

AGREEMENT FOR PUBLIC HIGHWAY MAINTENANCE

THIS AGREEMENT made and entered into this 2nd day of January, 2024, by and between COLORADO'S TIMBER RIDGE METROPOLITAN DISTRICT, Archuleta County, Colorado, hereinafter referred to as the "Metro District" and the BOARD OF COUNTY COMMISSIONERS OF ARCHULETA COUNTY, COLORADO, hereinafter referred to as the "County" (collectively referred to as "Parties" and each individually as a "Party").

WITNESSETH:

WHEREAS, the Metro District is a quasi-municipal corporation organized and existing under the statutes of the State of Colorado, C.R.S. §32-1-101, *et seq.*; and

WHEREAS, one of the purposes for which the Metro District was formed was to provide street improvement services with the authority to maintain streets and highways within the Metro District's boundaries and to engage in road maintenance and improvements on a continual basis on said streets and highways; and

WHEREAS, the Metro District and County are political subdivisions, as defined under the Intergovernmental Relationships Act, C.R.S. §29-1-201 *et seq.*, which Act permits, authorizes and encourages political subdivision of the State of Colorado to cooperate and contract with one another to provide any functions, services or facilities lawfully authorized to the cooperating or contracting political subdivisions; and

WHEREAS, the roads within the Metro District as described and/or shown in the attached **Exhibit A** were dedicated to the use of the public, the public dedication was accepted by the County and such roads are "open, used and maintained public highways" as required by C.R.S. §43-4-207(2)(b); and

WHEREAS, the Metro District has the financial resources necessary to maintain the roads within the boundaries of the Metro District; and

WHEREAS, the County may receive highway user tax funds pursuant to C.R.S. §43-4-201 *et seq.*, to assist in maintenance of the roads within Archuleta County including but not limited to roads within the Metro District; and

WHEREAS, the County currently receives highway user tax fund in three tiers. The first tier is money based on the same allocation the County received for the fiscal year 1987 as identified at C.R.S. §43-4-207(2)(a)(I) (hereinafter "Tier 1 Payments"). The second tier as identified at C.R.S. §43-4-207(2)(a)(II) (hereinafter "Tier 2 Payments") are paid to certain counties which does not include Archuleta County. The third tier is money allocated based on the manner set forth at C.R.S. §43-4-207(2)(b) (hereinafter "Tier 3 Payments") and includes four different components including rural motor vehicle registration, countywide motor vehicle registration, adjusted lane miles and square footage of bridge decks; and

WHEREAS, the parties to this Agreement have considered and determined that it is in the best interest of the residents and citizens of the County and the residents and citizens of the Metro District to provide for the maintenance, repair and reconstruction of the dedicated roads within the

Metro District according to the terms of this Agreement; and

WHEREAS, the County and Metro District hereby find and determine that this Agreement and the provisions hereof will make the most efficient and effective use of their powers and responsibilities.

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

SECTION 1. TERM

This Agreement shall commence on January 1, 2024, and shall continue for a period of five (5) years, expiring on December 31, 2029 (the “Term”) unless sooner terminated, amended or replaced as provided herein. Upon mutual written agreement of the Parties, the Agreement may be renewed and extended for an additional period of time.

SECTION 2. OBLIGATIONS OF THE METRO DISTRICT

- A. Metro District agrees to provide all maintenance for the dedicated and constructed public roads located within the boundaries of the Metro District, whether described as streets, roads, avenues, drives, or otherwise. It is the intent of this Agreement that the Metro District shall maintain all those roads shown or described in **Exhibit A**, (hereinafter “Approved Roads”). It is understood and agreed that Metro District shall not be obligated to construct any additional roads.
- B. All Approved Roads shall be legally open, used and maintained by the Metro District on a continual basis.
- C. Regulatory and warning signs on all Approved Roads must fully comply with the current Federal Manual on Uniform Traffic Control Devices and any supplement issued by the Colorado Department of Transportation to the Federal Manual on Uniform Traffic Control Devices.
- D. Speed limits on all Approved Roads shall be as set and determined by the County through the Archuleta County Model Traffic Code or as otherwise established by the County. Temporary physical speed control devices (i.e. speed bumps) shall not be placed on any Approved Roads.
- E. Metro District agrees to use all funds received from the County under this Agreement only for maintenance of and for the benefit of the Approved Roads within the Metro District and for no other purpose. The term “maintenance” includes construction, engineering, reconstruction, maintenance, repair, equipment purchases, and administration expenses incurred in connection with said roads. It is mutually acknowledged and agreed that the funds paid by the County to the Metro District hereunder may not be adequate for all maintenance required and Metro District agrees to expend additional funds from such other sources and in such other amounts as it sees fit for maintenance of the Approved Roads.
- F. Metro District shall keep a maintenance log that includes the dates and hours worked,

and relevant information documenting maintenance work actually performed by the Metro District on the Approved Roads. Such log shall be available for inspection by the County during normal business hours.

SECTION 3. OBLIGATIONS OF THE COUNTY

- A. The County shall include the Approved Roads in its annual HUTF inventory report to the Colorado Department of Transportation for all available and applicable funds.
- B. In December of each year, County shall provide Metro District an inventory of all roads, including adjusted lane miles, identifying whether the road is paved or unpaved and such other information as may be reasonably necessary for Metro District to ensure that HUTF funds are being maximized. Metro District shall review and correct such inventory and return it to County within two (2) weeks of its receipt of the inventory. County agrees to make all appropriate and necessary changes to the inventory before submitting it for the next cycle of HUTF funding.
- C. Subject to annual appropriation by the Colorado General Assembly and as allocated and expended pursuant to C.R.S. § 43-4-207, the County shall, in consideration of Metro District's agreement to maintain the Approved Roads, pay to the Metro District a pro rata share of the HUTF monies received by the County as calculated pursuant to Section 4 herein.
- D. The exact amount of HUTF monies received by the County each year is variable and cannot be determined on a yearly basis. The County cannot and does not by this Agreement guarantee that the Metro District will receive a specific amount of HUTF monies in any given year.
- E. This Agreement shall not operate, or be construed to operate as, acceptance by the County of any maintenance responsibilities for the Approved Roads, or any other roads within the Metro District's boundaries.

SECTION 4. ALLOCATION OF HUTF MONIES

- A. Tier 1 monies received by the County will be paid to the Metro District in an amount equal to 100% of the Tier 1 monies received by Archuleta County and attributable to the Metro District based on the calculation of:

Metro District adjusted lane miles / County adjusted lane miles

- B. Tier 2 monies are not received and therefore not distributed by this Agreement.
- C. Tier 3 monies received by the County will be paid to the Metro District for a specific fiscal year in an amount equal to 100% of the Tier 3 monies received by the County during that specific fiscal year and attributable to the Metro District based on the calculation of:

Metro District adjusted lane miles / County adjusted lane miles

In addition, that portion of the Tier 3 monies passed through to the Metro District will be reduced or increased by the square footage of the bridge decks component such that if a Metro District does not have a bridge within its boundaries, it will not receive this component of Tier 3 funds. If it does have a bridge(s) within its boundaries, it will receive a proportionate share of the monies received by the County for this component based on the calculation of:

Metro District square footage of bridge decks / County square footage of bridge decks

- D. Notwithstanding anything to the contrary herein, all funds paid to the Metro District pursuant to this Agreement shall be reduced by an amount equal to five percent (5%) of the amount due to the Metro District to compensate County for its costs in administering this Agreement.

SECTION 5. ROAD STANDARDS

The County and the Metro District acknowledge that the Approved Roads may not presently be constructed to meet the current *Archuleta County Road and Bridge Design Standards and Construction Specifications*. This Agreement does not alter or amend the *Archuleta County Road and Bridge Design Standards and Construction Specifications* nor require the Metro District to reconstruct or improve the existing Approved Roads to meet the *Archuleta County Road and Bridge Design Standards and Construction Specifications*.

SECTION 6. FURTHER FUNDING

Notwithstanding the foregoing, this Agreement shall in no way limit the right or ability of the County or Metro District or impose any additional obligations upon the County or the Metro District to raise revenue or use such additional revenues as may be necessary or proper for the maintenance of roads within the Metro District.

SECTION 7. TERMINATION

This Agreement may be terminated by either the County or the Metro District, with or without cause, upon ninety (90) days prior written notice to the other Party.

SECTION 8. PERFORMANCE OBLIGATIONS

Each Party shall be solely responsible for the performance of its obligations hereunder. The Metro District further specifically agrees to indemnify the County against any loss which may occur in the event funds received by the County and paid to the Metro District under this agreement are later required to be returned to the State of Colorado.

SECTION 9. DISPUTE RESOLUTION; GOVERNING LAW; VENUE

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. Should no amicable resolution of a dispute be reached, the Parties

hereto agree that the substantive laws of the State of Colorado (and not its conflicts of law principles) govern all matters arising out of, or relating to, this Agreement and all of the transactions it contemplates, including without limitation its validity, interpretation, construction, performance and enforcement. Venue for any action hereunder shall be in the District Court, County of Archuleta, State of Colorado. The Parties expressly waive the right to bring any action in or to remove any action to any other jurisdiction, whether state or federal.

SECTION 10. NOTICE

Any notices required or desired hereunder shall be in writing and delivered or sent postage prepaid by certified mail, return receipt requested, to the President of the Metro District or the Chair of the Board of County Commissioners at the addresses set forth in **Exhibit B** (or such other addresses as the Parties may otherwise designate in writing). The date of delivery or mailing shall be deemed to constitute the date of any such notice.

SECTION 11. APPROVAL AND COMPLIANCE WITH AUTHORITY

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 12. ANNUAL APPROPRIATIONS

Because this Agreement involves the expenditure of public funds, it is contingent upon continued availability and appropriation of such funds by the County. The obligations described herein shall not constitute a general obligation, indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the constitution or the laws of the State of Colorado.

SECTION 13. GOVERNMENTAL IMMUNITY

The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the County.

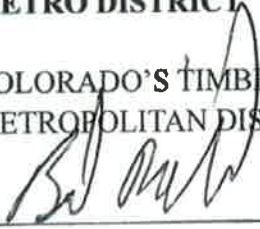
SECTION 14. SIGNATORY AUTHORITY

Each person signing this Agreement in a representative capacity expressly represents that the signatory has the subject Party's authority to so sign and that the subject Party will be bound by the signatory's execution of this Agreement.

SECTION 15. NO THIRD-PARTY BENEFICIARIES

METRO DISTRICT

COLORADO'S TIMBER RIDGE
METROPOLITAN DISTRICT



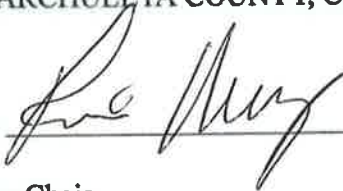
BY: Bob Milford

Title: President

Date: 12-18-23

COUNTY

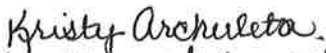
BOARD OF COUNTY COMMISSIONERS
OF ARCHULETA COUNTY, COLORADO

BY: 

Title: Chair

Date: 1-2-24

ATTEST:

BY: 
by 

Title: Deputy Clerk
Clerk to the Board



EXHIBIT A

APPROVED ROADS

1. Bristlecone Dr.
2. Cool Pines Dr.
3. Shooting Star Dr.
4. Engleman Place
5. Crown Court
6. Kelsey Circle
7. Sage Circle
8. Mariposa Dr.
9. Yarrow Circle
10. Heath Dr.
11. Emergency Road - Connects Engleman and Shooting Star
12. Emergency Road - Connects Cool Pines and Blair Court

EXHIBIT B

NOTICE

To the County:

Archuleta County Public Works Director
1122 Highway 84
P.O. Box 1507
Pagosa Springs, CO 81147

With a copy to:

Archuleta County Manager
398 Lewis Street
P.O. Box 1507
Pagosa Springs, CO 81147

To the Metro District:

President
Colorado's Timber Ridge Metropolitan District
P.O. Box 6501
Pagosa Springs, CO 81147