

TERMINATION OF OPERATION FUNDING AGREEMENTS

THIS **TERMINATION OF OPERATION FUNDING AGREEMENTS** (“**Termination Agreement**”) is made and entered into effective as of the 1st day of January, 2023, by and between **ABILENE STATION METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 1**”), **ABILENE STATION METROPOLITAN DISTRICT NO. 2**, a quasi-municipal corporation and political subdivision of the State of Colorado (“**District No. 2**” and, collectively with District No. 1, the “**Districts**”), and **ABILENE STATION LLC**, a Colorado limited liability company (f/k/a Abilene Corporate Center LLC and referenced herein as the “**Developer**”) (collectively, the “**Parties**”).

RECITALS

A. The Developer is developing property within the Districts known as Abilene Station.

B. The Parties previously entered into the following agreements (collectively, the “**Operation Funding Agreements**”):

1. Operation Funding Agreement between District No. 1 and Developer, dated April 6, 2007;
2. Operation Funding Agreement between District No. 2 and Developer, dated April 6, 2007;
3. 2009 – 2011 Operation Funding Agreement between District No. 2 and Developer, dated December 11, 2008, and effective January 1, 2009;
4. 2009 – 2011 Operation Funding Agreement between District No. 1 and Developer, dated December 11, 2008, and effective January 1, 2009;
5. Letter Agreement between District No. 1 and Developer, dated December 14, 2010;
6. Letter Agreement between District No. 2 and Developer, dated December 14, 2010;
7. 2015 Operation Funding Agreement between District No. 1, District No. 2, and Developer, dated April 17, 2015, as amended by that First Amendment dated November 5, 2016, that Second Amendment dated November 21, 2017 and effective January 1, 2018, that Third Amendment dated November 20, 2018, and that Fourth Amendment dated November 19, 2019.

C. Pursuant to the Operation Funding Agreements, the Developer previously advanced funds to the Districts for operation and maintenance expenses for fiscal years 2007 through 2022.

D. As of December 31, 2022, Three Hundred Twenty Eight Thousand Three Hundred Sixty Dollars and Twenty Five Cents (\$328,360.25) in principal was due and owing to the Developer from the Districts for advances made pursuant to the Operation Funding Agreements (“**Outstanding Advances**”). Interest has and will continue to accrue on the Outstanding Advances as set forth in Section 2 of the Operation Funding Agreement being entered into between District No. 1 and the Developer contemporaneously with the Termination Agreement herein, effective January 1, 2023 (the “**New OFA**”).

E. A portion of the property within Abilene Station has been previously included into the boundaries of District No. 1, and it is anticipated that the remaining portion of the property within Abilene Station will be included into the boundaries of District No. 1 in the future. Therefore, a funding agreement between the Developer and District No. 2 will no longer be necessary.

F. Simultaneous with the execution of this Termination Agreement, District No. 1 entered is entering into the New OFA with the Developer, pursuant to which District No. 1 will be obligated to reimburse the Developer for the Outstanding Advances.

G. The Parties desire to terminate the Operation Funding Agreements.

NOW, THEREFORE, in consideration of the foregoing, the Parties agree as follows:

COVENANTS AND AGREEMENTS

1. Termination. The Districts and the Developer agree that the Operation Funding Agreements are terminated and of no further force or effect as of the date of this Termination Agreement, that Developer has no further obligation to advance funds to the Districts under the Operation Funding Agreements, and that the Districts have no further obligation to reimburse the Developer under the Operation Funding Agreements.

2. Payment of Outstanding Advances. The Parties agree that District No. 1 will be obligated to reimburse the Developer for the Outstanding Advances under the New OFA. The Parties further agree that District No. 2 shall be released from any further obligation to reimburse the Developer for the Outstanding Advances.

3. Waiver and Release. Except as set forth herein, the Developer hereby waives any and all rights to reimbursement under the Operation Funding Agreements. The Districts and the Developer hereby release each other from any and all liabilities, obligations or duties that may have arisen or have been contemplated by the Operation Funding Agreements. The Districts and the Developer each agree not to make any claim against the other with respect to the Operation Funding Agreements or the performance or non-performance of any covenant or condition contained within or contemplated by the Operation Funding Agreements.

[SIGNATURE PAGE TO FOLLOW]

[SIGNATURE PAGE TO TERMINATION OF OPERATION FUNDING AGREEMENTS]

IN WITNESS WHEREOF, the Districts and Developer have executed this Termination of Operation Funding Agreements as of the date first set forth above.

ABILENE STATION METROPOLITAN DISTRICT NO. 1, a quasi-municipal corporation and political subdivision of the State of Colorado

By: 
President

Attest:


Secretary

ABILENE STATION METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

By: 
President

Attest:


Secretary

ABILENE STATION LLC, a Colorado limited liability company

By: David J. Erb & Company

Its: Manager

By: 
David J. Erb, President