

## AGREEMENT FOR SERVICE

THIS AGREEMENT made and entered into this 18<sup>th</sup> day of December, 2012 by and between COLORADO'S TIMBER RIDGE METROPOLITAN DISTRICT (the "District") and COLORADO'S TIMBER RIDGE HOMEOWNERS ASSOCIATION (the "Association"), sometimes referred to as a "Party" and collectively referred to as the "Parties".

### WITNESSETH:

**WHEREAS**, the District is a quasi municipal corporation and political subdivision of the state of Colorado, organized and existing under the Colorado Special District Act, C.R.S. 32-1-101, *et seq.*; and

**WHEREAS**, the District was formed and is authorized to provide street improvement services with the authority to maintain, repair, construct and reconstruct streets within the District and to provide parks and recreation services within the District as set forth in the Service Plan approved by the Archuleta County Commissioners; and

**WHEREAS**, the roads within the District, including the temporary turnarounds at the end of Cool Pines Drive and Shooting Star Drive, are shown on the plats of Colorado's Timber Ridge, Phases 1-4, recorded under Reception Numbers 99008647, 2011528, 2011833 and 20212641 in the office of the Clerk and Recorder of Archuleta County, Colorado (the CTR Roads"); and

**WHEREAS**, the CTR Roads were dedicated to the use of the public, the public dedication was accepted by Archuleta County and such roads are "open, used and maintained public highways" as defined by C.R.S. § 43-4-207(2)(b)

**WHEREAS**, the Association owns a parcel with a clubhouse and equestrian facility and there are 19 tracts (Tracts A through S) in Phases 1 through 4 which are dedicated on the plats to the Association as common properties (the "CTRHOA Recreational Facilities and Common Properties"); and

**WHEREAS**, the Association is a Colorado not for profit corporation organized to provide certain services to the owners of property within Colorado's Timber Ridge subdivision including the maintenance, repair, construction and reconstruction of the CTR Roads and CTRHOA Recreational Facilities and Common Properties; and

**WHEREAS**, the Board of Directors of the Association has determined that the most effective method for providing for the maintenance, repair, construction and reconstruction of the CTR Roads and the CTRHOA Recreational Facilities and Common Properties is by contracting with the District for such services (the "Contracted Services"); and

**WHEREAS**, the Association intends to donate and transfer certain assets to the District, including real property and funds, to assist in providing the Contracted Services; and

**WHEREAS**, the Boards of the Parties to this agreement have considered and determined that it is in the best interest of the residents and citizens of Colorado's Timber Ridge subdivisions for Colorado's Timber Ridge Metropolitan District to provide for the maintenance, repair, construction and reconstruction of the CTR Roads and the CTRHOA Recreational Facilities and Common Properties according to the terms of this agreement; and

**WHEREAS**, the respective Boards of the District and the Association hereby find and determine that this agreement and the provisions hereof will make the most efficient and effective use of their powers and responsibilities for the benefit of the owners within Colorado's Timber Ridge subdivisions.

**NOW THEREFORE**, it is agreed in consideration of the foregoing and the mutual promises, covenants, agreements and obligations herein contained that:

Section 1. District agrees to provide all the maintenance, repair, construction and reconstruction of the CTR Roads and the CTRHOA Recreational Facilities and Common Properties.

Section 2. Association shall donate and transfer to the District certain real property and funds. Specific assets shall be transferred upon approval by the Board of the Association. Following such approval the officers of the Association are authorized to execute such deeds, assignments and other instruments of transfer as may be necessary to complete the transfer. Transfer of any property shall be as is without warranty and subject to all liens and encumbrances.

Section 3. District shall sell any real property it receives on such terms and conditions as it determines are appropriate and which will maximize, to the greatest extent possible, funds to be used for providing the Contracted Services. At the time of closing, all encumbrances shall be paid from the sales proceeds.

Section 4. District agrees to use all funds received from the Association and from the sale of real property transferred by the Association under this agreement only for the purpose of providing the Contracted Services as authorized by the Service Plan and for no other purpose. It is mutually acknowledged and agreed that the funds provided hereunder may not be adequate for providing the Contracted Services at an appropriate and acceptable level and District agrees to seek and expend such additional funds from other sources and in other amounts as may be necessary.

Section 5. This agreement shall automatically renew each calendar year unless notice is given by one of the Parties of its intent not to renew on or before September 1 of any year. In



the event the District gives notice of its intent not to renew, such notice shall be accompanied by a proposal for an alternative method of providing the Contracted Services on a continuing comparable basis.

Section 6. Each Party shall be solely responsible for the performance of its obligations hereunder and each party shall indemnify and hold harmless the other Party from all loss, cost and expense arising out of any liability or claim for injury or damages sustained or claimed to have been sustained by any one whomsoever by reason of the performance of said obligations or by any act or omission of said Party or its officers, agents or employees.

Section 7. Should a dispute arise regarding this Agreement or performance of the obligations herein, the Parties agree to make all reasonable efforts to reach an amicable resolution of such dispute. In an effort to resolve any conflicts that arise under this Agreement, the Parties agree that all disputes between them arising out of or relating to this Agreement shall be first submitted to non-binding mediation, unless the Parties mutually agree otherwise. Should no amicable resolution of a dispute be reached, the Parties hereto agree that jurisdiction and venue for any litigation shall be in the District Court of Archuleta County, Colorado. Should litigation be necessary to enforce any term or provision of this Agreement, the prevailing party shall be entitled to recover from the losing party all reasonable litigation expenses, witness fees and court costs, and attorney's fees.

Section 8. This Agreement is not intended, and shall not be construed, as a waiver of the limitations on damages or any of the privileges, immunities, or defenses provided to, or enjoyed by, the District, its directors, officers, employees, and volunteers under common law or pursuant to statute, including but not limited to the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*

Section 9. This Agreement shall constitute the entire agreement and understanding between the Parties and shall be amended only by an agreement in writing signed by the Parties.

Section 10. Any notices required or desired hereunder shall be in writing and sent postage prepaid by certified mail, return receipt requested, at the addresses set forth below (or such other addresses as the parties may otherwise designate in writing). The date of mailing shall be deemed to constitute the date of any such notice.

Section 11. In the event that any term, covenant or condition of this Agreement shall be held to be invalid, illegal, or unenforceable, this Agreement shall be construed and enforced without such provision.

Section 12. This Agreement has been approved by the appropriate governing authorities of each of the Parties in compliance with all statutes and governing documents concerning open meetings and manner of acting. The Parties will execute such further

documents and assurances to fully perform their obligations hereunder and carry out the intent of this Agreement.

Section 13. This agreement shall be effective on the day and year first above written.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective officers the day and year first above written

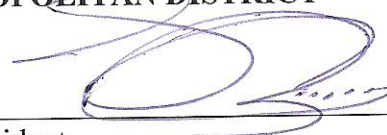
**COLORADO'S TIMBER RIDGE  
METROPOLITAN DISTRICT**

ATTEST:

  
Secretary

BY:

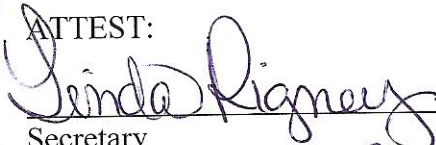
President



Address: \_\_\_\_\_

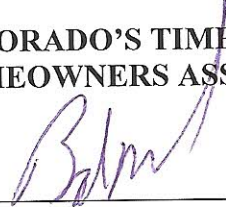
**COLORADO'S TIMBER RIDGE  
HOMEOWNERS ASSOCIATION**

ATTEST:

  
Secretary

BY:

President



Address: P.O. Box 5436, PASOSA SPRINGS, CO 81141