

RESOLUTION NO. 2020-10-____

**RESOLUTION OF THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD
REGARDING THE IMPOSITION OF AN OPERATION AND MAINTENANCE FEE**

A. The Aurora Highlands Community Authority Board (the “CAB”) is political subdivision and public corporation of the State of Colorado organized November 21, 2019 pursuant to The Aurora Highlands Community Authority Board First Amended and Restated Establishment Agreement (the “CABEA”) and in conformity with the provisions of Sections 29-1-203 and -203.5, C.R.S., situated in the City of Aurora, County of Adams, State of Colorado.

B. Pursuant to the CABEA and Section 32-1-1001(1)(j), C.R.S., the CAB is authorized to fix and impose fees, rates, tolls, charges and penalties for services or facilities provided by the CAB, which, until paid, shall constitute a perpetual lien on and against the property served.

C. The CAB is required to operate and maintain certain facilities and improvements and provide certain services for the benefit of and throughout the combined service areas of the Aerotropolis Area Coordinating Metropolitan District (the “Coordinating District”) and The Aurora Highlands Metropolitan District Nos. 1 through 3 (the “TAH Districts”).

D. The CAB has ongoing operations and maintenance expenses associated with the facilities, improvements, and services provided to the TAH Districts and their residents, owners, taxpayers, and visitors, which benefit all properties within the TAH Districts and increase the value of those properties.

E. The CAB desires to establish an operation and maintenance fee (“**Operation and Maintenance Fee**”) in order to finance the costs associated with the general operations and maintenance of the facilities, improvements, and services provided.

F. The CAB finds that the Operation and Maintenance Fee set forth herein is reasonably related to the facilities, improvements, and services provided, and that the imposition thereof is necessary to provide the improvements, facilities, and services provided for the benefit of the property subject to such Operation and Maintenance Fee.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AURORA HIGHLANDS COMMUNITY AUTHORITY BOARD, COUNTY OF ADAMS, COLORADO, AS FOLLOWS:

1. Incorporation of Recitals. The forgoing recitals are incorporated herein as if set forth as material terms of this Resolution.

2. Imposition of Fee. The CAB Board of Directors hereby finds, determines and declares that it is in the best interests of the CAB, the TAH Districts, and their inhabitants and taxpayers to impose an Operation and Maintenance Fee, as follows:

(a) Owner Obligation. Effective November 1, 2020, the CAB hereby imposes an Operation and Maintenance Fee in the amount of \$100.00 per month on each residential lot

(each, a “**Lot**” and collectively, “**Lots**”) within the TAH Districts. The first Operation and Maintenance Fee shall become due and payable to the CAB at closing on the initial sale of such Lot with a completed residence thereon by a homebuilder to the initial homeowner (the “**Initial Payment Date**”), such Operation and Maintenance Fee amount pro-rated for the portion of the calendar month then remaining and payable by the homeowner (each, an “**Owner**”).

(b) Automatic Adjustment. Beginning January 1, 2022, and on January 1 of each subsequent year, the Operation and Maintenance Fee shall be automatically increased in accordance with the Consumer Price Index for the Denver-Aurora-Lakewood (CPI-U), except that the Operation and Maintenance Fee shall never be automatically increased in excess of three percent (3%) in any year nor decreased in any year unless by majority vote of the CAB Board of Directors.

3. Billing. Each Owner shall be billed monthly by the CAB or the CAB’s designee in advance, subject to the following procedure:

(a) Invoicing. Invoices for the Operation and Maintenance Fee will be sent to each addressed Lot Owner in the month prior to the date such invoice is due. Payment shall be due on the first day of each month (each a “**Due Date**”). Invoices will provide all amounts currently due, all past due amounts, including all Collection Costs (defined below), and any Late Fees (defined below) owing on the account. Payment shall be submitted to the CAB at the following address, unless otherwise directed by the CAB:

The Aurora Highlands Community Authority Board
c/o CliftonLarsonAllen LLP
8390 E. Crescent Pkwy., Ste. 300
Greenwood Village, CO 80111

(b) Past Due Amounts. Payment will become past due 30 days after the Due Date (the “**Past Due Date**”) and will be assessed a Late Fee of \$5.00 pursuant to Section 29-1-1102(3), C.R.S. If payment is not received prior to the Past Due Date, a reminder letter may be mailed to those Lot Owners which have not previously become past due. The reminder letter may be included in a subsequent invoice. The reminder letter will not be issued a reminder for future delinquencies. The reminder letter will state that payment must be received not later than 15 days after the mailing date of the reminder letter. Payments made will be applied first to any Late Fees and Collection Costs.

(c) Default. In the event that any such Operation and Maintenance Fee established hereunder remains unpaid for three (3) months after its Due Date (“**Default**”), the CAB or its designee shall be authorized to institute such remedies and collection proceedings for any and all outstanding amounts as may be authorized under Colorado law. All collections efforts shall be made pursuant to, and in accordance with, applicable state and federal laws. The defaulting Lot Owner shall pay all costs incurred for collection of the Operation and Maintenance Fee, including attorneys’ fees (the “**Collection Costs**”). The CAB or its designee shall attempt to collect all past due Operation and Maintenance Fees, Late Fees, Collection Costs from the defaulting Lot Owner.

(d) Continued Default. In the event that a Lot Owner has more than one Default in a calendar year, the CAB may require the Lot Owner, at its reasonable discretion, to pay all future Operation and Maintenance Fees for the remainder of the calendar year. If the Lot Owner refuses to pay, the CAB may discontinue services to the Lot by providing a Notice of Termination (defined below).

(e) Termination of Services. Services provided to any Lot for which the Operation and Maintenance Fee is established hereunder remains unpaid for six (6) months after its Due Date may be discontinued by the CAB. The CAB will provide written notification to each Lot Owner at least ten (10) days before services are terminated (“**Notice of Termination**”).

4. Perpetual Lien. Pursuant to Section 32-1-1001(1)(j)(I), C.R.S., all Operation and Maintenance Fees, Late Fees, and/or Collection Costs until paid, shall constitute a perpetual lien on and against the Lot to be served by the CAB. Except for the lien against the Lot created by the imposition of property taxes by any TAH District and other taxing jurisdictions pursuant to Section 32-1-1202, C.R.S., all liens for unpaid Operation and Maintenance Fees, Late Fees, and/or Collection Costs shall, to the fullest extent permitted by law, have priority over all other liens of record affecting the property and shall run with the property and remain in effect until paid in full.

5. Invalidation. Judicial invalidation of any of the provisions of this Resolution or of any paragraph, sentence, clause, phrase or work herein, or the application thereof in any given circumstances, shall not affect the validity of the remainder of this Resolution, unless such invalidation would act to destroy the intent or essence of this Resolution.

6. Effective Date. This Resolution shall take effect on November 1, 2020.

7. Information. Inquiries pertaining to the Operation and Maintenance Fee may be directed to The Aurora Highlands Community Authority Board, c/o CliftonLarsonAllen LLP, at (303) 779-5710.

**THE AURORA HIGHLANDS
COMMUNITY AUTHORITY BOARD**

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By:

Matt Hopper, President

Attest:

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Secretary