

## **Reimbursement Agreement**

This Reimbursement Agreement (the "Agreement") is made and entered into as of the \_\_\_\_ day of June, 2021 (the "Effective Date"), by and between the Town of Erie Urban Renewal Authority, a Colorado urban renewal authority with an address of 645 Holbrook Street, Erie, CO 80516 (the "Authority"), and Strive Direct Health LLC, a limited liability company with an address of 60 Stewart Way, Erie, CO 80516 ("Strive Direct") (each a "Party" and collectively the "Parties").

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 Town of Erie (the "Town"), under the Colorado Urban Renewal Law, C.R.S. § 31-25-101, *et seq.*, and Town Resolution No. 11-121, adopted October 11, 2011;

Whereas, because the Authority's goal is to reduce, eliminate, and prevent the spread of blight by stimulating growth and investment within the Town, the Authority has the power to undertake urban renewal projects and activities benefitting properties within the Town, in accordance with Colorado Urban Renewal Law, and to provide financial assistance in public or private improvements in cooperation with property owners and other affected parties using a portion of Property Tax Increment, a portion of Municipal Sales Tax Increment, or some combination of both;

Whereas, on June 23, 2020, the Authority adopted its Incentive Policy (the "Policy"), the purpose of which is to utilize tax increment financing ("TIF") funds received by the Authority to promote the goals of reducing blight within urban renewal areas in the Town;

Whereas, under the Policy, the Authority launched the Revitalization Incentive Grant Program (the "Grant Program"), designed to provide business sighting and expansion assistance to help business owners improve the external appearance of their commercial properties;

Whereas, the Authority has selected Strive Direct to receive funds from the Grant Program to assist in construction costs for constructing and improving the internal appearance of 105 Wells Street, Suite 100, Erie, Colorado (the "Project"), as set forth in **Exhibit A**, attached hereto and incorporated herein by reference;

Whereas, the Authority has determined that the Project serves a public purpose;

Whereas, Strive Direct will complete the Project at its own expense and, upon completion, the Authority will reimburse Strive Direct for certain costs; and

Whereas, C.R.S. § 31-21-105 expressly authorizes the Authority to enter into contracts necessary or convenient to the exercise of its powers.

Now, therefore, in consideration of the mutual covenants, agreements, representations, and provisions contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. Term. This Agreement shall commence on the Effective Date and shall terminate 7 years after the date on which the final inspection is completed for the Project. Notwithstanding the foregoing, in no event shall the term be longer than the duration of the Authority's statutory authority to receive TIF.

2. Eligible Costs. For Strive Direct to be eligible to receive the Eligible Costs, defined below, all of the following criteria shall be satisfied:

a. Strive Direct shall complete construction of the Project within 180 days of the Effective Date.

b. Strive Direct shall expend a minimum of \$12,500 to complete the Project (the "Eligible Costs"), in accordance with Strive Direct's development plans.

c. The Project shall comply with the Erie Municipal Code.

d. Strive Direct shall provide the Authority with evidence, reasonably satisfactory to the Authority, documenting and certifying the Eligible Costs paid by Strive Direct. Such evidence may consist of canceled checks, payment records, or certification of representatives of Strive Direct showing actual expenditure of funds. If requested by the Authority, Strive Direct shall also provide evidence regarding the reasonableness of such expenditures.

3. Reimbursement Obligation.

a. In accordance with this Agreement, and in furtherance of the Policy, the Authority agrees to reimburse Strive Direct an amount not to exceed \$12,500 (the "Reimbursement Obligation") upon completion of the Project.

b. The Authority will only reimburse Strive Direct for the direct costs of completing the Project.

c. Notwithstanding anything to the contrary herein, the Authority shall not make any payment to Strive Direct in any time period during which no TIF is generated, and in no event shall the Authority make a payment in excess of the Reimbursement Obligation.

d. The Reimbursement Obligation is a limited obligation, payable solely to the extent that sufficient TIF exists to satisfy this Agreement and any other obligation of the Authority. The Reimbursement Obligation is not a debt or general obligation of

the Authority, and is not a debt of the Town or the State of Colorado, or of any political subdivision of the State of Colorado or any other public body. Such payment shall not be payable from, or constitute a charge upon, any funds of the Authority or the Town except from the Grant Program, and then only to the extent in the manner specified in this Agreement.

4. Insurance. Strive Direct shall include the Authority as a named insured on the insurance policy or policies related to the Project for the duration of this Agreement.

5. Strive Direct's Representations and Warranties. Strive Direct represents, warrants, and certifies to the Authority as follows:

a. Strive Direct is a Colorado limited liability company, validly existing, in good standing, and qualified to do business in the State of Colorado and has the legal capacity and the authority to enter into and perform its obligations under this Agreement.

b. The execution and delivery of this Agreement, and the performance and observance of its terms, conditions, and obligations have been duly and validly authorized by all necessary action on Strive Direct's part.

c. The execution and delivery of this Agreement and the consummation of the transaction contemplated by this Agreement will not: (i) to Strive Direct's knowledge, conflict with or contravene any law, order, rule or regulation applicable to Strive Direct; (ii) conflict with Strive Direct's governing documents; (iii) result in the breach of any of the terms or provisions, or constitute a default under, any agreement or other instrument to which Strive Direct is a party or by which it may be bound or affected; or (iv) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Strive Direct.

d. Strive Direct knows of no litigation, proceeding, initiative, referendum, or investigation, or threat of any of the same, contesting the power of the Authority or Strive Direct or any of their representative principals or officials with respect to this Agreement or any action taken by the Authority relating to the Project.

e. This Agreement constitutes a valid and binding obligation of Strive Direct, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency, and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

6. The Authority's Representations and Warranties. The Authority represents, warrants, and certifies to Strive Direct as follows:

a. The Authority is a body corporate organized pursuant to the provisions of the Colorado Urban Renewal Law and is not a "district" within the meaning of Article X, § 20 of the Colorado Constitution. As such, the Authority has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery, and performance of this Agreement by proper action, which Agreement shall be a legal, valid, and binding obligation of the Authority, enforceable in accordance with its terms.

b. The consummation of the transactions by this Agreement will not violate any provisions of any applicable law, rule, regulation, or ordinance or the governing laws or formation documents of the Authority or constitute a default or result in any breach of any term or provision of any contract or agreement to which the Authority is a party or by which it is bound.

c. The Authority knows of no litigation, proceeding, initiative, referendum, or investigation, or threat of any of the same, contesting the power of the Authority or Strive Direct or any of their representative principals or officials with respect to this Agreement or any action taken by the Authority relating to the Project.

d. The execution and delivery of this Agreement, and the performance and observance of its terms, conditions, and obligations have been duly and validly authorized by all necessary action on the Authority's part.

e. The Authority reasonably believes that the Project is, for all purposes, a necessary and appropriate urban renewal project as contemplated under the Colorado Urban Renewal Law.

## 7. Methodology, Risk Allocation, Protests, and Abatements.

a. The Parties understand and acknowledge that TIF revenues are remitted to the Authority according to policies and procedures adopted by the State Sales Tax Administrator, the County Assessor, and the County Treasurer (to the extent applicable). Accordingly, the timing and payment by the State Sales Tax Administrator or the County to the Authority of all, or some, portion of the TIF revenues is a matter that is out of the control of the Authority. Nothing herein is intended to be, or shall be construed as, a promise or guarantee by the Authority that the TIF revenues will be collected and remitted to the Authority in projected or anticipated amounts.

b. The Parties acknowledge that TIF revenues attributable to the properties located within the Town are calculated and remitted to the Authority in the aggregate for the entire Town. Therefore, in the event that the total annual TIF revenues are received by the Authority are insufficient to meet all of its TIF obligations and agreements existing as of the date of this Agreement, the Authority will use a reasonable methodology for allocating its funds and revenues actually distributed to

Strive Direct pursuant to this Agreement. In such event, the Authority will provide to Strive Direct an explanation of its methodology together with supporting documentation.

c. Strive Direct acknowledges that the acceptance of TIF revenues are dependent upon completion of the Project, and agrees that the Authority is in no way responsible for the amount of TIF revenue actually generated. Strive Direct also acknowledges that the Project is considered complete upon the completion of the final inspection and the Authority's Reimbursement Obligation shall not arise until the Authority receives written confirmation that Strive Direct is not in default, or, with the giving of notice or lapse of time, will be in default, pursuant to any Project financing. Strive Direct further acknowledges that the State Sales Tax Administrator and the County Assessor may modify the process for calculating TIF revenues, which may reduce the amount of TIF revenues. Strive Direct therefore agrees to assume the entire risk that insufficient TIF revenue will be generated to reimburse all Eligible Costs.

8. Miscellaneous.

a. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Weld County, Colorado.

b. *No Waiver.* Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Authority shall not constitute a waiver of any of the other terms or obligation of this Agreement.

c. *Integration.* This Agreement constitutes the entire agreement between the Parties, superseding all prior oral or written communications.

d. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

e. *Notice.* Any notice under this Agreement shall be in writing and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

f. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

g. *Modification.* This Agreement may only be modified upon written agreement of the Parties.



My Commission expires:

(SEAL)

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Notary Public

## **Exhibit A Project**

Project Detail: Construction, interior improvements, and furnishing of a physician's office.