

**NOTICE OF JOINT SPECIAL MEETING OF  
NORTHRIDGE ESTATES METROPOLITAN DISTRICT NOS. 1, 2 AND 3**

NOTICE IS HEREBY GIVEN that a special meeting of the Boards of Directors (the “**Boards**”) of the Northridge Estates Metropolitan District No. 1 (“**District No. 1**”), Northridge Estates Metropolitan District No. 2 (“**District No. 2**”) and Northridge Estates Metropolitan District No. 3 (“**District No. 3**”) and collectively with District No. 1 and District No. 2, (the “**Districts**”), located in the City of Greeley, Weld County, Colorado, will be held on Wednesday, January 31, 2024, at 5:00 p.m. the meeting will be held virtually via Zoom. Any member of the public may attend by computer or phone by accessing the Zoom details below. At this meeting, the Boards will take up regular business of the Districts and any other matters as may come before the Boards.

To join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join;

Join Zoom Meeting

<https://zoom.us/j/92132949088?pwd=aHo4TmFjVmFSZzhDcGh5NEQxQIA2UT09>

To join via mobile phone please dial: +1 719 359 4580 or +1 669 444 9171

**Meeting ID: 921 3294 9088**

**Passcode: 934473**

**District 1 - Board of Directors**

Joshua Montoya	President	May 2027
Sara Freisl	Vice President	May 2025
Leslie Brown	Treasurer	May 2025
Angela Garcia	Assistant Secretary	May 2027
Kelsey Phillips	Assistant Secretary	May 2025
Alex Carlson	Secretary to the Board	

**Districts 2 Board of Directors**

Don Guerra	Chairman/President	May 2025
Robert Eck	Vice President/Secretary/Treasurer	May 2027
Leslie Brown	Vice President/Assistant Secretary/Treasurer	May 2025
Marvin Davis	Vice President/Assistant Secretary/Treasurer	May 2027
Kyle Moore	Director	May 2025*
Alex Carlson	Secretary to the Boards	

**District 3 Board of Directors**

Don Guerra	Chairman/President	May 2025
Robert Eck	Vice President/Secretary/Treasurer	May 2027
Leslie Brown	Vice President/Assistant Secretary/Treasurer	May 2025
Marvin Davis	Vice President/Assistant Secretary/Treasurer	May 2027
Vacant		May 2025*
Alex Carlson	Secretary to the Boards	

*\* This term will be a two-year term at the May 2025 Election*

**THIS MEETING IS OPEN TO THE PUBLIC**

## AGENDA

1. Call to Order
2. Declaration of Quorum/Disclosure of Potential Conflicts of Interest
3. Discuss / Approval of Agenda
4. Public Comments
5. Administrative Matters
  - a. Discuss and Consider Approval of Minutes from the August 2,2023 and November 29, 2023 Special Meeting
  - b. Adopt Resolution of each District to Designate Posting Locations
6. Financial Matters
  - a. Presentation of Aged Payables Report
  - b. Discuss District No. 1 and 3 Audits
7. Legal Matters
  - a. Executive session under Section 24-6-402(4)(b) to confer with District Counsel to discuss:
    - i. Budget Issues.
    - ii. Possible Service Plan Amendment to Raise Revenues for Services and Related matters.
    - iii. Contractual Obligations between Northridge Estates Metropolitan District Nos. 1-3, Northridge Partners, LLC, and GLH Construction, LLC, Including but not Limited to the Following:
      1. Construction Funding Advance and Reimbursement with Northridge Estates Partners, LLC, and
      2. Construction Agreement with GLH Construction, LLC and Northridge Estates Metropolitan District No. 1, and
      3. Operating Reimbursement Agreement with Northridge Estates Partners, LLC, and its Obligation to Pay District Operating Expenses.
  - b. Action on Items Discussed in Executive Session
8. Other Business to Come Before the Boards
9. Adjournment

NORTHRIDGE ESTATES METROPOLITAN DISTRICT NOS.  
1, 2 AND 3

By: /s/ Alex Carlson  
District Manager

**MINUTES OF A JOINT SPECIAL MEETING OF THE  
BOARDS OF DIRECTORS OF THE  
NORTHRIDGE ESTATES METROPOLITAN DISTRICT NOS. 1-3  
HELD AUGUST 2, 2023**

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A joint special meeting of the Boards of Directors (the “**Boards**”) of the Northridge Estates Metropolitan District Nos. 1-3 (the “**District**”) was held on Wednesday, August 2, 2023, at 5:00 p.m. held exclusively by means of Zoom webinar. The meeting was open to the public.

ATTENDANCE

District 1 -Directors in Attendance:

Donald Guerra  
Angela Garcia  
Leslie Brown  
Joshua Montoya

Districts 2 and 3 – Directors in Attendance:

Donald Guerra  
Robert Eck  
Leslie Brown  
Marvin Davis

Directors Absent:

None

Also in Attendance:

Alex Carlson, Andrea Weaver, and Kacee Sanders - Centennial Consulting Group, LLC  
David Greher, Cockrel Ella Glesne Greher & Ruhland, P.C.  
12 - Members of the community

Call to Order: Mr. Carlson called the meeting to order at 5:02 p.m.

Disclosures of Potential Conflicts of Interest: The Boards discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Boards of Directors and to the Secretary of State. Mr. Carlson noted that a quorum was present in District Nos. 1, 2, and 3 and requested members of the Boards to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. District Counsel noted that all Directors’ Disclosure Statements had been filed by the statutory deadline.

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Approval of Agenda: Following review, Director Guerra moved to approve the agenda as presented. Director Brown seconded, and the motion unanimously carried.

ADMINISTRATIVE  
MATTERS

Minutes: The Boards considered approval of the minutes from the June 30, 2023 Special Meeting. Director Guerra moved to approve the minutes. Director Brown seconded, and the motion was unanimously carried.

Consider Appointments to fill Board Vacancies: Director Guerra resigned from District No. 1. Director Montoya moved to appoint Kelsey Phillips and Sara Freisl to fill District No. 1 Board vacancies. Director Brown moved to appoint Kelsey Phillips and Sara Freisl subject to verifying qualifications. Director Montoya seconded, and the motion was unanimously carried.

Election of Officers: Director Montoya moved to elect officers for District No. 1 as follows: Kelsey Phillips as Assistant Secretary, Sara Friesl as Vice President, Joshua Montoya as President, and Leslie Brown as Treasurer. Director Brown seconded, and the motion was unanimously carried.

Ratify November 3, 2022 Minutes: Director Montoya moved to ratify the November 3, 2022 Special Meeting minutes. Director Brown seconded, and the motion was unanimously carried.

FINANCIAL  
MATTERS

Unaudited Financial Statements: Ms. Weaver presented the Unaudited Financial Statements for the period ending June 30, 2023. Director Brown moved to approve the Unaudited Financial Statements for the period ending June 30, 2023. Director Guerra seconded, and the motion was unanimously carried.

Ratification of Claims: Ms. Weaver presented the claims for the period of May 31, 2023 through June 30, 2023. Director Brown moved to ratify the claims for the period ending June 30, 2023. Director Eck seconded, and the motion was unanimously carried.

LEGAL MATTERS

Revocable License Agreement for Landscape Maintenance Services: Following review, Director Guerra moved to approve the Revocable License Agreement for Landscape Maintenance Services with Brightview Landscape Services. Director Eck seconded, and the motion was unanimously carried.

DISTRICT  
MATTERS

Consider Approval of Proposed Changes to District Rules and Regulations:  
The Boards discussed. No action was taken.

Appoint Volunteers to Architectural Control Committee (ACC):  
Director Montoya moved to appoint Joshua Montoya, Sara Friesl, Tiffany Stout, and Curtis McKay to the Architectural Control Committee. Director Brown seconded, and the motion was unanimously carried.

Consider Approval of Social Media Draft Policy:  
The Boards discussed. The item was tabled for a future meeting.

Discuss Regular Meeting Schedule:  
The Boards discussed. The item was tabled for a future meeting.

Discuss Pet Waste Stations:  
The Boards discussed. The item was tabled for a future meeting.

Discuss Communications in the Neighborhood:  
Director Montoya presented. No action was taken.

PUBLIC  
COMMENTS

None.

OTHER BUSINESS

None.

ADJOURNMENT

Director Brown moved to adjourn the meeting at 7:05 PM. Director Montoya seconded, and the motion was unanimously carried.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

**MINUTES OF A JOINT SPECIAL MEETING OF THE  
BOARDS OF DIRECTORS OF THE  
NORTHRIDGE ESTATES METROPOLITAN DISTRICT NOS. 1-3  
HELD NOVEMBER 29, 2023**

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A joint special meeting of the Boards of Directors (the “**Boards**”) of the Northridge Estates Metropolitan District Nos. 1-3 (the “**District**”) was held on Wednesday, November 29, 2023, at 5:00 p.m. held exclusively by means of Zoom webinar. The meeting was open to the public.

ATTENDANCE

District 1 -Directors in Attendance:

Sara Freisl  
Angela Garcia  
Leslie Brown  
Kelsey Phillips  
Joshua Montoya

Districts 2 and 3 – Directors in Attendance:

Donald Guerra  
Robert Eck  
Leslie Brown  
Marvin Davis

Directors Absent:

None

Also in Attendance:

Alex Carlson, Dave Dressler, and Molly Mild - Centennial Consulting Group, LLC  
David Greher, Cockrel Ella Glesne Greher & Ruhland, P.C.  
5 - Members of the community

Call to Order: Mr. Carlson called the meeting to order.

Disclosures of Potential Conflicts of Interest: The Boards discussed the requirements pursuant to the Colorado Revised Statutes to disclose any potential conflicts of interest or potential breaches of fiduciary duty to the Boards of Directors and to the Secretary of State. Mr. Carlson noted that a quorum was present in District Nos. 1, 2, and 3 and requested members of the Boards to disclose any potential conflicts of interest with regard to any matters scheduled for discussion at this meeting and incorporated for the record those applicable disclosures made by the Board members prior to this meeting in accordance with the statute. District Counsel noted that all Directors’ Disclosure Statements had been filed by the statutory deadline.

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Approval of Agenda: Following review, Director Phillips moved to add item 6f. “Consider appointment to fill Board vacancy”, item 7d. “Discuss Architectural Review Fees”, and item 7e. “Discuss the addition of Speed Bumps within the community” to the agenda. Director Freisl seconded, and upon vote the motion was unanimously carried.

ADMINISTRATIVE  
MATTERS

Minutes: The Boards considered approval of the minutes from the August 2, 2023 Special Meeting. Director Eck moved to table the minutes for the next meeting. Director Guerra seconded, and the motion was unanimously carried.

FINANCIAL  
MATTERS

Unaudited Financial Statements: Mr. Dressler presented the Unaudited Financial Statements for the period ending August 31, 2023. Director Guerra moved to approve the Unaudited Financial Statements for the period ending August 31, 2023. Director Brown seconded, and the motion was unanimously carried.

Ratification of Claims: Mr. Dressler presented the claims for the period of July 31, 2023 through August 31, 2023. Director Guerra moved to ratify the claims for the period ending August 31, 2023. Director Brown seconded, and the motion was unanimously carried.

Ratification of 2022 Audits (Districts 1 & 3): Following review and discussion, Director Brown moved to ratify the 2022 Audits for Districts Nos. 1 and 3. Director Phillips seconded, and the motion was unanimously carried.

Ratification of 2022 Audit Exemption (District 2): Following review and discussion, Director Brown moved to ratify the 2022 Audits for District No. 2. Director Phillips seconded, and the motion was unanimously carried.

Discuss 2023 Audit Requirements: Following discussion, Director Guerra made a motion for Director Brown to sign the audit engagement agreements, not to exceed \$16,000. Director Brown seconded, and the motion was unanimously carried.

Public Hearing on 2023 Budget Amendments and Consider Adoption of Resolution Amending 2022 Budgets (Districts 1 & 2): Director Guerra opened the public hearing. Hearing no comments Director Guerra closed the public hearing. Following review, Director Freisl moved to approve the Amended 2022 Budget for District No. 1. Director Brown seconded, and the motion was unanimously carried. Director Brown moved to approve the Amended 2022 Budget for District No. 2. Director Guerra seconded, and the motion was unanimously carried.

Public Hearing on 2024 Budget and Consider Adoption of Resolution Adopting 2024 Budgets: Director Guerra opened the public hearing. Hearing no comments Director Guerra closed the public hearing. Following review, Director Brown moved to approve the 2024 Budget for District No. 1. Director Freisl seconded, and the motion was unanimously carried. Director Guerra moved to approve the 2024 Budget for District No. 2. Director Brown seconded, and the motion was unanimously carried. Director Guerra moved to approve the 2024 Budget for District No. 3. Director Eck seconded, and the motion was unanimously carried.

## LEGAL MATTERS

Resolutions Designating Posting Location: Following discussion, Director Eck moved to adopt the Resolutions Designating Posting Location for District Nos. 1-3. Director Guerra seconded, and the motion unanimously carried.

Resolution to Establish an Operations Fee: Following review and discussion, Director Freisl moved to approve the Resolution to Establish an Operations Fee of \$480 per year, billed monthly, subject to City Approval. Director Phillips seconded, and the motion was unanimously carried.

2024 Engagement of Centennial Consulting Group as District Accountant and Manager: Following review and discussion, Director Freisl moved to approve Centennial Consulting Group as Accountant and Manager for the Districts. Director Brown seconded, and the motion was unanimously carried.

Adoption of Resolutions Exercising Option Not to Provide Workers' Compensation Insurance Coverage for Board Members for Policy Year 2024: Following review, Director Guerra moved to approve the Resolutions Exercising Option Not to Provide Workers' Compensation Insurance Coverage for Board Members for Policy Year 2024. Director Brown seconded, and the motion was unanimously carried.

Ratify 2022 Annual Report and Authorize Filing of 2023 Annual Report: Following review, Director Guerra moved to ratify the 2022 Annual Report and authorize filing the 2023 Annual Report. Director Brown seconded, and the motion was unanimously carried.

Consider Appointment of Resident Board: Following discussion, Director Guerra nominated Kyle Moore to the vacancy on the District No. 2 Board subject to confirmation of Mr. Moore's qualifications. Director Eck seconded, and the motion was unanimously carried.

## DISTRICT MATTERS

Ratification of Snow Removal Agreement with Brightview Landscape Services (District 3): Following discussion, Director Freisl moved to



ratify the Snow Removal Agreement with Brightview Landscape Services for District No. 3. Director Phillips seconded, and the motion was unanimously carried.

Discuss Approval of Landscape Maintenance Agreement with Brightview Landscape Services (District 3): Following discussion, Director Freisl moved to approve the Landscape Maintenance Agreement with Brightview Landscape Services for District No. 3. Director Phillips seconded, and the motion was unanimously carried.

Discuss Regular Meeting Schedule: The Boards discussed. Meetings will be scheduled quarterly.

Architectural Review Fees: Following discussion, Director Freisl moved to approve the reduction of Architectural Review Fees to \$10. Director Phillips seconded, and the motion passed unanimously.

Discussion of Speed Bumps: The Boards discussed.

PUBLIC  
COMMENTS

None.

OTHER BUSINESS

None.

ADJOURNMENT

Director Phillips moved to adjourn the meeting at 7:05 PM. Director Freisl seconded, and the motion was unanimously carried.

Respectfully submitted,

By \_\_\_\_\_  
Secretary for the Meeting

**NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1**  
**RESOLUTION DESIGNATING LOCATION TO POST NOTICE**

**WHEREAS**, pursuant to §§24-6-402(2)(c) and 32-1-903(2), C.R.S., notice and, where possible, the agenda of the Northridge Estates Metropolitan District No. 1 (the “**District**”) Board of Directors (the “**Board**”) meetings at which the adoption of any formal action is to occur or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be posted within the boundaries of the District at least 24 hours prior to each meeting at a location designated at the first regular meeting of each year.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Northridge Estates Metropolitan District No. 1 as follows:

Notices of meetings (regular, special and work/study session) of the Board required pursuant to §24-6-401, *et seq.*, C.R.S., shall be posted at least 24 hours prior to each meeting at: [www.ccgcolorado.com/northridge](http://www.ccgcolorado.com/northridge)

In the event of an exigent or emergency circumstance such as a power outage or an interruption in internet service, the District will post notice of public meetings at least 24 hours prior to a meeting at the following physical location within the District at the approximate geographical location:

40°26'13.9"N 104°47'01.8"W

ADOPTED this 31<sup>st</sup> day of January, 2024.

NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1

By \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

**NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 2**  
**RESOLUTION DESIGNATING LOCATION TO POST NOTICE**

**WHEREAS**, pursuant to §§24-6-402(2)(c) and 32-1-903(2), C.R.S., notice and, where possible, the agenda of the Northridge Estates Metropolitan District No. 2 (the “**District**”) Board of Directors (the “**Board**”) meetings at which the adoption of any formal action is to occur or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be posted within the boundaries of the District at least 24 hours prior to each meeting at a location designated at the first regular meeting of each year.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Northridge Estates Metropolitan District No. 2 as follows:

Notices of meetings (regular, special and work/study session) of the Board required pursuant to §24-6-401, *et seq.*, C.R.S., shall be posted at least 24 hours prior to each meeting at: [www.ccgcolorado.com/northridge](http://www.ccgcolorado.com/northridge)

In the event of an exigent or emergency circumstance such as a power outage or an interruption in internet service, the District will post notice of public meetings at least 24 hours prior to a meeting at the following physical location within the District at the approximate geographical location:

40°26'13.9"N 104°47'01.8"W

ADOPTED this 31<sup>st</sup> day of January, 2024.

NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 2

By \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

**NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 3**  
**RESOLUTION DESIGNATING LOCATION TO POST NOTICE**

**WHEREAS**, pursuant to §§24-6-402(2)(c) and 32-1-903(2), C.R.S., notice and, where possible, the agenda of the Northridge Estates Metropolitan District No. 3 (the “**District**”) Board of Directors (the “**Board**”) meetings at which the adoption of any formal action is to occur or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be posted within the boundaries of the District at least 24 hours prior to each meeting at a location designated at the first regular meeting of each year.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Directors of the Northridge Estates Metropolitan District No. 3 as follows:

Notices of meetings (regular, special and work/study session) of the Board required pursuant to §24-6-401, *et seq.*, C.R.S., shall be posted at least 24 hours prior to each meeting at: [www.ccgcolorado.com/northridge](http://www.ccgcolorado.com/northridge)

In the event of an exigent or emergency circumstance such as a power outage or an interruption in internet service, the District will post notice of public meetings at least 24 hours prior to a meeting at the following physical location within the District at the approximate geographical location:

40°26'13.9"N 104°47'01.8"W

ADOPTED this 31<sup>st</sup> day of January, 2024.

NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 3

By \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

# Northridge Estates Metropolitan District No. 3

AP Aging for Ending Date: 1/16/2024

Provider	Current	Over 30	Over 60	Over 90	Total
BRIGHTVIEW LANDSCAPE SERVICES INC. Acct # 16697957 Inv # 8548694 on 11/1/2023 - - Sprinkler Repair	0.00	0.00	8,649.14	0.00	8,649.14
CENTENNIAL CONSULTING GROUP Inv # 10496 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,042.52	3,042.52
CENTENNIAL CONSULTING GROUP Inv # 10653 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,001.06	3,001.06
CENTENNIAL CONSULTING GROUP Inv # 10872 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,005.56	3,005.56
CENTENNIAL CONSULTING GROUP Inv # 11068 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,020.46	3,020.46
CENTENNIAL CONSULTING GROUP Inv # 11280 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,043.48	3,043.48
CENTENNIAL CONSULTING GROUP Inv # 11484 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,103.46	3,103.46
CENTENNIAL CONSULTING GROUP Inv # 11673 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,041.86	3,041.86
CENTENNIAL CONSULTING GROUP Inv # 11859 on 9/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,060.36	3,060.36
CENTENNIAL CONSULTING GROUP Inv # 11935 on 9/19/2023 - - Design Review Fees	0.00	0.00	0.00	250.00	250.00
CENTENNIAL CONSULTING GROUP Inv # 12043 on 10/1/2023 - - Management & Accounting Services	0.00	0.00	0.00	3,000.00	3,000.00
CENTENNIAL CONSULTING GROUP Inv # 12221 on 11/1/2023 - - Audit/Tax Prep	0.00	0.00	3,636.12	0.00	3,636.12
CENTENNIAL CONSULTING GROUP Inv # FC 88 on 11/1/2023 - - Management & Accounting Services	0.00	0.00	868.60	0.00	868.60
CENTENNIAL CONSULTING GROUP Inv # 12407 on 12/1/2023 - - Management & Accounting Services	0.00	3,004.60	0.00	0.00	3,004.60
CENTENNIAL CONSULTING GROUP Inv # 12478 on 12/1/2023 - - Design Review Fees	0.00	50.00	0.00	0.00	50.00
COCKREL ELA GLESNE GREHER & RUHLAND. P.C Acct # 8073.001 Inv # 8073.001 - August 2023 on 9/1/2023 - - Legal	0.00	0.00	0.00	3,685.00	3,685.00
COCKREL ELA GLESNE GREHER & RUHLAND. P.C Acct # 8073.001 Inv # September 2023 - 8073.001 on 9/30/2023 - - Legal	0.00	0.00	0.00	3,755.50	3,755.50
COCKREL ELA GLESNE GREHER & RUHLAND. P.C Acct # 8073.001 Inv # October 2023 - 8073.001 on 11/1/2023 - - Legal	0.00	0.00	2,689.00	0.00	2,689.00
COCKREL ELA GLESNE GREHER & RUHLAND. P.C Acct # 8073.001 Inv # November 2023 - 8073.001 on 12/1/2023 - - Legal	0.00	6,286.50	0.00	0.00	6,286.50
COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL C/O MCGRIF SEIBELS & WILLIAMS, INC. Acct # 24PL-61746-1521 Inv # 61746 #1 on 9/5/2023 - - Prepaid Insurance	0.00	0.00	0.00	2,076.00	2,076.00
COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL C/O MCGRIF SEIBELS & WILLIAMS, INC. Acct # 24PL-61747-1680 Inv # 61747 #2 on 12/1/2023 - - Prepaid Insurance	0.00	2,076.00	0.00	0.00	2,076.00
COLORADO SPECIAL DISTRICTS PROPERTY AND LIABILITY POOL C/O MCGRIF SEIBELS & WILLIAMS, INC. Acct # 24PL-61748-1738 Inv # 61748 #3 on 12/1/2023 - - Prepaid Insurance	0.00	2,076.00	0.00	0.00	2,076.00
FISCAL FOCUS PARTNERS, LLC Inv # 23094 on 9/21/2023 - - Audit/Tax Prep	0.00	0.00	0.00	7,500.00	7,500.00
FISCAL FOCUS PARTNERS, LLC Inv # 23095 on 9/21/2023 - - Audit/Tax Prep	0.00	0.00	0.00	8,000.00	8,000.00

# Northridge Estates Metropolitan District No. 3

AP Aging for Ending Date: 1/16/2024

Provider	Current	Over 30	Over 60	Over 90	Total
NATURESCAPE INC. (DBA: ALPINE GARDENS) Inv # 23480 on 9/1/2023 - - Landscape Contract	0.00	0.00	0.00	7,333.99	7,333.99
NATURESCAPE INC. (DBA: ALPINE GARDENS) Inv # 23653 on 9/1/2023 - - Landscape Contract	0.00	0.00	0.00	7,333.99	7,333.99
NATURESCAPE INC. (DBA: ALPINE GARDENS) Inv # 23805 on 9/1/2023 - - Landscape Contract	0.00	0.00	0.00	7,333.99	7,333.99
PRAIRIE MOUNTAIN MEDIA Inv # 368534 on 12/1/2023 - - Publication & Recording	0.00	27.28	0.00	0.00	27.28
THE VERNIS, INC (DBA: T. CHARLES WILSON INSURANCE SERVICE) Inv # 12833 on 11/1/2023 - - Insurance	0.00	0.00	595.00	0.00	595.00
THE VERNIS, INC (DBA: T. CHARLES WILSON INSURANCE SERVICE) Inv # 12834 on 11/1/2023 - - Insurance	0.00	0.00	595.00	0.00	595.00
THE VERNIS, INC (DBA: T. CHARLES WILSON INSURANCE SERVICE) Inv # 12835 on 11/1/2023 - - Insurance	0.00	0.00	595.00	0.00	595.00
<b>Total</b>	<b>0.00</b>	<b>13,520.38</b>	<b>17,627.86</b>	<b>74,587.23</b>	<b>105,735.47</b>

## **CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT AGREEMENT**

This **CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT AGREEMENT** (this “**Agreement**”) is made and entered into as of the 30<sup>th</sup> day of July, 2020, by and between **NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **NORTHRIDGE ESTATES PARTNERS, LLC**, a Colorado limited liability company, and its affiliates, successors or assigns (the “**Developer**”). The District and the Developer are referred to herein as the “**Parties**”.

### **RECITALS**

WHEREAS, the District is duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure improvements and services needed for a development project known as “Northridge Estates” (the “**Project**”), all in accordance with the Consolidated Service Plan (the “**Service Plan**”) for the Northridge Estates Metropolitan District Nos. 1-3 (collectively, “**the Districts**”); and

WHEREAS, the Project includes public infrastructure to be the responsibility of the District (the “**Public Infrastructure**”) and private infrastructure to be the responsibility of the Developer (the “**Private Infrastructure**”), both of which benefit and are necessary for completion of the Project; and

WHEREAS, the Parties desire to undertake construction of Public Infrastructure and Private Infrastructure for the benefit of the Project in accordance with the Plans and Specifications (as defined below) and in accordance with this Agreement; and

WHEREAS, the District has conducted a public bid for the construction of the Project for the Northridge Estates Subdivision Phase 1, 2, & 3 pursuant to the provision of the Special District Act, and on July 30, 2020, the Board of Directors of the District determined to award a construction contract (the “**Construction Contract**”) to the apparent lowest responsive and responsible bidder, GLH Construction, LLC, a Colorado limited liability company (the “**Contractor**”), in the amount of \$3,940,437.39, subject to modification by approved Change Order as set forth in Section 1 below (the “**Contract Amount**”); and

WHEREAS, the District does not presently have financial resources to provide funding for payment of the Contract Amount in order to enable construction of Project or the Public Infrastructure to proceed in a timely manner; and

WHEREAS, the District and the Developer desire to enter into this Agreement for the purpose of consolidating all understandings and commitments between such Parties relating to the Developer's obligation to fund the Contract Amount and the District's commitment to reimburse that portion of the Contract Amount associated with Public Infrastructure; and

WHEREAS, the Developer is willing to advance funds (each an "**Advance**") to the District in the amount of the Contract Amount on the condition that the District agrees to repay such portion of the Advances associated with Public Improvement under the terms of this Agreement; and

WHEREAS, the Board of Directors of the District has determined that the best interests of the District and its property owners and residents will be served by entering into this Agreement for the funding of the Contract Amount by the Developer; and

WHEREAS, the District's Board of Directors has authorized its officers to execute this Agreement and to take all other actions necessary and desirable to effectuate the purposes of this Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Developer agree as follows:

#### COVENANTS AND AGREEMENTS

1. Advance Amount and Term. The Developer shall Advance funds to the District, not to exceed the Contract Amount, according to the procedures set forth in Section 3. The Parties agree that the proportional amount of the Contract Amount associated with Public Infrastructure and Private Infrastructure is as set forth in **Exhibit A**, attached hereto and incorporated herein by this reference. In the event a change order is determined necessary by the District and approved in writing by the Developer, which approval shall not be unreasonably withheld (a "**Change Order**"), the Contract Amount may be increased or decreased, as applicable, in the amount of the Change Order by execution of a Change Order in accordance with the Construction Contract and shall become part of the Contract Amount. Any Change Order shall clearly state whether the change is associated with Public Infrastructure or Private Infrastructure. Each Advance shall be provided to the District to allow the District to make its payment obligations under the Construction Contract, and shall be available to the District through December 31, 2021 (the "**Advance Obligation Termination Date**").

2. Use of Funds. The District agrees that it shall apply all Advances received from the Developer under this Agreement solely to the payment of the Contract Amount pursuant to the Construction Contract. The Developer, shall be entitled to a monthly



accounting of the expenditures made by the District and otherwise may request specific information concerning such expenditures at reasonable times and upon reasonable notice to the District and the District shall promptly provide such requested information.

3. Manner for Requesting Funding.

(a) Monthly Advance Request. On or before the 20th day of each month, the District shall deliver to the Developer a request for an Advance in the form of the “**Funding Request**” attached hereto as **Exhibit B**, which shall be properly completed and approved by the District. The amount of the Advance in the Funding Request shall be based on pay applications received for payment under the Construction Contract (the “**Pay Applications**”).

(b) Documents Required. Each Funding Request shall be accompanied by:

(i) Pay Applications for which funding is being sought which shall include a sworn statement from the Contractor setting forth in detail the names, addresses, and telephone numbers of all subcontractors with whom it has contracted, type of labor and materials to be furnished, amounts of the sub-contracts (including extras and credits), amounts previously paid to date, amounts of current request, accumulative retainage to date, and balances due;

(ii) Lien waivers (consisting of at least final waivers of lien or waivers of lien to date, as appropriate), dated as of the date of the Contractor’s Sworn Statement;

(iii) Engineer’s recommendation for payment; and

(iv) Such other instruments, documents and information as may be reasonably agreed upon by the Parties or as may be reasonably required by the Escrow Agent.

(c) Final Disbursement. The Developer shall advance to the District the final disbursement of the Contract Amount when the following conditions have been complied with, provided that all other conditions in this Agreement for disbursements have been complied with:

(i) Construction has been fully completed and equipped in substantial accordance with the those certain plans and specifications known as (A) Northridge Estates Subdivision Construction Documents, dated May 19, 2017, (B) Landscape Architectural Plans for Northridge Estates 1<sup>st</sup> Replat, dated May 19, 2017, and (C) all other plans, specifications, tests and reports incorporated into Section 3(c)(i)(A) and

Section 3(c)(i)(B) (collectively, the “**Plans and Specifications**”), free and clear of mechanics’ liens and security interests; and

(ii) The District shall have furnished to the Developer copies of all final sworn statements and waivers of lien and sworn statements from contractors, subcontractors and material suppliers; and

(iii) The District shall have complied with any applicable statutory requirements related to the distribution of final payments for construction contracts, including but not limited to the publication of a Notice of Final Payment.

(d) District Representations. The submittal by the District of a Funding Request shall be deemed to include the following representations and warranties by the District:

(i) That all outstanding claims for labor, services and materials have been paid or will be paid from the proceeds of each Funding Request and the District has received lien waivers (which may be conditioned upon receipt of payment) for all work performed through the last day of the calendar month immediately preceding the Funding Request;

(ii) That there are no liens outstanding on the Project;

(iii) That all construction up to the date of the Funding Request has been done in compliance with the Construction Contract;

(iv) That all funds disbursed by the Developer have been applied as required by this Agreement;

(v) That the District is in compliance with all of its obligations under this Agreement; and

(vi) The required testing and inspections by qualified third party testing companies have been completed and no deficiencies have been noted.

(e) Construction Progress Report. With each Funding Request, and upon the request of the Developer, the District shall provide to the Developer a construction progress report concerning the progress made toward construction and completion of the Project. If requested, each such report shall include an accounting of Advances made by Developer to the District in the prior month pursuant to Section 2.

(f) Retainage. No individual Funding Request shall exceed the portion thereof which the District is then obligated to disburse to the Contractor. Any “retainage” to which the Contractor is entitled shall be funded by the Developer under a separate Funding Request such that payment of retainage to the Contract Amount can be made in accordance with the Construction Contract.

(g) Record Keeping. The District shall keep a record of Advances made hereunder, and shall cause expenditures of such Advances to be accounted for as part of its monthly financial reporting, including accounting for that portion of any Advances made for Public Infrastructure and for Private Infrastructure. The District shall provide such records to the Developer upon the Developer’s reasonable request.

(h) Funding of Advances. Within ten business days of receipt by the Developer of a properly completed Funding Request signed by an officer of the District, the Developer shall Advance the amount requested in immediately available funds by wire transfer to the District.

4. Obligations Irrevocable.

(a) The obligations created by this Agreement are absolute, irrevocable, unconditional, and are not subject to setoff or counterclaim.

(b) So long as a Funding Request conforms to the terms and conditions of this Agreement, the Developer shall not intentionally take any action which would adversely delay or impair the District’s ability to receive the funds contemplated herein with sufficient time to properly pay approved Pay Applications.

5. Terms of Repayment; Source of Revenues. Any Advances for Public Infrastructure, as described in Exhibit A and any properly approved Change Order, made by Developer hereunder shall repaid by the District to the Developer in accordance with the terms hereof, including Section 12.

(a) If and to the extent that the District (i) receives bond proceeds for the acquisition or completion of the Public Infrastructure or (ii) has other legally available revenue which is not otherwise appropriated, obligated, pledged or reserved for any current or future purpose in any fiscal year, the District will, from such available sources, reimburse the Developer or its assignee for all Advances for Public Infrastructure and other amounts actually advanced hereunder, together with simple interest thereon at a fixed rate of 8.5% per annum (cumulatively, the “**Capital Repayment Amount**”) commencing as of the date of each Advance.

(b) The District will undertake commercially reasonable efforts to issue tax-exempt or taxable bonds or notes and to generate sufficient revenue to repay to the Developer or its assignee all of the Capital Repayment Amount, subject to all conditions and limitations set forth herein and other applicable law. If requested, the District will also take all commercially reasonable action to recognize that interest paid to the Developer or its assignee on the Capital Repayment Amount will, to the extent possible under federal tax regulations, be treated as exempt from federal income taxation. Any Board decision to appropriate the Capital Repayment Amount, however, shall be purely discretionary and non-obligatory.

(c) All of the Capital Repayment Amount and any other obligation hereunder shall be (i) subject to any and all limitations on the amount of financial obligations which the District may incur pursuant to the Service Plan, any ballot questions or any bond indenture or bond resolution and (ii) non-transferable or assignable, except to a person or entity (or its lender) which the District reasonably believes is engaged, either alone or with others, in the business of developing or improving property in the District for use, sale, lease or transfer to others.

6. Termination.

(a) The Developer's obligations to Advance funds to the District in accordance with this Agreement shall terminate on the earlier of the Advance Obligation Termination Date or final payment to the Contractor pursuant to the terms of the Construction Contract.

(b) The District's obligations to repay the Developer shall be governed by the terms of this Agreement, including Section 12, and shall terminate 40 years from the date hereof. Any portion of the Capital Repayment Amount not paid 40 years after the date hereof shall be deemed discharged, paid and canceled.

7. Time Is of the Essence. Time is of the essence hereof; provided, however, that if the last day permitted or otherwise determined for the performance of any required act under this Agreement falls on a Saturday, Sunday or legal holiday, the time for performance shall be extended to the next succeeding business day, unless otherwise expressly stated.

8. Notices and Place for Payments. All notices, demands and communications (collectively, "**Notices**") under this Agreement shall be delivered or sent by: (a) first class, registered or certified mail, postage prepaid, return receipt requested, (b) nationally recognized overnight carrier, addressed to the address of the intended recipient set forth below or such other address as either party may designate by notice pursuant to this Paragraph, or (c) sent by PDF or email. Notices shall be deemed given either one business day after delivery to the overnight carrier, three days after being mailed as provided in clause (a) above, or upon confirmed delivery as provided in clause (c) above.

Notices sent pursuant to clause (a) or clause (b) as set forth above shall provide a conforming copy concurrently delivered via by email.

If to the District: Northridge Estates Metropolitan District No. 1  
C/O COLLINS COCKREL & COLE, P.C.  
Attention: David A. Greher  
390 Union Blvd., Suite 400  
Denver, Colorado 80228  
(303) 218-7201 (phone)  
dgreher@cccfirm.com

If to the Developer: Northridge Estates Partners, LLC  
Attention: Lee Lowrey  
4040 MacArthur Blvd., Ste. 250  
Newport Beach, CA 92660  
(949) 466-3361 (phone)  
lmlowrey@arborcapitalpartners.com

9. Amendments. This Agreement may only be amended or modified by a writing executed by both the District and the Developer.

10. Severability. If any portion of this Agreement is declared by any court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this Agreement, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

11. Applicable Laws. This Agreement and all claims or controversies arising out of or relating to this Agreement shall be governed and construed in accordance with the law of the State of Colorado, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Venue for all actions arising from this Agreement shall be in the District Court in and for Weld County, Colorado.

12. Agreement Not an Indebtedness or Multiple Fiscal Year Financial Obligation. The District's payment obligations under this Agreement shall be subject to annual appropriation by the Board of Directors of the District in its sole discretion. The terms and conditions of this Agreement shall not be construed as a multiple-fiscal year direct or indirect district debt or other financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution.

13. Governmental Immunity. Nothing herein shall be construed as a waiver of the rights and privileges of the District pursuant to the Colorado Governmental Immunity Act.

14. Supplemental Public Securities Act. The District hereby elects to apply all of the provisions of the Supplemental Public Securities Act, found at Title 11, Article 57, Part 2, C.R.S., to this Agreement other than Section 11-57-211, C.R.S. This recital shall be conclusive evidence of the validity and the regularity of the District's execution of this Agreement after its delivery for value.

15. Assignment. The covenants set forth in this Agreement may not be assigned by the District or the Developer without the prior written consent of the other Party.

16. Authority. By execution hereof, the District and the Developer represent and warrant that their respective representatives signing hereunder have full power and authority to execute this Agreement and to bind the respective party to the terms hereof.

17. Entire Agreement. This Agreement constitutes and represents the entire, integrated agreement between the District and the Developer with respect to the matters set forth herein and hereby supersedes any and all prior negotiations, representations, agreements or arrangements of any kind with respect to those matters, whether written or oral. This Agreement shall become effective upon the date of full execution hereof.

18. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against another merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each party has contributed substantially and materially to the preparation of this Agreement.

19. Counterpart Execution. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto.

[remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Construction Funding Advance and Reimbursement Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Assignment.

**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1**, a  
quasi-municipal corporation and political  
subdivision of the State of Colorado

By:   
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
ASST Secretary

**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By: \_\_\_\_\_

Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC



**FIRST AMENDMENT TO  
CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT  
AGREEMENT**

This **FIRST AMENDMENT TO CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT AGREEMENT** (this “**Amendment**”) is made and entered into as of the 1<sup>st</sup> day of February, 2021, by and between **NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **NORTHRIDGE ESTATES PARTNERS, LLC**, a Colorado limited liability company, and its affiliates, successors or assigns (the “**Developer**”). The District and the Developer are referred to herein as the “**Parties**”.

**RECITALS**

WHEREAS, the District is duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure improvements and services needed for a development project known as “Northridge Estates” (the “**Project**”), all in accordance with the Consolidated Service Plan (the “**Service Plan**”) for the Northridge Estates Metropolitan District Nos. 1-3 (collectively, “**the Districts**”); and

WHEREAS, the Project includes public infrastructure to be the responsibility of the District (the “**Public Infrastructure**”) and private infrastructure to be the responsibility of the Developer (the “**Private Infrastructure**”), both of which benefit and are necessary for completion of the Project; and

WHEREAS, the Parties have previously executed the Construction Funding Advance and Reimbursement Agreement (the “**Original Agreement**”) dated as of July 30, 2020 to undertake construction of Public Infrastructure and Private Infrastructure for the benefit of the Project in accordance with the Plans and Specifications; and

WHEREAS, the District has conducted a public bid for the construction of the Project for the Northridge Estates Subdivision Phase 1, 2, & 3 pursuant to the provision of the Special District Act, and on July 30, 2020, the Board of Directors of the District (the “**Board**”) awarded a construction contract (the “**Phase 1 Construction Contract**”) to the apparent lowest responsive and responsible bidder, GLH Construction, LLC, a Colorado limited liability company (the “**Contractor**”), in the amount of \$3,940,437.39, subject to modification by approved Change Order as set forth in Section 1 of the Original Agreement (the “**Phase 1 Contract Amount**”); and

WHEREAS, because the District did not have financial resources to provide funding for payment of the Phase 1 Contract Amount, the Parties entered into the Original Agreement for the purpose of consolidating all understandings and commitments between such Parties relating to the Developer's obligation to fund the Phase 1 Contract Amount and the District's commitment to reimburse that portion of the Phase 1 Contract Amount associated with Public Infrastructure; and

WHEREAS, the Board, relying on the public bidding previously conducted for the Project, now desires to award to the Contractor a construction contract for Phase 2 and part of Phase 3 of the Project (the "**Phase 2&3 Construction Contract**"), in the amount of \$ \_\_\_\_\_, subject to modification by approved Change Order as set forth in Section 1 of the Original Agreement (the "**Phase 2&3 Contract Amount**"); and

WHEREAS, the Developer is willing make an Advance to the District in the amount of the Phase 2&3 Contract Amount on the condition that the District agrees to repay such portion of the Advances associated with Public Improvement under the terms of the Original Agreement as modified by this Amendment (as so modified, this "**Agreement**"); and

WHEREAS, the Board has determined that the best interests of the District and its property owners and residents will be served by entering into this Amendment for the funding of the Phase 2&3 Contract Amount by the Developer; and

WHEREAS, the Board has authorized its officers to execute this Amendment and to take all other actions necessary and desirable to effectuate the purposes of this Amendment and the Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Developer agree as follows:

#### COVENANTS AND AGREEMENTS

1. Amendment of Original Agreement. Pursuant to Section 9 of the Original Agreement, the Parties hereby adopt this First Amendment. Except as modified in this Amendment, all other provisions of the Original Agreement shall remain in full force and effect and are not modified, changed, or amended by this Amendment. To the extent that any conflict exists between the terms of this Amendment and the terms of the Original Agreement, the provisions of this Amendment shall prevail. Capitalized terms used but not otherwise defined in this Amendment have the meanings set forth in the Original Agreement.

2. Phase 2&3 Advance Amount and Term. Separate and apart from the Advances to be made under the Original Agreement for the Phase 1 Construction Contract, the Developer shall Advance funds to the District, not to exceed the Phase 2&3 Contract Amount, according to the terms and conditions established by the Parties in the Original Agreement for the Phase 1 Contract Amount. The Parties agree that the proportional amount of the Phase 2&3 Contract Amount associated with Public Infrastructure and Private Infrastructure is as set forth in **Exhibit 1** to this Amendment, attached hereto and incorporated herein by this reference. In the event a Change Order is determined necessary by the District and approved in writing by the Developer, which approval shall not be unreasonably withheld, the Phase 2&3 Contract Amount may be increased or decreased, as applicable, in the amount of the Change Order by execution of a Change Order in accordance with the Phase 2&3 Construction Contract and shall become part of the Phase 2&3 Contract Amount. Any Change Order shall clearly state whether the change is associated with Public Infrastructure or Private Infrastructure. Each Advance shall be provided to the District to allow the District to make its payment obligations under the Phase 2&3 Construction Contract, and shall be available to the District through December 31, 2021 (the “**Phase 2&3 Advance Obligation Termination Date**”).

3. Termination of Obligations under this First Amendment.

(a) The Developer’s obligations to Advance funds to the District in accordance with this Amendment shall terminate on the earlier of the Phase 2&3 Advance Obligation Termination Date or final payment to the Contractor pursuant to the terms of the Phase 2&3 Construction Contract.


(b) The District’s obligations to repay the Developer shall be governed by the terms of the Agreement, including Section 12 of the Original Agreement, and shall terminate 40 years from the date thereof. Any portion of the Capital Repayment Amount not paid 40 years after the date of the Original Agreement shall be deemed discharged, paid and canceled.

4. Counterparts. This Amendment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means.

5. Recitals. All recitals referred to in this Amendment are incorporated in the Agreement by reference and will be deemed part of the Agreement for all purposes as if set forth at length herein.

IN WITNESS WHEREOF, the Parties have executed this First Amendment to Construction Funding Advance and Reimbursement Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Amendment.

**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1**, a  
quasi-municipal corporation and political  
subdivision of the State of Colorado

By:  \_\_\_\_\_  
President

ATTEST:

Robert L. Eck II  
Robert L. Eck II (Dec 21, 2021 11:10 MST)  
\_\_\_\_\_  
Secretary

**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By: *Lee M. Lowrey*  
Lee M. Lowrey (Jan 13, 2022 11:19 PST)

---

Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC

**EXHIBIT 1**  
**Public and Private Infrastructure**  
**Phase 2&3 Construction Contract**

**[To be inserted]**






# NRE - First Amendment to Construction Funding Advance Reimbursement Agreement - Signed

Final Audit Report

2022-01-13

Created:	2022-01-13
By:	Centennial Consulting Group CCG (adobe4@ccgcolorado.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAAMs_-9etJjYZUemtKZggXCtzIGHbq_3ri

## "NRE - First Amendment to Construction Funding Advance Reimbursement Agreement - Signed" History

-  Document created by Centennial Consulting Group CCG (adobe4@ccgcolorado.com)  
2022-01-13 - 0:30:49 AM GMT
-  Document emailed to Lee M. Lowrey (lmlowrey@arborcapitalpartners.com) for signature  
2022-01-13 - 0:32:26 AM GMT
-  Email viewed by Lee M. Lowrey (lmlowrey@arborcapitalpartners.com)  
2022-01-13 - 6:03:38 AM GMT
-  Document e-signed by Lee M. Lowrey (lmlowrey@arborcapitalpartners.com)  
Signature Date: 2022-01-13 - 7:19:18 PM GMT - Time Source: server
-  Agreement completed.  
2022-01-13 - 7:19:18 PM GMT

**SECOND AMENDMENT TO  
CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT  
AGREEMENT**

This **SECOND AMENDMENT TO CONSTRUCTION FUNDING ADVANCE AND REIMBURSEMENT AGREEMENT** (this “**Second Amendment**”) is made and entered into as of the 18th day of January, 2022, by and between **NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1**, a quasi-municipal corporation and political subdivision of the State of Colorado (the “**District**”), and **NORTHRIDGE ESTATES PARTNERS, LLC**, a Colorado limited liability company, and its affiliates, successors or assigns (the “**Developer**”). The District and the Developer are referred to herein as the “**Parties**”.

**RECITALS**

WHEREAS, the District is duly and validly organized as a quasi-municipal corporation and political subdivision of the State of Colorado in accordance with the provisions of Article 1, Title 32, Colorado Revised Statutes (the “**Special District Act**”), with the power to provide certain public infrastructure improvements and services needed for a development project known as “Northridge Estates” (the “**Project**”), all in accordance with the Consolidated Service Plan (the “**Service Plan**”) for the Northridge Estates Metropolitan District Nos. 1-3 (collectively, “**the Districts**”); and

WHEREAS, the Project includes public infrastructure to be the responsibility of the District (the “**Public Infrastructure**”) and private infrastructure to be the responsibility of the Developer (the “**Private Infrastructure**”), both of which benefit and are necessary for completion of the Project; and

WHEREAS, the Parties have previously executed the Construction Funding Advance and Reimbursement Agreement (the “**Original Agreement**”) dated as of July 30, 2020 and the First Amendment to Construction Funding Advance and Reimbursement Agreement (the “**First Amendment**”) dated as of February 8, 2021, both to undertake construction of Public Infrastructure and Private Infrastructure for the benefit of the Project in accordance with the Plans and Specifications; and

WHEREAS, the District has conducted a public bid for the construction of the Project for the Northridge Estates Subdivision Phase 1, 2, & 3 pursuant to the provision of the Special District Act, and the Board of Directors of the District (the “**Board**”) awarded to the apparent lowest, responsive and responsible bidder, GLH Construction, LLC, a Colorado limited liability company (the “**Contractor**”), construction contracts for various phases of the Project as follows: (a) for all of phase 1 work a Contract dated August 5, 2020, with a contract price of \$3,957,802.01 (the “**Phase 1 Construction Contract**”); and (b) for all of phase 2 work and a portion of phase 3 work a Contract



dated March 15, 2021, with a contract price of \$3,561,959.42 (the “**Phase 2/3 Construction Contract**”); and

WHEREAS, the Parties acknowledge that the First Amendment was inadvertently executed with a blank amount shown in the place for listing the Phase 2&3 Contract Amount and the Parties now acknowledge and agree that said amount was intended to be the same as the amount for the Phase 2/3 Construction Contract as described above, \$3,561,959.42; and

WHEREAS, because the District did not have financial resources to provide funding for payment of the Phase 1 Construction Contract and Phase 2/3 Construction Contract, the Parties entered into the Original Agreement and the First Amendment for the purpose of consolidating all understandings and commitments between such Parties relating to the Developer’s obligation to fund the Phase 1 Construction Contract and Phase 2/3 Construction Contract and the District’s commitment to reimburse that portion of the contract prices for each contract associated with Public Infrastructure; and

WHEREAS, the Board, relying upon the public bidding previously conducted for the Project, desires to award a contract to Contractor for completion of Phase 3 of the Project with a contract price of \$2,807,984.00 (the “**Phase 3 Construction Contract**”); and

WHEREAS, the Developer is willing make an Advance to the District in the amount of the Phase 3 Construction Contract on the condition that the District agrees to repay such portion of the Advances associated with Public Improvement under the terms of the Original Agreement and First Amendment as modified by this Second Amendment (as so modified, the “**Agreement**”); and

WHEREAS, the Board has determined that the best interests of the District and its property owners and residents will be served by entering into this Second Amendment for the funding of the Phase 3 Construction Contract by the Developer; and

WHEREAS, the Board has authorized its officers to execute this Second Amendment and to take all other actions necessary and desirable to effectuate the purposes of this Second Amendment and the Agreement.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the District and the Developer agree as follows:

#### COVENANTS AND AGREEMENTS

1. Amendment of Agreement. Pursuant to Section 9 of the Original Agreement, the Parties hereby adopt this Second Amendment. Except as modified in this

Second Amendment, all other provisions of the Original Agreement and the First Amendment shall remain in full force and effect and are not modified, changed, or amended by this Second Amendment. To the extent that any conflict exists between the terms of this Second Amendment and the terms of the Original Agreement or the First Amendment, the provisions of this Second Amendment shall prevail. Capitalized terms used but not otherwise defined in this Second Amendment have the meanings set forth in the Original Agreement or the First Amendment.

2. Phase 3 Advance Amount and Term. Separate and apart from the Advances to be made under the Original Agreement and the First Amendment, the Developer shall Advance funds to the District, not to exceed the contract price for the Phase 3 Construction Contract, according to the terms and conditions established by the Parties in the Original Agreement. The Parties agree that the proportional amount of the contract price for the Phase 3 Construction Contract associated with Public Infrastructure and Private Infrastructure is as set forth in **Exhibit 1** to this Second Amendment, attached hereto and incorporated herein by this reference. In the event a Change Order is determined necessary by the District and approved in writing by the Developer, which approval shall not be unreasonably withheld, the Phase 3 Contract Amount may be increased or decreased, as applicable, in the amount of the Change Order by execution of a Change Order in accordance with the Phase 3 Construction Contract and shall become part of the Phase 3 Contract Amount. Any Change Order shall clearly state whether the change is associated with Public Infrastructure or Private Infrastructure. Each Advance shall be provided to the District to allow the District to make its payment obligations under the Phase 3 Construction Contract, and shall be available to the District through December 31, 2022 (the “**Phase 3 Advance Obligation Termination Date**”).

3. Termination of Obligations under this Second Amendment.

(a) The Developer’s obligations to Advance funds to the District in accordance with this Second Amendment shall terminate on the earlier of the Phase 3 Advance Obligation Termination Date or final payment to the Contractor pursuant to the terms of the Phase 3 Construction Contract.

(b) The District’s obligations to repay the Developer shall be governed by the terms of the Agreement, including Section 12 of the Original Agreement, and shall terminate 40 years from the date thereof. Any portion of the Capital Repayment Amount, as such term is defined in the Original Agreement, not paid 40 years after the date of the Original Agreement shall be deemed discharged, paid and canceled.

4. Counterparts. This Second Amendment may be executed in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic

and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law. The parties hereto agree that the transactions described herein may be conducted and related documents may be stored by electronic means.

5. Recitals. All recitals referred to in this Second Amendment are incorporated in the Agreement by reference and will be deemed part of the Agreement for all purposes as if set forth at length herein.

IN WITNESS WHEREOF, the Parties have executed this Second Amendment to Construction Funding Advance and Reimbursement Agreement on the date and year first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Second Amendment.

**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1,** a  
quasi-municipal corporation and political  
subdivision of the State of Colorado

By:   
\_\_\_\_\_  
President

ATTEST:

Robert L. Eck II  
Robert L. Eck II (Feb 7, 2022 10:44 MST)  
\_\_\_\_\_  
Secretary

**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC, a Colorado limited liability company**

**By: Lowrey Pacific Holdings, LLC, a  
California limited liability company as its  
managing member**

By: Lee M. Lowrey  
Lee M. Lowrey (Mar 24, 2022 15:43 PDT)

Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC

**EXHIBIT 1**  
**Public and Private Infrastructure**  
**Phase 3 Construction Contract**

**[To be inserted]**

## CONTRACT

### Northridge Estates Metropolitan District No. 1 Northridge Estates Subdivision-Phase 1, 2 & 3

**THIS CONTRACT** is dated as of the August 5, 2020, by and between Northridge Estates Metropolitan District No. 1 (hereinafter called the "DISTRICT"), and GLH Construction, LLC, (hereinafter called "CONTRACTOR"), together or individually the "Party" or "Parties".

DISTRICT and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

#### 1.0 WORK

- 1.1** The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is to be completed in three phases, with each phase being substantially complete prior to commencement of the subsequent phase. The Work is generally described as follows: Furnish all supervision, labor, tools, equipment, materials and all other incidentals necessary to construct the Project in accordance with the Contract Documents, as defined in Article 7 herein. The Project for which the Work under the Contract Documents may be the whole or only a part(s) generally described as erosion control, sanitary sewer, potable water, non-potable water, storm sewer, underdrain, concrete curb & gutter, sidewalk, asphalt paving, striping, signage, fencing, landscaping, traffic control and all related work incidental to the completion of the project as per the plans provided by the DISTRICT and/or the acceptance requirements of the City of Greeley.
- 1.2** In event the Project is financed in whole or in part by funds of the State, or any county, school district, or municipality of the State of Colorado, the CONTRACTOR shall ensure that Colorado labor is employed to perform at least eighty percent (80%) of the Work as required by law. "Colorado labor" means any person who is a resident of the state of Colorado, at the time of the Project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification. A resident of the State of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days. The governmental body financing this Project may waive the eighty percent (80%) Colorado labor requirement if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work of the project and if compliance with this Section 1.1 would create an undue burden that would substantially prevent the Project from proceeding to completion.

#### 2.0 ENGINEER

The Project has been designed by Olsson and LandOne Engineering, LLC will provide engineering

support through the bidding and construction of the Project.

### 3.0 CONTRACT TIME

3.1 The Phase 1 Work will be substantially completed in accordance with the Contract Documents by 12/15/20 and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by 12/31/20, weather permitting.

~~3.2 The Phase 2 Work will be substantially completed in accordance with the Contract Documents by \_\_\_\_\_ and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by \_\_\_\_\_.~~

~~3.3 The Phase 3 Work will be substantially completed in accordance with the Contract Documents by \_\_\_\_\_ and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by \_\_\_\_\_.~~

3.4 Damages for late completion shall be determined in accordance with Section 8 of the General Provisions.

### 4.0 CONTRACT PRICE

DISTRICT shall pay the CONTRACTOR for performance of the Work in the amount of Three-million, nine-hundred-fifty-seven-thousand, eight-hundred-two dollars and 01/100 (\$3,957,802.01) in accordance with the Contract Documents in current funds as described in Article 5 below and pursuant to Exhibit H – Schedule of Values. The DISTRICT has appropriated an amount of money equal to or in excess of the Contract Price.

### 5.0 PAYMENT PROCEDURES

The CONTRACTOR shall submit Applications for Payment in accordance with Section 9 of the General Provisions. Applications for Payment will be processed by the DISTRICT for approval as described in the General Provisions.

5.1 Invoices are due to the Project Manager on the 3rd day of each month. The Project Manager will review and make recommendation for approval to the DISTRICT by the 15th day of each month. The DISTRICT shall make progress payments on the basis of the CONTRACTOR'S Applications for Payment as recommended by the Project Manager and approved by the DISTRICT, on or before the 15th day of the month following the Project Manager's recommendation for approval. All progress payments will be on the basis of the progress of the Work measured by the Schedule of Values provided for in the Contract Documents for the preceding calendar month.

5.2 Progress payments will be in an amount equal to ninety-five percent (95%) of the Work completed less the aggregate of payments previously made and less any back charges and/or damages accruing through the ending date of each payment period. At Final Completion of the Project and upon receipt of written acceptance by the DISTRICT, and upon compliance with state statutes, stated in Section 5.3, the Retainage will be released.

- 5.3 Upon receipt of the Certificate of Final Completion and the application for final payment, fulfillment of the public notification provisions of Section 38-26-107, C.R.S., and without the filing of any claims within the statutory timeframe, the DISTRICT shall pay the balance of the Contract Price to the CONTRACTOR, as provided in the General Provisions.

## 6.0 CONTRACTOR'S REPRESENTATIONS

In order to induce the DISTRICT to enter into this Contract, the CONTRACTOR makes the following representations:

- 6.1 The CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions, including federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 6.2 The CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the Project Site or otherwise affecting cost, progress or performance of the Work which were relied upon by Engineer in the preparation of the Plans and Specifications and which have been identified in the General Provisions and Special Provisions.
- 6.3 The CONTRACTOR has made or caused to be made examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 above as it deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examination, investigations, tests, reports or similar data are, or will be, required by CONTRACTOR for such purposes.
- 6.4 The CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 6.5 The CONTRACTOR has given the DISTRICT written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the DISTRICT is acceptable to the CONTRACTOR.
- 6.6 The CONTRACTOR warrants that it is an independent contractor and that it, its agents, employees, subcontractors, and others employed by it are not employees of the DISTRICT. The CONTRACTOR is an independent contractor as provided in Sections 8-40- 202(2)(b)(I)-(IV), C.R.S., and the CONTRACTOR is obligated to carry worker's compensation insurance in accordance with state law and the CONTRACTOR is obligated to pay federal and state income tax on monies earned pursuant to this Contract.



- 6.7** The CONTRACTOR warrants that it shall procure and maintain the insurance described in Exhibit J attached hereto during the construction of the Project.
- 6.8** The CONTRACTOR hereby indemnifies, defends, and holds harmless the DISTRICT from all claims and causes of action arising from the negligent acts or omissions or intentional misconduct of the CONTRACTOR or its employees, agents, representatives, subcontractors, or suppliers in the performance of this Contract. In the event CONTRACTOR's insurance policies do not provide for the defense, indemnification, or holding harmless of the DISTRICT, the CONTRACTOR shall only indemnify, defend, and hold harmless the DISTRICT from all such claims to the extent and for an amount by the degree or percentage of negligence or fault attributable to the CONTRACTOR or its employees or its agents, representatives, subcontractors, or suppliers. If the CONTRACTOR is providing architectural, engineering, surveying, or other design services, then the extent of the CONTRACTOR's obligation to defend, indemnify, or hold harmless the DISTRICT may be determined only after the CONTRACTOR'S liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the CONTRACTOR and the DISTRICT.

## **7.0 CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between the DISTRICT and the CONTRACTOR are attached to this Contract, made a part hereof and consist of the following:

This Contract and the following Exhibits attached hereto:

### **EXHIBITS:**

- A.** Notice of Award
- B.** Notice to Proceed
- C.** Plans and Specifications (inclusive of all phasing exhibits)
- D.** City of Greeley Design Criteria and Construction Specifications
- E.** General Provisions
- F.** Special Provisions
- G.** Addendums to Bid Documents
- H.** Schedule of Values
- I.** Construction Schedule
- J.** Insurance Requirements
- K.** Certificate of Insurance
- L.** Additional Insured Entity List
- M.** Performance Bond and Payment Bond
- N.** Conditional Waiver and Release Upon Progress Payment
- O.** Unconditional Waiver and Release Upon Progress Payment
- P-1.** Certification Regarding Employment of Illegal Aliens
- P-2.** Contractor Affirmation for the Department Program
- Q.** Change Order Form
- R.** Field Order Form

There are no Contract Documents other than those listed above in this Article 7.0. The Contract Documents may only be altered or amended by a Modification as defined in the General Provisions.

## **8.0 MISCELLANEOUS**

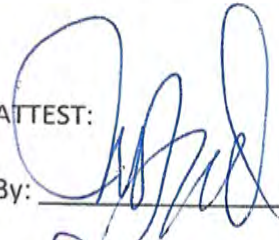
- 8.1** Terms used in this Contract which are defined in the General Provisions shall have the meanings indicated therein.
- 8.2** No assignment by a Party hereto of any rights under or interests in the Contract Documents will be binding on the other Party hereto without the written consent of the Party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law).
- 8.3** The DISTRICT and the CONTRACTOR each binds themselves, their partners (if any), their assigns, successors, and legal representatives to the other Party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4** All Builders shall be intended third-party beneficiaries of this Contract.
- 8.5** Contractor shall perform the Work in accordance with the Construction Standard, as that term is defined in Section 1 of the General Provisions attached hereto as Exhibit E.
- 8.6** The CONTRACTOR acknowledges and agrees to the DISTRICT's anticipated funding of the Contract Price for the Work hereunder pursuant to the Construction Funding Advance Agreement between the DISTRICT and Northridge Estates Partners, LLC (DEVELOPER), dated July \_\_\_\_\_, 2020 a copy of which the CONTRACTOR, by execution of this Agreement, acknowledges receipt of. The DISTRICT has appropriated money equal to or in excess of the Contract Price for the Work in reliance on said Construction Funding Advance Agreement but does not currently have in its funds and accounts any of the funds for the Contract Price. Progress payments are thus subject to the timing, approvals, and other terms and conditions of (a) said Construction Funding Loan Agreement and (b) the DEVELOPER'S agreements with its lenders.

## **9.0 OTHER PROVISIONS**

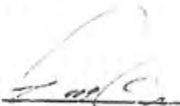
Reference in this Contract to the General Provisions is understood to mean the General Provisions, as amended or supplemented by the Special Provisions.

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IN WITNESS WHEREOF, the Parties hereto have signed this Contract in duplicate, effective as of the date first above written. One counterpart each will be delivered to the DISTRICT and to the CONTRACTOR.

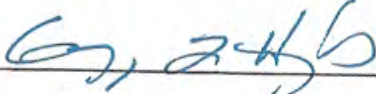
ATTEST:   
By: \_\_\_\_\_  
Title: SECRETARY

**DISTRICT:**  
Northridge Estates Metropolitan District  
No. 1

By:   
Title: President

Address for Giving Notice:  
2619 Canton Court, Suite A  
Fort Collins, CO 80525

ATTEST:  
By:   
Title: Office Manager

**CONTRACTOR:**  
GLH Construction LLC  
By:   
Title: President

**EXHIBIT "A"**

**NOTICE OF AWARD**

To: GLH Construction, LLC

Date: August 5, 2020

Northridge Estates Metropolitan District No. 1 (the "DISTRICT"), having duly considered the bid submitted on May 29, 2020 in the amount of \$3,957,802.01 for the Northridge Estates -Phases 1 project, and it appearing that your bid is fair, equitable, and to the best interest of the DISTRICT; said bid is hereby accepted at the bid prices contained therein subject to the DISTRICT'S future appropriation of funds to satisfy the Contract Price and subject to the DISTRICT and CONTRACTOR negotiating mutually agreeable contract terms and project schedule.

In accordance with the terms of the Contract Documents, you are required to execute the Contract, and supply the Performance Bond and the Payment Bond in two (2) counterparts within ten (10) days of receipt of the final contract.

In addition, you are requested to furnish at the same time Certificates of Insurance evidencing compliance with the requirements for insurance stated in the Contract Documents.

The bid security submitted with your bid will be returned upon execution of the Contract and furnishing of the required Performance Bond, Payment Bond and Certificates of Insurance within the time limit specified. In the event you should fail to execute the Contract and provide the bonds and insurance within the time limit specified, said bid security may be retained by the DISTRICT as liquidated damages and not as a penalty for the delay and extra Work caused thereby.

You are required to return an acknowledged copy of this Notice of Award to the DISTRICT.

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By:  \_\_\_\_\_

Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE OF AWARD is hereby acknowledged this 4 day of August, 2020.

**CONTRACTOR:** GLH Construction LLC

By:  \_\_\_\_\_

Title: President

**EXHIBIT "B"**

**NOTICE TO PROCEED**

To: GLH Construction, LLC

Date: August 5, 2020

You are hereby notified to commence Work in accordance with the Contract for the Northridge Estates Subdivision - Phase 1 project dated August 5, 2020.

Work is to begin on or before August 6, 2020.

All Work is to be substantially completed no later than December 15, 2020.

Final Completion of all Work is to be no later than December 31, 2020.

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By: 

Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this 4 day of August, 2020.

CONTRACTOR: GLH Construction LLC

By: 

Title: President

**EXHIBIT "C"**

**PLANS AND SPECIFICATIONS**

To be attached after this page.

**EXHIBIT "D"**

**CITY OF GREELEY  
DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS**

These are the Standards and Specifications as adopted by the City of Greeley. The Design Criteria and Construction Specifications are available from the City of Greeley. CONTRACTOR is required to perform WORK in accordance with the City of Greeley Design Criteria and Construction Specifications.

**EXHIBIT "E"**

**GENERAL PROVISIONS**

The General Provisions follow this page and are numbered GP-1 through GP-47.



**EXHIBIT "F"**

**SPECIAL PROVISIONS**

The Special Provisions follow this page and are numbered SP-1 through SP-10.

**EXHIBIT "G"**

**ADDENDUMS TO BID DOCUMENTS**

To be added if any.

**EXHIBIT "H"**

**SCHEDULE OF VALUES**

To be attached after this page.

**EXHIBIT "I"**

**CONSTRUCTION SCHEDULE**

To be attached after this page.

## EXHIBIT "J"

### INSURANCE REQUIREMENTS

CONTRACTOR shall maintain the amounts and types of insurance described below and shall cause any and all Subcontractors to maintain such coverages from insurance companies licensed to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

- A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and advertising injury, and Two Million Dollars (\$2,000,000.00) General Aggregate.
- B. Automobile Liability Insurance for all motor vehicles operated by or for CONTRACTOR or Subcontractor, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each occurrence.
- C. Workers Compensation Insurance for all employees of CONTRACTOR or Subcontractor as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).
- D. With respect to any CONTRACTOR or Subcontractor that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the Agreement and so long as the insurance is commercially reasonably available, for a period not less than the Government Warranty Period. The professional liability insurance required by this paragraph shall not contain any exclusions or limitations applicable to residential projects.
- E. CONTRACTOR or Subcontractor shall provide property coverage for materials and equipment belonging to the DISTRICT while in the course of installation (Installation Floater), with limits of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). Such policies shall be written on an all risk basis to include coverage for theft, transit and while items are in temporary storage.
- F. Umbrella Excess Liability in amount not less than \$4,000,000 each occurrence and \$4,000,000 aggregate. Limits and coverages must layer over the primary insurance as indicated.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All insurance policies shall provide for the defense, indemnification, and holding harmless of the DISTRICT.
2. Except as otherwise provided herein, all liability insurance policies shall be written on an occurrence basis.
3. All insurance policies required hereunder except Workers Compensation and Employers Liability shall: (i) name those entities listed in Exhibit L attached hereto as "Additional Insureds" utilizing an ACORD form or equivalent acceptable to the DISTRICT, excluding, however, insurance policies for those who provide professional services whose insurance policies do not permit the designation of additional insureds; (ii) be issued by an insurer authorized in the State of Colorado; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days' prior written notice to the Additional Insureds. All insurance policies required by this Agreement shall include a provision requiring a 10-day prior written notice to the District for the cancellation of an insurance policy due to the non-payment of a premium and a minimum of a 30-day prior written notice to the District for any change to or cancellation of an insurance policy other than for non-payment of a premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the DISTRICT, Land Owner, District Manager, District Representatives and their consultants and sub-consultants, employees, officers and directors for work performed under this agreement.
4. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
5. The CONTRACTOR and any and all Subcontractors shall provide the DISTRICT with certificates evidencing the insurance coverages required by this Exhibit in the certificate form described in Item 2 of this Exhibit, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Certificates of Insurance required in this Exhibit shall be attached to Exhibit K hereto. Replacement certificates shall be sent to the DISTRICT, as policies are renewed, replaced, or modified.
6. The foregoing insurance coverage must be maintained in force at all times during the performance of the Work.
7. All insurance shall cover the entire period while Work is being performed on the Project until the DISTRICT issues the Certificate of Final Completion and accepts the Project and at all times thereafter when the CONTRACTOR may be correcting, removing or replacing defective Work.

8. If any insurance requires deductibles, the CONTRACTOR shall pay costs not covered because of such deductibles.

9. If notice of any change affecting the general scope of the Work or change in Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the CONTRACTOR'S responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to DISTRICT.

**EXHIBIT "K"**

**CERTIFICATE OF INSURANCE**

To be attached after this page.



**EXHIBIT "L"**

**ADDITIONAL INSURED ENTITY LIST**

The following list of entities shall be listed as additionally insured on the CONTRACTOR'S insurance policies.

<b>Entity Name</b>	<b>Address:</b>
Northridge Estates Metropolitan District No. 1	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
Arbor Capital Partners, LLC	4040 MacArthur Blvd., Suite 250 Newport Beach, CA 92660
Land Asset Strategies, LLC	12665 W. 64 <sup>th</sup> Avenue, Unit E #274 Arvada, CO 80004
White, Bear, Ankele, Tanaka & Waldron	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
LandOne Engineering, LLC	361 71 <sup>st</sup> Avenue Greeley, CO 80634

**EXHIBIT "M"**

**PERFORMANCE BOND AND PAYMENT BOND**  
(AIA Document A312-2010)

Other forms of bonds may be acceptable.  
Acceptance of other forms of bonds will be at the discretion of the DISTRICT.

Holders of the bonds will be:  
Northridge Estates Metropolitan District No. 1  
and  
City of Greeley

To be attached after this page.



**EXHIBIT "O"**

**UNCONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

The undersigned CONTRACTOR has been paid and has received a progress payment from Northridge Estates Metropolitan District No. 1 ("DISTRICT") in the sum of \_\_\_\_\_ DOLLARS and \_\_ CENTS (\$\_\_\_\_\_.\_\_) for work, labor, services, materials and equipment furnished by the undersigned through \_\_\_\_\_ 2020 ("Release Date") less any retention held by the DISTRICT as provided by law, pursuant to that certain Contract, dated \_\_, between the undersigned CONTRACTOR and DISTRICT ("Contract").

The undersigned does hereby waive and release any mechanic's lien, stop notice, bond right, and claims for payment the undersigned has for work, labor, services, materials and equipment furnished to the DISTRICT through the Release Date. This release covers a progress payment for work, labor, services, materials and equipment furnished by the undersigned through the Release Date and does not cover any retentions retained before or after the Release Date, any work, labor, services, materials and equipment furnished by the undersigned before the Release Date for which payment has not been received, or any work, labor, services, materials and equipment furnished by the undersigned after the Release Date.

The undersigned represents and warrants that CONTRACTOR has paid in full all laborers, subcontractors, materialmen and suppliers for all work, labor, services, materials and equipment that are the subject of this waiver and release.

This release and waiver shall inure to the benefit of, and may be relied upon by the DISTRICT in connection with the Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**CONTRACTOR**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Conditional Waiver and Release Upon Progress Payment was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

**EXHIBIT "P-1"**

**CERTIFICATION REGARDING EMPLOYMENT OF ILLEGAL ALIENS**

I, \_\_\_\_\_, as a(n) \_\_\_\_\_ in the company of \_\_\_\_\_ (the "Company"), engaged to provide \_\_\_\_\_ to Northridge Estates Metropolitan District No. 1, do hereby certify on behalf of said Company that, as of the date of this Certification, the Company does not knowingly employ or contract with an illegal alien who will perform work under the Contract and that Company will participate in either the E-Verify Program administered by the United States Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.



**CONTRACTOR:**

Signed: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT "P-2"

	<h3 style="margin: 0;">Contractor Affirmation for the Department Program</h3> <p style="margin: 0;">Required for use by contractors participating in the Department Program for public contracts for services 8-17.5-101 &amp; 102, C.R.S.</p> <p style="margin: 0;">The contractor shall provide a written, notarized copy of this affirmation to the contracting state agency or political subdivision</p> <p style="margin: 0;">DO NOT submit this affirmation to the Colorado Division of Labor unless specifically requested to do so.</p>
<p>Employee Name _____</p> <p style="margin-left: 40px;">Last _____ First _____ MI _____</p> <p style="margin-left: 40px;">Date of Birth _____ Date of Hire _____</p>	<p>In accordance with 8-17.5-102, C.R.S., I have _____</p> <p style="margin-left: 40px;">Contract Number _____</p> <p style="margin-left: 40px;">Contractor / Business Name _____</p> <p style="margin-left: 40px;">Phone _____</p> <p style="margin-left: 40px;">Contractor or Contractor Representative Name _____</p> <p style="margin-left: 40px;">Date Signed _____</p>
<p>(Initial after each)</p> <ul style="list-style-type: none"> <li>• Examined the legal work status of the above named employee _____</li> <li>• Retained file copies of documents required by 8 U.S.C. sec. 1324a _____</li> <li>• Not altered or falsified the employee's identification documents _____</li> </ul> <p>Contractor OR Contractor Representative Signature and Title _____</p>	<p>Subscribed and affirmed before me in the county of _____, State of Colorado, this _____ day of _____, 20____.</p> <div style="text-align: center; margin-top: 20px;">  <p>(Notary's official signature)</p> <p>(Commission expiration date)</p> </div>
<p>8-17.5-102(5)(c)(II), C.R.S. A participating contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract for services, affirm that the contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The contractor shall provide a written, notarized copy of the affirmation to the contracting state agency or political subdivision</p>	<p>This affirmation and the documents required by 8 U.S.C. sec. 1324a will be retained by the contractor for the duration of the above named individual's employment.</p> <p style="margin-left: 40px;">This affirmation is provided as a courtesy by the Colorado Division of Labor</p> <p style="margin-left: 40px;">Another substantially similar affirmation may be used, provided that it contains the necessary elements and information as required by law</p>

**EXHIBIT "Q"**

**CHANGE ORDER FORM**

DISTRICT:                   NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR:           \_\_\_\_\_

Contract Date:         \_\_\_\_\_

This Change Order is made this \_\_\_\_ day of \_\_\_\_\_, 2020 by NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1 (DISTRICT), and \_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The DISTRICT agrees to pay for all changes in the Work performed by the CONTRACTOR under this Change Order according to the terms of the Agreement. The amount paid by the DISTRICT shall be full compensation for all Work requested and for all effects of this document on the Work. The change, if any, in the Contract Price shall be computed according to one of the following methods:

No Change            Costs Plus a Fee            Unit Price            Lump Sum

If Change Order is Costs Plus a Fee or Unit Price, the CONTRACTOR shall submit promptly to DISTRICT such itemized labor and material breakdowns as DISTRICT may require for Work performed or deleted from the Agreement by this Change Order. The CONTRACTOR shall include the cost of such change in its next application for payment in a separate line item.

The change, if any, in the Contract Time resulting from the Work requested by the Change Order shall be determined according to the terms of the Agreement and allows for the \_\_\_\_ addition \_\_\_\_ deletion of \_\_\_\_\_ ( ) days.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "R"**

**FIELD ORDER FORM**

DISTRICT:               NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR:           \_\_\_\_\_

Contract Date:         \_\_\_\_\_

This Field Order is made this \_\_\_\_ day of \_\_\_\_\_, 2020 by the Project Manager and  
\_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is acknowledged and accepted by the CONTRACTOR that this Field Order will not be the basis for a change resulting in either of the following:

- 1. An increase in the Contract Fee, nor
- 2. An increase in the Contract Time.

Any change resulting in either of the above shall only be approved through a properly executed for Change Order accepted by the DISTRICT.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## GENERAL PROVISIONS

### Northridge Estates Metropolitan District No. 1 Northridge Estates - Phases 1, 2 & 3 Public Infrastructure

SECTION	TITLE	PAGE
1	DEFINITION OF TERMS.....	GP-2
2	PARTIES RIGHTS AND RESPONSIBILITIES .....	GP-6
3	SUBCONTRACTORS .....	GP-11
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## **SECTION 1**

### **DEFINITION OF TERMS**

Term used in the Contract Documents shall have the meanings defined below or as defined in the Contract.

1. AASHTO  
The American Association of State Highway and Transportation Officials.
2. ASTM  
The American Society for Testing Materials.
3. Addendum  
A written or graphic instrument issued prior to the opening of bids which clarifies, corrects or changes the bid documents or the Contract Documents.
4. Application for Payment  
The pay estimate form prepared by the CONTRACTOR in requesting progress payments or final payment. Any Application for Payment must include such supporting documentation as is required by the Contract Documents.
5. Approving Authorities  
The City of Greeley, Colorado, the Weld County, Colorado, and all other applicable governmental or quasigovernmental entities or agencies related to the Work.
6. Bid Bond  
The security as designated in the bid documents required from the Bidder as a guaranty that the Bidder, if selected to perform the Work, will enter into the Contract and furnish bonds as required by the Contract Documents.
7. Bidder  
Any individual, firm or corporation, submitting a bid for the Work contemplated, acting directly for or through a duly authorized representative.
8. Builder  
D.R. Horton – Colorado, 9555 S. Kingston Ct., Englewood, CO 80112
9. Certificate of Final Completion  
The Project Manager's written certification to the DISTRICT that all Work on the Project is complete in accordance with the Contract Documents after receipt of a written acceptance by the governing municipality and/or entity.
10. Certificate of Substantial Completion  
The Project Manager's written certification to the DISTRICT and the CONTRACTOR that the Project has been completed to a point, that the DISTRICT may make beneficial use of it. Such a certificate may cover all or a portion of the Project. The Project may be substantially complete, even though minor Work or corrections are necessary.
11. Change Order  
A written order to the CONTRACTOR, signed by the CONTRACTOR and the DISTRICT, ordering a change that has been found necessary in the Work from that originally shown in the Plans and Specifications, but which is still within the general scope of the Contract, involving an adjustment of the Contract Price and/or Contract Time. Change Orders duly signed and executed by the CONTRACTOR and DISTRICT constitute authorized modifications of the Contract.

12. Construction Standard

Construction and installation in a good, workmanlike and lien-free manner and in substantial conformity with the Plans and Specifications attached as Exhibit C to the Contract (the "Plans"), the applicable requirements of the Approving Authorities, and the Finished Lot Standard.

13. Contract

The written agreement executed between the DISTRICT and CONTRACTOR, covering the performance of Work and the furnishing of labor and materials, by which the CONTRACTOR is bound to perform the Work and furnish the labor and materials, and by which the DISTRICT is obligated to compensate the CONTRACTOR in accordance with the Contract Documents.

14. Contract Documents

The Contract and the documents defined and described in Section 7 of the Contract.

15. Contract Price

The total amount stated in the Contract, as altered by subsequent written Modifications, to be paid to the CONTRACTOR for the performance of its obligations under the Contract.

16. Contract Time

The number of calendar days stated in the Contract for completion of the Work.

17. CONTRACTOR

The individual, partnership, firm, or corporation executing the Contract, acting directly or through lawful agents, subcontractors, or employees, primarily liable for the acceptable performance of the Work for which contracted, and also for the payment of all legal debts pertaining to the Work.

18. Day

A calendar day of twenty-four hours measured from midnight to the next midnight.

19. Defective

An adjective which, when modifying the word "Work," refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

20. DISTRICT

Northridge Estates Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado and is the metropolitan district with whom the CONTRACTOR has entered into the Contract and for whom the Work is to be provided by the CONTRACTOR. The District shall be represented by its duly constituted Board of Directors.

21. Effective Date of the Contract

The date indicated in the Contract on which it becomes effective; but, if no such date is indicated, it means the date on which the Contract is signed and delivered by the last of the two Parties to sign and deliver.

22. Engineer

LandOne Engineering, LLC, its agents and assigns.

23. Field Order

A written order issued by the Project Manager which orders minor changes in the Work, but which does not involve a change in the Contract Price or the Contract Time.

24. Final Completion

The time at which the Project is installed and fully operational and all punch list Work is completed as evidenced by the issuance of written acceptance of the inspecting municipality and/or governing entity and the issuance of the Certificate of Final Completion by the DISTRICT.

25. Intention of Terms

Whenever, in the Contract Documents, the words "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like meaning, are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Project Manager is intended; and similarly, the words "approved," "acceptable," "satisfactory," or words of like meaning, shall mean approved by, or acceptable to, or satisfactory to the Project Manager, subject in each case to the final determination of the DISTRICT.

26. Laboratory

The official testing laboratories of the DISTRICT or such other laboratories as may be designated by the Project Manager.

27. Land Owner

Shall include the owner of the land on which the Project is being constructed, including those entities listed on the attached Exhibit "L" – Additional Insured Entity List, and the Land Owner agents, heirs, successors, affiliates and assigns.

28. Local Jurisdiction

The agency and/or jurisdictions which have permitting and inspection authority and are listed in the Contract Documents.

29. Modification

A written amendment of the Contract Documents signed by the DISTRICT and the CONTRACTOR, a Change Order, or a Field Order. A Modification may only be issued after the Effective Date of the Contract.

30. Notice of Award

The written notice by DISTRICT to the successful Bidder stating that upon compliance by the successful Bidder with the conditions precedent enumerated therein, within the time specified, DISTRICT will deliver the Contract.

31. Notice to Proceed

A written notice given by the DISTRICT to the CONTRACTOR fixing the date on which the Contract Time will commence to run and on which the CONTRACTOR shall start to perform its obligation under the Contract Documents.

32. Notice of Termination

A written notice given by the DISTRICT to the CONTRACTOR terminating the CONTRACTOR'S right to proceed pursuant to Section 15, below.

33. Party (Parties)

Northridge Estates Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the state hereinafter called the DISTRICT, and \_\_\_\_\_, hereinafter called the CONTRACTOR, together or individually the Party or Parties.

34. Payment Bond

The approved form of security furnished by the CONTRACTOR and its surety as a guarantee that it will pay in full all bills and accounts for materials and labor used in the construction of the Work, as provided by law.

35. Performance Bond

The approved form of security furnished by the CONTRACTOR and its surety as a guarantee on the part of the CONTRACTOR to execute the Work in accordance with the terms of the Contract Documents.

36. Plans

The official construction plans, drawings, and/or supplemental working drawings and/or exact reproductions thereof, approved by the Engineer which show the location, character, phasing, dimensions, and details of the Work to be performed and which are to be considered a part of the Contract Documents.

37. Project

The total construction of the Work to be provided in accordance with the Contract Documents.

38. Project Manager

Land Asset Strategies, LLC, its agents and assigns.

39. Project Site

Any area or areas where Work is to be performed on the Project.

40. Retainage

Five percent (5%) withheld from each Application for Payment until Final Completion to assure that the CONTRACTOR will satisfy its obligations to complete the Work, pursuant to the Colorado Revised Statutes.

41. Schedule of Values

A schedule showing each Work item and its associated lump sum value prepared and maintained by the CONTRACTOR.

42. Shop Drawings

All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by the CONTRACTOR, a Subcontractor, manufacturer, fabricator, supplier or distributor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a manufacturer, fabricator, supplier or distributor and submitted by CONTRACTOR to illustrate materials or equipment for some portion of the Work.

43. Special Provisions

The specific clauses setting forth conditions or requirements peculiar to the Work provided for in these Contract Documents, covering Work or materials which are not thoroughly described in these General Provisions or the Plans and Specifications, if any.

44. Specifications

The technical directions, provisions, and requirements, supplemented by Special Provisions, pertaining to the method and manner of performing the Work, or to the quantities or qualities of materials to be furnished under this Contract. The Specifications for this Project shall be described in the Contract Documents and as exist in the Local Jurisdiction as may be further described in the Special Provisions.

45. Structures

As used in this Contract, shall include but not limited to the following bridges, culverts, catch basins, retaining walls, manholes, headwalls, buildings, valve vaults and other features which may be encountered in the Work and not otherwise classified herein.

46. Subcontractor

An individual, firm or corporation having a direct Contract with CONTRACTOR or with any other

Subcontractor for the performance of a part of the Work at the Project.

47. Substantial Completion

The Project Manager's determination that the Project or a portion thereof is complete to a point that the DISTRICT may make beneficial use of the Project without interference with other on-going Work or portions of the Project.

48. Superintendent

Executive representative for the CONTRACTOR present on the Work at all times, authorized to receive and fulfill instructions from the Project Manager and capable of superintending the Work efficiently.

49. Surety

The corporate body or individuals who are bound by the Bid Bond, Performance Bond and the Payment Bond with and for the CONTRACTOR, and which engage to be responsible for the entire and satisfactory fulfillment of the Contract and for the payment of all debts incurred in fulfilling the Contract.

50. Work

The term "Work" shall be understood to mean the furnishing of all supervision, labor, materials, tools, equipment, and other incidentals necessary or convenient to the successful completion of the Project by the CONTRACTOR and the carrying out of all the duties and obligations imposed by the Contract.

## SECTION 2

### PARTIES RIGHTS AND RESPONSIBILITIES

#### 2.1 District

2.1.1 The DISTRICT and CONTRACTOR expressly agree that the DISTRICT shall have the following rights under this Contract:

- a. to have the Project completed in substantial compliance with the Contract terms, within the time period specified in the Contract, upon fulfillment of DISTRICT'S duties to make payments when due;
- b. to suspend Work on the Project upon written notice to the CONTRACTOR according to the terms of Section 15 of these General Provisions;
- c. to terminate the Contract according to the terms of Section 15 of these General Provisions;
- d. to complete the Project in any reasonable manner after termination of the Contract by any party;
- e. to make use of completed portions of the Project without interfering with on-going construction;
- f. to be represented at the Project Site by the Project Manager and/or Engineer;
- g. to withhold payment to the CONTRACTOR until proper payment requests are submitted by the CONTRACTOR and approved by the Project Manager in accordance with Section 9 of these General Provisions;
- h. to have all rights and remedies against any and all parties, whether or not the parties to this Contract, unless specifically waived by express language in the Contract and any exhibits attached thereto; and

- i. to fulfill any other rights arising out of any other portion of the Contract Documents.

2.1.2 The DISTRICT and CONTRACTOR expressly agree that the following shall be the sole responsibility of the DISTRICT:

- a. to obtain all funds necessary to complete the Project;
- b. to issue all communications to the CONTRACTOR through the Project Manager except as otherwise provided herein;
- c. to furnish all data required of DISTRICT by the Contract Documents;
- d. to furnish all lands, rights-of-way and easements necessary for the completion of the Project in accordance with Section 4 of these General Provisions;
- e. to make all payments to the CONTRACTOR less any Retainage as specified in the Contract; and
- f. to fulfill any other responsibilities arising out of any other portion of the Contract Documents.

## 2.2 Contractor

2.2.1 The DISTRICT and CONTRACTOR expressly agree that the CONTRACTOR shall have the following rights under this Contract:

- a. to have payments available less any Retainage as specified in the Contract;
- b. to receive extensions in Contract Time when construction is suspended by order of the DISTRICT or Project Manager according to Section 15 of these General Provisions or by acts beyond the control of the CONTRACTOR;
- c. to receive consideration of an adjustment in the Contract Price due to changes in the Contract as recommended by the Project Manager after the execution of the Contract in accordance with Section 14 of these General Provisions; and
- d. to fulfill any other rights arising out of any other portion of the Contract Documents.

2.2.2 The DISTRICT and CONTRACTOR expressly agree that the following shall be the sole responsibility of the CONTRACTOR:

- a. to perform all Work according to the Contract Documents;
- b. to supervise, direct and control the Work;
- c. to have sole responsibility for the means, methods, techniques, sequences and procedures of construction;
- d. to cooperate with and be bound by decisions of the Project Manager relating to any disputes, questions or other matters arising out of the Contract;
- e. to be represented on the Project Site at all times Work is in progress under the Contract;
- f. to provide all materials, equipment, labor, transportation, construction equipment, tools, appliances, fuel, power when not already available, light, heat, telephone, sanitary facilities and all other facilities and incidentals necessary for the execution, testing, completion and initial operation of the Project;
- g. to employ only those Subcontractors and others supplying equipment, materials

- and/or labor that are approved by the DISTRICT and Project Manager before execution of the Contract, or those later approved in writing by the DISTRICT;
- h. to be fully responsible for all of the acts and omissions of Subcontractors and persons employed by them;
  - i. to obtain all necessary licenses and pay any necessary royalties and fees incidental to the performance of the CONTRACTOR'S responsibilities;
  - j. to obtain and pay for all ~~construction permits~~ and licenses as outlined in the Contract Documents;
  - k. to utilize the District's tax exempt status as provided in Section 7;
  - l. to protect the materials and equipment during construction;
  - m. to provide one (1) complete set of Plans and Specifications for the Project on the Project Site and to make it available to the Project Manager and Engineer at all times;
  - n. to allow the Project Manager and Engineer access to the Project Site and to furnish the Project Manager and Engineer with all materials requested;
  - o. to fulfill all other responsibilities arising out of any other portion of the Contract Documents.

## 2.3 Project Manager

2.3.1 The DISTRICT and CONTRACTOR expressly agree that the Project Manager shall have the following authority:

- a. to grant some or all of the Project Manager's rights and authority set forth in these General Provisions or elsewhere in the Contract Documents to a construction manager, as determined by the Project Manager, in its sole discretion, from time to time;
- b. to have access to the Project Site at all times during construction;
- c. to visit the Project Site at intervals agreed to by the DISTRICT (or, in the absence of such agreement, at intervals appropriate to the various stages of construction), to observe progress of the Project, quality of materials and workmanship and to determine if the Project is proceeding in accordance with the Contract Documents; reject all defective Work and materials;
- d. to keep the DISTRICT informed of all progress of the Project;
- e. to issue written clarifications or interpretations of the Contract when requested by the CONTRACTOR or on its own initiative as the DISTRICT'S representative;
- f. to examine all Applications for Payment presented by the CONTRACTOR and recommend either approval or disapproval within ten (10) days of receipt;
- g. to review the CONTRACTOR'S proposed list of Subcontractors and approve or reject those submitted according to Section 3 of these General Provisions, provided that any Subcontractors rejected by the District shall be based on the criteria set forth in Colorado Revised Statutes Section 18-8-307(3);
- h. to review all requests for final payment according to Section 9 of these General Provisions;
- i. to review schedules submitted by the CONTRACTOR for the submission of Shop Drawings and completion of the Project;



- j. to issue the Certificate of Substantial Completion;
- k. to issue the Certificate of Final Completion; and
- l. to fulfill any other responsibilities of the Project Manager that may arise out of any other portion of the Contract Documents.

#### 2.3.2 Limitations on the Project Manager's Responsibilities

- a. Neither Project Manager's authority to act under these General Provisions or elsewhere in the Contract Documents nor any decision made by the Project Manager in good faith either to exercise or not to exercise such authority shall give rise to any duty or responsibility of the Project Manager to the CONTRACTOR, any Subcontractor, any manufacturer, fabricator, supplier, or distributor, or any of their agents or employees or any other person performing any of the Work.
- b. Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed" or terms of like effect or import are used, or the adjectives "reasonable," "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used, to describe requirement, direction, review or judgment of the Project Manager as to the Work, it is intended that such requirement, direction, review or judgment will be solely to evaluate the Work for compliance with the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that Project Manager shall have authority to supervise or direct performance of the Work or authority to undertake responsibility contrary to the provisions of the Contract Documents.
- c. The Project Manager will not be responsible for CONTRACTOR'S means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the Project Manager will not be responsible for CONTRACTOR'S failure to perform the Work in accordance with the Contract Documents.
- d. The Project Manager will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractors, or of the agents or employees of any CONTRACTOR of Subcontractor, or of any other persons at the site or otherwise performing any of the Work.

#### 2.4 Items Prior to Commencement of Construction

- 2.4.1 Before undertaking each part of the Work, the CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon and all applicable field measurements. The CONTRACTOR shall promptly report in writing to the Project Manager and Engineer any conflict, error or discrepancy which the CONTRACTOR may discover; however, the CONTRACTOR shall not be liable to the DISTRICT, Project Manager, Construction Manager, and Engineer or to all of their agents and/or assigns for failure to report any conflict, error or discrepancy in the Plans and Specifications, unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof.

- 2.4.2 The CONTRACTOR shall perform the Work by complying with the Plans and Specifications, or, where required, approved Shop Drawings, product data submittals and/or samples for such portions of the Work.
- 2.4.3 Execution of the Contract by the CONTRACTOR is a representation that the CONTRACTOR has examined the Project Site, become generally familiar with the local conditions under which the Work is to be performed and correlated their observations with the requirements in the Contract Documents. Before starting each portion of the Work, the CONTRACTOR shall carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the DISTRICT, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the Project Site affecting it. These obligations are for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents. The CONTRACTOR shall promptly report to the Project Manager and Engineer any errors, omissions, or inconsistencies discovered by or made known to the CONTRACTOR as a request for information in such form as the Project Manager and/or Engineer may require. The CONTRACTOR'S review is to be made in the CONTRACTOR'S capacity as a contractor and not as a licensed design professional, unless specifically provided for in the Contract Documents.
- 2.4.4 Within ten (10) days after the Effective Date of the Contract, the CONTRACTOR shall submit to Project Manager for review and acceptance a Construction Schedule indicating the starting and completion dates of the various stages of the Work including any milestones specified in the Contract Documents, a preliminary schedule of Shop Drawing and product data submittals. The Contractor shall be responsible for planning, scheduling, and reporting the progress of the work to ensure timely completion of the work as called for in the Contract. The Construction Schedule shall be used for coordination, evaluation of progress, and for the evaluation of changes to the Contract. The Construction Schedule shall include all activities, including those of subcontractors, CONTRACTOR'S engineers and surveyors, and suppliers. No progress payment shall be made to the CONTRACTOR until acceptable schedules are submitted to the Project Manager. The CONTRACTOR shall update the Construction Schedule on a monthly basis or as requested by the Project Manager throughout the progress of the Work.

## 2.5 Preconstruction Conference

- 2.5.1 Prior to the Notice to Proceed, and before the CONTRACTOR starts Work at the Project Site, a preconstruction conference will be held to discuss administrative procedures and other items to promote orderly and timely prosecution of the Work. The CONTRACTOR shall be prepared to discuss and/or submit as applicable the following:
- a. Scheduling and the Construction Schedule referred to in Section 2.4.4.
  - b. Applications for Payment, review and processing procedures.
  - c. Proposed methods of operations and sequencing.
  - d. Schedule of Shop Drawings and product data submittals and submittal procedures.

- e. Material ordering and delivery schedules.
- f. Procedures for scheduling testing.
- g. Procedures for scheduling construction staking.
- h. Subcontractor names, phones and addresses, contact people and Work scope.
- i. Designation of personnel representing the Parties in the Contract with names, phone numbers, and email addresses.
- j. Procedures and processing of field orders, proposal requests, change orders, and contract procedures.
- k. Procedures for maintaining record documents by the CONTRACTOR.
- l. Any other items to help establish a working understanding among the Parties, including communication procedures.
- m. All necessary signed and fully executed documents, including but not limited to, signed contracts and fully executed insurance certificates, performance bonds, payment bonds, etc.
- n. Storm water management and maintenance program detailing permitting, inspection frequencies, reporting, and identifying the designated onsite storm water representative for the CONTRACTOR.
- o. A detailed safety manual and onsite safety program detailing when weekly safety meetings will occur and who will be the designated onsite safety officer for the CONTRACTOR who will make inspections.

2.5.2 CONTRACTOR personnel who will be directly responsible for the Work should be in attendance at the conference.

### **SECTION 3**

#### **SUBCONTRACTORS**

#### **3.1 District Approval**

3.1.2 If the DISTRICT has any objections to any of the proposed Subcontractors, provided that such objections satisfies the criteria set forth in Colorado Revised Statutes Section 18-8-307(3), the Project Manager shall state such objections and the basis therefore in writing to the CONTRACTOR. The DISTRICT, prior to giving the Notice of Award, shall state its approval or rejection, as permitted by law, of any such Subcontractor. The CONTRACTOR shall then submit the name of a substitute Subcontractor for DISTRICT approval to the Project Manager.

3.1.2 Rejection on the basis of the criteria set forth in Colorado Revised Statutes Section 18-8-307(3) shall not be the basis for an increase in price or extension of time under the Contract.

#### **3.2 Contractor's Objections**

The CONTRACTOR shall not be forced to contract with anyone to whom it has a reasonable objection.

3.3 Extent of Subcontracts

The CONTRACTOR may not award subcontracts in excess of seventy percent (70%) of the total Contract Price unless otherwise stated in the Instructions to Bidders or Contract Documents.

3.4 CONTRACTOR-Subcontractor Relationship

The CONTRACTOR-Subcontractor agreements shall give the CONTRACTOR the same rights, duties and responsibilities toward any Subcontractor that the DISTRICT has toward the CONTRACTOR. Nothing in the CONTRACTOR-Subcontractor agreement shall prejudice the rights of the DISTRICT toward the CONTRACTOR for Work omitted or improperly performed. The CONTRACTOR shall be liable to the DISTRICT for the errors, omissions and defective Work of the Subcontractor or any of its employees. Nothing in this Contract is meant to create any privity or agency between the DISTRICT and any Subcontractor.

**SECTION 4**

**SCOPE OF WORK**

4.1 Intent of Plans and Specifications

4.1.1 The intent of the Plans and Specifications is to describe the complete Project which the CONTRACTOR undertakes to do in full compliance with the Contract Documents, together with any authorized alterations and Modifications.

4.1.2 The CONTRACTOR shall perform all items of Work covered and stipulated in the Contract Documents, together with any authorized alterations or extra work, all in accordance with the lines, grades, cross-sections and dimensions shown on the Plans. The CONTRACTOR shall furnish, unless otherwise provided in the Contract Documents, all materials, implements, machinery, equipment, tools, supplies, transportation and labor necessary for the execution, testing, initial operation and completion of the Work.

4.1.3 When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment, such words shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association, or to the code of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual or code in effect at the time of opening of bids, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code shall change the duties and responsibilities of the DISTRICT, CONTRACTOR, Project Manager, Construction Manager, or Engineer, or any of their agents, employees, or assigns from those set forth in the Contract Documents.

4.1.4 The Contract Documents are complementary; what is called for by one is as binding as if called for by all. If, during the performance of the Work, the CONTRACTOR finds a conflict, error or discrepancy in the Contract Documents, he shall report it to the Project Manager in writing at once and before proceeding with the Work affected thereby; however, the CONTRACTOR shall not be liable to the DISTRICT for failure to report any conflict, error or

discrepancy in the Plans and Specifications unless the CONTRACTOR had actual knowledge thereof or should reasonably have known thereof. Detailed drawings shall take precedence over general drawings. In the event of any discrepancy between the scaled dimensions of any drawing and the figures written thereon, the figures shall be taken as correct. In case of discrepancy the order of precedence is as follows:

- a. Addendum
- b. Special Provisions
- c. General Provisions
- d. Detailed Drawings
- e. General Drawings (Calculated dimensions will govern over scaled dimensions)
- f. Supplemental Specifications
- g. Standard Specifications

4.1.5 The Contract Documents will be governed by the law of the place of the Project. The quantities shown are estimated quantities and may not represent the actual amount of work to be performed under this Contract. The DISTRICT does not guarantee that the amount of Work bid upon is the actual amount of Work that will be completed within the time stipulated in the Contract and, therefore, shall not be held liable by the CONTRACTOR for any increased or decreased quantities of Work.

#### 4.2 Removal and Disposal of Structures and Obstructions

All structures or obstructions found on the Project Site and shown on the Plans which are not to remain in place or which are not to be used in the new construction shall be removed as directed by the Project Manager and/or Engineer. Unless otherwise specified, this Work will not be paid for separately but will be included in the unit price for that portion of the Work requiring the removal and shall remain the property of the DISTRICT unless otherwise indicated.

#### 4.3 Availability of Lands

The DISTRICT shall furnish, as indicated in the Contract Documents, the lands upon which the Work is to be performed, rights-of-way for access thereto, and such other lands which are designated for the use of CONTRACTOR. Easements for permanent structures or permanent changes in existing facilities will be obtained and paid for by DISTRICT, unless otherwise provided in the Contract Documents. If CONTRACTOR believes that any delay by the DISTRICT in furnishing these lands or easements entitles CONTRACTOR to an extension of the Contract time, CONTRACTOR may make a claim therefore as provided hereinafter. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment unless previously designated and supplied by the DISTRICT.

#### 4.4 Investigations and Reports

4.4.1 Reports of investigations and tests of subsurface and latent physical conditions at the Project Site or otherwise affecting cost, progress or performance of the Work which have

been relied upon by the Engineer in preparation of the Plans and Specifications are included with the bid documents. Such reports are not guaranteed as to accuracy or completeness and are not part of the Contract Documents.

- 4.4.2 The CONTRACTOR will perform any investigation to satisfy itself as to the existing conditions that may be encountered during performance of the Work.

#### 4.5 Clean-Up

4.5.1 The CONTRACTOR shall keep the Project free of all accumulated rubbish and waste material caused by the Work. CONTRACTOR shall be responsible for containing all rubbish and waste material and preventing distribution of same by wind or water. On request by the DISTRICT or Project Manager, the CONTRACTOR shall promptly remove all such rubbish and waste materials. Upon failure to do so within twenty-four (24) hours of notification, the DISTRICT shall have the right to have the clean-up performed by other parties, and the cost of such Work plus twenty percent (20%) to cover general administrative costs shall be withheld from the CONTRACTOR'S account.

4.5.2 Upon completion of the Work and before acceptance and final payment will be made, the CONTRACTOR shall remove from the site all machinery, equipment, surplus, and discarded materials, including waste soil and rock piles, trash, temporary structures, and shall leave the Project Site in a neat and presentable condition. Material cleared from the site and deposited on adjacent property, will not be considered as having been disposed of satisfactorily.

4.5.3 All clean-up costs shall be included in the Contract Price.

#### 4.6 Coordination with Other Contractors at the Site

4.6.1 The CONTRACTOR shall coordinate its Work with that of other contractors working at the Project Site in order that the construction may proceed in an efficient manner and shall protect its Work until Final Completion. The DISTRICT will grant no increase in Contract Price or extension of Contract Time arising from the failure of the CONTRACTOR to coordinate its Work in conjunction with the Work of others on the Project Site.

4.6.2 Private utilities or other parties may be working within the Project Site during this Contract.

#### 4.7 Progress Meetings

4.7.1 The Project Manager will schedule and administer meetings throughout progress of the Work at weekly intervals. Additional meetings may be called by the DISTRICT, Project Manager, Construction Manager, Engineer, or the CONTRACTOR during any stage of the Project when it is deemed necessary to raise any significant questions, establish new guidelines, introduce a new aspect to the Project, or any other items that will affect the progress of the Work. Meetings and conferences may take place at the Project Site or some location that is satisfactory to the DISTRICT, Project Manager, Construction Manager, or Engineer, as applicable, and CONTRACTOR. The Project Manager will make arrangements for

meetings, prepare agenda with copies for participants, and preside at meetings. Attendance is required by the CONTRACTOR'S Superintendent, Project Manager, Engineer, and any other party or parties that called the meeting as provided in this Section 4.7.1, and any other Subcontractor or materials supplier as appropriate for agenda topics for each meeting.

4.7.2 Agenda:

- a. Review and approval of minutes of previous meetings.
- b. Review of Work progress.
- c. Field observations, problems, conflicts, and decisions.
- d. Identification of problems which impede the schedule and proposed corrective actions.
- e. Review of submittals schedule and status of submittals.
- f. Revisions to Construction Schedule.
- g. Coordination of Construction Schedules and projected progress.
- h. Corrective measures and procedures to regain projected schedules.
- i. Planned progress during succeeding work period.
- j. Maintenance of quality, and safety and work standards.
- k. Pending changes and substitutions.
- l. Effect of proposed changes on progress schedule and coordination, and effect on other contracts of the Project.
- m. Other business relating to Work.

4.7.3 The Project Manager will record minutes; include significant proceedings and decisions and distribute copies after meeting to participants and those affected by decisions made.

4.8 Reuse of Documents

Neither CONTRACTOR nor any Subcontractor, manufacturer, fabricator, supplier or distributor shall have, or acquire any title to, the DISTRICT'S rights in any of the Plans, Specifications or other documents (or copies of any thereof) prepared on the DISTRICT'S behalf; and they shall not reuse any of the documents for extensions of the Project or any other project without written consent of DISTRICT and the Project Manager.

**SECTION 5  
CONTROL OF THE WORK**

5.1 Right-of-Entry and Inspection

5.1.1 At all times, representatives of the DISTRICT, Federal, State and local agencies shall have the right to enter and inspect any and all portions of the Work for compliance with the Plans and Specifications. The CONTRACTOR shall furnish the Project Manager and Engineer with every reasonable facility for ascertaining whether or not the Work performed and materials used are in compliance with the Plans and Specifications. In the event of Work is performed during darkness, the CONTRACTOR shall furnish proper

lighting to adequately prosecute and inspect the Work being performed, and make all necessary arrangements with inspectors and testers to insure all are present.

- 5.1.2 The Project Manager and/or Engineer shall decide any and all questions which may arise as to the quality and acceptability of the materials furnished, the Work performed, the manner of performance, and the rate of progress of the Work. The Project Manager and/or Engineer shall decide all questions which may arise as to the interpretation of the Plans and Specifications, all questions as to the acceptable fulfillment of the Contract and all disputes and mutual rights by the CONTRACTOR and its Subcontractors on the Project. The decision of the Project Manager shall be final, and the Project Manager shall have authority to make effective such decisions.
- 5.1.3 Any Work performed during normal working hours, Monday through Saturday, which requires staking, testing, or inspections of any kind shall be coordinated and scheduled by the CONTRACTOR. Additional overtime expenses incurred for such support outside of normal working hours, and on Sundays and holidays, shall be borne by the CONTRACTOR.
- 5.1.4 The CONTRACTOR shall give the Project Manager timely notice of readiness of the Project for all required, inspections, tests or approvals. The CONTRACTOR shall furnish all labor and facilities necessary to accommodate such needed inspections and tests.
- 5.1.5 If any law, ordinance, rule, regulation, code, or order of any public body having jurisdiction requires any Work (or part thereof) to specifically be inspected, tested or approved, the CONTRACTOR shall assume full responsibility therefore. In the event any tests do not pass initially, and therefore must be performed again, all such extra tests shall be paid for by the CONTRACTOR.
- 5.1.6 All inspections, test or approvals other than those required by law, ordinance, rule, regulation, code or order of any public body having jurisdiction shall be performed by organizations acceptable to the Project Manager.
- 5.2 Record Drawings  
The CONTRACTOR shall maintain a separate set of approved full scale Plans on the job site to fully indicate as-built conditions, at no additional cost to the DISTRICT, and shall be responsible for maintaining these plans by noting on them all Work which has been completed, and shall be available for review by the Project Manager and Engineer at all times. All variations from the Plans, for whatever reasons, including those occasioned by optional materials and the required coordination between trades, shall be indicated. These variations shall be shown in the same general detail utilized in the initial Plans. Prior to Final Completion and final payment the CONTRACTOR shall deliver to the DISTRICT all record drawings pertaining to the Work.
- 5.3 Conformity with Plans and Allowable Deviations  
Finished surfaces in all cases shall conform to lines, grades, cross-sections and dimensions shown on the Plans. Any deviation from the Plans and working drawings, as may be required by the



demands of construction, will in all cases be determined by the Project Manager and Engineer, and authorized in writing.

5.4 Coordination of Specifications, Plans and Special Provisions

The Specifications, local, county and state specifications, the Plans, Special Provisions, and all supplementary plans and documents are essential parts of the Contract, and a requirement occurring in one is just as binding as though occurring in all. They are intended to be complementary to describe and provide for a complete Work. In case of discrepancy, refer to Section 4.1. The CONTRACTOR shall not take advantage of any apparent error or omission in the Plans or Specifications. In the event the CONTRACTOR discovers such an error or omission, he shall immediately notify the Project Manager and Engineer. The Project Manager and Engineer will coordinate such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Plans or Specifications.

5.5 Cooperation of Contractor

5.5.1 The CONTRACTOR will be supplied with four (4) copies of the Plans. It shall have available on the Project Site at all times one (1) copy of said Plans, Specifications, and Special Provisions, exclusive of the set designated for Record Drawings in Section 5.2. Additional copies of Plans, Specifications and Special Provisions can be obtained by the CONTRACTOR for the cost of reproduction.

5.5.2 The CONTRACTOR shall give the Work the constant attention necessary to facilitate the progress thereof, and he shall cooperate with the Project Manager, Engineer and with other contractors in every way possible. The Project Manager shall allocate the Work and designate the sequence of construction in case of controversy between contractors.

5.5.3 The CONTRACTOR shall have a competent Superintendent who is fluent in written and spoken English on the Project Site at all times who is fully authorized as its agent on the Project Site; such Superintendent shall be capable of reading and thoroughly understanding the Plans and Specifications and shall receive and fulfill instructions from the Project Manager and Engineer, or their authorized representative. The Superintendent shall have full authority to execute the orders of directions of the Project Manager and Engineer without delay and to promptly supply such materials, tools, plant equipment and labor as may be required. Such Superintendent shall be furnished irrespective of the amount of Work sublet. All communications by the DISTRICT, District Manager, Project Manager, Construction Manager, and Engineer given to the CONTRACTOR'S Superintendent shall be as binding as if given to CONTRACTOR.

5.6 Construction Stakes

The CONTRACTOR will be responsible for all required construction staking, and the cost of said staking shall be included in the fixed fee Contract Price for the Work.

## **SECTION 6 CONTROL OF MATERIAL**

### **6.1 Source of Supply and Quality of Materials**

The source of supply of each of the materials required shall be approved by the Project Manager and/or Engineer before delivery is started. Representative preliminary samples of the character and quality specified may be submitted by the CONTRACTOR or producer for examination and testing. The results obtained from testing such samples may be used for preliminary approval but will not be used as a final acceptance of the materials. All materials proposed to be used may be inspected or tested at any time during their preparation and use. If, after testing, it is found that sources of supply which have been approved do not furnish a uniform product, or if the product from any source proves unacceptable at any time, the CONTRACTOR shall furnish approved material from other approved sources.

### **6.2 Approval and Acceptance of Materials**

Samples of all materials for testing upon which is to be based the acceptance or rejection, shall be taken by the geotechnical engineer or the engineer's authorized representative. Materials may be sampled either prior to shipment or after being received at the place of construction. All sampling, inspection, and testing shall be done in accordance with the methods hereinafter prescribed. The CONTRACTOR shall provide such facilities as the geotechnical engineer or its representative may require for conducting field tests and for collecting and forwarding samples. The CONTRACTOR shall not use or incorporate into the Work any materials represented by the samples until tests have been made and the material found to be acceptable. Only materials conforming to the requirements of these Specifications and which have been approved by the geotechnical engineer or its authorized agents shall be used in the Work. Any material which, after approval, has for any reason become unfit for use shall not be incorporated into the Work.

### **6.3 Cited Specifications, Samples and Tests**

Except as otherwise provided, sampling and testing of all materials and the Laboratory methods and testing equipment required under these Specifications shall be in accordance with the current edition of the ASTM publication of Standards adopted and in effect on the date of the Invitation to Bid. When designated, sampling and testing of materials shall be in accordance with the current edition of "The American Standards Association Specifications," the current edition of the AASHTO publication "Standard Specifications for Highway Materials and Methods of Sampling and Testing," the current edition of the "American Water Works Association Specifications," the current edition of the "Federal Specifications," or the current edition of "MIL Specifications" adopted and in effect on the date of the Invitation to Bid. Supervision of testing and certification of tests shall be performed by a Licensed Professional Engineer. All supervision, testing, and certification necessary to control the Work will be at the expense of the Party designated in the Contract Documents.

### **6.4 Maintenance Yard and Storage**

6.4.1 An area will be designated by the DISTRICT for the CONTRACTOR to use for maintenance of equipment, storage of materials, shop trailers, etc. The CONTRACTOR shall keep its yard and material storage area in a neat and clean condition at all times.

6.4.2 Materials shall be stored so as to insure the preservation of their quality and fitness for the Work. When considered necessary, they shall be placed on wooden platforms or other hard, clean surfaces and not on the ground, and shall be placed under cover when directed. Stored materials shall be located so as to facilitate prompt inspection.

6.5 Substitution of Materials after Award of Contract

No substitutions of any kind will be considered without the prior written approval of the Project Manager and/or Engineer. Substitution of equipment and materials of makes or types other than those specified and/or those that have been given written approval prior to bidding will be considered for approval only as hereinafter provided. Proposed substitutes shall be equal or superior to items specified or previously approved. The CONTRACTOR shall submit any requests for substitution within ten (10) days after the date of Notice of Award and shall include a statement outlining reasons for each requested substitution. The requests shall include catalog numbers, technical data, cut sheets, diagrams and other such descriptive data or samples as may be required. The CONTRACTOR shall also provide a detailed statement listing any and all significant details in which each item requested for substitution differs from the item specified. Failure to list such information shall not relieve the CONTRACTOR from providing properly function and/or fitting materials, regardless of the approval action taken. If so requested by the Project Manager and/or Engineer, the CONTRACTOR shall submit samples of both the specified material or equipment and the proposed substitution. In case of a difference in price, the DISTRICT shall receive all benefit of the difference for any substitutions, and the Contract Price shall be adjusted by Change Order to credit the DISTRICT with any savings so obtained.

6.7 Defective Materials

All materials not conforming to the requirements of the Specifications shall be considered defective. Whether in place or not, such material shall be removed immediately from the Project Site, unless otherwise permitted by the Project Manager and/or Engineer. No rejected material, the defects of which have been subsequently corrected, shall be used until approval has been given. Upon failure of the CONTRACTOR to comply promptly with any order of the Project Manager and/or Engineer made under the provisions of this Section, the Project Manager and/or Engineer shall have authority to direct the removal of defective materials and to deduct the cost of removal and replacement with specified materials from any moneys due or to become due the CONTRACTOR.

6.8 Uncovering Work

6.8.1 If any Work is covered or made unavailable contrary to specific requirements of the Contract Documents or the written request of the Project Manager and/or Engineer, it must be uncovered or made available at the Project Manager's and/or Engineer's request, and replaced at the expense of the CONTRACTOR.

6.8.2 If the Project Manager and/or Engineer considers it necessary to have any other made available for inspection or testing, the CONTRACTOR shall uncover or make such Work available at the Project Manager's and/or Engineer's request. Payment for the uncovering, making available, correction and covering or replacing of the Work shall

depend on whether or not any defects are discovered in the Work. If the Work is found to be defective, the CONTRACTOR shall bear the costs of uncovering, making available, correcting, covering and replacing the Work. If no defects are discovered, the CONTRACTOR may request a Change Order be issued to adjust the Contract to reflect increased costs and time occasioned by the extra Work ordered under this Section.

6.9 Correction or Removal of Defective Work

6.9.1 The CONTRACTOR shall correct or remove and replace all Work rejected by the inspectors, Project Manager, or Engineer for failure to comply with the Contract Documents at the CONTRACTOR'S own expense.

6.9.2 Extra surveys for re-staking or re-testing of deficient Work, overtime inspection, re-inspection due to deficient Work, will be back-charged and deducted from the CONTRACTOR'S Application for Payment. If charges from the inspecting entities and/or municipalities are made directly to Contractor, these charges shall be the sole responsibility of the CONTRACTOR and paid in a timely manner.

6.10 District's Correction of Defective Work

In the event that the CONTRACTOR refuses or fails to correct or remove defective Work when ordered to do so by the Project Manager and/or Engineer, the DISTRICT may correct any defective Work on its own after giving the CONTRACTOR ten (10) days' written notice. The DISTRICT may make an appropriate deduction in the Contract Price. The CONTRACTOR shall not be allowed an extension in the Contract Time as a result of corrections performed by the DISTRICT under this Section.

6.11 Acceptance of Defective Work

The DISTRICT may choose to accept defective Work rather than requiring its correction or removal and replacement. If the DISTRICT so chooses, an appropriate deduction in the Contract Price shall be made by Change Order.

## SECTION 7

### LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

7.1 Laws to be Observed

7.1.1 The CONTRACTOR and all subcontractors are assumed to be familiar with all Federal, State and local laws, codes, ordinances, and regulations which, in any manner, affect those engaged or employed in the Work or the material or equipment used in or upon the site, or in any way affect the conduct of the Work. No plea of misunderstanding or ignorance on the part of the CONTRACTOR or any subcontractors will, in any way, serve to modify the provisions of the Contract. The CONTRACTOR and subcontractors, at all times, shall observe and comply with all Federal, State and local laws, codes, ordinances, and regulations in any manner affecting the conduct of the Work, and the CONTRACTOR, subcontractors and their sureties shall indemnify and save harmless the District and its directors, officers, employees, servants, authorized volunteers, and assigns, against any claim or liability arising from or based on the violation of any such law, ordinance,

regulation, order, or decree, whether by themselves or their employees.

7.12 Certification:

7.1.8.1 Prior to the execution of this Contract, CONTRACTOR shall certify to the DISTRICT, as attached as Exhibit "P-1" to the Contract, that at the time of certification, it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and that CONTRACTOR will participate in either the E-Verify Program administered by the U.S. Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program (the "Department Program") as further described in Section 7.1.8.6 herein, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

7.1.8.2 Prohibited Acts: CONTRACTOR shall not:

- (A) Knowingly employ or contract with an illegal alien to perform work under this Contract; or
- (B) Enter into a contract with a subcontractor that fails to certify to CONTRACTOR that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. CONTRACTOR shall provide the District with all certifications received from subcontractors in which subcontractors certify that said subcontractors do not knowingly employ or contract with an illegal alien to perform work under this Contract.

7.1.8.3 Verification:

- (A) CONTRACTOR has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-Verify Program or the Department Program.
- (B) CONTRACTOR shall not use either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.
- (C) If CONTRACTOR obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, CONTRACTOR shall:
  - (i) Notify the subcontractor and the District within three (3) days that CONTRACTOR has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
  - (ii) Terminate the subcontract with the subcontractor if, within three (3) days of receiving the notice required pursuant to subparagraph (i) hereof, the subcontractor does not stop employing or contracting with the illegal alien; except that CONTRACTOR shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

7.1.8.4 Duty to Comply with Investigations:

CONTRACTOR shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation conducted pursuant to Colorado Revised Statutes § 8-17.5-102 (5) to ensure that CONTRACTOR is complying with the terms and conditions contained under Section 7.1.8 of this Contract.

7.1.8.5 Breach:

If CONTRACTOR violates any provision set forth under Section 7.0 herein, the District may terminate the Contract for breach of the Contract. If the Contract is so terminated, CONTRACTOR shall be liable for actual and consequential damages to the District. The District shall notify the Colorado office of the Secretary of State if CONTRACTOR violates any provision set forth under Section 7.1.8 herein and the District terminates the Contract.

7.1.8.6 Department Program:

If CONTRACTOR participates in the Department Program, in lieu of the E-Verify Program, CONTRACTOR shall notify the Department and the District of such participation. CONTRACTOR shall, within twenty (20) days after hiring an employee who is newly hired for employment to perform work under the Contract, affirm that the CONTRACTOR has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. Sec. 1324a, and not altered or falsified the identification documents for such employees. CONTRACTOR shall provide a written, notarized copy of the affirmation, similar in form as attached as Exhibit "P-2" to the Contract.

7.2 Permits and Licenses

The CONTRACTOR shall procure ~~all permits and~~ licenses, pay all charges and fees including, but not limited to, all extra inspection charges of agencies having appropriate jurisdiction, and give all notices necessary and incidental to the prosecution of the Work. The DISTRICT may assist the CONTRACTOR, when necessary, in obtaining such ~~permits and~~ licenses. A copy of all ~~permits and~~ licenses procured by the CONTRACTOR shall be supplied to the Project Manager.

7.3 Taxes and Exemptions

The DISTRICT is exempt from Colorado sales and use taxes. It is the CONTRACTOR'S responsibility to obtain and use the sales tax exemption number of the DISTRICT. The DISTRICT shall not reimburse the CONTRACTOR for sales and use taxes erroneously paid.

7.4 Patented Devices, Materials and Processes

If the CONTRACTOR desires to use any design, device, material, or process covered by letters patent or copyright, he shall provide for such use by suitable legal agreement with the patentee. The CONTRACTOR and the surety shall indemnify and save harmless the District and its directors, officers, employees, servants, authorized volunteers, and assigns, and the District Manager, Project Manager, Construction Manager, and Engineer, and their employees, agents and assigns, from any and all claims for infringement by reason of the use of any such patented design, device, material, or process or any trademark or copyright in connection with the Work agreed to be performed under this Contract, and shall indemnify the District and its directors, officers,

employees, servants, authorized volunteers, and assigns, and the District Manager, Project Manager, Construction Manager, and Engineer, and their employees, agents and assigns, for any costs, expense, and damages which it may be obliged to pay for reason of any such infringement at any time during this prosecution, or after the completion of the Work. This Section shall not apply in situations where the device, material or process has been expressly specified by the DISTRICT.

7.5 Sanitary Provisions

The CONTRACTOR shall provide and maintain in a neat, sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the State Department of Health or of other authorities having jurisdiction there over.

7.6 Public Convenience, Safety, and Traffic Control

7.6.1 The CONTRACTOR shall fully comply with all applicable Federal, State and local laws governing safety and traffic control. CONTRACTOR shall provide all safeguards, safety devices and protective equipment and take any other needed actions on its own responsibility and as reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect properly in connection with the performance of the Work covered by the Contract. Materials stored upon the site shall be so placed and the Work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered necessary by the Project Manager. Traffic shall be maintained at those locations throughout the Project Site in order to provide a safe, efficient, and orderly flow.

7.6.2 Prior to the start of construction operations in public right-of-ways, the CONTRACTOR shall notify the Local Jurisdiction as identified in the Special Provisions giving the approximate starting date, completion date and the name and telephone number of a responsible person who may be contacted at any hour in the event of a critical condition requiring immediate correction. This notification shall also be given to the DISTRICT, with a copy to the Project Manager. All work in any public right-of-way must be submitted to and approved by the local agency.

7.7 Barricades, Signs and Hazard Markings

The CONTRACTOR shall provide, erect, maintain, and subsequently remove at Final Completion all necessary barricades, signs, danger signals and lights for the protection of the Work, the safety of the public and restricting to the DISTRICT'S property. All barricades, signs and obstructions erected by the CONTRACTOR shall be illuminated at night and all devices for this purpose shall be kept burning from sunset to sunrise. The CONTRACTOR shall be responsible for all damage to the Work due to failure of barricades, signs, lights and watchmen to protect it, and whenever evidence of such damage is found prior to acceptance, the Project Manager may order the damaged portion immediately removed and replaced by the CONTRACTOR without cost to the DISTRICT, District Manager, Project Manager, Construction Manager, Engineer or their agents or assigns. All work in any public right-of-way must be submitted to and approved by the City of Greeley Traffic Department and CDOT when applicable.

7.8 Use of Explosives

Blasting is not allowed without proper prior notice and all legal requirements satisfied by all governing agencies. Once all legalities are satisfied, prior written permission must be granted by the DISTRICT.

7.9 Notices to Districts and Utilities

7.9.1 If the Work on the Project Site will in any way affect other Special Districts or the provision of services by utility companies, the CONTRACTOR shall notify the Special Districts and utility companies before any Work is commenced which may affect these parties or their property. It shall be the CONTRACTOR'S responsibility to secure from utility company representatives accurate information regarding location, size, and type of facilities affected by the Work. A copy of all notices shall be provided to the Project Manager and Engineer.

7.9.2 The Plans indicate as accurately as possible the location and type of various utilities within the site of the proposed Work. Some utilities may have been omitted and the location of those shown on the Plans may not be precise. The CONTRACTOR shall assume all responsibility for acquiring and maintaining utility locates for the protection of the utilities. In the event a utility is damaged by the CONTRACTOR, the CONTRACTOR shall be held solely responsible to repair and relocate at no additional cost to the DISTRICT.

7.9.3 CONTRACTOR shall provide at its expense all electric power, water, or any other utility required for the construction and testing of the Work. CONTRACTOR shall contact the Project Manager regarding details of utility availability, metering, source location, fees and payment schedule.

7.10 Protection and Restoration

7.10.1 The CONTRACTOR shall not enter upon private property for any purpose without first obtaining permission, and he shall be responsible for the preservation of all public and private property, trees, fences, monuments, underground structures, etc., on and adjacent to the site and shall use every precaution necessary to prevent damage or injury thereto.

7.10.2 CONTRACTOR shall protect carefully from disturbance or damage, all land monuments and property marks until an authorized agent has witnessed or otherwise referenced their location, and shall not remove them until directed. CONTRACTOR shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect or misconduct in its manner, or method of executing said Work, or due to its failure to timely perform said Work, or at any time due to the defective Work or materials, and said responsibility shall not be released until the Work shall have been completed and accepted.

7.10.3 CONTRACTOR'S attention is directed to the importance of protecting all public utilities encountered on all projects. These may include telephone, telegraph and power lines, water lines, sewer lines, gas lines, railroad tracks, and other overhead and underground



utilities. Before any excavation is begun in the vicinity of water lines, railroad tracks or structures, sewer lines, gas lines, or telephone conduits, each utility company concerned must be notified in advance of such excavation, and such excavation shall not be made until an authorized representative of the utility company concerned is on the ground and has designated the location of their facilities.

- 7.104 When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the Work, or is consequence of the non-execution thereof on the part of the CONTRACTOR, CONTRACTOR shall restore, at its own expense, such property to a condition equal to that existing before such damage or injury was done by repairing, rebuilding, or otherwise restoring, as may be directed, or CONTRACTOR shall make good such damage or injury in an acceptable manner. In case of the failure on the part of the CONTRACTOR to restore such property or to have started action to make good such damage or injury, the Project Manager may, upon twenty-four (24) hours' notice, proceed to repair, rebuild or otherwise restore such property as may be deemed necessary and the cost thereof will be deducted from any moneys due or which may become due the CONTRACTOR under the Contract.
- 7.105 The cost of damages due to CONTRACTOR'S operation or cost of protecting utilities where required to permit construction under this Contract shall be included in the original Contract Prices for the Project.

7.11 Responsibility for Damage Claims

In addition to the indemnification provided in Section 6.8 of the Contract and without limiting in any way the same, the CONTRACTOR shall indemnify and save harmless the District and its directors, officers, employees, servants, authorized volunteers, and assigns, and the District Manager, Project Manager, Construction Manager, Engineer and Land Owner and their representatives, employees, agents and assigns, from all suits, actions, or claims of any character brought on account of:

- a. any injuries or damages sustained by any person or property in consequence of any neglect in safeguarding the Work, or through the use of unacceptable materials in the construction of the Project, or on account of any act or omission by the said CONTRACTOR, or
- b. on account of the use, misuse, storage or handling of explosives, or
- c. on account of any claims or amounts recovered for any infringement of patent, trademark, or copyright, or
- d. from any claims or amounts arising or recovered under the Workmen's Compensation Laws, or any other law, by-law, ordinance, order or decree, and so much of the money due to said CONTRACTOR under and by virtue of its Contract, as shall be considered necessary by the DISTRICT, may be retained and sufficient funds to cover such claims will be retained from monies owed the CONTRACTOR, or, in case no money is due, its surety shall be held until such suit or suits, action or actions, claim or claims, for injuries or damages as aforesaid, shall have been settled and satisfactory evidence to that effect furnished to the DISTRICT.

7.12 Contractors Responsibility for Work

Until Final Completion, CONTRACTOR shall have the charge and care of the Work and shall take every necessary precaution against injury or damage to any part thereof by the action of the elements or from any other cause. CONTRACTOR shall, at its own expense, rebuild, repair, restore, and make good all injuries or damages to any portion of the Work occasioned by any causes before its completion and acceptance. In case of suspension of Work from any cause whatsoever, the CONTRACTOR shall be responsible for all materials and shall properly store them, if necessary, and shall provide suitable drainage, barricades and warning signs where necessary. CONTRACTOR shall make good or replace at its own expense and as required, any material which may be broken, lost through fire, theft, or otherwise damaged, or in any way made useless for the purpose and use intended by the Plans and Specifications prior to Final Completion of the Work even though such breakage, damage, loss or uselessness may result from causes beyond the control of CONTRACTOR.

7.13 No Waiver of Legal Rights

Observation by the Project Manager and/or Engineer, or by any of their duly authorized representatives, any order, measurement, or certificate by the Project Manager and/or Engineer; any order by the DISTRICT for the payment of money, any payment for or acceptance of any work or any extension of time; or any possession taken by the DISTRICT shall not operate as a waiver of any provision of the Contract, or any power therein provided, or any waiver of any other or subsequent breach. The DISTRICT reserves the right to correct any error that may be discovered in any estimate that may have been paid, and to adjust the same to meet the requirements of the Contract and Plans and Specifications.

7.14 Emergencies

The CONTRACTOR shall act immediately using its own discretion to prevent or lessen the amount of injury or harm to any person or property in the event or threat of any emergency. The CONTRACTOR shall notify the Project Manager as soon as reasonably possible of the emergency and of any action already or about to be taken.

## **SECTION 8**

### **TIME AND PROGRESS OF THE WORK (LIQUIDATED DAMAGES)**

#### **8.1 Contract Time Computation**

All times as stated in the Contract Documents or as later amended by the parties are of the essence. In computing time periods in this Contract, described in number of days from a stated date or occurrence, the day of the date or occurrence shall be excluded and the last day of the period included.

#### **8.2 Progress of the Work**

At least ten (10) days prior to submitting the first Application for Payment, the CONTRACTOR shall submit to the Project Manager the Schedule of Values and Construction Schedule, indicating when progress billings will be submitted (which shall not be more than once a month), the anticipated values of the Work at each progress payment request and when the CONTRACTOR intends to submit Shop Drawings. These schedules shall be agreed to by the CONTRACTOR and Project Manager and shall be of sufficient detail to provide the basis for progress payments during construction.

#### **8.3 Notice to Proceed**

The CONTRACTOR may begin Work on the day specified in the Notice to Proceed and no Work shall be done on the Project prior to the date specified in the Notice to Proceed, except as agreed in writing by the DISTRICT and CONTRACTOR. Commencement shall be preceded by an onsite walk through by the CONTRACTOR, Project Manager, and Engineer to identify existing conditions, location of storage/maintenance yard, safety and traffic requirements, and any other considerations relative to the Work.

#### **8.4 Liquidated Damages**

Liquidated Damages of \$ 500.00 per calendar day may be assessed should the CONTRACTOR exceed the stated construction time deadlines stated in the Contract. Assessment of Liquidated Damages is solely at the determination of the DISTRICT based upon input from the Project Manager.

## **SECTION 9**

### **MEASUREMENT AND PAYMENTS**

#### **9.1 Application for Payment**

Application for Payment (Pay Estimates) will be processed once a month on a date established within the Contract. Prior to submittal of an Application for Payment, the CONTRACTOR shall meet with the Project Manager and/or Engineer at the Project Site to review and agree on quantities and scope completed as of the date of the Application for Payment including any material stored at or near the Project Site together with any supporting documentation the DISTRICT or Project Manager shall require, including waiver of lien claims for material suppliers or Subcontractors and their suppliers. The Application for Payment form will contain the bid items of the Schedule of Values listed in the Contract. All CONTRACTOR costs to complete the Work, shown on the Plans or in the Specifications, shall be included in the Schedule of Values. All related

and incidental Work necessary to complete the Contract though not specifically listed in the Schedule of Values, will be considered as subsidiary obligations under the Contract.

9.2 Measurement of Quantities

The determination of Work completed and quantities of Work acceptably completed under the terms of the Contract, or as directed by the Project Manager and/or Engineer in writing, will be made by the Project Manager, Engineer, and CONTRACTOR and based on measurements taken by them or their designated representatives. These measurements will be taken according to the United States standard measure. All surface and linear measurements will be taken according to the United States standard measure. All surface and linear measurements will be taken horizontally unless otherwise shown on plans or specified in the Specifications. Structures shall be measured to the neat lines as shown on the plans, or as ordered in writing by the Project Manager and/or Engineer.

9.3 Scope of Payment

The CONTRACTOR shall accept the compensation, as herein provided, in full payment for furnishing all materials, equipment, labor, tools, and incidentals necessary to complete the Work and for performing all Work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the Work until Final Completion, and for all risks of every description connected with the prosecution of the Work, for all expenses incurred in consequence of the suspension or discontinuance of the Work as herein specified; and for completing the Work according to the Plans and Specifications. Neither the payment of any estimate nor of any retained percentage shall relieve the CONTRACTOR of any obligations to make good any defective Work or material. No monies, payable under Contract, or any part thereof, except the estimate for the first month or period, shall become due and payable until the CONTRACTOR shall satisfy the DISTRICT that he has fully settled or paid for all materials and equipment used in or upon the Work and labor done in connection therewith, and the DISTRICT, if he so elects, may pay any or all such bills, wholly or in part, and deduct the amount or amounts so paid from any monthly or final estimate excepting the first estimate. In the event the Surety on any bond given by the CONTRACTOR becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the State revoked as provided by law, the DISTRICT may, at its election, withhold payment of any estimate filed or approved by the Project Manager until the CONTRACTOR shall give a good and sufficient bond in lieu of the bond so executed by such Surety.

9.4 Payment Approval

The Project Manager shall review the CONTRACTOR'S Application for Payment within ten (10) days of its receipt. If the Project has progressed to the point indicated in the Application for Payment, in the manner required by the Contract Documents, and is of a quality acceptable to the Project Manager based on their judgment, skill and experience as a professional, then he shall forward the Application for Payment to the DISTRICT recommending the requested payment be made.

9.5 Withheld Approval

The Project Manager may refuse to approve an Application for Payment in whole or in part if he has found any part of the Work to be defective, damaged or in need of repair or replacement, not completed to the point indicated in the Application for Payment, not performed in an acceptable manner or quality according to standards in the profession, has not submitted an updated Construction Schedule, or the CONTRACTOR has failed to make payments due to Subcontractor or other suppliers of labor, materials, or equipment. The Project Manager shall, within ten (10) days of the receipt of the Application for Payment either approve or return the Application for Payment to the CONTRACTOR stating the reasons for disapproval in writing. The CONTRACTOR may make any necessary corrections and resubmit the Application for Payment within five (5) days of the Project Manager's disapproval. If then approved, the Project Manager will forward the Application for Payment to the DISTRICT for payment subject to Section 9.4.

9.6 Amount and Time of Payment

The DISTRICT shall pay the CONTRACTOR or state in writing its reasons for refusing to do so in accordance with the Contract and receipt of an Application for Payment approved by the Project Manager. Payment shall be in the amount recommended by the Project Manager, less any Retainage. The DISTRICT has the right, but not the obligation, to make payments, directly or by joint check with CONTRACTOR, due to Subcontractors or other suppliers of labor, materials, or equipment.

9.7 Retainage

The DISTRICT and CONTRACTOR agree that the DISTRICT shall retain five percent (5%) of the amount of each payment until Final Completion of all Work covered by the Contract Documents and all work is accepted in writing by the appropriate inspecting entity.

9.8 Payments Withheld

The DISTRICT may withhold payment to the extent that the Project Manager does not approve the CONTRACTOR'S Application for Payment or, if evidence arises that claims may be or have been filed by other parties against the CONTRACTOR which may adversely affect the DISTRICT, or if the CONTRACTOR fails to cooperate with, or damages any other contractor or its Work.

9.9 Final Payment

9.9.1 After all Work has been completed and substantially accepted in writing by the governing municipality or state, and the Project Manager has issued the Certificate of Final Completion, the CONTRACTOR may make application to the DISTRICT for final payment. The Application shall include evidence, by way of lien waivers, affidavit or receipts, that all claims for payrolls, materials, equipment and other indebtedness incurred by or which have become the responsibility of the CONTRACTOR, or other claims arising out of the. The Project, which have, or may become the responsibility of the DISTRICT, have been paid or otherwise satisfied.

9.9.2 A published notice will be issued prior to final payment in compliance with Colorado Revised Statutes 38-26-107(1). Upon completion of the notice period, written governmental acceptance, receipt of the Certificate, and the final Application for

Payment, the DISTRICT shall make final payment to the CONTRACTOR in accordance with Colorado Revised Statutes 38-26-107(3). Final payment by the DISTRICT shall constitute acceptance of the Project by the DISTRICT. This final acceptance, however, shall not relieve the CONTRACTOR of responsibility for defects and/or omissions which were not discoverable upon reasonable observation by the Project Manager and/or Engineer; and all required warranties by the CONTRACTOR shall remain in full force and effect.

9.10 Lien Releases

The CONTRACTOR shall provide a conditional lien release with each monthly pay application submitted for payment. Additionally, the CONTRACTOR shall provide an unconditional lien release for the prior month's payment with each monthly pay application submission.

**SECTION 10**  
**COMPLETION OF THE PROJECT**

10.1 Substantial Completion

When the CONTRACTOR considers the Project to be substantially complete, he shall so certify to the Project Manager. Within ten (10) days of such certification, the Project Manager and Engineer shall inspect the Project and determine the status of completion. Within ten (10) days, the Project Manager shall decide whether or not to issue a Certificate of Substantial Completion and/or a list of unfinished Work to be done and corrections to be made and the date by which such Work is to be done. If the Project Manager fails to issue a Certificate of Substantial Completion, the Project Manager shall state the reasons in writing to the CONTRACTOR. The Project Manager and Engineer shall make one (1) inspection at the time the CONTRACTOR requests a Certificate of Substantial Completion for all or any portion of the Project. If additional inspections are required because the CONTRACTOR'S Work is not substantially complete, in the Project Manager's judgment, each subsequent inspection of the same Work for the purpose of obtaining a Certificate of Substantial Completion shall be at the sole expense of the CONTRACTOR.

10.2 Final Completion

1021 When the CONTRACTOR believes the Project is finally completed, he shall so certify to the Project Manager. The CONTRACTOR, Project Manager, and Engineer will then inspect the Project. The Project Manager and/or Engineer will notify the CONTRACTOR of any patently deficient or patently defective Work. The CONTRACTOR will then immediately and completely remedy any Work that is not in conformance with the Contract Documents.

1022 The Project Manager and/or Engineer shall review the CONTRACTOR'S certificate, all the required supporting documents and make a final inspection of the Work. If the Work is satisfactory according to the Contract Documents and professional engineering and construction standards, the Project Manager shall recommend to the DISTRICT issuance of a Certificate of Final Completion. If the DISTRICT objects for any reason, the DISTRICT shall so state to the Project Manager in writing within ten (10) days. The Project Manager shall instruct the CONTRACTOR to remedy the DISTRICT'S objections.

- 1023 The Project Manager and Engineer shall inspect the Work to determine if the DISTRICT'S objections have been remedied. If the Project Manager and Engineer determines the objections have been remedied, the Project Manager shall issue the Certificate of Final Completion to the DISTRICT.
- 1024 No inspection, approval, failure to approve nor failure to detect any defects, errors or omissions by the Project Manager and/or Engineer shall limit or excuse the liability of the CONTRACTOR or Subcontractor or any other party involved in the Project, nor waive or limit any remedy that may be available to the DISTRICT.

10.3 Partial Utilization

1031 Use by the DISTRICT of completed portions of the Project may be accomplished prior to Completion of the entire Project subject to the following:

- a. The DISTRICT at any time may request the CONTRACTOR in writing to permit the DISTRICT to use any part of the Project which the DISTRICT believes to be substantially complete and which may be so used without significant interference with construction of the other parts of the Project. If the CONTRACTOR agrees, the CONTRACTOR will certify to the DISTRICT and the Project Manager that said part of the Project is substantially complete. Within a reasonable time thereafter, the DISTRICT, the CONTRACTOR the Project Manager and Engineer shall make an inspection of that part of the Project to determine its status of completion. Prior to the DISTRICT'S use, the Project Manager will deliver to the DISTRICT and the CONTRACTOR a written recommendation as to the division of responsibilities pending final payment between the DISTRICT and the CONTRACTOR with respect to security, operation, safety, maintenance, utilities, insurance and correction period for that part of the Project which is binding upon the DISTRICT and the CONTRACTOR as to that part of the Project, unless the DISTRICT and the CONTRACTOR shall have otherwise agreed in writing and have so informed the Project Manager or shall object to the Project Manager in writing within ten (10) days of receiving Project Manager's recommendations. The DISTRICT shall have the right to exclude the CONTRACTOR from any part of the Project which the District uses, but the District shall allow the CONTRACTOR reasonable access to complete or correct items on the tentative list. In lieu of the above provisions, the District may take over operation of a facility constituting part of the Project whether or not it is substantially complete if such facility is functionally and separately useable; provided that prior to any such takeover, the DISTRICT and the CONTRACTOR have agreed as to the division of responsibilities between the DISTRICT and the CONTRACTOR for security, operation, safety, maintenance, correction period, heat, utilities and insurance with respect to such facility.

1032 No occupancy of part of the Project or taking over of operations of a facility will be accomplished prior to acknowledgement from the insurers providing the property insurance on the Project that notice of such occupancy has been received and that said insurers, in writing, have affected the changes in coverage necessitated thereby. The

insurers providing the property insurance shall consent to such use or occupancy by endorsement on the policy or policies, but the property insurance shall not be canceled or lapse on account of any such partial use or occupancy.

## **SECTION 11 INSURANCE**

### **11.1 Contractor's Insurance**

CONTRACTOR and any Subcontractor shall obtain, maintain, and comply with all insurance provisions set forth in Exhibit J to the Contract.

## **SECTION 12 RETENTION OF RIGHTS**

- 12.1 Nothing contained in the insurance requirements is to be construed as limiting the extent of the CONTRACTOR'S liability for damages resulting from CONTRACTOR'S performance under this Contract.
- 12.2 In addition to the indemnification provided in Section 6.8 of the Contract and without limiting in any way the same, the CONTRACTOR shall hold harmless, pay all costs to defend and indemnify the District and its directors, officers, employees, servants, authorized volunteers, and assigns, and the District Manager, Project Manager, Construction Manager, Engineer and Land Owner and their representatives, employees, agents and assigns, from any and all liability claims, losses or damage arising or alleged to arise from the performance of Work described herein, but not including any claims, losses or damage arising from the negligence of the District or its directors, officers, employees, servants, authorized volunteers, and/or assigns, or the District Manager, Project Manager, Construction Manager, Engineer and Land Owner and/or their representatives, employees, agents and assigns.

## **SECTION 13 CONTRACTOR'S WARRANTY**

### **13.1 Warranty Period**

For a period of two (2) years from final completion and acceptance, and in addition to the indemnification provided in Section 6.8 of the Contract and without limiting in any way the same, the CONTRACTOR will indemnify and hold harmless the DISTRICT and its directors, officers, employees, servants, authorized volunteers, and assigns, and the District Manager, Project Manager, Construction Manager, Engineer and Land Owner and their representatives, employees, agents and assigns, from and against all claims, damages, liability, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work, provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including the loss of use resulting therefrom; and is caused in whole or in part by any negligent or willful act or omission of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.



13.2 Limitation

In any and all claims against the DISTRICT or its directors, officers, agents, servants, and assigns, Project Manager, Construction Manager, and Engineer, and/or their employees, agents and assigns, by any employee of the CONTRACTOR, any Subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any Subcontractor under Workmen's Compensation acts, disability benefit acts or other employee benefits acts.

13.3 Limits of Liability

The obligation of the CONTRACTOR under this Section shall not extend to the liability of the Engineer or its agents or employees arising out of the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications.

13.4 Guarantee Period

The CONTRACTOR shall guarantee all materials and equipment furnished and Work performed for a period of **two (2) years** from the date of Final Completion and acceptance. The CONTRACTOR warrants and guarantees for a period of **two (2) years** from the date of Final Completion and acceptance of the Project that the completed Project is free from all defects due to faulty materials or workmanship and the CONTRACTOR shall promptly make such corrections as may be necessary by reason of such defects including the repairs of any damages to other parts of the Project resulting from such defects. The DISTRICT will give notice of observed defects with reasonable promptness given the urgency of the circumstances and the possibility of consequential damages. In the event that the CONTRACTOR should fail to make such repairs, adjustments, or other Work that may be made necessary by such defects, the DISTRICT may do so and charge the CONTRACTOR the cost hereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period.

13.5 Assignment of Warranty

The CONTRACTOR shall assign to DISTRICT all warranties received from third parties on any part of the received Project.

**SECTION 14  
CHANGES IN THE CONTRACT**

14.1 Changes in Work

The DISTRICT may, at any time, without notice to the Sureties, by written order designated or indicated to be a Change Order, make any change in the Work within the general scope of the Contract Documents, including but not limited to changes:

- a. in the specifications (including drawings and designs);
- b. in the method or manner of performance of the Work;
- c. in the DISTRICT-furnished facilities, equipment, materials, services, or site; or
- d. directing acceleration in the performance of the Work.

## 14.2 Changes in Work Requested by Contractor

- 14.2.1 After the issuance and acceptance of the Notice to Proceed, the CONTRACTOR may submit to the Project Manager for review a request for a change in the Work that the CONTRACTOR believes is necessary to complete the Work pursuant to Contract Documents and that is not already provided for in the Contract Documents and associated bid prices. Within ten (10) calendar days, the Project Manager will review the CONTRACTOR'S written request and either reject the request in writing or recommend to the DISTRICT that a Change Order be generated to provide for the CONTRACTOR'S requested change.
- 14.2.2 The Project Manager's written rejection will provide an explanation for the rejection and provide the CONTRACTOR with an opportunity to refute the rejection.
- 14.2.3 If the Project Manager believes that the CONTRACTOR'S request is valid, the Project Manager will review the request and the Project Manager's analysis of the request with the DISTRICT. If the DISTRICT rejects the request, the Project Manager will so notify the CONTRACTOR in writing and the CONTRACTOR, if they so desire, may file a claim. Pending final resolution of any claim, the CONTRACTOR shall proceed diligently with performance and the DISTRICT shall continue to make payments in accordance with the Contract.
- 14.2.4 If the DISTRICT approves the request as recommended by the Project Manager, the Project Manager will prepare a Change Order for execution by the DISTRICT. The CONTRACTOR will be notified by the Project Manager of the accepted request prior to issuance of the Change Order.
- 14.2.5 Request for a Change Order may or may not include an increase or decrease to the Contract price.

## 14.3 Change Orders

- 14.3.1 Except as provided in Section 14.1 above, no order, statement, or conduct of the DISTRICT, District Manager, Project Manager, Construction Manager, and Engineer shall be treated as a Change Order under this Section or shall entitle the CONTRACTOR to any adjustment. The DISTRICT shall execute appropriate Change Orders prepared by Project covering changes in the Project which are required by DISTRICT or because of any change request or claim asserted by CONTRACTOR as provided in this Section which is recommended by Project and approved by DISTRICT. The Contract price and time may only be changed by Change Order.
- 14.3.2 No Change Order requiring additional compensable Work to be performed, which Work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract shall be issued, unless the CONTRACTOR is given written assurance by the DISTRICT that lawful appropriations to cover the costs of the additional Work have been made and the appropriations are available prior to performance of the additional work or unless such Work is covered under a remedy granting provision in the Contract.

14.3.3 For any form of order or directive by the DISTRICT requiring additional compensable Work to be performed, the DISTRICT will reimburse the CONTRACTOR for the CONTRACTOR'S costs on a periodic basis, as those terms are defined in the Contract, for all additional directed Work performed until a Change Order is finalized. In no instance shall the periodic reimbursement be required before the CONTRACTOR has submitted an estimate of cost to the DISTRICT for the additional compensable Work to be performed.

14.4 Authorized Extra Work

The CONTRACTOR shall perform only that extra Work authorized by a written Change Order, except in the case of an emergency or minor change where he shall proceed according to Sections 7.14 and 14.8 of these General Provisions.

14.5 Changes in Cost or Time

14.5.1 If any change under this Section 14 causes an increase or decrease in the CONTRACTOR'S cost of, or the time required for, the performance of any part of the Work under this Contract an equitable adjustment shall be made and the Contract modified in writing accordingly. However, except for claims based on defective specifications, no claim for any change under this Section shall be allowed for any costs incurred more than twenty (20) days before the CONTRACTOR gives written notice. Also, in the case of defective specifications for which the DISTRICT is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the CONTRACTOR in attempting to comply with such defective specifications.

14.5.2 If the CONTRACTOR intends to assert a claim for any adjustment under this Section, he must, within twenty (20) days after receipt of a written Change Order under Section 14.1 above, submit to the DISTRICT a written statement setting forth the general nature and monetary extent of such claim, unless the DISTRICT extends this period.

14.5.3 No claim by the CONTRACTOR for any adjustment hereunder shall be allowed unless asserted before Final Payment under the Contract Documents.

14.5.4 Adjustments in the Contract Price which may result from extra Work ordered in a Change Order shall be provided in the Change Order. The amount of any Contract Price increase or decrease shall be determined as follows:

- a. By mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation; or
- b. By unit prices stated in the Contract Documents or subsequently agreed upon; or
- c. By cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- d. If none of the methods set forth in Sections a., b., or c. above, is agreed upon, the CONTRACTOR, provided CONTRACTOR receives a written order signed by the DISTRICT or Project Manager, shall promptly proceed with the Work involved. The cost of such Work shall then be determined by the Project Manager on the basis of the reasonable expenditures and savings of those performing the Work

attributable to the change. In such case, and also under Section 14.5.4.a. above, the CONTRACTOR shall keep and present, in such form as the Project Manager may prescribe, an itemized accounting together with appropriate supporting data for inclusion in a Change Order. Unless otherwise provided in the Contract Documents, cost shall be limited to the following: cost of materials, and cost of delivery; cost of labor required by agreement or custom; workers' or workmen's compensation insurance; bond premiums; rental value of equipment and machinery; and the additional costs of supervision and field office personnel directly attributable to the change; all of which will exclude taxes. Pending final determination of cost to the DISTRICT, payments on account shall be made on the Project Manager's Application for Payment. The amount of credit to be allowed by the CONTRACTOR to the DISTRICT for any deletion or change which results in a net decrease in the Contract Price will be the amount of the actual cost as confirmed by the Project Manager. When both additions and credits covering related work or substitutions are involved in anyone change, the cost for overhead and profit shall be included in cost of materials and hourly equipment and labor rates.

1455 If unit prices are stated in the Contract and if the quantities originally contemplated are changed in a proposed Change Order by more than 40% above or below the quantities contemplated in the Contract, or the Change Order will change the total Contract Price by more than 40% above or below the total Contract Price when the Change Order is executed, the applicable unit prices shall be adjusted.

1456 For purposes of computing additional costs or credit, the value of such costs or credit shall be determined as follows:

a. By Estimate and Acceptance in a Lump Sum:

In the event this method is used, the procedure shall be as follows:

The Project Manager and/or Engineer will submit to the CONTRACTOR such drawings, specifications or descriptions as may be required by the proposed change with a request for a proposal. CONTRACTOR shall submit as soon as possible thereafter a proposal to cover the contemplated change with a detailed breakdown of estimated cost therefore. To the estimated cost, there shall be included all Work which the CONTRACTOR itself performs, an allowance for overhead as defined in 14.5.8 below and 10% of costs for profit; these same percentages shall be allowed to the Subcontractor for their overhead and profit on all work which he performs, and an additional five percent (10%) of the Subcontractor's invoice shall be allowed the CONTRACTOR. These percentages shall apply to the net addition (cost of additional work less credit for any omitted work) of anyone change.

b. By Unit Prices:

In the event this method is used, no allowances will be added for overhead and profit, as the unit prices subsequently agreed upon shall include all costs,

overhead and profit.

c. By Cost and Percentage or By Cost and Fixed Fee:

In the event this method is used, the CONTRACTOR shall keep and present in such form as the Project Manager may direct, accurate and detailed account of the cost of Work so ordered, including, but not limited to, certified payroll sheets and copies of accounts, bills and vouchers. To this cost shall be added either:

- a. The percentages for overhead and profit in the same manner as outlined in Section 14.5.6.a. above; or
- b. The fixed fee agreed upon prior to the start of the Work.

14.5.7 Cost shall include all items of labor and materials, the use of power tools and equipment, power and all items of cost such as public liability and workmen's compensation insurance, pro rata charges for foremen, also social security, old age and unemployment insurance, and bonds.

14.4.8 Overhead includes insurance other than mentioned above, superintendents, timekeepers, clerk, watchmen, use of small tools and general office expense. No percentage for profit will be allowed on items of social security, workmen's compensation, old age and unemployment insurance, welfare fund contributions, travel, bonds and insurance or overhead items.

14.6 Differing Site Conditions

14.6.1 The CONTRACTOR shall, within three (3) days of CONTRACTOR'S discovery, and before such conditions are disturbed, notify the Project Manager and Engineer in writing of:

- a. Subsurface or latent physical conditions at the Site differing materially from those indicated in the Contract Documents including the soils report; or
- b. Unknown physical conditions at the Project Site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work of the character provided for in the Contract Documents.

14.6.2 The Project Manager and/or Engineer shall, within three (3) days of CONTRACTOR'S notification, investigate the conditions. If the Project Manager and/or Engineer finds that such conditions do materially differ and cause an increase or decrease in the CONTRACTOR'S cost of, or the time required for, performance of any part of the Work under the Contract Documents, whether or not changed as a result of such conditions, an equitable adjustment shall be made and the Contract Documents modified in writing accordingly.

14.6.3 No claim of the CONTRACTOR under this Section shall be allowed unless the CONTRACTOR has given the notice required above and the Project Manager and/or Engineer is in agreement with the changed conditions not reasonably anticipated.

14.6.4 No claim by the CONTRACTOR for an equitable adjustment hereunder shall be allowed

unless asserted before final payment under the Contract Documents.

14.7 Delays

14.7.1 The right of the CONTRACTOR to proceed shall not be terminated nor shall the CONTRACTOR be charged with damages for any delays in the completion of the Work due:

- a. To any acts of the DISTRICT, District Manager, Project Manager, Construction Manager, Engineer or their employees, agents or assigns; or injunction or litigation against said DISTRICT, provided that notice is given to DISTRICT within (10) days of the CONTRACTOR'S knowledge of the act.
- b. To causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the CONTRACTOR, , but not restricted to, acts of God or of the public enemy, acts of another CONTRACTOR in the performance of some other contract with the DISTRICT, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, adverse weather conditions, frozen/frost ground conditions, an/or permit restrictions.
- c. To any delay of any Subcontractor occasioned by any of the clauses specified in Sub-Sections a. and b. of this Section.

14.7.2 Adverse weather and other conditions will be considered for the granting of time extensions. Work stoppages due will be based on weather and other conditions not under the control of the Contractor that will not permit construction operations to proceed with the normal working force engaged in performing those items controlling the completion of the Work. CONTRACTOR will notify the Project Manager of Work stoppages as they occur and shall outline in writing the reason for the Work stoppage within 24-hours. The Project Manager and DISTRICT will make a determination of delay, if any, and will extend the time accordingly. No claim for damages or any claim other than extension of time as herein provided shall be made or asserted against the DISTRICT by reason of a delay.

14.7.3 The number of actual adverse weather days shall be calculated chronologically from the first to the last day in each month. Once the number of actual adverse weather days anticipated in the schedule above has been exceeded, the Project Manager will examine all adverse weather days to determine whether a CONTRACTOR is entitled to a time extension. These actual adverse weather days must prevent Work for fifty percent (50%) or more of the CONTRACTOR'S workday, delay Work critical to the timely completion of the Project, and be documented by the CONTRACTOR in writing daily. The Project Manager will convert any delays meeting the above requirements to calendar days and issue a time extension in accordance with the Contract.

14.7.4 The CONTRACTOR'S schedule must reflect the above anticipated adverse weather delays on all-weather dependent activities.

14.7.5 In the event of temporary suspension of Work, or during inclement weather, or whenever

the Project Manager and the DISTRICT directs, the CONTRACTOR will, and will cause its Subcontractors to, protect carefully all Work and materials against damage or injury from the weather at no additional expense. If, in the opinion of the Project Manager and/or DISTRICT, any Work or materials shall have been damaged or injured by reason of failure on the part of the CONTRACTOR or any of its Subcontractors so to protect all Work, such materials shall be removed and replaced at the expense of the CONTRACTOR.

14.8 Minor Changes

The Project Manager may order minor changes in the Project which do not result in an increase to the Contract Time or Contract Price, which are consistent with the overall intent of the Contract Documents.

14.9 Delays

Delays justifying a change in Contract Time may include, but are not limited to, acts of God, acts or omissions by the DISTRICT, District Manager, Project Manager, Construction Manager, and Engineer, labor disputes, fires, floods, or unusually severe weather, differing materially from that normally encountered. CONTRACTOR shall retain the right to recover damages or equitable adjustment for delays caused in whole or in part by acts or omissions within the control of the DISTRICT or persons acting on behalf thereof.

**SECTION 15**

**SUSPENSION AND TERMINATION OF THE CONTRACT**

15.1 Suspension of Work by the District

15.11 The DISTRICT may order the CONTRACTOR, in writing, upon ten (10) days' notice, to suspend, delay or interrupt all or any part of the Work for such period of time not to exceed ninety (90) days as he may determine to be appropriate for the convenience of the DISTRICT.

15.12 If the performance of all or any part of the Work is delayed or interrupted for an unreasonable period of time by an act of the DISTRICT in administration of this Contract, or by the DISTRICT'S, Project Manager's and/or Engineer's failure to act within the time specified in this Contract (or if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of the Work (excluding profit) necessarily caused by such delay interruption, or failure to act and the Contract Documents modified in writing accordingly. However, no adjustment shall be made under this clause for any delay, or interruption to the extent (1) that performance would have been so delayed or interrupted by any other cause, including the fault or negligence of the CONTRACTOR or (2) for which an equitable adjustment is provided for or excluded under any other provision of the Contract Documents.

15.13 No claim under this Section shall be allowed (1) for any costs incurred for more than twenty (20) days before the CONTRACTOR shall have notified the DISTRICT in writing of the act or failure to act involved (but this requirement shall not apply as to a claim resulting from a Suspension Order), and (2) unless the claim, in an amount stated, is

asserted in writing as soon as practical after the termination of such suspension, delay or interruption, or failure to act but before the date of final payment under the Contract.

## 15.2 Termination for Default

- 1521 If the CONTRACTOR refuses or fails to prosecute the Work, or any separable part of the Work, with such diligence as will insure its completion within the time period specified in the Contract Documents or any extension thereof, or fails to complete said Work within such time, or is in default for any of the reasons set forth in Section 15.2.5 of these General Provisions, the DISTRICT may, upon ten (10) days' written notice to the CONTRACTOR and its Surety, terminate the CONTRACTOR'S right to proceed with the Work or such part of the Work as to which there has been delay. In such event the DISTRICT may take over the Work and prosecute the same to completion by Contract or otherwise and may take possession and use in completing of the Work such materials, appliances and plant as may be on the Project site and necessary therefore. Whether or not the CONTRACTOR'S right to proceed with the Work is terminated, he and its Surety shall be liable for any damage to the DISTRICT resulting from its refusal or failure to complete the Work within the time period in the Contract Documents.
- 1522 In the event of such Termination for Default, the DISTRICT may exclude the CONTRACTOR from the Project Site without incurring any liability toward the CONTRACTOR for trespass or conversion, or waiving any rights, claims or causes of action it may have against the CONTRACTOR.
- 1523 If the DISTRICT terminates the CONTRACTOR'S right to proceed, the resulting damage will consist of damages until such reasonable time as may be required for Final Completion of the Project together with any increased costs to the DISTRICT incurred in completing the Project.
- 1524 If the DISTRICT does not terminate the CONTRACTOR'S right to proceed, the resulting damage will consist of damages until the Project is completed.
- 1525 The DISTRICT may also terminate the Contract for default if anyone of the following events should occur:
- a. If the CONTRACTOR files a petition under the Bankruptcy Act.
  - b. If the CONTRACTOR makes a general assignment of the Contract to others for the benefit of creditors.
  - c. A trustee or receiver is appointed for the CONTRACTOR or any of the CONTRACTOR'S property.
  - d. The CONTRACTOR repeatedly fails to supply sufficient skilled workmen or suitable materials or equipment to maintain the schedule.
  - e. The CONTRACTOR repeatedly disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction over the Project.
  - f. The CONTRACTOR disregards the authority of the Project Manager and/or Engineer.
  - g. The CONTRACTOR is in any way in substantial violation of the provisions of the



Contract Documents.

- 152.6 The CONTRACTOR'S right to proceed shall not be terminated nor the CONTRACTOR charged with resulting damage if:
- a. The delay in the completion of the Project arises from causes other than normal weather beyond the control and without the fault or negligence of the CONTRACTOR including, but not restricted to, acts of God, acts of the public enemy, acts of the DISTRICT in either its sovereign or contractual capacity acts of another CONTRACTOR in the performance of a Contract with the DISTRICT, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of Subcontractors or Suppliers arising from causes other than normal weather beyond the control and without the fault or negligence of both the CONTRACTOR and such subcontractors or suppliers; and
  - b. The CONTRACTOR, within ten (10) days from the beginning of any such delay (unless the DISTRICT grants a further period of time before the date of final payment under the Contract), notifies the DISTRICT in writing of the causes of delay. The Project Manager shall ascertain the facts and the extent of delay and extend the time for completing the Work when, in their judgment, the findings of fact justify an extension. The Project Manager's findings of fact shall be final and conclusive of the parties, subject only to appeal as provided in Section 16 of these General Provisions.

152.7 If, after Notice of Termination of the CONTRACTOR'S right to proceed under the provisions of this Section 15.2, it is determined for any reason that the CONTRACTOR was not in default under this Section 15.2, or that the delay was excusable under this Section 15.2 the rights and obligations of the parties shall be same as if the Notice of Termination has been issued under the Section 15.4 providing for Termination for Convenience of the DISTRICT.

15.2.7 The rights and remedies provided in this Section against the CONTRACTOR for default are in addition to any other rights and remedies provided by law or under the Contract Documents, except the prohibition of recovery of punitive damages.

15.3 Payment Upon Termination for Default

153.1 After termination by the DISTRICT for default, the CONTRACTOR shall not be entitled to any further payments until Final Completion of the Project. After the Project is finally completed and a Certificate of Final Completion is issued by the DISTRICT, the DISTRICT shall compute the Total Costs to complete the Project after termination. If the Total Costs to complete the Project added to those amounts already paid to the CONTRACTOR (including any retained amounts, but not including any liquidated damages which may have been assessed by the DISTRICT) is less than the original Contract Price, as modified by any written Change Orders, then the DISTRICT shall pay the difference to the CONTRACTOR as a lump sum Termination Fee in lieu of any other settlement.

153.2 If the Total Costs to complete the Project added to those amounts already paid to the

CONTRACTOR (including any retained amounts, but not including any liquidated damages which may have been assessed by the DISTRICT) is more than the original Contract Price as modified by any written Change Orders, then the CONTRACTOR or its Surety shall pay the difference between the Total Costs to the DISTRICT to complete the Project and the Contract Price.

- 15.33 Total Costs as used in Sections 15.3.1 and 15.3.1 shall mean all costs including additional costs of labor, material, supplies, equipment, additional engineering costs, attorney's fees, and loss of revenue incurred by the DISTRICT.

#### 15.4 Termination for Convenience

- 15.4.1 The DISTRICT may terminate the performance of Work under the Contract Documents in accordance with this Section, in whole, or from time to time in part, whenever the DISTRICT shall determine that such termination is in the best interest of the DISTRICT. Any such termination shall be affected by delivery of a written Notice of Termination to the CONTRACTOR specifying the extent to which performance of Work under the Contract is terminated and the date upon which termination becomes effective.
- 15.4.2 After, receipt of a Notice of Termination, and except as otherwise directed by the DISTRICT, the CONTRACTOR shall:
- a. Stop Work under the Contract on the date and to the extent specified in the Notice of Termination;
  - b. Place no further orders or subcontracts for materials, services, or facilities except as necessary to complete the portion of the Work under the Contract which is not terminated;
  - c. Terminate all orders and subcontracts to the extent that they relate to the performance of Work terminated by the Notice of Termination;
  - d. Assign to the DISTRICT, in the manner, at the times, and to the extent directed by the DISTRICT, all of the right, title, and interest of the CONTRACTOR under the orders and subcontracts so terminated. The DISTRICT shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
  - e. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the DISTRICT to the extent he may require. The DISTRICT'S approval or ratification shall be final for all purposes of this clause;
  - f. Transfer to the DISTRICT, and deliver in the manner, at the times, and to the extent, if any directed by the DISTRICT (i) the fabricated or un-fabricated parts, Work in process, completed Work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the Work terminated by the Notice of Termination; and (ii) the completed or partially completed plans, drawings, information, and other property which, if the Project had been completed would have been required to be furnished to the DISTRICT;
  - g. Use its best efforts to sell, in the manner, at the times, to the extent, and at the price or prices that the DISTRICT directs or authorizes, any property of the types

referred to above in this Section, but the CONTRACTOR (i) shall not be required to extend credit to any purchaser; and (ii) may acquire any such property under the conditions prescribed and at a price or prices approved by the DISTRICT. The proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the DISTRICT to the CONTRACTOR under the Contract Documents or shall otherwise be credited to the price or cost of the Work covered by the Contract Documents or paid in such other manner as the DISTRICT may direct;

- h. Complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and
- i. Take such action as may be necessary, or as the DISTRICT may direct, for the protection and preservation of the property related to the Project which is in the possession of the CONTRACTOR and in which the DISTRICT has or may acquire an interest.

1543 After receipt of a Notice of Termination, the CONTRACTOR shall submit to the DISTRICT its termination claim, in the form and with the certification the DISTRICT prescribes. Such claim shall be submitted promptly but in no event later than the end of the calendar year of the effective date of the termination, unless one (1) or more extensions in writing are granted by the DISTRICT upon request of the CONTRACTOR made in writing prior to the end of such calendar year. However, if the DISTRICT determines that the facts justify such action, he may receive and act upon any such termination claim at any time after the end of such calendar year. If the CONTRACTOR fails to submit its termination claim within the time allowed, the DISTRICT may determine, on the basis of information available to it, the amount, if any, due to CONTRACTOR because of the termination. The DISTRICT shall then pay to the CONTRACTOR the amount so determined, subject to the annual budget and appropriations process of the DISTRICT.

1544 Subject to the provisions of this Section, the CONTRACTOR and the DISTRICT may agree upon the whole or any part of the amount or amounts to be paid to the CONTRACTOR because of the total or partial termination of Work under this subsection. The amount or amounts may include a reasonable allowance for profit on Work completed and approved. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of the portion of the Property not terminated. The Contract Documents shall be amended accordingly, and the CONTRACTOR shall be paid the agreed amount. Nothing in this Section prescribing the amount to be paid to the CONTRACTOR in the event of the failure of the CONTRACTOR and the DISTRICT to agree upon the whole amount to be paid to the CONTRACTOR because of termination of Work under this Section, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the CONTRACTOR pursuant to this Section.

1545 If the CONTRACTOR and the DISTRICT fail to agree on the whole amount to be paid to the CONTRACTOR because of the termination of Work under this Section, the DISTRICT shall

determine, on the basis of information available to it, the amount, if any, due to the CONTRACTOR by reason of the termination and shall pay the CONTRACTOR the amounts determined as follows:

- a. For all Contract Work performed before the effective date of the Notice of Termination the total (without duplication of any items) of
  - i. the cost of such Work;
  - ii. the cost of settling and paying claims arising out of the termination of Work under subcontracts or orders as Section 15.4.2.a. above provides. This cost is exclusive of the amounts paid or payable on account of supplies or materials delivered or services furnished by the Subcontractor before the effective date of the Notice of Termination. These amounts shall be included in the cost on account of which payment is made; and
  - iii. a sum, as profit, that the DISTRICT and CONTRACTOR determine to be fair and reasonable. But, if it appears that the CONTRACTOR would have sustained a loss on the entire Project had it been completed, no profit shall be included or allowed under this Section and an appropriate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss; and
  - iv. the reasonable cost of the preservation and protection of property incurred and any other reasonable costs incidental to termination of the Work under the Contract Documents, including expense incidental to the determination of the amount due to the CONTRACTOR as a result of the termination of Work under the Contract Documents. The total sum to be paid to the CONTRACTOR shall not exceed the total Contract Price as reduced by the amount of payments otherwise made and as further reduced by the Contract Price of Work not terminated.

15.4.6 Except for normal spoilage, and except to the extent that the DISTRICT shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the CONTRACTOR the fair value, as determined by the DISTRICT, of property which is destroyed, lost, stolen or damaged, to the extent that it is undeliverable to the District, or to a Buyer under Section 15.4.2.g. of this Section.

15.4.7 The CONTRACTOR shall have the right to dispute under Section 16 of these General Provisions any determination the DISTRICT makes under this Section. But, if the CONTRACTOR has failed to submit its claim within the time provided in Section 15.4.3 and has failed to request an extension of time, he shall have no such right of appeal. In any case where the DISTRICT has determined the amount due, the DISTRICT shall pay to the CONTRACTOR the following:

- a. If there is no right of appeal hereunder or if no timely appeal has been made, the amounts so determined by the District; or
- b. If a dispute proceeding is initiated, the amount finally determined in such dispute proceeding.

15.4.8 In arriving at the amount due to the CONTRACTOR under Section 15.4.3 above there shall be deducted:

- a. All un-liquidated advance or other payments on account therefore made to the CONTRACTOR, applicable to the terminated portion of the Work;
- b. Any claim which the DISTRICT may have against the CONTRACTOR in connection with this Contract; and
- c. The agreed price for, or the proceeds of sale of, any materials, supplies or other things kept by the CONTRACTOR or sold, under the provisions of this Section, and not otherwise recovered by or credited to the District.

15.49 The termination hereunder be partial, before the settlement of the terminated portion of this Contract, the CONTRACTOR may file with the DISTRICT or request in writing for an equitable adjustment of the price or prices specified in the Contract relating to the continuing portion of the Work (the portion not terminated by the Notice of Termination. Such equitable adjustment as may be agreed upon shall be made in the price or prices. Nothing contained herein shall limit the right of the DISTRICT and the CONTRACTOR to agree upon the amount or amounts to be paid to the CONTRACTOR for the completion of the continued portion of the Work when the Contract Documents do not contain an established Contract Price for the continued portion.

#### 15.5 Suspension by the CONTRACTOR

15.5.1 The CONTRACTOR may suspend Work on the Project upon ten (10) days' written notice to the DISTRICT and Project Manager if anyone of the following events occurs:

- a. The Project Manager fails to act on any Application for Payment within thirty (30) days after it is submitted including denial of application.
- b. The DISTRICT fails to pay any sum finally due, after any proceeding under Section 16.
- c. The Project Manager and/or Engineer fail to respond to a written request for information from the CONTRACTOR within ten (10) days.

15.5.2 Work shall continue if within the ten (10) day notice period the situation which justified suspension by the CONTRACTOR under this Section is remedied.

#### 15.6 Termination by CONTRACTOR

15.6.1 The CONTRACTOR may terminate the Contract and recover any sums due for work performed, materials purchased and other reasonable expenses; including reasonable termination expense, upon ten (10) days' written notice to the DISTRICT should one of the following events occur:

- a. Suspension of the Work through no fault of the CONTRACTOR by court order or other act by a public authority with proper jurisdiction for a period in excess of ninety (90) days.
- b. Failure of the Project Manager to act on any Application for Payment within forty-five (45) days after it is submitted.
- c. Failure of the DISTRICT to make any payment determined to be finally due within sixty (60) days of the due date, after any proceeding under Section 16.

- d. Nothing in this Section shall relieve the CONTRACTOR from the responsibility to continue Work during the resolution of disputes between the DISTRICT and the CONTRACTOR.

## **SECTION 16 DISPUTES**

16.1 The DISTRICT and CONTRACTOR may exercise such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations with respect to the dispute. The DISTRICT and CONTRACTOR agree to endeavor to resolve any conflicts that arise during the construction of the Project or following the completion of the Project. If the DISTRICT and CONTRACTOR are not able to resolve such matter within five (5) business days of the date of first discussion, the parties' representatives shall inform senior executives of the DISTRICT and CONTRACTOR in writing that resolution was not effected. If the dispute remains unresolved after fifteen (15) days from the date of first discussion, the parties may submit the dispute to mediation or arbitration subject to the mutual consent of the DISTRICT and CONTRACTOR, each in their sole discretion. Compliance with any mediation or arbitration procedure shall not be a pre-requisite to bringing an action in a court of competent jurisdiction. This Agreement shall be construed in accordance with the laws of the State of Colorado and particularly those relating to governmental contracts.

## ADDENDUM TO CONSTRUCTION CONTRACT

This Addendum to Construction Contract (“**Addendum**”) is made as of this 5<sup>th</sup> day of August, 2020, between the Northridge Estates Metropolitan District No. 1 (“**District**”), Northridge Estates Partners, LLC (“**Developer**”), and GLH Construction, LLC (“**Contractor**”) (together, the “**Parties**” or individually, a “**Party**”) and amends or supplements the Contract for construction of the Northridge Estates Subdivision Phase 1, 2, & 3, between District and Contractor (“**Contract**”) which is to be executed contemporaneously to this this Addendum. All provisions that are not so amended or supplemented hereunder remain in full force and effect. In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter set forth, District, Developer, and Contractor agree as follows:

1. The Work described in the Contract or any of the Contract Documents includes both public infrastructure and non-public infrastructure and the Parties agree that the District shall be the Owner and responsible Party for only those portions of the Work that are considered public infrastructure and Developer shall be Owner and responsible Party for those portions of the Work that are considered non-public infrastructure. Attached hereto as **Attachment A**, and fully incorporated herein by this reference, is a description of the specific elements of the Work that the Parties hereby agree shall be public infrastructure and non-public infrastructure.

(a) Developer represents that it has provided to the District funds in an amount equal to or in excess of the full Contract Price for the Work and the District represents that said funds have been appropriated by the District for completion of the Project. The District shall reimburse Developer pursuant to a separate Construction Funding Advance and Reimbursement Agreement to be executed between the District and Developer for only those portions of the Work that are considered public infrastructure.

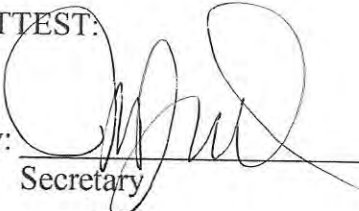
(b) Any Change Order approved pursuant to the Contract Documents must indicate whether the change is associated with Work on public infrastructure or non-public infrastructure.

(c) The Parties agree that this Addendum is intended to clarify the ownership and financial responsibility for completion the facilities and improvements constructed pursuant to the Contract, and not alter the day-to-day operations or oversight of the Work which shall remain with the District, including through the District’s Engineer. For example, all progress payments shall be submitted to the Engineer for approval and payment by the District.

IN WITNESS WHEREOF, the Parties have executed this Addendum on the day and year first above written.

**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1**

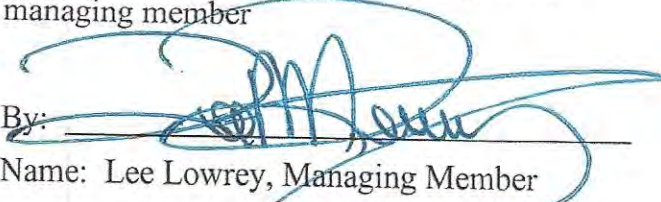
By:   
\_\_\_\_\_  
President

ATTEST:  
By:   
Asst Secretary \_\_\_\_\_

**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By:   
\_\_\_\_\_  
Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC

**CONTRACTOR: GLH CONSTRUCTION,  
INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_



**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1**

By: \_\_\_\_\_  
President

ATTEST:

By: \_\_\_\_\_  
Secretary


**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By: \_\_\_\_\_  
Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC

**CONTRACTOR: GLH CONSTRUCTION,  
INC.**

By:   
Name: Gregory L Hughes  
Title: President

## CONTRACT

### Northridge Estates Metropolitan District No. 1 Northridge Estates Subdivision-Phase 2 (Complete) & Phase 3 Wet Utilities

**THIS CONTRACT** is dated as of the 15th day of March, 2021, by and between Northridge Estates Metropolitan District No. 1 (hereinafter called the "DISTRICT"), and GLH Construction, LLC (hereinafter called "CONTRACTOR"), together or individually the "Party" or "Parties".

DISTRICT and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

#### 1.0 WORK

**1.1** The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Project is to be completed in three phases, with each phase being substantially complete prior to commencement of the subsequent phase. Phase one of the Work was completed by CONTRACTOR under separate contract dated August 5, 2020. By execution of this Contract, the Parties acknowledge and agree that said contract dated August 5, 2020 included Phase 1 improvements only and all work on Phase 2 or Phase 3 improvements are to be completed by separate contract, including, but not limited to, this Contract. The Work that is the subject of this Contract is generally described as follows: Furnish all supervision, labor, tools, equipment, materials and all other incidentals necessary to construct all of Phase 2 improvements and Phase 3 wet utilities for the Project in accordance with the Contract Documents, as defined in Article 7 herein. The Project for which the Work under the Contract Documents may be the whole or only a part(s) generally described as erosion control, sanitary sewer, potable water, non-potable water, storm sewer, underdrain, concrete curb & gutter, sidewalk, asphalt paving, striping, signage, fencing, landscaping, traffic control and all related work incidental to the completion of Phase 2 and a portion of Phase 3 of the project as per the plans provided by the DISTRICT and/or the acceptance requirements of the City of Greeley.

**1.2** In event the Project is financed in whole or in part by funds of the State, or any county, school district, or municipality of the State of Colorado, the CONTRACTOR shall ensure that Colorado labor is employed to perform at least eighty percent (80%) of the Work as required by law. "Colorado labor" means any person who is a resident of the state of Colorado, at the time of the Project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification. A resident of the State of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days. The governmental body financing this Project may waive the eighty percent (80%) Colorado labor requirement if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work of the project and if compliance with this

Section 1.1 would create an undue burden that would substantially prevent the Project from proceeding to completion.

## **2.0 ENGINEER**

The Project has been designed by Olsson and LandOne Engineering, LLC will provide engineering support through the bidding and construction of the Project.

## **3.0 CONTRACT TIME**

- 3.1** The Phase 2 Work will be substantially completed in accordance with the Contract Documents by June 30, 2021 and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by July 31, 2021.
- 3.2** The portion of Phase 3 Work authorized by this Contract will be substantially completed in accordance with the Contract Documents by June 30, 2021 and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by July 31, 2021.
- 3.3** Damages for late completion shall be determined in accordance with Section 8 of the General Provisions.

## **4.0 CONTRACT PRICE**

DISTRICT shall pay the CONTRACTOR for performance of the Work in the amount of **Three million, five hundred sixty one thousand, nine hundred fifty nine and 42/100 dollars (\$3,561,959.42)** in accordance with the Contract Documents in current funds as described in Article 5 below and pursuant to Exhibit H – Schedule of Values. The DISTRICT has appropriated an amount of money equal to or in excess of the Contract Price.

## **5.0 PAYMENT PROCEDURES**

The CONTRACTOR shall submit Applications for Payment in accordance with Section 9 of the General Provisions. Applications for Payment will be processed by the DISTRICT for approval as described in the General Provisions.

- 5.1** Invoices are due to the Project Manager on the 3rd day of each month. The Project Manager will review and make recommendation for approval to the DISTRICT by the 15th day of each month. The DISTRICT shall make progress payments on the basis of the CONTRACTOR'S Applications for Payment as recommended by the Project Manager and approved by the DISTRICT, on or before the 15th day of the month following the Project Manager's recommendation for approval. All progress payments will be on the basis of the progress of the Work measured by the Schedule of Values provided for in the Contract Documents for the preceding calendar month.

- 5.2** Progress payments will be in an amount equal to ninety-five percent (95%) of the Work completed less the aggregate of payments previously made and less any back charges and/or damages accruing through the ending date of each payment period. At Final Completion of the Project and upon receipt of written acceptance by the DISTRICT, and upon compliance with state statutes, stated in Section 5.3, the Retainage will be released.
- 5.3** Upon receipt of the Certificate of Final Completion and the application for final payment, fulfillment of the public notification provisions of Section 38-26-107, C.R.S., and without the filing of any claims within the statutory timeframe, the DISTRICT shall pay the balance of the Contract Price to the CONTRACTOR, as provided in the General Provisions.

## **6.0 CONTRACTOR'S REPRESENTATIONS**

In order to induce the DISTRICT to enter into this Contract, the CONTRACTOR makes the following representations:

- 6.1** The CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions, including federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 6.2** The CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the Project Site or otherwise affecting cost, progress or performance of the Work which were relied upon by Engineer in the preparation of the Plans and Specifications and which have been identified in the General Provisions and Special Provisions.
- 6.3** The CONTRACTOR has made or caused to be made examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 above as it deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examination, investigations, tests, reports or similar data are, or will be, required by CONTRACTOR for such purposes.
- 6.4** The CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 6.5** The CONTRACTOR has given the DISTRICT written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the DISTRICT is acceptable to the CONTRACTOR.
- 6.6** The CONTRACTOR warrants that it is an independent contractor and that it, its agents, employees, subcontractors, and others employed by it are not employees of the DISTRICT.

The CONTRACTOR is an independent contractor as provided in Sections 8-40- 202(2)(b)(I)-(IV), C.R.S., and the CONTRACTOR is obligated to carry worker's compensation insurance in accordance with state law and the CONTRACTOR is obligated to pay federal and state income tax on monies earned pursuant to this Contract.

- 6.7** The CONTRACTOR warrants that it shall procure and maintain the insurance described in Exhibit J attached hereto during the construction of the Project.
- 6.8** The CONTRACTOR hereby indemnifies, defends, and holds harmless the DISTRICT from all claims and causes of action arising from the negligent acts or omissions or intentional misconduct of the CONTRACTOR or its employees, agents, representatives, subcontractors, or suppliers in the performance of this Contract. In the event CONTRACTOR's insurance policies do not provide for the defense, indemnification, or holding harmless of the DISTRICT, the CONTRACTOR shall only indemnify, defend, and hold harmless the DISTRICT from all such claims to the extent and for an amount by the degree or percentage of negligence or fault attributable to the CONTRACTOR or its employees or its agents, representatives, subcontractors, or suppliers. If the CONTRACTOR is providing architectural, engineering, surveying, or other design services, then the extent of the CONTRACTOR's obligation to defend, indemnify, or hold harmless the DISTRICT may be determined only after the CONTRACTOR'S liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the CONTRACTOR and the DISTRICT.

## **7.0 CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between the DISTRICT and the CONTRACTOR are attached to this Contract, made a part hereof and consist of the following:

This Contract and the following Exhibits attached hereto:

### **EXHIBITS:**

- A.** Notice of Award
- B.** Notice to Proceed
- C.** Plans and Specifications (inclusive of all phasing exhibits)
- D.** City of Greeley Design Criteria and Construction Specifications
- E.** General Provisions
- F.** Special Provisions
- G.** Addendums to Bid Documents
- H.** Schedule of Values
- I.** Construction Schedule
- J.** Insurance Requirements
- K.** Certificate of Insurance
- L.** Additional Insured Entity List
- M.** Performance Bond and Payment Bond
- N.** Conditional Waiver and Release Upon Progress Payment

- O. Unconditional Waiver and Release Upon Progress Payment
- P-1. Certification Regarding Employment of Illegal Aliens
- P-2. Contractor Affirmation for the Department Program
- Q. Change Order Form
- R. Field Order Form

There are no Contract Documents other than those listed above in this Article 7.0. The Contract Documents may only be altered or amended by a Modification as defined in the General Provisions.

## 8.0 MISCELLANEOUS

- 8.1 Terms used in this Contract which are defined in the General Provisions shall have the meanings indicated therein.
- 8.2 No assignment by a Party hereto of any rights under or interests in the Contract Documents will be binding on the other Party hereto without the written consent of the Party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law).
- 8.3 The DISTRICT and the CONTRACTOR each binds themselves, their partners (if any), their assigns, successors, and legal representatives to the other Party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 All Builders shall be intended third-party beneficiaries of this Contract.
- 8.5 Contractor shall perform the Work in accordance with the Construction Standard, as that term is defined in Section 1 of the General Provisions attached hereto as Exhibit E.
- 8.6 **The CONTRACTOR acknowledges and agrees to the DISTRICT's anticipated funding of the Contract Price for the Work hereunder pursuant to the Construction Funding Advance Agreement between the DISTRICT and Northridge Estates Partners, LLC (DEVELOPER), dated July 30, 2020, and a First Amendment thereto, dated 3/15/21, 2021, copies of which the CONTRACTOR, by execution of this Agreement, acknowledges receipt of. The DISTRICT has appropriated money equal to or in excess of the Contract Price for the Work in reliance on said Construction Funding Advance Agreement but does not currently have in its funds and accounts any of the funds for the Contract Price. Progress payments are thus subject to the timing, approvals, and other terms and conditions of (a) said Construction Funding Loan Agreement and (b) the DEVELOPER'S agreements with its lenders.**

## 9.0 OTHER PROVISIONS

Reference in this Contract to the General Provisions is understood to mean the General

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Provisions, as amended or supplemented by the Special Provisions.

(Remainder of Page Left Intentionally Blank)

IN WITNESS WHEREOF, the Parties hereto have signed this Contract in duplicate, effective as of the date first above written. One counterpart each will be delivered to the DISTRICT and to the CONTRACTOR.

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By:  \_\_\_\_\_

Title: President

Address for Giving Notice:

2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122

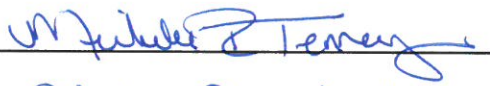
ATTEST:

By: \_\_\_\_\_

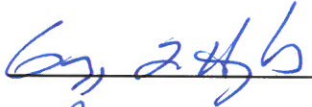
Title: \_\_\_\_\_

**CONTRACTOR:**

ATTEST:

By:  \_\_\_\_\_

Title: Admin Assistant

By:  \_\_\_\_\_

Title: President



**EXHIBIT "A"**

**NOTICE OF AWARD**

To be attached after this page.

**EXHIBIT "B"**

**NOTICE TO PROCEED**

To: GLH Construction, LLC  
780 E. Garden Drive  
Windsor, CO 80550

Date: February 17, 2021

You are hereby notified to commence Work in accordance with the Contract for the Northridge Estates Subdivision - Phase 2 & Phase 3 Wet Utilities dated March 15, 2021.

Work is to begin on or before February 22, 2021.

All Work is to be substantially completed no later than June 30, 2021.

Final Completion of all Work is to be no later than July 31, 2021.

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By:  \_\_\_\_\_

Title: President

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this 15th day of March, 2021.

**CONTRACTOR:**

By:  \_\_\_\_\_

Title: President

**EXHIBIT "C"**

**PLANS AND SPECIFICATIONS**

To be attached after this page.

**EXHIBIT "D"**

**CITY OF GREELEY  
DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS**

These are the Standards and Specifications as adopted by the City of Greeley. The Design Criteria and Construction Specifications are available from the City of Greeley. CONTRACTOR is required to perform WORK in accordance with the City of Greeley Design Criteria and Construction Specifications.

**EXHIBIT "E"**

**GENERAL PROVISIONS**

The General Provisions follow this page and are numbered GP-1 through GP-47.

**EXHIBIT "F"**

**SPECIAL PROVISIONS**

The Special Provisions follow this page and are numbered SP-1 through SP-10.

**EXHIBIT "G"**

**ADDENDUMS TO BID DOCUMENTS**

To be added if any.

**EXHIBIT "H"**

**SCHEDULE OF VALUES**

To be attached after this page.



**EXHIBIT "I"**

**CONSTRUCTION SCHEDULE**

To be attached after this page.

## EXHIBIT "J"

### INSURANCE REQUIREMENTS

CONTRACTOR shall maintain the amounts and types of insurance described below and shall cause any and all Subcontractors to maintain such coverages from insurance companies licensed to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

- A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and advertising injury, and Two Million Dollars (\$2,000,000.00) General Aggregate.
- B. Automobile Liability Insurance for all motor vehicles operated by or for CONTRACTOR or Subcontractor, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each occurrence.
- C. Workers Compensation Insurance for all employees of CONTRACTOR or Subcontractor as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).
- D. With respect to any CONTRACTOR or Subcontractor that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the Agreement and so long as the insurance is commercially reasonably available, for a period not less than the Government Warranty Period. The professional liability insurance required by this paragraph shall not contain any exclusions or limitations applicable to residential projects.
- E. CONTRACTOR or Subcontractor shall provide property coverage for materials and equipment belonging to the DISTRICT while in the course of installation (Installation Floater), with limits of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). Such policies shall be written on an all risk basis to include coverage for theft, transit and while items are in temporary storage.
- F. Umbrella Excess Liability in amount not less than \$4,000,000 each occurrence and \$4,000,000 aggregate. Limits and coverages must layer over the primary insurance as indicated.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All insurance policies shall provide for the defense, indemnification, and holding harmless of the DISTRICT.
2. Except as otherwise provided herein, all liability insurance policies shall be written on an occurrence basis.
3. All insurance policies required hereunder except Workers Compensation and Employers Liability shall: (i) name those entities listed in Exhibit L attached hereto as "Additional Insureds" utilizing an ACORD form or equivalent acceptable to the DISTRICT, excluding, however, insurance policies for those who provide professional services whose insurance policies do not permit the designation of additional insureds; (ii) be issued by an insurer authorized in the State of Colorado; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days' prior written notice to the Additional Insureds. All insurance policies required by this Agreement shall include a provision requiring a 10-day prior written notice to the District for the cancellation of an insurance policy due to the non-payment of a premium and a minimum of a 30-day prior written notice to the District for any change to or cancellation of an insurance policy other than for non-payment of a premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the DISTRICT, Land Owner, District Manager, District Representatives and their consultants and sub-consultants, employees, officers and directors for work performed under this agreement.
4. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
5. The CONTRACTOR and any and all Subcontractors shall provide the DISTRICT with certificates evidencing the insurance coverages required by this Exhibit in the certificate form described in Item 2 of this Exhibit, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Certificates of Insurance required in this Exhibit shall be attached to Exhibit K hereto. Replacement certificates shall be sent to the DISTRICT, as policies are renewed, replaced, or modified.
6. The foregoing insurance coverage must be maintained in force at all times during the performance of the Work.
7. All insurance shall cover the entire period while Work is being performed on the Project until the DISTRICT issues the Certificate of Final Completion and accepts the Project and at all times thereafter when the CONTRACTOR may be correcting, removing or replacing defective Work.

1. All insurance policies shall provide for the defense, indemnification, and holding harmless of the DISTRICT.
2. Except as otherwise provided herein, all liability insurance policies shall be written on an occurrence basis.
3. All insurance policies required hereunder except Workers Compensation and Employers Liability shall: (i) name those entities listed in Exhibit L attached hereto as "Additional Insureds" utilizing an ACORD form or equivalent acceptable to the DISTRICT, excluding, however, insurance policies for those who provide professional services whose insurance policies do not permit the designation of additional insureds; (ii) be issued by an insurer authorized in the State of Colorado; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days' prior written notice to the Additional Insureds. All insurance policies required by this Agreement shall include a provision requiring a 10-day prior written notice to the District for the cancellation of an insurance policy due to the non-payment of a premium and a minimum of a 30-day prior written notice to the District for any change to or cancellation of an insurance policy other than for non-payment of a premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the DISTRICT, Land Owner, District Manager, District Representatives and their consultants and sub-consultants, employees, officers and directors for work performed under this agreement.
4. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
5. The CONTRACTOR and any and all Subcontractors shall provide the DISTRICT with certificates evidencing the insurance coverages required by this Exhibit in the certificate form described in Item 2 of this Exhibit, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Certificates of Insurance required in this Exhibit shall be attached to Exhibit K hereto. Replacement certificates shall be sent to the DISTRICT, as policies are renewed, replaced, or modified.
6. The foregoing insurance coverage must be maintained in force at all times during the performance of the Work.
7. All insurance shall cover the entire period while Work is being performed on the Project until the DISTRICT issues the Certificate of Final Completion and accepts the Project and at all times thereafter when the CONTRACTOR may be correcting, removing or replacing defective Work.

8. If any insurance requires deductibles, the CONTRACTOR shall pay costs not covered because of such deductibles.

9. If notice of any change affecting the general scope of the Work or change in Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the CONTRACTOR'S responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to DISTRICT.

**EXHIBIT "K"**

**CERTIFICATE OF INSURANCE**

To be attached after this page.

**EXHIBIT "L"**

**ADDITIONAL INSURED ENTITY LIST**

The following list of entities shall be listed as additionally insured on the CONTRACTOR'S insurance policies.

<b>Entity Name</b>	<b>Address:</b>
Northridge Estates Metropolitan District No. 1	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
Arbor Capital Partners, LLC	4040 MacArthur Blvd., Suite 250 Newport Beach, CA 92660
Land Asset Strategies, LLC	12665 W. 64 <sup>th</sup> Avenue, Unit E #274 Arvada, CO 80004
White, Bear, Ankele, Tanaka & Waldron	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
LandOne Engineering, LLC	361 71 <sup>st</sup> Avenue Greeley, CO 80634

**EXHIBIT "M"**

**PERFORMANCE BOND AND PAYMENT BOND**  
(AIA Document A312-2010)

Other forms of bonds may be acceptable.  
Acceptance of other forms of bonds will be at the discretion of the DISTRICT.

Holders of the bonds will be:  
Northridge Estates Metropolitan District No. 1  
and  
City of Greeley

To be attached after this page.



**EXHIBIT "N"**

**CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

Upon receipt by the undersigned of a check from Northridge Estates Metropolitan District No. 1 ("DISTRICT") in the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents (\$\_\_\_\_\_.\_\_\_\_\_) less any retentions held by the DISTRICT as provided by law, made payable to the undersigned CONTRACTOR, and when the aforesaid check has been properly endorsed and paid by the bank upon which it is drawn, this document shall become effective to release and discharge, and the undersigned shall be deemed to waive, any mechanic's lien, stop notice, bond right, and claims for payment for any work, labor, services, materials and equipment furnished to the DISTRICT pursuant to that certain Contract, dated \_\_\_\_\_, between the undersigned CONTRACTOR and the DISTRICT ("Contract").

This release covers a progress payment for work, labor, services, materials and equipment furnished by the undersigned, as described in the undersigned's monthly pay application submitted with this document, through \_\_\_\_\_ 2021 ("Release Date") only and does not cover any retentions retained before or after the Release Date, any work, labor, services, materials and equipment furnished by the undersigned before the Release Date for which payment has not been received, or any work, labor, services, materials and equipment furnished by the undersigned after the Release Date.

The undersigned warrants that CONTRACTOR either has already paid or will use the money received from this progress payment to promptly pay in full all laborers, subcontractors, materialmen and suppliers for all work, labor, services, materials and equipment that are the subject of this waiver and release.

Before any recipient of this document relies on it, the recipient should verify evidence of payment to the undersigned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CONTRACTOR**

By: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF COLORADO )

) ss.

COUNTY OF \_\_\_\_\_ )

The foregoing Conditional Waiver and Release Upon Progress Payment was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public



**EXHIBIT "P-1"**

**CERTIFICATION REGARDING EMPLOYMENT OF ILLEGAL ALIENS**

I, \_\_\_\_\_, as a(n) \_\_\_\_\_ in the company of \_\_\_\_\_ (the "Company"), engaged to provide \_\_\_\_\_ to Northridge Estates Metropolitan District No. 1, do hereby certify on behalf of said Company that, as of the date of this Certification, the Company does not knowingly employ or contract with an illegal alien who will perform work under the Contract and that Company will participate in either the E-Verify Program administered by the United States Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CONTRACTOR:**

Signed: GLH Construction LLC

By: [Signature]

Its: President

EXHIBIT "P-2"



**Contractor Affirmation for the Department Program**

Required for use by contractors participating in the Department Program for public contracts for services 8-17.5-101 & 102, C.R.S.

The contractor shall provide a written, notarized copy of this affirmation to the contracting state agency or political subdivision

DO NOT submit this affirmation to the Colorado Division of Labor unless specifically requested to do so.

Employee Name: Last \_\_\_\_\_ First \_\_\_\_\_ MI \_\_\_\_\_ Date of Birth \_\_\_\_\_ Date of Hire \_\_\_\_\_

In accordance with 8-17.5-102, C.R.S., I have \_\_\_\_\_

(Initial after each)

- Examined the legal work status of the above named employee \_\_\_\_\_
- Retained file copies of documents required by 8 U.S.C. sec. 1324a \_\_\_\_\_
- Not altered or falsified the employee's identification documents \_\_\_\_\_

Contract Number \_\_\_\_\_ Contractor / Business Name \_\_\_\_\_

Phone \_\_\_\_\_ Contractor or Contractor Representative Name \_\_\_\_\_

Contractor OR Contractor Representative Signature and Title \_\_\_\_\_ Date Signed \_\_\_\_\_

Subscribed and affirmed before me in the county of \_\_\_\_\_, State of Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.



(Notary's official signature)

(Commission expiration date)

8-17.5-102(5)(c)(H), C.R.S. A participating contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract for services, affirm that the contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The contractor shall provide a written, notarized copy of the affirmation to the contracting state agency or political subdivision

This affirmation and the documents required by 8 U.S.C. sec. 1324a will be retained by the contractor for the duration of the above named individual's employment

This affirmation is provided as a courtesy by the Colorado Division of Labor

Another substantially similar affirmation may be used, provided that it contains the necessary elements and information as required by law

**EXHIBIT "Q"**

**CHANGE ORDER FORM**

DISTRICT:               NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR:           \_\_\_\_\_

Contract Date:         \_\_\_\_\_

This Change Order is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1 (DISTRICT), and \_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The DISTRICT agrees to pay for all changes in the Work performed by the CONTRACTOR under this Change Order according to the terms of the Agreement. The amount paid by the DISTRICT shall be full compensation for all Work requested and for all effects of this document on the Work. The change, if any, in the Contract Price shall be computed according to one of the following methods:

No Change            Costs Plus a Fee            Unit Price            Lump Sum

If Change Order is Costs Plus a Fee or Unit Price, the CONTRACTOR shall submit promptly to DISTRICT such itemized labor and material breakdowns as DISTRICT may require for Work performed or deleted from the Agreement by this Change Order. The CONTRACTOR shall include the cost of such change in its next application for payment in a separate line item.

The change, if any, in the Contract Time resulting from the Work requested by the Change Order shall be determined according to the terms of the Agreement and allows for the \_\_\_\_ addition \_\_\_\_ deletion of \_\_\_\_\_ (\_\_) days.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "R"**

**FIELD ORDER FORM**

DISTRICT: NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR: \_\_\_\_\_

Contract Date: \_\_\_\_\_

This Field Order is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the Project Manager and  
\_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is acknowledged and accepted by the CONTRACTOR that this Field Order will not be the basis for a change resulting in either of the following:

1. An increase in the Contract Fee, nor
2. An increase in the Contract Time.

Any change resulting in either of the above shall only be approved through a properly executed for Change Order accepted by the DISTRICT.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_



## COMMENTS/REMARKS

The following are listed as additional insured as pertains to the General Liability policy, per written contract:

- Northridge Estates Metropolitan District No. 1, 2154 E Commons Ave Ste 2000, Centennial CO 80122
- Arbor Capital Partners, LLC, 4040 MacArthur Blvd Ste 250, Newport Beach CA 92660
- Land Asset Strategies, LLC, 12665 W 64th Ave Unit E #274, Arvada CO 80004
- White, Bear, Ankele, Tanaka & Waldron, 2154 E Commons Ave Ste 2000, Centennial CO 80122
- LandOne Engineering, LLC 361 71st Ave, Greeley CO 80634



## ADDENDUM TO CONSTRUCTION CONTRACT

This Addendum to Construction Contract (“**Addendum**”) is made as of this 15th day of March, 2021, between the Northridge Estates Metropolitan District No. 1 (“**District**”), Northridge Estates Partners, LLC (“**Developer**”), and GLH Construction, LLC (“**Contractor**”) (together, the “**Parties**” or individually, a “**Party**”) and amends or supplements the Contract for construction of the Northridge Estates Subdivision Phase 2 and Phase 3 Wet Utilities, between District and Contractor (“**Contract**”) which is to be executed contemporaneously to this this Addendum. All provisions that are not so amended or supplemented hereunder remain in full force and effect. In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter set forth, District, Developer, and Contractor agree as follows:

1. The Work described in the Contract or any of the Contract Documents includes both public infrastructure and non-public infrastructure and the Parties agree that the District shall be the Owner and responsible Party for only those portions of the Work that are considered public infrastructure and Developer shall be Owner and responsible Party for those portions of the Work that are considered non-public infrastructure. Attached hereto as **Attachment A**, and fully incorporated herein by this reference, is a description of the specific elements of the Work that the Parties hereby agree shall be public infrastructure and non-public infrastructure.

(a) Developer represents that it has provided to the District funds in an amount equal to or in excess of the full Contract Price for the Work and the District represents that said funds have been appropriated by the District for completion of the Project. The District shall reimburse Developer pursuant to a separate Construction Funding Advance and Reimbursement Agreement to be executed between the District and Developer for only those portions of the Work that are considered public infrastructure.

(b) Any Change Order approved pursuant to the Contract Documents must indicate whether the change is associated with Work on public infrastructure or non-public infrastructure.

(c) The Parties agree that this Addendum is intended to clarify the ownership and financial responsibility for completion the facilities and improvements constructed pursuant to the Contract, and not alter the day-to-day operations or oversight of the Work which shall remain with the District, including through the District’s Engineer. For example, all progress payments shall be submitted to the Engineer for approval and payment by the District.

IN WITNESS WHEREOF, the Parties have executed this Addendum on the day and year first above written.

**NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO. 1**

By:   
\_\_\_\_\_  
President

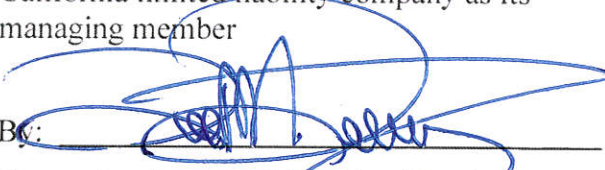
ATTEST:

By: \_\_\_\_\_  
Secretary


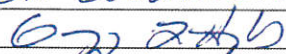
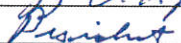
**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By:   
\_\_\_\_\_  
Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC

**CONTRACTOR: GLH CONSTRUCTION,  
LLC**

By:   
\_\_\_\_\_  
Name:   
\_\_\_\_\_  
Title:   
\_\_\_\_\_  
President

**Attachment A**

Description of Public and Non-Public Infrastructure in the Contract  
[attached]

## CONTRACT

### Northridge Estates Metropolitan District No. 1 Northridge Estates Subdivision-Phase 3

**THIS CONTRACT** is dated as of the November 4, 2021, by and between Northridge Estates Metropolitan District No. 1 (hereinafter called the "DISTRICT"), and GLH Construction, LLC (hereinafter called "CONTRACTOR"), together or individually the "Party" or "Parties".

DISTRICT and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

#### 1.0 WORK

**1.1** The CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Project is to be completed in three phases, with each phase being substantially complete prior to commencement of the subsequent phase. Phase 1 of the Work was completed (or is being completed) by CONTRACTOR under separate contract dated August 5, 2020. Phase 2 of the Work was completed (or is being completed) by CONTRACTOR under separate contract dated March 15, 2021. By execution of this Contract, the Parties acknowledge and agree that the phase 1 contract dated August 5, 2020 included Phase 1 improvements, and the phase 2 contract dated March 15, 2021 included phase 2 improvements and the remaining Phase 3 improvements are to be completed by separate contract, including, but not limited to, this Contract. The Work that is the subject of this Contract is generally described as follows: Furnish all supervision, labor, tools, equipment, materials and all other incidentals necessary to construct all of Phase 3 improvements for the Project in accordance with the Contract Documents, as defined in Article 7 herein. The Project for which the Work under the Contract Documents may be the whole or only a part(s) generally described as erosion control, concrete curb & gutter, sidewalk, asphalt paving, striping, signage, fencing, landscaping, traffic control and all related work incidental to the completion of Phase 3 of the project as per the plans provided by the DISTRICT and/or the acceptance requirements of the City of Greeley.

**1.2** In event the Project is financed in whole or in part by funds of the State, or any county, school district, or municipality of the State of Colorado, the CONTRACTOR shall ensure that Colorado labor is employed to perform at least eighty percent (80%) of the Work as required by law. "Colorado labor" means any person who is a resident of the state of Colorado, at the time of the Project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification. A resident of the State of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty days. The governmental body financing this Project may waive the eighty percent (80%) Colorado labor requirement if there is reasonable evidence to demonstrate

insufficient Colorado labor to perform the work of the project and if compliance with this Section 1.1 would create an undue burden that would substantially prevent the Project from proceeding to completion.

## **2.0 ENGINEER**

The Project has been designed by Olsson and LandOne Engineering, LLC will provide engineering support through the bidding and construction of the Project.

## **3.0 CONTRACT TIME**

**3.1** The Phase 3 Work will be substantially completed in accordance with the Contract Documents by March 31, 2022 and all Work, including punch list corrections, will be completed in accordance with the Contract Documents by May 31, 2022.

**3.2** Damages for late completion shall be determined in accordance with Section 8 of the General Provisions.

## **4.0 CONTRACT PRICE**

DISTRICT shall pay the CONTRACTOR for performance of the Work in the amount of **Two million, eight hundred and seven thousand, nine hundred and eighty four dollars (\$2,807,984.00)** in accordance with the Contract Documents in current funds as described in Article 5 below and pursuant to Exhibit H – Schedule of Values. The DISTRICT has appropriated an amount of money equal to or in excess of the Contract Price.

## **5.0 PAYMENT PROCEDURES**

The CONTRACTOR shall submit Applications for Payment in accordance with Section 9 of the General Provisions. Applications for Payment will be processed by the DISTRICT for approval as described in the General Provisions.

**5.1** Invoices are due to the Project Manager on the 3rd day of each month. The Project Manager will review and make recommendation for approval to the DISTRICT by the 15th day of each month. The DISTRICT shall make progress payments on the basis of the CONTRACTOR'S Applications for Payment as recommended by the Project Manager and approved by the DISTRICT, on or before the 15th day of the month following the Project Manager's recommendation for approval. All progress payments will be on the basis of the progress of the Work measured by the Schedule of Values provided for in the Contract Documents for the preceding calendar month.

**5.2** Progress payments will be in an amount equal to ninety-five percent (95%) of the Work completed less the aggregate of payments previously made and less any back charges and/or damages accruing through the ending date of each payment period. At Final Completion of the Project and upon receipt of written acceptance by the DISTRICT, and

upon compliance with state statutes, stated in Section 5.3, the Retainage will be released.

- 5.3** Upon receipt of the Certificate of Final Completion and the application for final payment, fulfillment of the public notification provisions of Section 38-26-107, C.R.S., and without the filing of any claims within the statutory timeframe, the DISTRICT shall pay the balance of the Contract Price to the CONTRACTOR, as provided in the General Provisions.

## **6.0 CONTRACTOR'S REPRESENTATIONS**

In order to induce the DISTRICT to enter into this Contract, the CONTRACTOR makes the following representations:

- 6.1** The CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions, including federal, state and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of the Work.
- 6.2** The CONTRACTOR has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the Project Site or otherwise affecting cost, progress or performance of the Work which were relied upon by Engineer in the preparation of the Plans and Specifications and which have been identified in the General Provisions and Special Provisions.
- 6.3** The CONTRACTOR has made or caused to be made examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraph 6.2 above as it deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examination, investigations, tests, reports or similar data are, or will be, required by CONTRACTOR for such purposes.
- 6.4** The CONTRACTOR has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 6.5** The CONTRACTOR has given the DISTRICT written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the DISTRICT is acceptable to the CONTRACTOR.
- 6.6** The CONTRACTOR warrants that it is an independent contractor and that it, its agents, employees, subcontractors, and others employed by it are not employees of the DISTRICT. The CONTRACTOR is an independent contractor as provided in Sections 8-40- 202(2)(b)(I)-(IV), C.R.S., and the CONTRACTOR is obligated to carry worker's compensation insurance in accordance with state law and the CONTRACTOR is obligated to pay federal and state income tax on monies earned pursuant to this Contract.

- 6.7** The CONTRACTOR warrants that it shall procure and maintain the insurance described in Exhibit J attached hereto during the construction of the Project.
- 6.8** The CONTRACTOR hereby indemnifies, defends, and holds harmless the DISTRICT from all claims and causes of action arising from the negligent acts or omissions or intentional misconduct of the CONTRACTOR or its employees, agents, representatives, subcontractors, or suppliers in the performance of this Contract. In the event CONTRACTOR's insurance policies do not provide for the defense, indemnification, or holding harmless of the DISTRICT, the CONTRACTOR shall only indemnify, defend, and hold harmless the DISTRICT from all such claims to the extent and for an amount by the degree or percentage of negligence or fault attributable to the CONTRACTOR or its employees or its agents, representatives, subcontractors, or suppliers. If the CONTRACTOR is providing architectural, engineering, surveying, or other design services, then the extent of the CONTRACTOR's obligation to defend, indemnify, or hold harmless the DISTRICT may be determined only after the CONTRACTOR'S liability or fault has been determined by adjudication, alternative dispute resolution, or otherwise resolved by mutual agreement between the CONTRACTOR and the DISTRICT.

## **7.0 CONTRACT DOCUMENTS**

The Contract Documents which comprise the entire agreement between the DISTRICT and the CONTRACTOR are attached to this Contract, made a part hereof and consist of the following:

This Contract and the following Exhibits attached hereto:

### **EXHIBITS:**

- A.** Notice of Award
- B.** Notice to Proceed
- C.** Plans and Specifications (inclusive of all phasing exhibits)
- D.** City of Greeley Design Criteria and Construction Specifications
- E.** General Provisions
- F.** Special Provisions
- G.** Addendums to Bid Documents
- H.** Schedule of Values
- I.** Construction Schedule
- J.** Insurance Requirements
- K.** Certificate of Insurance
- L.** Additional Insured Entity List
- M.** Performance Bond and Payment Bond
- N.** Conditional Waiver and Release Upon Progress Payment
- O.** Unconditional Waiver and Release Upon Progress Payment
- P-1.** Certification Regarding Employment of Illegal Aliens
- P-2.** Contractor Affirmation for the Department Program
- Q.** Change Order Form

## R. Field Order Form

There are no Contract Documents other than those listed above in this Article 7.0. The Contract Documents may only be altered or amended by a Modification as defined in the General Provisions.

### 8.0 MISCELLANEOUS

- 8.1** Terms used in this Contract which are defined in the General Provisions shall have the meanings indicated therein.
- 8.2** No assignment by a Party hereto of any rights under or interests in the Contract Documents will be binding on the other Party hereto without the written consent of the Party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law).
- 8.3** The DISTRICT and the CONTRACTOR each binds themselves, their partners (if any), their assigns, successors, and legal representatives to the other Party hereto, in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4** All Builders shall be intended third-party beneficiaries of this Contract.
- 8.5** Contractor shall perform the Work in accordance with the Construction Standard, as that term is defined in Section 1 of the General Provisions attached hereto as Exhibit E.
- 8.6** The CONTRACTOR acknowledges and agrees to the DISTRICT's anticipated funding of the Contract Price for the Work hereunder pursuant to the Construction Funding Advance Agreement between the DISTRICT and Northridge Estates Partners, LLC (DEVELOPER), dated July 30, 2020, and a First Amendment thereto, dated \_\_\_\_\_, 2021, copies of which the CONTRACTOR, by execution of this Agreement, acknowledges receipt of. The DISTRICT has appropriated money equal to or in excess of the Contract Price for the Work in reliance on said Construction Funding Advance Agreement but does not currently have in its funds and accounts any of the funds for the Contract Price. Progress payments are thus subject to the timing, approvals, and other terms and conditions of (a) said Construction Funding Loan Agreement and (b) the DEVELOPER'S agreements with its lenders.

### 9.0 OTHER PROVISIONS

Reference in this Contract to the General Provisions is understood to mean the General Provisions, as amended or supplemented by the Special Provisions.

(Remainder of Page Left Intentionally Blank)



IN WITNESS WHEREOF, the Parties hereto have signed this Contract in duplicate, effective as of the date first above written. One counterpart each will be delivered to the DISTRICT and to the CONTRACTOR.

ATTEST:

By: Bretchen Guerra

Title: N/A

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By: [Signature]

Title: President - Northridge Metro District

Address for Giving Notice:

2154 E. Commons Avenue, Suite 2000  
Centennial, Colorado 80122

ATTEST:

By: Jamie Wickham

Title: Office Manager

**CONTRACTOR:**

By: [Signature]

Title: President

**EXHIBIT "A"**

**NOTICE OF AWARD**

To be attached after this page.

**EXHIBIT "B"**

**NOTICE TO PROCEED**

To: GLH Construction, LLC  
780 E. Garden Drive  
Windsor, CO 80550

Date: October 27, 2021

You are hereby notified to commence Work in accordance with the Contract for the Northridge Estates Subdivision - Phase 3 dated \_\_\_\_\_.

Work is to begin on or before March 31, 2022.

All Work is to be substantially completed no later than May 31, 2022.

Final Completion of all Work is to be no later than July 31, 2022.

**DISTRICT:**

Northridge Estates Metropolitan District  
No. 1

By: \_\_\_\_\_

Title: President - Northridge Metro District

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this 4th day of November, 2021.

**CONTRACTOR:**

By: \_\_\_\_\_

Title: President

**EXHIBIT "C"**

**PLANS AND SPECIFICATIONS**

To be attached after this page.

**EXHIBIT "D"**

**CITY OF GREELEY  
DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS**

These are the Standards and Specifications as adopted by the City of Greeley. The Design Criteria and Construction Specifications are available from the City of Greeley. CONTRACTOR is required to perform WORK in accordance with the City of Greeley Design Criteria and Construction Specifications.

**EXHIBIT "E"**

**GENERAL PROVISIONS**

The General Provisions follow this page and are numbered GP-1 through GP-46.

**EXHIBIT "F"**

**SPECIAL PROVISIONS**

The Special Provisions follow this page and are numbered SP-1 through SP-5.

**EXHIBIT "G"**

**ADDENDUMS TO BID DOCUMENTS**

To be added if any.



**EXHIBIT "H"**

**SCHEDULE OF VALUES**

To be attached after this page.

**EXHIBIT "I"**

**CONSTRUCTION SCHEDULE**

To be attached after this page.

## EXHIBIT "J"

### INSURANCE REQUIREMENTS

CONTRACTOR shall maintain the amounts and types of insurance described below and shall cause any and all Subcontractors to maintain such coverages from insurance companies licensed to do business in the State of Colorado having a Best's Insurance Report Rating of A/VI or better covering the risks described below:

- A. Commercial General Liability Insurance (including premises, operations, products, completed operations, and contractual liability coverages) in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence, One Million Dollars (\$1,000,000.00) personal injury and advertising injury, and Two Million Dollars (\$2,000,000.00) General Aggregate.
- B. Automobile Liability Insurance for all motor vehicles operated by or for CONTRACTOR or Subcontractor, including owned, hired, and non-owned autos, with minimum Combined Single Limit for Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) for each occurrence.
- C. Workers Compensation Insurance for all employees of CONTRACTOR or Subcontractor as required by law, to cover the applicable statutory limits in the State of Colorado and employer's liability insurance with limits of liability of not less than One Million Dollars (\$1,000,000.00) for bodily injury by accident (each accident) and One Million Dollars (\$1,000,000.00) for bodily injury by disease (each employee).
- D. With respect to any CONTRACTOR or Subcontractor that provide professional services (e.g., engineers), professional liability insurance, including prior acts coverage sufficient to cover any and all claims arising out of the services, or a retroactive date no later than the date of commencement of the services, with limits of not less than One Million Dollars (\$1,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) annual aggregate. The professional liability insurance shall be maintained continuously during the term of the Agreement and so long as the insurance is commercially reasonably available, for a period not less than the Government Warranty Period. The professional liability insurance required by this paragraph shall not contain any exclusions or limitations applicable to residential projects.
- E. CONTRACTOR or Subcontractor shall provide property coverage for materials and equipment belonging to the DISTRICT while in the course of installation (Installation Floater), with limits of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00). Such policies shall be written on an all risk basis to include coverage for theft, transit and while items are in temporary storage.
- F. Umbrella Excess Liability in amount not less than \$4,000,000 each occurrence and \$4,000,000 aggregate. Limits and coverages must layer over the primary insurance as indicated.

The following general requirements shall apply to all insurance policies described in this Exhibit.

1. All insurance policies shall provide for the defense, indemnification, and holding harmless of the DISTRICT.
2. Except as otherwise provided herein, all liability insurance policies shall be written on an occurrence basis.
3. All insurance policies required hereunder except Workers Compensation and Employers Liability shall: (i) name those entities listed in Exhibit L attached hereto as "Additional Insureds" utilizing an ACORD form or equivalent acceptable to the DISTRICT, excluding, however, insurance policies for those who provide professional services whose insurance policies do not permit the designation of additional insureds; (ii) be issued by an insurer authorized in the State of Colorado; and (iii) provide that such policies shall not be canceled or not renewed, nor shall any material change be made to the policy without at least thirty (30) days' prior written notice to the Additional Insureds. All insurance policies required by this Agreement shall include a provision requiring a 10-day prior written notice to the District for the cancellation of an insurance policy due to the non-payment of a premium and a minimum of a 30-day prior written notice to the District for any change to or cancellation of an insurance policy other than for non-payment of a premium. Each additional insured endorsement (or each policy, by reasonably acceptable endorsement) shall contain a primary insurance clause providing that the coverage afforded to the additional insureds is primary and that any other insurance or self-insurance available to any of the additional insureds is non-contributing. A waiver of subrogation endorsement for the workers' compensation coverage shall be provided in favor of the DISTRICT, Land Owner, District Manager, District Representatives and their consultants and sub-consultants, employees, officers and directors for work performed under this agreement.
4. The liability insurance policies shall provide that such insurance shall be primary on a non-contributory basis.
5. The CONTRACTOR and any and all Subcontractors shall provide the DISTRICT with certificates evidencing the insurance coverages required by this Exhibit in the certificate form described in Item 2 of this Exhibit, prior to the commencement of any activity or operation which could give rise to a loss to be covered by such insurance. Certificates of Insurance required in this Exhibit shall be attached to Exhibit K hereto. Replacement certificates shall be sent to the DISTRICT, as policies are renewed, replaced, or modified.
6. The foregoing insurance coverage must be maintained in force at all times during the performance of the Work.
7. All insurance shall cover the entire period while Work is being performed on the Project until the DISTRICT issues the Certificate of Final Completion and accepts the Project and at all times thereafter when the CONTRACTOR may be correcting, removing or replacing defective Work.

8. If any insurance requires deductibles, the CONTRACTOR shall pay costs not covered because of such deductibles.

9. If notice of any change affecting the general scope of the Work or change in Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the CONTRACTOR'S responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. CONTRACTOR shall furnish proof of such adjustment to DISTRICT.

**EXHIBIT "K"**

**CERTIFICATE OF INSURANCE**

To be attached after this page.

**EXHIBIT "L"**

**ADDITIONAL INSURED ENTITY LIST**

The following list of entities shall be listed as additionally insured on the CONTRACTOR'S insurance policies.

<b>Entity Name</b>	<b>Address:</b>
Northridge Estates Metropolitan District No. 1	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
Arbor Capital Partners, LLC	4040 MacArthur Blvd., Suite 250 Newport Beach, CA 92660
Land Asset Strategies, LLC	12650 W. 64 <sup>th</sup> Avenue, Unit E #274 Arvada, CO 80004
White, Bear, Ankele, Tanaka & Waldron	2154 E. Commons Avenue, Suite 2000 Centennial, Colorado 80122
LandOne Engineering, LLC	361 71 <sup>st</sup> Avenue Greeley, CO 80634

**EXHIBIT "M"**

**PERFORMANCE BOND AND PAYMENT BOND**  
(AIA Document A312-2010)

Other forms of bonds may be acceptable.  
Acceptance of other forms of bonds will be at the discretion of the DISTRICT.

Holders of the bonds will be:  
Northridge Estates Metropolitan District No. 1  
and  
City of Greeley

To be attached after this page.



**EXHIBIT "N"**

**CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

Upon receipt by the undersigned of a check from Northridge Estates Metropolitan District No. 1 ("DISTRICT") in the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents (\$ \_\_\_\_\_) less any retentions held by the DISTRICT as provided by law, made payable to the undersigned CONTRACTOR, and when the aforesaid check has been properly endorsed and paid by the bank upon which it is drawn, this document shall become effective to release and discharge, and the undersigned shall be deemed to waive, any mechanic's lien, stop notice, bond right, and claims for payment for any work, labor, services, materials and equipment furnished to the DISTRICT pursuant to that certain Contract, dated \_\_\_\_\_, between the undersigned CONTRACTOR and the DISTRICT ("Contract").

This release covers a progress payment for work, labor, services, materials and equipment furnished by the undersigned, as described in the undersigned's monthly pay application submitted with this document, through \_\_\_\_\_ 2021 ("Release Date") only and does not cover any retentions retained before or after the Release Date, any work, labor, services, materials and equipment furnished by the undersigned before the Release Date for which payment has not been received, or any work, labor, services, materials and equipment furnished by the undersigned after the Release Date.

The undersigned warrants that CONTRACTOR either has already paid or will use the money received from this progress payment to promptly pay in full all laborers, subcontractors, materialmen and suppliers for all work, labor, services, materials and equipment that are the subject of this waiver and release.

Before any recipient of this document relies on it, the recipient should verify evidence of payment to the undersigned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**CONTRACTOR**

By: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing Conditional Waiver and Release Upon Progress Payment was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by \_\_\_\_\_.

WITNESS my hand and official seal.

My Commission expires: \_\_\_\_\_.

\_\_\_\_\_  
Notary Public



EXHIBIT "P-1"

CERTIFICATION REGARDING EMPLOYMENT OF ILLEGAL ALIENS

I, Gregory C Hughes as a(n) President in the company of GLH Construction LLC ("Company"), engaged to provide Industrial Const to Northridge Estates Metropolitan District No. 1, do hereby certify on behalf of said Company that, as of the date of this Certification, the Company does not knowingly employ or contract with an illegal alien who will perform work under the Contract and that Company will participate in either the E-Verify Program administered by the United States Department of Homeland Security and the Social Security Administration, or in the Colorado Department of Labor and Employment's Employment Verification Program pursuant to Section 8-17.5-102(5)(c), C.R.S. in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

Dated this 4 day of November, 2021.

CONTRACTOR:

Signed: Greg C Hughes

By: Gregory C Hughes

Its: President

EXHIBIT "P-2"



**Contractor Affirmation for the Department Program**

Required for use by contractors participating in the Department Program for public contracts for services 8-17.5-101 & 102, C.R.S.

The contractor shall provide a written, notarized copy of this affirmation to the contracting state agency or political subdivision.

DO NOT submit this affirmation to the Colorado Division of Labor unless specifically requested to do so.

Employee Name: Last \_\_\_\_\_ First \_\_\_\_\_ M.I. \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Date of Hire: \_\_\_\_\_

In accordance with 8-17.5-102, C.R.S., I have:

(Initial after each)

- Examined the legal work status of the above named employee: \_\_\_\_\_
- Retained file copies of documents required by 8 U.S.C. sec. 1324a: \_\_\_\_\_
- Not altered or falsified the employee's identification documents: \_\_\_\_\_

Contract Number: \_\_\_\_\_ Contractor / Business Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Contractor of Contractor Representative Name: \_\_\_\_\_

Contractor OR Contractor Representative Signature and Title: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Subscribed and affirmed before me in the county of \_\_\_\_\_, State of Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.



\_\_\_\_\_  
(Notary's official signature)

\_\_\_\_\_  
(Commission expiration date)

8-17.5-102(5)(c)(II), C.R.S. A participating contractor shall, within twenty days after hiring an employee who is newly hired for employment to perform work under the public contract for services, affirm that the contractor has examined the legal work status of such employee, retained file copies of the documents required by 8 U.S.C. sec. 1324a, and not altered or falsified the identification documents for such employees. The contractor shall provide a written, notarized copy of the affirmation to the contracting state agency or political subdivision.

This affirmation and the documents required by 8 U.S.C. sec. 1324a will be retained by the contractor for the duration of the above named individual's employment.

This affirmation is provided as a courtesy by the Colorado Division of Labor.

Another substantially similar affirmation may be used, provided that it contains the necessary elements and information as required by law.

**EXHIBIT "Q"**

**CHANGE ORDER FORM**

DISTRICT: NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR: \_\_\_\_\_

Contract Date: \_\_\_\_\_

This Change Order is made this \_\_\_\_ day of \_\_\_\_\_, 2021 by NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1 (DISTRICT), and \_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The DISTRICT agrees to pay for all changes in the Work performed by the CONTRACTOR under this Change Order according to the terms of the Agreement. The amount paid by the DISTRICT shall be full compensation for all Work requested and for all effects of this document on the Work. The change, if any, in the Contract Price shall be computed according to one of the following methods:

No Change       Costs Plus a Fee       Unit Price       Lump Sum

If Change Order is Costs Plus a Fee or Unit Price, the CONTRACTOR shall submit promptly to DISTRICT such itemized labor and material breakdowns as DISTRICT may require for Work performed or deleted from the Agreement by this Change Order. The CONTRACTOR shall include the cost of such change in its next application for payment in a separate line item.

The change, if any, in the Contract Time resulting from the Work requested by the Change Order shall be determined according to the terms of the Agreement and allows for the \_\_\_\_ addition \_\_\_\_ deletion of \_\_\_\_\_ (\_\_) days.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "R"**

**FIELD ORDER FORM**

DISTRICT:                   NORTHRIDGE ESTATES METROPOLITAN DISTRICT NO. 1

CONTRACTOR:             \_\_\_\_\_

Contract Date:           \_\_\_\_\_

This Field Order is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by the Project Manager and  
\_\_\_\_\_ (CONTRACTOR) for the following changes in the Work:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

It is acknowledged and accepted by the CONTRACTOR that this Field Order will not be the basis for a change resulting in either of the following:

- 1. An increase in the Contract Fee, nor
- 2. An increase in the Contract Time.

Any change resulting in either of the above shall only be approved through a properly executed for Change Order accepted by the DISTRICT.

CONTRACTOR:

DISTRICT:

By: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## OPERATING REIMBURSEMENT AGREEMENT

This Operating Reimbursement Agreement (this “**Agreement**”) is dated as of July 30, 2020 by and between Northridge Estates Metropolitan District No. 1, a quasi-municipal corporation and political subdivision of the State of Colorado (hereinafter referred to as the “**District**”), and Northridge Estates Partners, LLC, a Colorado limited liability company (hereinafter referred to as the “**Developer**” and together with the District, the “**Parties**,” and each a “**Party**”).

### RECITALS

**WHEREAS**, the District was organized under Article 1, Title 32, C.R.S., to acquire, construct, install and maintain public infrastructure, in accordance with its Service Plan approved by the City of Greeley; and

**WHEREAS**, at present the District does not have sufficient funds available to pay operating, maintenance, and administrative expenses; and

**WHEREAS**, the Developer, in its sole discretion, may advance funds as requested from time to time by the District to pay such expenses with the expectation of eventually being reimbursed by the District pursuant to this Agreement.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements contained herein and other good and sufficient consideration, the Parties agree to the terms discussed hereinafter.

### COVENANTS AND AGREEMENTS

1. Operating Advances.

(a) Within one week after the date of this Agreement, the Developer shall Advance an amount of \$25,000 to the District to pay the District’s initial operating costs and, when such \$25,000 is depleted, the Developer, in its sole and absolute discretion, may advance funds (collectively, the “**Operating Advances**”) as requested from time to time by the District to pay any future operating, maintenance, and/or administrative expenses in accordance with the terms of this Agreement.

(b) If the District determines that there will be insufficient funds available to pay the District’s anticipated operating, maintenance, and/or administrative expenses for the next fiscal year, the District shall calculate the anticipated amount of such funding shortfall (the “**Operating Funding Shortfall**”), which shall be classified by nature of use.

(c) The District shall submit written requests on a quarterly basis to the Developer to deposit with the District’s bank the amount of the Operating Funding Shortfall anticipated to be needed for the next fiscal quarter. The Developer, after

reasonable verification of such Operating Funding Shortfall, may, in its sole and absolute discretion, make an Operating Advance and fund the Operating Funding Shortfall for the next fiscal quarter after such request from the District. To the extent any Operating Advance is not spent by the District in the fiscal quarter for which it was requested, the unspent amount of the Operating Advance shall be applied to reduce any Operating Funding Shortfall anticipated for the subsequent fiscal quarter.

(d) Within 45 days after the end of each fiscal year during the term of this Agreement, the District shall complete an accounting of any funds advanced pursuant to this Agreement, which shall be classified by nature of use. In the event that the funds advanced hereunder exceed the actual costs and expenses incurred by the District for operation, maintenance, and/or administration, the District shall refund such excess amounts to the Developer within 30 days of such accounting and a written request from the Developer.

## 2. Reimbursement.

(a) If and to the extent the District has legally available revenue which is not otherwise appropriated, obligated, pledged or reserved for any current or future purpose in any fiscal year, the District will, from such available sources, reimburse the Developer for all Operating Advances, together with simple interest thereon at a fixed rate of 8.5% per annum (cumulatively, the “**Operating Reimbursement Amount**”) commencing as of the date of each Operating Advance.

(b) Any Board decision to appropriate the Operating Reimbursement Amount, however, shall be purely discretionary and non-obligatory.

3. Integrated Agreement and Amendments. This Agreement and any special terms and conditions described hereunder and appended hereto as contemplated by this Agreement constitute the entire, integrated agreement of the Parties. This Agreement, and each and every of its terms and conditions, may be added to or amended only by the mutual written agreement of the Parties, which agreement shall be executed with the same formalities as this Agreement shall have been executed. Special terms and conditions, if any, which are agreed upon by the Parties at the time this Agreement is executed shall be reduced to writing in accordance with this Section and appended to this Agreement.

4. Notice. Any notices, demands, or other communications required or permitted to be given in writing hereunder shall be delivered personally or sent by registered mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below, or at such other address as either Party may hereafter or from time to time designate by written notice to the other Party given in accordance herewith. Notice shall be considered given when personally delivered or mailed and shall be considered received by the Party to whom it is addressed on the third day after such notice is given.



To the District:

Northridge Estates Metropolitan  
District No, 1  
Attn: Alex Carlson  
Centennial Consulting Group, LLC  
2619 Canton Court, Suite A  
Fort Collins, CO 80525

with a copy to:

Collins Cockrel & Cole, P.C.  
Attention: David A. Greher, Esq.  
390 Union Boulevard, Suite 400  
Denver, CO 80228

To the Developer:

Northridge Estates Partners, LLC  
Attn: Lee Lowrey  
4040 MacArthur Blvd., Suite 250  
Newport Beach, CA 92660

5. Assignment. This Agreement, and each and every of its rights and obligations, may not be assigned by the District except with the prior written consent of the Developer, and may not be assigned by the Developer.

6. Severability. If any clause(s) or provision(s) of this Agreement shall be adjudged to be invalid and unenforceable by a court of competent jurisdiction or by operation of any law, such clause(s) or provision(s) shall not affect the validity of this Agreement as a whole, or of the remaining clauses and provisions.

7. Enforcement. This Agreement shall inure to the mutual benefit of the Parties, their respective heirs, successors and permitted assigns, subject to Section 5 hereof, and shall be enforceable according to its terms and conditions under the laws of the State of Colorado. In this regard, the Parties hereto agree that this Agreement may be enforced at law or in equity, by decree of specific performance or damages, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State of Colorado.

8. Default / Remedies. In the event of any breach or default of this Agreement, each Party shall be entitled to exercise any remedy available in equity or at law. In this regard, this Agreement may be enforced by specific performance or injunction, or pursuant to such other legal and/or equitable relief as may be available under the laws of the State. The prevailing Party shall be entitled to reasonable attorney fees and costs. Absent bad faith or fraud by the District, no penalty shall be imposed upon the District because of its inability to pay any portion of the Operating Reimbursement Amount to the Developer. There shall be no acceleration in the repayment of outstanding Operating Advances in the event of any default. Nothing contained herein shall allow recovery for consequential or punitive damages. Venue for any judicial action shall be in the State District Court for Weld County.

9. Counterpart Execution. This Agreement may be executed in counterparts, and the authorized signatures of any Party affixed to a counterpart signature shall be deemed to constitute execution of the original Agreement.

10. Term. The term of this Agreement shall end on the date that the Operating Reimbursement Amount has been paid in full to the Developer in accordance with the terms hereof or 40 years after the date hereof, whichever date occurs first in time. Any portion of the Operating Reimbursement Amount not paid 40 years after the date hereof shall be deemed discharged, paid and canceled.

11. Agreement Not an Indebtedness or Multiple Fiscal Year Financial Obligation. The District's payment obligations under this Agreement shall be subject to annual appropriation by the Board of Directors of the District in its sole discretion. The terms and conditions of this Agreement shall not be construed as a multiple-fiscal year direct or indirect district debt or other financial obligation within the meaning of Article X, Section 20 of the Colorado Constitution.

12. Governmental Immunity. Nothing herein shall be construed as a waiver of the rights and privileges of the District pursuant to the Colorado Governmental Immunity Act.

13. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Colorado.

14. Authority. By its execution hereof, each party hereto represents and warrants that its representative signing hereunder has full power and lawful authority to execute this document and bind the respective party to the terms hereof.

15. Supplemental Public Securities Act. The District hereby elects to apply all of the provisions of the Supplemental Public Securities Act, found at Title 11, Article 57, Part 2, C.R.S., to this Agreement other than Section 11-57-211, C.R.S. This recital shall be conclusive evidence of the validity and the regularity of the District's execution of this Agreement after its delivery for value.

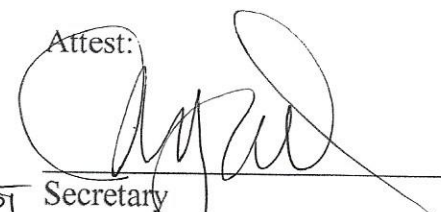
16. Conflicting Provisions. To the extent that any conflict exists between the terms of this Agreement and the terms of the Service Plan, the provisions of the Service Plan shall prevail.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have executed this Operating Reimbursement Agreement as of the day and year first set forth above.

NORTHRIDGE ESTATES  
METROPOLITAN DISTRICT NO, 1

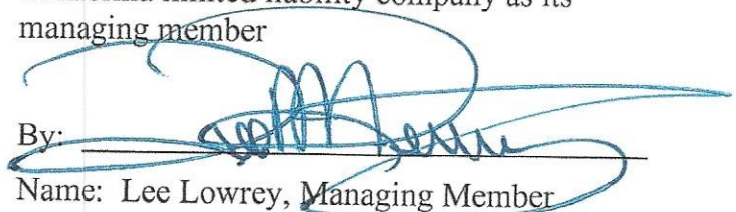
By:   
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
ASST Secretary

**DEVELOPER:**

**NORTHRIDGE ESTATES PARTNERS,  
LLC**, a Colorado limited liability company

By: **Lowrey Pacific Holdings, LLC**, a  
California limited liability company as its  
managing member

By:   
\_\_\_\_\_  
Name: Lee Lowrey, Managing Member  
Lowrey Pacific Holdings, LLC