

**DECLARATION OF COVENANTS
IMPOSING AND IMPLEMENTING
THE LEDGE ROCK CENTER COMMERCIAL
PUBLIC IMPROVEMENTS FEES**

When recorded, return to:

Waas Campbell Rivera Johnson & Velasquez LLP

Attn: Bart Johnson, Esq.

420 E. Main Street, Suite 210

Aspen, Colorado 81611

TABLE OF CONTENTS

	Page
1. Defined Terms	2
2. Assessment of Credit PIF.....	6
3. Credit PIF Period	6
4. Assessment of Add-On PIF	7
5. Payment of Public Improvements Fees.....	7
6. PIF Amounts and Limitations.....	8
7. PIF Guidelines	8
8. Additional Reporting Requirements	9
9. Audits and Release of Information by the PIF Collection Agent	9
10. Compliance and Enforcement.....	10
11. Use and Pledge of PIF Revenues	11
12. PIF Collection Agent Designation	12
13. General Acknowledgement.....	12
14. Project Owner/Project Occupant Obligations.....	13
15. Inclusion of Additional Property	13
16. Exclusion of Property	14
17. No Dominion or Control By Declarant.....	14
18. Dissolution of District.....	14
19. Notices to Project Occupants	15
20. Tax Obligations.....	15
21. Governing Laws.....	15
22. Covenants Run with the Land; Termination.....	15
23. Residential Use Prohibition; CCIOA Exemption	15
24. Amendment.....	16
25. Severability	16

**DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING
THE LEDGE ROCK CENTER COMMERCIAL PUBLIC IMPROVEMENTS FEES**

THIS DECLARATION OF COVENANTS IMPOSING AND IMPLEMENTING THE LEDGE ROCK CENTER COMMERCIAL PUBLIC IMPROVEMENTS FEES (this “Declaration”) is made to be effective as of the Effective Date (as defined below) by LEDGE ROCK CENTER LLC, a Kansas limited liability company.

Recitals

This Declaration is made with respect to the following facts:

A. Declarant (as defined below) is the owner in fee simple of the PIF Property (as defined below). The PIF Property is located in the Town of Johnstown, Colorado, a home-rule municipality of the Counties of Larimer and Weld, State of Colorado (the “Town”). The PIF Property is located within the Weld County portion of the Town.

B. Declarant is developing and desires to further develop, and redevelop from time to time, on the PIF Property, and potentially some or all of the Additional PIF Property (as defined below), a commercial project known as Ledge Rock Center. Such development will require (initially and from time to time thereafter) numerous infrastructure improvements, including, without limitation, public streets, sidewalks, art, plazas, utilities, parking facilities, storm water management facilities, trail systems, parks and open space and associated land acquisitions (the “Public Improvements”).

C. Ledge Rock Center Commercial Metropolitan District, a quasi- municipal corporation and political subdivision of the State of Colorado (the “District”), was or will be organized pursuant to the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.*, to, among other things, provide for and facilitate the planning, design, engineering, financing, acquiring, construction, completion, ownership, operation, maintenance, replacement and repair of some of the Public Improvements (some of which may be dedicated to or otherwise owned by the Town).

D. Declarant desires that the reasonable and necessary costs of planning, designing, engineering, financing, acquiring, constructing, managing construction of and installing the Public Improvements, together with all land or interests in land necessary for the completion of the Public Improvements (some of which may be acquired by the District from Declarant), and all other costs and expenses incurred or advanced in connection with the financing, acquisition, construction, completion and redevelopment from time to time of the Public Improvements, including, without limitation, operation, maintenance, repair and replacement costs incurred for the Public Improvements, expenses incurred or advanced for the District’s organization, operation or management, all Bond Requirements (as defined below), and including without limitation all “Eligible Costs” as defined in the Development and Reimbursement Agreement (as defined below) (all of such costs together, the “Public Improvements Costs”), be funded, paid and reimbursed, in part, from the Public Improvement Fees (as defined below) imposed and collected pursuant to this Declaration.

E. Subject to and in accordance with the terms and provisions of this Declaration, Declarant desires to impose the obligation to collect and pay, and to provide for the implementation

of the collection and payment of, the Public Improvement Fees on all Taxable Transactions (as defined below) that occur within or from the PIF Property.

Declaration

In consideration of the facts set forth in the Recitals and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by Declarant, Declarant hereby declares as follows:

1. Defined Terms. The following capitalized terms, when used in this Declaration, have the following meanings:

“Additional PIF Property” means the real property described on Exhibit B hereto.

“Add-On PIF” means a public improvements fee in the initial amount of two and one-half percent (2.5%) of the gross receipts of each Taxable Transaction imposed pursuant to Section 4 of this Declaration. The percentage rate of the Add-On PIF may be reduced pursuant to Section 6 of this Declaration.

“Affiliate” means any entity associated with or acting at the direction or on behalf of Declarant.

“Bonds” means any of the bonds, notes, contracts or other multiple fiscal year financial obligations, or the refunding or refinancing of any thereof, issued from time to time by the District in accordance with the terms and conditions of the Public Financing Documents, the proceeds of which are used to pay any Public Improvements Costs or reimburse any Public Improvement Costs that have already been paid by the District, Declarant, any Affiliate of Declarant, or any other Person and to the payment of which the PIF Revenues or any portion thereof have been Pledged pursuant to the Public Financing Documents.

“Bond Requirements” means the principal, redemption or purchase price, premium, if any, interest, reserves, fees and other amounts, required to be paid with respect to, or in connection with, any Bonds outstanding from time to time or the administration of the proceeds therefrom.

“Bond Trustee” means the trustee or trustees for the holders of any Bonds.

“Commencement Date” means the date on which this Declaration is recorded in the Records.

“Confidential Information” has the meaning set forth in Section 9 of this Declaration.

“Credit PIF” means a public improvements fee imposed on the gross receipts of each Taxable Transaction pursuant to Section 2 of this Declaration, such fee being in the amount of (a) two and seventy-five one hundredths percent (2.75%) until the “First Refunding and New Money Bonds” (as defined in the Development and Reimbursement Agreement) are issued by the District as described in Section 4.7(b)(i) of the Development and Reimbursement Agreement; and (b) two percent (2.00%) thereafter until the end of the Credit PIF Period.

“Credit PIF Period” means the period of time during which Taxable Transactions are subject to the Credit PIF, as more fully described in Section 3 of this Declaration.

“Declarant” means Ledge Rock Center LLC, a Kansas limited liability company, and any successor to such entity designated as the “Declarant” hereunder in a written instrument executed by the then-current Declarant and recorded in the Records.

“Default Rate” means the rate of 18% per annum, but if such rate exceeds the maximum interest rate permitted by applicable law, such rate will be reduced to the highest rate allowed by applicable law under the circumstances.

“Development and Reimbursement Agreement” means that certain Development and Reimbursement Agreement for Ledge Rock Center Commercial dated as of February 18, 2022, by and between Declarant, the Town, and the District, as amended by the First Amendment thereto dated as of April 18, 2022, and as amended and restated by the Second Amended and Restated Development and Reimbursement Agreement dated as of September 12, 2022 and recorded in the Records on September 14, 2022 at Reception No. 4855101, as it may be further amended from time to time.

“Dissemination Agent” means an agent of the District or any Bond Trustee charged with disseminating information on a periodic basis to purchasers of any Bonds or the provider of any credit enhancement in connection with the issuance of any Bonds.

“District” has the meaning set forth in Recital C of this Declaration.

“Effective Date” means the date on which this Declaration is recorded in the Records.

“Enforcing Party” has the meaning set forth in Section 10(b) of this Declaration.

“Owned/Leased PIF Property” means, with respect to any Project Owner, the portion of the PIF Property to which such Project Owner owns fee simple title and, with respect to any Project Occupant, the portion of the PIF Property such Project Occupant has the right to possess or occupy pursuant to its lease, sublease, license, concession or other occupancy agreement.

“Person” means any individual, partnership, corporation, limited liability company, association, trust, government, special district or other type of entity or organization.

“PIF Collection Agent” means the Person that is designated by the District as its agent from time to time pursuant to the provisions of Section 12 of this Declaration to collect and receive the PIF Revenues and to remit the same to the party entitled thereto pursuant to this Declaration and the applicable Public Financing Documents.

“PIF Guidelines” is defined in Section 7 of this Declaration.

“PIF Property” means the real property in the Town described on Exhibit A of this Declaration, and any additional real property (including without limitation the Additional PIF Property) made a part of the PIF Property pursuant to Section 15 of this Declaration, together with all improvements thereon and appurtenances thereto.

“PIF Revenues” means the net revenues (after payment of all permitted costs of administration and collection permitted by law, the Public Financing Documents, and the Development and Reimbursement Agreement) generated from the imposition and collection of the Add-On PIF and the Credit PIF pursuant to this Declaration.

“PIF Trustee” means a state or national bank or trust company in good standing in or incorporated under the laws of the State of Colorado authorized to exercise trust powers that is selected to receive and hold the PIF Revenues prior to the issuance of Bonds pursuant to terms of Section 11 of this Declaration.

“Pledge” means such assignment, conveyance, transfer, pledge, remittance or other transfer (whether as security for an obligation or as a true sale) as may be customary and necessary or appropriate to create an irrevocable lien and/or pledge of the PIF Revenues for payment of the Bond Requirements.

“Project” means the commercial development project that Declarant is developing and intends to further develop on the PIF Property and the surrounding area, including, without limitation, the Additional PIF Property.

“Project Occupant” means any Person, including without limitation each Project Owner, who has the legal right, pursuant to a deed, lease, sublease, license, concession, easement or other occupancy agreement of any type or nature (exclusive of utility or governmental easements), to possess or occupy any portion of the PIF Property, including, without limitation, any space within any building constructed on any portion of the PIF Property; provided that a mortgagee, a trustee under or beneficiary of a deed of trust, or any other Person who has such of right of possession primarily for the purpose of securing a debt or other obligation owed to such Person, will not constitute a “Project Occupant” unless and until such Person becomes a Project Owner or a mortgagee in possession or otherwise possesses or occupies a portion of the PIF Property pursuant to such right by an intentional or voluntary act of its own, whereupon the subject mortgagee, trustee, beneficiary or other Person will be a “Project Occupant” hereunder.

“Project Owner” means any Person who owns fee simple title to any portion of the PIF Property.

“Public Financing” means the sale of Bonds or other acquisition of funds to finance, pay for or otherwise reimburse the District, Declarant, any Affiliate of Declarant or any other Person for any of the Public Improvements Costs.

“Public Financing Documents” means any documents executed or delivered in connection with the closing or arrangement of any Public Financing, including, without limitation, the Development and Reimbursement Agreement.

“Public Improvements” has the meaning set forth in Recital B of this Declaration.

“Public Improvements Costs” has the meaning set forth in Recital D of this Declaration.

“Public Improvements Fees” or “PIF” means, as the context requires, the Add-On PIF and/or the Credit PIF.

“Records” means the real property records maintained by the Clerk and Recorder of Weld County, Colorado.

“Relying Parties” has the meaning set forth in Section 13 of this Declaration.

“Report Recipients” has the meaning set forth in Section 8 of this Declaration.

“Reports” has the meaning set forth in Section 8 of this Declaration.

“Retailer” means any Project Occupant who is a seller of tangible personal property at retail or furnisher of services who engages in any Taxable Transaction.

“Sales Tax” means that tax obligation on the sale of tangible personal property at retail or the furnishing of services levied by the Town pursuant to the Sales Tax Code.

“Sales Tax Code” means Article IV of Chapter 4 of the Municipal Code of the Town, and any regulations promulgated pursuant thereto, as amended and/or replaced from time to time.

“Sales Tax Credit” means the portion of the Sales Tax on Taxable Transactions equal to the percentage rate of the Credit PIF as to which the Town has agreed to grant temporarily a credit pursuant to Town Ordinance No. 2022-237 approved and adopted by the Town Council of the Town on August 29, 2022 and the Development and Reimbursement Agreement and any further duly adopted ordinance of the Town enacted by the Town Council of the Town pursuant to the Development and Reimbursement Agreement.

“Taxable Transaction” means any sale of tangible personal property at retail or the furnishing of services initiated, consummated, conducted, transacted or otherwise occurring from or within any portion of the PIF Property upon which the Sales Tax is payable pursuant to the Sales Tax Code. If the Sales Tax Code is repealed, invalidated or otherwise is terminated for any reason and not replaced with a new provision of the Municipal Code of the Town to implement a Sales Tax, then “Taxable Transaction” will mean any sale of tangible personal property at retail or the furnishing of services initiated, consummated, conducted, transacted or otherwise occurring from or within any portion of the PIF Property upon which the Sales Tax would have been payable pursuant to the Sales Tax Code last in effect.

“Termination Date” means the earlier to occur of: (A) first date on which all of the following have occurred: (i) all Bond Requirements have been paid in full and there are no longer any Bonds outstanding; (ii) Declarant, its Affiliates and the District have been reimbursed for all expenses incurred or moneys advanced by them for any Public Improvements Costs; (iii) all Public Improvements Costs have otherwise been paid in full; and (iv) the District certifies in a written statement recorded in the Records that it has determined, in its complete and absolute discretion, that the District no longer requires any PIF Revenues, or any portion thereof, to fund ongoing or anticipated future Public Improvement Costs such as, for example and without limitation, maintenance, repair or replacement costs for the Public Improvements and/or operation and management costs for the District; or (B) December 31, 2121.

“Town” has the meaning set forth in Recital A of this Declaration.

2. Assessment of Credit PIF. From and after the Commencement Date and continuing until the end of the Credit PIF Period:

(a) every Retailer will collect from the purchaser or the recipient of goods or services in each Taxable Transaction initiated, consummated, conducted, transacted or otherwise occurring from or within such Retailer's Owned/Leased PIF Property, and pay to the PIF Collection Agent on behalf of the District, the Credit PIF with respect to each such Taxable Transaction from and after the first date of opening for sales occurring from or within such Retailer's Owned/Leased PIF Property; and

(b) every Project Owner or Project Occupant who leases or subleases any portion of its Owned/Leased PIF Property to a Retailer, or who permits a Retailer to occupy any portion of its Owned/Leased PIF Property by license, concession or otherwise, will require, pursuant to the lease, sublease, license, concession or other occupancy agreement between such Project Owner or Project Occupant and such Retailer by virtue of which such Retailer is given the right to possess or occupy any portion of such Owned/Leased PIF Property, that such Retailer will collect from the purchaser or the recipient of goods or services in each Taxable Transaction initiated, consummated, conducted, transacted or otherwise occurring from or within the portion of the PIF Property possessed or occupied by such Retailer pursuant to such lease, sublease, license, concession or other occupancy agreement, and pay to the PIF Collection Agent on behalf of the District, the Credit PIF with respect to each such Taxable Transaction from and after the first date of opening for sales occurring from or within such Retailer's Owned/Leased PIF Property. The failure of a Project Owner or Project Occupant to incorporate such terms into or in conjunction with its lease, sublease, license, concession or other occupancy agreement with a Retailer shall not in any way excuse, exonerate, or release such Retailer from its obligation to collect the Credit PIF with respect to each Taxable Transaction and pay the same to the PIF Collection Agent pursuant to this Declaration.

3. Credit PIF Period. The Credit PIF Period will commence on the Commencement Date and terminate at 11:59 p.m. on the earlier to occur of: (A) December 1, 2051; or (B) the date as of which the District has paid in full all of the Bond Requirements for all Bonds issued for the purpose of financing, refinancing or reimbursing the Verified Eligible Costs (as defined in the Development and Reimbursement Agreement), including any re-financing or re-issue thereof, which net proceeds do not exceed the Cap Amount (as defined in the Development and Reimbursement Agreement), as certified by the District in a written supplement to this Declaration recorded in the Records by the District pursuant to Section 4.4(e) of the Development and Reimbursement Agreement; provided, however, that the District may extend the Credit PIF Period with the consent of the Town Council of the Town pursuant to the terms of Section 4.4(e) of the Development and Reimbursement Agreement, and any such permitted extension of the Credit PIF Period will be memorialized by the recording of a supplement to this Declaration executed on behalf of the District and the Mayor of the Town and recorded in the Records. The Credit PIF Period will not terminate earlier than provided above and neither will the rate of the Credit PIF be reduced due to any termination of the Sales Tax Credit or reduction in the amount of the Sales Tax Credit by the Town; the Credit PIF will remain payable for the entire Credit PIF Period regardless of any such actions by the Town.

4. Assessment of Add-On PIF. From and after the Commencement Date and continuing until the Termination Date:

(a) every Retailer will collect from the purchaser or the recipient of goods or services in each Taxable Transaction initiated, consummated, conducted, transacted or otherwise occurring from or within such Retailer's Owned/Leased PIF Property, and pay to the PIF Collection Agent on behalf of the District, the Add-On PIF with respect to each such Taxable Transaction from and after the first date of opening for sales occurring from or within such Retailer's Owned/Leased PIF Property; and

(b) every Project Owner or Project Occupant who leases or subleases any portion of its Owned/Leased PIF Property to a Retailer, or who permits a Retailer to occupy any portion of its Owned/Leased PIF Property by license, concession or otherwise, will require, pursuant to the lease, sublease, license, concession or other occupancy agreement between such Project Owner or Project Occupant and such Retailer by virtue of which such Retailer is given the right to possess or occupy any portion of such Owned/Leased PIF Property, that such Retailer will collect from the purchaser or the recipient of goods or services in each Taxable Transaction initiated, consummated, conducted, transacted or otherwise occurring from or within the portion of the PIF Property possessed or occupied by such Retailer pursuant to such lease, sublease, license, concession or other occupancy agreement, and pay to the PIF Collection Agent on behalf of the District, the Add-On PIF with respect to each such Taxable Transaction from and after the first date of opening for sales occurring from or within such Retailer's Owned/Leased PIF Property. The failure of a Project Owner or Project Occupant to incorporate such terms into or in conjunction with its lease, sublease, license, concession or other occupancy agreement with a Retailer shall not in any way excuse, exonerate, or release such Retailer from its obligation to collect the Add-On PIF with respect to each Taxable Transaction and pay the same to the PIF Collection Agent pursuant to this Declaration.

5. Payment of Public Improvements Fees.

(a) Taxable Transactions. Whether or not collected from customers, each Retailer will pay the Public Improvements Fees monthly, in arrears, with respect to all Taxable Transactions initiated, consummated, conducted, transacted or otherwise occurring during the immediately preceding monthly payment period from or within the portion of the PIF Property occupied by such Retailer during such monthly payment period. The Public Improvements Fees will be due and payable without notice within twenty (20) days after the close of each monthly payment period and each Retailer will pay the same directly to the PIF Collection Agent. Each Retailer will report Taxable Transactions and remit the Public Improvements Fees on such Taxable Transactions to the PIF Collection Agent on a monthly basis when such Retailer reports and remits sales taxes to the State of Colorado (or any other governmental entity or agency which assumes under applicable law responsibility for collection of sales taxes levied with respect to the PIF Property), employing reporting forms and following the procedures required by the PIF Collection Agent. The reporting forms used by the PIF Collection Agent will be modeled on the Sales Tax reporting forms used for remittance of the Sales Tax by the Retailers. The Public Improvements Fees will be calculated and imposed on Taxable Transactions at the

percentage rates established pursuant to this Declaration prior to the calculation and assessment of any Town Sales Taxes or any Weld County or State of Colorado sales taxes and before any sales taxes of any other taxing authority required to be imposed by law, meaning the Public Improvements Fees will be added to, and be considered part of, the gross receipts for each Taxable Transaction prior to the calculation of all sales taxes that are levied thereon.

(b) Generally. Declarant hereby acknowledges, any other Project Owner, by acquiring fee simple title to any portion of the PIF Property, will be deemed to have acknowledged, any other Project Occupant, by acquiring the right to possess or occupy any portion of the PIF Property, will be deemed to have acknowledged, and each Project Owner and Project Occupant will cause any Retailer whom such Project Owner or Project Occupant permits to possess or occupy (by lease or otherwise) any portion of its Owned/Leased PIF Property to acknowledge, prior to conducting any business from any portion of the PIF Property, THAT THE PUBLIC IMPROVEMENTS FEES ARE NOT A TAX IN ANY FORM AND THAT THE AUTHORITY OF THE PIF COLLECTION AGENT TO RECEIVE PUBLIC IMPROVEMENTS FEES IS DERIVED THROUGH THIS DECLARATION. However, the failure of a Project Owner or Project Occupant to cause a Retailer to make such acknowledgement shall not in any way excuse, exonerate, or release such Retailer from its obligation to collect the Public Improvements Fees with respect to each Taxable Transaction and pay the same to the PIF Collection Agent pursuant to this Declaration. In the event the District changes the PIF Collection Agent for the Public Improvements Fees (as further described in Section 12 of this Declaration), the District will promptly notify each Project Occupant of the same and provide appropriate direction for payment and reporting of the Public Improvements Fees thereafter. For purposes of compliance with this Section 5, each Retailer will be entitled to rely upon written notice from the District that the PIF Collection Agent has changed.

6. PIF Amounts and Limitations. The percentage rate of the Credit PIF established pursuant to the definition of Credit PIF in Section 1 of this Declaration will not be changed except by an amendment to this Declaration made in accordance with Section 24 of this Declaration. For the duration of the Credit PIF Period, the percentage rate of the Add-On PIF established pursuant to the definition of Add-On PIF in Section 1 of this Declaration will not be changed except by an amendment to this Declaration made in accordance with Section 24 of this Declaration. Following the termination of the Credit PIF Period, but subject to the terms of any Public Financing Documents then in effect and additionally subject to the written approval of Declarant if Declarant is a Project Owner at that time, the percentage rate of the Add-On PIF may be reduced (but not increased) by the District by the recording in the Records of a supplement to this Declaration executed on behalf of the District and stating the new percentage rate of the Add-On PIF and the date as of which such new percentage rate will take effect, which date will not be sooner than the ninetieth (90th) day following the date of recording of such supplement to this Declaration.

7. PIF Guidelines. The District and the PIF Collection Agent may from time to time establish, subject to the Public Financing Documents, uniform guidelines further clarifying and delineating the procedures to be followed for the collection and remittance of the Public Improvements Fees by the Retailers, including the reporting forms to be used in remitting the Public Improvements Fees to the PIF Collection Agent (the “PIF Guidelines”). The PIF Guidelines

will apply and be enforced in a uniform and consistent manner to all of the PIF Property and each portion of the PIF Property. The PIF Guidelines will be delivered to all Retailers in writing (and for purposes of determining the names and addresses of Retailers, any Project Owner or applicable Project Occupant will, within 10 business days after receipt of a written request therefor from the District or the PIF Collection Agent, provide such requesting party with the name and address of all Retailers that then occupy any PIF Property of such Project Owner or Project Occupant). Each Retailer will be entitled to rely on the then-current PIF Guidelines for purposes of complying with this Declaration. FAILURE OF ANY RETAILER TO RECEIVE THE PIF GUIDELINES SHALL NOT IN ANY WAY EXCUSE, EXONERATE, OR RELEASE SUCH RETAILER FROM ITS OBLIGATIONS PURSUANT TO THIS DECLARATION, AND EACH RETAILER SHALL BE FULLY BOUND BY THE TERMS OF THIS DECLARATION NOTWITHSTANDING SUCH RETAILER'S RECEIPT OR POSSESSION OF THE PIF GUIDELINES.

8. Additional Reporting Requirements. Each Retailer will deliver to the District, the PIF Collection Agent, and, at the express written direction of the District, to the Town or any Bond Trustee (collectively, "Report Recipients"), true and complete copies of all written reports, returns, statements, records and declarations, including any supplements or amendments thereto (collectively the "Reports") made or provided to the Town or the State of Colorado by such Retailer in connection with all Sales Taxes for the corresponding tax period or activity at the same time such Reports are delivered to the Town or the State of Colorado. If any subsequent adjustments, additions or modifications are made to any Sales Taxes or the Public Improvements Fees reported, remitted or, paid, or Report made, by a Retailer to the Report Recipients, the Town or the State of Colorado with respect to Sales Taxes, or the Public Improvements Fees, such Retailer will provide the Report Recipients with true and complete copies of all revised Reports or other written material issued or received by such Retailer in regard thereto. If any such adjustment increases the amount of the Public Improvements Fees a Retailer is required to remit or pay, or results in a refund of such Public Improvements Fees, such Retailer will immediately pay such additional Public Improvements Fee in the amount due, or will, in the discretion of the PIF Collection Agent receive either an appropriate refund or an appropriate credit against the next Public Improvements Fees due from such Retailer in the amount of such excess Public Improvements Fees. Any such Retailer will claim such credits or pay such additional Public Improvements Fees with respect to Taxable Transactions in the next applicable reporting period by use of the standard reporting and remittance forms. All Reports made or provided by a Retailer will be maintained by such Retailer for at least three years from the date of submission thereof to the Town and/or State of Colorado, and upon written request, will be made available at the Retailer's expense to the Report Recipients for inspection and audit. Subject to Section 9 of this Declaration, Reports received by Declarant, the PIF Collection Agent, the District or any Bond Trustee will remain confidential and be used only for purposes of collecting the Public Improvements Fees due, enforcing Retailers' obligations hereunder, and otherwise monitoring compliance with the provisions of this Declaration.

9. Audits and Release of Information by the PIF Collection Agent. By acquiring its possessory interest in and to its Owned/Leased PIF Property subject to the terms and conditions of this Declaration, each Retailer hereby specifically authorizes the PIF Collection Agent and the Town to audit the books and records of such Retailer, upon 30 days' prior written notice and at the principal place of business of such Retailer or another mutually agreed location, to determine

compliance with the Public Improvements Fees collection and remittance obligations of such Retailer pursuant to this Declaration and, subject to the restrictions set forth in the next sentence, to release to the District, any PIF Trustee, any Bond Trustee and any Dissemination Agent for distribution to purchasers of any Bonds (but not to any other person or entity, except as required by law) such audited information and any Public Improvements Fees-related Reports, returns (including sales tax returns) and other documents as are delivered to the PIF Collection Agent by such Retailer and any relevant information gathered by the PIF Collection Agent or the Town (or the State of Colorado to the extent it is collecting any Sales Taxes on behalf of the Town) during an audit or in reviewing such reports, returns or other documents (collectively, the “Confidential Information”); provided, however, that all Confidential Information, together with the contents thereof, will be kept confidential and will not be disclosed or otherwise published by any person to whom the PIF Collection Agent so releases Confidential Information, except for such disclosures or publications as may be required by applicable laws. Without limiting the foregoing confidentiality and non-disclosure requirements, to the fullest extent permitted under applicable laws, any publication or disclosure of Confidential Information submitted by or pertaining to a specific Retailer (or the contents of such Confidential Information) by the PIF Collection Agent, the Town, the District, any PIF Trustee, any Bond Trustee or any Dissemination Agent (or by anyone else to whom the PIF Collection Agent is required by law to disclose Confidential Information) that is otherwise required to be made, will be made only on an aggregated basis with the similar information submitted by other Retailers and without separate identification (direct or indirect) of the Public Improvements Fees or sales of such specific Retailer. Each Retailer will write “CONFIDENTIAL COMMERCIAL INFORMATION” on every Report that it furnishes to the District, the Town (or the State of Colorado to the extent it is collecting any Sales Taxes on behalf of the Town) or the PIF Collection Agent to assist with the maintenance of confidentiality, notwithstanding the Colorado Open Records Act, as the same may be amended from time to time; provided, however, that a Retailer will not be required to include such statement on its regular monthly returns for remittance of the Public Improvements Fees to the PIF Collection Agent and the failure of a Retailer to include such statement on any Report will not affect the status of such report as Confidential Information pursuant to the preceding terms of this Section 9.

10. Compliance and Enforcement.

(a) Taxable Transactions. Each Retailer will comply with all policies and requirements of the District and the PIF Collection Agent regarding notification to customers of the assessment and collection of the Public Improvements Fees on Taxable Transactions as such policies and requirements are contained in the PIF Guidelines or otherwise disseminated from time to time. The failure or refusal of any Retailer to assess, collect or remit the Public Improvements Fees, or to comply with the requirements concerning notification to customers as required in this Declaration, will constitute a default by such Retailer under the terms of this Declaration. THE DISTRICT, ANY PIF TRUSTEE, ANY BOND TRUSTEE, AND THE PIF COLLECTION AGENT ARE HEREBY EXPRESSLY MADE THIRD PARTY BENEFICIARIES OF THE RETAILERS’ OBLIGATIONS UNDER THIS DECLARATION, INCLUDING, BUT NOT LIMITED TO, THE ASSESSMENT, COLLECTION AND REMITTANCE OF THE PUBLIC IMPROVEMENTS FEES. Declarant hereby acknowledges, any other Project Owner, by acquiring fee title to any portion of the PIF Property, will be deemed to have acknowledged, any Project Occupant, by acquiring the right to possess or occupy any

portion of the PIF Property subject to this Declaration, will be deemed to have acknowledged, and each Project Owner and Project Occupant will cause any Retailer whom such Project Owner or Project Occupant permits to possess or occupy (by lease or otherwise) any portion of its Owned/Leased PIF Property to acknowledge, prior to conducting any business from any part of the PIF Property, THAT THE DISTRICT, ANY PIF TRUSTEE, ANY BOND TRUSTEE, AND THE PIF COLLECTION AGENT WILL HAVE A DIRECT CAUSE OF ACTION AND FULL RIGHT AND AUTHORITY TO ENFORCE EACH RETAILER'S OBLIGATIONS UNDER THIS DECLARATION, AND THAT NO DEFAULT BY A RETAILER'S LANDLORD (OR EQUIVALENT) UNDER ANY PROVISION OF THE LEASE OR OTHER OCCUPANCY AGREEMENT PURSUANT TO WHICH SUCH RETAILER OCCUPIES ANY PART OF THE PIF PROPERTY WILL ENTITLE SUCH RETAILER TO ANY OFFSET, DEDUCTION OR OTHER DEFENSE TO PAYMENT OF THE PUBLIC IMPROVEMENTS FEES DUE HEREUNDER.

(b) Default Rate, Late Charge and Enforcement Costs. Any payment of the Public Improvements Fees not paid when due hereunder will bear interest at the Default Rate, and the defaulting Retailer will bear all costs of enforcement and collection thereof, including reasonable attorneys' fees and costs. In addition, if a Retailer fails to pay any Public Improvements Fee when due, the PIF Collection Agent may charge such Retailer, and such Retailer will be obligated to pay the PIF Collection Agent, a late charge in an amount equal to the greater of 10% of the delinquent Public Improvements Fees or \$100.00 (which \$100 amount will be automatically increased by 15% every five years beginning on January 1 of the fifth full calendar year following the recording of this Declaration). Notwithstanding anything to the contrary contained in this Declaration, Declarant, the District, any PIF Trustee, any Bond Trustee, the PIF Collection Agent, or any third party designated by any of the foregoing (collectively, an "Enforcing Party"), will have the right to enforce the provisions of this Declaration against any Retailer that fails to abide by any of the terms and conditions of this Declaration. An Enforcing Party will be awarded and recover from such a defaulting Retailer all costs and expenses incurred by such Enforcing Party in successfully enforcing the obligations of such Retailer under this Declaration in any legal proceedings brought (or defended) by such Enforcing Party.

11. Use and Pledge of PIF Revenues. The PIF Revenues are and will be the property of the District, and the Add-On PIF and Credit PIF are imposed for the benefit of the District, subject to the terms of this Declaration and the terms of any Pledge. The PIF Revenues generated by the Add-On PIF and Credit PIF imposed pursuant to this Declaration will be used only for the payment or reimbursement of Public Improvements Costs as provided in this Declaration and the Public Financing Documents. Prior to the issuance of Bonds, the PIF Collection Agent will deliver all PIF Revenues to the PIF Trustee designated by the District and approved by the Town pursuant to terms of Section 4.4(c) of the Development and Reimbursement Agreement, such PIF Revenues to be held and disbursed by such PIF Trustee in accordance with the Public Financing Documents. For so long as any Bonds remain outstanding, the PIF Revenues will be used for the payment of the Bond Requirements in accordance with the Public Financing Documents. The District is hereby expressly authorized to Pledge for the payment of Bond Requirements all PIF Revenues generated from the Add-On PIF and the Credit PIF imposed pursuant to this Declaration and received or receivable by the PIF Collection Agent. For so long as any Bond Requirements remain

unsatisfied, the PIF Collection Agent is hereby instructed and required to pay such PIF Revenues received by it as may be so Pledged to the party entitled thereto pursuant to the applicable Public Financing Documents. All PIF Revenues that are received following the satisfaction of all Bond Requirements will be delivered by the PIF Collection Agent to the District (and/or such other Person(s) designated by the District from time to time) for the payment or reimbursement of Public Improvements Costs, subject to the requirements of any applicable Public Financing Documents.

12. PIF Collection Agent Designation. The PIF Collection Agent will be an accounting firm, management company or other Person that is reasonably qualified to collect the Public Improvements Fees pursuant to this Declaration. The PIF Collection Agent will not be Declarant or any Affiliate of Declarant. Subject to the terms of the Public Financing Documents, the District will have the right to appoint, terminate and replace the PIF Collection Agent from time to time upon not less than 45 days' prior written notice to the Project Occupants, except that in the event of an emergency or the resignation of the then-existing PIF Collection Agent on short notice less than 45 days' prior written notice will be permitted. If the PIF Collection Agent is changed on less than 45 days' prior written notice pursuant to the preceding sentence, then any Retailer who remits Public Improvements Fees to the prior PIF Collection Agent within 45 days after receiving such written notice will be deemed in compliance with this Declaration and the District will cause the prior PIF Collection Agent to forward any such remittances to the new PIF Collection Agent. The PIF Collection Agent will be entitled to receive a commercially reasonable fee in consideration for collecting and disbursing the PIF Revenues pursuant to this Declaration and the Public Financing Documents.

13. General Acknowledgement. Declarant hereby acknowledges, any other Project Owner, by acquiring fee title to any portion of the PIF Property, will be deemed to have acknowledged, and any Project Occupant, by acquiring the right to possess or occupy any portion of the PIF Property, will be deemed to have acknowledged, prior to conducting any business at any PIF Property, THAT THE PROVISIONS OF THIS DECLARATION HAVE BEEN OR WILL BE AGREED TO OR OTHERWISE APPROVED BY THE DISTRICT AND ACKNOWLEDGED BY EACH BOND TRUSTEE (THE "RELYING PARTIES"), AND THAT THE RELYING PARTIES ARE OR WILL BE RELYING UPON THESE PROVISIONS IN TAKING CERTAIN ACTIONS WITH RESPECT TO THE PUBLIC IMPROVEMENTS FEES AND THE PUBLIC IMPROVEMENTS WITH THE UNDERSTANDING THAT THIS DECLARATION WILL NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THEIR PRIOR WRITTEN CONSENT. ACCORDINGLY, DECLARANT HEREBY DECLARES, AND ALL OTHER PROJECT OWNERS AND PROJECT OCCUPANTS WILL BE DEEMED TO HAVE AGREED, THAT NO AMENDMENT OR MODIFICATION WILL BE MADE TO, NOR ANY WAIVER MADE OR ACCEPTED BY DECLARANT, ANY PROJECT OWNER OR ANY PROJECT OCCUPANT WITH RESPECT TO THIS DECLARATION, AND THAT ANY SUCH PURPORTED AMENDMENT, MODIFICATION OR WAIVER WILL BE VOID AND OF NO FORCE AND EFFECT UNLESS AND TO THE EXTENT CONSENTED TO IN WRITING BY THE RELYING PARTIES. Each Project Owner and Project Occupant will cause any Retailer whom such Project Owner or Project Occupant permits to possess or occupy (by lease or otherwise) any portion of its Owned/Leased PIF Property to acknowledge, prior to conducting any business from any part of the PIF Property, THAT THE PROVISIONS OF THIS DECLARATION HAVE BEEN OR WILL BE AGREED TO OR ACKNOWLEDGED BY THE RELYING PARTIES, AND THAT THE RELYING PARTIES ARE OR WILL BE RELYING

UPON THIS DECLARATION IN TAKING CERTAIN ACTIONS WITH RESPECT TO THE PUBLIC IMPROVEMENTS FEES AND THE PUBLIC IMPROVEMENTS WITH THE UNDERSTANDING THAT THIS DECLARATION WILL NOT BE AMENDED, MODIFIED OR WAIVED WITHOUT THEIR PRIOR WRITTEN CONSENT; ACCORDINGLY, SUCH RETAILER WILL BE DEEMED TO HAVE AGREED THAT NO AMENDMENT OR MODIFICATION WILL BE MADE TO, NOR ANY WAIVER MADE OR ACCEPTED BY SUCH RETAILER WITH RESPECT TO THIS DECLARATION, AND THAT ANY SUCH PURPORTED AMENDMENT, MODIFICATION OR WAIVER WILL BE VOID AND OF NO FORCE AND EFFECT UNLESS AND TO THE EXTENT CONSENTED TO IN WRITING BY THE RELYING PARTIES. The Town will be considered one of the Relying Parties with respect to any amendment of this Declaration that would conflict with, or purport to modify, the terms of the Development and Reimbursement Agreement.

14. Project Owner/Project Occupant Obligations. Each Project Owner and Project Occupant will cause any Retailer to whom such Project Owner or Project Occupant leases or whom such Project Owner or Project Occupant otherwise permits to occupy any portion of its Owned/Leased PIF Property, in its lease or other occupancy agreement with such Retailer pursuant to which such Retailer occupies any portion of such Project Owner's or Project Occupant's Owned/Leased PIF Property, to acknowledge and agree to (in a manner that causes such Retailer to be bound by) all provisions of this Declaration that pertain to such Retailer.

15. Inclusion of Additional Property. Declarant may include any of the Additional PIF Property, or any other property within the service area of the District, as part of the PIF Property at any time by recording in the Records a supplement to this Declaration setting forth the legal description of such included property and stating that, from and after the date of such recording, such additional property will be included within the PIF Property for all purposes under this Declaration. If the property to be included as part of the PIF Property is owned by any Person other than Declarant, then such supplement to this Declaration must, in addition to being executed by Declarant, be executed by the owner in fee simple of the property to be included and consented to by the holder of any deed of trust, mortgage or other security for an obligation encumbering such property. From and after the date any such supplement is properly executed and recorded, the property described therein will become a part of the PIF Property for all purposes under this Declaration. UNTIL SUCH TIME AS SUCH ADDITIONAL PROPERTY BECOMES PART OF THE PIF PROPERTY PURSUANT TO THE FOREGOING PROVISIONS, SUCH ADDITIONAL PROPERTY (INCLUDING ANY PART OF THE ADDITIONAL PIF PROPERTY NOT SO INCLUDED) WILL NOT BE BOUND, ENCUMBERED OR BENEFITTED IN ANY MANNER BY THIS DECLARATION. THE ADDITIONAL PIF PROPERTY IS NOT OWNED BY DECLARANT AS OF THE RECORDING OF THIS DECLARATION. THE LEGAL DESCRIPTION OF THE ADDITIONAL PIF PROPERTY IS ATTACHED TO THIS DECLARATION FOR INFORMATIONAL PURPOSES ONLY AND NOT WITH THE INTENT OF CREATING ANY OBLIGATIONS ON, OR BENEFITS FOR, THE ADDITIONAL PIF PROPERTY. NOTWITHSTANDING THE FOREGOING, no property that is being used for a "residential use" as defined in the Colorado Common Interest Ownership Act, C.R.S § 38-33.3-101 *et seq.*, or that would otherwise cause this Declaration to become subject to the terms of such Colorado Common Interest Ownership Act, shall ever be included as part of the PIF Property.

16. Exclusion of Property. Except as provided in any of the Public Financing Documents (any one or more of which may require the consent of one or more parties before Declarant may exclude any property from the PIF Property), Declarant may, without the prior consent of any other party, exclude any property from the PIF Property by recording in the Records a notice of such exclusion describing the property to be excluded from the PIF Property (an “Exclusion Notice”). Notwithstanding the foregoing, the exclusion of any property from the PIF Property during the Credit PIF Period shall require the prior written consent of the Town. Upon the recording of any Exclusion Notice (or upon the effective date specified in the Exclusion Notice if different from the date of recording), the property described in the Exclusion Notice will be excluded from the PIF Property and will no longer be subject to the terms, obligations, covenants and requirements of this Declaration, except with respect to Public Improvements Fee obligations or other obligations arising under this Declaration prior to the effectiveness of such exclusion.

17. No Dominion or Control By Declarant. Except as expressly provided in this Section 17 and the Public Financing Documents, the District will have all right, title and interest in and to the Add-On PIF, the Credit PIF and the PIF Revenues in accordance with this Declaration and the Public Financing Documents. Declarant does not have and will not be legally entitled, authorized or empowered to exercise any dominion or control over any of the PIF Revenues collected pursuant to this Declaration and the Public Financing Documents, unless, and until such time as, if ever, Declarant becomes entitled under the Public Financing Documents to receive the PIF Revenues or any portion thereof to reimburse Declarant for Public Improvements Costs paid or otherwise advanced by Declarant. If and to the extent that Declarant is deemed to have any right, title or interest in or to the Add-On PIF or the Credit PIF that is not provided for in the Public Financing Documents, all right, title and interest of Declarant in and to the Add-On PIF and the Credit PIF and the obligations of the Retailers hereunder with respect thereto will irrevocably, absolutely and unconditionally be transferred, sold, assigned and conveyed by Declarant to the District for financing or otherwise paying the Public Improvements Costs. Unless and to the extent the Public Financing Documents provide otherwise, to the extent any PIF Revenues are collected by Declarant, Declarant is merely acting on behalf of the District or the PIF Collection Agent in implementing this Declaration and providing for the collection and payment of PIF Revenues under this Declaration and the Public Financing Documents. Subject to the express terms of this Section 17: (a) the Add-On PIF and Credit PIF are fees imposed on Retailers to pay Public Improvements Costs as provided herein; (b) the nature of the Add-On PIF and Credit PIF are that of fees imposed under private covenant and not through the exercise of any Town or District taxing authority; (c) the PIF Revenues are not tax revenues in any form and the Add-On PIF and the Credit PIF will not be enforceable by the Town (except to the extent the Town receives Sales Taxes for which the Sales Tax Credit did not apply due to a Retailer’s failure to pay the Credit PIF and remits such Sales Taxes for the payment of Bond Requirements pursuant to the Public Financing Documents); and (d) the PIF Revenues are to be used for the payment of the Bond Requirements and as otherwise may be provided in this Declaration or the Public Financing Documents.

18. Dissolution of District. If the Town takes any action toward dissolving the District or the District otherwise comes under threat of dissolution by any other means, then the District may assign all of its rights, interests and privileges under this Declaration (including without limitation its rights to receive the Add-On PIF and Credit PIF) to any entity that agrees to assume all of the District’s obligations under this Declaration. Any such assignment and assumption will be made in the form of a written agreement recorded in the Records. If the District is dissolved

before entering into such an assignment and assumption, then Declarant will have the right to designate a successor to the rights, interests and privileges of the District by recording a written declaration to such effect in the Records.

19. Notices to Project Occupants. Whenever a notice is required to be given pursuant to the provisions of this Declaration to “all” Project Occupants, the notice given will be deemed sufficient if given to all Project Occupants the names and addresses of which were known to the party giving such notice after a reasonably diligent effort to ascertain the names and addresses of all Project Occupants. Notwithstanding the foregoing, any notice to be given pursuant to this Declaration to a Retailer who is a Project Occupant by virtue of a lease, sublease, license, concession, or other occupancy agreement will be given to such Retailer at the notice address(es) contained in such Retailer’s occupancy agreement and the landlord, sublessor, licensor, concessionor or other granting party under such occupancy agreement will provide such notice address(es) for any Retailer upon demand to any party who has a right to send any notice pursuant to this Declaration.

20. Tax Obligations. In addition to the Public Improvements Fees, each Retailer is subject to all sales and use taxes that may be imposed and otherwise not waived or credited by the State of Colorado, the Town, Weld County or any other applicable taxing authority.

21. Governing Laws. This Declaration will be governed by, and enforced in accordance with, the laws of the State of Colorado. Venue for all actions hereunder shall be in the District Court in and for Weld County, Colorado.

22. Covenants Run with the Land; Termination. The covenants, agreements, promises and duties as set forth in this Declaration will be construed as real covenants, and not as conditions, and all such covenants will run with title to and affect the PIF Property. Each such covenant to do or refrain from doing some act on or with respect to activities on any portion of the PIF Property under this Declaration (i) is a burden upon such portion of the PIF Property and is for the benefit of the remainder of the PIF Property, (ii) will be a covenant running with the land with respect to both the burdened and benefited portions of the PIF Property, and (iii) will be binding upon of each Project Occupant and each successor thereto in the PIF Property and will inure to the benefit of Declarant, the other Project Owners, the District, the PIF Collection Agent, the Town, and, to the extent applicable, each PIF Trustee and each Bond Trustee. All covenants and agreements under this Declaration will terminate and expire on the Termination Date, except with respect to any obligation arising under this Declaration that has not been paid, discharged or satisfied in full as of the Termination Date. If and to the extent that any of the covenants or other provisions herein would otherwise be unlawful or void for violation of (a) the rule against perpetuities, (b) the rule restricting restraints on alienation, or (c) any other applicable statute or common law rule analogous thereto or otherwise imposing limitations upon the time for which such covenants may be valid, then the provisions concerned will continue and endure only until the expiration of a period of 90 years after the Commencement Date.

23. Residential Use Prohibition; CCIOA Exemption. Declarant hereby declares and covenants that for the Term of this Declaration no portion of the Property shall be used for any “residential use” as defined in the Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101 *et seq.*, and such covenant shall run with title to the Property and be binding on all Owners.

Accordingly, pursuant to C.R.S. § 38-33.3-121, this Declaration shall not be subject to the Colorado Common Interest Ownership Act and the terms of this Declaration shall be read, construed and interpreted accordingly.

24. Amendment and Termination. Subject to the terms of the Public Financing Documents and the following sentence of this Section 24, this Declaration may be amended by a written instrument that is recorded in the Records and executed by or on behalf of all of the following: (a) Declarant, so long as Declarant is a Project Owner; (b) the Relying Parties; (c) the then-current holder of any “Encumbrance” identified in any Subordination and Consent of Lender attached to this Declaration; and (d) Project Owners (which may include Declarant) that collectively own more than fifty percent (50%) of the total land area within the PIF Property, excluding all publicly owned lands, including, without limitation, all rights-of-way, open space areas and similar areas that are owned by any public entity, quasi-public entity, or political subdivision. This Declaration may not be amended to increase the percentage rate of the Credit PIF or the Add-On PIF without the written consent of more than fifty percent (50%) of the Retailers located within the Project at the time such amendment is made. This Section 24 does not limit Declarant’s right to include any or all of the Additional PIF Property or any other property as part of the PIF Property pursuant to Section 15 above. This Declaration is being made with the expectation that the District will issue its Limited Tax General Obligation Bonds, Series of 2022, not later than November 30, 2022. If the District does not issue such Bonds by such date, then the Declarant and the District may terminate this Declaration by executing and recording a written termination in the Records (with the understanding that such termination may be executed in advance and placed in escrow for future recording in the Records if such Bonds are not issued).

25. Severability. Invalidation of any of the provisions contained in this Declaration, or of the application thereof to any person or entity, by judgment or court order, will in no way affect any of the other provisions of this Declaration or the application of the terms hereof to any other person or entity or circumstance and the remainder of this Declaration will remain in effect; provided, however, that in the event such invalidation would render the remaining portions of this Declaration ineffective to carry out the material intentions of Declarant as expressed or implied by this Declaration, then the objectionable provision(s) hereof will be construed, and this Declaration will be deemed amended, as if such provision were replaced with an enforceable provision which effectuates, as nearly as possible, the material intentions of Declarant.

[remainder of page is intentionally blank]

