

**LOWRY SUPPLEMENTAL PROJECT
FUNDING AGREEMENT FOR
KELLY ROAD WETLAND SYSTEM PROJECT, YOSEMITE EXTENSION
OPEN SPACE PROJECT AND PROJECT CONTINGENCY**

AMONG

DENVER URBAN RENEWAL AUTHORITY,

LOWRY ECONOMIC REDEVELOPMENT AUTHORITY

AND

CITY AND COUNTY OF DENVER, COLORADO

Dated as of _____, _____

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**LOWRY SUPPLEMENTAL PROJECT FUNDING AGREEMENT
FOR KELLY ROAD WETLAND SYSTEM PROJECT, YOSEMITE EXTENSION
OPEN SPACE PROJECT AND PROJECT CONTINGENCY**

THIS LOWRY SUPPLEMENTAL PROJECT FUNDING AGREEMENT FOR KELLY ROAD WETLAND SYSTEM PROJECT, YOSEMITE EXTENSION OPEN SPACE PROJECT AND PROJECT CONTINGENCY dated as of _____, ____ (this "Agreement") by and among 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, LOWRY ECONOMIC REDEVELOPMENT AUTHORITY ("Lowry"), a legal entity established under the laws of the State of Colorado by intergovernmental agreement between the City and County of Denver and the City of Aurora, and the CITY AND COUNTY OF DENVER, COLORADO (the "City"), a home-rule city and municipal corporation of the State of Colorado.

W I T N E S S E T H :

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., Colorado Revised Statutes, as amended (the "Act"); and

WHEREAS, Lowry is a legal entity established under the laws of the State of Colorado by an intergovernmental agreement dated as of August 1, 1994 (the "Intergovernmental Agreement") between the City and the City of Aurora; and

WHEREAS, an urban renewal plan, known as the "Lowry Urban Redevelopment Plan," has been duly and regularly approved by the City Council of the City in accordance with the Act; and

WHEREAS, within the area circumscribed by the aforementioned Lowry Urban Redevelopment Plan, sometimes referenced herein as "Lowry Urban Redevelopment Area," Lowry has agreed to construct certain improvements in furtherance of the Lowry Urban Redevelopment Plan; and

WHEREAS, in order to provide funds to meet obligations with respect to public activities and operations of DURA in connection with the projects in accordance with the Lowry Urban Redevelopment Plan and the Act, the City and DURA have designated a Tax Increment Area within the Lowry Urban Redevelopment Area designated the "Tax Increment Area," to collect and use certain incremental increases in property tax revenues generated in the Tax Increment Area; and

WHEREAS, the City and DURA entered into the Lowry Tax Increment Area Second Amended and Restated Cooperation Agreement dated as of October 1, 2008 (the "Cooperation Agreement") which provides, among other matters, for the payment by the City to DURA of certain incremental increases in property tax revenues generated in the Tax Increment Area (the "Pledged Property Tax Revenues"), all as more particularly provided therein; and

WHEREAS, DURA and Lowry entered into the Amended and Restated Redevelopment Agreement, dated as of October 1, 2008 (the "Redevelopment Agreement") to provide for the financing of certain improvements in furtherance of the Lowry Urban Redevelopment Plan; and

WHEREAS, the Intergovernmental Agreement authorizes Lowry to issue revenue bonds for any of its corporate purposes and provides that an indenture authorizing the issuance of such bonds may pledge all or a portion of the property or revenues of Lowry and may contain such other provisions which Lowry deems appropriate for the security of the holders of such bonds; and

WHEREAS, in furtherance of the above, Lowry entered into a Trust Indenture dated as of October 1, 2008 (the "Indenture") with The Bank of New York Mellon Trust Company, N.A., as Trustee (the "Trustee"), pursuant to which Lowry issued its "Lowry Economic Redevelopment Authority Adjustable Rate Revenue Bonds, Series 2008A," in the aggregate principal amount of \$65,000,000 (the "Series 2008A Bonds"), which Series 2008A Bonds are payable from amounts received by Lowry under the Redevelopment Agreement and from other sources, as provided in the Indenture; and

WHEREAS, the Indenture provides that certain excess Incremental Property Taxes (as defined in the Redevelopment Agreement) shall be deposited into the Supplemental Project Account of the Surplus Fund established under the Indenture and thereafter transferred by the Trustee to DURA as provided under the Indenture; and

WHEREAS, the Cooperation Agreement provides that such excess Incremental Property Taxes transferred to DURA from the Supplemental Project Account of the Surplus Fund as provided in the Indenture shall be applied as provided therein, including such permitted uses as may be approved by both DURA and the City's Manager of Finance; and

WHEREAS, DURA has executed the Lowry Hangar 2 Redevelopment Agreement dated as of June 17, 2010 (the "Hangar 2 Agreement") with Hangar 2, Inc., a Colorado limited liability company (the "Redeveloper"), to provide for the construction of certain improvements by the Redeveloper on property within the Lowry Urban Redevelopment Area (the "Hangar 2 Project") in furtherance of the Lowry Urban Redevelopment Plan and for the reimbursement of expenditures by the Redeveloper in connection with the Hangar 2 Project, in the amounts set forth in the Hangar 2 Agreement, with such reimbursement to be made from a portion of the excess Incremental Property Taxes transferred to DURA from the Supplemental Project Account of the Surplus Fund pursuant to the Indenture, subject to the terms set forth in **Exhibit 1** (as defined below) hereto; and;

WHEREAS, DURA, Lowry and the City have determined that a portion of the excess Incremental Property Taxes transferred to DURA from the Supplemental Project Account of the Surplus Fund shall be applied to finance the Lowry Supplemental Projects (as defined herein) in accordance with and under the terms provided in this Agreement; and

WHEREAS, in accordance with the provisions of the Cooperation Agreement, by letter agreements dated April 6, 2010 and November 24, 2010, copies of which is attached hereto as **Exhibit 1**, DURA and the City's Manager of Finance have agreed to apply such excess Incremental Property Taxes transferred to DURA from the Supplemental Project Account of the Surplus Fund as provided in the Indenture in the amounts and on the terms set forth herein and in the Hangar 2 Agreement to finance the Lowry Supplemental Projects and the Hangar 2 Project; and

WHEREAS, Lowry agrees herein to undertake the Lowry Supplemental Projects in accordance with the provisions of this 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

Section 1.1 Definitions.

Capitalized terms not defined herein shall have the meanings ascribed to such terms in the Indenture. In addition to terms defined in the recitals, as used in this Agreement, the following terms shall have the following meanings:

“Act” has the meaning set forth in the recitals hereof.

“Agreement” has the meaning set forth in the recitals hereof. References to Sections and Exhibits are to this Agreement unless otherwise qualified.

“Applicable Interest Rate” means the Five Year Treasury Constant Maturity Rate published in Federal Reserve Statistical Release H.15 (or any successor release) on the date that DURA receives from the City the first City Advance (or if not published on such date, then on the immediately preceding date on which so published). If such rate ceases to be so published, then such rate shall be determined by reference to the five year treasury rate as set forth on Bloomberg.com, or if not so published, then as mutually agreed to in writing by the City's Manager of Finance and DURA. The rate so set shall be in effect for all City Advances.

“Certification of Project Costs” or “Expenditure Certification” means the certificate of Lowry, delivered to DURA in the form attached hereto as **Exhibit 2**, and relating to Project Costs incurred by Lowry for Lowry Supplemental Projects; provided that with respect to any Expenditure Certification relating to Project Costs incurred by Lowry for Lowry Supplemental Projects to be paid from amounts on deposit in the Project Fund established under the Indenture, the backup bills or statements for such Project Costs payable from the Project Fund need not accompany such Expenditure Certification.

“City Advance” has the meaning set forth in Section 4.1.

“Cooperation Agreement” has the meaning set forth in the recitals hereof.

“Default” means any event which with the giving of notice or lapse of time or both would constitute an Event of Default hereunder.

“DURA's Financing” means the financing undertaken by DURA as described in Section 3.

“Environmental Laws” means all federal, state and local environmental, health and safety statutes and regulations in effect now or in the future, including but not limited to federal laws such as the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. §§ 9602 et seq. as amended, the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. § 9601(20)(D), the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. §§ 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act Amendments of 1977, 33 U.S.C. §§ 1251 et seq. (“CWA”), the Clean Air Act of 1966, as amended, 42 U.S.C. §§ 7401 et seq., the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. §§ 136 et seq., the Occupational Safety and Health Act, 29 U.S.C. §§ 651 et seq., the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et seq., and any and all federal, state and local rules, regulations, authorizations, judgments, decrees, concessions, grants, franchises, agreements and other governmental restrictions and other agreements relating to the environment or to any Pollutants, as may from time to time be in effect.

“Environmental Liabilities” has the meaning set forth in Section 7.2.

"ETO Policy" shall have the meaning set forth in Section 8.2(b).

"Event of Default" shall have the meaning set forth in Sections 9.1, 9.2 and 9.3, as applicable.

"First Source Program" shall have the meaning set forth in Section 8.3.

"Fiscal Year" means the fiscal year of the City, which currently begins on January 1 of each year and ends on December 31 of such year.

"Funding Completion Certificate" has the meaning set forth in Section 6.6.

"Hangar 2 Agreement" has the meaning set forth in the recitals hereof.

"Incremental Property Taxes" has the meaning set forth in the Redevelopment Agreement.

"Indenture" has the meaning set forth in the recitals hereof.

"Intergovernmental Agreement" has the meaning set forth in the recitals hereof.

"Kelly Road Wetland System Project" means the project so designated and described in **Exhibit 4**.

"Lowry Supplemental Projects" means, collectively, those projects so designated and described on **Exhibit 4** hereto.

"Lowry Urban Redevelopment Plan" means the Lowry Urban Redevelopment Plan adopted by the City by Ordinance No. 1044, Series of 1995, as the same may from time to time be amended in accordance with the Act.

"Maximum Reimbursable Project Costs" means an amount not to exceed (i) \$2,476,677 with respect to the Kelly Road Wetland System Project, (ii) \$855,657 with respect to the Yosemite Extension Open Space Project, and (iii) \$1,000,000 with respect to the Project Contingency.

"Notice Address" means the address for notice set forth below, as amended from time to time:

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

Lowry: Lowry Economic Redevelopment Authority
200 Quebec Street
Building 600, Suite 215
Denver, Colorado 80230
Attention: Executive Director

City: Mayor
1437 Bannock, Room 350
Denver, CO 80202

with copies to:

Manager of Public Works
201 West Colfax Avenue, Department 611
Denver, CO 80202

Manager of Finance
201 West Colfax Avenue, Department 1010
Denver, CO 80202

Denver City Attorney
1437 Bannock, Room 353
Denver, CO 80202

“Pollutant” means any substance that is now or may become regulated or governed by any Environmental Laws, or the presence of which requires investigation under any Environmental Laws, or any flammable, explosive, corrosive, reactive, carcinogenic, radioactive material, hazardous waste, toxic substance or related material and any other substance or material defined or designated as a hazardous or toxic substance, material or waste by any Environmental Laws and shall include, without limitation:

(a) any substance included within the definitions of “hazardous substance” as that term is defined in CERCLA; any “hazardous waste” as that term is defined in RCRA; and any “hazardous material” as that term is defined in the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), as amended (including as those terms are further defined, construed, or otherwise used in rules, regulations or standards issued pursuant to the Environmental Laws);

(b) any substance listed in the United States Department of Transportation Table (49 C.F.R. 172.101 and amendments thereto) or by the Environmental Protection Agency (or any successor agency) as a hazardous substance (40 C.F.R. Part 302 and amendments thereto; and

(c) any material, waste, or substance which is or contains any petroleum product or by-product, flammable or explosive material, radioactive material, asbestos, PCBs, dioxins, heavy metals, mine tailings, waste or slag, radon gas or any material designated as a “hazardous substance” pursuant to Section 311 of the CWA (33 U.S.C. § 1321) or listed pursuant to Section 307 of the CWA (33 U.S.C. § 1317).

“Prevailing Wage Policy” shall have the meaning set forth in Section 8.2(a).

“Project Art” means those improvements designated by Lowry and approved by DURA as project art.

“Project Contingency” means the project contingency so designated and described in **Exhibit 4**.

“Project Costs” means the commercially reasonable costs and expenses, to the extent the same are chargeable to the capital account of the Lowry Supplemental Projects, actually paid by Lowry for design, engineering, labor, materials, equipment and subcontracting expenses used for excavating, grading, landscaping or constructing the Lowry Supplemental Projects as set forth in **Exhibit 4**. By way of example, Project Costs shall include, without limitation, the gross cost of any general or special construction contract for the Lowry Supplemental Projects which is reduced to writing, and

the additional charges for change orders, discharge of mechanic's liens, and other similar extras contemplated by or resulting from such contract as approved by DURA.

"Project Fund" shall mean the Project Fund, including all applicable accounts therein, established under the Indenture.

"Redevelopment Agreement" means the Amended and Restated Redevelopment Agreement, dated as of October 1, 2008, between DURA and Lowry, providing for the financing of certain improvements in furtherance of the Lowry Urban Redevelopment Plan.

"Supplemental Revenues" has the meaning set forth in Section 3.1.

"Tax Increment Area" has the meaning set forth in the recitals hereof.

"Termination Date" has the meaning set forth in Section 10.1.

"Yosemite Extension Open Space Project" means the project so designated and described in **Exhibit 4**.

Section 2. LOWRY SUPPLEMENTAL PROJECTS

Section 2.1 Construction of Lowry Supplemental Projects.

Lowry agrees to undertake the construction of Lowry Supplemental Projects and to pursue the same with appropriate care and diligence. All construction by Lowry with respect to Lowry Supplemental Projects shall be undertaken and completed in accordance with all applicable laws and regulations, including but not limited to the Lowry Urban Redevelopment Plan and this Agreement. DURA and the City shall have no responsibility to undertake any construction with respect to the Lowry Supplemental Projects.

Section 2.2 Application of Project Fund Moneys.

Lowry agrees that the first moneys to be expended to pay Project Costs shall be funds deposited in the Project Fund established under the Indenture, up to the amount of the total Project Costs. Lowry further agrees that the Project Costs paid from funds deposited in the Project Fund shall be not less than \$2,134,453 with respect to the Kelly Road Wetland Project, \$1,449,187 with respect to the Yosemite Extension Open Space Project and \$150,000 with respect to the Project Contingency. The parties acknowledge and agree that, as of November 1, 2010, \$397,781 of such Project Costs have been expended with respect to the Kelly Road Wetland System Project and \$806,432 of such Project Costs have been expended with respect to the Yosemite Extension Open Space Project. The parties further acknowledge and agree that Project Costs shall be payable from the Project Contingency only after all amounts currently on deposit in the Project Fund have first been expended. The expenditure of amounts deposited in the Project Fund shall be made in accordance with the requirements set forth in Section 5.03 of the Indenture and Section 2.3(b) hereof.

Section 2.3 DURA Financing and City Advances; Payment Procedures.

(a) Following expenditure of amounts in the Project Fund as provided in Section 2.2, expenditures for Project Costs not paid from the Project Fund shall be made from the DURA Financing as provided in Section 3, to the extent that the portion of Supplemental Revenues available for expenditure at the time as provided in Section 3.2(a) are sufficient to pay amounts required to be paid under this Agreement. To the extent the portion of Supplemental Revenues available for expenditure at the time as provided in Section 3.2(a) is insufficient to pay such Project

Costs, expenditures for Project Costs shall be made from City Advances in accordance with the provisions of Section 4.1.

(b) In connection with all payments of Project Costs relating to the Lowry Supplemental Projects, Lowry shall promptly deliver to DURA an expenditure certification (an "Expenditure Certification"), in substantially the form set forth in **Exhibit 2**, signed by an authorized representative of Lowry, provided that such Expenditure Certifications shall be delivered to DURA no more frequently than once per month. DURA shall review each Expenditure Certification promptly upon receipt and notify Lowry, and the City if a City Advance is contemplated, of any issues concerning the applicable Expenditure Certification within ten (10) business days of its receipt. DURA shall make payments to Lowry within five (5) business days following approval of an Expenditure Certification, except that such payment shall be made within five (5) business days following receipt by DURA of a City Advance if all or a portion of the expenditures under an approved Expenditure Certification shall be made from a City Advance. The obligations of DURA to provide the DURA Financing and of the City to provide the City Advances shall be contingent upon receipt and approval by DURA of such Expenditure Certifications.

Section 2.4 Termination of Funding of Project Costs.

Notwithstanding any other provision hereof, the parties acknowledge and agree that DURA shall have no obligation to pay or reimburse Lowry for Project Costs with respect to any Expenditure Certification received by DURA after December 1, 2013. Supplemental Revenues shall be expended by DURA after December 1, 2013, only (i) to pay Project Costs covered by Expenditure Certifications received on or prior to that date, and (ii) thereafter, to reimburse City Advances. The parties further acknowledge and agree that the City shall have no obligation to make City Advances with respect to any Expenditure Certifications received by DURA after December 1, 2013. Further, DURA shall have no obligation to pay or reimburse Lowry for any amounts in excess of the Maximum Reimbursable Project Costs.

Section 2.5 Access by DURA and the City.

Lowry hereby grants to DURA and the City, and their agents a license, subject to the approval of owners of, or tenants that are then operating in, the property comprising the Lowry Supplemental Projects, to enter the property comprising the Lowry Supplemental Projects at all reasonable times that they deem necessary for the purpose of carrying out or determining compliance with the Lowry Urban Redevelopment Plan or any City code or ordinance, including, without limitation, inspection of any work being conducted with respect to the Lowry Supplemental Projects; provided that, except in the event of an emergency, DURA or the City provides reasonable advance notice. No compensation shall be payable to Lowry nor shall any charge be made in any form by any party for the license provided in this Section 2.5; the parties hereby acknowledge that adequate legal consideration exists in this Agreement for the granting of such license. Nothing herein shall limit the City's exercise of its police powers.

Section 3. DURA FINANCING

Section 3.1 Supplemental Revenues.

(a) The parties acknowledge and agree that, in accordance with the provisions of the Indenture and the Cooperation Agreement, all Incremental Property Taxes are required to be deposited in the Revenue Fund established with the Trustee under the Indenture and applied as provided in Sections 6.02 through 6.07 of the Indenture. Amounts remaining in the Revenue Fund, after all payments under Sections 6.02 through 6.05 of the Indenture have been made, are required

to be paid or credited annually, as of the second business day of December in each year, to the Surplus Fund and the Accounts therein, as provided in Section 6.06 of the Indenture. To the extent amounts are paid or credited to the Supplemental Project Account of the Surplus Fund, such amounts are required to be transferred by the Trustee to DURA not later than the fifth business day following their deposit in the Supplemental Project Account. Upon such transfer, those amounts are no longer subject to the terms and provisions of the Indenture. Amounts so transferred to DURA from such Supplemental Project Account are referred to herein as "Supplemental Revenues."

(b) DURA represents that it has on deposit in a separate account maintained by DURA Supplemental Revenues in an amount available under this Agreement, estimated as of November 1, 2010, of \$755,000 (the "Current Supplemental Revenues"). DURA further represents that all Supplemental Revenues received by DURA in the future ("Future Supplemental Revenues") shall be deposited in a separate account maintained by DURA and applied as provided in this Agreement and the Hangar 2 Agreement until all payment obligations of DURA under this Agreement and the Hangar 2 Agreement have been satisfied.

Section 3.2 DURA's Financing Obligations.

(a) Subject to the satisfaction of the terms and conditions hereof and subject to Sections 3.3 and 9.4 hereof, DURA agrees to apply all of the Current Supplemental Revenues as estimated above and fifty percent (50%) of Future Supplemental Revenues, until such time as its payment obligations under the Hangar 2 Agreement have been satisfied, and, thereafter, one hundred percent (100%) of Future Supplemental Revenues, in the following order, to (i) the payment of Project Costs, in accordance with the procedures set forth in Section 2.3(b), up to the Maximum Reimbursable Project Costs in the aggregate, and (ii) to the extent City Advances are applied to pay Project Costs as provided in Section 4.1, to reimburse the City for all amounts due in connection with such City Advances as provided in paragraph (b) below. The parties agree that the payment of Project Costs and reimbursement of City Advances as provided herein shall constitute advances under Colo. Rev. Stat. § 31-25-109.

(b) To the extent that City Advances are made to DURA to pay Project Costs as provided in Section 4.1, DURA agrees to reimburse the City for the amount of such City Advances plus interest on the unreimbursed amount of such City Advances at the Applicable Interest Rate until reimbursed. Such reimbursement shall commence upon the earliest to occur of (i) the payment to Lowry of the Maximum Reimbursable Project Costs, (ii) the date of delivery by Lowry to DURA and the City of a Funding Completion Certificate as provided in Section 6.6, or (iii) the payment to Lowry of all Project Costs with respect to all Expenditure Certifications received by DURA on or prior to December 1, 2013. Such reimbursement obligations shall be subject to Section 3.2(a) and Section 3.3. Interest will be computed on the unreimbursed amount of such City Advances on the basis of a 365-day or 366-day year, as appropriate, for the actual number of days elapsed. Interest shall begin to accrue with respect to the amount of any City Advance reflected in an Expenditure Certification on the date that the City transfers such City Advance to DURA in accordance with the procedures set forth in Section 4.1. The parties agree that reimbursements received by the City shall first be applied to outstanding interest and then to principal.

(c) To document the amount of Project Costs that are certified and paid from time to time as provided herein, and the amount of reimbursements of City Advances from time to time as provided herein, DURA shall enter amounts on the grid attached hereto as **Exhibit 3** and incorporated by this reference herein. DURA shall amend such **Exhibit 3** at the time of any such payment or reimbursement. As soon as practicable following any amendment of such **Exhibit 3**, DURA shall forward a copy of the amended **Exhibit 3** to Lowry and the City. Absent demonstrable error, DURA's determination of such matters set forth on **Exhibit 3**, as amended from time to time, shall be conclusive evidence thereof.

Section 3.3 Limited Obligations.

DURA's payment and reimbursement obligations under this Section 3 shall be limited to the amounts provided in Sections 2.3(a) and 3.2(a) above and legally available for such purpose. Nothing in this Agreement shall be construed to require DURA to make any payments or reimbursements to Lowry or the City, as applicable, on a periodic and aggregate basis, in excess of such amounts. DURA's payment obligations hereunder shall terminate on the Termination Date whether or not all Project Costs have been paid or all City Advances have been reimbursed. Lowry and the City each acknowledges that the generation of Incremental Property Taxes is dependent upon the success of the development in the Lowry Urban Redevelopment Area and agrees that DURA is in no way responsible for the amount of Incremental Property Taxes actually generated or the amount of Supplemental Revenues available under the Indenture. Lowry and the City each therefore agrees that DURA shall have no liability in the event that insufficient Supplemental Revenues are generated to pay all Project Costs, up to the Maximum Reimbursable Project Costs to be paid from Supplemental Revenues as set forth in **Exhibit 4**, and to reimburse all City Advances.

Section 4. CITY ADVANCES

Section 4.1 Payment of City Advances.

In the event that the amount of Project Costs included in an Expenditure Certification approved by DURA is greater than the amount of Supplemental Revenues then held by DURA and available to pay such Project Costs as set forth in Section 3.2(a), the City shall make an advance to DURA (a "City Advance") in the amount by which such Project Costs included in the Expenditure Certification exceed the available Supplemental Revenues; provided, however, that the maximum City Advances required to be made to DURA shall not exceed an aggregate principal amount of \$3,000,000. The City shall pay to DURA the required amount of a City Advance within fifteen (15) business days following receipt by the City's Manager of Finance of an Expenditure Certification and Certification of Project Costs by Source, in substantially the form set forth in **Exhibit 2**, executed by DURA and Lowry, as applicable. DURA shall immediately notify Lowry of DURA's submittal of a request for a City Advance. Notwithstanding anything to the contrary in this paragraph, the City acknowledges that time is of the essence in executing its City Advances, and it will make such City Advances as soon as possible so that Lowry can timely meet its financial obligations to the contractors on the Lowry Supplemental Projects 1 and 2.

Section 4.2 City 38000 Account.

The City agrees that at the time of execution of this Agreement by the City, it shall establish a 38000 Account in the initial amount of \$3,000,000. City Advances shall be made by the City to DURA from amounts deposited in/credited to such 38000 Account. DURA and Lowry acknowledge and agree that the City may close such 38000 Account on the earliest to occur of (i) the date City Advances made to DURA total \$3,000,000, (ii) the delivery by Lowry to DURA and the City of a Funding Completion Certificate as provided in Section 6.6, or (iii) the date all City Advances are made to DURA with respect to all Expenditure Certifications received by DURA on or prior to December 1, 2013.

Section 5. REPRESENTATIONS AND WARRANTIES OF LOWRY

Section 5.1 Representations and Warranties.

Lowry represents and warrants that:

(a) Lowry is a legal entity established under the laws of the State of Colorado by the Intergovernmental Agreement. Lowry validly exists, the execution and delivery of this Agreement is not in violation of the referenced Intergovernmental Agreement, its Bylaws or the laws of the State of Colorado, and Lowry has the power and legal right to enter into this Agreement and has duly authorized the execution, delivery and performance of this Agreement by proper action.

(b) The consummation of the transactions contemplated by this Agreement will not violate any provisions of the governing documents of Lowry or constitute a default or result in the breach of any term or provision of any contract or agreement to which Lowry is a party or by which it is bound.

(c) Lowry will cooperate with the Authority with respect to any litigation brought by a third party concerning the Lowry Urban Redevelopment Plan, the Lowry Supplemental Projects, or this Agreement.

(d) The construction of the Lowry Supplemental Projects and the contemplated uses and occupancies thereof, shall comply with all applicable federal, state and City laws, rules and regulations, including, but not limited to, building, zoning, and other applicable land use codes, subject to modifications approved by the City pursuant to the planning, subdivision, zoning, environmental and other developmental ordinances and regulations.

Section 6. GENERAL COVENANTS

Section 6.1 Use of Supplemental Revenues and City Advances.

Lowry covenants that all Supplemental Revenues and all City Advances paid to Lowry shall be used solely for payment of the Project Costs.

Section 6.2 Project Art.

Lowry shall provide and install Project Art approved by DURA. The cost of the Project Art shall be not less than \$34,767. DURA shall not fund the Maximum Reimbursable Project Costs in the amount of the Project Art until the Project Art is satisfactorily completed. Project Art may include both interior and exterior art in public places and shall be subject to the procedures established by DURA and Lowry pursuant to the provisions of the Redevelopment Agreement.

Section 6.3 Insurance.

(a) Within ten (10) days after the execution of this Agreement by Lowry and until completion of construction, Lowry shall provide DURA and the City with certificates of insurance as follows:

(i) Commercial general liability insurance with XC&U exclusions deleted (including completed operations, operations of subcontractors, blanket contractual liability insurance, owned, non-owned and hired motor vehicle liability, personal injury liability) with limits against bodily injury and property damage of not less than \$5,000,000 for any person and \$5,000,000 for any occurrence; and

(ii) Worker's compensation insurance, with statutory coverage.

(b) The policies of insurance required under subsection (a) above, shall be reasonably satisfactory to the City and DURA, shall, for commercial general liability, list the City and DURA as additional insureds, shall be placed with financially sound and reputable insurers licensed to transact business in the State of Colorado, and shall require the insurer to give at least thirty (30) days' advance written notice to the City and DURA prior to cancellation or change in coverage. Lowry shall provide certified copies of all policies of insurance required under subsection (a) above, to DURA and the City upon request. For all insurance required to be carried by Lowry under this Section 6.3, Lowry shall require its insurer(s) to provide the City and DURA and their respective commissioners, directors, officers, employees and agents with waivers of subrogation. Lowry shall not obtain any insurance that prohibits the insured from waiving subrogation. To the extent available in the insurance industry at a commercially reasonable price, all policies required to be obtained by Lowry shall be written as "occurrence" policies and not as "claims-made" policies.

Section 6.4 Signage.

As soon as reasonably practicable, and until completion of construction of the Lowry Supplemental Projects, Lowry shall display temporary signage at the Lowry Supplemental Projects provided by DURA and relating to DURA's and the City's participation in the Lowry Supplemental Projects. Such signage shall be connected to the primary signage identifying the Lowry Supplemental Projects and visible to the general public. In addition, Lowry shall display, in a prominent location in, on or near the Lowry Supplemental Projects, at street level, a permanent sign acceptable to DURA not less than ninety (90) square inches in size acknowledging that the Lowry Supplemental Projects were financed and constructed in cooperation with DURA and the City.

Section 6.5 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 6.6 Funding Completion Certificate.

At any time prior to the earlier of payment to Lowry of the Maximum Reimbursable Project Costs or December 1, 2013, if Lowry shall determine that no further funding of Project Costs in connection with the Lowry Supplemental Projects is required pursuant to the terms of this Agreement, Lowry shall submit to DURA and to the City's Manager of Finance a written certificate stating that no further payments or reimbursements of Project Costs shall be requested by Lowry pursuant to the terms hereof (a "Funding Completion Certificate").

Section 7. INDEMNITY

Section 7.1 General Indemnity.

To the extent permitted by law, and without intending to waive applicable governmental immunity, Lowry covenants and agrees, at its expense, to release, pay, indemnify, and defend and hold harmless, DURA, and its board of commissioners, officers, agents, employees, engineers and attorneys and the City and its City Council, officers, agents, employees, engineers and attorneys (collectively, "Indemnified Parties" or singularly, each an "Indemnified Party") of, from and against, any and all claims, damages, demands, expenses (including reasonable attorneys' fees and court costs), and liabilities resulting directly or indirectly from Lowry's development, construction, repair, maintenance, management, and any other conduct or activities with respect to the Lowry

Supplemental Projects unless such claims, damages, demands, expenses, or liabilities, arise solely by reason of the negligent act or omission of DURA, the City or other Indemnified Party.

Section 7.2 Environmental Indemnity.

To the extent permitted by law, and without intending to waive applicable governmental immunity, Lowry hereby agrees to indemnify, defend and hold harmless the Indemnified Parties from and against any and all Environmental Liabilities, whenever and by whomever asserted.

As used in this Section, "Environmental Liabilities" shall mean any obligations or liabilities (including, without limitation, any claims, demands, actions, suits, enforcement actions, judgments, orders, writs, decrees, permits or injunctions imposed by any court, administrative agency, tribunal or otherwise, or other assertions of obligations and liabilities) that are:

(a) related to protection of the environment or human health or safety and involving the Lowry Supplemental Projects or the Tax Increment Area (including, but not limited to, on-site or off-site contamination by Pollutants, whether known or unknown, and occupational safety and health); and

(b) involving the Lowry Supplemental Projects or the Tax Increment Area and arising out of, based upon or related to (x) the Environmental Laws, or (y) any judgment, order, writ, decree, permit or injunction imposed by any court, administrative agency, tribunal or otherwise.

The term "Environmental Liabilities" shall include, but not be limited to: (i) fines, penalties, judgments, awards, settlements, losses, damages (including foreseeable and unforeseeable consequential damages), costs, fees (including attorneys' and consultants' fees), expenses and disbursements; (ii) defense and other responses to any administrative or judicial action (including claims, notice letters, complaints, and other assertions of liability); and (iii) financial responsibility for (x) cleanup costs and injunctive relief, including any corrective action, removal, remedial or other response actions, and natural resources damages, (y) any other compliance or remedial measures, and (z) bodily injury, medical monitoring, wrongful death, and property damage.

The terms "removal," "remedial" and "response" action shall include, without limitation, the types of activities covered by CERCLA, as amended, and whether the activities are those which might be taken by a government entity or those which a government entity might seek to require of waste generators, storers, treaters, owners, operators, transporters, disposers or other persons under "removal," "remedial," or other "response" actions.

Section 7.3 Indemnification Procedures.

(a) If any claim relating to the matters indemnified against pursuant to this Agreement is asserted against an Indemnified Party that may result in any damage for which any Indemnified Party is entitled to indemnification under this Agreement, then the Indemnified Party shall promptly give notice of such claim to Lowry.

(b) Upon receipt of such notice, Lowry shall have the right to undertake, by counsel or representatives of its own choosing, the good faith defense, compromise or settlement of the claim, such defense, compromise or settlement to be undertaken on behalf of the Indemnified Party.

(c) The Indemnified Party shall cooperate with Lowry in such defense at Lowry's expense and provide Lowry with all information and assistance reasonably necessary to permit such party or parties to settle and/or defend any such claim.

(d) The Indemnified Party may, but shall not be obligated to, participate at its own expense in a defense of the claim by counsel of its own choosing, but Lowry shall be entitled to control the defense unless the Indemnified Party has relieved Lowry from liability with respect to the particular matter.

(e) If Lowry elects to undertake such defense by its own counsel or representatives, Lowry shall give notice of such election to the Indemnified Party within ten (10) days after receiving notice of the claim from the Indemnified Party.

(f) If Lowry does not so elect or fails to act within such period of ten (10) days, the Indemnified Party may, but shall not be obligated to, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of Lowry.

(g) The assumption of such sole defense by the Indemnified Party shall in no way affect the indemnification obligations of Lowry; provided, that no settlement of any claim shall be effected without Lowry's consent.

Section 7.4 Indemnity and Other Claims Unsecured.

Notwithstanding anything herein to the contrary, the indemnification responsibilities of Lowry under this Agreement shall be payable solely from the following sources, and in the following priority of payment: (i) amounts contained in the Surplus Fund as provided in Section 6.07(e) of the Indenture to the full extent thereof; and (ii) available funds of Lowry on a parity with claims of other unsecured creditors. It is the express agreement of the parties that Lowry's obligation to make any expenditure hereunder relating to indemnification from monies other than amounts contained in the Surplus Fund as provided in Section 6.07(e) of the Indenture shall be subordinate to any secured indebtedness of Lowry.

Section 8. EMPLOYMENT

Section 8.1 Anti-Discrimination.

Lowry agrees that in any activities undertaken under this Agreement, Lowry shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, handicap, ancestry or national origin.

Section 8.2 Payment of Prevailing Wage and Enhanced Training Opportunities.

(a) Lowry agrees that it shall comply with DURA's Policy Requiring the Payment of Prevailing Wages for the Construction of Regional Trunk Infrastructure Funded with Tax Increment Financing ("Prevailing Wage Policy") attached as **Exhibit 5**.

(b) Lowry agrees that, with respect to the Lowry Supplemental Projects, it shall comply with DURA's Policy Requiring Enhanced Training Opportunities for Projects Funded with Tax Increment Financing ("ETO Policy") attached hereto as **Exhibit 6**. Authority DURA and Lowry agree that the amount of funding that must be provided for enhanced training opportunities under the policy in connection with the Lowry Supplemental Projects in the aggregate amount of \$34,767.

Section 8.3 First Source Program.

(a) Lowry shall cooperate with DURA for the period of construction of the Lowry Supplemental Projects and, in connection with DURA or a government office or agency designated by DURA (the "Agency"), participate in a program to provide preferential opportunities for

employment and training of low-income Denver residents (the "First Source Program") more fully described in **Exhibit 7**.

(b) Lowry shall designate a job placement coordinator who shall be responsible for implementing the First Source Program and coordinating with DURA and the Agency regarding Lowry's efforts in connection therewith.

(c) To the extent not paid by the Agency, the costs of the First Source Program shall be shared equally between DURA and Lowry.

(d) In the event that Lowry believes that the First Source Program as structured in **Exhibit 7** substantially interferes with Lowry's business operations, DURA agrees to consider in good faith any reasonable modifications to ameliorate such substantial interference. The First Source Program shall not be modified without consent of DURA.

Section 9. EVENTS OF DEFAULT; REMEDIES

Section 9.1 Events of Default by Lowry.

A Default by Lowry under this Agreement shall mean one or more of the following events:

(a) Lowry transfers or assigns its interest in this Agreement, without the consent of DURA and each of the City's Managers of Finance, Public Works and Parks and Recreation;

(b) Lowry commences a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or is the subject of an involuntary case of such nature not dismissed within sixty (60) days after it is filed, or consents to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee or sequestrator (or other similar official) of Lowry or of any substantial part of its property, or Lowry makes any general assignment for the benefit of creditors or generally fails to pay its debts as they become due or takes any action in furtherance of such action;

(c) Lowry fails to comply with the requirements of Series 7.1 hereof;

(d) Lowry fails to use best efforts to comply with the First Source Program, the Prevailing Wage Policy or the ETO Policy

(e) Lowry fails to comply with the provisions of the Indenture, which provisions shall not be waived or modified without DURA's consent; or

(f) Lowry fails to spend amounts received pursuant to the DURA Financing or City Advances on Project Costs for the Lowry Supplemental Projects;

and if such Defaults are not cured by Lowry within the time provided in Section 9.5, then an Event of Default shall have occurred and each of DURA and the City may exercise any remedy available under this Agreement.

Section 9.2 Events of Default by DURA.

Default by DURA under this Agreement shall be limited solely to the failure of DURA to (i) make payments to Lowry under Section 3, but only to the extent that DURA has Supplemental Revenues or City Advances in its possession that are determined to be legally available to make such payments to Lowry, or (ii) reimburse City Advances under Section 3, but only to the extent that

DURA has Supplemental Revenues in its possession to make such payments to the City. If such Default is not cured within the time provided in Section 9.5, then an Event of Default shall be deemed to have occurred, and Lowry and the City, as applicable, may exercise the remedy available under Section 9.4 of this Agreement.

Section 9.3 Events of Default by the City.

Default by the City under this Agreement shall be limited solely to the failure of the City to (i) make City Advances to DURA as provided in Section 4.1 or (ii) establish and make the deposit in/credit to the 38000 Account as provided in Section 4.2. If such Default is not cured within the time provided in Section 9.5, then an Event of Default shall be deemed to have occurred, and each of DURA and Lowry may exercise the remedy available under Section 9.4 of this Agreement.

Section 9.4 Remedies.

If any Event of Default by Lowry occurs and is continuing hereunder, DURA or the City may (i) seek any available remedy at law; (ii) seek enforcement of Lowry's obligations hereunder by any equitable remedies, such as specific performance or injunction; (iii) cure such Event of Default, for which Lowry agrees to indemnify DURA and the City in accordance with the procedures set forth in Section 7.1; or (iv) with respect to Project Costs, withhold payment of such Project Costs. If any Event of Default by DURA occurs and is continuing hereunder, Lowry and the City, as applicable, may seek enforcement of DURA's payment obligation under Section 3 through specific performance. If an Event of Default by the City occurs and is continuing hereunder, DURA and Lowry, as applicable, may seek enforcement of the City's obligations under Section 4 through specific performance. If payment to Lowry of Project Costs are not made by reason of DURA's failure to apply Current Supplemental Revenues or Future Supplemental Revenues as provided in Section 3.2(a) or the City's failure to make City Advances as provided in Section 4.1, Lowry shall have the right to terminate work on Lowry Supplemental Projects until such payment failure is remedied, and, if such payment is not made within ten (10) days of receipt by DURA and the City of notice from Lowry of the failure by Lowry to receive such payment, Lowry may terminate Lowry Supplemental Projects.

In no event shall DURA, Lowry or the City be liable to the other parties hereto for damages, including special, consequential or punitive damages, and each party hereby waives any claims or actions for damages against the other parties hereto.

Section 9.5 Notice of Defaults; Opportunity to Cure Such Defaults.

Anything hereunder to the contrary notwithstanding, no Default under Section 9.1, Section 9.2 or Section 9.3 hereof shall constitute an Event of Default until actual notice of such Default shall be given to the party in Default by one of the other parties hereto, 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; 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; provided, however, that corrective action is completed no later than ninety (90) days after receipt of notice.

Section 10. TERMINATION

Section 10.1 Scheduled Termination.

Upon the earliest to occur of (a) both (i) one of the following events: (A) payment to Lowry of the Maximum Reimbursable Project Costs, (B) receipt by DURA from Lowry of a Funding Completion Certificate, or (C) payment to Lowry of Project Costs with respect to all Expenditure Certifications received by DURA on or before December 1, 2013; and (ii) and reimbursement to the City of all amounts due in connection with City Advances, or (b) December 1, 2020 (the "Termination Date"), this Agreement shall automatically terminate, except as provided in Section 12.17, and each party shall execute such documents to evidence such termination as may be reasonably required by DURA.

Section 11. RESTRICTIONS ON ASSIGNMENT AND TRANSFER

Section 11.1 Limitation on Assignment and Pledge.

Lowry shall not assign or pledge its rights or duties and obligations pursuant to this Agreement without the prior written consent of DURA and the City, and any purported assignment without consent of DURA and the City shall be null and void.

Section 12. MISCELLANEOUS

Section 12.1 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 12.2 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 dispatched by telegram or telecopy (if confirmed promptly telephonically), addressed to the appropriate Notice Address or at such other address or addresses as any party hereto shall designate in writing to the other parties hereto.

Section 12.3 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 parties 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 12.4 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 12.5 Conflicts of Interest.

DURA and the City shall not allow, and except as disclosed in writing to DURA and the City, Lowry shall not knowingly permit, 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 Lowry Supplemental Projects. DURA and the City shall not allow and Lowry shall not knowingly permit 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 12.6 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 12.7 Not Partners; Lowry Not Agent of DURA or City.

Notwithstanding any language in this Agreement or any other agreement, representation or warranty to the contrary, neither DURA nor the City shall be deemed or constituted a partner or joint venturer of Lowry, Lowry shall not be the agent of DURA or the City, and neither DURA nor the City shall be responsible for any debt or liability of Lowry.

Section 12.8 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 12.9 Binding Effect.

This Agreement shall be binding on and inure to the benefit of the parties hereto, and their successors and assigns, subject to the limitations on assignability of this Agreement by Lowry as set forth in Section 11.1.

Section 12.10 Further Assurances.

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

Section 12.11 Time of Essence.

Time is of the essence of 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 12.12 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 12.13 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. Lowry agrees and acknowledges that in each instance in this Agreement or elsewhere where DURA or the City 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 or the City, nor impose upon DURA or the City, any responsibility for the design or construction of the Lowry Supplemental Projects, 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 or the City under the terms of this Agreement are for the sole and exclusive benefit of Lowry 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 12.14 Counterparts.

This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 12.15 Nonliability of DURA, Lowry or City Officials and Employees.

No council member, commissioner, board member, official, officer, employee, agent or consultant of DURA, Lowry or the City shall be personally liable in the event of a breach or Event of Default by DURA, Lowry or the City or for any amount that may become due under the terms of this Agreement.

Section 12.16 Incorporation of Exhibits.

All exhibits attached to this Agreement are incorporated into and made a part of this Agreement.

Section 12.17 Survival.

The indemnity obligations of Lowry under Section 7 shall survive any termination of this Agreement until the latest expiry of all applicable statutes of limitation.

Section 12.18 Subsequent Events.

If at any time during the term of this Agreement Lowry requests the cooperation of DURA or the City in connection with an assignment or any other action under this Agreement, Lowry expressly assumes the obligation to pay any and all fees and expenses, including reasonable consultants' fees, attorneys' fees, incurred by DURA and the City in connection with such action or assignment.

Section 12.19 No Third Party Beneficiaries.

The City, Lowry and DURA intend that this Agreement shall create no third party beneficiary interests. The City, Lowry 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 12.20 Annual Appropriations.

All obligations of the City under and pursuant to this Agreement, other than the obligations of the City under Section 4, are subject to prior appropriation of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City. Failure to appropriate funds, other than the obligations of the City under Section 4, shall not constitute a default hereunder.

Section 12.21 Right to Inspect Books.

In addition to all rights the City has under C.R.S. 24-72-201, Lowry and DURA agree that the City, the City's Auditor and any authorized representative of the City shall have the right, at all reasonable times and after reasonable notice, to examine all books and records with respect to this Agreement.

Section 12.22 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, Lowry and DURA.

Section 12.23 Venue.

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

Section 12.24 Nondiscrimination.

In connection with the performance of work under this Agreement, the City, Lowry 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, marital status or physical and mental disability; and the City, Lowry and DURA further agree to insert the foregoing provision in all subcontracts hereunder.

[SIGNATURE PAGE FOLLOWS]

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

DENVER URBAN RENEWAL AUTHORITY

By: _____
Name: _____
Title: _____

ATTEST:

By: _____

LOWRY ECONOMIC REDEVELOPMENT
AUTHORITY

By: _____
Name: _____
Title: _____

ATTEST:

By: _____

CITY AND COUNTY OF DENVER

ATTEST:

By: _____
Mayor

By: _____
Stephanie Y. O'Malley, Clerk and Recorder,
Ex-Officio Clerk of the City and County of
Denver

RECOMMENDED AND APPROVED:

By: _____
Manager of Public Works

By: _____
Manager of Parks and Recreation

By: _____
Manager of Finance

APPROVED AS TO FORM:

David R. Fine, Attorney for the City and County
of Denver

REGISTERED AND COUNTERSIGNED:

By: _____
Assistant City Attorney

By: _____
Manager of Finance

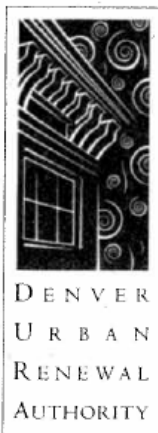
Contract Control No. _____

By: _____
Auditor

EXHIBIT 1

DURA/CITY LETTER AGREEMENTS

[See attached]



*Residential and Commercial
Preservation and Renewal*

1555 CALIFORNIA STREET, SUITE 200
DENVER, COLORADO 80202
(303) 534-3872 • FAX (303) 534-7303
www.denvergov.org/DURA
TDD: Access Available

April 6, 2010

Mr. Claude J. Pumilia
Manager of Finance
City and County of Denver
201 West Colfax Avenue
Department 1010
Denver, Colorado 80202

Re: Lowry Tax Increment Area

Dear Mr. Pumilia:

I am writing to confirm our agreement with respect to use to be made of certain property tax increment revenues relating to the Lowry Tax Increment Area (the "Pledged Property Tax Revenues") that are payable to the Denver Urban Renewal Authority ("DURA") under the provisions of the Trust Indenture dated as of October 1, 2008 (the "Lowry Indenture") between the Lowry Economic Redevelopment Authority (the "LRA") and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee").

As you are aware, in accordance with the provisions of Sections 6.06(d) and 6.07(d) of the Lowry Indenture, as of the second Business Day of December of each year, certain Pledged Property Tax Revenues that are not required to be otherwise applied to pay debt service on the LRA's outstanding Series 2008A Bonds or to make certain deposits or pay certain obligations as outlined more specifically in the Lowry Indenture, must be deposited to the Supplemental Project Account of the Surplus Fund established under the Lowry Indenture, and, on the fifth Business Day following such deposit, must be transferred by the Trustee to DURA. Upon such transfer, those moneys are no longer subject to the terms and provisions of the Lowry Indenture.

Under the terms of Section 5.1(b)(ii) of the Lowry Tax Increment Area Second Amended and Restated Cooperation Agreement dated as of October 1, 2008 (the "Lowry Cooperation Agreement") between the City and DURA, the Pledged Property Tax Revenues that are transferred to DURA from the Supplemental Project Account as described above, if not applied to prepayment of the LRA's Series 2008A Bonds, may be applied to any permitted uses upon approval of both DURA and the City's Manager of Finance.

As of the date of this letter agreement, there are funds currently held by DURA available to be applied as contemplated in Section 5.1(b)(ii) of the Lowry Cooperation Agreement.

Mr. Claude J. Pumilia
April 6, 2010
Page 2

We have agreed that such current balance, together with additional Pledged Property Tax Revenues that become available to be applied under the provisions of Section 5.1(b)(ii) of the Lowry Cooperation Agreement in future years shall be used to fund three projects in the Lowry Tax Increment Area, referred to herein as the "Hangar 2 Project," the "Kelly Road Wetlands Project," and the Yosemite Extension Open Space Project (the last two known collectively as the "Storm Sewer Projects"). Fifty percent (50%) of the funds when available will be used for the Hangar 2 Project and fifty percent (50%) of the funds when available will be used for the Storm Sewer Projects. Payment of the Hangar 2 Costs and the Storm Sewer Costs, together with interest accrued thereon, shall be made in equal amounts from the current moneys held by DURA and from Pledged Property Tax Revenues that become available to be applied under the provisions of Section 5.1(b)(ii) of the Lowry Cooperation Agreement in future years; provided, however, that following reimbursement of all of the Hanger 2 Costs, together with interest accrued thereon, , all such Pledged Property Tax Revenues received in future years shall be applied to reimburse Storm Sewer Costs until all Storm Sewer Costs, together with interest accrued thereon, are reimbursed.

The parties hereto acknowledge and agree that this letter agreement shall apply only to the projects described herein, and that Pledged Property Tax Revenues that become available in future years in excess of amounts required to fund the projects described herein shall be applied as provided in Section 5.1 of the Lowry Cooperation Agreement.

Please acknowledge your agreement to the matters set forth herein by executing in the space provided below.

Very truly yours,

DENVER URBAN RENEWAL AUTHORITY

By: Tracy Higgins
Title: Executive Director

ACKNOWLEDGED AND AGREED:

CITY AND COUNTY OF DENVER, COLORADO,
MANAGER OF FINANCE

Claude J. Pumilia

Dated: April 16, 2010



*Residential and Commercial
Preservation and Renewal*

1555 CALIFORNIA STREET, SUITE 200
DENVER, COLORADO 80202
(303) 334-3872 • FAX (303) 534-7303
www.denvergov.org/DURA
TDD Access Available

November 24, 2010

Mr. Claude J. Pumilia
Manager of Finance
City and County of Denver
201 West Colfax Avenue
Department 1010
Denver, Colorado 80202

Re: Lowry Tax Increment Area

Dear Mr. Pumilia:

I am writing to confirm our agreement with respect to use to be made of certain property tax increment revenues relating to the Lowry Tax Increment Area (the "**Pledged Property Tax Revenues**") that are payable to the Denver Urban Renewal Authority ("**DURA**") under the provisions of the Trust Indenture dated as of October 1, 2008 (the "**Lowry Indenture**") between the Lowry Economic Redevelopment Authority (the "**LRA**") and The Bank of New York Mellon Trust Company, N.A., as trustee (the "**Trustee**"). Reference is made to our letter agreement dated April 6, 2010 with respect to this matter (the "**April Letter**"), a copy of which is attached.

As set forth in the April Letter, we have agreed, with respect to the application of certain Pledged Property Tax Revenues that become available to be applied under the provisions of Section 5.1(b)(ii) of the Lowry Cooperation Agreement, 50% of such funds will be used for the Hanger 2 Project and 50% of such funds will be used for the Storm Sewer Projects (as such items are referenced in the April Letter). The parties now desire that the 50% of such available funds for the Storm Sewer Projects also be made available to fund a certain Project Contingency amount as agreed upon by the City, the LRA and DURA in that certain Lowry Supplemental Project Funding Agreement for Kelly Road Wetland System Project, Yosemite Extension Open Space Project and Project Contingency. The purpose of this letter is to amend and supplement the April Letter to provide that references therein to the Storm Sewer Projects and the payment of the Storm Sewer Costs shall include the payment of such Project Contingency amount. Except as set forth herein, the parties acknowledge and agree that the April Letter remains in full force and effect.

Please acknowledge your agreement to the matters set forth herein by executing in the space provided below.

Very truly yours,

DENVER URBAN RENEWAL AUTHORITY

Tracy Huggins

By: Tracy Huggins
Title: Executive Director

ACKNOWLEDGED AND AGREED:

CITY AND COUNTY OF DENVER, COLORADO,
MANAGER OF FINANCE

Claude J. Hamilton

Dated: 11/30, 2010

EXHIBIT 2 – PART A

EXPENDITURE CERTIFICATION

**Lowry Supplemental Projects:
Kelly Road Wetlands, Yosemite Extension Open Space and Project Contingency**

Date _____

Project: [Kelly Road Wetlands Project]
[Yosemite Extension Open Space Project]
[Project Contingency]

Certification No.: _____

Amount Disbursed: \$ _____

Type of Cost/Work Performed

[Break down into categories set forth in Exhibit E to Amended and Restated Funding Agreement]

[Attached bills or statement of account]

I hereby certify as follows:

(a) The items of costs for which payment is certified herein (i) are or were necessary in connection with, and are reasonably attributable to, the [Kelly Road Wetlands Project] [Yosemite Extension Open Space Project] [Project Contingency], and (ii) have not formed the basis for any previous payment to the person receiving payment as described herein.

(b) No event has occurred and is continuing which constitutes an Event of Default of Lowry, as defined in the Lowry Supplemental Project Funding Agreement for Kelly Road Wetland System Project, Yosemite Extension Open Space Projects and Project Contingency (the "Funding Agreement"), or would constitute an Event of Default but for the requirement that notice be given or time elapsed or both.

(c) The Project Costs certified herein were incurred pursuant to **Exhibit 4** of the Funding Agreement.

Dated: _____, 20__

Lowry Economic Redevelopment Authority

By: _____

Name: _____

Title: _____

EXHIBIT 2 – PART B

CERTIFICATION OF PROJECT COSTS BY SOURCE

Date: _____

Project: [Kelly Road Wetlands Project]
[Yosemite Extension Open Space Project]
[Project Contingency]

Certification No.: _____

Amount Disbursed: \$ _____

I hereby certify as follows:

By signing below, Lowry and DURA confirm the payment of Project Costs by source as described below.

- (i) Indenture Project Funds: \$ _____
- (ii) Supplemental Revenues: \$ _____
- (iii) Reimbursable City 38000 Funds (City Advance): \$ _____

Dated: _____, 20__

Lowry Economic Redevelopment Authority

Denver Urban Renewal Authority

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT 3

**EXPENDITURE AND REIMBURSEMENT OF PROJECT COSTS
AND
CITY ADVANCES**

Maximum Aggregate City Advances: \$3,000,000

**Interest Rate: [Applicable Interest Rate] Simple
Interest – Non-Compounded**

Kelly Road Wetlands Project

DATE	TOTAL EXPENDITURE APPROVED	PROJECT FUND EXPENDITURE	SUPPLEMENTAL REVENUES	PRINCIPAL ADDITION AMOUNT	INTEREST PERIOD	DAYS IN INTEREST PERIOD	ACCRUED PERIOD INTEREST	PAYMENT	OUTSTANDING INTEREST BALANCE	OUTSTANDING PRINCIPAL BALANCE

Yosemite Extension Open Space Project

DATE	TOTAL EXPENDITURE APPROVED	PROJECT FUND EXPENDITURE	SUPPLEMENTAL REVENUES	PRINCIPAL ADDITION AMOUNT	INTEREST PERIOD	DAYS IN INTEREST PERIOD	ACCRUED PERIOD INTEREST	PAYMENT	OUTSTANDING INTEREST BALANCE	OUTSTANDING PRINCIPAL BALANCE

Project Contingency

DATE	TOTAL EXPENDITURE APPROVED	PROJECT FUND EXPENDITURE	SUPPLEMENTAL REVENUES	PRINCIPAL ADDITION AMOUNT	INTEREST PERIOD	DAYS IN INTEREST PERIOD	ACCRUED PERIOD INTEREST	PAYMENT	OUTSTANDING INTEREST BALANCE	OUTSTANDING PRINCIPAL BALANCE

Reimbursement of City Advances

DATE	PRINCIPAL ADDITION AMOUNT	INTEREST PERIOD	DAYS IN INTEREST PERIOD	ACCRUED PERIOD INTEREST	PAYMENT	OUTSTANDING INTEREST BALANCE	OUTSTANDING PRINCIPAL BALANCE

EXHIBIT 4

LOWRY SUPPLEMENTAL PROJECTS

KELLY ROAD WETLAND SYSTEM PROJECT

The construction project consists of a new drainage channel and native 35-acre open space park in the vicinity of Uinta Way and Kelly Road Dam at Lowry in Denver, Colorado. The scope includes new storm drain channel with four sheet-pile drop structures; the realignment and improvement of existing creek channel; improvements to existing storm outfall/headwall structures; bulk grading and restoration of surrounding native wetlands and open space park; construction crusher fine trails; irrigation with non-potable water; landscaping with native grass, trees, shrubs, wildflowers and riparian features; construction of ramps and stairs for access on Kelly Road Dam. Much of the project is located within an existing, closed flyash disposal landfill, and over a TCE-contaminated groundwater plume. Due to the challenges of this unique location, the scope will also include intense management of: (1) flooding from storm runoff; (2) TCE-contaminated groundwater; (3) soils containing flyash, asbestos, and general debris; and (4) soils saturated with TCE-contaminated groundwater. The completed park will be maintained by the contractor for two (2) years.

YOSEMITE EXTENSION OPEN SPACE PROJECT

This construction project consists of a new drainage channel and 22-acre open space park in the vicinity of Yosemite Street and the Westerly Creek Dam in Denver, Colorado. The scope includes the realignment, expansion and improvement of a storm drain channel with grouted boulder drop structures; construction of a new concrete headwall structure; bulk grading and restoration of surrounding native open space park; construction of crusher fine trails; irrigation with non-potable water; landscaping with native grass, trees, shrubs, wildflowers and riparian features; construction of stairs for access on Westerly Creek Dam. The completed park will be maintained by the contractor for two (2) years.

PROJECT CONTINGENCY

For purposes of expenditures of the Project Contingency, the qualifying Project Costs are those costs related to the projects identified in Exhibit D to the Indenture to the extent that such Project Costs exceed all amounts currently on deposit in the Project Fund established under the Indenture.

PROJECT COSTS

	Kelly Road Wetland System	Yosemite Extension Open Space	Project Contingency	Total
Total Project Cost	\$4,611,130	\$2,304,844	\$1,150,000	\$8,065,974
Amount Funded – Series 2008A Project Funds	\$2,134,453	\$1,449,187	\$150,000	\$3,733,640
Amount Funded – Supplemental Revenues	\$2,476,677	\$855,657	\$1,000,000	\$4,332,334
Amount Funded – Project Art & Enhanced Training (Supplemental Revenues)	\$49,533	-0-	\$20,000	\$69,533

EXHIBIT 5

**DENVER URBAN RENEWAL AUTHORITY
PREVAILING WAGE POLICY**

[See attached]

DENVER URBAN RENEWAL AUTHORITY

POLICY REQUIRING THE PAYMENT OF PREVAILING WAGES FOR THE CONSTRUCTION OF REGIONAL TRUNK INFRASTRUCTURE FUNDED WITH TAX INCREMENT FINANCING

May 2008

Policy Statement

The Denver Urban Renewal Authority ("DURA") has determined that projects funded in whole or in part by tax increment financing provided by DURA ("DURA Projects") which include the construction of Regional Trunk Infrastructure should require compliance with the City and County of Denver's Prevailing Wage Ordinance, Section 20-76 of the Denver Municipal Code. It is the City's policy that wages paid on City projects should not be less than the wages paid for the same class of work in the City. DURA has determined that Regional Trunk Infrastructure constructed within a DURA Project should not be exempt from the City prevailing wage requirement.

The establishment of a Policy Requiring the Payment of Prevailing Wages for the Construction of City Projects Funded with tax Increment Financing ("Prevailing Wage Policy") as described below is required for proponents ("Developer") of projects funded in whole or in part by tax increment revenues provided by DURA.

Prevailing Wage Policy

1. Any Developer whose project includes the construction of Regional Trunk Infrastructure shall comply with the City and County of Denver's Prevailing Wage Ordinance, Section 20-76 of the Denver Municipal Code for the construction of Trunk Infrastructure.
2. Regional Trunk Infrastructure is defined as regional key collector or distribution facilities and improvements in the sanitation, water, and street categories; as well as regional police and fire facilities, City parks, and City owned recreation centers. Regional Trunk Infrastructure is considered to be essential to providing primary service to the urban renewal area and / or the surrounding community that would not otherwise be required of a redeveloper in the absence of tax increment financing.
3. DURA will determine whether or not a cost is classified as Trunk Infrastructure as part of preparing a list of costs eligible for payment or reimbursement. DURA may consult with the Manager of Public Works when determining cost classification.
4. It is the redeveloper's responsibility to understand and comply with the City's prevailing wage requirement. In order for a cost to be approved for payment or reimbursement, the invoice must be accompanied by a letter from the City and

County of Denver Auditor's Office indicating that the work performed was in compliance with Section 20-76 of the Revised Municipal Code. DURA will not be responsible for determining compliance.

5. In the event another source of project financing requires adherence to an alternative wage ordinance (e.g., Davis Bacon), DURA, at its sole discretion, may waive compliance with the Prevailing Wage Policy.

EXHIBIT 6

**DENVER URBAN RENEWAL AUTHORITY
ETO POLICY**

[See attached]

DENVER URBAN RENEWAL AUTHORITY

POLICY REQUIRING ENHANCED TRAINING OPPORTUNITIES FOR PROJECTS FUNDED WITH TAX INCREMENT FINANCING

May 2008

Policy Statement

The Denver Urban Renewal Authority ("DURA") has determined that improved access to training opportunities within the construction trades would benefit DURA and the citizens of Denver by improving job safety and opportunities for advancement within the construction industry. As such, the funding of enhanced training opportunities (ETO) is required on all projects funded in whole or in part by tax increment financing (TIF) provided by DURA. The cost of the ETO provided must be equal to at least one percent of the gross bond proceeds issued by DURA in connection with the project or one percent of the project's maximum reimbursable expenses as of the effective date of the Redevelopment Agreement.

The cost of the ETO is an eligible tax increment expenditure and may be paid for with bond proceeds or reimbursed to the developer through the project's tax increment.

Goals

The goal of DURA's ETO Policy is to improve access to training within the construction trades, improve job safety, and increase individuals' opportunity for advancement within Denver's construction industry. ETO funds are intended to increase the availability of, access to, or quality of training opportunities in Denver – not to subsidize existing training where funding is already required and/or in place. Funding is intended to primarily benefit construction workers on DURA projects or, more broadly, Denver residents and/or employees of Denver-based construction firms. Where possible, ETO funds should serve to enhance outcomes under DURA's Small Business Enterprise (SBE) and First Source policies.

ETO funds may be deployed on a project specific basis according to a DURA approved ETO plan or as a payment in lieu contribution to an approved training provider or program, such as the City and County of Denver's Office of Workforce Development or the Economic Development Construction Empowerment Initiative, as described below.

All projects funded in whole or in part by tax increment financing (TIF) provided by DURA are required to participate.

Plan Components

Developers choosing to expend ETO funds on their project job site must prepare an ETO Plan. The ETO Plan must include the plan objective(s), specific training opportunities, implementation strategy, and a budget. An ETO Plan may be merged with the project's SBE Plan into a single plan for meeting both requirements. Developers are encouraged

to develop both plans in coordination with their general contractor, as the entity most directly responsible for success in meeting SBE and ETO objectives.

Plan Objectives

ETO Plan objectives will vary by project type, stage in the development process, and goals of the developer. Plan objectives should be clearly stated and, where possible, measurable (% decrease in reported safety incidents, number of training hours sponsored, etc.).

Training Opportunities

Developer sponsored training opportunities should be clearly tied to meeting the plan objectives. Training opportunities not specifically identified in the ETO Plan must be approved by a four-member committee as defined in the implementation strategy below. Training opportunities not initially identified in the ETO Plan may be included after the fact if they are in keeping with the plan objectives. Such amendments to the ETO Plan should be submitted to DURA in writing for approval by staff.

Implementation Strategy

Strategies for implementing the ETO Plan will vary according to plan goals, project type and the stage in the development process during which the plan is drafted. The implementation strategy should make clear who will be responsible for carrying out various aspects of the plan (developer, general contractor, sub contractor, etc.), how specific training opportunities will be identified (if not already identified above), how beneficiaries will be selected (i.e., which DBEs or employees can participate), and include an implementation timeline.

For plans that have identified categories of training opportunities, but have not identified specific training providers, the implementation strategy must include the creation of a four-member approval committee. The committee will be made up of two representatives identified by DURA and two representatives identified by the redeveloper (e.g., developer representative, general contractor representative, etc.) at the time the plan is submitted. One DURA representative will be a staff member and the other will be an independent party with expertise in the areas of construction and workforce training. The role of the committee is to review and approve the appropriateness of a proposed training opportunity.

Finally, the implementation strategy must include a mechanism for reporting outcomes.

Budget

The Plan Budget must total at least one percent of the gross bond proceeds issued by DURA in connection with the project or one percent of the project's maximum reimbursable expenses as of the effective date of the Redevelopment Agreement. The budget must breakout the estimated cost for providing the identified training

opportunities on a per unit basis (per session, per employee, etc.) and in the aggregate. Projects in which the total TIF contribution is at least \$10 million are permitted to include an overhead cost for implementing the ETO Plan, which shall not exceed 5% of the total plan budget.

The Plan Budget is an estimate and, with the exception of overhead expenses, will not represent minimum or maximum itemized expenditures. Any unexpended funds remaining at the completion of the project will be contributed as a payment in lieu to an approved training provider or program, as further described below.

Payment In Lieu

Developer's not choosing to expend ETO funds on their project job site must make a payment in lieu contribution to an approved training provider or program, such as the City and County of Denver's Office of Office of Workforce Development or Economic Development Construction Empowerment Initiative. A Payment In Lieu will be equal to at least one percent of the gross bond proceeds issued by DURA in connection with the project or one percent of the project's maximum reimbursable expenses as of the effective date of the Redevelopment Agreement. A Payment In Lieu will be paid by the developer at commencement of construction or from net bond proceeds at closing.

The option of making a Payment In Lieu is not available to projects in which gross bond proceeds issued by DURA in connection with the project or one percent of the project's maximum reimbursable expenses are equal to or greater than \$20 million. Projects of this size are required to prepare an ETO Plan.

Reimbursement

ETO Plan costs are eligible tax increment expenditures and may be paid for with bond proceeds or reimbursed to the developer through the project's tax increment. Such payment or reimbursement will be based on actual costs incurred, submitted for review and approval by DURA.

In the event a developer fails to evidence expenditure of the full 1% as required by this policy, DURA shall have the right to withhold bond proceeds or reimbursement from TIF in an amount equal to the shortfall. Amounts may be withheld in advance other obligations owed to the developer from TIF and DURA, at its sole discretion, may defer any interest accrual on those obligations until such time as the ETO requirement has been satisfied. Amounts withheld will be contributed to the Denver's Office of Workforce Development or Construction Empowerment Initiative.

EXHIBIT 7

**DENVER URBAN RENEWAL AUTHORITY
FIRST SOURCE PROGRAM**

[See attached]

**DURA FIRST SOURCE HIRING AND OUTREACH
PROGRAM FOR LOW INCOME DENVER RESIDENTS FOR
URBAN RENEWAL PROJECTS**

BACKGROUND

I. Purpose of the First Source Program In connection with DURA's primary goal of undertaking urban renewal projects to revitalize the City and foster sound growth and development, DURA will develop a program, in cooperation with the appropriate agencies of the City and County of Denver or other governmental agencies chosen by DURA, which is intended to provide preferential opportunities for employment and training of low-income Denver residents and will require developers with Redevelopment Agreements approved by DURA after May, 1995 to participate in such programs.

II. Development and Implementation of the First Source Program; Division of Responsibility.

(a) DURA will require developers to participate in the program as a condition to receiving tax increment financing or similar assistance from DURA for urban renewal projects. Developers will require their tenants to participate by including this requirement in their tenant's leases or other documents. The term of the developer commitment will be the lesser of the (10) years or the term of repayment of DURA's financial assistance for the project. This obligation will be set forth in the Redevelopment Agreement between DURA and the developer.

(b) The Colorado Department of Labor & Employment, Denver Job Service Center will provide a staff member to act as the employment coordinator (First Source Program Coordinator). The Mayor's Office of Employment and Training (MOET), the Mayor's Office of Economic Development (MOED) or other appropriate agency chosen by DURA are cooperating agencies for providing training in the First Source Program.

The specific steps of the First Source Program are discussed below.

**FIRST SOURCE PROGRAM
FOR LOW INCOME DENVER RESIDENTS**

A. **Pre-Hiring Training Outreach**

1. The First Source Program applies to both the construction period and post construction long-term jobs. For the construction period jobs, the Developer's Job Placement Coordinator and First Source Program Coordinator (a staff member of the Colorado Department of Labor & Employment, Denver Job Service Center) will meet as early as feasible, but prior to the pre-bidding process for construction contracts, to determine employee skill needs and number of employees needed by the Developer and its construction contractors for the Project. For the post construction long-term jobs, the Developer's Job Placement Coordinator and First Source Program Coordinator will meet, in concert with employers in the Project, as early as possible but no later than the middle

of the construction period, to determine employee skill needs and number of employees needed by the employers in the Project.

2. The First Source Program Coordinator contacts eligible Community Based Organizations (CBOs), MOET and MOED to notify them of job opportunities. Eligible CBOs are understood to be organizations interested in participating in the First Source Program and organizations with the capacity to perform employment outreach notification, as determined by the First Source Program Coordinator. The First Source Program Coordinator will co-sponsor with CBOs workshop(s) to explain the types of development projects, the list of employers, and the anticipated job position requirements. At future meeting(s), information will be supplied about the nature of employment (full or part-time), the employee benefits offered, the employer's promotion policy, the possibility of advancement, the employee's expected hours, and other employer policies.
3. The Developer's Job Placement Coordinator and First Source Program Coordinator work together to determine general training needs for specific project employers. Interested job applicants are directed to MOET or other appropriate existing community training opportunities relevant to employment training for the Project. The First Source Program Coordinator, in consultation with the Developer's Job Placement Coordinator, will determine the need for additional pre-hiring training, such as job application preparation, interview preparation, general work or construction readiness, and arrange referrals for interested applicants.

B. Interview Outreach and Preferential Hiring Period

1. Developer's Job Placement Coordinator provides employer job listings to First Source Program Coordinator within a time frame which allows for an interview at least five (5) calendar days in advance of filling an applicable position for low-income Denver residents. The First Source Program Coordinator will notify CBO's, by a method mutually agreeable to the CBO's and the First Source Program Coordinator, such as by facsimile or community meeting, or job listings and the proposed interview schedule.
2. Within the original five days, as referenced above, applications are provided by the First Source Program Coordinator to the employers or the Developer for interview when the employer is ready to hire.
3. The employer interviews only people referred by the First Source Program Coordinator who meet the employment qualifications as proposed by the employer for positions covered by the First Source Program first, for a period of five (5) calendar days preceding the employer's opening general interview date. The First Source Program Coordinator consults with the Developer and employer(s) to determine which staff positions or staffing situations, by their nature to the daily operation of the employer's business, will be considered exempt from inclusion in the First Source Program.

4. Employers may exempt management employees, licensed professionals, and those hired on a temporary or emergency basis. The First Source Program will consider management hires filled by an employer's current employee, on a transfer basis or as a promotion in manager development process, as positions which may be excluded from the Program, at the sole discretion of the Employer.
5. At the expiration of the five (5) day period the employer will be free to follow its standard recruitment and selection procedures to fill vacant positions, so long as the same full and fair consideration is given to applicants referred by the First Source Program Coordinator. As employment vacancies continue to occur, the employer will continue to contact the First Source Program Coordinator as a first step in filling the vacancy. The First Source Program Coordinator will allow the employer some flexibility in the five-day preference period when the number of vacancies is small, after start-up, so long as the same full and fair consideration is given to applicant(s) referred by the First Source Program Coordinator first. The employer retains, at all time, full choice of whom to hire and, except as otherwise applicable, such employees will be employed at the will of the employers.

C. Reporting and Monitoring

The First Source Program Coordinator will develop quarterly reports for the first year and annual reports thereafter relating to the First Source Program. The Developer's Job Placement Coordinator and the Developer will cooperate with the First Source Program Coordinator to accumulate performance data. These reports are to accumulate performance data. These reports are intended to allow the First Source Program Coordinator to monitor and evaluate First Source Program performance, and the Developer and tenant performance. The First Source Program's performance will be measured, after the first year, by the percentage of Denver residents employed (referenced by zip codes), the percentage of First Source Program job placements made to and hired at the respective project during the review period, and by race, sex, age, national origin, handicap or veteran status.

The First Source Program Coordinator will provide the quarterly and annual reports to DURA. DURA will arrange for an advisory group which would include representatives from interested parties such as the Denver City Council, the Denver Job Service Center, MOET, MOED, CBO's (such as ACORN, Servicios de La Raza, Urban League, SWIC, and Mi Casa) and other representatives of governmental agencies appointed by DURA, to periodically evaluate the performance of the First Source Program and recommend appropriate future modifications. DURA will also solicit suggestions from the Developer and employers for suggestions from the Developer and employers for additional advisory group representatives which could provide valuable input into the review and evaluation process.