SHOCKOE DEVELOPMENT COOPERATION AGREEMENT

THIS SHOCKOE DEVELOPMENT COOPERATION AGREEMENT ("this Cooperation Agreement") is dated as of ___, 2014, and entered into by and between the City of Richmond, Virginia, a municipal corporation and political subdivision of the Commonwealth of Virginia ("the City"), and the Economic Development Authority of the City of Richmond, Virginia, a political subdivision of the Commonwealth of Virginia ("the Authority").

RECITALS

A. The City and the Authority desire to cooperate in the development of the South of Broad Street Parcel, as defined herein, consisting of various parcels of land, some presently owned by the City and some owned by others, and in the development of the North of Broad Street Parcel, as defined herein, consisting of land owned by others.

B. The City and the Authority anticipate that the Development, as defined herein, will consist 1) of a Baseball Stadium, as defined herein, designed to accommodate use by Navigators, as defined herein, for professional baseball games open to the public and 2) of one or more residential, commercial or mixed use structures connected to or integrated in part with the Baseball Stadium to be owned and operated by Stadium South, as defined herein, on the South of Broad Street Parcel, and improvements ancillary thereto.

C. The City and the Authority are of the opinion that the Development will promote economic development in the areas surrounding the South of Broad Street Parcel and in the city as a whole.

D. The City is authorized by section 15.2-953(B) of the Code of Virginia to make appropriations of money to the Authority for the purpose of promoting economic development.

E. The City desires the Authority to undertake certain activities relating to the Development and to make the Appropriation to provide a part of the funding for those activities, as defined herein.

F. The portion of the Development comprising the Baseball Stadium qualifies as an "Authority facility" as defined by section 15.2-4902 of the Code of Virginia, and the Authority therefore is authorized by the Industrial Development Authority and Revenue Bond Act, title 15.2, chapter 49 of the Code of Virginia, and other laws to perform the activities contemplated in this Cooperation Agreement.

G. The City and the Authority desire the Authority to assist in the Development by acquiring ownership of such interests in the land comprising the South of Broad Street Parcel as may be necessary to accommodate the joint development of the South of Broad Street Parcel by the Authority and Stadium South; by issuing such bonded indebtedness as may be necessary in conjunction with the Appropriation to complete the Baseball Stadium; by
entering into contracts for design, construction, and related services for the Baseball Stadium and coordinating the foregoing services with similar activities to be performed by Stadium South; by entering into a development agreement and lease, or similar arrangements, with Navigators in connection with the Baseball Stadium; by entering into leases of certain nearby parking structures, for use by patrons of the Baseball Stadium subject to availability of space; and, subject to such arrangement as may be made with Navigators, by entering into a Baseball Stadium management agreement with a qualified service provider.

H. North of Broad, as defined herein, desires to make various improvements on the North of Broad Street Parcel, including the development of at least residential, hotel, grocery store and parking structure uses but not limited to such uses.

I. The City and the Authority are of the opinion that such development will promote economic development in the areas surrounding the North of Broad Street Parcel and in the city as a whole.

J. The City and the Authority desire the Authority to coordinate construction activities on the North of Broad Street Parcel with construction activities on the South of Broad Street Parcel, and to enter into a lease or similar arrangement with North of Broad for the use of the parking structure to be constructed on the North of Broad Street Parcel for use by patrons of the Baseball Stadium subject to availability of space.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which both parties acknowledge, and in consideration of the mutual covenants hereinafter set forth, the City and the Authority agree as follows:

1.0 Preliminary Provisions.

1.1 Purpose. The purpose of this Cooperation Agreement is to enable the City and the Authority to work together to facilitate the transactions described herein for the purpose of funding, constructing and providing for the operation and use of the Development.

1.2 Incorporation of Recitals and Exhibits. The foregoing recitals are true and correct and are incorporated herein by reference.

1.3 Definitions. Words, terms and phrases used in this Cooperation Agreement shall have the meanings ascribed to them by this section below, unless the context clearly indicates that another meaning is intended.

1.3.1 Appropriation. "Appropriation" means an appropriation of $12,100,000.00, derived from such permanent and interim funding sources as may be or may have been approved by the City Council and deemed prudent for such purposes by the City’s Director of Finance, for the purpose of making a grant to the Authority for the Authority to develop infrastructure related to a baseball stadium for use by Navigators, a commercial enterprise, on the South of Broad Street Parcel. "Appropriation" includes such additional
amounts as may be necessary on an interim basis for the Authority to acquire interests in land and to design and construct the Baseball Stadium pending its issuance of the bonded indebtedness contemplated this Cooperation Agreement. "City Outlay" consists of such additional interim amounts.

1.3.2 Authority. "Authority" means the Economic Development Authority of the City of Richmond, Virginia, a political subdivision of the Commonwealth of Virginia (acting through its Board of Directors, where the context so requires).

1.3.3 Baseball Stadium. "Baseball Stadium" means a facility suitable for AA baseball according to standards established pursuant to the Stadium Development Agreement and its attached Deed of Lease as described by paragraph 3.3 hereof and designed to accommodate use by Navigators for professional baseball games open to the public, the final design specifications of which and any change orders thereto must be approved by the Authority, the Chief Administrative Officer and Navigators.

1.3.4 Chief Administrative Officer. "Chief Administrative Officer" means the Chief Administrative Officer of the City of Richmond, Virginia.

1.3.5 City. "City" means the City of Richmond, Virginia, a municipal corporation and political subdivision of the Commonwealth of Virginia.

1.3.6 Cooperation Agreement. "Cooperation Agreement" means this Shockoe Development Cooperation Agreement.

1.3.7 Development. "Development" means improvements to the South of Broad Street Parcel consisting of the Baseball Stadium and of residential, commercial or mixed use structures, or some combination thereof, connected to or integrated in part with the stadium to be owned and operated by Stadium South, and improvements ancillary thereto.

1.3.8 Effective Date. "Effective Date" means the date on which every agreement contemplated by paragraphs 3.1, 3.3, 3.6 and 3.7 has been executed by every party to every such agreement, the last of the contingencies contemplated by said agreements has been removed, and fully executed leases or purchase agreements for the non-residential components of development on the North of Broad Street Parcel have been presented to the Authority and the Chief Administrative Officer which both concur are satisfactory in scope and form.

1.3.9 Navigators. "Navigators" means Navigators Baseball, LP, a limited partnership organized under the laws of the State of Delaware, authorized to do business in the Commonwealth of Virginia, and doing business as the Richmond Flying Squirrels.

1.3.10 North of Broad. "North of Broad" means the "Developer," as that term is defined by the Stadium North Memorandum of Understanding and which includes Stadium North.
“North of Broad” shall be read as the context requires to refer to the component entities of the “Developer” collectively or singularly.

1.3.11 North of Broad Street Parcel. The “North of Broad Street Parcel” means the area in the City of Richmond generally bounded by East Broad Street on the south, the CSX railroad on the west, East Clay Street extended on the north and Oliver Hill Way on the east.

1.3.12 Project Fund. “Project Fund” means the fund established pursuant to section 3.6.1 (“Establishment”) of this Cooperation Agreement.

1.3.13 South of Broad Street Parcel. The “South of Broad Street Parcel” means the area in the City of Richmond generally bounded by East Broad Street on the north, Ambler Street and Ambler Street extended on the west, East Franklin Street on the south and North 18th Street on the east.

1.3.14 Stadium North. “Stadium North” means Stadium North I L.L.C., a limited liability company organized under the laws of the Commonwealth of Virginia.

1.3.15 Stadium South. “Stadium South” means Stadium South I L.L.C., a limited liability company organized under the laws of the Commonwealth of Virginia.

1.4 Duration. This Cooperation Agreement shall be in force and effect beginning on the Effective Date and shall expire when all obligations have been performed and all rights have been fully exercised by both the City and the Authority.

2.0 Obligations and Rights of the City.

2.1 Payment of Appropriation. The City shall pay the Appropriation to the Authority upon demand, which demand shall not be made sooner than may reasonably be required for the Authority to make payments to third parties in connection with the purpose of the Appropriation.

2.2 Administrative Assistance.

2.2.1 Authority’s Agent. It is the intent of the City and the Authority that the various contracts anticipated by this Agreement, including contracts for design, construction, and related services for the Development, will be administered at no cost to or liability upon the Authority beyond the amount of the Appropriation. To that end, the Chief Administrative Officer shall designate no more than one City employee or other person (hereafter, “designee”) each for the administration of any contract for which the Authority identifies the need for administrative assistance. Upon the identification by the Authority of such need, the Chief Administrative Officer shall submit the name and contact information of the Chief Administrative Officer’s designee or designees as the Authority’s agent or agents to the Authority for the Authority’s approval. If the Authority rejects one or more of the designees, the Chairman of the Authority and the
Chief Administrative Officer will confer and agree on a person whom the Chief Administrative Officer and the Authority will approve as the Authority’s agent.

2.2.2 **Duties of Agent.** The designee serving as the Authority’s agent for the administration of a contract shall be responsible for performing all functions of the Authority under that contract and shall have the power to exercise all of the rights of the Authority under that contract. The intent of designating no more than one agent for each contract is intended to enable all activities concerning that contract to be coordinated through a single person. The designee serving as the Authority’s agent shall work with such City staff and resources as may be needed to perform the functions required of the Authority under the contract. Each designee serving as the Authority’s agent shall attend a board meeting of the Authority at least once each quarter to provide updates and answer questions about the administration of the contract. Each designee serving as the Authority’s agent shall provide to, or make available for inspection by, as mutually agreed upon by the designee and the requester, such documentation as the Authority or its members may reasonably request.

2.3 **Subject-to-Appropriations.** All payments and other performances by the City under this Cooperation Agreement are subject to annual or periodic appropriations therefor by the City Council. It is understood and agreed between the City and the Authority that the City shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purposes of performing this Cooperation Agreement. Under no circumstances shall the City’s total liability under this Cooperation Agreement exceed the total amount of the funds appropriated by the City Council for the City’s performance of this Cooperation Agreement.

2.4 **Support by City for Authority Obligations.** Subject to paragraph 2.3 above, the City agrees to provide timely financial support to the Authority in support of all financial obligations it incurs in connection with the Development.

3.0 **Obligations and Rights of the Authority.**

3.1 **Acquisition of Property.** The Authority shall enter into such contracts or condominium instruments or both as it may deem necessary for the acquisition of such interests in the land comprising the South of Broad Street Parcel as may be necessary to accommodate the joint development of the South of Broad Street Parcel by the Authority and Stadium South, provided that any such documents may not become effective before the Effective Date.

3.2 **Construction of Baseball Stadium.**

3.2.1 **Design and Construction.** The Authority shall enter into such contracts as it may deem necessary to design, construct and otherwise provide for the Baseball Stadium, subject to the successful acquisition of interests in land as described in paragraph 3.1 above, provided that any such documents may not become effective before the Effective Date.
3.2.2 **Issuance of Debt.** The Authority agrees to issue such bonded indebtedness as may be required to effect the permanent financing of the cost of land acquisition and the design and construction of the Baseball Stadium. Upon receipt of funds from the issuance of such bonded indebtedness, the Authority shall repay the City Outlay.

3.3 **Agreement with Navigators.** The Authority shall enter into the Stadium Development Agreement, a copy of which is attached as Attachment A, provided that such document may not become effective before the Effective Date.

3.4 **Operation of Baseball Stadium.**

3.4.1 **Management Agreement.** The Authority, with the prior written consent of the Chief Administrative Officer, shall enter into a management agreement or similar arrangement for the ongoing operation and management of the Baseball Stadium, subject to such rights as may be accorded to Navigators pursuant to the Stadium Development Agreement described in paragraph 3.3 above, provided that any such document may not become effective before the Effective Date.

3.4.2 **Parking.** The Authority shall seek to enter into leases or similar arrangements to provide sufficient parking for patrons of the Baseball Stadium, subject to availability of space, with, among others, the Commonwealth of Virginia at its parking structure at the intersection of East Franklin Street and North 15th Street and with North of Broad for the parking structure to be constructed on the North of Broad Street Parcel, upon such terms and conditions as the Authority may deem reasonable, subject to the approval of the Chief Administrative Officer, provided that any such document may not become effective before the Effective Date.

3.5 **Sale of Naming Rights.** The City and the Authority agree that the purpose of revenue from the sale of naming rights to the Baseball Stadium as set out in the Stadium Development Agreement described in paragraph 3.3 above shall be to provide funds for a capital reserve and that the Authority desires to protect the City’s interest in ensuring that the Baseball Stadium or parts thereof bear an appropriate name.

3.6 **Agreement with Stadium South for the Development.** The Authority shall enter into Stadium South Memorandum of Understanding, a copy of which is attached hereto as Attachment B, for the purpose of coordinating the design, construction, and related services for the Baseball Stadium with similar such services to be performed by or for Stadium South, provided that any such document may not become effective before the Effective Date.

3.7 **Coordination with North of Broad and Stadium North.** The Authority shall enter into the Stadium North Memorandum of Understanding, a copy of which is attached hereto as Attachment C, for the purpose of coordinating the design, construction, and related services for the Development with similar such services to be performed by or for North of Broad in connection with the North of Broad Street Parcel, provided that any such document may not become effective before the Effective Date.
3.8 Project Fund.

3.8.1 Establishment. Subject to paragraph 3.5, the Authority shall establish a fund in its accounting and budgetary structure, into which the Authority shall deposit all funds received pursuant to this Cooperation Agreement and all revenue derived from the Development, and from which the Authority shall make all disbursements required for the Development.

3.8.2 Bank Account. The Authority shall deposit all such funds received into one or more interest-bearing checking accounts at a financial institution selected by the Authority and approved by the Chief Administrative Officer, which approval shall not be unreasonably conditioned, delayed or withheld.

3.8.3 Accounting. The Authority shall prepare financial reports and statements of all financial activity relating to the Project Fund in accordance with generally accepted accounting principles. The Authority may use its accountant to prepare the reports and statements if it chooses, and the Authority may include these reports and statements in its regular reports and statements on other activities of the Authority.

3.8.4 Disposition.

3.8.4.1 Use of Appropriation. The City and the Authority intend that the Authority expend the Appropriation for the design, construction and other preparations for use of the Baseball Stadium. Should any part of the Appropriation remain after the Baseball Stadium has been designed, constructed and prepared for use and the City Outlay repaid, those monies shall remain in the Project Fund to be applied as set forth in section 3.8.4.2 (“Application of Revenues”).

3.8.4.2 Application of Revenues. All revenues in the Project Fund (including the rents or other revenues from leases, subleases, licenses and similar arrangements of the Baseball Stadium or parts thereof; the support provided by the City pursuant to paragraph 2.4 above or from any other source arising from the Development) shall be applied in the following order:

A. To the periodic payment when due of such bonded indebtedness as the Authority may incur in connection with the design and construction of the Baseball Stadium.

B. To the payment of the costs of operating or managing the Development, including any amounts due under a management agreement or similar arrangement, if any, according to the terms thereof.

C. To the support of the City’s economic development goals and initiatives, including but not limited to salaries of staff employed in such endeavors by the
3.9 **Limitations on Authority’s Obligations.**

3.9.1 **Authority Bond.** The Authority shall not be required to furnish the City with a fidelity bond covering all officers or employees of the Authority capable of authorizing disbursements of funds or handling funds received from the City or any other party or disbursed by the Authority to any other party pursuant to this Cooperation Agreement.

3.9.2 **Authority Liability.** It is the intent of the parties not to impose upon the Authority any responsibility other than what may be required to consummate the transactions contemplated by and perform the obligations specified in this Cooperation Agreement. Accordingly, the Authority does not assume any responsibility or liability whatsoever except as specifically stated herein. Should any liability accrue to the Authority which is not specifically addressed in this Cooperation Agreement, the Authority shall not be required to expend funds the Authority derives from sources other than those provided for by this Cooperation Agreement to discharge such liability. If a lawsuit involving the subject matter of this Cooperation Agreement is filed or expected to be filed against the Authority, the Authority shall immediately notify the City Attorney and Chief Administrative Officer.

3.9.3 **Availability of Funds.** The Authority’s obligation to undertake and perform the activities required of the Authority herein is specifically conditioned on the availability of funds in the Project Fund for the Authority to perform the Authority’s obligations hereunder. The Authority shall not be required to expend funds the Authority derives from sources other than those provided for by or described in this Cooperation Agreement for the performance of the Authority’s obligations under this Cooperation Agreement. The Authority’s obligation to undertake the activities herein is specifically conditioned upon the City providing funding on a timely basis; provided, however, the City’s obligation is subject to appropriation by the City Council and availability of funds.

3.10 **City and Authority Cooperation.** The City and the Authority agree that a closer working relationship will be beneficial to the administration of this Cooperation Agreement. Accordingly, the City and the Authority agree that a member of the City Council, designated by the President of the Council, and the Chief Administrative Officer may attend meetings of the Board of the Authority, with the right to speak but not to vote, for purposes of administering this Cooperation Agreement and for such other purposes as may from time to time appear to the Board as desirable. The City and the Authority further agree that the Director of the City’s Department of Economic and Community Development shall be appointed by the Board of the Authority to serve as the Executive Director of the Authority for purposes of administering this Cooperation Agreement and for such other purposes as may from time to time appear to the Board as desirable, and that said Executive Director shall have the discretion to assign members of the staff of the City’s Department of Economic and Community Development to serve as staff of the
Authority on an as-needed basis, such assignments being subject to the approval of the Board of the Authority.

4.0 Miscellaneous Provisions.

4.1 **Audit.** Pursuant to section 2-224(c) of the Code of the City of Richmond, the Authority shall be subject to periodic audits by the City Auditor on demand and without notice of its finances and expenditures of the Project Fund. In addition, the Authority shall afford the City access to all records relating to the expenditure of the Project Fund, wherever located, for such examination and audit by the City as the City may desire. The Authority shall afford the City the opportunity to make copies of any records that the City has the rights under this Cooperation Agreement to access, examine, and audit.

4.2 **Captions.** All section titles or captions in this Cooperation Agreement are for convenience of reference only. They should not be deemed to be part of this Cooperation Agreement or to in any way define, limit, extend, or describe the scope or intent of any provisions of this Cooperation Agreement.

4.3 **Counterparts.** This Cooperation Agreement may be executed by the City and the Authority in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same Cooperation Agreement.

4.4 **Entire Agreement.** This Cooperation Agreement contains the entire understanding between the City and the Authority and supersedes any prior understandings and written or oral agreements between them respecting this subject matter. There are no representations, agreements, arrangements, or understandings, oral or written, between the City and the Authority relating to the subject matter of this Cooperation Agreement that are not fully expressed in this Cooperation Agreement.

4.5 **Governing Law and Forum Choice.** All issues and questions concerning the construction, enforcement, interpretation and validity of this Cooperation Agreement, or the rights and obligations of the City and the Authority in connection with this Cooperation Agreement, shall be governed by, and construed and interpreted in accordance with, the laws of the Commonwealth of Virginia, without giving effect to any choice of law or conflict of laws rules or provisions, whether of the Commonwealth of Virginia or any other jurisdiction, that would cause the application of the laws of any jurisdiction other than those of the Commonwealth of Virginia. Any and all disputes, claims and causes of action arising out of or in connection with this Cooperation Agreement, or any performances made hereunder, shall be brought, and any judicial proceeding shall take place, only in the Circuit Court of the City of Richmond, Virginia. Each party shall be responsible for its own attorneys’ fees in the event this Cooperation Agreement is subject to litigation.

4.6 **Modifications.**
4.6.1 General Rule for Modifications. Except as set out below in paragraph 4.6.2, this Cooperation Agreement may be amended, modified and supplemented only by the written consent of both the City and the Authority preceded by all formalities required as prerequisites to the signature by each party of this Cooperation Agreement.

4.6.2 Exception to General Rule. The City and the Authority acknowledge that Attachments A, B and C hereto remain subject to further negotiation. If either the Board of the Authority or the Chief Administrative Officer determines that a negotiated change to such Attachments constitutes a material change in the obligations described by the Attachment in its form as attached, the Board or the Chief Administrative Officer as applicable shall notify the City Council, provided that in no event shall any such change be allowed to take effect if it results or is likely to result in the total cost of the Revitalize RVA project described by Resolution No. 2014-R29-33 to the City and the EDA exceeding $79,625,000.

4.7 No Assignment. This Cooperation Agreement shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties hereto; provided, however, that in no event may this Cooperation Agreement or any of the rights, benefits, duties or obligations of the parties hereto be assigned, transferred or otherwise disposed of without the prior written consent of the other, which consent neither party shall be obligated to give.

4.8 No Individual Liability. No director, officer, employee or agent of the City or the Authority shall be personally liable to another party hereto or any successor in interest in the event of any default or breach under this Cooperation Agreement or on any obligation incurred under the terms of this Cooperation Agreement.

4.9 No Third-Party Beneficiaries. Notwithstanding any other provision of this Cooperation Agreement, the City and the Authority hereby agree that: (i) no individual or entity shall be considered, deemed or otherwise recognized to be a third-party beneficiary of this Cooperation Agreement; (ii) the provisions of this Cooperation Agreement are not intended to be for the benefit of any individual or entity other than the City or the Authority; (iii) no individual or entity shall obtain any right to make any claim against the City or the Authority under the provisions of this Cooperation Agreement; and (iv) no provision of this Cooperation Agreement shall be construed or interpreted to confer third-party beneficiary status on any individual or entity. For purposes of this section, the phrase "individual or entity" means any individual or entity, including, but not limited to, individuals, contractors, subcontractors, vendors, sub-vendors, assignees, licensors and sub-licensors, regardless of whether such individual or entity is named in this Cooperation Agreement.

4.10 Notices. All notices, offers, consents, or other communications required or permitted to be given pursuant to this Cooperation Agreement shall be in writing and shall be considered as properly given or made if delivered personally, by messenger, by recognized overnight courier service or by registered or certified U. S. mail with return
receipt requested, and addressed to the address of the intended recipient at the following addresses:

A. To Authority:

Chairman
Economic Development Authority of the City of Richmond, Virginia
501 East Franklin Street, 1st Floor
Richmond, Virginia 23219

B. To the City:

Chief Administrative Officer
900 East Broad Street, Suite 201
Richmond, Virginia 23219

Either party may change any of its address information given above by giving notice in writing stating its new address to the other party.

4.11 **Public Records.** The City and the Authority acknowledge and agree that this Cooperation Agreement and any other records furnished, prepared by or in the possession of the City or the Authority may be subject to the retention and disposition requirements of the Virginia Public Records Act and the public disclosure requirements of the Virginia Freedom of Information Act.

**SIGNATURES ON FOLLOWING PAGE**
IN WITNESS WHEREOF, the parties have executed this Cooperation Agreement as of the day and year first written above.

**CITY OF RICHMOND, VIRGINIA**

a municipal corporation and political subdivision of the Commonwealth of Virginia

By: ________________________________
    Byron C. Marshall
    Chief Administrative Officer

**ECONOMIC DEVELOPMENT AUTHORITY OF THE CITY OF RICHMOND, VIRGINIA**

a political subdivision of the Commonwealth of Virginia

By: ________________________________
    Julious P. Smith, Jr.
    Chairman