

**INTERGOVERNMENTAL AGREEMENT BY AND BETWEEN THE COLORADO
SPRINGS URBAN RENEWAL AUTHORITY AND THE COLORADO SPRINGS
DOWNTOWN DEVELOPMENT AUTHORITY**

(Tejon and Costilla Urban Renewal Area)

This **INTERGOVERNMENTAL AGREEMENT** (“IGA”), is entered into effective as of the 14th day of December, 2018 (the “**Effective Date**”), by and between the **COLORADO SPRINGS URBAN RENEWAL AUTHORITY**, a body corporate and politic of the State of Colorado (the “**CSURA**”), and the **COLORADO SPRINGS DOWNTOWN DEVELOPMENT AUTHORITY**, a body corporate and politic of the State of Colorado (the “**CSDDA**”) (individually and collectively referred to herein as “**Party**” and the “**Parties**”).

RECITALS

A. The CSURA is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to Part 1 of Article 25 of Title 31, C.R.S. (the “**Urban Renewal Law**”).

B. The CSDDA is a public body corporate and politic authorized to transact business and exercise its powers as a downtown development authority under and pursuant to Part 8 of Article 25 of Title 31, C.R.S. (the “**DDA Law**”).

C. Ordinance 07-15 of the City of Colorado Springs (the “**City**”) establishing the CSDDA contemplates the creation of new urban renewal areas subject to tax increment financing under the Urban Renewal Law within or overlapping the boundaries of CSDDA.

D. The CSURA has prepared, for consideration by the Colorado Springs City Council and approval, a new urban renewal plan within downtown Colorado Springs (“**Tejon and Costilla Urban Renewal Plan**”) to establish a new area for the purposes authorized in the Urban Renewal Law, including utilizing tax increment financing (“**TIF Financing**”), as contemplated by C.R.S. § 31-25-107(9)(a). **Exhibit A**, attached hereto and incorporated herein, depicts the Tejon and Costilla Urban Renewal Plan area (the “**Urban Renewal Area**”).

E. TIF Financing provides that taxes levied after the effective date of the approval of an urban renewal plan upon taxable property in a portion of the area described therein shall be divided for a period not to exceed twenty-five (25) years from the effective date of the urban renewal plan and that a portion of said tax revenues (“**TIF Revenue**”) shall be allocated to and paid into a special fund of the CSURA to pay the principal of, interest on, and any premiums due in connection with bonds of, loans or advances to, or indebtedness incurred by the CSURA for financing an urban renewal project or to make payments pursuant to an agreement executed pursuant to C.R.S. § 31-25-107(11).

F. The CSURA and the CSDDA recognize that a division of taxes pursuant to C.R.S. § 31-25-107(9)(a) on property within the boundaries of the CSDDA and the Urban Renewal Area without an agreement concerning the distribution of TIF Revenue may hinder the

effectuation of the Tejon and Costilla Urban Renewal Plan and the planned urban renewal project to be located within the Urban Renewal Area (the "Urban Renewal Project").

G. The CSURA and the CSDDA therefore desire to enter into this IGA to memorialize basic terms of agreement related to the allocation of incremental tax revenues created within the Urban Renewal Area. The CSURA and the CSDDA agree herein that certain portions of TIF Revenue either received by or that otherwise would be received by the CSDDA shall be allocated to the CSURA, and in order to protect the public finance structure created to implement the Tejon and Costilla Urban Renewal Plan from future risk, provide certainty to lenders and bondholders, and ensure continued long-term cooperation between the CSURA and the CSDDA.

H. The CSURA and the CSDDA are authorized to enter into this IGA pursuant to the Urban Renewal Law and the DDA Law, including, without limitation, C.R.S. §§ 31-25-112, -808(1)(f).

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, promises and agreements of each of the Parties hereto, it is agreed by and among the Parties hereto as follows:

AGREEMENT

1. Incorporation of Recitals. The foregoing recitals are incorporated into and made a part of this IGA.
2. Cooperation. The Parties hereby find that cooperating and establishing a joint vision and guiding principles for the redevelopment of the Urban Renewal Area, through the implementation of the Tejon and Costilla Urban Renewal Plan, is in the best interests of both Parties.
3. Urban Renewal Plans. CSDDA hereby consents and agrees to the Tejon and Costilla Urban Renewal Plan.
4. Notice; Waiver. Pursuant to C.R.S. §§ 31-25-107(9.5)(b) and (11), CSDDA agrees to waive all other provisions of the Urban Renewal Law in the IGA that provide for notice to CSDDA, require any filing with or by the CSDDA, require or permit consent from the CSDDA, or provide any enforcement, negotiation or mediation right to the CSDDA.
5. Financial Agreement on TIF Revenue. The Parties agree and acknowledge that the IGA shall only apply to TIF Revenue derived from taxes in the Urban Renewal Area within the jurisdiction of CSDDA that is calculated, produced, allocated and transferred to CSURA in accordance with C.R.S. § 31-25-107(9)(a)(II) and the rules and regulations of the Property Tax Administrator of the State of Colorado, and does not include any other revenues of CSURA or the CSDDA except as otherwise described in this Section 5. Specifically, the TIF Revenue may be derived from real property taxes (land and improvements to land), personal property taxes, or sales and use taxes.

6. CSDDA 5 Mill Levy. CSDDA and CSURA hereby agree that CSURA may retain and expend in furtherance of the Urban Renewal Project sixty percent (60%) of the TIF Revenue derived from the CSDDA's five (5) mill levy in the Urban Renewal Area, i.e., the TIF Revenue on three (3) mills of the CSDDA's five (5) mill levy (the "CSURA Allocation Revenues"). After deducting three percent (3.0%) for administration of this IGA, CSURA agrees to calculate and pay to CSDDA, the TIF Revenue it receives each year from the El Paso County Treasurer for the Duration of the Urban Renewal Project derived from the remaining two (2) mills of the CSDDA's five (5) mill levy in the Urban Renewal Area (the "CSDDA Allocation Revenues"). The CSDDA Allocation Revenues to be paid to CSDDA shall be placed in a separate account created for such purpose. Commencing on the date of this IGA and for the Duration, CSURA, in July and December of each year, shall pay all such CSDDA Allocation Revenues received into such account through the preceding month to CSDDA. This IGA does not affect, and CSDDA shall receive and retain for any purpose it deems fit, the revenues generated by the application of the five (5) mill levy to the base valuation within the Urban Renewal Area which is also within the CSDDA boundaries. Any public improvement fees established by a landowner or landowners shall be separate and in addition to TIF Revenue.

7. Use of TIF Revenues. CSURA agrees to use TIF Revenues solely for paying or reimbursing the costs, expenses and/or indebtedness incurred for the provision of improvements and other costs, expenses and indebtedness authorized under the Urban Renewal Law in the areas of, and in furtherance of the goals of the Tejon and Costilla Urban Renewal Plan. Without limiting the foregoing, CSURA and CSDDA shall cooperate with the developer of the Urban Renewal Project to mutually agree on public improvements which will be eligible for reimbursement from the CSURA Allocation Revenues, which may include, among other things, public parking and/or a policy/security hub.

8. Delays. Any delays in or failure of performance by any Party of its obligations under this IGA shall be excused if such delays or failure are a result of acts of God, acts of public enemy, acts of the Federal or state government, acts of third parties, litigation concerning the validity of this IGA or relating to transactions or the IGA contemplated hereby, fire, floods, strikes, labor disputes, accidents, regulations or order of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such Party.

9. Subsequent Legislation. The Parties agree that in the event legislation is adopted after the Effective Date of this IGA that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to this IGA that most fully implements the original intent, purpose and provisions of this IGA.

10. No Third-Party Enforcement. It is expressly understood and agreed that the enforcement of the terms and conditions of this IGA, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this IGA shall give or allow any claim or right of action whatsoever by any other person not included in this IGA. It is the express intention of the undersigned Parties that any entity other than the undersigned Parties shall be an incidental beneficiary only. The Parties intend for the IGA to also include a similar provision regarding third-parties.

11. No Waiver of Immunities. Nothing contained herein shall be construed as a waiver, in whole or in part, by any Party hereto of the rights, protections, and privileges afforded under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq., or under any other law, nor shall any portion of this IGA be deemed to have created a duty of care which did not previously exist with respect to any person not a Party to this IGA.

12. Severability. If any provision of this IGA is found to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Further, in the event of any such holding of invalidity, illegality or unenforceability, the Parties will in good faith negotiate for an amendment to this IGA or the anticipated IGA that achieves to the greatest degree possible the intent of the affected provision of this IGA or the anticipated IGA.

13. No Assignment. No Party may assign any of its rights or obligations under this IGA without the express prior written consent of the other Party. Any attempted assignment in violation of this provision shall be null and void and of no force and effect.

14. Paragraph Captions. The captions of the paragraphs 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 IGA.

15. Execution in Counterparts. This IGA 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.

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

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

18. Notices. Any notice required by this IGA shall be in writing. All notices, demands, requests and other communications required or permitted hereunder shall be in writing, and shall be (a) personally delivered with a written receipt of delivery; (b) sent by a nationally-recognized overnight delivery service requiring a written acknowledgement of receipt or providing a certification of delivery or attempted delivery; (c) sent by certified or registered mail, return receipt requested; or (d) sent by confirmed facsimile transmission or electronic delivery with an original copy thereof transmitted to the recipient by one of the means described in subsections (a) through (c) no later than 5 business days thereafter. All notices shall be deemed effective when actually delivered as documented in a delivery receipt; provided, however, that if the notice was sent by overnight courier or mail as aforesaid and is affirmatively refused or cannot be delivered during customary business hours by reason of the absence of a signatory to acknowledge receipt, or by reason of a change of address with respect to which the addressor did not have either knowledge or written notice delivered in accordance with this paragraph, then the first attempted delivery shall be deemed to constitute delivery. Each Party shall be entitled to

change its address for notices by delivering to the other Party notice thereof in the manner herein provided for the delivery of notices. All notices shall be sent to the addressee at its address set forth following its name below:

If to the CSURA: Colorado Springs Urban Renewal Authority
Attention: Executive Director
30 South Nevada Avenue, Suite 603
Colorado Springs, Colorado 80903
Telephone: (719) 385-5714
Email: jwalker@springsgov.com

with a copy to:

If to the CSDDA: Colorado Springs Downtown Development Authority
Attn: Executive Director
111 S. Tejon Street, #703
Colorado Springs, CO 80903
Telephone: (719) 886-0088
Email: susan@DowntownCS.com

19. Parties Not Partners. Notwithstanding any language in this IGA, the anticipated IGA 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.

[Signature Pages Follow]

IN WITNESS WHEREOF, the CSURA and the CSDDA have caused their duly authorized officials to execute this IGA effective as of the Effective Date.

CSDDA:

ATTEST:

COLORADO SPRINGS DOWNTOWN
DEVELOPMENT AUTHORITY
a body corporate and politic of the
State of Colorado

By: Dean Reubens

By: J. Edm
Susan Edmondson

CSURA:

ATTEST:

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

By: Dean Reubema

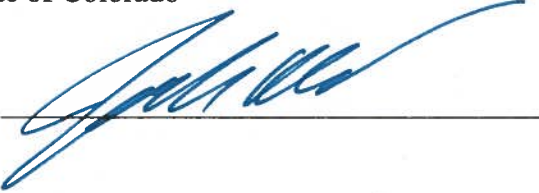
By: 

Exhibit A
Depiction of Urban Renewal Area