

**INTERGOVERNMENTAL AGREEMENT REGARDING INTERIM MAINTENANCE
OF AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY
REGIONAL TRANSPORTATION SYSTEM IMPROVEMENTS**

THIS INTERGOVERNMENTAL AGREEMENT REGARDING INTERIM MAINTENANCE OF AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY REGIONAL TRANSPORTATION SYSTEM IMPROVEMENTS (this “Agreement”) is made and entered into this 22nd day of May 2019 (the “Effective Date”), by and between AEROTROPOLIS AREA COORDINATING METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado (“AACMD”), and AEROTROPOLIS REGIONAL TRANSPORTATION AUTHORITY, a political subdivision and body corporate of the State of Colorado formed pursuant to C.R.S. § 43-4-601, *et. seq.* (“ARTA”). AACMD and ARTA may be referred to herein, individually, as a “Party” and, collectively, as the “Parties.”

RECITALS

A. AACMD was organized on December 7, 2004, to plan for, design, acquire, construct, install, relocate, redevelop, and finance certain public improvements as described in AACMD’s First Amended and Restated Service Plan approved by the City of Aurora on October 16, 2017.

B. ARTA was organized pursuant to the Intergovernmental Agreement Among the Board of County Commissioners of the County of Adams, the City of Aurora, and the Aerotropolis Area Coordinating Metropolitan District Establishing the Aerotropolis Regional Transportation Authority dated February 27, 2018 (the “Establishment Agreement”) for the general purposes of constructing, or causing to be constructed, a Regional Transportation System, as more particularly described in the Establishment Agreement and on Exhibit A, thereto, which Exhibit A is also attached to this Agreement and incorporated herein by this reference (the “Regional Transportation System;” as used herein, the term “Regional Transportation System Improvements” shall mean any one or more individual components of the Regional Transportation System), consistent with the detailed phasing plan and budget attached to the Establishment Agreement as Exhibit D, which Exhibit D is incorporated by reference herein (as the same may be amended, the “Capital Plan”) (any capitalized terms used but not defined herein shall have the meanings ascribed to them in the Establishment Agreement).

C. The Establishment Agreement provides that the ARTA members will remit certain revenues to ARTA to fund the completion of the Regional Transportation System and, further, authorizes ARTA to issue Bonds to fund the Regional Transportation System in reliance, in part, on such revenues from ARTA’s members.

D. Pursuant to the requirements of the Establishment Agreement, ARTA adopted a plan of finance for the Regional Transportation System Improvements on May 17, 2019 (the “**Financing Plan**”).

E. The Parties previously entered into that certain Intergovernmental Agreement for Project Funding and Reimbursement for Initial Design of ARTA Phase I Improvements dated August 23, 2018, and on January 15, 2019, AACMD and ARTA entered into that certain First Amended and Restated Intergovernmental Agreement for Project Funding and Reimbursement for Design and Construction of Phase I Improvements (together, the “**Amended and Restated IGA**”), which provides, in part, that AACMD may fund certain design and construction and warranty costs related to the completion of the Phase I Improvements, as described and defined therein, in reliance on and with the expectation of reimbursement for such costs from ARTA.

F. It is anticipated that, contemporaneously with the execution hereof, the Parties will enter into a separate intergovernmental agreement regarding the funding and reimbursement of the Regional Transportation System Improvements with the purpose and intent of supplementing the Amended and Restated IGA and providing for additional Regional Transportation System Improvements not addressed in the Amended and Restated IGA (the “**Project Management IGA**”).

G. ARTA and AACMD have entered into that certain Master Services Agreement for Engineering Services with Schedio Group, LLC (the “**Independent Engineer**”) pursuant to which the Independent Engineer will, among other services, identify, review and report to ARTA and AACMD any costs funded by AACMD for the Regional Transportation System Improvements, including but not limited to costs incurred by AACMD to provide the Maintenance Services as provided herein, that are eligible for reimbursement to AACMD by ARTA (as such costs pertain to the Maintenance Services, the “**Verified Maintenance Costs**”).

H. Consistent with the provisions of the Establishment Agreement, ARTA intends to pursue the issuance of bonds or other obligations to finance the design and construction of the Regional Transportation System consistent with the Capital Plan and the Financing Plan, as the same may be amended (the “**ARTA Bonds**”), the proceeds of which ARTA intends to use, in part, to reimburse AACMD for certain costs incurred in the cooperative development and maintenance of the Regional Transportation System pursuant to the Amended and Restated IGA as further set forth in the Project Management IGA and this Agreement.

I. The Parties acknowledge and agree that the completion of the Regional Transportation System will necessarily involve the planning for, design, construction, installation, and financing of certain street and ancillary improvements connecting the Regional Transportation System Improvements to other existing and planned regional and local transportation infrastructure (the “**Connecting Improvements**”); provided, the Parties also acknowledge that under some

circumstances the ownership and maintenance responsibilities associated with other certain street and ancillary improvements connecting the Regional Transportation System Improvements to other existing and planned regional and location transportation infrastructure may not be directly related to any Regional Transportation System Improvements or may be more directly related to other, non-regional improvements, the responsibility for which does not reasonably fall to ARTA, and in such circumstances such certain street and ancillary improvements will not be considered Connecting Improvements pursuant to this Agreement.

J. The Establishment Agreement provides, in part, that following their completion the Regional Transportation System Improvements will be conveyed to the appropriate governing jurisdiction responsible for similarly situated improvements for ownership, operation, maintenance, repair, and replacement, regardless of whether such jurisdiction is a member of ARTA, and ARTA shall not retain ownership of any Regional Transportation System Improvements after the expiration of applicable warranty periods.

K. The Parties recognize that in providing the Regional Transportation System Improvements it will be necessary to also provide for the interim maintenance of the Regional Transportation System Improvements and, as applicable, the Connecting Improvements, including but not limited to providing for any capital costs necessary during applicable warranty periods, for the period of time between when the Regional Transportation System Improvements and related Connecting Improvements are constructed until they are conveyed to the appropriate governing jurisdiction(s) for long term ownership, operation, maintenance, repair and replacement.

L. AACMD is willing, upon the terms and conditions further set forth herein, to provide certain interim maintenance services for the Regional Transportation System Improvements and Connecting Improvements on ARTA's behalf.

M. ARTA desires, upon the terms and conditions further set forth herein, to enlist AACMD's support to provide certain interim maintenance services for the Regional Transportation System Improvements and Connecting Improvements on ARTA's behalf.

N. ARTA and AACMD desire to enter into this Agreement in order to set forth their mutual understanding and agreement regarding the provision of certain interim maintenance services for the Regional Transportation System Improvements and Connecting Improvements as further described herein.

AGREEMENT

NOW, THEREFORE, in consideration of the recitals above and the mutual promises and covenants contained herein, the adequacy and sufficiency of which are mutually acknowledged, the Parties agree as follows:

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated in this

Agreement as if fully set forth herein.

2. Definitions.

Capitalized terms used but not defined in this Agreement shall have the meanings specified in the Establishment Agreement. In addition to capitalized terms defined in the body of this Agreement, the following terms shall be defined as follows:

(a) “**Accepting Jurisdiction**” shall mean the City of Aurora, Adams County, the E-470 Public Highway Authority, the Colorado Department of Transportation, or any other governmental entity that accepts the ownership, operations, and maintenance of any part of the Regional Transportation System Improvements.

(b) “**Contractor Proposal Process**” shall mean the procurement of proposals for Maintenance Services from known contractors at the request or invitation of AACMD.

(c) “**Hardscape Maintenance**” shall mean the clearing, repair, or replacement of hardscape features, including concrete walkways, decks, retaining walls, potting containers, and other design features of stone, wood, sand, pebble, brick, metal, concrete and other similar materials incorporated into the Regional Transportation System Improvements for practical or aesthetical purposes as reasonably necessary to maintain such hardscape features in good condition and repair (normal wear and tear excepted), but shall not include the initial provision of installation of such capital improvements.

(d) “**Landscape Maintenance**” shall mean pruning, weeding, planting of annuals, irrigation, mowing of turf lands and ground cover management which is undertaken in connection with the normal maintenance and repair of landscaped property, including shrubbery, trees, grasses, flowerbeds, and soils and other design features of similar materials incorporated into the Regional Transportation System Improvements for practical or aesthetical purposes as reasonably necessary to maintain such landscaping in good condition and repair (normal wear and tear excepted), but shall not include the initial provision or installation of landscape improvements.

(e) “**Maintenance Expenses**” shall mean all of the actual costs incurred by AACMD in the performance of Maintenance Services.

(f) “**Maintenance Services**” shall mean all Landscape Maintenance, Hardscape Maintenance, Snow Removal Maintenance, and other maintenance activities required by an Accepting Jurisdiction during the Warranty Period.

(g) “**Public Bidding**” shall mean the bidding process set forth under Sections 32-1-1001 or 24-92-101, *et seq.*, C.R.S., as applicable.

(h) “**Snow Removal Maintenance**” shall mean the removal of snow and ice and, if necessary, the related laying of sand or other material, on any vehicular or pedestrian way of travel, including roads, streets, public alleyways, walkways, bike paths, or any multi-purpose hardscape path being a part of or appurtenant to the Regional Transportation System Improvements as reasonably necessary to allow normal usage of the same.

(i) “**Warranty Period**” shall mean the applicable period of any warranty associated with a specific component of the Regional Transportation System Improvement or Connecting Improvement constructed by AACMD and/or ARTA as may be required in any applicable construction contract or pursuant to applicable law, rule, or regulation of any applicable controlling local, state, or federal entity.

3. Maintenance of Regional Transportation System.

3.1 AACMD’s Maintenance Responsibilities. ARTA hereby assigns and AACMD hereby assumes all obligations for the Maintenance Services associated with the Regional Transportation System Improvements and Connecting Improvements constructed by AACMD during the Term of this Agreement. Further, AACMD agrees that it will, upon written request of ARTA, also assume all obligations for the Maintenance Services associated with any Regional Transportation System Improvements or Connecting Improvements not constructed by AACMD, conditioned on the satisfaction of ARTA of its obligations set forth in Section 6.1 and provided such Maintenance Services are to be provided, funded, and reimbursed consistent with the terms of this Agreement. Throughout the Term (as defined herein), AACMD shall provide, or shall contract for the provision of, the Maintenance Services, including Landscape Maintenance, Hardscape Maintenance, and Snow Removal Maintenance.

3.2 Term. The “**Term**” of this Agreement shall commence upon the Effective Date and continue until the reimbursement obligation set forth herein is fully satisfied and all of the Regional Transportation System Improvements and Connecting Improvements to be maintained by AACMD hereunder have been conveyed to the appropriate Accepting Jurisdiction after expiration of any applicable Warranty Period. Notwithstanding the foregoing, AACMD’s responsibilities under this Agreement shall end with the final acceptance of all Regional Transportation System Improvements and Connecting Improvements constructed by AACMD by an Accepting Jurisdiction.

3.3 Provision of Services. It is contemplated that AACMD will, and agreed by ARTA that AACMD may, enter into service agreements with one or more third parties for the provision of the Maintenance Services (each a “**Service Agreement**”). AACMD shall adhere to the contracting requirements set forth in Section 4 hereof when entering into any agreement for the provision of Maintenance Services.

4. Service Agreements Requirements.

4.1 Minimum Requirements. AACMD shall perform all Maintenance Services or enter into Service Agreements consistent with, at minimum, the following requirements:

(a) Prohibition on Employment of Illegal Aliens. In accordance with Section 8-17.5-101, *et seq.*, C.R.S., AACMD will not enter into any Service Agreement with any contractor who knowingly employs or contracts with an illegal alien, or who knowingly subcontracts with a subcontractor who knowingly employs or contracts with an illegal alien, to provide any of the Maintenance Services hereunder. A provision concerning this requirement will be included in all Service Agreements, and certification by all service contractors, as set forth on the attached Exhibit B must be provided to AACMD.

(b) Public Health/Aesthetics. The Maintenance Services shall be performed in a safe, healthful, and attractive manner appropriate for each specific phase of development of the Regional Transportation System on a periodic and as-needed basis, and consistent with reasonable and customary industry standards for such services.

(c) Hazardous Materials. If supplies purchased for use in performance of the Maintenance Services contain or are themselves hazardous materials, AACMD or AACMD's contractors shall understand the nature of any hazards associated with the manufacture, handling, use and transportation of such materials, and shall be properly licensed for the performance of the same.

(d) Insurance. Insurance in minimum coverage limits not less than the minimum coverage limits set forth on the attached Exhibit C shall be required of all service contractors, and AACMD and ARTA shall each be identified as additional insureds in all such policies.

(e) Certification and Licensing. All Maintenance Services shall be performed by individuals or entities having all certifications, registration, or licenses as may be required by applicable local, state and federal laws governing the particular field of services provided.

(f) Standards of Care, Skill, and Diligence. The Maintenance Services shall only be performed by individuals and entities who possess the capacity and the professional experience and skill to perform the Maintenance Services in accordance with the standards of care, skill and diligence provided by component entities who perform work of a similar nature and in the same or similar locality.

5. Awarding of Service Agreements.

5.1 Bid/Proposal. All agreements for Maintenance Services or agreements incorporating Maintenance Services furnished by any third-party shall be awarded through either: (i) Public Bidding, or (ii) a Contractor Proposal Process including the solicitation of proposals from no less than three (3) service providers. ARTA acknowledges AACMD cannot compel a

third party to respond to a request for proposal; therefore, the solicitation of proposals from no less than three (3) service providers shall be sufficient evidence of compliance with this provision, even if proposals are not received from all three service providers.

5.2 Scored System Awarding of Service Agreements. AACMD shall develop and maintain a scored system for awarding Service Agreements and will provide the same to ARTA upon request. Such scored system shall incorporate, at a minimum, considerations of cost and time of performance, and may also include considerations of project knowledge, contractor mobilization, local preference, and other factors deemed relevant by AACMD.

5.3 Bid/Proposal Transparency. AACMD shall ensure that all bids/proposals for Maintenance Services submitted pursuant to Public Bidding or the Contractor Proposal Process shall be scored according to the scored system established by AACMD in Section 5 hereof and retained as required under Section 7 of this Agreement, and made available to ARTA upon request.

5.4 Administrative Costs. AACMD agrees that any administrative costs of AACMD necessary to solicit, review, negotiate, complete or otherwise establish Service Agreements may be considered Maintenance Expenses only to the extent such costs are necessary, reasonable, and directly related to the provision of the Maintenance Services, the Regional Transportation System Improvements or related Connecting Improvements, and the purpose and intent of this Agreement.

6. Funding and Reimbursement of Maintenance Expenses.

6.1 AACMD Appropriation. On or before December 15 of each year throughout the Term of this Agreement and including the year in which the Term of this Agreement expires or is terminated, AACMD agrees to budget and appropriate funds for the ensuing year in an amount sufficient to pay for the Maintenance Expenses for all Regional Transportation System Improvements and Connecting Improvements for which AACMD has assumed Maintenance Services obligations and which have not yet been accepted by an Accepting Jurisdiction. AACMD will make available to ARTA each year's budget upon request. The obligation of AACMD to provide Maintenance Services on Regional Transportation System Improvements or Connecting Improvements that AACMD did not construct shall be contingent on the delivery to AACMD of evidence in a form acceptable to AACMD in its sole discretion that ARTA has sufficient funds in its bank account(s), appropriated and encumbered in a sufficient amount, for payment to AACMD for such Maintenance Services.

6.2 ARTA Pledge of Revenues. Subject to the receipt of funding from ARTA Bonds, or from any other legally available sources deemed available in ARTA's sole discretion, ARTA shall reimburse AACMD for all Verified Maintenance Costs expended by AACMD to provide the Maintenance Services on the Regional Transportation System Improvements and Connecting Improvements for which AACMD has assumed Maintenance Services obligations and which have not yet been accepted by an Accepting Jurisdiction, within forty-five (45) days of ARTA's receipt of an invoice or other documentation from AACMD documenting Verified Maintenance Costs incurred by AACMD and requesting reimbursement.

6.3 Verification of Maintenance Expenses. AACMD agrees it will, on no less frequently than a quarterly basis, report all Maintenance Expenses incurred by AACMD pursuant to this Agreement to the Independent Engineer and provide such records of the Maintenance Expenses as are necessary to allow the Independent Engineer to determine the associated Verified Maintenance Costs and report the same to ARTA in a timely manner.

6.4 Subordination. All amounts owed by ARTA to AACMD pursuant to this Agreement shall be subordinate to any obligation of ARTA related to the ARTA Bonds, the Amended and Restated IGA, and ARTA's obligation to reimburse AACMD for the planning of, design, acquisition, construction, installation, relocation, redevelopment, and financing of the Regional Transportation System Improvements.

7. Access to Records and Reports.

7.1 Retention. Throughout the Term of this Agreement and for a period of three (3) years following termination of this Agreement for any reason, AACMD shall maintain, preserve, and make available to ARTA and any of its authorized representatives access at all reasonable times to any books, documents, papers, and records of AACMD which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions.

7.2 Access. AACMD shall maintain, and ARTA shall at any time have the right to examine and audit, all records and other evidence sufficient to reflect properly all prices, costs, or rates negotiated and invoiced by or to AACMD in performance of the Maintenance Services. This right of examination shall include inspection at all reasonable times of AACMD or any contractor engaged in performing any portion of the Maintenance Services.

8. Access to Regional Transportation System Improvements. Where generally necessary and applicable, ARTA hereby grants to AACMD, and its applicable contractors, a limited license to access completed Regional Transportation System Improvements and Connecting Improvements owned or controlled by ARTA as is reasonably necessary to provide the Maintenance Services, such license to expire as to each of the Regional Transportation System Improvements and Connecting Improvements upon acceptance by an Accepting Jurisdiction and as to all Regional Transportation System Improvements and Connecting Improvements upon termination of this Agreement.

9. Miscellaneous.

9.1 Default/Remedies. In the event of a material breach or default of this Agreement by either Party, the non-defaulting Party shall be entitled to exercise all remedies available at law or in equity after the provision of thirty (30) days prior written notice of the alleged breach or default to the other Party. In the event of any litigation, arbitration, or other proceeding to enforce the terms, covenants, or conditions hereof, the prevailing Party in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

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

If to ARTA: Aerotropolis Regional Transportation Authority
c/o CliftonLarsonAllen
Attention: Bob Blodgett
8390 E. Crescent Parkway, Suite 300
Greenwood Village, Colorado 80111
Phone: (303) 779-4525
Fax: (303) 773-2050
Email: Bob.Blodgett@claconnect.com

With copies to: Spencer Fane LLP
Attention: Rick Kron and Tom George
1700 Lincoln Street, Suite 2000
Denver, Colorado 80203
Phone: (303) 839-3800
Fax: (303) 839-3838
Email: rkron@spencerfane.com
tgeorge@spencerfane.com

If to AACMD: Aerotropolis Area Coordinating Metropolitan District
c/o Special District Management Services, Inc.
Attention: Lisa Johnson
141 Union Blvd., Suite 150
Lakewood, Colorado 80228
Phone: (303) 987-0835
Email: ljohnson@sdmsi.com

With copies to:

McGeady Becher P.C.
Attention: MaryAnn M. McGeady
450 E. 17th Avenue, Suite 400
Denver, Colorado 80203
Phone: (303) 592-4380
Fax: (303) 592-4385
Email: mmcgeady@specialdistrictlaw.com

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

9.4 Amendment; Headings for Convenience Only; Not to be Construed Against Drafter; No Implied Waiver. No amendment, change or addition is to be made to this Agreement except by written amendment executed by ARTA and AACMD. The headings, captions and titles contained in this Agreement are intended for convenience of reference only and are of no meaning in the interpretation or effect of this Agreement. This Agreement shall not be construed more strictly against one (1) Party than another merely by virtue of the fact that it may have been initially drafted by one (1) of the Parties or its counsel, since all Parties have contributed substantially and materially to the preparation hereof. No failure by a Party to insist upon the strict performance of any term, covenant or provision contained in this Agreement, no failure by a Party to exercise any right or remedy under this Agreement, and no acceptance of full or partial payment owed to a Party during the continuance of any default by the other Party(ies), shall constitute a waiver of any such term, covenant or provision, or a waiver of any such right or remedy, or a waiver of any such default unless such waiver is made in writing by the Party to be bound thereby. Any waiver of a breach of a term or a condition of this Agreement shall not prevent a subsequent act, which would have originally constituted a default under this Agreement, from having all the force and effect of a default.

9.5 Governing Law; Venue; Attorneys Fees. This Agreement is entered into in Colorado and shall be construed and interpreted under the law of the State of Colorado without giving effect to principles of conflicts of law which would result in the application of any law other than the law of the State of Colorado. Any legal dispute arising hereunder shall be tried and heard in the District Court for the County of Adams, State of Colorado. In the event that legal action is instituted to enforce any of the provisions of the Agreement, the prevailing party shall recover from the losing party its reasonable attorneys fees and court costs.

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

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

benefit of the Parties hereto and their permitted assigns.

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

9.9 Time of the Essence. Time is of the essence for performance or satisfaction of all requirements, conditions, or other provisions of this Agreement, subject to any specific time extensions set forth herein.

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

9.11 No Waiver of Governmental Immunity. Notwithstanding any provision of this Agreement to the contrary, nothing in this Agreement shall be deemed a waiver of any protections afforded AACMD or ARTA pursuant to Colorado law, including, but not limited to, the Colorado Governmental Immunity Act.

9.12 AACMD Indemnification of ARTA. To the extent permitted by law, AACMD shall indemnify, defend, save, and hold harmless ARTA, its officers, employees, and agents, against any and all third party claims, damages, liability, and court awards, including all costs, expenses, and attorney fees incurred, as a result of any act or omission of AACMD or its employees, agents, subcontractors, or assignees related to AACMD's provision of the Maintenance Services under this Agreement.

9.13 ARTA Indemnification of AACMD. To the extent permitted by law, ARTA shall indemnify, defend, save, and hold harmless AACMD, its officers, employees, and agents, against any and all third party claims, damages, liability, and court awards, including all costs, expenses, and attorney fees incurred, as a result of any act or omission of ARTA or its employees, agents, subcontractors, or assignees related to implementation of ARTA's responsibilities under this Agreement.

9.14 No Partnership or Joint Venture; Contractors and Agents. The Parties to this Agreement are not partners or joint venturers with each other and nothing herein shall be construed to make them partners or joint venturers or impose any liability as such on either of them. Further, any and all contractors or other agents engaged by AACMD to perform the

Maintenance Services or any other services related to this Agreement shall be considered contractors and agents of AACMD only and not of ARTA, unless otherwise expressly agreed to in writing by ARTA.

9.15 Third-Party Beneficiaries. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon or to give to any person or entity other than the Parties any right, remedy, or claim under or by reason of this Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Agreement by and on behalf of the Parties shall be for the sole and exclusive benefit of the Parties. It is the express intention of the Parties that any person other than the Parties shall be deemed to be an incidental beneficiary only.

9.17 No Personal Liability. No elected official, director, officer, agent or employee of either Party shall be charged personally or held contractually liable by or under any term or provision of this Agreement or because of any breach thereof or because of its or their execution, approval or attempted execution of this Agreement.

IN WITNESS WHEREOF, the Parties have executed this Intergovernmental Agreement for Interim Maintenance of ARTA Regional Transportation System Improvements as of the Effective Date first set forth above.

[SIGNATURE PAGE FOLLOWS]

**[SIGNATURE PAGE TO INTERGOVERNMENTAL AGREEMENT FOR INTERIM
MAINTENANCE OF ARTA REGIONAL TRANSPORTATION SYSTEM
IMPROVEMENTS]**

**AEROTROPOLIS REGIONAL
TRANSPORTATION AUTHORITY,**

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

By: 

Name: Dave Gruber

Title: Vice-Chairperson

**AEROTROPOLIS AREA
COORDINATING METROPOLITAN
DISTRICT, a political subdivision and quasi-
municipal corporation of the State of Colorado**

By: 

Name: Matthew Hopper

Title: President

EXHIBIT A

REGIONAL TRANSPORTATION SYSTEM

E470/38 th /The Aurora Highlands Pkwy Interchange - Full interchange design and build of diamond interchange along with frontage roads to and from 48 th .
I-70/Harvest/Powhatan Interchange - Full interchange design and build of diamond interchange at Harvest along with frontage roads to and from Powhatan in the interim.
38 th Avenue (E470 to Himalaya) – full section improvements - 4 lane arterial along with regional drainage crossings, traffic control and multimodal/bike boulevard.
Harvest/Powhatan Interconnect (I-70 to 56 th Avenue) – full section improvements - 6 lane limited access principal arterial along with regional drainage crossings, traffic control and multimodal (ped/bike) path and UPRR grade separation.
48 th Avenue (E470 to Powhatan) - full section improvements - 6 lane arterial along with regional drainage crossings, traffic control, multimodal (ped/bike) path and E470 overpass upgrade.
26 th Avenue (E470 to Powhatan) – full section improvements - 4 lane arterial along with regional drainage crossings/conveyance and traffic control.
Gun Club/Aura Boulevard/Main Street (26 th to 56 th) – full section improvements - 4 lane arterial along with regional drainage crossings/conveyance, traffic control and multimodal (ped/bike) path.
The Aurora Highlands Parkway (Interconnect to 38 th /E470 Interchange) – full section improvements - 4 lane arterial separated by major drainageway along with regional drainage crossings/conveyance, traffic control and multimodal/bike boulevard. Only constructed with approval of the E-470 Board of Directors.
Picadilly Interchange – Full Interchange Design

A

Exhibit B

Certification of Compliance with Illegal Alien Statute

By execution of this addendum (“**Addendum**”) to that certain [Name of Agreement] dated _____, 20____, by and between Aerotropolis Area Coordinating 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.

IN WITNESS WHEREOF, the Parties have executed this Addendum on _____,
20____.

**AEROTROPOLIS AREA
COORDINATING METROPOLITAN
DISTRICT**

_____, President

Attest:

Secretary

CONTRACTOR

By: _____
Its: _____

Exhibit C
Required Insurance

AACMD shall maintain, in the amounts and types of insurance described below and shall cause the Service Providers, as appropriate, to maintain such coverages from insurance companies authorized to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages, subject to policy terms and conditions) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury, and Two Million Dollars (\$2,000,000.00) General Aggregate.

B. Automobile Liability Insurance for all motor vehicles operated by or for the service provider, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each accident.

C. Workers Compensation Insurance for all employees as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).

D. With respect to Service Providers that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than Two Million Dollars (\$2,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the Amended and Restated Agreement with such Service Provider and so long as the insurance is commercially reasonably available.

E. The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All liability insurance policies, except workers compensation insurance and professional liability insurance, shall be written on an occurrence basis.

2. All insurance policies required hereunder except Workers Compensation and Employers Liability and professional liability shall: (i) name AACMD and ARTA as "additional insured" utilizing an ISO CG 2010 form acceptable to AACMD; (ii) be issued by an insurer authorized in the State of Colorado; (iii) provide that such policies shall not be canceled or not renewed without at least thirty (30) days' prior written notice to the Parties, and (iv) provide a notice within ten (10) days of any non-payment of premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary

insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the Parties.

3. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.

The Service Providers shall provide AACMD with certificates evidencing the insurance coverages required by this Exhibit prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Replacement certificates shall be sent to AACMD, as policies are renewed, replaced, or modified.