

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 13
SERIES 2018**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LEADVILLE
APPROVING AN AGREEMENT BY AND AMONG THE LAKE COUNTY SCHOOL
DISTRICT, CITY OF LEADVILLE AND LEADVILLE URBAN RENEWAL
AUTHORITY**

WHEREAS, pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et seq., C.R.S. (the “Act”), and by City of Leadville Resolution No. 08, Series 2017, the City Council of the City of Leadville created the Leadville Urban Renewal Authority (“Authority”); and

WHEREAS, pursuant to the Act, the City Council of the City is considering adoption of an urban renewal plan referred to as the Central Leadville Urban Renewal Plan (the “Plan”) to carry out urban renewal projects within the Urban Renewal Plan Area (“Plan Area”) described with particularity in the Plan; and

WHEREAS, Lake County School District (“School District”) is a taxing entity whose boundary includes real property within the boundary of Authority; and

WHEREAS, the Act authorizes, and the Plan will provide, for the use of tax increment financing by the Authority to assist with the development of projects subject to approval of a development agreement between the Authority and a property owner or developer; and

WHEREAS, the Act provides for the division of taxes collected from the taxable property within a plan area in the following order: first, to existing taxing districts of the base amount determined in accordance with statute; second, to any bonds, loans, or advances to, or indebtedness incurred by, any urban renewal project or to make payments under an agreement executed pursuant to § 31-25-107(11), C.R.S.; and third, upon payment of such bonds, loans, advances, indebtedness, and contractual obligations, to the respective taxing entities; and

WHEREAS, C.R.S. § 31-25-107(9.5), requires that the Plan may be adopted with a provision for tax increment financing, the LURA and the School District must enter into an agreement regarding the sharing of incremental property tax revenue; and

WHEREAS, the School District wishes to cooperate with the City and the LURA concerning the adoption of the Plan based on the sharing of incremental property tax revenue as set forth in the attached Agreement; and

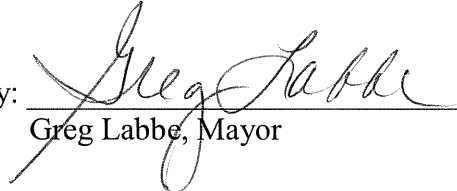
WHEREAS, the Agreement approved pursuant to this Resolution satisfies the requirements of C.R.S. 31-25-107(9.5).

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Leadville, Colorado as follows:


Section 1. The Leadville City Council hereby approves the Intergovernmental Agreement by and between the City of Leadville, Lake County School District and the Leadville Urban Renewal Authority in substantially the same form as attached hereto as Attachment 1 and authorizes the Mayor to execute the same on behalf of the City.

Section 2. **Effective Date.** This Resolution shall take effect upon its adoption by the City Council.

CITY OF LEADVILLE, COLORADO

By: 
Greg Labbe, Mayor

ATTEST:


Deputy City Clerk

ADOPTED by a vote of 7 in favor and 0 against, and 0 abstaining, this 3rd day of April, 2018.

ATTACHMENT A
INTERGOVERNMENTAL AGREEMENT

**AGREEMENT REGARDING LEADVILLE URBAN RENEWAL AUTHORITY
TAX INCREMENT FINANCING**

This **AGREEMENT REGARDING LEADVILLE URBAN RENEWAL AUTHORITY TAX INCREMENT FINANCING** (the “Agreement”) is entered into by and among the **CITY OF LEADVILLE** (“City”), a municipal corporation and political subdivision of the State of Colorado; the **LEADVILLE URBAN RENEWAL AUTHORITY** (“LURA”), an urban renewal authority and body corporate and politic of the State of Colorado, and the **LAKE COUNTY SCHOOL DISTRICT R-1** (the “District”), a body corporate and political subdivision of the State of Colorado (each party individually referred to herein as a “Party” and collectively referred to herein as the “Parties”).

RECITALS

WHEREAS, pursuant to the Colorado Urban Renewal Law, Section 31-25-101, et seq., C.R.S. (the “Act”), the City Council of the City formed LURA by Resolution No. 08, Series 2017; and

WHEREAS, pursuant to the Act, the City Council of the City is considering adoption of an urban renewal plan (the “Plan”) to carry out urban renewal projects within the Urban Renewal Plan Area (“Plan Area”) described with particularity in the Plan; and

WHEREAS, the District is a taxing entity whose boundary includes real property within the boundary of LURA; and

WHEREAS, the Act authorizes, and the Plan will provide, for the use of tax increment financing by LURA to assist with the development of projects subject to approval of a development agreement between LURA and a property owner or developer; and

WHEREAS, the Act provides for the division of taxes collected from the taxable property within a plan area in the following order: first, to existing taxing districts of the base amount determined in accordance with statute; second, to any bonds, loans, or advances to, or indebtedness incurred by, any urban renewal project or to make payments under an agreement executed pursuant to C.R.S § 31-25-107(11); and third, upon payment of such bonds, loans, advances, indebtedness, and contractual obligations, to the respective taxing entities; and

WHEREAS, C.R.S. § 31-25-107(9.5) requires that the Plan may be adopted with a provision for tax increment financing and that LURA and the District must enter into an agreement regarding the sharing of incremental property tax revenue; and

WHEREAS, C.R.S. § 31-25-107(9) requires that revenues from a property tax mill levy increase approved by District voters in the future be paid to the District; and

WHEREAS, the Parties recognize that this Agreement satisfies the requirements of C.R.S. 31-25-107(9.5).

AGREEMENT

NOW THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein, the mutual covenants and promises set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated into and made a part of this Agreement.

2. District Mill Levy Allocation and Payment. The District agrees that LURA may retain all incremental property tax revenues generated in the Plan Area solely as a result of the levy of the District's mill levy upon taxable property within the Plan Area except that after deducting LURA's Administrative Fee and upon receipt of TIF Revenues, LURA shall calculate and deposit into the School District Account, the TIF Shareback. LURA agrees to hold and earn interest on the amounts deposited in the School District Account in investments permitted by Colorado law which investments shall mature or be subject to redemption by LURA without penalty on or before the date LURA is required to pay amounts in the School District Account to the District. On or about August 1 or within sixty (60) days of receipt from Lake County, whichever occurs first, and beginning in the first year in which TIF Revenues are received by LURA and annually thereafter, LURA shall pay to the District all amounts on deposit in the School District Account. If the voters of the District approve an increase in property taxes in the future, LURA agrees to pay to the District an amount equal to the mill levy imposed pursuant to any such voter approval times the incremental assessed value within the Plan Area if LURA receives such amount. LURA shall pay the amounts due to the District pursuant to the preceding sentence to the District on or before the 15th day of the month immediately succeeding the month in which any such amount is received by LURA.

3. Land Dedication Ordinance. The City agrees to present and consider an ordinance, generally satisfactory to the District, requiring subdividers in the City to dedicate school land to the City on behalf of the District or to make a payment in lieu of dedication (the "Ordinance").

4. Definitions. For purposes of this Agreement, the following terms shall have the following definitions:

- a) *Administrative Fee* means a fee to cover LURA's administrative expenses associated with collection, accounting and distribution of TIF Shareback in an amount equal to one percent (1%) of the total revenues received from Lake County generated from that portion of property taxes levied by the School District in excess of the amount of base property taxes paid into the fund of the School District in accordance with C.R.S. § 31-25-107(9)(a)(I).

- b) *Backfill Amount* means State of Colorado’s (the “State”) contribution towards the District’s total program funding as determined pursuant to Title 22, Article 54, Part 1 of C.R.S. in an amount equal to the mill levy imposed by the District pursuant to C.R.S. §22-54-106 times the incremental assessed value within the Plan Area.
- c) *District* means the Lake County School District R-1, a body corporate and political subdivision of the State of Colorado.
- d) *Leadville Urban Renewal Authority* means the urban renewal authority created by the City Council of the City of Leadville, Colorado pursuant to Resolution No. 08, Series 2017.
- e) *Plan* means the urban renewal plan adopted or to be adopted by the Leadville Urban Renewal Authority known as the Central Leadville Urban Renewal Plan.
- f) *Plan Area* means the area described in the Central Leadville Urban Renewal Plan as more specifically and legally described in Exhibit A to the Plan.
- g) *School District Account* means a separate interest-bearing account held by LURA for the benefit of the School District in which is deposited the revenues of the District’s TIF Shareback.
- h) *TIF Shareback* means an amount equal to ten percent (10%) of the total incremental property tax revenues generated in the Plan Area calculated in accordance with C.R.S. § 31-25-107(9)(a)(II) and received by LURA, solely as a result of the levy of the School District’s mill levy upon taxable property within the Plan Area.

5. Term, Termination. The term of this Agreement shall commence on the date of mutual execution of this Agreement by the Parties, and shall run for a term of Twenty-five (25) years following the formal adoption of the Plan unless terminated earlier due to the abolishment of LURA or termination of the Plan. This Agreement may be terminated at any time upon the mutual written agreement of the Parties. This Agreement shall terminate if the City repeals or modifies the Ordinance without the consent of the District.

6. Modification. This Agreement may not be amended, modified, or changed, in whole or in part, without a written agreement executed by the Parties. The Parties agree to negotiate in good faith to amend this Agreement if the State ever reduces the Backfill Amount. The District shall give written notice to LURA that the State has reduced the Backfill Amount. If, after a period of one hundred twenty days from the date of notice or such longer or shorter period as LURA and the District may agree, there is no agreement between LURA and the District, LURA and the District shall submit to mediation on the issue of appropriate sharing of incremental property tax revenues and urban renewal project costs between LURA and the District. The mediation must be conducted by a mediator who has been jointly selected by the LURA and the District; except that, if LURA and the District are unable to agree on the selection of a mediator, then LURA shall select one mediator, the District shall select a second mediator,

and these two mediators shall then select a third mediator. In such circumstances, the mediation will be jointly conducted by the three mediators. Unless LURA and the District otherwise agree, any mediator selected must be an attorney licensed in the state for at least ten years and must be experienced in both land use and administrative law. Payment of the fees and costs for the mediation must be split equally between LURA and the District.

In making a determination of the appropriate sharing, the mediator must consider: (i) the nature of the project, (ii) the nature and relative size of the revenue and other benefits that are expected to accrue to LURA and the District as a result of the project, (iii) to what extent, if any, the State will replace the Backfill Amount with a funding source which is not available to a school district which does not have a tax increment area within its boundaries, (iv) any legal limitations on the use of revenues belonging to LURA or the District, and (v) any capital or operating costs that are expected to result from the project. Within ninety days, the mediator must issue his or her findings of fact as to the appropriate sharing of costs and incremental property tax revenues, and shall promptly transmit such information to LURA and the District. Following the issuance of findings by the mediator, LURA and the District shall incorporate the mediator's findings into this Agreement.

7. Assignment. No Party shall assign this Agreement or any interest hereunder in whole or in part, without the prior written consent of each of the other Parties. Any assignment attempted without the prior written consent of all Parties hereto, which consent shall not be unreasonably withheld, shall be deemed void, and of no force or effect. Consent to one assignment shall not be deemed to be consent to any subsequent assignment nor the waiver of any right to consent to such subsequent assignment. Notwithstanding the foregoing this Agreement may be assigned to the successor entity of the District or to the District's constituent entities.

8. Notices. Any notices or other communications required or permitted by this Agreement or by law to be served on, given to or delivered to any Party hereto, by any other Party shall be in writing and shall be deemed duly served, given or delivered when personally delivered to the Party to whom it is addressed or in lieu of such personal service, upon receipt in the United States' mail, first-class postage prepaid, addressed as follows:

To the District:

Lake County School District R-1
107 Spruce Street
Leadville, Colorado 80461

With a copy to:

Butler Snow LLP
Attn: Dee P. Wisor
1801 California Street, Suite 5100
Denver, Colorado 80202

To the City and LURA:

City of Leadville
Leadville LURA
800 Harrison Ave.
Leadville, CO 80461

With a copy to:

Michow, Cox & McAskin, LLP
Attn: Linda C. Michow
6530 S. Yosemite St., Suite 200
Greenwood Village, Colorado 80111

Any Party may change its address for the purpose of this Paragraph by giving written notice of such change to the other Parties in the manner provided in this Paragraph.

9. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

10. Binding Agreement. This Agreement shall inure to and be binding on the administrator, successors, and permitted assigns of the Parties hereto.

11. Entire Agreement. This Agreement constitutes the complete and exclusive statement of the agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior oral and written proposals, negotiations, representations, promises, agreements, warranties or understandings concerning such subject matter.

12. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

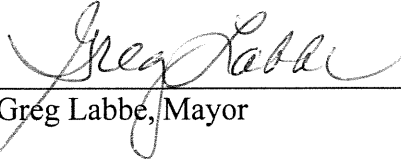
13. Governmental Immunity. Nothing in this Agreement shall be construed as a waiver of the rights and privileges of the Parties pursuant to the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as the same may be amended from time to time.

14. Authority to Enter Into Agreement. Each Party hereby confirms it is lawfully authorized to enter into this Agreement, has received legal counsel and advice as to the legal effect of this Agreement, and has taken all steps necessary to authorize the execution of the Agreement by the respective signatories below.

[The remainder of this page is left intentionally blank. Signature page follows.]


IN WITNESS WHEREOF, the Parties hereto have duly executed this Agreement as of the day and year first above written.

CITY OF LEADVILLE, a municipal corporation and political subdivision of the State of Colorado:



Greg Labbe, Mayor

ATTEST:



By: Bethany Maher

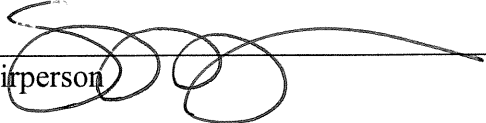
Its: Deputy City Clerk

Approved as to form:




City Attorney

LEADVILLE URBAN RENEWAL AUTHORITY, an urban renewal authority:



Chairperson

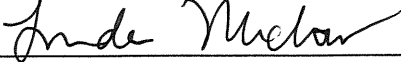
ATTEST:



By: Bethany Maher


Its: Deputy City Clerk

Approved as to form:




LURA Counsel

**LAKE COUNTY SCHOOL DISTRICT R-1, a
body corporate and political subdivision of the State
of Colorado:**

By: 
President

ATTEST:

By: 
Secretary

