TREE FARM BRT FACILITIES AGREEMENT

THIS TREE FARM BRT FACILITIES AGREEMENT (this "Agreement") is made and entered into this __ day of _____ 2021, by and between the TREE FARM METROPOLITAN DISTRICT, a metropolitan district established pursuant to the laws of the State of Colorado ("TFMD"), and the ROARING FORK TRANSIT AUTHORITY, a rural transportation authority established pursuant to the laws of the State of Colorado ("RFTA") (each party a "Party" or collectively the "Parties").

Recitals

A. TFMD is a metropolitan district that was formed for the purposes of, *inter alia*, financing, constructing, operating, managing and maintaining certain public improvements necessary to support the development of The Tree Farm Planned Unit Development that was approved by the Board of County Commissioners of Eagle, Colorado pursuant to Resolution No. 2017-064 recorded in the real property records of the Clerk & Recorder of Eagle County, Colorado, (the "Records") on September 21, 2017 at Reception No. 201718206, the terms of which as pertain to RFTA are incorporated herein by reference and made a part hereof (the "Tree Farm PUD").

B. RFTA owns and operates a bus rapid transit stop (the " Willits BRT Stop") that is located within the public right-of-way of Colorado State Highway 82 ("Highway 82") adjacent to, and southwest of, Open Space Tract O-10 of the Tree Farm PUD according to the Final Plat of The Tree Farm – Phase Two (the "Tree Farm Phase Two Plat"), recorded in the Records on July 22, 2020 at Reception No. 202011656 ("Tract O-10").

C. Pursuant to Plat Note 10 of the Tree Farm Phase Two Plat, Tract O-10 and the facilities and improvements constructed within Tract O-10 have been conveyed to TFMD by Woody Ventures, LLC as the developer of the Tree Farm PUD. In addition, pursuant to Plat Note 1 of the Tree Farm Phase Two Plat, Out Parcel N-5 (a/k/a Kodiak Drive) of the Tree Farm PUD ("Parcel N-5") has been dedicated as a public right-of-way and TFMD has been given the responsibility and authority to operate, maintain, repair and replace Parcel N-5 and the improvements constructed with Parcel N-5.

D. The Willits BRT Stop is located within the "RFTA Improvements Area" depicted on the site plan attached as Exhibit A of this Agreement (the "Site Plan"). Woody Ventures, LLC has constructed certain landscaping, walkway and related improvements within the "TFMD Improvements Area" adjacent to the RFTA Improvements Area as depicted on the Site Plan. The TFMD Improvements Area is located partially within the public right-of-way for Highway 82, Tract O-10 and Parcel N-5. The improvements located within the TFMD Improvements Area facilitate use of the Willits BRT Stop and provide pedestrian and bicycle access between and among the Willits BRT Stop, the Tree Farm PUD project and the underpass that extends under Highway 82 to the Willits project located on the southwest side of Highway 82 (where another bus rapid transit stop is located among other improvements).

E. In addition to being required to construct additional improvements within the TFMD Improvements Area, pursuant to the approvals granted for the Tree Farm PUD, Woody Ventures, LLC was required to provide and construct within Parcel N-5 twenty (20) automobile

parking spaces for the use of RFTA for its customers who use the Willits BRT Stop (the "RFTA Parking Spaces"). The RFTA Parking Spaces have been constructed in two locations within Parcel N-5 (with ten (10) parking spaces in each location) and are depicted on the attached Site Plan.

F. TFMD and RFTA desire to enter into this Agreement for the purpose of memorializing their mutual understandings as to the operation, management, maintenance and repair of the RFTA Improvements Area, the TFMD Improvements Area and the RFTA Parking Spaces.

Agreement

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, TFMD and RFTA agree as follows:

1. Term. RFTA reserves the right to terminate this Agreement upon ninety (90) days' prior written notice to TFMD. Except as so terminated by RFTA, this Agreement will remain in effect in perpetuity.

2. TFMD's Management and Maintenance Obligations. TFMD shall be responsible, at its sole cost and expense, for managing, cleaning, maintaining, repairing and replacing the improvements located within the TFMD Improvements Area. TFMD agrees to maintain such improvements within the TFMD Improvements Area in a good, clean and well-lighted condition. TFMD shall be responsible, at its sole cost and expense, for providing snow plowing for the RFTA Parking Spaces, which plowing will be performed to same extent that TFMD plows Kodiak Drive

3. Management and Maintenance of the RFTA Improvements Area. RFTA leases the area refered to in this Agreement as the "RFTA Improvments Area" from CDOT under a seperate master lease agreement and the Willits BRT Stop will be managed in accordance the terms of that agreement.

4. Management and Maintenance of the RFTA Parking Spaces. With the exception of snow plowing, RFTA shall be responsible, at its sole cost and expense, for managing and cleaning the RFTA Parking Spaces. RFTA's responsibility for the RFTA Parking Spaces shall include, without limitation installing signage to indicate the RFTA Parking Spaces are reserved for exclusive use by RFTA users and enforcing such parking restriction; RFTA may use whatever methods it deems necessary to enforce RFTA's parking rules and regulations such as towing or booting vehicles, installing video survailance systems, selling parking passes or any other form of parking managment systems RFTA deems necessary. TFMD, pursuant to the authority it has to operate and manage the improvements within Parcel N-5 pursuant to the Tree Farm Phase Two Plat, hereby grants and delegates to RFTA the right and authority to fulfill and undertake the foregoing responsibilities with respect to RFTA Parking Spaces.

5. Temporary Unavailability. TFMD will have the right to temporarily restrict access to the RFTA Parking Spaces during times that it is performing maintenance on or repaving Kodiak Drive in the area of the RFTA Parking Spaces or for any other reasonable cause upon prior notice to the RFTA explaining the reason why access to the RFTA Parking Spaces will be temporarily restricted and the anticipated duration of such temporary restriction.

6. No Ownership Grant;Indemnification. Nothing in this Agreement shall be construed as a dedication or grant of fee simple ownership of the RFTA Parking Spaces to RFTA. Rather, this Agreement memorializes a right of RFTA to use the RFTA Parking Spaces for its customers' automobile parking purposes as required pursuant to the Eagle County approvals for Tree Farm PUD.

7. Insurance. RFTA and TFMD shall each procure and keep in force adequate insurance to cover their respective risks arising from this Agreement.

8. Indemnification. To the extent allowed by law, RFTA and TFMD shall each defend, indemnify, and hold the other harmless from any and all claims, suits, costs and liability occasioned by the acts or neglects of such party, or its agents, employees, or invitees.

9. Performance of Work. All of the work performed by either Party pursuant to this Agreement will be done in such a manner as to prevent any damage to the nearby improvements that are the responsibility of the other Party to this Agreement. Notwithstanding any other provision of this Agreement to the contrary, if any work performed by or on behalf of a Party to this Agreement (the "Causing Party") causes any damage to any improvements that are the responsibility of the other Party (including without limitation any landscaping), the Causing Party will be responsible, at its sole cost and expense, for repairing and restoring the damaged improvements to their pre-existing condition. In addition, all construction, alteration, maintenance, repair or replacement work will comply with all applicable laws, ordinances, rules, regulations, approvals and other requirements of all governmental authorities, public bodies and all other authorities having jurisdiction.

10. Miscellaneous Provisions.

(a) Governmental Immunity. Nothing in this Agreement will be construed as a waiver by either Party of any of the rights and privileges it has under the Colorado Governmental Immunity Act.

(b) TABOR. None of the Parties' obligations pursuant to this Agreement shall be construed to constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado, and any financial obligations of either Party pursuant to this Agreement shall be contingent upon annual appropriations by such Party in accordance with all laws of the State of Colorado applicable to such Party.

(c) No Partnership. This Agreement is not an agreement creating a partnership, joint venture or other similar relationship between the Parties.

(d) Authority. Each Party represents and warrants that it has full internal authority to enter into this Agreement and that all actions required to memorialize that authority have been carried out.

(e) Negotiated Terms. The Parties acknowledge this Agreement has been negotiated at arm's length; each party has had an opportunity to review and revise this Agreement and has been extended an opportunity to have legal counsel review and revise this Agreement. No

rule of construction that ambiguities are to be resolved against the drafting party will be employed in the interpretation of this Agreement.

(f) Headings. The headings within this Agreement are inserted for convenience of reference only and not to define, describe or limit the scope or the intent of this Agreement or any term hereof.

(g) Governing Law. This Agreement will be governed and construed in accordance with the laws of the State of Colorado. Jurisdiction and venue for any action arising out of this Agreement will rest with the District Court for Eagle County, Colorado.

(h) Recording. This Agreement will be recorded in the real property records of Eagle County, Colorado.

(i) Amendment. No provision or term of this Agreement may be amended, modified, revoked, supplemented, waived, or otherwise changed except by written instrument duly executed by the Parties.

(j) Counterparts. This Agreement may be executed in counterparts, each of which will be an original, and all of which together will constitute the agreement of the Parties.

DATED the day and year first above written.

[remainder of page intentionally blank]

TREE FARM METROPOLITAN DISTRICT

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____ as _____ of Tree Farm Metropolitan District.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

[remainder of page intentionally blank]

ROARING FORK TRANSIT AUTHORITY

By: _____
Name: _____
Title: _____

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021, by _____ as _____ of Roaring Fork Transit Authority.

Witness my hand and official seal.

My commission expires: _____.

_____
Notary Public

Exhibit A

Site Plan of TFMD Improvements Area, RFTA Improvements Area and RFTA Parking Spaces

[see attached page]