



European Bank
for Reconstruction and Development

(Operation Number: 50083)

PRE-FINANCING AGREEMENT

Re: ROMANIA / GrCF2 W2: Craiova Urban Rehabilitation – Loan Extension

This Pre-financing Agreement (the “**Agreement**”) is made on _____ of June 2020, by and between:

(1) The Municipality of Craiova (the “**City**”), having its offices at No. 7 Alexandru Ioan Cuza Street, 200585, Craiova, România

and

(2) The European Bank for Reconstruction and Development having its headquarters at One Exchange Square, London EC2A 2JN, United Kingdom (“**EBRD**” or the “**Bank**”).

(hereafter collectively referred to as the “**Parties**” and “**Party**” shall mean any one of them).

WHEREAS:

- A. By a loan agreement between the Bank and the City dated 4 December 2018 (the “**Existing Loan Agreement**”), the Bank agreed to provide to the City a loan of up to EUR 15 million to finance: (i) the rehabilitation of a pool of public buildings and (ii) partial replacement of the City’s public transport buses (the “**Existing Project**”).
- B. The City is now seeking for an EUR 9.2 million loan extension to cover the cost overruns for the buildings rehabilitation investment component, enabling the City of Craiova to complete the Existing Project (“**Project Extension**”). The project extension shall be done through an Amendment and Restatement of the Existing Loan Agreement (“**Amendment and Restatement Agreement**” or “**Loan Extension Agreement**”).
- C. The Bank is considering participating in the Project Extension through the provision of long term financing to the City in the amount of up to EUR 9.2 million.
- D. The Parties wish to set forth in this Agreement the basis on which they will work together in preparing the proposed financing for the Project Extension.

THEREFORE, THE PARTIES HAVE AGREED AS FOLLOWS:

1. The Bank confirms its interest in considering participating in the Project Extension (subject to Section 7 below) through the provision of long term financing in the form of a senior loan to the City in the overall amount of up to EUR 9.2 million (the “**Loan Extension**”).
2. The Loan Extension will be developed under the Green Cities 2 – Window II Framework (“**GrCF2 W2**” or the “**Framework**”) established by the Bank to support cities to identify, benchmark, prioritise and invest in Green City measures to improve urban environmental performance. The GrCF2 W2 Framework was approved by the Bank’s Board of Directors in October 2018.
3. The terms and conditions of the Loan Extension will be negotiated and finalised after appraisal of the Project Extension by the Bank. However, the following indicative terms are currently anticipated:
 - (a) **Currency:** EUR;
 - (b) **Amount:** up to EUR 9.2 million;
 - (c) **Maturity:** up to 13.5 years, aligned to the Existing Loan Agreement and including up to 1.5 years grace period;
 - (d) **Commitment Period:** up to 1.5 years from the date of signing of the Loan Extension Agreement, but no later than 4 December 2021;
 - (e) **Repayment Period:** up to 12 years, commencing at the end of the grace period; repayment will be aligned to the Existing Loan Agreement: 24 equal semi-annual instalments starting on 6 December 2021;
 - (f) **Margin/ Interest Rate:** margin of 1.25% over six-month EURIBOR (zero floor). The ultimate Margin grid will be negotiated and will be dependent on the level of security, financial covenants and market conditions.
 - (g) **Up-front fee:** 0.5% of the principal amount of the Loan Extension, i.e. EUR 46,000;
 - (h) **Commitment fee:** (i) 0.00% p.a. of the Loan Extension undisbursed amount for a period of 90 days from the date of the Loan Extension Agreement; (ii) 0.15% p.a. of the Loan Extension undisbursed amount for the next 12 months; and (3) 0.5% p.a. of the Loan Extension undisbursed amount thereafter;
 - (i) **Prepayment fee:** aligned to the Existing Loan Agreement: 3% of prepaid amounts for a period of 4 years from the Existing Loan Agreement signing; 2% of prepaid amounts if prepayment occurs between 4 years and 5 years after the Existing Loan Agreement signing; 1% of prepaid amounts if prepayment occurs after 5 years after the Existing Loan Agreement signing
 - (j) **Financing Agreements to include:**
 - The Loan Extension Agreement;
 - Amendment of Existing Security Agreement;
 - Amendment of Existing Debt Service Reserve Account Agreement
 - Any other agreements entered into between the City and the Bank and notices, certificates and applications issued by the City to the Bank;
 - (k) **Procurement:** Procurement would be carried out in accordance with the Bank’s Procurement Policies and Rules;
 - (l) **Permitted indebtedness:** without prior written consent of the Bank, the City shall not incur, assume or permit to exist any financial debt except that provided under the Loan Extension Agreement;
 - (m) **Key financial indicators** for the City will include Debt Service Coverage Ratio, Debt level ratio and Debt Service to Eligible Revenues ratio, aligned to financial indicators in the Existing Loan Agreement;

- (n) **The City agrees to comply with EBRD policies and requirements** applicable to all recipients of EBRD funding including environmental and social compliance.
4. The Bank confirms its willingness to co-operate with the City to advance the preparation of the contemplated financing, including by mobilising staff and external consultants, as long as the Project Extension shall be supported by the Bank's management.
 5. The City will be obliged to reimburse the Bank for the fees and expenses of up to EUR 12,000 of the outside legal counsel retained by the Bank incurred in connection with the preparation of the Bank's financing and the preparation, drafting, translation, negotiation and review of the financing documentation and any other legal document related to the financing documentation (the "**Expenses**"). The Expenses shall be reimbursed not later than within 30 days after the Bank provides the City with documentation confirming that such Expenses have been incurred.
 6. The City's contribution to the Project Extension preparation shall include:
 - (a) The City shall pay for its own internal costs relating to the preparation of the Project Extension;
 - (b) The City shall provide free of charge support to any consultants selected by the Bank to work on the Project Extension as well as all documents, materials and other information that may be relevant to their work.
 7. The Preamble, and sections 1, 2 and 3 of this Agreement reflect only the expectations and current intentions of the Parties in relation to the Project Extension and do not impose or constitute any legally binding obligations on the Parties to provide, or to accept, financing, as the case may be. Any financing will be agreed between the Parties. In particular, it will be conditional on the findings of the Project Extension appraisal and shall be subject to negotiation of an overall financing plan and Project Extension arrangements satisfactory to the Bank, approval by the Bank's Management and Board of Directors, negotiation and execution of appropriate financing documentation and fulfilment of applicable conditions precedent. Except as otherwise provided in this Section 7, this Agreement provides for legally binding obligations of the Parties which will become immediately effective upon execution of this Agreement.
 8. Any amendment to, or waiver by the Bank of any terms or conditions of, or consent given by the Bank under, this Agreement (including under this Section 8) shall be in writing, signed by the Bank and, in the case of an amendment, by the City.
 9. Any notice, application or other communication to be given or made under this Agreement to any Party to this Agreement shall be in writing. Except as otherwise provided in this Agreement, such notice, application or communication shall be deemed to have been duly given or made when its is delivered by hand, airmail, or mail transmission to the party to which it is required or permitted to be given or made at such party's address herein firstly mentioned or at such other address as such party designates by notice to the party giving or making such notice, application or other communication.
 10. This Agreement shall be governed by the laws of England. The Loan Extension Agreement to be executed between the Bank and the City will be governed by the laws of England.

11. The City shall not from the date of this Agreement until the date of signing of the Loan Extension Agreement enter into any negotiations with any bank or financial institution for the purpose of raising any financing in the international debt market without the Bank's prior written consent.
12. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity hereof or the Bank's involvement with the Project Extension (if any), shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force. There shall be one arbitrator and the appointing authority shall be LCIA (London Court of International Arbitration). The seat and place of arbitration shall be London, England and the English language shall be used. The parties waive any rights under the Arbitration Act 1996 or otherwise to appeal any arbitration award to, or to seek determination of a preliminary point of law by, the courts of England. Notwithstanding the UNCITRAL Arbitration Rules, the arbitral tribunal shall not be authorised to grant, and the City agrees that they shall not seek from any judicial authority, any interim measures or pre-award relief against the Bank. Notwithstanding the foregoing, this Agreement may, at the option of the Bank, be enforced by the Bank in any courts having jurisdiction.
13. Nothing in this Agreement shall be construed as a waiver, renunciation or other modification of any immunities, privileges or exemptions of the Bank accorded under the Agreement Establishing the European Bank for Reconstruction and Development, international convention or any applicable law.
14. The City represents and warrants that this Agreement is a commercial rather than a public or governmental act and that the City is not entitled to claim immunity from legal proceedings with respect to itself or any of their assets on the grounds of sovereignty or otherwise under any law or under any jurisdiction where an action may be brought for the enforcement of any of the obligations arising under or relating to this Agreement.
15. The Bank is sometimes the recipient of communications, including complaints, from civil society on environmental, safety, social, and other aspects of projects, both before Board approval and during project implementation. The Bank will share this external communication and its responses with the City and any potential and existing co-financiers, insofar as any of this information is not covered by any confidentiality agreement, in order to ensure consistency in approach and messages to the public. The Bank encourages the City and any co-financiers to likewise share external communication, including complaints, and their responses with the Bank.
16. This Agreement is drafted in 6 (six) counterparts, 3 (three) in English and 3 (three) in Romanian, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement. The English version shall be the governing version.

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names as of the date first above written.

For the **Municipality of Craiova**

Mr. Mihail Genoiu
Mayor

For the **EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT**

Mrs. Susan Goeransson
Director, Sustainable Infrastructure Group – Infra Europe