AGREEMENT REGARDING PROJECT COMPLETION AND REIMBURSEMENT
(38^{th} Avenue – Himalaya Road to Odessa Street)

THIS AGREEMENT REGARDING PROJECT COMPLETION AND REIMBURSEMENT (this "Agreement") is made and entered into effective the ____ day of _______________, 2025 (the "Effective Date"), by and between **AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY**, a political subdivision and body corporate of the State of Colorado (**"ARTA"**) formed pursuant to the Regional Transportation Authority Law, Sections 43-4-601, *et seq*., C.R.S. (the **"RTA Law"**), and **CITY OF AURORA, COLORADO**, a home rule municipal corporation of the Counties of Adams, Arapahoe and Douglas (the **"City"**). ARTA and the City may be referred to collectively herein as the **"Parties"** and individually as a **"Party."**

RECITALS

A. 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.

B. 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"**).

C. The City has undertaken or will cause to be undertaken, on the condition that ARTA agrees to reimburse City for costs incurred, the completion of certain improvements which are part of the Regional Transportation System Improvement (the **"Project,"** as further defined herein).

D. ARTA is willing to reimburse the City for the costs incurred to complete the Project as further set forth herein.

E. ARTA previously issued general obligation bonds in 2019, 2021, and 2024, and expects to issue several additional series of bonds or other financial obligations in a time frame which allows ARTA to fund improvements consistent with the phasing set forth in its Capital Plan, including the Project (the **"ARTA Bonds"**).

F. The Parties have, individually, determined it to be in their interests and the interests of their respective constituents and taxpayers, as applicable, to enter into this Agreement in order to facilitate the timely, full completion of the Project as set forth herein.

G. In furtherance of the purposes set forth herein, the Parties desire to enter into this Agreement to set forth their understanding regarding the undertaking and completion of the Project, and all other matters hereinafter set forth.

AGREEMENT

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

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

2. Project. The "Project," as defined and used herein, means those components of the Regional Transportation System more particularly described and detailed in **Exhibit A** to this Agreement.

3. Initial Funding and Completion of Project.

3.1 City's Undertaking. In consideration of ARTA's reimbursement obligation set forth in Section 4 below, the City agrees that it has or will in good faith using commercial best efforts undertake or cause to be undertaken to completion in its entirety the Project; provided, failure by the City to complete the Project shall not constitute a breach of this Agreement so long as the City pursues completion with reasonable efforts and due diligence. The City, in coordination with any other applicable entities, as necessary, and not ARTA, shall be primarily responsible for facilitating, overseeing, and completing the Project.

3.2 Cost Reimbursement. ARTA agrees to reimburse the City for the actual construction costs of the Project consistent with this Agreement. ARTA's financial contribution toward the costs of the Project will be funded as a reimbursement to the City as provided in Section 4 of this Agreement. ARTA is not obligated pursuant to this Agreement to credit, reimburse or otherwise compensate the City for any planning, design or construction unrelated to the Project.

3.3 ARTA's Limited Responsibility for Project After Completion. The Parties understand and agree, consistent with the Establishing Agreement, that ARTA shall not have any long-term ownership, operation or maintenance responsibility for the Project after completion pursuant to this Agreement.

4. ARTA Reimbursement Obligation. ARTA agrees to reimburse the City for all actual construction costs incurred by or on behalf of the City to complete the Project or portions thereof as set forth below.

4.1 Specific Cost Allocations. ARTA agrees to reimburse the City for costs actually incurred to undertake the planning, design, and construction and/or completion of the Project or portions thereof (the **"Actual Project Costs"**).

4.2 Reimbursement Request. During construction of the Project or portions thereof, but no more frequently than monthly, the City shall provide a written report to ARTA detailing the Actual Project Costs incurred to date for construction of the Project or portion thereof along with an invoice to ARTA for reimbursement to the City of such Actual Project Costs incurred (each a **"Reimbursement Request"**). Each Reimbursement Request shall include a certification of an independent professional engineer, of ARTA's choosing, certifying that such Actual Project Costs are (1) construction costs actually incurred by or on behalf of the City for the Project, and (2) reasonable and comparable for similar projects as constructed in the Denver Metropolitan Area. ARTA agrees that it will bear the cost of obtaining the foregoing certification(s) separate and apart from the Actual Project Costs to be reimbursed by ARTA.

4.3 Payment of Reimbursement Request. ARTA shall, within sixty (60) days following its receipt of a Reimbursement Request, pay to the City funds in the amount of the Actual Project Costs set forth in the Reimbursement Request.

4.4 Maximum Reimbursement Amount. Under all circumstances, ARTA's reimbursement to the City for Actual Project Costs shall not exceed five million six hundred and five thousand fifty-one dollars ($5,605,051) (the **"Maximum Reimbursement Amount"**). In the event the Actual Project Costs exceed the foregoing Maximum Reimbursement Amount for any reason, ARTA shall not have any obligation whatsoever to identify, obtain, appropriate or otherwise pay to the City or any other entity any additional funds beyond the Maximum Reimbursement Amount, it being the Parties' understanding that under such circumstances the City or other third parties will responsible for funding the remainder of the Project. In the event the Actual Project Costs do not amount to the Maximum Reimbursement Amount for any reason, ARTA shall be obligated to reimburse the City only for the Actual Project Costs in the amount actually incurred.

5. Communication; Reports; Accounting. The City, or its project manager or other agent(s), shall keep accurate records of the progress of the Project and shall provide status reports to ARTA, or its designee, on a regular basis (at a minimum, quarterly). 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 Project and any portion(s) thereof, it being the mutual desire of the Parties to facilitate the timely and efficient completion of the Project and to avoid the duplication of efforts. The City shall maintain or cause to be maintained full and complete records of actual costs incurred and funds committed and expended for actual costs associated with the Project in accordance with generally accepted accounting principles. ARTA shall have the right to audit the City's financial records only to the extent such records are related to the Project during the term of this Agreement and up to three (3) years after reimbursement by ARTA to the City for the same.

6. Certain Tax Matters. The Parties acknowledge that ARTA has or intends to issue tax-exempt bonds or other tax-exempt financial obligations to fund the Actual Project Costs as set

forth herein, 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 ARTA to utilize tax-exempt financings to fund the Actual Project Costs to the maximum extent possible and to comply with the provisions of state and federal law related thereto. Any inability of ARTA to issue or utilize tax-exempt bonds or other tax-exempt financial obligations to fund the Actual Project Costs under this Agreement due to any action of the City shall be a justifiable reason for delay as to ARTA.

7. No Multi-Fiscal Year Obligation; Annual Appropriations. This Agreement shall not constitute or be interpreted as constituting a debt or indebtedness of either of the Parties within the meaning of any constitutional or statutory provision, nor shall it constitute a multiple fiscal year financial obligation of either of the Parties, and the issuance of bonds or other obligations, appropriation and expenditure of funds for the Project, and the making of any reimbursement hereunder shall be at all times subject to the annual appropriations by each Parties' respective Board of Directors. ARTA may reimburse the City, consistent with the provisions of this Agreement, with any legally available funds of ARTA.

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

9. 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.

10. Term. This Agreement shall be effective as of the Effective Date set forth above and shall, unless earlier terminated on its terms, terminate upon the final completion of the Project and the reimbursement to the City of all amounts owed by ARTA to the City for completion of the Project as provided herein.

11. Dispute Resolution. In the event any of the Parties reasonably objects in whole or in part to another 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 first provide written notice of the objection to the other Party, and thereafter 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 written notice of reasonable objection was received, the Parties may seek any remedies available pursuant to this Agreement.

12. 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.

13. 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.

14. 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 electronic mail message if sent electronically to the address designated in such Party's Notice Address and receipt of such 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: Anna Jones
2001 16th Street, Suite 1700
Denver, CO 80202
Phone: (303) 779-4525
Email: Anna.Jones@claconnect.com

With copies to: Aerotropolis Regional Transportation Authority
Attn: David Center
2001 16th Street, Suite 1700
Denver, 80202

Aerotropolis Regional Transportation Authority
c/o Spencer Fane LLP
Attention: Tom George
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Phone: (303) 839-3800
Email: tgeorge@spencerfane.com

If to City: City of Aurora Public Works Department
Attention: Cathleen Valencia
Project Delivery Services Manager
15151 E. Alameda Parkway, Suite 3200
Aurora, Colorado 80012
Phone: (303)739-7337
Email: cvalenci@auroragov.org

With copies to: City of Aurora, City Attorney's Office
15151 E. Alameda Parkway, Suite 5300
Aurora, Colorado 80012
Phone: (303)739-7030

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. No Personal Liability. No elected official, director, officer, agent or employee of any Party, as applicable, 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.

[remainder of page intentionally left blank; signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement 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 12, 2025.

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

/s/: ______________________

Name: Matthew Hopper

Title: President

CITY OF AURORA, COLORADO
a home rule municipal corporation
of the Counties of Adams, Arapahoe and Douglas

______________________________ 05/12/26
Mike Coffman, Mayor Date

ATTEST:

____
Kadee Rodriguez, City Clerk

Approved as to legal form:

____
Brian Rulla, Assistant City Attorney

EXHIBIT A
DESCRIPTION OF THE PROJECT

Identification of the following "Project" as used in the foregoing agreement and below, does not in any way alter or amend the identification or scope of the Regional Transportation System Improvements as set forth in the Establishing Agreement.

Project Name	**Project Description**
38th Avenue (Himalaya Road to Odessa Street)	Design and construction of the two east bound lanes of the right-of-way of 38th Avenue from Himalaya Road on the west to Odessa Street on the east, located in the City of Aurora, Colorado, including, but not limited to: (1) two paved lanes comprising 38th Avenue (inclusive of any tie-ins to existing roadways or tapers or transitions segments); (2) all adjacent curb, gutter, sidewalks, and ½ of the median; (3) all grading, stormwater improvements (inclusive of box culverts where applicable), landscaping and irrigation, retaining walls (if necessary), signage, site utilities and electrical, traffic and pedestrian safety improvements (inclusive of traffic signals); and (4) all other capital public improvements necessary to complete the four lanes of such segment of 38th Avenue.