

**THIRD INTERGOVERNMENTAL AGREEMENT
GOVERNING A LINE OF CREDIT FOR FINANCING
DOWNTOWN DEVELOPMENT AUTHORITY
PROJECTS AND PROGRAMS**

This INTERGOVERNMENTAL AGREEMENT (“IGA”) is entered into this ____ day of _____, 2025, by and between the FORT COLLINS, COLORADO DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic (the “DDA”) and the CITY OF FORT COLLINS, COLORADO, a Colorado municipal corporation (the “City”).

WITNESSETH:

WHEREAS, the DDA has been created pursuant to the provisions of Title 31, Article 25, part 8, Colorado Revised Statutes, and Chapter 2, Article IV, Division 1 of the City Code (the “DDA Statute”); and

WHEREAS, the DDA Statute has declared that the organization of downtown development authorities will serve a public use; promote the health, safety, prosperity, security, and general welfare of the inhabitants thereof and of the people of this state; will halt or prevent deterioration of property values or structures within central business districts; halt or prevent the growth of blighted areas within such district, and assist municipalities in the development and redevelopment of downtowns and in the overall planning to restore or provide for the continuance of the health thereof; and

WHEREAS, the DDA provides an invaluable service to the City by promoting the health, safety, prosperity, security and general welfare of those living and working within its boundaries; and

WHEREAS, pursuant to C.R.S. § 31-25-808(1)(f), the DDA is empowered to enter into contracts with governmental agencies and public bodies in furtherance of the statutory mission of the DDA; and

WHEREAS, Article II, Section 16 of the City Charter empowers the City Council of the City, by ordinance or resolution, to enter into contracts with other governmental bodies to furnish governmental services and make charges for such services or enter into cooperative or joint activities with other governmental bodies; and

WHEREAS, the primary means of financing DDA projects and programs is through the use of property tax increment collected within the DDA boundaries, and C.R.S. §31-25-807(3)(a)(II) requires that the City or DDA incur some form of debt in order to finance such projects and programs using property tax increment revenues collected within the DDA boundaries; and

EXHIBIT A TO ORDINANCE NO. 040, 2025

WHEREAS, such property tax increment revenues, once remitted to the City by Larimer County, Colorado, are deposited into an account held by the City (the “DDA Debt Service Fund”); and

WHEREAS, on October 15, 2012, the parties entered in that certain agreement entitled “Intergovernmental Agreement Governing a Line of Credit for Financing Downtown Development Authority Projects and Programs” which established a line of credit to finance certain DDA projects and programs and defined the process for use of such line of credit (the “2012 IGA”); and

WHEREAS, the 2012 IGA had a term of six (6) years and expired on December 31, 2018; and

WHEREAS, on September 19, 2018, the parties entered in that certain agreement entitled “Second Intergovernmental Agreement Governing a Line of Credit for Financing Downtown Development Authority Projects and Programs” which extended the term of the line of credit established under the 2012 IGA and increased the per-draw limit under the line of credit to \$5,000,000 (the “2018 IGA”); and

WHEREAS, the 2018 IGA had a term of six (6) years and expired on December 31, 2024; and

WHEREAS, under both the 2012 IGA and the 2018 IGA, the line of credit was established between the City and First National Bank of Omaha (“First National Bank”) through execution of a line of credit agreement and promissory note, consistent with the DDA Statute, which at the time required that the City incur the debt necessary to finance DDA projects and programs using property tax increment revenues under C.R.S. § 31-25-807(3)(a)(II); and

WHEREAS, effective August 7, 2023, C.R.S. § 31-25-807(3)(a)(II) was amended by Senate Bill 23-175 to provide that a city, pursuant to an intergovernmental agreement with a downtown development authority, approved by ordinance of the city, may delegate to a downtown development authority the power to incur loans or indebtedness or obtain advances and to pledge tax increment money for the payment of any loans, advances, or indebtedness; and

WHEREAS, the City, under this IGA, desires to delegate to the DDA the power to incur the indebtedness evidenced by the line of credit agreement and promissory note, and related assignment of deposit account, described in Section 2 below, which will allow for the shifting of certain administrative burdens related to the financing of DDA operations from the City to the DDA, which is beneficial to the City and which the DDA is willing and able to perform; and

WHEREAS, the parties desire to enter into this IGA for the purpose of replacing the line of credit established under the 2012 IGA and the 2018 IGA, for a term of six (6) years, on the same general terms and conditions contained in the 2012 IGA and the 2018 IGA, except as described above and as depicted on Exhibit B (“Exhibit B” being defined and described in Section 3.4 below); and

WHEREAS, a line of credit established by the DDA with a financial institution, as authorized by the City pursuant to this IGA, meets the requirements of C.R.S. § 31-25-807(3)(a)(II), as amended, and the costs and interest associated with such a line of credit are much lower than would be the case with other types of financing; and

WHEREAS, it is in the best interests of both the DDA and the City to reduce financing costs of DDA projects and programs in order to preserve the maximum amount of property tax increment revenues for DDA projects and programs within its boundaries.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the parties as hereafter provided and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. TERM.

The term of this IGA shall commence upon execution by the parties and continue through December 31, 2030 (“Term”), unless earlier terminated by mutual agreement.

2. LINE OF CREDIT.

Attached hereto as **Exhibit A**, and incorporated herein by reference, is a copy of the Promissory Note and Agreement, and related Assignment of Deposit Account (collectively, the “LOC Agreement”), between the DDA and First National Bank establishing an annual revolving line of credit, renewable each fiscal year of the Term for the benefit of the DDA, and which, in addition to other terms and conditions for its use, provides for a maximum per-draw limit of Five Million Dollars (\$5,000,000) (the “Line of Credit”).

3. REQUIREMENTS FOR DRAWS ON LINE OF CREDIT.

Any draw on the Line of Credit by the DDA during the Term shall be in accordance with all of the following requirements:

3.1 The DDA Board shall annually adopt a resolution approving its budget and shall adopt a resolution recommending the City Council of the City appropriate DDA monies to fund the DDA budget; and

3.2 The City Council of the City shall annually approve the DDA budget and by ordinance appropriate funds therefor, including funds for debt service for the Line of Credit and expenditure of the Line of Credit proceeds, as applicable; and

3.3 Any draw on the Line of Credit shall be used only to pay the costs of DDA projects and programs approved in the annual DDA budget and for which funds have been appropriated by the City; and

3.4 The sequence of steps for drawing on the line of credit shall be as depicted in the flowchart contained in **Exhibit B**, attached hereto and incorporated herein by reference; and

3.5 At least fourteen (14) days prior to any draw on the Line of Credit, the DDA's Executive Director shall determine and report to the City's Chief Financial Officer the current level of total debt that has at that time been issued under the existing voter authorization for DDA debt and further shall verify and report to the City's Chief Financial Officer that there are sufficient tax increment monies in the DDA's Debt Service Fund to replenish the Line of Credit in the amount of the draw and the interest cost. The DDA's Executive Director shall supply the City's Chief Financial Officer with documentation supporting such determinations and reporting, with examples of the documentation to be supplied being depicted in **Exhibits C-1 through C-5**, attached hereto and incorporated herein by reference. The DDA shall also notify the City's Chief Financial Officer of the date on which the DDA intends to make a draw request. The City's Chief Financial Officer shall review such information and documentation reported, and shall promptly notify the DDA of any errors or deficiencies identified; and

3.6 The DDA shall have the authority to request any draw on the Line of Credit consistent with the LOC Agreement and this IGA; provided, however, that the DDA shall make no draw on the Line of Credit in excess of available debt authorization, available tax increment monies, or which would result in the repayment of the Line of Credit after the then fiscal year. The DDA shall notify the City's Chief Financial Officer of any draw request no later than twenty-four (24) hours after making any such request; and

3.7 At the time of a draw request by the DDA, the City's Chief Financial Officer shall initiate such action as is necessary to repay the draw using funds from the DDA's Debt Service Fund within seven (7) business days of the DDA's receipt of the draw, such that the Line of Credit is fully replenished to its Five Million Dollars (\$5,000,000) limit of available credit within seven (7) business days of receipt of each such draw; and

3.8 Upon receipt from First National Bank, the DDA shall transfer the proceeds from the related Line of Credit draw into the City-held DDA Financing Activity Fund, and the City's Chief Financial Officer shall cause such funds to be available to the DDA.

4. EARLY TERMINATION

In the event that for any reason the Line of Credit is terminated, the parties agree that they will work together in good faith to secure another line of credit that meets the purposes of this IGA, subject to such City Council and DDA Board approval as may be required. In such event, any such new letter of credit shall be subject to the provisions of, but shall not require an amendment to, this IGA. The parties acknowledge that the tax increment funds that comprise the DDA's Debt Service Fund are held in a First National Bank account owned by the City and that, under the section of the LOC Agreement entitled "Conditions Precedent to an Advance," the City must continue to hold such funds in a First National Bank account in order for the Line of Credit to remain in effect. In recognition thereof, the City agrees to notify the DDA, as soon as is practicable, of any decision to change banking providers, to allow the parties sufficient time to negotiate a replacement for the Line of Credit with the City's new banking provider.

5. NOTICE.

All notices to be given to parties hereunder shall be in writing and shall be sent by certified mail to the addresses specified below:

DDA: Downtown Development Authority
Attn: Executive Director
19 Old Town Square, Suite 230
Fort Collins, CO 80524

With a copy to: Joshua C. Liley
Liley Law, LLC
2627 Redwing Road, Suite 342
Fort Collins, CO 80526

CITY: City of Fort Collins
Attn: Chief Financial Officer
215 North Manson Street
Fort Collins, CO 80524

With a copy to: City of Fort Collins
Attn: City Attorney
300 LaPorte Avenue
Fort Collins, CO 80521

6. THIRD PARTY BENEFICIARIES.

This IGA shall not be construed as or deemed to be an agreement for the benefit of any third party or parties, and no third party or parties shall have any right of action hereunder for any cause whatsoever.

7. INTERPRETATION.

Nothing in this IGA is intended or shall be deemed or construed as creating any multiple-fiscal year direct or indirect debt or financial obligation on the part of the City or the DDA within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision.

8. GOVERNING LAW/SEVERABILITY.

The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this IGA. In the event any provision of this IGA shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this IGA.

IN WITNESS WHEREOF, the parties have executed this IGA the day and year first above written.

CITY OF FORT COLLINS, COLORADO,
a Colorado municipal corporation

By: _____
Jeni Arndt, Mayor

APPROVED AS TO FORM:

Dianne Criswell, Senior Assistant City Attorney

ATTEST:

Name: _____ Title: _____

THE FORT COLLINS, COLORADO,
DOWNTOWN DEVELOPMENT
AUTHORITY, a body corporate and politic

By: _____
David Lingle, Chair

ATTEST:

Cheryl Zimlich, Secretary