REDEVELOPMENT AND REIMBURSEMENT AGREEMENT
(ACPO, LLC – North Main Gateway Urban Renewal Project)

1.0 PARTIES. The parties to this Agreement dated AUGUST 10, 2022 (the "Agreement") are the DURANGO RENEWAL PARTNERSHIP, an Urban Renewal Authority and body corporate and politic of the State of Colorado (the "Authority") and ACPO, LLC, a Colorado limited liability company (the "Developer"). The Authority and the Developer are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

2.0 RECITALS. The Recitals to the Agreement are incorporated in and made a part of this Agreement.

2.1 Capitalized Terms and Exhibits. Unless otherwise indicated, all capitalized terms used in this Agreement are defined in Section 4.0. The following Exhibits are incorporated in and made a part of this Agreement.

Exhibit A. Description of the Property.

Exhibit B. Development Proposal.

Exhibit C. Eligible Improvements and Eligible Costs.

2.2 The Urban Renewal Plan. On March 15, 2022, by Resolution 2022-015, the City Council of the City of Durango (the "City") approved the North Main Gateway Urban Renewal Plan (the "Plan"), which Plan is being carried out by the Authority in cooperation with the City and in furtherance of the objectives of the Colorado Urban Renewal Law (the "Act").

2.3 The Property and Development Plan. The Developer owns the property described in Exhibit A (the "Property") and proposes to construct on the Property twenty-two (22) townhome units including ten (10) deed restricted workforce housing units in accordance with the development proposal described in Exhibit B (the "Development Proposal") and the provisions of this Agreement.

2.4 Purpose. The purpose of this Agreement is to : (a) combat, prevent, and eliminate conditions of blight in the Urban Renewal Area and otherwise implement and further the purposes of the Plan; (b) further the policy of the City to provide or preserve workforce housing for citizens of the City; (c) prevent and combat community deterioration; (d) develop, construct, preserve, and improve the aesthetic quality of public and private improvements in the Urban Renewal Area; (e) afford maximum opportunity, consistent with the sound needs of the City as a whole, for the rehabilitation or redevelopment of the Urban Renewal Area by private enterprise; and (f) enable redevelopment of the Property by facilitating the construction of the Improvements. Such Improvements are expected to further the purposes and goals of the Plan and provide extraordinary public benefits for the City and the Authority.

3.0 TERMS AND CONDITIONS. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as set forth in this Agreement.

4.0 DEFINITIONS. Unless a different meaning clearly appears from the context, the following definitions apply to capitalized terms in this Agreement.

"Act" means the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31 of the Colorado Revised Statutes.

"Agreement" means this Agreement, as it may be amended or supplemented in writing. References to sections or exhibits are to the Agreement unless otherwise qualified.

"Authority" means the Party identified in Section 1.0, and its successors and assigns.

"Available Reimbursement Revenue" means $600,000 which shall be applied to payment of Eligible Costs in accordance with Section 7.0 and Exhibit C.

"Certificate of Occupancy" shall have the same meaning as set forth in the Durango Municipal Code.

"City" means the City of Durango, Colorado.

"Commence Construction" or "Commencement of Construction" means the visible commencement by the Developer of actual physical construction and operations on the Property for the erection of the Improvements, without limitation, obtaining all required permits and licenses and installation of a permanent required construction element, such as a caisson, footing, foundation or wall.

"Complete Construction" and "Completion of Construction" mean (a) for the Private Improvements, the issuance of a Certificate of Occupancy by the City so that the Private Improvements described in such certificate may open for permanent occupancy; (b) for the Public Improvements construction acceptance by the City (or other entity having jurisdiction), subject to conditions of maintenance and warranty.

"Declaration of Covenants" means the declaration of covenants or deed restrictions which run with the land described in Section 6.3 governing the use and occupancy of ten (10) units of the Private Improvements.

"Default" means a default or breach of this Agreement as set forth in Section .

"Developer" means the Party identified in Section 1.0 and any successor or assign approved in accordance with Section 6.8.

"Development Proposal" means the concept for redevelopment of the Property and construction of the Improvements described in Exhibit B.

"Eligible Costs" means the reasonable certified and approved costs of the Eligible Improvements paid by the Developer for the Eligible Improvements in accordance with Section , but not to exceed $600,000.

"Eligible Improvements" means those improvements listed in Exhibit C, the Eligible Costs of which are to be reimbursed to the Developer under this Agreement.

"Improvements" mean all the improvements that the Developer is required to construct under this Agreement.

"Party" or "Parties" means the Authority or the Developer or both and their successors and assigns.

"Plan" means the urban renewal plan described in Section 2.2.

"Private Improvements" means twenty-two (22) townhome housing units and associated improvements to be constructed on the Property in accordance with this Agreement and applicable City requirements.

"Property" means the real property described in Exhibit A.

"Public Improvements" means the public improvements required to serve the Property and Private Improvements and dedicated or otherwise transferred to the City or other public entity for operation and maintenance.

"Reimbursement Obligation" means the obligation of the Authority to reimburse the Developer for Eligible Costs not to exceed $600,000 from the Available Reimbursement Revenue in accordance with this Agreement.

"Special Account" means the account established by the Authority into which shall be deposited the Available Reimbursement Revenue.

5.0 CONDITIONS PRECEDENT. This Agreement and the respective obligations of the Parties under this Agreement are conditioned upon the following events, each of which must be satisfied or waived by both Parties on or before the date specified for each event.

5.1 Developer Financing. The Developer must be able to secure and obtain the Authority's approval of the Developer Financing in accordance with Section 6.1 on or before July 1, 2022.

5.2 Commencement of Construction. After commercially reasonable attempts to do so, the Developer must obtain all required approvals and permits in accordance with Section 6.2 and shall Commence Construction of the Improvements on or before August 31, 2022.

5.3 Taxing Entity Agreements. The Authority or the City must reach agreement with the relevant Taxing Entities regarding tax increment revenues derived from the Plan area on or before August 31, 2022.

5.4 Failure of Conditions; Termination. If each and every of the foregoing conditions precedent have not been satisfied or waived in writing by the Parties on or before the respective dates (or any written extension of such dates executed by the Parties) listed for each event, either Party may terminate this Agreement by giving written notice to the other. Thereafter this Agreement will terminate and become null and void and of no effect within thirty (30) days after receipt of such notice of termination unless the Parties have otherwise agreed in writing. Upon such termination no action, claim or demand may be based on any term or provision of this Agreement, and each Party shall pay its own costs and expenses related to this Agreement. In addition, the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination and to accomplish the terms hereof.

6.0 OBLIGATIONS OF THE DEVELOPER. Unless this Agreement has been terminated in accordance with Section 5.4, the Developer shall have the following obligations under this Agreement.

6.1 Developer Financing. The Developer agrees to use commercially reasonable efforts to obtain the necessary financing to construct the Improvements on the Property (the "Developer Financing") on or before the time specified in Section 5.1. It is agreed by the Parties that the Authority's Reimbursement Obligation and the right of the Developer to receive payment of Eligible Costs as described in this Agreement is a necessary component of the Developer Financing.

6.2 Construction of Improvements. All construction required by this Agreement shall comply with all applicable ordinances of the City. The Developer agrees to obtain all approvals and required permits and pay all applicable fees, including, without limitation, payments to comply with the City of Durango's Fair Share Ordinance, and shall Commence Construction of the Private Improvements on or before the date specified in Section 5.2 and

Complete Construction or cause completion of the Improvements, including the Eligible Improvements, on or before December 31, 2024.

6.3 Declaration of Covenants; Eligible Improvements. In conjunction with the Completion of Construction and the recordation of plats to create the townhome units, the Developer agrees to execute and record a Declaration of Covenants describing the use and occupancy of ten (10) townhome units to be constructed on the Property. The location of such units within the Improvements and the terms and conditions of the Declaration of Covenants shall be subject to the prior written approval of the Authority and shall include the following provisions:

6.3.1 Covenants Applicable to Four (4) Income Restricted Units. Four (4) units of the Private Improvements shall be subject to restrictions that run with the title to each of the units regarding income limitations of purchasers and occupants of the units, the initial sales price of each such unit which cannot exceed the market rate units minus $125,000 (approximate expected sale price of $399,000), limitation on price appreciation at subsequent sale or other transfer of title and occupancy of each unit; qualifications of future owners and occupants; terms of each sale and transfer, and other provisions to ensure that such units are at all times the primary residence of all owners and remain attainable for ownership and occupancy by local workers for the term of such covenants. The deed restricted units shall be dispersed among the market rate units, to the extent practicable. The deed restricted units shall be designed, built, and landscaped to be the same in external appearance as nearby market rate units, and with similar size, quality and type of materials, lighting, finishes, and (if provided) irrigation systems. The deed restrictions shall be established by the City of Durango and HomesFund, a duly constituted Colorado nonprofit organization ("HomesFund"), and such restrictions will be reflected in a recorded Deed Restriction recorded by HomesFund and the City of Durango. As will be described in more detail in the Deed Restriction document, Owners of Income Restricted Units shall provide documentation as needed by HomesFund or the City to verify that the Owners are compliant with the terms of the Declaration of Covenants. The Homeowner's Association is not responsible for implementation or enforcement of the aforementioned restrictions.

Developer is responsible for the selling of Units in accordance with Colorado real estate law. As will be more fully described in the aforementioned Deed Restriction, HomesFund, City of Durango and/or their partners shall assist in marketing the Units and be responsible for qualifying the buyers of the four (4) Units to demonstrate compliance with the applicable criteria and shall provide documentation of qualification of buyers to Developer, or designee, to assist with entering into purchase contracts for the four (4) units. Both Parties agree that the intent is to close on purchases of these Units within 60 days after the Developer obtains a Certificate of Occupancy for said Unit. In the event that sale of these Units does not close within the aforementioned time period, Developer shall be able to sell the Units, which have not been purchased by qualified buyers, to any buyer of Developer's choosing and, following reimbursement of proportionate costs, the Units shall not be subject to the Declaration of Covenants set forth herein. Prior to amending the Declaration and Plat to eliminate the Declaration on a Unit, Developer must reimburse the Durango Renewal Partnership a proportionate amount of the funds the Developer received for the Unit that is released. The amount of reimbursement for these four Income Restricted Units shall be $125,000 per unit.

6.3.2 Covenants Applicable to Six (6) Workforce Housing Units. Six (6) units of the Private Improvements shall be subject to covenants that run with the title to each of the units that are less restrictive than those described in Section 6.3.1 but still ensure that these units are at all times occupied as the primary residence of local residents and/or workers. The Homeowner's Association is not responsible for implementation or enforcement of the aforementioned restrictions. As will be described in more detail in the Deed Restriction document, Owners of Workforce Housing Units shall be required to provide documentation as needed by HomesFund or the City to verify that the Unit occupants are compliant with the deed restriction.

Developer is responsible for the selling of Units in accordance with Colorado real estate law. As will be more fully described in the aforementioned Deed Restriction, HomesFund, City of Durango and/or their partners shall assist in marketing the Units and be responsible for qualifying the buyers of the six (6) Units to demonstrate compliance with the applicable criteria and shall provide documentation of qualification of buyers to Developer, or designee, to assist with entering into purchase contracts for the six (6) units. Both Parties agree that the intent is to close on purchases of these Units within 60 days after the Developer obtains a Certificate of Occupancy for said Unit. In the event that sale of these Units does not close within the aforementioned time period, Developer shall be able to sell the Units, which have not been purchased by qualified buyers, to any buyer of Developer's choosing and, following reimbursement of proportionate costs, the Units shall not be subject to the Declaration of Covenants set forth herein. Prior to amending the Declaration and Plat to eliminate the Declaration on a Unit, Developer must reimburse the Durango Renewal Partnership a proportionate amount of the funds the Developer received for the Unit that is released. The amount of reimbursement for these six Workforce Units shall be $10,000 per unit.

6.4 Cost Certification. All applications for approval and payment of Eligible Costs by the Authority shall include a certification signed by the Developer's general contractor and an authorized representative of the Developer. The certificate shall state that the information contained therein is true and accurate to the best of each individual's information and belief and, to the best knowledge of such individual, qualifies as Eligible Costs. Such submissions shall include copies of backup documentation supporting the listed cost items, including bills, statements, pay request forms from first-tier contractors and suppliers, conditional lien waivers, and copies of each check issued in payment of such costs. Such certification shall include a statement that the Eligible Costs included in the certificate were actually incurred and have not been previously reimbursed. Statements for certification and payment of Eligible Costs shall not include advance payments of any kind for unperformed work or materials not delivered and stored on the Property.

6.5 Insurance. At all times while the Developer is engaged in preliminary work on the Property or adjacent streets and until constructed units and common elements are conveyed to another party, the Developer shall carry and, upon request, will provide the Authority with proof of payment of premiums and certificates of insurance as approved by the Authority. All such insurance policies shall be issued by responsible companies selected by the Developer, subject to the reasonable approval of the Authority, and, if required, the City.

6.6 Indemnification. The Developer will defend, indemnify, assume all responsibility for and hold harmless the City, the Authority, members of City Council, Authority Board members, and their officers and employees (including, without limitation, for attorney fees and costs) from all claims or suits for and damages to property and injuries to persons, including accidental death, that may be caused by any of the construction activities under this Agreement, whether such activities are undertaken by the Developer or anyone directly or indirectly employed by or under contract to the Developer and whether such damage shall accrue or be discovered or after termination of this Agreement.

6.7 Damage Repair. Notwithstanding any language in any agreement to the contrary, prior to Completion of Construction of the Improvements, the Developer shall repair any damage to improvements, including public improvements located outside of the boundary lines of the Property, caused by the Developer (or contractors, agents, employees, or other parties acting for or on the behalf of the Developer) during construction of the Improvements, including, without limitation, damage to public streets and rights of way. The Developer shall not be deemed to have achieved Completion of Construction unless and until all such repairs have been completed and approved in writing by the Authority and the City.

6.8 Restrictions on Assignment and Transfer. Until Completion of Construction, the Developer shall not assign all or any part of or any interest in this Agreement or the Property or the right to receive the Available Reimbursement Revenue, without the prior written approval of the Authority. Following Completion of Construction, the Developer is free to transfer or assign the Property and the right to receive the Available Reimbursement Revenue, together or separately, with the consent of the Authority. The granting of a mortgage by the Developer for purposes of financing the Completion of Construction and the sale and transfer of individual Townhome units that are subject to the requirements of this Agreement shall not constitute an assignment or transfer. No voluntary or involuntary successor in interest of the Developer shall acquire any rights or powers under this

Agreement except as expressly set forth herein. Approval of a transfer by the Authority shall not relieve the Developer of its obligations hereunder unless the Authority agrees in writing. The Authority shall not be obligated to approve any assignment or transfer that does not include all of the rights and responsibilities under this Agreement.

6.9 Access to Property. Prior to the Completion of Construction, the Developer shall permit representatives of the Authority, and the City access to the Property and the Improvements at all reasonable times that they deem necessary for the purpose of carrying out or determining compliance with the Agreement, the Plan, or any City code or ordinance, including, without limitation, inspection of any work being conducted on thereon. No charge or compensation in any form will be payable for the access provided in this section, except that any such party shall indemnify and hold harmless the Developer for any loss or damage or claim for loss or damage (including reasonable legal fees) resulting from any such entrance and inspection.

7.0 OBLIGATIONS OF THE AUTHORITY; APPLICATION OF ELIGIBLE COSTS. The Reimbursement Obligation of the Authority is to reimburse the Developer for actual certified Eligible Costs of Eligible Improvements from Available Reimbursement Revenue. The Developer may not submit any requests for reimbursement until after the Declaration of Covenants described in Section 6.3 are approved and recorded. Reimbursement may be split into incremental payments based on project phasing and actual costs incurred by the Developer.

Cost savings in one category of the list on Exhibit C may be applied to cost overruns in another category. The City and/or Authority shall remit or apply Available Reimbursement Revenue within 30 days after Developer's submission of an application for approval and payment of Eligible Costs submitted in accordance with this Agreement.

7.1 Special Account. Subject to the provisions of this Agreement, the Authority agrees to establish a separate account (the "Special Account") and deposit therein the Available Reimbursement Revenue and no other funds. Within thirty (30) days after approval of certified Eligible Costs, the Authority shall pay the Developer for all such approved certified Eligible Costs up to the maximum amount of $600,000. No interest of any kind shall be charged or paid as part of the Reimbursement Obligation. The Reimbursement Obligation shall be payable solely from Available Reimbursement Revenue and no other funds or revenues whatsoever.

7.2 Books and Accounts. The Authority will keep, or cause to be kept, proper and current book and accounts in which complete and accurate entries shall be made of the amount of Available Reimbursement Revenue received by the Authority and the amounts deposited into and paid out from the Special Account.

7.3 Inspection. All books, records and reports (except those required by applicable law to be kept confidential) in the possession of the Authority relating to the Available Reimbursement Revenue, allocation of such revenue to the Special Account, including the books and records described in Section 7.2, shall at all reasonable times be open to inspection by the Developer.

8.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail or reputable overnight courier service, by certified mail or registered mail, postage prepaid return receipt requested, addressed to the Party to whom such notice is to be given at the address set forth in the signature page below, or at such other address as has been previously furnished in writing, to the other Party.

9.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.

10.0 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, strikes, labor disputes, accidents, regulations or order of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, that are beyond the control of such Party.

11.0 DEFAULT. Time is of the essence, subject to Section 10.0 above. If any payment or any other material condition, obligation, or duty is not timely made, tendered, or performed by any Party, then any non-defaulting Party may seek any remedy available at law or in equity, including damages; provided, however, damages, if any, recoverable by the Developer shall be limited only to the amounts payable under this Agreement when and as received by the Authority. No special, consequential, or punitive damages shall be payable for any default under this Agreement.

12.0 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.

13.0 ADDITIONAL DOCUMENTS OR ACTIONS. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

14.0 AMENDMENT. This Agreement may be amended only by an instrument in writing signed by the Parties.

15.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and shall not operate or be construed as a waiver of any subsequent breach by any Party.

16.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado and venue for any litigation shall be in the district court in and for La Plata County, Colorado.

17.0 BINDING EFFECT. This Agreement shall insure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

18.0 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 by one and the same instrument.

19.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

20.0 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.

21.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make non-substantive corrections to this Agreement and attached exhibits, if any, as the Parties mutually consider necessary.

22.0 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 Section 24-11-101(1), C.R.S., such day shall be extended until the next day on which such banks and state offices are open of the transaction of business.

23.0 GOOD FAITH OF PARTIES. In the performance of this Agreement of in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

24.0 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 ventures, and no Party shall be responsible for any debt or liability of any other Party.

25.0 NONLIABILITY OF OFFICIALS, AGENTS AND EMPLOYEES. No council member, board member, commissioner, official, employee, consultant, attorney or agent of the Authority or the City shall be personally liable to the Developer under the Agreement or in the event of any default or breach by the City or Authority or for any amount that may become due to the Developer under the Agreement.

26.0 GOVERNMENTAL IMMUNITY. The Authority, its officers and employees are relying on and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, as amended, or otherwise available to the Authority and its officers and employees.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names as of the day first above written.

DURANGO RENEWAL PARTNERSHIP

Barbara Noseworthy

Chairperson
949 E. 2ND Avenue
Durango, CO 81301

ATTEST:

Secretary

ACPO, LLC

MARK T. WILLIAMSON
MANAGING PARTNER

[Title]
[Address]

EXHIBIT A

Legal Description of the Property

The legal description of the property is as follows:

ANIMAS CITY (DGO) Block: 55 Lot: 6 THRU:- Lot: 11 S 15' LOT 11, AN ADD 3215 E 2ND AVE DURANGO 81301

And

ANIMAS CITY (DGO) Block: 55 Lot: 11 THRU:- Lot: 15 NORTH 10 FT OF LOT 11 TOGETHER WITH S 10 FT OF E 33RD ST ADJ LOT 15 VACATED BY ORD 1003 1/30/1962 BK 444 PG 42 150 E 33RD ST DURANGO 81301

EXHIBIT B

Development Proposal

Attach PD Agreeement with Site and Phasing Plan.

EXHIBIT C

Eligible Improvements & Eligible Costs

- Costs related to utility upgrades and connections including the labor to install.
- Costs associated with improving, widening and repaving the alley to the west of the subject property including concrete for curb and gutter, asphalt for the driving surface, and labor to install
- Costs related to relocation of existing utility infrastructure including but not limited to natural gas, electric, and communications facilities.
- Costs related to sidewalk construction, curb and gutter installation, and planting of street trees
- Costs related to stormwater management including but not limited to cobble, plantings, and construction of the central greenscape amenity insofar as it relates to stormwater detention and treatment.
- All Fair Share program costs
- All building permit costs