



## **PUBLIC NOTICE OF PUBLIC HEARING AND REGULAR BOARD MEETING**

The Arvada Urban Renewal Authority (AURA) Board of Commissioners will hold a public hearing and its regular board meeting in a hybrid format that will allow for in-person attendance at 5601 Olde Wadsworth Blvd, Suite 210, Arvada, CO 80002, or virtual attendance via Zoom Webinar at **3:00 p.m.** on **Wednesday, June 1, 2022.**

Anyone wishing to attend virtually may register in advance as follows:

[https://us06web.zoom.us/webinar/register/WN\\_aQaVqZImQxShT\\_cRDvdJOw](https://us06web.zoom.us/webinar/register/WN_aQaVqZImQxShT_cRDvdJOw)

After registering, you will receive a confirmation email containing information about joining the webinar.

If you need assistance with the virtual webinar process or have questions or comments for the AURA Board regarding the agenda items, please contact [cbriscoe@arvada.org](mailto:cbriscoe@arvada.org) prior to noon on June 1, 2022. A recording of the meeting will be posted on AURA's website following the webinar.

Agenda information is attached.

**Carrie Briscoe**

Carrie Briscoe  
AURA Project Manager/Recording Secretary

POSTED: May 26, 2022



**REGULAR MEETING OF THE AURA BOARD OF COMMISSIONERS**  
**5601 Olde Wadsworth Boulevard, Ste. 210, Arvada, Colorado**  
**3:00 p.m., Wednesday, June 1, 2022**

**AGENDA**

**REGULAR MEETING – 3:00 P.M.**

1. Call to Order
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Members
4. Approval of the Summary of Minutes
5. Public Comment of Issues not scheduled for Public Hearing – Three Minute Limit
6. Public Hearing – None
7. Study Session
  - A. Ralston Creek Townhomes – Peter Benson, SVP, Koelbel Urban Homes
8. Old Business
  - A. AR-22-09: A Resolution Of The Board Of Commissioners Of The Arvada Urban Renewal Authority Approving The Fifth Amendment To Lease Agreement Between Grandview-Reno, LLC As Landlord And The Authority As Tenant
  - B. AR-22-10: A Resolution Of The Board Of Commissioners Of The Arvada Urban Renewal Authority Approving The Tri-Party Agreement Among The Successors To Ralston Creek North, LLC, The Authority, And First Western Trust Bank
  - C. AR-22-11: A Resolution Of The Board Of Commissioners Of The Arvada Urban Renewal Authority Approving The Purchase And Sale Agreement Between Ralston Creek North, LLC And KUH Ralston, LLC, As Well As Its Associated Exhibit B, The Assignment And Assumption Of, And Certain Agreement Regarding, Purchase And Sale Agreement
  - D. AR-22-12 A Resolution Of The Board Of Commissioners Of The Arvada Urban Renewal Authority Authorizing The Chair To Sign Closing Documents On Behalf Of The Authority
9. New Business
  - A. Olde Town Arvada Business Improvement – Joe Hengstler, Executive Director
  - B. Arvada Chamber of Commerce – Kami Welch, President
10. Development Update
11. Public Comment – Five Minute Limit



**REGULAR MEETING OF THE AURA BOARD OF COMMISSIONERS  
5601 Olde Wadsworth Boulevard, Ste. 210, Arvada, Colorado  
3:00 p.m., Wednesday, June 1, 2022**

**AGENDA CONTINUED**

12. Comments from Commissioners
13. Committee Reports
14. Staff Reports
15. Executive Session
  - A. Instructions to Negotiators, Pursuant to CRS 24-6-402(4)(e) Regarding Community Partners
  - B. Personnel Matters, Pursuant to CRS 24-6-402(4)(f)
16. Adjournment

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**SUMMARY OF MINUTES OF REGULAR MEETING  
ARVADA URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS  
WEDNESDAY, MAY 4, 2022  
5601 OLDE WADSWORTH BLVD., SUITE 210, ARVADA, CO 80002**

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**REGULAR MEETING**

1. **Call to Order** –Chair Alan Parker called the meeting to order at 3:00 p.m.

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2. **Moment of Reflection and Pledge of Allegiance**

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3. **Roll Call of Commissioners:**

Those Present: Chair Paul Bunyard, Vice Chair Alan Parker, Treasurer Sue Dolan  
Commissioners, Tim Steinhaus, and Marc Williams, Eli Feret,

Those Absent: None

AURA staff present: Maureen Phair, Executive Director; Carrie Briscoe, Project  
Manager; Amber Boutwell, Communications Coordinator; and  
Corey Hoffmann, Legal Counsel

Also present: Six guests

A. Oath of Office for Commissioner Peter Kazura was conducted by Carrie Briscoe

B. Election of Officers:

Executive Director Maureen Phair conducted the Election of Chair. Commissioner  
Marc Williams moved to nominate Paul Bunyard for the position of Chair.

Commissioners Dolan and Parker seconded the motion.

The following votes were cast on the Motion:

Voting yes: Dolan, Parker, Bunyard, Steinhaus, Williams, Feret, Kazura

Absent: none

**The Motion was Approved.**

C. Oath of Office for Chairman Paul Bunyard was conducted by Carrie Briscoe

D. Chairman Paul Bunyard conducted the Election for Vice Chair.

Commissioner Marc Williams moved to nominate Alan Parker for the position of Vice  
Chair.

Commissioners Steinhaus and Kazura seconded the motion.

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**SUMMARY OF MINUTES OF REGULAR MEETING  
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The following votes were cast on the Motion:

Voting yes: Dolan, Parker, Bunyard, Steinhaus, Williams, Feret, Kazura

Absent: none

**The Motion was Approved.**

E. Oath of Office for Vice Chairman Alan Parker was conducted by Carrie Briscoe

F. Chairman Paul Bunyard conducted the Election for Treasurer.

Commissioner Tim Steinhaus moved to nominate Sue Dolan for the position of Treasurer.

Commissioners Williams seconded the motion.

The following votes were cast on the Motion:

Voting yes: Dolan, Parker, Bunyard, Steinhaus, Williams, Feret, Kazura

Absent: none

**The Motion was Approved.**

G. Oath of Office for Treasurer Sue Dolan was conducted by Carrie Briscoe

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**4. Approval of the Summary of Minutes**

The Summary of Minutes of the April 6th, 2022 AURA Regular Board Meeting stands approved.

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**5. Public Comment**

None.

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**6. Public Hearing**

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A. Resolution AR-22-07 A Resolution Amending the AURA Budget for Fiscal Year 2021 was presented by Maureen Phair.

Commissioner Williams moved to approve AR-22-07.

The following votes were cast on the Motion:

Voting yes: Dolan, Parker, Bunyard, Steinhaus, Williams, Feret, Kazura

Absent: None

**The Motion was Approved.**

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**SUMMARY OF MINUTES OF REGULAR MEETING  
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**7. Study Session**

None.

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**8. Old Business**

A. Tabernacle Church:

Casey Alder and the interested developers Brandon Young, and Nicole BrantZawadski presented their food hall vision for the project to the AURA Board of Commissioners. They are asking that AURA approve the current agreement and extension. AURA will discuss this further in executive session.

B. AURA's New Office Remodel

Resolution AR-22 -08 – Ratifying the selection of Beaver Construction Consulting Inc as the general contractor for the remodel and renovation of the property at 5603 Yukon St.

Vice Chairman Alan Parker moved to approve AR-22 -08.

The following votes were cast on the Motion:

Voting yes: Dolan, Parker, Bunyard, Steinhaus, Williams, Feret, Kazura

Absent: None

The **Motion was Approved.**

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**9. New Business**

A. 2021 Financial Audit – Steve Sauer with BKD, Lisa Yagi, and the Finance Committee met last week. Steve Sauer presented AURA's 2021 audit findings. There were no adjustments or internal control findings.

B. Calendar Building – Richard Clyne, Property Manager for Blue Spruce Equity presented plans for a remodel of the historic building and motel. He is requesting AURA's financial participation. The AURA Board of Commissioners will discuss further in executive session.

C. Harkin's Movie Theater – Harkins was approached by a multi-family developer to purchase site. In an effort to keep the movie theatre operating Harkins has asked AURA for help in marketing the theatre by adding large, back-lit movie posters to three sides of the building. This would be an effort to attract more attention to the theatre.

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**10. Development Update**

Ms. Phair provided the following project updates:

Caroline at Ralston (Kmart) – Utilities were successfully disconnected. Unfortunately, they did run into needing to abate more asbestos on the building. The block filler on the CMU is above the limits the state will allow to stay in place for demo so they will be remediating the block filler from the exterior CMU block. Lauren Brockman reported that they are getting somewhere with McDonald's although it is not finished.

Residences at Ralston Creek – A change in general contractors will delay the start of construction from mid May to the beginning of June. Construction is estimated to begin by 8/1/22.

Berkeley Town Homes – Construction is estimated to start mid-June.

Koelbel Town Homes – Negotiations with Loftus are finished and signed P&S agreement. They will attend the June Board meeting to show their site plan and elevations for AURA's approval per the DDA.

Paseo – Per the Board's direction, Ms. Phair has sent a letter to the Park's Advisory Board and City Council asking them to consider the name "Garrison St Paseo"

Flour Mill – New member to the Flour Mill Committee, Nathan Richie, Exec Director of the Golden Museum. He lives in Arvada and will be a Subject Matter Expert. The Committee meets May 6<sup>th</sup> to discuss the RFP.

Alley Project – AURA is working with Joe Hengstler of the BID. He has reached out to the property owners and tenants along the two-block alley. We are asking the property owners to donate ROW to Xcel for the transformers as well as consolidating trash dumpsters.

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**11. Public Comment – Five Minute Limit**

None.

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**12. Comments from Commissioners**

Commissioner Williams stated the ULI conference was excellent and suggests that AURA rent scooters for the Ralston Creek tour as they did in San Diego. Peter Kazura thanked the Board for their welcoming comments. Paul Bunyard, Alan Parker, and Sue Dolan were congratulated on their elections.

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**SUMMARY OF MINUTES OF REGULAR MEETING  
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**13. Committee Reports**

None.

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**14. Staff Reports**

Amber Boutwell reported on AURA's upcoming communications in the Arvada Report and participation at the City's Open House.

Flash report – provided in packet

Ms Phair's review will be June 1<sup>st</sup>.

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**15. Executive Session**

None.

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**16. Adjournment**

Chair Parker adjourned the meeting at approximately 5:25 p.m.

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Alan Parker, Chair

ATTEST:

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Maureen Phair, Executive Director

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Carrie Briscoe, Recording Secretary



**ARVADA URBAN RENEWAL AUTHORITY**  
**AGENDA INFORMATION SHEET**

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**Agenda No.:** Item 8A  
**Meeting Date:** June 1, 2022  
**Title:** Resolution Approving the Fifth Amendment to the Office Lease Agreement between AURA and Grandview-Reno LLC

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**ACTION PROPOSED:** Approve

**BACKGROUND:** AURA entered into an office lease for 5601 Olde Wadsworth Blvd., Suite 210 on August 18, 2006. We have occupied the office for 16 years.

**Current Lease:**

Rent 2,326 sf  
Occupy 1,582/sf  
\$17/sf rent + \$10/sf CAM = \$27/sf  
\$5,292 month or \$63,504 annually  
Lease increases \$0.50/sf annually  
Lease expires on 10/31/23

**INFORMATION ABOUT THE ITEM:** The Board approved the purchase of 5603 Yukon Street as AURA's new office, we will be moving in around mid-November, as soon as the construction is completed. Our current office space will be vacant for approximately 11 months. The tenants next door are also leaving the building; this gives the landlord the opportunity to combine the offices in some fashion.

The landlord has identified a potential tenant who is interested in renting the neighbors suite AND our conference room, which is 563 square feet.

The landlord offered to reduce our rent by the 563 square feet after we moved out but expected us to continue to pay the reduced rent until our lease expired on 10/31/23. We were able to negotiate a six month early termination of the lease at 4/30/23.

**New Lease:**

Rent 1,763/sf  
Occupy 1,019/sf  
\$17.50/sf + \$10/sf CAM = \$27.50/sf  
\$4,040.20 monthly or \$48,482.50 annually  
Expires on 4/30/23

**FINANCIAL IMPACT:** This amendment would save AURA \$38,433.60.

**STAFF RECOMMENDATION:** Staff recommends approval

**SUGGESTED MOTION:** I move that Resolution AR-22-9, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Fifth Amendment to Lease Agreement

**RESOLUTION AR-22-09**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY APPROVING THE FIFTH AMENDMENT TO LEASE AGREEMENT BETWEEN GRANDVIEW-RENO, LLC AS LANDLORD AND THE AUTHORITY AS TENANT**

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Fifth Amendment to Lease Agreement for occupancy by the Authority of 5601 Wadsworth Blvd., Suite 210, Arvada, CO 80002 between Grandview-Reno, LLC as Landlord and the Authority as Tenant, attached hereto as **Exhibit A**, is hereby approved, and the Chairman is authorized to execute the Fifth Amendment to Lease Agreement on behalf of the Authority.

DATED this 1<sup>st</sup> day of June, 2022.

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Paul Bunyard, Chair

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Recording Secretary

APPROVED AS TO FORM

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Corey Y. Hoffmann, Legal Counsel

## FIFTH AMENDMENT TO LEASE AGREEMENT

This Fifth Amendment to Lease Agreement (“**Amendment**”) is entered into by and between GRANDVIEW-RENO LLC, a Colorado limited liability company (“**Landlord**”), and ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (“**Tenant**”), as of this \_\_\_\_ day of \_\_\_\_\_, 2022.

### Recitals

A. Landlord’s predecessor-in-interest and Tenant are parties to that certain Lease Agreement for Reno Place dated August 18, 2006; as amended by that certain First Amendment dated December 19, 2007; as further amended by that certain Second Amendment dated August 30, 2012; as further amended by that certain Third Amendment dated September 12, 2013; as further amended by that certain Fourth Amendment dated August 7, 2018 (as amended, the “**Lease**”), concerning Tenant’s occupancy of 5601 Wadsworth Blvd., Suite 210, Arvada, CO 80002 (the “**Premises**”); and

B. The parties desire to amend the terms of the Lease, all as is provided below.

### Agreement

For valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Defined Terms. Capitalized words used herein shall have the same meanings as set forth in the Lease, except as otherwise defined herein.

2. Effective Date. This Amendment shall be effective simultaneously upon the parties’ mutual execution hereof (the “**Effective Date**”).

3. Amended Lease Expiration Date. Notwithstanding anything to the contrary contained in the Lease, the Lease of the Premises, as amended hereby, shall expire on April 30, 2023 (the “**Amended Lease Expiration Date**”) and not the original expiration date of October 31, 2023.

4. Rentable Area of the Premises. Commencing on the Effective Date, the Rentable Area of the Premises (as defined in the Lease) shall be amended to be 1,763 square feet of Suite 210, and Minimum Rent, Tenant’s Share of Common Area Expenses, Taxes and insurance shall be adjusted accordingly. For purposes hereof, the “**Relinquished Premises**” shall mean the Conference Room of Suite 210.

Landlord shall demise the Relinquished Premises from the balance of Suite 210, removing the existing double doors leading from the Relinquished Premises into the balance of Suite 210.

Tenant shall not be entitled to any rent abatement or to any compensation for any inconvenience, nuisance or discomfort caused by Landlord's completion of such work.

Landlord shall not be liable for any interruption whatsoever in Tenant's business operations during the completion of such work and no such interruption shall constitute an eviction or disturbance of Tenant's use and possession of the Premises or grant Tenant any right of set-off or recoupment. Notwithstanding the foregoing, Landlord shall make reasonable efforts not to substantially or materially interfere with Tenant's business operations during the completion of such work.

Tenant shall be responsible for moving any and all personal property, including, without limitation, furniture, computers, electronics, and wall-hangings in order to facilitate the completion of such work.

5. Surrender of Possession. Tenant agrees to vacate and surrender possession of the Relinquished Premises to Landlord (and surrender all keys thereto) on or before the Effective Date. Tenant shall surrender the Relinquished Premises in accordance with the terms set forth in the Lease. Notwithstanding anything to the contrary contained in the Lease, Tenant shall have no right to remain in possession of the Relinquished Premises on or after the Effective Date. In the event that Tenant remains in possession of the Relinquished Premises on or after the Effective Date, such occupancy shall constitute trespassing and Tenant shall be subject to eviction therefrom without further notice.

6. Continuing Liability. This Amendment shall not relieve or release Tenant from its obligations and indemnities arising under the Lease, if any, which relate to: (a) the unrelinquished portion of Suite 210; (b) events and obligations that occurred with respect to the Relinquished Premises on or prior to the Effective Date; (c) common area maintenance, tax and insurance expense reconciliations that may occur in accordance with the terms of the Lease with respect to the Relinquished Premises after the Effective Date; (d) Tenant's default under the terms of this Amendment and/or the Lease; and/or (e) any costs, damages or expenses that Landlord may suffer or incur as a result of damage caused to the Premises by Tenant, or its agents, employees, customers or invitees, at any point in time, which are beyond normal wear and tear.

7. Monthly Rent. Tenant shall pay to Landlord Monthly Rent in monthly installments, in advance, without demand, deduction or setoff, in accordance with the terms set forth in the Lease, in the amounts specified below:

<u>Time Period</u>	<u>Rate PSF</u>	<u>Monthly Base Rent</u>
Effective Date-10/31/22	\$17.00	\$2,497.58
11/1/22-04/30/23	\$17.50	\$2,571.04

Tenant shall continue to pay Tenant's share of operating expenses, taxes, insurance, utilities, and all other forms of additional rent in accordance with the terms of the Lease.

8. Ratification. In the event of a conflict between any provision of this Amendment and any provision of the Lease, the provision contained herein shall control.

9. Representation by Signing Parties. Each of the parties represents that each person executing this Amendment on its behalf is duly authorized to execute and deliver the same on behalf of the entity for which such person is signing (whether it be a corporation, general or limited, partnership, or otherwise).

10. Counterparts. This Amendment may be executed in counterparts (which may also be facsimile or electronic (PDF) counterparts).

**[SIGNATURES ON FOLLOWING PAGE]**

**LANDLORD:**

GRANDVIEW-RENO LLC,  
a Colorado limited liability company

By: Sidford Capital LLC, Manager

By: \_\_\_\_\_  
Bradley P. Brooks, Manager

**TENANT:**

ARVADA URBAN RENEWAL  
AUTHORITY, a body corporate and politic  
of the State of Colorado

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**ARVADA URBAN RENEWAL AUTHORITY**  
**AGENDA INFORMATION SHEET**

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**Agenda No.:** Item 8B  
**Meeting Date:** June 1, 2022  
**Title:** Resolution Approving the Tri- Party Agreement between Loftus, AURA and First Western Trust Bank

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**ACTION PROPOSED:** Approve

**BACKGROUND:** AURA entered into a DDA with Ralston Creek North in 2015 to develop a mixed-use project on the 16-acre site referred to as Ralston Creek North. The site consists of the former Arvada Square, Independence Center, Safeway, Ralston Road Café and most recently the gas station. All of these structures have been abated and razed.

Phase 1, The Shops at Ralston Creek, is developed and open. Berkeley Homes is currently constructing 47 townhome on the former Safeway site, also known as Phase 2. Phase 3 is under contract with Koelbel Urban Homes to build 30 townhomes. Phase 4 and 5 are located on the former Arvada Square and gas stations sites and is proposed to become 186 apartment units and the restaurant park.

**INFORMATION ABOUT THE ITEM:** The Tri-Party Agreement establishes how the equity funds for the financing for the Residences at Ralston Creek are managed.

First Western Trust Bank is the construction lender for the \$80 million project; in addition they will create and control a separate interest-bearing account for the equity funds. These funds cannot be commingled with other funds. The construction loan is 60% of loan to value or \$48 million, and equity at 40% or \$32 million.

The agreement establishes the details for how the equity account is funded:

1. AURA will deposit \$13 million upon closing
2. AURA will deposit \$1,080,000, from the proceeds from the sale of town home property to Koelbel, upon closing
3. Loftus is responsible for bringing approximately \$18 million to the closing

The agreement also establishes how the funds will be released and disbursed. Loftus will submit a written request to the lender, with a copy going to AURA, for a release of equity funds for that portion of the work completed. Each draw request shall include a certificate by Loftus confirming that the work and materials for which the draw request is made have been completed. Lender will process and fund the request. AURA has the right to inspect the completed improvements connected with the draw request and may review and comment within 10 days.

All equity funds deposited are assigned to the lender as additional security for the construction loan.



**FINANCIAL IMPACT:** There is no new or additional impact to AURA's funds.

**STAFF RECOMMENDATION:** Staff recommends approval

**SUGGESTED MOTION:** I move that Resolution AR-22-10, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Tri- Party Agreement Among the Successors to Ralston Creek North, LLC, the Authority, and First Western Trust Bank

**RESOLUTION AR-22-10**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY APPROVING THE TRI-PARTY AGREEMENT AMONG THE SUCCESSORS TO RALSTON CREEK NORTH, LLC, THE AUTHORITY, AND FIRST WESTERN TRUST BANK**

**WHEREAS**, the Authority and Ralston Creek North, LLC ("RCN") entered into that certain Amended and Restated Disposition and Development Agreement dated April 7, 2021, as amended (the "DDA");

**WHEREAS**, RCN has assigned the DDA to qualifying affiliate corporate entities as permitted by Section 12.01(d) of the DDA; and

**WHEREAS**, those affiliate entities, namely The Residences at Ralston Creek, Inc., and Ralston Commons, Inc., the Authority, and First Western Trust Bank have negotiated an agreement (the "Tri-Party Agreement"), as contemplated by the DDA, to control deposit and disbursement of the Equity Funds, as defined by the Tri-Party Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Tri-Party Agreement is hereby approved in substantially the form attached hereto, and the Chairman is authorized to execute it on behalf of the Authority. The Chairman is further authorized to sign such other related documents as the Authority's attorney may deem necessary in furtherance of the DDA.

DATED this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Paul Bunyard, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel

## TRI-PARTY AGREEMENT

This Tri-Party Agreement (“**Agreement**”) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2022 (“**Effective Date**”) by and among FIRST WESTERN TRUST BANK, a Colorado banking corporation (“**Lender**”), THE RESIDENCES AT RALSTON CREEK, INC., a Colorado corporation and RALSTON COMMONS, INC., a Colorado corporation (collectively, “**Borrower**”), and ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (“**AURA**”). Lender, Borrower, and AURA may be collectively referred to herein as the “**Parties**” and individually as a “**Party**.”

### RECITALS

A. Lender and Borrower have previously entered into that certain Loan Commitment dated May 24, 2022, pursuant to which Lender has agreed to lend Borrower the sum of Forty-Eight Million and no/100 Dollars (\$48,000,000.00) and No/100 Dollars (the “**Loan**”), as evidenced by a promissory note (including any extensions, replacements, modifications or renewals thereof), executed and delivered by Borrower and payable to the order of Lender (the “**Note**”), dated on or about the date of this Agreement. The repayment of the Note is secured by, among other things, that certain real property located in Jefferson County, Colorado, and more fully described on Exhibit A attached hereto (the “**Property**”). The Loan is/will be evidenced by the Note, a Construction Loan Agreement, Deed of Trust and other documents between Borrower, Lender and such other parties required for the consummation of the Loan (collectively, the “**Loan Documents**”).

B. As a condition precedent to making the Loan, Lender requires that equity in the amount of equal to or more than 40% of Loan to Value or Loan to Cost of equal to or more than 38% be deposited on Borrower’s behalf with Lender (“**Equity Funds**”). The Equity Funds shall be used by Borrower for the payment and reimbursement of Borrower’s reasonable out-of-pocket costs and expenses incurred in the course of the construction of infrastructure and improvements at the Property as described in more detail on Exhibit B attached hereto (the “**Work**”). The Equity Funds will be set aside to be used for the Work according to the terms set out in this Agreement.

C. Borrower, as successor in interest to Ralston Creek North, LLC, is a party to that certain Amended and Restated Disposition and Development Agreement, dated April 7, 2021 (the “**DDA**”), pursuant to which AURA agreed to contribute \$14,993,989.00 (the “**AURA Funds**”) toward Borrower’s completion of the Work.

D. AURA and Borrower have also agreed that the net proceeds from the sale of that certain three and one-half (3.5) acres commonly known as Proposed Lot 2, Ralston Creek Minor Subdivision, as further described in the DDA as “**Phase 3**” shall be deposited with Lender and held as a portion of the Equity Funds (the “**Phase 3 Funds**”).

E. Borrower and AURA agree that Lender shall retain the Equity Funds in a separate account and that the release and disbursement of the Equity Funds shall be in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to make Loan, the Parties hereto agree as follows:

1. The foregoing recitals are true and by this reference are incorporated into the Agreement.

2. The Parties hereto represent and warrant to each other that they have the respective authority to sign this Agreement and that (a) the person signing on behalf of the Lender is duly authorized to bind the Lender, (b) the person signing on behalf of the Borrower is duly authorized to bind the Borrower, and (c) the person signing on behalf of AURA is duly authorized to bind AURA.

3. The Equity Funds shall be composed of the AURA Funds, the Phase 3 Funds and the additional funds in an amount to be contributed by Borrower to equal (together with the AURA Funds and the Phase 3 Funds) the Equity Funds (the "**Borrower Funds**"). Borrower, Lender and AURA hereby agree and understand that \$13,000,000.00 of the AURA Funds shall be deposited by AURA with Lender at the closing of the Loan. The balance of the AURA Funds in the amount of \$1,993,989.00 (the "**Remaining AURA Funds**") shall be deposited by AURA with Lender on or before January 31, 2023. The Phase 3 Funds shall be deposited by AURA and Borrower with Lender at the closing of the sale of Phase 3. Borrower acknowledges and confirms that the Borrower Funds will be deposited by Borrower with Lender at the closing of the Loan. Lender, Borrower and AURA acknowledge and agree that the Equity Funds will be held by Lender as provided in this Agreement. AURA acknowledges and confirms its obligations to deposit the AURA Funds and the Phase 3 Funds with Lender to be held pursuant to the terms and conditions of this Agreement. Notwithstanding the foregoing and anything to the contrary in this Agreement, in the event that Lender requires the entirety of the AURA Funds to be deposited with Lender at the closing of the Loan in Lender's sole discretion, James R. Loftus has agreed to deposit an additional amount equal to the Remaining AURA Funds with Lender. In such event, AURA agrees to pay the Remaining AURA Funds directly to James R. Loftus on or before January 31, 2023 instead of depositing the Remaining AURA Funds with Lender.

4. Lender shall establish, maintain and control a bank account with Lender in Borrower's name (the "**Equity Account**") in order to hold the Equity Funds deposited with it as provided hereunder. In no event shall Equity Funds be commingled with any other Lender funds. The Equity Account will be an interest-bearing account for the benefit of Borrower. All fees and expenses related to the account imposed by the financial institution shall be borne by Borrower and will be deducted from the Equity Funds.

5. Lender will hold the Equity Funds in the Equity Account until the Equity Funds are disbursed as set forth below.

a. Borrower may, no more frequently than once each calendar month, submit a written request to Lender, with a copy thereof to AURA, to the notice addresses set forth in Paragraph 12 below, for a release of Equity Funds for that portion of the Work completed by Borrower (each a "**Draw Request**"). Each such Draw Request shall include a certificate by an authorized officer of Borrower (i) confirming that the work and materials for which the Draw

Request is made have been completed and provided, (ii) naming the contractors, suppliers or other parties completing the work and/or providing the materials and supplies used in the course of rendering such work, (iii) confirming that any request for progress payments is consistent with the terms and conditions of a written contractor's agreement (iv) include a copy of all invoices for the work and materials and all executed and notarized final or conditional lien waivers, as applicable, in a form acceptable to Lender from the parties completing the work and providing the supplies and materials encompassed within such request, and (v) such other information as Lender may reasonably request or as may be required pursuant to the Loan Documents. Lender shall process and fund all properly submitted Draw Requests as set forth in the Loan Documents.

b. In addition to the foregoing documentation requirements, prior to approving a requested disbursement, Lender and AURA each have the right to inspect the completed improvements or work in connection with which Draw Request being sought by Borrower. Lender's inspections shall be completed, if at all, pursuant to the terms set forth in the Loan Documents. AURA agrees to perform any desired inspection as soon as reasonably possible following receipt of the applicable Draw Request.

c. AURA may review and comment to Lender on any properly submitted Draw Request within ten (10) days of its receipt of the Draw Request. The failure of AURA to provide any written comment or response to a Draw Request during such ten-day period shall be deemed an approval by AURA, and shall not require any further notice or action by Borrower or Lender.

d. In the event of any disagreement between the Borrower and AURA regarding a Draw Request resulting in conflicting instructions to Lender or adverse claims or demands upon Lender with respect to the release of the Equity Funds (a "**Draw Dispute**"), Lender will be entitled to refuse to comply with such conflicting instructions, claims, or demands so long as such Draw Dispute shall continue. In the event of a Draw Dispute, Lender shall not be liable for any loss or damage for its failure to release the Equity Funds, and Borrower and AURA release Lender from any claims arising out of Lender's failure to release the Equity Funds, which release shall survive the expiration or termination of this Agreement. In the event of a Draw Dispute, Lender shall be entitled to continue to refrain from releasing the Equity Funds until such time as the Draw Dispute (a) has been resolved by agreement of Borrower and AURA, and Lender has been notified in writing of the agreement and joint instructions of Borrower and AURA with respect to the disputed Draw Request(s) or (b) has been finally adjudicated in a court of competent jurisdiction. In the event of any litigation arising out of a disputed Draw Request(s), Lender shall be entitled to interplead and deposit all or a portion of the Equity Funds into the Court registry, and Lender shall be entitled to compensate itself for any attorneys' fees and costs Lender has incurred as a result of such Draw Dispute directly from the Equity Funds.

e. Borrower shall be responsible for any cost or expense incurred in completing the Work in excess of the Equity Funds and the Loan.

6. All Equity Funds deposited with Lender hereunder are hereby assigned to Lender as additional security for the Loan secured by the Property. Upon the occurrence and during the continuance of an Event of Default (as defined in the Note) prior to Borrower's completion of the Work, all Equity Funds then in the Equity Account may, at the option of Lender, be applied

to the payment of principal, interest and/or other sums under the Note or any of the other Loan Documents in lieu of being applied to any of the purposes described in this Agreement. Upon any assignment of the Note and the Loan Documents by Lender, this Agreement shall remain in full force and effect among AURA, Borrower and such assignee as Lender's successor-in-interest and any responsibility of the assigning Lender with respect hereto shall terminate.

7. This Agreement shall terminate upon the earliest to occur of the following: (a) the Equity Funds are disbursed in full, or (b) all amounts due and owing in connection with the Note have been paid in full. In the event this Agreement terminates based on (b) above, any amounts remaining in the Equity Account shall be promptly disbursed to Borrower.

8. In all events, upon Lender's final delivery of the Equity Funds whether to Borrower or taken by Lender in accordance with the terms and conditions of this Agreement, the obligations of the Parties hereto shall be deemed fully satisfied and completed, except those obligations hereunder that expressly survive the expiration or termination of this Agreement.

9. Borrower agrees to indemnify and hold Lender and AURA harmless from and against any and all claim, loss, expense, or other liability of any nature including, without limitation, attorneys' fees and costs, arising out of, related to, or resulting from this Agreement or the Work, except for claims arising out of the breach of contract, gross negligence or willful misconduct of Lender or AURA. Borrower's indemnification obligations in this Paragraph 9 shall survive the expiration or termination of this Agreement.

10. Lender may rely upon, and shall not be liable to Borrower or AURA for acting or refraining from acting upon, any written notice, document, instruction, or request furnished to it hereunder and believed by it to be genuine and to have been signed or presented by the proper party or parties.

11. This Agreement cannot be changed except by an agreement in writing signed by all Parties hereto, and no provision of Agreement may be waived except by an agreement in writing signed by all Parties hereto.

12. Whenever notice is required or permitted hereunder, such notices shall be in writing and shall be deemed effectively given and received upon personal delivery, confirmed electronic mail or receipt of overnight courier or three (3) days after deposit in the United States mail, registered or certified, return receipt requested, postage prepaid to the addresses set out below or at such other addresses as are specified by written notification in accordance herewith:

BORROWER: THE RESIDENCES AT RALSTON CREEK, INC.  
RALSTON COMMONS, INC.  
2595 Canyon Blvd., Suite 200  
Boulder, CO 80302  
Attn: James R. Loftus/J Drever  
Email: [jrl@loftusdevelopments.com](mailto:jrl@loftusdevelopments.com)  
[jdrever@mapletonam.com](mailto:jdrever@mapletonam.com)

With a copy to: PACKARD AND DIERKING, LLC

2595 Canyon Blvd., Suite 200  
Boulder, CO 80302  
Attn: Brigette M. Paige  
Email: [brigette@packarddierking.com](mailto:brigette@packarddierking.com)

LENDER: FIRST WESTERN TRUST BANK  
390 Interlocken Crescent, Suite 680  
Broomfield, CO 80021  
Attn: Polly Buster  
Email: [polly.buster@myfw.com](mailto:polly.buster@myfw.com)

With a copy to: MOYE WHITE LLP  
1400 16<sup>th</sup> St., 6<sup>th</sup> Floor  
Denver, CO 80202  
Attn: Tasha Power  
Email: [tasha.power@moyewhite.com](mailto:tasha.power@moyewhite.com)

AURA: ARVADA URBAN RENEWAL AUTHORITY  
5601 Olde Wadsworth Boulevard, Suite 210  
Arvada, Colorado 80002  
Attn: Maureen Phair  
Email: [mphair@arvada.org](mailto:mphair@arvada.org)

With a copy to: HOFFMANN, PARKER, WILSON & CARBERRY, P.C.  
511 Sixteenth Street, Suite 610  
Denver, Colorado 80202  
Attn: Corey Hoffman  
Email: [cyh@hpwclaw.com](mailto:cyh@hpwclaw.com)

13. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, and their respective successors and permitted assigns.

14. This Agreement shall be construed and interpreted under the laws of the State of Colorado (excluding conflicts of law rules), and applicable federal law.

15. In the event of any controversy, claim, dispute, or litigation between or among the Parties to enforce or interpret any of the provisions of this Agreement or any right of any Party, the non-prevailing Party or Parties agrees to pay the prevailing Party or Parties all reasonable costs and expenses, including reasonable attorneys' fees, incurred therein by the prevailing Party or Parties, including fees incurred during trial of any action and any fees incurred as a result of a successful appeal from judgment entered in such litigation.

16. This Agreement is intended solely for the benefit of the Lender, Borrower and AURA and their respective successors and assigns, and no third party shall have any rights or interest in any provision of this Agreement, Note, or the Loan Documents.

17. Nothing contained in Agreement shall constitute Lender or AURA as a joint venture, partner or agent of Borrower, or render Lender or AURA liable for any debts, obligations, acts, omissions, representations, or contracts of Borrower.

18. The invalidity, illegality or unenforceability of any provision of this Agreement pursuant to judicial decree shall not affect the validity or enforceability of any other provision of Agreement, all of which shall remain in full force and effect.

19. Time is of the essence of this Agreement. In the event that an effective date or the time for performance shall fall on a Saturday, Sunday or holiday, then such effective date or time for performance shall be extended to the first business day thereafter.

20. This Agreement may be executed in counterparts, each of which, when taken together, shall constitute one and the same document. Facsimile and electronic PDF or DocuSign signatures shall be considered originals for all purposes.

*[signatures on next page]*



This Agreement is executed to be effective as of the Effective Date.

**LENDER:**

FIRST WESTERN TRUST BANK,  
a Colorado banking corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**BORROWER:**

THE RESIDENCES AT RALSTON CREEK, INC.,  
a Colorado corporation

RALSTON COMMONS, INC.,  
a Colorado corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned hereby confirms his agreement and obligations set forth under Section 3 of the Agreement:

\_\_\_\_\_  
James R. Loftus

**AURA:**

ARVADA URBAN RENEWAL AUTHORITY,  
a body corporate and politic of the State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Chairman

**ATTEST:**

\_\_\_\_\_  
Maureen C. Phair  
Secretary/Executive Director

**EXHIBIT A**  
**To Tri-Party Agreement**  
**Legal Description of Property**

**EXHIBIT B**  
**To Tri-Party Agreement**  
**Description of Work**

**ARVADA URBAN RENEWAL AUTHORITY**  
**AGENDA INFORMATION SHEET**

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**Agenda No.:** Item 8C

**Meeting Date:** June 1, 2022

**Title:** Resolution Approving the Purchase and Sales Agreement between Loftus and Koelbel Urban Homes

The Assignment and Assumption of Purchase and Sale Agreement

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**ACTION PROPOSED:** Approve

**BACKGROUND:** AURA entered into a DDA with Ralston Creek North in 2015 to develop a mixed-use project on the 16-acre site referred to as Ralston Creek North. The site consists of the former Arvada Square, Independence Center, Safeway, Ralston Road Café and most recently the gas station. All of these structures have been abated and razed.

Phase 1, The Shops at Ralston Creek, is developed and open. Berkeley Homes is currently constructing 47 townhome on the former Safeway site, also known as Phase 2. Phase 3 is under contract with Koelbel Urban Homes to build 30 townhomes. Phase 4 and 5 are located on the former Arvada Square and gas stations sites and is proposed to become 186 apartment units and the restaurant park.

**INFORMATION ABOUT THE ITEM:** On April 5, 2022, Loftus negotiated a Purchase and Sale Agreement with Koelbel Urban Homes to develop 30 townhomes on 3.5 acres located along Ralston Creek for \$1,080,000.

March 2, 2022, the Board approved the First Amendment to the Amended and Restated DDA. This amendment approved Loftus selling the 3.5 acre townhome site to Koelbel Urban Homes and assigned the responsibilities outlined in the DDA to Koelbel as it pertains to Parcel 3.

Per the DDA, the proceeds from the sale are required to be placed in the escrow account to help offset the extraordinary expenses of Phase 4 and 5. For tax reasons, Loftus has asked that AURA close directly with Koelbel rather than transfer the property first to Loftus. The purpose of this agreement is to assign the Purchase and Sale Agreement to AURA in order to accommodate the direct sale.

We had anticipated this request and including the following section in the DDA:

Section 10.02(d), AURA agreed that if Loftus determined it as advantageous for tax purposed or otherwise for AURA to convey Phase 3 directly to a Developer Assignee (here, Purchaser) and deposit the proceeds of the sale into the Escrow Account, AURA would do so.

A copy of the Assignment and Assumption of the Purchase and Sale Agreement is located in Exhibit B of the attached PSA.

**FINANCIAL IMPACT:** There is no new or additional impact to AURA's funds.

**STAFF RECOMMENDATION:** Staff recommends approval

**SUGGESTED MOTION:** I move that Resolution AR-22-11, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Purchase and Sales Agreement between Ralston Creek North, LLC and KUH Ralston, LLC. AND The Assignment and Assumption of, and Certain Agreement Regarding, Purchase and Sale Agreement

**RESOLUTION AR-22-11**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY APPROVING THE PURCHASE AND SALE AGREEMENT BETWEEN RALSTON CREEK NORTH, LLC AND KUH RALSTON, LLC, AS WELL AS ITS ASSOCIATED EXHIBIT B, THE ASSIGNMENT AND ASSUMPTION OF, AND CERTAIN AGREEMENT REGARDING, PURCHASE AND SALE AGREEMENT**

**WHEREAS**, the Authority and Ralston Creek North, LLC ("RCN") entered into that certain Amended and Restated Disposition and Development Agreement dated April 7, 2021, as amended (the "DDA");

**WHEREAS**, the DDA anticipates that the Authority may convey the Phase 3, as defined in the DDA, directly to a Developer Assignee, as defined in the DDA, namely KUH Ralston, LLC, and deposit the proceeds of the sale into an escrow account; and

**WHEREAS**, as such, RCN will assign Purchase and Sale Agreement between RCN and KUH Ralston, LLC for Phase 3 in substantially the form attached hereto (the "Phase 3 Agreement") to the Authority so that the Authority may immediately transfer Phase 3 to KUH Ralston, LLC, according to the Phase 3 Agreement.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. The Phase 3 Agreement between RCN and KUH Ralston, LLC is hereby approved in substantially the form attached hereto, including its Exhibit B, pursuant to which the Authority assumes certain assigned rights and obligations associated with the conveyance of Phase 3. The Chairman is authorized to execute both the Authority's consent to the Phase 3 Agreement and its Exhibit B on behalf of the Authority and is further authorized to sign such other related documents as may be necessary by the Authority's attorney to accomplish conveyance of Phase 3, as defined in the DDA, directly from the Authority to KUH Ralston, LLC, in furtherance of the DDA.

DATED this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Paul Bunyard, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel

**PURCHASE AND SALE AGREEMENT  
(Ralston Creek North)**

**between**

**RALSTON CREEK NORTH, LLC,  
a Colorado limited liability company,**

**and**

**KUH RALSTON LLC, a Colorado limited liability company**

**April 5, 2022**

**PURCHASE AND SALE AGREEMENT  
(Ralston Creek North)**

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into effective as of April 5, 2022 (the “**Effective Date**”) by and between RALSTON CREEK NORTH, LLC, a Colorado limited liability company (“**RRC**”), and KUH RALSTON LLC, a Colorado limited liability company (“**Purchaser**”).

**Recitals**

A. RRC has the right to acquire certain “**Property**” described below from the Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado (“**AURA**”) pursuant to that Amended and Restated Disposition and Development Agreement dated April 7, 2021 between AURA and RRC, as amended (the “**DDA**”).

B. As used in this Agreement, the term “**Property**” includes all of the following and is defined in the DDA as “Phase 3”:

(1) The real property located in the City of Arvada (the “**City**”), the County of Jefferson (the “**County**”), State of Colorado, consisting of approximately one and one-half (1.5) acres commonly known as Lot 1 of the Ralston Commons Minor Subdivision, as more particularly described in **Exhibit A** attached hereto, together with all reversions, remainders, easements, rights-of-way, appurtenances, leases, subleases, agreements, licenses, tenements and hereditaments appertaining to or otherwise benefiting or used in connection with such real property, and all of AURA’s right, title and interest in and to any strips of land, streets, and alleys abutting or adjoining such real property, including vacated rights-of-way (collectively, the “**Land**”);

(2) All of AURA’s right, title and interest in and to any mineral rights, oil and gas rights, mineral leases and rights to mineral royalties, if any, relating or appertaining to the Land (collectively, the “**Mineral Rights**”);

(3) All existing improvements, structures and fixtures, if any, placed, constructed, installed or located on the Land, and all fences, gates, plants, trees, landscaping and other appurtenances, if any, located upon, over or under the Land or the adjacent rights-of-way (collectively, the “**Improvements**”; the Land and Improvements are sometimes hereinafter collectively referred to as the “**Real Property**”);

(4) All water rights, if any, appurtenant to the Real Property (the “**Water Rights**”);

(5) The right, title and interest of AURA in and to all governmental permits, licenses, certificates and authorizations relating to the construction, development, use or operation of the Property, to the extent that they relate to the Property and are assignable (the “**Permits**”), which rights, title and interest will be exclusive to the extent the Permits



only apply to the Real Property and nonexclusive to the extent they apply to both the Real Property and other property;

(6) The right, title and interest of AURA and RRC in and to all site plans, surveys, plats, environmental studies, and other plans and studies of any kind if existing and in AURA's and/or RRC's possession or control that relate to the Property, to the extent that they relate to the Property and are assignable (the "**Plans**"), which rights, title and interest will be exclusive to the extent the Plans only apply to the Real Property and nonexclusive to the extent they apply both to the Real Property and other property; and

(7) The right, title and interest of AURA and RRC in and to any and all other rights, privileges, and appurtenances owned by AURA or RRC and, in either case, in any way related to or used in connection with the Property, to the extent that they relate to the Property and are assignable (the "**Intangible Property**"), which rights, title and interest will be exclusive to the extent the Intangible Property only applies to the Real Property and nonexclusive to the extent it applies both to the Real Property and other property.

C. Pursuant to the DDA, specifically Section 10.02(d), AURA agreed that if RRC determined it was advantageous for tax purposes or otherwise for AURA to convey Phase 3 directly to a Developer Assignee (here, Purchaser) and deposit the proceeds of the sale into the Escrow Account, AURA would do so.

D. As such, RRC intends to assign to AURA, with AURA assuming, some, but not all, of RRC's rights and obligations as "seller" under this Agreement, pursuant to the Assignment and Assumption of Purchase and Sale Agreement attached to this Agreement as **Exhibit B** (the "**PSA Assignment**").

E. RRC and Purchaser now desire to enter into this Agreement on the terms and conditions set forth below.

### **Agreement**

NOW, THEREFORE, for the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

## **ARTICLE 1 PURCHASE AND SALE OF THE PROPERTY**

1.1 **Purchase.** RRC agrees to sell and convey to Purchaser, and Purchaser agrees to purchase and accept, all of the Property, subject to and upon the terms and conditions set forth in this Agreement.

1.2 Purchase Price. The purchase price for the Property shall be One Million Eighty Thousand and 00/100 Dollars (\$1,080,000.00) (the “**Purchase Price**”). The Purchase Price shall be payable as follows:

(a) Deposit. Within three (3) business days after execution and delivery of this Agreement by both RRC and Purchaser, Purchaser shall deliver to Land Title Guarantee Company, 3033 East First Avenue, Suite 600, Denver, Colorado 80206 (the “**Title Company**”), Seventy-five Thousand and 00/100 Dollars (\$75,000.00) (together with all interest earned thereon, the “**Deposit**”). The Title Company shall deposit the Deposit in one or more federally insured interest-bearing accounts and hold the Deposit pursuant to the terms and provisions hereof. Purchaser shall be solely responsible for all charges of the Title Company associated with establishing an interest-bearing account.

(b) Closing. The Deposit shall be applied to the Purchase Price at the “Closing” (as defined in Section 6.1 below). The balance of the Purchase Price, subject to prorations and adjustments in accordance with Article 7, shall be paid at Closing in cash, by certified or cashier’s check, wire transfer, or other immediately available funds.

## **ARTICLE 2**

### **INVESTIGATION OF THE PROPERTY; PRE-CLOSING ACTIVITIES; APPROVALS**

2.1 RRC’s Initial Deliveries. RRC, at its expense, shall, within five days after the Effective Date, deliver and cause AURA to deliver to Purchaser the following (the “**RRC’s Deliveries**”):

(a) Copies and Descriptions. Copies of all Permits; copies of all Plans; copies of the most recent ad valorem tax statements covering the Real Property, together with copies of any notices of increase in valuation received by either RRC or AURA since such tax statements were issued; and copies of all due diligence materials, including, but not limited to environmental surveys, maps, plats, studies, consultants’ reports, documents, notices, correspondence and other materials and information relating to the Property.

(b) Notices. To the extent in RRC’s or AURA’s possession or obtainable by RRC or AURA, copies of all notices that RRC or AURA has received from any governmental and quasi-governmental authorities, owners associations, metropolitan or special districts, design and architectural review committees or other third parties having jurisdiction over or contractual rights with respect to the Real Property (collectively, “**Governmental Authorities**”) pertaining to any violation of any law, ordinance, regulation, covenant, condition or restriction or other matter applicable to the Property.

(c) Other Information. To the extent in RRC’s or AURA’s possession, copies of all documents related to the development, ownership, or operation of the Property. Such documents shall include, without limitation, all engineering tests, environmental studies, soils and geotechnical studies, drainage studies, appraisals and other studies of the Property but such documents shall not include correspondence or communications subject to attorney-client privilege or with prior potential purchasers of the Property.

## 2.2 Title and Survey Matters.

(a) Title Insurance Commitment. RRC shall deliver to Purchaser within five (5) business days after the Effective Date a current title insurance commitment issued by the Title Company, together with legible copies of all recorded exceptions to title referred to therein (collectively, the “**Title Commitment**”), showing marketable title to the Real Property to be vested in AURA and committing to insure such title to the Real Property in Purchaser by the issuance of an ALTA Form 2006 extended coverage policy of owner’s title insurance with the standard printed exceptions deleted, in the amount of the Purchase Price. Purchaser shall review the Title Commitment as part of its investigation of the Property, and RRC will cooperate, and cause AURA to cooperate, with Purchaser’s reasonable requests of Purchaser to remedy any title issues identified in the Title Commitment. If Purchaser does not terminate this Agreement pursuant to Section 2.4, the “**Permitted Exceptions**” hereunder shall consist of: (i) any state of facts revealed in the Survey (as defined below); (ii) the DDA and (iii) the exceptions to title on Schedule B-2 (but not matters and/or requirements disclosed on Schedule B-1) of the Title Commitment as of the expiration of the Inspection Period; provided, however, that in all cases the Permitted Exceptions will exclude: (A) any delinquent taxes or assessments, (B) any monetary liens or encumbrances, (C) any standard printed exceptions, and (D) any exceptions to title disclosed in the original Title Commitment which are deleted or removed in any update of the Title Commitment or for which RRC or AURA undertakes in writing to cause the deletion or removal of prior to Closing. RRC shall cause the Title Company to issue such endorsements, if any, that RRC or AURA undertakes to cause to be issued in writing at RRC’s expense prior to Closing (collectively, the “**Seller Endorsements**”). Purchaser, at Purchaser’s expense, may elect for the Title Company to issue such other endorsements, if any, as Purchaser may determine and that are included in the final update of the Title Commitment issued by the Title Company prior to the expiration of the Inspection Period (collectively, the “**Purchaser Endorsements**”).

(b) ALTA Survey. As part of RRC’s Deliveries, RRC and AURA will provide any existing surveys of the Property in their respective possession or control. During the Inspection Period, Purchaser, at Purchaser’s expense, shall obtain a current survey of the Real Property certified to Purchaser, Title Company, RRC, AURA and such other parties as Purchaser may reasonable request (the “**Survey**”). Purchaser will have the right to review the Survey as part of its investigation of the Property, and RRC and AURA will cooperate with Purchaser’s reasonable requests of Purchaser to remedy any title issues identified in the Survey.

2.3 Inspection of Property. Purchaser shall have the right from the Effective Date until the 5:00 p.m., Mountain Time, on the date that is seventy-five (75) days after the Effective Date (the “**Inspection Period**”), and if this Agreement is not terminated pursuant to Section 2.4, thereafter until Closing or other termination of this Agreement, to investigate the Property, the zoning and other limitations or requirements imposed by any Governmental Authority applicable to the Property, all documents and/or information provided to Purchaser pursuant to this Article 2, the Title Commitment, the Survey, and any other aspects or characteristics of the Property which may affect its development, usage, operation or marketability. Such right of investigation shall include, without limitation, the right to have made, at Purchaser’s expense, any surveys, studies or

inspections of the Property as Purchaser may deem necessary or appropriate and the right to complete a physical inspection of the Property. RRC and AURA each agrees to cooperate as reasonably requested by Purchaser with any such investigations, inspections, surveys or studies made by or at Purchaser's direction so long as such cooperation is at no expense to RRC or AURA. Purchaser shall provide RRC with twenty-four (24) hours' notice via phone at 303.204.7151 and 303.478.1689 (with a voicemail sufficient to serve as such notice) and via email at [jdrever@mapletonam.com](mailto:jdrever@mapletonam.com) and [jrl@loftusdevelopments.com](mailto:jrl@loftusdevelopments.com) prior to entering onto the Property to conduct any such investigation activities. Purchaser shall carry commercial general liability insurance with limits of at least One Million Dollars (\$1,000,000.00) for bodily or personal injury or death covering any accident arising in connection with the presence of Purchaser, its contractors, agents and representatives at the Property, which insurance shall: (i) name as additional insureds thereunder RRC and AURA; and (ii) otherwise be subject to RRC's prior approval, which shall not be unreasonably withheld, delayed or conditioned. Purchaser shall deliver to RRC a copy of the certificate of insurance evidencing the insurance required under this Section 2.3 upon RRC's request. Purchaser shall indemnify, defend, and hold harmless RRC and AURA from any expenses, damages and liabilities, including reasonable attorneys' fees, that RRC or AURA may suffer or incur arising out of any claims for property damage or personal injury, or mechanics lien claims, which in turn arise from Purchaser's investigations under this Section 2.3, and such indemnification shall survive the termination of this Agreement.

2.4 Termination. If, on or before the expiration of the Inspection Period, Purchaser delivers to RRC written notice setting forth Purchaser's election to terminate this Agreement, for any reason whatsoever and in Purchaser's sole and absolute discretion, then this Agreement shall terminate, the Deposit shall be returned to Purchaser, and both parties shall be relieved of any further obligations hereunder, except those obligations that expressly survive termination. If Purchaser does not terminate this Agreement as described in the preceding sentence, then this Agreement shall remain in full force and effect in accordance with its terms and the Deposit shall thereupon be nonrefundable to Purchaser except in the event of a material default by RRC hereunder or as otherwise contemplated by this Agreement.

2.5 Governmental and Other Approvals.

(a) RRC acknowledges that Purchaser may require, among other things (collectively, the "**Approvals**"): grading and building permits, platting, utilities, infrastructure, development, and other approvals, waivers and entitlements from Governmental Authorities as are deemed necessary or desirable by Purchaser, in its sole and absolute discretion, for Purchaser's desired use and development of the Property as twenty-seven (27) townhomes.

(b) Purchaser shall have the right, at Purchaser's expense, to obtain, as applicable, the final and non-appealable Approvals; provided, however, that it will not be a condition to Closing that Purchaser obtain subdivision approval for the Property. The Approvals shall not be deemed to have been obtained until either (i) the expiration of any applicable appeals or contest period with respect to the Approvals without an appeal or contest being initiated, or (ii) if an appeal or contest has been initiated, the final resolution of such appeal or contest upholding the Approvals. RRC and AURA shall, for no additional consideration or payment and at no expense to RRC or AURA, upon request by

Purchaser (A) execute and deliver the applications, submittals, documents, instruments and other items reasonably requested by Purchaser in connection with Purchaser's seeking the Approvals, including, without limitation, executing required submittals as the owner of the Property, or executing such authorizations as may be necessary to enable Purchaser to execute the required submittals, if requested by Purchaser; (B) as reasonably requested by Purchaser, support, and not oppose, the Approvals; (C) work with Purchaser in good faith to resolve any outstanding issues related to the Approvals; and (D) otherwise cooperate as reasonably requested by Purchaser in connection with the entitlement process for the Property.

(c) Notwithstanding the foregoing, if at any time after the expiration of the Inspection Period and before the Closing Date, Purchaser determines, in its sole and absolute discretion, that it will not be able to obtain Approvals satisfactory to Purchaser with respect to the Property, then Purchaser shall have the right to terminate this Agreement by delivery of written notice thereof to RRC, in which event this Agreement shall terminate, the Deposit shall be retained by RRC, and RRC and Purchaser shall have no further obligations hereunder, except those which expressly survive termination.

## 2.6 Post-Closing Agreement.

(a) Purchaser and RRC acknowledge and agree that RRC will be responsible for obtaining approvals for and installing, at RRC's sole cost, improvements for the following (collectively, the "**RRC Infrastructure Obligations**"):

(i) The private drives and streets bordering the southern and eastern edges of the Property;

(ii) All sewer and water services for Purchaser's development on the Property installed to the boundary of the Property;

(iii) All dry utility services for Purchaser's development on the Property installed to the boundary of the Property (the RRC Infrastructure Obligations described in clauses (i) through (iii), inclusive, are, collectively, the "**Initial Infrastructure Improvements**"); and

(iv) The landscaped area on the north portion of the Property within the flood plain (the RRC Infrastructure Obligations described in this clause (v) are the "**Landscape Infrastructure Improvements**").

(b) Purchaser and RRC acknowledge that the RRC Infrastructure Obligations will likely not be completed by Closing, and therefore, RRC, or the appropriate affiliate of RRC, and Purchaser will enter into the post-closing agreement that will contemplate that RRC will complete the RRC Infrastructure Obligations, with specific scope and timing for each of the various items making up the RRC Infrastructure Obligations (the "**Post-Closing Agreement**"), based on the terms and conditions set forth on **Exhibit E** attached to this Agreement. RRC and Purchaser will use good faith efforts to negotiate the form and substance of the Post-Closing Agreement prior to the date that is thirty (30) days after the Effective Date (the "**Document Negotiation Deadline**").

2.7 Post-Closing Maintenance Obligations. At Closing, RRC, or the appropriate affiliate of RRC, and Purchaser will enter into an agreement (the “**Maintenance Agreement**”) to address the repair and maintenance of West 58<sup>th</sup> Place, Holland Place, and the road on the east side of the Land, providing access to the northwest corner of the Land, running north from, and perpendicular to, West 58<sup>th</sup> Place, as shown on **Exhibit F** (collectively, the “**Easement Area**”) and the landscaping in the floodplain, as shown on **Exhibit G**. RRC and Purchaser will use good faith efforts to negotiate the form and substance of the Maintenance Agreement prior to the Document Negotiation Deadline.

2.8 Easement Agreement. At Closing, RRC, or the appropriate affiliate of RRC, and Purchaser will enter into an agreement (the “**Easement Agreement**”) to provide (a) access to Purchaser, its purchasers, their successors and assigns, and their respective employees, agents, guests, and contractors on and over the Easement Area, and (b) provide Purchaser, its purchasers, its contractors and the applicable utilities and service providers, and their respective successors, assigns, employees, agents, and contractors an easement on, under, and over the Easement Area as required by the providers of water, sanitary sewer, storm sewer, drainage, electricity, natural gas, telephone, high-speed data, cable television and other similar utilities or services necessary or customary for the development and use of the Property for Purchaser’s development of the Property so as not to impede development or use of such other property for the benefit of Purchaser. RRC and Purchaser will use good faith efforts to negotiate the form and substance of the Easement Agreement prior to the Document Negotiation Deadline. Nothing will limit the parties’ ability to combine the Maintenance Agreement and the Easement Agreement if the parties agree in their sole and absolute discretion.

2.9 DDA Partial Assignment. At Closing, RRC, or the appropriate affiliate of RRC, and Purchaser will enter into an assignment and assumption agreement (the “**DDA Partial Assignment**”) in a form required by Section 12.01(c) of the DDA, pursuant to which:

(a) RRC (or its affiliate) shall assign, and Purchaser shall assume, those rights and obligations of “Redeveloper” under the DDA that relate solely to the Property, and RRC, or the appropriate affiliate of RRC, will remain liable for all other obligations of the Redeveloper under the DDA.

(b) RRC will cause AURA to consent in writing to the DDA Partial Assignment to confirm (i) that Purchaser’s obligations, as assigned and assumed under the DDA Partial Assignment, are consistent with the DDA, and (ii) AURA’s acceptance of Purchaser as a “Redeveloper” under the DDA.

(c) The conveyance provisions of the DDA will not apply to Purchaser, but instead the conveyance of the Property from AURA to Purchaser will be governed by this Agreement, as assigned to AURA pursuant to the PSA Assignment

RRC and Purchaser will use good faith efforts to negotiate the form and substance of the DDA Partial Assignment to the Document Negotiation Deadline.

2.10 Document Negotiation Deadline. If Purchaser and RRC have not reached agreement on the form and substance of the Post-Closing Agreement, the Maintenance Agreement,

the Easement Agreement, and the DDA Partial Assignment on or before the Document Negotiation Deadline, Purchaser will have the right to terminate this Agreement at any time after the Document Negotiation Deadline and before the expiration of the Inspection Period.

### **ARTICLE 3 TITLE**

3.1 Status of Title. At Closing, insurable fee simple title to the Property, subject only to the Permitted Exceptions, will be conveyed to Purchaser.

3.2 Issuance of Title Policy. At Closing, RRC shall cause the Title Company to issue to Purchaser, or unconditionally commit to issue to Purchaser after Closing, an ALTA Form 2006 (or equivalent form reasonably acceptable to Purchaser, but in any event with arbitration provisions deleted) extended coverage owner's policy of title insurance, with the Seller Endorsements and, at Purchaser's expense, the Purchaser Endorsements, insuring marketable, insurable title to the Property in Purchaser in the amount of the Purchase Price, subject only to the Permitted Exceptions (the "**Title Policy**"). At or before Closing, RRC shall satisfy, or cause AURA to satisfy, all requirements contained in the Title Commitment or in any update thereof, except for those requirements which by their nature can only be satisfied by Purchaser.

### **ARTICLE 4 RRC'S COVENANTS PENDING AND AFTER CLOSING**

4.1 Title and Survey. Until the earlier of Closing or the termination of this Agreement, RRC shall not, and shall use commercially reasonable efforts to not permit AURA to, sell, convey, option, mortgage, deed in trust, encumber, lease, contract to do any of the foregoing or otherwise convey, abandon, relinquish, cloud, or encumber title to the Property or any part thereof or contract to do any of the foregoing, except as may be expressly provided for herein.

4.2 Representations. Until the earlier of Closing or the termination of this Agreement, RRC shall not, and shall use commercially reasonable efforts to not permit AURA to, take any voluntary action to cause any of the representations and warranties made by RRC in Article 8 to become untrue or incorrect in any material respect.

4.3 RRC's Deliveries. Until the earlier of Closing or the termination of this Agreement, RRC shall promptly deliver to Purchaser copies of all material documents and items received by RRC or AURA after the Effective Date that would have constituted RRC's Deliveries had they been in RRC's or AURA's possession as of the Effective Date.

4.4 Miscellaneous Covenants. After the Effective Date and prior to Closing, RRC agrees: (a) except as contemplated by this Agreement, not to seek or support any change in the zoning classification of the Real Property; (b) not to consent to the inclusion of the Real Property in any metropolitan or special district; and (c) to cause to be maintained any property and liability insurance historically carried in connection with the Property.

**ARTICLE 5**  
**PURCHASER'S OBLIGATION TO CLOSE**

5.1 Conditions. Purchaser shall not be obligated to close hereunder unless each of the following conditions shall exist on the Closing Date:

(a) Title Policy. The Title Company shall be prepared to issue (or prepared to unconditionally commit to issue) the applicable Title Policy with respect to the Property that Purchaser is to acquire on the Closing Date, as described in Section 3.2.

(b) Accuracy of Representations. The representations and warranties made by RRC in Article 8 shall be true and correct on and as of the Closing Date with the same force and effect as though such representations and warranties had been made on and as of the Closing Date, and RRC will so certify.

(c) AURA Approval of Purchaser. AURA has approved Purchaser as a "Redeveloper" under the DDA, allowing Purchaser to develop the Property for townhomes in accordance with Purchaser's plans and the Approvals.

5.2 Failure of Conditions. If any condition specified in Section 5.1 is not satisfied on or before the Closing Date, Purchaser may, at its option, (a) waive such condition either at the time originally established for the Closing Date or at any time thereafter, (b) terminate this Agreement by written notice thereof to RRC, in which event the Deposit will be returned to Purchaser and both parties shall be relieved of any further obligations hereunder, except those obligations that expressly survive termination, or (c) if the failure of the condition is due to a breach by RRC hereunder, pursue any of its remedies under Section 10.1.

5.3 Condemnation. In the event that the Property or any part thereof shall be subject to any condemnation or similar proceeding prior to Closing, or shall previously have been acquired, by authority of any Governmental Authority or other entity in the exercise of its power of eminent domain or by private purchase in lieu thereof, then RRC and AURA shall provide prompt written notice to Purchaser, and Purchaser may elect, at its sole option, either (a) to terminate this Agreement by delivering written notice of termination to RRC within 10 days of receipt of notice from RRC or AURA, in which event the Deposit will be returned to Purchaser and both parties shall be relieved of any further obligations hereunder, except those obligations that expressly survive termination, or (b) to waive its right to terminate this Agreement and to consummate the transaction contemplated hereby, in which case AURA shall assign to Purchaser all of AURA's right to receive condemnation proceeds after Closing payable as a result of such proceeding, not to exceed the amount of condemnation proceeds actually received by AURA for that portion of the Property actually condemned, and Purchaser shall be entitled to an abatement of the applicable portion of the Purchase Price in an amount equal to any condemnation proceeds received by AURA prior to Closing.

**ARTICLE 6**  
**CLOSING**

6.1 Time of Closing. The closing of the purchase and sale of the Property ("**Closing**") shall take place at the offices of the Title Company, on the same date and at the same time as the



closing of RRC's loan and RRC's purchase from AURA of certain neighboring property within the Ralston Commons Minor Subdivision, but in no event shall Closing occur sooner than ten (10) days after the expiration of the Inspection Period (the "**Closing Date**") or later than August 1, 2022.

6.2 Deliveries. At Closing, the following shall occur:

(a) Deed. RRC shall deliver to Purchaser a duly executed and acknowledged special warranty deed, in the form attached hereto as **Exhibit C** (the "**Deed**"), conveying to Purchaser fee simple title to the Real Property to be conveyed at Closing, subject only to the Permitted Exceptions.

(b) Payment. Purchaser shall pay the Purchase Price as provided in Section 1.2, subject to a credit for the Deposit and the adjustments described in Article 7.

(c) Possession. Possession of the Property shall be delivered to Purchaser.

(d) Assignment of Intangibles; Delivery of Permits. AURA shall execute and deliver to Purchaser a general assignment, in the form attached hereto as **Exhibit D**, of the Plans, Permits and Intangible Property. AURA shall deliver to Purchaser the originals (or accurate copies) of all Plans and Permits in AURA's possession and all other materials of whatever kind owned by AURA relating to the development, improvement and ownership of the Property.

(e) Post-Closing Agreement. Purchaser and RRC, or the appropriate affiliate of RRC, will execute and deliver the Post-Closing Agreement.

(f) Maintenance Agreement. Purchaser and RRC, or the appropriate affiliate of RRC, will execute and deliver the Maintenance Agreement.

(g) Easement Agreement. Purchaser and RRC, or the appropriate affiliate of RRC, will execute and deliver the Easement Agreement.

(h) DDA Partial Assignment. Purchaser, RRC, and AURA will execute and deliver the DDA Partial Assignment.

(i) Title Policy. The Title Company shall issue the Title Policy or an unconditional commitment by the Title Company to issue the Title Policy to the Property promptly after Closing.

(j) Non-Foreign Certificate. If required by the Title Company, AURA shall execute and deliver to Purchaser and the Title Company an affidavit that AURA is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code.

(k) Withholding Exemption Certificate. If required by the Title Company, AURA shall execute and deliver to Purchaser and the Title Company a Colorado Form DR-1083, in form required by law.

(l) Real Property Transfer Declaration. Purchaser shall execute and deliver to AURA and the Title Company a Real Property Transfer Declaration, in form required by law, concerning information with respect to a conveyance of a Colorado real property interest.

(m) Mechanics' Liens. AURA shall execute and deliver to the Title Company such agreements or statements concerning claims for mechanic's liens as may be required by the Title Company in order to issue the Title Policy except for any claims for mechanic's liens resulting from the activities of Purchaser, its contractors, agents and representatives on the Property.

(n) Authorizing Resolution. AURA shall deliver to the Title Company and Purchaser certified copies of a resolution of AURA, authorizing the consummation of the transaction contemplated by this Agreement.

(o) Certificate. RRC shall execute and deliver to Purchaser a certificate reaffirming RRC's representations and warranties as of the Closing Date, as contemplated by Article 8 below.

(p) Miscellaneous Documents. AURA and RRC shall, whenever and as often as it shall be reasonably requested so to do by Purchaser, and Purchaser shall, whenever and as often as it shall be reasonably requested so to do by AURA or RRC, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all conveyances, assignments and all other instruments and documents as may be reasonably necessary in order to complete the transaction herein provided and to carry out the intent and purposes of this Agreement.

## **ARTICLE 7 PRORATIONS AND CLOSING EXPENSES**

7.1 Closing Adjustments. The cash due at Closing pursuant to Section 1.2(b) shall be subject to adjustment as of Closing in accordance with the following provisions:

(a) Taxes. At Closing, to the extent they are due during AURA's ownership, real and personal property taxes on the Property for the year of Closing shall be prorated to the Closing Date based on the most recent assessed valuations and mill levy available, which proration shall be final. Prior to or at Closing, to the extent they are due during AURA's ownership, AURA shall pay all taxes on the Property which are due on or before Closing. Prior to or at Closing, AURA shall pay the full amount (whether or not then due) of all outstanding special assessments against the Property or any part thereof. AURA shall pay any fee incurred or charged by the Title Company to obtain tax certificates for the Property.

(b) Excise, Transfer and Sales Taxes. At Closing, AURA will be responsible for, and will provide reasonable evidence to Purchaser of, the payment of all excise, transfer, sales and use taxes and fees, if any, imposed with respect to the transaction contemplated by this Agreement.

(c) Liens and Encumbrances. The amount of any lien, deed of trust or other monetary encumbrance (other than the Permitted Exceptions) then affecting the Property that was created by, through, or under, or assumed by, AURA or RRC, including all prepayment penalties, shall be paid from the funds to which AURA shall otherwise be entitled. If such funds are insufficient to pay all such encumbrances, AURA shall pay the deficiency. Notwithstanding the foregoing, Purchaser shall be responsible for any lien resulting from the activities of Purchaser, its contractors, agents, and representatives on the Property.

(d) Closing Costs. Purchaser shall pay the premium for the Purchaser Endorsements, the fee for recording the Deed, one-half of the Title Company's escrow and closing fee, its attorneys' fees and costs, and such other closing costs as are customarily paid by a purchaser in the Denver, Colorado metropolitan area. AURA shall pay the premium for the Title Policy and the Seller Endorsements; the cost of recording any instruments required to discharge any liens or encumbrances against the Property which are not Permitted Exceptions; the commission, if any, specified in Section 11.1; all conveyance, transfer, sales and other taxes or fees, if any, arising out of the conveyance of the Property by AURA to Purchaser or any prior transfers of the Property; one-half of the Title Company's escrow and closing fee; its attorneys' fees and costs; and such other closing costs as are customarily paid by a seller in the Denver, Colorado metropolitan area.

(e) Survival. The parties' obligations under this Section 7.1, to the extent not fully discharged by or through Closing, will survive Closing and remain fully enforceable thereafter.

7.2 Settlement Statement. At Closing, AURA and Purchaser shall execute one or more Closing settlement statements to reflect the credits, prorations, and adjustments contemplated by or specifically provided for in this Agreement.

## **ARTICLE 8 RRC'S REPRESENTATIONS, WARRANTIES AND COVENANTS**

RRC represents, warrants and covenants to Purchaser as follows:

8.1 Authority. RRC is a Colorado corporation duly organized, validly existing and in good standing under the laws of the State of Colorado. RRC has the full right and authority to enter into this Agreement and consummate the transaction contemplated by this Agreement. All requisite company action has been taken by RRC in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. Each of the persons signing this Agreement on behalf of RRC is authorized to do so. RRC shall furnish to Purchaser and the Title Company any and all documents to evidence such authority as Purchaser or the Title Company shall reasonably request.

8.2 Consents; Binding Obligations. No third party approval or consent is required for RRC to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by RRC are and shall be valid, legally binding obligations of and enforceable against RRC in accordance with their terms. Neither

the execution of this Agreement nor the consummation of the transaction contemplated hereby will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which RRC or the Property is subject or by which RRC is bound, or constitute a breach or default under any agreement or other obligation to which RRC is a party or the Property is subject.

8.3 Bankruptcy. There exists no pending or threatened bankruptcy, insolvency or similar proceedings affecting RRC or the Property.

8.4 Violations; Permits. To RRC's knowledge, there is no existing material violation of any law, code, ordinance, rule or regulation of any Governmental Authority having jurisdiction over the Real Property, with respect to the Real Property.

8.5 No Third-Party Interests. RRC has not granted to any party any option, contract or other agreement with respect to a purchase or sale of the Property or any portion thereof or any interest therein.

8.6 No Possessory Rights. Except for any rights of possession under the Permitted Exceptions, there are no parties in possession of any of the Real Property, and there are no other rights of possession or use which have been granted to any third party.

8.7 Notices. RRC has no knowledge, and RRC has not received notice, of: (i) the Property being in violation of any applicable statutes, ordinances, codes (including, but not limited to, zoning, building, subdivision, pollution, environmental protection, water disposal, health, fire and safety engineering codes), or the rules and regulations of, any Governmental Authority having jurisdiction over the Property; (ii) any actions, suits, proceedings, claims or other litigation pending or threatened with respect to or in any manner affecting the Property or the ability of AURA to consummate the transaction contemplated by this Agreement; or (iii) any pending or threatened condemnation or similar proceedings or special assessments affecting the Property, or any part thereof.

8.8 Environmental Conditions. Except as set forth in the environmental reports provided to Purchaser, RRC has no knowledge, and RRC has not received notice, of: (i) any violation of Applicable Environmental Laws relating to the Real Property; or (ii) the presence, use, storage or discharge of any Hazardous Substances on, in or under the Real Property. As used herein, the term "**Applicable Environmental Laws**" shall mean any local, state or federal law, rule or regulation, pertaining to environmental regulation, contamination, cleanup or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (42 U.S.C. § 9601, *et seq.*), the Resource, Conservation and Recovery Act, as amended, (42 U.S.C. § 6901, *et seq.*), Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499 100 Stat. 1613), the Toxic Substances Control Act (15 U.S.C. § 2601, *et seq.*), the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. § 1101, *et seq.*) and all amendments of the foregoing, or any state superlien or environmental clean-up or disclosure statutes. As used herein, the term "**Hazardous Substances**" shall mean all substances and materials which are included under or regulated by any Applicable Environmental Law together with asbestos, polychlorinated biphenyls, petroleum and raw materials which include hazardous constituents.

8.9 Condemnation. There is no pending or, to RRC's knowledge, threatened condemnation, expropriation, eminent domain or similar proceeding affecting all or any portion of the Property.

8.10 Contract and Agreements. RRC has not entered into any contracts or agreements affecting the Property which will be binding upon Purchaser after Closing other than the Permitted Exceptions.

8.11 Deliveries. The copies of any documents included in RRC's Deliveries and all other documents delivered by RRC and AURA to Purchaser are, to RRC's knowledge, true and complete copies of the documents in RRC's possession.

8.12 Foreign Person. RRC is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and applicable regulations.

8.13 Completion Guaranty. RRC and James R. Loftus, a principal of RRC ("**Loftus**") represent and warrant that, on or before the Closing, Loftus is executing a completion guaranty for the benefit of First Western Trust, which will cover certain construction obligations of RRC, including, without limitation, the RRC Infrastructure Obligations (the "**Completion Guaranty**"). Loftus has executed this Agreement to confirm his statements and obligations under this Section 8.13, and Purchaser is relying on such execution by Loftus of this Agreement and of the Completion Guaranty as material elements of the consideration for Purchaser entering into this Agreement and the related documents.

The term "to RRC's knowledge" as used herein, and words of similar import, shall mean the current, actual knowledge (not constructive or imputed knowledge) of Loftus and J. Drever (collectively, the "**RRC Representatives**"). The RRC Representatives are not a party to this Agreement and shall not have any personal liability for the representations made in this Article 8.

Each of the representations and warranties contained in this Article 8 are made as of the Effective Date. Between the Effective Date and the date of Closing, RRC will promptly notify Purchaser of changes to the foregoing representations and warranties discovered by RRC to date. At Closing, RRC will deliver to Purchaser a certificate pursuant to which RRC will reaffirm the foregoing representations and warranties as of the date of Closing, provided that such certificate may reflect any changes to such representations and warranties of which RRC has become aware prior to Closing. In the event that any such supplemental notice or such certificate indicates any material changes to the foregoing representations and warranties, RRC will not be deemed in default hereunder (unless such change is the result of any other default by RRC under this Agreement), and Purchaser's sole remedy will be either to terminate this Agreement whereupon the entire Deposit will be returned to Purchaser and both parties will be relieved of any further obligations hereunder, except for those obligations which expressly survive termination, or to accept such changes in which event the representations and warranties made by RRC to Purchaser pursuant to this Agreement as of the date of Closing will be deemed made subject to any such changes reflected in such supplemental notice or certificate. Purchaser will have a period of 15 days from and after receipt of any such supplemental statement (or, if the date of Closing is less than 15 days from the day on which Purchaser receives any such supplemental statement, the period from Purchaser's receipt until Closing) to notify RRC in writing of Purchaser's election.

All of RRC's warranties and representations in Sections 8.1, 8.2, 8.3, 8.12 and 8.13, as so updated and supplemented, will survive Closing or termination of this Agreement without limitation. All of RRC's other warranties and representations in this Article 8, as so updated and supplemented, will survive Closing or termination of this Agreement, provided that any claim or action based upon an alleged breach of any of such representations and warranties, as so updated and supplemented, shall be filed not later than 12 months after Closing, after which time no suit or claim based upon an alleged breach thereof shall be filed.

## ARTICLE 9 PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser represents and warrants to RRC as follows:

9.1 Authority. Purchaser is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado. Purchaser has the full right and authority to enter into this Agreement and consummate the transaction contemplated by this Agreement. All requisite company action has been taken by Purchaser in connection with the entering into of this Agreement, the instruments referenced herein, and the consummation of the transaction contemplated hereby. Each of the persons signing this Agreement on behalf of Purchaser is authorized to do so. Purchaser shall furnish to RRC and AURA any and all documents to evidence such authority as RRC or AURA shall reasonably request.

9.2 Consents; Binding Obligations. No third party approval or consent is required for Purchaser to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by Purchaser are and shall be valid, legally binding obligations of and enforceable against Purchaser in accordance with their terms. Neither the execution of this Agreement nor the consummation of the transaction contemplated hereby will be in violation of any judgment, order, permit, writ, injunction or decree of any court, commission, bureau or agency to which Purchaser is subject or by which Purchaser is bound.

9.3 Condition of Property. Except as otherwise set forth herein and the documents executed and delivered by RRC at Closing, including, without limitation, the Deed, the Post-Closing Agreement, and the PSA Assignment (collectively, the "**Closing Documents**"), the Property is being purchased (i) in an "AS IS" condition, subject to the inspection provisions, and (ii) without representations or warranties on behalf of RRC or AURA. AS A MATERIAL PART OF THE CONSIDERATION FOR THIS AGREEMENT, PURCHASER AGREES TO ACCEPT THE PROPERTY ON AN "AS IS" AND "WHERE IS" BASIS, WITH ALL FAULTS, AND WITHOUT ANY REPRESENTATION OR WARRANTY, ALL OF WHICH RRC AND AURA HEREBY DISCLAIM, EXCEPT AS MAY BE SET FORTH IN THE CLOSING DOCUMENTS. EXCEPT FOR THE WARRANTIES OF TITLE SET FORTH IN THE DEED AT CLOSING ("WARRANTY OF TITLE") AND ANY OTHER WARRANTY EXPRESSLY MADE IN THIS AGREEMENT OR THE CLOSING DOCUMENTS, NO WARRANTY OR REPRESENTATION IS MADE BY RRC OR AURA, INCLUDING, WITHOUT LIMITATION, THOSE AS TO (A) FITNESS FOR ANY PARTICULAR PURPOSE, (B) MERCHANTABILITY, (C) DESIGN, (D) QUALITY, (E) CONDITION, (F) OPERATION OR INCOME, (G) COMPLIANCE WITH DRAWINGS OR SPECIFICATIONS, (H) ABSENCE

OF DEFECTS, (I) ABSENCE OF HAZARDOUS OR TOXIC SUBSTANCES, (J) ABSENCE OF FAULTS, (K) FLOODING, OR (L) COMPLIANCE WITH LAWS AND REGULATIONS, INCLUDING, WITHOUT LIMITATION, THOSE RELATING TO HEALTH, SAFETY, AND THE ENVIRONMENT. PURCHASER ACKNOWLEDGES THAT PURCHASER HAS ENTERED INTO THIS AGREEMENT WITH THE INTENTION OF MAKING AND RELYING UPON ITS OWN INVESTIGATION OF THE PHYSICAL, ENVIRONMENTAL, ECONOMIC USE, COMPLIANCE, AND LEGAL CONDITION OF THE PROPERTY AND THAT, OTHER THAN ANY WARRANTIES AND OBLIGATIONS EXPRESSLY MADE IN THIS AGREEMENT OR THE CLOSING DOCUMENTS, PURCHASER IS NOT NOW RELYING, AND WILL NOT LATER RELY, UPON ANY REPRESENTATIONS AND WARRANTIES MADE BY RRC OR ANYONE ACTING OR CLAIMING TO ACT BY, THROUGH OR UNDER OR ON RRC'S BEHALF CONCERNING THE PROPERTY. PURCHASER, FOR ITSELF AND ITS SUCCESSORS, ASSIGNS, AGENTS, EMPLOYEES, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, MEMBERS, CONTRACTORS, CONSULTANTS AND REPRESENTATIVES (COLLECTIVELY WITH PURCHASER, THE "**PURCHASER PARTIES**"), RELEASES RRC AND AURA AND THEIR RESPECTIVE SUCCESSORS, ASSIGNS, AGENTS, EMPLOYEES, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, MEMBERS, SHAREHOLDERS, CONTRACTORS, CONSULTANTS AND REPRESENTATIVES (COLLECTIVELY WITH RRC AND AURA, THE "**RELEASED PARTIES**") FROM, AND WAIVES ANY AND ALL CAUSES OF ACTION OR CLAIMS THAT ANY OF THE PURCHASER PARTIES MAY HAVE AGAINST ANY OF THE RELEASED PARTIES FOR THE FOLLOWING MATTERS, EXCEPT TO THE EXTENT THAT SUCH MATTERS ARE SUBJECT TO ANY REPRESENTATION, WARRANTY OR OTHER OBLIGATION OF RRC OR AURA HEREUNDER OR UNDER THE CLOSING DOCUMENTS (COLLECTIVELY, THE "**RELEASED LIABILITIES**"): (I) ANY AND ALL LIABILITIES ATTRIBUTABLE TO ANY PHYSICAL CONDITION OF OR AT THE PROPERTY, INCLUDING THE PRESENCE ON, UNDER OR ABOUT THE PROPERTY OF ANY MATERIALS THE RELEASE OR STORAGE OF WHICH IS REGULATED BY LAW, INCLUDING, BUT NOT LIMITED TO, HAZARDOUS SUBSTANCES; (II) ANY AND ALL LIABILITIES RESULTING FROM THE FAILURE OF THE PROPERTY TO COMPLY WITH ANY APPLICABLE LAWS; AND (III) ANY LIABILITIES, DAMAGES OR INJURY ARISING FROM, CONNECTED WITH OR OTHERWISE CAUSED BY STATEMENTS, OPINIONS OR INFORMATION OBTAINED FROM ANY PERSONS WITH RESPECT TO THE PROPERTY; PROVIDED THAT SUCH RELEASE AND WAIVER SHALL NOT APPLY TO ANY CAUSE OF ACTION OR CLAIM BROUGHT OR ASSERTED BY ANY PARTY OTHER THAN THE PURCHASER PARTIES AGAINST ANY OF THE PURCHASER PARTIES, BUT ONLY TO THE EXTENT THAT: (X) THE APPLICABLE RELEASED LIABILITIES ARISE OR ACCRUE ON OR BEFORE CLOSING; (Y) THE APPLICABLE RELEASED LIABILITIES IN ANY WAY RELATE TO OR ARISE FROM ANY ACT, CONDUCT, OMISSION, CONTRACT OR COMMITMENT OF ANY OF THE RELEASED PARTIES AT ANY TIME OR TIMES ON OR BEFORE CLOSING; OR (Z) THE APPLICABLE PURCHASER PARTIES WOULD BE ENTITLED UNDER ANY APPLICABLE LAWS (BUT FOR THE FOREGOING RELEASE AND WAIVER) TO JOIN THE APPLICABLE RELEASED PARTIES IN ANY LITIGATION OR PROCEEDINGS RELATING TO THE APPLICABLE RELEASED LIABILITIES OR TO SEEK CONTRIBUTION OR REIMBURSEMENT FROM THE APPLICABLE RELEASED PARTIES RELATING TO THE

APPLICABLE RELEASED LIABILITIES. THE PROVISIONS OF THIS SECTION SHALL SURVIVE INDEFINITELY ANY CLOSING OR TERMINATION OF THIS AGREEMENT AND SHALL NOT BE MERGED INTO THE CLOSING DOCUMENTS.

Upon any assignment of this Agreement by Purchaser, the representations and warranties in Section 9.1 shall be deemed modified to reflect the assignee's type of organization and jurisdiction of formation. Each of the representations and warranties contained in this Article 9 shall be deemed to have been remade by Purchaser as of the Closing Date and shall survive the Closing.

## **ARTICLE 10 REMEDIES**

10.1 RRC's Default. In the event that RRC fails to perform any of the material covenants or agreements contained herein which are to be performed by RRC, Purchaser may, at its option, (a) terminate this Agreement by giving written notice of termination to RRC and AURA, receive the return from the Title Company of the Deposit and recover from RRC damages in the amount of its actual out-of-pocket third party expenses incurred in connection with this Agreement and the Property, plus its expenses incurred in enforcing such remedy in an aggregate amount not to exceed \$25,000.00, whereupon Purchaser, RRC, and AURA will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof; and/or (b) Purchaser may seek specific performance of this Agreement. Any action for specific performance sought by Purchaser must be initiated through the filing of a lawsuit and the service of a summons and complaint on RRC, within 120 days of RRC's default; otherwise, Purchaser's right to seek specific performance shall be waived.

10.2 Purchaser's Default. In the event that Purchaser defaults in its obligation to purchase the Property pursuant to the terms and conditions of this Agreement, and such failure continues for five (5) business days after delivery of written notice thereof from RRC to Purchaser, RRC may, as its exclusive remedy, terminate this Agreement by giving written notice of termination to Purchaser whereupon the Title Company will pay the Deposit to RRC and RRC shall retain the Deposit as liquidated damages and both Purchaser and RRC will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof. The parties hereby agree that the amount of the Deposit, including any costs associated with collecting the Deposit, is a fair and reasonable estimate of the total detriment that RRC would suffer in the event of Purchaser's default and failure to duly complete the acquisition hereunder.

10.3 Indemnities; Defaults after Closing or Termination. The limitations on the parties' remedies set forth in Sections 10.1 and 10.2 shall not be deemed to prohibit either party from (a) seeking indemnification from the other for any matter with respect to which such other party has agreed hereunder to provide indemnification or from seeking damages from such other party in the event it fails or refuses to provide such indemnification, except that, upon the execution and delivery of the PSA Assignment, AURA shall have no duty to indemnify Purchaser or any third party; (b) subject to the limitations contained in Article 8 and Article 9, seeking damages incurred during the period of time after Closing that a representation or warranty given as of the Closing Date by the other party hereunder survives Closing, for the other party's breach of such



representation or warranty discovered after Closing; (c) seeking damages or such equitable relief as may be available for the other party's failure to perform after Closing hereunder any obligation hereunder which expressly survives Closing; or (d) seeking damages or such equitable relief as may be available for the other party's failure to perform after any termination of this Agreement any obligation hereunder which expressly survives such termination.

10.4 Waiver of Certain Remedies. Notwithstanding any contrary provision contained herein, RRC, AURA, and Purchaser each hereby waive any right to consequential, lost profits, punitive or exemplary damages.

10.5 Attorneys' Fees. Notwithstanding any contrary provision contained in this Agreement, in the event of any litigation, arbitration or legal action arising out of this Agreement, the court or arbitrator shall (and any arbitrator is expressly authorized to) award the substantially prevailing party its reasonable costs and expenses incurred in connection with such litigation or legal action, including, without limitation, its reasonable attorneys' fees and costs.

## **ARTICLE 11 GENERAL PROVISIONS**

11.1 Brokers. RRC, AURA, and Purchaser each represents and warrants to the other that its only contact with the other and the Property has been made without the assistance of any broker or other third party retained by such party other than ARA Newmark ("**Broker**"). RRC shall pay Broker pursuant to a separate agreement, and RRC agrees to indemnify Purchaser from any claim, cost or expense, including reasonable attorneys' fees, for or in connection with any claims for commissions or compensation claimed or asserted by any broker or other third party by or through RRC in connection with the transaction contemplated by this Agreement. Purchaser agrees to indemnify RRC from any claim, cost or expense, including reasonable attorneys' fees, for or in connection with any claims for commissions or compensation claimed or asserted by any broker or other third party by or through Purchaser in connection with the transaction contemplated by this Agreement. The parties' obligations under this Section 11.1 will survive Closing or any termination of this Agreement and remain fully enforceable thereafter.

11.2 Broker Disclosure. RRC acknowledges that Purchaser has disclosed to RRC that Koelbel and Company and Walter A. Koelbel, Jr., affiliates of Purchaser, are licensed Colorado real estate brokers.

11.3 Further Assurances. Each of the parties hereto undertakes and agrees to execute and deliver such documents, writings and further assurances as may be requisite to carry out the intent and purpose of this Agreement.

11.4 Entire Agreement. No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto. No waiver of any of the provisions of this Agreement shall be valid unless in writing and signed by the party against whom it is sought to be enforced. This Agreement contains the entire agreement between the parties relating to the purchase and sale of the Property. All prior negotiations between the parties are merged in this Agreement; and there are no promises, agreements, conditions, undertakings, warranties or

representations, oral or written, express or implied, between the parties other than as herein set forth.

11.5 Survival. All of the parties' representations, warranties, covenants and agreements hereunder, to the extent not fully performed or discharged by or through Closing, shall be deemed not merged into any instrument delivered at Closing and shall remain fully enforceable thereafter.

11.6 Business Days; Dates. For the purposes of this Agreement, a "business day" is any day other than a Saturday, Sunday or a national or state bank holiday generally observed by banking institutions in the State of Colorado. If any date set forth in this Agreement for the delivery of any document or the happening of any event (such as, for example, the expiration of the Inspection Period or the Closing Date) should, under the terms hereof, fall on a non-business day, then such date shall be automatically extended to the next succeeding business day.

11.7 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado. Venue for any action arising hereunder shall be in courts having jurisdiction over the County.

11.8 Notices. Any notice required or permitted to be sent pursuant to this Agreement shall be in writing and shall be deemed given, sent, delivered and received upon the earlier of: (i) when personally or actually delivered; or (ii) three (3) business days after having been deposited in a U.S. Postal Service depository and sent by registered or certified mail, return receipt requested, with all required postage prepaid; (iii) upon electronic mail transmission; or (iv) one (1) business day after being deposited with a commercial overnight courier and sent by overnight delivery with all required charges prepaid; and addressed:

If to RRC, to:

Ralston Creek North, LLC  
2595 Canyon Blvd., Suite 200  
Boulder, Colorado 80302  
Attn: James R. Loftus and J. Drever  
Email: [jrl@loftusdevelopments.com](mailto:jrl@loftusdevelopments.com)  
[jdrever@mapletonam.com](mailto:jdrever@mapletonam.com)  
Telephone: (303) 938-1329 and (303) 475-1689

With a copy to:

Arvada Urban Renewal Authority  
Arvada, CO  
Attn: Maureen Phair  
Email: [mphair@arvada.org](mailto:mphair@arvada.org)  
Telephone: (720) 898-7062

With a copy to:

Packard and Dierking, LLC  
2595 Canyon Blvd., Suite 200  
Boulder, CO 80302  
Attn: Brigette Paige  
Email: brigette@packarddierking.com  
Telephone: (303) 447-0450

If to Purchaser, to:

KUH Ralston LLC  
c/o Koelbel and Company  
5291 E. Yale Avenue  
Denver, Colorado 80222  
Attn: Peter Benson  
Email: pbenson@koelbelco.com  
Telecopy: 303-758-6632  
Telephone: 303-758-3500

with a copy to:

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.  
950 Seventeenth Street, Suite 1600  
Denver, Colorado 80202  
Attention: Christopher T. Toll  
Email: ctoll@ottenjohnson.com  
Telecopy: 303-825-6525  
Telephone: 303-825-8400

Any address fixed pursuant to the foregoing may be changed by the addressee by notice given pursuant to this Section 11.8.

11.9 Colorado Revised Statutes §38-35.7-101 Disclosure - Special Taxing Districts.  
**SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. PURCHASER SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD**

**OF COUNTY COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

11.10 Water Supply. IN ACCORDANCE WITH C.R.S. § 38-35.7-104, AURA DISCLOSES, AND PURCHASER ACKNOWLEDGES, THAT THE SOURCE OF POTABLE WATER FOR THE PROPERTY IS A WATER PROVIDER, AND THAT SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE GROUNDWATER. YOU MAY WISH TO CONTACT THE PROVIDER TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES. THE WATER PROVIDER MAY BE CONTACTED AS FOLLOWS:

**NAME OF PROVIDER:** *City Arvada, Colorado*  
**ADDRESS:** 8101 Ralston Road  
Arvada, CO 80002  
**TELEPHONE:** 720-898-7640  
**INTERNET ADDRESS:** <https://arvada.org/business/permits-and-applications/residential-sewer-and-water>

11.11 Severability. If any provision of this Agreement shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, and any such provision is fundamental, significant and material, either party may, at any time prior to Closing, at its option, terminate this Agreement, in which event the Deposit shall be returned to Purchaser, and the parties shall be relieved of any further obligations under this Agreement, except those which expressly survive termination. If prior to Closing any other provision of this Agreement, or if after Closing any provision of this Agreement, shall be declared invalid, illegal or unenforceable by a court of competent jurisdiction, it shall not affect or impair the validity or enforceability of any other provision of this Agreement, and there shall be substituted for the affected provision a valid and enforceable provision as similar as possible to the invalid provision.

11.12 Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being acknowledged by each of the parties hereto that each party has contributed substantially and materially to the preparation of this Agreement.

11.13 Headings. The paragraph headings which appear in some of the Sections of this Agreement are for purposes of convenience and reference and are not in any sense to be construed as modifying the Sections in which they appear.

11.14 Recitals. The Recitals set forth at the beginning of this Agreement are hereby incorporated in and made a part of the agreement set forth in this Agreement.

11.15 Assignment.

(a) Purchaser may not assign this Agreement without the consent of RRC, except that Purchaser may, upon the delivery of written notice to RRC, assign this Agreement to any entity which controls, is controlled by, or is under common control with Purchaser, without RRC's consent. Upon any assignment permitted by the foregoing, the assignee shall assume all obligations imposed on Purchaser as if the assignee were the

original purchaser in this Agreement with respect to the Property. Upon any such assignment and assumption, Purchaser shall be released from all further obligations under this Agreement with respect to the Property.

(b) It is anticipated that RRC may assign some or all of its rights and obligations under the DDA as “Redeveloper” to The Residences at Ralston Creek, Inc. (the “**Residences**”) prior to the Closing hereunder. In the event RRC assigns the DDA to the Residences, RRC may also assign this Agreement to the Residences, and the Residences shall be deemed to be “RRC” for all purposes hereunder. Further, it is also anticipated that RRC will assign this Agreement to AURA immediately prior to Closing pursuant to the PSA Assignment, and AURA shall assume the “Assigned Rights and Obligations” pursuant to the PSA Assignment.

11.16 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, personal representatives, successors and assigns.

11.17 Publicity and Recording. RRC agrees that before Closing and during the 90 days following Closing, except as reasonably necessary to exercise its rights and perform its obligations under this Agreement, it will not issue or authorize the issuance of any press release, publicity, or information concerning the transaction contemplated by this Agreement, without the prior written consent of Purchaser. Neither party shall record this Agreement or any memorandum of this Agreement without the written consent of the other.

11.18 Electronic Signatures. Executed copies hereof may be delivered by email or other electronic means and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

11.19 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed a duplicate original.

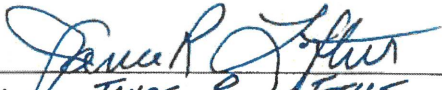
11.20 Acceptance. Upon execution and delivery of this Agreement by both Purchaser and RRC, this Agreement shall constitute a binding agreement. Either party may revoke its execution and delivery at any time prior to the execution and delivery by the other party, by delivering written notice (which need not conform with the requirements of Section 11.8) of such revocation to the other party.

*[Signature page(s) follow.]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed effective as of the Effective Date.

RRC:


RALSTON CREEK NORTH, LLC,  
a Colorado limited liability company

By:   
Name: JAMES R LOFTUS  
Title: MANAGER

PURCHASER:

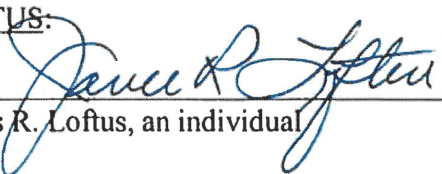
KUH RALSTON LLC,  
a Colorado limited liability company

By: KOELBEL AND COMPANY,  
a Colorado corporation, as Manager

By:   
Name: PETER BENSON  
Title: S.V.P.

GUARANTY:

Loftus executes this Agreement below solely for the limited purpose of confirming and agreeing to the representation and warranty in Section 8.13 of the Agreement.

LOFTUS:  
  
James R. Loftus, an individual

**CONSENT:**

The undersigned hereby consents to this Agreement and agrees to comply with the terms and conditions thereof, including, without limitation, Section 2.3 of the Agreement.

AURA:

ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

EXHIBIT A  
TO  
PURCHASE AND SALE AGREEMENT

Legal Description

**EXHIBIT "A"**

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH,  
RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SHEET 1 OF 2

A PARCEL OF LAND BEING A PORTION OF RALSTON COMMONS MINOR SUBDIVISION AS DESCRIBED IN THE RECORDS OF JEFFERSON COUNTY ON JUNE 3, 2021, AT RECEPTION NO. 2021084766, ALSO TO BE KNOWN AS PROPOSED LOT 1, RALSTON CREEK MINOR SUBDIVISION, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH, RANGE 69 WEST OF THE 6TH P.M., CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE MOST WESTERLY LINE OF SAID RALSTON COMMONS MINOR SUBDIVISION TO BEAR NORTH 00°14'02" WEST, A DISTANCE OF 326.97 FEET BETWEEN THE SOUTH END OF SAID MOST WESTERLY LINE AND THE NORTHWEST CORNER OF SAID RALSTON COMMONS MINOR SUBDIVISION, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT SAID NORTHWEST CORNER;  
THENCE ALONG THE NORTHERLY LINES OF SAID RALSTON COMMONS MINOR SUBDIVISION THE FOLLOWING THREE (3) COURSES;

1. NORTH 89°39'24" EAST, A DISTANCE OF 115.70 FEET;
2. THENCE SOUTH 65°06'08" EAST, A DISTANCE OF 167.70 FEET;
3. THENCE NORTH 89°07'34" EAST, A DISTANCE OF 31.52 FEET;

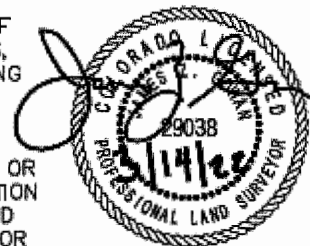
THENCE DEPARTING SAID NORTH LINE, AND ALONG THE EASTERLY AND SOUTHERLY LINES OF SAID PROPOSED LOT 1, THE FOLLOWING THREE (3) COURSES:

1. SOUTH 00°00'00" EAST, A DISTANCE OF 177.33 FEET;
2. THENCE SOUTH 90°00'00" WEST, A DISTANCE OF 101.87 FEET;
3. THENCE NORTH 88°12'20" WEST, A DISTANCE OF 196.57 FEET TO THE SOUTH END OF SAID MOST WESTERLY LINE;

THENCE ALONG SAID MOST WESTERLY LINE, NORTH 00°14'02" WEST, A DISTANCE OF 240.60 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 65,711 SQ. FT. OR 1.51 ACRES, MORE OR LESS.

I, JAMES Z. GOWAN, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, ARE ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND ARE NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED. SAID PARCEL DESCRIPTION AND EXHIBIT WERE PREPARED AT THE REQUEST OF THE CLIENT AND ARE NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.



JAMES Z. GOWAN  
COLORADO P.L.S. #29038  
VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 21-77,212  
DRAWN BY: E. PRESCOTT  
DATE: MARCH 14, 2022

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREIN IS BASED ON INFORMATION PROVIDED BY CLIENT.

**Flatirons, Inc.**  
*Land Surveying Services*



655 FOURTH AVE  
LONGMONT, CO 80501  
PH: (303) 776-1733  
FAX: (303) 776-4355  
[www.FlatironsInc.com](http://www.FlatironsInc.com)

FILED: 2022 MAR 14 11:11 AM JZG:29038 UNFILED: 2022 MAR 14 11:11 AM

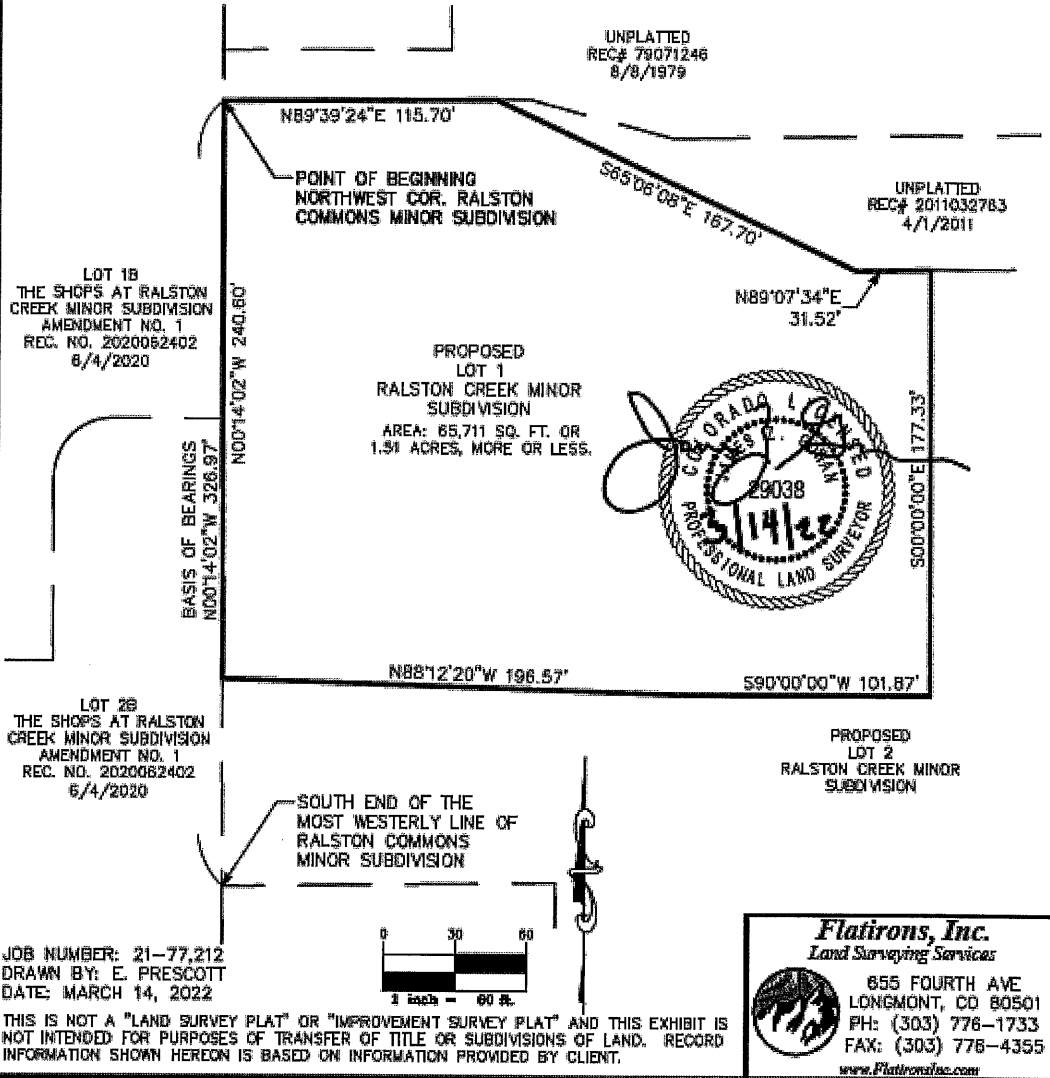


# EXHIBIT "A"

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 3 SOUTH,  
RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY OF ARVADA, COUNTY OF JEFFERSON, STATE OF COLORADO

SHEET 2 OF 2

BY: E. PRESCOTT FILE: 77212-DESC LOT 1 C21.DWG DATE: 5/14/2022 11:11 AM



JOB NUMBER: 21-77,212  
DRAWN BY: E. PRESCOTT  
DATE: MARCH 14, 2022

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

**Flatirons, Inc.**  
Land Surveying Services

655 FOURTH AVE  
LONGMONT, CO 80501  
PH: (303) 776-1733  
FAX: (303) 776-4355  
[www.Flatironsinc.com](http://www.Flatironsinc.com)

**EXHIBIT B**  
**to**  
**PURCHASE AND SALE AGREEMENT**

Form of PSA Assignment

[See attached]

**ASSIGNMENT AND ASSUMPTION OF, AND  
CERTAIN AGREEMENTS REGARDING,  
PURCHASE AND SALE AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF, AND CERTAIN AGREEMENTS REGARDING, PURCHASE AND SALE AGREEMENT (this “**Assignment**”) is made and entered into as of \_\_\_\_\_, 202\_\_ by and between RALSTON CREEK NORTH, LLC, a Colorado limited liability company (“**RRC**”), and ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (“**AURA**”).

**RECITALS**

This Assignment is made with respect to the following facts:

A. RRC, as Seller, and KUH RALSTON LLC, a Colorado limited liability company (“**Purchaser**”), entered into that certain Purchase and Sale Agreement dated as of \_\_\_\_\_, 2022 (the “**Purchase Agreement**”).

B. AURA is the owner of the “Real Property” and certain other elements of the “Property” (as those terms are defined in the Purchase Agreement), and the Purchase Agreement contemplates that RRC will assign, and AURA will assume, some, but not all obligations under the Purchase Agreement in order to effectuate the Closing contemplated by the Purchase Agreement.

C. The rights and obligations assigned by RRC, and assumed by AURA, by this Assignment are referred to herein as the “**Assigned Rights and Obligations**”.

D. RRC desires to assign the Assigned Rights and Obligations to AURA, and AURA desires to assume the Assigned Rights and Obligations, all in accordance with the terms hereof, with RRC remaining obligated to perform the obligations under the Purchase Agreement other than the Assigned Rights and Obligations.

**ASSIGNMENT AND ASSUMPTION**

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

1. Defined Terms. Capitalized terms used herein and not otherwise defined herein shall have the respective meanings given to them in the Purchase Agreement.

2. Assignment. RRC hereby absolutely and unconditionally assigns and transfers to AURA all of RRC’s right, title, and interest in and to the Assigned Rights and Obligations.

3. Assigned Rights and Obligations.

(a) Inclusions. The Assigned Rights and Obligations expressly include the following:

(i) Conveyance of the Property by execution and delivery of the documents contemplated by the Purchase Agreement; and

(ii) All other obligations of RRC except the excluded items in Section 3(b) below.

(b) Exclusions. The Assigned Rights and Obligations specifically exclude, and RRC will continue to retain and be responsible for, the following:

(i) RRC's representations, warranties and covenants under [Article 8] of the Purchase Agreement. AURA makes its own representations, warranties and covenants to Purchaser below in this Assignment.

(ii) Any obligation of RRC to indemnify Purchaser (although AURA will not be relieved of its obligation to perform any obligation in the Purchase Agreement that forms the basis of the indemnification obligation).

4. Assumption. AURA hereby accepts the assignment of and assumes RRC's right, title, and interest in and to the Assigned Rights and Obligations, and AURA agrees to pay, discharge, keep, fulfill and perform all Assigned Rights and Obligations from and after the date of this Assignment.

5. AURA's Representations, Warranties and Covenants. In lieu of the representations, warranties, and covenants in [Article 8] of the Purchase Agreement, AURA remakes and reaffirms in favor of Purchaser AURA's representations and warranties in Section 10.01 of the DDA (the "**DDA Reps**"), with the DDA Reps modified to so that each reference to the following terms in DDA will the following meetings in this Assignment:

<b>Term in the DDA Reps:</b>	<b>Has the following meaning:</b>
"Authority"	AURA
"Amended Agreement"	Purchase Agreement
"Project"	Property
"Redeveloper"	Purchaser
"Area"	Property

Each of the representations and warranties remade and reaffirmed in this Section 5 are made as of the date of this Assignment, with Purchaser as an express third-party beneficiary. All of AURA's other warranties and representations in this Section 5 will survive Closing, provided that any claim

or action based upon an alleged breach of any of such representations and warranties, as so updated and supplemented, shall be filed not later than 12 months after the date of this Agreement, after which time no suit or claim based upon an alleged breach thereof shall be filed by Purchaser.

6. Counterparts and Electronic Signature. This Assignment may be executed in counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Such counterparts may be executed and delivered by email or other electronic means by any of the parties hereto, and a receiving party may rely on the receipt of such document so executed and delivered as if the original had been received.

*[Remainder of page intentionally left blank. Signature page follows.]*

IN WITNESS WHEREOF, the parties have executed this Assignment as of the date first written above.

RRC:

RALSTON CREEK NORTH, LLC,  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

AURA:

ARVADA URBAN RENEWAL AUTHORITY,  
a body corporate and politic of the State of  
Colorado

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTACHMENT 1  
TO ASSIGNMENT AND ASSUMPTION OF,  
AND CERTAIN AGREEMENTS REGARDING,  
PURCHASE AND SALE AGREEMENT

(Legal Description of Real Property)

*[Attach legal description in connection with Closing.]*

**EXHIBIT C  
TO  
PURCHASE AND SALE AGREEMENT**

Form of Special Warranty Deed

[See attached]



After recording return to:

Christopher T. Toll  
Otten, Johnson, Robinson,  
Neff & Ragonetti, P.C.  
950 17th Street, Suite 1600  
Denver, Colorado 80202

**SPECIAL WARRANTY DEED**

THIS SPECIAL WARRANTY DEED (this “Deed”) is made as of \_\_\_\_\_,  
2022, between *[INSERT SELLER’S INFORMATION AS OF CLOSING]* (“Grantor”), whose  
address is \_\_\_\_\_, and  
\_\_\_\_\_, a \_\_\_\_\_ (“Grantee”),  
whose address is \_\_\_\_\_.

WITNESS, that Grantor, for and in consideration of the sum of TEN DOLLARS AND NO/100ths (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto Grantee, its successors and assigns forever, the real property together with improvements, if any, situate, lying and being in the City and County of Denver, State of Colorado, legally described on **Attachment 1** attached hereto and by this reference incorporated herein (the “Property”);

TOGETHER with all improvements thereon or thereto, and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and all reversions, remainders, easements, rights-of-way, leases, subleases, agreements, licenses and tenements appertaining to or otherwise benefiting or used in connection with such real property or the improvements thereto, all of Grantor’s right, title and interest in and to any mineral rights, oil and gas rights, mineral leases and rights to mineral royalties relating or appertaining thereto, if any, and all rents, issues and profits thereof, together with all of Grantor’s right, title and interest in and to any strips of land, streets, and alleys abutting or adjoining such real property, including vacated rights-of-way;

TO HAVE AND TO HOLD the said property above bargained and described with the appurtenances, unto Grantee, its successors and assigns forever. Grantor, for itself, and its successors and assigns, does covenant and agree that it shall and will WARRANT AND FOREVER DEFEND the above-bargained property in the quiet and peaceable possession of Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under Grantor excepting therefrom all exceptions currently of record.

*[Signature page(s) follows.]*

IN WITNESS WHEREOF, Grantor has executed this Deed as of the date first set forth above.

GRANTOR:

***[INSERT SELLER'S INFORMATION AS OF CLOSING]***

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTACHMENT 1  
TO SPECIAL WARRANTY DEED

(Legal Description of Property)

*[Attach legal description in connection with Closing.]*

ATTACHMENT 2  
TO SPECIAL WARRANTY DEED

(Permitted Exceptions)

*[Complete in connection with Closing.]*

**EXHIBIT D**  
**to**  
**PURCHASE AND SALE AGREEMENT**

Form of Assignment

[See attached]

## GENERAL ASSIGNMENT

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, *[INSERT SELLER'S INFORMATION AS OF CLOSING]* ("Assignor"), does hereby transfer, convey, set over, bargain, sell and assign, free and clear of all liens and encumbrances, unto \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"), the following (the "Assignment"):

1. All right, title and interest of Assignor in and to all governmental permits, licenses, certificates and authorizations relating to the construction, development, use or operation of the real property described on **Attachment 1** attached hereto (the "**Real Property**"), to the extent that they relate to the Real Property and are assignable;
2. All right, title and interest of Assignor in and to all site plans, surveys, plats, environmental studies, and other plans and studies of any kind if existing and in Assignor's possession or control that relate to the Real Property, to the extent that they relate to the Real Property and are assignable; and
3. All right, title and interest of Assignor in and to any and all other rights, privileges, and appurtenances owned by Assignor and in any way related to or used in connection with the Real Property, to the extent that they relate to the Real Property and are assignable.

*[Signature page follows.]*

IN WITNESS WHEREOF, this Assignment is executed by the Assignor as of \_\_\_\_\_, 202\_\_.

ASSIGNOR:

***[INSERT SELLER'S INFORMATION AS OF CLOSING]***

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ATTACHMENT 1  
TO GENERAL ASSIGNMENT  
(Legal Description of Real Property)

*[Attach legal description in connection with Closing.]*



**EXHIBIT E**  
**to**  
**PURCHASE AND SALE AGREEMENT**

Post-Closing Agreement

*[NOTE: The Post-Closing Agreement will include language substantially similar to the following. Capitalized terms used but not defined in this Exhibit E will have the meanings given them in the Agreement.]*

**1. RRC Infrastructure Obligations.**

(a) RRC Completion Deadline. RRC shall perform the RRC Infrastructure Obligations in accordance with the following timing:

(i) RRC shall “Substantially Complete” (as defined below) the Initial Infrastructure Improvements on or before the date that is 180 days after the Closing (the “Initial Completion Deadline”); and

(ii) RRC shall Substantially Complete the Landscape Infrastructure Improvements on or before the date that is 30 days before Purchaser’s first residential unit receives its certificate of occupancy, temporary certificate of occupancy, or the substantial equivalent that permits occupancy on a full-time basis by a resident (the “Landscape Completion Deadline”; the Initial Completion Deadline and the Landscape Completion Deadline are each referred to herein as a “RRC Completion Deadline”).

(b) RRC Infrastructure Obligations. In performing the RRC Infrastructure Obligations, RRC will comply with Sections 2 through 5 below.

(i) If RRC fails to Substantially Complete the Initial Infrastructure Obligations on or before the Initial Completion Deadline, Purchaser, at its option, may either: (A) declare RRC in default under this Agreement and enforce its remedies under Section 1(e); or (B) extend the Initial Completion Deadline until Substantial Completion of the Initial Infrastructure Obligations has been achieved, provided that Purchaser may, in its sole and absolute discretion, upon ten (10) days’ notice to RRC, exercise its right to declare a RRC default under clause (A) at any time following the originally scheduled Initial Completion Deadline and prior to Substantial Completion of the Initial Infrastructure Obligations.

(ii) If RRC fails to Substantially Complete the Landscape Infrastructure Obligations on or before the Landscape Completion Deadline, Purchaser, at its option, may either: (A) declare RRC in default under this Agreement and enforce its remedies under Section 1(e); or (B) extend the Landscape Completion Deadline until Substantial Completion of the Landscape Infrastructure Obligations has been achieved, provided that Purchaser may, in its sole and absolute discretion, upon ten

(10) days' notice to RRC, exercise its right to declare a RRC default under clause (A) at any time following the originally scheduled Landscape Completion Deadline and prior to Substantial Completion of the Landscape Infrastructure Obligations.

(c) Substantial Completion. “Substantial Completion”, “Substantially Complete”, and variations of such phrases, shall mean, with respect to any particular improvements, the degree of completion of such improvements sufficient to be put into active use and service, and at a minimum, without limiting the requirements of this Section 1, sufficient for Purchaser to obtain building permits for the construction of the buildings and other improvements contemplated by Purchaser on the Property for Purchaser's intended use (the “Purchaser Improvements”) and, after the completion of such Purchaser Improvements, of certificates of occupancy, temporary certificates of occupancy, or the substantial equivalent that permits occupancy on a full-time basis by a resident therefor.

(d) Inspections of RRC Infrastructure Obligations. Within ten (10) days after RRC shall give Purchaser written notice of Substantial Completion for the applicable RRC Infrastructure Obligations, a representative of both RRC and Purchaser shall inspect the RRC Infrastructure Obligations and shall jointly prepare and agree upon a “punch-list” of the respective items of applicable RRC Infrastructure Obligations which are uncompleted or which require repair or other corrective work (the “Punch List Items”). RRC shall, with reasonable diligence, thereafter promptly complete all such Punch List Items.

(e) Purchaser's Step-In Option. If (i) RRC is not diligently pursuing the RRC Infrastructure Obligations in a manner reasonably anticipated to result in the Substantial Completion of such RRC Infrastructure Obligations by the applicable RRC Completion Deadline, and RRC has not corrected such failure within ten (10) days after delivery of written notice by Purchaser thereof, (ii) the Initial Infrastructure Obligations have not been Substantially Completed by RRC by the Initial Completion Deadline, or (iii) the Landscape Infrastructure Obligations have not been Substantially Completed by RRC by the Landscape Completion Deadline then in any such case Purchaser shall have the right, at its option, to elect by notice to RRC specifically so stating (the “Step-In Option”), to complete the RRC Infrastructure Obligations or the Landscape Infrastructure Obligations, or any respective portion thereof, which have not theretofore been completed by RRC (the “Uncompleted Improvements”). If Purchaser exercises the Step-In Option for all or a portion of the Uncompleted Improvements in accordance with the foregoing, then the following provisions shall be applicable:

(i) Purchaser shall have the right to complete any or all of such Uncompleted Improvements, as the case may be, and Purchaser will be entitled to reimbursement of all actual, reasonable out-of-pocket costs and expenses actually incurred by Purchaser in so completing such Uncompleted Improvements (the “Uncompleted Improvements Costs”) plus the amount of the Uncompleted Improvements Management Fee (as defined below) for such Uncompleted Improvements. If Purchaser elects to invoice RRC for such costs, RRC shall pay the amount to Purchaser within fifteen (15) days after receipt of Purchaser's written

notice requesting such reimbursement. The Uncompleted Improvements Costs shall be based upon the actual, reasonable out-of-pocket costs and expenses actually incurred by Purchaser in so completing such Uncompleted Improvements. The “Uncompleted Improvements Management Fee” for any particular Uncompleted Improvements as to which Purchaser has exercised the Step-In Option shall mean an amount equal to ten percent (10%) of the total amount of the Uncompleted Improvements Costs for such Uncompleted Improvements.

(ii) Purchaser shall have a temporary license over those portions of adjacent or nearby property as are owned by RRC or an affiliate of RRC as reasonably necessary to enable Purchaser to complete such Uncompleted Improvements. Such temporary license for a particular Uncompleted Improvement shall terminate and cease to be of any force or effect from and after the date upon which Purchaser shall complete such Uncompleted Improvements.

(iii) Effective as of the date upon which Purchaser exercises the Step-In Option for such Uncompleted Improvements, RRC shall be deemed to have assigned to Purchaser (on a non-exclusive basis, such that RRC also retains the rights so assigned): (A) all of RRC’s contracts with contractors and subcontractors to the extent that they pertain to such Uncompleted Improvements, (B) all plans, specifications, permits, and similar documentation applicable to, and reasonably necessary to complete, the Uncompleted Improvements, and (C) all of RRC’s agreements with any utility providers to the extent that they pertain to such Uncompleted Improvements. Additionally, RRC will execute such additional reasonable certifications, documents or agreements as may be required to confirm the foregoing assignments to Purchaser.

(iv) After the date upon which Purchaser shall complete the Uncompleted Improvements, Purchaser shall deliver to RRC a written notice advising RRC that Purchaser has done so, accompanied by paid written invoices and other written evidence supporting the amount of the Uncompleted Improvements Costs, and a calculation by Purchaser of the resulting Uncompleted Improvements Management Fee, all of which will be paid to Purchaser in accordance with Section 1(e)(i) above.

2. **Insurance.** Prior to any entry by RRC onto the property owned by Purchaser, including, without limitation, to perform any RRC Infrastructure Obligations, RRC shall obtain and maintain, at its expense, and shall require its contractors to obtain and maintain, the specific types of insurance, in the amounts and with the coverages, and shall otherwise comply with the applicable requirements, as reasonably required by Purchaser, including naming such property owner as an additional insured on RRC’s commercial general liability policies with respect to such work or activities.

3. **Indemnity.** RRC agrees to indemnify, defend and hold Purchaser, its affiliated entities and its contractors, and each of their respective directors, officers, managers, members, shareholders, partners, agents and employees (collectively, the “Purchaser Indemnitees”), harmless from and against any and all liability, damage, claim, loss, cost or expense, including,

without limitation, reasonable attorneys' fees, that may be incurred by or asserted against the Purchaser Indemnitees, or any of them, as a direct result of a claim for damage to person or property resulting from the defective or faulty construction, installation or design by any party of any of the RRC Infrastructure Obligations, excluding, however, any such liability, damage, claim, loss, cost or expense that results from the negligence or the willful misconduct of Purchaser or any employee, consultant, contractor or other party acting for or on behalf of Purchaser.

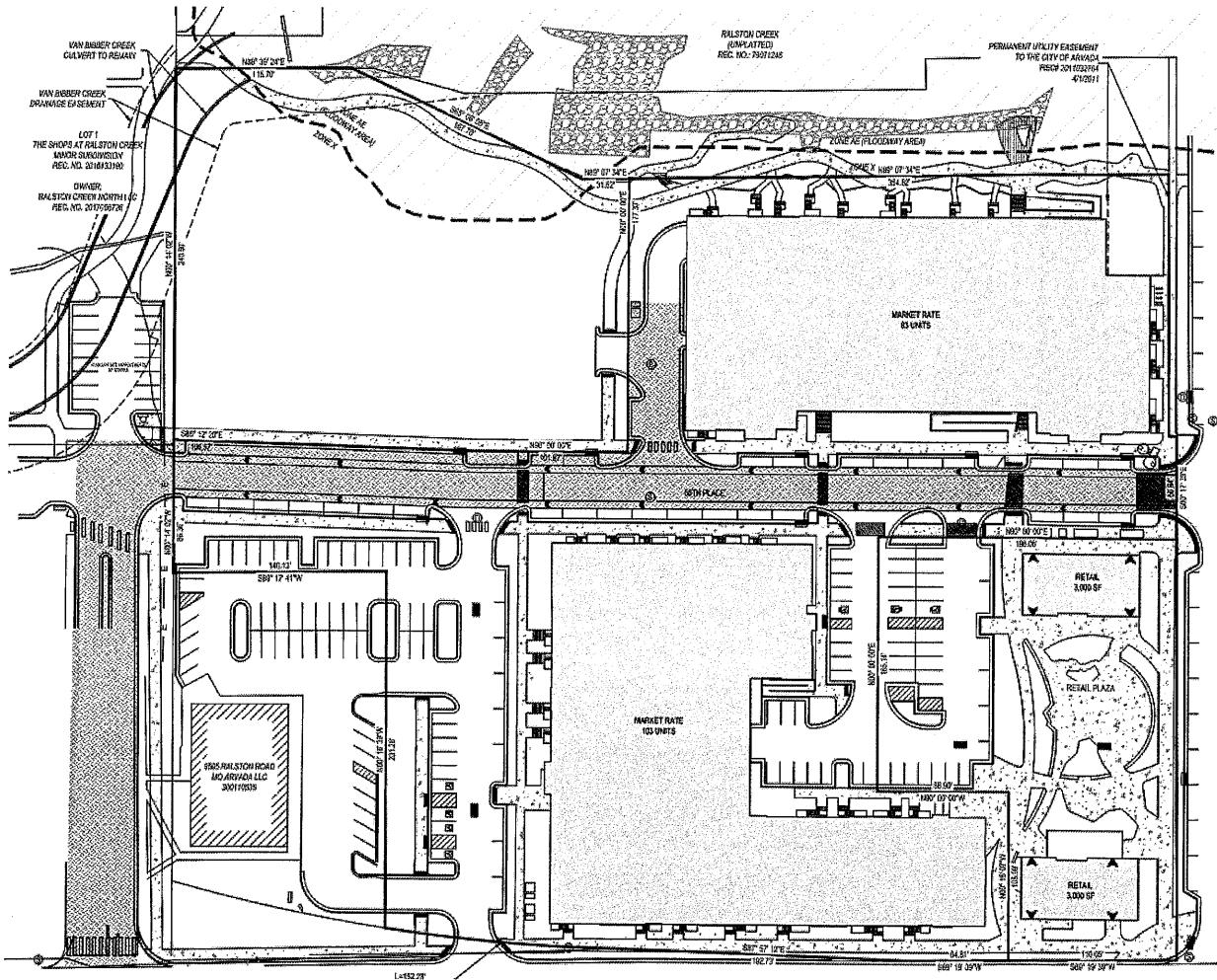
4. **Mechanics' Liens.** If because of any act or omission (or alleged act or omission) of any party or its employees, agents, contractors or subcontractors under this Agreement, any mechanics' or other lien, charge or order for the payment of money or other encumbrance shall be filed against the other party hereunder and/or any portion of its property (whether or not such lien, charge, order or encumbrance is valid or enforceable as such), such party (the "Indemnifying Party") shall at its own cost and expense, cause the same to be discharged of record or bonded within thirty (30) days after the assertion or the filing thereof; and the Indemnifying Party shall indemnify and save harmless the other party against and from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys' fees, resulting therefrom. If the Indemnifying Party fails to comply with the foregoing provisions, the other party shall have the option of discharging or bonding any such lien, charge, order or encumbrance, and the Indemnifying Party shall reimburse the other party for all costs, expenses and other sums of money in connection therewith with interest at the rate of 10% per annum thereon promptly upon demand.

5. **Easements and Utilities.** RRC and Purchaser will enter into the Easement Agreement.

6. **Force Majeure.** Substantial Completion of the Initial Infrastructure Obligations and the Landscape Infrastructure Obligations shall be subject to extension on a day for day basis for delays experienced because of any of the following, to the extent that the same are beyond the control of RRC and reasonably prevent RRC from performing the work required for the Initial Infrastructure Obligations or Landscape Infrastructure Obligations, including without limitation, extreme weather events not capable of being predicted, strikes, inability to obtain materials, labor disputes, delays resulting from governmental inspections or governmental delays in issuing necessary governmental approvals or permits, acts of God, war, aggression, or casualty (each a "**Force Majeure Event**"). No later than five (5) business days after the occurrence of a Force Majeure Event, RRC shall deliver to Purchaser written notice reflecting any delay to Substantial Completion resulting from a Force Majeure Event.

**EXHIBIT F**  
to  
**PURCHASE AND SALE AGREEMENT**

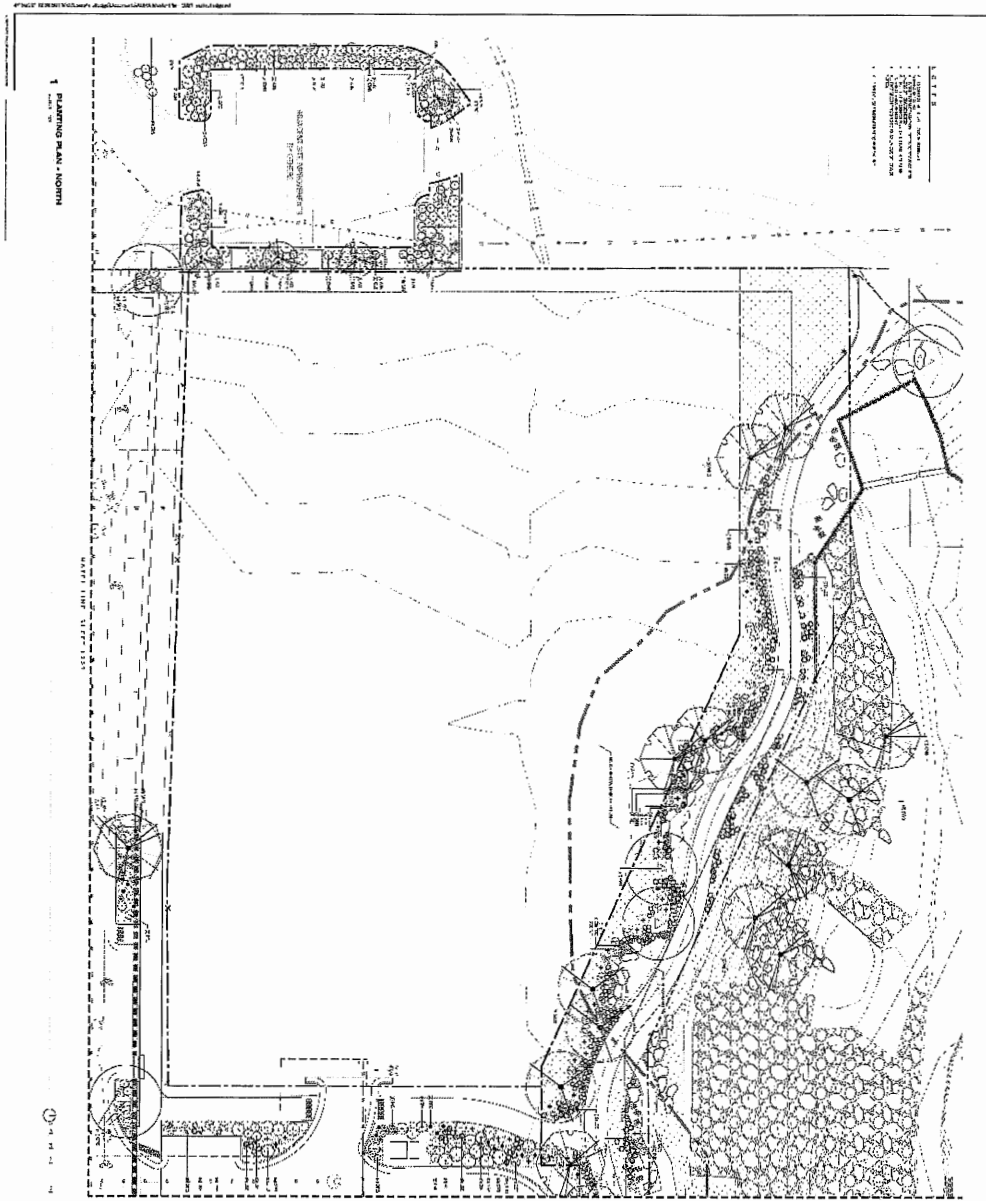
**Diagram of Easement Area**



Easement Area:

**EXHIBIT G**  
**to**  
**PURCHASE AND SALE AGREEMENT**

**Diagram of Floodplain Landscaping Area**

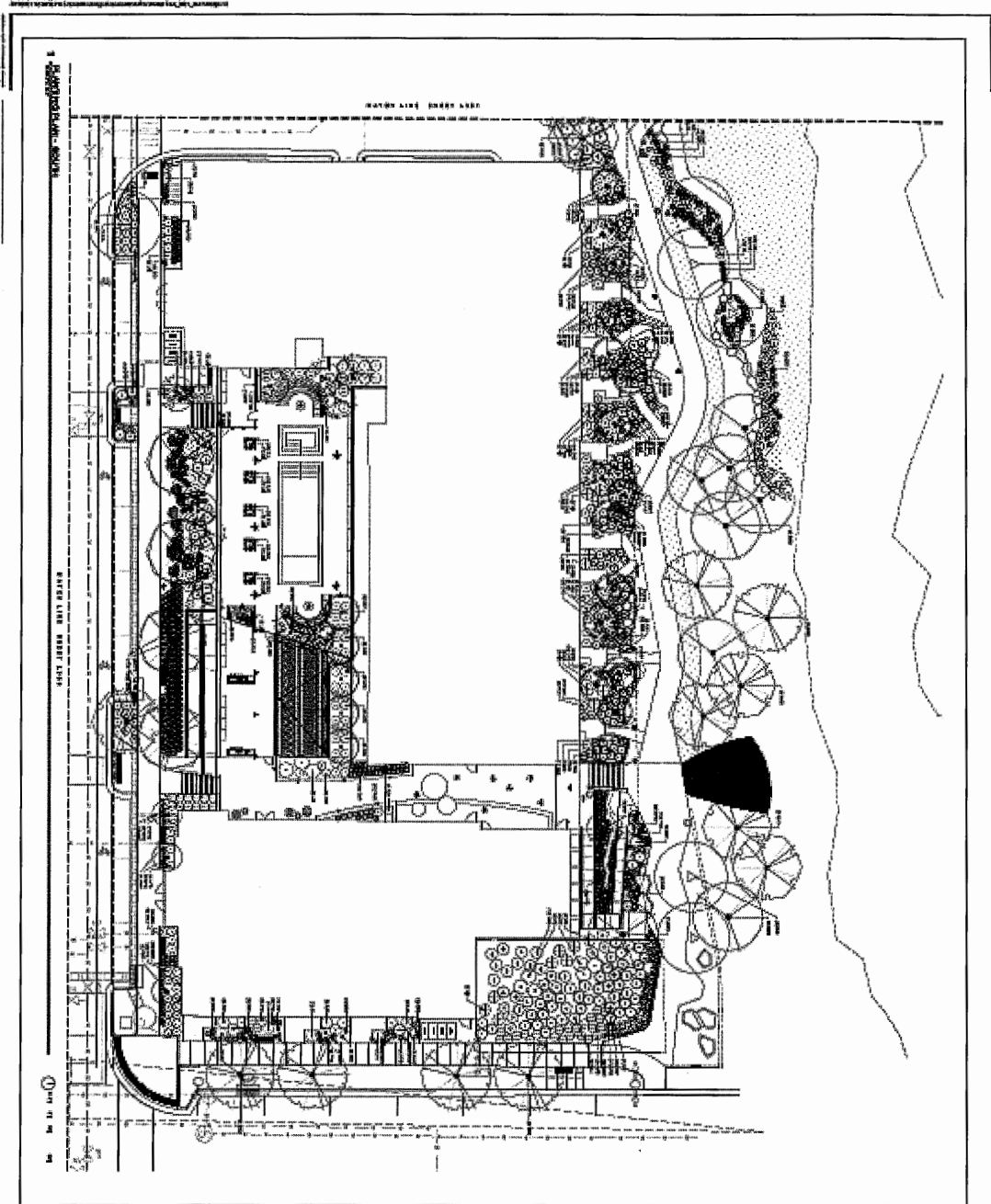


L301  
PLANNING PLAN

COMPANION  
CONSTRUCTION  
DRAWINGS  
FOR THE  
RESIDENCES AT RALSTON  
COMMONS

**THE RESIDENCES AT RALSTON  
COMMONS**  
9215 RALSTON RD, ARVADA CO 80002

**SA+R**  
SCAPE ARCHITECTURE  
ARCHITECTS  
P.C.  
1000 N. GARDEN ST., SUITE 100  
DENVER, CO 80202  
TEL: 303.733.8888  
WWW.SA+R.COM



1302  
 Planning Phase



THE RESIDENCES AT RALSTON  
 COMMONS  
 9215 RALSTON RD, ARVADA CO 80002



**RESOLUTION AR-22-12**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY AUTHORIZING THE CHAIR TO SIGN CLOSING DOCUMENTS ON BEHALF OF THE AUTHORITY**

**WHEREAS**, the Authority and Ralston Creek North, LLC ("RCN") entered into that certain Amended and Restated Disposition and Development Agreement dated April 7, 2021, as amended (the "DDA");

**WHEREAS**, Section 4.04 of the DDA states, in part, "... there shall be separate Closings for Phase 3 and the Phases 4 and 5...each Closing shall take place on or before the dates for the Closings specified in the Schedule of Performance at the office designated by the Authority..."; and

**WHEREAS**, the Schedule of Performance adopted by the Second Amendment to the DDA, dated March 2, 2022, sets the closing deadline for Phases 4 and 5 as July 1, 2022.

**NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:**

Section 1. Provided that the conditions precedent recited in Section 4.01 of the DDA have been satisfied or waived, and if the Redeveloper is not in Default under Section 15 of the DDA, as both may be verified by the Authority's attorney, the Chairman is hereby authorized to execute closing documents, as well as such other related documents as the Authority's attorney may deem necessary, on behalf of the Authority in furtherance of the DDA.

DATED this \_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Paul Bunyard, Chair

\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM

\_\_\_\_\_  
Corey Y. Hoffmann, Legal Counsel



**AURA Flash Report**  
Balances as of April 30, 2022

FOR DISCUSSION PURPOSES ONLY  
UNOFFICIAL & UNAUDITED

**CASH & INVESTMENTS**

<u>Wells Fargo Bank</u>		<u>Account Balance</u>	<u>Hold</u>	<u>Net to AURA</u>
General - Checking (0193)		434,028	-	434,028
Ralston Fields - Checking (4061)		4,267,786	-	4,267,786
Ralston Fields Investments (9353)		358,291	-	358,291
Olde Town Station - Checking (0895)		1,756,331	(400,000)	1,356,331
Village Commons - Checking (0887)		1,321,308	-	1,321,308
<u>First Bank of Arvada</u>			<u>% change from</u>	
1.50% CD Maturity 10/11/2022 (4548)		339,787	<u>prior period</u>	339,787
			0.00%	
<u>CSIP</u>				
Ralston Fields Fund (9003)		1,056,665	0.0386%	1,056,665
<b>NET CASH AVAILABLE TO AURA</b>				<b>9,134,195</b>

**REAL ESTATE OWNED**

<u>Date Acq.</u>	<u>Name</u>	<u>Address</u>	<u>Purchase Price</u>	<u>Debt/Discount</u>	<u>Net Value</u>
2016	Arvada Square	9465 Ralston Road	4,963,065	4,963,064	1
2020	Gas Station	9205 W 58th Ave	3,000,000	2,999,990	10
2020	City Stores	5790 Garrison St	10	0	10
2021	IRG Outparcel	9250 W 58th Ave	1,000,000	0	1,000,000
2022	AURA Office Building	5603 Yukon St	1,175,000	0	1,175,000
<b>NET VALUE OF REAL ESTATE OWNED</b>					<b>2,175,021</b>

**LONG TERM PAYABLES**

<u>Loan</u>	<u>Loan Start Date / Term Date</u>	<u>Original Loan Balance</u>	<u>Payments</u>	<u>Current Loan Balance</u>
Arvada Square	June 1, 2016 / June 1, 2028	5,000,000	1,649,537	3,350,463
Brooklyn's	January 1, 2016 / January 1, 2030	2,745,000	1,231,921	1,513,079
Tabernacle - Underground Utilities	2021	350,000	0	350,000
Wheat Ridge	2006/2024	1,800,000	1,600,000	200,000
<b>NET LONG TERM PAYABLES</b>				<b>\$5,413,542</b>

**GROSS INCOME & EXPENSES BY FUND As of April 30, 2022**

	<u>2022 BUDGET</u>		<u>Actual Revenues</u>	<u>Actual Expenses</u>
	<u>Revenue</u>	<u>Expenses</u>	<u>YTD</u>	<u>YTD</u>
Ralston Fields	15,864,000	17,675,000	1,601,961	342,043
Olde Town Station	1,180,000	1,417,000	482,635	18,639
Jefferson Center	16,760,000	16,760,000	919	963
Northwest Arvada	15,383,000	15,435,000	7,681,955	6,739,553
Village Commons	644,000	769,346	250,780	27,254
<b>TOTALS</b>	<b>49,831,000</b>	<b>52,056,346</b>	<b>\$10,018,250</b>	<b>\$7,128,452</b>

**GENERAL FUND EXPENSES As of April 30, 2022**

	<u>2022 Budget</u>	<u>Expended YTD*</u>
Operating Expenses	612,483	1,363,274
<b>TOTAL EXPENSES</b>	<b>\$612,483</b>	<b>\$1,363,274</b>

\*Includes purchase of Yukon Bldg