

ASSIGNMENT OF REIMBURSEMENT AGREEMENT

This Assignment of Reimbursement Agreement (“Assignment”) is entered into on this 26th day of February, 2019 (“Effective Date”), by and between The Foundry Loveland, LLC, a Colorado limited liability company (the “Assignor” or the “Developer”) and Foundry Loveland Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (the “Assignee” or the “District”).

Recitals

WHEREAS, the Developer and the City of Loveland, Colorado, a municipal corporation (the “City”) entered into a Reimbursement Agreement, dated November 1, 2018 (“Agreement”), for purposes of consolidating all understandings and commitments between the parties relating to the construction of a right-turn lane (“Improvements”) at the intersection of East 1st Street and Lincoln Avenue in the City and the funding costs associated therewith; and

WHEREAS, pursuant to the Agreement, the City agreed to design and construct the Improvements and the Developer agreed to pay one-half (1/2) of the total design and construction costs for the Improvements, not to exceed \$100,000, within thirty (30) days of receiving an invoice from the City; and

WHEREAS, upon completion of the Improvements by the City and payment thereof of by the Developer, the Developer and the District anticipated that the Developer would seek reimbursement from the District for the Developer’s costs paid to the City; and

WHEREAS, on January 15, 2019, the City approved, via Resolution R#-11-2019, the District’s request to issue general obligation indebtedness to provide the District with additional funds to construct public improvements and to reimburse the Developer for the costs of construction of public improvements; and

WHEREAS, the District has or will be entering into a 2019 Direct Loan (“Loan”) and issuing a Limited Tax General Obligation Note, Series 2019, which Loan authorizes the Loan proceeds to be used to finance public improvements authorized by the District’s Service Plan; and

WHEREAS, the Developer and the District have determined that it would be more efficient for the Developer, the District and the City if the District undertook the Developer’s obligation pursuant to the Agreement and paid the Developer’s reimbursement costs for the Improvements directly to the City; and

WHEREAS, the Developer desires to assign to the District, and the District is willing to accept such assignment, all of Developer’s rights, title, interest and obligations set forth in the Agreement; and

WHEREAS, pursuant to Paragraph 10 of the Agreement, the Developer shall not assign the Agreement without prior written City consent.

NOW THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Developer and the District agree as follows:

1. Assignment of Agreement. Assignor hereby assigns to Assignee all of Assignor's right, title, interest and obligations in and to the Agreement, without limitation, all reimbursements due to the City as set forth in the Agreement. Assignee hereby accepts the foregoing assignment of the Agreement and agrees to perform all of Assignor's duties and obligations thereunder accruing as of the Effective Date of this Agreement. Assignor shall remain obligated to the City with respect to all of Assignor's duties and obligations set forth in the Agreement in the event the District fails to perform any of Assignor's duties and obligations as provided in this Paragraph 1. The City has consented to this Assignment, which consent is attached hereto.

2. No Liability. This Assignment and its acceptance by Assignee shall not impose any liability on Assignee for any default by Assignor under the Agreement prior to the Effective Date.

3. Effect; Reaffirmation. Except as modified herein, all of the terms, covenants, conditions, and provisions of the Agreement shall remain in full force and effect, and the same are hereby ratified, in accordance with their terms. In the event of any conflict between the provisions of this Assignment and the Agreement, the terms of this Assignment shall control.

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CONSENT TO ASSIGNMENT OF REIMBURSEMENT AGREEMENT

The undersigned hereby consents to the assignment of the rights, title, interest and obligations of The Foundry Loveland, LLC (“Developer”) under that certain Reimbursement Agreement between the Developer and the undersigned, to Foundry Loveland Metropolitan District (“District”); provided, however, that the Developer shall remain obligated to the City with respect to all of the Developer’s duties and obligations set forth in the Reimbursement Agreement in the event the District fails to perform any of the Developer’s duties and obligations assigned to the District, as provided in the Assignment to the Reimbursement Agreement.

CITY OF LOVELAND, COLORADO

By: Stephen Adams
Stephen C. Adams, City Manager

ATTEST:

Patti Garcia
Patti Garcia, City Clerk



APPROVED AS TO FORM

Moses Garcia
Moses Garcia, City Attorney