

PROPERTY TAX INCREMENT REVENUE AGREEMENT
(Durango Business Improvement District)

1.0 PARTIES. This Agreement (the “Agreement”), is entered into on March 1, 2021 (the “Effective Date”), by and between the DURANGO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”), whose address is 1235 Camino Del Rio, Durango, Colorado 81301, and the DURANGO BUSINESS IMPROVEMENT DISTRICT, a body corporate and politic of the State of Colorado (the “BID”), whose address is 850 1/2 Main Ave #2, Durango CO 81301. (The Authority and the BID are referred to herein individually as a “Party” and collectively as the “Parties.”)

2.0 RECITALS. The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 Proposed Redevelopment. The Parties have been advised that the real property described in Exhibit A (the “Property”) lying within the corporate limits of the City of Durango (the “City”) is being considered by the City Council of the City as an urban renewal area to be redeveloped. The redevelopment plans will eliminate existing blighting conditions and result in the creation of housing development, business expansion, and new jobs, all of which will benefit the City and BID.

2.2 Urban Renewal and Tax Increment Financing. To accomplish the proposed redevelopment and to provide certain public improvements, it is necessary to include the Property in an urban renewal plan, entitled as the “MidTown Urban Renewal Plan” authorizing and utilizing tax increment financing in accordance with the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), to pay Eligible Costs of the Public Improvements. The proposed Plan that includes the Property is attached to this Agreement as Exhibit A.

2.3 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project is to afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area by private enterprise. The Urban Renewal Project is projected to assist in the redevelopment of commercial and residential properties and other benefits as specified in the Plan which will benefit the Parties, the region, and the State of Colorado.

2.3.1 The Duration of time estimated to complete the Urban Renewal Project is the 25-year period following adoption of the Urban Renewal Plan as specified in §31-25-109(a) of the Act.

2.3.2 The estimated annual Property Tax Increment Revenue to be generated by the Urban Renewal Project for the Duration of the Urban Renewal Project and the portion of such Property Tax Increment Revenue to be allocated to

fund the Urban Renewal Project are set forth in section 3.1 of the Impact Report included in Exhibit B.

2.3.3 The nature and relative size of the revenue and other benefits expected to accrue to the City, the BID, and other taxing entities that levy property taxes in the Urban Renewal Area are set forth in the Impact Report and include, without limitation:

2.3.3.1 The increase in base value resulting from biennial general reassessments for the Duration in accordance with §31-25-107(9)(e) of the Act;

2.3.3.2 The benefit of improvements in the Urban Renewal Area to existing taxing entity infrastructure in accordance with § 31-25-107(3.5) of the Act;

2.3.3.3 The estimate of the impact of the Urban Renewal Project on the BID and taxing entity revenues in accordance with § 31-25-107(3.5) of the Act;

2.3.3.4 The cost of additional BID and taxing body infrastructure and services required to serve development in the Urban Renewal Area in accordance with § 31-25-107 (3.5) of the Act;

2.3.3.5 The capital or operating costs of the Parties, the City, and other taxing bodies that are expected to result from the Urban Renewal Project in accordance with HB 15-1348.

2.3.3.6 The legal limitations on the use of revenues belonging to the Parties, the City, and any taxing entity in accordance with HB 15-1348;

2.3.3.7 The other estimated impacts of the Urban Renewal Project on the BID and other taxing body services or revenues in accordance with §31-25-107(3.5) of the Act.

2.4 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement, the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the proposed Urban Renewal Area described therein.

3.0 AGREEMENT. in consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and between the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

- 4.1 “Act” means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S.
- 4.2 “Agreement” means this Agreement, as it may be amended supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.
- 4.3 “Authority” means the Party described in Section 1.0, the Durango Urban Renewal Authority, also known as the Durango Renewal Partnership, a body corporate and politic of the State of Colorado.
- 4.4 “City” means the City of Durango, Colorado.
- 4.5 “BID” means the Durango Business Improvement District as described in Section 1.0, a body corporate and politic of the State of Colorado.
- 4.6 “Bonds” shall have the same meaning as defined in §31-25-103 of the Act.
- 4.7 “Duration” means the twenty-five year period that the tax increment or tax allocation provisions will be in effect as specified in §31-25-109(a) of the Act, the Plan, and the Impact Report.
- 4.8 “Eligible Costs” means those costs eligible to be paid or reimbursed from Property Tax Increment Revenues pursuant to the Act.
- 4.9 “Impact Report” means the impact report setting forth the burdens and benefits of the Urban Renewal Project previously submitted to the BID.
- 4.10 “Improvements” means the Public Improvements and Private Improvements.
- 4.11 “Party” or “Parties” means the Authority or the BID or both and their lawful successors and assigns.
- 4.12 “Plan” means the urban renewal plan as defined in Section 2.2.
- 4.13 “Project” shall have the same meaning as Urban Renewal Project.
- 4.14 “TIF” means the property tax increment portion of the property tax assessment roll described in §31-25-107(9)(a)(II) of the Act.
- 4.15 “Property Tax Increment Revenues” means 100% of the revenues derived from the levy of the BID against the Incremental Value of the assessment roll described in in §31-25-107(9)(a)(II) of the Act allocated to the Special Fund of the Durango Urban Renewal Authority for the Duration of the Urban Renewal Project.

4.16 “Special Fund” means the fund described in the Plan and §31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.17 “Urban Renewal Area” means the area included in the Boundaries of the Plan.

4.18 “Urban Renewal Plan” means the MidTown Urban Renewal Plan attached to this Agreement as Exhibit A.

4.19 “Urban Renewal Project” means all of the undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan pursuant to the Act.

5.0 RETENTION OF PROPERTY TAX INCREMENT REVENUES. In compliance with the requirements of HB 15-1348, and in consideration of the increase in BID revenues shown in the Impact Report, the Parties have agreed that the Authority shall retain 100% of the Property Tax Increment Revenues produced by the Urban Renewal Project for the Duration. The BID recognizes and agrees that in reliance on this Agreement, the adoption and approval of the Plan includes an irrevocable pledge of all the Property Tax Increment Revenues to pay the Authority’s Bonds and other financial obligations in connection with the Urban Renewal Project.

6.0 NOTIFICATION OF SUBSTANTIAL MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the BID of any intended substantial modification of the Plan as required by §31-25-107(3.5)(a) of the Act. This Agreement is not part of the Plan.

7.0 WAIVER. Except for the notices required by this Agreement, the BID, as authorized by § 31-25-107(9.5)(b) and § 31-25-107(11) of the Act, hereby waives any provision of the Act that provides for notice to the BID, requires any filing with or by the BID, requires or permits consent from the BID, and provides any enforcement right to the BID for the Duration.

8.0 AGREEMENT CONFINED TO PROPERTY TAX INCREMENT REVENUES. This Agreement applies only to the Property Tax Increment Revenues, as calculated, produced, collected, and paid to the Authority from the Urban Renewal Area by the La Plata County Treasurer in accordance with §31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado, and does not include any other revenues of the Parties or the City and County.

9.0 INCLUSION OF TIF-BENEFITING COMMERCIAL PROPERTIES IN THE BID. In support of the BID’s mission and role in the urban renewal area, the Authority will require any commercial property that directly benefits from a TIF-funded program or enters into a TIF revenue agreement with the Authority to enroll as a member of the BID.

10.0 MISCELLANEOUS.

10.1 Delays. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of

God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes; similar or dissimilar, including economic downturns, which are beyond the control of such Party.

- 10.2 Termination and Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF financing component, the Authority may terminate this Agreement by delivering written notice to the BID. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction after the effective date of this Agreement that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that must fully implements the original intent, purpose, and provisions of this Agreement, but does not impair any otherwise valid contracts in effect at such time.
- 10.3 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.
- 10.4 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties.
- 10.5 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.
- 10.6 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.
- 10.7 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.
- 10.8 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

- 10.9 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of “Bonds” in the Act, including payment of Eligible Costs or any other lawful financing obligation.
- 10.10 Incorporation of Recitals and Exhibits. The provisions of the Recitals and the Exhibits attached to this Agreement are incorporated in and made a part of this Agreement.
- 10.11 No Assignment. No Party may assign any of its rights or obligations under this Agreement.
- 10.12 Section Captions. The captions of the section are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.
- 10.13 Execution in Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.
- 10.14 Governing Law. This Agreement and the provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado.
- 10.15 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.
- 10.16 Notices. Any notice required by this Agreement shall be in writing. All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be (a) personally delivered with a written receipt of delivery; (b) sent by a nationally-recognized overnight delivery service requiring a written acknowledgement of receipt or providing a certification of delivery or attempted delivery; (c) sent by certified or registered mail, return receipt requested; or (d) sent by confirmed facsimile transmission or electronic delivery with an original copy thereof transmitted to the recipient by one of the means described in subsections (a) through (c) no later than 5 business days thereafter. All notices shall be deemed effective when actually delivered as documented in a delivery receipt; provided, however, that if the notice was sent by overnight courier or mail as aforesaid and is affirmatively refused or cannot be delivered during customary business hours by reason of the absence of a signatory to acknowledge receipt, or by reason of a change of address with respect to which the addressor did not have either knowledge or written notice delivered in accordance with this paragraph, then the first attempted delivery shall be deemed to constitute delivery. Each Party shall be entitled to change its address for notices from time to time by delivering to the other Party notice thereof in the manner herein

provided for the delivery of notices. All notices shall be sent to the addressee at its address set forth in Section 1.0.

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

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Authority and the BID have caused their duly authorized officials to execute this Agreement effective as of the Effective Date.

DURANGO BUSINESS IMPROVEMENT DISTRICT, a body corporate and politic of the State of Colorado

By: 
Title: BOARD CHAIR BID

ATTEST:

 / Exec. Director BID

DURANGO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado

By: 

ATTEST:

By: _____