

013-280

**PEORIA PROJECT AGREEMENT**  
**(PEORIA STREET GRADE SEPARATION CROSSING)**

**THIS PEORIA PROJECT AGREEMENT** (“Agreement”) is entered into by and among the **CITY AND COUNTY OF DENVER** (“Denver”), a home rule city and municipal corporation of the State of Colorado, the **REGIONAL TRANSPORTATION DISTRICT**, a political subdivision of the State of Colorado (“RTD”) and the **CITY OF AURORA**, a municipal corporation of the State of Colorado (Aurora). (Denver, RTD and Aurora together, the “Parties” or any of the Parties, a “Party”).

**RECITALS**

1. The Parties are legally empowered under Article XIV, Section 18(2)(a) of the Colorado Constitution, C.R.S. Section 29-1-201, et seq., and their respective charters and organizational documents and the laws of the State of Colorado to enter into this Agreement.

2. The Parties wish to cooperate in order to ensure the completion of environmental documentation, design, right-of-way acquisition and construction of improvements for the proposed grade separated crossing of existing Union Pacific Railroad (“UPRR”) facilities, the soon to be constructed RTD East Corridor Commuter Rail Lines (“ERL Project”) and the soon to be constructed RTD I-255 Light Rail Line (“I-225 Project”) at Peoria Street, as more specifically described below (“Project” or “Peoria Project”). The Peoria Project is located partially in Denver and partially in Aurora.

3. The Parties entered in to the Project Funding Agreement for the Peoria Street Grade Separation Crossing dated December 19, 2011 (“Peoria Funding Agreement”), which addressed funding of the Project in the amounts agreed to therein and provided a mechanism for Denver to contract for and cause the completion of the environmental documentation, design, right-of-way acquisition and construction of the Project and for Aurora and RTD to participate in the Project as set forth therein.

4. The Peoria Funding Agreement provided for additional matters to be addressed in subsequent agreements, which the Parties wish to accomplish in this Peoria Project Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth, the Parties hereto mutually agree as follows:

**SECTION 1 – DEFINED TERMS**

All terms used but not defined herein shall have the same definition as set forth in the

Peoria Funding Agreement.

**SECTION 2 – PROJECT SCOPE**

**2.01 Project Scope.**

The scope of the Peoria Project (“Project Scope”) shall be:

- a. The project scope that is included in the Design Build Contract with SEMA;
- b. All Right-of-way and other interests in land necessary to accomplish the Project;
- c. All utility work necessary to accomplish the Project;
- d. All other items necessary for, and common and customary to, the Project.

**2.02 Temporary At Grade Crossing Modifications.**

a. If the ERL Project needs to modify Peoria Street at or near the current at grade crossing of the UPRR tracks at Peoria Street (“At Grade Modifications”), RTD shall be responsible for and in control of all design and construction of such At Grade Modifications. Denver shall have the right to review the design and approve the cost of the At Grade Modifications. Aurora shall have the right to review and approve the design and the cost of the At Grade Modifications Subject to reimbursement from the Peoria Project as set forth in Section 3.07 below, RTD shall be responsible for all costs related thereto, including the removal of any At Grade Modifications and the restoration of any area disturbed by the At Grade Modifications, unless otherwise agreed to by UPRR, the PUC and the Denver Project Manager, at the time the at grade crossing is closed. The timing of the removal and restoration shall be performed in coordination with the Peoria Design-Build Contractor and in conformance with any applicable PUC Order. RTD shall be responsible for all PUC approvals relating to the At Grade Modifications.

b. The Intergovernmental Agreement between Denver and Aurora dated September 26, 1983, relating to maintenance of signals at Smith Road and Peoria and at 37<sup>th</sup> and Peoria shall terminate upon notice from Denver’s Manager of Public Works to Aurora’s Manager of Pubic Works.

**SECTION 3 – PROJECT BUDGET AND FUNDING**

**3.01 Project Budget.**

The Project Budget is \$53,000,000, unless modified or reset as described herein. The Parties intend to complete the Project within or under the Project Budget and that each Party, through the PMT (defined below), will strive to achieve this goal. All Project expenditures shall be in accordance with federal, state and DRCOG requirements. Denver shall oversee expenditures of the Project Funds in a manner that ensures the maximum use of all Project Funds in light of such requirements. The Project Budget is currently funded as follows:

a. DRCOG Grant Funds.

As set forth in the Peoria Funding Agreement, Denver was awarded a Transportation Improvement Plan (“TIP”) grant from the Denver Regional Council of Governments (“DRCOG”) in the amount of \$25,000,000.00 for the Project (“DRCOG Grant”). Denver entered into an Intergovernmental Agreement (“CDOT IGA”) with the Colorado Department of Transportation (“CDOT”) so that the Project is receiving the DRCOG Grant monies as programmed in the DRCOG 2012-2017 TIP on the following dates:

- i. \$2,400,000 Federal FY 2012
- ii. \$2,017,000 Federal FY 2013
- iii. \$20,583,000 Federal FY 2014

Upon notification from CDOT that the DRCOG Grant monies (in whole or in part) are authorized for expenditure for each such fiscal year, Denver will expend such monies and seek reimbursement from the DRCOG Grant monies in accordance with the CDOT IGA. The Project Account will reflect the authorized spending total for each such fiscal year. The above stated anticipated amounts and timing of the DRCOG Grant as documented in this Agreement shall also constitute an addendum to the Peoria Funding Agreement as provided therein and kept in the Project Account file. If the DRCOG Grant is permanently reduced, the Parties, through the PMT, shall strive to make appropriate adjustments to the Project Budget and the Project Scope.

b. 2012 Grant.

Denver has also received a grant through CDOT for \$3,000,000 (“2012 Grant”) for use on the Project. The 2012 Grant monies will be incorporated into the existing CDOT IGA or a new IGA will be entered into. Upon notification from CDOT that the 2012 Grant monies are authorized for expenditure, Denver will expend such monies and seek reimbursement from the 2012 Grant monies in accordance with the CDOT IGA or other applicable agreement. The Project Account will reflect the authorized spending total for each State fiscal year.

c. Partner Contributions.

Pursuant to the Project Funding Agreement, the Parties have deposited the following into the Project Account for use on the Project:

- i. RTD \$20,000,000
- ii. Aurora \$ 2,500,000
- iii. Denver \$ 2,500,000

**3.02 New Monies; Reset Project Budget.**

The Parties shall continue to diligently pursue all avenues of additional funding for the Project. If new money is received for the Project, the Project Budget shall increase by that amount (“Reset

Project Budget”). The Reset Project Budget shall become the Project Budget and shall be the controlling budget for the Project. Notwithstanding the Reset Project Budget, the Project Scope shall not be changed unless approved by the PMT process described herein..

### **3.03 Staff and Other Eligible Charges.**

The Project Funding Agreement provided for the reimbursement, out of Project Funds, of direct and indirect staff costs (“Staff Charges”) of the Parties as follows: Denver - \$750,000; Aurora - \$150,000; and RTD - \$150,000 (“Staff Funds”). The Parties shall submit appropriate documentation of Staff Charges to the Denver Project Manager at the time such Staff Charges are incurred. Additional Project Funds may be used for eligible Peoria expenses as follows: Denver - \$250,000; Aurora - \$250,000; and RTD - \$250,000 upon the approval of the PMT (“Other Eligible Charges”). A Party shall not seek reimbursement for such Other Eligible Charges until substantial completion of the Project as set forth in Section 3.06 below.

### **3.04 Project Elements Not Eligible for Reimbursement.**

Project Art, if any, required under Denver or Aurora ordinances and regulations shall not constitute a Project element eligible for reimbursement out of funds in the Project Budget.

### **3.05 Cost Overruns.**

Any Project expense in excess of the Project Budget is a cost overrun (“Cost Overrun”). Subject to appropriation, Denver and RTD shall share equally in any Cost Overrun, which equal share shall be reduced by any contribution made by Aurora.

### **3.06 Distribution of Remaining Project Funds.**

Upon substantial completion of the Project, the PMT shall review the Project funds and determine if there are any funds remaining in the Project Budget (“Remaining Funds”) and the source of such Remaining Funds. The PMT shall authorize use of such Remaining Funds in accordance with federal, state, DRCOG and any other requirements relating to the Remaining Funds. If there is any Remaining Funds and if the following are eligible expenditures from such Remaining Funds, the Remaining Funds shall be disbursed in the following order:

- a. To reimburse RTD for the At Grade Modifications described in Section 2.02 above. All such funds reimbursed to RTD shall be added by RTD to the ERL contingency.
- b. To reimburse the Parties for Other Eligible Charges described in Section 3.03 above.
- c. To pay to RTD \$4,150,000 as set forth in the City of Aurora East Corridor Local Agency Contribution Intergovernmental Agreement between Aurora and RTD dated May 23, 2011:

“The initial rough order of magnitude cost estimate of the [Peoria] project is \$50,000,000. If the cost of the project is reduced below \$50,000,000, including environmental clearance, RTD shall reduce its contribution until its contribution is \$15,850,000 (less any amounts not received from DRCOG Second Commitment East Corridor Funds) unless DRCOG chooses to reduce its TIP allocation below

\$25,000,000 as result of the savings; then RTD shall reduce its contribution in amounts equal to the savings to the local share until its contribution is \$15,850,000 (less any amounts not received from DRCOG Second Commitment East Corridor Funds).”

Such payment shall be added by RTD to the ERL contingency.

d. The remainder to each of the Parties equally; provided however that the RTD share shall be added to the ERL contingency by RTD.

## **SECTION 4 – PROJECT DELIVERY**

### **4.01 Traffic on the Structure.**

The target date for having traffic on the grade separated structure, so that traffic is no longer using the at-grade crossing at Peoria, is March 1, 2015 (“Traffic On Structure Date”). However, Denver shall use good faith efforts and the other Parties shall cooperate to achieve traffic on the structure on or before the schedule set forth in the Design Build Contract with SEMA.

### **4.02 Coordination with the ERL Project and the I-225 Project.**

The Parties recognize that the ERL Project and the I-225 Project will be constructed concurrently with the Peoria Project. In order for the Parties to proceed with all projects at the Peoria location without impairing the ability of any Party’s contractor to perform, the Parties shall coordinate to interface their respective construction schedules, mutually agree upon crucial milestone dates, and otherwise address methods for coordinating each of the projects. The contractors for the I-225 Project and the Peoria Project shall coordinate their schedules with the ERL Project. The ERL Project schedule shall have priority over the Peoria Project schedule and the I-225 Project schedule. Should the schedules subsequently come into conflict due to ERL Project needs or for unforeseen circumstance attributable to the ERL Project, the ERL Project schedule will have priority over the Peoria Project schedule and the I-225 Project Schedule; provided however that, any costs incurred by the Peoria Project, including acceleration or delay costs, due to such ERL Project circumstances shall be paid for by RTD or the ERL Project contractors. Further, the Parties shall work cooperatively to address the testing needs of the ERL Project.

### **4.03 Project Management.**

a. It is the Parties’ desire to manage the project so that the scope and schedule are achieved with a quality work product and that project savings are recognized for all parties. In addition to the provisions relating to Project Management set forth in the Project Funding Agreement, Denver shall enter into the design build construction contract (“Design Build Contract”) and all other contracts necessary for the Project. Denver shall manage the design build contractor, the Design Build Contract and all other contracts and be responsible for coordination as necessary to complete the Project within the Design Build Contract time frame and price. Denver shall be responsible for coordination of the contractor with the PMT. Denver shall act in the best interest of

the Project. There shall be weekly status meetings with the Project Contractor in the field, which shall be attended by the Denver Project Manager. RTD shall use good faith efforts to have a RTD employee authorized to act attend these weekly meetings.

b. Change Orders. The Parties agree that change orders, as defined in the Design Build Contract (“Change Orders”) shall be processed as follows:

i. Written consent of Aurora is not needed on any Change Order.

ii. Denver may issue Change Orders necessary to deliver the scope of work in the Design Build Contract without RTD’s approval until the cumulative cost of Change Orders exceeds \$2,000,000 of the budgeted contingency for the Design Build Contract.

iii. Any Change Order that would result in the cumulative cost of Change Orders exceeding \$2,000,000 of the budgeted contingency or that is for work outside the unanimously agreed upon scope of work set forth in the Design Build Contract requires RTD’s approval.

c. Project Management Team. To ensure coordination among all the Parties, a Project Management Team (“PMT”) is hereby created consisting of one (1) employee each from RTD, Denver and Aurora. The PMT shall meet at least monthly or as often as necessary. The Denver Project Manager shall present a Project Budget update to the PMT on a monthly basis.

d. RTD Plan Review. RTD shall have the right to review all plans. RTD shall have the right to approve all aspects of such plans affecting safety and clearances (vertical and horizontal) of the ERL.

## **SECTION 5 – LAND ACQUISITION; COORDINATION; AND OTHER MATTERS**

### **5.01 Rights Owned or Controlled by the Parties and Coordination of Land Acquisition with the I-225 Project.**

The Peoria Project originally planned to acquire a Temporary Easement and a portion of Parcel 9; Temporary Easements and portions of Parcels 4 and 3; and all of Parcels AP-8, AP-7 and AP-5. However, because of the needs of the I-225 Project in relation to Parcels 3, 4, 5, 7, 8, and 9, the Parties agree:

a. Temporary Rights. The Parties hereby grant the other Parties and their respective contractors, subcontractors and assigns, temporary rights to do Peoria Project, ERL Project and I-225 Project work, including but not limited to environmental testing and work, demolition, geotechnical and other construction testing, staging, and construction on any land, right-of-way and other rights that the respective Parties own or control (including possession rights in condemnation). Use of these temporary rights shall be coordinated by the Peoria Project, the I-225 Project and the ERL Project.

b. Permanent Rights. If not already owned by the appropriate Party, permanent rights necessary for the ownership, operation, maintenance, repair and replacement of the Peoria Project shall be granted as set forth below. Aurora hereby grants Denver and its contractors and subcontractors all rights necessary to construct the Peoria Project over, under, upon, and through any property or property rights owned or controlled by Aurora.

(i) Parcels 3, 4, 5, 7, 8, and 9 shall be full acquisitions. The Peoria Project ROW Plans have been modified to reflect such full acquisitions, CDOT approval has been obtained and all other actions necessary to accommodate these full acquisitions have been completed by the Peoria Project.

(ii) The Peoria Project team, including surveyors and land acquisition and relocation consultants, in conjunction with RTD and the I-225 Project, shall provide services in relation to the acquisition of Parcels 3, 4, 5, 7, 8, and 9. The Peoria Project and the I-225 Project shall cooperate in determining the appropriate contractors to complete work relating to these Parcels.

(iii) The Peoria Project shall pay for all costs relating to the purchase, acquisition, environmental remediation, and demolition of Parcels 5, 7, and 8 (the entire parcels as originally acquired, and not as such parcels will be subsequently divided and conveyed as set forth herein). RTD shall send any bills and invoices it incurs relating to the acquisition, environmental remediation, and demolition of such Parcels 5, 7, and 8 to the Denver Project Manager. The Denver Project Manager shall cause such bills and invoices to be promptly paid directly to the invoicing entity. RTD shall not incur any costs related to the acquisition, environmental remediation, and demolition of such Parcels 5, 7, and 8.

(iv) RTD shall pay for all costs relating to the purchase, acquisition, environmental remediation, and demolition of Parcels 3, 4, and 9 (the entire parcels as originally acquired, and not as such parcels will be subsequently divided and conveyed as set forth herein). The Peoria Project shall send any bills and invoices it receives relating to the acquisition, environmental remediation, and demolition of such Parcels 3, 4, and 9 to RTD. RTD shall promptly pay such bills and invoices directly to the invoicing entity. The Peoria Project shall not incur any costs related to the acquisition, environmental remediation, and demolition of such Parcels 3, 4, and 9.

(v) The timing of any needed soil or environmental testing and environmental remediation on Parcel 9 shall be coordinated so that the Design Build Contractor's schedule is maintained.

(vi) In relation to the acquisition and conveyance of Parcels 3, 4, 5, 7, 8, or 9:

(A) Parcel AP-5 – Aurora has already acquired Parcel AP-5. No later than five (5) business days after the tenant has vacated Parcel AP-5, or another date agreed to by the Denver Project Manager, RTD and Aurora, Aurora shall execute a deed conveying to RTD, at no

cost to RTD, the remainder portion of Parcel AP-5 not permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by the Colorado Department of Transportation (“CDOT”). Such conveyance shall be subject to the temporary rights granted above.

(B) Parcel AP-7 – Aurora has already acquired Parcel AP-7. No later than five (5) business days after the tenant has vacated Parcel AP-7, or another date agreed to by the Denver Project Manager, RTD and Aurora, Aurora shall execute a deed conveying to RTD, at no cost to RTD, the remainder portion of Parcel AP-7 not permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by CDOT. Such conveyance shall be subject to the temporary rights granted above.

(C) Parcel AP-8 – Aurora is acquiring Parcel AP-8. No later than five (5) business days after the tenant has vacated Parcel AP-8, or another date agreed to by the Denver Project Manager, RTD and Aurora, Aurora shall execute a deed conveying to RTD, at no cost to RTD, the remainder portion of Parcel AP-8 not permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by CDOT. Such conveyance shall be subject to the temporary rights granted above.

(D) Parcel RW-9 – RTD has signed a Memorandum of Agreement to acquire Parcel RW-9. Simultaneously with the closing between the owner of Parcel RW-9 and RTD, or another date agreed to by the Denver Project Manager, RTD and Aurora, RTD shall execute a deed conveying to Aurora, at no cost to Aurora, the portion of Parcel RW-9 permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by CDOT. Such conveyance shall be subject to the temporary rights granted above.

(E) Parcel RW-3 - RTD has signed a Memorandum of Agreement to acquire Parcel RW-3. No later than five (5) business days after the tenant has vacated Parcel RW-3, or another date agreed to by the Denver Project Manager, RTD and Aurora, RTD shall execute a deed conveying to Aurora, at no cost to Aurora, the remainder portion of Parcel RW-3 permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by CDOT. Such conveyance shall be subject to the temporary rights granted above.

(F) Parcel RW-4 – RTD is acquiring Parcel RW-4. Simultaneously with RTD’s obtaining title to Parcel RW-4 or another date agreed to by the Denver Project Manager, RTD and Aurora, RTD shall execute a deed conveying to Aurora, at no cost to Aurora, the portions of Parcel RW-4 permanently needed for the Peoria Project, as legally described in legal descriptions previously approved by CDOT. Such conveyance shall be subject to the temporary rights granted above.

(vii) In relation to Parcel 36, RTD owns Parcel 36. Aurora, on behalf of the Peoria Project and Denver, needs a permanent easement for the purposes of accessing, owning, maintaining, operating, replacing, reconstructing, improving, inspecting, repairing and removing the Peoria Grade Separation Structure and its appurtenances, over, across, under and through the



land legally described in legal description PE-36 previously approved by CDOT. RTD shall execute a Permanent Easement for PE-36, in a form of Permanent Easement agreed to by the Parties, at no cost to Aurora, no later than June 1, 2013. Such Permanent Easement shall be subject to the temporary rights granted above.

### **5.03 Waiver of Certain Fees.**

The following fees are hereby waived for the Peoria Project: Aurora sanitary sewer fees, Aurora Water foot front and inspection fees, Denver sanitary sewer fees and Denver Water development fees.

### **5.04 Grading, Erosion and Sediment Control (Stormwater Management for Construction) Jurisdiction.**

The Peoria Project spans jurisdictional boundaries with primary drainage criteria being from both Aurora and Denver. To facilitate the Project permitting and inspection processes, and to avoid the need for duplicate grading, erosion and sediment control permits, Denver's construction erosion control criteria will be used for stormwater management permitting. In conjunction with the permitting responsibilities, Denver will also be responsible for routine site inspections and any enforcement that might ensue as a result.

Aurora will therefore not require a separate City of Aurora stormwater quality discharge permit for the portion of the project within Aurora's MS4 Program. Aurora reserves the right to inspect the site if there is a concern that construction best management practices are not adequately meeting Aurora's MS4 program intent, or if there is an observed release of pollutants from the construction site into Aurora's MS4. In general, the following steps will be taken should an issue be discovered:

- a. A phone call will be placed to let the Denver Project Manager know that there is an issue on the site that has been observed.
- b. The phone call will be followed by a letter sent to the Denver Project Manager indicating that an issue has been observed and documented and that they have 72 hours to correct the issue.
- c. If the discharge is not corrected within 72 hours, Aurora will escalate the matter to the Project Management Team for resolution.

### **5.05 Maintenance Matters.**

RTD shall be responsible for ongoing operation, maintenance, repair and replacement of the shields under the structure protecting the electrification wires of the ERL Project. As a result of the Peoria Project being undertaken subsequent to the initiation of design and construction of the ERL Project, RTD shall not be responsible for the operation, maintenance, repair and replacement of pedestrian protection elements and any other element above the shields that are under the structure. Aurora and Denver shall enter into a separate agreement delineating

maintenance responsibilities of the two Parties in relation to the Peoria Project.

## **SECTION 6 – GENERAL CONDITIONS**

**6.01** The Parties do not intend, and nothing contained in this Agreement shall be deemed, to create a partnership, co-tenancy, joint venture or agency of any kind.

**6.02** This Agreement shall be construed in accordance with the laws of the State of Colorado. In the event of any dispute between the Parties to this Agreement, the venue for the dispute resolution shall be the District Court for and in the City and County of Denver, Colorado.

**6.03** This Agreement shall inure to the benefit of, and be binding upon the parties to this Agreement and their respective successors and permitted assigns. This Agreement is solely between and for the benefit of the Parties, and no design consultant, contractor, any subcontractor nor any other person is a third-party beneficiary to or under this Agreement.

**6.04** This Agreement cannot be amended or modified except by a written document signed by all Parties. Approval of the Denver City Council shall be obtained as required by the Denver Charter.

**6.05** No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder.

**6.06** Any notices or other communications required or permitted by this Agreement or by law to be served on, given to or delivered to any Party hereto, by the other Parties shall be in writing and shall be deemed duly served, given or delivered when personally delivered to the Party to whom it is addressed or in lieu of such personal services, upon receipt in the United States' mail, first-class postage prepaid, addressed as follows or by email addressed to:

Denver: City and County of Denver  
Manager of Public Works  
201 W. Colfax Avenue. Dept. 608  
Denver, Colorado 80202  
Email: Jose.Cornejo@denvergov.org

Aurora: City of Aurora  
Director of Public Works  
15151 E. Alameda Parkway  
Aurora, Colorado 80012  
Email: DChamber@Auroragov.org

RTD: Regional Transportation District  
Program Manager for Fastracks  
1670 Broadway, Suite 2700

Denver, Colorado 80202  
Email: pranaya.shrestha@rtd-denver.com

**6.07** The Parties are political subdivisions of the State of Colorado and, as such, (1) any and all financial obligations described hereunder are subject to annual budget and appropriations requirements, and (2) no consultants, contractors or subcontractors shall have lien rights against the Parties, nor against any property lying within the boundaries of the Parties in the event of nonpayment of any amount due under this Agreement.

**6.08** The Parties, their elected officials, directors, officials, officers, agents and employees are relying upon and do not waive or abrogate, or intend to waive or abrogate by any provision of this Agreement the monetary limitations or any other rights immunities or protections afforded by the Colorado Governmental Immunity Act, Section 24-10-101 et seq., C.R.S., as the same may be amended from time to time.

**6.09** No elected official, director, officer, agent or employee of any Party shall be charged personally or held contractually liable 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.

**6.10** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same instrument.

**6.11** The Parties consent to the use of electronic signatures. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by such Party in the manner specified by such Party. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

**6.12** Except as expressly provided elsewhere herein, each Party shall be responsible for any and all suits, demands, claims, costs, or actions proximately resulting from its own individual acts or omissions or from the acts or omissions of any of its officers or employees.

**6.13** The Section headings are inserted herein only as a matter of convenience and for reference and in no way are intended to be a part of this Agreement or to define, limit or describe the scope or intent of this Agreement or the particular sections hereof to which they refer.

**6.14** It is the intent of the Parties that no third party beneficiary interest is created in or by this Agreement. The Parties are not presently aware of any actions by them or any of their authorized representatives which would form the basis for interpretation construing a different intent, and in any event each of them expressly disclaims any such acts or actions, particularly in view of the integration of this Agreement.

**6.15** The Parties agree that any duly authorized representative of Aurora, RTD and Denver, including the Denver Auditor or his or her designee, shall, until three (3) years after termination of this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records directly related to this Agreement upon at least ten (10) calendar days prior written notice.

**6.16** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law; provided however if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions or the remaining provisions of this Agreement.

**6.17** Each Party represents that to the best of their information and belief no officer or employee of any other Party is either directly or indirectly a party to or in any manner interested in this Agreement except as such interest may arise as a result of the lawful discharge of the responsibilities of such elected official or employee.

**6.18** The effective date of this Agreement shall be the date of the last Party to sign the Agreement as set forth below. ("Effective Date"). This Agreement shall terminate on 40 years from the Effective Date unless otherwise extended by the Parties.

**6.19** In the event of any conflict between this Peoria Project Agreement and the Peoria Funding Agreement, the terms of this Peoria Project Agreement shall take precedence.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed and delivered as of the Effective Date.

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**Contract Control Number:** PWADM-201310120-00

**Contractor Name:** RTD and City of Aurora

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

DOUGLAS J. FRIEDNASH, Attorney  
for the City and County of Denver

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



**Contract Control Number:** PWADM-201310120-00

**Contractor Name:** RTD and City of Aurora

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**ATTEST: [if required]**

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

