PUBLIC FINANCE AGREEMENT

This PUBLIC FINANCE AGREEMENT (this "**Agreement**") dated as of _____, 2017, is made by and among CITADEL DEVELOPMENT, LLC, a Delaware limited liability company ("**Developer**"), the TOWN OF CASTLE ROCK, a municipal corporation ("**Town**"), MILLER'S LANDING BUSINESS IMPROVEMENT DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado ("**District**"), and the CASTLE ROCK URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado ("**Authority**"). Developer, Town, District, and Authority are sometimes collectively called the "**Parties**," and individually, a "**Party**."

RECITALS

All capitalized terms used, but not defined, in these Recitals, have the meanings ascribed to them in this Agreement. The Recitals are incorporated into this Agreement as though fully set forth in the body of this Agreement.

WHEREAS, Developer is the contract purchaser of the real property described in ***Exhibit A*** (the "**Property**") and desires to develop the Property by constructing a mixed-use commercial project in one or more phases, which may include office, retail, restaurant, bar, hospitality, and accessory uses, but not residential uses, together with related amenities and uses on the Property (the "**Project**").

WHEREAS, Developer is an affiliate of P3 Advisors, LLC ("**P3**"), a real estate development company that specializes in public private partnerships, with an emphasis on brownfield redevelopment. P3 brings years of real estate development experience to the Project, and has the expertise necessary to develop a mixed-use commercial project with the magnitude and complexity of the Project, including remediation of the Landfill (defined below).

WHEREAS, Developer has engaged the Town process for entitlement of the Project and accordingly the Town and Fenway Partners, LLC, the contract seller of the Property, have entered into the Miller's Landing Development Agreement, dated December 6, 2016 (the "**Development Agreement**") that addresses development of the Property and Project.

WHEREAS, the District will issue one or more series of District Bonds to finance all or a portion of the costs of the Eligible Improvements (defined below).

NOW THEREFORE, in consideration of the mutual covenants and promises of the Parties contained in this Agreement, and other valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree to the terms and conditions in this Agreement.

AGREEMENT

1. DEFINITIONS AND QUALIFICATIONS. In this Agreement, unless a different meaning clearly appears from the context, capitalized terms mean:

"**Act**" means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 of the Colorado Revised Statutes.

"**Add-On PIF**" means the public improvement fee in the amount of up to 1.25% on Taxable Transactions, as set forth in the Add-On PIF Covenant, which will be (i) collected in accordance with the terms of the Add-On PIF Covenant and (ii) accounted for and spent in accordance with this Agreement.

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

"**Add-On PIF Revenue**" means the revenue derived from the imposition of the Add-On PIF in accordance with the Add-On PIF Covenant and this Agreement.

"**Agreement**" means this Public Finance Agreement, as it may be amended or supplemented in writing, from time to time. References to sections or exhibits are to this Agreement unless otherwise qualified. All Exhibits are incorporated to this Agreement.

"**Authority**" means the Castle Rock Urban Renewal Authority, a body corporate and politic of the State of Colorado, and its successors and assigns.

"**Authority Administrative Fee**" means a fee up to a maximum of 0.5% of the gross Pledged Property Tax Increment Revenue received by the Authority from the Douglas County Treasurer each year, which fee includes all amounts required to pay collection, enforcement, disbursement, and administrative fees and costs required to carry out the Plan, including, without limitation, collection and disbursement of the Pledged Property Tax Increment Revenue.

"Complete Construction" or "**Completion of Construction**" means, for any Eligible Improvement, initial acceptance in accordance with the Town Requirements, applicable laws, ordinances, and regulations of the Town and any other governmental entity or public utility with jurisdiction, subject to any applicable conditions of maintenance and warranty, or if such Eligible Improvement would require a certificate of occupancy, the issuance of a certificate of occupancy by the Town in accordance with Town Regulations.

"**Costs of Issuance**" means, collectively, the reasonable and necessary costs incurred in connection with the issuance of the District Bonds, including, without limitation, underwriter's compensation, financial consultant fees, fees and expenses of bond counsel, counsel to the underwriter, counsel to the Town, and counsel to any party or entity from which an opinion of counsel is required, fees and expenses of any provider of credit enhancement, bond insurance, or guaranty, fees and expenses of the District Bond Trustee, bond registrar, paying agent, and transfer agent and rating agency fees. Costs of Issuance may be paid from the proceeds of the District Bonds.

"**Credit PIF**" means the public improvement fee in the amount of 2.4% on all Taxable Transactions, as set forth in the Credit PIF Covenant, which will be (i) collected in accordance with the terms of the Credit PIF Covenant and (ii) accounted for and spent in accordance with this Agreement. Except as set forth in Section 3.3, the Credit PIF shall not apply to any Taxable Transactions originating from within a Restricted Grocery Store or Relocated Retailer.

"**Credit PIF Covenant**" means a declaration of covenants by Developer imposing and implementing the Credit PIF within the Property.

"**Credit PIF Revenue**" means the revenue derived from the imposition of the Credit PIF in accordance with the Credit PIF Covenant and this Agreement.

"**CRMC**" means the Castle Rock Municipal Code, as the same may be amended or supplemented.

"**Default**" or "**Event of Default**" means any of the events described in Section 15; provided, however, that such events will not give rise to any remedy until effect has been given to all notice requirements, grace periods, cure periods, Force Majeure Events, and periods of enforced delay provided for in this Agreement.

"**Developer**" means Citadel Development, LLC, a Delaware limited liability company, and any successors and assigns approved or allowed in accordance with this Agreement.

"**Developer Advances**" means, collectively, amounts advanced or incurred by Developer to pay any Eligible Costs. Developer Advances shall include, without limitation, (a) Eligible Costs paid directly or advanced by Developer, (b) advances to the District for engineering, design, and construction by the District of Eligible Improvements pursuant to a Reimbursement Agreement; and (c) Pre-Financing Costs.

"**Development Agreement**" means the Miller's Landing Development Agreement, dated December 6, 2016, by and between the Town and Fenway Partners, LLC recorded in the public records of Douglas County, Colorado on _____ at Reception No. _____.

"**District**" means Miller's Landing Business Improvement District, a quasi-municipal corporation and political subdivision of the state formed pursuant to C.R.S. §31-25-1201, *et seq*., and its successors and assigns.

"**District Administrative Account**" means an account established by the Authority into which the Authority shall deposit all of the District Operating Revenue received by the Authority from time to time pursuant to the rules and regulations of the Property Tax Administrator of the State of Colorado.

"District Bonds" means, collectively, one or more series of bonds or other evidences of indebtedness issued or incurred by the District to finance or refinance the Eligible Costs in accordance with the terms and provisions of this Agreement, including any bonds, other financial obligations or securities issued by the District to refund the District Bonds, but specifically exclusive of any Reimbursement Agreement entered into between the Developer and the District.

"**District Bond Documents**" means, collectively, the District Bond Indenture and any other documents pursuant to which the District Bonds are issued.

"**District Bond Indenture**" means any indenture or similar documents pursuant to which the District Bonds are issued.

"**District Bond Requirements**" means the principal, premiums, and interest due on the District Bonds, any amounts required to replenish any Reasonably Required Reserve, any amounts required to repay any bond insurer or other guarantor of the debt service on the District Bonds,

fees and expenses of the District Bond Trustee, bond registrar, paying agent, authenticating agent, and any other amounts approved in writing by the Town.

"**District Bond Trustee**" means the trustee in connection with the issuance of any District Bonds.

"**District Debt Service Mill Levy**" means a property tax levy of a minimum of 50 mills which will be levied by the District on the taxable property of such District, except as provided herein; provided, however, that such rates may be adjusted to take into account legislative or constitutionally imposed adjustments in assessed values or their method of calculation so that, to the extent possible, the revenue produced by such District Debt Service Mill Levy is neither diminished nor enhanced as a result of such changes. The District Debt Service Mill Levy shall not be less than 50 mills during the term of this Agreement unless the District obtains approval of a lower amount from the Town, which determination shall be in the discretion of the Town.

"**District Pledged Revenue**" means, collectively, the revenue produced by (a) the District Debt Service Mill Levy, (b) the District Specific Ownership Taxes, and (c) Pledged PIF Revenue.

"**District Operating Revenue**" means revenue produced by the District's imposition of a mill levy to pay the operations and maintenance expenses of the District and other revenue designated by the District for such purpose~~, and any Remaining Add-On PIF Revenue, as allowed under the District Bond Documents from time to time.~~

"**District Specific Ownership Taxes**" means the specific ownership tax revenues received by the District in each year from the levy of the District Debt Service Mill Levy.

"**EDC**" means the Castle Rock Economic Development Council.

"**Effective Date**" has the meaning provided in Section 11.

"**Eligible Accrued Interest**" means interest accrued on unreimbursed Developer Advances as follows:

(a) If the Developer constructs Eligible Improvements or finances Eligible Costs from money it does not borrow, including any Developer Advances made to the District to acquire or construct Eligible Improvements from non-borrowed money, interest shall accrue at a rate equal to Prime plus 4% (but not to exceed 9%), and shall be simple per annum interest, and shall not compound.

(b) If the Developer constructs Eligible Improvements or finances Eligible Costs from money that it borrows, including any Developer Advances made to the District to acquire or construct Eligible Improvements from borrowed money, interest shall accrue at a rate equal to the rate of interest that the Developer is paying to the Developer's lender under the applicable loan documents (but not to exceed 10%).

Eligible Accrued Interest shall begin to accrue on Developer Advances on the date the Developer makes such Developer Advance, provided that in no event shall Eligible Accrued Interest accrue on Developer Advances made to pay for Pre-Financing Costs.

"**Eligible Costs**" means, collectively, (a) the reasonable and customary expenditures for engineering, design, and construction of Eligible Improvements and investigation and remediation of the Landfill, including necessary and reasonable soft costs, as certified and approved in accordance with ***Exhibit C*** or the District Bond Documents, (b) Land Acquisition Costs, (c) Eligible Accrued Interest, (d) Pre-Financing Costs, and (e) Town Fees paid by the Developer or District.

"**Eligible Improvements**" means the improvements described in ***Exhibit B***. Notwithstanding anything to the contrary in this Agreement, Eligible Improvements shall not include any Retail surface parking lots.

"**Escrow Agent**" means a state or national bank or trust company in good standing located in the State of Colorado that is authorized to exercise trust powers, which is selected by the Developer, with the prior written approval of the Town Manager, and is authorized pursuant to an escrow agreement, which shall also be subject to the prior written approval of the Town Manager, to undertake the duties of the Escrow Agent in accordance with Section 4.7.

"**Exhibits**" The following Exhibits are a part of this Agreement:

Exhibit A: Legal Description of the Property

Exhibit B: Eligible Improvements

Exhibit C: Procedure for Documenting, Certifying and Paying Eligible Costs and Town Costs

Exhibit D: List of Prohibited Uses

Exhibit E: Conceptual Depiction of Project Parking

Exhibit F: Form of Sales Tax Credit Ordinance

Exhibit G: List of Existing Retailers

"**Existing Retailer"** means a retailer listed on ***Exhibit G***.

"**Force Majeure Event**" means any one or more of the following events or circumstances that, alone or in combination, directly or indirectly adversely affects a Party's performance of an obligation pursuant to this Agreement: fire, earthquake, storm or other casualty; strikes, lockouts, or other labor interruptions or shortages; war, rebellion, riots, acts of terrorism, or other civil unrest; acts of God or of any government (except that, as to any obligation of the Town, any acts of the Town itself shall not be considered Force Majeure Events); disruption to local, national, or international transport services; prolonged shortages of materials or equipment, epidemics; severe adverse weather; the discovery of previously unknown facilities, improvements, or other features or characteristics of the Property (including the Landfill); any other event, similar to the above, beyond the applicable Party's reasonable control.

"**Full-Service Hotel**" means a hotel that is generally recognized in the hotel industry as such, that offers at least a selection of the following amenities: on-site mid-range to high-end

restaurant(s) and bar(s), group meeting spaces, banquet facilities, spas, doormen, valet parking, extended room service, concierge services, retail stores, pools, business center, and fitness center. Examples of Full-Service Hotels include, without limitation, the brands: Conrad Hotels, Hyatt, Regent Hotels & Resorts, Marriott, InterContinental, Renaissance, Crowne Plaza, Luxury Collection, Ritz-Carlton, DoubleTree, Le Meridien, Sheraton, Embassy Suites, Preferred Hotels & Resorts, St. Regis, Hilton, Holiday Inn, Radisson, W Hotels, Red Lion, Weston, and Peabody.

"GLA" means gross leasable area measured in square feet in the usual and customary manner in commercial leasing.

"**Grocery Store**" means any conventional grocery store or supermarket that primarily sells: (a) food and beverages for offsite consumption and (b) household supplies. Examples of grocery stores doing business in the Denver area as of the Effective Date include Safeway, King Soopers, Albertsons, Kroger, Super Target, Walmart Supercenter, Whole Foods, Sprouts and Natural Grocers. The following uses are not Grocery Stores for purposes of this Agreement: craft or specialty food retailers, marketplaces (including without limitation, Tony's Market, Cook's Fresh Market, The Denver Central Market), butchers, mongers, liquor stores, businesses primarily selling premade meals, restaurants, bars, vitamin stores, nutritional stores, any store that is primarily for pick-up of items purchased online or from a different location, convenience stores, and wholesalers and warehouse stores (including, without limitation, Amazon, Costco, or Sam's Club).

"**Intergovernmental Agreement**" means the Intergovernmental Agreement between the Town and District approved by the Town concurrently with the Operating Plan.

"**Land Acquisition Costs**" means the costs incurred by Developer in connection with the acquisition of land or easements required for Eligible Improvements based upon an appraisal of such land or easements, including without limitation costs related to due diligence, title and survey, brokerage commissions, and attorneys' fees.

"**Landfill**" means Citadel Landfill on the Property as more particularly described in the VCUP.

"**Legal Requirements**" means all laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directions and requirements of all government and governmental authorities applicable to the Project.

"**Non-Hotel Retail Uses**" means Retail uses that are not: (a) within, attached to, or situated closer than 300 feet from the building foundation of the main Required Hotel and on the same lot as the Required Hotel; or (b) owned or operated by the Hotel User or an entity that is controlled by or otherwise affiliated with the Hotel User.

"**Office**" means commercial office uses, including commercial offices, medical offices, educational facilities, and Qualified Flex Users.

"**Operating Plan**" means the annual operating plan adopted by the District and approved by the Town Council pursuant to §31-25-1211 C.R.S, as such plan may be modified or amended

from time to time, including any amendment required in connection with approving the Plan of Finance.

"**Party**" or "**Parties**" means one or all of the parties to this Agreement.

"**PIF Collection Agent**" means an entity or entities retained by the Developer, as declarant under the Add-On PIF Covenant and Credit PIF Covenant, with the reasonable approval of the District, for the purpose of collecting, accounting for, and disbursing the Add-On PIF Revenue in accordance with the Add-On PIF Covenant, the Credit PIF Revenue in accordance with the Credit PIF Covenant, or both.

"PIF Collection Agreement" means, collectively, an agreement or agreements related to the collection and remittance of the Add-On PIF Revenue and/or the Credit PIF Revenue between the Developer and the PIF Collection Agent. The District may also be a party to the PIF Collection Agreement.

"**Plan**" and "**Urban Renewal Plan**" mean the Citadel Station – Castle Meadows Urban Renewal Plan adopted and approved by the Town in September 2014, as it may hereinafter be amended from time to time.

"**Plan of Finance**" means a plan approved by Town in accordance with the Operating Plan which sets forth the sources and uses of District Bonds, the proposed District Bond Requirements, and the projected District Pledged Revenue, including the assumptions supporting the plan. The Plan of Finance may also include projections of District Operating Revenue and operating and maintenance expenses.

"**Pledged PIF Revenue**" means (a) prior to the issuance of any District Bonds, all of the Add-On PIF Revenue and Credit PIF Revenue, and (b) after the issuance of any District Bonds, all of the ~~Add-On PIF Revenue, except any Remaining Add-On PIF Revenue, and all of the~~ Credit PIF Revenue, and the portion of the Add-On PIF Revenue that is required to be pledged to the District Bonds pursuant to the District Bond Documents.

"**Pledged Property Tax Increment Revenue**" means the annual ad valorem property tax revenue received by the Authority from the Douglas County Treasurer in excess of the amount produced by the levy of those taxing bodies that levy property taxes against the Property Tax Base Valuation in the TIF Area in accordance with the Act and the regulations of the Property Tax Administrator of the State of Colorado, but not including, (a) the District Operating Revenue, (b) the Authority Administrative Fee, and (c) any offsets collected by the Douglas County Treasurer for return of overpayments or any reserve funds retained by the Authority for such purposes in accordance with Sections 31-25-107(9)(a)(III) and (b) of the Act.

"**Pledged Revenue**" means, collectively, the District Pledged Revenue and the Pledged Property Tax Increment Revenue.

"**Pre-Financing Costs**" means the reasonable and necessary costs incurred by the Developer and the District in forming the District and drafting, negotiating, and obtaining approval of the Operating Plan and Plan of Finance, drafting and negotiating this Agreement, drafting and negotiating documentation necessary or appropriate for the issuance of the District Bonds

(including, without limitation, the District Bond Documents, Add-On PIF Covenant, Credit PIF Covenant, and PIF Collection Agreement), drafting and negotiating loan documents for construction loans for Eligible Improvements, and closing costs for such construction loans. Pre-Financing Costs shall include, without limitation, reasonable attorneys' fees incurred by the District and Developer related to the above items.

"**Prime**" means the prime rate as published in the Wall Street Journal on the first business day of each calendar month, which shall be adjusted on a current monthly basis as of the first business day of each calendar month.

"**Property**" means the real property described in ***Exhibit A***. Such Property is either owned by Developer, Developer is under contract to purchase such Property, or Developer otherwise has the right or will have the right to develop the Property.

"**Property Tax Base Valuation**" means $_____~~229,~~ ~~370~~, the total certified assessed value of property subject to ad valorem property taxes in the TIF Area as of the date of last certification prior to adoption of the Plan. The Property Tax Base Amount and increment value shall be calculated and adjusted from time to time by the Douglas County Assessor in accordance with Section 31-25-107(9) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado.

"Project" means a mixed-use commercial project constructed in one or more phases, which may include office, retail, restaurant, bar, hospitality, and accessory uses, but no residential uses, together with related amenities and uses on the Property. This Agreement prescribes certain required elements and parameters for the Project.

"Qualified Flex User" means a business: (a) engaged in light manufacturing, production, assembly, laboratory, research and development, warehouse, scientific, distribution, industrial flex, or such other uses as are reasonably approved in writing by the Town Manager after consultation with the CEO of the EDC in accordance with Section 2.4, and (b) at least 50% of whose GLA within the Project is initially designated for traditional commercial office uses.

"Reasonably Required Reserve" means any bond reserve fund held by the District Bond Trustee, which may funded by the proceeds of the District Bonds at the discretion of the District Bond Trustee or as required by the District Bond Documents.

"**Reimbursement Agreement**" means, collectively, one or more agreements between the Developer and the District setting forth terms and conditions under which the Developer will be reimbursed for Developer Advances made by the Developer to the District for construction or acquisition of the Eligible Improvements, which Reimbursement Agreements must be in conformance with applicable terms and conditions of this Agreement.

"**Relocated Retailer**" means an Existing Retailer that completes a Relocation.

"**Relocation**" means the opening to the general public of a Retail use of more than 25,000 GLA by an Existing Retailer within ~~the Project either 12 months before or~~ 12 months after the closing to the general public ~~of a location~~ of the same Retail use within the corporate boundaries of the Town ~~that was more than 25,000 GLA~~; provided, however, that the following shall not

constitute a Relocation: (a) any closures resulting from casualty, expiration of the lease, landlord termination of the lease, or, as certified to the Town by the Existing Retailer, that were scheduled prior to the Effective Date, or (b) the opening of a different brand or product type in the Project from the retail store that closed. For example, it shall not be a Relocation if a Walmart opens a Sam's Club after closing an existing Walmart.

"**Remaining Add-On PIF Revenue**" means the Add-On PIF Revenue that is not pledged to the District Bonds or dedicated to a specific purpose, as required by ~~under~~ the District Bond Documents.

"**Restricted Grocery Store Costs**" means Eligible Costs: (a) incurred to construct Eligible Improvements that serve ~~only~~ a Restricted Grocery Store; or (b) resulting from any increases in the size or capacity of specific Eligible Improvements if such increases are required to accommodate a ~~-~~Restricted Grocery Store.

"**Restricted Grocery Store**" means a Grocery Store exceeding 10~~27~~,000 GLA.

"**Retail**" means businesses selling goods or services to the general public that are subject to the Town's Sales Tax, which may include, without limitation goods, restaurant, bar, or lounge. Retail expressly does not include conference center, lodging, hotel, or motel uses, but does include restaurant, bar, lounge, private or membership facilities, food and beverage service, catering, gift shop, convenience store, equipment and furniture rental uses within or accessory to such conference center, lodging, hotel, and motel uses.

"**Sales Tax**" means the municipal sales tax of the Town on sales of goods and services that are subject to municipal sales taxes at such rate and on such terms and conditions as prescribed in the CRMC, as amended from time to time.

"**Sales Tax Credit**" means the credit against the Town's Sales Tax in an amount equal to the Credit PIF imposed and collected on Taxable Transactions, in the amount of 2.4%, as implemented pursuant to the Sales Tax Credit Ordinance. Except as set forth in Section 3.3, the Sales Tax Credit shall not apply to any Taxable Transactions originating from within a Restricted Grocery Store or Relocated Retailer.

"**Sales Tax Credit Ordinance**" means the ordinance adopted by the Town Council of the Town approving the Sales Tax Credit.

"**Special Fund**" means the fund defined in Section 107(9)(a)(II) of the Act.

"**Taxable Transactions**" means the sale or provision of goods within the Project that are subject to the Town's Sales Tax, as amended from time to time.

"**TIF Area**" means the Property described on ***Exhibit A***, within which the tax increment provisions of Section 31-25-107(9) of the Act apply, as such area may be expanded or contracted from time to time by the Authority in compliance with the Act.

"**Town**" means the Town of Castle Rock, Colorado, a home rule municipal corporation.

"**Town Contribution Cap**" means $56,000,000, which is the maximum amount of the Sales Tax Credit that shall be granted by the Town against Sales Tax collectible on Taxable Transactions.

"**Town Costs**" means the Town's reasonable and necessary third-party out of pocket fees, costs and expenses incurred in drafting, reviewing or negotiating this Agreement, the Operating Plan, the Plan of Finance, the Add-On PIF Covenant, the Credit PIF Covenant, the Sales Tax Credit Ordinance, the PIF Collection Agreement, the District Bond Documents, and all other related documents, certificates or agreements, including without limitation legal fees and consultant fees. Town Costs shall be paid or reimbursed from proceeds of the District Bonds in accordance with the District Bond Documents or from Pledged Revenue on deposit with the Escrow Agent in accordance with Section 4.8 and ***Exhibit C***.

"**Town Fees**" means any fee or charge imposed under the CRMC as a condition to the applicant's entitlement to issuance of a Town permit for the development or construction of Eligible Improvements or private improvements.

"**Town Requirements**" means, collectively, (i) the CRMC, (ii) Town regulations and (iii) obligations imposed through the Miller's Landing IOZ (as defined in Section 2.2 hereof), the applicable site plans required for the Project and/or (iv) requirements or restrictions imposed on development of the Property under this Agreement.

"**VCUP**" means the voluntary cleanup plan for the Landfill submitted by the Developer and approved by the Colorado Department of Public Health and Environment pursuant to its letter dated September 26, 2016 signed by Fonda Apostolopoulos, as such plan may be amended from time to time with approval of the Colorado Department of Public Health and Environment.

Any reference to a section or article number, without further qualification, shall mean such section or Article in this Agreement.

2. PROJECT, LAND USE APPROVALS.

2.1 Project Attributes. The Parties intend for the Project to reflect a design and build quality that will maximize the ability of Developer to attract national and regional tenants and end-users to the Project. However, Town acknowledges that Developer has not committed to secure any particular tenant mix as of the Effective Date.

2.2 Entitlement. On December 6, 2016, the Town Council adopted Ordinance No. 2016-042, An Ordinance Amending the Town's Zone District Map by Approving the Miller's Landing Interchange Overlay Planned Development Plan; the Miller's Landing Interchange Overlay Planned Development Zoning Regulations; the Miller's Landing Development Agreement; and Vesting a Site Specific Development Plan through December 31, 2036 (collectively, the "**Miller's Landing IOZ**"). The development of the Project also requires additional land use approvals mandated by the CRMC, and public works and construction permits for public improvements (inclusive of Eligible Improvements) and private improvements (collectively, "**Town Approvals"**). Developer will submit applications to the Town for the Town Approvals as necessary for the development of the Project. The Town agrees to review and expeditiously process and act

on applications for Town Approvals in accordance with its standard practice and applying applicable standards for review and approval.

2.3 Office Uses. Developer shall obtain certificates of occupancy for at least 150,000 GLA of Office uses in the Project ("**Minimum Office GLA**") prior to obtaining final certificates of occupancy for more than 250,000 GLA of Retail uses in the Project. If Developer desires to obtain final certificates of occupancy for more than 250,000 GLA of Retail uses prior to obtaining certificates of occupancy for at least the Minimum Office GLA, then Developer must obtain the prior written consent of the Town, which determination shall be in the absolute discretion of the Town Council. Should the Town Council approve a relaxation of the Minimum Office GLA, it shall do so by adoption of a Town Council resolution, after finding that additional retail uses will better serve the public interests than additional office uses.

2.4 Qualified Flex Users. The Developer shall provide written notice to the Town of any tenant or occupant that desires to locate within the Project which Developer asserts is a Qualified Flex User ("**Notice")**, and the Town shall respond in writing to the Notice within 30 days after receipt thereof stating whether such tenant or occupant is a Qualified Flex User, which statement shall be binding upon the Town and Developer for purposes of this Agreement. Town may consult with the EDC in making such determination. Developer shall furnish Town with reasonable documentation evidencing the qualification of the user as a Qualified Flex User. If the Town fails to respond in writing with such a statement within such 30-day period, such tenant or occupant shall be deemed to be Qualified Flex User for purposes of this Agreement. Once certificates of occupancy have been issued for a Qualified Flex User and such Qualified Flex User has occupied its space, the GLA of such Qualified Flex User shall thereafter be included in the calculation of Minimum Office GLA, regardless of whether such business continues to be a Qualified Flex User (for example, if the business changes its use or does not use at least 50% of its GLA for traditional commercial office uses).

3. DEVELOPER.

3.1 Construction of Eligible Improvements. Developer or the District, as applicable, in accordance with the provisions of this Agreement, will be responsible for (i) financing and constructing all Eligible Improvements, (ii) compliance in all material respects with the Town Requirements, (iii) payment of Town Fees related to development of the Property, and (iv) developing the Project as required by this Agreement and the CRMC. Subject to the requirement of 3.6, Developer may, in its sole discretion, elect to undertake all or only certain phases of the Project and Developer and the District are only responsible to finance and construct those Eligible Improvements required to serve the phase(s) of the Project which Developer so elects to undertake, as required under the Development Agreement and the CRMC. Developer or the District shall commence construction or cause commencement of construction of the Eligible Improvements required for each phase of development as required by any applicable subdivision improvement agreements and site development plans approved by the Town, and shall reasonably proceed with or require such construction until Completion of Construction of such Eligible Improvements, all in accordance with the approved applicable subdivision improvement agreements and site development plans, this Agreement, Development

Agreement, and the CRMC. In the event of any conflict between this Agreement and the Development Agreement with regard to construction of the Eligible Improvements (including without limitation any requirements as to when specific Eligible Improvements are required to be constructed), this Agreement shall control; provided, however, that upon approval of a subdivision improvement agreement and site development plan for all or any portion of the Property, such subdivision improvement agreement and site development plan shall control with respect to the portion of the Property that is the subject of such subdivision improvement agreement and site development plan. The Parties acknowledge that construction of the Prairie Hawk Improvements (as defined in the Development Agreement) is an important goal for the Town.

3.2 Compliance with Design and Construction Regulations; Payment of Fees and Costs. The design and construction of all Eligible Improvements will comply in all material respects with all applicable codes and regulations of entities having jurisdiction, including the Town Requirements. As required by the Development Agreement, CRMC and Town Requirements, Developer will enter into one or more subdivision improvements and/or public improvement agreement(s) with the Town as required under the CRMC. Also, Developer or the District will pay or cause to be paid all required fees and costs, including the Town Fees, in connection with the design, construction, applicable warranty requirements, and use of the Eligible Improvements.

3.3 Relocated Retailers and Restricted Grocery Stores. This Agreement provides significant economic assistance to enable construction of the Eligible Improvements necessary for the opening and development of the Project. A material inducement for such assistance is the representation by Developer that it will attempt to attract to the Project national and regional retailers and other businesses which are not currently located in the Town. In addition to providing additional retail options for the community, these new retail and entertainment venues will significantly increase municipal revenues. However, if the Project is leased or sold to any Relocated Retailer or any Restricted Grocery Store, the public benefit and rationale for these economic incentives will be significantly undermined. Accordingly, notwithstanding anything to the contrary in this Agreement, the Credit PIF and Sales Tax Credit shall not apply to Taxable Transactions that originate from within any Relocated Retailer or Restricted Grocery Store. Further, notwithstanding anything to the contrary in this Agreement, no Credit PIF Revenue shall be used to pay for or reimburse Restricted Grocery Store Costs, and the District Bond Documents shall contain such prohibition.

The Developer shall have the right (but not the obligation) to a determination as to whether any tenant or occupant that the Developer desires to locate within the Project would qualify as a Relocated Retailer or a Restricted Grocery Store by providing written notice to the Town setting forth information concerning such proposed tenant or occupant. The Town shall respond in writing to such notice within 30 days after receipt thereof stating whether such tenant or occupant qualifies as an Existing Retailer or Restricted Grocery Store, which statement shall be binding upon the Town for purposes of this Agreement. If the Town fails to respond in writing with such information within such 30-day period, such tenant or occupant shall be conclusively determined to not be an Existing Retailer or Restricted Grocery Store for purposes of this Agreement. In the event that the Developer does not send such notice to the Town, this shall not preclude the Town's right to determine

that a tenant or occupant within the Project constitutes a Relocated Retailer or a Restricted Grocery Store. Upon any such determination by the Town, the Town shall notify the Developer of its determination that a particular tenant or occupant qualifies as a Relocated Retailer or a Restricted Grocery Store, as applicable. In the event that the Developer does not respond in writing to such notice within 30 days after receipt thereof disputing the Town's classification, such tenant or occupant shall be conclusively determined to be a Relocated Retailer or a Restricted Grocery Store, as applicable, for purposes of this Agreement.

Notwithstanding the foregoing, the Town Council may approve development of a Relocated Retailer or Restricted Grocery Store within the Project upon receipt of written request for the same from the Developer, in which event the Credit PIF and Sales Tax Credit shall apply to Taxable Transactions that originate from within such approved Relocated Retailer or Restricted Grocery Store, and Credit PIF Revenue may be used to pay for or reimburse Restricted Grocery Store Costs related to such approved Restricted Grocery Store. Should the Town Council approve the location or relocation of a Relocated Retailer or a Restricted Grocery Store within the Project, it shall do so by adoption of a Town Resolution. Such determination shall be in the absolute discretion of the Town Council.

3.4 Add-On PIF and Credit PIF. Developer agrees to impose the Add-On PIF and Credit PIF and to irrevocably assign the Pledged PIF Revenue to the District, through and until the payment in full of the District Bonds contemplated hereunder. Prior to the issuance of any District Bonds, the Developer or the District agrees to cause all Add-On PIF Revenue and Credit PIF Revenue to be remitted to the Escrow Agent in accordance with Section 4.7. Upon the issuance of any District Bonds, the District agrees to pledge the Pledged PIF Revenue exclusively to the District Bonds until the District Bonds are paid in full or defeased, Remaining Add-On PIF Revenue shall be remitted to the Developer, which may use any Remaining Add-On PIF Revenue for any lawful purpose.

The Developer shall terminate the Credit PIF upon the earlier to occur of (a) payment in full or defeasance of all outstanding District Bonds, (b) the aggregate Credit PIF Revenue received by the PIF Collection Agent and offset by the Sales Tax Credit equals the Town Contribution Cap, or (c) December 31, 2042. The Developer, at its election, may discontinue, continue, increase, or decrease the Add-On PIF following payment in full of the District Bonds and use such revenues for any legal purpose.

3.5 PIF Collection Agreement. The Developer shall engage ~~the~~ one or more PIF Collection Agent(s) to collect, disburse, and account for the Add-On PIF Revenue and Credit PIF Revenue pursuant to one or more mutually acceptable PIF Collection Agreement(s). The Town shall have the right to review the PIF Collection Agreement to ensure~~insure~~ compliance with the terms and provisions of this Agreement.

3.6 Remediation of Landfill. The Developer or the District shall substantially complete all on-site physical work necessary to remediate the Landfill in accordance with the VCUP as the initial phase of Eligible Improvement (the "**Remediation**"), and provide to Town a certificate of such completion from the contractor performing the Remediation (the "**Certification**") prior to and as a condition to the Town's issuance of any final

certificates of occupancy for any commercial building or use on the Property. Notwithstanding the foregoing, the Developer, or third parties shall have the right to apply for temporary certificates of occupancy prior to issuance of the Certification, and the Town shall review and process such applications in accordance with the Town Regulations, but the Town shall not issue such final certificates of occupancy until the completion of the Remediation has been certified as provided above. Any such temporary certificate(s) of occupancy issued prior to completion of the Remediation shall have a term of no longer than 180 days.

3.7 Prohibited Uses. During the period in which taxes are authorized to be divided in the TIF Area pursuant to the Act, Developer shall not lease or sell any portion of the Property to users who intend to initially operate for any of the uses listed on ***Exhibit D***.

3.8 Publicly Accessible Parking. As part of the Project, Developer intends to construct parking as generally depicted on **Exhibit E** ("**Parking Lots**"), which will be constructed as needed to serve the applicable phases of the Project. The Parking Lots shall be owned, operated, and maintained by the District or individual property owners, and the Town shall have no responsibility therefor. All Parking Lots owned or maintained by the District shall be generally available to the public, subject to reasonable restrictions on time, place, and manner of use. At least 60% of the parking spaces in the structured Parking Lot generally depicted on **Exhibit E** shall be generally available to the public, subject to reasonable restrictions on time, place, and manner of use. Each site development plan for the Project shall depict the parking spaces on the subject portion of the Property that will be generally available to the public, if any.

4. DISTRICT. The District agrees to comply with the following provisions:

4.1 Compliance with Operating Plan and Applicable Law. At all times the District will comply with the requirements of the Operating Plan, as it may be amended from time to time. The Operating Plan includes (i) provisions for the District to have the flexibility required to implement this Agreement; (ii) limitations as to the District Debt Service Mill Levy that may be imposed for payment of District Bonds and other District Obligations (as defined in the Operating Plan), subject to adjustment for changes in the manner in which assessed valuation is calculated; and (iii) no limitation on the mill levy imposed for operations. To the extent authorized by the Operating Plan, the District may design, construct, finance, own, acquire, maintain, and operate Eligible Improvements in accordance with all applicable laws, ordinances, standards, policies, and specifications of the State of Colorado, the Town, any~~the~~ Intergovernmental Agreement and any other entity with jurisdiction. The District shall submit its annual Operating Plan to the Town for its approval, as required by statute.

4.2 District Pledged Revenue. The District covenants to impose the District Debt Service Mill Levy in the amount of not less than 50 mills beginning on the Effective Date and for so long as any District Bonds remain outstanding, and further covenants to pledge and cause remittance of the District Debt Service Mill Levy to the District Bond Trustee for such outstanding District Bonds, to the extent that the District receives such revenues. The Town shall be entitled to an order of mandamus to compel the District to

certify such levy, as well as any other remedies of law or in equity. The District further covenants that so long as any District Bonds remain outstanding, that the District will remit all District Specific Ownership Taxes to the District Bond Trustee for payment of outstanding District Bonds. Notwithstanding expiration of the time or times that the Pledged Property Tax Increment Revenue may be collected pursuant to the Act, the District agrees that the full amount of the District Debt Service Mill Levy shall at all times remain pledged to the payment of any outstanding District Bonds to the extent required by the District Bond Documents or to the payment of any outstanding District Bonds to the extent required by the District Bond Documents.

After the issuance of any District Bonds, the District Pledged Revenue shall be pledged to the payment of the principal of, interest on, and any premium due in connection with the redemption of the District Bonds, and may also be pledged to the payment of any other District Bond Requirements. Prior to the issuance of any District Bonds, the District Pledged Revenue shall be remitted to the Escrow Agent in accordance with Section 4.7 hereof and applied to the payment or reimbursement of Eligible Costs and Town Costs in accordance with Section 4.8 and Exhibit C.

4.3 District Bonds.

(a) District Bonds may be issued in one or more series by the District to pay for Eligible Costs or reimburse the Developer for Eligible Costs and to apply the proceeds of the District Bonds as authorized under this Agreement, including without limitation, payment of the Costs of Issuance and Town Costs. ~~It is the intention of the Parties that all~~ All Pledged Revenues shall be pledged to the payment of outstanding District Bonds. The proceeds of such District Bonds will be subject to requisition by the Developer to pay or reimburse Eligible Costs and to requisition by the Town to pay or reimburse Town Costs upon receipt of a requisition substantially in accordance with the requirements set forth in the District Bond Documents.

(b) The District Bonds shall be issued in one or more series in an aggregate principal amount not exceeding an amount that can be serviced by the then-projected Pledged Revenue, as reasonably determined by the District. The Parties shall use commercially reasonable efforts to maximize the amount of District Bonds that may be issued as bonds, the interest on which is excluded from gross income for federal income tax purposes ("tax-exempt bonds"), but only to the extent the District's bond counsel delivers an opinion to the District that some or all of the District Bonds may be issued as tax-exempt bonds under the laws in effect at the time of the proposed issuance of the District Bonds. The portion of the Add-On PIF Revenue that shall be pledged to the payment of the District Bonds under the District Bond Documents shall be the maximum amount that may be pledged thereunder without adversely impacting the tax-exempt status of interest on the District Bonds, as determined by the District's bond counsel.

(c) Prior to the issuance of any District Bonds, the substantially final drafts of the District Bond Documents shall be provided to the Town, which shall be accompanied by a Plan of Finance. The Town shall be permitted to review the

District Bond Documents and Plan of Finance to confirm compliance with this Agreement, the Operating Plan, and related documents. The Town will have ten (10) business days after receipt of such District Bond Documents and Plan of Finance by the Town Attorney and the Town's bond counsel to notify the District in writing if it objects to any provisions set forth in such District Bond Documents and Plan of Finance setting forth its specific objections. If the Town does not object in writing to such District Bond Documents and Plan of Finance within such ten (10) business day period, then the Town will be deemed to have consented to the form and substance of such District Bond Documents and Plan of Finance. If the Town objects in writing to any provisions of such District Bond Documents and Plan of Finance, the District Bonds shall not be issued until Town approves such District Bond Documents. The Town's right to object to the District Bond Documents and Plan of Finance shall be limited to objections necessary to ensure compliance with the terms and conditions of this Agreement.

(d) Unless the Town agrees otherwise in writing, the District Bond Documents shall provide that in each year the Pledged Revenue shall be used as follows: (i) first to pay the District Bond Requirements, (ii) second to pay any other administrative costs related to the District Bonds, including without limitation, payment of rebate consultants and analysts, the reasonable fees and expenses of the PIF Collection Agent, and any rating maintenance fees, (iii) any remaining Pledged Revenue shall be used to redeem as much principal of the District Bonds as possible in inverse order of maturity or if the District Bonds are not then subject to redemption, shall be irrevocably set aside for redemption of the District Bonds on the earliest redemption date, if any; provided, however, that the District may pledge such remaining Pledged Revenue to one or more series of subordinate bonds issued by the District.

(e) The Parties acknowledge that under current federal tax rules and regulations, that pledging Add-On PIF Revenue to the repayment of District Bonds may result in one or more series of the District Bonds being initially issued as taxable bonds. The Parties acknowledge that the structure for the District Bonds will be based on current market conditions and current tax law and that in determining the appropriate structure that due consideration will be given to the overall financing cost.

4.4 Conditions Precedent to Issuance of District Bonds. The following conditions must be satisfied on or prior to the issuance of the District Bonds, unless waived in writing by the Town:

(a) Town approval ~~Approval~~ of the Operating Plan for the District;

(b) Town approval or deemed approval of the District Bond Documents and Plan of Finance, as provided in Section 4.3;

(c) Recording of the Add-On PIF Covenant and Credit PIF Covenant against the Property in the real estate records of Douglas County, Colorado; and

(d) District imposition of the District Debt Service Mill Levy upon the Property.

Upon satisfaction of the above conditions, the District may issue the District Bonds in one or more series, at the District's sole and absolute discretion. Notwithstanding anything to the contrary in this Agreement, the District may issue other bonds and debt that are supported by revenues other than the Pledged Revenue, at its sole and absolute discretion.

4.5 District Operating Revenue. The District Operating Revenue will be used to pay the normal and reasonable operating and maintenance expenses of the District or for any other lawful purpose. ~~The District will use its best efforts to use any Remaining Add-On PIF Revenue as District Operating Revenue, unless prohibited from doing so by the District Bond Documents.~~

4.6 No Impairment. The District will not enter into any agreement or transaction that impairs the rights of the Parties, including, without limitation, the right to receive and apply Pledged Revenue to payment of the District Bonds.

4.7 Disposition of Pledged Revenue Prior to Issuance of District Bonds. To the extent that the Pledged Revenue is being generated prior to the issuance of any District Bonds, the following provisions shall apply:

(a) the Developer or District shall require that all Add-On PIF Revenue and Credit PIF Revenue shall be remitted to the Escrow Agent;

(b) The Authority shall remit the Pledged Property Tax Increment Revenues to the Escrow Agent; and

(c) The District shall remit the District Specific Ownership Taxes to the Escrow Agent.

The Escrow Agent shall hold all Pledged Revenue in segregated accounts and shall invest all such amounts so held as directed by the District and in accordance with applicable law. The Escrow Agent shall keep accurate books and records of all deposits of Pledged Revenue and investment earnings thereon, which books and records shall be available for inspection during regular business hours by the Developer, the District, the Authority, and the Town.

Except as hereinafter provided, upon the issuance of any District Bonds, all Pledged Revenue on deposit with the Escrow Agent shall be remitted by the Escrow Agent to the District Bond Trustee and applied to one or more of the following purposes: (i) deposited in an interest payment fund for the District Bonds, (ii) deposited in a Reasonably Required Reserve Fund or supplemental reserve fund for the District Bonds, (iii) applied to the payment of Eligible Costs, Costs of Issuance, and Town Costs, or (iv) applied to the payment of District Bond Requirements. After the issuance of any District Bonds, all Pledged Revenue shall thereafter be deposited with the District Bond Trustee in accordance with the terms and provisions of the District Bond Documents. To the extent that any Add-

On PIF Revenue is on deposit with the Escrow Agent and not pledged to the payment of any outstanding District Bonds, the Escrow Agent shall continue to hold such Add-On PIF Revenue until District Bonds are issued that are payable from such Add-On PIF Revenue, or until the Parties hereto provide written instructions to the Escrow Agent to apply such Add-On PIF Revenue to the payment or reimbursement of Eligible Costs and Town Costs in accordance with Section 4.8 and ***Exhibit C***.

4.8 Application of Pledged Revenue Prior to Issuance of District Bonds. To the extent no District Bonds have been issued, Pledged Revenue on deposit with the Escrow Agent shallbe applied to the payment or reimbursement of Eligible Costs and Town Costs upon receipt of a requisition substantially in accordance with the requirements set forth in ***Exhibit C***.

5. THE AUTHORITY. The Authority agrees to carry out the Plan and to comply with the following provisions:

5.1 Special Fund; Application of Pledged Revenues. In accordance with the provisions of this Agreement and the Act, the Authority shall establish the Special Fund and deposit the Pledged Property Tax Increment Revenues into the Special Fund upon receipt. All moneys on deposit in the Special Fund, and any other District Pledged Revenues received by the Authority, shall be applied as follows: (a) so long as any District Bonds remain outstanding, such amounts shall be remitted to the District Bond Trustee in accordance with the terms and provisions of the District Bond Documents; or (b) in the event that no District Bonds are issued or outstanding, such amounts shall be remitted to the Escrow Agent to reimburse the District and/or Developer for Eligible Costs and the Town for Town Costs in accordance with Section 4.8 and ***Exhibit C***. Notwithstanding anything to the contrary in this Agreement, upon repayment in full of all District Bonds, the Authority shall have no obligation under this Agreement to pledge the Pledged Property Tax Increment Revenues to the District or deposit the Pledged Property Tax Increment Revenues into the Special Fund.

5.2 District Operating Revenue. The Authority hereby irrevocably pledges all District Operating Revenue it receives to the District. The District Operating Revenue, when and as received by the Authority shall be subject to the lien of such pledge without any physical delivery, filing, or further act. The Authority shall deposit into the District Administrative Account all of the District Operating Revenue received by the Authority from time to time in accordance with Section 31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado from the levy of the District on taxable property within the TIF Area. The Authority shall transfer all of the revenue in the District Administrative Account to the District on or before the 20th day of each month. The obligation of the Authority to make deposits in the District Administrative Account and to transfer such revenue to the District shall expire when the Authority's right to receive such revenue expires pursuant to the Act. The District shall use the District Operating Revenue to pay its normal and reasonable operating and maintenance expenses.

5.3 Multi- Fiscal Year Obligation. The Parties acknowledge that, according to the decision of the Colorado Court of Appeals in *Olson v. City of Golden*, 53 P.3d 747

(2002), an urban renewal authority is not a local government and therefore is not subject to the provisions of Article X, Section 20 of the Colorado Constitution. Accordingly, the Authority's obligation to remit the Pledged Property Tax Increment Revenues and the District Operating Revenue in accordance with the terms and provisions of this Agreement does not require voter approval in advance and is not subject to annual appropriation.

5.4 No Impairment. The Authority shall not enter into any agreement or transaction that impairs the rights of the Parties under this Agreement or prohibits or restricts the Authority's performance of any of its obligations under this Agreement, including, without limitation, the right and obligation to receive and apply Pledged Property Tax Increment Revenue and the District Operating Revenue in accordance with the terms and provisions of this Agreement.

5.5 Cooperation with District and Developer. The Authority agrees to cooperate in a reasonable manner to assist the District in issuing District Bonds and to the pledge of the Pledged Property Tax Increment Revenue to the payment of such District Bonds and to payment of the District Operating Revenue to the District and/or Developer for payment of Eligible Costs, in accordance with this Agreement.

6. THE TOWN.

6.1 Entitlements. The Town agrees to cooperate with the Developer and the District in reviewing, scheduling hearings for, and acting upon all other entitlements necessary for the Project in a timely manner. The Miller's Landing IOZ prohibits development of any residential uses on the Property. In the event the Developer, or its successors or assigns, desires to develop any residential uses on the Property, Developer must submit an application to rezone the applicable portion of the Property.

6.2 Sales Tax Credit Ordinance. The Town shall adopt the Sales Tax Credit Ordinance to implement the Sales Tax Credit in substantially the form set forth in Exhibit F. Provided this Agreement is in effect, the Town will authorize, grant and implement the Sales Tax Credit pursuant to the Sales Tax Credit Ordinance in order for the Credit PIF to be collected for payment of the District Bonds and payment and reimbursement of Eligible Costs and Town Costs in accordance with the Credit PIF Covenant and this Agreement. Except as hereinafter provided, the Sales Tax Credit shall terminate upon the earlier of (a) payment in full or defeasance of all outstanding District Bonds, (b) the aggregate Sales Tax Credit granted by the Town to offset the Credit PIF Revenue imposed and collected by the Credit PIF Collection Agent equals the Town Contribution Cap, or (c) December 31, 2042.

(a) Post Credit PIF Period. Notwithstanding any language in any agreement to the contrary, if the Town determines that termination of the Sales Tax Credit in accordance with the terms and provisions of this Agreement may be precluded by or require a refund of the Sales Tax under Article X, Section 20 of the Colorado Constitution, the Town may elect to continue the Sales Tax Credit and submit a written request to Developer to continue to impose the Credit PIF. Upon receipt of such request, the Credit PIF shall remain in full force and effect and the full amount derived from imposition of the Credit PIF that is offset by the Town's

Sales Tax Credit shall be paid to the Town as a substitute for the Sales Tax revenue it is unable to collect.

(b) Town Contribution Cap. Notwithstanding anything to the contrary in this Agreement, the maximum amount of Credit PIF Revenue that shall be collected pursuant to the ~~Credit~~ PIF Collection Agreement and pledged to the payment of the District Bonds or available to pay or reimburse Eligible Costs or Town Costs in accordance with Section 4.8 shall not exceed the Town Contribution Cap.

(c) Extent of Sales Tax Credit. In adopting the Sales Tax Credit Ordinance, the Town is agreeing that it will grant a credit against the Town's Sales Tax in the maximum amount of 2.40% ~~against the Town's Sales Tax collected~~ on Taxable Transactions within the Property only to the extent that the Credit PIF is imposed and collected.

6.3 Hotel Milestone. Notwithstanding anything to the contrary in this Agreement, the Credit PIF Revenue shall not be pledged to the repayment of any District Bonds, and the District shall not issue any District Bonds payable in whole or in part from Credit PIF Revenue, unless and until the owner-operator of a Full-Service Hotel ("**Hotel User**") with at least ~~150~~ 250 rooms and at least 10,000 GLA of conference space (the "**Required Hotel**") has (a) acquired ownership of, or executed a ground lease for, the portion of the Property upon which the Required Hotel will be developed, and (b) delivered to the Town evidence of the Hotel User's financial capability to commence development of the Required Hotel (such evidence to be in a form approved by the underwriter of the District Bonds as sufficient to issue the District Bonds, which may include, by way of example, any combination of the following: the construction loan closing, equity commitment, design and bid construction costs, construction contract execution, issuance of Town construction permits and approvals, and other forms of evidence as reasonably acceptable to the underwriter), and (c) delivered to the Town either a letter of intent outlining the conceptual site and building plan for the Required Hotel or an application for approval of a site development plan for the Required Hotel (the "**Hotel Milestone**"). Upon satisfaction of the Hotel Milestone and without need for additional notice hereunder, all Credit PIF Revenue collected since the Effective Date and not already used to reimburse the Developer or District for Eligible Costs or the Town for Town Costs pursuant to Section 4.8 shall be pledged to the repayment of the District Bonds and the District may issue District Bonds payable in whole or in part from Credit PIF Revenue. The Town shall not issue final certificates of occupancy for more than 100,000 GLA of Non-Hotel Retail Uses ("**Non-Hotel Retail Cap**") unless and until the Town issues a final certificate of occupancy for the Required Hotel ("**Hotel Certificate**"); provided, however, that upon written request from the Developer the Town Council, in its sole discretion, may increase or waive the Non-Hotel Retail Cap or approve the issuance of individual final certificates of occupancy for Non-Hotel Retail Uses in excess of the Non-Hotel Retail Cap. Notwithstanding the foregoing, the Developer, or third parties shall have the right to apply for temporary certificates of occupancy for Non-Hotel Retail Uses in excess of the Non-Hotel Retail Cap prior to issuance of the Hotel Certificate, and the Town shall review and process such applications in accordance with the Town Regulations. Each such temporary certificate of occupancy issued prior to issuance of the Hotel Certificate shall have a term of no longer

than 180 days, after which such temporary certificate of occupancy shall terminate. No structure may remain open for longer than 180 consecutive days on the basis of a temporary certificate of occupancy.

6.4 Water and Sewer Serving the Property. The Town represents and warrants that it provides water and sewer services to the Property and will provide water and service in connection with the Project upon compliance with Town Requirements.

6.5 Town Fees. Developer and all permittees shall pay all Town Fees at the time prescribed by the Town Requirements. However, the Parties acknowledge that individual future potential users of the site may propose reimbursements, discounts, or other similar incentive arrangements as part of their individual site selection choices. The Town agrees to consider such proposals in accordance with its normal practices and policies.

6.6 Town Costs. The Town shall be entitled to be reimbursed for the Town Costs from the District Bond proceeds in accordance with the District Bond Documents or from Pledged Revenue on deposit with the Escrow Agent in accordance with Section 4.8 and ***Exhibit C***.

6.7 Compliance with Law. Nothing set forth in this Agreement is intended or shall be construed to constitute or to require (a) an unlawful delegation of authority by the Town; (b) an unlawful restraint on the legislative discretion of future Town Councils; or (c) the undertaking of any multiple fiscal year obligation by the Town except as permitted by applicable law. Nothing in this Agreement is intended to nor shall be construed to create any multiple-fiscal year direct or indirect debt or financial obligation on the part of the Town within the meaning of the Constitution or laws of the State of Colorado, or the Town's home rule charter, and any such financial obligation of the Town created by this Agreement is expressly subject to annual appropriation by the Town.

6.8 Change in Sales Tax. Nothing in this Agreement shall impair the right of the Town Council to modify the imposition of sales tax through the CRMC including the reduction in the rate of taxation or adding exemptions from taxation provided such modifications shall not have retroactive effect.

7. REIMBURSEMENT OF ELIGIBLE COSTS AND TOWN COSTS. Upon compliance with the requisition process set forth in ***Exhibit C*** if no District Bonds have been issued or upon compliance with the District Bond Documents if any District Bonds have been issued, Developer and the District will be paid or reimbursed for Eligible Costs and the Town will be paid or reimbursed for Town Costs, in accordance with the terms of this Agreement. Any such payment or reimbursement of Eligible Costs or Town Costs pursuant to this Agreement shall be made: (a) from the proceeds of the District Bonds in accordance with the District Bond Documents, or (b) with Pledged Revenue in accordance with Section 4.8 and ***Exhibit C*** to the extent that no District Bonds have been issued. If such payment or reimbursement is to be made from the proceeds of District Bonds, the Developer, the District and the Town will not be subject to any additional conditions for payment or reimbursement of Eligible Costs or Town Costs, as the case may be, except as provided in the District Bond Documents. If no District Bonds have been issued, all Eligible Costs or Town Costs shall be certified by the District, the Developer or the Town, as the

case may be, in accordance with procedures set forth in ***Exhibit C.*** Cost savings in the line items listed in ***Exhibit B*** may be allocated to cost overruns in any other line item.

8. BOOKS AND ACCOUNTS; FINANCIAL STATEMENTS. The District and the Authority shall keep proper and current itemized records, books, and accounts in which complete and accurate entries will be made of the receipt and use of all amounts of revenue received from any and all sources and such other calculations required by this Agreement, the District Bond Documents, and any applicable law or regulation. The District and Authority shall each prepare, after the close of each fiscal year, a complete financial statement prepared in accordance with generally accepted accounting principles accepted in the United States of America for such year in reasonable detail covering the above information, and if required by statute, certified by a public accountant, and will furnish a copy of such statement to the other Parties within two hundred and ten (210) days after the close of each fiscal year, or upon such earlier date as may be required by the District Bond Documents.

No later than sixty (60) days after the end of each fiscal year, the District shall prepare, or cause to be prepared, and delivered to the Town, a report setting forth the amount of Credit PIF Revenues collected by the PIF Collection Agent during the preceding fiscal year and the total amount of Credit PIF Revenue collected by the PIF Collection Agent from the Effective Date through the end of the preceding fiscal year.

All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Town, the Authority, and the District , including, without limitation, those relating to the Pledged Revenue, Eligible Improvements, Eligible Costs, District Operating Revenue, and District Bonds will at all reasonable times be open to inspection by such accountants or other agents as the respective Parties may from time to time designate.

9. INDEMNIFICATION. Developer agrees to indemnify, defend and hold harmless the Town, its officers, agents and employees, from and against all liability, claims, demands, and expenses, including fines imposed by any applicable state or federal regulatory agency, court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with any of the work to be performed by Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer under this Agreement, if such injury, loss, or damage is caused in whole or in part by, the negligent act or omission, error, professional error, mistake, accident, or other fault of Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer, but excluding any injuries, losses or damages which are due to the negligence, breach of contract, or willful misconduct of the Town. Developer's obligation to indemnify the Town pursuant to this Agreement shall survive termination of this Agreement but only for a period of two years after the date of completion of construction of the improvement or completion of the activity to which the claim relates.

10. REPRESENTATIONS AND WARRANTIES.

10.1 Representations and Warranties by the District. The District represents and warrants as follows:

(a) The District is a quasi-municipal corporation and political subdivision of the State of Colorado, organized and existing in accordance with

Title 32, Article 25, section 1211, C.R.S., and has the legal capacity and the authority to enter into and perform its obligations under this Agreement and the documents to be executed and delivered pursuant hereto.

(b) The execution and delivery of this Agreement and such documents and the performance and observance of their terms, conditions and obligations have been duly and validly authorized by all necessary action on its part, and such documents and such performance and observance are valid and binding upon the District.

(c) The execution and delivery of this Agreement and the documents required and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to the District or to the District's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the District is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the District.

(d) The District knows of no litigation, proceeding, initiative, referendum, or investigation or threat of any of the same contesting the powers of the District or any of its officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(e) The District Pledged Revenue is not subject to any other or prior pledge or encumbrance, and the District will not pledge or encumber it except as specified herein or as may be provided in the District Bond Documents or the documents related to the issuance of the District Bonds.

(f) This Agreement constitutes a valid and binding obligation of the District, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

10.2 Representations and Warranties by Developer. Developer represents and warrants as follows:

(a) Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and in good standing and authorized to do business in the State of Colorado and has the power and the authority to enter into and perform in a timely manner its obligations under this Agreement.

(b) The execution and delivery of this Agreement have been duly and validly authorized by all necessary action on its part to make this Agreement and are valid and binding upon Developer.

(c) The execution and delivery of this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to Developer or to Developer's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which Developer is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Developer.

(d) Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat or any of the same contesting the powers of Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the other Parties.

This Agreement constitutes a valid and binding obligation of the Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

10.3 Representations and Warranties by the Town. The Town represents and warrants as follows:

(a) The Town is a body corporate and politic and a home rule municipality of the State of Colorado, and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations under this Agreement.

(b) The Town knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Town or its officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(c) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to the Town or to its governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Town is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Town.

(d) This Agreement constitutes a valid and binding obligation of the Town, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity, except to the extent limited by the subsequent exercise of its retained governmental powers.

10.4 Representations and Warranties by the Authority. The Authority represents and warrants as follows:

(e) The Authority is a body corporate and politic of the State of Colorado, duly organized under the Act, and has the legal capacity and the authority to enter into and perform its obligations under this Agreement and the documents to be executed and delivered pursuant hereto.

(f) The execution and delivery of this Agreement and such documents and the performance and observance of their terms, conditions and obligations have been duly and validly authorized by all necessary action on its part, and such documents and such performance and observance are valid and binding upon the Authority.

(g) The execution and delivery of this Agreement and the documents required and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to the Authority or to the Authority's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Authority is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Authority.

(h) The Authority knows of no litigation, proceeding, initiative, referendum, or investigation or threat of any of the same contesting the powers of the Authority or any of their officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(i) The Pledged Property Tax Increment Revenue is not subject to any other or prior pledge or encumbrance, and the Authority will not pledge or encumber them except as specified herein or as may be provided in the District Bond Documents or the documents related to the issuance of the District Bonds.

(j) This Agreement constitutes a valid and binding obligation of the Authority, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

11. COMMENCEMENT, TERM, AND TERMINATION. The term of this Agreement ("**Term**") shall commence upon the later to occur of ("**Effective Date**"): (a) the date that the Town Council ordinance approving this Agreement is final and no longer subject to referendum, or (b) the date upon which the Developer (or an entity created by Developer to acquire the Property) has acquired fee ownership of the entirety of the Property. This Agreement shall terminate upon the later to occur of: (i) the date of payment in full of the District Bonds, or (ii) the full performance of the covenants of this Agreement Provided further, if Developer has not acquired title to the Property on or before December 31, 2017, the Town shall have the right to terminate this Agreement by written notice to the other parties and this Agreement shall thereafter be of no further

force or effect, except for those provisions that expressly survive termination of this Agreement. This Agreement may also be terminated pursuant to the provisions set forth in Section 17 hereof.

12. CONFLICTS OF INTEREST. None of the following will have any personal interest, direct or indirect, in this Agreement: a member of the governing body of the Town or an employee of the Town who exercises responsibility concerning the Town Requirements, or an individual or firm retained by the Town who has performed consulting services to the Town or this Agreement. None of the above persons or entities will participate in any decision relating to this Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

13. ANTIDISCRIMINATION. Developer, for itself and its successors and assigns, agrees that in the construction of the Eligible Improvements and in the use and occupancy of the Property and the Eligible Improvements, Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual preference, disability, marital status, ancestry, or national origin.

14. NOTICES. Any notice required or permitted by this Agreement will be in writing and will be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail or overnight courier service, by certified mail or registered mail, postage prepaid return receipt requested, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below or at such other or additional addresses as may be furnished in writing to the other Parties. Additionally, the Parties agree to provide concurrent notice via electronic mail.

15. EVENTS OF DEFAULT. The following event shall constitute an Event of Default under this Agreement: any Party fails in the performance of any covenant in this Agreement, (except for those events allowing the termination of this Agreement as set forth herein) and such failure continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party. If such default is not of a type which can be cured within such thirty (30) day period and the defaulting Party gives written notice to the non-defaulting Party or Parties within such thirty (30) day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such thirty (30) day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure in good faith.

16. REMEDIES. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party's remedies will be limited to the right to enforce the defaulting Party's obligations by an action for injunction, specific performance, or other appropriate equitable remedy or for mandamus, or by an action to collect and enforce payment of sums owing hereunder, and no other remedy (unless otherwise expressly authorized by this Agreement), and no Party will be entitled to or claim damages for an Event of Default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions of this Agreement, the prevailing party in such litigation or other proceeding will receive, as part of its judgment or award, its reasonable attorneys' fees and costs.

17. TERMINATION. This Agreement may be terminated by the Developer at any time prior to the earlier to occur of (a) the issuance of any District Bonds, (b) the reimbursement or payment of any Eligible Costs or Town Costs from Pledged Revenue on deposit with the Escrow Agent, or (c) commencement of construction of any of the Eligible Improvements.

To terminate this Agreement, the Developer shall provide written notice of such termination to the other Parties. Such termination will be effective thirty (30) days after the date of such notice unless prior to such time, the Parties are able to negotiate in good faith to reach an agreement to avoid such termination. Upon such termination, this Agreement will be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Agreement, except as otherwise expressly set forth herein. In addition the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

Provided that no District Bonds have been issued, this Agreement may be terminated by Town if the District or Developer has not, on or before June 30, 2020: (a) executed a contract for the Remediation; (b) issued a notice to proceed for the Remediation; and (c) obtained the required state permits to commence the Remediation. Such termination shall be initiated by Town with written notice to all Parties and shall take effect thirty (30) days thereafter provided that if the District or Developer satisfies requirements (a)-(c) above within such thirty (30) day period, the Town's notice of termination shall be null and void and of no force or effect.

Upon any termination pursuant to this Section 17, this Agreement will be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Agreement, except as otherwise expressly set forth herein. In addition the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

If this Agreement is terminated pursuant to the provisions of this Section 17, any Credit PIF Revenue on deposit with the Escrow Agent shall be remitted to the Town.

18. NONLIABILITY OF OFFICIALS, AGENTS, MEMBERS, AND EMPLOYEES. Except for willful or wanton actions, no trustee, board member, commissioner, official, employee, consultant, manager, member, shareholder, attorney or agent of any Party, nor any lender to any Party or to the Project, will be personally liable under this Agreement or in the event of any default or for any amount that may become due to any Party.

19. ASSIGNMENT. This Agreement shall not be assigned in whole or in part by any Party without the prior written consent of the other Parties; provided, however, Developer may assign, pledge, collaterally assign, or otherwise encumber all or any part of this Agreement, including its right to receive any payment or reimbursement, without any Party's consent but after written notice to the Town containing the name and address of the assignee: (a) to any lender or other party that provides acquisition, construction, working capital, tenant improvement or other financing to Developer in connection with development of the Property, acquisition of the Property, and/or construction of the Eligible Improvements; (b) to one or more special purpose entities formed by Developers or with its investors or partners created to develop, own, and/or operate all or a portion of the Property or of the Eligible Improvements to be constructed thereon; (c) to a joint venture entity with another developer or investor; or (d) to a national or regional developer with at least 10

years' experience developing projects similar to the Project and with a net worth equal to or better than Developer's.

20. **COOPERATION REGARDING DEFENSE**. In the event of any litigation or other legal challenge involving this Agreement, the District Bonds, or any other material part or provision of this Agreement or the ability of any Party to enter into this Agreement, the Parties will cooperate and jointly defend against such action or challenge, to the extent permitted by law.

21. **SECTION CAPTIONS**. The captions of the sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

22. **ADDITIONAL DOCUMENTS OR ACTION**. The Parties agree to execute any additional documents or take any additional action, including but not limited to estoppel documents requested or required by lenders, that is necessary to carry out this Agreement or is reasonably requested by any Party to confirm or clarify the intent of the provisions of this Agreement and to effectuate the agreements and the intent. Notwithstanding the foregoing, however, no Party shall be obligated to execute any additional document or take any additional action unless such document or action is reasonably acceptable to such Party. If all or any portion of this Agreement, or other agreements approved in connection with this Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties, within the scope of their powers and duties, will cooperate in the joint defense of such documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or replace such precluded items to assure, to the extent legally permissible, that each Party substantially receives the benefits that it would have received under this Agreement.

23. **AMENDMENT**. This Agreement may be amended only by an instrument in writing signed by the Parties.

24. **WAIVER OF BREACH**. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and will not operate or be construed as a waiver of any subsequent breach by any Party.

25. **GOVERNING LAW**. The laws of the State of Colorado govern this Agreement. The District Court of Douglas County will be the exclusive venue for any litigation.

26. **BINDING EFFECT, ENTIRE AGREEMENT**. This Agreement will inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph permits the assignment of this Agreement except as set forth in Section 19. This Agreement represents the entire Agreement among the Parties and supersedes any prior written or oral agreements or understandings with regard to the Property or Project not specifically set forth in this Agreement.

27. **EXECUTION IN COUNTERPARTS**. This Agreement may be executed in several counterparts, each of which will be deemed an original and all of which will constitute but one and the same instrument.

28. **LIMITED THIRD-PARTY BENEFICIARIES**. This Agreement is intended to describe the rights and responsibilities only as to the Parties to this Agreement. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party to this Agreement, provided that the Bond Trustee and the Escrow Agent shall be deemed to be third party beneficiaries hereunder. Notwithstanding anything in this Agreement to the contrary, and except as otherwise provided in the District Bond Documents, (a) no third party beneficiary's consent or approval shall be required for any amendment, modification or termination of this Agreement entered into by the Parties or for any waivers or consents granted hereunder by any Party, and (b) the rights of said third party beneficiaries may be amended, modified or terminated by the mutual agreement of the Parties, and waivers and consents granted, without the consent or approval of said third party beneficiaries.

29. **NO PRESUMPTION**. The Parties and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement will be construed without regard to any presumption or other rule of construction against the Party causing this Agreement to be drafted.

30. **SEVERABILITY**. If any provision of this Agreement as applied to any Party or to any circumstance is adjudged by a court to be void or unenforceable, the same will in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of this Agreement as a whole.

31. **MINOR CHANGES**. This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement and attached exhibits as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of this Agreement will constitute the approval of such changes by the respective Parties.

32. **DAYS**. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day will be extended until the next day on which such banks and state offices are open for the transaction of business.

33. **RECORDING**. This Agreement will not be recorded in the real property records of Douglas County, Colorado.

34. **GOOD FAITH OF PARTIES**. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

35. **PARTIES NOT PARTNERS**. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party.

36. **NO WAIVER OF IMMUNITY**. Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by any Party under applicable state law.

37. **SUBORDINATION**. Developer shall cause any mortgagee or deed of trust beneficiary to subordinate its interest in the Property to this Agreement.

IN WITNESS WHEREOF, this Agreement is executed by the Parties as of _____, 2017.

TOWN:

ATTEST:

_____
Sally A. Misare, Town Clerk

(SEAL)

TOWN OF CASTLE ROCK

_____
Jennifer Green, Mayor

Approved as to form:

_____
Robert J. Slentz, Town Attorney

Notice Address:
Town of Castle Rock
100 N. Wilcox Street
Castle Rock, Colorado 80104
Attention: Robert Slentz, Town Attorney
Email: BSlentz@CRgov.com
Fax: 303-660-1028

AUTHORITY:

CASTLE ROCK URBAN RENEWAL AUTHORITY

By: _____
Name: _____
Title: _____

DEVELOPER:

CITADEL DEVELOPMENT, LLC,
a Delaware limited liability company

By: _____
Name: _____
Title: _____

DISTRICT:

MILLER'S LANDING BUSINESS IMPROVEMENT DISTRICT

By: _____
Name: _____
Title: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LEGAL DESCRIPTION:
PARCEL ONE:

A PARCEL OF LAND SITUATED IN THE COUNTY OF DOUGLAS, STATE OF COLORADO AND IS DESCRIBED AS FOLLOWS:

LOT 2, BLOCK 7, CITADEL STATION FILING NO. 6, COUNTY OF DOUGLAS STATE OF COLORADO, LESS AND EXCEPT THE FOLLOWING WHICH WAS RELEASED BY PARTIAL RELEASE RECORDED NOVEMBER 12, 2008 AT RECEPTION # 2008075749,

A PARCEL OF LAND BEING A PORTION OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH P.M., IN DOUGLAS COUNTY, COLORADO, ALSO BEING A PORTION OF LOT 2, BLOCK 7, CITADEL STATION FILING NO. 6, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER ¼ CORNER OF SAID SECTION 10, A 3 ½ ALUMINUM CAP (LS 12046) ALSO BEING THE TRUE POINT OF BEGINNING;

1. THENCE SOUTH 89°27'29" EAST ALONG THE SOUTH LINE OF THE NORTHEAST ¼ OF SAID SECTION 1 DISTANCE OF 1,303.43 FEET;

2. THENCE ON THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A DISTANCE OF 263.73 FEET, SAID CURVE HAS A RADIUS OF 864.50 FEET, A CENTRAL ANGLE OF 17°28'53", AND A LONG CHORD THAT BEARS NORTH 80°43'05" WEST A DISTANCE OF 262.74 FEET;

3. THENCE NORTH 89°27'31" WEST A DISTANCE OF 548.00 FEET;

4. THENCE ON THE ARC OF A CURVE TO THE RIGHT A DISTANCE OF 655.56 FEET, SAID CURVE HAS A RADIUS OF 500.50 FEET, A CENTRAL ANGLE OF 75°02'48", AND A LONG CHORD THAT BEARS NORTH 51°56'07" WEST A DISTANCE OF 609.69 FEET TO A POINT ON THE SOUTHERLY LINE OF OUTLOT B OF SAID CITADEL STATION FILING NO. 6;

5. THENCE ALONG SAID LINE SOUTH 70°14'23" WEST A DISTANCE OF 21.53 FEET TO A POINT ON THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION;

6. THEN ALONG SAID LINE SOUTH 00°35'37" EAST A DISTANCE OF 403.88 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL TWO:

A PARCEL OF LAND IN THE SOUTHEAST ¼ OF SECTION 10, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH P.M., IN DOUGLAS COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ¼ CORNER OF SAID SECTION 10, A 2 ½" ALUMINUM CAP (LS 6935), THENCE WESTERLY ALONG THE NORTH LINE OF THE SOUTHEAST ¼ OF SAID SECTION 10, NORTH 89°27'29" WEST, A DISTANCE OF 587.50 FEET TO THE TRUE POINT OF BEGINNING;

1. THENCE ALONG SAID NORTH 89° 27'29" WEST, A DISTANCE OF 725.68 FEET;

2. THENCE ON THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A DISTANCE OF 214.59 FEET, SAID CURVE HAS A RADIUS OF 864.50 FEET, A CENTRAL ANGLE OF 14°13'19", AND A DISTANCE OF 214.04 FEET;

3. THENCE NORTH 32°14'41" EAST, A DISTANCE OF 6.00 FEET;

4. THENCE SOUTH 57°45'19" EAST, A DISTANCE OF 380.82 FEET;

5. THENCE NORTH 83°29'12" EAST, A DISTANCE OF 33.31 FEET;

6. THENCE NORTH 32°14'41" EAST, A DISTANCE OF 274.89 FEET;

7. THENCE ON THE ARC OF A CURVE TO THE LEFT A DISTANCE OF 53.16 FEET TO THE TRUE POINT OF BEGINNING, SAID CURVE HAS A RADIUS OF 790.00 FEET, A CENTRAL ANGLE OF 3°51'20", AND A LONG CHORD THAT BEARS NORTH 30°10'01" EAST, A DISTANCE OF 53.15 FEET;

COUNTY OF DOUGLAS,

STATE OF COLORADO.

EXHIBIT B

ELIGIBLE IMPROVEMENTS

Exhibit B – Eligible Improvements and Eligible Costs

The following are estimated Eligible Costs for the Eligible Improvements only. Payments and reimbursement will be based upon actual Eligible Costs incurred for the Eligible Improvements, in accordance with the Public Finance Agreement.	Estimated Cost
Public Infrastructure. All costs associated with the investigation, remediation and certification of the former landfill.Construction costs for the public improvements including (but are not limited to) Prairie Hawk Extension, Plum Creek Parkway, and public utilities. This includes associated engineering/design costs and applicable approval/permitting fees.	$56,220,537
Grading	$3,747,610.5
Parking	$19,842,970.4
Retaining Walls	$1,660,807.1
Sewer	$1,037,192.3
Water	$2,407,919.7
Roadways (External - PH, PCP, I-25)	$9,420,799.6
Roadways (Internal)	$2,852,413.9
Stormwater	$2,167,619.2
Industrial Tributary Improvements	$2,510,350.8
Landfill Cleanup	$10,572,853.9
Public Amenities. Costs to provide public amenities within the Project. Improvements include (but are not limited to) trails/walkways, signage, playgrounds, fountains/fireplaces, artwork, seating, shade structures, technology, and other amenities meant to enhance the enjoyment of the Property. This includes associated engineering/design costs, applicable approval/permitting fees, etc	$583,846
Land Acquisition. Costs incurred in connection with the acquisition of land and easements required for the Eligible Improvements	$5,896,707
Fees. Any other applicable permitting, impact or connection fees necessary to develop the Project.	$4,029,189

Cost savings in the line items listed for Eligible Improvements on this Exhibit B may be allocated to cost overruns in any other line item.

Exhibit B – Eligible Improvements and Eligible Costs

The following are estimated Eligible Costs for the Eligible Improvements only. Payments and reimbursement will be based upon actual Eligible Costs incurred for the Eligible Improvements, in accordance with the Public Finance Agreement.	**Estimated Cost**
Public Infrastructure. All costs associated with the investigation, remediation and certification of the former landfill.Construction costs for the public improvements including (but are not limited to) Prairie Hawk Extension, Plum Creek Parkway, and public utilities. This includes associated engineering/design costs and applicable approval/permitting fees.	$56,220,537
Public Amenities. Costs to provide public amenities within the Project. Improvements include (but are not limited to) trails/walkways, signage, playgrounds, fountains/fireplaces, artwork, seating, shade structures, technology, and other amenities meant to enhance the enjoyment of the Property. This includes associated engineering/design costs, applicable approval/permitting fees, etc	$583,846
Land Acquisition. Costs incurred in connection with the acquisition of land and easements required for the Eligible Improvements	$6,720,788
Fees. Any other applicable permitting, impact or connection fees necessary to develop the Project.	$4,029,189

Cost savings in the line items listed for Eligible Improvements on this Exhibit B may be allocated to cost overruns in any other line item.

EXHIBIT C

PROCEDURE FOR DOCUMENTING, CERTIFYING AND PAYING ELIGIBLE COSTS

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

2. Engineer. The District will select an independent licensed engineer experienced in the design and construction of public improvements in the Denver metropolitan area (the "**Engineer**"). The Engineer shall be responsible for reviewing, approving, and providing the certificate required by paragraph 3.

3. Documentation. The District or Developer will be responsible for documenting all Eligible Costs. Eligible Costs may be certified when a pay application has been submitted by a contractor that complies with the procedure set forth in this ***Exhibit C*** or upon Completion of Construction of an Eligible Improvement. All such submissions shall include a certification signed by both the Engineer and an authorized representative of the District or Developer, as applicable. The certificate shall state that the information contained therein is true and accurate to the best of each individual's information and belief and, to the best knowledge of such individual, qualifies as Eligible Costs. Such submissions will include copies of backup documentation supporting the listed cost items, including bills, statements, pay request forms from first-tier contractors and suppliers, conditional lien waivers, and copies of each check issued by the District or Developer for each item listed on the statement. Unless required by the District or Developer construction contract then being performed, statements for payment of Eligible Costs shall not include advance payments of any kind for unperformed work or materials not delivered and stored on the Property.

4. Verification, Submission and Payment from Pledged Revenue on Deposit with the Escrow Agent. To the extent that no District Bonds have been issued, Eligible Costs may be paid from Pledged Revenue on deposit with the Escrow Agent in accordance with Section 4.8. In such event, each such payment request shall be submitted to the District Representative and the Escrow Agent for review within ten (10) business days. In the case of Pre-Financing Costs, such payment request shall include supporting documentation verifying that the Developer or District, as the case may be, has incurred such Pre-Financing Costs. Such review is for the purpose of verifying that the work or Pre-Financing Costs represented in each payment request and supporting documentation complies with the requirements of this Agreement. Upon the earlier of approval of such documentation or expiration of the ten (10) business day period, the Escrow Agent will allocate the Eligible Costs applicable to the Eligible Improvements according to the category for each listed in ***Exhibit C*** and compile an aggregate running total of Eligible Costs paid from Pledged Revenue to the District or to the Developer as provided in this Agreement. So long as the payment

request is properly certified according to this procedure, payment will be made within twenty (20) days of submission of the payment request.

To the extent that no District Bonds have been issued, Town Costs may be paid from Pledged Revenue on deposit with the Escrow Agent in accordance with Section 4.8. In the case of Town Costs, the Town Representative may submit a request for the payment of Town Costs to the District Representative and the Escrow Agent for review within ten (10) business days. Such payment request shall include supporting documentation verifying that the Town has submitted the required supporting documentation. Upon the earlier of approval of such documentation or expiration of the ten (10) business day period, the Escrow Agent will pay or reimburse the Town for Town Costs from Pledged Revenue on deposit with the Escrow Agent.

Notwithstanding the foregoing provisions, the Parties acknowledge and agree that Pledged Revenue on deposit with the Escrow Agent may be insufficient to make the payments or reimbursements permitted by Section 4.8 and this ***Exhibit C***. In the event that there are insufficient Pledged Revenue to make such payments or reimbursements that have been requested by the Developer, the District, or the Town, this shall not constitute an event of default under this Agreement any such payments or reimbursements shall be made only from available Pledged Revenue and any unpaid request, or portion thereof, shall be made when Pledged Revenue is thereafter received by the Escrow Agent. In the event that the Escrow Agent receives multiple requests for payment or reimbursement of Eligible Costs, Town Costs, or Pre-Financing Costs and the Pledged Revenue is insufficient to make all such requested payments, the Pledged Revenue shall be applied to the payment of such requisitions pro rata based on the applicable amounts requested.

EXHIBIT D

LIST OF PROHIBITED USES

1. Any public or private nuisance;

2. Any obnoxious odor, except odors customarily emanating from a restaurant;

3. Any use which permits the use of hazardous materials beyond legal limits on, about, under, or in its tract, except in the ordinary course of its usual business operations conducted thereon and in compliance with all environmental laws;

4. Any mobile home or trailer court, labor camp, junk yard, stock yard, or animal raising (provided that the foregoing shall not prohibit any pet stores or animal grooming shops or the rental or sale of mobile homes or trailers incidental to another use such as a Cabela's or Bass Pro Shops);

5. Any dumping of garbage or refuse except in containers designated for garbage or refuse;

6. Any massage parlor (provided that the foregoing shall not prohibit a so-called day spa, health spa, chiropractor, beauty or hair salon, physical therapy center, health club, or other business that offers massage therapy as part of its services, or a massage provider common in first-class shopping centers such as a Massage Envy);

7. Any establishment selling or exhibiting marijuana or paraphernalia for use with marijuana; and

8. Any establishment selling, renting, or exhibiting so-called adult entertainment, adult videos or pornographic materials, except such incidental materials associated with the operation of a traditional book or video store or convenience store.

EXHIBIT E

CONCEPTUAL DEPICTION OF PROJECT PARKING

Parking Exhibit F

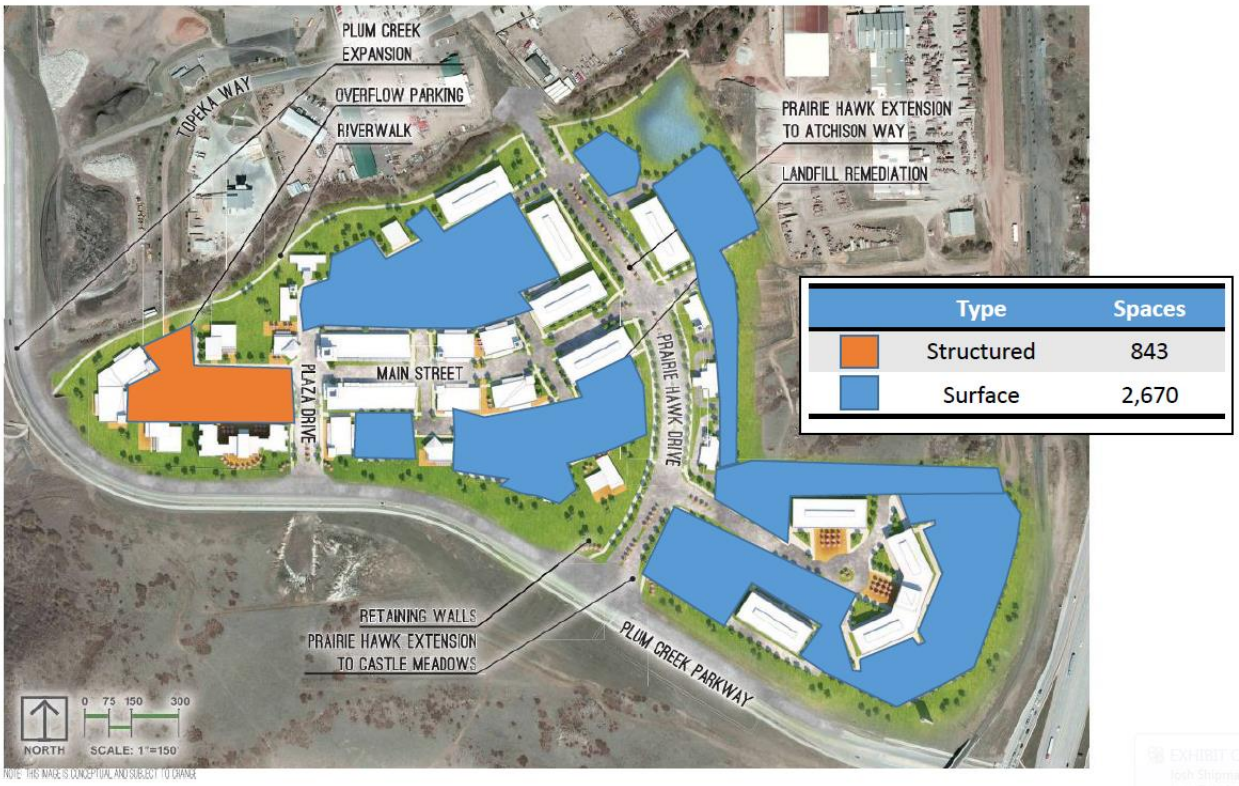

EXHIBIT F

FORM OF SALES TAX CREDIT ORDINANCE

ORDINANCE NO. 2017-003

AN ORDINANCE AMENDING CHAPTER 3.04 OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING THE TOWN'S SALES TAX, BY PROVIDING FOR A SALES TAX CREDIT AGAINST CERTAIN PUBLIC IMPROVEMENT FEES PAID AT MILLER'S LANDING

WHEREAS, the Town of Castle Rock, Colorado (the "Town") has entered into a Public Finance Agreement (the "Public Finance Agreement") with Citadel Development, LLC, Millers Landing Business Improvement District and the Castle Rock Urban Renewal Authority, concerning the finance and construction of certain public improvements in association with the development of a mixed-use project known as Miller's Landing (the "Property"); and

WHEREAS, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Public Finance Agreement; and

WHEREAS, pursuant to Section 6.2 of the Public Finance Agreement, the Town Council of the Town has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of 2.4% against the collection of Taxable Transactions to the extent that a public improvement fee in the amount of 2.4% (the "Credit PIF") has been collected on Taxable Transactions occurring within the Property, subject to the terms and limitations set forth in the Public Finance Agreement; and

WHEREAS, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Transactions occurring within the Property will substantially aid in the finance and development of necessary public improvements that will benefit the residents of the Town and patrons of the Property, and will protect and promote the public health, safety and general welfare of the residents of the Town.

NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO:

Section 1. **Amendment**. Chapter 3.04 of the Castle Rock Municipal Code, concerning the Town's sales tax, is hereby amended by the addition of a new Section 3.04.152 to read as follows:

3.04.152 Tax Credit Against Payment of Public Improvement Fees in Miller's Landing.

A. Notwithstanding any other provisions of this Chapter to the contrary, and in order to implement the provisions of the Public Finance Agreement entered into by the Town of Castle Rock, Citadel Development, LLC, the Miller's Landing Business Improvement District and the Castle Rock Urban Renewal Authority (the "Public Finance Agreement"), there is hereby granted to each person

or entity obligated to pay, collect or remit the sales tax on the sale or provision of goods or services which are subject to the Town's sales taxes described in this Chapter occurring within the property known as Miller's Landing, and more particularly described in Exhibit "A" of the Public Finance Agreement (the "Property"), a tax credit against the collection of the sales taxes as hereinafter set forth. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Public Finance Agreement, as amended from time to time. Such tax credit shall be granted in the form of a reduction in the applicable sales tax rate in an amount equal to 2.4%, and shall attach to a particular transaction only to the extent that the Credit PIF Revenue is collected and received by the PIF Collection Agent for such transaction. Notwithstanding the foregoing, in the event that the Credit PIF is imposed at a rate less than 2.4%, the tax credit shall be accordingly reduced to the amount of the Credit PIF so imposed. The tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction, but shall be subject to the applicable retailer's remittance to and receipt by the PIF Collection Agent of the Credit PIF Revenue in accordance with the Credit PIF Covenant and the Public Finance Agreement (as reflected on the retailer's periodic sales tax report).

B. Notwithstanding the foregoing, in the event that a Relocated Retailer or Restricted Grocery Store, as defined in the Public Finance Agreement, opens a store on the Property, no Sales Tax Credit shall be granted against any Taxable Transactions occurring at any such Relocated Retailer or Restricted Grocery Store, unless such Sales Tax Credit on a Relocated Retailer or Restricted Grocery Store is authorized by the Town Council and the Credit PIF is imposed all in accordance with the Public Finance Agreement and this Ordinance.

C. The sales tax credit granted pursuant this Section shall remain in effect for the period set forth in the Public Finance Agreement and shall thereafter automatically terminate.

Section 2. **Invalidity**. In the event the sales tax credit established herein or the Credit PIF is determined by a final court decision to be unconstitutional, void or ineffective for any cause, retailers shall immediately be required to collect and remit the full Town sales tax as provided in Chapter 3.04 of the Castle Rock Municipal Code.

Section 3. **Change in Tax Rate**. Nothing contained in this Ordinance shall prohibit the Town, after complying with all requirements of law, from increasing or decreasing the Town's sales tax rate.

Section 4. **Effect of Credit, Applicability of TABOR**. The Town Council hereby determines that the creation or termination of this tax credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the Town, and that nothing herein creates a multiple fiscal year financial obligation or other indebtedness of the Town, nor does the tax credit established by this Ordinance and the termination of such credit

meet any of the other criteria requiring approval by the electors pursuant to Article X, Section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights (TABOR).

Section 5. **Repealer**. Any bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency. This repealer shall not be constructed to revise any bylaw, order, resolution or ordinance or part thereof, heretofore repealed.

Section 6. **Effective Date**. The amendment to Chapter 3.04 of the Castle Rock Municipal Code shall become effective on the later of: (i) thirty (30) days following publication of this Ordinance, and (ii) the Effective Date of the Agreement.

Section 7. **Severability.** If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

Section 8. **Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

APPROVED ON FIRST READING this 21st day of February, 2017 by a vote of 4 for and 1 against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING this _____of _____, 2017 by the Town Council of the Town of Castle Rock, Colorado, by a vote of ___ for and ___ against.

ATTEST:

_____
Sally Misare, Town Clerk

TOWN OF CASTLE ROCK

_____
Jennifer Green, Mayor

Approved as to form:

_____
Robert J. Slentz, Town Attorney

EXHIBIT G

LIST OF EXISTING RETAILERS

Retailer Name	Sq. Footage
Walmart Supercenter #984	205,707
Sam's Club #4853	136,454
Target Store #1326	125,374
Lowe's Home Centers LLC	117,132
Home Depot	116,417
King Soopers (Promenade)	114,742
Kohls #728	88,043
King Soopers 71	69,281
Safeway Store #1877	68,113
King Soopers 132	59,509
AMC Theatres Castle Rock 12	45,255
Medved Chevrolet South	40,880
Medved Ford Lincoln Mercury Inc	40,880
24 Hour Fitness (Promenade)	40,000
Sprouts Farmers Markets	28,793
Bubbles Liquor World	27,395
TJ Maxx/Home Goods	22,000
Tractor Supply Company	21,702
Michaels Stores Inc.	21,235
Petsmart #1183	19,464
Kids R Kids	17,494
Office Depot #2192	16,172
Nike Factory Store	15,069
Polo Ralph Lauren Factory Store	14,527
Walgreens #06514	14,399
Walgreens #06987	14,300
212 Pizza Co.	14,387
Gap Outlet #7760	13,094
Petco #2449	12,500
Restoration Hardware	12,500
Tuesday Morning	11,141
Natural Grocers by Vitamin Cottage	10,556
Discount Tire Co. Inc.	10,556
Big 5 Sporting Goods #401	10,251