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**SOUTH BROADWAY/MONTGOMERY WARD URBAN REDEVELOPMENT  
AREA  
COOPERATION AGREEMENT**

**BETWEEN**

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

**AND**

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

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**Dated as of \_\_\_\_\_, 2012**

**SOUTH BROADWAY/MONTGOMERY WARD URBAN REDEVELOPMENT  
AREA  
COOPERATION AGREEMENT**

**THIS SOUTH BROADWAY/MONTGOMERY WARD URBAN REDEVELOPMENT AREA COOPERATION AGREEMENT** (this "Cooperation Agreement"), dated as of \_\_\_\_\_, 2012, by and between the **CITY AND COUNTY OF DENVER, COLORADO** (the "City"), a home-rule city and a municipal corporation of the State of Colorado, and the **DENVER URBAN RENEWAL AUTHORITY ("DURA")**, a body corporate duly organized and existing as an urban renewal authority under the laws of the State of Colorado (the "State").

**W I T N E S S E T H:**

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

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

**WHEREAS**, the Denver City Council approved the South Broadway/Montgomery Ward Urban Renewal Plan, dated October 1992 (the "Urban Renewal Plan"), by ordinance (the "Ordinance"); and

**WHEREAS**, the City and DURA previously entered into the South Broadway/Montgomery Ward Cooperation Agreement dated October 22, 1992 (the "1992 Cooperation Agreement"), in connection with the bonds issued by DURA in furtherance of the Urban Renewal Plan; and

**WHEREAS**, the Denver City Council has approved an amendment to the Urban Redevelopment Plan by authority of an ordinance being filed contemporaneously herewith to add the Urban Renewal Project and provide tax increment financing for the Urban Renewal Project; and

**WHEREAS**, in connection with the amendment to the Urban Redevelopment Plan, the City and DURA desire to enter into a new cooperation agreement which will supersede the 1992 Cooperation Agreement and terminate the Sales Tax Increment Area; and

**WHEREAS**, pursuant to Sections 31-25-107 and 31-25-109 of the Act, DURA has the power and authority to issue or incur notes, interim certificates or receipts, bonds, certificates of indebtedness, debentures, advances, or other obligations, including refunding obligations for the purpose of financing the activities and operations authorized to be

undertaken by DURA with respect to urban redevelopment projects in accordance with the Urban Renewal Plan, this Cooperation Agreement, the Act and other related agreements, as approved by the City; and

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

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

## ARTICLE I DEFINITIONS

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

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

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

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

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

“Metropolitan District Cooperation Agreement” means the agreement among DURA and each of the Metropolitan Districts pursuant to which, inter alia, the parties agree to cooperate with respect to the provision of public improvements and services and DURA agrees to reimburse, or otherwise pay for facilities or services with respect to each of the Metropolitan Districts, all ad valorem taxes received by DURA attributable to the current or future levy thereof by each applicable Metropolitan District with respect to taxable property within the boundaries of each Metropolitan District.

“Metropolitan District Incremental Property Taxes” means for each Fiscal Year subsequent to the creation of the Metropolitan Districts, all Property Tax Revenues in excess of those produced by the levy by the Metropolitan Districts of Property Tax on the Property

Tax Base Amount for all taxable property located in the Metropolitan Districts; provided that (i) such amount shall be reduced by a lawful collection fee charged by the City and (ii) in the event of a general reassessment of taxable property located in the Metropolitan Districts, property taxes shall be proportionately adjusted in the manner required by the Act.

“Metropolitan Districts” mean the BMP Metropolitan District No. 1 which is undertaking the Urban Renewal Project and the financing districts, BMP Metropolitan District No. 2 and BMP Metropolitan District No. 3.

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

“Priority Fee” means the annual priority fee of One Hundred Eighty-Five Thousand (\$185,000) to be retained by DURA from Incremental Property Taxes.

“Project Funding Agreement” means an intergovernmental agreement among the City, the Metropolitan District and the Authority relating to the Urban Renewal Project, as it may be amended from time to time, or any other agreement between the Authority and such other party or parties as may be agreed upon by the Authority relating to the Urban Renewal Project.

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

“Property Tax Base Amount” means the total valuation for assessment last certified by the County Assessor for the City of all taxable property within the Property Tax Increment Area prior to approval by the Denver City Council of the Urban Renewal Plan. The Property Tax Base Amount as of December 1, 2011 is \$7,406,248.

“Property Tax Increment Area” means the area within the Urban Renewal Area more particularly described on Exhibit A and depicted in Exhibit B, attached hereto and incorporated herein.

“Property Tax Revenues” means the amount derived by the City and all taxing jurisdictions from the levy of Property Tax within the Property Tax Increment Area.

“Sales Tax Increment Area” means the area within the Urban Renewal Area described in the 1992 Cooperation Agreement.

“Urban Renewal Area” means the area designated as an urban renewal area under the provisions of the Urban Renewal Plan adopted October 1992, as from time to time amended in accordance with the Act.

“Urban Renewal Project” means the regional storm sewer project to provide drainage and the interior street enhancements, as further defined in the amendment to the Urban Renewal Plan.

ARTICLE II  
LAND USE MATTERS

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

ARTICLE III  
SPECIAL PROGRAM REQUIREMENTS

Section 3.1. First Source Program. With respect to the Project Funding Agreement or for any other agreement DURA implements in connection with the Urban Renewal Project, DURA shall require that the Metropolitan District carry out DURA’s First Source Hiring Program (“First Source Program”).

Section 3.2. Small or Disadvantaged Business Enterprise Contracting. DURA and the City shall require that the Metropolitan District comply with the requirements of the City’s Small or Disadvantaged Business Enterprise Contracting ordinances.

Section 3.3. Enhanced Training Opportunities Policy. Pursuant to DURA’s policy, DURA will require the Metropolitan District to develop an enhanced training opportunities plan under the Project Funding Agreement and for any other agreement DURA implements in connection with the Urban Renewal Project. DURA agrees to implement and enforce, or cause the Metropolitan District to implement and enforce, such plans and to review and, if necessary, update such plans from time to time.

Section 3.4. Prevailing Wage Policy. DURA and the City shall cause the Metropolitan District to comply with the City’s prevailing wage requirements for the construction of the Urban Renewal Project.

Section 3.5. Project Art Policy. DURA has adopted and shall require the Metropolitan District to participate in DURA’s Project Art Policy, utilizing the funds available pursuant to Section 6.1 of this Agreement.

ARTICLE IV  
PROPERTY TAX INCREMENT

Section 4.1. Collection and Disbursement of Incremental Property Taxes. The City agrees to assist DURA in pursuing the objectives and implementation of the Urban Redevelopment Plan by collecting and paying to DURA all Incremental Property Taxes.

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

The Property Tax Revenues and Incremental Property Taxes shall be calculated in accordance with Colorado Law, Rules and Regulations of the State Property Tax Administrator, the Urban Renewal Plan and this Cooperation Agreement.

Section 4.2. Information to be Provided by City Regarding Metropolitan Districts. In order to assist DURA in making payments to the Metropolitan Districts as set forth in the Metropolitan District Cooperation Agreement, concurrently with each remittance of Incremental Property Taxes to DURA under this Article IV, the City will provide to DURA the following information: total assessed value of all taxable real and personal property within each Metropolitan District; mill levy attributable to each Metropolitan District; and total Property Tax collections attributable to each Metropolitan District and the amount of any collection fee of the City attributable to each Metropolitan District.

#### ARTICLE V TERM

Section 5.1. Term of Incremental Property Taxes. Payment of Incremental Property Taxes to DURA shall cease on the earlier of (i) the latest date of repayment of all Obligations incurred with all respect to the Urban Renewal Project or (ii) [October 23, 2017.]

Section 5.2. Termination of Cooperation Agreement. Upon cessation of payments of Incremental Property Taxes, and satisfaction of other financial obligations as provided herein, this Cooperation Agreement shall automatically terminate. To the extent DURA has funds remaining attributable to the Incremental Property Taxes after the payment of all Obligations and the termination of this Cooperation Agreement as to the City's obligations hereunder, all such funds, less any fees, costs and expenses of DURA, shall be returned to the City for allocation to the City and other public bodies in accordance with the Act.

#### ARTICLE VI MISCELLANEOUS

Section 6.1. Escrow for Project Art. DURA shall escrow One Hundred Thirty-Thousand Dollars (\$130,000) from Incremental Property Taxes other than from Metropolitan District Incremental Property Taxes for the purpose of the Metropolitan District purchasing and installing project art in accordance with DURA's Project Art Policy.

Section 6.2. Reimbursement to City. DURA shall reimburse the City up to the amount of "Eligible Improvements" as set forth on the Expenditure Certificate as defined in the Project Funding Agreement, not to exceed Thirteen Million Dollars (\$13,000,000) for payments made by the City to the Metropolitan District pursuant to the Project Funding Agreement. DURA shall reimburse the City from Incremental Property Taxes other than from Metropolitan District Incremental Property Taxes, available after deducting the Priority Fee and DURA's fees, costs and expenses and after the amounts set forth in Section 6.1 of this Agreement are paid or escrowed. Payments to the City shall be made on the twentieth (20<sup>th</sup>) day of each month, but in no event shall DURA's reimbursements to the City exceed the amount of "Eligible Improvements" approved pursuant to the Expenditure Certification as set forth under the Project Funding Agreement.

Section 6.3 Metropolitan District Cooperation Agreements. In carrying out redevelopment activities in the Urban Redevelopment Area pursuant to the Urban Redevelopment Plan, DURA is authorized to enter into Metropolitan District Cooperation Agreement for the purpose of reimbursing the Metropolitan District Incremental Property Taxes.

Section 6.4. Status of Incremental Property Taxes. The City and DURA agree that the Incremental Property Taxes are the property of DURA pursuant to the Act until the end of the Term. The City further agrees that, in the event that a court of competent jurisdiction determines otherwise, it shall cause its Division of Finance to include the Incremental Property Taxes as a line item in the annual budget request to City Council so that the City Council may consider appropriating such amount to or for the account of DURA. Notwithstanding any provision hereof to the contrary, the City agrees that in the event that the City is required, pursuant to Article X, Section 20 of the Colorado Constitution (the "TABOR Amendment"), to make any refund of any property taxes, it shall not reduce or limit the Incremental Property Taxes paid to or for the account of DURA, except to the extent legally required, provided, that in such case, the City, by and through City Council, shall consider appropriating to or for the account of DURA such amount that is legally required to be deducted. In the event that the City reduces any tax rates in order to effect any required refund or to otherwise comply with the TABOR Amendment (a "TABOR Amendment Rate Change"), Incremental Property Taxes shall be that amount that would have been collected had the tax rate been equal to such rate existing immediately prior to the first such TABOR Amendment Rate Change, except to the extent such rate is legally required to change; provided, that in such case the City, by and through City Council, shall consider appropriating to or for the account of DURA such amount that is required for DURA to receive the Incremental Property Taxes.

Section 6.5. Amendments and Waivers. No amendment or waiver of any provision of this Cooperation Agreement, nor consent to any departure herefrom, in any event shall be effective unless the same shall be in writing and signed by the parties hereto, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. This Cooperation Agreement may be modified, amended, changed or terminated, in whole or in part, without City Council approval unless City Council approval is required by the Charter.

Section 6.6. Right to Extend Time for Performance. The parties agree that any time for performance of any term or condition hereunder except under Section 5.1, may be extended for up to two (2) thirty (30) day periods by a letter signed by the Manager of Finance and an authorized representative of DURA. All other amendments to this Agreement must comply with Section 6.4 above.

Section 6.7. Governing Law. This Cooperation Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado and shall be subject to the limitations, if any, that are applicable under the Charter or ordinances of the City.

Section 6.8. Headings. Section headings in this Cooperation Agreement are included herein for convenience of reference only and shall not constitute a part of this Cooperation Agreement for any other purpose.

Section 6.9. Severability. Any provision of this Cooperation Agreement which is prohibited, unenforceable or not authorized in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition, unenforceability or lack of authorization without affecting the validity, enforceability or legality of such provisions in any other jurisdiction.

Section 6.10. 1992 Cooperation Agreement Superseded. This Cooperation Agreement supersedes and replaces the 1992 Cooperation Agreement.

Section 6.11. Termination of Sales Tax Increment Area. The Sales Tax Increment Area is terminated as of January 1, 2012.

Section 6.12. No Discrimination in Employment. In connection with the performance of work under this Agreement, the parties agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, gender variance, military status, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

Section 6.13. Notices. All notices provided for herein shall be in writing and shall be personally delivered or mailed by registered or certified United States mail, postage prepaid, return receipt requested, to the parties at the addresses given below or at such other address that may be specified by written notice in accordance with this paragraph:

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

With copies to: Denver City Attorney  
1437 Bannock Street, Room 353  
Denver, Colorado 80202

Manager of Finance  
201 W. Colfax, Department 1010



Denver, Colorado 80202

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

Section 6.14. Third-Party Beneficiary. It is the intent of the parties that no third-party beneficiary interest is created in this Agreement except for an assignment pursuant to this Agreement. The parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event expressly disclaim any such acts or actions, particularly in view of the integration of this Agreement.

Section 6.15. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document.

Section 6.16. No Personal Liability. No elected official, director, officer, agent or employee of the City or DURA shall be charged personally or held contractually liable by or to the other party under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

Section 6.17. Conflict of Interest. DURA represents that to the best of its information and belief no officer or employee of the City is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee. The Manager of Finance of the City represents that to the best of his information and belief no officer or employee of DURA is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such officer or employee.

Section 6.18. Appropriation. All obligations of the City under and pursuant to Section 2.1 of this Agreement are subject to prior appropriations of monies expressly made by the City Council for the purposes of this Agreement and paid into the Treasury of the City.

Section 6.19. Specific Performance Remedy. In the event of default hereunder by the City or DURA, the exclusive remedy of the non-defaulting party shall be to require the specific performance of the defaulting party. In no event shall either party be entitled to damages or a monetary award, whether in the form of actual damages, punitive damages, an award of attorney fees or costs, or otherwise. Any delay in asserting any right or remedy under this Agreement shall not operate as a waiver of any such right or limit such rights in any way.

Section 6.20. Examination of Records. Each party to this Cooperation Agreement agrees that any duly authorized representative of either of the other parties, including, in the case of the City, the City Auditor and his or her representatives, shall have access to and the

right to examine, during normal business hours and upon reasonable notice, any directly pertinent books, documents, papers, and records of the requested party relating to this Cooperation Agreement subject to applicable laws, including maintaining the confidentiality of documents in accordance with the Colorado Open Records Act.

Section 6.21. Electronic Signatures and Electronic Records. DURA consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

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

ATTEST:

DENVER URBAN RENEWAL  
AUTHORITY

By Tracy Huggins  
Tracy Huggins, Secretary

By [Signature]  
\_\_\_\_\_, Chair

**EXHIBIT A**

**LEGAL DESCRIPTION OF  
PROPERTY TAX INCREMENT AREA**

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EXHIBIT A

Description of Tax Increment Area

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Beginning at the intersection of the easterly right-of-way line of South Broadway and the northerly right-of-way line of West Alameda Avenue; thence southerly along the easterly right-of-way line of South Broadway to the centerline of West Center Avenue; thence westerly along the extension of said centerline of West Center Avenue to the centerline of South Cherokee Street extended; thence northerly along said centerline of South Cherokee Street to the northerly right-of-way line of West Alameda Avenue; thence easterly along said northerly right-of-way line of West Alameda Avenue to the point of beginning.

**EXHIBIT B**  
**MAP OF**  
**PROPERTY TAX INCREMENT AREA**

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**EXHIBIT B**

**Map of Urban Renewal Area**

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The Urban Renewal Area is outlined hereon with broken lines.  
The Tax Increment Area is the area within the Urban Renewal  
Area delineated by solid lines.

SOUTH BROADWAY/MONTGOMERY HARD URBAN RENEWAL PLAN  
DISTRICT BOUNDARIES

