

AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT

141 Union Boulevard, Suite 150
Lakewood, Colorado 80228-1898

Tel: (303) 987-0835

Fax: (303) 987-2032

Aurorahp.colorado.gov

NOTICE OF SPECIAL MEETING AND AGENDA

<u>Board of Directors</u>	<u>Office</u>	<u>Term/Expires</u>
Andrew Klein	President	2027/May 2027
Paige Langley	Treasurer	2025/May 2025
Theodore Laudick	Assistant Secretary	2025/May 2025
Mark Witkiewicz	Assistant Secretary	2027/May 2027
David Solin	Secretary	

DATE: Thursday, February 8, 2024

TIME: 10:00 A.M.

PLACE: Via Zoom

Zoom information:

<https://us02web.zoom.us/j/5469119353?pwd=SmtlcHJETFhCQUZEcVBBOGZVU3Fqdz09>

Meeting ID: 546 911 9353

Passcode: 912873

Dial In: 1-719-359-4580

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 23, 2023 Regular Meeting and December 21, 2023 Special Meeting (enclosures).

II. 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.

III. FINANCIAL MATTERS

- A. Resolution Acknowledging and Consenting to Use of Proceeds by Colorado International Center Metro District No. 8 (enclosure)
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IV. LEGAL MATTERS

- A. Ratification of Amended & Restated IGA for Denali Street Improvements (enclosure).
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- B. Ratification of First Amendment to Amended & Restated IGA for Denali Street Improvements (enclosure).
-

- C. Review and approve Facilities Reimbursement Agreement between Colorado International Center Metro District No. 8, Colorado International Center Metro District No. 9, Highpoint Acquisition, LLC and ACM High Point VI LLC (enclosure).
-

V. OTHER BUSINESS

- A. _____
-

VI. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR FEBRUARY 26, 2024.**

RECORD OF PROCEEDINGS

MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT HELD OCTOBER 23, 2023

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 23rd day of October, 2023, 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:

Andrew Klein
Theodore Laudick
Mark Witkiewicz

Also In Attendance Were:

David Solin; Special District Management Services, Inc.

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

Nichole Kirkpatrick and Lindsay Ross; CliftonLarsonAllen LLP

Paige Langley; 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. Mr. Solin 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: Mr. Solin distributed for the Board's review and approval a proposed Agenda for the District's Regular Meeting.

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

RECORD OF PROCEEDINGS

Minutes: The Board reviewed the Minutes of the July 24, 2023 Regular Meeting.

Following discussion, upon motion duly made by Director Klein, seconded by Director Witkiewicz and, upon vote, unanimously carried, the Board approved the Minutes of the July 24, 2023 Regular Meeting.

Annual Administrative Resolution: The Board reviewed Resolution No. 2023-10-01, Annual Administrative Resolution (2024).

Following discussion, upon motion duly made by Director Klein, seconded by Director Witkiewicz and, upon vote, unanimously carried, the Board adopted Resolution No. 2023-10-01, Annual Administrative Resolution (2024). A copy of the Resolution is attached hereto and incorporated herein by this reference.

Resignation of Director: The resignation of Director Otis C. Moore III effective as of July 26, 2023, was acknowledged.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick and, upon vote, unanimously carried, the Board acknowledged Director Moore's resignation, effective upon adjournment of the July 26, 2023 Board meeting.

Appointment of Director: The Board considered the appointment of Paige C. Langley to fill a vacancy on the Board of Directors. It was noted that pursuant to Section 32-1-808(2)(a)(I), C.R.S., publication of a Notice of Vacancy on the Board was published in a newspaper having general circulation in the District and that no Letters of Interest from qualified eligible electors were received within ten (10) days of such publication.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick and, upon vote, unanimously carried, the Board appointed Ms. Langley to fill a vacant position on the Board of Directors. The Oath of Office was administered.

Appointment of Officers: The Board entered into discussion regarding the appointment of officers.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick and, upon vote, unanimously carried, the following slate of officers were appointed:

President	Andrew Klein
Treasurer	Paige Langley
Secretary	David Solin

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Assistant Secretary
Assistant Secretary

Theodore Laudick
Mark Witkiewicz

PUBLIC COMMENT

There was no public comment.

FINANCIAL MATTERS

Claims: The Board deferred discussion at this time.

Unaudited Financial Statements: The Board deferred discussion at this time.

2023 Audit: The Board discussed the engagement of Schilling & Company, Inc. to prepare the 2023 Audit for an amount not to exceed \$6,500.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick, and upon vote, unanimously carried, the Board approved the engagement of Schilling & Company, Inc. to prepare the 2023 Audit for an amount not to exceed \$6,500.

2022 Audit: Mr. Solin reviewed the 2022 Audit with the Board.

Following review and discussion, upon motion duly made by Director Witkiewicz seconded by Director Laudick, and upon vote, unanimously carried, the Board approved the 2022 Audited Financial Statements and authorized execution of the Representations Letter, subject to final legal review and receipt of an unmodified opinion letter by the Auditor.

2023 Budget Amendment Hearing: The President opened the public hearing to consider a Resolution to Amend the 2023 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 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, and the Board President closed the public hearing.

Following discussion, it was determined that a 2023 Budget Amendment was not necessary at this time.

2024 Budget Hearing: The President opened the public hearing to consider the proposed 2024 Budget and discuss related issues.

It was noted that publication of Notice stating that the Board would consider adoption of the 2024 Budget and the date, time and place of the public hearing was made in a

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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 President closed the public hearing.

Ms. Kirkpatrick reviewed the estimated year-end 2023 revenues and expenditures and the proposed 2024 estimated revenues and expenditures.

Following discussion, the Board considered the adoption of Resolution No. 2023-10-01 to Adopt the 2024 Budget and Appropriate Sums of Money and to Set Mill Levies (for the General Fund at 0.000 mills, the Debt Service Fund at 0.000 mills, and ARI mill at 0.000 mills, for a total of 0.000 mills). Upon motion duly made by Director Witkiewicz, seconded by Director Laudick and, upon vote, unanimously carried, the Resolutions were adopted, as discussed, and execution of the Certification of Budget and Certification of Mill Levies was authorized, subject to receipt of final Certification of Assessed Valuation from the County on or before December 10, 2023. Mr. Solin was authorized to transmit the Certification of Mill Levies to the Board of County Commissioners of Douglas County and the Division of Local Government by the statutory deadline. Mr. Solin was also authorized to transmit the Certification of Budget to the Division of Local Government not later than January 30, 2024. Copies of the adopted Resolutions are attached hereto and incorporated herein by this reference

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 review and discussion, upon motion duly made by Director Witkiewicz seconded by Director Laudick and, and, upon vote, unanimously carried, the Board authorized 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.

2025 Budget Preparation: The Board discussed the preparation of the 2025 Budget.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick and, upon vote, unanimously carried, the Board ratified appointment of the District Accountant to prepare the 2025 Budget.

LEGAL MATTERS

There were no legal matters at this time.

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CAPITAL PROJECTS

Capital Improvement Projects:

Gun Club Road Project ("Project"): Director Laudick updated the Board on the status of the project, noting that the project is complete and going through the City final approval process.

Possum Gulley Channel Improvement Project: Director. Laudick updated the Board on the status of the project, noting that there is one final section of the project that is going through final review by Mile High Flood District.

66th & 67th Avenue Street Light Project: Director. Laudick updated the Board on the status of the project, noting that the District is awaiting electric service from Xcel Energy.

Engineer's Report and Certification #02 prepared by Schedio Group, LLC for additional cost associated with Public Improvements: The Board reviewed Engineer's Report and Certification #02 prepared by Schedio Group, LLC, dated August 25, 2023 for additional cost associated with Public Improvements.

Following discussion, upon motion duly made by Director Witkiewicz, seconded by Director Laudick, and upon vote, unanimously carried, the Board approved the Engineer's Report and Certification #02 prepared by Schedio Group, LLC, in the amount of \$381,048.15 for additional cost associated with Public Improvements.

OPERATIONS AND MAINTENANCE

2022 Operation and Maintenance Services: Mr. Laudick noted there is no need for 2022 operation and maintenance services at this time.

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 and seconded, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: _____
Secretary for the Meeting

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT HELD DECEMBER 21, 2023

A Special 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 Thursday, the 21st day of December, 2023, at 1:00 p.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:

Paige Langley
Theodore Laudick
Mark Witkiewicz

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

Also In Attendance Were:

David Solin; Special District Management Services, Inc.

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

Nichole Kirkpatrick and Lindsay Ross; CliftonLarsonAllen LLP

Megan Becher, Esq.; McGeady Becher PC

Megan Waldschmidt and Blake Amen; Colorado International Center Metropolitan District No. 4

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. Mr. Solin 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.

RECORD OF PROCEEDINGS

ADMINISTRATIVE MATTERS

Agenda: Mr. Solin distributed for the Board's review and approval a proposed Agenda for the District's Special Meeting.

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

PUBLIC COMMENT

There were no public comments.

FINANCIAL MATTERS

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 Laudick moved to adopt the Resolution to Amend 2022 Budget, Director Langley seconded the motion and, upon vote, unanimously carried, the Board adopted Resolution No. 2023-12-01 to Amend the 2022 Budget. A copy of the adopted Resolution is attached hereto and incorporated herein by this reference.

2022 Audit: Ms. Kirkpatrick reviewed the 2022 draft Audited Financial Statements with the Board.

Following review and discussion, upon motion duly made by Director Laudick, seconded by Director Langley and, upon vote, unanimously carried, the Board approved the 2022 Audited Financial Statements and authorized execution of the Representations Letter.

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 and seconded, upon vote, unanimously carried, the meeting was adjourned.

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Respectfully submitted,

By: _____
Secretary for the Meeting

RESOLUTION NO. 2024-02-__

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT
ACKNOWLEDGING AND CONSENTING TO USE OF PROCEEDS**

A. Aurora High Point at DIA Metropolitan District (the “**District**”) and Colorado International Center Metropolitan District (“**CIC**”) Nos. 4, 5, 6, 8, 9 and 10 (collectively, the “**CIC Districts**” and, collectively with the District, the “**Aurora High Point Districts**”) are parties to that certain Facilities Funding, Construction and Operations Agreement dated January 21, 2005 (as amended, the “**FFCOA**”).

B. Pursuant to the FFCOA, the District, defined as the “Management District” thereunder, is primarily responsible for planning, designing, constructing, acquiring, and financing the public improvements (“**Improvements**”) within the CIC Districts’ collective boundaries or service area, and the CIC Districts, defined as the “Taxing Districts” thereunder, will issue bonds to pay for the installation of such Improvements and pledge their ad valorem tax revenues to the repayment of such bonds.

C. ACM High Point VI, LLC (“**ACM**”) is the primary developer of the project within the Aurora High Point Districts’ combined boundaries and/or service area.

D. The District and ACM are parties to that certain Capital Funding and Reimbursement Agreement (Aurora High Point – Westside) dated July 20, 2017 (as amended, the “**Capital Funding Agreement**”), pursuant to which ACM agreed to fund and/or cause the construction of Improvements for the benefit of the Aurora High Point Districts, and the District agreed to reimburse ACM for the verified costs thereof.

E. ACM has advanced funds and/or constructed public improvements pursuant to the Capital Funding Agreement, and the District has an obligation thereunder to reimburse ACM for the verified costs thereof.

F. Highpoint Acquisition LLC (“**Hyde**”) is the developer of a project located within the boundaries of CIC No. 9 (the “**Hyde Property**”).

G. The Hyde Property is within the service area of the District.

H. In order to encourage development within the Hyde Property, ACM and Hyde have determined that it is in the best interest of the Aurora High Point Districts for Hyde to construct certain Improvements benefiting CIC Nos. 8 and 9 (the “**Hyde Improvements**”).

I. ACM, Hyde, CIC No. 8, and CIC No. 9 have or will enter into a Facilities Reimbursement Agreement, pursuant to which the parties thereto will recognize Hyde’s funding and construction of the Hyde Improvements and approve of CIC No. 8’s reimbursement to Hyde for the verified costs thereof (the “**Hyde Agreement**”).

J. CIC No. 8 anticipates issuing its Subordinate Limited Tax General Obligation Bonds, Series 2023B (the “**Subordinate Bonds**”) to, *inter alia*, reimburse Hyde for the verified costs of the Hyde Improvements.

K. The Subordinate Bonds will be issued with a pledge of revenues generated within the boundaries of CIC No. 8 and CIC No. 9.

L. Pursuant to the Hyde Agreement, ACM has acknowledged that the Hyde Improvements have or will be constructed for the overall benefit of the Aurora High Point Districts, such Hyde Improvements will either be conveyed to the City or, if not conveyed to the City will be conveyed to CIC No. 8 or CIC No. 9 for perpetual ownership and maintenance, and that the District has consented to the issuance of the Subordinate Bonds to secure Hyde’s reimbursement right relative to the Hyde Improvements.

M. The District desires to acknowledge and consent to CIC No. 8’s issuance of the Subordinate Bonds to secure repayment to Hyde for the Hyde Improvements.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Aurora High Point at DIA Metropolitan District, Adams County, Colorado:

1. The District hereby acknowledges and consents to CIC No. 8’s issuance of the Subordinate Bonds to secure reimbursement to Hyde for the verified costs of the Hyde Improvements.

2. The District waives the enforcement of any term or condition of the FFCOA, including, without limitation, Article III, requiring CIC No. 8 to transfer or advance Subordinate Bond revenues to the District for the purpose of paying or reimbursing the capital costs of the Improvements.

RESOLUTION APPROVED AND ADOPTED on _____, 2024.

**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By: _____
President

Attest:

Secretary

**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).
- 6(c)(iii). (g) “AHMD Proportionate Share” shall have the meaning set forth in Section 6(c)(iii).
- (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 District No. 7.
- 6(c)(ii). (j) “CIC 7 Proportionate Share” shall have the meaning set forth in Section 6(c)(ii).
- (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.
- 5(d)(ii). (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.

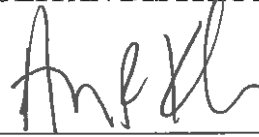
24. **Counterparts, Electronic Signatures and Electronic Records.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same document. Facsimile signatures shall be accepted as originals. The Parties consent 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.

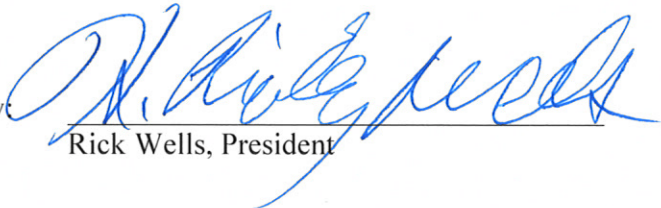
**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By: _____
_____, President

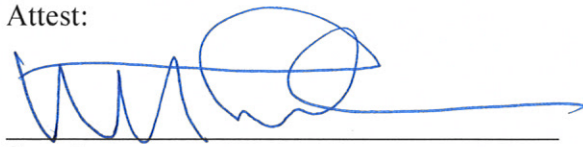
Attest:

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

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**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	-	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
cost for original pond @ 68th Ave	152,096	76,048	-	228,144
SUBTOTAL SHARED COSTS FOR POND RELOCATION @ 68th AVE	145,190	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

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

THIS FIRST AMENDMENT TO AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT – REGARDING COST SHARING OF THE EXTENSION OF DENALI STREET (60TH AVENUE TO 66TH AVENUE) (“Amendment”) is made and entered into as of the 17th day of February, 2023, to be effective 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 Parties previously entered into that certain Amended and Restated Intergovernmental Agreement – Regarding Cost Sharing of the Extension of Denali Street (60th Avenue to 66th Avenue), dated December 7, 2022 (the **“Cost Sharing Agreement”**).

B. The Parties have agreed to amend the Cost Sharing Agreement to accurately reflect the General Contractor that AHMD has retained for the project and to clarify the definition of the Denali Street Improvements covered under the Cost Sharing Agreement to reflect that there will be additional work and costs required to complete all of the Denali Street Improvements beyond those reflected in the Cost Sharing Agreement.

C. The Parties desire to amend the provisions of the Cost Sharing Agreement pertaining to the definitions of the General Contractor and the Denali Street Improvements.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties hereto agree as follows:

COVENANTS AND AGREEMENTS

1. All terms which are not defined herein shall have the same meaning as set forth in the Cost Sharing Agreement.

2. All references in the Cost Sharing Agreement to **“Denali Street Improvements”** shall be deleted in their entirety and substituted in lieu thereof shall be the phrase **“Denali Street Improvements – Phase I.”**

3. Amendment to Section 5(b) of the Cost Sharing Agreement. Section 5(b) of the Cost Sharing Agreement is hereby deleted in its entirety, and substituted in lieu thereof shall be the following:


(b) **General Contractor**. AHMD engaged American Civil Constructors LLC to serve as the 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**.”

4. Except as expressly set forth in this Amendment, all provisions of the Cost Sharing Agreement remain unchanged and in full force and effect, valid and binding on the Parties.

[SIGNATURE PAGES FOLLOW]

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


**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**

By: 
Andrew Klein, President

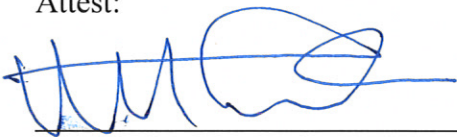
Attest:


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

FACILITIES REIMBURSEMENT AGREEMENT

THIS FACILITIES REIMBURSEMENT AGREEMENT (“**Agreement**”) is made and entered into this ____ day of February, 2024, by and between **COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 8**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**” or “**CIC No. 8**”), **COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 9**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**CIC No. 9**” and, together with CIC No. 8, the “**Districts**”), **HIGHPOINT ACQUISITION, LLC**, a Minnesota limited liability company (“**Hyde**”), and **ACM HIGH POINT VI LLC**, a Delaware limited liability company (“**ACM**”) (individually, each a “**Party**” and collectively, the “**Parties**”).

RECITALS

A. Pursuant to the authority granted to the Districts under their respective Service Plans, as approved by the City of Aurora (the “**City**”) (as may be modified or amended, the “**Service Plans**”), the Districts are authorized to provide for the design, acquisition, construction, installation and financing of certain public improvements, including water, sanitation (including storm drainage), street, safety protection, park and recreation, transportation, limited fire protection, television relay and translation, and mosquito control and other facilities and services (“**Improvements**”), which benefit the property within their respective boundaries and/or service areas.

B. ACM is the developer of a project within the City located within the boundaries of CIC No. 8 (the “**ACM Property**”).

C. Hyde is the developer of a project located within the City commonly known as Highpoint Elevated and located within the boundaries of CIC No. 9 (the “**Hyde Property**” and, collectively with the ACM Property, the “**Property**”).

D. The Districts, Aurora High Point at DIA Metropolitan District (“**AHP**”) and Colorado International Center Metropolitan District Nos. 4-6 and 10 (collectively with the Districts, the “**Aurora High Point Districts**”) have entered into a Facilities Funding, Construction and Operations Agreement, dated January 21, 2005 (as has been and may be amended from time to time, the “**FFCOA**”).

E. Pursuant to the FFCOA, AHP has agreed to construct certain Improvements for the benefit of the Aurora High Point Districts, and the costs associated therewith are to be allocated between the Aurora High Point Districts pursuant to the terms therein.

F. The Property is within the service area of AHP.

G. AHP and ACM previously entered into that certain Capital Funding and Reimbursement Agreement (Aurora High Point – Westside) dated July 20, 2017 (as amended, the “**ACM Capital Funding Agreement**”), pursuant to which ACM agreed to fund and/or cause the construction of certain Improvements as described therein and AHP agreed to reimburse ACM therefor.

H. ACM has advanced funds and/or constructed Improvements pursuant to the ACM Capital Funding Agreement (collectively, the “**ACM Advances**”) and AHP has an obligation to reimburse ACM for the ACM Advances, in part, with proceeds of CIC No. 8’s Senior Bonds (defined below).

I. On September 16, 2020, CIC No. 8 issued its Limited Tax General Obligation Bonds, Series 2020 in the principal amount of \$47,144,000 (the “**CIC No. 8 Senior Bonds**”), to pay for certain ACM Advances and for the installation of certain Improvements to serve the ACM Property.

J. The CIC No. 8 Senior Bonds are secured by revenues pledged from both Districts as is more particularly set forth in the documents governing the CIC No. 8 Senior Bonds (as the same may be amended from time to time, the “**Senior Bond Documents**”)

K. Hyde has no interest in or entitlement to the proceeds of the CIC No. 8 Senior Bonds.

L. In order to encourage development within the Hyde Property, the Parties have determined it is in the best interests of the Districts for Hyde to construct certain Improvements (the “**Hyde Improvements**”) for the benefit of the Property and Hyde has or will incur costs relative to the installation of such Hyde Improvements (“**Construction Related Expenses**”).

M. Concurrent with the execution hereof, CIC No. 8 intends to issue additional bonds (as more specifically described herein, the “**Subordinate Bonds**”) to secure reimbursement to Hyde for the Hyde Improvements up to the “**Maximum Hyde Reimbursement Amount**” (as is more particularly defined herein).

N. ACM acknowledges that it is a benefit to the Aurora High Point Districts for the Hyde Improvements to be constructed and desires to consent to the issuance of the Subordinate Bonds in a maximum par amount not to exceed the Maximum Hyde Reimbursement Amount.

O. The Parties desire to set forth their respective rights, obligations and procedures with respect to (i) reimbursement to Hyde of the Construction Related Expenses associated with the Hyde Improvements up to the Maximum Hyde Reimbursement Amount; (ii) issuance of the Subordinate Bonds; and (iii) rights to reimbursement as to ACM and Hyde upon refunding of the Subordinate Bonds.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Hyde Improvements.

(a) Construction of Hyde Improvements. The Parties hereby acknowledge that Hyde has and/or intends to design, construct, and complete the Hyde Improvements, and the Hyde Improvements are intended to be conveyed to the City or CIC No. 9 for ownership and on-

going maintenance; provided, however, Hyde has no obligation or liability under this Agreement to design, construct or complete all or any portion of the Hyde Improvements. Hyde's construction of the Hyde Improvements shall be in conformance with the construction plans and standards, and acceptance requirements therefor approved by the applicable accepting governmental entity. Further, it is acknowledged and agreed that ACM has entered into this Agreement as an accommodation to Hyde and ACM has no obligation or liability to design, construct, complete or finance all or any portion of the Hyde Improvements.

(b) Certification of Construction Costs. The Parties hereby agree that a condition precedent to the District's acceptance of Construction Related Expenses for reimbursement to Hyde is the District's receipt of a written certification of an independent engineer engaged by the District that the Construction Related Expenses of the Hyde Improvements are reasonable and comparable to the costs of similar public improvements constructed in the Denver metropolitan area and the review and approval of the independent engineer and the District's accountant that the Construction Related Expenses are eligible to be paid by the District pursuant to applicable law ("**Certified Construction Costs**") based on the copies of the invoices, bills, and requests for payment provided to the District pursuant to this Section ("**Engineer's Verification**"). Notwithstanding, the actual Construction Related Expenses incurred by Hyde may exceed the Certified Construction Costs. Hyde agrees it will provide the District the following documents to calculate the Certified Construction Costs:

(i) Lien waivers and indemnifications from each contractor verifying that all amounts due to contractors, subcontractors, material providers or suppliers have been paid in full, in a form acceptable to the District;

(ii) Copies of all contracts, pay requests, change orders, invoices and evidence of payment of same, the final AIA payment form (or similar form approved by the District), canceled checks, and any other requested documentation to verify the amount of reimbursable Construction Related Expenses associated with the Hyde Improvements requested; and

(iii) Such other documentation, records and verifications as may reasonably be required by the District.

(c) Subordinate Bond Issuance. The Parties acknowledge and agree that the Subordinate Bonds are being issued to Highpoint Bond Investor LLC ("**Highpoint**"), an affiliate of Hyde, to secure reimbursement of the Certified Construction Costs. As such, Hyde agrees it shall pay all costs of the District associated with issuance of the Subordinate Bonds.

(d) Reimbursement. Promptly following receipt of a satisfactory Engineer's Certification, the Engineer's Certification shall be submitted to the Board of Directors of the District for consideration of approval, acceptance and authorization for reimbursement at the next practicable regular or special meeting of the Board of Directors of the District. The District agrees to make payment to Hyde for Certified Construction Costs, in an amount up Twenty One Million Five Hundred Thousand Dollars (\$21,500,000) (the "**Maximum Hyde Reimbursement Amount**"), as is more particularly set forth in the Indenture of Trust governing the Subordinate Bonds.

(e) Interest shall accrue from the date of expenditure until repaid at the rate set forth in the Indenture of Trust governing the Subordinate Bonds.

2. Subordinate Bond Refinancing.

(a) The Parties acknowledge and agree that it is the intent of CIC No. 8 that the Subordinate Bonds be refinanced at such time when market conditions provide for terms and conditions beneficial for CIC No. 8 to issue a bond, loan, or other debt instrument to, in whole or in part, refinance the Subordinate Bonds (a “**Refinancing Bond**”). The timing of issuance of a Refinancing Bond shall be in the sole discretion of CIC No. 8.

(b) Upon issuance of a Refinancing Bond, any available proceeds of such Refinancing Bond remaining after defeasance of any outstanding amount of the Subordinate Bonds (“**Available Proceeds**”) shall be allocated for the funding of or reimbursement for additional Improvements as follows:

(i) Sixty-nine percent (69%) of the Available Proceeds of the Refinancing Bond (“**ACM Available Proceeds**”) shall be allocated and available to ACM pursuant to the ACM Capital Funding Agreement or otherwise directed for payment of Construction Related Expenses at the direction of ACM pursuant to other agreements with the District or AHP.

(ii) Thirty-one percent (31%) of the Available Proceeds of the Refinancing Bond (“**Hyde Available Proceeds**”) shall be allocated and available to Hyde for payment of Certified Construction Costs incurred and not otherwise reimbursed as a result of issuance of the Subordinate Bond, subject to the Maximum Hyde Reimbursement Amount. Hyde acknowledges and agrees that any portion of the Certified Construction Costs incurred hereunder and either: (1) not drawn as a part of the Subordinate Bond, or (2) unreimbursed after reimbursement by the District of the Hyde Available Proceeds, shall remain reimbursable under the Subordinate Bond.

(iii) Additionally, any portion of the Subordinate Bonds that remains outstanding after issuance of a Refinancing Bond shall take a junior position to, and be further subordinate to any Refinancing Bond.

(c) The Parties agree that the allocation of remaining Available Proceeds set forth in 2.(b). above is reasonable based upon the revenues anticipated to be generated from CIC No. 8 and CIC No. 9, respectively. However, in the event development by the Districts occurs in a manner which deviates significantly from current projections, or any Party hereto believes that the actual and probable costs of public Improvements within the Districts is materially different from the allocations set forth herein, the Districts shall engage an independent engineer to perform a cost analysis and provide an opinion relative to a reasonable, revised allocation contemporaneously with the Refinancing Bond transaction schedule. The Parties may utilize such analysis in determining an alternative allocation of Available Proceeds, but any such alternative allocation must be approved in writing by all Parties. Notwithstanding the foregoing, any negotiations relative to an alternative allocation under this section shall not affect CIC No. 8’s right to issue any Refinancing Bond in the future.

(d) Acknowledgement. The Parties acknowledge and agree that ACM has a priority right to reimbursement per the ACM Capital Funding Agreement. Notwithstanding such right, ACM acknowledges and agrees it is a benefit to ACM, the Aurora High Point Districts and their constituents for the Hyde Improvements to be constructed. Irrespective of ACM's priority right for reimbursement under the ACM Capital Funding Agreement and to the ACM Available Proceeds, ACM hereby consents to the issuance of the Subordinate Bonds and the District's use of the Hyde Available Proceeds, if and when they become available, to reimburse Hyde for Certified Construction Costs up to the Maximum Hyde Reimbursement Amount for the construction of the Hyde Improvements in accordance with the terms of this Agreement. Other than for the payment of the Maximum Hyde Reimbursement Amount in accordance herewith, ACM's rights under the ACM Capital Funding Agreement shall not be modified or affected in any other way.

3. District Appropriation / Limitations. The District's obligation to reimburse the Certified Construction Costs shall be subject to annual appropriation and shall not be deemed to be multiple-fiscal year obligations for the purposes of Article X, Section 20 of the Colorado Constitution. By execution of this Agreement, Hyde acknowledges and consents to all limitations in the District's Service Plan.

4. Representations.

(a) Hyde hereby represents and warrants to and for the benefit of ACM and the District as follows:

(i) Hyde is a Minnesota limited liability company in good standing and qualified to conduct business under the laws of the State of Colorado.

(ii) Hyde has the full power and legal authority to enter into this Agreement and perform its obligations hereunder. Neither the execution and delivery of this Agreement nor the compliance by Hyde with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which Hyde is a party or by which Hyde is or may be bound. Hyde has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(b) ACM hereby represents and warrants to and for the benefit of the Hyde and the District as follows:

(i) ACM is a Delaware limited liability company in good standing and qualified to conduct business under the laws of the State of Colorado.

(ii) ACM has the full power and legal authority to enter into this Agreement and perform its obligations hereunder. Neither the execution and delivery of this Agreement nor the compliance by ACM with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which ACM is a party or by which Hyde is or may be bound. ACM has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(c) The District hereby represents and warrants to and for the benefit of Hyde and ACM as follows:

(i) The District is a quasi-municipal corporation and political subdivision of the State of Colorado.

(ii) The District has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by the District with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which the District is a party or by which the District is or may be bound. The District has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(d) CIC No. 9 hereby represents and warrants to and for the benefit of Hyde and ACM as follows:

(i) CIC No. 9 is a quasi-municipal corporation and political subdivision of the State of Colorado.

(ii) CIC No. 9 has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by CIC No. 9 with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which CIC No. 9 is a party or by which the District is or may be bound. CIC No. 9 has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

The foregoing representations and warranties contained in this Section 4 are made as of the date hereof and shall be deemed continually made by each applicable Party to the other Parties for the entire term of this Agreement.

5. Term; Repose. The term of this Agreement shall begin as of the date first written above and shall continue until the full performance of the Parties' obligations with respect to completion and provision of documentation relative to the Hyde Improvements and the reimbursement by the District to Hyde for the Certified Construction Costs except that, in the event the District has not reimbursed Hyde for any portion of the Certified Construction Costs by December 31, 2043, whether invoiced or not invoiced by such date, any amount of principal and accrued interest outstanding on such date shall be deemed to be forever discharged and satisfied in full.

6. Notices. All notices, demands, requests or other communications to be sent by one Party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via FedEx or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States certified mail, postage prepaid, addressed as follows:

To District No. 8: Colorado International Center Metropolitan District No. 8
c/o McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
Attention: Megan Becher
Email: mbecher@specialdistrictlaw.com

To District No. 9: Colorado International Center Metropolitan District No. 9
c/o McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
Attention: Megan Becher
Email: mbecher@specialdistrictlaw.com

To Hyde: Highpoint Acquisition, LLC
250 Nicollet Mall, Suite 120
Minneapolis, MN 55401
Attention: Paul Hyde
Email: paul@hyde-dev.com

With a copy to : Mortenson Properties Inc
700 Meadow Lane N.
Minneapolis MN 55422
Attention : Drew Bryan
Email : drew.bryan@mortenson.com

To ACM: ACM High Point VI LLC
4100 E. Mississippi Ave., Suite 500
Glendale, CO 80248
Attention: Andrew Klein
Phone: 303-984-9800
Email: aklein@westsideinv.com

With a copy to: ACM High Point VI LLC
4100 E. Mississippi Ave., Suite 500
Glendale, CO 80248
Attention: Michael Schroeder
Phone: 303-984-9800
Email: mschroeder@westsideinv.com

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service, on the date of transmission if sent by electronically-confirmed email transmission, or three (3) business days after deposit in the United States certified mail. By giving the other Party hereto at least ten (10) days' written notice thereof in

accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address or contact information.

7. Assignment. No Party shall assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

8. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Districts, Hyde and ACM any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Districts, Hyde and ACM shall be for the sole and exclusive benefit of the Districts, Hyde and ACM.

9. Default/Remedies. In the event of a breach or default of this Agreement by any Party, the non-defaulting Party(ies) shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party(ies) in such proceeding shall be entitled to obtain as part of its judgment or award its reasonable attorneys' fees and costs.

10. Governing Law and Jurisdiction. This Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be in any court of competent jurisdiction in the county in which the Property is located.

11. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

12. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

13. Severability. If any covenant, term, condition, or provision under this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

14. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document.

15. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

16. Amendment. This Agreement may be amended from time to time by agreement between the Parties hereto; provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the District, Hyde or ACM unless the same is in writing and duly executed by the Parties hereto.

SIGNATURE PAGE FOLLOWS

SIGNATURE PAGE 1 OF 2 TO FACILITIES REIMBURSEMENT AGREEMENT

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

**COLORADO INTERNATIONAL CENTER
METROPOLITAN DISTRICT NO. 8**, a
quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

Attest:

Secretary

**COLORADO INTERNATIONAL CENTER
METROPOLITAN DISTRICT NO. 9**, a
quasi-municipal corporation and political
subdivision of the State of Colorado

By: _____
President

Attest:

Secretary

SIGNATURE PAGE 2 OF 2 TO FACILITIES REIMBURSEMENT AGREEMENT

HIGHPOINT ACQUISITION, LLC, a
Minnesota limited liability company

By: _____

Name: _____

Title: _____

ACM HIGH POINT VI LLC, a Delaware
limited liability company

By: _____

Name: _____

Title: _____