

MEETING NOTICE

LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY (4:00 P.M.)

December 20, 2021

**Cleveland Room at Desk Chair
201 East 4th Street in Downtown**

The Loveland Downtown Partnership and Downtown Development Authority are committed to providing an equal opportunity for citizens and does not discriminate on the basis of disability, race, color, national origin, religion, sexual orientation, or gender. The LDP-DDA will make reasonable accommodations for citizens in accordance with the Americans with Disabilities Act.

For more information, please call our offices at 970.699.2856.

Agenda
Loveland Downtown Development Authority (DDA)
Regular Meeting
Monday, December 20, 2021 4:00 pm

Cleveland Room at Desk Chair
201 East 4th Street

4:00 pm

1. **Call to Order**
2. **Roll Call**

4:05 pm

3. **Public Comment** (individual introductions / comments are limited to 3 minutes)

4:10 pm

4. **Approval of Minutes**

Regular Meeting – November 8, 2021

“I move to approve (deny) the minutes of the Regular Meeting of November 8, 2021.”

4:15 pm

5. **Discussion / Action Items**

- Natural Grocers Reimbursement Agreement

“I move to approve (deny) Vitamin Cottage Natural Food Markets, Inc. Public Improvement Agreement and authorize the Executive Director to sign the agreement on behalf of the Loveland Downtown Development Authority”

- Elks Lodge Redevelopment Project Update and Funding Options
- 3rd Street Pedestrian Study

“I move to approve (deny) the terms of the 3rd Street Pedestrian Study with Next Phase Engineering and authorize the Executive Director to execute an agreement for services on behalf of the Loveland Downtown Development Authority”

- Sweetheart Alley Trash Enclosure Design Work

“I move to approve (deny) the terms of the Sweetheart Alley Trash Enclosure Design with Russell Mills Studio and authorize the Executive Director to execute an agreement for services on behalf of the Loveland Downtown Development Authority”

- 3rd to 4th St. Alley + Cleveland Alley Connection

“I move to approve (deny) the terms of the 3rd to 4th Alley + Cleveland Alley Connection with Russell Mills Studio and authorize the Executive Director to execute an agreement for services on behalf of the Loveland Downtown Development Authority”

5:15 pm

6. City Council Report

- Fogle, City Council

5:20 pm

7. Adjourn

Meeting Minutes
Loveland Downtown Development Authority (DDA)
Regular Meeting
Monday, November 8, 2021 4:00 pm

Cleveland Room at Desk Chair
201 East 4th Street

4:00 pm

1. **Call to Order** Chair Steele Jr called the meeting to order at 4:01pm

Roll Call - Mc Fetridge absent, all others present. Additional attendees: Laurie Stirman, Debbie Davis, Linda Rosa, Joyce Robinson, Johnathan Dhillon- Natural Grocers, Sam Young- Natural Grocers, Kevin Sites- Natural Grocers, Troy Bliss, Rico Devlin, Gary Lindquist, Robert Dehn, Doug Rajotte- State Farm, Jason Bertram- Safeway, Steve Adams, Jim Cox, Scott Schorling.

4:05 pm

2. **Public Comment** (individual introductions / comments are limited to 3 minutes)

There were no public comments presented.

4:10 pm

3. **Approval of Minutes**

Regular Meeting – October 11, 2021

Fogle moved to approve the minutes of the Regular Meeting of October 11, 2021. Bernhardt seconded the motion which passed unanimously.

4:15 pm

4. **Discussion / Action Items**

- 2022 DDA Budget

Hawkins presented the 2022 DDA budget. The DDA has not spent any money out of our fund other than the Commercial Rent Assistance Program which was reimbursed by CARES Act dollars in 2020.

Fogle moved to approve the Loveland Downtown Development Authority Resolution #R-2-2021. Berhardt seconded the motion which passed unanimously.

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY (DDA) APPROVING AND RECOMMENDING TO THE CITY COUNCIL OF THE CITY OF LOVELAND THE BUDGET OF THE ESTIMATED AMOUNTS REQUIRED TO PAY THE EXPENSES OF CONDUCTING THE BUSINESS OF SAID AUTHORITY, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2022

- Cleveland Station Leasing Update – Rico Devlin, LC Real Estate

Hawkins updated the board on the funding for public improvements on the Cleveland Station project and introduced Rico Devlin, from LC Real Estate, who is brokering leases on the space. Devlin updated on tenants signed including the hot rod themed Tom Davis Saloon, a retail Apothecary, Boutique by Sonja and SkyBear Brewery. Radial Development, a web and app development firm, is located on second floor. There is another 5800 sq ft office space that is finished and ready to be leased.

Steele asked how many businesses are local to N Colorado. Sky Bear Brewery is from Evergreen. The rest are local.

Fellure asked if brewery is production on site, they will- 2 barrel system.

Steele asked about rents. Devlin answered that Loveland is still much lower than other parts of town. Cleveland Station is around \$22/sq ft, Old Town FC is \$30+ plus triple net.

- Presentation on 735 & 745 N. Lincoln Avenue

Hawkins introduced Jonathan Dhilon, General Counsel, from Natural Grocers who presented a presentation about their company and the building they intend to build on the SW corner of 8th and Lincoln in downtown Loveland. Hawkins had been meeting with representatives from Natural Grocers on the project and the building since early 2021. Natural Grocers made a request to the DDA for \$654,000 for public improvements identified on the project.

Presentation from Natural Grocers. Founding principals include Nutrition education, quality standards, affordable pricing, supporting communities, commitment to crew members.

-Comments from Patterson on improvement of sidewalks and pedestrian continuity to the south, asked if there could be funding or reimbursement to improve other neighboring walkway at the same time as this project occurs.

- Rico Devlin asked if they have deli or location people could eat food on site. Natural Grocers reported they don't have a traditional deli, but have fresh grab and go with picnic tables outside.

-Fogle asked size comparison to Greeley and Ft Collins. They said Greeley is smaller, Ft Collins is slightly smaller. Boulder will be best comparison in size to this location. This will be 13,300 sq ft., the size of an average Walgreens.

-State Farm tenant to west brought up homeless and security. Natural Grocers is adding lighting and management of security of space.

-Steele asked if they have an app. They use insta cart. And are they unique- do they overlap with Sprouts or Safeway. They said they do feel they are unique, featuring many nutritional supplements, ONLY natural and organic.

-Debbie Davis asked about 5 year sales growth models. They were not ready to project sales, but expect it to take some time to ramp up, but expect to tap into a core base of Loveland residents that already shop in their Longmont or Ft Collins locations..

Hawkins suggested that the DDA could provide a public improvement reimbursement incentive for up to \$500,000 to assist with the public improvements in the presentation. Hawkins and others have been active with the project and Natural Grocers were very cooperative to ensure that the project would meet Loveland's Downtown Development Guidelines as well as certain walkability measures. The scenario Hawkins presented recommended that the DDA would keep the first \$175,000 in sales tax generated by the project and retain all the property tax increment as well. If the project exceeds \$175,000 in sales tax increment generated, the amount in excess would be refunded back to Natural Grocers up to a total of \$500,000 over the first ten years of the project. The board was supportive of this direction and asked Hawkins to work with legal to prepare an agreement for the project.

- Elks Lodge Redevelopment Project Update

Hawkins updated the board on the status of the Elks Project and said he hoped to complete the necessary funding and legal questions of the agreement over the next month.

5:15 pm

5. City Council Report

Fogle, City Council- Fogle offered his congratulations to Counselor Olson on winning his seat and discussed the completion of the City of Loveland's 2022 budget.

5:20 pm

6. Adjourn

Fogle motioned to adjourn the meeting at 5:02 p.m. Wyrick seconded the motion which passed unanimously.

**VITAMIN COTTAGE NATURAL FOOD MARKETS, INC. PUBLIC IMPROVEMENT
REIMBURSEMENT AGREEMENT**

THIS VITAMIN COTTAGE NATURAL FOOD MARKETS, INC. PUBLIC IMPROVEMENT REIMBURSEMENT AGREEMENT (this "Agreement") dated as of _____, 2022, is made and entered into by and between the **LOVELAND DOWNTOWN DEVELOPMENT AUTHORITY**, a body corporate and politic of the state of Colorado established pursuant to C.R.S. §31-25-801, et seq. (the "DDA" or "the Authority"); **VITAMIN COTTAGE NATURAL FOODS MARKET, INC.**, a Colorado corporation (the "Developer"); and the **CITY OF LOVELAND**, a Colorado municipal corporation (the "City") (the DDA, the Developer, and the City are individually referred to as a "party" and collectively as the "parties" and the DDA and the City may be referenced as "Governmental Entities").

RECITALS

All capitalized terms used, but not defined, in these Recitals, have the meanings ascribed to them in this Agreement. The Recitals are incorporated to this Agreement as though fully set forth in the body of this Agreement.

WHEREAS, the City is a Colorado home rule municipality with all the powers and authority granted pursuant to Article XX of the Colorado Constitution and its home rule charter (the "Charter"); and

WHEREAS, the DDA is a body corporate duly created, organized and authorized pursuant to Title 31, Article 25, Part 8, Colorado Revised Statutes (the "DDA Act") by a vote of the majority of qualified electors within the boundaries of the DDA at a special election held on February 10, 2015 and thereafter officially established by the Loveland City Council ("City Council") upon the passage of Ordinance No. 5927, and as revised by Ordinance No. 6115; and

WHEREAS, the DDA is a Colorado Downtown Development Authority, with all the powers and authority granted to it pursuant to the DDA Act; and

WHEREAS, on July 5, 2017, the City Council approved the Plan of Development ("Plan of Development") for the DDA, which was previously approved by the DDA by Resolution #R-52-2017, which established the plan for development or redevelopment of the DDA area (the "DDA District"); and

WHEREAS, the Plan of Development contains a provision for division of taxes that will be effective for thirty years following approval of the Plan of Development, or such longer period as authorized by the DDA Act; and

WHEREAS, the Plan of Development provides that the primary objectives of the DDA are to promote the safety, prosperity, security, and general welfare of the DDA District and its inhabitants, to prevent deterioration of property values and structures within the DDA District, to

prevent the growth of blighted areas within the DDA District, to assist the City in the development, redevelopment, and planning of the economic and physical restoration and growth of the DDA District, to approve the overall appearance, condition, and function of the DDA District, to encourage a variety of uses compatible with the artistic and cultural community, to sustain and improve the economic vitality of the DDA District, to promote the historic, artistic, and cultural elements of the DDA District, and to encourage pedestrian traffic and security in the DDA District; and

WHEREAS, the Developer seeks to redevelop the property generally known as 735 and 745 North Lincoln Avenue, Loveland, CO 80537 as more particularly described on **Exhibit A** attached hereto (the "Redevelopment Property"), and to construct certain Eligible Improvements (more particularly described in **Exhibit B**) within the Redevelopment Property (the "Project"); and

WHEREAS, the Developer proposes a complete rehabilitation and occupancy of the Redevelopment Property for a total Project cost of \$5,189,520 (excluding acquisition and other costs). The overall project involves a redevelopment of a former retail store into a specialty grocery location as further described and conceptualized in **Exhibit C**; and

WHEREAS, the Governmental Entities determined that the Project is necessary in order to remediate blight, and is consistent with and in furtherance of the public purposes of the Governmental Entities to reduce blight, promote economic vitality, and to facilitate economic activity; and

WHEREAS, in order to facilitate the acquisition, construction and installation of the Project, the Authority seeks to reimburse Developer for the cost of certain Eligible Improvements up to a maximum aggregate amount of Five Hundred Thousand dollars (\$500,000) (as further defined below, the "Reimbursement Amount") as set forth in this Agreement through the utilization of sales tax increment; and

WHEREAS, pursuant to the DDA Act and the Plan of Development, the DDA and the City may finance undertakings pursuant to the Plan of Development by any method authorized under the DDA Act or any other applicable law, including, without limitation, issuance of notes, bonds and other obligations in an amount sufficient to finance all or part of the Plan of Development; borrowing of funds and creation of indebtedness; advancement of reimbursement agreements; agreements with public or private entities; and loans, advances and grants from any other available sources; and the Plan of Development authorizes the Authority to pay the principal and interest on any such indebtedness from property and sales tax increments, or any other funds, revenues, assets or properties legally available to the Authority; and

WHEREAS, by adoption of the Plan of Development, the City Council and DDA Board made further findings that an agreement structured as this Agreement with the Developer provides significant social and economic benefits and meets a public purpose, including, without limitation, preventing deterioration of property values and structures within the DDA District, preventing the growth of blighted areas within the DDA District, assisting the City in the development, redevelopment, and planning of the economic and physical restoration and growth of the DDA District, improving the overall appearance, condition, and function of the DDA District, sustaining and improving the economic vitality of the DDA District, and increasing property and sales tax

revenues and, therefore, is in the best interests of City, the DDA and City residents; and

WHEREAS, this Agreement is subject to an annual appropriation of funds by City Council to repay a debt, loan, or advance pledged from sales tax increment received from the Project, to be reimbursed as set forth in this Agreement; and.

WHEREAS, the Parties have agreed to enter into this Agreement for the redevelopment of the Redevelopment Property in accordance with the DDA Act.

NOW, THEREFORE, in consideration of the mutual covenants and promises of the Parties contained in this Agreement, and other valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree to the terms and conditions in this Agreement.

AGREEMENT

1. **DEFINITIONS.** In this Agreement, unless a different meaning clearly appears from the context, capitalized terms are defined as follows:

"**Agreement**" means this Vitamin Cottage Natural Food Markets, Inc. Public Improvement Reimbursement Agreement, as it may be amended or supplemented in writing. References to Sections or Exhibits are to this Agreement unless otherwise qualified. All exhibits attached to and referenced in this Agreement are hereby incorporated into this Agreement.

"**Authority**" or "**DDA**" means Loveland Downtown Development Authority, a body corporate duly created, organized and authorized pursuant to Title 31, Article 25, Part 8, Colorado Revised Statutes, which was formed by a vote of the majority of qualified electors within the boundaries of the DDA at a special election held on February 10, 2015 and thereafter officially established by the City Council upon the passage of Ordinance No. 5927, and as revised by Ordinance No. 6115.

"**City**" means the City of Loveland, Colorado, a home rule municipality and political subdivision of the State of Colorado organized and existing under a home rule charter pursuant to Article XX of the Constitution of the State of Colorado.

"**Commencement of Construction**" means the commencement by Developer of actual physical work on the Project, pursuant to a permit issued by the City.

"**DDA Act**" means the Downtown Development Authority Act under Title 31, Article 25, Part 8, Colorado Revised Statutes.

"**Default**" or "**Event of Default**" means any of the events described in Section 15; provided, however, that such events will not give rise to any remedy until effect has been given to all grace periods, cure periods, and periods of enforced delay provided for in this Agreement.

"**Developer**" means Vitamin Cottage Natural Food Markets, Inc., a Colorado corporation, and any successors and assigns approved in accordance with this Agreement.

"**Effective Date**" means the date of this Agreement.

"**Eligible Costs**" means, collectively, the reasonable and customary expenditures for the acquisition, design, construction and installation of the Eligible Improvements, including, without limitation, reasonable and customary soft costs and expenses, as set forth in **Exhibit B** attached hereto, as it may be amended hereunder. Eligible Costs also includes all reasonable and customary costs and expenses related to the engineering and design work for the Eligible Improvements. The maximum amount of Eligible Costs to be paid or reimbursed pursuant to this Agreement shall be the Reimbursement Amount as defined in this Agreement. All Eligible Costs are authorized for reimbursement under the DDA Act.

"**Eligible Improvements**" means the improvements set forth on **Exhibit B**, attached hereto as amended in accordance with this Agreement.

"**Executive Director**" means the Executive Director of the Authority.

"**Pledged Revenues**" means the total aggregate principal amount of the Reimbursement Amount as defined in this Agreement, including the sales tax increment generated by the Redevelopment Property up to the Reimbursement Amount subsequent to satisfaction of the Sales Tax Increment Annual Threshold.

"**Project**" means the redevelopment of the Redevelopment Property by performing the Eligible Improvements.

"**Redevelopment Property**" means the real property, located at 735 and 745 North Lincoln Avenue, Loveland, CO 80537, as more particularly described in **Exhibit A** attached hereto.

"**Reimbursement Amount**" means a maximum amount equal to five hundred thousand dollars (\$500,000), which is the maximum amount that will be paid to Developer to reimburse Developer for Eligible Costs in accordance with the terms and provisions of this Agreement.

"**Sales Tax Increment Annual Threshold**" means the first one hundred fifty thousand dollars (\$150,000) in annual sales tax increment generated from the Project, which shall be retained by the City for the benefit of the DDA and thus not inclusive towards the Reimbursement Amount.

2. **FINANCING AND CONSTRUCTION OF PROJECT.**

2.1 **Construction of Project.** As set forth in Section 4, if Developer proceeds with the Project, Developer shall be responsible for acquiring, constructing and installing the Eligible Improvements, and shall be responsible for compliance, in all respects, with all requirements of the City, pursuant to the governmental approvals required from the City, by Developer, with respect to the Project.

2.2 **Financing the Eligible Improvements.** Developer shall be responsible for initially financing the costs and expenses in connection with the acquisition, construction and installation of the Eligible Improvements which financing may be provided by a financial institution or investor loaning the funds to the Developer and securing such loan with a deed of trust encumbering the Redevelopment Property, including, without limitation, all design costs, engineering costs and other soft costs incurred in connection therewith.

3. **CONDITIONS PRECEDENT TO PAYMENT OF REIMBURSEMENT AMOUNT.**

3.1 **Conditions Precedent.** Unless waived in writing by the Executive Director, the following conditions precedent shall be satisfied prior to Developer receiving reimbursement for Eligible Costs from sales tax increment generated by the Project pursuant to the terms and provisions of this Agreement:

A. Developer shall have completed the Project, as evidenced by issuance of a certificate of occupancy by the City or other evidence of completion customarily used in the City to confirm completion of the Eligible Improvements by December 31, 2022. The Executive Director may, upon written request of the Developer, grant one or more extensions for completion. Failure to satisfy the conditions of this subparagraph, without an extension from the Executive Director, shall result in automatic termination of this Agreement and the Governmental Entities shall have no obligations to Developer and no reimbursement shall be due; and

B. Developer shall comply with the reimbursement process and requirements set forth in paragraph 5.1. The City shall not be obligated to reimburse Developer until Developer has complied with the aforementioned reimbursement process and requirements to the reasonable satisfaction of the City and the DDA; and

C. No Events of Default by Developer shall have occurred and be continuing under this Agreement, after expiration of all applicable grace, notice, and cure periods; and

D. To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of the City, it shall be subject to annual appropriation pursuant to the City of Loveland Municipal Charter Section 11-6 and Article X, Section 20 of the Colorado Constitution. The City shall have no obligation to begin or continue this Agreement in any fiscal year in which no such appropriation is made; and

E. The failure of Developer to fulfill the conditions precedent to reimbursement outlined in this paragraph 3, except subpart (D), in whole or in part, shall relieve the City from any obligation to reimburse the Developer for reasonable costs of the Eligible Public Improvements associated with the redevelopment of the Property and this Agreement shall be terminated.

4. **DEVELOPER.**

4.1 **Acquisition, Construction and Installation of Project.** This Agreement shall not

obligate Developer to proceed with the Project. If Developer proceeds with the Project, Developer shall be responsible for the financing, design, acquisition, construction and installation of the Eligible Improvements, subject to the provisions in this Agreement regarding reimbursement of Eligible Costs in accordance herewith. The design and construction of the Project shall comply in all material respects with all applicable codes and regulations of entities having jurisdiction, including, specifically, any and all City requirements. The Project shall be completed as generally provided on **Exhibit C**.

4.2 **Access to Property and Sales Tax Records**. Subject to the terms and restrictions of any leases and/or other documents encumbering the Redevelopment Property, Developer will permit representatives of the Authority access to the Redevelopment Property and the Project at reasonable times during regular business hours and with prior notice as necessary for the purpose of carrying out or determining compliance with this Agreement and the Plan of Development. The Authority shall not interfere with the construction, operation, or use of the Redevelopment Property in connection with any such access, and shall comply with all laws, including, without limitation, OSHA requirements for entry onto a construction site. Developer hereby expressly provides consent to the DDA to obtain quarterly sales tax data from the City Sales Tax Division solely for purposes of measuring performance under this Agreement.

4.3 **[Reserved.]**

4.4 **Notification of Sale of Property**. Developer shall provide written notice to the Authority of the sale, conveyance or assignment of all or any portion of the Redevelopment Property by Developer during the term of this Agreement, and any such sale, conveyance or assignment of the Redevelopment Property shall be subject to the provisions of Section 6 of this Agreement.

5. **GOVERNMENTAL ENTITIES**.

5.1 **Payment of Reimbursement Amount**. Upon compliance with the conditions precedent set forth in Section 3.1 and Section 4.1, the Governmental Entities agree to reimburse Developer for Eligible Costs incurred in connection with the acquisition, construction, and installation of Eligible Improvements in an amount up to the Reimbursement Amount as follows:

A. Annually, beginning upon the first full calendar year subsequent to satisfaction of paragraph 3.1 (A), and then in each calendar year thereafter this Agreement is in effect, and upon annual satisfaction of the Sales Tax Increment Annual Threshold, Developer shall be eligible for reimbursement up to the Reimbursement Amount, for up to a period of ten (10) years from the date upon which the certificate of occupancy for the Reimbursement Property is issued. This Agreement shall terminate automatically, unless evidenced otherwise in writing by the Executive Director, if Developer fails to generate sufficient sales tax increment equal to the Reimbursement Amount by the aforementioned ten (10) year period. The Sales Tax Increment Annual Threshold shall not be accounted towards the Reimbursement Amount.

B. In addition to all other relevant provisions of this Agreement, in order to receive

reimbursement for Eligible Public Improvements under this Agreement, and described within the estimated budget found in **Exhibit B**, the Developer shall furnish to the DDA, or DDA's agent, and the City the documents described in subparagraphs (C) and (D) of this paragraph 5.1.

C. A request for payment ("Request for Payment") that specifies the amount of funds requested, and the Public Improvements completed under **Exhibit B** and in this Section.

D. A certification by Developer, as of the date of the Request for Payment for all Public Improvements, shall be provided to the Governmental Entities prior to reimbursement and shall specifically include: (1) the total amount of the Request for Payment; and (2) that the Request for Payment covers only Eligible Public Improvements that conform with the Project and have satisfied all applicable provisions in paragraph 3; and (3) that the Developer has received no notice and has no knowledge of any lien or claim of lien filed or threatened against the Project and all contractors have been paid; and (4) that all work and materials furnished for the Project through the date of the Request for Payment conform with the plans and specifications approved by the City and DDA as set forth in **Exhibits B** and **Exhibit C**; and (5) an itemized statement of the invoices reflecting work completed on the Eligible Public Improvements.

E. The DDA may conduct inspections, and/or hire a third party, to verify in the field the public improvements to invoices submitted.

F. Upon review and approval by the City of the Request for Payment, the City shall calculate sales tax increment beginning the first full year of operation. The City shall complete the calculation at the end of the year and submit a reimbursement payment to Developer in accordance with this Agreement. The City, in its sole discretion, may issue partial payment for Project components that comply with this Agreement and withhold payment for Project components that do not comply with the Agreement, until such time as full compliance is achieved by the Developer. In the event that the City or the DDA finds the developer in non-compliance, a written notice with a detailed description of the failure to comply shall be provided by the Executive Director.

5.2. **Approval of Site Plan and Elevations.** The Authority shall review and approve the site plan and elevations prior to Developer submitting the same to the City to assure that the Project is consistent with the provisions of this Agreement.

5.3 **[Reserved.]**

5.4 **No Impairment.** The Governmental Entities will not enter into any agreement or transaction that impairs the rights of the Parties including, without limitation, the right to receive and apply the Pledged Revenue in accordance with the terms and provisions of this Agreement.

6. **ASSIGNMENT OF REIMBURSEMENT AMOUNT.** Because of the unique nature of this Agreement, and the fact that the Authority and Developer are using the best available

information to anticipate the performance of the Project under this Agreement, the Parties hereby agree that if Developer sells, conveys, or otherwise assigns the Redevelopment Property and the obligations of this Agreement to a third party during the term of this Agreement (collectively, the "Future Conveyance"), other than an assignment to a single purpose entity established by Developer or its members, in which Developer and/or its members control such entity, to acquire the Redevelopment Property ("Acquisition Party"), the Future Conveyance shall terminate this Agreement upon execution of any applicable agreement facilitating conveyance to an Acquisition Party.

7. **INSURANCE**. On or prior to the Commencement of Construction, Developer will provide the Governmental Entities with certificates of insurance showing that Developer is carrying, or causing prime contractors to carry, at a minimum, the following insurance: General Liability, with a general aggregate of Two Million Dollars (\$2,000,000); fire damage of One Hundred Thousand Dollars (\$100,000); medical expense of Five Thousand Dollars (\$5,000); products/completed operations aggregate of Two Million Dollars (\$2,000,000); personal injury of One Million Dollars (\$1,000,000) with each occurrence up to One Million Dollars (\$1,000,000), with deductible of Ten Thousand Dollars (\$10,000) per claim. Excess liability shall be covered in an amount equal to Two Million Dollars (\$2,000,000) per occurrence, Five Million Dollars (\$5,000,000) aggregate.

8. **INDEMNIFICATION**. From Commencement of Construction of the Project through completion Developer agrees to indemnify, defend and hold harmless the Governmental Entities, their respective officers, agents and employees, from and against all liability, claims, demands, and expenses, including fines imposed by any applicable state or federal regulatory agency, court costs and reasonable attorneys' fees, on account of any injury, loss, or damage to the extent arising out of any of the work to be performed by Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer under this Agreement, but only to the extent such injury, loss, or damage is caused by the negligent act or omission, error, professional error, mistake, accident, or other fault of Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer, but excluding any injuries, losses or damages which are due to the gross negligence, breach of contract or willful misconduct of the Governmental Entities, or any arising by, through, or under the Governmental Entities.

9. **REPRESENTATIONS AND WARRANTIES**.

9.1 **Representations and Warranties by the Governmental Entities**. The Governmental Entities represents and warrants as follows:

A. The Governmental Entities, collectively, have the power to enter into and have taken all actions to date required to authorize this Agreement and to carry out its obligations.

B. The Governmental Entities know of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Governmental Entities or their respective officials with respect to this Agreement that has not been disclosed in writing to Developer.

C. The execution and delivery of this Agreement and the documents required and the consummation of the transactions contemplated by this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to the Authority or to its governing documents; (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Authority is a Party or by which it may be bound or affected; or (iii) permit any Party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Authority.

D. This Agreement constitutes a valid and binding obligation of the Governmental Entities, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency, applicable laws of appropriation and prohibitions against multiyear fiscal obligations, and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

9.2 **Representations and Warranties by Developer.** Developer represents and warrants as follows:

A. Developer is a Colorado corporation in good standing and authorized to do business in the State of Colorado and has the power and the authority to enter into and perform in a timely manner its obligations under this Agreement.

B. The execution and delivery of this Agreement has been duly and validly authorized by all necessary action on its part to make this Agreement valid and binding upon Developer.

C. The execution and delivery of this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to Developer or to Developer's governing documents; (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which Developer is a Party or by which it may be bound or affected; or (iii) permit any Party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Developer.

D. Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat of any of the same contesting the powers of Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the Authority.

E. This Agreement constitutes a valid and binding obligation of Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

F. The Developer shall restrict the Redevelopment Property from those uses set forth

in Exhibit D.

10. **TERM.** The term of this Agreement is the period commencing on the Effective Date and terminating on the date that the Reimbursement Amount is paid in full by the Governmental Entities from the Pledged Revenues; or ten (10) years from the issuance of the certificate of occupancy for the Project, whichever first occurs, but subject to the provisions of Section 6 in the event of a Future Conveyance; provided that the following provisions shall continue beyond the term of this Agreement: (i) any rights and remedies that a Party has for an Event of Default hereunder; (ii) any rights that a Party has to inspect books and records as set forth herein for a period of four (4) years following termination of this Agreement; and (iii) the indemnification provisions set forth in Section 8.

11. **CONFLICTS OF INTEREST.** None of the following will have any personal interest, direct or indirect, in this Agreement: a member of the governing body of the Authority or the City, an employee of the Authority or of the City who exercises responsibility concerning the Plan of Development, or an individual or firm retained by the City or the Authority who has performed consulting services to the City or the Authority in connection with the Plan of Development or this Agreement. None of the above persons or entities will participate in any decision relating to the Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

12. **ANTI-DISCRIMINATION.** Developer, for itself and its successors and assigns, agrees that in the construction of the Eligible Improvements and in the use and occupancy of the Redevelopment Property and the Eligible Improvements, Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, disability, marital status, ancestry, or national origin.

13. **NOTICES.** Any notice required or permitted by this Agreement will be in writing and will be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail or overnight courier service (in which case, such notice shall be deemed received on the next business day), by certified mail or registered mail, postage prepaid return-receipt requested (in which case, such notice shall be deemed received five (5) business days after being deposited in the U.S. Mail), by electronic or facsimile delivery (in which case, such notice will be deemed received on the same day if sent prior to 5:00 p.m. on a business day, or, otherwise, on the next business day), addressed to the Party to whom such notice is to be given (and such Party's additional persons to copy) at the address(es) set forth below or at such other or additional addresses as may be furnished in writing to the other Parties. The Parties may also agree on a different means of providing written notice hereunder.

If to the City:

Stephen C. Adams
City Manager
City of Loveland
500 East Third Street, Suite 330
Loveland, CO 80537

If to the DDA: Sean Hawkins, Executive Director
Loveland Downtown Partnership
Downtown Development Authority
350 N. Cleveland.201 East 4th Street
Loveland, CO 80537

If to the Developer: Vitamin Cottage Natural Food Markets, Inc.
Attn: General Counsel
12612 W Alameda Pkwy
Lakewood, CO 80228

14. **DELAYS; FORCE MAJEURE**. Subject to the following provisions, time is of the essence. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, earthquake, strikes, labor disputes, pandemics, regulation or order of civil or military authorities, or other causes, similar or dissimilar, which are beyond the control of such Party.

15. **EVENTS OF DEFAULT**. The following events shall constitute an Event of Default under this Agreement:

A. Any representation or warranty made by any Party in this Agreement proves to have been untrue or incomplete in any material respect when made and which untruth or incompleteness has a material adverse effect upon the other Party.

B. So long as the Reimbursement Amount has not been paid in full, the Governmental Entities fail to remit the Pledged Revenues to Developer in accordance with the terms of this Agreement.

C. Except as otherwise provided in this Agreement, any Party fails in the performance of any other covenant in this Agreement and such default continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party. If such default is not of a type which can be cured within such 30-day period and the defaulting Party gives written notice to the non-defaulting Party or Parties within such 30-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 30-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 in good faith.

16. **REMEDIES**. Upon the occurrence and continuation of an Event of Default, the non-defaulting Party's remedies will be limited to the right to enforce the defaulting Party's obligations by an action for injunction, specific performance, or other appropriate equitable remedy or for mandamus, or by an action to collect and enforce payment of sums owing hereunder, and no other remedy, and no Party will be entitled to or claim damages for an Event of Default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions of this Agreement, the prevailing Party in

such litigation or other proceeding shall receive, as part of its judgment or award, its reasonable attorneys' fees and costs.

17. **TERMINATION.** This Agreement may be terminated by Developer at any time prior to the Commencement of Construction of the Project. This Agreement may be terminated under any relevant provision of this Agreement as follows:

In order to terminate this Agreement, a Party shall provide written notice of such termination to the other Party. Such termination shall be effective thirty (30) days after the date of such notice, without any further action by the Parties, unless prior to such time, the Parties are able to negotiate in good faith to reach an agreement to avoid such termination. Upon such termination, this Agreement shall be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Agreement, except as otherwise expressly set forth herein. In addition, the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

18. **PAYMENT OF FEES AND EXPENSES.** Each Party agrees to pay for its own fees, costs and expenses incurred by such Party in connection with the execution and delivery of this Agreement and related agreements and documents.

19. **NONLIABILITY OF OFFICIALS, AGENTS, MEMBERS, AND EMPLOYEES.** Except for willful or wanton actions or gross negligence, no trustee, board member, commissioner, official, employee, consultant, manager, member, shareholder, attorney or agent of any Party, nor any lender to any Party or to the Project, will be personally liable under the Agreement or in the event of any default or for any amount that may become due to any Party.

20. **ASSIGNMENT.** Except for an assignment to the Acquisition Party and a Future Conveyance, this Agreement shall not be assigned in whole or in part by any Party without the prior written consent of the other Party, and such assignment shall be subject to the provisions of Section 6 of this Agreement.

21. **SECTION CAPTIONS.** The captions of the Sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

22. **ADDITIONAL DOCUMENTS OR ACTION.**

22.1 The Parties agree to execute any additional documents or take any additional action, including, without limitation, estoppel documents requested or required by third parties, including, without limitation, lenders, tenants or potential purchasers, necessary to carry out this Agreement or reasonably requested by any Party to confirm or clarify the intent of the provisions of this Agreement and to effectuate the agreements and the intent. Notwithstanding the foregoing, however, no Party shall be obligated to execute any additional document or take any additional action unless such document or action is reasonably acceptable to such Party.

22.2 If all or any portion of this Agreement, or other agreements approved in connection with this Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties, within the scope of their powers and duties, will cooperate in the joint defense of such

documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or replace such precluded items to assure, to the extent legally permissible, that each Party substantially receives the benefits that it would have received under this Agreement.

22.3 The Executive Director shall have the authority to act on behalf of the Authority under this Agreement.

23. **AMENDMENT**. This Agreement may be amended only by an instrument in writing signed and delivered by the Parties.

24. **WAIVER OF BREACH**. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and will not operate or be construed as a waiver of any subsequent breach by any Party.

25. **GOVERNING LAW**. The laws of the State of Colorado govern this Agreement.

26. **BINDING EFFECT**. This Agreement will inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph permits the assignment of this Agreement except as set forth in Sections 6 and 20.

27. **EXECUTION IN COUNTERPARTS**. This Agreement may be executed in several counterparts, each of which will be deemed an original and all of which will constitute but one and the same instrument.

28. **LIMITED THIRD-PARTY BENEFICIARIES**. Except as hereinafter provided, this Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party to this Agreement.

29. **NO PRESUMPTION**. The Parties and their attorneys had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement will be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

30. **SEVERABILITY**. If any provision of this Agreement as applied to any Party or to any circumstance is adjudged by a court to be void or unenforceable, the same will in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

31. **DAYS**. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day will be extended until the next day on which such banks and state offices are open for the transaction of business.

32. **GOOD FAITH OF PARTIES**. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will

act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

33. **PARTIES NOT PARTNERS.** Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party.

34. **NO WAIVER OF IMMUNITY.** Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by the Governmental Entities under applicable state law.

[The remainder of this page is intentionally left blank.]

Vitamin Cottage Natural Food Markets, Inc., a Colorado Corporation

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this ____ day of _____, 202__ by _____ as _____ of Vitamin Cottage Natural Food Markets, Inc., a Colorado Corporation.

Witness my hand and official seal. My commission expires: _____

Notary Public

(S E A L)

Loveland Downtown Development Authority, a body corporate and politic of the State of Colorado

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this ____ day of _____, 202__ by _____
(print name) as _____ (title) of the Loveland Downtown Development Authority.

Witness my hand and official seal. My commission expires: _____

Notary Public

(S E A L)

City of Loveland, a Colorado municipal corporation

By: _____
Stephen C. Adams, City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Vincent Junglas, Deputy City Attorney

EXHIBIT A
Legal Description of Property

745 N. Lincoln Avenue - THE N 80 FT OF LOTS 1 THRU 4, BLK 6, LOV

735 N. Lincoln Avenue - S 60 FT OF LOTS 1 THRU 3 & LOT 4 & S 40 FT OF E 12 FT OF 5, BLK 6, LOV

EXHIBIT B
Eligible costs

Summary of Selected Costs for Reimbursement

1. Cornice and Increased Covered Walkway - **\$175,000** – Pursuant to the City’s Downtown Design Standards, the cornice is designed to be more pronounced, and a longer covered walkway is included around the entrance and front of the building. These architectural enhancements will help to enhance the visual depth of the project and provide more human scaled and pedestrian centric features for the building and the neighborhood, which exceed the established standards for a prototypical store.
2. Increased Windows - **\$55,000** – Pursuant to the City’s Downtown Design Standards, the number of windows is increased on the main street facing elevations to further enhance the human scaled elements of the building. This Eligible Public Improvement also exceeds the established standards for a prototypical store.
3. Building Articulation - **\$107,500** – Pursuant to the City’s Downtown Design Standards, the exterior walls of the building are varied more in plane than would be designed on a prototypical Project store. This works to further the visual interest and scale of the building.
4. Cladding Materials - **\$138,500** – Pursuant to the City’s Downtown Design Standards, exterior materials are utilized which add to the visual texture of the building and relate to the other historic building materials in the neighborhood. These also represent an increase in scope beyond that of a prototypical store.
5. Open Space - **\$118,000** – Pursuant to the City’s Downtown Design Standards, an open space will be provided to serve as a benefit to pedestrians and customers. This includes an enhanced tree lawn, landscaping and pedestrian improvements, including lighting.
6. Burying of Utility Lines - **\$60,000** - Developer will bury the overhead power lines on the North and East sides of the property to visually enhance and provide greater overall power stability and resiliency to relevant structures.

Exhibit C

Natural Grocers Downtown Loveland Project

735 & 745 N. Lincoln Ave.
Loveland, Colorado

presentation to the Loveland Downtown Development Authority and
The City of Loveland
November 8, 2021

Natural Grocers History

- Natural Grocers by Vitamin Cottage was established in 1955 by Margaret and Philip Isely, parents of the current leadership. They started the business by going door-to-door in Golden, Colorado, selling whole-grain bread and sharing nutrition information with people they met.
- The Iselys found that the more health and nutrition knowledge their neighbors possessed, the healthier the food they wanted. Their door-to-door business was successful enough that within a short time they were able to open their first retail location – a modest storefront that looked like a cottage. And, yes, that's where the original name, Vitamin Cottage, comes from. Over the years, Vitamin Cottage has grown from a "mom and pop" business to a 160+ store chain with over 3,000 employees.
- More than 65 years after the company was founded, the commitment to service to customers has never changed. Exceptional customer service, free nutrition and health information, highest quality products at affordable prices, good jobs that support a balanced life, and minimal impact on the earth ecosystem.
- Natural Grocers by Vitamin Cottage was established in 1955 by Margaret and Philip Isely, parents of the current leadership. They started the business by going door-to-door in Golden, Colorado, selling whole-grain bread and sharing nutrition information with people they met.
- Today, Natural Grocers has 41 stores in Colorado, and growing.

Natural Grocers Five Founding Principles

- *Nutrition Education*
- *Highest Quality Natural and Organic Standards*
- *Always Affordable Pricing*
- *Supporting our Communities*
- *Commitment to our Crew Members*

The Natural Grocers Pledge

- We sell only 100% certified organic produce.
- We only sell eggs from free range and pasture-based chickens.
- Our groceries do not contain artificial flavors, preservatives, colors or sweeteners.
- Our groceries do not contain hydrogenated oils or added trans fats.
- Our fresh & frozen meats are naturally raised without the use of antibiotics, artificial hormone implants or animal by-products, and our fresh dairy products come from cows that are pasture raised without GMO alfalfa.
- We do not sell irradiated foods.
- All of our bulk nuts & flours are refrigerated and pre-packaged for freshness and sanitation.
- All products sold in our stores are screened by buying committees to make sure that the products meet our standards.
- Always Affordable Pricing. We believe that natural foods should be affordable to everyone, so we price our products at an everyday affordable price. This means we sell our products at a price you can afford. We believe our prices are the best in the marketplace.
- We believe education is the foundation for good health. We continually educate our staff about nutrition and health so they can help and educate you, the customer. In addition, most of our stores have a certified Nutritional Health Coach on staff. We also offer free public seminars on nutrition each month at many of our stores.
- We offer the best customer service in the business.

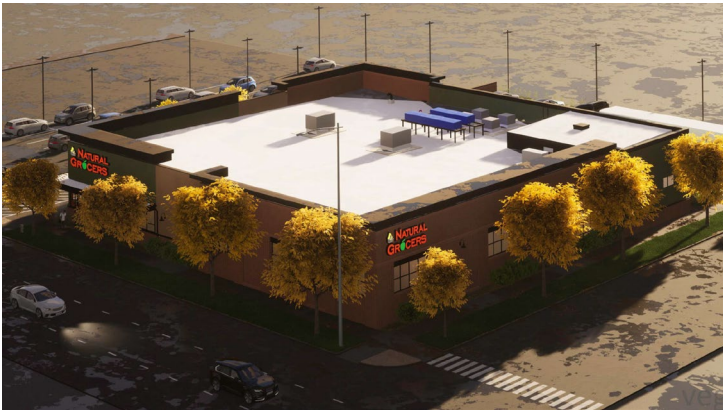
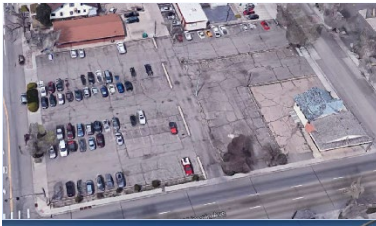
Our Loveland Project Will Support DDA Goals

- **Drive Job Creation in Loveland.** At maturity, our Loveland store will employ approximately 35 crew members, including a store manager, an assistant store manager and a nutritional health coach.
- **Bring Healthy, Affordable Food Options to Downtown.** Our store will bring affordable natural and organic foods, vitamins and supplements, and world class customer service to Downtown Loveland.
- **Eliminate Blight and Revitalize Downtown Loveland.** Our development will convert a series of poorly maintained parking lots and a long-abandoned dilapidated building into a modern specialty grocery store and community hub.
- **Encourage Future Redevelopment.** Our project will support future growth and urban renewal by serving as a retail anchor to the downtown core improving the viability of future development efforts.



Feature	Cost
Comice and Increased Covered Walkway	\$175,000.00
Increased Windows	\$55,000.00
Building Articulation	\$107,500.00
Cladding Materials	\$138,500.00
Open Space	\$118,000.00
Burying Overhead Lines	\$60,000.00
Total	\$654,000.00

Total DDA Investment Request: \$654,000.00





How Incentive Funding Will Be Used

Features
Cornice and Increased Covered Walkway
Increased Windows
Building Articulation
Cladding Materials
Open Space
Burying Overhead Lines
Total

Enhanced Architectural Features and Design



Natural Grocers Longmont Store

VS.



Natural Grocers Proposed Loveland Store



Natural Grocers Greeley Store

Cornice and Increased Covered Walkway: \$175,000.00

Per the City of Loveland's Downtown Design Standards, the cornice was designed to be more pronounced, and a longer covered walkway was included around the entrance and front of the building. These architectural enhancements help to enhance the visual depth of the project and provide more human scaled and pedestrian centric features for the building and the neighborhood and exceed the established standards for a prototypical Natural Grocers store.



Increased Windows: \$55,000.00

Per the City of Loveland's Downtown Design Standards, the number of windows was increased on the main street facing elevations to further enhance the human scaled elements of the building. This also exceeds the established standards for a prototypical Natural Grocers store.



Building Articulation: \$107,500.00

Per the City of Loveland's Downtown Design Standards, the exterior walls of the building were varied more in plane than would be designed on a prototypical Natural Grocers store. This works to further the visual interest and scale of the building.



Cladding Materials: \$138,500.00

Per the City of Loveland's Downtown Design Standards, exterior materials were utilized which all to the visual texture of the building and relate to the other historic building materials in the neighborhood. These also represent an increase in scope beyond that of a prototypical Natural Grocers store.



Open Space: \$118,000.00

Per the City of Loveland's Downtown Design Standards, and request by the zoning department and other municipal agencies an open space has been provided to serve as a benefit to pedestrians and customers. This includes an enhanced tree lawn, landscaping and pedestrian improvements, including lighting. While this is more than would typically be provided for a Natural Grocers, it provides a great way to visually and experientially integrate the store with the community.



Burying of Utility Lines: \$60,000.00

Per the City of Loveland's request we will bury the overhead powerlines on the North and East sides of the property



Development Project Timeline

- Submit Preliminary Plans for City Approval: November
- Receive City Permits: February/March 2022
- Construction Period: March 2022 - September 2022
- Store Opening: September 2022

Estimated Project Budget: \$5,189,520.00

Obtain a Code		0.000
Phase 1 Environmental Study		3.500
Approval		3.400
Survey		3.400
Development Cost		4,820,443
DEV 1 Site Preparation	414,550	414,550
DEV 2 Site Utilities & Site Work (including sewer tap fee)	6,288,899	9,809,547
DEV 3 Foundation & Concrete	21,189	229,399
DEV 4 Masonry	22,928	124,976
DEV 5 Metals	3,284,8	3,609,931
DEV 6 Carpentry	8,376	238,767
DEV 7 Insulation & Roofing	2,667,6	2,667,6
DEV 8 Doors & Windows	6,443	1,044,37
DEV 9 Finishes	2,000	2,000,0
DEV 10 Signage	397,6	397,6
DEV 11 Equipment	733,55	733,55
DEV 12 Permits/Inspection	792	792
DEV 13 Contingency	44,000	44,000
DEV 14 Electrical	363,50	3,85,663
Plumbing/Heat/Pools		1,000,00
ME: Refrigeration System		1,200,00
Subtotal	\$ 3,448,976	\$ 4,820,443
Soft Cost		
Builder's Contingency 5%	19,309	236,237
Builder's Risk Insurance	219	2,267
Subcontractor	816,2	703,77
Structural Engineering	1,376	1,376
Civil Engineering	1,240	1,660
GC Training	800	800
Owner's Risk	1,800	1,800
Total	\$ 5,189,520	\$ 5,189,520

Questions

Exhibit D
Restricted Uses

No Portion of the Redevelopment Property or Project, or any building, structure or improvement presently or subsequently erected on the Redevelopment Property, shall be used for any of the following uses for the term of the Agreement:

1. Indoor housing or raising of animals;
2. Pawn shops;
3. Skateboard Park;
4. Retail motor vehicle sales, rental or repair;
5. Check cashing or payday loan businesses;
6. Self-storage units;
7. Gun stores;
8. Recycling collection and/or processing facilities;
9. Retail car wash;
10. Clubs or lodges;
11. Crematorium;
12. Junkyard;
13. Jails, detention and penal centers and facilities;
14. Retail gas station;
15. Long-term care facilities;
16. Dairy processing plant;
17. Laundry and dry-cleaning plants; and
18. Retail laundry and dry cleaning establishments.

3rd Street Downtown Pedestrian Enhancement Study City of Loveland

November 15, 2021

Attn: Sean Hawkins
Downtown Development Authority
201 East 4th Street
Loveland, CO 80537

Dear Sean;

Thank you for the opportunity to work with you on a pedestrian enhancement study at 3rd Street and US287 (Cleveland and Lincoln) in downtown Loveland adjacent to the Foundry development. We understand the interest in addressing pedestrian crossing needs of US 287 as the area redevelops and transportation patterns by people using various modes have changed.

This scope outlines steps for **Next Phase Engineering** to provide consulting services to review, analyze, evaluate, and make a recommendation regarding pedestrians across US 287 in downtown Loveland in the vicinity of 3rd Street. The work begins by understanding the background that necessitates the project and the non-technical intangibles that may be present. The ultimate recommendation should address various interests and be based on both the current standards and national best practices as well as seasoned engineering judgement.


Scope of Services

This scope represents our understanding of the various work tasks. As the project gets underway, we're happy to refine the scope to ensure it fully meets your needs and doesn't include items or efforts that are not needed. The project can be contracted as a lump sum project (including reimbursables), or as a time and materials with a not to exceed limit depending on the DDA's preference.

Project Start Up, Coordination, and Data Collection

This task includes coordination and communication with DDA and City staff as well as general project planning and management.

For data collection, we recommend a video review of 14 hours of time (6 am to 8 pm) at both intersections (Cleveland / 3rd and Lincoln / 3rd). The video will provide turning movement counts, bike and pedestrian counts, and all the data needed for pedestrian crossing and signal warrant evaluation. We would also plan to obtain speed data on the approaches to the potential crossing locations.



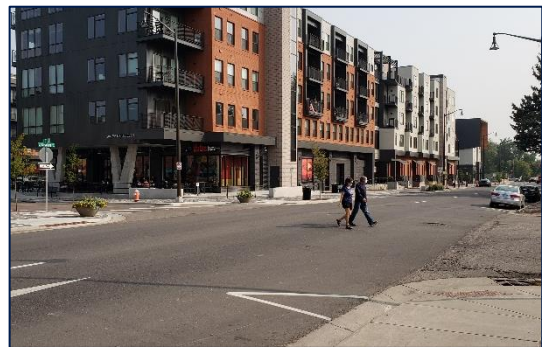
Video data at the two intersections will also be collected on a weekend day when an event is in progress. This will provide an overview of how the roadways and pedestrian movements operate especially when pedestrian volumes may be higher.

Considerations:

- *Our scope includes the video data being reviewed for a pedestrian safety evaluation. This is not just a compilation of pedestrian volumes, but also review of pedestrian behavior, adequate gaps, and any ‘near miss’ or conflicts of note.*
- *The data can be compared to previous counts (CDOT short duration at that location in 2017/2018, and the Foundry TIS) to determine likely adjustment factors for COVID.*
- *We would work with the City of Loveland to obtain crash reports for each intersection to develop a full picture of safety.*

Pedestrian Crossing Evaluation

The collected data will be used to complete a pedestrian crossing evaluation. This will be done using Appendix B in the City’s Bicycle and Pedestrian Plan, LCUASS (Chapter 4 Table 4-4) for Level of Service, other information from the City of Loveland, and applicable current best practices (to be discussed with City traffic staff before utilized). The evaluation will indicate whether some type crossing is currently warranted given operational characteristics.



Considerations:

- *Both locations are shown on the City’s Bicycle and Pedestrian Plan as high priority locations for crossing improvements.*
- *Approach speed is a critical variable in determining need and type of treatment.*
- *Gaps in traffic due to metering from upstream traffic signals will need to be considered.*

Signal Warrant Study

This work task will undertake a broader review of the two intersections to determine whether a change in control (at either or both intersections) is appropriate. This will review the intersections not just for pedestrians, but also for vehicular traffic using the MUTCD signal warrants, traffic crash modeling and engineering judgment.

Considerations:

- *The warrant study could be done with current volumes, adjusted volumes (to account for COVID), and anticipated future volumes.*

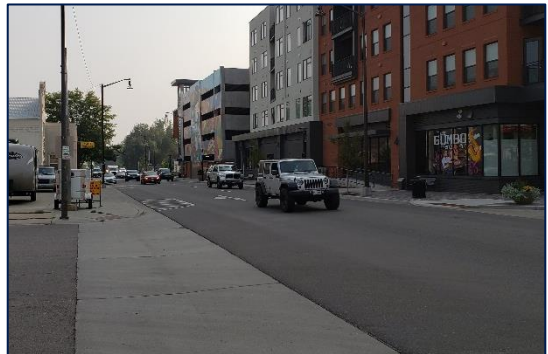
Alternatives Analysis and Recommendation

The alternatives analysis will utilize results from the pedestrian evaluation and the signal warrant analysis to explore various options.

Potential alternatives may include signalization options, minor infrastructure changes (such as additional bulb-outs on opposite sides of Lincoln / Cleveland), mainline signal re-timing to create more gaps, etc. The evaluation of the alternatives will be done through a basic matrix with criteria (and their relative weight) to be developed in collaboration with DDA and City staff. The base criteria would be alignment with standards and adopted plans, feasibility and cost, with potential additional criteria such as impact on US287 operations, safety / perceived safety, directness of walking routes, etc.



The scope assumes a second iteration that reflects input from both the DDA and City staff following review and discussion. The recommendation may include a phased approach of minor short-term changes and potential future changes based on continued monitoring.



Considerations:

- *The analysis can include an understanding of not just the technical evaluation, but also any interests in the project such as perceived safety and economic development support.*
- *An evaluation of potential pedestrian origins / destinations and their walking routes will help determine how to best accommodate direct pedestrian routes.*
- *One item that simplifies potential impacts is the fact that Lincoln and Cleveland are one-way roadways. Should signalization be an option, then coordination is straightforward.*
- *If the results do not recommend a change at this time, then thresholds can be identified for when a change would be appropriate, so future monitoring is easy.*
- *If the results do recommend some type of signalization, a recommendation can be made for operational implementation (coordinated signal timing including phase timing and offsets).*

Project Documentation and Refinement

A draft report summarizing the process including data, evaluations, options, and recommendations will be completed and submitted to the DDA and City of Loveland. Upon review / comments, the finalized document (both electronic and hard copy) will be submitted.

Schedule and Fee Estimate

The schedule for the project is dependent on the contracting process, determination of appropriate timing to complete the traffic counts, and the needs of the DDA in terms of scheduling. We look forward to working with you on a schedule that meets your needs. In general, it would be expected that the project could be complete within 60 days after completion of the counts.

The estimated fee for the project is shown below. Reimbursable expenses are included in the estimate and are billed **at cost**. Transportation will not be billed as we live close by. Based on the scope outlined above, the estimated total labor and reimbursable costs for this project will not exceed **\$ 16,905**.

If the contract is structured as a time and material with a not to exceed limit, if time efficiencies are realized during the course of the project, we will not bill for time not needed to accomplish the agreed to scope.



City of Loveland 3rd Street Downtown Pedestrian Enhancement Study								
Item #	Task	Principal Engineer	Technical Work	Clerical Work	TOTAL LABOR HOURS	Labor Cost	Reimburseables / Subconsultant	TOTAL COSTS
	Hourly rate:	\$175	\$90	\$60				
100 Project Start Up, Coordination and Data Collection								
110	Planning, coordination and project invoicing	8		4	12	\$1,640		\$1,640
120	Data Collection and processing - Weekday	1	6		7	\$715	\$1,100	\$1,815
130	Data Collection/Processing - weekend special event day	2	10		12	\$1,250	\$750	\$2,000
	Subtotal (Hours)	11	16	4	31			
	Subtotal (\$)	\$1,925	\$1,440	\$240		\$3,605	\$1,850	\$5,455
200 Pedestrian Crossing Evaluation								
210	Standards applicability and review	4			4	\$700		\$700
220	Evaluation	8			8	\$1,400		\$1,400
	Subtotal (Hours)	12	0	0	12			
	Subtotal (\$)	\$2,100	\$0	\$0		\$2,100	\$0	\$2,100
300 Signal Warrant Study								
310	Signal Warrant Study - MUTCD	8			8	\$1,400		\$1,400
320	Additional analysis for volume corrections / future #s	6			6	\$1,050		\$1,050
	Subtotal (Hours)	14	0	0	14			
	Subtotal (\$)	\$2,450	\$0	\$0		\$2,450	\$0	\$2,450
400 Alternatives Analysis and Recommendation								
410	Identification of alternatives	4			4	\$700		\$700
420	Evaluation criteria, weighting and review w/ City staff	8			8	\$1,400		\$1,400
430	Second iteration alternative refinement and evaluation	6	4		10	\$1,410		\$1,410
440	Determination of final recommendation	2			2	\$350		\$350
	Subtotal (Hours)	20	4	0	24			
	Subtotal (\$)	\$3,500	\$360	\$0		\$3,860	\$0	\$3,860
500 Final Project Documentation								
510	Final document development and submittal to Loveland	8	4		12	\$1,760		\$1,760
520	Document refinement and final submittal	6	2		8	\$1,230	\$50	\$1,280
	Subtotal (Hours)	14	6	0	20			
	Subtotal (\$)	\$2,450	\$540	\$0		\$2,990	\$50	\$3,040
	TOTAL HOURS	71	26	4	101			
	TOTAL COST	\$12,425	\$2,340	\$240		\$15,005	\$1,900	\$16,905

Project Team

Next Phase Engineering is a small company. There's no marketing department or corporate headquarters. There's no work done by entry level staff with limited experience under the guise of guidance from the PM. We're responsive, thorough, efficient, and helpful.

Joe and Martina are the principals and each has many years of traffic engineering experience working for local public entities where both technical expertise and daily application of engineering judgement was required. They have extensive experience in pedestrian crossing projects, and have worked together for six years. Brief team capabilities are shown below, and we're happy to forward full resumes if needed.

Joe Olson, P.E.

joe@nextphase-eng.com

970-232-4104

Joe has 30+ years' experience across all facets of traffic engineering and transportation systems management. He is highly skilled in technical areas such as signal operations, warrant analysis and safety evaluations. He has authored several policy documents including methods for pedestrian evaluations. Joe brings excellent communication skills and a high level of trust to all his work.



Specific qualifications include:

- Developed Fort Collins' Pedestrian Crossing Guidelines.
- Conducted numerous pedestrian crossing evaluations at intersections throughout Fort Collins.
- Worked with the Longmont Downtown Development Authority and CDOT to implement mid-block pedestrian crossings on U.S. 287 in downtown Longmont.
- Expertise in transportation safety including Highway Safety Manual and CDOT evaluation methods at signalized intersections.

Martina Wilkinson, P.E. PTOE

martina@nextphase-eng.com

970-988-0143

Martina brings 25+ years' experience across traffic engineering, transportation planning, roadway safety and project management including six years as a municipal traffic engineer. Communication, collaboration, and facilitation are strong suits, especially the ability to navigate sensitive projects.



Specific qualifications include:

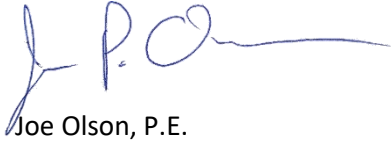
- Traffic Operations liaison to numerous City of Fort Collins pedestrian improvement projects including arterial crossing evaluations, pedestrian plan implementation, project prioritization, sidewalk gap projects, etc.
- Completed safety audits following pedestrian crashes, including fatalities
- Identified criteria and applicability for pedestrian improvements and together with a team implemented Leading Pedestrian Intervals (LPis) at more than 70 intersections.
- Fort Collins' transportation development review coordinator including scoping and review of traffic impact studies including pedestrian evaluation and mitigation.

We know from personal experience that traffic engineering needs for a public entity do not begin nor end with the consultant's report. The work done and conclusions need to be useful. That means they should be feasible, defensible from a standards and technical perspective, consider operations and maintenance, be holistic in terms of impacts on the overall system, and be attuned to public and stakeholder interests. Next Phase will provide you with recommendations that meet those needs.

Summary

We look forward to working with you. Please let us know if you have questions, or if we can provide additional information.

Sincerely,



Joe Olson, P.E.
Principal
Next Phase Engineering
joe@nextphase-eng.com
970-232-4104



Martina Wilkinson, P.E. PTOE
Principal
Next Phase Engineering
martina@nextphase-eng.com
970-988-0143

November 9, 2021

Sean Hawkins
Loveland Downtown Development Authority
201 East 4th Street
Loveland, CO 80537

Sean Hawkins
Executive Director
Loveland Downtown Partnership / Downtown Development Authority
970-699-2856

Re: Trash Enclosure Designs - 4th to 5th St / N. Railroad Ave. to N. Lincoln Ave.

Dear Sean,

Thanks for the opportunity to present this proposal to assist you with developing concepts, cost estimates and construction documents for two trash enclosures between 4th and 5th St. and N. Railroad Ave/N. Cleveland Ave. Below is our scope and fee based on the information provided. Fusion Fabrication will assist R+M in design evaluation for constructibility and budget/pricing in order to achieve desired budgets.

SCOPE & SERVICES

Our scope of work is divided into the following categories:

1. Design Alternatives
2. Construction Documents

Project Locations

Based on our discussion, the diagram below illustrates the approximate project locations:



1. Design Alternatives

Following existing conditions surveys for both locations (east enclosure obtained from project entitlement /approval drawings for adjacent properties), two alternative plan concepts for each location will be developed with supporting elevation illustrations including dimensions and other required annotations. Preliminary budgets and cost estimates will be developed for each alternative.

These concepts will be reviewed with the Downtown Loveland Partnership to obtain consensus on a design direction. The design direction could consist of a single alternative or a hybrid version of one or more.



Deliverables

- Concept Plan Alternatives and Elevations
- Cost Estimates

Meetings

- Review Meetings - allow 1

2. Construction Documents - Construction documents including dimensioned layout plans, construction details and specifications will be developed as required to bid the project.

Deliverables

- Construction Documents
- Cost Estimates
- Specifications

Meetings

- Review Meetings - allow 2

FEES

The summary of fees per task is listed below based on a lump sum agreement.

1. Design Alternatives	\$ 3,630
2. Construction Documents	\$ 4,180
TOTAL	\$ 7,810

SITE SURVEY FOR W. ALLEY (Majestic Surveying) \$ 2,450

Expenses

Reimbursables will be billed to you directly with no mark up. We will bill you with copies of all receipts.

Invoices

All Invoices are to be paid within thirty days of issuance.

Additional Services

Additional services shall include providing professional services not specifically identified in our basic Scope of Services described above, or for being asked to modify previously approved drawings. This includes more than one revision to the Final Schematic Plan or revising the Construction Documents Plan in a significant manner as outlined. Additional services can be negotiated or will be billed on an hourly basis. Additional submittals (if required) will be done on an hourly basis, unless they are the result of Russell + Mills Studios errors or omissions, in which case, we will undertake at no additional charge. Hourly rates will consist of: \$120/hr. for Project Principal and \$95/hr. for Landscape Architect Technician.

AGREEMENT

Russell+Mills Studios can initiate the proposed services upon written Authorization to Proceed. Adding your signature in the space provided below and returning a copy for our file will provide authorization of this proposal and form the basis of our contractual agreement. Should you have any questions or comments following your review of this proposal we will be pleased to address them at your earliest convenience.

Craig Russell
Principal



November 9, 2021

Sean Hawkins
Loveland Downtown Development Authority
201 East 4th Street
Loveland, CO 80537

Sean Hawkins
Executive Director
Loveland Downtown Partnership / Downtown Development Authority
970-699-2856

Re: 3rd to 4th St. Alley + Cleveland Alley Connection

Dear Sean,

Thanks for the opportunity to present this proposal to assist you with developing a concept plan for the 3rd to 4th St. Alley and connection to Cleveland Ave. We've outlined a workshop based approach to provide efficiency and allow for an inclusive design approach. Below is our scope and fee based on discussions.

Ditesco Project and Construction Services has been added to our team and will provide cost estimating assistance, utility analysis and preliminary design for public utilities and constructability advice and analysis.

SCOPE & SERVICES

Our scope of work is divided into the following categories (refer to task spreadsheet for detailed breakdown of tasks). Not included: site survey, site grading and private utility relocations if req'd.

1. Analysis and Discovery
2. Preliminary Concept Plan
3. Final Concept Plan

Project Extents

Based on our discussion, the diagram below illustrates the approximate project extents:



Preparation for Workshop #1 will include developing preliminary project goals and objectives, issues and needs and design parameters will be discussed with the goal of obtaining further input during the workshop. In addition, example images and site analysis diagrams illustrating utility requirements/potential trash enclosure locations and quantities, vehicular and delivery circulation requirements and spatial opportunities will be developed. The workshop will be conducted under the following parameters:

Workshop #1

Workshop #1 will consist of a presentation, listening session and discussion with the goal of understanding key issues and needs, refining goals and objectives and understanding desired character.

Deliverables

- Kickoff meeting to review schedule and milestones, discuss electrical undergrounding analysis, trash consolidation and preliminary goals/objectives/issues and needs.
- Project Goals and Objectives - to be refined during workshop
- Example images of potential program elements and character
- Trash Enclosure sizing requirements
- Issues and needs - to be refined during workshop
- Design Parameters
- Site analysis diagrams illustrating site opportunities and constraints - circulation, delivery, spatial opportunities, views, drainage, parking, etc.
- Trash Consolidation Analysis
- Utility analysis and electrical undergrounding analysis

Meetings

- Kick-off meeting
- Workshop #1
- Phone conversations and coordination

2. Preliminary Design Concept

Based on input and feedback received from Workshop #1, a preliminary design concept will be developed depicting materials, scale and character. Illustrative 3d models or sketches of the site will assist with visualization of the preliminary concepts. Plan enlargements will illustrate key areas at an enlarged scale. Key elements including trash enclosures and transformer locations/utilities will be illustrated as well. A meeting with City Staff will be held for input and to discuss engineering concepts. Preliminary cost estimates will be included.

Workshop #2

Workshop #2 will consist of a presentation of preliminary design concepts with the goal of obtaining feedback and input.

Deliverables

- Preliminary Concept Plan
- 3d illustrative models and illustrations of Concepts
- Plan Enlargements
- Trash enclosure diagrams, plans and elevations
- Transformer and key utility locations
- Preliminary cost estimates

Meetings

- Workshop #2
- Meeting w/City Staff
- Phone conversations and coordination

3. Final Concept Plan

A final concept plan will be developed with illustrative materials, cost estimates, utility alignment diagrams, sections and will include final trash enclosure designs, and transformer locations as well as plan enlargements for key areas. The final plan will be presented in a workshop format (Workshop #3) to receive any additional input and feedback. A Final Concept Plan document will then be issued to the Loveland Downtown Partnership/Downtown Development Authority for review and modified per comments and input.



Deliverables

- Final Concept Plan
- 3d illustrative models or illustrations of Concepts
- Plan Enlargements
- Trash enclosure diagrams, plans and elevations
- Transformer and key utility locations
- Final cost estimates

Meetings

- Workshop #3
- Phone conversations and coordination

FEES

The proposed fee is based on a lump sum agreement (not to exceed) for the scope listed above. Please refer to the spreadsheet following for the fee breakdown and itemization per task.

Analysis and Discovery	\$ 7,590
Preliminary Concept Plan	\$ 10,400
Final Concept Plan	\$ 5,800
TOTAL Russell + Mills	\$ 23,790
TOTAL Ditesco	\$ 7,236
GRAND TOTAL	\$ 31,026
EXPENSES ALLOWANCE - PRINTING	\$ 250

Expenses

Reimbursables will be billed to you directly with no mark up. Billing will include copies of all receipts.

Invoices

All Invoices are to be paid within thirty days of issuance.

Additional Services

Additional services shall include providing professional services not specifically identified in our basic Scope of Services described above, or for being asked to modify previously approved drawings. Additional services can be negotiated or will be billed on an hourly basis. Additional submittals (if required) will be done on an hourly basis, unless they are the result of Russell + Mills Studios errors or omissions, in which case, we will undertake at no additional charge.



Agreement

Russell+Mills Studios can initiate the proposed services upon written Authorization to Proceed. Adding your signature in the space provided below and returning a copy for our file will provide authorization of this proposal and form the basis of our agreement. Should you have any questions or comments following your review of this proposal we will be pleased to address them at your earliest convenience.

A handwritten signature in black ink, appearing to read "Craig Russell".

Craig Russell
Principal

Authorization to Proceed
Name & Title:

Sean Hawkins

Date

Representing: Downtown Loveland Partnership/Loveland Downtown Development Authority



Tasks & Fees

Downtown Loveland Alley - 3rd to 4th St. + Cleveland Ave. Connection				
Russell + Mills Studios, Inc				
Itemized Tasks/Fee Estimate for Russell + Mills Studios				
		Partner	Landscape Architect Tech.	Total Fee
	Hourly Rate	\$120	\$95	
Task				
Analysis and Discovery				
Kickoff Meeting		3		\$360
Project Goals and Objectives		6		\$720
Example Images		8	2	\$1,150
Issues and Needs		4		\$480
Design Parameters		4		\$480
Site Analysis Diagrams		8	2	\$1,150
Trash Consolidation Analysis		8	8	\$1,720
Utility and Electrical Undergrounding Analysis		2	2	\$430
Workshop #1		4	4	\$860
Phone Conversations and Coordination		2		\$240
TOTAL HOURS		49	18	67
TOTAL FEE		\$5,880	\$1,710	\$7,590
Preliminary Concept Plan				
Preliminary Concept Plan		24	8	\$3,640
3d illustrative models and illustrations of Concepts		14		\$1,680
Plan Enlargements			4	\$380
Trash enclosure diagrams, plans and elevations		4	8	\$1,240
Transformer and key utility locations		2	2	\$430
Preliminary cost estimates		2	6	\$810
Workshop #2		4		\$480
Meeting w/City Staff		3	12	\$1,500
Phone Conversations and Coordination		2		\$240
TOTAL HOURS		55	40	95
TOTAL FEE		\$6,600	\$3,800	\$10,400
Final Concept Plan				
Final Concept Plan		4	18	\$2,190
3d illustrative models and illustrations of Concepts		8		\$960
Plan Enlargements			4	\$380
Trash enclosure diagrams, plans and elevations		2	4	\$620
Transformer and key utility locations			2	\$190
Final cost estimates		2	4	\$620
Workshop #3		4		\$480
Phone Conversations and Coordination		3		\$360
TOTAL HOURS		23	32	55
TOTAL FEE		\$2,760	\$3,040	\$5,800
GRAND TOTAL FEE				\$23,790