

**DENVER HIGH POINT AT DIA METROPOLITAN DISTRICT (“DHP”)  
COLORADO INTERNATIONAL CENTER  
METROPOLITAN DISTRICT (“CIC”) NOS. 13 & 14**

141 Union Boulevard, Suite 150  
Lakewood, Colorado 80228-1898  
Tel: (303) 987-0835  
Fax: (303) 987-2032

NOTICE OF A REGULAR MEETING AND AGENDA

<u>Board of Directors</u>	<u>Office</u>	<u>Term/Expires</u>
Andrew Klein	President	2023/May 2023
Kevin Smith	Treasurer	2023/May 2023
Otis Moore, III	Assistant Secretary	2025/May 2025
Theodore Laudick	Assistant Secretary	2025/May 2025
<b>VACANT</b>		2025/May 2023
Ann Finn	Secretary	

DATE: July 25, 2022

TIME: 1:00 p.m.

PLACE: VIA Conference Call

**TO ATTEND THIS MEETING DIAL THE PHONE NUMBER BELOW, AND ENTER THE INDICATED MEETING ID NUMBER AND PASSCODE WHEN PROMPTED:**

**Teleconference information:**  
**Phone Number: 1-669-900-6833**  
**Meeting ID: 434 948 0582**  
**Passcode: 355867**

I. ADMINISTRATIVE MATTERS

A. Present Disclosures of Potential Conflicts of Interest.

\_\_\_\_\_

B. Approve Agenda; confirm location of meeting and posting of meeting notices.

\_\_\_\_\_

C. Consider appointment of Officers:

President \_\_\_\_\_

Treasurer \_\_\_\_\_

Secretary \_\_\_\_\_

Asst. Secretary \_\_\_\_\_

Asst. Secretary \_\_\_\_\_

- D. Review and approve Minutes of the May 23, 2022 Regular Meeting (enclosures).
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## II. PUBLIC COMMENTS

- A. Members of the public may express their views to the Board on matters that affect the District. Comments will be limited to three (3) minutes.
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## III. FINANCIAL MATTERS

- A. Review and consider approval of the payment of claims for the period ending June 30, 2022 in the amount of \$\_\_\_\_\_ (**DHP**) (to be distributed).

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  - B. Review and accept Cash Position Schedule, dated December 31, 2021, updated as of June \_\_, 2022 (to be distributed).

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  - C. Ratify approval of 2021 Audit and authorization of execution of Representations Letter (**DHP, CIC No. 14** – to be distributed).

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  - D. Discuss imposing Maintenance Fees (**DHP, CIC No. 14**).
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## IV. CAPITAL MATTERS

- A. Review and consider approval of Engineer's Report and Verification of Costs Associated with Public Improvements Report No. 14, dated June \_\_, 2022, prepared by Schedio Group LLC, for the amount of \$\_\_\_\_\_ (to be distributed) (**DHP, CIC No. 13, CIC No. 14**).

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  - B. Consider acceptance of verified public improvement costs and allocation of same among Denver High Point at DIA Metropolitan District, Colorado International Center Metropolitan District No. 13, and Colorado International Center Metropolitan District No. 14, pursuant to Report No. 14 (**DHP, CIC No. 13, CIC No. 14**).
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- C. Consider approval, ratification or acknowledgment (as appropriate) of reimbursement to ACM High Point VI LLC (“ACM”) under the Capital Funding and Reimbursement Agreement (Denver High Point – Westside) between Denver High Point at DIA Metropolitan District and ACM, pursuant to Report No. 14 (**DHP, CIC No. 13, CIC No. 14**).
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- D. Consider adoption, approval, ratification or acknowledgment (as appropriate) of requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 14 (**DHP, CIC No. 13, CIC No. 14**).
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- E. Consider ratifying approval of Requisition No. 59 under the CIC MD No. 14 Series 2018 Bonds, in the total amount of \$\_\_\_\_\_ (**DHP, CIC No. 13, CIC No. 14-** to be distributed).
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- F. Ratify approval of final payment to Hudick Excavating, Inc. for the High Point at DIA Filing Two/High Point Blvd Infrastructure Project (Notice of Final Payment was published on June 10 and 16, 2022) (**DHP**).
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V. OPERATIONS AND MAINTENANCE

- A. \_\_\_\_\_

VI. LEGAL MATTERS

- A. Review and ratify approval of Facilities Acquisition Agreement between Colorado International Center Metropolitan District No. 14 and Storage Brothers, LLC (**CIC No. 14**) (enclosure).
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- B. Review and ratify approval of Facilities Acquisition Agreement between Colorado International Center Metropolitan District No. 14 and Bottling Group Exchange Co., LLC (**CIC No. 14**) (enclosure).
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- C. Review and acknowledge Agreement and Assignment Regarding Metropolitan District Payments between Storage Brothers, LLC and ACM High Point VI LLC (**DHP, CIC No. 14**) (enclosure).
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- D. Review and acknowledge Agreement and Assignment Regarding Metropolitan District Payments between Bottling Group Exchange Co., LLC and ACM High Point VI LLC (**DHP, CIC No. 14**) (enclosure).
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VII. OTHER BUSINESS

- A. \_\_\_\_\_
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- VIII. ADJOURNMENT **THE NEXT REGULAR MEETING IS SCHEDULED FOR AUGUST 22, 2022.**

## RECORD OF PROCEEDINGS

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### MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE DENVER HIGH POINT AT DIA METROPOLITAN DISTRICT HELD MAY 23, 2022

A regular meeting of the Board of Directors (referred to hereafter as the "Board") of the Denver High Point at DIA Metropolitan District (referred to hereafter as the "District") was convened on Monday, the 23<sup>rd</sup> day of May, 2022, at 1:00 p.m., via conference call. The meeting was open to the public.

#### ATTENDANCE

#### Directors In Attendance Were:

Kevin Smith  
Otis Moore, III  
Theodore Laudick

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the absence of Director Andrew Klein was excused.

#### Also In Attendance Were:

Ann E. Finn; Special District Management Services, Inc.

Jon Hoistad Esq.; McGeady Becher P.C.

Zachary Leavitt; CliftonLarsonAllen LLP

#### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

Disclosure of Potential Conflicts of Interest: The Board noted it was in receipt of disclosures of potential conflicts of interest statements for each of the Directors and that the statements had been filed with the Secretary of State at least seventy-two hours in advance of the meeting. Attorney Hoistad requested that the Directors review the agenda for the meeting and advise the Board of any new conflicts of interest which had not been previously disclosed. No further disclosures were made by Directors present at the meeting.

#### ADMINISTRATIVE MATTERS

Agenda: Ms. Finn distributed for the Board's review and approval a proposed agenda for the District's Special Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the agenda was approved, as presented.

## RECORD OF PROCEEDINGS

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**Meeting Location / Posting of Meeting Notices:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District’s Board meeting. The Board determined the meeting would be held by telephonic means. The Board further noted that notice of the time, date and location was duly posted and that no objections to the telephonic manner of the meeting, or any requests that the telephonic manner of the meeting be changed by taxpaying electors within the District boundaries, have been received.

**May 3, 2022 Cancelled Election:** Ms. Finn noted for the Board that the May 3, 2022 Directors’ Election was cancelled, as allowed under Colorado law, by the Designated Election Official because there were no more candidates than positions available on the Board of Directors. Directors Moore and Laudick were each deemed elected to 3-year terms ending in May 2025.

**Appointment of Officers:** Upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the following slate of officers was appointed:

President	Andrew Klein
Treasurer	Kevin Smith
Secretary	Ann E. Finn
Assistant Secretary	Otis Moore, III
Assistant Secretary	Theodore Laudick

**Minutes:** The Board reviewed the Minutes of the March 28, 2022 Regular Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the Minutes of the March 28, 2022 Regular Meeting.

**PUBLIC  
COMMENTS**

There were no public comments.

**FINANCIAL  
MATTERS**

**Claims:** Mr. Leavitt noted the claims for the period beginning April 1, 2022 through May 2022 are not available.

**Financial Statements:** Mr. Leavitt reviewed with the Board the unaudited financial statements of the District, setting forth the cash deposits, investments, budget analysis, and accounts payable vouchers for the period ending March 31, 2022.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending March 31, 2022,

## RECORD OF PROCEEDINGS

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as presented.

**2021 Audit:** Mr. Leavitt discussed the status of the 2021 Audit.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the 2021 Audit (subject to attorney review and to the receipt of an unmodified opinion letter from the auditor), authorized execution of the Representations Letter, and authorized the filing of the 2021 Audit with the State Auditor by the statutory deadline.

**Facility Fee Payment Plan from Hand & H Hotels:** The Board discussed a request from Hand & H Hotels concerning a facility fee payment plan.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the facility fee payment plan proposed by Hand & H Hotels.

### **CAPITAL MATTERS**

**Engineer's Report and Verification of Costs Associated with Public Improvements Report prepared by Schedio Group LLC:** The Board reviewed the Engineer's Report and Verification of Costs Associated with Public Improvements Report No. 13, dated May 12, 2022, prepared by Schedio Group LLC, for the amount of \$260,443.99 ("Report No. 13").

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved Report No. 13.

**Acceptance of Verified public improvement costs and allocation of same among Denver High Point at DIA Metropolitan District, Colorado International Center Metropolitan District No. 13, and Colorado International Center Metropolitan District No. 14 (the "Districts"), pursuant to Report No. 13:** The Board discussed verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

**Reimbursement to ACM High Point VI LLC ("ACM") under the Capital Funding and Reimbursement Agreement (Denver High Point – Westside) between Denver High Point at DIA Metropolitan District and ACM (the "CFRA"), pursuant to Report No. 13:** The Board considered the approval,

## RECORD OF PROCEEDINGS

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ratification or acknowledgement (as appropriate) of reimbursement to ACM under the CFRA, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved, ratified or acknowledged (as appropriate) the reimbursement to ACM under the CFRA, pursuant to Report No. 13.

**Requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13:** The Board considered adoption, approval, ratification or acknowledgement (as appropriate) of requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board adopted, approved, ratified or acknowledged (as appropriate) requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13.

**Requisition Nos. 57 and 58 under the CIC MD No. 14 Series 2018 Bonds:** Following review, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board ratified approval of Requisition Nos. 57 in the amount of \$\_\_\_\_\_ and 58, in the amount of \$\_\_\_\_\_ under the CIC MD No. 14 Series 2018 Bonds.

**OPERATIONS AND MAINTENANCE**

There were no operations and maintenance matters.

**LEGAL MATTERS**

There were no legal matters.

**OTHER BUSINESS**

The Board reviewed the 2021 Short Report from the City and County of Denver, which was provided pursuant to the City IGA, concerning the cost sharing of certain public improvements between 2002 and Spring 2022.

Following review, upon motion duly made, seconded and, upon vote, unanimously carried, the Board authorized payment in the amount of \$1,552,723.35 to the City and County of Denver, subject to Director Laudick's review and approval.

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### ADJOURNMENT

There being no further business to come before the Board at this time, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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### MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 13 HELD MAY 23, 2022

A regular meeting of the Board of Directors (referred to hereafter as the "Board") of the Colorado International Center Metropolitan District No. 13 (referred to hereafter as the "District") was convened on Monday, the 23<sup>rd</sup> day of May, 2022, at 1:00 p.m., via conference call. The meeting was open to the public.

#### ATTENDANCE

#### Directors In Attendance Were:

Kevin Smith  
Otis Moore, III  
Theodore Laudick

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the absence of Director Andrew Klein was excused.

#### Also In Attendance Were:

Ann E. Finn; Special District Management Services, Inc.

Jon Hoistad Esq.; McGeady Becher P.C.

Zachary Leavitt; CliftonLarsonAllen LLP

#### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

**Disclosure of Potential Conflicts of Interest:** The Board noted it was in receipt of disclosures of potential conflicts of interest statements for each of the Directors and that the statements had been filed with the Secretary of State at least seventy-two hours in advance of the meeting. Attorney Hoistad requested that the Directors review the agenda for the meeting and advise the Board of any new conflicts of interest which had not been previously disclosed. No further disclosures were made by Directors present at the meeting.

#### ADMINISTRATIVE MATTERS

**Agenda:** Ms. Finn distributed for the Board's review and approval a proposed agenda for the District's Regular Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the agenda was approved, as presented.

## RECORD OF PROCEEDINGS

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**Meeting Location / Posting of Meeting Notices:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District’s Board meeting. The Board determined the meeting would be held by telephonic means. The Board further noted that notice of the time, date and location was duly posted and that no objections to the telephonic manner of the meeting, or any requests that the telephonic manner of the meeting be changed by taxpaying electors within the District boundaries, have been received.

**May 3, 2022 Cancelled Election:** Ms. Finn noted for the Board that the May 3, 2022 Directors’ Election was cancelled, as allowed under Colorado law, by the Designated Election Official because there were no more candidates than positions available on the Board of Directors. Directors Moore and Laudick were each deemed elected to 3-year terms ending in May 2025.

**Appointment of Officers:** Upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the following slate of officers was appointed:

President	Andrew Klein
Treasurer	Kevin Smith
Secretary	Ann E. Finn
Assistant Secretary	Otis Moore, III
Assistant Secretary	Theodore Laudick

**Minutes:** The Board reviewed the Minutes of the March 28, 2022 Regular Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the Minutes of the March 28, 2022 Regular Meeting.

### **PUBLIC COMMENTS**

There were no public comments.

### **FINANCIAL MATTERS**

**Financial Statements:** Mr. Leavitt reviewed with the Board the unaudited financial statements of the District, setting forth the cash deposits, investments, budget analysis, and accounts payable vouchers for the period ending March 31, 2022.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending March 31, 2022, as presented.

## RECORD OF PROCEEDINGS

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### CAPITAL MATTERS

**Engineer's Report and Verification of Costs Associated with Public Improvements Report prepared by Schedio Group LLC:** The Board reviewed the Engineer's Report and Verification of Costs Associated with Public Improvements Report No. 13, dated May 12, 2022, prepared by Schedio Group LLC, for the amount of \$260,443.99 ("Report No. 13").

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved Report No. 13.

**Acceptance of Verified public improvement costs and allocation of same among Denver High Point at DIA Metropolitan District, Colorado International Center Metropolitan District No. 13, and Colorado International Center Metropolitan District No. 14 (the "Districts"), pursuant to Report No. 13:** The Board discussed verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

**Reimbursement to ACM High Point VI LLC ("ACM") under the Capital Funding and Reimbursement Agreement (Denver High Point – Westside) between Denver High Point at DIA Metropolitan District and ACM (the "CFRA"), pursuant to Report No. 13:** The Board considered the approval, ratification or acknowledgement (as appropriate) of reimbursement to ACM under the CFRA, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved, ratified or acknowledged (as appropriate) the reimbursement to ACM under the CFRA, pursuant to Report No. 13.

**Requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13:** The Board considered adoption, approval, ratification or acknowledgement (as appropriate) of requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board adopted, approved, ratified or acknowledged (as appropriate) requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s)

**RECORD OF PROCEEDINGS**

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relating to such requisition(s), pursuant to Report No. 13.

**Requisition Nos. 57 and 58 under the CIC MD No. 14 Series 2018 Bonds:**

Following review, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board ratified approval of Requisition Nos. 57 in the amount of \$\_\_\_\_\_ and 58, in the amount of \$\_\_\_\_\_ under the CIC MD No. 14 Series 2018 Bonds.

\_\_\_\_\_

**OPERATIONS AND MAINTENANCE**

None.

\_\_\_\_\_

**LEGAL MATTERS**

There were no legal matters to discuss at this time.

\_\_\_\_\_

**OTHER BUSINESS**

There was no other business to discuss at this time.

\_\_\_\_\_

**ADJOURNMENT**

There being no further business to come before the Board at this time, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: \_\_\_\_\_  
Secretary for the Meeting

## RECORD OF PROCEEDINGS

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### MINUTES OF A REGULAR MEETING OF THE BOARD OF DIRECTORS OF THE COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 14 HELD MAY 23, 2022

A regular meeting of the Board of Directors (referred to hereafter as the "Board") of the Colorado International Center Metropolitan District No. 14 (referred to hereafter as the "District") was convened on Monday, the 23<sup>rd</sup> day of May, 2022, at 1:00 p.m., via conference call. The meeting was open to the public.

#### ATTENDANCE

#### Directors In Attendance Were:

Kevin Smith  
Otis Moore, III  
Theodore Laudick

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the absence of Director Andrew Klein was excused.

#### Also In Attendance Were:

Ann E. Finn; Special District Management Services, Inc.

Jon Hoistad Esq.; McGeady Becher P.C.

Zachary Leavitt; CliftonLarsonAllen LLP

#### DISCLOSURE OF POTENTIAL CONFLICTS OF INTEREST

**Disclosure of Potential Conflicts of Interest:** The Board noted it was in receipt of disclosures of potential conflicts of interest statements for each of the Directors and that the statements had been filed with the Secretary of State at least seventy-two hours in advance of the meeting. Attorney Hoistad requested that the Directors review the agenda for the meeting and advise the Board of any new conflicts of interest which had not been previously disclosed. No further disclosures were made by Directors present at the meeting.

#### ADMINISTRATIVE MATTERS

**Agenda:** Ms. Finn distributed for the Board's review and approval a proposed agenda for the District's Regular Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the agenda was approved, as presented.

## RECORD OF PROCEEDINGS

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**Meeting Location / Posting of Meeting Notices:** The Board entered into a discussion regarding the requirements of Section 32-1-903(1), C.R.S., concerning the location of the District’s Board meeting. The Board determined the meeting would be held by telephonic means. The Board further noted that notice of the time, date and location was duly posted and that no objections to the telephonic manner of the meeting, or any requests that the telephonic manner of the meeting be changed by taxpaying electors within the District boundaries, have been received.

**May 3, 2022 Cancelled Election:** Ms. Finn noted for the Board that the May 3, 2022 Directors’ Election was cancelled, as allowed under Colorado law, by the Designated Election Official because there were no more candidates than positions available on the Board of Directors. Directors Moore and Laudick were each deemed elected to 3-year terms ending in May 2025.

**Appointment of Officers:** Upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the following slate of officers was appointed:

President	Andrew Klein
Treasurer	Kevin Smith
Secretary	Ann E. Finn
Assistant Secretary	Otis Moore, III
Assistant Secretary	Theodore Laudick

**Minutes:** The Board reviewed the Minutes of the March 28, 2022 Regular Meeting.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the Minutes of the March 28, 2022 Regular Meeting.

**PUBLIC  
COMMENTS**

There were no public comments.

**FINANCIAL  
MATTERS**

**Financial Statements:** Mr. Leavitt reviewed with the Board the unaudited financial statements of the District, setting forth the cash deposits, investments, budget analysis, and accounts payable vouchers for the period ending March 31, 2022.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the unaudited financial statements for the period ending March 31, 2022, as presented.

## RECORD OF PROCEEDINGS

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**2021 Audit:** Mr. Leavitt discussed the status of the 2021 Audit.

Following discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved the 2021 Audit (subject to attorney review and to the receipt of an unmodified opinion letter from the auditor), authorized execution of the Representations Letter, and authorized the filing of the 2021 Audit with the State Auditor by the statutory deadline.

### CAPITAL MATTERS

**Engineer's Report and Verification of Costs Associated with Public Improvements Report prepared by Schedio Group LLC:** The Board reviewed the Engineer's Report and Verification of Costs Associated with Public Improvements Report No. 13, dated May 12, 2022, prepared by Schedio Group LLC, for the amount of \$260,443.99 ("Report No. 13").

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved Report No. 13.

**Acceptance of Verified public improvement costs and allocation of same among Denver High Point at DIA Metropolitan District, Colorado International Center Metropolitan District No. 13, and Colorado International Center Metropolitan District No. 14 (the "Districts"), pursuant to Report No. 13:** The Board discussed verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board accepted the verified public improvement costs and the allocation of same among the Districts, pursuant to Report No. 13.

**Reimbursement to ACM High Point VI LLC ("ACM") under the Capital Funding and Reimbursement Agreement (Denver High Point – Westside) between Denver High Point at DIA Metropolitan District and ACM (the "CFRA"), pursuant to Report No. 13:** The Board considered the approval, ratification or acknowledgement (as appropriate) of reimbursement to ACM under the CFRA, pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board approved, ratified or acknowledged (as appropriate) the reimbursement to ACM under the CFRA, pursuant to Report No. 13.

**RECORD OF PROCEEDINGS**

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**Requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13:** The Board considered adoption, approval, ratification or acknowledgement (as appropriate) of requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13.

Following review and discussion, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board adopted, approved, ratified or acknowledged (as appropriate) requisition(s) for reimbursement of verified public improvement costs, and any and all resolution(s) relating to such requisition(s), pursuant to Report No. 13.

**Requisition Nos. 57 and 58 under the CIC MD No. 14 Series 2018 Bonds:** Following review, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board ratified approval of Requisition Nos. 57 in the amount of \$\_\_\_\_\_ and 58, in the amount of \$\_\_\_\_\_ under the CIC MD No. 14 Series 2018 Bonds.

**OPERATIONS AND MAINTENANCE**

**Estoppel Certificate dated April 7, 2022 delivered to 18799 East 65 (CO) Owner LLC by Echelon High Point, LLC (the “Estoppel Certificate”):** The Board reviewed the Estoppel Certificate.

Following review, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the Board acknowledged the Estoppel Certificate.

**LEGAL MATTERS**

There were no legal matters.

**OTHER BUSINESS**

There was no other business.

**ADJOURNMENT**

There being no further business to come before the Board at this time, upon motion duly made by Director Smith, seconded by Director Moore and, upon vote, unanimously carried, the meeting was adjourned.

Respectfully submitted,

By: \_\_\_\_\_  
Secretary for the Meeting

## FACILITIES ACQUISITION AGREEMENT

This **FACILITIES ACQUISITION AGREEMENT** (“**Agreement**”) is made and entered into this 1<sup>st</sup> day of June, 2022 (“**Effective Date**”), by and between **COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 14**, a quasi-municipal corporation and political subdivision of the State of Colorado (collectively, the “**District**”) and **STORAGE BROTHERS, LLC**, a Colorado limited liability company (the “**Buyer**”) (each a “**Party**” and collectively the “**Parties**”).

### RECITALS

A. The Buyer entered into that certain Agreement of Purchase and Sale and Joint Escrow Instructions, dated February 22, 2022, as amended (“**PSA**”), with **ACM HIGH POINT VI C LLC**, a Delaware limited liability company, an affiliate of ACM High Point VI LLC (collectively, the “**Seller**”), pursuant to which the Buyer is the owner of property within a project located in the City and County of Denver (the “**City and County**”), State of Colorado, legally described on Exhibit A attached hereto and incorporated herein by this reference (the “**Property**”).

B. The Property is within the boundaries and/or service area of the District.

C. Pursuant to the authority granted to the District by its Service Plan, as approved by the City and County on or about August 14, 2006, as it may be amended from time to time (the “**Service Plan**”), the District is authorized to construct, acquire and install public improvements, including water, sanitation (including storm drainage), street, safety protection, park and recreation, transportation, fire protection, television relay and translation, and mosquito control and other facilities and services (“**District Improvements**”), which benefit property within the District’s boundaries and/or service area.

D. The District Improvements are necessary for the development of the Property.

E. The District does not currently have sufficient monies available to construct and/or acquire the Improvements.

F. The District has determined that for reasons of economic efficiency and timeliness it is in the best interests of the District for the Seller and/or Buyer to construct or cause construction of certain of the District Improvements.

G. The District is a party to that certain Facilities Funding, Construction and Operations Agreement dated on or about June 28, 2007 (as amended from time to time, the “**Master IGA**”) whereby Denver High Point at DIA Metropolitan District (“**DHP**” and, with the District, the “**Districts**”) acts as the “**Managing District**” for the District and is responsible for coordinating the financing, construction and operation and maintenance of the District Improvements for the District and certain other metropolitan districts within its service area.

H. The District and DHP have entered into that certain Capital Funding and Reimbursement Agreement dated on or about July 20, 2017 (as it has been and may be amended

from time to time, the “CFRA”), pursuant to which DHP and Seller have agreed to provide for the construction or acquisition of certain District Improvements, including, but not limited to the design, testing, engineering, and construction of the District Improvements, together with the related consultant and management fees associated with the construction of the District Improvements (“**Construction Related Expenses**”), and to the extent the Seller advances monies to DHP for such Construction Related Expenses or expends monies on Construction Related Expenses for District Improvements to be acquired by DHP, the District, City and County or other local government entity, DHP agreed to reimburse the Seller for such Construction Related Expenses, as provided therein.

I. Pursuant to a separate Agreement and Assignment Regarding Metropolitan District Payments dated on or about the date hereof, by and between Seller and Buyer, Buyer and Seller have agreed that, to the extent Buyer constructs any District Improvements as set forth in the approved “Improvement Plans” as such term is defined in the PSA, Seller shall retain any and all right in and to reimbursements from the District arising from the Construction Related Expenses incurred by Buyer (the “**District Reimbursement Rights**”).

J. District and Buyer desire to set forth their respective rights, obligations and the procedures by which Construction Related Expenses incurred by the Buyer will be verified for eligibility for reimbursement to Seller as District Reimbursement Rights and by which any District Improvements that are not otherwise dedicated to the City and County or other government entity will be conveyed to one of the Districts.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

### COVENANTS AND AGREEMENTS

1. Construction of District Improvements. The Buyer agrees to design, construct, and complete the District Improvements in full conformance with the design standards and specifications as established and in use by the District, if applicable, and substantially in accordance with (and only to the extent set forth in) the City and County approved plans (the “Plans”). If the District so requests, the Buyer shall provide periodic reports on the status of completion and costs of the District Improvements.

2. Transfer of Completed District Improvements. Upon completion of District Improvements by Buyer or a third party, Buyer shall, subject to the City and County’s rights to the District Improvements, transfer the completed District Improvements by special warranty bill of sale to the District, substantially in a form attached hereto as **Exhibit B** and incorporated herein by this reference (“**Bill of Sale**”).

3. Seller Reimbursement Rights. With acknowledgment of consideration previously and otherwise paid, Buyer acknowledges that: (i) the construction and conveyance of the District Improvements shall be without compensation from the District to Buyer; and (ii) District Reimbursement Rights shall remain the property of the Seller and shall not be conveyed to Buyer.

4. Construction Warranty and Assignment; Limitation of Buyer's Liability.

(a) Buyer shall require, in each construction contract for all or any portion of the District Improvements, that the contractor under such construction contract provide a warranty for the period of time between initial acceptance and final acceptance of the District Improvements by the appropriate accepting jurisdiction. Upon Buyer's substantial completion of any District Improvements to be perpetually owned, operated and maintained by the District, if any, and after initial acceptance by the City and County, Buyer shall give the acquiring District a non-exclusive assignment of all warranties from third-party contractors and subcontractors in connection with all District Improvements caused to be constructed by Buyer and eligible to be financed by the Districts pursuant to their respective service plans.

(b) Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and agree that Buyer's agreement to construct or cause the construction of the District Improvements as set forth in this Agreement is done as an accommodation to the Districts and that, except as expressly set forth in this subsection 4(b), Buyer shall have no responsibility, liability or obligation with respect to (and the District hereby covenants not to sue Buyer for, and hereby releases the Buyer from, all liability and claims relating to or arising from) the design, engineering, construction or completion of the District Improvements, any damage, loss or injury to the District or otherwise related to any action or inaction of Buyer in connection with this Agreement, or any defect in the materials or workmanship pertaining to the District Improvements, except for any "Buyer Covered Liability," as hereinafter defined. "**Buyer Covered Liability**" means the following matters for which Buyer shall be liable to the District in connection with its performance under this Agreement: (i) any damage, loss or injury arising from the willful misconduct, bad faith, recklessness or illegal acts of the Buyer in performing or failing to perform hereunder, or (ii) damage, loss or injury arising from the fraudulent conduct of Buyer; provided, however, that any damages to which the District shall be entitled to recover for any Buyer Covered Liability shall be limited to out-of-pocket losses, costs, damages or expenses, and the District shall not be entitled to recover from Buyer any punitive or consequential losses, costs, damages or expenses or lost profits as a result of, or in connection with, any Buyer Covered Liability. Buyer makes no representation or warranty with respect to the District Improvements and shall have no liability for any defect in the materials or workmanship pertaining thereto. Upon initial acceptance of completion of any District Improvements by the District or applicable "Governmental Authorities" (as such term is defined in the PSA), Buyer shall provide the District with non-exclusive assignments of warranty from all contractors that have completed the District Improvements. Upon receipt of such assignments, the District hereby agrees to look solely to the contractors engaged to construct and complete the District Improvements for any contractual violation, indemnity, warranty or guarantee relating to the District Improvements. This Subsection 4(b) shall survive expiration or termination of this Agreement.

5. Deliverables. Buyer shall deliver the following to District at the time of or prior to the transfer of the District Improvements to the City and County or District(s), and at such other times upon request of the District:

(a) As-built drawings for the District Improvements to be transferred to the District;

(b) Lien waivers from each contractor in a commercially reasonable form verifying that all amounts due to contractors, subcontractors, material providers or suppliers have been paid in full except for any retainage that is held by Buyer until final acceptance of the District Improvements;

(c) Copies of all contracts, pay requests, change orders, invoices, the final AIA payment form (or similar form), canceled checks, and any other reasonably requested documentation to verify the expenses incurred by Buyer relative to the construction and installation of District Improvements by Buyer;

(d) For any District Improvements to be perpetually owned, operated and maintained by the District, an executed Bill of Sale conveying the District Improvements to the District; and

(e) To the extent necessary, any licenses or easements held by Buyer and related to the installation, operation or maintenance of the District Improvements.

6. Verification of Costs. Upon Buyer's completion of any District Improvements, Buyer shall cooperate with Seller and the District, at no out-of-pocket cost to Buyer, to enable the District's engineer or other independent engineer licensed in the State of Colorado to prepare a cost verification of the District Improvements so that expenses can be verified as qualified Construction Related expenses that may be eligible for reimbursement to Seller as District Reimbursement Rights. Such cost verification shall include, but not necessarily be limited to, a certification by the engineer generally stating that: (i) the Improvement(s) are fit for the intended purpose; (ii) the District Improvements (including individual components) were constructed in substantial accordance with their design; and (iii) the costs for the design, construction and completion of said District Improvements are reasonable.

7. Acquisition of District Improvements. The District shall acquire any District Improvements not being acquired by the City or other local government, upon the expiration of any applicable warranty period, upon receipt, review and approval by the District's accountant and engineer of the Deliverables set forth in Section 5, above, and the Verification of Costs, as set forth in Section 6, above.

8. Representations. Buyer hereby represents and warrants to and for the benefit of the District as follows:

(a) The Buyer is a limited liability company and is qualified to do business in the State of Colorado.

(b) Buyer has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by the Buyer with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which Buyer is a party or by which Buyer is or may be bound. Buyer has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(c) Buyer represents that it has sufficient available funds to fulfill its obligations under this Agreement.

(d) By its execution hereof, the Buyer confirms and ratifies all of the certifications, statements, representations and warranties set forth in Exhibit C attached hereto and made a part hereof by this reference.

The foregoing representations and warranties are made as of the date hereof and shall be deemed continually made by Buyer to District for the entire term of this Agreement.

9. Term; Repose. This Agreement shall become effective on the Effective Date and shall remain in effect until all applicable District Improvements have been constructed by the Buyer, all documentation and information reasonably required for verification of Construction Related Expenses has been provided and any District Improvements constructed by Buyer have been conveyed to the City and County, District, or other governing local government entity.

10. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District: Colorado International Center Metropolitan  
District No. 14  
c/o McGeady Becher PC  
450 E. 17<sup>th</sup> Avenue, Suite 400  
Denver, Colorado 80203  
Phone: 303-592-4380  
Email: mbecher@specialdistrictlaw.com  
Attn: Megan Becher

To Buyer: Storage Brothers, LLC  
8678 Concord Center, Suite 200  
Englewood, Colorado 80111  
Phone: 303-346-7006  
Email: bhoran@ventanacap.com  
Attn: Bryan Horan

With A Copy To:

Jumps Law, LLC  
2630 West Belleview Avenue, Suite 270  
Littleton, Colorado 80123  
Phone: 303-586-1855  
Email: bjumps@jumpsllaw.com  
Attn: Brian P. Jumps, Esq.

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with United Parcel Service or other nationally recognized overnight air courier service, on the date of transmission if sent by electronically-confirmed or email transmission, or three (3) business days after deposit in the

United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address or contact information.

11. Assignment. The Buyer shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

12. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the Buyer 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 District and the Buyer shall be for the sole and exclusive benefit of the District and the Buyer.

13. Default/Remedies. In the event of a 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. 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.

14. Governing Law and Jurisdiction. This 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 Adams, Colorado.

15. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

16. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

17. Severability. If any covenant, term, condition, or provision under this 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.

18. Counterparts. This 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.

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

20. Amendment. This 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 District or the Buyer unless the same is in writing and duly executed by the Parties hereto.

21. Certification of Compliance with Illegal Alien Statute. By its execution of this Agreement, the Buyer confirms and ratifies all of the certifications, statements, representations and warranties set forth in **Exhibit C** attached hereto and made a part hereof by this reference.

*[Remainder of Page Intentionally Left Blank]*

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

**DISTRICT:**

**COLORADO INTERNATIONAL CENTER  
METROPOLITAN DISTRICT NO. 14**, a quasi-  
municipal corporation and political subdivision of the State  
of Colorado

By:   
\_\_\_\_\_ [Andrew R. Klein], President

**ATTEST:**

  
\_\_\_\_\_ [Otis Moore], Secretary

**BUYER:**

**STORAGE BROTHERS, LLC**,  
a Colorado limited liability company

By: \_\_\_\_\_  
Darwin Horan, Manager

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

**DISTRICT:**

**COLORADO INTERNATIONAL CENTER  
METROPOLITAN DISTRICT NO. 14**, a quasi-municipal corporation and political subdivision of the State of Colorado

By: \_\_\_\_\_  
[ ], President

ATTEST:

\_\_\_\_\_  
[ ], Secretary

**BUYER:**

**STORAGE BROTHERS, LLC**,  
a Colorado limited liability company

By: \_\_\_\_\_  
Darwin Horan, Manager

EXHIBIT A  
PROPERTY

ZONE LOT B, AS DESCRIBED ON ASSESSOR'S PARCEL RECONFIGURATION RECORDED MAY 16, 2022 AT RECEPTION NO. 2022066075 AND MORE PARTICULARLY DESCRIBED AS:

A PARCEL OF LAND BEING A PORTION OF LOT 1, BLOCK 1, HIGH POINT SUBDIVISION FILING NO. 2 RECORDED AT RECEPTION NO. 2019138651, LOCATED IN THE WEST HALF OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE ALONG THE EASTERLY LINE OF SAID LOT 1, N00°39'14"E A DISTANCE OF 673.22 FEET TO THE POINT OF BEGINNING:

THENCE S89°57'17"W A DISTANCE OF 365.38 FEET; THENCE N00°00'00"E A DISTANCE OF 234.22 FEET; THENCE N53°08'24"W A DISTANCE OF 171.48 FEET; THENCE N36°51'36"E A DISTANCE OF 50.04 FEET TO A POINT OF CURVATURE; THENCE 91.31 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 34°52'41", AND A CHORD WHICH BEARS S71°54'12"E A DISTANCE OF 89.91 FEET; THENCE S89°20'33"E A DISTANCE OF 391.06 FEET TO A POINT ON THE EASTERLY LINE OF LOT 1; THENCE ALONG SAID EASTERLY LINE, S00°39'14"W A DISTANCE OF 344.44 FEET TO THE POINT OF BEGINNING.

CITY AND COUNTY OF DENVER, STATE OF COLORADO

BASIS OF BEARINGS

BEARINGS ARE BASED ON THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN ASSUMED TO BEAR N89°25'17"E AND BEING MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE SOUTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE SOUTH QUARTER CORNER.

PREPARED BY VALERIA JUAREZ  
REVIEWED BY RICHARD A. NOBBE, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, CO 80215  
303-431-6100  
MAY 10, 2022  
JOB NO. 17.1374

EXHIBIT B  
Form of Bill of Sale

KNOW ALL BY THESE PRESENTS that \_\_\_\_\_, a \_\_\_\_\_ (“Grantor”), for and in consideration of the sum of [\_\_\_\_\_] Dollars (\$[\_\_\_\_\_] ) to be paid by the District in accordance with the terms of the Facilities Acquisition Agreement dated [\_\_\_\_\_] , 20\_\_ and other good and valuable consideration, the receipt of which is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto \_\_\_\_\_, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is 450 E. 17<sup>th</sup> Avenue, Suite 400, Denver, CO 80203 (“District”), its successors and assigns, all of Grantor’s right, title and interest in and to the facilities, personal property and the improvements shown on Exhibit A attached hereto and incorporated herein by this reference (“District Improvements”).

TO HAVE AND TO HOLD the same unto the District, its successors and assigns forever; and Grantor, its successors and assigns, shall warrant and defend the title of said District Improvements made unto the District, its successors and assigns, against all and every person or persons whomsoever claiming title to the same by, through or under Grantor, and warrants that the conveyance of the District Improvements to the District, its successors and assigns, is made free from any claim or demand whatsoever arising by, through or under Grantor,

IN WITNESS WHEREOF, Grantor executes this Bill of Sale this [\_\_\_\_\_] day of [\_\_\_\_\_] , 20[\_\_\_\_\_].

GRANTOR:

\_\_\_\_\_, a  
\_\_\_\_\_

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

STATE OF COLORADO            )  
  )    ss.  
COUNTY OF [\_\_\_\_\_]            )

The foregoing instrument was acknowledged before me this [\_\_\_\_\_] day of [\_\_\_\_\_] , 20[\_\_\_\_\_] , by [\_\_\_\_\_] , as [\_\_\_\_\_] of [\_\_\_\_\_] [and by [\_\_\_\_\_] as [\_\_\_\_\_] of [\_\_\_\_\_] ].

Witness my hand and official seal.

My commission expires: \_\_\_\_\_

\_\_\_\_\_  
Notary Public

Exhibit A  
(District Improvements)

Project Description

Estimated/Actual Cost

EXHIBIT C  
Certification of Buyer

1. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Buyer hereby certifies to the District that the Buyer 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 Buyer 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 Buyer 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 Buyer that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

3. The Buyer 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. *Intentionally Deleted.*

5. If the Buyer obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Buyer shall:

(a) Notify the subcontractor and the District within three days that the Buyer 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 days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Buyer shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Buyer shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking, pursuant to the law.

If the Buyer violates any provision of Section 8-17.5-102(1), C.R.S., the District may terminate the Agreement immediately and the Buyer shall be liable to the District for actual damages of the District resulting from such termination, and the District shall report such violation by the Buyer to the Colorado Secretary of State, as required by law.

## FACILITIES ACQUISITION AGREEMENT

This **FACILITIES ACQUISITION AGREEMENT** (“**Agreement**”) is made and entered into this 13<sup>th</sup> day of July, 2022 (“**Effective Date**”), by and between **COLORADO INTERNATIONAL CENTER METROPOLITAN DISTRICT NO. 14**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”) and **BOTTLING GROUP EXCHANGE CO., LLC**, a Delaware limited liability company (the “**Buyer**”) (individually, each a “**Party**” and collectively the “**Parties**”).

### RECITALS

A. The Buyer entered into that certain Agreement of Purchase and Sale and Joint Escrow Instructions, dated October 2, 2020, as amended and assigned (“**PSA**”), with **ACM HIGH POINT VILLIC**, a Delaware limited liability company (the “**Seller**”), pursuant to which the Buyer is the owner of property within a project located in the City and County of Denver (the “**City and County**”), Colorado, legally described on **Exhibit A** attached hereto and incorporated herein by this reference (the “**Property**”).

The Property is within the boundaries and/or service area of the District.

Pursuant to the authority granted to the District by its Service Plan, as approved by the City on August 14, 2006, as it may be amended from time to time (the “**Service Plan**”), the District is authorized to construct, acquire and install public improvements, including water, sanitation (including storm drainage), street, safety protection, park and recreation, transportation, fire protection, television relay and translation, and mosquito control and other facilities and services (“**District Improvements**”), which benefit property within the District’s boundaries and/or service area.

The District Improvements are necessary for the development of the Property.

The District does not currently have sufficient monies available to construct and/or acquire the Improvements.

The District has determined that for reasons of economic efficiency and timeliness it is in the best interests of the District for the Seller and/or Buyer to construct or cause construction of certain of the District Improvements.

The District is a party to that certain Facilities Funding, Construction and Operations Agreement dated June 28, 2007 (as amended from time to time, the “**Master IGA**”) whereby Denver High Point at DIA Metropolitan District (“**DHP**” and, with the District, the “**Districts**”) acts as the “**Managing District**” for the District and is responsible for coordinating the financing, construction and operation and maintenance of the District Improvements for the District and certain other metropolitan districts within its service area.

The District, Seller and DHP have entered into that certain Capital Funding and Reimbursement Agreement dated July 20, 2017 (as it has been and may be amended from time to time, the “**CFRA**”), pursuant to which DHP and Seller have agreed to provide for the construction

or acquisition of certain District Improvements, including, but not limited to the design, testing, engineering, and construction of the District Improvements, together with the related consultant and management fees associated with the construction of the District Improvements (“**Construction Related Expenses**”), and to the extent the Seller advances monies to DHP for such Construction Related Expenses or expends monies on Construction Related Expenses for District Improvements to be acquired by DHP, the District, City or other local government entity, DHP agreed to reimburse the Seller for such Construction Related Expenses, as provided therein.

Pursuant to a separate Agreement and Assignment Regarding Metropolitan District Payments dated July \_\_\_, 2022, by and between Seller and Buyer, Buyer and Seller have agreed that, to the extent Buyer constructs any District Improvements, Seller shall retain any and all right in and to reimbursements from the District arising from the Construction Related Expenses incurred by Buyer (the “**District Reimbursement Rights**”).

District and Buyer desire to set forth their respective rights, obligations and the procedures by which Construction Related Expenses incurred by the Buyer will be verified for eligibility for reimbursement to Seller as District Reimbursement Rights and by which any District Improvements that are not otherwise dedicated to the City and County or other government entity will be conveyed to one of the Districts.

NOW, THEREFORE, in consideration of the foregoing and the respective agreements of the Parties contained herein, the Parties agree as follows:

### **COVENANTS AND AGREEMENTS**

1. **Construction of District Improvements.** The Buyer agrees to design, construct, and complete the District Improvements in full conformance with the design standards and specifications as established and in use by the District, if applicable, and substantially in accordance with (and only to the extent set forth in) the City and County-approved plans (the “**Plans**”). If the District so requests, the Buyer shall provide periodic reports on the status of completion and costs of the District Improvements.

2. **Transfer of Completed District Improvements.** Upon completion of District Improvements by Buyer or a third party, Buyer shall, subject to the City and County’s rights to the District Improvements, transfer the completed District Improvements by special warranty bill of sale to the District, substantially in a form attached hereto as **Exhibit B** and incorporated herein by this reference (“**Bill of Sale**”).

3. **Seller Reimbursement Rights.** With acknowledgment of consideration previously and otherwise paid, Buyer acknowledges that: (i) the construction and conveyance of the District Improvements shall be without compensation from the District to Buyer; and (ii) District Reimbursement Rights shall remain the property of the Seller and shall not be conveyed to Buyer.

4. **Construction Warranty and Assignment; Limitation of Buyer’s Liability.**

a. Buyer shall require, in each construction contract for all or any portion of the District Improvements, that the contractor under such construction contract provide a warranty for the period of time between initial acceptance and final acceptance of the District Improvements by

the appropriate accepting jurisdiction. Upon Buyer's substantial completion of any District Improvements to be perpetually owned, operated and maintained by the District, if any, and after initial acceptance by the City and County, Buyer shall give the acquiring District a non-exclusive assignment of all warranties from third-party contractors and subcontractors in connection with all District Improvements caused to be constructed by Buyer and eligible to be financed by the Districts pursuant to their respective service plans.

b. Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and agree that Buyer's agreement to construct or cause the construction of the District Improvements as set forth in this Agreement is done as an accommodation to the Districts and that, except as expressly set forth in this subsection 4(b), Buyer shall have no responsibility, liability or obligation with respect to (and the District hereby covenants not to sue Buyer for, and hereby releases the Buyer from, all liability and claims relating to or arising from) the design, engineering, construction or completion of the District Improvements, any damage, loss or injury to the District or otherwise related to any action or inaction of Buyer in connection with this Agreement, or any defect in the materials or workmanship pertaining to the District Improvements, except for any "Buyer Covered Liability," as hereinafter defined. "**Buyer Covered Liability**" means the following matters for which Buyer shall be liable to the District in connection with its performance under this Agreement: (i) any damage, loss or injury arising from the willful misconduct, bad faith, recklessness or illegal acts of the Buyer in performing or failing to perform hereunder, or (ii) damage, loss or injury arising from the fraudulent conduct of Buyer; provided, however, that any damages to which the District shall be entitled to recover for any Buyer Covered Liability shall be limited to out-of-pocket losses, costs, damages or expenses, and the District shall not be entitled to recover from Buyer any punitive or consequential losses, costs, damages or expenses or lost profits as a result of, or in connection with, any Buyer Covered Liability. Buyer makes no representation or warranty with respect to the District Improvements, and shall have no liability for any defect in the materials or workmanship pertaining thereto. Upon initial acceptance of completion of any District Improvements by the District or applicable "Governmental Authorities" (as such term is defined in the PSA), Buyer shall provide the District with non-exclusive assignments of warranty from all contractors that have completed the District Improvements. Upon receipt of such assignments, the District hereby agrees to look solely to the contractors engaged to construct and complete the District Improvements for any contractual violation, indemnity, warranty or guarantee relating to the District Improvements. This Subsection 4(b) shall survive expiration or termination of this Agreement.

5. Deliverables. Buyer shall deliver the following to District at the time of or prior to the transfer of the District Improvements to the City and County or District(s), and at such other times upon request of the District (collectively, the "Deliverables"):

(a) As-built drawings for the District Improvements to be transferred to the District;

(b) Lien waivers from each contractor in a commercially reasonable form verifying that all amounts due to contractors, subcontractors, material providers or suppliers have been paid in full except for any retainage that is held by Buyer until final acceptance of the District Improvements;

(c) Copies of all contracts, pay requests, change orders, invoices, the final AIA payment form (or similar form), canceled checks, and any other reasonably requested documentation to verify the expenses incurred by Buyer relative to the construction and installation of District Improvements by Buyer;

(d) For any District Improvements to be perpetually owned, operated and maintained by the District, an executed Bill of Sale conveying the District Improvements to the District; and

(e) To the extent necessary, any licenses or easements held by Buyer and related to the installation, operation or maintenance of the District Improvements.

6. Verification of Costs. Upon Buyer's completion of any District Improvements, Buyer shall cooperate with Seller and the District, at no out-of-pocket cost to Buyer, to enable the District's engineer or other independent engineer licensed in the State of Colorado to prepare a cost verification of the District Improvements so that expenses can be verified as qualified Construction Related Expenses that may be eligible for reimbursement to Seller as District Reimbursement Rights. Such cost verification (the "Verification of Costs") shall include, but not necessarily be limited to, a certification by the engineer generally stating that: (i) the District Improvement(s) are fit for the intended purpose; (ii) the District Improvements (including individual components) were constructed in substantial accordance with their design; and (iii) the costs for the design, construction and completion of said District Improvements are reasonable.

7. Acquisition of District Improvements. The District shall acquire any District Improvements not being acquired by the City or other local government, upon the expiration of any applicable warranty period, upon receipt, review and approval by the District's accountant and engineer of the Deliverables set forth in Section 5, above, and the Verification of Costs, as set forth in Section 6, above.

8. Representations. Buyer hereby represents and warrants to and for the benefit of the District as follows:

(a) The Buyer is a limited liability company and is qualified to do business in the State of Colorado.

(b) Buyer has the full power and legal authority to enter into this Agreement. Neither the execution and delivery of this Agreement nor the compliance by the Buyer with any of its terms, covenants or conditions is or shall become a default under any other agreement or contract to which Buyer is a party or by which Buyer is or may be bound. Buyer has taken or performed all requisite acts or actions which may be required by its organizational or operational documents to confirm its authority to execute, deliver and perform each of its obligations under this Agreement.

(c) Buyer represents that it has sufficient available funds to fulfill its obligations under this Agreement.

(d) By its execution hereof, the Buyer confirms and ratifies all of the certifications, statements, representations and warranties set forth in Exhibit C attached hereto and made a part hereof by this reference.

The foregoing representations and warranties are made as of the date hereof and shall be deemed continually made by Buyer to District for the entire term of this Agreement.

9. Term; Repose. This Agreement shall become effective on the Effective Date and shall remain in effect until all applicable District Improvements have been constructed by the Buyer, all documentation and information reasonably required for verification of Construction Related Expenses has been provided and any District Improvements constructed by Buyer have been conveyed to the City and County, District, or other governing local government entity.

10. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the addressee or by courier delivery via Federal Express or other nationally-recognized overnight air courier service, by electronically-confirmed email transmission, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To District:

Colorado International Center Metropolitan  
District No. 14  
c/o McGeady Becher PC  
450 E. 17<sup>th</sup> Avenue, Suite 400  
Denver, Colorado 80203  
Phone: 303-592-4380  
Email: mbecher@specialdistrictlaw.com  
Attn: Megan Becher

To Buyer:

Bottling Group Exchange Co., LLC  
c/o PepsiCo Global Real Estate  
700 Anderson Hill Road  
  
Purchase, NY 10577  
Attention: Martyn Wallace, Director of Real Estate  
Telephone: (914) 767-6543

E-mail: Martyn.wallace1@pepsico.com

With A Copy To:

Levine & Levine, PLLC  
2 Jefferson Plaza, Suite 100  
Poughkeepsie, NY 12601  
Attention: Dale J. Lois, Esq.  
Telephone: (845) 452-2350  
E-mail: dale@levinelevinelaw.com

All notices, demands, requests or other communications shall be effective upon such personal delivery, one (1) business day after being deposited with United Parcel Service or other nationally-recognized overnight air courier service, on the date of transmission if sent by electronically-confirmed or email transmission, or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the Parties shall have the right from time to time to change its address or contact information.

11. Assignment. The Buyer shall not assign any of its rights or delegate any of its duties hereunder to any person or entity. Any purported assignment or delegation in violation of the provisions hereof shall be void and ineffectual.

12. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the District and the Buyer 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 District and the Buyer shall be for the sole and exclusive benefit of the District and the Buyer.

13. Default/Remedies. In the event of a 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. 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.

14. Governing Law and Jurisdiction. This 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 Adams, Colorado.

15. Inurement. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.

16. Integration. This Agreement constitutes the entire agreement between the Parties with respect to the matters addressed herein. All prior discussions and negotiations regarding the subject matter hereof are merged herein.

17. Severability. If any covenant, term, condition, or provision under this 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.

18. Counterparts. This 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.

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

20. Amendment. This 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 District or the Buyer unless the same is in writing and duly executed by the Parties hereto.

21. Certification of Compliance with Illegal Alien Statute. By its execution of this Agreement, the Buyer confirms and ratifies all of the certifications, statements, representations and warranties set forth in Exhibit C attached hereto and made a part hereof by this reference.

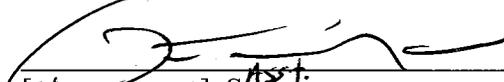
IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year first set forth above.

**DISTRICT:**

**COLORADO INTERNATIONAL CENTER  
METROPOLITAN DISTRICT NO. 14**, a quasi-municipal corporation and political subdivision of the State of Colorado

By:   
\_\_\_\_\_  
[Andrew R. Kleib], President

ATTEST:

  
\_\_\_\_\_  
[Otis E. McNeill], Secretary

**BUYER:**

**BOTTLING GROUP EXCHANGE CO., LLC**, a Delaware limited liability company

By: Bottling Group, LLC, a Delaware limited liability company, its Manager

By: \_\_\_\_\_  
Martyn Wallace, Director of Real Estate

Facilities Acquisition Agreement

the terms or provisions hereof shall be binding upon the District or the Buyer unless the same is in writing and duly executed by the Parties hereto.

21. Certification of Compliance with Illegal Alien Statute. By its execution of this Agreement, the Buyer confirms and ratifies all of the certifications, statements, representations and warranties set forth in Exhibit C attached hereto and made a part hereof by this reference.

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

**DISTRICT:**

**COLORADO INTERNATIONAL CENTER  
METROPOLITAN DISTRICT NO. 14**, a quasi-municipal corporation and political subdivision of the State of Colorado

By: \_\_\_\_\_  
[ ], President

ATTEST:

\_\_\_\_\_  
[ ], Secretary

**BUYER:**

**BOTTLING GROUP EXCHANGE CO., LLC**, a Delaware limited liability company

By: Bottling Group, LLC, a Delaware limited liability company, its non-member Manager

By:  \_\_\_\_\_  
Martyn Wallace, Director of Real Estate

**EXHIBIT A**  
**PROPERTY**

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 3, SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG THE EASTERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3, S00°29'06"W A DISTANCE OF 1410.41 FEET;

THENCE N89°31'42"W A DISTANCE OF 2646.34 FEET;

THENCE S00°40'12"W A DISTANCE OF 482.58 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HIGH POINT BOULEVARD;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES;

1) N89°19'48"W A DISTANCE OF 42.00 FEET;

2) THENCE 195.76 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 89°43'46", AND A CHORD WHICH BEARS S45°32'05"W A DISTANCE OF 176.36 FEET TO A POINT OF REVERSE CURVATURE;

3) THENCE 550.57 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 799.00 FEET, A CENTRAL ANGLE OF 39°28'53", AND A CHORD WHICH BEARS S70°39'31"W A DISTANCE OF 539.75 FEET TO A POINT ON THE EASTERLY LINE OF TRACT F, WEST FORK OPEN SPACE;

THENCE ALONG SAID EASTERLY LINE THE FOLLOWING FIFTEEN (15) CONSECUTIVE COURSES;

1) N39°04'55"W A DISTANCE OF 77.00 FEET;

2) THENCE 20.60 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 876.00 FEET, A CENTRAL ANGLE OF 01°20'51", AND A CHORD WHICH BEARS S50°14'39"W A DISTANCE OF 20.60 FEET TO A POINT OF REVERSE CURVATURE;

3) THENCE 554.27 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 235.00 FEET, A CENTRAL ANGLE OF 135°08'16", AND A CHORD WHICH BEARS N62°51'38"W A DISTANCE OF 434.44 FEET TO A POINT OF REVERSE CURVATURE;

4) THENCE 438.14 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 62°45'30", AND A CHORD WHICH BEARS N26°40'15"W A DISTANCE OF 416.56 FEET;

5) THENCE N58°03'00"W A DISTANCE OF 89.62 FEET TO A POINT OF CURVATURE;

6) THENCE 80.02 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 57°18'36", AND A CHORD WHICH BEARS N29°23'42"W A DISTANCE OF 76.73 FEET;

7) THENCE N00°44'25"W A DISTANCE OF 235.61 FEET TO A POINT OF CURVATURE;

8) THENCE 169.52 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 620.00 FEET, A CENTRAL ANGLE OF 15°39'56", AND A CHORD WHICH BEARS N08°34'23"W A DISTANCE OF 168.99 FEET;  
9) THENCE N16°24'21"W A DISTANCE OF 195.66 FEET TO A POINT OF CURVATURE;  
10) THENCE 122.03 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 45°06'33", AND A CHORD WHICH BEARS N06°08'55"E A DISTANCE OF 118.90 FEET;  
11) THENCE N28°42'11"E A DISTANCE OF 258.32 FEET TO A POINT OF CURVATURE;  
12) THENCE 263.18 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 40°45'16", AND A CHORD WHICH BEARS N08°19'34"E A DISTANCE OF 257.67 FEET TO A POINT OF REVERSE CURVATURE;  
13) THENCE 44.58 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 51°05'26", AND A CHORD WHICH BEARS N13°29'39"E A DISTANCE OF 43.12 FEET TO A POINT OF REVERSE CURVATURE;  
14) THENCE 151.54 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 270.00 FEET, A CENTRAL ANGLE OF 32°09'25", AND A CHORD WHICH BEARS N22°57'39"E A DISTANCE OF 149.55 FEET;  
15) THENCE N06°52'57"E A DISTANCE OF 77.29 FEET TO A POINT ON THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 3, THENCE ALONG NORTHERLY LINE, S89°54'36"E A DISTANCE OF 1282.45 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 3;  
THENCE ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3, S89°56'18"E A DISTANCE OF 2641.92 FEET TO THE POINT OF BEGINNING.

#### BASIS OF BEARINGS

BEARINGS ARE BASED ON AN ASSUMED BEARING OF S89°54'36"E ALONG THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP PLS #20699 IN RANGE BOX AT THE NORTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP PLS #25379 AT THE NORTH QUARTER CORNER.

PREPARED BY SCOTT A. AREHART, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, COLORADO 80215  
NOVEMBER 06, 2020  
303-431-6100

AND

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 3, THENCE S18°35'23"E A DISTANCE OF 2112.20 FEET TO THE NORTHWEST CORNER OF THE PARCEL OF LAND RECORDED AT RECEPTION NO 2014118924 AND A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NORTH ARGONNE STREET, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°46'58"E A DISTANCE OF 564.62 FEET TO THE SOUTHWESTERLY MOST CORNER OF PARCEL ONE RECORDED AT RECEPTION NO. 2021235926;

THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID PARCEL ONE THE FOLLOWING EIGHT (8) CONSECUTIVE COURSES: 1) N89°48'49"E A DISTANCE OF 100.00 FEET;

2) THENCE S00°46'58"W A DISTANCE OF 145.12 FEET;

3) THENCE 246.65 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 56°31'38", AND A CHORD WHICH BEARS S27°28'51"E A DISTANCE OF 236.76 FEET;

4) THENCE S55°44'40"E A DISTANCE OF 27.50 FEET;

5) THENCE 147.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 56°31'46", AND A CHORD WHICH BEARS S27°28'47"E A DISTANCE OF 142.06 FEET;

6) THENCE S00°47'06"W A DISTANCE OF 65.95 FEET;

7) THENCE N89°34'04"E A DISTANCE OF 40.82 FEET;

8) THENCE S00°54'55"W A DISTANCE OF 8.09 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL RECORDED AT RECEPTION NO. 2014118924;

THENCE ALONG SAID NORTHERLY LINE, N89°04'51"W A DISTANCE OF 343.10 FEET TO THE POINT OF BEGINNING.

#### BASIS OF BEARINGS

BEARINGS ARE BASED ON THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO ASSUMED TO BEAR S00°49'25" W AND BEING MONUMENTED BY A FOUND 3-1/2" ALUMINUM CAP IN RANGE BOX PLS #20699 AT THE NORTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE WEST QUARTER CORNER.

PREPARED BY SCOTT A. AREHART, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, CO 80215

303 431-6100  
JUNE 14, 2022  
JOB # 20.1274



---

Notary Public

Exhibit A  
(District Improvements)

Project Description

Estimated/Actual Cost

EXHIBIT C  
Certification of Buyer

1. Pursuant to the requirements of Section 8-17.5-102(1), C.R.S., the Buyer hereby certifies to the District that the Buyer 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 Buyer 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 Buyer 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 Buyer that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.

3. The Buyer 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. *Intentionally Deleted.*

5. If the Buyer obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, the Buyer shall:

(a) Notify the subcontractor and the District within three days that the Buyer 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 days of receiving the notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Buyer shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. The Buyer shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking, pursuant to the law.

If the Buyer violates any provision of Section 8-17.5-102(1), C.R.S., the District may terminate the Agreement immediately and the Buyer shall be liable to the District for actual damages of the District resulting from such termination, and the District shall report such violation by the Buyer to the Colorado Secretary of State, as required by law.

**AGREEMENT AND ASSIGNMENT REGARDING  
METROPOLITAN DISTRICT PAYMENTS**

THIS AGREEMENT AND ASSIGNMENT REGARDING METROPOLITAN DISTRICT PAYMENTS (“**Agreement**”) is made and entered into as of June 7<sup>th</sup>, 2022, by and between STORAGE BROTHERS, LLC, a Colorado limited liability company (“**Buyer**”), and ACM HIGH POINT VI LLC, a Delaware limited liability company (“**ACM**”). Individually, Buyer and ACM may be referred to herein as a “**Party**” and collectively as the “**Parties**”.

**RECITALS:**

A. The Buyer and ACM High Point VI C LLC, a Delaware limited liability company (“**ACM C**”) previously executed that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated February 22, 2022 (as amended from time to time, the “**Purchase Contract**”), pursuant to which Buyer has acquired from ACM C record title to certain real property located in the City of Aurora (the “**City**”), County of Adams (“**County**”), State of Colorado, as more particularly described on Exhibit A hereto and incorporated herein by this reference (the “**Property**”).

B. Pursuant to the Purchase Contract, the Parties desire to enter into this Agreement to assign from Buyer to ACM any and all interests in any reimbursements, credits, payments or other amounts payable by the District (defined below) on account of the construction of the public improvements as reflected on the approved “**Improvement Plans**” and Buyer’s Work as such terms are defined in the Purchase Contract, which may include but is not limited to, certain water, sanitary sewer (including storm drainage), street, safety protection, park and recreation, transportation, fire protection, television relay and translation, and mosquito control improvements and facilities (collectively, the “**District Improvements**”) that are eligible for acquisition and reimbursement by Colorado International Center Metropolitan District No. 14 (collectively, the “**District**”), and/or Denver High Point at DIA Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“**DHP**” and, collectively with the District, the “**Districts**”) in accordance with authority granted under the Districts’ Service Plans as approved by the City.

C. In addition to this Agreement, the Parties have each entered into separate agreements with one or more of the Districts to address their respective rights and obligations relative to construction of and provision of information and documentation for the reimbursement of the expenses associated with provision of the District Improvements as such matters relate directly to the relationship between the District and the Parties, including that certain Facilities Acquisition Agreement between the District and Buyer dated on or about the date hereof (as it may be amended from time to time, the “**Buyer Agreement**”) and that certain Capital Funding and Reimbursement Agreement between ACM High Point VI LLC, a Delaware limited liability company and DHP dated on or about July 20, 2017 (as it has been and may be amended from time to time, the “**Seller Agreement**” and, collectively with the Buyer Agreement, the “**District Agreements**”).

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized words used in this Agreement shall have the meaning ascribed to them in the Purchase Contract, unless the context clearly requires otherwise.

2. Transfer of Completed District Improvements. All District Improvements constructed or caused to be constructed by Buyer shall be constructed substantially in accordance with the City-approved plans (the “Plans”) and the Buyer Agreement.

3. ACM Reimbursement Rights. Buyer acknowledges that: (i) the construction and conveyance of the District Improvements shall be without compensation to Buyer; and (ii) any reimbursements, credits, payments, or other amounts payable by the District on account of the District Improvements or any other matters related thereto (“Metro District Payments”) shall remain the property of ACM and shall not be conveyed to Buyer. Buyer hereby assigns to ACM all of Buyer’s right, title and interest, if any, in and to reimbursements, credits, payments, or other amounts payable by the District on account of the District Improvements or any other matters related thereto. Upon request of ACM or the District, Buyer will execute any and all additional documents that may be reasonably required to confirm Buyer’s waiver of any right to Metro District Payments; provided, that such documents shall be subject to Buyer’s approval, which shall not be unreasonably withheld, delayed or conditioned and shall be without warranty or representation and at no cost or liability to Buyer.

4. Verification of Costs. For each development phase of the Property, Buyer shall deliver to the District the documentation and information reasonably required pursuant to the Buyer Agreement, including copies of all of the following documentation that has been entered into or generated by Buyer in connection with Buyer’s construction of the District Improvements (to the extent reasonably required by the District): contracts, change orders, checks, invoices from third-party contractors and subcontractors, receipts lien waivers and as-built drawings. Upon Buyer’s completion of any District Improvements, Buyer shall cooperate with ACM and the District, at no out-of-pocket cost to Buyer, to enable the District’s engineer or other independent engineer licensed in the State of Colorado to prepare a cost verification of the District Improvements so that the District Improvements can be transferred to the District upon completion thereof. Such cost verification shall include, but not necessarily be limited to, a certification by the engineer generally stating that: (i) the District Improvement(s) are fit for the intended purpose; (ii) the District Improvements (including individual components) were constructed in substantial accordance with their design; and (iii) the costs for the design, construction and completion of said District Improvements are reasonable. Notwithstanding anything to the contrary contained in this Agreement, and for the avoidance of doubt, the Parties acknowledge and agree that the cost of compliance with any City requirements for approval of the District shall be the sole responsibility of ACM, Buyer shall have no financial obligations or other obligations related thereto, and ACM shall be entitled to reimbursement therefor as a part of the Metro District Payments.

5. Release.

a. Buyer hereby waives and releases any present or future claims it might have against the Districts or the Districts’ elected or appointed officers, employees, agents, or

contractors (the “**Released Persons**”) in any manner related to or connected with the Metro District Payments (excepting any claims arising from the negligence or intentional acts of the Districts or the Districts’ contractors).

b. Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and agree that Buyer’s agreement to construct or cause the construction of the District Improvements as set forth in this Agreement is done as an accommodation to ACM and that, except as expressly set forth in this subsection 5(b), Buyer shall have no responsibility, liability or obligation with respect to (and ACM hereby covenants not to sue Buyer for, and hereby releases the Buyer from, all liability and claims relating to or arising from) the design, engineering, construction or completion of the District Improvements, any damage, loss or injury to ACM or otherwise related to any action or inaction of Buyer in connection with this Agreement, or any defect in the materials or workmanship pertaining to the District Improvements, except for any “Buyer Covered Liability,” as hereinafter defined. “**Buyer Covered Liability**” means the following matters for which Buyer shall be liable to ACM in connection with its performance under this Agreement: (i) any damage, loss or injury arising from the willful misconduct, bad faith, recklessness or illegal acts of the Buyer in performing or failing to perform hereunder, or (ii) damage, loss or injury arising from the fraudulent conduct of Buyer; provided, however, that any damages to which ACM shall be entitled to recover for any Buyer Covered Liability shall be limited to out-of-pocket losses, costs, damages or expenses, and ACM shall not be entitled to recover from Buyer any punitive or consequential losses, costs, damages or expenses or lost profits as a result of, or in connection with, any Buyer Covered Liability. Buyer makes no representation or warranty with respect to the District Improvements, and shall have no liability for any defect in the materials or workmanship pertaining thereto. Upon initial acceptance of completion of any District Improvements by the District or applicable “Governmental Authorities” (as such term is defined in the Purchase Contract), Buyer shall provide ACM and the District with non-exclusive assignments of warranty from all contractors that have completed the District Improvements. Upon receipt of such assignments, ACM hereby agrees to look solely to the contractors engaged to construct and complete the District Improvements for any contractual violation, indemnity, warranty or guarantee relating to the District Improvements. This subsection 5(b) shall survive expiration or termination of this Agreement.

6. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via FedEx or other nationally recognized overnight air courier service, via email with a hard copy immediately following thereafter by United States mail, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To ACM: ACM High Point VI LLC  
4100 East Mississippi Avenue, Suite 500  
Glendale, Colorado 80246  
Attn: Andrew R. Klein  
Telephone: 303- 984-9800  
Facsimile: 303-984-9874  
Email: aklein@westsideinv.com

With Copy to: Westside Property Investment Company, Inc.  
4100 East Mississippi Avenue, Suite 500  
Glendale, Colorado 80246  
Telephone: 303-984-9800  
Facsimile: 303-984-9874  
Attn: Michael J. Schroeder, Esq.  
Email: mschroeder@westsideinv.com

To Buyer: Storage Brothers, LLC  
8678 Concord Center, Suite 200  
Englewood, Colorado 80111  
Attention: Bryan Horan  
Telephone: 303-346-7006  
Facsimile: 303-468-6705  
Email: bhoran@ventanacap.com

With A Copy To: Jumps Law, LLC  
2630 West Belleview Avenue, Suite 270  
Littleton, Colorado 80123  
Attention: Brian P. Jumps, Esq.  
Telephone: 303-586-1855  
Facsimile: 720-643-2997  
Email: bjumps@jumpsllaw.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the parties shall have the right from time to time to change its address.

7. Default/Remedies. In the event of a breach or default of this Agreement by either party, the non-defaulting party shall give the defaulting party notice of such breach or default (“Default Notice”) identifying the nature of the breach or default. If the defaulting party fails to cure any such breach or default within ten (10) business days after receipt of the Default Notice, then the non-defaulting party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or actual monetary damages (but excluding incidental, consequential and punitive damages).

In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing party in such proceeding shall be awarded its reasonable attorneys' fees.

8. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado without regard to conflicts of law principles that would result in the application of any law other than Colorado law. Exclusive venue for all actions arising out of this Agreement shall be in the district court in and for Adams County, Colorado.

9. Inurement; Transfer of the Property. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns and shall survive closing, and shall not merge with the conveyances of the Property as between Buyer and ACM G.

10. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Buyer, ACM and ACM C 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 Buyer, ACM and ACM C shall be for the sole and exclusive benefit of the Buyer, ACM and ACM C.

11. Severability. If any covenant, term, condition, or provision under this 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.

12. Counterparts. This 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.

13. Time. Time is of the essence with respect to the rights and obligations set forth in this Agreement.

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

[signature page follows]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BUYER:

**Storage Brothers, LLC,**  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: Darwin Horan  
Its: Manager  
Date: June 7<sup>th</sup>, 2022

ACM:

**ACM High Point VI LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
Date: \_\_\_\_\_

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

BUYER:

**Storage Brothers, LLC,**  
a Colorado limited liability company

By: \_\_\_\_\_  
Name: Darwin Horan  
Its: Manager  
Date: June \_\_, 2022

ACM:

**ACM High Point VI LLC**  
a Delaware limited liability company

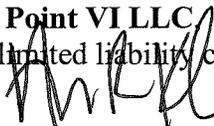
By:  \_\_\_\_\_  
Name: Andrew R. Klein  
Its: Authorized Signatory  
Date: 6/7/2022

EXHIBIT A  
The Property

ZONE LOT B, AS DESCRIBED ON ASSESSOR'S PARCEL RECONFIGURATION RECORDED MAY 16, 2022 AT RECEPTION NO. 2022066075 AND MORE PARTICULARLY DESCRIBED AS:

A PARCEL OF LAND BEING A PORTION OF LOT 1, BLOCK 1, HIGH POINT SUBDIVISION FILING NO. 2 RECORDED AT RECEPTION NO. 2019138651, LOCATED IN THE WEST HALF OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID LOT 1, THENCE ALONG THE EASTERLY LINE OF SAID LOT 1, N00°39'14"E A DISTANCE OF 673.22 FEET TO THE POINT OF BEGINNING:

THENCE S89°57'17"W A DISTANCE OF 365.38 FEET; THENCE N00°00'00"E A DISTANCE OF 234.22 FEET; THENCE N53°08'24"W A DISTANCE OF 171.48 FEET; THENCE N36°51'36"E A DISTANCE OF 50.04 FEET TO A POINT OF CURVATURE; THENCE 91.31 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 34°52'41", AND A CHORD WHICH BEARS S71°54'12"E A DISTANCE OF 89.91 FEET; THENCE S89°20'33"E A DISTANCE OF 391.06 FEET TO A POINT ON THE EASTERLY LINE OF LOT 1; THENCE ALONG SAID EASTERLY LINE, S00°39'14"W A DISTANCE OF 344.44 FEET TO THE POINT OF BEGINNING.

CITY AND COUNTY OF DENVER, STATE OF COLORADO  
BASIS OF BEARINGS

BEARINGS ARE BASED ON THE SOUTHERLY LINE OF THE SOUTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN ASSUMED TO BEAR N89°25'17"E AND BEING MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE SOUTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE SOUTH QUARTER CORNER.

PREPARED BY VALERIA JUAREZ  
REVIEWED BY RICHARD A. NOBBE, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, CO 80215  
303-431-6100  
MAY 10, 2022  
JOB NO. 17.1374

**AGREEMENT AND ASSIGNMENT REGARDING  
METROPOLITAN DISTRICT PAYMENTS**

THIS AGREEMENT AND ASSIGNMENT REGARDING METROPOLITAN DISTRICT PAYMENTS (“**Agreement**”) is made and entered into as of July <sup>13<sup>th</sup></sup>, 2022, by and between **BOTTLING GROUP EXCHANGE CO., LLC**, a Delaware limited liability company (“**Buyer**”), and **ACM HIGH POINT VI LLC**, a Delaware limited liability company (“**Seller**”). Individually, Buyer and Seller may be referred to herein as a “**Party**” and collectively as the “**Parties**”.

**RECITALS:**

The Parties previously executed that certain Agreement of Purchase and Sale and Joint Escrow Instructions dated October 2, 2020 (as amended and assigned from time to time, the “**Purchase Contract**”), pursuant to which Buyer has acquired from Seller record title to certain real property located in the City and County of Denver (“**City**”), Colorado, as more particularly described on **Exhibit A** hereto and incorporated herein by this reference (the “**Property**”).

Pursuant to the Purchase Contract, the Parties desire to enter into this Agreement to assign from Buyer to Seller any and all interests in any reimbursements, credits, payments or other amounts payable by the District (defined below) on account of the construction of the public improvements, which may include but is not limited to, certain water, sanitary sewer (including storm drainage), street, safety protection, park and recreation, transportation, fire protection, television relay and translation, and mosquito control improvements and facilities (collectively, the “**District Improvements**”) that are eligible for acquisition and reimbursement by Colorado International Center Metropolitan District No. 14 (the “**District**”), and/or Denver High Point at DIA Metropolitan District, a quasi-municipal corporation and political subdivision of the State of Colorado (“**DHP**” and, collectively with the District, the “**Districts**”) in accordance with authority granted under the Districts’ Service Plans as approved by the City.

In addition to this Agreement, the Parties have each entered into separate agreements with one or more of the Districts to address their respective rights and obligations relative to construction of and provision of information and documentation for the reimbursement of the expenses associated with provision of the District Improvements as such matters relate directly to the relationship between the District and the Parties, including that certain Facilities Acquisition Agreement between the District and Buyer dated July \_\_\_, 2022 (as it may be amended from time to time, the “**Buyer Agreement**”) and that certain Capital Funding and Reimbursement Agreement between ACM High Point VI LLC, a Delaware limited liability company and DHP dated July 20, 2017 (as it has been and may be amended from time to time, the “**Seller Agreement**” and, collectively with the Buyer Agreement, the “**District Agreements**”).

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. Definitions. Capitalized words used in this Agreement shall have the meaning ascribed to them in the Purchase Contract, unless the context clearly requires otherwise.
2. Transfer of Completed District Improvements. All District Improvements constructed or caused to be constructed by Buyer shall be constructed substantially in accordance with the City-approved plans (the “**Plans**”) and the Buyer Agreement.
3. Seller Reimbursement Rights. Buyer acknowledges that: (i) the construction and conveyance of the District Improvements shall be without compensation to Buyer; and (ii) any reimbursements, credits, payments, or other amounts payable by the District on account of the District Improvements or any other matters related thereto (“**Metro District Payments**”) shall remain the property of the Seller and shall not be conveyed to Buyer. Buyer hereby assigns to Seller all of Buyer’s right, title and interest, if any, in and to reimbursements, credits, payments, or other amounts payable by the District on account of the District Improvements or any other matters related thereto. Upon request of Seller or the District, Buyer will execute any and all additional documents that may be reasonably required to confirm Buyer’s waiver of any right to Metro District Payments; provided, that such documents shall be subject to Buyer’s approval, which shall not be unreasonably withheld, delayed or conditioned and shall be without warranty or representation and at no cost or liability to Buyer.
4. Verification of Costs. For each development phase of the Property, Buyer shall deliver to the District the documentation and information reasonably required pursuant to the Buyer Agreement, including copies of all of the following documentation that has been entered into or generated by Buyer in connection with Buyer’s construction of the District Improvements (to the extent reasonably required by the District): contracts, change orders, checks, invoices from third-party contractors and subcontractors, receipts lien waivers and as-built drawings. Upon Buyer’s completion of any District Improvements, Buyer shall cooperate with Seller and the District, at no out-of-pocket cost to Buyer, to enable the District’s engineer or other independent engineer licensed in the State of Colorado to prepare a cost verification of the District Improvements so that the District Improvements can be transferred to the District upon completion thereof. Such cost verification shall include, but not necessarily be limited to, a certification by the engineer generally stating that: (i) the District Improvement(s) are fit for the intended purpose; (ii) the District Improvements (including individual components) were constructed in substantial accordance with their design; and (iii) the costs for the design, construction and completion of said District Improvements are reasonable. Notwithstanding anything to the contrary contained in this Agreement, and for the avoidance of doubt, the Parties acknowledge and agree that the cost of compliance with any City requirements for approval of the District shall be the sole responsibility of Seller, Buyer shall have no financial obligations or other obligations related thereto, and Seller shall be entitled to reimbursement therefor as a part of the Metro District Payments.
5. Release.
  - a. Buyer hereby waives and releases any present or future claims it might have against the Districts or the Districts’ elected or appointed officers, employees, agents, or contractors (the “**Released Persons**”) in any manner related to or connected with the Metro

District Payments (excepting any claims arising from the negligence or intentional acts of the Districts or the Districts' contractors).

b. Notwithstanding anything to the contrary contained in this Agreement, the Parties acknowledge and agree that Buyer's agreement to construct or cause the construction of the District Improvements as set forth in this Agreement is done as an accommodation to the Seller and that, except as expressly set forth in this subsection 5(b), Buyer shall have no responsibility, liability or obligation with respect to (and the Seller hereby covenants not to sue Buyer for, and hereby releases the Buyer from, all liability and claims relating to or arising from) the design, engineering, construction or completion of the District Improvements, any damage, loss or injury to the Seller or otherwise related to any action or inaction of Buyer in connection with this Agreement, or any defect in the materials or workmanship pertaining to the District Improvements, except for any "Buyer Covered Liability," as hereinafter defined. "**Buyer Covered Liability**" means the following matters for which Buyer shall be liable to the Seller in connection with its performance under this Agreement: (i) any damage, loss or injury arising from the willful misconduct, bad faith, recklessness or illegal acts of the Buyer in performing or failing to perform hereunder, or (ii) damage, loss or injury arising from the fraudulent conduct of Buyer; provided, however, that any damages to which the Seller shall be entitled to recover for any Buyer Covered Liability shall be limited to out-of-pocket losses, costs, damages or expenses, and the Seller shall not be entitled to recover from Buyer any punitive or consequential losses, costs, damages or expenses or lost profits as a result of, or in connection with, any Buyer Covered Liability. Buyer makes no representation or warranty with respect to the District Improvements, and shall have no liability for any defect in the materials or workmanship pertaining thereto. Upon initial acceptance of completion of any District Improvements by the District or applicable "Governmental Authorities" (as such term is defined in the Contract), Buyer shall provide Seller and the District with non-exclusive assignments of warranty from all contractors that have completed the District Improvements. Upon receipt of such assignments, the Seller hereby agrees to look solely to the contractors engaged to construct and complete the District Improvements for any contractual violation, indemnity, warranty or guarantee relating to the District Improvements. This subsection 5(b) shall survive expiration or termination of this Agreement

6. Notices. All notices, demands, requests or other communications to be sent by one party to the other hereunder or required by law shall be in writing and shall be deemed to have been validly given or served by delivery of same in person to the address or by courier delivery, via FedEx or other nationally recognized overnight air courier service, via email with a hard copy immediately following thereafter by United States mail, or by depositing same in the United States mail, postage prepaid, addressed as follows:

To Seller:

**ACM High Point VI LLC**  
4100 East Mississippi Avenue, Suite 500  
Glendale, Colorado 80246  
Attn: Andrew R. Klein  
Telephone: 303- 984-9800

Facsimile: 303-984-9874  
Email: aklein@westsideinv.com

With Copy to: Westside Property Investment Company, Inc.  
4100 East Mississippi Avenue, Suite 500  
Glendale, Colorado 80246  
Telephone: 303-984-9800  
Facsimile: 303-984-9874  
Attn: Michael J. Schroeder, Esq.  
Email: mschroeder@westsideinv.com

To Buyer: Bottling Group Exchange Co., LLC  
c/o PepsiCo Global Real Estate  
700 Anderson Hill Road  
  
Purchase, NY 10577  
Attention: Martyn Wallace, Director of Real Estate  
Telephone: (914) 767-6543  
E-mail: martyn.wallace1@pepsico.com

With A Copy To: Levine & Levine, PLLC  
2 Jefferson Plaza, Suite 100  
Poughkeepsie, NY 12601  
Attention: Dale J. Lois, Esq.  
Telephone: (845) 452-2350  
E-mail: dale@levinelevinelaw.com

All notices, demands, requests or other communications shall be effective upon such personal delivery or one (1) business day after being deposited with FedEx or other nationally recognized overnight air courier service or three (3) business days after deposit in the United States mail. By giving the other party hereto at least ten (10) days written notice thereof in accordance with the provisions hereof, each of the parties shall have the right from time to time to change its address.

7. Default/Remedies. In the event of a breach or default of this Agreement by either party, the non-defaulting party shall give the defaulting party notice of such breach or default ("**Default Notice**") identifying the nature of the breach or default. If the defaulting party fails to cure any such breach or default within ten (10) business days after receipt of the Default Notice, then the non-defaulting party shall be entitled to exercise all remedies available at law or in equity, specifically including suits for specific performance and/or actual monetary damages (but excluding incidental, consequential and punitive damages). In the event of any proceeding to enforce the terms, covenants or conditions hereof, the prevailing party in such proceeding shall be awarded its reasonable attorneys' fees.

8. Governing Law and Venue. This Agreement shall be governed and construed under the laws of the State of Colorado without regard to conflicts of law principles that would result in the application of any law other than Colorado law. Exclusive venue for all actions

arising out of this Agreement shall be in the district court in and for Adams County, Colorado.

9. Inurement; Transfer of the Property. Each of the terms, covenants and conditions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns and shall survive closing, and shall not merge with the conveyances of the Property as between Buyer and Seller, except that the terms, covenants and conditions of this Agreement shall not be binding upon third party homebuyers (or such homebuyers successors or assigns) that acquire a portion of the Property improved with a single-family home that has received a certificate of occupancy. In the event Buyer desires to transfer all or a portion of the Property to a third party prior to such time as such Property proposed to be transferred has been improved with a single-family home that has received a certificate of occupancy (each a "Transferee"), Buyer shall provide written notice to Seller of the proposed transfer together with an assignment and assumption document pursuant to which Buyer assigns and delegates all of its rights and obligations under this Agreement to the Transferee with respect to the Property to be transferred and the Transferee unconditionally assumes such obligations. Such assignment and assumption document shall state that Seller is an intended third-party beneficiary of the Transferee's assumption of such obligations. Upon the closing of the transfer of the Property or portion thereof, as applicable, Buyer shall promptly deliver to Seller the assignment and assumption agreement duly executed by Buyer and the Transferee.

10. Parties Interested Herein. Nothing expressed or implied in this Agreement is intended or shall be construed to confer upon, or to give to, any person other than the Buyer and Seller 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 Buyer and Seller shall be for the sole and exclusive benefit of the Buyer and Seller.

11. Severability. If any covenant, term, condition, or provision under this 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.

12. Counterparts. This 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.

13. Time. Time is of the essence with respect to the rights and obligations set forth in this Agreement.

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

[signature pages follow]

Metro District Assignment Agreement

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**BUYER:**

Bottling Group Exchange Co., LLC,  
a Delaware limited liability company

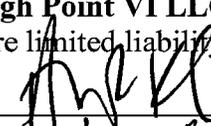
By: Bottling Group, LLC, a Delaware limited  
liability company its non-member Manager

By:   
Name: Martyn Wallace  
Its: Director of Real Estate  
Date: 7/7/2022

[Seller's Signature Page follows]

SELLER:

**ACM High Point VI LLC**  
a Delaware limited liability company

By: 

Name: Andrew R. Klein

Its: Authorized Signatory

Date: 7/13/2022

**EXHIBIT A**

**The Property**

A PARCEL OF LAND LOCATED IN THE NORTH HALF OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID SECTION 3, SAID POINT BEING THE POINT OF BEGINNING; THENCE ALONG THE EASTERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3, S00°29'06"W A DISTANCE OF 1410.41 FEET;

THENCE N89°31'42"W A DISTANCE OF 2646.34 FEET;

THENCE S00°40'12"W A DISTANCE OF 482.58 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY LINE OF HIGH POINT BOULEVARD;

THENCE ALONG SAID NORTHERLY RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) CONSECUTIVE COURSES;

1) N89°19'48"W A DISTANCE OF 42.00 FEET;

2) THENCE 195.76 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A RADIUS OF 125.00 FEET, A CENTRAL ANGLE OF 89°43'46", AND A CHORD WHICH BEARS S45°32'05"W A DISTANCE OF 176.36 FEET TO A POINT OF REVERSE CURVATURE;

3) THENCE 550.57 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 799.00 FEET, A CENTRAL ANGLE OF 39°28'53", AND A CHORD WHICH BEARS S70°39'31"W A DISTANCE OF 539.75 FEET TO A POINT ON THE EASTERLY LINE OF TRACT F, WEST FORK OPEN SPACE;

THENCE ALONG SAID EASTERLY LINE THE FOLLOWING FIFTEEN (15) CONSECUTIVE COURSES;

1) N39°04'55"W A DISTANCE OF 77.00 FEET;

2) THENCE 20.60 FEET ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 876.00 FEET, A CENTRAL ANGLE OF 01°20'51", AND A CHORD WHICH BEARS S50°14'39"W A DISTANCE OF 20.60 FEET TO A POINT OF REVERSE CURVATURE;

3) THENCE 554.27 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 235.00 FEET, A CENTRAL ANGLE OF 135°08'16", AND A CHORD WHICH BEARS N62°51'38"W A DISTANCE OF 434.44 FEET TO A POINT OF REVERSE CURVATURE;

4) THENCE 438.14 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 400.00 FEET, A CENTRAL ANGLE OF 62°45'30", AND A CHORD WHICH BEARS N26°40'15"W A DISTANCE OF 416.56 FEET;

5) THENCE N58°03'00"W A DISTANCE OF 89.62 FEET TO A POINT OF CURVATURE;

6) THENCE 80.02 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 80.00 FEET, A CENTRAL ANGLE OF 57°18'36", AND A CHORD WHICH BEARS N29°23'42"W A DISTANCE OF 76.73 FEET;

7) THENCE N00°44'25"W A DISTANCE OF 235.61 FEET TO A POINT OF CURVATURE;

8) THENCE 169.52 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 620.00 FEET, A CENTRAL ANGLE OF 15°39'56", AND A CHORD WHICH BEARS N08°34'23"W A DISTANCE OF 168.99 FEET;  
9) THENCE N16°24'21"W A DISTANCE OF 195.66 FEET TO A POINT OF CURVATURE;  
10) THENCE 122.03 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 155.00 FEET, A CENTRAL ANGLE OF 45°06'33", AND A CHORD WHICH BEARS N06°08'55"E A DISTANCE OF 118.90 FEET;  
11) THENCE N28°42'11"E A DISTANCE OF 258.32 FEET TO A POINT OF CURVATURE;  
12) THENCE 263.18 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 370.00 FEET, A CENTRAL ANGLE OF 40°45'16", AND A CHORD WHICH BEARS N08°19'34"E A DISTANCE OF 257.67 FEET TO A POINT OF REVERSE CURVATURE;  
13) THENCE 44.58 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 50.00 FEET, A CENTRAL ANGLE OF 51°05'26", AND A CHORD WHICH BEARS N13°29'39"E A DISTANCE OF 43.12 FEET TO A POINT OF REVERSE CURVATURE;  
14) THENCE 151.54 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 270.00 FEET, A CENTRAL ANGLE OF 32°09'25", AND A CHORD WHICH BEARS N22°57'39"E A DISTANCE OF 149.55 FEET;  
15) THENCE N06°52'57"E A DISTANCE OF 77.29 FEET TO A POINT ON THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 3, THENCE ALONG NORTHERLY LINE, S89°54'36"E A DISTANCE OF 1282.45 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 3;  
THENCE ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3, S89°56'18"E A DISTANCE OF 2641.92 FEET TO THE POINT OF BEGINNING.

#### BASIS OF BEARINGS

BEARINGS ARE BASED ON AN ASSUMED BEARING OF S89°54'36"E ALONG THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING MONUMENTED BY A FOUND 3-1/4" ALUMINUM CAP PLS #20699 IN RANGE BOX AT THE NORTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP PLS #25379 AT THE NORTH QUARTER CORNER.

PREPARED BY SCOTT A. AREHART, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, COLORADO 80215  
NOVEMBER 06, 2020  
303-431-6100

AND

A PARCEL OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 3 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 3, THENCE S18°35'23"E A DISTANCE OF 2112.20 FEET TO THE NORTHWEST CORNER OF THE PARCEL OF LAND RECORDED AT RECEPTION NO 2014118924 AND A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF NORTH ARGONNE STREET, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, N00°46'58"E A DISTANCE OF 564.62 FEET TO THE SOUTHWESTERLY MOST CORNER OF PARCEL ONE RECORDED AT RECEPTION NO. 2021235926;

THENCE ALONG THE SOUTHERLY AND WESTERLY LINES OF SAID PARCEL ONE THE FOLLOWING EIGHT (8) CONSECUTIVE COURSES: 1) N89°48'49"E A DISTANCE OF 100.00 FEET;

2) THENCE S00°46'58"W A DISTANCE OF 145.12 FEET;

3) THENCE 246.65 FEET ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 56°31'38", AND A CHORD WHICH BEARS S27°28'51"E A DISTANCE OF 236.76 FEET;

4) THENCE S55°44'40"E A DISTANCE OF 27.50 FEET;

5) THENCE 147.99 FEET ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A RADIUS OF 150.00 FEET, A CENTRAL ANGLE OF 56°31'46", AND A CHORD WHICH BEARS S27°28'47"E A DISTANCE OF 142.06 FEET;

6) THENCE S00°47'06"W A DISTANCE OF 65.95 FEET;

7) THENCE N89°34'04"E A DISTANCE OF 40.82 FEET;

8) THENCE S00°54'55"W A DISTANCE OF 8.09 FEET TO A POINT ON THE NORTHERLY LINE OF SAID PARCEL RECORDED AT RECEPTION NO. 2014118924;

THENCE ALONG SAID NORTHERLY LINE, N89°04'51"W A DISTANCE OF 343.10 FEET TO THE POINT OF BEGINNING.

#### BASIS OF BEARINGS

BEARINGS ARE BASED ON THE WESTERLY LINE OF THE NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY AND COUNTY OF DENVER, STATE OF COLORADO ASSUMED TO BEAR S00°49'25" W AND BEING MONUMENTED BY A FOUND 3-1/2" ALUMINUM CAP IN RANGE BOX PLS #20699 AT THE NORTHWEST CORNER AND A FOUND 3-1/4" ALUMINUM CAP IN RANGE BOX PLS #27278 AT THE WEST QUARTER CORNER.

PREPARED BY SCOTT A. AREHART, PLS  
FOR AND ON BEHALF OF  
MARTIN/MARTIN, INC.  
12499 WEST COLFAX AVENUE  
LAKEWOOD, CO 80215

303 431-6100  
JUNE 14, 2022  
JOB # 20.1274