PROPERTY TAX INCREMENT REVENUE AGREEMENT

**Durango School District 9-R**

1.0 PARTIES. This Agreement (the “Agreement”), is entered into as of March 2, 2021 (the “Effective Date”), by and between the DURANGO URBAN RENEWAL AUTHORITY, also known as the DURANGO RENEWAL PARTNERSHIP, a body corporate and politic of the State of Colorado (the “Authority”), whose address is 1235 Camino Del Rio, Durango, Colorado 81301 and the DURANGO SCHOOL DISTRICT 9-R, a political subdivision of the State of Colorado (the “School District”), whose address is 201 E 12th St, Durango, Colorado 81301. (The Authority and the School District are referred to herein individually as a “Party” and collectively as the “Parties.”)

2.0 RECITALS. The following recitals are incorporated in and made a part of this Agreement. Capitalized terms are defined in Section 4.0.

2.1 Proposed Redevelopment. The Parties have been advised that the real property described in Exhibit A (the “Property”) lying within the corporate limits of the City of Durango (the “City”) is being considered by the City Council of the City as an urban renewal area to be redeveloped. The redevelopment plans will eliminate existing blight conditions and will result in the creation of housing development and infrastructure improvements, all of which will benefit the City and School District.

2.2 Urban Renewal and Tax Increment Financing. To accomplish the proposed redevelopment and to provide certain required public improvements it is necessary to include the Property in an urban renewal plan, entitled as the “MidTown Urban Renewal Plan” (the “Plan” or “Urban Renewal Plan”) authorizing and utilizing tax increment financing in accordance with the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (the “Act”), to pay Eligible Costs of the Public Improvements. The proposed Plan that includes the Property is attached to this Agreement as Exhibit A.

2.3 Nature of Urban Renewal Project and Purpose of Agreement. The proposed Urban Renewal Project consists of designing, developing and constructing the Improvements (which includes paying the Eligible Costs of Public Improvements) necessary to serve the proposed Urban Renewal Area and to comply with §31-25-107(4)(g) of the Act that requires the Plan to afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area by private enterprise. The Urban Renewal Project is projected to assist in the redevelopment of commercial and residential properties and other benefits as specified in the Plan which will benefit the Parties, the region, and the State of Colorado.
2.3.1 The Duration of time estimated to complete the Urban Renewal Project is the 25-year period following adoption of the Urban Renewal Plan as specified in §31-25-109(a) of the Act.

2.3.2 The estimated annual Property Tax Increment Revenue to be generated by the Urban Renewal Project for the Duration of the Urban Renewal Project and the portion of such Property Tax Increment Revenue to be allocated to fund the Urban Renewal Project are set forth in Section 3.1 of the Impact Report included in Exhibit B.

2.3.3 The nature and relative size of the revenue and other benefits expected to accrue to the City, the School District, and other taxing entities that levy property taxes in the Urban Renewal Area are set forth in the Impact Report and include, without limitation:

2.3.3.1 The increase in base value resulting from biennial general reassessments for the Duration in accordance with §31-25-107(9)(e) of the Act;

2.3.3.2 The benefit of improvements in the Urban Renewal Area to existing taxing entity infrastructure in accordance with §31-25-107(3.5) of the Act;

2.3.3.3 The estimate of the impact of the Urban Renewal Project on School District and taxing entity revenues in accordance with §31-25-107(3.5) of the Act;

2.3.3.4 The cost of additional School District and taxing body infrastructure and services required to serve development in the Urban Renewal Area in accordance with §31-25-107(3.5) of the Act;

2.3.3.5 The capital or operating costs of the Parties, the City, and other taxing bodies that are expected to result from the Urban Renewal Project in accordance with HB 15-1348.

2.3.3.6 The legal limitations on the use of revenues belonging to the Parties, the City, and any taxing entity in accordance with HB 15-1348;

2.3.3.7 The other estimated impacts of the Urban Renewal Project on School District and other taxing body services or revenues in accordance with §31-25-107(3.5) of the Act.

2.4 Colorado Urban Renewal Law. In accordance with the Act as amended to the date of this Agreement (including the requirements of HB 15-1348), the Parties desire to enter into this Agreement to facilitate adoption of the Plan and redevelopment of the proposed Urban Renewal Area described therein.

3.0 AGREEMENT, in consideration of the covenants, promises and agreements of each of the Parties hereto, to be kept and performed by each of them, it is agreed by and between the Parties hereto as set forth herein.

4.0 DEFINITIONS. In this Agreement, unless a different meaning clearly appears from the context:

4.1 “Act” means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S.
4.2 "Agreement" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to this Agreement unless otherwise qualified.

4.3 "Authority" means the Party described in Section 1.0, the Durango Urban Renewal Authority, a body corporate and politic of the State of Colorado.

4.4 "City" means the City of Durango, Colorado.

4.5 "Bonds" shall have the same meaning as defined in §31-25-103 of the Act.

4.6 "Debt Service Mill Levies" means, for the Duration, the mill levies approved now or in the future by eligible electors of the School District for the servicing of the School District's bonded indebtedness, including any refunding of such bonded indebtedness, now or for the Duration.

4.7 "Duration" means the twenty-five year period that the tax increment or tax allocation provisions will be in effect as specified in §31-25-109(a) of the Act, the Plan, and the Impact Report.

4.8 "Eligible Costs" means those costs eligible to be paid or reimbursed from Property Tax Increment Revenues pursuant to the Act.

4.9 "Impact Report" means the impact report setting forth the burdens and benefits of the Urban Renewal Project previously submitted to the School District.

4.10 "Improvements" means the Public Improvements and Private Improvements.

4.11 "Mill Levy Overrides" means, for the Duration, those mill levies approved by the eligible electors of the School District and any such overrides approved in the future while this Agreement is in effect. Such Mill Levy Overrides being the additional local revenues in excess of the School District's total program as provided in the Public School Finance Act of 1994, Colorado Revised Statutes Title 22, Article 54, Part 1, or successor act.

4.12 "Party" or "Parties" means the Authority or the School District or both and their lawful successors and assigns.

4.13 "Plan" means the urban renewal plan defined in Section 2.2.

4.14 "Project" shall have the same meaning as Urban Renewal Project.

4.15 "Property Tax Increment Revenues" means all of the TIF revenues described in §31-25-107(9)(a)(II) of the Act allocated to the Special Fund for the Duration of the Urban Renewal Project.

4.16 "Remainder of the Property Tax Increment Revenues" means all of the Property Tax Increment Revenues remaining after payment of the School District Tax Levy Allocation Revenues pursuant to this Agreement.

4.17 "Special Fund" means the fund described in the Plan and §31-25-107(9)(a)(II) of the Act into which the Property Tax Increment Revenues will be deposited.

4.18 "School District" means the Party described in Section 1.0, the Durango School District 9-R, a public body corporate and political subdivision of the State of Colorado.


4.20 "TIF" means the property tax increment portion of the property tax assessment roll described in §31-25-107(9)(a)(II) of the Act.
4.21 "Urban Renewal Area" means the area included in the boundaries of the Plan.
4.22 "Urban Renewal Plan" means the MidTown Urban Renewal Plan attached to this Agreement as Exhibit A.
4.23 "Urban Renewal Project" means all of the undertakings and activities, or any combination thereof, required to carry out the Urban Renewal Plan pursuant to the Act.

5.0 SHARING OF SCHOOL DISTRICT TAX LEVY ALLOCATION REVENUES. In compliance with the requirements of HB 15-1348, the Parties have negotiated and agreed to the sharing of Property Tax Increment Revenues as set forth herein.
5.1 The School District Tax Levy Allocation Revenues. The Authority agrees to calculate and pay to the School District, the School District Tax Levy Allocation Revenues it receives each year from the La Plata County Treasurer for the Duration of the Urban Renewal Project from the Property Tax Increment Revenues produced from the TIF portion of the assessment roll while the provisions of §31-23-107(9) of the Act are in effect in the Urban Renewal Area. The School District Tax Levy Allocation Revenues to be paid to the School District shall be placed in a separate account created for such purpose. Commencing on the date of this Agreement and for a period of twenty-five (25) years that the Authority is authorized to receive Property Tax Increment Revenues pursuant to the Act (the "Duration"), the Authority shall pay all such School District Tax Levy Allocation Revenues received into such account the School District on a regular basis.

6.0 CONSENTS AND WAIVERS. In consideration of the creation of the account and the transfer of the School District Tax Levy Allocation Revenues to or on behalf of the School District as described in Section 5.1, this Agreement shall constitute the agreement in writing by the School District to the following provisions.
6.1 Pledge of Remainder of Property Tax Increment Revenues. Except for the School District Tax Levy Allocation Revenues, which are governed by this Agreement, the School District recognizes and agrees that in reliance on this Agreement, the adoption and approval of the Plan includes an irrevocable pledge of all the Remainder of the Property Tax Increment Revenues to pay the Authority's Bonds and other financial obligations in connection with the Urban Renewal Project.

7.0 NOTIFICATION OF SUBSTANTIAL MODIFICATIONS OF THE PLAN; AGREEMENT NOT PART OF PLAN. The Authority agrees to notify the School District of any intended substantial modification of the Plan as required by §31-25-107(3.5)(a) of the Act. This Agreement is not part of the Plan.

8.0 WAIVER. Except for the notices required by this Agreement, the School District, as authorized by §31-25-107(9.5)(b) and §31-25-107(11) of the Act, hereby waives any provision of the Act that provides for notice to the School District, requires any filing with or by the School District, requires or permits consent from the School District, and provides any enforcement right to the School District for the Duration, provided, however, the School District shall have the right to enforce this Agreement with respect to its rights to receive the School District Tax Levy Allocation Revenues in accordance with Section 5.1.

9.0 AGREEMENT CONFINED TO SCHOOL DISTRICT TAX LEVY ALLOCATION REVENUES. This Agreement applies only to the School District Tax Levy Allocation Revenues, as calculated, produced, collected and paid to the Authority from the Urban Renewal Area by the La Plata County Treasurer in accordance with §31-
25-107(9)(a)(II) of the Act and the rules and regulations of the Property Tax Administrator of the State of Colorado, and does not include any other revenues of the City or the Authority.

10.0 **MISCELLANEOUS.**

10.1 **Delays.** Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God; fires; floods; earthquake; abnormal weather; strikes; labor disputes; accidents; regulation or order of civil or military authorities; shortages of labor or materials; or other causes, similar or dissimilar, which are beyond the control of such Party.

10.2 **Termination and Subsequent Legislation or Litigation.** In the event of termination of the Plan, including its TIF financing component, the Authority may terminate this Agreement by delivering written notice to the School District. The Parties further agree that in the event legislation is adopted or a decision by a court of competent jurisdiction after the effective date of this Agreement that invalidates or materially affects any provisions hereof, the Parties will in good faith negotiate for an amendment to this Agreement that most fully implements the original intent, purpose and provisions of this Agreement, but does not impair any otherwise valid contracts in effect at such time.

10.3 **Entire Agreement.** This instrument embodies the entire agreement of the Parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written, between the Parties hereto. No modification to this Agreement shall be valid unless agreed to in writing by the Parties.

10.4 **Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their successors in interest.

10.5 **No Third-Party Enforcement.** It is expressly understood and agreed that the enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the undersigned Parties and nothing in this agreement shall give or allow any claim or right of action whatsoever by any other person not included in this Agreement. It is the express intention of the undersigned Parties that any person or entity other than the undersigned Parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

10.6 **No Waiver of Immunities.** No portion of this Agreement shall be deemed to constitute a waiver of sovereign or governmental immunity that the Parties or their officers or employees may possess, nor shall any portion of this Agreement be deemed to have created a duty of care which did not previously exist with respect to any person not a party to this agreement.

10.7 **Amendment.** This Agreement may be amended only by an instrument in writing signed by the Parties.

10.8 **Parties not Partners.** Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be
deemed to be partners or joint venturers, and no Party shall be responsible for any
debt or liability of any other Party.

10.9 **Interpretation.** All references herein to Bonds shall be interpreted to include the
incurrence of debt by the Authority in any form consistent with the definition of
"Bonds" in the Act, including payment of Eligible Costs or any other lawful
financing obligation.

10.10 **Incorporation of Recitals and Exhibits.** The provisions of the Recitals and the
Exhibits attached to this Agreement are incorporated in and made a part of this
Agreement.

10.11 **No Assignment.** No Party may assign any of its rights or obligations under this
Agreement.

10.12 **Section Captions.** The captions of the sections are set forth only for the
convenience and reference of the Parties and are not intended in any way to define,
limit, or describe the scope or intent of this Agreement.

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

10.14 **Governing Law.** This Agreement and the provisions hereof shall be governed by
and construed in accordance with the laws of the State of Colorado.

10.15 **No Presumption.** The Parties to this Agreement and their attorneys have had a full
opportunity to review and participate in the drafting of the final form of this
Agreement. Accordingly, this Agreement shall be construed without regard to any
presumption or other rule of construction against the Party causing the Agreement
to be drafted.

10.16 **Notices.** Any notice required by this Agreement shall be in writing. All notices,
demands, requests and other communications required or permitted hereunder shall
be in writing, and shall be (a) personally delivered with a written receipt of delivery;
(b) sent by a nationally-recognized overnight delivery service requiring a written
acknowledgement of receipt or providing a certification of delivery or attempted
delivery; (c) sent by certified or registered mail, return receipt requested; or (d) sent
by confirmed facsimile transmission or electronic delivery with an original copy
thereof transmitted to the recipient by one of the means described in subsections (a)
through (c) no later than 5 business days thereafter. All notices shall be deemed
effective when actually delivered as documented in a delivery receipt; provided,
however, that if the notice was sent by overnight courier or mail as aforesaid and is
affirmatively refused or cannot be delivered during customary business hours by
reason of the absence of a signatory to acknowledge receipt, or by reason of a
change of address with respect to which the addressee did not have either
knowledge or written notice delivered in accordance with this paragraph, then the
first attempted delivery shall be deemed to constitute delivery. Each Party shall be
entitled to change its address for notices from time to time by delivering to the other
Party notice thereof in the manner herein provided for the delivery of notices. All
notices shall be sent to the addressee at its address set forth in Section 1.0.

10.17 **Days.** If the day for any performance or event provided for herein is a Saturday, a
Sunday, a day on which national banks are not open for the regular transactions of
business, or a legal holiday pursuant to C.R.S. § 24-11-101(1), such day shall be
extended until the next day on which such banks and state offices are open for the transaction of business.

IN WITNESS WHEREOF, the Authority and the School District have caused their duly authorized officials to execute this Agreement effective as of the Effective Date.

DURANGO SCHOOL DISTRICT 9-R, a political subdivision of the State of Colorado

By: Kristin Smith
Title: School Board President

ATTEST: [Signature]

DURANGO URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado

By: Tim Baxter
Title: Mayor

ATTEST: [Signature]