

COOPERATION AGREEMENT
AMONG THE FIRESTONE URBAN RENEWAL AUTHORITY AND
THE SPRINGS METROPOLITAN DISTRICT
NORTHERN FIRESTONE URBAN RENEWAL PLAN

THIS COOPERATION AGREEMENT (“Agreement”) is made the 12th day of June, 2013 and executed by and between THE SPRINGS METROPOLITAN DISTRICT and the FIRESTONE URBAN RENEWAL AUTHORITY, referred to collectively as the “parties” or individually as a “party”.

WITNESSETH:

WHEREAS, The Springs Metropolitan District (“District”) is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and existing under the constitution and the laws of the State of Colorado; and

WHEREAS, the Firestone Urban Renewal Authority (“FURA”) is a public body corporate and politic authorized to transact business and exercise its powers as an urban renewal authority under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, C.R.S. (“Act”); and

WHEREAS, on June 12th, 2013, the Board of Trustees (the “Board”) of the Town of Firestone (the “Town”) adopted its Resolution 13-32 approving the Urban Renewal Plan (“Plan”) for the Northern Firestone Urban Renewal Area (the “Urban Renewal Area”) which details the inclusion of the parcels described in the Plan for the purposes authorized in the Act, including utilizing tax increment financing (“TIF Financing”), as contemplated by C.R.S. § 31-25-107(9)(a), for the purposes authorized by the Urban Renewal Law; and

WHEREAS, TIF Financing provides that taxes, if any, levied after the effective date of the approval of the Plan upon taxable property in the Urban Renewal Area each year shall be divided for a period not to exceed twenty-five (25) years from the effective date of the Plan and that a portion of said property tax revenues (the “TIF Revenue”) shall be allocated to and paid into a special fund of FURA to pay the principal of, interest on, and any premiums due in connection with bonds of, loans or advances to, or indebtedness incurred by FURA; and

WHEREAS, the District and FURA recognize that a division of taxes pursuant to C.R.S. § 31-25-107(9)(a) on property within the boundaries of the District without an agreement concerning the sharing of TIF Revenue that results from the District levy on taxable property in the Urban Renewal Area may hinder the effectuation of the Plan and urban renewal projects within the Urban Renewal Area and the District’s ability to provide services within the Urban Renewal Area; and

WHEREAS, the District is cooperating with FURA to facilitate carrying out the Plan and urban renewal projects within the Urban Renewal Area; and

WHEREAS, the District and FURA desire to enter into this Agreement for the transfer to the District of property tax revenues that FURA receives from the District levy on taxable property in the Urban Renewal Area; and

WHEREAS, the District and FURA are authorized to enter into this Agreement pursuant to law, including without limitation C.R.S. §31-25-107(11) and C.R.S. § 31-25-112; and

WHEREAS, the District and FURA have determined it is in the best interest of the parties to enter into this Agreement to facilitate carrying out the Plan and undertaking urban renewal projects within the Urban Renewal Area; and

WHEREAS, in consideration of the parties entering into this Agreement, the District consents to the inclusion within the Urban Renewal Area of all agricultural lands contained within such Area as described in the Plan, pursuant to C.R.S. §31-25-107(1)(c)(II)(D);

NOW THEREFORE, in consideration of the foregoing recitals and the covenants, promises and agreements of each of the parties hereto, it is agreed by and among the parties hereto as follows:

1. Incorporation of Recitals. The foregoing recitals are incorporated into and made a part of this Agreement.

2. Sharing of District Tax Levy Revenues: FURA agrees to pay to the District all of the property tax revenues received by FURA as a result of the property tax mill levy imposed by the District upon taxable property within the Urban Renewal Area pursuant to and in accordance with C.R.S. §31-25-107(9)(a)(II) and the rules and regulations of the Property Tax Administrator of the State of Colorado (the “District Tax Levy Revenues”). Commencing on the effective date of the Plan and for a period of twenty-five (25) years from the effective date of the Plan, FURA shall transfer to the District on or before the 15th day of each month all of the District Tax Levy Revenues received by FURA through last day of the preceding month. If area is subsequently included in the Plan by a modification of the Plan approved by the Board, and such modification results in TIF Revenues from the District Tax Levy Revenues being allocated to FURA for an additional period beyond twenty-five (25) years from the effective date of the Plan, then FURA shall make the foregoing transfers to the District for such additional period. FURA pledges to pay the District Tax Levy Revenues to the District in accordance with this Agreement and hereby grants the District a lien on the District Tax Levy Revenues.

3. Pledge of District Tax Levy Revenues. The creation, perfection, enforcement, and priority of the pledge of FURA to pay the District Tax Levy Revenues to the District shall be governed by C.R.S. §11-57-208 and this Agreement. FURA hereby pledges and grants to the District a first priority lien on and security interest in the District Tax Levy Revenues and the District Tax Levy Revenues shall immediately be subject to the lien of such pledge without any physical delivery, filing, or further act. The lien of such pledge shall be valid, binding, and enforceable as against all persons having claims of any kind in tort, contract, or otherwise against FURA irrespective of whether such persons have notice of such liens. FURA hereby covenants that so long as this Agreement is in effect, it will not pledge, encumber or otherwise transfer the

District Tax Levy Revenues, except as provided in this Agreement.

4. Use of District Tax Levy Revenues. It is the intention of the District and FURA that the District use the District Tax Levy Revenues transferred to it pursuant to this Agreement for the costs and expenses of financing of infrastructure and providing services as outlined in the District's service plan.

5. Agreement Confined to District Tax Levy Revenues Revenue. This Agreement applies only to the District Tax Levy Revenues and does not apply to any other revenues of FURA. Further, this Agreement applies only to the Urban Renewal Area described in the Plan as approved by the Board's Resolution No. 13- 32 and any area subsequently included in the Plan by a modification of the Plan approved by the Board.

6. 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, acts of public enemy, acts of the Federal or state government, acts of any other party, acts of third parties, litigation concerning the validity of this Agreement or relating to transactions contemplated hereby, fire, floods, strikes, labor disputes, accidents, regulations 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. Notwithstanding the foregoing, where any of the above events shall occur which temporarily interrupt the ability of FURA to transfer District Tax Levy Revenues as provided in this Agreement, as soon as the event causing such interruption shall no longer prevail, FURA shall transfer the total amount of the District Tax Levy Revenues that has been received by FURA as provided in this Agreement.

7. Consent Concerning Agricultural Land. The District hereby consents, pursuant to C.R.S. §31-25-107(1)(c)(II)(D), to the inclusion within the Urban Renewal Area of all agricultural lands contained within such Area as described in the Plan.

8. Termination and Subsequent Legislation. In the event of termination of the Plan, including its TIF Financing component, FURA may terminate this Agreement by delivering written notice to the District. FURA may also terminate this Agreement by delivering written notice to the District if the District is dissolved, consolidated into another district, or no longer provides any services within the Town. The parties further agree that in the event legislation is adopted after the effective date of this Agreement that invalidates or materially effects 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.

9. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado. The parties agree that all claims, disputes or controversies arising between the parties which relate in any way to this Agreement, which are not otherwise resolved by the parties, shall be brought in the District Court in and for Weld County, State of Colorado, and that venue for all such actions shall lie only in Weld County, State of Colorado. In the event of any litigation between FURA and the District to enforce any provision of this Agreement or any right of either party hereto, the parties agree that the court shall award costs and expenses to the prevailing party, such costs and expenses to include reasonable attorneys' fees. Otherwise, each party shall pay its own costs and fees for litigation.

10. 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 hereto.

11. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their successors in interest.

12. 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, except for any trustee (a "Trustee") acting on behalf of the holders of any debt or other financial obligations of the District to which the District pledges the payment of all or any part of the District Tax Levy Revenues. The sole remedy for the District or the Trustee to enforce the Authority's obligations under this Agreement is by way of mandamus or specific performance. It is the express intention of the undersigned parties that any entity other than the undersigned parties receiving services or benefits under this Agreement shall be an incidental beneficiary only.

13. No Waiver of Immunities. No portion of this Agreement shall be deemed to constitute a waiver of any immunities 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.

14. Severability. If any provision of this Agreement is found to be invalid, illegal or unenforceable, the validity and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Further, in the event of any such holding of invalidity, illegality or unenforceability (as to any or all parties hereto), the parties agree to take such action(s) as may be necessary to achieve to the greatest degree possible the intent of the affected provision of this Agreement.

15. Assignment. Neither party may assign any of its rights or obligations under this Agreement without the prior written consent of the other party.

16. Paragraph Captions. The captions of the paragraphs 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.

17. 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.

18. 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.

19. 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 for the transaction of business.

20. 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.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized officials to execute this Agreement effective as of the day and year first above written.

THE SPRINGS
METROPOLITAN DISTRICT

ATTEST:

By: Donna Smith
Donna Smith, Secretary/Treasurer

By: Daniel Smith
Daniel Smith, President



FIRESTONE URBAN RENEWAL
AUTHORITY

ATTEST:

By: Rebecca Toberman
Rebecca Toberman, Recording Secretary

By: Chad Auer
Chad Auer, Chairperson