**CITY OF CENTENNIAL/SOUTHGLENN**

**AMENDED AND RESTATED**

**MASTER DEVELOPMENT AGREEMENT**

**DATED: \_\_\_\_\_\_\_\_\_\_\_**

Approval of this Agreement constitutes a vested

property right pursuant to Article 68 of Title 24, C.R.S., as amended.

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**AMENDED AND RESTATED**

**MASTER DEVELOPMENT AGREEMENT**

**STREETS AT SOUTHGLENN**

This Amended and Restated Master Development Agreement (this “**Agreement**”) is entered into by the City of Centennial, Colorado, a Colorado home rule municipality (“**Centennial**”), the Centennial Urban Redevelopment Authority, a body corporate and politic of the State of Colorado (“**CURA**”), SOUTHGLENN PROPERTY HOLDINGS, LLC, a Delaware limited liability company (“**Developer**”), and the Southglenn Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado organized pursuant to Article 1 of Title 32 of the Colorado Revised Statutes (“**District**”). Centennial, CURA, Developer and District collectively may be referred to as ‘**Parties**.”

**RECITALS**

1. Centennial, CURA, Developer (as successor-in-interest to AW Southglenn, LLC, a Delaware limited liability company), and the District are parties to that certain Master Development Agreement recorded December 26, 2006, under Reception No. B6178989, (“**First Amendment**”), Second Amendment to Master Development Agreement recorded March 25, 2008, under Reception No. B8034616, and recorded April 9, 2008, under Reception No. B8041062 (collectively, the “**Original MDA**”), with respect to certain real property generally known as the Southglenn Mall site, as more particularly described on Exhibit A (the ‘**Property**”).
2. Pursuant to Section 1.4 of the Original MDA, the Original MDA (including Article 4 thereof) may be amended by, and only by, a written agreement signed by Centennial, CURA, Developer and the District.
3. Centennial, CURA, Developer and the District desire to amend and restate the Original MDA and herewith do so amend the same effective as of the Effective Date, it being the intention that the Original MDA shall be amended in its entirety by restating the same in its entirety, and as so amended and restated, that it shall remain in full force and effect; and Centennial, CURA, Developer and the District have entered into this Agreement to accomplish such purpose and for the purposes herein stated.
4. Developer owns certain real property generally known as the Streets at Southglenn, as more particularly described on Exhibit A (the ‘**Property**”).
5. Developer desires to redevelop the Property as a retail-based, mixed-use project, which may include:

1. Commercial uses, including general and specialty retail uses;

2. Multi-family residential uses;

3. Entertainment and restaurant uses; and

4. Office and community business uses.

1. Developer submitted to Centennial an application for a Master Development Plan and certain amendments thereto (“**MDP**”), as such term is defined in Section 1.1, for the Property, copies of which is on file in the Community Development Department of the City of Centennial and made a part hereof by reference.
2. Developer is amending the MDP in connection with a redevelopment of the Property, in response to the changing retail environment, in order to ensure the long-term viability of the Property (the “**Amended MDP**”).
3. Centennial is willing to approve and execute said Amended MDP upon the agreement of Developer and the District to the matters hereinafter described, and subject to all the requirements, terms and conditions of the ordinances, rules, regulations arid standards of Centennial including but not limited to the Centennial LDC (including zoning and subdivision regulations), the Centennial Roadway Design and Construction Standards, Storm Drainage Design and Technical Criteria, Stormwater Quality Regulations, and all other governing regulations (Collectively, the “**Standards**”) in effect at the time the Construction Plans (as hereinafter defined) are approved by Centennial. To the extent that the Amended MDP deviates from the Standards, the Amended MDP shall govern.
4. By separate agreement, Centennial has delegated its land use and building inspection authority over the Project to the Centennial Urban Redevelopment Authority to implement and administer Centennial’s zoning, subdivision and building regulations contained in the Centennial Municipal Code to process and take action on all administrative site plan applications and other applicable permits and occupancy certificates affecting the Project. Such agreement also designates and commits City staff and City resources in meeting CURA’s obligations for land use and building inspection authority over the Project. In performing such obligations for CURA, Centennial will act on CURA’s behalf in conducting administrative and other actions in the review of development plans, engaging in public outreach, scheduling of meetings and hearings, and conducting meeting and hearings and rendering decisions regarding development applications and administrative site plans.
5. Centennial has estimated and the Parties have discussed establishing a maximum limit on fees imposed by CURA for land use review services and building inspections associated with review and approval of the ASPs and with the permitting and inspection of major elements of the Project as more specifically set forth in this Agreement.
6. The Vested Property Rights Statute (as defined in Section 1.1) provides for the establishment of vested property rights in order to advance the purposes stated therein and authorizes Centennial to approve this Agreement providing for vesting of property development rights for a period of twenty (20) years.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties covenant and agree as follows:

1. **DEFINITIONS AND GENerAL PROVISIONS**
   1. Definitions. The following terms shall have the meanings indicated below:
      1. Administrative Site Plan or “ASP”. The subsequent plan or plans approved administratively by Centennial, on behalf of the Centennial Urban Redevelopment Authority, following approval of the Amended MDP consisting generally of a site development plan, drainage plan, traffic impact study and other plans and information specified in Article 3 of this Agreement.
      2. Administrative Site Plan Improvement Agreement. The agreement(s) that may be entered into upon ASP approval as described in Section 3.5 of this Agreement.
      3. Affiliate. Any entity owned, controlled, managed, or under common ownership by, directly or indirectly, Developer and any entity in which Developer is a member, shareholder, or joint venturer.
      4. Agreement. This Amended and Restated Master Development Agreement dated \_\_\_\_\_\_\_\_\_\_\_\_\_.
      5. Centennial. The City of Centennial, a municipal corporation of the State of Colorado.
      6. Centennial Land Development Code. The City of Centennial Land Development Code (“LDC”) as adopted by Ordinance No. 2010-O-13 and Ordinance No. 2011-O-14 and codified in the Centennial Municipal Code and as modified by subsequent ordinances, including the Roadway Design and Construction Standards Manual, Stormwater Management Manual, Grading, Erosion, and Sediment Control (“GESC”) Manual, and all other governing regulations adopted by Centennial, and as may be amended from time to time. Section references to the LDC herein refer to the sections of the City of Centennial Land Development Code.
      7. Centennial Municipal Code. The City of Centennial Municipal Code, including the LDC, as in effect on the Effective Date (or where this Agreement expressly states otherwise, at the particular time stated).
      8. Centennial Urban Redevelopment Authority. The urban renewal authority formed in accordance with C.R.S. §31-25-101 *et. seq*. by City Council pursuant to Resolution No. 2005R-73. The Centennial Urban Redevelopment Authority may be referred to herein as the “**CURA**;” references to CURA include, as applicable, CURA-designated staff and consultants acting on behalf of CURA.
      9. City Council. The City Council of Centennial.
      10. Community Development Director or “**Director**”. The person appointed to oversee the Community Development Department and designated by CURA to render administrative approvals and take such other actions as specified in this Agreement, or such Director’s designee.
      11. Comprehensive Plan. The adopted comprehensive or master plan for the City of Centennial including any sub-area plans, as amended.
      12. District. The Southglenn Metropolitan District, a quasi-municipal corporation and political subdivision of the state organized pursuant to Article I of Title 32 of the Colorado Revised Statutes.
      13. Effective Date. The date first set forth above on the cover page of this Agreement, which shall be the date on which City Council takes final action to adopt an ordinance approving this Agreement and authorizing the Mayor to execute this Agreement on behalf of Centennial.
      14. Exhibits. The following Exhibits to this Agreement, each of which are incorporated by reference into and made a part of this Agreement:

Exhibit A – Legal Description of the Property.   
 Exhibit B – Legal Description of the South Redevelopment Area.

* + 1. Final Plat. The final plat, and subsequent final plats or replats, submitted by Developer for the Property and processed by Centennial pursuant to the requirements and procedures set forth in the LDC.
    2. Master Development Plan or “**MDP**”. The Centennial-approved Master Development Plan for the Property as incorporated herein by reference and approved pursuant to Ordinance No. 2006-0-09, as amended by that certain (i) Administrative Amendment No. 2 recorded under Reception No. B7116104; (ii) Administrative Amendment No. 3, recorded under Reception No. B7159027; (iii) Amendment No. 4, recorded under Reception No. B7159027; (iv) and Amendment No. 5, recorded at Reception No. B9019482; (v) Amendment No. 6, recorded at Reception No. \_\_\_\_\_\_\_\_\_; (vi) Amendment No. 7, recorded at reception No. \_\_\_\_\_\_, and (vii) Amendment No. 8, approved by the City concurrently with this Agreement, as such MDP may be further properly amended in accordance with the Centennial LDC and this Agreement. The MDP shall include the plan exhibit, approved drainage, grading, demolition, landscaping, and lighting plans, and all other associated plans and drawings, including the Streets at Southglenn Architectural Design Guidelines dated April 12, 2006 and Streets at Southglenn Tenant Sign Criteria dated April 13, 2006 submitted by the Developer as part of the MDP application as may be amended from time to time.
    3. Project. The proposed development of the Property as generally described in Recital E and in the Amended MDP.
    4. Project Plan. This Agreement and the Amended MDP, as approved by City Council, together with any ASPs for the Property which Centennial processes and approves as a “site specific development plan” (as defined in the Vested Property Rights Statute) after the Effective Date, and which collectively and individually shall constitute “site specific development plans” establishing vested property rights in accordance with the Vested Property Rights Statute and this Agreement.
    5. Property. The real property described on Exhibit A attached to this Agreement consisting of approximately 68.46 acres.
    6. Retail Use. A use for which the primary and predominate activity is the display and retail sales of goods, merchandise and/or services subject to local sales tax imposed by Centennial.
    7. Site Civil Construction Drawings. The plans, drawings and information submitted by the Developer from which the public and private improvements for the Project are built.
    8. Vested Property Rights. The right to construct, or reconstruct, all improvements existing in, on, or under the Property as of the Effective Date, plus the rights described in Article 5 of this Agreement.
    9. Vested Property Rights Regulations. Section 12-14-606 of the Centennial LDC in effect as of the Effective Date.
    10. Vested Property Rights Statute. Sections 24-68-101, *et seq*. of the Colorado Revised Statutes in effect as of the Effective Date.
  1. Covenants. The provisions of this Agreement shall constitute covenants or servitudes that shall touch, attach to and run with the land comprising the Property. The burdens and benefits of this Agreement shall bind and inure to the benefit of all estates and interests in the Property and all successors in interest to the Parties to this Agreement, except as otherwise provided herein.
  2. Term of Agreement. The term of this Agreement shall commence upon the Effective Date and continue until all obligations related to the development of the Property have been satisfied, or this Agreement has been otherwise terminated as provided herein. Once all obligations related to development of the Property have been satisfied in accordance with the terms of this Agreement, the Parties shall execute and record written documentation evidencing the same.
  3. Amendment of Agreement. Except as otherwise set forth in this Agreement, this Agreement may be amended or terminated only by mutual consent of Centennial, CURA and Developer in writing following the public notice and public hearing procedures required for approval of this Agreement, if any maybe applicable. For the purposes of any amendment to Section 5.2 of this Agreement, written consent of the District shall also be required. Any successor to the Developer’s interest in any portion of the Property shall also constitute the “Developer” for purposes of amending this Agreement relative only to the portion of the Property owned and only so long as such amendment does not impose greater obligations or decrease the benefits under this Agreement for any other owner of a portion of the Property. An amendment to any component of the Project Plans other than this Agreement shall not constitute or require an amendment to this Agreement.

1. **MASTER DEVELOPMENT PLAN; ZONING**
   1. Zoning. The Property shall be zoned MU-PUD as provided in this Agreement and the Amended MDP, provided the Amended MDP meets all current regulations of Centennial.
      1. Requirement for Retail Use. In accordance with the Amended MDP, the Project shall include, at full build-out based upon a future amendment to the site plan on Sheet 5 of the MDP, a minimum of 621,000 square feet of building area devoted to Retail Use (“**Minimum Retail**”). The Developer’s satisfaction of the requirement for Minimum Retail is a principal and material element of this Agreement. For the avoidance of doubt, the Minimum Retail requirement shall not apply to the portion of the Property described in Exhibit B attached hereto (the “**South Redevelopment Area**”); provided, however, retail square footage located on the South Redevelopment Area from time to time (as such retail square footage may be increased or reduced, in the sole discretion of the Owner of the South Redevelopment Area) may be counted towards satisfaction of the Minimum Retail requirement. However, Centennial and CURA acknowledge and agree that no Owner of the South Redevelopment Area or any portion thereof has any obligation to Centennial or CURA to construct building area for Retail Use, maintain or expand any existing building area for Retail Use, and/or rebuild any portion of any existing building area for Retail Use. Should CURA determine, through the progression of ASP submittals, proposed amendments to the Amended MDP, or otherwise, that the Project (together with the South Redevelopment Area) does not or likely will not provide the Minimum Retail, it shall immediately notify Developer in writing of CURA’s determination of deficiency. If Developer does not respond to CURA’s written notice within ten (10) business days providing reasonable documentation and evidence, to the reasonable satisfaction of CURA, that the Project (together with the South Redevelopment Area) does or will satisfy the Minimum Retail for the Project (including the South Redevelopment Area), CURA may suspend processing of future ASPs for the Project until either: (1) the Developer provides reasonable documentation and evidence, to the reasonable satisfaction of CURA, that the Project (together with the South Redevelopment Area) does or will satisfy the Minimum Retail; or (2) the Developer submits an application and receives approval from Centennial for a major amendment to the Amended MDP in accordance with the process set forth in Section 2.2(A) below.
      2. Maximum Residential Density. In accordance with the Amended MDP, the Property is divided into a North Redevelopment Area and a South Redevelopment Area, each as set forth in the Amended MDP. The maximum residential density within the South Redevelopment Area is 550 residential dwelling units; the maximum residential density on the remainder of the Property, including the North Redevelopment Area, is 575 residential dwelling units. This total includes the original 350 residential dwelling units within the Property approved in the Amended MDP. The Parties recognize and agree that residential use of the Property is secondary to meeting the requirement for Minimum Retail; provided, however, that any failure to meet the requirement for the Minimum Retail shall not reduce or in any way limit the number of residential units permitted within either the North or South Redevelopment Area pursuant to this Section 2.1(B). A proposed increase above 550 residential dwelling units for the South Redevelopment Area or an increase above 575 residential dwelling units for the North Redevelopment Area and the remainder of the Property shall require the Developer to submit an application and receive approval from Centennial for a major amendment to the Amended MDP in accordance with the process set forth in Section 2.2(A) below.
      3. Building Height. For purposes of this Section, building height shall mean the vertical distance from the average finished grade immediately adjacent to the structure to the highest point of the structure, including rooftop appurtenances. Building heights for the Property and the South Redevelopment Area shall be restricted, if at all, as set forth in the Amended MDP.
   2. Amendments to MDP. Amendments to the MDP and Amended MDP (which, for the purposes of this Agreement, shall be deemed to be the site plan for the Property) shall be processed as either a “Major Amendment” or a “Minor Amendment” in accordance with the following process:
      1. Major Amendments.
         1. Applicability. A Major Amendment to the MDP or Amended MDP shall mean and include any one of the following:
            1. any increase in the number of approved residential dwelling units;
            2. any decrease in Minimum Retail;
            3. addition of or a change in the uses permitted or authorized by the MDP or Amended MDP, as applicable;
            4. an increase in building height above the maximum applicable building height standard;
            5. a decrease of more than five percent (5%), or any increase greater than five percent (5%), in the amount of open space depicted by the MDP or Amended MDP, as applicable;
            6. the inclusion of property into the Project that was not depicted as within the MDP or Amended MDP, as applicable; or
            7. any other proposed modification that is determined by the Community Development Director in its reasonable discretion to constitute a major deviation from or major change to the intent or scope of the approved MDP or Amended MDP, as applicable, based on sound planning and zoning principles.
         2. Application Process. Application for a Major Amendment to the MDP or Amended MDP shall be submitted to the Community Development Department and processed in accordance with the LDC concerning initial MDP applications. The Community Development Director may waive one or more application requirements determined by the Director to not be applicable or to be unnecessary based on the nature of the request for amendment.
         3. Approval. Following a public hearing, preceded by public notice as set forth in Section 12-14-311 of the LDC, Planning and Zoning Commission may recommend, and City Council may approve, conditionally approve, or deny the Major Amendment application. Planning and Zoning Commission may make a positive recommendation and City Council may approve a Major Amendment upon a finding that:
            1. the amendment is consistent with the Comprehensive Plan;
            2. the amendment is consistent with the intent of the overall design and mixed-use concept of the MDP and Amended MDP;
            3. the amendment will provide public benefits to the Project and the City as a whole;
            4. the amendment is determined by both CURA and the District to not present the likelihood that the Project will not meet the requirements of this Agreement or any financial obligations of CURA or the District concerning the Project; and
            5. the amendment is compatible with or will not materially and adversely affect existing development on adjacent properties, or measures will be taken to substantially buffer or otherwise substantially mitigate any incompatibility or adverse impacts.
      2. Minor Amendments. A Minor Amendment is an administrative amendment.
         1. Applicability. A Minor Amendment to the MDP or Amended MDP shall mean and include any modification to the MDP or Amended MDP not deemed a Major Amendment as defined in subsection A above.
         2. Application Process. Application for a minor amendment to the MDP or Amended MDP shall be submitted to the Community Development Department and processed in accordance with Section 12-14-401 of the LDC concerning administrative amendments. The Community Development Director may waive one or more application requirements determined by the Director to not be applicable or to be unnecessary based on the nature of the request for amendment.
         3. Approval. The Community Development Director may approve, conditionally approve, or deny the minor amendment application. The Director may approve a minor amendment upon a finding that:
            1. the amendment is consistent with the Comprehensive Plan; and
            2. the amendment is consistent with the intent of the overall design and mixed-use concept of the MDP or Amended MDP, as applicable.
2. **ADMINISTRATIVE SITE PLANS**
   1. ASP Submittals. Notwithstanding anything in the LDC to the contrary, this Article shall set forth the process for submittal, review, approval and post-approval action on ASPs for the Project. An ASP may cover proposed development of a single or multiple lot(s), and may include a single or multiple structure(s). An ASP application must comply with all requirements of the MDP or Amended MDP, as applicable, and must comply with the assumptions and limitations of the drainage and traffic studies/reports then in effect for the MDP or Amended MDP, as applicable. A specific site, lot or structure may have only one approved ASP in effect at any given time for that lot, site or structure. Approval of an ASP application shall constitute rescission of any previously approved ASP for the lot(s) or structure(s) covered by the new ASP. If a previously approved ASP covers any portion of the Property covered by a subsequently approved application, that portion of the prior ASP approval is rescinded. No Site Civil Construction Documents may be submitted until the ASP for that portion of the MDP or Amended MDP, as applicable, has been submitted to and undergone one round of review by CURA. Building permit applications may be submitted concurrently with the ASP submittal at the Developer’s risk.
   2. ASP Application Process. The ASP application shall include: (1) a completed application form; (2) proof of ownership; and (3) an original drawing in black ink on 24” x 36” paper of the drawing containing the following information at a level of detail consistent with final construction drawings:
      1. Project name, type of proposal, legal description of the land area within the ASP, acreage contained within the ASP, date of the drawing, scale, and north arrow and MDP location map.
      2. Setbacks, including parking and building, distances between structures, parking ratios and other parking criteria and unobstructed open space.
      3. The approximate graphic location, dimensions, lot coverage, maximum heights and gross floor area of all existing arid proposed structure(s).
      4. The graphic location of public areas, parks, plazas, if any, to be provided within the ASP.
      5. Specific signage plan, if no master sign plan has been approved for the Project.
      6. Existing and proposed right-of-way widths for all existing/proposed internal and external roadways within and immediately adjacent to the ASP.
      7. Existing and proposed public and/or private roadways and their conceptual points of access to adjacent and/or external roadways.
      8. Existing and proposed finished grade topography with contour intervals of two feet (2’) or less, tied to U.S.G.S. datum.
      9. Documentation of conformance with the master traffic study, in the form of a letter update certified by the Developer’s engineer as accurate, complete and current as of the date of the letter, which shall be valid for all ASP applications submitted within twelve (12) months of such letter update.
      10. Documentation of conformance with the Master Drainage Report approved with the MDP (Slaughterhouse Gulch on west or Big Dry Creek on east), in the form of a Phase III drainage report for the site(s) covered by the submittal. A drainage report, complying with Centennial’s content and certification requirements for Phase III drainage reports, that demonstrates: (i) that the site plan drainage and infrastructure will comply with the Master Drainage Report approved with the MDP; (ii) that sufficient capacity exists, or will be constructed in advance of the projected drainage impacts for all on-site and off-site drainage conveyance facilities required to serve the development described in the application and a description of any proportional allocation of facility costs attributable to other off-site sources of drainage; (iii) that sufficient on-site volume exists to detain the drainage from the Site in conformance with the applicable Master Drainage Report approved with the MDP; (iv) an accounting of the on-site utilization and capacity of the regional detention facilities serving the application which shows available volume to detain the drainage from the developed Site, through graphical and tabular analyses which include the total volume of the facilities, the flows from all sources, the volume available presently and after development as depicted in the application, and the volume remaining after the proposed development.
      11. Specific locations of fire lanes for access by emergency vehicles, sidewalks, and outdoor trash receptacle systems.
      12. Specific locations for utilities, easements (including dimensions thereof), and connections of utilities to building(s) if known.
      13. Description of uses proposed for site.
      14. Applicable standard and special notes as required by Centennial which regulate the development.
      15. If the site has not received Final Plat approval at the time of submittal or an amendment to the approved Final Plat is necessary, the Developer shall submit a drawing depicting the site and foundation after Final Plat approval.
      16. Specific building coverages (footprints) and size and a calculation of the amount of open space.
      17. Specific site lighting photometric plan.
      18. Specific landscape plan showing locations, sizes and types of all proposed landscaping materials, including fences, walls, planters and any other landscaping features.
      19. Specific architectural elevations of all sides of proposed structures which show building heights, colors and textures of materials to be used on the exterior of the proposed buildings.
      20. ASP Improvement Agreement, if required pursuant to Section 3.5 of this Agreement.
      21. Owner(s) of Record signature block.
      22. Community Development Director, or Designee, signature block.
   3. ASP Approval.
      1. Application Review. Within ten (10) days of receipt of an ASP application, the Community Development Director shall determine whether such application is deemed complete and, if incomplete, shall provide the Developer with written notice of the deficiencies. Unless the Community Development Director provides written notice of deficiencies within ten (10) days after the submittal date, the ASP application shall be deemed complete as and when submitted for purposes of triggering the review period deadline specified herein. Upon submittal of a complete ASP application, the Community Development Director shall have forty-five (45) days in which to review and approve or deny said application unless a different review period is agreed to by the Developer and Community Development Director. The review period shall be tolled for any period during which the Community Development staff is waiting for the Developer to respond to written comments or requests for supplemental information. An uncured submittal deficiency may justify denial of the application regardless of when the deficiency was detected during the review period. An application which is not affirmatively approved or denied within the applicable or agreed upon review period shall be deemed approved and the Community Development Director shall execute any documents necessary to effect such approval.
      2. Approval Criteria. The Community Development Director shall approve an ASP application that complies with the MDP or Amended MDP, as applicable, the applicable provisions of the LDC, and with the assumptions and limitations of the traffic and drainage studies submitted to and approved by CURA.
      3. Effect of Approval. Upon approval of an ASP and execution of a reproducible mylar of the same by the Community Development Director, a building permit for that portion of the MDP or Amended MDP, as applicable, may be issued provided the permit is found to be in conformance with the approved MDP or Amended MDP, as applicable, and applicable ASP. No Certificate of Occupancy shall be issued until the public improvements related to such ASP have either been constructed and approved by CURA without undue delay and within ten (10) days of CURA’s final inspection of the improvements, or appropriate collateral for such improvements has been accepted by CURA.
   4. Appeal of Denial of ASP. In the event the Community Development Director administratively denies an ASP submitted by the Developer, Developer shall be entitled to appeal said administrative denial to City Council pursuant to the following process. No Party other than Developer (and its successors and assigns) shall have the right to appeal an administrative approval or denial by the Community Development Director of an ASP submitted by the Developer.
      1. A denial of an ASP shall be documented in writing and provided to the Developer via certified or registered mail within ten (10) days of the decision in accordance with the notice provision of Section 6.3. The written decision shall state the reason for denial.
      2. The Developer shall submit a written notice of appeal of an ASP denial within ten (10) days of receipt of notice of the denial decision by the Community Development Director.
      3. Centennial shall schedule the appeal before City Council at its next regularly scheduled meeting, provided there is at least ten (10) days prior to the next regular Council meeting in order to include such appeal on the Council agenda. If the appeal cannot be heard at the next regular City Council meeting, Centennial shall schedule said appeal to be considered at the next available regular or special City Council meeting.
      4. The appeal shall be considered as an administrative matter and shall not be required to follow any public notice, posting, or publication requirements. In acting on the appeal, City Council shall grant to the Community Development Director’s decision a presumption of correctness and the burden of proof shall be on the Developer. City Council shall take final action on the appeal and may overturn the decision of Centennial Community Development Director only if it finds the Director’s decision is unreasonable and contrary to the intent or express provisions of the MDP or Amended MDP, as applicable, or that the Director erred in denying the ASP based on a review of the intent and provisions of the MDP or Amended MDP, as applicable, Centennial’s LDC and other applicable provisions of Centennial’s regulations and ordinances.
   5. ASP Improvement Agreements. ASP Improvement Agreements are intended to supplement this Agreement and describe and ensure construction of public improvements located within the property described in an ASP. Collateral, fees in lieu, or other payments (“Mitigation”) may be memorialized in an ASP Improvement Agreement and shall be governed by the requirements of the LDC. Any unused Mitigation paid by the Developer prior to the execution date of this Agreement shall be credited to the Developer, as applicable, for future ASPs. The Parties do not anticipate or expect that every ASP will require an ASP Improvement Agreement. CURA may demand, and the Developer and District shall negotiate in good faith and execute, an ASP Improvement Agreement where: (1) there exist public improvements within the property described in the ASP; and (2) CURA determines that this Agreement does not provide sufficient specificity or guarantee of performance to insure timely completion of the public improvements. Matters that may be subject to the terms and conditions of an ASP Improvement Agreement include, but are not necessarily limited to, clarification of the obligations of the Developer and/or the District with respect to public improvements, timing of construction. fees in lieu payment(s), collateral (if any), methods of enforcing completion of public improvements and other matters associated with the public improvements within a particular ASP. ASP Improvement Agreements may be administratively approved by the Community Development Director with the consent of the Executive Director for CURA who may consult with an attorney representing CURA, and upon such approval, shall be deemed to amend this Agreement and appended hereto.
3. **GENERAL DEVELOPMENT**
   1. General Development. Developer has the right, upon final approval of the MDP or Amended MDP, as applicable, and subsequent ASPs, to develop the Property subject to the terms and conditions of this Agreement, the MDP or Amended MDP, as applicable, approved ASPs, and the Centennial Municipal Code, as they may be amended, modified, or repealed.
4. **VESTED RIGHTS**
   1. Vesting of Property Rights. This Agreement, the MDP, and the Amended MDP shall constitute an approved “site-specific development plan” as defined in the Vested Property Rights Statute and the Vested Property Rights Regulations, and shall establish vested property rights pursuant to the Vested Property Rights Statute and the Vested Property Rights Regulations to develop the Project in the manner contemplated by such documents for a maximum period of twenty (20) years for both the Property and the South Redevelopment Area as provided by Section 5.5. The Parties recognize and understand that the Centennial Municipal Code may impose certain applications, processes, and procedures necessary to vest rights in accordance with this Agreement and such processes and procedures are not waived by this Agreement.
   2. Applicable Regulations. Any construction related to development of the Property and the South Redevelopment Area shall be subject to the Centennial Municipal Code, and specifications and rules and regulations of Centennial including the construction specifications for land development improvement and public works manuals generally applicable and in effect at the time Developer and/or District submits applicable construction plans, except as the requirements and standards are modified by this Agreement. Changes in these regulations and requirements subsequent to the date of this Agreement shall not be applied to the Project or Property or the South Redevelopment Area.
   3. Compliance with General Regulations. Subject to the terms, conditions and limitations of the Vested Property Rights Statute except as this Agreement expressly provides otherwise, the establishment of vested property rights pursuant to this Agreement shall not preclude the application, on a uniform and non-discriminatory basis, of Centennial regulations of general applicability (including, but not limited to, building, fire, natural gas, housing, water, utilities, computer services, electrical, plumbing and wastewater treatment codes, the Centennial Municipal Code, and other Centennial rules and regulations) or the application of state or federal regulations, as all of such regulations exist on the Effective Date.
   4. Property Rights Vested. Subject to the terms, conditions and limitations of the Vested Property Rights Statute, subject to compliance with the Centennial Municipal Code, and except as this Agreement expressly provides otherwise, the rights identified below shall constitute vested property rights under this Agreement pursuant to the Vested Property Rights Statute:
      1. The right to develop, plan and engage in land uses within the Property and the South Redevelopment Area in the order, at the rate and at the time that market conditions dictate, in a manner that is substantially consistent with the terms and conditions of this Agreement (including each provision hereof) and the Project Plan.
      2. The right to commence and complete development of the Project in the manner contemplated in the MDP or Amended MDP, as applicable (including, without limitation, the right to develop the Project with the uses and densities specified on the MDP or Amended MDP, as applicable, and the right to receive all CURA approvals and permits necessary for the development of the Project) with conditions, standards and dedications which are no more onerous than those imposed by Centennial upon other developers in Centennial on a uniform, non-discriminatory and consistent basis.
      3. The right to apply for and, upon compliance with the applicable terms and conditions of the Project Plan, to receive grading permits, building permits, certificates of occupancy, and other permits necessary for the timely development, construction and occupancy of improvements within the Project.
      4. Except as the Vested Property Rights Statute or this Agreement expressly provides otherwise, no initiated or referred zoning, subdivision, land use or other legal or administrative action that would directly or indirectly have the effect of materially and adversely altering, impairing, preventing, diminishing, imposing a moratorium on development, delaying or otherwise adversely affecting any of the Developer’s rights set forth in this Agreement shall apply to or be effective against the Property, the South Redevelopment Area, or the Project.
   5. Term of Vested Property Rights. In recognition of the tax revenues and other benefits Centennial will derive from development of the Project, the substantial investment and time required to complete the development of the Project and related infrastructure and public facilities, the term of the Vested Property Rights shall commence on the Effective Date of this Agreement and shall continue until the date immediately preceding the ten (10) year anniversary of the Effective Date (the “**Term**”). The Term shall be extended for an additional ten (10) years commencing upon the date of the ten (10)year anniversary of the Effective Date and shall continue until the twenty (20) year anniversary of the Effective Date upon the satisfaction of the following on or prior to the date of the ten (10) year anniversary of the Effective Date: (1) the Developer certifies in writing to both CURA and Centennial that the Property is in compliance with the Minimum Retail; (2) certificates of occupancy have been issued by Centennial for a minimum of 501 residential dwelling units within the Property which minimum includes any residential dwelling units existing prior to the Effective Date of this Agreement and for which a certificate of occupancy has been issued by Centennial; and (3) the Developer presents documentation and evidence, to the reasonable satisfaction of CURA, that a minimum of 287 additional residential dwelling units are reasonably expected to obtain a certificate of occupancy within the following five (5) years; provided, however, that applications and related materials that have been submitted to Centennial for approval of such residential dwelling units shall be deemed acceptable evidence to CURA. Upon satisfaction that the foregoing requirements (i.e., (1) through (3) above) for extension of the Term are met to the reasonable satisfaction of CURA, CURA shall issue to the Developer, and upon request from any owner of any portion of the Property, cause to be recorded in the real property records of Arapahoe County, Colorado, written confirmation that the Term is extended and the Term shall continue until the date that is twenty (20) year anniversary of the Effective Date. After expiration of the Term, as the Term may be extended in accordance with this Section 5.5, the Property shall continue to be subject to the ordinances, rules and regulations of Centennial, and the Vested Property Rights shall be deemed terminated and of no further force or effect; provided, however, that such termination shall not affect (a) any common-law vested rights obtained prior to such termination; or (b) any other right, whether characterized as vested or otherwise, arising from this Agreement, permits, approvals, zoning, or other land use approval for the Property, the South Redevelopment Area, or the Project which were granted or approved prior to, subsequent to, concurrently, or in conjunction with the approval of this Agreement.
5. **MISCELLANEOUS**
   1. Contractual Obligations. Developer and District agree that the provisions and requirements of this Agreement are entered into with full knowledge, free will and without duress. Developer and District agree and desires that the agreements contained herein regarding the payment of fees, installation of public improvements and conditions for zoning, subdivision and building approvals, including the incorporation of provisions of the Centennial Municipal Code and specifications, rules and regulations promulgated thereunder, are imposed by contract, independent of the continued validity or invalidity of any of the provisions of the Centennial Municipal Code, subdivision, zoning and building or other regulations. The agreements to pay fees, and construct public improvements or provide security are reasonable and binding commitments on the part of Developer and District and reasonably relate to estimated extent and timing of impacts that are expected to occur from the development of the Property, and are in rough proportion to such impacts.
   2. Postponement and Suspension of Effective Date. In the event of any administrative or judicial action commenced or filed within ninety (90) days of the Effective Date seeking to invalidate the Master Development Plan as such Plan is amended contemporaneously with this Agreement or seeking to invalidate this Agreement, the Effective Date shall be postponed and suspended during the pendency of such action until final resolution including the expiration of any periods of appeal. Should such action invalidate the Master Development Plan or this Agreement, this Agreement shall be deemed terminated without further action of the Parties.
   3. Assignment. This Agreement may not be assigned or delegated by Developer or the District without the written consent of Centennial and CURA. Such consent shall not be unreasonably withheld provided the assignee agrees to and meets all the obligations of Developer under this• and related agreements and approvals. No assignment requiring Centennial’s and CURA’s consent shall be effective unless such assignment is made in writing delivered to Centennial and CURA and such consent by Centennial and CURA is evidenced upon such written assignment by signature of the Mayor for the City of Centennial and the Chairperson for CURA. Any assignment of all or any portion of the Property by Developer for the following purposes shall not require Centennial’s or CURA’s prior consent: (i) assignment to an Affiliate. (ii) assignment as the result of a merger or the sale of substantially all of Developer’s assets, or (iii) assignment to the holder of a deed of trust or mortgage encumbering all or any portion of the Property. In such event, the assignee shall be deemed the “Developer” under this Agreement. The sale of individual residential dwelling units or individual lots within the Property shall not: (i) constitute an assignment of this Agreement, (ii) obligate individual residential unit owners under any term or condition of this Agreement; and (iii) thus, not require Centennial’s or CURA’s prior consent.
   4. Notice of Modification of District Financing. The District previously issued bonds for public improvements as defined and more fully described in the Public Finance Agreement dated January 4, 2006 (the “Bonds”). In the event that the District, following the Effective Date, undertakes any administrative or formal action to refinance or refund the Bonds, the District shall provide notice to Centennial and CURA regarding the general nature of such proposed or potential refinance or refunding. The purpose of notice is to afford Centennial and CURA the opportunity to discuss with the District the proposed refinancing or refunding and the effect or impact of refinancing or refunding upon Centennial or CURA. The District shall endeavor to provide notice at the earliest opportunity and in no event less than sixty (60) days prior to closing of any refinancing or refunding. This Section does not grant Centennial nor CURA any right of approval or consent for the District’s refinancing or refunding of the Bonds.
   5. Notices. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is intended to be given at the address set forth below, or at such other ‘address as may be subsequently furnished to the other Party as provided herein. Such notice shall be deemed to have been given when deposited in the U.S. Mail.

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| To Centennial:  City of Centennial  Community Development Department  Attn: Streets at SouthGlenn  13133 E. Arapahoe Rd. Centennial, Colorado 80112 | To Developer:  Southglenn Property Holdings, LLC  Attn: Streets at SouthGlenn  5750 DTC Parkway, Suite 210  Greenwood Village, CO 80111 |
| With copies to:  City of Centennial  City Attorney  Attn: Streets at SouthGlenn  13133 E. Arapahoe Rd., Suite 100  Centennial, Colorado 80112 | With copies to:  PCCP, LLC  Attn: Streets at SouthGlenn  10100 Santa Monica Blvd, Suite 1000  Los Angeles, CA 90067 |
| To CURA:  Centennial Urban Redevelopment Authority  Executive Director  Attn: Streets at SouthGlenn  13133 E. Arapahoe Rd.Centennial, Colorado 80112 | With copies to:  Brownstein Hyatt Farber Schreck, LLP  Attn: Streets at SouthGlenn  410 17th Street, Suite 2200  Denver, Colorado 80202 |
| To District:  Southglenn Metropolitan District  Attn: Streets at SouthGlenn  5460 South Quebec Street, Suite 100  Greenwood Village, Colorado 80111 |  |
| With copies to:  White Bear Ankele Tanaka & Waldron  Attn: Streets at SouthGlenn  2154 E. Commons Avenue, Suite 2000  Centennial, CO 80122 |  |

* 1. Paragraph Captions. The captions of the paragraphs are set forth only for convenience and reference and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.
  2. Interpretation. Where appropriate, words in the singular include the plural and vice versa.
  3. Additional Documents or Action. The Parties agree to execute any additional documents arid to take any additional action necessary to carry out this Agreement.
  4. Binding Effect. This Agreement shall inure to the benefit of, and be binding upon, each of the Parties and their respective legal representatives, successors and assigns. This Agreement touches and concerns the land, constitutes covenants running with the land and shall bind the Property and all subsequent Developers until all provisions are satisfied, and shall inure to the benefit of the Owners. Any Party may record this Agreement in the real property records of Arapahoe County, Colorado.
  5. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall, unless amended or modified by mutual consent of the Parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the party against whom they are being enforced under the facts and circumstances then pertaining.
  6. Integration and Amendment. This Agreement represents the entire Agreement between the Parties and there are no oral or collateral Agreements or understandings except as otherwise referred to herein. This Agreement may be amended only by an instrument in writing signed by the Parties in accordance with the requirements of Section 1.4 of this Agreement.
  7. Indemnification. Developer and District shall and do hereby indemnify and hold Centennial and CURA harmless from any third party claims it may have on account of any change in direction, nature, quality, or quantity of historical drainage flow, resulting from the development of the Property, or from construction of streets and storm sewers within or serving the Property, or damages to the Property or any improvements constructed thereon resulting from natural conditions including but not limited to expansive soils, geologic hazard, wildfire hazard or flood hazard. The protections afforded Centennial and CURA by this provision shall be perpetual and shall not cease upon the completion of the obligations imposed herein or termination of this Agreement, unless expressly released by Centennial.
  8. Contractors. Developer and/or District shall ensure that all general contractors and subcontractors that complete work on the Property are informed about the terms and conditions relevant to the construction and build-out of the Project, including, the CURA’s right to inspect construction activities on the Property.
  9. Economic Incentive Payment. Developer will voluntarily remit to the City a one-time payment of $200,000 within 30 days after execution of this Agreement to be used by the City, at the discretion of the City, to directly benefit the Property and promote health, safety and welfare for purposes including, but not limited to, awarding incentives to attract and retain high quality and desirable prospective tenants at the Project.
  10. Estoppel Certificates. Centennial and CURA, at any time and from time to time upon not less than ten (10) days’ prior written notice from Developer, agree to execute and deliver to Developer a statement in the form provided by Developer (a) certifying that this Agreement is unmodified and in full force and effect, or, if modified, stating the nature of such modification 26 and certifying that this Agreement, as so modified, is in full force and effect, (b) acknowledging that there are not, any uncured defaults on the part of Developer hereunder, or specifying such defaults if they are claimed, (c) acknowledging the amount of the collateral provided by Developer, and (d) containing such other information regarding this Agreement as Developer reasonably requests.

1. **BREACH**
   1. Default by Centennial or CURA. A “breach’ or “default” by Centennial or CURA under this Agreement shall be defined as: (a) any zoning, land use or other action or inaction, direct, indirect or pursuant to an initiated measure, taken after the Effective Date without Developer’s consent, that alters, impairs, prevents, diminishes, imposes a moratorium on development, delays or otherwise adversely affects any development, use or other rights of Developer under this Agreement in a material manner except upon the discovery of natural or man-made hazards on or in the immediate vicinity of the Property that could not have been reasonably discovered at the time of Centennial’s approval of a “site-specific development plan” and which hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare; or (b) Centennial’s failure to fulfill or perform any material obligation of Centennial contained in this Agreement.
   2. Default by Developer or District. A “breach” or “default” by Developer or District shall be defined as Developer’s failure to fulfill or perform any material obligation of Developer or District contained in this Agreement.
   3. Notices of Default. In the event of a default by any Party under this Agreement, the nondefaulting party shall deliver written notice to the defaulting party of such default, at the address specified in Section 6.3 above and the defaulting party shall have twenty (20) days from and after receipt of such notice to cure such default. If such default is not of a type which can be cured within such 20-day period and the defaulting party gives written notice to the nondefaulting party within such 20-day period that it is actively and diligently pursuing such cure, the defaulting party shall have a reasonable period of time given the nature of the default following the end of such 20-day period to cure such default, provided that such defaulting party is at all times within such additional time period actively and diligently pursuing such cure.
   4. Developer’s Breach. Upon breach by Developer or District, until any security is invoked or until the breach is otherwise remedied, Centennial, by and through CURA, shall have the right to refuse to issue for any phase of development building permits, certificates of occupancy, temporary certificates of occupancy, or approve any application or request for approval for that portion of the Property identified in an ASP in which the default is alleged to occur. Upon such breach and written order from Centennial, Developer shall also cease any development activity within the ASP in which the default is alleged to occur, including construction pursuant to a previously issued approval, authorization or permit. Any amounts due and owing to Centennial under this Agreement that are not paid in a timely manner may be certified to the Arapahoe County Treasurer for collection with taxes.
   5. Waiver of Breach. The waiver by any Party to this Agreement of a breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by any Party.
   6. Remedies. The Parties hereby acknowledge that this Agreement may be enforced in law or in equity by a decree of specific performance, damages, foreclosure of liens for unpaid amounts, or other such legal and equitable relief as may be available under the laws and statutes of the State of Colorado.
   7. Attorney’s Fees. If any action is filed or maintained by any Party to this Agreement, the substantially prevailing party shall be awarded its reasonable costs and attorney’s fees, which rights shall survive termination of this Agreement.

Dated this \_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.

**CITY OF CENTENNIAL, COLORADO**

By:

Stephanie Piko, Mayor

13133 E. Arapahoe Rd.

Centennial, CO 80112

ATTEST: Approved as to Form:

City Clerk or Deputy City Clerk For City Attorney’s Office

THE AUTHORITY: **THE CENTENNIAL URBAN REDEVELOPMENT AUTHORITY**, a body corporate and politic of the State of Colorado

By:

[\_\_\_\_\_\_\_\_\_\_\_\_], Chairperson

ATTEST: Approved as to Form:

CURA Secretary CURA General Counsel

DISTRICT: **THE SOUTHGLENN METROPOLITAN DISTRICT**,

a quasi municipal corporation and political subdivision of the State of Colorado

By:

ATTEST: Approved as to Form:

District Secretary Attorney for District

DEVELOPER:

**SOUTHGLENN PROPERTY HOLDINGS, LLC**,

a Delaware limited liability company

By: AW Southglenn Senior Mezz, LLC,

a Delaware limited liability company,

its Manager

By: PCCP CS II SG Colorado Funding, LLC,

a Delaware limited liability company,

its Managing Member

By: PacificCal II, LLC,

a Delaware limited liability company,

its Sole Member

By: PCCP CS Holdings II, LLC,

a Delaware limited liability company,

its Manager

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

**ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )

COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ )

On \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_, 20\_\_, before me, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, the Manager of PCCP CS Holdings II, LLC, a Delaware limited liability company, the Sole Member of PacificCal II, LLC, a Delaware limited liability company, the Managing Member of PCCP CS II SG Colorado Funding, LLC, a Delaware limited liability company, the Managing Member of AW Southglenn Senior Mezz, LLC, a Delaware limited liability company, the Manager of **SOUTHGLENN PROPERTY HOLDINGS, LLC**, a Delaware limited liability company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public

**EXHIBIT A**

**Legal Description of the Property**

* Lots 5, 6, 8 & 13, Block 1, Streets at SouthGlenn Filing No. 1
* Lots 2 & 3, Block 1 & Tracts C, Streets at SouthGlenn Filing No. 2
* Lot 1, Block 1, Streets at SouthGlenn Filing No. 3
* Lots 2, 6 & 8, Block 1, Streets at SouthGlenn Filing No. 4
* Lots 1, 2, 3, 4, 5, Block 1 & Tract A, Streets at SouthGlenn Filing No. 5
* Lots 1 & 2, Block 1 & Tract C, Streets at SouthGlenn Filing No. 6
* Lots 1 & 2, Block 1, Streets at SouthGlenn Filing No. 7

**EXHIBIT B**

**Legal Description of the South Redevelopment Area**

* Lot 2, Block 1, Streets at SouthGlenn Filing No. 2
* Lot 3, Block 1, Streets at SouthGlenn Filing No. 3
* Lot 4, Block 1, Streets at SouthGlenn Filing No. 3