

**RESOLUTION 93-170  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING AN INTERGOVERNMENTAL AGREEMENT RELATED  
TO THE OPERA HOUSE PROJECT**

WHEREAS, on July 6, 1993, the City Council passed Resolution 93-106 approving the forms of a Fifth Supplemental Indenture and a Forbearance Agreement and authorizing the execution and delivery by the City of these and certain other documents relating to the City's Industrial Revenue Bonds (the Opera House Project), Series 1986, in the aggregate principal amount of \$5,800,000; and

WHEREAS, the approvals contained in said Resolution were expressly contingent upon the City Council's subsequent approval of an intergovernmental agreement to be executed by the City, the Downtown Development Authority and all parties having a recorded interest in the Opera House Project, which agreement was to address the level of tenant finish for the Project, the provision of adequate parking facilities for the Project, the level of tax revenues anticipated to be generated by the Project and such other matters as might be necessary to protect the interests of the City; and

WHEREAS, the above-mentioned intergovernmental agreement was to be approved by the Council on or before August 3, 1993, which deadline was subsequently extended by the Council pursuant to Resolutions 93-114, 93-119, 93-136 and 93-156, to August 17, 1993, September 21, 1993, October 19, 1993 and November 2, 1993, respectively; and

WHEREAS, such an agreement has, in fact, been negotiated between the City, the Downtown Development Authority, the Bondholder and all other parties who will hold an interest in the Project upon completion of the bond restructuring which is the subject of Resolution 93-106, which agreement is attached hereto as Exhibit "A" and incorporated herein by this reference ("the Agreement"); and

WHEREAS, the City Council believes that the approval of the Agreement would be in the best interests of the City.

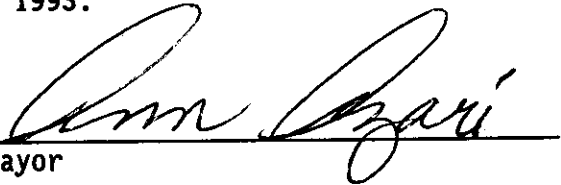
NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the Agreement is hereby approved, and the Mayor is hereby authorized and directed to execute the same at such time as all current liens against the Opera House Project have been released, except for those liens securing the Senior and Junior Bonds, as referenced in the Agreement.

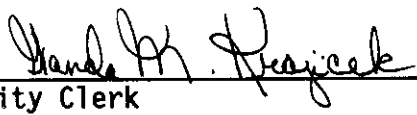
Section 2. That the approval of the Agreement includes the approval of such additional details therein as may be necessary and appropriate for its completion and such modifications thereof, deletions therefrom and additions thereto as may, in the judgment of the City Manager and City Attorney, be necessary to protect the interests of the City and effectuate the purposes of the Agreement.

Section 3. That upon the City's execution of the Agreement and the subsequent approval and execution of the Parking Agreement referred to in Section 4 of the Agreement, the contingency referred to in Section 3 of Resolution 93-106 shall be deemed to have been satisfied and the City Council's approval of the Fifth Supplemental Indenture and the Forbearance Agreement shall become effective.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins held this 2nd day of November, A.D. 1993.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

## AGREEMENT

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 1993, by and among the Fort Collins Downtown Development Authority, a body corporate and politic (the "DDA"), the City of Fort Collins, Colorado, a municipal corporation (the "City"), Historical Opera House Properties, Ltd., a Colorado limited partnership (the "Partnership"), Houlihan Lokey Howard & Zukin, Inc. ("Houlihan") and Opera Galleria I, L.L.C., a Colorado limited liability company ("General Partner").

### PREFACE

In December 1986, the City issued industrial development revenue bonds in the aggregate principal amount of \$5,800,000.00 (the "Tax Exempt Bonds") to finance the acquisition, construction, equipping and rehabilitation of three historical buildings located in downtown Fort Collins, the legal description of which is set forth on Exhibit A, attached hereto and incorporated herein by reference (the "Project"). The Tax Exempt Bonds are presently owned by Van Kampen Merritt Tax Free High Income Fund ("VKM"). In December 1988, the City issued \$1,000,000.00 aggregate principal amount of Taxable Industrial Development Revenue Bonds (the "Taxable Bonds") to provide additional funds for the completion of the Project. The Taxable Bonds are presently owned by several banks.

The Taxable and Tax Exempt Bonds are secured by, inter alia, a mortgage lien on and security interest in the Project (the "Central Bank Lien"). Central Bank of Denver serves as successor trustee (the "Trustee") pursuant to Indentures of Trust executed and delivered in connection with both the 1986 and 1988 bond issues.

In July 1990, the Partnership executed a deed of trust against the Project for the benefit of Investors Real Estate Trust, a North Dakota trust (the "IRET Lien"). In December 1990, the Partnership executed a deed of trust against the Project for the benefit of Fund America Equities Corporation (the "Fund America Lien"), and both the Central Bank Lien and the IRET Lien were subordinated to the Fund America Lien. In 1990, the Partnership conveyed title to the pedestrian mall located within the Project to the DDA (the "Public Mall") by warranty deed recorded at Reception No. 90031701 of the records of the Larimer County Clerk and Recorder's Office.

Proceeds from the City's previously-issued tax increment bonds were used to finance the cost of certain public improvements benefiting the Project. In connection with the issuance of such bonds, the City and the DDA, in October 1988, entered into an

agreement with the Partnership (the "Implementation Agreement") wherein the Partnership agreed to (1) certify to the Larimer County Treasurer an actual value of \$4,500,000.00 for the Project, (2) make a specified payment to the City in the event of a shortfall in tax increment generated by the Project and (3) refrain from seeking a reassessment of the valuation of the Project below a certain specified level through the year 2005. In July 1990, the City, the DDA, the Partnership and VKM entered into an agreement (the "1990 Agreement") in which VKM agreed not to seek a reassessment of valuation of the Project below an actual value of \$6,087,000.00 and an assessed value of \$1,765,460.00 through July 20, 1995.

The Partnership is currently in default on the obligations owed to VKM, IRET and Fund America. Further, the Partnership has not paid real property taxes on the Project; tax certificates for tax years 1990 and 1991 have been issued (the "Tax Certificates") and taxes for tax year 1992 are in default. Edward B. Cordes was appointed as the receiver for the Project ("Receiver") in January 1993.

In April 1993, Houlihan entered into an agreement to purchase the Tax Exempt and the Taxable Bonds and the Trustee has requested that the City adopt a resolution approving the restructuring of the Bonds. Houlihan intends to separate the Tax Exempt Bonds into \$3,060,000.00 aggregate principal amount of senior bonds (the "Senior Bonds") and \$2,740,000.00 of subordinate bonds (the "Subordinate Bonds"). The Senior Bonds shall be secured by a first mortgage lien on and security interest in the Project while the Subordinate Bonds shall be secured by a junior mortgage lien and security interest in the Project. The Taxable Bonds will be retired in full, the indebtedness owing to IRET shall be satisfied in full (and the IRET Lien released) and the Fund America Lien shall be released.

In order to improve the economic viability of the Project, Houlihan and the Partnership have requested that the City and the DDA agree to amend and restate the Implementation Agreement and the 1990 Agreement. The Board of Directors of the DDA and the City Council of the City believe that the Project serves an important public purpose by contributing to the economic viability and aesthetic appearance of downtown Fort Collins.

The parties desire to enter into a new agreement which sets forth the continuing rights and obligations of the parties in connection with the Project.

NOW, THEREFORE, by and in consideration of the above premises and the within terms and conditions, the parties hereto agree as follows:

1. SUPERSEDE PREVIOUS AGREEMENTS

This Agreement shall supersede any and all provisions of the Implementation Agreement and the 1990 Agreement, provided that nothing herein shall be deemed to have any effect on the Declaration of Covenants, Conditions and Restrictions for the Project filed of record with the Clerk and Recorder of Larimer County, Colorado at Reception No. 92078075 which shall remain in full force and effect and continue to bind the property described on Exhibit A.

2. REAL PROPERTY TAXES

2.1 Upon execution of this Agreement, the DDA, the City and the Partnership agree to certify in writing to the Larimer County Treasurer, and any other administrative or judicial body or forum with jurisdiction over a proceeding or controversy involving the Project's valuation for tax year 1992, an actual valuation of the Project necessary to result in a Required Tax Level, as defined hereinafter, of \$125,000.00 for tax year 1992.

2.2 For tax years 1992 through 2005, inclusive, the Partnership, Houlihan and the General Partner agree not to seek a reduction in the assessed valuation of the Project or to seek an abatement of real property taxes which would result in such taxes being assessed against the Project below the following described levels (the "Required Tax Levels"):

<u>Tax Year</u>	<u>Property Taxes Assessed</u>
1992	\$125,000
1993	\$120,000
1994	\$110,000
1995 through 2005, inclusive	\$100,000

Further, such parties shall not seek an abatement of property taxes assessed against the Project for any tax year prior to 1992. The DDA and the City agree that they will not contest an appeal by the Partnership for a reduction in the assessed valuation of the Project for tax years 1992 through 1995, inclusive, provided that such reduction does not fall below the Required Tax Levels.

2.3 No later than December 31, 1993, the Partnership shall fully pay and cancel the Tax Certificates which have been issued by the Larimer County Treasurer for failure to pay property taxes on the Project for tax years 1990 and 1991.

2.4 In the event that real property taxes assessed against the Project are reduced by reason of a valuation challenge, abatement effort or appeal initiated by Houlihan, the Partnership or the General Partner, which reduction causes the annual property tax to fall below the Required Tax Levels for any tax year between 1992 and 2005, inclusive (the "Valuation Breach"), the Partnership,

for itself and its successors and assigns, agrees that it shall make a payment in lieu of taxes directly to the City in each year in which such shortfall occurs, in an amount equal to the loss of property tax revenues to the City caused by the Valuation Breach. Such sum shall be paid no later than September 1 in each year in which such a shortfall exists and, upon payment, shall be deposited into the DDA Tax Increment Fund of the City.

The breach of the obligation of the Partnership to make payments in lieu of taxes as set forth herein shall constitute a default by the Partnership in the Parking Agreement (as defined in Section 4 hereinafter) and shall permit the City to thereupon unilaterally revoke the Parking Agreement.

2.5 The Partnership, Houlihan and the General Partner agree that they and their successors and assigns shall be estopped from asserting that any provision of paragraph 2 is void, voidable or in any way legally unenforceable.

### 3. PROJECT IMPROVEMENTS

The Partnership and Houlihan shall cause a \$1,100,000.00 fund to be established from proceeds from the remarketing of the Senior Bonds, which fund shall be used only for the construction of tenant improvements to the Project as needed for the benefit of its tenants and projected to be exhausted during a three-year period commencing upon execution of this Agreement.

Documents shall be executed at the time of closing on the purchase of the Bonds which shall establish, to the satisfaction of the City and the DDA and consistent with this section, (1) the creation of such fund, (2) the funding thereof, (3) the availability of such fund for tenant finish improvements and (4) the right of the DDA and the City to inspect the financial records of the Partnership and Houlihan in connection with such fund for the purpose of determining compliance with the provisions of this paragraph. The execution of such documents shall be an express condition of the City's execution and delivery of the Fifth Supplemental Indenture referenced in Resolution 93-106 of the City Council of the City.

### 4. PARKING LOT

The City contemplates entering into an agreement with the Partnership to lease certain parking lot spaces in the LaPorte America Lot, which agreement will contain substantially the following terms and conditions (the "Parking Agreement"):

a. The City will provide the Partnership with fifty (50) full-time parking spaces at the LaPorte America Lot for so long as these spaces are offered by the City for parking.

b. The City will provide the Partnership with the opportunity to lease up to seventy (70) additional parking spaces at the LaPorte America Lot, up to fifty (50) parking spaces on the third floor of the downtown parking garage and up to twenty (20) parking spaces on Block 31, on a space-available basis. If these spaces are not leased to third parties, they will be available for lease first by the Partnership on an annual basis and then to other parties. Once the Partnership begins leasing a space, it will have the opportunity to continue to lease that space annually thereafter at the current rental rate for so long as these spaces are offered by the City for parking.

c. The monthly fee for the parking spaces will be Ten Dollars (\$10.00) per parking space on the LaPorte America Lot and Block 31 and Fifteen Dollars (\$15.00) per space in the parking garage. The Fifteen Dollar (\$15.00) rate is due to the fact that the parking garage provides covered parking. These rates are the present rates determined by the City Council of the City for parking in these places.

d. The lease will require that a minimum of fifty (50) parking spaces be leased at any given time. The number of parking spaces may be increased on a monthly basis if additional spaces become available.

e. The lessee will pay an advance rental amount of Fifty Thousand Dollars (\$50,000.00) upon the closing of the lease. This Fifty Thousand Dollars (\$50,000.00) will be applied to the amounts due by the lessee under the lease until these funds are exhausted. At that time, the lessee will pay the annual lease costs in advance for the next year of the lease. If the number of parking spaces increases, rent for these spaces, through the then-existing annual term, will be paid immediately for these additional spaces.

f. The monthly rental amount for each parking space will not be increased until the advanced rental payment of Fifty Thousand Dollars (\$50,000.00) is exhausted. At that time, and thereafter, the monthly rental

amount for each parking space will equal the amount charged by the City for parking spaces in the lots where these spaces are located.

g. Houlihan and the Partnership will acknowledge that a condition of approval of the planned unit development for the Project was that the owner of the Project have available for employees, tenants and patrons of the Project at least forty (40) parking spaces in the LaPorte America Lot and that in the event Houlihan, the Partnership or their successors fail to meet such condition, then in accordance with §118-83L of the Land Development Guidance System of the City, such failure may subject Houlihan and the Partnership to the enforcement remedies of §29-4 of the Code of the City and such other remedies as may be available at law.

h. In the event any parking space leased to the lessee is no longer offered by the City for parking, these parking spaces will be removed from this Agreement until such time as these spaces are again offered by the City for parking, if ever. However, if parking spaces are so removed, the lessee shall have the first opportunity to lease an equal number of available parking spaces owned by the City on the same terms and conditions set forth in the lease.

## 5. MAINTENANCE OF PUBLIC MALL

The Partnership shall be obligated to provide for the maintenance and repair of the Public Mall and to pay for any and all costs and expenses associated therewith, including, but not limited to, general liability insurance in a minimum amount equal to the maximum liability limits for public entities as established by the Governmental Immunity Act (C.R.S. §24-10-101 et seq.). In the event that ownership of the Public Mall is transferred to the City, the Partnership shall continue to be obligated to provide for the maintenance and repair of such area in accordance with the terms of this provision.

## 6. REPLACEMENT

In the event that the Project or any portion thereof shall be damaged or partially or totally destroyed while the Partnership or its successors owns any part thereof and before the DDA has retired its debt obligations incurred to finance the costs of the Project constructed hereunder, the Partnership shall promptly repair, rebuild or restore that property which it owns and which has been



damaged or destroyed in a manner substantially consistent with the initial construction thereof, subject to the inability to restore historic structures. Upon the happening of such event, the Partnership shall promptly given written notice thereof to the DDA. Proceeds from insurance policies resulting from claims for such losses shall be deposited in a trust account approved by the DDA to be held for the sole purpose of paying the cost of such repair and rebuilding or restoration. If said net proceeds are insufficient to pay in full the cost of such repair, rebuilding or restoration, it shall be the responsibility of the Partnership to complete the work thereof and provide for payment of the portion of the cost thereof which is in excess of the amount of said proceeds; provided, however, that following the DDA's recapture of the costs of the Project, such net proceeds shall be utilized at the Partnership's discretion.

#### 7. TRANSFER OF PROJECT

The Partnership agrees for itself and for all of its successors and assigns of any interest in the Project or any part thereof that any subsequent deed of sale of the Project or any part thereof shall contain covenants on the part of the Partnership, its successors and assigns that such successors and assigns shall be bound by the terms of this Agreement and shall, at the time of such transfer, provide the DDA with an addendum to this Agreement obligating such successor or assignee to perform any and all responsibilities or obligations of the Partnership in accordance with the terms hereof.

#### 8. RIGHT OF INSPECTION

The DDA, the City or their authorized representatives shall have full and complete access to the Public Mall and to the alley adjacent to the Project for any purpose whatsoever, including access for inspection to ensure compliance by the Partnership of the obligations to maintain and repair the Public Mall.

#### 9. INSURANCE

The Partnership, its successors and assigns shall either directly or through its contractors continually maintain in effect insurance against such risks, both generally and specifically with respect to the Project, as are customarily insured against in developments of like size and character and including, but not limited to:

9.1 Casualty Insurance. Casualty insurance insuring the Project, including the Public Mall portion thereof, to its full replacement value against any loss or damage, including, but not limited to, damage by fire, lightning, winds, storm, hail, explosion, collapse, vandalism, malicious mischief and damage from aircraft and vehicles and smoke damage and such other risks as are from time to time included in standard all-risk coverage

endorsements in the State of Colorado. The minimum amount of coverage of the premises comprising the Project shall be the insurable value of the Project as determined by the replacement cost approach without allowance for depreciation but in no event less than \$1,000,00.00 per occurrence;

9.2 Boiler and Pressure Vessel Insurance. Boiler and pressure vessel insurance in an amount sufficient to protect the Project during all periods when a boiler or pressure vessel is on the Project;

9.3 Comprehensive General Liability Insurance. Comprehensive general liability insurance, including blanket contractual liability insurance and comprehensive automobile insurance (for vehicles operated in connection with the Project) against liability for personal injury, including death, to persons resulting from injuries occurring on or in any way related to the Project in a minimum amount of \$1,000,000.00 per occurrence;

9.4 Physical Damage Insurance. Physical damage insurance insuring the full fair market value of the Project and the Public Mall;

9.5 General Insurance Provisions. All other forms of insurance required generally by the State of Colorado for entities such as the Partnership and the Partnership's contractor, including, without limitation, Workers' Compensation Insurance, with minimum limits at least equivalent to those minimum amounts required by the State of Colorado from time to time during the construction and operation of the Project. Such insurance coverage may consist of a combination of primary and umbrella policies, with deductibles no greater than \$50,000.00; and

9.6 DDA and City as Additional Insureds. Each policy obtained pursuant to this section as outlined above shall name the DDA and the City as additional insureds as their interests may appear. Any such insurance coverage shall contain a provision that each insurer shall give the DDA at least thirty (30) days' prior written notice of cancellation, non-renewal or material change in policy.

## 10. REMEDIES

In the event of any default in or breach of this Agreement or any of its terms or conditions by any of the parties hereto or any successor in interest, such party or successor shall, upon written notice from the others, proceed immediately to cure or remedy such default or breach and in any event, shall cure any such default or breach within sixty (60) days of receipt of such notice. In case such action is not taken or is not diligently pursued or the default or breach cannot be cured or remedied within the aforesaid time, the aggrieved party may institute such proceedings as may be

necessary and desirable in its opinion to cure the default or breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligation. The parties hereto acknowledge that once construction has commenced, damages to the Partnership and the DDA, as the case may be, are incapable of measurement. Any costs, including attorneys' fees, incurred by the non-defaulting party to cure or remedy any default or breach shall be recoverable by said party from the defaulting party.

## 11. SPECIAL PROVISIONS

11.1 Colorado Law. This Agreement shall be deemed to have been made in the State of Colorado, and its validity, construction, performance, breach and operation shall be governed by the laws of the State of Colorado.

11.2 Non-Exclusive Remedies. No right or remedy conferred hereunder is exclusive of any other right or remedy, but each such right or remedy is accumulative and is in addition to any other right or remedy provided by law and may be exercised without exhausting and without regard to any other right or remedy.

11.3 Waivers. No waiver by the Partnership or the DDA of any defect shall affect any subsequent default or breach of duty or contract or shall impair the exercise of any right or remedy occurring upon any default or the exercise thereof, nor shall it be construed as a waiver of any such default or breach of duty or contract or action therein.

11.4 Notices. Notices, demands or other communications under this Agreement by any party to the other party shall be delivered to:

a. In the case of the Partnership, to Historical Opera House Properties, Ltd., c/o Opera Galleria I, L.L.C., 3600 S. Yosemite, Denver, CO 80237; and

b. In the case of the DDA, to Fort Collins Downtown Development Authority, One West Art Center, 201 South College Avenue, Fort Collins, Colorado 80524, Attention: Executive Director; and

c. In the case of the City, to City of Fort Collins, P. O. Box 580, Fort Collins, Colorado 80522; and

d. In the case of Houlihan, to Houlihan, Lokey, Howard and Zukin Capital, Public Finance Group, 1930 Century Park West, 2nd Floor, Los Angeles, California 90049; and

e. In the case of the General Partner, to Opera Galleria I, L.L.C., 3600 S. Yosemite, Denver, CO 80237.

11.5 Amendments. This Agreement may be supplemented or amended only by written instrument executed by the parties affected by such supplement or amendment.

11.6 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original but all of which, taken together, shall constitute one and the same document.

11.7 Attorneys' Fees and Costs. In the event either party defaults in any of the covenants or obligations in this Agreement, the defaulting party will pay all reasonable expenses of enforcing this Agreement, including reasonable attorneys' fees.

11.8 Scope of Liability. Except with respect to all liabilities and obligations of the Partnership arising under Section 2 of this Agreement, any recovery made by the City or the DDA on account of any such liabilities and obligations shall be limited to the assets of the Partnership. In any event, the Partnership's obligations under the Agreement shall terminate at such time as it is no longer the owner of the Project.

## 12. BENEFIT, BINDING EFFECT, COVENANT

The property described on Exhibit A shall be held, sold and conveyed subject to the terms, conditions, restrictions and covenants of this Agreement, which shall run with the land and which shall be binding on and inure to the benefit of all parties having any right, title or interest in the described property or any part thereof and their heirs, successors and assigns.

## 13. SEVERABILITY

If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and such remainder would then continue to conform to the requirements of applicable laws.

## 14. CONTINGENCIES

This Agreement shall be expressly contingent upon the closing of the purchase of the Taxable and Tax Exempt Bonds by Houlihan from sellers of such Bonds. This Agreement shall further be expressly contingent upon the execution of the lease agreement contemplated in and consistent with the provisions of paragraph 4 herein.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

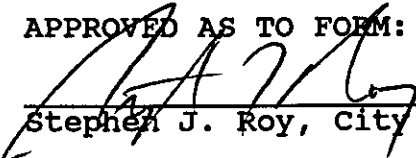
FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic

By:   
Robert L. Steiner, Executive Director

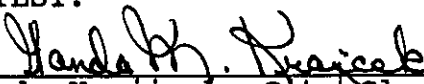
THE CITY OF FORT COLLINS, COLORADO, a municipal corporation

By:   
Steven C. Burkett, City Manager

APPROVED AS TO FORM:

  
Stephen J. Roy, City Attorney

ATTEST:

  
Wanda Krajicek, City Clerk

HISTORICAL OPERA HOUSE PROPERTIES, LTD., a Colorado limited partnership,

By: OPERA GALLERIA I, L.L.C., a Colorado limited liability company, general partner

By: \_\_\_\_\_  
John M. Sevo, Manager

HOULIHAN LOKEY HOWARD & ZUKIN, INC.

By: \_\_\_\_\_  
Rob Deutschman, Vice President

OPERA GALLERIA I, L.L.C., a Colorado limited liability company, general partner

By: \_\_\_\_\_  
John M. Sevo, Manager

EXHIBIT A  
TO AGREEMENT BY AND AMONG  
THE FORT COLLINS DOWNTOWN DEVELOPMENT AUTHORITY, THE CITY OF FORT COLLINS, COLORADO,  
HISTORICAL OPERA HOUSE PROPERTIES, LTD., HOULIHAN LOKEY HOWARD & ZUKIN, INC. AND  
OPERA GALLERIA I, L.L.C.

**Parcel 1**

Lot 1, Opera House Block Building P.U.D. according to the recorded plat thereof, City of Fort Collins, County of Larimer, State of Colorado. Also Lot 8, Block 21, City of Fort Collins, except Opera House Block Building P.U.D., County of Larimer, State of Colorado; formerly known as Lots 5, 6, 7, and 8, Block 21, City of Fort Collins, County of Larimer, State of Colorado.

**Parcel 2**

Lots 9, 10, and 11, Block 21, City of Fort Collins except six inches (6") off the North side Lot 11, according to the recorded plat thereof, County of Larimer, State of Colorado.

**Parcel 3**

The North six inches (6") of Lot 11, and all of Lots 12 and 13, and the South six inches (6") of Lot 14, Block 21, in the City of Fort Collins, Colorado, including any rights as conveyed in Party Wall Agreement, dated March 2, 1925, recorded March 26, 1925, in Book 506, at Page 473, executed by August C. Klyver and The Partner Investment Company, and including any rights as contained in Decree, dated March 31, 1947, recorded April 1, 1947, in Book 831, at Page 301, in case styled the Moody-Warren Commercial Company, a corporation, Plaintiff vs. Fred Klyver, Executor of The Estate of August C. Klyver, *et al.*, County of Larimer, State of Colorado. Except that parcel conveyed to Fort Collins Downtown Development Authority by deed dated July 23, 1990, at Reception No. 90031701.

County of Larimer,  
State of Colorado.