

**FIRST AMENDMENT AND ASSIGNMENT AND NOVATION OF
INTERGOVERNMENTAL AGREEMENT REGARDING REGIONAL
TRANSPORTATION SYSTEM PROJECT FUNDING AND CONSTRUCTION**

THIS FIRST AMENDMENT AND ASSIGNMENT AND NOVATION OF INTERGOVERNMENTAL AGREEMENT REGARDING REGIONAL TRANSPORTATION SYSTEM PROJECT FUNDING AND CONSTRUCTION (this “**First Amendment**”) is made as of April 26, 2023, by and among **GREEN VALLEY RANCH EAST METROPOLITAN DISTRICT NO. 6**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**GVR**”), **SECOND CREEK RANCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**SCR**”) and **AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY**, a political subdivision and body corporate of the State of Colorado formed pursuant to C.R.S. Section 43-4-601, *et seq.* (“**ARTA**” collectively GVR, SCR and ARTA will be referred to herein as the “**Parties**”).

RECITALS

WHEREAS, GVR and SCR are both Title 32 metropolitan districts located within the City of Aurora, Colorado, and within ARTA’s boundaries;

WHEREAS, on October 12, 2021, GVR and ARTA entered into an Intergovernmental Agreement Regarding Regional Transportation System Project Funding and Construction regarding, generally, ARTA’s construction and funding phasing for certain of the Regional Transportation System Improvements (as defined therein), the potential for GVR’s participation in the completion of such portions of the Regional Transportation System Improvements, and the terms and conditions of reimbursement of GVR by ARTA for the same (the “**Agreement**”);

WHEREAS, the boundaries of GVR and SCR overlap, in part, and pursuant to their respective service plans, both GVR and SCR were formed to provide services and improvements for the benefit of the community known as Green Valley Ranch Aurora, including the specific components of the Regional Transportation System Improvements set forth in the Agreement which will benefit the residents, taxpayers and constituents of both GVR and SCR;

WHEREAS, on July 15, 2020, GVR, SCR, Green Valley Ranch East Metropolitan District No. 7, Green Valley Ranch East Metropolitan District No. 8, and Central Adams County Water and Sanitation District entered into an Intergovernmental Agreement Concerning District Operations and Funding to set forth their respective roles, responsibilities and obligations with respect to the provision of administrative services, ownership, operation and maintenance of certain public improvements mutually beneficial to them and funding of the same (the “**Master IGA**”);

WHEREAS, pursuant to the Master IGA, GVR and SCR, in an ongoing effort to provide for the financing, construction and operations of the public improvements, agree to alter, from time to time, their respective roles, responsibilities and obligations in order to most efficiently and effectively provide public improvements and services contemplated under their respective service plans;

WHEREAS, in light of current construction deadlines and funding source considerations, and in order to facilitate the efficient and effective completion of public improvements in furtherance of the purposes of the Master IGA, including in part the specific components of the Regional Transportation System Improvements set forth in the Agreement, GVR and SCR desire to transfer and assign to SCR GVR's rights, duties, and obligations under the Agreement as set forth herein;

WHEREAS, pursuant to the Agreement, GVR has completed the 38th Avenue (Picadilly to Tibet) Project and submitted all necessary items for the reimbursement of actual costs in the amount of \$2,574,000 related to the 38th Avenue (Picadilly to Tibet) Project by ARTA (the "**38th Avenue ARTA Reimbursement**"), which costs and reimbursement are expected to be approved by ARTA contemporaneously with this First Amendment;

WHEREAS, pursuant to the Agreement, GVR has undertaken the initial planning, design, funding, and construction of the 48th Avenue (Rome to Tibet) Project, including grading, general improvements, erosion control, construction testing and observation, environmental compliance, surveying, and cost verification services with multiple contractors and consultants and desires to assign to SCR the responsibility for completion of the 48th Avenue (Rome to Tibet) Project and the ARTA reimbursement for costs incurred related to the 48th Avenue (Rome to Tibet) Project as set forth in the Agreement (the "**48th Avenue (Rome to Tibet) Reimbursement**");

WHEREAS, pursuant to the Agreement, GVR has provided ARTA with District Project Notice pursuant to Section 4.2.5 of the Agreement for the 48th Avenue (Tibet Road to E-470) Project and desires to assign to SCR the responsibility for completion of the 48th Avenue (Tibet to E470) Project and the ARTA reimbursement for costs incurred related to the 48th Avenue (Tibet to E470) Project as set forth in the Agreement (the "**48th Avenue (Tibet to E470) Reimbursement**") and, together with the 48th Avenue (Rome to Tibet) Reimbursement, referred to herein as the "**48th Avenue ARTA Reimbursement**");

WHEREAS, GVR has not previously provided notice to ARTA under the Agreement of GVR's intent to proceed with the following projects under the Agreement and GVR desires to assign to SCR all of GVR's rights and responsibilities regarding these projects as set forth in the Agreement (the "**Remaining ARTA IGA Projects**");

- a. 38th Avenue (Tibet to E470) Project;
- b. Picadilly Road (38th to 48th) Project;
- c. Picadilly Road (48th to 52nd) Project; and
- d. Picadilly Road (52nd to 56th) Project.

WHEREAS, on April 21, 2023, in order to set forth their mutual understanding regarding reimbursements under the Agreement as modified by this First Amendment and in furtherance of their cooperation, GVR and SCR, and UMB Bank, n.a., as their mutual escrow agent (the "**Districts' Escrow Agent**"), entered into an Escrow Agreement (the "**Escrow Agreement**"), which, among other items, provides generally that (i) the 38th Avenue ARTA

Reimbursement and the 48th Avenue ARTA Reimbursement be deposited with the Districts' Escrow Agent, and (ii) the Districts' Escrow Agent thereafter distribute the 38th Avenue ARTA Reimbursement and the 48th Avenue ARTA Reimbursement to their intended recipients as set forth in the Escrow Agreement;

WHEREAS, for the consideration set forth herein and on the terms and conditions hereinafter set forth, GVR desires to assign and SCR desires to assume GVR's rights, duties, and obligations under the Agreement to efficiently and effectively complete current and future public improvements, while also providing that the 38th Avenue ARTA Reimbursement and the 48th Avenue ARTA Reimbursement be deposited by ARTA with the Districts' Escrow Agent, and that any reimbursement to be made by ARTA under the terms of the Agreement for one or more of the Remaining ARTA IGA Projects, if any, will be distributed to SCR under the terms of the Agreement as the assignee of GVR and will not be subject to the Escrow Agreement;

WHEREAS, pursuant to Section 21 of the Agreement, except as expressly permitted, none of the Parties to the Agreement may assign any of their rights or obligations under the Agreement without the prior written consent of the other Party, which consent may be withheld in each Party's sole and absolute discretion;

WHEREAS, because both GVR and SCR are located within the boundaries of ARTA, their boundaries overlap, both districts serve common residents, taxpayers and constituents, and it appears to ARTA that SCR is similarly situated to GVR and as capable as GVR of undertaking GVR's obligations under the Agreement, and in order to facilitate the effective and efficient completion of the Regional Transportation System Improvements set forth in the Agreement, ARTA is willing to enter into this First amendment and consent to the assignment and novation set forth herein on the terms and conditions of this First Amendment;

WHEREAS, GVR, SCR and ARTA have each determined, for itself, that this First Amendment is in the best interests of its respective residents, taxpayers and constituents; and

WHEREAS, GVR, SCR and ARTA desire to enter into this First Amendment to evidence their mutual understanding and agreement regarding the subject matter hereof, subject to the terms and conditions hereof.

NOW, THEREFORE, in accordance with the Agreement and in consideration of the promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GVR, SCR and ARTA agree as follows:

TERMS

1. **GVR Assignment of Rights and Responsibilities to SCR under the Agreement.** GVR hereby assigns, transfers, conveys, and delivers to SCR, effective as of April 26, 2023 (the "**Effective Date**") all of GVR's rights, title and interest in, to and under the Agreement. As of the Effective Date GVR shall be released from all rights, duties, and obligations with respect to the Agreement.

2. **SCR Acceptance of Assignment of Rights and Responsibilities of GVR under the Agreement.** SCR hereby assumes and accepts the assignment, transfer, conveyance and delivery

from GVR of GVR's rights, title and interest in, to and under the Agreement as of the Effective Date, except as set forth in Section 4 hereof.

3. Consent to Assignment and Novation. ARTA hereby consents to the novation effected by the assignment of GVR's rights and responsibilities under the Agreement to SCR and SCR's acceptance of assignment of rights and responsibilities of GVR under the Agreement as set forth herein.

4. 38th Avenue ARTA Reimbursement. ARTA acknowledges the 38th Avenue (Picadilly to Tibet) Project is complete and the 38th Avenue ARTA Reimbursement is due and owing to GVR under the terms of the Agreement. The Parties mutually agree that, pursuant to this First Amendment, rather than paying the 38th Avenue ARTA Reimbursement to GVR or SCR, ARTA will deposit the 38th Avenue ARTA Reimbursement UMB Bank as the Districts' Escrow Agent as described herein. Both GVR and SCR agree that ARTA's deposit of the 38th Avenue ARTA Reimbursement with the Districts' Escrow Agent shall satisfy ARTA's obligations as to the 38th Avenue ARTA Reimbursement, and upon deposit of such funds ARTA shall have no duty or obligation whatsoever as to the distribution of the 38th Avenue ARTA Reimbursement by the Districts' Escrow Agent to GVR, SCR or any other party.

5. 48th Avenue ARTA Reimbursement. ARTA acknowledges that it has received sufficient District Project Notice pursuant to Section 4.2.5 of the Agreement for the 48th Avenue (Tibet Road to E-470) Project and the 48th Avenue (Rome to Tibet) Project. The Parties mutually agree that, pursuant to this First Amendment, rather than paying the reimbursement required under the Agreement for the 48th Avenue (Tibet Road to E-470) Project and the 38th Avenue (Rome to Tibet) Project, defined herein as the 48th Avenue ARTA Reimbursement, if any, to GVR or SCR, ARTA will deposit any 48th Avenue ARTA Reimbursement with UMB Bank as the Districts' Escrow Agent as described herein. Both GVR and SCR agree that ARTA's deposit of any 48th Avenue ARTA Reimbursement with the Districts' Escrow Agent shall satisfy ARTA's obligations as to the 48th Avenue ARTA Reimbursement, and upon deposit of such funds ARTA shall have no duty or obligation whatsoever as to the distribution of such funds by the Districts' Escrow Agent to GVR, SCR or any other party.

6. Remaining ARTA IGA Projects. In the event any reimbursements are owed to SCR for any Remaining ARTA IGA Projects, in whole or in part, consistent with the terms and conditions of the Agreement, such reimbursements shall be paid by ARTA to SCR directly.

7. General Provisions.

(a) The foregoing recitals are hereby incorporated in this First Amendment as if fully set forth herein.

(b) Unless otherwise expressly defined herein, the capitalized terms used in this First Agreement shall have the same meanings set forth in the Agreement.

(c) Except as expressly set forth in this First Amendment, all provisions of the Agreement remain unchanged and in full force and effect, valid and binding on the parties thereto.

(d) The terms, covenants, and provisions hereof shall be governed by and construed in accordance with the laws of the State of Colorado. Each party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this First Amendment in any forum other than the state courts of the State of Colorado.

(e) The Parties consent to the use of electronic signatures pursuant to the Uniform Electronic Transactions Act, Sections 24-71.3-101, *et seq.*, Colorado Revised Statutes, as may be amended from time to time. The First Amendment, and any other documents requiring a signature hereunder, may be signed electronically by the Parties. The Parties agree not to deny the legal effect or enforceability of the First Amendment 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 the First Amendment in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

(f) This First Amendment may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Assignment and Novation of Intergovernmental Agreement Regarding Regional Transportation System Project Funding and Construction as of the date first set forth above.

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GVR:

GREEN VALLEY RANCH EAST
METROPOLITAN DISTRICT NO. 6

By: DocuSigned by:
Brandon Wyszynski
Brandon Wyszynski
Its: President

ATTEST:

By: DocuSigned by:
PAULA A BURTON
Paula Ann Burton
Its: Assistant Secretary

SCR:

SECOND CREEK RANCH METROPOLITAN
DISTRICT

By: DocuSigned by:
Brandon Wyszynski
Brandon Wyszynski
Its: President

ATTEST:

By: DocuSigned by:
Chris Carlton
Chris Carlton
Its: Secretary/Treasurer

ARTA:

**AEROTROPOLIS REGIONAL
TRANSPORTATION AUTHORITY**

DocuSigned by:



By: Matthew Hopper

Its: President

ATTEST:

DocuSigned by:



By: Curtis Gardner

Its: Secretary