



## PUBLIC NOTICE OF SPECIAL MEETING

The Arvada Urban Renewal Authority (AURA) Board of Commissioners will hold a virtual **SPECIAL MEETING** at **9:00 a.m.** on **Wednesday, September 22, 2021** via Zoom webinar.

The public can register and participate virtually via Zoom webinar using the following information:

Register in advance for this webinar:

[https://us06web.zoom.us/webinar/register/WN\\_D9RiExtJTbqYBa2VgUNczg](https://us06web.zoom.us/webinar/register/WN_D9RiExtJTbqYBa2VgUNczg)

After registering, you will receive a confirmation email containing information about joining the webinar.

If you need assistance with the virtual conference process or have questions or comments for the AURA Board regarding the agenda items, please contact [cbriscoe@arvada.org](mailto:cbriscoe@arvada.org) prior to 8:30 a.m. on September 22, 2021. A recording of the meeting will be posted on AURA's website following the video conference call.

Agenda information is attached.

**Carrie Briscoe**

Carrie Briscoe  
AURA Coordinator/Recording Secretary

POSTED: September 21, 2021



**ARVADA URBAN RENEWAL AUTHORITY**  
**Board of Commissioners SPECIAL Meeting**  
**Via Zoom Webinar**  
**9:00 a.m., Wednesday, September 22, 2021**

**AGENDA**  
**(Revised 09-21-2021)**

**SPECIAL MEETING – 9:00 a.m.**

1. Call to Order
2. Moment of Reflection and Pledge of Allegiance
3. Roll Call of Members
4. Study Session – None
5. Old Business
  - A. AR-21-14 A Resolution of the Board of Commissioners of the Arvada Urban Renewal Authority Approving the Third Amendment to the Third Amended and Restated Disposition and Development Agreement between the Authority and TC Denver Development, Inc. and Approving the Execution of the Estoppel Certificate and Consent by the Authority
6. New Business - None
7. Executive Session – None
8. Adjournment

**ARVADA URBAN RENEWAL AUTHORITY**  
**AGENDA INFORMATION SHEET**

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**Agenda No.:** Item 5A  
**Meeting Date:** September 22, 2021  
**Title:** Third Amendment to the Third Amended and Restated Development Agreement between Trammell Crow Company LLC and AURA  
Estoppel Certificate and Consent

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**ACTION PROPOSED:** Approve

**INFORMATION ABOUT THE ITEMS:** Citizen's Bank is lending Trammell Crow the funds to construct the project and has asked that the DDA and Estoppel clarify the following in the event of a default by Trammell Crow:

- The lender has the right to cure any default of the developer during the longer of 30 days or the time period during which the developer would have the right to cure under the agreement.
- If the lender forecloses and exercises the power to sell the property, the DDA shall be transferred with the property. The project will be developed as per the plans and the TIF shall be dispersed as per the plan (including the TIF Retention should the project be sold for a windfall).

**FINANCIAL IMPACT:** There is no change

**STAFF RECOMMENDATION:** Staff recommends approval

**SUGGESTED MOTION:** I move that the AURA Board approve Third Amendment to the Third Amended and Restated Development Agreement between TC Denver Development, Inc. and AURA and approve the Estoppel Certification and Consent

RESOLUTION AR-21-14

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE ARVADA URBAN  
RENEWAL AUTHORITY APPROVING THE  
THIRD AMENDMENT TO THE THIRD AMENDED AND RESTATED  
DISPOSITION AND DEVELOPMENT AGREEMENT  
BETWEEN THE AUTHORITY AND TC DENVER DEVELOPMENT, INC., AND  
APPROVING THE EXECUTION OF THE ESTOPPEL CERTIFICATE AND CONSENT  
BY THE AUTHORITY

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF  
COMMISSIONERS OF THE ARVADA URBAN RENEWAL AUTHORITY, THAT:

Section 1. The Third Amendment to the Third Amended and Restated Disposition and Development Agreement between the Authority and TC Denver Development, Inc., attached hereto as **Exhibit A**, is hereby approved, and the Chairman is authorized to execute the Agreement on behalf of the Authority.

Section 2. The Authority further approves the execution of the Estoppel Certificate and Consent attached hereto as **Exhibit B**, by the Chairman of the Authority.

DATED this 22<sup>nd</sup> day of September, 2021.

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Alan Parker, Chair

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Recording Secretary

APPROVED AS TO FORM

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Corey Y. Hoffmann, Legal Counsel

### **Third Amendment to Third Amended and Restated Disposition and Development Agreement**

This Third Amendment to Third Amended and Restated Disposition and Development Agreement (this “Third Amendment”) is made and entered into as of September \_\_, 2021 (the “Effective Date”) by and between Arvada Urban Renewal Authority (the “Authority”) and TC Denver Development, Inc. (“Redeveloper”). The Authority and Redeveloper are together referred to herein as the “Parties.”

#### **Recitals**

A. The Authority and Redeveloper are parties to that certain Third Amended and Restated Disposition and Development Agreement dated July 1, 2020, as amended by First Amendment to Third Amended and Restated Disposition and Development Agreement dated June 2, 2021 and by Second Amendment to Third Amended and Restated Disposition and Development Agreement dated August 4, 2021 (together, the “Agreement”). Capitalized terms used in the Third Amendment shall have the meanings given to them in the Agreement unless otherwise provided.

B. The Parties desire to replace Section 14.02 of the Agreement with the new Section 14.02 provided herein.

#### **Agreement**

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

A. Replacement of 14.02. Section 14.02 of the Agreement is hereby deleted in its entirety and replaced with the following new Section 14.02:

“14.02 Right to Cure. If any Holder provides written notice to the Authority with its name and address, the Authority shall provide (concurrently with Redeveloper) such Holder with a copy of any Default Notice by nationally recognized overnight courier at the most recent address provide to the Authority by such Holder. In the event that such Default Notice is provided to Holder, the Holder and its successors and assigns shall have the right to cure any Default of the Redeveloper or any other party during the longer of (a) a thirty (30) day period, which 30 day period shall commence upon receipt by Holder or its successors or assigns of a Default Notice, or (b) the time period during which Redeveloper would have the right to cure such default under this Amended Agreement. In addition, notwithstanding the provisions of the Amended Agreement, the Holder of an Mortgage authorized by this Amended Agreement, including a Holder who obtains title to all or part of the Property as a result of foreclosure proceedings, or action in lieu (but not including any other party who acquire title to the Property at or after a foreclosure sale), shall not be obligated by this Amended Agreement to construct or complete the Improvements, provided, that nothing in this Amended Agreement shall permit a Holder to devote any part of the Property to any uses or to construct any

improvements thereon, other than those uses or improvements permitted in the Plan or this Amended Agreement. In addition, if Holder or such successors or assigns commences or institutes foreclosure proceedings or provides notice to the Authority of its intention to exercise the power of sale under any mortgage covering or affecting all or portion of the Property within thirty (30) days after receipt of the Default Notice, the Agreement shall not be terminated or cancelled and any purported termination or cancellation by the Authority or Redeveloper shall be ineffective.”

B. Continuing Effect. Except as modified by this Third Amendment, the Agreement is in full force and effect in accordance with its terms.

IN WITNESS WHEREOF, the Parties have executed this Third Amendment as of the Effective Date.

[Signature Pages Follow]

**ARVADA URBAN RENEWAL AUTHORITY**

By: \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Maureen C. Phair  
Secretary/Executive Director

**TC DENVER DEVELOPMENT, INC.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

\_\_\_\_\_

## Exhibit B

### ESTOPPEL CERTIFICATE AND CONSENT

This Estoppel Certificate and Consent (“**Certificate and Consent**”) is made as of \_\_\_\_\_ (the “Effective Date”) by the ARVADA URBAN RENEWAL AUTHORITY, a body corporate and politic of the State of Colorado (the “**Authority**”).

#### RECITALS

A. The Authority and HS ARVADA OLDE TOWN VENTURE, LLC, A Delaware limited liability company (the “**Developer**”) are parties to that certain Third Amended and Restated Disposition and Development Agreement dated July 1, 2020, as amended by that certain First Amendment to Third Amended and Restated Disposition and Development Agreement dated June 2, 2021, as further amended by that certain Second Amendment to Third Amended and Restated Disposition and Development Agreement dated August 4, 2021, and as further amended by that certain Third Amendment to Third Amended and Restated Disposition and Development Agreement dated September 22, 2021 (collectively, the “**Redevelopment Agreement**”), covering the Property described in the Redevelopment Agreement (the “**Property**”).

B. Citizens Bank, N.A., a national banking association, whose mailing address is 600 Travis, Suite 6950, Houston, Texas 77002, in its capacity as Administrative Agent for the ratable benefit of itself and other lenders (“**Lender**”), desires to make a loan to Developer (the “**Loan**”), which is to be secured by Developer’s right, title and interest in the Property, the Project (as defined in the Redevelopment Agreement), and such other security as is described in more detail in the documents relating to the Loan (the “**Loan Documents**”).

C. As used herein, the term “**Lender**” shall mean the Lender, and any subsequent owner or holder of the Lender’s interest under the Loan Documents.

D. As a condition to the consummation of the Loan and with knowledge that Developer and Lender are relying hereon, the Authority has been requested to deliver this Estoppel Certificate and Consent.

E. All capitalized terms not expressly defined herein, shall have the meaning given to such terms in the Redevelopment Agreement.

#### ARTICLE I: ESTOPPEL CERTIFICATE

In consideration of the foregoing, the Authority hereby certifies to Lender and its successors and assigns as follows:

1. A true, complete and correct copy of the documents comprising the Redevelopment Agreement, assignments, amendments, and modifications thereto of every nature, if any, is attached to this Certificate and Consent as Exhibit A (the “**Redevelopment Agreement Documents**”). The Redevelopment Agreement Documents represent the entire agreement between the Authority and the Developer with respect to the Redevelopment Agreement and the Project, and the



Redevelopment Agreement has not otherwise been modified, supplemented or amended except by the Redevelopment Agreement Documents attached as Exhibit A. The Redevelopment Agreement is in full force and effect and controls the rights and obligations of the Authority and the Developer thereunder from and after the Effective Date thereof.

2. To the current actual knowledge of the Authority, there is no existing default under the Redevelopment Agreement with respect to any monetary or non-monetary provision of the same and no event has occurred which, with the passage of time or giving of notice, or both, would constitute a default with respect to any provision of the Redevelopment Agreement.

3. In connection with the Loan, the Authority agrees that Lender is a “Holder” as described in the Redevelopment Agreement, that the Loan represents Redeveloper’s Financing with respect to the Redevelopment Agreement, and that Lender is entitled to all of the rights and privileges provided to lenders in Sections 14 and 16 and any other applicable provisions of the Redevelopment Agreement.

4. The Authority hereby confirms and recognizes that the Developer has collaterally assigned its rights under the Redevelopment Agreement to Lender, and agrees that after notice from Lender of the occurrence of a default under the Loan, the Authority will make payment of the Incremental Property Tax, Incremental Sales Tax, and Lodging Tax collected from or attributed to the Improvements (collectively, the “**Pledged Revenues**”) pursuant to the Redevelopment Agreement directly to Lender in lieu of Developer unless and until the Authority receives a written release from Lender.

5. The Authority agrees that Lender, its successors and assigns, or any party which obtains an ownership interest in the Project by purchase at a foreclosure sale or by a deed in lieu of foreclosure shall have the right to receive any payments of the Pledged Revenues pursuant to the Redevelopment Agreement without receiving further approval by the Authority as and to the extent such amounts are payable under the Redevelopment Agreement.

6. In accordance with Section 14.02 of the Redevelopment Agreement, the Authority shall give Lender and its successors and assigns with a copy of any Default Notice by nationally recognized overnight courier at the most recent address provided to the Authority for Lender. In the event such Default Notice is provided to Lender, Lender and its successors and assigns shall have the right to cure any default of the Developer or any other party during the longer of (a) a thirty (30) day period, such period to commence upon receipt by Lender or its successors or assigns of the Default Notice, or (b) the time period during which Developer would have the right to cure such default under the Redevelopment Agreement. If Lender or such successors or assigns commences or institutes foreclosure proceedings or provides notice to the Authority of its intention to exercise the power of sale under any mortgage covering or affecting all or portion of the Property within thirty (30) days after receipt of the Default Notice, the Redevelopment Agreement shall not be terminated or cancelled and any purported termination or cancellation by the Authority or Developer shall be ineffective.

## **ARTICLE II: MISCELLANEOUS**

1. The provisions of this Certificate and Consent shall be binding upon the Authority,

its successors and assigns, and may be relied upon, and shall inure to the benefit of Lender and Developer and their successors and assigns.

2. The individual executing and delivering this Certificate and Consent on behalf of the Authority represents and warrants to Lender that he or she is duly authorized to make such execution and delivery.

*[Signature appears on the following page]*

IN WITNESS WHEREOF, this Certificate and Consent has been executed and given by the Authority, through its duly authorized representative as of the date first set forth above.

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

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

5601 Olde Wadsworth Blvd, Suite 210  
Arvada, Colorado 80002

**EXHIBIT A**  
**REDEVELOPMENT AGREEMENT DOCUMENTS**

*[see attached]*