REGIONAL TOURISM ACT
INTERGOVERNMENTAL AGREEMENT FOR
THE NATIONAL WESTERN CENTER

BETWEEN

CITY AND COUNTY OF DENVER, COLORADO

AND

DENVER URBAN RENEWAL AUTHORITY

THIS REGIONAL TOURISM ACT INTERGOVERNMENTAL AGREEMENT FOR THE NATIONAL WESTERN CENTER, dated as of the Effective Date (defined below) (the "Agreement") is made by and among the **CITY AND COUNTY OF DENVER, COLORADO** (the "City"), a home-rule city and municipal corporation of the State of Colorado, and the **DENVER URBAN RENEWAL AUTHORITY** ("DURA"), a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado.

W I T N E S S E T H:

WHEREAS, the City is a home-rule city and municipal corporation duly organized and existing under and pursuant to Article XX, of the Colorado Constitution and the Charter of the City; and

WHEREAS, DURA 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 City, all under and pursuant to the Colorado Urban Renewal Law, constituting Sections 31-25-101, *et seq*., C.R.S., as amended; and

WHEREAS, both the Act and Section 18, Article VIX of the Colorado Constitution and Charter authorize the City and DURA to enter into cooperative agreements, such as this Agreement; and

WHEREAS, the Colorado Economic Development Commission is charged with the responsibility for the review and approval of local government applications requesting the dedication of new state sales tax revenue to support regional tourism projects pursuant to the Colorado Regional Tourism Act, Part 3 of Article 46, Title 24, C.R.S. (the "RTA"); and

WHEREAS, by application dated February 17, 2015, the City, acting through its Mayor, requested the dedication of such state sales tax revenue to support a regional tourism project that comprises a substantial part of the "National Western Center;" and

WHEREAS, on December 10, 2015, the Commission approved certain terms and conditions associated with the National Western Center, on December 22, 2015 adopted Resolution No. 5, and in 2017 adopted Amended Resolution No. 5 (the "Resolution") which sets forth the conditions for the use of RTA; and

WHEREAS, DURA has agreed to be and was listed as the Financing Entity in both the City's application and in the Resolution; and

WHEREAS, the Mayor's Office of the National Western Center ("NWCO") was established by the City and tasked with design and construction of the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the premises herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. DEFINITIONS AND CONTROLLING DOCUMENTS

Section 1.1 Definitions. The defined terms set forth in the recitals or elsewhere in this Agreement, shall have the meaning set forth therein whenever used in this Agreement. Capitalized terms used in this Agreement that are not defined herein shall have the meaning set forth in the Resolution or in the RTA at C.R.S. § 24-46-303 as such may be amended from time to time**.** Definitions contained in the Resolution and the RTA are attached hereto as **Exhibit A**.

Section 1.2 Effect of Amendments to the Resolution.

(a) The Parties acknowledge that the Resolution was issued and amended by the Authority of the Commission under the RTA, and that the Commission may choose to unilaterally amend the Resolution without further action by either party.

(b) The Parties agree that to the extent the terms of this Agreement conflict with the terms of the RTA or the Resolution, including as it may be amended by the Commission, the terms of the RTA and the Resolution shall control over the terms of this Agreement and the Parties shall be bound to those terms.

(c) The Parties further agree that neither Party shall seek amendments to the Resolution in conflict with the terms of this Agreement without the consent of the other Party and that the Parties shall confer on all efforts to amend the Resolution.

SECTION 2. IMPLEMENTATION AND FUNDING OF THE PROJECT

Section 2.1 Design, Construction, Ownership, and Maintenance of Eligible Improvements. The City agrees to complete the design for, own, undertake the construction and maintenance of, and take all other actions necessary to implement the Project and to pursue the same with appropriate care and diligence or to cause its contracting parties to do the same. All activities by the City or its contracting parties, including design and construction and other implementation activities with respect to the Project shall be undertaken and completed in accordance with all applicable laws and regulations, including but not limited to the Resolution, as it may be amended, this Agreement, and all applicable procurement requirements as set forth in the Charter, ordinances and executive orders of the City. DURA shall have no ownership of nor responsibility to undertake any design, maintenance, procurement, or construction with respect to the Project.

Section 2.2 Dedicated Revenue.

(a) DURA agrees to accept Dedicated Revenue from the Department and hold it in a Special Fund segregated from any other moneys of DURA to be used only to pay for Eligible Costs, as described in the Resolution. All interest earnings on Dedicated Revenue shall be placed in the Special Fund and used only to pay Eligible Costs.

(b) The Administrative Account shall be created and used by DURA to pay for Eligible Costs incurred by the Financing Entity pursuant to the Resolution. DURA and the City hereby agree that administrative costs include only the actual costs incurred by DURA to complete tasks required by the Resolution and this Agreement, including DURA staffing directly attributable to the Project. Further, DURA and the City agree that the time expended by DURA's Executive

Director shall not be charged as an Administrative Cost and that no additional fees shall be charged by DURA nor any mark-up applied to any Administrative Costs incurred by DURA. DURA shall include an itemized list of Administrative Costs paid for out of the Administrative Account for the reporting period in its Quarterly Reports required under the Resolution, or its annual reports when the obligation to produce Quarterly Reports ceases, and provide the City with a copy of all such reports.

(c) The City and DURA agree that the Administrative Account shall be funded by the first $300,000 of Dedicated Revenue. Thereafter, the Administrative Account shall be funded annually by either the first $100,000 of Dedicated Revenue or such lesser amount as may be required to reach a balance of $300,000.

(i) In the event the Administrative Account balance, including interest earnings, exceeds $300,000 as of November 30 in any calendar year, the amount in excess of $300,000 shall be transferred to the Special Fund.

(ii) In the event the Administrative Account balance falls to zero ($0), DURA shall be entitled, as an Administrative Cost, to interest on any expenses paid by DURA from another source which would ordinarily have been paid out of the Administrative Account ("DURA Expenses"). The interest rate on DURA Expenses shall be the average interest rate at which interest would have been accrued by the Administrative Account during the period for which the Administrative Account balance was zero ($0). In order to minimize this interest cost, DURA Expenses shall be immediately reimbursed out of the Administrative Account, with interest, at such time as the Administrative Account balance exceeds zero ($0).

(iii) Once the need for the Administrative Account expires and the Executive Director of DURA and the Executive Director of NWCO or any successor agency, (the "Executive Directors"), agree that it should be closed, the Administrative Account shall be closed and any remaining funds contained therein shall go to the City to reimburse Eligible Costs previously identified but not reimbursed under Sections 2.5 and 2.6(c) below and as allowed by the Resolution and the Act.

(d) Dedicated Revenue remaining in the Special Fund after the annual funding of the Administrative Account shall be used as directed by the City to pay debt service on Bonds issued to pay for Eligible Costs, to pay third parties directly for Eligible Costs, or to reimburse City expenditures on Eligible Costs and shall be referred to herein as Pledged Revenue ("Pledged Revenue").

Section 2.3 Bond Issuance.

(a) DURA shall cooperate with the City to comply with all commercially reasonable requirements for the issuance, by the City, of Bonds supported by Dedicated Revenue and the City's management of Bond proceeds to fund the Project consistent with Section 7 of the Resolution and the RTA. Such commercially reasonable requirements may include, but are not limited to, executing a pledge of the Dedicated Revenue for an issuance and the provision of any information required by securities law.

(b) The City shall engage with DURA regarding any issuance of Bonds supported by Dedicated Revenue no later than sixty (60) days prior to the notification required under D.R.M.C. §20-93 and shall provide all required notices under Section 7.A. of the Resolution. For all Bonds supported by a combination of Dedicated Revenue and other repayment sources, the Parties will cooperate to identify the amount of Bond proceeds and costs of issuance attributable to the pledge of Dedicated Revenue as required by Section 7.C. of the Resolution and the City shall cause its External Financial Advisor to provide the required certification.

(c) Pursuant to Section 8.F of the Resolution, DURA is required, promptly upon the issuance of any Bond, to obtain from an External Financial Advisor and forward to the Commission a certification that the interest rate or financing costs are reasonable in light of market conditions, the term and structure of the financial instrument, and any other factors deemed applicable by that advisor. The City shall obtain such certification from its External Financial Advisor and provide the same to DURA within seven (7) days of closing. Within seven (7) days of receipt, DURA shall forward the certification to the Commission.

(d) In the event an extraordinary mandatory redemption of Bonds is required under Section 5.D. of the Resolution, the Parties will cooperate to immediately identify and certify all previously expended eligible costs and complete the mandatory redemption of outstanding proceeds to the extent a balance remains in the Proceed Account.

Section 2.4. Project Conditions. The City shall bear exclusive responsibility for compliance with all prerequisites for reimbursement of Eligible Costs contained in Section 5 of the Resolution.

Section 2.5 Payment of Eligible Costs.

(a) Pursuant to Section 8.C.ii of the Resolution, prior to initiation of construction of the Project and by July 1 annually thereafter, DURA shall obtain a certification from an independent engineer that proposed design plans and on-going construction for the Project are in accordance with Section 5(B) and Exhibit B to the Resolution, as it may be amended.

(b) Prior to seeking payment or reimbursement of Eligible Costs from DURA, the City shall meet the requirements contained in Section 5.H. of the Resolution and shall provide to DURA documentation demonstrating that the requirements have been met to the satisfaction of the Commission.

(c) For each payment or reimbursement of Eligible Costs expended by the City the Parties shall perform their obligations as follows:

(i) The City shall submit to DURA a request for payment or reimbursement of Eligible Costs ("Request").

(ii) The City shall also provide and DURA shall rely on a certification by the City that all service providers and contractors for said Eligible Costs were procured in accordance with the applicable procurement requirements pursuant to Subsection 8.E. of the Resolution ("Procurement Certification").

(iii) Upon receiving a Request and a Procurement Certification from the City, DURA shall promptly, within 28 days, obtain the required certifications of an independent construction professional and independent CPA as outlined in Sections 8.C.i, 8.D and 8.E of the Resolution.

(iv) Within 14 days of obtaining all required certifications, DURA shall notify the City of its approval of the Eligible Costs and pay or reimburse Eligible Costs in accordance with the City's Request, or authorize such payment or reimbursement if Bond Proceeds are held in an account not directly controlled by DURA, to the extent Bond Proceeds or Pledged Revenue are available to make such payment.

(v) After repayment of any Bonds supported by Pledged Revenue is complete, any remaining Pledged Revenue, whether then held or subsequently received by DURA, shall be paid to the City to reimburse any amount of Eligible Costs previously expended and approved as outlined above but not yet reimbursed to the City.

Section 2.6 Repayment of Dedicated Revenue deemed to have been used for unauthorized purposes.

(a) The Parties acknowledge that Section 10.E. of the Resolution makes DURA liable for repayment of any Dedicated Revenue or Bond proceeds that are determined to have been used for an unauthorized purpose.

(b) The Parties further acknowledge that anticipated Eligible Costs greatly exceed the anticipated Dedicated Revenue or Bond proceeds available to pay such costs.

(c) In order to minimize the risk that any funds shall be determined to have been used for unauthorized purposes, the Parties hereby agree that they shall cooperate to identify an amount of Eligible Costs, not including financing costs, debt service, or administrative costs, equal to at least $100,000,000 and shall complete all requirements of Section 2.5 of this Agreement and Section 8 of the Resolution with respect thereto, such that all Dedicated Revenue shall be allocated to payment of Eligible Costs even if some expenditures are deemed by the Commission to be ineligible.

(d) Pursuant to Section 5.H.ii of the Resolution, the City shall have the power to determine any allocation of Dedicated Revenue consistent with the Resolution. However, in order to comply with Section 5.F. of the Resolution, the City hereby expresses its intent to seek only payment or reimbursement of Eligible Costs expended for Eligible Improvements related to the new livestock center and/or equestrian center identified in Exhibit B to the Resolution, except in case of a mandatory redemption under Section 5.D of the Resolution. In the event the City elects to seek payment or reimbursement of other Eligible Costs, the Executive Director of NWCO, or her successor or designee, shall so inform the Executive Director of DURA in writing.

(e) To the extent expenditures of Dedicated Revenue or Bond proceeds by the City are deemed unauthorized so as to require repayment under Section 10.E of the Resolution, the City shall be responsible for such repayment, including any amount offset by the state under Section 10.E.

(f) To the extent expenditures of Dedicated Revenue or Bond proceeds by DURA are deemed unauthorized so as to require repayment under Section 10.E of the Resolution, DURA shall be responsible for such repayment, including any amount offset by the State under Section 10.E.

Section 2.7 Access. The City hereby grants to DURA and entities retained by DURA ("subcontractors") authority to enter any location where the Project is being implemented for the purpose of carrying out or determining compliance with this Agreement, the Resolution, and any other agreements related to the Project; provided that, except in the event of an emergency, DURA and its subcontractors shall provide reasonable advance notice to the City of their intention to so inspect.

SECTION 3. REPORTING, MEETINGS, & RECONCILIATION

Section 3.1 Reporting & Meetings.

(a) DURA shall be responsible for scheduling and attending all required reports and meetings with the Commission that are the responsibility of the Financing Entity as contained in Sections 6.A. and 6.B. of the Resolution. DURA shall also be responsible for all Special Reports by the Financing Entity listed in Section 6.D. of the Resolution. DURA shall attest to the accuracy of all information in reports it provides to the Commission as required by Section 6.E. of the Resolution.

(b) The City, through NWCO, or another agency, shall timely provide to DURA, in accordance with the procedures manual, all information controlled by the City necessary for the completion of the reporting requirements contained in the Resolution, including the economic analysis required by Resolution 6.B.iv and C.R.S. § 24-46-308. The City shall also be responsible for completion of all obligations of the Applicant and for ensuring compliance by CSU and WSSA with their obligations contained in Section 6.D. of the Resolution.

(c) The City, through NWCO, and DURA shall cooperate to compile a procedures manual that both parties shall follow to facilitate the easy sharing of information for reporting purposes. Said procedures may be amended from time to time by approval of the Executive Directors and without amendment of this Agreement.

(d) The City shall attest to the accuracy of all information it provides to DURA and to the Commission as required by Section 6.E. of the Resolution.

(e) Nothing in this Agreement shall be construed as requiring continued reporting or meetings once a meeting or reporting requirement ceases pursuant to the Act, the Resolution, or at the direction of the Commission.

Section 3.2 Business List Reconciliation. The City shall be responsible for the Reconciliation of the Business list with the Department consistent with Section 6.C. of the Resolution.

SECTION 4. GENERAL COVENANTS

Section 4.1 Insurance.

(a) At all times during the term of this Agreement, including any renewals or extensions, the City and DURA shall maintain such Workers' Compensation insurance as required by Statute, and liability insurance, by commercial policy or self-insurance, as is necessary to meet their liabilities under the Colorado Governmental Immunity Act, §§ 24-10-101, et seq., C.R.S. ("CGIA"). This obligation shall survive the termination of this Agreement.

(b) Commercial Crime: DURA shall maintain commercial crime insurance coverage in an amount no less than $1,000,000. Coverage shall include theft of money or securities by DURA employees, including any extended definition of employee.

(c) DURA subcontractors performing work under this agreement shall carry Professional Liability (Errors & Omissions) insurance with minimum limits of $1,000,000 per claim and $1,000,000 aggregate.

In agreeing to the foregoing insurance requirements, neither the City nor DURA intend to waive any provision of the CGIA.

Section 4.2 Cooperation. The parties agree to execute such additional documents, including any estoppel certificates and take any such actions as may be reasonably requested by the other parties in order to fulfill the purposes of this Agreement.

SECTION 5. INDEMNITY

Section 5.1 Indemnity. DURA shall require any subcontractors hired to perform work under this agreement to indemnify the City. Prior to entering into any contract for work under this Agreement, DURA shall obtain written approval from the City Attorney's Office of an indemnification provision to be included therein.

SECTION 6. EVENTS OF DEFAULT; REMEDIES

Section 6.1 Event of Default by City. A Default by the City under this Agreement shall mean one or more of the following events:

(a) The City fails to cooperate with DURA in reporting obligations as outlined in the procedures manual;

(b) The City breaches any provision of this Agreement;

If such Default is not cured by the City within the time provided in Section 6.4, then an Event of Default shall be deemed to have occurred and DURA may exercise any remedy available under this Agreement.

Section 6.2 Events of Default by DURA. Default by DURA under this Agreement shall mean one or more of the following events:

(a) DURA fails to reimburse the City for payment of or pay Eligible Costs as provided in Section 2;

(b) DURA fails to make appropriate reports to the Commission as required by the Resolution;

(c) DURA fails to cooperate with the City for the issuance of Bonds relying on Dedicated Revenue pursuant to Section 2.3;

(d) DURA fails properly manage Dedicated Revenue received from the Department in accordance with the RTA, the Resolution, Bond requirements, and this Agreement;

If such Default is not cured within the time provided in Section 6.4, then an Event of Default shall be deemed to have occurred, and the City may exercise the remedy available under this Agreement.

Section 6.3 Remedies. If any Event of Default by the City occurs and is continuing hereunder, DURA may seek enforcement of the City's obligations hereunder by specific performance. DURA expressly waives all other remedies available in law or equity. If any Event of Default by DURA occurs and is continuing hereunder, the City may seek enforcement of DURA's obligations in Section 2 and Section 3 hereof by specific performance. In no event shall DURA or the City be liable to the other party hereto for damages, including special, consequential or punitive damages, and each party hereby waives any claims or actions for damages against the other party hereto.

Section 6.4 Notice of Defaults; Opportunity to Cure Such Defaults. Anything hereunder to the contrary notwithstanding, no Default under Section 6.1 or 6.2 hereof shall constitute an Event of Default until (a) actual notice of such Default shall be given to the party in Default by the other party hereto, (b) and the party in Default shall have had thirty (30) days after receipt of such notice to correct said Default or cause said Default to be corrected and shall not have corrected said Default or caused said Default to be corrected within the applicable period; (c) provided, however, if said Default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted within the applicable period and diligently pursued until the Default is corrected; so long as that corrective action is completed no later than one hundred eighty (180) days after receipt of notice.

SECTION 7. MISCELLANEOUS

Section 7.1 Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or to be implied by this Agreement is intended or shall be construed to give to any person other than the parties hereto any legal or equitable right, remedy or claim under or in respect to this Agreement or any covenants, conditions and provisions hereof.

Section 7.2 Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when given by hand delivery, overnight delivery, mailed by certified or registered mail, postage prepaid, or mailed via United States mail, postage prepaid, addressed to the following persons and addresses or at such other address or addresses as any party hereto shall designate in writing to the other party hereto:

TO DURA:

Denver Urban Renewal Authority
1555 California Street, Suite 200
Denver, Colorado 80202
Attention: Executive Director

TO THE CITY:

Manager of Finance
Webb Municipal Office Building
201 W. Colfax Ave., Dept. 1010
Denver, CO 80202

Executive Director of the Mayor's
Office of the National Western Center
Webb Municipal Office Building
5125 Race Court
Denver, CO 80216

City Attorney
Denver City and County Building
1435 Bannock St., Room 353
Denver, CO 80202

Section 7.3 Waiver. No failure by any party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement, or to exercise any right or remedy consequent upon a breach of this Agreement, shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any party, by giving notice to the other party may, but shall not be required to, waive any of its rights or any conditions to any of its obligations hereunder. No waiver shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach.

Section 7.4 Attorneys' Fees. In any proceeding brought to enforce the provisions of this Agreement, each party shall be responsible for its own attorneys' fees, actual court costs and other expenses incurred.

Section 7.5 Conflicts of Interest. DURA and the City shall not allow any of the following persons to have any interest, direct or indirect, in this Agreement: A member of the governing body of DURA or of the City or an employee of DURA or of the City who exercises responsibility concerning the Project. DURA and the City shall not allow any of the above persons or entities to participate in any decision relating to this Agreement that affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested.

Section 7.6 Titles of Sections. Any titles of the several parts and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 7.7 Applicable Law. The internal laws of the State of Colorado, the City Charter and the Denver Revised Municipal Code shall govern the interpretation and enforcement of this Agreement, without giving effect to choice of law principles.

Section 7.8 Binding Effect. This Agreement shall be binding on and inure to the benefit of the parties hereto, and their successors and assigns.

Section 7.9 Further Assurances. The parties hereto agree to execute such documents, and take such action, as shall be reasonably requested by the other party hereto to confirm or clarify the intent of the provisions hereof and to effectuate the agreements herein contained and the intent hereof.

Section 7.10 Time of Essence. Time is of the essence for this Agreement. The parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 7.11 Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

Section 7.12 Good Faith; Consent or Approval. Except as specifically set forth herein to the contrary, in performance of this Agreement, the parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold or delay any approval required by this Agreement. Except as otherwise provided in this Agreement, whenever consent or approval of a party is required, such consent or approval shall not be unreasonably withheld, conditioned or delayed. The City agrees and acknowledges that in each instance in this Agreement or elsewhere where DURA is required or has the right to review or give its approval or consent, no such review, approval or consent shall imply or be deemed to constitute an opinion by DURA, nor impose upon DURA any responsibility for the design construction or implementation of the Project, including but not limited to the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the Environmental Laws. All reviews, approval and consents by DURA under the terms of this Agreement are for the sole and exclusive benefit of the City and no other person or party shall have the right to rely thereon. Notwithstanding anything in the Agreement to the contrary, nothing herein shall limit or impair the City's police powers, including its regulatory powers.

Section 7.13 Nonliability of DURA or City Officials and Employees. No elected official, commissioner, board member, director, officer, agent or employee, of the City or DURA shall be charged personally, or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement, in the event of a breach or Event of Default by DURA or the City or for any amount that may become due under the terms of this Agreement.

Section 7.14 Incorporation of Exhibits. All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

Section 7.15 Survival. The obligations of DURA under Section 5 to seek indemnification by its subcontractors shall survive any termination of this Agreement until the latest expiry of all applicable statutes of limitation.

Section 7.16 No Third-Party Beneficiaries. The City and DURA intend that this Agreement shall create no third-party beneficiary interests. The City and DURA are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation constituting a different interest, and, in any event, expressly disclaim any such acts or actions.

Section 7.17 Examination of Records. Each party to this Agreement agrees that any duly authorized representative of the other party, including, in the case of the City, the City Auditor and/or his representatives, shall have access to and the right to examine, during normal business hours and upon reasonable notice, any directly pertinent books, documents, papers and records of the requested party relating to his Agreement subject to applicable laws, including maintaining the confidentiality of documents in accordance with the Colorado Open Records Act.

Section 7.18 Modification. This Agreement may be modified, amended, changed or terminated, in whole or in part, without City Council approval unless City Council approval is required by City Charter. Any modification, amendment, change or termination shall be in writing executed by the City and DURA.

Section 7.19 Venue. Venue shall be exclusively to the District Court in and for the City and County of Denver.

Section 7.20 Nondiscrimination. In connection with the performance of work under this Agreement, the City and DURA agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status or physical and mental disability; and the City and DURA further agree to insert the foregoing provision in all subcontracts hereunder.

Section 7.21 Effective Date and Term. The Effective Date of this Agreement shall be the date set forth on the City signature page below. This Agreement shall automatically terminate upon the completion of all obligations hereunder.

Section 7.22 Electronic Signatures and Electronic Records. DURA consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

Section 7.23 Appropriation. The City's obligations, whether direct or contingent, extend only to funds appropriated annually by the Denver City Council, paid into the Treasury of the City, and encumbered for the purpose of the Agreement.

Section 7.24 No Employment of Illegal Aliens to Perform Work Under the Agreement.

(a)This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

(b) Each Party certifies that:

(1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.

(2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

(c) DURA also agrees and represents that:

(1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to DURA that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

(3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.

(4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

(5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. DURA shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

(d) DURA is liable for any violations as provided in the Certification Ordinance. If DURA violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, DURA shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying DURA from submitting bids or proposals for future contracts with the City.

Section 7.25 Confidential Information. DURA acknowledges and accepts that, in performance of all work under the terms of this Agreement, DURA may have access to Proprietary Data or confidential information that may be owned or controlled by the City, and that the disclosure of such Proprietary Data or information may be damaging to the City or third parties. DURA agrees that all Proprietary Data, confidential information or any other data or information provided or otherwise disclosed by the City to DURA shall be held in confidence and used only in the performance of its obligations under this Agreement. DURA shall exercise the same standard of care to protect such Proprietary Data and information as a reasonably prudent person would to protect its own proprietary or confidential data. "Proprietary Data" shall mean any materials or information which may be designated or marked "Proprietary" or "Confidential", or which would not be documents subject to disclosure pursuant to the Colorado Open Records Act ("CORA"), and provided or made available to DURA by the City. Such Proprietary Data may be in hardcopy, printed, digital or electronic format. Upon receipt of a request under CORA for any information owned or controlled by the City which was provided to DURA under the terms of this Agreement, DURA shall notify the City no later than the following business day and hereby consents to the City's intervention in any lawsuit related to such a request.

Section 7.26 Agreement as Complete Integration-Amendments. The Agreement is the complete integration of all understandings between the parties as to the subject matter of the Agreement. No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in the Agreement in writing. No oral representation by any officer or employee of the City at variance with the terms of the Agreement or any written amendment to the Agreement will have any force or effect or bind the City.

Section 7.27 Use, Possession or Sale of Alcohol or Drugs. DURA shall cooperate and comply with the provisions of Executive Order 94 and its Attachment A concerning the use, possession or sale of alcohol or drugs. Violation of these provisions or refusal to cooperate with implementation of the policy can result in contract personnel being barred from City facilities and from participating in City operations.

Exhibit A: Definitions

[SIGNATURE PAGE FOLLOWS]

Contract Control Number: FINAN-201950451-00
Contractor Name: DENVER URBAN RENEWAL AUTHORITY

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of:

SEAL

CITY AND COUNTY OF DENVER:

ATTEST:

By: _____

_____

APPROVED AS TO FORM:

Attorney for the City and County of Denver

By: _____

REGISTERED AND COUNTERSIGNED:

By: _____

By: _____

Contract Control Number: FINAN-201950451-00
Contractor Name: DENVER URBAN RENEWAL AUTHORITY

By: Tracy Huggins

Name: Tracy Huggins
(please print)

Title: Executive Director
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

Exhibit A Definitions

Section 1. Definitions incorporated from the Act, C.R.S. §24-46-303.

(1) "Base year revenue" means the state sales tax revenue collected during the twelve-month period immediately prior to the month in which a regional tourism project is authorized, as determined by the department of revenue.

(1.5) "Baseline growth rate" means the forecasted growth in state sales tax revenue above the base year revenue that would be collected in a proposed regional tourism zone if the proposed regional tourism project did not occur, as determined pursuant to section 24-46-304(1.5).

(2) "Commission" means the Colorado economic development commission created in section 24-46-102.

(3) "Director" means the director of the Colorado office of economic development created in section 24-48.5-101.

(4) "Eligible costs" means the costs of designing, constructing, financing, and maintaining eligible improvements designated by the commission as part of an approved regional tourism project, including but not limited to costs of engineering, construction engineering, surveying, construction surveying, construction labor and materials, design, planning, legal services, accounting, overhead or administrative staffing, financing, bond issuance or reissuance, underwriting, interest payments, loan origination fees, and similar necessary and convenient costs incurred by the financing entity in exercising its powers pursuant to this part 3. Moneys advanced by private developers within the regional tourism project to the financing entity for eligible improvements, whether pursuant to loans or contractual funding and reimbursement agreements, together with reasonable interest thereon, shall be eligible costs. In addition, the financing entity's costs for purchasing eligible improvements constructed and owned by third parties either prior to or subsequent to designation of the regional tourism project shall be eligible costs. Costs and expenses incurred by the financing entity pursuant to section 24-35-118 and in complying with its annual report and audit obligations under this part 3 shall be eligible costs.

(5) "Eligible improvements" means the specific improvements authorized by the commission as part of an approved regional tourism project, whether publicly or privately owned, including but not limited to storm sewer and sanitary sewer collection, conveyance, distribution, treatment, and related facilities and real property interests necessary or convenient thereto; potable and nonpotable water supplies and collection, conveyance, distribution, treatment, and related facilities and real property interests related thereto; roads; streets; state highways; rights-of-way; lighting; traffic signals and signs; direction and location signage and similar signage; land acquisition; surveying, engineering, soils testing, site planning, grading, and similar activities necessary or convenient for site preparation and development; park and recreational facilities; trails and paths; public safety facilities; landscaping; tourism and entertainment facilities; transportation facilities; surface and structured parking facilities; and any other facilities or improvements necessary to or convenient for the completion of an approved project.

(6) “Financing entity” means the entity designated by the commission in connection with its approval of a regional tourism project to receive and utilize state sales tax increment revenue. A financing entity may be a metropolitan district created pursuant to title 32, C.R.S., an urban renewal authority created pursuant to part 1 of article 25 of title 31, C.R.S., or any regional tourism authority to be formed pursuant to this part 3.

(7) “Financing term” means the aggregate period authorized by the commission pursuant to this part 3 within which the financing entity is authorized to receive and utilize state sales tax increment revenue to finance eligible costs.

(7.5) “Gambling-related activities” means any betting, wagering, or payments made on or in connection with one or more games that qualify as gambling as defined in section 18-10-102(2), or limited gaming as defined in section 9 of article XVIII of the state constitution and section 44-30-103(22).

(8) “Local government” means a city, county, city and county, or town or a group of contiguous cities, counties, city and counties, or towns.

(9) “Regional tourism authority” or “authority” means a corporate body organized pursuant to this part 3 for the purposes, with the powers, and subject to the restrictions set forth in this part 3 and the formation of which has been approved by the commission pursuant to this part 3.

(10) “Regional tourism project” or “project” means a development project that is planned to include a tourism or entertainment facility together with ancillary uses, structures, and improvements, and that has been approved by the commission pursuant to this part 3.

(11) “Regional tourism zone” means the geographic area defined by the commission as part of an approved regional tourism project. A regional tourism zone shall not extend into the territorial boundaries of any local government except for the local government that is requesting the designation of the regional tourism zone. A regional tourism zone may be limited to portions of a local government and may include noncontiguous tracts or parcels of property.

(12) “State sales tax increment revenue” means the portion of the revenue derived from state sales taxes, including any revenue attributable to the baseline growth rate and not including any sales taxes for remote sales as specified in section 39-26-104(2), C.R.S., collected within a designated regional tourism zone in excess of the amount of base year revenue.

(13) “Tourism or entertainment facility” means a facility or group of interrelated facilities constructed primarily for use as a tourism or entertainment venue that is reasonably anticipated to draw a significant number of regional, national, or international patrons. A tourism or entertainment facility may include but need not be limited to museums, stadiums, arenas, major sports facilities, performing arts theaters, theme or amusement parks, conference center or resort hotels, or other similar venues. “Tourism or entertainment facility” shall not include any facility or group of interrelated facilities that directly or indirectly offer, make available, or facilitate in any manner one or more gambling-related activities.

Section 2. Definitions incorporated from Amended Resolution No. 5

A. "**Advances**" means moneys advanced to the Financing Entity to pay for Eligible Costs, or moneys paid for Eligible Costs by the Applicant or the Financing Entity which are not Dedicated Revenue or proceeds thereof.

B. "**Administrative Account**" means the subaccount of the Special Fund that the Financing Entity maintains to pay for Eligible Costs incurred by the Financing Entity for Project administration after the effective date of this Amended Resolution.

C. "**Administrative Costs**" means the Eligible Costs incurred by the Financing Entity in support of the administration of the Project.

D. "**Aggregate Cap**" means the total cumulative dollar amount of state sales tax increment revenue that may be generated by the Percentage of State Sales Tax Increment Revenue dedicated to the Regional Tourism Project per C.R.S. § 24-46-305(3)(d) and paid to the Financing Entity, which is $121,464,163.50.

E. "**Applicant**" means the City and County of Denver, a home rule city and Colorado municipal corporation. The Mayor of Applicant or the Mayor's designee is authorized to act for the Applicant for purposes of fulfilling its obligations under this Amended Resolution.

F. "**Base Year Revenue**" means the state sales tax revenue collected by the state from taxable transactions occurring within the Regional Tourism Zone during the twelve-month period beginning on December 1, 2014 and ending on November 30, 2015, as determined by the Department, which is $214,866,527.20.

G. "**Bond(s)**" means the bonds, bond anticipation notes, other forms of debt instruments, or other financial obligations to which the Financing Entity has pledged, or identified as a repayment source, Dedicated Revenue, and which are issued or incurred by an Issuer and documented by the Financing Entity for the purpose of paying Eligible Costs as described in C.R.S. § 24-46-303(4).

H. "**Bond Documents**" means any resolution, indenture, reimbursement agreement, intergovernmental agreement, loan agreement, note, bond, debt instrument, or other contract under which an Issuer issues or incurs debt or other financial obligations for which Dedicated Revenue is pledged in connection with financing the Eligible Improvements.

I. "**Bond Term**" means the maximum length of time in which a single Bond issuance must reach a maturity date, which is thirty (30) years. If an Issuer consolidates or refinances previously issued Bonds as authorized by C.R.S. § 24-46-304(2)(h) and provides written notice of the consolidation or refinancing details by certified mail to the Financing Entity, the Commission, and the Department within thirty (30) calendar days of such consolidation or refinancing being effective, then the maximum thirty (30) year single Bond issuance maturity date may be extended by a period not to exceed thirty (30) years.

J. "**Bond Trustee**" means the trustee or successor trustee appointed in any Bond Documents.

K. "**Commencement of Substantial Work**" means the date within five years from November 12, 2015, on which substantial work on the Project towards the goals specified in the Application commences as determined by the Commission upon its review and express approval, that may include but is not limited to an Issuer's issuance of Bonds, the repayment of which is secured by a pledge of Dedicated Revenue, or the commencement of actual development or predevelopment, such as erecting permanent structures, excavating the ground to lay foundations, mass grading of the site, or work of a similar description that manifests an intention and purpose to complete the Project.

L. "**Commission**" means the Colorado Economic Development Commission, created and authorized under C.R.S. § 24-46-102.

M. "**Credit Enhancement**" means any credit enhancement, liquidity, interest rate protection, or insurance for the Bonds.

N. "**Dedicated Revenue**" means the revenue from the Percentage of State Sales Tax Increment Revenue to be received by the Financing Entity and paid into the Special Fund. The Dedicated Revenue is subject to the Aggregate Cap.

O. "**Department**" means the Colorado Department of Revenue.

P. "**Developer(s)**" means any entity or entities contracted to develop any portion of the Project, or such entities' successors and assigns. The term Developer does not include the Applicant.

Q. "**Director**" means the Executive Director of the Colorado Office of Economic Development, created and authorized under C.R.S. § 24-48.5-101.

R. "**Effective Date**" means November 12, 2015, the date on which the Commission approved the Project in accordance with the Act and this Amended Resolution.

S. "**Eligible Costs**" shall have the same meaning as C.R.S. § 24-46-303(4).

T. "**Eligible Improvements**" means those improvements described in C.R.S. § 24-46-303(5), which are necessary to or convenient for completion of only the Regional Tourism Project as specifically described in Exhibit B to this Amended Resolution.

U. "**External Financial Advisor**" means any consultant that: (i) has experience advising Colorado governmental entities on matters relating to the issuance of securities by Colorado governmental entities, including matters such as the pricing (including, without limitation, interest rates), sales and marketing of such securities and the procuring of bond ratings, Credit Enhancement and insurance in respect of such securities; (ii) shall be an underwriter, investment banker, or firm listed as a "Municipal Advisor" in the Bond Buyer's Municipal Market Place publication; and (iii) is not an officer or employee of an Issuer, the Financing Entity, or the Applicant.

V. "**Final Completion Date**" means November 12, 2025, and is the date by which the Project must be completed or placed in service per the conditions of this Amended Resolution. In the event of a catastrophic event, such as a natural disaster, terrorist attack, or war, that directly and

substantially delays work on any Project Element, or, by the mutual consent of the Commission and Applicant, the Commission shall have the option of extending the Final Completion Date.

W. "**Financing Entity**" means the Denver Urban Renewal Authority, a body corporate duly organized and existing as an urban renewal authority pursuant to Part 1 of Article 25, Title 31, C.R.S., which is designated by the Commission in connection with its approval of the Project to receive and utilize state sales tax increment revenue.

X. "**Financing Term**" means the period of time commencing upon the Effective Date and expiring on December 10, 2051, within which period of time the Financing Entity is authorized to receive and utilize the Dedicated Revenue, subject to the Aggregate Cap, to finance Eligible Costs. The Financing Term may be extended in the sole discretion and with the express approval of the Commission, but only for such period as the Commission finds is necessary to avert or resolve a default on outstanding Bonds, and provided that no extension of the Financing Term shall override or otherwise impact the Aggregate Cap.

Y. "**Issuer**" means any entity issuing Bonds in support of the Project, including, but not limited to the Financing Entity, the Applicant, or their assigns.

Z. "**Percentage of State Sales Tax Increment Revenue**" means 1.83% of the state sales tax revenue collected within the Regional Tourism Zone in excess of the Base Year Revenue. The Percentage of State Sales Tax Increment Revenue is subject to the Aggregate Cap.

AA. **"Proceed Account"** means a separate, segregated Project specific account that is established and controlled by an Issuer for the purpose of receiving and disbursing proceeds from Bonds, or portions thereof, which are attributable to a pledge of Dedicated Revenue as described in Section 7(C) of this Amended Resolution. The funds in the Proceed Account can only be used to pay for or reimburse Eligible Costs that have been specifically approved by the Financing Entity for the Project's Eligible Improvements, or to make payments on Bonds or portions thereof, which are attributable to a pledge of Dedicated Revenue as described in Section 7(C) of this Amended Resolution.

BB. "**Project**" or "**Regional Tourism Project**" means the substantial portion of the "National Western Center," as specifically described in Exhibit B to this Amended Resolution and as approved by the Commission subject to the terms and conditions of this Amended Resolution.

CC. "**Regional Tourism Zone**" means the geographic area depicted in Exhibit A to this Amended Resolution.

DD. "**Special Fund**" means a separate segregated fund required by C.R.S. § 24-46-307(1)(b) that is established and controlled by the Financing Entity, subject to the provisions of the Act and this Amended Resolution, and which receives payments of Dedicated Revenue from the Department.