

REPLACEMENT PROPERTY TAX INCREMENT REVENUE AGREEMENT

(Revised EVRAZ Urban Renewal Project)

1.0 **PARTIES.** This Agreement (the “Replacement Agreement”) is made and executed effective as of the ___ day of _____, 2019, by and among the PUEBLO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “Authority”); PUEBLO SCHOOL DISTRICT NO. 60, a political subdivision of the State of Colorado (the “School District”); PUEBLO CITY- COUNTY LIBRARY DISTRICT, a political subdivision of the State of Colorado (the “Library District”); the SOUTHEASTERN COLORADO WATER CONSERVANCY DISTRICT, a political subdivision of the State of Colorado (“SE Water”); the LOWER ARKANSAS VALLEY WATER CONSERVANCY DISTRICT, a political subdivision of the State of Colorado (“Lower Ark Water”); PUEBLO COUNTY, a political subdivision of the State of Colorado (the “County”); and the CITY OF PUEBLO, a home rule city of the State of Colorado (the “City”). The foregoing parties are also referred to herein collectively as the “Parties” or individually as a “Party”.

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

2.1 **Previous Agreements.** The Parties previously entered into a Property Tax Increment Agreement dated November 13, 2018 (the “Original Agreement”) and the Authority and Pueblo County entered into a Supplemental Property Tax Increment Agreement dated February 5, 2019 (the “Supplemental Agreement”) in connection with the EVRAZ Urban Renewal Plan for the EVRAZ Urban Renewal Project Area approved by the City Council of the City on November 12, 2018 by Ordinance No. 09361 (the “Original Plan” or “Original Urban Renewal Plan”) regarding tax increment financing (“TIF Financing”) authorized by the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”). The Original Plan was adopted to eliminate conditions of blight that exist in the area described in the Original Plan and to help redevelop the area for use by a major manufacturing operation that will create numerous primary manufacturing jobs and related ancillary jobs new to the region (the “Development”).

2.2 **Revised Urban Renewal Plan.** After approval of the Original Plan, a revision of the scope of the Development and addition of more area requires the termination of the Original Plan and adoption of a new urban renewal plan called the Evraz Rail Urban Renewal Plan (the “Revised Plan”), which is attached to this Replacement Agreement as Exhibit A. The Revised Plan also includes TIF financing provisions to pay Eligible Costs of eliminating the conditions of blight in the Urban Renewal Area and provide the infrastructure necessary to carry out the Revised Plan, which requires the Parties to replace the Original Agreement and Supplemental Agreement with this Replacement Agreement.

2.3 **Nature of Urban Renewal Project and Purpose of Agreement.** The proposed Urban Renewal Project consists of any and all undertakings and activities authorized in the Revised Plan and the Act to eliminate blighted conditions, including demolition and clearance of existing deteriorated buildings and structures, remediating environmental hazards, designing, developing and constructing the Improvements (which includes paying the Eligible Costs) necessary to serve the Development and to comply with §31-25-107(4)(g) of the Act that

requires the Revised 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 Revised Plan is subject to the requirements imposed by amendments to the Act contained in HB 15-1348 (as amended by SB 16-177 and SB 17-279) on new urban renewal plans adopted after January 1, 2016.

2.4 Waiver of Certain Provisions of the Act. In light of the benefits to the region and the Parties as well as the cost of eliminating blight from the Area, the Parties have agreed that it is in the public interest to enter into this Replacement Agreement and to waive certain provisions of the Act, including relevant provisions of HB 15-1348, as amended to date.

3.0 REPLACEMENT AGREEMENT. This Replacement Agreement is executed for the purpose of replacing the Original Agreement and Supplemental Agreement to enhance the Authority's efforts with respect to the Development. The Original Agreement and Supplemental Agreement are in all respects terminated and of no further force and effect and are replaced in their entirety by this Replacement 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 among the Parties hereto as set forth herein.

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 among 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, §§31-25-101, *et seq.*, C.R.S.

4.2 "Administrative Costs" means project management, market studies, feasibility studies, economic studies, public engagement, appraisals, regulatory compliance, insurance, accounting, consultant and legal expenses associated with the management of the Project and all other costs required for the necessary and proper execution of and adherence to the covenants contained in the Bond Documents.

4.3 "Area" and "Urban Renewal Area" mean the area included in the boundaries of the Revised Plan.

4.4 "Authority" means the Party described in Section 1.0, and its successors and assigns.

4.5 "Bonds" means any bonds (including refunding bonds), notes, interim certificates or receipts, temporary bonds, certificates of indebtedness, debentures, or other obligations provided in the Act.

4.6 "Bond Documents" means for each series of Bonds, the Bonds, the bond trust indenture, the bond purchase agreement and all other documents pertaining to the issuance of the

Bonds, including any documents or agreements required to document and pay or reimburse Eligible Costs.

4.7 “City” means the Party described in Section 1.0, and its successors and assigns.

4.8 “Costs of Issuance” means, collectively, the reasonable and necessary costs incurred in connection with the issuance of the Bonds, including, without limitation, underwriter’s compensation, financial consultant fees, fees and expenses of bond counsel, counsel to the underwriter, and counsel to any party or entity from which an opinion of counsel is required, fees and expenses of any provider of credit enhancement, bond insurance, or guaranty, fees and expenses of the Bond trustee, bond registrar, paying agent, and transfer agent and rating agency fees.

4.9 “County” means the Party described in Section 1.0, and its successors and assigns.

4.10 “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, and the Revised Plan. If the Revised Plan is finally approved by the City Council after August 25, 2019 and before December 10, 2019, the base year for calculating the Duration shall be 2019 as set forth in the Act. The last year the assessment roll will be divided for the purposes of TIF Financing is 2044 and the last year the Authority will received Property Tax Increment Revenues is 2045.

4.11 “Eligible Costs” means the total amount of costs eligible to be paid or reimbursed from Property Tax Increment Revenues and other pledged revenue pursuant to the Act, as set forth in the Revised Plan, including the Bonds and the Costs of Issuance thereof. Eligible Costs only includes those costs that are incurred within the Urban Renewal Area and the costs of off-site improvements required for and directly related to the development, construction, or operation of the Improvements, which costs shall be further defined in the Bond Documents and approved by Bond Counsel. Eligible Costs attributable to Administrative Costs shall not exceed 8% of the Property Tax Increment Revenues generated on an annual basis.

4.12 “Eligible Costs” means those costs eligible to be paid or reimbursed from Property Tax Increment Revenues and other pledged revenue pursuant to the Act.

4.13 “Improvements” means the improvements required to eliminate blight and serve the Development as set forth in the Revised Plan.

4.14 “Improvements” means the improvements required to serve the Development.

4.15 “Library District” means the Party described in Section 1.0, and its successors and assigns.

4.17 “Lower Ark Water” means the Party described in Section 1.0, and its successors and assigns.

4.18 “Party” or “Parties” shall have the meaning described in Section 1.0.

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

4.20 “Property Tax Increment Revenues” means all of the revenues produced by property tax levies on the TIF portion of the property tax assessment roll, as described in § 31-25-107(9)(a)(II), of the Act allocated to the Special Fund for the Duration of the Urban Renewal Project.

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

4.22 “Revised Plan” or means the urban renewal plan defined in Section 2.2 and attached hereto as Exhibit A.

4.23 “SE Water” means the Party described in Section 1.0, and its successors and assigns.

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

4.25 “Taxing Entities” means all the Parties listed in Section 1.0 (except the Authority) and their successors and assigns.

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

4.20 “Urban Renewal Area” shall have the same meaning as Area.

4.21 “Urban Renewal Plan” shall have the same meaning as the Revised Plan.

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

5.0 COOPERATION. The Development is expected to bring a substantial number of primary manufacturing jobs to the region. In accordance with §§ 31-25-107(9.5) and 112 of the Act, this Agreement shall constitute an agreement in writing by the Taxing Entities to aid the Authority in (1) the elimination of conditions of blight from the Property, and (2) providing necessary infrastructure through the unqualified payment or reimbursement of Eligible Costs of the Project by issuance of Bonds, including the following provisions.

5.1 Taxing Entities Increment Revenues. The Parties agree 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 Pueblo County Treasurer each year from the property tax levy of the

Taxing Entities against the portion of the assessment roll located within the Area, commencing on the date of approval of the Plan, 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 Consents and Waivers. The Parties acknowledge that changes to the Act in 2015 through H.B. 15-1348 (as amended by SB 16-177 and SB 17-279) created new requirements applicable to new or modified urban renewal projects. By entering into this Replacement Agreement the Parties intend to resolve all questions concerning the applicability of these statutory changes to the matters described herein and waive the right to pursue judicial or other remedies relating to compliance with said changes except as provided herein. To aid in the timely execution of the Urban Renewal Project, the Taxing Bodies hereby consent to the issuance of Bonds by the Authority and each Taxing Body waives (1) the right to receive the urban renewal impact report described in Section 31-25-107 (3.5) (a) of the Act; (2) the right to receive any funds to finance any additional infrastructure and services required to serve development within the Urban Renewal Area, it being agreed that the Development and creation of primary manufacturing jobs will create additional revenue to adequately provide for such infrastructure and services; (3) the right to enjoin any activity of the Authority pursuant to the Revised Plan, including the right of the Authority to issue Bonds necessary to finance the Project, as set forth in § 31-25-107 (7.5) of the Act; (4) the rights to receive the notice and share in Property Tax Increment Revenues in accordance with the provisions of Sections 31-25-107 (9.5) and (11) of the Act; (5) except as set forth in Section 5.6, the arbitration rights contained in Section 31-25-107 (12) of the Act; and (6) any other right or remedy that would materially interfere with or impair the validity of the Bonds or the rights and remedies of any holder of the Bonds.

5.3 Pledge of Property Tax Increment Revenues. The Parties recognize and agree that in reliance on the Replacement Agreement, the Authority intends to and shall have the unqualified right to irrevocably pledge all of the Property Tax Increment Revenues it receives to payment of the Eligible Costs of the Urban Renewal Project, including the Authority’s Bonds for the duration of the Urban Renewal Project. The Authority has elected to apply the provisions of § 11-57-208, C.R.S. to this Replacement Agreement. The Property Tax Increment Revenues, when and as received by the Authority shall be subject to the lien of such pledge for the Duration of the Project without any physical delivery, filing, or further act 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.

5.4 Pro Rata Reimbursement. If all Eligible Costs, including any and all Bonds, and costs of administration of the Urban Renewal Project are paid in full prior to expiration of the Duration, the Replacement Agreement shall terminate and each of the Taxing Entities shall receive the pro rata amount of the total Pledged Property Tax Increment Revenues produced by its tax levy upon the portion of the property tax assessment roll described in § 31-25-107(9)(a)(II) of the Act.

5.5 The Bonds. The Authority shall issues Bonds pursuant to the Replacement Agreement and secured by Property Tax Increment Revenues subject to the following parameters.

- (a) The aggregate principal amount of the Bonds shall not exceed the reasonable and necessary Eligible Costs as determined by the Authority.
- (b) The net effective interest rate of the Bonds shall not exceed 15.00%, which is the maximum net effective interest rate hereby authorized for the Bonds.
- (c) The Bonds shall mature not later than December 31, 2050.

5.6 Verification of Payments for Eligible Costs. To the Extent the Authority pays for Eligible Costs from proceeds of the Bonds, the Bond Documents shall provide any request for payment of Eligible Costs shall be submitted to and approved or rejected by the Authority or an authorized trustee. All copies of cost certificates approving such requests for payments shall be made available on a quarterly basis by the Authority to the Tax Entities at no charge to the Taxing Entities. To the extent any dispute arises out of the provisions of this Section 5.6, the Taxing Entities shall provide notice to the Authority of such dispute, which notice may serve as a request for purposes of the Colorado Open Records Act. To the extent such notice provided by the Taxing Entities does not resolve the dispute, the Parties shall pursue mediation under the procedures set forth in § 31-25-107(9.5)(d)(II) of the Act, the fees and costs of which shall be paid one half by the Authority and one half by the Taxing Entities; but any such mediation or any other right or remedy (a) shall not affect the unqualified and irrevocable pledge of Property Tax Increment Revenues as provided in Section 5.2 and (b) may and shall be superseded by the provisions of Bond Documents required for issuance of Bonds by qualified bond counsel.

5.7 Termination and Subsequent Legislation or Litigation. In the event the Bonds are not issued by July 1, 2021, the Replacement Agreement shall automatically terminate and each of the Taxing Entities shall receive all of the taxes produced by its tax levy. In the event of termination of the Revised Plan, including its TIF financing component, the Authority may terminate the Replacement Agreement by delivering written notice to the Taxing Entities. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction on or after the effective date hereof that invalidates or materially effects any provisions hereof, the Parties will in good faith negotiate for an amendment to the Replacement Agreement that most fully implements the original intent, purpose and provisions of the Replacement Agreement, but does not impair any otherwise valid contracts in effect at such time.

5.8 Delays. Subject to Section 5.7 herein, any delays in or failure of performance by any Party of its obligations under the Replacement Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, including economic downturns, which are beyond the control of such Party.

5.9 City's Covenants. During the term of this Agreement, the City expressly waives its right to receive its share in Property Tax Increment Revenues and further agrees not to seek reimbursement of same from the Authority.

6.0 AGREEMENT CONFINED TO URBAN RENEWAL PLAN. This Agreement applies only to the Revised Plan and the Urban Renewal Area, and does not include any other urban renewal plan or urban renewal area.

7.0 NO THIRD-PARTY ENFORCEMENT. It is expressly understood and agreed that the enforcement of the terms and conditions of the Replacement Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Taxing Entities and the undersigned Parties and nothing in in the Replacement Agreement shall give or allow any claim or right of action whatsoever by any other person not included in the Replacement Agreement; provided, however, a bond trustee or lender may enforce its rights as provided under the documents authorizing the issuance or sale of the Bonds. It is the express intention of the Parties that any person or entity other than the Parties receiving services or benefits under the Replacement Agreement shall be an incidental beneficiary only.

8.0 NO ASSIGNMENT. No Party may assign any of its rights or obligations under the Replacement Agreement; provided, however, the Replacement Agreement may be assigned by a Party to a successor of such Party.

9.0 MISCELLANEOUS.

9.1 Entire Agreement. This Replacement Agreement 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 Replacement Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Replacement Agreement shall be valid unless agreed to in writing by the Parties.

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

9.3 No Waiver of Immunities. No portion of this Replacement 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 Replacement 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.

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

9.5 Parties not Partners. Notwithstanding any language in this Replacement 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.

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

9.7 Incorporation of Recitals and Exhibits. The provisions of the Recitals and any exhibits attached to this Replacement Agreement are incorporated in and made a part of this Replacement Agreement.

9.8 Execution in Counterparts. This Replacement 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.

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

9.10 Severability. If any provision of this Replacement Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Replacement Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Replacement Agreement as a whole.

9.11 Minor Changes. This Replacement Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Revised Agreement are authorized to make and may have made, minor changes to this Replacement Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Replacement Agreement shall constitute the approval of such changes by the respective Parties.

[SIGNATURE PAGE FOLLOWS]

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

ATTEST: PUEBLO URBAN RENEWAL AUTHORITY
By: _____ By: _____
Secretary/Executive Director Chair

ATTEST: PUEBLO COUNTY
By: _____ By: _____

ATTEST: SCHOOL DISTRICT NO. 60
By: _____ By: _____

ATTEST: PUEBLO CITY-COUNTY LIBRARY DISTRICT
By: _____ By: _____

ATTEST: SOUTHEASTERN COLORADO WATER
CONSERVANCY DISTRICT
By: _____ By: _____

ATTEST: LOWER ARKANSAS WATER CONSERVANCY
DISTRICT
By: _____ By: _____

ATTEST: CITY OF PUEBLO
By: _____ By: _____

Exhibit A
REVISED PLAN