

RESOLUTION 2018-005
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROVING AND AUTHORIZING THE EXECUTION OF
A MEMORANDUM OF UNDERSTANDING WITH BENEFITTED
PROPERTY OWNERS REGARDING FINANCIAL PARTICIPATION
IN THE I-25/PROSPECT INTERCHANGE IMPROVEMENTS

WHEREAS, the interchange at Interstate Highway 25 and Prospect Road (the "Interchange") is owned by the State of Colorado and operated and maintained by the Colorado Department of Transportation ("CDOT"); and

WHEREAS, the Interchange is within the City's boundaries and adjacent to its four (4) corners are several undeveloped parcels of privately-owned land, which parcels are also within the City's boundaries; and

WHEREAS, Fort Collins/I-25 Interchange Corner, LLC ("FCIC") is the fee title owner of a parcel of land adjacent to the northwest corner of the Interchange (the "FCIC Parcel"); and

WHEREAS, Gateway at Prospect Apartments, LLC ("GAPA") is the fee title owner of a parcel of land also adjacent to the northwest corner of the Interchange (the "GAPA Parcel"); and

WHEREAS, Land Acquisition and Management, LLC represents a group of tenants in common ("LAAM Owners") who are the fee title owners of the three (3) parcels of land adjacent to the northeast corner of the Interchange (the "LAAM Owners Parcels"); and

WHEREAS, Paradigm Properties LLC ("Paradigm") is the fee title owner of the two (2) parcels of land adjacent to the southeast corner of the Interchange (the "Paradigm Parcels"); and

WHEREAS, the Colorado State University Research Foundation ("CSURF") is the fee title owner of the two (2) parcels of land adjacent to the southwest corner of the Interchange (the "CSURF Parcels"); and

WHEREAS, FCIC, GAPA, the LAAM Owners, Paradigm and CSURF are hereafter collectively referred to as the "Property Owners" and the FCIC Parcel, GAPA Parcel, the LAAM Owners Parcels, Paradigm Parcels and CSURF Parcels are hereafter collectively referred to as the "Properties"; and

WHEREAS, CDOT has notified the City that it is planning a project to significantly modify and improve the Interchange by reconstructing its ramps and bridge and by reconstructing Prospect Road to a configuration with four (4) through lanes, a raised median, left turn lanes and pedestrian and bicycle facilities, and CDOT is expected to begin construction of this project after July 1, 2018 (the "Project"); and

WHEREAS, the Project will also include certain urban design improvements requested by the City that are typically required under the City's development standards (the "Urban Design Features"); and

WHEREAS, the Project and the Urban Design Features will provide significant public benefits to the City and its residents, and they will benefit the Property Owners by materially increasing the value of their Properties; and

WHEREAS, CDOT estimates that the total cost of the Project, as originally proposed by it, will be approximately \$24 million, but it has indicated that it will only provide \$12 million to fund the Project, leaving a \$12 million deficit; and

WHEREAS, the Urban Design Features planned by the City will add an additional \$7 million to the cost of the Project, bringing the total Project cost to \$31 million; and

WHEREAS, CDOT has asked the City to participate in the Project by funding the \$12 million deficit originally identified by CDOT, but the City is only willing to consider funding this deficit if the additional \$7 million of Urban Design Features are included in the Project and if the Property Owners share in funding this \$19 million deficit; and

WHEREAS, the City has also asked Timnath to share in funding this deficit because Timnath will also experience significant public benefits from the Project; and

WHEREAS, the City and Timnath have been negotiating a separate agreement under which Timnath would reimburse the City for up to \$2.5 million of the \$19 million deficit to be paid over a twenty (20) year period, thereby leaving a \$16.5 million deficit (the "Remaining Deficit"); and

WHEREAS, the City and the Property Owners have negotiated the "Memorandum of Understanding Pertaining to Development of Interstate Highway 25 and Prospect Road Interchange" attached as Exhibit "A" and incorporated by reference (the "MOU"); and

WHEREAS, the City and the Property Owners acknowledge in the MOU that the MOU is not a binding agreement, but that they nevertheless intend to cooperate in good faith to negotiate and enter into a binding agreement under which the parties would agree to equally share in the payment of the Remaining Deficit; and

WHEREAS, the MOU contemplates that the City and the Property Owners will equally share the Remaining Deficit by the Property Owners agreeing to reimburse the City over time a collective fifty-percent (50%) share estimated to be approximately \$8.25 million, plus interest, (the "Shared Deficit") to be paid from a combination of property tax, public improvement fees ("PIF") and other fees imposed on and collected from future development occurring on the Properties as provided in the service plan of a proposed metropolitan district to be organized under the Colorado Special District Act (the "District Act") identified in the MOU as the "I-25/Prospect Interchange Metro District" (the "I-25/Prospect Interchange Metro District"); and

WHEREAS, the MOU also contemplates that the City will credit against the Property Owners' portion of the Shared Deficit the value of the Property Owners' land dedicated to CDOT for the Project and the Urban Design Features and a share of the transportation capital expansion fees anticipated to be paid to the City under Fort Collins Code Section 7.5-32 related to the future development of the Properties (the "Owners' Share"); and

WHEREAS, the Property Owners also wish to form other metropolitan districts under the District Act to use to construct and fund some or all of the basic public infrastructure needed in the future development of their individual Properties, whether such development is commercial or residential, and for maintenance of such infrastructure and for all other purposes allowed by the District Act and the approved service plans (the "Development Metro Districts"); and

WHEREAS, the I-25/Prospect Interchange Metro District and the Development Metro Districts shall be collectively referred to as the "Metro Districts"; and

WHEREAS, the Metro Districts cannot be created under the District Act without the Council of the City of Fort Collins (the "City Council") approving a service plan for each of the Metro Districts (each a "Service Plan" and collectively "Service Plans") which, together with the District Act, will govern the operation of the Metro Districts and their authority to impose, collect, spend and pledge property taxes and fees; and

WHEREAS, the Service Plans will also delineate the type of basic public infrastructure and services the Metro Districts will be authorized to provide and how the Metro Districts will cooperate with each other, the City and the Property Owners to fund regional and local infrastructure; and

WHEREAS, the Property Owners are further willing, subject to the City Council's approval of the Service Plans, to record against their respective Properties for the benefit of a party to be determined in accordance with applicable law, a covenant, free and clear of all prior liens and encumbrances, except real property taxes, imposing a PIF at a rate from 0.5 % to 1.0%, net of any administrative fees for collection, on all future retail sales on the Properties that are also subject to the City's sales tax under Article III of City Code Chapter 25, (the "PIF Covenant") and for that collected PIF to be irrevocably pledged, either in the PIF Covenant itself or in a separate assignment and pledge document executed by the original beneficiary of the PIF Covenant, for the payment of the Owners' Share; and

WHEREAS, the actual amounts of the PIF, fees and property tax that are contemplated to be paid to the City on an annual basis for the Owners' Share will be calculated based on a payout of approximately twenty (20) years; and

WHEREAS, the City Council hereby finds that the MOU is necessary for the public's health, safety and welfare and is in the best interests of the City and its residents, businesses and public and private organizations.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That the MOU is hereby approved and the Mayor is authorized to execute it substantially in the form attached as Exhibit "A", together with such revisions and amendments as the City Manager, in consultation with the City Attorney, determines to be

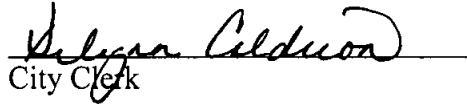
necessary and appropriate to protect the interests of the City or to effectuate the purposes of this Resolution.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 2nd day of January, A.D. 2018.



Mayor

ATTEST:



City Clerk



**MEMORANDUM OF UNDERSTANDING PERTAINING TO DEVELOPMENT OF
INTERSTATE HIGHWAY 25 AND PROSPECT ROAD INTERCHANGE**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this ____ day of January, 2018, (this “**MOU**”) by and between the City of Fort Collins, Colorado, a Colorado home rule municipality (the “**City**”); Fort Collins/I-25 Interchange Corner, LLC, a Colorado limited liability company (“**FCIC**”); Gateway at Prospect Apartments, LLC, a Colorado limited liability company (“**GAPA**”); Land Acquisition and Management, LLC, a Colorado limited liability company (“**LAAM**”) representing a group of tenants in common (collectively, the “**LAAM Owners**”); Paradigm Properties LLC, a California limited liability company (“**Paradigm**”); and Colorado State University Research Foundation, a Colorado non-profit corporation (“**CSURF**”). The City, FCIC, GAPA, the LAAM Owners, Paradigm and CSURF shall hereafter be collectively referred to as the “**Parties**.”

RECITALS

WHEREAS, the interchange at Interstate Highway 25 and Prospect Road (the “**Interchange**”) is owned by the State of Colorado and operated and maintained by the Colorado Department of Transportation (“**CDOT**”); and

WHEREAS, the Interchange is within the City’s boundaries and adjacent to its four (4) corners are several undeveloped parcels of privately-owned land, which parcels are also within the City’s boundaries; and

WHEREAS, FCIC is the fee title owner of a parcel of land adjacent to the northwest corner of the Interchange, which parcel is legally described and depicted in the attached Exhibit “A” incorporated herein (the “**FCIC Parcel**”); and

WHEREAS, GAPA is the fee title owner of a parcel of land adjacent to the northwest corner of the Interchange, which parcel is legally described and depicted in the attached Exhibit “B” incorporated herein (the “**GAPA Parcel**”); and

WHEREAS, the LAAM Owners are the fee title owners of the three (3) parcels of land adjacent to the northeast corner of the Interchange, which parcels are legally described and depicted in the attached Exhibit “C” incorporated herein (the “**LAAM Owners Parcels**”); and

WHEREAS, Paradigm is the fee title owner of the two (2) parcels of land adjacent to the southeast corner of the Interchange, which parcels are legally described and depicted in the attached Exhibit “D” incorporated herein (the “**Paradigm Parcels**”); and

WHEREAS, CSURF is the fee title owner of the two (2) parcels of land adjacent to the southwest corner of the Interchange, which parcels are legally described and depicted in the attached Exhibit “E” incorporated herein (the “**CSURF Parcels**”); and

WHEREAS, hereafter, FCIC, GAPA, the LAAM Owners, Paradigm and CSURF shall be collectively referred to as the “**Property Owners**” and the FCIC Parcel, GAPA Parcel, the LAAM Owners Parcels, Paradigm Parcels and CSURF Parcels shall be collectively referred to as the “**Properties**”; and

WHEREAS, CDOT has notified the City that it is planning a project to significantly modify and improve the Interchange by reconstructing its ramps and bridge and by reconstructing Prospect Road to a configuration with four (4) through lanes, a raised median, left turn lanes and pedestrian and bicycle facilities, with this work to include certain enhanced urban design elements, and expected to begin construction after July 1, 2018 (the “**Project**”); and

WHEREAS, the Project will provide significant public benefits to the City and its residents, and it will benefit the Property Owners by materially increasing the value of the Properties; and

WHEREAS, the City, the Property Owners and the Town of Timnath, Colorado (“**Timnath**”) intend to share in the cost of certain urban design improvements in the Project required under the City’s development standards (the “**Urban Design Features**”); and

WHEREAS, CDOT estimates that the total cost of the Project, as originally proposed by it, will be approximately \$24 million, but it has indicated that it will only provide \$12 million to fund the Project, leaving a \$12 million deficit; and

WHEREAS, the Urban Design Features planned by the City will add an additional \$7 million to the cost of the Project, bringing the total Project cost to \$31 million; and

WHEREAS, CDOT has asked the City to participate in the Project by funding the \$12 million deficit originally identified by CDOT, but the City is only willing to consider funding this deficit if the additional \$7 million of Urban Design Features are included in the Project and if the Property Owners share in funding this \$19 million deficit; and

WHEREAS, the City has also asked Timnath to share in funding this deficit because Timnath will also experience significant public benefits from the Project; and

WHEREAS, the City and Timnath are attempting to negotiate a separate agreement in which Timnath would reimburse the City for \$2.5 million of the \$19 million deficit to be paid over a twenty (20) year period, a copy of which agreement is attached as Exhibit “F” and incorporated herein, (the “**Timnath Agreement**”) thereby leaving a \$16.5 million deficit (the “**Remaining Deficit**”); and

WHEREAS, the City and the Property Owners have agreed to equally share the Remaining Deficit by the Property Owners agreeing to reimburse the City over time a collective fifty-percent (50%) share estimated to be approximately \$8.25 million, plus interest as hereinafter provided, from a combination of property tax, public improvement fees (“**PIF**”) and Project Fees (defined below), as will be set forth in the service Plan of the I-25/Prospect Interchange Metro District (defined below), imposed on and collected from development occurring on the Properties (the “**Shared Deficit**”); and

WHEREAS, the City has also agreed, as described in Sections 3 and 4 below, to credit against the Property Owners’ portion of the Shared Deficit the value of the Property Owners’ land dedicated to CDOT for the Project, including the dedication of rights of way for the Project and Urban Design Features, and a share of the transportation capital expansion fees that are anticipated to be paid to the City pursuant to Fort Collins Code Section 7.5-32 related to the future development of the Properties (the “**Owners’ Share**”); and

WHEREAS, the Property Owners wish to fund their payment of the Owners' Share by including all of the Properties in a master metropolitan district (the "**I-25/Prospect Interchange Metro District**"), which will be created, organized and operated under Title 32 of the Colorado Revised Statutes ("**District Act**"); and

WHEREAS, the Property Owners also wish to use other metropolitan districts to construct and fund some or all of the basic public infrastructure that will be needed in connection with the future development of their individual Properties, whether such development is commercial or residential in nature, as well as for maintenance of such infrastructure and for all other purposes allowed by the District Act (the "**Development Metro Districts**"); and

WHEREAS, the I-25/Prospect Interchange Metro District and the Development Metro Districts shall be collectively referred to herein as the "**Metro Districts**"; and

WHEREAS, because the formation of each of the Metro Districts contemplated hereby will affect the development and tax base of the Properties and will provide funding for the Project and other public improvements, each of the Metro Districts will contribute to essential regional and local public infrastructure that will have significant community benefits, including the provision of transportation improvements within the City; and

WHEREAS, under the District Act the Metro Districts cannot be created without the Council of the City of Fort Collins (the "**City Council**") approving a service plan for each of the Metro Districts (each a "**Service Plan**" and collectively "**Service Plans**") which, together with the District Act, will govern the operation of the Metro Districts and, among other things, their authority to impose, collect, spend and pledge property taxes and Project and District Fees; and

WHEREAS, the Service Plans will also delineate the type of basic public infrastructure and services the Metro Districts are authorized to provide and how the Metro Districts are intended to cooperate with each other, the City and the Property Owners to fund regional and local infrastructure; and

WHEREAS, the Property Owners are further willing, subject to the City Council's approval of the Service Plans, to record against their respective Properties for the benefit of a party to be determined in accordance with applicable law, a covenant, free and clear of all prior liens and encumbrances, except real property taxes, imposing a PIF at a rate from 0.5 % to 1.0%, net of any administrative fees for collection, on all future retail sales on the Properties that are also subject to the City's sales tax under Article III of City Code Chapter 25, (the "**PIF Covenant**") and for that collected PIF to be irrevocably pledged, either in the PIF Covenant itself or in a separate assignment and pledge document executed by the original beneficiary of the PIF Covenant, for the payment of the Owners' Share; and

WHEREAS, the actual amounts of the PIF, Project Fees and property tax to be paid to the City on an annual basis for the Owners' Share will be calculated based on a payout of approximately twenty (20) years; and

WHEREAS, this MOU sets forth the Parties' understanding of how the Owners' Share will be funded and paid over time to the City from the sources identified herein.

NOW, THEREFORE, the Parties hereby set forth their acknowledgements, understandings and intentions under this MOU:

1. **Purpose.** The Parties acknowledge and agree that, except as specifically set forth below, the purpose of this MOU is not to bind the Parties to any obligation but to set forth the Parties' intention to cooperate in good faith to negotiate a binding agreement under which the Property Owners will pay the Owners' Share to the City (the "**Binding Agreement**"), including how the Property Owners intend to use the Metro Districts to pay eligible Project and other public improvement costs.

2. **Metro Districts.**

a. The Parties agree that the Binding Agreement will set out the process and timeline by which the Property Owners will submit to the City a Service Plan for each of the Metro Districts for City staff review and City Council's subsequent formal consideration. Nothing contained herein or in the Binding Agreement shall be deemed to limit the discretion of the City Council in the public hearing process as it considers resolutions of approval of the Service Plans. Each Property Owner may prepare Service Plans and petition the formation of Development Metro Districts as separate "taxing" and "service" districts. Such Service Plans shall be consistent with and satisfy the requirements of the District Act and include, without limitation, the following provisions:

- i. Authority for the Development Metro Districts to impose a property tax levy of up to 80 mills less the amount of the Project Mill Levy (defined below) on the Properties and all other taxable property within the boundaries of the Development Metro Districts to be used to fund the construction, operation and maintenance of public improvements, including basic infrastructure, related to the future development of the Properties (the "**Development Mill Levy**");
- ii. Authority for the I-25/Prospect Interchange Metro District to impose a property tax mill levy at a rate not less than 5.0 mills nor greater than 10.0 mills, net of administrative costs of collection, on the Properties and all other taxable property within the boundaries of the I-25/Prospect Interchange Metro District (the "**Project Mill Levy**").
- iii. Authority for the I-25/Prospect Interchange Metro District to impose development fees on future development on the Properties in amounts agreed to in the Binding Agreement, in an amount to be determined but not to exceed \$5,000 per net developable acre, payable at the time of issuance of each vertical development permit, ("**Project Fees**") and to enter into an intergovernmental agreement with the City to irrevocably pledge all of the revenues from the Project Mill Levy, the Project Fees and the PIF received by the I-25/Prospect Interchange Metro District to the payment of the costs of the Project in an amount not greater than the Owners' Share (the "**Capital Pledge Agreement**"). The Parties agree to proceed in good faith to

negotiate substantially final forms of the Capital Pledge Agreement and the Binding Agreement for attachment as exhibits to the Service Plan for the I-25/Prospect Interchange Metro District, giving specific attention to (a) the method of calculation and adjustment, if any, of the Owners' Share, (b) the timing, duration, and terms of payment from the above-referenced sources of the obligation of the I-25/Prospect Interchange Metro District under the Capital Pledge Agreement; and (c) the effect of delays, if any, in the issuance and publication by the Federal Emergency Management Agency of a final Letter of Map Revisions for the Boxelder Creek Drainage upon such payments. The Binding Agreement and the Service Plans will also reserve to each Metro District the right to charge additional fees or charges for services, programs or facilities furnished by such Metro Districts in addition to those identified herein as being related to the Project ("**District Fees**"), the revenue from which shall not be pledged to the City;

- iv. Condition that the I-25/Prospect Interchange Metro District must submit a ballot issue to its electorate at a May 8, 2018, organizational election that complies with all applicable requirements of Colorado's Taxpayer's Bill of Rights (known as "**TABOR**") and any other applicable law in order to authorize the I-25/Prospect Interchange Metro District to impose the Project Mill Levy and to approve the Capital Pledge Agreement as a binding multiple-fiscal year obligation for payment of the Owners' Share from all or any combination of proceeds of the Project Mill Levy, the Project Fees and the portion of the PIF received by the I-25/Prospect Interchange Metro District, and the voters of the I-25/Prospect Interchange Metro District must approve such ballot issue;
- v. Condition that the Development Metro Districts cannot impose any of the Development Mill Levy, impose any Project or District Fees or issue any debt unless and until the I-25/Prospect Interchange Metro District and the City have entered into the Capital Pledge Agreement;
- vi. Condition that the Development Metro Districts cannot impose any of the Development Mill Levy, impose any Project or District Fees or issue any debt without the Property Owners recording against each of their respective Properties the PIF Covenant, in a form first approved by and acceptable to the City, to be in effect until the Owners' Share is paid in full to the City;
- vii. Condition that the Capital Pledge Agreement shall not be entered into and no Project Mill Levy or Project or District Fees shall be imposed or collected unless and until any proposed Metro District Service Plans, containing the authorities referenced above, that have been duly filed with the City are approved as contemplated in this MOU;
- viii. Requirement that the Project Mill Levy and the Project Fees collected by the I-25/Prospect Interchange Metro District to pay the Owners' Share as required by the Capital Pledge Agreement shall expire when the Owners'

Share is paid in full to the City. The Property Owners and/or each Development Metro District shall retain the right to continue to impose, collect, receive and apply the PIF and any District Fees deemed appropriate by such Property Owner and/or Development Metro District to the extent authorized in the Service Plans and the District Act; and

- ix. Requirement that the I-25/Prospect Interchange Metro District and its right to impose taxes and fees shall terminate upon the payment in full of the Owners' Share.

3. **Property Owners' Right-of-Way Credit.** The Parties understand that CDOT will be seeking to acquire from one or more of the Property Owners portions of their Properties to be used as right-of-way for the Project ("**Project ROW**"). The Binding Agreement will provide that affected Property Owners may elect, in lieu of collecting direct compensation from CDOT, to dedicate their portion of the Project ROW compensation to CDOT and the value of that dedication will be applied as a credit against the Owners' Share ("**ROW Credit**"). The value of the ROW Credit is not currently known by the Parties, but is currently estimated to be within a range of \$500,000 to \$1,000,000. The agreed value of the ROW Credit (solely for purposes of the Binding Agreement) will be addressed in the Binding Agreement. None of the Property Owners intends, by the execution of this MOU or any document contemplated hereby, to waive its rights to full and just compensation for the taking of its property or to due process with respect to such right of way acquisition.

4. **Property Owners' Credit for Transportation Capital Expansion Fees.** The City currently has \$1.4 million of transportation capital expansion fee revenues ("**TCEFs**") available to help fund this Project. In recognition of the TCEFs that the Property Owners are likely to pay to the City when they develop their Properties, the City is willing to agree in the Binding Agreement to credit one half of these available TCEFs, or \$700,000, to the payment of the Owners' Share, so long as the Property Owners are not in default of any applicable terms and conditions of the Binding Agreement ("**TCEF Credit**").

5. **Owners' Share after Credits.** The Parties anticipate that if the Binding Agreement grants to the Property Owners a ROW Credit of \$500,000 and the TCEF Credit of \$700,000, the remaining balance of the Owners' Share will be approximately \$7.05 million plus interest as provided in paragraph 6 below.

6. **I-25/Prospect Interchange Metro District's Obligation to Fund Owners' Share.** The Project Mill Levy, the Project Fees and any PIF revenues received by the I-25/Prospect Metro District shall be imposed, secured and collected in the manner provided by law, and the revenues derived from such taxes and fees shall be pledged pursuant to the Capital Pledge Agreement for payment of the Owners' Share. The obligation of the I-25/Prospect Interchange Metro District to pay the Owners' Share under the Capital Pledge Agreement shall be approved by the electors of the I-25/Prospect Interchange Metro District as provided in Section 2(a)(iv) hereof and shall constitute the unconditional, valid and binding limited tax general obligation of the I-25/Prospect Interchange Metro District, secured by its covenant to impose general ad valorem property taxes at a rate not to exceed 10.0 mills in each year, net of administrative costs of collection, together with the proceeds of PIFs and other available funds and revenues to pay an amount equal to each

annual installment of the Owners' Share identified in the Capital Pledge Agreement. Nothing herein prevents agreements among the Property Owners for the allocation or sharing of all or a portion of the Owners' Share, provided that any agreement among and between the Property Owners or among and between the Metro Districts for the allocation of liability or rights of contribution for payment of the Owners' Share, will be pursuant to separate agreement(s) to which the City will not be a party nor bound to in any way. In the event that revenues allocated in the Capital Pledge Agreement to pay any annual installment of the Owners' Share are not sufficient, the unpaid amount of that installment shall accrue interest from the date payment is due until paid at the interest rate the City charges under its "Inter-agency Loan Program" found in Section 8.8 of its "Financial Management Policy 8."

7. **Future Negotiations.** Upon the full execution of this MOU, the Parties intend to proceed diligently and in good faith to negotiate the Binding Agreement consistent with the acknowledgements, understandings and intentions stated in this MOU. The primary representatives and legal counsel in these negotiations for the City and each of the Property Owners shall be those persons designated in Section 10(a). It is the Parties' intention to complete these negotiations and enter into the Binding Agreement by March 7, 2018.

8. **Capped Costs.** The Parties acknowledge and agree that for purposes of the Property Owners' obligations under this MOU, the Binding Agreement and all other agreements contemplated herein, total Project cost and the total cost of the Urban Design Feature shall be capped at the amounts set forth in the Recitals.

9. **Miscellaneous.**

- a. *Representatives and Notice.* The Parties' respective designated representatives and legal counsel for negotiations and communications concerning the Binding Agreement, and their contact information, are as follows:

For the City:

Mike Beckstead
Chief Financial Officer
300 LaPorte Avenue
PO Box 580
Fort Collins, CO 80524
970-221-6795
mbeckstead@fcgov.com

John Duval
Deputy City Attorney
300 LaPorte Avenue
PO Box 580
Fort Collins, CO 80524
970-416-2488
jduval@fcgov.com

For FCIC and GAPA:

Fort Collins/I-25 Interchange Corner, LLC and/or

Gateway at Prospect Apartments, LLC
c/o Neihart Land Company, LLC
580 Hidden Valley Road
Colorado Springs, CO 80919
Attn: R. Tim McKenna
719-641-6527
tim.mckenna@neihartland.com

With a copy to:

Brownstein Hyatt Farber Schreck, LLP
410 17th Street, Suite 2200
Denver, CO 80202
Attn: Carolynne C. White, Esq.
303-223-1197
CWhite@BHFS.com

For LAAM:

Land Acquisition and Management, LLC
#4 West Dry Creek Cr, Suite 100
Littleton, CO 80120
Attn: Rick White
303-601-5463
rwhite@laam.biz

With a copy to:

Kutak Rock LLP
1801 California Street, Suite 3100
Denver, Colorado 80202
Attn: Daniel C. Lynch, Esq.
303-292-7875
dan.lynch@kutakrock.com

And a copy to:

Kutak Rock LLP
1801 California Street, Suite 3100
Denver, Colorado 80202
Attn: Robert C. Roth, Jr., Esq.,
(303) 292-7802
Robert.RothJr@KutakRock.com

For Paradigm:

Paradigm Properties, LLC
2300 Knoll Drive, Suite A, 2nd Floor
Ventura, CA 93003
Attn: Jeffrey Hill
jeffreyahill@gmail.com

With a copy to:

Kutak Rock LLP
1801 California Street, Suite 3100
Denver, Colorado 80202
Attn: Daniel C. Lynch, Esq.

303-292-7875
dan.lynch@kutakrock.com

For CSURF:

Colorado State University Research Foundation
2537 Research Boulevard, Suite 200
Fort Collins, CO 80526
Attn: Rick Callan
Senior Real Estate Analyst
970-492-4502
Rick.Callan@colostate.edu

With a copy to:

Colorado State University Research Foundation
2537 Research Boulevard, Suite 200
Fort Collins, CO 80526
Attn: Donna Baily, Esq.
Senior Legal Counsel
970-492-4506
Donna.Baily@colostate.edu

- b. *Execution in Counterparts and Facsimile Signatures.* This MOU may be executed in multiple counterparts and with facsimile signatures; each of which will be deemed an original and all of which taken together will constitute one and the same memorandum of understanding.
- c. *Recordation of Agreement.* This MOU shall not be recorded in the office of the Larimer County Clerk and Recorder.

IN WITNESS WHEREOF, the Parties have executed this MOU as the date and year first above written.

FCIC:

FORT COLLINS/I-25 INTERCHANGE CORNER, LLC,
a Colorado limited liability company

By: MCKENNA MANAGEMENT, LLC,
a Colorado limited liability company
its co-Manager

By: _____
Name: R. Tim McKenna
Title: Manager

[Signatures continue on following page(s)]

GAPA:

GATEWAY AT PROSPECT APARTMENTS, LLC,
a Colorado limited liability company

By: MCKENNA MANAGEMENT, LLC,
a Colorado limited liability company
its co-Manager

By: _____

Name: R. Tim McKenna

Title: Manager

[Signatures continue on following page(s)]

LAAM:

LAND ACQUISITION AND MANAGEMENT, LLC,
a Colorado limited liability company, as representative of
100% of the ownership interests in the LAAM Owners Parcels

By: _____

Name: _____

Title: Manager

[Signatures continue on following page(s)]

Paradigm:

PARADIGM PROPERTIES, LLC,
a California limited liability company

By: _____
Name: Jeffrey A. Hill
Title: Managing Member

[Signatures continue on following page(s)]

CSURF:

COLORADO STATE UNIVERSITY RESEARCH FOUNDATION,
a Colorado nonprofit corporation

By: _____

Name: Kathleen Henry

Title: CEO and President