

**TERMINATION, ASSIGNMENT AND ASSUMPTION AGREEMENT
AS TO FACILITIES FUNDING, CONSTRUCTION AND OPERATIONS AGREEMENT
BETWEEN AND AMONG ABILENE STATION METROPOLITAN DISTRICT NO. 1
AND ABILENE STATION METROPOLITAN DISTRICT NO. 2**

This **TERMINATION, ASSIGNMENT AND ASSUMPTION AGREEMENT AS TO FACILITIES FUNDING, CONSTRUCTION AND OPERATIONS AGREEMENT BETWEEN AND AMONG ABILENE STATION METROPOLITAN DISTRICT NO. 1 AND ABILENE STATION METROPOLITAN DISTRICT NO. 2** (the “**Termination Agreement**”) is entered into and effective as of January 1, 2023, by and between **ABILENE STATION METROPOLITAN DISTRICT NO. 1** (“**District No. 1**”) and **ABILENE STATION METROPOLITAN DISTRICT NO. 2** (“**District No. 2**”), each a quasi-municipal corporation and political subdivision of the State of Colorado. District No. 1 and District No. 2 shall collectively be referred to herein as the “**Districts.**”

RECITALS

A. The Districts were organized pursuant to their respective Service Plans, as approved by the City Council for the City of Aurora, Colorado on July 24, 2006 (collectively, the “**Service Plans**”).

B. Pursuant to the Service Plans, the Districts will work together to undertake the financing and construction of the Public Improvements (as defined in the Service Plans) contemplated therein.

C. The Service Plans further required that the Districts enter into an intergovernmental agreement to govern the relationship between and among the Districts with respect to the financing, construction and operation of the Public Improvements. Further, the Districts were to establish a mechanism whereby any one or more of the Districts may separately or cooperatively fund, construct, install, and operate the Public Improvements.

D. In order to establish the relationship between the Districts and to set forth the conditions and provisions under which the Districts would provide the Public Improvements and services to the property owners and residents within the project known as “**Abilene Station,**” as required by the Service Plans, District No. 1 and District No. 2 entered into a Facilities Funding, Construction and Operations Agreement dated June 8, 2007, as modified by an Amended and Restated Addendum dated September 11, 2008 (collectively, the “**FFCOA**”).

E. Pursuant to the FFCOA, District No. 2 agreed to serve as the Management District (as defined therein), whereby District No. 2 would own, operate, maintain, and construct certain Public Improvements (referred to in the FFCOA as the “**Facilities**”), and District No. 1 agreed to contribute to the costs of construction, operation, and maintenance of such Public Improvements. District No. 2 further agreed to provide administrative services on behalf of the Districts and District No. 1 agreed to pay for its share of the costs associated with the administrative services.

F. 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.

G. District No. 2 and Abilene Corporate Center LLC (n/k/a Abilene Station LLC) (the “**Developer**”) entered into the Project Funding and Reimbursement Agreement dated April 11, 2007 (the “**Project Funding Agreement**”) whereby the Developer agreed to advance funds to District No. 2 for construction-related expenses incurred by District No. 2 to construct and install the Public Improvements and District No. 2 agreed to reimburse the Developer for such advances. Further, District No. 2 acknowledged and agreed to reimburse the Developer for costs incurred by the Developer related to the organization and formation of the Districts.

H. District No. 1, District No. 2, and the Developer entered into the Facilities Acquisition Agreement dated April 17, 2015 (the “**FAA**”), whereby the Developer agreed to construct and install certain Public Improvements necessary for the development within the Districts and the Districts agreed to acquire and/or reimburse the Developer for the construction costs associated with the Public Improvements.

I. In accordance with the FAA, the Developer has constructed, or caused the construction of, the Public Improvements within Abilene Station, with the exception of certain park and recreation improvements and the construction of a traffic light (the “**Remaining Public Improvements**”).

J. The Remaining Public Improvements are anticipated to be constructed by CP Acquisition Holdings, LLC (“**Cortland**”) for District No. 1’s acceptance in accordance with a future reimbursement agreement between Cortland and District No. 1.

K. District No. 1 and District No. 2 each enter into the following agreements with the Developer, respectively: (a) an Operation Funding Agreement dated April 6, 2007; and (b) a 2009-2011 Operation Funding Agreement dated December 11, 2008, and effective January 1, 2009 (the “**Prior OFAs**”) whereby the Developer agreed to advance funds to the respective District for operation and maintenance expenses pursuant to the terms of the respective Prior OFAs.

L. District No. 1, District No. 2, and the Developer entered into the 2015 Operation Funding Agreement dated April 17, 2015, as subsequently amended (collectively, the “**Current OFA**,” and with the Prior OFAs, the “**OFAs**”), whereby the Developer agreed to advance funds to the Districts or to pay consultants directly, for operations and maintenance expenses pursuant to the terms of the Current OFA.

M. The Districts have determined the relationship established pursuant to the FFCOA is no longer necessary and the Districts desire to terminate the relationship under the FFCOA and to provide for the conditions of the termination.

N. Concurrent with the execution of this Termination Agreement, the Districts will enter into a memorandum of understanding relative to the future relationship of the Districts (the “**MOU**”) and the Districts will operate in accordance with the provisions of the MOU.

O. Following the termination of the FFCOA, District No. 1 anticipates issuing Limited Tax General Obligation Bonds, Series 2023, the proceeds of which will be used to reimburse the Developer for advances made by the Developer pursuant to the Project Funding Agreement and the construction and installation of Public Improvements pursuant to the FAA.

P. As the majority of the Public Improvements needed to develop Abilene Station have been constructed and all taxable property within Abilene Station is or will be located within the boundaries of District No. 1, the Districts have determined that it will be more efficient and economical for District No. 1 to assume the obligations of District No. 2 incurred in furtherance of serving its role as the Management District and to terminate the FFCOA in accordance with the terms herein.

NOW, THEREFORE, in consideration of the mutual agreements set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Districts agree as follows:

COVENANTS AND AGREEMENTS

1. Incorporation of Recitals. The foregoing recitals are hereby incorporated and made material terms hereof as if set forth in full.

2. Capital Reimbursements. The Developer has incurred organizational expenses, advanced funds, and incurred construction-related expenses in accordance with the Project Funding Agreement and the FAA, respectively, and is entitled to reimbursement for such advances and expenses incurred in accordance with the terms thereof (collectively, “**Capital Reimbursements**”). Concurrent with the execution of this Termination Agreement, the Project Funding Agreement and the FAA will be terminated as between the Developer, District No. 1, and District No. 2, as applicable, and will be replaced with a Facilities Acquisition Agreement between District No. 1 and the Developer whereby District No. 1 will be obligated to reimburse the Developer for the Capital Reimbursements in accordance with the terms thereof (“**District 1 FAA**”).

3. Operations Reimbursement. The Developer has provided advances to the Districts for operations and maintenance shortfalls and is entitled to reimbursement for such advances in accordance with the OFAs (“**Operations Reimbursements**”). Concurrent with the execution of this Termination Agreement, the OFAs will be terminated as between the Developer, District No. 1, District No. 2, as applicable, and will be replaced with an Operation Funding Agreement between District No. 1 and the Developer whereby District No. 1 will be obligated to reimburse the Developer for the Operations Reimbursements in accordance with the terms thereof (“**District 1 OFA**”).

4. Assignment of Outstanding Obligations. The Districts acknowledge that there are various agreements that provided District No. 2 with the ability to serve in the role of the Management District. Concurrent with the execution of this Termination Agreement, District No. 2 hereby assigns and delegates its rights and responsibilities with respect to all of the agreements listed in Exhibit A, attached hereto and incorporated herein by this reference (the “**Assigned Obligations**”), to District No. 1 and District No. 1 hereby accepts the assignment and delegation of the rights and responsibilities under all of the Assigned Obligations. Concurrent

with the execution of this Termination Agreement, the District 1 FAA and the District 1 OFA, the Districts shall amend their respective budgets to reflect the assignment of financial obligations from District No. 1 to District No. 2.

5. Street Maintenance Obligation. The Districts and the City of Aurora are parties to the Intergovernmental Agreement for Street Maintenance and Cost Sharing dated April 21, 2008 (the "**Street IGA**"), whereby District No. 2 agreed to perform certain obligations and provide certain services related to those streets within the Districts ("**District Obligations**"). The Districts hereby acknowledge and agree that going forward District No. 1 shall provide the District Obligations set forth in the Street IGA, to the extent applicable, in lieu of District No. 2.

6. Conveyance of Tract A. Upon written request from District No. 1, District No. 2 agrees to convey Tract A, Abilene Station Subdivision Filing No. 1 ("**Tract A**") to District No. 1. District No. 1 agrees to own, operate and maintain Tract A upon such conveyance.

7. Termination. The Districts agree to waive application of the one-year written notice provision in Section 8.4 of the FFCOA for purposes of this Termination Agreement. The Districts acknowledge and agree that the FFCOA is hereby terminated and is of no further force or effect as of the date of this Termination Agreement, and that the Districts have no further obligations to each other under the FFCOA. Concurrent with the execution of this Termination Agreement the Districts shall enter into the MOU, as required by the provisions of the Service Plans, and shall operate in accordance with the terms thereof. The Districts hereby acknowledge that the conditions under Section 8.4 of the FFCOA are hereby satisfied by the terms and provisions of this Termination Agreement.

8. Parties Interested Herein. Nothing expressed or implied in this Termination Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Districts any right, remedy, or claim under or by reason of this Termination Agreement or any covenants, terms, conditions, or provisions thereof, and all the covenants, terms, conditions, and provisions in this Termination Agreement by and on behalf of the Districts shall be for the sole and exclusive benefit of the Districts.

9. Default/Remedies. In the event of a breach or default of this Termination Agreement by any District, the non-defaulting District shall be entitled to exercise all remedies available at law or in equity. In the event of any litigation, arbitration or other proceeding to enforce the terms, covenants or conditions hereof, the prevailing District in such proceeding shall obtain as part of its judgment or award its reasonable attorneys' fees.

10. Governing Law and Jurisdiction. This Termination Agreement shall be governed and construed under the laws of the State of Colorado. Venue for any legal action relating to this Agreement shall be exclusive to the District Court in and for the County of Arapahoe, Colorado.

11. Survival of Obligations. Unfulfilled obligations of both parties arising under this Termination Agreement shall be deemed to survive the expiration or termination by court order or otherwise of this Termination Agreement and shall be binding upon and inure to the benefit of parties and their respective successors and permitted assigns.

12. Integration. This Termination Agreement constitutes the entire agreement between the Districts with respect to the matters addressed herein. All prior negotiations, representations, contracts, understandings, or agreements pertaining to such matters are merged into and superseded by this Termination Agreement.

13. Severability. If any covenant, term, condition, or provision under this Termination Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition, or provision shall not affect any other provision contained herein, the intention being that such provisions are severable.

14. Counterparts. This Termination Agreement 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.

15. Paragraph Headings. Paragraph headings are inserted for convenience of reference only.

16. Amendment. This Termination Agreement may be amended from time to time by agreement between the parties hereto, provided, however, that no amendment, modification, or alteration of the terms or provisions hereof shall be binding upon the Districts unless the same is in writing and duly executed by the parties hereto.

17. Instruments of Further Assurance. The parties hereto each covenant that they will do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged, and delivered, such acts, instruments, documents and transfers as may reasonably be required for the performance of their obligations hereunder.

[SIGNATURE PAGE TO TERMINATION, ASSIGNMENT AND ASSUMPTION AGREEMENT AS TO FACILITIES FUNDING, CONSTRUCTION AND OPERATIONS AGREEMENT]

IN WITNESS WHEREOF, the Districts have executed this Termination Agreement as of the day and year first set forth above.

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



President

Attest:



Secretary

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



President

Attest:



Secretary

EXHIBIT A

ASSIGNED OBLIGATIONS

1. Agreement between Cameron Van Dyke, LLC and Abilene Station Metropolitan District No. 2, dated July 26, 2022.