that satisfy the requirements of the Trustee, the Authority, the District, the Resolution and the Bond Documents. The Authority agrees to promptly review and approve such payment requests that comply with the requirements of this Section 7.3.

7.4. Appointment of Trustee or Escrow Agent. Authority may, from time to time, designate one or more trustees or escrow agents to act as its collection and disbursing agent for the Pledged Revenues.

7.5. Authority Impairment of Pledged Revenues. To the extent permitted by law, the Authority covenants and agrees to preserve and protect the Pledged Revenues and the rights of the

Developer, the District, and any approved successors in interest of the right to receive payment of the Pledged Revenues, and to defend such rights with respect to receipt of the Pledged Revenues under and against all claims and demands of third parties not authorized to receive such Pledged Revenues in accordance with this Agreement and the Act as in effect on the date of this Agreement. The Authority covenants and agrees to take no action which would result in Pledged Revenues required to be paid hereunder to be withheld from the Developer, the District or any authorized bond trustee. Subject to the foregoing the Developer and District therefore agree to assume the risk that insufficient Pledged Revenues will be generated to reimburse all Reimbursable Project Costs.

7.6. Opinion. At the time of the issuance of the District Bonds, the Authority shall deliver an opinion of counsel addressed to the District, and other parties to the District bond financing, which opinion shall state in substance that this Agreement and the Pledge Agreement have been duly authorized, executed, and delivered by the Authority, constitutes a valid and binding agreement of the Authority, enforceable according to its terms, subject to any applicable bankruptcy, reorganization, insolvency, moratorium, or other law affecting the enforcement of creditors' rights generally and subject to the application of general principles of equity.

7.7. Special Fund; District Account. In accordance with the provisions of this Agreement and the Act, except as otherwise provided in this Agreement, the Authority agrees to establish and make deposits of all tax increment revenue it receives pursuant to the Urban Renewal Plan, the Cooperation Agreement and the Taxing Entity Agreements, including the Pledged Revenues, into the special fund as provided in the Act (the "Special Fund"). In addition, the Authority shall establish an account (the "District Account") and shall segregate and pay into the District Account all of the Pledged Revenues described in this Agreement, when and as received by the Authority. The District Account shall be applied to payments in accordance with this Agreement, the Cooperation Agreement and the other Taxing Entity Agreements, and shall be used for no other purpose. Unless the Parties otherwise agree in writing, all Pledged Revenues in the District Account shall be paid to the District on or before the last day of each month up to the full amount of any and all amounts due and owing on any payment requests certified and approved in accordance with Section 7.3.

7.8. Pledge of TIF Revenue. The Authority hereby and in the Pledge Agreement irrevocably pledges to pay the Pledged Revenues to the District in support of the District Bonds, or to the Trustee if so directed pursuant to the Pledge Agreement. The Pledged Revenues, when and as received by the Authority shall be subject to the lien of such pledge without any physical delivery, filing, or further act. The Authority shall transfer the amounts in the District Account as specified in Section 7.7 or in the Bond Documents. The Authority shall keep, maintain, and apply the Pledged Revenues as required to pay the District. The obligation to pay the District established by this Agreement is and shall be an obligation of the Authority pursuant to Section 31-25-107(9), C.R.S. The Authority has elected to apply the provisions of Section 11-57-208, C.R.S., to this Agreement. 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 lien of such pledge on the Pledged Revenues and the obligation to perform the contractual provisions made herein shall have priority over any of all other obligations and liabilities of the Authority with respect to the Pledged Revenues.

7.9. Books and Accounts; Financial Statements. The Authority will keep proper and current itemized records, books, and accounts in which complete and accurate entries shall be made of the receipt and use of all amounts of Pledged Revenues and such other calculations required by this Agreement, the Bond Documents, the Resolution, and any applicable law or regulation. The Authority shall prepare after the close of each fiscal year, a complete financial statement prepared in accordance with generally accepted accounting principles accepted in the United States of America for such year in reasonable detail covering the above information, by a certified public accountant, and shall furnish a copy of such statement to the Developer (or District as applicable) within 270 days after the close of each fiscal year of the Authority or upon such earlier date as may be required by the Bond Documents.

7.10. 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 Authority, including, without limitation, those relating to the Pledged Revenues, the Authority Administrative Fee, the District Improvements, the Special Fund and the District Bonds, including the books and accounts described in this Section 7.10, shall at all reasonable times be open to inspection by such accountants or other agents as the respective Parties may from time to time designate.

7.11. No Impairment. The Authority shall not enter into any agreement or transaction that impairs the rights of the Parties under this Agreement, including, without limitation, the right to receive and apply revenue to payment of the District or the Trustee, as applicable, pursuant to Section 7.8.

7.12. Authority Administrative Fee; Retainer. Commencing in the calendar year 2020, an administrative fee (the "Authority Administrative Fee") in the amount of \$60,000 of the total annual TIF Revenue, escalating at a rate of two percent (2%) annually in each subsequent year, as more particularly shown on Exhibit D, shall be retained and collected annually by the Authority from the total TIF Revenue initially deposited in the Special Fund, the proceeds of which shall be used to defray the Authority's costs of administering the Urban Renewal Plan, including, but not limited to, overhead, administration, accounting and reporting of the collection and disbursement of Pledged Revenues. On the date the District Bonds are issued, the District will pay to the Authority \$183,624, which amount shall be credited against the obligation to pay the Authority Administrative Fee for the years 2020, 2021 and 2022. Notwithstanding the foregoing, commencing in 2023 until such time as the TIF Revenue is annually in excess of an amount required to fund an Authority Administrative Fee of not less than the applicable amount provided on Exhibit D, Developer will pay to the Authority an Authority Administrative Fee in such amount annually not later than June 30 of each year. The Authority shall determine the extent to which the Authority Administrative Fee is available from TIF Revenue based on calculations provided by the El Paso County Assessor. Any Authority Administrative Fee paid by Developer (a) shall be a Reimbursable Project Cost; and (b) shall bear interest at the rate of eight percent (8%) per annum from the date it is paid. Any accrued but unpaid balance of the Authority Administrative Fee owing to the Authority by Developer shall bear interest at the rate of eight percent (8%) per annum from the date it became due. In addition to the Authority Administrative Fee, Developer agrees to fund and maintain on retainer with the Authority an amount equal to \$15,000, to be used by the Authority pay extraordinary direct expenses of the Authority relating to Developer's project, not included in the cost of issuance of Bonds or are outside the normal duties of the Authority in administering this Agreement, such extraordinary direct expenses include, but are not limited to,

the costs associated with the engineer's certification of costs, any accounting costs in excess of \$3,000 associated with the certification of costs, legal and accounting costs related to any future financing of project costs, legal costs associated with defending the Authority's ability to collect the Pledged Revenue, legal costs associated with defending the terms of this Agreement, and any other costs incurred that are not outlined by this Agreement (plus 15%). If the Authority applies any funds from such retainer, the Authority will provide an invoice to Developer showing the funds applied and the applicable costs, and Developer agrees to replenish the funds in the retainer account to the initial amount within ten (10) days thereafter.

8. CONSTRUCTION OF IMPROVEMENTS

8.1. Agreement to Commence and Complete Construction. The Parties agree that the Developer and District have commenced and completed studies and proposed designs in preliminary form required for design and construction of the District Improvements and has otherwise incurred Reimbursable Project Costs in support of the Urban Renewal Plan and with the prior approval of the Authority (which approval was conditioned upon approval and adoption of the Urban Renewal Plan by the City Council and compliance with the proper documentation and approval of such costs as Reimbursable Project Costs in accordance with Section 7.3). The District shall promptly commence and diligently prosecute to completion, or cause to be promptly continued and diligently prosecuted to completion, the design and construction of the Improvements described in the applicable plans and specifications in accordance with the Concept Plan and Schedule of Performance. The District shall use its reasonable best efforts to commence and complete construction of the District Improvements on the Property for all Phases of the redevelopment thereof (or portion thereof as approved by the Authority); the Developer shall use its reasonable best efforts to secure subleases which obligate third-party developers to commence and complete the Private Improvements. For purposes of this Agreement, (i) "Commence Construction" or "Commencement of Construction" means the visible commencement by the relevant party or, if applicable, the District, of actual physical construction and operations on the Property for the erection of any of the Improvements, including, without limitation, obtaining all required permits and licenses and installation of a permanent required construction element, such as a caisson, footing, foundation or wall; and (ii) "Complete Construction" or "Completion of Construction" means (A) for the Private Improvements, the issuance of a Certificate of Occupancy by the City so that the Private Improvements described in such certificate may open for permanent operations, and (b) for the District Improvements, construction acceptance in accordance with applicable laws, ordinances and regulations of the City, the District and any other governmental entity or public utility with jurisdiction, subject to any applicable conditions of maintenance and warranty.

8.2. Progress Reports. Until Completion of Construction of the Improvements, the Developer and District shall make, in such detail and at such times as may reasonably be requested by the Authority, but in any event no more frequently than quarterly, as to actual progress with respect to construction of the Improvements.

8.3. Delivery of Ownership Information. Developer agrees to provide to the Authority the name and address of all controlling shareholders, controlling members or general partners, as applicable, of the Developer or Affiliates. This information shall be provided to the Authority

within ten (10) days from the date of the signing of this Agreement or any transfer to an Affiliate authorized by Section 10.2(b).

9. REPRESENTATIONS AND WARRANTIES

9.1. Representations and Warranties by the Authority. The Authority represents and warrants that:

(a) The Authority is an urban renewal authority duly organized and existing under the Act. Under the provisions of the Act, the Authority has the power to enter into this Agreement and carry out its obligations hereunder.

(b) The activities of the Authority in the redevelopment of the Property are undertaken for the purpose of eliminating and preventing the development or spread of blight.

(c) The Urban Renewal Plan has been validly adopted in accordance with the Act and is in full force and effect and has not been repealed.

(d) The Authority knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of the Authority or its officials with respect to the redevelopment of the Property, this Agreement or the District Improvements.

9.2. Representations and Warranties by the Developer. The Developer represents and warrants that:

(a) The Developer is a duly organized and validly existing limited liability company under the laws of the State of Colorado in good standing under the laws of Colorado, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement.

(b) The consummation of the transactions contemplated by this Agreement and the performance of its obligations hereunder will not violate any provisions of the governing documents of the Developer or 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 so as to adversely affect the consummation of such transactions.

(c) The Developer knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of the Authority, the Developer with respect to the Property, this Agreement, or the Improvements.

9.3. Representations and Warranties by the District. The District represents and warrants that:

(a) The District is a quasi-municipal corporation and political subdivision duly organized and validly existing under the laws of the State of Colorado, has the power to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement.

(b) The consummation of the transactions contemplated by this Agreement and the performance of its obligations hereunder will not violate any provisions of the governing documents of the District or constitute a default or result in the breach of any term or provision of any contract or agreement to which the District is a party so as to adversely affect the consummation of such transactions.

(c) The District knows of no litigation or threatened litigation, proceeding or investigation contesting the powers of the District or its officials with respect to the redevelopment of the Property, this Agreement or the District Improvements.

10. RESTRICTIONS ON ASSIGNMENT AND TRANSFER

10.1. Representations as to Development. The Developer represents and agrees that its undertakings under this Agreement are for the purpose of development of the Property. The Developer further represents and agrees that;

(a) the development of the Property is important to the general welfare of the Authority and the City;

(b) upon approval of Reimbursable Project Costs, the proceeds of the District Bonds will be available to make such development possible; and

(c) the qualifications and identity of the Developer and its principals are of particular concern to the Authority. The Developer recognizes that it is because of such qualifications and identity that the Authority is entering into this Agreement with the Developer, and is willing to accept and rely on the obligations of the Developer for the faithful performance of all of its undertakings and covenants under this Agreement.

10.2. Restrictions against Transfer of Agreement. The Developer further covenants and agrees that:

(a) Except for (i) transfer to an Affiliate or the District, for which consent shall not be required provided that the conditions set forth in Section (b) are satisfied, or (ii) as security for obtaining the Developer's financing, Developer will not make, create, or suffer to be made or created, any total or partial sale or transfer in any form of this Agreement, or any part thereof or any interest therein or any agreement to do the same, without prior written approval of the Authority; provided, however, that Developer or its Affiliates may sell, lease or otherwise transfer parcels of the Property to bona fide third party owners and operators in the ordinary course of business, including, without limitation, pursuant to the District Sublease, other Subleases or Sub-Subleases. Such approval shall not be unreasonably withheld, conditioned, or delayed.

(b) The Authority shall be entitled to require the following as conditions to any such approval, and, in event of a transfer to an Affiliate, the Developer shall submit ownership information to the Authority thirty days prior to the effective date of such transfer showing that the Developer or its manager serves as manager or general partner or otherwise is in control, directly or indirectly, of such Affiliate and that the Affiliate entity satisfies (i) and (ii) of the following provisions:

(i) Any proposed transferee shall have the qualifications and financial responsibility, as reasonably determined by the Authority, necessary to fulfill the obligations of the Developer under this Agreement (or, if the transfer is of or related to part of the obligations under this Agreement, such obligations to the extent that they relate to such part).

(ii) Any proposed transferee, by instrument in writing satisfactory to the Authority, shall assume all of the obligations of the Developer under this Agreement and agree to be subject to the conditions and restrictions to which the Developer is subject (or, if the transfer is part of the Agreement or Property, such obligations, conditions and restrictions as they apply to such part) or such different obligations approved by the Authority. The fact that any such transferee or successor has not assumed such obligations or so agreed shall not relieve such transferee or successor from such obligations, conditions or restrictions, or limit any rights or remedies of the Authority with respect to the Agreement or the construction of the Improvements. No transfer of ownership in all or any part of the Agreement or the Property, or any interest therein, however occurring and whether voluntary or involuntary, shall limit the Authority's rights, remedies or controls provided in this Agreement.

(iii) The Developer shall submit to the Authority for review all instruments and other legal documents involved in effecting transfers; and, unless the Authority gives notice of disapproval of a transfer within thirty (30) days after such Developer submittal, such transfer shall be deemed approved by the Authority.

(iv) The Developer and its transferee shall comply with such other reasonable conditions as the Authority may reasonably require to safeguard the purposes of the Act, the Urban Renewal Plan and the Bond Documents. Unless the Authority otherwise agrees in writing, upon the written approval of the Authority of a transfer of all or part or any interest in the Property, this Agreement or the Developer, the Developer or any other party bound by this Agreement shall not be relieved of its obligations under this Agreement to the extent of such transfer or the interest in the Property, Agreement or Developer included in such transfer.

11. EVENTS OF DEFAULT; REMEDIES

11.1. Events of Default by Developer. "Default" or an "Event of Default" by Developer under this Agreement shall mean one or more of the following events:

(a) the Developer, in violation of this Agreement, assigns or attempts to assign or transfer this Agreement or control of the Property, or any rights in either;

(b) the Developer, in violation of this Agreement, fails to ensure that Sublessees and/or Sub-Sublessees construct their applicable portions of the Project pursuant to the Concept Plan and this Agreement;

(c) a holder of a mortgage or deed of trust exercises any remedy provided by loan documents, law or equity that materially interferes with the construction of the Improvements; or

(d) subject to the grace period described in Section 11.4, Developer fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement.

11.2. Events of Default by District. “Default” or an “Event of Default” by the District under this Agreement shall mean, subject to the grace period described in Section 11.4, the District fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement.

11.3. Events of Default by the Authority. “Default” or an “Event of Default” by the Authority under this Agreement shall mean, subject to the grace period described in Section 11.4, the Authority fails to observe or perform any material and substantial covenant, obligation or agreement required of it under this Agreement.

11.4. Grace Periods. Upon the occurrence of a Default or an Event of Default by any Party which is subject to the grace period described in this section, such Party shall, upon written notice from another Party, proceed immediately to cure or remedy such Default and, in any event, such Default shall be cured within thirty (30) days (ninety (90) days if the Default relates solely to the date for Completion of Construction of Improvements) after receipt of such notice, or such cure shall be commenced and diligently pursued to completion within a reasonable time, not to exceed sixty (60) days, if curing cannot be reasonably accomplished within thirty (30) days (or ninety (90) days if the Default relates solely to the date for Completion of Construction of Improvements).

11.5. Remedies on Default. Whenever any Default or Event of Default occurs and, if applicable, is not cured under Section 11.4 of this Agreement, the non-defaulting Party may take any one or more of the following actions; provided, however, that so long as any District Bonds are outstanding and unpaid, the only remedies available to the Authority shall be those remedies provided for in clause (d) hereof:

(a) Except as otherwise provided in this Agreement, suspend performance under this Agreement until it receives assurances from the defaulting Party, deemed adequate by the non-defaulting Party, that the defaulting Party will cure its Default and continue its performance under this Agreement, except that the Authority may not withhold payment of the Pledged Revenues as a remedy;

(b) Prior to the issuance of the District Bonds by the Developer, terminate this Agreement as to any portion of the Property where Commencement of Construction has not occurred; or

(c) take whatever legal or administrative action or institute such proceedings as may be necessary or desirable in its opinion to enforce observance or performance, including, but not limited to, specific performance or to seek any other right or remedy at law or in equity, including damages.

11.6. Delays/Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement shall not operate as a waiver of any such right or deprive it of or limit such rights in any way; nor shall any waiver in fact made by such Party with respect to any default by another Party under this Agreement be considered as a waiver of rights with respect to any other Default by the another Party under this Agreement or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

11.7. Enforced Delay in Performance for Causes Beyond Control of Party. None of the Authority, the District nor the Developer, as the case may be, shall be considered in Default of its obligations under this Agreement in the event of enforced delay due to causes beyond its control and without its fault or negligence, including, but not restricted to, acts of God, acts of the public enemy, acts of the Federal, State or local government, acts of another Party, acts of third parties (including the effect of any litigation or petitions for initiative and referendum), acts or orders of courts, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors or materialmen due to such causes. In the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Party claiming delay shall be extended for a period of the enforced delay; provided that the Party seeking the benefit of the provisions of this section shall, within fourteen (14) days after such Party knows of any such enforced delay, first notify the other Party of the specific delay in writing and claim the right to an extension for the period of the enforced delay. Delays due to general economic or market conditions shall not be considered a cause allowing a delay under this Section 11.7.

11.8. Effect of Termination. If this Agreement is terminated the covenants and obligations of this Agreement that survive such termination shall remain in full force and effect the Parties agree to execute such mutual releases or other instruments reasonably required to effectuate and give notice of such termination. Nor shall termination of this Agreement affect or terminate the Pledge Agreement in any way.

11.9. Rights and Remedies Cumulative. The rights and remedies of the Parties to this Agreement are cumulative and the exercise by any Party of any one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other right or remedies for any other Default by another Party.

12. INDEMNITY

12.1. General Indemnity. The Developer, and, to the extent it legally may, the District, covenants and agrees, at its expense, to pay, and to indemnify, defend and hold harmless the Authority, and its board of commissioners, officers, agents, employees, engineers and attorneys (collectively, "Indemnified Parties" or singularly, each an "Indemnified Party") of, from and against, any and all claims, damages, demands, expenses (including reasonable attorneys' fees and court costs), and liabilities resulting directly or indirectly from the Developer's negligence in development, construction, repair, maintenance, management, leasing, sale, and any other conduct or activities with respect to the Property or the Improvements, unless such claims, damages,

demands, expenses, or liabilities, arise solely by reason of the negligent act or omission of the Authority or other Indemnified Parties.

13. MISCELLANEOUS

13.1. Conflicts of Interest. None of the following shall have any interest, direct or indirect, in this Agreement: a member of the governing body of the Authority or of the City, an employee of the Authority or of the City who exercises responsibility concerning the Urban Renewal Plan, or an individual or firm retained by the City or the Authority who has performed consulting services in connection with the Urban Renewal Plan. None of the above persons or entities shall participate in any decision relating to this Agreement that affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

13.2. Titles of Sections. Any titles of the several parts and sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

13.3. Incorporation of Recitals and Exhibits. All Recitals to this Agreement and the exhibits attached hereto are incorporated into and made a part of this Agreement.

13.4. No Third-Party Beneficiaries. No third-party beneficiary rights are created in favor of any person not a party to this Agreement. Notwithstanding the foregoing, the bondholders of the District Bonds, acting through the Trustee, are hereby made third party beneficiaries of this Agreement to the extent the enforcement or nonenforcement of obligations under this Agreement impairs the obligations of the Parties under the Bond Documents.

13.5. Venue and Applicable Law. Any action arising out of this Agreement shall be brought in the El Paso County District Court and the laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions hereof, the prevailing party in such litigation or other proceeding shall obtain, as part of its judgment or award, its reasonable attorneys' fees and costs.

13.6. Binding Effect. The Agreement shall be binding on the Parties hereto, and their successors and assigns.

13.7. Integrated Contract; Severability. This Agreement constitutes the entire agreement among the Parties and supersedes any prior agreement, written or oral. The invalidation of any of its provisions by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

13.8. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute but one and the same instrument.

13.9. Notices. A notice, demand, or other communication under this Agreement by any party to the other shall be sufficiently given if delivered in person or if it is dispatched by registered

or certified mail, postage prepaid, return receipt requested, or delivered personally or by electronic mail with confirmation of receipt, and

(a) in the case of the Developer, is addressed to or delivered to the Developer as follows:

Blue & Silver Development Partners, LLC
Attn: Dan Schnepf
2345 Research Parkway, #300
Colorado Springs, CO 80920
Email: dan_schnepf@matrixdesigngroup.com

with a copy to:

Brownstein Hyatt Farber Schreck, L.L.P.
Attn: Carolynne C. White, Esq.
410 Seventeenth Street, Suite 2200
Denver, CO 80202
E-mail: CWhite@BHFS.com

(b) in the case of the Authority, is addressed to or delivered personally to the Authority as follows:

Colorado Springs Urban Renewal Authority
P.O. Box 1575, MC 640
Colorado Springs, CO 80901-1579
Attn: Executive Director
E-mail: jwalker@springsgov.com

with a copy to:

Kraemer Kendall Rupp Deen Neville LLC
Attn: David M. Neville, Esq.
430 N. Tejon, Suite 300
Colorado Springs, CO 80903
E-mail: dneville@k2blaw.com

(c) in the case of the District, is addressed to or delivered to the District as follows:

USAFA Visitor's Center Business Improvement District
Eric Smith, Board President
2345 Research Parkway, #300
Colorado Springs, CO 80920
Attn: Board of Directors

with a copy to:

Spencer Fane LLP
Attn: Pat Hrbacek, Esq.
212 N. Wahsatch Avenue
Suite 305
Colorado Springs, CO 80903
E-mail: phrbacek@spencerfane.com

or at such other address with respect to any such party as that party may, from time to time, designate in writing and forward to the other as provided in this section. Notice is deemed to be given on the date received (if mailed according to this section), or on the date delivered (if personally delivered or electronically mailed with confirmed receipt in accordance with this section).

13.10. Good Faith of Parties. Except in those instances where the Developer may act in its sole discretion, 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, condition, or delay any approval required by this Agreement.

13.11. 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 Clerk and Recorder of El Paso County, Colorado are not open for the regular transaction of business, such day therefor shall be extended until the next day on which said banks and said office are open for the transaction of business.

13.12. Further Assurances. The Parties hereto agree to execute such documents, and take such action, as shall be reasonably requested by the other party hereto to, supplement, define, update, confirm, and clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof, including, without limitation, updating and clarifying the Concept Plan, Schedule of Performance, supplementing or clarifying Reimbursable Project Costs and documents and action in support of compliance with obligations of a Party under the Resolution or the Bond Documents.

13.13. Estoppel Certificate and Approvals. The Parties hereto agree to execute such documents as the other party hereto shall reasonably request to verify or confirm the status of this Agreement and of the performance of the obligations hereunder and such other matters as the requesting party shall reasonably request. Any approvals required in this Agreement shall be in writing.

13.14. Amendments. This Agreement shall not be amended except by written instrument. Each amendment hereof, which is in writing and signed and delivered by the Parties hereto shall be effective to amend the provisions hereof, and no such amendment shall require the consent or approval of any other party.

13.15. Non-Liability of Certain Officials, Employees and Individuals. Except for willful and wanton actions, no City Council member, Authority Board member, District board member,

official, attorney for the Authority or District or City Attorney, or employee of the Authority or the City shall be personally liable to the Developer for any Event of Default by the Authority or the District, as applicable, or for any amount that may become due to the Developer under the terms of this Agreement. Nothing in this Section 13.15 or this Agreement is to be construed as a waiver of any limitations upon or immunity from suits against the City, the Authority, the District, or City, District or Authority Board or Council members, officials, above-named agents or employees of the Authority, the District or the City, as may be provided by law. Except for willful and wanton actions, no member or manager, employee or attorney of the Developer shall be personally liable to the Authority for any amount that may become due to the Authority under the terms of this Agreement. Nothing herein is to be construed to limit the liability of any individual, member, manager or transferees who become personal signatories to this Agreement, or any modification thereof.

13.16. Agreement Jointly Drafted. The Agreement shall be construed as if jointly drafted by the Parties.

13.17. No Partnership; Developer Not Agent. Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, the Authority shall not be deemed or constituted a partner or joint venturer of the Developer or the District, the Developer shall not be the agent of the Authority or the District, neither the Authority nor the District shall be responsible for any debt or liability of the Developer and neither the Authority nor the District shall be responsible for any debt or liability of the other Party.

13.18. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or nonauthorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provision in any other jurisdiction. In the event that any provision of this Agreement is declared void or unenforceable, such provision shall be deemed severed from this Agreement and this Agreement shall otherwise remain in full force and effect; provided that this Agreement shall retroactively be deemed reformed to the extent reasonably possible in such a manner so that the reformed Agreement (and any related agreements effective as of the same date) provide essentially the same rights and benefits (economic and otherwise) to the Parties as if such severance and reformation were not required. Unless prohibited by applicable laws, the Parties further shall perform all acts and execute, acknowledge and/or deliver all amendments, instruments and consents necessary to accomplish and to give effect to the purposes of this Agreement, as reformed.

13.19. Minor Changes. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing the Agreement have been authorized to make, and may have made, minor changes in the Agreement. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute conclusive evidence of the approval of such changes by the respective Parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Authority and the Developer have caused this Agreement to be duly executed as of the day first above written.

AUTHORITY:

COLORADO SPRINGS URBAN RENEWAL
AUTHORITY

ATTEST:

Secretary or Assistant Secretary

By: _____
Randle W. Case II, Chair

DEVELOPER:

BLUE & SILVER DEVELOPMENT
PARTNERS, LLC

ATTEST:

Secretary or Assistant Secretary

By: _____
Daniel Schnepf, Manager

DISTRICT:

USAFA VISITOR'S CENTER BUSINESS
IMPROVEMENT DISTRICT

ATTEST:

Secretary or Assistant Secretary

By: _____
President

EXHIBIT A

DEPICTION OF PROPERTY

EXHIBIT B

DISTRICT IMPROVEMENTS AND REIMBURSABLE PROJECT COSTS

The USAFA Visitor's Center Business Improvement District will provide infrastructure for TrueNorth Commons including overlot grading, utilities, improvements to Northgate Boulevard, new access boulevards, signage and landscaping. Specific elements include:

- Overlot Grading and Erosion Control for the developable area, approximately 35 acres.
- Water Main Loop extending from existing Colorado Springs Utilities (CSU) mains located east of I-25 to the project site. The loop consists of one 12" main (approximately 3,700') and an 8" main (approx. 5,700'). The majority of the main will be constructed within the Northgate Boulevard right of way. The water mains will be public and owned and maintained by CSU.
- Lift Station, 4" Force Main and Gravity Sewer Main. A gravity collection system will be constructed within the north south access boulevard and convey sewage to a lift station located on the south side of the property. A 4" force main will be built from the lift station to an existing lift station located on the northeast corner of I-25 and Northgate Boulevard, approx. 3,500'. The force main will be built within the Northgate right of way. The collection system, lift station and force main will be owned and maintained by CSU.
- Northgate Boulevard improvements to include a new roundabout at the entrance to the TrueNorth Commons development and landscaping along the roadway.
- Construction of a new north south access boulevard including utilities and landscaping.
- Pedestrian Bridge across Northgate Boulevard between the hotel and the Visitors Center.
- Storm Water System for the development including trunk storm sewer mains and water quality/detention pond facilities.
- Monument Signage for the development.
- Extension of Electric, Natural Gas and Telecommunication facilities to the site including relocation of existing facilities, as necessary. Construction of these facilities will occur within the Northgate Boulevard right of way. Electric and natural gas will be owned and maintained by CSU. Telecommunication facilities will be owned and maintained by each provider of service.
- USAFA Visitors Center, approx. 32,000 sf, will be constructed by the BID and, upon completion, will be conveyed to the USAFA who will own, maintain and operate the facility. The Visitor Center includes a welcome center, museum and exhibit space, a theater, gift shop, offices and back of house area. Site improvements include retaining walls, plazas, parking, utilities, site furnishings and landscaping.¹

¹ In accordance with the Cooperation Agreement, City Sales Tax TIF will not be used for the costs relating to the Visitors Center other than eligible costs of designing and constructing Public Improvements.

EXHIBIT C

SCHEDULE OF PERFORMANCE

~~{to come from Developer}~~

Estimated Bond Closing February 14, 2020

Commencement of Infrastructure Construction May 1, 2020

Pad Delivery August 31, 2020

Infrastructure Construction Elements (From Commencement of Construction)

Grading and Erosion Control 90 Days

Water Main 120 Days

Temporary Electric 90 Days

Sanitary Sewer Main 120 Days

Sanitary Sewer Lift Station 270 Days

Sanitary Sewer Force Main 270 Days

Roadway/Storm Sewer 270 Days

Electric and Gas 300 Days

Landscaping 365 Days

Visitor Center Construction

Commencement of Construction October 1, 2020

Completion of Visitor Center (Core and Shell) 18 months

Visitor Center – Opening NLT December 16, 2023

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EXHIBIT D

AUTHORITY ADMINISTRATIVE FEE

<u>Year</u>	<u>Fee</u>
2020	\$ 60,000.00
2021	\$ 61,200.00
2022	\$ 62,424.00
2023	\$ 63,672.48
2024	\$ 64,945.93
2025	\$ 66,244.85
2026	\$ 67,569.75
2027	\$ 68,921.14
2028	\$ 70,299.56
2029	\$ 71,705.55
2030	\$ 73,139.67
2031	\$ 74,602.46
2032	\$ 76,094.51
2033	\$ 77,616.40
2034	\$ 79,168.73
2035	\$ 80,752.10
2036	\$ 82,367.14
2037	\$ 84,014.49
2038	\$ 85,694.77
2039	\$ 87,408.67
2040	\$ 89,156.84
2041	\$ 90,939.98
2042	\$ 92,758.78
2043	\$ 94,613.96
2044	\$ 96,506.23