



PUBLIC NOTICE OF PUBLIC HEARING AND REGULAR 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 5603 Yukon Street, #B, Arvada, CO 80002, or virtual attendance via Zoom Webinar at **3:00 p.m. on Wednesday, May 3, 2023.**

Anyone wishing to attend virtually may register as follows:

Register in advance for this webinar:

https://us06web.zoom.us/webinar/register/WN_0tHczEMXQPi2XnTKMun3Uw

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 prior to noon on May 3, 2023. A recording of the meeting will be posted on AURA's website following the webinar.

Agenda information is attached.

Carrie Briscoe

Carrie Briscoe
Deputy Director/Recording Secretary

POSTED: April 28, 2023



REGULAR MEETING OF THE AURA BOARD OF COMMISSIONERS
5603 Yukon St, #B, Arvada, Colorado
3:00 p.m., Wednesday, May 3, 2023

AGENDA

REGULAR MEETING – 3:00 P.M.

1. Call to Order
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Members
 - A. Oath of Office for Commissioner – Daria Drago
 - B. Election of Officers
 - C. Oath of Office for Elected Officers
4. Approval of the Summary of Minutes – April 5, 2023
5. Public Comment of Issues not scheduled for Public Hearing – Three Minute Limit
6. Public Hearing
 - A. Resolution AR-23-07 A Resolution Amending the Arvada Urban Renewal Authority Budget for Fiscal Year 2022
7. Study Session
8. Old Business
 - A. Resolution AR-23-08 Fourth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North and Arvada Urban Renewal Authority
 - B. Resolution AR-23-09 Purchase and Sale Agreement between Ralston Creek North, Arvada Beer Garden RE, LLC and Arvada Urban Renewal Authority
 - C. Resolution AR-23-10 Fifth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North and Arvada Urban Renewal Authority
9. New Business
10. Development Update
11. Public Comment – Five Minute Limit
12. Comments from Commissioners
13. Committee Reports
14. Staff Reports
15. Executive Session – None
16. Adjournment

SUMMARY OF MINUTES OF REGULAR MEETING
ARVADA URBAN RENEWAL AUTHORITY BOARD OF COMMISSIONERS
WEDNESDAY, April 5, 2023
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REGULAR MEETING

1. Call to Order – Chair Paul Bunyard called the meeting to order at 3:00 p.m.

2. Moment of Reflection and Pledge of Allegiance

3. Roll Call of Commissioners:

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

AURA staff present: Maureen Phair, Executive Director; Carrie Briscoe, Deputy Director; Giles Clasen, Communications Coordinator; and Corey Hoffmann, Legal Counsel

4. Approval of the Summary of Minutes

The Summary of Minutes of the Feb. 1, 2023 AURA Regular Board Meeting stands approved.

5. Public Comment

None.

6. Public Hearing

None.

7. Study Session

A. Olde Town Revitalization Planning Update – Paul Stewart, Principal, Dig Studios

The City of Arvada has engaged Dig Studios to consider the next phase in the Olde Town Revitalization. They have been doing extensive public outreach, garnering input on permanent road closures and style of public spaces. The aim of this plan is to develop a vision for the next 20 years of public investment in Olde Town. The plan will be presented to City Council on May 8. The final Technical Advisor Committee Meeting will be held on May 16. There will be a public comment period on the draft in June, and the plan is expected to be adopted by mid-late summer. Stewart also reported that the majority of merchants are on board with the plan.

B. Continued Discussion on Potential Project

The discussion began with the scooter tour of Ralston Creek in September and continued with a retreat in October and a discussion in February. Plans for the Ralston Fields Urban Renewal Area were discussed, and Maureen shared that there will be \$21 million available by the time the URA expires in 5 years. The

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current plans include extending the streetscape for the triangle and the ear of the dog and extending the streetscape in front of the old K-mart site and Loftus property. This may include additional streetscape along Ralston where it turns north. Other ideas proposed included a pickle ball facility and Ralston Creek monument signage. There are a few properties for sale in the area and the AURA Board directed Ms. Phair to pursue the possibility of purchasing properties that could facilitate potential projects.

In the Olde Town Station URA, potential projects include the streetscape along Yukon, placing the .04 Trolley at the Flour Mill, Flour Mill improvements, art on the eastern facing façade of Park Place Olde Town, a roundabout at Hilton Garden Inn, and façade improvements at the Jaycee's building.

AURA staff continues to work on the development of the RFP for 7611 Grandview Ave.

Additionally, AURA staff is hosting a meet and greet lunch with City Engineering staff the following week.

8. Old Business

None.

9. New Business

None.

10. Development Update

Ralston Commons – The developer continues to work through its financing. The development agreement indicates their financing approval is due in June and to break ground by August. They also have six months to sell the plans where AURA can buy them at cost.

The completion of the purchase and sale agreement for City Street Investors on the Beer Garden parcel of Ralston Commons continues along with the amendment to Ralston Creek North DDA.

Tabernacle Church – Scott Marcum is the new real estate broker listing the property. It's currently listed at \$1.95 million.

Paseo – Hoping to receive approval from the City by the end of April or beginning of May. Once approval is received, the project can be bid out.

The Caroline (Kmart) – Construction continues to progress successfully.

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Ralston Commons Site Work – Challenges have popped up related to connecting to existing utilities and previous development infrastructure obstructing the path of the new. Completion is estimated for beginning of July.

Ralston Gardens – Development Permit was approved. The closing and transferring of the land will occur the beginning of May with groundbreaking within a couple weeks.

Ralston Creek Townhomes – The developer has pulled permits for three buildings and vertical construction is imminent.

Olde Town Alley Utility Undergrounding – The Xcel easement agreements have been drafted with the hope of distributing the final drafts for execution to the property owners in the following week.

11. Public Comment – Five Minute Limit

None.

12. Comments from Commissioners

Commissioner Williams reported that he attended the Chamber of Commerce's Luncheon where Ms. Phair presented an AURA update. He also announced the Chamber's State of the City Address will be held on April 21 and invited current and former AURA Board members. It will be his last State of the City Address and it will be a look back at his tenure with the City since 1999. He then thanked Alan Parker for his ten years on the AURA Board.

Commissioners Dolan, Kazura, Feret, and Steinhaus and Chair Bunyard also expressed their appreciation for Mr. Parker's tenure on the Board.

Vice Chair Parker expressed his appreciation for the Board's support and all of the projects that have been realized as a result of AURA.

Chair Bunyard reported on his attendance of the ULI Affordable Housing conference and the dire state of affordable housing and office buildings in downtown Denver.

13. Committee Reports

Commissioner Steinhaus reported that AEDA is meeting in-person and at various businesses.

Commissioner Kazura reported on the Olde Town BID activities including the addition of the Harvest Festival coordination.

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14. Staff Reports

Maureen Phair reported on the following:

New Communication Coordinator Giles Clasen was introduced to the board and he gave a brief bio.

Three board members, Dolan, Kazura, and Bunyard, had perfect meeting attendance in 2022 and were presented awards.

AURA Board and Staff will honor Vice Chair Parker's board tenure with dinner on April 19. City Council will also recognize him on June 5.

A calendar for the 2022's Board meetings was placed in board packets, and it was noted that the July meeting is canceled.

Next month, Board and Staff will travel to the ULI Spring meeting in Toronto.

City Council has appointed Vice Chair Parker's replacement, Daria Drago. She will attend AURA's May meeting. Board elections will also be held.

AURA Legal Counsel, Corey Hoffmann, reported on the following:

Regarding the urban renewal litigation for Aurora Urban Renewal, the Colorado Supreme Court case is fully briefed with a date to be determined for oral arguments. Decision is estimated for the end of this year or early next year.

There are two bills currently being discussed at the Colorado Legislature related to urban renewal. One specifically addresses agricultural land. A previous bill enacted in 2010 put limitations on municipalities to adopt urban renewal plans that included agricultural land. There was an exception for plans in place as of June 2010. A new bill has been presented to prevent former agricultural land from being added to a new urban renewal plan even if the land was included in a previous one. The other bill is not an urban renewal bill but would create a "County Revitalization Authority" that would use TIF in unincorporated areas of a county and would effectively prevent land from being annexed into towns and cities. This affects areas of Arvada adjacent to unincorporated county land.

Commissioner Kazura asked about schools closing in Arvada and if the land and/or buildings could be repurposed and considered for the Navigation Center the City has planned. Commissioner Williams said there are discussions with school district but nothing has been determined for those properties yet.

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15. Executive Session

None.

16. Adjournment

Chair Bunyard adjourned the meeting at approximately 4:50 p.m.

Paul Bunyard, Chair

ATTEST:

Maureen Phair, Executive Director

Carrie Briscoe, Recording Secretary

RESOLUTION AR-23-07

A RESOLUTION AMENDING THE ARVADA URBAN RENEWAL AUTHORITY BUDGET FOR FISCAL YEAR 2022

WHEREAS, the Arvada Urban Renewal Authority (AURA) previously approved and appropriated its budget for fiscal year 2022 on November 3, 2021, by passage of Resolutions AR-21-17 and AR-21-18, respectively, based upon projections of expected expenditures and revenues as of that date;

WHEREAS, expenditures and revenues will exceed AURA's 2022 approved budget;

WHEREAS, notice of AURA's consideration of the amended 2022 budget at this meeting was timely published pursuant to the requirements of State law;

WHEREAS, AURA held a properly noticed public hearing on May 3, 2023, at which time the public was invited to attend, give comment on or object to the proposed amended budget; and

WHEREAS, AURA wishes to amend its budget to reflect actual expenditures and revenues for fiscal year 2022.

NOW THEREFORE BE IT RESOLVED BY THE ARVADA URBAN RENEWAL AUTHORITY, ARVADA, COLORADO, THAT:

Section 1. Resolution AR-21-17, a resolution approving the 2022 AURA budget, and Resolution AR-21-18, a resolution appropriating the 2022 AURA budget, are hereby amended as follows:

- A. The Northwest Arvada Budget is amended by increasing the amount appropriated to \$16,330,250 from \$15,435,000.
- B. The General Fund Budget is amended by increasing the amount appropriated to \$2,350,091 from \$612,483.

Section 2. Any provision of Resolutions AR-21-17 or AR-21-18 that may be inconsistent with this Resolution AR-23-07, is hereby amended to conform to the extent necessary with the provisions hereof.

Section 3. This Resolution shall be effective upon its passage by the AURA Board of Commissioners.

INTRODUCED AND ADOPTED this 3rd day of May, 2023.

ATTEST:

Paul Bunyard, Chair

Maureen Phair, Executive Director

APPROVED AS TO FORM:

Legal Counsel

Date

AURA GENERAL FUND
2021 Budget
Fund 80 - Division 1284

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 APPROVED BUDGET	2022 Amended Budget	Change
46102	Interest - Investments	\$ 47,241	\$ 11,639	\$ -	\$ 3,000	\$ 5,500	
47184	Transfer to AURA from JC (Power Plant)	448,687	482,312	146,000	145,000	175,000	
47185	Transfer to AURA from Ralston Fields	115,019	-	61,000	-	300,000	
47187	Transfer to AURA from Northwest (Candelas)		-	379,000	465,000	594,000	
47189	Transfer from Village Commons					100,000	
46503	Recovered Costs	142,976	846	-	-		
TOTAL REVENUE		753,923	494,797	586,000	613,000	1,174,500	561,500
51101	Salaries and Wages	270,238	280,384	276,850	296,857	296,857	
51102	Overtime	-	-	2,000	2,000	2,000	
51103	Group Insurance	43,107	41,672	44,244	45,821	45,821	
51105	Retirement	29,819	30,867	31,794	33,039	33,039	
51106	Medicare	2,866	4,023	4,209	4,391	4,391	
51107	Temporary Wages	-	-	500	500	2,500	
51108	Workers Compensation Insurance	1,258	1,158	456	968	968	
51110	Bonuses/Commissions/Awards	-	976	-	-	-	
51112	Car Allowance	6,016	8,977	9,600	9,600	9,600	
51131	Dental	2,500	2,414	2,517	2,559	2,559	
51132	Long-Term Disability	1,025	1,074	1,267	1,264	1,264	
51133	Life Insurance	1,125	1,144	1,216	1,228	1,228	
53001	Services and Charges	2,877	146	1,000	1,000	1,000	
53002	Training and Meetings	28,077	2,379	30,000	30,000	30,000	
53004	Printing and Binding	778	543	2,000	2,000	2,000	
53011	Memberships, Dues, Subscriptions, Donations, Advertising, Promotions						
		5,143	6,205	20,000	20,000	20,000	
53013	Licenses and Fees	-	306	-	-	-	
53016	Risk Management Services	726	710	404	410	410	
53017	Mileage Reimbursement	18	-	500	500	500	
53018	Property Insurance	334	153	201	313	313	
53019	General Liability - Insurance	1,531	1,406	1,063	1,069	1,069	
53022	Auto Physical Damage-Insurance	95	87	42	23	23	
53023	Auto Liability-Insurance	54	50	27	14	14	
53027	Copier Charges	52	2	-	-	-	
53094	Phone	1,683	1,769	1,800	1,800	1,800	
54001	Supplies and Expenses	2,617	4,534	5,000	5,000	5,000	
54003	Postage	55	67	750	750	750	
54006	Computer Hardware/Software	-	2,262		-	-	
54008	Computer Replacement	2,608	2,447	2,713	5,499	5,499	
54014	Computer Maintenance	3,145	2,951	4,020	7,478	7,478	
54013	Small Equipment	1,857	2,013	2,500	2,000	2,000	
55001	Professional Services	85,340	38,335	64,000	69,200	629,000	
55004	Leases	63,152	54,755	67,200	67,200	67,200	
58106	Repair and Maintenance - Equipment		176	-	-	808	
58204	Building					1,175,000	
59185	Transfer to AURA Ralston Fields	5,565,076	-	-	-	-	
59188	Transfer to Olde Town	590,113	-	-	-	-	
TOTAL EXPENSES		6,713,285	493,985	577,873	612,483	2,350,091	1,737,608
NET INCOME/(LOSS)		(5,959,362)	812	8,127	517	(1,175,591)	
Fund Balance Beginning		7,608,289	1,543,320	1,544,132	1,552,259	1,552,259	
Fund Balance Ending		\$ 1,543,320	\$ 1,544,132	\$ 1,552,259	\$ 1,552,776	\$ 376,668	

JEFFERSON CENTER - (POWER PLANT)

2021 Budget

Fund 84 - Division 1206

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 PROPOSED BUDGET
41102	Property Tax Increment	\$ 2,470,408	\$ 2,830,400	\$ 1,650,000	\$ 2,000,000
46102	Interest - Investments	-	-	-	-
47187	Transfer from Northwest (Candelas)	9,402,394	12,851,487	10,456,000	14,760,000
	TOTAL REVENUE	11,872,802	15,681,887	12,106,000	16,760,000
53014	Contract Services	-	-	1,200	1,200
55001	Professional Services	37,237	41,410	35,000	35,000
55003	Contract Incentives	11,386,878	15,158,165	11,923,800	16,578,800
59180	Transfer to AURA	448,687	482,312	146,000	145,000
	TOTAL EXPENSES	11,872,802	15,681,887	12,106,000	16,760,000
	NET INCOME/(LOSS)	-	-	-	-
	Fund Balance Beginning	-	-	-	-
	Fund Balance Ending	\$ -	\$ -	\$ -	\$ -

NORTHWEST ARVADA - (CANDELAS)

2021 Budget

Fund 87 - Division 1208

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 APPROVED BUDGET	2022 Amended Budget	Change
41102	Property Tax Increment	\$ 9,545,578	\$ 13,183,205	\$ 11,000,000	\$ 15,383,000	\$ 16,128,200	
46102	Interest - Investments	-	-	-	-	-	
	TOTAL REVENUE	9,545,578	13,183,205	11,000,000	15,383,000	16,128,200	745,200
55001	Professional Services	143,184	197,739	165,000	210,000	242,000	
55003	Contract Incentives				-	15,325,250	
59180	Transfer to AURA	-	61,716	379,000	465,000	594,000	
59184	Transfer to JCMD	9,402,394	12,851,487	10,456,000	14,760,000	169,000	
	TOTAL EXPENSES	9,545,578	13,110,942	11,000,000	15,435,000	16,330,250	895,250
	NET INCOME/(LOSS)	-	72,263	-	(52,000)	(202,050)	
	Fund Balance Beginning	-	-	72,263	72,263	72,263	
	Fund Balance Ending	\$ -	\$ 72,263	\$ 72,263	\$ 20,263	\$ (129,787)	

RALSTON FIELDS
2021 Budget
Fund 85 - Divison 1207

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 APPROVED BUDGET
41102	Property Tax Increment	\$ 1,499,171	\$ 2,139,302	\$ 1,678,000	\$ 3,050,000
41302	Sales Tax increment	-	-	-	886,000
42202	Public Improvement Fee	2,368,861	2,364,449	2,380,000	1,425,000
46102	Interest - Investments	51,613	30,301	35,000	3,000
46503	Recovered Costs	-	5,000	300,000	-
47180	Transfer from AURA GF	5,665,076	235	-	-
49101	Proceeds from Note	-	-	-	10,500,000
	TOTAL REVENUE	9,584,721	4,539,287	4,393,000	15,864,000
53091-95	Utilities	8,737	14,380	21,000	10,000
53014	Contract Services	-	165,184	300,000	30,000
55001	Professional Services	64,245	286,392	30,000	30,000
55003	Contract Incentives	1,980,033	2,385,699	2,019,000	14,495,000
56001	Principal	250,000	457,110	471,213	485,350
56002	Interest	145,625	134,891	128,787	114,650
58103	Repair and Maintenance -Land	8,352	7,533	25,000	10,000
58202	Capital Improvement (CIP)	342,100	1,603,421		2,500,000
58180	Transfer to AURA	115,019	-	61,000	-
58204	Buildings	-	2,993,896	-	-
	TOTAL EXPENSES	2,914,111	8,048,506	3,056,000	17,675,000
	NET INCOME/(LOSS)	6,670,610	(3,509,219)	1,337,000	(1,811,000)
	Fund Balance Beginning	-	6,670,610	3,161,391	4,498,391
	Fund Balance Ending	\$ 6,670,610	\$ 3,161,391	\$ 4,498,391	\$ 2,687,391

OLDE TOWN ARVADA
2021 Budget
Fund 88- Divison 1209

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 PROPOSED BUDGET
41102	Property Tax Increment	\$ 554,948	\$ 890,348	\$ 930,000	\$ 930,000
41302	Sales Tax	342,113	251,335	250,000	250,000
46201	Rent	-	2,500	-	-
47180	Transfer from AURA GF	590,113	-	-	-
	TOTAL REVENUE	1,487,174	1,144,183	1,180,000	1,180,000
53014	Contract Services	-	13,197	50,000	30,000
53093	Water/Sewer/Stormwater	-	380	-	-
55001	Professional Services	8,595	26,216	10,000	10,000
55003	Contact Incentives	478,995	710,007	1,360,000	1,027,000
58103	Repair and Maintenance	14,213	8,291	10,000	-
58202	Capital Improvement (CIP)	-	-	-	350,000
	TOTAL EXPENSES	501,803	758,091	1,430,000	1,417,000
	NET INCOME/(LOSS)	985,371	386,092	(250,000)	(237,000)
	Fund Balance Beginning	-	985,371	1,371,463	1,121,463
	Fund Balance Ending	\$ 985,371	\$ 1,371,463	\$ 1,121,463	\$ 884,463

VILLAGE COMMONS
2021 Budget
Fund 89 - Divison 1210

OBJECT	DESCRIPTION	2019 ACTUAL	2020 ACTUAL	2021 BUDGET	2022 APPROVED BUDGET
41102	Property Tax Increment	\$ 408,100	\$ 410,436	\$ 410,000	\$ 410,000
41302	Sales Tax	206,879	87,110	118,000	140,000
41602	Lodging Tax	119,031	49,182	78,000	94,000
46102	Interest - Investments	-	-	-	-
	TOTAL REVENUE	734,010	546,728	606,000	644,000
55001	Professional Services	6,122	6,157	7,000	7,000
55101	Loans	-	-	-	500,000
55003	Contract Incentives	119,031	49,182	78,000	94,000
56001	Principal	152,250	142,759	145,079	147,255
56002	Interest	16,047	25,587	23,267	21,091
59180	Transfer to AURA	-	-	-	-
	TOTAL EXPENSES	293,450	223,685	253,346	769,346
	NET INCOME/(LOSS)	440,560	323,043	352,654	(125,346)
	Fund Balance Beginning	-	440,560	763,603	1,116,257
	Fund Balance Ending	\$ 440,560	\$ 763,603	\$ 1,116,257	\$ 990,911

ARVADA URBAN RENEWAL AUTHORITY

AGENDA INFORMATION SHEET

Agenda No.: Item 8A and B

Meeting Date: May 3, 2023

Title: Fourth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North and AURA

Purchase and Sale Agreement between Ralston Creek North, Arvada Beer Garden RE, LLC and AURA

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, the 27 townhomes is currently listed for sale. Loftus is currently obtaining financing on the 196 apartment development in Phase 4.

This amendment pertains to Phase 5, the restaurant park planned for the former gas station site.

INFORMATION ABOUT THE ITEM: There are two companion documents to be considered pertaining to the former gas station site. The first is the Purchase and Sale Agreement of the former gas station site to City Street Investors, they have created an entity called Arvada Beer Garden that will develop and own the site. The second document is the Fourth Amendment that assigns the rights and responsibilities outlined in the DDA to Arvada Beer Garden, and clarifies AURA's contribution to Loftus and Arvada Beer Garden.

Purchase and Sales Agreement:

Arvada Beer Garden Agrees to:

- Pay Loftus \$230,000 for the land with \$50,000 in earnest money.
- Construct 6,000 square feet of restaurant/commercial space in two buildings with at least one restaurant use.
- Develop a large public plaza valued at \$850,000, which shall offset the parks fees associated with the apartments. If the improvements fall short, Arvada Beer will pay Loftus any shortfall.
- Install Ralston Creek streetscape around the parameter of the site.
- Provide ROW and electricity for the Ralston Creek signage.
- Allow signage for apartment project on site.

AURA agrees to:

- Donate the land upon closing.
- Pay \$1,600,000 to Arvada Beer upon commencement of construction.
- Install horizontal improvements, including demolition, grading, and utilities within five feet of property line (cost deducted from AURA's contribution to Loftus).
- If the construction of the streetscape exceeds \$125,000, AURA will pay for the overage.
- Cover any cost associated with the removal of the abandoned environmental testing wells.
- Assign the existing water and sewer taps.

Loftus agrees to:

- Give City approved site plan and approvals for the redevelopment of the site to Arvada Beer.
- Construct and install the Ralston Creek signage.

Fourth Amendment to the DDA:

This document cleans up the DDA by removing Koelbel Homes as the developer of the Phase 3 Townhome site. The amendment adds Arvada Beer Hall as the developer of Phase 5, the restaurant plaza.

The amendment clarifies the contribution AURA is making into the different escrow accounts at closing

- \$9,810,112 – Loftus escrow account. \$13,393,989 total contribution less the infrastructure work of \$3,583,877.
- \$1,600,000 – Arvada Beer Hall escrow account, after issuance of building permits.

And finally, this document includes the Schedule of Performance for Arvada Beer Hall.

MILESTONE/EVENT	DEADLINE
Conditional Use Permit Submittal	Complete
Conditional Use Permit Approval	Complete
Pre-Application Meeting with City of Arvada	June 2023
Present and obtain AURA Board approval of site plan and building elevations	August 2023
Land Closing (upon receipt of construction permits)	June 2024
Commencement of Construction	July 2024
Completion of Construction	July 2025
AURA Certificate of Completion	January 2026

Benefits: This parcel is the most important from a place making perspective of all of our projects in Ralston Creek. City Street Investors is a local company with an amazing track record of activation, place making, and partnering with great restaurants.

FINANCIAL IMPACT: The \$1.6 million is contained within the greater \$15 million that has been allocated to the redevelopment of the total site.

STAFF RECOMMENDATION: Staff recommends approval.

SUGGESTED MOTION: I move that Resolution AR-23-08, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Fourth Amendment of the Amended and Restated Development Agreement between AURA and Ralston Creek North.

I move that Resolution AR-23-09 of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Purchase and Sale Agreement between Ralston Creek North, Arvada Beer Garden RE, LLC and AURA

RESOLUTION AR-23-08

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN
RENEWAL AUTHORITY APPROVING THE FOURTH AMENDMENT TO THE
AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT
BETWEEN RALSTON CREEK NORTH, LLC AND THE ARVADA URBAN
RENEWAL AUTHORITY**

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

Section 1. The Fourth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North LLC and the Arvada Urban Renewal Authority, attached hereto as **Exhibit A**, is hereby approved, and the Chair is authorized to execute the same on behalf of the Authority.

DATED this ____ day of _____, 2023.

Paul Bunyard, Chair

Recording Secretary

APPROVED AS TO FORM

Corey Y. Hoffmann, Legal Counsel

**Fourth Amendment to Amended and Restated
Disposition and Development Agreement
(Ralston Creek North)**

WITNESSETH

Whereas, Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado (the “**Authority**”) and Ralston Creek North, LLC, a Colorado limited liability company (“**RCN**”), entered into that certain Amended and Restated Disposition and Development Agreement dated as of April 7, 2021, for the redevelopment of certain property located within the Ralston Fields Urban Renewal Project Area for a mixed-use development (hereafter, the “**Project**”), which DDA was subsequently amended by the First Amendment to the DDA as of March 2, 2022, the Second Amendment to the DDA as of March 2, 2022, and the Third Amendment to the DDA as of September 7, 2022 (collectively, the “**DDA**”) (each a “**Party**” and collectively the “**Parties**”); and

Whereas, the Parties wish to make certain other amendments to the DDA relating to the Property.

In consideration of the facts set forth in the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed, it is THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. Section 3.02 of the DDA is hereby deleted and restated in its entirety as follows:

“3.02 The Authority shall place the Total Contribution less the Infrastructure Costs in an escrow account (the “Escrow Account”) on the following schedule: The approximate amount of Nine Million, Eight Hundred Ten Thousand, One Hundred Twelve Dollars (\$9,810,112.00), calculated as the amount of Thirteen Million, Three Hundred Ninety Three Thousand, Nine Hundred Eighty Nine Dollars (\$13,393,989.00), minus Infrastructure Costs in the approximate amount of Three Million, Five Hundred Eighty Three Thousand, Eight Hundred Seventy Seven Dollars (\$3,583,877.00) shall be deposited in the Escrow Account at the Closing for Phase 4 no later than November 1, 2023. The additional amount of One Million, Six Hundred Thousand Dollars (\$1,600,000.00) shall further be deposited in the Escrow Account for the benefit of Phase 5, which amount shall be paid to Arvada Beer Garden RE, LLC upon performance by Arvada Beer Garden RE, LLC of both (a) the obligations under that Purchase and Sale Agreement dated May 3, 2023 and, (b) the issuance of the first building permit to Arvada Beer Garden RE, LLC for construction of the improvements for Phase 5. The Total Contribution shall be released from the Escrow Account to Redeveloper according to the terms of a mutually acceptable form of escrow agreement.”

2. Exhibit A-1 to the Third Amendment to the DDA setting forth the Schedule of Performance for KUH’s obligations associated with Phase 3 is hereby deleted.

3. The Schedule of Performance for Phase 5, attached hereto as **Exhibit A-1**, and incorporated herein by this reference, is hereby approved by the Parties.

4. Ratification. Except as amended hereby, the DDA remains unmodified and in full force and effect. In the event of any conflict between the DDA and this Fourth Amendment, the terms and provisions of this Fourth Amendment shall control.

5. Counterparts; Electronic Delivery. This Fourth Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by email or other electronic means (including, without limitation, DocuSign) and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

[Signatures on the following page]

DATED THIS _____ DAY OF _____, 2023.

The Authority:

ARVADA URBAN RENEWAL AUTHORITY

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

RCN:

RALSTON CREEK NORTH, LLC.

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

RESOLUTION AR-23-09

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY APPROVING THE PURCHASE AND SALE AGREEMENT (RALSTON CREEK NORTH) BETWEEN THE ARVADA URBAN RENEWAL AUTHORITY AND ARVADA BEER GARDEN RE LLC, AND INCLUDING RALSTON CREEK NORTH, LLC AS A PARTY IN INTEREST

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

Section 1. The Purchase and Sale Agreement (Ralston Creek North) between the Arvada Urban Renewal Authority and Arvada Beer Garden Re LLC, and including Ralston Creek North, LLC as an interested party, attached hereto as **Exhibit A**, is hereby approved, and the Chair is authorized to execute the same on behalf of the Authority.

DATED this ____ day of _____, 2023.

Paul Bunyard, Chair

Recording Secretary

APPROVED AS TO FORM

Corey Y. Hoffmann, Legal Counsel

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

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

AND

ARVADA BEER GARDEN RE LLC, a Colorado limited liability company,

AND INCLUDING

**RALSTON CREEK NORTH, LLC, a Colorado limited liability company as a party in
interest**

_____, 2023

PURCHASE AND SALE AGREEMENT (Ralston Creek North)

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into effective as of the date this Agreement is executed by AURA, RCN and Purchaser (as those terms are defined herein), as evidenced by the later of the dates on the signature blocks below (the “**Effective Date**”), by and among ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (“**AURA**”), RALSTON CREEK NORTH, LLC, a Colorado limited liability company (“**RCN**”), as a party in interest, and ARVADA BEER GARDEN RE LLC, a Colorado limited liability company (“**Purchaser**”).

Recitals

A. AURA is the owner of certain “**Property**” described below, which is governed by and subject to that certain Amended and Restated Disposition and Development Agreement dated April 7, 2021, between AURA and RCN as the same has been amended from time to time (collectively, the “**DDA**”).

B. As used in this Agreement, the term “**Property**” includes all of the following:

(1) The real property located in the City of Arvada (the “**City**”), the County of Jefferson (the “**County**”), State of Colorado, consisting of approximately 1.02 acres commonly known as Lot 3, Ralston Creek Minor Subdivision, together with all reversions, remainders, easements, rights-of-way, appurtenances, 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 “**Real Property**”);

(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 Real Property (collectively, the “**Mineral Rights**”);

(3) All water rights, if any, appurtenant to the Real Property, together with any water and sewer taps (including any water service agreements which shall be assigned to Purchaser) or sanitary or storm sewer capacity appurtenant or appertaining to or otherwise benefiting or used in connection with the Real Property (collectively, the “**Water Rights**”);

(4) The nonexclusive right, title and interest of AURA in and to all site plans, surveys, plats, environmental studies, and other plans and studies of any kind if existing and in AURA’s possession or control that relate exclusively to the Property, to the extent that they are assignable (the “**Plans**”); and

(5) The nonexclusive right, title and interest of AURA in and to any and all other rights, privileges, and appurtenances owned by AURA and 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**”).

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. AURA shall sell and convey to Purchaser, and Purchaser agrees to purchase from AURA, 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 Two Hundred Thirty Thousand and 00/100 Dollars (\$230,000.00) (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, Purchaser shall deliver to Land Title Guarantee Company, 3033 East First Avenue, Suite 600, Denver, Colorado 80206 (the “**Title Company**”), Fifty Thousand and 00/100 Dollars (\$50,000.00) (together with all interest earned thereon, the “**Deposit**”). The Title Company shall hold the Deposit pursuant to the terms and provisions hereof.

(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 Seller Initial Deliveries. Within five (5) days of the Effective Date, AURA, at its expense, and RCN, at its expense, shall, within five days after the Effective Date, deliver to Purchaser the following (collectively, the “**Seller Deliveries**”):

(a) **Copies and Descriptions.** Copies of all Plans; copies of all materials relating to the Mineral Rights and Water Rights, 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 RCN or AURA since such tax statements were issued; and copies of all due diligence materials, including, but not limited to, surveys, 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 RCN's or AURA's possession or obtainable by RCN or AURA, copies of all notices that RCN or AURA have 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 RCN's or AURA's possession or obtainable by RCN or AURA, copies of all engineering tests, environmental studies, soils and geotechnical studies, drainage studies, and appraisals of the Property.

2.2 Title and Survey Matters.

(a) Title Insurance Commitment. AURA shall deliver to Purchaser within ten (10) 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 AURA will 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 AURA undertakes in writing to cause the deletion or removal of prior to Closing. AURA shall cause the Title Company to issue such endorsements, if any, that AURA undertakes to cause to be issued in writing at AURA'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 Seller Deliveries, RCN 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, may obtain a current survey of the Real Property certified to Purchaser, Title Company, RCN, 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 RCN and AURA will

cooperate with Purchaser's reasonable requests 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 one hundred twenty (120) days from the delivery of the Seller Deliveries (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. RCN and AURA each agree 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 RCN or AURA. Purchaser shall provide RCN with twenty-four (24) hours' notice via phone at **303.204.7151 and 303.475.1689** (with a voicemail sufficient to serve as such notice) and via email at jdrever@mapletonam.com and jrl@loftusdevelopments.com prior to entering onto the Property to conduct any such investigation activities. Purchaser shall cause any consultants entering the Property to 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 its presence at the Property, which insurance shall name as additional insureds thereunder RCN and AURA. Purchaser's consultants shall, upon request, deliver to RCN and AURA a copy of the certificate of insurance evidencing the insurance required under this Section 2.3. Purchaser shall indemnify, defend, and hold harmless RCN and AURA from any expenses, damages and liabilities, including reasonable attorneys' fees, that RCN or AURA may suffer or incur to the extent 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. The indemnity set forth above, however, shall not apply to liens, claims, demands, injuries, damages, costs, expenses (including also reasonable attorney's fees) or liability to the extent caused by or resulting from (a) the acts or omissions of AURA and/or RCN, (b) the presence on the Property of latent defects not created or exacerbated by Purchaser, or (c) the presence on the Property of hazardous materials not placed there or exacerbated by Purchaser. For purposes of this Agreement, Purchaser shall not be deemed to have exacerbated any latent defects or hazardous materials on the Property simply by discovering the latent defect or the presence of hazardous materials through normal and customary inspections, studies, tests and other work, including but not limited to soils tests. Notwithstanding anything contained herein to the contrary, to the extent Purchaser has not secured the Approvals (as defined below) and/or determined the nature and extent of obtaining the Approvals, excluding in each instance, building permits, Purchaser may elect to extend the Inspection Period for two (2) additional periods of sixty (60) days each (each, an "**Inspection Extension**") solely to allow Purchaser to obtain the Approvals and/or determine the nature and extent of obtaining the Approvals, excluding in each instance, building permits, by delivering on or before the expiration of the initial Inspection Period or first Inspection Extension, as applicable, written notice to the Seller exercising such Inspection Extension.

Purchaser and Seller hereby agree that, as consideration for each Inspection Extension, \$10,000.00 of the Deposit shall become nonrefundable to Purchaser (as applicable, the “**Nonrefundable Deposit**” as to each Inspection Extension) except in the event of a Seller’s default and/or except as provided in this Agreement.

2.4 Termination. If, on or before the expiration of the Inspection Period (as it may be extended as herein provided above), Purchaser delivers to RCN and AURA written notice setting forth Purchaser’s election to terminate this Agreement, for any reason whatsoever or no reason and in Purchaser’s sole and absolute discretion, then this Agreement shall terminate, the Deposit (less any Nonrefundable Deposit) shall be returned to Purchaser, the Nonrefundable Deposit shall be paid to RCN 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.

2.5 Governmental and Other Approvals.

(a) RCN and AURA acknowledge that Purchaser may require, among other things (collectively, the “**Approvals**”): conditional use or special use permits, liquor licensing, grading and building permits, platting, utilities, landscaping approvals, 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 for commercial uses including two separate commercial buildings, a public plaza, and including within the commercial buildings at least one restaurant use.

(b) Purchaser agrees and covenants, at Purchaser’s sole expense, to diligently and continuously pursue all Approvals required for the development of 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. RCN and AURA shall, for no additional consideration or payment and at no expense to RCN 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 approval 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 (after commercially reasonable, diligent efforts) reasonably 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 RCN and AURA, in which event this Agreement shall terminate, the Deposit shall be retained by RCN and AURA, RCN and Purchaser shall have no further obligations hereunder, except those which expressly survive termination.

2.6 Post-Closing Covenants and Agreement. At Closing, RCN, or its successor or affiliate owner of Lot 2, Ralston Creek Minor Subdivision (the “**Lot 2 Owner**”), AURA and Purchaser will enter into a Post-Closing Agreement (the “**Post-Closing Agreement**”) addressing the following obligations of Purchaser and the Lot 2 Owner following Closing (and such other obligations set forth in this Agreement to be addressed by the Post-Closing Agreement):

(a) Purchaser shall be responsible for all costs associated with the construction of streetscape improvements in accordance with the Ralston Creek Streetscape Design Guidelines for the portions of Garrison Street, Ralston Road and West 58th Place that border the Property (the “**Street Improvements**”). Purchaser shall not be required to spend more than \$125,000.00 on the Street Improvements. If and to the extent the construction bids in and for the Street Improvements are in excess of \$125,000.00, then AURA covenants and agrees to either (i) allow Purchaser to value engineer or alter the design of the Street Improvements such that the cost is \$125,000.00 or less, or (ii) agree to pay for any Street Improvements in excess of \$125,000.00 (and the payment terms and structure shall be set forth in the Post-Closing Agreement).

(b) Purchaser shall covenant and agree to install at least one sign along Garrison Street on the Property for the benefit of the proposed development on Lot 2, Ralston Creek Minor Subdivision (“**Lot 2**”). The number, size and location of such signs shall be mutually agreed upon by Purchaser and the Lot 2 Owner and shall be reflected in the Post-Closing Agreement. The Post-Closing Agreement shall require the Lot 2 Owner to pay all costs and expenses associated with such sign(s) and to reimburse Purchaser for all costs incurred by Purchaser in excess of the costs Purchaser would otherwise incur for streetscape on Garrison to accommodate Lot 2 Owner’s requested sign(s).

(c) Purchaser shall be responsible for the construction and completion of certain public improvements in the plaza portion of the Property, which improvements shall offset the park and recreation fee associated with Lot 2 (the “**Park Fee**”) and the intended multifamily development thereon. In the event that Purchaser spends less than \$850,000.00 in qualifying public improvements toward the construction of the plaza such that the Lot 2 Owner’s entire Park Fee is not offset, Purchaser shall pay any shortfall in cash to the Lot 2 Owner within thirty (30) days after the completion and final costs are paid by Purchaser for such public improvements. The Post-Closing Agreement shall contain such additional details as Purchaser and the Lot 2 Owner reasonably agree upon to further document Purchaser’s obligations hereunder.

(d) RCN (on behalf of the Lot 2 Owner), AURA and Purchaser will use good faith efforts to negotiate the form and substance of the Easement Agreement prior to the expiration of the Inspection Period.

2.7 Easement Agreement. At Closing, RCN, or an affiliate of RCN, and Purchaser

will enter into an easement agreement (the “**Easement Agreement**”) pursuant to which Purchaser shall grant RCN (or its affiliate) the right to erect a monument sign on the Property at the corner of Ralston Road and Garrison Street in accordance with the Ralston Creek Streetscape Design Guidelines. RCN shall be responsible for all expenses associated with the construction and installation of the monument sign and the Easement Agreement shall provide that Purchaser’s obligations shall be limited to supplying electricity for the benefit of the monument sign. RCN and Purchaser will use good faith efforts to negotiate the form and substance of the Easement Agreement prior to the expiration of the Inspection Period.

ARTICLE 3

TITLE

3.1 Status of Title. At Closing, AURA shall convey to Purchaser insurable fee simple title to the Property, subject only to the Permitted Exceptions.

3.2 Issuance of Title Policy. At Closing, AURA 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, AURA shall 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. Without limiting the foregoing, AURA covenants and agrees to execute and deliver to Title Company such agreements, affidavits, indemnity agreements or statements concerning claims for mechanic’s liens, parties in possession (it being the intent that the Property shall be conveyed free and clear of any leases or tenancies) and any so-called “gap” coverage and any other documents as may be required by Title Company in order to issue the Title Policy.

ARTICLE 4

RCN’S AND AURA’S COVENANTS PENDING CLOSING

4.1 Title and Survey. Until the earlier of Closing or the termination of this Agreement, AURA shall not 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. AURA shall not take any voluntary action to cause any of the representations and warranties made by RCN in Article 8 to become untrue or incorrect in any material respect.

4.3 Utilities. AURA confirms that public water, public sewer, stormwater, and gas and electric utilities to serve the Property shall be located in easements immediately adjacent to the Property (meaning, for purposes hereof, within at least five (5) feet) prior to Closing consistent with the Utility Plan, attached hereto as **Exhibit A**, and incorporated herein by this

reference. In the event that Purchaser discovers that any utilities are not so available within the area required hereunder, then AURA shall be responsible for all costs and expenses associated with running such utilities to locations adjacent to the Property (meaning, for purposes hereof, within at least five (5) feet) consistent with the Utility Plan, attached hereto as **Exhibit A**, and incorporated herein by this reference and AURA agrees to reimburse Purchaser for such reasonable costs. The terms hereof, including payment terms, shall be memorialized in the Post-Closing Agreement.

4.4 Site Demolition. Prior to Closing, AURA and RCN shall remove the asphalt and foundations located on the Property, which for purposes of this Agreement shall be approximately 2-tenths or approximately three (3) inches in either direction (high or low), and shall rough grade the Property in accordance with the overall grading and drainage plans for the project, copies of which shall be provided to Purchaser as part of the Seller Deliveries; and to the extent any wells exist on the Real Property, AURA shall be solely responsible for maintaining the proper abandonment of all monitoring, remedial and vapor extraction wells on, in or under the Property as required by law and all costs and expenses related thereto during and upon completion of the removal of such asphalt and foundations and the rough grading of the Property.

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

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 Title Policy with respect to the Property as described in Section 3.2.

(b) **Accuracy of Representations.** The representations and warranties made by RCN and/or AURA in Article 8 and Article 9 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 RCN and AURA will so certify.

(c) **Site Demolition.** AURA or RCN shall have completed the site demolition work to the Property described in Section 4.4 above.

(d) **Utilities.** Purchaser shall have determined that utilities are available in easements located adjacent to the Property (meaning, for purposes hereof, within at least

five (5) feet) consistent with the Utility Plan, attached hereto as **Exhibit A**, and incorporated herein by this reference.

(e) Post-Closing Agreement and Assignment and Amendment of DDA. Purchaser, AURA or RCN shall have agreed upon the final forms of the Post-Closing Agreement and Assignment and Amendment of DDA.

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, or (b) terminate this Agreement by written notice thereof to RCN and AURA, in which event the entirety of 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.

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 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 AURA within 10 days of receipt of notice from AURA, in which event the entirety of the Deposit will be returned to Purchaser and all 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, 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 date when Purchaser has obtained the Approvals, including at a minimum the building permit for vertical construction on the Property, and Purchaser's financing for the acquisition of the Property is available for Closing (the "**Closing Date**"). Purchaser will provide AURA and RCN with a minimum of ten days' notice of the Closing Date. In addition, in no event shall the Closing Date be later than one (1) year after the Effective Date.

6.2 Deliveries. At Closing, the following shall occur:

(a) Deed. AURA shall deliver to Purchaser a duly executed and acknowledged special warranty deed, in the form reasonably agreed upon by Purchaser and AURA (the "**Deed**"), conveying to Purchaser fee simple title to the Real Property, Mineral Rights and Water Rights to be conveyed at Closing, subject only to the Permitted Exceptions.

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

(c) Deliveries. RCN shall deliver to Purchaser all site plans, building plans, landscape plans, surveys, plats, and other plans of any kind if existing and in RCN's possession or control that relate exclusively to the Property.

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

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

(f) General Assignment. AURA will execute and deliver to Purchaser a bill of sale and assignment, in form satisfactory to Purchaser, of all of AURA's right, title and interest in and to the water and sewer taps, if any.

(g) Post-Closing Agreement. Purchaser and RCN, or the appropriate affiliate of RCN, and AURA will execute and deliver the Post-Closing Agreement.

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

(i) Assignment of DDA. Purchaser and RCN (and AURA, as applicable) will execute and deliver an assignment and amendment of the DDA (the "**Assignment and Amendment of DDA**"), in a form to be agreed upon prior to the expiration of the Inspection Period, pursuant to which Purchaser shall assume all obligations of "Redeveloper" under the DDA expressly relating to the Property, and which shall include the right of Purchaser to receive \$1,600,000.00 from AURA at Closing to construct improvements on and to serve the Property.

(j) Tap Fee Credit. AURA shall deliver to Purchaser a writing reasonably satisfactory to Purchaser of a tap fee credit associated with 9205 Ralston Road for a 1.5" line having an approximate value of \$156,086.00.

(k) 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.

(l) 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.

(m) 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.

(n) 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.

(o) 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.

(p) 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.

(q) Certificate. RCN and AURA, as applicable, shall execute and deliver to Purchaser a certificate reaffirming RCN's representations and warranties as of the Closing Date, as contemplated by Article 8 and Article 9 below.

(r) Letter from OPS that Purchaser not liable. AURA and RCN have provided Purchaser with an official letter from the Colorado Division of Oil and Public Safety ("OPS") dated March 22, 2023, addressed to Pat McHenry, City Street Investors LLC stating that Pat McHenry and City Street Investors LLC are not considered by OPS to be the owners of petroleum storage tanks previously removed from the Property or to be responsible for activities associated with remediation of any contamination from those petroleum storage tanks. If Purchaser is not satisfied with the OPS letter, its sole remedy shall be to terminate this Agreement within the Inspection Period (as it may be extended) and recover the Deposit (subject to the terms of this Agreement). AURA shall, at no cost to AURA, reasonably cooperate with Purchaser during the Inspection Period to obtain approval, authorization or no objection from the OPS of Purchaser's proposed use of the Property for general retail and restaurant(s), without further remedial requirements. If Purchaser is not satisfied with the OPS letter, its sole remedy shall be to terminate this Agreement within the Inspection Period (as it may be extended) and recover the Deposit (subject to the terms of this Agreement).

(s) Miscellaneous Documents. AURA and RCN 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 RCN, 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) 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 shall be paid by AURA at or before Closing. 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 RCN shall be paid by RCN at or before Closing. Notwithstanding the foregoing, Purchaser shall be responsible for any lien resulting from the activities of Purchaser, its contractors, agents, and representatives on the Property.

(c) 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; all conveyance, transfer, sales and other taxes or fees, if any, arising out of the conveyance of the Property by AURA to Purchaser; the cost of recording any instruments required to discharge any liens or encumbrances against the Property that are not Permitted Exceptions; 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.

(d) 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, RCN 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 RCN REPRESENTATIONS, WARRANTIES AND COVENANTS

RCN represents, warrants and covenants to Purchaser as follows:

8.1 Authority. RCN is a Colorado limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado. RCN 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 RCN 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 RCN is authorized to do so. RCN shall furnish to Purchaser any and all documents to evidence such authority as Purchaser shall reasonably request. Upon any assignment of this Agreement by RCN, the representations and warranties in Section 8.1 shall be deemed modified to reflect the assignee's type of organization and jurisdiction of formation.

8.2 Consents; Binding Obligations. No third-party approval or consent is required for RCN to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by RCN are and shall be valid, legally binding obligations of and enforceable against RCN 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 RCN is subject or by which RCN is bound, or constitute a breach or default under any agreement or other obligation to which RCN is a party.

8.3 Bankruptcy. There exists no pending or threatened bankruptcy, insolvency or similar proceedings affecting RCN, or to RCN's knowledge, AURA or the Property.

8.4 Violations; Permits. To RCN's knowledge, there is no existing 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 Notices. RCN 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 or claims pending or threatened with respect to or in any manner affecting the Property or the ability of AURA or RCN 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.

8.6 Contract and Agreements. RCN has not entered into any leases, contracts or agreements affecting the Property that will be binding upon Purchaser after Closing other than the Permitted Exceptions.

8.7 Foreign Person. RCN 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.

8.8 No Possessory Rights; No Third Party Interests. RCN 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.

8.9 No Actions. To RCN's knowledge, there are no actions, suits, proceedings or claims pending, contemplated or threatened with respect to or in any manner affecting the Property or the ability of the RCN to consummate the transaction contemplated by this Agreement.

8.10 Seller Deliveries. To RCN's knowledge, the copies of any documents furnished to Purchaser by RCN pursuant to this Agreement are true, accurate and complete copies of the documents they purport to be.

The term "to RCN's knowledge" as used herein, and words of similar import, shall mean the current, actual knowledge (not constructive or imputed knowledge) of **James R. Loftus** (the "**RCN Representative**"). The RCN Representative is 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, RCN will promptly notify Purchaser of changes to the foregoing representations and warranties discovered by RCN to date. At Closing, RCN will deliver to Purchaser a certificate pursuant to which RCN 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 RCN has become aware prior to Closing. In the event that any such supplemental notice or such certificate indicates any changes to the foregoing representations and warranties, RCN will not be deemed in default hereunder (except as provided below), and Purchaser's sole remedy (except as provided below) 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 RCN 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; provided, however, any such inaccuracy that is the result of the intentional acts or omissions of RCN shall be considered a default hereunder and Purchaser shall have the remedies provided in this Agreement. 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 RCN in writing of Purchaser's election.

RCN's 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

AURA REPRESENTATIONS, WARRANTIES AND COVENANTS

AURA represents, warrants and covenants to Purchaser as follows:

9.1 Authority. AURA is a body corporate and politic of the State of Colorado, duly

organized, validly existing and in good standing under the laws of the State of Colorado. AURA has the full right and authority to enter into this Agreement and consummate the transaction contemplated by this Agreement. AURA 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.

9.2 Consents; Binding Obligations. No third-party approval or consent is required for AURA to enter into this Agreement or to consummate the transaction contemplated hereby. This Agreement and all documents required hereby to be executed by AURA are and shall be valid, legally binding obligations of and enforceable against AURA 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 AURA or the Property is subject or by which AURA is bound, or constitute a breach or default under any agreement or other obligation to which AURA is a party or the Property is subject.

9.3 Violations; Permits. AURA has received no written notice of any 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.

9.4 No Third-Party Interests. AURA 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.

9.5 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.

9.6 Notices. AURA 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 or claims 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.

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

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

9.9 Petroleum Contamination. If, within two (2) years after Closing, Purchaser's excavation work on the Property encounters soil or groundwater contaminated with petroleum or petroleum constituents (collectively "**Petroleum**") that requires special handling or disposal

pursuant to law due to the Petroleum, AURA shall pay the incremental additional cost of such special handling or disposal. The terms hereof shall survive Closing.

9.10 Zoning. The Property is currently zoned in a manner that permits the operation of general retail and restaurant uses, including a beer garden.

9.11 Seller Deliveries. The copies of any documents furnished to Purchaser pursuant to this Agreement are true, accurate and complete copies of the documents they purport to be.

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, AURA will promptly notify Purchaser of changes to the foregoing representations and warranties discovered by AURA to date. At Closing, AURA will deliver to Purchaser a certificate pursuant to which AURA 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 AURA has become aware prior to Closing. In the event that any such supplemental notice or such certificate indicates any changes to the foregoing representations and warranties, AURA will not be deemed in default hereunder (except as provided below), and Purchaser's sole remedy (except as provided below) 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 AURA 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; provided, however, any such inaccuracy that is the result of the intentional acts or omissions of AURA shall be considered a default hereunder and Purchaser shall have the remedies provided in this Agreement. 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 AURA in writing of Purchaser's election.

All of AURA's warranties and representations 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 10 PURCHASER'S REPRESENTATIONS AND WARRANTIES

Purchaser represents and warrants to RCN and AURA as follows:

10.1 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 RCN and AURA any and all documents to evidence such authority as RCN or AURA shall reasonably request.

10.2 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.

10.3 Condition of Property. Purchaser understands and acknowledges that a gas station and auto repair business were formerly operated on the Property and that the Colorado Division of Oil and Public Safety issued a No Further Action Determination letter to Vigil Service Center/Amoco dated December 1, 2021 (Event ID 7472, Release ID 012545, Facility ID 957, based solely on the information submitted to the agency. Except as otherwise set forth herein and/or in the documents delivered at Closing, the Property is being purchased (i) in an "AS IS" condition, subject to the inspection provisions, (ii) "With All Faults" and (iii) without representations or warranties on behalf of RCN 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 RCN AND AURA HEREBY DISCLAIM. 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, NO WARRANTY OR REPRESENTATION IS MADE BY RCN 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. EXCEPT FOR THE WARRANTY OF TITLE AND ANY OTHER WARRANTY EXPRESSLY MADE IN THIS AGREEMENT, 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 THE WARRANTY OF TITLE AND ANY OTHER WARRANTIES EXPRESSLY MADE IN THIS AGREEMENT, PURCHASER IS NOT NOW RELYING, AND WILL NOT LATER RELY, UPON ANY REPRESENTATIONS AND WARRANTIES MADE BY RCN, AURA OR ANYONE ACTING OR CLAIMING TO ACT BY, THROUGH OR UNDER OR ON RCN'S BEHALF OR AURA'S BEHALF CONCERNING THE PROPERTY. EXCEPT AS OTHERWISE SET FORTH HEREIN AND/OR IN THE DOCUMENTS DELIVERED AT CLOSING, 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 AURA AND RCN, AND ITS SUCCESSORS, ASSIGNS, AGENTS, EMPLOYEES, PARTNERS, OFFICERS, DIRECTORS, MANAGERS, MEMBERS, CONTRACTORS, CONSULTANTS AND REPRESENTATIVES (COLLECTIVELY WITH RCN, THE “**SELLER PARTIES**”) FROM, AND WAIVES ANY AND ALL CAUSES OF ACTION OR CLAIMS THAT ANY OF THE PURCHASER PARTIES MAY HAVE AGAINST ANY OF THE SELLER PARTIES FOR THE FOLLOWING MATTERS (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 SELLER PARTIES AT ANY TIME OR TIMES ON OR BEFORE CLOSING; AND (Z) THE APPLICABLE PURCHASER PARTIES WOULD BE ENTITLED UNDER ANY APPLICABLE LAWS (BUT FOR THE FOREGOING RELEASE AND WAIVER) TO JOIN THE APPLICABLE SELLER PARTIES IN ANY LITIGATION OR PROCEEDINGS RELATING TO THE APPLICABLE RELEASED LIABILITIES OR TO SEEK CONTRIBUTION OR REIMBURSEMENT FROM THE APPLICABLE SELLER 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 10.1 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 10 shall be deemed to have been remade by Purchaser as of the Closing Date and shall survive the 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 Closing, after which time no suit or claim based upon an alleged breach thereof shall be filed.

ARTICLE 11 REMEDIES

11.1 RCN’s Default. In the event that RCN fails to perform any of the covenants or

agreements contained herein which are to be performed by RCN, which failure continues uncured after five (5) business days' written notice from Purchaser, Purchaser may, at its option, (a) terminate this Agreement by giving written notice of termination to RCN and AURA, receive the return from the Title Company of the entire Deposit and recover from RCN damages in the amount of its actual out-of-pocket third party expenses incurred in connection with this Agreement and the Property in an aggregate amount not to exceed \$50,000.00, plus its expenses incurred in enforcing such remedy in an aggregate amount not to exceed \$25,000.00; or (b) Purchaser may seek specific performance of this Agreement; provided, however, that if specific performance is unavailable because of the acts or omissions of RCN, then Purchaser may pursue any actual damages without limitation as to any cap as set forth herein. In the event RCN breaches any of its obligations under this Agreement that survive Closing as set forth in this Agreement, which breaches are not cured within any applicable grace or cure periods, Purchaser shall be entitled to all rights at equity and the right to recover from RCN all actual compensatory damages suffered by Purchaser as a direct result of such breach. 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 RCN, within 120 days of RCN's default; otherwise, Purchaser's right to seek specific performance shall be waived.

11.2 AURA's Default. In the event that AURA fails to perform any of the covenants or agreements contained herein which are to be performed by AURA, which failure continues uncured after five (5) business days' written notice from Purchaser, Purchaser may, at its option, (a) terminate this Agreement by giving written notice of termination to AURA and RCN, receive the return from the Title Company of the entire Deposit and recover from AURA 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, whereupon Purchaser and AURA will be relieved of any further obligations or liabilities hereunder, except for those obligations which expressly survive any termination hereof; or (b) Purchaser may seek specific performance of this Agreement; provided, however, that if specific performance is unavailable because of the acts or omissions of AURA, then Purchaser may pursue any actual damages. In the event AURA breaches any of its obligations under this Agreement that survive Closing as set forth in this Agreement, which breaches are not cured within any applicable grace or cure periods, Purchaser shall be entitled to all rights at equity and the right to recover from AURA all actual compensatory damages suffered by Purchaser as a direct result of such breach. 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 AURA, within 120 days of AURA's default; otherwise, Purchaser's right to seek specific performance shall be waived. Under no circumstances shall AURA be liable to Purchaser for any pre-Closing default in an amount greater than \$100,000.00, inclusive of attorneys' fees and costs.

11.3 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 RCN or AURA to Purchaser, RCN or AURA 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 RCN and RCN shall retain the Deposit as liquidated damages and Purchaser, AURA and RCN 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 RCN would suffer in the event of Purchaser's default and failure to duly complete the acquisition hereunder.

11.4 Indemnities; Defaults after Closing or Termination. The limitations on the parties' remedies set forth in Sections 11.1 and 11.2 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; (b) subject to the limitations contained in Article 8, Article 9 and Article 10, 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.

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

11.6 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 12 GENERAL PROVISIONS

12.1 Brokers. RCN, 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. RCN 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 RCN in connection with the transaction contemplated by this Agreement. Purchaser agrees to indemnify RCN 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 12.1 will survive Closing or any termination of this Agreement and remain fully enforceable thereafter.

12.2 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.

12.3 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.

12.4 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.

12.5 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.

12.6 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 where the Property is located.

12.7 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 RCN, to:

Ralston Creek North LLC
2595 Canyon Blvd., Suite 200
Boulder, Colorado 80302
Attn: James R. Loftus and J. Drever
Email: jrl@loftusdevelopments.com
jdrever@mapletonam.com

With a copy to:

Packard and Dierking, LLC
2595 Canyon Blvd., Suite 200
Boulder, CO 80302

Attn: Brigitte Paige
Email: brigitte@packarddierking.com

If to AURA, to:

Arvada Urban Renewal Authority
5601 Olde Wadsworth Boulevard, Suite 210
Arvada, Colorado 80002
Attn: Maureen Phair
Email: mphair@arvada.org

With a copy to:

Hoffmann, Parker, Wilson & Carberry, P.C.
511 Sixteenth Street, Suite 610
Denver, Colorado 80202
Attn: Corey Hoffmann
Email: cyh@hpwclaw.com

If to Purchaser, to:

Arvada Beer Garden Re LLC
c/o City Street Investors
1290 North Williams Street
Denver, Colorado 80218
Attn: Joseph D Vostrejs
Email: jvostrejs@citystreetinvestors.com

with a copy to:

Jumps Law, LLC
2630 West Belleview Avenue, Suite 270
Littleton, CO 80123
Attention: Brian P. Jumps
Email: bjumps@jumpsllaw.com

Any address fixed pursuant to the foregoing may be changed by the addressee by notice given pursuant to this Section 12.7.

12.8 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.

12.9 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:
,
TELEPHONE:
INTERNET ADDRESS:

12.10 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 entire 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.

12.11 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.

12.12 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.

12.13 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.

12.14 Assignment by Purchaser. Purchaser may not assign this Agreement without the

consent of AURA, except that Purchaser may, upon the delivery of written notice to AURA and RCN, assign this Agreement to any entity which controls, is controlled by, or is under common control with Purchaser, without AURA'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.

12.15 Assignment of Obligations by RCN to AURA. Nothing in this Agreement shall prevent the assignment by agreement between RCN and AURA of any obligations hereunder to AURA.

12.16 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.

12.17 Recording. Neither party shall record this Agreement or any memorandum of this Agreement without the written consent of the other.

12.18 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.

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

12.20 Acceptance. Upon execution and delivery of this Agreement by Purchaser, AURA and RCN, this Agreement shall constitute a binding agreement. A party may revoke its execution and delivery at any time prior to the execution and delivery by the other parties, by delivering written notice (which need not conform with the requirements of Section 12.7) 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.

AURA:

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

By: _____
Name: _____
Title: _____

Date of Execution: _____

RCN:

RALSTON CREEK NORTH, LLC,
a Colorado limited liability company

By: _____
Name: _____
Title: _____

Date of Execution: _____

PURCHASER:

ARVADA BEER GARDEN RE LLC, a Colorado
limited liability company

By: _____
Name: _____
Title: _____

Date of Execution: _____

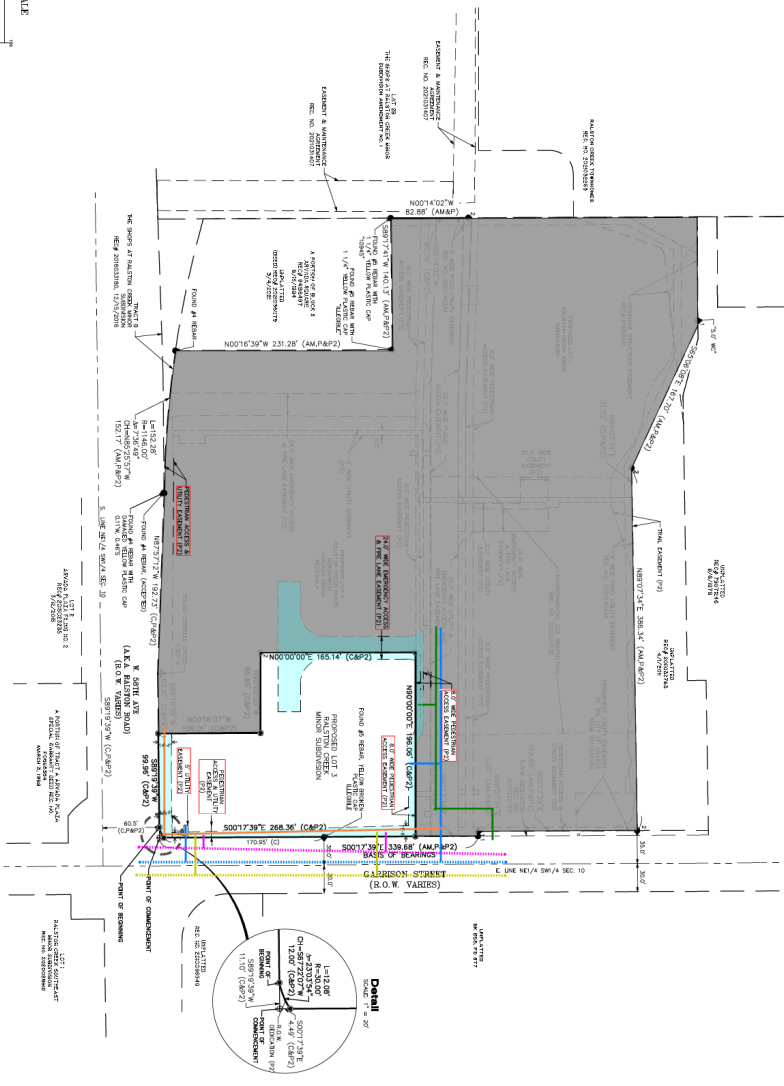
UTILITY PLAN



PROPOSED LOT 3, RASTON 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
SHEET 2 OF 3

- Boundary Closure Report**
COURSE: S89°7'9"39"W LENGTH: 99.9

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PRECISION 1: 936510000
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- | | REVISION | DATE |
|---|-----------------------------|-------------|
| 1 | REVISIONS PER PROPOSED PLAN | =11/1/2022 |
| 2 | UPDATED TITLE WORK | =2022-11-03 |
| 3 | " | " |
| 4 | " | " |
| 5 | " | " |
| 6 | " | " |
| 7 | " | " |
| 8 | " | " |

[illegible]

REVISION	
1	REVISION PER PROPOSED PLAN
2	UPDATED TITLE WORK
3	
4	
5	
6	
7	
8	
9	

<p>555 NORTH 10TH AVENUE SUITE 200 DENVER, CO 80202 TEL: (303) 733-1133 FAX: (303) 733-1133 FAX: (303) 733-1133</p>		<p>Flatirons, Inc. Land Surveying Services www.Flatironsinc.com</p>	<p>655 FOURTH AVE LONGMONT, CO 80501 TEL: (303) 776-1133 FAX: (303) 776-1133 FAX: (303) 776-1133</p>	<p>360 WEST 4TH AVE STE 300 BOULDER, CO 80501 TEL: (303) 443-7001 FAX: (303) 443-8630 FAX: (303) 443-8630</p>	<p>4500 LOGAN ST DENVER, CO 80216 TEL: (303) 733-1133 FAX: (303) 733-1133 FAX: (303) 923-3190</p>	<p>ALTA/NSPS LAND TITLE SURVEY 10/24/02 Balford Creek North, LLC & Others (See Note 3) 10/24/02</p>
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EXHIBIT B
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, ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado, and RALSTON CREEK NORTH, LLC, a Colorado limited liability company (collectively, “**Assignor**”), do 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:

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

By: _____
Name: _____
Title: _____

RALSTON CREEK NORTH, LLC,
a Colorado limited liability company

By: _____
Name: _____
Title: _____

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

Lot 3, Ralston Creek Minor Subdivision
County of Jefferson, State of Colorado

EXHIBIT A-1

**DDA SCHEDULE OF PERFORMANCE FOR PHASE 5
ARVADA BEER GARDEN**

MILESTONE/EVENT	DEADLINE
Conditional Use Permit Submittal	Complete
Conditional Use Permit Approval	Complete
Pre-Application Meeting with City of Arvada	June 2023
Present and obtain AURA Board approval of site plan and building elevations	August 2023
Land Closing (upon receipt of construction permits)	June 2024
Commencement of Construction	July 2024
Completion of Construction	July 2025
AURA Certificate of Completion	January 2026

ARVADA URBAN RENEWAL AUTHORITY

AGENDA INFORMATION SHEET

Agenda No.: Item 8C

Meeting Date: May 3, 2023

Title: Fifth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North and AURA

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, the 27 townhomes is currently listed for sale. Phase 5, former gas station, has an LOI with City Street Investors to develop a beer hall, large public plaza and another small retail building.

This amendment pertains to Phase 4, 186 apartment units located at the former Arvada Square property.

In an attempt to reduce construction costs, AURA and Loftus have agreed to put the project on hold for nine months. During this cooling off period, AURA agreed to construct the public improvements (that would have otherwise been the obligation of Loftus as part of the overall project) and prepare the property for the vertical construction. This scope includes:

- Removing the existing asphalt and foundations.
- Grading the site.
- Installing the new wet utilities including water, sewer and storm.
- Constructing the curb and gutter and “first lift” of the east/west road and the north/south drive aisle between the emergency room and the apartments.

The cost of constructing the public improvements is \$3.5 million and will be paid out of the \$15 million AURA has committed to the project. The horizontal work is scheduled to be completed by the end of June 2023.

INFORMATION ABOUT THE ITEM:

With interest rates rising and an unsettled economy, banks have tightened their lending. In early 2022 banks were lending 60% loan to value, now it is around 46%. Interest rates were 2.73% and have risen

to between 8 and 9%. In addition, the bank is now requiring Loftus maintain \$2 million in liquidity, he has to show that amount is set aside on a monthly basis. Here is how these changes have affected the apartment project.

	<u>Early 2022</u>	<u>Early 2023</u>
Construction loan -	\$48 million or 60% LTV	\$42.0 million or 46% LTV
Equity -	<u>\$32</u> million or 40% LTV	<u>\$49.5</u> million or 54% LTV
	\$80 million total project cost	\$91.5 million total project cost

Loftus is working on selling an asset to secure some of the additional equity required. Loftus has a LOI from a buyer; the proposed schedule to close on the property is as follows:

- 28 days from LOI to Contract. (June)
- 90 days for the State of Colorado to approve the purchaser, the buyer has a proven track record with the State so the approval process might go faster. (September)
- 30 days from State approval to closing. (October)

In addition to selling the asset, Loftus is obtaining additional equity of approximately \$10-12 million, with a preferred equity lender. The preferred accrues at 14% interest. Loftus is negotiating a term sheet with Marble Capital that should be completed within a couple weeks. \$12 million at 14% = \$1.68 million annually with a 4 year hold = \$6.72 million in interest.

Note: the project's return on cost is 4%. \$91.5M cost with a \$3.7M net operating income = 4% ROC. Investors are looking for a 6-7% ROC. This will be problematic for any developer or investor.

The existing Schedule of Performance deadline for Loftus to secure financing is 6/1/23. It will take Loftus to October to sell the asset and secure the additional equity. To allow Loftus time to sell the asset, we are proposing a four month extension.

- Permit Approval, Selection of GC and Financing Commitment – extended from 6/1/23 to 10/1/23
- Closing - extended from 7/1/23 to 11/1/23
- Commence Construction - extended from 8/1/23 to 12/1/23
- Completion on Construction - extended from 12/1/25 to 4/1/26

If Loftus is unable to obtain financing, he has to sell the plans under the following schedule:

- Deadline to secure General Contractor and Financing - extended from 6/1/23 to 10/1/23
- Deadline to secure a purchaser - extended from 12/1/23 to 2/1/24
- Deadline to close with purchaser - extended from 4/1/24 to 6/1/24

Summary

Loftus' project is caught up in the national financial narrative with rising interest rates and banks reducing their lending capacity, this has lowered the construction loan and increased the equity requirement for the project by an additional \$17.5 million for a total of \$49.5 million in equity. In order to meet the increase in equity, Loftus is selling an asset. This extension gives Loftus the time needed to sell the asset.

FINANCIAL IMPACT: AURA is obtaining a three year, \$8 million bridge loan from the City of Arvada at 3% interest. The delay will save AURA months of interest. Other than saving on interest

cost, there is no additional cost to AURA as the \$15 million has already been allocated to the project.

STAFF RECOMMENDATION: Staff recommends approval.

SUGGESTED MOTION: I move that Resolution AR-23-10, A Resolution of the Board of Commissioner of the Arvada Urban Renewal Authority Approving the Fifth Amendment of the Amended and Restated Development Agreement between AURA and Ralston Creek North.

RESOLUTION AR-23-10

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN
RENEWAL AUTHORITY APPROVING THE FIFTH AMENDMENT TO THE
AMENDED AND RESTATED DISPOSITION AND DEVELOPMENT AGREEMENT
BETWEEN RALSTON CREEK NORTH, LLC AND THE ARVADA URBAN
RENEWAL AUTHORITY**

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

Section 1. The Fifth Amendment to the Amended and Restated Disposition and Development Agreement between Ralston Creek North LLC and the Arvada Urban Renewal Authority, attached hereto as **Exhibit A**, is hereby approved, and the Chair is authorized to execute the same on behalf of the Authority.

DATED this ____ day of _____, 2023.

Paul Bunyard, Chair

Recording Secretary

APPROVED AS TO FORM

Corey Y. Hoffmann, Legal Counsel

**Fifth Amendment to Amended and Restated
Disposition and Development Agreement
(Ralston Creek North)**

WITNESSETH

Whereas, Arvada Urban Renewal Authority, a body corporate and politic of the State of Colorado (the “**Authority**”) and Ralston Creek North, LLC, a Colorado limited liability company (“**RCN**”), entered into that certain Amended and Restated Disposition and Development Agreement dated as of April 7, 2021, for the redevelopment of certain property located within the Ralston Fields Urban Renewal Project Area for a mixed-use development (hereafter, the “**Project**”), which DDA was subsequently amended by the First Amendment to the DDA as of March 2, 2022, the Second Amendment to the DDA as of March 2, 2022, the Third Amendment to the DDA as of September 7, 2022, and the Fourth Amendment to the DDA as of May 3, 2022 (collectively, the “**DDA**”) (each a “**Party**” and collectively the “**Parties**”); and

Whereas, Exhibit C to the DDA is a Schedule of Performance that governs the times for performance by the Parties; and

Whereas, the Parties wish to update the Schedule of Performance to reflect the current circumstances of the Project.

In consideration of the facts set forth in the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged and confessed, it is THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. Exhibit C to the DDA is hereby replaced for all purposes with the Schedule of Performance attached to this Fifth Amendment and incorporated herein as **Exhibit C-2**.
2. Ratification. Except as amended hereby, the DDA remains unmodified and in full force and effect. In the event of any conflict between the DDA and this Fifth Amendment, the terms and provisions of this Fifth Amendment shall control.
3. Counterparts; Electronic Delivery. This Second Amendment may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by email or other electronic means (including, without limitation, DocuSign) and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

[Signatures on the following page]

DATED THIS ____ DAY OF _____, 2023.

The Authority:

ARVADA URBAN RENEWAL AUTHORITY

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

RCN:

RALSTON CREEK NORTH, LLC.

By: _____
Name: _____
Title: _____

ATTEST:

By: _____
Name: _____
Title: _____

EXHIBIT C-2

DDA REVISED SCHEDULE OF PERFORMANCE PHASE 4

PATH A:

Permit Final Approval, Selection of General Contractor and Financing Commitment	10/1/23
Closing (Finalize Loan)	11/1/23
Commence Construction	12/1/23
Completion of Construction	28 months after Commencement (No later than 4/1/26)
AURA Certificate of Completion	6 Months after Completion (No later than 10/1/26)

PATH B:

Deadline to secure General Contractor and Financing	10/1/23
Deadline for Redeveloper to identify acceptable purchaser for Phase 4 and/or Phase 5 Plans and Rights	Four months from failing to secure General Contractor and Financing (No later than 2/1/24)
Deadline for closing with approved buyer for Phase 4 and/or Phase 5 Plans and Rights	Four months from identifying acceptable purchaser (No later than 6/1/24)
Transfer to AURA of Phase 4 and/or Phase 5 Plans and Rights in exchange for reimbursement of expenses	TBD at AURA's election

AURA Flash Report

Balances as of March 31, 2023

FOR DISCUSSION PURPOSES ONLY
UNOFFICIAL & UNAUDITED

CASH & INVESTMENTS

Wells Fargo Bank

	Account Balance	Hold	Net to AURA
General - Checking (0193)	477,466	-	477,466
Ralston Fields - Checking (4061)	5,601,924	-	5,601,924
Ralston Fields Investments (9353)	366,429	-	366,429
Olde Town Station - Checking (0895)	1,697,083	-	1,697,083
Village Commons - Checking (0887)	1,576,724	-	1,576,724

First Bank of Arvada

2.00% CD Maturity 10/11/2027 (4548)	345,769	% change from prior period 0.49%	345,769
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CSIP

Ralston Fields Fund (9003)	1,086,837	0.4051%	1,086,837
----------------------------	-----------	---------	-----------

NET CASH AVAILABLE TO AURA **11,152,233**

REAL ESTATE OWNED

Date Acq.	Name	Address	Purchase Price	Debt/Discount	Net Value
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
2023	Hot Dog Building	7611 Grandview Ave	600,000	0	600,000

NET VALUE OF REAL ESTATE OWNED **2,775,021**

LONG TERM PAYABLES

Loan	Loan Start Date / Term Date	Original Loan Balance	Payments	Current Loan Balance
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	1,367,094	1,377,906
Tabernacle - Underground Utilities	2023	750,000	0	350,000
Wheat Ridge	2006/2024	1,800,000	1,600,000	200,000

NET LONG TERM PAYABLES **\$5,278,370**

GROSS INCOME & EXPENSES BY FUND As of March 31, 2023

	2023 BUDGET		Actual Revenues	Actual Expenses
	Revenue	Expenses	YTD	YTD
Ralston Fields	15,484,500	15,800,000	1,212,438	1,278,375
Olde Town Station	1,370,069	2,066,569	429,238	8,213
Jefferson Center	18,000,000	16,765,000	1,455,297	8,021,420
Northwest Arvada	16,596,330	16,171,000	7,612,309	114,185
Village Commons	658,400	297,746	238,097	47,713
TOTALS	52,109,299	51,100,315	\$10,947,379	\$9,469,906

GENERAL FUND EXPENSES As of March 31, 2023

	2023 Budget	Expended YTD
Operating Expenses	608,522	155,101
TOTAL EXPENSES	\$608,522	\$155,101