

AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT

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Aurorahp.colorado.gov

NOTICE OF REGULAR MEETING AND AGENDA

<u>Board of Directors</u>	<u>Office</u>	<u>Term/Expires</u>
Andrew Klein	President	2023/May 2023
Otis Moore, III	Assistant Secretary	2025/May 2025
Theodore Laudick	Assistant Secretary	2025/May 2025
Mark Witkiewicz	Assistant Secretary	2025/May 2025
Ann Finn	Secretary	

DATE: February 27, 2023

TIME: 10:00 a.m.

PLACE: **VIA Zoom**

Zoom information:

<https://us02web.zoom.us/j/84522214676?pwd=Zi9JUFNqZEJtdGxGUElMbHRSTUVNdz09>

Meeting ID: 845 2221 4676

Passcode: 859795

One tap mobile

+17193594580,,84522214676#,,, *859795# US

+16699006833,,84522214676#,,, *859795# US (San Jose)

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of Potential Conflicts of Interest.

B. Confirm quorum, location of meeting and posting of meeting notices. Approve agenda.

C. Review and consider Minutes of the October 24, 2022 Regular Meeting (enclosure).

II. ANNUAL ADMINISTRATIVE MATTERS FOR 2023

A. Discuss Director Qualification Statement.

- B. Discuss Disclosure Matters/Update General Conflict Forms.
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- C. Discuss Renewal of Consultants.
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III. PUBLIC COMMENTS

- A. Members of the public may express their view to the Board on matters that affect the District. Comments will be limited to three (3) minutes.
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IV. FINANCIAL MATTERS

- A. Ratify approval of the payment of claims for the period beginning October 17, 2022 through February 21, 2023, in the amount of \$8,653,853.64 (enclosure).
 - B. Review and accept the Cash Position Schedule, dated December 31, 2022, updated as of February 21, 2023 (enclosure).
-

V. LEGAL MATTERS

- A. Discuss status of May 2, 2023 Regular Election.
 - B. Review and ratify approval of the Amended and Restated Intergovernmental Agreement Regarding Cost Sharing of the Extension of Denali Street between HM Metropolitan District No. 1, the District and Colorado International Center Metropolitan District No. 7 (enclosure).
 - C. Review Statement of Authority regarding the Master License Agreement No. 05-80 from Aurora High Point at DIA Metropolitan District to Colorado International Center Metropolitan District #3 (enclosure).
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VI. CAPITAL PROJECTS

- A. Discuss status of the capital improvements projects:

1. Discuss status of the Lisbon Street Extension Project (Millstone Weber, LLC).

2. Discuss status of the 64th Ave. and Denali Street Lighting Package Project.

3. Discuss status of the Possum Gully Channel Improvement Project.

4. Discuss status of the High Point 66th & 67th Ave. Improvement Project.

5. Discuss status of the High Point North Pinon Sanitary Sewer Improvement Project (Vortex Services, LLC).

6. Discuss status of the Gun Club Road Project (RCD Construction Inc.).

7. Review Public Improvement Inspections Permit Center Acceptance Letter (enclosure).

8. Ratify approval of final payment to Zak Dirt, Inc. for the High Point PDI Pond Project.

B. Discuss status of the 66th & 67th Avenue Street Light Project.

1. Ratify award of 66th & 67th Avenue Street Light Project to _____.

2. Ratify approve of Construction Contract/Project Manual with _____.

C. Ratify approval of Change Order with Silverbluff Companies for construction management services (enclosure).

VII. OPERATIONS AND MAINTENANCE

A. _____

VIII. OTHER BUSINESS

A. _____

IX. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR MAY 22, 2023.**

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT HELD OCTOBER 24, 2022

A Regular Meeting of the Board of Directors (referred to hereafter as the "Board") of the Aurora High Point at DIA Metropolitan District (referred to hereafter as the "District") was convened on Monday, the 24th day of October, 2022, at 10:00 a.m. This District Board meeting was held and properly noticed to be held by via Zoom. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Theodore Laudick
Mark Witkiewicz
Andrew Klein

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the absence of Director Otis Moore, III was excused.

Also In Attendance Were:

Ann Finn; Special District Management Services, Inc.

Colin B. Mielke, Esq. and Marissa Peck, Esq.; Seter & Vander Wall, P.C.

Zachary Leavitt; CliftonLarsonAllen LLP

Megan Waldschmidt, Board candidate

DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosure of Potential Conflicts of Interest: The Board noted it was in receipt of disclosures of potential conflicts of interest statements for each of the Directors and that the statements had been filed with the Secretary of State at least seventy-two hours in advance of the meeting. Attorney Mielke requested that the Directors review the Agenda for the meeting and advised the Board of any new conflicts of interest which had not been previously disclosed. No further disclosures were made by Directors present at the meeting.

ADMINISTRATIVE MATTERS

Agenda: Ms. Finn distributed for the Board's review and approval a proposed Agenda for the District's Regular Meeting.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the Agenda was approved, as presented.

Minutes: The Board reviewed the Minutes of the July 25, 2022 Regular Meeting.

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the Board approved the Minutes of the July 25, 2022 Regular Meeting.

Annual Administrative Resolution for Year 2023: The Board reviewed the Annual Administrative Resolution for Year 2023 and discussed 2023 regular meeting dates.

The Board confirmed that Ms. Finn will serve as the District's representative for the Colorado Special Districts Property and Liability Pool.

The Board confirmed its officers as follows:

- Director Klein –President
- Director Moore –Treasurer
- Ms. Finn –Secretary

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the Board adopted the Annual Administrative Resolution for 2023 and set dates for 2023 on the fourth Monday of February, May, July and October 2023 at 10:00 a.m. via Zoom.

Resignation of Mark Witkiewicz from the Board: The Board deferred action at this time.

Resignation of Kevin Smith from the Board: The Board discussed the resignation of Kevin Smith from the Board of Directors.

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the Board acknowledged the resignation of Kevin Smith from the Board of Directors.

PUBLIC COMMENT

There was no public comment.

FINANCIAL MATTERS

Claims: The Board deferred discussion at this time.

Unaudited Financial Statements: Mr. Leavitt reviewed with the Board the Cash Position Schedule, dated June 30, 2022, updated as of June 30, 2022.

RECORD OF PROCEEDINGS

Following discussion, upon motion duly made by Director Klein, seconded by Director Laudick and, upon vote, unanimously carried, the Board accepted the Cash Position Schedule, dated June 30, 2022, updated as of June 30, 2022.

2022 Audit: The Board reviewed the proposal from Schilling & Company, Inc. to perform the 2022 Audit.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Klein and, upon vote, unanimously carried, the Board approved the engagement of Schilling & Company, Inc. to perform the 2022 Audit, for an amount not to exceed \$5,000.

CliftonLarsonAllen LLP 2023 Scope of Work: The Board discussed the 2023 scope of work between the District and CliftonLarsonAllen LLP.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick, and upon vote, unanimously carried, the Board approved the 2023 scope of work between the District and CliftonLarsonAllen LLP.

2022 Budget Amendment Hearing: The President opened the public hearing to consider a Resolution to Amend the 2022 Budget and discuss related issues.

It was noted that publication of a Notice stating that the Board would consider adoption of a Resolution to Amend the 2022 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received, and the Board President closed the public hearing.

Following review and discussion, Director Klein moved to adopt a Resolution to Amend 2022 Budget, Director Witkiewicz seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2022-10-02 to Amend the 2022 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

2023 Budget Hearing: The Board President opened the public hearing to consider the proposed 2023 Budget and the accompanying resolution, and to discuss related issues.

It was noted that publication of a Notice stating that the Board would consider adoption of the 2023 Budget and the date, time and place of the public hearing was made in a newspaper having general circulation within the District. No written objections were received prior to or at this public hearing. No public comments were received. There being no members of the public present, the Board President closed the public hearing.

RECORD OF PROCEEDINGS

Mr. Leavitt reviewed the estimated year-end 2022 revenues and expenditures and the proposed 2023 estimated revenues and expenditures.

Following discussion, the Board considered adoption of a Resolution to Adopt the 2023 Budget and Appropriate Sums of Money. Upon motion duly made by Director Klein, seconded by Director Witkiewicz and, upon vote, unanimously carried, Resolution No. 2022-10-02 was adopted, as discussed, and execution of the Certification of Budget was authorized. Ms. Finn was authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2023.

DLG-70 Mill Levy Certification Form: The Board considered authorizing the District Accountant to prepare and sign the DLG-70 Mill Levy Certification form for certification to the Board of County Commissioners and other interested parties.

Following discussion, upon motion duly made by Director Klein, seconded by Director Witkiewicz and, upon vote, unanimously carried, the Board authorized the District Accountant to prepare, and appointed Director Klein to sign, the DLG-70 Certification of Tax Levies form (“Certification”). The Board further directed the District Accountant to file the Certification with the Board of County Commissioners and other interested parties.

Preparation of the 2024 Budget: The Board discussed preparation of the 2024 Budget.

Following discussion, upon motion duly made by Director Klein, seconded by Director Witkiewicz, and upon vote, unanimously carried, the Board appointed the District Accountant to prepare the 2024 Budget.

Change Order to Agreement for Construction Management Services: The Board discussed a Change Order to Agreement for Construction Management Services with Silverbluff Companies Inc., with Director Laudick abstaining from discussion and vote on the matter.

Following discussion, upon motion duly made by Director Klein, seconded by Director Witkiewicz, and upon vote, unanimously carried with Director Laudick abstaining, the Board approved the Change Order to Agreement for Construction Management Services with Silverbluff Companies Inc., subject to final review of the scope of work.

LEGAL MATTERS

Resolution Calling May 2, 2023 Election: Attorney Mielke reviewed a Resolution Calling May 2, 2023 Election for Directors, appointing Designated Election Official (“DEO”) and authorizing the DEO to perform all tasks required for the conduct of a

RECORD OF PROCEEDINGS

mail ballot election. It was noted Self-Nomination Forms are due by February 24, 2023.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Klein, and upon vote, unanimously carried, the Board adopted the Resolution Calling May 2, 2023 Election for Directors, appointing Designated Election Official(“DEO”) and authorizing the DEO to perform all tasks required for the conduct of a mail ballot election.

CAPITAL PROJECTS

Capital Improvement Projects:

Lisbon Street Extension Project (Millstone Weber, LLC): Director Laudick reported the project is 100% complete and he is awaiting on final acceptance from the City of Aurora.

High Point North Grading Project (Summit Excavation & Grading, LLC): Director Laudick reported that the project is complete.

64th Avenue and Denali Street Lighting Package Project: Director Laudick reported the project is complete and is waiting on Xcel Energy to power up the lights.

Possum Gully Channel Improvement Project: Director Laudick reported the project is complete and he is waiting on a verification letter from Mile High Flood District.

High Point 66th & 67th Ave Improvement Project: Director Laudick reported the project is 95% complete.

High Point North Pinon Sanitary Sewer Improvement Project: Director Laudick reported that the project is 100% complete and he is waiting on final acceptance from the City of Aurora.

Gun Club Road Project (“Project”): Director Laudick reported the project is 65% complete.

66th & 67th Avenue Street Lighting Project: Mr. Laudick noted the bid opening for the 66th & 67th Avenue Street Light Project is scheduled for October 27, 2022.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Klein, and upon vote, unanimously carried, the Board authorized the Construction Committee to award and Mr. Laudick to issue a Notice of Award and Notice to Proceed to the contractor.

RECORD OF PROCEEDINGS

OPERATIONS AND MAINTENANCE

2022/2023 Snow Removal Service Agreement between the District and All Phase Landscape Construction, Inc. The Board discussed the 2022/2023 Snow Removal Service Agreement between the District and All Phase Landscape Construction, Inc.

Following discussion, upon motion duly made by Director Laudick, seconded by Director Klein, and upon vote, unanimously carried, the Board approved the 2022/2023 Snow Removal Service Agreement between the District and All Phase Landscape Construction, Inc.

Service Agreement for 2023 Landscape Maintenance Services between the District All Phase Landscape Construction, Inc. The Board discussed the Service Agreement for 2023 Landscape Maintenance Services between the District All Phase Landscape Construction, Inc.

Following discussion, upon motion duly made by Director Laudick, seconded by Director Klein, and upon vote, unanimously carried, the Board approved the Service Agreement for 2023 Landscape Maintenance Services between the District All Phase Landscape Construction, Inc.

OTHER BUSINESS

There was no other business to discuss at this time.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director Klein, seconded by Director Witkiewicz and, upon vote, unanimously carried, the meeting was adjourned at approximately 10:20 a.m.

Respectfully submitted,

By: _____
Secretary for the Meeting

Aurora High Point at DIA Metro District
Check List - 10/17/2022 - 02/21/2023

VENDOR	PAYMENT AMOUNT	PROCESS DATE	PAYMENT TYPE
All Phase Landscape, Inc.	3,745.25	02/03/23	Check
Aurora Media Group LLC	249.50	02/03/23	ePayment
Dodge Construction Network	430.36	02/03/23	Check
Ground Engineering	5,513.75	02/03/23	ePayment
Hudick Excavating, Inc.	1,041,764.11	02/03/23	Check
Martin/Martin Inc.	11,927.50	02/03/23	ePayment
McGeady Becher P.C.	4,105.50	02/03/23	Check
OTB Supply, Inc.	1,354,791.32	02/03/23	Check
PCS Group, Inc.	1,773.75	02/03/23	Check
RCD Construction Inc	152,574.98	02/03/23	ePayment
Rise Broadband	139.42	02/03/23	ACH
Seter & Vander Wall, P.C.	1,726.91	02/03/23	Check
Silverbluff Companies, Inc.	35,000.00	02/03/23	Check
Special District Management Services, Inc	3,441.11	02/03/23	ePayment
T2 UES Inc	3,040.00	02/03/23	Check
Terracon Consultants Inc.	18,980.50	02/03/23	Vendor Direct
United Site Services, Inc.	708.41	02/03/23	Vendor Direct
Utility Notification Center of Colo.	161.20	02/03/23	Check
Xcel Energy	311.10	02/03/23	Check
Hudick Excavating, Inc.	1,567,012.08	01/11/23	Wire
RCD Construction Inc	298,131.84	01/24/23	ePayment
City of Aurora	216.00	01/05/23	ACH
Hudick Excavating, Inc.	1,995,186.59	01/04/23	Wire
American West Construction LLC	21,821.50	01/04/23	Check
Aurora Media Group LLC	63.05	01/04/23	Check
CliftonLarsonAllen LLP	9,351.30	01/04/23	Check
Dynaletric Company	28,809.77	01/04/23	ePayment
Ground Engineering	2,842.50	01/04/23	ePayment
Martin/Martin Inc.	4,395.00	01/04/23	ePayment
McGeady Becher P.C.	1,402.50	01/04/23	Check
Millstone Weber, LLC	4,142.09	01/04/23	Check
OTB Supply, Inc.	90,537.21	01/04/23	Check
Reliable Home Technology Inc	122.97	01/04/23	Check
Rise Broadband	139.42	01/04/23	ACH
Seter & Vander Wall, P.C.	1,146.50	01/04/23	Check
Silverbluff Companies, Inc.	40,000.00	01/04/23	Check

Special District Management Services, Inc	2,239.20	01/04/23	ePayment
Terracon Consultants Inc.	21,580.50	01/04/23	Vendor Direct
TownCloud, Inc.	2,494.80	01/04/23	ePayment
United Site Services, Inc.	708.41	01/04/23	Vendor Direct
Utility Notification Center of Colo.	609.70	01/04/23	Check
Vortex Services LLC	236,181.04	01/04/23	Check
Wastewater Management Division	123.13	01/04/23	Check
Williams Scotsman, Inc.	3,660.66	01/04/23	Vendor Direct
Xcel Energy	245.50	01/04/23	Check
Zak Dirt, Inc.	132,940.20	01/04/23	Check
All Phase Landscape, Inc.	3,229.89	12/08/22	Check
American West Construction LLC	32,642.00	12/08/22	Check
Aurora Media Group LLC	63.05	12/08/22	Check
CliftonLarsonAllen LLP	12,706.31	12/08/22	Check
CO Special Dist. Prop & Liab. Pool	10,817.00	12/08/22	Check
Ground Engineering	55,681.25	12/08/22	ePayment
Kinder Morgan, Inc.	43,976.00	12/08/22	Check
Martin/Martin Inc.	35,550.00	12/08/22	ePayment
McGeady Becher P.C.	10,344.50	12/08/22	Check
RCD Construction Inc	308,790.31	12/08/22	ePayment
Seter & Vander Wall, P.C.	2,776.50	12/08/22	Check
Silverbluff Companies, Inc.	40,000.00	12/08/22	Check
T2 UES Inc	12,449.00	12/08/22	Check
Utility Notification Center of Colo.	2,327.00	12/08/22	Check
Xcel Energy	178.38	12/08/22	Check
Rise Broadband	139.42	12/07/22	ACH
Terracon Consultants Inc.	68,095.00	12/07/22	Vendor Direct
United Site Services, Inc.	708.41	12/07/22	Vendor Direct
Williams Scotsman, Inc.	3,660.66	12/07/22	Vendor Direct
American West Construction LLC	538,388.79	11/03/22	Check
CliftonLarsonAllen LLP	15,737.40	11/03/22	Check
Dodge Construction Network	93.84	11/03/22	Check
Martin/Martin Inc.	7,347.50	11/03/22	ePayment
McGeady Becher P.C.	5,678.00	11/03/22	Check
RCD Construction Inc	270,378.80	11/03/22	ePayment
Schilling & Company, Inc.	11,900.00	11/03/22	Check
Seter & Vander Wall, P.C.	2,050.50	11/03/22	Check
Silverbluff Companies, Inc.	40,000.00	11/03/22	Check
Special District Management Services, Inc	1,730.20	11/03/22	ePayment
United Site Services, Inc.	708.41	11/03/22	Vendor Direct

Utility Notification Center of Colo.	4,457.70	11/03/22	Check
Williams Scotsman, Inc.	2,928.52	11/03/22	Vendor Direct
Xcel Energy	176.17	11/03/22	Check
City of Aurora	1,655.00	11/01/22	ACH
Total	\$ 8,653,853.64		

AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT

Schedule of Cash Position

December 31, 2022

Updated as of February 21, 2023

	General Fund AHP	Capital Projects Fund	Total
<u>1st Bank - Checking Account</u>			
Balance as of 12/31/22	\$ 602.64	\$ 6,561,977.56	\$ 6,562,580.20
Subsequent activities:			
01/04/23 COA Wire Transfer	-	(216.00)	(216.00)
01/04/23 HEI pay app 8,9 payments	-	(1,995,186.59)	(1,995,186.59)
01/04/23 Bill.com Payments	(14,540.90)	(4,153,857.30)	(4,168,398.20)
01/06/23 Developer Advance	27,000.00	-	27,000.00
01/10/23 Bill.com VOID	-	3,562,198.67	3,562,198.67
01/11/23 Tranfer from Pepsi	-	1,754,308.43	1,754,308.43
01/11/23 HEI pay app 10,11 payments	-	(1,567,012.08)	(1,567,012.08)
01/11/23 COA Payment	(39.37)	-	(39.37)
01/23/23 Tranfer from Pepsi	-	3,693,750.00	3,693,750.00
01/23/23 Rise	-	(139.42)	(139.42)
01/24/23 Bill.com Misc.	-	0.30	0.30
01/24/23 Bill.com Payments	-	(298,131.84)	(298,131.84)
01/24/23 Bill.com Misc.	-	(0.30)	(0.30)
01/25/23 Deposit via HM Metro District No.1	-	1,774,639.00	1,774,639.00
02/02/23 CIC8 Requisition No. 34	-	168,413.91	168,413.91
02/02/23 Developer Advance	12,000.00	-	12,000.00
02/03/23 Bill.com Payments	(12,729.57)	(2,627,515.68)	(2,640,245.25)
02/07/23 Tranfer from Pepsi	-	272,800.00	272,800.00
02/14/23 COA Payment	(40.18)	-	(40.18)
<i>Anticipated Refund from CIC8 (UMB fees)</i>	<i>4,000.00</i>	<i>-</i>	<i>4,000.00</i>
<i>Anticipated Balance</i>	<i>16,252.62</i>	<i>4,566,574.97</i>	<i>7,162,281.28</i>
 Reserve for TABOR	 (12,300.00)	 -	 (12,300.00)
 <i>Anticipated Balance</i>	 <i>3,952.62</i>	 <i>4,566,574.97</i>	 <i>7,149,981.28</i>

**AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT –
REGARDING COST SHARING OF THE EXTENSION OF DENALI STREET
(60TH AVENUE TO 66TH AVENUE)**

THIS AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT – REGARDING COST SHARING OF THE EXTENSION OF DENALI STREET (60TH AVENUE TO 66TH AVENUE) (“Agreement”) is made and entered into as of the 7th day of December, 2022, by and between **HM METROPOLITAN DISTRICT NO. 1 (“HM 1”), AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT (“AHMD”), and COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 7 (“CIC 7,”** and together with HM 1 and AHMD, the **“Districts”**), all quasi-municipal corporations and political subdivisions of the State of Colorado, (HM 1, AHMD, and CIC 7 may individually be referred to herein as a **“Party”** and collectively referred to as the **“Parties”**).

WITNESSETH:

- A. The Districts are special districts, duly organized pursuant to Title 32 of the Colorado Revised Statutes (“**C.R.S.**”).
- B. Pursuant to Section 32-1-1006(1)(d), C.R.S., the Districts have the authority to enter into contracts and agreements affecting the affairs of the Districts.
- C. Pursuant to Section 29-1-203(1), C.R.S., governments may cooperate or contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating or contracting units, including the sharing of costs.
- D. The service areas of the Districts are within the City of Aurora (the **“City”**) and adjacent to each other.
- E. Pursuant to the service plans (the **“Service Plans”**) for each of the Districts approved by the City, each District has the power to provide for the design, construction and funding of street, traffic, safety control, drainage, water, sewer and other public improvements.
- F. The service areas for each of the Districts will benefit from the construction of that portion of Denali Street (f/k/a De Gaulle Street) between 60th Avenue and 66th Avenue (the **“Denali Street Improvements”**).
- G. HM 1 and AHMD previously entered into that certain Intergovernmental Agreement – Regarding Cost Sharing of the Extension of Denali Street, effective October 7, 2020 (the **“AHMD Cost Sharing Agreement”**), pursuant to which HM 1 and AHMD agreed to share the costs of the bidding and construction of the Denali Street Improvements, subject to further agreement in writing regarding each party’s allocation of the costs.
- H. HM 1 and Colorado International Center Metropolitan District No. 11 (**“CIC 11”**)¹ previously entered into that certain Cost Sharing and Reimbursement Agreement dated

¹ CIC 7 and CIC 11 subsequently entered into a Master Intergovernmental Agreement dated and effective October 7, 2021, pursuant to which CIC 7 and CIC 11 agreed that CIC 7, as the Operating District, would own, acquire, operate,

August 20, 2020 (the “**CIC 11 Cost Sharing Agreement**”), pursuant to which HM and CIC 11 agreed to share in the costs of design of the Denali Street Improvements.

I. Design of the Denali Street Improvements was completed pursuant to the CIC 11 Cost Sharing Agreement, prior to this Agreement.

A. AHMD has agreed to coordinate the construction of the Denali Street Improvements.

B. The Parties wish to amend and restate in its entirety the AHMD Cost Sharing Agreement to add CIC 7, on behalf of CIC 11, as a party thereto.

C. The Parties state and agree that CIC 7 shall participate in the construction of the Denali Street Improvements only as they relate to the new pond at 68th Avenue (the “**Pond**”).

D. The Parties desire to set forth their agreements with respect to the allocation of responsibility for funding, construction, and reimbursement of funds advanced for construction of the Denali Street Improvements according to the terms and conditions stated in this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. **Acknowledgment and Incorporation of Recitals.** The foregoing recitals are hereby acknowledged by the Parties to be true and correct and are incorporated into this Agreement.

2. **Definitions.**

(a) “Agreement” shall mean this Amended and Restated Intergovernmental Agreement – Regarding Cost Sharing of the Extension of Denali Street (60th Avenue to 66th Avenue).

(b) “AHMD” shall mean the Aurora High Point at DIA Metropolitan District.

(c) “AHMD Monthly Invoices Payment” shall have the meaning set forth in Section 6(b).

(d) “AHMD Monthly Invoices Payment Documentation” shall have the meaning set forth in Section 6(b).

(e) “AHMD Monthly Invoices Reimbursement” shall have the meaning set forth in Section 6(c).

maintain, finance and construct certain Public Improvements (as defined therein), which include the Denali Street Improvements.

- 6(c). (f) “AHMD Payment Procedure” shall have the meaning set forth in Section
- 6(c)(iii). (g) “AHMD Proportionate Share” shall have the meaning set forth in Section
- (h) “AHMD Reimbursement Payment Due Date” shall have the meaning set forth in Section 6(c).
- District No. 7. (i) “CIC 7” shall mean the Colorado International Center Metropolitan
- 6(c)(ii). (j) “CIC 7 Proportionate Share” shall have the meaning set forth in Section
- (k) “City” shall mean the City of Aurora, State of Colorado.
- (l) “Commencement” shall have the meaning set forth in Section 10.
- (m) “Construction Contracts” shall have the meaning set forth in Section 5(b).
- (n) “Consultants” shall have the meaning set forth in Section 6(a).
- (o) “Cost Increase” shall have the meaning set forth in Section 6(e).
- (p) “Cost Increase Notice” shall have the meaning set forth in Section 6(e).
- (q) “Costs” shall have the meaning set forth in Section 5(d)(ii).
- (r) “Deficiency Payment” shall have the meaning set forth in Section 6(f)(ii).
- (s) “Denali Street Improvements” shall have the meaning set forth in Recital
- F. (t) “Effective Date” shall mean the date this Agreement is executed by all the
- Parties. (u) “Estimated Construction Cost” shall have the meaning set forth in Section
- 5(d)(ii). (v) “Expedited Disputes” shall have the meaning set forth in Section 8.
- (w) “Final Accounting” shall have the meaning set forth in Section 6(f).
- (x) “Final City Acceptance” shall have the meaning set forth in Section 5(g).
- (y) “GC Contract” shall have the meaning set forth in Section 5(b).
- (z) “General Contractor” shall have the meaning set forth in Section 5(b).

- (aa) “HM 1” shall mean HM Metropolitan District No. 1
- (bb) “HM 1 Proportionate Share” shall have the meaning set forth in Section 6(c)(i).
- (cc) “Informal Engineer” shall have the meaning set forth in Section 8.
- (dd) “Initial City Acceptance” shall have the meaning set forth in Section 5(g).
- (ee) “Joint Punchlist” shall have the meaning set forth in Section 5(e).
- (ff) “Material Scope Change” shall have the meaning set forth in Section 5(c).
- (gg) “Monthly Inspection” shall have the meaning set forth in Section 5(d)(iv).
- (hh) “Party” and “Parties” shall each have the meanings provided in the introductory paragraph of this Agreement.
- (ii) “Party Directed Change” shall have the meaning set forth in Section 6(e)(i).
- (jj) “Plans and Specifications” shall have the meaning set forth in Section 5.
- (kk) “Pond” shall mean the new pond being relocated to 68th Avenue, as referenced on **Exhibit A** hereto.
- (ll) “Project Manager” shall have the meaning set forth in Section 5(a).
- (mm) “Proportionate Share” shall have the meaning set forth in Section 6(c)(iii).
- (nn) “Requesting Entity” shall have the meaning set forth in Section 6(e)(i).
- (oo) “Uncontrollable Event” shall have the meaning set forth in Section 11.
- (pp) “Working Day” shall mean a day in which the offices of the City of Aurora are open and operating.

3. **Term.** This Agreement shall commence upon the Effective Date and shall continue through and until Final City Acceptance of the Denali Street Improvements as more fully set forth below. It is intended that this Agreement address solely the rights and obligations of the Parties with respect to the construction of the Denali Street Improvements.

4. **Street Improvements.** The Parties agree that, pursuant to the CIC 11 Cost Sharing Agreement, CIC 11 undertook the design of the Denali Street Improvements and the design work has been completed. The Parties further agree that AHMD shall undertake the construction and installation of the Denali Street Improvements, including the acquisition of all applicable permits, subject to the funding obligations of HM 1 and CIC 7 as set forth herein. The Parties further agree that any changes in the scope of the construction of the Denali Street Improvements shall be approved by all Parties.

5. **Contracting / Construction.** CIC 11 has completed, and HM 1 has approved, the design drawings and plans and specifications for the Street (“**Plans and Specifications**”) to a level sufficient to advertise for bids or contract under a design/build or other appropriate contracting form to complete the Denali Street Improvements.

(a) **Project Manager/Construction Manager.** AHMD has engaged Silverbluff Companies, Inc. to act as the project/construction manager (the “**Project Manager**”).

(b) **General Contractor.** AHMD engaged M. A. Mortenson Company to serve as general contractor (the “**General Contractor**”). AHMD has provided a copy of the contract with the General Contractor (the “**GC Contract**”) to HM 1 and CIC 7. The GC Contract, together with any subcontracts issued thereunder, shall be referred to herein as the “**Construction Contracts.**”

(c) AHMD shall construct and complete the Denali Street Improvements in accordance with the Plans and Specifications. Any significant deviation from or modification to the Plans and Specifications shall be subject to the prior review and written approval of HM 1 and CIC 7, if and to the extent it negatively impacts the intended use, functionality, or availability of the Denali Street Improvements (“**Material Scope Change**”). The Parties agree that CIC 7’s right to object to a Material Scope Change shall be limited to only such Material Scope Changes that relate to the Pond. After receipt of notice of a significant deviation, HM 1 and CIC 7 shall have ten (10) Working Days to object to such changes in writing to AHMD. If the Parties are unable to agree on a resolution of the Material Scope Change to the satisfaction of the Parties within ten (10) Working Days after receipt of the written objection, then the Expedited Dispute resolution process set forth in Section 8 below may be invoked by any Party. Failure of HM 1 or CIC 7 to object in writing as specified in the prior sentence shall be deemed as approval of such change(s) or change order(s) resulting from the Material Scope Change for purposes of this Agreement. HM 1 and CIC 7, including their representatives, engineers, and consultants shall be allowed reasonable access to the site for review of progress on completion of the Denali Street Improvements subject to insurance requirements and construction necessitated restrictions as deemed reasonable by the contractor(s). Any such access shall be completed in a manner so as to not interfere with any construction work in progress.

(d) **Procedure.**

(i) **Construction Contract Requirements.** The Construction Contracts shall require the contractors to provide warranties for the period of time required by the City. AHMD shall provide HM 1 and CIC 7 with a copy of the Construction Contracts, including any and all change orders, addenda or other modifying documentation, as soon as available.

(1) Each and every Construction Contract entered into by AHMD shall contain a provision providing for the contractors’ indemnification of the Parties to this Agreement for any damage or claim arising from the contractors’, their subcontractors’, their employees or agents actions in connection with the work being performed under the applicable Construction Contract, including, but not limited to, property damage or injury or death to persons resulting from the work.

(2) Additionally, each and every Construction Contract entered into by AHMD shall require the contractor to carry adequate insurance coverage, and all of the Parties shall be named as an additional insured under any insurance policies required by the Construction Contracts. At a minimum, such insurance shall include (a) commercial general liability insurance with coverage of not less than \$1,000,000 combined single limit and \$2,000,000 in the aggregate, (b) an automobile liability policy for owned, non-owned and hired vehicles with a combined single limit of at least \$1,000,000, and (c) an excess/umbrella liability policy of insurance with limits of no less than \$5,000,000. The policies shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against the additional insureds, in connection with any loss or damage thereby insured against. The policies shall be primary and non-contributing with any insurance maintained by the additional insureds.

(ii) **Approval of Costs.** The Parties agree that the total estimated Costs (defined below) associated with the funding and construction of the Street is Three Million Eight Hundred Seventeen Two Hundred Fifty Eight Dollars (\$3,817,258) (“**Estimated Construction Costs**”). For purposes hereof, “**Costs**” shall mean all hard and soft costs incurred in connection with the funding, construction and installation of the Denali Street Improvements, including, but not limited to, costs of labor, materials and suppliers, engineering, construction management, project management, marketing and consultant fees and costs, legal fees and costs, blue printing services, construction staking, demolition, soil amendments or compaction, any processing, plan check or permit fees for the Denali Street Improvements, engineering services required to obtain a permit for and complete the Denali Street Improvements, costs of compliance with all applicable laws, costs of insurance, costs of financial assurances, actual and reasonable costs of obtaining and documenting the agreements relating to the funding of the Denali Street Improvements including, but not limited to, any corrections, changes or additions to work required by governmental authorities, or necessitated by site conditions, municipal, state and county taxes imposed in connection with the construction of the Denali Street Improvements, any warranty work, and any other costs incurred in connection with the performance of the obligations of AHMD hereunder to complete the Denali Street Improvements, not including landscaping and sidewalks.

(iii) **Periodic Reports.** AHMD will provide periodic reports to HM 1 and CIC 7, on the tenth (10th) Working Day of each month, which periodic report shall include the status of completion, status of construction schedule including any delays or anticipated delays and costs of the Street including any need for change orders or anticipated cost overruns.

(iv) **Pre-Construction Meeting/Interim Inspections.** Following award of the Construction Contracts, AHMD had a pre-construction meeting with the General Contractor. The General Contractor shall provide a proposed construction schedule and schedule of monthly inspections at which the work subject to the AHMD Monthly Invoices Reimbursement (as defined below) being processed for the prior 30-day period shall be inspected to confirm its percentage of completion and its compliance with the Plans and Specifications (each, a “**Monthly Inspection**”). The General Contractor, the Project Manager, and a representative of AHMD were present at the pre-construction meeting and shall be present at each Monthly Inspection. HM 1 and CIC 7 shall have the right, but not the obligation, to attend the Monthly Inspections.

(v) **Construction Coordination.** AHMD shall be considerate of the need for coordination of on-site development and construction of the Denali Street Improvements. The Parties agree to use reasonable efforts to coordinate construction to achieve cost-savings and cost-sharing on appropriate construction components, such as grading activities.

(e) **Walk-Through and Punch List.** AHMD shall notify HM 1 and CIC 7 prior to completion of the Denali Street Improvements, with the date(s) and time(s) the City will inspect the Denali Street Improvements. Within ten (10) days after receipt by HM 1 and CIC 7 of such notice from AHMD, AHMD, HM 1 and CIC 7 shall jointly inspect the Denali Street Improvements and produce a punchlist (the “**Joint Punchlist**”). If the Parties are unable to agree upon a punchlist within five (5) days after the joint inspection described above, then any dispute related to such punchlist shall be submitted to the Expedited Dispute resolution process below. HM 1 and CIC 7 shall have the right to be present at all inspections by the City. AHMD shall provide HM 1 and CIC 7 with copies of any inspection reports or punchlists received from the City in connection with the inspection of the Denali Street Improvements, and AHMD shall be responsible to correct punchlist items from the City and those contained on the Joint Punchlist. If the City grants preliminary acceptance of the Denali Street Improvements that it will accept for maintenance, it shall conclusively be presumed that the Denali Street Improvements were completed in accordance with this Agreement, subject to completion of any punchlist items provided by the City.

(f) **Correction of Joint Punchlist Items.** AHMD shall cause any Joint Punchlist items to be corrected within the time required by the City or such shorter time as may be agreed to by the Parties as part of the Joint Punchlist.

(g) **Initial and Final Acceptance.** AHMD shall provide HM 1 and CIC 7 with prior notice of its intent to seek preliminary acceptance of the Denali Street Improvements from the City. For purposes of processing final draws on the Construction Account, HM 1 and CIC 7 shall accept the Denali Street Improvements as complete after preliminary acceptance from the City (prior to the applicable warranty period commencing), and prior to final acceptance by the City (“**Initial City Acceptance**”) upon receipt, review, and approval by HM 1’s and CIC 7’s accountants and engineers of the following:

(i) Copies of all contracts, pay requests, change orders, invoices, the final AIA payment form (or similar form), canceled checks and any other requested documentation to verify the amount requested; and

(ii) Such other documentation, records and verifications as may reasonably be required by HM 1 or CIC 7.

HM 1 may, in its discretion, waive any of the foregoing conditions as to the Initial City Acceptance of the Denali Street Improvements. AHMD shall be responsible, at its sole cost and expense, for the maintenance of the Denali Street Improvements until such time as they have been finally accepted by and conveyed to the City (“**Final City Acceptance**”), in accordance herewith.

(h) **Ownership and Maintenance.** The Parties may agree to cost-share the operations and maintenance costs of some of the Denali Street Improvements. As of the date of this Agreement, however, the Parties agree that AHMD shall be the Party that maintains the Denali Street Improvements to the extent not owned, operated and maintained by the City.

(i) **Assignment of Warranties.** Upon Initial City Acceptance of the Denali Street Improvements, AHMD shall cause any warranties and/or guarantees of workmanship or materials to be assigned to the City, or to the entity responsible for operation and maintenance of the Denali Street Improvements pursuant to subsection (i) above, on a non-exclusive basis, in a form mutually acceptable to the Parties. AHMD shall be responsible for obtaining any contractor consents, if necessary, to effectuate such assignment. Notwithstanding the foregoing, if AHMD is required to perform any warranty repairs to the Denali Street Improvements following Initial City Acceptance, AHMD shall work with the City to enforce any such warranties and/or guarantees that have been assigned.

6. **Funding for Construction Costs.**

(a) AHMD has obtained proposals and cost estimates for the construction of the Denali Street Improvements as indicated in the Estimated Construction Costs reflected in **Exhibit A**, attached hereto and incorporated herein. The General Contractor will enter into contracts with a consultant or consultants (“**Consultants**”) to perform any such construction work.

(b) The Parties agree that the Consultants shall provide services directly related to the construction of the Denali Street Improvements under the terms of their engagement with AHMD and/or the General Contractor. AHMD will make timely payment of Consultants’ invoices and payment of any fees paid to governmental authorities and agencies (the “**AHMD Monthly Invoices Payment**”). AHMD will distribute, on a monthly basis, copies of the Consultant’s invoices and documents related to fees paid to governmental authorities or agencies to HM 1 and CIC 7 and certification by AHMD of the amounts paid on each invoice that are directly related to the construction of the Denali Street Improvements (“**AHMD Monthly Invoices Payment Documentation**”). The first distribution by AHMD of the AHMD Monthly Invoices Payment Documentation shall include the invoices for any work incurred prior to the date hereof and the certification by AHMD of the amounts paid on each invoice constituting advances directly related to the construction of the Denali Street Improvements. HM 1 and CIC 7 shall have the opportunity to review the AHMD Monthly Invoices Payment Documentation and any objections to the amounts or applicability of the invoiced amount shall be provided to AHMD within twenty (20) business days of receipt of the AHMD Monthly Invoices Payment Documentation. AHMD shall provide documentation or substantiation required to address any such objection within ten (10) business days of receipt of an objection. If an objection is not resolved, payment of such contested amount(s) shall be removed from the AHMD Monthly Invoices Reimbursement (defined below) until resolved by the Parties.

(c) Within sixty (60) days of receipt of the AHMD Monthly Invoices Payment Documentation (the “**AHMD Reimbursement Payment Due Date**”), AHMD shall be reimbursed for the AHMD Monthly Invoices Payment (the “**AHMD Monthly Invoices**”).

Reimbursement") in accordance with the payment procedure set forth on **Exhibit A** (the "**AHMD Payment Procedure**"):

(i) HM 1 shall submit its share of the AHMD Monthly Invoices Reimbursement by the AHMD Reimbursement Payment Due Date (the "**HM 1 Proportionate Share**").

(ii) CIC 7 shall submit its share of the AHMD Monthly Invoices Reimbursement regarding costs related only to the Pond by the AHMD Reimbursement Payment Due Date (the "**CIC 7 Proportionate Share**").

(iii) AHMD shall be responsible for its share of the AHMD Monthly Invoices Reimbursement (the "**AHMD Proportionate Share**," and with the HM 1 Proportionate Share and the CIC 7 Proportionate Share, the "**Proportionate Share**").

(d) If additional services are required or additional expenses are to be incurred by AHMD that are related to the construction of the Denali Street Improvements which exceed the budget set forth on **Exhibit A**, AHMD shall distribute to HM 1 and CIC 7 a summary of the scope of work and a brief summary of the need for the work or expense. Upon receipt of written approval of HM 1 and CIC 7, AHMD may proceed to either process a change order or enter into a new contract for the scope of work or payment of the expense.

(e) **Cost Increases.** The GC Contract will require the General Contractor to notify the Parties in writing (each, a "**Cost Increase Notice**") of any proposed Cost Increase (hereinafter defined). To the extent that the Estimated Construction Costs increase for any reason whatsoever, except for a Party Directed Change (each, a "**Cost Increase**"), HM 1, CIC 7 and AHMD shall each fund their Proportionate Share for such increase based on **Exhibit A** attached hereto for each specific public improvement. If the Cost Increase is due to a change in scope requested by the General Contractor and such change in scope is not identified on **Exhibit A** attached hereto, the Parties shall in good faith determine the Proportionate Share attributable to such change in scope for each Party. If the Parties are unable to agree upon the Proportionate Share related to the change in scope within ten (10) Working Days following the request from the General Contractor, such dispute shall be resolved pursuant to Section 8 below for Expedited Disputes.

(i) Notwithstanding the foregoing, if any of the Parties (as, applicable, the "**Requesting Entity**") requests a change of scope that increases the costs of the Denali Street Improvements and which change in scope is not requested by the General Contractor or necessary to comply with applicable laws (a "**Party Directed Change**"), the Requesting Entity shall be responsible for 100% of the Cost Increase associated therewith, except as may be separately agreed to by the Parties if such Party Directed Change would result in cost savings for other portions of the Denali Street Improvements or result in a future reduction of operations and maintenance costs associated with the Denali Street Improvements. The full amount of such Cost Increase must be funded by the Requesting Entity prior to AHMD being obligated to either include such work within the Construction Contracts and/or process a change order to the Construction Contracts to include such Party Directed Change, as the case may be. AHMD shall cause the Construction Contracts to require the contractor to provide notice to the Parties of any

Cost Increase and each line item that has been increased following receipt of the bids for the Construction Contracts and following award of the Construction Contracts.

(1) Additionally, any Party Directed Change not required due to unforeseen site conditions or to comply with law must be approved by all of the Parties to this Agreement if the same would create a material delay.

(f) **Accounting**. AHMD shall keep good and accurate books and records in sufficient detail to allow the Costs to be calculated, which books and records shall be made available for review (upon reasonable prior written notice) by HM 1 or CIC 7. Within sixty (60) days following Initial City Acceptance, AHMD shall deliver to HM 1 and CIC 7 a reasonably detailed final accounting of the Costs (the “**Final Accounting**”). HM 1 and CIC 7 shall have the right to review the Final Accounting at their own expense.

(i) **Repayment of Overages**. Upon completion of the Final Accounting, any overage attributable to AHMD shall be reimbursed to AHMD pursuant to the AHMD Proportionate Share. Likewise, upon completion of the Final Accounting, any overage attributable to HM 1 or CIC 7 shall be reimbursed pursuant to each party’s Proportionate Share.

(ii) **Deficiencies**. Any deficiency shall be paid by HM 1 or CIC 7 within thirty (30) days following the Final Accounting (the “**Deficiency Payment**”). The repayment of any overages or deficiencies shall be based on the Proportionate Share.

7. **Reimbursement of Funding Obligations**.

(a) **Cost Recovery**. To the extent AHMD is entitled to cost recovery from the City or any third party directly related to the Denali Street Improvements, AHMD will remit to HM 1 and CIC 7 their respective Proportionate Shares of any such rebates associated with the Street. AHMD agrees to use good faith efforts for any oversized public improvements to seek cost recovery from the City or any benefitted person or entity.

8. **Expedited Disputes**. Notwithstanding anything to the contrary herein, disputes related to the approval of the Plans and Specifications, construction schedule or budget, change orders, Material Scope Changes, Joint Punchlist items, and the AHMD Monthly Invoices Reimbursements (“**Expedited Disputes**”) shall all be resolved by having AHMD appoint an engineer with technical knowledge regarding the disputed matter and the appointed engineers will agree upon a third engineer to make the final determination (the “**Informal Engineer**”), which shall be binding on the Parties. All other disputes that are not Expedited Disputes may be resolved by any means available to a Party at law or in equity.

9. **Warranties**. AHMD shall construct the Denali Street Improvements in a good and workmanlike manner and in substantial compliance with the Plans and Specifications and the Construction Contracts and requirements of this Agreement.

10. **Time of Performance**. AHMD shall commence construction of the Denali Street Improvements within ten (10) days following the date that the City approves the Plans and Specifications and diligently prosecute construction of the Denali Street Improvements through completion (“**Commencement**”). Subject to Force Majeure, the Denali Street Improvements

will be substantially complete by the date that is eighteen (18) months following Commencement, unless otherwise agreed to in writing by the Parties.

11. **Force Majeure.** The completion date and all other dates set forth in any construction schedule and the time for performance by AHMD under the construction schedule or this Agreement, shall be extended by a period of time equal to any period that such performance or progress in construction of the Denali Street Improvements is delayed due to any Dispute, as defined above, acts or failure to act of any governmental authority including the City, strike, riot, act of war, act of terrorism, act of violence, unseasonable or intemperate weather, pandemic or delay caused by a pandemic, such as close of governmental offices or delayed review and processing times by governmental authorities as a result of remote work or office closures, act of god, or any other act, occurrence or non-occurrence beyond AHMD's reasonable control (each, an "**Uncontrollable Event**"). Notwithstanding the foregoing, delay caused by AHMD's failure to pay amounts it owes under this Agreement or that are otherwise due and payable by AHMD relating to this Agreement or the Denali Street Improvements, including, without limitation, amounts owed to contractors, shall not constitute an Uncontrollable Event unless such delay is caused by the failure of the Parties to timely perform their obligations under this Agreement.

12. **Representations.** The Parties hereby represent they each have sufficient funds available and appropriated for the purposes of satisfying their obligations hereunder.

13. **Remedies.** The Parties each acknowledge and agree that they may each exercise all rights and remedies in law or in equity, by a decree in specific performance, or such other legal or equitable relief as may be available. In the event of any litigation, arbitration, or other proceeding to enforce the terms, covenants, or conditions hereof, the prevailing party in such litigation, arbitration or other proceeding shall be awarded as part of its judgment or award its reasonable attorneys' fees.

14. **Intentionally Deleted.**

15. **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 sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

The HM District:	HM Metropolitan District No. 1
	c/o CliftonLarsonAllen LLP
	8390 E. Crescent Pkwy., Suite 500
	Greenwood Village, Colorado 80111
	Attn: Matt Urkoski

With a Copy to: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203
Phone: 303-592-4380
Email: legalnotices@specialdistrictlaw.com

The CIC District: Colorado International Center Metropolitan District
No. 7
c/o Special District Management Services, Inc.
141 Union Blvd., Ste. 150
Lakewood, CO 80228
Attn: Ann Finn
Phone: 303-987-0835
Email: afinn@sdmsi.com

With a copy to: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203
Phone: 303-592-4380
Email: legalnotices@specialdistrictlaw.com

AHMD: Aurora High Point at DIA Metropolitan District
c/o Special District Management Services, Inc.
41 Union Boulevard, Suite 150
Lakewood, CO 80228
Attn: Ann Finn
Phone: 303-987-0835
Email: afinn@sdmsi.com

With a copy to: Seter & Vander Wall, P.C.
7400 East Orchard Road, Suite 3300
Greenwood Village, CO 80111
Attn: Colin Mielke
Phone: 303-770-2700
Email: cmielke@svwpc.com

16. **Appropriation.** Pursuant to Section 29-1-110, C.R.S., any financial obligations of AHMD, HM 1 and CIC 7 contained herein that are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis.

17. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

18. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, Adams County, State of Colorado, and the Parties waive any right to remove any action to any other court, whether state or federal.

19. **Separate Entities.** The Parties enter into this Agreement as separate, independent entities and shall maintain such status throughout.

20. **No Third-Party Beneficiaries.** 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 Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only. No Party is jointly and severally liable for the obligations of any other Party.

21. **Entirety.** This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.

22. **Amendments.** This Agreement may be amended, in whole or in part, only by written instrument executed by the Parties.

23. **Assignment.** This Agreement may not be assigned or delegated without the prior written consent of the Parties, which consent shall not be unreasonably withheld, conditioned or delayed.

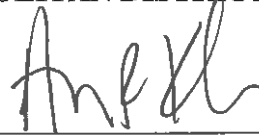
24. **Counterparts, Electronic Signatures and Electronic Records.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document. Facsimile signatures shall be accepted as originals. The Parties consent to the use of electronic signatures by either Party hereto. This Agreement and any other documents requiring a signature may be signed electronically by each Party in the manner specified by that Party. The Parties agree not to deny the legal effect or enforceability of this Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of this Agreement in the form of an electronic record, a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By:



Andrew Klein, President

Attest:



Secretary

HM METROPOLITAN DISTRICT NO. 1

By:

Rick Wells, President

Attest:

Secretary

**COLORADO INTERNATIONAL CENTER
METROPOLITAN DISTRICT NO. 7**

By:

Timothy D'Angelo, President

Attest:

Secretary

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

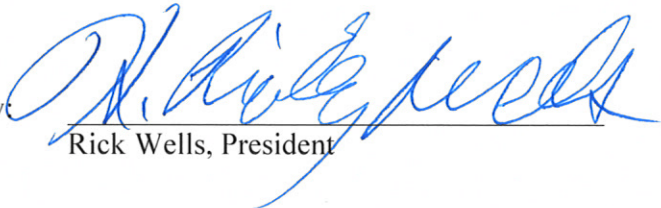
**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By: _____
_____, President

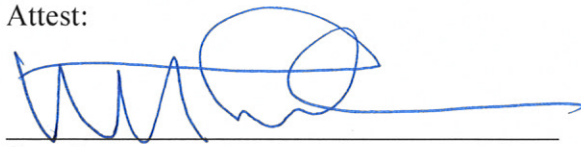
Attest:

Secretary

HM METROPOLITAN DISTRICT NO. 1

By: 
Rick Wells, President

Attest:



Secretary

**COLORADO INTERNATIONAL CENTER
METROPOLITAN DISTRICT NO. 7**

By: _____
Timothy D'Angelo, President

Attest:

Secretary

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By: _____
_____, President

Attest:

Secretary

HM METROPOLITAN DISTRICT NO. 1

By: _____
Rick Wells, President

Attest:

Secretary

**COLORADO INTERNATIONAL CENTER
METROPOLITAN DISTRICT NO. 7**

By: Tim D'Angelo
Timothy D'Angelo, President

Attest:

Ann Finn
Secretary

EXHIBIT A

Estimated Construction Costs/Proportionate Share

All financing, legal; engineering; surveying; materials testing; project management; construction management costs applicable for the project plus a project contingency amount, as reflected in the chart set forth below.

The estimated costs in this Exhibit represent 100% of the estimated total cost of the project.

DENALI STREET PROJECT - COST SHARING ANALYSIS (60th Ave to 66th Ave)

	WS	FW	Hyde	
	AHMD	HM 1	CIC 7	TOTALS
TOTAL SHARED COSTS THROUGH MAY 2022	4,068,861			
remove costs for Aurora Highpoint work				
extra offsite work				(21,809)
CBC's for Possum Gulley crossing @ 68th Ave				(229,794)
SUBTOTAL - NET SHARED COST AFTER AHMD WORK REMOVED	3,817,258			
REMOVE ALL COSTS RELATED TO POND (see allocation below)				
cost for original pond @ 68th Ave (see analysis below)				(152,096)
relocate 68th Ave pond (see analysis below)				(364,773)
SUBTOTAL FOR DENALI STREET SHARED COSTS	3,300,389			
	1,650,195	1,650,195	-	3,300,389
ADD BACK INTO TOTALS - SHARED COSTS FOR NEW POND @ 68th AVE				
ADDED cost to relocate pond to 68th Ave				364,773
carrier pipe extension (66th - 68th pond) - CIC only				(219,583)
NET ADDED COST FOR NEW POND EXCLUDING CARRIER PIPE				145,190
	48,397	48,397	219,583	48,397
cost for original pond @ 68th Ave				76,048
	76,048	76,048	-	-
SUBTOTAL SHARED COSTS FOR POND RELOCATION @ 68th AVE	124,445	124,445	267,980	516,869
TOTAL SHARED COSTS FOR DENALI STREET & POND	1,774,639	1,774,639	267,980	3,817,258

excluded from cost sharing analysis:

design costs to relocate pond to 68th Ave of \$25,430 (Martin / Martin) - paid by CIC / Hyde outside of this cost analysis

STATEMENT OF AUTHORITY

(Section 38-30-172, C.R.S.)

1. This Statement of Authority relates to an entity named Aurora High Point at DIA Metropolitan District
2. The type of entity is a quasi-municipal corporation and political subdivision of the State of Colorado, duly organized and operating pursuant to Article 1, Title 32, Colorado Revised Statutes.
3. The entity is formed under the laws of the State of Colorado.
4. The mailing address for the entity is:

c/o Special District Management Services, Inc.
141 Union Blvd., #150
Lakewood, CO 80228
Attn: Ann Finn
Phone: (303) 987-0835
Email: afinn@sdmsi.com

With a copy to:

Seter & Vander Wall, P.C.
7400 E. Orchard Road, Suite 3300
Attn: Colin Mielke
Greenwood Village, CO 80111
Phone (303) 770-2700
Email: cmielke@svwpc.com

5. The name and position of each person authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity is:

Andrew Klein in his capacity as President of the Board of Directors of Aurora High Point at DIA Metropolitan District

6. The authority of the foregoing person(s) to bind the entity is not limited, or limited as follows:

Performance of activities and execution of all documents necessary to complete the assignment of the Master License Agreement No. 05-80 from Aurora High Point at DIA Metropolitan District to Colorado International Center Metropolitan District #3

7. Other matters concerning the manner in which the entity deals with interests in real property:

N/A

8. This Statement of Authority is executed on behalf of the entity pursuant to the provisions of Section 38-30-172, C.R.S.

{00629645 2}

9. This Statement of Authority amends and supersedes in all respects any prior Statement of Authority executed on behalf of the entity.

Executed on _____

Name

State of Colorado

.ss

County of _____

The foregoing instrument was acknowledged before me this _____ day of _____,
2022 ,

-by

Witness my hand and official seal.

Notary Public

My commission expires:

15151 E Alameda Parkway, Suite 2400
Aurora CO 80012
303-739-7300



Worth Discovering • auroragov.org

Plat:

January 18, 2023

PERMIT#: 2021205332800
WORK ORDER#: 0
PROJECT NAME: HIGH POINT LISBON STREET EXTENSION

HIGH POINT AT DIA METRO DISTRICT

PROJECT DESCRIPTION: CONCRETE FLATWORK - 5,685LF VERTICAL CURB AND GUTTER; 166LF MOUNTABLE CURB AND GUTTER; 800LF SIDEWALK; 5,535SF MEDIAN; (6) ADA RAMPS PER APPROVED CIVIL PLAN
LOCATION #:

Public Improvements as constructed by your contractor, as noted, were inspected for conformance to City Specifications and requirements. The improvements are hereby initially accepted by the City.

You are required to warrant the improvements for a one (1) year period from the date of initial acceptance or longer as noted below. Please call for re-inspection thirty (30) days prior to the expiration of the warranty period. Your failure to arrange for the re-inspection will automatically extend the warranty period. Should structural or material failures occur during the warranty period, or if additional deficiencies are detected during this period, you will be required to make repairs, replace defective materials and correct deficiencies before the City will accept responsibility for maintenance of the improvements. Repairs, replacement materials and corrections are to be further warranted for a one (1) year period from the date that repairs, replacement or corrections are made.

TYPE OF IMPROVEMENTS:

CROSSPAN	0	Ea.	RADIUS/HANDICAP	6	Ea.	STREET PATCHING	0	Sq. Ft.
STREET CUTS	0	Sq. Ft.	COMBO/CGW	0	Ft	WALK/BIKE PATH	800	Ft
VERTICAL CURB/GUTTER	5685	Ft	SIDEWALK CHASE DRAIN	0	Ea.	MED COV/ CONC AGG	5535	Sq. Ft.
STREET PAVING	0	Sq. Ft.	CURB CUTS/DRIVEWAYS	0	Ea.	OVERLOT GRADING	0	Acre
OUTLETS	0	Ea.	SUBGRADE PREP	0	Sq. Ft.			

ACCEPTED FOR WARRANTY:

Digital Signature Authorized
By Terry von Clausburg
Terry von Clausburg

January 18, 2023

Supervisor, Public Improvement Inspections

Date

ACCEPTED FOR CITY MAINTENANCE:

Supervisor, Public Improvement Inspections

Date

cc Plat File

Traffic/Street

MILLSTONE WEBER LLC
14550 E EASTER AVE STE 1000
CENTENNIAL CO 80112

CHANGE ORDER FORM

Change Order #:	Date Issued: 2/27/2023	
Name of Agreement: Service Agreement for Construction Management Services		
Date of Agreement: 10/08/2018	District: Aurora High Point at DIA Metropolitan District	
Other Party/Parties:		
CHANGE IN SCOPE AND SERVICES:		
Aurora High Point Contracts	Projected Contract Value	CM Contract Value
Gun Club Rd.	\$4,700,000 *	\$188,000
Denali	\$4,100,000 *	\$164,000
Pinion Sanitary Sewer	\$3,125,000 *	\$125,000
Pinion Pond Civil	\$3,100,000 *	\$124,000
66th/67th Civil Infrastructure	\$3,400,000 *	\$170,000
CoA/CCD North grading	\$31,100,000 *	\$1,244,000
PA 74 Park	\$950,000 *	\$38,000
PA 12 Park	\$950,000 *	\$38,000
65th/Picadilly/Pinion Drainage-Sewer - Banyan	\$4,150,000 *	\$166,000
CHANGE IN AGREEMENT PRICE:		CHANGE IN TERM OF AGREEMENT:
Original Price: As identified in Exhibit B to the Original Agreement		Original Term: Expires December 31, 2019
Increase of this Change Order: \$2,257,000		New Term: Expires December 31, 2024
Price with All Approved Change Orders: \$3,595,000		Agreement Time with all Approved Change Orders: December 31, 2024
APPROVED:		APPROVED:
By: District		By: Consultant