

RESOLUTION #R-105-2017

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT FOR THE 6TH STREET COUNTY BUILDING AND A LEASE OF A PORTION OF THE 6TH STREET PARKING LOT WITH LONGBOW INDUSTRIES, LLC, AND AN ECONOMIC INCENTIVE AND PERFORMANCE AGREEMENT WITH L.P.R. CONSTRUCTION CO. LLC AND LONGBOW INDUSTRIES, LLC

WHEREAS, the Loveland Urban Renewal Authority (“LURA”) is a body corporate and politic of the State of Colorado established pursuant to C.R. S. 31-25-101, *et seq.*; and

WHEREAS, LURA intends to purchase from Larimer County (the “County”) that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (the “County Lot”), including the building structure (such structure and the County Lot are referred to herein as the “County Office”); and

WHEREAS, LURA also intends to purchase from the County that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, L.P.R. Construction Co. LLC (“LPR”), a Loveland-founded company, is a steel erector and provider of industrial construction and plant services with headquarters and operational facilities in Loveland, Colorado; and

WHEREAS, LPR currently employs approximately 273 full time employees (“FTEs”) and presently anticipates continuous and significant growth in the number of employment positions with LPR and Longbow Industries, LLC (“Longbow”) (and their affiliates) employing up to 1,000 FTEs over the next ten years; and

WHEREAS, LPR wishes to expand operations within the City of Loveland (“City”) which will include hiring additional employees with anticipated annual salaries of \$70,000 to \$85,000; and

WHEREAS, LPR currently intends to grow through acquisitions and wishes to centralize and consolidate its administrative offices by having Longbow acquire the County Office pursuant to the Purchase and Sale Agreement (“Purchase and Sale Agreement”) attached hereto as **Exhibit “C”** and incorporated by reference and lease the Parking Lot from LURA pursuant to the Parking Lot Lease Agreement (“Parking Lot Lease Agreement”) attached hereto as **Exhibit “D”** and incorporated by reference; and

WHEREAS, in order to move into the County Office, LPR anticipates expenditures of at least \$1,500,000, excluding the purchase price of the County Office, to complete public and private

improvements that support use of the County Office for the relocation and expansion of LPR's administrative office; and

WHEREAS, LPR and Longbow are requesting from LURA economic incentives of up to \$750,000 to defray costs of certain public improvements to the County Office pursuant to the Longbow Industries Economic Incentive and Performance Agreement (the "Incentive Agreement") attached hereto as **Exhibit "E"** and incorporated by reference; and

WHEREAS, LURA desires to sell the County Office to Longbow pursuant to the terms and conditions of the Purchase and Sale Agreement, lease the Parking Lot to Longbow pursuant to the terms and conditions of the Parking Lot Lease Agreement, and provide an economic incentive to Longbow pursuant to the terms of the Incentive Agreement; and

WHEREAS, LURA is authorized to enter into the Purchase and Sale Agreement, Parking Lot Lease Agreement and Incentive Agreement pursuant to C.R.S. §31-25-101, *et seq.*; and

WHEREAS, LURA finds that entering into the Purchase and Sale Agreement, Parking Lot Lease Agreement and Incentive Agreement are in the best interests of LURA and meets the intent and objectives of the Modified and Restated Urban Renewal Plan: Block 41-Finley's Addition (the "Plan"); and

WHEREAS, LURA further finds that entering into the Purchase and Sale Agreement, Parking Lot Lease Agreement and Incentive Agreement serves the public purposes of producing significant economic and social benefits to the Plan area and the citizens of Loveland, primarily in the form of economic development and employment opportunities.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO, ACTING AS THE BOARD OF THE LOVELAND URBAN RENEWAL AUTHORITY:

Section 1. That the Purchase and Sale Agreement, Parking Lot Lease Agreement and Incentive Agreement (collectively, the "Agreements") be and are hereby approved.

Section 2. That the City Manager is authorized, following consultation with the City Attorney, to modify one or more of the Agreements in form or substance as deemed necessary to effectuate the purposes of this Resolution or to protect the interests of LURA.

Section 3. That the City Manager and the City Clerk are hereby authorized and directed to execute the Agreements on behalf of LURA.

Section 4. That the Mayor, City Clerk, City Manager and City Attorney are hereby independently authorized and directed to take all action necessary or appropriate to execute and deliver the Agreements to facilitate the purpose of this Resolution, including without limitation, executing, attesting, authenticating and delivering for and on behalf of the City, such agreements, instruments, deeds, certificates and opinions as may be required to implement the transactions contemplated hereby and by Agreements. The execution of any document or instrument by the

appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such document or instrument in accordance with the terms hereof.

Section 5. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 7th day of November, 2017.

Cecil A. Gutierrez, Chair

ATTEST:

Board Secretary

APPROVED AS TO FORM:


Assistant City Attorney

A RESOLUTION APPROVING A PURCHASE AND SALE AGREEMENT FOR THE 6TH STREET COUNTY BUILDING AND A LEASE OF A PORTION OF THE 6TH STREET PARKING LOT WITH LONGBOW INDUSTRIES, LLC, AND AN ECONOMIC INCENTIVE AND PERFORMANCE AGREEMENT WITH L.P.R. CONSTRUCTION CO. LLC AND LONGBOW INDUSTRIES, LLC

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County
Colorado less east 16 feet as in 787-238

PURCHASE AND SALE AGREEMENT

This **Purchase and Sale Agreement** (“Agreement”) is entered into this ___ day of _____, 2017, by and between the Loveland Urban Renewal Authority, a body corporate and politic established pursuant to C.R.S. §31-25-101, *et seq.* (“LURA”) and Longbow Industries, LLC, a Colorado limited liability company (“Longbow”) (LURA and Longbow are individually referred to herein as a “party” and collectively as the “parties”).

WHEREAS, the County of Larimer, Colorado (the “County”) is the owner of that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (together with all interests, rights, easements, and appurtenances, the “County Lot”); and

WHEREAS, the building structure, including all fixtures (individually, the “Building” and together with the County Lot, referred to herein as the “County Office”), located on the County Lot is owned by the County; and

WHEREAS, the County is also the owner of that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, the County is currently building new office space located in the City of Loveland at approximately 1st Street and Denver Avenue, and intends to complete the sale of the County Office and Parking Lot (jointly referred to as the “Property”) to LURA by January 31, 2018, and subsequently enter into a lease of the Property (the “County Lease”) with LURA through no later than March 31, 2018; and

WHEREAS, upon the purchase of the Property by LURA from the County, LURA desires to sell the County Office to Longbow and enter into a long-term lease with Longbow for use of the Parking Lot; and

WHEREAS, upon the purchase of the Property by LURA from the County, Longbow desires to purchase the County Office from LURA and enter into a long-term lease with LURA for use of the Parking Lot; and

NOW THEREFORE, in consideration of the promises and covenants set forth herein, the parties agree as follows:

1. Mutual Condition Precedent. The parties agree that conveyance of the Property from the County to LURA by January 31, 2018, is a condition precedent to any obligations set forth in this Agreement, and that failure of the County to convey the Property to LURA by such date shall terminate this Agreement with no consequence to or obligation by either party.

2. Purchase Price. Longbow hereby agrees to purchase the County Office from LURA for

Seven Hundred Thirty-Two Thousand Dollars (\$732,000). All required payments shall be made in funds that comply with all applicable Colorado laws.

3. Special Warranty Deed and Closing. LURA hereby agrees to convey to Longbow by special warranty deed (the "Deed") in substantially the form set forth in **Exhibit "C"** all of its right, title and interest in the County Office. The delivery of the Deed and the closing of this conveyance ("Closing") shall occur within sixty (60) days after termination of the County Lease and departure of the County from the Property, anticipated to occur no later than March 31, 2019 ("Closing Date"), provided that the parties, by written agreement, may extend the Closing Date as they may agree. At Closing, title and possession to the Property shall be delivered to Longbow free and clear of all rights, liens, or encumbrances (except as set forth as exceptions to the warranty of title in the Deed), free of all tenancies, licenses, or other possessory rights, and free of personal property and in "broom clean" condition.

4. Escrow. Within ten (10) days of written notice of LURA's purchase of the Property from the County, Longbow shall pay into escrow with the Title Company (defined in Section 5. c. below) Ten Thousand Dollars (\$10,000.00) for the purchase of the County Office from LURA ("Earnest Money"). The Earnest Money shall be credited against the purchase price delivered at Closing. This Agreement shall terminate and the Earnest Money reimbursed fully to Longbow in the event the Property is not conveyed from LURA to Longbow by the Closing Date for any reason other an uncured default by Longbow of this Agreement.

5. Longbow's Diligence Rights.

- a. Generally. Longbow's obligation to close the purchase of the Property is subject to Longbow's satisfaction, in its sole discretion, with the Property and determinations relative to the suitability and cost of renovating the Property, including any environmental remediation, for Longbow's intended uses, as described in this Section 5. If Longbow is dissatisfied, in its sole discretion, with any aspect of the Property or such determinations, Longbow may give notice such dissatisfaction by written notice on or before [90 days prior to Closing]. If the parties are unable to resolve to the matters noted in said notice to Longbow's sole satisfaction on or before [60 days prior to Closing], this Agreement shall terminate and the escrow deposit described in Section 4 returned to Longbow.
- b. Documents. To assist Longbow in its inspections, within sixty (60) days of the mutual execution of this Agreement, LURA shall deliver or caused to be delivered to Longbow the following, to the extent the same exist and are within the possession or control of LURA or the County:
 - i. Any existing title insurance policies;
 - ii. Copies of all surveys and specifications for the Building, the Parking Lot, or any portion of the Property, including "as-built" plans;
 - iii. Information pertaining to any and all pending or threatened actions, suits or administrative proceedings with respect to or involving any portion of the Property and copies of any documents related thereto or any notice of an actual or alleged violation of any law with respect to the Property;

- iv. Copies of or written description of any verbal arrangements with respect to any and all encroachments, easements, rights of way, covenants, conditions, restrictions, design standards, leases, contracts or other agreements affecting the Property, including, but not limited to, oil and gas leases;
 - v. Copies of any other reports, studies and information with respect to the Property including, but not limited to those with respect to environmental reports, engineering studies, soils, soil contamination, geology, water tables, engineering, traffic impact reports, planning and zoning approvals and any other studies or reports pertaining to the Property or the development of any portion of it;
 - vi. Notice of, and copies of any documents related to any current or past mining and/or oil and gas operations on the Property;
 - vii. Information with respect to the number, type and location of any and all petroleum storage tanks located on or adjacent to the Property now or, to LURA's knowledge, anytime in the past, and copies of any documents with respect to the same;
 - viii. Information respecting the location of and existence of any and all underground utilities and/or wells located on the Property and copies of any documents with respect to the same;
 - ix. Information with respect to and copies of any documents that may exist with respect to any and all matters of any type or nature within LURA's knowledge that have the potential to increase the time, cost or difficulty of renovating the Property, including without limitation the construction of Eligible Public Improvements (as defined in Exhibit D hereto).
- c. Title Commitment and Survey. Longbow shall obtain a current commitment for an ALTA Owner's Policy of Title Insurance for the County Office and an ALTA Leasehold Owner's Policy of Title Insurance for the Parking Lot from [INSERT NAME OF COMPANY] ("Title Company") and copies of all documents referred to therein as exceptions (collectively "Title Commitment"). The Title Commitment shall be in the amount of the Purchase Price (defined above) and commit to insure fee simple title to the County Office in Longbow and a valid leasehold title to the Parking Lot and to delete or insure over the standard exceptions which relate to: (1) parties in possession; (2) unrecorded easements; (3) survey matters; (4) any unrecorded mechanics' liens; (5) gap period (effective date of commitment to date Deed is recorded); and (6) unpaid taxes, assessments and unredeemed tax sales prior to the year of Closing. Longbow shall also obtain a new boundary survey, or at Longbow's election, ALTA survey of the County Office and, if Longbow desires, the Parking Lot ("Survey").
- d. Access to Property. LURA acknowledges that Longbow (and or its agents) will require access to the Property prior to Closing. Prior to LURA taking title to the

Property, LURA agrees to use its best efforts to cause the County to provide such access on the terms and conditions applicable to LURA in the remainder of this Section. LURA hereby grants Longbow and its agents reasonable access to the Property upon forty-eight (48) hours' notice to LURA. Longbow agrees to take reasonable actions to prevent its activities on the Property from interfering with the fee owner's use of the Property. Longbow agrees to keep the Property free and clear from all liens or encumbrances resulting from Longbow's activities on the Property. Longbow shall maintain casualty insurance and comprehensive public liability insurance with coverage of not less than \$1,000,000 for each occurrence and \$2,000,000 in the aggregate. Longbow shall deliver proof of this insurance coverage (in the form of a certificate of insurance) upon written request.

6. Closing Costs/Prorations. LURA and Longbow agree to share equally the cost of the Title Commitment and Survey and all closing costs incurred in connection with this Agreement. Each party shall be responsible for its own utilities or other third-party charges with respect to the Property, provided that if a final bill for water and sewer is not available at Closing, the parties shall prorate on the best available information. LURA and Longbow agree to cooperate with Title Company to enable it to prepare the documents required for Closing.

7. Conditions of Closing. Longbow's purchase of the County Office from LURA and LURA's sale of the County Office to Longbow shall be subject to completion of all conditions set forth in this section at or prior to the Closing Date and to completion of all other conditions set forth in this Agreement. Failure to complete any condition without an express written waiver by the affected party shall terminate the obligation of Longbow to purchase the County Office and the obligation of LURA to sell the County Office.

- a. Incentive Agreement. Longbow and LURA, at or before the Closing of the conveyance of the County Office, shall execute a mutually acceptable incentive agreement for public and private improvements to the County Office substantially in the form of **Exhibit "D"** attached hereto and incorporated by reference.
- b. Lease Agreement. Longbow and LURA, at or before the Closing of the conveyance of the County Office, shall execute a mutually acceptable agreement for the lease of the Parking Lot substantially in the form of **Exhibit "E"** attached hereto and incorporated by reference.

8. Acknowledgement and Representations.

- a. LURA. LURA acknowledges and represents it has the power, authority, and a good and lawful right to enter into this Agreement, and upon acquisition of fee title to the Property, to perform its obligations hereunder.
- b. Longbow's Investigation. Except for the express representations of LURA set forth herein, Longbow acknowledges and agrees that there are no representations or warranties of any kind whatsoever, express or implied, made by LURA in connection with this Agreement, the conveyance of the County Office to Longbow, the physical condition of the County Office, whether the County Office complies with applicable laws, or whether the County Office is appropriate for Longbow's intended use. Longbow represents and agrees that it will have fully investigated the Property and all matters pertaining thereto.

- c. Longbow's Reliance. Except for the express representations of LURA set forth herein, Longbow also acknowledges and agrees that: (1) Longbow is not relying on any statements or representations of LURA or its officers, employees, agents, consultants or its representatives; (2) Longbow, in entering into this Agreement, is relying entirely on its own investigation of the County Office; (3) Longbow is aware of all zoning regulations, other governmental requirements, current physical condition of the County Office, and other matters affecting the use and condition of the County Office; and (4) Longbow's decision of whether to accept conveyance of the County Office on the terms and conditions hereof shall be made solely in reliance on LURA's express representations in this Agreement and on Longbow's review, inspection and investigation of the County Office and of materials, documents, information and studies relating to the County Office.
- d. Longbow's Release. Except for claims based on breach of LURA's representations herein, Longbow, for itself and Longbow's successors, lessees and assigns (collectively, "Longbow's Assigns"), hereby releases LURA and LURA's successors and assigns (collectively, "LURA's Assigns") from, and waives, any and all claims and liabilities against LURA and LURA's Assigns for, related to, or in connection with, any prior or current environmental or physical condition of the County Office (or the presence of any matter or substance relating to the environmental condition of the County Office), including, but not limited to, claims and/or liabilities relating (in any manner whatsoever) to any hazardous, toxic or dangerous materials or substances previously or now located in, at, about or under the County Office, or for any and all claims or causes of action (actual or threatened) based upon, in connection with, or arising out of, the Federal Comprehensive Environmental Response, Compensation, and Liability Act, as amended, and as it may be further amended from time to time, the Federal Resource Conservation and Recovery Act, as amended and as it may be further amended from time to time, the Colorado Hazardous Waste Act, as amended, and as it may be further amended from time to time, or any other claim or cause of action (including any federal or state-based statutory, regulatory or common law cause of action) related to environmental matters or liability with respect to, or affecting, the County Office. Upon Closing, Longbow and Longbow's Assigns shall assume the risk that adverse matters, including, but not limited to, construction defects and adverse physical and environmental conditions, may not have been revealed by Longbow's investigations, and upon Closing Longbow and Longbow's Assigns shall be deemed to have waived, relinquished and released LURA and LURA's Assigns from and against any and all claims, demands, causes of action (including causes of action in tort), losses, damages, liabilities, costs and expenses (including attorney fees and court costs) of any and every kind or character, known or unknown, which Longbow or Longbow's Assigns might have asserted or alleged against LURA, at any time by reason of or arising out of any latent or patent construction defects or physical conditions, violations of any applicable laws (including, without limitation, any environmental laws) and any and all other acts, omissions, events, circumstances or matters regarding the County Office, with the exception of claims based on breach of LURA's express representations herein. Longbow acknowledges and agrees that the waivers, releases and other provisions contained herein were a material factor in LURA's conveyance of the County Office

to Longbow. LURA is unwilling to convey the County Office to Longbow unless LURA is released as expressly set forth above. Longbow further acknowledges and agrees that the waivers, releases and other provisions contained herein were a material factor in LURA's agreement to convey the County Office to Longbow. Longbow, with its counsel, has fully reviewed the disclaimers and waivers set forth in this Agreement, and understands the significance and effect thereof. The terms and conditions of this section will expressly survive Closing and will not merge with the provisions of any Closing documents, and shall survive any termination of this Agreement.

9. Integration; Modification; and Assignment.

- a. This Agreement, including the attachments to it, contains the entire and only agreement between the parties, and supersedes all prior negotiations, representations, and preliminary or other agreements between them respecting the subject matter. Any prior representation, promise, warranty or condition in connection with such subject matter, which is not incorporated into this Agreement, shall not be binding on either party.
- b. No modifications, alterations, amendments, additions or deletions to this Agreement or to any of its provisions shall be binding upon the party against whom the enforcement of such modifications, alterations, amendments, additions, or deletions is sought unless such modifications, alterations, amendments, additions, or deletions have been made in writing and signed by each party or for and on behalf of each party by someone authorized to sign.
- c. Longbow may assign this Agreement to an entity controlled by it, or under common control with it, provided that the assignment shall not relieve Longbow from its obligations and liabilities hereunder without the prior written consent of LURA.

10. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Colorado. The parties to this Agreement recognize that there are legal restraints imposed upon LURA by the constitution, statutes, and laws of the State of Colorado, and subject to such restraints, the parties intend to carry out the terms and conditions of this Agreement. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any application thereof to a particular situation shall be held invalid under applicable law, such provision or application thereof shall be ineffective only to the extent of such invalidity, without invalidating the remainder of such provision or any other provision of this Agreement. Venue for any judicial proceeding concerning this Agreement shall only be in the District Court for Larimer County, Colorado.

11. Financial Obligations of LURA. Any financial obligation of LURA under this Agreement is contingent upon appropriation, budgeting and availability of specific funds to discharge those obligations. Nothing in this Agreement shall constitute a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of LURA's credit, or a payment guarantee by LURA to Longbow.

12. Further Acts. In addition to the acts recited in this Agreement to be performed by either party, the parties agree to perform, or cause to be performed, on or after the Closing, any and all such further acts as may be reasonably necessary to consummate the transactions contemplated herein.

13. Headings. Headings used in this Agreement are used for reference purposes only and do not constitute substantive matter to be considered in construing this Agreement.

14. Notices. All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be deemed to be delivered when actually received or, regardless whether actually received, on the third day following deposit in a regularly maintained receptacle for the United States mail, postage paid, certified, return receipt requested, addressed to the addressee as follows:

If to LURA:

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

With a copy to:

City Attorney
City of Loveland
500 East Third Street, Suite 330
Loveland, CO 80537

If to Longbow:

CEO
Longbow Industries, LLC
1171 Des Moines Ave.
Loveland, CO 80537

15. Time of Essence and Remedies. Time is of the essence. Subject to each condition set forth in this Agreement, if any note or check received as Earnest Money or any other payment due is not paid, honored or tendered when due, or if any other obligation is not performed or waived as herein provided, there shall be the following remedies:

- a. If Longbow is in Default. The Earnest Money shall be forfeited by Longbow and retained on behalf of LURA and both parties shall thereafter be released from all obligations hereunder. It is agreed that the Earnest Money is LIQUIDATED DAMAGES and is LURA'S SOLE AND ONLY REMEDY for Longbow's failure to perform the obligations of this Agreement. LURA expressly waives the remedies of specific performance and additional damages.

- b. If LURA is in Default. Longbow may elect to treat this Agreement as canceled, in which case the Earnest Money shall be returned; and Longbow may recover damages as may be proper. Alternatively, Longbow may elect to treat this Agreement as being in full force and seek specific performance or damages or both.
- c. Costs and Expenses. In the event of any litigation relating to this Agreement, each party shall pay its own costs and expenses, including attorney fees.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

(End of written text on page.)

LOVELAND URBAN RENEWAL AUTHORITY

Stephen C. Adams, Loveland City Manager

ATTEST:

Acting City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

Longbow Industries, LLC

[INSERT NAME], Chair

ATTEST:

Secretary

APPROVED AS TO FORM:

Legal Counsel

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County Colorado
less east 16 feet as in 787-238

EXHIBIT C
Special Warranty Deed

SPECIAL WARRANTY DEED
(Statutory Form, C.R.S. §38-30-115)

LOVELAND URBAN RENEWAL AUTHORITY, a body corporate and politic established pursuant to C.R.S. §31-25-101, *et seq.*, with an address of 500 East Third Street, Loveland, County of Larimer, State of Colorado 80537, for valuable consideration in hand paid, hereby sells and conveys to LONGBOW INDUSTRIES, LLC, a Colorado limited liability company with an address of 1171 Des Moines Ave., Loveland, County of Larimer, State of Colorado 80537, the following real property in the County of Larimer, and State of Colorado, to wit:

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; also a portion of vacated alley per book 1712 page 733; also known as 205 E. 6th Street, Loveland, Colorado,

with all its appurtenances, and warrants the title to the same, subject to those permitted exceptions set forth on **Exhibit "A"** attached hereto and incorporated by reference.

Signed this ____ day of _____, 20____.

LOVELAND URBAN RENEWAL AUTHORITY,
a body corporate and politic established pursuant to C.R.S.
§31-25-101, *et seq.*

By: _____, Chair

State of Colorado)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me on this ____ day of _____, 20__ by _____ as Chair of the Loveland Urban Renewal Authority, a body corporate and politic established pursuant to C.R.S. §31-25-101, *et seq.*

My commission expires _____

Witness my hand and official seal.

Notary

When recorded return to: Longbow Industries, LLC, 1171 Des Moines Ave., Loveland, CO 80537

EXHIBIT A

[INSERT B-2 EXCEPTIONS NOT DELETED BY TITLE COMPANY]

EXHIBIT D
Incentive Agreement

Longbow Industries, LLC Economic Incentive
and Performance Agreement

This Longbow Industries Economic Incentive and Performance Agreement (“Agreement”) is made and entered into this _____ day of _____, 2017, by and between the **LOVELAND URBAN RENEWAL AUTHORITY**, a body corporate and politic established pursuant to C.R.S. §31-25-101, et seq. (“LURA”); **Longbow Industries, LLC**, a Colorado limited liability company, and its permitted assigns (“Longbow”); and **L.P.R. Construction Co. LLC**, a Colorado limited liability company (“LPR”) (LURA, Longbow and LPR are individually referred to as a “party” and collectively as the “parties”).

WHEREAS, LPR, a Loveland-founded company, is a steel erector and provider of industrial construction and plant services with headquarters and operational facilities in Loveland, Colorado; and

WHEREAS, Longbow, an affiliate of LPR, will be used to facilitate expansion of LPR by purchasing the County Office (defined below) and leasing the Parking Lot (defined below); and

WHEREAS, LPR currently employs approximately 273 full time employees (“FTEs”) and presently anticipates continuous and significant growth in the number of employment positions with LPR and Longbow (and their affiliates) employing up to 1,000 FTEs over the next ten years; and

WHEREAS, LPR wishes to expand operations within the City of Loveland (“City”) which will include hiring additional employees with anticipated annual salaries of \$70,000 to 85,000; and

WHEREAS, LPR currently intends to grow through acquisitions and wishes to centralize and consolidate its administrative offices by having Longbow acquire from LURA that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (the “County Lot”), including the building structure (referred to herein individually as the “Building,” and together with the County Lot, as the “County Office”); and

WHEREAS, Longbow also intends to lease from LURA that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, in order to move into the County Office, LPR anticipates expenditures of at least \$1,500,000, excluding the purchase price of the County Office, to complete public and private improvements that support use of the County Office for the relocation and expansion of LPR’s administrative office; and

WHEREAS, LPR and Longbow requested from LURA economic incentives of up to \$750,000 to defray costs of certain public improvements to the County Office; and

WHEREAS, by the adoption of Resolution #R-____-2017, the LURA Board made a finding that the economic incentive provided to LPR and Longbow by this Agreement provides significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property tax revenues and, therefore, that the provisions of the Agreement are in the best interests of the public, the City and LURA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

Condition Precedent The parties agree that Longbow’s purchase of the County Office from LURA and execution of a lease with LURA for the Parking Lot shall be conditions precedent to any obligations set forth in this Agreement and that failure to complete one or more of such conditions shall terminate this Agreement with no consequence to or obligation by any party.

Economic Incentive Payment

As an economic incentive for LPR expanding and re-locating LPR to the County Office, LURA shall reimburse Longbow, in accordance with this Agreement, for costs for certain improvements to the County Office in a total amount not to exceed seven hundred fifty thousand dollars (\$750,000) (the “Incentive”). The Incentive shall be subject to all of the following terms and conditions:

- A. LURA shall match Longbow’s financial contribution toward any improvements to the County Office on a 1:1 basis, where for every one dollar (\$1.00) expended by Longbow, LURA will provide an economic incentive of one dollar (\$1.00) to reimburse costs incurred and paid for Eligible Public Improvements (defined in Section 3) up to seven hundred fifty thousand dollars (\$750,000).
- B. Longbow shall invest no less than seven hundred fifty thousand dollars (\$750,000) (the “Minimum Investment”) in improvements to the County Office
- C. The Minimum Investment shall not include any reimbursement from LURA to Longbow for Eligible Public Improvements pursuant to this Agreement. Improvements to the County Office funded by the Minimum Investment and Eligible Public Improvements reimbursed by LURA pursuant to this Agreement must be installed by no later than eighteen (18) months after the Closing Date (as defined in the Purchase and Sale Agreement between LURA and Longbow) for the County Office (the “Deadline”), provided the Deadline shall be extended on a day-for-day basis for delays relating to the issuance of permits needed for the Eligible Public Improvements or for Force Majeure. “Force Majeure” means any acts of God, strikes, lockouts, labor disputes, material shortages, failure of power, restrictive governmental laws or regulations, riots, insurrections, war or other cause not within the reasonable control of Longbow. Any costs incurred for Eligible Public Improvements completed after the Deadline shall not be subject to reimbursement under this Agreement.

- D. LPR, Longbow, and/or affiliates of either or both shall occupy the County Office by relocating its administrative office to the County Office within the Deadline, as extended.
- E. Before LURA shall be obligated to reimburse Longbow for its Eligible Public Improvements costs under this Agreement, Longbow must submit to the Loveland City Manager or designee such documentation as may be required by the Loveland City Manager to determine that Longbow has incurred and paid costs for improvements to the County Office, including costs for Eligible Public Improvements.
- F. LURA shall have the right to have its representatives periodically, but not more often than reasonably necessary, during normal business hours and upon not less than 48 hours' notice: (i) review and audit contracts, invoices, expenditures and other financial transactions and documents related to improvements to the County Office; and (ii) physically inspect the County Offices to confirm that reimbursement amounts paid to Longbow were used as required under this Agreement. This right shall extend until no later than thirty-six (36) months after the Closing Date (as defined in the Purchase and Sale Agreement between LURA and Longbow) for the County office

3. Eligible Public Improvements

The following improvements shall be considered “Eligible Public Improvements” for the purpose of reimbursement under this Agreement:

- A. Environmental-related abatement, including the cost of repairing or replacing systems adversely impacted by such abatement;
- B. Investments in energy efficiency;
- C. Building façade and those portions of the Building exterior that are visible from a public right-of way;
- D. City-required improvements to adjacent streets, curbs and gutters;
- E. Adjacent sidewalks;
- F. Landscaping;
- G. Street name, traffic control and permanent traffic control signs;
- H. Water and electric distribution systems;
- I. Stormwater control facilities; and
- J. Sewer collection improvements.

4. Repayment upon Sale of County Office

In consideration of LURA’s Incentive, upon the sale or other conveyance of the County Office to a person or entity who is not a permitted assignee under Paragraph 8 below within 10 years from the Closing Date, LURA shall receive the following payment from Longbow before to or at the closing of such sale or conveyance pursuant to the schedule below.

<u>Sale or Sale within Year</u>	<u>Amount Due to LURA</u>
1	\$750,000

2	\$675,000
3	\$600,000
4	\$525,000
5	\$450,000
6	\$375,000
7	\$300,800
8	\$225,000
9	\$150,000
10	\$75,000
11	\$0

Any partial year shall be rounded to the next year where payment is due.

5. Time is of the Essence

Time shall be of the essence for the performance of all obligations under this Agreement.

6. Headings

Paragraph headings used in this Agreement are used for convenience of reference only and shall in no way define, control or affect the meaning or interpretation of any provision of this Agreement.

7. City Council Approval

This Agreement shall be subject to approval by the City Council of the City of Loveland.

8. Assignment

Neither Longbow nor LPR shall assign or transfer any or all of their interests, rights or obligations under this Agreement other than to an entity that controls one or both of them, or is controlled by, under common control with, one or both of them (such entity being a “permitted assignee”) without the prior written consent of LURA. Any other assignment of this Agreement by Longbow or LPR without LURA’s prior written consent shall be deemed void and of no effect.

9. Construction

This Agreement shall be construed according to its fair meaning and as if it was prepared by all of the parties and shall be deemed to be and contain the entire Agreement between the parties. There shall be deemed to be no other terms, conditions, promises, understandings, statements or representations, expressed or implied, concerning this Agreement, unless set forth in writing and signed by the parties.

10. Severability

In case any one or more of the provisions contained in this Agreement shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Agreement, and

To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of LURA, it shall be subject to annual appropriation pursuant to Article X, Section 20 of the Colorado Constitution. LURA shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

15. Waiver

No waiver by the parties of any of the terms and conditions of this Agreement shall be deemed to be or shall be construed as a waiver of any other term or condition, nor shall such a waiver of any breach of this Agreement be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.

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

(End of text on page.)

Longbow Industries, LLC, a Colorado limited liability company

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____ as _____ of Longbow Industries LLC, a Colorado limited liability company.

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

Notary Public

(S E A L)

LOVELAND URBAN RENEWAL AUTHORITY

By: _____
Stephen C. Adams, Loveland City Manager

ATTEST:

Acting City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County Colorado
less east 16 feet as in 787-238

EXHIBIT E
Parking Lot Lease Agreement

PARKING LOT LEASE AGREEMENT

This **Parking Lot Lease Agreement** (“Lease”) is entered into this ___ day of _____, 2017, by and between the **LOVELAND URBAN RENEWAL AUTHORITY**, a body corporate and politic established pursuant to C.R.S. §31-25-101, et seq. (“LURA”) and **Longbow Industries, LLC**, a Colorado limited liability company (together with its permitted assigns, “Longbow” or “Tenant”) (LURA and Longbow are individually referred to herein as a “party” and collectively as the “parties”).

RECITALS

WHEREAS, L.P.R. Construction Co., LLC (“LPR”), a Loveland-founded company, is a steel erector and provider of industrial construction and plant services with headquarters and operational facilities in Loveland, Colorado; and

WHEREAS, Longbow, an affiliate of LPR, seeks to facilitate the expansion of LPR and itself by purchasing the County Office (defined below) and leasing the Parking Lot (defined below); and

WHEREAS, LPR and Longbow currently intend to grow through acquisitions and wish to centralize and consolidate administrative offices by having Longbow acquire from LURA that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (the “County Lot”), including the building structure (referred to herein individually as the “Building,” and together with the County Lot, as the “County Office”); and

WHEREAS, in conjunction with acquiring the County Office, Longbow also intends to lease from LURA that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, by adoption of Resolution #R-___-2017, the LURA Board approved a lease of the Parking Lot to Longbow as part of LPR’s relocation of its administrative offices to the County Office and made a finding that this Lease provides significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property tax revenues and, therefore, that the provisions of the Agreement are in the best interests of the public, the City of Loveland (“City”) and LURA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Condition Precedent.

The parties agree that the Longbow's purchase of the County Office shall be a condition precedent to any obligations set forth in this Lease and that failure to complete such condition shall terminate this Lease with no consequence to or obligation by any party.

2. Term.

This Lease shall have a primary term of fifty (50) years commencing after Closing on the Closing Date (as those terms are defined in the Purchase and Sale Agreement between LURA and Longbow) for the County Office. Provided that Tenant is not then in default under the terms herein, this Lease may be renewed by Tenant for two (2) additional periods of ten (10) years each, provided that Tenant provides written notice of its election to exercise its option at least ninety (90) days prior to the expiration of the then-existing Lease term or extension thereof.

3. Premises.

The premises to be leased shall consist of the greater of 40 reasonably-sized parking spaces or 74% of all parking spaces (rounded to the nearest whole number)("Premises"). The Premises shall be for the exclusive benefit and quiet enjoyment of Longbow for the parking of the employees, agents, guests and invitees of the occupants and tenants of the County Office between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. At all other times and on all other days, such employees, agents, guests and invites shall only have the same non-exclusive rights to access and use the Premises, if any, granted to the general public by LURA.

4. Use of Premises.

The Premises shall be used exclusively as a parking lot. Longbow's use and occupation of Premises shall be consistent with: (i) the covenants and easements and all other matters of record as of the date of this Lease; and (ii) all present and future laws, ordinances and regulations, including environmental regulations, of any governmental authority having jurisdiction over the Premises. Between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, Tenant shall not permit any nuisance to be maintained on the Premises or permit any disorderly conduct, common noise, or other activity having a tendency to annoy or disturb any adjoining property. Outside of those hours, LURA shall have those responsibilities.

5. Rent and Deposit.

In consideration for the right to use and occupy the Premises as permitted herein, Tenant shall pay to LURA **Ten Dollars (\$10.00)** for the entire Lease term ("Rent"), and **Ten Dollars (\$10.00)** for each renewal period. LURA acknowledges receipt of Rent for the initial Lease term. Tenant shall not be charged a rental deposit for the Premises.

6. Alterations.

Subject to LURA's prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Tenant may, during the term of this Lease, at Tenant's expense, make improvements,

changes or alterations as Tenant may desire so long as the Premises remains fully in use as a parking lot, subject to temporary closures as required for such improvements. At the end of this Lease, all such changes or alterations shall be and remain the property of LURA. All such work shall be done in a good and workmanlike manner and shall consist of new materials unless agreed to otherwise by LURA. Any and all repairs, changes and/or alterations thereto shall be the responsibility and at the expense of Tenant and shall conform to all current building codes and requirements of the City of Loveland.

7. Right to Inspect Premises.

LURA shall have the right at all reasonable times to enter the Premises for any and all purposes consistent with this Lease, provided such action does not unreasonably interfere with Tenant's use, occupancy, or security requirements of the Premises.

8. Maintenance and Repair of the Premises.

LURA shall, at its sole expense, keep and maintain the Premises, including, without limitation, the asphalt surface and striping, in good condition and repair, conducting such repairs to the extent possible outside of the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and in a manner so as not to unreasonably interfere with Longbow's use of the Premises. LURA, in its sole discretion, may re-design the Premises for parking use so long as the greater of 40 reasonably-sized parking spaces or 74% of all parking spaces (rounded to the nearest whole number) are available to Tenant. LURA shall be responsible, at its expense, for maintaining the Premises in a neat and clean condition, maintaining all security, lighting and landscaping located on the Premises and removing any snow that accumulates on the Premises and sidewalks located adjacent to the Premises. Tenant shall not allow any accumulation of trash or debris on the Premises or use of the Premises for storage. Notwithstanding the foregoing, Tenant shall reimburse LURA for costs associated with the maintenance and repair of the Premises due to damage caused by Tenant, its employees, or agents, guests or invitees, normal wear and tear excepted.

9. No Discrimination.

Tenant shall not discriminate on any grounds prohibited under federal or state law, including without limitation, race, color, disability, or national origin, in the use or occupancy of the Premises.

10. Real Property Taxes and Assessments.

LURA shall pay promptly when due all real estate taxes and general assessments, if any, for the Premises that would be otherwise due if the occupancy and use of the Premises were for governmental public purposes. Tenant shall pay promptly when due all real estate taxes and general assessments, if any, for its use of 40 parking spaces on the Premises between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Tenant shall pay all special assessments, if any, for the Premises that are a result of Tenant's occupancy or use of the 40 parking spaces between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. LURA shall promptly pay when due all other special assessments.

11. Insurance.

- A. LURA. For the duration of the Lease, LURA shall procure and maintain comprehensive general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate.
- B. Tenant. For the duration of this Lease, Tenant shall procure and keep in force a policy of comprehensive general liability insurance insuring Tenant and naming LURA as an additional insured with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate. The general liability policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), and blanket contractual, independent contractors, products and completed operations. The general liability policy shall contain a minimum limit of Three Hundred Thousand Dollars (\$300,000.00) for property damage liability coverage for the Premises which limit may be increased by LURA, in the exercise of its reasonable discretion, based upon any use that increases the risk or potential scope of damage to the Premises. The general liability policy shall contain a severability of interests provision. The general liability policy shall be for the mutual and joint benefit and protection of Tenant and LURA and shall provide that LURA, although named as an additional insured, shall nevertheless be entitled to recover under said policy for any loss occasioned to LURA, its officers, employees, and agents by reason of negligence of Tenant, its officers, employees, agents, subcontractors, or business invitees. The general liability policy shall be written as a primary policy not contributing to and not in excess of coverage LURA may carry.
- C. Policies required herein shall be with companies qualified to do business in Colorado with a general policyholder's financial rating reasonably acceptable to LURA. Said policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty (30) days' prior written notice to LURA. Tenant shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Tenant changes to "occurrence," Tenant shall carry a one-year tail.
- D. Certificates of insurance shall be completed by the Tenant's insurance agent as evidence that the policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by LURA.
- E. LURA and Tenant hereby grant to each other a waiver of any right of subrogation any insurer of one Party may acquire against the other or as against LURA or Tenant by virtue of payment of any loss under such insurance. Such a waiver shall be effective so long as LURA and Tenant are empowered to grant such waiver under the terms of their respective insurance policy or policies, and such waiver shall stand mutually terminated as of the date either LURA or Tenant gives notice to the other that the power to grant such waiver has been so terminated.
- F. Tenant may procure and keep in force a policy of Business Income/Extra Expense coverage for any expenses that Tenant may incur in the event the Premises is not useable for Tenant's purposes, in whole or in part, while this Lease remains in effect. In addition to any other limitation on LURA liability set forth in this Lease, LURA shall not be liable for any expenses incurred by Tenant that would otherwise be covered by such coverage.

12. Indemnity.

Tenant shall assume the risk of all personal injuries, including death resulting therefrom, to persons and damage to or destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in connection with or arising out of the acts or omissions of Tenant, its employees, agents, servants, subcontractors, or authorized volunteers, or by the conditions created thereby. Tenant shall indemnify and hold harmless LURA, its officers, agents, and employees from and against any and all claims, liabilities, costs, expenses, penalties, attorney's fees, and defense costs arising from such injuries to persons or damages to property based upon or arising (i) out of the acts or omissions of Tenant, its employees, agents, servants, subcontractors, or authorized volunteers, or (ii) out of any violation by Tenant, its employees, agents, servants, subcontractors, or authorized volunteers of any law, regulation, or ordinance. Tenant shall investigate, handle, respond to, and defend against any such liability, claims, and demands related thereto and shall bear all other related costs and expenses, including court costs and attorneys' fees. Tenant's indemnification obligation shall not extend to any injury, loss, or damage to the extent caused by the act, omission, or other fault of LURA. This paragraph shall survive the termination or expiration of this Lease.

13. Governmental Immunity.

Notwithstanding any other provision of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* ("Act") and under any other applicable law. The Parties understand and agree that liability for claims for injuries to persons or property arising out of the negligence of LURA, its departments, commissions, boards, officials, and employees is controlled and limited by the provisions of the Act, as now or hereafter amended.

14. Sublease and Assignment.

Tenant may assign all or any part of this Lease or sublease all or any part of the Premises to any "Permitted Person" without LURA's prior approval. "Permitted Person" means (i) an entity that controls one or both of Longbow or LPR, or that is controlled by, under common control with, one or both of them, (ii) persons or entities so long as they are tenants in the County Office, and (iii) any purchaser of the County Office. Any other assignment or sublease of this Agreement by Longbow or LPR without LURA's prior written consent shall be deemed void and of no effect.

15. Holding Over.

Any holding over after the expiration of the term of this Lease or any extended term thereof, with the consent of LURA, shall be construed to be a tenancy from month-to-month on the same terms and conditions provided for herein; except that the monthly rental rate shall be adjusted to reflect the then-current market rate. No holding over by Tenant shall operate to renew or extend this Lease without the written consent of LURA to such renewal or extension having been first obtained.

16. Condemnation Taking.

If the entire Premises is taken for quasi-public purposes by any governmental entity or other entity having the power of condemnation (other than the City), or sold by LURA under the threat of the exercise of said power, this Lease shall terminate as of the date that legal title to the Premises vests in the condemning authority or the date such authority takes possession of the Premises, whichever is earlier. If only a portion of the Premises is so taken, Tenant may either terminate this Lease as of the date title or possession is transferred as set forth above, whichever is earlier, or continue this Lease in effect. In the event of a total or partial taking, LURA shall be required to provide a replacement property reasonably acceptable to Tenant, for Tenant to lease from LURA under substantially the same terms and conditions set forth in this Lease, that will serve the Tenant's purpose; provide, if the Lease is not terminated, then LURA agrees, at LURA's sole cost, to restore the Premises as soon as reasonable possible to a parking lot of like or better capacity, quality, character and utility for Tenant's purposes as existed prior to condemnation. In either a total or partial condemnation, LURA shall have the exclusive right to any award made by the condemning authority.

17. Default.

Failure to perform according to the provisions of this Lease shall constitute a default under this Lease.

18. Termination for Default.

In the event of a default as set forth in Section 17 above, the defaulting Party may cure said default within thirty (30) days of written notice thereof by the non-defaulting Party, or if such default is of such a nature that it cannot be cured by diligent effort during such thirty (30) day period, such Party may cure its default by undertaking a course of performance within such grace period and diligently pursuing it thereafter. Otherwise, the non-defaulting Party may terminate this Lease immediately upon written notice of termination to the defaulting Party. In the event of default by Tenant and failure to cure such default by the specified date after notice as provided for herein, Tenant's right to possess the Premises shall cease, this Lease shall be terminated, and the Parties shall have no further rights, duties or obligations hereunder, except for those obligations which are expressly stated to survive termination. LURA may then re-enter and take possession of the Premises or any part thereof, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either (forcibly, if necessary) without being deemed guilty of any manner of trespass.

19. Notices.

Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three (3) days after being sent by certified mail, return receipt requested:

To LURA:

Loveland Urban Renewal Authority
Attn: Stephen C. Adams
500 E. Third Street, Suite 330
Loveland, CO 80537

To Longbow:

Longbow Industries, LLC
Attn: CEO
1171 Des Moines Ave.
Loveland, CO 80537

(970) 962-2306
steve.adams@cityofloveland.org

[INSERT TELEPHONE NO.]
[INSERT EMAIL ADDRESS]

Any party hereto may at any time designate a different address or individual receiving notice by informing the other parties in writing; provided, however, that after Longbow occupies the County Office, its and LPR's address shall automatically be updated to reflect the address of the County Office.

20. Time of the Essence.

It is agreed that time shall be of the essence of this Lease and each and every provision hereof.

21. Parties Bound.

This Lease shall be binding upon, and inure to the benefit of, LURA and Tenant and their respective heirs, executors, administrators, legal representatives, and/or successors.

22. Governing Law and Venue.

This Lease shall be governed by the laws of the State of Colorado. In addition, the Parties acknowledge that there are legal constraints imposed upon LURA by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States and that, subject to such constraints, the Parties intent to carry out the terms and conditions of this Lease. Notwithstanding any other provision of this Lease to the contrary, in no event shall either of the parties be required to exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Lease shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Lease shall be exclusively in the District Court for Larimer County, Colorado.

23. Legal Construction.

In case any one or more of the provisions contained in this Lease shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Lease, and this Lease shall be constructed as if the invalid, illegal, or unenforceable provision had never been included in the Lease. Paragraph headings used in this Lease are for convenience of reference only and shall in no way define, control or affect the meaning or interpretation of any provision of this Lease.

24. Relationship of Parties.

This Lease should not be construed to create an agency or employee relationship between LURA and Tenant. Tenant shall exercise no supervision over any employee or official of LURA and shall not represent that Tenant is an employee or agent of LURA in any capacity. No employee or contractor of Tenant has any right to Worker's Compensation benefits from LURA or its insurance carriers or funds. Tenant shall provide any workers' compensation insurance and all other insurance required by any applicable law for its employees.

25. Beneficiaries.

This Lease is for the sole benefit of and binds LURA and the Tenant, their successors and assigns. This Lease affords no claim, benefit, or right of action to any third party. Any party besides LURA or Tenant receiving services or benefits under this Lease is only an incidental beneficiary.

26. Financial Obligations of LURA.

Any financial obligation of LURA under this Lease is contingent upon appropriation, budgeting and availability of specific funds to discharge those obligations. Nothing in this Lease constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of LURA's credit, or a payment guarantee by LURA to Tenant.

27. Amendment.

This Lease may only be altered or amended in writing, signed by duly authorized representatives of LURA and Tenant, respectively.

28. Mutual Cooperation.

The Parties each agree to use good faith efforts to cause satisfaction of all conditions to their obligations under this Lease, and to exercise good faith in fulfilling its obligations under this Lease and in cooperating with the other Party with respect to that Party's satisfaction and fulfillment of all that Party's conditions and obligations under this Lease.

29. Recording.

This Lease shall be recorded in the real property records of the Clerk and Recorder of Larimer County, Colorado.

This Lease is hereby entered into by the parties the day and year first above written.

(End of text on page.)

LURA:

Loveland Urban Renewal Authority, Colorado

By: _____
Stephen C. Adams, Loveland City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

TENANT:

Longbow Industries, LLC, a Colorado limited liability company

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____ as _____ of Longbow Industries LLC, a Colorado limited liability company.

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

Notary Public

(S E A L)

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County Colorado
less east 16 feet as in 787-238

PARKING LOT LEASE AGREEMENT

This **Parking Lot Lease Agreement** (“Lease”) is entered into this ___ day of _____, 2017, by and between the **LOVELAND URBAN RENEWAL AUTHORITY**, a body corporate and politic established pursuant to C.R.S. §31-25-101, et seq. (“LURA”) and **LONGBOW INDUSTRIES, LLC**, a Colorado limited liability company (together with its permitted assigns, “Longbow” or “Tenant”) (LURA and Longbow are individually referred to herein as a “party” and collectively as the “parties”).

RECITALS

WHEREAS, L.P.R. Construction Co., LLC (“LPR”), a Loveland-founded company, is a steel erector and provider of industrial construction and plant services with headquarters and operational facilities in Loveland, Colorado; and

WHEREAS, Longbow, an affiliate of LPR, seeks to facilitate the expansion of LPR and itself by purchasing the County Office (defined below) and leasing the Parking Lot (defined below); and

WHEREAS, LPR and Longbow currently intend to grow through acquisitions and wish to centralize and consolidate administrative offices by having Longbow acquire from LURA that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (the “County Lot”), including the building structure (referred to herein individually as the “Building,” and together with the County Lot, as the “County Office”); and

WHEREAS, in conjunction with acquiring the County Office, Longbow also intends to lease from LURA that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, by adoption of Resolution #R-___-2017, the LURA Board approved a lease of the Parking Lot to Longbow as part of LPR’s relocation of its administrative offices to the County Office and made a finding that this Lease provides significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property tax revenues and, therefore, that the provisions of the Agreement are in the best interests of the public, the City of Loveland (“City”) and LURA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Condition Precedent.

The parties agree that the Longbow’s purchase of the County Office shall be a condition precedent to any obligations set forth in this Lease and that failure to complete such condition shall terminate this Lease with no consequence to or obligation by any party.

2. Term.

This Lease shall have a primary term of fifty (50) years commencing after Closing on the Closing Date (as those terms are defined in the Purchase and Sale Agreement between LURA and Longbow) for the County Office. Provided that Tenant is not then in default under the terms herein, this Lease may be renewed by Tenant for two (2) additional periods of ten (10) years each, provided that Tenant provides written notice of its election to exercise its option at least ninety (90) days prior to the expiration of the then-existing Lease term or extension thereof.

3. Premises.

The premises to be leased shall consist of the greater of 40 reasonably-sized parking spaces or 74% of all parking spaces (rounded to the nearest whole number)(“Premises”). The Premises shall be for the exclusive benefit and quiet enjoyment of Longbow for the parking of the employees, agents, guests and invitees of the occupants and tenants of the County Office between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. At all other times and on all other days, such employees, agents, guests and invites shall only have the same non-exclusive rights to access and use the Premises, if any, granted to the general public by LURA.

4. Use of Premises.

The Premises shall be used exclusively as a parking lot. Longbow’s use and occupation of Premises shall be consistent with: (i) the covenants and easements and all other matters of record as of the date of this Lease; and (ii) all present and future laws, ordinances and regulations, including environmental regulations, of any governmental authority having jurisdiction over the Premises. Between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, Tenant shall not permit any nuisance to be maintained on the Premises or permit any disorderly conduct, common noise, or other activity having a tendency to annoy or disturb any adjoining property. Outside of those hours, LURA shall have those responsibilities.

5. Rent and Deposit.

In consideration for the right to use and occupy the Premises as permitted herein, Tenant shall pay to LURA **Ten Dollars (\$10.00)** for the entire Lease term (“Rent”), and **Ten Dollars (\$10.00)** for each renewal period. LURA acknowledges receipt of Rent for the initial Lease term. Tenant shall not be charged a rental deposit for the Premises.

6. Alterations.

Subject to LURA’s prior written approval, which shall not be unreasonably withheld, conditioned or delayed, Tenant may, during the term of this Lease, at Tenant's expense, make improvements, changes or alterations as Tenant may desire so long as the Premises remains fully in use as a parking lot, subject to temporary closures as required for such improvements. At the end of this Lease, all such changes or alterations shall be and remain the property of LURA. All such work shall be done in a good and workmanlike manner and shall consist of new materials unless agreed

to otherwise by LURA. Any and all repairs, changes and/or alterations thereto shall be the responsibility and at the expense of Tenant and shall conform to all current building codes and requirements of the City of Loveland.

7. Right to Inspect Premises.

LURA shall have the right at all reasonable times to enter the Premises for any and all purposes consistent with this Lease, provided such action does not unreasonably interfere with Tenant's use, occupancy, or security requirements of the Premises.

8. Maintenance and Repair of the Premises.

LURA shall, at its sole expense, keep and maintain the Premises, including, without limitation, the asphalt surface and striping, in good condition and repair, conducting such repairs to the extent possible outside of the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and in a manner so as not to unreasonably interfere with Longbow's use of the Premises. LURA, in its sole discretion, may re-design the Premises for parking use so long as the greater of 40 reasonably-sized parking spaces or 74% of all parking spaces (rounded to the nearest whole number) are available to Tenant. LURA shall be responsible, at its expense, for maintaining the Premises in a neat and clean condition, maintaining all security, lighting and landscaping located on the Premises and removing any snow that accumulates on the Premises and sidewalks located adjacent to the Premises. Tenant shall not allow any accumulation of trash or debris on the Premises or use of the Premises for storage. Notwithstanding the foregoing, Tenant shall reimburse LURA for costs associated with the maintenance and repair of the Premises due to damage caused by Tenant, its employees, or agents, guests or invitees, normal wear and tear excepted.

9. No Discrimination.

Tenant shall not discriminate on any grounds prohibited under federal or state law, including without limitation, race, color, disability, or national origin, in the use or occupancy of the Premises.

10. Real Property Taxes and Assessments.

LURA shall pay promptly when due all real estate taxes and general assessments, if any, for the Premises that would be otherwise due if the occupancy and use of the Premises were for governmental public purposes. Tenant shall pay promptly when due all real estate taxes and general assessments, if any, for its use of 40 parking spaces on the Premises between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. Tenant shall pay all special assessments, if any, for the Premises that are a result of Tenant's occupancy or use of the 40 parking spaces between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday. LURA shall promptly pay when due all other special assessments.

11. Insurance.

- A. LURA. For the duration of the Lease, LURA shall procure and maintain comprehensive general liability insurance with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate.
- B. Tenant. For the duration of this Lease, Tenant shall procure and keep in force a policy of comprehensive general liability insurance insuring Tenant and naming LURA as an additional insured with minimum combined single limits of One Million Dollars (\$1,000,000.00) each occurrence and Two Million Dollars (\$2,000,000.00) aggregate. The general liability policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), and blanket contractual, independent contractors, products and completed operations. The general liability policy shall contain a minimum limit of Three Hundred Thousand Dollars (\$300,000.00) for property damage liability coverage for the Premises which limit may be increased by LURA, in the exercise of its reasonable discretion, based upon any use that increases the risk or potential scope of damage to the Premises. The general liability policy shall contain a severability of interests provision. The general liability policy shall be for the mutual and joint benefit and protection of Tenant and LURA and shall provide that LURA, although named as an additional insured, shall nevertheless be entitled to recover under said policy for any loss occasioned to LURA, its officers, employees, and agents by reason of negligence of Tenant, its officers, employees, agents, subcontractors, or business invitees. The general liability policy shall be written as a primary policy not contributing to and not in excess of coverage LURA may carry.
- C. Policies required herein shall be with companies qualified to do business in Colorado with a general policyholder's financial rating reasonably acceptable to LURA. Said policies shall not be cancelable or subject to reduction in coverage limits or other modification except after thirty (30) days' prior written notice to LURA. Tenant shall identify whether the type of coverage is "occurrence" or "claims made." If the type of coverage is "claims made," which at renewal Tenant changes to "occurrence," Tenant shall carry a one-year tail.
- D. Certificates of insurance shall be completed by the Tenant's insurance agent as evidence that the policies providing the required coverages, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by LURA.
- E. LURA and Tenant hereby grant to each other a waiver of any right of subrogation any insurer of one Party may acquire against the other or as against LURA or Tenant by virtue of payment of any loss under such insurance. Such a waiver shall be effective so long as LURA and Tenant are empowered to grant such waiver under the terms of their respective insurance policy or policies, and such waiver shall stand mutually terminated as of the date either LURA or Tenant gives notice to the other that the power to grant such waiver has been so terminated.
- F. Tenant may procure and keep in force a policy of Business Income/Extra Expense coverage for any expenses that Tenant may incur in the event the Premises is not useable for Tenant's purposes, in whole or in part, while this Lease remains in effect. In addition to any other limitation on LURA liability set forth in this Lease, LURA shall not be liable for any expenses incurred by Tenant that would otherwise be covered by such coverage.

12. Indemnity.

Tenant shall assume the risk of all personal injuries, including death resulting therefrom, to persons and damage to or destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in connection with or arising out of the acts or omissions of Tenant, its employees, agents, servants, subcontractors, or authorized volunteers, or by the conditions created thereby. Tenant shall indemnify and hold harmless LURA, its officers, agents, and employees from and against any and all claims, liabilities, costs, expenses, penalties, attorney's fees, and defense costs arising from such injuries to persons or damages to property based upon or arising (i) out of the acts or omissions of Tenant, its employees, agents, servants, subcontractors, or authorized volunteers, or (ii) out of any violation by Tenant, its employees, agents, servants, subcontractors, or authorized volunteers of any law, regulation, or ordinance. Tenant shall investigate, handle, respond to, and defend against any such liability, claims, and demands related thereto and shall bear all other related costs and expenses, including court costs and attorneys' fees. Tenant's indemnification obligation shall not extend to any injury, loss, or damage to the extent caused by the act, omission, or other fault of LURA. This paragraph shall survive the termination or expiration of this Lease.

13. Governmental Immunity.

Notwithstanding any other provision of this Lease to the contrary, no term or condition of this Lease shall be construed or interpreted as a waiver, express or implied, of any of the notices, requirements, immunities, rights, benefits, protections, limitations of liability, and other provisions of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101 *et seq.* ("Act") and under any other applicable law. The Parties understand and agree that liability for claims for injuries to persons or property arising out of the negligence of LURA, its departments, commissions, boards, officials, and employees is controlled and limited by the provisions of the Act, as now or hereafter amended.

14. Sublease and Assignment.

Tenant may assign all or any part of this Lease or sublease all or any part of the Premises to any "Permitted Person" without LURA's prior approval. "Permitted Person" means (i) an entity that controls one or both of Longbow or LPR, or that is controlled by, under common control with, one or both of them, (ii) persons or entities so long as they are tenants in the County Office, and (iii) any purchaser of the County Office. Any other assignment or sublease of this Agreement by Longbow or LPR without LURA's prior written consent shall be deemed void and of no effect.

15. Holding Over.

Any holding over after the expiration of the term of this Lease or any extended term thereof, with the consent of LURA, shall be construed to be a tenancy from month-to-month on the same terms and conditions provided for herein; except that the monthly rental rate shall be adjusted to reflect the then-current market rate. No holding over by Tenant shall operate to renew or extend this Lease without the written consent of LURA to such renewal or extension having been first obtained.

16. Condemnation Taking.

If the entire Premises is taken for quasi-public purposes by any governmental entity or other entity having the power of condemnation (other than the City), or sold by LURA under the threat of the exercise of said power, this Lease shall terminate as of the date that legal title to the Premises vests in the condemning authority or the date such authority takes possession of the Premises, whichever is earlier. If only a portion of the Premises is so taken, Tenant may either terminate this Lease as of the date title or possession is transferred as set forth above, whichever is earlier, or continue this Lease in effect. In the event of a total or partial taking, LURA shall be required to provide a replacement property reasonably acceptable to Tenant, for Tenant to lease from LURA under substantially the same terms and conditions set forth in this Lease, that will serve the Tenant's purpose; provide, if the Lease is not terminated, then LURA agrees, at LURA's sole cost, to restore the Premises as soon as reasonable possible to a parking lot of like or better capacity, quality, character and utility for Tenant's purposes as existed prior to condemnation. In either a total or partial condemnation, LURA shall have the exclusive right to any award made by the condemning authority.

17. Default.

Failure to perform according to the provisions of this Lease shall constitute a default under this Lease.

18. Termination for Default.

In the event of a default as set forth in Section 17 above, the defaulting Party may cure said default within thirty (30) days of written notice thereof by the non-defaulting Party, or if such default is of such a nature that it cannot be cured by diligent effort during such thirty (30) day period, such Party may cure its default by undertaking a course of performance within such grace period and diligently pursuing it thereafter. Otherwise, the non-defaulting Party may terminate this Lease immediately upon written notice of termination to the defaulting Party. In the event of default by Tenant and failure to cure such default by the specified date after notice as provided for herein, Tenant's right to possess the Premises shall cease, this Lease shall be terminated, and the Parties shall have no further rights, duties or obligations hereunder, except for those obligations which are expressly stated to survive termination. LURA may then re-enter and take possession of the Premises or any part thereof, repossess the same, expel Tenant and those claiming through or under Tenant, and remove the effects of both or either (forcibly, if necessary) without being deemed guilty of any manner of trespass.

19. Notices.

Written notices shall be directed as follows and shall be deemed received when hand-delivered or emailed, or three (3) days after being sent by certified mail, return receipt requested:

To LURA:
Loveland Urban Renewal Authority

To Longbow:
Longbow Industries, LLC

Attn: Stephen C. Adams
500 E. Third Street, Suite 330
Loveland, CO 80537
(970) 962-2306
steve.adams@cityofloveland.org

Attn: CEO
1171 Des Moines Ave.
Loveland, CO 80537
[INSERT TELEPHONE NO.]
[INSERT EMAIL ADDRESS]

Any party hereto may at any time designate a different address or individual receiving notice by informing the other parties in writing; provided, however, that after Longbow occupies the County Office, its and LPR's address shall automatically be updated to reflect the address of the County Office.

20. Time of the Essence.

It is agreed that time shall be of the essence of this Lease and each and every provision hereof.

21. Parties Bound.

This Lease shall be binding upon, and inure to the benefit of, LURA and Tenant and their respective heirs, executors, administrators, legal representatives, and/or successors.

22. Governing Law and Venue.

This Lease shall be governed by the laws of the State of Colorado. In addition, the Parties acknowledge that there are legal constraints imposed upon LURA by the constitutions, statutes, and rules and regulations of the State of Colorado and of the United States and that, subject to such constraints, the Parties intent to carry out the terms and conditions of this Lease. Notwithstanding any other provision of this Lease to the contrary, in no event shall either of the parties be required to exercise any power or take any action which shall be prohibited by applicable law. Whenever possible, each provision of this Lease shall be interpreted in such a manner so as to be effective and valid under applicable law. Venue for any judicial proceeding concerning this Lease shall be exclusively in the District Court for Larimer County, Colorado.

23. Legal Construction.

In case any one or more of the provisions contained in this Lease shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision of this Lease, and this Lease shall be constructed as if the invalid, illegal, or unenforceable provision had never been included in the Lease. Paragraph headings used in this Lease are for convenience of reference only and shall in no way define, control or affect the meaning or interpretation of any provision of this Lease.

24. Relationship of Parties.

This Lease should not be construed to create an agency or employee relationship between LURA and Tenant. Tenant shall exercise no supervision over any employee or official of LURA and shall

not represent that Tenant is an employee or agent of LURA in any capacity. No employee or contractor of Tenant has any right to Worker's Compensation benefits from LURA or its insurance carriers or funds. Tenant shall provide any workers' compensation insurance and all other insurance required by any applicable law for its employees.

25. Beneficiaries.

This Lease is for the sole benefit of and binds LURA and the Tenant, their successors and assigns. This Lease affords no claim, benefit, or right of action to any third party. Any party besides LURA or Tenant receiving services or benefits under this Lease is only an incidental beneficiary.

26. Financial Obligations of LURA.

Any financial obligation of LURA under this Lease is contingent upon appropriation, budgeting and availability of specific funds to discharge those obligations. Nothing in this Lease constitutes a debt, a direct or indirect multiple fiscal year financial obligation, a pledge of LURA's credit, or a payment guarantee by LURA to Tenant.

27. Amendment.

This Lease may only be altered or amended in writing, signed by duly authorized representatives of LURA and Tenant, respectively.

28. Mutual Cooperation.

The Parties each agree to use good faith efforts to cause satisfaction of all conditions to their obligations under this Lease, and to exercise good faith in fulfilling its obligations under this Lease and in cooperating with the other Party with respect to that Party's satisfaction and fulfillment of all that Party's conditions and obligations under this Lease.

29. Recording.

This Lease shall be recorded in the real property records of the Clerk and Recorder of Larimer County, Colorado.

This Lease is hereby entered into by the parties the day and year first above written.

(End of text on page.)

LURA:

Loveland Urban Renewal Authority, Colorado

By: _____
Stephen C. Adams, Loveland City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

TENANT:

Longbow Industries, LLC, a Colorado limited liability company

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____ as _____ of Longbow Industries LLC, a Colorado limited liability company.

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

Notary Public

(S E A L)

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County
Colorado less east 16 feet as in 787-238

**Longbow Industries, LLC Economic Incentive
and Performance Agreement**

This Longbow Industries Economic Incentive and Performance Agreement (“Agreement”) is made and entered into this _____ day of _____, 2017, by and between the **LOVELAND URBAN RENEWAL AUTHORITY**, a body corporate and politic established pursuant to C.R.S. §31-25-101, et seq. (“LURA”); **Longbow Industries, LLC**, a Colorado limited liability company, and its permitted assigns (“Longbow”); and **L.P.R. Construction Co. LLC**, a Colorado limited liability company (“LPR”) (LURA, Longbow and LPR are individually referred to as a “party” and collectively as the “parties”).

WHEREAS, LPR, a Loveland-founded company, is a steel erector and provider of industrial construction and plant services with headquarters and operational facilities in Loveland, Colorado; and

WHEREAS, Longbow, an affiliate of LPR, will be used to facilitate expansion of LPR by purchasing the County Office (defined below) and leasing the Parking Lot (defined below); and

WHEREAS, LPR currently employs approximately 273 full time employees (“FTEs”) and presently anticipates continuous and significant growth in the number of employment positions with LPR and Longbow (and their affiliates) employing up to 1,000 FTEs over the next ten years; and

WHEREAS, LPR wishes to expand operations within the City of Loveland (“City”) which will include hiring additional employees with anticipated annual salaries of \$70,000 to 85,000; and

WHEREAS, LPR currently intends to grow through acquisitions and wishes to centralize and consolidate its administrative offices by having Longbow acquire from LURA that certain real property legally described in **Exhibit “A”** attached hereto and incorporated by reference, also known by the mailing address of 205 East 6th Street, Loveland, Colorado (the “County Lot”), including the building structure (referred to herein individually as the “Building,” and together with the County Lot, as the “County Office”); and

WHEREAS, Longbow also intends to lease from LURA that certain real property used as a parking lot and legally described in **Exhibit “B”** attached hereto and incorporated by reference, also known by the mailing address of 100 East 6th Street, Loveland, Colorado (the “Parking Lot”); and

WHEREAS, in order to move into the County Office, LPR anticipates expenditures of at least \$1,500,000, excluding the purchase price of the County Office, to complete public and private improvements that support use of the County Office for the relocation and expansion of LPR’s administrative office; and

WHEREAS, LPR and Longbow requested from LURA economic incentives of up to \$750,000 to defray costs of certain public improvements to the County Office; and

WHEREAS, by the adoption of Resolution #R-____-2017, the LURA Board made a finding that the economic incentive provided to LPR and Longbow by this Agreement provides significant social and economic benefits to the citizens of Loveland, primarily in the form of jobs, economic development, and increased property tax revenues and, therefore, that the provisions of the Agreement are in the best interests of the public, the City and LURA.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. Condition Precedent The parties agree that Longbow's purchase of the County Office from LURA and execution of a lease with LURA for the Parking Lot shall be conditions precedent to any obligations set forth in this Agreement and that failure to complete one or more of such conditions shall terminate this Agreement with no consequence to or obligation by any party.

2. Economic Incentive Payment

As an economic incentive for LPR expanding and re-locating LPR to the County Office, LURA shall reimburse Longbow, in accordance with this Agreement, for costs for certain improvements to the County Office in a total amount not to exceed seven hundred fifty thousand dollars (\$750,000) (the "Incentive"). The Incentive shall be subject to all of the following terms and conditions:

- A. LURA shall match Longbow's financial contribution toward any improvements to the County Office on a 1:1 basis, where for every one dollar (\$1.00) expended by Longbow, LURA will provide an economic incentive of one dollar (\$1.00) to reimburse costs incurred and paid for Eligible Public Improvements (defined in Section 3) up to seven hundred fifty thousand dollars (\$750,000).
- B. Longbow shall invest no less than seven hundred fifty thousand dollars (\$750,000) (the "Minimum Investment") in improvements to the County Office
- C. The Minimum Investment shall not include any reimbursement from LURA to Longbow for Eligible Public Improvements pursuant to this Agreement. Improvements to the County Office funded by the Minimum Investment and Eligible Public Improvements reimbursed by LURA pursuant to this Agreement must be installed by no later than eighteen (18) months after the Closing Date (as defined in the Purchase and Sale Agreement between LURA and Longbow) for the County Office (the "Deadline"), provided the Deadline shall be extended on a day-for-day basis for delays relating to the issuance of permits needed for the Eligible

Public Improvements or for Force Majeure. “Force Majeure” means any acts of God, strikes, lockouts, labor disputes, material shortages, failure of power, restrictive governmental laws or regulations, riots, insurrections, war or other cause not within the reasonable control of Longbow. Any costs incurred for Eligible Public Improvements completed after the Deadline shall not be subject to reimbursement under this Agreement.

- D. LPR, Longbow, and/or affiliates of either or both shall occupy the County Office by relocating its administrative office to the County Office within the Deadline, as extended.
- E. Before LURA shall be obligated to reimburse Longbow for its Eligible Public Improvements costs under this Agreement, Longbow must submit to the Loveland City Manager or designee such documentation as may be required by the Loveland City Manager to determine that Longbow has incurred and paid costs for improvements to the County Office, including costs for Eligible Public Improvements.
- F. LURA shall have the right to have its representatives periodically, but not more often than reasonably necessary, during normal business hours and upon not less than 48 hours’ notice: (i) review and audit contracts, invoices, expenditures and other financial transactions and documents related to improvements to the County Office; and (ii) physically inspect the County Offices to confirm that reimbursement amounts paid to Longbow were used as required under this Agreement. This right shall extend until no later than thirty-six (36) months after the Closing Date (as defined in the Purchase and Sale Agreement between LURA and Longbow) for the County office

3. Eligible Public Improvements

The following improvements shall be considered “Eligible Public Improvements” for the purpose of reimbursement under this Agreement:

- A. Environmental-related abatement, including the cost of repairing or replacing systems adversely impacted by such abatement;
- B. Investments in energy efficiency;
- C. Building façade and those portions of the Building exterior that are visible from a public right-of way;
- D. City-required improvements to adjacent streets, curbs and gutters;
- E. Adjacent sidewalks;
- F. Landscaping;
- G. Street name, traffic control and permanent traffic control signs;
- H. Water and electric distribution systems;
- I. Stormwater control facilities; and
- J. Sewer collection improvements.

4. Repayment upon Sale of County Office

In consideration of LURA’s Incentive, upon the sale or other conveyance of the County Office to a person or entity who is not a permitted assignee under Paragraph 8 below within 10 years from the Closing Date, LURA shall receive the following payment from Longbow before to or at the closing of such sale or conveyance pursuant to the schedule below.

<u>Sale or Sale within Year</u>	<u>Amount Due to LURA</u>
1	\$750,000
2	\$675,000
3	\$600,000
4	\$525,000
5	\$450,000
6	\$375,000
7	\$300,800
8	\$225,000
9	\$150,000
10	\$75,000
11	\$0

Any partial year shall be rounded to the next year where payment is due.

5. Time is of the Essence

Time shall be of the essence for the performance of all obligations under this Agreement.

6. Headings

Paragraph headings used in this Agreement are used for convenience of reference only and shall in no way define, control or affect the meaning or interpretation of any provision of this Agreement.

7. City Council Approval

This Agreement shall be subject to approval by the City Council of the City of Loveland.

8. Assignment

Neither Longbow nor LPR shall assign or transfer any or all of their interests, rights or obligations under this Agreement other than to an entity that controls one or both of them, or is controlled by, under common control with, one or both of them (such entity being a “permitted assignee”) without the prior written consent of LURA. Any other assignment of this Agreement by Longbow or LPR without LURA’s prior written consent shall be deemed void and of no effect.

9. Construction

12. Binding Effect

This Agreement shall be binding upon and, except as otherwise provided in this Agreement, shall inure to the benefit of the personal representatives, estates, heirs, successors and assigns of the parties.

13. Governmental Immunity

Notwithstanding any other provision of this Agreement to the contrary, the parties agree that no term or condition of this Agreement shall be construed or interpreted as a waiver, expressed or implied, of any of LURA's immunities, rights, benefits, protections, defenses, limitations of liability, or any other provisions under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, or under any other law.

14. Multi-Year Fiscal Obligation

To the extent this Agreement constitutes a multiple fiscal year debt or financial obligation of LURA, it shall be subject to annual appropriation pursuant to Article X, Section 20 of the Colorado Constitution. LURA shall have no obligation to continue this Agreement in any fiscal year in which no such appropriation is made.

15. Waiver

No waiver by the parties of any of the terms and conditions of this Agreement shall be deemed to be or shall be construed as a waiver of any other term or condition, nor shall such a waiver of any breach of this Agreement be deemed to constitute a waiver of any subsequent breach of the same provision of this Agreement.

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

(End of text on page.)

Longbow Industries, LLC, a Colorado limited liability company

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____, 2017 by _____ as _____ of Longbow Industries LLC, a Colorado limited liability company.

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

Notary Public

(S E A L)

L.P.R. CONSTRUCTION CO. LLC, a Colorado
limited liability Company

By: _____

Print Name: _____

Print Title: _____

STATE OF COLORADO)
) ss.
County of Larimer)

The foregoing instrument was acknowledged before me this _____ day of _____
_____, 2017 by _____ as _____ of
L.P.R. Construction Co. LLC, a Colorado limited liability company.

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

Notary Public

(S E A L)

**LOVELAND URBAN RENEWAL
AUTHORITY**

By: _____
Stephen C. Adams, Loveland City Manager

ATTEST:

Acting City Clerk

APPROVED AS TO FORM:

Assistant City Attorney

EXHIBIT A
Legal Description of Property (County Lot)

Lots 13 through Lots 16, Block 7, City of Loveland, Larimer County, Colorado; Also portion of vacated alley per book 1712 page 733. Also known as 205 E. 6th Street, Loveland, Colorado.

EXHIBIT B
Legal Description of Property (Parking Lot)

Lots 9 through 13 & North 10 Feet Lot 14, Block 11, City of Loveland, Larimer County
Colorado less east 16 feet as in 787-238