

**INTERGOVERNMENTAL AGREEMENT BETWEEN
ROUTT COUNTY THE MORRISON CREEK WATER
AND SANITATION DISTRICT FOR THE FUNDING OF
INFRASTRUCTURE IMPROVEMENTS**

This Intergovernmental Agreement is entered into by and between the Board of County Commissioners of Routt County, Colorado (the "BOCC" or "County") and the Morrison Creek Metropolitan Water and Sanitation District (the "District"), (collectively, the "Parties") to provide financial support for qualifying infrastructure improvements (the "IGA" or "Agreement").

RECITALS

- A. The County is a body politic and corporate of the State of Colorado whose powers are exercised by BOCC as proscribed in C.R.S. §§ 30-5-125 and 30-11-103.
- B. The District is a Title 32-1 Colorado Special District.
- C. The District has requested financial support from the County to fund infrastructure improvements associated with construction of a wastewater treatment plant.
- D. The Improvements are public improvements for public purposes to be owned, maintained, and operated by the District for the benefit of the Citizens of the County and District.
- E. On May 24, 2022, the County, by unanimous vote of the BOCC, made a preliminary commitment of one hundred and twenty thousand dollars (\$120,000.00) for the Improvements and the Parties desire to set forth the terms and conditions of the District's receipt of such fund.

NOW, THEREFORE, in consideration of mutual covenants and agreements, the Parties agree as follows:

AGREEMENT

- 1. Incorporation of Recitals. The Foregoing Recitals are incorporated here as if set forth in full.
- 2. Fund award. Subject to the terms and conditions of this IGA, the BOCC hereby designates an amount not to exceed ONE HUNDRED AND TWENTY THOUSAND DOLLARS (\$120,000.00) to be awarded and used to assist the District in funding Wastewater Treatment Plant Improvements.
- 3. Award and Project. Award funds shall be used by the District solely to complete the Wastewater Treatment Plant Improvements.
- 4. Completion Date. The District shall complete all Improvements for which reimbursement is to be requested no later than December 31, 2023. Financial obligations of the County payable after the current fiscal year are contingent upon funds for that purpose being budgeted, appropriated and otherwise made available.

5. Project Operation and Maintenance. The County shall not be liable for any cost of maintenance, management or operation of Improvements.
6. Financial Obligations. The County shall not be liable for any indebtedness of the District nor shall the County be responsible for any of District's grant obligations and/or responsibilities.
7. Audits and Accounting. The District shall maintain standard financial accounts, documents, and records relating to the use, management and operation of the Improvements. The District shall retain the accounts, documents, and records related to the Improvements for not less than three years following the date of disbursement of the funds under this Agreement. The BOCC or its designated agent shall have the right, upon reasonable notice to the District, to audit the books and records of the District, which pertain to the Improvements and to the use and disposition of the Funds.
8. Inspection. Throughout the term of this Agreement, the BOCC and its authorized representative(s) shall have the right to inspect the Improvements to ascertain compliance with this Agreement.
9. Payments Subject to Annual Appropriations. The BOCC's financial obligations under this IGA are subject to annual appropriation and budgeting. This IGA is not intended to, nor does it create a multi-year fiscal obligation as defined by Section 20, Article X of the Constitution of the State of Colorado.
10. Breach and Notice. If either party fails to perform its obligations under this Agreement, the other party shall provide thirty (30) days' notice of such failure to the breaching party's representative identified herein. If the breaching party fails to correct or remedy the breach, the other party may terminate this Agreement and/or proceed in law or equity to seek injunctive relief, specific performance or damages as a result of the breach.
11. Good Faith. There is an obligation of good faith on the part of the Parties, including the obligation to make timely communication of information that may reasonably be believed to be material to the other.
12. Indemnity/No Waiver of Governmental Immunity Act. The County and the District acknowledge that each is subject to the constitutional prohibitions against indemnification pursuant to Colorado Constitution article XI, § 1 and that as governmental entities neither party agrees to indemnify the other. Nothing herein shall be deemed a waiver of the Colorado Governmental Immunity Act for or by either party. C.R.S. § 24-10-101 *et seq.*
13. No Joint Venture. Nothing in this Agreement shall be construed to create a joint venture, partnership, employer/employee, or other relationship between the Parties other than that of independent contracting parties.

14. No Third Party Beneficiary. No third party may enforce or rely upon this Agreement.
15. Term of Agreement. This IGA shall become effective upon signature of the last party to sign and will terminate on December 31, 2023. All rights concerning remedies, fees and costs shall survive termination of this IGA.
16. Amendment and Assignment. This IGA may be amended by the Parties solely through a written agreement signed by both Parties. This IGA may not be assigned by either party.
17. Counterparts. This IGA may be executed in counterparts, each of which shall be deemed an original, and all of which, when taken together, shall be deemed the same instrument. Facsimile or photographic signatures of either party to this IGA or subsequent modifications thereto, shall be effective for all purposes.
18. Governing Law, Venue and Survival. The laws of the State of Colorado shall govern the validity, performance and enforcement of this IGA. Should either party institute legal action for enforcement of this IGA, venue of such action shall be in Routt County, Colorado.
19. Whole Agreement. This IGA sets forth the whole agreement of the Parties. No representations, either verbal or written, shall be considered binding on either party to the extent not set forth herein.
20. Section Headings. The section headings in this IGA are inserted only for the purpose of convenient reference and are in no way to define, limit or prescribe the scope or intent of this Agreement or any part thereof.
21. Authority. Each person signing this IGA represents and warrants that the individual is fully authorized to enter into and execute this IGA and to bind the Party it represents to the terms and conditions thereof.
22. Notice and Representatives. All notices required under this IGA shall be transmitted in writing and shall be deemed duly given when hand-delivered or sent by certified mail, return receipt requested and postage prepaid, or by electronic communication, addressed to the following:

As to County: County Manager
522 Lincoln Ave., Suite 34
Steamboat Springs, CO 80487

As to District: Morrison Creek Metropolitan Water & Sanitation District
24490 Uncompahgre Road
Oak Creek, CO 80467

Either Party may change the identity of its designated representative and the address to which future notices shall be sent by providing written notice in accordance with this paragraph. Formal amendment of this IGA to affect such a change is not required.

23. Severability. Should any provision of this IGA be found to be in conflict with any law of the United States or the State of Colorado or to otherwise be unenforceable, the remaining provisions shall be deemed severable and the validity of such shall not be affected provided that the remaining provisions can be construed in substance to constitute the agreement which the parties intended to enter into under this IGA.

**BY THE BOARD OF COUNTY COMMISSIONERS OF ROUTT COUNTY,
COLORADO:**

M. Elizabeth Melton, Chair

ATTEST:

Jenny L. Thomas
Routt County Clerk

**BY THE MORRISON CREEK METROPOLITAN WATER AND SANITATION
DISTRICT:**

Anthony Borean