

PROPERTY TAX INCREMENT REVENUE AGREEMENT
(ADAMS COUNTY)

1.0 AGREEMENT. This Agreement (the “Agreement”) is made and executed effective as of _____, 2017, by and between the COMMERCE CITY URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”) and ADAMS COUNTY, a political subdivision of the State of Colorado (the “County”) (the Authority and the County are referred to herein individually as a “Party” and collectively as the “Parties”).

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

2.1 Proposed Redevelopment. The Parties have been advised that the real property described in **Exhibit A** (the “Property”) lying within the corporate limits of the City of Commerce City (the “City”) is being considered by the City Council of the City as an urban renewal area to be redeveloped by one or more developers and/or property owner(s) as a mixed use development(s) that will eliminate existing blighted conditions which constitute threats to the health, safety and welfare of the community and barriers to development and will result in the creation of significant new jobs all of which will benefit the region, including the City and the County.

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

2.3 Nature of Urban Renewal Project and Purpose of Agreement. The proposed project, as outlined in the Plan, consists of any and all undertakings and activities authorized in the Plan and the Act to eliminate blighted conditions, including designing, developing and constructing the various public and private improvements (which includes paying the Eligible Costs of Public Improvements) necessary to serve the proposed Urban Renewal Area (the “Urban Renewal Project”) and to comply with §31-25-107(4)(g) of the Act that requires the Plan to afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area by private enterprise. The Authority has submitted to the County an Impact Report as required by §31-25-107(3.5) of the Act, which includes information necessary to comply with HB 10-1107 and HB 15-1348 and for the County to analyze the proposed Plan.

2.3.1 Implementation of the Urban Renewal Project is projected to remedy and prevent blighted conditions, and create significant new employment opportunities and other benefits, as a result of new private investment, as specified in the Impact Report that will benefit the Parties, the region, and the State of Colorado.

2.3.2 The Duration of time estimated to complete the Urban Renewal Project is the 25-year period of time specified in §31-25-109(a) of the Act, commencing upon approval by the City of the Plan and, as to later added real property, upon approval by the City of any Plan amendment adding such real property to the Urban Renewal Area.

2.3.3 The estimated annual Property Tax Increment Revenue to be generated by the Urban Renewal Project for the Duration of the Urban Renewal Project and the portion of such Property Tax Increment Revenue to be allocated to fund the Urban Renewal Project are set forth in the Impact Report.

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

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

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

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

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

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

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

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

2.4 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the requirements of HB 15-1348), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the proposed Urban Renewal Area described therein.

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

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

4.1 “Act” means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S.

4.2 “Agreement” means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 “Authority” means the Party described in Section 1.0, the Commerce City Urban Renewal Authority, a body corporate and politic of the State of Colorado.

4.4 “Bonds” shall have the same meaning as defined in §31-25-103 of the Act.

4.5 “City” means the City of Commerce City, Colorado.

4.6 “County” means the Party described in Section 1.0, Adams County, a political subdivision of the State of Colorado.

4.7 “County Increment” means the portion of Property Tax Increment Revenues generated by the County’s mill levy received by the Authority from the County Treasurer and paid to into the Special Fund as specified in Section 5.1.

4.8 “Duration” means the twenty five year period that the tax increment or tax allocation provisions will be in effect as specified in §31-25-109(a) of the Act, the Plan, any Plan amendments adding real property to the Urban Renewal Area, and the Impact Report.

4.9 “Eligible Costs” means those costs eligible to be paid or reimbursed from Property Tax Increment Revenues pursuant to the Act.

4.10 “Impact Report” means the impact report setting forth the burdens and benefits of the Urban Renewal Project previously submitted to the County.

4.11 “Improvements” means the Public Improvements and Private Improvements.

4.12 “Party” or “Parties” means the Authority or the County or both and their lawful successors and assigns.

4.13 “Plan” means the Urban Renewal Plan defined in Section 2.2.

4.14 “Project” shall have the same meaning as Urban Renewal Project.

4.15 “Property Tax Increment Revenues” means all of the TIF revenues described in §31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the Urban Renewal Project.

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

4.17 “TIF” means the property tax increment portion of the property tax assessment roll described in §31-25-107(9)(a)(II) of the Act.

4.18 “Urban Renewal Area” means the area included in the boundaries of the Plan.

4.19 “Urban Renewal Plan” means the Mile High Greyhound Park Urban Renewal Plan, attached to this Agreement as **Exhibit B**.

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

5.0 PROPERTY TAX INCREMENT REVENUES. In compliance with the requirements of HB 15-1348, the Parties have negotiated and agreed to the allocation of Property Tax Increment Revenues as set forth herein.

5.1 The County Increment Revenues. The County and the Authority agree that the Authority may retain and expend in furtherance of the Urban Renewal Project 100% of all of the net incremental revenue it receives from the Adams County Treasurer each year from the property tax levy of the County against the portion of the assessment roll located within the Plan Area (as further defined above, the “County Increment”), commencing on the date of approval by the City of the Plan and, as to later added real property, upon approval by the City of any Plan amendment adding such real property to the Urban Renewal Area, and lasting for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the “Duration”).

5.2 Mill Levy Allocation. When the County’s eligible electors approve a new or increased mill levy for any lawful purpose (“Future Mill Levy”), any revenue derived from the Future Mill Levy shall not be considered part of the County Increment. Rather, upon approval by the eligible electors of the County of a Future Mill Levy, the County shall provide notification of the same to the Authority. From the date of such notice until the Duration has expired, the Authority shall annually deduct from the Property Tax Increment Revenue it receives any revenues attributable to the Future Mill Levy, as applicable, and shall remit such revenues to the County.

6.0 CONSENTS AND WAIVERS. This Agreement shall constitute the agreement in writing by the County to the following provisions.

6.1 Pledge of Property Tax Increment Revenues. The County recognizes and agrees that the adoption and approval of the Plan includes an irrevocable pledge of all of the County’s Increment of the Property Tax Increment Revenues to pay the Authority’s Bonds and other financial obligations, including payment of all Eligible Costs, in connection with the Urban Renewal Project. The Authority has elected to apply the provisions of §11-57-208, C.R.S., to this Agreement. The Property Tax Increment Revenues, when and as received by the Authority are and shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act and is and shall be an obligation of the Parties pursuant to §31-25-107(9) of the Act. The Parties agree that the creation, perfection, enforcement and priority of the pledge of The Property Tax Increment Revenues shall be governed by §11-57-208, C.R.S. The lien of such pledge on the Property Tax Increment Revenues shall have priority

over any of all other obligations and liabilities of the Parties with respect to the Property Tax Increment Revenues.

6.2 Addition of Real Property to Urban Renewal Area Minor Amendment. The County recognizes and agrees that the addition of real property to the Urban Renewal Area at any point during the Duration of the Project does not constitute a substantial modification to the Plan, but rather is a minor amendment to the Plan. Further, the County agrees to treat all real property added to the Urban Renewal Area by amendment under the terms of this Agreement, including the County's pledge of the County Increment of the Property Tax Increment Revenues, commencing on the date of approval by the City of any such amendment and lasting for the maximum period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act for that real property added to the Urban Renewal Area.

6.3 Termination of County Increment Upon Full Repayment. The Authority and County agree that, Section 5.1 of this Agreement notwithstanding, the County Increment shall terminate upon full repayment of the Authority's Bonds and other financial obligations, including repayment of all Eligible Costs, in connection with the Urban Renewal Project.

6.4 Income-Qualified Residential Units. The Authority agrees to cause a minimum of 150 income-qualified residential units, defined as residential units with income restrictions of no more than 60% of area median income and including Low Income Housing Tax Credit projects qualifying for 4% federal tax credits financing, to be built as a part of the Project. Of those 150 units, no less than 10 will have income restrictions of less than 50% of area median income. In addition, the Authority agrees to cause an additional 25 income-qualified residential units, defined as residential units with income restriction of no more than 80% of area median income, to be built as a part of the Project. Income qualified units in the Project shall not be excluded from eligibility for any County-controlled housing funds which can be made available to projects within the City under the normal course of business.

6.5 Mix of Residential to Commercial Uses. This Property is guided by a Planned Unit Development ("PUD") that serves as the zoning for the development of the Project. The PUD was approved by the Commerce City Council on January 9, 2017 and recorded on August 7, 2017. During the term of this Agreement, the Parcels identified in such PUD as Parcel A and Parcel B shall not be rezoned to include residential uses.

6.6 Funding of Bus Rapid Transit. The Authority and the County agree in the event a bus rapid transit stop is located within the Urban Renewal Area, and to the extent that the County is called upon to commit funds as a match to the bus rapid transit, the necessary portion of the County Increment will be retained by the County, Sections 5.1 and 6.1 of this Agreement notwithstanding, to satisfy the County's matching contribution for the funding of such bus rapid transit.

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

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

9.0 AGREEMENT CONFINED TO COUNTY INCREMENT REVENUES. This Agreement applies only to the Property Tax Increment Revenues described in Section 5.0 from the Urban Renewal Area, as calculated, produced, collected and paid to the Authority by the Adams County Treasurer in accordance with §31-25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado, and does not include any other revenues of the Parties or the City.

10.0 MISCELLANEOUS.

10.1 Termination and Subsequent Legislation or Litigation. In the event of termination of the Plan, including its TIF financing component, the Authority may terminate this Agreement by delivering written notice to the County. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction after the effective date of this Agreement that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts in effect at such time.

10.2 Entire Agreement. This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

10.3 Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

10.4 No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

10.5 No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

10.6 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

10.7 Parties not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and no Party shall be responsible for any debt or liability of any other Party.

10.8 Interpretation. All references herein to Bonds shall be interpreted to include the incurrence of debt by the Authority in any form consistent with the definition of “Bonds” in the Act, including payment of all Eligible Costs or any other lawful financing obligation.

10.9 Incorporation of Recitals and Exhibits. The provisions of the Recitals and the Exhibits attached to this Agreement are incorporated in and made a part of this Agreement.

10.10 No Assignment. No Party may assign any of its rights or obligations under this Agreement.

10.11 Section Captions. The captions of the sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

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

10.13 Governing Law. This Agreement and the provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado.

10.14 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

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

[Signature page follows]

IN WITNESS WHEREOF, the Parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

COUNTY:

ATTEST:

ADAMS COUNTY

BY: _____
Secretary

BY: _____
_____, Commissioner

AUTHORITY:

ATTEST:

COMMERCE CITY URBAN RENEWAL
AUTHORITY

BY: _____
Secretary

BY: _____
_____, Chairman

EXHIBIT A
PROPERTY

DRAFT

EXHIBIT B
Urban Renewal Plan

DRAFT