CHEROKEE METROPOLITAN DISTRICT
RESOLUTION 2026-01

A RESOLUTION PROVIDING FOR THE INDEMNIFICATION OF DIRECTORS, OFFICERS AND THE EMPLOYEES OF THE DISTRICT

WHEREAS, Cherokee Metropolitan District ("District") is a special district operating as a quasi-municipal corporation of the State of Colorado, by virtue of organization under Title 32, Article 1., C.R.S.; and

WHEREAS, past and present directors, officers and employees of the District may be subject to claims arising from acts or omissions occurring during the performance of their governmental duties; and

WHEREAS, the District desires to defend and indemnify such persons against liability for acts or omissions occurring during the performance of their governmental duties so as to encourage employment with and/or service to the District; and

WHEREAS, by encouraging persons to accept employment, it is in the best interests of the health, safety, and welfare of the District and its inhabitants to defend and indemnify its directors, officers and employees against liability for which defense and indemnification may not otherwise be provided by Colorado law.

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF CHEROKEE METROPOLITAN DISTRICT, EL PASO COUNTY, AS FOLLOWS:

1. Definitions. For purposes of this Resolution, the terms below shall be defined as follows:

(a) Director: Includes current and former directors of the District, who are elected or appointed to the Board, who are sued for acts or omissions occurring during their terms as directors of the District.

(b) Employee: Includes a Director, officer, employees and authorized volunteers (hereinafter collectively referred to as "Employee") of the District. The term "Employee" specifically excludes any person or organization contracting to perform services or acting for the District as an independent contractor.

(c) Scope of Employment: An act or omission of an Employee of the District is within the "scope of employment" if it reasonably relates to the business or affairs of the District, and the Employee acted in good faith and in a manner which a reasonable person would have believed to be in, and not opposed to, the best interests of the District. In addition to other acts or omissions which are not within the Scope of Employment, all acts or omissions which are a violation of law shall be deemed not to be within the Scope of Employment.

(d) Act: Means the Colorado Governmental Immunity Act set forth in Article 10, Title 24, C.R.S., as amended.

2. Applicability of the Act.

(a) The District shall pay the costs and expenses actually and reasonably incurred by an Employee in connection with the defense of any allegation, action and proceeding arising out of an act or omission of such person during the performance of such person's duties within the scope of such person's appointment, including reasonable attorneys' fees, where the action lies or could lie in tort, including any such action brought pursuant to Federal law in any court of this State, in accordance with the Act. As a prerequisite to such payment, the Employee must furnish the District with an affidavit stating that the action against him/her is not purely personal; that, to his/her reasonable belief, the act or omission upon which the claim is based reasonably relates to the business affairs of the District; and that the Employee acted in good faith and in a manner which a reasonable person would have acted under the circumstances and which was not opposed to the best interests of the District. However, the District shall not pay such judgment or settlement and shall seek reimbursement from the Employee for the actual costs of his/her defense, including actual attorneys' fees, where it is determined by a court of competent jurisdiction (a) that the injuries did not arise out of an act or omission of the Employee occurring during the term of employment with the District and within the scope of employment, or (b) that, unless otherwise expressly authorized by the Board of Directors of the District, the Employee's act or omission was willful and wanton.

(b) The District does not hereby waive the notice requirements of its directors and employees as set forth in Section 24-10-110(2), C.R.S.

(c) All claims to be paid as a result of the indemnification provided hereunder shall be paid by the District or its insurer, except as set forth in Section 6 below. The District shall pay judgments and settlements in accordance with the Act even if sovereign immunity bars the action against the District.

3. Limitations on Criminal Acts. The District, acting through its Board of Directors, shall have absolute discretion regarding the payment of costs of defense, including reasonable attorneys' fees and any fines or penalties assessed, where a criminal action is brought against its Employee for acts or omissions occurring during his/her term of employment with the District and within his/her scope of employment. Prior to such payment, the Employee must furnish the District with an affidavit stating that the action against him/her is not purely personal; that to his reasonable belief the act of omission upon which the claim is based occurred within the scope of employment; and that he/she had no reasonable cause to believe his/her conduct was unlawful. The District shall not pay such fines or penalties, and shall be reimbursed by the Employee for the actual costs of defense, including actual attorneys' fees, where it is determined by a court of competent jurisdiction (a) that the alleged criminal action did not arise out of an act or omission by the Employee occurring during his term of employment with the District and within the scope of employment, or (b) that the Employee had reasonable cause to believe his/her conduct was unlawful.

4. Contract or Other Actions. The District shall pay the cost of defense of, and settlements and judgments against, its Employees, including reasonable attorneys' fees, where the action lies, or could lie, in contract or arises under State or Federal laws and is not governed by the Act, except for criminal actions as herein addressed. As a prerequisite to such payment, the

Director or Employee must furnish the District with an affidavit stating that the action against him/her is not purely personal and that, to the best of his/her reasonable belief, the act or omission upon which the claim is based occurred within the scope of employment. The District shall not pay such judgments and shall be reimbursed by the Employee for the actual costs of defense, including actual attorneys' fees, where it is determined by a court of competent jurisdiction that (a) the damages did not arise out of an act or omission of the Employee occurring during his term of employment with the District and within the scope of his/her employment, or that (b) the Employee had reasonable cause to believe such action or contract was prohibited by law.

5. Notice of Action or Potential Action. The District hereby incorporates the notice prerequisite to defense and indemnification of its Employees pursuant to all provisions of the Act for tort, contract or any and all other forms of action. Notice must be given to the District by the Employee in writing within fifteen (15) days after commencement of the action or indemnification will not be made.

6. No Indemnification. In no event will the District indemnify or pay the defense cost if it is adjudged that the Employee has acted primarily for personal benefit or on the basis of other improper benefit, whether or not the Employee is acting in his/her official capacity. Such defense and indemnification shall not be available to a former Employee in the event that the tort or liability claim against him/her is asserted as a counterclaim or setoff in any suit brought by the Employee, except to the extent that the liability of such Employee may exceed the amount of his own claim or suit.

7. Settlement. The District, acting through its Board of Directors, shall approve in writing any settlement of claims and stipulated judgments against its Employees. The District shall not be liable for any such compromise or settlement given without its consent.

8. Legal Counsel. The District shall obtain legal counsel to serve as counsel to the Employee unless it appears to such counsel that the interests of the District and the Employee may be adverse. In the latter event, the Employee may select independent legal counsel, who shall first be approved by the District. The Employee shall cooperate in all respects with the District and its legal counsel in his/her defense. If the Employee does not cooperate with the District for any reason, and such action results in a judgment against the District or the Employee, the District may elect not to indemnify the Employee or to pay defense costs.

9. Employee's Costs. The District shall not be responsible for costs to its Employees associated with time spent in giving depositions, testifying, or otherwise cooperating with their defense.

10. Liability Limitations. The District shall indemnify any Employee up to but not to exceed the applicable limitations under the Act. The District specifically reserves any defenses which are available to Employees under the Act or by common law.

11. Effect of Other Insurance, Bond, or Indemnification Plan. If the District has insurance coverage for any act for which indemnification is provided by this Resolution, its coverage shall be primary. If the Employee against whom a claim reimbursable under this Resolution is asserted has any other valid insurance, bond, or indemnification plan available covering the loss or damage alleged against him, and the District does not have adequate insurance

coverage, and the act for which indemnification is sought is other than an action sounding in tort, such insurance, bond, or other plan will be first applied to the payment of any defense costs, attorneys' fees, or claim/judgment before the District's resort to obtaining funds for indemnification from sources other than insurance. The obligation of the District to indemnify and save harmless the Employee shall, in all events, exist only to the extent permitted by this Resolution.

12. Subrogation Rights of the District. In the event of any payments pursuant to this Resolution, the District or its assigns shall be subrogated to all of the Employee's rights of recovery therefor against any person or entity. The Employee shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The Employee shall do nothing to prejudice such rights.

13. Purpose. The purpose of this Resolution is to protect Employees of the District against personal liability for their actions taken on behalf of the District. It is the intent of the District that this Resolution be liberally construed in favor of the protection of such Employees. By the adoption of this Resolution, the District does not waive its rights to claim sovereign immunity as a defense to any action or any other defense under the Act or provided by law.

14. Severability. If any provision of this Resolution is found to be invalid by any court of competent jurisdiction, such finding shall not affect the validity of the remainder of the Resolution.

15. Term. All indemnifications described in this Resolution shall be valid during the current fiscal and calendar year and shall be considered automatically renewed on January 1 of each year thereafter unless repealed by resolution of the Board of Directors of the District within sixty (60) days prior to the renewal date.

16. Statute Controls. The provisions of this Resolution shall be subject to, and, to the extent of any inconsistency therewith, shall be modified by the Colorado Governmental Immunity Act.

Approved and adopted this 20th day of January, 2026.

CHEROKEE METROPOLITAN DISTRICT

By: _____
Dan Wall, President

Attest:

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Jeff Bandy, Secretary