

**DRAFT**  
**5/6/15**

**AMENDED AND RESTATED  
IRONWORKS FOUNDRY URBAN REDEVELOPMENT AREA  
COOPERATION AGREEMENT**

**BETWEEN**

**CITY AND COUNTY OF DENVER, COLORADO,  
(City)**

**AND**

**THE DENVER URBAN RENEWAL AUTHORITY  
(DURA)**

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**Dated as of \_\_\_\_\_, 2015**

**AMENDED AND RESTATED  
IRONWORKS FOUNDRY URBAN REDEVELOPMENT AREA  
COOPERATION AGREEMENT**

**THIS AMENDED AND RESTATED IRONWORKS FOUNDRY URBAN REDEVELOPMENT AREA COOPERATION AGREEMENT** (this “Amended and Restated Cooperation Agreement”), dated as of \_\_\_\_\_, 2015, by and between the **CITY AND COUNTY OF DENVER, COLORADO** (the “City”), a home-rule city and a 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 (the “State”).

**WITNESSETH:**

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

**WHEREAS**, DURA is a body corporate and has been duly created, organized, established and authorized by the City to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, Section 31-25-101, *et seq.*, Colorado Revised Statutes (the “Act”); and

**WHEREAS**, the Denver City Council approved the Ironworks Foundry Urban Redevelopment Plan on August 13, 2012, by ordinance (the “Ordinance”); and

**WHEREAS**, the City and DURA entered into the Ironworks Foundry Urban Redevelopment Area Cooperation Agreement dated as of August 21, 2012 (the “Original Cooperation Agreement”); and

**WHEREAS**, the Denver City Council approved an Amended and Restated Ironworks Foundry Urban Redevelopment Plan (the “Urban Redevelopment Plan”) to add an additional project and to include the adjacent parcel within the Urban Redevelopment Area; and

**WHEREAS**, the City and DURA desire to amend and restate the Original Cooperation Agreement to include financing for the new project; and

**WHEREAS**, pursuant to Sections 31-25-107 and 31-25-109 of the Act, DURA has the power and authority to issue or incur notes, interim certificates or receipts, bonds, certificates of indebtedness, debentures, advances, or other obligations, including refunding obligations for the purpose of financing the activities and operations authorized to be undertaken by DURA with respect to urban redevelopment projects in accordance with the Urban Redevelopment Plan, the Amended and Restated Cooperation Agreement, the Act and other related agreements, as approved by the City; and

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

**NOW, THEREFORE**, in consideration of the foregoing recitals, and the following terms and conditions, DURA and the City hereby agree as follows:

## ARTICLE I DEFINITIONS

Section 1.1. Definitions. The terms defined in the recitals of this Amended and Restated Cooperation Agreement shall have the meanings set forth therein wherever used in this Amended and Restated Cooperation Agreement. In addition, for all purposes of this Amended and Restated Cooperation Agreement, the following terms shall have the meanings set forth below.

“Enhanced Training Opportunities Policy” shall have the meaning set forth in Section 3.3 of this Amended and Restated Cooperation Agreement.

“First Source Program” shall have the meaning set forth in Section 3.1 of this Amended and Restated Cooperation Agreement.

“Fiscal Year” means the fiscal year of the City, which commences on January 1 of each calendar year and ends on December 31 of the same calendar year, or any applicable portion of a fiscal year.

“Obligations” means notes, interim certificates or receipts, temporary bonds, indebtedness, contracts, certificates of indebtedness, debentures, advances or other obligations, including refunding obligations and obligations to accumulate and maintain appropriate coverage and reserve accounts, issued or incurred by DURA with respect to any Urban Redevelopment Project.

“Original Property Tax” means the real and personal property taxes produced by the levy at the rate fixed each year by the governing bodies of the various taxing jurisdictions within or overlapping the Original Property Tax Increment Area.

“Original Property Tax Base Amount” means the total valuation for assessment last certified by the Assessor for the City of all taxable property within the Original Property Tax Increment Area prior to approval by the Denver City Council of the Original Property Tax Increment Area.

“Original Property Tax Increment” means, for each Fiscal Year subsequent to the creation of the Original Property Tax Increment Area, all Original Property Tax Revenues in excess of Original Property Tax Revenues produced by the levy of Original Property Tax on the Original Property Tax Base Amount; provided that (a) such amount shall be reduced by any lawful collection fee charged by the City; and (b) in the event of a general reassessment of taxable property in the Original Property Tax Increment Area, Original

Property Tax Increment shall be proportionately adjusted in the manner required by the Act.

“Original Property Tax Increment Area” means the area more particularly described on Exhibit A, attached hereto and incorporated herein, which area is coterminous with the Original Tax Increment Area.

“Original Property Tax Revenues” means the amount derived by the City and all taxing jurisdictions from the levy of Original Property Tax within the Original Property Tax Increment Area, less any amount derived from a specially earmarked voter-approved levy by which the City has heretofore committed by contract to pay to a private contractor in order to provide services to residents of the City, including any residents in the Original Property Tax Increment Area.

“Original Sales Tax” means the sales tax levied by the City from time to time on the retail sale of taxable goods and services, excluding (a) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 557, Series of 1987, on food and beverages not exempted from taxation under Section 53-26(8) of the City Code, at the rate of one-half percent (0.5%) of the purchase price, (b) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 557, Series of 1987 and by Ordinance No. 973, Series of 1999, on the short-term rental of automotive vehicles, at the rate of three and three-quarters percent (3.75%) of the rentals paid or purchase price; (c) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 449, Series of 2014 for the Denver pre-school program at the rate of fifteen-one-hundredths percent (0.15%), and (d) any increased portion of the Original Sales Tax, if any, designated by ordinance by the City following the date hereof for specific purposes other than the general operations of the City.

“Original Sales Tax Base Amount” means the actual collection of Original Sales Tax Revenues during the twelve (12) month period ending on the last day of the month prior to the effective date of the Original Sales Tax Increment Area.

“Original Sales Tax Increment” means, for each Fiscal Year subsequent to the creation of the Original Sales Tax Increment Area, all Original Sales Tax Revenues in excess of the Original Sales Tax Base Amount; provided that such amount shall be reduced by costs and expenses of the City for such Fiscal Year of enforcing the Original Sales Tax in the Original Sales Tax Increment Area and collecting the Original Sales Tax Revenues as allowed by State statute, including the pro-rata share of uncollectible Original Sales Tax Revenues to be absorbed by DURA for such Fiscal Year as set forth in this Amended and Restated Cooperation Agreement.

“Original Sales Tax Increment Area” means the area more particularly described in Exhibit A, attached hereto and incorporated herein, which area is coterminous with the Original Tax Increment Area.

“Original Sales Tax Revenues” means the amount to be derived by the City in each Fiscal Year from the levy of the Original Sales Tax within the Original Sales Tax Increment Area.

“Original Tax Increment Area” means collectively the Original Sales Tax Increment Area and the Original Property Tax increment Area, which are coterminous.

“Original Urban Redevelopment Project” means the redevelopment of the former Ironworks Foundry site as described in the Urban Redevelopment Plan within the Original Tax Increment Area.

“Owner/Developer” means any owners of the real or personal property within the Tax Increment Area and any person or entity undertaking, funding, or financing any portion of the Urban Redevelopment Project.

“Phase Two Property Tax” means the real and personal property taxes produced by the levy at the rate fixed each year by the governing bodies of the various taxing jurisdictions within or overlapping the Phase Two Property Tax Increment Area.

“Phase Two Property Tax Base Amount” means the total valuation for assessment last certified by the Assessor for the City of all taxable property within the Phase Two Property Tax Increment Area prior to approval by the Denver City Council of the Phase Two Property Tax Increment Area.

“Phase Two Property Tax Increment” means, for each Fiscal Year subsequent to the creation of the Phase Two Property Tax Increment Area, all Phase Two Property Tax Revenues in excess of Phase Two Property Tax Revenues produced by the levy of Phase Two Property Tax on the Phase Two Property Tax Base Amount; provided that (a) such amount shall be reduced by any lawful collection fee charged by the City; and (b) in the event of a general reassessment of taxable property in the Phase Two Property Tax Increment Area, Phase Two Property Tax Increment shall be proportionately adjusted in the manner required by the Act.

“Phase Two Property Tax Increment Area” means the area more particularly described on Exhibit B, attached hereto and incorporated herein, which area is coterminous with the Phase Two Tax Increment Area.

“Phase Two Property Tax Revenues” means the amount derived by the City and all taxing jurisdictions from the levy of Phase Two Property Tax within the Phase Two Property Tax Increment Area, less any amount derived from a specially earmarked voter-approved levy by which the City has heretofore committed by contract to pay a private contractor in order to provide services to residents of the City, including any residents in the Phase Two Property Tax Increment Area.

“Phase Two Sales Tax” means the sales tax levied by the City from time to time on the retail sale of taxable goods and services, excluding (a) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 557, Series of 1987, on food and beverages not exempted from taxation under Section 53-26(8) of the City Code, at the rate of one-half percent (0.5%) of the purchase price, (b) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 557, Series of 1987 and by Ordinance No. 973, Series of 1999, on the short-term rental of

automotive vehicles, at the rate of three and three-quarters percent (3.75%) of the rentals paid or purchase price; (c) that portion of the sales tax levied by Section 53-27 of the City Code, as amended by Ordinance No. 449, Series of 2014 for the Denver pre-school program at the rate of fifteen-one-hundredths percent (0.15%), and (d) any increased portion of the sales tax, if any, designated by ordinance by the City following the date hereof for specific purposes other than the general operations of the City.

“Phase Two Sales Tax Base Amount” means the actual collection of Phase Two Sales Tax Revenues during the twelve (12) month period ending on the last day of the month prior to the effective date of the Phase Two Sales Tax Increment Area.

“Phase Two Sales Tax Increment” means, for each Fiscal Year subsequent to the creation of the Phase Two Sales Tax Increment Area, all Phase Two Sales Tax Revenues in excess of the Phase Two Sales Tax Base Amount; provided that such amount shall be reduced by costs and expenses of the City for such Fiscal Year of enforcing the Phase Two Sales Tax in the Phase Two Sales Tax Increment Area and collecting the Phase Two Sales Tax Revenues as allowed by State statute, including the pro-rata share of uncollectible Phase Two Sales Tax Revenues to be absorbed by DURA for such Fiscal Year as set forth in this Amended and Restated Cooperation Agreement.

“Phase Two Sales Tax Increment Area” means the area more particularly described in Exhibit B, attached hereto and incorporated herein, which area is coterminous with the Phase Two Tax Increment Area.

“Phase Two Sales Tax Revenues” means the amount to be derived by the City in each Fiscal Year from the levy of the Phase Two Sales Tax within the Phase Two Sales Tax Increment Area.

“Phase Two Tax Increment Area” means collectively the Phase Two Sales Tax Increment Area and the Phase Two Property Tax increment Area, which are coterminous.

“Phase Two Urban Redevelopment Project” means the redevelopment of the property in the Phase Two Tax Increment Area into a hotel with retail, [light industrial] and amenity space, with approximately 300 stalls of structured parking available for public use as described in the Urban Redevelopment Plan.

“Prevailing Wage Policy” shall have the meaning set forth in Section 3.4 of this Amended and Restated Cooperation Agreement.

“Redevelopment Agreement” means any Redevelopment Agreement relating to the Original Urban Redevelopment Project or the Phase Two Urban Redevelopment Project, as such may be amended from time to time, to be entered into by the Authority and an Owner/Developer, or the Authority and such other party or parties as may be agreed upon by the Authority.

“Small Business Enterprise Utilization Program” shall have the meaning set forth in Section 3.2 of this Agreement.

## ARTICLE II LAND USE MATTERS

Section 2.1. Street and Utility Relocations. The City agrees, to the extent permitted by its Charter, ordinances, regulations, applicable franchise agreements and the Constitution and laws of the State of Colorado, to cooperate with DURA in accomplishing any street and utility locations and relocations required by any Redevelopment Agreement relating to the Original Urban Redevelopment Project or the Phase Two Urban Redevelopment Project in furtherance of the Urban Redevelopment Plan; provided, that the City in no way commits itself to any expenditure of moneys to carry out its duties under this section.

Section 2.2. Reservation of Funds for Right of Way Improvements. Notwithstanding the letter agreement between the City and an Owner/Developer within the Original Tax Increment Area dated August 7, 2012, the City agrees that DURA shall not be required to withhold or reserve from disbursements of Original Sales Tax Increment and Original Property Tax Increment any amount for the purpose of reimbursing an Owner/Developer pursuant to a Redevelopment Agreement for right-of-way improvements, including curb, gutter, sidewalk, storm sewer infrastructure and relocation of existing overhead utilities.

## ARTICLE III SPECIAL PROGRAM REQUIREMENTS

Section 3.1. First Source Program. With respect to any Redevelopment Agreement or for any other agreement DURA implements in connection with either the Original Urban Redevelopment Project or the Phase Two Urban Redevelopment Project, DURA shall require the Owner/Developer to carry out DURA's First Source Hiring Program ("First Source Program").

Section 3.2. Small Business Enterprise Utilization Program. Pursuant to DURA's policy, DURA shall require any Owner/Developer to develop a small business enterprise utilization plan regarding small business enterprise participation for the Redevelopment Agreement and for any other agreement DURA implements in connection with either the Original Urban Redevelopment Project or the Phase Two Urban Redevelopment Project. DURA agrees to implement and enforce, or cause any Owner/Developer to implement and enforce, such small business enterprise utilization plans and to review and, if necessary, update such plans from time to time.

Section 3.3 Enhanced Training Opportunities Policy. Pursuant to DURA's policy, DURA will require any Owner/Developer to develop an enhanced training opportunities plan under their Redevelopment Agreement and for any other agreement DURA implements in connection with the Original Urban Redevelopment Project or Phase Two Urban Redevelopment Project. DURA agrees to implement and enforce, or cause Owners/Developers to implement and enforce, such plans and to review and, if necessary, update such plans from time to time.

Section 3.4 Prevailing Wage Policy. DURA has adopted a Prevailing Wage Policy which is applicable in certain circumstances. In the event any improvements funded in whole or in part with tax increment financing provided by DURA are deemed to be “City Projects” pursuant to DURA’s Prevailing Wage Policy, DURA will require any Owner/Developer constructing such improvements to comply with the City’s prevailing wage requirements for the construction of such improvements.

Section 3.5 Project Art Program. DURA has adopted and shall require each Owner/Developer to participate in DURA’s Project Art Program.

#### ARTICLE IV PROPERTY AND SALES TAX INCREMENT

Section 4.1. Collection and Disbursement of Original Sales Tax Increment and Phase Two Sales Tax Increment. The City shall promptly pay over to DURA on a monthly basis the Original Sales Tax Increment and Phase Two Sales Tax Increment, subject to the limitations herein. DURA acknowledges that there is usually a two-month delay between the retailer’s collection of Original Sales Tax Revenues and Phase Two Sales Tax Increment and the City’s calculation and payment to DURA of Original Sales Tax Increment and Phase Two Sales Tax Increment. The City shall make payments of Original Sales Tax Increment and Phase Two Sales Tax Increment to the appropriate bank accounts designated from time to time by DURA. In the event that the City shall be unable to collect through lawful means any Original Sales Tax Revenues due with respect to the Original Sales Tax Increment Area, the amount of such uncollectible Original Sales Tax Revenues shall be allocated between DURA and the City in the same proportion as the total collected Original Sales Tax Revenues within the Original Sales Tax Increment Area are allocated between the City and DURA for such Fiscal Year. In the event that the City shall be unable to collect through lawful means any Phase Two Sales Tax Revenues due with respect to the Phase Two Sales Tax Increment Area, the amount of such uncollectible Phase Two Sales Tax Revenues shall be allocated between DURA and the City in the same proportion as the total collected Phase Two Sales Tax Revenues within the Phase Two Sales Tax Increment Area are allocated between the City and DURA for such Fiscal Year.

Section 4.2. Changes in the Rate of City Tax Percentage. As set forth in the Act, in the event that there shall occur a change in the percentage of the Original Sales Tax or Phase Two Sales Tax levied by the City with respect to all or any part of the Original Sales Tax Increment Area or the Phase Two Sales Tax Increment Area, the portions of Original Sales Tax Revenues or Phase Two Sales Tax Revenues, as applicable, allocated between the City and DURA shall be proportionately adjusted in accordance with such change. In order to implement the provisions of the Act, DURA and the City agree that changes in Original Sales Tax Revenues derived by reason of (a) any change in the percentage of the Original Sales Tax rate generally, (b) any change in the percentage of the Original Sales Tax rate with regard to specific taxable items or transactions, or (c) any extension of the Original Sales Tax to items or transactions which were not theretofore taxable, shall be allocated between the Original Sales Tax Base Amount and the Original Sales Tax Increment in the same proportion which the Original Sales Tax Base Amount and Original Sales Tax Increment bear to the total of the



Original Sales Tax Revenues. Such allocation shall be made based upon the Original Sales Tax Base Amount, the Original Sales Tax Increment and total Original Sales Tax Revenues for the last full Fiscal Year prior to the Fiscal Year in which such changes or increase shall become effective. In order to implement the provisions of the Act, DURA and the City agree that changes in Phase Two Sales Tax Revenues derived by reason of (a) any change in the percentage of the Phase Two Sales Tax rate generally, (b) any change in the percentage of the Phase Two Sales Tax rate with regard to specific taxable items or transactions, or (c) any extension of the Phase Two Sales Tax to items or transactions which were not theretofore taxable, shall be allocated between the Phase Two Sales Tax Base Amount and the Phase Two Sales Tax Increment in the same proportion which the Phase Two Sales Tax Base Amount and Phase Two Sales Tax Increment bear to the total of the Phase Two Sales Tax Revenues. Such allocation shall be made based upon the Phase Two Sales Tax Base Amount, the Phase Two Sales Tax Increment and total Phase Two Sales Tax Revenues for the last full Fiscal Year prior to the Phase Two Year in which such changes or increase shall become effective.

Section 4.3. Collection of Original Sales Tax Increment and Hotel Sales Tax Increment; Continuing Cooperation. The City hereby agrees to assist DURA by pursuing all of the lawful procedures and remedies available to the City in order to collect the Original Sales Tax Increment or Phase Two Sales Tax Increment and to cause the Original Sales Tax Increment and Phase Two Sales Tax Increment to be applied in accordance with this Amended and Restated Cooperation Agreement, the Urban Redevelopment Plan, the Act, and the Ordinance.

In the event that any cooperation or other agreement shall be necessary or appropriate in order to accomplish the collection of Original Sales Tax Increment, the Phase Two Sales Tax Increment and the payment thereof to DURA in accordance with this Amended and Restated Cooperation Agreement, the Urban Redevelopment Plan, and the Act, or the accomplishment of the Urban Redevelopment Plan, the City agrees to exercise its best reasonable efforts to secure the approval of all such cooperation and other agreements.

Section 4.4. Maintenance of Sales Tax. In order to assure DURA's timely payment of certain sums under any Redevelopment Agreement, the City covenants that, so long as a Redevelopment Agreement or any documents relating to outstanding Obligations remain in effect, the City shall not, except as provided below in this Section 4.4, reduce the percentage of the Original Sales Tax or Phase Two Sales Tax and the City shall not exempt from the sales tax any item or transaction which is currently subject to the Original Sales Tax or Phase Two Sales Tax. The City may reduce, from time to time, the percentage of the sales tax or exempt from the Original Sales Tax or the Phase Two Sales Tax, from time to time, any item or transaction which is subject to the Original Sales Tax or Phase Two Sales Tax (any such change being referred to herein as a "Sales Tax Change") in the event that the net effect of any Sales Tax Change shall not operate to reduce or delay the receipt by DURA of Original Sales Tax Increment or Phase Two Sales Tax Increment as projected at the time of such proposed Sales Tax Change. For purposes of the foregoing covenant, the impact of any Sales Tax Change shall be determined by a projection (the "Tax Revenue Projection") of Original Sales Tax Increment or Phase Two Sales Tax Increment, as applicable, which is approved by

DURA and the Manager of Finance. The Tax Revenue Projection shall set forth a comparison of projected Original Sales Tax Increment or Phase Two Sales Tax Increment, as applicable, calculated with and without giving effect to the Sales Tax Change and shall include any increases in Original Sales Tax Increment or Phase Two Sales Tax Increment projected to occur by reason of any compensating increase in the sales tax percentage or any extension of the sales tax to previously untaxed items in the event that such increase or extension shall become effective simultaneously with the Sales Tax Change.

Section 4.5. Collection and Disbursement of Original Property Tax Increment and Phase Two Property Tax Increment. The City agrees to assist DURA in pursuing the objectives and implementation of the Urban Redevelopment Plan by collecting and paying to DURA all Original Property Tax Increment and Phase Two Property Tax Increment.

In the event that the City shall be unable to collect through lawful means any Original Property Tax Revenues due, the amount of uncollectible Original Property Tax Revenues shall be allocated between DURA and the City in the same proportion as the total collected Original Property Tax Revenues are allocated between the City and DURA for such Fiscal Year. In the event that the City shall be unable to collect through lawful means any Phase Two Property Tax Revenues due, the amount of uncollectible Phase Two Property Tax Revenues shall be allocated between DURA and the City in the same proportion as the total collected Phase Two Property Tax Revenues are allocated between the City and DURA for such Fiscal Year.

The Original Property Tax Revenues and Phase Two Property Tax Revenues and the Original Property Tax Increment and Phase Two Property Tax Increment shall be calculated in accordance with Colorado Law, Rules and Regulations of the State Property Tax Administrator, the Urban Redevelopment Plan and this Amended and Restated Cooperation Agreement.

## ARTICLE V TERM

Section 5.1. Term of Original Property Tax Increment and Original Sales Tax Increment. Payment of Original Sales Tax Increment and Original Property Tax Increment to DURA shall cease on the earlier of (i) the latest date of repayment of all Obligations incurred with respect to the Phase Two Urban Redevelopment Project or (ii) August 13, 2037, which is the date that is twenty-five (25) years from the date of the approval by the Denver City Council of the Original Sales Tax Increment Area and Original Property Tax Increment Area authorizing the use of tax increment financing.

Section 5.2. Term of Phase Two Property Tax Increment and Phase Two Sales Tax Increment. Payment of Phase Two Sales Tax Increment and Phase Two Property Tax Increment to DURA shall cease on the earlier of (i) the latest date of repayment of all Obligations incurred with respect to the Phase Two Urban Redevelopment Project or (ii) the date that is twenty-five (25) years from the date of the approval by the Mayor of the Phase Two Sales Tax Increment Area and the Phase Two Property Tax Increment Area authorizing the use of tax increment financing.

Section 5.3 Termination of Amended and Restated Cooperation Agreement.  
Upon cessation of payments of Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment and Phase Two Property Tax Increment and satisfaction of other financial obligations as provided herein, this Amended and Restated Cooperation Agreement shall automatically terminate. To the extent DURA has funds remaining attributable to the Original Property Tax Increment, Original Sales Tax Increment, Phase Two Property Tax Increment or Phase Two Sales Tax Increment after the payment of all Obligations and the termination of this Amended and Restated Cooperation Agreement as to the City's obligations hereunder, all such funds, less any fees, costs and expenses of DURA, shall be returned to the City for allocation to the City and other public bodies in accordance with the Act.

## ARTICLE VI MISCELLANEOUS

Section 6.1. Right to Pledge Original Property Tax Increment, Original Sales Tax Increment, Phase Two Property Tax Increment and Phase Two Sales Tax Increment.  
DURA shall be entitled to pledge or assign, in whole or in part, the rights of DURA under this Amended and Restated Cooperation Agreement to any trustee or other fiduciary and, upon such assignment, any such assignee shall be entitled to enforce, as a third-party beneficiary, the obligations of the City under the this Amended and Restated Cooperation Agreement to pay Original Sales Tax Increment, Original Property Tax Increment, Phase Two Property Tax Increment and Phase Two Sales Tax Increment to DURA under this Amended and Restated Cooperation Agreement.

\ Section 6.2. Status of Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment and Phase Two Property Tax Increment. The City and DURA agree that the Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment and Phase Two Property Tax Increment are the property of DURA pursuant to the Act until the end of the Term. The City further agrees that, in the event that a court of competent jurisdiction determines otherwise, it shall cause its Division of Finance to include the Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment and Phase Two Property Tax Increment, as applicable, as a line item in the annual budget request to City Council so that the City Council may consider appropriating such amount to or for the account of DURA. Notwithstanding any provision hereof to the contrary, the City agrees that in the event that the City is required, pursuant to Article X, Section 20 of the Colorado Constitution (the "TABOR Amendment"), to make any refund of any sales taxes or property taxes, it shall not reduce or limit the Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment or Phase Two Property Tax Increment paid to or for the account of DURA, except to the extent legally required, provided, that in such case, the City, by and through City Council, shall consider appropriating to or for the account of DURA such amount that is legally required to be deducted. In the event that the City reduces any tax rates in order to effect any required refund or to otherwise comply with the TABOR Amendment (a "TABOR Amendment Rate Change"), the Original Sales Tax Increment, Original Property Tax Increment, the Phase Two Sales Tax Increment or Phase Two Property Tax Increment shall be that amount that would have been collected had the tax rate been equal to such rate existing immediately prior to the first such TABOR Amendment

Rate Change, except to the extent such rate is legally required to change; provided, that in such case the City, by and through City Council, shall consider appropriating to or for the account of DURA such amount that is required for DURA to receive the Original Sales Tax Increment, Original Property Tax Increment, Phase Two Sales Tax Increment or Phase Two Property Tax Increment.

Section 6.3. Amendments and Waivers. No amendment or waiver of any provision of this Amended and Restated Cooperation Agreement, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. This Amended and Restated Cooperation Agreement may be modified, amended, changed or terminated, in whole or in part, without City Council approval unless City Council approval is required by the Charter.

Section 6.4. Right to Extend Time for Performance. The parties agree that any time for performance of any term or condition hereunder may be extended for up to two (2) thirty (30) day periods by a letter signed by the Manager of Finance and an authorized representative of DURA. All other amendments to this Amended and Restated Cooperation Agreement must comply with Section 6.3 above.

Section 6.5. Governing Law. This Amended and Restated Cooperation Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado and shall be subject to the limitations, if any, that are applicable under the Charter or ordinances of the City.

Section 6.6. Headings. Section headings in this Amended and Restated Cooperation Agreement are included herein for convenience of reference only and shall not constitute a part of this Amended and Restated Cooperation Agreement for any other purpose.

Section 6.7. Severability. Any provision of this Amended and Restated Cooperation Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or lack of authorization without affecting the validity, enforceability or legality of such provisions in any other jurisdiction.

Section 6.8. No Discrimination in Employment. In connection with the performance of work under this Amended and Restated Cooperation Agreement, the parties 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, gender variance, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

Section 6.9. Notices. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

If to the City: Mayor  
1437 Bannock Street, Room 350  
Denver, Colorado 80202

With copies to: Denver City Attorney  
201 W. Colfax, Dept. 1207  
Denver, Colorado 80202  
  
Manager of Finance  
201 W. Colfax, Department 1010  
Denver, Colorado 80202

If to DURA: Executive Director  
1555 California Street, Suite 200  
Denver, Colorado 80202

Section 6.10. Third-Party Beneficiary. It is the intent of the parties that no third-party beneficiary interest is created in this Amended and Restated Cooperation Agreement except for an assignment pursuant to this Amended and Restated Cooperation Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Amended and Restated Cooperation Agreement.

Section 6.11. Counterparts. This Amended and Restated Cooperation Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document.

Section 6.12. No Personal Liability. No elected official, 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 Amended and Restated Cooperation Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Amended and Restated Cooperation Agreement.

Section 6.13. Conflict of Interest. DURA represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Amended and Restated Cooperation Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee. The Manager of Finance of the City represents that to the best of his information and belief no officer or employee of DURA is either directly or indirectly a party to or in any manner interested in this Amended and Restated Cooperation Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such officer or employee.

Section 6.14. Appropriation. All obligations of the City under and pursuant to Section 2.1 and Section 6.2 of this Amended and Restated Cooperation Agreement are subject to prior appropriations of monies expressly made by the City Council for the

purposes of this Amended and Restated Cooperation Agreement and paid into the Treasury of the City.

Section 6.15. Specific Performance Remedy. In the event of default hereunder by the City or DURA, the exclusive remedy of the non-defaulting party shall be to require the specific performance of the defaulting party. In no event shall either party be entitled to damages or a monetary award, whether in the form of actual damages, punitive damages, an award of attorney fees or costs, or otherwise. Any delay in asserting any right or remedy under this Amended and Restated Cooperation Agreement shall not operate as a waiver of any such right or limit such rights in any way.

Section 6.16. Examination of Records. Each party to this Amended and Restated Cooperation Agreement agrees that any duly authorized representative of either of the other parties, including, in the case of the City, the City Auditor and his or her 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 this Amended and Restated Cooperation Agreement subject to applicable laws, including maintaining the confidentiality of documents in accordance with the Colorado Open Records Act.

Section 6.17. Electronic Signatures and Electronic Records. DURA consents to the use of electronic signatures by the City. The Amended and Restated Cooperation 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 Amended and Restated Cooperation 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 Amended and Restated Cooperation 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 6.18. Supersedes Original Cooperation Agreement. This Amended and Restated Cooperation Agreement supersedes and replaces the terms of the Original Cooperation Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amended and Restated Cooperation Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

ATTEST:

DENVER URBAN RENEWAL  
AUTHORITY

By Tracy Huggins  
Tracy Huggins, Secretary

By Phil R. [Signature]  
Phil R. [Signature], Chair

## EXHIBIT A

### ORIGINAL PROPERTY TAX INCREMENT AREA ORIGINAL SALES TAX INCREMENT AREA

A PARCEL OF LAND BEING A PORTION OF BLOCK 89, CASE AND EBERT'S ADDITION TO THE CITY OF DENVER BEING LOCATED IN THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6<sup>TH</sup> P.M., CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEAST RIGHT-OF-WAY LINE OF BRIGHTON BOULEVARD LYING 275.00 FEET NORTHEAST OF THE INTERSECTION OF THE SOUTHEAST RIGHT-OF-WAY LINE OF BRIGHTON BOULEVARD AND THE NORTHERLY EXTENSION OF THE NORTHERLY RIGHT-OF-WAY LINE OF 33<sup>RD</sup> STREET;

THENCE SOUTH 45°25'18" EAST, A DISTANCE OF 182.50 FEET;

THENCE SOUTH 44°34'42" WEST, A DISTANCE OF 2.60 FEET;

THENCE SOUTH 45°25'18" EAST, A DISTANCE OF 164.50 FEET;

THENCE NORTH 44°34'42" EAST, A DISTANCE OF 127.60 FEET;

THENCE NORTH 45°25'18" WEST, A DISTANCE OF 386.55 FEET TO THE CENTERLINE OF BRIGHTON BOULEVARD;

THENCE SOUTH 44°34'42" WEST, ALONG SAID CENTERLINE, A DISTANCE OF 125.00 FEET;

THENCE SOUTH 45°25'18" EAST, A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS A CALCULATED AREA OF 48,746 SQUARE FEET OR 1.1119 ACRES, MORE OR LESS.

BASIS OF BEARINGS: THE BEARINGS USED IN THIS DESCRIPTION ARE BASED ON THE WEST LINE OF THE SOUTHEAST QUARTER OF SECTION 27, TOWNSHIP 3 SOUTH, RANGE 68 WEST OF THE 6TH P.M. BEING MONUMENTED AT THE NORTH END BY A RAILROAD SPIKE IN THE CENTER OF THE RAILROAD TRACTS AND BEING MONUMENTED ON THE SOUTH END BY A 1" AXEL IN ASPHALT, AS SHOWN ON THE LAND SURVEY PLAT BY FRASIER AND HALBE ENGINEERING COMPANY, AS RECORDED AT RECEPTION NUMBER L001407 OF THE COUNTY SURVEYORS LAND SURVEY PLATS/RIGHT-OF-WAY SURVEYS AND IS ASSUMED TO BEAR NORTH 00°14'26" WEST, 2643.07 FEET.



**EXHIBIT B**

**PHASE TWO PROPERTY TAX INCREMENT AREA  
PHASE TWO SALES TAX INCREMENT AREA**

THAT PART OF BLOCK 89, CASE AND EBERTS ADDITION TO THE CITY OF DENVER, ACCORDING TO THE RECORDED PLAT THEREOF AND VACATED WYNKOOP STREET ADJACENT THERETO, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHEASTERLY LINE OF BRIGHTON BOULEVARD WHICH IS 275.00 FEET NORTHEASTERLY FROM THE NORTHEASTERLY LINE OF 33RD STREET PRODUCED NORTHWESTERLY; THENCE S45°00'49"E, SOUTHEASTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF SAID 33RD STREET, A DISTANCE OF 182.05 FEET; THENCE, S44°59'11"W, SOUTHWESTERLY PARALLEL WITH THE SOUTHEASTERLY LINE OF BRIGHTON BOULEVARD A DISTANCE OF 2.60 FEET TO THE WEST CORNER OF THE 0.5' WIDE PARCEL OF LAND DESCRIBED AT RECEPTION NO. 9700084893 AS FILED IN THE CITY AND COUNTY OF DENVER CLERK AND RECORDER'S OFFICE, THENCE S44°59'11"E, SOUTHEASTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF SAID 33RD STREET, ALONG THE SOUTHWESTERLY LINE OF THE PARCEL DESCRIBED AT SAID RECEPTION NO. 9700084893, A DISTANCE OF 164.05 FEET TO THE SOUTHEASTERLY LINE OF VACATED WYNKOOP STREET AND THE NORTHWESTERLY LINE OF THE UNION PACIFIC RAILROAD COMPANY LAND; THENCE S45°01'02"W, SOUTHWESTERLY ALONG THE SOUTHEASTERLY LINE OF VACATED WYNKOOP STREET A DISTANCE OF 202.40 FEET; THENCE N44°57'12"W, NORTHWESTERLY PARALLEL WITH THE NORTHEASTERLY LINE OF SAID 33RD STREET A DISTANCE OF 345.95 FEET TO THE SOUTHEASTERLY LINE OF BRIGHTON BOULEVARD; THENCE N44°57'12"W, CONTINUING ALONG SAID PREVIOUS COURSE, A DISTANCE OF 40.00 FEET TO THE CENTERLINE OF BRIGHTON BOULEVARD; THENCE N44°58'33"E, ALONG THE CENTERLINE OF THE ORIGINAL 80' WIDE RIGHT OF WAY OF BRIGHTON BOULEVARD, A DISTANCE OF 204.67 FEET; THENCE S45°00'49"E A DISTANCE OF 40.00 FEET TO THE POINT OF BEGINNING;

CITY AND COUNTY OF DENVER, STATE OF COLORADO.

SAID PARCEL CONTAINS 78,654 SQUARE FEET, 1.806 ACRES, MORE OR LESS.