

URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO

AND

CITY OF COMMERCE CITY, COLORADO

AND

REAL ESTATE GENERATION, LLC

---

PHASED REDEVELOPMENT AGREEMENT  
FOR THE MILE HIGH GREYHOUND PARK PROJECT

---

Dated as of \_\_\_\_\_, 2016

## TABLE OF CONTENTS

	Page
SECTION 1. DEFINITIONS.....	2
Section 1.1 Definitions.....	2
SECTION 2. DESCRIPTION OF THE REDEVELOPMENT .....	9
Section 2.1 Description of the Redevelopment.....	9
Section 2.2 Phased Redevelopment .....	9
Section 2.3 Partial Assignment .....	10
Section 2.4 Access by the Redeveloper .....	10
SECTION 3. AUTHORITY FINANCING .....	10
Section 3.1 Reimbursement and Participating Interest .....	10
Section 3.2 Reimbursement Cost Payment Request .....	11
Section 3.3 Disbursement .....	12
Section 3.4 Appointment of Trustee or Escrow Agent .....	12
Section 3.5 Authority's Reimbursement Obligation.....	12
Section 3.6 Status of Incremental Taxes.....	13
SECTION 4. REDEVELOPER'S FINANCING.....	14
Section 4.1 Redeveloper's Financing .....	14
Section 4.2 Redeveloper's Responsibility for Overruns.....	14
Section 4.3 Limitation Upon Encumbrance of Property.....	14
Section 4.4 Borrowed Funds.....	14
Section 4.5 Holder Not Obligated to Construct .....	14
Section 4.6 Copy of Notice of Default to Holder .....	15
SECTION 5. PRIORITY FEES.....	15
Section 5.1 Priority Fees .....	15
SECTION 6. REPRESENTATIONS AND WARRANTIES OF THE REDEVELOPER .....	15
SECTION 7. GENERAL COVENANTS.....	15
Section 7.1 Design Approval .....	15
Section 7.2 Project Art.....	17
Section 7.3 Prior to Commencement of Construction .....	17
Section 7.4 Property Insurance .....	18
Section 7.5 Reconstruction .....	18
Section 7.6 Delivery of Financial Information .....	18
Section 7.7 Signage.....	19
Section 7.8 Assistance to the Redeveloper .....	19
Section 7.9 Utility Service .....	19
Section 7.10 Cooperation Agreement.....	19
Section 7.11 Schedule of Performance .....	20
Section 7.12 Restriction on Use.....	20

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
Section 7.13 Cooperation in Future Litigation .....	20
Section 7.14 Compliance with Laws .....	20
SECTION 8. CONSTRUCTION OF IMPROVEMENTS .....	20
Section 8.1 Covenants to Commence and Complete Construction .....	20
Section 8.2 Quarterly and Annual Construction Reports.....	20
SECTION 9. CERTIFICATE OF COMPLETION .....	20
SECTION 10. INDEMNITY .....	21
Section 10.1 General Indemnity .....	21
Section 10.2 Environmental Indemnity .....	21
Section 10.3 Redeveloper's Covenants and Indemnity Concerning Americans With Disabilities Act .....	22
Section 10.4 Indemnification Procedures .....	22
SECTION 11. EMPLOYMENT .....	23
Section 11.1 Anti Discrimination .....	23
SECTION 12. EVENTS OF DEFAULT; REMEDIES .....	23
Section 12.1 Events of Default by the Redeveloper .....	23
Section 12.2 Events of Default by the Authority .....	24
Section 12.3 Remedies .....	24
Section 12.4 Notice of Defaults; Opportunity to Cure Such Defaults .....	25
Section 12.5 Delay .....	25
SECTION 13. TERMINATION .....	25
Section 13.1 Scheduled Termination .....	25
Section 13.2 Termination by the Authority .....	25
Section 13.3 Action to Terminate .....	26
Section 13.4 Effect of Termination.....	26
SECTION 14. RESTRICTIONS ON ASSIGNMENT AND TRANSFER.....	26
Section 14.1 Representations as to Redevelopment .....	26
Section 14.2 Limitation on Assignment and Sale.....	26
SECTION 15. MISCELLANEOUS .....	27
Section 15.1 Limitation of Rights .....	27
Section 15.2 Notices .....	27
Section 15.3 Waiver.....	27
Section 15.4 Attorneys' Fees .....	27
Section 15.5 Conflicts of Interest.....	27
Section 15.6 Titles of Sections.....	28
Section 15.7 Authority Not a Partner; Redeveloper Not Authority's Agent .....	28
Section 15.8 Applicable Law .....	28

## TABLE OF CONTENTS

(continued)

	<b>Page</b>
Section 15.9 Binding Effect.....	28
Section 15.10 Further Assurances.....	28
Section 15.11 Time of Essence .....	28
Section 15.12 Severability .....	28
Section 15.13 Good Faith; Consent or Approval.....	29
Section 15.14 Counterparts .....	29
Section 15.15 Nonliability of Authority Officials and Employees.....	29
Section 15.16 Incorporation of Exhibits .....	29
Section 15.17 Survival .....	29
Section 15.18 Memorandum of Agreement.....	29
Section 15.19 Subsequent Events .....	29
Section 15.20 Estoppel Certificates .....	29
Section 15.21 Delegation of Authority .....	30
Section 15.22 Public Improvement Fee .....	30
Section 15.23 City Annual Appropriation .....	30

## EXHIBITS

Exhibit A	Depiction of Anticipated Urban Renewal Area
Exhibit B-1	Legal Description of Each Parcel
Exhibit B-2	Map Showing Location of Each Parcel
Exhibit C	Development Plan and Schedule
Exhibit D	Reimbursable Costs
Exhibit E	Certificate of Completion
Exhibit F	Form of License Agreement
Exhibit G	Payment Request
Exhibit H	Public Art Funding Program
Exhibit I	Assignment and Assumption Agreement
Exhibit J	Operating Agreement
Exhibit K	Memorandum of Agreement

## **PHASED REDEVELOPMENT AGREEMENT**

THIS PHASED REDEVELOPMENT AGREEMENT, dated as of \_\_\_\_\_, 2016, and any amendments hereto made in accordance herewith (as from time to time amended and supplemented in accordance herewith, this "Agreement"), is made by and between the URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO (together with any successors or assigns thereto, the "Authority"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, and the CITY OF COMMERCE CITY, COLORADO, a home rule municipality under the laws of the State of Colorado (together with any successors or assigns thereto, the "City"), and REAL ESTATE GENERATION, LLC, a limited liability company organized under the laws of the State of Colorado (together with any permitted successors or assigns thereto, the "Redeveloper" or "Manager"). Terms not otherwise defined within the text below are defined in Section 1.1.

### **W I T N E S S E T H:**

WHEREAS, the Authority is a body corporate and has been duly created, organized, established and authorized to transact business and exercise its powers as an urban renewal authority within the City, all under and pursuant to the Colorado Urban Renewal Law, constituting Sections 31-25-101 et seq., Colorado Revised Statutes (the "Act"); and

WHEREAS, in August, 2011, the Authority purchased the approximately 65 acre former Mile High Greyhound Park; in October 2013, the Authority released a request for qualifications for a redevelopment team which included development goals for the site of creating a flexible master framework plan, creating a mixed-use and multi-use neighborhood, providing a variety of retail and commercial development options, creating a community destination and sense of place, providing space for the Boys and Girls Club and other service organizations, and holding a portion of the property for an institutional anchor (education/training) while pursuing development on the remainder of the property; two development teams met the qualifications and, on February 1, 2014, presented their proposals to the Authority Board; on March 3, 2014, the Authority Board selected the Redeveloper to serve as the master redeveloper for the Project; and

WHEREAS, Redeveloper and/or its principals has represented that it has expertise and extensive experience in retail, restaurant, office, residential and mixed-use development; and

WHEREAS, development of the Project within the boundaries of the City is expected to provide substantial direct and indirect benefits to the City, its citizens and the surrounding region and enhance the economic vitality of the City in numerous ways, including but not limited to the creation and retention of new temporary and permanent jobs; by increasing the City's employment base; by supporting the redevelopment of the former dog track and racing club; by generating increased sales tax, property tax, and other general revenue for the City; and by stimulating further economic development in the City and surrounding region; and

WHEREAS, the City Council of the City is anticipated to consider an urban renewal plan under the Act, known as "The Mile High Greyhound Park Urban Renewal Plan" (the "Urban

Renewal Plan”); and this Agreement is contingent upon, and will become effective as of the date of, City Council’s approval of the Urban Renewal Plan; and

WHEREAS, the Urban Renewal Plan is anticipated to contemplate multiple phases of redevelopment and may include one or more Property Tax Increment Areas (the “Property Tax Increment Areas”), each taken together will be coextensive with the Urban Renewal Area; and

WHEREAS, within the Urban Renewal Area circumscribed by the aforementioned Urban Renewal Plan, the Authority has acquired the Property and has contracted by this Agreement for the Redeveloper to act as master redeveloper for the Property with the intent to cause phased construction of the Improvements all in furtherance of the Urban Renewal Plan; and

WHEREAS, to help ensure the Project’s financial feasibility and success and to provide funds to meet obligations with respect to activities and operations of the Authority in connection with the Project in accordance with the Urban Renewal Plan and the Act, the City, the Authority and Redeveloper have agreed upon various forms of incentives and financial assistance utilizing funds generated from the taxes and other amounts to be paid by Redeveloper, sales of parcels within the Project, and customers, visitors and other users of the Project; and

WHEREAS, without the availability of the Property Tax Revenues, Redeveloper would not be able to eliminate the blight which will be remedied by the construction of the Improvements and completion of the Project; and

WHEREAS, the intent of this Agreement is to set forth: (i) the public finance structure made available to Redeveloper to ensure that the blight existing on the Property will be eliminated; (ii) the respective roles and responsibilities of the City, the Authority and Redeveloper to finance, develop, and construct the various components of the Project; and (iii) the timetable for implementation of the incentives described herein and the financing and construction of the Project.

NOW, THEREFORE, in consideration of the premises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

## **Section 1. DEFINITIONS.**

**Section 1.1 Definitions.** As used in this Agreement, the following terms shall have the following meanings:

“Act” has the meaning set forth in the recitals hereof.

“Agreement” has the meaning set forth in the recitals hereof. References to Sections and Exhibits are to this Agreement unless otherwise qualified.

“Applicable Law” means applicable laws and regulations of any governmental entity, including, but not limited to, City codes and ordinances and Environmental Laws.

“Assignment and Assumption” means that document attached hereto as Exhibit I and as described in Section 2.3.

“Authority” has the meaning set forth in the recitals hereof and includes any successors and assigns.

“Authority Board” or “Board of the Authority” is the Board of Commissioners of the Authority.

“Authority’s Financing” means revenues received by the Authority based on Incremental Revenues and paid to the Redeveloper as Reimbursable Costs, as further described in Section 3.

“Business Day(s)” means Monday through Friday and specifically excludes Federal, State, and City holidays and any additional days on which City offices are closed (other than essential services).

“Certificate of Completion” means the certification issued by the Authority following Completion of Construction of the Improvements for any one or more Parcels of the Project, in the form attached as Exhibit E and described in Section 9, confirming that all of the Improvements with respect to that particular Parcel of the Project have been substantially completed in accordance with this Agreement and the Urban Renewal Plan. The Certificate of Completion is a specific process under the Act and is separate and apart from the normal City warranty and acceptance process for public improvements which certain Improvements will undergo in compliance with City Code.

“City” has the meaning set forth in the recitals hereof and includes any successors and assigns.

“City Code” means the Revised Municipal Code of the City of Commerce City, Colorado.

“Closing” means the date upon which a Sale occurs and the deed from Authority to any purchaser is irrevocably delivered to the Clerk and Recorder of Adams County for recording.

“Commencement of Construction” means the first day on which demolition, construction, and/or environmental remediation activities occur on any Parcel.

“Completion of Construction” means the completed construction of the Improvements (except for punchlist items), that are to be completed for that particular Parcel of the Project in accordance with the Development Plan as further set forth in Section 9. The Completion of Construction is confirmed by means of a specific process under the Act and is separate and apart from the normal City warranty and acceptance process for public improvements which shall be required with respect to certain Improvements in compliance with City Code.

“Consent Agreement” means that certain agreement to be executed by the Holder agreeing not to disturb or foreclose this Agreement and setting forth the rights of lenders and the Authority, as negotiated by the parties.



“Construction Budget” means costs for the Improvements budgeted as Reimbursable Costs as shown on Exhibit D.

“Construction Documents” means those construction documents for the Improvements described in Section 7.

“Cooperation Agreement” means any Cooperation Agreement between the City and the Authority, if necessary, regarding the sharing of Incremental Sales and Lodgers Taxes within the Urban Renewal Area, as the same may from time to time be amended.

“County Assessor” means the Assessor for Adams County, Colorado.

“Default” means any event which with the giving of notice or lapse of time or both would constitute an Event of Default hereunder.

“Design Guidelines” means those certain Design, Use and Maintenance Standards and Guidelines for Mile High Greyhound Park, as may be amended or supplemented from time to time, which Redeveloper will prepare and provide to the Authority for review and approval by the date indicated on the Schedule.

“Development Plan” means the Redeveloper’s narrative description of the Improvements, the Project and each Parcel thereof, contained in Exhibit C, attached hereto.

“Effective Date” is the date this Agreement becomes effective which will be the date the Urban Renewal Plan is approved by the City Council of the City.

“Effective Date of Allocation” means, with respect to each of the Property Tax Increment Areas, the date set forth in its applicable Urban Renewal Plan on which the allocation of the Incremental Taxes for the Project shall take effect.

“Environmental Laws” means all federal, state and local environmental, health and safety statutes, as may from time to time be in effect, including but not limited to federal laws such as, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9602 et seq., the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601(20)(D), the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act Amendments of 1977, 33 U.S.C. §§ 1251 et seq. (“CWA”), the Clean Air Act of 1966, as amended, 42 U.S.C. §§ 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq., the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., and any and all federal, state and local rules, regulations, authorizations, judgments, decrees, court decisions, concessions, grants, franchises, agreements, orders and other governmental restrictions and other agreements relating to the environment or to any Pollutants, as may from time to time be in effect.

“Environmental Liabilities” has the meaning set forth in Section 10.2.

“Event of Default” has the meaning set forth in Section 12.1.

“Final Documents” means all plans that represent an accurate record of the construction of the Improvements for any Parcel.

“Final Reimbursement Memo” means the document to be executed by the Authority upon termination of this Agreement, as more specifically set forth in Section 3.1.

“Fiscal Year” means the fiscal year of the City, which currently begins on January 1 of each year and ends on December 31 of such year.

“Force Majeure” means damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather condition such as, by way of illustration and not limitation, snow storms which prevent outdoor work from being accomplished, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes, earthquakes, floods, delays beyond the applicable reasonable time period associated with governmental permitting, approvals or actions, other events or conditions beyond the reasonable control of the party affected which in fact prevents or delays the party from discharging its respective obligations hereunder or increases costs.

“Gross Sales Proceeds” means the total aggregate amount received by the Authority with respect to each Sale.

“Holder” means the owner of a Mortgage.

“Improvements” means all of the improvements that the Redeveloper is required to construct or cause to be constructed on or under each Parcel or in the adjacent right of ways as specified in the Development Plan, and any changes thereof which are approved by the Authority to the extent required by this Agreement.

“Incremental Property Taxes” means, for each Fiscal Year subsequent to the creation of and Effective Date of Allocation for each respective Property Tax Increment Area, certain Property Tax Revenues in excess of the Property Tax Base Amount; provided, however, that (a) such amount shall be reduced by any lawful collection fee charged by the City or Adams County; and (b) in the event of a general reassessment of taxable property in the Urban Renewal Area, Incremental Property Taxes shall be proportionately adjusted in the manner required by the Act. The Incremental Property Taxes shall include Property Tax Revenue from all taxing entities on the records of Adams County for the Property with the exception of: (1) all the mill levy received by the Fire District 4 South Adams as applied to all property within the Urban Renewal Area, and (2) the mill levy received by Adams County School District 14 as applied only to any property within the Urban Renewal Area which is assessed by the County Assessor as residential property, unless one or more intergovernmental agreements are entered into between the Authority and Adams County School District 14 under which all or a portion of the mill levy received by Adams County School District 14 is included as Incremental Property Taxes.

“Incremental Sales and Lodgers Taxes” means, for each Fiscal Year subsequent to the creation of and Effective Date of Allocation for each respective Property Tax Increment Area, all Sales and Lodgers Tax Revenues in excess of the Sales and Lodgers Tax Base Amount; provided, however, that such amount shall be reduced by any lawful collection fee charged by the City or Adams County.

“Incremental Taxes” means the combination of Incremental Property Taxes and Incremental Sales and Lodgers Taxes.

“Indemnified Party” or “Indemnified Parties” means the Authority, and its board of commissioners, officers, agents, employees, engineers and attorneys and the City, and its City Council, officers, agents, employees, engineers and attorneys.

“Mortgage” means any mortgage or deed of trust conveying an interest in any Parcel(s) for the purpose of securing a debt or other obligation.

“Notice Address” means the address for notice set forth below, as amended from time to time:

Authority: Urban Renewal Authority of the City of Commerce City  
7887 E. 60<sup>th</sup> Avenue  
Commerce City, Colorado 80022  
Attention: Executive Director

City: City of Commerce City  
7887 E. 60<sup>th</sup> Avenue  
Commerce City, Colorado 80022  
Attention: City Manager

Redeveloper: REGen, LLC  
1125 Seventeenth Street, Suite 2500  
Denver, Colorado 80202  
Attention: H. Rickey Wells

“Operating Agreement” means the operating agreement between the Authority, the City and the Redeveloper, set forth in Exhibit J, attached hereto and made a part hereof, as amended from time to time.

“Outside First Sale Date” means the date that is the expiration of the thirtieth (30<sup>th</sup>) month after Reimbursement Cost Interest began accruing.

“Parcel” or “Parcels” means the parcels approximately described in Exhibit B-1 and approximately shown on Exhibit B-2 attached hereto on which development of residential units (both for-sale and rental), commercial buildings, and associated uses are expected to occur.

“Participating Interest” means a fee due to the Redeveloper equal to one half of the Gross Sales Proceeds.

“Payment Request” means a written request for payment submitted by the Redeveloper to the Authority, as further described in Section 3.2 of this Agreement.

“PDD” means any planned development document(s) as the same are recorded with the Clerk and Recorder of Adams County as such planned development document(s) may be revised, amended or supplemented from time to time.

“Pollutant” means any material, waste or substance that is now or may become regulated or governed by any Environmental Laws, or the presence of which requires investigation under any Environmental Laws, or any flammable, explosive, corrosive, reactive, carcinogenic, radioactive material, hazardous waste, toxic substance or related material and any other substance or material defined or designated as a hazardous or toxic substance, material or waste by any Environmental Laws and shall include, without limitation:

(a) any material, waste or substance included within the definitions of “hazardous substance” as that term is defined in CERCLA; any “hazardous waste” as that term is defined in RCRA; and any “hazardous material” as that term is defined in the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), as amended (including as those terms are further defined, construed, or otherwise used in rules, regulations or standards issued pursuant to the Environmental Laws);

(b) any material, waste or substance listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as a hazardous substance (40 C.F.R. Part 302 and amendments thereto); and

(c) any material, waste, or substance which is or contains any petroleum product or by-product, flammable or explosive material, radioactive material, asbestos, PCBs, dioxins, heavy metals, mine tailings, waste or slag, radon gas or any material designated as a “hazardous substance” pursuant to Section 311 of the CWA (33 U.S.C. § 1321) or listed pursuant to Section 307 of the CWA (33 U.S.C. § 1317).

“Priority Fees” means the fee retained by the Authority for administrative expenses prior to making payments due to Redeveloper under this Agreement, as more particularly set forth in Section 5.1.

“Project” means the undertakings and activities on the Parcels and in the adjacent right of ways in accordance with the Development Plan and in furtherance of the Urban Renewal Plan.

“Project Art” means the artwork designated by the Redeveloper and approved by the Authority as project art within the Property or the right of way adjacent thereto, as more particularly set forth in Section 7.2.

“Property” means the real property which is anticipated to be located within the Urban Renewal Area and is approximately described in Exhibits B-1 and B-2, attached hereto.

“Property Tax” means the real and personal property taxes produced by the levy at the rate fixed each year by the governing bodies of the various taxing jurisdictions within or overlapping the Urban Renewal Area.

“Property Tax Base Amount” means the portion of taxes produced by the levy at the rate fixed each year by the City upon the total valuation for assessment as certified by the County Assessor of all taxable property within the respective Property Tax Increment Area last certified by the County Assessor prior to the Effective Date of Allocation for each respective Property Tax Increment Area; provided that such amount may be adjusted in the event of a general

reassessment of taxable property in the respective Property Tax Increment Area in the manner required by the Act.

“Property Tax Increment Area” or “Property Tax Increment Areas” has the meaning set forth in the recitals hereto. The Urban Renewal Area may include one or more Property Tax Increment Areas which taken together will be coextensive with the Urban Renewal Area.

“Property Tax Revenues” means the amount derived by the City and Adams County from the levy of Property Tax within the Property Tax Increment Area.

“Redeveloper” has the meaning set forth in the recitals hereof and includes any permitted successors and assigns.

“Redeveloper’s Financing” means the financing described in Section 4.1 and any refinancing thereof from time to time (whether in the same or lesser or greater amount).

“Regional Storm Water Facility” means the regional storm water management facility currently located in the northeast corner of the Property.

“Reimbursable Costs” mean those costs of the Improvements, as more fully described in Exhibit D attached hereto, for which the Authority will reimburse the Redeveloper out of the Authority’s Financing including any accrued but unpaid Reimbursement Cost Interest, subject to Section 3.

“Reimbursement Cost Interest” means interest to be paid to Redeveloper and is calculated by applying the Reimbursement Interest Rate to the balance of any unreimbursed Reimbursable Costs on a quarterly basis. To the extent Reimbursement Cost Interest from a previous quarter remains unpaid, it shall be added to the Reimbursable Costs and shall be subject to Reimbursement Cost Interest in subsequent quarters, subject to the conditions set forth in Section 3.

“Reimbursement Interest Rate” means the interest rate paid on any amount of the Reimbursable Costs which has not been paid to Redeveloper. The Reimbursement Interest Rate is capped at actual cost of capital (equity and interest) up to 9%.

“Sale” means a sale or transfer by deed of any Parcel(s) or portion thereof by Authority to any entity.

“Sales and Lodgers Tax Base Amount” means the portion of the City sales tax or lodgers tax imposed under the City Code as of the Effective Date of Allocation for each respective Property Tax Increment Area.

“Schedule” means the schedule set forth in Exhibit C, attached hereto and made a part hereof, as amended from time to time.

“State” means the State of Colorado.

“Termination Date” has the meaning set forth in Section 13.1.

“Third Party” shall mean a person or entity other than (i) any person or entity owning a membership interest in Redeveloper as of the Effective Date of this Agreement, or (ii) any spouse or direct descendant, heir or devisee including trusts of such members.

“Urban Renewal Area” means the real property legally described in the Urban Renewal Plan, as it may from time to time be amended in accordance with the Act which is anticipated to be the area generally depicted in Exhibit A attached hereto.

“Urban Renewal Plan” has the meaning set forth in the recitals hereof, as it may from time to time be amended in accordance with the Act.

“Use Covenants” means those certain Use Covenants as determined in the future by the Authority staff and recorded against the Property.

## **Section 2. DESCRIPTION OF THE REDEVELOPMENT**

**Section 2.1 Description of the Redevelopment.** Subject to the terms of this Agreement, the Redeveloper agrees to act as Manager under the Operating Agreement attached hereto as Exhibit J and, acting as Manager, shall cause the construction of the Improvements for each Parcel in accordance with the Schedule and the approved Development Plan. All construction shall be undertaken and completed in accordance with any applicable PDD, and consistent with the general requirements of the Urban Renewal Plan, this Agreement and in accordance with Applicable Law.

**Section 2.2 Phased Redevelopment.** The Authority acknowledges that the Redeveloper intends to develop or cause to be developed in phases each Parcel of the Project consistent with the Schedule, the Development Plan and the Design Guidelines. It is the intent of the Authority and the Redeveloper that the Redeveloper be permitted to market and sell, on behalf of the Authority, the respective Parcels and, upon a Sale, such Parcel shall be subject only to the Use Covenants unless Redeveloper and purchaser execute an Assignment and Assumption as set forth in Section 14.2. If no Assignment and Assumption is executed, the Redeveloper shall continue to be obligated to perform all obligations with respect to such Parcel, pay all Priority Fees and be entitled to all reimbursements due pursuant to this Agreement with respect to such Parcel. For example purposes only, Redeveloper may contract to sell a Parcel and in conjunction with such Sale, contract to complete the Improvements thereon post Closing. In such event, upon Sale and payment of all fees due Authority and Redeveloper including the Participating Interest, the Parcel would thereafter be subject only to the Use Covenants. Redeveloper would continue to be obligated to perform all obligations pertaining to the Improvements on such Parcel and Redeveloper, subject to payment of all fees and other sums due Authority by Redeveloper, including the Priority Fees, would be entitled to all Reimbursable Costs payments associated therewith. Redeveloper on or before Sale shall be obligated to provide Authority with copies of all agreements with the purchaser pertaining to Redeveloper’s post Closing rights and obligations for completion of the Improvements on such Parcel. Redeveloper expressly acknowledges that its role as Redeveloper and Manager under this Agreement and the Operating Agreement is not as a broker and Redeveloper is not entitled to a broker fee or commission relative to the Sale.

**Section 2.3 Partial Assignment.** Redeveloper shall have the right upon a Sale to assign to such purchaser all or a portion of Redeveloper's rights and obligations hereunder as such rights or obligations pertain to such Parcel, provided that such purchaser assumes the obligations and liabilities of Redeveloper's as such obligations and liabilities pertain to such Parcel. The City and the Authority shall consent to such assignment and assumption provided:

(a) Redeveloper or purchaser, as appropriate, delivers to the Authority reasonable evidence of development experience and financial capability to undertake and complete the applicable portion of the Project. Such evidence shall include information typical of a response to a request for qualifications for a master developer and will include at a minimum a resume of similar project experience, resumes for the principals, a description of the firm and its history of performance on similar projects, and evidence of financing capability.

(b) Redeveloper and purchaser execute an Assignment and Assumption which conforms in all material respects to the form attached hereto as Exhibit I;

(c) Purchaser's Holder executes the Consent Agreement; and

(d) On or before Closing all fees due Authority through the date of Closing have been paid.

**Section 2.4 Access by the Redeveloper.** Prior to the beginning of construction activity on the Project for the respective Improvements, the Authority and Redeveloper shall execute a License Agreement substantially in the form attached hereto as Exhibit F (the "License Agreement") which shall grant to the Redeveloper and its agents a license to enter the Property and Improvements owned by it at all reasonable times that they deem necessary for the purpose of carrying out or determining compliance with this Agreement, the PDD, or Applicable Law, including, without limitation, inspection of any work being conducted in conjunction with the Improvements and consistent with the general requirements of the Urban Renewal Plan. No compensation shall be payable to the Authority nor shall any charge be made in any form by any party for the License Agreement. The parties hereby acknowledge that adequate legal consideration exists in this Agreement for the granting of the License Agreement. If requested by the Authority, the Redeveloper shall be responsible for all costs, expenses or liabilities arising from the exercise of such license by Redeveloper. The Authority shall employ all reasonable efforts to avoid any material interference with the construction activities on the Property. Redeveloper shall carry or cause its consultants and any individual or entity authorized by Redeveloper to enter the Property to carry insurance as required by the License Agreement which shall name the Authority and the City as additional insured.

### **Section 3. AUTHORITY FINANCING**

#### **Section 3.1 Reimbursement and Participating Interest**

(a) Reimbursable Costs. The Authority shall reimburse the Redeveloper for its Reimbursable Costs from amounts described in Section 3.3. Such reimbursement shall be subject to Sections 3.5 and 3.6. The Redeveloper and the Authority agree that such reimbursement shall constitute an advance under C.R.S. § 31-25-109. Reimbursement Cost Interest shall begin accruing on the later of approval of the Urban Renewal Plan or approval of

Construction Documents for the first phase of the Project and shall accrue thereafter until repaid in full unless the first Sale of a Parcel shall not have occurred on or before the Outside First Sale Date, in which event the Reimbursement Cost Interest shall cease accruing from the Outside First Sale Date until the first Sale of a Parcel shall have occurred, and then it shall begin accruing again and shall continue accruing until all Reimbursable Costs are paid in full. Accrued Reimbursement Cost Interest shall not be payable to Redeveloper as part of Reimbursable Costs until the first Sale of a Parcel occurs. If the Sale of a Parcel does not occur prior to the Termination Date of this Agreement, no Reimbursement Cost Interest shall be paid to the Redeveloper.

(b) Participating Interest. Separate from Reimbursable Costs, upon Closing of any Sale that occurs prior to the Termination Date, or after the Termination Date if the Parcel was under contract prior to the Termination Date, the Authority shall for each Sale pay to Redeveloper a one-time Participating Interest equal to fifty percent (50.0%) of Gross Sales Proceeds. The Participating Interest may be paid by the Authority in whole or in part from the sales proceeds at Closing of the Sale. Prior to a Parcel being listed or advertised for Sale, the Board of the Authority shall approve the listing price and shall establish parameters acceptable to the Board of the Authority for the Redeveloper to utilize in negotiating the Sale. As long as the final negotiated terms and price for the Parcel are within the parameters established by the Board of the Authority, the Redeveloper shall not be required to obtain further approvals from the Authority for the Sale, and the Authority shall execute the purchase contract for the Parcel and all necessary transfer documents upon the request of the Redeveloper. If the final negotiated terms and price for the Parcel are not within the parameters established by the Board of the Authority, the Board of the Authority must review and approve, and may further negotiate, the terms and price for the Parcel prior to executing the purchase contract for the Parcel. The Redeveloper's listing of the Parcel for Sale on behalf of the Authority constitutes the reasonable competitive bidding procedures for the disposition of real property within the Urban Renewal Area to private persons pursuant to C.R.S. § 31-25-106.

(c) Subject to the satisfaction of the terms and conditions hereof and provided the Redeveloper is not in default hereunder, the Authority agrees to provide financing in the form of reimbursement of Reimbursable Costs to the Redeveloper including any accrued but unpaid Reimbursement Cost Interest (subject to Section 3.1), and the payment of the Participating Interest to Redeveloper. Upon full reimbursement by the Authority of the Reimbursable Costs including accrued but unpaid Reimbursement Cost Interest (subject to Section 3.1) and the payment of any Participating Interest due Redeveloper, this Agreement shall terminate in accordance with Section 13.1, and the Authority shall issue a Final Reimbursement Memo, stating that full reimbursement has been made hereunder. The Final Reimbursement Memo shall be delivered to the trustee or escrow agent, if any.

**Section 3.2 Reimbursement Cost Payment Request.** No later than ninety (90) days after incurring any Reimbursable Costs, or at Redeveloper's option, within ninety (90) days following Completion of Construction, the Redeveloper shall provide to the Authority a Payment Request. The Payment Request shall indicate the Reimbursable Costs in each cost category set forth in Exhibit D, aggregate Reimbursable Costs to be reimbursed by the Authority, any accrued but unpaid Reimbursement Cost Interest, a summary of Reimbursable Costs previously completed and paid, and such other information as set forth in Exhibit G and as the Authority



may from time to time reasonably require, including, but not limited to, evidence satisfactory to the Authority substantiating any or all of the Reimbursable Costs indicated in such notice. The Payment Request shall further include a certification by an officer of Redeveloper or Redeveloper's project manager that all Reimbursable Costs were actually incurred and not previously reimbursed to the Redeveloper pursuant to a Payment Request and that the Improvements made therewith were constructed in compliance with the Construction Documents, Applicable Law, and consistent with the general requirements of the Urban Renewal Plan. Should the Authority identify an issue with the Payment Request or determine that the Payment Request includes one or more items that are not Reimbursable Costs, the Authority will notify Redeveloper in writing within thirty (30) days identifying the problem in detail and requesting any additional documentation or information reasonably needed by the Authority. Redeveloper and the Authority will meet and confer and in good faith attempt to reach resolution of the issue as soon as possible but in no event later than ten (10) days after Redeveloper receives written notice from the Authority.

**Section 3.3 Disbursement.** As soon as reasonably possible but no later than forty-five (45) days following receipt of any Incremental Taxes by the Authority from the City and from Adams County, the Authority shall notify the Redeveloper of the amount of Incremental Taxes received. Redeveloper shall, to the extent applicable, calculate the applicable allocation and distribution of the Incremental Taxes (pursuant to the method set forth in the form of Assignment and Assumption Agreement attached as Exhibit I) and notify Authority in writing of the amounts allocable to each Parcel for Reimbursable Costs incurred and the payee thereof. The Redeveloper shall also set forth the Priority Fees and other amounts for each Parcel that are due and owing the Authority. If no Event of Default of the Redeveloper has occurred and is continuing, then, subject to Sections 3.5 and 3.6 hereof, the Authority shall first deduct any Priority Fees and other amounts that are due and owing to the Authority and any remaining sums, if any, shall then be disbursed to the Redeveloper (or any payee set forth in the notice from Redeveloper) in respect of Reimbursable Costs for such Parcel(s) within forty-five (45) days of the date of receipt of the allocation of Incremental Taxes from the Redeveloper. Any amount that the Authority determines was paid in error shall be deducted from the next payment and documented on such next Payment Request.

**Section 3.4 Appointment of Trustee or Escrow Agent.** The Authority may, from time to time, designate one or more trustees or escrow agents to act as its collection and disbursing agent for Incremental Taxes. Redeveloper hereby consents to any such designation and any direction by the Authority to the trustee or escrow agent to deduct from disbursements to the Redeveloper, Priority Fees and other amounts due and owing to the Authority with respect to any Parcel, remitting only net amounts of Reimbursable Costs for such Parcel(s) to the Redeveloper.

**Section 3.5 Authority's Reimbursement Obligation.** The Authority's payment obligation under this Section 3 shall be limited to the amount of Incremental Taxes and other amounts actually received from the City and from Adams County and legally available for such purpose, less Priority Fees and other amounts due and owing to the Authority in accordance herewith. Nothing in this Agreement shall be construed to require the Authority to make any payments to the Redeveloper, on a periodic and aggregate basis, in excess of the Incremental Taxes actually received by the City, except for the Authority's obligation to pay Redeveloper the

Participating Interest and the Authority's obligation to pay amounts due pursuant to Section 3.7. The Redeveloper acknowledges that the generation of Incremental Taxes is significantly dependent upon completion of the Improvements and the Project within the Urban Renewal Area and agrees that the Authority is in no way responsible for the amount of Incremental Taxes actually generated. The Redeveloper further acknowledges that the Property Tax Administrator for the State of Colorado and County Assessor may modify the process for calculating Incremental Taxes which may reduce the amount of Incremental Taxes and that in the event of such modification Section 7.6(b) hereof shall apply. The Redeveloper therefore agrees to assume the entire risk that insufficient Incremental Taxes will be generated to reimburse all Reimbursable Costs.

**Section 3.6 Status of Incremental Taxes.** The Authority agrees that, in the event that a court of competent jurisdiction determines that all or part of the Incremental Taxes are available to the Authority, but the Authority is not legally authorized to pledge or pay such amounts to the Redeveloper the Authority shall include the equivalent amount of such Incremental Taxes as a line item in its annual budget and in good faith consider appropriating such amount to or for the account of the Redeveloper. Notwithstanding any provision hereof to the contrary, the Authority agrees that in the event that the City or Adams County is required, pursuant to Article X, Section 20 of the Colorado Constitution ("TABOR"), to make any refund of any Property Taxes, the Authority shall not reduce or limit the Reimbursable Costs paid to or for account of the Redeveloper, except to the extent that the Incremental Property Taxes otherwise available to the Authority are reduced by the City or by Adams County. In the event that the City or Adams County reduces any tax rates in order to effect any required refund or to otherwise comply with TABOR (a "TABOR Rate Change"), the Incremental Property Taxes shall be that amount that would have been collected in excess of the Property Tax Base Amount had the applicable tax rate been equal to such rate existing immediately prior to the first such TABOR Rate Change, except to the extent that the Incremental Property Taxes are reduced by the City or by Adams County.

**Section 3.7 Financing for Storm Water Improvements.** Separate and apart from the Authority's Financing, the City agrees that it shall pay Redeveloper for performing the improvement of the Regional Storm Water Facility. The improvement cost for the Regional Storm Water Facility will include all design, engineering, studies, maps, surveying, construction management, materials, labor, consultants and all other costs associated with the design and reconstruction of the facility. Redeveloper and the Authority agree to work cooperatively to design and reconstruct the Regional Storm Water Facility so that it will safely accommodate current and projected future storm water flows within its boundaries without subjecting land within the Property to flooding. Prior to issuance of the PDD, the parties will agree upon a final design of the Regional Storm Water Facility to create space on the edges of the facility to allow safe pedestrian access in a landscaped environment promoting passive enjoyment of the Regional Storm Water Facility and open space. The parties agree to work cooperatively so that the construction of the Regional Storm Water Facility occurs prior to the development of any construction that would cause storm water to flow location of the Regional Storm Water Facility, or such other time as is mutually agreeable to the parties.

**Section 3.8 Financing for Water Rights.** The City and the Authority agree that either the City or the Authority shall pay to purchase, or otherwise obtain water rights for the exclusive

use of occupants of the Urban Renewal Area in sufficient amounts to meet all of the water demands within the Property at no cost to the Redeveloper or occupants of the Property. Redeveloper, or subsequent owners of property within the Urban Renewal Area, shall be responsible for the payment of any fees to any responsible local agency to obtain water taps and for any cost of actual usage of water within the Urban Renewal Area and the Authority shall have no current or ongoing obligation to pay such costs, except to the extent Authority or the City owns and develops property within the Urban Renewal Area.

#### **Section 4. REDEVELOPER'S FINANCING**

**Section 4.1 Redeveloper's Financing.** Redeveloper has or will obtain financing or will otherwise provide evidence of financial capability in amounts sufficient to design, acquire, construct and complete the Improvements for the respective Parcels and to otherwise perform its obligations under this Agreement (the "Redeveloper's Financing").

**Section 4.2 Redeveloper's Responsibility for Overruns.** The Authority shall have no obligation to provide any funds in addition to the Authority's Financing. The Redeveloper shall be responsible for providing all other funds necessary to obtain a Certificate of Completion for the Improvements. If construction expenditures in excess of the Reimbursable Costs for such Improvements are incurred to complete the Improvements for such Parcel due to Force Majeure, design changes, cost overruns, or for any other reason, then the Redeveloper shall fund such expenditures. Such expenditures shall be considered to be Reimbursable Costs provided Redeveloper submits invoices for same to Authority and such excess costs were caused by Force Majeure or other causes beyond Redeveloper's reasonable control. Redeveloper may allocate such excess costs across any or all Improvements for such Parcels, in its sole discretion.

**Section 4.3 Limitation Upon Encumbrance of Property.** Prior to a sale of any Parcel, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage or other encumbrance or lien upon the Property or the Improvements thereon, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property or the Improvements thereon.

**Section 4.4 Borrowed Funds.** The Authority has borrowed funds from the City for the purchase of the Property and for certain expenses associated with the clean up of historical contamination on the Property and for the demolition and removal of buildings from the Property. The Redeveloper has no obligation to repay any portion of the amount owed by Authority to the City under the terms of such loan or funding.

**Section 4.5 Holder Not Obligated to Construct.** Neither the Authority or City nor any Holder (including a Holder or other person or entity who obtains title to all or any Parcel as a result of foreclosure proceedings, or deed in lieu thereof and including any other party who thereafter obtains title to any Parcel or Parcels other than inchoate liens in the ordinary course of the Project, easements and other encumbrances as shown on the PDD from or through such Holder or other person or entity) shall be obligated by this Agreement to construct or complete the Improvements for the Property or the respective Parcel, as applicable, or to guarantee such construction or completion.

**Section 4.6 Copy of Notice of Default to Holder.** The Authority shall deliver to the Redeveloper a demand or notice of any claimed Default or Event of Default by the Redeveloper under this Agreement specifying the Parcel(s) on which the Event of Default occurred or is continuing, if applicable. The Authority shall at the same time transmit a copy of such demand or notice to each Holder of the Parcel(s) identified in the notice at the last address of such Holder shown in the records of the Authority. All notices under this Section 4.6 shall be given in accordance with the provisions of Section 15.2.

## **Section 5. PRIORITY FEES**

**Section 5.1 Priority Fees.** Commencing with the execution of this Agreement and continuing until the Termination Date, the Authority shall have the right to retain for its use the Priority Fee, prior to making payments due to Redeveloper under this agreement. The amount of the Priority Fee shall be ten percent (10%) of the Incremental Taxes received by the Authority from the City and from Adams County pursuant to the Urban Renewal Plan and the Act. The Authority shall deduct from each receipt of Incremental Taxes received by the Authority the Priority Fees that remain due and owing.

## **Section 6. REPRESENTATIONS AND WARRANTIES OF THE REDEVELOPER**

The Redeveloper represents and warrants that:

(a) The Redeveloper is a limited liability company duly organized and validly existing under the laws of the State of Colorado, is authorized to conduct its business as it is presently being conducted, is not in violation of any provisions of its articles of organization, operating agreement or the laws of the State of Colorado, has power and legal right to enter into this Agreement, and has duly authorized the execution, delivery and performance of this Agreement by proper action.

(b) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the governing documents of the Redeveloper or constitute a default or result in the breach of any term or provision of any contract or agreement to which the Redeveloper is a party or by which it is bound.

(c) There is no litigation, proceeding or investigation contesting the power or authority of the Redeveloper or its officers with respect to the Property, the Project, the Improvements or this Agreement, and the Redeveloper is unaware of any such litigation, proceeding, or investigation that has been threatened.

(d) The construction of the Improvements, and the contemplated uses and occupancies thereof, shall comply with all Applicable Law.

## **Section 7. GENERAL COVENANTS**

**Section 7.1 Design Approval.** The Improvements shall be developed in accordance with the Design Guidelines, the PDDs and Applicable Law.

(a) (i) The Redeveloper has submitted an initial Development Plan (the “Development Plan”) for the redevelopment of the Property, attached hereto as Exhibit C. The Authority has reviewed and approved such Development Plan. The Development Plan may be amended by the mutual written agreement of the parties. Upon the Redeveloper’s written request, a minor amendment to the Development Plan, as determined in the sole determination of the Executive Director of the Authority, may be administratively made to the Development Plan by the Executive Director. Notwithstanding the foregoing, the City maintains its ability to enforce Applicable Law as necessary.

(ii) In accordance with the Schedule, the Redeveloper shall deliver to the Authority, the Construction Documents for the Improvements, the Design Guidelines, the PDDs and Applicable Law. If the Redeveloper does not meet a deadline set forth in the Schedule other than as a result of Force Majeure or delay caused by the City or Authority, the Authority may provide written notice to the Redeveloper of a Default pursuant to Section 12.4. The Schedule may be modified by the mutual written agreement of the parties. Upon the Redeveloper’s written request, a minor modification to the Schedule, as determined in the sole determination of the Executive Director of the Authority, may be administratively made to the Schedule by the Executive Director.

(iii) Within thirty (30) days after Completion of Construction, the Redeveloper shall submit to the Authority the Final Documents for the Improvements. The purpose of the Final Documents is to provide an accurate record of the final and as-built design of the Improvements. The Final Documents shall be compiled by referencing the as-built notes of the changes made to the Construction Documents during construction.

(iv) If requested by the Authority, the Redeveloper shall from time to time prepare and submit to the Authority, at the Redeveloper’s expense, updated color renderings of the Project. Such renderings shall not be smaller than thirty-six (36) inches by forty-two (42) inches and shall be used by the Authority for public presentations.

(b) (i) Prior to making any material change in the Construction Documents, the Redeveloper shall provide written notice to the Authority with a detailed explanation of such change and the reasons therefore. All changes shall comply with the Design Guidelines, the PDDs, and Applicable Law. The Authority shall have a right to object within thirty (30) days to such documents if such documents do not comply with the above and if the Authority does not object the changes shall be deemed acceptable. Such objection shall specify the items of noncompliance, and Redeveloper shall submit new or corrected documents, to the extent that the documents were not in compliance.

(c) In the event of a material change in the Construction Budget, during the period of construction of the Improvements the Authority shall receive an updated construction budget for the Improvements on the respective Parcel(s) (in form and substance reasonably acceptable to the Authority).

(d) The Redeveloper will provide the Authority with copies of all applications for rezoning, the PDDs, any changes thereto, and any approvals relating thereto made by or obtained from any governmental or regulatory authority with respect to the Property, the Improvements, and the Project.

**Section 7.2 Project Art.** The Redeveloper shall provide and install Project Art subject to the approval process described in this Section. The total cost of Project Art at the Project shall not be less than 1% of the estimated cost of the Improvements for the Project. Approval of Project Art shall be done on a case by case basis, in accordance with the City's Public Art Master Plan and the City Public Art Funding Program adopted by City Ordinance No. 2037 dated January 5, 2015, a copy of which is set forth in Exhibit H hereto, which details the process as a City staff decision with the advice of the City Cultural Council. Project Art shall be maintained in accordance with the Design Guidelines and the cost of maintaining the Project Art shall be borne by the subsequent owners of Parcels within the Property, or by the Authority in the absence of an agreement between property owners to bear such costs. In no event shall Redeveloper be obligated to maintain or replace the Project Art after it has been constructed and accepted by the Authority, such acceptance not be reasonably withheld or delayed.

**Section 7.3 Prior to Commencement of Construction.**

(a) Prior to Commencement of Construction and until Completion of Construction, the Redeveloper shall provide the Authority and the City with certificates of insurance as follows:

(i) Commercial general liability insurance with XC&U exclusions deleted (including completed operations, operations of subcontractors, blanket contractual liability insurance, owned, non-owned and hired motor vehicle liability, personal injury liability, builder's risk) with limits against bodily injury and property damage of not less than \$2,000,000 for any person and \$2,000,000 for any occurrence; and

(ii) Worker's compensation insurance, with statutory coverage.

(b) The policies of insurance required under subsection (a) above, shall be reasonably satisfactory to the Authority, shall, for commercial general liability, list the City and the Authority as additional insureds, shall be placed with financially sound and reputable insurers licensed to transact business in the State of Colorado, and shall require the insurer to give at least thirty (30) days' advance written notice to the Authority prior to cancellation or change in coverage. The Redeveloper shall provide certified copies of all policies of insurance required under subsection (a) above, to the Authority upon request. For all insurance required to be carried by the Redeveloper under this Section 7.3, the Redeveloper shall require its insurer(s) to provide the City and the Authority and their respective commissioners, directors, officers, employees and agents with waivers of subrogation. The Redeveloper shall not obtain any insurance that prohibits the insured from waiving subrogation. To the extent available in the insurance industry at a commercially reasonable price, all policies required to be obtained by the Redeveloper shall be written as "occurrence" policies and not as "claims-made" policies.

(c) Insurance coverage specified herein constitutes the minimum requirements, and said requirements shall in no way lessen or limit the liability of the Redeveloper under the terms of this Agreement. The Redeveloper shall procure and maintain, at its own expense and cost, any additional kinds and amounts of insurance that, in its judgment, may be necessary for its proper protection in the completion of the Improvements.

#### **Section 7.4 Property Insurance.**

(a) The Authority and the City shall purchase or shall self insure the Property and the Improvements owned by Authority and the City in the Urban Renewal Area in such amounts and under such terms as is normal and customary for property owned by an urban renewal authority in the State of Colorado.

(b) Property coverage shall include the public Improvements, all materials and supplies of any nature included in the public Improvements, all materials and supplies of any nature whatsoever to be used in completion of the public Improvements, whether any or all of the foregoing are located at the site, in transit, or while temporarily stored off-site. The coverage shall be for "special perils" and, subject to reasonable commercial availability, shall include coverage for losses caused by the following:

- Fire
- Collapse
- Faulty workmanship (except the cost of correcting faulty workmanship)
- Earthquake
- Coverage of loss while exceeding the rated capacity of lifting device
- Glass breakage
- Freezing as coverage states

**Section 7.5 Reconstruction.** During the term of this Agreement, the then owner of the Improvements shall, within ten (10) days after any damage, notify the Authority of any damage to the Improvements exceeding Twenty Five Thousand Dollars (\$25,000). If the Improvements are damaged or destroyed by fire or other casualty and the damage or destruction is estimated to equal or exceed Twenty Five Thousand Dollars (\$25,000), such owner within sixty (60) days after receipt of the insurance proceeds, shall commence such repair, reconstruction and restoration and diligently pursue the same thereafter to substantially the same condition or value as existed prior to the damage or destruction. The then owner will apply the proceeds of any insurance relating to such damage or destruction to the payment or reimbursement of the costs of such repair, reconstruction and restoration. If the owner of the Improvements is not the Redeveloper (and is not the Authority, the City or a utility company) then such owner upon Sale shall separately agree in writing to the above for the benefit of the Authority as a condition of Sale.

#### **Section 7.6 Delivery of Financial Information.**

(a) Upon receipt of written request, the Redeveloper agrees to provide to the Authority copies of its annual financial statements audited, if available, and prepared in accordance with generally accepted accounting principles, or such other financial documentation

acceptable to the Authority, and relating to the Improvements as such financial statements or documentation become available but in all events within one hundred twenty (120) days after the end of each of its fiscal years prior to the Termination Date if so requested by the Authority. Except to the extent such information is made publicly available by the Redeveloper or required to be produced under the City Attorney's independent judgment or as ordered by any court pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201, et. seq., the Authority agrees to keep such information confidential and, to the extent legally permissible based upon advice of counsel, to treat it as proprietary commercial and financial information not subject to disclosure under Applicable Law.

(b) Notwithstanding Section 7.6(a), the Authority shall have the right to disclose financial information about the Improvements to the County Assessor's office in order to assist the City and County in accurately calculating the appropriate Property Tax for the Property. If the County Assessor determines Property Tax valuations which are not consistent with the Redeveloper's financial projections, or increases the allocation of Property Tax to the Property Tax Base thereby decreasing the allocation to Property Tax Increment, if the parties have a good faith basis to disagree with the County Assessor's allocation, the Redeveloper, the City and the Authority agree to cooperate in good faith to jointly dispute and negotiate these allocations with the County Assessor.

**Section 7.7 Signage.** As soon as reasonably practicable, and until final Completion of Construction of the Improvements, the Redeveloper shall display temporary signage at the Project provided by the Authority and relating to the Authority's participation in the Project. Such signage shall be connected to the primary signage identifying the Redeveloper and the Project and visible to the general public.

**Section 7.8 Assistance to the Redeveloper.** The Authority agrees to provide the Redeveloper with reasonable assistance with respect to application for building permits from the City, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so; provided, however, that all applications for such permits and approvals are in compliance with the Applicable Law. The Authority makes no representations or warranties that its assistance will assure the issuance of any permits or approvals.

**Section 7.9 Utility Service.** The Redeveloper shall secure all water service (specifically excluding water rights to be provided by the Authority), sanitary sewer, storm sewer, natural gas, telecommunications, and electricity for the Improvements consistent with the PDDs. The construction and installation of such utilities shall conform in all material respects with the requirements of all Applicable Law.

**Section 7.10 Cooperation Agreement.** The Authority and the City may enter into a Cooperation Agreement, or, alternatively, approve relevant provisions within the Urban Renewal Plan, to facilitate the implementation and financing of the Urban Renewal Plan and the Project. This Agreement will be subject to the terms and conditions of any such Cooperation Agreement. The Authority and the City may amend or modify the Cooperation Agreement in any manner not inconsistent with this Agreement and not having any material, adverse impact on the Authority's Financing, as determined in the sole discretion of the Authority and the City, provided that no



amendment thereto shall materially and adversely affect the rights or obligations of the Redeveloper under this Agreement without its consent.

**Section 7.11 Schedule of Performance.** The Redeveloper covenants to act in accordance with the Operating Agreement to perform or cause to be performed, in a timely manner, all items identified in the Schedule contained in Exhibit C, as such may be amended from time to time as its responsibility.

**Section 7.12 Restriction on Use.** The Redeveloper shall cause the Holders of any Mortgage recorded against the Property prior to the recordation of the Use Covenants to execute a Consent Agreement consenting to the Use Covenants.

**Section 7.13 Cooperation in Future Litigation.** The Redeveloper shall reasonably cooperate with the City or the Authority with respect to any litigation brought by a Third Party concerning the Urban Renewal Plan, the Project, the Property, the Improvements or this Agreement.

**Section 7.14 Compliance with Laws.** The construction of the Project, and the contemplated uses and occupancies thereof, shall comply with all Applicable Laws, including, but not limited to, building, zoning, and other applicable land use codes, subject to modifications approved by the City pursuant to the planning, subdivision, zoning, environmental and other developmental ordinances and regulations.

## **Section 8. CONSTRUCTION OF IMPROVEMENTS**

**Section 8.1 Covenants to Commence and Complete Construction.** The Redeveloper shall undertake Commencement of Construction and achieve Completion of Construction of the Improvements within the time periods specified in the Schedule. The Redeveloper acknowledges that the timely Completion of Construction of the Improvements to facilitate development of retail pads and for-sale and rental residential units on the Property is vital to the Authority's Financing and the Participating Interest.

**Section 8.2 Quarterly and Annual Construction Reports.** Following Commencement of Construction of the Improvements, and prior to the Authority's issuance of the Certificate of Completion, the Redeveloper shall provide to the Authority (i) a quarterly construction report detailing the construction costs for the Improvements incurred for the preceding three calendar months, to be received by the Authority on or prior to the thirtieth (30<sup>th</sup>) day of the quarter following the period to which the report relates, and (ii) an annual construction report detailing the construction costs for the Improvements for each Fiscal Year, to be received by the Authority on or prior to sixty (60) days following the end of each Fiscal Year. The Redeveloper acknowledges and consents to the Authority providing all such construction reports to the County Assessor for purposes of assisting the County Assessor in determining the assessed value of the Parcel(s).

## **Section 9. CERTIFICATE OF COMPLETION**

Separate and apart from the normal City warranty and acceptance process for public improvements which shall be required for certain Improvements in compliance with City Code,

at such time as the Redeveloper shall determine that Completion of Construction has occurred for any Parcel the Redeveloper shall submit a request for issuance of a Certificate of Completion to the Authority, which request shall include a “punch list” of uncompleted items, if any, and an estimate of the amounts required to complete such items. The Authority shall, within twenty (20) Business Days after such request, (a) inspect the completed Improvements for such Parcel and review the items and amounts on the aforementioned “punch list,” if any and (b) either (i) issue a Certificate of Completion, if the Improvements have been substantially completed and the Authority has received reasonable evidence from the disbursing agent or the Original Mortgagee or the applicable Holder that sufficient funds are available for final completion of such punch list items or (ii) if the Authority determines that the Improvements for such Parcel have not been substantially completed, provide the Redeveloper with a written statement specifying in what respect the Redeveloper has not achieved Completion of Construction, or is otherwise in noncompliance with this Agreement and what measures or acts will be necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order to obtain a Certificate of Completion for the Improvements. If the Redeveloper disagrees with the Authority’s written statement stating that Completion of Construction has not been achieved, it shall have the right within thirty (30) days after receipt of the statement to contest the same and the parties shall attempt to mediate their differences for the next fifteen (15) days. If at the end of such period the parties cannot agree, the Redeveloper shall have the right for thirty (30) days thereafter to commence an arbitration by notice to the Authority under the Construction Industry Arbitration Rules of the American Arbitration Association in a proceeding to be held in Commerce City, Colorado in which there shall be one (1) arbitrator, such arbitrator to be mutually agreed to by both parties. The determination of the arbitrator shall be final and the arbitrator shall determine whether and to what extent the nonprevailing party shall pay the prevailing party’s reasonable attorney’s fees and the costs of the arbitration. Judgment in an applicable court of law may be entered upon such decision by the arbitrator. Nothing herein requires arbitration with the American Arbitration Association, merely that the above rules are applied in such arbitration.

## **Section 10. INDEMNITY**

**Section 10.1 General Indemnity.** The Redeveloper covenants and agrees, at its expense, to pay, and to indemnify, defend and hold harmless, the Indemnified Parties of, from and against, any and all claims, damages, demands, expenses and liabilities (including reasonable attorneys’ fees and court costs) resulting directly or indirectly from the Redeveloper’s development, construction, repair, maintenance, management, leasing, sale, and any other conduct or activities with respect to the Project or the Improvements, unless such claims, damages, demands, expenses, or liabilities, arise solely and directly by reason of the gross negligence or willful misconduct of the Authority or other Indemnified Parties.

**Section 10.2 Environmental Indemnity.** The Redeveloper hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any and all Environmental Liabilities caused by, or otherwise imposed upon or asserted against, the Redeveloper or its officers, employees, agents and contractors, whenever and by whomever asserted.

As used in this Section, “Environmental Liabilities” shall mean any obligations or liabilities (including any claims, demands, actions, suits, judgments, orders, writs, decrees,

permits or injunctions imposed by any court, administrative agency, tribunal or otherwise, or other assertions of obligations and liabilities) that are:

(a) related to protection of the environment or human health or safety and involving the Project (including, but not limited to, on site or off site contamination by Pollutants and occupational safety and health); and

(b) involving the Project and arising out of, based upon or related to (i) the Environmental Laws, or (ii) any judgment, order, writ, decree, permit or injunction imposed by any court, administrative agency, tribunal or otherwise.

The term “Environmental Liabilities” shall include, but not be limited to: (x) fines, penalties, judgments, awards, settlements, losses, damages (including foreseeable and unforeseeable consequential damages), costs, fees (including attorneys’ and consultants’ fees), expenses and disbursements; (y) defense and other responses to any administrative or judicial action (including claims, notice letters, complaints, and other assertions of liability); and (z) financial responsibility for (i) cleanup costs and injunctive relief, including any removal, remedial or other response actions, and natural resources damages, (ii) any other compliance or remedial measures, and (iii) bodily injury, wrongful death, and property damage.

The terms “removal,” “remedial” and “response” action shall include the types of activities covered by CERCLA, as amended, and whether the activities are those which might be taken by a government entity or those which a government entity might seek to require of waste generators, storers, treaters, owners, operators, transporters, disposers or other persons under “removal,” “remedial,” or other “response” actions.

### **Section 10.3 Redeveloper’s Covenants and Indemnity Concerning Americans With Disabilities Act.**

(a) The Redeveloper, and its successors and assigns, covenant, warrant and represent that the Improvements shall be designed, constructed, and operated at all times in compliance with all applicable requirements of the Americans with Disabilities Act of 1990 (the “ADA”).

(b) Without limiting the general indemnities given herein, the Redeveloper agrees to and does hereby protect, defend, indemnify and hold the Indemnified Parties harmless from and against any and all liability threatened against or suffered by the Indemnified Parties by reason of a breach by such party of the foregoing representation and warranty. The foregoing indemnity shall include legal and accounting costs; all fines, fees and penalties; and all legal and other expenses including attorney fees, incurred in connection with the above indemnity including defenses of charges and claims that the Improvements are in such violation of the ADA and for the cost of collection of the sums due under this section.

### **Section 10.4 Indemnification Procedures.**

(a) If any claim relating to the matters indemnified against pursuant to this Agreement is asserted against an Indemnified Party that may result in any damage for which any

Indemnified Party is entitled to indemnification under this Agreement, then the Indemnified Party shall promptly give notice of such claim to the Redeveloper.

(b) Upon receipt of such notice, the Redeveloper shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Redeveloper.

(c) The Indemnified Party shall cooperate with the Redeveloper in such defense at the Redeveloper's expense and provide the Redeveloper with all information and assistance reasonably necessary to permit the Redeveloper to settle and/or defend any such claim.

(d) The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but the Redeveloper shall be entitled to control the defense unless the Indemnified Party has relieved the Redeveloper from liability with respect to the particular matter.

(e) If the Redeveloper elects to undertake such defense by its own counsel or representatives, the Redeveloper shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

(f) If the Redeveloper does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of the Redeveloper.

(g) The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of the Redeveloper; provided, that no settlement of any claim shall be effected without the Redeveloper's consent.

## **Section 11. EMPLOYMENT**

**Section 11.1 Anti Discrimination.** The Redeveloper agrees that in any of its activities undertaken under this Agreement, the Redeveloper shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, handicap, ancestry or national origin.

## **Section 12. EVENTS OF DEFAULT; REMEDIES**

### **Section 12.1 Events of Default by the Redeveloper.**

(a) Subject to the provisions of Section 12.5, a Default by the Redeveloper under this Agreement shall mean one or more of the following events:

(i) The Redeveloper abandons construction of the Improvements once begun; or

(ii) The Redeveloper fails to pay promptly any uncontested cost or expense required to be paid by the Redeveloper to the Authority, under the terms of this Agreement; or

(iii) A lien (including mechanic's and materialmen's liens) is attached to the Property and the Redeveloper fails to promptly discharge such lien; or

(iv) The Redeveloper transfers or assigns its interest in this Agreement, the Property or the Improvements, or any interest in the Redeveloper is transferred or assigned, in violation of the terms of this Agreement; or

(v) The Redeveloper commences a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or is the subject of an involuntary case of such nature not dismissed within sixty (60) days after it is filed, or consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) of the Redeveloper or of any substantial part of its property, or the Redeveloper makes any general assignment for the benefit of creditors or generally fails to pay its debts as they become due or takes any action in furtherance of such action; or

(vi) The Redeveloper fails to observe or perform any material covenant, obligation or agreement of the Redeveloper as provided in this Agreement and in accordance with the Schedule.

(b) If such Defaults described in subparagraph (a) are not cured by the Redeveloper within the time provided in Section 12.4, then an "Event of Default" shall have occurred and the City or Authority may exercise any remedy available under Section 12(a) of this Agreement.

**Section 12.2 Events of Default by the Authority.** Default by the Authority under this Agreement shall be limited solely to the failure of the Authority to make payments to the Redeveloper under Section 3, but only to the extent that the Authority has Incremental Taxes in its possession that are determined by the Authority to be legally available to make such payments. If such Default is not cured within the time provided in Section 12.4 then an Event of Default shall be deemed to have occurred and the Redeveloper may exercise any remedy available under Section 12.3(b) of this Agreement.

**Section 12.3 Remedies.**

(a) If any Event of Default by the Redeveloper occurs and is continuing hereunder, the City or the Authority may:

(i) seek any available remedy at law;

(ii) seek enforcement of the Redeveloper's obligations hereunder by any equitable remedies, such as specific performance or injunction;

(iii) cure such Event of Default, for which the Redeveloper agrees to indemnify the City or the Authority in accordance with the procedures set forth in Section 10; or

(iv) elect to terminate this Agreement in accordance with Section 13.

(b) If any Event of Default by the Authority occurs and is continuing hereunder, the Redeveloper may elect to terminate this Agreement or seek enforcement of the Authority's payment obligation under Section 3 (which shall include actual damages, but not specific performance).

(c) In no event shall either the Redeveloper or the Authority be liable for special, consequential, or punitive damages.

**Section 12.4 Notice of Defaults; Opportunity to Cure Such Defaults.** Anything hereunder to the contrary notwithstanding, no Default under Sections 12.1 or 12.2 shall constitute an Event of Default until actual notice of such Default shall be given in accordance with Section 15.2 to the party in Default by the other party hereto and the party in Default shall have had thirty (30) days after receipt of such notice to correct said Default or cause said Default to be corrected, and shall not have corrected said Default or caused said Default to be corrected within the applicable period; provided, however, if said Default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted within the applicable period and diligently pursued until the Default is corrected but in no event longer than ninety (90) days plus any period of delay due to Force Majeure. The Redeveloper acknowledges that any Default described under Section 12.1(a)(i) shall be immediately deemed an Event of Default without notice and without an opportunity to cure.

**Section 12.5 Delay.** For the purposes of any of the provisions of this Agreement, neither the Authority nor the Redeveloper, nor any successor in interest or permitted assigns, shall be considered in breach of, or default in, its obligations under this Agreement in the event of any nonperformance or delay caused by Force Majeure.

## **Section 13. TERMINATION**

**Section 13.1 Scheduled Termination.** Upon the earliest to occur of (a) date that is 25 years after the Effective Date of this Agreement, (b) delivery of a notice to the Redeveloper under circumstances contemplated by the Operating Agreement containing an effective termination date, or (c) payment to the Redeveloper of all Reimbursable Costs and Participating Interest including accrued but unpaid Reimbursement Cost Interest and payment to the Authority of all Priority Fees (such earliest event shall be referred to herein as the "Termination Date"), this Agreement shall automatically terminate, except as provided in Section 13.4, and the Redeveloper and Authority shall each execute such documents to evidence such termination as may be reasonably required by the other.

**Section 13.2 Termination by the Authority.** The Authority may terminate this Agreement upon sixty (60) days written notice to Redeveloper and each Holder if an Event of

Default by the Redeveloper occurs and is continuing, subject to the terms of the Operating Agreement and any applicable Consent Agreement.

**Section 13.3 Action to Terminate.** Termination of this Agreement under Section 13.2 must be accomplished by written notification delivered by the Authority to the Redeveloper in accordance with Section 15.2 and the Operating Agreement. Termination shall be effective on the date specified in such notice.

**Section 13.4 Effect of Termination.** If this Agreement is terminated, then except for (a) the Authority's obligation to pay any Reimbursement Costs incurred by Redeveloper up to and including the Termination Date and any unpaid Participating Interest (but no future Gross Sales Proceeds on any future Sales after the Termination Date of the Agreement unless the Parcel is under contract as of the Termination Date) and other sums that have accrued and are then due and owing; and (b) the matters and obligations set forth in Sections 10, 15.15 and 15.17 of this Agreement shall be null and void and of no further effect, and no action, claim or demand may be based on any other term or provision of this Agreement. Sections 10, 15.5 and 15.17 shall survive any termination of this Agreement. Upon termination of the Agreement, in the Authority's and City's sole discretion, the Authority and City may choose to pay the Redeveloper immediately for all then-owed Reimbursable Costs in a lump sum payment from the general fund or other revenues or reimburse the Redeveloper pursuant to the terms of Section 3 of this Agreement.

**Section 13.5 Termination if Urban Renewal Plan is not Approved.** If the Urban Renewal Plan is not approved by the City Council of the City by March 31, 2017, the City, the Authority or the Redeveloper may terminate this Agreement.

## **Section 14. RESTRICTIONS ON ASSIGNMENT AND TRANSFER**

**Section 14.1 Representations as to Redevelopment.** The Redeveloper represents and agrees that its undertakings under this Agreement are for the purpose of facilitating redevelopment of the Property as set forth in the Development Plan. The Redeveloper further recognizes that:

(a) The redevelopment of the Property is important to the general welfare of the Authority and the City and is consistent with the Urban Renewal Plan.

(b) Substantial financing and other aids have been made available by the Authority to make such redevelopment possible.

(c) It is because of the qualifications and identity of the Redeveloper that the Authority is entering into this Agreement with the Redeveloper and is willing to accept and rely on the obligations of the Redeveloper for the faithful performance of all of its undertakings and covenants under this Agreement.

**Section 14.2 Limitation on Assignment and Sale.** The Redeveloper may assign its rights or duties and obligations pursuant to this Agreement only with the prior written consent of the Authority and the City or as set forth in Section 2, utilizing the form of Assignment and Assumption. As a condition to granting any such consent, an assignee shall expressly assume in

writing the obligations of the Redeveloper hereunder. Anything contained in this Section 14.2 to the contrary notwithstanding, no consent shall be required under this Section 14.2 for any pledge of the Property and this Agreement as collateral security for a Mortgage, or for any foreclosure sale or deed in lieu thereof; however, any subsequent transfers after such sale or deed in lieu of sale shall be subject to the Authority's consent. For purposes of this Section 14.2, the sale, transfer, assignment, pledge, or hypothecation of greater than ten percent (10%) of the economic interest in the Redeveloper, other than to an existing Affiliate of the Redeveloper, shall constitute an assignment of this Agreement. Consistent with the concept of phased development and Sale of Parcels by Redeveloper, the City and the Authority acknowledges that upon a Sale the Redeveloper can assign to the new owner a portion of the rights, obligations and liabilities under this Agreement, as more specifically set forth in Section 2. In such event the City and the Authority shall look solely to the assignee for performance of the rights, obligations and liabilities so assigned.

## **Section 15. MISCELLANEOUS**

**Section 15.1 Limitation of Rights.** With the exception of rights herein expressly conferred upon the parties, the Holders and the Indemnified Parties, nothing expressed or to be implied by this Agreement is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions and provisions hereof.

**Section 15.2 Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given (i) when given by hand delivery, (ii) one (1) Business Day after deposit with a nationally-recognized overnight delivery service, (iii) three (3) Business Days after mailed by certified or registered mail, postage prepaid, addressed to the appropriate Notice Address or at such other address or addresses as either party hereto shall designate in writing to the other parties hereto and the Authority.

**Section 15.3 Waiver.** No failure by either party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement, shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Either party by giving notice to the other party may, but shall not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

**Section 15.4 Attorneys' Fees.** In any proceeding brought to enforce the provisions of this Agreement, the unsuccessful party shall pay the prevailing party therein reasonable attorneys' fees, actual court costs and other expenses incurred.

**Section 15.5 Conflicts of Interest.** The Authority shall not allow and, except as disclosed in writing to the Authority, the Redeveloper shall not knowingly permit, any of the following persons to have any interest, direct or indirect, in this Agreement: a member of the governing body of the Authority or of the City; an employee of the Authority or of the City who



exercises responsibility concerning the Project; or an individual or firm retained by the City or the Authority who has performed consulting or other professional services in connection with the Project. The Authority shall not allow and the Redeveloper shall not knowingly permit any of the above persons or entities to participate in any decision relating to this Agreement that affects his or her personal interest or the interest of any corporation, partnership or association in which he or she is directly or indirectly interested.

**Section 15.6 Titles of Sections.** Any titles of the several parts and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

**Section 15.7 Authority Not a Partner; Redeveloper Not Authority's Agent.** Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, the Authority shall not be deemed or constituted a partner or joint venturer of the Redeveloper, and the Redeveloper shall not be the agent of the Authority, the Authority shall not be responsible for any debt or liability of the Redeveloper, and the Redeveloper shall not be responsible for any debt or liability of the Authority.

**Section 15.8 Applicable Law.** The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement, without giving effect to choice of law principles.

**Section 15.9 Binding Effect.** This Agreement shall be binding on and inure to the benefit of the parties hereto, and their successors and assigns, subject to the limitations on assignability of this Agreement by the Redeveloper as set forth in Section 14.2.

**Section 15.10 Further Assurances.** The parties hereto agree to execute such documents, and take such action, as shall be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

**Section 15.11 Time of Essence.** Time is of the essence of this Agreement. The parties will make every reasonable effort to expedite the subject matter hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation. In the event the last day permitted for the performance of any act required or permitted under this Agreement falls on a Saturday, Sunday or legal holiday in the State of Colorado, the time for such performance will be extended to the next succeeding business day. Time periods will exclude the first day and include the last day of such time period.

**Section 15.12 Severability.** If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable. Furthermore, such illegal, invalid or unenforceable provision shall be automatically replaced with a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and still be legal, valid and enforceable, and this Agreement shall be deemed reformed accordingly.

**Section 15.13 Good Faith; Consent or Approval.** In performance of this Agreement, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold or delay any approval required by this Agreement. Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed. The Redeveloper agrees and acknowledges that in each instance in this Agreement or elsewhere where the Authority is required or has the right to review or give its approval or consent, no such review, approval or consent shall imply or be deemed to constitute an opinion by the Authority, nor impose upon the Authority, any responsibility for the design or construction of building elements, including, but not limited to, the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the Environmental Laws. All reviews, approval and consents by the Authority under the terms of this Agreement are for the sole and exclusive benefit of the Redeveloper and no other person or party shall have the right to rely thereon.

**Section 15.14 Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 15.15 Nonliability of Authority Officials and Employees.** No council member, commissioner, board member, official, employee, agent or consultant of the Authority or the City shall be personally liable to the Redeveloper or any holder of a bond in the event of a breach of this Agreement or any indenture for any amount that may become due to the Redeveloper or any such holder of a bond under the terms of this Agreement or any indenture.

**Section 15.16 Incorporation of Exhibits.** All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

**Section 15.17 Survival.** The representations and warranties of Section 6 shall survive any termination of this Agreement.

**Section 15.18 Memorandum of Agreement.** The parties shall execute a memorandum of this Agreement and it shall be recorded in the land records of the City and Adams County under the legal description of the Property, substantially in the form attached hereto as Exhibit K. Such memorandum shall be recorded prior to any instrument evidencing the Redeveloper's debt obligations comprising the Redeveloper's Financing.

**Section 15.19 Subsequent Events.** If at any time during the term of the Agreement the Redeveloper requests the cooperation of the Authority in connection with an assignment of or any other action under this Agreement, the Redeveloper expressly assumes the obligation to pay any and all fees and expenses, including reasonable attorney's fees, incurred by the Authority in connection with such action or assignment.

**Section 15.20 Estoppel Certificates.** The Authority and Redeveloper shall each provide to the other, as reasonably requested from time to time, estoppel certificates stating that this Agreement is in full force and effect; if modified the modifications thereto; whether there are any uncured Events of Default or any defaults with the passage of time or giving of notice would be

deemed Events of Default; whether or not Certificates of Completion have been issued; the amount of fees paid or due with respect to any Parcel, and any other information reasonably requested with respect to this Agreement and performance thereof. The costs of all estoppels shall be borne by the party requesting same.

**Section 15.21 Delegation of Authority.** Unless this Agreement specifically designates a review, approval or decision by the Board of the Authority or such review, approval or decision is required by law to be performed by the Board of the Authority, the Authority may be interpreted in this Agreement to mean the Board of the Authority has delegated its authority to the Executive Director, Deputy Director and staff of the Authority, as appropriate.

**Section 15.22 Public Improvement Fee.** Nothing within this Agreement is intended to prevent or prohibit the Redeveloper from recording a Declaration of Covenants imposing a Public Improvement Fee upon all or a portion of the Property.

**Section 15.23 City Annual Appropriation.** Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the City not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

[Signature Pages Follow]

IN WITNESS WHEREOF, the Authority has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; the City has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and the Redeveloper has caused these presents to be executed by its duly authorized representative, as of the date first above written.

(SEAL)

URBAN RENEWAL AUTHORITY OF THE  
CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
General Counsel to the Authority

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Chairman and \_\_\_\_\_ as Clerk of the Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

[signature page]

(SEAL)

CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Mayor and \_\_\_\_\_ as Clerk of the City of Commerce City, Colorado, a home rule municipality under the laws of the State of Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

[signature page]

REAL ESTATE GENERATION, LLC

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

Name:

Title:

STATE OF COLORADO

)

) ss.

\_\_\_\_\_ COUNTY

)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of Real Estate Generation, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

[signature page]

**EXHIBIT A**

**DEPICTION OF ANTICIPATED URBAN RENEWAL AREA**



Exhibit A-1

**EXHIBIT B-1**

**LEGAL DESCRIPTION  
OF EACH PARCEL**

A PORTION OF, RESUBDIVISION OF TOWN AND COUNTRY SUBDIVISION ADAMS COUNTY FILE 9 MAP 43 RECEPTION NO. 342483 RECORDED MARCH 30, 1949. LOCATED IN THE NORTHEAST 1/4 OF SECTION 7 TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO.

A PORTION OF PARCEL D, EXCLUDING BOYS AND GIRLS CLUBS OF METRO DENVER SUBDIVISION FILING NO. 1 REPLAT RECEPTION NO. 2016\_\_\_\_\_ AND RIGHT OF WAY BOOK 3953 PAGE 404-405.

TOWN AND COUNTRY SUBDIVISION RESUBD TRACT D, DESCRIBED AS THE NORTH 825 FEET OF EAST 121 FT OF BLOCK D

TOWN AND COUNTRY SUBDIVISION RESUBDIVISION BLOCK:1, LOTS 14 EXCLUDING RIGHT OF WAY RECEPTION NO 2011000050034 AND 15 THRU 24. TOGETHER WITH THE DAHLIA STREET PLATTED AS EUDORA STREET RIGHT OF WAY ADJACENT TO BLOCK 1 ON THE WEST

CONTAINING 2837357.94 SQUARE FEET OR 65.137 ACRES MORE OR LESS.



## EXHIBIT B-2

### MAP SHOWING APPROXIMATE LOCATION OF EACH PARCEL

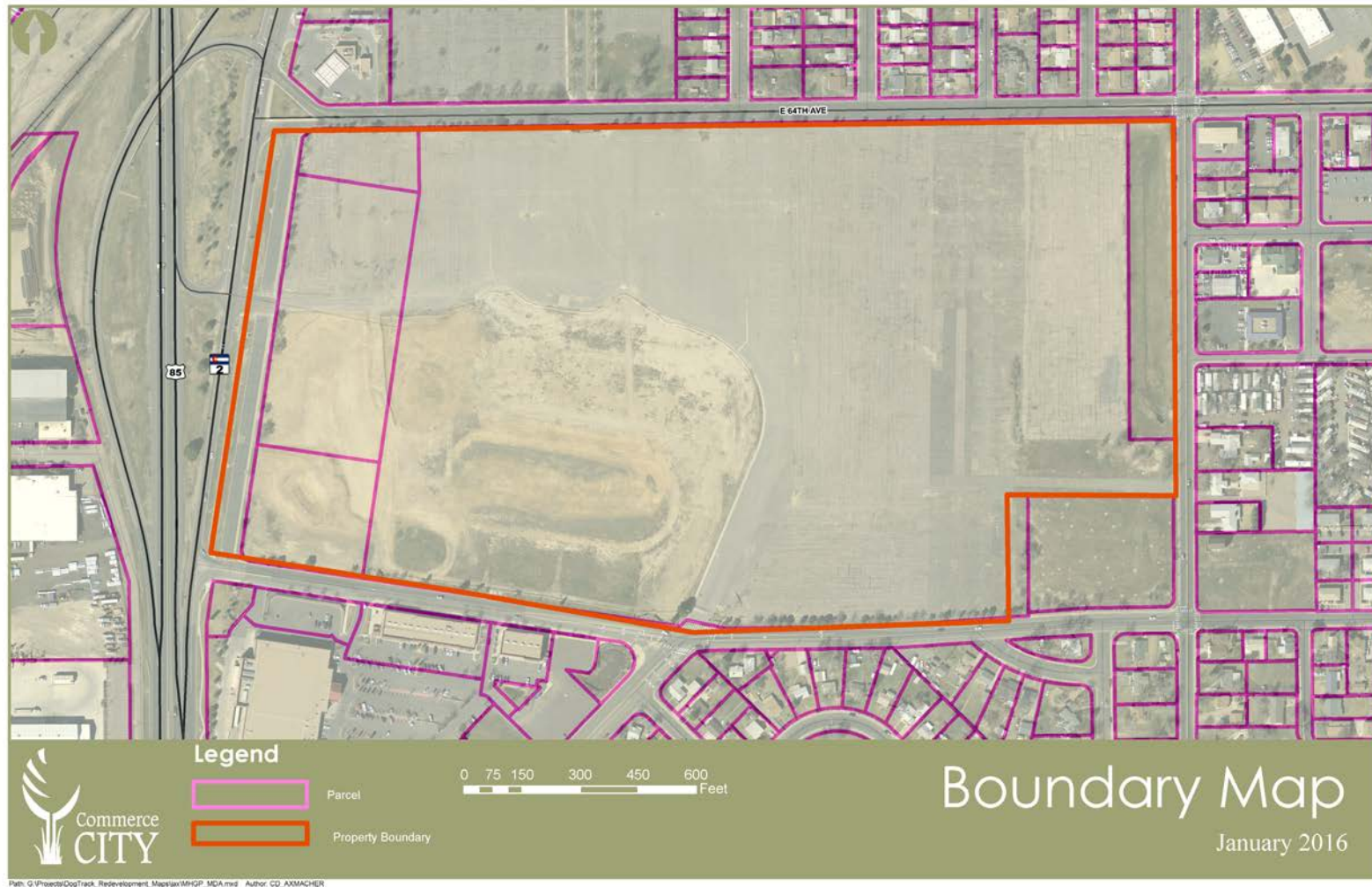


Exhibit B-2

## **EXHIBIT C**

### **THE REDEVELOPER'S NARRATIVE OF THE DEVELOPMENT PLAN AND SCHEDULE**

#### **Development Plan**

The CCURA has outlined a vision for the MHGP site based on public outreach and various consultant studies. In addition, the CCURA has developed a series of Development Principles and Development Concepts in cooperation with various consultants with public input. REGen as master developer will work with the CCURA to redevelop the MHGP site using these guidelines.

#### **MHGP Development Vision**

The former Mile High Greyhound Park will continue its history as a place that draws people of many backgrounds and ages in a common purpose. Anchored by uses which advance municipal goals and aspirations and supplemented by uses which support its anchors, the property and spaces within it will be a destination for residents of the community and metro area and a complement to the City's economic development infrastructure. Each use will be accessible from the others through vehicular and non-vehicular improvements and collectively the property will be accessible to the region. Product offerings will complement those currently available within the City and larger market, and the design and development quality will be superior.

#### **Development Principles and Goals**

In order to ensure that any and all investment within the MHGP site advances the larger vision, the CCURA and consultants prepared a set of development principles and goals. The principles should be used to evaluate investment opportunities to ensure that they further the overall project vision. The goals that follow the principles inform the framework plan and should be used going forward to evaluate development concepts.

#### **Development Principles**

- High quality
- Encourages walkability
- Removes blighting conditions
- Higher (comparatively) density
- Promotes greater variety of uses and activities
- Mixed-use and mixed-income
- Strengthens or links surrounding uses
- Destination
- Public benefit
- Leverages public investment (existing or planned)
- Supported by stakeholders
- Addresses demonstrated community need
- Unique to property's and / or community's culture

- Sustainable

## **Development Goals**

1. Create a flexible master framework plan – establish physical connections to and throughout the site that produces a series of developable lots. This approach will allow for a variety of product types to be delivered as market conditions permit, while also allowing the City and Urban Renewal Authority to hold (land bank) portions of the site for future uses.
2. Create a mixed-use and multi-use neighborhood – residential, mixed-use, and commercial products should complement and diversify the existing inventory that surrounds the MHGP site. Concentrate residential development to the east of the site, adjacent to existing residential neighborhoods, and scale the design appropriately. Units should front streets, utilize a system of alleys where possible, and connect (rather than separate) to surrounding uses.
3. Provide a variety of retail and commercial development options – retail and / or commercial uses should be concentrated along the western half of the site to capitalize on visibility from surrounding roadways and leverage any synergy offered by existing commercial concentrations to the south along Parkway Drive. Creation of a centralized, mixed-use main street, as well as individual retail pad sites would provide additional diversity and allow the site to capitalize on different products and different market cycles. With an institutional anchor, commercial uses could range from office and incubator space for entrepreneurial spin-offs to administrative space.
4. Create a community destination and sense of place – prepare detailed design guidelines that promote a comfortable, well-designed destination and that give the property and its environs a distinct and relevant sense of identity. Encourage a central core of uses connected by public spaces. Create a small park for residents and visitors with a community play space. The purpose of the community park will be twofold – to serve as a community amenity and to accommodate existing on-site storm water detention.
5. Provide space for the Boys and Girls Club and other service organizations – Encourage an architectural and landscape design character consistent with other uses on the site. Establish space sharing agreements with any and all service providers within the property.
6. Hold a portion of the property for an institutional anchor (education / training) while pursuing development on the balance - while the size and scope of the anchor may not be determined initially, the development concept should allow for a variety of uses that could ultimately compliment a multi-facility campus. The pursuit of an institutional anchor will provide the City and Urban Renewal Authority with a marketable theme with which to pursue investment on the balance of the property in the near-term.

## **Framework Plan**

Experience has shown that successful communities leverage land and community and regional amenities in a manner that creates strong and memorable places. With this goal in mind, the CCURA and REGen have prepared a graphic illustration of a potential development concept for

the MHGP site, consistent with the expressed vision and goals. The CCURA and REGen recognize the necessity to allow future partners to capitalize on market opportunities in their pursuit of advancing community goals; however they also acknowledge that the community will be the largest and longest term investor in the site. To that end, the CCURA has established a framework of elements which will sustain market cycles. For the MHGP site, these are described as follows.

### **Framework Elements**

Framework elements should serve to maximize economic and social return and strengthen relationships between uses. The following elements of the MHGP future redevelopment program have been identified for their ability to leverage investment. Each one embodies the principles discussed above and employed by other communities throughout the country who have advanced other successful redevelopment initiatives.

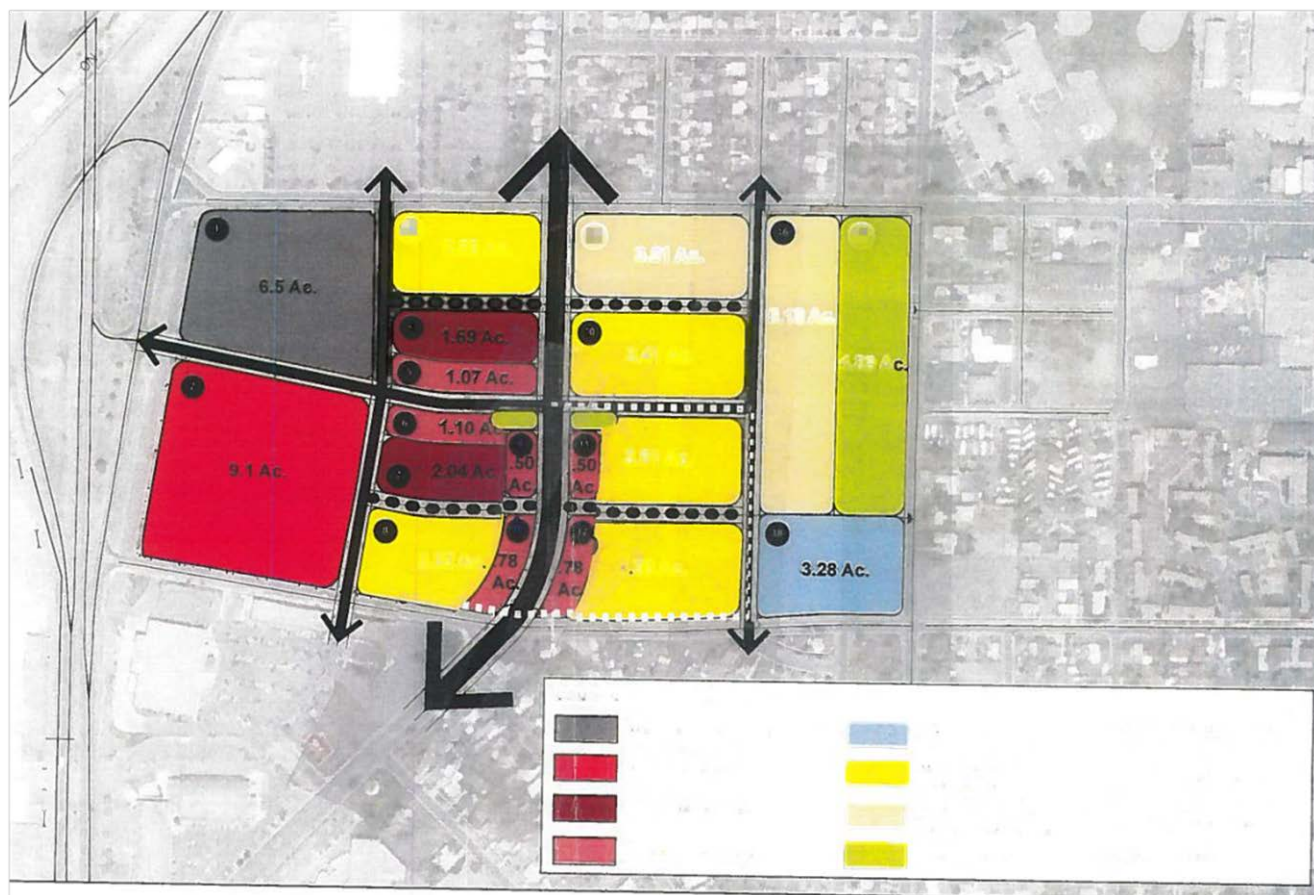
**Physical Connections** - by establishing physical connections through the site and future development, the ultimate program will benefit from an established framework that could be marketed as pads, blocks or districts. One connection will involve extending Parkway Drive north to connect with 64th Avenue, thereby creating a main north-south thoroughfare through the site. Another connection will be established by extending an east-west road through the site from the Highway 2 access road east to Parkway Drive. The latter connection would serve to connect the site to its surrounding roads and neighborhoods and enhance access for regional traffic.

**Infrastructure and Amenities** - the existing detention area located along Holly Street will remain in its current location, but will be expanded to accommodate current and future regional storm water detention needs. It will be reconfigured to create a centralized open space for residential neighborhoods within and adjacent to the MHGP site. Local streets could be extended into the site and linked to adjacent neighborhood streets. Parking could be located along the property's edges, reinforcing a central core of development. To the east of Parkway Drive, residential buildings (3 – 4 stories) could be located along a new 63rd Avenue spine road. A denser core of development could consist of non-traditional residential products, alley-loaded with parking located in the back. Where ever possible, residential units should front neighborhood streets to create a comfortably dense, pedestrian-scaled street frontage and an efficient use of development space.

**Mixed-Use Main Street** – Along Parkway Drive and 63rd Avenue, a mixed-use main street with shops and commercial spaces could be developed with parking accommodated behind buildings. This “main street” thoroughfare could host small business incubator space, learning labs and classroom space, together with traditional retail spaces. An institutional building could front the street, activating it and providing “customers” for the stores and restaurants. Main street commercial spaces could be complemented by individual pad sites on the edges and stand alone commercial office space, hosting a diverse system of retail and commercial products in a unified campus setting.

### Concept

Following is a graphic and a description of a potential development concept for the Study Area.



The MHGP development concept assumes an institutional anchor located adjacent to the Highway 2 corridor. There is a breadth of difference between advanced education and training facilities and operators, and the ideal tenant and partner has not yet been identified. For this reason, a significant portion of the property has been set aside (land banked) that could accommodate a range or multiple related or affiliated users. The proposed location for this use in the northwest quadrant of the property and was selected for its access and visibility, as well as its potential to serve a variety of users should an ideal institutional tenant fail to be identified. By preserving this important sector of the property, the CCURA will be afforded the maximum flexibility and potentially greatest return for their investment. Supporting uses to the anchor might include a mix of residential products, ideally mixed-income, located adjacent to established and existing neighborhoods. While densities will be higher than those that exist today, they will be compatible, attainable and serve as an appropriate transitional product into the core of the MHGP site. Commercial uses will likely range from small- to moderate scale retail and restaurant uses, to office and incubator spaces. Community service organizations, including the Boys and Girls Club are already slated for location within the MHGP site. Other, similar, groups may pursue a home in the project, either in free-standing buildings or as tenants in the commercial buildings. Public infrastructure will serve as community amenities wherever

possible. There is anticipated to be no structured parking facilities on the site given the scale of the surrounding development and associated costs. Finally, the original Mile High Greyhound Park will be visible in all elements of the development from the building materials, to the street signs to the facility names. There have been and should continue to be discussions about preserving space within the property to house vestiges from the racing and gaming operations.

### **Pro Forma**

Attached as Exhibit A and made a part of this Development Plan is a series of worksheets outlining the costs and economics of the proposed MHGP Project. This pro forma will be updated at least annually, or more often as needed based on changes or updates to the project plans and costs.

### **Milestone Schedule**

Attached as Exhibit B and made a part of this Development Plan is a milestone schedule for the proposed MHGP Project. This schedule will be updated at least annually, or more often as needed based on changes or updates to the project plans and market realities.

### **Budget**

Attached as Exhibit C and made a part of this Development Plan is a proposed project budget for the MHGP Project. This budget will be updated at least annually, or more often as needed based on changes or updates to the project plan and costs.



# EXHIBIT A to EXHIBIT C DEVELOPMENT PLAN

## PRO FORMA

### Exhibit A - MHGP Pro Forma Commerce City Urban Renewal Authority 1/27/2016

	<b>Project Totals</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
<b><u>Project Costs</u></b>					
Land Purchase	\$ 3,300,000	\$ 3,300,000	\$ -	\$ -	\$ -
Demolition and Environmental Abatement	\$ 2,885,524	\$ 2,885,524	\$ -	\$ -	\$ -
Regional Stormwater Improvements	\$ 1,632,301	\$ -	\$ -	\$ -	\$ 1,305,841
<b>Total Project Costs</b>	<b>\$ 7,817,825</b>	<b>\$ 6,185,524</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,305,841</b>
<b><u>Project Revenue</u></b>					
Land Sales	\$ 4,755,425	\$ -	\$ -	\$ 569,875	\$ 1,224,625
Priority Fees (10% of Project TIF)	\$ 2,495,730	\$ -	\$ -	\$ -	\$ 1,116
TIF Income to repay CCURA eligible costs plus interest	\$ 4,517,825	\$ -	\$ -	\$ -	\$ -
<b>Total Project Revenue</b>	<b>\$ 11,768,980</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 569,875</b>	<b>\$ 1,225,741</b>
<b>Cummulative Net Cash Flow</b>		\$ (6,185,524)	\$ (6,185,524)	\$ (5,615,649)	\$ (5,695,749)
<b>Payback Date</b>	<b>9/30/2040</b>				

**Exhibit A - MHGP Pro Forma**  
**Commerce City Urban Renewal Authority**  
**1/27/2016**

**Project Costs**

	2019	2020	2021	2022	2023	2024
Land Purchase	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition and Environmental Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regional Stormwater Improvements	\$ 326,460	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ 326,460</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ 472,875	\$ 1,345,875	\$ 1,142,175	\$ -	\$ -	\$ -
Priority Fees (10% of Project TIF)	\$ 8,305	\$ 41,945	\$ 81,322	\$ 107,175	\$ 128,447	\$ 132,964
TIF Income to repay CCURA eligible costs plus interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Revenue</b>	<b>\$ 481,180</b>	<b>\$ 1,387,820</b>	<b>\$ 1,223,497</b>	<b>\$ 107,175</b>	<b>\$ 128,447</b>	<b>\$ 132,964</b>

**Cummulative Net Cash Flow**

<b>Payback Date</b>	\$ (5,541,030)	\$ (4,153,210)	\$ (2,929,713)	\$ (2,822,538)	\$ (2,694,091)	\$ (2,561,127)
---------------------	----------------	----------------	----------------	----------------	----------------	----------------



**Exhibit A - MHGP Pro Forma**  
**Commerce City Urban Renewal Authority**  
**1/27/2016**

**Project Costs**

	<b>2025</b>	<b>2026</b>	<b>2027</b>	<b>2028</b>	<b>2029</b>	<b>2030</b>
Land Purchase	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition and Environmental Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regional Stormwater Improvements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Priority Fees (10% of Project TIF)	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964
TIF Income to repay CCURA eligible costs plus interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Revenue</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>

**Cummulative Net Cash Flow**  
**Payback Date**

\$ (2,428,163)	\$ (2,295,199)	\$ (2,162,235)	\$ (2,029,272)	\$ (1,896,308)	\$ (1,763,344)
----------------	----------------	----------------	----------------	----------------	----------------

**Exhibit A - MHGP Pro Forma**  
**Commerce City Urban Renewal Authority**  
**1/27/2016**

**Project Costs**

	2031	2032	2033	2034	2035	2036
Land Purchase	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition and Environmental Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regional Stormwater Improvements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Priority Fees (10% of Project TIF)	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964	\$ 132,964
TIF Income to repay CCURA eligible costs plus interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Revenue</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>

**Cummulative Net Cash Flow**

\$ (1,630,380) \$ (1,497,417) \$ (1,364,453) \$ (1,231,489) \$ (1,098,525) \$ (965,561)

**Payback Date**

**Exhibit A - MHGP Pro Forma**  
**Commerce City Urban Renewal Authority**  
**1/27/2016**

	2037	2038	2039	2040	2041	2042
<b><u>Project Costs</u></b>						
Land Purchase	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition and Environmental Abatement	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Regional Stormwater Improvements	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b><u>Project Revenue</u></b>						
Land Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Priority Fees (10% of Project TIF)	\$ 132,964	\$ 132,964	\$ 132,964	\$ -	\$ -	\$ -
TIF Income to repay CCURA eligible costs plus interest	\$ -	\$ -	\$ -	\$ 897,465	\$ 1,183,378	\$ 1,114,431
<b>Total Project Revenue</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 132,964</b>	<b>\$ 897,465</b>	<b>\$ 1,183,378</b>	<b>\$ 1,114,431</b>
<b>Cummulative Net Cash Flow</b>	<b>\$ (832,598)</b>	<b>\$ (699,634)</b>	<b>\$ (566,670)</b>	<b>\$ 330,795</b>	<b>\$ 1,514,173</b>	<b>\$ 2,628,604</b>
<b>Payback Date</b>						

**Exhibit A - MHGP Pro Forma**  
**Commerce City Urban Renewal Authority**  
**1/27/2016**

**Project Costs**

Land Purchase

Demolition and Environmental Abatement

Regional Stormwater Improvements

**Total Project Costs**

**Project Revenue**

Land Sales

Priority Fees (10% of Project TIF)

TIF Income to repay CCURA eligible costs plus interest

**Total Project Revenue**

**Cummulative Net Cash Flow**

**Payback Date**

	2043	2044	2045
\$	-	\$	-
\$	-	\$	-
\$	-	\$	-
<b>\$</b>	<b>-</b>	<b>\$</b>	<b>-</b>
\$	-	\$	-
\$	-	\$	-
\$	980,280	\$	342,271
<b>\$</b>	<b>980,280</b>	<b>\$</b>	<b>342,271</b>
\$	3,608,884	\$	342,271
		\$	-

**Exhibit A - MHGP Pro Forma - Development Plan and Land Pricing**  
**1/27/2016**

Land Values per Results and Inputs Page		
Description	Land Price	
	per Bldg. s.f.	per Unit
<b>Commercial</b>		
Grocery	\$ 10.00	\$ -
Flex Office	\$ 10.00	\$ -
Large Format Retail	\$ 5.00	\$ -
Restaurant and Retail Pad	\$ 35.00	\$ -
Mixed Use Retail	\$ 35.00	\$ -
<b>Residential</b>		
Market Rate Rental	\$ -	\$ 12,500.00
Affordable Rental	\$ -	\$ 10,000.00
For Sale - Condo's	\$ -	\$ 17,500.00
<b>Educational/Training Facility</b>	\$ 5.00	\$ -
<b>Office</b>	\$ 15.00	\$ -

Schedule Dates per Results and Inputs Page		
Phase Description	Land Sale Date	Opening Date
Second Phase	3/31/2017	6/30/2018
Third Phase	3/31/2018	6/30/2019
Fourth Phase	3/31/2019	6/30/2020
Fifth Phase	3/31/2020	6/30/2021
Sixth Phase	3/31/2021	6/30/2022

Mile High Greyhound Park Redevelopment Plan Yields												Retail Use	
Description	Project Phase	Land Sale Date	Parcel Number	Parcel Acreage	Retail (s.f.)	Office (s.f.)	Affordable Rental (# of units)	Market Rate Rental (# of units)	For Sale (# of units)	Education/ Training (s.f.)		Land Price per unit	Gross Sales Price
<b>Phase 1 - 2015 Opening</b>													
Boys and Girls Club	1		15	2.50								\$ -	\$ -
<b>Phase 2 - 2017 Opening</b>													
Multi-family rental @ 26 d.u./acre	2	3/31/2017	12	3.80			100					\$ -	\$ 1,000,000
Retail - Restaurant and In-line retail	2	3/31/2017	2	2.00	5,000							\$ 35.00	\$ 175,000
												\$ -	\$ -
<b>Phase 3 - 2018 Opening</b>													
Multi-family rental @ 26 d.u./acre	3	3/31/2018	11	3.80			100					\$ -	\$ 1,000,000
Multi-family seniors rental @ 26 d.u./acre	3	3/31/2018	10	3.80			100					\$ -	\$ 1,000,000
Single Family - Attached for sale @ 12 d.u./acre	3	3/31/2018	16	2.50					30			\$ -	\$ 525,000
<b>Phase 4 - 2019 Opening</b>													
Big or multi mid-box Retail	4	3/31/2019	2	7.10	60,000							\$ 5.00	\$ 300,000
Training Facility - Phase 1	4	3/31/2019	1	3.25						30,000		\$ -	\$ 150,000
Single Family - Attached for sale @ 12 d.u./acre	4	3/31/2019	16	2.50					30			\$ -	\$ 525,000
<b>Phase 5 - 2020 Opening</b>													
Mixed Use Retail and Office	5	3/31/2020	6&7	3.14	10,000	20,000						\$ 35.00	\$ 650,000
Market Rate Rental @ 30 d.u./acre	5	3/31/2020	8	3.35	2,000			100				\$ 35.00	\$ 1,320,000
Single Family - Attached for sale @ 26 d.u./acre	5	3/31/2020	9	1.76					46			\$ -	\$ 805,000
<b>Phase 6 - 2021 Opening</b>													
Mixed Use Retail and Office	6	3/31/2021	4&5	2.76	10,000	20,000						\$ 35.00	\$ 650,000
Single Family - Attached for sale @ 26 d.u./acre	6	3/31/2021	9	1.76					46			\$ -	\$ 805,000
Multi-family seniors rental @ 26 d.u./acre	6	3/31/2021	3	2.88			75					\$ -	\$ 750,000
Training Facility - Phase 2	6	3/31/2021	1	3.25						30,000		\$ -	\$ 150,000
												\$ -	\$ -
<b>Subtotal MHGP Vertical Development</b>				<b>50.14</b>	<b>87,000</b>	<b>40,000</b>	<b>375</b>	<b>100</b>	<b>152</b>	<b>60,000</b>			<b>\$ 9,805,000</b>
<b>Open Space</b>													
B & G Remainder	2			0.52									
Storm Water and Open Space	3		13/14	4.28									
Other Open Space	4			1.06									
<b>Total MHGP Redevelopment</b>				<b>56.00</b>									

MHGP Pro Forma 01-27-16

Exhibit C-12

**Exhibit A MHGP Pro Forma - Public Finance**  
**1/27/2016**

Estimate of Public Finance Proceeds

Product Type	Construction Time (months)
Commercial	15
Residential	15

**Sales Tax Generation**

**Property Tax Appraised Value**

Development Plan	Project Phase	Construction Begins	Opening Date	S.F. of Retail	Sales per s.f. (xx% of Sales Floor)	Annual Retail Sales	Annual Sales Tax TIF Generation	Retail Appraised Value	Office Appraised Value	Affordable Rental Appraised Value	Market Rate Rental Appraised Value	For Sale Appraised Value	Training Facility
<b>Phase 1 - 2015 Opening</b>													
Boys and Girls Club	1	9/30/2014	12/31/2015	0	149	\$ -	\$ -	0	0	0	0	0	0
<b>Phase 2 - 2017 Opening</b>													
Multi-family rental @ 26 d.u./acre	2	3/31/2017	6/30/2018	0	149	\$ -	\$ -	0	0	10,000,000	0	0	0
Retail - Restaurant and In-line retail	2	3/31/2017	6/30/2018	5,000	149	\$ 743,750	\$ 22,313	625,000	0	0	0	0	0
<b>Phase 3 - 2018 Opening</b>													
Multi-family rental @ 26 d.u./acre	3	3/31/2018	6/30/2019	0	149	\$ -	\$ -	0	0	10,000,000	0	0	0
Multi-family seniors rental @ 26 d.u./acre	3	3/31/2018	6/30/2019	0	149	\$ -	\$ -	0	0	10,000,000	0	0	0
Single Family - Attached for sale @ 12 d.u./acre	3	3/31/2018	6/30/2019	0	149	\$ -	\$ -	0	0	0	0	5,250,000	0
<b>Phase 4 - 2019 Opening</b>													
Big or multi mid-box Retail	4	3/31/2019	6/30/2020	60,000	213	\$ 12,750,000	\$ 382,500	6,000,000	0	0	0	0	0
Training Facility - Phase 1	4	3/31/2019	6/30/2020	0	149	\$ -	\$ -	0	0	0	0	0	0
Single Family - Attached for sale @ 12 d.u./acre	4	3/31/2019	6/30/2020	0	149	\$ -	\$ -	0	0	0	0	5,250,000	0
<b>Phase 5 - 2020 Opening</b>													
Mixed Use Retail and Office	5	3/31/2020	6/30/2021	10,000	149	\$ 1,487,500	\$ 44,625	1,250,000	2,000,000	0	0	0	0
Market Rate Rental @ 30 d.u./acre	5	3/31/2020	6/30/2021	2,000	149	\$ 297,500	\$ 8,925	250,000	0	0	12,500,000	0	0
Single Family - Attached for sale @ 26 d.u./acre	5	3/31/2020	6/30/2021	0	149	\$ -	\$ -	0	0	0	0	8,050,000	0
<b>Phase 6 - 2021 Opening</b>													
Mixed Use Retail and Office	6	3/31/2021	6/30/2022	10,000	149	\$ 1,487,500	\$ 44,625	1,250,000	2,000,000	0	0	0	0
Single Family - Attached for sale @ 26 d.u./acre	6	3/31/2021	6/30/2022	0	149	\$ -	\$ -	0	0	0	0	8,050,000	0
Multi-family seniors rental @ 26 d.u./acre	6	3/31/2021	6/30/2022	0	149	\$ -	\$ -	0	0	7,500,000	0	0	0
Training Facility - Phase 2	6	3/31/2021	6/30/2022	0	149	\$ -	\$ -	0	0	0	0	0	0
<b>Total</b>				<b>87,000</b>		<b>16,766,250</b>	<b>\$ 502,988</b>	<b>9,375,000</b>	<b>4,000,000</b>	<b>37,500,000</b>	<b>12,500,000</b>	<b>26,600,000</b>	<b>-</b>

**Exhibit A MHGP Pro Forma - Public Finance**  
**1/27/2016**

Estimate of Public Finance Proceeds

Commercial TIF Mills 82.863  
 Residential TIF Mills 82.863

LOC Bond Total Interest Rate	6.00%
Bond Efficiency	90%
Debt Coverage Ratio	1.1
Metro District Bond Ca	

Development Plan	Commercial Property Tax Generation					Residential Property Tax Generation					Total Annual TIF Collections	DCR	Increment Available for Bonding	Gross Bondable Amount
	Total Commercial Property Appraised Value	Comm. Adj. Factor	Assessed Value	Comm. Property Tax TIF Rate	Commercial PTAX Generation	Total Residential Property Appraised Value	Residential Adjustment Factor	Residential Property Assessed Value	Residential Property Tax TIF Rate	Residential Property Tax Generation				
<b>Phase 1 - 2015 Opening</b>														
Boys and Girls Club	0	29%	0	82.863	\$ -	0	7.96%	0	82.863	\$ -	\$ -	1.1	\$ -	\$ -
<b>Phase 2 - 2017 Opening</b>														
Multi-family rental @ 26 d.u./acre	0	29%	0	82.863	\$ -	10,000,000	7.96%	796,000	82.863	\$ 65,959	\$ 65,959	1.1	\$ 59,963	\$ 825,376
Retail - Restaurant and In-line retail	625,000	29%	181,250	82.863	\$ 15,019	0	7.96%	0	82.863	\$ -	\$ 37,331	1.1	\$ 33,938	\$ 467,146
<b>Phase 3 - 2018 Opening</b>														
Multi-family rental @ 26 d.u./acre	0	29%	0	82.863	\$ -	10,000,000	7.96%	796,000	82.863	\$ 65,959	\$ 65,959	1.1	\$ 59,963	\$ 825,376
Multi-family seniors rental @ 26 d.u./acre	0	29%	0	82.863	\$ -	10,000,000	7.96%	796,000	82.863	\$ 65,959	\$ 65,959	1.1	\$ 59,963	\$ 825,376
Single Family - Attached for sale @ 12 d.u./acre	0	29%	0	82.863	\$ -	5,250,000	7.96%	417,900	82.863	\$ 34,628	\$ 34,628	1.1	\$ 31,480	\$ 433,322
<b>Phase 4 - 2019 Opening</b>														
Big or multi mid-box Retail	6,000,000	29%	1,740,000	82.863	\$ 144,182	0	7.96%	0	82.863	\$ -	\$ 526,682	1.1	\$ 478,801	\$ 6,590,621
Training Facility - Phase 1	0	29%	0	82.863	\$ -	0	7.96%	0	82.863	\$ -	\$ -	1.1	\$ -	\$ -
Single Family - Attached for sale @ 12 d.u./acre	0	29%	0	82.863	\$ -	5,250,000	7.96%	417,900	82.863	\$ 34,628	\$ 34,628	1.1	\$ 31,480	\$ 433,322
<b>Phase 5 - 2020 Opening</b>														
Mixed Use Retail and Office	3,250,000	29%	942,500	82.863	\$ 78,098	0	7.96%	0	82.863	\$ -	\$ 122,723	1.1	\$ 111,567	\$ 1,535,697
Market Rate Rental @ 30 d.u./acre	250,000	29%	72,500	82.863	\$ 6,008	12,500,000	7.96%	995,000	82.863	\$ 82,449	\$ 97,381	1.1	\$ 88,528	\$ 1,218,579
Single Family - Attached for sale @ 26 d.u./acre	0	29%	0	82.863	\$ -	8,050,000	7.96%	640,780	82.863	\$ 53,097	\$ 53,097	1.1	\$ 48,270	\$ 664,428
<b>Phase 6 - 2021 Opening</b>														
Mixed Use Retail and Office	3,250,000	29%	942,500	82.863	\$ 78,098	0	7.96%	0	82.863	\$ -	\$ 122,723	1.1	\$ 111,567	\$ 1,535,697
Single Family - Attached for sale @ 26 d.u./acre	0	29%	0	82.863	\$ -	8,050,000	7.96%	640,780	82.863	\$ 53,097	\$ 53,097	1.1	\$ 48,270	\$ 664,428
Multi-family seniors rental @ 26 d.u./acre	0	29%	0	82.863	\$ -	7,500,000	7.96%	597,000	82.863	\$ 49,469	\$ 49,469	1.1	\$ 44,972	\$ 619,032
Training Facility - Phase 2	0	29%	0	82.863	\$ -	0	7.96%	0	82.863	\$ -	\$ -	1.1	\$ -	\$ -
<b>Total</b>	<b>13,375,000</b>		<b>3,878,750</b>		<b>\$ 321,405</b>	<b>76,600,000</b>		<b>6,097,360</b>		<b>\$ 505,246</b>	<b>\$ 1,329,638</b>		<b>\$ 1,208,762</b>	<b>\$ 16,638,401</b>

Exhibit A MHGP Pro Forma - Public Finance  
1/27/2016

Estimate of Public Finance Proceeds

LOC Bond Total Interest Rate	6.00%
Bond Efficiency	90%
Debt Coverage Ratio	1.1
Metro District Bond Calculation	

Development Plan	DCR	Increment Available for Bonding	Gross Bondable Amount	Net Efficiency	Net Bondable Amount
<b>Phase 1 - 2015 Opening</b>					
Boys and Girls Club	1.1	\$ -	\$ -	90%	\$ -
<b>Phase 2 - 2017 Opening</b>					
Multi-family rental @ 26 d.u./acre	1.1	\$ 59,963	\$ 825,376	90%	\$ 742,839
Retail - Restaurant and In-line retail	1.1	\$ 33,938	\$ 467,146	90%	\$ 420,431
<b>Phase 3 - 2018 Opening</b>					
Multi-family rental @ 26 d.u./acre	1.1	\$ 59,963	\$ 825,376	90%	\$ 742,839
Multi-family seniors rental @ 26 d.u./acre	1.1	\$ 59,963	\$ 825,376	90%	\$ 742,839
Single Family - Attached for sale @ 12 d.u./acre	1.1	\$ 31,480	\$ 433,322	90%	\$ 389,990
<b>Phase 4 - 2019 Opening</b>					
Big or multi mid-box Retail	1.1	\$ 478,801	\$ 6,590,621	90%	\$ 5,931,559
Training Facility - Phase 1	1.1	\$ -	\$ -	90%	\$ -
Single Family - Attached for sale @ 12 d.u./acre	1.1	\$ 31,480	\$ 433,322	90%	\$ 389,990
<b>Phase 5 - 2020 Opening</b>					
Mixed Use Retail and Office	1.1	\$ 111,567	\$ 1,535,697	90%	\$ 1,382,127
Market Rate Rental @ 30 d.u./acre	1.1	\$ 88,528	\$ 1,218,579	90%	\$ 1,096,721
Single Family - Attached for sale @ 26 d.u./acre	1.1	\$ 48,270	\$ 664,428	90%	\$ 597,985
<b>Phase 6 - 2021 Opening</b>					
Mixed Use Retail and Office	1.1	\$ 111,567	\$ 1,535,697	90%	\$ 1,382,127
Single Family - Attached for sale @ 26 d.u./acre	1.1	\$ 48,270	\$ 664,428	90%	\$ 597,985
Multi-family seniors rental @ 26 d.u./acre	1.1	\$ 44,972	\$ 619,032	90%	\$ 557,129
Training Facility - Phase 2	1.1	\$ -	\$ -	90%	\$ -
<b>Total</b>		<b>\$ 1,208,762</b>	<b>\$ 16,638,401</b>		<b>\$ 14,974,561</b>



**Exhibit A - MHGP Pro Forma  
REGen, LLC Pro Forma  
1/27/2016**

<b><u>Project Costs</u></b>	<b>Project Totals</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>
Construction Hard Costs and Engineering	\$ 9,614,725	\$ -	\$ 18,657	\$ 1,107,021	\$ 3,606,456
Legal	\$ 300,000	\$ -	\$ 150,000	\$ 30,000	\$ 30,000
Site Planning and Development Engineering	\$ 410,000	\$ -	\$ 258,913	\$ 90,217	\$ 15,217
Tax and Project Accounting	\$ 50,000	\$ -	\$ 4,545	\$ 9,091	\$ 9,091
Property Tax and BID Fees	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ 75,000	\$ -	\$ 75,000	\$ -	\$ -
Insurance	\$ 100,000	\$ -	\$ -	\$ 25,000	\$ 25,000
Project Management	\$ 720,000	\$ -	\$ 120,000	\$ 120,000	\$ 120,000
Project Contingency	\$ 1,000,000	\$ -	\$ -	\$ 222,222	\$ 222,222
<b>Total Project Costs</b>	<b>\$ 12,269,725</b>	<b>\$ -</b>	<b>\$ 627,115</b>	<b>\$ 1,603,552</b>	<b>\$ 4,027,987</b>
<b><u>Project Revenue</u></b>					
Land Sales	\$ 4,755,425	\$ -	\$ -	\$ 569,875	\$ 1,224,625
TIF Income to repay developer advances for eligible costs pl	\$ 22,497,907	\$ -	\$ -	\$ -	\$ 9,929
<b>Total Project Revenue</b>	<b>\$ 27,253,332</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 569,875</b>	<b>\$ 1,234,554</b>
<b>Net Cash Flow</b>	<b>\$ 14,983,608</b>	\$ -	\$ (627,115)	\$ (1,033,677)	\$ (2,793,433)
<b>Project IRR</b>	<b>11.4%</b>				
<b>Cummulative Cash Flow</b>		\$ -	\$ (627,115)	\$ (1,660,792)	\$ (4,454,225)
<b>Payback Date</b>	<b>9/30/2027</b>				

**Exhibit A - MHGP Pro Forma**  
**REGen, LLC Pro Forma**  
**1/27/2016**

<b>Project Costs</b>	<b>2019</b>	<b>2020</b>	<b>2021</b>	<b>2022</b>	<b>2023</b>	<b>2024</b>
Construction Hard Costs and Engineering	\$ 3,309,108	\$ 1,021,229	\$ 552,253	\$ -	\$ -	\$ -
Legal	\$ 30,000	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -
Site Planning and Development Engineering	\$ 15,217	\$ 15,217	\$ 15,217	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ 9,091	\$ 9,091	\$ 9,091	\$ -	\$ -	\$ -
Property Tax and BID Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ -	\$ -
Project Management	\$ 120,000	\$ 120,000	\$ 120,000	\$ -	\$ -	\$ -
Project Contingency	\$ 222,222	\$ 222,222	\$ 111,111	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ 3,730,638</b>	<b>\$ 1,442,760</b>	<b>\$ 837,673</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Project Revenue</b>						
Land Sales	\$ 472,875	\$ 1,345,875	\$ 1,142,175	\$ -	\$ -	\$ -
TIF Income to repay developer advances for eligible cost	\$ 73,911	\$ 373,311	\$ 723,765	\$ 953,856	\$ 1,143,180	\$ 1,183,378
<b>Total Project Revenue</b>	<b>\$ 546,786</b>	<b>\$ 1,719,186</b>	<b>\$ 1,865,940</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>
<b>Net Cash Flow</b>	<b>\$ (3,183,852)</b>	<b>\$ 276,426</b>	<b>\$ 1,028,268</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>
<b>Project IRR</b>						
<b>Cumulative Cash Flow</b>	<b>\$ (7,638,077)</b>	<b>\$ (7,361,651)</b>	<b>\$ (6,333,384)</b>	<b>\$ (5,379,528)</b>	<b>\$ (4,236,348)</b>	<b>\$ (3,052,971)</b>
<b>Payback Date</b>						

**Exhibit A - MHGP Pro Forma**  
**REGen, LLC Pro Forma**  
**1/27/2016**

**Project Costs**

	2025	2026	2027	2028	2029	2030
Construction Hard Costs and Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Site Planning and Development Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Property Tax and BID Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TIF Income to repay developer advances for eligible cost	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
<b>Total Project Revenue</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>

**Net Cash Flow**

\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
--------------	--------------	--------------	--------------	--------------	--------------

**Project IRR**

**Cummulative Cash Flow**

\$ (1,869,593)	\$ (686,215)	\$ 497,163	\$ 1,680,540	\$ 2,863,918	\$ 4,047,296
----------------	--------------	------------	--------------	--------------	--------------

**Payback Date**

**Exhibit A - MHGP Pro Forma**  
**REGen, LLC Pro Forma**  
**1/27/2016**

**Project Costs**

	<b>2031</b>	<b>2032</b>	<b>2033</b>	<b>2034</b>	<b>2035</b>	<b>2036</b>
Construction Hard Costs and Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Site Planning and Development Engineering	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Property Tax and BID Fees	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
TIF Income to repay developer advances for eligible cost	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
<b>Total Project Revenue</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>

**Net Cash Flow**

\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
--------------	--------------	--------------	--------------	--------------	--------------	--------------

**Project IRR**

**Cummulative Cash Flow**

\$ 5,230,673	\$ 6,414,051	\$ 7,597,429	\$ 8,780,807	\$ 9,964,184	\$ 11,147,562
--------------	--------------	--------------	--------------	--------------	---------------

**Payback Date**

**Exhibit A - MHGP Pro Forma  
REGen, LLC Pro Forma  
1/27/2016**

**Project Costs**

	<b>2037</b>	<b>2038</b>	<b>2039</b>	<b>2040</b>
Construction Hard Costs and Engineering	\$ -	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -	\$ -
Site Planning and Development Engineering	\$ -	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ -	\$ -	\$ -	\$ -
Property Tax and BID Fees	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -	\$ -
Project Management	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ -	\$ -	\$ -	\$ -
<b>Total Project Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>

**Project Revenue**

Land Sales	\$ -	\$ -	\$ -	\$ -
TIF Income to repay developer advances for eligible cost	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 285,913
<b>Total Project Revenue</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 285,913</b>

<b>Net Cash Flow</b>	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 285,913
<b>Project IRR</b>				
<b>Cummulative Cash Flow</b>	\$ 12,330,940	\$ 13,514,318	\$ 14,697,695	\$ 14,983,608
<b>Payback Date</b>				

**Exhibit A MHGP Pro Forma - Total Project Pro Forma**

1/27/2016

**Sources and Uses**

	Project Totals	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
<b>USES</b>											
<b>Abatement, Demolition, Roads, Utilities</b>											
Decommission Costs	\$ 25,000	\$ -	\$ -	\$ 25,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal Expenses	\$ 150,000	\$ -	\$ -	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -
Demolition Costs	\$ 500,000	\$ -	\$ -	\$ 125,000	\$ 125,000	\$ 125,000	\$ 125,000	\$ -	\$ -	\$ -	\$ -
Site Management Costs for Demolition	\$ 100,000	\$ -	\$ -	\$ 55,000	\$ 15,000	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ -	\$ -
Roads, Utilities, Open Space	\$ 8,236,906	\$ -	\$ -	\$ 772,395	\$ 3,180,154	\$ 3,031,148	\$ 768,270	\$ 484,940	\$ -	\$ -	\$ -
Construction Administration	\$ 454,476	\$ -	\$ 18,657	\$ 99,627	\$ 107,960	\$ 107,960	\$ 82,960	\$ 37,313	\$ -	\$ -	\$ -
Public Art	\$ 148,342	\$ -	\$ -	\$ -	\$ 148,342	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ 1,000,000	\$ -	\$ -	\$ 222,222	\$ 222,222	\$ 222,222	\$ 222,222	\$ 111,111	\$ -	\$ -	\$ -
<b>Infrastructure Total</b>	<b>\$ 10,614,725</b>	<b>\$ -</b>	<b>\$ 18,657</b>	<b>\$ 1,329,244</b>	<b>\$ 3,828,679</b>	<b>\$ 3,531,330</b>	<b>\$ 1,243,452</b>	<b>\$ 663,364</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Other Uses</b>											
Land Purchase	\$ 4,755,425	\$ -	\$ -	\$ 569,875	\$ 1,224,625	\$ 472,875	\$ 1,345,875	\$ 1,142,175	\$ -	\$ -	\$ -
Legal	\$ 300,000	\$ -	\$ 150,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ 30,000	\$ -	\$ -	\$ -
Site Planning and Public Outreach	\$ 410,000	\$ -	\$ 258,913	\$ 90,217	\$ 15,217	\$ 15,217	\$ 15,217	\$ 15,217	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ 50,000	\$ -	\$ 4,545	\$ 9,091	\$ 9,091	\$ 9,091	\$ 9,091	\$ 9,091	\$ -	\$ -	\$ -
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ 75,000	\$ -	\$ 75,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance	\$ 100,000	\$ -	\$ -	\$ 25,000	\$ 25,000	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ -	\$ -
Project Management	\$ 720,000	\$ -	\$ 120,000	\$ 120,000	\$ 120,000	\$ 120,000	\$ 120,000	\$ 120,000	\$ -	\$ -	\$ -
<b>Subtotal Other Uses</b>	<b>\$ 6,410,425</b>	<b>\$ -</b>	<b>\$ 608,458</b>	<b>\$ 844,183</b>	<b>\$ 1,423,933</b>	<b>\$ 672,183</b>	<b>\$ 1,545,183</b>	<b>\$ 1,316,483</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Capital Structure</b>											
Return of Equity	\$ 10,290,095	\$ -	\$ -	\$ 275,836	\$ 1,062,252	\$ 190,467	\$ 1,206,484	\$ 1,221,672	\$ 953,856	\$ 1,143,180	\$ 1,183,378
Return on Equity	\$ 14,983,608	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Capital Structure Expenses</b>	<b>\$ 25,273,703</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 275,836</b>	<b>\$ 1,062,252</b>	<b>\$ 190,467</b>	<b>\$ 1,206,484</b>	<b>\$ 1,221,672</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>
<b>Total Uses</b>	<b>\$ 42,298,852</b>	<b>\$ -</b>	<b>\$ 627,115</b>	<b>\$ 2,449,263</b>	<b>\$ 6,314,864</b>	<b>\$ 4,393,980</b>	<b>\$ 3,995,120</b>	<b>\$ 3,201,519</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>
<b>SOURCES</b>											
<b>Capital Sources</b>											
Equity Draws	\$ 10,290,095	\$ -	\$ 627,115	\$ 1,309,513	\$ 3,855,685	\$ 3,374,319	\$ 930,059	\$ 193,404	\$ -	\$ -	\$ -
Maximum Equity Outstanding (by Qtr.)----->	\$ 7,638,077										
<b>Public Finance</b>											
Public Finance Proceeds	\$ 22,497,907	\$ -	\$ -	\$ -	\$ 9,929	\$ 73,911	\$ 373,311	\$ 723,765	\$ 953,856	\$ 1,143,180	\$ 1,183,378
<b>Subtotal Public Finance Proceeds</b>	<b>\$ 22,497,907</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 9,929</b>	<b>\$ 73,911</b>	<b>\$ 373,311</b>	<b>\$ 723,765</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>
<b>Land Sales</b>											
Gross Land Sale Proceeds	\$ 9,805,000	\$ -	\$ -	\$ 1,175,000	\$ 2,525,000	\$ 975,000	\$ 2,775,000	\$ 2,355,000	\$ -	\$ -	\$ -
less Sales Expense	\$ (294,150)	\$ -	\$ -	\$ (35,250)	\$ (75,750)	\$ (29,250)	\$ (83,250)	\$ (70,650)	\$ -	\$ -	\$ -
<b>Net Land Sales Revenue</b>	<b>\$ 9,510,850</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 1,139,750</b>	<b>\$ 2,449,250</b>	<b>\$ 945,750</b>	<b>\$ 2,691,750</b>	<b>\$ 2,284,350</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Sources</b>	<b>\$ 42,298,852</b>	<b>\$ -</b>	<b>\$ 627,115</b>	<b>\$ 2,449,263</b>	<b>\$ 6,314,864</b>	<b>\$ 4,393,980</b>	<b>\$ 3,995,120</b>	<b>\$ 3,201,519</b>	<b>\$ 953,856</b>	<b>\$ 1,143,180</b>	<b>\$ 1,183,378</b>

Exhibit A MHGP Pro Forma - Total Project Pro Forma

1/27/2016

Sources and Uses

USES	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
<b>Abatement, Demolition, Roads, Utilities</b>												
Decommission Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal Expenses	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Demolition Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Site Management Costs for Demolition	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Roads, Utilities, Open Space	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Construction Administration	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Public Art	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Infrastructure Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Other Uses</b>												
Land Purchase	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Site Planning and Public Outreach	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Property Tax	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Project Management	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Other Uses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Capital Structure</b>												
Return of Equity	\$ 1,183,378	\$ 1,183,378	\$ 686,215	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Return on Equity	\$ -	\$ -	\$ 497,163	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
<b>Subtotal Capital Structure Expenses</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>
<b>Total Uses</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>
<b>SOURCES</b>												
<b>Capital Sources</b>												
Equity Draws	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Maximum Equity Outstanding (by Qtr.)----->												
<b>Public Finance</b>												
Public Finance Proceeds	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378
<b>Subtotal Public Finance Proceeds</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>
<b>Land Sales</b>												
Gross Land Sale Proceeds	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Less Sales Expense	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Net Land Sales Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Sources</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>

**Exhibit A MHGP Pro Forma - Total Project Pro Forma**

1/27/2016

**Sources and Uses**

<b>USES</b>	<b>2037</b>	<b>2038</b>	<b>2039</b>	<b>2040</b>
<b><u>Abatement, Demolition, Roads, Utilities</u></b>				
Decommission Costs	\$ -	\$ -	\$ -	\$ -
Legal Expenses	\$ -	\$ -	\$ -	\$ -
Demolition Costs	\$ -	\$ -	\$ -	\$ -
Site Management Costs for Demolition	\$ -	\$ -	\$ -	\$ -
Roads, Utilities, Open Space	\$ -	\$ -	\$ -	\$ -
Construction Administration	\$ -	\$ -	\$ -	\$ -
Public Art	\$ -	\$ -	\$ -	\$ -
Project Contingency	\$ -	\$ -	\$ -	\$ -
<b>Infrastructure Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b><u>Other Uses</u></b>				
Land Purchase	\$ -	\$ -	\$ -	\$ -
Legal	\$ -	\$ -	\$ -	\$ -
Site Planning and Public Outreach	\$ -	\$ -	\$ -	\$ -
Tax and Project Accounting	\$ -	\$ -	\$ -	\$ -
Property Tax	\$ -	\$ -	\$ -	\$ -
Financing Costs	\$ -	\$ -	\$ -	\$ -
Insurance	\$ -	\$ -	\$ -	\$ -
Project Management	\$ -	\$ -	\$ -	\$ -
<b>Subtotal Other Uses</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b><u>Capital Structure</u></b>				
Return of Equity	\$ -	\$ -	\$ -	\$ -
Return on Equity	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 285,913
<b>Subtotal Capital Structure Expenses</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 285,913</b>
<b>Total Uses</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 285,913</b>
<b><u>SOURCES</u></b>				
<b><u>Capital Sources</u></b>				
Equity Draws	\$ -	\$ -	\$ -	\$ -
Maximum Equity Outstanding (by Qtr.)----->				
<b><u>Public Finance</u></b>				
Public Finance Proceeds	\$ 1,183,378	\$ 1,183,378	\$ 1,183,378	\$ 285,913
<b>Subtotal Public Finance Proceeds</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 285,913</b>
<b><u>Land Sales</u></b>				
Gross Land Sale Proceeds	\$ -	\$ -	\$ -	\$ -
less Sales Expense	\$ -	\$ -	\$ -	\$ -
<b>Net Land Sales Revenue</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Sources</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 1,183,378</b>	<b>\$ 285,913</b>



**Exhibit A MHGP Pro Forma - Summary and Inputs**  
**1/27/2016**

THIS MODEL IS THE PROPERTY OF REGEN, LLC AND MAY NOT BE USED BY OTHERS WITHOUT WRITTEN PERMISSION FROM REGEN, LLC. The assumptions in this model are based on REGen's reasonable estimates. Actual results are subject to changes in these or other variables and as such, REGen does not guarantee or warrant in any way that actual results will match the model results or assumptions.

Horizontal Development Project Costs	
Description	Total Cost (\$)
<b>TIF Eligible Developer Costs</b>	
Decommission Costs and Legal	\$ 175,000
Demolition Costs	\$ 500,000
Site Management Costs	\$ 100,000
Roads, Utilities, Open Space (including Eng. and Hard Cost Contingency)	\$ 8,236,906
General Site Fee's / Admin / Professional Fee's	\$ 454,476
Public Art	\$ 148,342
Project Contingency	\$ 1,000,000
<b>Subtotal TIF Eligible Developer Costs</b>	<b>\$ 10,614,725</b>
<b>TIF Eligible CCURA Costs</b>	
CCURA Demolition and Abatement Costs	\$ 2,885,524
Regional Stormwater and Park Improvements	\$ 1,632,301
<b>Subtotal TIF Eligible CCURA Costs</b>	<b>\$ 4,517,825</b>
<b>Total TIF Eligible Costs</b>	<b>\$ 15,132,549</b>
<b>Non TIF Eligible Project Costs</b>	
Land Purchase	\$ 4,755,425
Legal	\$ 300,000
Site Planning and Development Engineering	\$ 410,000
Tax and Project Accounting	\$ 50,000
Property Tax	\$ -
Financing Costs	\$ 75,000
Insurance	\$ 100,000
Project Management	\$ 720,000
Public Art (1%)	\$ 148,342
<b>Total Non-TIF Eligible Developer Project Costs</b>	<b>\$ 6,558,767</b>
<b>Total Developer Project Costs including Land Purchase</b>	<b>\$ 17,173,492</b>

Project Schedule	
Project Milestones	Land Sale Date Quarter End
Phase 1 - Boys and Girls Club	9/30/2014
Phase 2 - 1st Phase multifamily	3/31/2017
Phase 3 - 2nd Phase multifamily; Senior; SF For Sale	3/31/2018
Phase 4 - Retail; SF for sale; 1st Phase Training	3/31/2019
Phase 5 - Mixed Use; Market Rental; For Sale	3/31/2020
Phase 6 - Mixed Use; Senior Rental; For Sale; 2nd Phase Training	3/31/2021

Development Plan and Public Finance Inputs					
Description	Land Price		Property Tax Valuation		Sales Tax Generation per s.f.
	per Bldg. s.f.	per Unit	per Bldg. s.f.	per Unit	
<b><u>Retail</u></b>					
Grocery	\$ 10.00		\$ 75.00		\$ -
Flex Office	\$ 10.00		\$ 75.00		\$ -
Large Format Retail	\$ 5.00		\$ 100.00		\$ 250.00
Restaurant and Retail Pad	\$ 35.00		\$ 125.00		\$ 200.00
Mixed Use Retail	\$ 35.00		\$ 125.00		\$ 175.00
<b><u>Residential</u></b>					
Market Rate Rental		\$ 12,500		\$ 125,000	
Affordable Rental		\$ 10,000		\$ 100,000	
For Sale - Condo's		\$ 17,500		\$ 175,000	
<b><u>Educational/Training Facility</u></b>	\$ 5.00	\$ -	\$ -		\$ -
<b><u>Office</u></b>	\$ 15.00		\$ 100.00		

Developer Economics Summary	
Max Loan Amount	\$ -
Max Equity Outstanding	\$ 7,638,077
Total Return on Project	\$ 14,983,608
IRR	11.43%
Project Multiple	2.96
Developer Share of Net Land Sales	\$ 4,755,425
Developer TIF Eligible Costs	\$ 10,614,725
Cumm. Interest on Unpaid TIF	\$ 12,031,525
TIF Received by Developer	\$ 22,497,907

CCURA Economic Summary	
<b>CCURA Financial Returns</b>	
CCURA Share of Net Land Sales	\$ 4,755,425
CCURA 10% of Eligible Costs	\$ 2,495,730
CCURA Reimbursement of Abatement and Stormwater Costs	\$ 4,517,825
<b>Total CCURA Land and Cost Recovery</b>	<b>\$ 11,768,980</b>
Unused TIF Capacity	\$ 537,700

TIF Inputs and Assumptions	
Developer Interest Earned on Unpaid TIF Eligible Costs (Estimated)	7.50%
CCURA Interest Earned on Unpaid TIF Eligible Costs	0.00%
Phase 2 TIF Urban Renewal Termination Date	3/31/2042
Phase 3 TIF Urban Renewal Termination Date	3/31/2043
Phase 4 TIF Urban Renewal Termination Date	3/31/2044
Phase 5 TIF Urban Renewal Termination Date	3/31/2045
Phase 6 TIF Urban Renewal Termination Date	3/31/2046
Sales Tax Rate Captured by TIF	3.00%
Commercial Property Tax Mill Rate Captured by TIF	82.9
Residential Property Tax Mill Rate Captured by TIF	82.9

## EXHIBIT B to EXHIBIT C DEVELOPMENT PLAN SCHEDULE

MHGP Project  
Milestone Schedule  
4/13/2016

Description	Duration (months)	Begin Date	End Date
<b><u>Urban Renewal Process</u></b>			
Complete negotiation of the MDA	6	9/1/2015	3/31/2016
Approve MDA	1	3/31/2016	4/30/2016
Create Urban Renewal Plan	9	4/30/2016	1/31/2017
Approve Urban Renewal Plan by City	2	1/31/2017	3/31/2017
<b><u>Entitlements Process</u></b>			
Revise and Update Master Plan	3	5/31/2016	8/31/2016
PUD Zone Prep and Submittal	5	5/31/2016	10/31/2016
PUD Zone Document Development Review and Public Outreach	3	10/31/2016	1/31/2017
PUD Zone Document review and approval by PC and Council	2	1/31/2017	3/31/2017
PUD Permit Prep and Submittal	3	3/31/2017	6/30/2017
PUD Permit Review and Approvals	3	6/30/2017	9/30/2017
Building Permit Prep and Submittals	6	3/31/2017	9/30/2017
<b><u>Construction Phases</u></b>			
Phase 1 - 1st Phase multifamily and duplexes	15	9/30/2017	12/31/2018
Phase 2 - 2nd Phase duplexes and multifamily seniors	15	9/30/2018	12/31/2019
Phase 3 - Big Box Retail, 1st Phase Training, and mixed use residential	15	3/31/2020	6/30/2021
Phase 4 - Mixed use and market rate rental	15	9/30/2021	12/31/2022
Phase 5 - Mixed Use, 2nd Phase Training	15	3/31/2023	6/30/2024
<b><u>Regional Stormwater Improvements</u></b>	12	9/30/2018	9/30/2019
<b><u>Financing/Development Partnering</u></b>			
Initial solicitation for vertical development partners	2	4/19/2016	6/17/2016
Create financing package	3	4/30/2016	7/31/2016
Solicit financing for horizontal development	6	7/31/2016	1/31/2017
Complete financing	2	1/31/2017	3/31/2017

# EXHIBIT C to EXHIBIT C DEVELOPMENT PLAN PROPOSED PROJECT BUDGET

MHGP Project  
1/27/2016

<b>Developer TIF Eligible Costs</b>	
<b><u>Project Hard Costs</u></b>	
Road sections, Sidewalks, Tree lawns, Street lights	\$ 4,093,005
Water, Sewer, Storm water, Electric, Gas, Telecom	\$ 1,290,499
Demolition and Removal of Remaining Pavement	\$ 500,000
Park, plaza, open space improvements	\$ 450,000
Project storm water pond and connection to offsite	\$ 250,000
Public Art	\$ 148,342
Construction Contingency (12%)	\$ 807,526
<b>Subtotal Construction Hard Costs</b>	<b>\$ 7,539,372</b>
<b><u>Project Soft Costs Related to Construction</u></b>	
Engineering, Construction Management, Bonds, General Conditions, Insurance	\$ 1,345,876
Environmental Insurance deductible	\$ 100,000
Preconstruction Planning	\$ 25,000
Construction Legal Costs	\$ 150,000
<b>Subtotal Soft Cost Related to Construction</b>	<b>\$ 1,620,876</b>
<b><u>On-site Project Management</u></b>	
Project Manager, contracting, quality control, demolition management	\$ 354,476
Construction trailer, fencing, temporary power, site mowing	\$ 100,000
<b>Project Contingency</b>	<b>\$ 1,000,000</b>
<b>Subtotal Developer Eligible Costs</b>	<b>\$ 10,614,724</b>
<b>CCURA TIF Eligible Costs</b>	
Abatement and Demolition of Track Structures	\$ 2,885,524
Regional Stormwater Improvements	\$ 1,632,301
<b>Subtotal TIF Eligible CCURA Project Costs</b>	<b>\$ 4,517,825</b>
<b>Total Project TIF Eligible Costs</b>	<b>\$ 15,132,549</b>
<b>Non TIF Eligible Project Costs</b>	
<b><u>Legal</u></b>	
Deal and Financing Origination	\$ 150,000
Ongoing	\$ 150,000
<b>Subtotal Project Legal</b>	<b>\$ 300,000</b>
<b><u>Site Planning and Entitlements</u></b>	
Site Planning, Landscape Design	\$ 50,000
Preliminary Civil Engineering and Traffic Study	\$ 30,000
Surveying	\$ 20,000
Appraisals, Other Studies	\$ 10,000
Entitlements	\$ 190,000
Retail Market Study	\$ 25,000
Public Outreach and City Consultants	\$ 30,000
PR and Charitable Donations	\$ 30,000
Other	\$ 25,000
<b>Subtotal Planning and Entitlements</b>	<b>\$ 410,000</b>
<b>Project Accounting</b>	<b>\$ 50,000</b>
<b>Property Tax</b>	<b>\$ -</b>
<b>Financing Costs</b>	<b>\$ 75,000</b>
<b><u>Insurance</u></b>	
Property & Liability	\$ 100,000
Environmental Insurance	\$ -
<b>Subtotal</b>	<b>\$ 100,000</b>
<b>Project Development Fee (Assumes 6 years)</b>	<b>\$ 720,000</b>
<b>Total Non-Eligible Project Development Costs</b>	<b>\$ 1,655,000</b>
<b>Total Project Costs</b>	<b>\$ 16,787,549</b>

**EXHIBIT D**  
**REIMBURSABLE COSTS**

**MHGP Project**  
**1/26/2016**

<b>Developer TIF Eligible Costs</b>	
<b><u>Project Hard Costs</u></b>	
Road sections, Sidewalks, Tree lawns, Street lights	\$ 4,093,005
Water, Sewer, Storm water, Electric, Gas, Telecom	\$ 1,290,499
Demolition and Removal of Remaining Pavement	\$ 500,000
Park, plaza, open space improvements	\$ 450,000
Project storm water pond and connection to offsite	\$ 250,000
Public Art	\$ 148,342
Construction Contingency (12%)	\$ 807,526
<b>Subtotal Construction Hard Costs</b>	<b>\$ 7,539,372</b>
<b><u>Project Soft Costs Related to Construction</u></b>	
Engineering, Construction Management, Bonds, General Conditions, Insurance	\$ 1,345,876
Environmental Insurance deductible	\$ 100,000
Preconstruction Planning	\$ 25,000
Construction Legal Costs	\$ 150,000
<b>Subtotal Soft Cost Related to Construction</b>	<b>\$ 1,620,876</b>
<b><u>On-site Project Management</u></b>	
Project Manager, contracting, quality control, demolition management	\$ 354,476
Construction trailer, fencing, temporary power, site mowing	\$ 100,000
<b><u>Project Contingency</u></b>	<b>\$ 1,000,000</b>
<b>Subtotal Developer Eligible Costs</b>	<b>\$ 10,614,724</b>
<b>CCURA TIF Eligible Costs</b>	
Abatement and Demolition of Track Structures	\$ 2,885,524
Regional Stormwater Improvements	\$ 1,632,301
<b>Subtotal TIF Eligible CCURA Project Costs</b>	<b>\$ 4,517,825</b>
<b>Total Project TIF Eligible Costs</b>	<b>\$ 15,132,549</b>

\* Within line items, amounts may shift due to (1) actual costs of construction, and cost savings in one line item which may be applied to cost overruns in other line items, and (2) final determination by bond counsel of the eligible amount of public use.

**EXHIBIT E**

**CERTIFICATE OF COMPLETION**

The Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate of the State of Colorado (the "Authority"), located at 7887 E. 60<sup>th</sup> Avenue, Commerce City, CO 80022 hereby certifies that all the improvements (the "Improvements") constructed on the following described property (the "Property") are completed:

**[BY PARCEL]**

Phased Redevelopment Agreement for the Mile High Greyhound Park Project, (the "Agreement") dated as of \_\_\_\_\_, by and among the URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO (together with any successors or assigns thereto, the "Authority"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, and the CITY OF COMMERCE CITY, COLORADO (together with any successors assigns thereto, the "City"), a home rule municipality under the laws of the State of Colorado, and REAL ESTATE GENERATION, LLC, a limited liability company organized under the laws of the State of Colorado (together with any permitted successors or assigns thereto, the "Redeveloper").

This Certificate of Completion shall be a conclusive determination and satisfaction of all of the obligations of the Redeveloper under the Agreement with respect to constructing the Improvements on the Property.

Signed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[SEAL]

URBAN RENEWAL AUTHORITY OF THE  
CITY OF COMMERCE CITY, COLORADO

By \_\_\_\_\_  
Chairman

Attest:

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
General Counsel to the Authority

Exhibit E-1  
[signature page]

STATE OF COLORADO )  
 ) ss.  
ADAMS COUNTY )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ as Chairman and \_\_\_\_\_ as Clerk of the Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate.

WITNESS my hand and official seal.

Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

## **EXHIBIT F**

### **FORM OF LICENSE AGREEMENT**

THIS LICENSE AGREEMENT (“License”) is made and entered into as of the Effective Date, as defined below, by and between the **URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO**, a duly organized urban renewal authority existing pursuant to the laws of the State of Colorado (“Licensor”), and **REAL ESTATE GENERATION, LLC**, a Colorado limited liability company with its principal place of business at 1125 Seventeenth Street, Suite 2500, Denver, Colorado 80202 (“Licensee” and together with the Licensor, the “Parties” or separately, a “Party”). The parties agree as follows:

#### **1. PROPERTY LICENSED AND CONDITIONS.**

(a) The Licensor’s property licensed for use pursuant to the terms of this License is the area described and depicted in Exhibit A attached hereto and incorporated herein (the “Licensed Property”).

(b) This License is being executed in connection with that certain Phased Redevelopment Agreement for the Mile High Greyhound Park Project by and among Licensor, the City of Commerce City, Colorado (the “City”) and Licensee (the “Redevelopment Agreement”).

(c) This License is a non-exclusive license; however, other license agreements affecting the Licensed Property may be granted to third parties with Licensee’s consent which shall not be unreasonably withheld, conditioned or delayed. During the term of this License, the Licensee shall have the right to restrict access to the Licensed Property by the general public. The License is subject to (i) all covenants, easements, rights-of-way and encumbrances of record, (ii) other uses approved by the Licensor and Licensee, and (iii) all laws, statutes, charters, ordinances, codes, regulations and other requirements of the City, the State of Colorado (“State”), the United States and all agencies thereof with jurisdiction over the Licensed Property.

(d) The Authorized Parties (as defined below) shall be solely responsible for locating all existing overhead, above ground and underground utilities, including without limitation electrical, sewer, water and other utilities. The Authorized Parties shall take all necessary precautions to avoid damage to or injury from such utilities during their use of the Licensed Property and shall be solely responsible for any damage to or injury from such utilities on the Licensed Property, which result from the Authorized Parties’ use of the Licensed Property, unless caused by the gross negligence or willful misconduct of the Licensor.

(e) The Licensee shall comply with all applicable licensing and permitting requirements. The Licensee shall be responsible, and obtain a permit from the City and/or State for all stormwater discharges from the Licensed Property during the term of this License. The Licensee shall provide a copy of such permit to the Licensor prior to any use or occupancy of the Licensed Property.

**2. PURPOSE OF LICENSE.** The Licensee wishes to obtain permission for itself, its employees, contractors, subcontractors and consultants (collectively, the “Authorized

Parties”) for the use of and access over, across, upon and through the Licensed Property for the purpose of developing the Licensed Property as contemplated by the Redevelopment Agreement, including the following purposes (“Authorized Uses”):

- (a) staging and storage of materials, supplies, equipment, vehicles and trailers in connection with the Licensee’s construction activity;
- (b) grading activities; and
- (c) utilities and infrastructure installation and construction; and
- (d) any other uses consistent with Licensee’s rights and obligations pursuant to the Redevelopment Agreement.

3. **LICENSE TERM.** The term of this License shall commence as of the date of execution by both parties (“Effective Date”), and shall terminate upon the earlier of the termination of Licensee as Redeveloper pursuant to the Redevelopment Agreement or sale to third parties of all land within the Licensed Property other than rights of way or other portions of the Licensed Property to be retained by the Authority pursuant to the Redevelopment Agreement, subject to the provisions of paragraph 10. As parcels of land within the Licensed Property are sold to third parties by the Authority, this License shall terminate as to the sold parcel.

4. **REPAIR.** The Licensee covenants and agrees that it shall replace, repair, restore, revegetate and relandscape, to the reasonable satisfaction of the Licensor, any adjacent property of the Licensor that is altered or damaged as a result of the Authorized Uses or any other act or omission of the Authorized Parties. The Licensee shall provide written notice to the Licensor within twenty-four (24) hours of any such alteration or damage of other property of the Licensor. The Licensee shall provide such notice by facsimile to the attention of the City’s Engineer at 303-289-8175 or such other number as may be noticed by the Licensor.

5. **INDEMNITY.** The Licensee covenants and agrees to defend, indemnify and hold harmless the Licensor and the City, their officers, employees, agents and contractors, against any liability, loss, damage, demand, action or expense of whatever nature (including without limitation costs of environmental remediation, fines, penalties, court costs and attorney’s fees) that may result from any act, omission, loss, injury, death or damage allegedly sustained by any person, corporation or other entity, which arises out of or is caused as a result of the Authorized Parties’ use of the Licensed Property or their failure to comply with any of the terms and conditions of this License, except to the proportionate extent that such loss and damage result from the Licensor’s or the City’s gross negligence or willful misconduct.

6. **RE-ENTRY.** Upon advance notice to Licensee and subject to applicable laws and Licensee’s safety restrictions, the Licensor or its officers, employees and representatives may enter upon the Licensed Property, at any hour of the day, for the purpose of inspecting the same and taking such other action as the Licensor deems necessary for the protection of its interest therein. Notwithstanding the foregoing, the City may, without notice to Licensee, enter the portion of the Licensed Property known as the “Pond” in order to perform repairs or



improvements to the Pond area and other adjacent property which is not part of the Licensed Property.

7. **NOTICES.** All notices required to be given to the Licensors or the Licensee hereunder shall be in writing and addressed to:

Licensors: Urban Renewal Authority of the City of Commerce City, Colorado  
C/O City of Commerce City  
Attn: City Engineer  
8602 Rosemary Street  
Commerce City, CO 80022  
Facsimile: 303-289-8175  
Email: \_\_\_\_\_

Licensee: REGen, LLC  
1125 Seventeenth Street, Suite 2500  
Denver, Colorado 80202  
Attention: H. Rickey Wells  
Facsimile: \_\_\_\_\_  
Email: [rwells@regenllc.com](mailto:rwells@regenllc.com)

Notices may be delivered personally during normal business hours or by facsimile, overnight delivery or electronic mail, all of which shall provide proof of receipt. Notices shall be deemed effective upon the documented date of receipt. The Licensors and the Licensee may from time to time designate substitute addresses or persons where and to whom such notices are to be mailed or delivered, but such substitutions shall not be effective until actual receipt of written notification.

8. **NO COVENANT OF TITLE OR QUIET POSSESSION.** The rights granted herein are without covenant of title or warranty of quiet possession of the Licensed Property.

9. **ASSIGNMENT; SUCCESSORS AND ASSIGNS.** This License shall not be assigned without the consent of the Licensors in writing except that Licensee may assign interests or rights herein to any Authorized Parties. This License shall inure to the benefit of, and be binding upon, the respective legal representatives, heirs, successors and assigns of the Parties.

10. **TERMINATION BY LICENSOR FOR BREACH.** The Licensee shall suspend use of the Licensed Property immediately upon receipt of written notice from the Licensors specifying the breach of any provision hereof by any of the Authorized Parties. This License shall terminate, and all of the Authorized Parties' property shall be removed from the Licensed Property within thirty (30) days after delivery of such notice or such additional time as shall be reasonably necessary to cure such breach provided that Licensee is diligently pursuing the cure of such breach, unless the Licensee has cured such breach to the Licensors' reasonable satisfaction.

11. **REQUIRED INSURANCE.** Throughout the term of this License, the Licensee or the Authorized Parties shall maintain (i) commercial general liability insurance (including builder's risk) with all endorsements in an amount not less than \$2,000,000 aggregate limit; (ii) business automobile liability insurance in an amount of not less than \$1,000,000 combined single limit; and (iii) worker's compensation insurance to cover liability as may be required under the laws of the State. Certificates from insurers (i) authorized to do business in the State and (ii) rated AVIII by A.M. Best or in one of the two highest rated categories of Standard & Poor's and Moody's evidencing such insurance shall name the Licensor and the City as an additional insured and shall be delivered to the Licensor prior to entry on the Licensed Property.

12. **WAIVER OF SUBROGATION.** The Licensee and the Licensor mutually release each other and waive all claims for any and all liability or responsibility (to the other or anyone claiming through or under them by way of subrogation or otherwise) for any loss or damage to property caused by fire or any of the extended coverages or supplementary contract casualties, even if such fire or other casualty is caused by the fault or negligence of the other Party or anyone for whom such Party may be responsible. The Parties agree that all applicable insurance policies shall include such a clause or endorsement waiving such rights of subrogation or otherwise be consistent with this paragraph.

13. **SURVIVAL.** Paragraphs 4, 5, 11, 12, 13, 14 and 16 shall survive the termination of this License.

14. **VENUE.** For the resolution of any dispute arising under this License, venue shall be in the District Court of the County of Adams, State of Colorado.

15. **THIRD-PARTY BENEFICIARY.** The City is expressly named as a third-party beneficiary of this Agreement. Except for the City, enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and the City. Any person other than the Licensor, the City and the Licensee shall be deemed to be only an incidental beneficiary under this License.

16. **COUNTERPARTS.** This License may be executed in two (2) counterparts, each of which, when executed, shall be deemed an original and both of which together shall be deemed one and the same instrument. This License may be executed electronically.

(Signatures contained on next page.)

IN WITNESS WHEREOF, the Licensor and Licensee execute this License as of the Effective Date.

**URBAN RENEWAL AUTHORITY OF  
THE CITY OF COMMERCE CITY**

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**REAL ESTATE GENERATION, LLC**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT G**  
**PAYMENT REQUEST**

Redeveloper: Real Estate Generation, LLC

Project: Mile High Greyhound Park

Reimbursable Costs Incurred \$\_\_\_\_\_

Hard Costs: (designate one or more categories that apply)

Road sections, sidewalks, tree lawns, street lights  
Water, Sewer, Stormwater, Electric, Gas, Telecom  
Demolition and Removal of Remaining Pavement  
Park, plaza, open space improvements  
Project storm water pond and connection to offsite  
Public Art

Soft Costs: (designate one or more categories that apply)

Engineering, Construction Management, Bonds, General Conditions, Insurance  
Environmental Insurance deductible  
Preconstruction Planning  
Construction Legal Costs

On-Site Project Management Costs: (designate one or more categories that apply)

Project Manager, contracting, quality control, demolition management  
Construction trailer, fencing, temporary power, site mowing

Supplier/ Subcontractor	Materials Supplies/ Work Performed	Date Supplied/ Performed	Reimbursable Project Costs Incurred	Date Paid
----------------------------	---------------------------------------	-----------------------------	---	--------------

I hereby certify that the work referenced above has been completed and was performed in full compliance with Applicable Laws, Construction Documents, and the Mile High Greyhound Park Urban Renewal Plan. All of the above-described costs qualify as Reimbursable Costs under the Phased Redevelopment Agreement for the Mile High Greyhound Park Project and none of such costs have been previously reimbursed to the Redeveloper pursuant to a Payment Request. I hereby certify to the truth and accuracy of the above as of the date hereof.

REAL ESTATE GENERATION, LLC

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: Manager

## **EXHIBIT H**

### **PUBLIC ART FUNDING PROGRAM**

#### **I. Purpose**

- A. The City recognizes that public art demonstrates the community's commitment to enhancing the quality of life for its residents. The City's Public Art Master plan, adopted by Resolution No. 2013-02, outlines a process for site selection, procurement, donations, maintenance and conservation, decommissioning and art administration.
- B. The purpose of this Public Art Funding Program is to provide a means to fund the acquisition of works of art by the City, which shall become part of the City's public art collection, and maintain such inventory consistent with the adopted Plan.

#### **II. Definitions**

- A. "Public Art" means any visual work of art that is displayed in an open city-owned area, on the exterior of any City-owned facility, or inside any City-owned facility in areas designated as public areas. Public Art includes, but is not limited to, a sculpture, monument, mural, fresco, relief, painting, fountain, banner, mosaic, ceramic, weaving, carving and stained glass. Public Art would normally not include landscaping, paving, architectural ornamentation or signs.
- B. "Construction Cost" means the actual cost for any construction project with an estimated construction cost of \$50,000 or more, excluding design/engineering and administrative costs, costs of fees and permits and indirect costs, such as interest during construction, advertising and legal fees.
- C. "Capital Improvement Project" means any City project that involves improvements to, or new construction of, a building or structure, road, streetscape, pedestrian mall or plaza, or park or any project which includes finished space for human occupancy or will be available for public view.
- D. "2K Project" means restricted projects funded through a dedicated 1% sales and use tax.
- E. "Plan" means the Commerce City Public Art Master Plan adopted by City Council resolution no. 2013-02.
- F. "Cost Code" means a group of related accounts in the general ledger system maintained by the Finance Department.

#### **III. Funding Requirement**

There shall be included in all estimates of necessary expenditures and all requests for authorizations or appropriations for Capital Improvement Projects an amount for Public Art equal to 1 percent of the Construction Cost. If any project is partially funded from any source which precludes Public Art as an object of expenditure of funds, then this section shall apply only to the amount of funds not so restricted.

#### **IV. Accounting for and Expenditure of Funds**

All funds received in conjunction with this Program shall be placed into an identified cost code, with 90 percent allocated for the acquisition of Public Art and 10 percent allocated to ongoing maintenance. If the maintenance allocation exceeds maintenance requirements identified in the Plan, City Council may authorize the use of maintenance funds for Public Art acquisition.

1. For 2K Projects, a minimum of 50 percent of the 1 percent funding requirement must be used to acquire Public Art that will be displayed at the 2K project site, while the remaining 40 percent of the 1 percent funding requirement must be used to acquire Public Art that will be displayed at another 2K Project Site.
2. Except for 2K Projects as required above, Capital Improvement Projects that have a construction budget of \$1 million or greater must generally install public art using a significant portion of 1 percent funding requirement at the project site or at any site that qualifies for display of Public Art and is appropriate for display of Public Art.

#### **V. Ownership**

All Public Art acquired by purchase, commission, donation or bequest pursuant to this Program and the Plan shall be acquired in the name of and title shall be held by the City. All Public Art on loan to the City for display shall remain the property of the owner.

#### **VI. Administration**

The city manager or designee shall administer the provisions of this Program in a manner consistent with this Program and the adopted Plan.

#### **VII. Exemptions**

The following are exempt from the requirements associated with this Program:

1. Capital Improvement Projects that remediate damage caused by natural disasters, unless replacing damaged art.
2. Capital Improvement Projects that are temporary improvements, ordinary repair and maintenance projects, mechanical and electrical projects and other projects not available for public view or human occupancy.

## EXHIBIT I

### FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (the "**Assignment**") dated as of \_\_\_\_\_ (the "**Effective Date**") is made by and between REAL ESTATE GENERATION, LLC, a limited liability company organized under the laws of the State of Colorado (together with any successors or assigns thereto, the "**Assignor**") and \_\_\_\_\_, a \_\_\_\_\_, (the "**Assignee**"). This Assignment is subject to the written consent of the URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO (together with any successors or assigns thereto, the "Authority"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, and the CITY OF COMMERCE CITY, COLORADO, a home rule municipality under the laws of the State of Colorado (together with any successors or assigns thereto, the "City"). Terms not otherwise defined within the text below are defined in the Redevelopment Agreement for the Mile High Greyhound Park dated \_\_\_\_\_ (together with any permitted amendments thereto the "**Agreement**") a memorandum of which was filed of record with the Clerk and Recorder of the City and County of Adams on \_\_\_\_\_, at Page \_\_\_\_\_, in Book \_\_\_\_\_, Reception No. \_\_\_\_\_.

#### WITNESSETH:

WHEREAS, the Authority is a body corporate and has been duly created, organized, established and authorized to transact business and exercise its powers as an urban renewal authority within the City, all under and pursuant to the Colorado Urban Renewal Law, constituting Sections 31-25-101 et seq., Colorado Revised Statutes (the "Act"); and

WHEREAS, in August, 2011, the Authority purchased the approximately 65 acre former Mile High Greyhound Park and, in March 2014, selected the Assignor to serve as the master redeveloper; and

WHEREAS, the City Council of the City approved an urban renewal plan under the Act, known as "The Mile High Greyhound Park Urban Renewal Plan" (the "Urban Renewal Plan"); and

WHEREAS, within the Mile High Greyhound Park Urban Renewal Area circumscribed by the aforementioned Urban Renewal Plan, Assignor, as Redeveloper under the Agreement agreed to construct certain Improvements all in furtherance of the Urban Renewal Plan; and

WHEREAS, in order to provide funds to meet obligations with respect to activities and operations of the Authority in connection with and in accordance with the Urban Renewal Plan and the Act, the Authority has designated a Property Tax Increment Area which is coterminous with the Mile High Greyhound Park Urban Renewal Area; and

WHEREAS, Redeveloper is selling a portion of the property described on Exhibit A attached hereto (the "Parcel") to Assignee. Assignee desires to construct certain of the Improvements on and adjacent to the Parcel and assume certain obligations and rights under the Agreement with respect to such Parcel as more particularly set forth herein; and

WHEREAS, Assignor and Assignee are desirous of entering into certain agreements subject to the consent of the Authority and the City pertaining to the rights and obligations of the parties hereto pursuant to the Agreement.

### WITNESSETH

IN CONSIDERATION OF THE PREMISES and other good and valuable consideration the receipt and adequacy of which is hereby acknowledged the Parties hereto agree as follows:

1. Assignment. The Assignor hereby assigns, transfers and sets over to Assignee all of Assignor's right, title and interest in and to the rights and obligations of Assignor under the Agreement as such rights, liabilities and obligation pertain solely to the Parcel as of the Effective Date. This shall include (i) the construction of the Improvements set forth on Exhibit B, attached hereto (ii) all construction, insurance and any performance liability arising therefrom and (iii) payment of all Priority Fees to the Authority with respect to the Parcel and shall include the obligations set forth in Section 10 and 11 of the Agreement. Assignor also assigns to Assignee the right to receive from the Authority the Reimbursable Costs for the Improvements performed by Assignee as set forth on Exhibit D not to exceed \_\_\_\_\_ which shall be disbursed pursuant to Section 4 below. Assignee shall not be entitled to receive any other sums from the Authority pursuant to the Agreement whether or not such payments pertain to Incremental Property Taxes arising from or related to the Parcel, all such sums shall be and belong solely to Assignor. Assignee shall specifically not be responsible for payment of any Origination Fees, Administration Fees, Participation Fees, or the initial installation cost for Project Art as defined in the Agreement.

2. Assumption. As of the Effective Date Assignee assumes all obligations and liability of Assignor under the Agreement as it pertains to the construction only of the Improvements listed on Exhibit B and as it pertains to any rights to receive Reimbursable Costs as more specifically set forth above, including without limitation an assumption of all obligations set forth in Section 1 above.

3. Consent. This Assignment is subject to the written consent of the Authority and the City attached hereto as Exhibit C. If such consent is not executed by the Authority on or before \_\_\_\_\_, this Assignment shall be void and of no further force and effect.

4. Disbursement. Pursuant to the Agreement, the Authority shall notify the Assignor of the Incremental Property Taxes received by the Authority for the entire Property Tax Increment Area as set forth in the Agreement. Assignor shall calculate and allocate that percentage of the Incremental Property Taxes due Assignee for the Parcel consistent with the calculations set forth in this Section. Assignee acknowledges that pursuant to the Agreement the Property Tax Base Amount for each Parcel, based upon the provisions of the Agreement, may adjust and that notwithstanding any separate tax parcel for the Parcel, the Authority will not calculate Incremental Property Taxes separately for the Parcel and thus the calculation attached hereto is for the purposes of equitably allocating such disbursements over the term of the Agreement. Assignor shall within ten (10) business days of receipt of such notification from Authority calculate the amount of Incremental Property Taxes to be disbursed to Assignee and Assignor. Once the allocated percentage of Incremental Property Taxes are calculated Assignor



shall also calculate any fees due Authority from Assignor or Assignee, respectively, and both calculations shall be sent to Assignee for its reasonable review and approval not to be unreasonably withheld or delayed. Failure to approve or disapprove within five (5) business days of receipt of such notice shall be deemed approval. Upon the earlier of receipt of written approval from Assignee or the expiration of ten (10) days (without receipt of notice of disapproval), Assignor shall promptly deliver written notice of the allocation to the Authority. Authority shall then pay Assignee and Assignor each directly for their portion of the Incremental Property Taxes as shown in the allocation. If Assignee disapproves, it shall state with specificity the reasons for disapproval. Any calculation made consistent with the terms of this Section may not be disapproved. With respect to fees due Authority each party owing such fees may either pay same directly to Authority or direct the Authority to make the payment of fees from the amounts due to such party (as set forth on the written notice delivered by Assignor to the Authority). Neither party shall be responsible for any fees due from the other, and a failure to pay fees or authorize payment of such fees shall not prohibit the Authority from paying the respective allocated portion of the Incremental Property Taxes to the other.

[INSERT CALCULATION TERMS]

To the extent that Assignee has received all of the Reimbursable Costs allowed under this Assignment, then such Assignee shall no longer receive any Incremental Property Tax payments for the Parcel and shall no longer be responsible for making Priority Fee payments relating to the Parcel. Thereafter Incremental Property Tax payments and the responsibility to pay Priority Fees relating to the Parcel shall be the right and obligation of Assignor and Assignee shall have no rights, responsibility or liability therefore.

To the extent Assignor has received its Reimbursable Costs allowed under the Agreement, specifically excluding the Reimbursable Costs assigned to Assignee hereunder, then Assignor shall no longer receive any Incremental Property Tax payments and shall no longer be responsible for making any Priority Fee payments. Thereafter Incremental Property Tax payments and the responsibility to pay Priority Fees relating to the Mile High Greyhound Park Urban Renewal Area shall be the right and obligation of any remaining assignees, and Assignor shall have no rights, responsibility or liability therefore. Assignee acknowledges that Assignor may further assign its rights under the Agreement and that such assignees shall assume proportionately rights and obligations based upon the proportion of Reimbursable Costs they have been assigned.

5. Assessment. Neither Assignor nor Assignee shall seek to appeal any property tax assessments or valuations of any portion of the property within the Property Tax Increment Area owned or controlled by such party prior to the termination of the Agreement.

6. Miscellaneous.

(a) Limitation of Rights. With the exception of rights herein expressly conferred upon the parties, nothing expressed or to be implied by this Assignment is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Assignment or any covenants, conditions and provisions hereof.

(b) **Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given (i) when given by hand delivery, (ii) one (1) business day after deposit with a nationally-recognized overnight delivery service, (iii) three (3) business days after mailed by certified or registered mail, postage prepaid, addressed to the appropriate Notice Address or at such other address or addresses as either party hereto shall designate in writing to the other parties hereto and the Authority.

(c) **Waiver.** No failure by either party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Assignment, or to exercise any right or remedy consequent upon a breach of this Assignment, shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Either party by giving notice to the other party may, but shall not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition of this Assignment shall continue in full force and effect with respect to any other then existing or subsequent breach.

(d) **Attorneys' Fees.** In any proceeding brought to enforce the provisions of this Assignment, the unsuccessful party shall pay the prevailing party therein reasonable attorneys' fees, actual court costs and other expenses incurred.

(e) **Conflicts of Interest.** The Authority shall not allow and, except as disclosed in writing to the Authority, neither the Assignor nor the Assignee shall not knowingly permit, any of the following persons to have any interest, direct or indirect, in their interest under this Assignment: a member of the governing body of the Authority or of the City; an employee of the Authority or of the City who exercises responsibility concerning the Project; or an individual or firm retained by the City or the Authority who has performed consulting or other professional services in connection with the Project. The Authority shall not allow and neither the Assignee nor the Assignor shall knowingly permit any of the above persons or entities to participate in any decision relating to this Assignment that affects his or her personal interest.

(f) **Titles of Sections.** Any titles of the several parts and Sections of this Assignment are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

(g) **Authority and City Not a Partner; Assignor and Assignee Not Authority's Agent.** Notwithstanding any language in this Assignment or any other agreement, representation or warranty to the contrary, the Authority and the City shall not be deemed or constituted a partner or joint venturer of either the Assignor or Assignee, and neither the Assignee nor the Assignor shall be the agent of the Authority or the City, and the Authority and the City shall not be responsible for any debt or liability of either Assignor or Assignee.

(h) **Applicable Law.** The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement, without giving effect to choice of law principles.

(i) **Binding Effect.** This Assignment shall be binding on and inure to the benefit of the parties hereto, (including the Authority) and their successors and assigns.

(j) **Further Assurances.** The parties hereto agree to execute such documents, and take such action, as shall be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

(k) **Time of Essence.** Time is of the essence of this Assignment. The parties will make every reasonable effort to expedite the subject matter hereof and acknowledge that the successful performance of this Assignment requires their continued cooperation.

(l) **Severability.** If any provision, covenant, agreement or portion of this Assignment, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Assignment and, to that end, any provisions, covenants, agreements or portions of this Assignment are declared to be severable. Furthermore, such illegal, invalid or unenforceable provision shall be automatically replaced with a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and still be legal, valid and enforceable, and this Assignment shall be deemed reformed accordingly.

(m) **Good Faith; Consent or Approval.** In performance of this Assignment, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold or delay any approval required by this Assignment. Except as otherwise provided in this Assignment, whenever consent or approval of either party is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed. The parties hereto agree and acknowledge that in each instance in the Agreement or elsewhere where the Authority or the City is required or has the right to review or give its approval or consent, no such review, approval or consent shall imply or be deemed to constitute an opinion by the Authority or the City, nor impose upon the Authority or the City, any responsibility for the design or construction of building elements, including, but not limited to, the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the Environmental Laws. All reviews, approval and consents by the Authority and the City under the terms of this Assignment or Agreement are for the sole and exclusive benefit of the Assignee and Assignor, where applicable and no other person or party shall have the right to rely thereon.

(n) **Counterparts.** This Assignment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

(o) **Nonliability of Authority Officials and Employees.** No council member, commissioner, board member, official, employee, agent or consultant of the Authority or the City shall be personally liable to the Assignee or Assignor in the event of a breach of this Assignment for any amount that may become due to the Assignor or Assignee under the terms of this Assignment, if any. In addition to and not in limitation of the above, the Authority and the City shall have no liability or responsibility to Assignor and/or Assignee for the calculation set

forth in Section 4 above, and Assignor and Assignee expressly waive and release the Authority and the City from any and all claims pertaining to such calculation.

(p) **Incorporation of Exhibits.** All exhibits attached to this Agreement are incorporated into and made a part of this Consent Agreement.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Authority has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; the City has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and the Assignor and Assignee have caused these presents to be executed by its duly authorized representative, as of the date first above written.

(SEAL)

URBAN RENEWAL AUTHORITY OF THE  
CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
General Counsel to the Authority

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Chairman and \_\_\_\_\_ as Clerk of the Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

(SEAL)

CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Mayor and \_\_\_\_\_ as Clerk of the City of Commerce City, Colorado, a home rule municipality under the laws of the State of Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

ASSIGNOR:

REAL ESTATE GENERATION, LLC

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

Name:

Title:

STATE OF COLORADO

)

) ss.

\_\_\_\_\_ COUNTY

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of Real Estate Generation, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

ASSIGNEE:

\_\_\_\_\_

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

Name:

Title:

STATE OF COLORADO

)

) ss.

\_\_\_\_\_ COUNTY

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2016, by \_\_\_\_\_ as \_\_\_\_\_ of \_\_\_\_\_, a  
\_\_\_\_\_.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.



## **EXHIBIT J**

### **OPERATING AGREEMENT**

The Urban Renewal Authority of the City of Commerce City, Colorado (the “Authority”) as owner of the Property known as the former Mile High Greyhound Park (“MHGP”) site located north of 62<sup>nd</sup> Avenue and Parkway Drive in Commerce City (the “Property”), and the City of Commerce City, Colorado (the “City”), wish to engage the services of a master redeveloper and project manager to assist in the redevelopment of the Property into a mixed use, mixed income development (the “Project”). Real Estate Generation, LLC (“REGen”) was selected by the Authority Board to act as master redeveloper and project manager for the Project (“Manager”), working on behalf of the Authority. As such, the parties have entered into the Phase Redevelopment Agreement for the Mile High Greyhound Park Project (the “Agreement”) of which this Operating Agreement is attached as Exhibit J and is made a part thereof. The parties agree to work together to fulfill the objectives of the Project by acting in good faith according to the terms of this Operating Agreement, as it may be amended from time to time.

1. Management. The development of the Property and the operations and other assets of the Project shall be managed by the Manager, who shall perform all day-to-day administrative operations of the Project. The Manager shall keep the Authority apprised of the status of the operation and development of the Property and the management of the Project. The Manager shall use its best efforts to direct, manage and control the Project to the best of Manager's ability and in accordance with prevailing standards applicable to properties of similar size and character. As used in this Operating Agreement, “best efforts” shall mean diligent efforts consistent with reasonable business judgment and prevailing commercial practices of institutional master developers and property managers. The Manager shall supervise any development of, or construction on, the Property, shall supervise any property manager, construction manager, leasing/sales agent and any other contractor and consultant engaged to perform services for the Project. Manager duties will include, but are not limited to providing the following activities for the Project (the “Activities”):

- Site Plans;
- Engineering Studies;
- Economic Models and Plans;
- Site Rezoning;
- Public Outreach throughout the Planning and Entitlements process;
- Preparing marketing materials targeting retail, commercial, and residential vertical developers for the purchase of land parcels;
- Solicit outside investors to fund the site horizontal infrastructure required to create super pads ready for sale to vertical developers;
- Market the site to vertical developers;

- Contract for the sale of pads on behalf of the Authority;
- Contract for engineering and construction of horizontal improvements;
- Project management throughout infrastructure construction;
- Coordinate with the City on the redevelopment of the regional storm water facility; and
- Coordinate with the Boys and Girls Club on site development issues.

Subject to the specific limitations set forth in Section 3 hereof and any limitations set forth in the Agreement, the Manager shall have full and complete authority, power and discretion to make any and all decisions and to do any and all things which the Manager shall deem to be reasonably required in light of the allocation of responsibility and the Project business objectives which are described in the Development Plan (the “Development Plan”) set forth in Exhibit C of the Agreement, as such Development Plan may be amended from time to time in accordance with the Agreement. Any deliverable documents related to the Activities shall become the property of the Authority upon the Manager’s resignation or removal, as further detailed below. Any Third Party contract entered into by the Manager regarding the Property must include a provision that it is assignable by the Manager to the Authority without the other Third Party’s consent.

2. Certain Powers of Manager. Subject to the provisions of Section 3, the Manager shall have the power and authority to:

(a) act on behalf of the Project as is necessary or incidental to the accomplishment of the operation and development of the Property;

(b) execute on behalf of REGen all checks, drafts, notes and other negotiable instruments in the ordinary course of business;

(c) execute on behalf of REGen all instruments and documents, in the nature of leases, contracts, deeds, promissory notes, mortgages or deeds of trust, security agreements, financing statements, documents providing for the acquisition, mortgage or disposition of the Property or documents relating to the development of the Property, but only for transactions which have been authorized by the Authority or which have been approved in accordance with Section 3;

(d) engage accountants and legal counsel which are reasonably acceptable to the Authority; and

(e) undertake general managerial duties and matters incidental thereto on behalf of the Project.

3. Limitation on Powers of Manager. Notwithstanding Section 2, each of the following actions shall require the approval of the Authority:

- (a) the approval of any update or amendment to the Development Plan, in accordance with the process set forth in the Agreement;
- (b) the approval of the Construction Budget (as defined in the Agreement), and any material update or modification thereto;
- (c) expending any money on behalf of the Project that would constitute a cost overrun of ten percent (10%) or more in respect to any line item in the Construction Budget or ten percent (10%) or more in respect to the aggregate Construction Budget;
- (d) the approval of the Schedule (as defined in the Agreement), and any amendment or modification thereto in accordance with the process set forth in the Agreement (a delay in time in excess of 25% of the date set forth in the Schedule being deemed a major amendment or modification);
- (e) entering into any agreement involving amounts in excess of \$250,000 or pursuant to which the Authority would be required to perform any obligations for a period of more than one year from the date of such agreement excepting leases, or any material modification or waiver of such an agreement, unless such amount and agreement (or modification or waiver) were approved by Authority in connection with the Construction Budget;
- (f) borrowing money on behalf of the Project, and hypothecating, encumbering and granting security interests in the assets of the Project or the Property to secure repayment of the borrowed sums, including, without limitation, any construction loan for the development of the Property;
- (g) entering into any listing agreement with a real estate broker for sale or leasing of the Property;
- (h) acquiring liability and other insurance to protect the Project and the Property and business, unless approved in connection with the Agreement;
- (i) entering into any lease of the Property;
- (j) any arrangements with respect to the financing of the Property or other agreements with Third Party investors relating to the ownership, financing or development of the Property;
- (k) entering into any contract to sell or otherwise dispose of all or any part of the Property or all or a material portion of the assets of the Project;
- (l) all material decisions, if any, relating to the remediation management, risk management and disposal of hazardous materials and administration of environmental concerns relating to the Property;
- (m) any material modifications to the land use entitlements to the Property, except per Development Plan; and

(n) all transactions between the Authority and Manager, or any affiliates of Manager.

4. Resignation. The Manager may resign at any time by giving 90 days prior written notice to the Authority. The resignation of such Manager shall take effect on the date specified in such notice, or 90 days after receipt of the notice; and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. In the event of the Manager's resignation or removal (as further detailed below), Manager shall assign any agreements executed by Manager regarding the Property to the Authority. In the event of Manager's resignation, any agreements between the Authority and REGen may be terminated at the option of the Authority. Upon resignation as Manager, REGen shall continue to receive all payments due to REGen under the Agreement until such time as REGen is repaid, in accordance with the terms of the Agreement. No party except the Authority shall be eligible to receive any payments under the Agreement until such time as REGen has been repaid, in accordance with the terms of the Agreement. Further, REGen shall receive all Participating Interest (as defined in the Agreement) due REGen under the terms of the Agreement.

5. Removal for Cause. The Manager may be removed at any time for Cause, by written notice from the Authority or the City. For purposes of this Operating Agreement, "Cause" shall mean (i) gross and willful misconduct, (ii) fraud or misappropriation of Project funds, (iii) with respect to a principal of the Manager, conviction of a felony involving moral turpitude, or (iv) taking any action requiring the Authority's or the City's approval without obtaining approval. For purposes hereof, "gross and willful misconduct" shall be limited to willful conduct that causes material harm to the Project or the willful or continued failure by the Manager to perform or substantial abandonment by the Manager of its duties and responsibilities, in either case after written notice by the Authority specifying the alleged "gross and willful misconduct." For purposes of this definition, no act or failure to act, on the Manager's part shall be considered "willful" unless done or omitted to be done by the Manager not in good faith and without reasonable belief that its action or omission was in the best interests of the Project. If the grounds for removal for Cause specified in the written notice are gross and willful misconduct and are capable of being cured, the Manager shall have 30 days from receipt of any such notice to cure the actions or omissions specified in the notice. If the grounds for removal for Cause specified in the written notice are any of the grounds specified in clauses (ii) or (iii) of this Section 5, such removal shall take effect immediately upon the Manager's receipt of such notice.

6. Removal of Manager for Non-Performance. Following two years from the execution of this Operating Agreement, the Manager may be removed on an annual basis following the submission of the annual updated Development Plan for Non-Performance of the Manager's duties. "Non-Performance" shall be deemed to have occurred if:

(a) total costs consisting of the sum of costs to date and projected cost to complete, exceed the approved Construction Budget by 25%; or

(b) the Manager exceeds the Schedule for initial funding, entitlement, first phase infrastructure completion, or closing of the first Property sales contract described in the Development Plan by more than 12 months; or

(c) such annual updated Development Plan fails to substantially fulfill the Authority's vision for the Project or current Development Plan, in the Authority's sole but reasonable discretion; or

(d) such annual updated Development Plan fails to provide for the return of Authority's investment in the Project within the Urban Renewal Plan (as defined in the Agreement) period.

The Authority may elect to remove the Manager for Non-Performance by written notice within sixty (60) days after such updated Development Plan is submitted. If notice of removal is not timely given, Authority's right to terminate shall be deemed waived as to such calendar year and may not be exercised unless Non-Performance occurs with respect to a subsequent calendar year. If REGen is removed as Manager, REGen shall continue to receive all payments due to REGen under the Agreement until such time as REGen is paid all amounts due to REGen, in accordance with the terms of the Agreement. No party except the Authority shall be eligible to receive any payments under the Agreement until such time as REGen has been paid all amounts due to REGen, in accordance with the terms of the Agreement. Further, REGen shall receive all Participating Interest due REGen under the terms of the Agreement.

7. Liability for Certain Acts. The Manager of the Project shall perform such Manager's duties using best efforts and in good faith, in a manner such Manager reasonably believes to be in the best interests of the Project, and with such care as an ordinarily prudent person in a like position would use under similar circumstances. Any person who so performs such Manager's duties shall not have any liability by reason of being or having been a Manager of the Project.

In performing the duties of Manager, the Manager shall be entitled to rely on the approvals of the Authority in accordance with Section 3 and information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by persons and groups listed in Section 7(a) or (b), unless the Manager has knowledge concerning the matter in question that would cause such reliance to be unwarranted:

(a) contracting parties with the Project whom the Manager reasonably believes to be reliable and competent in the matters presented; or

(b) legal counsel, public accountants, or other persons as to matters that the Manager reasonably believes to be within such persons' professional or expert competence.

The Manager does not, in any way, guarantee the return of the Authority's investment in the Project or a profit for the Authority from the operations of the Project. The Manager shall not be responsible to the Authority because of a loss of their investment in the Project or a loss in the operations of the Project, unless the loss shall have been caused directly by the gross negligence or willful misconduct of the Manager, its agent, or its employees. As further detailed in the Agreement, subject to Section 7.6(b) of the Agreement, Manager, as the Redeveloper under the Agreement, assumes the entire risk that insufficient Incremental Taxes (as defined in the Agreement) will be generated to reimburse all Reimbursable Costs (as defined in the

Agreement) and the Authority does not guarantee the return of Manager's investment in the Project or a profit for the Manager from the operations of the Project.

8. Development Plan and Business Reporting.

(a) Construction Progress Reports. During any construction on the Property, the Manager shall prepare or cause to be prepared a monthly construction progress report, a copy of which shall be delivered to the Authority by the 20<sup>th</sup> of each month for the previous month.

(b) Asset Management Report. Manager shall prepare or cause to be prepared a monthly asset management report including a summary of monthly activity on entitlements, property marketing, property sales, construction, demolition, environmental remediation, and other critical project activity, a copy of which shall be delivered to the Authority by the 10<sup>th</sup> of each month for the previous month.

(c) Budget and Development Plan. The Manager has prepared, and the Authority has approved, a Construction Budget for the Project, a Schedule for the Project, and a preliminary Development Plan for the Property, copies of which are attached as Exhibits C and D to the Agreement. The Manager shall prepare an update to the Construction Budget, Schedule and Development Plan for the Property, at least 30 days prior to the end of each calendar year, for review and approval by the Authority in accordance with Section 3. The Development Plan shall include the Schedule, an entitlement timeline, a development schedule, sales projections, and other items as may be reasonably requested by the Authority.

(d) Other Information. The Manager shall deliver other financial and development information as the Authority may reasonably request and other reports as described in the Agreement which can be produced or made available by the Company without undue burden or expense.

9. Authority Responsibilities. The Authority may delegate the authority of the Authority to act under the terms of this Operating Agreement to the Authority's Manager, Deputy Manager and staff, as the Authority deems appropriate.

10. Authority Environmental Insurance. In addition to the responsibility and obligations of the City and the Authority described in the Agreement, the City or the Authority shall be obligated to keep in full force and effect that environmental liability insurance Policy No. PEL394905200 obtained from Great American Insurance effective September 18, 2012 (the "Environmental Insurance"). The Manager and the Authority understand that the Property has a history of sub-surface environmental issues which may indicate to any purchaser of the Property the need to exercise caution in the acquisition of the Property. As such, both the Manager and the Authority expect that any purchaser will require the Authority to either assign its rights under the Environmental Insurance to the purchaser, or to be responsible for the costs to clean up any environmental issues on the Property or to make payment of any deductibles and to pursue a claim under the Environmental Insurance for cleanup of any environmental issues on the Property prior to any sale of the Property.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the Authority has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; the City has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and the Redeveloper has caused these presents to be executed by its duly authorized representative, as of the date first above written.

(SEAL)

URBAN RENEWAL AUTHORITY OF THE  
CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
General Counsel to the Authority

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Chairman and \_\_\_\_\_ as Clerk of the Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

(SEAL)

CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Mayor and \_\_\_\_\_ as Clerk of the City of Commerce City, Colorado, a home rule municipality under the laws of the State of Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.



REAL ESTATE GENERATION, LLC

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

Name:

Title:

STATE OF COLORADO

)

) ss.

\_\_\_\_\_ COUNTY

)

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of Real Estate Generation, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

## **EXHIBIT K**

### **FORM OF MEMORANDUM OF AGREEMENT**

THIS MEMORANDUM OF PHASED REDEVELOPMENT AGREEMENT (this “Memorandum”) dated as of \_\_\_\_\_, 2016, by and between the URBAN RENEWAL AUTHORITY OF THE CITY OF COMMERCE CITY, COLORADO (together with any successors or assigns thereto, the “Authority”), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado, and the CITY OF COMMERCE CITY, COLORADO, a home rule municipality under the laws of the State of Colorado (together with any successors or assigns thereto, the “City”), and REAL ESTATE GENERATION, LLC, a limited liability company organized under the laws of the State of Colorado (together with any permitted successors or assigns thereto, the “Redeveloper”). Terms not otherwise defined within the text below are defined in the Redevelopment Agreement.

#### **RECITALS**

WHEREAS, the Authority owns the approximately 65 acre former Mile High Greyhound Park, the land which is legally described on Exhibit A attached hereto and made a part hereof (the “Property”), and selected the Redeveloper to serve as the master redeveloper for an urban renewal mixed-use redevelopment project (the “Project”) on the Property; and

WHEREAS, the Authority, the City and the Redeveloper entered into that certain Phased Redevelopment Agreement for the Mile High Greyhound Park Project dated \_\_\_\_\_ (the “Redevelopment Agreement”), pursuant to which the Redeveloper will cause phased construction of the Improvements in furtherance of the Urban Renewal Plan adopted by the Authority, as more particularly described in the Redevelopment Agreement; and

WHEREAS, to help ensure the Project’s financial feasibility and success and to provide funds to meet obligations with respect to activities and operations of the Authority in connection with the Project in accordance with the Urban Renewal Plan, the City, the Authority and the Redeveloper have agreed upon various forms of incentives and financial assistance utilizing funds generated from the taxes and other amounts to be paid by Redeveloper, sales of parcels within the Project, and customers, visitors and other users of the Project; and

WHEREAS, the Authority, the City and the Redeveloper now desire to provide record evidence of the Redevelopment Agreement and other matters, as referenced in the Redevelopment Agreement and herein.

#### **MEMORANDUM**

In consideration of the mutual promises and agreements set forth in the Redevelopment Agreement and in this Memorandum, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Phased Redevelopment. The Authority acknowledges that the Redeveloper intends to develop or cause to be developed in phases each Parcel of the Project consistent with the Schedule, the Development Plan and the Design Guidelines,

all as more particularly described in the Redevelopment Agreement. It is the intent of the Authority and the Redeveloper that the Redeveloper be permitted to market and sell, on behalf of the Authority, the respective Parcels and, upon a Sale, such Parcel shall be subject only to the Use Covenants unless Redeveloper and purchaser execute an Assignment and Assumption as set forth in Section 14.2 of the Redevelopment Agreement. If no Assignment and Assumption is executed, the Redeveloper shall continue to be obligated to perform all obligations with respect to such Parcel, pay all Priority Fees and be entitled to all reimbursements due pursuant to this Agreement with respect to such Parcel.

2. Partial Assignment. Redeveloper shall have the right upon a Sale to assign to such purchaser all or a portion of Redeveloper's rights and obligations of the Redevelopment Agreement as such rights or obligations pertain to such Parcel, provided that such purchaser assumes the obligations and liabilities of Redeveloper's as such obligations and liabilities pertain to such Parcel. The Authority shall consent to such assignment and assumption pursuant to the conditions further detailed in the Redevelopment Agreement.
3. Reimbursable Costs. The Authority shall reimburse the Redeveloper for its Reimbursable Costs from Incremental Taxes, as further defined and conditioned in the Redevelopment Agreement. The Redeveloper and the Authority agree that such reimbursement shall constitute an advance under C.R.S. § 31-25-109.
4. Authority's Reimbursement Obligation. The Authority's payment obligation under the Redevelopment Agreement shall be limited to the amount of Incremental Taxes and other amounts actually received from the City and from Adams County and legally available for such purpose, less Priority Fees and other amounts due and owing to the Authority in accordance herewith. Nothing in this Agreement shall be construed to require the Authority to make any payments to the Redeveloper, on a periodic and aggregate basis, in excess of the Incremental Taxes actually received by the City, except for the Authority's obligation to pay Redeveloper the Participating Interest and the Authority's obligation to pay amounts due pursuant to Section 3.7. The Redeveloper acknowledges that the generation of Incremental Taxes is significantly dependent upon completion of the Improvements and the Project within the Urban Renewal Area and agrees that the Authority is in no way responsible for the amount of Incremental Taxes actually generated. The Redeveloper further acknowledges that the Property Tax Administrator for the State of Colorado and County Assessor may modify the process for calculating Incremental Taxes which may reduce the amount of Incremental Taxes and that in the event of such modification Section 7.6(b) hereof shall apply. The Redeveloper therefore agrees to assume the entire risk that insufficient Incremental Taxes will be generated to reimburse all Reimbursable Costs.
5. Limitation Upon Encumbrance of Property. Prior to a sale of any Parcel, the Redeveloper shall not engage in any financing or any other transaction creating any Mortgage or other encumbrance or lien upon the Property or the

Improvements thereon, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property or the Improvements thereon.

6. Design Approval. The Improvements shall be developed in accordance with the Design Guidelines, the planned development document(s), and Applicable Law.
7. Term. Upon the earliest to occur of (a) date that is 25 years after the Effective Date of the Redevelopment Agreement, (b) delivery of a notice to the Redeveloper under circumstances contemplated by the Operating Agreement attached as an exhibit to the Redevelopment Agreement containing an effective termination date, or (c) payment to the Redeveloper of all Reimbursable Costs and Participating Interest including accrued but unpaid Reimbursement Cost Interest and payment to the Authority of all Priority Fees (such earliest event shall be referred to herein as the "Termination Date"), the Redevelopment Agreement shall automatically terminate, except as provided in Section 13.4 of the Redevelopment Agreement, and the Redeveloper and Authority shall each execute such documents to evidence such termination as may be reasonably required by the other.
8. Approval; Limitations. The Redevelopment Agreement, including the Operating Agreement attached as an exhibit thereto, includes limitations on the authority of the Redeveloper to take certain actions related to the Property or on behalf of the Authority or the City or requires approval by the Authority or the City in order to take certain actions, as more particularly described therein.
9. Other Provisions. In addition to those terms referred to above, the Redevelopment Agreement contains numerous other terms, covenants, conditions and provisions which affect the Property, and notice is hereby given that reference should be made to the Redevelopment Agreement directly with respect to the details of such other terms, covenants, conditions and provisions. This Memorandum does not alter, amend, modify or change the Redevelopment Agreement in any respect and is executed by the parties hereto for the purpose of recordation in the real property records of Adams County, Colorado to give notice of the Redevelopment Agreement. In the event of any conflicts between the provisions of this Memorandum and those of the Redevelopment Agreement, the provisions of the Redevelopment Agreement will control.
9. Counterparts. This Memorandum may be executed in any number of counterparts, each of which will be an original, and such counterparts together will constitute but one and the same instrument.

*[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

*[SIGNATURE PAGES FOLLOW]*

IN WITNESS WHEREOF, the Authority has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; the City has caused these presents to be executed in its corporate name and with its official seal hereunto affixed and attested by its duly authorized officials; and the Redeveloper has caused these presents to be executed by its duly authorized representative, as of the date first above written.

(SEAL)

URBAN RENEWAL AUTHORITY OF THE  
CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
General Counsel to the Authority

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Chairman and \_\_\_\_\_ as Clerk of the Urban Renewal Authority of the City of Commerce City, Colorado, a body corporate.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

(SEAL)

CITY OF COMMERCE CITY, COLORADO

Attest:

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

\_\_\_\_\_  
Clerk

Approved as to Form:

\_\_\_\_\_  
City Attorney

STATE OF COLORADO                    )  
  ) ss.  
ADAMS COUNTY                         )

The foregoing instrument was acknowledged before me as of the \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as Mayor and \_\_\_\_\_ as Clerk of the City of Commerce City, Colorado, a home rule municipality under the laws of the State of Colorado.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

REAL ESTATE GENERATION, LLC

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

Name:

Title:

STATE OF COLORADO

)

) ss.

\_\_\_\_\_ COUNTY

)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_ as \_\_\_\_\_ of Real Estate Generation, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public for the  
State of Colorado

My Commission Expires: \_\_\_\_\_.

**EXHIBIT A TO MEMORANDUM OF AGREEMENT**

**LEGAL DESCRIPTION OF THE PROPERTY**

**MHGP LEGAL DESCRIPTION**

A PORTION OF, RESUBDIVISION OF TOWN AND COUNTRY SUBDIVISION ADAMS COUNTY FILE 9 MAP 43 RECEPTION NO. 342483 RECORDED MARCH 30, 1949. LOCATED IN THE NORTHEAST 1/4 OF SECTION 7 TOWNSHIP 3 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN CITY OF COMMERCE CITY, COUNTY OF ADAMS, STATE OF COLORADO.

A PORTION OF PARCEL D, EXCLUDING BOYS AND GIRLS CLUBS OF METRO DENVER SUBDIVISION FILING NO. 1 REPLAT RECEPTION NO. 2016\_\_\_\_\_ AND RIGHT OF WAY BOOK 3953 PAGE 404-405.

TOWN AND COUNTRY SUBDIVISION RESUBD TRACT D, DESCRIBED AS THE NORTH 825 FEET OF EAST 121 FT OF BLOCK D

TOWN AND COUNTRY SUBDIVISION RESUBDIVISION BLOCK:1, LOTS 14 EXCLUDING RIGHT OF WAY RECEPTION NO 2011000050034 AND 15 THRU 24. TOGETHER WITH THE DAHLIA STREET PLATTED AS EUDORA STREET RIGHT OF WAY ADJACENT TO BLOCK 1 ON THE WEST

CONTAINING 2837357.94 SQUARE FEET OR 65.137 ACRES MORE OR LESS.