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El Paso County, CO

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RESOLUTION NO. 20- 77

BOARD OF COUNTY COMMISSIONERS
COUNTY OF EL PASO, STATE OF COLORADO

**RESOLUTION ADOPTING A SECOND AMENDMENT TO THE TRANSPORTATION
IMPACT FEE AND PUBLIC IMPROVEMENT AGREEMENT BETWEEN CENTRAL
MARKSHEFFEL METROPOLITAN DISTRICT AND EL PASO COUNTY**

WHEREAS, governmental entities are authorized to enter into intergovernmental agreements pursuant to Article XIV, Section 18(2)(a) of the Colorado Constitution and Section 29-1-203, C.R.S.; and

WHEREAS, pursuant to such authority, the Board of County Commissioners of El Paso County, Colorado ("Board") and the Central Marksheffel Metropolitan District ("District") entered into an intergovernmental agreement dated June 21, 2004 and recorded in the records of the El Paso County Clerk and Recorder at Reception No. 204141626 ("2004 IGA") in which the District agreed to construct improvements to a portion of Marksheffel Road; and


WHEREAS, on November 29, 2012 and pursuant to Resolution No. 12-387, the Board approved an amendment to the 2004 IGA ("First Amendment"), in which the Board established credits for the District in the El Paso County Road Impact Fee Program ("Fee Program Credits") for certain road improvements constructed by the District; and

WHEREAS, the Board and the District wish to amend the First Amendment in order to modify the terms according to which the District's Fee Program Credits will be reimbursed.

NOW, THEREFORE, BE IT RESOLVED that the Board of County Commissioners of El Paso County, Colorado hereby approves the Second Amendment to Transportation Impact Fee and Public Improvement Agreement Between Central Marksheffel Metropolitan District and El Paso County attached hereto as Exhibit A and incorporated herein by reference.

DONE THIS 25th day of February, 2020 at Colorado Springs, Colorado.

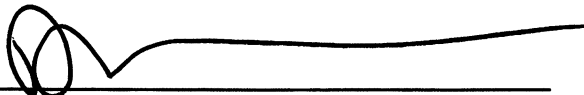
ATTEST:



County Clerk & Recorder



BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO

By: 

Mark Waller, Chair

Exhibit A

SECOND AMENDMENT TO
TRANSPORTATION IMPACT FEE AND PUBLIC IMPROVEMENT AGREEMENT
BETWEEN
CENTRAL MARKSHEFFL METROPOLITAN DISTRICT AND EL PASO COUNTY

This Second Amendment to the Transportation Impact Fee and Public Improvement Agreement Between Central Marksheffel Metropolitan District and El Paso County (“Second Amendment”) is entered into this _____ day of February, 2020, (“Effective Date”), by and between Central Marksheffel Metropolitan District (“District”) and El Paso County, Colorado, acting by and through the Board of County Commissioners of the County of El Paso, State of Colorado (“Board” or “County”). The District and the County may be referred to herein individually as a Party and may be collectively referred to herein as the Parties.

RECITALS

WHEREAS, on June 21, 2004, the Parties entered into a Transportation Impact Fee and Public Improvement Agreement (“Agreement”) in which the District agreed to construct a portion of the Marksheffel Road corridor and the County agreed to collect a fair and equitable contribution toward the cost of such construction from certain defined properties outside the District boundaries; and

WHEREAS, on November 29, 2012 and pursuant to Resolution No. 12-387, the Parties entered into a First Amendment to the Agreement (“First Amendment”) which provided a mechanism to integrate the Agreement into the El Paso County Road Impact Fee Program (“Fee Program”) through the establishment of credits in and a plan for reimbursement of those credits through the Fee Program; and

WHEREAS, the Parties now wish to modify the First Amendment to accelerate the repayment of the District Fee Program credits.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Incorporation of Recitals and Identifying Information. The Parties agree that the above-stated Recitals shall be incorporated into this Amendment as if fully stated herein.
2. Use of Fee Program Credit. Paragraph 3.5 shall be added to the First Amendment, to read as follows:

Use of Fee Program Credit in 2019 and Thereafter. For the purpose of reimbursing the District for the Fee Program Credit established in the Agreement, the District shall be entitled to a disbursement of \$400,000 from those Fee Program funds received in 2019. In 2020 and in each year thereafter, the District shall be entitled to one-half of each

Exhibit A

disbursement made of Fee Program funds, or to \$100,000 in a calendar year, whichever is greater.

3. Agreement Remains in Effect. Except as amended by this Second Amendment, all terms and conditions of the First Amendment remain in full force and effect. If any term of this Second Amendment conflicts with the First Amendment, the provisions of this Second Amendment shall control.

IN WITNESS of the foregoing provisions, the Parties have executed and delivered this Second Amendment as of the Effective Date.

CENTRAL MARKSHEFFEL METROPOLITAN DISTRICT:

By: _____

Name: _____

Title: _____

STATE OF COLORADO)
) S.S.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, as _____ of Central Marksheffel Metropolitan District.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____

Exhibit A

**BOARD OF COUNTY COMMISSIONERS
OF EL PASO COUNTY, COLORADO**

By: _____
Mark Waller, Chair

ATTEST:

By: _____
Chuck Broerman
County Clerk & Recorder

APPROVED AS TO FORM:

By: _____
Office of the County Attorney

STATE OF COLORADO)
) S.S.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this ____ day of _____,
2020, by _____, as _____ of the Board of County
Commissioners, and as attested to by _____, County Clerk & Recorder.

Witness my hand and official seal.

Notary Public

My Commission Expires: _____