

**THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD
FIRST AMENDED AND RESTATED
ESTABLISHMENT AGREEMENT**

BETWEEN AND AMONG

**AEROTROPOLIS AREA COORDINATING METROPOLITAN DISTRICT
THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 1
THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 2
THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 3
ATEC METROPOLITAN DISTRICT NO. 1
AND
ATEC METROPOLITAN DISTRICT NO. 2**

FIRST AMENDED AND RESTATED EFFECTIVE DATE: APRIL 16, 2020

ORIGINAL EFFECTIVE DATE: NOVEMBER 21, 2019

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**THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD FIRST AMENDED
AND RESTATED ESTABLISHMENT AGREEMENT**

THIS FIRST AMENDED AND RESTATED THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD ESTABLISHMENT AGREEMENT (“CABEA”) is made and entered into this 16TH day of April, 2020, between and among **AEROTROPOLIS AREA COORDINATING METROPOLITAN DISTRICT (“AACMD”), THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 1 (“District No. 1”), THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 2 (“District No. 2”), THE AURORA HIGHLANDS METROPOLITAN DISTRICT NO. 3 (“District No. 3”), ATEC METROPOLITAN DISTRICT NO. 1 (“ATEC No. 1”), and ATEC METROPOLITAN DISTRICT NO. 2 (“ATEC No. 2”)** (collectively, the **“CAB Districts”**), all being quasi-municipal corporations and political subdivisions of the State of Colorado.

RECITALS

A. The CAB Districts were organized pursuant to Service Plans, defined below, approved by the City Council of the City of Aurora, Colorado.

B. Pursuant to the Colorado Constitution, Article XIV, Sections 18(2)(a) and (b), and Section 29-1-203, C.R.S., metropolitan districts may cooperate or contract with each other to provide any function, service or facility lawfully authorized to each, and any such contract may provide for the sharing of costs, the imposition of taxes, and the incurring of debt.

C. Pursuant to Section 29-1-203.5, C.R.S., metropolitan districts may contract with one another for the joint exercise of any function, service or facility lawfully authorized to each, including the establishment of a separate legal entity to do so as a political subdivision and public corporation of the State of Colorado.

D. The CAB Districts exist for the purpose of designing, acquiring, constructing, installing, financing, operating and maintaining certain street, traffic and safety controls, water, sanitation, stormwater, parks and recreation, television relay and translation, transportation, and mosquito control, and providing certain services, all in accordance with the Service Plans.

E. The Service Plans disclose and establish the necessity for, and anticipate one or more intergovernmental agreements between and/or among two or more of the CAB Districts concerning the financing, construction, operation and maintenance of Public Improvements (as defined in this CABEA) contemplated in the Service Plans and concerning the provision of services in the community to be served by the CAB Districts.

F. The Service Plans contemplate that the CAB Districts, with the approval of their electors, would enter into one or more intergovernmental agreements.

G. At elections of the qualified electors of each of the CAB Districts, in accordance with law and pursuant to due notice, a majority of those qualified to vote and voting at such elections, voted in favor of the CAB Districts entering into intergovernmental agreements. To the extent that this CABEA, as an intergovernmental agreement, constitutes a Multiple-Fiscal Year

Financial Obligation of one or more of the CAB Districts, the same has received voter approval in such elections.

H. The Service Plans describe certain Public Improvements to be financed in accordance with general plans of finance described or permitted in the Service Plans, from one or more of the following: (1) revenues received from the imposition of a mill levy within the CAB Districts; (2) revenue received from Fees collected by the CAB Districts; or (3) the proceeds of Bonds and other available revenues (including Developer Advances).

I. The CAB Districts agree that the Public Improvements are needed by the CAB Districts and that such Public Improvements will benefit the residents and property owners in the CAB Districts in terms of cost, quality, and level of service.

J. The CAB Districts agree that the coordinated construction, financing, completion and availability of the Public Improvements in a timely fashion within the Service Area (as defined in this CABEA) will promote the health, safety, prosperity, security, and general welfare of the current and future inhabitants and current and future property owners within the CAB Districts.

K. The CAB Districts desire to establish The Aurora Highlands Community Authority Board (the “CAB”), which shall: (i) plan for, design and construct, furnish, operate, and maintain the Public Improvements; and (ii) provide services authorized by the Service Plans, and to which each CAB District shall transfer certain revenues received by it in order to fund the Actual Operation and Maintenance Costs (as such terms are defined in this CABEA).

L. Each CAB District has agreed that: (i) the CAB shall own, operate, maintain, finance and construct the Public Improvements throughout the Service Area pursuant to the Long Term Capital Improvements Plan (as defined in this CABEA) benefiting the CAB Districts; and (ii) each of the CAB Districts shall transfer certain revenues received by it in order to fund the costs of construction, operation, and maintenance of such Public Improvements from its taxes and fees except for the revenues from the ARI Mill Levy, defined below, which are the subject of the ARTA Establishment Agreement, the AACMD/ARTA ARI Mill Levy IGA, and the CAB Districts ARI Mill Levy IGAs, all as defined below.

M. It is the purpose of this CABEA to bind the CAB Districts concerning capital expenditures and operation and maintenance expenses so that the cost of providing facilities and services to the entire Development (as defined in this CABEA) shall be shared by the property owners, taxpayers, and fee payers in the Service Area under the numerous circumstances which could occur in the future.

N. It is the intent of the CAB Districts that all bonds shall be issued by the CAB itself, from time to time, for the financing of the Public Improvements as set forth herein.

O. It is the intent of the CAB Districts that the CAB shall enter into contracts to plan, design, construct, and acquire the Public Improvements.

P. The amount of any bonds issued by the CAB or any applicable CAB District will be based upon estimates of the capital costs of construction of portions of the Public Improvements

as they are and will be needed to complete the Development, plus reserve funds, capitalized interest, legal fees, and any other costs associated with the financing or refinancing of the bonds.

Q. The CAB Districts agree that the provision of services and the operation and maintenance of the Public Improvements by the CAB will be financed, primarily, by mill levies imposed by each of the CAB Districts for such purposes.

R. The CAB Districts desire to set forth their agreement regarding the implementation of guidelines and objectives set forth in the Service Plans for: (i) the financing, construction, and operation and maintenance of the Public Improvements; and (ii) the provision of services described in the Service Plans.

S. The CAB Districts acknowledge that AACMD entered into an Intergovernmental Agreement with the Board of County Commissioners of the County of Adams and the City of Aurora establishing the Aerotropolis Regional Transportation Authority dated February 27, 2018 (respectively, the “**ARTA Establishment Agreement**” and “**ARTA**”, both as defined below).

T. Pursuant to the terms of the ARTA Establishment Agreement, ARTA has the responsibility to finance and construct the Regional Transportation System, as defined therein (the “**Regional Transportation System**”, as also defined below).

U. ARTA has issued debt, and pursuant to the ARTA Establishment Agreement, ARTA will issue additional debt in the future to fund the Regional Transportation System.

V. AACMD has entered into that certain Intergovernmental Agreement Regarding Imposition, Collection and Transfer of ARI Mill Levies with ARTA dated May 22, 2019 (“**AACMD/ARTA ARI Mill Levy IGA**”).

W. Pursuant to the terms of the AACMD/ARTA ARI Mill Levy IGA, AACMD has agreed: (i) to impose the ARI Mill Levy; (ii) to collect and remit the ARI Mill Levy Revenues, defined below, to ARTA; and (iii) to enter into intergovernmental agreements with the other CAB Districts to cause the other CAB Districts to impose the ARI Mill Levy and to collect and remit the ARI Mill Levy Revenues to ARTA (the “**CAB Districts ARI Mill Levy IGAs**”).

X. The CAB Districts agree that the obligations of AACMD under the ARTA Establishment Agreement and the AACMD/ARTA ARI Mill Levy IGA, and the obligations of the CAB Districts under the CAB Districts ARI Mill Levy IGAs, shall remain the responsibility of AACMD and the other CAB Districts as set forth in such IGAs, and the CAB shall have no responsibility for the matters set forth therein unless specifically set forth in a written agreement between the CAB and AACMD and/or such CAB Districts, as applicable.

Y. The CAB Districts acknowledge that, prior to the organization of the CAB, AACMD coordinated the planning, design, and construction of the Public Improvements.

Z. The CAB Districts agree that: (i) the CAB shall enter into one or more agreements with AACMD pursuant to which AACMD will coordinate the planning, design, and construction of certain of the Public Improvements; and (ii) that nothing in this CABEA is intended to limit the authority of AACMD or the CAB to enter into such agreements.

AA. The owner of certain real property within the Development has executed that certain Master Declaration of Covenants, Conditions and Restrictions for The Aurora Highlands, effective January 31, 2020, and recorded such document in the real property records of Adams County, Colorado on February 2, 2020, at reception number 2020000010483 (the “**TAH Master Declaration**”). The TAH Master Declaration initially encumbers certain real property located within District No.1, however, the TAH Master Declaration also contemplates that Supplemental Declarations (as such term is defined below) will add additional real property to the purview of the TAH Master Declaration after platting and prior to such additional real property being sold to a third party. Following the execution and recordation of a Supplemental Declaration, such real property shall thereafter be subject to the TAH Master Declaration, as amended from time to time, and shall be owned, held, conveyed, encumbered, leased, improved, used, occupied, enjoyed, sold, transferred, hypothecated, maintained, and altered in accordance with and subject to the covenants and use restrictions contained in the TAH Master Declaration.

BB. The TAH Master Declaration provides that the CAB shall enforce each of the provisions provided therein on behalf of AACMD, District No. 1, District No. 2, and District No. 3, and additional metropolitan districts, which may include ATEC No. 1 and ATEC No. 2.

CC. The TAH Master Declaration further provides for The Aurora Highlands design guidelines (the “**TAH Design Guidelines**” as defined below) and The Aurora Highlands rules and regulations for covenant enforcement (the “**TAH Covenant Enforcement Rules and Regulations**” as defined below) to be administered, and enforced by the CAB on behalf of the applicable CAB Districts.

DD. Each of the CAB Districts intends that the CAB shall be authorized to undertake covenant enforcement and design review services within the boundaries of the applicable CAB District to the extent that the real property within such boundaries is subject to the TAH Master Declaration, the TAH Design Guidelines, the TAH Covenant Enforcement Rules and Regulations, and such additional declarations imposing covenants, conditions and restrictions, design guidelines, and rules and regulations as may be adopted from time to time for non-residential development that provide for enforcement by the CAB on behalf of any or all of the CAB Districts (the “**TAH Covenants**”); provided, however, that any and all revenues used to furnish such covenant enforcement and design review services in accordance with the TAH Master Declaration, the TAH Design Guidelines, the TAH Covenants, and the TAH Covenant Enforcement Rules and Regulations must be derived from within the boundaries of the CAB District in which the services are furnished.

EE. To promote efficient administration and enforcement of the TAH Master Declaration, the TAH Design Guidelines, the TAH Covenants, and the TAH Covenant Enforcement Rules and Regulations, AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1 and ATEC No. 2 wish to expressly authorize the CAB to exercise their powers with respect to covenant enforcement and design review services (the “**TAH Covenant Enforcement Services**” as defined below).

FF. Contemporaneously herewith, AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2 have each adopted a resolution: (i) acknowledging its powers to enforce covenants pursuant to state statute and acknowledging its intention to provide for uniform

enforcement of the covenants and the uniform provision of design review services; and (ii) authorizing the CAB to perform such covenant enforcement and design review services within their respective boundaries, in order to achieve such uniform enforcement of covenants and uniform provision of design review services.

GG. AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2 wish to further define the CAB's authority to administer and enforce the TAH Master Declaration, the TAH Design Guidelines, the TAH Covenants, and the TAH Covenant Enforcement Rules and Regulations for the real property within their boundaries, subject to the terms and conditions set forth in this CABEA.

NOW, THEREFORE, for and in consideration of the Recitals and the mutual covenants in this CABEA, the CAB Districts agree as follows:

ARTICLE I : GENERAL PROVISIONS

1.1 Interpretation. This CABEA shall be subject to the following rules of interpretation:

(a) The terms "herein", "hereunder", "hereby", "hereto", "hereof", and any similar terms, refer to this CABEA as a whole, including all exhibits, addendums, and amendments, and not to any particular article, section, or subdivision of this CABEA unless otherwise specifically stated to the contrary.

(b) All definitions and terms shall include both the singular and the plural, and all capitalized words or terms shall have the definitions set forth in the Recitals and Section 2.1.

(c) The captions or headings of this CABEA are for convenience only and in no way define, limit, or describe the scope or intent of any provision, article, or section of this CABEA.

(d) The term "and" can mean "or" and the term "or" can mean "and" in any provision, article or section of this CABEA.

1.2 Effective Date and Term. This CABEA shall be effective as of the Original Effective Date and shall continue to be in full force and effect until all of the following have occurred: (a) each and every CAB District agrees to terminate this CABEA; (b) there is no outstanding Debt; and (c) all Public Improvements owned by the CAB, and all services performed by the CAB, have been assumed by another governmental entity.

1.3 Purpose and Scope of CABEA. As more specifically set forth in this CABEA, the primary purpose of the CABEA is to create The Aurora Highlands Community Authority Board which will: (a) facilitate the planning, design, acquisition, construction, installation, relocation, redevelopment, financing, and operation and maintenance of the Public Improvements; and (b) provide certain services contemplated by the Service Plans of the CAB Districts on behalf of the CAB Districts, including covenant enforcement and design review services, to benefit the taxpayers, property owners, and residents in the Development. The

Service Plans describe the individual CAB Districts and contemplate that the CAB Districts will provide services and Public Improvements to serve the Development. This CABEA will enhance the ability of the CAB Districts, through the CAB, to effectively coordinate the provision of, and financing of, the Public Improvements and services set forth in the Service Plans, and will further facilitate the build-out of the Development in accordance with the City's land use regulations and development standards. The CAB Districts intend to cooperate with one another and with the CAB to effectuate the financing of, and operation and maintenance of, the Public Improvements, and effectuate the provision of services, in a manner that is equitably allocated among the CAB Districts and the residents and taxpayers of the CAB Districts. The statements of intention set forth in this Section 1.3 are essential to the proper interpretation of this CABEA and are intended to clarify the general intent of specific provisions contained in this CABEA.

1.4 Addition of Members. Any metropolitan district organized pursuant to the Act may request to become a CAB District upon its organization, subject to: (a) obtaining the unanimous agreement of the CAB Board, (b) obtaining the unanimous consent of the requesting district's board of directors, and (c) requesting district's execution of this CABEA.

1.5 Inactive Status and Return to Active Status. The CAB Districts acknowledge that one or more of the CAB Districts may elect to become inactive pursuant to the Act, and may determine to remain inactive, in any one or more of the years that this CABEA is in effect.

1.6 Incorporation of Recitals. The Recitals set forth above are incorporated into the body of this Agreement by this reference.

ARTICLE II : DEFINITIONS

2.1 Definitions. As used in this CABEA, unless the context indicates otherwise, the words and terms defined below and capitalized throughout the text of this CABEA shall have the meanings set forth below.

(a) “**Act**” shall mean Title 32, Article 1, C.R.S., as the same may be amended from time to time.

(b) “**Actual Capital Costs**” shall mean those costs which are to be incurred by the CAB for the purpose of planning, designing, constructing, financing, and acquiring the Public Improvements, including, but not limited to, the following:

(i) All costs of labor and materials attributable to the actual construction or acquisition of the Public Improvements and all related components and materials used therein, and all other costs or fees due or paid under cost recovery agreements or due and paid under other agreements with the Developer or Third-Persons, together with all costs and fees incurred to obtain financing for the Public Improvements;

(ii) All costs attributable to the construction or acquisition of the Public Improvements and the Regional Transportation System or any part or component thereof incurred as a result of change orders approved in accordance with any construction contract;

(iii) All costs incurred for planning, design, engineering, construction, management, landscape architecture, engineering, soil testing and inspection, and line and systems testing and inspection attributable to the Public Improvements and the Regional Transportation System, including legal fees;

(iv) Site, permit, and right-of-way or easement acquisition costs, including legal fees;

(v) All bond costs, including, without limitation: (A) the principal and redemption price of, and interest and premium on, any Bonds, including any scheduled mandatory or cumulative sinking fund payments and any mandatory redemption or principal prepayment amounts as provided in the bond documents; (B) accumulation or replenishment of any reserves or surplus funds relating to the Debt; and (C) customary fees related to the issuance of the Debt (including, but not limited to, fees of a trustee, paying agent, rebate agent, and provider of liquidity or credit facility), fees related to remarketing the debt, and any reimbursement due to a provider of liquidity or credit facility securing any Debt;

(vi) All legal fees, management fees, bond issuance costs and fees, credit enhancement costs and fees, accounting fees, interest costs, and reserve funds incurred in connection with the financing, construction, or acquisition of the Public Improvements and the Regional Transportation System;

(vii) All costs for Bonds, insurance, construction administration, financial services, inspections, appraisals, and other professional fees;

(viii) Any other capital costs, expenses, or expenditures associated with the financing, construction, or acquisition of the Public Improvements and the Regional Transportation System; and

(ix) Reimbursement to the Developer for Developer Capital Advances to fund items in Section 2.1(b) (i)-(viii) above.

(c) “**Actual Operations and Maintenance Costs**” shall mean the costs incurred by the CAB to provide Operation and Maintenance Services for the Public Improvements and the Regional Transportation System and shall include the reimbursement to the Developer of the Developer Operating Advances.

(d) “**Alternate Board Member**” shall mean an alternate Board Member, appointed from among a CAB District’s Board of Directors and authorized to serve on the CAB Board in the event such CAB District’s regular Board Member is unable to attend a Board Meeting or is no longer qualified to serve.

(e) “**ARI Mill Levy**” shall mean the ARI Mill Levy as defined in the Service Plans for each of the CAB Districts.

(f) “**ARI Mill Levy Revenues**” shall mean the revenue received by each CAB District from the imposition of the ARI Mill Levy.

(g) “**ARTA**” shall mean the Aerotropolis Regional Transportation Authority, a regional transportation district created and existing pursuant to Title 43, Article 4, Part 6, C.R.S., and any successor entity created to fulfill the purposes for which ARTA was established pursuant to the ARTA Establishment Agreement.

(h) “**ARTA Establishment Agreement**” shall mean the intergovernmental agreement between and 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, which incorporates as Exhibit A thereto, the Regional Transportation System improvements, and any amendments thereto.

(i) “**Board**” or “**Boards**” shall mean the lawfully organized Board or Boards of Directors of the CAB District(s), as applicable.

(j) “**Board Meeting**” shall mean a regular or special meeting of the Board Members convened pursuant to Section 3.4(d) herein.

(k) “**Board Member**” shall mean a director of the CAB Board of Directors.

(l) “**Bonds**” shall mean bonds or other obligations for the payment of which the CAB Districts have promised to impose an *ad valorem* property tax mill levy and/or the CAB has promised to collect Development Fee revenue.

(m) “**Budget Year**” shall mean the year (immediately following the applicable Planning Year) during which the Actual Operations and Maintenance Costs and Actual Capital Costs are to be incurred.

(n) “**Bylaws**” shall mean any bylaws adopted by the CAB Board, as the same may be amended from time to time. In the absence of any bylaw(s) adopted by the CAB Board or addressing a particular circumstance or interpretation of bylaws adopted by the CAB Board, the CAB Board and any committees established by the CAB Board shall refer to *Robert’s Rules of Order, (11th Edition 2018)*.

(o) “**CAB**” shall mean The Aurora Highlands Community Authority Board established pursuant to this CABEA.

(p) “**CAB Board**” shall mean the Board of Directors of the CAB.

(q) “**CAB Districts**” shall mean all districts formed and operating pursuant to Title 32, C.R.S., which agree to the terms and conditions set forth in this CABEA and which are unanimously accepted by the CAB Board as members of the CAB, including, initially: (i) AACMD, (ii) District No. 1, (iii) District No. 2, (iv) District No. 3, (v) ATEC No. 1, and (vi) ATEC No. 2.

(r) “**CAB Manager**” shall mean a professional manager or management company, hired by the CAB Board, who is experienced and knowledgeable in the management of authorities or local governments.

(s) “**CABEA**” shall mean this Community Authority Board Establishment Agreement and any exhibits, addendums, and amendments hereto made in accordance herewith.

(t) “**Capital Repair and Replacement Costs**” shall mean those costs related to the non-routine repair and replacement of the Public Improvements, as a part of the Actual Operations and Maintenance Costs, which shall be set forth in the Final Budget.

(u) “**City**” shall mean the City of Aurora, Colorado.

(v) “**Construction**” shall include, but not be limited to, construction, expansion, acquisition, capital maintenance, repair, and replacement of the Public Improvements.

(w) “**Construction Schedule**” shall mean the schedule showing the Public Improvements planned for Construction to commence during the Budget Year.

(x) “**County**” shall mean Adams County, Colorado.

(y) “**Covenant Enforcement Rules and Regulations**” shall mean the TAH Covenant Enforcement Rules and Regulations.

(z) “**Covenant Enforcement Services**” shall mean the TAH Covenant Enforcement Services.

(aa) “**C.R.S.**” shall mean the Colorado Revised Statutes as such statutes are amended from time to time. In the event of a repeal of a statute cited herein, the procedure contained in the statute immediately prior to repeal shall apply; provided, however, that if such repealed statute is replaced by another statute, then the new statute shall apply.

(bb) “**Debt**” shall mean: (i) any Bonds, promissory notes, agreements, instruments, or other obligations issued or incurred by the CAB, and payable from the *ad valorem* property taxes of the CAB Districts and other revenues of the CAB Districts, including, but not limited to, Fees, rates, tolls, and charges; or (ii) any other multiple fiscal year financial obligation whatsoever, the payment for which any of the CAB Districts has promised to impose an *ad valorem* property tax mill levy, but excluding any ARI Mill Levy or ARI Mill Levy Revenue.

(cc) “**Declaration**” shall mean the TAH Master Declaration, including any Supplemental Declaration created thereunder.

(dd) “**Design Guidelines**” shall mean the TAH Design Guidelines, as the same may be amended or supplemented from time to time.

(ee) “**Developer**” shall mean Aurora Highlands, LLC, a Nevada limited liability company, or its designated successors and permitted assigns.

(ff) “**Developer Advances**” shall mean, collectively, the Developer Capital Advances and the Developer Operating Advances.

(gg) “**Developer Capital Advances**” shall mean funds advanced by the Developer for payment of Actual Capital Costs, including the amounts previously advanced by the Developer for this purpose.

(hh) “**Developer Operating Advances**” shall mean funds advanced by the Developer for payment of Actual Operations and Maintenance Costs, including the amounts previously advanced by the Developer for this purpose.

(ii) “**Development**” or “**Property**” shall mean the approximately 3,920-acre development known as The Aurora Highlands and the Aurora Technology and Energy Center, located in the City of Aurora, County of Adams, State of Colorado, which is anticipated to be developed with single family and multi-family homes, commercial, retail, industrial, and other amenities, reaching an estimated population of approximately 41,823 people at full build-out.

(jj) “**Development Fees**” shall mean fees imposed by vote of the CAB, and memorialized in a writing recorded in the real property records of the County, for financing Actual Capital Costs, and such fees shall be required to be paid to the CAB prior to the issuance of a building permit.

(kk) “**District Administrative Costs**” shall mean the costs incurred by the CAB Districts directly related to administrative functions of each applicable CAB District, including, but not limited to, costs related to accounting, financing, audit, insurance, management, and legal services.

(ll) “**Event of Default**” shall mean any one or more of the events or the existence of one or more of the conditions set forth in Article XII hereof.

(mm) “**Expanded Notice**” shall mean, in addition to notice being posted as required by the Act, notification being provided by one of the following methods: (i) publication in a newspaper circulated within the City; (ii) an insert with a billing statement; or (iii) email or comparable then-current technology to all property owners. To constitute an Expanded Notice, publication must be made by one of the foregoing methods no less than thirty (30) days prior to the date of the Board Meeting at which consideration of a final decision on the matter will be considered, and not more than sixty (60) days before the date of such Board Meeting. Such Expanded Notice shall include contact information for the CAB and the CAB Districts where additional information may be obtained.

(nn) “**Fee**” shall mean, collectively, (i) any type of charge to any portion of the Service Area for any services or facilities provided by or through the CAB, (ii) any fees imposed by the CAB for the Design Review Committee or Enforcement Committee services, or (iii) any other community-wide services or facilities provided by or through the CAB.

(oo) “**Final Budget**” shall mean the final budget in any year, and as may be amended within the fiscal year, as established and approved by the CAB following public hearings, for the payment of projected Actual Operations and Maintenance Costs and Actual Capital Costs.

(pp) “**Fine**” shall mean any monetary penalty imposed by the CAB due to a violation of the TAH Covenant Enforcement Rules and Regulations by such owner or resident of the subject real property.

(qq) “**First Amended and Restated Effective Date**” shall mean April 16, 2020.

(rr) “**Funding Account**” shall mean the account owned, established, and managed by the CAB.

(ss) “**Long Term Capital Improvements Plan**” shall mean that certain Long Term Capital Improvements Plan adopted by the CAB Board, and amended from time to time, for design and construction of the Public Improvements to serve the Service Area.

(tt) “**Multiple-Fiscal Year Financial Obligation**” shall mean the obligation of the CAB Districts evidenced hereunder, whereby the CAB Districts covenant to pay their respective shares of the Actual Operations and Maintenance Costs and their respective shares of the Actual Capital Costs.

(uu) “**Operations and Maintenances Services**” shall mean those costs incurred in the administration of the CAB, including, but not limited to: (i) the cost of assuring compliance with this CABEA and all applicable statutory and regulatory provisions; (ii) the costs of administering the Funding Account; and (iii) those tasks, services, and functions performed by or on behalf of the CAB, or provided to the CAB, which are necessary or appropriate in order to operate, maintain, repair, and replace the Public Improvements, generally including, without limitation, costs of labor and materials, management, legal, financing, accounting, construction and other professional services, insurance, bonds, permits, licenses, and other governmental approvals.

(vv) “**Original Effective Date**” shall mean November 21, 2019.

(ww) “**PIF Revenue**” (*definition reserved for future use*).

(xx) “**PILOT**” shall mean any covenant recorded against the Development or a portion of the Development requiring a payment in lieu of taxes if real or personal property within the Development is not subject to *ad valorem* property taxation.

(yy) “**Planning Year**” shall mean the year immediately preceding the corresponding Budget Year.

(zz) “**Plans**” shall mean the plans, documents, drawings, and other specifications prepared by or for the CAB for the Construction of any Public Improvements.

(aaa) “**Present**” or “**Present at the Meeting**” shall mean either being physically present at a Board Meeting or attending a Board Meeting via phone or some other electronic device.

(bbb) “**Public Improvements**” shall mean those improvements and facilities to be financed and constructed as authorized under the Service Plans necessary for the completion of the Development, which shall include the Regional Transportation System.

(ccc) “**Regional Transportation System**” shall mean the regional transportation infrastructure projects identified on Exhibit A of the ARTA Establishment Agreement, as may be amended from time to time.

(ddd) “**Rules and Regulations**” shall mean those rules and regulations established by the CAB Board governing the operation and use of the Public Improvements, as the same may be amended from time to time.

(eee) “**Service Area**” shall mean Service Area as defined in Section 3.2.

(fff) “**Service Plans**” shall mean the Service Plans, as amended or restated from time to time, for each CAB District, which were approved or will be approved by the appropriate jurisdiction and which include, initially, the following:

(i) The First Amended and Restated Service Plan for the Aerotropolis Area Coordinating Metropolitan District approved October 16, 2017;

(ii) The Consolidated First Amended and Restated Service Plan for The Aurora Highlands Metropolitan District Nos. 1 – 3 approved October 16, 2017; and

(iii) The Service Plan for ATEC Metropolitan District Nos. 1 and 2 approved August 6, 2018.

(ggg) “**Specific Ownership Tax Revenues**” shall mean the specific ownership taxes remitted to the CAB Districts pursuant to Section 42-3-107, C.R.S., or any successor statute, as a result of the CAB Districts’ imposition of their respective mill levies.

(hhh) “**State**” shall mean the State of Colorado.

(iii) “**Supplemental Declaration**” shall have the same meaning given to such term in the TAH Master Declaration.

(jjj) “**TAH Covenant Enforcement Rules and Regulations**” shall mean the Rules and Regulations for Covenant Enforcement adopted by the CAB and as may be amended from time to time, for the Property within the boundaries of AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2.

(kkk) “**TAH Covenant Enforcement Services**” shall mean the covenant enforcement and design review services to be exercised by the CAB, TAH Design Review Committee, TAH Covenant Enforcement Committee, or such designee of the CAB as may enforce any portion of the TAH Master Declaration or the TAH Covenants on behalf of the CAB Districts.

(lll) “**TAH Master Declaration**” shall that certain Master Declaration of Covenants, Conditions and Restrictions for The Aurora Highlands, effective January 31, 2020, recorded in the real property records of Adams County, Colorado on February 2, 2020, at reception number 2020000010483, as the same may be amended from time to time, together with any Supplemental Declaration thereto.

(mmm)“**TAH Design Guidelines**” shall mean the Design Guidelines adopted pursuant to the TAH Master Declaration, as may be amended from time to time, that apply to the Property that is subject to the TAH Master Declaration.

(nnn) “**Terminating District**” shall mean any CAB District that opts to terminate the Covenant Enforcement Services of the CAB and enforce the terms and conditions of the applicable Declaration, Design Guidelines, and Covenant Enforcement Rules and Regulations within its own territory.

(ooo) “**Third-Persons**” shall mean any individual, corporation, joint venture, estate, limited liability company, trust, partnership, association, or other legal entity, including governmental entities other than the CAB Districts, the Developer, and the CAB.

(ppp) “**Transition Period**” shall mean the period of transition from Covenant Enforcement Services to enforcement of the applicable Declaration, Design Guidelines, and Covenant Enforcement Rules and Regulations by the Terminating District within its own territory as provided in Section 9.9 herein.

ARTICLE III : ESTABLISHMENT OF AUTHORITY

3.1 Establishment of Authority. The Aurora Highlands Community Authority Board is organized as a separate legal entity to be a political subdivision and public corporation of the State of Colorado pursuant to the powers set forth in Article XIV of the Colorado Constitution and in conformity with the provisions of Sections 29-1-203 and 203.5, C.R.S.

3.2 Service Area. The Service Area of the CAB shall consist of the combined service areas of the CAB Districts, as the same may change from time to time.

3.3 Purpose. As further described in section 1.3, above, the primary purpose of the CAB is to effectuate the development of the Public Improvements, and provide certain services, for the benefit of the CAB Districts, the residents, taxpayers, and property owners, including the Developer. By the establishment of the CAB, the CAB Districts will be able to achieve efficiencies in coordinating the designing, planning, construction, acquisition, financing, operating, and maintaining of the Public Improvements. It is the intent that the CAB will provide for residents and property owners the opportunity to participate in the Development through representation on the CAB, ultimately transitioning from construction and development needs to operations and maintenance of all the Public Improvements when the Development is complete.

3.4 Governing. The CAB shall be governed and directed by the CAB, according to the following:

(a) Appointment of Board Members by CAB Districts. Contemporaneously herewith, and pursuant to Section 32-1-902.5, C.R.S., AACMD has filed a motion with the Adams County District Court requesting an increase in the number of members on the AACMD Board of Directors from five (5) to seven (7), however, AACMD may initially appoint up to five (5) Board Members to the CAB Board. AACMD shall not appoint more Board Members to the CAB Board than are qualified to serve on the AACMD Board of Directors. Each of District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2 may appoint one (1) Board Member to the CAB Board.

(i) Eligibility to Serve as a Board Member. To be eligible to be appointed as a Board Member the candidate must be currently serving on the CAB District Board that he or she is being appointed to represent. Each CAB District shall provide the CAB written notice evidencing the appointment of its appointed Board Member, including contact information and a disclosure of potential conflicts of interest, if any.

(ii) Alternate Board Members. Each CAB District may appoint from among its Board of Directors one or more Alternate Board Members to serve as an Alternate Board Member in the event such CAB District's appointed Board Member is unable to attend a Board Meeting or is no longer qualified to serve.

(1) Each CAB District shall provide the CAB written notice evidencing the appointment of any Alternate Board Members, including contact information and disclosures of potential conflicts of interest, if any. Alternate Board Members may be appointed at such times as each CAB District determines; provided, however, that any Alternate Board Member must be designated to serve on the CAB Board by written notice to the CAB provided not less than five (5) business days prior to any Board Meeting at which the Alternate Board Member will serve on the CAB Board.

(iii) Vacancies. In the event of a vacancy on the CAB Board, whether by expiration of term, resignation, by virtue of the fact that the Board Member is no longer qualified to serve on the applicable CAB District's Board, or for any other reason, the applicable CAB District shall appoint a successor Board Member within thirty (30) days following such vacancy.

(iv) Contact Notice. Each CAB District shall provide the CAB with written notice of the appointment and the name and contact information for each Board Member and Alternate Board Members appointed.

(v) New CAB Districts. If at any time following the First Amended and Restated Effective Date, a special district is added as a new CAB District hereunder (each a "**New CAB District**"), such New CAB District may appoint one (1) Board Member to the CAB Board (each a "**New CAB Board Member**"), in accordance with the process described above. AACMD may appoint one additional Board Member to the CAB Board for each New CAB Board Member, provided that, regardless of the eligibility requirements detailed in Section 3.4(a)(i), above, at such time as the CAB Board is comprised of seven (7) AACMD-appointed Board Members, any additional AACMD-appointed Board

member shall be an “eligible elector” of AACMD as such term is defined in Section 32-1-103, *et seq.*, C.R.S.

(b) Term. Each Board Member’s term on the CAB Board shall be coincident with his or her term on the CAB District Board from which he or she has been appointed. In the event a Board Member appointed by AACMD under Section 3.4(a)(v) is an “eligible elector” of AACMD and not a member of the AACMD Board, the term of such Board Member shall expire at the next regular election of AACMD following appointment. There shall be no limit on the number of terms a Board Member may serve on the CAB Board.

(c) Compensation. Board Members may receive compensation from the CAB for their service as a Board Member in a manner similar to directors of special districts under the Act. The CAB Board shall adopt a resolution implementing this provision before any compensation is paid to any Board Member.

(d) Meetings.

(i) Regular Board Meetings of the CAB Board shall be held at such place, on such date, and at such time as the CAB Board shall, by resolution or motion, establish from time to time, and in accordance with the requirements for special districts under the Act.

(ii) At least two (2) Board Meetings of the CAB Board shall be held annually.

(iii) Special Board Meetings of the CAB Board may be held at such place, on such day, and at such hour as the CAB Board may determine.

(iv) Notices of all Board Meetings shall be the same as meetings for special districts under the Act, except for those matters requiring Expanded Notice as more fully set forth in this CABEA.

(v) Action of the CAB Board shall be taken at a duly noticed regular or special Board Meeting; provided, however, that after the closing on the first sale of a residential unit by a homebuilder to an end user, the following items shall require approval of the CAB after provision of Expanded Notice and discussion at a minimum of two (2) public Board Meetings prior to approval (approval may be at the second Board Meeting, except for any bona-fide emergency action):

(1) Adoption of the Final Budget; and

(2) Issuance of Bonds.

3.5 Quorum. A Quorum is established by a majority of the Board Members being Present at a Board Meeting, which shall mean being either physically present at a Board Meeting or attending a Board Meeting via phone or by some other electronic device (“Present” or “Present at a Meeting”). If less than a majority of the Board Members then in office is Present at a Board Meeting, a majority of the Board Members Present shall constitute a quorum for the

Board Meeting. If no Board Members are Present, the Secretary or other officer may continue the Board Meeting to a different time and place, and in such case the Secretary shall notify absent Board Members of the time and place of such continued Board Meeting.

(a) Voting Process.

(i) Each serving Board Member or Alternate Board Member (if applicable) shall have one (1) vote; provided however, if the same person is appointed by multiple CAB Districts to serve as Board Member or Alternate Board Member, that person shall only have one (1) vote as a Board Member.

(ii) Each serving Board Member shall vote according to the policy established by the CAB District that the Board Member is representing.

(iii) Voting by proxy is prohibited.

(iv) In the event a vacancy is not filled as described in herein, that Board Member's vote, which was caused by such vacancy, shall be waived on any matter coming before the CAB Board and the related voting requirement, if any, shall be reduced, until such time as the vacancy is filled.

(b) Payments in Lieu of Taxes. Notwithstanding any provision to the contrary contained in this CABEA, any matter involving the collection, retention, or use of PILOTs shall be voted on and decided only by Board Members appointed from AACMD, until such time as the AACMD and the CAB enter into a written agreement providing otherwise; provided, however, that any PILOT revenues pledged by the CAB Districts to the CAB pursuant to a pledge agreement or pledge agreements shall be collected by the CAB and applied as set forth under such pledge agreements to the repayment of the obligations secured under the pledge agreements.

(c) Conflict Disclosures. All Board Members shall disclose conflicts of interest as required of officers or board members of special districts in accordance with Colorado law, as the same may be amended from time to time.

(d) Oath. Each Board Member shall take an oath of office substantially as required of directors of special districts under the Act.

(e) Officers. The officers of the CAB shall be a President, Vice-President, Secretary, Treasurer, and Assistant Secretary (individually, an “**Officer**”, and collectively, the “**Officers**”). In addition to the duties designated by the CAB Board, the duties of the Officers shall include:

(i) The President shall preside at all Board Meetings of the CAB Board and, except as otherwise delegated by the CAB Board or provided in this CABEA, shall execute all legal instruments of the CAB.

(ii) The Vice-President shall, in the absence of the President, or in the event of the President's conflict or inability or refusal to act, perform the duties of the

President and where so acting shall have all the powers of and be subject to all restrictions upon the President.

(iii) The Secretary shall maintain the official records of the CAB, including the minutes of Board Meetings of the CAB Board, and a register of the names and addresses of the CAB Districts, Board Members, Alternate Board Members, and Officers, and shall issue notice of Board Meetings, attest and affix the corporate seal, as applicable, to all documents of the CAB, and perform such other duties as the CAB Board may prescribe from time to time. The Secretary need not be a Board Member.

(iv) The Treasurer shall serve as financial officer of the CAB.

3.6 Powers. In general, the CAB shall have the power to exercise all powers which are now or may in the future be conferred by law upon a political subdivision and public corporation organized pursuant to Sections 29-1-203 and 29-1-203.5, C.R.S., or which are essential to the provision of its functions, services, and facilities, subject to such limitations as are or may be prescribed by law or in this CABEA. In accordance with Subsection 29-1-203.5(2)(a), C.R.S., the CAB is expressly authorized to exercise any general power of a special district specified in Part 10 of Article 1, Title 32, C.R.S., so long as each of the CAB Districts may lawfully exercise the power; provided, however, that pursuant to Subsection 29-1-203.5(2)(b), C.R.S., the CAB may not levy a tax or exercise a power of eminent domain. The CAB is further authorized to exercise the powers established in Subsection 29-1-203.5(3), C.R.S. To the extent permitted by law and subject to the limitations set forth in this CABEA, the powers and duties of the CAB Board, which shall be exercised by approval of a majority of the present and voting Board Members, unless otherwise specified in this CABEA, include, without limitation, the following:

(a) To establish such Bylaws, rules, regulations, procedures, and policies as may be reasonably necessary for the administration of the CAB and to provide access to and use of the Public Improvements.

(b) To plan, design, acquire, construct, install, relocate and/or redevelop, and finance the Public Improvements according to the procedures set forth in this CABEA.

(c) To own, operate, and manage the Public Improvements as set forth in this CABEA, and to cooperate with other governmental entities with respect to the Public Improvements.

(d) To collect from the CAB Districts and administer revenues for all such purposes in this CABEA, subject to the terms of this CABEA and limitations of law.

(e) To determine the Actual Operations and Maintenance Costs and Final Budget for the Public Improvements and the mill levy required to be imposed by each CAB District.

(f) To determine the Actual Capital Costs and Final Budget for the Public Improvements, the mill levy required to be imposed by each CAB District, and the anticipated revenues generated from the CAB Districts pursuant to the pledge set forth below.

(g) To acquire, hold, lease (as lessor or lessee), sell, or otherwise dispose of (subject to the limitations set forth in this CABEA) any legal or equitable interest in real or personal property utilized for the authorized purposes of the CAB.

(h) To conduct the business and affairs of the CAB in the best interests of, and for the benefit of, the CAB Districts and their inhabitants.

(i) To enter into, make, and perform contracts of every kind with the CAB Districts, including the agreements attached to this CABEA, the United States, any state or political subdivision thereof, or any county, city, town, municipality, city and county, any special district formed pursuant to Title 32, C.R.S., or any predecessor thereof, authority, or any person or individual, firm, association, partnership, corporation, or any other organization of any kind with the capacity to contract, for any of the purposes contemplated under this CABEA.

(j) To set Fees, rates, tolls, and charges.

(k) To employ agents and employees, and engage accountants, attorneys, managers, engineers, and other consultants, and to appoint officers of the CAB.

(l) To sue and be sued in the name of the CAB.

(m) To have and use a corporate seal.

(n) To report to the CAB Districts on the progress of plans for and development of the Public Improvements as set forth in the Long Term Capital Improvements Plan.

(o) To keep minutes of the CAB's Board Meetings.

(p) To ensure compliance with all Colorado statutes that apply to the CAB, including the provisions of Parts 1 (Local Government Budget Law of Colorado), 5 (Local Government Uniform Accounting Law), and 6 (Local Government Audit Law) of Article 1, Title 29, C.R.S.

ARTICLE IV : ADMINISTRATIVE SERVICES

4.1 Administrative Services. The CAB or its designee shall perform the following administrative services for each CAB District (the "**Administrative Services**"):

(a) Serving as the "official custodian" and repository for the CAB Districts' records and files, and providing incidental office supplies and photocopying, and meeting and reception services.

(b) Coordination of all Board Meetings, to include:

(i) Preparation and distribution of agenda and information packets;

- (ii) Preparation and distribution of Board Meeting minutes;
 - (iii) Attendance at Board Meetings;
 - (iv) Preparation, filing, and posting of legal notices required in conjunction with the Board Meeting; and
 - (v) Other details incidental to Board Meeting preparation and follow-up.
- (c) Ongoing maintenance of an accessible, secure, organized, and complete filing system for the CAB Districts' official records.
- (d) Monthly preparation of checks and coordination of postings.
- (e) Periodic coordination for financial report preparation and review of financial reports.
- (f) Insurance administration, including evaluating risks, comparing coverage, processing claims, completing applications, monitoring expiration dates, processing routine written and telephone correspondence, etc., and confirming that all contractors and subcontractors maintain required coverage for the CAB's and the applicable CAB District's benefit.
- (g) Election administration, including preparation of election materials, publications, legal notices, pleadings, conducting training sessions for election judges, and generally assisting in conducting elections.
- (h) Budget preparation, including preparation of proposed budgets, preparation of required and necessary publications, legal notices, resolutions, certifications, notifications, and correspondence associated with the adoption of the annual budget and certification of the tax levies.
- (i) Response to inquiries, questions, and requests for information from the applicable CAB District's property owners, residents, and Third-Persons.
- (j) Drafting proposals, bidding, contract and construction administration, and supervision of contractors.
- (k) Analysis of financial condition and alternative financial strategies, and supervision of contractors.
- (l) Oversee investment of each CAB District's funds based on investment policies established by the CAB Districts' Boards in accordance with State and federal law.
- (m) Provide liaison services and coordination with other governments.

(n) Coordinate activities and provide information as requested to external auditors engaged by the CAB Districts' Boards.

(o) Coordinate legal, accounting, engineering, financing, and other professional services for the CAB Districts.

(p) Perform other services with respect to the operation and management of each CAB District as requested by the applicable CAB District's Board.

In addition to these services, when other services are, in the professional opinion of the CAB, necessary, the CAB may, with the approval of a CAB District, provide professional services to such CAB District in lieu of retaining consultants or contractors to provide those services. Without limiting the foregoing provisions of this 4.1, each CAB District may elect, at its own cost, to retain its own legal counsel and/or accounting services (each, a "**Professional Service Provider**"). In addition to providing their respective legal and accounting services, such Professional Service Provider may also assist and/or advise such CAB District as it relates to the Administrative Services provided to such CAB District by the CAB. The CAB Districts do not intend for a CAB District to pay duplicative costs for such legal and/or accounting services. Therefore, reasonable costs incurred by a CAB District for legal and/or accounting services provided by a Professional Service Provider that are similar in scope and cost to, and not in excess of, such CAB District's share of legal and/or accounting services set forth in the Final Budget shall be deducted from amounts that would otherwise be payable to the CAB for legal and/or accounting services. If such CAB District engages a Professional Service Provider for legal and/or accounting services that are not similar in scope and cost to (or are in excess of) such CAB District's share of legal and/or accounting services set forth in the Final Budget, the costs for such Professional Service Provider(s) shall be borne solely by such CAB District.

ARTICLE V : FINANCING OF PUBLIC IMPROVEMENTS AND THE REGIONAL TRANSPORTATION SYSTEM

5.1 Electoral Approval. Each of the CAB Districts has authorized, through the affirmative vote of the their respective voting electors, the issuance of debt, fiscal year spending, Multiple-Fiscal Year Financial Obligations, revenue collections, and other constitutional matters requiring voter approval for purposes of this CABEA, as well as the Construction of the Public Improvements, in accordance with law and pursuant to due notice.

5.2 Bond Issuance, Debt, or Multiple-Fiscal Year Financial Obligation Incurrence. Each CAB District shall use its best efforts to meet its funding obligations under this CABEA through the imposition of mill levies and the imposition and collection of Development Fees, for payment on the CAB's Bonds. With regard to the financing of the Actual Capital Costs of the Public Improvements as determined by the CAB and required for the phasing and build-out of the Development, the CAB Districts agree that the CAB shall issue Bonds. Other than the obligations of the CAB Districts under this CABEA, the AACMD/ARTA ARI Mill Levy IGA, the CAB Districts ARI Mill Levy IGAs, and the Pledge Agreements contemplated by this CABEA, the CAB Districts shall not issue any Bonds or contractually commit to any multiple fiscal year obligations. The CAB Districts acknowledge that from time to time, the Developer will advance funds to the CAB to ensure that the CAB has sufficient funds to meet the CAB's

Actual Operation and Maintenance Costs. The CAB is authorized to enter into service, funding and reimbursement agreements with the Developer, on behalf of all the CAB Districts, for repayment of such obligations in reliance on the CAB Districts' pledge of revenues to the CAB as set forth in this CABEA.

5.3 Financial Obligations. The CAB shall have the authority to issue Bonds, notes, or other financial obligations payable solely from: (a) revenue derived from one or more of the functions, services, systems, or facilities of the CAB; (b) from money received under contracts entered into by the CAB; or (c) from other available money of the CAB. The terms, conditions, and details of Bonds, notes, or other financial obligations including related procedures and refunding conditions, must be set forth in the resolution of the CAB authorizing the Bonds, notes, or other financial obligations (pursuant to which resolution the CAB may elect to apply the terms of the Title 11, Article 57, Part 2, C.R.S., as amended to such Bonds, notes or other financial obligations) and must, to the extent practical, be substantially the same as those provided in Part 4 of Article 35, Title 31, C.R.S., relating to water and sewer revenue bonds; except that the purposes for which the same may be issued are not limited to the financing of water or sewage facilities. Bonds, notes, or other financial obligations issued under this Section are not an indebtedness of the CAB or the cooperating or contracting parties within the meaning of any provision or limitation specified in the Colorado Constitution or statutes. Each Bond, note, or other financial obligation issued under this Section must recite in substance that it is payable solely from the revenues and other available funds of the CAB pledged for the payment thereof, and that it is not a debt of the CAB or the cooperating or contracting parties within the meaning of any provision or limitation specified in the Colorado Constitution or statutes. Notwithstanding anything in this Section to the contrary, Bonds, notes, and other obligations may be issued to mature at such times not beyond forty (40) years from their respective issue dates, shall bear interest at such rates, and shall be sold at, above, or below the principal amount thereof, at a public or private sale, all as determined by the CAB Board. Interest on any Bond, note, or other financial obligation issued under this Section is exempt from taxation except as otherwise may be provided by law. The resolution, trust indenture, or other security agreement under which Bonds, notes, or other financial obligations are issued is a contract with the holders thereof and may contain such provisions as the CAB Board determines to be appropriate and necessary in connection with the issuance thereof and to provide security for the payment thereof, including, without limitation, any mortgage or other security interest in revenue, money, rights, or property of the CAB. The provisions of this Section shall apply to any Bonds issued by the CAB.

(a) The proceeds of any Bonds, the interest on which is intended to be excludable from gross income of the bondholders thereof for federal income tax purposes, shall be used solely to finance items that will not adversely affect the exclusion of such interest from such gross income.

(b) The CAB Districts acknowledge that the CAB may enter into pledge agreements with one or more CAB Districts, pursuant to which such CAB District(s) will be obligated to impose *ad valorem* property taxes for the payment of obligations issued by the CAB to fund Actual Capital Costs of Public Improvements. Notwithstanding any other provision contained in this CABEA, for so long as there remains in effect between the CAB and any CAB District such a pledge agreement, the provisions of such pledge agreement shall supersede every

financial obligation of such CAB District under this CABEA with respect to the funding of Actual Costs of Public Improvements. Any provisions of this CABEA purporting to require such CAB District to impose *ad valorem* property taxes, collect Development Fees, or otherwise pay moneys to the CAB to fund Actual Capital Costs of Public Improvements shall be of no force and effect during the term of such pledge agreement by the terms of the pledge agreement, and the application of any moneys to be imposed, collected, or received by the CAB District under such pledge agreement for the purpose of funding Actual Capital Costs of Public Improvements shall be governed solely by the terms of such pledge agreement.

(c) The CAB Districts acknowledge that the CAB may enter into pledge agreements with one or more CAB Districts, pursuant to which such CAB District(s) will be obligated to impose *ad valorem* property taxes for the payment of the cost of Operations and Maintenance Services and to fund obligations issued by the CAB to reimburse Developer advances to fund the cost of Operations and Maintenance Services. Notwithstanding any other provision contained in this CABEA, for so long as there remains in effect between the CAB and any CAB District such a pledge agreement, the provisions of such pledge agreement shall supersede every financial obligation of such CAB District under this CABEA with respect to the funding of Operations and Maintenance Services and the repayment of Developer advances to fund the cost of Operations and Maintenance Services. Any provisions of this CABEA purporting to require such CAB District to impose *ad valorem* property taxes, collect Fees, or otherwise pay moneys to the CAB to fund Operations and Maintenance Services shall be of no force and effect during the term of such pledge agreement by the terms of the pledge agreement, and the application of any moneys to be imposed, collected, or received by the CAB District under such pledge agreement for the purpose of funding the cost of Operations and Maintenance Service shall be governed solely by the terms of such pledge agreement.

5.4 Funding Account.

(a) Prior to or upon the execution of this CABEA, the CAB will establish the Funding Account.

(b) All revenue received by the CAB Districts (exclusive of any revenue received from the imposition of an ARI Mill Levy imposed pursuant to the AACMD/ARTA ARI Mill Levy IGA or the CAB Districts ARI Mill Levy IGAs) will be transferred on a monthly basis to the CAB for deposit in the Funding Account and application in accordance with the Final Budget for the Budget Year. Notwithstanding the foregoing, if any Bond document or any pledge agreement with respect to any outstanding obligations of any CAB District requires revenue to be deposited directly with a bond trustee or other Third-Person, the applicable CAB District(s) shall be entitled to make such payments, and the failure to deposit such funds into the Funding Account shall not be considered a default under this CABEA. The CAB District(s) making such deposits shall provide the remaining CAB Districts with appropriate supporting documentation evidencing that such deposits are being made in a timely manner.

(c) The CAB shall, pursuant to each CAB District's respective Final Budget, deposit the required portion of revenues from Development Fees, revenue Bond proceeds, and any other revenues received from other sources, including Developer Capital Advances, into the Funding Account.

(d) Each CAB District acknowledges that the CAB may borrow funds for deposit into the Funding Account in reliance on each CAB District's covenants to comply with the requirements of this CABEA.

5.5 Disbursement of Funds. The CAB shall have the sole authority to withdraw moneys from the Funding Account for use in the payment of Actual Capital Costs and Actual Operations and Maintenance Costs as specified by the Final Budget for the CAB. Such funds, together with any interest thereon, shall be used only to pay Actual Capital Costs and Actual Operations and Maintenance Costs incurred by the CAB. The CAB shall provide each CAB District with an annual audit reflecting funds withdrawn and payments made from the Funding Account.

5.6 Interest on Bonds. With respect to the CAB Bonds, the CAB Districts covenants they will not take any action or omit to take any action, if such action or omission would cause the interest on such Bonds to lose any of the following applicable exclusion(s):

(a) exclusion from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "**Tax Code**");

(b) exclusion from alternative minimum taxable income as defined in Section 55(b)(2) of the Tax Code except to the extent such interest is required to be included in the adjusted current earnings adjustments applicable to corporations under Section 56 of the Tax Code in calculating corporate alternative minimum taxable income; or

(c) exclusion from Colorado taxable income or Colorado alternative minimum taxable income under present State law.

Without limiting the generality of the foregoing, the CAB shall maintain such records regarding the investment of the proceeds of any Bonds that are issued by either the CAB to fulfill any rebate obligations pursuant to Section 148 of the Tax Code. The foregoing covenant shall remain in full force and effect, notwithstanding the payment in full or defeasance of the Bonds, until the date on which all obligations of the CAB in fulfilling the above covenant under the Tax Code and State law have been met.

5.7 Pledge of Payment. The CAB Districts acknowledge that the CAB will determine the Actual Capital Costs and the Actual Operations and Maintenance Costs and will determine the mill levy that, if imposed by all CAB Districts and together with projected Fee revenue, would be sufficient to pay such Actual Capital Costs and Actual Operations and Maintenance Costs. The CAB Districts further agree to impose such mill levies as are determined by the CAB to be sufficient, together with projected Fee revenue, to pay Actual Capital Costs and Actual Operations and Maintenance Costs. The financial obligations of the CAB Districts to remit CAB District revenues to the CAB to fund the Actual Capital Costs and Actual Operations and Maintenance Costs under this CABEA shall be Multiple-Fiscal Year Financial Obligations of each CAB District, payable from ad valorem property taxes generated as a result of the certification by each CAB District of a debt service and operations mill levy and any revenue derived from Development Fees or other Fees, rates, tolls, or other charges of the CAB Districts. The full faith and credit of each CAB District, as limited by this CABEA, is hereby pledged to

the punctual payment of the amounts to be paid under this CABEA. Such amounts shall, to the extent necessary, be paid out of the general revenues of each CAB District or out of any funds available for that purpose.

For the purpose of raising such general revenues, and for the purpose of providing the necessary funds to make payments under this CABEA as the same become due, the Board of each CAB District shall annually determine, fix, and certify a rate of levy for *ad valorem* property taxes to the County, which when levied on all of the taxable property of such CAB District, shall raise direct *ad valorem* property tax revenues which, when added to other funds of the CAB District legally available therefor, will be sufficient to promptly and fully pay the amounts to be paid under this CABEA, as well as all other Multiple-Fiscal Year Financial Obligations or general obligation indebtedness of such CAB District, as the same become due. Except as limited in this CABEA, each CAB District covenants to levy such mills which are from time to time lawful, and as necessary, together with other moneys of the CAB District, to pay the amounts to be paid under this CABEA, along with all other general obligation indebtedness or Multiple-Fiscal Year Financial Obligations of the CAB District.

Notwithstanding anything to the contrary set forth in this CABEA, no CAB District shall be obligated to impose a mill levy in excess of what is allowable under its Service Plan.

5.8 Effectuation of Pledge; Appropriation; Regulatory Amendment. Except as limited by this CABEA, the amounts to be paid under this CABEA are hereby appropriated for that purpose, and such amounts shall be included in the annual budgets and the appropriation resolutions or measures to be adopted or passed by the board of directors of each CAB District in each year this CABEA remains in effect. The CAB shall direct the mill levy to be imposed each year by the CAB Districts. No provisions of any constitution, statute, resolution, or other measure enacted after the execution of this CABEA shall in any manner be construed as limiting or impairing the obligations of a CAB District to levy, administer, enforce, and collect the *ad valorem* property taxes and other revenues required for the payment of its obligations under this CABEA.

It shall be the duty of the Board of each CAB District annually, at the time and in the manner provided by law for the levying of such CAB District's taxes, to ratify and carry out the provisions of this CABEA regarding the levy and collection of the *ad valorem* property taxes specified under this CABEA, and to require the officers of the CAB District to cause the appropriate officials of the County, to levy, extend, and collect such taxes in the manner provided by law.

5.9 CAB Reliance; Funding Obligations Pending Dispute Resolution. The CAB Districts agree that their authority to modify this CABEA is limited so as to prohibit a repeal of the obligations set forth in this CABEA. The CAB Districts each agree, notwithstanding any fact, circumstance, dispute, or any other matter, that it will not take or fail to take any action which would delay a payment to the CAB or impair the CAB's ability to receive payment due under this CABEA. Each CAB District acknowledges that the CAB may issue revenue Bonds and the CAB may obtain financial commitments and security for its Bonds from Third-Persons, all of whom shall be relying on performance of the payment obligations of the CAB Districts under this CABEA. The purpose of this Section is to ensure that the CAB receives all payment

due under this CABEA in a timely manner so that the CAB may pay Actual Capital Costs and Actual Operations and Maintenance Costs. Notwithstanding that the bondholders are not in any manner third party beneficiaries of this CABEA, and do not have any rights in or rights to enforce or consent to amendment of this CABEA, each CAB District agrees that during the pendency of any litigation which may arise under this CABEA, all payments shall be made by such CAB District for the purpose of enabling the CAB to make payments on its Bonds. If a CAB District believes it has valid defenses, setoffs, counterclaims, or other claims, it shall make all payments to the CAB as described in this CABEA and seek to recover such payments by actions at law or in equity for damages or specific performance.

5.10 Parameters for Bond Issuance. Unless otherwise previously approved in writing by the City, all Bonds issued by any of the CAB Districts and/or the CAB shall be subject to the applicable provisions of the CAB Districts' Service Plans.

ARTICLE VI : CONSTRUCTION OF PUBLIC IMPROVEMENTS

6.1 Construction and Acquisition of Public Improvements.

(a) The CAB shall have the right and power to construct and acquire all Public Improvements set forth in the Long Term Capital Improvements Plan pursuant to a process and procedure set forth in the Bylaws, if any, and as provided in this CABEA.

(b) The CAB Districts acknowledge that the CAB may engage AACMD to provide services to the CAB in relation to the planning, design and construction of the Public Improvements from time to time, including but not limited to, the provision of project management services, and the terms and conditions of the provision of such services shall be as set forth in the agreements as approved and executed by the CAB and AACMD.

(c) The CAB Districts acknowledge that AACMD is a party to the ARTA Establishment Agreement and the AACMD/ARTA ARI Mill Levy IGA, and that the CAB Districts shall have responsibilities under the CAB Districts ARI Mill Levy IGAs.

(d) The CAB Districts agree that until a separate written agreement is entered into between the CAB and AACMD, the CAB shall have no responsibility for the matters that are the subject of the AACMD/ARTA ARI Mill Levy IGA and the CAB Districts ARI Mill Levy IGAs.

(i) The CAB Districts acknowledge the CAB and AACMD are under current discussions regarding an agreement pursuant to which the CAB shall be responsible for the operations and maintenance of certain parts of the Regional Transportation System, prior to acceptance by the appropriate jurisdiction for ownership and maintenance.

6.2 Diligence. If required by the Act or any agreement between the CAB and/or the CAB Districts and another governmental entity having jurisdiction, a contract for construction of approved Public Improvements shall be publicly bid and fully approved at a public meeting.

6.3 Public Improvements Process. Prior to the approval of a construction contract for approved Public Improvements:

(a) The CAB shall determine the operations and maintenance and repair and replacement costs associated with such Public Improvements for purposes of the impact on the operations and maintenance budget in the current and future years. The CAB Board shall schedule, phase, and configure the Public Improvements to adequately and economically provide for the needs of the CAB Districts' residents and property owners, and as development demands require.

(b) The CAB shall obtain all necessary governmental approvals, and exercise reasonable efforts to comply with Colorado and other applicable rules, laws, regulations, and orders.

(c) The CAB shall cause Construction of the Public Improvements to be commenced on a timely basis, subject to receipt of all necessary governmental approvals and the terms of this CABEA.

(d) The CAB shall make available during normal business hours to the CAB Districts copies of any and all Construction contracts and related documents concerning the Public Improvements, and shall deliver copies of such documents to any CAB District upon receipt of a written request. The CAB shall diligently and continuously prosecute to completion the Construction of the Public Improvements.

(e) The CAB Board shall have the authority to approve non-material changes or modifications to construction contracts, in accordance with any adopted CAB Board resolution, between Board Meetings and as necessary to diligently pursue Construction activities; provided, however, that any such change order shall be ratified at the next Board Meeting.

(f) In case of emergencies, the CAB Board may approve contracts which shall be ratified at the next Board Meeting, so long as it facilitates Construction of the Public Improvements within the Final Budget.

6.4 Governmental Requirements. The facility and service standards of the CAB shall be compatible with those of the City and such other governmental entities as may be applicable.

ARTICLE VII : OWNERSHIP AND DEDICATION OF PUBLIC IMPROVEMENTS; OPERATIONS AND MAINTENANCE SERVICES

7.1 Ownership of Public Improvements. The CAB shall own, operate, and maintain all Public Improvements unless and until any of such Public Improvements are dedicated to the City or another appropriate governmental entity for perpetual ownership and maintenance. The CAB Districts hereby transfer and assign to the CAB all interests in real estate contracts, and the CAB Districts agree to execute all deeds and other documents necessary to evidence this transfer and conveyance.

7.2 Transfer of Public Improvements. Except as may be required by law, the City, or any other jurisdiction that will be accepting the completed improvement for ownership, operations or maintenance, or under the Service Plans, the CAB shall not transfer Public Improvements to another entity without the express written consent of the CAB Districts' Boards.

7.3 Ownership of the Regional Transportation System. The CAB Districts acknowledge that AACMD may own, operate, or maintain certain of the Regional Transportation System during the applicable warranty period and before final transfer to the appropriate governing jurisdiction pursuant to one or more separate agreements between the CAB and AACMD.

(a) Following the applicable warranty period and pursuant to one or more separate agreements between the CAB and AACMD, the CAB shall assume ownership, operate, and maintain any Regional Transportation System improvement(s) constructed by AACMD and not transferred to a separate governing jurisdiction.

(b) The CAB shall not accept any Regional Transportation System improvement that is not constructed in accordance with applicable laws, rules, and regulations.

7.4 Operations and Maintenance Services. Within the constraints of the Final Budget and appropriations for such purposes, the CAB Board shall supervise and cause to be performed all Operation and Maintenance Services, regardless of location, including, but not limited to, the following:

(a) Draft proposals, bidding (if required by laws applying to special districts), contracts, and provide contract administration and supervision of service providers;

(b) Supervise and ensure contract compliance by all service providers, including the establishment and maintenance of preventive maintenance programs;

(c) Procure all inventory, parts, tools, equipment, and other supplies necessary to perform the services required;

(d) Retain service providers and professional services, to perform duties, including, but not limited to, the following:

(i) Operations and maintenance, including mosquito, weed, and animal control;

(ii) Cooperation with City, County, State, and federal authorities in providing such tests as are necessary to maintain compliance with appropriate governmental standards;

(iii) Permitting and supervision of the connection of utility lines to private developments;

(iv) Coordinate Construction with various utility companies to ensure minimum interference with CAB maintenance responsibilities and assets owned;

(v) Perform routine maintenance and repairs necessary to continue the efficient operation of assets;

(vi) Provide for the services of subcontractors necessary to maintain and continue the efficient operation of assets; and

(vii) Provide for emergency preparedness, consisting of a centralized telephone number maintained to provide adequate response to emergencies.

7.5 CAB Manager. The CAB may hire or engage a CAB Manager to assist in the implementation of the Operations and Maintenance Services.

(a) The Actual Operations and Maintenance Costs shall be determined during the budget process.

(b) The CAB shall make available to the CAB Districts copies of all service contracts.

(c) Any agreement governing a CAB Manager's contractual relationship with respect to Bond financed Public Improvements shall comply with all applicable federal income tax requirements if interest on the Bonds is intended to be excluded from gross income of the bondholders for federal income tax purposes.

ARTICLE VIII : BUDGET PROCESS

8.1 Adoption. The CAB shall establish in the CAB's Bylaws an annual budget process. At a minimum, the CAB budget process shall require the CAB to furnish to each CAB District the following:

(a) An accounting of any estimated carryover balances from prior years; and

(b) A proposed schedule for deposits based on the expected timing for receipt of funds generated from (i) the CAB Districts' *ad valorem* property taxes and specific ownership taxes; (ii) Developer Capital Advance(s) and Developer Operating Advances to the CAB or CAB Districts; and/or (iii) other rates, Fees, tolls, and other charges that may be imposed by the CAB or any of the CAB Districts from time to time in accordance with State law.

8.2 Annual Appropriation. On or before December 10th of each year throughout the term of this CABEA, each of the CAB Districts and the CAB agree to budget and appropriate funds for ensuing year in the amount sufficient to pay for the costs and expenses necessary to undertake the services.

8.3 Final Budget. The Final Budget may be amended from time to time in accordance with State law, to reflect changes in actual revenues and/or expenses, utilizing the same process and requirements set forth in this Article, except that the CAB may establish alternative reasonable time periods for preparation, review, and approval of proposed budget amendments. Any Final Budget processed and approved in accordance with this Section shall be known as an "**Amended Final Budget**".

In the event that funding provided by any CAB District to the CAB exceeds the amount owed by that CAB District according to the Amended Final Budget, the balance may be carried

over and credited against the anticipated funding obligation of such CAB District for the following year as identified by the Preliminary Budget Documents.

ARTICLE IX : COVENANT ENFORCEMENT AND ARCHITECTURAL REVIEW

9.1 TAH Master Declaration Delegation to CAB. During the term of this CABEA, AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2 assign to the CAB all duties, rights, and obligations delegated to AACMD, District No. 1, District No. 2, District No. 3, ATEC No.1, and ATEC No. 2 by the TAH Master Declaration, the TAH Design Guidelines, and the TAH Covenant Enforcement Rules and Regulations, all as may be amended, with respect to the TAH Covenant Enforcement Services, together with the TAH Covenants, as may be recorded in the future. Specifically, with respect to each document, the CAB is authorized as follows:

(a) TAH Master Declaration. On behalf of AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2, the CAB shall be charged with enforcing the TAH Design Guidelines and additional or supplemental design guidelines (including with respect to specific portions of the Service Area) as authorized by the TAH Master Declaration or the TAH Covenants. AACMD, District No. 1, District No. 2, District No. 3, ATEC No. 1, and ATEC No. 2, further authorize the CAB to enforce any and all use restrictions as set forth in the TAH Master Declaration or TAH Covenants on behalf of AACMD, District No. 1, District No. 2, District No. 3, ATEC No.1, and ATEC No. 2, without regard to which of such CAB Districts the property subject to the action is included.

(b) TAH Design Review Committee. The CAB Districts acknowledge that general administration of the TAH Design Guidelines is assigned by the TAH Master Declaration to the TAH Design Review Committee, (also known as the “Community-Wide Architectural Review Committee”) as such committee is more particularly defined and described in the TAH Master Declaration and Covenant Enforcement Rules and Regulations (the “**TAH Design Review Committee**”). The CAB shall appoint not less than five (5) members to the TAH Design Review Committee, three (3) of whom having experience in architecture, engineering, land planning, landscape architecture, real estate development, contracting, building, code enforcement, or a related field that the CAB Board deems relevant and appropriate.

(c) TAH Enforcement Committee. The CAB Districts acknowledge that general administration of the covenants, rules, and regulations set forth in the TAH Master Declaration is assigned by the TAH Master Declaration to the Enforcement Committee (“**TAH Enforcement Committee**”), as such committee is more particularly described in the TAH Master Declaration and Covenant Enforcement Rules and Regulations. The CAB shall appoint the members of the TAH Enforcement Committee in accordance with the TAH Master Declaration and Covenant Enforcement Rules and Regulations.

(d) Imposition of Fees and Fines Related to TAH Master Declaration and TAH Covenants. The CAB Board may adopt and impose appropriate Fees and Fines related to the activities of the TAH Design Review Committee and the TAH Enforcement Committee, and

to otherwise implement the provisions of the TAH Master Declaration, the TAH Covenants, and this CABEA.

(e) Independent Contractors. The CAB Districts agree and acknowledge that at any time during the term of this CABEA the CAB may engage one or more independent contractors to carry out and enforce all or a portion of the provisions of the TAH Master Declaration, TAH Design Guidelines, TAH Covenant Enforcement Rules and Regulations, and any supplemental documents and agreements related to the provision of the TAH Covenant Enforcement Services. The contractual relationship with any such independent contractor shall be managed solely by the CAB.

9.2 Covenant Enforcement Area and Revenue. During the term of this CABEA, the CAB is authorized to undertake the applicable Covenant Enforcement Services within the boundaries of the CAB Districts to the extent that the real property within such boundaries is subject to the Declaration, the TAH Design Guidelines, and/or the TAH Covenant Enforcement Rules and Regulations; provided, however, that any and all revenues used to furnish the Covenant Enforcement Services in accordance with TAH Master Declaration, the TAH Design Guidelines, and the TAH Covenant Enforcement Rules and Regulations must be derived from within the boundaries of the CAB District in which the Covenant Enforcement Services are furnished. By way of illustration, revenue furnished for the administration of the TAH Master Declaration, the TAH Design Guidelines, and the TAH Covenant Enforcement Rules and Regulations within the boundaries of District No. 1 shall be derived from within the boundaries of District No. 1 or from within a smaller sub-portion of such area to the extent such sub-area is the sole recipient of the TAH Covenant Enforcement Services provided.

9.3 Records and Reports. Throughout the term of Covenant Enforcement Services by the CAB, the CAB shall maintain and preserve books, documents, papers, and records of any independent contractors or service providers providing services on behalf of the CAB, which are directly pertinent to the Covenant Enforcement Services (subject in all events to the then-current document retention policies of the CAB), and the CAB shall make available the same to the CAB Districts and any of their authorized representatives upon request at all reasonable times for the purpose of making audits and examinations.

9.4 Costs. Costs incurred by the CAB in the provision of Covenant Enforcement Services shall be considered Actual Operations and Maintenance Costs for purposes of this CABEA.

9.5 Appellate Body. The CAB Districts acknowledge that the CAB Board may create an appellate board to review the decisions of the TAH Design Review Committee and the TAH Enforcement Committee. Any appellate board may consist of a subset of the Board Members or all Board Members.

9.6 Other Committees. The CAB Board may organize and provide for the administration of such other boards, committees, and subcommittees as it deems reasonable and appropriate.

9.7 Termination of Covenant Enforcement Services and Transition of Responsibilities.

(a) Any CAB District may elect to terminate the CAB's Covenant Enforcement Services within its borders with or without cause; provided, however, that in such event the terminating CAB District shall be required to administer and enforce the TAH Master Declaration, the TAH Design Guidelines, and the TAH Covenant Enforcement Rules and Regulations within its own boundaries. In such case, the written resolution of the board of directors of the Terminating District shall establish a Transition Period of ninety (90) to one hundred twenty (120) days to unwind the mutual covenants of this CABEA related to the Covenant Enforcement Services. During such transition period, the Terminating District agrees to work cooperatively with the CAB and the other CAB Districts to develop and execute transition procedures that minimize impact to the CAB Districts' property owners.

(b) To the extent it is possible to assess whether excess funds of the Terminating District will remain under the CAB's control following the termination of Covenant Enforcement Services by the CAB, the CAB shall transmit any funding overage to the Terminating District during the Transition Period. In the event that the end balance for the Terminating District's funding of the Covenant Enforcement Services cannot be determined during the Transition Period, the CAB shall transmit any excess funds of the Terminating District remaining on the CAB's books to the Terminating District no later than January 31st of the year following the year in which Covenant Enforcement Services are terminated.

(c) During the Transition Period, the CAB shall transmit any and all books, documents, papers, and records related to Covenant Enforcement Services provided for the benefit of the Terminating District to such CAB District. The CAB shall also retain copies of such books, documents, papers, and records. The provisions of this subsection (c) are subject, in all events, to the then-current document retention policies of the CAB.

(d) Upon termination of the CAB's Covenant Enforcement Services, any Terminating District shall administer and enforce the applicable Declaration, Design Guidelines, and Covenant Enforcement Rules and Regulations within its own boundaries, and any and all revenues used to furnish such services shall continue to be derived from within the boundaries of the CAB District in which the services are furnished.

ARTICLE X : SPECIAL PROVISIONS

10.1 Rights of the CAB. Subject to the limitations of this CABEA, the CAB Districts grant the CAB the right to construct, own, use, connect, disconnect, modify, renew, extend, enlarge, replace, convey, abandon, or otherwise dispose of any and all real property, Public Improvements or appurtenances thereto, and any and all other interests in real or personal property or otherwise, within the ownership, possession or control of the CAB Districts to enable the CAB to provide the Public Improvements and Operations and Maintenance Services. The CAB Districts grant to the CAB the right to occupy any place, public or private, which the CAB Districts might occupy, for the purpose of fulfilling the obligations of the CAB under this CABEA. To implement the foregoing, the CAB Districts agree to exercise such authority, to do such acts, and to grant such easements or licenses as may be reasonably requested by the CAB;

provided that, any legal, engineering, technical, or other services required, or costs incurred, for the performance of this obligation shall be performed by a Person in the employment of or under contract with, and paid by, the CAB.

10.2 Right to Provide Public Improvements and Services. The CAB Districts agree that they shall not without the prior written consent of the CAB:

(a) Provide Public Improvements of any kind to their residents and property owners, except for financing or construction and dedication of the Public Improvements as set forth herein; or

(b) Provide Operations and Maintenance Services to its residents and property owners except as set forth herein.

10.3 Consolidation of CAB Districts. The CAB Districts may initiate consolidation proceedings in accordance with the Act and Service Plans at such time as the Development is at build-out and the CAB owns and maintains all the Public Improvements not otherwise required to be dedicated to another governmental entity. The CAB Districts shall not file a request with any court to consolidate among themselves or with any other Title 32 districts without the prior written consent of the City. No such consolidation proceedings shall be initiated if less than all of the Boards of the CAB Districts adopt a joint resolution agreeing to such consolidation.

10.4 Dissolution of CAB. In accordance with Section 29-1-203.5(4), C.R.S., upon dissolution of the CAB, all the CAB's property shall be transferred to, or at the direction of, one or more of the CAB Districts.

ARTICLE XI : REPRESENTATIONS AND WARRANTIES

11.1 General Representations. In addition to the other representations, warranties, and covenants made by the CAB Districts in this CABEA, the CAB Districts make the following representations, warranties, and covenants to each other:

(a) Each CAB District has the full right, power, and authority to enter into, perform, and observe this CABEA.

(b) Neither the execution of this CABEA, the consummation of the transactions contemplated hereunder, nor the compliance with the terms and conditions of this CABEA by the CAB Districts will conflict with or result in a breach of any terms, conditions, or provisions of, or constitute a default under any agreement, instrument, indenture, judgement, order, or decree to which a CAB District is a party or by which a CAB District is bound.

(c) This CABEA is the valid and binding obligation of each of the CAB Districts and is enforceable in accordance with its terms.

(d) The CAB Districts shall keep and perform all the covenants and agreements contained in this CABEA and shall take no action which could render this CABEA unenforceable in any manner.

ARTICLE XII : DEFAULTS, REMEDIES, AND ENFORCEMENT

12.1 Events of Default. The occurrence of any one or more of the following events and/or the existence of any one or more of the following conditions shall be considered an Event of Default under this CABEA:

(a) The failure of any CAB District to make any payment when the same shall become due and payable as provided in this CABEA and cure such failure within ten (10) business days of receipt of notice from one of the other CAB Districts or the CAB of such failure;

(b) The failure to perform or observe any other covenants, agreements, or conditions in this CABEA on the part of any CAB District and to cure such failure within thirty (30) days of receipt of notice from one of the other CAB Districts or the CAB of such failure, unless such default cannot be cured within such thirty- (30)-day period, in which case the defaulting party shall have an extended period of time to complete the cure, provide that action to cure such default is commenced within said thirty- (30)-day period and the defaulting party is diligently pursuing the cure to completion.

12.2 Remedies on Occurrence of Events of Default. Upon the occurrence of an Event of Default, the CAB Districts and the CAB shall, individually and collectively, have the following rights and remedies:

(a) The non-defaulting CAB District(s) or the CAB may ask a court of competent jurisdiction to enter a writ of mandamus to compel the board of directors of the defaulting CAB District to perform its duties under this CABEA, and/or to issue temporary and/or permanent restraining orders, or orders of specific performance, to compel the defaulting CAB District to perform in accordance with this CABEA.

(b) The non-defaulting CAB District(s) or the CAB, or both, may protect and enforce its rights under this CABEA by such suits, actions, or special proceedings as it shall deem appropriate, including, without limitation, any proceedings for the specific performance of any covenant or agreement contained in this CABEA, for the enforcement of any other appropriate legal or equitable remedy, or for the recovery of damages, including attorneys' fees and all other costs and expenses incurred in enforcement this CABEA.

(c) The non-defaulting CAB District(s) shall have the right to impose a mill levy, budget, and expend funds as necessary to enforce the terms of this CABEA.

(d) To foreclose any and all liens in the manner specified by law.

Notwithstanding anything to the contrary contained in this CABEA, prior to the time the CAB requires a CAB District to impose a mill levy for their obligations under this CABEA, any CAB District may file for inactive status and filing for such inactive status shall not constitute an Event of Default.

12.3 General.

(a) Delay or Omission No Waiver. No delay or omission of any CAB District or the CAB to exercise any right or power accruing upon any Event of Default shall exhaust or impair any such right or power or be construed as a waiver of any such Event of Default.

(b) No Waiver of One Default to Affect Another; All Remedies Cumulative. No waiver of any Event of Default by any CAB District or the CAB shall extend to or affect any subsequent or other Event of Default. All rights and remedies of the CAB Districts and the CAB provided in this CABEA may be exercised with or without notice, shall be cumulative, may be exercised separately, concurrently, or repeatedly, and the exercise of any such right or remedy shall not affect or impair the exercise of any other right or remedy.

ARTICLE XIII : INSURANCE

13.1 CAB Insurance. During the term of this CABEA, the CAB shall maintain appropriate insurance limits and overage related to the provision of the services described in this CABEA and in other agreements of the CAB.

13.2 CAB District Insurance. The CAB Districts shall, to the extent each is active and the same are reasonably and commercially available and funds are available therefor, maintain the following insurance coverages, with companies and in amounts acceptable to each CAB District's respective board of directors:

(a) General liability coverage protecting the CAB Districts and their officers, directors, and employees against any loss, liability, or expense whatsoever from bodily injury, death, property damage, or otherwise, arising from or in any way connected with management, administration, or operations.

(b) Directors' and officers' liability coverage (errors and omissions) protecting the CAB Districts and their directors and officers against any loss, liability, or expense whatsoever arising from the actions and/or inactions of the CAB Districts and their directors and officers in the performance of their duties.

13.3 Workers' Compensation. To the extent they retain employees, the CAB Districts and the CAB shall make provisions for workers' compensation insurance, social security employment insurance, and unemployment compensations for employees, if any, as required by applicable State or federal law.

13.4 Certificates. Upon written request, each CAB District and the CAB shall furnish to the others, certificates of insurance showing compliance with the foregoing requirements. Said certificates shall state that the policy or policies evidenced thereby will not be cancelled or altered without at least thirty (30) days prior written notice to each CAB District and the CAB.

ARTICLE XIV : EMPLOYMENT OF ILLEGAL ALIENS

14.1 Addendum regarding Employment of Illegal Aliens. By its execution, the CAB Districts and the CAB confirm that they each shall comply with the applicable provisions of Section 8-17.5-101 *et. seq.*, C.R.S., and that every public contract for services to which the CAB or a CAB District is a party shall include the certificates, statements, representations, and

warranties substantially in the form set forth in **Addendum 1**, Public Contract for Services Addendum, attached to and made a part of this CABEA by this reference.

ARTICLE XV : MISCELLANEOUS

15.1 Relationship of Parties. This CABEA does not and shall not be construed as creating a relationship of joint venturers, partners, or employer-employees between or among the CAB Districts.

15.2 Third-Party Beneficiaries. The CAB Districts agree that (i) unless and until the processes set forth in Sections 10.3 and 10.4 of this CABEA have been completed, and (ii) all Developer Advances have been repaid, the Developer is a third-party beneficiary to this CABEA, and the Developer agrees to and acknowledges such as evidenced by signature below. Other than the Developer, it is intended that there be no third-party beneficiaries of this CABEA, including, without limitation, the owners of any Bonds, notes, contracts, or other obligations incurred or executed by either the CAB Districts or the CAB. Nothing contained in this CABEA, expressed or implied, is intended to give any person other than the CAB Districts, the Developer, and the CAB any claim, remedy, or right under or pursuant to this CABEA, and any agreement, condition, covenant, or term contained in this CABEA required to be observed or performed by or on behalf of any party to this CABEA shall be for the sole and exclusive benefit of the other parties.

15.3 Assignment; Delegation. Except as set forth herein or as contemplated in the Service Plans, neither this CABEA, nor any of the CAB Districts' rights, obligations, duties, or authority under this CABEA may be assigned or delegated, in whole or in part, by any CAB District without the prior written consent of all the other CAB Districts, which consent shall not be unreasonably withheld. Any attempted assignment or delegation in violation of the foregoing shall be deemed void. Consent to one assignment or delegation shall not be deemed to be consent to any subsequent assignment or delegation, nor the waiver of any right to consent to such subsequent assignment or delegation.

15.4 Modification. This CABEA may be modified or amended only by the written agreement of the CAB Districts.

15.5 Governing Law. This CABEA shall be construed and interpreted in accordance with the laws of the State of Colorado. Venue for all actions shall be exclusive in Adams County, Colorado.

15.6 Heading for Convenience Only. The headings, captions, and titles contained in this CABEA are intended for convenience of reference only.

15.7 Counterparts. This CABEA may be executed in one or more counterparts, each of which shall constitute an original and all of which shall constitute one and the same document. Photocopies, facsimile copies, and .pdf copies of original signatures shall be treated as originals for all purposes under this CABEA.

15.8 Time is of the Essence. Time is of the essence in this CABEA.

15.9 Notices. Unless otherwise provided below, all notices, demands, requests or other communications to be sent by one party to the other under this CABEA or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronic mail transmission (read-review acknowledged), or by depositing the same in the United States Mail, postage prepaid, addressed as set forth on the attached Addendum 2, Notice Addendum.

All notices, demands, requests, or other communications shall be effective: upon such personal delivery or upon electronic mail, read-review acknowledged; one (1) business day after being deposited with Federal Express or other nationally recognized overnight air courier service; or three (3) business days after deposit in the United States mail. By giving the other parties to this CABEA at least ten (10) days' written notice thereof in accordance with the provisions of this CABEA, each of the parties shall have the right to change its individual notice address from time to time, all notice addresses to be maintained by the CAB.

15.10 District Records. The CAB shall maintain the public records for all the CAB Districts. Access to such records by the CAB Districts and the public shall be as set forth in the Rules and Regulations and in accordance with State law.

15.11 Further Assurances. The CAB Districts each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, and documents as may be reasonably required for the performance of their obligations under this CABEA.

15.12 Severability of Provisions. Any provision of this CABEA which is prohibited, unenforceable, or not authorized as determined by a court of competent jurisdiction, shall not affect the remaining provisions of this CABEA or affect the validity, enforceability, or legality of such provisions in any other jurisdiction. Furthermore, in lieu of such prohibited, unenforceable, or non-authorized provision there shall be added automatically as a part of this CABEA, a provision as similar in terms to such prohibited, unenforceable, or non-authorized provision as may be possible and be legal, valid, and enforceable.

15.13 Cooperation Between the CAB Districts. Subject to the terms of the Service Plans, the CAB Districts will cooperate with one another and any other districts organized within the Development to finance the Actual Operations and Maintenance Costs and Actual Capital Costs. The CAB Districts acknowledge that the boundaries of the CAB Districts may change in the future and that each CAB District shall support the exclusion/inclusion of the subject property from and into the respective CAB District.

15.14 Entire Agreement. This CABEA and all attached addenda and exhibits set forth the entire understanding and agreement of the CAB Districts and supersede and replace all prior agreements, memoranda, arrangements, and understandings relating to the subject matter of this CABEA (including, without limitation, that certain The Aurora Highlands Community Authority Board Establishment Agreement between and among the CAB Districts dated November 21, 2019).

15.15 Non-liability of CAB Directors, Members, and Employees. No Board Member, or director of the CAB Districts' individual boards of directors, or officer, employee, agent, attorney or consultant of the CAB Districts or the CAB shall be personally liable in the event of default or breach of this CABEA, or for any amount that may become due under the terms of this CABEA.


[signature blocks on following pages]

IN WITNESS WHEREOF, Aerotropolis Area Coordinating Metropolitan District, The Aurora Highlands Metropolitan District No. 1, The Aurora Highlands Metropolitan District No. 2, The Aurora Highlands Metropolitan District No. 3, ATEC Metropolitan District No. 1, and ATEC Metropolitan District No. 2 have executed this CABEA as of the day and year first written above.

**AEROTROPOLIS AREA COORDINATING
METROPOLITAN DISTRICT**

By: 
President


Attest:


Secretary

**THE AURORA HIGHLANDS
METROPOLITAN DISTRICT NO. 1**

By: 
President

Attest:



Secretary

[signature blocks continue on following pages]

**THE AURORA HIGHLANDS
METROPOLITAN DISTRICT NO. 2**

By: 
President


Attest:


Secretary

**THE AURORA HIGHLANDS
METROPOLITAN DISTRICT NO. 3**

By: 
President


Attest:


Secretary

A TEC METROPOLITAN DISTRICT NO. 1

By: 
President


Attest:


Secretary

ATEC METROPOLITAN DISTRICT NO. 2

By: 
President

Attest:


Secretary

[end of signature pages]

ADDENDUM 1
Public Contract for Services

By execution of this addendum (“**Addendum**”) to that certain *[insert name of agreement]* dated _____, 20____, by and between _____ Metropolitan District (the “**District**”) and _____ (the “**Contractor**”) (the “**Agreement**”), the parties to the Agreement further agree as follows:

1. Pursuant to the requirements of Section 8-17.5–102(1), C.R.S., the Contractor hereby certifies to the District that the Contractor does not knowingly employ or contract with an illegal alien who will perform work under the Agreement and that it will participate in the E-Verify Program or Department Program (as defined in Sections 8-17.5-101(3.3) and (3.7), C.R.S.) in order to confirm the employment eligibility of all employees of the Contractor who are newly hired to perform work under the Agreement.

2. In accordance with Section 8-17.5-102(2)(a), C.R.S., the Contractor shall not:

(a) Knowingly employ or contract with an illegal alien to perform work under the Agreement; or

(b) Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

3. The Contractor represents and warrants it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or the Department Program.

4. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the Agreement is in effect.

5. If the Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Contractor shall:

(a) Notify the subcontractor and the District within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the “**Department**”) made in the course of an investigation that the Department is undertaking, pursuant to the law.

7. If the Contractor violates any provision of this Addendum, the District may terminate the Agreement immediately and the Contractor shall be liable to the District for actual and consequential damages of the District resulting from such termination, and the District shall report such violation by the Contractor to the Colorado Secretary of State, as required by law.

[end of Addendum 1]

ADDENDUM 2
Notice Addendum

To the CAB: The Aurora Highlands Community Authority Board
c/o CliftonLarsonAllen LLP
8390 E. Crescent Parkway, Suite 300
Greenwood Village, Colorado
Email: Denise.Denslow@claconnect.com
Attn: Denise Denslow

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203
Email: mmcgeady@specialdistrictlaw.com
Attn: MaryAnn McGeady

To District No. 1, District
No. 2, and/or District No. 3: *[Name of District]*
c/o CliftonLarsonAllen LLP
8390 E. Crescent Parkway, Suite 300
Greenwood Village, Colorado
Email: Denise.Denslow@claconnect.com
Attn: Denise Denslow

With a Copy To: Collins Cockrel & Cole P.C.
390 Union Boulevard, Suite 400
Denver, Colorado 80220
Email: mruhland@cccfirm.com
Attn: Matt Ruhland

To AACMD, ATEC No. 1,
and/or ATEC No. 2: *[Name of District]*
c/o CliftonLarsonAllen LLP
8390 E. Crescent Parkway, Suite 300
Greenwood Village, Colorado
Email: Denise.Denslow@claconnect.com
Attn: Denise Denslow

With a Copy To: McGeady Becher P.C.
450 E. 17th Avenue, Suite 400
Denver, CO 80203
Email: mmcgeady@specialdistrictlaw.com
Attn: MaryAnn McGeady

[end of Addendum 2]