

INTERGOVERNMENTAL AGREEMENT REGARDING REGIONAL TRANSPORTATION SYSTEM PROJECT FUNDING AND CONSTRUCTION

This **INTERGOVERNMENTAL AGREEMENT REGARDING REGIONAL TRANSPORTATION SYSTEM PROJECT FUNDING AND CONSTRUCTION** (this “Agreement”) is made and entered into effective the 24th day of November, 2021 (the “Effective Date”), by and between **THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD**, a political subdivision and public corporation of the State of Colorado (the “**CAB**”), and **AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY**, a political subdivision and body corporate of the State of Colorado formed pursuant to the Regional Transportation Authority Law, Sections 43-4-601, *et seq.*, C.R.S. (“**RTA Law**”) (“**ARTA**”). The CAB and ARTA may be referred to collectively herein as the “**Parties**” and individually as a “**Party**.”

RECITALS

1. The Parties, as Colorado governmental entities, are constitutionally and statutorily empowered pursuant to Colo. Const., Article XIV, §18, and Sections 29-1-201, *et seq.*, C.R.S., to cooperate or contract via intergovernmental agreement with one another to provide functions, services, or facilities authorized to each cooperating government.

2. ARTA was organized in accordance with the RTA Law and pursuant to the Intergovernmental Agreement Among the Board of County Commissioners of the County of Adams, the City of Aurora, and the Aerotropolis Area Coordinating Metropolitan District, Establishing the Aerotropolis Regional Transportation Authority dated February 27, 2018, as amended and supplemented from time to time (the “**Establishing Agreement**”) for the general purposes of constructing, or causing to be constructed, a Regional Transportation System, as more particularly described in the Establishing Agreement and Exhibit A thereto (the “**Regional Transportation System**,” as used herein, the term “**Regional Transportation System Improvements**” shall mean any one or more individual components of the Regional Transportation System), consistent with the detailed phasing plan and budget attached to the Establishing Agreement as Exhibit D (as the same may be amended or revised, the “**Capital Plan**”, a copy of which is attached hereto as **Exhibit A** and incorporated by reference herein.)

3. The CAB was organized pursuant to Section 29-1-203.5, C.R.S., and The Aurora Highlands Community Authority Board Establishment Agreement approved on November 21, 2019, as subsequently amended (the “**CABEA**”) by the Aerotropolis Area Coordinating Metropolitan District (“**AACMD**”), The Aurora Highlands Metropolitan District Nos. 1 through 3 (together, “**Residential Districts**”), and the ATEC Metropolitan District No. 1 and the ATEC Metropolitan District No. 2 (together, “**Commercial Districts**” and, collectively with AACMD and the Residential Districts, the “**CAB Districts**”) for the general purposes of effectuating the coordination of the CAB Districts in the financing of the design, construction and operation and maintenance of Public Improvements (defined therein) and services within their combined service area (the “**Service Area**”).

4. All of the property within the CAB Districts Service Area is within the boundaries of ARTA (the “**CAB Property**”).

5. The CAB desires to undertake and/or support the provision of various public improvements within and surrounding the boundaries of the CAB Property, some of which public improvements are Regional Improvements (as defined in the Service Plan) and are part of or are closely related to various components of ARTA's planned Regional Transportation System Improvements.

6. ARTA previously issued general obligation bonds on June 26, 2019, and October 14, 2021 (the "**Existing ARTA Bonds**") and expects to issue several additional series of bonds or other financial obligations in a time frame which allows ARTA to fund the Regional Transportation System Improvements consistent with the phasing set forth in the Capital Plan (the "**Future ARTA Bonds**," and together with the Existing ARTA Bonds, the "**ARTA Bonds**").

7. ARTA intends to facilitate the completion of the Regional Transportation System Improvements and to issue the Future ARTA Bonds to fund the Regional Transportation System Improvements, generally, consistent with the phasing set forth in the Capital Plan and, specifically, to issue the Future ARTA Bonds in a time frame which allows ARTA to have the funding available for and to complete those certain Regional Transportation System Improvements identified in **Exhibit B** attached hereto and incorporated by reference herein (as used herein, the "**Projects**"), which Projects are a subset of the Regional Transportation System, consistent with the time frames and phasing as further set forth in the Capital Plan.

8. The CAB may have available or may be able to issue bonds or other financial obligations of the CAB ("**CAB Bonds**") to secure adequate funds for certain of the Projects in advance of ARTA's planned Capital Plan phasing on the condition that ARTA will reimburse the CAB for the actual costs incurred by the CAB to complete the Projects.

9. ARTA agrees on the terms and conditions as further set forth herein, to reimburse the CAB for the actual costs incurred by the CAB to complete the Projects.

10. The Parties have determined it to be in their mutual best interests and the interests of their respective constituents and taxpayers to enter into this Agreement in order to facilitate the accelerated completion of the Projects as set forth herein.

11. In furtherance of the purposes set forth herein, the CAB and ARTA desire to enter into this Agreement to set forth their understanding regarding ARTA's construction and funding phasing for the Projects, the potential for the CAB's participation in completion of such components of the Project, and the terms and conditions for reimbursement of the CAB by ARTA for the same, together with such other matters as are hereinafter set forth.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the CAB and ARTA agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in this Agreement as if fully set forth herein.

2. ARTA Phasing of the Regional Transportation System Improvements. ARTA agrees that, as of the date of this Agreement, ARTA intends to and in good faith using commercial best efforts will undertake, fund, and/or complete, in whole or in part, either on its own or in coordination with other governmental entities, surrounding property owners, and/or other related parties, consistent with the Establishing Agreement, the Projects as currently set forth in the Capital Plan; provided, the Parties understand and agree the Capital Plan is subject to modification from time to time in ARTA's discretion consistent with the provisions of the Establishing Agreement.

2.1 Expected Phasing. ARTA intends to commence and complete each of the Projects by the milestone dates as set forth in the Capital Plan.

2.1.1 Expected Funding. ARTA intends to fund each of the Projects from the proceeds of ARTA Bonds issued by the milestone dates as set forth in the Capital Plan.

2.2 ARTA agrees it will in good faith using commercial best efforts undertake or cause to be undertaken, as necessary, in whole or in part, the planning, design, funding and completion of the Projects, except to the extent completed by the CAB, either on its own or in coordination with other governmental entities, surrounding property owners, and/or other related parties, consistent with the expected phasing described in the Capital Plan.

2.3 ARTA agrees that the expected funding figures described in the Capital Plan, are based on the projected costs of materials and labor as of the date of the preparation of the Capital Plan and, as such, that the costs associated with each of the Projects may vary significantly at the time of initiation of the Projects by ARTA and that ARTA will undertake or cause to be undertaken, as necessary, in whole or in part, the planning, design, funding and completion of the Projects, subject to the availability of adequate funds, based on the cost of such Projects at the time they are initiated by ARTA.

2.4 ARTA shall diligently pursue the issuance of the Future ARTA Bonds in good faith using commercial best efforts in order to close and have proceeds available from each series of such Future ARTA Bonds in accordance with the Capital Plan, including to reimburse the CAB for Actual Project Costs (defined below) incurred by the CAB to complete the Projects, if any. If ARTA is unable for any reason to (1) close on the issuance of the Future ARTA Bonds within a timeline that complies with expected funding needs set forth in the Capital Plan, or (2) the proceeds of such Future ARTA Bonds are insufficient to fully fund the Projects as described herein, ARTA shall notify the CAB in writing, including the rationale for such delay/insufficiency of funds and the expected new date(s) of issuance of the Future ARTA Bonds and/or financial projections for availability of proceeds for the Projects. Notwithstanding the foregoing, nothing herein obligates ARTA to issue any of the Future ARTA Bonds or to issue any other bonds or enter into other financial obligations, at any time or in any amount, and nothing herein limits or otherwise affects the sole and absolute discretion and authority of the Board of Directors of ARTA to issue or enter into any of the same.

2.5 The Parties understand and agree, consistent with the Establishing Agreement, that ARTA shall not have any long term ownership, operation or maintenance

responsibility, beyond initial warranty periods, as applicable, for any Project(s) undertaken by either the CAB or ARTA pursuant to this Agreement.

3. Completion of Projects by the CAB; Reimbursement of Project Costs.

3.1 The Parties understand and agree that ARTA does not as of the date of this Agreement have sufficient appropriated funds to fund all of the Projects ahead of the milestones for the issuance of the Future ARTA Bonds for each phase of the Projects. The CAB may, in its discretion and at different times during the term of this Agreement, have adequate funds available and be willing, on the terms and conditions as further set forth herein, to undertake or cause to be undertaken, as necessary, the planning, design, funding and/or completion of certain of the Projects, in whole or in part, either on its own or in coordination with other governmental entities, surrounding property owners, and/or other related parties, prior to ARTA's funding and/or undertaking of the same, on the condition that ARTA will promptly reimburse the CAB for the actual costs incurred by or on behalf of the CAB to complete such Project(s) or portions thereof, in accordance with the terms hereof. Nothing herein shall be construed as obligating the CAB to fund any of the Projects, or portions thereof, in whole or in part and such funding shall be subject to the CAB's annual budgeting and appropriation in its sole discretion.

3.2 Subject to the availability of adequate funds and appropriation by the Board of Directors of ARTA, ARTA agrees to reimburse the CAB for actual costs incurred by the CAB to complete any one or more of the Projects or portions thereof as set forth below.

3.2.1 Pursuant to the terms hereof, ARTA agrees to reimburse the CAB for costs actually incurred by or on behalf of the CAB to undertake the planning, design, funding, construction and/or completion of any one or more of the Projects or portions thereof, including, but not limited to, any and all soft costs related thereto, but excluding any and all costs incurred by the CAB related to the CAB's financing of such costs, if any (the "**Actual Project Costs**").

3.2.2 Notwithstanding any provision of this Agreement to the contrary, the Parties agree the Actual Project Costs for any of the Projects or portions thereof shall not include any discretionary costs to enhance such Projects or portions thereof beyond what is required by the applicable governing and/or accepting jurisdiction(s) to complete the same, including but not limited to enhanced landscaping, cosmetic structural enhancements, and enhanced pedestrian access, it being the understanding of the Parties that while such enhancements may be desired by the CAB, the costs therefore shall not be included Actual Project Costs to be reimbursed by ARTA. Nothing herein prevents the CAB from including such enhancements in any Project or portion thereof undertaken by the CAB at the cost of the CAB or some other third party.

3.2.3 During the term of this Agreement, the Parties will in good faith communicate openly and regularly, and coordinate with one another whenever possible regarding the planning, design and construction of the Projects and any portion(s) thereof, it being the mutual desire of the Parties to facilitate the timely and efficient completion of the Projects and to avoid the duplication of efforts. Prior to commencing any planning, design, funding, construction and/or completion of any one or more of the Projects or portions thereof,

which are not already underway as of the Effective Date, the CAB shall provide to ARTA written notice of the CAB's intent to do so (each a "CAB Project Notice"). Such CAB Project Notice shall include, at a minimum, a description of the activities expected to be undertaken by the CAB related to the Project(s), the CAB's anticipated schedule and the estimated Actual Project Costs for completing the same.

3.2.4 The CAB understands and acknowledges ARTA's purpose and desire to facilitate the coordinated and efficient planning, design and construction of the entire Regional Transportation System of which the Projects are only a part. All final designs for the Projects or portions thereof undertaken by the CAB shall be subject to prior review and approval by ARTA, which review and approval shall not be unreasonably withheld or delayed by ARTA, and which approval shall be deemed granted by ARTA if such final design has not been disapproved by ARTA within thirty (30) days of the CAB providing ARTA with the final designs. Upon receipt by ARTA of a CAB Project Notice, in the event ARTA desires to undertake any Project or portion thereof identified in the CAB Project Notice and ARTA is able to do so consistent with the timing set forth in the CAB Project Notice, ARTA shall notify the CAB in writing of ARTA's current intent to undertake such Project or portion thereof, and the CAB shall defer to ARTA's preference by allowing ARTA to undertake such Project or portion thereof. Notwithstanding any provision herein to the contrary, ARTA shall not be required to reimburse the CAB for any Actual Project Costs incurred by the CAB related to the implementation of final designs that were not approved by ARTA or the undertaking of any aspect of a Project or portion thereof for which ARTA notified the CAB of ARTA's intent to undertake the same consistent with the provisions of this Section 4.2.6.

3.2.5 Upon completion of any Project or portion thereof, the CAB shall provide a written report to ARTA detailing the Actual Project Costs incurred to complete the Project or portion thereof along with an invoice to ARTA for reimbursement of such Actual Project Costs; provided, prior to requesting the reimbursement of any Actual Project Costs, the CAB must obtain a certification of an independent professional engineer approved by ARTA that: (1) such Actual Project Costs are costs actually incurred by or on behalf of the CAB for the relevant Project, and are reasonable and comparable for similar projects as constructed in the Denver Metropolitan Area, and (2) that all jurisdictions with authority have approved or preliminarily accepted the Project or portion thereof. The reasonable cost of obtaining the foregoing certification may be included as part of the Actual Project Costs to be reimbursed to the CAB.

3.2.6 The CAB understands and agrees that ARTA shall not have any obligation to advance the timing of the Future ARTA Bonds in the event the CAB, in its discretion, undertakes the planning, design, funding, construction and/or completion of any one or more of the Projects, or portion thereof, and incurs Actual Project Costs related to the same, in advance of the phasing set forth in the Capital Plan.

3.2.7 ARTA agrees it will, subject to the terms and conditions of this Agreement, within thirty (30) days following (1) the receipt from the CAB of the written report and invoice required by Section 4.2.6 above for reimbursement of Actual Project Costs, and (2) the receipt and appropriation of adequate funds by ARTA, reimburse to the CAB funds in the

amount of the Actual Project Costs for any Project(s) completed by the CAB. ARTA agrees that its obligation to reimburse the CAB as set forth herein shall have first priority over any other reimbursement obligations of ARTA entered into after the Effective Date from the Future ARTA Bond proceeds, and that ARTA shall not enter into any future reimbursement obligations from the Future ARTA Bond proceeds that do not acknowledge the priority of its reimbursement obligations under this Agreement, nor shall ARTA take any actions inconsistent with this provision. The CAB acknowledges and agrees the ARTA obligations to reimburse the CAB hereunder are expressly subordinate to and do not in any way impact any ARTA obligations under the ARTA Bonds, and are subordinate to the obligations of ARTA to reimburse Green Valley Ranch East Metropolitan District No. 6 under that certain Intergovernmental Agreement Regarding Regional Transportation System Project Funding and Construction between ARTA and Green Valley Ranch East Metropolitan District No. 6 dated October 12, 2021.

3.2.8 The CAB agrees that in engaging any consultants, contractors or other agents and procuring materials or services in connection with the planning, design and construction of any of the Projects, the CAB shall comply with all applicable laws, rules, or regulations related to the same. In particular, the CAB agrees it will comply with the public bidding requirements set forth in §32-1-1001(1)(d)(I), C.R.S., and will, upon request, share with ARTA any and all bids received by the CAB related to the Project as part of the coordination set forth in Section 4.2.5 hereof.

3.2.9 The Actual Project Costs and any amounts due to the CAB from ARTA hereunder shall not accrue interest at any time.

3.3 Nothing in this Agreement shall modify or be construed as modifying or otherwise affecting the Establishing Agreement or ARTA's responsibilities associated with the planning, design, funding and construction of the Regional Transportation System or any Regional Transportation System Improvements thereunder.

4. Reports; Accounting. During the term of this Agreement, ARTA shall provide to the CAB periodic reports regarding ARTA's progress on and anticipated schedule for the ARTA Bonds and the Projects. In the event the CAB undertakes the planning, design, funding, construction and/or completion of any one or more of the Projects, the CAB shall provide to ARTA periodic reports regarding progress on the Project(s) and shall maintain or cause to be maintained full and complete records of actual costs incurred and funds committed and expended by the CAB for actual costs associated with the Project(s) in accordance with generally accepted accounting principles. ARTA shall have the right to audit the CAB's financial records related to any Projects undertaken by the CAB during the term of this Agreement and up to three (3) years after reimbursement by ARTA to the CAB for the same, if any.

5. Certain Tax Matters. The Parties acknowledge that both Parties may desire to issue tax-exempt bonds or other tax-exempt financial obligations to fund the Regional Transportation System Improvements, the Projects, and/or the reimbursement obligations set forth herein, or portions thereof, as applicable, and that the cooperative nature of the funding arrangement set forth herein may have certain state and/or federal tax implications. The Parties agree in good faith to cooperate and to take such other actions as may be reasonably necessary to allow the Parties to utilize tax-exempt financings to fund the Regional Transportation System

Improvements, the Projects, and/or the reimbursement obligations set forth herein, or portions thereof, to the maximum extent possible and to comply with the provisions of state and federal law related thereto. Any inability of ARTA to issue tax-exempt bonds or other tax-exempt financial obligations to fund the reimbursement of Actual Project Costs to the CAB under this Agreement due to any action of the CAB shall be a justifiable reason for delay under Section 2.3 hereof.

6. Future Right-of-Way.

6.1 In furtherance of the CAB's support of ARTA's provision of the Regional Transportation System, the CAB agrees that it will facilitate ARTA's acquisition of any and all real property rights reasonably necessary to complete ARTA's Regional Transportation System Improvements as follows:

6.1.1 In the event the CAB owns and/or controls any real property interest(s) reasonably necessary to complete any portion of ARTA's Regional Transportation System Improvements, including but not limited to fee simple title, easements, licenses, or any other property interest, the CAB agrees it will dedicate or convey such property interest(s) to ARTA, or the appropriate accepting jurisdiction, at no cost to ARTA or such accepting jurisdiction, such dedication or conveyance to be completed by any mutually agreeable means.

6.1.2 In the event the CAB does not own and/or control an identified real property interest reasonably necessary to complete any portion of ARTA's Regional Transportation System Improvements, including but not limited to fee simple title, easements, licenses, or any other property interest, the CAB agrees it will in good faith cooperate with ARTA to cause such property interest(s) to be dedicated and/or conveyed to ARTA, or the appropriate accepting jurisdiction, at no cost to ARTA or such accepting jurisdiction, regardless whether such property interest(s) is/are owned and/or controlled by another metropolitan CAB or entity related to the CAB, or an unrelated third party.

6.2 In furtherance of ARTA's support of the CAB's assistance with the provision of the Regional Transportation System, ARTA agrees that it will facilitate the CAB's acquisition of any and all real property rights reasonably necessary for the CAB to complete portions of ARTA's Regional Transportation System Improvements as follows:

6.2.1 In the event ARTA owns and/or controls any real property interest(s) reasonably necessary for the CAB to complete any portion of ARTA's Regional Transportation System Improvements, including but not limited to fee simple title, easements, licenses, or any other property interest, ARTA agrees it will dedicate or convey such property interest(s) to the CAB, or the appropriate accepting jurisdiction, at no cost to the CAB or such accepting jurisdiction, such dedication or conveyance to be completed by any mutually agreeable means.

6.2.2 In the event ARTA does not own and/or control an identified real property interest reasonably necessary for the CAB to complete any portion of ARTA's Regional Transportation System Improvements, including but not limited to fee simple title, easements, licenses, or any other property interest, ARTA agrees it will in good faith cooperate with the

CAB to cause such property interest(s) to be dedicated and/or conveyed to the CAB, or the appropriate accepting jurisdiction, at no cost to the CAB or such accepting jurisdiction, regardless whether such property interest(s) is/are owned and/or controlled by another metropolitan CAB or entity related to ARTA, or an unrelated third party.

7. No Multi-Fiscal Year Obligation; Annual Appropriations; ARTA. It is hereby agreed and acknowledged that while this Agreement evidences an intent of ARTA to issue the ARTA Bonds, to undertake the planning, design, funding, construction and/or completion of the Projects, and to reimburse the CAB for costs incurred by the CAB for the planning, design, funding, construction and/or completion of the Projects, if any, all as further set forth herein, this Agreement shall not constitute or be interpreted as constituting a debt or indebtedness of ARTA within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation of ARTA, and the issuance of the ARTA Bonds, appropriation and expenditure of funds for the Projects, and the making of any reimbursement hereunder shall be at all times subject to the annual appropriations by ARTA's Board of Directors. ARTA may reimburse to the CAB Actual Project Costs, if any, consistent with the provisions of this Agreement, with any legally available funds of the ARTA. Nothing herein is intended to be or shall be deemed or construed to create a "contract" or "other obligation" within the meaning of Section 5.02 of the Establishing Agreement.

8. No Multi-Fiscal Year Obligation; Annual Appropriations; CAB. The CAB does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The CAB is a political subdivision of the State of Colorado and, as such, any and all financial obligations of the CAB described hereunder are subject to annual budget and appropriations requirements of applicable law.

9. Project Responsibility; Contractors. Any and all contractors contracted by ARTA or the CAB to complete any portion of the Projects at any time shall be the contractors and/or agents of ARTA or the CAB, respectively, only, and shall not be considered or interpreted to be contractors or agents of the other.

10. Relationship of the Parties. The Parties shall not be deemed by virtue of this Agreement to have entered into any partnership, joint venture, employer/employee or other relationship with each other, other than as contracting parties.

11. Term. This Agreement shall be effective as of the Effective Date set forth above and shall terminate upon the final completion of all of the Projects and the reimbursement to the CAB of all amounts owed to the CAB for completion of the Projects, if any, as provided herein.

12. Dispute Resolution. In the event either of the Parties reasonably objects in whole or in part to the other Party's performance of its duties pursuant to this Agreement or to any other matter related to the provisions of this Agreement, expressly excluding any material breach or default, the Parties agree they shall use commercially reasonable efforts to meet and confer in good faith to resolve such reasonable objection as soon as practicable, including but not limited by engaging in third party mediation or engaging in some other form of mutually agreed upon alternative dispute resolution. If, despite their commercially reasonable and good faith efforts, the Parties are unable to resolve any such reasonable objection within thirty-five (35) days after

the date that such reasonable objection has been received, the Parties may seek any remedies available pursuant to this Agreement.

13. Covenant of Good Faith and Fair Dealing. The Parties agree to act in good faith in dealing with one another, carrying out their responsibilities, and performing their obligations pursuant to this Agreement. Each Party hereby covenants to the other that it shall not undermine the rights or obligations of the other Party hereto with respect to the Agreement and it will cooperate with the other in achieving the purposes of this Agreement.

14. Default/Remedies. In the event of a material breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity after the provision of thirty-five (35) days prior written notice of the alleged breach or default to the other Party; provided the Parties waive any claims against each other for consequential damages arising out of or relating to this Agreement, including, but not limited to, special, incidental, consequential, or punitive damages of any kind arising out of or related to the performance or non-performance of the Agreement, and regardless of whether such losses, damages or liability arises from breach of contract or warranty, tort (including negligence), strict liability or otherwise. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

15. Notices and Communications. All notices, statements, demands, requirements, approvals or other communications and documents ("**Communications**") required or permitted to be given, served, or delivered by or to any Party or any intended recipient under this Agreement shall be in writing and shall be given to the applicable address set forth below ("**Notice Address**"). Communications to a Party shall be deemed to have been duly given (i) on the date and at the time of delivery if delivered personally to the Party to whom notice is given at such Party's Notice Address; or (ii) on the date and at the time of delivery or refusal of acceptance of delivery if delivered or attempted to be delivered by an overnight courier service to the Party to whom notice is given at such Party's Notice Address; or (iii) on the date of delivery or attempted delivery shown on the return receipt if mailed to the Party to whom notice is to be given by first-class mail, sent by registered or certified mail, return receipt requested, postage prepaid and properly addressed to such Party at such Party's Notice Address; or (iv) on the date and at the time shown on the facsimile or electronic mail message if telecopied or sent electronically to the number or address designated in such Party's Notice Address and receipt of such telecopy or electronic mail message is electronically confirmed. The Notice Addresses for each Party are as follows:

If to ARTA:

Aerotropolis Regional Transportation Authority
c/o CliftonLarsonAllen LLP
Attention: Lisa Johnson
8390 E. Crescent Parkway, Suite 300
Greenwood Village, Colorado 80111
Phone: 303-779-4525
Fax: 303-773-2050
Email: Lisa.Johnson@claconnect.com

With copies to: Spencer Fane LLP
Attention: Tom George
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Phone: 303-839-3800
Email: tgeorge@spencerfane.com

If to CAB: The Aurora Highlands Community Authority Board
c/o CliftonLarsonAllen LLP
8390 E. Crescent Parkway, Suite 300
Greenwood Village, CO 80111-2811
Attention: Denise Denslow, Manager
Phone: 303-265-7910
Email: Denise.Denslow@claconnect.com

With copies to: McGeady Becher P.C.
450 East 17th Avenue, Suite 400
Denver, CO 80203-1254
Attention: MaryAnn M. McGeady
Phone: 303-592-4380
Email: legalnotices@specialdistrictlaw.com

16. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

17. Entire Agreement; Headings for Convenience Only; Not to be Construed Against Drafter; No Implied Waiver. This Agreement constitutes the entire agreement among the Parties hereto pertaining to the subject matter hereof. No change or addition is to be made to this Agreement except by written amendment executed by the Parties. The headings, captions and titles contained in this Agreement are intended for convenience of reference only and are of no meaning in the interpretation or effect of this Agreement. This Agreement shall not be construed more strictly against one Party than another merely by virtue of the fact that it may have been initially drafted by one of the Parties or its counsel, since all Parties have contributed substantially and materially to the preparation hereof. No failure by a Party to insist upon the strict performance of any term, covenant or provision contained in this Agreement, no failure by a Party to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment owed to a Party during the continuance of any default by the other Party, shall constitute a waiver of any such term, covenant or provision, or a waiver of any such right or remedy, or a waiver of any such default unless such waiver is made in writing by the Party to be bound thereby. Any waiver of a breach of a term or a condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default under this Agreement, from having all the force and effect of a default.

18. Governing Law; Venue. This Agreement is entered into in Colorado and shall be construed and interpreted under the law of the State of Colorado without giving effect to principles of conflicts of law which would result in the application of any law other than the law of the State of Colorado. Any legal dispute arising hereunder shall be tried and heard in the District Court for the County of Adams, State of Colorado.

19. Severability. If any provision of this Agreement is declared void or unenforceable, such provision shall be severed from this Agreement and shall not affect the enforceability of the remaining provisions of this Agreement.

20. Assignment; Binding Effect. Except as expressly permitted under this Agreement, none of the Parties hereto may assign any of their rights or obligations under this Agreement without the prior written consent of the other Party, which consent may be withheld in each Party's sole and absolute discretion. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their permitted assigns.

21. Counterparts; Copies of Signatures. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one (1) and the same instrument. The signature pages from one (1) or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document. This Agreement may be executed and delivered by electronic means, and execution and delivery of the signature page by such methods will be deemed to have the same effect as if the original signature had been delivered to the other Party.

22. Computation of Time Periods. All time periods referred to in this Agreement shall include all Saturdays, Sundays and holidays, unless the period of time specifies business days. If the date to perform any act or give a notice with respect to this Agreement shall fall on a Saturday, Sunday or national holiday, the act or notice may be timely performed on the next succeeding day which is not a Saturday, Sunday or a national holiday.

23. No Waiver of Governmental Immunity. Nothing in this Agreement or in any actions taken by the Parties or their respective elected officials, directors, officers, agents and employees pursuant to this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions of the Colorado Governmental Immunity Act, Sections 24-10-101, *et seq.*, C.R.S.

24. Third Party Beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or to give to any person or entity other than the Parties 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 any and all provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. It is the express intention of the Parties that any person other than the Parties shall be deemed to be an incidental beneficiary only.

25. No Personal Liability. No elected official, director, officer, agent or employee of either Party shall be charged personally or held contractually liable by or under any term or

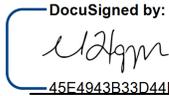
provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

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IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement Regarding Regional Transportation System Project Funding and Construction as of the Effective Date first set forth above.

Approved unanimously by vote of the Board of Directors of the Aerotropolis Regional Transportation Authority on November 24, 2021.

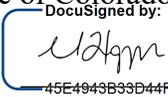
AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY,
a political subdivision and body corporate of the State of Colorado formed pursuant to C.R.S. Section 43-4-601

By:  _____
DocuSigned by: 45E4943B33D44F2...

Name: Matthew Hopper

Title: President

CAB:
THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD, a political subdivision and public corporation of the State of Colorado

By:  _____
DocuSigned by: 45E4943B33D44F2...

Name: Matthew Hopper

Title: President

Attest:

DocuSigned by:



Secretary

EXHIBIT A
CAPITAL PLAN

Exhibit D - Phasing Plan

| Project | Description(ARTA Portion) | Total Cost | ARTA Total | % | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2024 | 2025 | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | |
|---------|--|------------------------|-----------------------|-----------------------|---------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|-----------------------|
| A | 48th Avenue E470 to Gun Club 6 Lanes (2 Lanes) | \$ 4,899,840 | \$ 1,714,944 | 35.0% | | | | | | \$ 428,736 | \$ 1,286,208 | | | | | | | | | | |
| B | 48th Avenue Gun Club to Harvest 6 Lanes (2 Lanes) | \$ 6,082,560 | \$ 2,128,896 | 35.0% | | | | | | | | | | | \$ 532,224 | \$ 1,596,672 | | | | | |
| C | 48th Avenue Harvest to Powhatan 6 Lanes (2 Lanes) | \$ 12,165,120 | \$ 4,257,792 | 35.0% | | | | | | | | | | | \$ 1,064,448 | \$ 3,193,344 | | | | | |
| D | 38th Avenue Himalaya to E470 4 Lanes (North 2 Lanes) | \$ 14,931,280 | \$ 6,377,128 | 42.7% | \$ 746,564 | \$ 746,564 | | | | \$ 2,574,000 | \$ 2,310,000 | | | | | | | | | | |
| E | 38th Avenue Himalaya to E470 4 Lanes (South 2 Lanes) | \$ 8,039,920 | \$ 8,039,920 | 100.0% | | | | | | | | | | | | | | \$ 4,019,960 | \$ 4,019,960 | | |
| F | TAH Parkway E470 to Main Street 4 Lanes (1 Lane) | \$ 3,674,880 | \$ 3,674,880 | 100.0% | \$ 918,720 | \$ 2,756,160 | | | | | | | | | | | | | | | |
| G | TAH Parkway Main St to Aura Blvd 4 Lanes (1 Lane) | \$ 7,349,760 | \$ 2,939,904 | 40.0% | \$ 734,976 | \$ 2,204,928 | | | | | | | | | | | | | | | |
| H | TAH Parkway Aura Blvd to Powhatan 4 Lanes (1 Lane) | \$ 26,169,600 | \$ 9,159,360 | 35.0% | | | | \$ 5,495,616 | | \$ 3,663,744 | | | | | | | | | | | |
| I | 26th Avenue E470 to Main Street 6 Lanes (2 Lanes) | \$ 3,210,240 | \$ 1,123,584 | 35.0% | \$ 280,896 | \$ 842,688 | | | | | | | | | | | | | | | |
| J | 26th Avenue Main Street to Harvest 6 Lanes (2 Lanes) | \$ 9,630,720 | \$ 3,370,752 | 35.0% | | | | \$ 337,075 | \$ 3,033,677 | | | | | | | | | | | | |
| K | 26th Avenue Harvest to Powhatan 6 Lanes (2 Lanes) | \$ 14,530,560 | \$ 5,085,696 | 35.0% | | | | | | \$ 1,271,424 | \$ 1,271,424 | \$ 2,542,848 | | | | | | | | | |
| L | Powhatan Road I-70 to 26th 6+ Lanes (3 Lanes) | \$ 18,928,000 | \$ 12,303,200 | 65.0% | | | | | | \$ 2,460,640 | \$ 4,921,280 | \$ 4,921,280 | | | | | | | | | |
| M | Powhatan Road 26th to 48th 6+ Lanes (3 Lanes) | \$ 32,032,000 | \$ 20,820,800 | 65.0% | | | | | | \$ 4,164,160 | \$ 8,328,320 | \$ 8,328,320 | | | | | | | | | |
| N | Powhatan Road 48th to 56th 6+ Lanes (3 Lanes) | \$ 25,920,000 | \$ 16,848,000 | 65.0% | | | | | | \$ 3,369,600 | \$ 6,739,200 | \$ 6,739,200 | | | | | | | | | |
| O | E470/38th Interchange 100% | \$ 24,000,000 | \$ 24,000,000 | 100.0% | \$ 1,200,000 | \$ 1,200,000 | | \$ 1,200,000 | \$ 8,400,000 | \$ 8,400,000 | \$ 3,600,000 | | | | | | | | | | |
| P | HM/PR/I70 Interchange 100% | \$ 36,000,000 | \$ 36,000,000 | 100.0% | \$ 1,440,000 | \$ 1,440,000 | | | | | | | | \$ 720,000 | \$ 10,800,000 | \$ 10,800,000 | \$ 10,800,000 | | | | |
| Q | Powhatan/I-70 INT Initial Interchange 100% | \$ 6,080,000 | \$ 6,080,000 | 100.0% | \$ 304,000 | \$ 304,000 | \$ 608,000 | | | \$ 1,216,000 | \$ 1,824,000 | \$ 1,824,000 | | | | | | | | | |
| R | Picadilly Interchange Interchange(NEATS) Design Only | \$ 49,440,000 | \$ 2,472,000 | 5.0% | | | | | | | | | | | | | \$ 1,236,000 | \$ 1,236,000 | | | |
| | ORIGINAL | PROJECTED TOTAL | \$ 303,084,480 | \$ 166,396,856 | | \$ 5,625,156 | \$ 9,494,340 | \$ 608,000 | \$ 7,032,691 | \$ 11,433,677 | \$ 27,548,304 | \$ 30,280,432 | \$ 24,355,648 | \$ - | \$ 2,316,672 | \$ 15,590,016 | \$ 10,800,000 | \$ 12,036,000 | \$ 5,255,960 | \$ 4,019,960 | \$ - |
| | CUMMULATIVE TOTAL | | | | \$ 5,625,156 | \$ 15,119,496 | \$ 15,727,496 | \$ 22,760,187 | \$ 34,193,864 | \$ 61,742,168 | \$ 92,022,600 | \$ 116,378,248 | \$ 116,378,248 | \$ 116,378,248 | \$ 118,694,920 | \$ 134,284,936 | \$ 145,084,936 | \$ 157,120,936 | \$ 162,376,896 | \$ 166,396,856 | \$ 166,396,856 |

Exhibit D-1 - Phasing Plan (First Supplement)

| | | | | | | | | | | | | | | | | | | | | |
|----|--|-----------------------|----------------------|------------|-------------|-------------|-------------|-------------|-------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|--|--|--|
| AA | 38th Avenue Picadilly to Tibet North 2 Lanes | \$ 2,574,000 | \$ 2,574,000 | 100% | | | | | | \$ 2,574,000 | | | | | | | | | | |
| BB | 38th Avenue Tibet to E470 North 2 Lanes | \$ 2,310,000 | \$ 2,310,000 | 100% | | | | | | | \$ 2,310,000 | | | | | | | | | |
| CC | 48th Avenue Rome to Tibet 6 Lanes (2 Lanes) | \$ 2,145,000 | \$ 2,145,000 | 100% | | | | | | \$ 214,500 | \$ 1,608,750 | \$ 321,750 | | | | | | | | |
| DD | 48th Avenue Tibet to E470 6 Lanes (2 Lanes) | \$ 2,585,000 | \$ 2,585,000 | 100% | | | | | | \$ 258,500 | \$ 1,938,750 | \$ 387,750 | | | | | | | | |
| EE | Picadilly Road 38th to 48th East 3 Lanes (1.5 Lanes) | \$ 2,772,000 | \$ 693,000 | 25% | | | | | | \$ 693,000 | | | | | | | | | | |
| FF | Picadilly Road 48th to 52nd East 3 Lanes (1.5 Lanes) | \$ 2,028,000 | \$ 507,000 | 25% | | | | | | \$ 507,000 | | | | | | | | | | |
| GG | Picadilly Road 52nd to 56th East 3 Lanes (1.5 Lanes) | \$ 1,602,000 | \$ 400,500 | 25% | | | | | | \$ 40,050 | \$ 300,375 | \$ 60,075 | | | | | | | | |
| HH | 48th Avenue Powhatan to Monaghan 6 Lanes (2 Lanes) | \$ 12,648,000 | \$ 5,059,200 | 40% | | | | | | | | | | | \$ 505,920 | \$ 3,794,400 | \$ 758,880 | | | |
| II | 26th Avenue Powhatan to Monaghan 4 Lanes (2 Lanes) | \$ 8,695,500 | \$ 3,478,200 | 40% | | | | | | \$ 347,820 | \$ 2,608,650 | \$ 521,730 | | | | | | | | |
| JJ | Monaghan Road 26th to 38th 6 Lanes (2 Lanes) | \$ 8,757,500 | \$ 3,503,000 | 40% | | | | | | | | | \$ 350,300 | \$ 2,627,250 | \$ 525,450 | | | | | |
| KK | Monaghan Road 38th to 48th 6 Lanes (2 Lanes) | \$ 8,757,500 | \$ 3,503,000 | 40% | | | | | | | | | \$ 350,300 | \$ 2,627,250 | \$ 525,450 | | | | | |
| LL | 26th/32nd Realignment Picadilly to E470 4 Lanes (4 Lanes) | \$ 12,740,000 | \$ 12,740,000 | 100% | | | | | | \$ 6,370,000 | \$ 6,370,000 | | | | | | | | | |
| MM | Picadilly Interchange Interchange(NEATS) Design/Construction | \$ 66,000,000 | \$ 17,500,000 | 27% | | | | | | | | | \$ 17,500,000 | | | | | | | |
| | PROJECTED TOTAL | \$ 133,614,500 | \$ 56,997,900 | 43% | \$ - | \$ 11,004,870 | \$ 15,136,525 | \$ 1,291,305 | \$ 18,200,600 | \$ 5,254,500 | \$ 1,556,820 | \$ 3,794,400 | \$ 758,880 | | | |
| | CUMMULATIVE TOTAL | | | | \$ - | \$ 11,004,870 | \$ 26,141,395 | \$ 27,432,700 | \$ 45,633,300 | \$ 50,887,800 | \$ 52,444,620 | \$ 56,239,020 | \$ 56,997,900 | | | |

EXHIBIT B

THE PROJECTS

The following list identifies certain of the Regional Transportation System Improvements as set forth in the Establishing Agreement. Identification of the following Regional Transportation System Improvements, the “Projects” as used in the foregoing agreement, does not in any way alter or amend the identification or scope of such Regional Transportation System Improvements as set forth in the Establishing Agreement.

26th Avenue/32nd Avenue Realignment (Picadilly Road to E-470)
26th Avenue (Aerotropolis Parkway to Monaghan Road)
26th Avenue (Main Street to Harvest Road)
Aerotropolis Parkway (I-70 to 26th Avenue)
Aerotropolis Parkway (26th Avenue to 48th Avenue)
Aerotropolis Parkway (48th Avenue to 56th Avenue)
48th Avenue (E-470 to Denali Blvd.)
48th Avenue (Denali Blvd. to Aerotropolis Parkway)
48th Avenue (Aerotropolis Parkway to Monaghan Road)
I-70 Interchange (Harvest Road/Aerotropolis Parkway)
Monaghan Road (26th Avenue to 48th Avenue)

[Note: Powhaton Road is now known as Aerotropolis Parkway]