

AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT

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

Tel: (303) 987-0835

Fax: (303) 987-2032

NOTICE OF SPECIAL MEETING AND AGENDA

<u>Board of Directors</u>	<u>Office</u>	<u>Term/Expires</u>
Andrew Klein	President	2023/May 2023
Kevin Smith	Treasurer	2023/May 2023
Otis Moore, III	Assistant Secretary	2022/May 2022
Theodore Laudick	Assistant Secretary	2022/May 2022
Mark Witkiewicz	Assistant Secretary	2023/May 2022
Ann Finn	Secretary	

DATE: July 12, 2021

TIME: 10:00 A.M.

PLACE: ***DUE TO CONCERNS REGARDING THE SPREAD OF THE CORONAVIRUS (COVID-19) AND THE BENEFITS TO THE CONTROL OF THE SPREAD OF THE VIRUS BY LIMITING IN-PERSON CONTACT, THIS DISTRICT BOARD MEETING WILL BE HELD BY CONFERENCE CALL WITHOUT ANY INDIVIDUALS (NEITHER DISTRICT REPRESENTATIVES NOR THE GENERAL PUBLIC) ATTENDING IN PERSON. IF YOU WOULD LIKE TO ATTEND THIS MEETING, PLEASE CALL IN TO THE CONFERENCE BRIDGE AT 1-877-261-8991 AND WHEN PROMPTED, DIAL IN THE PASSCODE OF 6168588.***

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 approve Minutes of the May 28, 2021 Special Meeting (enclosure).

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. Consider approval of the payment of claims for the period beginning May 26, 2021 through July 7, 2021, in the amount of \$ 1,729,396.09 (enclosure).

- B. Review Cash Position Schedule, dated May 31, 2021 and updated as of July 7, 2021 (enclosure).

- C. Ratify approval of 2020 Audit and authorization of execution of the Representations Letter.

IV. LEGAL MATTERS

- A. Conduct public hearing on Petition for Inclusion of approximately 0.009 acres of real property owned by ACM High Point VI LLC, and consider adoption of Resolution No. 2021-7-_; Resolution for Inclusion of Real Property (enclosures – Petition and Resolution).

- B. Conduct public hearing on Petition for Exclusion of approximately 0.009 acres of real property owned by ACM High Point VI LLC, and consider adoption of Resolution No. 2021-7-_; Resolution for Exclusion of Real Property (enclosures – Petition and Resolution).

- C. Consider First Amendment to Capital Funding and Reimbursement Agreement and First Amendment to Operations Funding and Reimbursement Agreement (enclosures).

V. CAPITAL PROJECTS

- A. Discuss status of the capital improvements projects:
 - 1. Lisbon Street Extension Project (Millstone Weber, LLC).

 - 2. High Point North Grading Project (Summit Excavation & Grading, LLC).

3. High Point at DIA Neighborhood Park West Civil Infrastructure Project (Catamount Constructor Inc.):
 - a. Discuss one year maintenance warranty period.

4. Discuss the status of the 64th Ave. and Denali Street Lighting Package Project.
 - a. Review Bids.

 - b. Award Contract.

 - c. Authorize the issuance of the Notice of Award and Notice to Proceed.

 - d. Approve Construction Contract with the contractor.

5. Discuss the status of the Lisbon Street Lighting Package Project.
 - a. Review Bids.

 - b. Award Contract.

 - c. Authorize the issuance of the Notice of Award and Notice to Proceed.

 - d. Approve Construction Contract with the contractor.

6. Discuss the status of the Possum Gully Channel Improvement Project.
 - a. Review Bids.

 - b. Award Contract.

- c. Authorize the issuance of the Notice of Award and Notice to Proceed.
-

- d. Approve Construction Contract with the contractor.
-

VI. OTHER BUSINESS

A. _____

VII. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR
OCTOBER 25, 2021 – BUDGET HEARING**

RECORD OF PROCEEDINGS

MINUTES OF A SPECIAL MEETING OF THE BOARD OF DIRECTORS OF THE AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT HELD MAY 28, 2021

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 Monday, the 28th day of May, 2021, at 10:00 a.m. Due to concerns regarding the spread of the Coronavirus (COVID-19) and the benefits to the control of the spread of the virus by limiting in-person contact, the District Board meeting was held and properly noticed to be held via by video/telephone conference. The meeting was open to the public.

ATTENDANCE

Directors In Attendance Were:

Kevin Smith
Otis Moore, III
Theodore Laudick
Mark Witkiewicz

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

Also In Attendance Were:

Ann E. Finn; Special District Management Services, Inc.

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

Debra Sedgeley and Zachary Leavitt; CliftonLarsonAllen LLP

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 Special Meeting.

RECORD OF PROCEEDINGS

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

Minutes: The Board reviewed the Minutes of the March 26, 2021 and April 2, 2021 Special Meetings.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the Minutes of the March 26, 2021 and April 2, 2021 Special Meetings.

PUBLIC COMMENT

There was no public comment.

FINANCIAL MATTERS

Cash Position / Claims: Ms. Sedgeley reviewed with the Board the Cash Position Schedule dated December 31, 2020, updated as of May 25, 2021, and the claims for the period beginning February 8, 2021 through May 25, 2021.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the Cash Position Schedule dated December 31, 2020, updated as of May 25, 2021, and the claims for the period beginning February 8, 2021 through May 25, 2021, in the amount of \$1,676,046.95.

2020 Audit: Ms. Sedgeley reviewed the 2020 draft Audit with the Board.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the 2020 Audit and authorized execution of the Audit Representations Letter.

2022 Budget: The Board discussed setting the date for a Public Hearing to adopt the 2022 Budget.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore, and upon vote, unanimously carried, the Board determined to schedule the 2022 Budget hearing on October 25, 2021, at 10:00 A.M., to be held at Westside Investment Partners, Inc., 4100 East Mississippi Avenue, #500, Glendale, Colorado.

LEGAL MATTERS

Separation of the Colorado International Center Metropolitan District No. 3 from the Aurora High Point at DIA Metropolitan District: Mr. Mielke reported to the Board that the documents for separation of the Colorado International Center

RECORD OF PROCEEDINGS

Metropolitan District No. 3 and the Aurora High Point at DIA Metropolitan District have been executed so the Termination has been completed.

Resolution Assigning previously Collected Maintenance Fees Under the Joint Resolution Concerning the Imposition of a Maintenance Fee: The Board reviewed a Resolution Assigning previously Collected Maintenance Fees Under the Joint Resolution Concerning the Imposition of a Maintenance Fee.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board adopted the Resolution Assigning previously Collected Maintenance Fees Under the Joint Resolution Concerning the Imposition of a Maintenance Fee.

Attorney Mielke noted that White Bear Ankele Tanaka & Waldron, P.C. is no longer providing collection services to Colorado International Center Metropolitan District No. 3.

CAPITAL PROJECTS

Capital Improvement Projects:

Lisbon Street Extension Project (Millstone Weber, LLC): Mr. Laudick reported to the Board that paving of Lisbon Street has started and is expected to be completed in September 2021.

High Point North Grading Project: Director Laudick discussed with the Board the status of the High Point North Grading Project.

Review Bids: Director Laudick reviewed with the Board the bids received for the High Point North Grading Project.

Award Contract: Director Laudick recommended the contract be awarded to Summit Excavation & Grading, LLC.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board awarded the contract to Summit Excavation & Grading, LLC.

Notice of Award and Notice to Proceed: The Board entered into discussion regarding authorizing issuance of Notice of Award and Notice to Proceed.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board authorized Director Laudick to issue the Notice of Award and Notice to Proceed to Summit Excavation & Grading, LLC.

RECORD OF PROCEEDINGS

Construction Contract: The Board entered into discussion regarding the Construction Contract with the contractor.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the Construction Contract with the Summit Excavation & Grading, LLC.

High Point Neighborhood Park West Civil Infrastructure Project:

Final Payment to Catamount Constructors Inc. for the High Point at DIA Neighborhood Park West Civil Infrastructure Project: The Board discussed issuing Final Payment to Catamount Constructors Inc. for the High Point at DIA Neighborhood Park West Civil Infrastructure Project. It was noted that a Notice of Final Payment was published on May 20, 2021 and May 27, 2021.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board authorized Final Payment to Catamount Constructors Inc. for the High Point at DIA Neighborhood Park West Civil Infrastructure Project.

64th Ave. and Denali Street Lighting Package Project: Mr. Laudick reported to the Board that the 64th Ave. and Denali Street Lighting Package Project is out for bid and he has received three requests for bid packages.

Lisbon Street Lighting Package Project: Mr. Laudick reported to the Board that the Lisbon Street Lighting Package Project is out for bid and he has received three requests for bid packages.

OTHER BUSINESS

There was no other business.

ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director Witkiewicz, seconded by Director Moore and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: _____
Secretary for the Meeting

Aurora High Point at DIA

Check List

All Bank Accounts

May 26, 2021 - July 7, 2021

Check Number	Check Date	Payee	Amount
Vendor Checks			
6761	05/27/21	American Civil Constructors	470,517.90
6762	05/27/21	Aurora Media Group LLC	173.70
6763	05/27/21	Catamount Constructors Inc.	10,800.00
6764	05/27/21	CliftonLarsonAllen LLP	14,021.44
6765	05/27/21	Dodge Data & Analytics	89.76
6766	05/27/21	Ecological Resource Consultants, Inc.	455.00
6767	05/27/21	Ground Engineering	5,784.75
6768	05/27/21	Martin/Martin Inc.	181,821.25
6769	05/27/21	McGeady Becher P.C.	2,547.50
6770	05/27/21	Norris Design, Inc.	20,757.75
6771	05/27/21	Pan Am Title, LLC	285.00
6772	05/27/21	Reliable Home Technology Inc	122.97
6773	05/27/21	Seter & Vander Wall, P.C.	2,271.50
6774	05/27/21	Silverbluff Companies, Inc.	96,000.00
6775	05/27/21	Special District Management Services, Inc.	1,346.74
6776	05/27/21	T2 UES Inc	5,740.00
6777	05/27/21	United Site Services, Inc.	1,022.25
6778	05/27/21	Utility Notification Center of Colo.	473.88
6779	05/27/21	Williams Scotsman, Inc.	2,342.81
6780	05/27/21	Xcel Energy	179.51
6781	05/27/21	Catamount Constructors Inc.	33,411.32
6782	06/09/21	ESCO Construction Co.	222,509.48
6783	06/28/21	American Civil Constructors	220,160.13
6784	06/28/21	All Phase Landscape, Inc.	166,068.03
6785	06/28/21	Aurora Media Group LLC	165.35
6786	06/28/21	CliftonLarsonAllen LLP	9,891.78
6787	06/28/21	Colorado Department of Public Health	175.00
6788	06/28/21	Dodge Data & Analytics	192.78
6789	06/28/21	Ecological Resource Consultants, Inc.	650.00
6790	06/28/21	Ground Engineering	5,321.00
6791	06/28/21	Martin/Martin Inc.	87,000.55
6792	06/28/21	McGeady Becher P.C.	6,367.00
6793	06/28/21	Norris Design, Inc.	2,545.00
6794	06/28/21	Schilling & Company, Inc.	3,800.00
6795	06/28/21	Seter & Vander Wall, P.C.	2,214.17
6796	06/28/21	Silverbluff Companies, Inc.	97,000.00
6797	06/28/21	Special District Management Services, Inc.	4,924.91
6798	06/28/21	T2 UES Inc	11,429.10
6799	06/28/21	United Site Services, Inc.	1,438.03
6800	06/28/21	Utility Notification Center of Colo.	1,016.40
6801	06/28/21	Wastewater Management Division	119.46
6802	06/28/21	Williams Scotsman, Inc.	2,353.31
6803	06/28/21	Xcel Energy	158.67
ACH	07/06/21	City of Aurora	27,044.00
ACH	06/10/21	Aurora Water	319.23
ACH	06/01/21	City of Aurora	424.00
ACH	06/07/21	City of Aurora	5,810.00
ACH	06/21/21	Rise Broadband	133.68
Vendor Check Total			<u>1,729,396.09</u>
Check List Total			<u><u>1,729,396.09</u></u>

Check count = 48

1-0		
1-1		38,945.38
1-2		+ 1,690,450.71
1-T	Total	= 1,729,396.09

Administrative
Capital

AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT

Schedule of Cash Position

May 31, 2021

Updated as of July 7, 2021

	General Fund AHP	Capital Projects Fund	Total
<u>1st Bank - Checking Account</u>			
Balance as of 5/31/21	\$ 13,977.58	\$ 255,481.60	\$ 269,459.18
Subsequent activities:			
06/01/21 COA Invoice - EFT	-	(424.00)	(424.00)
06/07/21 COA Invoice - EFT	-	(5,810.00)	(5,810.00)
06/09/21 Check #6782	-	(222,509.48)	(222,509.48)
06/11/21 City of Aurora - EFT	(319.23)	-	(319.23)
06/21/21 Rise Broadband - EFT	-	(133.68)	(133.68)
06/28/21 Checks 6783-6803	(26,810.09)	(596,180.58)	(622,990.67)
06/29/21 CIC 4 Requisition	-	258,910.33	258,910.33
06/29/21 CIC 8 Requisition	-	341,756.17	341,756.17
06/30/21 Developer advance	27,000.00	-	27,000.00
07/07/21 COA Invoice - EFT	-	(1,480.00)	(1,480.00)
07/07/21 COA Invoice - EFT	-	(25,564.00)	(25,564.00)
<i>Anticipated Balance</i>	<u>13,848.26</u>	<u>4,046.36</u>	<u>17,894.62</u>
Reserve for TABOR	(12,100.00)	-	(12,100.00)
<i>Anticipated Balance</i>	<u><u>1,748.26</u></u>	<u><u>4,046.36</u></u>	<u><u>5,794.62</u></u>
DEVELOPER ADVANCE REQUEST	\$ -	\$ -	\$ -

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT**

Inclusion of Property into the District's Boundaries

WHEREAS, the Aurora High Point at DIA Metropolitan District (the "**District**") is a quasi-municipal corporation and political subdivision of the State of Colorado located in Adams County, Colorado; and

WHEREAS, the District received a Petition for Inclusion of Property from ACM High Point VI LLC for the inclusion of certain property into the District's boundaries (the "**Petition**"); and

WHEREAS, a Notice of Hearing on the Petition was published in the *Aurora Sentinel* on July 1, 2021; and

WHEREAS, a public meeting and hearing on the Petition was held on July 12, 2021; and

WHEREAS, no interested persons appeared at the public meeting to show cause in writing why the Petition should not be granted; and

WHEREAS, the District is not required to enlarge or extend its facilities beyond those currently existing and all such enlargements or extensions are undertaken in the exercise of discretion as a governmental function in the interest of public health, safety and welfare.

NOW THEREFORE, be it resolved and ordered by the Board of Directors of the Aurora High Point at DIA Metropolitan District as follows:

1. The Board of Directors of the District hereby orders the inclusion of the land described herein within the boundaries of the Aurora High Point at DIA Metropolitan District.
2. The name and address of the Petitioner and the description of the property to be included (the "**Property**") are as follows:

PETITIONER:

ACM HIGH POINT VI LLC
C/O Westside Investment Partners
4100 E. Mississippi Ave., Suite 500
Glendale, CO 80246

LEGAL DESCRIPTION OF THE PROPERTY: See attached **Exhibit A**.

3. That on and after the effective date of this inclusion, the Property and Petitioner, its assigns, heirs or successors in interest shall be subject to the rules and regulations of the District, and the payment of any and all fees, rates and charges required thereby.

4. That this resolution be certified and filed with the Clerk of the District Court of Adams County in accordance with § 32-1-401(1)(c)(I), C.R.S.
5. That a certified copy of the decree or order of the Court confirming the inclusion of the Property be recorded with the Adams County Clerk and Recorder as required by §§ 32-1-105 and 32-1-402(1)(e), C.R.S.

Adopted this 12th day of July, 2021.

AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT

President, Board of Directors of the Aurora High
Point at DIA Metropolitan District

Attest:

Secretary

CERTIFICATE

COMES NOW the Secretary/Assistant Secretary of the Aurora High Point at DIA Metropolitan District, and hereby certifies that the attached resolution is a true and accurate copy of the resolution adopted by the Board of Directors at a regular meeting, held July 12, 2021 at 10:00 a.m., held by conference call at: 1-877-261-8991 passcode 6168588.

WITNESS my hand this 12th day of July, 2021.

Secretary/Assistant Secretary
Aurora High Point at DIA Metropolitan District

EXHIBIT A

Legal Description

A PARCEL OF LAND SITUATED IN THE SOUTHEAST QUARTER OF SECTION 2, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER QUARTER CORNER OF SAID SECTION 2; THENCE ALONG THE WESTERLY LINE OF SAID SOUTHEAST QUARTER, S00° 28'19" W A DISTANCE OF 67.97 FEET TO THE POINT OF BEGINNING;

THENCE S89 ° 31' 41"E A DISTANCE OF 20.00 FEET; THENCE S00°28'19"W A DISTANCE OF 20.00 FEET; THENCE N89°31'41"W A DISTANCE OF 20.00 FEET TO THE WESTERLY LINE OF SAID SOUTHEAST QUARTER, THENCE ALONG SAID WESTERLY LINE N00°28'19" E A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.009 ACRES, (400 SQUARE FEET), MORE OR LESS.

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE
AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT**
Exclusion of Property from the District's Boundaries

WHEREAS, the Aurora High Point at DIA Metropolitan District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado located in the City of Aurora, Adams County, Colorado; and

WHEREAS, the District was organized pursuant to the Special District Act §§ 32-1-101 *et seq.*, C.R.S. to provide public facilities and services to a planned development within its boundaries; and

WHEREAS, the District received a Petition for Exclusion of Property from ACM High Point VI LLC (“**Petitioner**”) for the exclusion of approximately 0.009 acres of property in the District's boundaries (the “**Petition**”); and

WHEREAS, a Notice of Public Hearing on Exclusion was published in the *Aurora Sentinel* on July 1, 2021; and

WHEREAS, a public hearing on the Exclusion was held on July 12, 2021; and

WHEREAS, no interested persons appeared at the public hearing to show cause in writing why the Petition should not be granted; and

NOW THEREFORE, be it resolved and ordered by the Board of Directors of the Aurora High Point at DIA Metropolitan District as follows:

1. The name and address of the Petitioners and the description of the property to be excluded (the “**Property**”) are as follows:

PETITIONER:

ACM HIGH POINT VI LLC
C/O Westside Investment Partners
4100 E. Mississippi Ave., Suite 500
Glendale, CO 80246

LEGAL DESCRIPTION OF THE PROPERTY:

A PARCEL OF LAND SITUATED IN THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF AURORA, COUNTY OF ADAMS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 1; THENCE ALONG THE NORTHERLY LINE OF SAID SOUTHWEST QUARTER, S89°43'41"E A DISTANCE OF 363.36 FEET; THENCE S00°16'19"W A DISTANCE OF 102.04 FEET TO THE

POINT OF BEGINNING; THENCE S89°34'22"E A DISTANCE OF 20.00 FEET; THENCE S00°25'38"W A DISTANCE OF 20.00 FEET; THENCE N89°34'22"W A DISTANCE OF 20.00 FEET; THENCE N00°25'38"E A DISTANCE OF 20.00 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 0.009 ACRES, (400 SQUARE FEET), MORE OR LESS.

2. That the Board of Directors of the District after consideration of the factors set forth in § 32-1-501(3), C.R.S., hereby have considered and made the following findings:
 - a. The Property does not currently receive services from the District, the Petitioners desire to use the property without services from the District, and the Property will not be harmed by exclusion from the District. It is in the best interest of the Property that it is excluded from the District; and
 - b. The District will not be harmed financially or otherwise by the Property's exclusion; and
 - c. The Property can be used for other purposes without being in the District's boundaries; thus, there is no harm to the surrounding community and Adams County by the Property's exclusion; and
 - d. The Property does not currently receive services from the District, and it does not pay an operations and maintenance mill levy tax to the District; and
 - e. The District is able to provide economically sufficient service to both the Property and all other property currently in the District's boundaries and to be included in the District's boundaries; however, the District does not currently provide services to the Property; and
 - f. The District does not currently provide services to the Property; thus, there are no costs of District services to compare to potential services or lack thereof that could be provided by other entities in the surrounding area; and
 - g. The Property is vacant land, and there would be no effect on employment and other economic conditions in the District and surrounding area if the Petition is denied or granted; and
 - h. The Property is vacant land, and there is a nominal difference in the economic impact that a denial or grant of the Petition would have on the District, surrounding area, and the State of Colorado. Petitioners have represented that the Property is more likely to develop if it is excluded from the District; and

- i. The Property does not currently receive services from the District, and there are other entities capable of providing economically feasible services to the Property; and
 - j. The District does not impose operations and maintenance mill levy property taxes; thus, there is no meaningful additional cost to be levied on other property within the District if exclusion is granted.
3. Wherefore, the Board hereby Grants the Petition and Orders as follows:
- a. the exclusion of the Property described herein from the boundaries of the Aurora High Point at DIA Metropolitan District;
 - b. that a certified copy of this resolution shall be filed with the Clerk of the District Court of Adams County, in accordance with § 32-1-501(4)(b), C.R.S.; and
 - c. that a certified copy of the decree or order of the Court confirming the exclusion of the Property be recorded with the Adams County Clerk and Recorder as required by §§ 32-1-105 and 32-1-503(3), C.R.S.

Adopted this 12th day of July, 2021.

**AURORA HIGH POINT AT DIA METROPOLITAN
DISTRICT**

President, Board of Directors of the Aurora High
Point at DIA Metropolitan District

Attest:

Secretary/Asst. Secretary

CERTIFICATE

I, _____, the Secretary/Assistant Secretary of the Aurora High Point at DIA Metropolitan District, hereby certifies that the attached resolution and exhibits thereto, if any, is a true and accurate copy of the Resolution re Exclusion of Property from the District's Boundaries adopted by a quorum of the Board of Directors at a meeting, held on July 12, 2021 at 10:00 am held by conference call at: 1-877-261-8991 passcode 6168588.

WITNESS my hand this _____ day of _____, 2021.

Secretary/Assistant Secretary

**FIRST AMENDMENT TO CAPITAL FUNDING AND REIMBURSEMENT
AGREEMENT**

Aurora High Point-Westside

This First Amendment to Capital Funding and Reimbursement Agreement – Aurora High Point-Westside (“**First Amendment**”) is entered into this ____ day of _____, 2021, by and between **AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **ACM HIGH POINT IV LLC**, a Delaware limited liability company (the “**Developer**”) (together, the “**Parties**”).

RECITALS

WHEREAS, the Parties entered into a Capital Funding and Reimbursement Agreement dated July 20, 2017 (the “**Agreement**”); and

WHEREAS, the Parties desire to amend the Agreement to extend the term of the Maximum Advance from 2017-2020 to 2017-2025; and

WHEREAS, the Parties desire to amend the Agreement to clarify that the Developer is obligated to fund the Maximum Advance through 2025; and

NOW THEREFORE, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. AMENDMENT TO MAXIMUM ADVANCE TERM. Section 1 (a) of the Agreement is amended and restated in its entirety as follows:

The District has determined that the estimated costs for the design, testing, engineering, and construction of the Improvements, together with the related consultant fees associated with the construction thereof (“Capital Costs”) is Ten Million Dollars (\$10,000,000) for fiscal years 2017 through 2025 (“Maximum Advance”).

2. AMENDMENT TO DEVELOPER ADVANCE TERM. Section 2 (b) of the Agreement is amended and restated in its entirety as follows:

The Developer shall make advances necessary to fund the remaining Maximum Advance on a periodic basis as needed up to the Maximum Advance through fiscal year 2025. The District shall, from time to time, provide written notice to the Developer that funding of all or part of the Maximum Advance is required. The Developer shall make an advance of funds to the District within fifteen (15) days after receipt from the District of the written notice that such an advance of funds is required (“Developer Advance”).

3. Except as modified herein, the remaining terms and conditions from the Agreement, and exhibits thereto, shall remain in full force and effect.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Attest:

ACM HIGH POINT IV LLC, a Delaware
Limited Liability Company

By: _____

Name: _____

Title: Authorized Signatory

**FIRST AMENDMENT TO OPERATIONS FUNDING AND REIMBURSEMENT
AGREEMENT**

Aurora High Point-Westside

This First Amendment to Operations Funding and Reimbursement Agreement – Aurora High Point-Westside (“**First Amendment**”) is entered into this ____ day of _____, 2021, by and between **AURORA HIGH POINT AT DIA METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **ACM HIGH POINT IV LLC**, a Delaware limited liability company (the “**Developer**”) (together, the “**Parties**”).

RECITALS

WHEREAS, the Parties entered into an Operations Funding and Reimbursement Agreement dated July 20, 2017 (the “**Agreement**”); and

WHEREAS, the Parties desire to amend the Agreement to extend the term of the Maximum Advance from 2017-2020 to 2017-2025; and

WHEREAS, the Parties desire to amend the Agreement to clarify that the Developer is obligated to fund the Maximum Advance through 2025; and

NOW THEREFORE, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. AMENDMENT TO MAXIMUM ADVANCE TERM. Section 1 (a) of the Agreement is amended and restated in its entirety as follows:

The District has determined that the estimated Operations Costs of the District are One Million Dollars (\$1,000,000) for fiscal years 2017 through 2025 (“Maximum Advance”).

2. AMENDMENT TO DEVELOPER ADVANCE TERM. Section 2 (b) of the Agreement is amended and restated in its entirety as follows:

The Developer shall make advances necessary to fund the remaining Maximum Advance on a periodic basis as needed up to the Maximum Advance through fiscal year 2025. The District shall, from time to time, provide written notice to the Developer that funding of all or part of the Maximum Advance is required. The Developer shall make an advance of funds to the District within fifteen (15) days after receipt from the District of the written notice that such an advance of funds is required (“Developer Advance”).

3. Except as modified herein, the remaining terms and conditions from the Agreement, and exhibits thereto, shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

**AURORA HIGH POINT AT DIA
METROPOLITAN DISTRICT**, a quasi-
municipal corporation and political subdivision of
the State of Colorado

Attest:

ACM HIGH POINT IV LLC, a Delaware
Limited Liability Company

By:_____

Name:_____

Title: Authorized Signatory